

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP
COURT, SITTING AT SOUTH McALESTER, INDIAN
TERRITORY.

John Mitchell, et al.,

vs.

No. 101.

The Choctaw & Chickasaw Nations.

MEMORANDUM OF ARGUMENT FOR NATIONS.

Applicants filed their petition before the Commission to the Five Civilized Tribes, alleging that Ned Folsom, a white man, married a full blood Choctaw woman by whom he became the father of a daughter named Rebecca Folsom who married a man named David Mitchell by whom she had two sons, John and Andrew. John Mitchell and his descendants are the applicants here.

The record brought to this court is the usual aggregation of affidavits and depositions filed before the Dawes Commission and the United States Court and are incompetent for reasons so often urged before this Court, but as applicants have offered them for the consideration of the Court we shall comment briefly thereon.

The first suspicious circumstance in the case is that Samuel Perry's affidavit appears in the record, by which it appears that David and Rebecca Mitchell (nee Folsom) resided in Pontotoc County, Mississippi in 1850; that they were the parents of John Mitchell; that David Mitchell was a white man; that witness knew John Mitchell's maternal grandparents and that his maternal grandmother was a full blood Choctaw Indian.

Perry is followed by Rachel Colbert who also knew about

the same facts as Perry, but who knew the Mitchell family in Cotton Gin County, Mississippi. This county has entirely disappeared from the map, but this discrepancy is rendered harmless by Andrew J. Mitchell, who immediately followed her, and who snatched the family back to Pontotoc County and locates it securely "near the town of Pontotoc".

The claims of geography, however, are to receive no consideration in this case for Tom York, who was born in Leake County, Mississippi, in 1822, testified to the birth of Rebecca Folsom in 1800; that he got acquainted with her and her husband in 1830, but did not get acquainted with their son until 1845, when they met in Pontotoc County, some six or seven counties north of where York lived; he also fixes the residence of David and Rebecca Mitchell as early as 1830 in Pontotoc County, Mississippi.

The testimony of Tennessee Gardner is instructive only as to the methods of examination which prevailed before the Committee of Council which passed on these cases.

T. C. Wiley, who claims to have known John Mitchell since his birth, says that said Mitchell was born in Pontotoc County, Mississippi.

Samuel Perry again rushed into the breach and furnished applicants with a deposition for use in the United States Court, in which he as usual showed himself as full of information as an egg is of meat, but unfortunately for applicants the more Sam knows about a case the more suspicious it becomes.

The testimony of Green Taylor and D. D. Durant we have purposely not taken up for the reason that they both were witnesses before this Court and we shall discuss all of their testimony at one time.

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a most intimate and detailed knowledge of applicants' family affairs, but when on the stand it appears that when eight or nine years of age he moved into the neighborhood where applicants lived, in Pontotoc County, Mississippi, and lived there for about nine years. He left there when little more than a boy and if he is to be believed he must have spent much of his boyhood in discussing the family relationships with the mother of John Mitchell. The credit that is to be given this witness' testimony may be judged when it is recalled that he testified to Pontotoc County being in the old Choctaw Nation and that he knew Tom York, a Choctaw Indian who lived in that County. Tom York has been thoroughly impeached in this Court and it was established in the case of John McCarty, et al., No. 29, that he lived only in Leake County in Mississippi, which is in the old Choctaw country and which agrees with the well known fact that Tom York was a full blood Choctaw Indian. It also appears conclusively from an examination of the maps that Pontotoc County is in the old Chickasaw Nation and not in the old Choctaw Nation. These contradictions and false statements are sufficient, we submit, to show that the testimony of this witness is not entitled to weight.

D. D. Durant, who testified twice in this case before it reached this Court, was, according to the statement of applicants' counsel, brought to South McAlester to testify, but on account of having made conflicting statements refused to go on the stand and returned home without testifying. Later his testimony was secured by the personal attendance of a member of the Court at Durant. His statement now is that he became acquainted with the family of applicants when, as a child, he returned on a visit to Mississippi. That he had no previous acquaintance with them and stopped at their house when on his way from Indian Territory to the neighborhood of Durant, Mississippi, at the request of David Folsom. He says distinctly that he made this visit to Mitchell on his first trip back to Mis-

Mississippi, at which time he was returning to Durant, Mississippi. If this be true, he went more than two-hundred miles out of his way and as he was only a child and stayed in the family only fifteen days, it is a little remarkable that he should have obtained so intimate a knowledge of the family history.

This is the first time the witness ever told of this trip to Mississippi although he has twice before testified in regard to the matter.

The testimony of this same witness was taken in the Hiram Lancaster case and has been introduced by the Nations for the purposes of impeachment in this case. It seems that his knowledge of the Lancaster family, which has been shown to have no foundation in fact, was obtained on one of these flying trips to Mississippi.

More than that, this witness acknowledges, in his testimony before one of the Judges of this Court, to have signed two affidavits, differing materially from his present testimony, which he says he signed and swore to knowing them to be untrue and that it was his universal custom to make any kind of an affidavit he was asked to make.

We protest this this man's evidence is wholly unworthy of belief and that his confessed contempt for his oath is sufficient of itself to cast doubt on any case in which he appears as a witness.

This record, aside from the testimony of J. C. Folsom, fails to prove applicants' claim, but his evidence conclusively excludes them from the family to which they seek to attach themselves. Had they been really related to the well known Folsom family they would not have waited until they were attempting to prove their citizenship claim to establish the relationship and would not have considered it necessary to offer to pay J. C. Folsom for his assistance.

Applicants have not attempted to prove any compliance on

the part of themselves or their ancestors with the requirements of the treaty of 1830.

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No. 101

John Mitchell, et al.,

vs.

Octavius ^{W.} Richardson Watson

+

Memorandum of Argument
for Watson.

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Mansfield, McMurray & Cornish

Attorneys for Watson

+

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CENTRAL JUDICIAL DISTRICT, INDIAN TERRITORY.

To the Hon. United States Commissioner,
Vinita, Ind. Terry.,

Your undersigned petitioners would respectfully represent unto your honor that they are Choctaw Indians by blood; that Ned Folsom was a white man, and he married a full blood Choctaw woman, and they had a daughter named Rebecca Folsom, who married a man by name of David Mitchell who had two sons by the names of John and Andrew Mitchel who are the applicant for citizenship both of whom are 1/4 Choctaw Indian by blood. John Mitchell has the following children who are one eighth Choctaws by blood, viz:-

Luella Pyburn	age 35	married.
Emma J. Welch	" 27	married.
Alfred H. Mitchell	" 24	married.
John W.	" " 22	
William # J.	" " 16	
Robt. H.	" " 14	
Doelia A.	" " 11.	
Myrtle Lee	" " 9	

Therefore your petitioners ask your honors to grant them & their children full rights of citizenship.

Respt.

John Mitchell

Andrew Mitchell.

Before the Commission to the Five Civilized Tribes:-
Affidavit of Samuel Perry to be read as evidence before the Commission, in behalf John Mitchell.

After first being duly sworn deposes and says: That his age 84 year, and his Post Office is Wiley, I.T., Chickasaw Nation, and that the applicant John Mitchell is the son of David and rebecca Michell, (nee Folsom), who resided in Mississippi in Ponatoc County in the years of 1850 or there about.

And affiant further states that David and Rebeca Michell (nee Folsom) was an Indian and David Michell was a white man and he also states that he knew the grand parents of the applicant and knew that his grand mother on his mother side was a full blood Choctaw Indian.

The afficant further states that he is a freed man of the Choctaw Nation and came to the Territory with the Choctaw Indians from Miss. and has resided in the Choctaw and Chickasaw Nation ever since.

his
Samuel x Perry
mark.

Subscribed and sworn to before me on this the 17th day of Aug., 1896

J.L.Rappolee,

Notary Public.

2

John Mitchell

vs. Citizenship

Choctaw Nation.

Deposition of Rachel Colbert

in behalf of John Mitchell.

Rachell Colbert, personally appeared before me the undersigned authority and after being duly sworn, and deposed and sayeth that she is acquainted with John Mitchell, who is son of David, a white man, who married Rebecca Folsom, a Choctaw woman by blood, daughter of Ned. Folsom, and that Rebecca Mitchell, nee Folsom, was the mother of John Mitchell, applicant for rights of citizenship in the Choctaw Nation. I have known them in the old Nation in Mississippi, Cotton Gin County. I am 65 years old. I am a citizen of the Choctaw and x have no interest in the prosecution of this claim. I am not able to travel long distance on account of old age.

Witness: J. G. Ralls.

her
Rachel x Colbert
mark

Subscribed and sworn to before me this 29th day of Sept. A.D.
1893.

B. S. Smiser,
County Clk. Atoka Co., C.N.

I hereby certify that this is a true and correct copy of the original deposition now on file in the Citizen Committee's Office.

