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COUNTY AND NATIONAL ELECTIONS IN PONTOTOC COUNTY, CHICKASAW NATION

By Gordon M. Harrel

According to the treaty of 1855 between the Chickasaw Indians and the United States which was signed by President Franklin Pierce March 4, 1856, the Chickasaw people were given the right of self government with complete separation from the Choctaws. After their removal to Indian Territory from their former homes east of the Mississippi, the Chickasaws had been living in the Choctaw country and under Choctaw laws and domination. Their relations during these years with the Choctaws had been peaceful but not harmonious. The Chickasaws desired their own tribal government and the right to administer their own affairs. Thus the treaty of 1856 was received with great pleasure by the Chickasaws.

During the summer of 1856 the Chickasaws held a Constitutional Convention at Tishomingo and drew up a Constitution for their people. The Constitution provided for three Departments of government, namely, the Executive branch, the Legislative branch and

⁵ Ira Mitchell was secretary as long as his full time as such was needed and then A. N. Leecraft, secretary to the Governor, acted without additional compensation.

the Judicial branch. For purposes of local government counties were organized. Four counties were provided for in a Chickasaw Senate Resolution of October 5, 1859.¹ The four counties were Panola, Pickens, Tishomingo and Pontotoc.

The Chief Executive was a governor elected by the qualified voters of the Nation; he held his office for two years. The legislative branch was a bi-cameral system with a senate and a house of representatives. Senators were chosen by qualified voters for a term of two years while members of the house of representatives were chosen to serve one year. Both branches required their law-makers to be Chickasaws by birth or by adoption to be eligible for the office. The judicial department was to consist of one Supreme Court, district courts and such county courts as the legislature might from time to time establish.² According to the above mentioned constitution each county was entitled to a county court which had jurisdiction over all matters in controversy not exceeding the value of one hundred dollars.³ The County Judge was elected for a term of two years and was commissioned by the Governor of the Nation. In addition to trying cases criminal and civil, county judges were given jurisdiction over all probate matters relative to the estates of deceased persons and guardianships.

On October 12, 1876, B. F. Overton, Governor of the Chickasaw Nation, approved an act of the legislature to organize County Courts in each county.⁴ The act provided that county courts were to be courts of enquiry and had the power to commit, discharge or remand to higher courts offenders of the Chickasaw laws. County courts were also charged with the duty of appointing guardians, to take probate of wills, settle the accounts of executors, administrators and deceased persons. The meeting date for county courts was fixed for the third Wednesday of each month at the county seat.⁵

In 1876 the Chickasaw Legislature passed an act fixing the salaries of all public officials of the Chickasaw Nation.⁶ The salaries were as follows:

Governor	\$1500 per annum
Attorney General	\$ 500 " "
County Judges	\$ 200 " "
Sheriffs	\$ 400 " "
Constables	\$ 400 " "
District Judges	\$ 600 " "
Senators and Representatives	\$4.00 per day
County Clerk	\$ 300 per annum

¹ *Constitution, Laws and Treaties of Chickasaws*, published in 1860, page 3-23 and 141-143.

² *Constitution, Laws and Treaties of Chickasaw Nation*, edited by Davis A. Homer, 1899.

³ *Ibid*, page 64.

⁴ *Ibid*, page 65.

⁵ *Ibid*, page 65.

⁶ *Constitution, Laws and Treaties of Chickasaw Nation*, Davis A. Homer, 1899.

All general elections were held on the second Wednesday in August of each year.⁷ The Constitution further provided that the Legislature shall prescribe the manner of conducting all elections; on October 7, 1876, B. F. Overton, Governor, signed an Act defining the procedure for elections in each county. This Act provided for the County Judge in each county to select two assistant judges and two clerks who with the County Judge were to manage the elections with fairness and justice to all. In case the County Judge failed to attend to his duties the electors at the polls on election day were authorized to appoint judges and clerks and hold the election.

There were no printed ballots. The clerks prepared the election supplies which consisted of a long wide sheet of paper with the names of the candidates for the various offices listed on them. The voter's name was listed on another sheet of paper and he signified to the clerk the person for whom he wished to vote. The clerk made a mark or tally in front of the person's name voted for. The polls opened at 8 o'clock A. M. and closed at 5 o'clock P. M. In case of a tie vote between two candidates the polls were to be reopened immediately for the purpose of deciding the election. The polls of the second election must close by 12 o'clock P. M. After the votes were counted the managers of the election were required to give certificates of election to the candidate for each office receiving the highest number of votes.

