

**Records and Briefs of the US Supreme Court**

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNTITLED STATES.

OCTOBER TERM, 1808.

No. 549.

MARY E. BAIRD ET. AL. APPELLANTS,

VS.

THE CHEROKEE NATION.

APPEAL FROM THE UNITED STATES COURT IN THE INDIAN TERRITORY.

FILED OCTOBER 20, 1898.

(17,134)

**Records and Briefs of the US Supreme Court**

(17,184)

SUPREME COURT OF THE UNITED STATES. OCTOBER TERM, 1898.

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That the Congress of the United States at its last session passed an act entitled "An act making appropriation for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30, 1897, and for other purposes," which was approved upon the 10th day of June, 1896, and in said act Congress attempted and assumed to confer upon the commissioners appointed in acts of Congress approved March 3, 1893, and March 2, 1895, to negotiate with the five civilized tribes in the Indian Territory, the right and authority to receive and determine the application of all persons who might apply to them for citizenship in any of the said five civilized tribes; and said act further provided that the rolls of citizenship of the several tribes as existing on said June 10, 1896, were by said act confirmed.

That the said act further provided that any person aggrieved by the decision of the said commission might appeal from such decision to the United States district court.

And these applicants say that on the 8th day of September, 1896, after full compliance with the rules made by the said commission to the five civilized tribes in regard to service upon the chief of the nation, etc, they filed before the said honorable commission their application for enrollment as citizens of the said nation, and that on the 17th day of December, 1896, at Fort Smith, Arkansas, in the western district of Arkansas, the said honorable commission acted upon the said petitioners' applications for enrollment and denied the same.

And these applicants, now desiring to appeal from the decision of said commission, assign as grounds for such appeal various errors committed by the said commission in passing upon said applications:

First. The said commission erred in adopting a rule to govern their proceedings; which rule was to the effect that no applicant should be allowed to examine the answers made by the nations, or to offer any rebuttal evidence to such evidence as might have been presented or offered before said commission by the said nations, and denying the right to applicants to file a replication to the answer made by the nation to their application.

Second. The said commission erred in refusing these applicants the right to be present, in person or by attorney, during the trial and determination of their claim before the said commission.

Third. The said commission erred in deciding against the right of these applicants to be enrolled as citizens of the Cherokee Nation.

Fourth. The commission erred in refusing the appellants the right and privilege of examining the proof submitted by appellee in support of answers filed by the appellee and denying appellants the right of filing replication to appellee's answer or producing proof in rebuttal to the same.

Fifth. The commission erred in denying the appellants the right of a trial of their claims by a competent jury, as granted to them by law and the Constitution of the United States.

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Sixth. The commission erred in refusing appellants the right to be present, in person or by attorney, during the trial and determination of their claims before said commission.

Seventh. The commission erred in not entering upon the docket or record the grounds upon which the claims of appellants was denied and refusing to notify appellants of the grounds of denial or rejection.

[Eighth missing]

Ninth. That the act of Congress approved June 10, 1896, was unconstitutional and had no power or legal right to confer jurisdiction on said commission to try and determine the rights to citizenship of said appellants, and said commission erred in determining the rights and denying the same to said appellants.

Wherefore the appellants in this cause pray that an appeal be granted to this court, and that a trial de novo be granted to appellants, and that appellants be permitted to introduce new testimony, and that an order be made requiring said commission to send all pleadings, papers, and records filed before them in this cause to this court, and that The Cherokee Nation, the appellee in this case, be cited to appear at this court and plead and defend against the appeal in this case, and show cause why the appellants should not by the rules, orders, and decisions of this court be adjudged entitled to citizenship in the said Cherokee nation and be placed on the rolls of the same; and the appellants will ever pray.

(Signed) CLAYTON & BRIZZOLARA,  
Attorneys for Appellants.

Endorsed: "Case No. 195. Mary E. Baird et. al., plaintiff, vs. Cherokee Nation, defendant. Petition for appeal and assignment of errors. Filed Jan. 13, 1897. James A. Winston, clerk. Clayton & Brizzolara, attorneys for \_\_\_\_\_, Fort Smith, Ark. 408."

There afterwards, on the 26 day of February, 1897, there was filed in said cause the petition and evidence had before the Dawes commission, which is as follows, to wit:

Registry Receipt.

Post-office at Pryor Creek, Ind. Ter. Registered letter No. 87, rec'd 9, 5, 1896, of N. J. Crawford, on req. addressed to S. H. Mayes, Tahlequah, I. T.

(Signed) J. L. TAYLER, P. M.



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To the Honorable Henry L. Dawes and others composing the commission to the five civilized tribes:

Your petitioner, Mary E. Baird, for herself and certain descendants of Lucy Bryant, would state and show from the proof submitted to the commission that she is a Cherokee by descent and by blood, having been born in Gibson county, State of Tennessee, on the 16 day of Feb., 1846. My father's name was William Bishop. My mother's name was Mary Ann Bishop, née Bryant; that I now reside in Cooweescoowee district, Cherokee nation, and have resided there for 11 years. And she avers these facts can be established by proof to the satisfaction of the commission under such rules and regulations as it may prescribe; and she further avers that these facts being proved, she is entitled to be adjudged, under the laws of such nation and the laws of the Congress of the

United States and the treaties of such nation with the United States, a citizen of such nation, with all the rights, privileges, and protection of citizenship in such nation. Wherefore she herewith respectfully submit to the consideration of the honorable commission such proof, and on the hearing she be adjudged entitled to such citizenship and her name be placed upon the proper roll as a citizen of such nation.

