

... AS TO ...

“COURT CLAIMANTS”

LAW

OFFICE
INDIAN
TRIBES
CHOCTAW
NATION.

... TO ...

CHOCTAW AND CHICKASAW CITIZENSHIP



“* * * They are not Indians, and are neither legally nor morally entitled to share in the division of our tribal property * * *”

“* * * They are white adventurers from the surrounding States, and any intelligent and impartial jury would so declare them * * *”



BY AUTHORITY OF
THE GENERAL COUNCIL OF THE CHOCTAWS
... AND ...
THE LEGISLATURE OF THE CHICKASAWS

Law
Office
Indian Tribes
Choctaw Nation

The Legislature of the Chickasaws, in regular session at Tishomingo, the capital of the Chickasaw Nation, in September, 1900, adopted the following resolution:

"Be it resolved by the legislature of the Chickasaw Nation:

FIRST. That the annual message of Honorable Douglas H. Johnston, Governor of the Chickasaw Nation, in so far as it relates to citizenship, be adopted and made a part of this resolution, and that the same, together with this resolution and other pertinent matters, be printed in pamphlet form, for the information of the government of the United States upon this, the most important question affecting the rights and interests of the Choctaws and Chickasaws; and that the Choctaws be requested to co-operate with us to this end.

SECOND. That our guardian, the government of the United States, be implored, in the light of this information, to protect the Choctaws and Chickasaws in citizenship matters, and particularly from the fraudulent and illegal claims of those persons known as 'court claimants,' in the forthcoming allotment of lands and distribution of tribal property."

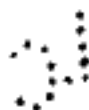
The Choctaws in General Council assembled, at Tushkahoma, the capital of the Choctaw Nation, in October, 1900, adopted a similar resolution, and provided for co-operating with the Chickasaws in the preparation and distribution of a pamphlet on citizenship; and directed that the annual messages of the retiring and incoming Principal Chiefs, Honorables Green McCurtain and Gilbert W. Dukes, in so far as they relate to citizenship, and other pertinent matters, be included therein.

By authority of such resolutions, and for the purposes therein stated, this pamphlet has been compiled.

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STATEMENT

The Act of Congress approved June 10, 1896, assumed to vest the Dawes Commission with jurisdiction over the citizenship of the Five Civilized Tribes, and provided for appeals from the judgments of the Commission, to the United States Court in Indian Territory.

Under this law several thousand persons applied to the Dawes Commission for admission to Choctaw and Chickasaw citizenship. Practically all were rejected by the Dawes Commission; practically all appealed to the United States Court, and practically all there procured what purport to be judgments of admission.

Applicants for Choctaw citizenship sued only the Choctaw Nation, and made only the Principal Chief of the Choctaw Nation a party. Applicants for Chickasaw citizenship sued only the Chickasaw Nation, and made only the Governor of the Chickasaw Nation a party.

Under these alleged judgments of admission so rendered, applicants for Choctaw citizenship ask to be placed upon the Choctaw-Chickasaw allotment roll, now being prepared by the Dawes Commission, and to receive allotments of Choctaw-Chickasaw land. Applicants for Chickasaw citizenship ask to be enrolled and to receive allotments in like manner.

The land of the Choctaws and Chickasaws is not owned by the *Choctaw Nation*; nor by the *Chickasaw Nation*; nor by the *members of the Choctaw Nation*; nor the *members of the Chickasaw Nation*; but

are owned *in common* by fee simple title evidenced by a patent from the United States government, and confirmed by the treaty of 1855, as follows:

"The United States do forever secure and guarantee the lands embraced within said limits (describing them), to the members of the Choctaw and Chickasaw tribes, their heirs and successors, to be held in common, so that each and every member of either tribe shall have an equal undivided interest in the whole; provided, however, no part thereof shall ever be sold without the consent of both tribes."

The Choctaws and Chickasaws contend that such "court claimants" are neither legally or morally entitled to share in the division of their tribal property.

In support of the moral contention they assert that the alleged judgments under which they claim were in a large degree procured by fraud and perjury.

In support of the legal contention they contend that they are void in that they are not rendered against the *joint owners* of the lands sought to be affected.

In support of these contentions, and for information as to the whole subject they submit the following:

ANNUAL MESSAGE

—OF—

HON. DOUGLAS H. JOHNSTON, GOVERNOR OF THE
CHICKASAW NATION.

EXECUTIVE DEPARTMENT, CHICKASAW NATION. }
Tishomingo, Indian Territory, Sept. 4, 1900. }

*To the Honorable Members of the Senate and House
of Representatives of the Chickasaw Nation, in
Legislature assembled:*

In obedience to law and custom, I, as chief executive of the Chickasaw Nation, communicate to you, upon this occasion of your assembling in regular session, my annual message.

In discharging this duty, I not only obey the law, but have pleasure in laying before you specific information of the exigencies which have arisen during the past year requiring the exercise of my best judgment and discretion as your chief executive; and of now considering with you as legislators, selected by the suffrages of our people, the many grave questions that confront us.

