

M C R 6809

Muskogee, Indian Territory, April 1, 1903.

Samuel Nelson McGee,

Lenton, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 27th  
ultimo, in which you state your full name is Samuel Nelson McGee.  
A proper record has been made of the same.

Respectfully,

Chairman.

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

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In the matter of the application of Samuel Nelson McGee, et al., for identification as Mississippi Choctaws, consolidating the applications of:

Samuel Nelson McGee,	M.C.R. 6809
Robert McGee, et al.,	M.C.R. 7247
Thomas McGee, et al.,	M.C.R. 7248
George McGee, et al.,	M.C.R. 7249
Truss McGee, et al.,	M.C.R. 7299
John McGee, et al.,	M.C.R. 7300-
Effie D. Threet,	M.C.R. 6839
Alfred H. Walker, et al.,	M.C.R. 6750
Tom B. Walker, et al.,	M.C.R. 6751
John T. Walker, et al.,	M.C.R. 6752
James W. Walker, et al.,	M.C.R. 6753
George Walker,	M.C.R. 6754
Thomas W. Davis, et al.,	M.C.R. 7200
John M. Davis, et al.,	M.C.R. 6832
Nelson L. Lackey, et al.,	M.C.R. 6757
John W. Davis, et al.,	M.C.R. 6833
Issac S. Watson, et al.,	M.C.R. 6762
Margaret McPherson, et al.,	M.C.R. 6758
James T. Strong, et al.,	M.C.R. 6759
Benjamin Franklin Fulton,	M.C.R. 6835
William A. Attaway,	M.C.R. 6760
Edward P. Brown, et al.,	M.C.R. 6834
James H. Moore, et al.,	M.C.R. 6761
Willis Perry, et al.,	M.C.R. 6836
Lee A. Edwards, et al.,	M.C.R. 6837
Lou Hayden, et al.,	M.C.R. 6840

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

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In the matter of the application of Samuel Nelson McGee, et al., for identification as Mississippi Choctaws, consolidating the applications of:

Samuel Nelson McGee,	M.C.R. 6809
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George Walker,	M.C.R. 6754
Thomas W. Davis, et al.,	M.C.R. 7200
John M. Davis, et al.,	M.C.R. 6832
Nelson L. Lackey, et al.,	M.C.R. 6757
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Lee A. Edwards, et al.,	M.C.R. 6837
Lou Hayden, et al.,	M.C.R. 6840

---: D E C I S I O N :---

It appears from the record herein that applications for identification as Mississippi Choctaws were made to this Commission

by Samuel Nelson McGee for himself; by Robert McGee for himself and his six minor children, Aaron, Birdie, Odell, Ida, Lena and Georgie McGee; by Thomas McGee for himself and his five minor children, Minnie, Walter, Rhoda, Rella and Jim McGee; by George McGee for himself and his five minor children, Jesse, Rosa, Robert, Maria and Millie McGee; by Truss McGee for himself, his four minor children, Charlie, Johnnie, Carrie Lee and Ines McGee, and his minor ward, Josie McGee; by John McGee for himself and his three minor children, Donnie B., Thomas and Daisy McGee; by Effie D. Threest for herself; by Alfred H. Walker for himself and his seven minor children, Joe R., Alfred Hactor, Katie U., Alice L., Tom H., Nata L., and John T. Walker; by Tom B. Walker for himself and his four minor children, Idella, Josie, Margie and Willie B. Walker; by John T. Walker for himself and his four minor children, Tommie, Sarah, Irene G. and Earl L. Walker; by James W. Walker for himself and his two minor children, Daisy and Robert Walker; by George Walker for himself; by Thomas W. Davis for himself and his three minor children, Emma B., Weston M. and Warren W. Davis; by John M. Davis for himself and his two minor children, Chauncey and Mary M. Davis; by Nelson L. Lackey for himself and his three minor children, Adlena P., Christopher C. and Eddie B. Lackey; by John W. Davis for himself and his two minor children, Maria L. and Matilda Davis; by Isaac S. Watson for himself and his two minor children, Wilson and Caroline Watson; by Margaret McPherson for herself and her minor child, Sam McGree; by James T. Strong for himself and his two minor children, Clarence J. and Signora Strong; by Benjamin Franklin Fulton for himself; by William A. Attaway for himself; by Edward P. Brown for himself and his four minor children, Daisy B., Everson W., Noel P. and Earl N. Brown; by James K. Moore for himself and his four minor children,