(Signature) MARY E. BAIRD.

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INDIAN TERRITORY, }  
Northern District, } SS:

Now, on this 26th day of August, 1896, personally appeared before me, D. I. Elliott, a notary public within and for the said northern district, Mary E. Baird, who, being duly sworn, upon his oath states that the facts set forth in the foregoing petition are correct and true.

Subscribed and sworn to before me this 26 day of August, 1896.

(Signed) D. I. ELLIOTT,  
[SEAL. ] Notary Public.

Names	Place born	Age	Remarks
1. Mary E. Baird .....	Tennessee,	50	
2. Alice E. Newhouse, née Baird .	"	33	
3. William M. Baird .....	"	30	
4. Marcus D. L. Baird .....	"	27	X off.
5. Garland M. Baird .....	"	25	
6. Jettie A. Belew, née Baird ...	"	19	Beliew.
Alice E. Newhouse, line 2 ....			Brought down.
7. Zachariah B. Newhouse, husband	"	37	
8. Ottis M. Newhouse .....	"	15	
9. Thomas D. Newhouse .....	"	11	
10. William L. Newhouse .....	Indian Territory,	6	
William M. Baird, line 3.....			Brought down.
11. Winnie D. Baird .....	Indian Territory,	1	
Not christened – Paul .....	Indian Territory,	10	days.



## Records and Briefs of the US Supreme Court

To the Honorable Henry L. Dawes and others, composing the commission to the five civilized tribes.

GENTLEMEN: I herewith attach some helps to you in the handlement of the papers submitted:

I beg to submit first a very concise history of the case. I was born in the State of Tennessee, as were most of those of the heirs or descendants covered in my petition, the enrollment of whom is marked No. 1. Our ancestry have – handed down, and from generation to generation it has been taught and recognized by the said descendants that they were members of the Cherokee tribe of Indians. We affirm that the recognized affinity to such tribe continuously forbids that it could be claimed justifiably that we have ever severed our connection therewith. Under such recognition and at great sacrifice we broke loose from childhood homes and associations in the year 1885 (June), and with determination to unite with our people in this nation we came and applied in the fall of same year for admission. The law regulating such recognition and admission was cheerfully complied with, but we were barred, and the matter has been most perplexing and self-sacrificing ever since. We wish to call your attention to the significant fact that a near relative of your petitioner, to wit, Mrs. Hannah Flippin, had applied one year before, and had been admitted to citizenship in this nation by the national council. This action gave nerve and inspired her relatives and your petitioners to their effort. Hoping to have and believing we will receive at your hands just what is merited by us, we most respectfully attach and submit for your consideration the testimony establishing the averments contained in the accompanying petition.

"A" shows that the said Lucy Bryant, from whom we descend, was the beneficiary of reservation as a Cherokee Indian, and with her children was enrolled as such.

"B" is an affidavit of J. W. Tacket confirming and locating said reservation and bespeaking the existence of a son, John, and also gives the supposed degree of Cherokee blood of Lucy Bryant.

"C" is affidavit Watt Christy.

He repeats facts stated by former affiant, and says he met her son, John Bryant, at her house and judges him  $\frac{1}{2}$  Cherokee Indian.

"D" affidavit John Gott, who declares himself well acquainted with John Bryant, a Cherokee Indian, saying that John B. had a daughter, Lucy, and son, Zachariah, and the mother of John B. lived on a reservation in Ga. ceded by the Government.

"E" an affidavit Zack Bryant, grandson of John Bryant and son of Zachariah Bryant, Sr. He says John Bryant was born in the Cherokee nation (east) and affirms there is no record of John Bryant in the U. S. before 1795. He says his marriage to a white lady was opposed because of his Indian blood. Affiant reaffirms that John was the father of Zachariah Bryant, Zachariah Bryant was the father of Mary A. Bishop, née Bryant, and Mary A. Bishop is the mother of Mary E. Baird (née Bishop), who is the petitioner in this case.

"F" an affidavit Sam Browning.

Says he has known John Bryant 60 years, who died in 1855; says said John B. was part Cherokee, and either his mother or sister was named Lucy and lived in the Cherokee N., and then gives confirmation to several facts before given, making about the same identity of former witness.

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"G" affidavit Hannah Flippin.

Introduced to prove the citizenship as affirmed in introduction and for the identity therein.

"H" affidavit Gov. Belew – Z. Bryant. Says he was a Cherokee by blood and father of Mary A. Bishop, who was a cousin to Hannah Flippin on the Cherokee side, and that H. Flippin was admitted to rights as such in 1884. Said Mary A. Bishop was the mother of Mary E. Bishop, or Baird, the petitioner.

"I" affidavits - Williams.

The same to be used in identification.

"J" affidavit (John Boyd) same.

"K" is a certificate showing that the petitioner's case has been investigated by Indian Agent Owen and declared to be a just case, with prima facie proof, and thereon protection given.

"L" is the affidavit of Mary E. Baird, identifying Bryant Newhouse and 3 children, grandchildren of petitioner, and the father, Bryant Newhouse, as 1st cousin to petitioner.

"M" affidavit M. L. Baird, which is identification of aforesaid Bryant Newhouse with 3 children, nearly parallel with former.



**Records and Briefs of the US Supreme Court**

Ex. "C"

I hereby certify that the within is a true copy of the original. Oct. 3, 1888.

