

SUPERIN-
TENDENT
FOR
FIVE
CIVILIZED
TRIBES

CHEROKEE

VOL. 12

FOREMAN
TRANSCRIPTS

Copies of

M A N U S C R I P T S

In the Office of the

SUPERINTENDENT FOR THE FIVE CIVILIZED TRIBES

MUSKOGEE, OKLAHOMA

Cherokee - Asylum (Orphan)
Cherokee - Attorneys
Cherokee - Auditor
Cherokee - Buildings
Cherokee - Cattle
Cherokee - Census
Cherokee - Citizenship
Cherokee - Doctors
Cherokee - Elections
Cherokee - Estrays
Cherokee - Federal Relations

Compiled from original records

selected by

GRANT FOREMAN

CHEROKEE-ASYLUMS (ORPHAN)

Senate Bill No. 14.

(COPY)

An Act Making an Appropriation to Defray the Expenses of
Converting the Insane Asylum in to a Home for the Orphans
and for Other Purposes.

-----0-----

Whereas, By report of A. S. Wyly, O. P. Brewr and S. F. Parks
composing the Cherokee Board of Education, and B. S. Coppock,
Supervisor of Schools, the Cherokee Orphan Asylum was on
the 17th day of November, 1903, burned, and the inmates
thereof, consisting of one hundred and forty nine pupils,
left without a home, and,--

Whereas, By recommendations signed by the Cherokee Board
of Education and B. S. Coppock, Supervisor of Schools for the
Cherokee Nation, recommended that the present buildings now
used as an Insane Asylum be converted into an Asylum for the
Orphans, and that the present building known as the National
Jail be converted into an Asylum for the Insane and Blind,
and,

Whereas, Immediate action must be taken in order to properly
care for the Orphans who have been left homeless, therefore,

Be It Enacted by the National Council: That the sum of Ten
(\$10000.00) Dollars, be and the same is hereby appropriated
out of any money in the Orphan Fund and not other wise
appropriated, or so much thereof as may be necessary: the
same to be subject to requisitions on the Principal Chief
by the Board of Education.

Be It Further Enacted: That the Board of Education, be, and they are hereby instructed to have the inmates of the Insane Asylum transferred to the National Jail building in Tahlequah, Indian Territory, and to take charge of the Insane Asylum building and have the same repaired and equipped in such a manner as will enable them to properly care for the Orphan children.

Be it Further Enacted:- That the Board of Education, be, and they are hereby further instructed to let contracts for such additions and repairs as they may find necessary in making the said buildings comfortable and convenient for use as quarters for the Cherokee Orphan children, and that in making their requisitions on the Principal Chief they must submit to him a detailed statement for what purposes the money shall or will be expended.

Be it Further Enacted:- That the Principal Chief be and he is hereby authorized and directed to issue his warrants in conformity with the provisions of this act.

Passed the Senate November, 30th. 1903.

Robert West.
President of Senate. Pro. tem.

J. L. Baugh.
Clerk of Senate.

Concurred in by Council, December 1st, 1903.

John H. Gibson.
Speaker of Council.

M. M. Rowe.
Clerk of Council.

APPROVED, December ---- 5--- 1903.

W. C. Rogers.
Principal Chief.

Endorsed: Copy of Senate Bill No. 14.

Insane Asylum.

CHEROKEE - ATTORNEYS

DEPARTMENT OF THE INTERIOR.

C.

Washington.

January 11, 1900.

The President.

Sir:

I have the honor to submit herewith for executive action under the provisions of the Act of Congress approved June 7, 1897, (30 Stats., 62, 84) an act of the National Council of the Cherokee Nation, approved by the Principal Chief December 9, 1899, entitled "An Act making appropriation in favor of Hutchings & West for attorneys' fees, and for other purposes".

Said act appropriates the sum of \$1,500.00 to pay Hutchings & West for services rendered as attorneys for the Cherokee Nation in the United States Courts for the Indian Territory for the year ending September 1st, 1899. It makes an additional appropriation of \$225.00 in favor of John Sanders and \$200.00 in favor of George Wright to reimburse them for expenses incurred while they were Sheriff and Deputy Sheriff respectively of said nation in being required to answer in the Cherokee courts for alleged criminal offense.

The United States Indian Inspector recommends the approval of said act, as said attorneys are reputable gentlemen, and it appears that they have rendered services satisfactory to the Nation, if it be considered that the contract made with said nation by said attorneys is not required to be approved by the Department, under the provisions of Section 2103 of the United States Revised Statutes.

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The Commissioner of Indian Affairs recommends the approval of said act. The Department held, on July 1, 1899, that in reference to contracts representing the Choctaw Nation in the Indian Territory in citizenship cases before the United States Courts, the contract does not come within the purview of said Section 2103 of the Revised Statutes. I have, therefore, to recommend that said act be approved.

The letter of the United States Indian Inspector for the Indian Territory and a copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind.Ter.Div.
156-1900.
3 enclosures.

(Endorsed) Union Agency No. 551. Received Jan. 22, 1900. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 15, 1900. Secretary---Cherokee Act to pay Hutchings & West APPROVED.

Land
35027-1900

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,

Washington, July 24, 1900.

J. George Wright, Esq.,

U.S. Indian Inspector

for the Indian Territory,

Muscogee, I.T.

Sir:

This office is in receipt of your report of July 7, 1900, in reply to office letter of June 23, which transmitted for your consideration and report a letter from W.H. Kornegay, of Vinita, Indian Territory. Mr. Kornegay, who is a practicing attorney at Vinita, made complaint to this office that he was unduly embarrassed in the prosecution of his profession by the action of the Indian Agent and the Indian policemen in removing parties whom he represented from the Indian Territory and thus hindering instead of aiding in arriving at a judicial determination of matters where all interested parties should have an opportunity to be heard. You forwarded Mr. Kornegay's letter to Agent Shoenfelt for report and the Agent made a full report to you of his action in what he believes to be the cases wherein complaint was made of him by Mr. Kornegay, but he invites attention to the fact that he fails to find any reference by Mr. Kornegay "to any particular person," and that he therefore does not know just exactly to what cases he refers.

It is the opinion of the Agent that Mr. Kornegay referred to the matter of the order for the removal of Hezekiah A. Henley and

Mr. Kelley was not intended to hinder a judicial determination of the matters referred to by Mr. Kornegay and that his office was carrying out the orders issued by the Commissioner of Indian Affairs and approved by the Secretary of the Interior. He further reported that after Mr. Henley had been removed, Mr. Kornegay advised him to return and assured him that the Interior Department had no power to remove him; that said removal was unauthorized and that he (Kornegay) would protect him; that since then, Mr. Kornegay had filed a great number of suits and had in every possible way endeavored to prevent his office from carrying out the orders and instructions of the Department; that after the removal of Mr. Henley, he returned upon the request of Mr. Kornegay; that the Agent caused a bench warrant to issue for Mr. Henley's arrest; and that he was placed under bond awaiting a hearing in the courts for having returned to the Indian Territory in violation of section 2149 of the Revised Statutes of the United States.

In transmitting the papers, you suggest that Mr. Kornegay be advised through your office relative to the matter.

I have some doubt as to whether or not this office should enter into a controversy with Mr. Kornegay relative to the law or whether it should give him advice as to the status of the law. I am inclined to think that the better plan would be for the Agent to request, through your office, authority to remove Mr. Kornegay under the provisions of section 2149, Revised Statutes

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of the United States. If he is encouraging persons to disobey the orders and instructions of the Interior Department and to violate the laws of Congress relating to intercourse with Indian tribes, then his presence in the Indian Territory is detrimental to the peace and welfare of the Indians and he should be removed. Therefore, I shall be glad if you will investigate the facts in this matter or cause an investigation to be made in order that you may make a sufficiently definite and specific statement upon which this office can base a recommendation to the Secretary for the approval of an order for the removal of Mr. Kornegay.

Very respectfully,

A.C.Tonner

Acting Commissioner.

W.C.V.(L'e)

(Endorsed) Union Agency No.934 Received Jul.27,1900 Office of U.S.Indian Inspector for Indian Territory. Washington, July 24, 1900. Commissioner.-----Asks that Inspector make investigation and report looking to removal from Territory of Lawyer Kornegay.-----

Refer in reply to the following:

9

Land
60477-1900.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,
Dec. 21, 1900.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made on Dec. 4, 1900, by J. George Wright, U. S. Indian Inspector for the Indian Territory.

The Inspector submits a communication from the Principal Chief of the Cherokee Nation concerning the warrant issued by the Chief for \$1500 in favor of W. M. Springer, which warrant the Principal Chief issued under authority of an act of the National Council dated Dec. 9, 1899, authorizing him to employ Judge Springer to represent the Cherokee Nation at Washington, D. C., as an attorney.

The Principal Chief states that the act was disapproved by the President about six weeks after its passage and states that he considers the act of Congress approved June 7, 1897 (30 Stats., 62-84) to require that an act of the Cherokee Council shall be disapproved within 30 days after its passage, otherwise it stands as though approved, and that as this act was not approved until about six weeks after its passage, he has treated and considered it as an approved act and as a law of the Cherokee Nation and therefore issued his warrant in favor of Judge Springer.

The Inspector desires to know whether or not the warrant

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should be paid when presented for that purpose.

On January 8, 1900, this office forwarded to the Department an act of the Cherokee National Council providing for the employment (Sic) by the Principal Chief of the Nation of an attorney to represent the Nation at Washington, with the recommendation that it be disapproved. The office has not been advised concerning the action taken by the President and cannot therefore intelligently make a recommendation concerning the matter treated of by the Inspector. It therefore transmits the papers to the Department.

Very respectfully,
Your obedient servant,

W. A. Jones,
Commissioner.

W. C. V. (L'e)

(Endorsed) Union Agency No. 1583. Received January 11, 1901. Office of U.S. Indian Inspector for Indian Territory. Dept. Interior, January 4, 1901. In re. Warrant Cherokee N. in favor Wm M. Springer.

DISAPPROVED

DEPARTMENT OF THE INTERIOR.

Washington.

December 27, 1900.

The President.

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84), an act of the National Council of the Cherokee Nation entitled "An Act providing for the representation of the Cherokee Nation before the United States Commission in making a roll of the Colored citizens of the Cherokee Nation."

The preamble to said act refers to the instructions of the Department relative to making a new roll of the Cherokee Freedmen in accordance with article 9 of the treaty of 1866, and states that said nation is anxious that a correct roll of the Freedmen citizens shall be made by said Commission.

The act authorizes the Principal Chief to employ such a number of competent attorneys, not to exceed three, one of whom shall be designated senior counsel who shall be learned in the law, as, in his judgment, is necessary to represent the interests of said nation before said Commission in making said final roll of the colored citizens of the Cherokee Nation. The act requires said attorneys to be present at all sessions of the Commission, and that they shall be guided by said article 9 of

said treaty of 1866 and section 21 of the act of Congress approved June 28, 1898 (30 Stat., 495), in ascertaining who shall be entitled to be enrolled as colored citizens of said nation, and said attorneys are directed to protest against the enrollment of all persons who have not complied with said article or section.

The act further provides that either of said attorneys shall have authority to issue subpoenas for witnesses on behalf of said nation whenever he shall deem it necessary, and that the subpoenas so issued shall be served by officers designated in said act. The act prescribes the manner in which the returns of said officers shall be made, and declares that the witnesses are to be paid the sum of \$2.00 per day for actual attendance upon said Commission and five cents per mile each way in going to and returning therefrom, and an appropriation is made sufficient for the purpose.

The act also authorizes the Principal Chief to appoint two competent citizens of said nation to act as officers to serve the processes placed in their hands by said attorneys, and appropriates the sum of \$500.00 to pay for the services of each.

The sum of \$5,000.00 is appropriated for the payment of said attorneys, and an additional appropriation of \$2,000.00 is made for their office rents, stationery, incidental and traveling expenses. The attorneys are also authorized to employ a stenographer whose compensation is fixed at \$3.50 per day for the services actually rendered, and an appropriation

is made therefore.

The United States Indian Inspector for the Indian Territory reports that he submitted said act to the Commission to the Five Civilized Tribes, requesting their opinion whether the same should be approved, and he encloses the reply of said Commission in which it is stated that on account of the immense amount of work connected with making a correct roll "of the colored citizens of the Cherokee Nation under departmental instructions," and on account of the very great interest to said nation, the Commission expresses the opinion that said act should be approved; that the amount appropriated "is but a bagatelle in comparison with the amount that may be saved to the Nation, in preventing frauds that have heretofore been committed in connection with the Freedmen roll."

The United States Indian Inspector concurs in the recommendation of the Commission that said act be favorably considered, and their views are approved by the Commissioner of Indian Affairs.

There appearing to be no valid objection to said act I have to recommend that the same be approved.

The letters of said Commission and Inspector and copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.
4244-1900.
4 enclosures.

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(Endorsed) Union Agency No.1605 Received Jan.14,1901 Office
of U.S.Indian Inspector for Indian Territory.Washington,
Jan.5,1901,Secretary.----Cherokee Act providing for attorneys
before Dawes Commission in making Freedmen Roll, APPROVED----

Land.
30,302,1901.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS.

Washington,

June 10,1901.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed, herewith, a report from Inspector Wright submitting for Executive action, in accordance with the provisions of a clause in the Act of March 3, 1901, (Public No.137), an act of the national council of the Creek Nation passed at its recent special session, which said act was approved by the Principal Chief May 11, 1901. The act is entitled:

"An Act providing for an additional appropriation to pay the contingent expenses of the attorneys for the Cherokee Nation before the United States Commission in making a final roll of the citizens of the Cherokee Nation".

The act is as follows:

"WHEREAS The Act of the National Council providing for the "representation of the Cherokee Nation, before the United States Commission in making a final roll of the citizens of the Cherokee Nation---approved by the Principal Chief, December 9, 1898, and by the President of the United States January 9, 1899---appropriated only the sum of one thousand (\$1000.00) for the purpose of paying the contingent expenses

of the attorneys for the Cherokee Nation before the said Commission, and:

" WHEREAS

" The report of the said attorneys shows that the
" amount is exhausted,

" THEREFORE

" BE IT ENACTED BY THE NATIONAL COUNCIL that:-

" There be
"and is hereby appropriated out of the General Fund of the
"Cherokee Nation not otherwise appropriated, the additional
"sum of one thousand dollars (\$1000.00) or so much thereof
"as may be necessary for stationery, incidental, and traveling
"expenses of the attorneys and their stenographer, employed
"to represent the Cherokee Nation under the aforesaid act
"approved by the President of the United States January 9,
"1899. The same to be paid to said attorneys and their
"stenographer, and the Principal Chief is authorized and
"directed to draw his warrants for the same upon the requisition of the attorneys for the Cherokee Nation."

The Inspector invites attention to the fact that the preamble of the act under consideration refers to an act of the council of said nation approved by the President on January 9, 1899, appropriating the sum of \$1,000 for the purpose of paying the contingent expenses of attorneys who were employed to represent the Cherokee Nation before the Commission to the Five Civilized Tribes, and states that as the

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report of the attorneys shows that the amount originally appropriated has been exhausted, and as the additional appropriation seems to be necessary, he recommends that the act be approved. He encloses with his report a communication from the Principal Chief of the Cherokee Nation, dated May 30, 1901, in which it is stated that the work in which the attorneys are now engaged will be completed before the council will again convene and that there will not therefore be an opportunity to make the appropriation prior to the completion of the work.

The office recommends that the act be approved for the reason that it would seem the appropriation is necessary.

Very respectfully,
Your obedient servant,

W.A. Jones,
Commissioner.

(G.A.W.)
P.

(Endorsed) Union Agency No. 2342 Received Jul. 1, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, June 24, 1901. Secretary.-----Returns act of Cherokee Council making appropriation to pay expenses of attorneys before Dawes Commission, APPROVED.-----

Refer in reply to the following:

Land.
2048-1904.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,

Jan. 28, 1904.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to letter of the Indian Inspector for Indian Territory, of the 7th instant, transmitting a communication from Hon. W. C. Rogers, Principal Chief of the Cherokee Nation, dated December 29, 1903, asking if it will meet with your approval for him to employ counsel for his nation and suggesting Mr. L. F. Parker, Jr., of Vinita, I.T., who is an intermarried citizen of the Cherokee Nation.

Mr. Rogers refers to a former act of the National Council of the Cherokee Nation concerning the employment of the late Hon. William M. Springer; that at the present time the conditions in the Cherokee Nation are serious and complicated, and he is desirous to protect the interests of his people in every possible way; that he believes this requires some one thoroughly acquainted with conditions in the Indian Territory and in touch with his administration, who will be authorized to speak upon matters pending before Congress and the Department; that in all of these matters the aid of some one learned in the law upon whose counsel he might rely, would be of great value to him in the performance of his duties, and of benefit to the

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Cherokee Nation in securing legislation and the harmonious administration of affairs through the Indian Territory.

Mr. Rogers states, however, he does not desire to take any steps in the matter or to employ any person without first consulting with you and obtaining your views, and ascertaining in this manner whether it will be entirely agreeable for him to enter into such contract for such purposes and upon such terms as you might specify, and whether you would approve the same.

He states he would prefer to employ Mr. L. F. Parker, Jr., himself a citizen of the Cherokee Nation by marriage, an able lawyer who has given careful study to conditions existing and whose views are in harmony with his own, and he believes a great majority of the Cherokee people.

Mr. Rogers states he knows Mr. Parker will work faithfully in the interests of the nation and be of great service to the Department.

In forwarding this communication, Mr. Wright begs to suggest the advisability of your indicating your approval of the employment of counsel for the Cherokee Nation at this time, when legal advice is important to aid the tribal authorities, as well as the Department and individual Indians in the final winding up of tribal affairs.

The Seminoles, Creeks, Choctaws and Chickasaws have each employed attorneys, with your approval, and the desirability, if not the necessity for such employment in the interest of the Indians has been fully demonstrated, and in each instance it is important that such counsel be continued at least until the extinguishment of the tribal governments on March 4, 1906.

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The Cherokee Nation has a population of 35,000 people, with an area of about 4,500,000 acres, and the conditions are said to be complicated.

Furthermore, the present Principal Chief, Mr. Rogers, is a farmer and resides some distance from a railroad, and therefore is not available or adapted to intelligently or properly deal with many matters requiring legal attention for the welfare and benefit of his people at this important time.

For these reasons the Inspector suggests and recommends that the request of Mr. Rogers receive favorable consideration. Mr. L. F. Parker, Jr., whom it is proposed to employ, has been known to the Inspector for several years, and he understands he is a graduate of a law university, is a member of the bar of Indian Territory, and for several years was assistant to the United States Attorney for the northern district, in which position he rendered efficient service, and while thus engaged prepared a brief for the government in the case of Maxey vs. Wright, involving the authority of the Department to collect tribal taxes, in which case his contentions were sustained by the Indian Territory and Circuit Courts of Appeals.

Mr. Wright says Mr. Parker has no connection with any railroad or corporation in the Indian Territory, or any other interests which would influence him in his employment by the Cherokee Nation, and he believes he would render faithful and satisfactory service and also work in harmony with the policy of the Department.

There are now employed by the Cherokee Nation, the following attorneys:

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In all citizenship cases, except freedmen -- W. W. Hastings.
Freedmen cases -- Hastings, Bell and Davenport.

In defending the suit of the Delawares against the Cherokee Nation -- John J. Hemphill and William T. Hutchings; a contract with these attorneys having been approved by the Department March 1, 1902.

In behalf of the Eastern Cherokees under the Slade-Bender award -- Finkelnburg, Nagel & Kirby and Edgar Smith; a contract with these attorneys having been approved by the Department January 16, 1903.

No contract with the attorneys in citizenship cases has ever been approved by the Department, they being employed under acts of the Cherokee Council which were approved by the President on the recommendation of the Department, the acts specifying the limitations of their employment and the compensation.

It is unquestionably true that there are a great many matters both here in Washington and in the Territory wherein the interests of the Cherokee Nation are affected, which call for the legal advice and legal activities in behalf of the nation.

It appears to me, therefore, that Mr. Parker being satisfactory to the Cherokee Nation and to the Inspector as well, and it being known here that he is a gentleman of standing as an attorney, I concur in the recommendation of the Inspector.

Very respectfully,

W. A. Jones.

Commissioner.

(E.B.H.) P.

(Endorsed) Union Agency No. 8768. Received. Feb. 16, 1904. Office of U.S. Ind. Inspector for Ind. Terr. Washington. Feb. 9, 1904. Secretary---No objection to Prin. Chief Cherokee Nation, entering into contract to employ L.F. Parker, Jr., as counsel at not to exceed \$3500 per annum, including expenses.

C. JULIAN
Myer
Bartlesville, Okla.

March 7, 1907.

Hon. J. Geo. Wright,
U.S. Indian Inspector,
Muskogee, Ind. Ter.

Dear Sir:--

I have been informed that a ruling has been made that no attorney who has been licensed to practice before the Department of the Interior, can act as a Notary Public, and still continue the practice, and I would thank you to advise me if such is the case, as I have been thinking of being re-appointed a Notary Public.

Yours truly,

C.C. Julian.

(Endorsed) Union Agency No. 62330 Received Mar. 9, 1907 Office of U.S. Indian Inspector for Indian Territory. Bartlesville, I.T., March 7, 1907 Chas. C. Julian----Asks whether an attorney practicing before the Department can act as Notary Public.----

CHEROKEE - AUDITOR

DEPARTMENT OF THE INTERIOR.

Washington.

January 13, 1900.

The President,

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84), Senate Bill Number Six of the National Council of the Cherokee Nation entitled "An Act Providing for the Investigation of the Irregularities reported by the Committee on Claims to have been found in the Auditor's Office."

Said act recites in the preamble that certain irregularities have been found in the office of the Auditor of said nation by the joint committee of the National Council, and that said National Council cannot safely make the necessary appropriations to pay the certificates issued under tribal authority.

The act provides that the Principal Chief be authorized to appoint a commission of two persons, one of whom shall be an expert accountant, to investigate the Auditor's office for the past six years, and "make a full and complete statement showing in detail, all and every transaction in the office during the past six years, including a tabulated statement of the reports of the District Clerks, the number and amount of certificates issued and to whom given, amounts registered, auditors receipts given," and to do whatever is necessary for a complete investigation of the business done in the Auditor's office.

The act also authorizes the Principal Chief to take

-2-

possession of the Auditor's office, books, papers and records and to turn the same over to the persons authorized to make said investigation; also, to send for persons and papers, take testimony and administer oaths and compel the attendance of witnesses.

The act further appropriates the sum of \$800, or so much thereof as shall be necessary, to pay the persons therein contemplated, and directs the Principal Chief to draw his warrants upon requisition of such persons.

It further requires the commission to report in triplicate, one copy to be given to the Principal Chief, one to the United States Indian Agent, Union Agency, at Muscogee, and one to the United States District Attorney for the Northern District of Indian Territory. Said act was approved by the Principal Chief on December 15, 1899.

The United States Indian Inspector for the Indian Territory recommends that said act be approved. His recommendation is concurred in by the Commissioner of Indian Affairs. I have, therefore, to recommend that said act be approved.

The letter of the United States Indian Inspector and copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully,

Ind.Ter.Div.
186-1900.
3 enclosures.

E. A. Hitchcock.
Secretary.

(Endorsed) Union Agency No. 579. Received Jan. 23, 1900. Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 16, 1900. Secretary. Cherokee Act to make investigation Auditor's office APPROVED.

Refer in reply to the following:

COPY

25

Land.
321-1900

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington. January 8, 1900.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a joint resolution passed by the Cherokee National Council at its regular 1899 session approved by the Principal Chief December 9, 1899, entitled,
Joint Resolution number 5.

The preamble to the resolution recites that there are irregularities connected with the office of the Auditor of the Cherokee Nation; that all the national certificates audited cannot be found for the claims registered in 1899 and that the special committee has not the time to make a fair investigation. The resolution directs the Principal Chief to make a thorough investigation of any irregularities or fraud in connection with the Auditor's office and to take such steps as he may deem advisable to thoroughly protect the interests of the Cherokee Nation.

Inspector Wright recommends that the resolution be approved and makes reference to his letter of even date transmitting an act of the Cherokee Council providing for the appointment of a committee to investigate the Auditor's office. While I am of the opinion that this resolution is not absolutely necessary, still as it will authorize the Principal Chief of the Cherokee Nation to act in conjunction with the committee, at least so far as the business of the Auditor's office during 1899 is concerned, and as the Cherokee

-2-

Nation desires it, I respectfully recommend that it be approved.

Very respectfully,

Your obedient servant,

W. A. Jones.

Commissioner.

W. C. V. (L'e)

A.C.T.

(Endorsed) Union Agency No. 553. Received Jan. 22, 1900. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 17, 1900. Secretary----Cherokee resolution relative to investigation Auditor's office not submitted to President.

CHEROKEE - BUILDINGS

DEPARTMENT OF THE INTERIOR.
Washington.

27

December 26, 1899.

United States Indian Inspector

for the Indian Territory,

Muscogee, Indian Territory.

Sir:

On December 22, 1899, the President approved an act of the Cherokee Nation entitled "An Act for the purpose of disposing of certain jail property belonging to the Nation, and for other purposes," and said act has been transmitted to the Commissioner of Indian Affairs for appropriate disposition.

You will duly advise the Executive Secretary of said nation of the action taken.

Enclosed herewith you will find letter of transmittal to the President and copy of the report of the Commissioner of Indian Affairs.

Respectfully,

Tho. R. Ryan
Acting Secretary.

Ind. Ter. Div.
710-1899.
enclosures.

Endorsed) Union Agency # 500 received Jan. 5, 1900, Office of U. S. Indian Inspector for I. T. Washington, Dec. 26, 1899. Secretary. Cherokee Act to dispose of certain jail property approved.

DEPARTMENT OF THE INTERIOR.
Office of Indian Affairs.
Washington.

December 19, 1899.

The Honorable
The Secretary of the Interior.

Respectfully:

I have the honor to transmit herewith an act of the Cherokee National Council, passed at its regular 1899 session and approved by the Principal Chief November 28, 1899, being Senate bill No. 3, titled,

An Act for the purpose of disposing of certain jail property belonging to the nation, and for other purposes.

The first section provides that the Principal Chief shall be authorized to sell or cause to be sold for cash or national warrants all national property formerly used for jail purposes and designated in the committee's report made to the Senate on November 21, 1899.

Section 2 provides for the method of making the sale.

Section 3 authorizes and directs the Principal Chief to rent the national prison buildings and grounds belonging thereto until a permanent disposition has been made of the property and to place the proceeds to the credit of the general fund.

Indian Inspector Wright reports that the property referred to is not needed further and therefore recommends that the act be approved.

It appears that the property is lying idle and is of no use to the nation in its present condition. I therefore respectfully recommend that the act be submitted for Executive action with the recommendation that it be approved.

Very respectfully,
Your obedient servant.
W. A. Jones.
Commissioner.

C.V. (e)

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

August 27, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made August 18, 1902, by Inspector Wright, forwarding an Act of the Cherokee National Council passed at it's recent extra session, and approved by the Principal Chief August 14, 1902, entitled "an act to provide for a new roof for the capital building."

The act recites that the roof is in a state of decay and much damage will be done the property unless immediate action is taken to protect it; that the Principal Chief has recommended an appropriation for the purpose of putting a new roof on said building, and it appropriates \$500, or so much thereof as may be necessary. The act also provides that the best shingles and material be used and authorizes the Principal Chief to let the contract to the lowest and best bidder after advertisement and specifications of the work to be done. It also authorizes him to draw his warrants in payment therefor.

The Inspector invites attention to the fact that section 24 of the new agreement provides that "the square now occupied by the capital at Tahlequah" shall be reserved, and also to section 63,

-2-

which provides that the tribal government shall not continue longer than March 4, 1906. He says that the capitol building is necessary and appears to be in need of repairs, and he recommends that the act be approved.

The Office respectfully concurs in the Inspector's recommendation.

Very respectfully,

Your obedient servant,

A.C.Tonner,

Acting Commissioner.

3 inclosures.

(Endorsed) Union Agency # 4762 received Sep. 15, 1902. Office of U.S. Indian Inspector for I.T. Washington, Sept. 8, 1902. Secretary. Act of Cherokee Council providing for a new roof for Capitol building approved by the President, Sept. 6, 1902.

Should request executives of the nations to change form for approval of President from "executive Mansion" to "White House."

Nowata, Ind.Ter.

July 1, 1904.

Sec.Interior

Washington, D.C.

Dear Sir:

With the passing of our tribal government there will arise the necessity of disposing of our public buildings in some way yet to be provided for. Some of these, especially our Cherokee National Capitol building, are old land-marks. Intrinsically they are of comparatively little value, but if preserved intact will be of considerable historical value, I think. Will it be possible to get possession of this building before it falls into unappreciative hands? If so what steps will it be necessary to take?

As yet we have no Historical Society, but I am not trying to interest as many as possible in organizing one. All our Cherokee people with whom I have had an opportunity to discuss the subject are greatly in favor of preserving this building as a Museum and then collecting all our Cherokee documents and of whatever else of Historical or National interest we may secure.

It has been suggested that it might be reserved from sale, and simply set aside for the purpose just named. The price of the building divided per capita would amount to only a few cents, and I think very few would be unwilling to contribute their share toward the enterprise.

I would be pleased to hear from you as soon as possible regarding this. Our Council meets in November, and it will be

9867

-2-

desirable to have some plan to present at that time.

Respectfully,

(Mrs.) Caroline E. Burns.

(Endorsed) Union Agency No. 9867 Received Jul. 18, 1904. Office of U.S. Indian Inspector for Indian Territory. Washington, July 13, 1904. Secretary.-----Refers for appro. action letter of Caroline E. Burns, of Nowata, I.T., asking if Cherokee Capitol building can be reserved from sale and set aside as a museum.-----

EXECUTIVE DEPARTMENT

ers, Principal Chief.
lkner, Assistant Chief.
tings, National Attorney.
el, Interpreter.

A.B. Cunningham, Executive Secretary.
C.J. Harris, Assistant Secretary.
W.H. Walker, Assistant Secretary.

CHEROKEE NATION

TAHLEQUAH, INDIAN TERRITORY.
April 4, 1907.

Hon. J.G. Wright,
U.S. Indian Inspector,
Muskogee, Indian Territory,

Sir:-

Complying with your request of the 3, inst, D. 17182-1907, the following is a list of the public buildings, including contents, and the estimated value thereof:

<u>LOCATION.</u>	<u>ESTIMATED VALUE.</u>
Female Seminary within town of Tahlequah,	\$50.000.00
Male Seminary, 1 1/2 miles SW of Tahlequah,	30.000.00
Colored High School, 5 mi. NW of Tahlequah,	8.000.00
Capitol building, In Tahlequah,	12.000.00
Insane Asylum Bldg, now used as an Orphanage, 6 mi. SW of Tahlequah,	7.500.00
Jail building, now used as an Insane Asylum,-----In Tahlequah	2.000.00
Advocate printing	
Office and printing plant,-----In Tahlequah,	2.500.00
	<u>\$112,000.00</u>

This estimate includes contents of each building.

Very respectfully,

A.B. Cunningham.

Executive Secretary.

(Endorsed) Union Agency No. 62985 Received Apr. 6, 1907 Office of
U.S. Indian Inspector for Indian Territory. Tahlequah, I.T. April 4, 1907.
A.B. Cunningham, Executive Secretary.----Gives list of property
owned by Cherokee tribe.----

CHEROKEE - CATTLE

Ringo

34

9

Feb. 26, 1899

Hon. J. George Wright

U. S. Indian Inspector for Indian Ter.

Muskogee

Sir:

Your letter dated Feb. 14, 1899 in which you give the report of Indian policeman Jno. Childers in regard to non-citizen cattlemen which I reported to your office has come to hand. And I would like to explain to your Honor my reason for reporting these cattle. Prior to the passage of the Curtis Act, we the citizens of the Cherokee Nation, were protected in raising cattle by a law prohibiting the importation of foreign cattle from the first of March until the first of Dec. But upon the passage of the Curtis bill our laws were abolished. Therefore it was but natural that we should look to your government for protection, and for that purpose I wrote to you on the 18th Dec. last and I received an answer from you dated Dec. 22, 1898, in which you requested me to report all facts giving names of any parties, non-citizens, bringing cattle into the Cherokee nation. This I did, I gave you the names of a few parties, all non-citizens, who brought southern cattle into this part of the Cherokee Nation and I could have given you several more, and I did give their names to this man Childers. But Your Honor, I did not have any idea that to punish these parties, that I would have to furnish all evidence myself. I thought that by bringing southern cattle into this country, these men had violated the law and that by reporting them to your office, that whoever you appointed to investigate this matter, as he

would be an officer of the law, paid by the government of the United States, it would be his duty to look up the evidence.

Now Mr. Childers came to my house and I told him just where these cattler were and three of these men do notlive more than ~~two~~ miles from my place, but he did no go to see either of them, nor did he see the cattle, He told me that if I did not know just when they brought the cattle into this country and if they were held in pastures or corrals and were being fed, we could do nothing with them. He said we would have to prove where these cattle came from, and when they crossed the Cherokee line, and of course as I am not a detective, I did not have the evidence to furnish him, but if these non-citizens turn these Texas and Arkansas cattle on Cherokee grass in the spring, I surely will write you again.

For further explanation I will say that I have worked for several years by the month for from \$15 to \$20 a month, saved what money I could and invested in a small bunch of good nation cattle, and I do not wish to lose them, and there are lots of other citizens in the same fix, We were protected under our own laws, and now we would like to get some protection from U. S. laws, but we will not protest again unless these cattle are turned on the grass and all these parties claim they are going to fatten their cattle on Cherokee grass. If they do I shall try and have better evidence to give your office than I could give Mr. Childers. Hoping this will explain any action on my part, I am very truly yours

(Signed) A. M. Cobb

No. 116
A. L. S.

Endorsement: Ringo, I. T., A. M. Cobb States
reasons for reporting non-citizens who have
cattle in Cherokee Nation

DEPARTMENT OF THE INTERIOR

WASHINGTON

March 24, 1899

J. George Wright,
U. S. Indian Inspector
for the Indian Territory
Muscogee, Indian Territory.

Sir:

I am in receipt of your commission of the 17th ultimo transmitting a letter to you by J. O. Hall, dated February 8, 1898, in which he requests you to take such action as may be necessary to prevent the introduction of cattle from the South and East in the Cherokee nation. In forwarding said letter you quote section 578, page 295 of the Cherokee laws, which prohibits the introduction of cattle in said nation between March 1st and December 1st in any year, and you also refer to sections 62, 71 and 79 of the agreement made by the Commission to the Five Civilized tribes with the Commission on the part of said Nation on January 14 last; and you request to be advised with reference to said sections, and also with reference to the introduction of cattle in said Nation. You also refer to section 20 of the agreement made by said Commission to the Five Civilized tribes with the Creek Nation on the first ultimo, which permits each Creek citizen to select 160 acres of land in said Nation, "and use and occupy the same until final allotment," and you ask to be advised whether such citizen can rent his proportionate share until he has filed his declaration of selection with the Commission to the Five Civilized Tribes."

The Acting Commissioner of Indian Affairs in forwarding your said communication, recommends that you "be instructed to use the entire strength of the Agency to prohibit the unlawful introduction in the Cherokee Nation of cattle prohibited by the laws of said nation to be introduced." The agreement with the Cherokee nation above referred to was not ratified by Congress, as therein provided, and by the terms thereof its provisions became inoperative after March 4, 1899. The ruling of the department has been that there was no authority of law for the introduction of cattle into the Cherokee Nation within the time prohibited by its tribal law. On August 11³³ last, resident counsel for the Missouri, Kansas & Texas Railway System requested that the Department would advise the U. S. Indian Agent for the Union Agency in the Indian Territory, relative to the admission of Texas cattle into the Cherokee Nation, claiming "that the quarantine laws of the Cherokee Nation are abrogated by sections 26 and 28 of the Curtis Act," and also that Section 2117 of the Revised Statutes has no reference to common carriers. The Department on August 30 advised said counsel that the Department was in receipt of a report from the Commissioner of Indian Affairs upon their said communication, in which he recommended that "Agent Wisdom be not instructed to permit the introduction of cattle into the Indian Territory, "in which recommendation the Department concurred, and inclosed a copy of the Commissioner's report for the information of counsel. Said section 2117 of the Revised Statutes declares that "Every person who drives or otherwise conveys any stock of horses, mules or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of

such tribe, is liable to a penalty of one dollar for each animal of such stock." The Department is not advised that the Cherokee Nation has consented to the introduction of cattle, or has repealed its tribal law in reference thereto. Presumably, until legal authority is given for the introduction of cattle in the Cherokee Nation the railroad companies will not undertake to violate existing law. Section 334 of The Creek laws, (Ed. 1893), declares that "No person shall have the right to introduce or invite into this Nation any cattle at any time except between the first day of January and the last day of March of each year, and only then upon the payment of the tax of two dollars per head on all cattle introduced." Section 335, (same ed.), prescribes the penalty for violating said section. The Department has no official information that said sections have been repealed, but is advised that some action is to be taken by the Creek council with reference thereto. Unless some change in said tribal laws shall be duly made, the same ruling relative to the Cherokee Nation would be applicable to the Creek Nation. Said agreement with the Creek Nation made by the Commission to the Five Civilized tribes was referred to Congress for appropriate action, but owing to the short time before the adjournment of Congress no action was taken thereon. Of course, section 20 of said agreement quoted by you, would have no binding effect until action upon said agreement by Congress. However, the regulations governing the selection and renting of prospective allotments by members of the Five Civilized Tribes issued Oct. 7, 1898, provide that each Creek citizen may select 160 acres, being the same amount as that mentioned in section 20 of the agreement.

In reply to your specific question whether a member of the Creek Nation "can rent his proportionate share until he has filed his declaration of selection with the Commissioner to the Five Civilized Tribes," you are advised that the rules and regulations governing the selection and renting of prospective allotments of lands in the Indian Territory prescribed on October 7, 1898, declare (page4):

"Construing the first proviso in section 16 with the language found in the latter part of section 23, it is clear that no member is authorized prior to allotment, to rent his share of the lands, and that of his family, as aforesaid, unless he be in possession and occupying the same as his homestead, or the same be in good faith selected by him and in some way set apart to him as the land to be allotted to him."

If, therefore, a member of the Creek Nation, is "in possession and occupying" lands not in excess of his "just and reasonable share of the lands of his Nation and tribe, and that to which his wife and minor children are entitled, he may continue to use the same, or receive rents thereon until allotment has been made to him," although he may not have filed "his declaration of selection with the Commissioner to the Five Civilized Tribes." If, however, said member is not in possession of the land he cannot lease his said "Proportionate share" until he has filed his selection and the land has been allotted in accordance with said rules and regulations.

A copy of the Commissioner's report is herewith enclosed.

Respectfully

Tho. R. Ryan

Acting Secretary

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

10

Washington, March 14, 1899

The Honorable
The Secretary of the Interior.

Sir:

Enclosed herewith is a report of February 17, 1899, from Inspector Wright, transmitting a communication to him from Mr. J. O. Hall, protesting against the introduction of cattle into the Cherokee Nation in violation of the quarantine laws of said Nation,

Without entering into a discussion of the provisions of the agreements now pending consideration by the government, it seem to the office that inasmuch as the laws of the Cherokee Nation relating to the subject above have not been repealed by any Act of Congress it would be an injustice to the people of that nation to permit the introduction of cattle contrary thereto, notwithstanding the fact Congress has forbidden the United States Courts to take jurisdiction of the subject and abolished the jurisdiction of the courts of the Nation. I have the honor, therefore, to recommend that Inspector Wright be instructed to use the entire strength of the Agency to prohibit the unlawful introduction in the Cherokee Nation of cattle prohibited by the laws of said Nation to be introduced.

While this position is taken entirely on the fact of the Cherokee law prohibiting the introduction of cattle, as proposed, still the attention of the Department is invited to the fact that Section 2117 of the Revised Statutes prohibits the

introduction of cattle into the Indian country without the consent of the tribe, under penalty of one dollar for each animal of such stock, and that this section is in full force in the Indian territory, as much as in any other part of the Indian country under the supervision of this Department.

This section also applies to the Creek and other Nations in the Indian Territory that are mentioned by Inspector Wright, and his instructions in the premises should be general.

Very respectfully

Your obedient servant

A. C. Tonner

Acting Commissioner

K.S.M.(G)

Copy GBD
3/27/34

UNION AGENCY,

Muscogee, I.T., Feb. 27th, 1899.

Mr. E. L. Cookson,
Braggs, I.T.

Dear Sir:-

In reply to your query, I will say that a non-citizen has no right to hold cattle on the common range of the Territory, that is to say, he has no right to herd cattle on the public domain.

If Mr. James Madden of Braggs, is herding cattle in this way, you will direct him to put his cattle in an enclosure or otherwise dispose of them so as not to trespass upon Indian lands.

Very respectfully,

D. M. Wisdom.

U.S. Indian Agent.

Approved:

J. Geo. Wright.

U.S. Indian Inspector.

(Endorsed) Union Agency, Muskogee, Oklahoma. Press Book # 1,
Letter # 39.

McFall, I.T.,

April 6th, '99

SECRETARY INTERIOR
Washington, D.C.

Dear Sir:

Permit me to ask if there is not a law that forbids Texas cattle from being brought into the Cherokee Nation at this time of the year.

There has been thousands of head of calves just from Texas turned loose on the people, to destroy their crops and kill, native cattle during the Summer.

Yours respectfully,

J. F. Scott.

DEPARTMENT OF THE INTERIOR.

Washington.

May 19, 1899.

United States Indian Inspector
for the Indian Territory,
Muscogee, Indian Territory.

Sir:

You will find enclosed herewith a communication from J. F. Scott, McFall, I. T., relative to the introduction of cattle into the Cherokee Nation, which is referred to you for consideration and appropriate action.

Respectfully,

Edward M. Dawson.
Chief Clerk.

Ind.Ter.Div.
1414-99
1 enclosure.

Through the

Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 182. Received May 25, 1899. Office of U.S. Indian Inspector for Indian Territory. Washington, May 19, 1899. -Secretary---Refers letter of J.F.Scott,McFall,I.T.,as to introduction of cattle--Cherokee.

