

# INDIAN CITIZENSHIP TESTED

## STATUS FINALLY ESTABLISHED—RIGHT TO VOTE NOW UNDISPUTED

The case of the United States versus Charlie Jones grew out of the voting which Jones did at the general election of Nov. 7th, 1922 when Jones swore in his vote after challenge by L. M. Churchill, election judge at Wrangell, Alaska.

Certain leaders of the Natives have felt for a long time that these people are free born citizens of the United States under the 14th amendment and also under the act of Congress passed February 8, 1887. And because the subject of fisheries is so important to them and because it is a subject on which they are the best informed, the natives have been urged to vote for particular men who had shown by their records that they were fairminded.

Charlie Jones was selected by the Wrangell City Council as being their strongest case to prove that the said Jones was a legal Indian and not a citizen. In many respects, they were right, for Jones is an old Indian, uneducated, he could not read or write, and he lived on lands which have been surveyed by the government as "Indian Possessions."

The star witness for the government was Billy Thomas,, who at one time was related to Charlie Jones by marriage. He learned to read and write late in life and finally became U. S. Commissioner at Wrangell.

The other star witness was L. M. Churchill, who was married to an Indian woman and raised a fine family of boys and girls, children that would be a credit to any father or mother.

The other star witness was Mayor John Grant who is also married to an Indian woman and who raised one of the finest families known to this writer.

We have wondered, though, why such men who have cast in their lots generally with the native Alaskans should continue the persecution of the race into which they married.

A great deal of unnecessary and irrelevant testimony was introduced and permitted, but the question at last turned on whether or not Jones had abandoned his tribal relations and was living after the manner of a civilized life.

Thomas said it was his opinion that Jones had not, and when pressed

in cross-examination to state in what respect he had failed to live after the manner of one civilized, Thomas said that Jones regarded himself as the successor of Chief Shakes and chief of the Non-ni-ah-yi clan; that he could not read or write; that he lived on an Indian reserve; and that his house was not painted. The other witnesses testified in like manner.

In a well considered opinion, Judge Thomas Reed disposed of all legal questions, the important points being as follows:

"Every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians, therein and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States.

"An Indian tribe, in a legal sense, is a community of the original tribe or race, having laws, rules and regulations governing themselves and owing allegiance to the authority of the tribe or the tribal law rather than of the United States itself.

"Some question is raised about the defendant residing on a tract of land shown on the plat of the townsite of Wrangell as 'Indian possessions,' as an indication that he had not taken up his residence separate and apart from any tribe of Indians. \* \* \* I

\* \* \* instruct you that the so-called reservation or Indian possessions at Wrangell is not a reservation in a technical or legal sense, but is land that was withheld from occupation and sale to others by virtue of the acts of Congress which I have just cited to you (May 30, 1884).

\* \* \* This is different from the reservation made by treaty with the Indians or a reservation by virtue of the Executive authority of the United States or by the Congress of the United States. There the reservation is made and the land is withdrawn from public sale or disposition and remains so withdrawn until revoked by the authority which created the reservation. But an Indian residing on a reservation of this class, not being an allottee; that is, holding his land in severalty, cannot be a citizen of the United States in my opinion because he is on a reservation created by the authority stated for a certain number or kind

or tribe of Indians and is distinctly a ward of the government and subject only to the laws of the United States, relating to Indian tribes, but an Indian residing on the class of lands of the Wrangell townsite is a citizen if he voluntarily takes up his residence separate and apart from any tribe, as I have defined the word tribe to you, and has adopted the habits of civilized life.

"Some testimony was introduced on the point that the defendant had been refused a certificate of citizenship, authorized by an act of the Territorial legislature of 1915 \* \* \* and therefore Jones should have known that he was not a citizen. I instruct you that the fact that a certificate under the territorial law, was refused the defendant is not even prima facie evidence that he was not a citizen under the act of Congress of Feb. 8, 1887. The Congress of the United States, on that date, specified what Indians should be citizens of the United States and no state, territory or authority has any power or authority to modify or add to that statute which provides that an Indian who is born in the United States and residing within the jurisdiction there, who has voluntarily taken up his residence separately and apart from any tribe and adopted the habits of civilized life, is a citizen of the United States and entitled to all the rights, privileges and immunities thereof."

The jury who had listened to the entire case very carefully and among whom were several persons from the town of Wrangell, returned a verdict of "not guilty" on the second ballot.

The conclusions of law which thinking men who followed this case closely must adopt as a result, for the evidence was comprehensive, the customs of the different tribes of Alaska Natives were considered, the practices of the Indians of Wrangell, Sitka and other towns were brought in, are as follows:

1. That there is no "tribe of Indians" in the legal sense in Wrangell, or anywhere else where the same form of tribal organization prevails. Well-informed people know this territory to begin at least from Yakutat and extends to Saxman and to include the entire Thinget speaking Indians.