

J. N<sup>o</sup> 97.

Henry Patton, et al,

VA

Shoetan Nation

N<sup>o</sup> 132.

Penthon Dist. Court.

N<sup>o</sup>

Dawes Commission

Witnesses  
For Claimants

Martha J. Buck, Willis J. J.  
John L. Buck, Willis J. J.  
Hiram Williams, <sup>W. J. Newwood</sup> ~~Homer~~ J. J.  
Mrs Elsie Perkins, Casey J. J.  
Henry Dutton

Nations

Witnesses:

Martha J. Buck; Willis, J. J.	58 years	} knew Dutton in Va.
John G. Buck; Willis, J. J.	66 years	
read Thumally Williams; Honor, J. J.	85 years (witness)	
read Elsie Perkins; Coney, J. J.	75 years	

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Depositions

Martha Buck came from 11 miles of Witherell, Va.

Henry Dutton.

John G. Buck. born in Va. in 1830

~~Henry Dutton et al.~~

7 mother a  
full blood  
Chickasaw

Curby Folsom  
must have been  
born about  
1780

John  
Myers

Myers  
mother

James Staley  
married

Liv & Myers  
Tany

must have  
been born  
about 1818

must have  
been born  
about 1800

1812

1817  
1818

Henry Dutton  
of married  
Harriet Staley 1/4  
1853

must have been  
born about 1838

Kate Staley  
and  
Mrs. Purford

M. Urtha Buck  
G. G. Buck  
married in  
Tenn. in 1854

1858

Court 2 by marriage  
1/4 by blood

Mary Cordia Taylor { 9 children

Geo Piper Buck { 1 child

Jos. Frank. Buck { 1 child

Thos. Jeff. Buck { 3 children

Lela G. Parker { 1 child

Ora Allen Jackson { 1 child

F. Thos. Buck  
Wm. R. Buck  
Clarena Buck

marrid a Thompson  
 America and  
 see Mrs Buck

130  
 110  
 90  
 Mary white  
 married

born in Wythe Co. Va  
 in 1826  
 70  
 \*  
 Henry Dutton  
 (white man)  
 married

age 125  
 110  
 90  
 1/2 ♂  
 Folsom  
 \*  
 alleged to be  
 full blood Chocaw

Harriet Haley  
 in 1853 in  
 Va.  
 8 1/4  
 age in 1896  
 at least  
 101

James Haley  
 Terry Haley  
 Katie Haley  
 1854

40  
 ✓ James H. Dutton \*  
 married  
 Randolph  
 ✓ Virgie Dutton (as amended)  
 Mary L  
 Jesse  
 Bella  
 605  
 25  
 1858  
 65  
 1893  
 1795

38  
 ✓ Robert Dutton \*  
 married  
 Mrs. Page  
 ✓ Wava Dutton \*  
 Maggie  
 Wirta  
 70  
 \*  
 35  
 ✓ Stephen A. Dutton \*  
 married  
 Mrs. Hugg  
 ✓ Della Dutton \*  
 Bartu  
 Bewah  
 Sherman C  
 25  
 ✓ (David)  
 David C. Dutton \*  
 20  
 ✓ Lela Dutton \*  
 married  
 Thom  
 ✓ Hattie B. Thom. \*  
 Frank  
 ✓ John Dutton (deceased)  
 married  
 Mollie \*  
 ✓ Roy Dutton \*

Martha Buck  
 1854  
 married  
 in Thom.

19 applicants  
 17 by blood  
 2 by marriage

I N D E X.

Registry receipt	1
Affidavit of H. F. Grinstead	1
Application to Commission	2
Application to Commission	4
Affidavit of Martha J. Buck	5
Affidavit of John G. Buck	6
Affidavit of Henry Dutton	7
Affidavit of Hunnally Williams	8
Affidavit of Elcie Perkins	9
Judgment of Commission	10
Testimony of Mrs. Martha Buck	11
Testimony of Henry Dutton	13
Testimony of Mr. Buck	19
Testimony of Mrs. Buck	25
Amended petition	28
Report of Master in Chancery	31
Judgment U. S. Court	32

United States of America,  
Indian Territory,  
Southern District.