DEPARTMENT OF THE INTERIOR,
United States Indian Service,

Union Agency,
Muscogee, I.T., May 27th, 1899.

Mr. John Childers,
U.S.I.P.,
Claremore, I.T.

Dear Sir:-

Enclosed Herewith is a letter from one J.F. Scott,
at McFall, I.T., from which you will see that he complains of
Texas cattle being brought into the Cherokee Nation.

You will investigate this complaint and find out who is bringing
said cattle into the country, also any other information you can
obtain in order to take proper action against the parties. You
will also return the enclosed letter with your report.

Very respectfully,

D. M. Wisdom,
U. S. Indian Agent.

Approved:

J. Geo. Wright.
U.S. Indian Inspector.

1 Encl.

UNITED STATES INDIAN SERVICE,

Union Agency,

Claremore, I.T.

June 4th, 1899.

Hon. D. M. Wisdom,
U.S. Indian Agent,
Muscogee, I.T.

Dear Sir:

From the best information I have able to get this is just like all other complaints made about cattle being grazed in the Cherokee Nation the complainant has a bunch of cattle and would like to exclude all other cattle from the range but his own it is a well known fact that thare (Sic) are thousands of head of Cattle on the range in the Cherokee Nation but you cant find any one who knows when thay (Sic) were brought here nor whare (Sic) thay (Sic) were brought from or whare (Sic) thay (Sic) were unloaded off the train nor any fact that is absolutely necessary to prove before anything can be done.

Respectfully,

Your obdient servant,

John Childers,
U.S. Indian Police.

DEPARTMENT OF THE INTERIOR.

Washington.

May 18, 1899.

United States Indian Inspector
for the Indian Territory,
Muscogee, Indian Territory.

Sir:

I am in receipt of your communication of the 12 ultimo, acknowledging the receipt of departmental letter of March 24th last relative to the introduction of cattle into the Cherokee Nation.

Reference is made in your said communication to the provisions of section 2117 of the Revised Statutes, which declares:

"Every person who drives or otherwise conveys any stock of horses, mules or cattle to range and feed on any land belonging to any Indian or Indian tribe without the consent of such tribe, is liable to appenalty of one dollar for each animal of such stock,"

and you refer to section 26 of the Act of Congress approved June 28, 1898, (30 Stats., 495), which declares: "That on and after the passage of this act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the courts of the United States in Indian Territory," and you suggest that the only manner of enforcing said tribal laws would be for the Indian Agent "sieve the cattle and drive them out of the Territory, which would be a difficult, if not impracticable, undertaking."

You further refer to the contention by some parties that said Act of June 28, 1898, and the regulations of the Depart-

-2-

ment issued on October 7, 1898, permit each citizen to select for himself and minor children a proportionate share of the tribal lands to which he would be entitled under allotment, and rent the same for a period not exceeding one year, and that the provisions in said section 2117 should not be construed as applying to lands selected by members of the Five Civilized Tribes, which in many cases are only suitable for grazing cattle, and if said citizens should not be allowed to bring cattle thereon, the lands selected by them could not profitably be leased, and you ask to be advised -

"whether cattle shipped in to the Creek and Cherokee Nations shall be seized upon their arrival by the Indian Agent and delivered to the United States Marshal, or if they shall be permitted to be taken to the so-called leased selections of individual citizens and all facts reported to the District Attorney for proper action under section 2117, R.S. or what, if any, action shall be taken by the Indian Agent for violating Tribal quarantine laws."

You further quote section 336 of the Creek laws which provides:

"All citizens who have built pastures larger than one mile square under existing law shall be permitted to introduce cattle to be put and kept in their pastures from the 30th day of November to the 15th day of May in each year, until the expiration of their existing contracts with the nation."

and you state that "no leases have been submitted to or approved by the "Dawes Commission," and it is considered by some that this would apply to such lands as are leased by individual citizens."

In forwarding your said letter the Commissioner of Indian Affairs states that since the receipt of said letter of the In-

spector of the 12th ultimo, "the Department has received a telegram from him, dated April 15, 1899, as follows:

"Large herds of cattle are being shipped into Creek country at numerous places. Have reported several cases to District Attorney. Shall any further action be taken regarding removal of cattle brought in, or shall I notify railroad not to unload. Any action will require employment of considerable force unless U. S. Marshal is instructed to prevent cattle being unloaded from cars. See letter twelfth which should have reached Commissioner this morning. Copy department letter March twenty-fourth was published and furnished attorneys of railroads."

The Commissioner states that the contention that the said Act of June 28, 1898, repealed the quarantine laws of the Five Civilized Tribes, cannot be sustained; that-

"No law of any of the nations was repealed by the Curtis Act which is not in direct conflict with the provisions of that Act, although the courts of the United States are prohibited from enforcing any of the laws of the Five Civilized Tribes, and in the Creek and Cherokee Nations the local Courts have been abolished. Section 2117, however, of the Revised Statutes of the United States, prohibits, under a penalty of \$1 a head for cattle, the introduction of any cattle into any part of the Indian country without the consent of the tribe occupying the same, and it is the duty of the United States to protect the nations in the Indian Territory against the unlawful introduction of cattle under this section."

The Commissioner, therefore, recommends:

"that the Department of Justice be requested to instruct the U. S. Marshal for the Northern District of the Indian Territory to prevent the introduction of any cattle into the Creek or Cherokee Nations in violation of this statute, and to place Deputy Marshals at the necessary railroad station to prevent the unloading of any cattle unlawfully introduced. Also that the Attorney General be requested to instruct the U.S. District Attorney to prosecute vigorously all persons, whether railroad corporations or individuals, who, in violation of the Statute, introduce cattle into the Creek country."

The Commissioner further recommends:

-4-

"that the Department notify the railroad companies and especially the M.K. & T., Railway Company, that it is a violation of the laws of the United States to ship cattle into the Indian Territory without the consent of the several tribes, and that the Department will take vigorous steps to impose the penalty fixed by the Statute in case such shipments are made."

Section 341 of the laws of the Creek Nation, (Edition 1893), provides:

"That all pastures larger than one mile square, built in accordance with an act of the National Council approved October 6, 1889, and found on pages 172, 173, 174 and 175 of the Compiled term of six years from the time of the expiration of the contracts under which they were severally built; Provided, That the owners of the same shall have and truly paid in all moneys due from them under the law which authorized and erection and operation of said pastures,"

and section 343 of said act provides that -

"All pastures which may hereafter be built in accordance with this act may stand for the term of six years from the date of the contracts under which they shall severally be built,"

and section 344 requires -

"the consent of all the citizens who may be residing within said proposed enclosure, or who may be residing within one half mile outside and from said enclosure; Providing, That such pastures to be hereafter built shall not be of greater width from the border than ten miles."

In section 42 of the Act of the Creek Nation approved November, 1896, it is stated:

"That all pastures larger than one mile square now existing within the Muskogee Nation be and they are hereby declared to be in violation of our treaty stipulations, the principles of justice and equity, and are, therefore, subject to be taken down and removed from the public domain of the Muskogee Nation,"

and section 43 of the same act requires notice to be duly given to parties or companies, "owners of pastures larger than one mile

-5-

square, to take down remove the same from off the public domain of the Muskogee Nation at once." Section 44 of said act declares:

"That any and all pastures larger than one mile square, standing upon the public domain of the Muskogee Nation after the date of March 1, 1897 are hereby declared to be the common property of the Muskogee Nation,"

and provision is made therein for the sale of said pastures

"to the highest bidder for cash or National warrants in hand, conditioned that all such pastures shall be taken down and removed from the public domain at once."

Section 47 of said act provides that -

"Nothing herein contained shall be construed as requiring the taking down or interfering with the large pastures built within ten miles of the border under contract with the Principal Chief, in accordance with an act of the National Council entitled: "Contract Pasture Law," approved November 3, 1892, and included in sections 341 to 344 inclusive, Compiled Laws, Edition of 1893."

Section 334 of said Creek laws, (Edition 1893), declares:

"That no person shall have the right to introduce or invite into this (Creek) Nation any cattle at any time except between the first day of January and the last day of March each year, and only then upon the payment of the duties of two dollars per head upon all cattle introduced."

On July 21st last instructions were sent to the Commissioner of Indian Affairs, relative to the collection of rents and royalties arising upon contracts, leases and permits in the several Nations in the Indian Territory, and in said instructions,

"It is ordered that the Indian Agent in charge of the Union Agency be authorized and instructed to inquire into and investigate, and ascertain what contracts, leases, or permits were in existence and in operation at the date of the passage of the act, whether mining, agricultural or grazing leases, or for cutting

-6-

timber, lumber or hay, or any other kind of property whatsoever, or for rents of any lands or property belonging to any one of said tribes,"

and said Indian Agent was instructed to collect all such rents and royalties on the basis of such contracts and leases existing at the date of the passage of said act of June 28, 1898, until otherwise directed, and to pay the proceeds into the Treasury of the United States, "To the credit of the respective tribes in compliance with the provisions of the act."

On July 26th same year, the Secretary advised the Commissioner of Indian Affairs, who in turn informed the said Indian Agent, that said instructions "are to be understood as covering import taxes, per capita assessments, or other charges upon cattle imposed by the laws of the representative tribes upon the basis of such laws until otherwise ordered."

"The lands being leased are such as may be leased by individual Indians under first proviso of section sixteen, both by reason of actual possession and occupancy thereof, and by reason of their selecting the same as their allotments in compliance with the Curtis law, and the rules and regulations of the Secretary of the Interior and the Dawes Commission. About fifty leases have been filed with Commission. Many others are reported to have been made, but have not yet been filed with Commission. * * * * * No action has been taken by tribal authorities giving consent to the introduction of cattle."

Afterwards, in response to departmental telegram of the 20th ultimo, you advised the Department on the 22nd ultimo.

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"Cattle have been and are being placed in large pastures same as heretofore. Approximate shares of individuals being selected and filed with Commission for future allotment, and such shares leased to cattlemen. No danger to domestic cattle in Creek Nation as they do not mix. Revenue goes direct to individuals and none to tribe. Unless considered in violation of statutes or tribal laws I see no objection to introducing cattle. To require lands to remain vacant would prevent individuals leasing, injure cattlemen and accomplish no good."

The evident purpose of the quarantine law of the Creek Nation was to prevent injury to the native cattle by coming in contact with the Texas cattle that might be shipped into the Nation within the time prohibited by said tribal statute. Since you report that there is no danger of such contamination, especially if the foreign cattle be confined in the pastures which may be leased from the individual citizens under said rules and regulations of October 7, 1898, there would seem to be no good reason why the Texas cattle should not be allowed to come into said Nation, in order that the individual citizens may derive revenue from the leasing of their proportionate shares which they are expressly authorized to do under the proviso in section 16 of said Act of June 28, 1898.

Besides, the manifest object of said proviso in section 16 of said Act was to enable the individual citizen to derive revenue from the use or leasing of lands to which he might be in possession which did not exceed his proportionate share and that to which his wife and minor children are entitled, prior to the time when his final allotment of said lands should be made to

-8-

him, and it was with the view of enabling the individual citizen to get the benefit to which he was entitled under said sections 16 and 23 of said Act that said regulations of October 7, 1898, were prescribed.

The Commission to the Five Civilized Tribes has forwarded some thirty-two leases for lands executed under the provisions of said regulations of October 7, 1898, which they have recommended for approval. It is the understanding of the Department that the rental agreed to be paid to the lessors is a fair and reasonable amount, and all that the lessees can well afford to pay. In cases, therefore, where parties have entered, or shall hereafter enter, into leases with individual Indians under said rules and regulations of October 7, 1898, in the Creek Nation, the tax of \$2.00 required by said section 334 of the Creek laws will not be required to be paid in addition to the amount stipulated for in the several leases which may be approved by the Department, and to that extent said regulations of July 21 and July 26, 1898, are hereby modified; but it must be understood that the parties entering into said leases must show good faith in their act, and where cattle are brought into the Creek Nation and are not confined to the pastures for which the owners of such cattle have entered into leases with individual Indians under said rules and regulations, section 2117 of the Revised Statutes will be rigidly enforced, and to this end you are

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enjoined to exercise special diligence in order that no person or corporation shall attempt or be able to evade the rulings of the Department by turning their cattle loose on the public domain of said Nation, or by any action in violation of the letter or the spirit of the instructions of the Department as above set forth; and you will take particular care that no cattle shall be introduced into said Nation from Texas, or elsewhere, which are infected or liable to become infected and cause injury to the domestic cattle in said Nation.

Respectfully,

E. A. Hitchcock,

Secretary.

Ind.Ter.Div.
1107,1175,1182,
1192-1899.

Through the Commissioner
of Indian Affairs.

)Endorsed) Union Agency No. 176. Received May 22, 1899. Office of U. S. Indian Inspector for Indian Territory. Washington, May, 18, 1899. Secretary---Relative to introduction of cattle, Creek & Cherokee Nations.

Union Agency,
Muscogee, I.T., June 22nd, 1899.

Mr. W. Taylor,
Adair, I.T.

Sir:-

You are hereby notified that R. S. Vaughn, makes complaint to this office that you have allowed your hogs to destroy about 30 bushels of potatoes in his garden.

You are therefore notified to keep your hogs enclosed and not allow them to run at large and destroy citizens' crops, otherwise steps will be taken by this office to make a thorough investigation, and if the complaint is found to be true you will be held in contempt of this agency and subject yourself to removal as an intruder.

You will notify this office immediately on receipt of this letter that you will comply with the request herein contained.

Very respectfully,

J. Blair Shoenfelt,

U.S. Indian Agent.

Approved:

J. Geo. Wright,

U.S. Indian Inspector.

Union Agency,
Muscogee, I.T., June 22nd, 1899.

James Price,
Fairland, I.T.

Sir:-

Your letter, also that of Mr. Davenport in your behalf, have been received. You state that it is the custom of all who live in your neighborhood to allow hogs to run at large.

I must advise you to keep your hogs penned up and not allow them to destroy other people's crops, or steps will be taken against you as an intruder and for trespassing upon the rights of citizens.

Very respectfully,

J.Blair Shoenfelt,
U.S. Indian Agent.

Approved:

J.Geo.Wright.

U.S. Indian Inspector.

(Endor sed) Union Agency Press Book # 3, Letter # 219. Muskogee.

Dec. 1, 1899.

Hon. Due M. Wisdom

U.S. Indian Agent

Muscogee, Ind. Ter.

Dear Sir:

We the undersigned would respectfully petition you to have some two thousand (2000) head of foreign cattle removed from this district. For the following reason--

1. The cattle in question are diseased and dying from fever.

2. Because the range here is hardly large enough for our own native cattle, and we feel that the owners of these cattle are imposing on our people. Said cattle are branded with cross on right side and 3 bars on left: $\pm \equiv$ There are various other brands but the above is the most numerous.

Jas. H. Faribanks
Lewis Sanders
Hiram Stephens
Abe Foreman
Willie Rogers
Johnson Manning
W. P. Hoffman
Sam S. Sanders
Wm. Hinds

R. M. Davis
Solomon Bragg
Willis Davis
Nancy Dunbok
Charles Gloss
J. F. Adair
Wilson Cordery
Alf. Thompson
C. M. Freeman

Edward McLain
J. C. Lewis
Jerry Foreman
John Hair
John Nakedhead
W. T. Wren
George W. Elders
Elix Folling
E. Rolland

(Endorsed) Union Agency # 996 Received May 11, 1899. Office of U.S. Indian Inspector for Indian Territory. Jas. H. Fairbanks and others. Braggs, I. T. Petition to have some diseased cattle removed.

Nowata, I.T. June 30, 1902.

Mr. Guy P. Cobb,
Revenue Inspector,
Muskogee, I.T.

Dr. Sir: I herewith return papers in complaint of J.E. Welch, supported by affidavit of J.E. and Richard Welch, against Lou Miller, Jerry Kestler et al.

I first visited Attorney Neville, of Vinita, who made the affidavits. He felt convinced that the information therein set forth was correct, as he questioned them closely and particularly. Then I drove to J.E. Welch Jr's place, then to J.E. Welch Sr, then to Richard Welch's place. J.E. Welch Sr. was in Muskogee, but Richard Welch, the other affiant talked as had written. The first bunch of cattle, 103 head, were driven in by Lou Miller and Jerry Kestler. Mack Welch will swear that he saw them driving them. Miller and Kestler get mail at Edna, Ks., Wm. Hyatt mail at Bartlett, Ks.

Mr. Richard Welch says that J.B. Pettit, Edna, Ks., can give valuable information concerning cattle and hay.

Yours,

Wm. S. Irvin.

EXECUTIVE DEPARTMENT

Cherokee Nation

Tahlequah, Indian Territory,

Vinita, I.T.

4-25-1902.

Guy P. Cobb

Special Rev. Collector C.N.

Muskogee, I.T.

Dear Sir:-

Enclosed find sworn statement of John E. Welch
and Richard L. Welch of Hudson, I.T. (Cherokee Nat)
which explains itself.

If there is any show in the world to help these
people out I certainly would appreciate it.

Very respectfully

T.M. Buffington,

Prin-Chief.

(Endorsed) Union Agency No. 1139 Received June 20, 1902
Office of U.S. Indian Inspector for Indian Territory.
Nowata, I.T. William S. Irvin, July 1, 1902----Relative
to complaint of J.E. and Richard Welch introduction of
cattle in Cherokee Nation.----

- 1- Be it Enacted by the National Council, That the amendment of the second section of the Act of the National Council approved December 6th, 1883, and entitled, An Act in relation to the stock passing through and grazing in the Cherokee Nation and for other purposes. approved December 13th, 1886, be and the same is hereby repealed.
- 2- Be it further Enacted, That all citizens of the Cherokee Nation are prohibited from employing any non-citizen as herders or herd boses or other attaches of herds, while the said citizens have their stock herded or grazed on the public domain.
- 3- Be it further Enacted, That all persons having Texas or Foreign cattle running at large on the public domain, or outside of lots or enclosures shall be required to have them herded so as not to endanger the lives of school children or other persons passing through the country on foot, and also to prevent the said cattle from breaking into fields or farms or otherwise injuring the premises belonging to a citizen of this Nation.

All persons violating the provisions of this section shall be fined in a sum of not less than \$50.00 nor more than \$100.00-- for each offence, (Sic) and in default of the payment of said fine, the person so offending shall be imprisoned in the National Prison for a period of not less than 3 nor more than 6 months at the discretion of the Court.

- 4- Be it Further Enacted: That all fines collected, by the sheriffs of the Districts in which the offence (Sic) is committed, under the provisions of this act shall, after deducting 10 per cent to pay the expenses of each collection, be paid to the National Treasurer for the benefit of the School Fund.

5- Be it Further Enacted, That all citizens of this Nation, owning more than two hundred head of cattle, shall be required to pay an annual tax of one dollar per head on each and every head of cattle so owned over and above the aforesaid number of 200 head.

6- Be it Further Enacted: That it shall be the duty of the sheriffs of each District of the Nation to collect the aforesaid tax annually, commencing on the 1st day of September 1887.

and after deducting 10 per cent of all amounts so collected to pay the expenses of such collections, shall pay the remainder into the National Treasury for the benefit of the school Fund.

7- Be it further Enacted: That it shall be the duty of each Sheriff to keep a book wherein will be registered the names of all persons paying taxes under the provisions of this act, with the number of cattle owned, and the number taxed & c, from which he will make his annual report to the Principal Chief.

8- Be it Further Enacted That each sheriff shall be empowered to duly qualify any person or persons whose sworn statement he may deem necessary to secure the desired information in regard to the number of cattle owned by different persons.

Any citizen refusing to pay the annual tax provided for in this act, or who shall make a false statement in regard to the number of cattle owned by said citizen, shall upon conviction therefor be fined in a sum of not less than \$200.00 or more than \$500.00 and in default of payment of said fine, be imprisoned in the National Prison not less than one year or more than 3 years at the discretion of the Court.

CHEROKEE - CENSUS

Land
73751-1901.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, January 3, 1902.

The Honorable,

The Secretary of the Interior.

Sir:-

There is enclosed, herewith, a report from Inspector Wright, dated December 17, 1901, forwarding for Executive action in accordance with the provisions of the Act of Congress approved March 3, 1901 (31 Stats., 1085), an Act of the National Council of the Cherokee Nation approved by the Principal Chief December 2, 1901, entitled: "An Act making an appropriation in favor of J.M.Keys."

The Act is as follows:

Be it enacted &c., That there be, and is hereby, appropriated the sum of Five hundred (\$500.00) dollars out of the General Fund of the Cherokee Nation, not otherwise appropriated, in favor of J.M.Keys, for services rendered the attorneys for the Cherokee Nation in making a roll of colored citizens of the Cherokee Nation, and the Principal Chief is authorized and directed to draw his warrant in favor of the said J.M.Keys accordingly.

The Inspector transmitted with his report a communication from T.B.Needles, Commissioner in charge of the work of the Commission to the Five Civilized Tribes, which said communication is dated December 14, 1901, and in which it is stated that Mr.Keys was in attendance at the session of the Commission in the Cherokee Nation, which was held for the purpose of identifying Cherokee freedmen; that he appeared to be

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actively engaged on behalf of the Cherokee Nation; and that the Commission was advised by the attorneys for the Cherokee Nation that Mr. Keys had performed valuable services in procuring witnesses in behalf of the Nation. The Inspector recommends the approval of the Act.

Inasmuch as it would appear from the papers before me that Mr. Keys rendered valuable services to the Cherokee Nation in connection with the making of the roll of the citizens of said Nation, and that he has not been paid therefor, I respectfully recommend that said Act be laid before the President for Executive action with the request that he approve it.

Very respectfully,
Your obedient servant,

W.A. Jones,

Commissioner.

G.A.W.(E.)

(Endorsed) Union Agency No. 3370 Received Jan. 21, 1902 Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 15, 1902. Secretary. ---- Act of Cherokee Council making appropriation in favor of J.M. Keys, APPROVED by President Jan. 11, 1902. ----

Grove, I.T. April 4, 1902.

Mr. Cobb:

Find enclosed about 247 names of destitute
Indians of Delaware district.

The roll of this district should be kept to
300 or 350.

The enumerators will be through by the
middle of the week, say by next Wednesday.

Yours truly,

William S. Irvin.

(Endorsed) Union Agency No. 756 REVENUE INSPECTOR 4/4/02
William S. Irvin Grove, I.T. Rel to roll of Cherokee Indigents.

CHEROKEE - CITIZENSHIP

December 7th, 1871.

SENATE BILL

An Act to amend an act, approved Nov. 18th 1870 entitled an Act relative to the North Carolina Cherokees."

Be it enacted by the National Council: That the Act approved, Nov. 20, 1870, entitled "An Act relative to the North Carolina Cherokees:" be, and the same is hereby so amended as to require the Chief Justice of the Cherokee Nation to receive and hear the petitions of all persons, claiming the rights of Cherokee Citizenship, and to take evidence with regard to the same, and to transmit the petitions of such petitioners, with all the evidence relating thereto, with such remarks touching the merits of each petitioners, as he may deem proper, to the National Council, during the first week of each regular session, for final action; Nor shall the powers of said Chief Justice, extend any further, than to receive the petitions and take the evidence, as aforesaid.

He, the said Chief Justice, in acting in the premises aforesaid, shall be empowered and required to defend the interests of the Cherokee Nation, and in so doing, will be authorized to obtain all evidence possible to present the Nation from any imposition, by any of such petitioners; and shall before entering upon the discharge of his duties aforesaid, take an oath to discharge the same faithfully.

Be it further enacted that for the purpose of executing this act, said Chief Justice, shall hold two sessions in each year. One during the month of April at Fort Gibson, and one at the town of Tahlequah, in September, and he shall be allowed out of the General Fund, while in on actual service

\$5.00 per day: and shall have the right of employing a clerk,
whose pay shall be \$4 - per day.

Tahlequah, C. N.

December 7th, 1871,

Approved.

Lewis Downing,

Principal Chief.

Executive Department

Tahlequah, Cherokee Nation

Feby. 11th, 1889

I hereby certify that the above, and within is a true and
correct copy of the records in this department.

John Bullette.

Assistant Executive Secretary/

(Endorsed) Union Agency No. 23548 Indian Office----An Act to amend
an act approved November 1870, entitled an "Act in relation to the
North Carolina Cherokees."-----Act of December 7th, 1871.

November 5th, 1874.

This certifies that during my sitting as Chief Justice of Supreme Court., Cherokee Nation, to take evidence in case of applications for Cherokee Citizenship at Fort Gibson C. N. sometime in April 1872, as a "Court of Commission.", authorized by National Council for the same, one W. J. Watts, son of Matichi Watts, filed his application then and there for Cherokee citizenship, with sufficient proof to entitle him to said right according to the best of my judgment, which I forwarded to the Senate with my recommendation and classed, "B".
This November 5th, 1874.

John B. Vann,

A.J.S.C.

I hereby certify the above to be a true and correct copy of the certificate of John S. Vann, A. J. S. C. in case of the Watts family, now on file in the office of Commission on Citizenship.

Tahlequah, Feby. 15th, 1889.

E. G. Ross.

Clerk Commission on Citizenship

Executive Department, C. N.

Tahlequah, Feby. 19, 1889

I hereby certify that E. G. Ross whose name appears to the above certificate as clerk of the Commission on citizenship, is a regularly appointed and acting clerk of said commission, and was at the time of signing the same, and that his acts in the premises

as such clerk is entitled to full credit.

John L. Adair.

Executive Sectry. C. N.

(Endorsed) Union Agency No.23548, Recd November 5th,1874----Indian
Office,,Certificate of Actg. Chief Justice John S. Vann in the
"Watts case" November 5th,1874.-----

Fort Smith, Ark.

July 30, 1875

Hon. G. W. Ingalls,

Sir:

I have been acquainted with the Cherokee Nation for nearly forty eight (48) years, and from my first knowledge of the Nation, families named Watts were among them. There were several families, I think here in 1834, known as "Old Settlers;"

The name is familiar among the Cherokees.

Respectfully &c

(signed) Jno. F. Wheeler

Executive Dept.C.N.

May 23, 1888.

A true copy of the original

A. E. Ivey,

Asst. Exec. Secy, C.N.

(Endorsed) Union Agency No. 22112 Indian Office, received July 30, 1875 Department-Indian Office----Jno. F. Wheeler, a Cherokee concerning the case of the Watts family claiming Cherokee Citizenship----On part of the Watts, the affiant was not a Cherokee, A white man with a Cherokee family.----

Office of
Mayor of Downingville,
Cherokee Nation, I.T.

Vinita, Ind. Ter.

May 25th, 1885.

This day personally appeared before me, W. L. Trott, Mayor of the above named City and Territory. Mary Riley, wherein after being duly sworn states that she is a Cherokee Indian by blood, and a citizen of Coo-wee-sco-wee district, age about 60 years. Further states that she was well acquainted in his life time, with Joseph Watts, and shows that he was a son of old John Watts, who was one of the assigners of the Third Treaty made with the Government of the United States and Cherokee people October the 25th day 1805 at Talico, old Cherokee Nation, and as heard him, Joseph Watts, talk both languages Cherokee and English. And knew him to be a Cherokee Indian by blood and further states that she knew old Thomas Watts, the brother of the aforesaid John Watts, and knows that he was the Uncle of the aforesaid Joseph Watts, which were all Cherokees by blood, also states that Thomas Watts, the Uncle of Joseph Watts, did, live in this Nation, and died on the Illinois River, about ten (10) miles south of Tahlequah, the Capital of the Cherokee Nation, Indian Terry, who was a recognized citizen of this Nation, and also states that Polly Terrill, formerly Watts is the daughter of the aforesaid Thomas Watts, and the aforesaid Polly Terrill, now lives in the town of Tahlequah, Cherokee Nation Indian Territory, and also states that the wife of Arch Campbell,

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was a Watts, a sister of the aforesaid John Watts and also of the aforesaid Thomas Watts, and the wife of Arch Campbell, is the Aunt of the aforesaid Joseph Watts, that they were all of the same family relation to each other and all Cherokee Indians by blood. That the aforesaid Sul-tuskee Watts was one of the assigners to the Cherokee constitution, and also the Cherokee name, of Joseph Watts, was Che-stoo-tee, and further states, that Malachi Watts, is a full brother, of the aforesaid Joseph Watts, and all of them, and, their decendants, are Cherokees by blood.

her
Mary x Riley
mark

Attest

R. Chastain

Sworn to and subscribed before me this 23rd day of May 1885.

W.L.Trott.

Mayor Downingville.

(Endorsed) Union Agency No.14469 Received 23rd day of May 1885.
Indian Office----Mary Riley, CHEROKEE, discloses facts regarding
citizenship of Watts family, subscribed by Mayor of Downingville,
W.L.Trott.----

April 19, 1888

Cherokee Nation
vs
W. J. Watts et al

Now comes R. F. Wyley, attorney for the Cherokee Nation, and makes complaint that W. J. Watts et al, have been duly notified by authority of an act approved February 7th, 1888, amending an act approved Dec. 8th, 1886, to establish a commission to try and determine applications for citizenship in the Cherokee Nation, and that said W. J. Watts et al, having had the thirty days notice from date of service as provided for in said act approved February 7th, 1888, to appear before said commission, to establish their rights to citizenship in this Nation as provided for in 7th, section of act approved Dec. 8th, 1886, now sitting at Tahlequah, Cherokee Nation, and that the said Watts et al, having been called at the court house door on thru several days and no answer being made in person or by attorney therefore; now comes attorney for the Nation and moves the Commission to enter judgment as provided for in 6th, section, the act approved February 7th, 1888 and that said Watts et al, be declared intruders upon the public domain of the Cherokee Nation.

R. F. Wyley
Nation's Attorney,

April 19th, 1888.

Ex. Dept. C. N.

This is a literal copy from the original

C. J. Harris

Asst. Ex. Sec'y.

C. N.

(Endorsed) Union Agency No. 22112 Received April 15, 1888 Department of the Interior----Motion by Hon. R. F. Wyley Nation's Attorney to declare W. J. Watts et al as intruders in the Cherokee Nation, April 19th, 1888.-----

OFFICE COMMISSION ON CITIZENSHIP,

Tahlequah, Ind. Ter.

May 21, 1888

I hereby certify that the below mentioned parties do not appear upon the census rolls of Cherokees taken in the states of North Carolina, Tennessee, Georgia and Alabama, and known as the "rolls of 1835," and the rolls of 1848, known as the "Mallay Rolls" and the census rolls taken by the U. S. in the year 1851, and known as the "Siler Roll," and the pay roll of Cherokees made in the year 1852, and known as the "Chapman Roll." Garat Watts, John Watts, Malachi Watts, W. J. Watts, Marion Watts, and Soloman Watts.

Connell Rogers,

Clerk Com. on Citizenship.

(Endorsed) Union Agency No. 22112 Indian Office, received May 21, 1888.-----Certificate of the Clerk of the commission on citizenship that the names, Garat Watts, John Watts, Malachi Watts, W. J. Watts, Marion Watts and Soloman Watts, do not appear on any of the census or pay rolls of the Cherokees.-----

MARCUM, GRACE & LATHAM,
Attorneys at Law.

Fort Smith, Ark

Sept. 8, 1888

Hon. Secretary Interior,
Washington, D. C.

Dear Sir:

In the matter of the claims of W. J. Watts, M. J. Watts, A. J. Watts, and others of the Watts family to citizenship in the Cherokee Nation, the Wattses, that Agent Owen of the Union Agency has ordered them to dispose of their property in six months and more out of the Cherokee Nation. This action on the part of the Agent seems to me to be premature. The question as to whether the Wattses had gone into the Cherokee Nation, claiming, in good faith to be Cherokees by blood prior to August 11th, 1886 was submitted to Agent Owen and the same has been investigated and all the facts were submitted to him and he has recently reported his action to your department and no action has, as yet, been had upon his report as I understand.

I submitted a written argument to Agent Owen and the same accompanies his report, but since the ruling of the department in the Kesterson case new questions have arisen regarding the Watts case which I would like to discuss (Sic) before your department. I would therefore respectfully, ask that the action of Agent Owen be suspended in the matter until the matter

can be fully heard. In the Kesterson case, I understand, your ruling contained the statement that not less than six months should be given in any case. The Agent has, as I think, prematurely, fixed the time in the Watts case at the lowest limit without any information as to the amount of property owned by the Wattses or the difficulties that would attend them in disposing of it, at anything like a fair price.

I beg to state, that the Watts family have been among the most industrious and enterprising of Cherokee farmers for more than sixteen years, and not a single lick of work did they do until they had first been admitted to citizenship by Hon. John S. Vann Chief Justice of the Supreme Court of that Nation upon the most cogent proofs. After their admission the records of their case was placed in the archives of the Cherokee Nation and by some means destroyed and when afterward forced into the Cherokee Court they had to get up proof the second time. They never have been charged with obtaining their admission by fraud and as farmers and citizens they are an honor and a credit to any country. They have the appearance of being Indians and they are Indians. There are more than three thousand claimants to Cherokee citizenship and yet the Cherokee citizenship court seems determined to bar of them of their rights. But I know of no case just like the Watts case for they have acted fairly and went to work in good faith and have so far lived the life of upright, industrious people.

Ever since the ruling of the U. S. Supreme court in the North Carolina case 117th U. S. the Nation (Cherokee) seems to have been bent on going back for years and overturning former judgments of their own court, granting admission to citizenship.

This question of admission, or the authority to admit to Cherokee citizenship was not before the Supreme Court in the case mentioned, but only the question as to whether the North Carolina Cherokees as a body then living in North Carolina was entitled to share in a certain fund held in trust by the U.S.

The Cherokees are the wards of the general Government and seems to me that the guardian might justly and properly claim the right to control the ward and unless it is done the greatest hardship that was ever known will befall thousands of the best people that lives in the Cherokee Nation. A majority of the Cherokees know that the citizenship court in decitizenizing the Wattses is wrong -- it is wrong, and yet upon the basis of a wrong decision the Cherokee Nation asks the Government to declare the Wattses intruders. Owen, the Agent is a Cherokee Indian and I have been informed, has declared that he would resign his office before he would go back upon the Nation, meaning I suppose he would not ignore its wishes. As the question is so important and involves so much of the hard earnings of so many good people I would humbly insist upon a full hearing and especially in the Watts case, and if time is allowed me and the suspension asked for is granted I shall prepare such an argument as I deem appropriate as to the right of the Government to interfere in case of such gross outrages as have been perpetrated against the Watts family.

I am, very respectfully,

Thos. Marcum.

(Endorsed) Union Agency No. 23076 Office of Indian Affairs, recd. Sept. 13, 1888 Fort Smith, Ark., Sept. 8, 1888----CHEROKEE CITIZENSHIP, Thos. Marcum, Atty.----In the matter of the claim of W. J. Watts et al, to citizenship in the Cherokee Nation, I.T. and asks that Agent Owens action be suspended &c. &c.----

UNITED STATES INDIAN SERVICE,

Union Agency,

Sept. 27, 1888

Hon. A. B. Upshaw

Acting Com. of Ind. Affairs

Washington, D. C.

Sir:

Inclosed I have the honor to send a sworn statement of W. J. Watts, Esq, stating that the Sheriff of Sequoyah District has sold two houses, one belonging to W. J. Watts, and one belonging to his sister, both rejected claimants to Cherokee citizenship on the plea the houses were erected subsequent to August 11th, 1886. That the buildings at Sheriff's sale brought less than their real value. That the parties buying did not rely on Indian Sheriff but on U. S. authorities to put them in possession. Mr. Watts asks that he be not disposed but be given time to dispose of the property himself.

This office desires explicit instruction as to whether the Sheriff's action is to be supported or not.

On June 16th, 1887 (S. 14,872-87) you answered my letter asking instruction regarding the Cherokee laws which forbid any persons from making farms on the public domain, holding cattle or cutting timber, until their rights should have been established and especially in the relation of such laws to "doubtful citizens" in the Cherokee Nation.

You informed me that office report of March 23, 87 and

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the decision of the Department, dated March 25, 1887, referred exclusively to persons who entered the Cherokee Nation prior to August 11th, 1886, that the Department intended to protect the property of those who had entered the Nation prior to that time beseeched improvements but that the Department did "not intend to protect persons who (go) went into the Nation after the said 11th of August, 1886" and that "any person who now enters the Nation before being admitted to citizenship does so at his own risk and is entitled to no consideration. With this preliminary statement I was instructed that "the laws for the protection of the public domain should be strictly enforced." And I should publish your views. I did publish it in all the papers. I understood and understand that it was your purpose to protect only those, who in good faith had erected important improvements prior to Aug. 11, 1886, and that it was not your purpose to protect even these persons in any further occupation of the public domain in erecting houses, farms, grazing herds of cattle, selling timber &c but that the "Cherokee laws for the protection of the Public domain should be strictly enforced against all persons subject thereto and that this class of persons were not exempt except in so far as those improvements were concerned which in good faith had been erected prior to the declaration of the views of the department as based on the North Carolina case (Sup. C.N. decision) published Aug. 11, 1886.

If such persons were allowed to continue to erect such buildings, new farms &c, of course the question, could never be settled and as such further aggression on Cherokee public domain can not be consistent with the views of the department

24539

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that such persons are intruders and must dispose even of those places erected prior to Aug. 11th, 86. I have not questioned the right of the Sheriff to sell places erected by rejected claimants since Aug. 11, 86 it being his declared duty under the Cherokee Laws for protection of the Public domain, which I was directed to enforce.

These people have had notice that these Cherokee Laws would be strictly enforced, and that you had so ordered, by general publication in papers and general notoriety- and canvas among the people but seem to have disregarded the notice. Mr. Watts appears to think he had the right to do so notwithstanding the notice. On June 20th, 1887, I had notice published that the laws for the protection of the Cherokee public domain would be strictly enforced by this office by order of the Cherokee commissioner of Indian affairs. I sent it for publication to Coffeeville Journal, Chetopa Advance, Caney Chronicle, Ft. Smith Elevator, Indian Journal of Eufaula, Atoka Independent, Cherokee Advocate of Tahlequah, Indian Chieftain of Vinita, Denison News, Our Brother in Red of Muskogee, Indian Missionary. It was well known the notice was addressed to claimants to Cherokee citizenship. They were advised to "Take one notice and govern themselves accordingly."

I desire to carry out your wishes fully and desire explicit instruction in this Watts case here presented by W. J. Watts, Esq, lest I might possibly have misconceived your intention and views.

Your obedient Servant

Robt. Owen

U.S. Indian Agent.

(Endorsed) Union Agency No. 24539 Office of Indian Affairs,
received Oct. 1, 1888 Robt. Owens, U. S. Indian Agent, ----
Transmitting statement of W. J. Watts as to sale of his place
at Muldrow, I. T. by Cherokee Sheriff and asking instruction
report.-----

Tahlequah Cherokee Nation I.T.

February 12th, 1890

Hon. G. W. Parker,

United States Special Agent.

Tahlequah, C.N., I.T.

Dear Sir:--

Enclosed please find a copy of a note from Principal Chief Mayes to the undersigned dated the 11th inst., stating that he, the Chief, has been "notified by the Hon. Commissioner of Indian Affairs that Hon. G. W. Parker will be sent to the Cherokee Nation as a special Agent to investigate the status of the Watts family as to their citizenship in the Cherokee Nation i.e. all the facts as to what has been done by the Cherokee Nation in regard to their claim to citizenship either by the National Council, Supreme Court, or commission on Citizenship" and after expressing his own earnest desire that every possible "Facility and opportunity be afforded" in the conduct of such investigation on part of the Cherokee authorities," appointing the undersigned to act on behalf of the Cherokee Nation with that purpose impartially in view. Learning of your arrival this evening at this place we hasten to comply with the desire of the Chief and to place ourselves at your service for the obtaining of what information you may wish for, obtainable from Cherokee records, and, pursuant to the authority we have received from Chief Mayes we beg to be informed at, or within what time it will be convenient to yourself to receive from us as agents of this Nation such

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representations and proofs, - based upon the laws of the Nation and proceedings thereunder, as will in our judgment define "the status of the Watts family as to their citizenship in the Cherokee Nation.

We are,

Very respectfully,

Agents C.N.

R.F.Wyly

W.P.Boudinot.

(Endorsed) Union Agency No. 23.-----On arrival of Special Agents letter of Nations Attorney's with letter to Chief Mayes, offering all assistance &c., in this investigation;special agents reply-----

Tahlequah C.N.
Indian Territory.

Messrs. R. F. Wyly
W.P. Boudinot, Attorneys at Law,
Tahlequah, Indian Territory.

Feb. 13th, 1890

Sirs:-

I have the honor to acknowledge the receipt of your communication of February 12th, 1890, containing communication from Chief Mayes relating to testimony to be taken before me involving the Watts family's rights to Cherokee citizenship. I appreciate the sentiments therein expressed offering every facility and opportunity necessary to obtain all the facts in every manner connected with the matter and the free access to every Department of this Nation where anything can be found on the subject - &c.,. That I may attend to some duties assigned me by the Department in another part of the Territory notice of which I found awaiting me here in the mails and that you, and Messrs. Watts, (whom I have notified), may have ample opportunity to prepare such evidence as you may choose to present, I will name Thursday February 20th, at 9;30 a.m., at Board of Education's office in the Capitol, as the time and place to commence such proceedings - and I assure you that I will to the best of my endeavor, carry out the expressed wish of the Department "that a full, fair and impartial hearing and examination of the whole matter may be made, and ample time be allowed for the preparation and presentation of such evidence as the several parties may desire to present.

Very respectfully,
Geo. W. Parker

Special Indian Agent.

Executive Department
Cherokee Nation, I.T.
Tahlequah, Feb. 11th, 1890

Hon. R. F. Wyly,

Attorneys at Law, Tahlequah C.N.

Hon. W.P. Boudinot

Dear Sirs:-

I have been notified by the Hon. Commissioner of Indian Affairs that Hon. G. W. Parker will be sent to the Cherokee Nation as a special Agent to investigate the status of the Watts family as to their citizenship in the Cherokee Nation i.e. all the facts as to what has been done by the Cherokee Nation in regard to their claim to citizenship either by the National Council, Supreme Court, or Commission on citizenship.

In this investigation it is the desire of the Department to afford said G. W. Parker every facility and opportunity necessary to know all the facts in every manner connected with this matter of Watts family's claim to citizenship in the Cherokee Nation.