I indulge the hope that, by the exercise of wisdom, conservatism and patriotic devotion to the welfare of our people, we shall not only arrive at a just and equitable solution of the questions that may arise in the regular course of legislation, but that we may, by grateful acknowledgment of the consideration and protection heretofore accorded us by our guardian, the government of the United States, and a firm reliance upon the solemn and plainly written obliga-

tions of our treaty, so recently made as to be still fresh in the minds of those whose duty it is to obey its provisions, impel a continuation of that consideration and protection always due from the strong and powerful to helpless dependents, and which we, as the wards of that government, may rightly claim and expect * * * * * I fondly hope that the next two years may witness the successful culmination of the plans and policies now under way for the relief of our people from threatened wrongs so that, when our lands shall have been allotted and our moneys and other property distributed, our people may be convinced of the justness of the guardianship of the United States government, and be thereby enabled, when tribal dissolution shall come, to assume the dignity and responsibilities of American citizenship, with sentiments of voluntary loyalty and allegiance. * * * *

CITIZENSHIP

The *one* question, in my judgment, in which the Chickasaws (and also the Choctaws, as our landed interests are joint), are most vitally interested, is that of citizenship. * * * *

As is generally known, approximately four thousand persons claim Choctaw and Chickasaw citizenship under what purport to be judgments of the United States Court in Indian Territory, and are clamoring for allotments of our land and distribution of our tribal property, aggregating in value, perhaps twenty millions of dollars.

The Choctaws and Chickasaws contend that they are not Indians and neither legally nor morally entitled to share in the division of our tribal property; and to this end it behooves the Chickasaws, and you, as their representatives, to lose no opportunity of informing the government of the United States just who these people are, and how they claim, and of the great wrongs that threaten us thereby, so that it may, in the light of this information, be en-

abled to look with favor upon measures that shall be suggested for our relief.

I suggest this procedure advisedly. The great government of the United States cannot afford to proceed otherwise than justly and rightfully in all matters, and particularly where the relation of guardian and ward exists. If it becomes convinced that these persons are *not* entitled to allotment and distribution of tribal property, and that a great wrong threatens our people, a means of relief *will* be provided.

Firm in this belief that justice and right will prevail, and that this threatened wrong will not be allowed to blot the pages of American history; and that, in order to secure this relief it only remains to convince those charged with the duty of administering our affairs of the true moral and legal aspect of the citizenship claims of these people, it becomes our duty to proceed with the work before us with a frankness of expression and earnestness of purpose commensurate with the justness of our cause and the vastness of the interests involved.

The world, in my opinion, does not furnish a parallel to the methods employed and the impositions practiced by applicants and citizenship attorneys in procuring what purport to be judgments upon which these people base their claims. The grossest and most flagrant frauds and the most wicked perjury were practiced; and in many cases the testimony upon which such purported judgments were rendered was unblushingly bought and paid for, as is now known by all and conceded by all except those directly interested and implicated.

I make these statements after having fully considered the meaning and weight of such language, realizing, as I do, that, in order to convince those to whom we look for relief, we must depict the wrongs that threaten us in terms that cannot be misunderstood, discarding the natural emotion of resentment and withal in that spirit of dignified conservatism that

can but touch the hearts of all and win relief from those in power.

The moral aspect of these citizenship proceedings is now well known, and can be attested by all respectable elements in the Indian Territory. I think I may safely state, that, not only an overwhelming majority of white people who reside within the limits of our Nation, but the officers of the United States government, both judicial and departmental, from the lowest to the highest, with scarcely a single exception, are convinced that these proceedings stand as a monumental wrong, and would join in our petition for relief. During the last year our attorneys have unearthed and brought to light many of the most shocking instances of fraud and perjury, upon which alleged judgments have been rendered admitting hundreds of persons to Choctaw and Chickasaw citizenship. These persons are now clamoring, unabashed and without shame or remorse of conscience and with greater show of insistence than our own people, for allotments of Choctaw-Chickasaw lands.

The records of the court itself stands as a towering monument to the character of these practices and call for our relief in terms stonger than we can possibly employ. The judge of the United States court for the Southern District of the Indian Territory, upon having his attention called to certain judgments, preremptorily struck out nearly two hundred names from an aggregate of something over six hundred. This action was secured in cases where the fraud was so palpable as to preclude any defense from those implicated, it appearing to the court, upon attention being called to its own records, that the names of these persons, for whom no application had ever been made, and over whom the court had no jurisdiction, had been fraudulently interpolated. This condition is treated of officially by the Dawes Commission and the Secretary of the Interior in their annual reports for 1900. Therein on pages 162, (Report of Dawes Commission) and page 33, (Report of the Secretary of the Interior) is set forth the

methods employed by attorneys, how such practices were brought to the attention of the court, and its action in connection therewith.

It is not my purpose to criticise the court or the judges thereof, and it will not avail those interested, or attorneys implicated with them, to attempt to break the force of these statements, by alleging that our contention as to the moral aspect of these proceedings, is an attack upon the Federal judiciary of the Indian Territory. Such proceedings are as great a fraud upon the court as upon the Choctaws and Chickasaws, and it is my firm belief that the court would gladly correct all the frauds and wrongs that have been done, if within its power. They are, furthermore, as much a fraud upon the government of the United States as upon the court and our people; and since it has the power to correct, and since it is within our power to lay our appeal, and the facts in support thereof, before it in such a manner as that no one with honest instincts and impulses of fairness can question its merit or justness, we may confidently hope that rightful and adequate relief is near at hand.

This condition is vastly more cruel and unbearable to the Choctaws and Chickasaws when it is considered that it is a direct mis-carriage of the purposes of the government in assuming citizenship jurisdiction.

The government assumed citizenship jurisdiction upon the recommendation of the Dawes Commission. The Dawes Commission made only one recommendation, in one report, and it was upon this that congress acted. This recommendation appears upon pages 73, 74 and 75 of the Report of the Dawes Commission for 1895. It appears under the heading "*Cherokee Citizenship.*" To *Cherokee citizenship* the Commission referred, and to *Cherokee citizenship* their recommendations applied primarily. The condition of Cherokee citizenship, as is generally known, was, at that time, chaotic. Their rolls were manipulated so as to defeat the enforcement of the criminal

laws of the United States. Under the "Cherokee Strip" treaty of 1893, the government obligated itself to remove "intruders," or citizenship claimants. For personal and political reasons the names of many persons who had always been recognized were, by the Cherokee authorities, stricken from the regular roll, and placed upon the "intruder" roll, and thus marked for transportation beyond the limits of the Cherokee Nation. The time fixed for the removal of "intruders," (January 1, 1896), was fast approaching. Consternation was abroad in the Cherokee Nation. Unless some means of relief were provided not only a wholesale injustice would be done, but violence would result. This consternation extended (and naturally so), to the Dawes Commission. They advised intervention by the government of the United States. Thus their recommendation of 1895 was made, and the act of June 10, 1896 resulted.