Now on this 3rd day of September, 1896 personally  
appeared H.F.Grinstead and said:

I, H.F.Grinstead, do solemnly swear that on the 25th day of  
August 1896 I saw a package registered at the Post Office at  
Oakland, I.T., addressed to the Governor of the Choctaw Nation,  
Tuskahoma, Ind. Ter.; that Registry Receipt No. 15 received from  
the Postmaster and attached hereto is a receipt for said package  
which contained true copies of the application of Henry Dutton, and  
of the affidavits of Martha J.Buck and John G.Buck in support of  
same.

(Signed) H. F. Grinstead.

Subscribed and sworn to before me this 3rd day of Sept. 1896.

(Signed) J.E.Grinstead.

Notary Public.

REGISTRY RECEIPT.

Post Office at Oakland, I.T., Registered Letter  
Parcel No. 15,

Received August 25th, 1896, of Henry Dutton, addressed to Governor of Choctaw Nation, Tuskahoma, I.T.

(Signed) J.E.Dillingham,

Postmaster.

( C o p y . )



Application for Citizenship.

--oOo--

To the Honorable Henry L. Dawes et al. United States Commission to the Five Civilized Tribes authorized by an Act of Congress of June 4th, 1896 to hear and determine citizenship in the Choctaw Nation;

Gentlemen:-

Your petitioner, Henry Dutton, for and in behalf of himself and his heirs this day makes this their application to you for the purpose of being placed on the revised roll of Choctaw Indians, and of those entitled to share in the distribution of funds and allotment of lands in said Nation by virtue of their Choctaw blood, and I herewith submit the enclosed and attached affidavits in support of said claim; and respectfully await the time when this claim shall be heard and tried.

Respectfully submitted,

(Signed) Henry Dutton.

Roll of applicants, with relationship.

Names	Age	Relationship.
Henry Dutton ✓	70 years	Applicant.
James H. Dutton ✓	40 "	Son
Robert Dutton ✓	38 "	Son
Stephen A. Dutton ✓	35 "	Son
David C. Dutton ✓	23 "	Son
Lela Thorn (nee Dutton) ✓	20 "	Daughter
Mollie Dutton	24 "	Daughter-in-law.
May L. Dutton	4 "	Grand-Daughter.
Dora V. Dutton	11 "	"
Jessie Dutton	2 "	"
Maggie Dutton	5 "	"
Monta Dutton	1 "	"
Delah Dutton	10 "	"
Buelah Dutton	8 "	"
Birtie Dutton	4 "	"
Sherman E. Dutton	2 "	Grand Son
Hattie B. Thorn	4 "	Grand Daughter.
Frank Thorn	1 "	Grand Son
Roy Dutton	3 "	"

Witness my hand this the 24th day of August, 1896.

(Signed) Henry Dutton.

Now on this 24th day of August, 1896, before me a Notary Public in and for the above mentioned District personally appeared Henry Dutton who being duly sworn upon his oath stated that the facts set forth in the foregoing application are correct and true.

Subscribed and sworn to before me this the 24th day of August, 1896.

(Signed) J. E. Grinstead,

Notary Public.

P E T I T I O N

To the Honorable Henry L. Dawes, et al., composing the Commission appointed by Congress to the Five Tribes:

Your petitioner, Henry Dutton, respectfully represents in making this his application to you for enrollment of himself and his heirs upon the revised roll of the Choctaw Indians; that his name is Henry Dutton, that he was born in Wythe County, Va., in the year 1826, and now resides at Linn, I.T., and that he being a citizen of the United States was married to Harriet Staley and it is through the Indian blood of said Harriet Staley that this applicant claims for himself and his heirs the rights of citizenship in the Choctaw Nation. He further avers that it can be proven to your satisfaction by the attached evidence, according to such rules and regulations as you may prescribe and according to the laws of the United States Congress and the treaties of said Nation with the United States, that they are citizens of said Nation and as such citizens are entitled to all the rights, privileges and protection of citizenship in such Nation; and these respectfully await the time when said cause shall be heard and tried.

