

J-N° 57.

James S. Dwy, et al,

vs

b. & b. Nations.

N° 115.

Sanction Dist. Court.

N°

Pawis Commission.

A.C.

For papers, see

Z. J. Bottoms, et al.

Louis Still et al

D-87

Free

SUMMONS.

United States of America,
Indian Territory, }
Choctaw and Chickasaw Citizenship Court. } ss

The President of the United States of America,

To the United States Marshal for the Indian Territory, Northern District,

GREETING:

You are hereby **Commanded to Summons** Green McCurtain, Principal Chief of the Choctaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Principal Chief of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at Tishomingo,, by James L. Ivey, et al,

and warn him that upon his failure as said Principal Chief to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the papers, files and proceedings in the case of James L. Ivey, et al, File No. 115 in the District Court for the Southern District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said Southern District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this 31 day of March A. D., 1903.

James B. Cassada Clerk.
By _____ Deputy.



MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

I received this summons this _____ of _____ A. D., 1903,
at _____ o'clock _____ m. and served same by copy, as follows:
Personally on Green McCurtain, at _____ Indian Territory,
This _____ day of _____, 1903, _____ m.

By _____ Deputy.

copy
No. 57-b

SUMMONS
INEQUITY.

Gar & Drey et al
vs.
Choctaw and Chickasaw Nations.

Summons issued 3/11 day of
March, 1903. Returnable instantler.

Marshal's Fees.

Service	-	-	\$.....
Miles	-	-	\$.....
Expenses	-	-	\$.....
TOTAL			\$.....

Green & Brown
Attorneys for Plaintiff.
Green
D.S.

Counsel for defendants seem to have adopted in their written argument before the Court the tactics of a Jury Lawyer, who jumps with all his might and main upon the testimony of weak witnesses and tears this testimony to shreds, but dismisses the testimony of witnesses whose evidence he can not impeach with a wave of the hand as of no importance in the endeavor to distract attention from such testimony. The Court will observe that, while they dilate at length upon the testimony of Sam Perry, (Not in the case) Danib, Underwood and Catherine Franklin, they have little to say about the testimony of Joe Freeman, Minerva Anderson, and Lavina King; and they say nothing whatever about the testimony of old man Wiley Wooten who was two or three years older than Seth Bottoms, and who says that he was acquainted with Billy Bottoms in Marion County Alabama; that he was called by the Indian name Hockatubbee as well as by the English name of William Bottoms; and that he had long black hair and a dark look somewhat like an Indian. They do not refer to the affidavit of Clementine McNelly made away back in 1885 before there had been any Legislating whatever looking to an allotment of land in severalty, which affidavit was before the Commission in this case and which states that she was acquainted with Billy Bottoms in Alabama that he was one fourth- Choctaw; and that she was also acquainted with Ann Masholatubbee his wife, who was one half Choctaw and the mother of Piety Hill. Neither do they say anything about the affidavit of G. H. McNelly which was also taken in 1885, was before the Commission and which states that he knew Billy Bottoms, who lived in Mississippi and moved to Alabama and lived on Big Bear Creek and that he claimed to be one-fourth Choctaw. This witness further says that he knew Billy Bottoms wife Ann, whose maiden name was Masholatubbee, who was one-half Choctaw and with whom he was living in 1827. They are almost silent as to the testimony of John Logan, who testifies that he knew Billy Bottoms in Alabama who sometimes came to witnesses' father's house to see his daughter Prudie who was staying there; that Billy Bottoms claimed to be part Indian, was known as a

Choctaw and was considered one-fourth Indian; that Billy Bottoms left that country twice; that the first time he went away witness did not know where he had been; that he finally went away and never returned; that his daughters Piety Hill and Prudie Kirkland, moved to Cherokee County Texas when witness was a good big boy; that Prudie told witness that Billy Bottoms' wife's name was Ann Masholatubbee; and that Billy Bottoms talked Choctaw with the witness's mother. Neither do they refer to the testimony of J. A. Sexton to the effect that he knew old Billy Bottoms in Cherokee County, Texas and his people there and knew that they claimed to be Choctaws and that old Billy Bottoms talked some language that they told the witness was Choctaw and that he spoke such broken English that the witness could not understand him. This witness further states that the children of Piety Hill and Prudence Kirkland after the war were not allowed to attend the free schools in Cherokee County, Texas, without pay for the reason that they were Indians. Likewise the testimony of William W. Hill does not strike them. Yet this witness knew old Billy Bottoms in Cherokee County, Texas and testifies that he could not speak good English; that his complexion was that of an Indian and that witness' best opinion was that he was about three quarters Indian; and that the witness knew Zack thereto, who showed Indian blood very much and talked an Indian brogue. This witness was certainly a disinterested one, for there had been at one time ill feeling between the families and Billy Hill, a grandson of Billy Bottoms, had killed a brother of the witness, for which crime, it appears, that he was sent to the penitentiary.

There is an airiness in the entire argument filed by the defendants that would be somewhat irritating to those not accustomed to the breeziness of this western country and who are not aware that this is a habit contracted by many lawyers in their early practice in Courts of Justices of the Peace, which they seem utterly unable to get rid of and which sticks to them even in their practice in more enlightened forums where they ought to know that logical reason-

ing and the citation of authorities would have much more weight than empty sweeping assertions.

For instance it is stated in their argument, that the evidence indisputably shows that the immediate ancestors of these people (plaintiffs) the sons and daughters of William Bottoms were themselves married and the heads of families at the time William Bottoms was supposed to have come to the Territory; and that none of them came or ever came". They do not attempt to quote the language of the witnesses which (indisputably) establishes this; nor do they even mention the names of the witnesses, who swear to such a fact.