(Signed) W. W. ROSS,  
[SEAL.] Deputy Clerk, Tahlequah Dist.

A copy.

TAHLEQUAH, CHEROKEE N., Oct. 1st, 1888.

Personally appeared before me, Allen Ross, clerk of Tahlequah district, J. W. Tacket, -, after being duly sworn, deposes and saith:

I am citizen of the Cherokee nation; my age 71 years. I was acquainted with one Lucy Bryant who lived on a reservation in the State of Georgia in about the year 1831. I stopped there several times and staid all night; the reservation was on Cheenawnee Creek ; she had several children. She was quite old, 65 or 70 years.

She said she had a son, John, who lived either in North or South Carolina; I don't remember which. I am satisfied she was ½ or more Cherokee Indian. She was living on the old reservation in the State of Georgia the last I knew of her.

(Signed) J. W. TACKET.

Sworn and subscribed to before me on the first day of October, 1888.

(Signed) W. W. ROSS,  
Deputy Clerk, Tahlequah District.

**Records and Briefs of the US Supreme Court**

Ex. "B"

Endorsed: I hereby certify that the within is a true copy of the original. October 3rd, 1888. (Signed) W. W. Ross, deputy clerk, Tahlequah district, C. N., northern district Indian Territory. J. P. Beelsoe.

(Seal.) Chouteau, Ind. Ter., Aug. 11, 1896.

TAHLEQUAH, CHEROKEE Nation, September 28th, 1887.

Personally appeared before me John Gott, —, after being duly sworn, deposes and saith: My age is eighty years and I am a citizen of the Cherokee nation. I was personally acquainted with one John Bryant, a Cherokee Indian, who lived on the Tualoo river, in the State of South Carolina, in about the year 1824. He had a wife and several children. Among the older ones I remember a daughter, Lucy by name, also a son, Zachariah by name. After our intimate acquaintance John Bryant told me that his mother, Lucy Bryant, lived in the State of Georgia on a reservation ceded her by the Government in the year 1817. John Bryant's age, I suppose, was about 40 years.

(Signed) JOHN GOTT.

[Seal.] ALLEN ROSS,  
Clerk T. D., C. N.

I hereby certify that the foregoing affidavit — a true copy of the original, this 28 Sept., 1887.

(Sig.) ALLEN ROSS, T. D., C. N.

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Ex. "D"

The STATE OF TENNESSEE,  
Gibson County.

Statement of Zack Bryant.

I am 69 years old and past. I am the son and child of Zachariah Bryant, who was better known in this community as Rial Bryant. I was born in State of South Carolina. I am the grandson of John Bryant, who was the father of the above-name-Zachariah Bryant. The said John Bryant was born in the Cherokee nation, now known as the State of Georgia. There is no record of John Bryant in the United States before 1795, and from all the reliable information that his mother's name was Lucy Bryant. He was a part Cherokee Indian. He came into South Carolina rather a stragglng boy. He married a white lady in State of South Carolina, the woman that became my grandmother, in the face of all opposition owing to his Cherokee blood. Among his first children born was a girl he named Lucy Bryant. After a time he with his family moved to the State of Alabama. About the year 1825 he with his family moved to the State of Tennessee and settled in the county of Gibson, where he spent the remainder of his life, not being less than 80 years old when he died. John Bryant was the father of said Zachariah Bryant, and the said Zachariah Bryant is and was the father of Mary Bryant, who is now dead. Said Mary A. Bryant married William Bishop, who is now dead. The said Mary A. Bishop was the mother of two children now living, one Mary E. Bishop, her child, who now lives in the Cherokee nation. She married M. L. Baird. The other one, named Victoria Bishop, married W. H. Coley, who now resides in the State of Tennessee. The said Mary A. Bishop, she is and was the granddaughter of the said John Bryant, and her two children, the great grandchildren of John Bryant and grandchildren of said Zachariah Bryant.

The said John Bryant went to the Cherokee nation in year 1828 to visit his people.

(Signed) ZAC BRYANT.

STATE OF TENN.,  
Gibson County.

Personally appeared before me, N. J. Heathcock, notary public in and for said county, duly commissioned and qualified, Zack Bryant, with whom I am personally acquainted and who acknowledged that he executed the above within and annexed instrument for the purpose therein contained; he certified that the within statements are facts – the best of his knowledge and belief, and I hereby certify that the said Bryant is a man of undoubted veracity and worthy of belief in any statement he would make.

Sworn and subscribed before me this Sept. the 13th, 1887.

(Signed) N. J. HEATHCOCK,  
[SEAL.] Notary Public for Gibson County.

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Ex. E.

Statement of Sampson Browning.

THE State OF TENNESSEE, Carroll County.

