

NO. 534-A.

IN THE DISTRICT COURT
FOR THE DISTRICT OF ALASKA
DIVISION NO. 1.

Dora Davis, Tilly Davis, John Littlefield,)
Lottie Littlefield, Lizzie Allard, and)
Peter Allard, by their Guardian, Rudolph)
Walton,)
Plaintiffs)

-vs-

W. P. Mills, and Mrs. George Stowell,)
as the School Board of the Sitka School)
District,)
Defendants)

The above entitled case called for hearing before Hon. Edw. de Groff, Referee, May 11, 1906, at 2.00 P. M., W. A. Kelly representing Plaintiffs, and Mr. W. P. Mills representing Defendant the first day, H. A. Robinson representing Defendant the second day. W F. Jeffreys as stenographer, sworn to take the testimony impartially and to the best of his ability, etc.

Mr. Kelly- Will Defendant represent his own side?

Mr. Mills, Yes Sir.

Mr. Kelly- I presume some questions will be presented irrelevant to the case but these can be sifted by the Court at Juneau--I acknowledge that part of it. For instance, I suppose when they put on their witnesses on the stand, I cannot bring up new matter, and the same rule would apply to my witnesses.

Now if it please the Court I wish to make a statement. This case has been thrashed over by the papers while we have been

trying it on its merits, and that is all we desire. To be brief, I think there has been some animus that has not appeared in any of our papers, and I consider this case arose out of old quarrels more than anything else. When we made a request for a school district the children of mixed blood were enumerated as those who would attend the public school, and when we made request for funds for the schools, these children were counted among the number, and I claim they should have the right of the schools if we used their names on which to base an enumeration and get money on which to run the schools, and I said these children are entitled to attend the public school, but after getting the money we say we did not mean that children of mixed blood should attend the white school but merely used their names to swell the number of children. Now we have no desire, as has been claimed through the newspapers, to have all of the Indian children attend the white school, but only such children whose parents were legally married and had adopted the ways of the whites, but the School Board has drawn the line and said that the Littlefields, Allards and others who are American citizens, children of mixed blood, should not attend the white school; we do not claim that all Natives should attend the white school, but eight of them are American citizens and entitled to attend the white school as such. I have not been trying the case through the papers where it has been claimed the children of mixed blood were not clean. I offered to leave it to the Teacher as to whether the child was clean, and we only ask to have the same privileges apply to them as to others. Nearly all the children attending the white school are of mixed blood, at least we expect to prove that a majority of them are of mixed blood. This case has been unnecessarily delayed by the District Attorney representing the other side. A case of mandamus should be brought speedily to trial but every demurrer possible has been placed in our way.

(Mr. Kelly then reads complaint and defendant's answer.)

Mr. Kelly- Now Your Honor I hand you herewith a list of my witnesses and ask Defendant to present a list of his.

Mr.Mills- I have not prepared a list.

Kelly- Will you call Mrs.Stowell.

Mr.Mills- I dont care to present a list of witnesses.

Mr.Kelly- I insit upon a list being presented.

Mr.Mills- I cannot see how the list would be of advantage, I might give you the names of two and call a dozen.

Mr.Kelly- It is a rule of court and we have a right to know the names of the witnesses.

The Court- As the attorneys have not bound the Referee by any stipulations as to interrogatories or cross interrogatories I should judge the witnesses would develop as the case proceeds. As no stipulation has been made it would not be necessary for either side to put in a list of witnesses.

Mr.Kelly- I shall ask if he intends to call Mrs.Stowell or the Teacher of the school. I do not see any disadvantage to the other side to name two or three of their leading witnesses.

Mr.Mills- I expect to be governed by the witnesses called by the Plaintiff.

The Court- As I understand that either side have the right to call for more witnesses and while this list is put in, you are not obliged to call them all or can call more if you desire.

Mr.Kelly- It is only this, if he does not intend to call Mrs.Stowell or the Teacher, I will.

The Court- Under the conditions under which this order is given I feel like taking the testimony in the most liberal way.

Mr.Kelly- It is very illiberal and can really be taken advantage of by both sides.

Mr.Kelly- Call George Allard. George Allard called to witness stand and sworn.

Mr.Kelly- Where were you born?

A.New Hampshire.

Q.About how old are you?

A.65 years last month.

Q- Did you serve in the U. S. Army?

A- Eight years and four months.

Q- Were you lawfully married to the mother of Lizzie Allard?

A- Yes Sir, married in the Russian Church.

Q- Do you remember about what year.

A- About 13 or 14 years ago.

Q- Sometime in January did you speak to Mr. Mills about her attending school.

A- Yes Sir, I called to see Mr. Mills about her attending school.

Q- You have contributed to her support since her childhood?

A- Yes Sir, several hundred dollars.

Q- How do you make your living?

A- Work at the Lucky Chance Mine off and on.

Q- You visited your child where she lives?

Yes Sir.

Q- Where does she live?

A- with her grandmother.

Q- She and her grandmother live in a separate house?

A- Yes Sir.

Q- Do they have separate beds?

A- I think Lizzie has her own bed.

Q- Do you draw a pension?

A- No Sir.

Mr. Kelly- Take the witness.

Mr. Mills-

Q- You say you contributed to her support \$700.00.

A- No sir, I said several hundred.

Q- Where does she live?

A- In the Indian town.

Q- What part of her life has she lived with you.

A- What part of her life, two or three years, and after I sold out she got several hundred dollars from me.

Q- She has been living in Indian Town several years.

A- She lives with her grandmother while I am away working.

Q- Is the old lady a halfbreed.

A- I dont know whether she is or not.

Q- Does she speak english.

A- She can hold a conversation.

Q- You say she lives the life of white people.

A- They have butter.

Q- Do the white people eat seal oil.

A- I have seen some of them around town. You ought to know that I paid some money; there was two hundred dollars I gave her and \$60.00 I borrowed and interest I paid.

Mr.Kelly- I wish permission to ask another question.

Q- You were obliged to sell your home and there was about \$60.00 of the amount you owed Mr.Mills.

A- Yes Sir.

Mr.Mills-

Q- How long since is it that you contributed to her support.

A- About a month ago.

Q- Why did you come to me, as you state, to ask about your child going to school.

A- I thought I would try to get her into the school, I knew you were one of the Board.

Q- Who told you she was trying to get into the school. Had you previously to that asked for her admission to the school.

A- I had.

Q- Where was she attending school.

A- The Native school.

Q- She had never attended the white school and did not know much about that.

A- No, inasmuch as--

Mr.Kelly- I ask that all this testimony be stricken out.

The Court- It all goes in the case.

Mr.Mills-

Q- You say you visited her occasionally; do you know anything about her mode of living.

A- I raised her since three years of age and gave the old woman ten dollars per month.

Q- Do you know her playmates.

A- Little girls at Wasca's

Q- She also plays with the boys, in fact does little else but play.

A- I don't think it, the old lady watches her very closely and the time I have been there she has had her little beadwork; I have not watched her much, I have been in Saw Mill Creek.

Q- Most of the time, as far as you know, she has attended the Native school.

A- She said she was going to go to the Puzain School.

Q- You did not yourself first apply for her admission to the school.

A- I did not.

Q- You merely heard she had been refused admission.

A- I heard she had been refused.

Witness excused.

Rev. Father Anthony Kashaveroff called and sworn.

Mr. Kelly.

Q- Father Kashaveroff you were born in Sitka.

A- No sir, in Kodiak.

Q- You have since boyhood spoken the English language as well as the Russian.

A- Yes sir.

Q- You are a director of St. Michael's Cathedral and have a book containing a record of the marriages.

A- I have.

Q- Was Mr. Allard married to the mother of this girl in your church.

A- I guess so. (Here Rev. Kashaveroff takes up marriage register and continues) there is George Allard's application for marriage and affidavit and here is a record of his marriage and his signature, and here are the witnesses. He was married on the 8th day of January that is Russian style of counting, that would make it twelve days more or January 20, 1889. His application is dated

January 10, 1889.

Q- Have you a copy of this. We want to prove that this marriage is legal and that this child was born in wedlock.

A- I have and the record shows the child was born March 15th, adding 12 days would make it March 27, 1893.

Marriage certificate marked Exhibit 'A' made part of the record.

Q- You are acquainted with the daughter Lizzie Allard.

A- I am.

Q- Is she of respectable character.

A- I think so as far as I know.

Q- Does she sing in your choir.

A- She does.

Q- She is a nice civilized girl.

A- She acts very nicely.

Mr. Kelly- That is all.

Mr. Mills- I dont care to ask any questions.

Mr. Kelly.

Q- You have a lot of children in the orphanage who attend the public school.

A- We have.

Q- Most of them are of mixed blood.

A- We have some of mixed blood and some of full blooded indians attending public school.

Mr. Mills.

Q- Did Lizzie Allard attend your school.