Suffrage rights were granted to all free male persons nineteen years of age and upward who were members of the Chickasaw tribe by birth or adoption and who had resided in the Chickasaw Nation for six months previous to the election. Suffrage was denied to idiots, insane and all persons convicted of crimes against the Chickasaw Nation, or who had eluded peace officers by fleeing from custody or trial.⁸

County and national elections were frequently close and many charges of unfairness were made particularly regarding the eligibility of voters. In 1888 the Legislature passed an Act in relation to Contested Elections which was signed by Wm. L. Byrd, Governor on November 10.⁹ This act provided that the County and Probate Clerks of each county shall prepare a list of all qualified voters and furnish such to the County Judges at least fifteen days before the election date. Those who became of age during the fifteen days before the election could vote by satisfying the County Judge as to their ages. According to this Act a candidate who became dissatisfied with the conduct of an election and who had good reason to believe that fraud had been practiced could lay his complaint be-

⁷ *Ibid.*, see section 15, page 19.

⁸ *Constitution of Chickasaw Nation*, Davis A. Homer, Art. II.

⁹ *Ibid.*, page 54.

fore the County Judge. The Judge was authorized to set a date for a hearing to investigate the complaint. The person filing the complaint was required to prove the charges to the Judge. If this was done the Judge was required to give him a certificate of election to the office.

Following the election held at Stonewall, Pontotoc County, Chickasaw Nation on August 13, 1902 for national and county officials, there were charges of irregularities and violations of the laws brought up by the defeated candidates. In accordance with the laws of the Chickasaw Nation of 1888 a complaint was filed by P. S. Mosley the defeated candidate for Governor, before George Colbert, the County and Probate Judge. The County Court held a hearing on the charges at Stonewall, Pontotoc County, Indian Territory, August 25, 1902. The following is the official minutes kept by the County Clerk:¹⁰

Stonewall, I. T. August 25th 1902

Special term of the Co. Court ordered on the 25th of August 1902 to be held pursuant to adjournment.

Met for business the written complaint have been made by the Honorable P. S. Mosley being a candidate for Gov. and others having been dissatisfied with the results of the last election initiated and brought a bill of complaint before this court for a fair and impartial investigation. Murray¹¹ Attorney representing the case and George Burriss representing the parties on the Byrd ticket. George Colbert the newly appointed and commissioned as County Judge being the successor to H. M. Quincy for the unexpired term being present. Forbus Mosley sheriff being present the court opened by the sheriff. The case was taken up for examination and the deft.¹² Attorney not well prepared moves that the case be postponed till one o'clock P. M. or after noon. Motion granted by the Court and adjourned to meet at one o'clock P. M.

Court met for business one o'clock P. M. and is now ready for business. The deft. Atty. made a lengthy ag (argument) for the deft and read the law according to the Election Act after which the Atty for the Complaint parties and both attys on each side made lengthy speech on each side. McKeel¹³ Atty for the deft. parties made lengthy argume (argument) George Burriss atty for parties def.¹⁴ After hearing on both side of the Atty for both parties the Court overrules the motion presented by Geo (Evidently George Burriss) after hearing.

T. C. Walker and H .M. Quincy was sworn to testify.

¹⁰ Official minutes, of the County and Probate Clerk of Pontotoc County. The Clerk's book was obtained from John C. Atkins who served as clerk from 1900 to 1904.

¹¹ William H. Murray.

¹² Attorney for defeated party.

¹³ J. F. McKeel.

¹⁴ George Burriss attorney for Byrd ticket.

On August the 26th the special court met; the following records of that date are recorded in the County Clerk's Book on page 354-355:

Contested Election of General Election 3rd Wednesday in August 1902 A. D.

Before George Colbert County and Probate Judge of Pontotoc County Chickasaw Nation Ind. Terr.