I am sixty-nine years old and past; was born in the State of South Carolina; removed to the State of Tennessee, settled in Carroll county near the Carroll and Gibson county line in 1835; settled in the vicinity I am residing today. I have known of John Bryant 60 years since, in 1835; became intimately acquainted with John Bryant and his family; said Bryant departed this life in the year 1855, in Gibson county, State above named; said John Bryant was part Cherokee Indian, and his family of people, from the most reliable information such as cannot doubt, was Lucy Bryant, either mother or sister, that lived in the Cherokee nation, now as the State of Georgia; in the year 1828 he resided there. No record of John Bryant in the U. S. until 1795, or thereabout. He come into the State of South Carolina rather a stragglng youth ; he married a white lady in the face of all opposition offered on account of Cherokee blood, and after a time he with his family removed to the State of Alabama, where he remained two years, and in 1825 he removed to the State of Tennessee and settled in Gibson county, near the Gibson and Carroll county line, where he departed this life, being not less than 80 years old. John Bryant is and was the father of Zachariah Bryant, better known in this community as Rial Bryant, and said Zachariah Bryant removed to the State of Tennessee with the father, John Bryant, and settled in Gibson county, and departed this life in 1868, aged 69 years and past. Said Zachariah was and is the father of Mary A. Bryant, who is now dead, but in her lifetime she married William Bishop, who is also dead, and Mary A. had two children by said Bishop, one daughter named Mary i. Bishop, who married M. L. Baird, the family now residing in the Cherokee nation, west of the Mississippi river, and one other daughter named Victoria, who married William Cooley, now residing in Tennessee. The said Mary A. Bryant was the grandchild of the above-named John Bryant, and her two children, Mary E. Baird and Victoria Cooley, is the grandchildren of Zachariah Bryant above named, the great-grandchildren of the above named John Bryant. I am not related to John Bryant by blood or otherwise.

(Signed) SAMPSON BROWNING.

STATE OF TENNESSEE,  
Carroll County.

Personally appeared before me, W. J. Keaton, notary public in and for said county, duly commissioned, Sampson Browning, the signer of the above, with whom I am personally acquainted with, who- for truth and veracity is undoubted in this county, -, being sworn according to law, states the above instrument to contain 16 nothing but facts to the best of his knowledge and belief. He is worthy of belief.

This September the 19th, 1887.

(Signed) W. J. KEATON,  
Notary Public. [SEAL.]

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Endorsed on margin: Sampson Browning affidavit, Ex. "F."

TAHLEQUAH, CHEROKEE Nation, Nov. 21st, 1885.

My name is Hannah Flippin; age, 60 years; address, Pilot Point, Tex.; a citizen by blood of the Cherokee nation, admitted by the commission on citizenship in the year 1884.

After being duly sworn, says: I know Z. Bryant to be my uncle on the Cherokee side; I know he had a daughter by the name of Mary Ann, and am satisfied said Mary Ann married a man by the name of Bishop.

(Signed) HANNA FLIPPIN.

Sworn to and subscribed to before me this 21st day of Nov., 1885.

(Signed) ALLEN ROSS,  
Clerk T. D., C. N.

I certify that the above is a true copy of the original.

(Signed) MARK BEAN,  
Clerk Supreme Court.

Given under my hand and seal of office this the 28th day of Nov., 1885.

\_\_\_\_\_ [SEAL.]



Records and Briefs of the US Supreme Court

Ex. "G"

STATE OF TENNESSEE, }  
County of Gibson. }

Personally appeared before me, a notary public in and for the State and county aforesaid, Joseph Williams, who deposes and saith that: My age is 76 years; my post-office address is Milan, Gibson county, Tenn. I am well and personally acquainted with Mrs. Mary Ann Bishop; I know her to be the daughter of Zachariah Bryant, and Zachariah Bryant to be the son of John Bryant. [am 17 ~s also acquainted with Hannah Flippin, the wife of Alfred Flippen and the daughter of Polly Belew. I know the said Zachariah Bryant, the father of the said Mary Ann Bishop, and the said Polly Belew, the mother of the said Hannah Flippin, to be full brothers and sisters, and that the said Mary Ann Bishop and the said Hannah Flippin are cousins by blood. I am also acquainted with the children of the said Mary Ann Bishop, viz: Mary Elizabeth Bishop and Queen Victoria Bishop. I know them to be the only children of the said Mary Ann Bishop.

(Signed) JOSEPH WILLIAMS.

STATE OF TENNESSEE, }  
Gibson County. }

Personally appeared before me, S. H. Hale, a notary public in and for said county, Joseph Williams, and made oath in due form of law that the foregoing statements are Just and true.

Nov. 17th, 1885.

(Signed) S. H. WALE,  
Notary Public. [SEAL.]

TAHLEQUAH, C. N., Nov. 25th, 1885.

Gov. Belew, after being duly sworn, says that he is 53 years of age; post-office, Adair, Cherokee nation; that Z. Bryant was a Cherokee by blood; that he was the father of Mary A. Bishop, and said Mary A. Bishop ts a cousin of Hannah Flippin on the Cherokee side, who was admitted to the rights of citizenship by the commission on citizenship in 1884. Said Mary A. Bishop is now a resident of Cooweescoowee district, Cherokee nation.

(Signed) GOV. BELEW.

Qualified before ne as the law directs. Given under my hand and seal of office this the 25th day of Nov., 1883.

(Signed) MARK BEAN,  
Clerk Supreme Court, C. N.



## Records and Briefs of the US Supreme Court

Endorsed on margin: John Boyd affidavit, Ex. "J"  
Union AGENCY, Muscogee, Dec. 15th, 1885.

It appearing from citizenship papers filed in this cause that Mary E. Bishop and Mary E. Beard have established a prima facie Just case to citizenship in the Cherokee nation, it is therefore considered and ordered by me that said parties, Bishop and Beard, shall remain unmolested in the Cherokee nation until their claims have been fully established under future orders that may issue from the Interior Department.

(Signed) R. L. OWEN,  
U. S. Ind. Agent,  
Per WISDOM, Clerk.