Now we submit that the evidence, not only does not show this "indisputably" but does "indisputably" show the contract as to some of the sons and one of the daughters of Billy Bottoms. Zack Bottoms, one of his sons, came to the Indian Territory with Dave Folsom's attachment about 1832. He was not married until 1840. It was shown by the testimony of G. B. McNelly that Billy Bottoms' daughter Piety married Hill in 1834. Now the testimony of Wiley Wooten, W. F. Bottoms, John Logan and Riley Bottoms shows that Billy Bottoms had been west prior to the time that he finally left Alabama somewhere from 1845 to 1851. Lavina King, whose parents came with the first Choctaw emigration, and who was born two years after her parents came to the Territory says she was 8 or 9 years old when she first saw Billy Bottoms about Doaksville, but she heard of him long before that. So, he was in this country prior to 1841. Wiley Wooten, who knew Billy Bottoms in Marion County, Alabama, did not recollect the date when Billy Bottoms first left Alabama, but knows that he left "away back" and that his son Zack went with him. So then, Billy Bottoms must have come to the Indian Territory the first time about the time that his son Zack did, which was about 1832 and was before even Piety married. Now the testimony shows that Prudie married Kirkland somewhere about 1850, anyhow just before old Billy Bottoms left Alabama the last time. The evidence does not show with certainty the date of Smith Bottoms marriage, but it does show with

practical certainty that he did not marry prior to 1856. His oldest and only child, E. T. Bottoms, was born in 1858.

Another one of these airy assertions is that the country where Billy Bottoms came from, Monroe County, Mississippi and Marion County, Alabama "was never owned by the Choctaws in all their history as shown by the maps". Now, if counsel for defendants had been anxious to be perfectly candid with the Court and to make no statement not warranted by the evidence, history or the law, they would have examined the various treaties between the U. S. and the Choctaw, Chickasaw, Creek and Cherokee Tribes, commencing with those made in 1786, and would have referred to some standard map such as Rand & McNally's of 1904. They would then have known that the east boundary line of the old Choctaw Nation extended along the top of the Water Shed where the waters ran into the Alabama on one side and into the Tombigbee River on the other, which water shed is entirely within the present limits of the State of Alabama; and that the boundary line on the North between the Choctaws and Chickasaws began at a point on the Mississippi River almost opposite the present town of Helena, Arkansas, thence ran southeast to a point in what is now Webster County, Mississippi; thence ran a little north of east to Line Creek in what is now Clay County, Mississippi; thence ran down this creek to its junction with the Tombigbee; thence north up the Tombigbee to a point just below the junction of the east and west forks of that river in Monroe County, Mississippi, thence northeast in such a manner as to cross what is now Marion County, Alabama. Counsel for defendants would then have known that nearly all of that part of Monroe County, Mississippi as well as the southern part of Marion County, Alabama, where Big Bear Creek takes its rise among the low mountains or hills, were within the limits of the Old Choctaw Nation.

Another specimen of their Jury tactics is their reference to the affidavit of Heckahubbee, alias Billy Eobs, quoted in the record of what is called the net proceeds suit at Pages 951 to 953.

Their facetiousness on this subject might be amusing to a Jury and might distract their attention from the evidence; but it can hardly have this effect before a Court.

Outside of the question whether this affidavit of Billy Bobs is competent evidence in this case (which we deny) there is not the slightest evidence that we ever claimed under this Nockatubbee.

There was another Nockatubbee, who was a Choctaw and who had 7 in family in 1831 or 1834 as is shown by Volume 7 of American State Papers at Page 86. It appears from this that, of the members of his family that he had with him at that time, two of his sons were then over 16 years of age. This Nockatubbee could not have been identical with the Nockatubbee alias Billy Bobs, who made the affidavit in 1844 quoted in the record of the Net Proceeds Suit; for, the latter was only 35 years old in 1844 and therefore could hardly have had two sons over 16 years of age in 1831 or 1834. Such precocity would have been more "phenominal" than any of those states of fact that counsel for defendants have manufactured by distorting the evidence.

The Court understand that we do not claim that the evidence identifies the Billy Bottoms alias Nockatubbee under whom we claim with this Nockatubbee referred to in Volume 7 of the American State Papers. We desire to be candid with the Court. We simply refer to this for what it is worth.

Counsel for defendants have a good deal to say about the improbability of Billy Bottoms having ever caroused or run horse-races with that exemplary old man Peter Pitchlynn, who was once governor of the Choctaw Nation, as if any of our witnesses had testified to such a fact. Counsel surely can not expect the Court to have much opinion of their candor when they resort to such tactics as these in a written argument. A careful examination of the testimony of the witnesses will show that not one of them testified that Billy Bottoms ever caroused or ran horse-races with old Peter Pitchlynn. It was with John and Tom Pitchlynn that he indulged in these amusements and

Now, it is well known that dates and periods of time are the most elusive of all things to the human memory. This is true with reference to the best educated and most enlightened people, and much more so with ignorant negroes and full blood Indians.

But one of their most bitter attacks upon the plaintiffs in this case is because of the resort to ignorant witnesses. Were the bulk of those who first came out to the Indian Territory from the Old Choctaw and Chickasaw Nation and who could be expected to know something about the occurrences in those early days highly educated refined people! No, the truth is that very few of them could write their names.

And counsel for defendants lay stress upon the improbability of their having been any mingling of the two tribes at that early day. Now the facts are, as history shows, that there was an intermingling between the two tribes as far back as they were known to the white people. They are kindred tribes, speak almost the same language, were allies in their early wars with the Frenches about Natchez and in Eastern Louisiana and have always been intimately associated. There is not the slightest improbability of intermarriage among them at dates much earlier than those testified to by witnesses for the plaintiffs.

