

SUPERINTENDENT
FOR
FIVE CIVILIZED
TRIBES



VOL. 3

FOREMAN
TRANSCRIPTS

Copies of

MANUSCRIPTS

In the Office of the
SUPERINTENDENT FOR THE FIVE CIVILIZED TRIBES
MUSKOGEE, OKLAHOMA

(CHOCTAW)

Feb. 5, 1901
to
Oct. 7, 1908

Compiled from original records
selected by

GRANT FOREMAN

ack.

BILL NO. 1
C H O C T A W N A T I O N .

AN ACT PROVIDING FOR A COMMISSION TO TREAT WITH THE UNITED STATES COMMISSION TO THE FIVE CIVILIZED TRIBES RELATIVE TO CLOSING THE CITIZENSHIP ROLLS.

BE IT ENACTED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION ASSEMBLED:

SECTION 1: That the Principal Chief of the Choctaw Nation is hereby authorized and directed to appoint two persons citizens of the Choctaw Nation who shall in conjunction with the present citizenship Commission and together with himself as ex-officio chairman, constitute a commission to meet the United States Commission to the Five Civilized Tribes, and jointly with such commission as may be created by the proper authority on behalf of the Chickasaw Nation, negotiate a treaty supplementary to the Atoka Agreement providing for ratifying and closing the citizenship rolls, and such treaty that may be made to that end, shall become effective only when submitted and ratified in like manner as the Atoka Agreement.

SECTION 2: BE IT FURTHER ENACTED,

That the Compensation of the two additional commissioners to be appointed shall be six dollars per day while actually engaged in such service and ten cents per mile one way over the most direct Railway route, and the sum of two hundred dollars is hereby appropriated to pay said expense, or so much thereof as may be necessary, and that the National Auditor shall issue his warrant for the compensation of said members of the commission herein provided for, upon the certificate of the Principal Chief, and the National Treasurer shall pay the same, and this act shall take effect and be in force from and after its passage and approval.

Approved January 4, 1901.

G. W. Dukes,

Principal Chief Choctaw Nation.

Approved: February 5, 1901.

WILLIAM MCKINLEY.

(See D-1737-1901)

Refer in reply to the following:

Land.

58,469-1900,

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington, January 10, 1901.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit, herewith, an Act of the Choctaw National Council, approved by the Principal Chief October 24, 1900, entitled: "An Act granting to Robert Benton and Jerry Folsom a ferry on Poteau River".

The Act is as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled:

Section 1. That Robert Benton and Jerry Folsom, citizens of the Choctaw Nation, are hereby authorized and permitted to establish and operate a ferry-boat on Poteau river at the mouth of Caston Creek, known as Clear lake Crossing, they being the owners of the premises thereat, and this privilege shall continue for the period of five years, and their right herein granted shall extend up and down the said river Poteau for a distance of one mile each way. The said Robert Benton and Jerry Folsom shall keep the banks and approaches to the ferry-boat in good condition and the Choctaw Nation shall in no wise be responsible or liable to any person for loss or damages by reason of said ferry.

Section 2. BE IT FURTHER ENACTED, That the said Jerry Folsom and Robert Benton shall have the right to charge for vehicles drawn by more than two horses, mules or oxen, seventy-five cents; for vehicles drawn by a single animal, thirty cents; for each animal, horse, mule or cattle, ten cents; for each person on horse twenty-five cents; for each person on foot ten cents; for each hog or sheep five cents; for vehicles drawn by two horses, mules or oxen, fifty cents.

Section 3. BE IT FURTHER ENACTED, That all acts heretofore passed coming in conflict with this act are hereby repealed, and this act shall take effect and be in force from and after its passage and approval".

-2-

The Inspector in his report of November 24, 1900, states as follows:

"In a separate communication of this date I have submitted an act of the Choctaw National Council (No. 19) granting these same parties permission to turnpike a road in this vicinity, and as it would appear that this ferry is to be used in connection with said turnpike and is a public necessity, and as the charges set forth appear to be reasonable and proper, I would respectfully recommend that the act submitted be approved.

The act referred to by the Inspector authorizing the parties named to build and maintain a turnpike was transmitted to the Department on this date with remarks relative thereto. The remarks made in that case apply with equal force to this and as the act in that case is for the purpose of authorizing the parties to construct a turnpike road to connect the ferry-boat mentioned in this case, the office has chosen, while sending them in separate communications, to consider them as to some extent of the same subject-matter. In so doing, it is noted that it will cost a non-citizen of the Choctaw Nation to drive a four-wheeled vehicle drawn by 4 horses, mules, or oxen, with a driver, over 4 miles of turnpike and to transport the same conveyance and animals across the Poteau River, which is perhaps, as nearly as the office is able to ascertain, about 150 feet wide at this point, the sum of \$1.25. This rate appears to the office to be high; but it is noted that it need not be paid except in cases where the river is high and swift and therefore cannot be forded and if, by reason of muddy roads, caused by wet weather, it becomes necessary to travel on the turnpike.

The Inspector has advised this office verbally that persons do not necessarily have to cross in most instances on the boat where a ferry exists but that they have their option of crossing by fords.

Realizing that because of the exigencies of the case the ferry seems to be necessary, the office will not recommend the disapproval of the act, but forwards it for such action as the Department may deem proper.

In this connection, it is deemed proper to call attention to the fact that on October 22, 1891, the Choctaw National Council granted to Robert Benton a franchise to construct and operate a ferry-boat at the place mentioned in the act under consideration and that the rates of toll to be charged were about the same as those mentioned in the act herewith transmitted.

Very respectfully,
Your obedient servant,

W. A. Jones.

Commissioner.

(W.C.V.) P
L'e

(Endorsed) Union Agency No.1659.Received Jan. 26, 1901.Office of U.S.
Indian Inspector for Indian Territory.Washington, Jan.16,1901.
Secretary----Choctaw Act granting ferry to Benton and Folsom

APPROVED.

5

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

January 12, 1901.

The President.

Sir:

I have the honor to submit herewith for executive action, under the provisions of section 29 of the act of Congress approved June 28, 1898 (30 Stat., 495), an act of the General Council of the Choctaw Nation entitled "An Act granting to Robert Benton and Jerry Folsom the privilege to turnpike the road leading from Wister Junction to Howe."

Section 1 of said act grants to Robert Benton and Jerry Folsom the right to turnpike and establish a toll-gate at a point on the public road where the dirt road crosses the railroad on the east end of Wister Junction and crossing Poteau river at Clear Lake crossing at the mouth of Caston Creek, for a distance of four miles, and prescribes the rates of toll to be charged by said parties.

Section 2 declares that the right to receive toll shall not become effective until such turnpike is completed and fixes the period of five years for which said right shall continue, with a proviso that said parties shall keep the turnpike in good repair

Section 3 declares that if persons who are noncitizens of said nation refuse to pay the toll, as provided for in said act, the United States Indian Agent shall take proper steps to secure the collection of said toll upon application with due proof that the parties have refused to pay the same.

6

-2-

The United States Indian Inspector for the Indian Territory forwards said act with a recommendation that it be submitted for approval.

The Commissioner of Indian Affairs states that the Indian Office does not recommend the disapproval of said act, and transmits the same for such action as the Department deems proper.

There appearing to be no legal objection to the act I have to recommend that it be approved. The letter of the Inspector and copy of the Commissioner's report are enclosed herewith.

Respectfully,

E. A. Hitchcock.

Secretary.

Ind.Ter.Div.
122-1901
3 inclosures.

(Endorsed) Union Agency # 1660 recieved Jan. 26, 1901 office of U.S. Indian Inspector for I.T. Washington, Jan. 16, 1901. Secretary. Choctaw act **granting** turnpike privilege to Benton and Folsom. APPROVED.

DEPARTMENT OF THE INTERIOR.
UNITED STATES INDIAN SERVICE.
Supervising Engineer, Indian Territory Townsites.

Muskogee, Ind.Ter. January 12, 1901.

Sir:

C. L. Jackson called on me this afternoon and said that the Dawes Commission, at his suggestion, would wire the Secretary of the Interior to-night regarding a case recently submitted by brief to the Supreme Court, and he asked me) to wire Mr. Ryan about the same matter. I told him, however, that I would prefer to write to you. The name of the case is Ansley et al., vs. ainsworth, et al., and in the case Judge Clayton renders an opinion to the effect that the Department has no right to do anything whatever without the express consent of the Indians. Jackson's fear is)tht (Sic), for want of attention, Clayton's opinion which is filed in full in the case might accidentally be confirmed in full by the Supreme Court, thereby stopping the townsite work which we are now doing. It is possible that you are fully posted in regard to this case, but Jackson suggests that the Department should be represented by the Attorney General, who should ask permission to file additional briefs for the Appellee. This to you for what it is worth. Duplicate of this to your office.

Respectfully,

H. V. Hinckley
Supervising Engineer.

F.

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

WASHINGTON.

January 12, 1901.

The President.

Sir:

I have the honor to submit herewith for executive action, under the provisions of section 29 of the act of Congress approved June 28, 1898 (30 Stat., 495), an act of the General Council of the Choctaw Nation entitled "An Act granting to W. G. Ward the right to build a bridge across the Clear Boggy."

Section 1 of said act grants to W. G. Ward, a citizen of the Choctaw Nation, the right to build and maintain a bridge across the Clear Boggy river west of the Missouri, Kansas and Texas Railroad, in Blue County, near where the Atoka and Caddo dirt road crosses the said river, and extending up and down the river one mile each way, said privilege to continue for a period of six years from the passage of said act.

Section 2 requires said Ward to keep the bridge and approaches thereto in good repair, and fixes the rates of toll to be collected.

Section 3 declares that the act shall be in force from and after its approval.

The United States Indian Inspector for the Indian Territory recommends that said act be approved, but he calls

-2-

attention to the fact that the privilege granted by said act will continue for a longer period than that prescribed in said section 29 for the continuance of the tribal government.

The Commissioner of Indian Affairs expresses the opinion that there is no serious danger of any complication on account of this fact, and he submits the report of the Inspector for such action as the Department may deem proper.

There does not appear to be any legal objection to the provisions in said act, and I have, therefore to recommend that the same be approved.

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

Respectfully,

W E. A. Hitchcock.

Secretary.

Ind.Ter.Div.
120-1901.
3 inclosures.

(Endorsed) Union Agency No.1658.Received Jan. 26,1901.Office of
U. S. Indian Inspector for Indian Territory.Washington, Jan.16, 1901
Secretary----Choctaw act granting W. G. Ward right to build bridge
APPROVED.

10
Preslie B. Cole.
Attorney at Law.

Sulphur Springs, I.T. 1-19-1901.

Hon. Ethan Allen Hitchcock, Sec. Interior,
Washington, D. C.

Hon. Sir:

I am now preparing a protest against the approval of the Map of the town of South McAlester, I. T. as recently prepared by J. A. Sterritt and B. S. Smiser townsite Commissioners wherein they have platted and placed the lots of Mrs. Laura Cole, B. F. Dunn, and James Fogarty, in the Street known as Choctaw Avenue, East of the M. K. & T. R. on the ground that the same is contrary to law and justice, and I will have the protest ready to present to you in about ten or twelve days together with evidence in support of same.

In justice to these parties I will ask you to please take no action in reference to said Map until I can prepare the protest together with evidence in support of same ?

Thanking you in advance for your kindness in the matter, I remain.

Very truly yours.

Preslie B. Cole.

(Endorsed (Union Agency # 1672 received Jan.31, 1901. Office of U. S. Indian Inspector for I.T. Sulphur Springs, I. T. Jan. 19, 1901 Cole, Preslie B. Atty. Says he is preparing a protest against approved plat of South McAlester, I. T. and in the meantime asks that no action be taken.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

February 7, 1901.

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

Sir:

The act of the Choctaw Nation entitled "An Act providing for a Commission to treat with the United States Commission to the Five Civilized Tribes relative to closing the citizenship rolls," approved by the Principal Chief January 4, 1901, was transmitted by you January 19th and by the Indian Office January 30th.

I am directed by the Secretary to inform you that said act was approved by the President February 5, 1901, and it is inclosed herewith for proper disposition, together with departmental letter to the President and copy of the report of the Indian Office.

Respectfully,

Edward M. Dawson.

Chief Clerk.

Ind. Ter. Div.
462-1901.
3 inclosures.

(Endorsed) Union Agency # 1737 received Feb. 11, 1901 office of U. S. Indian Inspector for I. T. Washington, February 7, 1901 Secretary. Choctaw Act providing for commission to negotiate with Dawes Commission APPROVED.

12

D E P A R T M E N T O F T H E I N T E R I O R.
O F F I C E O F I N D I A N A F F A I R S .
W A S H I N G T O N

February 5, 1901.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed herewith a report dated January 28, 1901, from Inspector Wright, transmitting a report from the Supervising Engineer dated January 12, 1901, relative to the decision of Judge Clayton in the case of W. H. Ansley et al v. N. B. Ainsworth et al involving certain rights relative to mineral claims. There was an appeal taken from Judge Clayton's decision to the Supreme Court of the United States and this office understands that said case is on the docket of said court for hearing during the present term. The Supervising Engineer states that if Judge Clayton's opinion is confirmed by the Supreme Court, it may stop the work of appraising and platting towns in the Indian Territory in accordance with the provisions of the act of May 31, 1900, because the Choctaw and Chickasaw agreement provides that the platting and appraising of towns in said nations shall be done by a townsite commission.

The Inspector's report is submitted without recommendation, for such action as the Department shall deem proper in the premises, and attention is invited to office report of December 27, 1900, forwarding a communication received in this office from Hon. Charles Curtis, M. C., relative to said case.

Very respectfully,

Your obedient servant.

13

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

February 16, 1901.

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

Sir:

The Department is in receipt of your communication of January 28, 1901, inclosing a communication from the Supervising Engineer addressed to you on January 12, 1901, relative to the case of W. H. Ansley et al. v. N. B. Ainsworth et al., involving certain rights in mineral claims.

The Commissioner of Indian Affairs forwarded your said communication on February 5, 1901, and called attention to his office report of December 27, 1900, forwarding a communication received from Hon. Charles Curtis, Member of Congress, relative to said case.

The Department is advised that said case was dismissed in the United States Supreme Court on the 4th instant.

The communication from the Supervising Engineer and a copy of the report of the Commissioner are herewith inclosed.

Respectfully,

Thos. Ryan.
Acting Secretary.

Ind.Ter.Div.
598-1901.
2 inclosures.

(Endorsed) Union Agency # 1806 received Feb. 25, 1901 office of U. S. Indian Inspector for I. T. Washington, Feb. 16, 1901. Secretary.
Case of Ansley v. Ainsworth dismissed by Supreme Court.

DEPARTMENT OF THE INTERIOR,
Washington.

February 26, 1901.

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

Sir:

The Department is in receipt of your communication dated January 29, 1901, referring to departmental letter dated December 22d, 1900, addressed to the Superintendent of Schools in Indian Territory, with reference to complaints of certain persons named therein that the Choctaw authorities had denied their children the right to school privileges of the nation, because they are what are known as "court citizens," in which departmental letter the Superintendent was informed that no action would be taken in reference to such citizens until the rolls of the Choctaw citizens had been approved by the Secretary of the Interior.

You inclose therewith a communication from Mr. J. G. Ralls addressed to you, dated January 7th, on the subject, in which he contends, for the reasons stated in his communication, that said children should be recognized as Choctaw citizens and allowed to attend the Choctaw schools. You transmit said communication, with a copy of departmental letter referred to, for such consideration as may be deemed proper in the premises.

-2-

The Commissioner of Indian Affairs on February 1, 1900, forwarded your said communication to the Department for direction.

The suggestion in Mr. Ralls' letter that "the Secretary could not have given the matter mature or careful consideration, because on the 17th day of March, 1899, he was furnished with an opinion from Mr. Vanderventer, assistant attorney general, in which opinion it was held that persons admitted by the Commission to the Five Civilized Tribes, in 1896, from which judgments no appeals were taken, and those admitted by the United States courts upon appeals, should be enrolled, and that there was no authority for the Secretary of the Interior to interfere with such judgments, and the act of June 28th, 1898, only authorized him to see that such persons as were admitted should be enrolled, and that those who were rejected should not be enrolled," is not well founded, for the reason that departmental letter of December 22, 1900, referred specially to that part of your report relative to the manner in which the children should be selected under the Choctaw laws to be sent to the boarding schools, and it stated:

"that although the Choctaw boarding schools are under the control of the Department, superintendents are directed to accept children only upon the presentation of certificates from the County Judges; that several County Judges have canceled school certificates of 'court citizens' and the children have been withdrawn from the schools; that certain Choctaw citizens have recently brought suits contesting the right of citizenship of these 'court citizens,' and until such suits are determined he considers that it would be better that such children be not

-3-

accepted at the various boarding schools; that should they be accepted notwithstanding the protests of the Choctaw authorities it might lead to complications."

It was further stated that the Department -

"....has uniformly refused to pass upon the question of the right of any one to citizenship until his case is regularly submitted by the Commission to the Five Civilized Tribes.

As to the parties claiming citizenship in said Nation, so long as the question of their rights is in dispute the Department, without recognizing such claim, would not be justified in providing school facilities for their children, as is done for certain other Indians outside of the nations of the Five Civilized Tribes.

If they adhere to their claim to Choctaw citizenship, and if, in their judgment, the national authorities or anyone else are preventing them from exercising any legal rights, their remedy, under present conditions, would seem to be elsewhere than in this Department."

It thus appears that the Department did carefully consider the matter, and no reason appears in the communication from Mr. Ralls why there should be any change or modification of its opinion at the present time. You will so advise Mr. Ralls.

A copy of the letter of the Commissioner of Indian Affairs

-4-

is inclosed herewith, and the departmental letter is also returned.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.
422-1901
4091-1900
2 inclosures.

(Endorsed) Union Agency No. 1847 Received Mar. 4, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, Feb. 26, 1901. Secretary.-----Advise J.G. Ralls Dept. fully considered matter of Court citizens attending Choctaw schools, and will make no change.-----

DEPARTMENT OF THE INTERIOR,
Washington.

May 7, 1901.

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

Sir:

On May 3, 1901, the Acting Commissioner of Indian Affairs transmitted your communication of April 24, 1901, again recommending that blocks 474, 475, 476, 477, and the east part of block 478, the east part of block 487, and blocks 488, 489, 490 and 491, in the town of South McAlester, upon a portion of which, except, apparently, block 474, there has been made a reservoir, should be scheduled to Allen Wright as improved property, "if the Department considers a reservoir of this character an improvement within the meaning of the agreement with the Choctaws and Chickasaws".

It appears that the Choctaw, Oklahoma & Gulf Railroad Company, or its predecessors in interest, at a cost of between \$10,000 and \$15,000, made an excavation of about ten feet in depth, covering an area of about six acres, and piled the dirt removed around the land so excavated, thus making a bank around the north and west side of the pond, caused by a stream running through that portion of the town, said bank being, on an average, 20 feet wide on the top, about 1500 feet long and varying in depth "from nothing to 20 feet", the quantity of dirt removed amounting to about 100,000 yards;

that the land is also improved by a spill-way made of lumber and a pump house for the purpose of pumping water to the railroad tank; that the pond was constructed for the purpose of furnishing water to the railroad company, and the embankments are, as stated by Supervising Engineer Hinckley, permanent and lasting, while the level of the water is practically permanent.

It appears from the Acting Commissioner's letter that Wright claims the ownership of said lands under two deeds, one dated March 17, 1897, made by Ed. Sittel, Fritz Sittel, Lina Sittel and Malvina Sittel, which conveyed to him the occupancy right to the land so far as the grantors were able to convey it, and the other, which was without date but was acknowledged April 22, 1901, was made by C.B. Stuart, attorney in fact for the Choctaw, Oklahoma and Gulf Railroad Company, and purports to convey to Wright all of the improvements located on said blocks.

Some of the lots in the blocks claimed by Wright are shown upon the South McAlester schedule as claimed by other persons. The acting Commissioner states that if the class of improvements claimed by Wright is to be considered as coming within the purview of section 29 of the act of June 28, 1898 (30 Stat., 495), the blocks, or such parts of them as are covered by said improvements (meaning, of course, where there are no adverse claims), should be scheduled to Wright; that it cannot be contended that a pond in a natural state is an improvement, but where parties have, at great expense, excavated and formed dams for the purpose of confining water to a limited area, and where such water is used for industrial, agricultural or domestic purposes, such improvements should inure to the benefit of the persons

2161 who own them: and that the lots covered by them should be

-3-

scheduled to such owners; that it does not appear that all of the blocks mentioned are covered by the improvements claimed by Wright, but if the Department concurs in his opinion, he recommends that you be directed to instruct the townsite commission to cause only such lots as are actually covered by the improvements claimed by Wright, that is, the embankment, the excavation, the pump house, the spill-way, and such other improvements as may be thereon, to be scheduled to Wright.

Mr. Smiser, Commissioner on the part of the Choctaw Nation, protests against the scheduling of these lots to Mr. Wright. He states that, under the "Atoka Agreement", this character of improvements could not be considered as "permanent and substantial", because it is anything but permanent and substantial, being a dirt embankment thrown across a branch, which is liable to become dry or break its banks at any time; that he submitted the matter to the Governor of the Nation, who concurred in his views, from whose letter he quotes at some length, part of which quotation is as follows:

"I am acquainted with the location of the tract of land now in question and know it to be merely a railroad pond made by throwing a dam across a small branch and that there was some excavation made along its banks and bed to increase its capacity. The branch that flows into it will soon fill the basin made by excavation; and the embankment, being dirt, will soon crumble and wash away.

As I have said before, I do not consider a lake, pond or an excavation substantial and permanent improvements, and you are

-4-

directed not to recognize them as such."

The Department concurs in the views of the Acting Commissioner, and, in the absence of any valid adverse claim, the Commission is authorized to schedule these lots as recommended by the Acting Commissioner, a copy of whose letter is inclosed herewith.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind.Ter.Div.
1757-1901.
1 inclosure.

(Endorsed) Union Agency No.2161 Received May 13, 1901 Office of U.S.Indian Inspector for Indian Territory.Washington, May 7, 1901, Secretary.-----Choctaw Townsite Commission authorized to schedule certain property in So.McAlester to Allen Wright, as per recommendation of Commissioner of Indian Affairs.--

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Authy 70315

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,

Washington, May 10, 1901.

J. George Wright,

U.S. Indian Inspector,

Muscogee, Indian Territory.

Sir:

This Office is in receipt of a communication from the Honorable Secretary of the Interior reporting the receipt of a telegram from the Mayor of Colgate, Indian Territory, as follows;

"This city three thousand people infected with smallpox about fifty to one hundred cases. Situation entirely beyond our control. Can you help us with physicians and tents. Wire answer. Letter follows."

The letter states that in an informal interview the Surgeon-General of the Marine Hospital Service had promised to send an expert physician to Indian Territory to confer with you, and the municipal authorities of said city, relative to the best method of stamping out the disease; also to make a report as to the extent and malignancy of the epidemic.

In that interview the Surgeon-General suggested that one thousand vaccine points be sent there for use at Colgate and other places, as may be necessary. Pursuant to this suggestion, and in accordance with Department authority, this Office has

-2-

this day ordered sent to your address by separate mail one thousand vaccine points to be used as indicated above.

Upon receipt of these points you will make immediate acknowledgement to this Office, in order that settlement may be effected.

Very respectfully,

A.C.Tonner

Acting Commissioner.

C.H.S.(W)

(Endorsed) Union Agency No.2153 Received May 10,1901 Office of U.S.Indian Inspector for Indian Territory.Washington,D.C. May 10, 1901. Commissioner.----Rel.to smallpox at Coalgate; has forwarded 1000 vaccine points for use there.----

EXECUTIVE DEPARTMENT, CHOCTAW NATION.

G. W. Dukes, Principal Chief.

Talihina, Ind. Ter. May 16th, 1901.

Honorable Secretary of the Interior

Washington, D. C.

Sir:-

I address you in regard to the schools of the Choctaw Nation, with a view of arriving at an adjustment of the controversy now existing, as to their control, that will be satisfactory to both the government of the United States and the Choctaws.

As you are aware, the Choctaws contend that the authority of the government of the United States, as expressed in the Atoka Agreement, is not suffidient to warrant its assumption of the entire control of our schools.

Without discussing the question as to whether the government of the United States has or has not this authority, I desire to call your attention to the fact that this condition has resulted in a spirit of unrest and dissatisfaction among the Choctaws, as to their schools; and it is apparent that so long as the same exists, the schools;will proceed without harmony, and without the co-operation of those whom they are designed to benefit, which is absolutely necessary for the accomplishment of the greatest possible good.

-2-

I assume that it is the purpose of the government of the United States and its representatives, both in Washington and the Indian Territory, to do all that can be done to make most effective and beneficial, the schools of the Choctaw Nation, and such is certainly my purpose; and to that end I suggest that you designate some one (preferably the present school representative of the government of the United States in the Indian Territory) to meet the governor and the Board of Education of the Choctaw Nation, with a view to the formulation of a plan looking to such control of our schools as will be satisfactory to all parties interested; such plan to be submitted for the approval of the Secretary of the Interior and the school authorities of the Choctaw Nation.

If this can be done, I am sincerely of the opinion that a plan can be agreed upon that will eliminate the elements of unrest and dissatisfaction, above referred to, that now results in crippling the full usefulness of our schools; and I hope the idea herein suggested may be concurred in and that the same may be acted upon at an early date.

Very respectfully,

G. W. DUKES

Principal Chief

Choctaw Nation.

DEPARTMENT OF THE INTERIOR,
Washington.

May 16, 1901.

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

Sir:

The Department is in receipt of your report dated May 1, 1901, upon the communication dated April 2, 1901, from Mr. R.H.Smith, of South McAlester, Indian Territory, stating that the United States Indian Agent refuses to pay him a balance of \$132.00 for services in connection with the smallpox epidemic in the Choctaw Nation, and asking that the same be paid.

You report that you have personally investigated the matter and interviewed the applicant in reference to his claim and also in regard to the charges made in his communication that the Indian Agent and the Captain of United States Indian Police had appropriated for their own use supplies furnished smallpox camps.

You further state that the Board of Health of the Choctaw Nation, which had charge of the smallpox epidemic therein, included in its report of the expenses incurred an account of Mr.Smith amounting to \$54.00, which was paid by Choctaw warrant and was acknowledged by him; that with reference to said

-2-

charges against the Indian Agent and Captain of Police, Mr. Smith can furnish no specific information, but stated he saw said officers in consultation with merchants who furnished supplies, and therefore supposed that they must be in collusion together.

You report that you have no reason to believe that the actions of the Agent or of the Captain of Police were otherwise than proper in every instance, and you recommend that no further notice be taken of the communication of Mr. Smith.

The Acting Commissioner forwarded your said report on May 14th without any recommendation.

The Department concurs in your recommendation and Mr. Smith has been so advised.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind. Ter. Div.
1366-1892-1901.

(Endorsed) Union Agency No. 2204 Received May 27, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, May 23, 1901. Commissioner.-----Encloses letter from Secretary approving recommendations of Inspector rel. R.H. Smith's smallpox claim.-----

DEPARTMENT OF THE INTERIOR.

Washington, May 21, 1901.

Honorable G. W. Dukes,

Principal Chief, Choctaw Nation,

Talihina, Indian Territory.

Sir:

The Department is in receipt of your communication dated May 16, 1901, in which you state that the Choctaw Nation contends that the agreement set out in section 29 of the act of Congress approved June 28, 1898, commonly called the "Curtis Act," is not sufficient to authorize the control of the Choctaw schools by the Government of the United States; that, "without discussing the question as to whether the government of the United States has or has not this authority," the present condition has resulted in a spirit of dissatisfaction among the Choctaws concerning their schools, and that so long as said condition remains the schools will proceed inharmoniously and without the cooperation of those whom they are designed to benefit.

You further state that you assume that the object of the representatives of the government is to make the schools of said nation most effective and beneficial, and that such also is your desire, and you therefore suggest that the Department

-2-

"designate some one (preferably the present school representative of the government of the United States in the Indian Territory) to meet the governor and the Board of Education of the Choctaw Nation with a view to the formulation of a plan looking to such control of our (your) school as will be satisfactory to all parties interested; such plan to be submitted for the approval of the Secretary of the Interior and the school authorities of the Choctaw Nation."

In reply, you are advised that a copy of your said communication has been referred to the United States School Superintendent for the Indian Territory, through the United States Indian Inspector, and he has been advised that the Department sees no objection to his conferring with the Principal Chief and the Board of Education and considering any suggestions made by them, and report the same to the Department.

Respectfully,

Thos. Ryan

Acting Secretary.

Ind.Ter.Div.
1947-1901.

(Endorsed) Union Agency No.2206.Received May27, 1901.Office of U.S. Indian Inspector for Indian Territory.Washington, May 21, 1901. Secretary.---Encloses letter to Supt. of Schools rel. control of Choctaw schools.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

May 23, 1901.

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

Sir:

The Department is in receipt of your letter of May 8, 1901, transmitting a communication from Choctaw Townsite Commissioner Smiser, inclosing a letter from Harry Johnson of South McAlester, seeking reconsideration of departmental action of April 13, 1901, holding that lots 1, 2, 3, 4, 5, and 6, block 454, and lots 4 and 5, block 455, in that town, should not be scheduled to him, the improvements thereon consisting of blackberry bushes and dewberry vines.

The Townsite Commissioner states that the representations of Mr. Johnson are true, from the best evidence he can gather, and that he believes such lots should be scheduled to him; that the Commissioner on the part of the nation, however, dissents from such recommendation.

Departmental letter of April 13, 1901, held that "grape-vines, berry bushes and blackberry vines, requiring constant care and tillage, do not constitute permanent improvements sufficient to justify the scheduling of lots containing such

-2-

vines and bushes as permanently improved".

You make no recommendation in transmitting said communication.

Mr. Johnson alleges that at very great expense and care he took the timber and undergrowth from these lands, grubbed them nicely, filled in at considerable expense ditches and ravines running across them, cut ditches at other places running at right angles to take care of the water in this section of the town, fenced the lots with expensive woven wire fencing, and, after reducing the land to a high state of cultivation, planted, in 1897 and 1898, the best and most expensive varieties of blackberry bushes and dewberry vines; that these plants have been carefully cultivated and cared for for three or four years; that they are now in a "high state of bearing and are of great value"; that he has put upon these lands in cash, and without taking into account his labor, at least \$600.

The Acting Commissioner of Indian Affairs, in his letter of May 17, 1901, transmitting your report, states that, as the Indian Office, in a report of August 10, 1899, expressed the opinion that the grading of a lot was a permanent improvement; that the filling in of a lot was a permanent improvement;

-3-

that sodding was a permanent improvement; that the removal of boulders "and sodding should be regarded as a permanent improvement sufficient to permit the owner or person who has accomplished the same to buy the lot as an improved lot, he is "inclined to the opinion" that the instructions contained in departmental letter of April 13, 1901, should be modified, and that you should be instructed to direct the Townsite Commission to schedule the lots mentioned in Mr. Johnson's communication to him as improved lots.

The Department did not concur in the Indian Office recommendation of August 10, 1899, and it sees no reason for receding from the position taken in its letter of April 13, 1901, as to lots claimed by Mr. Johnson. The 29th section of the act of June 28, 1898 (30 Stat., 495) which provides that lots improved only with fences, tillage and temporary houses should not be scheduled as improved, contemplated such cases as this, where tillage is the chief feature.

You will advise Mr. Johnson in accordance with the views herein expressed.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Ind.Ter.Div.
1932-1901.
1 inclosure.

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 2217. Received May 28, 1901. Office of U. S. Indian Inspector for Indian Territory. Washington May 23, 1901. Secretary----Town lots with berry bushes, vines etc., claimed by Harry Johnson, of South McAlester, I. T., can not be scheduled to him.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

June 4, 1901.

I.T.D. 2125-1901

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

Sir:

The Department is in receipt of your report dated May 16, 1901, upon the outbreak of smallpox at Coalgate in Indian Territory, in response to departmental telegram dated May 8, 1901.

You report that you sent Dr. Fite, of Muskogee, to investigate the matter and consult with the mayor of said town relative to the best steps to be taken to control and prevent the spread of the disease; that the Indian Agent for the Union Agency directed the Indian policemen to render the mayor such assistance as might be necessary in carrying out any orders or proclamations issued by him with reference to caccination.

You also transmit a copy of the report from Dr. Fite, showing that there were twelve cases of smallpox, one of a confluent variety, and the others varying from very light to semi-confluent, and that there have been from three to five deaths during the past three weeks; that said epidemic is not of malignant smallpox, but of the same character as that which has existed for the past two and a half or three years in the Indian Territory. You recommend that no further action be taken in the premises.

-2-

The Commissioner of Indian Affairs forwarded your said communication on June 1, 1901.

You are advised that your action in the premises is approved by the Department.

Respectfully,

Thos. Ryan.
Acting Secretary.

Ind.T.D.

(Endorsed) Union Agency # 2291 received Jun. 13, 1901. office of U. S. Indian Inspector for I. T. Washington, June 10, 1901. Commissioner. Encloses letter from Dept. Approves Inspector's action rel. smallpox outbreak at Coalgate.

Finance.
28169-1901
3 Incls.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,

Washington, June 5, 1901.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report, dated the 23rd ultimo, from the U.S. Indian Inspector for the Indian Territory in response to Department reference of the 6th ultimo, in the matter of a communication, dated April 27, 1901, from Valentine Burris and others, of Atoka, Indian Territory, relative to the destruction of their property by the authorities to prevent the spread of smallpox raging in that vicinity in 1899 and 1900, and for which property they ask reimbursement.

With his report the Inspector returns the letter from Valentine Burris and others, and also a report to him from the U.S. Indian Agent, Union Agency, to whom the matter had been referred.

From these statements it appears that the property destroyed for which reimbursement is claimed consisted of houses, in such delapidated condition that they could not be fumigated, and their contents; that before the property was destroyed it was agreed between the Indian Agent and the Inspector that all claims for property thus destroyed should be disallowed.

It further appears that an appraisement had been made by the Choctaw Medical Board of the contents of certain of the houses destroyed, its report showing the value of such property as follows:

A.M.E.Church,-----	\$150.30
Mrs.Tucker,-----	40.50
Nathan Cary,-----	8.00
Lake Seabin,-----	23.80
Mrs.Love,-----	150.00
Mrs.Evans Murphy,-----	130.70
Lou Tipton,-----	57.30

--the value of the houses burned not being considered.

The Indian Agent concludes his report with the statement that, as all the inmates of the buildings destroyed were given medical attention and subsistence during their stay at the detention camps and furnished with new clothing when finally discharged, they are not, in his judgment, entitled to further relief from the Government.

The Inspector while agreeing with the Agent in his conclusions, asks that, if it be deemed proper that claims of this character be considered, he be so advised, and the matter will receive further consideration, providing there is any balance left of the appropriation for suppressing the spread of smallpox after the settlement of all other indebtedness.

In transmitting the papers herewith, the Office cannot, as it understands the case, agree with the Indian Agent and Inspector, that these people are not entitled to further relief or that it is not incumbent upon the Government to reimburse them for property necessarily destroyed under these circumstances.

The books of the Office show a balance of some \$3,000.00 still to the credit of the appropriation of \$50,000.00 for suppressing the spread of smallpox in the Indian Territory, but as all the claims for supplies, etc., furnished in connection with that matter have not yet been paid, it is not deemed advisable to use any of that fund for reimbursing these people for the

-3-

loss of their property at the present time.

It is the opinion of this Office, however, that, as a matter of justice and humanity, some action be taken for the relief of these people to compensate them in some degree for the loss of their property.

New clothing of itself is poor recompense to a family for the destruction of all its household property and is a very unsatisfactory stock of goods with which to commence house-keeping again after being discharged from a smallpox hospital.

The Office does not clearly understand the condition of affairs as they prevail in the Indian Territory, in regard to such matters, to such an extent at least as to enable it to make any recommendation in the matter further than that, unless some better reasons than those given for refusing to recognize the claims of these people, be advanced, some action be taken, as already stated, to recompense them for their loss.

The papers are therefore herewith submitted without further comment.

Very respectfully,

(Signed) W.A.Jones,

Commissioner.
A.C.T.

A.B.(G)

(Endorsed) Union Agency No.2401 Received Jul.12,1901 Office of U.S.Indian Inspector for Indian Territory.Washington,June 7, 1901. Secretary.-----Approves report concerning smallpox claim of Valentine Burris, etal.-----

Finance
27077-1901,
Cl.126001,
Authy.70634
9 Incls.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS.

Washington,
June 14th, 1901.

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

Sir:-

Replying to your letter of May 17th. 1901 with which you transmitted vouchers in favor of Mother M. Virginia for tuition etc. of Choctaw Indian pupils at St. Agnes' school, Choctaw Nation, Indian Territory, from January 1st. 1899 to June 30th. 1899, inclusive, amounting to \$370.90, with recommendation that the U.S. Indian Agent at Union Agency be authorized to pay the claim, I have to say that this Office concurred with the views of Superintendent Benedict and yourself and submitted all the papers to the Secretary of the Interior for his approval.

A copy of authority for the settlement is herewith inclosed together with vouchers and quarterly reports, in order that they may be settled by the Indian Agent at Union Agency.

Very respectfully,

W.A. Jones

Commissioner.

T.S.B.(S)

(Endorsed) Union Agency No. 2302 Received Jun. 18, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, June 14, 1901. Commissioner-----Authy. to settle vouchers of Mother M. Virginia for tuition of Choctaw pupils.-----

DEPARTMENT OF THE INTERIOR,
Washington.

June 28, 1901.

I.T.D.2589-1901.

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

Sir:

The Department is in receipt of a letter from L.N.

Beeman, Abbott, Arkansas, in which he states that -

"One Michael F.Gray of Red Oak, Ind.Ter., runs a store, formerly a drug store, which is a cover for a 'blind tiger'. He is a drunken fellow and keeps alcohol 'on tap.' I have eaten lunch there and have had whiskey set out by the bottle. His place is quite a resort for tipplers."

He further states that said Gray practices medicine quite extensively, but without license, and that while said Beeman was at Red Oak he often heard it said that "As long as Grady is Marshal Dr.Gray will go on just the same way for he stands in."

Said letter from Beeman is inclosed herewith, and you are directed to make an investigation and report upon the matter, with your recommendation, together with a return of said letter.

Respectfully,

E.A.Hitchcock.

1 inclosure.

Secretary.

(Enclosed) Union Agency No.2364 Received Jul.5,1901 Office of U.S.Indian Inspector for Indian Territory.Washington,June 28,1901. Secretary.--Encloses letter of L.N.Beeman,Abbot,Ark.complaining against one Gray, of Red Oak, for selling liquor.----

DEPARTMENT OF THE INTERIOR,
I. T. D.
2431-1901. Washington.
164-1900 File.

July 6, 1901.

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

Sir:

The Department is in receipt of your letter of June 11, 1901, concerning the matter of the removal of certain parties from lands covered by the lease of the McAlester Coal Mining Company in the Choctaw Nation.

In departmental letter of April 30, 1901, you were directed to advise the company that the United States courts had jurisdiction of the matter.

On June 6, 1901, however, you were directed that, "if it be true that the surface of the land occupied by the houses of said parties be, as alleged, 'absolutely necessary' for the development of the mining operations of said company under its said leases, then, in the opinion of the Department, the value of the improvements should be ascertained in the manner prescribed by the regulations in section 6, but, before proceeding to appoint the arbitrators, as designated in said section, there should be full and satisfactory evidence furnished that the surface of said ten acres is absolutely

necessary for the prospecting and mining by said company, and to that end the Department desires that you cause a careful investigation to be made at a hearing, at which the company and the parties owning improvements on the land shall have an opportunity to be present and submit evidence in support of their respective claims".

You state that, in your communication of April 18, 1901, you reported that, prior to the time this company acquired the leases, the parties owning improvements on the land were employed as miners and erected dwelling houses thereon; that, after ceasing to work for this company, they joined others in a general strike, and that they declined to remove from the land unless the company paid them their valuation for their improvements, but the company refused their demand, and asked the Department to remove the parties.

You also submit a copy of a sworn statement by the Superintendent of the company, stating that the surface of the tract in possession of these parties is absolutely necessary for prospecting and mining by said company.

You say that the company had been requested to endeavor to make amicable settlement with these parties, which it failed to do; that the matter was subsequently referred to the United States Indian Agent for investigation, and thereafter all

-3-

papers were referred to the Mining Trustees for the Choctaw and Chickasaw Nations, as shown by the papers submitted with your letter of April 18, 1901.

You ask, considering the information before the Department, if a further investigation should be had. You say that the individual occupants were members of the United Mine Workers, who had been on a strike for more than a year past, concerning which the Department caused an extensive investigation to be made, and that many of these striking miners still remain in the Territory, and you advise the Department that, should it be considered that this matter should be disposed of by the Department, many other cases of a similar character will be submitted by other operators to the Department for settlement; that there are rumors of a contemplated strike by miners throughout the Territory, and should a matter of this character be considered proper to be disposed of by the Department it might lead to operators becoming more independent in discharging men, relying on the Department to remove them from lands covered by their leases after having been discharged.

You refer to section 29 of the act of June 28, 1898 (30 Stat., 495), which makes provision for damages, to be ascertained under the direction of the Department, and paid to the allottee or owner of the land before commencing

-4-

operations, and to section 6 of the mining regulations as amended May 22, 1900, and state that in the present instance none of the parties having improvements are "owners of the land", nor are they lessees of the owner of the land, having no right there whatever, except as to the buildings and fences which they have erected, and should they be unable to make satisfactory arrangements with the mining operators for such improvements, "it would seem that they could remove them, or be themselves removed by authority of the Department".

You, therefore, conclude that the regulations referred to do not apply in such instances, and you question the advisability of recognizing these individuals as having any rights in the premises, except as to their buildings and fences, and state that the attempt to settle such questions by the Department to will cause constant annoyance and trouble, operators as well as miners then relying on the Department to adjust their differences, but should it, however, not be considered that the courts have jurisdiction of the matter, you suggest that, when applications, in similar cases are made to the Department, operators as well as miners be advised to make settlement themselves, and, when unable to do so, that each of them should select an arbitrator, and such parties select a third

-5-

person, who shall constitute a board to consider and ascertain the value of their buildings, and that such board shall be appointed within thirty days, otherwise at the expiration of such time that the miners will be removed from the tracts in possession of the operators.

On May 20, 1901, the attorney for the company submitted his views as to what action should be taken by the Department. It is claimed by him that the provision in the act of June 28, 1898, that the United States courts in the Indian Territory "shall have exclusive jurisdiction of all controversies growing out of the titles, ownership, occupation, possession or use of real estate, coal, and asphalt in the territory occupied by the Choctaw and Chickasaw tribes", does not apply to the present case, and that the court would not take jurisdiction thereof.

The regulations of May 22, 1900, provide, in section 6, as follows:

"All lessees of coal and asphalt on land allotted, sold, or reserved, shall be required, before the commencement of operations, to pay to the individual owner the value of the use of the necessary surface for prospecting and mining, including the right of way for necessary railways and the damage done to the lands and improvements; and in case of disagreement, for the purpose of the ascertainment of the fair value of the use of the land and the actual damage done, the owner of the land and the lessee shall each select an arbitrator, who, together with such person as shall be appointed or designated by the Inspector located in the Indian Territory, shall constitute a board to consider and ascertain the amount that shall be paid by the lessee on account of use of the land and damage done, and the award of such board shall be final

-6-

and conclusive, unless the award be impeached for fraud. All timber and other materials taken by the lessee from land allotted, sold, or reserved for use in the erection of buildings, thereon, and in the mine or mines operated by him thereon, as for shorting levels in coal mines, and so forth, shall be paid for by the lessee at the usual rates."

After a careful reconsideration of the matter it is considered that the regulations had reference solely to land allotted, sold or reserved. As in the present instance such a condition does not exist, the Department deems it inadvisable to have further investigation made in the matter, as proposed in letter of June 6, 1901. Until the Company has sought its remedy in the court, if it is entitled to any, the Department does not feel warranted in taking any further steps in the matter.

A copy of the Commissioner's letter of June 19, 1901, is inclosed herewith.

Respectfully,

E. A. Hitchcock.

Secretary.

1 inclosure.

(Endorsed) Union Agency No. 2414. Received Jul. 15, 1901. Office of U. S. Indian Inspector for Indian Territory. Washington, July 6, 1901. Secretary---Re-considers action in matter removal parties from lease McAlester Coal Mining Co.--they must apply to Court.

DEPARTMENT OF THE INTERIOR,

Washington.

I. T. D.
3208-1901.
File 896-1898.

July 30, 1901.

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

Sir:

With his letter of July 27, 1901, the Commissioner of Indian Affairs transmitted your report of July 23, 1901, concerning a communication, with inclosures, from the principal Chief of the Choctaw Nation in regard to one Bounds, a non-citizen, fencing large tracts of land in the Choctaw Nation, claiming to be an Agent for Mississippi Choctaws.

The Commissioner states that the Department, on July 22, 1901, instructed him to direct the Indian Agent for the Union Agency by wire to use the Indian police for the purpose of preventing Bounds from so fencing land, and he deems no further action on the part of the Department necessary at this time.

In this the Department concurs.

A copy of departmental letter of July 22, 1901, to the Commissioner, and a copy of the Commissioner's letter of July 27, 1901, are inclosed.

Respectfully,

Thos. Ryan,
Acting Secretary.

2 inclosures

(Endorsed) Union Agency No. 2501. Received Aug. 5, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, July 30, 1901. Secretary-----Sends correspondence rel. Agent's instructions in matter of Bounds' fencing in Choctaw Nation.

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D.
3288-1901.

August 2, 1901.

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

Sir:

The Department is in receipt of a communication from the Commissioner Of Indian Affairs, dated July 26, 1901, transmitting a letter written to you on July 19, 1901, by the Chairman of the Choctaw Townsite Commission, and by you forwarded to the Department. With said letter is a memorandum dated July 20th addressed to you, together with a copy of the decision of the United States court in the matter of the application for the appointment of a third townsite commissioner to appraise certain lots in the town of South McAlester upon which is located a reservoir.

The court refused to appoint a commissioner for the reason that it did not appear that there was a difference of opinion relative to the value of the lots.

The Commissioner of Indian Affairs recommends that you be directed to instruct the Chairman of the Townsite Commission to request the townsite commissioner for the Choctaw Nation to proceed with the appraisal of the Allen Wright property, and,

-2-

if said commissioner for the Choctaw Nation refuses, that you then apply to the United States court for the issuance of a mandate or order directing said commissioner for the Choctaw Nation to proceed with the appraisement, and that, if, after such appraisement by the Choctaw Townsite Commissioner, there exists a difference of opinion relative to the value of any lot or lots so appraised, the Chairman of said commission should apply to the court for the appointment of a third commissioner.

The Department concurs in the recommendation of the Commissioner, and incloses herewith a copy of his report. You will be governed accordingly.

Respectfully,

Thos. Ryan,

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 2515. Received Aug. 9, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, August 2, 1901. Secretary----Instruct Chairman Choctaw T.S. Commission to request Choctaw Commission to proceed with appraisement of Allen Wright lots; and, if he refuses, then apply to Court for mandamus.&c.

DEPARTMENT OF THE INTERIOR,

Washington.

I. T. D.
3508-1901.

August 13, 1901.

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

Sir:

Your telegram of August 11, 1901, advising the Department that the surveying and platting of the town of Poteau has been completed, and that the services of the townsite commission are desired elsewhere, also that Townsite Commissioner Smiser declines to act, has been received.

You recommend that Commissioner Smiser be relieved by telegraph, and that you be directed to request the Principal Chief to make another appointment, and also that the same action be taken with reference to Commissioner Burney, Townsite Commissioner for the Chickasaw Nation.

Your telegram was referred to the Commissioner of Indian Affairs for immediate report. The Department is now in receipt of a report from the Commissioner, in which reference is made to departmental correspondence concerning the matter, and your recommendation is concurred in.

The Department approves of the recommendations, and incloses a copy of the report of the Commissioner.

-2-

The Department has this day sent the following telegram to Wesley B. Burney, Townsite Commissioner for the Chickasaw Nation:

"You are hereby removed from the office of Townsite Commissioner for the Chickasaw Nation for refusal to perform your official duties under the provisions of the act of Congress approved May 31, 1900(31 Stat.,221,238)."

A similar telegram has been sent to Butler S. Smiser, Townsite Commissioner for the Choctaw Nation.

The Department has also wired you as follows:

"telegram August eleventh received. Have sent telegrams to your care removing Commissioners Burney and Smiser. Ascertain that telegrams are duly delivered, then call upon executives of the nations to fill vacancies within ten days and report action. Letter will follow."

Respectfully,

Thos. Ryan,
Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No.2567.Received Aug.19,1901.Office of U.S. Indian Inspector for Indian Territory.Washington,D.C.Aug.13,1901. Secretary-----Confirm telegram removing Townsite Commissioners Burney and Smiser, also telegram requesting Principal Chief of Choctaw Nation and Gov. of Chickasaw Nation, to make new appointment.

51

HOUSE OF REPRESENTATIVES,
Washington.

Yazoo City, Miss.,
Aug. 23rd, 1901.

Hon. Tams Bixby,

Muskogee, I.T.

My Dear Sir:-

The letter of Aug. 14th from the Commissioner in Charge addressed to me at this place, at hand. I think it is a great pity that the commissioner of Indian Affairs did not know what he wanted before the Indians were put to the expense and to the loss of time and the fatigue of travel necessary to appear at Decatur, Carthage, and Philadelphia before the Committee of the Commission at those places. What in the world anybody wants a Choctaw Indian to trace his ancestry back to 1830 for, I cannot imagine. For the purposes of this investigation, it seems to me that the thing to be ascertained is whether the person being examined is a Choctaw Indian or not. This fact being once determined, it might, I think, be presumed that he had some sort of Choctaw Ancestry in 1830. I think, however, the position as to examining upon benefit received under the xiv Article of the Dancing Rabbit Treaty well taken. If Choctaw Indians are to be expected to know who their great-grand fathers were, there will be some lively disappointment everywhere. As to determining the question as to whether a person is or is not a Choctaw Indian, if the Government has any confidence in the Commission and if the Commission has any confidence in its committees, then it seems to me that ordinary eye-sight is the very best testimony possible. A man must

853.

-2-

be a fool who cannot tell a full blood, a half blood, or even quarter blood Indian. In Miss. all Indians are Choctaws. However I fully appreciate the fact that in view of the letter to the Secretary of the Interior from the office of the Commissioner of Indian Affairs, that there was nothing left for the Dawes Commission to do, except to proceed to do its work over again. As requested by you, I send back the letter from Mr. Turner, Acting Commissioner of Indian Affairs to the Secretary of the Interior dated April 30th, 1901, and thank you for its perusal. I see where and how I made the mistake.

I am, with every expression of regard,

Yours very truly,

John G. Williams.

M.C. 5th District Mississippi

1 inclosure.

(Endorsed) Union Agency No. 853. Relative --- Letter from Commissioner in Charge of Five Civilized Tribes, re. ancestry back to 1830 of the Choctaw Indians. ----

DEPARTMENT OF THE INTERIOR,

Washington.

September 3, 1901.

I.T.D.3940-1901.

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

Sir:

The Department is in receipt of the following
telegram:

"South McAlester, Indian Territory, Aug. 31, 1901.

To Hon Secy of the Interior
Washn D C

I am in receipt of the resignation of B. Smiser as Choctaw Townsite Commissioner date August twenty eighth nineteen hundred and one. On August 30, 1901 I notified Mr. Smiser that his resignation as Choctaw Townsite Commissioner was accepted. You are hereby notified that I have on this day approved and commissioned Ellis Thompson of Tuskahoma Ind. Territory as Choctaw Townsite Commissioner and have instructed him to report for duty immediately.

G.W. Dukes, Principal Chief,
Choctaw Nation."

To which the Department this day replied by telegraph as follows:

"Dukes, Principal Chief,
South McAlester, Indian Territory.

Answering telegram, you are advised that the townsite commissioner for the Choctaw Nation having been removed for refusal to act, and after your failure to appoint his successor as required by law, when requested so to do, the Department duly appointed a townsite commissioner to fill said vacancy and cannot now recognize your right to appoint Mr. Thompson townsite commissioner for the Choctaw Nation."

By direction of the Secretary.
Respectfully,

Edward M. Dawson.
Chief Clerk.

-2-

(Endorsed) Union Agency No. 2680 Received Sep. 9, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, Sept. 3, 1901. Secretary.-----Copies of telegrams to and from Prin. Chief Dukes concerning matter of recognizing Ellis Thompson as townsite commissioner.-----

DEPARTMENT OF THE INTERIOR,

Washington.

September 11, 1901.

I.T.D.4065-1901.

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

Sir:

On September 9, 1901, the Acting Commissioner of Indian Affairs reported on communications from the president of the Denison and Northern Railway Company and recommended that, as it was alleged the company has commenced grading on sections 3 and 4 of the main line of said company's road in the Choctaw Nation Indian Territory, you be instructed to furnish reliable information relative thereto, so that if it is found that work is being undertaken by the company along this portion of its surveyed line, legislation or judicial action may be taken, if necessary, to forfeit the right of way granted said road.

The Commissioner of Indian Affairs has been instructed to furnish you a copy of the Acting Commissioner's letter, which will give you other information, which induced said recommendation.

You are requested to give the matter prompt attention and report in due time.

Respectfully,

Thos. Ray.

Acting Secretary.

(Endorsed) Union Agency No. 2739. Received. Sep. 20, 1901. Office of U.S. Indian Inspector for Indian Territory. Washington, Sept. 11, 1901. Secretary---Desires investigation rel. work done by Denison and Northern R.R.

56

DEPARTMENT OF THE INTERIOR,

Office of the Assistant Attorney General,

Ind.Ter.Div.
3938-1901

Washington.

September 24, 1901.

The Secretary of the Interior,

Sir:

This office has received your request for an opinion as to the duty of the Department in a case where the Principal Chief of the Choctaw Nation has refused to sign the patents or deeds for certain town lots in the townsite of South McAlester, Indian Territory.

The agreement with the Choctaw and Chickasaw Indians, ratified and approved by the act of June 28, 1898 (30 Stat., 495,404), provides that there shall be a commission for each of said nations, which shall lay out townsites and cause to be prepared correct plats of each town, which shall be approved by the Secretary of the Interior, and further provides as follows:

When said towns are so laid out, each lot on which are permanent, substantial and valuable improvements, other than fences, tillage, and temporary houses, have been made, shall be valued by the commission provided for the nation in which the town is located at the price a fee-simple title to the same would bring in the market at the time the valuation is made, but not to include in such value the improvements thereon. The owner of the improvements on each lot shall have the right to buy one residence and one business lot at fifty per centum of the appraised value of such improved property and the remainder of such improved property at sixty-two and one-half per centum of the said market value within sixty days from date of notice served on him that such lot is for sale, and if he purchases the same he shall, within ten days from his purchase, pay into the Treasury of the United States one fourth of the purchase price, and the balance in three equal annual installments, and when the entire sum is paid shall be entitled to a patent to the same.

-2-

It seems that when the town of South McAlester was platted a question arose as to whether certain lots upon which fruit trees were growing should be valued by the townsite commission as improved lots. Two members held that they should be so treated, while the member representing the Choctaw Nation held the contrary view. This Department concurred with the majority of the board, and the schedule of lots showing these as improved was approved. The owner of the improvements on certain of these lots deposited the purchase price thereof, as fixed by the appraisement, in the United States Treasury. Patents were prepared by the United States Indian Agent and signed by the Governor of the Chickasaw Nation. The Principal Chief of the Choctaw Nation has refused to sign these patents, contending that shade and fruit trees can not be considered "Permanent, substantial, and valuable improvements," and that these lots should be sold as unimproved property.

The Indian Inspector has submitted a report of the matter, saying:

In view of the fact that the Department has heretofore considered the matter and has held that the lots referred to should be considered as improved within the meaning of the provisions of the agreement with the Choctaw and Chickasaw Nations, and as such lots have been paid for in accordance with the provisions of this law, I respectfully ask to be advised if the matter should be presented to the Judge of the United States court for the Central District, Indian Territory, with the request that mandamus issue to compel the Principal Chief of the Choctaw Nation to sign the patents referred to, or that such other instructions as may be deemed proper be furnished me.

The Commissioner of Indian Affairs, transmitting that report, says:

In the opinion of this office it is not incumbent upon the Department to take any action in the premises.