A- She attended our Indian School.

Q- Why did she leave.

A- She did not leave, we close up the school when the Indians go sealing.

Q- She has been attending your school right along.

A- Yes sir.

Q- Do you know anything about her applying for admission to the white public school.

A- Only what I heard the old lady say. She thought they were taking

her to the Mission and she seemed very much afraid that the child was to be taken away from her. I advised her to let the child go to the public school.

Q- Did she then go to the public school.

A- No sir, I called to see the old lady.

Q- What did she say.

A- She said that Miss-Patton had come to see her, that she did not understand and thought the child was to be put in the Mission school. She appeared to be greatly attached to her but when I had explained to her they merely wanted to put her in the American school she did not want her to go to the American school.

Q- Then she did not want her to go to the American school.

A- No sir.

The Court-

In the matter of these records, ordinarily they do not go out of the hands of the Church and I refer specially to the fact that these records are to be preserved.

Rev. Washaveroff- That document would probably have no weight until the church seal is put on.

The Court-

If it is desired to use that as testimony we will accept it and I will put in a jurat that it was sworn to besides.

Mr. Kelly- I would like to have it your honor.

The Court-

To complete that you will put on the words 'a true copy' and that is what you will swear to. Is that all Mr. Kelly.

Mr. Kelly- That is all.

Mrs. John G. Brady called and sworn.

Mr. Kelly-

Q- Mrs. Brady did you ever teach school in Sitka.

A- Yes I have taught school.

Q- How long since, do you remember-

A- About a little over 18 years.

Q- Do you know anything about the application to enter the public school being made by Fora Davis, Tilly Davis, John Littlefield, Lottie Littlefield, Lizzie and Peter Allard--did the parents of any of these children ever attend your school.

A- Yes, Fred Davis was a pupil of mine.

Q- Was he a nice intelligent boy of average ability.

A- Yes sir.

Q- You knew Fred Davis and his wife Mrs. Davis.

A- Yes, I have watched them both grow up.

Q- They had the appearance of being well to do civilized people.

A- They certainly have. I have never heard their civilization questioned until recently.

Q- They live separately and apart from tribal relations.

A- Yes sir.

Q- Mrs. Davis is now Mrs. Walton; has she mixed blood.

A- Her appearance would indicate so and I never heard that questioned until recently. I often heard her spoken of and from what I know from her appearance I would not question it myself that she was a halfbreed.

Q- Nice appearing woman.

A- Yes sir.

Q- Have you ever invited her to your house to be entertained.

A- Yes, and find her as being of very nice appearance and manner and very much of a lady.

Q- Have mixed children always attended the public school here.

A- Yes, I have been rather closely connected with the school for the 20 years I have been here and children of mixed blood have always attended.

Q- They rather preponderate.

A- Yes sir.

Q- Then you consider that Fred Davis and his family and Rudolph Walton have adopted habits of civilized life.

A- I certainly do and might give many signs of civilization.

Q- Give us some of the signs.

A- I see Mr. Walton here dressed in civilized clothing, and I see him at work working in a civilized manner.

Q- What is his business.

A- He is a merchant, an ivory carver and silversmith. I have been around his place of business and find everything in nice shape. I had occasion last year to look after some silverware that had been purchased from him by an acquaintance of mine who had been here but was called east earlier than expected. When I called he told me he had completed the order and showed me his registered receipt that he received when he registered the package. Then of course I know he was called upon to do his road tax because he told me of it. I know he has repaired watches for our family also my little girl's eyeglasses and I have bought various goods from him at various times.

Q- Do you know John Littlefield and his family.

A- Yes sir.

Q- They have a home here in Sitka.

A- Yes, they are neighbors of mine.

Q- You regard them as civilized people.

A- Yes, I have frequently had conversation with Mr. Littlefield about his children and have been able to do little kindnesses to the wife during sickness of the children and have frequently employed the little boy. The family lived here a part of this year.

Q- Do you know when they went to Killisnoo

A- I cannot give the date.

Q- Do you consider the boy one of average intelligence.

A- He is a bright little boy.

Q- Do you know William Allard and his family.

A- Of course I have known William or 'Wasea' as we call him since he was a little boy. I also know his wife.

Q- She keeps house like a white woman.

A- As far as possible. They are not in very good circumstances, he does not have much income but his home is all it could be on the means.

Their cooking utensils are hung up and as far as they can have such things curtained off. Their beds are clean and nice and I cannot see anything but signs of civilization.

Mr. Kelly- Take the witness.

Mr. Mills.

Q- When you taught here was it a native school.

A- It was a native school.

Q- You were teaching a native school.

A- I was.

Q- In regard to the Littlefields residing in Killisnoo for the last three or four years.

A- The Littlefields live in Killisnoo part of the time and part of the time here; his family are here more than he is.

Q- His family have visited here.

A- I dont call it visiting.

Q- Did you say they had a home in Killisnoo.

A- They own their home here. I never heard of their home in Killisnoo if they have one.

Mr. Mills. Thats all. Witness excused.

Mr. Kelly-

I wish to offer the marriage certificate of John Littlefield and make it part of the record. Same marked Exhibit 'B'

Rudolph Walton called and sworn.

Mr. Kelly.

Q- Where were you born.

A- Sitka.

Q- Were you educated here; where did you get your education.

A- Here in Sitka Training School.

Q- Was your first wife educated in the Training School.

A- Yes sir.

Q- You now live at the end of the Native town.

A- Yes sir.

Q- You still own your house near the Training School.

A- Yes sir.

Q- What is your business.

A- My business is Silversmith.

Q- You have a store have you and pay a license tax for your store.

A- Yes sir.

Q- You own your store building.

A- Yes sir.

Q- Besides paying your license tax you worked out your road tax.

A- Yes sir, they called on me.

Q- Do you take city water from Mills & Co.

A- Yes, they had the pipe run down.

Q- You have always tried to live like the white people.

A- Yes, since the white people came here I have been trying.

Q- Have you a lockbox in the post office.

A- Yes sir. Me and my wife have always tried to keep American laws.

Q- Have you a marriage certificate to your present wife.

A- Yes sir (and hands certificate to Mr. Kelly)

Mr. Kelly hands certificate to Mr. Mills for inspection. Made part of record and marked Exhibit 'C' Mr. Kelly.

Q- Now these Davis children, you are their stepfather.

A- Yes sir, I keep them at school.

Q- You and your wife are members of the church.

A- Yes sir, we belong to the Presbyterian Church.

Q- Were these children baptised by Fred Davis.

A- I dont know, perhaps.

Q- You respect the Sabbath and try to live a correct life.

A- Yes sir.

✓ Q- You were never indicted for any crime.

A- No, not that I know of.

Q- Your children went to Miss McCaleb.

A- Yes sir, one or two weeks.

Q- When the trouble arose what did the teacher say to you.

A- Sometime afterwards I took them up. The teacher did not turn them out but she called me in and said she did not think they can

come any more and said she would have to see about that.

Q- Then they served notice on you not to send them, the School Board.

A- The next morning they sent a note not to send them.

Q- Then you went to the Governor and consulted him.

A- Yes sir.

Q- How old is Dora and Tilly.

A- Six and seven.

Q- Did the School Board serve notice on Mrs. Littlefield about their boy.

A- I don't know about that.

Q- Where do you purchase your goods for your store, in the cities.

A- Yes sir, in cities.

Q- Have you a cash register in your store.

A- Yes sir.

Q- Who attends to the store when you are absent.

A- My wife and the cash register shows the sales.

Mr. Kelly, Take the witness.

Mr. Mills.

Q- Your children attended the native school up to the time when the school shut down, or somebody suggested that you take them to the white school.

A- No sir, I thought of it myself, I try to do something without advising me.

Q- You did not care whether they went to white school or not.

A- As long as they have good schooling that is all I want.

Q- They might just as well go east as to go to school here. They have the privilege of going to native schools east.

A- Yes sir.

Mr. Kelly-- I beg your pardon they have not, no Alaska native children have the privilege of going east.

Mr. Mills--How long since.

Mr. Kelly--About two years ago.

Q- Now you know Fred Davis and his wife you were playmates together.
Was he a native.

A- He was a native.

Q- Did his children ever attend the public school that you know of.

A- No, not that I know of.

Q- Where did they live.

A- They lived in the Parish.

Q- Did they always live there.

A- Yes, they have a little cottage by themselves.

Q- Does their mother speak english.

A- Very good.

Q- Speaks a little.

A- Of course she could not speak to you. Nearly all the young girls
that has been to school know how to speak.

Q- As a matter of fact she does not speak english.

A- Yes, when she was a little girl she speak.

Q- You did not send your children to the public school until after
the native school closed.

A- No sir.

Q- You keep store.

A- Yes sir.

Q- How much stock do you carry in your store.

A- Not very much.

Q- Under three thousand dollars.

