

CARSELOWEY, JAMES

J. C. CLARK PAPERS.
JAMES COMMISSION

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PAYING OFF 80,000 HEIRS
The Dawes Commission A kind
Of Executor For Indians

By J. C. Starr
March 4, 1903.

Within a few hours ride of Kansas City is a territory about the size of the state of Ohio. In this land were laws as different from those of Kansas and Missouri as are the laws of Turkey from those of England. People and institutions more foreign to Missouri than are those of, say, Ecuador.

This strange land traded with Kansas City, sent cattle, sheep and some grain, but used little of its millions of acres of land as the Kansan would use it. It was socialism, in the sense that no one man owned land. The people held it in common. Towns and cities grew in it but every man who builded did so with the risk that he might lose his improvements, having nothing that would be called a title in the states. The people had their own laws: some made death a punishment for stealing and a public whipping on the bare back the penalty for manslaughter.

They had been sent to this country many years ago from land that the white man wanted in the East and it had been given to them forever. They had their own languages, their own alphabet,

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their own rulers, they were little republics, surrounded by a greater republic.

That was the state of the Five Civilized Tribes when Congress in 1898, by the passage of the Curtis Act, undertook to bring these people under laws of the United States and incidentally to give the white man opportunity to make productive the land which foreigners had not developed. The ownership of the millions of acres worked here and there with a patch of cotton, or corn, or with cattle, whose grass bills were paid by white owners, was to be made possible for others, than for the foreign people who held them in common. At the same time these people were to be protected. They are not so provident as their white neighbors. Diplomacy was used to convince them that their interest demanded that they accept the suggestions of the United States and one by one they gave in.

The Cherokee people, the most powerful of the Five Civilized Tribes held out to the last and their leaders think they received some additional concessions. The fullbloods of all tribes opposed the change to the man - some even dreamed of fighting, as in the old days, but the fullbloods had ceased to rule. A one-thirty-second could vote as effectively as an Indian without a drop of

white blood in him.

AN ESTATE OF 80,000 HEIRS

The property of five nations - five families- was to be apportioned among the individuals; an estate to be parceled to 80,000 heirs. That was the problem before the Lawes Commission, or as it is officially known, the Commission to the Five Civilized Tribes. Fams Bixby, chairman, Thomas B. Needles of Illinois, C. F. Breckenridge and ex-Governor Stanley, members.

Apportionment is the easy word used to designate this administering of an Indian people's estate and means giving each Indian a certain number of acres of land, wherever it might happen to suit the fancy of the administrator. In this case there were thousands of claimants, whose rights had to be approved or disapproved; there were adopted heirs, heirs who had married into the family and often for the money, heirs who had bought rights, and heirs who had been slaves, or were descendants of slaves to early members of the family. A fine opportunity for will contests and there were thousands of them which the administrators and the heads of families had to decide. When their decision was not satisfactory, the Secre-

tary of the Interior said the last word.

It was necessary also to treat this confused lot of 80,000 heirs impartially. Some of the heirs had been thriftier than others and had improved land, built houses, barns and fences. They had to be given opportunity to save their improvements, where possible. Some land was more valuable than others. It would not be fair to give a man one hundred acres of fine bottom land and make another accept the same area in rocky hills.

All of these points the Dawes Commission, as administrators of the estates of the Cherokees, Creeks, Seminoles, Choctaws and Chickasaws had to consider in that easy word, "allotment." It was a terrifying task. This is a very general idea of what the Commission had done in the Creek Nation, since the Indians accepted the government's proposal and what it is now doing in the Cherokee Nation.

The Cherokee family has nearly as many heirs as all the other Nations together. About 38,000 of the 43,000 claimants will be given a share in the estate. Three years ago the Commission began its work of finding the heirs. Parties were sent into the field and notices in English and Cherokee were posted beforehand, notifying all Cherokees to register with

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these parties.

Those held eligible were Cherokees by blood and inter-marriages; Delawares adopted by the Cherokees, adopted Shawnees, and all who had been slaves of Cherokees or were descendants of Cherokee slaves. The tribe had prepared its own rolls in 1880, when 20,436 names were registered. Again when they received eight and one-half million dollars for the Cherokee Strip, another enrollment was made showing nearly 25,000 names and in the tribal census of 1896, 33,000 appeared as Cherokees. These rolls were used as aids by the Commission but only the 1880 Roll, as it is called, is held conclusive.