Respectfully,

(Signed) Henry Dutton.

United States of America  
Indian Territory  
Southern District.

Now on this 24th day of Aug., 1896, before me a Notary Public for the aforesaid District personally appeared Henry Dutton, who being duly sworn, stated upon oath that the facts set forth in the foregoing instrument are true and correct.

Subscribed and sworn to before me this 24th day of August, 1896.

(Signed) J. E. Grinstead,

Notary Public.

United States of America,

Indian Territory,

Southern District.

Affidavit of Martha J. Buck in the citizenship claim of  
Henry Dutton, who being duly sworn says:

My name is Martha J. Buck, my post office is Willias, I.T.  
I was born in Wythe Co., Va., in the year 1838. I have known Henry  
Dutton since his boyhood, and also know that he married Harriet  
Staley, through whose Indian blood this claim is made. I also  
knew her mother Tina Staley, who was a descendant of our Cubby  
Folsom who was a full blood Choctaw Indian and drew rations and  
annuity money from the U.S. Government as a full blood Choctaw  
Indian.

I further know that the heirs of Henry Dutton for whom this  
application is made are direct descendants of Cubby Folsom and  
that they have the appearance of being of Indian decent.

(Signed) Martha J. Buck.

United States of America,

Indian Territory,

Southern District.

Now on this 24th day of August, 1896, before me the  
undersigned aouthiryt, a Notary Public, in and for the aforesaid  
District, personally appeared Martha J. Buck, who being duly sworn  
upon her oath stated that the facts set forth in the foregoing  
affidavit are true and correct.

Subscribed and sworn to before me this the 24th day of August,  
1896.

(Signed) J. E. Grinstead,

Notary Public

United States of America

Indian Territory

Southern District.

Affidavit of John G. Buck in the citizenship claim of Henry Dutton, who being duly sworn says:

My name is John G. Buck, my post office is Willis, I.T. I was born in Wythe Co., Va., in 1830 and have known the applicant in this cause, Henry Dutton, from boyhood. I also knew Harriet Staley whom he married in 1853. I also knew her grandfather Myers, and her great grandfather Folsom, who was a full blood Choctaw Indian. I also know that all the descendants of this Cubby Folsom have the appearance of being of Indian descent. I also know that said Cubby Folsom drew rations and annuity payments from the U.S. Government as a Choctaw Indian.

(Signed) John G. Buck- X -  
H. F. Grinstead.

United States of America,

Indian Territory,

Southern District.

Now on this 24th day of August, 1896, before me a Notary Public in and for the aforesaid District, personally appeared John G. Buck, who being duly sworn upon his oath stated that the facts set forth in the foregoing affidavit are correct and true.

Subscribed and sworn to before me this 24th day of August, 1896.

(Signed) J. E. Grinstead.

Notary Public.

5

United States of America,  
Indian Territory,  
Southern District.

On this 24th day of August, 1896, personally appeared  
before me Henry Dutton, who being duly sworn says:

I have this day mailed to the Governor of the Choctaw Nation  
a true and correct certified copy of the evidence contained in and  
attached to this cause.

(Signed) Henry Dutton.

Sworn to and subscribed before me this 24th day of August, 1896.

(Signed) J. E. Grinstead.

Notary Public.

7

Indian Territory,  
Southern District.