A- Somewhere in the neighborhood of two or three thousand dollars.

Q- Do you carry a thousand dollars of stock.

A- More than that, pretty nearly two thousand.

Q- You have a cash register.

A- Yes sir.

Q- Do you have any clerks.

A- No sir, clerk myself.

Q- How much did you pay for your cash register.

A- \$385.00 laid down here. I have fine things. I dont see what

has to do with the school. (Laughter)

Mr. Mills--Perhaps not, I do; you will let me judge.

Q- You think you need a cash register of that kind when you have no clerk.

A- I had to have this cash register. When I am away my wife she tends the store and when I come back I see the strip of paper.

Q- Did you write a letter to the Governor asking about your rights.

A- Yes.

Q- You are acting as guardian for all of the children appearing in this suit.

A- No Sir.

Mr. Kelly--He means we have used your name on these papers.

Mills.

Q- You were appointed guardian for the purpose of this action.

Mr. Kelly, I had you appointed.

Mr. Mills.

Q- You dont know anything about it. Did these people ask you to bring this action for them.

A- No sir, they did not.

Mr. Kelly--I am your attorney in this case.

A- Yes sir.

Mr. Mills.

Q- Did you apply to the School Board before you sent your children to school to know whether they could go.

A- No sir, I did not go to anybody.

Q- You knew all about the law.

A- The law was changed some time ago.

Q- Who told you the law was changed.

A- I seen it.

Q- You read it.

A- Yes sir.

Mr. Mills--Thats all. Witness excused.

George Kostrometiwoff called and sworn.

Mr. Kelly.

Q- Were you born in America.

A- I was born in Alaska.

Q- You are an American citizen.

A- Yes sir.

Q- How many languages do you speak.

A- Four, English, Russian, Thinklet and Chinook.

Q- You are well acquainted with both Russians and Whites and their manner of living.

A- I am.

Q- Did you know Fred Davis and his family (shows witness photograph)

A- Yes sir.

Mr. Kelly offers Photograph as part of record same marked Exhibit 'D'

Q- Was Fred Davis an educated and intelligent native.

A- He was educated in the Presbyterian Mission of this place.

Q- Did he and his wife and family live in a house separate from tribal relations.

A- They lived in the Indian Village.

Q- Were you ever in their home.

A- I was.

Q- Describe their home.

A- I went to his house one day and he asked me to see his graphophone.

I was walking one day in the Indian Village and he showed his graphophone and played some tunes.

Q- Had he a carpet on the floor.

A- A nice carpet. I asked him where he got and he said from Guertin.

Q- He had a nice respectable home.

A- Yes sir, a very nice home.

Q- He rather delighted in the ways of civilization and he and his family were nicely dressed.

A- Yes sir.

Q- Now Mrs. Davis who is now Mrs. Walton, has she white blood in her

veins, that is, she is what we call a halfbreed.

A- I presume so.

Q- He was an American citizen.

A- He was.

Q- You were Road Supervisor last year and Rudolph Walton got his road tax receipt.

A- He did.

Q- You have known him for many years as a respectable, well to do Native.

A- Yes sir.

Q- You know William Allard and his family.

A- Yes sir.

Q- Is William Allard an American.

A- His father was an American and his mother Russian.

Q- He mixes and mingles with the whites and works for white men.

A- He works for white men.

Q- He has the ways of a white man, and is he not recognized as a white man.

A- Yes sir.

Q- He lives over in the Indian Village in a house of his own and is married to an Indian woman.

A- Yes sir.

Q- Does she speak english.

A- Yes sir.

Q- He has brought up his family as well as he can.

A- Yes sir.

Q- Then you regard Fred Davis, Rudolph Walton and William Allard as intelligent people compared with the other people of the town, and that they are respectable, sober and well to do.

A- Yes sir.

Mr. Kelly thats all.

Mr. Mills.

Q- Do you know who the father of Mrs. Fred Davis was.

A- I think so but cannot recall the name at this time.

Q- You say you know Rudolph Walton and William Allard.

A- Yes sir.

Q- They live in the Indian Village, and have resided there for some time.

A- Yes sir.

Q- You know Rudolph as a good, respectable neighbor.

A- Yes sir.

Q- William Allard was usually called a 'Squaw Man' he is married to a Native.

A- Yes sir.

Owing to the absence of a witness and a steamer being due, the hearing was adjourned until 2.00 P.M. May 12, 1906.

Marriage certificate of Fred Davis offered and marked Ex-'B'

May 12, 1906, hearing resumed as per arrangement of day previous.

The Court-

I desire to correct the record of yesterday in so far as making it regular and think that stenographer Jeffreys should have been sworn, and if there is no objection on the part of counsel I will administer the oath to him now, it will simply be to render the report in proper shape. Stenographer sworn.

The Court-

Are you ready to proceed gentlemen.

Mr. Mills, I would like Mr. Robinson to appear as attorney for the defense.

William Allard called and sworn.

Mr. Kelly.

Q- Where were you born.

A- In Sitka.

Q- How old are you.

A- 31 years.

Q- Where were you educated.

A- Where-

Q- Where did you get your schooling.

A- In the public school.

Q- Are you an American citizen.

A- Yes sir.

Q- You have always claimed to be an American citizen.

A- Yes sir.

Q- This is the school that you attended that we are having the trouble about; did mixed bloods attend the school.

A- Yes sir.

Q- Who were your teachers.

A- Cassia Patton, Mrs. Brady and Powell and Mrs. Beattie.

Q- You are lawfully married to a Native woman.

A- Yes sir.

Q- Have you a marriage certificate.

A- Yes sir, and produces certificate.

Mr. Kelly- We wish to make the marriage certificate a matter of record.

Certificate accepted and marked Exhibit 'F'

Mr. Kelly.

Q- Does your wife speak good english.

A- Yes sir.

Q- Have a house of your own and live like other white people as well as you can.

A- Yes sir.

Q- Is this boy, Peter Allard, named in the complaint your son.

A- Yes sir.

Q- How old is he.

A- Going on seven years old last month.

Q- It was your desire to have him attend the public school.

A- Yes sir.

Q- How do you earn your living.

A- At anything I can, sometimes handling coal on the wharf or anything.

Q- Ever work for Mills & Company.

A- Yes sir.

Q- What doing.

A- Any work

Q- Ever work for Judge de Groff.

A- Yes sir.

Q- How long.

A- Two years and two months.

Q- You have always mingled with the white people.

A- Yes sir.

Q- Did the Marshal ever summon you to serve on a jury.

A- Yes sir.

Mr. Kelly -Take the witness.

Mr. Robinson.

Q- Where do you live Mr. Allard.

A- Sitka.

Q- How long have you lived there.

A- Ever since being born.

Q- You live in the Ranch.

A- Yes since I was married, I lived in town before that.

Q- But you now reside with your wife in the Ranch.

A- Yes sir.

Q- Do you speak Indian.

A- Speak english.

Q- Do you live in the Ranch from preference.

A- I live in the Ranch in my wife's house.

Q- You dont understand. Do you pfer to live there to some other part of town.

A- My wife has a house.

Q- Does your wife own the house.

A- Yes sir.

Q- You have lived with your wife ever since you got married. You say

your boy is seven years old.

A- Yes coming on eight.

Q- You were married in August 1889 and the boy will be seven years old when.

A- He was seven years old in March.

Q- Did you live with your wife prior to your marriage.

Mr. Kelly- Dont answer that question.

Mr. Robinson- Is the witness compelled to answer that question.

The Court- I understand no questions are barred.

A- Yes sir.

Q- How many children have you.

A- Two boys and two girls.

Q- Do the girls go to school.

A- No sir.

Q- How old are the boys.

A- Peter is seven and George 5.

Q- Do they both attend school.

A- No, Peter goes to school.

Q- Where did he first go to school.

A- I dont remember.

Q- Who was his first teacher.

A- Mrs. Saxman I think. I dont know exactly when he first went to school.

Q- Did he begin with the beginning of the school term.

A- No sir.

Q- The school that Mrs. Saxman taught was a native school

A- Yes sir.

Q- This schoo, that Mrs. Saxman taught you say was a native school.

Did he go to school this year, did he start with the native school this year.

A- No, there was no native school.

Q- Did you ever try to get your children into the public school.

What method did you use.

A- I want to---

Q- Did you go to the Governor.

A- Yes sir.

Q- How did you happen to go to him.

A- My father asked why was the trouble, why the children did not go to school.

Q- Had anybody told you your boy could not go to school.

A- They did not have a chance to refuse him.

Q- Did you actually send your child to school, to the public school or the native school.

A- No sir.

Q- You went to see Mr. Kelly, what did he say.

A- He said they had a right to go there.

Q- Do your boys and girls play with native children in the Ranch.

A- They play a little together once in a while, the boys usually play with their sisters.

Q- There are no white children.

A- The Brady children.