William H., Annie, Mary Lizzie and Maggie A. Moore; by Willis Perry for himself and his four children, Monroe, Robertson, Page and Willis Perry; by Lee A. Edwards for himself and his two minor children, James L. and Lillie Edwards; and by Lou Hayden for herself and her four minor children, Mary A., Lucy, Hiram and Henry Clark, under the following provision of the act of Congress approved June 28, 1898 (30 Stats., 495):

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

It also appears that all the applicants embraced in M.C.R. 6809, 7247, 7248, 7249, 7299 and 7300 claim rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation, concluded September twenty-seventh, eighteen hundred and thirty, by reason of being descendants of Samuel McGee, who is alleged to have been a Choctaw Indian, degree of blood not positively stated, and Louisa Phelps, who is alleged to have been a full-blood Choctaw Indian; that the applicants embraced in M.C.R. 6839, 6835, 6834, 6836, 6840 and the principal applicant in M.C.R. 6837, claim said rights by reason of being descendants of the above named Samuel McGee and John Jones, who is alleged to have been a full-blood Choctaw Indian, and to have resided in Alabama in eighteen hundred and thirty; that the minor applicants in M.C.R. 6837, claim said rights by reason of being descendants of Samuel McGee, John Jones and Susie A. Edwards, the latter of whom is alleged to have been a Choctaw Indian, degree of blood not stated; that all the other applicants, except the minor applicants in M.C.R. 6832 and 6833, claim said rights by reason of being descendants of



the above named Samuel McGee and Polly McGee, who is alleged to have been a full-blood Choctaw Indian; that the minor applicants in M.C.R. 6832 claim said rights by reason of being descendants of Samuel McGee, Polly McGee and Maggie Davis, the latter of whom is alleged to have been a quarter blood Choctaw Indian; and that the minor applicants in M.C.R. 6833 claim said rights by reason of being descendants of the above named Samuel McGee, Polly McGee and Mary E. Davis, the latter of whom is alleged to have been an one-sixteenth blood Choctaw Indian.

It further appears from the evidence submitted in support of said applications and from the records in the possession of the Commission, that none of said applicants has ever been enrolled by the Choctaw tribal authorities as a member of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, or by the Commission to the Five Civilized Tribes, or by a decree of the United States Court in Indian Territory, under the provisions of the act of Congress approved June 10, 1896 (29 Stats., 321).

It is found from an examination of the records in the possession of the Commission, that the name of Samuel McGee appears on pages 60, 67, 82, 140, 280 and 320 of Volume I, Claimant's Brief and Evidence in the case of the Choctaw Nation vs. United States before the Court of Claims No. 12742, and also on page 1055, Volume II of said record, in a number of lists, statements and depositions relating to claims arising under article fourteen of the treaty of "Dancing Rabbit Creek," wherein it appears that Samuel McGee was an one-half blood Choctaw Indian, who resided, at the date of the treaty about ten miles North of the old Agency on a creek called Trimmer Cane; that his first wife was a half breed Choctaw woman by the name of Polley, by whom he had three children, two over and one

under ten years of age at the date of the treaty (unmarried), whose names are as follows: Ann, Lavinia and Umpriss (or Humphreys); that their ages in 1838 are given as 22, 20 and 17 respectively; that Polley died five or six years prior to the date of the treaty and that after her death he re-married, his second wife deserting him the year before his death which occurred in about January 1837.