I quote this recommendation of the Dawes Commission :

CHEROKEE CITIZENSHIP.

" * * * A tribunal was established many years ago for determining the right of admission to this roll, and it was made up at that time by judicial decision in each case. Since that time and since the administration of public affairs has fallen into present hands, this roll has become a political football, and names have been stricken from it and added to it and restored to it, without notice or rehearing or power of review, to answer political or personal ends and with entire disregard of rights affected thereby. Many who have long enjoyed all the acknowledged rights of citizenship have, without warning, found themselves thus decitizenized and deprived both of political and property rights pertaining to such citizenship. This practice of striking names from the rolls has been used in criminal cases to oust courts of jurisdiction depending on that fact, and the same names have been afterwards restored to the roll when the fact would oust another court of jurisdiction of the same offense. Glaring instances of the entire miscarriage of prosecutions from this cause have come to the knowledge of the Commission and cases of the greatest hardship affecting private rights are of frequent occurrence *"

"The 'intruders' roll' is being manipulated in the same way. This 'intruders' roll' is the list of persons whose

claim to citizenship is denied by the Nation, and who by the agreement in the purchase of the 'Cherokee Strip' the United States are to remove from the Territory by the 1st of January next. This roll is now being prepared for that purpose by the Cherokee authorities, in a manner most surprising and shocking to every sense of justice, and in disregard of the plainest principles of law. The chief assumes to have authority to 'designate' the names to be put upon the intruders' roll, and names are, by his order, without hearing or notice, transferred from the citizens' roll to that of the intruders', so that, on January 1, 1896, the United States will be called upon to remove from the Territory, by force if need be, thousands of residents substantially selected for that purpose by the chief of the Nation. It has been made clear to the Commission that the grossest injustice and fraud characterize this roll. Persons whose names have been upon the citizens' roll by the judicial decree of the tribunal established by law for that purpose for many years, some of them for twenty or more, persons who have enjoyed all the rights of citizens, unquestioned by anyone until distribution per capita of the strip money, have been by the mere 'designation' of the chief stricken from the citizens' roll and put upon that of intruders' with notice to quit before January next. Children of such parents, born in the Nation, now of age, with families and homes of their own, are receiving this notice to leave forever all they have earned and the homes they have built for themselves, and this at the will of the chief alone. *If the United States government removes such persons it will become a participant in this fraud and injustice, for which ignorance alone can form any excuse.* The Commission feel it a duty to call attention to these facts, and invoke the direct intervention of the government to prevent the consummation of this great wrong."

The condition here depicted existed nowhere except in the Cherokee Nation. There was no necessity for such intervention in the other tribes. This recommendation applied and was intended to apply primarily to the Cherokee Nation. There was no reference whatever to the condition of citizenship in the Choctaw and Chickasaw Nations, except to an act of the Chickasaw legislature which sought to withdraw citizenship theretofore conferred *by inter-marriage* and a suggestion that the power of all the tribes to "decitizenize," (i. e. : to strike from the regular citizenship' rolls persons regularly admitted and recognized by the tribes) should be taken away.

In no event could the recommendation of the Commission, or the act of June 10, 1896, which resulted

therefrom, be construed to include any class of persons except those who had been regularly admitted and enrolled by the tribes, and thereafter "decitizenized" or removed from the tribal rolls. Certainly, upon no construction, could either the recommendation or the law be held to include or contemplate the class of persons now known as "court claimants." These people were never admitted or enrolled by the tribe, and never made application or thought of doing so, until the news reached them, through the newspapers, or by correspondence with attorneys or claim agents, that applications for Indian citizenship and Indian lands, were being filed with the Dawes Commission by the tens of thousands; and that, if they would close out their holdings in the states where they and their ancestors had always lived, and rush into the Indian country, the chances were good for sharing in the rich lands of the Choctaws and Chickasaws.

The present condition is not only paradoxical, but is conclusive that the purposes of the government miscarried; and that the result is exactly opposite to that contemplated by the recommendation of the Dawes Commission and the law which followed. As above shown, the law was passed primarily, for the relief of "intruders" in the Cherokee Nation. That class of persons stand rejected to a man; and, in the Choctaw and Chickasaw Nations, thousands of white adventurers from the surrounding states, who were neither included in, nor contemplated by, the recommendations of the Dawes Commission, and the act of congress, have what purport to be judgments of the United States court admitting them to Choctaw or Chickasaw citizenship, and are clamoring for allotments of Choctaw-Chickasaw lands!

The purpose that actuated the Dawes Commission to advise this legislation, and of congress in acting upon such advice, was no doubt laudable and just; and the law itself, if confined to the scope of its original purpose, would have resulted in no particular harm to the Choctaws and Chickasaws.

This law, as soon as passed and published, was seized upon by unscrupulous lawyers and claim agents and sent out to the world. It was raised and held aloft as a beacon. Hordes of white adventurers who had never lived in the Indian Territory, or claimed Indian citizenship, responded by rushing in from the borders of the surrounding states. They were spurred on by their cupidity and inspired by the hope of acquiring, without regard to means, shares of the land and moneys of the Choctaws and Chickasaws. The Dawes Commission was overwhelmed with these applications, and thus the laudable purposes of the law were prostituted to selfish and heartless ends, and the lands of our people conveyed to them as a heritage by the great father, when the nation and century were young, were thus wickedly jeopardized.