Q- Do they play with the Brady children.

A- No sir.

Q- How old are you.

A- 31 years.

Q- How old is your wife.

A- I dont know her age.

Q- Does she know.

A- I dont know.

Q- Were you ever entertained at Governor Brady's house.

A- No sir.

Q- Do you entertain anybody.

A- No sir.

Q- Does your wife receive callers, does she ever call on the neighbors.

A- Some indian people call once in a while.

Q- You say you worked for Judge de Groff.

A- Yes sir.

Q- How long.

A- Two years and two months.

Q- How did you happen to leave him.

A- I had trouble with Mick (Meaning Nicholas Bolshannin)

Q- How long did you work for Mr. Mills, and how did you get along.

A- All right, I worked there eleven months.

Q- In this case that has been brought against the school Board, Rudolph Walton has been named as guardian. Did you know he had been appointed, are you willing he should act as such guardian.

A- No sir.

Q- Don't you think it rather strange that Rudolph Walton should have been appointed guardian and you not know anything about it, you did not know anything about it.

A- No sir.

Mr. Kelly.

Q- You knew that I was attorney for these children.

A- Yes sir.

Mr. Kelly- I would like to see a list of their witnesses.

The Court- I don't know Mr. Kelly, the order for the taking of this testimony was so informally made with no prescribed latitude, that I don't know whether I have authority to enforce the strict letter of the law so far as producing a list of witnesses is concerned.

Mr. Kelly- There is no agreement that the lists were not to be presented in the trial.

Mr. Robinson- We have no objection to giving Mr. Kelly a list of our witnesses.

Mr. Kelly- I am through with the witness if the other side is.

Witness excused.

Miss. Cassie Patton called and sworn.

Mr. Kelly.

Q- How long have you lived in Sitka.

A- Seventeen years.

Q- Were you a member of the committee to enumerate school children

under the Nelson Bill.

A- I was.

Q- You know the names of these children in this case, Tilly Davis, Dora Davis, John Littlefield, Lottie Littlefield, Lizzie and Peter Allard.

A- I do.

Q- And their parents.

A- I do.

Q- Were any of these ^(mixed?) bloods, these children enumerated.

A- They were.

Q- Enumerated as children who should attend the public school.

A- They were.

Q- You know Fred Davis.

A- I did, Fred Davis was a pupil of mine, and also his wife.

Q- After being married did you visit their home.

A- I did.

Q- Did they live like civilized people, did they have carpets on the floor.

A- They had. I consider people who had carpets and curtains as being civilized.

Q- Wore citizens clothes.

A- Yes sir.

Q- You know Rudolph Walton and his family, has Mrs. Walton the appearance of being a woman of mixed blood.

A- Any one seeing their children would see they were mixed bloods.

Q- You knew the Littlefield family.

A- I did, they were tenants of mine for several years.

Q- They own a house of their own.

A- In the Native Village.

Q- Do you know William Allard.

A- Yes sir, he was a pupil of mine a number of years and he is her second husband.

Q- Does Mrs. Allard speak english.

A- She seems to understand it better than she speaks.

Q- They live in a civilized way.

A- They do.

Q- All these parents have the customs of civilized people.

A- They have the customs of the civilized.

Q- You know Mr. Allard, his daughter Lizzie, and the old grandmother.

A- I do.

Q- Has the grandmother a sewing machine.

A- She has.

Q- Who makes Lizzie's clothing.

A- The grandmother, and Lizzie sews a little, I consider her a very bright little girl.

Q- You taught this school for a number of years.

A- Sitka School No. 1.

Q- Were a majority of the number of mixed blood.

A- They were.

Q- What were enumerated as creoles.

A- Yes sir.

Mr. Kelly- Take the witness.

Mr. Robinson.

Q- Where do you live Miss. Patton.

A- Sitka.

Q- What part of Sitka.

A- West of the Native Village.

Q- With Governor and Mrs. Brady.

A- Yes sir.

Q- You pass through the Indian Village several times daily.

A- Yes sir sometimes.

Q- Are you conversant with the conditions down there.

A- To some extent, yes.

Q- What relation are you to Mrs. Brady.

A- I am Mrs. Brady's sister.

Q- Do you remember the occasion of Rudolph Walton being entertained at the Governor's house.

A- I do.

Q- Is that the first time he had been entertained.

Mr. Kelly- There was no stipulation that all rules of court were to be abrogated. He is asking leading questions and as I understand I cannot bring up new matter.

Mr. Robinson- We do not intend to introduce new matter. Miss Patton is a witness competent to judge of the status of these natives.

Mr. Kelly The burden of his question is new matter.

The Court- As I understand it the testimony taken here is all to be sifted at Juneau and its relevancy or irrelevancy passed upon, and I would understand that all questions are to be admitted on either side.

Mr. Robinson.

Q- I asked you if that was the first occasion that Mr. Walton had been entertained.

A- I think not, I think he had been there a number of times.

Q- Was it usual to invite natives to a reception given to white people.

A- Natives have been invited with mixed bloods a number of times.

Q- You say Fred Davis was a pupil of yours.

A- Yes sir.

Q- Fred Davis is a full blooded indian.

A- I think so.

Q- You say he always wore citizens clothes.

A- Yes sir.

Q- You do not know of any occasion when he did not wear citizens clothes, or that he wore clothes that would indicate he had quit all tribal relations.

A- As far as I know he has tried to live a civilized life.

Q- Do you remember his taking a prominent part in a potlatch here.

A- He probably took part although I did not see him.

Q- Of your own knowledge do you know whether he took part in any potlatch.

A- I dont know.

Q- Either this last one or that of 1899.

A- I dont know, he may have.

Q- Did Davis with the other natives go sealing.

A- All the natives I think usually go in the village.

Q- Does he eat what the other natives do.

A- That would be according to their custom. I cannot say what they eat. I know when I was at their house they had a Chinaman.

Q- You do not know whether he continued to eat seal oil.

A- I dont, I suppose he ate fish eggs, I have done that myself, in fact I think a great many people would be benefitted by eating them.

Q- In addition to Fred Davis you have entertained other natives.

A- Others have been, different natives.

Q- Do you consider those natives civilized

A- Yes I do, they are civilized.

Q- Would you consider a man who took part in a potlatch perfectly civilized.

A- They have some old customs and the potlatch is one of them.

Q- Is it not a fact that you and others made an effort to prevent this potlatch, were you at all anxious.

A- I was not.

Q- You had no objection then to the potlatch.

A- Yes I had objection, I objected to the waste of property and told some of them so. Some of the head men told me they had accepted invitations to other potlatches and they wanted to pay off their social obligations, and that they would not take part in any more after they had given this potlatch.

Q- May I inquire how you got all this information.

A- From the head men.

Q- You do not think there is anything barbarous in painting up.

A- No because I have seen white people painted up wase than they.

Q- You say William Allard was a pupil of yours.

A- He was.

Q- What school did he attend.

A- Sitka School No.1.

A- I dont know, he may have.

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Q- You say William Allard was a pupil of yours.

A- He was.

Q- What school did he attend.

A- Sitka School No.1.

Q- And Mrs Allard had a husband previous to William Allard.

A- I dont know.

Q- What nationality.

A- I dont know.

Q- You say a majority of the scholars were of mixed blood. What do you consider mixed blood.

A- What do I consider mixed blood, all who are not pure whites.

Q- That is what I want to get at. You testified that a majority of the children came from the native village.

A- I did not say they lived in the native village.

Q- Were there any children from the native village who attended that school.

A- In the term I taught.

Q- I am only inquiring during the time you taught. You testified that at the time the enumeration was taken a number of children were included from the Ranch. Who took that enumeration.

A- Prof. Georpeason, Mr. Roll and myself, I was put on to enumerate that portion of the town. I read the law early in the winter when it was first passed. I had always been interested in Wasca and know it was his intention to send his children to school; he was interested in the matter.

Q- Did you call Wasca's attention to the matter.

A- I did.

Q- Anybody else.

A- I did.

Q- Who, Rudolph Walton

A- Yes.

Q- Anybody else, was there anybody besides Walton and Bainter, did you speak to Littlefields at all.

A- Yes, I think I told Mr. Littlefield. The Littlefield boy was in the school before I told him about putting the boy in; he was a bright boy.

Q- Was he a good scholar.

A- I dont know as to that. There was also another native boy a nephew of Mrs. Fitzgerald's.

Q- Did you give this information before or after the native school was closed.

A- I told Wasca Allard in January long before Sitka had taken any steps at all. After the Sitka school was closed I dont think I bothered.

Mr. Kelly.

Q- Before, or even last year you advised Mr. Bainter to send his children to the public school.

A- Yes, that was last year.

Witness excused.

Bernard Hirst called and sworn.

Mr. Kelly.

Q- How long have you lived in Sitka.

A- About ten years.

Q- What is your occupation.