The name John Jones is found on page 18, Volume I of the record above mentioned in "a register of Choctaws as entered by the Agent previous to the 24th August, 1831, who wish to become citizens according to a provision of the treaty of eighteen hundred and thirty," as being a white man with an Indian wife, having one child over ten years of age; on page 139 in "a list of Choctaw heads of families claiming land under the fourteenth article of the treaty," and also on page 1055, Volume II of said record as the father of Polley, the wife of Samuel McGee.

It is further found that the name Samuel McGee appears on page 63, John Jones on pages 87, 122 and 133, and John Jones, Sr., on pages 76 and 125 of Volume VII, American State Papers, Public Lands, in a list of names of Choctaw Indians, heads of families, who resided in Moshulatubbee's and Greenwood Leflore's districts, in the territory occupied by the Choctaw Indians in the States of Mississippi and Alabama, at the date of the making of the treaty of "Dancing Rabbit Creek," and had lands in cultivation, in exchange for which they were to receive stipulated tracts of land in accordance with the provisions of the nineteenth article of said treaty. The record above referred to in no way relates to article fourteen of the treaty of eighteen hundred and thirty, or shows a compliance or attempted compliance on the part of the persons therein named with its provisions.

The applicants herein allege descent from Samuel McGee,

Polly McGee and John Jones, and claim rights in the Choctaw lands by virtue of an attempted compliance on the part of said ancestors with article fourteen of the treaty of eighteen hundred and thirty, depending for proof of such compliance entirely upon their own testimony.

From the evidence it appears that the principal applicant, Samuel Nelson McGee, and his wife were slaves, born of slave parents; that his father, whose name is given as Walker McGee, was a son of Samuel and Louisa McGee, formerly Phelps; that at the time of the making of his application he was 70 years of age, and that the principal applicants in M.C.R. 7247, 7248, 7249, 7299 and 7300, are the children of the said Samuel Nelson McGee. Being 70 years of age at that time, his parents would undoubtedly been married in 1833. The records of the Commission do not disclose the fact that the Samuel McGee of record had any children by the name of Walker or that he was married to a woman whose maiden name was Louisa Phelps. The records set forth that Samuel McGee, after the death of his first wife, Polley, in 1825, re-married, living with his second wife until about 1836, and any children that Samuel McGee of record may have had by his second wife would, in 1833, not have been over seven or eight years of age. The other applicants herein, except those embraced in M.C.R. 7200, 6832, 6834, 6751, 6836, 6837 and 6840, claim rights in the Choctaw lands by reason of being descendants of Samuel and Polly McGee, through either Anna (or Annie), who married one Jack Cole, or Humphreys (or Humphrees, or Umphrees), or Levina (or Levinay), who married one John Smith, children of Samuel and Polly McGee, the ancestors through whom they claim. The applicants in M.C.R. 7200, 6832, 6834, 6751, 6836, 6837, and 6840 are unable to give the names of their ancestors less remote than Samuel and Polly McGee, while those applicants who do name them have

acquired such knowledge but recently and state that in eighteen hundred and thirty, Samuel and Polly McGee had three children in Alabama, whose names are given as: Hannah, Umphrees (or Humphrees, or Humphreys) and Levina (or Leviney), whereas the Samuel and Polley McGee of record had no child at that time, or subsequent thereto, who bore the name of Hannah, and that their residence at that time and until their death, was in Mississippi. The applicants show surprising ignorance as to the residence of their ancestors, some claiming they resided in Alabama in eighteen hundred and thirty, while others give their residence as Mississippi, and even the principal applicant, who gives his age as 70, expresses total ignorance as to the residence of said ancestors. The applicants herein further allege that Polly McGee was a full-blood Choctaw Indian and the daughter of John Jones, also a full-blood Choctaw Indian, while the Polley McGee of record was an one-half blood Choctaw Indian and the daughter of John Jones, a white man, the husband of an Indian woman. With the exception of naming two children, whose names are similar to those of the children of the Samuel and Polley McGee of record, the facts as set forth by the applicants herein fail to corroborate the record in any particular, and fails to produce any testimony relating to the compliance or attempted compliance on the part of their ancestors.