C. J. Anderson,
Clerk Citizenship.

CENTRAL JUDICIAL DISTRICT 9

INDIAN TERRITORY. 9

AFFIDAVIT.

Andrew J. Mitchell being first duly sworn states on oath that I am 59 years old, that I live near Jeffs, Indian Territory, & have lived there about one year: that prior to that time I lived in Mississippi in Pontatoc Co., near the town of Pontotoc; that I was borned & reared in that country. That my father was David Mitchell; that my mother's name was Rebedca Mitchell who was a half breed Choctaw. My grandfather names I do not know. That I have brother whose name is John Mitchell, who has eight children, who are 1/8 Choctaw by blood, viz:- Luella Pyburn, Emma J. Welch, Alfred Mitchell, John Wilson Mitchell, William J. Mitchel, Robt. H. Mitchel, Baxix Docia Ann Mitchell & Myrtle Lee Mitchell.

Witness,

Andrew J. Mitchell

J.J.Gardner.

Subscribed and sworn to before me this 1st day of August, 1896.

W.A.Durant,

Notary Public.

4

In the matter of petition of
John Mitchell for admission
to citizenship in Choctaw Nation.

INDIAN TERRITORY
CENTRAL DISTRICT.

Before me the undersigned a Notary Public in and for the
Central District Indian Territory, personally appeared Tom York,
who, after being duly sworn, states:

That he is 74 years old, and his P.O. address is Simpson,
Choctaw Nation, Indian Territory. That he is a Choctaw Indian of the
full blood, and is recognized as such by the authorities of the Choctaw
Nation as a full blood. That he is personally acquainted with
John Mitchell who is an applicant for citizenship, and has known
said John Mitchell all his life.

Affiant further says that he was born in the old Choctaw Nation
Leak Co., Mississippi, in the year 1822, and resided in said State
until five years ago.

And affiant further says that he became acquainted with the
applicant John Mitchell, in Pontotoc Co., Mississippi, about
the year 1845. That he is personally acquainted with David
Mitchell and Rebecca Mitchell, the parents of the said John Mitchell
and has known them since the year 1830. That they resided in Ponto-
toc Co., Mississippi. That said David Mitchell was a white man, and
was the lawful husband of Rebecca Mitchell. That said Rebecca
Mitchell's maiden name was Folsome, and that she was a Choctaw Indian
of the half blood, and was duly recognized by the Choctaw people in
Mississippi as a half blood, Choctaw Indian. That said Rebecca was
born about the year 1800, and died in Mississippi about the year 1850

Affiant further says that he has known the said John Mitchell
for about 45 years, and that he has been, and is recognized
by his neighbors and acquaintances as being a Choctaw Indian by
blood. That the complexion and physical appearance of said John
Mitchell indicate that he is a Choctaw Indian by blood.

~~That~~ Ned Folsom was a white man and the father of Rebecca Folsom whose mother was a full blood Choctaw Indian. That affiant was personally acquainted with said Rebecca's parents.

Affiant further says that the said John Mitchell is the lawful child of David and Rebecca Mitchell.

his
Tom x York
mark.

Subscribed and sworn to before me this 10th day of August, 1896.

Wm. Costigan

(SCROLL SEAL)

Notary Public.

Central Judicial District,

Ind. Territory.

AFFIDAVIT.

JOHN MITCHELL, being first duly sworn state on oath that I am 59 years old; that I live near Jeffs, Indian Territory and that I have lived in the Choctaw & Chickasaw Nations for past six years. That prior to that time I lived in Mississippi & Arkansas. That my father's name was David Mitchell. That my mother's name was Rebecca Mitchell, who was a half ~~mixed~~ breed Choctaw Indian. I have a Brother whose name Andrew J. Mitchell, who never was married nor never had any children. I have eight children whose names ~~are~~ are: Luella Pyburn, Emma J. Welch, Alfred John William Robert Docia & Myrtle, Mitchell. That I am 1/4 choctaw & my children are 1/8 choctaw by blood.

Signed John Mitchell.

Subscribed and sworn to before me this 1st day of August, 1896.

W.A.Durant.

Notary Public.

7

TO WHOM IT MAY CONCERN:

~~My P.O. Address~~ My P.O. Address is Stringtown, I.T.

This is to certify that I, Green W. Taylor have known John Mitchell and Andrew J. Mitchell since 1844, having known them in Ponttoc County, near Ponttoc Town Mississippi.

I positively know said John and Andrew J. Mitchell to be the sons of David Mitchell and his wife Rebecca Mitchell who lived in the old Choctaw Nation in Ponttoc County near Ponttoc Town, Mississippi. I know said Rebecca Mitchell, wife of said David Mitchell, and mother of said John and Andrew J. Mitchell to have been a half breed Choctaw Indian.

I further know the following named to be the lawfull children of John Mitchell and his wife Mary F. Mitchell.

Luella Mitchell	(Married Pyburn)
Emma J. Mitchell	(Married Welch)
Alford H. Mitchell.	
John W. Mitchell.	
William J. Mitchell.	
Robert H. Mitchell.	
Docia A. Mitchell.	
Myrtle Lee Mitchell.	

Green W. Taylor, having personally appeared before me this day and swears that the information given above is true and correct.

Witness : R.A. Brown

Signed Green W. ~~Taylor~~

Subscribed and sworn to before me a Notary Public for the Central Judicial Division of the Indian Territory.

Stringtown, Indian Territory, August 8, 1896.

D.N. Self,

(SEAL)

Notary Public.

My Commission expires February 3rd, 1900.

8

Tennessee Gardner being of lawful age and being duly sworn:

Q. John Mitchell his mother was Beckie Folsom, his father name was David. A. Beckie Folsom.

Q. She was th daughterof Ned. Folsom was she? And. Yes sir; old man Ned Folsom. Q. Ned Folsom was a Choctaw by blood was he?

And. Old man Ned folsom was a white man and his wife was a half ~~breed~~ breed. Q. They lived in the old Nation did they? And. They lived

in old Nation at Pigeon Roost. Q. You know Jerry Folsom. Ans.

He was his Uncle. Q. John Mitchell is the grand son of Ned Folsom

was he? And. Yes sir. Q. Are you a citizen of the Choctaw nation?

Ans. Yes sir. Q. Do you believe that John Mitchell got Choctaw

blood in him. Ans. His mother was of Chocgaw blood. Q. What wasxi

his mother? Half Breed? Ans. Quarter. Beckie's mother was a

~~full blood and Beckie was a half breed. John Mitchell's~~

~~father was a white man. John has got a house full of children.~~

father was a white man. John has got a house full of children.

Q. Where has John Mitchell been living all this time?. Ans. Up in

Chickasaw Nation. John Mitchell is a very steady straight

man. According to my knowledged he is not an escaped convict.

Tennessee x Gardner.

Attest

Henry Byington, Clerk.

Subscribed and sworn to before me this 20th d y of Oct. 1892.

Henry Byington, Clerk.

Committee on

Citizenship.

I hereby certify that the above is a true and correct copy of the original testimony now on file and rejected by the Committee on citizenship.

C.J.Anderson,

Clerk Citizenship.

This 23rd day of Oct., 1894.

9

State of Arkansas,
County of Howard..

This is to certify that I know John Mitchell and his parents Rebecca Mitchell his mother, that lived with the Choctaw Indians in Mississippi, Pontoc County where he was borned, and his mother was blood relation to the Choctaw Indians. She was relation of the Fulsom (Rebecca Fulsom) families of the Choctaws; and that I have known him ever since he was borned. I am not related to him myself. My age is (83) eighty three

Attest; J.T.Welch.

T.C. his
x Wiley
mark.

Subscribed and sworn to before me this twelfth day of Oct, 1891

Thomas C. Potter, J.P.

State of Arkansas.
Horatio County.

I, Jno. M. Somewell, Circuit Clerk and Ex-Officio County Clerk of said County, do hereby certify that Thomas C. Potter, whose name signature appears to the above affidavit, is a duly commissioned and acting Justice of the Peace for said County, and his Commission is dated Oct. 30, 1890, and will expire Oct. 30, 1892.

Witness my hand and officcal seal this Oct. 12, 1891.

(SEAL)

Jno/M. Somewell., Clerk.

CENTRAL JUDICIAL DISTRICT,
Indian Territory.

Before me, W.A.Durant, the undersigned authority, a Notary Public in and for the District and Territory above mentioned, personally appeared J.J.Gardner to me well known, who after being duly sworn, says on oath: That I was Attorney for John Mitchell in the year of 1892 when the case of John Mitchell for citizenship in Choctaw Nation was passed upon by the citizenship committee, at the regular session of the Choctaw Council on the 20th day of Oct. in said year of 1892. And I know that the Citizenship Committee passed favorably upon said case, and that the House of Representatives passed adversely on said case for the reason that the said John Mitchell failed to prove that he was the son of Rebecca Mitchell, and the case was sent back before the committee for reconsideration. And the case has been continued from time to time and still remains on the books as unfinished business before the Committee. At that time we had failed to obtain Green W. Taylors testimony which he now has.