-3-

The office believes that the right to a patent is complete whenever final payment has been made for any town lot in the Choctaw and Chickasaw Nations, and that it is incumbent upon the purchaser of such lot to invoke the aid of the courts or to take such other action as may be deemed proper to protect his rights in the premises, and it is respectfully recommended that the Inspector be so advised.

These lots have been regularly declared to be improved property, and the owner of the improvements has done all that the law requires he shall do to entitle himself to a patent. The title to the property is in him, and the evidence of that fact--a patent--should be issued. This Department, has, however, no authority to issue such instrument or to compel the representative of the Choctaw Nation to execute it. That is a duty due to the owner of the property, the performance of which may be enforced by him alone. This Department has no further duty to perform in the premises.

The papers submitted are herewith returned.

Very respectfully,

S.W.Proudfoot,

First Assistant Attorney

Approved, Sept.24,1901:

THOS.RYAN,

Acting Secretary.

(Endorsed) Union Agency No.2840 Received Oct.10,1901 Office of U.S.Indian Inspector, for Indian Territory. Washington, Oct.3,1901.Secretary.----Transmits opinion of Asst.Attorney General for Interior Dept., relative to obtaining title to certain lots in So.McAlester, scheduled as improved property, for which the Prin.Chief of Choctaw Nation refused to sign deeds.--

DEPARTMENT OF THE INTERIOR.

Washington.

October 30, 1901.

Mr. Thomas W. Hunter,

Caddo, Indian Territory.

Sir:

Your appointment by the Principal Chief of the Choctaw Nation, to be a Townsite Commissioner and Appraiser for the Choctaw Nation in the Indian Territory, to serve with a similar officer appointed by the President of the United States (JOHN A. STERRETT, appointed January 20, 1899) is hereby recognized and accepted, vice BUTLER S. SMISER, resigned.

Your salary will be the same as that of the Presidential appointee-Five dollars (\$5) a day when actually and necessarily employed, and actual traveling expenses, and a per diem of Two Dollars (\$2) in lieu of subsistence while on duty away from your home.

Please take and subscribe the inclosed oath of office, and also the oath concerning your ownership of property within the Nation.

Very respectfully,

E.A.Hitchcock.

Through the Commissioner
of Indian Affairs.

Secretary.

(Endorsed) Union Agency No. 2964 Received Nov. 7, 1901 Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 2, 1901, Commissioner.-----Encloses Dept. letter accepting appointment of Thomas W. Hunter, as Townsite Commissioner, etc., for Choctaw Nation.-----

Land.

62,367-1901.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington,

November 9, 1901.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit, herewith, a report made on October 31, 1901, by J. George Wright, U.S. Inspector for the Indian Territory, transmitting an Act of the Choctaw National Council, entitled:

"An Act creating a commission to negotiate an agreement with the Commission to the Five Civilized Tribes to close the citizenship rolls, and for the settlement of all other matters."

This act was approved by the Principal Chief October 14, 1901 and is as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled:

" Section 1. That the Principal Chief is hereby authorized and directed to appoint a commission composed of three members citizens of the Choctaw Nation, of which commission the Principal Chief shall be ex-officio chairman, to meet the Commission to the Five Civilized Tribes, and jointly with such commission as may be created by the proper authority on behalf of the Chickasaw Nation, negotiate a treaty supplementary to the Atoka Agreement, providing for ratifying and closing the citizenship rolls.

" Section 2. Be it further enacted, That the said Commission shall enter into negotiations with the Commission to the "Five Civilized Tribes relative to a settlement and final "disposition of the coal and asphaltum interests of the "Choctaw people.

" Section 3. Be it further enacted, That said commission "shall have complete authority to settle all other matters "that require settlement before our tribal government ends.

" Section 4. Be it further enacted: That such treaty as "may be made to these ends shall become effective only when "ratified in like manner as the Atoka Agreement.

" Section 5. Be it further enacted: That the commission "appointed under this act shall receive Five dollars (\$5.00) "each per day while actually engaged in such services and ten "cents per mile, one way, over the most direct route (rail- "way): and the sum of Twenty-five Hundred Dollars (\$2,500.00) "is hereby appropriated to pay said expense, or so much thereof "as may be necessary, and the National Auditor shall issue his "warrant for the compensation herein provided for, and the "National Treasurer shall pay the same, and this act shall take "effect and be in force from and after its passage and approval."

The Inspector referred the matter to the Commission to the Five Civilized Tribes, which commission on October 24, 1901, advised him that on July 19, 1901, it recommended to the Department that it be authorized to negotiate a supplementary treaty with the Choctaws and Chickasaws, and that on August 5, 1901, the Department approved its recommendation.

The Inspector recommends that the act be approved, and in

view of the correspondence between the commission and the Department mentioned by the commission and because it is the opinion of the office that a supplementary agreement should be made, the Inspector's recommendation is respectfully concurred in.

Very respectfully,

Your obedient servant,

W.A.Jones,

Commissioner.

(W.C.V.)

P.

(Endorsed) Union Agency No.3531 Received Feb.17,1902 Office of U.S.Indian Inspector, for Indian Territory.Washington, Feb.8,1902.Secretary.-----Act of Choctaw Council creating a commission to negotiate an agreement with Dawes Commission, relative to closing citizenship rolls, etc., approved by President Feb.6,1902.-----

Refer in reply to the following:

Land.
65,840-1901. DEPARTMENT OF THE INTERIOR,
 Office of Indian Affairs,
 Washington, November 22, 1901.

The Honorable
The Secretary of the Interior.

Sir:
I have the honor to transmit, herewith, a report made on November 14, 1901, by J. George Wright, U.S. Inspector for the Indian Territory, forwarding a resolution of the National Council of the Choctaw Nation, expressing in feeling terms the grief of the Choctaw people at the death of the late President by assassination.

It is provided in the resolution, which was approved by the Principal Chief October 12, 1901, that the National Secretary be required to furnish a copy of the resolution to the family of the late President, and it is presumed that this copy is intended for that disposition.

Very respectfully,
Your obedient servant,

(W.C.V.) W. A. Jones,
 Commissioner.

P.

(Endorsed) Union Agency No.3088.Received.Dec.5,1901.Office of U.S. Indian Inspector for Indian Territory.Washington,Nov.26,1901. Secretary.----Returns resolution of condolence by Council of Choctaw Nation in matter of death and assassination of President McKinley, in order that it may be sent to the family of deceased.

64

Muskogee, Indian Territory,
January 16, 1902.

Honorable J. Geo. Wright,
United States Indian Inspector,
Muskogee, Indian Territory.

Sir:

Receipt is hereby acknowledged of your letter of the 9th instant, submitting for the suggestion of the Commission a copy of an act of the National Council of the Choctaw Nation approved by the Principal Chief on November 6, 1901, and entitled:

"AN ACT, amending an act entitled "An act creating a Commission to accompany and assist the Dawes Commission in making a roll of the Choctaw citizens," and the amendment thereto."

The act of the National Council of the Choctaw Nation, as approved by the Principal Chief on November 6, 1901, provides for the reduction of the number of Commissioners as authorized by the act of the Choctaw Council of March 24, 1899, creating a Commission to accompany and assist the Dawes Commission in making a roll of the Choctaw citizens to one Commissioner, and fixing the compensation of such Commissioner at Two Thousand (\$2,000.00) dollars per annum, with the additional sum of Three Hundred and Fifty (\$350.00) Dollars as contingent fund for incidental expenses of his office.

-2-

There is not seen any necessity for the continuance of a Commission for the purpose of assisting the Dawes Commission in the preparation of the rolls of the citizens of the Choctaw Nation. During the year 1899, while the Commission was in the field in the Choctaw Nation, receiving applications and preparing a roll of the citizens of that Nation, it was necessary that the Choctaw Nation be represented for the purpose of assisting the Commission in the carrying out of that provision of the twenty-first section of the act of Congress of June 28, 1898, as follows:

"Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes (excepting Cherokee), eliminating from the tribal rolls such names 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 Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes."

This work for which the Commission authorized by the act of the National Council of March 24, 1899, was created, has virtually been completed and the Commission to the Five Civilized Tribes has, with the exception of but a few names, accounted for all the persons upon the tribal rolls submitted by the Choctaw Nation as a basis for the enrollments by this Commission.

Since the Commission terminated its field work in the Choctaw Nation, in October, 1899, the only service that has been rendered by any Commissioners on the part of the Choctaw Nation was during the month of June, 1900, when the Commission heard applications for enrollment at Atoka, in the Choctaw Nation, and

at Colbert, in the Chickasaw Nation, and at a session of the Commission of ten days from December 3, 1900, at Atoka, Indian Territory, for the purpose of hearing additional testimony in contested enrollment cases.

During the entire year 1901 this Commission has had no assistance of any character from the Choctaw Commission authorized to accompany and assist the Dawes Commission in the making of the rolls of Choctaw citizens. Very few original applications for enrollment as citizens of the Choctaw Nation of persons upon the tribal rolls are now received by the Commission, and the major part of the work of the Choctaw division is now in hearing applicants for identification as Mississippi Choctaws. It has been the policy of the Choctaw Nation and their legal representatives to in no manner allow the Nation to be represented or take any cognizance of applications for identification as Mississippi Choctaws, and in no applications of this character has the Choctaw Nation ever been represented.

The reply to your letter of January 9th has been deferred upon the expectation that Commissioner Bixby would return in a few days, and that the matter could receive the attention of the full Commission.

Learning that it will likely still be some days before his return, we have thought it desirable to submit this statement at once.

Yours truly,

Encl. H. B. 96.

Commissioner in Charge.

Ardmore, I.T. Jany. 1.1902.

Hon. Tams. Bixby.

Dear Sir.

I am a Mississippi Choctaw Indian, a minister of the gospel and a poor man. My application for identification as a Mississippi Choctaw was made some six months or more ago at Muscogee, I.T. Mr. J. E. Arnold who is looking after my case at the present, writes me it is necessary for me to appear at Meridian Miss. the 15. of Jany.

My witnesses are in the Indian Territory and in Texas and it would be an inconvenience for and an extra expense for me to take them back there. I am too poor a man to expend money when it can be avoided, in addition to the testimony already given I am prepared to prove my relation by blood to a man by the name of Williams whose name I think you will find on the old rolls.

Now will you kindly advise me whether it is necessary for me to proceed with this matter any further? and if so, can it not be attended to at Muscogee instead of my going all the way to Miss. My testimony Mr. Bixby is not the testimony manufactured by Lawyers but is secured by myself freely given by those who know as well as any one can know. Awaiting your early answer and assuring you that this is and will be a strictly private letter.

I am

Fraternally.

J.F.Young.

P.S. If you wish to make any inquiry as to me or my Character; I refer you to such men as Professor Scott of Bacone University. Dr. J. S. Murrow of Atoka. or to either Bank in Ardmore.I.T.

J.F.Young.

(Endorsed) Union Agency No.856. Relative----J.F.Young regarding
application for identification as a Mississippi Choctaw----

69
St. Edward, Neb.
January 4, 1902

Secretary of the Interior,
Washington, D. C.

I notice in the newspapers that the settlers of the Choctaw and other Indian lands are going to inaugurate hunts to exterminate the wild hogs. Can't there be a stop put to it? Those hogs are a source of revenue of great value and furnish the best of meat. This extravagant slaughter went on until the game of this country is a thing of the past--I know whereof I speak--as I used to live where there was wild hogs and have been treed many times by them, and wish I could get wild hogs now. Can't you issue orders to stop the slaughter until such time as Congress can act to forever put a stop to this unmerciful havoc of our wild game? It is one of the best sources of revenue those fellows have if they only knew it.

Yours with respect.

Joseph Westbrook
Box 15
St. Edward,
Boone County, Neb.

(Endorsed) Union Agency # 3322 received Jan. 13, 1902. office of U. S. Indian Inspector for I. T. Washington, Jan. 9, 1902, Secretary. Refers, for appro. action, letter of Joseph Westbrook, Box 15, St. Edward, Nebraska, objecting to people of Choctaw Nation exterminating wild hogs.

70

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

I.T.D.
88-1902.
File 2737-1899.

January 8, 1902.

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

Sir:

The Department is in receipt of your communication, dated December 23, 1901, in which reference is made to Departmental letter of November 4, 1901 (I.T.D. 4867-1901), advising you of the issuance of an order for the removal of one W. E. Abbott from the limits of the Choctaw Nation and the Indian Territory, and transmitting therewith a communication dated December 20, 1901, from Messrs. Horton and Brewer, attorneys of South McAlester, Indian Territory, representing Dr. Abbott, in which they request permission for him to temporarily return to the Indian Territory.

You state that you do not feel warranted in passing on this request or permitting Dr. Abbott to return without submitting it to the Department. You also call attention to the fact that Dr. Abbott states under oath that he is anxious for a further chance to obtain a permit from the Choctaw Medical Board and to comply with any and all laws, and if permitted to return he will do so.

You report that Dr. Abbott is the mayor of the incorporated town of McAlester, and you believe that his removal "has had the desired effect", and inasmuch as it is not believed to be the policy of the Department to not permit persons to remain in the Indian Territory, who will comply with the tribal laws, you recommend that you be authorized to "permit him (Dr. Abbott) to return so long as he com-

-2-

plies with all the tribal and other laws".

The Commission of Indian Affairs forwarded your said communication on January 3, 1902, and states that the Indian Office has no objection to the return of Dr. Abbott "provided Agent Shoenfelt and the Principal Chief of the Choctaw Nation are willing that he should be permitted to return", and he recommends that his office be authorized to instruct Agent Shoenfelt to permit Dr. Abbott provided he considers it proper and the Principal Chief consents in writing to said Abbott being permitted to return to said nation.

The papers have been carefully considered and the Department sees no objection to the action recommended by you.

On December 17, 1901, the Indian Office transmitted your report made on December 9, 1901, forwarding a communication made to you by Agent Shoenfelt relative to the execution of the orders of the Department for the removal of certain non-citizens from the Indian Territory since July 1, 1901. In said communication the Commissioner reported that you stated that the action of the Agent in suspending the orders for removal when the parties complied with the tax laws, was at your direction and subject to the approval of the Department, as you did not consider that the Department desired to resort to extreme measures except where the circumstances warranted it and where parties absolutely refused to comply with Departmental requirements, and the Commissioner stated that he did not believe that the ends of justice required harsh measures and was of the opinion that your action was correct, and recommended that you be advised that your course was approved.

On December 20, 1901, concurred in the recommendation made by

-3-

the Commissioner, and you were so advised.

You will accordingly permit Dr. Abbott to return to the Territory as recommended by you, and with the distinct understanding, as stated by him in his sworn affidavit, that he will comply with all of the laws of the Choctaw Nation, and if he is unable to obtain a permit to practice medicine, that he will in good faith discontinue the practice thereof.

The papers transmitted with your said communication are herewith returned, together with a copy of the report of the Commissioner of Indian Affairs.

Respectfully,

Thos. Ryan.
Acting Secretary.

4 inclosures.

(Endorsed) Union Agency # 3331 received Jan. 16, 1902. Office of U.S. Indian Inspector for I. T. Washington, Jan. 8, 1902, Secretary. Authority to permit Dr. W. E. Abbott to return to Choctaw Nation, provided he complies with tribal laws or discontinues practice.

COMMISSIONERS:
 HENRY L. DAWES,
 TAMS BIXBY,
 THOMAS B. NEEDLES,
 C. R. BRECKINRIDGE.

Department of the Interior
 COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
 Secretary.

Address only the
 commission to the
 Five Civilized Tribes.

Muskogee, Indian Territory,
 January 16, 1902.

Honorable Tams Bixby,
 Redwing, Minnesota.

Dear Sir:

Enclosed I transmit you, for your information, a copy of
 a letter directed this day to the United States Indian Inspector,
 with reference to an act of the Choctaw Council providing for a
 citizenship Attorney.

Very truly yours,

A. L. Aylesworth,

Secretary.

(Endorsed) Union Agency No. 45 A. L. Aylesworth, Sec'y., Muskogee, I.
 T. January 16, 1902.-----Transmitting copy of letter to U. S. Indian
 Inspector, in re act of Choctaw Council providing for a citizenship
 attorney.-----

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

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 Choctaw National Council, approved by the Principal Chief November 6, 1901, entitled

"An act to provide for the payment of expenses of the removal of intruders and their property from the Choctaw Nation."

The act is as follows:

"Whereas, in order that the tribal revenues of the Choctaw Nation be promptly collected, it is necessary that orders for the removal of non-citizens together with their property from the limits of the Choctaw Nation for non-compliance with our laws, be executed immediately after their issuance and

"Whereas: Experience has shown that in many instances the execution of orders so issued is delayed and in others not executed at all for the reason that there is no provision for the payment of necessary expenses: Therefore,

"BE IT ENACTED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION ASSEMBLED:

"Section 1. That the Principal Chief of the Choctaw Nation shall demand of the Secretary of the Interior of the United States the removal of all non-citizens (together with property and effects)

3502 residing and doing business within the Choctaw Nation in violation

-2-

of its laws.

"Section 2. Be it further enacted, That the Principal Chief of the Choctaw Nation be, and he is hereby authorized to direct the light-horsemen and sheriffs of said nation and such other tribal officers as may be necessary to assist the United States Indian Police under orders from the United States Indian Agent or the Secretary of the Interior in the removal of persons (together with their property and effects) residing and doing business in the Choctaw Nation, in violation of its laws.

"Section 3. Be it further enacted that an appropriation of ten thousand dollars (\$10,000.00) is hereby made, or so much thereof as may be necessary out of any funds in the Treasury not otherwise appropriated to be used in defraying the expenses of removal of such intruders and their property, and the enforcement of the tribal tax laws of the Choctaw Nation and the laws of the United States governing trade and intercourse with the Indian Tribes and the National Auditor is hereby authorized and directed to issue his warrant, upon the certificate of the Principal Chief of the Choctaw Nation that such expenses have been incurred and the National Treasurer is directed to pay the same.

"Section 4. Be it further enacted that the Principal Chief of the Choctaw Nation shall issue his certificate upon the certified accounts of expenses actually incurred by reason of removal of intruders (together with their property and effects); and that he shall make a report to the next General Council of all moneys disbursed under this act; and this act shall take effect and be in force

from and after its passage and approval."

The Inspector reports that the Choctaw National Council, at its October, 1899, session, passed a similar act appropriating the sum of \$350., which act was submitted to the President by the Department on December 6, 1899, and was approved on December 8, 1899. He says that it appears to be necessary that the National Council make an appropriation to defray the expenses of assisting in the removal of non-citizens under the direction of the Interior Department, and that as this appropriation is partly made in order to defray the expenses of the United States Indian Police, and as there are no other funds available for this purpose, it would appear necessary and desirable to have this appropriation approved. He further suggests that as the action taken by the Department to remove non-citizens is purely to assist the tribal authorities in enforcing their laws, it seems to him proper that they pay at least a portion of the same expense thereto, and he recommends the approval of the act.

The office seriously doubts the obligation of the Choctaw Nation, morally or otherwise, to defray any part of the expenses of removing intruders from that Nation. The United States has agreed to perform that duty itself. However, as stated by the Inspector, there is no other fund available for the purpose, and if the Choctaw authorities are willing to pay a portion of the expenses, this office has no objection to the act.

-4-

It will be borne in mind that the officials of the Choctaw Nation have no authority other than under the direction of the Indian Agent, and the agent can certainly keep a check on the expenses incurred by the Choctaw Nation by only requiring the assistance of Choctaw officers when absolutely necessary, so that the office sees no reasonable objection to the bill. Its approval is therefore respectfully recommended.

Very respectfully,

Your obedient servant,

W. A. Jones.

Commissioner.

Inclosures.

(Endorsed) Union Agency # 3502 received Feb. 10, 1902. office of U. S. Indian Inspector for I.T. Washington, Feb. 1, 1902. Secretary. Act of Choctaw Council providing for payment of expenses of removal of intruders approved by President Jan. 30, 1902.

Land.

6021-1902.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington,

January 31, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made January 24, 1902, by Inspector Wright, forwarding an act of the National Council of the Choctaw Nation approved by the Principal Chief November 6, 1901.

The act is as follows:

"An act authorizing the sale of Spencer Academy and all property belonging thereto.

"Be it enacted by the General Council of the Choctaw Nation Assembled.

"Section 1. That the present improvements and property connected with and belonging to the Spencer Academy farm or site be and the same is hereby made subject to sale.

"Section 2. Be it further enacted that the Superintendent of Public Instruction of the Choctaw Nation be, and the same is hereby authorized and directed to take an inventory of all stock effects and property belonging to and connected with the Spencer Academy farm or site, at once, and shall offer same for sale, after giving thirty days notice in three newspapers of general circulation published in the Choctaw Nation, to the highest bidder at public auction for cash in hand.

79

Section 3. Be it further enacted that the Superintendent of Public Instruction shall sell the farm and pasture together with all improvements thereon; cattle by the bunch; hogs by the bunch; horses and mules single or by the span; house furniture by the set and all other effects as farm implements, shop-tools, wagons, hack harness, wind mill &c., by the piece or separately.

Section 4. Be it further enacted that the said Superintendent shall be allowed five dollars (\$5.00) per day not to exceed ten days for actual service rendered in carrying out and making sale as directed by this act; and that he shall pay into the National Treasury for general purposes all moneys accruing from the sale of said property less his per diem (as above specified) and shall accompany same with a full and complete report, and shall make an itemized report to the next General Council.

Section 5. Be it further enacted that the Superintendent of Public Instruction of the Choctaw Nation shall give the purchaser or purchasers of any and all property sold under the direction of this act a bill of sale or bills of sale in the name of the Choctaw Nation; and this act shall take effect and be in force from and after its passage and approval."

The Inspector invites attention to an act of the Choctaw National Council submitted by him and passed upon by the Department January 29, 1901 (ITD-317-1901), recommending that the act be disapproved. The act was objected to at that time because of the attitude of the Choctaw Nation concerning schools, and because it was not thought that the funds arising from the sale of the property should be turned into the general fund of

the Choctaw Nation.

It appears now, however, that the buildings and property which were erected and bought from the funds of the Choctaw Nation that accrued prior to the passage of the act of June 28, 1898, and that there is no objection to the act on that ground. The Inspector states that the tribal authorities of the Choctaw Nation are now acting in harmony and in conjunction with the federal officials in the operation of their schools.

Superintendent Benedict and Inspector Wright both recommend the approval of the act and the office concurs in their recommendation.

Very respectfully,

Your obedient servant,

A.C.Tonner,

Acting Commissioner.

WCV
D

Inclosures.

(Endorsed) Union Agency No.3522 Received Feb.14,1902 Office of U.S.Indian Inspector, for Indian Territory, Washington, Feb. 6,1902.Secretary.----Choctaw Act authorizing sale of Spencer Academy APPROVED February 5,1902.----

Refer in reply to the following:

Land.
6022-1902.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,

Washington, January 31, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made January 24, 1902, by Inspector Wright, forwarding an act of the National Council of the Choctaw Nation approved by the Principal Chief November 4, 1901.

The Act is as follows:

"An act to pay J. W. Ownsby, and A. P. Park for defending
"Jackson Billy, et al.

"Whereas, At the last session of the Council of the Choctaw Nation, G. W. Dukes, Principal, was empowered and instructed to do any and all acts necessary to secure the rights and interests of certain Choctaw citizens, who were under indictment for murder and being prosecuted for said offense, said cause being styled 'The United States vs. Jackson Billy, et al., and

"Whereas, said G. W. Dukes, Principal Chief, did employ
"J. W. Ownsby and A. Park, attorneys at law, of Paris, Texas,
"to defend said Choctaw citizens in the United States Court for the Eastern District of Texas, and by a written contract signed and executed at Paris, Texas, by the said G. W. Dukes, as Principal

- 2 -

"Chief of the Choctaw Nation, and by virtue of said resolution
"he agreed and promised for said nation to pay to said J. W.
"Ownsby and A. P. Park, the sum of eighteen hundred dollars,
"\$1,800.00, to represent and defend said Choctaw citizens against
"said charge of murder, and

"Whereas, the said J. W. Ownsby and A. P. Park have
"faithfully and zealously performed their duties under said
"contract; the said Choctaw citizens were tried before a jury
"in the United States Court for the Eastern District of Texas,
"and were finally acquitted upon a verdict of 'not guilty', and
"therefore would recommend the passage of the following act:

"be it enacted by the General Council of the Choctaw Nation
"Assembled:

" Sec. 1. That the sum of eighteen hundred dollars (\$1,800.00)
"be, and the same is hereby appropriated out of the National
"Treasury, not otherwise appropriated to pay J. W. Ownsby and
"A. P. Park, Attorneys-at-law- of Paris , Texas for legal services
"rendered in defending Jackson Billy et al, in the United States
"Court for the Eastern District of Texas.

" Sec. 2. Be it futher enacted, that the National Auditor
"is hereby authorized and directed to issue his warrant in favor
"of J. W. Ownsby and A. P. Park, and the National Treasurer
"shall pay the same. And this act shall take effect and be
"in force from and after its passage and approval."

- 3 -

The Inspector, by correspondence with the Principal Chief of the Choctaw Nation, ascertained that Jackson Billy was at one time sheriff of Cedar County, and that as such sheriff he attempted with the aid of a posse to arrest Eli Baldwin and others for various crimes alleged to have been committed in the Choctaw country; that the posse consisted of Solomon Nihka, and twenty-five others; that the United States authorities claimed jurisdiction in the case because Eli Baldwin had at one time served as a deputy United States marshal; that Billy and the members of the posse were indicted by the United States grand jury at Paris for murder, and were arrested and tried on said charge; that acting under the authority of the resolution of the National Council of the Choctaw Nation approved by the Principal Chief October 24, 1900, a copy of which is furnished, the Principal Chief employed the beneficiaries, the firm of attorneys who defended those charged with the crime of murder, they being poor and having no means to employ counsel; and it further appears that the efforts of the attorneys were successful in that the defendants were discharged. The Inspector recommends that the act be approved.

Mr. D. C. McCurtain, delegate from the Choctaw Nation, called at this office some weeks ago relative to this matter and detailed, verbally, the circumstances much as above set forth and urged the approval of the act.

The office can see no objection to the action proposed by the Inspector and therefore respectfully concurs in

- 4 -

his recommendation.

Very respectfully,

Your obedient servant,

A. C. TONNER,

Acting Commissioner.

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inclosures.

(Endorsed) Union Agency No. 3571. Received. Feb. 27, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Feb. 17, 1902. Secretary-----Act of Choctaw Council to pay Ownsby and Park for defending Jackson Billy et al, approved by President Feb. 14, 1902.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

I.T.D. 1808-1902.

March 24, 1902.

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

Sir:

The Department is in receipt of a report from the Acting Commissioner of Indian Affairs dated March 22, 1902, upon a communication from Charles Wheeler, Muskogee, I.T.

It appears from Mr. Wheeler's letter that one Nannie E. Brennan, a citizen of the Chickasaw Nation, holds certain land in the Choctaw Nation upon which she has lived for a number of years; that parties in the employ of the Choctaw, Oklahoma and Gulf Railroad Company have entered upon her land and are constructing and building thereon a large tank or reservoir without her consent and without making compensation to her.

The Acting Commissioner refers to the act of February 28, 1902 (Public No. 26), and recommends that you be directed to report in the matter, and if it be found that said company, or any other company is attempting to appropriate lands held by an individual occupant, or by any tribe in the Indian Territory, without having first complied with existing laws applicable to such case, that you notify such company or individual to cease operations and to inform such parties that they will be required by law to proceed in the

-2-

matter in accordance with the laws. A copy of his report and Mr. Wheeler's letter are inclosed herewith.

The Department approves said recommendation, and you will act accordingly.

Respectfully,

Thos. Ryan.
Acting Secretary.

2 enclosures.

(Endorsed) Union Agency # 3811 received April 1, 1902. Office of U. S. Indian Inspector for I.T. Washington, Mar. 24, 1902. Secretary. Directed to report on letter of Chas. Wheeler of Muskogee, relative to C.O.& G. Ry. Co., building tank on land of Nannie E. Brennan, in Choctaw Nation, without her consent; and to see that the railroad company proceeds according to law.

RIGHTS OF MISSISSIPPI CHOCTAWS IN THE CHOCTAW NATION.

MEMORIAL OF THE FULL-BLOOD MISSISSIPPI CHOCTAWS RELATIVE TO THEIR
RIGHTS IN THE CHOCTAW NATION.

APRIL 24, 1902.--Referred to the Committee on Indian Affairs (to
accompany amendment to S. 4848) and ordered to be printed.

TO THE HONORABLE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES
IN CONGRESS ASSEMBLED:

Your memorialists, full-blood Mississippi Choctaws, speaking the Choctaw language, respectfully submit that on December 24, 1889, the general council of the Choctaw Nation passed the following resolution:

WHEREAS THERE ARE LARGE NUMBERS OF CHOCTAWS YET IN THE STATES OF MISSISSIPPI AND LOUISIANA WHO ARE ENTITLED TO ALL OF THE RIGHTS AND PRIVILEGES OF CITIZENSHIP IN THE CHOCTAW NATION; AND

WHEREAS THEY ARE DENIED ALL RIGHTS OF CITIZENSHIP IN SAID STATES; AND

WHEREAS THEY ARE TOO POOR TO IMMIGRATE THEMSELVES INTO THE CHOCTAW NATION:

THEREFORE,

BE IT RESOLVED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION ASSEMBLED, That the United States Government is hereby requested to make provisions for the emigration of said Choctaws from said States to the Choctaw Na. (Eighth report Dawes Commission, 115.)

By the treaty of 1866 the protection of our rights was guaranteed in article 13, as follows:

ARTICLE 13.

The notice required in the above article shall be given, not only in the Choctaw and Chickasaw nations, but by publication in newspapers printed in the States of Mississippi and Tennessee, Louisiana, Texas, Arkansas, and Alabama, to the end that such Choctaws and Chickasaws as yet remain outside of the Choctaw and Chickasaw nations may be informed and have opportunity to exercise the rights hereby given to resident Choctaws and Chickasaws: PROVIDED, That before any such absent Choctaw or Chickasaw shall be permitted to select for him or herself, or others, as hereinafter provided, he or she shall satisfy the register of the land office of his or her intention, or the intention of the party for whom the selection is to be made, to become bona fide resident in the said nation within five years from the time of selection; and should the said absentee fail to remove into said nation and occupy and commence an improvement on the land selected within the time aforesaid, the selection shall be canceled, and the land shall thereafter be discharged from all claim on account thereof. (Ibid, 117.)

Judge W. H. H. Clayton, United States judge for the central district of Indian Territory, in his opinion on the Jack Amos case, made the following decision:

I AM DISPOSED TO THE OPINION, HOWEVER, AND WILL SO HOLD THAT THE DESCENDANTS OF THE MISSISSIPPI CHOCTAWS, BY VIRTUE OF THE FOURTEENTH ARTICLE OF THE TREATY OF 1830, ARE ENTITLED TO ALL OF THE RIGHTS OF CHOCTAW CITIZENSHIP, WITH ALL OF THE PRIVILEGES AND

PROPERTY RIGHTS INCIDENT THERETO, PROVIDED THEY HAVE RENOUNCED THEIR ALLEGIANCE TO THE SOVEREIGNTY OF MISSISSIPPI BY MOVING INTO THE CHOCTAW NATION IN GOOD FAITH, ETC. (Ibid, 116).

Judge Clayton held in the E. J. Horne case as follows: THAT ALL MISSISSIPPI CHOCTAWS AND THEIR DESCENDANTS WERE ENTITLED UPON THEIR REMOVAL OT THE CHOCTAW NATION TO ALL THE PRIVILEGES OF A CHOCTAW CITIZEN, EXCEPT TO THE RIGHT TO PARTICIPATE IN THEIR ANNUITIES. THIS RIGHT OF CITIZENSHIP BEING CONFERRED BY THE TREATY, NO LAW AFTERWARDS ENACTED BY THE CHOCTAW COUNCIL CAN DEPRIVE THEM OF THAT RIGHT BECAUSE IT WOULD BE IN CONFLICT WITH THE TREATY WHICH CONFERS THAT RIGHT TO THEM AND THEIR DESCENDANTS, WITHOUT REFERENCE TO THE QUANTITY OF INDIAN BLOOD. IF THEY ARE DESCENDANTS OF CHOCTAW ANCESTORS, IT IS SUFFICIENT. (IBID. 118.)

This decision by Judge Clayton was confirmed by the Supreme Court of the United States, October term, 1898, May 15, 1899. (Ibid, 197.)

Congress on June 7, 1897, directed the Dawes Commission to examine and report to Congress whether the Mississippi Choctaws under their treaty are not entitled to all the rights of Choctaw Citizenship, except an interest in the Choctaw annuities. The Dawes Commission found that they were so entitled, provided they would remove to the Choctaw-Chickasaw Nation. (Ibid, 79.)

In a report of January 28, 1898 (H.R.Doc. 274, Fifty-fifth Congress, second session, p. 6), Congress directed the Dawes Commission to identify such Mississippi Choctaws, by act of June 28, 1898. (Eighth Annual Report Dawes Commission, p. 18.) They did identify the full-blood Choctaws by a schedule submitted to the Department of the Interior May 10, 1899, containing about 1,900

names, and since that time have identified some other full-blood Choctaws in that country.

The Dawes Commission, by statute, were forbidden to receive the application of any nonresident Indians after a certain date, but an exception was made in favor of the Mississippi Choctaws. For this reason many thousand persons have set up claims pretending they were Mississippi Choctaws, and have put in jeopardy the rights of the real Mississippi Choctaws by virtue of manifest frauds perpetrated in the name of the Mississippi Choctaws by said pretenders.

On February 7, 1901, the United States Commission to the Five Civilized Tribes; the governor of the Choctaw Nation, Hon. Gilbert T. Dukes, and the Choctaw commissioners; and the governor of the Chickasaw Nation, Hon. Douglas H. Johnson, and Chickasaw commissioners, made and entered into an agreement containing the following provision:

MISSISSIPPI CHOCTAWS.

13. All persons heretofore identified by the Commission to the Five Civilized Tribes as Mississippi Choctaws, and whose names appear upon the schedule dated March 10, 1899, prepared by said Commission under the provisions of the act of Congress approved June 28, 1898 (30 Stat. L., 495), and such full-blood Choctaw Indians residing in the State of Mississippi and such fullblood Choctaw Indians as may have removed from the State of Mississippi to Indian Territory as may be identified by said Commission shall alone constitute the "Mississippi Choctaws" entitled to benefits under this agreement.

And thereupon provided that those who moved in good faith to the Choctaw-Chickasaw country should be enrolled as Mississippi Choctaws and allotted lands like other Choctaws. (H.R. Doc. 490, Fifty-sixth Congress, second session, p.12.)

The proposed Choctaw-Chickasaw supplemental agreement (H. R. 13172) has been so ingeniously drawn as to make it impossible for the full-blood Mississippi Choctaws to secure their rights under it. By section 41 they are required, within six months after the date of the final ratification of the agreement, to make bona fide settlement within the Choctaw-Chickasaw country; but the Mississippi Choctaws, in spite of the schedule submitted and the report of the United States Commission identifying them, are prevented from knowing whether they are entitled to remove, because the Interior Department has for three years withheld its approval, and under the law such schedule is not held as identification until approved by the Interior Department, according to the construction of that office. No Mississippi Choctaw knows to this day whether he is identified. If he sells his home and his property to move to the Choctaw Nation, he does so at the jeopardy of losing everything and not being received when he reaches the Choctaw Nation.

The purpose of Congress was to enable the Mississippi Choctaws to know before moving that they would be received. We therefore pray that sections 41, 42, 43, and 44, imposing onerous conditions on the Mississippi Choctaws, be struck out, and a simple, plain provision made, free from ambiguity, as follows, to wit:

MISSISSIPPI CHOCTAWS.

41. All persons identified by the Commission of the Five Civilized Tribes as Mississippi Choctaws, and whose names appear upon the schedule dated march 10, 1899, prepared by said Commission under the provisions of the act of Congress approved June 28, 1898 (30 Stat. L., 495), and such full-blooded Mississippi Choctaw Indians as may be identified by said Commission, and the wives, children, and grand-children of all such full-blood Choctaws, shall alone constitute the "Mississippi Choctaws" entitled to benefits under this agreement.

42. All "Mississippi Choctaws," as herein defined, who shall remove or may have removed to the lands of the Choctaw and Chickasaw tribes within twelve months after official notification of their identification, shall be enrolled by said commission upon a separate roll designated "Mississippi Choctaws;" and lands equal in value to lands allotted to citizens of the Choctaw and Chickasaw tribes shall in like manner be selected and set apart for each of them. All such persons who reside upon the lands of the Choctaw and Chickasaw tribes for a period of one year after enrollment as above provided shall, upon proof of such bona fide residence, receive patents as provided in the Atoka agreement, and they shall hold the lands thus allotted to them as provided in the Atoka agreement for citizens of the Choctaw and Chickasaw tribes, and be treated in all respects as other Choctaws.

The provisions asked for by the full-blood Mississippi Choctaws vary in no substantial way from the reasonable requirements proposed to be imposed upon the Mississippi Choctaws with-

out just reason. We believe the Choctaw-Chickasaw people are perfectly willing to receive all full-blood Choctaws, as they have so expressed themselves.

The unjust provisions and technical rules contained in sections 41, 42, 43, and 44 of the pending agreement were no doubt prepared by the attorneys representing the Choctaw and Chickasaw nations with a view to barring out the pretenders who have attempted to secure enrollment in said nations by fraud. We do not blame but on the other hand commend all efforts of such attorneys to accomplish such a purpose; but we call attention to the fact that while attempting to accomplish this purpose the wording of the provisions is such that they unfortunately do a great injustice to a large number of full-blood Mississippi Choctaws who have already been identified as stated above and who are entitled to enrollment.

We can not believe that it was the purpose of those who drew the provisions referred to to have that effect. Therefore we offer in lieu of the sections objected to the Proposed Amendments set out above, which we think fully protect the Choctaw-Chickasaw nations from all pretenders who are attempting to be enrolled by fraud, and which at the same time preserves the rights of the Mississippi Choctaws. To the same time preserves the rights of the Mississippi Choctaws. To this there can be no reasonable objection. Simple justice demands it.

Your memorialist respectfully calls attention to the manifest injustice of requiring the Mississippi Choctaws to prove a technical right under article 14 of the treaty of 1830, or any

other article. The Mississippi Choctaws were joint purchasers in 1820 of the lands in Indian Territory, and no article of 1830 should be invoked against their right of common ownership in these western lands.

No such principle was ever thought of until by an accident Congress in the act of 1898, requiring the identification, happened to make reference to the fourteenth article, because in that article was a provision that residence in Mississippi should not deprive Choctaws of their rights. The treaty of 1866 expressly provided that opportunity should be given to non-residents (Sic) Choctaws to remove to the Choctaw Nation when allotments should take place. This recognized right of the treaty of 1866 has not been abated by any act of the Mississippi Choctaws, and their right can not be justly ignored by the United States or by the Choctaw-Chickasaw nations without their consent. The Dawes Commission, in its report of June 30, 1901 (Eighth Annual Report, p. 21), points out how injuriously and unjustly this would operate to the Mississippi Choctaws, and shows that Congress is in duty bound to provide for our full-blood people.

Respectfully submitted.

THE MISSISSIPPI CHOCTAWS,

By C. F. Winton.
Robt. L. Owen, Counsel.

Union Agency # 55. Memorial of full-blood Mississippi Choctaws in re their rights in Choctaw Nation.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

I.T.D.3250-1902.

May 23, 1902.

United States Indian Inspector

for the Indian Territory,

Muskogee, Indian Territory.

Sir:

The Department is in receipt of your communication dated May 8, 1902, transmitting supplemental schedule of appraisements in the town of McAlester, Indian Territory, in compliance with departmental letter of April 22, 1902, wherein you were advised that the Department adhered to its decision that railroad tracks should not be considered as improvements, and directing you to submit a supplemental schedule of said town showing lots 1, 2, 3 and 4, in Block 139, as unimproved.

You recommend the approval of said supplemental schedule and request that one copy thereof be returned to your office for appropriate disposition.

The Acting Commissioner of Indian Affairs forwarded your report under date of May 21, 1902, concurring in your recommendation that the same be approved.

The schedule appearing to be in proper form has been approved and one copy thereof is returned herewith for appropriate disposition, together with a copy of the Acting Commissioner's report.

Respectfully,

2 Inclosures.

Thos. Ryan,

(Endorsed) Union Agency No.4127.Received.May 31,1902.Office of U.S. Indian Inspector for Indian Territory.Washington,May 23,1902.Secretary Approves supplemental schedule of McAlester,showing certain lots as vacant which are improved by railroad tracks.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

I.T.D. 3566-1902

June 7, 1902.

United States Indian Inspector

for the Indian Territory,

Muskogee, Indian Territory.

Sir:

The Department is in receipt of your communication dated May 29, 1902 (D 2457,22165-1902), wherein you refer to departmental letter of July 20, 1901, advising you of the approval of a contract between the United States Indian Agent at Union Agency, and the Missouri, Kansas & Texas Railway Company, for the purchase of stone for ballast purposes from certain described lands in the Choctaw Nation, I.T., and inclose a communication dated May 27, 1902, from Mr. Clifford L. Jackson, General Attorney for said Railway Company in the Indian Territory, asking to be informed what steps are necessary to have said contract (which expires on June 22, 1902), renewed.

You report that said Company have, on their present contract to this date, taken out 71044 cubic yards of stone, for which they have paid, at one-half cent per cubic yard, \$355.22.

You accordingly submit the matter for the consideration of the Department, suggesting the advisability of an agreement being entered into between said Company and said Indian Agent, with the consent of the surety on the original bond, extending the terms of the present contract for one year, which agreement could be attached to the copies of the present contract.

You also recommend, providing the Department does not consider

-2-

the first named suggestion practicable, that said communication of Mr. Jackson be considered as an application for a new contract by said Company, on the same terms as the present contract, and that you be authorized to instruct the Indian Agent to enter into such contract, to be transmitted for the approval of the Department in the usual manner.

The Acting Commissioner of Indian Affairs forwarded your said communication under date of June 6, 1902, in which he reports that his office sees no objection to extending the provisions of said contract for another year from the date of its expiration, by having the Indian Agent enter into an agreement to that effect with said Company, providing the surety company consents to such extension of time, in writing, the agreement and consent of the surety company to be forwarded the Department for approval, a stipulation being contained in said agreement that said agreement and consent of the surety company are to be attached to and become a part of the original contract.

The Department concurs in the recommendation of the Acting Commissioner and you will accordingly direct the Indian Agent to enter into such an agreement with said Company on the basis of the Acting Commissioner's report, said agreement with consent of the surety company to be transmitted to the Department for approval.

-3-

A copy of the Acting Commissioner's report and the letter of Mr. Jackson are inclosed herewith.

Respectfully,

Thos. Ryan.
Acting Secretary.

2 inclosures.

(Endorsed) Union Agency # 4235 received Jun. 10, 1902. Office of U.S. Indian Inspector for I.T. Washington, June 7, 1902. Secretary. Authority granted for Indian Agent to enter into an agreement with M. K. & T. Ry co., extending their stone contract, with consent of surety company.

99

DEPARTMENT OF THE INTERIOR.
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.
June 21, 1902.

The honorable

The Secretary of the Interior.

Sir:

Referring to Department letter of June 3, 1902, --
I.T.D. 3574-- there is enclosed, herewith, a report dated
June 14, 1902, from Thomas B. Needles, Es q., Commissioner in
charge of the work of the Commission to the Five Civilized
Tribes, returning the commission's report of May 19 last rela-
tive to the condition of the work of identification of Mississ-
ippi Choctaws.

Mr. Needles invites attention to the fact that he af-
fixed his signature to said report of May 19, 1902, and states
that the report was adopted as expressing the view of the Com-
mission at its session on May 24 last; that Mr. Breckenridge was
in the interior districts of the Cherokee Nation at the date of
said report and therefore could not attach his signature.

It is recommended that the action of the commission be
approved.

Very respectfully,
Your obedient servant,
A. C. Tonner,

Acting Commissioner.

160

DE PA RT ME NT OF THE IN TE RI OR.

WASHINGTON.

June 24, 1902.

The Commission

To the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of your communication dated June 14, 1902, transmitting your communication dated May 19, 1902, showing the condition of the work of identification of Mississippi Choctaws, said communication having been returned to you by departmental letter of June 3, 1902, for the signatures of the other members of the Commission, it having originally been signed by Acting Chairman Bixby only. Said communication is now returned with the signature of Commissioner Needles affixed thereto, who reports that the statements therein contained were adopted at a session of the Commission held May 24, 1902, and that as Commissioner Breckinridge is at present in the interior districts of the Cherokee Nation presumes that under the circumstances his signature may be omitted.

The Acting Commissioner of Indian Affairs forwarded your said communication under date of June 21, 1902, recommending that your action be approved.

The Department concurs in said recommendation and incloses herewith a copy of the Acting Commissioner's report.

Respectfully,

E. A. Hitchcock.

Secretary.

(Endorsed) # 10637, Received Jun. 30, 1902. Muskogee, I.T. Com. Five Tribes. Dept. Hitchcock, Washington, D.C. 6/24/02 Approves action of Com. in returning communication 5 /19/02 (statement of work of identification of Miss. Choctaws) with sig. of Mr. Needles.

101

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 5, 1902.

The Commission to the
Five Civilized Tribes,

Muskogee, Ind.Ter.,

Gentlemen:

The Department has considered the papers in the matter of George A. Clark's application for enrollment as an inter-married citizen of the Choctaw Nation. You rejected this application and in respect thereof said:

It does not appear from the evidence offered in support of this application, and an examination of the tribal rolls of the Choctaw Nation in the possession of the Commission, that this applicant has ever been enrolled as a citizen of the Choctaw Nation, nor does his name appear upon any of the tribal rolls of the Choctaw Nation in the possession of the Commission, nor does it appear that he has ever been admitted to Choctaw citizenship by the legally constituted authorities of said Nation.

It further appears from an examination of the records in the possession of the Commission that this applicant, in connection with others, filed an original petition for citizenship in the Choctaw Nation with the Commission to the Five Civilized Tribes, under the act of Congress of June 10, 1896, (29 Stat., 321), the same being on Choctaw citizenship docket "C", number 850, and styled 'Zora P. Lewis et al. vs. the Choctaw Nation.'

The Commission denied the said George A. Clark citizenship in the Choctaw Nation, and an appeal was perfected therefrom to the United States Court in Indian Territory for the Central District, at South McAlester, and said Court, in the case of Zora P. Lewis et al., vs. the Choctaw Nation, Court case number 53, by its decision rendered on the 19th day of January, 1898, affirmed the decision of the Commission as to this applicant, and denied the applicant admission to citizenship in the Choctaw Nation.

It further appears from the evidence that the applicant is a Pottawatomie Indian, and that previous to his said application to the Commission he had been married under the laws of the United States to his wife, Lydia Clark, who is a citizen of the Choctaw Nation, and that after the rendition of the judgment aforesaid, on the 23rd day of August, 1898, this applicant procured a marriage license from the Choctaw Nation, and was married according to the provisions of the act of the Choctaw Council, passed November 9, 1875.

The act of Congress of June 28, 1898, (30 Stat., 495) provides:

'Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes (excepting Cherokee), eliminating from the tribal rolls such names as may have been placed thereon by fraud, or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made,

-3-

with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes.'

Under this act the applicant, being a Pottawatomie Indian, and the Commission having only authority to enroll intermarried white persons as citizens of the Choctaw Nation, cannot enroll an Indian as an intermarried white person.

The Commissioner of Indian Affairs, transmitting your report, said:

The Curtis Act does declare, as stated by the Commission, that it shall enroll 'such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship,' but in the office does not believe the words 'white persons' as used in said act are intended to apply directly to people of the Caucasian race. It seems to the office that these words are used in the generic sense for the purpose of distinguishing intermarried persons from citizens of the nations.

This applicant having complied with the laws of the Choctaw Nation relating to intermarriages subsequent to the date of the decision of the court in his case, the office believes him to be qualified for enrollment in said nation and it therefore respectfully recommends that the Commission be directed to place the name of George A. Clark on the roll of Choctaw citizens being prepared by it, as a citizen of that nation by intermarriage.

The facts according to Clark's petition and the testimony are substantially as set forth in your report hereinbefore

quoted from. Clark's status as to citizenship at and immediately prior to the date of the marriage upon which he claims the right to be enrolled as an intermarried citizen, is left in some doubt. In his testimony he described himself as a Pottawatomie Indian by blood, but he was not interrogated as to his citizenship prior to such marriage and made no statement respecting that matter. In the marriage license issued by the Choctaw authorities, which was filed as a part of the proof in support of his claim, he is described as a citizen of the United States. This may properly be accepted as satisfactorily establishing his status to be that of a citizen of the United States. Clark's claim rests entirely upon his later marriage, in connection with which all the requirements of Choctaw were carefully complied with, it having been finally determined that he gained no right to enrollment by virtue of his earlier marriage to the same woman, because the parties had not observed and complied with the requirements of the Choctaw law in connection therewith.

The treaty of April 28, 1866 (14 Stat., 769), between the United States and the Choctaw and Chickasaw Indians, being the last negotiated between said parties, provides that "every white person who, having married a Choctaw or Chickasaw, resides in the Choctaw or Chickasaw Nation.....shall be deemed a member of said nation," but contains no provision in respect of any other class of persons marrying into the nation. The laws of the Chocataw (Sic) Nation recognize the rights of others than "white persons" to acquire citizenship by marrying a member of the tribe. Thus the act of November 9, 1875, under which the license to Clark was issued, provides that "any white man or

11406

citizen of the United States or of any foreign government desiring to marry a Choctaw woman, citizen of the Choctaw nation shall be and is hereby required to obtain a license," etc.

By observing and complying with the requirements of the Choctaw law in respect of marriages between citizens of the United States and members of the Choctaw Nation, Clark became entitled to recognition as an intermarried citizen and by right ought to be enrolled as such.

If Clark's right is to be determined upon a strict and literal construction of the single provision of the act of June 28, 1898 (30 Stat., 495, 503), directing the enrollment of "such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes", the conclusion reached by the Commission to the Five Civilized Tribes would be justified. The purpose of the legislation was evidently to secure the enrollment of all persons who were justly entitled to be recognized as citizens of the respective tribes and it should be read and construed with this end in view and all the provisions should be considered. That it was not intended to limit the recognition of intermarried citizens to white persons is clearly shown by a further provision of said act of 1898, as follows:

The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

Clark is a person who has intermarried according to the Choctaw tribal laws and is therefore entitled to recognition under this provision and his name should therefore be placed upon the rolls, and it is so directed.

Very respectfully,

E. A. Hitchcock

Secretary.

(Endorsed) # 11406, Received Jul. 15, 1902. Commission to Five Tribes. Department, Hitchcock, Washington, July 15, 1902. Reversing decision of Commission in case of George A. Clark, applicant for Choctaw citizenship.

SANS BOIS, IND. TY., Aug., 13, 1902.

The Honorable Secretary of the Interior,
Washington, D. C.

Sir:

The Choctaws have just had an election for Principal Chief, the council and other officers. According to unofficial returns I have been elected to the office of Principal Cheif (Sic) of the Choctaw Nation by a majority of over two hundred and fifty votes.

The recent campaign was as vigorous as I have ever known in Choctaw politics, and was made the more so by the interference of outside influences heretofore unknown in tribal elections. And it is to call attention to some of these outside influences that I now address you. I had arrayed against me in this campaign three distinct elements, or rather elements that should be distinct--namely; the opposing candidate and his following of Indian partisans, the "court citizens" and their coterie of lawyers and lastly but by no means leastly the U. S. court officials. The significance of this opposition will at once be understood when the issues of the campaign are known to have been nothing more nor less than the Choctaw-Chickasaw Supplementary Agreement recently ratified by congress and now before the tribes (Choctaw and Chickasaw) for ratification by pupular vote. The opposing political party in this nation attacked the supplementary agreement just for the sake of an issue; the "court citizens" opposed it for the very patent reason that it provides for an investigation of their rights and the court judgments by virtue of which they claim their rights in the Choctaw and Chickasaw

nations; the opposition of the U.S. court officials cannot be explained unless it be that they are in sympathy with the "court citizens".

While it cannot be said that Judge Clayton, of the Central District, Indian Territory, himself entered the field in this contest, yet it is a matter of general knowledge that the officers under him were perniciously active in the campaign against me and the issues upon which I made the race, namely; the supplementary agreement; and it is well known too that Judge Clayton could have prevented the interference of his officers, but did not do it. One T. B. Latham, U. S. commissioner under appointment of Judge Clayton, himself a non-citizen without interest except as attaches to his office as such commissioner, made speeches against me and my policy in this campaign. And it is even said, and truthfully too I believe, that Mr. Latham boasted of his influence, saying that he had at his disposal certain federal patronage that he could distribute profitably in the campaign-referring, I suppose, to the appointment of constable, etc. Joseph Foltz, deputy U.S. Clerk, also a noncitizen, was very active in Choctaw politics. And it is complained that deputy U.S. Marshals, noncitizens, who were sent to the polls presumably to keep the peace and preserve order electioneered most industriously against me. In another instance, a jailer, U. S. official, left his post of duty, evidently with permission, and went among the Indians in a remote part of the nation, organized them and accompanied them to the polls and voted them. His name is Chaffie or Chaffee and is posted at Atoka, Indian Territory. The Choctaw people proper consider this interference improper and unfair.

-2-

I was loath to take this matter up, and I would not do so in my own interest, waiting until the election for Chief was over; but inasmuch as the same issues are to be fought over in the ratification of the supplementary agreement by the people, I feel it my duty to ask the Department to restrain the interference of this influence--the U.S. court officials. I assisted in the negotiation and framing of the supplementary agreement and I believe it to be the very best thing obtainable for the Choctaw and Chickasaw people; and I further believe that the Indians, if left to their own counsel and judgment, will ratify the agreement. Having been recently elected to the office of Principal Chief and desiring to render my people all the service of which I may be capable I am exceedingly anxious that the agreement be ratified, for I believe that I can the better serve them and more to their profit with the ratification of the agreement than without it because it will enable us to divide our property and wind up our tribal affairs.

I am reliably informed that the opposition is preparing to attack the agreement with increased vigor since their defeat in the Chief's race; hence my appeal to your Department to quiet the federal office holders' influence, so instrumental in the recent campaign, and have them hands off in ratification of the agreement. We cannot see how the federal office holders are interested or affected by the ratification of this agreement, it being exclusively Indian matter and business; yet it is an open secret that every court official in the Choctaw Nation from the Judge down to the lowest official is opposed to the ratification of the supplementary agreement.

Very respectfully,
GREEN MCCURTAIN.

Sans Bois, Ind.Ty.,

Aug. 13, 1902.

The Honorable Secretary of the Interior.

Washington, D. C.

Sir:

The Choctaws have just had an election for Principal Chief, the Council and other officers. According to unofficial returns I have been elected to the office of Principal Chief of the Choctaw Nation by a majority of over two hundred and fifty votes.

The recent campaign was as vigorous as I have ever known in Choctaw politics, and was made the more so by the interference of outside influences heretofore unknown in tribal elections. And it is to call attention to some of these outside influences that I now address you. I had arrayed against me in this campaign three distinct elements, or rather elements that should be distinct--namely; the opposing candidate and his following of Indian partisans, the "court citizens" and their coterie of lawyers and lastly but by no means leastly the U.S. Court officials. The significance of this opposition will at once be understood when the issues of the campaign are known to have been nothing more nor less than the Choctaw-Chickasaw Supplementary Agreement recently ratified by Congress and now before the tribes (Choctaw and Chickasaw) for ratification by popular vote. The opposing political party in this nation attacked the supplementary agreement just for the sake of an issue; the "court citizens" opposed it for the very patent reason that it provides for an investigation of their rights in the Choctaw and Chickasaw nations; the

opposition of the U.S. court officials cannot be explained unless it be that they are in sympathy with the "court citizens".

While it cannot be said that Judge Clayton, of the Central District, Indian Territory, himself entered the field in this contest, yet it is a matter of general knowledge that the officers under him were perniciously active in the campaign against me and the issues upon which I made the race, namely; the supplementary agreement; and it is well known too that Judge Clayton could have prevented the interference of his officers, but he did not do it. One T. B. Latham U.S. Commissioner under appointment of Judge Clayton, himself a non-citizen without interest except as attaches to his office as such commissioner, made speeches against me and my policy in this campaign. And it is even said, and truthfully too I believe, that Mr. Latham boasted of his influence, saying that he had at his disposal certain federal patronage that he could distribute profitably in the campaign, referring, I suppose, to the appointment of constable, etc. Joseph Foltz, deputy U.S. Clerk, also a non-citizen, was very active in Choctaw politics. And it is complained that deputy U.S. marshals, non-citizens, who were sent to the polls presumably to keep the peace and preserve order electioneered most industriously against me. In another instance, a jailor, U.S. official, left his post of duty, evidently with permission, and went among the Indians in a remote part of the nation, organized them and accompanied them to the polls and voted them. His name is Chaffie or Chaffee and is posted at Atoka, Indian Territory. The Choctaw people proper consider this interference improper and unfair.