Hon. G. W. Parker will have free access to every Department of this Nation where anything can be found on this subject and

Now in this connection I respectfully request that you act as Agents, or otherwise, on part of this Nation, to see that this investigation is had in a manner that will protect the interests of the Cherokee Nation and in an impartial manner to all parties concerned.

Respectfully,
J. B. Mayes,
Principal Chief.

EXECUTIVE DEPARTMENT

CHEROKEE NATION, IND. TER.

Tahlequah, May 1st, 1890

Dear Sir:

Will you please allow me to call your attention to the few facts contained in the enclosed letter from a very reliable man of our nation.

You well see that Mr. Watts is still carrying on the outrageous scheme of introducing intruders on our soil through the infamous practice of their citizenship association. This is certainly one of the most unscrupulous (Sic) frauds ever perpetrated on a race of people and I will respectfully say to you that the Cherokees cannot bear this state of affairs much longer.

But I feel confident that you and Sec. Nobles will see that these intrudors are removed.

I am very respectfully,

Your obedient servant,

J. B. Mayes,

Principal Chief.

(Endorsed) Union Agency No. 13765 Office of Indian Affairs, received May 5, 1890, J. B. Mayes Executive Department, Cherokee Nation, May 1, 1890----Encloses letter of Thos. Blair relative to the Watts case division calls attention to same.----

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS,

Washington, October 26, 1897.

Land
41204-1897.

Tams Bixby, Esq.,

Acting Chairman,

Five Civilized Tribes Commission,

Fort Gibson, Indian Territory.

Sir:

Referring to your communication of the 2nd instant, requesting me to send to you all the evidence taken by the Clifton Commission in connection with the Cherokee Freedmen cases, I have to say, that after the roll submitted with said evidence was approved by the Hon. Secretary of the Interior, all the papers containing the evidence were placed in the document room in the basement of the office building. Shortly thereafter a large number of papers, books, etc., were spirited away from said document room; a party was arrested on suspicion, and a considerable amount of material was recovered; but after a careful search it is found that the papers containing the evidence in the Cherokee Freedmen cases are not now in said document room, therefore it is presumed that they were among the stolen papers not recovered.

Very respectfully,

A. C. Tonner
Asst. Commissioner.

(McQuesten)

(Endorsed) #38, Commission to Five Tribes, Received 10,29,1897. Muskogee, Okla. Com. Indian Affairs, Oct. 28, 1897. Says all the evidence taken by Clifton in Cherokee Freedmen cases, has been lost.

Fort Gibson, I.T.

Dec. 24th, 1898

Dear Mr. McKennon:

Some time ago a Mr. Henry W. Fallen asked me to find out just what relation he bore to the Cherokee Nation, as held by your Com., he being part Cherokee and never having the same disputed tho' coming to this country and never having as yet been able to be classed as a citizen of the same.

I told him his name should appear on the rolls of 1880, or subsequent rolls for you to pass favorably upon his claim.

This name and probably more of his family appear on the rolls of Cherokees made in 1848 in the old Nation, either in Ala. or Ga., I disremember now which.

Mr. Fallen came to this country in the last few years but has never been able to be placed upon the rolls of citizens here., the Council refusing of late to even entertain such petition.

Please write me upon this case, and very much oblige.

Yours very truly

Connell Rogers.

(Endorsed) Union Agency No. 1795 Recd. Dec. 26, 1898 Connell Rogers,
Ft. Gibson Dec. 24, 1898 ----Inquires rel. rights of Henry Fallen.----

Blackgum, I.T.

Feb. 14, 1899.

To the Honorable Dawes Commission

Messrs:

As there are several claimants to Indian citizenship in the Cherokee Nation in this vicinity, who are unable to appeal their cases, have requested me to write you for advice concerning their case. Will they not be admitted in the near future to appear before you with their proof, if not is there any other chance for them.

Please write me any advice that would be in their behalf and if there is no chance for them please write me.

Please write me a definite answer to above questions, and oblige,

W. B. Benson.

(Endorsed) Union Agency No. 2377 Recd. Feb. 17, 1899 W.B. Benson

Blackgum, I.T. Feb. 14, 1899----Desires information about the cases of certain Cherokees.----

Union Agency,

Muscogee, I. T., April 10th, 1899.

Mr. J. S. Dennis,

Henderson, Ky.

Dear Sir:-

Yours received. I infer from your letter that you claim to be a Cherokee Indian by blood, as you mention Pocahontas as being one of your ancestors and it has been said that Pocahontas was a Cherokee, but I do not know myself that such is or was a fact.

However, if you wish to establish your claim to Cherokee citizenship you should write to the Dawes Commission, Muscogee, I. T. for more information. In the near future the Dawes Commission, as it is called, will prepare a census roll of the Cherokee Nation, and it will be very important for you to have your name upon said roll, as you would have no right to allotment of lands or moneys in said nation unless your name was upon the roll prepared by said commission.

I could take no fee in this matter, nor do I know to whom to refer you as counsel, except perhaps Ridge Paschall, Tahlequah, I. T., to whom you can write for full information.

Very respectfully,
D. M. Wisdom,
U. S. Indian Agent.

Approved:

J. Geo. Wright,

U. S. Indian Inspector.

(Endorsed) Union Agency-Muskogee, Oklahoma. Press book No. 2.-
Letter 47.

Land
50851-99
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4 Incls.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,

Nov. 3, 1899.

The Honorable

The Secretary of the Interior.

Sir:

Referring to office report of September 12, 1899, and Department letter of September 23, 1899, there is transmitted herewith a report dated October 16, 1899, from Tams Bixby, Acting Chairman of the Dawes Commission, and also a report dated October 19, 1899, from A. S. McKennon, a member of the Dawes Commission, in which latter report it is stated that Commissioner Thomas B. Needles concurs, both of said reports relative to the construction of the decree of the Court of Claims in the case of Moses Whitmire, Trustee &c. vs. The Cherokee Nation, in connection with Section 21 of the Curtis Act.

In Mr. Bixby's report it is stated that the commission desire to be advised to what extent it is authorized to hear and determine applications for enrollment of those claiming rights as Cherokee Freedmen, and what procedure is intended by the law to be followed by the commission in arriving at such determination. He further says that he is -

"Of the opinion that in determining who are entitled to enrollment as Cherokee Freedmen, it is the duty of this Commission to hear and determine the applications of all freedmen claiming to be entitled to participate in the distribution of the estate of the Cherokee Tribe of Indians under Article 9 of the treaty of 7184.

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1866 and the constitution and laws of the Cherokee Nation, and to that end to hear testimony both for and against the identity of all such persons save those whose names appear on what is known as the authenticated roll of 1880, being a roll of Cherokee Freedmen prepared by the tribal authorities. The right to enrollment of this latter class of claimants, and their descendants I understand to be unquestionable and not subject to investigation or determination by the Commission save so far as may be necessary to ascertain who of such persons are now living, and to identify applicants as being, in fact, the persons whose names appear on such roll."

From the above it would seem that Mr. Bixby is of the opinion that it is the duty of the commission to enroll all persons whose names appear on the roll of 1880 and their descendants since born, and also to hear the claim of all other freedmen and colored persons who claim to have been living in the Cherokee Nation "at the commencement of the rebellion and resided therein July 19, 1866, or returned thereto within six months thereafter, and their descendants who are settled and incorporated into the Cherokee Nation &c.

Mr. McKennon in his report, after stating that the Commissioners do not agree as to the construction of said decree of the Court of Claims and of the Act, states his construction, in which Mr. Needles seems to concur, to be as follows:

"The court having heard and passed upon the petition, answer, agreed facts and arguments, and considered 'the just rights in law and equity of freedmen of the Cherokee Nation including all persons who have been liberated by voluntary acts of their owners,

or by law, and all free colored persons who resided in the Cherokee Nation at the commencement of the Rebellion, and resided therein July 19, 1866, or returned thereto within six months thereafter, and their descendants who are settled and incorporated in the Cherokee Nation, 'found all issues in favor of the complainants: that under the provisions of Article 9 of the Treaty of July 19, 1866, between the United States and the Cherokees, they 'were admitted incipate in the Cherokee National funds and the common property in the same manner and to the same extent as Cherokee citizens by Cherokee blood.

The Court then declared void all Acts of the Cherokee Council restricting distributions of funds derived from sale of the Cherokee domain to citizens by blood, and then determined the amount of the funds in controversy to which complaints were entitled. This done, the court proceeds to provide, specifical for the making of the rolls upon which such payment is to be made fiv:

'Such payments to be made upon a roll of said freedmen and free colored persons and their descendants, as prepared and approved by the Secretary of the Interior in accordance with provisions hereinafter set forth in this decree.

And it is further ordered and adjudged that for the purpose of ascertaining and determing who are the individual freedmen of the Cherokee Nation now entitled to share in the distribution of the said sum of \$903,365 the Secretary of the Interior be authorized to appoint three commissioners, one on the nomination of the complainant, and one on the nomination of the defendant, the Cherokee Nation, both nominations to be approved by him, to proceed

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to the Cherokee country and hear the testimony both for and against the identity of all freedmen, free colored persons, and their descendants, claiming to be entitled to share in the disposition of said \$903,365, that may be offered by the respective parties to this suit; and that each of said parties shall be entitled to be represented before said commissioners either at the taking of testimony in the Cherokee country, or elsewhere; and that the said commissioners in ascertaining the identity of the freedmen entitled to share under this decree, shall accept what is known as the authenticated Cherokee roll, the same now being on file in the office of the Secretary of the Interior, having been furnished to him and purporting to have been taken by the Cherokee Nation in 1880 for the purpose of showing the number of freedmen then entitled to citizenship in the said nation under the terms of the treaty between the United States and the Cherokee Nation hereinbefore referred to, and their descendants; and the said commissioners shall ascertain who of said persons named on said roll, were alive and what descendants of said persons were alive on May 3, 1894, and no evidence shall be accepted by said commissioners tending to disprove the citizenship of any of the persons whose names appear upon said roll.'

And the Court adds that:

'When the foregoing rolls so reported by the said commissioners shall be approved by the Secretary of the Interior, he will cause the amount remaining of the fund of \$903,365, after deducting the costs and expenses herein directed to be paid by the complainants, to be paid and distributed to the persons entitled thereto:"

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In said report it is stated that there can be no doubt that the provisions above quoted were intended solely to govern the commission in making the roll of the Cherokee Freedmen upon which that payment was to be made, and that these provisions, therefore, must control this commission in making the roll of the Cherokee Freedmen as required by the Curtis Act; that the questions to be determined are: First, whether under this authority the commission is required to hear the application of every person of African descent who claims that he is a Cherokee Freedman, or a person who was liberated by voluntary act of his owner, or was a free colored person who resided in the Cherokee country at the commencement of the rebellion, and hear all evidence which he may present tending to show that he resided in the Cherokee country on the 19th day of July, 1866, or that he returned there within six months after said date, and, of course, the testimony in rebuttal; or, second, whether the commission will be required only to take the roll of Cherokee Freedmen made by the Cherokees in 1880, and enroll persons only whose names are found upon said roll, and who were living on the 3rd day of May, 1894, and their descendants born to them since said roll was made, and none others; that while the language of the decree required the Commissioners appointed by the Secretary of the Interior to proceed to the Cherokee country and hear the testimony for and against the identity of all freedmen, free colored persons, and their descendants, claiming to be entitled to share in the distribution of moneys that might be offered by the respective parties to the suit, viz: by Moses Whitmire as trustee &c., or by the Cherokee Nation;

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that the language following specifically required said commissioners "in ascertaining the identity of freedmen entitled to share under this decree," to accept the Cherokee Freedmen roll of 1880, "for the purpose of showing the number of freedmen then entitled to citizenship in said nation under the terms of the treaty between the United States and the Cherokee Nation x x x and their descendants;" that to ascertain who of the persons on said roll were alive and what descendants of said persons were alive on May 3, 1894, requires them to enroll the persons whose names are found on that roll, without question; that their descendants referred to are certainly those born since said roll was made, because if living at that time, it is presumed their names would be found on the roll; that all persons, therefore, who claim to be descendants of those found on the roll of 1880 would be required to adduce evidence to show that they are the children, and descendants of said persons, would therefore be entitled to enrollment as such; that it should be noticed that the roll in question was to be taken "for the purpose of showing the number of freedmen then entitled to citizenship in said nation under the terms of said treaty;" that if it be so taken then the persons whose names were mentioned on that roll were the only persons who in 1880 were then living in said nation and entitled to rights as Cherokee freedmen; that if this be true then it would be impossible for any other persons to have committed any act since that date which would bring them within the provisions of said treaty and entitle them to rights of Cherokee freedmen, for the reason that the time in which they should act had long before that date expires; that they could only acquire such right

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by having resided in the Cherokee Nation on the 19th of July, 1866, or by having returned to the Cherokee country within six months after that date; that the language which required the Commissioners appointed by the Secretary of the Interior to proceed to the Cherokee country and hear the testimony, both for and against the identity of freedmen &c., could only refer to the freedmen who were descendants of persons found on the roll of 1880, born to them since that roll was made; that if these conclusions are correct, the commission has no authority whatever except to enroll all persons whose names are found on the Cherokee roll of 1880, who were living on the 3rd day of May, 1894, and their descendants born to them since such roll was made, who were living on said date, and no others; that the roll so made will constitute the roll of Cherokee freedmen entitled to share in the allotment of land and the distribution of money and other property belonging to the Cherokee Nation; that if the other view be taken and the testimony which may be offered is to be considered, that then any person may secure enrollment who will swear that he was present in the Cherokee country on the 19th day of July, 1866, or that he returned there within six months after that date, and can by any means procure some one else to so testify; that this cannot be fairly and honestly rebutted by the Cherokee Nation; that it places upon the Cherokee Nation a duty impossible of performance, and a burden unfair to be borne; that it is absolutely certain that it would be the rarest instance in which any person now living could honestly and truthfully testify that within his knowledge any individual was thirty-three years ago on a certain

day in the Cherokee country, or that within the short period of six months from that day such person returned to that country; that if this could be done there is no Cherokee citizen, or other person, who could honestly swear that this was not true; that under such procedure no fair roll of the Cherokee freedmen could be made, and gross injustice to the Cherokees would be done; that in considering said provisions of the decree the general policy of the government of closing the question of citizenship and making final rolls of the members of the several tribes should, they think, be borne in mind, and that in considering the questions presented it might be well to determine whether the Dawes Commission should make the roll as of May 3, 1894, or as of another date to be fixed by the Department.

The position taken by Messrs. McKennon and Needles, briefly stated, is that it is the duty of the commission to enroll persons whose names are found on the Cherokee freedmen roll of 1880, who were living at the time the Clifton roll was made, viz: May 3, 1894, and the descendants of those persons whose names appear on the roll of 1880, who were born since the roll of 1880 was made, and who were alive on the 3rd day of May, 1894, and no others: and that those persons whose names are thus placed upon the roll now being made by the Dawes Commission, shall constitute the roll of Cherokee freedmen who shall be permitted to share in the distribution of the Cherokee lands to which the Cherokee freedmen are entitled.

Commissioner McKennon also says "in construing said provisions of the decree, the general policy of the government of closing

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the question of citizenship and making final rolls of the members of the several tribes, should, we think, be borne in mind."

It is true that said policy should enter into the construction of the provisions of the decree, but not to such an extent as to disturb the vested rights of any Cherokee freedman.

The roll of Cherokee freedmen made in 1894, and generally known as the Clifton roll, was made under and by virtue of the decree of the Court of Claims by the Clifton Commission, under supervision of the Department, and as the Department at that time construed said decree, it is thought that it would, therefore, be dangerous to adopt the policy of again construing said decree, as by establishing such a precedent the actions of the Department would become unsettled and subject to adverse criticism from outside parties, and liable to be disturbed at any time.

The Clifton roll was made in accordance with the direction of the Department, and upon its completion it was approved thereby; therefore, it would seem that all Cherokee freedmen and all free colored persons whose names appear upon said roll, are now entitled to enrollment as Cherokee citizens, and that their right to enrollment as such cannot now be questioned by the Cherokee Nation or the Dawes Commission, on any ground save that of fraud alone.

The opinion of this office, therefore, is that all persons whose names appear on the Clifton roll and their descendants, are now, in the absence of established fraud, entitled to enrollment by the Dawes Commission, and that all Cherokee freedmen and all other free colored persons whose names do not appear on said roll, and their descendants, who are now able to establish by proper evidence that they or their ancestors "resided in the Cherokee country at the commencement of the rebellion and resided

7184.

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therein July 19, 1866, or returned thereto within six months thereafter," are now entitled to enrollment by the Dawes Commission, provided they have not expatriated themselves under the provisions of the Cherokee constitution and not been re-admitted to citizenship in accordance with said constitution and the laws of the Nation, as stated by the Supreme Court of the United States in the Cherokee Trust Funds case (117 U.S., 311), to be required.

The office thinks the roll should be made as of the date of its completion. With these remarks the matter is submitted for such action as the Department may deem proper.

Very respectfully,

Your obedient servant,

W.A.Jones,

Commissioner.

DEPARTMENT OF THE INTERIOR,
Washington,

November 23, 1899.

Acting Chairman of the
Commission to the Five Civilized Tribes,
Muscogee, Indian Territory,

Sir:

The Department is in receipt of a letter from the Commissioner of Indian Affairs, of November 3, 1899, transmitting communications from you and from Mr. McKennon, dated, respectively, October 16, and 19, 1899, relative to the construction to be placed upon the decree of the Court of Claims in the case of Moses Whitmire, Trustee, &c., v. The Cherokee Nation et al., and asking for instructions in the matter of making a roll of Cherokee freedmen, a difference of opinion existing in your commission as to your authority and duty in this respect.

By various acts of Congress your commission was authorized and directed to make rolls of the citizens of the Five Civilized Tribes, and by section 21 of the act of June 28, 1898 (30 Stat., 495), more specific directions, relative to the making of those rolls, were given. The first paragraph of said section contains directions for the enrolment of Cherokee citizens, not including freedmen, and the second paragraph is as follows:

It shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims rendered the third day of February, eighteen hundred and ninety-six.

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This direction is plain and unequivocal. Your guide is to be the utterance of said court set forth in its decree.

The Cherokee national council, by acts of April 26, 1886, November 25, 1890, and May 3, 1894, had restricted the distribution of funds derived from the public domain and from sales of land to the United States to citizens of the nation by blood, and the Court of Claims was authorized to determine the right of the freedmen to share in such distribution.

The court found, among other things:

That under the provisions of article 9 of the treaty of July 19, 1866, made by and between the Cherokee Nation and the United States, the said freedmen, who had been liberated by voluntary act of their former owners or by law, and all free colored persons who resided in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty, or who had returned thereto within six months of said last-mentioned date, and their descendants, were admitted into and became a part of the Cherokee Nation and entitled to equal rights and immunities, and to participate in the Cherokee national funds and common property in the same manner and to the same extent as Cherokee citizens of Cherokee blood.

It was adjudged and decreed that the acts of the Cherokee Council restricting the distribution of certain funds to citizens of the nation by blood be held void, and that said freedmen be paid their proportionate amount of said funds. It was further adjudged and decreed:

That the complainants in this suit and those whom they represent, being the freedmen and free colored persons aforesaid and their descendants living and in being on the 3d day of 7184.

May, 1894, are entitled to participate hereafter in the common property of the Cherokee Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage may be entitled.

The defendants were enjoined from making any discrimination in future distributions between citizens of Cherokee blood or parentage and "Cherokee citizens who are or were freedmen who had been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty or who returned thereto within six months thereafter, and their descendants." It was stated that this description was not intended to include any such persons who had forfeited or abjured their citizenship.

For the purpose of ascertaining the individuals entitled to share in the distribution of the money specially involved in that case, the Secretary of the Interior was authorized to appoint a commission to hear testimony for and against the identity of all freedmen, free colored persons and their descendants claiming to be entitled to share therein, and it was directed:

That the said commissioners, in ascertaining the identity of the freedmen entitled to share under this decree, shall accept what is known as the authenticated Cherokee roll, the same now being on file in the office of the Secretary of the Interior, having been furnished to him and purporting to have been taken by the Cherokee Nation in 1880 for the purpose of showing the number of freedmen then entitled to citizenship in the said nation under the terms of the treaty between the United States and the

Cherokee Nation hereinbefore referred to, and their descendants; and the said commissioners shall ascertain who of said persons named on said roll were alive and what descendants of said persons were alive on May 3, 1894, and no evidence shall be accepted by said commission tending to disprove the citizenship of any of the persons whose names appear upon said roll.

A roll was made up in accordance with the directions of this decree and was approved by this Department in 1897, which is commonly known as the "Clifton roll." If it had been intended to admit to enrollment all the names upon that roll, Congress would have made provision therefor in plain terms, instead of referring, as was done, to the decree under which the Clifton roll was made up. It has been claimed that said roll contains many names not properly there, but whether this claim influenced Congress to disregard that roll and direct a new one to be made in strict compliance with the decree of the Court of Claims is immaterial, for the fact remains that we are to look to the decree alone for guidance in making this new roll of Cherokee freedmen. That decree directs that the roll of 1880 shall be accepted, and therefore it must be taken as the basis for your examination. The commissioners then were to "ascertain who of said persons named on said roll were alive and what descendants of said persons were alive on May 3, 1894." That date was evidently adopted as the time when the money then involved should have been distributed. Now, you are to ascertain who of said persons named on said roll and what descendants of said persons are, or may be at the time of your investigation alive, and make up a roll of those names, excluding therefrom, however, the names of all persons of

7184.

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either class who have forfeited or abjured their citizenship.

While taking the roll of 1880 as a basis you will be justified in examining other rolls for information to assist you in your work, but the right of any person to be enrolled must depend upon the fact that his name or that of his ancestor through whom he claims appears upon the authenticated roll of 1880. The roll you make should be dated as of the time when completed.

A copy of the Commissioner's letter is enclosed, also Senate Document No. 101, 55th Congress, 3d Session, and the copy of the decree of February 3, 1896, transmitted with your letter of September 12, 1899.

Very respectfully,

E. A. Hitchcock.

Secretary.

No. 7184.

(Endorsed) Commission to Five Tribes. Recd. 12/4/99. E. A. Hitchcock, Secy. Nov. 23, 1899. --The Commission to be guided by the decree of Court of Claims in making up the Cherokee roll. While the roll of 1880 is a basis Comm. is justified in examining other rolls for information. Yet the fact remains that anyone desiring to be enrolled must know that his name, or that of his ancestor appears upon the authenticated roll of 1880. ---

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

January 15, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to inclose herewith a report dated January 7 1902, from Inspector Wright, forwarding for executive action in accordance with the provisions of the act of March 3, 1901 (31 Stats., 1058), an act of the National Council of the Cherokee Nation approved by the Principal Chief December 19, 1901.

The act is as follows:

"An Act making provision for the representation of the Cherokee Nation in the completion of the rolls of citizens of the Cherokee Nation, and for other purposes.

"Whereas, The Cherokee Nation has in its employ L. B. Bell, W.W.Hastings and James S. Davenport to represent the interests of the Cherokee Nation before the United States Commission to the Five Civilized Tribes in making a final roll of the colored citizens of the Cherokee Nation, and

"whereas, No. provision has been made in any previous act regulating the expenses of said attorneys above named and no limit has heretofore been placed upon the amount of money to be expended by said attorneys for witness fees, now therefore,

"Be it enacted by the Nation Council; that the attorneys named in the foregoing preamble, employed to represent the interests of the Cherokee Nation before the United States Commission to the Five Civilized Tribes, in making a final roll of the colored citizens of the Cherokee Nation under an act of the national council entitled (An Act providing for the representation of the Chero-

kee Nation before the United States Commission in making a final roll of the colored citizens of the Cherokee Nation', approved by the President December 28, 1900, shall each receive for his expenses the sum of two dollars per diem while in actual service "under the provisions of this act and a sufficient amount of money is hereby appropriated out of the general fund of the Cherokee Nation, not otherwise appropriated, for the payment of the expenses of said attorneys so employed, and the Principal Chief is authorized and directed to draw his warrants accordingly in favor of the attorneys upon the requisition of said attorneys with sworn accounts attached showing the number of days of service.

"Be it Further Enacted, That, Whereas, There have been many unexpected delays in making the roll of the citizens of the Cherokee Nation, exclusive of freedmen, by the Commission to the Five Civilized Tribes, and more time may yet be necessary than could have been reasonably anticipated to complete the making of the roll of the citizens of the Cherokee Nation exclusive of freedmen, and the service of one attorney being deemed sufficient to represent the interests of the Cherokee Nation in making that part of said roll of Cherokee citizens, exclusive of freedmen, the services of W. W. Hastings, employed under the act of the National Council entitled "An act providing for the representation of the Cherokee Nation before the United States Commission in making a final roll of the citizens of the Cherokee Nation" approved by the President January 9, 1899, be and the same is hereby continued and he shall receive for his services \$3.50 per diem and for his expenses two dollars per diem for actual service performed while engaged in representing the Cherokee

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Nation in the making of that part of the roll of the citizens of the Cherokee Nation and he shall be authorized to employ J. C. Starr as stenographer who shall also receive for his services \$3.50 per diem and for his expenses two dollars per diem for actual services and the services of the said J. C. Starr with the same compensation for his per diem and expenses shall be continued by the attorneys herein above named while the Commission is engaged in the making of the roll of the colored citizens of the Cherokee Nation and a sufficient amount is hereby appropriated out of the General Fund of the Cherokee Nation not otherwise appropriated for the payment of said services and expenses of the attorney so employed and his stenographer and the Principal Chief is authorized and directed to draw his warrants in favor of the said attorney and his stenographer upon the requisition of said attorney with sworn accounts attached showing the number of days of service."

"Be it further enacted: That there be and is hereby appropriated, the sum of eight thousand dollars, out of the General Fund not otherwise appropriated, for witness fees stationery and other expenses of the attorneys and stenographer, not including their board and travelling expenses herein otherwise provided for, to be paid out upon requisition of said attorneys with sworn accounts attached; all witnesses to be paid two dollars per diem for actual attendance upon said commission and five cents per mile each way in going to and returning from said commission and the Principal Chief is authorized and directed to draw his warrants in the name of the persons

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serving as witnesses out of the eight thousand dollars herein appropriated upon the requisitions of said attorneys and the said attorneys are authorized where necessary, to engage the services of some person to serve notices and subpoenas upon witnesses whose compensation shall be \$2.00 per diem for actual services and the expenses of the same shall be included in the sworn itemized account, showing the number of days served and other expenses incurred and a requisition made therefore to the Principal Chief monthly who shall draw warrant in favor of said person for the amount as herein authorized.

Be it further enacted: That when the roll is completed by the Commission to the Five Civilized Tribes, the said attorneys shall make a full and complete report to the Principal Chief showing in detail all the expenses incurred, the number of each class of citizens enrolled and such other information as shall be deemed important to the interests of the Cherokee Nation.

Be it further enacted: That all laws or parts of laws in conflict with this act are hereby repealed."

The Inspector submitted said act to the Dawes Commission for consideration, and in their communication to Inspector Wright dated December 31, 1901, the approval of the act is recommended. The Inspector also recommends the approval of the act.

In connection with this matter the attention of the Department is invited to its letter of January 5, 1901 (I.T.D., 4244), forwarding for the files of this office a similar act of the National Council of the Cherokee Nation which had been approved by the Presid-

ent on December 28, 1900.

Inasmuch as it would appear that the compensation of the attorneys and others provided for in the act, and the amount prescribed per diem for witnesses seems to be reasonable, the office is of the opinion the act should be approved, and therefore respectfully recommends that it be laid before the President for executive action with request that he approve it.

Very respectfully,

Your obedient servant,

W. A. Jones.

Commissioner.

Inclosures.

(Endorsed) Union Agency # 3432 received Jan. 30, 1902. office of U.S. Indian Inspector for I.T. Washington Jan. 22, 1902, Secretary. Cherokee Act for representation of nation in completing rolls of citizens, APPROVED Jan. 20, 1902.

Land.
2573-1902.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, January 17, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made January 9, 1902, by Inspector Wright, forwarding an act of the Cherokee National Council, approved by the Principal Chief on December 4, 1901, entitled.

"An act to provide for the prosecution of a suit instituted in the United States Court for the Northern District of the Indian Territory by T.M. Buffington and others against the Dawes Commission."

The act is as follows:

"Whereas, Honorable John R. Thomas and the firm of Hutchings, West and Parker were retained to, and did, institute a suit on behalf of the Cherokee Nation against the Dawes Commission to enjoin them from hearing, considering and enrolling persons not entitled thereto in making what is called the Freeman Roll of the Cherokee Nation, and

"Whereas, said injunction was granted by the Honorable Joseph A. Gill, Judge of said District, now therefore,

"Be it enacted by the National Council, that the sum of two thousand dollars (\$2,000.00) be, and the same is hereby,

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"appropriated out of the General Fund belonging to the Cherokee Nation, and available for this purpose, to pay as a fee to the said John R. Thomas, and Hutchings, West and Parker, one-half of which only is to be paid now, and the balance, in case no appeal is taken, as soon as the counsel for the defendant shall so inform the Chief in writing, and if any appeal is taken the other one-half is to be paid when such suit is finally determined."

"Be it further enacted, That the sum of two hundred dollars (\$200.00), or so much thereof as may be necessary, be, and the same is hereby, appropriated out of the General Fund belonging to the Cherokee Nation and available for this purpose to pay Court costs, costs of brief, and other incidental expenses connected with said suit, the same to be paid on proper vouchers for such expenditures."

From the reports of the Inspector and the Commission to the Five Civilized Tribes, the United States District Attorney for the Northern District of the Indian Territory and the beneficiary herein, the office understands that the bill is for the purpose of paying attorneys fees in an action brought by the Cherokee Nation against the Dawes Commission seeking to enjoin it from hearing the evidence and making records in the matter of the applications of certain persons who sought to be enrolled as Cherokee freedmen. It appears that a temporary injunction has been granted by a court of competent jurisdiction and while the office agrees with the United States District Attorney that the court had no jurisdiction, nevertheless, as stated by the said attorney, the Cherokee people will not be satisfied until the matters in question have

been finally litigated by the courts, and as the nation seems desirous of employing attorneys for that purpose, the office can see no reasonable objection to their being permitted to do so and to pay said attorneys a reasonable compensation for their services. The office therefore respectfully concurs in the Inspector's recommendation that the act be approved.

Very respectfully,

Your obedient servant,

W.A.Jones,

Commissioner.

WCV
D

Inclosures.

(Endorsed) Union Agency No.3526 Received Feb.14,1902 Office of U.S.Indian Inspector, for Indian Territory. Washington, Feb.6,1902. Secretary.-----Cherokee Act authorizing the prosecution of a suit instituted by T.M.Buffington and others against the Dawes Commission APPROVED by the President February 5,1902.-----

Department of the Interior,
United States Indian Service
Office of Revenue Inspector,

Going Snake C.H.Ind.Ter. May 12, 1902.

Mr. Guy P. Cobb,
Revenue Inspector,
Muskogee, I.T.

Dr. Sir: The crowd at Whitmire was very small, in fact, the full-bloods neither enrolled with the Commission nor for bread-money.

We paid out \$265.00 at Whitmire.

The outlook here is better. Have a good Camp, and the Indians began to arrive and camp yesterday evening.

The mail service at Whitmire was very inferior, none arriving or departing after we reached that place, until Saturday noon-then we were gone. We sent to Westville for mail yesterday but could not get it because postmaster was picnicing. Got Taylor's reports as we came through Stilwell.

By the way, we enquired yesterday for that money-it was not there. Send communications to Westville care of Commission.

William S. Irvin.

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(Endorsed) Union Agency No. 830 Received May 14, 1902 Indian Territory. May 12, 1902 William S. Irvin, Going Snake C.H.-----
Reports no **full-bloods** enrolled at Whitmire, but prospects better at Going Snake Court house, etc.-----

DEPARTMENT OF THE INTERIOR.
Washington.

I.T.D.3416,1902

June 5,1902.

Commission to the Five Civilized Tribes,
Muskogee,I.T.

Gentlemen:

May 15,1902, you transmitted your decision in the matter of the application of Elizabeth C. Mulkey for enrollment as an intermarried citizens of the Cherokee Nation, the record in the case and a protest by the nation against your decision in favor of the applicant. Mrs. Mulkey made application also for the enrollment of her three minor children as citizens by blood. To the enrollment of the children the nation makes no objection.

The Acting Commissioner of Indian Affairs dealing with this case and the similar one of Ella Gravitt in letter of May 31,1902 (copy inclosed), recommends that your decision be affirmed.

Elizabeth C. Mulkey is a white woman and was married June 31,1867, to J.D.Mulkey, a Cherokee Indian readmitted to citizenship February 1,1888, by an act of the Cherokee Council, and who died in 1893. Apparently, after the marriage these parties resided in the Cherokee Nation as the wife appears to have been living there thirteen years. The applicant is identified on the 1896 Cherokee Census Roll, and it appears she has not remarried since the death of her husband.

You base your decision that the party is entitled to enrollment upon a decision of the Supreme Court of the Cherokee Nation in 1871 in the case of the Cherokee Nation versus Nancy Rogers, in 9513.

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which it was held that all "white women married to Cherokee men or the widows of such and who have not forfeited their rights under any other law are entitled to such rights and privileges as white men who have been married under the law regulating intermarriage between white men, citizens of the U.S., and Cherokee women," and the decision of such court in 1886 in the case of Melissa Dawson versus W. A. Dawson, in which it was held that the ruling in the Rogers case was the law governing the status of white intermarried women. In the Dawson case it appears that Melissa Dawson was married to W. A. Dawson in Texas in 1873, and that her husband was admitted to citizenship in 1883.

The attorney for the nation contends that as the husband of the applicant was a noncitizen of the nation at the time of marriage and as her name was not embraced in the act readmitting her husband, the admission of the husband did not carry with it the admission of the applicant. He refers to section 659, article XVI, Compiled Laws of the Cherokee Nation, which reads:

Any white man or citizen of the United States or of any foreign state or government desiring to marry a Cherokee, Delaware, or Shawnee woman, a citizen of the Nation, shall be and is hereby required to obtain a license, etc., and states that it is difficult to see how citizenship could be acquired through the marriage of one person to another when at the time of the marriage neither had any rights of citizenship to confer. He also refers to section 5, amendments to article III, of the Cherokee Constitution, providing that "All native born Cherokees, all Indians, and whites legally members of the Nation by adoption, and all Freedmen, * * * shall be taken and deemed to be citizens of the Cherokee Nation,"

and calls particular attention to the language "whites legally members of the Nation by adoption," and urges that as the applicant was married to her husband prior to his readmission and was not remarried to him after adoption she was not legally adopted, and he contends that the Cherokee Supreme Court in the Rogers case merely decided "the question as to whether white women, who marry Cherokee men without having first obtained a marriage license, were entitled to the same rights and privileges as white men, but it does not decide the question in her favor is (if) she had married her husband prior to his readmission to citizenship in the Cherokee Nation, and at the time when he was not a recognized citizen of the Cherokee Nation;" that as to the Dawson case, it was not a well considered case; that it misquotes the Rogers case, and is in conflict with the Cherokee law; that marriage to confer citizenship must not only be with a Cherokee but with a citizen of the nation at the time of marriage. He also refers to section 21 of the act of June 28, 1898 (30 Stat., 495), authorizing you to enroll all persons who have been enrolled by the tribal authorities, who have heretofore made permanent settlement in the Cherokee Nation, whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and states that in this law is your authority to enroll minors whose names are not embraced in the decision of the Cherokee Commission of Citizenship, whose parents were admitted, but no authority is given to enroll the white wife of a husband who was readmitted.

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Attention is also invited to that portion of the same law providing that you are to enroll "such intermarried white persons as may be entitled to citizenship under Cherokee laws," and contends that there is no Cherokee law which permits a white woman to marry a noncitizen in the States, not under the Cherokee law, and to be enrolled; that while the marriage of the applicant in this case was sufficient to give citizenship to the children born thereafter, it did not confer citizenship upon her.

The Acting Commissioner considers that the argument of the attorney might "stand the test" but for the decisions of the Cherokee court above mentioned; that as a matter of fact the husband was the head of the family and had the right to select a domicile for himself, wife and children; that it was doubtless upon this principle that the decisions of the court construed "the Nation's laws" so as to incorporate the white wife into the nation's citizenship when the husband became a citizen of the nation.

The Department concurs generally in the views of the Acting Commissioner. The customs of the Cherokee Nation as to intermarriage are a part of the nation's laws, and any decision of the Supreme Court of the nation upon questions of citizenship rendered in the scope of its jurisdiction is as binding upon the Department as any of its written laws. Your decision is accordingly affirmed.

Respectfully,

Thos. Ryan

Acting Secretary.

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(Endorsed) Union Agency No. 9513. Recd. Jun. 12, 1902 Cherokee. Department, Ryan, Washington, D.C., June 5, 1902. ---- Affirms decision of Commission for the enrollment of Elizabeth C. Mulkey and children as Cherokee citizens. ----

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D.3689-1902.

WHR.

June 14, 1902.

Hon. T. M. Buffington,
Care National Hotel,
Washington, D.C.

Sir:

The Department is in receipt of a report dated June 12, 1902, from the Acting Commissioner of Indian Affairs upon your letter dated June 5, 1902, stating that it will require at least two thousand dollars in addition to the amount appropriated by the Cherokee National Council, in order to enable the Nation to make a proper defense in pending cases and other cases which will be brought before the Dawes Commission, upon applications for citizenship in the Cherokee Nation.

You state that as the National Council does not meet again until November next, you request that the Department "will use the funds of the Nation in the Treasury of the United States to the amount and for the purpose indicated, the accounts to be approved by Mr. J. Blair Shoenfelt, the Indian Agent at Muskogee."

The Acting Commissioner reports that there is to the credit of the Cherokee Nation about eight thousand dollars, of which two thousand dollars can be expended under the provisions of Section 19 of the Act of Congress approved June 28, 1898 (30 Stats., 495), known as the "Curtis Bill," and he recommends that said sum of two thousand dollars be placed to the credit of the United States 9995.

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Indian Agent at Union Agency, who shall pay the fees and other expenses incurred by the Cherokee Nation in defense of the freedmanship cases up to that amount."

The Department concurs in authorizing said expenditures but with this proviso, that the accounts before being submitted to the United States Indian Agent, shall receive the approval of the Acting Chairman, or the commissioner in charge of the Five Civilized Tribes.

Respectfully,

Thos .Ryan,

Acting Secretary.

(Endorsed) Union Agency No.9995 Received Jun.20,1902 Department, DeLacy, Washington,D.C., June 14,1902.-----Enc.copy of Departmental letter addressed to T.M.Buffington in reply to his communication asking that Two Thousand Dollars of the Cherokee funds be used to enable the Nation to make a proper defense in pending citizenship cases.-----

DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D. 3689-1902.

WHR.

June 14, 1902.

The Commission

to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

Inclosed herewith, for your information, is a copy of departmental letter of even date addressed to Hon. T. M. Buffington, Principal Chief Cherokee Nation, in reply to his communication dated June 5, 1902, requesting that the sum of two thousand dollars from the funds of the Nation in the Treasury of the United States, be used for the purpose of enabling the Nation to make a proper defense in pending and other cases brought between now and the closing of the citizenship rolls.

By direction of the Secretary.

Respectfully,

Wm. H. DeLacy.

Acting Chief Clerk.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

July 21, 1902.

Commission to the Five Civilized Tribes,

Muskogee, I.T.

Gentlemen:

The Department has considered the case involving the application for the enrollment of Clara M. Boudinot, a white woman, as an intermarried citizen of the Cherokee Nation.

The applicant's name is found upon the Cherokee census roll of 1896, made and revised by the Cherokee Council, as an intermarried white. It is shown, as stated in your decision of May 20, 1902, in favor of the applicant, that she was married on the 16th day of April, 1885, to Elias C. Boudinot, Sr., and that the said marriage took place in the city of Washington, D. C.: that subsequently she and her husband lived in the State of Arkansas for a period of about one year, when he returned to the Indian Territory, his home, with his wife, and that he died in 1890; that said Elias C. Boudinot possessed about three-eighths Cherokee blood; that he is not identified on any of the tribal rolls of the Cherokee Nation in your possession. At the time of the making of the authenticated tribal roll of 1880, mentioned in the act of June 28, 1898 (30 Stat., 495), he was in the city of Washington, which fact, you consider, explains the absence of his name from that roll.

It also appears that for a brief period subsequent to 1880 and prior to his death, Boudinot practiced his profession as an attorney-at-law and had his office in Fort Smith, Ark.,

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without any intention of relinquishing citizenship in the Cherokee Nation; that he possessed at the time of his death interest in lands and improvements in said nation, and for twenty years prior to his death he was a property holder in such nation.

You state that he was identified on the pay roll of the Emigrant Cherokees for Delaware district, made in 1852. You found that Elias C. Boudinot had a residence in the Cherokee Nation prior to 1880, and that there is no evidence to show that he relinquished his identity as a resident in said Nation, and his absences from time to time were due to business of a legal and personal character, and when absent from the nation the intention to return was ever present, as evidenced by his periodical visitations thereto.

It is shown by a certificate bearing date January 8, 1901, that by the records in the executive office of the Cherokee Nation at Tahlequah, the Cherokee Council passed said bill No. 51 at its regular session of 1888, which was approved by the Principal Chief on December 8, 1888, entitled "An act making an appropriation for the payment of claims registered by the Auditor of Accounts and the Committee on Claims," and which appropriates for E. C. Boudinot, Sr., the amount of \$48, being per capita claims of said Boudinot for 1880, 1883 and 1886.

You hold, "in view of the law and the facts in this case," that Clara M. Boudinot is entitled to enrollment as a citizen by intermarriage of the Cherokee Nation.

The Acting Commissioner of Indian Affairs reporting in the matter July 7, 1902, recommends that your decision be concurred in, as it is clear that Elias C. Boudinot was a recognized

12090

member of the Cherokee Nation, and as the applicant was lawfully married to Boudinot, and as Boudinot's absences at various times from the Cherokee Nation were only temporary.