- 1 —William James
 - 2 —Almon Holden
 - 3 —Herbert Quincy
 - 4 —Elian Fillmore
 - 5 —Wm. Anderson
 - 6 —George Underwood
 - 7 —William Wright
 - 8 —Sampson Anderson
 - 9 —John C. Adkins
 - 10—Esaw Seely
 - 11—Solomon Owens
 - 12—Thomason Johnson
 - 13—C. T. Walker
 - 14—Bill Gibson
- V. S.—Judgment

CONTESTANTS

- 1 —H. Colbert
- 2 —Sampson Johnson
- 3 —Frank Reed
- 4 —Hosea Walden
- 5 —James Frazier
- 6 —Hallison Brown
- 7 —Gabriel Underwood
- 8 —Eastman Maytubby
- 9 —Bill Perry
- 10—Henry Fillmore
- 11—John Walmor
- 12—Robert Alberson
- 13—James Walker

CONTESTEES

On this August 25th 1902 A. D. the cause coming on to be heard upon the petition Contestants and Contestees being present in person and by Attorney William H Murray and Contestees being present in person and by Attorney J. F. McKeel, W. H. Campbell and George Burris and parties. Announcing ready and the Court having heard the evidence, argument of Counsel and having taken the same under advisement until eight o'clock A. M. on August 26th 1902 A. D. Doth find:

That the Poll Books purporting to be a record of the votes cast for the above named Contestants and Contestees, Who were candidates for the offices of Senators, Representatives, County Judge, County Clerk, Sheriff and Constables and for Palmer S Mosely and W. L. Byrd candidates for the office of Governor and J. L. Thompson and I. O. Lewis candidates for the office of Attorney General, at what purported to be the General Election held at Stonewall Pontotoc County Chickasaw Nation on Wednesday August 13th 1902 were not signed, certified and sealed by the Judges of the Election as required by laws of Chickasaw Nation and that such Books were blotted and blurred and otherwise torn, tattered and disfigured and were kept on such quality of paper and were ruled and arranged in such a way that it is impossible to ascertain from the face of them for which candidates the voter cast their ballots thereby rendering it impossible to intelligently determine the Results.

It is therefore ordered, considered and adjudged That said purported General Election held at Stonewall, Pontotoc County, Chickasaw Nation on Wednesday August 13th 1902 at which the above named Contestants and Contestees were candidates for the various County officers and at which Palmer S Mosely and William L Byrd were candidates for the office of Governor and at which J. L. Thompson and I. O. Lewis were candidates for the office of Attorney General was not held and conducted as required by Laws of the Chickasaw Nation and is therefore illegal and of no effect and furthermore that the certificates heretofore issued purporting to declare H. Colbert, Sampson Johnson and Frank Reed Elected senators from Pontotoc County and Hosea Walden, James Frazier, Halison Brown, Gabriel Underwood and Eastman Maytubby Representatives from Pontotoc County and Billy Perry County Judge of Pontotoc County and Henry Fillmore County Clerk of Pontotoc County and John Walmor Sheriff of Pontotoc County and Amos Holden, Robert Alberson and James Walker, Constables of Pontotoc County, be nullled and the same are hereby Revoked

George Colbert
Co. & Probate Judge of Pontotoc
County, Chickasaw Nation, Ind. Terr.

Recorded on this the 28th day of August
1902 A. D.

John C Atkins
Co. & Probate Clerk of
Pontotoc County, C. N. I. T.

The outcome of the disputed election of 1902 was a victory for the Mosely ticket by a majority of six votes.¹⁵ Thus he entered upon his term as the next to the last Governor of the Chickasaw Nation at a time when the Chickasaws were divided on the issue as to the future of their Tribal Government. Mosely was inaugurated Governor September 1, 1902. He immediately called a special election for the 25th of September. The election was to pass on the Supplemental Agreement of the Atoka Agreement which was approved by the Congress of the United States July 1, 1902.

The issues between Palmer S. Mosely and William L. Byrd in the election were whether to cooperate readily with the Supplemental Agreement and give up the attempt to maintain their own tribal form of government and autonomy or to reconcile themselves to the white man's rule and the extinction of their own. Byrd was for the full blood side, which opposed the Supplemental Agreement. Mosely although himself a full blood represented the Progressive Party which favored the ratification. Byrd was not a full blood but being an Ex-governor took the side of the full bloods. The Chickasaws ratified the Supplemental Agreement at the election held on September 25th 1902.

¹⁵ *Chronicles of Oklahoma*, Vol. 18, (1940) p. 250.