But they assert that there can be no merit in our claims because, as they say we started out with the claim that we are entitled to be admitted as citizens by reason of our descent from Ann Masholatubbee and that, when we found that this claim was untenable, we abandoned it and set up a claim through Billy Bottoms. They also say that we at first claimed that this Ann Masholatubbee was a full blood Choctaw and the daughter of the Old Chief Mushulatubbee. An examination of the affidavits made by old Zack Bottoms, one away back in 1884 and the other in 1890, will show that old Zack did not claim that Ann his mother, was a full blood Choctaw, nor that she was the daughter of the Old Chief Mushulatubbee. If he had ever intended to claim that she was the daughter of the Old Chief, he would have certainly so stated in his affidavits. And so far

from abandoning our claim through Ann Washolatubbee, we still assert it, and now assert that the preponderance of the evidence will justify the Court in admitting us to citizenship on the ground of our descent from her alone, outside of any proof as to our descent from Billy Bottoms. We have placed special stress upon our claim through Billy Bottoms only because we believe that the proof of our claim through him is clearer and more satisfactory than our claim through her.

The whole defense to our claim is based upon some inconsistencies in the testimony of some of our witnesses in their estimates of periods of time and as to dates which could have hardly been otherwise, considering the great lapse of time, and also upon the testimony of Seth Bottoms and his admitted echo, Riley Bottoms, which has, we think, been effectually disposed of; and the defendants asks this Court to base a judgment in their favor and against us on these right in the face of what appears to us an overwhelming preponderance of the evidence in our favor.

Respectfully submitted,

Wm A. Bliss,

of Counsel for Plaintiffs

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT.

James L. Ivey, Samuel Bottoms,	:	
Latha Jane Bottoms, Fredonia Bottoms,	:	
Mary L. Bottoms, Emeline Bottoms,	:	
Ethel (or Cyrena) Bottoms,	:	
Elsie Segroves, Ophelia Kirkland,	:	
Ermine Kirkland, Sarah (Gallagher)	:	
Kirkland, Mary E. Ivey, Lou H. Ivey,	:	
Sedenia Ivey, Inez (Lock) Kirkland,	:	P E T I T I O N .
Plaintiffs,	:	
vs.	:	
Choctaw and Chickasaw Nations,	:	
Defendants.	:	

Comes now the petitioners, James L. Ivey, Samuel Bottoms, Latha Jane Bottoms, Fredonia Bottoms, Mary L. Bottoms, Emeline Bottoms, Ethel (or Cyrena) Bottoms, Elsie Segroves, Ophelia Kirkland, Ermine Kirkland, Sarah (Gallagher) Kirkland, Mary E. Ivey, Lou H. Ivey, Sedenia Ivey, Inez (Lock) Kirkland, and respectfully represent and show to the court that they and each of them, except the said Latha Jane Bottoms, are now, and that all of these petitioners have since the 21st day of December, 1897, continuously resided in the said Choctaw and Chickasaw Nations in the Indian Territory, and that all of these petitioners except the said Latha Jane Bottoms, James L. Ivey, and Mary E. Ivey have continuously resided in the Choctaw and Chickasaw Nations in the Indian Territory long prior to the date of their application to the Commission to the Five Civilized Tribes, as hereinafter set forth; that they and each of them are citizens and members of the Choctaw Nation or Tribe of Indians by blood, and inter-marriage respectively, as hereinafter set forth; and as shown by a petition filed before the Commission to the Five Civilized Tribes, on September 8, 1896, of which the following is a copy.

" BEFORE THE HONORABLE COMMISSION TO THE FIVE CIVILIZED TRIBES
OF THE INDIAN TERRITORY.

In the matter of the application for enrollment as citizens of the Choctaw Nation of William Fletcher Bottoms and Latha Jane (Boyd) Bottoms, husband and wife; William Henry Bottoms and Fredonia (Doshier) Bottoms, husband and wife; and Rosa Belle Bottoms and Wm. Elmer Bottoms, their children; John W. Morrow, and Rebecca (Bottoms) Morrow, husband and wife, and Wm. Fletcher, Walter, Letitia, Jewell, Beulah, Minnie, and Winnie Morrow, their children; Newton Wesley Bottoms and Mary L. (Stafford) Bottoms, husband and wife, and Wm. Ira, Claudie McClellan and Bettie Jane Bottoms, their children; Ezekel Putnam and Pearl (Bottoms) Putnam, husband and wife, and Hattie Jane, and Frankie Lee, their children; Orton Bennett and Pauline E. (Bottoms) Bennett, husband and wife; Zachariah Thomas Bottoms and Emeline (Sherwood) Bottoms, husband and wife, and Wm. Luther, Francis Caroline, James Zachariah, Joseph Smith, Bertha May, Septemer and Ester E. Bottoms, their children; William Alexander Bottoms, and Ethel (McElvey) Bottoms, husband and wife, and Allia A. Bottoms, their child; Thomas Atwood; Emmett Montgomery; Thomas W. Segroves, and Elizabeth (Bottoms) Segroves, husband and wife, and Charles Webster, George Franklin, Doc. Thomas, Wm. Cleveland, Zachariah and Paralee, their minor children; James B. Segroves; Samuel Montgomery Segroves and Elsie (Copps) Segroves, husband and wife; Eldredge Kirkland and Ophelia (Saxton) Kirkland, husband and wife; and Jessie Easter, Mary Pruda, and Wm. Walter Kirkland, their children; Joseph Kirkland and Ermins (Jones) Kirkland, husband and wife, and Beulah Kirkland, their child; William Kirkland, and Inez (Lock) Kirkland, husband and wife, and Monte and Lee Kirkland, their children; Sarah (Gallagher) Kirkland, and Laura, Inez, Roxie, and Sallie Kirkland, her children; Usley (Hill) Mainnard; Marcus L. Ivey and Mary E. (Lively) Ivey, husband and wife, and James L., William J., Thomas F., Nora E., and Lewis A. Ivey, their children; Joseph Steppick, and Nancy Ann Steppick, husband and wife, and Charles Franklin, Thomas Joseph, George Washington, William Oscar, and Bessie L., Steppick, their children, and John H. Gregory, son of Nancy Ann Steppick, by a former husband; Thomas L. Ivey and Lou H. (Dearman) Ivey, husband and wife; Elisha W. Ivey and Sedenia (White) Ivey, husband and wife, and Bertie L. Ivey, their child; Wilbern Crawford and Katie (Reagan) Crawford, husband and wife, and Nora Lee Crawford, their child.