ENROLL OR GO TO JAIL

For six months the enrollment parties went from town to town but the fullbloods refused to be enrolled, and another plan had to be adopted. The United States Court at Muskogee ordered leaders of the Keetowah Society, the fullblood organization, to appear in Muskogee and have themselves and families enrolled. Whenever faced with the alternative of enrolling or going to prison, the Indians enrolled. In April, 1902, field parties were again sent among the full bloods and found a new society as strong against enrollment, as were the Keetoowahs.

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Whenever enrollment parties appeared, the full blood leaders gave every form of amusement, fascinating to Indians, miles away from the Commission camp. The influential full bloods promised that the whites would be expelled from the nation and that the tribal laws, abolished by the Curtis Act, would be restored.

In May, the United States courts ordered all un-enrolled citizens to appear for enrollment and deputy marshals brought the fullbloods in. The time limit for enrollment was set at July 1, 1902, and by that time 43,425 names had been submitted of which 31,511 were accepted without dispute; 7,304 were classified as doubtful and 1,577 were rejected. In the 43,425 are included 6,627 free men, as Cherokee slaves or descendants.

While this task of finding willing and unwilling heirs and claimants was under way, it was necessary for the administrators to have full knowledge of the estate they were to divide. The Indian Territory is the most thoroughly surveyed land in the United States. In 1895 the geological survey made very complete topographical maps of the territory and much of this was supplemented by surveying and estimating parties sent out by the

Dawes Commission. In each nation the country was studied and mapped.

HOW IT WAS GIVEN FAIRLY

From these reports the acreage price of land in the Cherokee Nation was placed at \$2.96, and apportioning the total number of acres among the citizens it was found that each man, woman and child would be entitled to one hundred and ten average acres after deductions had been made for school sites, townsites, cemeteries, etc. At \$2.96 an acre, each allottee would receive land valued at \$325.60.

The appraisalment parties made eighteen classifications of Cherokee land, giving each a valuation as follows:

CLASS	DESCRIPTION	APPRAISED VAL. PER A.
1	Natural open bottom land	\$6.00
2	Best Black Prairie Land	\$6.00
3 (a)	Bottom land covered with timber thickets	\$6.00
3 (b)	Best Prairie land, other than black	\$5.00
4 (a)	Bottom land subject to overflow	\$4.00
4 (b)	Prairie land smooth and tillable	\$4.00

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5 (a)	-----rough land free from rocks-----	7.00
5 (b)	-----rolling land, free from rocks-----	4.00
6 (a)	-----rocky prairie land-----	2.50
6 (b)	-----Sandy prairie land-----	2.00
7 (a)	-----allali prairie land-----	3.00
7 (b)	-----hilly and rocky land-----	2.00
8 (a)	-----swamp land-----	1.50
8 (b)	-----mountain pasture land-----	1.50
9 (a)	-----mountain land-sandy loam-----	1.50
9 (b)	-----mountain land, siliceous-----	1.00
10 (a)	-----rough and rocky mountain land-----	1.50
10 (b)	-----flint hills-----	1.00

Herein the apportionment of this estate differs from that of the usual land apportionment. When the government gives land to a citizen, it gives him 160 acres, no more, no less. The land may be worth 10 an acre or it may be worth 50 cents; 160 acres wherever the land is subject to homestead law.

In the Cherokee Nation each citizen is entitled to \$25.00 worth of land, and the area depends upon the valuation per acre by the government appraisers. The best bottom land is really worth from \$30 to \$50 an acre, but was appraised at

\$6.50 so one allotment there is fifty acres. In the flint hills, at 50 cents an acre, one allotment is 651 acres.

The next step was to send out cards to all on the rolls, giving each a number and notifying each head of a family, or unmarried adult, when to appear at the Commissioner's land office and signify the piece of land he desired to call his own.

The Land Office is now at Vinita, a large brick structure, once the dormitory for the Old Worcester Academy, which was bought by the town of Vinita, and is rented by the Dawes Commission for its land office headquarters. The office was established there January 1, 1903 and on May 1st will be removed to Tahlequah, the tribal capital of the Cherokees.