I hereby certify that the foregoing is a true copy of the original, Given under my hand and seal of office this the 23rd day of May 1887.

ALLEN ROSS,  
Clerk T. D., C. N., Ind. Ter.







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\_\_\_\_\_  
VS.  
CHEROKEE NATION.

Adverse.

Embraced in decision on page 431, Book B, in the Aaron Bellew case, rendered March 18, 1889.

WILL P. ROSS,  
Chairman Com.

JOHN E. GUNTER, Com.

Office commission on citizenship, Tahlequah, I. T., March 18, 1889. D. S. Williams,  
cl'k com.

Copy, original.

No. 246 on appraiser's roll.  
No. 2073 on intruders' roll.

CHEROKEE NATION, INDIAN TERRITORY,  
COOWEESOOWEE District, Oct. 18th, 1895.

I hereby acknowledge that on the 18th day of October, 1895, E. E. Starr, treasurer of the Cherokee nation, did tender for my acceptance the sum of nine hundred and twenty-four dollars and fifty cents (\$924.50) of lawful money of the United States as the appraised value of improvements as above numbered in my possession in the Cherokee nation.

MARCUS BAIRD.

Witnesses: JETER CUNNINGHAM, Jr.  
M. REX WALKER.

EXECUTIVE DEPARTMENT OF CHEROKEE NATION.

I, John L. Adair, executive secretary of the Cherokee nation, do hereby certify that I have compared the foregoing with the original record in this department, and that the same are correct transcripts and copied therefrom.

In witness whereof I have hereunto set my hand and affixed the great seal of said Cherokee nation, at Tahlequah, this the 18 day of Sept., 1896.

(Signed) JOHN L. ADAIR,  
[SEAL.] Executive Secretary.

## Records and Briefs of the US Supreme Court

Before the Honorable Henry L. Dawes, Frank C. Armstrong, A. S. McKennon, T. B. Cabaniss, and A. B. Montgomery, Commissioners.

In the Matter of Application of Mary E. Baird, Marcus Baird, et. al. for Citizenship in the Cherokee Nation. Nation's No., 2246; Commission's No., Your respondent, S. H. Mayes, principal chief of the Cherokee Nation, comes now and demurs – the said application and for the grounds thereof says:

1st. That this commission has not jurisdiction over the parties or subject-matter of this controversy, and no legal right, therefore, to hear and determine the same.

2nd. That the application does not state facts sufficient, if true, to show that the applicants are entitled to citizenship.

Respondent, not waiving his aforesaid demurrer, but insisting upon the same, for answer to said application, says that John Bryant, through whom the petitioners claim to derive their right to citizenship in the Cherokee nation, is not now and has not been a citizen of the Cherokee nation since the removal of said nation west to the Indian Territory, as at present located and de 24 fined; that his name does not appear upon any of the authenticated rolls of said nation; that neither he nor any of his ancestors now reside or ever have resided in the Cherokee nation, Indian Territory, as citizens thereof.

Respondent, for a further and complete defense to the aforesaid application, says that heretofore said applicant made application before a legally constituted court or commission on citizenship having jurisdiction over applications for readmission to citizenship in the Cherokee nation; that the said cause was tried upon its merits; that upon a final hearing judgment was duly given against the applicant and in favor of this nation. A duly certified transcript of the aforesaid proceedings and judgment are annexed hereto and made a part of this answer.

Further, respondent says all of said applicants were declared intruders under the act of Congress – March 3, 1893, and their places appraised at \$924.50, which said – was tendered them in lawful money of the United States, as appears by confession of said tender herewith attached, and said nation avers that it has kept said tender good up to this time.

Having fully answered, your respondent asks to be hence dismissed.

S. H. MAYES, Principal Chief, Cherokee Nation,  
By HUTCHINGS, HASTINGS & BOUDINOT, Attorneys.

John L. Adair, executive secretary Cherokee nation, having been first duly sworn, states that the matters contained in the foregoing answer are true, to the best of his knowledge and belief.

(Signed) JOHN L. ADAIR.

Subscribed and sworn to before me this the 18 day of Sept., 1896.

(Signed) D. J. BALL,  
[SEAL.] Notary Public.



**Records and Briefs of the US Supreme Court**

Endorsed : 4609. 195. Nation's No., 2246; commission's

No., in reapplication of Mary E. Baird and Marcus Baird. Filed Mar. 13, 1897. James A. Winston, clerk. Demurrer and answer. Filed Sept. 23, 1896. A. S. McKennon, com'r.

There afterwards, or on the 26th day of Feb., 1897, there was tiled in said court the transcript of the record of the said Dawes commission, which is as follows, to wit:

Commissioners Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss, Alexander Montgomery; H. M. Jacoway, secretary.

DEPARTMENT OF THE INTERIOR,  
COMMISSION TO THE FIVE CIVILIZED TRIBES,  
VINITA, INDIAN Territory, November 16, 1896.

Mary E. Baird et. al. } Filed Sept. 8, 1896. Answer Filed.  
vs. } Application Denied.  
CHEROKEE NATION. } D. I. Elliott, Pryor Creek, I. T.

I, H. M. Jacoway, Jr., secretary, do hereby certify that the above and foregoing is a true and correct copy of Cherokee Record B, page 279, of the commission to the five civilized tribes.

Given under my hand and official signature this the 13 day of Feb., 1897.