P E T I T I O N.

Your petitioners aver that they are citizens of the Choctaw Nation by blood and inter-marriage, respectively, as hereinafter set forth, viz., That William Bottoms, better known as "Uncle Billey" Bottoms, and whose Indian name was "Nockahtubbe", was a half or three-quarter blood Choctaw Indian and was married to Ann Meshalahtubbe, a full-blood Choctaw Indian, at the former home of the Choctaws in the State of Mississippi; that the said William and Ann Bottoms were the parents of eight children, Thomas, Eldredge, Seth, Nelson, Smith, Zachariah, Pruda, and Piety Bottoms, all of whom are now dead, excepting Seth, whose whereabouts have been to your petitioners for many years unknown.

That of the said children of William and Ann Bottoms, Thomas Eldredge and Seth have no heirs known to your petitioners, and none who are claimants in this petition. That Nelson Bottoms, married Callia Sallie Arnold and were the parents of four children, but one of which is now living, your petitioner, William Fletcher Bottoms, a resident of Jack County, Texas. That the said William Fletcher Bottoms was married August 14th, 1853, to Latha Jane Boyd, and are the parents of five living children; Wm. Henry, Rebecca, Newton Wesley, Pearl, and Pauline Elizabeth. That your

petitioner, William Henry bottoms, was lawfully married to Fredonia Dasher, a white woman, at Jacksborough, Texas, during the year 1878 and are the parents of two living children; Rosa Belle, aged seventeen years, and William Elmer, aged twelve years, and that your petitioner, Wm. Henry Bottoms, his wife and children are residents of Allen, in the Choctaw nation.

That your petitioners, Rebecca and John W. Morrow, were lawfully married July 20th, 1876, and are the parents of seven living children, William Fletcher, Walter, Letitia, Jewell, Beulah, Minnie and Winnie, aged, 16, 14, 13, 9, 7, 3, and 3, (twins) respectively, and that your petitioner, John W. Morrow his wife and children, are residents of Ardmore in the Chickasaw Nation.

That your petitioner, Newton Wesley Bottoms, was lawfully married to Mary L. Stafford, at Davall's Bluff, Arkansas, during the year 1888 and as a result of said intermarriage, are the parents of three living children, William Ira, aged seven years, Claudie McClellan, age three years, and Bettie Jane Bottoms, aged seven months, and that your petitioners, together with their children, reside at Hird, in the Chickasaw Nation.

That your petitioner Ezekel Putnam, was lawfully married to Pearl Bottoms, in Jack County, Texas, August 11th, 1888, and that said union has resulted in the birth of two living children, Mattie Jane, age six years, and Frankie Lee aged two years, and that your petitioners reside near Finis, in Jack County, Texas. That your petitioner Orton Bennett was lawfully married to Pauline Bottoms, in Jack County, Texas, January 1st, 1896 and are now residents of said state.

2nd. That Smith Bottoms, son of William of "Uncle Billy" and Ann Bottoms, married Nancy Kirkland, in Cherokee County, Texas about the year 1857 and both of which are now dead, and were the parents of one living child, your petitioner, Zachariah Thomas Bottoms, who was married to Emeline Sherwood in Wood County, Texas during the month of July, 1878, and are the parents of eight children, William Luther, aged seventeen, Francis Caroline, aged fourteen, James Zachariah, aged twelve, Joseph Smith, aged ten, Bertha May, aged eight, Septemer, aged five, Samuel, aged three and Ester M., aged one year, and that your petitioner, Zachariah Thomas Bottoms, his wife and family are residents of Pontotoc County, Chickasaw Nation. That your petitioner has been regarded as a Choctaw Indian by the Chickasaw authorities for eight years past, and has put in and improved farms in the Chickasaw Nation, and obtained permits from the permit collectors for non-citizens cultivating his soil, and has otherwise received the benefits and privileges of a citizen of the Choctaw nation residing in the Chickasaw Nation.

3rd. That Zachariah Bottoms, son of "Uncle Billy" and Ann Bottoms, married Elizabeth Waters, in Cherokee County, Texas, during the year 1840 and both of whom are now dead, and were the parents of eight children; Smith, William, Alex, Nancy, Annie, Mary, Lucinda, and Elizabeth; that of said children, Smith William, Nancy, and Mary Bottoms, are dead, and have no heirs who are claimants in this petition.

That Alex Bottoms, now dead, was married to Mary Florence, in Cherokee County, Texas, October 25th, 1868, and were the parents of one child, your petitioner William Alexander Bottoms who was lawfully married to Cyrena McElvy, at Ardmore, in the Chickasaw Nation, December 16th, 1894, and who are the parents of one child Allie A. Bottoms, born September 15, 1895, and that your petitioner, William Alexander Bottoms, his wife and child are now residents of Pontotoc County, Chickasaw Nation.

That Annie Bottoms, was married to Isaac Atwood, both of whom are now dead and are the parents of two children, your petitioners, Thomas and George Atwood. That Thomas Atwood is a resident of Pontotoc County, Chickasaw Nation.

That Lucinda Bottoms was lawfully married to Sam Montgomery

in Van Zandt County, Texas, about the year 1866 and were the parents of several children, one of which was your petitioner, Emmett Montgomery; that the mother of he, and your petitioner, Lucinda Montgomery, is now dead and your petitioner, his father and brothers and sisters now reside in the Choctaw Nation.