A- Storekeeper.

Q- How long have you known George Allard.

A- Several years.

Q- During the time you have been keeping store did he ever contribute to the support of his daughter Lizzie.

A- Yes sir.

Q- At different times.

Q- You know these plaintiffs Dora Davis, Tilly Davis, John and Lettie Littlefield, Lizzie and Peter Allard and their parents.

A- Yes sir. I think I know all of them.

Q- What is the general reputation of these men for sobriety and industry, is it good.

A- Yes in some cases.

Q- I mean those special ones I have named here.

A- Yes I think they are.

Q- Mr. Littlefield have a home here.

A- Yes sir, his family reside here part of the year.

Q- What is Mr. Littlefield's occupation.

A- Machinist or engineer.

Mr. Kelly- Take the witness.

Mr. Robinson.

Q- You testify Mr. First that you consider all these men of good reputation for industry and sobriety.

A- So far as I know.

Q- Would you so consider a man who indulges in strong drink.

A- It all depends.

Q- Previous to two years ago, Mr. George Allard for instance.

A- I am not quite sure that George Allard's name was mentioned.

Q- Mr. Kelly mentioned it. You would consider it a question about George Allard.

A- Everybody knows George Allard who has been in Sitka any length of time.

Q- You testify that George Allard contributed to the support of his child. Have you any recollection when it began.

A- I am sorry to say that I cannot give you dates, he has bought shoes and clothing. He has also remitted ten dollars per month through me when he was working.

Q- Ten dollars per month.

A- When he was working.

Q- How many months during the past year.

A- I could not answer that question.

Q- Approximately.

A- I cannot.

Q- You can form some opinion.

A- The only thing I am not quite sure.

Q- You have no recollection whether he has paid ten or fifteen dollars.

A- I would not say, he has paid several times when he worked for Mr. Smith.

Q- You would not be able to state any amount or remember the amount.
Would you say it was over one hundred dollars.

A- I would not say whether it was or not.

Q- Are you sure it was over ten, we want to arrive at an approximate amount.

A- I am not prepared to say.

Q- This has been going on for several years.

A- He has contributed ten dollars per month and bought shoes and clothes.

Q- Does George Allard run an account with you.

A- He has for several years. Ask Mr. Mills, he knows about accounts and such things.

Mr. Kelly.

Q- Where has Mr. Allard lived most of last year.

A- Part of the time he has been away from Sitka.

Q- What is his business.

A- Cutting wood when not working at the mine.

Witness excused.

Mr. Otis Smith called and sworn.

Mr. Kelly.

Q- Mr. Smith George Allard worked for you up at the mine.

A- Yes sir.

Q- How long.

A- Over a year.

Q- Did he ever pay anything for the support of his child during that time.

A- I dont know, I heard it mentioned, I always paid Mr. Hirst.

Q- When was it that Mr. Allard worked for you.

A- When I was at the mine.

Q- What year.

A- Fully three years ago.

Q- What pay was he getting.

A- I forget now whether it was \$2.00 or \$2.50 per day.

Q- Was his child there at any time.

A- No sir.

Q- Did he ever mention to you that he was contributing to the support of his child.

A- I believe he did.

Q- Was he sober and industrious while with you. You say he worked about a year in all, did he put in 26 days in a month.

A- He would work until he came down town.

Q- How long did he usually stay away on these occasions.

A- I dont remember. Sometimes he would remain a week or two.

Witness excused.

Mrs. George Stowell called and sworn.

Mr. Kelly.

Q- You was a member of the School Board.

A- Yes sir.

Q- Was a copy of these papers served on you.

A- I dont know.

Mr. Kelly hands witness papers to examine.

A- Yea sir.

Q- I notice you have not sworn to it. Mr. Mills has. Do you subscribe to all it contains. (Reads papers)

Mr. Robinson- Your Honor she is not a defendant in this case.

Mr. Kelly- She was a member of the Board.

The Court- This is a question I do not wish to pass upon. I am conversant with the rules of testimony but inasmuch as the attorneys made no stipulations whatever, all testimony as I understand was to go in and be sifted and decided by the Court at Juneau. There is no doubt but a great deal of the testimony is irrelevant and incompetent. If the Court at Juneau in the order for taking the testimony had instructed that it be done in accordance with the rules of evidence of course I would have bound everybody down to the strict letter of the law. I do not see how this can be kept out.

Mr. Robinson- This is not a matter of testimony under the rules of evidence. Under the conditions under which this testimony was to be taken there were no stipulations as to how it was to be done.

The Court- I have never received a certified order from the Court at Juneau to take this testimony. There is no question but what there have been irregularities in this testimony but under the conditions of the trial and the arrangements made by the attorneys, all the evidence is to go to Juneau and the Court there will decide whether it is competent or incompetent. I understand that proposition and it may be that it will all be held as incompetent and be crossed out, but inasmuch as no stipulations were made I feel like giving the widest possible latitude. Of course, I don't want counsel to run in so much work on myself and the stenographer as to make it farcical, but I expect to take all the testimony and it will be transcribed, authenticated by myself and transmitted to the Judge of the District Court, and he will decide what is competent and what is evidence.

Mr. Mills- Do you intend to force the defendants to answer all questions.

The Court- That question would not be fair until we come to it. If there is any question to which objection is made by counsel I will rule on it.

Mr. Kelly.

Q- Mrs. Stowell, do you subscribe to the papers.

A- I would rather not answer.

Q- You served notice on Rudolph Walton and Littlefield.

A- I never served notice on any one but Rudolph Walton.

Q- You are acquainted with Rudolph Walton and his children.

A- No sir.

Q- Are you acquainted with any of the parents of the children mentioned in this complaint, William Allard, George Allard and their families.

A- I know them when I see them.

Q- You never visited them.

A- No sir.

Q- Do you know where Rudolph Walton was educated.

A- No Sir.

Q- Did you know he was educated at the Training School

A- No I did not.

Q- What were your objections to Davis children going to the public school.

Mr. Robinson- Decline to answer that question.

Q- Was there any enmity back of ruling these children out of school.

A- I beg pardon.

Q- I asked whether there was any enmity in deciding that these children could not attend the public school.

A- No sir.

Q- Now will you state whether there are any half or mixed breeds attending school now.

A- I dont know.

Q- Have you visited the school.

A- Yes sir.

Q- Dont you know that the Russian Orphanage are sending some halfbreeds.

A- I dont know.

Q- Did you not tell us on the School Board that some of the halfbreeds were attending from there.

A- I think not, I dont know what they are.

Q- You consider Rudolph Walton and William Allard civilized men.

A- I dont know enough about that.

Q- You dont, you dont know much about that.

A- No.

Q- Did Mr. Boyce write you to consult Mr. John Clarke of the Surveyor General's Office.

A- I decline to answer.

Q- Did Mr. Clarke call at your house in regard to this case.

A- I decline to answer..

Q- Do you know these Walton children.

A- No.

Q- Then you were hardly acting as a school director in these matters.

A- I was acting entirely on my own judgment.

Q- Then You do not know why you ruled these children out.

A- I refuse to answer.

Q- Was the ban put upon children of any other families besides those in the native village.

A- Not that I know of.

Q- Some little trouble about Mr. George's family.

A- Not that I know of.

Q- some little trouble about the Governor's family.

A- I dont know.

Q- Oh! you dont.

A- No.

Q- How were children promoted, by examination.

A- All the promotion was done while you were a member of the Board and you ought to know.

Q- Yes, but it was not done in the way I suggested by examination you and Mr. Mills refused to promote them in that way.

A- We went and asked Mrs. Holt and she recommended the promotion.

Q- Do you consider any of the natives civilized.

A- I decline to answer.

Mr. Kelly- We will excuse the witness as being utterly useless for this purpose. We rest our side of the case.

Defense.

Mr. Robinson- We will call Mr. Brightman. Witness called and sworn.

Mr. Robinson.

Q- What is your name.

A- James Brightman.

A- Sitka.

Mr. Kelly- I will ask that Mr. Mills testify.

Mr. Robinson- We will have no objection.

Mr. Robinson.

Q- What answer was that.

A- I live in Sitka.

Q- Where did you live previous to that.

A- Killisnoo.

Q- Did you know Mr. Littlefield, what is his character in town, is he considered a well to do respectable citizen.

A- Yes, I should say as man go very respectable.

Q- He is married.

A- I believe so.

Q- Married to an Indian woman.

A- Yes sir.

Q- How long has he been living there.

A- I should say about five years.

Q- Does he own property there.

A- No.

Q- Does he live there most of the time.

A- Nearly all the time.

Q- Make occasional visits to other towns.

A- Sitka occasionally.

Q- Was his family in Killisnoo most of the time or any of the time.

A- Well they make quite frequent visits to Sitka and stay a few months at the time.

Q- Where is their headquarters, Sitka or Killisnoo.

