
REPORT OF THE SUPERINTENDENT FOR THE
FIVE CIVILIZED TRIBES.

New operative regulations were drafted recently which, if adopted, in connection with the enforcement of the State conservation law, will enhance the conservation of oil and gas in this State.

PROBATE.

By authority of the enabling act, when Oklahoma became a State, the probate courts of the State assumed jurisdiction under State law of all probate matters affecting the estates of Indians of the Five Civilized Tribes, in so far as the State law was not in conflict with Federal law, which conferred upon the Secretary of the Interior certain supervisory authority over such estates.

Congress by act of May 27, 1908, relinquished Federal supervision over the estates of a great many Indians, including minors of a certain degree of blood. This of course gave the probate courts complete jurisdiction over the persons and property of minor allottees, from whose estates restrictions had been removed. The jurisdiction of the probate courts over the estates of the restricted minor Indians is subject to certain limitations imposed by Federal law against alienation, which also give the Secretary of the Interior final supervisory authority.

The same act provided that conveyances made by the full-blood heirs of deceased allottees should be valid when approved by the probate court having jurisdiction of the settlement of the estate of the decedent.

An enormous volume of work devolved upon the county courts as the result of this legislation. There were, perhaps, no less than 60,000 guardianship cases, or an average of 1,500 to each of the counties comprising the Five Civilized Tribes. The machinery of the courts was so limited that it was beyond their power to devise means to give these cases the attention their character and importance demanded. The county courts, with few exceptions, exhausted every effort possible to safeguard the interests of these minors, but the work was so vast, and as some of the courts showed a disposition to be lax in their methods, hundreds of estates of minors were plundered by guardians, and in some cases by attorneys.

Probate affairs were primarily in the hands of the field clerks, and while they rendered efficient service in checking the reports of guardians and issuing citations, and although they put forth diligent efforts to bring irregularities to the attention of the county judges, the extent of the duties imposed upon them did not permit the giving of sufficient time to such matters. Although the results hoped for were not attained, owing largely to the attitude of some of the county judges, the field clerks by their activities saved thousands of dollars annually to these estates.

To cooperate with the county judges in remedying these evils the Indian appropriation act of June 30, 1913, provided for the employment of such attorneys as the Secretary of the Interior believed necessary in connection with probate matters affecting individual allottees of the Five Civilized Tribes. Under this authority three probate attorneys were employed in the Cherokee Nation, two in the Creek Nation, and three in the Choctaw Nation, payable from the appropriation by Congress, and, in addition thereto, three attorneys were employed in the Cherokee Nation, three in the Creek Nation, two in

the Choctaw Nation, and two in the Chickasaw Nation to assist the regular tribal attorneys in probate matters, payable from tribal funds. The contracts with those attorneys paid from tribal funds expired June 30, 1914.

The Indian appropriation act approved August 1, 1914, specifically provided for the employment of attorneys and other employees in connection with probate matters. Pursuant to the provisions of this act, 20 positions as probate attorneys have been provided for, 6 in the Cherokee Nation, 6 in the Creek Nation, 5 in the Choctaw Nation, and 3 in the Chickasaw Nation.

Since the appointment of the probate attorneys and the promulgation by the Supreme Court of Oklahoma of uniform rules of procedure in probate matters, made possible by the conference held between the county judges, county attorneys, tribal attorneys, and the Commissioner of Indian Affairs during his visit to eastern Oklahoma in January, 1914, there has been a marked improvement in the management of these estates.

While affairs in connection with probate matters are not all that could be desired, time has demonstrated the feasibility of the plan for the appointment of the probate attorneys. The cooperation that now exists between most of the county judges and the probate attorneys in the appointment of desirable guardians and in securing acceptable reports that will bear the approval of the county courts, insures, at least, the partial solution of one of the most vexing problems with which the department has had to contend.

The arrangement to handle probate matters through especially selected attorneys who devote all their time to the work has had a salutary and beneficial effect on the field work in general. The field clerks have been relieved from duties that taxed their efforts to the utmost. While they still assist in probate matters by way of securing appraisements, making inspections, and doing general investigation work for the probate courts and probate attorneys, most of their time is devoted strictly to field work.

The Indian appropriation act approved April 4, 1910, set apart a fund for the payment of costs, witness fees, charges in appeals and other expenses incident to suits brought in the courts of Oklahoma in the name and for the benefit of Indian allottees of the Five Civilized Tribes having restricted lands, to be available until expended. Probate attorneys have drawn quite heavily on this fund, especially during the last half of the fiscal year, for the purpose of bringing suits in behalf of restricted Indian minors. Much good has been accomplished in this way, as the unscrupulous element seeking to defraud Indian minors are brought to a realization that the department is throwing every safeguard around these helpless people. Many questions heretofore of a debatable character have been tested out in the courts of the State, affording precedents to follow in like cases.

The clause used in the proviso of this section created some doubt as to whether or not this appropriation lapsed with the close of the fiscal year. The matter was referred to the Comptroller of the Treasury for his opinion, and in a decision rendered by him on June 22, 1915, it is held that the limitation in the proviso to five years related to refundments made after the expiration of five years, that is, on and after July 1, 1915, and not to the original appropriation, which, by the terms of the act, is available until expended. There

are several thousand dollars of this fund that have not been expended; consequently, the probate attorneys will be insured of sufficient court costs to bring such suits in behalf of restricted minor allottees as the rules of their offices permit and conditions warrant.

As the probate attorneys are charged, primarily, with duties relating to probate matters, all cases which involve, in any way, the work of administrators, executors, or guardians, or any other action requiring the consideration of the county courts, presented to this office or the field clerks, are referred to them for appropriate action, other cases of legal nature being referred to the national attorneys or the law clerks in the general office. The relationship which this office sustains to the probate attorneys is one of cooperation, their efforts being directed by the Commissioner of Indian Affairs to whom they report direct.

HEALTH.

Health conditions among the restricted Indians in the Five Civilized Tribes demand serious consideration. Many are afflicted with tuberculosis and trachoma, in addition to other contagious and infectious diseases. There are practically no facilities for their treatment. However, there is in course of construction at Talihina a sanitarium for Choctaws and Chickasaws. Unless the health of the individual is conserved small permanent value can result from the efforts of the department to supervise the Indian's property.

Diseases are spreading with alarming rapidity, due to the fact that many full-blood Indians do not believe in contagion and infection and take no precautionary measures when a member of the family is afflicted. They live in rudely constructed huts without proper air, light, or ventilation, where the commonly accepted rules of sanitation are violated with appalling consequences.

Many applications for aid are received from Indians suffering with insidious and loathsome diseases, who have no money to obtain medical treatment, on the supposition that the Government has provision for their relief. Comparatively few Indians have sufficient funds to secure proper medical treatment. When they have personal funds available the best medical treatment is secured. However, it is difficult to induce those having ample funds to go to other States for treatment, as the journey takes them away from their homes and their people. The traditional Indian doctor, in whom the full-blood Indians have faith, stands in the way of advancement. Without knowledge of the science of medicine he persists in the treatment of all diseases by administering herb remedies of his own make which, however efficacious they may be in the treatment of minor ills, possess no virtue in cases of trachoma, tuberculosis, and like diseases and more often do positive harm.

No other phase of the work in the Five Tribes is so important or so poorly provided for as the treatment and prevention of diseases. It is strikingly apparent from positive investigations that the situation demands immediate attention. Provisions for sanitarium, treating stations, and physicians, conveniently located, should be made without delay.