-3-

I was very loath to take this matter up, and I would not do so in my own interest, waiting until the election for chief was over; but inasmuch as the same issues are to be fought over in the ratification of the supplementary agreement by the people, I feel it my duty to ask the Department to restrain the interference of this influence--the U.S. court officials. I assisted in the negotiation and framing of the supplementary agreement and I believe it to be the very best thing obtainable for the Choctaw and Chickasaw people; and I further believe that the Indians, if left to their own counsel and judgment, will ratify the agreement. Having been recently elected to the office of Principal Chief and desiring to render my people all the service of which I may be capable I am exceedingly anxious that the agreement be ratified, for I believe that I can the better serve them and more to their profit with the ratification of the agreement than without it because it will enable us to divide our property and wind up our tribal affairs.

I am reliably informed that the opposition is preparing to attack the agreement with increased vigor since their defeat in the Chief's race; hence my appeal to your Department to quiet the federal office holders' influence, so instrumental in the recent campaign and have them hands off in ratification of the agreement. We cannot see how the federal office holders are interested or affected by the ratification of this agreement, it being exclusively Indian matter and business; yet it is an open secret that every court official in the Choctaw Nation from the Judge down to the lowest official is opposed to the ratification

-4-

of the supplementary agreement.

Very respectfully,

Green McCurtain.

(Endorsed) Union Agency # 47 Instructions to Mr. Emerson in re
ratification of Choctaw-Chickasaw agreement.

114

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

AUGUST 19, 1902.

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

Gentlemen:

There is enclosed herewith a copy of a communication from Hon. Green McCurtain, dated August 13, 1902, alleging activity on the part of certain United States officers in the recent election for the office of Principal Chief of the Choctaw Nation, etc.

The Department desires an early report upon the matters referred to in said communication.

The Department has requested the Secretary of the Treasury to send Mr. Henry C. Dickey to report to your Commission as soon as practicable, concerning which you were advised by wire this day.

Respectfully,

Thos. Ryan.

Acting Secretary.

1 inclosure.

(Endorsed) # 13608, Received Aug. 25, 1902. Commission to Five Tribes. Muskogee, I.T. Department, Ryan, Washington, D. C. Aug 19, 02. Enc. copy of letter of Green McCurtain relative to action of U.S. Court officials in recent election for office of Prin.

Chief of Choctaw Nation. Desires early report.

SANS BOIS, IND. TY.,
Aug., 21, 1902.

The Honorable Secretary of the Interior,
Washington, D. C.

Sir:-

I am informed that Gilbert W. Dukes, Principal Chief of the Choctaw Nation, is now recommending a successor to Napoleon B. Ainsworth, Choctaw coal trustee, whose term of office expires some time in November of the present year. And it is to request that his recommendations be not considered that I write you.

There are several reasons why Gov. Dukes should not be allowed to nominate a man for this appointment, notably among which is the fact of his own declared opposition to the agreement, and particularly that portion of the agreement relating to the disposition of the coal and asphaltum in the Choctaw and Chickasaw Nations, notwithstanding he signed the self same agreement with a full knowledge of its provisions. The unreasonable stand taken by Gov. Dukes in his opposition to the agreement and the manner and spirit in which he is doing it is sufficient to warrant the conclusion that it is his purpose to inject into the work of closing up our affairs as many discordant elements as he can. And I take his recommendation in this matter to be an effort in this direction, as I will presently show.

Gov. Dukes is the retiring Principal Chief of the Choctaw Nation, will be succeeded by myself in October, a month or more previous to the expiration of Ainsworth's term of office, the office which he now wants to prematurely fill; and it is

-2-

evident too that he wants to give this office to a man opposed to my incoming administration and an avowed anti-agreement man.

Aside from the Governor's premature recommendation and his political manoeuvring in doing so, I understand he is offering the name of a man of very unsavory reputation, which is but another evidence to debauch and complicate matters. All of which I submit for your consideration, and would respectfully request that you ignore Dukes' recommendation.

Very respectfully,
Green McCurtain.

Boggy Depot, I.T.
Aug. 25, 1902.

Hon. Secretary of Interior Department,
Washington, D.C.

Dear Sir:

It is the earnest desire of the residents of this place that you guarantee us a townsite, for the following reasons, viz:

First- this is an old established place, a town having been established here before the war of the Rebellion.

Second- it is 8 miles to the nearest town in any direction.

Third- it is in the midst of a thickly populated neighborhood.

Fourth- we have a post office, two stores, mill and gin and blacksmith shop and about 150 inhabitants.

That you grant us a townsite we will ever pray.

Very respectfully,

Drain & Snider.

(Endorsed) Union Agency No. 4658 Received Aug. 25, 1902 Office of U.S. Indian Inspector for Indian Territory. Washington, August 20, 1902. Secretary.-----Refers, for appropriate action, letter from Drain & Snider, of BOGGY DEPOT, Indian Territory, relative to the establishment of a townsite at that place.-----

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Ind. Ter.

August 29, 1902.

G. L. V. Emerson,
General Office.

Dear Sir:

Under date of August 19, 1902, the Secretary of the Interior forwarded to the Commission a copy of a communication from Honorable Green McCurtain, dated August 13, 1902, alleging activity on the part of certain United States officers in the recent election for the office of Principal Chief of the Choctaw Nation, etc., a copy of the communication referred to being inclosed you herewith for your information.

You are hereby directed to proceed at once to the Choctaw Nation for the purpose of the investigation of the allegations made in the letter of Honorable Green McCurtain, so that report thereon may be made to the Department as early as practicable.

Mr. Henry C. Dickey, special agent United States Secret Service, has also been furnished with a copy of this letter, and has been directed to advise with you in regard to this matter.

I do not consider it necessary to caution you that the investigation of this matter should be as diplomatic as practicable, but the Department undoubtedly desires as full and clear

a statement on the matter as is possibly obtainable. You will be furnished a stenographer to accompany you who will be under your direct instructions, and such testimony as is taken by you should only have direct bearing upon the charges in the letter of Mr. McCurtain.

Specific charges are made by Mr. McCurtain against T. B. Latham, United States Commissioner, Joseph Foltz, Dept. United States Clerk, and United States Jailer Chaffee at Atoka, Indian Territory, while in conclusion it is alleged that every court official in the Choctaw Nation, from Judge Clayton down to the least office, is opposed to the ratification of the pending Choctaw-Chickasaw agreement.

It is probable that your investigations will necessitate visits to other localities of the Choctaw Nation than South McAlester, and if so you are authorized to visit such towns as in your opinion are necessary, but at all times keep in close touch with the general office, and advise me daily of your location. I would suggest that before any definite steps are taken in this matter that you consult fully with Mr. Dickey as to the procedure to be followed.

I must urge upon you that this investigation, while thorough, must be made as expeditiously as possible, for if the allegations made by Mr. McCurtain are true, the report of the Commission to the Secretary of the Interior must be made sufficiently early to permit of action thereon prior to September 25, 1902, the date upon which the pending Choctaw-Chickasaw agreement is to be submitted to the citizens of the Choctaw and Chickasaw Nations for

-3-

ratification. You will use every means to expedite the submission of the report requested by the Secretary of the Interior, and, if possible, I desire that the same be forwarded not later than September 6, 1902.

Mr. G. Rosenwinkel, stenographer, has been directed to accompany you in this assignment, and will be under your direction to be used for such purposes as may become necessary.

Yours truly,

Tams Bixby,

~~ACTING CHAIRMAN.~~
CHAIRMAN

ENC.1

DEPARTMENT OF THE INTERIOR.
Washington.

ITD. 5379-1902.

September 2, 1902.

United States Indian Inspector

for Indian Territory, Muskogee, I.T.

Sir:

The Department is in receipt of your communication of August 19, 1902, concerning the matter of the definite location of the Indian Territory Traction Company's line, which was approved by the Department July 25, 1902.

You state that you have completed the survey of the town of Haileyville and are about to commence the survey of the town of Krebs, and you ask to be advised whether the right of way for this street or electric railway shall be platted through said towns. You also state that data necessary to show the exact location of said railway through said towns, do not appear upon the blue-print copy of the approved map of definite location.

You also invite attention to the act of February 28, 1902, concerning the construction of railways through the Indian Territory, and state that it is the understanding of the people of the Territory that previous acts were repealed by the passage of said act. You inquire whether the Department considers that railroads may apply under previous acts, and whether rights of way will be granted thereunder and maps approved.

The Acting Commissioner of Indian Affairs forwarded your letter on August 27, 1902, and stated that it will not be necessary to show on the plats of the townsites of Haileyville 4738.

and Krebs the line of route of the Indian Territory Traction Company. He recommends that you be advised -

"that section 23 of the Act of February 28, 1902, providing for the repeal of the Act of March 2, 1899, and other acts, provides, also, that such repeal shall not affect any railroad company whose railroad is now actually being constructed or any rights which have already accrued 'but such railroads may be completed and such rights enforced in the manner provided by the laws under which such construction was commenced or under which such rights accrued;"

and that you be further informed that "the railroad companies operating and constructing railroads under the Act of March 2, 1899, are those only whose rights accrued under the said act."

The Department concurs in the views of the Acting Commissioner, and incloses herewith a copy of his letter.

Respectfully,

Thos. Ryan

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 4738 Received Sept. 9, 1902 Office of U.S. Indian Inspector for Indian Territory. Washington, Sept. 2, 1902. Secretary.-----States it will not be necessary to show on plats of Haileyville and Krebs the right of way of Indian Territory Traction Company's line; act of Feb. 28, 1902, does not affect rights of railroads which have been secured under previous acts.-----

DEPARTMENT OF THE INTERIOR,
Washington.

September 5, 1902.

Mr. J. George Wright,
Indian Inspector,
Muskogee, Indian Territory.

Sir:

In connection with the Department's reference to you on the 5th ultimo, of the letter of the Principal Chief of the Choctaw Nation recommending the appointment of J.N. LEARD as Coal and Asphalt Mine Trustee, there is inclosed herewith a letter from GREEN McCURTAIN, who states that he will succeed Chief DUKE before the present Trustee's term expires in October, and protests against the present Chief's recommendation.

Very respectfully,

Thos. Ryan

First Assistant Secretary.

(Endorsed) Union Agency No.4740 Received Sep.9,1902 Office of U.S.Indian Inspector, for Indian Territory.Washington,Sept.5, 1902. Secretary.-----Encloses letter from Green McCurtain protesting against Gov. Dukes nominating a man to succeed Trustee Ainsworth, to be considered in connection with report on fitness of J.N.Leard for the position.-----

124
Refer in reply to the following:

Land.
53367-1902.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington, Sept. 15, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made on September 3, 1902, by Inspector Wright transmitting a communication dated August 30, 1902, from Hon. Green McCurtain, of Sans Rois, Choctaw Nation, Indian Territory, in which Mr. McCurtain states that he has been advised that he has been elected Principal Chief of the Choctaw Nation; that there is considerable feeling, and that from all indications there are persons who are not willing to accept the verdict of the people and who are seeking to defeat the public will by force and by unlawfully tampering with the official returns; that the conduct of the present officials of the tribe is calculated to cause trouble; that the present Principal Chief is kept under the influence of intoxicants; and that he (Mr. McCurtain) believes that the opposing political faction proposes to precipitate trouble at the coming session of the National Council to be held in October next; and he suggests the necessity for a detachment of troops to be present on that occasion.

The Inspector refers to the recent election and counting of the votes at Tishomingo, in the Chickasaw Nation and states

-2-

that order was kept there by the Indian Agent and the Indian police with the cooperation of the United States Marshal with deputy marshals, and he does not believe that there is any necessity for troops at the capital of the Choctaw Nation, but recommends that the same action be taken at the capital of the Choctaw Nation as was taken at the capital of the Chickasaw Nation.

Mr. McCurtain stated that Governor Dukes sent light horsemen to Supreme Judge Wesley Anderson and forcibly took away from him the poll books for the third district of the Choctaw Nation while he (Judge Anderson) was in the act of counting the votes for district and county officers. Inspector Wright addressed a letter to Governor Dukes relative to that matter and submits for the information of the Department the reply of Governor Dukes in which he states that he proceeded in the matter in accordance with the law and suspended "the said Wesley Anderson from acting as Supreme Judge until our General Council convenes and passes upon the charges preferred against him"; that Judge Anderson declined to deliver the books to S. E. Cole who had been appointed temporary Supreme Judge, and that thereupon Governor Dukes sent his light horsemen to seize the poll books and turn them over to Judge Cole.

The office agrees with the Inspector that there seems to be no reason for the employment of troops at the capital of

-3-

the Choctaw Nation at the meeting of the National Council therein, and respectfully recommends that the Inspector be authorized to proceed in the manner suggested by him.

Very respectfully,

Your obedient servant,

W. A. Jones,

Commissioner.

W.C.V.(S)

(Endorsed) Union Agency No.4806.Received.Sep.25,1902.Office of U.S. Indian Inspector for Indian Territory.Washington,D.C.Sept.18,1902. Secretary.-----Approves recommendation regarding letter of Mr. Green McCurtain, and directs that he be advised relative thereto.

DEPARTMENT OF THE INTERIOR,
Washington.

ITD 5793-1902.

September 20, 1902.

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

Sir:

The Department is in receipt of a letter from Honorable Spencer B. Adams, Chief Justice of the Citizenship Court, quoting from a letter from Messrs. Mansfield, McMurray and Cornish, relative to the necessity for the presence of the Indian Agent or a troop of soldiers at Tuskahoma during the counting of the vote for Principal Chief of the Choctaw Nation.

On the 18th instant (ITD 5727-1902), the Department advised you fully relative to the action to be taken by you, or the Indian Agent under your direction, at that time.

The Attorney General has been requested, in accordance with your recommendation, to direct the United States Marshal to be present with a sufficient number of deputies to keep the peace.

You are further advised that the Department does not desire and will not tolerate any interference on the part of the United States officers of this Department with the tribal authorities in the discharge of their duties, except whatever may be necessary to preserve order and to keep the

-2-

peace on that occasion.

The Department desires a full report from you concerning the statements made by Judge Foote in an extract transmitted by Judge Adams. Should any special exigency arise requiring different action, you will wire the Department for instructions.

Copy of Judge Adams' letter and also copy of the extract of the letter from Judge Foote to Judge Adams, are inclosed herewith.

Respectfully,

Thos. Ryan

Acting Secretary.

2 inclosures.

(Endorsed) Union Agency No.4805 Received Sept.25,1902 Office of U.S.Indian Inspector for Indian Territory. Washington, D.C.Sept.20,1902. Secretary.-----Encloses copy of a letter from AJudge Adams and copy of a letter transmitted by him from Judge Foote relative to the presence of the Indian Agent or troops during the counting of votes for Principal Chief of the Choctaw Nation. Desires full report concerning statements contained in these communications.-----

Refer in reply to the following:
Land
53802--1902.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,
September 22, 1902.

The Honorable,
The Secretary of the Interior.

Sir:-

I have the honor to transmit, herewith, a communication from the Commission to the Five Civilized Tribes dated August 27, 1902, in reply to Departmental letter of August 4, 1902 (I.T.D. 4631--1902) in reference to a construction of Section 41 of the pending Choctaw-Chickasaw Agreement as ratified by the Act of Congress of July 1, 1902. Said inquiry on the part of the Department originated in connection with the consolidated Mississippi Choctaw case of Rachel Tinsley, et al., wherein the views of the Commission and this office as to what constitutes a 14th Article Mississippi Choctaw Indian under certain circumstances conflicts. Said conflict of opinion still exists as the Department has so far withheld its views relative thereto, but asked the Commission for a construction of said Section 41 and what effect, if any, it had upon the question involved in the Tinsley case. Said Section 41 of the pending agreement is as follows:

"The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi

Choctaw Indians whether of full or mixed blood who received a patent to land under said 14th Article of the said Treaty of 1830 who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June 28, 1898, shall be deemed to be Mississippi Choctaws entitled to benefits under Article 14 of the said treaty of September 27, 1830, and to identification as such by said commission; but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of full-blood, or who is not a descendant of a Mississippi Choctaw who received a patent to land under said treaty or who is otherwise barred from the right of citizenship in the Choctaw Nation."

In discussing the provisions of said section the Commission, in the opinion of the office, very properly finds that there are two classes of persons who are entitled to identification as Mississippi Choctaws under said section as follows:

First. Full-blood Choctaw Indians irrespective of any proof of compliance on the part of their ancestors with the provisions of the 14th Article of the Treaty of 1830; and

Second. The descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received patents to land under the 14th article of the treaty of 1830.

The Commission then discusses said second class of eligible Mississippi Choctaws as follows:

"In the disposition of claims of the latter class the Commission reiterates the opinion expressed in our letter of June 28, 1902

that if the evidence in support of an application for identification as a Mississippi Choctaw shows that an ancestor of the applicant was a child living at the date of the ratification of the treaty of 1830 then compliance with Article 14 thereof must be shown to have been made on behalf of said child by name actually stated or as a child unnamed in the family of one who did comply irrespective of whether or not compliance therewith was made by an ancestor more remote than said child. In sustaining the position taken by the Commission the attention of the Department is respectfully invited to an opinion of the Assistant Attorney-General of the Interior Department of June 8, 1901, wherein the question as to 'whether the state of un-sound mind x x x x x x and of infancy exempt applicants from the limitations upon the time within which applicants for citizenship or persons not on the tribal rolls were required to be made by the Act of June 10, 1896.' The Assistant Attorney-General in his opinion states that there is nothing in the legislation of Congress relative to the authority of this Commission upon which such an exemption can be predicated. The Commission is of the opinion that a somewhat analogous proposition in the disposition of the rights of minors under the provisions of the 14th Article of the Treaty of 1830 as under the provisions of the Act of Congress of June 10, 1896 (29 Stats., 321). The 14th Article of the Treaty of 1830 provided that not only the head of a family should signify his intention, but such a signification must also have been made on the part of his children who were living with him, and such children were further designated by classes."

The Commission goes on at some length in its argument to

-4-

sustain its former position that where an alleged ancestor was a child living at the date of the ratification of the treaty of 1830 then compliance with article 14 thereof must be shown to have been made on behalf of said child by name actually stated or as a child unnamed in the family of one who did comply irrespective of whether or not compliance therewith was made by an ancestor more remote than said child. Relative to this question the office stated its opinion fully in its letter of July 30, 1902 holding in substance that where the head of a family complied with the provisions of the 14th article of the treaty of 1830 that by such compliance the descendants of the ^{minor} children of such head of a family who were living at the date of his compliance with said article are entitled to be identified as Mississippi Choctaw Indians whether any record of the existence of such minor children was made at the time of such compliance or not.

A further examination of this question only confirms the office that its opinion in this matter is correct. Said 14th article of the treaty of 1830 provides that: "Each Choctaw head of a family being desirous to remain and become a citizen of the States shall be permitted to do so by signifying his intention to the Agent within six months from the ratification of this treaty, and he or she shall thereupon by (Sic) entitled to a reservation of one section of 640 acres of land to be bounded by section lines, and surveyed in like manner; shall be entitled to one-half that quantity for each unmarried child which is living with him over

-5-

10 years of age, and a quarter section to such child as may be under 10 years of age to adjoin the location of the parent."

The above is a foundation of the rights of Mississippi Choctaws under the 14th Article of said treaty and one only pre-requisite to obtain such rights as it gives is that the head of a family shall signify his intention to the Agent within six months from the ratification of the treaty to remain and become a citizen of the States. The law nowhere states that the children living with him must take any action within themselves to entitle them to all the rights under said treaty, nor is there any provision that the head of a family must submit the names of such children to the Agent. If the head of a Choctaw family had appeared before the Agent and submitted proof that he had so many unmarried children and given their ages, he would undoubtedly have complied with the law and been entitled to a reservation for himself and his children, and where a Mississippi Choctaw makes application for identification under the provisions of said 14th article of the treaty, and can show that his ancestor was an unmarried person in 1830 and living with his parents, and that his said parents took under the provisions of said article of said treaty, the office holds that such applicant has made out his case and is entitled to identification as a Mississippi Choctaw. When the head of a family complied with the provisions of said article 14 his unmarried children living with him at that time were thereby vested with such rights as said 14th article gave them and certainly can not be divested thereof because their name has not been preserved either through the negligence of the parent or the Agents and Commissions acting on the part of the Government.

-6-

The office contends that under such circumstances their rights became vested rights and could only become divested by consent of the parties themselves, which consent has never been had.

The office can not see wherein the decision of the Assistant Attorney-General of the Interior Department of June 8, 1901, construing the limitation of time therein in relation to unsound mind and infancy can be applied to the 14th article nor does the office agree with the Commission that said article provides that "such signification must also have been made on the part of his children who were living with him." The only requirement in the 14th article is compliance by the "head of a family" and such compliance vests certain of his children therein described with certain rights which can not be taken away.

The Commission says further "and if for any reason the parent neglected to comply with the provisions of the fourteenth article of the treaty for any minor child who was living at the date of its conclusion, we can not see that there is anything in the legislation that countenances such exemption."

The fourteenth article contains nothing that warrants such a construction. It nowhere provides that a "parent must comply for any minor child." All that is demanded is that he comply for himself and the rights of his children living with him follow, whether they are minors or not. The article was so drafted that the "head of a family" could not be "negligent". When he acted the rights of his children living with him became fixed and determined and when the "head of a family" claimed his or her rights; the children became clothed with all the rights given them by

said article the same as if they had been present and registered by name.

Again the children could not secure these rights except through the "head of the family". They could not go before the agent on their own motion and comply with said article and become a beneficiary thereunder. They were entirely dependent on the action of their parent, but when he did act, he could not by any negligence of his, defeat the rights of his children.

Section 41 of the pending Choctaw-Chickasaw agreement still makes provision for these Mississippi Choctaw Indians whether of full or mixed blood who received patents to land under the 14th article of the treaty of 1830. The question has been or will be raised as to the meaning of the word "patents" as used in said section. The record shows that a large number of Mississippi Choctaws received certificates from the Commission authorized by the Act of August 23, 1842 instead of patents. Such certificates were issued under the following provisions of said Act: "That if the United States shall have disposed of any tract of land to which any Indian was entitled under the provisions of said 14th article of said treaty so that it now impossible to give said Indian the quantity to which he was entitled including his improvements as aforesaid or any part of it or to his children on the adjoining lands, the Said Commission shall thereupon estimate the quantity to which each Indian is entitled and allow him or her for the same a quantity of land equal to that allowed to be taken out of any of the public lands in the States of Mississippi, Louisiana, Alabama and Arkansas subject to entry at private sale, and certificates to that effect shall be delivered under the direction

-8-

of the Secretary of War through such agent as he may select not more than one-half of which shall be delivered to said Indian until after his removal to the Choctaw Territory West of the Mississippi River."

The office considers that where such certificates were issued by the Government the Indians receiving them had complied with every provision necessary to entitle them to all the rights guaranteed by the 14th article of the treaty of 1830; that the lands which they had held as a home and to which they were in fact entitled, but which had been sold or disposed of by the Government. The fact that they never located any of the land in any of the several States mentioned, and thereby never received any patent for the same should be no bar to their obtaining their rights at the present time, and it is quite evident that they are as much entitled to share in the lands of the Choctaw Nation as those who actually received patents for land from the Government. These certificates were not issued until after the passage of the Act of 1842 aforesaid, and as proof of the 5 year's residence was one of the conditions upon which said certificates were to be issued that question cannot now be raised in the cases of that class of applicants. Although the Commission raises the question of the five year's residence, the office cannot see where the matter of residence will be an issue under said section 41 of the pending agreement.

The office again desires to submit for the consideration of

-9-

the Department in connection with the question involved herein, its letter of July 30, 1902, and believes that its opinion therein is not only supported by the law, but is the only equitable and just conclusion to be reached in the case or cases involved.

Very respectfully,
Your obedient servant,

A. C. Tonner,

Acting Commissioner.

W.C.B.(E.)

21326

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Ind. Ter.

September 24, 1902.

Guy L. V. Emerson,
Atoka, Indian Territory,

Dear Sir:

Since your leaving here Monday night I have had a conference with Messrs. McMurray, Cornish and McCurtain relative to your contemplated visit to Caddo, September 26th, and after a further consideration of the matter, desire to again impress upon you the utmost diplomacy in dealing with the National Secretary of the Choctaw Nation, Mr. Homer. If he shows any signs of suspicions or refuses to accord you the information requested no further steps should be taken by you in the matter but you will return to Muskogee at once.

It has been suggested upon your arrival at Caddo you call upon the Mayor of the town, Alva B. McCoy, and L. C. Leflore, both of whom are favorable to the adoption of the agreement and who might be able to render you any assistance in your mission.

I do not believe it would be wise to acquaint them with the true object of your visit to Caddo nor would it be necessary to furnish them any further information than the fact that you are there as a representative of the Commission to ascertain whether all of the returns have been received in order that the Board may be convened at Atoka without delay.

It has been suggested that you could state as the reason

-2-

for the anxiety of the Commission in this matter, the illness in the family of Col. Needles and his desire to return to the bedside of his daughter as early as practicable. In the absence of Commissioner Breckinridge, Col. Needles would be one of the members of this Board and a statement of this character might carry some weight with it.

I desire to again impress upon you that no steps be taken that would antagonize Mr. Homer but that you use every available means to keep informed of the return and disposition of the votes of the election on the 25th.

Respectfully,

Tams Bixby,
ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR.

Washington.

ITD 5908,6081-1902.

October 7, 1902.

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

Sir:

The Department is in receipt of the report of the Acting Inspector, dated September 30, 1902 (D 4863-1902), upon the complaint of Mr. Will S. Kee, of Bokchito, Indian Territory, dated the 16th ultimo, that he worked on Sunday, August 24, 1902, in connection with townsite surveys, and was not paid for that day.

The Acting Inspector reports that Mr. Kee was paid for that day and that he signed receipt therefor, and he requests that your Office be instructed to advise Mr. Kee that he has already been paid for said day, and that no further action can be taken concerning the matter.

Your communication was forwarded by endorsement of the Acting Commissioner of Indian Affairs, dated October 4, 1902.

The Department concurs in your recommendation, and you will instruct Mr. Kee accordingly.

Respectfully,

Thos. Ryan

Acting Secretary.

-2-

(Endorsed) Union Agency No.4932 Received Oct.16,1902 Office of U.S.Indian Inspector for Indian Territory.Washington, Oct.13,1902.Commissioner.----Transmits letter from Secretary approving report concerning complaint of Will S.Kee; should advise Mr.Kee.----

THE WESTERN UNION TELEGRAPH COMPANY

Number	"	Sent By	"	Rec'd By	"	Check
51 Ks	"	B Z	"	AN	"	74 Paid Govt
	"		"		"	

RECEIVED at 6 PM 10/7 1902

Dated PO Washington D.C. 10/7

To Shoenfelt Ind Agt and Actg Inspr.

Muskogee, I.T.

Do not interfere in tribal affairs of seating members or counting votes. Your duty is simply to keep the peace to which end the department of Justice is instructing its representative to cooperate with you and be largely guided by your suggestions. Should bloodshed between factions of tribes be eminent wire me and troop will be asked for to keep the peace.

E.A.Hitchcock

Secy.

(Endorsed) Union Agency No.4898 Received Oct.8,1902 Office of U.S.Indian Inspector for Indian Territory.Washington, Oct.7, 1902. Secretary.-----Wire: Should not interfere in tribal affairs of seating members or counting votes, but simply keep the peace: if bloodshed is imminent should wire Department and troops will be sent.-----

7:10 P. M.

Washington, D. C., 10/9.

Shoenfelt,

Ind. Agt. and Acting Inspector,

Tushkahoma, I. T.

Replying to your telegram of this date and depending upon the exercise of good judgment by you and upon your keeping within lines of legal authority, I have just requested the Secy of War as follows:

"I am reliably informed by the Indian Inspector and agent in charge that rival factions of Choctaw Nation or tribe in the Indian Territory in an effort to obtain control of the government and official machine of the tribe have assumed a position of armed hostility which seriously threatens the peace of the community and is likely to bid defiance to all lawful authority and to result in bloodshed and loss of life. The Indian Inspector and Agent in charge reports that serious trouble can only be averted by the presence and assistance of troops in preserving the peace and in affording the legislative body full opportunity to assemble and proceed in the usual manner, freed from all armed or other violent interference, and earnestly requests that troops be immediately employed for this purpose. I respectfully request that a detail of troops, consisting of two companies, if that number can be spared, be at once sent from the nearest available post of Tushkahoma, the capitol of the Choctaw Nation, for the purpose of assisting the Indian Inspector and Agent in charge in preserving of

-2-

peace and the avoidance of conflict and violence in protecting the legislative body from such interference. The present irritating cause is the canvass yet this week of the vote cast at a recent election and therefore it is not probable that the presence of troops would be required for any long period. Kindly advise me of your action at earliest moment so I may notify Indian Agent."

Upon the receipt of the reply of the Secretary of War, momentarily expected, you will be further advised.

E. A. HITCHCOCK,

Secretary of the Interior.

(Endorsed) Union Agency No.4961.Received Oct.20,1902.Office of U.S. Indian Inspector for Indian Territory.Washington,Oct.9,1902.
Secretary----Wire:- Has requested Sec. of War to send two companies of troops to Tuskohoma; Upon receipt of advice from him will advise further.

October 15, 1902.

Mr. Donald Grant

Faribault, Minn.

My dear Sir:-

Under a recent Act of Congress there was provided for two land offices to be opened in the Choctaw and Chickasaw nations. The Dawes Commission has the selecting, subject to the approval of the Secretary of the Interior, of the points at which these land offices shall be located. The Chairman of the Dawes Commission has stated that on the opening day of the Land Office, that there would be at least Five Thousand people on hand to present their application to the Commissioner, and that during the time the office was retained that there would be an average of nearly three thousand people in daily attendance. South McAlester is making a great effort to get the location of this land office, which will be continued for from three to five years. Mr. Tams Bixby, who is Chairman of the Dawes Commission, and who I am informed, hails from either Minnesota or Wisconsin, is the man that has more to say regarding this location than any other one man, and if you can, through the Senators from Minnesota or Wisconsin, bring any influence to bear upon Mr. Bixby whereby it will influence him to give this point favorable consideration, it will not only be of great help to the city itself, but will mean considerable to the Street Railway Company.

If those who have this matter to decide will carefully

-2-

study the location, they will notice that we are the most accessible point in the Choctaw Nation--that this place is more easily reached from all points in the nation than any other place. The towns on the St. Louis and Frisco to Ft. Smith and to Paris, Texas, can all reach South McAlester more easily than they can Atoka, which is practically the only town contesting with South McAlester, for the Land Office.

The Fort Smith & Western road from Fort Smith runs just North of our city, and makes good connection with the M. K. & T. Our two main lines, the Choctaw and the Katy touch a large part of the population of the Nation, and the Ardmore Branch of the Choctaw reaches another section which is quite thickly populated.

South McAlester is in better position for taking care of the people who came here than any other town in this nation. The city has voluntarily offered to provide a camping ground for the Indians that come here and would prefer such a place than to going to a hotel. A hotel project is under way here and with a fair prospect of a successful culmination. This point has been selected as the location of the Citizens' Court. It is the location of the appellate court and the head of the Central District. All of the Choctaw Citizenship papers are kept here by an Act of the Choctaw Legislature, so that there are many reasons why this should be the place for the Land Office.

I submit this to you with the hope that you will sup-

-3-

plement the efforts of the people here in getting a favorable decision from the powers that be, and any assistance that you can render will be very much appreciated (Sic) by the people of South McAlester.

Very truly yours,

A. U. Thomas.

P. S. Mr. Bixby has said that he wants the matter decided within the next two weeks, so that anything to be done in the matter, must be done at once.

A. U. T.

Dict. A.U.T.--N.

A.U.Thomas.

(Endorsed) Union Agency # 481 Regarding letter of A. U. Thomas in favor of Land Office to be opened at McAlester.

UNITED STATES SENATE.
Committee to Examine the
Fifty-Seventh Congress. Several Branches of the
Civil Service

Moses, E. Clapp, Chairman.
Joseph B. Foraker.
George F. Hoar.
William J. Deboe.
Henry Heitfeld.
Charles A. Culberson.
Furnifold MC L. Simmons.
Chauncey E. Richardson.
Clerk.

St. Paul, Minn. Oct. 21, 1902.

Hon. Tams Bixby,
Muskogee, Ind. Territory,

Dear Tams:

Enclosed find a letter from A. U. Thomas to Donald Grant. Donald Grant is interested in the matter, and if you can do anything toward putting the land office at South McAlester, I shall appreciate it.

Things are running along here very nicely. With kindest regards I am,

Very truly yours,
Moses E. Clapp

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. 6503-1902.

October 22, 1902.

Mr. J. B. Shoenfelt,
Acting Indian Inspector,
Muskogee, Ind. Ter.

Sir:

There are herewith enclosed a letter from W. A. Durant, dated the 20th instant, and the copy of certain affidavits and papers therein described, all relating to the controversy over the election of a Principal Chief of the Choctaw Nation. Mr. Durant's letter and the accompanying papers are presented in support of the assertion that T. W. Hunter was properly elected and declared the Principal Chief of the Choctaws. These papers are transmitted to you with the request that you call them to the attention of Green McCurtain who has been recognized by the Department as properly elected and declared the Principal Chief of the Choctaws, and accord him a reasonable but limited time within which to make any counter showing which to him shall seem proper in the premises.

This action is taken without now considering whether this Department can or should take any further action with reference to the controversy over the election of a Principal Chief of the Choctaws. You will also submit, in that connection, any statement of matters within your knowledge, in addition to those heretofore reported by you, which you think properly

-2-

bear upon the recent controversy over the chieftainship.

Very respectfully,

E. A. Hitchcock,

Secretary.

Enclosures.

(Endorsed) Union Agency No. 4982. Received. Oct. 25, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Oct. 22, 1902. Secretary----Encloses papers from W. A. Durant in support of Hunter's claim to Choctaw chieftainship; should allow McCurtain to present counter showing, and make full report thereon.

Extracts from a letter written by Judge Foote, from South McAlester, I.T., and bearing date the 15th instant.

The conduct of the parties who oppose the treaty in the Chickasaw Nation have, since I wrote you, been apparently quiet, but, nevertheless, there has been, and is, desperation; and, but for the wise counsel of some disinterested people, an effort would have been made by armed men of the Byrd faction, camped in the woods near Tishomingo, to have attempted what they failed to do, owing to the cool and deliberate courage and obedience to instructions of Maj. Shoenfeldt, on the first day of September.

I think the same desperation exists in the Choctaw Nation; and it is being fanned by Hunter and his friends, some of whom, I regret to say, are Federal officials, whom you know as well as I do. I am satisfied from the most reliable information that I can get, it is the intention of Hunter and his friends to attempt to be seated as chief of the Choctaw Nation, on the 6th day of October next. Their plan is to have the United States Marshal and his deputies, who are undoubtedly sympathizers of Hunter, whatever they may say to the contrary, to go to the capital of the Choctaw Nation, at Tishkahomma, under the orders of the present chief Dukes, who is notoriously a drunkard and utterly unfit for the office he holds, and, under the pretended authority of this man, throw out votes for McCurtain. Such a course would only bring on anarchy and bloodshed. Some of the officers of the Choctaw Nation are desperate and determined, if possible, to thwart the will of the people, and the wellfare (Sic) of the whole Nation. They have resorted to argument with the colored people and others, to the extent of even claiming that the President of the United States would dishonestly receive a part of the proceeds from a sale of the coal lands. To such an extent have they gone with this charge that McCurtain, in a speech delivered publically, stated that

-2-

if a man who made these statements was in the crowd he would point him out, and the individual referred to, who was a Dr. Hartshorne, Hunter's campaign manager for this county, got up and slunked away. It is also a fact that the son of Dr. Sterrett, who is, as you know, a representative of the United States Government on the Township Commission, worked actively in the field in the last election for Hunter, who is a co-adjutor with his father on the Townsite Commission. The truth is, in my judgment, unless these officers, who are under the orders of the Attorney General and the Secretary of the Interior, are strongly and determendly given to understand that they shall not, under any circumstances, do anything to interfere with the seating of McCurtain, some desperate attempt will be made by these men in the hope, that if Hunter is not seated everything will be thrown in confusion here.

In reference to the treaty, I am glad to be able to inform you that Dukes has been induced to sign an amended proclamation so that the election on the treaty will take place on the 25th day of September.

It may seem to you that I somewhat overdrawn the picture, but I do assure you that from all the sources of information I have, and which I do not think proper to set forth fully on paper, a more extraordinary unscrupulous set of men than those to whom I refer never existed.

Delicacy, perhaps, would forbid me to speak of those who are like myself officers of the United States Government, but I am perfectly satisfied that those who represent the Government, here, have not only helped to carry on this campaign,

-3-

but to the extent of inducing by misrepresentation, by attacks on the President, these negroes to vote against the treaty, which is beneficial to them as well as to the real Indian. If these men are not strongly and positively ordered to keep their hands off, and from interfering in any wise with the seating of McCurtain and the installment of the Legislature, anarchy will result. In my opinion, if anybody is sent to Tishkahomma it should be Maj. Shoenfeldt, and the United States Marshal and his deputies, who are clearly in opposition to McCurtain and the treaty, should be kept away."

Land
62426-1902.

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

Oct. 23, 1902.

The Honorable

The Secretary of the Interior.

Sir:

There is inclosed herewith a report dated October 17, 1902, from the Acting Chairman of the Commission to the Five Civilized Tribes, forwarding a communication addressed to the Commission on October 10, 1902 by Billie Gibson, of Conehatta, Mississippi.

Mr. Gibson states that C. F. Winton has been in Newton County, Mississippi for several weeks and that he is trying to induce Mississippi Choctaws to enter into a contract with him by which they agree to give to him one-half of the land or money they receive in consideration of the assistance he shall give them in removing to the Indian Territory. It is further stated in the communication that Mr. Winton alleges that the Commission is not friendly to Mississippi Choctaws; that a "big lawyer named Owens" has taken the matter up again and will carry it through; that none of the Choctaws have entered into the agreements with him, but are awaiting advice from the Commission, and the writer requests that he be advised whether the Commission knows Winton, Murchison and Owens. The Acting Chairman states that he is satisfied that the representations made by Mr. Gibson are true.

-2-

The attention of the Department is invited to sections 15 and 16 of the Choctaw and Chickasaw agreement approved July 1, 1902, which are as follows:

"15. Lands allotted to members and freedmen shall not be affected or encumbered by any deed, debt or obligation of any character contracted prior to the time at which said land may be alienated under this Act, nor shall said lands be sold except as herein provided.

16. All lands allotted to the members of said tribes, except such land as is set aside to each for a homestead as herein provided, shall be alienable after issuance of patent as follows: One-fourth in acreage in one year, one-fourth in acreage in three years, and the balance in five years; in each case from date of patent: Provided, That such land shall not be alienable by the allottee or his heirs at any time before the expiration of the Choctaw and Chickasaw tribal governments for less than its appraised value."

It is probably true that Mr. Winton is in Mississippi making the representations complained of but this office does not consider that the contracts, even if entered into, will be of any validity, as the law specifically declares that the land shall not be encumbered by any obligation prior to the time at which it may be alienated.

It is respectfully recommended that the Commission to the Five Civilized Tribes be directed to call the attention of Mr.

-3-

to the provisions of sections 15 and 16 of the Choctaw and Chickasaw agreement.

Very respectfully,

Your obedient servant,

A.C.TONNER,

Acting Commissioner.

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3 inclosures.

(Endorsed) Union Agency No. 6548 Recd. Nov. 4, 1902 Department, Hitchcock, Washington, D. C., October 29, 1902.----Ack. receipt of communication of Commission transmitting letter received from Billie Gibson. The Commission is directed to call the attention of Mr. Gibson to the provisions of sections 15 & 16 of the Choctaw-Chickasaw Agreement.----

DEPARTMENT OF THE INTERIOR.
Office of the Assistant Attorney-General,
WASHINGTON.

W.C.P.
S.V.P.

4631)
5847)1902.
Ind.Ter.Div.

October 30, 1902.

The Secretary of the Interior,

Sir:

I am in receipt of your request for an opinion as to the proper construction to be placed upon that part of section 41 of the agreement with the Choctaw and Chickasaw Nation, ratified by act of July 1, 1902 (32 Stat., 641, 651), which establishes a rule of evidence for the guidance of the Commission to the Five Civilized Tribes in considering applications for enrollment of Mississippi Choctaws. The provision in question is as follows:

The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation, all of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll.

The fourteenth article of the treaty of 1830 (7 Stat., 333, 335), referred to, is as follows:

Each Choctaw head of a family being desirous to remain and become a citizen of the States, shall be permitted to do so,

-2-

by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

The position of the Commission is sufficiently set forth in the following quotation from their report of August 27, 1902:

The provision in the pending agreement defines two classes of persons who are entitled to identification as Mississippi Choctaws:

First: Full blood Choctaw Indians, irrespective of any proof or compliance on the part of their ancestors with the provisions of the fourteenth article of the treaty of eighteen hundred and thirty; and

Second: The descendants of any Mississippi Choctaw Indians whether of full or mixed blood who received patents to land under the fourteenth article of the treaty of eighteen hundred and thirty.

In the disposition of claims of the latter class, the Commission reiterates the opinion expressed in our letter of June 28, 1902, that if the evidence in support of an application for identification as a Mississippi Choctaw shows that an ancestor of the applicant was a child living at the date of the ratification of the treaty of eighteen hundred and thirty, then compliance with article fourteen thereof must be shown to have been made on behalf of said child, by name actually stated or as a child unnamed in the family of one who did comply, irrespective of whether or not compliance therewith was made by an ancestor more remote than said child.

The Commissioner of Indian Affairs dissents from the view taken by said Commission and defines his position as follows:

The law nowhere states that the children living with him must take any action within themselves to entitle them to all the rights under said treaty, nor is there any provision that the head of a family must submit the names of such children to the

Agent. If the head of a Choctaw family had appeared before the Agent and submitted proof that he had so many unmarried children and given their ages, he would undoubtedly have complied with the law and been entitled to a reservation for himself and his children, and where a Mississippi Choctaw makes application for identification under the provisions of said 14th article of the treaty, and can show that his ancestor was an unmarried person in 1830 and living with his parents, and that his said parents took under the provisions of said article of said treaty, the office holds that such applicant has made out his case and is entitled to identification as a Mississippi Choctaw.....

This point of difference apparently affords the reason for referring the matter here for an opinion.

When the provisions of the treaty and of the recent agreement are read together they do not necessarily present any very grave difficulty. The ancestor, to whom an applicant under the provisions of the agreement must trace his right, is one to whom a patent could issue under the fourteenth article of the treaty of 1830. The persons to whom patents could issue under said article were heads of families. It necessarily follows, therefore, that one seeking the benefits of paragraph 41 of the present agreement must trace his right to a head of a family who received the benefits of the fourteenth article of the treaty of 1830. The treaty did not provide for an application to be made by or on behalf of any minor child but only directed that the quantity of land to be given to the head of the family be determined by the number and age of his children. To deprive an applicant for enrollment of his rights because he traces his claim through an ancestor who was a minor at the date of the treaty of 1830, although indisputably a child of one who claimed and received the benefits of said article 14, would be manifestly unjust and certainly a result which was not contemplated or an-

ticipated by paragraph 41 of the present agreement.

After careful consideration of this matter I am of opinion, and so advise you, that said paragraph 41 includes all applicants who are able to trace their descent from a beneficiary under the fourteenth article of the treaty of 1830, whether the line be through one who was then a minor, or otherwise.

The papers are returned herewith.

Very respectfully,

Willis Van Devanter,

Assistant Attorney-General.

Approved:

E. A. Hitchcock,
Secretary.

161
Refer in reply to the following:
Land.
63953-1902.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,
Oct. 30, 1902.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made October 23, 1902, by the Commission to the Five Civilized Tribes, forwarding a letter addressed to it on October 15, by Big Wiley Johnson, dated Hickman, Miss.

Mr. Johnson states that he is a full-blood Mississippi Choctaw Indian and entitled to remove to and take an allotment of land in the Indian Territory; that he is unable to do so for lack of means and cannot secure a loan because he is unable, under the law, to pledge the land which he will secure or his prospective share of any payment to be made to the members of the Choctaw Nation. He asks that his letter be referred to the Secretary of the Interior and requests that the Secretary grant him permission to pledge his land, if necessary, in order to secure means to remove to the Indian Territory, build a house, and subsist himself and family.

The Commission states that it forwards the communication because Mr. Johnson requested it and because it presents a condition of affairs that should receive the consideration of Congress; that it is evident that the efforts already put forth for the relief of these persons will prove futile unless appropriate steps be taken to physically place them in possession of their lands in the

-2-

Indian Territory when they shall have been identified; and that private individuals are making plans to do so, exacting as a consideration one-half of the lands which the Indians are to receive, or in lieu thereof rental or improvement contracts by which the use of the land is given the agents making the removals for periods of varying lengths, and in the opinion of the Commission these contracts are not legal.

It is further stated that it is quite probable that even if the Choctaws could make a binding contract, they would suffer by the reason of the unscrupulous practices of the agents who make the contracts with them.

The Commission states that its remarks are purely suggestive, and should the Department desire that recommendations be made touching upon the needs of the Mississippi Choctaws and the apparent duty of the government towards them, this may be done.

The office respectfully recommends that the Commission be requested to report fully in the premises and submit a draft of such legislation as it deems necessary for the purpose of fully protecting and securing to the Mississippi Choctaw full-bloods their legal rights and the share of the lands to which they will be entitled when duly identified.

Very respectfully,

Your obedient servant,

W. A. Jones,

Commissioner.

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3 inclosures.

66247

DEPARTMENT OF THE INTERIOR. THE

WASHINGTON.

I.T. D. 6712-1902

November 5, 1902.

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

Gentlemen:

October 23, 1902, the Acting Chairman of your commission transmitted a communication from Big Willy Johnson, A Mississippi Choctaw living at Hickman, Mississippi, in which he states that he has no money and cannot remove to the Indian Territory because the law provides that

"All contracts or agreements looking to the sale or incumbrance of in any way, of the lands to be allotted to the Mississippi Choctaws, shall be null and void."

He requests the Department to grant him permission to pledge his land if necessary, in order to secure means to remove to the Indian Territory, build a house, and subsist himself and family, or that the Department may seek Choctaws in Mississippi, similarly situated as himself.

The Acting Chairman states that it appears that the efforts already put forth for the relief of these people will prove futile unless appropriate steps be taken to physically place them in possession of their lands in Indian Territory when they shall have been identified, as private individuals are attempting to remove the Mississippi Choctaws, or making plans to do so, exacting as a consideration, contracts pledging one-half of the lands which the Indians are expected to receive, or in

lieu thereof rental or improvement contracts by which the use of the land is given the agents making the removal for periods of varying lengths; that it is not seen how a legal contract can be made for their removal upon such a basis; that furthermore, it is quite probable that even if the Choctaws could make a binding contract with such persons they would suffer by reason of the unscrupulous practices of the agents who are seeking to remove them; that should the Department so desire, however, recommendations may be made touching upon the needs of these people and the apparent duty of the government towards them.

Reporting in the matter October 30, 1902, the Commissioner of Indian Affairs recommends that your Commission be requested to report fully in the premises, and submit a draft of such legislation as is deemed necessary.

A copy of the Commissioner's letter is inclosed, and it is requested that the Commission proceed in the manner suggested therein.

Mr. Johnson has been advised that while the Department has no authority to allow him to pledge his lands, and cannot furnish him money to remove to the Nation, the other suggestions in his letter will receive due consideration.

Respectfully,

F. L. Campbell,

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 66247. Commission to Five Tribes. Received Nov. 12, 1902. Department, Campbell, Washington, D.C., November 5, 1902. The Commission is requested to report as to the needs of the Mississippi Choctaws, and to submit a draft of such legislation as is deemed necessary.

165
D E P A R T M E N T O F T H E I N T E R I O R.

W A S H I N G T O N.

I.T.D. 6718-1902.

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WHR.

November 5, 1902.

The Commission

to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

Referring to your letter of August 27, 1902, reporting on the consolidated Mississippi Choctaw case of Rachel Tinsley, et al., and interpreting the "pending Choctaw-Chickasaw agreement" relative to Mississippi Choctaws, there is inclosed herewith a copy of an opinion of the Assistant Attorney General for this Department of October 30, 1902, approved by the Department on the same day, in the matter.

There is also inclosed a copy of the Acting Commissioner of Indian Affairs' letter of September 22, 1902, transmitting your communication.

Respectfully,

F. L. Campbell,

Acting Secretary.

2 Inclosures.

(Endorsed) Commission to Five Tribes. No. 21326. Received Nov. 13, 1902. Department, Campbell, Washington, D.C. November 5, 1902. ---Enclosing opinion of Assistant Attorney General, approved by the Department, upon certain section of the Choctaw-Chickasaw Agreement relative to the Mississippi Choctaws.

166

EXECUTIVE OFFICE CHOCTAW NATION
Green McCurtain, Principal Chief,

Kintah, I.T.,
Nov. 20, 1902.

Mr. Henry Ainsly,
McAlester, I.T.

Dear Sir:

In submitting my views to the delegation that will represent the Choctaw Nation at the meeting of the Governors of the five Civilized Tribes, at Eufaula, Indian Territory, on November 28, 1902; at which time it is hoped that some plan will be adopted that will best serve and protect the interest of the Indian, during the period that yet remains in which tribal government shall give way to some other form of Government; I have these suggestions to make:

We should insist, with all the zeal we can command, that no laws should be passed that would in any way tend to complicate the recent treaties which the tribes have entered into with the United States Government.

That, where further treaties are necessary, any steps taken in that direction should be mutually agreed upon between the United States Government, and the tribes so affected.

That the real Indian is vitally interested, to the end that the present condition remains undisturbed, except in so far as it may become necessary to change or amend the present treaties, with the view to expedite a full and fair settlement of tribal affairs, before the great change that is rapidly approaching.

It might be suggested, in the Memorial to Congress, that the

----Pleasant Porters-a-88----

Indian's motive, in demanding these things, ought to go unchallenged; while those who insist on the enactment of laws that tend to complicate, and harrass the Government Officers sent here to wind up the affairs of the tribes, are open to many objections.

The Indian is making his last stand, and he has a right to demand fair treatment; while those who urge legislation contrary to the Indian's interest, reap only such benefits as naturally arise through mistaken legislation.

These observations seem to me to be the broad outlines that ought to receive the consideration of this convention, in dealing with the questions that must come before it.

It may be that there will be found among those acting with us, a disposition to go further and demand Territorial Government, or separate Statehood from Oklahoma. These questions I leave to the wisdom of the delegation, and trust that you, in your deliberations, may arrive at a conclusion that will be satisfactory to all, and redound to the credit of the real Indian in this great and unequal contest.

Yours truly,

Green McCurtain,

Principal Chief, C.N.

DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D.7231-1902.

November 21,1902.

Mr.J.W.Zevely,
Acting Indian Inspector
for Indian Territory,
Muscogee, Indian Territory.

Sir:

Answering your letter of the 18th inst., the election and qualification of Green McCurtain as Principal Chief of the Choctaws, his recognition as such by this Department and by the legislative branch of the Choctaw government, and his subsequent occupancy of that office without any formidable or substantial claim to the contrary by another, seems to me to require that you do not receive or give recognition to the purported Choctaw acts referred to in your letter.

Very respectfully,

E.A.Hitchcock.

Secretary.

(Endorsed) Union Agency No.5213 Received Nov.25,1902.Office of U.S.Indian Inspector for Indian Territory.Washington, Nov.21,1902.Secretary.-----Should not receive or recognize acts of the Hunter Council, Choctaw Nation.-----

169

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

Washington.

ITD.7290-1902.

November 29, 1902.

United States Indian Inspector

for Indian Territory, Muskogee, I. T.

Sir:

November 14, 1902, the Acting Inspector transmitted a letter from the Principal Chief of the Choctaw Nation recommending that Mr. Thomas E. Sanguin be appointed at once to represent the Choctaw Nation on the commission to be appointed under section 59 of the act of July 1, 1902 (32 Stat., 641), in the matter of the sale of the coal and asphalt lands of the Choctaw and Chickasaw Nations.

In accordance with the recommendation of the Acting Inspector, concurred in by the Commissioner of Indian Affairs in his letter of November 24, I have this day advised the Principal Chief, by letter herewith inclosed to be duly forwarded, that the appointment of commissioners under said section will be deferred until such coal and asphalt lands shall have been segregated by the Department. A copy of the Commissioner's report is also inclosed herewith.

Respectfully,

E. A. Hitchcock,
Secretary.

2 inclosures.

(Endorsed) Union Agency No. 5262. Received. Dec. 5, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 29, 1902. Secretary---Approves report on recommendation of Principal Chief, Choctaw Nation, for appointment of coal com'r; encloses letter to McCurtain.

Refer in reply to the following:

Land.

73811-1902.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington,

December 18, 1902.

The Honorable

The Secretary of the Interior.

Sir:

Referring to Department letter of December 3, 1902, I.T.D. 7414, there is enclosed herewith a report from Acting Inspector Zevely dated December 10, 1902, forwarding Affidavits, newspaper clippings, statements and a letter from Green McCurtain, principal chief of the Choctaw Nation, in support of the charges recently made by him against Thomas W. Hunter as a town site commissioner.

Mr. McCurtain requests that Mr. Hunter be removed.

The Acting Inspector states that he has gone over the papers carefully, has talked with Mr. Hunter about the matter, and is unable to discover any additional charges made by the affidavits and statements enclosed with his report. He states that in view of the Depart-

-2-

ment's direction of December 3, it will, in his opinion, be unnecessary to request Mr. Hunter to make any written response to the papers enclosed herewith.

The office has carefully considered all of the enclosures received with the Acting Inspector's report, and it has been unable to find any thing therein that would tend to show that Mr. Hunter should be removed from the Choctaw Town Site Commission. It therefore concurs in the suggestions of the Acting Inspector.

Very respectfully,

Commissioner.

G.A.W. H'r.

(Endorsed) Union Agency No. 5441. Received Jan. 2, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Dec. 26, 1902. Secretary. Approves report concerning statements of Prin. Chief, Choctaw Nation, in support of charges against townsite com'r Hunter.

Land
73815-1902.

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

December 18, 1902.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed herewith a report dated December 9, 1902, from the Commission to the Five Civilized Tribes. This report relates to a letter addressed to the Department on November 11, 1902, by Charles F. Winton, which said letter was referred to the Commission to the Five Civilized Tribes for consideration on November 20, last.

Mr. Winton refers to the provisions in section 41 of the Choctaw and Chickasaw Supplemental Agreement, which declares that all full blood Mississippi Choctaws shall be deemed to be Mississippi Choctaws, entitled to the benefits of the 14th article of the treaty of 1830, and holds that full blood Mississippi Choctaws are entitled to identification and enrollment, and that under article 38 of the Choctaw and Chickasaw treaty of 1866, which is as follows:

Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw and Chickasaw nations according to his domicile, and to prosecution and trial before their tribunals,

-2-

and to punishment according to their laws in all respects as though he was a native Choctaw or Chickasaw; husbands and wives of duly identified Mississippi Choctaws are entitled to enrollment as intermarried citizens of the Choctaw Nation.

The Commission in its report quotes from the act of June 28, 1898, as follows:

Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, and to that end may administer oaths, examine witnesses and perform all other acts necessary thereto, and make report to the secretary of the Interior:

and states that it is of the opinion that no person is entitled to identification as a Mississippi Choctaw by intermarriage.

The Commission states that the Department has concurred in this view, and that there is nothing in the Choctaw and Chickasaw Supplemental agreement in any manner recognizing the rights of persons intermarried with Mississippi Choctaws, and takes the position that no construction could be placed upon the 33th article of the treaty of 1866 which would in any manner guarantee to persons intermarried to Mississippi Choctaws any recognition as intermarried citizens of the Choctaw and Chickasaw Nations.

The Commission recommends that Mr. Winton be advised that no person can acquire any rights in the Choctaw and Chickasaw

-3-

Nations by intermarriage with Mississippi Choctaws.