A- I should say Killisnoo.

Q- You know they have a boy named John.

A- Yes sir.

Q- Is he of age to go to school and does he attend school.

A- Sometimes.

Q- Why does he not go all the time.

A- He plays 'hookie'

Q- What is the boy's reputation.

A- Well to tell the truth he has not a very good reputation

Q- In what respect.

A- Well he is a kind of hoodlum and rather dishonest.

Q- He is a halfbreed of course.

A- I suppose he is.

Q- You say Mr. Littlefield does not own his home there. In what par-

ticular house does he live.

A- In the Company's house.

Q- Do the Littlefields get along peaceably and live like white people.

A- Well they have frequent spats.

Q- Are they ever troublesome.

A- At times you can hear them.

Q- In your opinion is Mr. Littlefield and his family living civilized lives.

A- I should say Littlefield was but his wife and children were not.

Q- Under the circumstances you mean he is somewhat handicapped.

A- Well yes, his wife is a halfbreed indian squaw and he cannot make her anything else.

Mr. Kelly.

Q- How do you know she adheres to tribal relations.

A- I have seen her.

Q- You say they live in one of the Company's houses.

A- Yes sir.

Q- I should call it keeping house.

A- You might call it that.

Q- What salary does the Company pay Mr. Littlefield.

A- About \$90.00 per month, I am not quite sure.

Q- Supports his family.

A- Yes sir.

Q- How much of the year is he employed.

A- I should say eight or nine months.

Q- His family live there part of the time.

A- Yes sir.

Q- How old is this boy you call a hoodlum.

A- I should judge ten or twelve years old.

Q- You say he is a thief.

A- I did not say he is a thief but he has the reputation of being dishonest. I know he has taken things from my house that did not belong to him.

Q- What has he taken.

A- Small articles, childrens toys.

Q- Have you any children of your own.

A- Yes sir.

Q- How many.

A- Three.

Witness excused.

Miss McCaleb called and sworn.

Mr. Robinson.

Q- What is your name.

A- My full name is Rebecca Mc Caleb.

Q- Your occupation.

A- School Teacher.

Q- You teach school here.

A- Yes sir.

Q- Which school.

A- The white school.

Q- Did you ever teach the native school.

A- Yes sir.

Q- As teacher in the native school did you ever come in contact with Peter Allard or Lizzie Allard.

A- Yes sir.

Q- Were they all good scholars.

A- Fairly so, backward in english and that sort of thing.

Q- They were all fairly good scholars except Johnnie Littlefield.

Were they desirable scholars otherwise in regard to cleanliness.

A- Yes sir, I think so.

Q- Did you ever refuse to admit Peter Allard or Lottie Littlefield to the white school.

A- I never did.

Q- You say Johnnie Littlefield was not a desirable scholar. Did you ever state to the School Board that he was not a desirable scholar.

A- No sir not before he came to me.

Q- At any time did you ever state to the School Board that Johnnie Littlefield was a hard boy to control and was not desirable.

A- I did.

Q- What was your reason.

A- What my objection was.

Q- Yes.

A- Because he was incompetent and did not attend regularly.

Q- Do you employ the same method in teaching white children that you employ teaching the natives.

A- No sir.

Q- What is the difference.

A- I am more lenient with natives.

Q- Do you find natives as quick to respond to teaching as white children.

A- No sir.

Q- Where you use a different method, is that method laid down by the Board of education or adopted by the teacher.

A- The teacher.

Mr. Kelly.

Q- Did you send a note to Mrs. Littlefield that Johnnie could not come any longer.

A- Yes sir, that he was troublesome.

Q- When did you notify Mrs. Littlefield, after this trouble came up about the notice.

A- Yes.

Q- You taught the native school before taking the white school, did the Davis children come to you.

A- Yes sir.

Q- Were they well behaved.

A- Yes.

Q- Nicely dressed as compared to the whites.

A- Yes sir.

Q- You had no objection to them.

A- No sir.

Q- Are there any mixed bloods attending your school now

A- Yes sir.

Q- Any natives attending your school now.

A- Yes sir.

Q- How many pupils have you whose parents are both American born. Look at this list, is that a list of your children. (hands witness list)

A- Yes sir.

Q- Now as you look over that list do you see any whose parents are both American born.

A- some Russians, some mixed, I dont think there are any whose parents are American born. I was not particular about it.

Mr.Kelly- I would like to submit this list of the pupils of our school. I got it from Miss.McCaleb. List admitted and marked Exhibit 'G'.

Mr.Kelly.

Q- Johnnie Littlefield come to you last year.

A- Yes sir.

Q- Did the School Board notify you about January that no pupils from the native village could attend school.

A- Yes sir.

Q- Was there any feeling or enmity back of the native children coming.

A- Not that I know of.

Q- Was there not some feeling about Miss.Patton. You went to Mrs. Stowell and talked this matter over with her.

A- No sir.

Q- You felt some little resentment in this matter, you thought Miss. Patton was sending these children. You need not answer this question if you do not wish to.

No answer.

Q- Are you acquainted with Rudolph Walton and his family. Have you

A- No sir.

Q- Are there any mixed bloods attending your school now

A- Yes sir.

Q- Any natives attending your school now.

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Q- You felt some little resentment in this matter, you thought Miss. Patton was sending these children. You need not answer this question if you do not wish to.

No answer.

Q- Are you acquainted with Rudolph Walton and his family. Have you

been in his store.

A- No sir.

Q- Are you acquainted with William Allard and his family.

A- I know a man by the name of Wasca Allard.

Mr. Kelly- That is the one.

Q- From what you know of him do you consider him a civilized man.

A- I dont know whether that question has anything to do with it.

Mr. Kelly- I think it has.

Q- Do you think Rudolph Walton is a civilized man.

Witness does not answer.

Q- Do these mixed breeds get along very well and not give any more trouble than ordinary pupils.

A- Yes sir.

Mr. Kelly- I believe I will excuse the teacher.

Mr. Robinson.

Q- Out of all this list of names, do any of these children live in the Native Village.

A- None of them live in the Native Village.

Q- None of them live in the Native Village.

A- No sir.

Witness excused.

Mr. Merrill called and sworn.

Mr. Robinson.

Q- Your full name Mr. Merrill.

A- E. W. Merrill

Q- Your business.

A- Photographer.

Q- In your capacity as Photographer have you had occasion to go to the Native Village.

A- I have because my business leads me there.

Q- Did you take photographs of any potlatch.

A- Since I have been in Sitka there have been two of both of which

been in his store.

A- No sir.

Q- Are you acquainted with William Allard and his family.

A- I know a man by the name of Wasca Allard.

Mr. Kelly- That is the one.

Q- From what you know of him do you consider him a civilized man.

A- I dont know whether that question has anything to do with it.

Mr. Kelly- I think it has.

Q- Do you think Rudolph Walton is a civilized man.

Witness does not answer.

Q- Do these mixed breeds get along very well and not give any more trouble than ordinary pupils.

A- Yes sir.

Mr. Kelly- I believe I will excuse the teacher.

Mr. Robinson.

Q- Out of all this list of names, do any of these children live in the Native Village.

A- None of them live in the Native Village.

Q- None of them live in the Native Village.

A- No sir.

Witness excused.

Mr. Merrill called and sworn.

Mr. Robinson.

Q- Your full name Mr. Merrill.

A- E. W. Merrill

Q- Your business.

A- Photographer.

Q- In your capacity as Photographer have you had occasion to go to the Native Village.

A- I have because my business leads me there.

Q- Did you take photographs of any potlatch.

A- Since I have been in Sitka there have been two of both of which

I have attempted to get photographs.

Q- Do you know Fred Davis.

A- I do sir.

Q- Would you be able to identify him in a photograph.

A- That depends. There are times when a photograph might be old and it might be impossible ; I think without doubt I could.

Q- Did you ever know Fred Davis to take a prominent part in these Potlatches.

A- Since I have been in Sitka there have been two Potlatches of which I have secured pictures, but as to Fred Davis taking part in more than two I could not say.

Q- Do you know of his taking part in these.

A- To my knowledge he took part in both.

Q- You are sure of that.

A- I feel sure.

Q- Would you recognize one of these photographs.

A- If of recent date I think I would.

Q- Look at this (hands witness photo)

A- Yes sir, that is an old one I took when I first came to Sitka.

Q- Do you remember the circumstances. Would you from your recollection be able to pick Fred Davis out of that group.

A- From the fact that he had spoken to me a few days after completion of this plate, it was his desire to secure one of himself, Bean and Jackson, and at that time he was deeply interested on account of Andrew Jackson, and it was himself beating a drum.

Q- Well at the time that picture was taken, was he painted up.

A- He was painted up.

Q- What kind of a costum did he wear.