J.J. Gardner.

Subscribed & sworn to before me this the 1st day of Sept., 1896.

W.A.Durant.

Notary Public.

J. Sealy

11

So. McAlester, I.T., Sept. 2, 1896.

Received this day papers purporting to be copies in the claim of John Mitchell for Choctaw Citizenship as follows:

Petition for Enrollment.

Affidavits of Sam Perry

Rachel Colbert

Andrew Mitchell

Tom York.

Tom York.

Jno. Mitchell D.D. Durant.

Green W. Taylor.

Tennessee Gardner.

T.C. Wiley

J.J. Gardner

Stuart Gordon & Hailey,

Attys for Choctaw

Nation.

1/6
copy
Robert Mitchell
of
realt - water and

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copy

4

CENTRAL JUDICIAL DISTRICT
INDIAN TERRITORY.

1896
56

1840-

Before me, W.A.Durant, the undersigned authority, a
Notary Public in and for the Central Judicial District, Indian Territory,
personally appeared D.D.Durant to me well known, who after being
duly sworn says on oath that he is 56 years old, and resides at
Durant Blue County Choctaw Nation, and that he is Choctaw Indian by
blood; that he is acquainted with Jno. Mitchell who is an applicant
for citizenship; that ~~applicant~~ affiant knew of Rebecca Mitchell
who was formerly Rebecca Folsom, who was a Choctaw Indian By blood,
and that he understood her to be the mother of John Mitchell.

D.D.Durant.

Subscribed and sworn to before me this the 22 nd day of August,
1896.

W.A. Durant,
Notary Public.

Caption to Deposition.

Deposition of SP.PPerry, taken on the 10th day of July, 1897, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, at the office of R.F.French, in the town of Emit, in the Southern Judicial District of the Indian Territory, to be read as evidence in an action between John Mitchell et al,Plaintiff, and the Choctaw nation Defendant, pending in the U.S.Court, at South McAlester, in the Central Judicial District of the Ind / Ter.

said Choctaw Nation and to be ~~xxxxxxx~~ admitted to membership and citizenship as such member of said Choctaw Nation.

Your petitioner further states that after the time allowed by law for the Choctaw Nation to file its answer had expired, the said Commission over the objections and without the consent of your petitioner, permitted the said Choctaw Nation to file its answer and certain other proof and affidavits.

That after said answer and affidavits in support thereof had been filed, said Commission refused to permit your petitioner to inspect said answer and affidavits, and refused to permit your petitioner to file his reply to said answer and affidavits and proof in rebuttal.

That on the trial of said cause the said Commission refused to permit your petitioner to be present in person or by attorney and refused to submit the issues to a jury, and refused to permit your petitioner to file a motion to strike the answer of the said Choctaw Nation from the file of said cause and refused to require the said answer to be verified.

Your petitioners say that the testimony in said cause demanded a judgment in favor of your petitioners as above named, ~~xx~~ but that on the 3rd day of December, A.D. 1896 the said Commission rejected your petitioners and rendered final judgment against each of them and denied each of them enrollement as members of the Choctaw Nation and denied them admission as citizens and members of the said Choctaw Nation.

Your petitioners say that said Commission erred in said cause in the following respects, to-wit:

I

Said Commission erred in permitting the said Choctaw Nation to file its answer herein after the time had expired by law for filing same.

II

Said Commission erred in permitting the said Choctaw Nation to file affidavits and other proof after the time prescribed by law had

D
15

expired for filing same.

III

Said Commission erred in not striking from the files in this case the answer of the Choctaw Nation, because it was not verified as required by law.

IV.

Said Commission erred in refusing the permit your petitioner to be present in person or by attorney at the trial of this cause.

V.

Said Commission erred in receiving as evidence on trial of this cause the answer and affidavits filed by the Choctaw Nation after the time for filing same had expired by law.

VI.

The judgment of said Commission was rendered by less than three members of said Commission, and by a less number of said Commission than it takes to constitute a quorum.

VII.

The said judgment against your petitioners in contrary to law.

VIII.

Said Judgment of said Commission is against the weight of the evidence.

WHEREFORE, your petitioners pray that their appeal be allowed and that an order issue commanding said commission to forward to the Clerk of this Court all proceedings, pleadings and evidence of every character used on the trial of said cause by said Commission, and that this cause be placed upon the law docket of this Court and transferred to Atoka, where the petitioners will be able to attend the trial of this cause, and your petitioners will ever pray, etc.

Ralls Bros.

Attys for Appellant.

United States of America, Central
District of the Indian Territory.

John Mitchell being duly sworn states on his oath that he is one of the petitioners herein and that he is agent for his children, grand children and brother who appear upon this petition

with him, and that he has read the above and foregoing petition
for appeal and that the statements therein made are true and correct.

John Mitchell.

Subscribed and sworn to before me this the 28th day of Jan. A.D.
1897.

(SEAL)

G.T. Ralls,
Notary Public Central District, I.T.

Appeal allowed Jany 30th, 1897.

Nancy Lewis,

J U D G E.

16

IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF THE
INDIAN TERRITORY, AT SOUTH McALESTER.

Jno. Mitchell et al. Plaintiff,

vs.

A N S W E R.

The Choctaw Nation, Defendant.

Comes now the Choctaw Nation, by its attorneys, and for
~~xxxxxxx~~ answer to the petition for appeal filed by the plaintiff here-
in says,

That it is not true that applicants are entitled to citi-
zenship in the Choctaw Nation. And that it is not true that the
Dawes Commission erred as alleged in said petition.

Further answering, the Choctaw Nation says that it has
heretofore filed its answer to the application of this plaintiff
before the Dawes Commission, which said answer is here y referred to
and made part hereof, and having fully answered, appellee prays
that the judgment of the Dawes Commission be in an things affirmed.

Wm. M. Cravens.

Stuart Gordon & Hailey.

Attorneys for Choctaw Nation.

19

In the United States Court for the Central Judicial District of
of the Indian Territory:

John Mitchell et al. petitioners,
116 vs.
Choctaw Nation, Defendant.

Amended Petition No. 116.

Comes now your petitioners, John Mitchell and his brother, Andrew Mitchell, and the children of John Mitchell, Louella Pyburn, nee Mitchell, Emma J. Welch, nee Mitchell, Alfred H. Mitchell, John W. Mitchell, Wm. J. Mitchell, Robert H. Mitchell, Docia A. Mitchell and Myrtle E. Mitchell and his grant children Milton H. Pyburn, Benj. H. Pyburn, James B. Pyburn, Mary L. Pyburn, Adella B. Welch, John M. Welch, Christina P. Welch, Melton Welch, Docia A. Welch and Ollie Mitchell, and for their amended petition herein allege that all of the petitioners herein are bona fide residents of the Choctaw Nation, and have been for several years, and that they are all Choctaw Indians by blood, and are lineal descendants of Rebecca Folsom, who was a Choctaw Indian by blood, and was a recognized member of the Choctaw Nation; that said Rebecca Folsom was legally married to David Mitchell and by said marriage your petitioner, John Mitchell and Andrew Mitchell were borned.

That John Mitchell, one of the applicants herein was legally married to Mary Francis on the 25th day of Aug. 1863, and by said marriage the said children, Louella, Emma J. Alfred H., John W., Wm. J., Robert H., Docia A., and Myrtle E., were borned and are now living.

That said Louella Mitchell was legally married to John W. Pyburn about the year 1883, and by said marriage the said children Milton H., Benjamin H., James B., and Mary L. were born, and are all living at this time.

That Emma J. Mitchell was legally married to J. T. Welch about the year 1884 or 1885; and by said marriage there have been born the children Adella B., John M., Christina P., Melton, and Docia A.

18 That Alfred H. Mitchell was legally married to Miss Cynthia M.

Walston about the year 1890, and by said marriage there has been born one child, Ollie, who is now living.

Wherefore your petitioner prays that they all be admitted to citizenship in the Choctaw Nation, and granted all the privileges, rights, immunities and benefits enjoyed, or to be enjoyed, by members by blood, of said Nation, and that they have and recover their cost herein expended.

Ralls Bros.

Attorneys for Petitioners.

United States of America,
Central District, Ind. Ter. ss.

On this day personally appeared before me the undersigned authority, John Mitchell, who having been by me first duly sworn according to law states on his oath that he is one of the petitioners and that he is acquainted with the contents of this petition and that the statements herein made are true.