That your petitioner, Elizabeth (Bottoms) Segroves, was lawfully married to Thomas W. Segroves August 26th, 1870, in Van Zandt County, Texas, and are the parents of eight children; James B. born November 13th, 1871, Samuel Montgomery, born March 10th, 1872, Charles Webster, born February 27th, 1877, George Franklin born January 31st, 1880, Doc. Thomas, born October 21st, 1882, William Cleveland, born October 20th, 1887, Zachariah, born February 28th, 1890 and Paralee, born August 2nd, 1892 and all of whom are living and residing near Paoli, Pontotoc County, Chickasaw Nation. Your petitioners, Thomas W. Segroves and his wife Elizabeth, represent that they have resided in the Chickasaw Nation for the past Twenty-four years, excepting one year in the Choctaw Nation, and has always been recognized as a Choctaw Indian by the Chickasaw Authorities, having held land, as a resident Choctaw, and issued permits to non-citizens, and has otherwise enjoyed the privileges and benefits of a Choctaw citizen.

That the said Samuel Segroves was lawfully married to Elsie Adella Capps during the year 1894, and are now living together as husband and wife in Pontotoc County, Chickasaw nation.

4th. That Pruda Bottoms, daughter of "Uncle Billy" and Ann Bottoms, was lawfully married to William Hiram Kirkland, and were the father and mother of two children, Eldredge and William Kirkland; that the said Pruda, William Hiram, and William Kirkland, are now dead. Your petitioner, Eldredge Kirkland, avers that he was lawfully married to Ophelia Saxton, near Paoli, in the Chickasaw Nation, December 18, 1881, and that they are the parents of three living children, Jessie Easter, born October 3rd, 1882, Mary Pruda, born December 13, 1884, and William Walter born February 25th, 1887. Your petitioner Eldredge Kirkland, would respectfully aver that he has resided in the Chickasaw Nation since 1870, and has always been recognized as a Choctaw Indian in the way of holding land and permitting non-citizens. Your petitioner would further represent that he has been for the past twelve years attempting to have his right established in the Choctaw Nation before the tribunals heretofore having jurisdiction in such claims for citizenship, but has been wholly unable to receive a hearing of his application.

That William Kirkland, now deceased, was lawfully married to Sarah Gallagher, during either the year 1865, or 1866, in Rusk, Cherokee County, Texas, and as a result of said marriage, seven children were born unto them: Charles Kirkland, aged twenty-eight years, not to be included in this petition, Joseph Kirkland, aged twenty-four years, William Kirkland, aged twenty-two years, Laura Kirkland, aged nineteen years, Inez Kirkland, aged seventeen years, Roxie Kirkland, aged twelve years, and Sallie Kirkland, aged eight years, and all of which children, together with Sarah Kirkland, widow of William Kirkland, are now living in the Chickasaw Nation, Indian Territory.

That Joseph Kirkland, son of William and Sarah Kirkland, was married to Ermine Jones near Paoli, Chickasaw Nation, September 5th, 1894, and are the parents of one living child, Beulah, born June the 7th, 1895. That William Kirkland, son of William Kirkland, deceased, was married to Inez Lock, and are the parents of two children, Monte and Lee aged _____ and _____ years respectively.

5th. That Piety Bottoms, daughter of "Uncle Billy" and Ann Bottoms was lawfully married to Benjamin Hill, and were the parents of ten children, Usley Jane, petty, Lewis, Sarah, Mary, John, Edna, Robert, and William., none of which or their descendants are claimants in this petition, except the former two. Your petitioner, Usly Mainnard, represents that the said Benjamin and Piety Hill are both dead; that the said Usley Hill married William Palmer who is now dead, and afterwards, April 11th, 1854 in Cherokee County, Texas, was married to Marcus Lafayette Ivey, now deceased, and by whom your petitioner had four children, Nancy Ann, born October 8th, 1856, Marcus L., born July 21st, 1860 Thomas L., born November 11th, 1864 and Elisha W., born November 15th, 1866; that since the death of her second husband, your petitioner married Jeff Mainnard; that your petitioner resides in the Choctaw Nation, near Folsom, and clearly shows her Indian blood, and is apparently at least a quarter blood Choctaw Indian.

That your petitioner, Nancy Ann Steppick, is the wife of Joseph Steppick, and the daughter of Usley Ivey. Her marriage to the said Joseph Steppick being in the year 1885, near Colbert's station in the Chickasaw Nation; that as a result of said union they have five children, Charles Franklin, aged nine years, William Oscar aged four years, Thomas Joseph, aged seven years, George Washington, aged six years and Passie L., aged one year, and all of which children are living and with their parents near Folsom, in the Chickasaw Nation, and that Nancy Ann Steppick, was formerly the wife of John H. Gregory now deceased, having been married to said Gregory in Hunt County, Texas, in 1872, and that said marriage resulted in the birth of one child, John H. Gregory, now living and with its mother in the Choctaw Nation.

That Marcus L. Ivey, your petitioner, was lawfully married September 17th, 1884, to Mary E. Lively, in Fannin County, Texas, and are the parents of five living children; Fannie L. Ivey, aged ten years, William J. Ivey, aged eight years, Thomas F. Ivey, aged six years, Nora E. Ivey, aged four years, and Lewis A. Ivey, aged one year, and all of whom are at present living at Leonard, in the State of Texas.

That Elisha W. Ivey was married to Sedenia White in the Choctaw Nation March 1st, 1882, and have one living child, Bertie L., aged eight years and are at present living at Caddo, in the Choctaw Nation.

That Thomas L. Ivey, your petitioner, was married to Lou H. German, March 8th, 1896, and are now living together in the Choctaw Nation, Indian Territory.