H. M. JACOWAY, Jr.,  
Secretary.



**Records and Briefs of the US Supreme Court**

Endorsed: Citizenship case No. 195. Mary Baird et. al. vs. Cherokee Nation. Summons. Filed Jan. 27, 1897. James A. Winston, clerk. Clayton & B., att'ys for claimants.

At a regular term of the United States court for the northern district, Indian Territory, begun and held at the court-rooms, at Muscogee, I. T., on the \_\_\_\_ day of \_\_\_\_, 189\_.

On the \_\_\_\_ day of, 189\_, the same being one of the regular days of said term of said court-presiding, Hon. William M. Springer, judge, the following proceedings, amongst others, were had, to wit:

Mary E. Baird et. al.,  
vs.  
THE CHEROKEE Nation, Appellee.

It is ordered by the court that this cause be, and the same is hereby, referred to Edgar Smith, Esq., as special master-, under rule eight relative to practice in citizenship cases.

There afterwards, on the 19th day of August, 1897, there was filed in said cause the report of the special master, which is in words and figures as follows, to wit:

Mary E. BAIRD ET AL. }  
vs. } No. 195.  
THE CHEROKEE NATION. }

Mr. Edgar Smith, special master, to whom this case was referred, submits the following report:

(Insert report.)

By the Court: From this report it appears that the claimants in this case base their right to be enrolled as citizens of the Cherokee nation upon the ground that they are Cherokee Indians by blood and bona fide residents of the Cherokee nation, and have so resided since 1885.

It appears that said applicants applied to the Cherokee commission on citizenship and were rejected March 18, 1889.

The judgment of the United States commission rejecting this case is affirmed, and their application to be enrolled as citizens of the Cherokee nation is denied.

## Records and Briefs of the US Supreme Court

In the United States Court of the Indian Territory, Northern District, at Muscogee.

Mary E. Baird ET AL. }  
vs. } No. 195.  
THE CHEROKEE NATION. } Report of Special Master.

I, Edgar Smith, special master herein, respectfully submit to the court that under and by virtue of the order of reference by the court heretofore made I have examined the pleadings and proof in the above-entitled cause which are filed herein and made a part of this report, and I find as follows:

### I.

That this cause was instituted on the 8th day of September, 1896, by filing before the commission to the five civilized tribes the petition of the following-named persons, to wit:

Mary E. Baird, Alice E. Newhouse (née Baird), William M. Baird, Jettie A. Beleer, Ottis M. Newhouse, Thomas J. Newhouse, William L. Newhouse, Lacharia Newhouse

praying to be admitted as citizens by blood of the Cherokee nation and claiming through Lucy Bryant, who is alleged to have been a full-blood Cherokee Indian; that demurrer and answer was filed Sept. 20th, 1896, denying allegations of petition, and setting up that said petitions had been denied admission by commission on citizenship, and that these claimants are intruders under act of Congress March 3, 1893, etc.; that on Mar. 16, 1896, bill or petition was denied, no reasons being given therefor; that on Jan 13, 1897, appeal was taken to the district court at Muscogee.

### II.

That petitions filed in support of their petition affidavits of the following-named persons, to wit:

Watt Ckristin, J. W. Tackett, John Gott, Zachariah Bryant, Sampson Browning, Joseph Williams, Hannah Flippin, Gov. Belew, John Bryant, together with a certificate showing that Lucy Bryant, a widow, 7 in family, was enrolled May 20, 1818, and certified copy of certificate from R. L. Owen, U. S. Indian agent, relating that this family had filed prima facie proof of citizenship, and directing that the members thereof remain unmolested in the Cherokee nation until their claims have been fully established ; this order was dated Muscogee, December 15, 1885; that the Cherokee Nation filed in support of its answer certified copy of record of rejection of said applicants by commission on citizenship and copy of acknowledgment of tender of \$924.50 as appraised value of the improvements of Marcus Baird.

### III.

That Mary E. Baird is the daughter of Mary A. Bishop, who was the daughter of Zachariah Bryant, who was the son of John Bryant, who was the son of Lucy Bryant; that Zachariah Newhouse is also a great-great-grandchild of the said Lucy Bryant and a first cousin to the said Mary E. Baird; that the other applicants are children and grandchildren of said Mary E. Baird; that the aforesaid Zachariah Bryant, father of Maury A. Bishop aforesaid and grandfather of the aforementioned Mary E. Baird, was the father of Polly Belew, who derived her Cherokee blood from

## Records and Briefs of the US Supreme Court

her father, the said Zachariah Bryant, and that Polly Belew is the mother of Hannah Flippin, and that the said Hannah Flippin was admitted to Cherokee citizenship in 1884 by commission on citizenship; that these applicants are bona fide residents of the Cherokee nation, and have resided therein since 1885; that said applicants appealed to commission on citizenship and were rejected March 18, 1889; that a tender of \$924.00 was made to Marcus Baird by the treasurer of the Cherokee nation on the 18th day of March, 1899, as the appraised value of the improvements in the possession of the said Marcus Baird.

### IV.

I find that Mary I. Baird and Alice E. Newhouse, William M. Baird, Garland M. Baird, Jettie A. Belew, Ottis M. Newhouse, William L. Newhouse, whom I find to be children and grandchildren of the said Mary i. Baird and Zachariah Newhouse, are all lineal descendants of Lucy Bryant, and that they are all Cherokee Indians by blood and bona fide residents of the Cherokee nation; that they applied to commission on citizenship and were rejected March 18, 1889; that it is not shown that Lucy Bryant nor any of her descendants, through whom these applicants claim, have been enrolled as Cherokee Indians citizens by the Cherokee nation since its removal west to its present location.