John Mitchell.

Subscribed and sworn to before me this 7th day of July, 1.A.1897

Jos. G. Ralls,

Notary Public

(SFAL)

19

In the United States Court for the Central Judicial District of
the Indian Territory, April, 1897 Term at S. McAlester.

John Mitchell et al.

No. 116 vs.

Notice to take depositions.

Choctaw Nation, defendant.

To the Choctaw Nation, the above named defendant, and
Stewart, Gordon and Hailey and Wm. M. Cravens, attorneys of record for
the said above named defendant.

You are hereby notified that the depositions of witnesses to
be read in evidence in the above entitled cause on the part of the
plaintiff will be taken at the office of R.F. French, Notary Public,
Town of Emit, in the Southern Judicial District of the Indian Terri-
tory, between the hours of eight o'clock in the forenoon and six o-
'clock in the afternoon on the 10th day of July A.D. 1897, and that
the taking of said depositions, if not completed on that day, will
be continued from day to day, at the same place and between the same
hours until completed.

Ralls Bros.

Attorneys for plaintiffs.

South McAlester, Ind Ter., July 5th, 1897.

Service of the above notice is hereby waived.

Stuart Gordon & Hailey

Attorneys for defendant.

S.P. Perry, having been introduced as a witness on the part of Plaintiff, after having been by me first duly sworn according to law, deposes and says:

My name is S.P. Perry. I am eighty five years old; my post office in Wiley. I was born in N.C. and when about ten year old was taken by the Indians into the Choctaw Indian settlement in Miss., and resided there until I finally came to the present Choctaw N. I was owned by Jimsom Perry, who was a Choctaw Indian by blood. I came to this country with the second emigration of the Choctaw Indians to look at the country, and then returned to Miss., and afterwards, about 1842, finally moved to this country and the Choctaw and Chickasaw N. Have been my home ever since. I am personally acquainted with the applicant, John Mitchell. I have known him all his life. He is the son of David and Rebecca Mitchell. Rebecca Mitchell was a Miss. Folsom, when she married David Mitchell. Rebecca Mitchell, nee Folsom, was a half blood choctaw Indian, and lived with the Choctaw Indians in the old Choctaw N. in Miss., and was always recognized as a member of that tribe of Indians. After David Mitchell married Rebecca Folsom, he lived with her there in the old Choctaw N. The applicant is a child of them and was about four years old when I finally left Miss., and came to this country I left them there in Miss. in Pontatoc Co. Afterwards I met John Mitchell here, in what is known as the Chickasaw District of Choctaw Nation in 1857, and I positively know him to be the same John Mitchell I have been personally acquainted with him all this time. He is now about Sixty years old, His look show that he is at least $\frac{1}{4}$ Choctaw Indian by blood. I know that he is a bona fide resident of the Choctaw N., and have been for several years. David Mitchell was a white man. I know the father and mother of Rebecca Folsom. Her mother was a full blood Choctaw and they resided there in the Choctaw Country. I saw them frequently, and lived near them and can not possibly be mistaken about their being Choctaw Indians, and were recognized as such. I am not acquainted with the other applicant, Andrew Mitchell. I dont think he was born when I left

Miss. I have no interest in this case except ~~as~~ as a friend of John Mitc ell, having known him all his life and knowing that he is entitled to citizenship. While I am eighty five years old I remember those things distinctly, and am able to ride horseback and eat three meals a day. I live 8 miles from where this deposition is being taken and came here horseback.

I have not been paid anything to come and give this deposition.

Witness:

Ludey Johnson.

S.P. ^{his}
X Perry
mark.

22

United States of America,
Southern Judicial District.
Ind. Ter.

I, R:F.French, Notary Public, with and for the Southern Judicial District of the Indian Territory, do hereby certify that the foregoing deposition of SP Perry was taken before me and was read to and subscribed by him in my presence at the time and place and in the action mentioned in the caption. The said S.P.Perry, having been by me first duly sworn that the evidence he ~~should~~ give in the action should be the truth the ~~xxx~~ whole truth, and nothing but the truth, and that his statements were reduced to writing by me in his presence, John Mitchell on eof the plaintiffs being present and by his attorney, at the said examination, and no attorney for the defendannt being present at said examination.

Given under my hand and official seal in the town of
Emit in the Southern Judicial district of the Ind. Ter. this 4th
day of July, A.D.1897.

R.F.French,

Notary Public, aforesáád

Fee for taking deposition of witnessess \$2.00 paid by plaintiff.

R.F.French,

Notary Public.

Witness for S.P.Perry 1 day 8 miles 2.26.

C A P T I O N .

The Depositions of Green W. Taylor, Ruf Gardner and John Mitchell taken on the 12th day of July, 1897, between the hours of 10 o'clock A.M., and 6 o'clock P.M., at the office of Ralls Bros. in the Central Dist of the Ind. Ter., to be read in evidence in an action between Jno. Mitchell et al. Plaintiff and Choctaw Nation defendant pending in the United States Court for the Central District of the Indian Territory at South McAlester.

Green W. Taylor being duly sworn by me a Notary Public of the Central Judicial District of the Indian Territory as witness in the case of John Mitchell vs. Choctaw Nation says:

My name is Green W. Taylor. I am sixty one years old. I live at Stringtown Ind. Ter. I am a citizen of the United States. I have been living in and around Stringtown about eleven years. I knew John Mitchel and Andrew J. Mitchel his brother. Andrew J. Mitchel is blind and has been since he was a child. Andrew J. is about fifty four year old. John Mitchel is about a year younger than I am, which would make sixty years old. John Mitchel had a brother, Andrew and sisty Nancy and Rebecca. who were younger than himself. I knew John Mitchel's mother, and father in Mississippi. They lived in Pantoac County, Choctaw Nation Mis issippi. John Mitchel's father's name was David Mitchel. He was a white man. His mother's name was Rebecca She was a Miss. Fulsom before marriage. She was a daughter of Ned. Fulsom and Rebecca Fulsom one of which was full blood Choctaw Indian to the best of my recollection. I am not sure waether it was Ned or his wife who was a full blood -Choctaw, but I am under the impression it was Ned's wife. I was too young to recollect much about it. I remember Rebbecca the daughter of Ned Fulsom and she is the mother of John Mitchel, and Andrew J. Mitchel. Rebecca Mitchel was recognized as a half breed Indian in the old Choctaw Nation in Mississippit. She married a man by the name of David Mitchel, who was a white man in Mississippit. She talked in the Choctaw language or English. I know this because John and I used to get her to talk Choctaw for us. I lived near John Mitchel's parents for about nine years, and John and I would visit each frequently. We spent many nights together. John Mitchel and I left Mississippit in 1856. I came to Texas and John came to the Territory. I lived in Texas for about four years, and then moved to Pike County, Arkansas. I was in Arkansas about a year when I again met John Mithhel. We both resided in Pike County until we jouned the Federal Army at Little Rock in about 1863. We both enlisted in Co. A, 4th Arkansas Cavalry, Fishback regiment, and were soldiers together in the Co. for about

six months. This regiment was disbanded and I joined Co . J of x same regiment for three years. Mitchel was taken sick and went to Little Rock where he remained sick until the close of War. We had We had our main headquarters at Littel Rock, and I would see Mitchel frequently by means of posses. After the close of the war we both moved to Pike County Arkansas, where I lived several years, and then I moved to Texas, and lived about two years, and then I went back to same place in Arkansas, where I saw Mitchel again. I then went to Texas again, remained a while and came to the Territory where I have remined ever since. About seven or ei ght years agao I again met Mitchel at Stringtown in the Indian Territory, and have seen him frequently since. He has lived here for the past seven or eight years. John Mitchel is about a quarter Indian, his mother being half breeD. John Mitchel married a woman by the name of Mosy L. Campbell They have about eight children. Their names are LuElla, who is married to John Puburn, Emma who married Thomas Welch, Alfred H., who married Cyntha Walston, John W., Wm. Joseph, Robt. H/, Dosisa O. Myrtle Lee, I am not related to eigner part to this suit, and have no interest in it.

Witnesses:

Jas T. Corby

G.T.Ralls

his
Green W x Taylor
mark.

Ruf Gardner being duly sworn by me a Notary Public of Central Judicial District of the Indian Territory as witness in the case of John Mitchel et al. vs. Choctaw Nation, says:

My name is Ruf. Gardner. I am sixty three years old. I live two miles east of Atoka. I am a Choctaw Indian. I have been living at my present home twelve years last March. My mother's name is Tennessee Gardner. She is a citizen of the Choctaw Nation by Treaty My mother died about three years ago last May. I was at her burial at Boggy Depot. About five years ago my mother went to Tuskahoma as a witness in some citizenship cases In what cases I do not know My mother was bred and born in the old Choctaw Nation in Mississippi, and has lived there, and been with the Indians all of her life. I Don't know how old my mother is, but she claims to be a hundred years old or older. My mother had five children that were older than myself; one sister and one brother were about twenty two or three. My mother lived with me nearly always in my recollection. I helped to burry my mother . I have no interest in this case.

his
Ruf / Gardner.
mark.