That Jane Hill, daughter of Benjamin and Piety Hill was married to James Reagan, in Cherokee County Texas, about the year 1854, and were the parents of thirteen children, among whom was a daughter Katie; that both James Reagan and his wife Jane are now dead; that Katie Reagan was married September 2nd, 1894, at Wynnewood, in the Chickasaw Nation to Wilbern Crawford, and have one living child, Nora Lee born July 28th, 1895. That your petitioner, Wilbern Crawford, and his wife and child are living together as husband and wife, near Pauls Valley, in the Chickasaw Nation.

Wherefore, your petitioners, for themselves and minor children, ask that their petition and the testimony in support thereof and filed herewith, be, after due service of a copy with the Governor of the Choctaw Nation, duly considered by your Honorable Commission, and that upon final hearing your petitioners and each of them be enrolled as members of the Choctaw Nation, and entitled to all the rights, privileges and immunities of citizens thereof.

his

Thomas W. x Segroves,
mark.

Witness to mark,
J. R. Shaver.

Elizabeth Segroves,	William Fletcher Bottoms
Latha Jane Bottoms,	William Henry Bottoms,
Fredonia Bottoms,	Rosa Belle Bottoms,
William Elmer Bottoms,	John W. Morrow,
Rebecca Morrow,	Wm. Fletcher Morrow,
Walter Morrow,	Letitia Morrow,
Jewell Morrow,	Beulah Morrow,
Minnie Morrow,	Winnie Morrow,
Newton Wesley Bottoms,	Mary L. Bottoms,
Wm. Ira Bottoms,	Claudia McClellan Bottoms
Bettie Jane Bottoms,	Ezekel Putnam,
Pearl Putnam,	Hattie Jane Putnam,
Frankie Lee Putnam,	Orton Bennett,
Pauline N. Bennett,	Zachariah Thomas Bottoms,
Emeline Bottoms,	William Luther Bottoms,
Francis Caroline Bottoms,	James Zachariah Bottoms,
Joseph Smith Bottoms,	Bertha May Bottoms,
Septemer Bottoms,	Ester E. Bottoms,
William Alexander Bottoms,	Ethel Bottoms,
Allie A. Bottoms,	Thomas Atwood,
Emmett Montgomery	Charles Webster Segroves
Doc. Thomas Segroves,	William Cleveland Segroves
Zachariah Segroves,	Paralee Segroves,
James B. Segroves,	Samuel Montgomery Segroves,
Elsie Segroves,	Eldredge Kirkland,
Ophelia Kirkland,	Jessie Easter Kirkland,
Mary Pruda Kirkland,	William Walter Kirkland,
Joseph W. Kirkland,	Ermine Kirkland,
Beulah Kirkland,	William Kirkland,
Inez Kirkland,	Monte Kirkland,

Lee Kirkland,
Laura Kirkland,
Roxie Kirkland,
Usley Mainnard,
Mary E. Ivey,
William J. Ivey,
Nora E. Ivey,
Joseph Steppick,
Charles Franklin Steppick,
George Washington Steppick,
Bessie L. Steppick,
Thomas L. Ivey,
Elisha W. Ivey,
Bertie L. Ivey,
Katie Crawford,
George Franklin Segroves,

Sarah Kirkland,
Inez Kirkland
Sallie Kirkland,
Marcus L. Ivey,
James L. Ivey,
Thomas F. Ivey,
Lewis A. Ivey,
Nancy Ann Steppick,
Thomas Joseph Steppick,
William Oscar Steppick,
John H. Gregory,
Lou H. Ivey,
Sedenia Ivey,
Wilbern Crawford,
Nora Lee Crawford

All except Thomas W. Segroves, by J. P. Sharp, their attorney.

(Here follows verification of application, by Thomas W. Segroves) "

That the foregoing petition is incorporated herein at length and made a part of this petition. Your petitioner, James L. Ivey, respectfully shows that his name appears in the caption of said petition; the said petition is duly signed by said petitioner, by his attorney; That in the body of the foregoing petition, the name of your petitioner erroneously appears as "Fannie" L. Ivey; that the affidavits filed in support of the original application of your petitioner, which said affidavits were those of your petitioner's father and mother, Marcus L. Ivey, and Mary E. Ivey, contains the name of your petitioner, James L. Ivey; your petitioner will further

show that in the original judgment rendered in case Z. T. Bottoms, et al., vs. Choctaw Nation, No. 115, in the Southern District of the Indian Territory, on December 22, 1897, herein-after more particularly referred to, the name of your petitioner, James L. Ivey, was duly included in the decree of court admitting Z. T. Bottoms and others as members of the Choctaw Nation or Tribe of Indians; that thereafter on the 3rd day of March, 1899, a decree was entered in said case Z. T. Bottoms, et al., vs. Choctaw Nation, Number 115, wherein the name of your petitioner, James L. Ivey, was stricken from said judgment.

Your petitioner avers and charges that the entering of the decree striking your petitioner's name from the former judgment, rendered therein, was erroneously made and was due to a mistake appearing in the body of the original petition, above set out, wherein your petitioner's name was named as "Fannie" L. Ivey, notwithstanding the fact that in all other respects, the pleadings, proceedings and orders in said cause were correct, and that said judgment admitted to citizenship the father, three younger brothers, and a sister of your petitioner.