Before me, the undersigned authority, on this day personally appeared, Hunnally Williams, who after being by me first duly sworn on oath states that he is 85 years old and resides near Homer, in the Chickasaw Nation, Ind. Ter., that he was born and raised among the Chickasaw and Choctaw Indians in the State of Miss. That he assisted in moving the Chickasaws and Choctaw Indians when they came West as far of the Miss. River and then returned to the house of Ben Love in the old Chickasaw Nation in the State of Mississippi. That he first belonged to Moses Sperry and then to Ben Love, I belonged to Ben Love when he removed to the Indian Territory and came with him. After my removal to the Indian Territory Ben Love gave me to his son-in-law, Geo. Ames, to whom I belonged when I was freed.

Affiant further states that he knew Cubby Folsom; that he knew the said Cubby Folsom when he was a boy and played with him often; that he knows the said Cubby Folsom was a full blood Choctaw Indian, and while I knew him was so recognized. That he married a Thompson who was a full blooded Chickasaw woman, and that he had a daughter who married a Myers who was a white man.

Affiant further states that very often Chickasaws and Choctaws while they resided in the State of Mississippi often made trips and visits up into the States of Tennessee and Virginia; that he has been taken on these trips or visits into the State of Virginia by his owners who were Indians.

(Signed) Hunnally X Williams.  
his  
mark.

Subscribed and sworn to before me this the 9th day of April, 1897.

(Signed) D.J. Carpenter, Notary Public,  
Southern District, Indian Territory.

8

TESTIMONY.

Be it remembered, that on this the 10th day of September, 1897, at Caddo, I.T., within the Central District of the Indian Territory, personally appeared before me, J.S.Hancock, Notary Public, Indian Territory, within and for said District thereof, Mrs. Elcie Perkins, who, having been by me first duly sworn according to law, deposes and says:

My post office is Coney, I.T.; my age is 75 years. I am a citizen of the Choctaw Nation by blood. I removed from the State of Mississippi, in the old Choctaw County place known as Asce Ailmo. I have been a resident of this nation ever since. I came to this Choctaw Nation. I am a daughter of Robert Folsom who was a Choctaw Indian. My grandfather was Nathaniel Folsom a white man who married an Indian woman by the name of Shokbohoma, and this family tree is where the Folsom family originated from them and there were a large family of people before they immigrated to this country. I knew McKee Folsom who was the father of Peter and McKee Folsom Jr., who was known as Cubby Folsom. McKee Folsom, Sr., was a brother to my father. I have no interest in the prosecution of this claim. I will state that McKee Folsom's children and all are scattered everywhere.

(Signed)

her  
Elcie X Perkins  
mark.

Witness, Henry Byington.

Sworn to and subscribed to before me this the 10th day of September, 1897.

(Signed)

J.H.Hancock, Notary Public.



DEPART MENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

Ft. Smith, Ark., Dec. 2nd, 1896.

#319.

Henry Dutton, et al.)

vs. )

Choctaw Nation. )

Filed September 5th 1896. Answer filed. Application denied. no proof that the applicant ever resided in the Territory with his wife, and no proof that the other applicant are children of the applicants wife or himself.

Oakland, Ind. Ter.

I, H.M. Jacoway, Jr., Secretary, do certify that the above and foregoing is a true and correct copy of Choctaw, Record Co, Case 253, of the Commission to the Five Civilized Tribes.

Given under my hand and official signature this the 15th day of Feby., 1897.

(Signed) Henry Stroup, acting secretary.

IN THE UNITED STATES COURT, IN THE INDIAN TERRITORY,  
SOUTHERN DISTRICT, AT ARDMORE.

BEFORE W. H. L. CAMPBELL, ESQ., MASTER IN CHANCERY.

Henry Dutton et al.,)

vs. #132 )

Chocataw Nation. )

March 9, 1897.

Appeared: C.L. Herbert, Esq., for Plaintiffs.