Witnesses ;
Jas T. Cosby.

27

John Mitchel being duly sworn by me a Notary Public of the Central Judicial District of the Indian Territory as witness in ~~the~~ his case of John Mitchel vs. Choctaw Nation, says:

My name is John Mitchel. I am sixty years old. My P.O. is Jeffs Indian Territory, I live near Jeffs. I have lived with my family about eight years in the Ind. Ter. My mothers name was Rebecca Fulsom before marriage, and was a daughter of Ned. Fulsom, and Rebecca My grandmother Fulsom, Ned Fulsom's wife, was a full blood Choctaw so my parents tell me. My mother is a daughter of Ned. fulsom, and Rebecca Fulsom. My mother a half breed Choctaw. My grandparents liv-ed in the old Choctaw Nation in Mississippi. My mother was born in the old Choctaw Nation in Mississippit, and was recognized by the Choctaw Nation as being Choctaw by blood. She talked Choctaw. My mother married a white man by the name of David Mitchel in Mississippi. I havve one brother whose name is Andrew J. who is blind since a child, and two sisters Nancy and Rebecca. I lived in the Choctaw Nation in Mississippi until I was ninteen years old. I left Mississippi at about nineteen and went to Pike County Arkansas where I remained a while. I then came to the Indian Ter., stayed here a short time and then went back to Pike Co., Ark. where I remained until about 1863, when I joined the Federal Army, Co. A, 4th Ark. Col. Fishback's regiment. I served in that Co. about six montas, when it disbanded, and I was taken sick, & went to Little Rock, and remained there until peach was made, then went back to Pike County, Ark. where I remained until about eight years ago, when I came to the Territory, where I have lived since. I married Mary L. Campbell, about 1860 and have eight children whose names are LuElla, who married John Pyburn, Emma J., who married Thomas Welch, Alphred H. Who married Cynthy Waaiston, John W., Wm. T., Robt. H., Dositia A., Myrtle E. All living and residents of the Choctaw Nation. LeElla, who married Joh n Pyburn has four children, to-wit: Milton H., Benj. H., James B., Mary L.. Emma J ., who married Thomas Welch has five children to-wit: Adella B., John M., Christinia P. Milton, Dositia A., Alphred H. married Cynthy Waaiston, and by her has one child whose name is Ollie. The other children live

with me. About 1892 I applied to the Choctaw Council for citizenship and paid my hundred dollars, as required by law, and my case remains as unfinished business, but the Citizen Committee reports favorable in my case. I have known ^{Green}~~XXXXX~~ W. Taylor from boyhood. We served in the Army together. I lived near him in Pike Co. Ark. for several years. I have known Green W. Taylor in the Territory for seven or eight years. Green W. Taylor who testified in this case is the same man I have known from boyhood, and with whom I served in the Federal Army. I and my brother Andrew, who is fifty four years old are one fourth Choctaw, and my children are one eighth Choctaw. My brother Andrew J. has lived in the Territory for the past two years. Between thirty & forty years ago I met S.P Perry in the Ind. Ter.

John Mitchell.

29

In the United States Court for the Central Judicial District
of the Indian Territory, At So. McAlester, Ind. Ter.

John Mitchell et al. Plaintiffs

No. 116 vs.

Notice to take Depositions.

Choctaw Nation, Defendant.

To the Choctaw Nation, the above named defendant, and Stewart Gordon and Hailey and W.M. Cravens, attorneys of record for the said defendant, Choctaw Nation:

You are hereby notified that the depositions of witnesses to be read in evidence in the above entitled action on the part of the plaintiffs, will be taken at the law offices of Ralls Bros. in the town of Atoka, in the Central Judicial District of the Indian Territory, between the hours of 8 o'clock in the forenoon and 6 o'clock in the afternoon of the 12th day of July, 1897, and that the taking of said depositions, if not completed on said day, will be continued from day to day at the same place and between the same hours until completed.

Ralls Bros.

Attorneys for the Plaintiffs.

South McAlester, Ind. Ter., July 6th, 1897.

Service of the above notice is hereby waived.

Stuart Gordon & Hailey

Attorneys for the Defendant.

In the United States Court in the Indian territory.

Depositions of Tom York.

taken at the office of Frank C. Garner, a Notary Public, in the town of Coalgate in the Central District of the Indian Territory, on the 14th day of July, 1897, between the hours of 8 o'clock A.M. & 6 o'clock P.M., ~~xxxxxxx~~ in an action wherein John Mitchell et al. is plaintiff and the Choctaw Nation is defendant, pending in the United States Court for the Central District of the Indian Territory, at South McAlester, and to be read in evidence on the trial of said cause.

IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF THE
INDIAN TERRITORY, AT SOUTH McALESTER, I T

JOHN MITCHELL ET AL. Plaintiff

vs.

Notice to take depositions.

CHOCTAW NATION Defendant.

To the Choctaw Nation, the above named defendant, and Stuart Gordon & Hailey, and Wm. M. Cravens, attorneys of record for said defendant:

Your are hereby notified that the deposition of witnessess to be read in evidence in the above entitled cause on the part of the plaintiff will be taken at the office of Frank C. Garner in the town of Coalgate in the Central District of the Indian Territory on the 14 day of July, 1897, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, of that day; and that taking of said depositions, if not completed on that day, will be continued from day to day at the same place and between the same hours, until completed.

Ralls Bros.

Attorneys for plaintiff.

INDIAN TERRITORY,
CENTRAL DISTRICT.

M.M.Lindly, having been by me duly dworn, states on his oath that he served the above and foregoing notice on the 12th day of July, 1896, at Sout McAlester, Indian Territory, by then and there delivering a true & copy thereof to J.H. Gordon, one of the attorneys of record for the above named defendant. Affiant further states that he has no interest in this action and is over 21 years old

M.M.Lindly

33
Subscribed and sworn to before me, this 12th day of July, 1897.

J.G.Ralls,

John Mitchell et al.

vs.

The Choctaw Nation.

My name is Tom York, I am 75 years old and was born and raised in the old Choctaw Nation in Mississippi and came to this country seven years ago, and have resided here ever since. I am a full blood Choctaw Indian and am so recognized by the Choctaws here and drew my Leased District Money and talk Choctaw and English. I know the applicant John Mitchell and knew him in Mississippi / I also know his brother Andy Mitchell in Mississippi, he was a blind man. They are both Choctaw Indians, one fourth, and were so recognized in Mississippi by the Choctaw Indians among whom they lived. I knew the mother of John and Andy Mitchell. Her husband was a white man who lived there in Mississippi among the Indians. She was recognized as a Choctaw by the Choctaw and spoke their language. She married David Mitchell who was a white man, her name was Rebecca Fulson before she was married to David Mitchell. Rebecca Mitchell's mother was a full blood Choctaw. She lived there among the Choctaws and was recognized by them as being one of them. She spoke the Choctaw ~~language~~ language. Mitchell's looks and general appearance show that he is a Choctaw. I know he is the same boy, there is no mistake about it. I have visited at his father and mother's and knew them quite well. I have talked Choctaw with his mother. I knew Green Taylor who lived in Mississippi close to where Mitchell lived. I was a witness before Counsel for Mr. Mitchell. I saw the applicant's parents married, there in the Old Choctaw Country in Mississippi and they lived there. I have no interest in this case.

Witness to mark--J.E.Gresham

his
Tom x York.
mark.

34

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
CENTRAL DISTRICT.

I, James E. Gresham, a Notary Public within and for the Central Judicial district of the Indian Territory do hereby certify that the depositions of the witnesses, Tom York, were taken by me at the time and place and in the action mentioned in the caption and that before testifying each of said witnesses were by me duly sworn that the evidence they should give in this cause should be the truth, the whole truth and nothing but the truth, and that each of their statements was reduced to writing by me in their presence and was read to them by me and subscribed by them in my presence and the plaintiff was present in person and by attorney J.G.Ralls, and no one was present representing the Choctaw Nation at the taking of these depositions.

Given under my hand and official seal this 14th day of July, 1897

(SEAL)

James E. Gresham.
Notary Public.

FEES OF NOTARY PUBLIC \$2.00

Mileage 60 miles a 10 ¢ \$ _____

Paid by Plaintiff.