Honorable Henry L. Dawes, chairman of the Dawes Commission since its creation, in a recent article in the *Independent* confirms all we would say about these people; and considering the character and standing of the author, his testimony is especially grateful at this time in support of the plans under way for our relief. In reviewing the work of the Commission under the act of June 10, 1896, Senator Dawes says:

“ * * * The impression got abroad that blood, however attenuated, without regard to other requirements of the laws and usages of the tribes, entitled one to admission to citizenship. Accordingly, *crowds of applicants came from all the adjacent states, and even from northwestern states, for the first time into the Territory, claiming citizenship upon some claim of Indian blood in their veins, regardless of residence and citizenship elsewhere all their lives.* * * * In the vast majority of these cases the evidence *failed to disclose blood enough to sustain anything beyond imagination or pretence.*”

The Dawes Commission was composed of five members, four of whom were *trained lawyers*, and whose *special duty* it was to investigate these citizenship claims, and the laws that governed. After careful consideration, extending over several months, this special tribunal erected by the government for

this special work, *rejected practically all of these applicants.*

I quote from page 92 of the Report of the Dawes Commission for 1897 :

“ * * * * There have been presented to them (the Dawes Commission), * * * * some seven thousand, five hundred, separate claims, representing nearly, if not quite, seventy-five thousand individuals, each claim requiring separate adjudication upon the evidence upon which it rested. The adjudication in each one has been accomplished within the time fixed in the law, and the docket is now closed. *Nearly all of these cases were rejected on the evidence, and only a small percentage were admitted to the rolls.*”

Practically all Choctaw and Chickasaw applicants thus rejected appealed to the United States court, and practically all there procured what purport to be judgments of admission.

The judges of the court who had just been appointed from the states, were overworked and unfamiliar, in a degree, with conditions in the Indian Territory, and the governing questions of law, which were new and applicable only to such conditions. The dockets of the court were already overcrowded with regular business, and these citizenship appeals threw thereon *several hundred new cases.*

Instead of simply reviewing the judgments of the Dawes Commission in an *appellate* capacity, as was certainly contemplated by the law, upon demand of applicants and citizenship attorneys, these cases were *tried anew and without regard to, or benefit of, the action of the Dawes Commission.*

After determining to ignore the judgments of the Dawes Commission, and try these cases *de novo*, they were not *tried* as cases are usually tried involving questions of fact and law, but were placed upon the equity side of the docket and referred to masters in chancery. These masters in chancery took the testimony and passed upon it. In many cases involving the admission of hundreds of persons, and property of the tribes valued at hundreds of thousands of dollars, the masters to whom they were referred, and upon whose favorable report these alleged

judgments of admission were rendered, were, themselves, the *hired attorneys* for other applicants, before the same court, and in cases involving identical questions of fact and law. This condition will appear from the records of the court. Terms of harsh criticism are unnecessary.

The judges could only hurriedly read the reports of the masters, and it was upon their findings that the judgments were rendered. The tender protecting care, which it is the duty of the government to extend over its helpless wards, and which was evidenced by the judgments of the Dawes Commission, specially representing the government in this particular work was not, and under these conditions could not be, present in the court. The cases were decided upon cold rules of law and legal procedure, without reference to whether the Indians were represented by counsel or protected by testimony.

In the very nature of things the judges could not give to these cases, or the laws of the tribes by which they were to be determined, any degree of that mature consideration which the vastness of the interests involved, merited. For conclusive evidence of this it is only necessary to refer to the *conflicting and inconsistent decisions* of the judges of the Central and Southern District of the Indian Territory by whom these cases were tried and judgments rendered. While the rights of the Choctaw and Chickasaw citizenship and the laws of the tribe that govern, *are identical*, the opinions of the judges upon several of the most important questions, *are exactly opposite*. The conflicts of opinion affect, either favorably or unfavorably, the status of several hundred persons, and develop a paradoxical condition never before equalled, perhaps, in the history of jurisprudence in this or any other country. The presumable province of appellate tribunals is to harmonize conflicting opinions, yet, here are two courts vested only with *appellate* jurisdiction under the law, with *identical* laws, questions and interests before them, that have rendered final judgments as *far at variance* as the

poles, and which involve property interests valued at millions of dollars.

Our people, a helpless and trusting tribe of Indians, were forced by their guardian, the United States government, into its own court. Opposed to them were white adventurers, greedy and alert, who rushed in upon us with the avowed purposes of doing that which now threatens; and guided and advised by attorneys and claim agents, equally interested, and moved by the same impulses. Our people were unskilled in such procedure, and not knowing just what to do or where to turn, and wondering just why their guardian, the government of the United States, had forcibly thrust them into the midst of this maelstrom of plot and intrigue, and never realizing the meaning or magnitude of it all, and trusting all the while that their guardian to whom only they could look for protection would stem the tide that threatened to overwhelm them, and lead them back to a place of safety, they could scarcely more than stand in helpless confusion, and join in the amazement the whole country expressed, when the course of pillage and plunder had been run, and it was found that the public domain of the Choctaws and Chickasaws was covered and claimed by an alien race asserting rights of citizenship, and tribal property valued at approximately twenty millions of dollars, jeopardized.

The boast of the government, and its representatives, is that, whatever it does, shall not only be legal, but *right*. It is now generally conceded that these alleged judgments are *wrong*. Will the government, charged with the duty of protecting its helpless wards, respond to our appeal for relief by saying that they have become final; that they cannot be disturbed, and that, therefore, whether *right or wrong*, they must stand? It will not in my opinion, as guardian, thus respond to our appeal.