### V.

Appellants contend that they having shown that they are Cherokee Indians by blood and bona fide residents of the Cherokee nation that they are entitled to all of the privileges, rights, and benefits accounting to the Cherokee nation and enrollment as such, while appellees contend that upon this showing appellants are not entitled to be enrolled, it not having been shown that their ancestor, Lucy Bryant, or any other through whom they claim was enrolled by Cherokee nation since its removal to its present location ; appellees further contend that appellants having been rejected by commission on citizenship are barred.

Task that a reasonable fee be allowed me as master herein. Master's fee paid.  
Respectfully submitted this 16 day of Aug., 1897.

(Signed) EDGAR SMITH, Special Master.

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Endorsed: Mary E. Baird et. al. vs. The Cherokee Nation. No. 195. Report of special master. Filed Aug. 19, 1897. James A. Winston, clerk.

At a regular term of the United States court for the northern district, Indian Territory, held at the court-rooms, at Muscogee, Indian Territory. Presiding: Hon. William M. Springer, judge of said court. On the 13th day of December, 1897, 189\_, the same being one of the regular days of said term of said court, the following proceedings, amongst others, were had, to wit:

Mary E. Baird, Alice E. Newhouse, William M. Baird, Marcus D. L. Baird, }  
Garland M. Baird, Jettie A. Belew, Zacheriah B. Newhouse, Otis M. Newhouse, }  
Thomas D. Newhouse, William L. Newhouse, William M. Baird, Winnie D. Baird, }  
and Paul Belew, Appellants }  
vs. }  
THE CHEROKEE Nation, Appellee. }

Come the above-named appellants, by their solicitors, and also comes the above-named appellee, by its solicitors, and this cause having been heretofore submitted to the court upon application for citizenship of said appellants, and the answer and demurrer of the appellee, and the evidence for both parties on file in the case, and the master's report, and the court, having been now well and sufficiently advised in the premises, doth find the issues for the appellee, The Cherokee Nation.

It is therefore by the court considered, ordered, and decree that the said appellants in this cause be, and each of them are hereby, refused admission and enrollment as citizens of said nation, and the Judgment and decision of the commission to the five civilized tribes is in all things approved and affirmed, and the application for citizenship herein is dismissed at costs of appellants, and that execution issue therefor; to which action of the court in refusing to admit and enroll the appellants and each of them as citizens of the Cherokee nation they and each of them at the time excepted.

**Records and Briefs of the US Supreme Court**

There afterwards, on September 13, 1898, there was filed the petition for appeal and assignment of errors, which are respectively in words and figures as follows, to wit:

United States OF AMERICA, Indian Territory.

M. E. BAIRD ET AL.     }  
vs.                        } No. 195. Petition for Appeal.  
THE CHEROKEE NATION. }

Comes now M. E. Baird et al., above-named plaintiffs in the above entitled cause, and pray that an appeal be granted to them from the judgment and decision of the United States court for the northern district of the Indian Territory in Skid case tried in said court as citizenship case No. 195, whereiu appellants were plaintiffs and appellees were defendants, to the Supreme Court of the United States; and said appellants aver that at the trial and determination of said case by the said court for the said northern district of the Indian Territory manifest error has happened, to the great prejudice and damage of appellants, and that they have been deprived of their substantial rights.

Wherefore said appellants pray an appeal as by the statutes provided in such cases, and that the records, testimony, and findings of the special master and all matters pertaining thereto be certified up to the said Supreme Court of the United States.

(Signed) A. H. GARLAND & SON,  
          M. M. EDMISTON, Attorneys for Appellants.

Endorsed: No. 195. M. E. Baird et. al. v. Cherokee Nation. Petition for appeal.  
Filed Sep. 13, 1898. James A. Winston, clerk.

**Records and Briefs of the US Supreme Court**

Assignment of Errors.

M. E. Baird ET AL.     }  
vs.                         } No. 195.  
THE CHEROKEE NATION. }  
}

On this the 9th day of September, 1898, come the complainants herein, by their attorneys, A. H. Garland & Son and M. M. Edmiston, and say that in the records and proceedings in the above entitled cause there is manifest error in this, to wit, that the orders, judgments, and decrees rendered by the United States court for the northern district of the Indian Territory on the 13 day of Dec. 1897, and subsequent orders, &c., are erroneous for the following reasons, to wit:

1st. The court erred in not passing on the errors complained of as having been committed by the U. S. commission to the five civilized tribes.

2nd. The court erred in denying plaintiffs' petition for citizenship and enrollment in said nation of Cherokee Indians in the Indian Territory under the evidence submitted in this case.

3rd. The court erred in denying plaintiffs' petition for citizenship and enrollment in said nation and Territory, in misapplying the general laws, the Cherokee laws and customs, and the treaties between the United States and the Cherokee Indians governing In this case.

4th. The court erred in denying prayer of petitioners when the evidence showed that they were Cherokee Indians by blood and bona fide residents of the said nation.

5th. The court erred in confirming the judgment of tne United States commission to the five civilized tribes, refusing the petitioners the right of citizenship and enrollment in the said nation, and in denying petitioners herein the right of enrollment and citizenship. Wherefore said complainants pray that the orders, judgments, and decrees of the said court for the northern district of the Indian Territory be reversed, and that said court be directed to set aside and annul said orders, judgments, and decrees so entered in said cause as aforesaid, and that it be ordered to enter a judgment and decree granting these complainants the relief prayed for in their original complaint for citizenship in the Cherokee nation, Indian Territory, and for all equitable and general relief.