James E. Gresham.
Notary Public

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The deposition of D.D. Durant taken at the office of Ralls Brothers in the town of Atoka in the Central Judicial District of the Indian Territory between the hours of 8 o'clock A.M. and 6 o'clock P.M. on the 23rd day of July, 1897, to be read in evidence in an action wherein John Mitchell et al. are plaintiffs and the Choctaw Nation is defendant, pending at South McAlester in the United States Court for the Central Judicial District of the Indian Territory.

D.D. Durant having been introduced by the plaintiffs and having been by me first duly sworn according to law states on his oath:

"My name is D.D. Durant. I am called Dixon Durant. I am ~~67~~ 67 years old. I live at Durant in the Choctaw Nation and am a full Blood Choctaw Indian, and so recognized. I am a minister of the Congregational Church. I was born in the Choctaw Country in the State of Mississippi and lived there among the Choctaws. I first left Mississippi when I was 12 years old, and came here to the Choctaw Country and went back to Mississippi. I have been back there three times. I know John Mitchell and his brother Andrew Mitchell two of the applicants. I knew their mother and father, back there in Mississippi. Their mother was a Miss Folsom and her mother was the wife of Ned. Folsom and she as a full blood Choctaw Indian and so recognized there in Mississippi by the Choctaw Indians and all other people. Ned Folsom was a white man and was a brother of the father of Isereal Folsom. John Mitchell and his brother are one fourth Choctaw Indian by blood. I have talked Choctaw with the mother of John and Andrew and she showed to be one half blood. She spoke the Choctaw language well, and there cannot be any mistake about her being a Choctaw Indian. I am positive that John and his brother are both Choctaws and the sons of Rebecca Mitchell, nee Folsom. Their mother married a white man named David Mitchell and John and Andrew are children by that marriage. They lived there among the Choctaw Indians in Mississippi and I was well acquainted with them. John Mitchell has been here about twenty five years or maybe it is thirty years.

36

I have no interest in this claim."

D.D.Durant.

United States of America,
Central Judicial District
Indian Territory.

I, Chas. W. Dunstan, a Notary Public within and for the Central Judicial District of the Indian Territory do hereby certify that the foregoing deposition of D.D. Durant was taken before me and was read to and subscribed by him in my presence and in the action mentioned in the caption. The said D.D. Durant, having been by me first duly sworn that the evidence he should give in the action should be the truth the whole truth, and nothing but the truth; and that his statements were reduced to writing by me, in his presence neither one of the plaintiffs in said action being present at the examination and J.G. Ralls attorney for the defendant being present at said examination.

Given under my hand and official seal in the town of Atoka in the Central Judicial District of the Ind. Ter. this the 24th day of July, 1897.

Chas. W. Dunstan.

Notary Public as aforesaid.

Fee for taking deposition of 1 witness \$2.00 paid by plaintiff.

(SEAL)

Chas. W. Dunstan.

Notary Public?

In the United States Court for the Central Judicial
District of the Indian Territory, April 1897 term at
South McAlester.

John Mitchell et al. plaintiffs.

vs.

Notice to take depositions.

Choctaw Nation

defendant.

To the Choctaw Nation, the above named defendant, and Stew-
are Gordon & Hailey, and Wm. M. Cravens, attorneys of record for the
above said named defendant.

You are hereby notified that the depositions of witnesses to
be read as evidence in the above entitled cause, on the part of the
plaintiffs, will be taken at the office of Ralls Bros. in the town
of Atoka, in the Central Judicial District of the Ind. Ter., between
the hours of eight o'clock in the forenoon and six o'clock in the
afternoon on the 23rd day of July, A.D. 1897, and that the taking of
said depositions if not completed on that day will be continued
from day to day at the same place and between the same hours until
completed.

Ralls Bros.

Attorneys for plaintiffs.

I, M.M. Lindley do hereby certify that I served the above and foregoing
notice in the town of South McAlester, in the Ind. Ter. on the 21st
day of July, 1897 by then and there delivering a true copy thereof
to J.H. Gordon, one of the attorneys of record for the above named
defendant.

I further certify that I am over twenty one years of age and
have no interest in the prosecution of this case.

M.M. Lindley.

John Mitchell, et al.

vs. No. 116 Judgment, Cent. Dist. Aug. 25, 1897.

Choctaw Nation.

On this day this cause came on to be heard wwhereupon the plaintiffs and defendants announcred ready for trial and the court having heard the evidence and argument of counsel finds the issues in favor of the plaintiffs, John Mitchell , Andrew J. Mitchell, Mit on Welsh, Dosia A. Welsh, Luella Pyburn, Emma J. Welsh, Alfred H. Mitchell John W. Mitchel, William J. Mitchell, Robert H. Mitchell, Docia A. Mitch- ell, Myrtle Aee Mitchell, Ollie Mitchell, M. H. Pyburn, Benj. H. Pyburn Mary L. Pyburn, Odella B. Welsh, John M. Welsh, Christenia P. Welsh, are members by blood of the Choctaw Nation, and that all of said plaintiffs are entitled to be placed upon the rolls of the members of the Choctaw Nation as such members, and entitled to all the rights privileges, immuniti s and benefits as such members, and entitled to all the rights privileges, immunities and benefits as such members.

It is therefore ordered, adjudged and decreed that the said plaintiffs John Mitchell, Andrew J. Mitchell, Milton Welsh Dosia A. Welsh, Luella Pyburn, Emma J. Welsh, Alfred H. Mitchell, John W. Mitchell, William J. Mitchell, Robert H. Mitchell, Docia A. Mitchell, Mrytle Lee Mitchell, Ollie Mitchell, M. H. Pyburn, James B. Pyburn, , Mary L. Pyburn, Ode la B. Welsh, Joh n M. Welsh and Christenia P. Welsh are members by blood of the ~~Sixxxxx~~ Choctaw Nation, and that the defendant the Choctaw nation recognize the said plaintiffs as such members in all respects, and that the Com ission to the Five Civilized Tribes place the names of these plaintiffs upon the rolls as members of the Choctaw Nation as herein adjudged, and that the clerk of this court furnish to said Commission a certified copy of this judgment; and that the plaitniff have and recove of and from the defendant all thiercosts herein laid out and expended, for all of which let execution issue.

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 So McAlester, by John Mitchell 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 instant;

And you are further commanded to notify said Green McCurtain, Principal Chief aforesaid, that the papers, files and proceedings in the case of John Mitchell et al File No. 116 in the District Court for the Centrale 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 Centrale 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 21 day of March A. D., 1903.



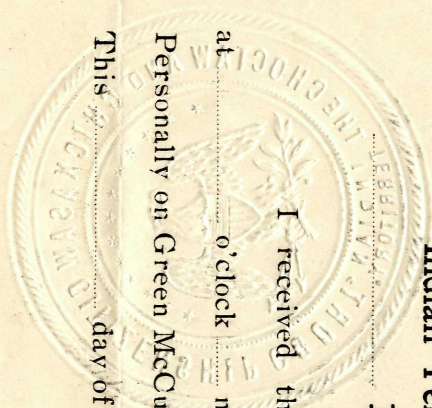
Gas B. Bassada Clerk.

By E. L. Berritt Deputy.

MARSHAL'S RETURN.

United States of America,
Indian Territory,
DISTRICT.

J. B. Parsons
Deputy
Clerk



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.

WITNESS the Honorable Speech B. Adams, Chief Judge

By _____ Deputy.

Duplicate

No. 101-m

**SUMMONS
IN EQUITY.**

John Mitchell et al
vs.
Choctaw and Chickasaw Nations.

Summons issued 21 day of
March, 1903. Returnable instanter.

Marshal's Fees.

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

J. B. Raes Atoka
Attorneys for Plaintiff.

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

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, 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 South McAlester, by John Mitchell 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 John Mitchell et al File No. 116 in the District Court for the Central 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 Central 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 21 day of March A. D., 1903.



James B. Bassada Clerk.

By E. L. Beritt 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 P. S. Moseley, at _____ Indian Territory,
This _____ day of _____, 1903, _____ m.

By _____ Deputy.

Duplicate
No 101 - m
SUMMONS
INEQUITY.
John Mitchell et al
vs.
Choctaw and Chickasaw Nations.
Summons issued *21* day of
March, 1903. Returnable instanter.

Marshal's Fees.
Service - \$
Miles - \$
Expenses - \$
TOTAL \$
J. R. Ralls Atoka D 5
Attorneys for Plaintiff.

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

Ned Folsom
married

full blood

Rebecca Folsom 1/2
married
David Mitchell

John Mitchell^x ✓
married
Mary Francis

Andrew Mitchell^x ✓
Nancy "
Rebecca "

x Luebla Pyburn ✓
x Emma J. Welch ✓
x Alfred H Mitchell ✓
x John W. " ✓
x William J. " ✓
x Robt. H. " ✓
x Doekia ANN " ✓
x Myrtle Lee " ✓

Only those names with check mark
included in original application to Dawes Commission.