At half past eight each morning, the office opens for business. Inside is a large entrance room with doors leading to the offices. Around the walls of the room sit Cherokees, waiting for their numbers to be called. Any one expecting bucks in blankets, and squaws carrying paposes, to come for enrollment is disappointed for there is not a blanket Indian in the Nation. In fact, few of those waiting have any conspicuous characteristics of the Indian. There are men, coal-black

freedmen, and white women with red hair. Occasionally a heavy framed, young man is found with straight, black hair and high cheek bones, or one of years with peppery brown face and eyes that tell of his people. But they are rare, and the gathering might be an average lot of people of similar station in Kansas City. There is little or no conversation among them, and the only noise is the shuffling of shoes on the floor, the crying of babies, and the clicking of the typewriters. They will wait all day, if necessary, and seldom is there sign of impatience.

As his number is called, the Cherokee citizen shows to an attendant the card sent to him and is admitted to a large room where fifteen or twenty clerks are at work at desks and tables. These clerks are under the Dawes Commission, and many of them come from the departments in Washington. Sometimes the applicant has made a map showing exactly the land he wants to take, after having ascertained the Commissioners' valuation on it and has figured out to a cent how many acres he is to receive. In that case his name and number are looked up in the Commissioner's final roll. Files giving the history of each Cherokee are kept in the office, each card giving these facts.

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WHAT MUST BE PROVED AGAIN

Residence, post office, number on the Dawes roll, name of head of family, age, sex and blood must be proved again. In this connection it may be said that blood counts for little in the Cherokee allotment. The average citizen is about one thirty-second Cherokee, and many are one hundred and twenty-eighth Cherokee. Then on the card comes the date and name under the tribal enrollment, names of parents under the tribe with year of each enrollment. Alone on the matter of names there was great trouble as the Indians formerly changed their names freely, and in many cases the head of the family had only a single name. In recent years most of them have translated their names into English, making it all the worse. Old Horse, Old Sock, Ol King. Oll-ee-cher is the way they appear in the Dawes roll. There are about fifty Six-killers and pages of Smiths, followed close by Jinny, Snake-tail and .olf Snaketail. Polecat is a common name on the rolls, and shows what can be done by a translation of Cherokee into English.

When the applicant is found to have good standing on the card, a clerk looks up the maps of the land he has applied

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for in order to see that it has not been allotted or set aside for other purposes.

It is the endeavor of the Commission to have the Indian choose land upon which he has made improvements and in case there is a family to have the several allotments contiguous. On the application is again the name and roll number and situation of the land with valuation. Under the law every allottee must retain four-sevenths of his land as a homestead for at least twenty-one years and he must designate this four-sevenths in his application. With everything satisfactory he is sworn to his application and given an examination, about as follows:

Testimony of _____ in the matter of the application for allotment and homestead.

Q. What is your name?

What is your post office address?

Was the person for whom you make this application living on the first day of September, 1902?

Has the person for whom you make this application ever been enrolled, or recognized as a citizen of the Choctaw, Chickasaw, Creek or Seminole Nation?

Has the person for whom you make this application received

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or applied for allotment of land in the Choctaw, Chickasaw, Seminole or Creek Nation?

Are there any improvements on the land you have selected?

What do the improvements consist of? (If buildings, state whether house, barn, shed, etc.; cultivated land; state number of acres in cultivation, fencing; state whether enclosure cultivated, pasture or meadow land).

Q. Who was the owner of these improvements? (If all the improvements are owned by a person not a party to the application, state only the name of such an owner. If only a part of the improvements are owned by such a person, state name of owner and describe the particular tract on which such improvements are located, giving post office address of owner in each instance).

Have you obtained permission of (Name of owner given in last answer) to select the land on which improvements are located?

Does anyone else claim this land, or any part of it?

Are there any churches, school houses, or burial grounds on this land? (If answered affirmatively give description of the ten-acre sub-division on which located).

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Is that portion of the land, which you have designated as a homestead suitable for a home?