The office is not wholly prepared to agree with the conclusions of the Commission. The Commission has in several instances held, in deciding Mississippi Choctaw cases, that applicants' wives or husbands were not entitled to enrollment as intermarried citizens, but no case has been before the office wherein it was necessary to discuss this holding.

It is respectfully recommended that this question be not decided at this time, and that Mr. Winton's be advised that when a case comes before the Department in which the points mentioned by him are involved, a decision will be rendered therein.

Very respectfully,

W. A. Jones,

Commissioner.

(Endorsed) Union Agency No. 26036 Department of the Interior, recd. Dec. 19, 1902 Department, Ryan, December 26, 1902. CHOCTAW-- --Encloses copy of letter to Mr. Owen acknowledging receipt of his communication entitled argument in behalf of Mississippi Choctaw husbands and wives of fullblood Mississippi Choctaws."-----

DEPARTMENT OF THE INTERIOR. CMR.
WASHINGTON.
ITD 7647-1902. December 18, 1902.

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

Gentlemen:

The Department is in receipt of your report dated November 24, 1902, acknowledging receipt of departmental letter of the 5th of the same month (ITD 6712-1902), inclosing a report of the Commissioner of Indian Affairs of October 30, same year (Land 63953-1902), with reference to your letter of the 23rd of the same month, transmitting a communication of one Big Wiley Johnson, a Mississippi Choctaw, residing at Hickman, Mississippi, relative to securing means to enable him to remove to the Indian Territory and pledging therefor the land which he will secure or his prospective share of any payment to be made to the members of the Choctaw Nation.

You report that in order that the Mississippi Choctaws may secure the beneficial results of their identification, provision should be made for their removal from their homes to the Indian Territory, and that steps should be taken to secure for them location in the Choctaw-Chickasaw country and subsistence provided until such time as they may be able to secure employment and become self-supporting.

You report that in order to provide for "the mobilization, transportation, location and subsistence of these Indians for a period of six months," it will require an appropriation of \$50,000, \$10,000 of the sum to be expended in the mobilization of the Indians in the states of Mississippi, Louisiana and Alabama,

176
\$15,000 for their transportation to the Indian Territory, and \$25,000 for their location and subsistence after their removal to the Choctaw Nation.

You recommend that the following provisions be inserted in the Indian appropriation act for the fiscal year ending June 30, 1904-

"For the purpose of removing duly identified Mississippi Choctaw Indians from the states of Mississippi, Louisiana and Alabama to the Indian Territory, and for their proper location upon the lands of the Choctaws and Chickasaws and for their subsistence for a period not to exceed six months from the date of their arrival in the Choctaw or Chickasaw Nation, to be expended under the direction of the Secretary of the Interior and to be immediately available, fifty thousand dollars."

The attention of the Department is called to a provision of the Act of July 1, 1902, ratifying the supplemental agreement with the Choctaw and Chickasaw Nations (32 Stat., 741), which reads as follows:

"All persons duly identified by the Commission to the Five Civilized Tribes. . . . as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws en-

titled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

You report that up to the present time you have not submitted for approval or rendered any decision identifying the full-blood Indians in the states of Mississippi, Louisiana and Alabama as Mississippi Choctaws, and you express the opinion that the identification of full-bloods would result in but little benefit to said Indians unless provision is made for their removal and settlement in the Choctaw and Chickasaw Nations.

The Commissioner of Indian Affairs forwarded your said report on December 11, 1902, and dissents from your recommendations. He calls attention to the number of Mississippi Choctaws estimated by your Commission, residing in Mississippi, Alabama and Louisiana to be 3,000, and that the amount of the appropriation recommended by you, to wit, \$50,000, is entirely inadequate to accomplish the object; and that the government of the United States is under no obligation to provide money for the removal of said Mississippi Choctaws.

The Department concurs in the conclusion of the Commissioner of Indian Affairs and transmits herewith a copy of his report.

Respectfully,

Thos. Ryan.
Acting Secretary.

1 inclosure.

(Endorsed) # 25531, Commission to Five Tribes, Muskogee, Okla. Received Dec. 26, 1902. Department, Ryan, Washington, D. C. December 18, 1902. In the matter of the report of the Commission as to legislative methods needed to provide for the removal of the Mississippi Choctaws to Indian Territory, the Department states that the government of the United States is under no obligation to provide for the removal of said Mississippi Choctaws.

Treadwell, Murray & Lucas.
ATTORNEYS AND COUNSELORS AT LAW.
Practice in all courts in the I.T.
and in Texas.

Tishomingo, Ind. Ter. Jan. 6, 1899.

Hon. Tams Bixby,
Muskogee, I.T.

Dear Sir:

Some of our clients have given birth to children recently as they will just prior to allotment. Kindly send me a few "Baby Affidavits" for both the fullblood, who never call in a physician, and for the class who do.

We have two clients, recently from Mississippi, who deserve to be enrolled as Mississippi Choctaws--when is their opportunity?

Very sincerely,

W. M. H. Murray.

(Endorsed) # 1980, Commission to Five Tribes. Muskogee, Oklahoma.
Received Jan. 10, 1899. Wm. H. Murray, Tishomingo, I.T. 1/6/99
"Baby Affidavits" and Mississippi Chotaws.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

ITD 7908-1902.

December 26, 1902.

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

Sir:

The Department is in receipt of a report from the Acting Inspector, dated December 10, acknowledging receipt of departmental communication of December 3, 1902 (ITD 7414-'02), relative to a letter of the Principal Chief of the Choctaw Nation, dated November 13th last, requesting the removal of Thomas W. Hunter as townsite commissioner for the Choctaw Nation.

The Acting Inspector reports that he delivered a copy of said departmental letter on December 9 to Mr. Hunter, and had a full and explicit talk with him touching the matter and was assured by him that he would "not take any further action looking to the assertion of his claim as Principal Chief of the Choctaw Nation, and that he will devote all of his time to the performance of his duties as Choctaw Townsite Commissioner and will urge upon his following to accept the decision of the Department as final and to have the matter here rest."

The Acting Inspector further states that he believes Mr. Hunter will do as he says, and that he (Acting Inspector) will endeavor to keep himself informed in the premises and if any

-2-

thing to the contrary occurs he will immediately report.

The Commissioner of Indian Affairs transmitted said report on December 18, The Department approves the action of the Acting Inspector and incloses a copy of the report of the Commissioner.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inclosure.

(Endorsed) Union Agency No. 5442. Received. Jan. 2, 1902. Office of U.S. Indian Inspector for Indian Territory. Washington, Dec. 26, 1902. Secretary----Approves report concerning retaining Thos. W. Hunter as townsite com'r.

181
Land
76,794-1902.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,
Washington,
Jan. 7, 1903.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to submit, herewith, for departmental consideration, a report of J.W.Zevely, Acting Inspector for Indian Territory, of the 26th ultimo, forwarding an act of the national council of the Choctaw Nation, approved by the Principal Chief December 13, 1902, entitled: "A Resolution condemning the action of Thomas W.Hunter as townsite commissioner for the Choctaw Nation, and requesting his removal from said office."

The preamble of this act makes certain charges against Thomas W.Hunter, tribal member of the townsite commission for the Choctaw Nation, and it is resolved that the Secretary of the Interior be requested to remove him from his office and recognize the appointment of Mr.Butler S.Smiser.

Mr.Zevely says in this connection he refers to previous correspondence of the Department concerning the removal of Mr. Hunter, and particularly to Department letter of December 3, 1902, -- I.T.D. 7414-1902 -- in which the charges preferred by the Principal Chief were considered and the Inspector was advised that the reasons furnished for the removal of Mr.Hunter were not deemed sufficient and the removal could not be predicated thereon.

The resolution transmitted requires the Principal Chief to refuse to recognize Mr. Hunter as townsite commissioner and that he shall sign no deeds to town lots sold by him.

Mr. Zevely says so long as Mr. Hunter is a member of the townsite commission his actions should be recognized by the tribal authorities, and he therefore believes that the act transmitted should not become a law, and respectfully recommends that it be not approved. Further Mr. Zevely says as to the charges preferred against Mr. Hunter in this resolution he believes that they should be supplemented with proof and after proof is submitted that Mr. Hunter, as heretofore instructed by the Department, should be given an opportunity to answer the same. He therefore recommends that his office be instructed to so advise the Principal Chief.

This act has not been submitted to Mr. Hunter the Acting Inspector believing it to be more advisable to first present it to the Department.

There are no charges on file that have been in any wise substantiated showing or tending to show that Mr. Hunter has been in any way derelict in his duties as a member of the townsite commission for the Choctaw Nation. The opposition to him appears to be wholly political and has no reference to the manner in which he has performed his duties as a member of the commission.

If Mr. Hunter were in any respects an unsatisfactory commissioner he would be entitled to have formal charges made against him and have an opportunity to answer such charges.

The Acting Inspector comes more closely into communication

-3-

with Mr. Hunter as an official than do the officials of the Choctaw Nation and the office of the Inspector has never seen fit to make any complaint with reference to the manner in which Mr. Hunter has discharged his duties.

It is not necessary to call attention to the fact that the paragraph of this resolution requiring the Principal Chief to refuse to recognize Mr. Hunter as townsite commissioner and that he shall sign no deeds for lots sold by Mr. Hunter is entirely out of character with the dignity of such a deliberative body as the national council of the Choctaw Nation as Mr. Hunter is merely a member of a commission and does nothing individually in connection with the sale of town lots, but as a member of a commission duly appointed by the Interior Department. The act should be disapproved for that if for no other reason.

As I have said before, Mr. Hunter, so far as this office knows, is a satisfactory official performing his duties in a conscientious manner. The work of the townsite commission is nearing completion. Mr. Hunter is thoroughly conversant with his duties as such commissioner and it would be a detriment to the public business to have him displaced by a new member who has not been in touch with the problems involving townsite work.

Therefore, for the various reasons assigned, I concur in the recommendation of the Acting Inspector.

Very respectfully,

W.A. Jones,

Commissioner.

(E.B.H.)
P.

(Endorsed) Union Agency No.3036 Received Jan.20,1903 Office of U.S.Indian Inspector, for Indian Territory.Washington, Jan.13,1903.Secretary.----Approves report on resolution of Choctaw Council requesting removal of Thos. W.Hunter as townsite com'r.----

185
D E P A R T M E N T O F T H E I N T E R I O R,

Washington.

ITD.110-1903.

January 13, 1903.

United States Indian Inspector

for Indian Territory, Muskogee, I. T.

Sir:

The Department is in receipt of a communication from the Acting Inspector, dated December 26, 1902, transmitting therewith a resolution of the General Council of the Choctaw Nation, approved by the Principal Chief December 12, 1902, and entitled "A Resolution endorsing the action of the convention of the Five Civilized Tribes, held at Eufaula, Ind. Ter. November 28, 1902."

The Acting Inspector states that he does not see how any force would be added to this resolution by executive approval thereof, and he transmits the same for such action as the Department deems most appropriate.

Forwarding the papers January 6, 1903, the Commissioner of Indian Affairs concurs in the views of the Acting Inspector.

The Department does not consider it necessary to submit said resolution to the President for executive action, and you will so advise the Principal Chief. The resolution is this day transmitted to the Commissioner of Indian Affairs for

-2-

the files of his office. A copy of his report is inclosed.

Respectfully,

Thos. Ryan,

Acting Secretary.

(Endorsed) Union Agency No.5551.Received.Jan.20,1903.Office of U.S. Indian Inspector for Indian Territory.Washington,Jan.13,1903. Secretary---Detected to Advise Prin. Chief Choctaw Nation, it is not deemed necessary to submit resolution of Choctaw Council endorsing action of convention of Five Civilized Tribes at Eufaula, to the President.

Land
2609-03.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, Jan. 19, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to forward for Departmental consideration a report of the Acting Indian Inspector for Indian Territory of the 9th instant submitting an act of the National Council of the Choctaw Nation approved by the Principal Chief December 17, 1902, and entitled, "An act for the relief of H.P. Ward, Henry Ansley, Hampton Tucker, and L.C. LeFlore, delegates to the international convention at Eufaula on November 28, 1902."

This act appropriates the sum of \$24.10 for the expenses of the persons named in attending the international convention at Eufaula, Indian Territory.

Mr. Shoenfelt says that inasmuch as the National Council desires to reimburse the delegates of the Choctaw Nation for their expenses in attending this convention he believes the act should receive favorable consideration and recommends its approval. I concur in that recommendation.

Very respectfully,

W.A. Jones,

Commissioner.

E.B.H. (S)

-2-

(Endorsed) Union Agency No.5652 Received Feb.2,1903. Office of U.S.Indian Inspector for Indian Territory.Washington, Jan.27,1903.Secretary.----Choctaw act in favor of delegates to Convention at Eufaula, I.T., approved by President Jan. 23,1903.-----

Land.
2610-1903.

Department of the Interior,

OFFICE OF INDIAN AFFAIRS,

Washington, Jan. 19, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to forward for your consideration a letter of the Acting Inspector for Indian Territory of the 9th instant transmitting an act of the National Council of the Choctaw Nation approved by the Principal Chief on December 13, 1902, and entitled, "An act granting to Jonas Taylor a ferry on Little River."

This act provides that Jonas Taylor, a citizen of the Choctaw Nation, may establish and operate a ferry on Little River six miles northeast of Vallient, and the privilege shall continue for three years. It is also provided that Taylor shall keep the bank and approaches to the ferry boat in good condition, and the Choctaw Nation shall in no wise be responsible or liable to any person for loss or damage by reason of the ferry. The rate of charges is also fixed by the act.

The Acting Inspector says it has been customary for the Choctaw Council to grant privileges of this character, and he recommends that it be approved. I concur in the recommendation.

Very respectfully,

W.A. Jones,

E.B.H. (S)

Commissioner.

(Endorsed) Union Agency No.5653 Received Feb.2,1903 Office of
U.S.Indian Inspector, for Indian Territory.Washington, Jan.
27, 1903. Secretary.----ChoctawAct granting Jonas Taylor a
ferry on Little River approved by President Jan.23,1903.----

191

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

8061-1902

114-1903.

I.T.D.

January 20, 1903.

United States Indian Inspector

for Indian Territory, Muskogee, I. T.

Sir:

The Acting Inspector's report of December 2, 1902, transmitting a communication dated November 25th last, from the mayor of the city of South McAlester, I. T., forwarding certain papers accompanying a petition addressed to the Department, requesting the approval of the issuance of bonds by the city of South McAlester in the amount of \$150,000, for the purpose of constructing a system of waterworks, was forwarded by the Commissioner of Indian Affairs on December 26th last.

The Acting Inspector recommended that the Department approve the issuance of bonds in said sum by the city of South McAlester, as requested. The Commissioner of Indian Affairs concurred in said recommendation.

The papers were transmitted to the Assistant Attorney General on December 31, with a request for an opinion as to the authority of the Department in the premises and what action ought to be taken.

On January 7, 1903, the Assistant Attorney General rendered his opinion, which was approved on the same day, in which he expresses the opinion that there is no reason why the Secretary should not give his approval to the proposed issue of bonds, as requested by the authorities of the city of South McAlester.

-2-

A copy of the opinion is inclosed herewith.

I have, therefore, to advise you that the application transmitted by the mayor, for the issuance of bonds in the sum of \$150,000 by the city of South McAlester, for the construction of sewers, light plants, water-works and schoolhouses, under the provisions of paragraph 55 of the act of Congress approved July 1, 1902 (32 Stat., 641), is approved, and an endorsement of said approval is placed upon the letter of the mayor accompanying said petition. A copy of the report of the Commissioner of Indian Affairs dated December 26, 1902, is inclosed.

Respectfully,

E. A. Hitchcock.

Secretary.

2 inclosures.

(Endorsed) Union Agency # 5612 received Jan. 27, 1903 Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 20, 1903. Secretary. Approves issuance of bonds by city of So. McAlester, in the sum of \$150,000 for water-works purposes.

193

D E P A R T M E N T O F T H E I N T E R I O R.
O F F I C E O F I N D I A N A F F A I R S .
W A S H I N G T O N .

Jan. 22, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed, herewith, a report from Acting Inspector Shoenfelt, dated January 5, 1903, forwarding for Executive action an Act of the National Council of the Choctaw Nation, approved by the Principal Chief December 13, 1902, entitled: "An Act for the relief of Wesley Anderson".

The Act is as follows:

"Section 1. That the sum of three hundred and ninety three
"dollars and seventy cents (393.70) be and the same is hereby
"appropriated out of any funds in the National Treasury not other-
"wise appropriated, to reimburse Wesley Anderson for services
"rendered the Choctaw Nation, at Washington, D. C.

" Section 2. And the National Auditor is hereby authorized
" to issue his warrant for same, and the National Treasurer shall
"pay the same; and this act shall take effect and be in force from
"and after its passage and approval".

The Acting Inspector states that before transmitting the act he addressed a communication to Chief McCurtain asking for additional information as to the nature of the services rendered by Mr.

Anderson and he encloses with his report Mr. McCurtain's communication of December 30 last.

In this communication Mr. McCurtain states that he was invited by the First Assistant Secretary to visit Washington about the time the framing of the supplemental Choctaw and Chickasaw agreement was under consideration; that he invited Mr. Anderson to accompany him for the reason that he was familiar with tribal affairs and was a member of the commission which assisted in framing the first agreement and also the supplemental agreement which was defeated and that Mr. Anderson's familiarity with the subject caused him to request Mr. Anderson to accompany him.

Mr. McCurtain further states that he feels that his judgment in this particular was well founded; that Mr. Anderson's services proved of great value at Washington; that they were a powerful aid and assistance at home among the Indians in behalf of the supplementary agreement finally ratified on September 25, 1902; that Mr. Anderson was not a delegate and that he had no right to assist in the framing of said agreement, and that it was at the invitation of Mr. McCurtain that he accompanied him.

The Acting Inspector in view of the Principal Chief's explanation and the desire of the National Council to reimburse Mr. Anderson for the expense incurred by him in behalf of the nation, recommends the approval of the act.

The office in view of the statements made by the Principal Chief and considering the action of the National Council,

-3-

believes that the act should be approved, and it therefore respectfully concurs in the Acting Inspector's recommendation.

Very respectfully,

A. C. Tonner,
Acting Commissioner.

(G.A.W.)

(Endorsed) Union Agency # 5706 received Feb. 5, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, Jan. 30, 1903. Secretary. Choctaw Act for relief of Wesley Anderson approved by President Jan. 26, 1903.

196

D E P A R T M E N T O F T H E I N T E R I O R.
O F F I C E O F I N D I A N A F F A I R S .
W A S H I N G T O N .

January 28, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith, a report by Acting Inspector Shoenfelt, relative to an Act of the National Council of the Choctaw Nation approved by the Principal Chief on December 13, 1903 "making an appropriation of \$166.30 in favor of Ed. S. Bowman, Captain of Light Horsemen and his deputies for expenses incurred in defense of a suit brought against them in the United States Court on the charge of disturbing the peace".

The Acting Inspector states that the preamble of the Act sets forth that the finance committee of the National Council after careful investigation finds that said Bowman and his deputies were in the discharge of their official duties when they performed the service for which they were arrested, and it is believed they should be re-imbursed for the money expended by them in the defense of said suit; that itemized statements showing the amount expended by each one have been furnished, and the several amounts are appropriate as stated in the body of the Act in favor of the persons named. The Acting Inspector further states that in view of the statement made by the finance committee he respectfully recommends that the Act be approved.

-2-

The office has examined the said Act, which is enclosed herewith, and finds set out therein a full itemized statement of the amount appropriated thereby and to whom the same is to be paid, and further finds that the statements of the Acting Inspector aforesaid set forth the purposes of said act, which seem to be a correction of an unjust expense imposed upon the parties named in said act be reason of a suit brought against them in the United States Court on a charge of disturbing the peace, when in fact they were in the discharge of their official duties. The office concurs in the recommendation of the Acting Inspector that the said act be approved.

Very respectfully,

W.A.Jones,

Commissioner.

W.C.B.(E.)

(Endorsed) Union Agency # 5743 Received Feb. 10, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, Feb. 3, 1903. Secretary. Choctaw Act making appropriation in favor of Captain of Light Horse and deputies, approved by President Jan. 31, 1903.

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

January 29, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the report of Acting Inspector Shoenfelt, relative to an Act of the National Council of the Choctaw Nation, approved by the Principal Chief on December 19, 1902, appropriating the sum of \$250.00 for the purpose of building an iron (Sic) fence around the grave of Ex-chief Jack McCurtain.

The Acting Inspector states that the preamble of this act sets forth that the body of Hon. Jack McCurtain, the most celebrated chief of the Choctaw Nation, lies in a neglected grave near the capitol building; that this great and noble character by reason of his courage, integrity and statesmanship accomplished a wonderful work in behalf of the Choctaw people, securing the adoption of the present constitution and laws; that he exercised a vast influence over his people, and his life was such as to command the greatest respect; and therefore the council believes that appropriate action should be taken to keep his memory fresh in the minds of the people; that it appears to be the desire of the Choctaw Nation to provide a proper sum of money to carry on this work, which is to be paid his widow.

-2-

By reason of the premises the Acting Inspector recommends that the act be approved. The office concurs in this recommendation of the Acting Inspector, and respectfully recommends the approval of the Act enclosed herewith.

Very respectfully,

W.A.Jones

Commissioner.

W.C.B.(E.)

(Endorsed) Union Agency # 5747 Received Feb. 10, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, Feb. 3, 1903. Secretary. Choctaw Act making appropriation to build iron fence around grave of ex-chief Jack McCurtain approved by President Jan. 31, 1903.

vs.

Plaintiff
}
Defendant

200

WISTER, Ind. T., Feby. 11th, 1903.

To the commission to the Five Civilized Tribes,
Muscogee, Indian Territory,

Gentlemen.,

We understand that it is probable, that an additional
Land office will be established in the Choctaw Nation,

That it is the desire of a large number of the Choctaw
people, that said additional Land Office be established at
Wister. Ind. Tery.

That a greater number of Choctaws can reach Wister con-
veniently, and with less expense, than any other point in the
Choctaw Nation,

And that Wister affords an abundance of pure healthy
water for both man and beast, and plenty of good camping
grounds, Wister has five Hotel buildings, togather (Sic) with
a number of private families who would take boarders,

Therefore, The undersigned, Mayor and Alderman, of the
town of Wister, most respectfully request that you consider
the facts stated above, as proper and sufficient grounds upon
which to decide the propriety of locating said Land Office at
Wister, I.T.

And for the said location of said additional Land Office,
at Wister, IT we most humbly petition,

And if so located, we offer to furnish for office rooms,
a good building 24 x 48 feet, two stories, well and conveniently
located.

W. A. Welch, Mayor.

-2-

J. O. Wood, Alderman.
A. M. McDonald "
I.W. Felton, "
Wm. R. Craig "
R. G. Harris "

Seal) Incorporated town of Wister, I.T.

Endorsed) Union Agency # 140 . Welch, W. A., (Petition)

Wister, I.T., Feb. 11, 1903. Petition for establishment of
branch land office at Wister. Choc-Chic. Land Office.

Land
11727-1903

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,
Washington,

February 25, 1903.

The U.S. Indian Inspector for
Indian Territory,
Muskogee, I.T.

Sir:

The office is in receipt of your communication dated February 16, 1903, enclosing one from John G. Joyce, Jr., Assistant Supervising Engineer, enclosing in turn a plat of a portion of the town of Shady Point, Choctaw Nation, I.T., showing the station grounds of the Kansas City Southern Railway, as approved by the Department October 24, 1898; also the Poteau Valley Railroad Company alignment as approved by the Department May 6, 1901.

Mr. Joyce states that the west line of the right of way of the Poteau Valley Railroad encroaches upon the buildings and improvements of the different parties owning holdings along the line; that the east line of said right of way overlaps the station grounds of the Kansas City Southern Railway; that the people of the town claim that the Poteau Valley Railroad Company does not intend to claim fifty feet on the west side of the track. Mr. Joyce further states that he consulted with the president of said railroad on July 17, 1902, and that he claimed

-2-

that his company had relinquished in October 1901, and reaffirmed the same by letter to the Secretary of the Interior under date of May 23, 1902, those portions of the right of way within the town of Shady Point, being 1262.7 feet in section 27, north of the west line of the station grounds of the Kansas City Southern Railway, and 380 feet in section 27 south of said point; also 495 feet in section 34, a total of 2137.7 feet.

Mr. Joyce further refers to a copy of a report of U.S. Indian Inspector Cyrus Beede, dated June 25, 1901, with respect to the assessment of damages for the right of way of said railroad, in which it is mentioned that this 2137.7 feet is under lease by the Poteau Valley Railroad Company from the Kansas City Southern Railway. He requests that if this relinquishment has been filed with the Department he be furnished a copy of the same in order that he may complete the town plat now under preparation.

After referring to the contents of Mr. Joyce's letter you state that you have no information concerning the matter, and request that it may be looked into, and if the grounds referred to have been relinquished, that you be advised relative thereto as soon as possible, in order that the grounds to which the Poteau Valley Railroad Company are entitled, may be platted to it, and that the plat of the town site may be completed.

In reply you are informed that there does not appear

-3-

to be of record in this office, nor on file, a copy of the relinquishment of the right of way of 2137.7 feet in the town site of Shady Point. This portion of the right of way, however, has not been paid for, no damages therefor having been assessed, and in a communication to this office dated May 23, 1902, in which Mr. David H. Hays, the president of the Poteau Valley Railroad Company, enclosed certified check for the amount of damages assessed against said company, this office was informed that said railway company had, in October, 1901, formally relinquished by resolution of its board of directors, the right of way in the town of Shady Point, between points as described upon the map accompanying Mr. Joyce's communication, "A, B".

It would appear proper that the right of way of the Poteau Valley Railroad Company between those points, A and B, be not recognized, inasmuch as this office is advised that the company did relinquish the same, and you are requested to call upon the president of the company for a certified copy of the resolution of the board of directors of said company, in duplicate, which you will refer to this office for proper action. It is not necessary, however, that you should delay the work of platting the town site of Shady Point, pending the receipt of such copy.

The map enclosed in Mr. Joyce's communication is returned herewith.

Very respectfully,

A. C. Tonner

Acting Commissioner.

C. F. H. H'r.

5844

(Endorsed) Union Agency No.5844 Received Feb.23,1903 Office of U.S.Indian Inspector for Indian Territory.Washington, Feb.25, 1903; Commissioner.----States no relinquishment by Poteau Valley R.R.Co., to certain land in Shady Point, is on file; directed to call upon company for certified copy of resolution of board of directors.----

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

T.D. 2188-1903.

March 4, 1903.

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

Sir:

February 28, 1903, the Acting Commissioner of Indian Affairs transmitted a report of the Acting Inspector of February 17, 1903, concerning the line of road of the Indian Territory Traction Company in the Choctaw Nation.

The Acting Inspector refers to former correspondence had relative to this matter, wherein the Indian Office was instructed by the Department, upon the recommendation of that office, that it was not necessary to show on the plats of the townsites of Haileyville and Krebs the line of route of said company's road. He states that the Company has taken steps to construct its line through these towns, and that it has constructed its line without regard to the streets as platted by the townsite surveyor; that he is of the opinion that the right of way should be shown upon such town plats, and asks that the instructions heretofore given be changed and that your office be authorized to show the right of way where it extends through townsites the plats of which have not yet been approved. He reports that the approved maps of definite location of said company's line upon the ground, and he recommends that your office be authorized to call upon the company for a map

5930

-2-

of definite location, which will furnish the necessary data and which can be used in locating the line and be transmitted to the Department.

The Acting Commissioner of Indian Affairs reports that under the circumstances now appearing, the course recommended by the Acting Commissioner is the proper one to pursue, and he concurs therein, except that the company should be called upon to submit both a tracing to be forwarded for departmental action and the blueprint to be retained for the use of the townsite surveyor. A copy of his report is inclosed.

Concurring in this recommendation, you are authorized to proceed accordingly. The Indian Office has been instructed to inform you as to the width of the right of way of the company's road.

Respectfully,

Thos. Ryan.

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency # 5930 received March 10, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, Mar. 4, 1903, Secretary. Directed to show right of way of Indian Territory Traction Company, upon the town plats affected; also to call upon the company for map of definite location.

March 6, 1903

208

CHOCTAW

Bill # 26.

WHEREAS: There are many Indians, of Choctaw blood, in the United States prisons in Leavenworth, Kansas, Columbus, Ohio, Atlanta, Georgia, and elsewhere, who are entitled to share in the allotment of the lands and division of the money due the Choctaws, and

WHEREAS, these unfortunate persons have no trustworthy and competent person to act in their behalf in the protection of their interests;

NOW THEREFORE BE IT RESOLVED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION, IN EXTRAORDINARY SESSION ASSEMBLED,

That the Principal Chief be authorized to communicate with said prisoners, in the various United States Prisons, to the end that said prisoners may select suitable persons to represent them in the selection of their allotments, and in the drawing of the money that may be due them, as Choctaw Indians.

That this resolution shall take effect and be in force from and after its passage and approval.

Approved December 19, 1902.

GREEN McCURTAIN,
Principal Chief, Choctaw Nation.

Approved February 21, 1903.

T. ROOSEVELT.

(Endorsed) Union Agency # 5889 Received Mar. 6, 1903. Office of U. S. Indian Inspector for Indian Territory. Washington, Feb. 25, 1903. Secretary. Choctaw Act authorizing Principal Chief, to communication with Choctaw citizens, prisoners, in jails, etc., relative to selecting their allotments approved by President, Feb. 21, 1903.

COMMISSIONERS:

TAMS BIXBY.

THOMAS B. NEEDLES.

C.R.BRECKINRIDGE.

W.E.STANLEY.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,

Secretary.

Address only the
commission to the Five Civilized Tribes.

Atoka, Indian Territory,

May 14, 1903.

Commission in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

There are enclosed herewith for proper disposition copies of letters received at this office from Minnie Leftwich, of Loco, Indian Territory, dated April 21 and April 23, 1903, protesting against her husband, James Leftwich, making selections in allotment for herself and her children.

There is also enclosed herewith copy of our reply to said letters, from which you will note that she has been informed that her letters have been made a matter of record, and should her husband, James Leftwich, appear at the Choctaw Land Office and make application for selections in allotment for her and her children the matter of her protest will receive due consideration.

Respectfully,

William H. Angell.

Clerk in Charge.

(Endorsed) Union Agency No. 82 Recd. Apr. 15, 1903 Atoka Land Office
May 14, 1903.----Trans. copies of letters from Minnie Leftwich
for proper action.----

Choctaw R 4536

COMMISSIONERS;
TAMS BIXBY.
THOMAS B. NEEDLES.
C.R.BRECKINRIDGE.
W.E.STANLEY.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Atoka, Indian Territory,

May 21, 1903.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

There is enclosed herewith certified copy of the marriage certificate between Joseph Mihyachubbee and Esbell Billy, the latter person has been identified by this office as "Isabelle Billy" approved schedule of the citizens by blood of the Choctaw Nation No.4536, Choctaw card field No.1600.

This evidence was accepted for the purpose of showing that Joseph Mihyachubbee is entitled to make selection of allotment for his wife Isabelle Billy.

Respectfully,

William H. Angell.

Clerk in Charge.

(Endorsed) Union Agency No. 106 Recd. May 22, 1903 Atoka Land Office
May 21, 1903.----Trans.marriage license bet. Joseph Myhachubbee
and Esbell Billy.----

DEPARTMENT OF THE INTERIOR.

Washington.

April 20, 1903;

Mr. Butler S. Smiser,

Atoka, Indian Territory.

Sir:-

Your letter of the 7th instant, addressed to the Indian Inspector in Charge of the Indian Territory, informing him that the Principal Chief of the Choctaw Nation had appointed you to be a Townsite Commissioner for the Choctaw Nation, vice THOMAS W. HUNTER, removed by direction of the President, has been received.

Your appointment is hereby recognized and approved, but you will not enter on duty until July 1, as the Commission is furloughed to that date. Principal Chief GREEN McCURTAIN has been so informed.

Your (Sic) are to serve with JOHN A. STERRETT, the Commissioner appointed by the President.

In acknowledging receipt of this letter, please state the date of your recent commission from the Principal Chief.

Very respectfully,

E.A. HITCHCOCK,
Secretary.Through the Commissioner
of Indian Affairs.

(Endorsed) Union Agency No. 6275 Received Apr. 27, 1903. Office of U.S. Indian Inspector, for Indian Territory. Washington, Apr. 23, 1903. Commissioner.----Encloses letter from Department to B.S. Smiser, recognizing his appointment as member of Choctaw Townsite Commission; and asking to be advised of date of his commission from Principal Chief.----

Land.
29,409-1903.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,
Washington,

May 20, 1903.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a letter of the Acting Inspector for the Indian Territory of the 30th ult., relative to an application dated April 2, 1903, from the Tribal Bank & Trust Co. of Caddo, Indian Territory, addressed to the Department in the matter of their desire to procure a copy of appraisements or record book of the town of Caddo for information, upon which to base their abstracts of title to lots in that town, which letter was sent to the Inspector's office for consideration, report and recommendation by Departmental reference of April 14, 1903.

In connection with this matter Zevely reports that there have been a large number of requests similar to the one made by the Tribal Bank & Trust Co. for permission to copy the schedules of appraisal or record books of the several towns in the Indian Territory, or that copies be furnished as the foundation for abstracts of title; but after personally conferring with the Honorable Secretary while he was in Washington in January last, and in accordance with verbal instructions received at that time such requests were refused, it being considered

-2-

that it would seriously interfere with the conduct of the public business of the Inspector's office to permit persons not in any way connected therewith to have access to the records a sufficient length of time to make complete transcripts thereof.

Mr. Zevely further says a large number of these requests have been made by trust companies, real estate agents and others, and if one was permitted to copy the record of a particular town, others must necessarily be granted the same privilege, and as a result it would be impossible for the Indian Agent to properly carry on his work. The Acting Inspector says he appreciates the fact that this is a matter of considerable public importance, but at the present time and until Congress makes proper provision for the transfer of these records, he fails to see how they can be furnished except in specific and individual cases, and that it has been the practice where information was desired by the owner of property, or his agent, for such information to be promptly furnished.

As the Department is aware, says Mr. Zevely, Congress has now provided for the recording of instruments by the clerks of the United States courts, and if the information as to the original owners of town property as shown by the schedules of appraisements and the record books is to be furnished at all, it appears to him that Congress should provide some way by which a transcript of the original record could be placed in the hands of the several ex-officio recorders, or in the hands of the municipal authorities of each particular town, and if meeting with the approval of the Department, he recommends that Congress

-3-

be asked to provide adequate legislation looking to this end. He also suggests that if any legislation along this line is recommended, inasmuch as these record books will be of no service to the Inspector's office or the Indian Agent, after all payments have been made and deeds issued, that Congress provide that such books, after titles have all passed be turned over to the recorder for the district in which the town is located. It will be sometime, in his judgment, before the books, in many of these cases, will be complete, but purchasers of lots in some of the towns have been paying for some years, and the matter appears to him to merit consideration at this time.

This office has no exact knowledge as to how much time during each day each schedule of town lots in each and every town in the Indian Territory is in use by the clerks in the office of the U.S. Indian Agent, but would presume that the amount of time consumed on each town would not be large, and would also presume that as to some towns, days would elapse when no use of the schedule of lots would be necessary. I do not believe any different rule should be established with reference to the records in the office of the Indian Agent than are established with reference to the records in any similar public office, for instance, the office of a register of deeds or of a clerk of a court. The records in such offices are subject to use by the officers and employes each day, but the business is so arranged that the public, which must have access to such records, can also make such use as is necessary.

At best, business is transacted in the Indian Territory under Government supervision amidst embarrassments which are

-4-

not necessary in an organized state or territory. These towns are being rapidly developed. Necessarily loans are being made, or sought to be made, to the end that the property may be improved and made remunerative, (Sic) and I believe the officers of the Government charged with any duties in connection with these interests should lend every assistance possible to facilitate the transaction of business, rather than add to the embarrassments under which the people are laboring.

The schedule of Caddo consists of about twenty pages in tabular form, which would probably take a competent typewriter about two days to copy. I do not believe that to exceed two or three applications would be made for the privilege of copying this schedule, which, in the aggregate, would amount to four or six days, and, of course, all the applications might not come together, then all copies could be made at the same time with the consumption of not to exceed two days. This schedule is not a secret document. It does not contain anything which an abstract company is not entitled to. Undoubtedly, the possession by an abstract company of a copy of the schedule in question would greatly reduce the number of applications for information with reference to it by individuals, and I cannot see any reason why it should not be made accessible, or why the Tribal Bank & Trust Co. should not be permitted to copy it under such circumstances and conditions as would least interfere with the regular work of the office of the Indian Agent. At the present time the townsites commissions are furloughed, and less work is being done in connection with the various towns than when the commissions are actively engaged on their duties.

Therefore it appears to me that the present is an especially favorable time for an opportunity to be furnished abstract companies and other proper parties to make copies of the schedules of lots in the various towns.

Mr. Zevely says he appreciates the fact that this is a matter of considerable public importance, but until Congress makes proper provision for the transfer of these records, he fails to see how they can be furnished except in specific and individual cases. If there is any factor in the matter of determining the right of these parties to copy this entire schedule, which will require Departmental action, I cannot see how any individual cases can be acted upon favorably, but Mr. Zevely says it has been the practice where information was desired by the owner of property, or his agent, for such information to be promptly furnished.

Mr. Zevely recommends that Congress be asked to enact legislation for the transfer of these records that are now in the office of the Indian Agent to the ex-officio recorders in the recording districts, or that transcripts of the original records should be furnished.

A recording officer has no need of a history of the steps taken leading up to the issuance of title for a piece of land. His duty only begins when title has been issued. These schedules and record books are merely the records of the steps antedating the issuance of patent, and when the patent is issued, so far as the lot or lots involved in the patent are concerned, they become valueless. Therefore I see no reason why the

-6-

schedules, record books, or transcript thereof, should ever be in the hands of the recording officers in the Indian Territory since it is not suggested by Mr. Zevely that they should be turned over to the recording officers until all titles have been issued.

The only reason why these schedules are important to the abstract companies or private individuals now is that title is not issued, and when it is necessary to consult the schedules in order to determine who is entitled to purchase a particular lot, a schedule being the only evidence of the right of ownership.

I therefore recommend that such instructions be issued to the Inspector as will result in proper parties being given access to these schedules for the purpose of copying them or otherwise, as the transaction of the business of the office of the Indian Agent will admit of. I do not at the present time see any necessity for legislation for the turning over of the records or transcripts thereof to the recorders, and therefore cannot concur in the recommendation of the Acting Inspector in that regard.

Very respectfully,

Acting Commissioner.

EBH-Col.

(Endorsed) Union Agency No. 6480 Received Jun. 1, 1903 Office of U.S. Indian Inspector, for Indian Territory. Washington, May 25, 1903. Secretary.-----States that he concurs in recommendation of Inspector relative to Tribal Bank and Trust Company and others copying schedules of appraisements, etc.-----

M.C.R.497

COMMISSIONERS:
TAMS BIXBY.
THOMAS B. NEEDLES.
C.R.BRECKINRIDGE.
W.E.STANLEY.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Atoka, Indian Territory,
June 2, 1903.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

There is enclosed herewith one copy of the testimony of Old Hannah, approved list of Identified Mississippi Choctaws No. 497, Mississippi Choctaw Identified card No.167, relative to her removal to and settlement within the Choctaw-Chickasaw country.

The following notation has been made upon duplicate card in possession of this office:

SETTLEMENT ADDRESS: "Calloway, I.T."
DATE OF PROOF OF SETTLEMENT: "May 28,
1903."

Respectfully,

William H. Angell

Clerk in Charge.

(Endorsed) Union Agency No.178 Recd.Jun.4,1903 Choctaw Land Office
Atoka, Ind.Ter., June 2, 1903.----Transmitting copy of testimony
of Old Hannah, Miss. Choctaw Card No.167; also notation on card----

M.C.I. 498-499

COMMISSIONERS:

TAMS BIXBY,
 THOMAS B. NEEDLES.
 C. R. BRECKINRIDGE.
 W. E. STANLEY.

Department of the Interior

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
 Secretary.

Atoka, Indian Territory

June 2, 1903.

Address only the
 commission to the five
 Civilized Tribes.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

There are enclosed herewith two copies of the testimony of Sealy Tookolo, relative to the removal to and settlement within the Choctaw-Chickasaw country of herself, and her minor grand-son, Leo Jim Tookolo, approved list of Identified Mississippi Choctaws Nos. 409 and 499, Mississippi Choctaw Identified card No. 168.

The following notation has been made upon duplicate card in possession of this office:

SETTLEMENT ADDRESS: "Calloway, I.T."

DATE OF PROOF OF SETTLEMENT: "May 29,
 1903."

Respectfully,

William H. Angell.

Clerk in Charge.

(Endorsed) Union Agency No. 191 Recd. Jun. 4, 1903 Choctaw Land Office
 Atoka, Ind. Ter. June 2, 1903. ---- Tran. copy of the testimony of Sealy
 Tookolo relative to removal and settlement within the Choctaw-
 Chickasaw country of herself and grand-son; also notation on
 Miss. Choc. card No. 168. -9---

DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D.5366-1903.

July 6, 1903.

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

Sir:

June 30, 1903, you reported that in compliance with the Secretary's verbal directions, given to the Acting Inspector and the Indian Agent, Union Agency, at the time of his visit to the Indian Territory, to seize and dispose of timber being unlawfully cut in the Choctaw Nation, the Agent has proceeded as directed and has seized and disposed of timber which was then being unlawfully cut; that you have since directed him to see that the police seize all timber which has since been unlawfully cut, and he advises you that such is being done and that considerable timber is being seized.

The verbal instructions given by the Secretary, under which action was taken, are hereby confirmed upon your request.

You also state "that there is no authority at present to incur necessary expenses in the seizure and disposal of this timber, "and you ask that you be authorized to pay all necessary expenses of investigation, seizure and disposal of timber in the Choctaw Nation from the proceeds of the sale of the same, the Agent to account for the net

-2-

proceeds in his official accounts.

You also state that the Agent is of the opinion that all timber seized should be turned over to the authorities of the Nation for disposal; that you do not concur in such suggestion, being of the opinion that all such timber should be disposed of by the Agent under authority of the Department.

Reporting in the matter July 2, 1903, the Commissioner of Indian Affairs states that he sees no objection to authorizing the expenses incurred in connection with the seizure of the timber to be paid from the proceeds of the sale of the same; that he believes, however, that the Agent should in each instance account for the entire amount; that his accounts should show the amount the timber was sold for and the amount of the expense incurred in connection with the sale. He reports that he does not agree with the Indian Agent that the timber, after being seized, should be turned over to the tribal authorities for sale, but considers that if the Government has authority to seize the timber it has also the authority to sell the same and account for the proceeds, and he recommends that you be instructed that all timber seized by the Government will be held and sold by it after due notice has been given of the date of the sale and the place where it will take place, and that the net proceeds be deposited to the credit of the tribe to which the land from which the timber was cut belongs.

The Department concurs in the views of the Commissioner and you are authorized to pay all necessary expenses of investi-

-3-

gation, seizure and disposal of timber in the Choctaw Nation from the proceeds of the sale of the same.

A copy of the Commissioner's letter is inclosed.

Respectfully,

Thos. Rayn

1 inclosure.

Acting Secretary.

(Endorsed) Union Agency No. 6831. Received Jul. 14, 1903. Office of U. S. Indian Inspector for Indian Territory. Washington, July 6, 1903. Secretary----Confirms verbal instructions relative to seizing and sale of timber unlawfully cut; authorized to pay expenses of same from proceeds of sale, and Indian Agent should account for the same.

COMMISSIONERS:

TAMS BIXBY.

THOMAS B. NEEDLES.

C. R. BRECKINRIDGE.

W. E. STANLEY.

Department of The Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ALLISON L. AYLESWORTH,
Secretary.

Address only the
Commission to the Five Civilized Tribes.

Atoka, Indian Territory,
August 7, 1903.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

There is enclosed herewith copy of letter received at this office from E. J. Horne, of Folsom, Indian Territory, dated July 24, 1903.

You will note that Section 32, Township 4 S, Range 8 E, is in the Chickasaw Nation, and this copy is sent you in order that proper record may be made of Mr. Horne's request with reference to said section 32.

Respectfully,

William H. Angell.

Clerk in Charge.

(Endorsed) Union Agency No. 385 Received Aug. 8, 1903 Commission to the Five Civilized Tribes, Atoka, Indian Territory. Aug. 7, 1903.----
Relative, Asking for map of township 4 range 8 E of the Choctaw Nation and appraised value of land specified.----

DEPARTMENT OF THE INTERIOR.

Washington.

ITD.6282-1903.

August 24, 1903.

United States Indian Inspector

for Indian Territory, Muskogee, I.T.

Sir:

August 8, 1903, you transmitted a letter from the Acting Supervising Engineer of Townsites, with which he inclosed an amended plat of the right of way of the Indian Territory Traction Company, which is building an electric line connecting the towns of South McAlester, Krebs, Haileyville, Hartshorne and others, in the Choctaw Nation, such plat being submitted in compliance with departmental letter to you of March 4, 1903. The Acting Supervising Engineer states that this plat has been returned to the chief engineer of the company on three different occasions to make necessary corrections; that the field work has been carefully checked by his office through the towns of Krebs, Haileyville and Hartshorne, and he recommends that the plat be approved.

You report that the right of way has all been shown upon the plats of the townsites through which it runs, and checked with the work on the ground, and you recommend approval of the plat.

The Acting Commissioner of Indian Affairs recommends in his letter of August 17th, that the map be approved subject

-2-

to the provisions of the act of March 2, 1899 (30 Stat., 990), and subject to any prior valid adverse claim.

The plat has been this day approved in accordance with the Acting Commissioner's recommendation, and returned to the Indian Office.

Respectfully,

E.A.Hitchcock,

Secretary.

(Endorsed) Union Agency No. 7197 Received Sep. 1, 1903 Office of U.S. Indian Inspector, for Indian Territory. Washington, Aug. 24, 1903. Secretary.-----Approves amended plat of right of way of Indian Territory Traction Co.-----

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. 6294-1903.

September 26, 1903.

6410- "

6892- "

United States Indian Inspector

for the Indian Territory,

Muskogee, Indian Territory.

Sir:

Referring to departmental letter of August 22, 1903, concerning a communication from the United States Indian Agent dated August 7, 1903, relative to the cutting, sawing and removal of timber from the Choctaw Nation by non-citizens, in which the agent recommends that he be instructed to disregard the writs of replevin and proceed with the sale of all timber seized and impounded into the custody of his Agency, and to departmental letter of August 28, 1903, approving your report of August 13, 1903, concerning the action of the United States Indian Agent in seizing such timber and the granting of writs of replevin by officials of the United States court, September 11, 1903, you stated that you considered further report relative to the matter was not desired, in view of the approval of said report of August 13, 1903.

Reporting in the matter September 22, 1903, the Acting Commissioner of Indian Affairs states that he considers your position in the matter correct and recommends that you be so advised.

Your report of August 13, 1903, was in reference to a communication from the attorneys for the Choctaw and Chickasaw Nations in reference to the case of the Bokhoma Lumber Company

-2-

against Robert Harrison and Ed Bowman, United States Indian Police, which is a case in the Choctaw Nation where a large amount of pine timber was seized by the United States Indian Agent and replevied by said Company. It was contended that the bond in this case, in the sum of six thousand dollars, was insufficient.

You state that upon receipt of the report of the United States Indian Agent in the matter you forwarded the same to the U. S. District Attorney for the Central District of Indian Territory, and that he informed you that he considered the bond ample, and that a suit had been properly brought, and if judgment is recovered in favor of the plaintiffs, and suit brought on the bond, he has no fears but that it will be properly prosecuted. In view of instructions in departmental telegram of the 8th instant, that writs of replevin should be respected, and the statements of the District Attorney that this suit has been properly brought and the bond is sufficient, you do not consider that any further action can be taken concerning the matter, as the final disposition of this case is now in the hands of the Department of Justice.

In reply to the telegram of the 8th instant, you report that timber seized by the Indian Agent has frequently been replevied, which writs the Agent was of the opinion should be ignored; that it has seemed to you, however, that while the Choctaw Nation would possibly not recover the amounts involved for several years, the responsibility for settlement does not now rest upon the Interior Department. You report also that prompt action has been taken in stopping illegal cutting of timber, and where timber has been seized and advertised for sale, "if writs of replevin are issued

-3-

by instance of the United States court, such writs are undoubtedly issued after full consideration of the law", and you state that as the Department has heretofore protected the interests of the Indians so far as possible, it would seem that the court officials are responsible for results of their having issued writs of replevin for property seized.

Referring to recent amended regulations of the Department prohibiting, without permission, the cutting of timber except stove wood and cord wood, prior to allotment, and the recent decision permitting the cutting of timber without restriction after certificate of allotment is issued, you conclude that this will greatly simplify matters and state that you do not now apprehend much illegal timber cutting or difficulty in the matter.

The approval of your report of August 13, 1903, warranted you in the supposition that no further report relative to the communication of August 22, 1903, was needed, and the Department concurs in the recommendation of the Acting Commissioner of September 22, 1903. A copy of his letter is inclosed.

Respectfully,

Thos. Ryan,

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 7484. Received Oct. 5, 1903. Office of U. S. Indian Inspector for Indian Territory. Washington, Sept. 26, 1903. Secretary.-----Approves report concerning timber cutting in Choctaw Nation and seizure and disposal of same; rel. to case against Bokhoma Lumber Co.

DEPARTMENT OF THE INTERIOR.

Washington.

I.T.D. 6978-1903.

October 2, 1903.

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

Sir:

The Department is in receipt of your letter of September 16, 1903, submitting a communication from Mansfield, McMurray & Cornish, Attorneys for the Choctaw Nation, in the matter of the request of the tribal authorities that the place of business of the Sans Bois Coal Company be closed on account of the failure of the company to make proper payment of the tribal merchandise tax.

It appears from the letter of said attorneys that the Sans Bois Coal Company is not located upon any land that has been set aside for townsite purposes, nor are they located upon land that has been sold by the Choctaw Nation.

You state that while it is contended that the opinion of the court in the case of Weimer et al vs. Zevely et al, copy of which was received with your letter of August 19, 1903, has reference only to those merchants in townsites that have been segregated, platted and sold, it seems that the general view of the court was that this tax was illegal and should not be enforced by the closing of stores; that while it might be the case referred to by said attorneys

-2-

would not come within a strict construction of the opinion of the court, in view of the fact that larger stores in regularly established towns are not required to pay this tax at this time, as held by the court, and as it would be claimed injustice would be done, you submit said letter for instructions.

Reporting in the matter September 28, 1903, the Commissioner of Indian Affairs recommends that no action be taken with reference to the store of the Sans Bois Coal Company, or any other similar store, until the case wherein Judge Clayton's opinion was rendered has been finally disposed of on review. A copy of his letter is inclosed.

Your letter was written, apparently, before the receipt of departmental letter of September 11, 1903, in which it was stated that in view of the Statements made by the United States Attorney for the Central District of the Indian Territory, if the court of appeals, to which an appeal has been taken in the case referred to, does not suspend its rules and hear the case at the September term, you would confer with the United States Attorney as to the effect of the appeal in that case, and also to the advisability of proceeding against other persons from whom taxes are claimed, and who are not parties to the pending suit, and until a report was made and you were further advised, you would take no further action in the premises.

A report is desired, as soon as practicable, as to what action, if any, has been taken in accordance with the promises of the United States Attorney. If necessary you will immediately communicate with the District Attorney in regard to the matter.

-3-

Action in the present matter will be delayed awaiting your report.

Respectfully,

Thos. Ryan,

Acting Secretary.

1 inclosure

(Endorsed) Union Agency No. 7542. Received Oct. 10, 1903. Office of U. S. Indian Inspector for Indian Territory. Washington, Oct. 2, 1903. Secretary----Rel. to report concerning request of tribal authorities that store of Sans Bois Coal Co. be closed for refusal to pay tribal tax; further report asked rel. to appeal in tribal tax case, etc.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

ITD 7274-1903.
LRS.

October 23, 1903.

Honorable Green McCurtain,
Kinta, Indian Territory.

Sir:

The Department is in receipt of your communication of September 29, 1903, which was forwarded on October 1, by the U.S. Indian Inspector for Indian Territory, wherein you refer to the resolutions of the Commission to the Five Civilized Tribes adopted August 28, 1903, relative to selections of allotments by full-blood Indians of the Choctaw and Chickasaw Nations, and request that the plan proposed by the Commission in this matter be concurred in by the Department.

In reply, you are informed that on September 30, 1903, the Assistant Attorney General for this Department rendered an opinion relating to the resolutions mentioned. It is stated that in the opinion:

"That the second and third resolutions should not be approved in their present form or in any modified one having substantially the same object, and that the Commission already has all the power that approval of the first resolution could confer, so that no action of the Department in the

-2-

premises is necessary x x x x x x x

It may be deemed necessary to prescribe regulations in respect of these matters for the guidance and control of clerks of these matters in charge of land offices. If so, they should be prepared in accordance with the views of suggested herein and submitted for the consideration of the Department."

The opinion was approved by the Department on the date it was rendered, and a copy thereof was transmitted to the Commission on October 3, with the advice that any previous instructions in conflict with said opinion were revoked.

Respectfully,

THOS RYAN.
Acting Secretary.

(Endorsed) Union Agency # 7771 Received Oct. 30, 1903. Office of U.S. Indian Inspector for Indian Territory. Washington, Oct. 23, 1903. Secretary. Encloses letter to Principal Chief, Choctaw Nation, relative to resolutions of Dawes Commission concerning selection of allotments by full-blood Indians.

Executive Office Choctaw Nation.

Green McCurtain, Principal Chief

Kinta Indian Territory December 1st 1903.

Honorable J. Geo. Wright,
United States Inspector
Muscogee Indian Territory.

Sir:

Bill number 44 entitled "An Act to increase the contingent fund of the Principal Chief of the Choctaw Nation and for other purposes" is submitted to you for your consideration and approval.

I desire to respectfully observe that the purpose of the act was to enable the Choctaw Nation through its attorneys to secure evidence in cases of a large number of persons who have come here from the various states of the union and who have filed their applications with the commission to the Five Civilized Tribes, for admission as Mississippi Choctaws and whose applications are still pending before the department.

It might be well to respectfully suggest that it is not the intention of the nation nor its attorneys to resist the enrollment of bona-fide full-blood Choctaws from Mississippi who have come here in compliance with treaty provisions.

This act was designed to prevent those persons other than the full-bloods mentioned, from attempting to take advantage of this provision of the treaty by seeking to establish some sort of relationship with the Mississippi Choctaw.

These people have resided elsewhere so long that any proof they may offer to establish their identity is wholly untrustworthy and misleading. This fund is under my direction and is to be used only for the purpose outlined in the act itself and

-2-

is in no way connected with the regular contingent fund for local needs. For these and other reasons it occurs to me that the legislation is appropriate and I hope you will see proper to recommend its approval.

Very respectfully,

Green McCurtain,

Principal Chief, Choctaw Nation.

(Endorsed) Union Agency No.8771.Received Feb.16,1904.Office of
U. S. Indian Inspector for Indian Territory.Washington, Feb.9,1904.
Secretary----Choctaw act providing for defense of nation in
Mississippi Choctaw cases, approved by President Feb.8,1904.

Refer in reply to the following:

Land.

79,288-1903.

DEPARTMENT OF THE INTERIOR,

Office of Indian Affairs,

Washington.

Dec. 28, 1903.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to submit, for your consideration, letter of the Inspector for Indian Territory, of the 3rd instant, transmitting an Act of the National Council of the Choctaw Nation, approved by the Principal Chief on Oct. 23, 1903, making an appropriation of \$500 to defray the expenses of calling and conducting an election to determine the sentiment of the Choctaw Indians in the matter of Statehood for Indian Territory.

In the preamble of this act it is set up that the chief executives of the Five Civilized Tribes, in a convention held at Eufaula, I.T., May 21, 1903, recommended that the general councils of each nation authorize the chief executive to issue a proclamation calling an election to determine whether the legal voters of each nation are in favor of a constitutional convention to frame a constitution for a state government for Indian Territory to become effective when the several tribal governments are extinguished on March 4, 1906; that this convention at Eufaula appointed a committee of five persons, one from each nation, whose duty it was to make all arrangements for the election and acquaint the Indians of the Several tribes with the necessity for holding such election; that this committee has

-2-

incurred expenses, and therefore an appropriation of \$500 is made to defray the expenses of the Choctaw Nation in carrying forward the plans as recommended by the Chief Executives.