Mrs. Martha Buck, a witness for the plaintiff, being duly sworn, testifies as follows:

Direct Examination by Mr. Herbert:

Q. Where do you live, Mrs. Buck?

A. In the Indian Territory, about one and a half miles from Willis, Chickasaw Nation, I. T.

Q. How long have you resided in the Territory?

A. Been off and on in here for a long while. While in the Choctaw Nation and while in Texas, and came back to the Territory.

Q. How long did you live in the Choctaw Nation?

A. One year.

Q. When did you move to Texas?

A. From the Territory back to Texas been about 12 years.

Q. About 12 years since moved to Texas?

A. Yes sir.

Q. How long stay in Texas?

A Two or three years.

Q How long have you been living in the Territory off and on altogether?

A About 16 or 17 years.

Q Here all of the time except about 2 or three years in Texas?

A Yes sir.

Q Where did you come to the Territory?

A Come to Texas.

Q Where in Texas?

A Cooke Co.,

Q Where did you come from when you went to Texas?

A Come from West Virginia.

Q What part?

A Withe Co.,

Q Near what town?

A 11 Miles from Witheville.

Q What was your maiden name before you married?

A Martha J. Taylor.

Q What was your mother's maiden name?

A Staley.

Q What was your mother's father's name? Do you remember?

A James Staley.

Q What was your mother's mother name?

A Teny Staley.

Q Do you know anything about your grandmother, Teny Staley?

What was her maiden name before she married?

A Teny Myers.

Q Do you know the maiden name of Teny Myers mother?

A Folsom.

Q Do you know anything about a young man named Cubby Folsom?

A I heard of him but never seen him.

Q That is the history of the family?

A Yes sir.

Q Where did he live?

A Withe Co.

Q What was he reputed to be ?

A A full blooded Choctaw Indian.

Q What was the relation of your grandmother to him? Do you know what relation she was to Cubby Folsom?

A It was her paw. No.

Q Who was the mother of Teny Myers?

A Folsom. Son of old Tubby Folsom.

Excused.

Henry Dutton, a witness for the plaintiff, testifies upon oath:

By Mr. Herbert:

Q. Did you ever know a man by the name of Cubby Folsom in West Va.?

A Yes.

Q. State what you knew of him?

A I knew he was living there in Virginia.

Q Where in Virginia did he live?

A Withe Co.

Q What was his nationality? White man or what ?

A Full blooded Choctaw Indian.

Q Have you seen him?

A Yes sir.

Q When did you first see this man?

A I saw him after I was married.

Q How long after you were married did you see him?

A Few Months after I was married saw him at my father-in-law's,  
Jos. Staley.

Q What year were you married?

A In '53.

Q To whom were you married?

A Harriett Staley.

Q Whereabouts?

A Withe Co., West Va.

Q Near what town?

A 11 miles from Witheville.

Q What relation was this man Cubby Folsom to your wife?

Q. What was your wife's maiden name?

A Harriett Staley.

Q Harriet Staley was your wife?

A Yes sir.

Q What relation was Harriett Staley, whom you married, to this man Cubby Folsom?

A It was her grand-father.

Q He was her grand-father?

A Yes sir.

Q Do you know who Cubby Folsom married?

A I think Mrs. Thompson, I don't know her given name.

A A Chickasaw Indian?

Q Did you ever see her?

A No sir.

Q State whether she was living at the time you married.

A I don't know.

Q That was the history of the family, that Cubby Folsom married a full blooded Chickasaw Indian, Mrs. Thompson?

A Yes sir.

Q Do you recollect Harriett Staley, your wife's mother's name? Who her mother was?

A Teny Myers her maiden name.

Q Do you know what relation Teny Myers was to Cubby Folsom?

A Grand-daughter.

Q You say this man Cubby Folsom was where you were about three months after you married?

A. Yes sir.

Q State if he recognized your wife as his grand-daughter?

A Yes sir.

Q How long did he stay there?

A All night.

Q How long after that?

A Several times.

Q How long did he live from where you lived?