The nation protests against your decision, contending that under the act of May 31, 1900 (31 Stat., 221), if Elias C. Boudinot, Sr., were living and should present himself for enrollment, you would have no jurisdiction over his case, and would not be permitted under the law to receive, consider, or make any record of his application, or to hear any testimony with reference to his right to be enrolled; that you obtain your jurisdiction over a case when the name of the applicant appears upon some roll; that the Emigrant pay roll of 1852 was not a Cherokee roll, but a roll made by the United States to pay certain Emigrant Cherokees and their descendants who came to the Cherokee Nation under the treaty of 1835; that Clara M. Boudinot, his widow, whose rights depend upon his, is not entitled to enrollment.

The act of May 31, 1900, upon which the attorney for the nation mainly bases his protest, provides that your Commission "shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such. Section 21 of the act of June 28, 1898 (30 Stat., 495), provides:

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the

only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; * * * *; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

There is no question that the husband of the applicant was during his life-time a prominent citizen of the Cherokee Nation, recognized as such by the authorities of the nation, and that his absences from the nation were merely temporary. His wife was a recognized and enrolled intermarried citizen, as shown by the 1896 census roll. Under these circumstances, and in face of the act of the council of 1888, appropriating for Elias C. Boudinot \$48.00 for per capita claims, the nation is estopped from asserting that Boudinot's wife has no "lawful right" to be enrolled. The Department finds no reason to disturb your decision, and it is affirmed. A copy of the Acting Commissioner's letter is inclosed.

Respectfully,
Thos. Ryan.
ACTING SECRETARY.

L. INCLOSURE.
(Endorsed) # 12090, Recv. Jul. 28, 1902. Com. Five Tribes. Muskogee, I.T. Dept. Wash. Ryan. July 21, 1902. Affirms decision of Com. for enrollment of Clara M. Boudinot as a Cherokee citizen.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.

WASHINGTON.

July 7, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made June 10, 1902, by T. B. Needles, Esq., Commissioner in charge of the work of the Commission to the Five Civilized Tribes, forwarding for the Department's consideration the record of proceedings relative to the application of Clara M. Boudinot for enrollment as an intermarried citizen of the Cherokee Nation.

The record in this case shows that on April 16, 1885, Elias C. Boudinot, Sr., a citizen of the Cherokee Nation, and Clara A. Minear, of San Francisco, California, were married according to the laws of the District of Columbia. The marriage ceremony was performed by Rev. B. Sunderland, pastor of the First Presbyterian Church of this city. The record also shows that E. C. Boudinot's name does not appear on the 1880 authenticated Cherokee Roll, and that subsequent to his marriage in 1885 he lived in the State of Arkansas for about one year and returned to the Indian Territory in 1887.

According to the record Elias C. Boudinot was a three-eighths blood Cherokee, and he died in 1890. When he resided in Arkansas, at Ft. Smith, he was engaged in the practice of his profession, being an attorney.

The record does show that Elias C. Boudinot's name is on the pay-roll of 1852 of emigrant Cherokees. It is also shown

that said Boudinot represented the Cherokee Nation as a delegate to Washington in 1867 or 1868. It appears from the record in this case that the name of Clara M. Boudinot, a white woman, is found on the Cherokee Census Roll of 1896 at page 1111.

May 20, 1902, the Commission held that the applicant was entitled to enrollment as an intermarried citizen of the Cherokee Nation.

The Cherokee Nation, by it's attorney, W. W. Hastings, objects to the enrollment of the applicant and files a brief and argument in the case.

Section 21 of the Curtis Act authorizes the Commission to investigate the right to enrollment of parties whose names appear on rolls other than the authenticated roll of 1880.

It is clearly shown that Elias C. Boudinot was a recognized member of the Cherokee Nation, although his name does not appear on said authenticated roll of 1880.

It is shown that he and the applicant were lawfully married, and that at the time he resided at points beyond the limits of the Cherokee Nation, such residence was but temporary, and that when he had completed his business at such places he immediately returned to the Cherokee Nation taking up his residence and home within the limits of said nation.

The office believes the decision of the Commission is correct and recommends its approval.

Very respectfully,

Your obedient servant.
A. C. Tonner,
ACTING COMMISSIONER.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

August 4, 1902.

Commission to the Five Civilized Tribes,
Muskogee, I. T.

Gentlemen:

May 20, 1902, you rendered a decision in the matter of the applications of Margaret Ainsworth for herself and minor children, Cornelia, Ida, Thomas, Willie, Spencer, Emma, Myrtle, Mamie, and Preston Ainsworth, as citizens by blood of the Cherokee Nation; of Mary Ann Ross for herself and minor children, Thomas, Mollie, Grover C., and Ollie Ross, as citizens of said nation by blood; of Charles M. Humphrey for his wife, Cora Humphrey, and his minor children, William L. and Mattie C. Humphrey, and his minor children, William L. and Mattie C. Humphrey and Robert L. Humphrey, as citizens by blood of said nation; of John G. Ainsworth, husband of said Margaret Ainsworth, for himself as an intermarried citizen of said nation; D 130, 131, and 132. The case was submitted with your letter of June 10, 1902, and with the Acting Commissioner's letter of July 2, 1902, in which it is recommended that your decision in favor of the applicants be affirmed.

It appears, as stated by the Acting Commissioner, that Margaret Ainsworth and Mary Ann Ross are daughters of Malinda Collins (nee Wilson), who lived in the Cherokee Nation prior to 1859, and who about that time married Miles Collins, a non-citizen; that about 1865 she deserted her husband and children and removed from the Cherokee Nation; that Mr. Collins took

said children to the Choctaw Nation, where they were living at the time of the Cherokee roll of 1880; that soon after said children attained their majority they removed to the Cherokee Nation and have resided there continuously since; that Malinda Collins, after separating from Miles Collins, married one Young, and that in 1888 she was readmitted to citizenship in the Cherokee Nation under the name of Malinda Young, which would indicate, you say, that she possessed rights of citizenship prior to her removal from the nation in 1865. It is also shown by the record that G. W. Wilson, her full brother, and Rebecca McKinney, her full sister, are identified on the Cherokee authenticated tribal roll of 1880 as native Cherokees. Margaret Ainsworth and seven children are identified on the Cherokee census roll of 1896. Margaret Ainsworth's name is on the pay roll of 1894. It appears that in preparing the 1896 roll, one of the Cherokee census takers placed the names of Margaret Ainsworth and her children upon a separate list and reported them to the Cherokee National Council, and that the committee appointed by the Council, upon investigation placed their names on that roll. Margaret Ainsworth's husband, J. G. Ainsworth, is identified on the Cherokee census roll of 1896, and their two children, Mamie and Preston, are identified by birth affidavits on your files.

Mary Ann Ross and her four children are identified on the Cherokee census roll of 1896. Cora Humphrey is the Daughter of Mary Ann Ross, and is identified on the 1896 roll. The name of none of the applicants appears upon the authenticated tribal roll of 1880.

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Margaret Ainsworth was married to John G. Ainsworth under a Cherokee marriage license on May 24, 1895.

Section 21 of the act of June 29, 1898 (30 Stat., 495), provides:

"That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws."

You found that under this section you are authorized to enroll the applicants.

The nation protests against your decision, and contends that it was the intention of Congress to make the roll of 1880

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the starting point behind which your Commission could not go, and upon which the names of all applicants must appear, or they must be descendants of some person whose name appears on that roll, and, if not, they must show that they were admitted subsequent to that time, which the applicants in this case fail to do.

As stated by the Acting Commissioner, the record plainly shows that the Cherokee authorities recognized the mother of these principal applicants, Margaret Ainsworth and Mary Ann Ross, and the grandmother of Cora Humphrey, as a citizen of the nation, and though the name of none of the applicants appears upon the roll of 1880, their names are found on the rolls made subsequent to that time, or they are descendants of persons on some such roll.

The Department finds that the applicants are entitled to enrollment and your decision is affirmed. A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan.

Acting Secretary.

1 inclosure.

(Endorsed) # 12784, Received Aug. 11, 1902. Commission to Five Tribes. Department, Ryan. Washington, D. C. Aug. 4, 1902. Affirms decision of Com. for enrollment of Margaret Ainsworth, et al, as Cherokee citizens.

DEPARTMENT OF THE INTERIOR.
Washington.

I.T.D. 5045,5193
6790-1902.

November 6, 1902.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

September 10, 1902, the Department returned to you the papers in the matter of the application of Stonewall J. Rogers (R 394), for the enrollment of himself and his children, Fannie L., Robert K. and Mary L. Rogers, as citizens of the Cherokee Nation, for further hearing if necessary concerning the rights of the child or children born prior to the expiration of six months mentioned in the Cherokee act of 1894, referred to in your decision. It appeared from the record before the Department that Rogers was readmitted to citizenship in said Nation in 1887; that, acting under the act of June 10, 1896 (29 Stat., 321), he was refused citizenship by your Commission and that no appeal was taken to the United States court as provided in said act; it did not appear whether any of said children were included in the application rejected in 1896. October 8, 1902, you returned the papers and informed the Department that an examination of the papers in the case of Stonewall J. Rogers, et al., disposed of under said act of June 10, 1896, shows that the names of two children, Fannie L. and Robert K. Rogers, are embraced in the application then rejected; that Mary L. Rogers was born subsequent to the rejection of her father and the two other children under said act.

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In view of the additional facts now set forth you recommend that your decision of May 20, 1902, rejecting the application, which brings the case here, be approved, in which recommendation the Commissioner of Indian Affairs concurred in his report of November 3, 1902.

On August 19, 1902, the Indian Office submitted additional papers in the case, including the statement made by Mr. Rogers with the letter of December 11, 1896, from Commissioner McKennon, to him, and evidence of the birth of one child, Henry C. Rogers, which the Department has considered.

Though possibly the party may have been misled, as he alleges by said letter, and therefore did not take an appeal to the United States court in 1896, the Department is powerless to render him any relief. The decision of your Commission became final and you are without authority to enroll the applicant Stonewall J. Rogers or any of his children. Your decision is hereby affirmed.

Copies of Indian Office letters of August 16, 1902 and November 3, 1902, are inclosed.

Respectfully,

F. L. Campbell,

Acting Secretary.

(Endorsed) Union Agency No. 21320 Commission to Five Tribes, received Nov. 13, 1902 Department, Campbell, Washington, D. C., November 6, 1902.-CHEROKEE----Affirms decision of Commission rejecting application of Stonewall J. Rogers for enrollment of himself and children as Cherokee citizens.----

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DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington.

November 3, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made October 8, 1902, by the Commission to the Five Civilized Tribes, acknowledging receipt of Department letter of September 10, 1902, (ITD-5045 and 5193), which remanded the case involving the application of Stonewall J. Rogers, for the enrollment of himself and his three minor children, Fannie L., Robert K. and Mary L., as citizens by blood of the Cherokee Nation.

The case was remanded in order that the Department might have the opinion of the Commission upon the question as to whether the children should be enrolled, it appearing that Stonewall J. Rogers was admitted to citizenship October 4, 1887, and the Cherokee Act of December 4, 1894 provides:

"That all persons who have been or may hereafter be readmitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this Act, or from the date of the readmission of persons hereafter readmitted or no rights whatever shall accrue to such persons by reason of such readmission: Provided, That nothing in this Act shall bar minors and orphans; -"

It appears from the record that the oldest child, Fannie L. Rogers, was born in 1883; that the next oldest, Robert K.

Rogers, was born in 1885, prior to the date of the readmission of Stonewall J. Rogers.

In the opinion of the Commission the fact that the application for the enrollment of Stonewall J. Rogers, Fannie L. Rogers and Robert K. Rogers was made to the Commission in 1896; that the application was rejected; and that no appeal was taken, bars the Commission from at this time placing their names on the rolls. The Commission seems to be of opinion also that as the other child, Mary L. Rogers, was born subsequent to the date of the Act readmitting the father, the provision excepting minors, in the Act of December 4, 1894, does not apply to that child.

The office believes that as the application of Stonewall J. Rogers, Fannie L. Rogers, and Robert K. Rogers was once rejected and no appeal taken, the Commission has now no jurisdiction to entertain their application, and as the other child must take its status from the father, who cannot be enrolled, it must necessarily also be rejected.

It therefore respectfully recommends that the Commission's decision be affirmed.

Very respectfully,

Your obedient servant,

W. A. Jones,

Commissioner.

Land
31143-1902.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

August 16, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made May 20, 1902, by the Commission to the Five Civilized Tribes, forwarding the record in the matter of the application of Stonewall J. Rogers for the enrollment of himself and his minor children, Fannie L., Robert K., and Mary L., as citizens by blood of the Cherokee Nation.

The record shows that the principal applicant was admitted to citizenship in the Cherokee Nation March 25, 1887; that he did not come to the Cherokee Nation until 1896. The evidence is not satisfactory in that it does not show that he has been since 1896 a continuous resident, in good faith, in the Cherokee Nation.

The act of the Cherokee National Council of December 4, 1894, provided that

"All persons who have been or may hereafter be re-admitted to citizenship in the Cherokee Nation are hereby required to permanently locate within the limits of the Cherokee Nation within six months from the passage of this act."

Applicant was admitted prior to the passage of this act,

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and did not within six months thereafter locate in the Cherokee Nation.

The office believes that the Commission's action in refusing to place the name of the applicant on the Cherokee rolls, together with those of his children, was correct, and respectfully recommends that it's decision be affirmed.

Very respectfully,

Your obedient servant,

A. C. Tonner,

Acting Commissioner.

DEPARTMENT OF THE INTERIOR.
Washington.

ITD.6792-1902.

November 17, 1902.

Commission to the Five Civilized Tribes,
Muskogee, I. T.

Gentlemen:

On October 14, 1902, you transmitted the record in the matter of the application of Matthew J. Whitfield for enrollment of himself as a citizen by intermarriage of the Cherokee Nation, and for the enrollment of his minor children, Luke and Benjamin Whitfield, as citizens by blood of said nation.

As stated in your decision of May 20, 1902, the evidence shows that Matthew J. Whitfield was married according to Cherokee law to Hulda Lusk, in 1892; that she was admitted to Cherokee citizenship in 1887, and that he procured a divorce from her in April, 1900; that in February, 1902, he married Mrs. Alice Dixon, who "does not appear to be a recognized Cherokee citizen." You held that he is not entitled to be enrolled as an intermarried citizen because of section 666 of "Laws of the Cherokee Nation" (1892), which declares that

"Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless he or she shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee

citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease."

The evidence further shows that Luke and Benjamin Whitfield are the children of Matthew J. and Emma Whitfield; that Emma Whitfield was admitted to Cherokee citizenship on September 12, 1884, as were also Luke and Benjamin Whitfield who were then three and five years of age respectively; that said children are identified on the Cherokee rolls of 1894 and 1896. You held that Luke and Benjamin Whitfield are entitled to be enrolled as Cherokees by blood.

Forwarding the papers November 3, 1902, the Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed herewith.

The Department affirms your decision.

Respectfully,

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 22329 Commission to the Five Tribes, received Nov. 24, 1902 Department, Ryan, Washington, D. C. November 17, 1902. "CHEROKEE"-----Affirms decision of Commission in application of Matthew J. Whitfield rejecting the application for enrollment of himself, and affirming decision for enrollment of the children as Cherokee citizens.-----

DEPARTMENT OF THE INTERIOR.
Washington.

I. T. Div.
3039,5043-1902.

November 22, 1902.

The Commission to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of your commission's report of July 24, 1902, of the record of proceedings upon the application of Nancy Ray for enrollment of her four children, Allie Jane, Altie Emma, and Gracie Ross, as citizens by blood of the Cherokee Nation.

The children are the illegitimate issue of David W. Ross, a citizen of the Cherokee Nation, borne on its roll of 1880, who lives and cohabits with and has issue by five white women, one of whom is his wife. The mother, Nancy Ray, is not by adoption a citizen of the Cherokee Nation, or entitled to be enrolled as such. Your commission was of the opinion that these children, admittedly the issue of Ross, a Cherokee on the roll of 1880, are not within the benefits of section 21 of the act of June 28, 1898 (30 Stat., 495, 502), and rejected the application for their enrollment.

The act, so far as here material, referring to the roll of 1880, requires your commission to enroll --
all descendants born since the date of said roll to persons whose names are found thereon; . . . and they shall investigate the right of all other persons whose names are found on any other

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rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made,

The previous act of June 10, 1896 (29 Stat., 320, 339), directed the commission then constituted that in determining applications for citizenship --

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 said nations, or tribes

The law is different for guidance of your commission upon applications for admission to citizenship and for enrollment of those who are citizens by virtue of descent from citizens on the roll of 1880. By the act of 1898, the roll of 1880 was taken as the controlling basis of action, and all persons there enrolled and their descendants were entitled to enrollment. The right of persons upon other rolls were to be investigated. This included those enrolled by tribal authority, who had made permanent settlement in the nation and had been lawfully admitted to citizenship; also white persons intermarried with Cherokees and entitled to citizenship under Cherokee laws. As to descendants of persons who were borne upon the roll of 1880, no such powers were given and no such force or effect was to be given to the tribal or national laws, usages, and customs. When descent is established from one borne on the rolls of 1880, the right to be enrolled is perfect, and the duty of your commission

is imperative to inscribe such persons upon the rolls, unless he has abandoned or forfeited such right or has abjured his citizenship.

Had Congress intended to limit the right to those of legitimate descent, or descendants born in lawful wedlock, presumably it would have so provided. No reason can be assigned to exclude illegitimate descendants of male citizens and to admit such descendants of female citizens, except tribal law or usage. But tribal law or usage is not recognized by the act as authority for action of your commission in respect to persons descended from persons borne on the roll of 1880. In providing without limitation or reserve that descendants of such persons shall be enrolled, illegitimates, on either side, can not be excluded without importing into the act words of limitation not enacted by Congress and in face of the fact that such words in a former act were ex industria excluded in framing the act in question.

The act must be construed according to its clear terms, that descendants, whether legitimate or not, and whether recognized by tribal law and usage or not, when once the fact of descent is established from one borne on the roll of 1880, are entitled to enrollment by your commission. That being the fact as to the children in question, they will be enrolled.

Very respectfully,

E. A. Hitchcock.

Secretary.

(Endorsed) No. 22670. Received Nov. 28, 1902 Commission to Five Tribes, Department, Hitchcock, Washington, D. C., November 22, 1902.-----In the matter of the application of Nancy Ray for enrollment of her children as Cherokee citizens, the decision of the Commission is reversed, and the applicants are to be enrolled.-----

D E P A R T M E N T O F T H E I N T E R I O R .

I.T.D. 7067-1902.

WHR.

November 25, 1902.

The Commission

to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department has considered the application for the enrollment of Luticia E., Mary E., and Babe Goddard as citizens by blood of the Cherokee Nation.

It appears that Henry Goddard, who makes the application, is the father of Mary E., and Babe Goddard, and a citizen of the Cherokee Nation, his name being founded (Sic) on the 1880 roll of said Nation.

The mother of these children is Laura Goddard, to whom Goddard was married on May 6, 1898.

Luticia E. Goddard was born October 8, 1897 and is the child of the said Luara Goddard, who was at that time the wife of S.D. Gideon, from whom she secured a divorce in February, 1898.

Goddard, the only person testifying in the present case claims that he was married to this woman in January, 1897, in Kansas, and that he is the father of this child. No evidence of this alleged marriage is produced.

September 20, 1902, you held that the evidence shows that Luticia E., Mary E., and Babe Goddard are the children of Henry Goddard and his wife, Laura Goddard, to whom he was lawfully married May 6, 1898, and referring to section 692 of the Compiled
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Laws of the Cherokee Nation of 1892, which provides that--

"When a man, having by a woman, one or more children, shall afterwards intermarry with such woman, such child or children, if recognized by him, or proven to be his, shall thereby be legitimate,....."

that said children should be enrolled.

As to illegitimate children of Cherokee citizens borne upon the 1880 roll, see departmental decision of Nov. 22, 1902, in the case of Nancy Ray, et al.

The Nation protests against the enrollment of Luticia E. Goddard and insists that the presumption is that this child's father is her mothers first husband, Gideon; that as there is no proof of the time of their separation, and as it is shown that there was a divorce secured subsequent to the birth of this child, the child is not entitled to enrollment as a descendant of Goddard.

The Commissioner of Indian Affairs reporting in the matter November 13, 1902, states that it makes no difference whether this child is legitimate or illegitimate; that as she is a Cherokee by blood and a descendant of recognized Cherokee citizens, she is entitled to enrollment.

Your decision is affirmed as to Mary E., and Babe Goddard, but as the Department agrees with the contention of the Nation that the presumption is that Luticia E. Goddard is the child of Gideon, and as it does not find any satisfactory evidence overcoming this presumption, you are directed to allow Goddard further opportunity, with notice to the Nation, to produce the proper evidence to show that this applicant is his child.

A copy of the Commissioner's letter is inclosed,

Respectfully,

Thos. Ryan.

ACTING SECRETARY.

1 inclosure.

(Endor sed) # 23066, Commission to Five Civilized Tribes, Muskogee, Oklahoma, Received Dec. 1, 1902. Department, Ryan, Washington, D. C., November 25, 1902. Affirms decision of Commission, in application of HenryGoddard, for enrollment of Mary E. and Babe Goddard, as Cherokee citizens, but applicant is to be given another opportunity to prove that Luticia E. Geddard is his child.

DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D. 5988, 6242-1902.
6271, 6437, 6595, 6607-1902.
6865, 6871, 6964-1902.

November 28, 1902.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered, in connection with the arguments presented, the consolidated case involving the application of Henry C. Hayden, for the enrollment of his wife, Maria Hayden, as a Cherokee Freedman, and himself as a Cherokee Freedman by intermarriage; the application of Sarah E. Buckner for the enrollment of herself and children, Arthur, Bessie and George W. Buckner, as Cherokee Freedmen, and for the enrollment of her husband, George B. Buckner, as a Cherokee Freedman by intermarriage; of Andy Rider for the enrollment of himself as a Cherokee Freedman, and the application of Ella Huddleston for the enrollment of herself and her child, Ora L. Huddleston, as Cherokee Freedmen.

The act of June 28, 1898 (30 Stat., 495), directs your Commission to

"Make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims rendered the third day of February, eighteen hundred and ninety-six."

On May 11, 1900, the Department stated that a roll was made under said decree, known as the "Clifton Roll," which was approved by the Department in 1897; that it has been claimed

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that said roll contains many names not properly belonging there, but whether this fact influenced Congress to disregard that roll and direct, in said act of June 28, 1898, that a new one be made in strict compliance with said decree is immaterial, for the fact remains that the decree alone is to be taken as a guide for making the roll which your commission is to prepare; that it is your duty now to make a roll which shall include the names of all Cherokee citizens

"Who are or were freedmen who had been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion, and were residents therein at the date of said treaty, or who returned thereto within six months thereafter, and their descendants."

On August 30, 1900, you rejected the applications, stating that Maria Hayden and her husband, Henry C. Hayden, were residents in the State of Kansas from 1866 until about 1873; that they did not remove to and take up their residence in the Cherokee Nation "until after that year;" that among those returning to the Cherokee Nation with the said Maria Hayden was the said Andy Rider, who appears to have been a member of the family; that Sarah E. Buckner was a minor and living with her mother in 1866; that she claims to have returned to the Cherokee Nation with her mother, Maria Hayden, and the evidence also shows that said Sarah E. Buckner resided with her husband in the State of Kansas for eight years or more after the year 1873, and you held that the preponderance of the evidence shows that the applications of those not claiming by intermarriage should be denied under section 21 of the act of June 28, 1898; also that no person is entitled

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to enrollment as a Cherokee freedman by intermarriage.

Maria Hayden was, it is alleged, a slave of a Cherokee Indian residing in the Cherokee Nation, and was taken to Kansas during the Civil War. It is testified, but not in a satisfactory manner, that she first returned to the Cherokee Nation in the spring or summer of 1866, and again in the fall of that year, without her husband, and that she selected a tract of land and had erected thereon a little log cabin, which she did not occupy. Her husband lived in Kansas and did not go to the Cherokee Nation to live until the fall of 1873, though it was claimed he was there in 1867 and then stayed two months. Her son, Henry Still, appears to have bought at that time the place they are living on at present. Her name is not on the 1880 roll or the 1896 census roll. It is on the Wallace Roll and the Clifton Roll, which latter roll was made by virtue of a decree of the Court of Claims of February 3, 1896, mentioned in the act of June 28, 1898. The chief witnesses for the claimant, while testifying as to certain things having taken place from 1866 to 1867, and to having seen Mrs. Hayden in the Cherokee Nation at that time, are shown to be ignorant as to dates generally. There is wanting satisfactory evidence that the claimant removed to and took up her residence in the Cherokee Nation within the time specified in the treaty of 1866, from which a part of the quotation in departmental letter of May 11, 1900

"Who are or were freedmen who had been liverated by voluntary act of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the

date of said treaty, or who returned thereto within six months thereafter, and their descendants,"

was taken. It is testified by several witnesses for the Nation who knew Hayden, and were near neighbors of him in Kansas, that he and his family including his wife, came to Kansas in 1865 and continued to live there until 1873; that Mrs. Hayden was there all the time, at least that if she was absent at all it was for very short periods, and not frequently. It also appears that Mrs. Hayden was married to Reuben Still; that they parted without a divorce before the civil war, and that she married Hayden in 1863 and again in the Cherokee Nation in 1874. Reuben Still died in 1879.

In regard to Mrs. Buckner and those claiming through her, it appears that she was born in 1856 in the Cherokee Nation, and she claims to have removed from Kansas to the Cherokee Nation with her mother, Maria Hayden, when a child in 1866, and stayed there for a short time until her mother sent her to school in Kansas; that she was in Kansas only during the school term of each year for several years, and that during vacations, she returned to the Cherokee Nation. March 21, 1874, at the age of 17, she married Buckner, a colored man and a citizen of the United States, under Cherokee license. She had previously married him in Kansas in 1873 at her father's home. She and all except one of her children, are on the Clifton Roll. After Sarah Buckner married she claims she lived at her mother's, and "lots of other places," in Kansas, except when in the Cherokee Nation; that she was in Kansas educating her children school months of several years, which appears must have been

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seven or eight months of each year. There is considerable vagueness and some contradictions in the testimony offered. Besides, the testimony is furnished by the Cherokee Nation that Buckner and his wife lived in Kansas many years after the civil war, before permanently locating in the Cherokee Nation. While it may be probable that Mrs. Hayden and Mrs. Buckner were in the Cherokee Nation at certain periods in 1866 and 1867, though the testimony is very unsatisfactory on that point, and Mrs. Buckner after her marriage was there in 1873, their homes were actually and legally with their husbands in Kansas.

As to Ella Huddleston and her child, it appears that her name is on the Clifton Roll, but not on the 1880 or 1896 rolls of the Cherokee Nation. She is the daughter of George B. Buckner and Sarah E. Buckner; was born in 1874 and was married in Kansas in 1898, and claims to have lived in the Cherokee Nation except when at school in Kansas. As to her home before marriage, it was with her mother, and as it has been found that her mother is not entitled to enrollment, it follows that these applicants are not entitled to enrollment.

In regard to Andy Rider, it appears that at the beginning of the rebellion he was the slave of a Cherokee citizen. His name is not on the 1880 or 1896 Cherokee rolls. IT is on the Wallace and Clifton rolls. He claims to have been born in 1861 or 1862 in the Cherokee Nation, and to have been taken to Kansas during the civil war, and to have returned to the Nation in the fall of 1866 with Mrs. Hayden. He knows nothing as to this however, except what has been told him. It is alleged in the testimony in the Hayden and Buckner cases that he returned

to the Nation with Mrs. Hayden and resided there with her or with Mrs. Buckner. The testimony having been found not sufficient to show that Mrs. Hayden and Mrs. Buckner had been residents in the Cherokee Nation in the time necessary, the applicant Andy Rider is not entitled to enrollment.

On September 13, 1902, Commissioner Breckinridge addressed a communication to your commission, in which he states in regard to your decision, that he agrees that none of the applicants are entitled to enrollment; that he does not concur in the general statement that

"No person is entitled to enrollment as a Cherokee Freedman by intermarriage;"

that as these applicants as such are not entitled to be so enrolled, it should be so stated; that he would not travel out of the case to express a general proposition that may give trouble in other cases and which he is not prepared to assent to.

Submitting the case September 30, 1902, the Commissioner of Indian Affairs holds that your decision is correct except as to the parties claiming as intermarried citizens. His reasons for so holding are set forth fully. A copy of his letter is inclosed.

A motion for rehearing has been made by the attorney for the applicants, claiming that it was erroneous to omit from the rolls being prepared by you, the names of persons on the Clifton roll. This question was settled by the Department on May 11, 1900. It is also alleged that your decision is not supported by the evidence; that you erroneously accepted incompetent, irrelevant and immaterial matter, and that you have misconstrued the law as to what constitutes residence

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Rehearing is also asked because of "newly discovered evidence," and offer to show among other things that the witness Fallow, introduced by the Cherokee Nation as probably its most important witness, offered to testify to the exact opposite of the testimony he gave if he were paid for so doing.

The Department considers the reasons given not sufficient to warrant granting the request. In view of the fact that on August 5, 1902, the Department in the matter of the application of Benjamin Crittenden, for the enrollment of his wife as an intermarried citizen, requested an expression of your views of the objections raised in that case by the Nation, on the ground that the woman was a colored person, but to which no answer has been received, and in view of the decision of the United States court rendered October 26, 1901, in the case of Buffington et al., plaintiffs, against Henry L. Dawes, et al., defendants, in equity, No. 4424 (pending on appeal), the Department affirms your decision without expressing an opinion whether, under the act of June 28, 1898, persons are entitled to enrollment as Cherokee freedmen by intermarriage.

Respectfully,

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 23527 Commission to Five Tribes, Recd. Dec. 5, 1902, Department, Ryan, Washington, D. C., November 28, 1902.--Cherokee--Affirms decision of Commission rejecting application of Henry C. Hayden, et al, for Cherokee citizenship----

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

I.T.D 7101-1902.

December 1, 1902.

Commission to the Five Civilized Tribes,

Muskogee, I.T.

Gentlemen:

October 31, 1902, you transmitted the record in the matter of the application for enrollment of George P. Beavers, his wife, Frances R. Beavers, and their children, Charles A., Kate L., John F., Mary E. and George R. Beavers, as citizens of the Cherokee Nation.

As stated in your decision of October 30, 1902, the evidence shows that George P. Beavers, a white man, was first married under Cherokee law, on January 28, 1883, to Jeannette Toney, a Cherokee citizen by blood; that she died in 1886; that in May, 1888, he married Frances Parris, a white woman, who at that time was the widow of one Jesse Parris, a Cherokee citizen by blood; that the children above named are the issue of the marriage of George P. and Frances R. Beavers, and that their right to enrollment depends upon that of their parents. You denied the application as to all the applicants in accordance with section 666 of the Compiled Laws of the Cherokee Nation, which declares:

"Should any man or woman, a citizen of the United States, or of any foreign country, become a citizen of the Cherokee Nation by intermarriage, and be left a widow or widower by the decease of the Cherokee wife or husband, such surviving widow or widower shall continue to enjoy the rights of citizenship, unless her or

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he shall marry a white man or woman, or person, (as the case may be), having no rights of Cherokee citizenship by blood; in that case, all of his or her rights acquired under the provisions of this act shall cease."

The Commissioner of Indian Affairs forwarded the papers November 14 and recommended approval of your decision. A copy of his letter is inclosed.

The Department affirms the decision rendered.

Respectfully,

Thos. Ryan.

Acting Secretary.

1 inclosure.

(Endorsed) # 23675, Commission to Five Tribes, Muskogee, Oklahoma Muskogee, Received Dec. 8, 1902. Department, Ryan, Washington, D. C., December 1, 1902. Affirms decision of Commission rejecting application of George P. Beavers, et al, for Cherokee citizenship.

DEPARTMENT OF THE INTERIOR.
Washington.

ITD. 7534-1902.

December 22, 1902.

Commission to the Five Civilized Tribes,
Muskogee, I. T.

Gentlemen:

November 21, 1902, you transmitted the record in the matter of the application for enrollment of Joseph B. Cash as an intermarried citizen of the Cherokee Nation.

The evidence shows that the applicant, a white man, was married in the year 1874, under the laws of the State of Texas, to Mary A. Bane who was readmitted to Cherokee citizenship in 1879. It does not appear that the applicant was ever married in accordance with the laws of the Cherokee Nation. The act of the Cherokee National Council approved October 15, 1855, declares:

"Every white man, or citizen of the United States, or of any foreign government, desiring to marry a Cherokee, Delaware or Shawnee woman, citizens of the nation, shall be and is hereby required to obtain a license for the same from any of the district clerks of the several districts."

You therefore denied the application on November 20, 1902.

The Acting Commissioner of Indian Affairs forwarded the papers December 6 and recommended approval of your decision. A copy of his letter is inclosed herewith.

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The Department affirms your decision.

Respectfully,

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 25714 Commission to the Five Tribes
Received Dec. 27, 1902. Department, RYAN, Washington, D. C.
Dec. 22, 1902.-----CHEROKEE-----Affirms decision of the Commission
in the matter of the enrollment of Joseph B. Cash as an inter-
married citizen of the Cherokee Nation.-----

DEPARTMENT OF THE INTERIOR. EAF.
WASHINGTON.

ITD. 7530-1902.

December 22, 1902.

Commission to the Five Civilized Tribes,
Muskogee, I.T.

Gentlemen:

November 23, 1902, you transmitted the record in the matter of the application for enrollment of Dora Sullivan as an inter-married citizen of the Cherokee Nation.

The evidence shows that the applicant was married on Dec. 29, 1895, to William P. Sullivan, who is identified on the 1880 authenticated roll of the Cherokee Nation and on the Cherokee census roll of 1896. Section 26 of the Cherokee agreement (act of July 1, 1902), provides:

"...and no white person who has intermarried with a Cherokee citizen since the sixteenth day of December, eighteen hundred and ninety-five, shall be entitled to enrollment or to participate in the distribution of the tribal property of the Cherokee Nation."

You refused the application November 20, 1902.

Forwarding the papers December 6, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed herewith.

The Department affirms your decision.

Respectfully,

Thos. Ryan.
Acting Secretary.

1 inclosure.

(Endorsed) # 25707, Commission to Five Tribes, Muskogee, Oklahoma. Received Dec. 27, 1902. Dept. Ryan. Wash., D. C., Dec. 22, 1902. affirms decision of Commission rejecting application of Dora Sullivan for Cherokee citizenship.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

ITD 2074-1903.

February 28, 1903.

The President:

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of March 3, 1901 (31 Stat., 1058), an act of the National Council of the Cherokee Nation entitled "An Act making an appropriation for the traveling expenses of W. W. Hastings to Washington, D. C. and for other purposes."

The Acting Indian Inspector for Indian Territory recommends that the act receive favorable consideration.

The object of the proposed visit of Mr. Hastings to Washington is "to make an oral argument before the Secretary of the Interior in support of the claims of the Cherokee Nation in citizenship cases." The Acting Commissioner of Indian Affairs states that heretofore Mr. Hastings, who is the nation's attorney in citizenship cases, has submitted briefs in many doubtful citizenship cases and that the Indian Office can conceive of no better way to submit an argument in such cases, and does not believe that this act should be approved.

I concur in the views of the Acting Commissioner and recommend that you disapprove the act.

The communications from the Acting Inspector, Mr. Hastings

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and the Principal Chief of the nation, respectively, and a copy of the Acting Commissioner's report are inclosed herewith.

Respectfully,

E. A. Hitchcock.

5 inclosures.

Secretary.

(Endorsed) Union Agency # 5931 Received March 10, 1903. Office of U. S. Indian Inspector for Indian Territory. Washington, March 4, 1903. Secretary. Cherokee act to pay travel expense of W. W. Hastings to Washington, etc., disapproved by President February 28, 1903.

Muskogee, Indian Territory, March 19, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

The Commission is in receipt by reference from the Department, of a letter of January 19, 1904, addressed to Hon. M. S. Quay, United States Senate, by Messrs. Dave Muskrat, Richard W. Wolfe, and J. Henry Dick, who allege that they are representatives of the full-blood Indians of the Cherokee Nation, and the latter of the persons named signs himself as Secretary K. S., which is presumed to be as Secretary of the Keetoowah, or full-blood society. The Commission is desired by the Department to make a report and recommendation in regard to this letter. The communication referred to states as follows:

"As representatives of the full-bloods of the Cherokee Nation, we would like to have your assistance in bringing about some changes in the rules of the Tahlequah Land Office, so that it will be more convenient and less expensive for our full-blood people. To show you how inconvenient and expensive it has been for our people:

"One Aleck Bunch, of Stillwell, went to the land office to file for himself and family, but was denied by the application clerk several times, when he did get in he found that all his land except ten acres had been filed on by other people.

"One James Rooster, of Braggs, was turned down several times upon an application for himself and wife, and was not permitted to file until the Muskogee office was appealed to.

"Betsy and Alsey Vann, two widow women, of Stillwell, were at the land office and waited daily for admission for about three weeks and had to return home without getting into the office at all.

"One Emma Wicket, of Cookson, made application for a number and could not get it because she was not properly enrolled by the Commission.

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"One Jennie Downing, of Hulburt, made application for a number and found that she had been enrolled by another name and as the wife of another man.

"While these bona fide citizens names are not properly on the Commission roll, there seems to have been plenty of time to make a proper roll, yet we find some 19 fictitious names on the roll, who have received allotments and leases made on the same, who are advertised for by order of the Court for the Northern District of the Indian Territory.

"Why these discrepancies?"

As for the first person named, Aleck Bunch, who is said to be not properly on the Commission roll, the record shows that he applied for enrollment November 25, 1901, for himself, wife and seven minor children, all full-bloods. He and his family were duly listed for enrollment and their names were included in the schedule of citizens transmitted to the Department November 25, 1902, and the same were duly approved by the Secretary December 23, 1902."

The record further shows that on September 16, 1903, Aleck Bunch appeared before the land office and selected allotments for himself and four minor children, and on September 23, 1903, he selected allotments for his three remaining children.

As to the allegation that Aleck Bunch was denied by the application clerk several times when he applied to select his allotments, something of that sort may have arisen in abedience to an order adopted by the Commission August 9, 1903, to the following effect:

"RESOLVED, That until further orders, no allotments shall be made to full-blood Indians taken to the Cherokee Land Office by Agents or non-citizens.

"RESOLVED, That no selection of allotment be permitted in the Cherokee Land Office where it is disclosed that contracts have been made for the lease thereof or the sale of any interest therein."

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This order was made by the Commission as a body, and, of course, so long as it was in operation, the subordinate land office was controlled thereby. The occasion for it was the knowledge that many, if not most of the ignorant full-bloods were being influenced by excess land-holders, or by their well recognized agents and runners, to select allotments which could be made subservient to the special interests of the excess land-holders. It was well known that these full-bloods were being subjected to extortionate and unlawful contracts, generally in the form of leases, which, while having no foundation in law, could yet to a large extent at least be enforced with the ignorant fullblood by the personal influence of the shrewder people who were manipulating him. The order was adopted by the Commission as an effort to afford some protection to this class of people from injurious spoliation which was being practiced upon them. No record was kept of applications which were turned away while this order was in force, but the applicants upon revealing that they had been subjected to such contracts as have been mentioned, were at that time told that they must come back prepared to select their allotments free from any unlawful incumbrances. It is personally recalled that Aleck Bunch did appear at the land office during this period evidently being controlled by some one who was recognized, to use the language of the day, as a "grafter" and that for the time being he was, under the order of the Commission, turned away. Another time he appeared to select allotment for himself and some of his family, but he was unable to give a sufficiently accurate description of the land desired to permit of its determination, and of course, at that time

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it had to be required of him to find out more definitely what land he wanted. If my recollection is correct, Mr. J. Henry Dick, one of the signers to this letter to Senator Quay, and who is recognized as one of the principal manipulators of these ignorant full-bloods, had Aleck Bunch in charge, and that was sufficient, under the order of the Commission, to require that Aleck Bunch at that time be not permitted to file.

Subsequently the Commission was advised, upon consulting the Department, that, desirable as this protection might be, the law did not authorize it to enforce such measure of protection, and the order was rescinded by the Commission on the 12th of September, 1903. Since that time, the efforts of the Commission to protect the full bloods in the respect heretofore named, have, under the limitations of the law, been necessarily confined to friendly advice and oversight, not coupled, however, with any actual power.

To further show how difficult it is to secure justice for these ignorant people who are so readily a prey to the designing ones of their own race, it may be stated that when Bunch finally applied for land which had been selected for himself and children, that land is nearly one hundred miles from where he lives and has lived all his life, and when he was asked as to whom the improvements on the land belonged, he replied "Do not know; I inquired but was unable to find out to whom it belonged." The sectional plats of the Commission show that Bunch (Sic) was not the owner of the improvements upon the land. he was doubtless influenced to select for himself and four minor children. No bill of sale was filed with his application made on September 16, 1903 and it is understood (Sic) that Bunch was under

contract for the lease of these prospective allotments prior to the time of the selection of the same.

As to James Rooster, whom it is said has not been enrolled, and was turned down several times upon application for himself and wife for allotment of land and was not permitted to file until the Muskogee office was appealed to, it may be stated that Rooster applied for enrollment May 8, 1902, for himself, wife and two minor children. He claims to be three-quarters Cherokee blood and that his wife is a full-blood. They were duly listed for enrollment and their names were transmitted to the Department for approval on April 14, 1903, and the Secretary approved of their enrollment May 6, 1903. He appeared before the Cherokee Land Office on September 9, 1903, and asked the Commission to make allotments at its discretion for himself and his wife, and that he be allowed the privilege of prompt and special admission that is always, under the orders of the Commission, accorded to full-bloods. It is recalled that prior to the time of this request and while the rules of the Commission previously referred to were in effect, Rooster appeared before the Land Office and expressed a desire to make application for certain land in allotment for himself and wife. When interrogated as all applicants are, it was with the greatest reluctance that he replied to the questions propounded to him by the roll clerk. It became evident that he was trying to conceal the truth, and it appeared, beyond doubt, that he had made an agreement to lease the land which he proposed to take in allotment either for himself or for his wife, or both, consequently he was not, under the Commission's order then in force, permitted to file. It was afterward more definitely ascertained that Rooster was not only accompanied by an agent, but that he had made an agreement to lease

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his allotments as soon as selected.