Livella Pyburn

Milton H. Pyburn
Benjamin Pyburn
James B "
Mary L "

Amend

Emma J. Welch

Madella B
Belle Welch ✓ x
Nelson J. Welch
Pearl L. Welch
Melton Welch ✓ x
Dochia A " ✓ +
Ollie Mitchell, et al x

amended petition contains

John M. } but omits x
Christine P } x

Nelson J. Jr
Pearl L.

Synod's Committee

*

OKLAHOMA PRESBYTERY

Rev. F. M. ALEXANDER,
Rev. JOHN H. FAZEL,

CANADIAN PRESBYTERY

Rev. GEO. S. HAYES,
Rev. W. B. LEONARD.

KIAMICHI PRESBYTERY

Rev. J. H. SLEEPER,
Rev. E. G. HAYMAKER.

Synod's Assembly

And

Summer Bible School

Rev. John H. Fazel, Chairman, Guthrie, O.T.
D. N. Robb, Treas., Atoka, I. T.

CIMARRON PRESBYTERY

Rev. H. B. MAYO,
Rev. JAY C. HANNA,

WASHITA PRESBYTERY

Rev. C. C. WEITH,
DAVID N. ROBB, Treas.

SEQUOYAH PRESBYTERY

Rev. GRANT STROH,
Rev. E. M. LANDIS,

CHOCTAW PRESBYTERY

Rev. H. R. SCHERMERHORN,
Rev. S. R. KEAM.

Atoka Indes

July 26th 1904

Mansfield McMurry & Cornish.

Chowan & Chelawar Misses

Gentlemen

I am sorry to have to inform you that Miss Robb will not be able to attend Court at South McAlester on the 27th as directed by Synod. She is not able to be up yet

Yours truly
D N Robb

Indian Territory
Central District }

My name is Green W. Taylor. I live
 five or six miles east of Stringtown. Stringtown is
 my P.O. I was born in Georgia. My father carried
 me to Miss. when I was 11 years old, and I lived
 there until I was 20. I knew a man in Miss.
 named Ned Tolson. He was forty or forty-five years old at
 the time I knew him. I do not know who his father or
 mother was. I do not know who his wife was. Ned
 Tolson was a white man. His wife had a little Indian
blood in her. I do not know what kind it was. That
was in the Choctaw country. They had some children.
 I do not remember how many. I do not remember the
 names of any of them. John Mitchell's I have always
 heard that one of ^{Ned Tolson's} ~~John Mitchell's~~ daughters married
 David Mitchell. I do not remember which one of
 Ned Tolson's daughters it was. I did not know her
 when she was single & living with Ned Tolson. I
 did not get acquainted with her until after John
 Mitchell was born. John Mitchell is about 66 years
 old now. He is one year older than I am. David
 Mitchell was a white man. He was a farmer. John Mitchell's
 mother claimed to be a quarter blood Choctaw Indian, that
 is all I know about the case.

Green W. ^{his} X Taylor -
 man

Subscribed & Sworn to before me this 1st day of July, 1903.

D. Richardson
 Notary Public.

1 My name is S. P. Perry. I know
2 John Mitchell the applicant for
3 citizenship. I never knew either his father
4 or mother. I have known him six or
5 seven years, first knew him at Bus-
6 ka Louisiana. If I ever knew him back
7 in Mississippi he had grown en-
8 tirely out of my mind before I met
9 him here. I never knew either Rebecca
10 Mitchell or David Mitchell her husband
11 in Mississippi.

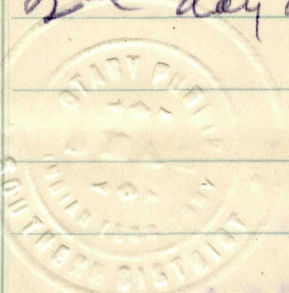
12 Witness

13 P. A. Bruce

14 S. P. ^{his} Perry
mark

15
16 I hereby certify that I read the foregoing affi-
17 davit to S. P. Perry and that he subscribed
18 and sworn to the same before me this
19 2nd day of April 1903.

20 Jno P. Crawford
21 Notary Public



✓ 16th.-- In the John Mitchell case, under date of July, 1897, witness testifies: Am 85 years old. Born in North Carolina. When about ten years old came with the Indians to the Choctaw settlement in Mississippi. Resided there until I finally came ^{present} to the Choctaw Nation. I was owned by Jimson Perry, and was a Choctaw Indian by blood. Came to this country with the second emigration to look at the country and then returned to Mississippi and finally moved to the Indian Territory in about 1842. Have lived here ever since. Am personally acquainted with the applicant, John Mitchell. I have known him all his life. He is the son of David and Rebecca Mitchell. Rebecca was a Miss Folsom, when she married David Mitchell. She was a half blood Choctaw and lived with the Choctaw Indians in the old Choctaw Nation in Mississippi. The applicant is a child of David and Rebecca Mitchell. Was about four years old when I left Miss.

and came to this country. I left him in Pontotoc County, Miss. Afterwards I met John Mitchell here in 1857, and positively know him to be the same John Mitchell and have been personally acquainted with him all this time. He is now about sixty years old. David Mitchell was a white man. I know the father and mother of Rebecca Folsom. Her mother was a full blood Choctaw and they resided in the Choctaw country. I lived near them and cannot possibly be mistaken about them being Choctaw Indians. I am not acquainted with the other applicant, Andrew Mitchell. I do not think he was born when I left Mississippi.

~~W. W. W. W.~~ W. W. W. W., ALLEN & von WEISE,
ATTORNEYS AND COUNSELORS,
TISHOMINGO, IND. TER.

CHAS. M. WRIGLEY,
HARRY K. ALLEN,
CHAS. VON WEISE.

Offices—Second Floor Bank of the Chickasaw Nation.

October 13, 1903.

Gus Rosenwinkel,

South McAlester, Indian Territory.

My Dear Rosie:

I am in receipt of your favor of the 8th inst., relative to citizenship of one Wade G. Mitchell and note what you say in regard thereto. I have made a further investigation of this matter and find that Wade G. Mitchell is also known as John W. Mitchell and it may possibly be that he is included in the case of William C. Mitchell et al. vs the Choctaw Nation under that name. We are very anxious to take this matter up with you as our client desires to file upon a piece of Mitchell's land in case we can have his case disposed of denying him citizenship.

We also have a like case against William D. Cunningham which I wish you would look up and see what his status is. The parties that have employed us to look after these matters claim that they have testimony which will knock these parties out and it may be that the testimony which they claim they are able to produce is some which your office has not come in touch with as yet.

Is and myself are glad to hear that you are doing well and hope to see you in Tishomingo before long and are mighty glad to note that you propose coming to Tishomingo via Denison and would suggest that this is the last week in which Finn Brothers can be of any assistance to you and, therefore, try and make your trip within the specified time.

Very truly yours,

Chas von Weise

C.V.W.

Hello Rosie--you son of a gun.

Is.

Jno. Mitchell, Et al.

Sam Perry, a witness, lives at Wiley. A standing witness -

Rachael Colbert, " Write Ben Kemp, of Fish Springs about her. Standing wit.

Tom York is dead. Born & raised in Lead Co. Miss. Never in any other County.

Green W. Taylor, ~~probably from Miss.~~ lives at Stringtown -
also Judge J. C. Folsom

See Mrs. Sarina Robb. of Ala. - Knows all about applicants.

Folsom family came from Ala. not from Miss.

SYNOPSIS OF THE JOHN MITCHELL, ET AL/ CASE.

Applicants state that they are the sons of David Mitchell and Rebecca Mitchell (nee Folsom); that Rebecca Folsom was the daughter of Ned Folsom and a full blood Choctaw Indian woman. Wherefore applicants state they are 1/4 Choctaw Indian by blood.

Applicants rejected by Dawes Commission. Appealed to the United States Court for the Central District. Papers do not show with what result.

#####

AFFIDAVITS BEFORE DAWES COMMISSION.

Samuel Perry, of Wiley, Indian Territory says that John Mitchell is the son of David and Rebecca Mitchell (nee Folsom) who lived in Pontotoc County, ~~Mississippi~~ Mississippi about the year 1850. Says that Rebecca Mitchell was an Indian and David Mitchell was a white man. Affiant knew applicants grand parents and knew that his grand mother on his mothers side was a full blood Choctaw Indian.

Racheal Colbert's affidavit same as above, except that she known applicants parents in cotton gin County in the old Nation in Mississippi.

Andrew J. Mitchell, one of the applicants states that he ^{has} lived near Jeffs, I. T. for about one year. That prior to that time he lived in Pontotoc county, Mississippi. Remainder of affidavit same as application

Tom York, of Simpson, I.T., says that he is a full blood Choctaw, and a citizen of the Choctaw Nation. He has known applicant since the year 1845. Remainder of affidavit same as Samuel Perry's.