These "court claimants" do not look like Indians. They do not act like Indians. They have none of the attributes of the Indian. They are white adven-

turers from the surrounding states, and any intelligent and impartial jury would so declare them. When the law of 1896 was passed they speculated as to the possibilities of acquiring allotments of land. They heeded the beacon. They determined to take the chances, adopted the means here described, and these alleged judgments resulted.

Aside from these moral considerations, it is contended by the Choctaws and Chickasaws, that these alleged judgments are void, and cannot be legally enforced against the joint property of the tribes. The land of the Choctaws and Chickasaws is held in common, by fee simple title. This title is evidenced by a patent from the United States government, and reaffirmed by the treaty of 1855, which provides that :

“ * * * The United States do forever secure and guarantee the lands embraced within said limits, (there described) to the members of the Choctaw and Chickasaw tribes, their heirs and successors, *to be held in common*; so that each and every member, of either tribe, shall have an equal undivided interest in the whole; provided, however, no part thereof shall ever be sold without the consent of both tribes. * * * ”

These applicants sued only *one* nation. They asked judgment against only *one* nation; and took judgment against only *one* nation. They sued only the *nation*, in its political capacity; and not the *members*, the owners of the land sought to be affected.

They now seek, under these alleged judgments, against only *one nation*, to acquire allotments of Choctaw-Chickasaw lands, belonging jointly to the members of the two nations.

This contention has been raised by our attorneys during the past year, and will be pressed at all times, and upon all occasions, with an earnestness of purpose commensurate with the justness of our cause, and the vastness of the interests involved; and, in the event this legal contention prevails, it will appear to have been an instrument in the hands of justice to prevent the wrongs that now threaten the Choctaws and Chickasaws.

I have thus given you detailed information of this condition in order that you may adequately appreciate the exigencies that confront us, and be enabled to act in the light thereof. I have suggested both moral and legal considerations, and the question now recurs as to what is proper to be done by the present session of the legislature:

I recommend that you petition the government of the United States, by a memorial of your body carefully drawn, setting forth the wrongs that threaten the Choctaws and Chickasaws in citizenship matters, and imploring such relief as, in its judgment, may be just and proper in the premises. * * *

CONCLUSION

In conclusion I wish to congratulate our people upon the peace and quiet that has prevailed under the trying conditions herein referred to. As a Nation and race our future is a sealed book. We have been forced to prepare for a relinquishment of the customs and traditions of our fathers, and we can only hope that the new state into which we are to enter, and the new conditions that must follow, will render more secure our happiness and prosperity. We are a peaceful and peace-loving people and whatever we achieve must be as the fruits of peace.

Our guardian, the government of the United States, points us to American citizenship as our ultimate destiny, and to the inestimable benefits and privileges of that state. The highest attribute of citizenship is a sacred observance of the rights of others, and a cheerful and strict obedience to the law, the safeguard of all. Let us act, in all things, in that spirit of intelligent conservatism that must not only command respectful consideration from those charged with the duty of administering our affairs, but will convince them that we, ever regardful of the rights of others, contend only that we have that protection guaranteed by solemn treaty obligations, and that we will show to the country and the world that the Chickasaws are an intelligent, pro-

gressive and Christian people, and in every way worthy of that degree of consideration in all matters touching their interests, that should, in equity and justice, be accorded them by their guardian, the great government of the United States.

With sentiments of respect, I have the honor to be, your obedient servant,

D. H. JOHNSTON,

Governor, Chickasaw Nation.

ANNUAL MESSAGE

—OF—

HONORABLE GREEN MCCURTAIN, PRINCIPAL CHIEF
OF THE CHOCTAW NATION.

EXECUTIVE DEPARTMENT, CHOCTAW NATION. }
Tushkahomma, Indian Territory, Oct. 3, 1900. }

To the Members of the Senate and House of Representatives of the Choctaw Nation, in General Council Assembled:

In addressing you upon this occasion of your assembling in regular session, I perform my last duty as your chief executive. The sentiments that attend me in the performance of this service can only be appreciated by experience, and it is my earnest hope that the cherished cares here relinquished may, in the light of such suggestions and recommendations as I may offer, be guarded by the exercise of that degree of patriotism and statesmanship so necessary in these trying hours. Although my work in the capacity of your chief executive is at an end, and you will look to my successor for guidance in your future labors, it is my hope that there shall not appear in this, my last message, any evidence of a relaxation of interest in our tribal affairs. I realize that before we can properly administer we must thoroughly understand, and to this end I shall take up, in order, the various subjects proper to be considered, and lay before you such information as I have been able to acquire in the discharge of my duties as your chief executive during the last year,

and add thereto my recommendations as to what action should be taken, if any, by your honorable body.

CITIZENSHIP

Citizenship in the Choctaw and Chickasaw Nations is paramount to all other questions that concern our people.

The tenure under which our land is held is that each Choctaw and Chickasaw citizen has "an equal, undivided interest in the whole" Choctaw-Chickasaw domain, and an allotment carved out of our joint land affects, therefore, equally the interests of every member of each of the tribes. It follows that every wrongful admission of any person to Chickasaw citizenship, deprives every Choctaw citizen of his undivided interest in that particular allotment. The same is true of admissions to Choctaw citizenship. For purposes of allotment, therefore, as contemplated by the United States government, it is not possible to deal with *Choctaw citizenship*, or *Chickasaw citizenship* alone, but only with *Choctaw-Chickasaw citizenship*.

The United States, in assuming jurisdiction of tribal citizenship, sought to avert wrongs and protect rights. The present condition of citizenship in the Choctaw and Chickasaw Nations is conclusive of the misapprehension that impelled the government, and the miscarriage of its purposes.