Attached to this act is a letter from the Principal Chief dated November 23, 1903, in which he states that this bill is similar to those passed and to be passed by the councils of the other tribes in the Indian Territory; that the question to be submitted principally is whether the members of the tribes want separate or joint statehood with Oklahoma; that inasmuch as the Indians are now and will be for some time to come the principal owners of the soil, he believes it but proper that they should have a voice in the government of the country where their interests are so great.

As this is a matter in which the several tribes appear to be particularly interested, and the appropriation made is small and to be paid from their own funds, Mr. Wright recommends that the act transmitted be approved.

The question of Statehood for Indian Territory is one that has aroused the greatest interest among the inhabitants, both white and Indian, and since the Indians have so large a financial interest in whatever government is established in the Territory, it appears to be peculiarly fit that they should be permitted to express their views relative to the form of government they wish. I therefore concur in the recommendation of the Inspector that the act be submitted to the President with the recommendation that he approve it.

Very respectfully,

W. A. Jones,
Commissioner.

(E.B.H.) P.

8330

-3-

(Endorsed) Union Agency No. 8330. Received Jan. 14, 1904. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 6, 1904. Secretary----Choctaw act making appro. for special election looking to the calling of a constitutional convention, approved by President Dec. 30, 1903.

Refer in reply to the following:

Land.
79,268-1903.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington,
Dec. 30, 1903.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to forward letter of the Indian Inspector for Indian Territory, of the 3rd instant, transmitting a resolution of the Choctaw National Council, approved by the Principal Chief October 28, 1903, entitled:

"A resolution requesting the Secretary of the Interior to revoke the order withdrawing pine lands from allotment and to permit citizens to file on the same under certain restrictions".

This resolution sets up, after first discussing the existing conditions with respect to the pine lands in the Choctaw Nation, that it is the sense of the National Council that the pine timber lands now withheld from allotment be opened to allotment as other lands, and no pine timber be allowed to be sold therefrom during the continuance of the tribal government for less than the appraised value of such timber, and then only under contract to be entered into and approved under regulations to be prescribed by the Secretary of the Interior.

The Inspector referred a copy of this act to the Commission to the Five Civilized Tribes and there is enclosed a letter from such commission, dated November 16, 1903, in which they state the

-2-

commission, with your approval, withdrew from allotment the pine lands in the Choctaw Nation; that this was done to prevent speculators securing the timber thereon at a nominal figure from the ignorant full-blood allottees, and thereby leaving only the naked land, which will be practically worthless when the timber is taken off; that under the law as it stands at present, the disposition suggested by the resolution could not be carried into practice, but the commission believes if additional legislation could be had in Congress providing for the sale of the pine timber by the allottee under the supervision of the Secretary of the Interior, that this would be a solution of the difficulties now facing the commission relative to these lands.

The commission adds that another method suggests itself which would obtain the same ends and purposes, and perhaps a better one than suggested by the resolution, which is that a law be passed directing the sale of the pine timber by sealed bids under such rules and regulations as the Secretary of the Interior might prescribe.

In a letter dated November 23, 1903, from the Principal Chief, attached to the act, in which he discusses the situation, it is stated to withdraw the timber lands from allotment permanently would work a very great hardship upon the people who live in the pine district, and for that reason they would never consent to the plan of the sale of the timber as proposed, by the Government.

The Principal Chief further states the plan suggested by the resolution amply protects the pine lands, if the rules and regulations governing the sale of timber and stone already promulgated by the Department be amended so as to prohibit the sale of timber during the continuance of the tribal government for a price less than its actual appraised value, and then only for a price to be actually paid under

-3-

a contract to be entered into in accordance with the regulations prescribed by the Secretary of the Interior.

Principal Chief McCurtain further states that by this resolution the Department is petitioned to permit the allotment of the pine lands at once, for the reason that Indians in the pine district desire to allot their lands and commence improving the same at the earliest date practicable.

Mr. Wright agrees with the conclusion of the Commission to the Five Civilized Tribes that the disposition of the pine timber as suggested by the resolution transmitted cannot be carried into practice under the act of January 21, 1903, (32 Stats., 774). The Assistant Attorney General for the Interior Department, in an opinion dated August 8, 1903, and approved by you, has held that Choctaw and Chickasaw citizens may dispose of their timber without restriction after they have filed on their allotments and received certificates from the Commission to the Five Civilized Tribes evidencing the same, and therefore unless additional legislation is provided, if the pine lands were allotted at this time, as soon as certificates of selection were issued, it would appear the Indian citizens would be authorized to dispose of the timber without departmental supervision in any way.

Inasmuch as the resolution transmitted a merely a request that the Department revoke its order withdrawing the pine lands from allotment, it is not believed by Mr. Wright that it is necessary that the resolution be submitted for executive action, but it is forwarded for your consideration.

Mr. Wright states that he is convinced that the statement of the Principal Chief that the Indians would not assent to any action

-4-

looking to the permanent withdrawal of the pine lands from allotments, and their absolute sale, is correct, but on the other hand he believes that the lands should be allotted and that Congress should make provision for the sale of the timber upon the lands now temporarily withheld from allotment, on account of the fact that they are chiefly valuable for their pine timber, such sale to be made only under rules and regulations to be prescribed by the Secretary of the Interior. If legislation of this kind is enacted, it would allow the allotment of these lands and at the same time the Indians' rights so far as the sale of the timber is concerned would be protected by the Department supervising such sale and prescribing the method of disposing of the timber thereon, in the view of the Inspector.

This resolution of the National Council recognizes the very same difficulty that has faced the commission relative to the allotment of these pine lands. The commission has recommended and the Department has on that recommendation reserved these lands from allotment, not absolutely, but from allotment to any citizens of the Choctaw and Chickasaw nations except those who have already improvements upon these lands. The objection therefore of the Indian citizens who reside in this pine country, which relates only to the withholding of all of the pine lands from allotment, and the sale of all of the pine lands under sealed bids, is not good because their interests are not now and will not be sacrificed. The resolution in no way tends to simplify the situation. The Department believes, as has been shown by its action heretofore that the simplest way to protect ignorant Indians from having designing and dishonest persons induce them, against their interests, to take allotments

-5-

in these pine lands is to seek legislation from Congress providing for the withholding of all of the pine lands, except those occupied by Indian citizens, from allotment and their sale under sealed bids. The Department has no special authority granted by law to supervise the sale of this timber, as is suggested by the resolution. It has already declared that it has no authority over the timber after the allotment certificate has been issued. I am therefore of the opinion that the resolution does not constitute a solution of the problem, and should not meet the approval of the Department.

Very respectfully,

W. A. Jones,

(E.B.H.) P.

Commissioner.

(Endorsed) Union Agency No. 9478. Received May 8, 1904. Office of U.S. Indian Inspector for Indian Territory. Washington, May 2, 1904. Secretary
----Relative to resolution of Choctaw Council asking that pine timber lands be allotted; Dawes commission has been directed to allot such lands.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

ITD.9096-1903.

January 6, 1904.

United States Indian Inspector

for Indian Territory, Muskogee, I. T.

Sir:

December 3, 1903, you transmitted a memorial of the General Council of the Choctaw Nation, addressed to the Secretary of the Interior, wherein it is represented that the sum of \$638,000 has accumulated in the Sub-Treasury at St. Louis, Mo., as a result of the sale of townsites in the Choctaw and Chickasaw Nations under the provisions of section 29 of the act of June 28, 1898 (30 Stat., 495; and that it is absolutely imperative that steps be taken to relieve the impending distress that will occur owing to the poverty that exists "among large communities of fullblood Choctaw Indians." It is therefore requested that the Department recommend that Congress pass an act authorizing the Secretary of the Interior to -

"..... pay over these funds to the Choctaw and Chickasaw Indians, after deducting therefrom the amount that may be due those whose rights, as citizens, are yet undetermined, and that the same be paid in cash, to the bona bide (Sic) citizens of each Nation, and that no power-of-attorney or other instrument of writing be recognized by the disbursing officer of the Government."

-2-

You refer to the fact that on February 19, 1903, the Department held that it was not practicable to make payment of the townsite funds to the Choctaws and Chickasaws, as requested by a resolution of the Choctaw Nation passed in December, 1902. Said resolution was not transmitted to the President for executive action thereon, but was returned to the Indian office for its files.

You state that until the numerous citizenship questions are determined and the tribal rolls are nearer completion and the affairs of these nations are finally settled, you do not believe any per capita payment should be undertaken; that if it is shown that there will be distress among the full-blood Choctaw Indians, and found absolutely necessary, other provision could be made for the use of sufficient Choctaw funds to relieve such temporary distress, as was done by the Act of Congress approved April 29, 1902 (32 Stat., 177).

Reporting December 29, the Commissioner of Indian Affairs recommends that you be instructed to advise the Principal Chief of the Choctaw Nation that it is not believed that any part of these funds should be paid to Choctaw citizens at this time, and that upon a proper showing made by the tribal authorities that full-blood Choctaws are in need Congress will be requested to pass, at an early date, legislation similar to that contained in the act of April 29, 1902.

-3-

I concur in the Commissioner's recommendation, and you will so inform the Principal Chief. The memorial has been returned to the Commissioner. A copy of his letter is inclosed herewith.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inclosure.

(Endorsed) Union Agency No. 8329. Received Jan. 14, 1904. Office of U. S. Indian Inspector for Indian Territory. Washington, Jan. 6, 1904. Secretary----Rel. to memorial of Choctaw Council asking for per capita payment of townsite funds; should advise Prin. Chief if proper showing is made Congress will be asked to pass legislation for relief of Indians.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

ITD. 822-1904.

February 5, 1904.

The President.

Sir:

I have the honor to transmit herewith for executive action, as provided by section 29 of the Act of Congress approved June 28, 1898 (30 Stat., 495), an act of the General Council of the Choctaw Nation entitled

"An Act providing for the defense of the nation in Mississippi Choctaw cases pending before the Commission to the Five Civilized Tribes and the Department of the Interior;"

which was approved by the Principal Chief of the nation on November 5, 1903. The act appropriates \$8,000, or so much thereof as may be necessary, to defray the expenses incident to the defense of said nation in the cases referred to in the title of the act.

There are also inclosed herewith the reports of the Commission to the Five Civilized Tribes, the Indian Inspector for Indian Territory, and a copy of the communication from the Acting Commissioner of Indian Affairs, all relating to this act.

The Commission sets forth the condition of the work before it involving Mississippi Choctaw cases, and states that such work has progressed so far at this time that but little help can now be derived from an appropriation such as is contemplated by this act.

The Acting Commissioner refers to the statement in the

-2-

Commission's report, that in one case pending before the Commission there are 1700 applicants for indentification as Mississippi Choctaw Indians, and expresses the belief that the nation should have an appropriation sufficient to enable it to make proper investigation of that case. He recommends that the act be approved.

Concurring in the views of the Acting Commissioner, I recommend that this act receive your approval.

Respectfully,

E. A. Hitchcock,

Secretary

4 inclosures.

(Endorsed) Union Agency No. 8771.

DEPARTMENT OF THE INTERIOR.

Washington.

ITD 632-1904

March 21, 1904.

The U.S. Indian Inspector
for Indian Territory, Muskogee.

Sir:

The President has appointed Mr. Charles O. Shepard, of New York, townsite commissioner and appraiser for the Choctaw Nation in the Indian Territory, under the provisions of section 29 of the act of Congress approved June 28, 1898 (30 Stat., 508), to serve with a similar appointee by the Principal Chief of the Choctaw Nation, with compensation of \$5.00 per day when actually and necessarily employed, and actual traveling expenses, and a per diem of \$2.00 in lieu of subsistence.

Mr. Shepard has been directed to proceed to the Choctaw Nation in the discharge of his duties, via Muskogee, and to confer with you. He has been furnished with a copy of instructions issued to townsite commissioners on March 6, 1899, and you will give him such special instructions relative to the discharge of his duties as in your judgment may be deemed necessary.

Respectfully,

E. A. Hitchcock.
Secretary.

(Endorsed) Union Agency No. 9173 Received Mar. 27, 1904 Office of U.S. Indian Inspector, for Indian Territory. Washington, Mar. 21, 1904. Secretary.-----Advises of appointment of Charles O. Shepard, of New York as Choctaw Townsite Com'r, vice Tuttle, resigned.-----

Land.
36699-1904.

Department of the Interior,
OFFICE OF INDIAN AFFAIRS,

Washington,
June 13, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to letter of the Commission to the Five Civilized Tribes, of the 31st ultimo, referring to the fact that on June 12, 1903 (I.T.D.4990-1903), the Department concurred in the recommendation of the Commission of May 18, 1903, temporarily reserving from the allotable lands of the Choctaw Nation such land as contained pine timber of a commercial value theretofore estimated and appraised by the Commission to the Five Civilized Tribes. On April 19, 1904, the chairman of the Commission, who signs this letter, forwarded to the Department the following telegram:

"Referring to Departmental letter June twelfth nineteen hundred three, Indian Territory Division, forty-nine hundred ninety, concurring in recommendation of Commission temporarily reserving from allotment pine timber land of the Choctaw Nation, Commission desires to be immediately advised if it is authorized to proceed at once with allotment of such land without restrictions.

Bixby, chairman."

In reply thereto, the Department on April 20 advised

the Commission by wire as follows:

"Answering telegram nineteenth instant if Congress adjourns with(out) action upon H.R. twelve seven six four, section six, you will be fully instructed concerning allotment of lands principally valuable for pine timber thereon.

E.A.Hitchcock, Secretary."

Subsequently, on April 25, 1904, the Department advised the Commission by wire as follows:

"On twentieth instant Department wired you that if Congress adjourns without action upon H.R. twelve seven six four, section six, you would be fully instructed concerning allotment of lands principally valuable for pine timber thereon. It is clear that Congress will not act upon said bill, and you will therefore proceed to allot the lands specially valuable for pine timber in Choctaw Nation the same as other lands.

E.A.Hitchcock, Secretary."

The delivery of the last above quoted telegram was delayed until April 28, 1904, and upon receipt thereof the Commission at once issued public notice to the effect that the allotment of the lands of the Choctaw Nation containing pine timber of a commercial value would be begun at the Choctaw Land Office of the Commission, Atoka, Indian Territory, May 2, 1904, at nine o'clock, A.M.

-3-

The allotment of such lands had at the date of its letter been in progress for the period of three weeks, and the selections of allotments thus far made confirms the views expressed by the Commission in its reports of May 18, 1903, and October 12, 1903, the latter letter being in reply to Departmental communication of September 16, 1903 (I.T.D.4990-6142-1903), with reference to the petition of William H. Harrison for an allotment of the pine timber of the Choctaw Nation, Indian Territory.

While he has no official knowledge of contracts made between allottees and lumber companies and individuals for the removal of the pine timber from their allotments, Mr. Bixby has every reason to believe that such contracts exist. He has recently received information to the effect that there are numerous saw-mills now operating in the pine timber belt of the Choctaw Nation, and upon the occasion of his visit to Alikchi, Choctaw Nation, on May 7, 1904, he personally visited a saw-mill then operating about eight miles northeast of Fort Towson, Indian Territory.

As an example of the allotments being selected in the pine timber belt, and the relative value of the land and the pine timber thereon, the Chairman invites the attention of the Department to the following cases of selections for adult citizens:

On May 2, 1904, Noel Sampson, Choctaw roll by blood, Number 3124, selected as a portion of his allotment the W/2 of the SE/4, of Section 19, township 8 south, range 27 east, containing 80 acres, the appraised value of such land amounting

-4-

to \$60.00. Upon this 80 acres of land 900,000 estimated feet of pine timber, appraised at \$450.00, thus making the total appraised value of the 80 acres, for the purpose of allotment, \$510.00.

On May 2, 1904, Willie Wilson, Choctaw roll by blood, Number 3265, selected the SE/4 of the NE/4, Section 32, and the NE/4 of the NE/4, of Section 30, township 8 south, range 27 east, containing 80 acres, the appraised value of such land amounting to \$60.00. Upon this 80 acres of land there are 900,000 estimated feet of pine timber, appraised at \$450.00, thus making the total appraised value of the 80 acres, for the purpose of allotment, \$510.00.

On May 2, 1904, Charles Moses, Choctaw roll by blood, Number 12178, selected as a portion of his allotment the SW/4 of the NE/4, the SE/4 of the NW/4, the N/2 of the SE/4, and the NE/4 of the SW/4, of Section 31, township 8 south, range 27 east, containing 200 acres, the appraised value of such land amounting to \$150.00. On this 200 acres of land there are 1,600,000 estimated feet of pine timber, appraised at \$800.00, thus making the total appraised value of the 200 acres, for the purpose of allotment, \$950.00.

On May 11, 1904, Henry Dukes, Choctaw roll by blood, Number 6400, selected as a portion of his allotment Lot 2, of Section 30, township 8 south,

-5-

range 27 east, containing 40.08 acres, the appraised value of such land amounting to \$30.06. Upon this 40.08 acres of land there are 600,000 estimated feet of pine timber, appraised at \$400.000, thus making the total appraised value of the 40.08 acres, for the purpose of allotment, \$330.06.

In all of the above cases the Chairman says it will be noted that the timber upon the land selected is from six to eight times the appraised value of the land. All of the land thus selected is classified as "9 A. Sandy land with pine timber," and for the purpose of allotment has been appraised at 75 cents per acre. This land, after the removal of the timber, will be practically worthless, as it is entirely unprofitable for agricultural purposes, and after the removal of the timber will not in all probability even afford scant pasturage.

It is quite likely that timber is now being removed from these allotments, says the Chairman, and that the Indians, if receiving anything for such timber, are being paid a price far below the present marketable value of the timber. This procedure will in a few years result as heretofore suggested by the Commission in the allottees holding as their final allotments small tracts of unproductive land.

The attention of the Department is also invited by Mr. Bixby to the following cases of two minors:

On May 17, 1904, there was selected as a portion of the allotment of Eleus Billy, Choctaw roll by blood, Number 3649, the SE/4

-6-

of the SW/4, and the SW/4 of the SE/4, of Section 15, township 6 south, range 25 east, containing 80 acres, the appraised value of such land amounting to \$60.00. Upon this 80 acres of land there are 800,000 feet of pine timber, appraised at \$400.00, making the total appraised value of the 80 acres, for the purpose of allotment, \$460.00.

This child is ten years of age, and it is more than probable that the timber from this allotment is now being removed, and that when the child attains his majority he will receive as a portion of his allotment 80 acres of land charged to him at \$460.00, nearly \$6.00 an acre, while in fact such land would be totally unfit for agricultural purposes, and would not even bring in nominal rental as pasture land.

"Selest Shoemaker, an identified Mississippi Choctaw Indian, eight years of age, has been allotted as a portion of her allotment, the appraised value of which is \$60.00, 80 acres described as the north half of the NE/4, of Section 31, township 8 south, range 27 east. Upon this 80 acres of land are 900,000 feet of pine timber of a commercial value appraised at \$450.00, making the total appraised value of the 80 acres, for the purpose of allotment, \$510.00.

The attention of the Department is especially invited to this last case, inasmuch as it is more than probable that

the timber is now being removed from the land, and the Commission and apparently the officials of the Government in the Indian Territory, in the judgment of Mr. Bixby, are without any authority to prevent the removal thereof.

The allotments to identified Mississippi Choctaws, under existing legislation and the rules of the Department, do not become final until proof of continuous residence for a period of three years within the Choctaw-Chickasaw country has been submitted to the Commission and approved.

This last above mentioned case is that of a minor eight years of age, who as a part of her allotment receives 80 acres of land appraised at 75 cents per acre, while the timber upon such land is appraised at \$450.00 and is probably worth \$2500.00. It is possible that this timber will be removed within the next year, and there is every indication that the allottee will never receive a cent therefore. Should she remain the required three years, and receive a patent to this land upon attaining her majority, she will receive as a portion of her allotment 80 acres of practically worthless land which in the equalization of allotments has been charged to her as worth about \$6.50 an acre.

Further, says the Chairman, should this Mississippi Choctaw not remain the required three years, but abandon her residence in the Choctaw country, thus forfeiting her right to receive a final allotment as a citizen of the Choctaw Nation, the land would then revert to the Choctaw and Chickasaw tribes, the timber in the meantime having been removed, thus depriving the Nations of property practically worth \$2500.00.

-8-

Mr. Bixby is submitting this report in order that the Department may be advised as to existing conditions which confront the Commission in the allotment of the pine timber land of the Choctaw Nation. It is apparent to him that some safeguard should be placed over this timber land, but inasmuch as the Department's instructions of April 20 and April 25 are explicit to proceed with the allotment of the pine timber land of the Choctaw Nation, the same as the other lands of the Choctaws and Chickasaws, it is not considered by him that action can be taken by the Commission to prohibit this seemingly wanton waste of the tribal property of these two Nations.

The Department has, through the various reports of the Commission, been kept informed as to the status of the pine timber lands, the problems involved in allotting them or withholding them from allotment, and the conditions which would follow the opening of the lands to allotment. The Commission's recommendations with reference to the handling of the land, so far as the law admitted, have met the approbation of this office and the approval of the Department. The Commission, this office and the Department have done everything that was possible to do to secure legislation by Congress for the withholding of these timber lands from allotment in order that they might be sold separately, and not only for the reason that they would be of greater value to the Nations if disposed of in that way, but also in order that the ignorant full bloods might be protected from the schemes of designing men who sought to secure their allotments of these lands in order that the pine timber might be procured by them regardless of the interests of the Indian. Congress refused to pass the legislation proposed, and there was no recourse

for the Department but to direct the resumption of the allotment of these lands, the same as the other lands of the Choctaw and Chickasaw Nations.

The typical cases referred to by the Chairman of the Commission show that all the fears of the Commission and the anticipations of the Department, with reference to what would result in case these lands were subject to allotment, have been and are being fulfilled.

As to the opinion of Chairman Bixby that there is no law under which the abuses complained of can be reached, I cannot fully agree with him. The Act of Congress approved April 28, 1904, entitled: "An Act to provide for additional United States Judges in the Indian Territory, and for other purposes," provides as follows:

"All the laws of Arkansas heretofore put in force in the Indian Territory are hereby continued and extended in their operation, so as to embrace all persons and estates in said Territory, whether Indian, freedman, or others, and full and complete jurisdiction is hereby conferred upon the district courts in said Territory in the settlement of all estates of decedents, (Sic) the guardianships of minor and incompetents, whether Indians, freedmen, or others."

This provision of law renders it possible to protect the minor allottee from despoilation of his allotment. No timber can be legally sold from the allotments of any minors without approval of the Court. As to adult allottees, barring

-10-

Mississippi Choctaws, there is no protection of law, the use of which is available to Government agents. In other words, if the consideration for the timber is not adequate, the Indian being entitled to sell, the officers of the Government would not be heard to complain on that account or to interfere with the transaction.

Mississippi Choctaws are not entitled to sell the timber from their selections whether they be adults or minors. These selections do not belong to them. They have not the right to remove the timber from such selections which is in the Indian regularly enrolled as a citizen by blood, or in the freedman, and steps should be taken to prevent the sale of this timber, which is the property of the Choctaw and Chickasaw Nations, and not of the Mississippi Choctaw who has selected it as his prospective allotment.

The United States Indian Agent at Union Agency should be charged with the duty of seeing to it that guardians are appointed for all these minor allottees, especially in the timber belt of the Choctaw Nation, because of the peculiar character of the greater part of the value of the allotments, and I recommend that this office be authorized to instruct him to take immediate steps to see that suitable guardians are regularly appointed by the United States Court, who will be required to prevent the dissipation of the property of the minor. I also believe that the United States Indian Agent should be instructed to confer with the United States District Attorney for the Central District, with reference to a prevention of the practices complained of by Mr. Bixby to as great an extent as is warranted by the law.

Very respectfully,

A.C. Tonner, (Acting Commissioner.)

E. B. H. - L. C.

9778

-11-

(Endorsed) Union Agency No.9778 Received Jun.24,1904 Office of U.S.Indian Inspector, for Indian Territory.Washington,June 17, 1904.Secretary.-----Relative to appointment of guardians for all minor allottees, Choctaw and Chickasaw Nations; directs Inspector to confer with the U.S.District Attorney for the Central District, Indian Territory.-----

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington.

Land.

41145-1904.

June 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

I have the honor to transmit herewith a report from the Commission to the Five Civilized Tribes transmitting for Departmental approval a schedule (in quintuplicate) of duly identified full-blood Mississippi Choctaw Indians, nos. 2170 to 2255 inclusive, found by the Commission to be full-blood Choctaw Indians who were living on September 25, 1902, and to have been identified under the provisions of the forty-first section of the act of Congress entitled "An Act to Ratify and confirm an Agreement with the Choctaw and Chickasaw Tribes of Indians and for other purposes" approved July 1, 1902, (32 Stat., 641) and ratified by the Choctaw and Chickasaw Tribes of Indians on December 25, 1902.

Decision identifying the persons enumerated in this schedule has heretofore been rendered by the Commission and copies thereof furnished Mansfield, McMurray and Cornish, Attorneys for the Choctaw and Chickasaw Nations, and they were advised

-2-

that they would be allowed fifteen days from the date of the rendition of such decision within which to file with the Commission such protests as they desired to make against the action of the Commission in identifying the persons enumerated in such decision and make satisfactory proof of service of protest upon the applicants enumerated therein. No protest has been offered by the said attorneys to the action of the Commission in identifying the persons enumerated in the schedule transmitted herewith and in accordance with the provisions of the act of Congress approved June 28, 1898, (30 Stat., 495).

These applicants have been scheduled as duly identified Mississippi Choctaws by the Commission. The schedule having been carefully examined and no errors having been found, it is respectfully recommended that the identification by the Commission of these persons as duly identified Mississippi Choctaw Indians be approved.

Very Respectfully,

A.C. Tonner.

Acting Commissioner.

CTC-WDW.

DEPARTMENT OF THE INTERIOR
Washington.

D.C. 23409-1904.

I.T.D. 5358-1904.

July 2, 1904.

L.R.S.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory,

Gentlemen:

June 16, 1904, you transmitted a schedule, in quintuplicate, of full blood Mississippi Choctaw Indians, numbers 2170 to 2255, inclusive, found by your Commission to be entitled to identification and who were living on September 25, 1902.

Reporting in the matter June 29, 1904, the Acting Commissioner of Indian Affairs recommends that said schedule be approved. A copy of his letter is inclosed.

I have this day approved said schedule, and return herewith three parts of same for appropriate disposition.

Respectfully,

E.A. Hitchcock

Secretary.

4 inclosures.

DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington.

Land.

43901/1904.

July 12, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

Referring to Department letter of June 16, 1904, I.T.D. 4876, there is enclosed herewith communication from the Commission to the Five Civilized Tribes, dated June 29, 1904, relative to the identification of Harry F. and Tannie T. Roe, and John G. Meely and Nanie Willis, as Mississippi Choctaws, whose names appear upon a schedule transmitted to the Department by this office May 27th last. Their names appear upon said schedule opposite numbers 2098, 2099, 2100 and 2140 respectively.

It is shown by the Commission's report and the testimony transmitted that application was made for the identification of Harry F. and Tannie T. Roe as Mississippi Choctaws, March 19, 1903. They claim and proved descent from Jubal B. Hancock and Mollie Mitchell. By Act of Congress approved August 11, 1842, (6 Stat., 856), Jubal B. Hancock was authorized to enter at the proper land office, 1,440 acres of any of the lands of the United States within the State of Mississippi, in lieu of a like quantity of land that he was entitled to select for himself and children,

-2-

Mary M., William M. and Caroline D. Hancock, in accordance with the provisions of the Treaty of 1830.

It is shown by the testimony that Floyd C. Roe, deceased, father of said minor children, was the son of C. D. Roe, also known as Callie D. Roe, who was the daughter of Jubal D. Hancock and Mollie Mitchell. The Act of Congress referred to and the records of this office, show that Jubal B. Hancock and Mollie Mitchell had a daughter by the name of Caroline D. Hancock.

From the testimony it appears that these applicants are entitled to identification as Mississippi Choctaws. It is also shown by the Commissioner's report that on March 24, 1903, there was received at their office application for the identification of John G. Meely as a Mississippi Choctaw. John G. Meely is the child of Clark and Mary J. Meely, and the Commission say was born June 15, 1902. The parents of the applicant have been identified by the Commission as Mississippi Choctaws and their action, it is shown, was approved by the Department May 15, 1904. As the application was made within the time required by law and as the parents of the applicant have been identified as Mississippi Choctaws, it seems that this applicant is entitled to identification.

The Commission also show that on March 21, 1903, there was received at their office at Muskogee, application for the identification of Nannie Willis as a Mississippi Choctaw, child of Robinson and Lillie Willis, born July 10, 1902. It is shown by the Commission's report that the parents of this child have been

identified by them as full-blood Mississippi Choctaws, and that such identification was approved by the Department May 5th last. It appears, therefore, that this applicant is also entitled to identification.

In view of the foregoing, the approval of Mississippi Choctaw Schedule No.2076 to 2169, transmitted with office report of May 27,1904, is recommended.

Very Respectfully,

A.C.Tonner.

Acting Commissioner.

GAW-H.

3 inclosures.

Refer in reply to the following:

Land.

42955-1904

Department of the Interior,
Office of Indian Affairs,
Washington, July 12, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

Permit me to invite your attention to letter from the Commission to the Five Civilized Tribes, dated June 22, 1904, referring to the fact that the Department in its letter of December 23, 1903, (I.T.D.8962-1903) concurred in the recommendation of this office that the Commission be the authority designated to take proof of the continuous bona fide residence in the Choctaw-Chickasaw country of a duly identified Mississippi Choctaw up to the time of the death of such Mississippi Choctaw, and the Commission was requested to prepare such rules and regulations as might be deemed essential in taking such proof and forward the same to the Department for its consideration and approval.

The Commission now transmits the record in the matter of the proof of the removal to and settlement within the Choctaw-Chickasaw country of John Toby, and the proof of his continuous residence in the Choctaw-Chickasaw country up to the time of his death.

On February 14, 1903, the Commission rendered a decision identifying John Toby, as a full blood Mississippi Choctaw Indian under the provisions of the 41st section of the act of Congress 3072.

-2-

approved July 1, 1902, (32 Stats.641). His name was included upon a schedule of duly identified Mississippi Choctaws transmitted by the Commission to the Department on March 10, 1903, which was approved by the Department April 7, 1903. The name of John Toby appears upon said schedule opposite No.267.

On December 9, 1903, John Toby appeared before the Chickasaw land office of the Commission at Tishomingo, Indian Territory and submitted proof of his removal to and settlement within the Choctaw-Chickasaw country, and testified that it was his intention to remain in the Indian Territory and make it his permanent home. On December 10, 1903, John Toby selected as his homestead allotment lot 1, the SE/4 of the NE/4 and the NE/4 of the SE/4 of Section 5, Township 6 South, Range 2 East, Chickasaw Nation, containing 120 acres, the appraised value of his homestead selection amounting to \$530.00. On the same date he selected as a portion of his allotment exclusive of his homestead the SE/4 of the SE/4 of Section 5 and the N/2 of the NE/4 of the NE/4 of section 8, Township 6 South, Range 2 East, containing 60 acres, appraised at \$200.00.

He subsequently appeared at the Chickasaw land office of the Commission on Jan'y 23, 1904 and selected additional land as a portion of his allotment exclusive of his homestead, described as the E/2 of the NW/4 and the NW/4 of the SW/4 of the NE/4 of Section 8, Township 6 South, Range 2 East, containing 90 acres, the appraised value of the land selected by John Toby is \$1040.00.

-3-

It further appears, says the Commission, that on April 18, 1904 John Toby died, and that on May 11, 1904, William Toby, a brother of John Toby and Joseph Batiest appeared before the Chickasaw land office of the Commission at Tishomingo, where their affidavits were secured relative to the death of John Toby on April 18, 1904 and that subsequently and on May 18, 1904 the testimony of John B. Criner was taken at the Chickasaw land office relative to the death of John Toby.

There is also transmitted for the information of the Department proof of the removal to and settlement within the Choctaw-Chickasaw country, made by John Toby and proof of his death, as submitted to the Commission.

While the Commission was requested in Departmental letter of December 23, 1903, to prepare such rules and regulations as might be deemed essential in taking proof of the continuous residence in the Choctaw-Chickasaw country of deceased Mississippi Choctaws, it has been deemed impracticable to prepare such rules and regulations, for the reason that it would be impossible to establish any fixed rules and regulations in this particular, inasmuch as such proof will of necessity be secured by the Commission that no better procedure can be suggested for the securing of such proof than in the manner herewith submitted, by requiring the affidavit of a relative and an acquaintance as to the death of such deceased Mississippi Choctaw and the testimony of some reliable person relative to his continued residence in the Choctaw-Chickasaw country up to the time of his death.

-4-

If the Department approves of the form as herewith submitted, it is requested by the Commission that it be advised at the earliest practicable date whether it is authorized to prepare for issuance to the heirs of John Toby, deceased, a patent conveying to them the land selected.

Necessarily, rather large latitude must be granted the Commission in the taking of proof in this class of cases and the procedure followed in this case appears to me to be reasonable and the best possible course to pursue. I am therefore convinced that the suggestion of the Commission that no set rules be formulated and that the course followed in this case meet the approval of the Department.

All the steps necessary to be taken have been taken in this case and the law having been fully complied with, it is my judgment that the Commission should be authorized to prepare patents for the lands selected by John Toby running to his heirs, and that they be submitted to the authorities of the Choctaw and Chickasaw Nations for proper execution.

Very respectfully,

A.C. Tonner,

Acting Commissioner.

EBH:LM

DEPARTMENT OF THE INTERIOR

Washington.

D.C.25573-1904.

I.T.D.4876-1904.
5678-1904.

July 16,1904.

1/4/s/

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory

Gentlemen:

On May 27, 1904, you transmitted, for departmental approval, a schedule, in quintuplicate, of duly identified Mississippi Choctaw Indians, numbers 2076 to 2169 inclusive.

By departmental letter of June 16,1904, you were directed to advise the Department of the date of the birth of John G. Meely and Nannie Willis, whose names appear on said schedule, and of the date of the application made for identification. You were also instructed to forward the record pertaining to the right of Harry F. Roe and Tannie T. Roe, to identification as Mississippi Choctaws.

On July 12, 1904, the Acting Commissioner of Indian Affairs transmitted your communication of June 29, 1904, forwarding the record relative to the application of Harry F. Roe and Tannie T. Roe, and furnishing the information desired by the Department relative to John G. Meely and Nannie Willis, and recommended that the schedule be approved.

-2-

I have this day approved said schedule, and return herewith three parts thereof, with a copy of the Acting Commissioner's letter.

Respectfully,

Thos. Ryan.

Acting Secretary.

4 inclosures.

D.C.25575.

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D.5710-1904.

L.R.S.

July 18,1904.

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

Gentlemen:

July 12, 1904, the Acting Commissioner of Indian Affairs submitted your report of June 22, 1904, relative to the taking of proof of the residence in the Choctaw -- Chickasaw country of identified Mississippi Choctaws, up to the time of their death.

You submitted the proof of the settlement in the Choctaw-Chickasaw country of John Toby, whose name appears upon the roll of identified Mississippi Choctaws approved by the Department, and proof of his continuous residence there up to the time of his death, and mention various tracts of land selected by him at different times. The total appraised value of such lands amounts to \$1040.

Departmental letter of December 23, 1903, directed you to prepare regulations to govern the making of proof of residence in the Choctaw-Chickasaw country of deceased Mississippi Choctaws. You, however, deem it impracticable to establish any fixed regulations in this particular, as such proof will necessarily be secured by your Commission as circumstances may warrant.

-2-

You state that no better procedure can be suggested for the securing of such proof than that furnished relative to John Toby, by requiring the affidavit of a relative and an acquaintance as to the death of such deceased Mississippi Choctaw, and the testimony of some reliable person relative to his continued residence in the Choctaw-Chickasaw country up to the time of his death. You request, if the Department approve of this form of procedure, that your Commission be advised whether you are authorized to prepare, for issuance to the heirs of Toby, a patent conveying to them the lands selected.

The Acting Commissioner states that he is convinced that the suggestion made by you should govern in the taking of the proofs in question. In this the Department concurs. He concludes that, as all the steps necessary have been taken in the Toby matter, and as the law had been fully complied with by the party prior to his death, you should be authorized to prepare patents for the lands selected by Toby, running to his heirs, to be submitted to the authorities of the Choctaw and Chickasaw Nations for execution.

The Act of July 1, 1902 (32 Stat., 641, section 41), provides that identified Mississippi Choctaws may, at any time within six months after the date of identification, make bona fide settlement in the Choctaw-Chickasaw country, and upon proof of such settlement to your Commission, within one year after the date of identification, they shall be enrolled "as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribe, subject to the special provisions herein provided as to Mississippi

3072.

-3-

Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

In your report of February 15, 1904, you stated that there are daily being received proofs submitted by Mississippi Choctaw Indians as to their settlement in the Choctaw-Chickasaw country, and that you propose, as early as practicable, to submit to the Department a roll of such Mississippi Choctaws as have, within six months from the date of their identification, removed to the Choctaw-Chickasaw country, and made satisfactory proof of such settlement.

When such roll has been submitted, including the name of Topy (and this should be done without further delay), and has been approved by the Department, you will be authorized to prepare patents to his heirs, for the lands selected, as the Department finds the proof of residence submitted sufficient.

The papers received with your letter are returned, and a copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan,

Acting Secretary.

3 inclosures.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B.NEEDLES,
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory
July 21, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory,

Dear Sir:

There is inclosed herewith, for the information of your office, copy of letter of July 16, 1904, to the Secretary of the Interior, transmitting a schedule of intermarried citizens of the Choctaw Nation, Numbers 856 to 954, inclusive.

When the schedule transmitted with this letter is approved by the Department your office will be furnished a copy thereof for your use.

Respectfully,

T.B.Needles,

AB 4-21

Commissioner in Charge.

(Endorsed) Union Agency No.2929. Received Jul.22,1904 Commission to the Five Civilized Tribes,Muskogee,Indian Territory.Relative---- schedule of intermarried citizens of the Choctaw Nation----

Muskogee, Indian Territory
July 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

The Commission to the Five Civilized Tribes has the honor to transmit herewith a schedule of the citizens by intermarriage of the Choctaw Nation, numbers 856 to 954, inclusive, found by the Commission to be entitled to enrollment and who were living on September 25, 1902, as provided by the act of Congress approved July 1, 1902, entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes" (32 Stat., 641), and ratified by the citizens of the Choctaw and Chickasaw Nations at a special election held September 25, 1902.

Decisions enrolling the persons enumerated in this schedule, except James Rhea, number 937, have heretofore been rendered by the Commission and copies thereof furnished Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, and also the applicants. The attorneys for the Choctaw and Chickasaw Nations were advised that they would be allowed fifteen days from the date of the rendition of the decisions within which to file with the Commission such protest as they desired to make against the action of the Commission in enrolling the persons enumerated in such decisions and make satisfactory proof of service of protest upon the applicants enumerated therein. No protest has been offered by the attorneys for the Choctaw and Chickasaw Nations against the action of the Commission in enrolling the persons

whose names are included in the schedule transmitted herewith, except as to Cora J. Cotten and Pink W. Bell numbers 869 and 928, respectively, and in accordance with the provisions of the acts of Congress approved June 28, 1898 (30 Stat., 496) and July 1, 1902 (32 Stat., 641), the persons enumerated in this schedule have been enrolled by the Commission as intermarried citizens of the Choctaw Nation.

The Commission rendered a decision enrolling Cora J. Cotten, number 869, on the schedule transmitted herewith, as a citizen by intermarriage of the Choctaw Nation, against which decision the attorneys for the Choctaw and Chickasaw Nations filed a protest. On June 3, 1904 the Department (I.T.D. 2886-1904) affirmed the decision of this Commission granting said application and directed the Commission to enroll said Cora J. Cotten as a citizen by intermarriage of the Choctaw Nation.

The Commission rendered a decision enrolling Pink W. Bell, number 928 on the schedule transmitted herewith, as a citizen by intermarriage of the Choctaw Nation, against which decision the attorneys for the Choctaw and Chickasaw Nations filed a protest. On June 21, 1904 the Department (I.T.D. 4288-1904) affirmed the decision of this Commission enrolling said Pink W. Bell as a citizen by intermarriage of the Choctaw Nation.

The Commission rendered a decision denying the application for the enrollment of James Rhea, number 937 on the schedule transmitted herewith, as a citizen by intermarriage of the Choctaw Nation which decision was disapproved by the Department and 2929.

-3-

the Commission was directed to enroll said James Rhea as a citizen by intermarriage of the Choctaw Nation (I.T.D.3836-1903 and 1078-1904).

The tribal roll (if found on roll) from which the persons named in the schedule are identified and such other data as will properly identify the persons thereon here follows in the same order as in schedule:

No.	Name	Roll-County	Remarks.
856	Burris, Rebecca	1896 Tobucksy	Wife of Hampton Burris Choctaw roll No.181.
857	Carson, Jerry	1896 Chick. Dist.	Husband of Lula Carson 1893 Chick. Dist. now deceased.
858	Byford, H.M.		Husband of Ellen Byford, Choctaw roll No.263.
859	Carr, Alice C.	1896 Chick. Dist.	Wife of J.E.Carr, Choctaw roll No.294.
860	Butterly, Nicholas	1896 Chick. Dist.	Husband of Fannie H. Butterly, Choctaw roll No.336.
861	Lindsay, Lewis	1896 Chick. Dist.	Husband of Juanita Lindsay Choctaw roll No.347.
862	Richardson, S.O.	1896 Chick. Dist.	Admitted by Commission 1896 Choctaw Citizenship case No.682. Husband of Lucinda Cordelia Richardson. Choctaw roll No.15176.
863	Jones, Martha Ann	1896 Blue	Wife of John Robert Jones, Choctaw roll No.15182.
864	Askew, Mamie		Admitted by Commission, 1896 Choctaw Citizenship case No.1130. Wife of B.B. Askew, Choctaw Roll No.14215.
865	Lawrence, Dollie		Wife of J.R.Lawrence, Choctaw roll No.14500.
866	Taliaferro, James R.		Husband of Minnie A.Taliaferro, Choctaw roll No.418.

- 867 Hamm, Thomas I. 1896 Chick Dist. Admitted by Commission, 1896 Choctaw Citizenship case No.1372. Husband of Ella Camp Hamm, Choctaw roll No.14505.
- 868 Buckholts, Martha Admitted by Commission, 1896 Choctaw Citizenship case No.621.Wife of George W.Buckholts, Choctaw roll no.15188.
- 869 Cotten,Cora J. 1896 Chick.Dist. Admitted by Commission, 1896 Choctaw Citizenship case No.700.Wife of David Oscar Cotten, Choctaw roll No.14585.
- 870 Walcott,Arthur 1896 Chick.Dist. Admitted by Commission 1896 Choctaw Citizenship case No.539. Husband of Lutie Mary Walcott, Choctaw roll No.14269.
- 871 Wright, James E. 1896 Chick.Dist. Husband of Abbie Wright, Choctaw roll No.581.
- 872 Stidham,Nannie 1896 Chick.Dist. Wife of Jesse Stidham, Choctaw roll No.589.
- 873 Null, Elizabeth 1896 Jacks Fork Admitted by Commission, 1896 Choctaw Citizenship case No.1148.Wife of John Null,Choctaw roll No.15191.
- 874 Buckholts, Frances E. 1896 Chick.D. Wife of John M.Buckholts, Choctaw roll No.15209.
- 875 Murphy,James C. 1896 Chick.Dist. Husband of Burly Sedelia Murphy,Choctaw roll No.15214.
- 876 McKenzie,Sam Admitted by Commission, 1896 Choctaw Citizenship case No.1130. Husband of Dora McKenzie, Choctaw roll No.14280.

-5-

- 877 Thomas, Andrew Jackson 1896 Kiamitia Husband of Della Thomas, Choctaw roll Number 709.
- 878 Buckholts, Annie J. 1896 Chick.D. Admitted by Commission 1896 Choctaw Citizenship case No.900. Wife of William L. Buckholts, Choctaw roll No.15216.
- 879 Nale, Luann 1896 Tobucksy Wife of Robert Nale, Choctaw roll No.813.
- 880 Bailey, William Duncan 1896 Chick.D. Admitted by Commission, 1896 Choctaw Citizenship Case No.628. Husband of Clementine N. Bailey, Choctaw roll No.16220.
- 881 Slaton, James A. Husband of Mary Jane Slaton, Choctaw roll No.832.
- 882 Moncrief, Lina 1896 Chick.Di. Wife of William Moncrief, Choctaw roll No.835.
- 883 Plato, Frank W. Admitted by Commission, 1896 Choctaw Citizenship case No.565. Formerly husband of M.P. Plate, 1893 Chick. Dist., now deceased.
- 884 Hampton, Fannie 1896 Chick. Dist. Wife of Benjamin Hampton, Choctaw roll No.850.
- 885 Robinson, Mary E. Wife of Alex Robinson Choctaw roll No.863.
- 886 Hewitt, George W. Husband of Lelah Hewitt, Choctaw roll No.15389.
- 887 Steward, Samuel P. 1896 Tobucksy Husband of Vacey Steward, Choctaw roll No.887.
- 888 Keltner, William H.H. Husband of Mattie A. Keltner, Choctaw roll No.893.

-6-

889	Costilow, Elijah	1896 Red River	Husband of Jennie Costilow, Choctaw roll No. 1016.
890	Harris, Sarah E.		Wife of Walter C. Harris, Choctaw roll No. 2903.
891	Koozer, Charles	1896 Red River	Formerly husband of Lucretia P. Koozer, who died in 1888 and who was the mother of Charles H. Koozer, Choctaw roll No. 3744.
892	Terry, Jefferson J.		Husband of Josephine Terry, Choctaw roll No. 3836.
893	Alfred, Elizabeth		Wife of Morris Alfred, Choctaw roll No. 3946.
894	Edwards, Donie		Wife of William Edwards, Choctaw roll No. 4050.
895	Russell, William	1896 Kiamitin	Husband of Emma Russell, Choctaw roll No. 4225.
896	Wiltsey, John M.		Husband of Annie Wiltsey, Choctaw roll No. 4697.
897	Parsons, John M.	1896 Kiamitia	Formerly husband of Eliza Parsons, who died in 1891 and who was the mother of Mary Parsons, Choctaw roll No. 4563.
898	Anderson, Lue	1896 Jacks Fork	Wife of Charles Anderson, Choctaw roll No. 5434.
899	Harrison, Lorena	1896 Wade	Formerly husband of Phoebe Bell, 1893 Wade, now deceased.
901	Heavener, Joseph	1896 Sugar Loaf	Husband of Tobitha Heavener, Choctaw roll No. 6413.
902	Nolen, Rhoda	1896 Sans Bois	Wife of Thomas Nolen, Choctaw roll No. 6420.
903	McClure, Mary F.	1896 Skullyville	Formerly wife of William Watson McClure who died in 1892 and who was the father of Garret T. McClure, Choctaw roll No. 6643.

-7-

- 904 Folsom, Mary Elizabeth 1896 Skullyville Formerly wife of
Willis Francis
Folsom, 1896
Skullyville, now
deceased.
- 905 Brandy, Nettie 1896 Sans Bois Wife of Cornelius
Brandy, Choctaw roll
No. 7007.
- 906 Garland, Arizona Wife of Davis Garland,
Choctaw Roll No. 7072.
- 907 Hill, Jefferson W. Husband of Jennie Hill,
Choctaw roll No. 7250.
- 908 Foster, John E. Husband of Mamie
Foster, Choctaw roll
No. 7304.
- 909 Bench, John D. 1896 Sans Bois Admitted by Commission,
1896 Choctaw citizen-
ship case no. 639.
Formerly husband of
Matilda Bench, 1896
Sans Bois, now deceased.
- 910 Ward, Ida L. 1896 Skullyville Wife of Robert J. Ward,
Choctaw roll no. 7528.
- 911 Krebbs, Hattie Admitted by Commission,
1896 Choctaw Citizen-
ship case no. 230.
Wife of Peter B. Krebbs,
Choctaw roll no. 7609.
- 912 Martin, Maggie Wife of James Martin,
Choctaw roll no. 7639.
- 913 Williams, Sarah E. Wife of Senora W.
Williams, Choctaw roll
no. 8052.
- 914 Egbert, Elizabeth 1896 Sans Bois Wife of Kelley Frazier
a recognized Choctaw
by blood who died
about 1872.
- 915 Merryman, Cordelia E. 1896 Sugar Loaf Wife of David C. Merryman
Choctaw roll no. 8455.
- 916 Bickle, James A. 1896 Sans Bois Husband of Susan Bickle,
Choctaw roll no. 8616.

-8-

917	Hoyt, Lizzie	1896 Sans Bois	Wife of Milo A. Hoyt, Choctaw roll no. 15434.
918	Holson, Texanna	1896 Gaines	Formerly wife of Sampson Holson, 1896 Gaines, now deceased.
919	Fry, Thomas W.		Admitted by Commission, 1896 Choctaw Citizen- ship case no. 1349. Husband of Fannie Fry Choctaw roll no. 15437.
920	Brown, Lou		Formerly wife of Newton Brown, 1896 Gaines, now deceased.
921	James, William A.		Husband of Katy James, Choctaw roll no. 9532.
922	Jones, Amanda	1896 Jackson	Wife of Billy Jones, Choctaw roll No. 9624.
923	Jones, Martha E.		Wife of James F. Jones, Choctaw roll No. 15229.
924	Askew, Louise		Wife of Julius Askew, Choctaw roll no. 14367.
925	Baxter, Elisha	1896 Blue	Admitted by Commission, 1896 Choctaw citizen- ship case no. 196. Husband of Caroline Baxter, Choctaw roll no. 15485.
926	Hawkins, Margaret		Wife of Milton Hawkins, Choctaw roll no. 10487.
927	Tucker, Ella May		Wife of John H. Tucker, Choctaw roll No. 12032.
928	Bell, Pink W.		Admitted by Commis- sion, 1896 Choctaw Citizenship case number 923. Formerly husband of Hattie Bell a recognized Choctaw by blood who died in 1885.
929	Folsom, Tabitha	1896 Sans Bois	Wife of Jefferson D. Folsom, Choctaw roll number 12520.

-9-

930	King, Mary Y.	1896 Atoka	Formerly wife of Anderson King, Choctaw roll no. 11334.
931	Trant, Henry	1896 Tobucksy	Husband of Minnie Trant, choctaw roll no. 12971.
932	Davis, Maggie	1896 Tobucksy	Wife of Riley Davis, Choctaw roll no. 13028.
933	Smith, Essie		Wife of Elmore Smith, Choctaw roll no. 13195.
934	Beck, Elijah	1896 Sans Bois	Husband of Joanna Beck, Choctaw roll no. 13251.
935	Flinchum, Ruby L.		Wife of William Flinchum, Choctaw roll no. 13538.
936	Locke, Elisha C.		Husband of Jane Locke, Choctaw roll no. 13406.
937	Rhea, James	1896 Chick. Dist.	Admitted by Commission, 1896 Choctaw Citizenship case no. 690. Husband of Eugenie Rhea, Choctaw roll no. 15031.
938	Foster, Minnie B.	1896 Chick. Dist.	Wife of John Abe Foster, Choctaw roll no. 15087.
939	Williams, William Franklin	1896 Chick. Dist.	Husband of Mollie E. Williams, Choctaw roll no. 15097.
940	Thomas, John F.	1896 Chick. Dist.	Husband of Alice Thomas, Choctaw roll no. 15106.
941	Park, Robert Lee		Husband of Ida M. Park, Choctaw roll no. 15111.
942	Foster, Ida Adella	1896 Chick. Dist.	Admitted by Commission 1896 Choctaw Citizenship case no. 436. Wife of E.A. Foster, Choctaw roll no. 15134.

-10-

- 943 Campbell, Susan Frances
1896 Chick. Dist. Wife of James M. Campbell, Choctaw roll no. 15114.
- 944 Campbell, Katie 1896 Chick. Dist. Wife of James Lee Campbell, Choctaw roll no. 15119.
- 945 White, James Edward
1896 Chick. Dist. Admitted by act of Choctaw Council November 5, 1888. Husband of Ellen White, Choctaw roll no. 15144.
- 946 Kirkendall, Joseph
1896 Chick. Dist. Admitted by act of Choctaw Council November 5, 1888. Husband of Jane Kirkendall, Choctaw roll no. 15148.
- 947 Jones, Ida M. 1896 Blue Admitted by Commission, 1896 Choctaw Citizenship case no. 1042. Wife of Francis M. Jones, Choctaw roll no. 15248.
- 948 Simmons, Nathaniel H. Husband of Matilda E. Simmons, Choctaw roll no. 15256.
- 949 Fowler, Hosea L. 1896 Towson Husband of Josephine Fowler, Choctaw roll no. 15533.
- 950 Woolery, Dona Wife of James Woolery, Choctaw roll no. 3762.
- 951 Massey, Arizona C. Wife of Oliver Massey, Choctaw roll no. 14420.
- 952 Long, Charley C. Husband of Veda Long, 1896 Chick. Dist., now deceased.
- 953 Ish, William W. Admitted by Commission, 1896 Choctaw Citizenship case no. 1103. Formerly husband of Fannie E. Moore, Choctaw roll no. 7843.
- 2929.

-11-

954 Jones, Daniel

Formerly husband of
Emma Jones, 1885 Sugar
Loaf, now deceased.

Respectfully submitted,

COMMISSION TO THE FIVE
CIVILIZED TRIBES.

TAMS BIXBY.
Chairman.

T. B. NEEDLES.
Commissioner.

C. R. BRECKINRIDGE.
Commissioner.

Through the Commissioner of Indian Affairs.

6 inclosures.

(2929)

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm.O.BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory
July 21, 1904.

Commissioner In Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 13th instant, in which you advise that J. W. Gillett recently appeared before your office and presented letters of guardianship issued by the United States Court for the Southern District of the Indian Territory, appointing him guardian of Edmund Williamson whose name appears upon Mississippi Choctaw card No. 648, identified Mississippi Choctaw roll No. 1920, and desired to make proof of the removal to and settlement within the Choctaw-Chickasaw country, Indian Territory, for the said Edmund Williamson.

In your letter you invite attention to the provisions of the 41st section of the Act of Congress approved July 1, 1902 (32 Stats., 641), and in conclusion desire to be advised as to whether your office is authorized to accept proof of removal to and settlement within the Choctaw-Chickasaw country of a duly identified Mississippi Choctaw who is a minor, when made by a non-citizen guardian appointed by the United States Court, especially

2983.

-2-

where the parents of the minor are living and have the care and custody of the child.

You do not, with your letter of the 13th instant, transmit any testimony showing whether the child, Edmund Williamson, is living with his parents or the reason for the appointment by the United States Court for the Southern District of the Indian Territory, of J. W. Gillett as the guardian of this child.

In reference to the admission and acceptance of proof of the removal to and settlement within the Choctaw-Chickasaw country, the 41st section of the Act of Congress approved July 1, 1902 (32 Stats., 641), provides relative to persons identified by the Commission to the Five Civilized Tribes as Mississippi Choctaws, that they may

" at any time within six months after the date of their identification as Mississippi Choctaws by the said Chickasaw country, and upon proof of such settlement to said Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws entitled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior."

The law provides that a Mississippi Choctaw who has been identified as such by the Commission to the Five Civilized Tribes, in order to avail himself of the privileges of such identification, must within six months from the date of his

identification remove to and make bona fide settlement within the Choctaw-Chickasaw country. The remainder of the provision is an obligation upon the Commission to see that satisfactory proof of such removal and settlement is presented as will warrant the Commission in enrolling the person so identified as a Mississippi Choctaw entitled to allotment.

It is not so much the question as to whether J. W. Gillett has been appointed by the United States Court for the Southern District of the Indian Territory as the guardian of Edmund Williamson, as that your office should secure satisfactory evidence from persons competent to testify to the effect that Edmund Williamson has removed to the Choctaw-Chickasaw country, Indian Territory, and is at the present time an actual and bona fide resident of the Choctaw-Chickasaw country.

Of course, in a majority of instances, this proof can be most satisfactorily submitted by the parents of the child. There is apparently no objection to J. W. Gillett submitting such proof if he is competent to testify of his own knowledge of the date of the removal of the child to the Indian Territory and the fact that he is still an actual bona fide resident of the Choctaw-Chickasaw country, Indian Territory. The law requires that the Commission must be satisfied of this fact before an allotment can be made to a Mississippi Choctaw, but the manner of obtaining such proof is not specifically set forth and is left to the discretion of the Commission.