It does not appear from the testimony and evidence offered in support of these applications, or from the records in the possession of the Commission, relating to persons who complied or attempted to comply with the provisions of said article fourteen of the treaty of eighteen hundred and thirty, and to persons who heretofore were claimants thereunder, that the said Samuel McGee, or John Jones, or Polly McGee, through whom these applicants claim, or Louisa Phelps,

or Susie A. Edwards, or Maggie Davis, or Mary E. Davis, or ancestors less remote, signified (in person or by proxy) to Colonel Wm. Ward, Indian Agent, Choctaw Agency, an intention to comply with the provisions of said article fourteen, or presented a claim to rights thereunder to either of the Commissions authorized to adjudicate such claims by the acts of Congress approved March 3, 1837 (5 Stats. 180) and August 23, 1842 (5 Stats., 513).

It is therefore the opinion of this Commission that the evidence herein is insufficient to determine the identity of Samuel Nelson McGee, Robert McGee, Aaron McGee, Birdie McGee, Odell McGee, Ida McGee, Lena McGee, Georgie McGee, Thomas McGee, Minnie McGee, Walter McGee, Rhoda McGee, Rella McGee, Jim McGee, George McGee, Jesse McGee, Rosa McGee, Robert McGee (2), Maria McGee, Millie McGee, Truss McGee, Charlie McGee, Johnnie McGee, Carrie Lee McGee, Inez McGee, Josie McGee, John McGee, Donnie B. McGee, Thomas McGee, Daisy McGee, Effie D. Threst, Alfred H. Walker, Joe R. Walker, Alfred Hector Walker, Katie U. Walker, Alice L. Walker, Tom H. Walker, Matt L. Walker, John T. Walker, Tom B. Walker, Idella Walker, Josie Walker, Margie Walker, Willie B. Walker, John T. Walker (2), Tommie Walker, Sarah Walker, Irene G. Walker, Earl L. Walker, James W. Walker, Daisy Walker, Robert Walker, George Walker, Thomas W. Davis, Emma E. Davis, Weston M. Davis, Warren W. Davis, John M. Davis, Chauncey Davis, Mary M. Davis, Nelson L. Lackey, Adlena P. Lackey, Christopher C. Lackey, Eddie B. Lackey, John W. Davis, Maria L. Davis, Matilda Davis, Isaac S. Watson, Wilson Watson, Caroline Watson, Margaret McPherson, Sam McGree, James T. Strong, Clarence J. Strong, Signora Strong, Benjamin Franklin Fulton, William A. Attaway, Edward P. Brown, Daisy E. Brown, Eversen W. Brown, Noel P. Brown, Earl H. Brown, James H. Moore, William H. Moore, Annie Moore,

Mary Lizzie Moore, Maggie A. Moore, Willis Perry, Monroe Perry, Robertson Perry, Page Perry, Willis Perry (2), Lee A. Edwards, James L. Edwards, Lillie Edwards, Lou Hayden, Mary A. Clark, Lucy Clark, Hiram Clark and Henry Clark, as Choctaw Indians entitled to rights in the Choctaw lands under the provisions of said article fourteen of the treaty of eighteen hundred and thirty, and that the applications for their identification as such should be refused, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

*Jame Bixby*

Chairman.

(SIGNED)

*T. B. Needles*

COMMISSIONER

(SIGNED)

*C. B. Breckinridge*

COMMISSIONER

(SIGNED)

*W. E. Stanley*

COMMISSIONER

Muskogee, Indian Territory,

OCT 31 1903