A- Previous to the time of their landing the Sitkas lined up on the beach and gave a song. It was through Jackson I secured this photograph. Fred came to me with his face painted so that you could hardly recognize him, but as far as his costum, he had some part of a costum on.

Q- Do you know whether his child took part in the Potlatch.

A- I think his child was too young.

Mr. Kelly.

Q- When did the defense get this photograph from you.

A- I dont know. That is an old photograph I have not seen for the past five years.

Q- These were not war dances.

A- I could not say.

Q- Was there any immorality in the matter, any drinking.

A- I should judge there must have been from the arrests made at the time.

Q- Was it sort of theatrical.

A- I should consider it drifted back into the early customs of the Indians.

Q- It is customary during the Holidays for Russians and whites to masquerade. Have you ever attend any of the masquerades.

A- I have not.

Q- You never photographed any of them. You know some of the dens at the saloons where they invited Russian women and Indian women to drink and dance.

A- No sir.

Q- Where they had women.

A- Since I have been in Sitka I have never seen any such thing.

Q- You know they had masquerades passing through the streets; would you say they were Indians or whites.

A- It is difficult for me to say having no experience.

Q- You do not think they were Indians.

A- It would be difficult for me to answer.

Q- You do not think it any sign of uncivilisation to dress up in a masquerade.

A- I never thought anything about it.

Q- You know Rudolph Walton, do you consider him a peaceful and industrious man.

A- As far as indians are concerned yes.

Q- He keeps store.

A- I understand he does.

Q- Works out his road tax.

A- I could not say.

Q- Wears civilized clothes, dresses very neatly. Dont you consider that his being educated at the Training School would entitle him to be classed with civilized people.

A- It depends upon one's view regarding a civilized person.

Q- You dont know these Davis children.

A- I have seen them, yes sir.

Q- You have no photographs of them.

A- I have photographs of the parents.

Mr. Robinson-

Q- Do you consider Russians white people.

Mr. Kelly I consider Russians white.

Witness excused. Photograph marked Exhibit 'H'

Mr. Fred Bean (Native) called and sworn.

Mr. Robinson.

Q- You know Fred Davis Mr. Bean.

A- Yes sir.

Q- Did Fred Davis take part in any potlatch.

A- Yes sir.

Q- Both Potlatches in 1899 and 2 year ago.

A- Yes sir.

Q- Did Mr. Walton take part.

A- No sir.

Q- Did Mr. Walton ever make any totem poles for you.

A- No he made these totem poles for Jackson Walton did not make any for me but for Jackson.

Q- Do you know what Jackson paid for these totem poles.

A- No.

Q- Are you a member of any church.

A- Yes sir.

Q- What church.

A- Presbyterian.

Q- How long have you been a member.

A- Nine years.

Q- Were you a member of the church before you came to this potlatch, were you a member of the church at the time you had this potlatch.

A- Yes sir.

Q- Did they not object to your having the potlatch.

A- They did not like it.

Mr. Mills.

Q- People asked you not to give it.

A- Yes sir.

Q- Did they do anything about it in church, take any action.

A- No sir.

Mr. Kelly- He is not one of the plaintiffs or his children. He is a witness for the defense.

Mr. Kelly- Anything further.

Mr. Robinson- I would like to swear Lizzie Allard's Grandmother. The Grandmother called and sworn through Geo. Kostrometinoff as Interpreter. Mr. Kostrometinoff also sworn as Interpreter.

Mr. Robinson.

Q- Will you ask witness what her name is.

A- My white name is Mary Susie. My Indian name is--(Stenographer gives it up, sounds like Kashdacash)

Q- Does she speak any english.

A- No.

Q- What relation is she to Lizzie Allard.

A- She is my daughter's daughter.

Q- How long has Lizzie lived with her.

A- Fourteen years I have been looking after her.

Q- How old is Lizzie.

A- 14 years old. I took her soon after her mother died.

Q- During the fourteen years she has had the child, has the father

contributed to the support of the child in any way.

A- When he was working at Silver Bay some time ago he give me \$20.00 the first time.

Q- Ask her how long ago.

A- when he give me ten, three times ten dollars, and ten dollars the second time, also provisions.

Q- Cannot she say how many times he gave her ten dollars.

A- I think fifty dollars altogether. Yes I think \$50. altogether in cash not counting provisions.

Q- How much provisions.

A- I dont know exactly how much it was but he was buying these provisions from Mr. Hirst at different times, brought different things to the house.

Q- Ask her if he has bought a lot of stuff, has he brought her many clothes.

A- Yes he bought some clothes and been buying shoes all the time.

Q- Does the old lady think the child's father provided for her or did she have to do it.

A- I was the only one that have been taking care of her, ten dollars dont last very long.

Q- Ask her if what the father has given in clothes and money would have been enough to have kept the girl these 14 years.

A- She says she spends lots of money, that he money he gave was not sufficient, that she has done work all the time and spent a great deal on the girl.

Q- Did the father ever show any affection for the girl during these years.

A- Yes he has been there often.

Q- Where does this old lady live.

A- In the Indian Village.

Q- Has she always live there.

A- Yes sir.

Q- Does she play with the indian children. (Interpreter- Who, the old woman?)

Laughter.

Mr. Robinson- No, Lizzie.

A- With the indian children, sometimes white children come to the house.

Q- Did Lizzie's father ever speak to the old lady about sending the girl to school.

A- No.

Q- Never did.

A- No he never did.

Q- Has Lizzie ever attended the school.

A- She went to the public school once, when she was sent there the second time they would not admit her.

Q- Did she ever go to the native school.

A- Yes.

Q- How long did she go there.

A- The Indian School was closed, after the Indian School was closed went to the public school.

Q- How long did she go there.

A- Dont know exactly, about three years. She was about ten years old when she went to school.

Q- Ask her if she lives all alone with this little girl.

A- I live all by myself with Lizzie.

Q- Does she stay here all the year or go with the other natives in the summer.

A- Sometimes she goes out.

Q- Does she take Lizzie with her.

A- Yes.

Q- Do they eat native dishes like seal oil and whale blood.

A- We eat indian provisions and white provisions. There is a store where we trade and get lots of things in the store.

Q- Does she speak any english at all or can understand it.

A- No I dont speak any english.

Q- Does she understand it.

A- No.

Q- Has she ever been entertained by the Governor or Mrs. Brady.

A- No.

Mr. Kelly.

Q- Does she attend the Russian Church.

A- Yes I am a member.

Q- Lizzie a member.

A- Yes, also her brother.

Q- Lizzie sing in the church choir.

A- Yes.

Q- Lizzie make her own dresses.

A- Yes Lizzie makes her own dresses.

Q- Lizzie has a sewing machine.

A- Yes.

Q- How much money does she say the father gave her the first time.

A- \$20.00

Q- Then he often bought plenty of goods and shoes.

A- Yes.

Q- She gets goods at the store.

A- Yes, shoes clothes, nice things.

Mr. Robinson.

Q- Ask her how much in money she has received in the last two years from Mr. Allard.

A- I dont read or write, better ask the storekeeper he furnish these things.

Q- Has anybody spoke to her about this case.

A- No.

Q- She has not heard from it until she came here.

A- Policoman is the one only who told her.

Q- What did he tell her.

A- He told her to come here something about school.

Witness excused.

Rudolph Walton recalled.

The Court- You are still under oath, you were sworn yesterday.

Mr. Robinson.

Q- You were here during the time of the last two potlatches were held.

A- Yes sir.

Q- Did you take any part.

A- No.

Q- Did you make some totem poles.

A- Yes I did.

Q- What were they for.

A- For ornament.

Q- Did they indicate anything at all.

A- Nothing except they belonged to the tribe.

Q- How many did you make.

A- Two.

Q- What are they made of.

A- Cedar.

Q- What did you charge for them.

A- \$130.00.

Q- They paid you \$130.00. You know how to carve these totem poles.

A- Yes sir.

Q- Can you describe them.

A- They were mostly for the young ones.

Q- Do you have a totem pole of your own.

A- Yes a little one.

Q- Where do you keep this little totem pole.

A- It is for sale.

Q- You have none of your own.

A- Only in the store.

Mr. Kelly.

Q- You carve in silver, bone and wood, and take orders.

A- Yes sir.

Q- You have an order from me now to make one for a man in San Francisco.

A- Yes sir.

Mr. Robinson.

Q- Do your children play in the native village.

A- Yes sir.

Q- Whose children do they play with.

A- Native children, very good children.

Q- With the white children.

A- No, they are too small.

Q- Yesterday you testified that all you knew about the law was what you read. Where did you get it.

A- From the Governor.

Q- Did you ask him for this.

A- He gave it to me.

Q- What did he say when he gave it to you.

A- The law has changed and passed.

Q- What else did he say.

A- That halfbreed children could go to school.

Q- I heard you say yesterday that all you knew about the law was what you read, now you say Governor Brady gave it to you.

A- Governor gave it to me.