Your office is therefore authorized to permit J. W. Gillett, if he is competent to so testify, to make proof of the removal

-4-

and settlement and bona fide residence of Edmund Williamson in the Choctaw-Chickasaw country, and if the evidence presented by him is not of such a character as to be conclusive to you of the right of the child to the selection of an allotment in the Choctaw-Chickasaw country, Indian Territory, you will require such additional proof as in your opinion may be necessary.

Respectfully,

T.B.Needles,

Commissioner in Charge.

(Endorsed) Union Agency No.2983. Regarding----Edmund Williamson, the proof of the removal to and settlement within the Choctaw-Chickasaw country, I.T.----- asks why he has guardian, when his Mother and Father are still living.----

COMMISSIONERS:

TAMS BIXBY,
 THOMAS B. NEEDLES,
 C. R. BRECKINRIDGE.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,
 Secretary.

Address only the
 commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
 July 22, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

On June 17, 1904, your office reported an allotment to
 Simon Jones, Choctaw Roll by Blood No. 11687.

In reference to this matter, your attention is invited to
 the fact that, on July 21, 1903, before David Shelby, a Notary
 Public for the Central District of the Indian Territory, and an
 employee of this Commission, Annie Paine, the Mother of Simon
 Jones, and Israel Jones made affidavit to the fact that Simon
 Jones died in the month of August, 1901.

You are further advised that, in accordance with this infor-
 mation and acting upon these affidavits as authority, the Commis-
 sion has recommended to the Department of the Interior the cancel-
 lation of the name of Simon Jones from the final Rolls of Citizens
 by Blood of the Choctaw Nation, which recommendation has been
 concurred in, and the Department has authorized the cancellation
 of the name of Simon Jones, Choctaw Roll by Blood 11687.

Your office will this day, in a separate communication, be
 advised of the cancellation of a number of such names from the
 2977.

Approved Rolls of the Citizens by Blood of the Choctaw Nation.

It further appears that, on June 17, 1904, when the allotment was selected for Simon Jones, C.M. Joiner appeared before your office and presented Letters of Administration issued by the United States Court for the Southern District of the Indian Territory, appointing him as Administrator of the estate of Simon Jones, deceased; and there was also offered in evidence and filed, the affidavit of Frank Jones, an uncle of Simon Jones, and Green Wesley to the effect that Simon Jones died August 31, 1903. These latter affidavits were executed before E. A. Newman, a Notary Public for the Central District of the Indian Territory, on June 14, 1904.

Copies of the affidavits executed before David Shelby on July 21, 1903, and before E. A. Newman on June 14, 1904, are inclosed you herewith.

This office is of the opinion that a fraud has been attempted in this case for the purpose of securing an allotment in the name of Simon Jones, deceased. You are, therefore, directed to prepare notices to Frank Jones and Green Wesley, who executed the affidavits before E. A. Newman, and to E. A. Newman, Notary Public for the Central District of the Indian Territory, whose Post Office is given as Atoka, Indian Territory, notifying them of a time and place to appear before you and there testify with reference to the date of the death of Simon Jones and the manner in which the affidavits were secured and executed.

-3-

You are also directed to make a further investigation, ascertaining from reliable persons the exact date of the death of Simon Jones. If it becomes necessary, you will delegate one of the employees of your office to make a thorough investigation of this matter, securing, if possible, the testimony of witnesses who were present at the death of Simon Jones, and the affidavit of the undertaker or persons who prepared the coffin and buried the body.

With return of the papers inclosed, you will submit a report in full, in order, if a fraud has been attempted, the matter may be brought to the attention of the proper officials in the Indian Territory for consideration and action.

You will also notify C. M. Joiner of this action. In the meantime, you will suspend any further action in reference to the allotment made by your office on June 17, 1904, to Simon Jones, Choctaw Roll by Blood, No. 11687.

Respectfully,

T.B.Needles,

Commissioner in Charge.

enc
FCS 57

(Endorsed) Union Agency No. 2977. Received Jul. 23, 1904 Commission to the Five Civilized Tribes, Atoka, Indian Territory. Relative---- allotment to Simon Jones, Choctaw Roll, June 17, 1904, when the Mother of Simon (Annie Paine) had made affidavit to the fact that Simon Jones died August, 1901.----

COMMISSIONERS:
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
July 26, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory,

Dear Sir:

There are transmitted today, under separate cover, for the
use of your office, copies of the following schedules of identi-
fied Mississippi Choctaws:

Schedule of identified Mississippi Choctaws, Numbers
2076 to 2169, inclusive.

Schedule of identified Mississippi Choctaws, Numbers
2170 to 2255, inclusive.

There are inclosed herewith, for your information,
copies of Departmental letters of July 16, 1904, and July 2, 1904,
respectively, approving said schedules.

Respectfully,

T. B. Needles,

Commissioner in Charge.

AB 11-26

(Endorsed) Union Agency No. 3043 Received Jul. 28, 1904 Commission
to the Five Civilized Tribes, Muskogee, Indian Territory. Relative-----
schedules of identified Mississippi Choctaws.-----

COMMISSIONERS:
TAMS BIXBY,
THOMAS B.NEEDLES,
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Choctaw 5324.

Wm.O.BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
July 27, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

For the information of your office, there is enclosed here-
with copy of letter addressed to the Secretary of the Interior,
recommending the cancellation of the enrollment of Sam Dyer, at
number 13510 upon the approved roll of the citizens by blood of
the Choctaw Nation.

Your office is therefore directed to withhold the issuance
of citizenship certificate or the making of allotment to this
citizen until further advised. When the Commission is informed
of Departmental action on this recommendation, your office
will be notified.

Respectfully,

T.B.Needles,

EA 8-27.

Commissioner in Charge.

(Endorsed) Union Agency No.3059.Received Jul.29,1904 Commission
to the Five Civilized Tribes. Relative----cancellation of the
enrollment of Sam Dyer, Choctaw by blood, No.13510----

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C.R. BRECKINRIDGE. Department of the Interior,
Commission to the Five Civilized Tribes.

Wm. O. BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
July 28, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

For the information of your office, there is enclosed herewith copy of Departmental letter of July 18, 1904, (I.T.D. 5710-1904) relative to the taking of proof of continuous residence in the Choctaw-Chickasaw country of identified Mississippi Choctaws up to the time of their death.

Respectfully,

T. B. Needles

Commissioner in Charge.

EA 2-28.

(Endorsed) Union Agency No. 3072. Received Aug. 1, 1904. Commission to the Five Civilized Tribes, Muskogee, Indian Territory. Relative---- To the taking of proof of continuous residence in the Choctaw-Chickasaw country of identified Mississippi Choctaws up to the time of their death.----

DEPARTMENT OF THE INTERIOR.

ITD 6044-1904.

Washington.

July 29, 1904.

The Commission

to the Five Civilized Tribes.

Gentlemen:

By letter dated May 19, 1904 (2244-1904), you were advised that a Mississippi Choctaw "should be given a certificate in such form as to show the character of his claim and his right to possession of the land."

The Department is in receipt of a report from the U.S. Indian Inspector for Indian Territory relative to the right of Mississippi Choctaws to dispose of the pine timber upon the lands selected by them.

The Inspector states that he has conferred with the Chairman of your Commission with regard to the matter, and suggests that he "be permitted to attach a notice to each certificate, when issued to Mississippi Choctaws, of the ruling of the Department, that no timber can be disposed of by the holder for a specified period."

The Inspector does not state what the views of the Chairman of your Commission are in the premises, but the Department has this day advised him that whatever notice or limitation of the right of the Mississippi Choctaw to dispose of the timber upon the lands selected by him, should be inserted in the certificate by your Commission, rather than by the Inspector.

You are authorized to insert in the certificates to Mississippi Choctaws, referred to in said departmental letter

-2-

of May 19, 1904, a statement that the party is not authorized to cut merchantable timber from his selection until he has been enrolled as a citizen of the Choctaw Nation at the end of his three years period of residence under the law, and has complied with the provisions of sections 41, 42 and 43 of the Act of July 1, 1902 (32 stat., 641).

A copy of the letter to the Inspector is inclosed herewith for your information.

Respectfully,

Thos Ryan

1 inclosure.

Acting Secretary.

(Endorsed) Union Agency No. 10037 Received Aug. 6, 1904 Office of U.S. Indian Inspector for Indian Territory. Washington, July 29, 1904. Secretary. --- Relative to matter of guardianship of Indians taking allotments in pine timber district; Dawes Commission will be directed to attach notice to certificate issued to Mississippi Choctaws relative to their right to dispose of timber. ---

Muskogee, Indian Territory,
July 30, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

On February 18, 1903, the Commission to the Five Civilized Tribes had the honor to transmit for Departmental consideration a schedule constituting a part of the final roll of citizens by blood of the Choctaw Nation, numbers 12985 to 14172, inclusive, copies of which have been heretofore returned approved by the Secretary of the Interior, March 19, 1903.

We now have the honor to report that the enrollment of Sam Dyer, opposite number 13510 upon said schedule, is erroneous and should be cancelled.

On July 13, 1904, a notice was addressed to Sam Dyer, whose name appears opposite number 13510 upon the approved roll of the citizens by blood of the Choctaw Nation, that his enrollment, having been approved for a period of more than one year, and no selection of allotment having yet been made by him, if such selection was not made within thirty days from that date, the Commission would arbitrarily designate a homestead and allotment in his name.

The locating party now operating in the field in the Choctaw Nation for the purpose of locating improvements of recalcitrant citizens of the Choctaw Nation, now report that Sam Dyer,

-2-

approved roll of citizens by blood of the Choctaw Nation, Number 13510, advises that he has already selected his allotment and holds certificates covering the land selected by him.

It now appears that Sam Dyer, approved roll of citizens by blood of the Choctaw Nation, number 13510, is identical with Sampson Dyer, approved roll of citizens by blood, Choctaw Nation, number 9922. It further appears that on May 4, 1903, there was allotted to the said Sampson Dyer, Choctaw roll by blood, number 9922, land, the appraised value of which amounts to \$1021.32.

We have, therefore, the honor to recommend that the enrollment of Sam Dyer opposite number 13510 upon the approved roll of the citizens by blood of the Choctaw Nation, be cancelled upon the schedules of the citizens by blood of said Nation and the letter of transmittal of February 18, 1903, in the office of the Secretary of the Interior and the Commissioner of Indian Affairs, and that the Commission be authorized to make corresponding changes upon the schedules and letters of transmittal in its possession.

Respectfully,

Chairman.

Commissioner.

Commissioner.

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR.
Washington.

ITD.6086-1904.
L.R.S.

August 1, 1904.

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

Gentlemen:

July 18, 1904, Commissioner Needles transmitted a copy of the testimony given by Joe Cunish before the Commission on April 20, 1904, relative to the enrollment of his minor children, Lenora, Joseph L. and Edna.

It appears from said testimony that Louisa, wife of Joe Cunish, enrolled herself and said children as Choctaw Freedman under the surname of Lewis; that Joe Cunish, a Chickasaw freedman, is also known as "Joe Lewis," his father's name being Louis Killey; that Louisa is dead and the children above named live with their father who is enrolled under the name of Joe Cunish. The testimony of the minister who married Joe Cunish and Louisa shows that he was known as Joe Cunish at the time of such marriage. The father of said children now desires that their names be changed on the roll of Choctaw freedmen from "Lewis" to "Cunish."

Commissioner Needles recommends that the names of Lenora Lewis, Joseph L. Lewis and Edna Lewis, opposite Nos. 2165, 2166 and 2167, respectively, upon the approved roll of Choctaw freedmen be not changed upon the schedules, and that the Commission be authorized to issue citizenship certificates and make allotments to the freedmen named in the names by which they now appear upon the approved freedman roll.

-2-

Reporting July 27 the Acting Commissioner states that the facts as given in the testimony show that none of said persons has the surname of Lewis; that it is his opinion that the surnames of said children should be changed, and that the surname of the wife should be changed also to Cunish, and he makes recommendation accordingly.

I concur in the Acting Commissioner's recommendation, and you are requested to correct the copies of the schedule returned to you in accordance therewith. The copy in this office has been likewise changed, and the Commissioner of Indian Affairs authorized to make correction upon the copy in his office. Inclosed is a copy of the Acting Commissioner's report.

Respectfully,

(signed) Thos. Ryan,

Acting Secretary.

(Endorsed) Union Agency No. 3189 Received Aug. 11, 1904 Commission to the Five Civilized Tribes. Relative----enrollment of minor children, of Joe Cunish----

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

Land.
49489-1904.

July 27, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to a letter of the Commission to the Five Civilized Tribes of the 18th instant, referring to the fact that on March 16, 1903, the Commission forwarded for Departmental consideration schedule constituting part of the final roll of Choctaw freedmen, Nos. 1032 to 2386, inclusive, it having been approved by you April 8, 1903.

The Commission now invites attention to the names of Lenora, Joseph L. and Edna Lewis, which appeared thereon opposite Nos. 2165, 2166 and 2167, respectively, and to report that on April 20, 1904, Joe Cunish, who appears on approved roll of Chickasaw freedmen, No. 3029, appeared before the Choctaw land office in Atoka, and from his testimony it developed that he is the father of the persons given as Lenora, Joseph L. and Edna Lewis; that he is known by the name of Lewis, as well as the name of Cunish, but that his correct name is Cunish, and he therefore desires to have the names of his children, Lenora, Joseph L. and Edna, Choctaw freedman roll Nos. 2165, 2166 and 2167 changed upon the roll from Lewis to Cunish.

For the information of the Department, there is enclosed copy of the testimony of Joe Cunish of April 20, 1904.

3189.

-2-

Inasmuch as it appears from the testimony of Joe Cunish that while he is known by the name of Joe Lewis, as well as Joe Cunish, and as his wife and the mother of these children is enrolled as a Choctaw freedman by the name of Louisa Lewis, her name appearing upon the approved roll of Choctaw freedmen, opposite No. 3607, the Commission recommends that the names of Lenora Lewis, Joseph L. Lewis, and Edna Lewis, opposite Nos. 2165, 2166 and 2167, respectively, upon the approved roll of Choctaw freedmen in the possession of the Department and of this office, and that the commission be authorized to issue citizenship certificates and make allotments to the freedmen above named in the names by which they now appear upon the approved Choctaw freedman roll.

In accordance with the testimony of Joe Cunish, his wife registered herself and the children by the surname of Lewis for the reason that she presumed that the surname of the father of Cunish was Lewis, when as a matter of fact, it was his first or given name, his name being Lewis Killey. Cunish takes his surname from the family owning him when he was a slave. From this statement of the facts in the case, it will be seen that none of these persons have the surname of Lewis, and I therefore cannot agree with the Commission in its recommendation that the surnames of the children be not changed. It is my opinion that the surnames of these children should be changed, and that the surname of the wife should be changed also to Cunish, and I so recommend.

Very respectfully,

A.C. Tonner,

Acting Commissioner.

EBH-D.

3189.

306
COMMISSIONERS:

TAMS BIXBY,

THOMAS B. NEEDLES,

C.R. BRECKINRIDGE.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Choctaw Freedman 1024.

Wm. O. BEALL,

Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,

August 9, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory,

Dear Sir:

For your information there is inclosed herewith copy of
Departmental communication of August 1, 1904, (I.T.D. 6086-1904)
directing the change of surname of the freedmen opposite Numbers
2165, 2166, 2167 and 3607 upon the approved roll of Choctaw
freedmen from "Lewis" to "Cunish."

Your office is therefore authorized to make the necessary
changes upon the schedules of Choctaw freedmen in your possession,
and upon the Commission's letter of transmittal of March 16,
1903. Applications for allotment in behalf of the persons above
named may now be received.

Respectfully,

T.B. Needles.

Commissioner in Charge.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,
Secretary.

Address only the
commission to the Five
Civilized Tribes.

Muskogee, Indian Territory,
August 4, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of August 2, in which you state that Calvin Q. Harris, who was refused by the United States Court in Indian Territory, admission to citizenship in the Choctaw Nation, appeared at your office on that date and made application to be permitted to institute contest and that your office refused to entertain the same. You state that the only record you have of this applicant is on Choctaw roll card 3437, where he appears as an intermarried citizen of the Choctaw Nation, and you are therefore unable to determine whether he has an application pending before the Commission irrespective of the judgment of the Commission in 1896, admitting him as an intermarried citizen, which judgment was reversed by the United States Court.

In reply to your letter you are advised that it appears from our records that Calvin Q. Harris is an applicant to the Commission for enrollment as an intermarried citizen of the Choctaw Nation, and that in support of such application he has 3124.

-2-

filed his marriage license and certificate under date of January 2 and January 30, 1899, respectively, to Susan Honey, under Choctaw law.

Your office will therefore permit the said Calvin Q. Harris to make application for land in the Chickasaw Nation for the purpose of instituting contest therefore, pending the final determination by the Commission of his right to such enrollment, and will advise him accordingly.

Respectfully,

T.B.Needles.

Commissioner in Charge.

(Endorsed) Union Agency No.3124 Received Aug.6,1904 Commission to the Five Civilized Tribes,Muskogee,Indian Territory.Regarding-- Calvin Q.Harris making contest because he was refused by the United States Court in Indian Territory,admission to citizenship in the Choctaw Nation.-----

6-4-07
309

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

Comes now your petitioner, Wilken Taylor, and respectfully submits the following to the Commission:

I am a full blood Choctaw Indian; my age is 35 years; my post office address is damon, Choctaw Nation, Indian Territory.

On the 30th day of October, 1903, I appeared in person at the Chickasaw land office, and made application to take in allotment certain lands located in that nation upon which lands are located improvements that I was the owner of, and in the possession of. That my said lands are located in two tracts, practically all of which is in a state of cultivation; is located on a creek, is bottom land, and has thereon houses, wells, fences, orchards, and other valuable and lasting improvements.

That I filed my homestead and a small part of my surplus land as it should have been filed; but the person making out the plats to file by, showing the greaterpart of my surplus land which is located in the north west quarter of sec. 33, tp. 4 S. R. 1 W., made plat read tp. 5 S. R. 1 W. so that the Commission, through its allotting clerk, at said land office, filed me in a different township, so that I am really filed in the northwest fourth of sec. 33, tp. 5 S. R. 1 W. when it should have been in the north west fourth sec. 33, tp. 4 S. R. 1 W. just six miles north. That I have carefully examined the land and that I have by mistake filed upon, and though it is graded as average or 6 B land, in all earnestness I submit to the Commission that there is not an acre of it in cultivation, and that it is covered with scrubby "black jack" bushes and post-oak "runners," and consists of rolling white sand hills, and not worth exceeding one dollar an acre.

I further represent and show that I am a full blood; no surveyor; ignorant, and am in poor financial circumstances. That it was no fault of mine that the mistake was made, and why should my best interests suffer through the inadvertence, and the blunders of others?

That I need the very best lands possible to take in allotment; and to this end I earnestly petition your Commission to cancel that part of my allotment filed by error, and that the Chickasaw land office be directed to entertain my application for the proper lands, as this petition is made in the very best of good faith, and that justice may be done me.

Very respectfully submitted,
Wilkin Taylor.

Attesting witnesses;
Watson Billy,
J.S.Gibson.

Subscribed and sworn to before me on this the 4th day of Aug.1904.

J.S.Mullen,
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee, Indian Territory

August 9, 1904.

Wilkin Taylor,

Damon, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 4, 1904, in which you state that on October 30, 1903, you appeared at the Chickasaw Land Office and selected in allotment certain lands located in that Nation; that you filed your homestead and a small portion of your surplus as it should have been, but that through an error a portion of your surplus allotment was located in a different township from where your improvements were located. In conclusion, you request that you be permitted to relinquish the lands filed on and refile on other lands.

In reply to your communication, you are informed that no application to relinquish an allotment will be allowed unless it is conclusively shown that the allottee, at the time of designating an allotment, failed to include in said selection land upon which he or she was maintaining valuable improvements, or unless it is conclusively shown that, at the time of said selection the allottee included the land upon which were located valuable improvements belonging to another citizen or freedman, in which event it will be necessary to introduce the testimony of the person or persons alleged to be the owners of said improvements and

-2-

also, if it is the intention of said owner or owners to include said land in an allotment, they shall designate the person or persons for whom the same is intended.

Such applications to relinquish will not be considered by this Commission if a period of more than nine months has elapsed since the date of the original filing.

Respectfully,

T.B.Needles,

Commissioner in Charge.

Mullen, Mullen & Mullen
Law and Real Estate

Ardmore, I.T.

Aug. 20, 1904.

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

Dear Sirs:

Sometime ago there was sent to your Commission for its consideration an affidavit of Wilken Taylor, in the matter of his relinquishment of certain lands that he had filed by error in the Chickasaw Nation. I am just in receipt of a letter from the Commission to Wilken Taylor, in which the Commission states that if nine months has expired from the date of filing that no application will be considered.

It will be observed by the Commission from the affidavit of Taylor, and the accompanying affidavits, the true state of affairs as we understand it. Taylor knew nothing of this mistake until he had received his certificate of allotment; and we have set to work to rectify the error thus made.

We appeared accordingly before Mr. Fred T. Marr, clerk in charge of the Chickasaw land office, and he would not take any testimony in the matter, stating that he had been directed by the Commission not to entertain application of this nature.

We respectfully submit that we know of no law that prevents the relinquishment of a filing if nine months has elapsed since the date of filing, and the certificate has gone forward to the allottee. We further respectfully submit that the Commission

itself made the mistake, and it is up to the Commission to rectify this mistake.

The affidavits enclosed states that the allotting clerk overlooked the marginal suggestion or direction to the location of the true allotment.

We further respectfully represent that an allotment of land in the Chickasaw Nation, should be considered, and it is a valuable asset, particularly so to a full blood Indian like Wilken Taylor, therefore should be wisely and judiciously placed. It is not expected for a full blood that he knows anything of surveying and the platting of land, therefore, this part of filing an allotment has to be left to other who knows, or who are presumed to know. We submit that J. S. Mullen, made a mistake in not using two plats instead of one to distinguish the allotment, and that the allotting clerk of the Commission made a mistake in overlooking the marginal suggestions with reference to the Township and range.

Why is it that a full blood who is ignorant and poor, should be made to suffer through the stupidity, oversight, blunders, ignorance, or what not, of Mullen and allotting clerk?

The Commission might enquire at this point. Why did he not change it sooner, why was not application made to the Commission at an earlier date to rectify this mistake? To this we reply the mistake was not made known until the certificate of allotment had gone forth, and immediately steps was taken to modify the same by cancelling this part of allotment, and filing over again.

We submit that this means hundreds of dollars to this Indian, and while it would entail some additional clerical work upon the Commission to make the necessary change, we feel that the ends justify the means. And if the Commission holds differently we respectfully ask that all the papers and correspondence in the case be sent to the Commission of Indian Affairs, or the Secretary.

Respectfully,

J.S.Mullen.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee, Indian Territory,
September 3, 1904.

J. S. Mullen,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 20, 1904, relative to relinquishment of certain lands filed on by one Wilken Taylor, inclosing affidavit of J. S. Mullen and affidavit of J. S. Mullen et al. You state that you are in receipt of a letter from the Commission to Wilken Taylor, in which the Commission states that, after a period of nine months has expired since the date of the original filing, no application to relinquish will be considered, and that you had appeared before the Chickasaw Land Office for the purpose of introducing certain testimony, but you were not allowed to do so.

In reply to your letter, you are advised that it appears from the records of this office that on October 30, 1903, there were allotted to Wilkin Taylor, Choctaw by Blood, Roll No.9307, the following lands located in the Chickasaw Nation:

Homestead: W/2 of NW/4 of Section 22, and NE/4 of NE/4, NE/4 of NW/4 of NE/4 and E/2 of SE/4 of NE/4 of Section 21, Township 5 South, Range 1 West:

Exclusive of homestead: W/2 of SE/4 of NE/4 and SE/4 of NW/4 of NE/4 of Section 21; SW/4 of SW/4 of SE/4 and S/2 of S/2 of SW/4 of Section 28; N/2 of NW/4 of NW/4 and SW/4 of NW/4 of NW/4 of Section 33, and E/2 of NE/4 of NE/4 of section 32, township 4551.

-2-

5 South, range 1 West.

You are further informed that no application to relinquish land filed on by a citizen or freedman will be considered by this Commission if a period of more than nine months has elapsed since the date of the original filing.

The affidavits inclosed by you are herewith returned.

Respectfully,

Tams Bixby,

Chairman.

Mullen, Mullen & Mullen,
Law and Real Estate

J.P.Mullen,
J.S.Mullen,
L.V.Mullen.

Ardmore, I.T.

Sept.17,1904.

Commissioner of Indian Affairs,
Washington,D.C.

Dear Sir:

Enclosed you will find the record in the application of Wilken Taylor to relinquish certain lands that he filed on, as a citizen of the Choctaw Nation, at the Chickasaw Land Office, in Oct., 1903; the Commission rejected the application on the ground that nine months had elapsed after date of filing before application to relinquish had been made. We submit that there is no law or equity in such an opinion, and we take this appeal.

Please render an opinion in the matter at an early date, as respectfully urge that it is a question that calls for an immediate opinion.

Very respectfully,

J.S.Mullen.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

WASHINGTON.

October 12, 1904.

Refer in
reply to the
following:
Land
65278-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to submit letter of J.S.Mullen, of Ardmore, Indian Territory, dated September 17, enclosing record in connection with the application of Wilkin Taylor to relinquish certain lands he had filed on as a citizen of the Choctaw Nation at the Chickasaw Land Office in October, 1903. The Commission rejected the application on the ground that 9 months had elapsed after the date of filing before application to relinquish had been made.

I recommend that the matter be submitted to the Commission to the Five Civilized Tribes for report.

Very respectfully,

A.C.Tonner,

Acting Commissioner.

Muskogee, Indian Territory

October 27, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

The Commission is in receipt of departmental letter of October 18, 1904 (I T D 10498-1904), enclosing for early report and recommendation a communication under date of September 17, 1904, from J. S. Mullen, Ardmore, Indian Territory, to the Commissioner of Indian Affairs, with which were enclosed certain papers relative to the application of Wilkin Taylor to relinquish a part of the lands filed on by him at the Chickasaw Land Office in the month of October, 1903. The Department desires to be advised with the return of the papers, upon what the Commission bases its ruling that:

"No application to relinquish land filed on by a citizen or freedman will be considered by this Commission if a period of more than nine months has elapsed since the date of the original filing."

We have the honor to report in connection with this matter that the ruling above referred to was adopted at a session of the Commission held at Muskogee, Indian Territory, on July 13, 1904.

Prior to that time the work of the preparation of patents and deeds to allotments selected in the Choctaw, Chickasaw, and Cherokee Nations had been instituted and it developed that applications to relinquish allotments theretofore selected in these

-2-

three nations were being received at the Choctaw, Chickasaw, and Cherokee Land Offices after the patents to the allotments had been prepared and transmitted to the Chief Executives of the tribes for execution. It was for this reason that it was considered inexpedient and inadvisable to permit these so-called relinquishments after the preparation of patents and deeds for the land selected.

In the preparation of such patents and deeds, the Commission was governed by the provision of the Act of Congress approved June 28, 1898 (30 Stats., 495), as follows:

"That, as soon as practicable after the completion of said allotments, the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation shall jointly execute, under their hands and the seals of the respective nations, and deliver to each of the said allottees patents conveying to him all the right, title, and interest of the Choctaws and Chickasaws in and to the land which shall have been allotted to him in conformity with the requirements of this agreement."

The Act of Congress approved July 1, 1902 (32 Stats., 641), as follows:

"After the expiration of nine months after the date of the original selection of an allotment by or for any citizen or freedman of the Choctaw or Chickasaw tribes, as provided in this agreement, no contest shall be instituted against such selection;"

And the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 716), as follows:

"The Secretary of the Interior shall furnish the principal Chief with blank patents necessary for all conveyances herein provided for, and when any citizen receives his allotment of land, or when any allotment has been so ascertained and fixed that title should, under the provisions of this act be conveyed, the principal chief shall thereupon proceed to execute and deliver to him a patent conveying all the right, title, and interest of the Cherokee Nation, and of all other citizens, in and to the lands embraced in his allotment certificate."

"After the expiration of nine months after the date of the original selection of an allotment by or for any citizen of the Cherokee tribe as provided in this act, no contest shall be instituted against such selection, and as early thereafter as practicable patent shall issue therefor."

Inasmuch as by the expressed terms of the Acts above referred to, patents or deeds are to be prepared and delivered to the allottees as early as practicable after the completion of allotments, and as selections are made incontestable after nine months from the date thereof, deeds and patents were and are now being prepared for all allotment selections where a period of more than nine months has expired from the date of such selection.

The Commission considering that the same length of time within which contests could be instituted was a reasonable period within which to permit corrections of errors and so-called relinquishments, adopted the resolution of July 13, 1904, as follows:

-4-

"RESOLVED, That no application for relinquishment of allotment be received at the respective land offices after nine months following the date of the selection."

There is nothing in any of the agreements with these three tribes or the Acts of Congress in reference to the allotments of lands in the Choctaw, Chickasaw, and Cherokee Nations specifically authorizing and permitting relinquishment of selections and changes in allotments after the original selection thereof. The Acts of Congress approved July 1, 1902 (32 Stats., 641) and of July 1, 1902 (32 Stats., 716) provide that Choctaw, Chickasaw, and Cherokee citizens may select their allotments so as to include their improvements. It is but a fair presumption that the great majority of the citizens of these tribes at the time of their original selections included such improvements as they were then maintaining. Allotment certificates for such selections have been prepared as early as practicable after the date of the selection and in most instances delivered to the allottees in a period of not more than three months from the date of their selection. If an error has been made by the allottee in the selection of his allotment, in his failure to include such improvements as he was then maintaining, the Commission believes that upon his attempt to correct such error within a reasonable time he should be permitted to re-designate his selection in order to include his improvements.

A period of nine months is, in our opinion, a sufficient length of time for the discovery of any such error, and unless some definite period is fixed within which these applications for changes can be received and acted upon, no finality can attach to the work of the Commission, and the preparation of allotment

4551.

patents and deeds must of necessity be greatly hindered by the reception and consideration of petitions and applications for such changes made after the preparation and execution of deeds and patents.

A very liberal construction has been placed upon the terms of the agreements, permitting allottees to select their allotments so as to include their improvements, and whenever a definite showing has been made by an allottee that he neglected to include his improvements in his selection, every effort has been made to ascertain the correct location of such improvements in order that the same might be included in his allotment.

The matter of these so-called relinquishments has, however, been a privilege which has been sorely abused in the Choctaw, Chickasaw, and Cherokee Nations. The great majority of these applications by allottees to change their selections are made for purely speculative purposes, and in but very few instances for the interests and benefit of the allottee himself, practically being furthered at the instance of some speculator or manipulator for the latter's benefit and profit.

As an example, the Commission has refused innumerable applications to relinquish allotments where the testimony has conclusively shown that the only object sought was by some speculator to secure the privilege of allotting a citizen upon other land which the speculator was then holding. In the Choctaw and Chickasaw Nations this abuse has become very flagrant since the recent rendition of decrees by the Choctaw and Chickasaw Citizenship Court, denying the applications of persons for admission to citizenship in these two nations.

A great majority of the so-called "Court Claimants" in the 4551.

Choctaw and Chickasaw Nations have for the past ~~six~~ years been maintaining substantial improvements upon the lands of these two tribes. The denial of their citizenship by the Choctaw and Chickasaw Citizenship Court has made it obligatory upon them, in order to protect such improvements, to secure the allotment thereof by some citizen of the two tribes. The "Court Claimants" have been confronted with the proposition of being unable to secure citizens whose enrollment has been approved by the Secretary of the Interior, for the purpose of allotting the improved lands, and have recently resorted to the subterfuge of inducing a citizen who has heretofore selected his allotment to relinquish and abandon the same in order to select and have allotted to him the improved land of the rejected "Court Claimant."

In the case submitted by Mr. Mullen we cannot but believe that such a condition as that above cited exists. The allottee, Wilkin Taylor, is a full blood Choctaw Indian who was born and has for the greater part of his lifetime resided in Gaines County, in the extreme northern part of the Choctaw Nation; his name is found upon the 1885 Census Roll, the 1893 leased District payment Roll, and the 1896 Census Roll of the citizens of the Choctaw Nation, as a resident of Gaines County, Choctaw Nation. His name was included upon a partial roll of citizens by blood of the Choctaw Nation, transmitted to the Department on January 9, 1903, and approved by the Secretary of the Interior, February 4, 1903 appearing upon said partial roll opposite the number 9307.

On October 30, 1903, Wilkin Taylor, evidently at the instance of some speculator, appeared before the Chickasaw Land Office of 4551.

-7-

the Commission at Tishomingo, Indian Territory, and made application for the following described tracts of land:

-Homestead-

W/2 of the NW/4 of section 22, NE/4 of the NE/4, the NE/4 of the NW/4 of the NE/4, and the E/2 of the SE/4 of the NE/4 of section 21, township 5 south, range 1 west.

-Exclusive of Homestead-

W/2 of the SE/4 of the NE/4, the SE/4 of the NW/4 of the NE/4 of section 21, the SW/4 of the SW/4 of the SE/4, and the S/2 of the S/2 of the SW/4 of section 28, the N/2 of the NW/4 of the NW/4, and the SW/4 of the NW/4 of the NW/4 of section 33, and the E/2 of the NE/4 of the NE/4 of section 32, all in township 5 south, range 1 west, Chickasaw Nation, Indian Territory.

the total acreage of the land selected amounting to 280 acres, being appraised at \$1022.50.

For the information of the Department there is herewith submitted a plat upon which is indicated the land selected by Wilkin Taylor at the Chickasaw Land Office on October 30, 1903, attention is particularly invited to the fact that this land is located some ten or twelve miles southwest of Ardmore, Chickasaw Nation, Indian Territory, and approximately one hundred and twenty five miles from that section of the Choctaw Nation in which Wilkin Taylor was born and had always resided.

At the time of his appearance before the Chickasaw Land Office, he stated under oath that he had been upon the land described and had examined the same with the intention of making

-8-

selection thereof as his allotment, and that he would accept the same as his pro rata share of the lands of the Choctaws and Chickasaws. Chickasaw homestead certificate No. 4800, covering his homestead designation, and Chickasaw allotment certificate No. 5452, for the land selected exclusive of his homestead, have long since been prepared, issued and delivered to the allottee, and recently a patent conveying his homestead selection has been prepared and is now awaiting the execution of the chief executives of the Choctaw and Chickasaw Nations.

From Mr. Mullen's letter of September 17, together with the papers accompanying the same, it is alleged that after the expiration of nine months from the date of selection, Wilkin Taylor appeared at the Chickasaw Land Office for the purpose of relinquishing a portion of his selection of October 30, 1903, and selecting in lieu thereof certain other lands, and that the chief clerk of the Chickasaw Land Office, acting under the resolution of the Commission hereinbefore referred to, refused to entertain such application.

Wilkin Taylor, in his affidavit, which is subscribed and sworn to on August 4, 1904, alleges that through the error of the person by whom the plats were prepared showing the land he purposed to select, the Commission allotted to him other land than that which he desired to take in allotment. The affidavit of J.S. Mullen of August 20, 1904, is to the effect that he prepared the plat indicating the land desired by Wilkin Taylor as his allotment, but that the allotting clerk at the Chickasaw Land Office who received his application was in error in allotting certain lands in sections 28 and 29, Township 5 south, range 1 west, instead of sections 28 and 29, township 4 south, range 1 west.

-9-

While the papers as submitted in this case do not conclusively demonstrate the fact, it is but a fair and reasonable inference that the whole procedure is an attempt on the part of J.S. Mullen to secure the transfer of a portion of the allotment selection of Wilkin Taylor from the land which has heretofore been allotted to him, to other land which Mullen is now in possession of and is anxious to secure as the allotment of some Indian, in order that he, Mullen, may hold the same under lease.

Much the same condition in reference to these so-called relinquishments exists in the Cherokee Nation and especially in the northwestern section of the nation in the oil district in the vicinity of Bartlesville. Citizens who have in good faith selected allotments, including their improvements which have been maintained thereon for a number of years, are continually appearing before the Cherokee Land Office at the instance of some speculator for the purpose of relinquishing their bona fide selections and selecting allotments elsewhere. The only inference which can be drawn from such acts is that these allottees, who have made their selections in good faith, are now being bought off by speculators in order that the latter may secure the allotments of such land by persons who will be able to alienate the same without restriction or the approval of the Department.

Another phase of these so-called relinquishments has recently developed in appeals being taken from the action of the Commission to the Commissioner of Indian Affairs and to the Department. We believe it is impossible and impracticable for the Department from such records as are submitted in reference to these matters, to form any adequate idea of the conditions that exist in
4551.

connection therewith. The testimony of the applicants and witnesses, while purporting to show the true reason why the change is sought, is in many instances contradicted and nullified by the records of the Commission, which it is impracticable to incorporate in such records.

The Act of Congress approved April 21, 1904 (Public No.125), provides:

"Said Commission shall conclude its work and terminate on or before the first day of July, nineteen hundred and five, and said Commission shall cease to exist on July first, nineteen hundred and five."

It is our earnest desire to complete allotment in the Choctaw, Chickasaw, and Cherokee Nations by July 1, 1905, and it is our present expectation to have prepared and delivered to the majority of the allottees, patents or deeds for their selections where a period of more than nine months has elapsed since the date of said selection. It will be necessary in a number of cases to withhold the preparation and issuance of patents until after July 1, 1905, but we cannot but believe that such work as has been performed by the Commission should bear some stamp of finality and that when patents are prepared and actually in the custody of the executives of the tribes for execution, no change should be permitted in the allotment selections.

We have, therefore, with the return of the papers submitted by Mr. Mullen, to most earnestly urge and respectfully recommend that the resolution of July 13, 1904, to the effect

-11-

"that no application for relinquishment of allotment be received at the respective land offices after nine months following the date of selection" be adhered to.

Respectfully,

Tams Bixby
Chairman.

T.B.Needles,
Commissioner.

C.R.Breckinridge.
Commissioner.

Through the Commissioner
of Indian Affairs.

MSC
Incl-10261.

COMMISSIONERS:
TAMS BIXBY.
THOMAS B.NEEDLES.
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm.O.BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
November 1, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

For the information of your office, and for filing with the records of your office in the matter of the allotment of lands of the Choctaws and Chickasaws to Wilkin Taylor, Choctaw Roll by Blood, No.9307, there are inclosed to you herewith copies of correspondence between the Commission and the Secretary of the Interior with reference to the resolution of July 13,1904, that, "No application to relinquish land filed on by a citizen or freed-man will be considered by the Commission if a period of more than nine months has elapsed since the date of the original filing."

Pending Departmental action upon this matter, your office is directed to receive no applications to relinquish where a period of more than nine months has elapsed since the date of the original filing. You will be advised of such action as is taken by the Department with reference to this matter.

Respectfully,

T.B.Needles,

Commissioner in charge.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B.NEEDLES,
C.R.BRECKINRIDGE.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.
Choctaw 985.

Wm.O.BEALL,
Secretary.

Address only the
Commission to the
Five Civilized Tribes.

Muskogee, Indian Territory,
August 6, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 3, inclosing affidavits of Forbes Williams and Joe Nelson relative to the death of Lizzie Martin, a citizen by blood of the Choctaw Nation on September 26, 1902.

You state that in view of the notation on the face of the duplicate card in your possession to the effect that Lizzie Martin died September 25, 1902, you notified W.P.Casey, who presented the affidavits above referred to at your office for the purpose of making selection of allotment for the said Lizzie Martin that he would not be allowed to make such selection at this time, and he was notified it would be necessary for Forbes Williams and Joe Nelson to appear before your office and testify fully as to their knowledge of the facts relative to the death of Lizzie Martin; that other witnesses familiar with the facts must also testify. You then request copies of the affidavits already filed with the record in the matter of the death of this citizen, and if they should also be notified to appear at your office for the purpose

-2-

of testifying in the matter.

In compliance with your request there are inclosed you herewith copies of the affidavits of Richard Crowder and Joe Nail, who testified to the death of Lizzie Martin on September 25, 1902, and you should also notify them to appear at your office for the purpose of securing their testimony relative to the date of the death of the said Lizzie Martin.

Respectfully,

T.B.Needles,

Commissioner in Charge.

AB 4-6

(3173)

Aug. 9, 1904

334

-2-

AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA,

Indian Territory,

Central District.

I, Joe Nail, on oath state that I am 35
years of age, and a citizen, by blood, of the Choc-
taw Nation; that my post office address is Nelson Ind.
Ter.; that I was personally acquainted with Lizzie Martin
(name of deceased)
who was a citizen by blood, of the Choctaw Nation;
and that said Lizzie Martin died on the 25th day
(name of deceased)
of September, 1902---

Joe Nail

Subscribed and sworn to before me this 1 day of December 1902.

H.C.Risteen

Notary Public.

(Endorsed) Union Agency No.3173 Received Aug.9,1904 Commission
to the Five Civilized Tribes, Muskogee, Indian Territory. Relative--
--affidavits of Forbes Williams and Joe Nelson relative to the
death of Lizzie Martin, Choctaw by blood.----

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Lizzie Martin
(name of deceased)

a citizen of the Choctaw Nation, who formerly resided at
or near Garvin, Ind.Ter., and died on the
(name of post office)
Twenty Fifth day of September, 1902----

AFFIDAVIT OF RELATIVE

UNITED STATES OF AMERICA,
Indian Territory.

Central District.

I, Richard Crowder, on oath state that
I am 67 years of age and a citizen, by blood, of the
Choctaw Nation; that my post office address is
Hugo Ind.Ter.,; that I am Guardian
(name of post office)
of Lizzie Martin, who was a citizen, by blood,
(name of deceased)
of the Choctaw Nation;; and that said Lizzie
Martin died on the 25th day of
(Name of deceased)
September, 1902

his
Richard x Crowder
Mark.

Witnesses to Mark;

(Must be Two) T.W.Leahy
Witnesses)) H.G.Hains

Subscribed and sworn to before me this 1st day of December
1902.

DEPARTMENT OF THE INTERIOR,
Commission to the Five Civilized Tribes.
Chickasaw Land Office.

IN THE MATTER OF THE
Relinquishment of Wilken Taylor.

Affidavit.

United States of America.
Southern District, Indian Territory.

Personally appeared before me, the undersigned Notary Public duly commissioned and acting within and for said District and Territory, J.S.Mullen, who first being by me duly sworn, states on oath:

My name is J.S.Mullen; my age is 25 years; my post-office address is Ardmore, I.T., and my profession is that of a lawyer. Some months ago, in the course of my employment, it became necessary for me to make out a plat of the land claimed by one Wilken Taylor, a citizen by blood of the Choctaw Nation. His individual allotment in the Chickasaw Nation consisted of two farms. The homestead being in secs. 21 and 22, tp. 5 S R 1 W; while the surplus land is located in secs. 28 and 29, tp. 4 S R 1 W; that is to say that the homestead and a part of the surplus lays four miles and a half almost directly south of the greater part of the surplus. It will be noted that the two places are in different townships, but having but one blank township plat I made both plats out on this blank; and drew a line from the land in secs. 28 and 29 tp. 4 S R 1 W to the margin of the plat, and so marked it; and for the other place I indicated the township and range on

-2-

the blank plat in the proper place for the same. (See plat attached).

Now, when the allotting clerk of the Commission came to file Taylor upon the land he overlooked and neglected to see this marginal direction, and filed all the land in tp. 5 S R 1 W. In other words, where the allotment of Wilken Taylor now reads among the records of the Commission as being in secs. 21 and 22, and 28 and 29, tp. 5 S R 1 W, that part of it in secs. 28 and 29 should be in tp. 4 S R 1 W instead of in secs. 28 and 29 tp. 5 S R 1 W.

I have examined the land where this mistake chanced to throw that part of the allotment of Taylor, and I find the same to be among a number of rolling, white sand hills, covered with a thick growth of bull nettles, and black jack bushes, of little or no value; It could not be possibly converted into a farm; nor would it do for grazing purposes. Whereas on the other hand where he intended to file is all in a state of cultivation, bottom land, has a good and substantial fence, houses, wells and barns, and this year is making a bale of cotton, and forty bushels of corn to the acre.

Witness my hand on this the 20th day of August, 1904.

J.S.Mullen.

Subscribed and sworn to before me, on this the 20th day of August, 1904.

E. Dunlop,

Notary Public.

United States of America,
Southern District, Indian Territory.

We, the undersigned, first being duly sworn state on oath:

That we are residents of the Chickasaw Nation, and have been for the past several years; that we are acquainted with the land located in E 1/2 of sec. 29 and W 1/2 of sec. 28, tp.5 S R 1 W, and know the same to be for the greater part, and particularly that part filed on by Wilken Taylor, as being a rolling sand hill, the land being of little or no fertility, none of it in a state of cultivation, and covered with Russian and bull nettles, and black jack runners. We would not pay over one dollar and fifty cents an acre for a title in fee simple to the land.

J.S.Mullen,

L.V.Mullen,

M.L.Mitchell,

T.T.Harper,

Daniel Chambless,

John F. Wallace.

Subscribed and sworn to before me, on this the 19th and 20th days of August, 1904.

E.Dunlop,

Notary Public.

COMMISSIONERS:

Tams Bixby,
Thomas B. Needles,
C. R. Breckinridge,

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. Beall,
Secretary,

Muskogee, Indian Territory,

September 1, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:-

Referring to Choctaw enrollment card No. 1152, approved roll of citizens of blood, Choctaw Nation, 3128, Silena Sampson, you are advised that this office is today in receipt of affidavit to the effect that this child died on the 26th of September, 1902.

Inasmuch as the date of the death, as given in the affidavits, is practically that of the ratification of the Choctaw and Chickasaw agreement, it has not been deemed advisable to pass upon the date of the death of this child without first obtaining the oral testimony of Noel Sampson and such other witnesses as were present at the death and burial of the child. Noel Sampson of Goodwater, Indian Territory, has this day been directed to appear before the Commission for the purpose of testifying relative to the exact time of the death of the child.

Your office is accordingly directed not to make any allotment to Silena Sampson, Choctaw roll by blood, 3128, until further testimony is secured relative to the exact time of the death of this child. Should any witnesses appear Before your

-2-

office who have knowledge of this matter, you are authorized to take their testimony and transmit the same to the general office of the Commission at Muskogee.

Respectfully,

Tams Bixby,

Chairman.

(Endorsed) Union Agency No. 3503 Received Sep. 3, 1904.
Commission to the Five Civilized Tribes, Muskogee, Indian Territory. Re.-----to Choctaw enrollment card No. 1152, Silena Sampson, regarding affidavits to the effect that this child died on the 26th of September, 1902.-----.

COMMISSIONERS:

TAMS BIXBY,
THOMAS B.NEEDIES,
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm.O.BEALL,
Secretary.

Address only the
Commission to the
Five Civilized Tribes.

Muskogee, Indian Territory
September 3, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of the 23rd ult., transmitting for consideration the application of Mary J. Baldwin, now Mary J. Barnhill, Choctaw roll by blood, 4781, to relinquish land heretofore filed on for her by her father, George W. Baldwin. You report it appears from the records of your office that the original application made by George W. Baldwin for Mary J. Baldwin was presented on April 21, 1903, and from the testimony of Mary J. Barnhill, taken at your office on July 30, 1904, it appears that she was married April 13, 1903, prior to the date of selection of allotment made by her father.

I have carefully examined this application to relinquish, and inasmuch as it does not come within the rules of the Commission have denied the same, but have entered of record an order that George Washington Baldwin, Mary J. Barnhill (Mary J. Baldwin), and Lee Case, be notified by registered mail to appear before your office on October 1, 1904, and show cause why the selection of allotment made by George W. Baldwin on April 21, 1903, should

-2-

not be set aside, cancelled, and held for naught, and Mary J, Barnhill be permitted to make selection of allotment in her own behalf.

Your office is accordingly directed to prepare for the signature of the Chairman, and for forwarding by registered mail to George Washington Baldwin, Mary J. Barnhill, and Lee Case, notices that the matter of the cancellation of this selection will be heard at your office on Saturday, October 1, 1904, at 9 o'clock a.m.

Respectfully,

Tams Bixby,

Chairman.

Enc.ART.50

(Endorsed) Union Agency No.3575. Received Sep.6,1904 commission to the Five Civilized Tribes, Muskogee, Indian Territory. Regarding ----Acknowledgement of receipt of letter from Commissioner in Charge re.application of Mary J.Ba.dwin, Choctaw, to relinquish land heretofore filed on for her by her father.----

COMMISSIONERS:

Tams Bixby,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,
Secretary.

Address only the
Commission to the
Five Civilized Tribes.

Muskogee, Indian Territory,
September 16, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of the 6th inst., transmitting two letters from E. C. Million, Vice President of the Southern Trust Company, at Atoka, Indian Territory, in which he requests to be furnished with plats showing the allotments of certain minors for whose estates he has been appointed curator. You state that you presume the Commission will furnish the information desired, but that if Mr. Million's request is complied with it would be well to give him, in addition to the plats, a written description, as it is probable that in preparing their papers for filing in the United States Court the Southern Trust Company would not be able to give a proper description from the plat alone.

This office, and the Choctaw Land Office, are also in receipt of a number of like communications from Mr. Million, none of which have so far been replied to. You will suspend any action upon requests of this character until you are further instructed. The matter will be presented to the Commission at 3735.

-2-

its next meeting.

Respectfully,

Tams Bixby,

Chairman.

(Endorsed) Union Agency No. 3735. Received Sep. 19, 1904 Commission to the Five Civilized Tribes, Muskogee, Indian Territory. Regarding---- E.C. Million, Vice President of the Southern Trust Company, at Atoka, Indian Territory, requesting plats be furnished showing the allotments of certain minors for whose estates he has been appointed curator.----

COMMISSIONERS:

TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. BEALL,
Secretary

Address only the
commission to the Five Civilized
Tribes.

Muskogee, Indian Territory
September 19, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

Referring to your daily reports of lands applied for by Emma Taylor, Choctaw by Blood, Roll No. 914, it appears that on August 24, 1904, contest proceedings were instituted by Emma Taylor for lands in the Chickasaw Nation, as a homestead, equal in value to \$410.00, and for lands, as an allotment exclusive of homestead, equal in value to \$322.50, and that on the same date there were allotted to her lands, as a portion of her allotment exclusive of homestead, equal in value to \$53.46.

In this connection, your attention is invited to Rule 3 of the Rules and Regulations Governing the Selection of Allotments and the Designation of Homesteads in the Choctaw and Chickasaw Nations, and you are directed to take the necessary steps to adjust this allotment in order that the homestead selection of said Emma Taylor will be equal in value to one hundred and sixty acres of the average allottable lands of the

-2-

Choctaw and Chickasaw Nations, or as nearly as may be.

Respectfully,

Tams Bixby,

Chairman.

(Endorsed) Union Agency No.3752. Received Sep.21,1904 Commission to the Five Civilized Tribes, Muskogee, Indian Territory.Regarding adjustment of allotment of Emma Taylor, Choctaw by Blood, in order that the homestead selection of E.Taylor will be equal in value to one hundred and sixty acres of the average allottable lands of the Choctaw and Chickasaw Nations.-----

COMMISSIONERS:

TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

Department of the Interior.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm. O. Beall,
Secretary.

Address only the
Commission to the Five
Civilized Tribes.

Muskogee, Indian Territory,
September 20, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:

On July 23, 1904, your attention was invited to the fact that the total appraised value of lands in the Choctaw and Chickasaw Nations allotted to Sophia Fletcher, Choctaw by Blood, Roll No. 10577, amounted to \$1160.00, and you were requested to take the necessary steps to adjust the allotment exclusive of homestead made at your office on June 3, 1904, in order that the total appraised value of such allotment would not be in excess of \$1041.28.

On July 27, 1904, you advised the General Office that Melvina Fletcher, the mother of Sophia Fletcher, had that day been notified to appear before your office to make the necessary corrections in her former filings.

In as much as a sufficient time has elapsed since the date of said notice for Melvina Fletcher to appear at your office for the purpose of adjusting such allotment, and she has failed so to do, you are directed to prepare for the signature of the Chairman an order cancelling a sufficient portion of the allotment exclusive of homestead made at your office on June 3, 1904, to said 3760.

-2-

Sophia Fletcher, so that the total appraised value of lands allotted to her will not be in excess of the amount to which she is entitled under the law.

Respectfully,

Tams Bixby,

Chairman.

(Endorsed) Union Agency No. 3760. Received Sep. 23, 1904. Commission to the Five Civilized Tribes, Muskogee, Indian Territory.----Regarding adjustment on allotment of Sophia Fletcher, Choctaw by Blood----

COMMISSIONERS:
TAMS BIXBY,
T.B.NEEDLES,
C.R.BRECKINRIDGE.

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Wm.O.BEALL,
Secretary.

Address only the
commission to the Five Civilized Tribes.

Muskogee, Indian Territory,
September 21, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory.

Dear Sir:-

On May 19, 1902, the Commission rendered a decision in the matter of the application for the enrollment of Orin D. Butler and Stella L. Butler, as citizens of the Choctaw Nation, refusing their application. On July 15, 1902, the Secretary of the Interior affirmed the decision of the Commission of May 19, 1902, as to Stella L. Butler, but remanded the case as to Orin D. Butler in order that he might be afforded an opportunity to furnish additional testimony in support of his application, and that the Commission determine more fully, in accordance with the provisions of the Act of Congress approved June 28, 1898, the matter of his residence in the Territory.

On April 1, 1903, the Commission reported to the Department that effort had been made to secure the additional testimony of Orin D. Butler, but that all letters addressed to him had been returned to the general office, unclaimed, and that the record would be held until after the opening of land offices in the 3901.

Choctaw and Chickasaw Nations, and that if Orin D. Butler appeared before either of said offices for the purpose of selecting an allotment, evidence relative to his residence in the Territory on June 28, 1898, would be secured.

Again reporting in this matter, on August 13, 1904, the Commission advised the Department that no further testimony from the applicant, Orin D. Butler, had been secured.

This office is now in receipt of a letter from the Secretary of the Interior, under date of September 10, 1904, copy of which is enclosed you herewith for your information, in which the desire is expressed upon the part of the Department that a further opportunity be given the applicant, Orin D. Butler, to testify relative to his residence in the Indian Territory.

This matter is called to your attention in order that you may make inquiries and if possible ascertain the present address of Orin D. Butler.

For your information you are advised that Orin D. Butler appeared before the Commission, at Atoka, Indian Territory, in August 1899, when he gave his age as 24. He was admitted to citizenship in the Choctaw Nation by an Act of the Choctaw National Council approved November 8, 1895, and at the time of his appearance at Atoka testified that he first came to the Indian Territory about the year 1891; that he remained here four years, when he returned to Texas, and came back to the Indian Territory about the year 1898; he was unable to testify as to the exact date of his return, but gave, as his recollection, that it was somewhere between the 15th and the 20th of June, 1898. He then alleged that he remained in the Territory until the 15th of May, 1901.

-3-

1899, when he went to Oklahoma, where he remained until May 21, 1899, and had since that time been in the Territory off and on.

If you are able to ascertain the present residence and post-office address of Orin D. Butler, please advise this office thereof, in order that effort may be made to secure his personal appearance at Muskogee, and his testimony in reference to his residence in the Indian Territory.

Respectfully,

Tams Bixby,

Chairman.

Enc. ART. 153.

(Endorsed) Union Agency No. 3901 Received Sep. 24, 1904 Commission to the Five Civilized Tribes. Muskogee, Indian Territory. Relative---- application for the enrollment of Orin D. and Stella L. Butler, as citizens of the Choctaw Nation----

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Ind. Ter.

Oct. 4, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Ind. Ter.

Dear Sir:

I wish you would please send me, as early as practicable, a list of all Mississippi Choctaws who have filed in the Chickasaw Nation, so far as it is possible to supply this information from the records of your office. I also desire to ascertain the grade of the land upon which they have filed, and, as far as you can gather from the official plats and diagrams in your office, information as to whether or not the land which they have selected in allotment is improved.

I would thank you to give this matter your immediate attention, addressing me under personal cover.

Respectfully,
Tams Bixby.

Chariman.

(Endorsed) # 4109, Received Oct. 7, 1904. Commission to Five Tribes, Muskogee, Ind. Ter. Request to Chickasaw Land Office of roll of Mississippi Choctaws having filed in Chickasaw Nation.

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D.8754-1904.

October 5, 1904.