A Some 7 or 8 miles.

Q How is it you never came to see him any oftener?

A He was frequently there at my father-in-law's and I happened not to be there.

Q Did you know any of Cubby Folsom's children ?

A No sir.

Q Did you know Jos. Staley?

A Yes sir.

Q What relation was he to your wife?

A He was my wife's father.

Q Did you know Mrs. Teny Staley?

A Yes sir.

Q Was she living at the time you married?

A Yes sir.

Q What did he claim to be ?

A One half breed.

Q What?

A Choctaw.

Q. Didn't claim to be a Chickasaw?

A No.

Q One half breed Choctaw?

A Yes sir.

15-

Q Did she or not have the appearance of an Indian?

A Yes sir, she did.

Q Was she darker than Mrs. Buck?

A Yes sir.

Q How much darker?

A Not a great deal, but some darker.

Q You know that she was a grand-daughter of Cubby Folsom?

A Yes sir.

Q Know that to be a fact?

A Yes sir.

Q When did you move to the Territory?

A About 15 years now.

Q Where did you move from?

A Texas.

Q How long did you live in Texas?

A I came to Texas in '58 and left in '67.

Q Where did you go to?

A Missouri.

Q What portion have you lived in the Indian Territory, are you living now?

A Chickasaw.

Q How long in the Chickasaw Nation?

A Lived here about 12 years and four in the Choctaw.

Q Been living here 12 years up to this time, continuously?

A Yes sir.

Q Is your wife living or dead? Is Mrs. Henry Dutton living or dead?

A Dead.

Q When and where she die?

A Near \_\_\_\_\_, on Red River, Chickasaw<sup>W</sup> Nation.

Q When?

A '85.

Q Have you ever married again?

A No sir.

Q How many children have you and she, as a result of your marriage?

A 10.

Q Name them.

A James H., age 40 years; Robert, age 38; Stephen A., age 35;  
Daniel C., age 25; Dutton; and Mrs. Lela Thorne, age 20; and Mrs.  
Emma Bourland; and Mellie Dutton and- - -

Q Was James H. Dutton ever married?

A Yes sir.

Q To whom?

A He married a widow first named Jones, name Randolph.

Q Are they living together?

A Yes sir.

Q How many children have they?

A Virgie, Mary L., Jessie and Della Dutton.

Q Is Robert Dutton married?

A Yes sir.

Q To whom?

A To Mrs. Page.

Q They living together?

A Yes sir.

Q How many children have they?

A Three.

Q What names?



A Dora, Maggie, Monta Dutton.

Q Is Stephen A. Dutton married?

A Yes sir.

Q To whom?

A Mrs. Hugg.

Q Living with her?

A Yes sir.

Q How many children have they?

A 4, I reckon.

Q What are their names?

A Della, Barta, Beulah, and Sherman E. Dutton.

Q Was David C. Dutton married?

A No sir.

Q Lela Dutton married?

A Yes sir.

Q To whom?

A Thorn.

Q How many children has she?

A Two. Hattie B. and Frank Thorn.

Q Where does James H., Stephens and David Dutton live?

A All in Pickens Co., Chickasaw Nation.

Q How long have they lived here?

A As long here as I have.

Q Where does Mrs. Lela Thorn and her husband live?

A Chickasaw Nation.

Q Who is Mrs. Mollie Dutton?

A My sons widow.

Q Have you a son named John Dutton deceased?

A Yes sir.

Q They have any children?

A Yes sir. Roy Dutton, they live near Lehigh, Choctaw Nation.

Q How long?

A About 3 or 4 years.

Q Mr. Dutton, you have lived in the Chickasaw Nation and Choctaw Nation about 16 years altogether; during that time have you been required to pay permits to the authorities?

A I paid two.

Q When?

A The first two years after I come here.

Q Why didn't you pay after that?

A I had no right to pay them.

Q Did the authorities request it?