The intention of the representatives of the government, in advising its intervention, and of congress, in responding to that recommendation, and in passing the act of June 10, 1896, was no doubt laudable, but, under the conditions that existed, the law could not be confined to its original purpose. The flagrant and wicked wrongs that have resulted therefrom, and that now threaten the Choctaws and Chickasaws, conclusively attest the error of the theory upon which the government proceeded, and the failure of the purposes sought to be carried out.

When it became known that the Dawes Commis-

sion had been authorized to admit to citizenship preparatory to a division of the common property of the tribes, there was a wild rush to get in applications. The applicants were, in almost every instance, white people from the surrounding states, who had never before claimed citizenship, but who were induced by the allurements alone of getting something for nothing, to join the rush and cross the line into the Territory. Other applicants had for years resided in the Choctaw and Chickasaw Nations, renting or leasing our lands as non-citizen farmers, who, seeing the scramble, concluded to try their fortunes in what seemed to be a huge game of chance, with the odds against the Indians, thus swelling the army of applicants. All were incited and urged on by the attorneys and claim agents, as a rule of the baser sort, who scrupled at nothing in misrepresenting conditions and laws, and convincing claimants of their power to secure allotments.

The Dawes Commission, to which applications had to be made, under the law, was composed of lawyers of ability and training. They were charged with a special duty, and were familiar with conditions and the laws that governed. They devoted many months of assiduous labor to the investigation of these claims. The result was that these unworthy applicants were, in almost every instance, rejected. Nothing daunted, they were encouraged on to another trial, and practically all appealed to the United States court, which, under the law was vested with appellate jurisdiction. There it was insisted that the cases be tried anew, *without reference to the investigations or judgments of the Dawes Commission*. This was granted, and, in almost every instance, these applicants were admitted.

This is not surprising, since the cases were referred to Masters in Chancery, who were, in many instances, *attorneys interested in like cases*. These Masters in Chancery took the testimony, and reported their conclusions of fact to the court, and, it was upon these reports that these alleged judgments

were rendered, jeopardizing property of the Choctaws and Chickasaws valued at many millions of dollars. The fact that the testimony upon which these judgments were based was, in many instances, unblushingly bought, and that, in other cases, the grossest frauds were practiced, is now so notorious that *no one is found with sufficient courage to make public defense of them*. For looseness and irregularity, as is now conceded by all, these proceedings have never before been equalled. Our attorneys, by investigation, have been able to bring to the knowledge of the court frauds by which many persons were admitted, and the names of nearly two hundred persons were stricken from the Chickasaw judgments in the Southern district, thus saving to the Choctaws and Chickasaws property valued at many hundreds of thousands of dollars. They will contest such fraudulent judgments upon every possible grounds and particularly upon the fact that they are against *one* tribe only, the other tribe nor the members thereof having had any notice of the suit, insisting that they are, therefore, void, and that persons claiming under them cannot take allotments of land owned jointly by the two tribes.

In these proceedings applicants seeking Choctaw citizenship sued only the *Choctaw Nation*, and only the Principal Chief of the Choctaw Nation was served, and made a party to the suit. Under alleged judgments so taken, these "court claimants" to Choctaw citizenship now seek allotment out of land belonging *jointly to the Choctaws and Chickasaws*. In like manner, applicants for Chickasaw citizenship, took judgment and are claiming.

No such thing as the enforcement of judgments so taken against joint property would be thought of anywhere else on the face of the earth, as, in law, such judgments are void as to both parties, and cannot, in any degree, affect their joint property.

This contention has been raised on behalf of the Choctaws and Chickasaws, and, backed by the moral considerations above mentioned, which are

convincing wherever understood, substantial progress has been made.

It behooves our people to realize the importance of this contention, and the vastness of the interests involved, and to give our representatives, in this the greatest contest that has ever been waged in the history of the Nation, their hearty and united support. They are availing themselves of every means known to the law and legal procedure, and if human endurance, exercised in the advocacy of a just cause, can avail, they will win in the end. If this hord of citizenship claimants can be defeated it is estimated that the property of the tribe valued at approximately twenty millions of dollars will be saved.

My honored contemporary, Governor Douglas H. Johnston, of the Chickasaws, in his recent message to his legislature, has given utterance of remarkable force and clearness, especially upon the moral features of these citizenship judgments, and I deem it unnecessary to say more along that line at this time. As the same has been given quite general circulation through the public press, I take the liberty of commending it to your consideration in connection with citizenship matters.

Having confidence in your appreciation of the importance of this subject and of the vastness of the interest involved, and of your patriotism and devotion to the interests of our nation and people which must be displayed I recommend:

That you acquaint the government of the United States of the frauds and wrongs that threaten the Choctaws and Chickasaws in citizenship matters, and earnestly request that relief therefrom be provided.

* * * * *

CONCLUSION

With an abiding faith in your wisdom as legislators, and patriotism as citizens and officers of our nation, and in your devotion in the interest of our people, I have the honor to be,

Your obedient servant,

GREEN McCURTAIN,
PRINCIPAL CHIEF, CHOCTAW NATION.

ANNUAL MESSAGE

—OF—

HONORABLE GILBERT W. DUKES, PRINCIPAL CHIEF
OF THE CHOCTAW NATION

EXECUTIVE DEPARTMENT CHOCTAW NATION, }
Tushkahoma, Indian Territory, October 4, 1900. }
To the members of the Senate and House of Represen-
tatives of the Choctaw Nation, in General Council
assembled:

The assembling of the present Council marks the close of a successful administration, and the beginning of a new one * * * I am deeply sensible of the responsibilities attaching to the office of Principal Chief; and in the discharge of my duties it will be my purpose to have a fair and impartial administration, adhering strictly to our laws and treaties * * * In the settlement of the questions affecting the equal division of our common property, we should faithfully comply with our present treaty obligations, and should urge upon the government of the United States the importance of pursuing a like policy. I believe the United States government desires to protect the interests of the Indians, and to secure to them all their rights; and let us hope that, when tribal dissolution shall come, our people will find that the United States government has been faithful to her trust.