(Signed) A. H. GARLAND & SON,  
M. M. EDMISTON, Solicitors for Petitioners.

Endorsed: No. 195. Assignment of errors. Filed Sep. 13, 1898. James A. Winston, clerk.



**Records and Briefs of the US Supreme Court**

In the United States Court for the Northern District of the Indian Territory, at Muscogee, I. T.

Mary E. Baird, Alice E. Newhouse, WILLIAM M. Baird, }  
Marcus D. L. Baird, Garland M. Baird, Jettie A. Belew (née Baird), }  
Zechariah B. Newhouse, Otis M. Newhouse, Thomas D. Newhouse, }  
William L. Newhouse, William M. Baird, Winnie D. Baird, Paul Belew } No. 195  
vs. }  
THE CHEROKEE NATION, INDIAN TERRITORY. }

Petition for Appeal.

The plaintiffs above named, to wit, Mary E. Baird, Alice E. Newhouse, et. al., conceiving themselves aggrieved by the orders, judgments, and decrees entered herein on the 13 day of Dec., 1897, in the above-entitled case, doth hereby appeal from said orders, judgments, and decrees to the Supreme Court of the United States, at Washington, D. C., and pray that this appeal may be allowed and transcript of the record and proceedings and papers of which said orders, judgments, and decrees were made, duly authenticated, may be sent to the Supreme Court of the United States, pursuant to an act of Congress entitled "An act making appropriations for contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June 30th, 1898, and for other purposes," approved July 1st, 1898, and therein providing for appeals to the U. S. Supreme Court in citizenship and other cases from the Judgments of the U. S. courts in the Indian Territory. The Judgments, orders, and decrees herein are erroneous In this:

- (1.) The court erred in not admitting said parties to citizenship in the Cherokee nation.
- (2.) The court erred in refusing them citizenship.
- (3.) The court finds that plaintiffs were Indians; therefore they should be enrolled as citizens.
- (4.) Because plaintiffs had not been admitted by Cherokee authority, some of whom having been born out of the Indian Territory.

A. H. GARLAND, M. M. EDMISTON,  
Solicitors for Plaintiffs.

And now, on this 19 day of October, 1898, it is ordered that the appeal in this case be allowed as prayed for.

William M. SPRINGER, Judge of the U. S. Court for the Northern District of the Indian Territory.

Endorsed: "Filed Oct. 19, 1898. James A. Winston, clerk."

**Records and Briefs of the US Supreme Court**

In the United States Court for the Northern District of the Indian Territory.

Mary E. Baird et. al., Plaintiffs, }  
vs. } No. 195. Bond for Costs.  
THE CHEROKEE NATION, Appellees.

Know all men by these presents that we, Mary E. Baird et. al., appellees, and Charles H. Hawkins and M. D. L. Baird, sureties, are held and firmly bound unto the Cherokee Nation in the full and just sum of two hundred (\$200) dollars, to be paid to the Cherokee Nation, its certain attorneys, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seal this the 15 day of October, A. D. 1898.

Whereas lately, at the United States court for the northern district of the Indian Territory, in a suit pending in said court, at Muscogee in said district, between Mary E. Baird et al., appellants, and The Cherokee Nation, appellees, judgment was rendered against said appellants, and said appellants have obtained and filed a copy thereof in the clerk's office of said court, together with a petition praying for an appeal to reverse the judgments, findings, and decrees of the court, after review, as by the statutes provided and citation having issued to the Cherokee Nation, citing and admonishing it to appear at the Supreme Court of the United States, at a term thereof to be holden at the city of Washington, D. C., on the second Monday of October, in the year of our Lord one thousand eight hundred and ninety-eight:

Now, the condition of the above obligation is such that if the said appellants shall prosecute their appeal to effect and answer all costs if they fail to make their plea good, then the above obligation is void ; otherwise to remain in full force and virtue.

MARY E. BAIRD. [SEAL.]  
GARLAND M. BAIRD. [SEAL.]

C. H. HAWKINS [SEAL.]  
MARCUS D. L. BAIRD [SEAL.] Sureties.

Signed, sealed, and delivered in the presence of \_\_\_\_\_



## Records and Briefs of the US Supreme Court

Citation.

The United States of America to the Cherokee Nation, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States, at Washington, D. C., within thirty days from this date, pursuant to a writ of error filed in the clerk's office of the United States court in the Indian Territory for the northern district, at Muscogee, I. 'T., wherein Mary E. Baird and Alice E. Newhouse et. al. are plaintiffs in error and you are defendant in error or appellee, to show cause, if any there be, why the orders, judgments, and decrees rendered against the said plaintiffs in error, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done the parties in that be half.

Witness the Honorable William M. Springer, judge of the United States court for the northern district of the Indian Territory, this 19 day of October, A. D. 1898.

William M. SPRINGER,  
Judge U. S. Court in the Indian Territory  
for the Northern District.

Service accepted and acknowledged this 19 day of October, 1898.

WILLIAM T. HUTCHINGS,  
Solicitor for Defendant, Muscogee, I. Ty

Endorsed: "Filed Oct. 19, 1898. James A. Winston, clerk."

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