**Ex Parte Joins**

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**Court** : US Supreme Court

**Decided On :** Nov-09-1903

**Appeal No.** : 191 U.S. 93

**Appellant** : Ex Parte Joins

**Judgement** :

Ex Parte Joins - 191 U.S. 93 (1903)
U.S. Supreme Court Ex Parte Joins, 191 U.S. 93 (1903)

**Ex Parte Joins**

**No. 12, Original**

**Argued October 19, 1903**

**Decided November 9, 1903**

**191 U.S. 93**

*PETITION FOR A WRIT OF PROHIBITION AND FOR CERTIORARI*

*AGAINST THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT*

## SYLLABUS

A writ of prohibition will not be issued to an inferior court in respect of a cause which is finished.

The case is stated in the opinion of the Court.

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MR. JUSTICE HOLMES delivered the opinion of the Court.

This is a petition for a writ of prohibition, and for a writ of certiorari in aid of the same, to the members of the Choctaw and Chickasaw Citizenship Court, established by an agreement between the United States and the Choctaw and Chickasaw Nations, made on March 21, 1902, and ratified by an Act of Congress of July 1, 1902, 32 Stat. 641, c. 1362. By 31 of the act, the two nations were authorized to file a bill in equity in the said court to annul, on certain grounds of law, decrees of United States courts in the Indian Territory, whereby certain persons were admitted to citizenship in those nations. The bill was filed and a decree was made purporting to annul the former decrees. The prohibition sought is against giving further effect to this decree, or certifying and delivering a copy of the same to the Dawes Commission, established under an earlier act, it being alleged that the provisions of 31 are contrary to the Constitution of the United States.

The facts alleged and not denied may be summed up as follows:

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by the Act of June 10, 1896, c. 398, 29 Stat. 321, 339, Congress authorized a commission to the five civilized tribes of Indians, commonly called the Dawes Commission, to hear and determine the rights of persons claiming citizenship in any of those nations, with an appeal to the United States courts in the territory. The petitioner applied to the commission, and, his application being rejected, appealed to the United States court, and there, on March 8, 1898, got a decree in his favor, declaring him to be a member of the Chickasaw Nation. A bill of review brought by the Chickasaw Nation is pending in the United States Court of Appeals

for the Indian Territory. After the decree, and before the act of 1902, and, for anything to the contrary in the petition, before the decision of this Court next to be mentioned, the petitioner entered a tract of Chickasaw land, and made improvements costing $15,000. For this he invokes the Act of June 28, 1898, c. 517, 161, 30 Stat. 495, 505, 507, and he contends that that act, as well as the act of 1902, 11, gave him a right of property in common with the other members of the tribe. *Jones v. Meehan,* 175 U. S. 1 .

On July 1, 1898, an act of Congress granted an appeal from such decrees to this Court, c. 545, 30 Stat. 591, and an appeal was taken by the Chickasaw Nation. In May, 1899, it was held by this Court that the act was intended to open only the question of the constitutionality of the previous legislation, which was sustained, and that the Act of July 1, 1898, was not made invalid by the provision in the earlier statute of 1896, that the judgment of the United States courts, on appeal to them, should be final. *Stephens v. Cherokee Nation,* 174 U. S. 445 .

The Indian nations, still being dissatisfied, there followed the agreement and the act of 1902 first mentioned in this statement. By 33, the Choctaw and Chickasaw Citizenship Court was created. By 32, it was given appellate jurisdiction over all judgments of the courts in the Indian Territory rendered under the above-mentioned act of 1896, admitting persons to citizenship or to enrollment as citizens in any of the said nations. It is admitted that these sections are valid, but it is

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contended that 31, upon which the decree rests, it void. By that section it is provided that the Choctaw and Chickasaw Nations may file a bill in the new court to annul all the said judgments or decrees of the United States courts, on the ground that notice should have been given to both nations, whereas it was given only to one, or on the ground that the proceedings should have been confined to a review of the action of the Dawes Commission on the evidence submitted to that commission, and should not have extended to a trial *de novo* of the question of citizenship. The suit was to be confined to a determination of these questions of law. In case the judgment or decrees should be annulled, parties deprived of

citizenship were empowered to transfer the proceedings in their cases to the Citizenship Court for such proceedings as ought to have been had in the United States courts. Several thousand persons being concerned, ten persons admitted to citizenship were to be made defendants and served with process, and there was to be a general notice, also, by publication, with liberty to any person so situated to become a party. A bill was filed, and after proceedings in conformity to the statute, a decree was rendered, annulling all the said judgments or decrees on both the above grounds.

The answer set up that the test case provided for had been decided, and judgment entered and certified to the Dawes Commission, on January 15, 1903, before the present petition was filed, and that nothing remained to be done by the Citizenship Court. It also alleged as an estoppel that, since filing this petition, this petitioner has instituted a suit by way of appeal, as provided in the act of 1902, to have his rights tried by the court on their merits, and further, that, if the petitioner is an Indian, he is bound by the vote of his tribe ratifying the agreement sanctioned by said act of 1902. To this answer the petitioner demurred, so that, whether a demurrer was necessary or not, the allegations of the answer are not denied.

On these facts, the petitioner contends that 31 is void because it provides for a personal judgment, the annulling of the decree obtained by him, without personal service, because Congress has no power to annul or to provide for the annulling of

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a judgment of a court of competent jurisdiction, not alleged to have been obtained by fraud, and because the annulling of the judgment deprives the petitioner of property rights without due process of law.

It is unnecessary to state the objections to the law more in detail, because we are of opinion that the writ must be denied irrespective of these questions. We need not consider whether the jurisdiction of this Court to grant a writ of prohibition to the district courts is confined to cases where those courts are "proceeding as courts of admiralty and maritime jurisdiction." Rev.Stat. 688. *Ex Parte City Bank,*

3 How. 292, 44 U. S. 322 ; *Ex Parte Gordon,* 1 Black 503; *Ex Parte Graham,* 10 Wall. 541; *Ex Parte Easton,* 95 U. S. 68 . As to the jurisdiction in other cases, whether inherent or under Rev.Stat. 716, *see In re Rice,* 155 U. S. 396 ; *In re Huguley Manufacturing Co.,* 184 U. S. 297 ; *In re Chetwood,* 165 U. S. 443 , 165 U. S. 462 . Again, we need not consider whether the Citizenship Court is a court in such a sense as to be subject to prohibition. *See In re Vidal,* 179 U. S. 126 ; *Gordon v. United States,* 2 Wall. 561. However these things may be, it is clear that the writ will not issue after the cause is ended, and that the cause in the Citizenship Court was ended before the present application was heard.

It is stated correctly by the answer that the act does not empower the Citizenship Court to do anything in the test case beyond rendering its judgment and certifying the same, as it has done. This being so, there is nothing which this Court could prohibit, even if it were of opinion that the petitioner made out a good case on the merits, which we do not intimate. Therefore the writ must be denied. *United States v. Hoffman,* 4 Wall. 158; *Denton v. Marshall,* 1 H. & C. 654, 660; *State v. Stackhouse,* 14 S.C. 417, 427-428; *Brooks v. Warren,* 5 Utah 89.

*Petition dismissed.*