Your petitioner Samuel Bottoms would respectfully show that he is a son of Z. T. Bottoms, named in the original petition as Zachariah Thomas Bottoms and Emeline Bottoms, and a brother of William Luther, Francis Caroline, James Zachariah, Joseph Smith, Bertha May, Septemur, and Ester E. Bottoms; that in the caption of the original petition, the name of Samuel Bottoms, your petitioner was omitted; that in the second paragraph of the body of said petition, the name of Samuel Bottoms, aged three years, appears. That there was at the time filed in support of said original petition, the affidavit of Emeline Bottoms, the mother of your petitioner, and which affidavit includes the name of your petitioner, Samuel Bottoms, aged three years; that thereafter on June 23, 1897, the name of Samuel Bottoms was included in the report of the Master in Chancery in case Z.T. Bottoms,

et al., vs. Choctaw Nations, cause number 115, recommending to the court that your petitioner be enrolled as a member of the Choctaw Nation, or tribe of Indians; that in the judgment thereafter rendered on December 22nd, 1897, case Z. T. Bottoms, et al., vs. Choctaw Nation, cause number 115, the name of your petitioner was included therein, but that the name of his father and all brothers and sisters were admitted as members of the Choctaw Nation or tribe of Indians, and your petitioner thereby was denied enrollment as a member of said Choctaw Nation, or tribe of Indians.

Your petitioners, Latha Jane Bottoms, Fredonia Bottoms, Mary L. Bottoms, Emeline Bottoms, Ethel (or Cyrena) Bottoms, Elsie Segroves, Ophelia Kirkland, Ermine Kirkland, Mary R. Ivey, Lou H. Ivey, Sedenia Ivey, and Inez (Lock) Kirkland, respectfully show that they are the wives of Choctaw Indians, respectively as shown in the original petition heretofore filed before the Commission to the Five Civilized Tribes, on September 8, 1896, and above set forth in full; That your petitioner Sarah (Gallagher) Kirkland, is the surviving wife of William Kirkland, deceased. That all your petitioners were by the judgment of the United States Court for the Southern District of the Indian Territory at Ardmore on December 22, 1897, denied the rights of citizenship in the Choctaw Nation, or tribe of Indians.

Your petitioners each would respectfully show that on September 8, 1896, they filed their application before the Commission to the Five Civilized Tribes for enrollment as members of the Choctaw Nation; that said Commission heard said application and your petitioners were by the judgment of said Commission, denied citizenship and enrollment in said Choctaw Nation or tribe of Indians.

That thereafter, and within the time prescribed by law,

these petitioners appealed from the judgment of the Commission to the Five Civilized Tribes to the United States Court for the Southern District of the Indian Territory, at Ardmore, wherein said appeal was docketed in a cause styled Z. T. Bottoms, et al., vs. Choctaw Nation, and numbered 115.

That thereafter, in said United States Court for the Southern District of the Indian Territory at Ardmore, a hearing of said cause was had and the said court therein determined and adjudged, as heretofore alleged, these petitioners, each and all, not to be citizens of the Choctaw Nation or Tribe of Indians, and denied them any of the rights, privileges and immunities of members of said Choctaw Nation or Tribe of Indians.

WHEREFORE, the said United States Court for the Southern District of the Indian Territory sitting at Ardmore, having denied your petitioners their claims to citizenship, and to enrollment as citizens of said Choctaw Nation, or tribe of Indians, your petitioners most respectfully pray this Court, for an order or writ of Error, ordering and directing the Clerk of the United States Court for the Southern District of the Indian Territory to certify and transfer to this Honorable Court all the files, papers, and proceedings in said cause number 115, styled, Z. T. Bottoms, et al., vs. Choctaw Nation, in said Court; that the principal chief of the Choctaw Nation, and the Governor of the Chickasaw Nation be cited and served with process herein, to the end that these petitioners be established in, and not deprived of their rights as members and citizens of said Choctaw Nation, or Tribe of Indians, and that your said petitioners pray that upon final hearing, they and each of them be enrolled as members of the Choctaw Nation, entitled to all rights, privileges and immunities of citizens thereof, and that your petitioners have general relief in the

premises.

Cross, Cross & Bleckman

J. F. Shaw

Attorneys for Petitioners.

INDIAN TERRITORY, SOUTHERN DISTRICT, SS.

_____, being duly sworn, upon oath states that he is one of the attorneys for the petitioners named herein, and makes this affidavit for, and in their behalf; that affiant has read the foregoing petition, and states that the allegations contained therein are true, as he is informed and believes.

Subscribed and sworn to before me this ____ day of March, 1903.

Notary Public.

Cause No. _____

In the Choctaw and Chickasaw
Citizenship Court.

James L. Ivey., et al.,
Plaintiffs,

vs.

Choctaw and Chickasaw Nations.

P E T I T I O N .

.....

Cruce, Cruce, and Bleakmore,
and
J. F. Sharp,
Attorneys for plaintiffs,

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT, SITTING AT
TISHOMINGO, IN THE INDIAN TERRITORY,
NOVEMBER TERM, 1904.

James L. Ivey, et al.,
vs. No. 57.
Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this the 28th day of November, 1904, this cause coming on for final decision, the same having been heretofore submitted upon the law and the evidence, and the Court being well and sufficiently advised in the premises, doth find that it has no jurisdiction over the plaintiffs, James L. Ivey, Samuel Bottoms, Latha Jane Bottoms, Fredonia Bottoms, Mary L. Bottoms, Emeline Bottoms, Ethel (or Cyrena) Bottoms, Elsie Segroves, Ophelia Kirkland, Erminie Kirkland, Sarah (Gallagher) Kirkland, Mary E. Ivey, Lou H. Ivey, Sedenia Ivey, and Inez (Lock) Kirkland.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiffs, James L. Ivey, Samuel Bottoms, Latha Jane Bottoms, Fredonia Bottoms, Mary L. Bottoms, Emelins Bottoms, Ethel (or Cyrena) Bottoms, Elsie Segroves, Ophelia Kirkland, Erminie Kirkland, Sarah (Gallagher) Kirkland, Mary E. Ivey, Lou H. Ivey, Sedenia Ivey and Inez (Lock) Kirkland, the Court having no jurisdiction, their petition is dismissed.