J. Henry Dick took an active interest in the matter of the Rooster allotments.

When Rooster again appeared at the land office he expressed a desire to make application for an entirely different tract of land from that which he had previously tried to select. The bill of sale presented at this time for the land in question, was given by one J. L. Adair, and the Commission's records showed that Adair had already selected other lands for himself and family. This was conclusive evidence that Adair was locating this Indian upon some of his excess lands, selling the improvements and possessory right after the period permitted by law. Of course all such matters are promptly reported to the United States District Attorney. They afford no reason, however, why the applicant should not be given the land. It only discloses that in getting what the law contemplates he shall have without charge and of right, he has, through ignorance, or otherwise, been compelled to pay unlawful tribute to others. It was disclosed in the testimony in this proceeding that J. Henry Dick not only acted as an agent in the matter but also accompanied James Rooster to the land on a trip made presumably for inspection and a consummation of the unlawful trade.

As to Betsy and Alsey Vann, two widow women of Stillwell, who are said to have waited at the land office for admission about three weeks and had to return home without getting into the office at all, as these persons are referred to as full-bloods, it cannot be seen how, with respect to people of that class, such delay could

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possibly arise through the operation of the rules and practice of the Commission. It is true that when the land office was first opened a very large crowd of people were assembled, many more than could be dealt with for some time. They were given tickets of admission in regular order and they were advised as to about the number of persons that the Commission could dispose of per day, and told to return or communicate with the Commission at approximately the time when their numbers would probably be reached. Of course, all the business cannot be done at once, and the Commission has not been able to devise any fairer or more expeditious or more convenient way of doing business than the one stated, but as for the full-bloods they are generally the slowest and the last to put in an appearance and the Commission has a special order as to them. They take precedence over the holders of regular tickets. It is rare and perhaps never the case that they suffer any considerable delay in attention to their business unless it be by reason simply of their own neglect.

The Commission has no special information in regard to Betsy and Alsey Vann, and, therefore, what is said concerning them can only be answered in the general terms which have been stated.

As to one Emma Wicket, of Cookson, who, it is said, made application for a ticket of admission and could not get it because she was not properly enrolled by the Commission, I have to say that according to the record, she is one of the many full-bloods who never personally applied for enrollment. As the Department will recall, there were several thousands full-bloods who had not applied for enrollment as required by law when the time within which they could

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apply had almost expired. The Commission was forced to two extraordinary steps for the purpose of preventing these people, the most ignorant, the most helpless of the Cherokee Nation, from losing their tribal status, rights and property under the operation of law. One was to send what we call "flying parties", lightly equipped, all over the districts of the Cherokee Nation mostly inhabited by this class, invoking at the same time the power of the Federal Court to the extent of arrest and imprisonment of numbers of the leading full-bloods who persistently refused to obey the law. It was hoped that the example made in such cases would convince these deluded people that the stories told them by designing leaders of their own blood, and for the most part there is every reason to believe, men under the pay of those who wish to embarrass and delay the work of the government, were not true, that the Commission was acting under the law and supported by the law, and that the authorities in Washington were requiring the Commission to do what it was doing instead of being opposed to it as these poor creatures were continually told. Even then there were, perhaps, several thousands who would not and did not present themselves for enrollment. In many instances the Commission sent its representatives to their houses but almost invariably the inmates would take to the woods or absolutely refuse to give their names, the names of their children, or answer any questions at all. In this extremity the Commission listed for further consideration and enrollment the names of all such persons as given to it by the best informed, most intelligent and most responsible men of the respective

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neighborhoods of the entire full-blood districts. This put them in a position where the statute of limitation did not run against them, and the Commission could take time to get further and more accurate and reliable information before taking final action, and making recommendations to the Department. Of Course, names taken in this way were in all instances taken with what, under the practice, was deemed wholly insufficient evidence and in many instances with very great doubt, but it was the best the Commission could do.

But even this did not assure the Commission that they had applications of record within the time required by law, of every soul whose rights needed to be considered, and as a further protection against the omission of even the most obscure and hidden members of the Cherokee Nation, the pay-roll of 1894 as well as the census of 1896 were required to be taken bodily in the presence of the Commission and formal application made for all the names of all persons named in those rolls, and all their descendants and the members of their families, who had not already applied, or been applied for, for enrollment.

This exhausted the utmost resources known to the Commission to continue jurisdiction over the rights of these people to be enrolled, and to look up, as time and circumstances permitted, the evidence in their respective cases.

Emma Wicket was one of this obscure class. She was listed for enrollment upon outside information on June 30, 1902, and, of course, she was placed upon a doubtful card. The Commission has never yet been able to reach a decision on her case. It has diminished the number of these doubtful cases and reported them to the Department

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or eliminated them, as the fuller development of the facts justified, as rapidly as it could.

What has been said will, to a large extent, explain why Emma Wicket has not yet been properly enrolled by the Commission, but it is right and proper to further state that the chief reason why Emma Wicket and several thousand other full-bloods have occasioned so much labor, difficulty and expense to the government is, the organized opposition to enrollment that was so obstinately maintained by the Keetoowah Society, to which Messrs. Muskrat, Wolfe, and Dick belong. They have represented in the main the same opposition to the execution of the law that was manifested by the Snake Band of Indians or full-bloods in the Creek Nation, and it is needless to recall to the Department the occasion when (Sic) it has been compelled to apply to the War Department and to procure from the War Department the presence of troops in the Cherokee Nation for both a moral and physical effect against the resistance and obstructive policies of these people; and it should be further stated that perhaps in no instance of the scores of appointments that the Commission has had in full-blood districts to secure the proper enrollment of that class of people, have its representatives failed to find that almost immediately preceding their appointments, the neighborhoods have been visited by Dave Muskrat, who concurs in this letter to Senator Quay, in persistent efforts to persuade the full-bloods not to enroll or obey the law. Muskrat, himself, did not apply for enrollment until among the last of the appointments of the flying enrollment parties in the full-blood districts of the Cherokee Nation, and then he only appeared when

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application had been made for his arrest by the Commission and he was in receipt of a direct order from the United States Court to make his appearance and obey the law. And the writer of this communication listed him for enrollment in the face of his most perverse opposition, accompanied by a perfect tirade of the grossest and most indecent misrepresentations to a large number of the full-bloods of his Kee-toowah Society, and the writer had to tell him imperatively that he must at once enroll or immediately go to jail. These men, so solicitous about the enrollment of the full-bloods, and about allotments to the full-bloods, are themselves the leaders of organized opposition to the execution of the law in both respects. It cannot be true that Emma Wicket made application for a ticket of admission to the land office and was refused, because such tickets are always issued to anyone heretofore listed in any way by the Commission, and they are permitted to apply for their allotments, but, of course, certificates of allotment are never issued to them until the Secretary of the Interior has finally approved their enrollment. Meanwhile, however, the land they claim is duly set aside for them and all their rights of contest are reserved to be exercised if the Secretary approved of their enrollment and there be occasion for them to defend the selections they have made.

As for Jennie Downing of Hulburt, who, it is said, made application for a number and found she had been enrolled under another name, and as the wife of another man, what is applicable in case of Emma Wicket, is also applicable to her. She was listed for enrollment upon outside information, she not having made a personal application. She was so listed on the 20th of June 1902. Full and satis-

factionr (Sic) information, however, was subsequently obtained in her case and her name was transmitted to the Department on the 26th of November, 1902, and her enrollment was finally approved by the Secretary on the 23rd of December, 1902. The confusion as to the name of Jennie Downing arose from the fact that two half brothers married two sisters and the first information furnished the Commission was incorrect the error being as to which sister each brother had married. This was explained to the Department January 11, 1904, in a letter requesting a correction of the schedule.

As for the nineteen fictitious names who are said to be on the roll and who are said to have received allotments and leases, this, doubtless, refers to applications made to the Commission by one Triplett, whose full name is not just now recalled, and who applied as guardian for the enrollment of nineteen children, subsequently increased to twenty-three, all of whom were either dead or had never lived. Triplett is now in the penitentiary for the fraudulent insertion of a large part of these same names upon the Cherokee payment roll of 1894; His confession of guilt was to a large extent forced by the fact being revealed in a communication to the United States District Attorney of the evidence of these frauds, carrying with it strong evidence also of fraud in the connecting link of the enrollments of 1894. Triplett applied for these children in batches at different times and places when our flying parties were making the final enrollment trips in the full-blood districts of the Cherokee Nation. In some instances he presented letters of guardianship from the United States Court, but in all instances, as we were compelled to do in

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regard to thousands of people, we listed them on doubtful cards for further consideration. Not one of them has ever been enrolled. The frauds were detected and too much credit cannot be given to the Clerks of the Cherokee Land Office for the sagacity and fidelity with which they discovered and revealed these attempted frauds. Not a single statement made by these correspondents in regard to these alleged fraudulent enrollments is true, and there is the less excuse for them to make such statements to Senator Quay for the reason that the facts in this group of cases were all revealed at one time, which created quite a sensation, coupled as they were with the conviction and imprisonment of Triplett, who was one of the most prominent men in the Cherokee Nation. They were published in the several newspapers at Tahlequah, including the official paper of the Cherokee Nation, and these men usually keep themselves exceedingly well informed about all such matters, and two of them at least are habitually at Tahlequah, if, in fact, it be not their home.

Very much more could be said about these men, particularly Muskrat and Dick, who seek to impose themselves upon the confidence of Senator Quay, but the representations and stated complaints of these men and of others like them are so numerous and persistent, and attention to them takes up so much time from the more direct demands of the public business, that I forbear entering further into the matter at present.

Respectfully,

(Signed) C. R. Breckinridge.
Commissioner in Charge.

(Endorsed) Indian Agency No. 152. ---Relative to, Copy of letter of Com'r Breckinridge to Department in re petition of Dave Muskrat, et al? for modification of rules governing allotment in Cherokee Nation.

Land.
1406-1901.
90753-1904.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, Jan 5, 1904.⁵

175

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of January 5, 1901, (I.T.D. 4244-1900), I have the honor to enclose a report from Inspector Wright dated December 27, 1904, transmitting a communication from W.C.Rogers, Principal Chief of the Cherokee Nation, dated September 3, 1904, stating that on December 28, 1900, the National Council of the Cherokee Nation passed an act providing for the representation of the Cherokee Nation by attorneys before the Commission to the Five Civilized Tribes, in making the roll of Cherokee Freedmen; and that in accordance with the act, the then Principal Chief of the Cherokee Nation entered into a contract with L.C.Bell, W.W.Hastings, and James S.Davenport, to represent the Nation in making the roll mentioned. Mr.Rogers explains in detail the work accomplished by the attorneys and the present status of their labors, and as it seems that their work cannot be completed within the time expected, he submitted a new contract, entered into by him September 3, 1904, with L.C.Bell and James S. Davenport, which provides that they shall each receive the sum of \$4.50 per day from January 1, 1904----

-----and extending up to and including all the time that the said Lucien C.Bell and James S.Davenport shall continue

to perform their duties as counsel in behalf of said Nation in regard to the enrollment of the said Freedmen Citizens on the rolls of citizenship of the Cherokee Nation directed to be made by the said Commission to the Five Civilized Tribes.

The contract is not made in accordance with the provisions of Sections 2103 to 2107 inclusive of the Revised Statutes of the United States and in fact it does not seem that it was the intention to make it in accordance with the provisions of law referred to, but that it was attempted to be made under the Act of the National Council of the Cherokee Nation approved by the President December 28, 1900. The act is enclosed, and it authorizes the Principal Chief of the Cherokee Nation to engage the services of such number of competent attorneys---

---not exceeding three, one of whom shall be designated senior counsel by the Principal Chief, learned in the law, as in his judgment may be deemed necessary or advisable, to represent the interests of the Cherokee Nation before the United States Commission in making final roll of the colored citizens of the Cherokee Nation.

Under the provisions of the act the services of Hastings, Bell and Davenport were secured. Among the papers is a communication from Mr. Davenport, in which he states that at the time the contract was entered into, Bell was to receive \$2,000 for his services, and he (Davenport) \$1,500 for his services; that it was understood it would not take more than one year to complete the Freedmen Roll; "and the compensation agreed upon would be sufficient, but as the work has required so much longer time, it is plain to anyone who is familiar with the facts that we have not received ample pay.

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"The amount named in this contract is the same as was paid Hon. W. H. Hastings for finishing the Cherokee Roll in addition to the regular contract price as originally agreed upon, which amount Hastings is now receiving and the amount is not excessive."

The Inspector referred the contract to the Commission to the Five Civilized Tribes and in communication of November 26, 1904, T. B. Needles, Commissioner in charge, says among other things:

In reply you are advised that applications have been made to the Commission for the enrollment of 7049 Cherokee freedmen, and that on June 30, 1904, at the end of the fiscal year, there were pending before this Commission the applications of 3188 Cherokee freedmen whose rights were yet undetermined. During the past year the names of 524 Cherokee freedmen have been placed upon the final schedule and approved by the Secretary of the Interior. During the last fiscal year decisions have been prepared by the Commission, enrolling 601 Cherokee freedmen, refusing 1223 and dismissing 6. In a great many of the cases undertermined it has been necessary to secure additional testimony and this has been done in a great many of the cases in the past year, but it will be necessary that further testimony be had, if possible, in almost if not all of the Cherokee freedmen cases which yet remain undertermined.

He also says that Davenport and Bell have apparently been diligent in the performance of their duties as attorneys for the Cherokee Nation in Freedmen enrollment work; that they have procured the attendance of numerous witnesses in behalf of the Nation; and have conducted cross-examinations of the witnesses and

applicants and have filed arguments and briefs in many cases.

There is also among the papers a communication from L.F. Parker, Jr., national attorney for the Cherokee Nation, stating that the services of these attorneys are necessary and recommending that the contract be approved. The Inspector recommends the approval of the contract.

There does not seem to be any direct authority of law, either by way of United States Statute or act of the Cherokee Nation to pay the attorneys the additional compensation mentioned, but as they seem to have rendered valuable services and as it has taken much longer to complete the Cherokee freedmen roll than was expected, I respectfully recommend that the contract be approved to terminate December 31, 1905, unless the Department shall know of some good reason why this should not be done. This recommendation is made for the reason that as stated more time has been consumed in making the Cherokee freedmen roll than was anticipated, and in the belief that the attorneys should receive reasonable compensation for the services heretofore rendered.

Very respectfully,

F.E. Leupp,

Commissioner.

GAW-H
10 encls.

(Endorsed) Union Agency No. 11039 Received Feb. 14, 1905 Office of U.S. Indian Inspector for Indian Territory, Washington, Feb. 6, 1905. Secretary.-----Approves contract between Prin. Chief, Cherokee Nation and Lucien B. Bell and James S. Davenport, for services as attorneys in freedmen cases; encloses opinion of Asst. Attorney General dated Jan. 31, 1905, concerning same.-----

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D. 290-1905.

January 13, 1905.

The President:

I have the honor to transmit herewith for executive action in accordance with the act of Congress of March 3, 1901 (31 stat., 1058-1083), an act of the National Council of the Cherokee Nation entitled:

"An Act making an appropriation for the maintenance of the office of Attorneys of the Cherokee Nation before the Dawes Commission in the enrollment of Cherokee Freedmen claiming citizenship under the treaty of 1866," which was approved by the Assistant and Acting Principal Chief of the nation December 5, 1904. The act is as follows:

"BE IT ENACTED BY THE NATIONAL COUNCIL OF THE CHEROKEE NATION:

That there be and is hereby appropriated out of the General Fund, a sufficient amount of money to pay the salary and travelling expenses of the marshal and stenographer, and the incidental expenses of the office, employed by the attorneys of the Cherokee Nation, who represent the Cherokee Nation before the Commission to the Five Civilized Tribes in making a roll of the Cherokee Freedmen claiming citizenship under the Treaty of 1866."

The United States Indian Inspector for the Indian Territory recommends the approval of the act. The Commissioner of Indian Affairs, in his letter of January 9, 1905, states

that the act is indefinite and uncertain in that it does not appropriate any specific amount of money, but simply provides for a sufficient amount of money to pay the salary and travelling expenses of the marshal and stenographer, etc., in connection with the making of the Cherokee Freedmen roll; as, however, warrants drawn by the tribal authorities have no validity until approved by the United States Indian Agent, Union Agency, and as the Cherokee Freedmen roll is not yet completed, he recommends that the act be approved.

I have to recommend that the act be approved.

A copy of the Commissioner's letter and the report of the Inspector are inclosed.

Very respectfully,

E.A.Hitchcock.

3 inclosures.

Secretary.

(Endorsed) Union Agency No.10927 Received Jan 24,1905.Office of Indian Inspector, for Indian Territory.Washington,Jan.17,1905. Secretary.-----Act of Cherokee Council appropriating funds to maintain office of Attorney before Dawes Commission, etc., returned, approved.-----

STATUS OF CHEROKEE ENROLLMENT CASES.
BY BLOOD.

JANUARY 20, 1906.

Total number of applicants. 35603

Disposed of:

On approved schedules (not counting 1143 intermarrieds and 11 stricken from roll).	31822	21 22
Finally rejected.	1820	
Dismissed.	1550	
	<u>35192</u>	(35603)

Pending before Department:

On decision.	118
On schedule.	23
	<u>141</u>

Pending before Commissioner:

Awaiting further action.	241
To be dismissed (Died prior to Sept. 1, 1902).	29
	<u>270</u>

35603

Status of applicants by blood pending before Commissioner.

Total number of applicants. 270

Ready for scheduling.	3
Decisions prepared.	43

Decisions being written.	38
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To be dismissed (died prior to Sept. 1, 1902).	29
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Listed from information (also listed for enrollment as citizens of the Creek, Choctaw or Chickasaw Nation).	22
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Listed from information (concerning whom in- formation has been secured but not sufficient to determine applicants rights).	73
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Further proceedings required (regular applications).	33
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-2-

Once before Department and remanded (Further proceedings required).29	270
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STATUS OF CHEROKEE FREEDMAN ENROLLMENT CASES.

Total number of applicants.	6955
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Disposed of:

On approved Schedule.	4048	
Finally rejected.	1456	
Dismissed.	214	5718

Pending before Department:

On decision.	1050	
On schedule	40	1090

Pending before Commissioner:

Awaiting further action.	147	147	6955
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STATUS OF APPLICANTS PENDING BEFORE COMMISSIONER.

Total number of applicants.	147
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Ready for scheduling.	3
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Decisions prepared.	18
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Decisions being written.	41
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Listed from information (Concerning whom information has been secured, but not sufficient to determine applicants rights).	11
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-3-

Further proceedings required (regular applicants).55	
Once before Department and remanded.19	147.

STATUS OF CHEROKEE ENROLLMENT CASES.

INTERMARRIED WHITES.

Total number of applicants.	3625
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Disposed of:

Finally rejected.553	
Dismissed.162	715

Pending before Department:

On decisions.105	
On schedules (suspended).1143	1248

Pending before Commissioner:

Awaiting further action.1663	1663	3626
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R E C A P I T U L A T I O N .

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Grand total of applicants.46184
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Disposed of:

Blood.35192	
Freedmen.	5718	
Intermarried White.715	41625

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Pending before Department:

Blood.	141		
Freedmen.	1090		
Intermarried white.. . . .	<u>1248</u>	<u>2479</u>	

Pending before Commissioner:

Blood.	270		
Freedmen.	147		
Intermarried white.	<u>1663</u>	<u>2080</u>	<u>46184</u>

(Endorsed) Union Agency # 868 Status of Cherokee enrollment cases.
November 17, 1905.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D.11200-1906.

September 15, 1906.

DIRECT.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

Referring to departmental letter of June 23, 1906, returning to you, approved, contract between W. C. Robers, Principal Chief of the Cherokee Nation, and James M. Keys, whereby the latter is to be employed as marshal to serve subpoenas, under the direction of the national attorney of the Cherokee Nation, upon witnesses in citizenship cases, it is requested that you procure at once the two parts of the contract, which was dated May 31, 1906, and return it to the Department, direct, in order that action may be taken upon it in accordance with the second proviso of section 28 of the act of April 26, 1906 (34 Stat., 137).

Respectfully,

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No.15259.Received.Sep.17,1906.Office of U.S. Indian Inspector for Indian Territory.Washington,D.C.Sep.15,1906. Secretary.-----Calls for return DIRECT of 2 parts of contract between W.C.Rogers, P.C.Cherokee Nation, and Jas. M.Keys employing 1 attorney as Marshal in citizenship cases for Departmental action under Act of April 26, 1906.

CHEROKEE - DOCTORS

DEPARTMENT OF THE INTERIOR.

Washington.

January 5, 1900.

The President,

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84), Council Bill Number 8 of the Cherokee Nation, Indian Territory, entitled "An Act to Insure the better Education of Practitioners of Dental Surgery and to Regulate the Practice of Dentistry in the Cherokee Nation."

The first section of said act makes it unlawful for any person who is not at the time of the passage of the same engaged in the practice of dentistry in the Cherokee Nation, to practice dental surgery unless he or she shall have obtained a certificate from the Board of Dental Examiners as therein provided, or shall hold a diploma from a university or college of dentistry authorized by law to grant diplomas in dental surgery.

Section 2 provides for a Board of Dental Examiners, to be composed of three reputable practicing dentists to be appointed by the Principal Chief of said nation, from dentists residing therein, and making the term for which said Board shall serve the same as the term of the Principal Chief, who makes the appointments.

Section 3 provides that said Board shall choose one of its members President and one Secretary thereof; that the

-2-

Board shall meet at least three times each year and at some convenient place in the Cherokee Nation; that a majority of the Board shall constitute a quorum, and that the proceedings of the Board shall be open to public inspection at all reasonable times. It requires the Board also to make an annual report of its proceedings to the Principal Chief.

Section 4 requires all persons who desire to enter the practice of dental surgery to apply to said Board at any of its regular meetings, to be examined relative to their knowledge and skill in dental surgery, and if found satisfactory the Board is required to issue a certificate to the applicant to that effect, which certificate is declared to be prima facie evidence of the right of the holder to practice Dentistry in that nation. The fee for each applicant is fixed at \$25.00.

Section 5 prescribes the penalty for violation of said act upon conviction at not less than one hundred nor more than three hundred dollars, or confinement not more than six months in jail, at the discretion of the court.

Section 6 declares that nothing in the act shall be so construed as to interfere with the rights and privileges of physicians and surgeons in the discharge of their professional duties.

Section 7 declares that no persons, except those who are residents of the Cherokee Nation at the time of the passage of

-3-

said act shall be registered by said Board as practicing dental surgeons as therein provided.

The United States Indian Inspector for the Indian Territory states that at the present time the Cherokee Nation has no dentistry law, and he recommends that said act receive favorable consideration for the reason that its operation will, in his judgment, result in benefit to the nation.

The Commissioner of Indian Affairs in reporting upon said act, under date of December 30, 1899, calls attention to the provision in said section 2, which does not require that the members of said Board shall be graduates of any college of dental surgery, but only that they shall be practicing dentists residing in the Cherokee Nation, while section 4 declares that no person shall be examined who is not a graduate of some college of dental surgery, and he states that it may probably happen that reputable gentlemen, graduates of well-known colleges of established reputation, would apply under the terms of said bill for examination and would be examined by persons who never attended a session of any dental college.

He also calls attention to the fact that section 4 "is crudely drawn and ungrammatically expressed. It is impossible to determine exactly what is meant by it." He further states that the provision in said section 4, namely: "Upon the payment to said board the sum of Twenty-Five dollars, all certificates

-4-

issued by said board shall be signed by its officers and such certificates granted as aforesaid shall be prima facie evidence of the right of the holder to practice dentistry in the Cherokee Nation," cannot be construed, and that he is unwilling to recommend the approval of a bill "containing language of this vague and indefinite character."

The objections stated by the Commissioner appear to be well founded, and I have, therefore, to recommend that said act be disapproved.

The letter of the United States Indian Inspector and copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully,

E. A. Hitchcock.

Secretary.

Ind.Ter.Div.
29-1900.
3 enclosures.

(Endorsed) Union Agency No. 521. Received Jan. 15, 1900. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 10, 1900. Secretary-----Cherokee Act about dentistry DISAPPROVED.

D E P A R T M E N T O F T H E I N T E R I O R.

WASHINGTON.

December 18, 1900.

United States Indian Inspector
for the Indian Territory,
Muskogee, I. T.

Sir:

The Department is in receipt of your communication of November 24, 1900, relative to departmental letter of November 7, same year, enclosing for report a letter from Mr. J. P. Buxter, of Tahlequah, Indian Territory, dated November 1st, requesting that Mr. J. C. Carter, the administrator of the estate of Mr. James P. Carter, deceased, be paid \$900.00 for vaccine virus supplied in connection with the smallpox epidemic in the Cherokee Nation.

You report that all the bills for supplies furnished in connection with said epidemic in the Cherokee Nation were transmitted to the Commissioner of Indian Affairs by the U. S. Indian Agent on November 3, 1900.

The Commissioner of Indian Affairs forwarded your said report on December 15, 1900, and states that the bill of said Carter for \$980 was among the bills and expense accounts in connection with the suppression of smallpox in the Creek, Cherokee, and Choctaw Nations, which were submitted to the Department by his office letter of November 19, 1900, for the approval of the recommendations made by the United States Indian Agent for the Union Agency in his report, which

-2-

recommendations included the 50% reduction of Mr. Carter's bill; that the Department approved the recommendations of the Indian Office relative to said reduction in a letter dated November 30, 1900, and that said Agent was advised of such approval on December 6, 1900.

The Department has this day advised Mr. Buster of the action of the Department.

Respectfully,

Tho. R. Ryan.

Acting Secretary.

Ind.Ter.Div.
4143-1900.

(Endorsed) Union Agency # 1522 received Dec. 26, 1900. Office of U. S. Indian Inspector for I. T. Washington, Dec. 22, 1900 Commissioner, Encloses letter from Department relative to claim of J. C. Carter, of Tahlequah, I. T.

CHEROKEE - ELECTIONS

D E P A R T M E N T O F T H E I N T E R I O R .

Washington.

November 13, 1899.

United States Indian Inspector

for the Indian Territory,

Muscogee, Indian Territory.

Sir:

The Department is in receipt of a communication from the Commissioner of Indian Affairs dated the 9th instant, forwarding your report relative to the action taken by you looking to the prevention of trouble at the meeting of the Cherokee Council at Tahlequah, and also your advice to Mr. Boudinot relative to the proper course to be pursued by him concerning the alleged use of whiskey, bribery, or other unlawful acts committed during said election.

The Commissioner has been directed to return certain papers referred to the Indian Office on November 3d last, to Mr. Boudinot, in order that he may take such action as he deems proper concerning those charged with the violation of law.

Respectfully,

Webster Davis.

Acting Secretary.

Ind.Ter.Div.
3265-1899.

(Endorsed) Union Agency # 413, received Nov. 18, 1899, Office of U. S. Indian Inspector for I. T. Washington, Nov. 13, 1899. Secretary. Has received communication relative to complaint of F. J. Boudinot as to Cherokee election contests.

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

November 17, 1899.

The Inspector

for the Indian Territory.

Sir:

The office is in receipt of your letter of November 7, 1899, requesting that you be furnished with a copy of the communication of Sam H. Bengé, dated October 21, 1899, in which he made complaint relative to alleged fraud in the recent election held in the Cherokee Nation, and in reply, you are advised that a copy of said letter is enclosed herewith.

Very respectfully,

A. C. Tonner.

Assistant Commissioner.

(G.A.W.)P.

(Endorsed) Union Agency # 415, received Nov. 20, 1899, office of U. S. Indian Inspector for Indian Territory. Washington, Nov. 17, 1899, Commissioner, Transmits copy of letter from Sam. H. Bengé of October 21, 1899, as requested.

Washington, D. C. October 21, '99

The Honorable Commissioner of Indian Affairs.

Washington, D. C.

Sir:

I wish to present to your consideration the condition of affairs in the Cherokee Nation which has arisen by reason of the intense political feeling between the adherents of the National and Downing parties on account of the recent election in the Nation. The feeling between the parties is so strong that blood shed is almost sure to follow the meeting of the council next month unless your department will take some steps to provide against such an outcome.

The Downing party is the party which has been in the control of the government of the Nation for some time, and the election held last August was under the management of members of that party largely. The partisans of the National party claim that more legal votes were cast at the election for their candidates than for the candidates of the other party; but the latter were declared elected. They claim that this result is due to the frauds committed by the party candidates and their heelers, who used money and whiskey to debauch the negro vote and secure the voting of a large number of persons who are not citizens of the Cherokee Nation.

On account of the abolition of the judicial offices in the Nation by the Curtis Act, there is now no means of instituting and prosecuting any contest of the election under the laws of the Nation. The National Party is, therefore, without any way to enforce an investigation of the election in an orderly and lawful manner. The Downing party whose candidates have been declared

194^{as}

electd embraces and is composed of the half bloods, the inter-married whites, and the ignorant negro voter, while the other party is composed of the full blood element. I have talked with many of the full blood Indians and they say that since they cannot secure their reights through any process of contest they intend to assert them and maintain them by an appeal to arms unless the government intervene and assure them of a fair count of honest votes. This is not said by them publicly in any way intended to intimidate or frighten the other side, but from my knowledge of the men of both parties, I am satisfied that there will be riot and killing when the council meets unless you can do something before then to settle the differences between the parties.

I am an old man now and I do hope that ~~thereuill~~ ~~be~~ no more of civil strife among my people. I believe that if you were to investigate this election trouble, and should conclude that on account of the frauds, which are alleged to have taken place, there was no election, the people would submit to that result. I even believe that if your decision should be that it is best to abolish all tribal government and appoint a business committee, to attend to the affairs of the Nation there would be no serious opposition, except from those who are personally interested in the offices of the government of the Nation. It is certainly my opinion that it would be preferred by the leaders of the full blood element with whom I have talked, and who say that they would much rather have the United States take charge of their government than leave it in the hands of the people who have heretofore run it and in whom they have no faith.

Very respectfully,
SAM H. BENGE.

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.

Washington.

November 9, 1899.

The Honorable,

The Secretary of the Interior,

Sir:

On October 23, 1899, this office received a letter dated Washington, D. C., October 21, 1899, from Sam H. Benge, in which he complained of fraud in the recent election of Principal Chief and members of the Council, of the Cherokee Nation and, among other things, it is stated in said letter that,

"The feeling between the parties is so strong that bloodshed is almost sure to follow a meeting of the Council next month unless your Department will take some steps to provide against such an outcome."

As this office had no official information relative to the subject said letter was referred to Inspector Wright, and under date of October 26, 1899, with request that he make early report thereon.

The office is now in receipt of a report dated November 1, 1899, from Inspector Wright, relative to the matter, in which it is stated that he directed the Indian Agent to locate several policemen at Tahlequah when the council convenes for the purpose of maintaining law and order; that there are several Deputy United States Marshals, and a United States Commissioner located at Tahlequah, who will take such action as may be necessary to prevent trouble.

In said report it is also stated that he (Wright) received a letter from Mr. Frank J. Boudinot, with which was enclosed a letter addressed to the Honorable Secretary of the Interior and Commissioner of Indian Affairs (said letters are enclosed herewith,)

and that he advised Mr. Boudinot, that said election was held in accordance with the laws of the Cherokee Nation; that the laws of said Nation provide for the contesting and investigating of any alleged fraud in elections by the National Council thereof and that he (Boudinot) should furnish the United States Commission at Tahlequah with any evidence he possessed relative to the alleged use of whiskey, bribery or other unlawful acts committed during said election, so that the United States Courts could take proper action in the premises.

Inspector Wright also states "that it does not seem that the Department is authorized, or is it necessary, to take any further action at this time"; that the matter can be appealed to the Secretary of the Interior in the event the National Council of said Nation is unable to settle it and that he does not consider any action necessary at this time other than such as may be required to preserve law and order at the convening of the council, for which he considers proper precaution has been taken.

In view of the fact that Inspector Wright seems to have taken proper action to prevent any clash occurring between the opposing parties upon the convening of the National Council of the Cherokee Nation, it would seem that it is unnecessary for the Department to take any action at this time, unless the Department shall have information relative to the matter, other than that contained in the papers transmitted herewith.

In connection with the above subject the attention of the Department is invited to letter of November 3, 1899, with which was referred to this office "for consideration early report and recommendation", certain papers relative to the same matter, which seem to have been sent to the Department by Frank

J. Boudinot, and respectfully requests that the Department advise this office whether, in view of the precautions taken by Inspector Wright to prevent trouble occurring at the time the Cherokee Council shall convene, and the great amount of work now on hand in this office, an early report or any other action is desired concerning said referred matter.

Very respectfully,

Your obedient servant,

W. A. Jones,

Commissioner.

G.A.W. C

DEPARTMENT OF THE INTERIOR,
Washington.

January 17, 1900.

United States Indian Inspector
for the Indian Territory,
Muscogee, Indian Territory.

Sir:

On the 12th instant the Department submitted for executive action an act of the National Council of the Cherokee Nation entitled "An Act Making an Appropriation to defray the expenses of the General Election held in the Cherokee Nation on August 7th 1899 and the Special Election held in Flint District on the 9th day of November 1899," which was approved by the Principal Chief December 12, 1899. The Department recommended the approval of said act, and the President approved the same on January 13, 1900.

Said act was forwarded by your letter of December 28, 1899, and by the Commissioner of Indian Affairs on the 4th instant. The Department has this day transmitted the act to said Commissioner for the files of his office.

Said departmental letter to the President and a copy of the report of the Commissioner of Indian Affairs are enclosed herewith for proper disposition by your office.

Respectfully,

Thos. Ryan,

Acting Secretary.

Ind. Ter. Div.
146-1900.
2 enclosures.

(Endorsed) Union Agency No. 583. Received Jan. 23, 1900. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 17, 1900. Secretary. Cherokee Act to pay election expenses
APPROVED.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

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February 27, 1900.

United States Indian Inspector

for the Indian Territory,

Muscogee, Indian Territory.

Sir:

The Department is in receipt of your report of the 14th instant relative to the investigation of the election of the Principal Chief of the Cherokee Nation at the request of Frank J. Boudinot, of Fort Gibson, Indian Territory.

You report that the investigation made by you demonstrated the fact that the tribal authority of the Cherokee Nation had duly considered the petition submitted by the contestants and had decided that there was no valid objection to the election of T. M. Buffington as Principal Chief of said nation, and you recommend that Mr. Boudinot be advised accordingly.

Your said report was forwarded to the Department by the Commissioner of Indian Affairs on the 21st instant, and he concurs in your said recommendation.

The Department approves of your conclusions relative to the matter, which are concurred in by the Commissioner of Indian Affairs, which directs you to so advise Mr. Boudinot. A copy of the report of the Commissioner of Indian Affairs is enclosed.

Respectfully,

E. A. Hitchcock,
Secretary.

Ind. Ter. Div.

729-1900.

1 enclosure.

(Endorsed) Union Agency # 643 received Mar. 5, 1900. Office of U.S. of Indian Inspector for I. T. Washington, Feb. 27, 1900. Secretary. Approves conclusion of Inspector that no valid objection to election of Chief Buffington.

Senate Bill Number Three.

An Act Providing for an Election in 1901.

Whereas, It Becomes necessary that an election be held on the first Monday in August, 1901, for the election of Members of the National Council.

Therefore, Be it Enacted by the National Council: That the several District Clerks and Sheriffs elected on the first Monday in August, 1897, be and they are hereby authorized and directed to perform the duties of Clerks in their respective districts as provided by an act entitled "An Act relating to Election" found in Chapter VIII, Article I, page 235 of the Compiled Laws of the Cherokee Nation, 1892, who shall also be custodians of all papers and returns of said election and deliver the same to the Principal Chief within five days after the election and perform such other duties as may be required of them by the Principal Chief pertaining to said election.

Be It Further Enacted: The Clerks and sheriffs shall each receive three dollars and fifty cents per diem, and clerks supervisors and superintendents of the election shall each receive two dollars per diem during actual service and a sufficient amount to pay said expenses is hereby appropriated out of any moneys belonging to the General Fund not otherwise appropriated and the Principal Chief is hereby authorized and directed to draw his warrants in favor of such persons upon report of the Clerks of the Several Districts.

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Provided further, that should any Clerk thus appointed refuse or neglect to perform the duties required of him, the Principal Chief shall appoint some one to fill such vacancy.

Be It Further Enacted: That the Principal Chief in delivering the blank election returns required by law, he shall also deliver to the several clerks of the districts, the district seal of the respective clerks of the Districts to be used in the election herein provided for, and the Clerks are required to return the seals to the Executive Office with the election returns after the election has been held.

APPROVED this November 15th 1900.

T. M. Buffington

Principal Chief

Cherokee Nation.

Approved:

Wm. McKinley.

Dec. 13, 1900.

(Endorsed) Union Agency No. 1502. Received Dec. 22, 1900. Office of U.S. Indian Inspector for Indian Territory. Washington, Dec. 15, 1900. Secretary---Cherokee Act providing for election in 1901 APPROVED.

Refer in reply to the following:

202

Land.
60429-1900.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,
Dec. 11, 1900.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made on Dec. 4, 1900, by J. George Wright, U. S. Indian Inspector for the Indian Territory, transmitting an act of the Cherokee National Council entitled, "An Act providing for an election in 1901."

The preamble of the act recites that whereas it becomes necessary that an election be held on the first Monday in August, 1901, for the election of members of the National Council and therefore provides:

That the several District Clerks and Sheriffs elected on the first Monday in August, 1897, be and they are hereby authorized and directed to perform the duties of Clerks in their respective districts as provided by an act entitled "An Act relating to Elections" found Chapter VIII, Article I, page 235 of the Compiled Laws of the Cherokee Nation, 1892, who shall also be custodians of all papers and returns of said election and deliver the same to the Principal Chief within five days after the election and perform such other duties as may be required of them by the Principal Chief pertaining to said election.

The act also provides for compensation as follows: Clerks and sheriffs, \$3.50 per day, and clerks, supervisors, and superintendents of election \$2 per day, and it further provides and directs that the Principal Chief, in delivering the blank election returns required by law, shall also deliver to the several clerks of the districts "the district seal of the respective clerks

of the districts to be used in the election herein provided for," and requires the clerks to return the seals to the Executive office with the election returns.

The Cherokee laws relating to elections can be found on page 235 and following pages of the Compiled Cherokee Laws of 1892. Section 454 thereof provides that the clerk of each district "shall also appoint and notify in writing two clerks and two superintendents of election for each precinct, one of whom shall be able to speak both Cherokee and English, selecting them as equally as may be from the supporters of opposing candidates." The method of conducting the election and making the returns is provided for in subsequent sections.

The Inspector, in reporting on this act, states that it provides for the holding of election of members of the National Council and simply provides certain officers to perform the duties required and fixes their compensation, all of which appears to him to be proper and necessary, and he recommends that the act submitted be approved.

It appears to this office that the general laws of the Cherokee Nation now in force are sufficient for the purposes for which this act is intended and the office can discover no reason for changing those laws. The present act, if approved, will, it appears, be in effect for only one election and is not intended as a permanent amendment of the Cherokee general election laws,

but only as a temporary expedient for one election. It is further observed that the said general laws provide that at least one of the superintendents and one of the clerks shall be able to speak both English and Cherokee and shall be selected as equally as may be from the supporters of the opposing candidates. It is believed that this is a wise provision of the law and as the present act would to some extent at least modify that provision and thus take away from the electors the safeguard intended, it is in that particular objectionable. However, the office hesitates to recommend the disapproval of an act of the Cherokee National Council passed for the purpose of regulating the internal machinery of that nation, and especially when the Inspector recommends its approval.

The act is therefore respectfully submitted and attention is invited to the fact that it was approved by the Principal Chief
Nov. 15, 1900.

Very respectfully,
Your obedcient servant,

W. A. Jones.

Commissioner.

W. C. V. (L'e)

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DEPARTMENT OF THE INTERIOR,
Washington.

December 20, 1900.

The President.

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84), an act of the National Council of the Cherokee Nation entitled "An Act for the Removal of Voting Precincts."

Said act provides that the voting precinct in Illinois District known as Tah-lon-tees-ky be removed to Illinois Station, to be known as Campbell Precinct in Illinois District. It also provides that the voting precinct in the Delaware District at the courthouse be removed to the town of Grove, to be known as Grove precinct; that the precinct known as Becks be changed to Henry Becks Spring, and the one in Flint District known as New Hope be changed to the town of Stilwell and known as Stilwell precinct.

The United States Indian Inspector recommends that said act be approved, and his recommendation is concurred in by the Commissioner of Indian Affairs.

There appearing to be no valid objection to said act I have to recommend that the same be approved.

The letter of the Inspector and copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully,

E.A.Hitchcock.

Secretary.

Ind.Ter.Div.
4154-1900.
3 enclosures.

(Endorsed) Union Agency No.1573 Received Jan.11,1901 Office of U.S.Indian Inspector for Indian Territory. Washington, Jan.4, 1901, Secretary.-----Cherokee Act for removal of voting precincts.APPROVED-----

THE WESTERN UNION TELEGRAPH COMPANY.

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7/9/1902.

Dated--Washington, D. C. 7/9

To--Commission to The Five Civilized Tribes.

Muskogee, I. T.

The act of July first nineteen hundred two providing for allotment of lands in the Cherokee Nation provides that such act "shall not take effect or be of any validity until ratified by a majority of the whole number of votes cast by the legal voters of the Cherokee Nation in the manner following the Principal Chief shall within ten days after the passage of this act of Congress make public proclamation that the same shall be voted upon at a special election to be held for that purpose within thirty days thereafter on a certain date therein named and he shall appoint such officers and make such other provisions as may be necessary for holding such election" You will confer with the Principal Chief at once with view to the issuance of proclamation. Copies of act sent you today.

E. A. Hitchcock.

Secretary.

(Endorsed) # 11161, Received Jul. 9, 1902. Commission to Five Tribes. Muskogee, I.T. Department, Hitchcock, Washington, D.C. July 9, 1902. The act of July 1st, 1902, providing for the allot of the Cherokee lands, does not take effect until ratified by a majority of the Cherokees in manner provided by law.

Directs the Commission to confer with the Prin. Chief with a view to issuance of proclamation.

Copies of act sent you today.

D E P A R T M E N T O F T H E I N T E R I O R .

Washington.

July 17, 1902.