Q- When he gave it to you did he tell you your children could go to this public school

A- Yes.

Q- Did anybody besides the Governor tell you your children could go to school.

A- Miss Patton.

Q- When you got this note from the School Board saying your child could not go to the public school you wrote a letter.

A- Yes sir.

Q- You have a typewriter.

A- I wrote it with pen and ink.

Q- The letter that went to Juneau was typewritten. Who copied it
Mr. Kelly.

Mr. Kelly- You read and write. You wrote that letter I had it
typewritten.

Mr. Robinson- I am examining the witness, please dont interrupt. When
I get through you can take the witness.

Mr. Robinson.

Q- Who dictated the letter, who told you what to say.

A- Nobody told me what to say, I know, I have words.

Witness excused.

George Kostrometinoff recalled and sworn.

Mr. Robinson.

Q- You are conversant with affairs here in town, you have lived here
a good many years.

A- Yes sir.

Q- Would you say that Rudolph Walton lives and consorts with natives
or white people.

A- He lives at the indian village, all his associates are natives.

Q- They are, do you know Lizzie Allard.

A- I do.

Q- Where does she live.

A- In the native village.

Q- With her grandmother.

A- Yes.

Q- The grandmother is a native, is a respectable old lady. Does
she live like a native or a white person.

A- She lives all by herself, is a member of the Russian Church, and
I dont think she attends any potlatches.

Q- What is her mode of living, is it that of a white person or a
native.

A- She lives in a house all by herself, in a small house and washes
clothes.

Q- I am not attacking the respectability of this old lady; does she live the life of a whate or a native.

A- All of her associates are natives, she lives in the native village and comes in town once in a while.

Q- Do you know Peter Allard, William Allard's boy.

A- Yes sir.

Q- Does he live in the native village also.

A- With his father.

Q- Do his parents associate with natives.

A- They do.

Mr. Kelly.

Q- This aged lady is in good standing in your church.

A- She is.

Q- Lizzie does not live in tribal relations.

A- They have a cottage by themselves.

Witness excused.

Mr. Campbell, Marshal, called and sworn.

Mr. Robinson.

Q- You are Deputy Marshal in Sitka.

A- Yes sir.

Q- You are conversant with conditions in all parts of the town.

A- Yes sir.

Q- Are you particularly well acquainted with the conditions at the Ranch.

A- Yes, I am pretty well familiar with them.

Q- Would you say that the natives who live there permanently have severed their tribal relations

A- I would say they are very much connected with their tribal relations.

Q- Would you say that Lizzie Allard and others mentioned in this complaint consort with natives.

A- I would.

Q- Do you know Susie who was sworn here.

A- Yes.

Q- In your estimation is she following the life of a native.

A- She lives among the natives.

Q- Who does this child associate with.

A- Nobody but natives.

Q- Have you any knowledge of the conditions in the native school.

A- Yes.

Q- Would you say Allards associated with natives or white people.

A- With the natives wholly.

Q- Since you have been here they had a potlatch. Did you see any of the people represented in this case in that potlatch.

A- What do you mean.

Q- I mean Wasca Allard or Fred Davis.

A- Fred Davis was in the potlatch.

Q- Did he play a prominent part in it.

A- He did.

Q- What was the conduct of the natives during the potlatch.

A- It was anything but civilized.

Q- In what way.

A- Painted up and following ancient customs.

Q- During the potlatch were there any actions that caused you alarm.

A- It was expected that the old trouble over totem poles would break out.

Q- Was Fred Davis mixed up in that.

A- He was.

Q- Did you ever have any conversation with him about it.

A- About the potlatch but not about the totem pole.

Mr. Kelly.

Q- Did you ever see masquerading until you came here.

A- Oh yes.

Q- You are acquainted with the kind of dances they had here.

A- Yes.

Q- Where they invited women.

A- I think it about equal with the potlatch as conducted in Sitka.

Q- You would not expect the natives to have as high civilization as the rest of the people generally.

A- Except that Rudolph, Allard and Walton live in their own houses.

Mr. Robinson-

Q- I would like to ask the witness whether the potlatch elevates the native or the dances referred to the white people.

A- I don't think it has a tendency to.

Mr. Robinson- We rest our case.

Mr. Kelly- I think we have taken up so much time that if it cannot be decided now it cannot at all. I suppose this will be sent to the Clerk of the Court.

The Court- Yes, I understand the rule regarding the Referee's report. I think it is in the Code.

Mr. Mills- I would like to ask if a copy of the testimony will be made for our side.

The Court- No, it goes to the Court at Juneau under seal. What action the Court there takes of course is beyond my jurisdiction.

Mr. Kelly- I trust it to you and the interpreter.

IN THE DISTRICT COURT FOR THE DISTRICT OF ALASKA, DIVISION
NUMBER ONE, AT JUNEAU.

Dora Davis, Tilly Davis, John Littlefield,
Lottie Littlefield, Lizzie Allard, and
Peter Allard, by their Guardian, Rudolph
Walton,
Plaintiffs,

NO. 534-A.

-vs-

W.F. Mills and Mrs. Geo. Stowell, as the
School Board of the Sitka School
District,
Defendants,

UNITED STATES OF AMERICA.)
FIRST DIVISION, DISTRICT OF ALASKA.) :SS

This is to certify that pursuant to an order of this court in this action made the 23rd day of April, 1906, the above entitled cause came before the undersigned Referee for the taking of testimony at the office of the U.S. Commissioner in the town of Sitka, at 2.00 o'clock, P.M. on the 11th day of May, 1906, and the hearing was completed on the 12th day of May, 1906.

That W.F. Jeffreys was duly sworn as stenographer to take the evidence.

That Wm. A. Kelly represented the plaintiffs; and W.F. Mills represented the defendants on the first day and H.W. Robinson represented the defendants on the second day.

That the witnesses named herein and whose testimony appears on the foregoing pages personally appeared before the said referee and were then and there each of them separately duly sworn to tell the truth the whole truth and nothing but the truth and they gave the answers to the interrogatories put to them as herein set forth.

That the exhibits enclosed herewith and made part of this record were duly presented to the referee by the parties to the action and

by him lettered for identification.

In witness whereof I have hereunto set my hand this 15th day of
May, 1908.

Edward deGoff
DEPOSE.

No 584 A

OFFICIAL BUSINESS
Penalty for Copying \$3000

In the District
Court for the District
of Alaska Division
No. 1.

Dora Davis & Tilly Davis
Etal

vs

A. P. Mills et al

Exhibits

FILED

MAY 21 1906

C. C. Page Clerk,

By D. C. Abrams - Deputy

DEPARTMENT OF JUSTICE

First Division, District of Alaska.

COMMISSIONER'S OFFICE

SITKA, ALASKA.

EDWARD de GROFF, Commissioner.

Opened:
Nov 20 07

No. 534 A

Dora Davis and
Tilly Davis Et. al.

vs

H. P. Mills & Mrs. Geo.
Stowel.

Report of testimony
taken before Referee

FILED

MAY 21 1906

C. C. Page Clerk,

By D. C. Abraw Deputy

A

In the record book of Marriages of the Russian Cathedral of St. Michael of Sitka, Alaska- page 90, No. 66 there appears the following entry:-

On the 29th: day of January, A. D. 1888, GEORGE B. ALLARD and ELIZABETH KAD-KOC-YELL, a native, were duly joined in lawful wedlock by Rev. Vladimir F. Donskoy, priest of the Russian Church; in the presence of Charles Daicker and Thomas Kefarland.

A true copy.

Sitka, Alaska April 12, 1906.

No. 15.

Rev. Andrew P. Kashwaroff
rector St. Michael's Cathedral

Sworn and subscribed to before me this 12th day of May, A.D. 1906.

Edward deGroot
U.S. Commissioner.

Girls in Miss M. Cole's room

Thelma Keogh

Ethel Russell

Grace "

Rosal Robinson

Katie Zorianoff

Margaret Harlow

Dora Williams

Dolly Frierschildt

9 Noreen "

— Painter

Girls in Miss McCall's room

Thelma Keogh

Ethel Russell

Grace "

Ruth Robinson

Katie Zorianoff

Margaret Hanson

Dora Williams

Polly Frierschmidt

9 Nora "

— Bainter

Primary School, Miss McCaleb

Pupils

Boys

Sasha Larinoff
John Siring
Peter Kharavoff
Alec. Simpson
Must. "
Walter Kirst
Arthur Kirst
Alfred Dilson
Walter Parnamoff
Antion Sherigan
Daniel Zuranoff
Jim. Robinson
Sandy Bohass
Alec. Partemoffsky
Kinta Petelcan
Michael Komenchy
Joe Hoogh
Kelsey Kharavoff
Gabriel Parnamoff
Johnny Clark (American)



Exhibits FE

Left

Max Hot demotes

+

Fred Davis

Ed Hoff