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

Sir:

The Department is in receipt of your letter of September 19, 1904, reporting upon a communication from H. Augustus Guest, of South McAlester, I.T., protesting against the approval of the issuance of bonds by the town of Wilburton in the sum of \$6,000 for the construction of school houses, in lieu of the previous authorization in the sum of \$5,000 for the same purpose, which communication was referred to you by the Department on July 23, 1904. Mr. Guest protests against the issuance of bonds, alleging that no provision had been made for colored children.

You recommend that Mr. Guest be informed that the Department has already approved the issuance of said bonds, in which recommendation the Acting Commissioner of Indian Affairs in his letter of September 29, 1904, concurs. You will notify Mr. Guest that on September 3, 1904, the Department approved the issuance of said bonds.

Respectfully,

Thos. Ryan
Acting Secretary.

(Endorsed) Union Agency No. 10389
Received October 13, 1904. Office of U.S. Indian Inspector for Indian Territory. Washington, Oct. 5, 1904. Secretary.-----Approves report on protest of issuance of bonds by Wilburton; should advise Mr. Guest.-----

DEPARTMENT OF THE INTERIOR,
Office of School Supervisor for Choctaw Nation,

South McAlester, Ind.T.

Oct. 7, 1904.

Dear Mr. Benedict:

Yours of 7th relative to Choctaw children being admitted to Catholic schools, received.

At Antlers there are several Choctaw children attending the Catholic school, for which we pay tuition.

Arrangements could be made to board a few children (from remote districts) at Antlers where they could come in contact with other Choctaw children. We know of no other Catholic school in the Choctaw Nation in which it would be agreeable to place Choctaw children.

Yours truly,

Calvin Ballard.

Supv.

(Endorsed) Union Agency No.19 Oct 7, 1904 Calvin Ballard, So. McAlester, I.T.-----Concerning admission of Choctaw children to Catholic schools.-----

DEPARTMENT OF THE INTERIOR,
Washington

October 8, 1904.

I.T.D.9766-1904.

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

Sir:

The Department is in receipt of your report dated September 30, 1904, relative to the assault made upon Mr. Charles O. Shepard, Chairman of the Townsite Commission for the Choctaw Nation, at Hartshorne, I.T., on account of his official action in appraising the lots of said town. You transmit the report of Mr. Shepard and state that the United States Judge has informed you that action is being taken by the court with reference to the assault upon Mr. Shepard, and that you have officially requested the United States District Attorney to use his best efforts to vigorously prosecute the guilty parties, and you also suggest that if it be deemed advisable the matter be brought to the attention of the Honorable Attorney-General, in order that similar instructions may be given to the proper officials of the Department of Justice.

You are advised that on the 3d instant the matter was referred to the Honorable Attorney-General, and he was requested to cause an earnest and vigorous prosecution of the parties who assaulted Mr. Shepard, in order that if proven guilty they may receive such punishment as their duties, you will at once advise

-2-

the Department by wire in order that prompt and vigorous action may be taken by the Government for their prosecution.

The Department expects every one of its officers in the Indian Territory to fully and fearlessly discharge his whole duty and will see to it, so far as possible, that he shall be fully protected from interference or violence by persons who may be dissatisfied with his official action. You will so advise the members of the Choctaw Commission and other officers subject to your supervision.

Respectfully,

Thos. Ryan

Acting Secretary.

(Endorsed) Union Agency No. 10421 Received Oct. 15, 1904 Office of U.S. Indian Inspector, for Indian Territory. Washington, D.C. Oct. 8, 1904. Secretary.-----Relative to the assault upon Mr. Charles O. Shepard; states Attorney-General has designated a special attorney to help prosecute guilty parties.-----

UNITED STATES COURT IN THE INDIAN TERRITORY.

Central District.

Atoka, Indian Territory, Oct.14,1904.

The Attorney General,
Washington, D.C.

Sir:

Yours of the 8th instant "42333CWL" enclosing copy of a letter from the Honorable Secretary of the Interior received. Replying to the same will say that I understand that ample arrangements have been made by the United States Marshal of this district for the protection of the Townsite Commission in the discharge of its duties. I will further state that I do not believe that said Commission will be in any way molested nor do I think there is any danger of further interference or hindrance of said Commission or its work.

Since my last letter on this subject I am informed by United States Commissioner Thomas B.Latham, whom I advised to issue warrants for persons at Hugo, who are alleged to have cursed and abused Col.C.O.Shepard while at said town, that warrants were issued for the two persons whom I named, to-wit: Overstreet and one Dick, and that Overstreet entered a plea of guilty to a breach of the peace and was fined by the Commissioner fifty dollars and costs, and that Dick, the other party charged is to be tried on the 24th instant.

I am also informed that the sale of lots at Coalgate by the Townsite Commission the 11th and 12th instant passed off quietly and without the slightest molestation.

Very respectfully,

J.H.Wilkins,

U.S.Atty.

-2-

(Endorsed) Union Agency No. 10500 Received Oct. 29, 1904. Office of U.S. Indian Inspector, for Indian Territory. Washington, Oct. 21, 1904. Secretary.-----Encloses copy of letter from U.S. Attorney, Central District, I.T., stating he does not think Choctaw Town-site Commission will be further molested.-----

Muskogee, Ind/Ter.

October 15, 1904.

The Southern Trust Company

Atoka, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of September 12, 1904, in which you advise that the Southern Trust Company of Atoka, Indian Territory, represents a number of persons indicated on a list enclosed with your letter, either in the capacity of curator or administrator. The list transmitted contains the names of some fifty-five persons and you state that quite a number of such persons have not been allotted lands in the Choctaw and Chickasaw Nations, and that is the intention and desire of your company to secure good, first class, productive allotments for the parties whom you represent and you request, if not contrary to the rules of the Commission, that you be assisted in determining locations whereby you may secure the most valuable allotments for the persons enumerated.

Apparently the purpose of your letter is to secure from the Commission data as to the unallotted lands and the appraised value thereof in the Choctaw and Chickasaw Nations, in order that you may select for the persons enumerated in the list transmitted, advantageous and productive allotments.

You are advised that the Commission cannot attempt to furnish you with a description of the unallotted lands in the Choctaw and Chickasaw Nations as our policy has been to only furnish the extent commensurate with the probable area that they would select for themselves and the members of their fam-

-2-

ily in allotment. To furnish this information to the extent requested by you would entail an immense amount of clerical work, and we must, therefore, decline to furnish the same. Any employee authorized by your company will, however, be allowed access to the records of the Commission at its general (Sic) office at Muskogee, Indian Territory, for the purpose of ascertaining the location of unallotted lands in the Choctaw and Chickasaw Nations.

You are further informed that the Commission has prepared and has for sale township plats, showing the appraised value of land in each township, at an uniform price of twenty-five cents. Requests for such plats should be made to the Special Disbursing Agent of the Commission, specifically setting forth the townships desired, and accompanied by a remittance of twenty-five cents for each township.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory,
October 15, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 6th instant, enclosing two letters from E. C. Million, vice-president of the Southern Trust Company, of Atoka, Indian Territory, requesting to be furnished with plats showing the allotments of certain minors for whose estates Mr. Million has been appointed curator.

In your letter you presume that the Commission will furnish the information requested but suggest that it would be well to also prepare a written description as well as a plat, as it is possible that in preparing the papers for filing with the United States Court the curator would not be able to furnish a proper description from the plat alone. In conclusion you desire to be informed if the Commission will furnish this information, and if your office is authorized to prepare the same.

In reply you are informed that the matter of furnishing the Southern Trust Company and the other corporations and individuals requesting same, with the information of the character requested by Mr. Million, was fully considered by the Commission at a meeting held at Muskogee, Indian Territory, on Oct-

tober 10, 1904, and it was deemed inadvisable and inexpedient to comply with the requests of these companies and individuals in this respect.

For the information of your office there is enclosed you herewith copies of letters this day directed to the Southern Trust Company in reply to their several requests for information of the character indicated.

Respectfully,

T. B. Needles

Commissioner in Charge.

(Endorsed) # 4281, Received Oct. 17, 1904. Five Tribes Comm. Administrators and guardians request list of unallotted lands in Choctaw and Chickasaw Nations.

363

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Ind. Ter.

October 23, 1904.

Commissioner in Charge,

Chickasaw Land Office,

Tishomingo, Indian Territory,

Dear Sir:

Referring to your letter of February 17, 1904, transmitting copy of the testimony of Liza Scott and D. S. Scarborough and other papers in reference to the removal to and settlement within the Choctaw-Chickasaw country of Liza and Aline Scott, identified Mississippi Choctaws Numbers 1800 and 1801, and requesting to be advised whether, in the opinion of the Commission, said persons have removed to and made settlement within the Choctaw-Chickasaw country within the time prescribed by the forty-first section of the act of Congress approved July 1, 1902 (32 Stat., 641) I have to inform you as follows:

It appears that Liza and Aline Scott were identified by the Commission as full blood Mississippi Choctaws on July 8, 1903, and actually arrived at Mill Creek station on the line of the St. Louis, and San Francisco Railroad at 8:30 A. M. on the morning of January 8, 1904.

The act of Congress approved July 1, 1902, above referred to, provides:

"All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stats., 495) as

Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country....."

My construction of this provision of the act of Congress is that the six months within which bona fide settlement can be made within the Choctaw-Chickasaw country does not begin to run until the day after the date of the decision of the Commission identifying the applicants as Mississippi Choctaws. I am of the opinion that Liza Scott and her minor child, Aline Scott, have, within the six months as provided by the forty-first section of the act of Congress approved July 1, 1902 (32 Stat., 641) made bona fide settlement within the Choctaw-Chickasaw country and have submitted satisfactory proof of such settlement, and are entitled to make selection of allotments in the Choctaw-Chickasaw country. The copies of the papers transmitted with your letter of February 17, 1904, have been retained for the files of this office.

Respectfully,

Tams Bixby.
Chairman.

(Endorsed) # 4412, Received Oct. 24, 1904. Commission to Five Civilized Tribes, Muskogee, Ind. Ter. Relative to removal to and settlement within the Choctaw-Chickasaw country by Liza and Aline Scott, identified Mississippi Choctaws.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

Commissioners:

Tams Bixby,
Thomas B. Needles,
C. R. Breckinridge,

Wm. O. Beall,
Secretary.

Muskogee, Indian Territory,
October 28, 1904.

Commissioner in Charge,
Chickasaw Land Office,
Tishomingo, Indian Territory.

Dear Sir:

Referring to your letters of September 29 and October 21, 1904, with reference to recognition by your office of William J. Cassidy as administrator of the estate of Louis Carnes, deceased, Choctaw by Blood, Roll No. 12201, you are advised that, in as much as it appears that William J. Cassidy has satisfactorily established the fact that Louis Carnes died on December 23, 1903, and that he was appointed administrator of the estate of said Louis Carnes, deceased, by the United States Court for the Southern District of the Indian Territory on September 28, 1904, he should, under said Letters of Administration, be recognized by your office as the proper person to select an allotment in the name of Louis Carnes, deceased.

The inclosures transmitted with your letters of September 29 and October 21, 1904, are herewith returned to you.

Respectfully,

Tams Bixby,
Chairman.

-2-

Indexed. COMMISSION TO FIVE TRIBES. Chickasaw Land Office.
No. 4528, Received Oct. 31, 1904. Commission to the Five
Civilized Tribes, Muskogee, I.T. Relative to administrator
for the estate of Louis Carnes, deceased.

So. McAlester, I. T.

Nov. 14, 1904.

Supt. Jno. D. Benedict,

Muskogee, I. T.

Sir:

Complying with your letter of Oct. 29, I submit a general report of the tribal school buildings and grounds of the Choctaw Nation.

There are four school buildings, known as Jones Academy, Armstrong Academy, Tushkahoma Academy and Wheelock Academy.

Jones Academy.

This building is a three story brick situated on the north side of the one hundred and sixty acres reserved for this school. A three acre tract is enclosed by a good board fence. The building is on the north side of this tract and fronts to the south.

Main Building: The main building is about 110 ft. frontage by 60 feet back. The west wing of the basement floor contains sewing room, bath room and one sleeping room. The east wing contains engine room and one large sleeping room. The size of each of these wings is about 16 feet by 60 feet. There are four sleeping rooms each about 16 feet by 16 feet between the east and west wings. A ten foot hall extends from wing to wing on the north of the four sleeping rooms.

The west and east wings of the second floor each contains a large recitation room and a sleeping room. There are four rooms and a hall between the wings, of same dimensions as those described on basement floor.

-2-

Each of the wings on the third floor contains five sleeping rooms each about 12 feet by 12 feet and a four foot hall extending the length of the five sleeping rooms. The four sleeping rooms are between the wings, the same as those of first and second floors. A ten foot hall or entrance is between the second and third floors, of the four rooms between the two wings.

Extension. On the north of the main building there is an extension about 30 feet by 60 feet. The basement is used for kitchen, pantry and dining room. The second floor is used for an assembly or chapel room and the third floor contains five sleeping rooms, each 12 feet by 12 feet, on each side of a six foot hall running the entire length of the extension.

Other buildings. Besides the main building there are two small frame building and a frame barn.

The two small frame buildings are used for wash house, work shop and store house. These buildings including the barn and main school building are old and are not in very good repair.

I think a fair cash value of the main school building is \$3000.00 and that of the other buildings including the fence enclosing the school property is \$500.00. I think the land reserved for this school is worth about \$6.00 per acre or \$960 for the tract.

This makes a total cash valuation of the improvements and land belonging to this school of \$4,460.00.

Tushkahoma Academy

The description given for Jones Academy will apply to this building as they are constructed on the same general plan, each containing the same number of rooms and of the same dimensions.

-3-

This building faces east and is situated on the west side of the one hundred and sixty acres reserved.

The building is old, but in better repair than Jones Academy and I consider a fair cash value of this building to be \$3500.00 and that of the barn and other outbuildings to be \$500.00.

I consider \$6.00 per acre a fair cash valuation of the land reserved for this school.

A fair cash valuation of the property and land belonging to this school is \$4960.00.

Armstrong Academy.

This is an old two story brick building situated nearly in the center of the 160 acres reserved.

Main Building. The main building is about 100 ft. by 36 ft. The building faces east, and on the south side of the main entrance there are four rooms, each 16 by 16 on each side of a four foot hall, on both first and second floor. On the north side of the main entrance there are three large sleeping rooms on each floor.

Extension. Extending back from main building and north of the main entrance there is an extension 60 by 36 ft. The lower part of which is used for dinning room and kitchen, and upper floor for school room. This building is in a rather dilapidated condition and I think \$2000 a fair cash valuation of it.

Other buildings. There is a story and a half frame building used, for wash house and work shop and a frame barn. The valuation of these two buildings is \$400. The land reserved for the

building is worth about \$6 an acre. The total cash valuation of the property and land belonging to this school is \$3360.

Wheelock Academy.

This is an old two story frame structure situated in about the center of a ten acre tract. The other 150 acres reserved is situated about a mile south of the academy.

The main building is about 80 by 36 ft. There are nine rooms, hall, and stair way, on first floor, and nine sleeping rooms on upper floor.

Extension. Extending back of the west of main building there is an extension 60 by 30 ft. The lower floor containing the dinning room and kitchen, and the upper floor contains ten small sleeping rooms.

Other buildings. There are two small frame buildings, one used for laundry, and other for store room, A one story frame building, containing three rooms, used for school purposes and a frame barn.

The valuation of main building is \$1500, and of the other buildings \$1,000.

The ten acres upon which the school property is situated is worth about \$5 per acre, and the other 150 acres is valuable farming land, and worth about \$8 per acre. The total cash valuation of the property and land belonging to this school is \$3750.

Very respectfully,
Calvin Ballard.
Supervisor.

South McAlester, I.T.

Nov. 14, 1904.

Dear Mr. Benedict:-

I regret very much that I was not able to get this report to you by the 10th. I beg on making it today, but you will see from the writing that I had to have Mabelle help me. I have not been able to do very much work during the past month. I am improving gradually, but am not able to do very much at a time. I want to start for the south east part of the nation in a day or two, to be gone two or three weeks. I think the mountainous country will improve my health.

Yours truly,

Calvin Ballard.

Supv.

(Endorsed) Union Agency No.5. November 14, 1904 Calvin Ballard,
So. McAlester, I.T.-----Submits report concerning value of school
buildings and grounds.-----

The Grand Chapter of the
ORDER OF THE EASTERN STAR
For the INDIAN TERRITORY.

Office of
Grand Patron.

Atoka, Ind. Ter., November 15, 1904.

Honorable Theodore Roosevelt,
President of the United States,
Washington, D.C.

Dear Sir:

As a member of the Choctaw Tribe of Indians, on behalf of myself, my wife and five children, I desire to enter a protest against the approval of a certain Act of the Choctaw Council which I understand has been approved, wherein about Fifteen Thousand Dollars has been appropriated by the Council to pay certain attorneys whose names I understand are McCurtain & Hill, for representing certain Choctaws in probate matters pending in the United States Courts in the Choctaw Nation.

I protest against this bill because the employment of these attorneys by the Principal Chief is il-legal, unnecessary and a detriment to the Choctaw people at large. It was not solicited by the persons and no good results can be accomplished, but the **action** of these attorneys has been a detriment to those Choctaws they have undertaken to represent.

It is not fair or justice, nor is it a square deal to take the money of the Choctaws at large to pay attorneys' fees for a few individuals. If these attorneys are to be paid they should

-2-

be paid out of the money coming to the Choctaws they have represented.

Very respectfully,

J.G.Ralls.

(Endorsed) Union Agency No. 10614 Received Nov. 26, 1904 Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 23, 1904. Secretary. ---- Refers for report letter of J.G. Ralls, of Atoka, I.T., protesting against approval of Choctaw Act appropriating \$15,000 in favor of McCurtain & Hill for representing certain Choctaw citizens in probate matters. ----

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D. 11668-1904.

November 17, 1904.

United States Indian Inspector

for Indian Territory, Muskogee, I.T.

Sir:

November 11, 1904, the Acting Commissioner of Indian Affairs submitted your report of October 25, 1904, relative to a letter from Willie Johnson, making certain inquiries in reference to being placed in possession of certain lands set aside to him and his wife, as Mississippi Choctaws.

Certificates of allotment are being prepared by the Commission to the Five Civilized Tribes covering the lands selected by Mississippi Choctaws, and the Commission informed you that such certificates will be delivered as soon as practicable.

As the United States Indian Agent is not authorized to take action looking to the placing of allottees in possession of their allotments until after certificates are issued by the Commission, you state there would appear to be no action he could take in reference to this case until Willie Johnson and his wife receive their certificates. You recommend that Johnson be advised that when he receives the certificate, if he files any complaint as to the persons occupying the land, and a complete statement of the facts, with the Agent, the matter will receive prompt attention.

The Acting Commissioner concurs in your recommendation, "so far as it goes," but states that the matter should be taken up

-2-

with the Commission to the Five Civilized Tribes, "to the end that in all cases where Mississippi Choctaws, or any other citizens," are being interfered with in their possession of the lands they have selected in allotment, the issuance of certificate be made a special order in their cases, to the end that the Agent may forcibly place them in possession at the earliest date possible.

You are directed to confer with the Commission in this particular, and promptly and properly advise Mr. Johnson.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos. Ryan

1 inclosure.

Acting Secretary.

(Endorsed) Union Agency No. 10613 Received Nov. 26, 1904 Office of U.S. Indian Inspector for Indian Territory. Washington, Nov. 17, 1904. Secretary.-----Relative to request of Willie Johnson, a Mississippi Choctaw, to be placed in possession of his allotment; should confer with Dawes Commission relative to issuance of certificate.-----

Joseph G. Ralls,
Attorney and Counselor,
Atoka, Ind. Ter.

November 26, 1904.

Hon. J. George Wright,
United States Indian Inspector,
Muskogee, Indian Territory.

Dear Sir:

I am advised by the Secretary of the Interior that my protest addressed to the president of the United States, against the approval of an act of the Choctaw Council appropriating \$15,000 to pay McCurtain & Hill for representing certain Choctaws has been forwarded to your office and if this matter is before you for a report I would be glad to be heard in opposition to the approval of that bill.

The employment of these attorneys is wholly unwarranted, useless (Sic) and a detriment to the persons they seek to represent and results in the defeat of justice. There is no authority given anywhere for the Governor to appoint such attorneys and the amount appropriated is simply outrageous. If the Choctaw Nation is to be permitted to continue to squander the money in this manner all the money that should be paid to the citizens will be appropriated and put in the hands of a few "Pie Eaters."

Being a member of the Choctaw Nation I have a right to protest and to be heard in opposition to the approval of the bill.

Very respectfully,

J. G. Ralls.

(Endorsed) Union Agency No. 41796 Received Nov. 28, 1904 Office of U.S. Ind. Insp. for I.T. Atoka, I.T. Nov. 26, 1904. J. G. Ralls---Asks to be heard in ref. to his protest against the appt. of McCurtain & Hill to represent certain minor Choctaws.-----

DEPARTMENT OF THE INTERIOR,
Office of School Supervisor for Choctaw Nation,

South McAlester, Ind. T.,

Dec. 15, 1904.

Miss Bacon:

You will receive blanks from Mr. Benedict upon which you may make your report from Oct. 1 to Nov. 15 as you made report for Sept. on that report. Include both Choctaw children and white children, and sign the two sets of vouchers .

On blanks we send, do not give names of white children-- Indian children only, and make report from Nov. 16 to Dec. 31, and mail this report to this office. Miss Cambron will report all white children and her report will go to Mr. Benedict.

School will close for the holidays, Dec. 23, but report to Dec. 31.

Yours truly,

Calvin Ballard,

Supv.

Beginning Nov. 16, Miss Bacon's salary is paid out of Choctaw appropriation.

Stringtown, I. T.

Dec. 19th, 1904.

Mr. Benedict:

Will you please send us two blank reports so that we may get our reports in by the time we begin the holidays?

We did not divide the pupils according to race but have tried to divide them according to grades.

I trust we have done as you wished in the matter.

Respectfully,

Gertrude Bacon.

(Endorsed) Union Agency No. 3 Calvin Ballard, So. McAlester, Dec. 15, 1904 Addsd. to Miss Gertrude Bacon, Stringtown, I.T.----re. report blanks, that report might be made.----

DEPARTMENT OF THE INTERIOR,
Office of School Supervisor for Choctaw Nation,

South McAlester, Ind. T.

Jan. 28, 1905.

Mr. John D. Benedict, Supt.

Muskogee, I. T.

Dear Sir:

Yours with enclosure concerning the Atoka school received. We have adjusted matters at Atoka. We have agreed to continue the old arrangement of last year. If they would send act of the Atoka council, exempting the Choctaws from payment of a school tax 1905' we paid the tuition last year.

Very truly,

Eli E. Mitchell.

Choc. Rep.

(Endorsed) Union Agency No. 16 January 28, 1905 Eli E. Mitchell, So. McAlester.-----Concerning payment of tuition of Choctaw children attending Atoka public school.-----

DEPARTMENT OF THE INTERIOR,
Office of School Supervisor for Choctaw Nation,

South McAlester, Ind.Ter.

Feb. 18, 1905.

Dear Mr. Benedict:

Your letter rec'd. Mr. Mitchell and I have talked over the matter of reducing the expenses to \$25,000 and have prepared a letter to the teachers to the effect that their schools under the present plan will close the end of this month. We are very liberal in schools in which there are 8 or more Choctaw children and in some of the schools the salary will remain as before, but the white children will not be reported after Feb.28. We believe that, where we have reduced salaries the whites will supplement the salaries to the teachers present salaries and the schools will continue two or three months.

Will send you copy of letter early next week. I am gaining pretty rapidly. Walked several blocks yesterday and took a horse back ride today. The weather has prevented my getting out.

I hoped you would come by on your return from Tushkahoma and stop with me.

I have not received the battery. Suppose the extreme cold weather has delayed it. Have you received yours?

Let me hear from you.

Yours truly,

Calvin Ballard,
Supv.

(Endorsed) Union Agency No. 2 February 18, 1905. Calvin Ballard,
So. McAlester, I.T.-----Relative to reducing number of schools.-----

DEPARTMENT OF THE INTERIOR
WASHINGTON.

I.T.D. 3476-1905.

April 8, 1905.

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

Sir:

The Department is in receipt of a letter from the Department of Justice, transmitting a copy of a letter dated March 28, 1905, from the Assistant U. S. Attorney, at south McAlester, I.T., in which he states that on March 24 and 25, 1905, the case against J. C. Wilcox and Wilford Ungles, for disturbing the peace, was tried, which resulted in a verdict of guilty, the jury fixing the punishment at three months in jail and a fine of \$200 each. These parties were concerned in the assault committed upon Mr. Charles O. Shepard, at Hartshorne, I. T., last September.

Respectfully,

Thos. Ryan.

ACTING SECRETARY.

ENDORSED) Union Agency # 11412, Received April 17, 1905, Office of U.S. Indian Inspector for Indian Territory. Washington, April 8, 1905. Secretary. States information has been received from Department of Justice as to conviction of Wilcox and Ungles for distrubing peace, they having assaulted C. O. Shepard, town-site Com'r at Hartshorne.

382

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

W A S H I N G T O N .

M a y 8 , 1 9 0 5 .

The Honorable,

The Secretary of the Interior.

Sir:-

Permit me to invite your attention to letter of the Indian Inspector for Indian Territory of April 15, transmitting resolution of the National Council of the Choctaw Nation, approved by the Principal Chief on November 2, 1904, and entitled,-

A resolution accepting the report of G. W. Dukes, Green McCurtain and George W. Scott, under the Act of Congress entitled "An Act for the relief of certain indigent Choctaw Indians in Indian Territory, and other purposes", approved April 29, 1902.

Mr. Wright says while this resolution appears to have been passed on at the last session of the National Council of the Choctaw Nation, in October and November, 1904, it was not received in his office until April 11, 1905.

The Act of Congress approved April 29, 1902 (32 Stats., 177), making appropriations for Indigent Choctaws and Chickasaws, designated Messrs. Dukes, McCurtain and Scott as a commission to investigate and determine what Choctaw citizens were destitute, and supply them with necessary food for their maintenance. While the Act required that each commission should make full report to the legislative body of its respective nation as to its acts, it does not appear to the Inspector to be required that

-2-

such acts or the disbursements should be approved by the Department.

It does not, therefore, seem to him that the resolution transmitted requires executive action. He transmits it, however, for the information of the Department and such disposition as is deemed proper. Accompanying the resolution is a copy of the report of Mr. George W. Scott, the treasurer of the Choctaw Nation, of the receipts and disbursements, and balance on hand of this so-called relief fund, which report is dated October 18, 1904.

Very respectfully,

Acting Commissioner.

Endorsed) Union Agency # 11634 Received May 22, 1905. Office of U.S. Indian Inspector for Indian Territory. Washington, May 13, 1905. Secretary. Resolution of Choctaw Council accepting report of Dukes, McCurtain and Scott under act of Congress for relief of indigent Choctaws, does not require executive action.

South McAlester, I.T.
May 18th, 1905.

To the United States Indian Agent,
Muskogee, Indian Territory.

Hon. Sir:-

I hereby respectfully recommend Mr. Odus L. Collins, of South McAlester, I.T., to your honor, that he is a citizen by blood of the Chickasaw Nation and is experienced and qualified to fill any office as he may make an application for; he is serving as Deputy Sheriff of Tobucksy County Choctaw Nation stationed at South McAlester and from all concerned to his office, I learn that he is very attentive to his duty.

I have known Mr. Collins all of his life time, he is educated, can speak three languages viz; Chickasaw-Choctaw- and English. Therefore, I have no fear in recommending him to any one, any favor you may confer upon him, will be appreciated by myself.

Respectfully,

Palmer S. Moseley.

Ex. Gov. of Chickasaw Nation.

Land
36943-1905.

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

June 1, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Permit me to invite your attention to letter of the Indian Inspector for Indian Territory of May 10, transmitting a communication from Messrs. Ledbetter and Bledsoe, attorneys at Ardmore, Indian Territory, dated May 6, stating that they represent one P.C.Dings, who has been legally appointed curator of the estates of Oscar and John Davis, minor Mississippi Choctaw Indians.

These attorneys claim that when the guardian came to make an inventory of the estates, he found that the allotments had been leased by one Johnson, claiming appointment by the tribal court, to J.E.Arnold for a term of five years. The consideration claimed to have been paid consisted of expenses said to have been borne by Arnold in transporting the family of Indians from Mississippi.

Messrs.Ledbetter and Bledsoe refer to the provision in the Indian Appropriation Act, approved March 3, 1905, in reference to investigating these leases, and they write to learn what steps the Department will take under such provision. They state the Judge of the United States Court holds that suits to cancel leases of this kind must be brought under the direction of the Department or the Attorney General.

Mr. Wright presumes inasmuch as the funds appropriated to carry out this work are not available until July 1, the Department has not yet taken any active steps to carry out this provision of the law, but forwards this letter for consideration with request that he be advised if it is desired that he take any action on the matter at this time.

At the time Johnson was appointed guardian by the tribal court, these children had no estates. They had not been enrolled. The conditions precedent to their enrollment as Choctaw citizens had not been completed. An action by Johnson, even if his appointment as guardian by the tribal court was valid, could not in any sense create a cloud on the title of these children to any particular tract of land in the Choctaw or Chickasaw Nations prior to their enrollment January 13, 1905, which the records of this Office show to be the date upon which the Department approved the schedule upon which their names appear opposite Nos. 36 and 37.

The class of cases wherein Messers. Ledbetter and Bledsoe say the Judge of the United States Court holds that suit to cancel leases must be brought under the direction of the Department under the Act approved March 3, 1905, are not in the same category as the case under consideration. The cases to be investigated by the Department under that Act of Congress are those where the allottees made contracts which they were authorized by law to make, and which by reason of their unreasonableness may now need to be inquired into and set aside by the United States Court.

The case of the Davis children is different. Any lease made by Johnson to Arnold was absolutely void so far as it may

-3-

affect the lands allotted to these children subsequent to their enrollment January 13, 1905. If Mr. Dings was appointed guardian by the United States Court, he should, in my judgment, make complaint to the United States Indian Agent at Union Agency against Arnold as an intruder, and the Agent would be authorized to remove him. I recommend that Messrs. Ledbetter and Bledsoe be advised accordingly.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

EBH-WDW

DEPARTMENT OF THE INTERIOR,

Washington.

I.T.D. 6672-1905.

June 9, 1905.

United States Indian Inspector

for Indian Territory, Muskogee, I.T.

Sir:

May 10, 1905, you submitted a letter addressed to you from certain attorneys in which it was stated that the legally appointed curator of the estates of Oscar and John Davis, minor Mississippi Choctaws, finds that the "allotments" to such Indians have been leased by one Johnson, claiming to be guardian under appointment by the Probate Court of Pickens County, Chickasaw Nation, to J.E. Arnold, for a term of five years. The consideration paid is claimed to consist of the expenses claimed to have been borne by Arnold in transporting these children and their father and sister from Mississippi to the Indian Territory.

Calling attention to that portion of the act of March 3, 1905 (Public 212), commencing at the bottom of page 14, said attorneys ask to be advised if the Department has taken any action under this provision. They state that the Judge of the United States Court holds that suits to cancel leases of this kind must be brought under the direction of the Department or the Attorney General.

Submitting your report June 1, 1905, the Indian Office states that at the time Johnson was appointed guardian by the tribal court these children had not been enrolled; that their enrollment was approved by the Department January 13, 1905; that

-2-

any lease made by Johnson to Arnold was absolutely void so far as it would affect the lands allotted to these children subsequent to their enrollment. It is the opinion of that office that the class of cases wherein the Judge of the United States Court holds that suit to cancel leases must be brought under the direction of the Department under said act, are not in the same category as the case under consideration. The cases to be investigated by the Department under that act, it is stated in said report, are those where the allottees made contracts which they were authorized by law to make, and which by reason of their unreasonableness may now need to be inquired into and set aside by the Court.

While the Department considers, in view of the provision in Section 41 of the act of July 1, 1902 (32 Stat., 641), relative to the time Mississippi Choctaws are entitled to allotments, the lease by Johnson to Arnold void, as it is apparent the lease was made long prior to January 13, 1905, it does not entirely concur in the views of the Indian Office, especially concerning the cases to be investigated by the Department under the provisions of the act of March 3, 1905.

This act, however, provides that -

"No lease made by any administrator, executor, guardian, or curator shall be valid or enforceable without the approval of the court having jurisdiction of the proceeding."

As doubtless the lease in question has not received the approval of the proper court, the guardian appointed by the United States Court should make complaint, as the Indian Office suggests, to the United States Indian Agent, Union Agency, against

-3-

Arnold as an intruder. If the facts warrant such action the Agent would be authorized to remove Arnold and place the guardian in possession of the land. You will advise the parties in interest hereof.

A copy of said Indian Office letter is inclosed.

Respectfully,

E.A.Hitchcock.

Secretary.

1 inclosure.

(Endorsed) Union Agency No.11764 Received Jun.15,1905 Office of U.S.Indian Inspector for Indian Territory.Washington,June 9, 1905.Secretary.-----Rel.to the leasing of the allotments of certain minor Mississippi Choctaws by one Johnson.-----

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

COMMISSION TO THE FIVE CIVILIZED TRIBES.

ATOKA, INDIAN TERRITORY.

June 26, 1905.

Tams Bixby, Chairman,

Muskogee, Indian Territory.

Dear Sir:

Replying to your letter of June 24, 1905, I beg to advise you that Mr. Patterson has just reported to me a tract of land which he thinks is suitable to make an arbitrary allotment to Sophia Pitchlynn, and will send me description of some land to allot to Lee Pitchlynn in a day or two.

The land reported to me by Mr. Patterson, for Sophia Pitchlynn, will be arbitrarily allotted to her tomorrow and reported to the Commission in the usual manner.

I think I will be able to find suitable land and make arbitrary allotment to Lee Pitchlynn before July 1.

Respectfully,

W. H. Angell.

Chief Clerk.

(Endorsed) Union Agency # 141 . W. H. Angell, Atoka, I.T.
June 26, 1905. Relative to arbitrary allotment of land to
Lee Pitchlynn and Sophia Pitchlynn.

Bennington, I. T.

July 31st, 1905.

Shoenfelt & Tisdell:

Dear Sir:

Sir, have you got any vacant place for police, or you need any more man. If you have I like to take in part with police, and send me the application paper, and I like to here (Sic) from you right away.

Yours truly,

Daniel P. Williams.

(Endorsed) Union Agency No.56 Received Aug.1,1905 Office of U.S. Indian Agent, Muscogee, Ind.Ter. July 31/05. Daniel P.Williams, Bennington, I. T.-----Makes application for appointment on police force.-----

Garvin, I.T.

Oct. 14, 1905.

Hon. Dana H. Kelsey,
Muskogee, I.T.

Dear Sir:

I understand that F. D. Taaffee has resigned his position as Indian Police. If this be true, I would like to have the appointment in his place.

I am a citizen by blood and am 25 years of age and am in position to serve at any time that my services are necessary.

Respectfully yours,

S.J. Pebworth.

(Endorsed) Union Agency No. 55416 Received Oct. 16, 1905 Office of U.S. Indian Agent, Muskogee, Ind. Ter. Oct. 14, 1905. G.A. Spaulding, U.S. Com., Garvin, I.T.-----Complying with request to recommend some one to succeed Francis D. Taaffe, U.S.I.P., encloses letters from latter and application of S.J. Pebworth.-----

394

DEPARTMENT OF THE INTERIOR,
United States Indian Service.

Garvin, I.T.

Oct. 14, 1905.

Hon. Dana H. Kelsey.

U.S. Indian Agent.

Muskogee, I.T.

Dear Sir:

We have a young man in our place who will be a good man to fill the place made vacant by me, and I can recommend him to be a sober and honest boy. His name is Sam J. Pebworth, a citizen by blood. Mr. Pebworth is in position (Sic) to leave home and attend to all work at all times. His appointment would be greatly appreciated by me.

Respectfully yours,

Francis D. Taaffe.

Attorney at Law

U.S. Commissioner

G. A. SPAULDING

Garvin, Ind. Ter.
Oct. 14, 1905.

Hon. Dana H. Kelsey,
U.S. Indian Agent,
Muscogee, I.T.

Dear Sir:-

I have your favor of the 7th advising me that you thought on account of his other employment that the service would be better for Mr. Taaffe to resign as Indian Police and asking me to recommend some suitable person for the place., I have delayed to determine on the right party and think I have found him in the person of Mr. Sam J. B. Pebworth of this place. Mr. Pebworth is a young man who was left to look after quite a large family when quite young, his father died (Sic) and he being the oldest.

He has made a good showing and has gathered together (Sic) a fair amount of this world's goods, he is intelligent (Sic) and sober. Probably not more than a 1/8 blood. I think he will make you a good officer and that you will never regret (Sic) his appointment. He has hosts of friends and at the same time is firm and fearless. I enclose herewith his application and a letter of recommendation by Mr. Taaffe. Assuring you of my readiness at any time to serve you, believe me.

Very truly yours.

G. A. Spaulding,

U.S. Com.

DEPARTMENT OF THE INTERIOR,

OFFICE OF THE ASSISTANT ATTORNEY GENERAL
12448-1905. Washington,
Ind.Ter.Div.

October 18, 1905.

The Secretary of the Interior,

Sir:

Enclosing copy of Indian Office letter of September 21, 1905, submitting report of the United States Indian Inspector, transmitting copies of a pamphlet containing the acts and resolutions of the general council of the Choctaw Nation, passed at its regular session of 1904, you request my opinion "as to which, if any, of the bills contained in said pamphlet should have been submitted for the consideration of the President."

In the agreement with the Choctaw and Chickasaw Nations, set out in section 29 in the act of Congress approved June 28, 1898, (30 stat., 495, 512), it is provided that no act, ordinance or resolution of the council of either of said tribes in any manner affecting the land of the tribe or of individuals, after allotment, or the moneys or other property of the tribe or citizens thereof, "except appropriations for the regular and necessary expenses of the government of the respective tribes," shall be of any validity until approved by the President of the United States.

The Indian Inspector is of opinion that bills 7, 11, 13 and 17 should have been submitted for executive action. The Commissioner of Indian Affairs agrees with the Indian Inspector, and further, is of opinion that bills numbered 18 and 25 should also have been submitted for approval of the President, and suggests that if the Department agrees with the views of his

office, the inspector be directed to request the tribal authorities to inform him of their reasons for not submitting said bills for approval.

The bills referred to are entitled as follows:

No.7. "An Act Authorizing the Principal Chief to Appoint a Commission for the Enrollment of New Born Choctaws, and for other Purposes."

No.11. "An Act to Ratify and Confirm the Employment of Messrs. M'Curtain and Hill, as Counsel, in Guardianship and Administration, by the Principal Chief, and Provide Compensation."

No. 13. "An Act Providing for the Appointment of a Commission to Negotiate with the Chickasaws, or Their Representatives, a Settlement of All Existing Differences between the Choctaws and Chickasaws, and an Adjustment of All Matters of Joint Interest between the Tribes."

No.17. "An Act Appropriating the Sum of One Thousand (\$1,000) Dollars, or So Much Thereof as May Be Necessary to Defray the Expenses of Litigation, Provided for the Contract with Messrs. Hill and Brizzolara, Covering the Suit of the Choctaw Nation against the Missouri, Kansas & Texas Railway Company."

No.18. "An Act for the Payment of Regular Expenses Necessary to Protect the Interests of the Choctaw Nation."

No.25. "Resolution Accepting the Report of G.W.Dukes, Green M'Curtain and George W.Scott, Under the Act of Congress Entitled 'An Act for the Relief of Certain Indigent Choctaw and Chickasaw Indians in the Indian Territory, and for Other Purposes,' Approved April 29, 1902."

Bills numbered 7 and 13 provide for the creation of new commissions not constituting any part of the regular government of the tribe. The work to be done by such commissions can not in either case be said to be necessary in carrying on the tribal government and therefore the expense attached is not a regular and necessary expense of the government.

Bill number 11 provides for the employment of certain parties to act as attorneys in matters of guardianship and administration of the estates of individual members of the tribe. However necessary and beneficial such employment may be to the individual members it can not be said that it is an integral or necessary part of the government of the tribe.

Bill numbered 17 appropriates money to defray the expenses of certain litigation. The exact nature and history of this litigation is not disclosed by the bill but it is clearly an incidental matter and the appropriation is not a part of the regular expenses of the government.

The same may be said of bill numbered 18, which makes appropriation for payment for legal service and other expenses in defending the interests of the Nation in citizenship cases.

As to bill numbered 25 mentioned by the Indian Office, the Indian Inspector says it was submitted and transmitted for the consideration of the Department. This fact removes that bill from further consideration herein.

I am of opinion, and so advise you, that bills numbered 7, 11, 13, 17 and 18 are not "appropriations for the regular and necessary expenses of the government" of the Choctaw Nation and are therefore not within either the letter or spirit of the

-4-

excepting clause relating to legislation by the council of these tribes.

The papers submitted are herewith returned.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

October 18, 1905.

Approved:
E.A. Hitchcock,
Secretary.

(Endorsed) Union Agency No. 12697 Received Oct. 28, 1905 Office of U.S. Indian Inspector for Indian Territory.----Washington, Oct. 23, 1905. Secretary.----Rel. to certain bills passed by the Choctaw Council in 1904. Encloses opinion of Asst. Atty General rel thereto.----

October 21, 1905.

We the undersigned citizens and non citizens of Nashoba, I.T. and vicinity, cherfully recommend Silas Lewis as being a suitable man to be appointed Indian Police for this section of the country as we have known him for several years and have always found him to be sober and upright and law abiding.

Alex L.Choate

Greek Lomun sheriff of Cedar Co.

F.M.Fuller

Notary Public

W.L.Hollonquest
"For Little River Lumber Co."

Wade Bohanon Farmer

Roberson Choat Farmer

Ben Benjamin. Ranger

Joles Choat Marchentice (Sic)

Washington Berry Teacher.

(Endorsed) Union Agency No. 57030 Received Oct.23,1905 Silas Lewis,Nashoba,I.T.-----Petition for appointment as Indian Police, signed by various persons, together with endorsement by W.L.Hallonquest.-----

401
Nashoba, I.T.

October 19, 1905.

Hello Kelsey:

I inclose a petition from Silas Lewis who is a good Indian, to help him out, if you can consistently do so.

Was glad to hear of your promotion with best wishes.

Hallonquest.

Bill No. 43

TO THE HONORABLE ETHAN ALLEN HITCHCOCK:

SECRETARY OF THE INTERIOR.

The General Council of the Choctaw Nation assembled, respectfully represent that under the Atoka Agreement, concluded between the United States Government and the Choctaw and Chickasaw Nations, it was agreed that all the funds due the members comprising said Nations were to be capitalized and paid to the members thereof, as soon as practicable after the expiration of tribal government. We further represent that we realize that a full settlement can not be had at this time by reason of the fact that the coal and asphalt lands yet remain to be sold as well as the surplus lands, together with the funds accruing from the sale of town lots and public buildings not yet being available for this purpose. We respectfully suggest however that the trust fund and all other funds that have been placed to the credit of the Choctaw and Chickasaw people up to date be paid out per capita at the earliest possible date. This suggestion is promoted by the knowledge of the true condition of the Choctaw and Chickasaw allottees who are striving to build homes and otherwise improve their allotment.

We respectfully represent that a favorable action by the Department upon this suggestion herein contained would do much to encourage the fullblood Indians, who are trying to abandon the customs and traditions that have retarded their progress in the past, and are making a sincere effort to keep pace with the progress and enlightenment that a change in the land tenure has forced upon them.

Approved this 8th day of November 1905.

(signed) Green McCurtain
Principal Chief, Choctaw Nation.

Approval not required
see D 13061

403
EXECUTIVE OFFICE, CHOCTAW NATION
Green McCurtain, Principal Chief.

Kinta, Ind.Ter.

Nov.28,1905.

Captain J.C.West,
Muskogee,I.T.

Dear Sir:

I enclose herewith letter recommending Sam Pebworth for
Policeman as per your request. Hoping this is satisfactory,
I am,

Yours truly,

Green McCurtain.

EXECUTIVE OFFICE, CHOCTAW NATION

Green McCurtain, Principal Chief

Kinta, Ind.Ter.

Nov.28,1905.

Honorable Dana H.Kelsey,
United States Indian Agent,
Muskogee,I.T.

Sir:-

I understand there is a vacancy in the Police Force in the southeast portion of the Choctaw Nation and I desire to respectfully recommend Sam Pebworth, of Garvin,I.T., for the place.

I feel thoroughly satisfied that he will be a valuable addition to your force in the Choctaw Nation, as he is considered by all who know him to be a good man.

Very respectfully,

Green McCurtain,

Prin.Chief,Choctaw Nation.

(Endorsed) Union Agency No.69 Received Dec.2,1905 Office of U.S. Indian Agent, Muscogee,Ind.Ter.Nov.28. Green McCurtain,Prin. Chief,Choctaw Nation,Kinta,I.T.-----Encloses letter of recommendation by himself, endorsing Sam Pebworth for appointment as Indian Police.-----

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D. 17308-1905.

December 22, 1905.

U.S. Indian Inspector
for the Indian Territory,
Muskogee, I.T.

Sir:

The Department is in receipt of your letter dated December 9, 1905, transmitting a communication from the National Council, Choctaw Nation, asking that per capita payments be made as soon as possible after tribal property is disposed of.

You recommend that the Principal Chief of the Choctaw Nation be advised that the matter of making a per capita payment from townsite funds is under consideration by the Department but that no other per capita payments to the members of said Nations can be made until all matters pertaining to the winding up of their affairs are completed.

The Indian Office transmitted your said report on December 13, 1905, (Land 98827-1905), and expresses the view that said communication does not require executive action, in which the Department also agrees.

A copy of the Indian Office report is enclosed, and you are instructed to advise the Principal Chief accordingly.

Respectfully,

Thos. Ryan

First Assistant Secretary.

1 enclosure.

Through the Commissioner of Indian Affairs.
13061

(Endorsed) Union Agency No. 13061 Received Dec. 30, 1905 Office of U.S. Indian Inspector for Indian Territory. Washington, December 22, 1905. Secretary. 6-----Ack. receipt of report asking that per capita payment be made as soon as possible after tribal property is disposed of in Choctaw Nation, and advises that same does not require executive action.-----

DEPARTMENT OF THE INTERIOR.

I.T.D. 1616-1906

February 10, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

On January 13, 1906, you transmitted a report in the matter of the application of the Poteau Telephone Company to change the location of its line so that such line will be on one side of the St. Louis and San Francisco Railroad, between Poteau and Wister, Ind. T.

In the consideration of this application, the matter of the back taxes of this company has been taken up, and you inclose a draft issued by the First National Bank of Sterrett, Ind. T., in the sum of \$43.08, in payment of said taxes.

The status of the company as of this date appears as follows:

Maps:

Approved December 7, 1903, covering-----36.65 miles

Damages Assessed--

Damages assessed and paid on mileage noted above:

December 7, 1903, damages assessed at \$3.30 per mile for 36.65 miles, total-----\$120.95.

Damages on exchange at Poteau, Ind. T., 38

telephones, at 15 cents each----- 5.70

Damages paid:

Accepted September 14, 1904, on 36.65 miles
of line at \$3.30 per mile----- \$120.95

Taxes--

Paid:

Accepted July 15, 1905, for the year ended
June 30, 1905----- 18.35

Unpaid:

All taxes upon the lines from date of completion
to June 30, 1904----- 37.38

All taxes on exchange at Poteau from completion
to date.

You state that you will take up the matter of the unpaid taxes for the exchange at Poteau, and you recommend a draft for \$43.08 be accepted.

In the matter of the change of location of this line upon the right of way of the St. Louis and San Francisco Railway Company, you recommend that this change be permitted without the filing of a new map and that a proper notation of the change be made upon the map now on file.

The Indian Office concurs in your recommendation.
A copy of its letter is inclosed.

The draft in the sum of \$43.08 in payment of taxes due from the Poteau Telephone Company is accepted.

-3-

This company will be permitted to change the location of its line upon the right of way of the St. Louis and San Francisco Railway Company so that its line between Poteau, Ind. T., and Wister, Ind. T., will be upon the east side of the railway track for the entire distance.

The Commissioner of Indian Affairs has been requested to note the change upon the map and application on file in his office.

Respectfully,

Thos. Ryan.
First Assistant Secretary.

1 inclosure.

(Endorsed) Union Agency # 13377 Received February 17, 1906.
Office of U. S. Indian Inspector for Indian Territory. Washington, Feb. 10, 1906. Secretary. Relative to the application of the Poteau Telephone Co. to change the location of its line between Poteau and Wister, I. T., grants consent.

I.T.D.
2234-1905.

S.V.P.
J.R.W.
W.C.P.

February 19, 1906.

The Secretary of the Interior,

Sir:

I am in receipt by reference of May 10, 1905, with request for opinion thereon, of the record in the case of James S., Joseph, Forbis, and Lula F. Long for enrollment as citizens by blood of the Choctaw Nation.

The case involves the right of Mississippi Choctaws (other than those claiming under Article XIV of the treaty of September 27, 1830, 7 Stat., 333,335), and their descendants to reunite with the nation up to the inhibition by the act of June 28, 1898 (30 Stat., 495, 503), when it was provided that:

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: Provided, however, That nothing contained in this act shall be so construed as to militate against any rights or privileges which the Mississippi Choctaws may have under the laws of or the treaties with the United States.

The applicants are children of Jacob Long, son of Mrs. Sam Long, who was nearly a full-blood Choctaw, sister of Greenwood Leflore, the old Choctaw chief. They are thus about one-quarter Choctaw blood. They were born in Mississippi.

James S., aged twenty-six years, went to the Choctaw Nation in 1883, and stayed two years, returned to Mississippi and stayed a year and a half, returned to the nation in 1888 with his brother Sam, now deceased, and stayed a year or two, returned to Mississippi for "six months or a year," and in 1894, with the other applicants, returned to the Choctaw Nation, where they have ever since resided. Sam Long was on the leased district payment roll of 1893. The applicants applied to the Council for admission to citizenship in August, 1895, and understood that his right to citizenship was recognized, as James was called back to give the names of his family. The application was not acted on by the Council otherwise than to refer it and all similar matters to a committee constituted by an act of September 18, 1896. Their names were put on the 1896 census roll in January 1897, by order of Green McCurtain, governor of the Choctaw Nation. All of applicants' ancestors continued to live in Mississippi to their death, and no evidence tends to show that they claimed benefits of Article XIV of the treaty of September 27, 1830 (7 Stat., 333, 335). There is thus presented the rights of descendants in the third generation seeking restoration to political relation with the tribe from which their ancestors became by voluntary act by operation of law dissevered.

It is a matter of history that the migration of the Choctaw people from their ancient to their present western seats was not at one time by all the tribe, nor yet at one

-3-

time by those elements of it whose descendants now constitute the Choctaw Nation. Only about one-half of the tribe left their old seats in the first general movement in 1831 and 1832. The United States transported various bands and some parties migrated at their own expense. The records of the Indian Office show that in 1845 and 1856 the Choctaw Nation as now constituted presented claims against the United States arising out of these migrations. That the present Choctaw Nation did not, at the time of the migration, nor for a long time thereafter, regard those who failed to emigrate as unentitled to possess and share the tribal lands and property equally with themselves, whenever they should immigrate, is evident from the legislation of the nation. As early as October 9, 1837 (Choctaw laws, 1869, P. 73), the Council prohibited settlement or purchase of improvements on the tribal lands from its citizens by any Indian "not a descendant of the Choctaws." Descendants from Choctaws were not regarded as intruders, but as having right, without special act of Council, to appropriate tribal lands and to purchase improvements thereon. October 14, 1847, the "late and new emigrants" (ib., P. 96,) were declared to have equal rights with the old settlers in the schools of the nation. This was not a grant of concession, but a mere declaration of right, not of right as residents or as Indians, but as Choctaws, for by the resolution of October 11, 1858 (ib., 177), other Indians (Creeks) were regarded as intruders and were asked to be speedily removed.

-4-

The Choctaw Nation and government as now existing was organized under a constitution drafted by a convention assembled January 11, 1860, pursuant to the act of October 24, 1859, by the Choctaw Council. The preamble to that instrument declares that:

We, the representatives of the people inhabiting the Choctaw Nation, contained within the following limits, to wit: tution and form of government, and do mutually agree with each other to form ourselves into a free and independent nation, not inconsistent with the constitution, treaties and laws of the United States, by the name of the Choctaw Nation.

The first section of the bill of rights declared that: "all free men, when they form a social compact, are equal in rights," and all free male citizens of eighteen years and upward, who had been citizens six months and resident in their election district at least one month were declared qualified electors by section 7, Article VII. There was nothing in this instrument defining citizenship in the Choctaw Nation, how it might be acquired or lost, or limiting the operation of it to such residents of its territory as were then members of the Choctaw tribe. If it was so intended, and is to be so limited by construction, it must be done from consideration of matters outside the instrument itself. Upon its face it embraced all

"inhabiting" the territory within its defined boundaries, and by the same word excluded all persons, Choctaw or not, not "inhabiting" those defined limits.

The Choctaw Nation, however, continued to solicit a reintegration of the absentees of the tribe into the nation. When allotment of the Choctaw-Chickasaw lands was contemplated by the treaty of 1866 (14 Stat., 769), Article XIII provided for newspaper publications of notice in six States of the Union--

to the end that such Choctaws and Chickasaws as yet remain outside of the Choctaw and Chickasaw Nations, may be informed and have opportunity to exercise the rights hereby given to resident Choctaws and Chickasaws.

This was conditioned upon the absentee taking up actual residence in the nation within five years after selection of his allotment. By Article XV "every Choctaw and Chickasaw" (not citizens or residents merely) was given a ninety days' preference right to select a quarter section of land.

No restriction or condition was imposed upon any one claiming Choctaw descent establishing residence in the nation and thereby acquiring full rights of citizenship. October 16, 1876 (Laws, 1887, p.172), a tribunal for citizenship was established, and the act provided that:

Any person who is not now recognized as a citizen of

"inhabiting" the territory within its defined boundaries, and by the same word excluded all persons, Choctaw or not, not "inhabiting" those defined limits.

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No restriction or condition was imposed upon any one claiming Choctaw descent establishing residence in the nation and thereby acquiring full rights of citizenship. October 16, 1876 (Laws, 1887, p.172), a tribunal for citizenship was established, and the act provided that:

Any person who is not now recognized as a citizen of

this nation, or of Choctaw descent, and claiming to be a citizen, or of Choctaw descent, shall petition to the general council, during the regular session thereof, for the rights and privileges of citizenship of the Choctaw nation. Such petitioner shall prove his or her blood, or other means by which they claim citizenship, by not less than two good, respectable Choctaw, disinterested persons, before a proper committee, or the chairman thereof; and the chairman or secretary of the committee shall have power to administer (sic) any and all oaths that may be necessary in conducting the investigation. The committee aforesaid to be appointed by the general council, and to report to the body, by act or resolution, or otherwise, in reference to the petition or petitions of the person or persons claiming to be citizens, or of Choctaw blood or descent; and in the event of the adoption of such report of the committee, then such person or persons shall thereafter be deemed and considered to be bona fide citizens of the Choctaw nation.

The peculiar wording, "or of Choctaw descent," itself implies that one of acknowledged Choctaw descent became a Choctaw citizen by mere settlement in the nation. The act of October 2, 1882 (ib., 174), gave an appeal in such cases from adverse action of the council to the United States Indian Agent. Until after this time the right to become a Choctaw citizen seems to have been fully and unqualifiedly conceded to all persons of Choctaw descent by mere settlement and residence in the nation, the only procedure required being for record proof of the right, which arose as of course upon proof of the facts of descent and

residence.

An act, apparently of November, 1886 (Laws, 1894, Page 266), imposed a restriction of one-eighth Choctaw blood necessary to acquiring citizenship in the nation. Section 4 significantly provided: "That this act shall not be construed to affect persons within the limits of the Choctaw Nation, now enjoying the rights of citizenship," thus showing that persons of Choctaw descent entitled to be recognized as citizens, but not yet recognized formally by the council, or admitted to the rolls, were residing in the nation, "enjoying" and entitled to enjoy "the rights of citizenship." The act of October 30, 1888 (ib., 227), constituted a tribunal for citizenship, by a committee of the general council, and still recognized that satisfactory proof of Choctaw descent and residence in the nation entitled an applicant to full recognition as a Choctaw citizen. The second section of this act provided:

It is hereby made the duty of the sheriff of each county in this nation to ascertain the number and names of persons, or parties in their respective counties, who claim Choctaw rights, by blood or otherwise, and who have never established the same in accordance with the laws of this nation, and report the same to the principal chief immediately. Every such person living in this nation and claiming to be a citizen by blood or otherwise, after having been duly notified thereof by the sheriff, or other authorized person, shall be deemed and considered an intruder, and shall be removed beyond the limits of the nation forthwith, by the Principal Chief.