Commission to the Five Civilized Tribes,

Muskogee, I.T.

Gentlemen:

The Department is in receipt of the Acting Chairman's telegram of July 15, 1902, as follows:

"Telegram of fourteenth received. Cherokees will vote on agreement August seventh. Am endeavoring to ascertain whether election has been called for Choctaw and Chickasaw Nations, and will report as soon as information is received."

By direction of the Secretary.

Respectfully,

Edward W. Dawson.

Chief Clerk.

(Endorsed) # 11895, Received Jul. 24, 1902. Department, Dawson, Washington, D. C., July 17, 1902. Ack. receipt of telegram giving date of Cherokee election.

CHEROKEE - ESTRAYS

DEPARTMENT OF THE INTERIOR

Washington March 15, 1899

Mr. J. George Wright,
U. S. Indian Inspector
for the Indian Territory
Muscogee, I. T.

Sir:

The Department is in receipt of your communication of November 22, 1898, inclosing a letter from Mr. B. Brewer, of Stilwell, Indian Territory requesting a construction of "estray" laws in the Cherokee Nation.

The Department has delayed replying to your said communication for the reason that the Agreement made by the Commission to the Five Civilized Tribes with the Commission of the Cherokee Nation has been pending before Congress: but no action thereon has been taken.

Reference is made by you to the tribal laws of the Cherokee Nation, Art. 25, page 354, of the edition of 1892, and also to the provisions of sections 26 and 28 of the Act of Congress approved June 28, 1898 (30 Stat. 495), wherein it is declared that "the laws of the various tribes or nations of Indians shall not be enforced by law or in equity by the courts of the United States in the Indian Territory," and also that on the first day of July 1898, "all tribal courts in the Indian Territory shall be abolished," and you suggest that you "Be authorized to notify all persons taking up stray stock to advertise the same for the period of ninety days in local papers, unless the owner appears and proves his ownership to the property within

such time, in which case he shall be allowed to take the same, provided he pay for such advertisement and the keep of the stock: and, if not claimed by any person within ninety days, the finder shall retain the same, and shall not dispose of or sell such stock for a period of nine months, within which time if the owner appear and prove property, he shall be allowed to recover the same on satisfactory settlement for keep, though if the stock has been used by the finder, no exorbitant charge shall be made."

The Commissioner of Indian Affairs in transmitting your said communication calls attention to the laws of the Cherokee Nation, section 718, page 356, which allows the sheriff to retain ten per cent in kind of all proceeds of sales of stray property, and "to turn over the residue to the treasurer at such time as he may be required by law to make a report of such sales." The Commissioner also states that the plan proposed by you does not contemplate that any revenues shall be derived for the benefit of the Cherokee Nation from the seizure and impounding of stray cattle, but in view of all the circumstances he is not prepared to make any recommendation different from that made by you.

By Sec. 31 of the Act of Congress approved May 2, 1890 (26 Stat., 81, 95) it is declared that "certain general laws of the state of Arkansas in force at the close of the session of the General Assembly of that state of 1883, as published in 1884, in the volume known as Mansfield's Digest of the Statutes of Arkansas which are not locally inapplicable or in conflict with this act, or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby

extended over and put in force in the Indian Territory until Congress shall otherwise provide, that is to say, that the provisions of the said general statutes of Arkansas relating..... to common and statute law of England Chapter twenty..."

It would appear therefor that the rule of the common law relative to estrays is in force in the Cherokee Nation, and the disposition of animals taken up as estray should be made thereunder. The limitation within which time the finder shall not dispose of the property taken up as estrays should be extended under the provision of the common law to a "Year and a day."

With this modification your recommendation is approved.
A copy of the Commissioner's report is enclosed.

Respectfully

Tho. R. Ryan

Acting Secretary

Ind. Ter. Div.

989-1889

Through the Commissioner of Indian Affairs

No. 43

Endorsement: Wash. 3/15/99 Acting Secretary

The common law is applicable as to stray stock in Indian Ter.

Copied GBD 3/27/34

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS Washington Dec. 1, 1898.

The Honorable

The Secretary of the Interior.

Sir:

Enclosed, herewith, is a report of November 22, 1898, from Inspector Wright, transmitting a communication from B. Brewer, of Stilwell, Indian Territory, asking for a construction of the "stray" laws in effect in the Cherokee Nation.

The Inspector states the provisions of the Cherokee laws on the question to be in substance the requirement that the Sheriffs of the various districts in the nation shall receive and advertise for public sale to the highest bidder all stray property found or reported to them in their respective districts. The operation of the Curtis Act is to abolish the office of Sheriff, and Inspector Wright therefore says that it has, in consequence, become impossible to enforce the law in the manner provided for, but he suggests that he be authorized to notify all persons taking up stray stock to advertise the same for a period of ninety days in the local papers, unless the owner appears and proves his ownership within such time, when he shall be allowed to take the property, paying for the advertisement and keep of the stock. If the stock is not claimed by any one within the 90 days, he purposes that the finder shall be permitted to retain the same without the right to dispose of it within a period of nine months, the owner being allowed that much time to appear, prove his property, pay all the cost

of keep, etc. and take possession.

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The law of the Cherokee nation, section 718, page 356, the laws of 1892, provides for the disposition of the proceeds of these sales in the following manner:

The sheriff may retain ten per cent in kind of all proceeds of sales of stray property and be required to turn over the residue to the Treasurer at such times as he may by law be required to make reports of such sales."

The plan proposed by Inspector Wright does not contemplate that any revenues shall be derived for the benefit of the Cherokee Nation from the seizure and impounding of stray cattle or stock. All the lands of the Cherokee nation are national lands, and it is a question whether it would be wise to authorize more or less irresponsible individuals generally to seize and impound cattle or stock as strays unless the seizure be made on account of damage to crops on that particular portion of the public domain of the Cherokee Nation occupied and improved by the person seizing the same.

At the same time I realize the difficulty and the practical impossibility of carrying out the law of the Cherokee Nation on this subject in accordance with its letter, unless there shall be employed persons as collectors of Cherokee revenue under direction of the Agent and supervision of the Inspector whose duties, among other things, may include this matter of disposing of stray cattle or stock. And even if this duty were disposed on the collectors, an expense would be necessarily incurred in feeding and protecting the stock during the time which the law requires it shall be held, viz., 90 days for redemption by the owner.

In view of all the circumstances, I am not prepared to make any recommendation antagonizing that made by Inspector Wright, but with these remarks the subject is submitted for your consideration.

Very respectfully,

Your obedient servant,

W. A. Jones

Commissioner

(Murchison)

No. 989

Copied GBD 3/27/34

DEPARTMENT OF THE INTERIOR.

Washington.

June 5, 1899.

The United States Indian Inspector
For the Indian Territory,
Muscogee, Indian Territory.

Sir:

The Department is in receipt of your communication of the 27th ultimo, acknowledging the receipt of departmental letter of March 15th last, wherein you were advised, in reference to a request from Mr. B. Brewer, of Stilwell, Indian Territory, that

"it would appear therefore that the rule of the common law relative to estrays is in force in the Cherokee Nation, and the disposition of animals taken up as estrays should be made thereunder."

You state:

"that it would seem impracticable to apply the common law of England in said Nations, as the conditions existing within those nations manifestly could not be made to harmonize with said law which provides:

That the taker up of an estray shall make proclamation thereof from the nearest church;

That he shall hold such estray in his custody for a year and a day, and during that time shall not work or use it;

That he shall be held responsible for any damage that may be done to the estray while so in his custody, and

That at the end of the year and one day the estray shall become the property of the crown."

You also state that no person would be willing to take up and care for an estray and be responsible for damages which the estray might receive, "and especially if it were by an accident over which he could have no control." You therefore recommend:

"that nothing be done toward the enforcement of any specific law for the present, but that the existing customs be permitted to continue until the convening of Congress next December, and that Congress be then requested to make Chapter LVIII (entitled

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"Estrays") of Mansfield's Digest of the Statutes of the State of Arkansas applicable, so far as practicable, in the Cherokee, Creek, Choctaw and Chickasaw Nations, Indian Territory."

The Acting Commissioner, in transmitting your said report, concurs in the recommendation therein.

In your former communication of November 22, 1898, you requested that you-

"be authorized to notify all persons taking up stray stock to advertise the same for the period of ninety days in local papers" &c.,

and it was pointed out, that, although the tribal courts in the Cherokee Nation had been abolished, and the laws of said Nation declared not enforceable in any court of the United States, yet the common law relative to estrays was in force in said Nation and necessarily must govern the actions of parties thereunder.

There being no "specific law," other than the common law in force in the Cherokee Nation, it follows, as a matter of course, that none should be executed. The Department does not understand, however, that one who takes up an estray under the common law becomes thereby an insurer and responsible for damages caused "by an accident over which he could have no control." But, however this may be, all persons must recognize and be governed by existing law.

The recommendation relative to additional legislation is approved by the Department.

Respectfully,

Ind. Ter. Div.

989-1898

1593-1899. Through

The Commissioner of Indian Affairs.

Tho. R. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 198. Received Jun. 12, 1899. Office of U.S. Indian Inspector for Indian Territory. Washington June 5, 1899.

-Secretary--Approves recommendations of Inspector rel to estrays in Ind. Ter.

Land
60428-1900.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, Dec 15, 1900.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed herewith a report dated Dec. 4, 1900, from Inspector Wright, submitting for Executive action an act of the National Council of the Cherokee Nation, approved by the Principal Chief Nov. 22, 1900, entitled, "An Act making disposition of estray property."

The act authorizes and empowers the Principal Chief of said nation to appoint some suitable person in each district of such nation who shall be required to file a bond with the Principal Chief in the sum of \$1,000 before entering upon his duties, who shall be authorized to take charge of all estray property that may be reported to them; that it shall be the duty of the persons so appointed to advertise the property so reported to them in some local paper of general circulation in their respective districts for not less than 60 days, during which time the owner of the property may, by furnishing the proof provided for in the act and paying the expenses of the keeping of the property, together with the cost of the advertisement, prove ownership of such property; that should the owner not so prove his title to such property within the time specified, the persons so appointed shall sell the same at public auction to the highest bidder and after deducting 20

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per cent of the amount realized by the sale of such property for his own fees, the remainder shall be paid to the Treasurer of the Cherokee Nation; and that the persons so appointed shall made (Sic) duplicate sworn statements with each remittance, one to be filed with the Principal Chief and the other with the Indian Agent; that in case a number of stock is reported to any one of the persons appointed, he may use his discretion concerning the postponement of the sale of such property "so as to conserve the best interests of the Cherokee Nation, but in no event shall sale be made until after the time has run as provided."

The act also provides that any person who takes up estray property shall be required to have the same posted within ten days from the date the property was taken up; and further "that any person who shall sell or dispose of or wilfully take any estray property, not his own, or shall wilfully kill or maim any such property, either before or after such property is posted, shall be deemed guilty of the same offence as if the act was committed upon the property of a known citizen and shall, upon conviction, be punished accordingly."

The Inspector invites attention to his annual reports for the years 1899 and 1900, in which he recommended that Congress be requested to pass an act making the estray laws of Arkansas, as set forth in chapter 58, of Mansfield's Digest of Arkansas,

applicable to the Indian Territory and states that the application of a law such as is embodied in this act would be of much benefit to the citizens of the Indian Territory and recommends the approval of the act. He invites attention to that part of the act which provides that the person in charge of the estray property, after deducting 20 per cent for his fees, shall remit the remainder to the Treasurer of the Cherokee Nation and states that the Department has heretofore held that the provisions of section 16 of the Curtis act provide that royalties and rents shall be payable under such rules and regulations as the Department may prescribe, but that Judge Gill, of the Northern District of the Indian Territory, held in the Roger's case that section 16 of said act did not authorize the Department to collect tribal taxes in the Cherokee Nation, but that the provisions of said act "applied strictly to the terms 'rents and royalties.'"

The Inspector also states that, if it is finally determined that section 16 of the Curtis act authorizes the Department to collect moneys that would be paid under the act now under consideration, the approval of said act by the President would not affect the carrying out of the provisions of any act of Congress relative to estray stock.

In connection with this matter, the attention of the Department is invited to sections 712 to 719 inclusive of the Cherokee Laws, Edition of 1892, which relate to "stray property." The act under consideration is very similar to the sections of the law above referred to. However, section 718 of the Cherokee laws, provides that the sheriff may retain 10 per cent of the proceeds arising from the sale of stray property, while the act under consideration provides that the

person appointed, whose duty it shall be to sell estray property, may retain 20 per cent of the amount for which such property is sold. The act, as above stated, also provides that the remainder, after deducting the 20 per cent, shall be paid to the Treasurer of the Cherokee Nation. The office considers this provision objectionable, but in view of the fact that the Inspector considers that there should be some specific acts of the nations or legislation by Congress relative to estray property and of the further fact that he has recommended the approval of the act, the office concurs in his recommendation.

Section 713 of the Cherokee Laws provides that stray property shall be advertised at least 90 days before it is sold, while the act under consideration provides that it shall be advertised for but 60 days.

Section 718 of the Cherokee Laws provides that:

He (the sheriff) shall also furnish the judge of the district with copies of the advertisements of stray property within ten days after posting the same, and shall notify said judge of all sales made by him, to whom made, amount in kind received, and kind of property, within ten days after sale, and the judge shall file the same in his office.

but the tribal courts of the Cherokee Nation were abolished by section 28 of the act of June 28, 1898 (30 Stats., 495), and there is not therefore any office of said nation with whom "copies of the advertisements of stray property" can be filed and the provisions of said section are therefore inoperative.

Very respectfully,
Your obedient servant,

W.A.Jones.

Commissioner.

G.A.W.(L'e)

(Endorsed) Union Agency No. 1576 Received Jan. 11, 1901 Office
of U.S. Indian Inspector for Indian Territory. Washington, Jan.
4, 1901, Secretary.-----Cherokee Act making disposition of
stray property. APPROVED-----

Vian, I.T.
Dec.10,1906.

Hon. J. George Wright,
Muskogee, I. T.

Dear Sir:

I wish to call your attention to the manner in which stray stock is being advertised and sold in this section of the country.

For example, stray agent advertised a lot of stock to be sold at Cookson Saturday the 8th. He did not state in advertisement where the stock run or could be seen and when the sale came off none of the stock sold could be seen except one pony that he was using.

There was a steer sold, described crop in each ear branded L on left hip. I own 13 steers branded L on left hip, marked crop and under slope in each ear they are also branded K on side but people who give these stock in, where they know the stock does not have to be on the ground at the sale, often dont give the mark and brand complete--as they often want to buy the stuff at a low price and the mark and brand as given to the agent by them misleads the owner, who may know where his stock is but dont know that it is the stock being sold.

As this is very unsatisfactory to myself and many others here, we would like to know if such sales are legal and if not would be glad the practice was stopped.

Respectfully,

T.J.Keener.

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(Endorsed) Union Agency No.60380 Received Dec.11,1906 Office of U.S.Indian Inspector for Indian Territory.Vian, I. T., Dec.10, 1906. T. J. Keener.----Making complaint as to the manner in which stock is being advertised and sold in that section.----

EXECUTIVE DEPARTMENT

Cherokee Nation

Tahlequah, Indian Territory

February 7th, 1907.

Hon. J. Geo. Wright,
 U.S. Indian Inspector,
 Muskogee, Indian Territory.

Sir:-

In compliance with your personal request, the following is a list of the Estray Agents, of the Cherokee Nation, together with their post office address.

Cooweescoowee District, Hez Bussey, Claremore, Indian Territory.

Deleware,	"	Joe England, Grove,	"	"
Saline,	"	George A. Howard, Rose,	"	"
Going-Snake,	"	John T. Adair, Dutch Mills,	Arkansas,	
Tahlequah,	"	John Carlile, Park Hill,	Indian Territory.	
Flint,	"	R. L. Taylor, Stilwell,	"	"
Sequoyah,	"	John Seabolt, Hanson,	"	"
Canadian,	"	Frank Vann, Webbersfalls,	"	"
Illinois,	"	James H. Henson, Cookson,	"	"

Respectfully,

A. B. Cunningham,

Secretary.

(Endorsed) Union Agency No. 61717 Received Feb. 9, 1907 Office of
 U.S. Indian Inspector for Indian Territory. Tahlequah, I.T., Feb.
 7, 1907. A. B. Cunningham. ---- Giving list of Estray Agts. of Cher.
 Nation. ----

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D. 1076-1907.

January 24, 1907.

United States Indian Inspector

for Indian Territory, Muskogee, Ind.T.

Sir:

January 15, 1907 (Land 113436-06), the Indian Office submitted your report of December 24, 1906, concerning the act of the Cherokee National Council relative to estray property, approved by the President December 20, 1900. It expresses the opinion that under the provisions of section 11 of the act of April 26, 1906 (34 Stat., 137), money arising by virtue of the act of the National Council in question should be collected by some one designated by the Department, and it recommends that action be taken looking to the appointment of proper persons as estray agents.

These revenues have been collected by agents of the Cherokee Nation and have been turned over to the Treasurer of the nation. It is contended by the attorney for the nation that as section 28 of the act of April 26, continues the tribal governments, such estray agents are authorized to continue to act as heretofore.

The Department concurs in your conclusion that the revenues in question should be collected by an officer appointed by the Secretary of the Interior. You will therefore report the name

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of such person or persons as you deem qualified for this work, with information as to the salary that should be allowed out of the funds of the Cherokee Nation, and make such other recommendations in the matter as you deem proper. Advise the proper authorities of the nation of the attitude of the Department on this question.

A copy of the Indian Office letter is inclosed. The papers received therewith have been returned to that office.

Respectfully,

Thos. Ryan

First Assistant Secretary.

Through the Commissioner of Indian Affairs.

1 inc. and 3 to Indian Of.

(Endorsed) Union Agency No. 16689 Received Jan. 30, 1907 Office of U.S. Indian Inspector for Indian Territory. Washington, D.C. January 24, 1907. Secretary. ---- Relative act of Cherokee Nat'l Council in re stray property says stray agents authorized to continue to act as heretofore. Calls for recommendation as to person to be appointed officer to collect certain revenues. ----

CHEROKEE - FEDERAL RELATIONS

EXECUTIVE DEPARTMENT,
Cherokee Nation, Indian Territory.

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Tahlequah, Nov. 19th, 1886

To the Honorable

The Council

In Session

Gentlemen:

Understanding that the object of my recommendation for an small appropriation to enable the Nation to be represented before the U. S. Court at Topeka, Kan. is not fully understood by your Honorable Body. I would say further

1st That the said Court at Topeka is a Superior Court to that of Judge Parker at Fort Smith whose decision in the "Rogers Habeas Corpus" case is involved in the matter referred to the Topeka Court, and which decision of Judge Parker, it is vitally necessary to the Nation to make effort to have confirmed.

2nd. Judge Parker decision that the Cherokees was and is now occupying the Outlet and decision that, therefore, the Fort Smith Court, and not the Kansas Court, has jurisdiction over that land under Act of Congress dividing the U.S. Jurisdiction over the whole Territory between the Dist. Courts of Ark. Kansas & Texas.

3d. The question now coming before the Topeka Court is whether the Cherokees, under Act of Congress, occupy that land or not-- the Dist Court at Wichita having decided that we do not occupy it, and that it (the Wichitaw Court) has the jurisdiction.

Now if the Cherokees are interested in being regarded in law & fact as occupying the lands west of the Ark. river

belonging to them, then the Council should have the represented, capably, at Topeka without loss of time.

I think the Nation is greatly interested, and should be represented, and I submit the explanation to your Hon. Body.

Very respectfully,

D. W. Bushyhead

Principal Chief

Pensacola, I. T.

Dec. 24, 1888

Hon. Tams Bixby
Muscogee, I.T.

Dear Sir:

Please excuse my forwardness for writeing this to you a member of the Hon. Daws Commission. I write you although I am a private citizen of the Cherokee Nation but one who is deeply interested in the affairs of the Cherokee people. I have met you as well as other gentlemen of the commission and will say that as far as the United States and the Daws Commission is concerned I have all reason to believe that we as Cherokee Indians will get perfect justic. The Curtice Law was no doubt framed with honest intentions toward the whole Cherokee people an I as well as a large number of the Cherokee people had become reconciled to it and was ready to file on our 80 acre alotments at the earliest opportunity. But this late act of the National Council creating a commission to make a new treaty with you seems to be a stumbling block in the way of the same. Will a new treaty enlarge our land. Certainly not. It is the opinion of a great many of our people (and it seems to be well founded too) that the Commission was created for the purpose of sating aside the clause in the curtice law in regard to townsites and if you will look into this matter as no doubt you have, you will find that the verry men who has used this western part of the Cherokee Nation for a cow pasture for 20 years and accumulated large fortunes thereby on the verry men whose money has

1810

controlled the National Council and also own the townsites in the Cherokee Nation we can all see the object of the commission by nothing the appointments on the same by Chief Mayse. There is but one class of thinking people dissatisfied with the Curtice law and that is the townsiters. I do heartily wish that you but knew the true sentiment of the Cherokee people as regards this late act of the National council creating the commission. But you have no way of knowing the true sentiment of the people. The public press is controlled by monopolists and people who are directly or indirectly interested in the Townsites. Outside of the townsiters scheme the Delaware claim Mineral leases, the Cherokee authorities have no other object in view than to delay the allotment of our land which is badly wanted by the people who have stayed at home and tried to make an honest living and who has always been ignored by the political ring in power, whose main hold seemed to be to prey on the ignorance of the full blood and keep the honest half bred in the back ground.

I am in a position to know that from what has already looked out from the commission of the Cherokees that they will go to you with the plea that the Cherokee Nation is desirous of sustaining the Cherokee deeds to townlots and a compromise on the Delaware claim, and I feel safe in saying that should any agreement be entered into changing the townsiters clause so as to let it remain as under the old Cherokee Law, it will be voted out and only delay the allotment of our land awhile longer and perhaps by that time we would only have 40

acres instead 80. Now with a chance of getting a few more,
I am sorry to say it but it is never-the-less true that a large
majority of our people have entirely lost confidence in our own
people and what ever good we may expect we must look to you
and the United States, therefore, excuse me for writing you-
it is no foolish idea of my own, but hoping that you would be
more careful in dealing with our tricksters.

Wishing you a merry Christmas, I am,

Respectfully,

R. L. Martin,

Pensacola, I.T.

(Endorsed) Union Agency No. 1810 Commission to Five Tribes, Received
Dec. 27, 1898 R. L. Martin, Pensacola, I.T.-----General as to
conditions which obtain in the Cherokee Nation.-----

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Muscogee, Indian Territory, May 18, '95.

Mr. Robert L. Owen,

Muscogee, I. T.

My Dear Sir:-

I am in receipt of your letter of the 13th, asking me to give you some account of the work of Colonel J. M. Bryan in representing the Old Settlers Cherokee claim before Congress.

While I was a member of the Indian Committee of the Senate I knew Mr. Bryan very well. He represented before that committee this claim of the Old Settler Cherokees, and for a long time, I think as much as ten years, he was constantly in attendance before the committee pressing that claim in every way possible. He was very frequently, almost daily, at my own home, talking with me constantly in reference to the claim, coming there often before I had taken breakfast. Mr. Bryan's zeal was remarkable. His fidelity to what he believed the best interests of the claim was unquestionable. He did all in his power in behalf of it, and so far as I am able to judge he did as much as anybody could do. He became old and feeble in the service, and the committee had great sympathy for him, and desired, in every way, to see that justice was done the claim with which he was identified.

I should feel very sorry indeed if he ~~filed~~ of a fair recompense out of the appropriation Congress has finally made to settle the claim. He was truly an old veteran, and if anybody is entitled to compensation for prosecuting claims of the Indians before Congress, I think truly he is one.

I do not know that it is exactly proper for me to say anything in behalf of such claims, but personally I came to have such a regard for Mr. Bryan that I hope I may not be considered as intruding if I say this word in his behalf.

I am, Truly yours,

H. L. Dawes.

Letter-book copy L. S.

(Copied by BEW, March 30, 1934.)

Muscogee, Indian Territory, May 18, 1895.

Messrs J. W. Chandler and W. W. Field,
Blue Jacket, Indian Territory.

Gentlemen:-

The Commission to the Five Civilized Tribes are in receipt of yours of the 15th. kindly inviting them to attend and address the people assembled at your proposed picnic and barbecue on the 8th of June.

I am directed by the Commission to thank you for this invitation. They will be happy on all proper occasions to meet and confer with the citizens of your nation, in any way and at any time when it shall be proper and shall not seem to interfere with what is specially and exclusively your own business.

But the Commission are impressed with the idea that if they attend your public meetings during the summer for the purpose of discussing the questions about which they are to confer, that it will be imputed to them that they have a desire to interfere with and influence your approaching elections. They would regret very much to be placed in any such position for it is no part of their duty and no part of their intention to in any way interfere in what is your own local business. While they are exceedingly desirous of making

known to all your people in every possible way what they deem to be the great benefits that will assuredly arise from a fair and free conference upon the subject with which they are charged they are still so anxious to give no occasion for the inference that they desire to lend their influence to the one side or the other in your approaching canvass, they feel compelled to decline to appear at your proposed meeting.

They hope that you will not only appreciate the motive which compels them to decline, but also to feel their sincere regard for the promotion of your interests, and that that alone keeps them from acceptance. They would be pleased if you would make known to all of your people, and especially to those in authority the desire on the part of this Commission to confer with them, and to present their views and desires, and to try, if possible, to come to some common agreement that will promote the highest welfare of your people.

Please accept the thanks of the Commission for the invitation, and these reasons which compel them to decline.

I have the honor, with much consideration, to be,

Very truly yours,

Henry L. Dawes

Chairman.

Letter-book copy L. S.

(Copied by BEW, March 30, 1934.)

Muscogee, Indian Territory, May 25, 1895.

Mr. R. C. Adams,

Colbert, Indian Territory.

Dear Sir:-

Your letter of May 10th, has been duly received and considered by the Commission.

It is the opinion of the Commission that under the treaties the Delewares are entitled to a separate tract of land which shall be equal in the aggregate to 160 acres each, of the number of Delawares that came into the Territory at the time, under the provisions of the treaty, according to the register which, I suppose, is on file at Tahlequah; to which register was to be added in accounting the number of acres the names of those Delawares who should thereafter, within a certain time, leave Kansas and join them in the Indian Territory. That is the tract of land which belongs to the Delawares. It was further provided that they might take that land by allotment among themselves, but that they were in all respects to be governed by the laws of the Cherokee Nation. Now it is provided that the Cherokee can have their land surveyed and allotted whenever they request it.

It is the opinion of the Commission that the Delawares cannot on their own motion, insist upon the allotment of their land, but that it must come through the Cherokee Nation. Whenever the Cherokee Nation shall consent to their

taking it by allotment, or shall request to have their land as a whole allotted, then the Delawares with the rest can take allotment, or do it separately if the Nation s hall so order; but as the law now stands they must in obtaining allotment do it through the Cherokee Nation and under its laws.

What the United States may hereafter determine to do in case the Cherokees persist in their present management of their affairs which excludes a large portion of their citizens from a common enjoyment of their property, it is impossible for the Commission to tell, and it is no part of their province to undertake to induce the interference of Congress. The Cherokee Nation must have considered what are the chances of the United States interference in this matter and govern themselves by the dictates of a wisdom that shall impress their untimate future.

It is much to be regretted that they do not see the advantage of immediately allotting their land to each of their citizens, share and share alike, as is contemplated by the treaty. It is to be hoped that they will soon see that to be to their interest and that they will not take a course that will lead the Congress of the United States to feel the necessity of any interference in their administration of the trust imposed upon them in the treaties by which they acquired this land for the common benefit of all.

Truly yours,

Letter-book L. S. Henry L. Dawes, Chairman.
(Copied by BEW, March 30, 1934.)

Muscogee, Indian Territory, June 11, 1895.

Mr. R. N. Rogers,

Chelsea, Indian Territory.

Dear Sir:-

I took pleasure in laying your letter before the Commission who were much interested in its contents.

They have received several such communications from citizens of your nation, and are impressed with the injustice of existing conditions. They can only urge that you agitate the desirability of a change among your people, and promise to their support in every way. We suggest that at the coming election you choose men for office who will properly represent your wishes.

Your letter would have received an earlier acknowledgment but for the fact that I had hoped to visit Vinita with the Commission and had planned to let you know that I might have the pleasure of meeting and conferring with you.

As soon as a date is definitely decided upon when we will be in Vinita, I shall notify you.

Very truly yours,

Letter-book copy typewritten letter unsigned.

(Copied by BEW, March 31, 1934.)

Muscogee, Indian Territory, June 11, 1895.

Mr. A. L. Rogers,

Chelsea, Indian Territory.

My Dear Sir:-

I have to acknowledge the receipt of your letter of June 7th. and regret that I am unable to give you the information you desire in regard to allotment &c.

The Commission is endeavoring to impress upon the people of the various Indian nations, through their proper representatives, the injustice they do themselves in permitting a continuation of the present condition of affairs. It is hoped it will be able to secure the cooperation of your government, with the others, in remedying the defects of the present system. Should they fail in their efforts to secure action by the Indians themselves, they will submit the fact with such information as they have been able to gather to the Secretary of the Interior and the President, who in turn will refer them to Congress with such recommendations as they may see fit.

I am, Very truly yours,

Letter-book copy typewritten letter unsigned.

(Copied by BEW, March 31, 1934.)

Tahlequah, I. T., June 11th, 1895.

Hon. Henry L. Dawes and others of the Commission to visit
the Five Civilized Tribes of the Ind. Ter.

Gentlemen:-

Yours of the 5th instant, relative to a conference between your commission and authorized representatives of this nation, is at hand. However anxious I may be to accommodate you in this matter, it is not within my power to say when this opportunity can be offered you. The Council at its late session made no such provision for such a contingency. I am therefore without authority to appoint the kind of representatives you mention in your letter, because any appointment of representatives could not be considered properly authorized unless I was myself authorized by law to make such an appointment.

How it is with the other nations of the Territory I know not, but there is to be a general Council of the nations at Eufaula on the 26th instant. The prime object of this Council being the propositions of your commission, it is reasonable to suppose that some disposition will be made of them by the representatives of the several nations in convention.

All I can do just now to further your project to give you what aid I can in any method or means you may wish to adopt to reach the people of this nation on the purpose of your mission. This I will endeavor to do at your wishes

or suggestions.

Your letter of the 13th of last month, enclosing the President's letter to the Hon. Secretary of the Interior has been received and the President's letter published as you desired, but your communication of the 18th. ult. and the enclosures of the one now before me have not been received.

With the tone of the President's letter I am well pleased, as he seems to appreciate the gravity of your propositions and the immense and untried effects they involve. No people except the nations of this Territory, either fortunately or unfortunately, are to feel the consequences of this experiment. The President is humane enough not to desire to force conditions on us, with the prospect of doubtful consequences that present themselves in the consideration of your propositions.

The National Council will not meet in regular session before the first Monday in November of this year, but that you may know something of its sentiments on the subject of your mission, I enclose you a copy of their reply submitted last winter.

Very respectfully,

(Signed) C. J. Harris,

Prin. Chief.

Muskogee, Indian Territory, June 15, 1895.

The Honorable C. J. Harris,

Principal Chief of the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

The Commission to the Five Civilized Tribes are in receipt of your letter of June 11, in answer to theirs of the 5th requesting you to select some persons whom could confer with this Commission informally upon some of the features of the subject matter which they have in charge.

The commission regrets very much to find in this answer that you still decline to select any persons to confer with them upon this subject, and that you put this declination upon the ground that you have not been previously authorized so to do by any law of your nation. You omit to consider what is clearly set forth in their letter that they, recognizing the fact that you have no such authority of law, still requested you to make this selection for the purpose of an informal conference in the hope that it might result in some progress towards the arrival of results mutually beneficial to your nation and to the United States. They clearly stated that no conference of the kind they desired would have any binding effect after its recommendations should be approved by your Council and by the United States, and they stated to

you that their only object was to so put the matter in form that there might be something presented to your Council in definite shape for their consideration. These views of the Commission you made no response to, but you state in connection with your omission to make any selection of persons for that conference, that there is "to be a general council of the nations at Eufaula on the 26th inst., the prime object of this Council being the propositions of your Commission. It is reasonable to suppose that some disposition will be made of them by the representatives of the several nations in convention. To this general council which is to meet on the 26th. to make some disposition, as you say, of the propositions of this Commission you have appointed delegates to confer with ^{the} other delegates upon these propositions. The Commission are at a loss to know, if you have no authority to appoint delegates for an informal conference with them, how you can have the authority to appoint delegates for an informal conference with them, how you can have the authority to appoint delegates to the Eufaula conference for the purpose of disposing of their propositions. The Commission would consider it a great favor if you would call their attention to the authority of law under which you have acted in appointing these delegates to Eufaula, in order that they may see the distinction that you make in the authority you have to appoint them and the lack of authority to appoint a like delegation to confer with the Commission. They are the more anxious to have this distinction pointed out to them in order

that they may present it to the Government in Washington, that they may see, as well as the Commission, the line of distinction drawn by you, between the appointment the Commission asks you to make and the appointment you have already made for the conference at Eufaula.

You are pleased to say further that you will endeavor to carry out "your wishes or suggestions", to aid the Commission "in any method or means they may wish to adopt to reach the people of this nation on the purposes of their mission." The Commission are greatly obliged to you for this assurance, but they can think of no better way to present the purposes of their mission to the people of your nation than to have first a conference between the Commission and someone selected by you for that purpose, in order to determine in what manner and with what limitations and qualifications this purpose of the Commission can be presented to your people. If you will agree to make such a selection from your people, in whom you have confidence, who will confer with the Commission in order to put in the best shape possible the propositions the Commission have to make so that the people of your nation may most clearly understand them, you will render the Commission great service and will thereby accede to the object sought by this correspondence.

The Commission is gratified at your assurance of the satisfaction you derived from the letter of the President to the Commission which they have had the honor to enclose to

you. The Commission has been sent here by the President under written instructions which they are faithfully endeavoring to carry out. They know that they are representing here his views and his wishes, and in nothing more than in asking of you an appointment of a commission to confer with them upon this subject. They, no less than you, appreciate the gravity of the propositions made to you and the immense effects they involve. It is for this reason that they are impressed with a desire to confer with your people upon the subject that the end that shall contribute most to your welfare may be attained. They believe with the President, as expressed in this letter which meets your approval, "that the best interests of the Indian will be found in American citizenship with all rights and privileges which belong to that condition, and that the approach to this relation should be carefully made and at every step the good and welfare of the Indian should be constantly kept in view so that when the end is reached citizenship may be to them a real advantage instead of an empty name."

This expression of the desire of the President is the inspiration of the Commission in all its correspondence with you, and they desire to know from you directly that they may forward to the Government at Washington your answer to our request whether you will, without regard to the want of authority of law, select some gentleman in whom you and your people have confidence to confer with the Commission

upon the subject matter about which the President has thus strongly expressed his own opinion and desire.

An early answer to this letter that will leave the Commission in no doubt as to your position, will be greatly appreciated.

I have the honor to be,

Respectfully,

Chairman.

Letter-book copy typewritten letter unsigned.

(Copied by BEW, March 31, 1934.)

October 15, 1898.

Washington, D.C.

Hon. John Addilow Porter,

Secretary to the President

Hon. Sir:

Act of Union between the Eastern and Western Cherokees.

Whereas our Fathers have existed as a separate and distinct Nation, in the possession, and exercise of the essential and appropriate attributes of sovereignty from a period extending into antiquity beyond the records and memory of man and whereas these attributes, with the rights and franchises which they involve, remain still in full force and virtue as do also the National and social relations of the Cherokee people to each other and to the body politics excepting in those particulars which have grown out of the provisions of the treaties of 1817, and 1819, between the United States and the Cherokee Nation under which a portion of our people removed to this country and become a separate community, but the force of circumstances have recently compelled the body of the Eastern Cherokees to remove to this country this bringing together again the two branches of the ancient Cherokee Family, in regard to compelling the Cherokees to move west of the Mississippi river on 12th day of July 1838. Now if you will allow me they throwed their things out of their houses and drove them like sheep - now we are asking for legal titles deeded to the Cherokees this is under your pledge and seal of the United States Government - third day of July 1843.

1313.

and we have no other Government to look to for protection and now we as Cherokees by the majority are asking for deeded titles. We have kneaded (Sic) your protection this long while though we have waited in hope of something to be done an (Sic) you know they taken (Sic) our money for vearious (Sic) class of people.

Will call your attention to page 18 January 19, 1895, where any one has even entered upon a piece of Government land and hold two years of occupant title and the first one entering and holding two years, are protected by the highest courts of your law so we as Cherokees are the miner (Sic) heirs to the Cherokee Nation under your pledge and title from the United States Government. This was a will not to be broken in July 3d, 1843, made by our fore parants (Sic) for the Cherokee children and their families to be under your patent pledge and seal to be protected as Cherokees west of the Mississippi river. Now we are asking for deeded titles that the law may protect us legally and this question is now left for the United States Government to settle thare (Sic) will be no differants (Sic) in throwing out the Nigroes (Sic) and all other intruders than when they drove the Cherokees west let them become under the rental law and so abide by its jewishdictions (Sic). If they want to fight isnt the Governments power strong enough to handle them as they did the Cherokees and comply the intruder to comply with the just law. I will state a few names which is strictly violating the Cherokee laws and a conflict against the United States law. Nat. Skinner, who was a married citizen after the death of his Indian wife, he married a white women. Then he sold a place of town property when he was not a citizen of the Cherokee

1313.

Nation to W. E. Hallsell and then Bill Hallsell sold the same property to Mr. McGlasson, a citizen of Texas, then Mr. McGlasson sold it to Dr. Bagby a citizen of Missouri, then Dr. Bagby owned a place previous (Sic) to this for about 16 years, near Dr. Fort-ress. I mean give you this one case which will elusterate (Sic). Not less than five hundred these are the leading members of the bank and other grand associations so if the Cherokee laws havent envestigated (Sic) these cases and have no power over an intruder what is the use of holding another council when they havent even forced their passed laws. Now as their laws are about abolished now is the time for us as Cherokees to ask for a dedeed allotment and for the protection of the Government, of the United States, we ask for an amediote (Sic) action that we have no more conflict by law or with the law.

It has become essential to the general welfare that a Union should be formed and a system of Government matured adopted to their present conditions and providing eaquely (Sic) for the protection of each individual in the enjoyment of all his rights.

October 15, 1898

Therefore we the people composing the Eastern and Western Cherokees Nation, in National convention assembled by virtue of our original and unalienable rights, do hereby solemnly (Sic) and mutually agree to form ourselves, into one body politics under the style and title of the Cherokee Nation.

In view of the union now formed, and for the purpose of making satisfactory adjustments, of all unsettled business which may have arisen before the consumation of this union, agree that such business shall be settled according (Aic) to the provisions of the respective laws under which it originated, from; the the courts of the Cherokee Nation shall be governed in their decisions, accordingly also that the Delegation authorized (Sic) by the Eastern Cherokees to make arrangements, with Major Jeneral (Sic) S. Scott for their removal to this country shall continue in charge of their business with their present powers until it shall be finally (Sic) closed, and also that all rights and titles to public Cherokee lands on the east or west of the Mississippi river with all other public interests which may have vested in either (Sic) branch of the Cherokee family, whather (Sic) inherited from our Fathers or derived from any other source, shall henceforward vest entire and unimpaired in the Cherokee Nation as constituted by this union.

Given under our hands at Illinois Camp ground, this 12th day of July, 1838.

by order of the National Convention

George Lowery.

President of the Eastern Cherokees.

George Guess.

President of the Western Cherokees.

My work is supported by 162 names - heads of families out of
six differant (Sic) districts
signed

Mrs. S. Sanders,

226 third st. N. W.

Washington, D. C.

In an illustration if a man marry a women as his lawful wife
and then live with another in adultery will not the law provide
for his first and lawful wife in a provision of any estate
even provides for the mother before the children and we as
heirs of the Cherokee Nation are asking for deeded titles to
protect our selves and avoid rascality.

(Endorsed) Union Agency No.1313 Commission to Five Tribes.Recd.
October 28, 1898 Sanders S. Mrs.-----Act of Union between the Eas-
tern and Western Cherokees, relative to provisions of the Trea-
ties of 1817 and 1819, between U. S. and the Cherokee Nation
etc.-----

Bigcabin, I.T.

Dec.24,1898

To the Honorable Dawes Commission:

I would like to know if the Curtis Act will permit one Cherokee to purchais (Sic) improvements from another and give crop for payment or security for same.

The curtis act is hard on poor people. They can get the land after it has been stripped of wire and other improvements but he is willing to pay for improvements but has no security to offer except use of same property.

If I understand the Curtis Act we are very much hedged in by its provisions.

Respectfully,

S.A.Perry

Bigcabin,I.T.

(Endorsed) Union Agency No.1802 Recd.Dec.27,1898 S.A.Perry,Bigcabin,I.T. Dec.24,1898-----Inquires if security can be given on allotments to pay for improvements.-----

THE POST,
Subscription price
\$1.00 a year in advance.

Ft. Gibson, I.T.

Jan. 10, 1899

Hon. A.S. McKennon,
Muskogee, I.T.

Dear Sir:

Will you be so kind to let me know by return mail what the joint commission has accomplished up to date. Want same for publication. We hear stories derogatory to the Dawes Com. and yourself, which I do not believe. Dont like to bother you but would like to know in brief what is done or likely to be.

Respectfully,

J.S. Holden,

Publisher-Cherokee Advocate.

(Endorsed) Union Agency no. 1993 Commission to Five Tribes. Recd.
Jan. 12, 1899. J.S. Holden, Ft. Gibson, I.T. ---- Inquires what steps have
been taken by joint commissions. 2-1-1.

EXECUTIVE DEPARTMENT
of the
Cherokee Nation

Tahlequah, I.T.
Feb. 7, 1899.

Hon. Dawes Commission,

Muskogee, I.T.

Sirs:

I have the honor to herewith transmit to you the official count of the votes cast on the 31st day of January, 1899, on the ratification and rejection of the agreement entered into between your Commission and the Commission on part of the Cherokee Nation.

Very respectfully,

S.H. Mayes,

Principal Chief of

the Cherokee Nation.