.....
Chief Judge.

.....
Associate Judge.

.....
Associate Judge.

Handwritten initials

SUMMONS.

United States of America,

Indian Territory,

SS

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

To the United States Marshal for the Indian Territory, Southern District,

GREETING:

You are hereby Commanded to Summons P. S. Moseley, Governor of the Chickasaw Nation, to answer on behalf of said nation, in twenty days after the service of this summons upon him, as Governor of said Nation a complaint in Equity filed against the Choctaw and Chickasaw nation in the Choctaw and Chickasaw Citizenship Court, in the Indian Territory, at **Tishomingo,** by **James L. Ivey, et al,**

and warn him that upon his failure as said Governor to answer on behalf of said nation, the complaint will be taken for confessed, and you will make return of the summons instanter;

And you are further commanded to notify said P. S. Moseley Governor aforesaid, that the papers, files and proceedings in the case of **James L. Ivey, et al,** File No. **115** in the District Court for the **Southern** District of the Indian Territory, has been transferred to the Choctaw and Chickasaw Citizenship Court, and that the certificate of the clerk of said court for said **Southern** District, Indian Territory, has been attached thereto.

WITNESS the Honorable Spencer B. Adams, Chief Judge, Walter L. Weaver and Henry S. Foote, Associate Judges, and the Seal thereof, at South McAlester, Indian Territory, aforesaid, this **31** day of March A. D., 1903.

..... Clerk.

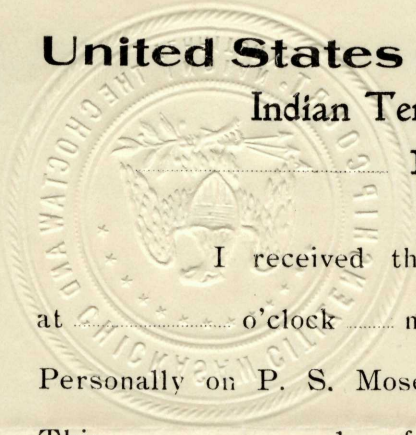
By Deputy.



MARSHAL'S RETURN

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.



I received this summons this _____ of _____ A. D., 1903,
at _____ o'clock _____ m. and served same by copy, as follows:
Personally on P. S. Moseley, at _____ Indian Territory,
This _____ day of _____, 1903, _____ m.

By _____ Deputy.

copy

No. 57-3

**SUMMONS
IN EQUITY.**

Jas. & Jvey et al
vs.
Choctaw and Chickasaw Nations.

Summons issued 31 day of
March, 1903. Returnable instanter.

APR 2 - 1903

Marshal's Fees.

Service	-	\$
Miles	-	\$
Expenses	-	\$
TOTAL		\$

Bruee & Bruce
Attorneys for Plaintiff
Adams
J.S.

Choctaw and Chickasaw Citizenship Court
Indian Territory
United States of America,
SUMMONS

EXECUTIVE OFFICE CHOCTAW NATION

GREEN MCCURTAIN, PRINCIPAL CHIEF

South McAlester, Indian Territory, June 17, 1904.
Kinta, I.T., June 13, 1904.

Mansfield, McMurray & Cornish,

Messrs Mansfield, McMurray & Cornish,

Gentlemen: South McAlester, Indian Territory.

Gentlemen:

I herewith enclose summons served on me this day in the case of J.L.Ivey vs Choctaw and Chickasaw Nations, for your information and appropriate action.

Yours truly,

Green McCurtain
Prin. Chief C.N.

South McAlester, Indian Territory, June 17, 1904.

Mansfield, McMurray & Cornish,

Tishomingo, Indian Territory.

Gentlemen:

Herewith summons served on Governor McCurtain in the Ivey
case.

Very truly,

James L. Lory et al. No 57.

Choctaw

James L. Lory
Samuel Bottoms
Latha Jane Bottoms
Fredonia Bottoms
Mary L. Bottoms
Ernie Bottoms
Ethel (or Cyrena) Bottoms
Elsie Segross
Ophelia Kirkland
Ermine Kirkland
Sarah (Gallagher) Kirkland
Mary E. Lory
Lou H. Lory
Sedonia Lory
Inez (Lock) Kirkland

No jurisdiction as to all

For Claimants

Wm Buckley	--	Garvin S.T.	Dead
Tom Jones	--	" " "	Dead
Thomas P. Lewis	--		
Marcus Lewis	--		
Sarah Lewis	--		
Thomas Hicks	---	Checotah S.T.	Dead
Hattie Hicks	---	" "	
Oliver Fryor	---		
Edward M. Lewis	---	Shawnee, O.T.	Pass
Julius M. Leard	--		
Joseph A. Johnson	--		
E. C. Johnson	--	Shawnee, O.T.	
Jesse B. Mathis		Econ tuckka S.T.	
Jaacob S. Bender	--		
Wm H. Gaylor	--	Shawnee, O.T.	
Frank A. Mumble	--	Shawnee, O.T.	
Sherman P. Pabor	--		
Thos P. Lewis	--	Shawnee	O.T.
H.C. Roper	---	"	"
Geo W. McKibben		"	"
Zora P. Lewis		"	"
Burton Early		"	"
Jane F Page		Pocolo S.T.	

For Nations

David Leard	--	Brook Lawn Miss
Sam Whiteley	--	Spino S.T.
Simon E. Lewis	--	Do McAlester S.T.
P. L. Sexton	---	Poteau S.T.
Mrs J. B. Mathis	--	Econ tuckka O.T.
Mose Price	---	Hockett City Ark
Hiram H. Early	--	Six miles E. of Texoma
Elisha Lewis		Brook Lawn, Miss

No 58

Zora P. Lewis et al
v

Chactaw Nation

No 101

Central Dist Court

No

David Com msson

See No 59