CITIZENSHIP

A grave danger now threatens us in the matter of citizenship. My predecessor, Honorable Green Mc-

Curtain, and our honored contemporary, Governor Douglas H. Johnston, of the Chickasaw Nation, have referred at length to the exigencies that confronts us, and I heartily endorse their messages, and commend the same to your careful consideration.

Hordes of adventurers have acquired what purport to be judgments admitting them to Choctaw and Chickasaw citizenship under the Act of June 10, 1896. This Act sought to vest the Dawes Commission with citizenship jurisdiction, with right of appeal to the United States court. The purpose of the Act was defeated by the trial of these cases anew by the appellate court, without reference to the judgments of the Dawes Commission. In the courts these cases were referred to special masters in chancery, and it is well known that many of such masters in chancery were the hired attorneys in other citizenship cases, involving identical questions of law and fact.

The importance of this question and the vastness of tribal property and interests involved, demand that prompt and effective steps be taken to protect our people from the fraudulent claims of these "court claimants."

* * * * *

Earnestly soliciting your co-operation in the work to be done, and imploring Divine guidance in the discharge of my duties, I hope to merit the confidence reposed in me.

G. W. DUKES,
Principal Chief, Choctaw Nation.

After the publication of the annual messages of the chief executives of the Choctaws and Chickasaws, various newspapers in the Indian Territory and surrounding States, commented editorially upon them, and particularly upon the phases of Choctaw and Chickasaw citizenship especially referred to.

“ A REMARKABLE DOCUMENT.”

From Muskogee (Indian Territory) Times.

“Viewed in any light very few official utterances have brought their authors into prominence as has the annual message of Governor Douglas H. Johnston, of the Chickasaw Nation, recently delivered to his legislature. It is the opinion of all who have given it a careful perusal that the message is that of a patriot, scholar and statesman and it will rank with the ablest State papers of the first statesmen of the land. No one is left in doubt as to the manner of man its author is, nor as to his ability to point out the needed legislation and to suggest in words of wisdom remedies for wrongs.

“The message is devoted mainly to citizenship and will be an eye-opener to those who have not hitherto known of the frauds perpetrated in this phase of the Indian question. It shows up a condition of affairs that should arouse public sentiment, citizens and non-citizens alike, to the magnitude of these wrongs, so that congress and the department may be properly informed of the true state of affairs and thereby be enabled to provide adequate relief.

“It seems that under the law of 1896 thousands of white adventurers have by fraud and perjury overrun and imposed upon the courts and obtained citizenship judgments and now clamor for allotment of tribal property, valued at many millions of dollars. The nations contend, first, that their judgments are morally wrong and should not stand, and, secondly, they are void upon their face, being taken against only one of the nations when the two nations are the joint owners of tribal property which is sought to be affected. The governor's indictment is a strong one. It is couched in words and uttered in a spirit that must command respect and consideration wherever read.

“While there are many questions upon which the Indians and non-citizens differ, we must all recognize the law of justice as the law of all, and when the protection of this law is invoked by an appeal like unto the message of the Chickasaw governor, universal sympathy and God-speed must be the response.

“The document will and must be read everywhere. Our prediction is that it will result in good to the Chickasaws. It certainly bodes ill to those who would plunder them and steal from them their birthright vouchsafed to them by the laws and treaties of the “greatest government on earth.”

“GOVERNOR M'CURTAIN'S MESSAGE.”

From Fort Smith (Arkansas) Elevator.

“In the last issue of the Elevator appeared in full the last message of Honorable Green McCurtain to the Choctaw council.

“During the reign of Governor McCurtain the affairs of

the Choctaw people have undergone many changes. It was Governor McCurtain who dared to face a sentiment of bitter opposition and bring his people to accept the allotment plan of the United States government. He is both a pioneer and a statesman, and it is safe to say that, had it not been for Governor McCurtain, the Atoka agreement would have never been made, and Choctaw and Chickasaw affairs would now be practically as they were ten years ago.

"The farewell message of Governor McCurtain is, in many things, pathetic. It is devoted mainly to citizenship and an appeal to the United States to relieve the Choctaws and Chickasaws from the frauds and wrongs that have been done them through the United States court. He discusses both the moral and legal phases of this subject, and the condition he portrays must be corrected. The government cannot afford to allow this condition to stand, and it would appear that the statements of Governor McCurtain will have especial weight with the government in view of the fact that he, more than all others combined, induced his people to lay aside their racial prejudices and accept the plan offered by the Dawes Commission. * * * * *

"Governor McCurtain is the third of McCurtain brothers to serve as principal chief of the Choctaw Nation. He has been long in public service, has held many national offices, and represented his people at Washington, and has the respect and confidence of, and is upon terms of close personal friendship with, many of the most prominent men in congress. He is regarded by many as the greatest man the Choctaw Nation has ever produced."

"GOVERNOR JOHNSTON'S MESSAGE."

From South McAlester (Indian Territory) Capital.

"The message of the Chickasaw governor this year, which is published in the Capital to-day, is, in many respects, a remarkable document. * * * * *

The message deals without gloves with 'court claimants' who are seeking to share in the final distribution of the lands and emoluments of the tribes. * * * * * The governor touches up vexed problems in a way to make men think deeply. * * * * * There are none who can deny it being fully within the letter, as well as the spirit of the Atoka agreement. There is no suspicion of unfairness about it, and it may have much to do with a speedy adjustment of Chickasaw affairs."