WHEN HE WILL RECEIVE A DEED

When the Indian can go, and clerks again check over his case in the records and on the maps. In time he will receive a deed from the government for his allotment, and he can then lease to white men any or all of his allotment except his homestead with the following time limit: three years for grazing, ten for agriculture, fifteen for mineral purposes. The speculators are sure there is zinc and lead in the flint hills, the fifty cent an acre district,

All land is given in ten-acre lots. The allottee can take 130 acres of the \$2.50 land, for instance, in a strip ten acres wide, if someone else has not a prior claim to a part of it. Sometimes an allotment does not amount to \$25.60 in value, in which event the allottee takes another piece somewhere else. For instance, if a man selects 60 acres of \$5.00 land, he still has \$25.00 due him and with that he can select 50 acres of 50-cent land miles away, if he wants to, but it must always be in 10 acre lots and as a result

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there will be many small holdings of land scattered about the territory.

Where the citizen has a family, he receives an additional allotment for his wife and minor children, born up to September 1, 1902. That date was announced without warning by the Interior Department. A few years ago it was a get-rich-quick practice among some of the whites to marry into the Cherokee tribe, but the tribal council ended that by a law which made citizens of those who had married into the tribe before December 16, 1895. While it was money in the Cherokee's pocket to have many children, the families are small as a rule. The largest one on the rolls is probably that of a man and wife and eleven children. They received thirteen allotments.

In the Cherokee Strip payment of 1894, one man appeared with two wives and eighteen children, giving him twenty shares in the tribe's eight and one-half million dollars. He could see no cause for the clerk's laughter when he carried \$5000 up the street to the bank.

All of the Cherokee are not enough advanced to make maps of the land they have selected, and then there is more trouble.

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"Where is this land you want?" The clerk asked one aged citizen. "Twelve miles from Stilwell." "Which way, north, south?" "No, west," he said in the talkative manner of the Indian. "Northwest or southwest?" "Don't know," he said.

FORGING IT UP OF HIM

Is there a stream on the land? How far is your house from the creek? Any cultivated land? Any timber? The clerk asked that Indian questions until he has finally given a hint of description of the allotment he wants. With the clue he finds the Indian's place on the section map, which shows every stream and improvement and gives him a certificate of allotment. When that allotment is finally approved by the Dawes Commission, a deed approved again by the Secretary of the Interior and the Commission is given to the Cherokee.

Of course there are suits over this distribution of an estate - contests by the hundreds. Sometimes it is the effort of a man to prove himself a Cherokee, and again it is the effort of the Cherokees to prove that one enrolled is on the rolls wrongfully. Again the Dawes Commission may find someone apparently sliding in and make him prove his rights.

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The Cherokees have their attorneys, J. C. Starr and J. C. Starr, both citizens, who look after the tribe's interest in enrollment and allotment. Every additional citizen means a loss to the tribe, for the lands that remain after apportionment will belong to the tribe and the money they bring will go into the treasury for distribution.

When a man has been refused enrollment, his case is heard by attorneys of the Commission and testimony is taken as in any of the higher courts. When the Lawes Commission makes its decision, the tribe may appeal, or the man may appeal. Under such circumstances the question goes to the Secretary of Interior, whose decision is final. Hundreds of these cases remain to be settled. Allotments are reserved for the men who are attempting to prove citizenship, and they will receive their land when their claims are upheld. Here they fail, the land will go to some other allottee or be in the surplus.

WHO WILL LOSE LAND

The men who will suffer particularly under the new order of things are, as a rule, the whites who have married themselves into citizenship. Under the old tribal laws, a citizen might fence in as much land as he could cultivate and besides

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no one was permitted to build a fence within a quarter of a mile of any part of his fence. The last rule aimed to keep the edge of every man's property half a mile from his neighbor's - a most unneighborly law. Some of these men fenced in section after section, grew wealthy, and forced the full-blood and his hut into the rough lands. The men of the big fences will be given their 110-acre average land, just as every other man in the tribe, and they must give up the great bulk of the land they have come to consider their own.

In the land office of the Commission, about thirty-five clerks are employed under chief clerk Reuter. The Cherokee allotment will be completed in about two years, and in the meantime work will be going on in other tribes. By 1905 the five nations will probably own their land, or others own it, and the task of administering an estate to 80,000 heirs will be at an end.

Note: The papers of J. C. Starr, who is now deceased, are incorporated in these records as he wrote them in 1902-3- or 4, as the case may be. Mr. Starr was prominent in Cherokee tribal affairs, being for several years Secretary of the Cherokee Nation and he acted also as one of the attorneys for the Cherokees during the allotment of their lands. -Ed.