(Endorsed) Union Agency No. 2304 Recd. Feb. 9, 1899 S.H. Mayes, Tahlequah
I.T. Feb. 7, 1899 S.H. Mayes, Tahlequah, I.T. ---- Transmits the official
count on the Cherokee Treaty. ----

Vinita, Indian Territory
April 3rd, 1899

Hon. J. George Wright,
United States Indian Inspector
Muskogee, Ind. Ter.

Dear Sir:-

Our people, the common Cherokees are in a very unsettled state of affairs, and I thought I would try and explain our condition as we see it. While I am in very close contact with the common class of people I think I understand their condition quite well. While we have the utmost confidence in your department feeling that you will do every thing in your power for the best interest of all.

In view of the fact that our country is in such a complicated state of affairs, it is a burden both on the Government and on the Cherokee People in the final settlement. While the so called Curtis act is satisfatcory in many instances but very unsatisfactory in a few. The most vital clause and objectionable clause seemingly yo our people is the mineral clause. Also title to out land in Fee simple is what we want. While our country is mostly adapted to agriculture, more so than to mineral, it is farms we want and title in fee simple to them. The mineral question seems to be agitated more by outsiders than by our own people. There are outside people here now trying to procure mineral leases on our farms. Men who have no title or interest in the country. Men who are interested in corporations or monopolies. I suppose they will tell you that there are large deposits of mineral here. Coal especially and it is not being mined to any extent and that there is a coal famine here and that the people

the people are really suffering for fuel. Strange how sympathizing those corporations and monopolists are for the poor Indian. On the other hand we have some leading men in our tribe who have corruptly disbursed our funds and wronged the common class of people out of their interest, while the corruptness of some of our leading men, of counsels and representatives is yet to be dug up, while no doubt the Department thoroughly understands the conditions of our people; while the Department might possibly be misled in some instances. Now it has been said that the Cherokees would organize and stand a test in court on some clauses of the Curtis Act, This is a mistake. The chiefs of the Cherokees I refer to are going to make a combined effort to get a settlement and title to our homes and if the mineral clause was stricken out from the Curtis Act and we could get title to our homes, we feel we would be a happy people. We are now between two fires, one of the corruptness of our leading representatives and the other the corporations and monopolists and we feel that the protection of the Government is needed more now than ever before. We are talking of the advisability of a petition to Congress on this line, and if we get any encouragement from the Dawes Commission or the Department we will line up and come to the front and make a combined effort to meet these ends.

Yours very truly

(Signed) John White

L. S.
No. 598

Endorsement: Vinita, I. T. April 3, 1899. John White
Writes in behalf of common Cherokees relative to conditions in
their nations.

Copied GBD
3/31/34

EXECUTIVE DEPARTMENT
OF THE
CHEROKEE NATION

Tahlequah, I.T.

July 23, 1899.

To the Honorable,

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sirs:-

I have the honor to inform you that an election has been ordered and will be held on the 31st day of January 1899, for the purpose of voting on the ratification or rejection of the agreement entered into by and between yourselves and the commission representing the Cherokee Nation on the fourteenth day of January 1899, and that the votes cast at said election will be counted at this place on the 2nd day of Feby. 1899, as required by Cherokee Law and the said agreement, you are respectfully requested to be present.

Very respectfully,

S.H. Mayes,

Principal Chief of

the Cherokee Nation.

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.

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Washington.

December 19, 1899.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith an act of the Cherokee National Council, passed at its regular 1899 session and approved by the Principal Chief November 29, 1899, being Council bill No. 3, entitled,

An Act to extend the time allowed Congress to ratify the agreement dated January 14, 1899, and for other purposes.

The preamble recites that whereas an agreement was made on January 14, 1899, between the Commission to the Five Civilized Tribes and certain commissioners on the part of the Cherokee Nation, which agreement was ratified by the voters of the Cherokee Nation on January 31, 1899, but which was not, because of lack of time, considered by the Congress of the United States.

The act provides for the extension of the time allowed Congress for ratifying the agreement to July 1, 1900, and requests that Congress ratify it with the following sections eliminated, sections 21, 67 and 65, and by inserting in lieu of 26, the following:

Any citizen of the Cherokee Nation in rightful possession of any town lot, the right of occupancy of which has heretofore been sold under provisions of Cherokee law shall have right to purchase by paying in manner hereinafter prescribed, one half of the amount of its appraised value, deducting therefrom such amount as may have been paid into the treasury of the Cherokee Nation as the purchase price of the right of occupancy.

And for amending section 29 by striking out the following:

"With six per cent interest thereon from the date of payment to the time of appraisement," after the words "if any." The bill further provides that after the approval of the same by Congress, it shall be ratified by a majority vote of the Cherokee people at an elec-

tion held for that purpose before it shall become binding on them.

Indian Inspector Wright reports that the "representatives of the Cherokee Nation by this act indicated their desire that Some agreement be perfected between them and the United States Government to take the place of the act of Congress approved June 28, 1898, and as this act extends the time to July 1 next for Congress to amend or ratify the agreement previously submitted, I recommend that this act be approved.

It will be noticed that certain changes in the previous agreement finally changed or amended by Congress, is to be ratified by a majority vote of the Cherokee Nation at an election held for that purpose before the same shall become binding on the Cherokees."

Section 21 of the agreement referred to in the act provides for the appraisement of all lands situated within two miles of the limits of the survey of any town located on any railroad in the Cherokee Nation having more than 500 inhabitants at the date of the agreement at a fair value by the allotment committee and that any citizen having such lands so located in his possession may take his allotment of 120 acres thereof by paying therefor the appraised value after deducting from the same the value of his per capita share of the whole assets of the tribe, and further provides the method of making the payment.

Section 26 of the agreement provides that any citizen of the Cherokee Nation in rightful possession of any town lot improved as required by Cherokee law, the rightful occupancy of which has heretofore been sold under provisions of the Cherokee law, shall have the appraised value, deducting therefrom such amount as may have been paid into the treasury of the Cherokee Nation as the purchase price of the rightful occupancy, with interest thereon at the rate of six per cent from the date of such payment to the date of appraise-

ment.

Section 67 of the agreement provides:

Whereas, it appears that the accounting made by experts, James A. Slade and Joseph P. Bender, of the amount due the Cherokee Nation, and approved by the Secretary of the Interior, was done in the manner and form agreed upon between the United States and the Cherokee Nation as provided in the third subdivision of Article two of the agreement made December 19, 1891, and ratified by an Act of Congress approved March 3, 1893; it is therefore agreed that such accounting shall be immediately submitted to a joint committee composed of two members of the United States Senate and three members of the House of Representatives as a Board of Arbitration, to determine the question whether the claim shall be paid by the United States; and that if, in the judgment of said Board of Arbitration, the United States is bound by the accounting aforesaid, or under the treaties and laws of the United States, relating thereto, prior to the date of the accounting, then, that appropriation shall be made therefor without further delay, specially; and all other claims of whatever nature which the Cherokee Nation, or citizens thereof, either individually or collectively, may have against the United States, shall be immediately submitted to the aforesaid joint committee, as a Board of Arbitration for determination, and provision shall be made for the payment of all sums that may be found due, within two years from the date of the ratification of this agreement.

Section 85 provides for the payment out of the general fund of the Cherokee Nation to John J. Hempill, of Washington, D. C., and to Wm. T. Hutchings, of Muscogee, I. T., the sum of \$7,500 for legal services rendered in the suit of the Delaware Indians against the Cherokee Nation and for the payment of a further sum of not exceeding \$500 to said Hutchings as the cost of printing records and briefs, and also for paying to Hutchings his necessary traveling and incidental expenses in connection with said suit, with the express condition that if the said suit of the Delaware Indians against the Cherokee Indians is withdrawn by the Delaware Indians, only such sum shall be paid to said attorneys as may be directed by the Principal Chief.

The Cherokee National Council desires to omit section 21, leaving the lands within two miles of any town of 500 inhabitants to be appraised as other lands are appraised.

It desires to change section 26 by providing that interest shall not be paid by citizens of the Cherokee Nation upon deferred payments for town lots purchased by them.

It desires to entirely eliminate therefrom section 67 and also section 85.

The effect of this bill, if approved, will be to vest Congress with authority to consider the said agreement of January 14, 1899, and to take such action as it may deem proper. The Cherokee Indians are anxious to enter into a new agreement. This office sees no objection thereto and therefore respectfully recommends that the bill be submitted for Executive action with the recommendation that it be approved.

Very respectfully,
Your obedient servant,

W. A. Jones.

W.C.V.(L'e)

Commissioner.

(Endorsed) Union Agency # 497 received Jan. 4, 1900, Office of U.S. Indian Inspector for I. T. Washington, Dec. 26, 1899. Secretary. Cherokee Act to extend time of ratification of AGREEMENT APPROVED.

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R. M. WOLFE,

Attorney-at-Law.

Tahlequah, I.T.
April 28th, 1900

Hon. Tams Bixby

Acting Chairman Dawes Commission;

Dear Sir;

I am in receipt of your letter of the 27th inst. wherein you say you are in "receipt of a letter signed by 19 members of this Club" recommending J. R. Seguishie for appointment for your Commission.

In reply have to say the matter has not been presented to this club for consideration nor have we as a club recommended any one for appointment by your commission. I find the petition was signed by some persons members of this club, and principally by those members who have been attempting to disrupt the club and not by those who have stood and the club in tact, which has a membership of 73;

In this connection I beg to say I myself have an application on file before your commission for appointment and hope it will be considered along with other applications. Mr. Seguishie is not a member of this club.

I am very respectfully,

Richi. M. Wolfe

President Tahlequah Rep. Club.

(Endorsed) Union Agency No. 1900 Commission to Five Tribes, Recd. Apr. 30, 1900 Wolfe, Richard M. Tahlequah, I.T. 4/18/00----States that the Tahlequah Rep. club did not as a club endorse Mr. Seguichie.----

DEPARTMENT OF JUSTICE.

Office of United States Attorney.

Northern District of Indian Territory.

Vinita, I.T., August 1, 1900.

Hon. J. George Wright,
United States Indian Inspector,
Muskogee, I.T.

Sir:--

Returning herewith copy of letter from J. H. Dixon and of myself to the Attorney General, I beg to advise that when I was in Washington and in your presence, the Secretary advised me that the Department desired to put in force the Curtis Act in its entirety. My understanding over a year ago with the Department of the Interior and which met the approval of the Attorney General, was to the effect that the Department of Interior should control all matters relating to the Curtis Bill and that the Department of Interior would present to the District Attorney such cases as it deemed should be prosecuted. This was the first letter that I had received after my return home and if it was the intention of the Department of Interior to act in these matters here was a case for investigation and action if the facts warranted it. As District Attorney I desire to assist the Department of Interior where my services shall be called into play in enforcing the provisions of the Curtis Act, but I have received no intimation for the Secretary of Interior that he desired any other course pursued than that which he stated, although I have seen in the newspapers statements to the effect that on account of numerous

--press book no. 4-letter 198.--

petitions and for other good reasons the Department of Interior would not at the present time enforce sections seventeen and eighteen of the Curtis Act. I do not know what instructions you have received with the accompanying enclosures and if it is the desire of the Honorable Secretary that the Department of Justice should not take any action his request will be heeded.

I realize the difficulties that the Department of Interior is meeting with in the Indian Territory, and desire to take no steps that will in any wise embarrass the Department of Interior in the administration of its policy on this district. Therefore, this matter under my understanding is left entirely to the discretion of the Honorable Secretary. I do not desire personally or officially to take any action which will not meet with the approval of the Secretary of Interior, as I realize that it will be difficult to enforce these provisions and might in some way prevent the ratification of the treaties, arouse animosities and the like, but as I have said the question of policy is for the Department of Interior, and if the Secretary of the Interior presents to me facts in any case sufficient to base a prosecution upon and requests its prosecution I will endeavor to comply to the best of my ability.

Respectfully,

(Signed) P.L.Soper

United States Attorney.

Joint Resolution Number Eight

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Whereas, H. R. No. 11820 " A Bill to ratify and confirm an agreement with the Cherokee tribe of Indians and for other purposes" now pending before the United States Senate, contains a proposition to validate the mineral leases in the Cherokee Nation and the admission of certain persons who have been declared not entitled to citizenship in the Cherokee Nation by the commission and Courts of the United States and the Cherokee Nation and does not guarantee the title of the land to the individual citizen and practically proposes to confiscate about half million dollars worth of public property: and

Whereas, we deem this proposition unjust to the people of the Cherokee Nation and the individual citizens thereof and we do not believe the Cherokee people could, in justice to themselves vote to ratify an agreement such as was passed by the House of Representatives of the United States as is embodied in said Bill to ratify and confirm an agreement with the Cherokee Tribe of Indians and for other purposes."

Therefore,

Be it resolved by the National Council of the Cherokee Nation:

That

we enter our solemn protest against the passage of House Bill no. 11820 to "Ratify and confirm an agreement with the Cherokee Tribe of Indians and for other purposes.

Passed the council Dec. 5, 1900.

C. S. Shelton (Signed)
Clerk of council

(Signed) Jas. S. Davenport
Speaker of Council

Concurred in by the Senate Dec. 8, 1900

L. B. Bell (Signed)
Clerk of the Senate

J. E. Gunter (Signed)
President of the Senate

Approved Dec. 8, 1900 (Signed) T. M. Buffington

Prin. Chief Cherokee Nation

(Copy)

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DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

Washington Dec. 20, 1900

The Honorable

The Secretary of the Interior

Sir:

I have the honor to transmit herewith a report made on Dec. 12, 1900, by J. George Wright, U. S. Indian Inspector for the Indian Territory, transmitting a joint resolution of the Cherokee National Council approved by the Principal Chief December 8, 1900, protesting against the passage of House Bill No. 1128 to "ratify and confirm an agreement with the Cherokee tribe of Indians and for other purposes."

This resolution seems to be nothing more nor less than a legislative expression of opinion concerning pending legislation in the Congress of the United States. Its approval or disapproval by the President appears to be a matter of no consequence. It is therefore respectfully forwarded.

Very respectfully

Your obedient servant

W. A. Jones

Commissioner

No. 1615

DEPARTMENT OF THE INTERIOR

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WASHINGTON

December 26, 1900

The President

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84), "Joint resolution number eight" of the National Council of the Cherokee Nation.

The preamble to said resolution declares that -

"Whereas, H. R. No. 11820 ' A bill to ratify and confirm an agreement with the Cherokee Tribe of Indians and for other purposes' now pending before the United States Senate, contains a proposition to validate the mineral leases in the Cherokee Nation and the admission of certain persons who have been declared not entitled to citizenship in the Cherokee Nation by the Commission and Courts of the United States and the Cherokee Nation and does not guarantee the title of the land to the individual citizen and practically proposes to confiscate about half million dollars worth of public property;"

and declares that said action is "unjust to the people of the Cherokee Nation and the individual citizens thereof," and that said nation could not, in justice to themselves, vote to ratify said agreement. The resolution then declares that said nation enters its solemn protest against the passage of said bill.

The resolution is submitted by the Principal Chief of said

4 268 4

nation, but it does not purport to take any other action than to protest against the ratification of said agreement.

The United States Indian Inspector for the Indian Territory transmits said resolution without any recommendation, and the Commissioner of Indian Affairs states that it seems to be nothing more than a legislative expression of opinion concerning pending legislation in the Congress of the United States, and that "its approval or disapproval by the President appears to be a matter of no consequence."

The Principal chief of said Nation has submitted said resolution under the provisions of the act above referred to, and since the resolution seeks only to enter a protest against said agreement, it is considered objectionable for the reason that it is not of the character contemplated in the provisions of said act of June 7, 1897.

Without expressing any opinion as to the statements made in said resolution, I have to recommend that it be disapproved. Copies thereof will be transmitted to the Chairman of the respective committees on Indian Affairs of the Senate and House of Representatives.

The letter of the Inspector and copy of the report of the Commissioner of Indian Affairs are enclosed herewith.

Respectfully

(Signed) Tho. R. Ryan

Acting Secretary

Ind. Ter. Div.
4227-1900

N61 1615

Copied GBD 3/29/34

DEPARTMENT OF THE INTERIOR

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WASHINGTON

January 5, 1901

United States Indian Inspector
for the Indian Territory
Muskogee, I. T.

Sir:

"Joint resolution number eight" of the Cherokee National Council, which was approved by the principal Chief December 8, 1900 was transmitted by you December 12th and by the Indian Office December 20th.

I am directed by the Secretary to inform you that said resolution was disapproved by the President Dec. 27, 1900, and returned this day to the Indian Office for its files, and to enclose herewith departmental letter to the President and copy of report of the Indian office for proper disposition.

Respectfully

(Signed) Edward M. Dawson

Chief clerk

Ind. Ter. Div.
4227-1900

L. S.
No. 1615

Copied GBD
3/29/34

Endorsement; Washington, Jan. 5, 1901
Cherokee "Joint resolution No. 8" relative
to agreement pending before the U. S.
Senate. DISAPPROVED

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

December 26, 1900.

United States Indian Inspector
for the Indian Territory,
Muskogee, I. T.

Sir:

The Department acknowledges receipt, with your letter of December 7, 1900, of a communication from Mr. Frank J. Boudinot, attorney, enclosing a copy of resolution adopted by the "Keetoo-wah Society" relative to the matter of citizenship, allotments, &c., in the Cherokee Nation, and protesting against the enforcement of the act of June 28, 1898 (30 Stat., 495).

You will advise the party that the laws of the United States which govern the Department must govern the Indians; that unless Congress changes the law as contained in the act of June 28, 1898, that law will be carried out.

A copy of the letter of the Commissioner of Indian Affairs transmitting your report is enclosed.

Respectfully,

Thos. Ryan.
Acting Secretary.

Ind. Ter. Div.
4238-1900.
1 enclosure.

(Endorsed) Union Agency # 1541 received Jan. 2, 1901. Office of U. S. Indian Inspector for I.T. Washington, Dec. 26, 1900, Secretary. Directs to advise Mr. Frank J. Boudinot the Acts of Congress will be enforced.

Refer in reply to the following:

Land.
63089-1900.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,

Washington, Dec. 29, 1900.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed herewith a report dated Dec. 20, 1900, from Inspector Wright, transmitting for Executive action an act of the National Council of the Cherokee Nation approved by the Principal Chief Dec. 7, 1900, entitled, "An Act authorizing William E. Halsell, of Vinita, Indian Territory, and Martin L. Turner, of Oklahoma City, Oklahoma Territory, to represent the Cherokee Nation in the matter of the claim of the Cherokee Nation and Cherokee citizens, severally and collectively, in the collection of the amount of money found due the Cherokee Nation by James A. Slade and Joseph T. Bender, expert accountants, on part of the United States in a report submitted by them on April 28th, 1894, in accordance with an Act of Congress of March 3rd, 1893."

The preamble of the act is as follows:

Whereas the Cherokee Nation and her citizens have a just claim against the United States, as shown by the said report, which has been pending for generations, and

Whereas the said money and the interest thereon remains unpaid, and

Whereas a settlement of this claim has become imperatively necessary at this time.

and the act authorizes William E. Halsell, of Vinita, Indian Territory, and Martin L. Turner, of Oklahoma City, Oklahoma, as attorneys in fact for the Cherokee Nation to represent said nation in the

collection of the claim against the United States above mentioned with interest thereon, and provides that said attorneys and their associates are authorized to appear before any of the "Executive, Judicial, or Legislative Departments of the United States and do any and all things requisite and necessary in securing an honorable and fair adjustment or collection from the United States of any and all of said claim."

The act then provides that the said attorneys, in the event of failure, shall lose their time and all expenses incident to making said collection; that they shall have no authority to involve the Cherokee Nation in any expense; that they shall be entitled for their services to 10 per cent of the amount collected; that the same shall be retained by them or their associates; and that the proper officers of the United States are authorized and empowered to retain said 10 per cent and pay it over to said attorneys or their assigns.

The act then authorizes and directs the Principal Chief of the Cherokee Nation to enter into a contract with said parties and provides that the contract shall continue in full force and effect until March 4, 1903, and that unless the whole of the claim or some part thereof is collected on or before said date, the contract shall be null and void. It further provides that said Hallsell and Turner, their associates and assigns, shall proceed without

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delay in the performance of the duties authorized by the act, and that all moneys which may be collected "belonging to the five million dollar (\$5,000,000) treaty fund of 1835 shall be paid out per capita when collected to the persons entitled thereto as set forth in the 9th article of the treaty of 1846."

The act then provides that a contract heretofore entered into with "Shelly, Butler, & MARTIN, attorneys in the city of Washington, D. C., with the Cherokee delegation, composed of Messrs. C. J. Harris, G. W. Benge, Roach Young, and Joseph Smallwood, in compliance with and under authority of an act of the National Council entitled 'Supplemental Instructions to the Delegation,' approved Dec. 18, 1895, be and the same is hereby declared null and void and of no binding force upon the Cherokee Nation whatever, for the following reasons:"

First. The contract has no limit and runs continually.

Second. The contract has never been approved by the Secretary of the Interior as it is contemplated in Section 2103 United States Statutes.

Third. It is the sense of the Cherokee people that only ten per cent be paid for the collection of this money.

Fourth. The Attorneys herein named have not complied with the provisions named in said contract and have made no progress looking toward the collection of this claim.

Inspector Wright refers to Department letter of Nov. 20, 1900, addressed to the Principal Chief of the Cherokee Nation relative to the sale of the alleged claim and states that he is informed by Mr. D. M. Wisdom, Ex-United States Indian Agent for the Union Agency, that he attended the recent session of the Cherokee

National Council and submitted a proposition to said body to undertake the collection of said claim under the terms provided in the act for 8 per cent of the amount collected; that Mr. Halsell is a prominent and reputable citizen of Vinita; and that he is an intermarried Cherokee citizen, a banker, is extensively engaged in stock raising, and is considered a man of (Sic) large means.

The Inspector further states that he has no information relative to Mr. Turner.

The Inspector also invites attention to a communication from Messrs. Dave Muskrat, Daniel Gritts, and Frank J. Boudinot, who styled themselves "Executive Committee of the Eastern or Emigrant Cherokees." They protested against the approval of said act. This communication was transmitted by the Inspector with his report and is enclosed herewith. The Inspector also states that it is charged by the parties above named that Messrs. Halsell and Turner, their friends and associates, secured the passage of the above act by bribery and fraud and in support of such charge they submit a letter from J. H. Dick "stating that three reliable members of the Cherokee Council stated to him that they had been offered bribes to vote for the Halsell bill." A copy of Mr. Dick's letter is among the papers.

There is also among the papers a communication dated Dec. 6, 1900, addressed to Inspector Wright by Messrs. Muskrat, Gritts and Boudinot, in which they protest against the approval of said act for

the following reasons:

First. Because we believe its passage was obtained by bribery, fraud and dishonest means of various kinds.

Second. Because the act itself acknowledges that any moneys due and belonging to the Five Million Dollar Treaty Fund of 1835, belongs to our Eastern or Emigrant Cherokees who are already organized in their own defense and have able and competent representatives who have performed a vast amount of labor in their behalf and who are now representing them at Washington on this very matter.

Third. Because we have shown, by the record we have submitted herewith, including the exhibits to our letter of December 3, 1900, that the Cherokee Nation is not a desirable representative to the Emigrant Cherokees, nor one whose sinister and fraudulent acts should be tolerated by the Government of the United States.

The Inspector submits the act for such action as the Department may deem proper and states that he has transmitted Mr. Dick's letter, together with the representations made by Messrs. Muskrat, Gritts, and Boudinot to the U. S. Attorney for the Northern District of the Indian Territory for proper action.

It seems that the Cherokee Nation now bases its rights to the claim above mentioned upon the findings of what is generally known as the Slade-Bender award. Section 14 of the act of March 2, 1889 (25 Stats., 891, 1005), authorized the President to appoint commissioners to negotiate for the cession of lands of the Cherokee Indians in the Indian Territory. The President, under said authority, appointed a commission, who, after considerable labor, finally consummated an agreement with the commissioners representing the Cherokee Nation, relative to the cession of said land.

This agreement was approved by the act of March 3, 1893 (27 Stats., 612). Section 10 of said act provides, among other things,

that:

The sum of five thousand dollars, or so much thereof as may be necessary, the same to be immediately available, is hereby appropriated, out of any money in the Treasury not otherwise appropriated to enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to employ such expert person or persons to properly render a complete account to the Cherokee Nation of moneys due said nation, as required in the fourth (third) subdivision of article two of said agreement.

The third subdivision of the second article of said agreement (the act says fourth) is as follows:

The United States shall, without delay, render to the Cherokee Nation, through any agent appointed by authority of the national council, a complete account of monies due the Cherokee Nation under any of the treaties ratified in the years 1817, 1819, 1825, 1828, 1833, 1835-6, 1846, 1866, and 1868, and any laws passed by the Congress of the United States for the purpose of carrying said treaties, or any of them, into effect; and upon such accounting should the Cherokee Nation by its national council, conclude and determine that such accounting is incorrect or unjust, then the Cherokee Nation shall have the right within twelve (12) months to enter suit against the United States, in the Court of Claims, with the right of appeal to the Supreme Court of the United States by either party, for any alleged or declared amount of money promised but withheld by the United States from the Cherokee Nation under any of said treaties or laws, which may be claimed to be omitted from, or improperly or unjustly or illegally adjusted in said accounting; and the Congress of the United States shall, at its next session after such case shall be finally decided and certified to Congress according to law, appropriate a sufficient sum of money to pay such judgment to the Cherokee Nation should judgment be rendered in her favor; or if it shall be found upon such accounting that any sum of money has been so withheld, the amount shall be duly appropriated by Congress, payable to the Cherokee Nation, upon the order of its national council, such appropriation to be made by Congress if then in session, and if not, then at the session immediately following such accounting.

The Secretary, acting under the authority vested in him by the provisions of said act of March 3, 1893, above quoted, appointed Messrs. Jas. A. Slade and Jos. T. Bender to make the accounting

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provided for by said act and under date of April 28, 1894, they made their report to the Secretary in which they found that there was due the Cherokee Nation \$1,111,284.70, with interest thereon from June 12, 1838, to date of payment. The Department, early in January, 1895, in accordance with the provisions of the agreement of Dec. 19, 1891, approved by the act of March 3, 1893, forwarded to the Speaker of the House the accounting rendered by Messrs. Slade and Bender and the act of Congress approved March 2, 1895 (28 Stats., 764, 795), provides, among other things:

That the account of moneys due the Cherokee Nation under any of the treaties made in the years x x x x x x x be referred to the Attorney-General, and he is hereby authorized and directed to review the conclusions of law reached by the Department of the Interior in said account and report his conclusions thereon to Congress at its next regular session: Provided, he may, if he deems such action advisable, refer said account to the Auditor for the Interior Department for a restatement thereof in accordance with the conclusions of law reached by him; which account, when made by the Auditor for the Interior Department, shall be transmitted to the Comptroller of the Treasury for consideration, both upon the law and the facts, and by him, when completed, transmitted to the Attorney-General for report to Congress at its next regular session, as above provided: Provided further, That in making such review and restatement there shall be no computation for interest.

The matter was referred to the Attorney-General, who, under date of December 2, 1895, rendered an opinion in which he held in effect that the Department had reached an erroneous conclusion. No action has since been taken in the premises by the Department or Congress so far as this office is advised looking to the settlement of said claim or to determine whether or not it be a just claim.

The office has no official information relative to the contract

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with Shelly, Butler, & Martin mentioned in said act.

If the claim is a just one against the Governement of the United States, it should be paid by Congress without the Cherokee Nation being required to pay to attorneys 10 per cent or any other sum of the amount collected, and if it is an unjust claim, the nation ought not to be authorized to employ attorneys to press it.

It is therefore respectfully recommended that the act be laid before the President with request that he disapprove it.

Very respectfully,
Your obedient servant,

W. A. Jones.

Commissioner.

C. A. W. (L'e)

(Endorsed) Union Agency No. 1616. Received. Jan. 14, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 7, 1901, Secretary.-----Cherokee Act making contract with Halsell and Turner,

DISAPPROVED.

DEPARTMENT OF THE INTERIOR,
Washington.

February 15, 1901.

United States Indian Inspector
for the Indian Territory,
Muskogee, I.T.

Sir:

The Department is in receipt of your communication dated January 28, 1901, transmitting a letter from the Principal Chief of the Cherokee Nation dated January 19th, calling attention to a certain act of the Cherokee Council authorizing the appointment of a delegation to Washington, and also to a subsequent act providing for the appointment of two delegates in addition to those previously appointed.

The Principal Chief insists that said act did not require the action of the President under the provisions of the act of Congress approved June 7, 1897 (30 Stat., 62-84). You transmit said communication for such action as the Department may deem proper in the premises.

The Commissioner of Indian Affairs forwarded your said report on February 6, 1901, and states that it does not appear to be necessary for him to "make any comment on this subject."

The question whether said act should be submitted to the President under the provisions of the act of Congress approved June 7, 1897, was necessarily considered and decided when the

same was submitted, and it does not appear to be necessary to further consider the matter. It may be remarked, however, that the agreement, if ratified by Congress, will necessarily have to be submitted to the nation for ratification, and if there be any question as to the authority of the delegates in making the agreement, the ratification by the nation would cure any defect that may have existed.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.
545-1901.

(Endorsed) Union Agency No. 1784 Received Feb. 21, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, February 15, 1901. Secretary.-----Relative to submission to President of Cherokee act authorizing delegation to Washington.-----

Campbell I. T.

1909

25 of February 1901

Hon Wm. McKinly President of U. S. Washington D. C.

dear Sir father. We will write you a few lines to Inform you that we the cherokees of ke to yahs are in the lines of the four tribes laws Tom Bufington Chief of the Cherokee Nation is not ours and which he is trying to force the new treatys is not ours where as we have
(creek)
send Lhle cumifixico which is now in Washington Proceeding for the four tribes we have authorized him to Proceed for us under the rules of four Paths and Honorble Wm. McKinly President of the Unite States our father we ask you to Inform your reprecentives of the Branches we notify you in what right

R. B. Smith and

Ned Bulfrog - A. W. Gritts Charmans of the full bloods Cherokees in ke to yah asociation.

Copied from original letter in files of Superintendent of Five Civilized Tribes, Muskogee, Okla.

DEPARTMENT OF THE INTERIOR,
Washington.

March 13, 1901.

United States Indian Inspector
for the Indian Territory,
Muskogee, I.T.

Sir:

Inclosed herewith you will find three certified copies of the act of Congress (Public 111), entitled "An Act to ratify and confirm an agreement with the Cherokee tribe of Indians, and for other purposes," which was approved March 1, 1901.

Your attention is specially invited to paragraph 80 which declares: "The principal chief shall, within twenty days after the approval of this act, make public proclamation that the same shall be voted upon at a special election to be held for that purpose within sixty days thereafter, on a certain day therein named, and he shall appoint such officers and make such other provisions as may be necessary for holding such election."

You will transmit two certified copies of said act to the Principal Chief of the Cherokee Nation and invite his special attention to the provision in said paragraph requiring him to make said proclamation.

Respectfully,

E.A.Hitchcock.

Secretary.

Ind.Ter.Div.
991-1901.
3 inclosures.

1927

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(Endorsed) Union Agency No.1927 Received Mar.13,1901 Office of
U.S.Indian Inspector for Indian Territory.Washington, March
13,1901. Secretary.-----Encloses three certified copies
Cherokee agreement.-----

Tahlequah C. N.

May 2nd 1901

Hon. Secy. Interior.

Sir -

I thought would write you - the Cherokee Treaty was defeated by those of our people who are holding large tracts of Land, & those who have large herds of cattle. It looks awful hard for those of us, who voted for the treaty to have to suffer, because a majority of our people was fooled into voting against the treaty. Chief Buffington, & his Crowd wants to have another commission to treat again - they wanted the treaty defeated, because first, they have all the best Land fenced up, & the treaty made them cut to 80 acres so as to give the poor people a chance to get us a home & 2nd they are chronic office seekers & want another chance to put their hands in Cherokee funds - I do hope you will make those who are holding large tracts of land - take their pro rata share (ie) 80 acres & by this those of us can get some good land - We have not sufficient land to give each citizen 120 acres. If so - those who have the best land fenced will get theres, but the poor will have to take the rocks & hills - so I trust the Govt will see the wisdom in making each citizen first, take 80 acre, thereby give all a chance to get some good land - There is no use to make us pay a large amount to Buffington et al, to make another Treaty - I refer you to my uncle Ex Senator M. C. Butler.

Very Sincly.

(signed) George O. Butler

Copied from letter No. 2157 in files on Supt. Five Tribes, Muskogee, Oklahoma.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

June 11, 1901.

I.T.D.2231-1901.

The President,

Sir:

I have the honor to submit herewith for executive action, under the provisions of the act of Congress approved March 3, 1901, an act of the National Council of the Cherokee Nation entitled "An Act providing for the appointment of a Commission to negotiate with the United States Commission," approved by the Principal Chief May 11, 1901.

The preamble to said act refers to the agreements made with said nation by the Commission to the Five Civilized Tribes, and the act authorizes the Principal Chief to appoint a commission by and with the advice and consent of the Senate, consisting of nine commissioners to be selected as therein prescribed, for the purpose of conferring with the Commission to the Five Civilized Tribes with reference to changes desired by said nation in its political status and property rights.

The act also prescribes the manner in which said commission shall act, and directs that no agreement made by said commission shall be binding in any way or manner upon said nation, unless it be ratified and confirmed by a majority vote of the qualified voters of the Cherokee Nation.

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The act also authorizes the Cherokee commission to select an interpreter who shall interpret and translate all matters which may be required of him by the Commission or any member thereof. The act fixes the compensation of each commissioner and the interpreter at six dollars per day, including incidental and traveling expenses, and makes an appropriation of a sum of money sufficient out of the general fund of said nation not otherwise appropriated, and authorizes the Principal Chief to draw his warrants for the same on a requisition signed by the chairman of the Cherokee commission.

The United States Indian Inspector for the Indian Territory transmitted said act on May 31, 1901, recommending that it receive favorable consideration. He also incloses a report from the Commission to the Five Civilized Tribes relative to said act, wherein it is stated "that it would be impolitic and unwise to declare at this time the Government's policy with respect to that tribe, in view of the rejection of the recent agreement made by them;" that if the Government should show its willingness to enter into negotiations for a new agreement so soon after the rejection of the recent agreement by the Cherokees, it would greatly increase the difficulty of negotiating a proper agreement with said nation.

The Commissioner of Indian Affairs transmitted said report from the Inspector, and recommends that the act be submitted for

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executive action with a request that it be disapproved.

I concur in the views expressed by the Commissioner of Indian Affairs that said act is objectionable for the reasons stated by him, and I have to recommend that it be disapproved.

The papers transmitted by the Commissioner of Indian Affairs, together with a copy of his report, are inclosed herewith.

Respectfully,

E. A. Hitchcock.

Secretary.

6 enclosures.

(Endorsed) Union Agency # 2317 received Jun 24, 1901 Office of U. S. Indian Inspector for Indian Territory. Washington, June 17, 1901 Secretary. Returns Cherokee act appointing a commission to treat with U. S. Commission, DISAPPROVED.

MEMORIAL OF THE CHEROKEE NATION PROTESTING AGAINST THE PROPOSED
UNION OF INDIAN TERRITORY, AND ESPECIALLY OF THE CHEROKEE NATION,
WITH OKLAHOMA. 288

*****Φ-Φ*****

Whereas, the question of "Single Statehood," by a union of Indian Territory with Oklahoma, is now being agitated by the Public Press and by Public meetings, and otherwise, and

Whereas, a call has been issued and given wide publication requesting that delegates shall meet at Muskogee, Indian Territory on the Fourteenth day of November, Nineteen-Hundred and one, expressly favorable to the admission of Oklahoma and Indian Territory as a single State and to memorializing the Congress of the United States urging such admission, and

Whereas, To incorporate the Cherokee Nation, at present, within a State or Territorial form of Government without our consent, holding our lands and annuities in common, as we do, would be a dangerous menace to our common property interests and in direct violation of the most solemn treaty pledges made to us by the United States, inasmuch as the new State or Territorial Government would be represented and ruled by non-citizens who have no interest with us in our lands and moneys but who would most certainly direct radical legislation disposing of, or destroying, our said valuable interests and rights; Now

Therefore, This Memorial to His Excellency, The President, and to the Honorable, The Senate and House of Representatives of the United States of America, respectfully and humbly sheweth:

It is the sense of the National Council of the Cherokee Nation in Regular Session Assembled that it would not be conducive to the best interests or happiness of the Cherokee People for the Cherokee Nation to be included, at present, within any State or

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or Territorial form of Government; that their common property interests and valuable treaty rights would be endangered thereby; that the actions of those who are instigating and agitating this "Single Statehood" move are hereby emphatically denounced as fundamentally wrong and unjust to the Cherokee Nation and People; that all and any resolutions or memorials purporting to come from Cherokee citizens are hereby declared to be not from real Cherokees but from non-citizens who have no interest with us in our common property.

The Cherokee Nation hereby earnestly protests against any kind of union with Oklahoma and against being included, without its consent, within the limits of any State or Territorial form of Government whatsoever at the present time, and an appeal is hereby made to His Excellency, The President, and to the Congress of the United States, for protection for the People of the Cherokee Nation, the owners of the lands, to the end that these Statehood promoters may not be successful in carrying out their propositions.

Adopted by the Senate November 14, 1901.

S. F. Parks

CLERK OF THE SENATE - - -

Wolf Coon. (Cherokee Signature)
PRESIDENT OF THE SENATE

ADOPTED BY THE COUNCIL BRANCH NOVEMBER 14, 1901.

G. S. Shelton

CLERK OF THE COUNCIL - - -

M. V. Benge

SPEAKER OF THE COUNCIL - - -

APPROVED. NOV. 14, 1901.

T. M. Buffington, - - -
PRINCIPAL CHIEF.

(Endorsed) Union Agency # 3398 received Jan. 25, 1902. Office of U.S. Indian Inspector for I. T. Washington, Jan. 16, 1902. Secretary. Received Memorial of Cherokee Council protesting against union of Ind. Ter., and Cherokee Nation with Oklahoma.

Land.
2198-1902.
3226-1902.
5233-1902.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,

Washington, January 30, 1902.

The Honorable

The Secretary of the Interior.

Sir:

There is inclosed herewith a report from Inspector Wright dated January 11, 1902, forwarding for the Department's consideration a memorial of the Cherokee Nation relative to the allotment of lands in said nation to the individual members of the tribe, which said memorial was approved by the Principal Chief December 19, 1901; also a communication from T.B. Needles, Esq., Commissioner in charge of the work of the Dawes Commission, dated January 8, 1902, forwarding a copy of a communication addressed to Inspector Wright January 6, 1902, by Messrs. Needles and Breckinridge of the Dawes Commission, relative to said memorial, and a report from the Inspector dated January 24, 1902, forwarding certain papers handed to him by Rev. T. F. Brewer, relative to the segregation of 160 acres of land for the use and occupancy of the Willie Halsell college at Vinita, in accordance with the provisions of article 14 of the treaty of July 19, 1866, between the United States and the Cherokee nation of Indians.

The memorial seems to be made under the authority of article 20 of said treaty of 1866, which article is as follows:

"Whenever the Cherokee national council shall request it, the Secretary of the Interior shall cause the country reserved for the Cherokees to be surveyed and allotted among them, at the expense of the United States."

The preamble of said memorial requests the individualization of the lands and disbursement of the moneys belonging to the Cherokee tribe of Indians in accordance with article 20 of said treaty, and the memorial provides a plan of allotment in lieu of the method and manner of allotment provided for by the act of June 28, 1898 (30 Stats., 495), commonly known as the Curtis Act. The memorial seems to provide for the allotment of the lands and the distribution of the money "through a delegation to be provided for and appointed."

Section 1 declares that a request for the allotment of said lands, as provided in article 20 of the treaty of 1866, is made, and that the lands of the Cherokee tribe of Indians shall be allotted among the members of said tribe at the expense of the United States according to the survey of the same already completed by the United States, and provides "that this request for allotment is made only with the understanding that such allotment shall be made under conditions in the manner as follows, to wit:

"That all lands belonging to the Cherokee tribe of Indians, in Indian Territory, except as are herein expressly reserved, shall be appraised at their true values, considering the nature and fertility of the soil, location and value of the same, excluding improvements placed by allottee on lands selected by him."

Section 2 declares that the land shall be appraised under the direction of the Secretary of the Interior; that appraisements shall be finally approved before September 1, 1902, or as soon thereafter as practicable, under no circumstances later than November first, nineteen hundred and two;" and that when the appraisements shall have been finally approved by the Secretary, a detailed report relative to the same shall be furnished the Principal Chief for the information of the Cherokee people.

Section 3 declares that "the total value of the divisible lands shall be determined and the per capita share of each beneficiary ascertained before beginning allotment of lands."

Section 4 is as follows: "The measure for the equalization of allotments shall be the average or per capita share of the total valuation of the lands."

Section 5 declares that all of the lands of the Cherokee people except those reserved by the memorial shall be allotted under the direction of the Secretary of the Interior to the members of the tribe entitled to share in said allotment so as to give to each as nearly as may be an equal share of the whole, and that all funds of the tribe and all moneys accruing to the tribe under the provisions of the memorial or plan of allotment shall be paid under the direction of the Secretary of the Interior direct to the individuals entitled to share in the same "as soon after allotment of lands as practicable."

Section 6 declares that all controversies between members of the tribe relative to selecting particular tracts of land as allotments shall be determined by the Secretary of the Interior.

Section 7 provides that any member of the Nation having lands in his possession in actual cultivation in excess of his per capita share and that to which the members of his family are entitled "shall on or before the first day upon which allotments shall begin select therefrom allotments for himself and for the members of his family aforesaid, which said allotments he may hold and no more," and declares that if he have lawful improvements upon his excess holdings he may dispose of the same to any citizen of the Nation who may thereupon select lands so as to include said improvements "but after the expiration of said time (the first day upon which allotments shall begin), any citizen may take any lands not already selected by another."

Section 8 provides that any citizen of the Nation may receive his full pro rata share of the lands of the Nation in a single allotment; that if for any reason separate tracts of land shall be allotted to a citizen "he shall receive them all at the same time and all shall be included in one deed."