John Mitchell, of Jeffs, I.T., has lived in the Choctaw and Chickasaw Nations for the past six years. Prior to that he lived in Miss. and Ark. Remainder of affidavit same as application.

Green W. Taylor has known the applicant since 1844; knew him in Pontotoc County in Miss. Remainder same as above.

J.J. Gardner says that the Citizenship Committee of the Choctaw Council reported favorably on the application of John Mitchell for admission in 1892, but the Council rejected it.

DEPOSITIONS.

S. P. Perry says that ~~he~~ knew John Mitchell in Mississippi. That John Mitchell was about four years old when Perry left Mississippi. When affiant met Mitchell here a few years ago, affiant knew him and recognized ~~x~~ him. Deposition states same things as affidavit in other respects.

Green W. Taylor, same as affidavit, except that he is not sure whether ~~Mitchell~~ it was Mitchells grand father or grand mother that had the Indian blood. Rebecca Mitchell was recognized as a half breed Indian in the old Choctaw Nation Lived near John Mitchells parents for about nine years. John Mitchell and affiant left Mississippi in 1856, affiant going to Texas and John Mitchell to the Indian Territory. Affiant lived in Texas four years and then moved to Pike County, Arkansas about a year after that met John Mitchell again. Boht lived in Pike County until we joined the federal army in 1863, enlisting in Co. A. 4th, Ark. ~~X~~ Cav., Fishback regiment. Mitchell was taken sick & remained in Little Rock, Ark until he came to the Territory 7 or 8 years ago.

John Mitchell, same as above.

Tom York, same as ~~above~~ affidavit.

#####

CONCLUSIONS.

1st. The only testimony except from the applicants themselves is from "professional witnesses"

2nd. Applicant became a citizen of Ark.

6

- ✓ Milton St. Pyburn, or M. St. Pyburn
 - ✓ Benjamin St. Pyburn
 - 32 ✓ James G. Pyburn, or James B. Pyburn
 - ✓ Mary Lee Pyburn, or Mary L. Pyburn
 - (Willie Ann Pyburn)
-

John Mitchell, d al No 101,

- ✓ John Mitchell,
- ~~Mary F Mitchell,~~
- ✓ Myrtle Lee Mitchell,
- ✓ Robert H Mitchell,
- ~~Mable Mitchell,~~
- ~~Roy A Mitchell,~~
- ✓ Andrew Mitchell, or Andrew J. Mitchell,
- ✓ John W. Mitchell,
- ~~Nettie Mitchell,~~
- ✓ William J. Mitchell,
- ~~Maud E. Mitchell,~~
- ~~Jessie T. Mitchell,~~
- ~~Mattie Mitchell,~~
- ✓ Alfred H. Mitchell,
- ~~Cynthia M. Mitchell,~~
- ✓ Ollie Mitchell,
- ~~Grace Mitchell,~~
- ✓ Socia A Sullivan, or Socia A Mitchell,
- ~~Myrtle R Sullivan,~~
- ✓ Emma J. Welch,
- ✓ Adella B Welch,
- ✓ John N. Welch, or John Welch,
- ~~Christina P Welch, or Welch,~~
- ✓ Socia A Welch, or Welch
- ~~Rosia M. Welch,~~
- ~~Ella Welch,~~
- ✓ ~~Luella Cyburn,~~

John Mitchell, et al, No 101.

Call attention to impeachment of D.P. Perry in cases of
Mary M. Harvey, et al, No 67, and Helen W. Newton,
et al, No 71.

Call attention to testimony taken in cases of Ann
Thompson, et al, No 11, and Frances C. Neely,
et al, No 79, as to impeachment of Tom York.

Green Taylor, principal witness for applicant,
testifies that he knew Tom York in Pontotoc Co.,
Miss. Call attention to testimony of Geo. Simpson
in cases of Ann Thompson, No 11, & Geo. McCarty,
et al, No 79, showing that Tom York lived in
Leake Co., Miss. for purposes of impeachment of
Green Taylor.

Take testimony of Mrs. Ozanna Robb & J.C. Tolson
as to history of Tolson family -

Upon this and facts developed on cross-
examination, submit case for final decision
of Court.

Gore testimony in case of John Mitchell no 101
Epsia Underwood, No 78 and Heron Loneroster
No 82 - also gave county affidavits

D. D. Donant

P. 429 of claims:

Pierre Donant Sec 25, Tp 15 R. 5

Fisher " " " " " "

All other Donants in this locality

This land is on Black River, between
Lexington, Holmes Co + Kasiasko, Atchita
County

Heron Loneroster claim through Michael Le Hone
Michael Le Hone's land was Tp 15 R 3 E
near Donant -

Testimony shows ancestor of applicants in
Pontotoc Co, three counties north

Leah's Hill Cox's:

Yes is that they lived near line between
Franklin's Moravia County, Ala - Left there and went
to Texas about 1850 - Witness John Sagan
lived Kelly Bottoms there from about 1840 +

Joanna Horne Cox's: Yes. Shows Leah Sagan
came from Kelly Bottoms ^{Co Ala} into Harper Co, Miss in about 1846
stayed 1 year there + then went on to Ark.

Law them near Pontotoc - then brother
Blind - Don't you know William Magister
with David Magister +

John Mitchell, et al.,
other applicants herein.
Vs.

Choctaw & Chickasaw Nations.
In view of the fact that a field investigation has
heretofore been made which substantially disposes of the
case we will Letter of instructions in detail but merely
refer to the records of the United States Government as
To _____ :

It does not appear from an examination of said records,
The original application in this case made to the
Dawes Commission in 1896 included the following names:
Folsom residing in the state of Mississippi. The records
John M. Mitchell, Luella Pyburn, Emma J. Welch, Alfred H.
do show that there was a "white man" of the name of Nathaniel
Mitchell, John W. Mitchell, William J. Mitchell, Robert H.
Folsom who was the father of Colonel David Folsom (page 70
Mitchell, Dochia Ann Mitchell, Myrtle Lee Mitchell and Andrew
vol. 7 American state Papers) and in another place (page
Mitchell. The above applicants were denied by the Commis-
7 of said book) show that Colonel David Folsom was a half-
breed Choctaw"; this would therefore show that the wife of
Nathaniel Folsom was a full blood Choctaw.
before the Dawes Commission. The application for writ of
There are numerous persons of the name of Folsom
error to the citizenship court contains the names of more
referred to in the records of the government but it is
parties who were neither before the Dawes Commission or the
not possible to identify them as to the relationship ther
United States court.
bore towards each other.

The witness D. B. Durant testifies that Ned Folsom
The claim of the applicants is that Ned Folsom, a white
man residing in the state of Mississippi, married a full
Israel Folsom a WHITE man while the records show him to be
blood Choctaw woman, whose name is not given; that they had
an Indian and furthermore he was provided for in the supplie-
a daughter named Rebecca Folsom who married David Mitchell
who were the parents of John Mitchell and Andrew Mitchell.
davit of J. C. Folsom and that of Mrs. Robb, at Atoka corre-
John Mitchell being the father and grandfather of all the

other applicants herein.

borate the record of the government, and show Israel Folsom
In view of the fact that a field investigation has
to have been a son of Nathaniel Folsom.
heretofore been made which substantially disposes of the
case we will not take up the case in detail but merely
refer to the records of the United States Government as
applied to the claim of the applicants. Information of value to
the It does not appear from an examination of said records
that there ever was a Choctaw Indian of the name of Ned Folsom
Folsom residing in the state of Mississippi. The records
do show that there was a "white man" of the name of Nathaniel
Folsom who was the father of Colonel David Folsom (page 70
vol. 7 American state Papers) and in another place (page
7 of said book) shows that Colonel David Folsom was a "half-
breed Choctaw"; this would therefore show that the wife of
Nathaniel Folsom was a full blood Choctaw.

There are numerous persons of the name of Folsom
referred to in the records of the government but it is
not possible to identify them as to the relationship ther-
fore towards each other.

The witness D. D. Durant testifies that Ned Folsom
was a brother of the father of Israel Folsom; thus making
Israel Folsom a WHITE man while the records show him to be
an Indian and furthermore he was provided for in the supple-
ment to the treaty by receiving 1280 acres of land. The affi-
davit of J. C. Folsom and that of Mrs. Robb, at Atoka corro-

IN VIEW OF THE FACT THAT A RECENT INVESTIGATION HAS

OTHER SUBSTANTIAL REASONS.

-3-

corroborate the record of the government, and show Israel Folsom
to have been a son of Nathaniel Folsom.

The office is lately in receipt of information that
Charles von Weise of Tishomingo has information of value to
the Nations in the trial of this case. See him and secure
what information he has when you are at Tishomingo.