From Vinita (Indian Territory) Chieftain.

"Governor Green McCurtain, of the Choctaws, gives utterances in his recent message to the Choctaw council, to sentiments very much in line with the law and the rules of the department. * * * * * The wise old chief of the Choctaws * * * * * has in mind the welfare of the men, women and children of his tribe."

“GOVERNOR JOHNSTON’S MESSAGE”

REGARDED IN THE CHICKASAW NATION AS A REMARKABLE DOCUMENT.

From Dallas (Texas) News

“The message of Governor Douglas H. Johnston, of the Chickasaw Nation, delivered to the Chickasaw legislature last week, and now appearing in several of the Indian Territory papers, has caused more than passing remark, and is generally regarded as a unique and remarkable document. * * * * *

“Governor Johnston is himself in many respects a remarkable man, and is eminently fitted to guide his people in the trying hour of national dissolution, and to stand out boldly for an observance of their rights. He is a Chickasaw of perhaps three-eighths blood, gentlemanly, polished, highly educated and possessing a thorough knowledge of all the conditions that surround his people. His father was a white man and was a first cousin to General Joseph E. Johnston.

“While the message of Governor Johnston deals vigorously and courageously with questions affecting his people, the whole document is couched in terms and breathes a spirit of intelligent conservatism and broad statesmanship that can but win respect of citizens and non-citizens alike, and that brings all who read it to the conclusion that if the Chickasaw people can be gauged by the standard of their governor, they are entitled to the highest degree of consideration by all, including the officers of the United States government, in all matters touching the interests and welfare of his people.

“Many papers throughout the Territory have referred in terms of highest commendation to the message. * * *”

“GOVERNOR JOHNSTON’S MESSAGE.”

From Fort Smith (Arkansas) Elevator.

“Of all that has come out of the Indian Territory in recent times, we know of nothing that has attracted more favorable comment from the press, and all classes of people, than the message of Governor Johnston, of the Chickasaw Nation, to his legislature. * * * * *

“Much has been written during the past two years about this governor of the Chickasaws, and this message gives him unquestioned rank among the ablest statesmen of the Five Civilized Tribes, and there have been many in the persons of Boudinot, Harkins, McCurtain, Ross and Pitchlynn.

“Among other things the governor refers at length to

citizenship, and prays the government, on behalf of his people, for relief from the frauds and wrongs that have been practiced by applicants and citizenship attorneys in procuring what purport to be judgments of the United States court admitting them to citizenship. He discusses this phase of the Indian questions in a way that has never been done before, and his disclosures can but awaken sympathy everywhere, and a demand from all, citizens and non-citizens, for a correction of these wrongs by the government, before proceeding with the contemplated division of tribal property.

“There is, and should be, a bond of sympathy between our people and our red neighbors on the west, and this message of the Chickasaw governor must certainly strengthen this bond and shows up a condition of affairs that should, in equity and in justice, be corrected. In its dealings with the Indians our government, while considerate of all, must be just, and especially so when the relation of guardian and ward exists as in this instance. The message will not only reflect credit upon the Chickasaw governor, but force such a consideration of the matters therein discussed, by the government and its officials, as will result in good to his people.”

“CHOCTAW COUNCIL ADJOURNED.”

From South McAlester (Indian Territory) Capital.

“The Choctaw council adjourned Thursday after a session continuing through the month of October.

“Quite a number of measures of importance to the tribe and their government were passed during the latter days of the session. The tendency of the legislation was, in the main, to prepare against dangers threatening the property interests of the tribe, which is an evidence that there is a general awakening to the situation among the Choctaws. The council advocates and provides for a vigorous and never yielding resistance to the efforts of fraudulent citizenship claimants to share in the property of the tribe. In this defense the tribe can but have the sympathy and good wishes of all respectable classes, as the fraud practiced in many of the citizenship cases is of such flagrancy as to invite universal condemnation.”

Choctaw Nation

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The following extracts from the annual reports of the Commission to the Five Civilized Tribes, (Dawes Commission), and the Secretary of the Interior, for 1900, clearly state the contention of the Choctaws and Chickasaws as to the invalidity of the alleged judgments referred to by the chief executives of the tribes:

From the Annual Report of the Commission to the Five Civilized Tribes, (Dawes Commission), for 1900, page 162:

“CHOCTAW AND CHICKASAW COURT CLAIMANTS”

* * * *Passing over the question as to whether they ('court claimants') were rightfully admitted to citizenship, in the Choctaw and Chickasaw Nations, the Commission has to report in these cases the following facts: * * ** the final disposition of these claims will, undoubtedly, be delayed for an indefinite period. The Choctaw and Chickasaw Nations assume that those persons who have been admitted to citizenship by the court, if enrolled by the Commission, will be entitled to participate in the distribution of lands, thus reducing the common domain of the two Nations, and the distributive share of those persons in each, whose membership is undisputed by the tribes, and contend that, as the Choctaw Nation was not made a party to suits instituted for Chickasaw citizenship, and the Chickasaw Nation was not made a party to those suits instituted for Choctaw citizenship, the judgments granting citizenship are void, on the theory that the property of one tribe cannot be affected by proceedings instituted against another. * * * ”

From Report of Secretary of the Interior, for 1900, page 33:

“ * * * The Tribes have now raised the question of the right of this class of persons ('court claimants') to enrollment, contending that, as the Choctaw Nation was not made a party to the suit instituted for Chickasaw citizenship, and the Chickasaw Nation was not made a party to those instituted for Choctaw citizenship, the judgments granting citizenship are void, on the theory that the property owned in common cannot be affected by proceedings instituted against one tribe only. * * * ”