Section 9 provides that when a citizen has selected his allotment, a certificate for the same shall be issued and that the Secretary shall then immediately place such citizen in unrestricted possession of his land.

Section 10 declares that each allotment of land shall be non-taxable for twenty-one years or until title passes from the allottee; that this condition shall be stipulated in the deed and that the land shall be free from debt or other obligation contracted prior to the date of the deed.

Section 11 provides that allotments for minors may

be selected by the guardian or by the father or mother, in the order named; that such allotments shall not be sold during minority; that allotments for prisoners and convicts and aged and infirm persons may be selected by their duly appointed agents; that allotments for incompetents may be selected by "their guardians, curators or other suitable persons akin to them," and makes it the duty of the Secretary of the Interior to see that such selections are made for the best interests of the parties referred to.

It seems from the foregoing that it is the desire of the National Council of the Cherokee Nation to change the entire plan of allotment. No value of a standard allotment has been fixed by said memorial. It would seem that before any allotments could be made the value of all of the lands of the Cherokee Nation susceptible to allotment would have to be ascertained, also the total membership of the tribe, and that the value of the standard allotment would be determined by dividing the total value of the land susceptible to allotment by the total membership of the tribe. It does not contain any provision relative to paying the tribe the excess value of an allotment selected by any citizen of the tribe, neither does it contain any provision by which the funds of the tribe can be used for equalizing allotments.

Messrs. Needles and Breckinridge, of the Dawes Commission, in their letter to the Inspector, after quoting from certain acts of Congress relative to the settlement of affairs

in the Indian Territory, and giving a history of the Commission's efforts to frame an agreement with said tribe which would be satisfactory to a majority of the members of the tribe, invite attention to the provisions of section 4 relative to a measure for the equalization of allotments," and state that the memorial contains no provision relative to carrying out the same, and further that it does not seek to remedy "the present well known difficulty in measuring allotments by providing a specific amount." Said members of the Commission also invite attention to the fact that section 6 of the memorial provides that controversies relative to selecting particular tracts of land shall be determined by the Secretary, and state that provision should be made for the settlement of such controversies by a tribunal in the Indian Territory, with right of appeal to the Interior Department.

With reference to section 7 the said Commissioners invite attention to the provision that citizens holding lands shall "on or before the first day upon which allotments shall begin" select their allotments from the lands held by them, and state that "perhaps what is intended, or should be intended, is to require such persons to select their allotments within a reasonable time after the land office is established."

It is also stated that the provision of said section 7 permitting the holder of excess lands to sell improvements to another citizen suggests the propriety of leaving out the words "improvements placed by allottees on lands selected by them," of section 1 of said memorial.

Section 10, said Commissioners state, seems to contemplate that title shall pass with the death of the allottee; that if so it should provide that the allotment shall be non-taxable during the life of the allottee, but not to exceed twenty-one years "provided that if the title shall pass from the allottee before death the allotment shall be taxable."

Said Commissioners state that section 11 illustrates the general character of said memorial in that it prefers guardians to parents in making the selection of allotments for minors. It is then stated that instead of the tribal government continuing until March 4, 1906, subject to such legislation as Congress may deem proper, as proposed by section 55 of the memorial, it should be abolished as speedily as possible; that they believe that any agreement the government may desire and deem necessary can be "easily and quickly obtained when the use of the land is once allotted, which will result in the breaking up of the immense holdings which a few men still enjoy without the payment of either rent or taxes. And to this end allotment should be pressed without delay and without consideration of any measures tending to, if not purposely designed for delay." It is then stated that as the Commission has no jurisdiction relative to the surveying, platting and appraising of townsites, no opinion is expressed in regard to the provisions of said memorial pertaining to townsites.

Said Commissioners state that while the Cherokees have been continuously and vigorously employed carrying out the method provided by law; that the work has been done at a great expense to the government and is now nearly com-

pleted; that the work relating to the land has been completed; that it is thought the making of allotments to the members of the Cherokee tribe of Indians can be commenced "by the end of next summer," and opinion is expressed "that extreme care needs to be exercised in adopting any plan 'in lieu'" of that under which the Commission is now working.

If the Department shall consider it proper to forward this memorial to Congress for consideration, the office believes that sections 2 to 11 inclusive should be stricken out, and that sections 2 to 12 inclusive of the Cherokee Agreement dated April 9, 1900, which was not ratified by the tribe, should be inserted in lieu thereof.

The work thus far performed by the Commission has been conducted under the provisions of the Curtis Act, the provisions of which relative to the allotment of land are similar to the provisions contained in said sections of the Cherokee Agreement of April 9, 1900. To attempt to make allotments to the Cherokees in accordance with the provisions of said memorial would be to nullify all of the work heretofore performed by the Commission except possibly its work pertaining to enrollment.

The memorial provides that the lands shall be non-taxable for twenty-one years or until title passes from the allottee, and does not contain any provision requiring that the allottee shall select as a homestead any part of his allotment.

With reference to the Commission's remarks relative to section 11 of said memorial attention is invited to section 13 of the agreement with the Cherokees dated April 9, 1900,

which provided that "allotments to minors may be selected by the guardian, or by the father or mother, if citizens, in the order named." The office believes that the first part of section 11 of said memorial should be made to read as follows: "allotments to minors may be selected by the father or mother or guardian in the order named, and shall not be sold during their minority."

If sections 2 to 12 inclusive of said Cherokee Agreement are substituted as above suggested, the words "first day of July 1901" of section 2, and the same words in section 6, should be stricken out and there should be inserted in lieu thereof in each instance "the date of the ratification of this plan of allotment," or other suitable words.

Section 12 is as follows:

"The Delaware Indians, who are citizens of the Cherokee Nation, shall take lands and share in the funds of the tribe as their rights may be determined by the Court of Claims or by the Supreme Court, if appealed, in the suit instituted therein by the Delaware Indians against the Cherokee Nation and now pending, when the said suit shall be finally decided and not allotment of lands herein provided for shall be made until said suit has been finally determined. When final judgment has been rendered in said suit lands shall be allotted to said Delaware Indians in conformity with the terms of the judgment and their individual rights thereunder. The said suit shall be advanced on the Docket of the Court of Claims, and of the Supreme Court if appeal is taken and shall be determined at the earliest time practicable."

This office sees no objection to said section 12.

The memorial then deals with townsites in the Cherokee Nation.

Section 13 provides that 320 acres shall be added to the town of Fort Gibson which shall include the old military reservation and buildings thereon; that said 320 acres shall be surveyed and platted the same as other towns and that the

lots shall be appraised and sold under the direction of the Department. This section also provides that

"All towns as laid off and surveyed and platted into town lots, streets and alleys, by authority of the Cherokee Nation, shall remain as platted at the present time; provided however, there may be added to any town by extending the original survey making said additional survey conform to the original survey, as to streets, alleys, etc., such additional territory as may be required for its present needs and reasonable prospective growth."

The office believes that the words "three hundred and twenty acres" should be eliminated, and that there should be inserted in said section in lieu thereof "such area as may be necessary." The office also believes that the words "all towns as laid off and surveyed and platted into town lots, streets and alleys, by authority of the Cherokee Nation shall remain as platted at the present time" should also be stricken out.

Section 14 is substantially the same as the provisions of the acts of Congress approved May 31, 1900 (31 Stats., 221), and March 3, 1901 (31 Stats., 1058) relating to townsites. Some of said provisions are not applicable to the Cherokee Nation. The office believes that all of paragraphs 2 and 3 of said section which relate in part particularly to the Choctaw and Chickasaw Nations, should be eliminated, and the following inserted in lieu thereof, to wit:

"The Secretary of the Interior shall appoint such number of townsite Commissions as may be deemed advisable. Such

commissions shall consist of two members, one of whom shall be a citizen of the tribe and appointed upon the nomination of the Principal Chief, and one by the Secretary of the Interior. Each commission, under the supervision of the Secretary of the Interior, shall appraise and sell for the benefit of the Cherokee Nation the town lots in the nation, the appraisements to be made in accordance with the directions of the Secretary of the Interior.

"In case two members of the Commission fail to agree as to the appraisement of any lot, either of said commissioners may report such disagreement to the United States Indian Inspector for the Indian Territory, who shall, in such case, act with the commission as a third member thereof, and the decision reached by two of said three members of such commission relative to said appraisement shall be final."

The office does not believe that any good reason exists why there should be more than two members of a townsite commission, and it is of the opinion that the interests of the Nation will be best subserved by not having a resident of each particular town as a member of the commission. If the above is substituted in lieu of paragraphs 2 and 3, paragraph 4 should be stricken out.

The office has no objection to paragraph 5 of said section, which authorizes the Secretary of the Interior to permit the authorities of any town to have the town surveyed at the expense of the town.

The office believes that all of paragraph 6 after the words "approval thereof by the Secretary of the Interior" should be stricken out, and that the words "under his direction

proceed to the disposition and sale of the lots as herein provided" be inserted in lieu thereof.

The words "tribal or local in any of said nations" in paragraph 7 should be eliminated, and there should be inserted after the last word of said paragraph the following:

"Provided that the Secretary of the Interior may, whenever the chief executive of the Cherokee Nation fails or refuses to nominate a townsite commissioner for said nation or to fill any vacancy caused by the neglect or refusal of the townsite commissioner nominated, to qualify or act; in his discretion, appoint a commissioner to fill the vacancy thus created."

There appears to be no objection to paragraph 8.

All of paragraph 9 should be stricken out, for the reason that section 31, if changed as herein suggested, will cover the ground sought to be covered by said paragraph 9.

Section 15 of this memorial is the same as section 16 of the agreement of April 9, 1900, except that said section 16 contained the following: "deducting therefrom such amount as may have been paid into the Cherokee national treasury for such right of occupancy." The office sees no objection to said section 15.

Section 16 of the memorial is the same as section 17 of said agreement except that section 17 of the agreement provided that any person in peaceful possession of any town lot, not acquired under tribal laws, might purchase the same by paying one-half of its appraised value, while section 16 of the memorial requires that the purchaser shall pay the full appraised value. The office believes that the words "by paying the

appraised value thereof" of said section should be eliminated and the words "by paying one-half of the appraised value thereof" should be inserted in lieu thereof.

Section 17 declares that any citizen in rightful possession of a town lot, not having improvements thereon, the occupancy of which has been acquired under tribal laws, shall have the right to purchase such lot by paying two-thirds of the appraised value thereof. This is the same as section 19 of the agreement hereinbefore mentioned. The office believes that there should be inserted after "tribal laws" the words "governing townsites." Unless the words "governing townsites" are inserted there may be some difficulty in determining whether the occupancy of such lot or lands has been acquired under the tribal laws.

The office believes that section 18 should be made to read as follows:

"When the appraisement of any town lot so improved is made and approved the commission shall notify the claimant thereof of the amount of appraisement, and he shall, within sixty days thereafter, make payment of twenty-five per centum of the amount due for the lot, and the remainder of the purchase money he shall pay in three equal annual installments without interest, but if the owner of any such lot fails to purchase same and make the first payment within the time aforesaid, the lot and improvements shall be sold at public auction to the highest bidder, under the direction of the Secretary of the Interior at not less than the appraised value, and the purchaser shall pay the purchase

price to the owner of the improvements, less the appraised value of the lot."

Said section as it appears in the memorial provides that a payment of ten per centum shall be made within sixty days of the notice of appraisal, and that additional payment of fifteen per centum shall be made within four months from the date of the first payment. It also provides that in the event the owner of the improvements does not purchase the lot, it shall be sold at public auction under direction of the townsite commission. The office believes that it will be better to have the twenty-five per centum paid in one installment. It will save considerable expense to the government, and it is thought that the lot, if the first payment is not made, should be sold under the direction of the Secretary of the Interior, as to have it sold under the direction of the townsite commission would only tend to perpetuate the commission.

The office sees no objections to the provisions of section 19.

Section 20 should be eliminated. If section 20 is eliminated the words "this right shall not extend to persons who take their allotments" of section 21 should also be eliminated.

No objection to section 22 is seen.

Section 23, it is thought, should be made to read as follows: "If the purchaser of any town lot fails to make payment of any sum when due, except the first payment, the same shall thereafter bear six per centum interest per annum, until paid."

The office sees no objections to the provisions of sections 24, 25 and 26.

In section 27 the word "agreement" should be changed to "plan of allotment."

Sections 28, 29 and 30 are thought to be in proper form.

Section 31 should read as follows:

"The Secretary of the Interior may, in his discretion, cause to be established the limits of towns in the Cherokee Nation which at the time such limits are established have a population of less than 200, and the lands so segregated and reserved from allotment shall be disposed of in such manner, by such person or commission and on such terms as the Secretary of the Interior may direct."

Section 32 seems to be in proper form.

It is thought that a section as follows should be inserted after section 32, to wit:

"At towns where parks are or may be established the town-site commission shall appraise the land so reserved for park purposes at the rate of twenty dollars per acre and the authorities of the town shall pay for the same within twelve months from the date of the notice of appraisement."

The memorial then deals with the rolls of membership in the Cherokee tribe.

January 15, 1902 (I.T.D., 161-1902), the Department fixed July 1, 1902 as the date "after which no more applications for enrollment in the Cherokee Nation will be received."

Section 33 of said memorial should therefor be made to read as follows:

"The rolls of citizenship of the Cherokee Nation shall be made as of July 1, 1902, and the names of all persons then living and entitled to enrollment on that date, and the names of their descendants born on or prior to said date, shall be placed on said rolls."

If section 33 is made to read as above, section 34 should be changed to read as follows:

"No child born to any member of the Cherokee tribe of Indians after July 1, 1902, shall be entitled to a per capita share in the lands or moneys of said tribe."

The following words in the last line of section 35 should be stricken out, to wit: "September first, nineteen hundred and two," and there should be inserted in lieu thereof the words "July first, nineteen hundred and two."

The office has no objections to the provisions of sections 36 and 37.

The words "the day this plan of allotment receives final ratification" of section 38 should be eliminated, and "July first, nineteen hundred and two" inserted in lieu thereof.

Sections 39 to 45 inclusive, relate to the conveyance of titles to individuals and the office sees no objection to any of said sections, except section 45, which is as follows:

"All deeds, when executed and approved, shall be filed and recorded as hereinafter provided in section seventy-one." This section 45 should be eliminated for the reason that section 71 provides that the original deeds shall be recorded with the clerks of the United States courts at Tahlequah, Vin-

ita and Muskogee. The original deeds should, the office believes, be filed with the Dawes Commission, and it is of the opinion, therefore that the following should be inserted in lieu of said section 45.

"All deeds, when so executed and approved, shall be filed in the office of the Dawes Commission and recorded in a book appropriate for the purpose, without expense to the grantee, and such records shall have like effect as other public records."

Section 46 provides for the disposition of the "Cherokee Advocate," and the buildings and grounds reserved for said newspaper whenever the Cherokee Nation shall become a part of a State or territory, the proceeds to be divided in accordance with the provisions of section 53 of the memorial. The office has no objection to the provisions of said section 46, unless the objections hereinafter given relative to section 53 shall also be applicable to said section 46.

Sections 47 to 54 inclusive pertain to the Cherokee schools.

Section 47 of the memorial contains the same provisions as did section 46 of the agreement of April 9, 1900, except it provides for the appointment of a school board instead of a superintendent, as was provided by said agreement. The office believes the words "a school board appointed" should be stricken out and there should be inserted in lieu "a school superintendent appointed."

This objection also applies to section 48. The words "board of Education" in said section should be eliminated and

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the word "superintendent" inserted.

The same objection applies to section 49 and it should be changed accordingly. There should also be inserted in said section, after the word "examined" the words "and approved" and after the word "schools" the words "in the Indian Territory." Said section will then read as follows:

"All accounts of expenditures in running the schools shall be examined and approved by said supervisor and superintendent, and also by the general superintendent of the Indian schools in the Indian Territory before the payment thereof is made."

The words "the said board of education" in section 50 should be stricken out and the word "superintendent" inserted in lieu thereof.

There appears to be no objections to section 51 and 52.

Section 53 is as follows:

"When the Cherokee Nation becomes a part of a state or territory all buildings herein reserved for school and other public purposes belonging to the Cherokees, shall be appraised under the direction of the Secretary of the Interior at their true values, and the amount thereof appropriated by Congress and added to the invested funds for orphan and school purposes and all of said funds shall be paid per capita to the members of the Cherokee Nation entitled thereto. Such lands and buildings to be disposed of in such manner as Congress may direct."

It will be observed that the buildings belonging to the Cherokee Nation used for school and other purposes shall,

as soon as the Cherokee Nation becomes a part of a state or territory, be appraised under the direction of the Department, be paid for and disposed of in such manner as Congress may direct, and that the proceeds shall be added to the invested funds for orphan and schools purposes and paid per capita to the members of the Cherokee Nation entitled thereto.

From the provisions of said section it would seem that it is the intention that this per capita payment shall be made as soon as practicable after said nation becomes a part of a State or Territory. The office believes that provisions should be made whereby the Cherokee schools will be maintained for some years after said nation becomes a part of a State or Territory, for the reason that there is no question that it will take sometime after said nation becomes a part of a State or Territory to establish proper public schools in said nation. There is not, so far as the office is advised, any means by which a public State or Territorial school fund can be established.

It is not probable that any of the lands of the Cherokee Nation will be sold for the purpose of creating a fund for this purpose and the office is therefore of the opinion that said section should be amended so as to prevent the distribution of the school funds of said nation for at least ten years after the nation shall have become a part of a State or Territory.

Section 54 relates to lands reserved from general allotment. Divisions b and c of said section pertain to the right of way of the St. Louis & San Francisco Railroad, the

Missouri, Kansas & Texas Railroad right of way, and the rights of way of the Kansas City Southern, Kansas & Arkansas Valley, and Atchison, Topeka & Santa Fe railroads.

The office believes that said divisions b and c should be stricken out and the following inserted in lieu thereof:

"All lands to which, at the date of the ratification of this plan of allotment, any railroad company may, under any treaty or Act of Congress, have a vested right for right of way, depots, station grounds, water stations, stock yards, or similar uses connected with the maintenance and operation of the railroad."

Division f provides that four acres shall be reserved from allotment for the Willie Halsell College at Vinita. Article 14 of the treaty of 1866 between the United States and the Cherokee Indians provides that

"The right to the ~~use and~~ occupancy of a quantity of land not exceeding one hundred and sixty acres, to be selected according to legal subdivisions in one body, and to include their improvements, and not including the improvements of any member of the Cherokee Nation, is hereby granted to every society or denomination which has erected, or which with the consent of the national council may hereafter erect, buildings within the Cherokee country for missionary or educational purposes."

The agreement of April 9, 1900, provided that 160 acres should be reserved for the use of said college.

The Inspector, with his report of January 24, 1902, forwarded certain papers relative to this matter which he

states were handed him by Rev.T.F.Brewer. It is supposed, (although there is nothing to show such to be the fact) that such papers relate to the action of the National Council in authorizing the Principal Chief to appoint a committee to segregate the 160 acres of land for the use and occupancy of said school. There was forwarded by the Inspector what purports to be a copy of the act of the National Council approved on December 23, 1886, by the Principal Chief, authorizing the appointment of a commission to segregate 160 acres of land for the purpose above mentioned; also what purports to be a copy of a report made by said commission appointed under the provisions of said act, in which report it is stated that the committee "located and defined said lands as hereinafter specified, to wit: 160 acres lying north of and immediately adjacent to the town of Downingsville (Vinita) and adjacent to and immediately west of the right of way of the M.K.& T.Ry., and all in the Cherokee district of Cooweescoowee."

The land is then described by meets and bounds.

The Inspector also forwarded what seems to be a copy of a letter dated October 9, 1888, addressed to Dr.B.F.Fortner, President of the Board of Trustees of Calloway College by the then Principal Chief of the Cherokee Nation, J.B.Mays, acknowledging receipt of said report designating land for the use and occupancy of said college, and in which it is stated that the action of the committee is binding upon the Cherokee Nation and is being made in good faith and will be filed as a matter of record in this department."

There is also among the papers a quit-claim deed to the improvements on said land made by W.^{E.}R. Halsell and M.A. Halsell, his wife, by the provisions of which said improvements were conveyed to the Board of Trustees for the use of a proposed college to be built by the Methodist Episcopal Church, South. This deed seems to have been executed before the mayor of Downingsville October 20, 1888.

The office has been unable to find any record of said act in the laws of the Cherokee Nation in its possession. Inasmuch, however, as 160 acres were reserved for the use of said college by the agreement hereinbefore mentioned, and as it would seem that the college building and other improvements were erected in good faith, the office believes that a reservation of 160 acres of land for its use and occupancy should be made.

The agreement of April 9, 1900, reserved 120 acres for the Cherokee Orphan Asylum on Grand River. The same reservation is made by the memorial under consideration. Superintendent Benedict is of the opinion that 240 acres should be reserved for said orphan asylum. He states that usually there are about 200 orphans at said school; that a sufficient amount of land to enable the school authorities to give the boys some practical training in agriculture should be reserved for the use of the school.

It is probably true that it would be better if 240 acres had been reserved for this purpose, but inasmuch as only 120 acres were reserved for the use of said asylum by the agreement of April 9, 1900 hereinbefore mentioned, this office hesi-

tates to recommend that the reservation be changed to 240 acres.

The memorial makes no reservation for the school for the blind and deaf and dumb children. The agreement hereinbefore mentioned provided for the reservation of 40 acres for said school. It is thought by the office that **this** was an oversight on the part of the persons who prepared the memorial and that a reservation of 40 acres should be made for said school.

If these changes are made the office will have no objection to said section.

Section 55 provides that the tribal government shall continue until March 4, 1906, subject to future legislation by Congress. The office believes that said section should be changed to read as follows: "The tribal government of the Cherokee Nation shall not continue longer than March 4, 1906, subject to such future legislation as Congress may deem proper."

Section 56 relates to the collection of revenues of the Cherokee Nation and provides "that any revenue collectors who may be duly appointed under Cherokee law" prior to the ratification of this plan of allotment, shall be permitted to serve out the term for which they were appointed. The office understands that the collection of all of the revenues arising in the Cherokee Nation is made by the officers of the government, and it is of the opinion therefore, that all of said section after the words "funds collected" should be stricken out.

The office sees no objection to sections 57, 58, 59 and 60.

Section 61 is as follows:

3942 "If the suit which has been instituted by the Cherokee

Nation and now pending in the Supreme Court of the District of Columbia, against persons claiming to hold leases by authority of the National Council of the Cherokee Nation, or otherwise, shall be finally determined against the Cherokee Nation, then, in that event, the royalties due the Cherokee Nation from such persons, shall be paid to the persons taking allotments on lands upon which such leases may be in operation."

The office has no objection to said section; neither has it any objection to section 62.

Section 63 provides that the lands that are now or may hereafter be occupied by railroads as rights of way in the Cherokee Nation, shall be appraised at their true value, and that the railroads shall pay into the sub-treasury of the United States at St. Louis, Missouri, to the credit of the nation, the appraised value of such lands.

The railroads, now occupying as rights of way, lands belonging to the Cherokee Nation, have obtained the right to an easement either by special acts of Congress or under the provisions of the general act of March 2, 1899 (30 Stats., 990). Should the railroads, or any of them, abandon the use of the land occupied by them as railroad rights of way, the same would revert to the tribe. The office is of the opinion that this section should be eliminated.

No objection is seen to section 64.

Under the provisions of section 65 the funds of the tribe could not be used for the purpose of equalizing allotments. It is thought that said section should be eliminated

and the following words inserted in lieu thereof:

"All funds of the tribe and all moneys accruing under the provisions of this plan of allotment, or for any other purpose herein prescribed, shall be paid out under the direction of the Secretary of the Interior, and when required for per capita payments, if any, shall be paid out directly to each individual by a bonded officer of the United States, under the direction of the Secretary of the Interior, without unnecessary delay; and moneys paid to citizens shall not be liable for the payment of any previously contracted obligation."

The office sees no objection to section 66.

The office sees no objection to sections 67 to 70 inclusive.

At the end of section 71 the following provisions should be inserted

"Provided that this shall not include the record of original deeds to allotments or other parcels of lands and of town lots herein otherwise provided for."

Section 72 provides that nothing in the memorial shall be construed as forfeiting or abridging the right which said tribe or any individual or any number of individuals may have to prosecute any claim against the United States or any State, provided said claim has accrued under treaty stipulations. The office does not believe that the provisions of said section extend to said nation, to any individual or number of individuals thereof, the right to bring suit against the government unless its consent is obtained in the usual way, and

it therefore sees no objection to said section.

Section 73 provides that the plan of allotment or memorial shall not be of any validity unless ratified by Congress, and by a majority of the whole number of votes cast by the legal voters of the Cherokee Nation, at a special election to be held within forty days from the date said plan of allotment is ratified by Congress. This section declares that the votes cast at such election shall be counted by the Cherokee National Council, in the presence of the duly authorized representative of the Interior Department, and the Principal Chief, and that said representative and the Principal Chief shall make a joint certificate and proclamation of the result.

The office believes that it would have been more satisfactory if an agreement had been entered into by representatives of the Cherokee tribe of Indians with the Dawes Commission, but inasmuch as the plan of allotment has been adopted by the Council, and as the council seems to have authority under article 20 of the treaty of 1866 to request that allotments be made, it is thought that the said memorial should be amended as herein suggested, and forwarded to Congress with recommendation that it be ratified.

Very respectfully,

Your obedient servant,

W.A.Jones,

Commissioner.

GAW

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Inclosures.

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(Endorsed) Union Agency No.3942 Received Apr.25,1902 Office of U.S.Indian Inspector, for Indian Territory.Washington, April 18, 1902. Secretary.-----Memorial of Cherokee Council requesting individualization of lands and disbursement of moneys, transmitted to Congress with draft of bill in lieu thereof.-----

DEPARTMENT OF THE INTERIOR.

I.T.D.
645-1902.

WASHINGTON.

April 1, 1902.

The President.

Sir:

I have the honor to submit herewith for executive action under the provisions of the Act of Congress approved March 3, 1901, (31 Stat., 1077), an Act of the National Council of the Cherokee Nation approved by the Principal Chief December 18, 1901.

Said Act is entitled: "An Act authorizing the appointment of a delegation to represent the Cherokee Nation before the Government of the United States at Washington, D. C., and for other purposes."

Said Act authorizes and directs the Principal Chief of said Nation to appoint, in accordance with Section 3, Article 6 of its Constitution, by and with the advice and consent of the Senate, two persons, citizens of the Cherokee Nation, one from each political party, as delegates and public agents to represent the interests of said Nation before the Government of the United States at Washington, D. C., and declares that it shall be the duty of said delegates to use all legal measures to have Congress ratify and confirm "without amendment, the Memorial passed by the National Council and approved by the Principal Chief on the eighteenth day of December, 1901," requesting the individualization of lands and disbursements of

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the moneys of the Cherokee tribe of Indians in pursuance of Article twenty of the Treaty of July 19, 1866, instead of the method of allotment prescribed in the "Curtis Act."

The Act fixes the compensation of said delegation at \$1,500.00 for each member, including all expenses, and appropriates a sufficient amount to pay the same.

The United States Indian Inspector for the Indian Territory reports that in view of the fact that said delegates are not authorized to confer with the representatives of the Government, or with Congress, concerning any desirable changes in the Memorial, he does not believe that any benefit would come to the Nation by the sending of this delegation, and that he does not recommend the approval of the Act.

The Acting Commissioner of Indian Affairs forwarded said report on January 30, 1902, and recommends that the Act do not receive favorable consideration.

This Act, together with another Act making appropriation for the payment of \$1,500.00 to pay two "full-blood Cherokees" to represent the interests of the full-bloods, has not been submitted heretofore for the reason that the Principal Chief proposed to call a special session of the Council to modify and change the instructions set forth in the Act now under consideration. The Council was convened on March 4, 1902, and the Principal Chief recommended that the instructions to the delegation be amended by striking out the words "without amendment."

In a communication dated March 8, 1902, the Principal Chief advised the United States Indian Inspector for the Indian Territory that the majority of the members of the Council declined to make said amendment upon the ground that the instructions were merely formal in their nature, and that the words "without amendment" were not intended to be mandatory on the part of the Cherokee Council.

In view of the hostile attitude of the Cherokee Nation from the beginning against making any agreement with the Dawes Commission, and on account of the rejection by the Nation of the agreement made on April 9, 1900, and confirmed with certain amendments by the Act of March 1, 1901 (31 Stat., 848), and especially in view of the indisposition of the National Council as shown by its recent action above indicated to do anything to aid in making a proper agreement, I am fully persuaded that it will serve no good purpose to authorize said delegation to come to Washington.

I have, therefore, to recommend that said Act be disapproved.

A copy of the report of the Acting Commissioner of Indian Affairs, and the report of the United States Indian Inspector, are inclosed herewith.

Respectfully,

E. A. Hitchcock.
Secretary.

3 inclosures.

(Endorsed) Union Agency No. 3850. Received. Apr. 11, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, April 4, 1902. Secretary.-----Act of Cherokee Council authorizing appointment of delegation to represent nation at Washington, disapproved April 2, 1902.

DEPARTMENT OF THE INTERIOR.
Washington.

ITD.5792-1902
9102-1903

January 4, 1904.

The President.

Sir:

I have the honor to transmit herewith for executive action, in accordance with the provisions of the act of March 3, 1901 (31 Stat., 1058-1083), an act of the National Council of the Cherokee Nation entitled

"An Act making an appropriation in favor of Lucien B. Bell, Percy Wyly, Jesse Cochran and Benjamin Hilderbrand, for services rendered the Cherokee Nation as Delegates to Washington, D.C. in the Winter and Spring of 1900."

which was approved by the Principal Chief of said nation on December 4, 1903.

Both the Indian Inspector for Indian Territory and the Commissioner of Indian Affairs recommend approval of this act. The Inspector's report and a copy of the communication of the Commissioner are inclosed herewith.

The act and accompanying papers have been examined; I find no objection to the act, and accordingly recommend that it be approved.

Respectfully,
E. A. Hitchcock
Secretary.

3 inclosures.

(Endorsed) Union Agency No. 8393 Received Jan. 18, 1904 Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 9, 1904. Secy.-----
Cherokee act making appro. in favor of Lucien B. Bell, Percy Wyly, Jesse Cochran and Benj. Hilderbrand for services as delegates to Washington, approved by President Jan. 4, 1904.-----

Feb. 9, 1904

1055-B

CHEROKEE.

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Joint resolution number five.

Whereas, the Cherokee Nation by an agreement ratified by the Cherokee people at an election held on the 7th day of August 1902 agreed to the individualization of their lands and termination of the tribal government on March 4th, 1906, and,

Whereas, the Commission to the Five Civilized Tribes is thoroughly familiar with the provisions of said agreement and the details necessary to carry the same into effect, and,

Whereas, the Cherokee people have every confidence in the efficiency and integrity of each member of the Commission to the Five Civilized Tribes as now constituted, and,

Whereas, a change in the personnel of the Commission at this time would be a great detriment to the public service and be the means of retarding the final settlement of the Cherokee estate, therefore,

Be it resolved by the National Council, of the Cherokee Nation; That we heartily endorse the record of the Commission to the Five Civilized Tribes, and take pleasure in attesting the confidence of the Cherokee people in the efficiency and integrity of each member of said Commission.

APPROVED, December 5th, 1903,

W.C. Rogers,

Principal Chief.

(Endorsed) Union Agency No. 8683 Received Feb. 9, 1904. Office of U.S. Indian Inspector, for Indian Territory. Washington, Feb. 2, 1904. Secretary.-----Resolution of Cherokee Council endorsing Dawes Commission, has been filed.-----

D E P A R T M E N T O F T H E I N T E R I O R ,

Washington.

I.T.D. 288-1905.

January 16, 1905.

United States Indian Inspector

for Indian Territory, Muskogee, I.T.

Sir:

December 15, 1904, you submitted a resolution of the National Council of the Cherokee Nation, approved by the Assistant and Acting Principal Chief December 6, 1904, entitled:

"A Resolution asking Congress of the United States to make provision for the seating of a delegate from the Cherokee Nation."

The resolution concludes as follows:

"That it is the sense and desire of the Cherokee people that the Congress of the United States carry out the provision of the Treaty herein referred to, so that the Cherokee Nation may be represented on the floor of the House of Representatives of the United States, the same as other territories, in accordance with the meaning and intention of the Treaty mentioned, and thus carry out the obligation expressed in said Treaty, and have the Cherokee Nation represented before Congress and give them an opportunity to be heard in the final settlement of their affairs, and we most earnestly petition the Congress of the United States that such steps be taken to enable the seating of such a delegate that may bear the proper credentials from the Cherokee Nation."

You suggest the advisability of transmitting the resolution to both branches of Congress for its consideration.

Reporting in the matter January 9, 1905, the Acting Commissioner of Indian Affairs states that he does not consider the resolution of sufficient importance to warrant the action suggested by you.

The Department concurs in the views of the Acting Commissioner and the resolution has been returned to the Indian Office. You will so advise the tribal authorities.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 10922 Received Jan. 24, 1905. Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 16, 1905. Secretary.-----In re resolution of Cherokee Nation asking Congress to seat Delegate from said Nation.-----

DEPARTMENT OF THE INTERIOR.
WASHINGTON.
ITD 16 & 1412-1903.

February 18, 1903.

The President,

Sir:

I have the honor to transmit herewith for executive action an act of the National Council of the Cherokee Nation, approved by the Principal Chief, November 22, 1902, entitled, "An Act making an appropriation to pay attorneys' fees before the United States courts in Indian Territory."

Reference is made in the preamble of said act to a contract made by the Principal Chief of said nation with Messrs. Davenport and Thompson, whereby he agreed to pay said attorneys the sum of \$1500 for services rendered in the institution and prosecution of suits in the United States courts in the Indian Territory, under the provision of the act of June 28, 1898 (30 Stat., 495). The act appropriates \$1500 in payment of said services and authorizes the Principal Chief to draw warrant in favor of said attorney for said sum against the General Fund of The Cherokee Nation.

On January 7, 1901, the Department recommended the disapproval of an act of the National Council of the Cherokee Nation, making an appropriation of \$1500 to pay said attorneys for services rendered in the prosecution of certain suits then pending in the United States Court for the Northern District of Indian Territory, under the provisions of a contract entered into with

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the Principal Chief of the Cherokee Nation, which is referred to in the preamble of the act above referred to. The recommendation for disapproval was based upon the report of the United States Indian Inspector for the Indian Territory to the effect "that Mr. Davenport, one of the parties named in the contract, had appeared as attorney for Mr. Rogers in his injunction suit against the officials of the Interior Department for closing his place of business and collecting the merchant tax as prescribed by the laws of the Cherokee Nation, in which instance it would appear that Mr. Davenport had appeared against the interests of the Cherokee Nation;" and also that the Principal Chief of said nation reported to the Inspector, in response to his request, that "he had never given his consent to have said attorneys, or either of them, appear in any case against the interests of the Cherokee Nation." The Inspector recommended that the act be disapproved, and his recommendation was concurred in by the Acting Commissioner of Indian Affairs. The act was disapproved by you on said January 7th.

Afterwards, on December 10, 1901, the United States Indian Inspector for the Indian Territory transmitted for executive action another act of the National Council of the Cherokee Nation, approved by the Principal Chief on November 25, 1901, entitled, "An Act making an appropriation for the payment of attorneys' fees before the United States court of Indian Territory." Said act refers to the fact that the Principal Chief of the Cherokee Nation entered into a written contract with Messrs. Davenport and Thompson, attorneys at Vinita, wherein he agreed to pay said attorneys \$1500, and that said attorneys entered at once upon the services of the nation and represented it in the prosecution of over sixty cases, reclaiming

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the tribal lands in accordance with the provisions of the act of June 28, 1898 (30 Stat., 495). The Inspector called the attention of the Department to the disapproval of the prior act making a similar appropriation, and inclosing a statement from Mr. Davenport concerning his action in the tribal tax case above referred to, and also giving a list of the cases relative to the lands which had been prosecuted by himself and Mr. Thompson. The Inspector recommended that this act be approved for the reason that "it appears that Messrs. Davenport and Thompson have since acted in good faith concerning the other cases brought under the contract entered into with the Principal Chief, and have rendered the services for which they should receive compensation," and that the fee for the services rendered by said attorneys is reasonable as appears from their report of the list of cases prosecuted by them. The Commissioner of Indian Affairs concurred in the recommendation of the Inspector that the act be approved. On January 15, 1902, the Department submitted said act for executive action under the provisions of the act of Congress approved March 3, 1901 (31 Stat., 1058), and, after referring to the previous action of the Department, stated that, "the contract does not purport to be executed under the provisions of section 2103 of the Revised Statutes. It was never approved by the Department, and the appropriation made by the Council was disapproved by the President on January 7, 1901," and it was recommended that said act be disapproved. The act was returned by you on January 16th disapproved.

Subsequently, on April 7, 1902, the United States Indian Inspect-

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or for the Indian Territory forwarded a statement showing the cases by title in which said Davenport and Thompson has appeared under their contract with the Cherokee Nation and recommended approval of their contract. The Acting Commissioner of Indian Affairs forwarded said report on April 18th, and stated that, inasmuch as said acts of the Cherokee Nation had been disapproved, he refrained from making any recommendation. On May 5, 1902, the Department advised the United States Indian Inspector that, since said acts of the Cherokee Nation had been disapproved, "the Department is without power to take further action relative to either of them." His attention was again called to the fact that, "the contract does not purport to be executed under the provisions of section 2103 of the Revised Statutes and the Department has no authority to approve it."

Notwithstanding the disapproval of the two former acts the Nation, still desiring to pay said attorneys, made another appropriation by an act approved by the Principal Chief on November 22, 1902, as above recited. Not being satisfied that the Cherokee Nation could legally make an appropriation for the payment for the services mentioned in the act, when the contract under which they were performed had not been approved as required by said section 2103 Revised Statutes of the United States, I requested the advice of the Assistant Attorney General for this Department relative thereto, and in an opinion rendered February 11, 1903, he held, "that it is competent for the Cherokee Nation to make an appropriation for the payment of said services, although the contract has not been approved as required by said section." There is no doubt that said attorneys rendered the services as stated by them and that the fee for such services would not be unreasonable, and,

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inasmuch as the legal obstacles appear to have been satisfactorily disposed of, I have to recommend that said act be approved.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inclosure

(Endorsed) Union Agency No. 5872. Received March 2, 1902. Office of U. S. Indian Inspector for Indian Territory. Washington, February 20, 1903. Secretary---Cherokee act for payment of attorneys' fees (Davenport and Thompson) approved by President Feb. 18, 1903.

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D.14558-1905.

November 9, 1905.

U.S. Indian Inspector

for the Indian Territory,

Muskogee, Ind. Ter.

Sir:

On October 19, 1905, you transmitted for Executive action, an act of the National Council, Cherokee Nation, approved by the Principal Chief on September 28, 1905, being Senate Bill No. 1, entitled:

An Act providing for a Commission to represent the Cherokee Nation in the preparation of legislation for the final settlement of its affairs.

You recommended the approval of said Act, and the Indian Office concurred therein.

The Department on November 6, transmitted said Act, with a favorable recommendation, and the President placed his approval thereon November 7, 1905.

Said Act is returned for appropriate disposition, together with copy of the Indian Office report and Departmental letter of transmittal to the President.

Respectfully,

Thos. Ryan

First Assistant Secretary.

Through the
Commissioner of Indian Affairs.

3 enclosures.

(Endorsed) Union Agency No.12806 Received Nov.14,1905 Office of U.S.Indian Inspector for Indian Territory.Washington,Nov.9,1905. Secretary.-----Approving an Act of the Cherokee Council, entitled: An Act providing for a Commission to represent the Cherokee Nation in the preparation of legislation for the final settlement of its affairs.-----

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D. 14560-1905.

December 13, 1905.

U.S. Indian Inspector

for the Indian Territory,
Muskogee, I.T.

Sir:

The Department is in receipt of your communication dated October 26, 1905, transmitting for appropriate consideration a resolution of the Cherokee National Council, entitled "Joint Resolution No. 1," which was approved by the Principal Chief September 29, 1905.

Section 1 of the resolution relates to the enrollment of children born since September 1, 1902, and prior to March 4, 1906.

Section 2 relates to the sale of surplus lands, public property, buildings and grounds upon the very best terms possible, and the distribution of the money of said tribes per capita among those entitled thereto.

Section 3 relates to the continuing of the schools of said Nation at its expense until such a time as by taxation or otherwise, a general school system is established by another government in said Nation.

The Commission appointed to represent the Nation is requested to use its best efforts to secure favorable action of

Congress upon the matters referred to in the resolution.

The Commission referred to in said resolution has been heard orally, and a Committee appointed to draft a suitable bill, which, if enacted into law, will provide for the winding up of the affairs of the Five Civilized Tribes. A bill has been prepared and submitted to Congress, which covers the matters specified in said resolution.

Your report was forwarded by the Indian Office on November 4, 1905, (Land 85678-1905).

A copy of said report is enclosed.

Respectfully,

Thos. Ryan

First Assistant Secretary.

Through the

Commissioner of Indian Affairs.

(Endorsed) Union Agency No. 13003 Received Dec. 19, 1905 Office of U.S. Indian Inspector for Indian Territory. Washington, Dec. 13, 1905. Secretary.----Rel. to Cherokee act in reference to enrollment of children, sale of surplus lands, continuing schools, etc; appro. recommendation made to Congress.----

I hereby certify that the following named persons, citizens of the Cherokee Nation, were, on the 11th day of May, 1901, appointed, by and with the advice and consent of the Senate Branch of the National Council Commissioners on the part of the Cherokee Nation to meet and confer with the United States Commission, as contemplated by an Act of Council entitled:

"An Act provides for the appointment of a Commission to negotiate with the United States Commission,"
and approved by the Principal Chief on May 11th, 1901, which is also subject to the approval of the President of the United States before becoming operative:

Fred McDaniel, of Cooweescoowee District;

T. T. Rogers, of Delaware District;

Lincoln England, of Goingsnake District

J. H. Dannenberg, of Flint District;

David M. Faulkner, of Sequoyah District;

Roach Young, of Illinois District;

Dave Downing, of Canadian District;

James Tehee, of Saline District;

C. J. Harris, of Tahlequah District;

(Original signed) J. T. Parks,
Executive Secretary.
Cherokee Nation.

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Cherokee Nation.