-8-

An act of the same day (ib., 288,) made the action of the council upon application for citizenship final. This act, however, did not deny the right of an absentee Choctaw to acquire citizenship by taking up residence in the nation, but made the council the final tribunal upon the sufficiency of proof.

As late as December 24, 1889, the Choctaw general council memorialized Congress by a resolution that:

Whereas there are large numbers of Choctaws yet in the States of Mississippi and Louisiana who are entitled to all the rights and privileges of citizenship in the Choctaw Nation; and

Whereas they are denied all rights of citizenship in said States; and

Whereas they are denied all rights of citizenship in said states; and

Whereas they are too poor to immigrate themselves into the Choctaw Nation; therefore

Be it resolved by the general council of the Choctaw Nation assembled: That the United States Government is hereby requested to make provisions for the emigration of said Choctaws from said States to the Choctaw Nation.

This policy was maintained. By acts of April 8, April 9, and October 27, 1891, Mrs. Anna Boyd, and others, Cornelius Hickman and others, and Henry Lewis, Mississippi Choctaws, late arrivals, were simply "recognized" by resolution of the council as citizens (Laws, 1896, pages 320, 315, 329). This form "de-

clared " or "recognized" by resolution of the council as citizens, rather than "admitted," was the usual one and was used in the acts declaring Mrs. Mayo and family, Joseph R. Plummer, Caroline Hazel and others, and Lucy Dodson and others, entitled to citizenship (Laws 1883, pages 14, 35, 45, 54). It was always regarded as a matter of right of such persons, not of grace or grant in the nature of adoption, admission, or naturalization of an alien. This policy seems not to have been abandoned until October 16, 1895, when the council adopted the resolution (Laws, 1896, page 4), that:

Be it resolved, by the General Council of the Choctaw Nation assembled, that all parties who claim citizenship to the Choctaw Nation, and intend proving the same, are hereby notified that they must file their petitions as the law directs on or before November 15th, 1895, as after said date no petitions will be entertained by the Choctaw Nation, and all parties who have their petitions filed are hereby notified that they must come forward and prosecute the same at once.

September 18, 1896 (ib., page 43), an act was passed by the Choctaw Council for appointment by the principal chief of three citizens by blood as a commission to proceed within the ten days after its passage "to enroll all recognized citizens of the Choctaw Nation," and section 3 provided:

Be it further enacted, that the rolls when completed by said Commissioners shall be certified to by said Commissioners and delivered to the Principal Chief of the Choctaw Nation

on or before the twentieth day of October, 1896, to be revised and approved by the next General Council of the Choctaw Nation.

Such a roll was made and prepared by the commission and is known as the 1896 census roll. There was another roll of 1896, known as the "Complete" or "Revised Census Roll," of which the principal chief, Choctaw Nation, August 17, 1897, wrote the commission that "the revised roll which I recently furnished your commission is the only roll made by this nation that contains the names of intermarried citizens." It was made under resolution of the general council, October 30, 1896, which (Laws 1896, page 73), constituted a commission of five persons to prepare "A complete Roll" of the nation. It was furnished sundry rolls, and among others the roll made out by the commissioners under the act of September 18, 1896, from which they were authorized "to expurge" "the names of all persons whom they shall adjudge not to be citizens." They were directed to enroll nine general classes of persons, which, so far as here material, were "Choctaws by blood born and raised in the Choctaw Nation. All Choctaws by blood who have been admitted to citizenship by the General Council and now residents of the Nation." They were "especially prohibited from enrolling" eight classes of persons, the 7th, and only one here material, being "all persons who have applied for citizenship and have not been accepted by the General Council." The act provided that:

All persons coming under any of the prohibitions are hereby declared non-citizens and not entitled to the rights or privileges of citizens of the Choctaw Nation.

This roll when completed, signed by the chief commissioners, and approved by the principal chief, was to be the legal and authorized roll of citizens of the nation. In his letter of July 17, 1897, to the commission, the principal chief stated that he had refused to approve the last roll made under the act of October 30, 1896, because he was satisfied that there are some names thereon "that have been registered through fraud or misrepresentation."

Upon which of the two rolls of 1896 applicants' names appear is not clearly shown by the commission, but the testimony of Simon E. Lewis, "a member of the Choctaw Commission," taken before the Dawes Commission, December 4, 1900, is that he put the applicants on the roll, that--

Governor McCurtain ordered me to put them on there, and that is how they got on there, under orders from the governor in January, 1897, in revising the roll.

I therefore infer that by "the 1896 Choctaw census roll," mentioned in its decision, the Dawes Commission intended to indicate the roll prepared under the act of October 30, 1896, which the governor refused to approve, and not that known as the census roll of 1896, prepared under the act of September 18. While the governor did not approve this complete or revised roll, his dissent to, or doubt of, its accuracy had no reference to the names he directed to be thereon inscribed.

The view taken by the United States courts for Indian Territory, acting on cases appealed from decisions of the Dawes Commission in citizenship cases under the act of June 10, 1896 (29 Stat., 321, 339), was that (1) Mississippi (or absentee) Choctaws whose ancestors or themselves had never removed to the nation were not entitled to be enrolled, but (2) that one who had theretofore actually removed to the nation was entitled to be enrolled as a citizen, with all rights except that those who had taken benefit of the 14th article of the treaty of September 27, 1830 (7 Stat., 333, 335), were excluded from sharing in annuities. Jack Amos et al, (Ann. Rep. Com. Indian Affairs, 1898, page 459); E. J. Horne (ib., page 465); general summary (ib., 473). The court in Jack Amos, supra, expressed the opinion (ib., page 114,) that:

As an evidence that the Choctaw people themselves took this view of the question, attention is called to the fact that their council passed many acts and resolutions inviting these absent Choctaws to move into their country and on one occasion appropriated a considerable sum of money; and, until the past two or three years, have always promptly placed those who did return on the rolls of citizenship, but never enrolled an absent Choctaw as a citizen.....(page 116) The reason for this conclusion is to my mind morally certain when it is remembered that ever since the treaty of 1830, now for a period of nearly sixty-seven years, with the exception of the past two or three years, the Choctaw Nation, by its legislative enactments, and by its acts so long continued, that by custom they have become

-13-

crystallized into law, have universally admitted all who should remove and rehabilitate them in all the rights and privileges of citizenship enjoyed by themselves.

On the other hand, in the case of Mrs. A. O. Mallory and others, November 28, 1904, wherein a Choctaw, born in 1843 in Mississippi, living there till 1894, removed to the nation and had thereafter resided therein, the Choctaw-Chickasaw citizenship court held that the treaty of 1830 imposed an obligation to remove from the State upon all who did not claim benefit of the 14th article, and that such removal must have been "within a reasonable time." What was a reasonable time was not defined, but it was held that removal in 1894 was not within a reasonable time, and enrollment was denied. Judicial constructions are thus at variance. Of the two, the first appears the better reason and supported by the historic facts.

The only limitation imposed by Congress and the laws of the United States is the provision of the act of June 28, 1898 (30 Stat., 495, 503), that "No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship." So far as a bar is raised by the laws of the United States, it is sufficient if a claimant to citizenship in the Five Civilized Tribes removed to and permanently settled in the Indian tribe wherein he claims to be enrolled prior to June 28, 1898.

Subject to the power of Congress, the Indian nations are self-governing communities, entitled to control, and manage their own internal affairs, such as their citizenship, rules

of descent, revenue and criminal procedure. Roff v. Burney (168 U.S., 218, 222); Citizenship Cases, U.S. Courts Indian Territory (Annual Report Commissioner of Indian Affairs, 1898, pages 473, 499, 525); Jones v. Mehan (175 U.S., 1); Buster v. Wright, Indian Inspector, Sanborn, J., Eighth Circuit, March 7, 1895); Talton v. Mayes (163 U.S., 376, 385); United States v. Kagama (118 U.S., 375, 381). Except as above limited it is wholly a matter of Choctaw law when a Choctaw by blood became separated from the nation and lost right to reunite himself to it. Congress so directed the commission, and by the act of June 10, 1896 (29 Stat., 321, 339), provided:

That in determining all such applications said commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of each of said nations or tribes.

As the Choctaw Nation up to November 15, 1895, was continually inviting the absentees to reunite themselves with its body and accept its citizenship and the applicants accepted that invitation and permanently located in the nation, it was their right under the act of 1896, supra, to be enrolled by the Commission to the Five Civilized Tribes, or by "the legally constituted court or committee designated" by the tribe, if they made application therefor within three months from the passage of the act. By the usages and customs of the Choctaw Nation of

-15-

sixty years standing, "crystallized into law," they were entitled to be "recognized" as its citizens. This enrollement was not an admission to citizenship, but merely the recognition of citizenship existing.

Application was made to the Commission to the Five Civilized Tribes, June 14, 1899. Upon the record the Commission found:

that none of the applicants herein has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation or by the Commission to the Five Civilized Tribes or by a decree of the United States Court in Indian Territory, under the provisions of the act of Congress approved June 10, 1896 (29 Stat., 321), nor does the name of any of the applicants appear upon any of the tribal rolls of the Choctaw Nation, with the exception of the 1896 Choctaw Census Roll, which enrollment, it is contended, was without authority of law.

It further appears from the record herein that in October, 1896, the applicants made application to the General Council of the Choctaw Nation for admission to citizenship in said nation and that no action, by the said General Council, was ever taken upon said application.

It further appears from the record herein that in December (September or October), 1896, application was made to the so-called Revisory Board, appointed under an act of the General Council of the Choctaw Nation approved October 30, 1896,

866

-16-

for the enrollment of the applicants herein as citizens of the Choctaw Nation, and that the applicants herein, James S. Long, Joseph Long, Forbis Long, and Lula F. Long (as Lula Long) were by said Revisory Board enrolled upon the 1896 Choctaw Census Roll, Sans Bois County, numbers 7704, 7701, 7702 and 7703, respectively. Said Revisory Board had no legal existence, having been created subsequent to September 10, 1896, the time when the jurisdiction of the Choctaw Nation to receive applications for enrollment as citizens of that tribe expired, as provided by the act of Congress approved June 10, 1896 (29 Stat., 321), and had no authority to receive or consider the application of these applicants for enrollment as citizens of the Choctaw Nation prior to enroll them upon the 1896 Choctaw Census Roll.

X X X X X X X X X

Section twenty-one of the act of Congress approved June 28, 1898 (30 Stat., 495), provides that:

"Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only 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 Choctaw and chickasaw citizenship under the treaties and the laws of said tribes."

It is, therefore, the opinion of this Commission that the names of the applicants, James S. Long, Joseph Long, Forbis

Long and Lula F. Long (as Lula Long), were placed upon the 1896 choctaw census roll without authority of law and should be eliminated and stricken therefrom.

I am of opinion that the commission erred in its application of the law to the facts. As above shown, until November 15, 1895, the usage and custom of the Choctaw Nation for more than sixty years was to recognize absentee Choctaws upon their removal to and permanent settlement in the nation. No admission to citizenship was by the usage of that tribe necessary. When applicants removed to the nation in 1894 they thereby became citizens. The council could not by prohibiting its committee from enrolling a class of citizens for no cause except its own non-action decitizenize them unheard. Were that its intent I would have no hesitation in saying that such arbitrary action was beyond its power and in clear violation of section 11 of the bill of rights of the Choctaw constitution as an attempt to outlaw or deprive a class of citizens of their liberties and privileges unheard.

But a more appropriate and proper construction of the 7th prohibiting clause in the act of October 30, 1896, above quoted, is that it was intended to apply to cases of non-citizens who had applied for admission or adoption into the nation, and whose claims had been heard and found to be unfounded and whose claims had been rejected. So construed, the prohibition was a proper exercise of legislative power, but had no application to those who by tribal usage became citizens by reuniting with the nation in 1894. In putting the omitted names of such

-18-

persons on the roll the revisory board, and the governor in so advising, were acting properly and within their powers. I am therefore of opinion that applicants were not enrolled without authority of law, and certainly not by fraud, and the commission erred in denying their enrollment.

The letter of reference also states that heretofore--

The Department has proceeded upon the theory that the Commission was granted authority sufficient to vest in it jurisdiction to determine, upon their merits, the citizenship rights of all applicants whose names appear upon the tribal rolls, including the Choctaw census roll of 1896.....Your opinion is accordingly requested as to whether the course pursued by the Department in such cases, where no fraud is shown, has been taken in accordance with law.

I am of opinion that such is a proper construction of the act which makes the rolls the basis of the Commission's jurisdiction and enrollment without authority of law or by fraud the only ground for exclusion of one who is enrolled.

Very respectfully,

Frank L. Campbell

Asst. Attorney-General.

Approved: February 18, 1906.

E.A.Hitchcock.
Secretary.

Endorsed) Union Agency # 866. Received February 19, 1906.
Relative to opinion of Assistant Attorney General in regard to
Long Case. Mississippi Choctaw enrollment.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D.4008-1906.

March 12, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

On January 5, 1906, you submitted a report in the matter of the application of the town of Atoka, Choctaw Nation, Ind.T., for the approval of an issuance of bonds by said town in the sum of \$30,000, for the construction of a waterworks system.

On August 20, 1904, the Department approved an issue of bonds for school purposes at this town in the sum of \$12,000.

It appears that Atoka is a municipal corporation with a population, according to the last school census, of 1,461. The value of the taxable property, according to the last assessment for the purpose of taxation, was \$431,928. The total bonded indebtedness of this town, including the \$30,000 now desired to be issued, will be \$42,000. The interest on a bond issue of \$42,000 at 5 per cent per annum would amount to \$2,100. A tax of 5 mills on the dollar on the value of the taxable property, which is shown by the papers to be \$431,928, would provide a revenue of \$2,159,64. It appears, therefore, that the amount of bonds desired to be issued by this town comes within the usual limitation in cases of this kind.

You recommend that the issuance of bonds by said town of Atoka in the sum of \$30,000 for the construction of a waterworks system be approved.

The Acting Commissioner of Indian Affairs concurs in your recommendation. A copy of his letter is inclosed.

There appears to be no reason why this issue of bonds should not be approved. The application for the issue of bonds by the town of Atoka in the sum of \$30,000 for the construction of waterworks, as authorized by section 55 of the act of July 1, 1902, is hereby approved.

Respectfully,

Thos. Ryan

1 inclosure.

First Assistant Secretary.

(Endorsed) Union Agency No.13642.Received March 17,1906.Office of U. S. Indian Inspector for Indian Territory.Washington, March 12, 1906.Secretary-----Approves issuance of bonds in the sum of \$30,000 for the construction of a water-works system by the town of Atoka, Choctaw Nation.

WHEELOCK,

Clyde H. Bushnell, Superintendent.

Parsons, I.T.,

March 13, 1906.

Mr. John D. Benedict.

Supt. Schools, Ind. Ter.

Dear Mr. Benedict:-

School is now in session with one hundred and one girls in the school room and everything running along smoothly.

The uncertainty of school prior to March 4th, did not interfere with us, as we continued school at this time with full enrollment which was very pleasing considering the uneasiness felt at that time.

As I am interested a little at Valliant and we are trying to secure this place as a payment site for the coming Choctaw payment for this part of the Nation, if not a breach of official courtesy, would you kindly interview Mr. Dana H. Kelsey along this line and advise me how he feels toward same. I hope soon to see you at Wheelock and would like to talk to you concerning school prospects for the coming year, relative to supplying next year's wood.

Thanking you I am,

Yours respectfully,

Clide H. Bushnell.

(Endorsed) Union Agency No.3 Clide H. Bushnell to John Benedict, asking him to interview Mr. Kelsey towards securing Valliant for the coming Choctaw payment for this part of the nation.----

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

I.T.D. 4492-1906.
5050- "

March 28, 1906.

The United States Indian Inspector
for Indian Territory, Muskogee, Ind. T.

Sir:

March 10, 1906, you submitted with favorable recommendation the application of the town of South McAlester, Indian Territory, requesting the Department to approve the issuance of bonds by such town in the sum of \$125,000 for the construction of school houses under the provisions of section 55 of the act of July 1, 1902 (32 Stat., 641).

March 14, 1906, submitting the matter, the Indian Office concurs in your recommendation. As it states the petition is accompanied by the customary record.

It appears that South McAlester has a population, according to the last school census, of 5,814, and that the value of the taxable property, according to the last assessment for the purpose of taxation, is \$3,370,000.50. The Department held, in passing upon a similar case in the town of Chickasha, in a communication of August 4, 1903, that the limitations prescribed by section 1 of the act of May 19, 1902 (32 Stat., 200), were still in force in towns having a population of 2,000 or more in the Choctaw and Chickasaw Nations.

The town of South McAlester has heretofore issued bonds in accordance with the act of July 1, 1902, in the sum of \$150,000 for water works. With the proposed bonds the total bonded indebted-

edness of the town would be \$275,000. The act of May 19, 1902, limiting the amount of bonds that can be issued by towns having a population of 2,000 or more, provides:

"Such bonds not to exceed an amount, the interest on which, at five percentum per annum would be liquidated by a tax of five mills on the dollar on the valuation of the taxable property in said city or town, to be ascertained by the last assessment for the purpose of taxation."

The interest on \$275,000 at five percentum per annum will amount to \$13,750. A tax of five mills on the dollar of the valuation of the taxable property, \$3,370,000.50, will provide a revenue of \$16,850.25. It is shown that at an election held August 3, 1905, 731 votes were cast in favor of the issuance of the bonds in question and 23 against it.

Concurring in your recommendation, the town of South McAlester is authorized to issue bonds in the sum of \$125,000 for the construction of school houses, as provided in the act of July 1, 1902. A copy of the Indian Office letter is inclosed.

Respectfully,

Thos. Ryan.
Acting Secretary.

1 inclosure.

(Endorsed) Union Agency # 13788 Received Apr. 4, 1906. Office of of U.S. Indian Inspector for Indian Territory. Washington, March 28. 1906. Secretary. Authorizes issuance(Sic) of bonds in sum of \$125,000 by the town of South McAlester for the construction of schoolhouses.

April 2, 1906.

Honorable Dana H. Kelsey,
U.S. Indian Agent,
Muskogee, I.T.

I am pleas (Sic) to ask you to advisise (Sic) me if
their (Sic) is anny (Sic) opning (Sic) to work for the agency as
indian police at Bryant, I.T. I feal (Sic) that I am kabybel (Sic)
for that office (Sic) and if this propersiction (Sic) soots (Sic)
you wood (Sic) it be best to have a petishion (Sic).

Pleas (Sic) write me what steps to take in this matter.

Yours respecfully (Sic)

Cash W. Beames,
(Choctaw) Bryant, I.T.

(Endorsed) Union Agency No. 102 Received Apr. 2, 1906 Office of U.S.
Indian Agent, Muskogee, Ind. Ter. Cash W. Beames, Bryant, I.T. ---- Makes
application for position as Indian Policeman. ----

April 20th, 1906.

J. George Wright,
U.S. Indian Inspector,
Muskogee, I.T.

Dear Sir:-

In reference to the money deposited in the Citizens Bank to your credit, at Wilburton, I.T., subject to the approval of the Schooler Brothers,

I called on the Cashier of the Citizens National Bank, and he refused to pay the order that you gave me, for the reasons that I had no order from the Schooler Brothers.

With reference to the construction of the exchanges by the Schooler Brothers, at Hugo, I.T. and Antlers, I.T. and Wilburton, I.T., I called on Mr. Schooler at Antlers, I.T. who now is employed by the Pioneer Telephone & Telegraph Company, but was not connected in any way with his brothers at the time these exchanges were built, but he gave me the information to his best knowledge that the exchange at Hugo, I.T. went into operation about September 1st, 1902, and contained seventy poles. The exchange at Antlers, I.T. was constructed about November 5th, 1903, sixty poles. The exchange at Wilburton I.T. was constructed about May 1st, 1904, and contained seventy five poles. These exchanges were only owned a short time by the Schooler Brothers, and are now operated by the Pioneer Telephone & Telegraph Company.

Yours respectfully,

A.A. Montee.

-2-

(Endorsed) Union Agency No.55145 Received Apr.21,1906 Office of
U.S.Indian Inspector for Indian Territory, Apr.20,1906.A.A.Montee--
--Relative certain exchanges and dates of construction built by
Schooler Bros., now owned and operated by Pioneer T. & T. Co.----

436
Haileyville, I.T.
May 25, 1906

To the United States Indian Agent, Kelsey:

Dear Sir:

Your petitioner Mr. B. J. Haklotubbee respectfully makes application under the law. I am a citizen of the Choctaw Nation. I am full blood Indian. My age is 25. I attended school for 2 years and 4 months and now I am going ask you question today. But I want knowing you have some more places to appoint me a deputy police with headquarters at Higgins, I.T. 13 miles south east of Haileyville, I.T. Higgins is little village, post office and store and good many neighborhood (Sic). Please let me hear you at once.

From you respectfully

Mr. B. J. Haklotubbee,

Haileyville, I.T.

S A N S B O I S C O A L C O .

MINES & COKE OVENS
McCURTAIN, I.T.W.E.Crane,
Vice-president.

Fort Smith, Ark.

June 12, 1906.

1601

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

Dear Sir:-

Your letter of May 31st to the Sans Bois Coal Company at South McAlester has just reached me at Fort Smith.

The Superintendent of our coal mines at McCurtain advises that he does not know of but one pole having been moved, and he thinks this was moved by the Telephone people at the request of the Engineer in charge of our coke oven construction.

I hope the matter will be adjusted satisfactory to the Telephone Company. We certainly are constructing our coke ovens in accordance with our charter, and do not think that it in any way interferes with the Telephone Company's line.

Yours truly,
W.E.Crane
VICE-PRESIDENT.

(Endorsed) Union Agency # 56509 Received Jun. 13, 1906. Office of U.S. Indian Inspector for Indian Territory. Fort Smith, Ark., June 12, 1906. Sans Bois Coal Co. W.E.Crane, V. Pres. In reference to whether their company has interfered with the telephone company.

SANS BOIS COAL COMPANY
Mines and Coke Ovens
McCurtain, I.T.

W.E.Crane,
Vice-President

Fort Smith, Ark.,
June 20, 1906
1601

Mr. J. George Wright,
United States Indian Inspector,
Muskogee, I. T.

Dear Sir:-

With further reference to your letter of May 31st and my reply of June 12th: Please note the enclosed letter from the Engineer in charge of our coke oven construction.

I also had this matter up with Mr. C. C. Woodson, our former Superintendent, who was in charge of the building of the first 102 coke ovens, who advises as follows:

"Replying to your letter of the 16th, will state that I do not remember anything about moving any telephone poles, and I do not think we did. It may be however that Weakland removed them. I remember that one of the telephone men was at the coke ovens one day and he and I talked the matter over, but it seems that their wires were not in the way of the first battery of coke ovens built. I am quite certain that if the poles were moved that due notice to that effect was given, and I am quite certain Mr. Weakland would not have moved them without some authority.

(signed) C.C.Woodson."

The battery of coke ovens now consists of 204 ovens, and I

-2-

hardly think Mr. Noble would want his telephone line constructed over these ovens on account of the intense heat arising from them. His telephone line is unbroken, and if he can suggest any improvement in its present location and will send a man over, we will have our representative work with him in harmony.

Yours truly,

W.E.Crane

Vice President.

cc-Mr. Noble.

(Endorsed) Union Agency No.56732 Received Jun.22,1906 Office of U.S.Indian Inspector for Indian Territory.Fort Smith,Ark., June 20, 1906. SANS BOIS COAL COMPANY, W. E. Crane, V-Pres.-----Enc. letter from E. D. Worthington, Chf. Eng'r in ref. to certain telephone poles over coke ovens having been moved.-----

440

FORT SMITH & WESTERN RAILROAD COMPANY
Maintenance of Way Department.

B.F. Beckman
Engineer, M. of W.

Fort Smith, Ark.,
June 20th, 1906.

Mr. W. E. Crane, Vice Pres't.,
Sans Bois Coal Co., Building.

Dear Sir:

In answer to your inquiries regarding the moving of telephone poles at the coke plant, I will say that there was but one pole moved. This was at the west end of the plant Battery No. 2 and on the south track location.

Shortly after starting the construction work I took the matter up with the central at McCurtain who stated that she would call up the officials of the Telephone Co. and advise me of what action should be taken on the matter. Having received no word in about two months I asked Central at McCurtain to call up the officials again and advise me what would be done. After waiting several days without a reply I ordered the contractor to move the pole to one side without disconnecting the line, which was done. The expense for moving the pole was so small that the contractor made no charge for it.

I waited for word from the Telephone Co. as long as I could without delaying our work.

I do not know anything in regard to moving of poles for

-2-

the first battery of ovens.

Yours truly,

E.D. Worthington

Cons't. Engnr.

P I O N E E R T E L E P H O N E & T E L E G R A P H C O .

Right-of-way: McCurtain.

Oklahoma City, Oklahoma.

June 27, 1906.

Honorable J. George Wright, Indian Inspector,
Muskogee, Indian Territory.

Dear Sir:-

I have your letter of June 22nd, relative to the trouble we have had with the Sans Boise Coal Company at McCurtain, and wish to thank you for the interest you have taken in the matter. What we desire is a right-of-way through the town, and one which can be disputed in no way by the Coal Company, nor any one else, and I do not feel that at present we have such a right-of-way unless the Sans Boise Coal Company or the Fort Smith and Western Railroad Company has an unlimited right-of-way at that point, and will give us an easement to the location of our present toll lead.

It would, of course, not be advisable to string our wires over the Coke ovens, but I would like very much to have some understanding as to where our pole line will be left by the Coal and Coke Company.

Yours truly,

John M. Noble.
General Manager.

-2-

(Endorsed) Union Agency # 56855 Received June 28, 1906. Office of U.S. Indian Inspector for Indian Territory. Oklahoma City, Oklahoma, June 27, 1906. Pioneer Telephone and Telegraph Company In reference to right-of-way at McCurtain, I.T.

444
S A N S B O I S C O A L C O .
MINES AND COKE OVEN
McCURTAIN. I.T.

Fort Smith, Ark.

June 29, 1906.

1601-

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

Muskogee, I.T.

Dear Sir:

Referring to your letter of June 26th; will say that hereafter we will take the matter up with the Telephone Company before moving their line. Since writing you before I have learned that it is impossible to get anything in the way of information from them; they delayed us in the last instance four or five days, and we never did get a reply from them when the one pole was moved. However should occasion require, I will take the matter up with them direct from this office.

Yours truly,

W. E. Crane

VICE-PRESIDENT

(Endorsed) Union Agency # 56914 Received July 2, 1906. Office of U.S. Indian Inspector for Indian Territory. Ft. Smith, Ark., June 29, 1906. SANS BOIS COAL COMPANY. In reference to their having moved telephone pole.

445
Muskogee, I.T.
108 North Second St.

58 KS UF BN 17 paid Govt.

Washington, D. C. Aug. 1st-06.

Wright Inspector,

Muskogee, I.T.

Bond issue by town of McAllister approved this day.

Thos. Ryan Acting Secy.
3:54 PM.

(Endorsed) Union Agency # 14844 Received Aug. 2, 1906. Office of U.S. Indian Inspector for Indian Territory. Washington, D.C Aug. 1, 1906. Secretary. Wires: Bond issue by town of McAlester approved. Telegram.

446

DEPARTMENT OF THE INTERIOR,
Washington.

I.T.D.12910-1906.

August 1, 1906.

United States Indian Inspector

for Indian Territory, Muskogee, Ind. T.

Sir:

On July 13, 1906, you transmitted a petition of the town of McAlester, Choctaw Nation, Ind. T., requesting the Department to approve the issuance of bonds by said town in the sum of \$175,000 for the construction of schoolhouses, and \$25,000 for the construction of waterworks and sewers.

You recommend the approval of the application for the issuance of bonds in the sums requested.

Reporting July 25, 1906 (Land 61449), the Indian Office concurs in your recommendation. A copy of its letter is inclosed.

The records of the Department show that on January 20, 1903, the application of the town of South McAlester, Ind. T., was approved for the issuance of bonds in the sum of \$150,000 for waterworks purposes, and that on March 28, 1906, the application by said town was also approved for the issuance of bonds in the sum of \$125,000 for the construction of schoolhouses.

In the application for the present issue of bonds submitted by the mayor, he states that the city of South McAlester on August 3, 1905, voted for the issuance of \$175,000 in bonds for the building of schoolhouses, and calls attention to the act of Congress approved March 29, 1906 (Public No. 72), author-

izing the consolidation of the cities of South McAlester, Ind.T., and McAlester, Ind. T. He also says that just prior to the passage of this act by Congress the Department approved the record based upon said election, and before any action could be taken under said approval, the merger act was passed and the election of August 3, 1905, was thereby invalidated. It appears therefore that the issuance of bonds now under consideration is in lieu of the former action approved March 28, 1906.

The Department is in receipt of a telegram from Inspector Wright dated July 30, 1906, in which he states that no bonds whatever have been issued by the towns of McAlester or South McAlester under departmental authority of March 28, 1906.

It appears that the present issue of bonds now desired to be made in the sum of \$200,000, added to the bonds heretofore issued by the town of South McAlester in the sum of \$150,000 for waterworks, under departmental authority dated January 20, 1903, will make a total bonded indebtedness for the town of McAlester amounting to \$350,000. The interest on these bonds at 5 per cent per annum would amount to \$17,500. The taxable property of McAlester is shown by the record to be valued at \$4,114,425, and a tax of 5 mills on the dollar on the value of the taxable property would provide a revenue of \$20,572.13, which is ample to care for the indebtedness desired to be assumed.

Your attention is called to the fact that the record contains no certificate of the returns of the election held May 19, 1906, in reference to the issuance of these bonds. The application signed by the mayor of McAlester states that said election was carried by more than two-thirds majority, as shown by the certificate of the clerk of the United States court attached to

the record. This certificate is not with the record. The Department considers that this informality is immaterial, in view of an approved decision of the Assistant Attorney-General dated January 7, 1903, relative to the issuance of bonds by the town of South McAlester. Referring to section 55 of the Choctaw and Chickasaw agreement, under which the authority for this bond issue is requested, it is stated that--

"It is not required, nor does the language used justify the inference that it was contemplated, that the Secretary shall examine, supervise, and approve each and every step in the proceedings connected with such issue of bonds. The duty of determining whether the requirements of the law in respect thereof have been duly complied with does not devolve upon him. It is sufficient for him to ascertain whether any corporation which applies for his approval comes within the purview of the law, has the requisite population and taxable property for the issuance of bonds in the amount proposed, and that such issue would work to the best interests of the people."

The town of McAlester is shown to be well able to support a bonded indebtedness of \$350,000, and the public improvements desired are shown to be necessary. The authority granted by the Department on March 28, 1906, for the issuance of bonds by the town of South McAlester in the sum of \$125,000 for the construction of schoolhouses is hereby rescinded, and under the provisions of section 55 of the act of July 1, 1902 (32 Stat., 641), authority is granted for the issuance of bonds by the town of

-4-

McAlester in the sum of \$175,000 for the construction of school-houses and \$25,000 for the construction of waterworks and sewers.

Respectfully,

Thos. Ryan

Acting Secretary.

1 inclosure.

(Endorsed) Union Agency No. 14881 Received Aug. 9, 1906 Office of U.S. Indian Inspector for Indian Territory. Washington, D.C. Aug. 1, 1906. Secretary.-----Approves bond issue by McAlester, I.T. \$175,000 for school houses; \$25,000 waterworks and sewers.-----

450

D E P A R T M E N T O F T H E I N T E R I O R.
United States Indian Service,

UNION AGENCY,

Oskaloosa, Ia., Aug. 8, 1906.

Hon. Secretary of the Interior,

Washington, D.C.

Sir:

Referring to my conversation with the Honorable Thomas Ryan, Asst. Secretary, while in Washington, relative to the system of grafting now in force in the Indian Territory, I have the honor to invite your attention to the case of Amy Watson, widow,-- husband's name Rampsey Watson, deceased. This widow does not even know of the appointment of guardian for children. Two guardians have been appointed for one child, viz. James E. Martin for Sallie Ann and Lena Watson and Henry Sanguin for Sallie Ann Watson. The mother drew all the money herself at last payment.

She has two other children, Clistie and Sophie, for whom P.C. Dings of Ardmore is guardian. Mother knows nothing of the lands of the children nor her own,--her husband having located same before he died. He died some two years ago since which she has no rentals. She has to provide for all the children food and raiment.

Williamson Noahobi, Bethel, Ind. Territory, is another victim. He has three children for whom Henry L. Sanguin, who is an employee of the Southern Trust Co. of Atoka, is guardian. Sanguin was arbitrarily appointed by court without any notice to

-2-

interested parties and they have no knowledge whatever of the appointment, and have received no benefit whatever as proceeds from these guardianships.

Nancy J. Taylor appears to be another victim of Henry L. Sanguin, guardian, who received forty dollars of the payment of 1904 and paid to her ten dollars claiming that commission, legal advice et., too, the thirty dollars. This statement is corroborated by Thomas J. Watson, Smithville, Ind. Territory, who raised Nancy J. Taylor.

Peter Johnson and Lucy Johnson, his wife, P. O. address, Smithville and Ludlow, claim they did not receive townsite money of 1904. Records of said payment show the shares of these parties to have been paid to William M. Bonner of Ardmore, as Curator. They do not know Bonner nor anything about him. Mr. Johnson seems to be entirely competent to do his own business, especially to care for his small receipts (Sic) like townsite payments. Mullen sends him this money for rents of allotments and they get twenty eight dollars quarterly. Mullen, Mullen and Mullen, father and two sons appear to be a law firm at Ardmore. Johnson says he never signed any paper for anybody to draw any money or for any appointment.

Very respectfully,

Your obedient servant,
CYRUS BEEDE,

U.S. Indian Inspector.

UNITED STATES COURT,

CENTRAL DISTRICT, INDIAN TERRITORY,

58440

Atoka, Ind. Ter.

September 5, 1906.

Mr. J. George Wright,

U.S. Indian Inspector,

Muskogee, I.T.

Dear Sir:-

Yours of the 4th inst. enclosing a letter from Mr. Cyrus Beede, U.S. Indian Inspector, to the Secretary of the Interior has been received by me. I notice in the Inspector's letter that two guardians have been appointed for the same wards in one instance, and that P.C. Dings of Ardmore is guardian of minors supposed to **live** in my district. Also mention made that Henry L. Sanguin was appointed guardian of Williamson Noahobi, of Bethel, Ind. Ter. arbitrarily.

I beg to say that these matters will receive my prompt attention. As you are aware, the judges of the Southern District have heretofore appointed guardians of minors living in my jurisdiction, but I have remonstrated so often against it and have written to the the Interior Department about it that I think that practice has ceased. But these appointments no doubt were made during the time the judges of the Southern District appointed guardians of the children in my district.

As to Sanguin being arbitrarily appointed, I presume that

-2-

was one of the cases where one Waldock had been appointed and was removed by me and at the request of McCurtain-Sanguin and Hudson were appointed in order that the allotments could be promptly made. However, when I look this matter up I will write you again.

It would be very much appreciated if I could have the assistance of one of your men at Antlers, as I have no authority to pay expenses, and if I could get one of your men, as I have in the past on several occasions, assist me where the expense can be provided for under your department, I think it would be greatly in the interest of justice.

Respectfully Yours,

Thomas C. Humphry.

Judge.

(Endorsed) Union Agency # 15041 Received Aug. 23, 1906. Office of U.S. Indian Inspector for Indian Territory. Washington, Aug. 21, 1906. Secretary. Refers for Report, letter of Cyrus Beede, U.S. Indian Inspector of Oskaloosa, Ia., rel. the system of grafting now in force in the Ind.Ter.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

I.T.D. 7412-1906.

September 27, 1906.

The United States Indian Inspector
for Indian Territory,
Muskogee, Indian Territory.

Sir:

On April 10, 1906, you transmitted a report in the matter of the application of the Poteau Telephone Company to maintain and operate telephone exchanges within the incorporated towns of Poteau, Heavener and Wister, Choctaw Nation, Indian Territory.

In view of the opinion of the Assistant Attorney-General for this Department, dated and approved June 9, 1906, it does not appear that the Secretary of the Interior is authorized to grant rights-of-way for the construction of telephone lines within incorporated cities and towns in the Indian Territory after the approval of the townsite plat, and damages can not be assessed against said lines subsequent to such approval. For this reason no action would appear to be proper in regard to the exchanges in Heavener and Wister, but further consideration should be given to the exchange at Poteau.

The maps and papers submitted by you, together with the drafts aggregating \$33.96, are returned, and you are requested to submit a report in reference to the exchange in the town in

-2-

question in accordance with said opinion.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

11 enclosures.

(Endorsed) Union Agency # 15617 Received Oct. 8, 1906. Office of U.S. Indian Inspector for Indian Territory. Washington, Sept. 27, 1906. Secretary. Rel. application of the Poteau Telephone Co. to maintain and operate exchanges in the towns of Poteau, Heavener and Wister, Choctaw Nation, I.T.

456

DEPARTMENT OF THE INTERIOR.
UNITED STATES INDIAN SERVICE.
UNION AGENCY.

MUSKOGEE, IND. T.,

October 26, 1906.

Mr. J. George Wright,
U.S. Indian Inspector,
Muskogee, I.T.

Sir:

I have yours of the 24th instant enclosing a communication from Honorable Green McCurtain, Principal Chief of the Choctaw Nation, and note what he says with reference to my examination of the records of Treasurer Scott, and am surprised that he does not understand that Mr. Scott persistently refused me access to the records and only allowed us to check off certian (Sic) payments of warrents from his annual report to the Council, which report was always in the custody of Mr. Scott's bookkeeper, and, therefore, no records consisting of cash book or check book, or anything of the kind, was ever placed in my hands for examination to any extent. It is inconceivable to me how Mr. Scott can say that any of his records were checked for he positively refused access to them and did not even tell me why he did so.

Of course you know that Act No. 50, passed by the Choctaw Council sometime last February, of which I gave you a copy, denied the Secretary's right to ask for an examination and, furthermore, instructed Treasurer Scott to refuse all in-

50575

-2-

formation "unless Congress directs."

I have not yet seen where any action has been taken by the Choctaw Council recently repealing that act, and therefore conclude that the same ban is on Mr. Scott today as it was last February.

In your letter you say "In view of this correspondence, I suggest that you immediately proceed to Kinta, Choctaw Nation, and request the Treasurer of said nation to permit you to have access to his records, and then proceed to examine the same and procure statements of outstanding indebtedness in the same manner as in the Chickasaw Nation, engaging such clerical force as may be necessary to expedite the work."

I presume you are aware that at this season of the year the nights are getting very cold and the hotel of Kinta is nothing but a barn. It was all right in summer when I was there, when we could keep the doors open at night (if we did not the wind would blow them open unless we put a chair against them) but I think that kind of a place to stop for any length of time would try even a strong man if he had been accustomed to office work.

In view of the fact that they have said nothing about permitting this examination to proceed during the months of August and September, they should not complain if our movements are a little slow at this time.

When a treasurer's records are spoken of it only means one thing-a cash book where his receipts and disbursements are entered (Sic) and his check book, or check books, according to

59575

-3-

the number of bank accounts he keeps, which show the items of expenditures. I know Mr. Scott keeps an account with the Assistant Treasurer of the United States and an account with a bank at Fort Smith. The latter he was very loath to say anything about to me, but in order to have this work done thoroughly, I suggest that he send his book-keeper to Fort Smith with these check books and there allow us, with him, to check up his bank account so that we may be able to certify to its correctness. Besides, we would have a comfortable place to work in and he should make no objection to this plan. We know all about his balance with the Assistant Treasurer at St. Louis, because we have the papers to show how much was there to his credit up to, perhaps, the latest date of deposit, and, therefore, need spend no time in that direction. What we want to know is how many warrants covering the latest dates of issue are unpaid at this time. National Auditor Hudson could send us a list of the warrants he has issued since the last statement he furnished, and certify to the correctness of it just as well as compelling us to go to Tuskahoma again and stop at the poorest hotel on earth. Mr. Hudson could meet us at Ft. Smith.

Your letter was received yesterday, but ever since I came here I have been so much under the weather that it has been difficult for me to keep out of bed, otherwise, I should have answered your letter yesterday.

Mr. Taylor left at noon today, in a hack, to visit Auditor Colbert of the Chickasaw Nation, at Fort Washita. He

-4-

had been expected here but did not come. He took the completed list of the general fund warrants with him for Mr. Colbert's signature and expects to return here tonight.

All of the papers in connection with the Choctaw warrants are in Mr. Taylor's satchel in the Agent's vault and, therefore, it will be necessary to return to Muskogee Monday morning and arrange the papers for a fresh start.

Respectfully,

James P. Foster.
SPECIAL AGENT.

(Endorsed) Union Agency # 59575 Received Oct. 29, 1906.
Office of U.S. Indian Inspector for Indian Territory. Muskogee,
I.T., Oct. 26, 1906. Jas. P. Foster, Spl. Agt. Rel. to examination of records of Treas. of Choc. Nation.

H60

DEPARTMENT OF THE INTERIOR,
Washington.

SPECIAL.

DIRECT.

I.T.D.13082-1906.

August 2, 1906.

The United States Indian Inspector
for Indian Territory, Muskogee, Ind. Ter.

Sir:

The Department is in receipt of your letter of July 30, 1906, referring to a communication from Mr. James P. Foster, Special Agent, to the Department, dated July 16, 1906, relative to action taken to compel Treasurer Scott of the Choctaw Nation to turn over his books and records for inspection.

You report having conferred with the Assistant United States Attorney in reference to procedure that could be instituted, requiring the tribal treasurer to permit the examination or produce his records, and that you had taken up the matter informally with the Hon. W. H. H. Clayton, Judge of the Central District, who was of the opinion that there was nothing in the act of April 26, 1906, which would authorize the court to issue an order upon the tribal treasurer to produce his books, nor did there seem to be any penalty for his refusing; but that in view of the pending suits against Mansfield, McMurray & Cornish and McCurtain and Hill to recover moneys paid them under acts of the Choctaw

Tribal Council, which have not been approved by the President, the court could and would require the tribal books and records to be produced at the time of the trial of said cases which would, however, not come up until the November term of court.

You further state that you have conferred with the tribal treasurer, who finally agreed to permit the Special Agent to examine his records for the purpose of ascertaining what warrants had been issued under acts approved by the President and ascertained to be valid, in order that they might be paid, and what other particular warrants ought not to be paid.

You also report that it was considered that the only action that could be taken at this time was for the Department to decline to pay any outstanding warrants which might be submitted for payment until such examination was permitted.

You also suggest that in view of the illness of Inspector Beede and of Special Agent Shepard's new appointment to the Osage country, Special Agent Foster be instructed in connection with his other duties to attend to the Choctaw-Chickasaw per capita payment, which you state he can do without detriment to said other duties.

You are advised that the Department has this day wired you as follows:

"You are directed to instruct Foster to continue investigation to fullest extent practicable, and also to attend to Choctaw-Chickasaw per capita payment instead of Shepard, as you state it will not interfere with investigation. The outstanding warrants should not be paid pending the examination.

Said telegram is hereby confirmed.

Respectfully,
Thos. Ryan
Acting Secretary.

-3-

(Endorsed) Union Agency No. 14866 Received Aug. 6, 1906 Office of U.S. Indian Inspector for Indian Territory, Washington, D.C. Aug. 2, 1906. Secretary.-----Confirms telegram of 8/2/06 directing Foster to continue certain investigations and join Choc-Chick per capita payment vice Shepard. No warrants to be paid pending investigations.-----

463
D E P A R T M E N T O F T H E I N T E R I O R .

MINING TRUSTEES
FOR
CHOCTAW & CHICKASAW NATIONS.
SOUTH McALESTER, Ind.T.

November 12, 1906.

U.S. Indian Inspector

for Indian Territory,

Muskogee, Indian Territory.

Sir:

I have the honor to respectfully call your attention to the fact that during the last quarter in checking the output of the different coal companies whose mines are on the Rock Island Railroad, the operators complain that they cannot work their mines to anything like their full capacity on account of the scarcity of railroad cars.

Practically all of them claim that they had orders for at least 40 per cent. more coal than they mined during the quarter, but that the railroad company could not furnish the cars. The records show that there was a falling off in the output during the fiscal years 1905 and 1906. Operators on Rock Island tracks claim generally that the car situation was an important factor in the curtailment of their output; and they now complain, as stated above, during the last quarter, the car situation shows no improvement.

The nations are interested in having their leased coal lands worked to the fullest possible extent. A falling off in

-2-

the output means a corresponding falling off in the royalty, and for this reason it is hoped that the car situation may show some improvement.

Respectfully,

Hampton Tucker.
TRUSTEE FOR CHOCTAW NATION.

(Endorsed) Union Agency # 59865 Received Nov. 13, 1906. Office of U.S. Indian Inspector for Indian Territory. So. McAlester, I.T., Nov. 12, 1906. MINING TRUSTEES. States the scarcity of cars on the Rock Island R.R. Affected the output of coal during last quarter.

DEPARTMENT OF THE INTERIOR,
United States Indian Service,

Hugo, Indian Territory.
December 9th, 1906.

Hon. J. Geo. Wright.

Inspector,

Muskogee, I. T.

Dear Sir:

I spent last week in the vecinity (Sic) of Heavener and Thomasville and find matters comeing (Sic) around all right. The mill men have nearly all their guardians appointed and as soon as the court makes the order they will be ready to operate again. I am summonsed (Sic) to appear at court at ANTLERS tomorrow and as soon as I am through there I will go to Bennington, I.T. to look up a complaint that came while I was away. Will report results. In the matter of the SINGER SEWING MACHINE COMPANY I had a consultation WITH THE DISTRICT ATTORNEY and informs me he will not compromise for less than \$250/00 as they have admitted that the timber is worth that amount by putting up a certified check for \$500/00 double the value of the timber.

Verry (Sic) Respectfully

Geo. W. Huckins,

Clerk.

(Endorsed) Union Agency No. 60361 Received Dec. 10, 1906 Office of U.S. Indian Inspector for Indian Territory, for Hugo, I.T. Dec. 9, 1906. Geo. W. Huckins.----Rel. to cert. timber matters.----

466

THE NATIONAL BANK OF POTEAU

Poteau, I.T.

December 17th, 1906.

Hon. J. Geo. Wright U.S. Inspector,
Muscogee Ind Ter.

Sir:

I am in receipt of your favor of the 13th, in reference to my connection with the agitation concerning the Segregated lands, and I thank you for the opportunity you give me to explain myself.

Early in the fall there was A call for the towns in the segregated district to send Delegates to A meeting to be held in McAlester for the purpose of taking steps to secure Legislation for the disposal of the surface of the segregated lands. At that meeting I was appointed one of the Committee to obtain date to present to the Senatorial Committee that was soon to meet at McAlester, and the Howe-Poteau district was assigned to me as my part of the work. At that first meeting the matter was fully discussed and it was agreed that we would as the Committee (Senatorial) to recommend the passage of A law to sell the surface of the segregated lands to actual settle in lots of not over one hundred and sixty acres, giving the people occupying the farms at the time of the passage of the law the preference right to purchase at A price to be fixed by the Government as the town lots were sold. By authority of this action of the Committee I issued the notice of which you have a copy.

At a subsequent meeting of the committee at McAlester it was agreed that in order to raise means to pay the expenses of the Committee and the expenses of a delegate to Washington, that all people living on the segregated lands should be solicited to contribute the sum of one dollar each. In pursuance of this agreement I secured the names of 242 farmers living in the Howe Poteau district and collected 214.00 for which I have the receipts of Ben Elder Secretary of the Committee, less expense of printing &c.

I sincerely hope this explanation will be satisfactory.

Very respectfully,

Edmund McKenna.

(Endorsed) Union Agency No. 60568 Received Dec. 19, 1906 Office of U.S. Indian Inspector for Indian Territory. Poteau, I.T., Dec. 17, 1906. Edmund McKenna. ---- Explaining his connection with the matter of segregated lands. ----

Higgins, I.T.

Latimer County

Feb.11,1907.

Hon.Dana H. Kelsey,

United States Indian Agent,

Sir:

I am going ask you a question again: But I will say is this question: I want you appointed Indian police and I send it to you a written request last summer ago. But you told me some policemen is excommunication, you will expect appointed at me. But I never heard it anything from you. Because you time is almost gone and now how we going do? We still have more appointed men Indian police next year? This new constition (Sic) am not, please let me hear from you soon.

Yours truly friend

Hon.B.J.Haklotubbee

Latimer County.

Dist.15.

Higgins,I.T.

(Endorsed) Union Agency No.117 Received Feb.13,1907 Office of U.S. Indian Agent,Muskogee,Ind.Ter.Feb.11,1907 B.J.Haklotubbee,Higgins, I.T.-----Refers to his application for position as Indian Police.-----

469

DEPARTMENT OF THE INTERIOR,
United States Indian Service,

Fort Towson, I. T.

February, 19th, 1907.

Hon. J. Geo. Wright.

Inspector,

Muskogee, I. T.

Dear Sir:

Persuant to your instructions of the 15th Inst, I went to Fort Towson, I.T. and went over the route of the proposed tram R.Road of the Pine Belt Lumber Company, and find that the course maped out will traverse about 3/4 of a mile through unallotted land (see plat enclosed).

I find further that they desire to cross land which is principally covered with undergrowth with an occasional pine tree not of any commercial value, also that the land that they would cross is void of any vegetation. Land that would not be selected for agricultural purposes or pasture., and I would recommend that the Pine Belt Lumber Co, be allowed to place tram R.R. as indicated on enclosed plat as I believe there will be no injury to any one.

Yours Most Respectfully,

Geo.W.Huckins,
Clerk.

(Endorsed) Union Agency No.62005 Received Feb.21,1907 Office of U.S.Ind.Insp.for I.T. Ft.Towson,I.T.Feb.19,1907 George W.Huckins---- Rel. to proposed tram R.R. of the Pine Belt Company and encloses plat showing route.----

470

DR. LeROY LONG
South McAlester, Okla.

April 8, 1907.

Hon. J. George Wright,
U. S. Indian Inspector,
Muskogee, I.T.

Sir:

Replying to yours of April 5th., beg to say that there are not at this time any claims on account small-pox work in my hands. Recently I certified to the account of McAlester Coal Mining Co. and the same turned over to a representative of the Co. to take to Dr. W. P. Hailey, Haileyville, I.T. for his action.

In a former letter (Feb. 21, 1907) you referred to the claims of Turner Hardware Co., Gray and Pegg, Hayes & Co., Brown Mercantile Co., Canadian Drug Co., also "a number of claims submitted by different parties from Atoka, for property destroyed &c." In addition to the claim referred to above. I beg to say that none of these claims are in my hands. If Dr. Hailey has them I have not been advised of the fact. He does not reside here but at Haileyville, and the papers may be in his hands.

With reference to making affidavit as to correctness these claims, I beg to refer you to a letter from me addressed to you under date Dec. 20th., 1906 with reference to supplies furnished at Albany. The same holds good with reference to most of the claims in this small-pox matter. In some instances I am in a position to recall the matter right clearly; in other instances in which contracts &c. have been made through a third party I am not able to make affidavit without record which should be in the office of the Indian Agent. If you will furnish us with a

-2-

certified copy of the several claims as reported and recommended by us I am sure there will be no difficulty in adjusting the matter.

Personally, I am extremely anxious that all these claims be paid, for the matter has been very embarrassing to me. We bought goods, employed help, destroyed property &c. always assuring the interested parties that they would be paid in full, and it has been hard to convince some of those who kindly assisted us in the small-pox work that we are not to blame for their not receiving what was due them.

I wish to speak particularly about the claims from Atoka for the destruction of property, and to call your attention to the fact that this was done at the very outbreak of small-pox in Choctaw Nation, and at the personal direction of Mr. Shoenfelt who was on the ground the day before the houses were burned and directed that they be burned. After Mr. Shoenfelts visit to Atoka the people were so anxious to stamp out the disease that they were preparing to burn the houses of the negroes at once without taking an inventory of the contents, but were dissuaded from this course by Dr. Hailey and me. Dr. Hailey assisting in taking an inventory before burning. Being assured by Mr. Shoenfelt that the Department wished us to take drastic measures to stamp out the disease, I returned to Caddo and burned a house there. After this Dr. Hailey and I decided that it was not necessary to destroy houses, and with the exception of a shanty near Calvin that was hardly worthy the name of house, and appraised to the best of my recollection at less than \$20.00, not another house was burned in connection with the suppression of small-pox, 63071.

-3-

with authority from us, in Choctaw Nation.

I am particularly anxious that these people at Atoka and Caddo who had houses burned be paid for them. They were all poor negroes, and some of them were left without means of any kind. As I see it now, I want to say frankly that the destruction of these houses was not at all necessary, but at that time we thought that the necessity existed, and even if we had not thought so, after the directions from Mr. Shoenfelt it could not have been prevented. I wish you to understand, however, that this is not intended as a criticism of Mr. Shoenfelt in any way. He was simply resorting to drastic measures to stamp out the disease.

I do not now recall the name of a single one of the unfortunate negroes whose houses were burned, but I am more interested in their case for the reason that they suffered to an extreme degree, and I sincerely trust that even at this late day they may be paid.

Yours truly,

LeRoy Long.

(Endorsed) Union Agency No. 63071 Received Apr. 9, 1907 Office of U.S. Indian Inspector for Indian Territory. S. McAlester, I.T., Apr. 8, 1907 Dr. LeRoy Long-----Relative to claims of Choctaw citizens for destruction of property to suppress small-pox----

GREEN HARVEY

Damon, Ind.Ter. 6/3/07

Hon. J. Geo. Wright,

Dear Sir:-

I will write to you today that I want to know about we the Indian. I understand that when the time come to vote of Election they are not allowed to vote for any candidate. If they did not allowed to vote, what they going to do? If this truth or not? I would to know it about that matter.

Please let me hear from you soon by return mail. This is all i want to know about it.

Did Democrat made this Law or Republican?

Yours respectfully,

Green Harvey (Republican).

(Endorsed) Union agency no. 64368 Received Jun.5,1907 Office of U.S.Indian Inspector for Indian Territory.Damon,I.T.,June 3,1907 Green Harvey-----Desires information relative to the voting at election by the Indians.-----

R E S O L U T I O N.

RESPONDING TO A MESSAGE OF THE PRINCIPAL CHIEF CONCERNING THE ANNUAL APPROPRIATION MADE BY THE INTERIOR DEPARTMENT OUT OF THE ROYALTY FUND FOR THE SUPPORT AND MAINTENANCE OF OUR SCHOOLS.

WHEREAS, For several years the Interior Department has been making an appropriation approximating Two Hundred Thousand dollars out of the royalties collected on our coal and asphalt lands for the support and maintenance, annually of our schools; and

WHEREAS, Since statehood other funds have been provided for all the children of our State; and

WHEREAS, By authority of an Act of Congress of May 27, 1908, the State of Oklahoma is attempting to tax most of the allotted lands of the Choctaw and Chickasaw tribes, and the personal property of all of our members; and

WHEREAS, Many of the Choctaw and Chickasaw citizens have no children to educate, and as each member of the Choctaw and Chickasaw tribes owns an equal undivided interest in the coal and asphalt fund from which said annual appropriation is made; and

WHEREAS, The use of said fund for school purposes is an unequal distribution of said property, and many of our people whose share has been appropriated from year to year, rightfully protest against its further use; therefore

BE IT RESOLVED BY THE GENERAL COUNCIL OF THE CHOCTAW NATION ASSEMBLED:

That, in response to the message of the Principal Chief, we

hereby submit our earnest protest against any further appropriation of the royalties collected on our coal and asphalt, for the reasons above stated, and we respectfully petition the Interior Department to discontinue said appropriation.

Proposed by J. L. Ward.

Ch'm. Com. on Chief's Message.

A Resolution, read and interpreted, passed the Senate, and referred to the lower House, this the 7th day of October, 1908.

G.W.CHOATE.

President of the Senate.

Attest:

(Signed) C.A.HURD,

Recording Secretary.

Read, interpreted, passed the House and referred to the Principal Chief, this the 7th day of October, 1908.

E.A.MOORE,

Speaker of the House.

Attest:

W.H.ISHERWOOD,

Recording Secretary.

Approved this the 7th day of October, 1908.

GREEN McCURTAIN

Principal Chief Choctaw Nation.

(End orsed) Union Agency No. 2 -----Resolutions of the Choctaw Council---