A Yes sir, and I refused to pay because I claimed to be a member of the Tribe.

Q Did they file any complaint against you on account of you refusing to pay?

A No sir, never did.

Q This application was prepared by a news-paper man at Oakland?

A Yes sir.

Q Did you get notice from the Dawes Commission after they acted on your application?

A Yes sir.

Q Wherein they advised you that no evidence showing you resided in the Territory and no proof that the applicants are your children?

A Yes sir.

Excused.

Mr. Buck, a witness for the applicants, upon oath, testifies; after being called:

Direct Examination by Mr. Herbert.

Q Where were you born, Mr. Buck?

A West Virginia.

Q When, what year?

A 1830.

Q How long did you live in West Va.?

A Until '58.

Q Were you married there?

A Yes sir.

Q To whom?

A To Martha J. Taylor.

Q That is your wife?

A Yes sir.

Q Were you acquainted with Mr. Henry Dutton's wife?

A Yes sir.

Q How long did you know her?

A From the time I was a boy.

Q What relation to your wife?

A My wife's aunt.

Q What was the name of your wife's mother?

A Katie Taylor, maiden name Staley.

Q Sister of Harriett Staley, who married Dutton?

A Yes sir.

Q Do you know the maiden name of Harriett Staley's mother?

A Meyers. Her mother's maiden name was, Folsom, daughter of

Cubby Folsom.

Q Harriett's maiden name was Teny Myers?

A Yes.

Q Do you know the maiden name of Teny Myers' mother?

A She was a Folsom.

Q Her father's name?

A Cubby Folsom, blooded Choctaw.

Q How long did you know this Folsom back there?

A From the time I was big enough.

Q Did you know Capt. Thompson?

A I saw him there at my wife's grand-father's many a time.

Q What is his name?

A Jos. Staley.

Q When you first saw him what age man was he?

A Very old.

Q State what he was?

A Choctaw, full blood Choctaw Indian.

Q You know that to be a fact?

A Yes sir.

Q From what you know and from what you have heard of the family history, your wife was related to Cubby Folsom?

A Yes sir, was her grand-father. I think the old man died before we left the State.

Q How far did you live from him ?

A 15 or 16 miles. I think he left there before we left there.

Q Did you ever see Cubby Folsom's wife?

A Never did.

Q Did you ever see Teny Staley's mother?

A No sir, never did.

Q How old was your wife at the time you married her?

A On the 11th of May she was 15 years old.

Q Did you know whether any of these Folsoms came to the Territory?

A No sir, I didn't know.

BY THE COURT:

Q How did you know that Folsom was a Choctaw Indian?

A He was mighty dark skin, and said he was an Indian and always considered an Indian.

Q Any other Choctaw Indians in that country?

A Yes sir, four or five families there yet.

Q How did you know he belonged to the Choctaw Tribe?

A They all called him a Choctaw and he said that he was a full blood Choctaw.

Q Did you know where he came from and what became of him ?

A No sir, I don't.

Q Duting what space of time did you know him?

A I knew him, I reckon, over two years.

Q What did he do?

A Was drinking a good deal of brandy then.

Q Work any?

A No sir.

Q Where did his wife live?

A I don't know.

Q Do you know whether or not he was ever married to Mrs. Thompson?

A That is what I always hear them say.

Q Where did they live, did she live with him?

A I never saw her, I suppose so.

Q Where was he reputed to live?

A In Wither Co., at that time.

Q How far from you ?

A 8 or 10 miles.

Q Did his wife live with him?

A I don't know.

Q Was she reputed to live with him?

A I think his wife was dead then.

Q Where was his children then ?

A I don't know.

Q Did you ever see the daughter of Cubby, Mrs. Myers ?

A No.

Q Where was she reputed to live ?

A In West Virginia. Mrs. Staley had been Miss Myers lived in W. Virginia and was very old.

Q You say they were very old ?

A Yes.

Q What time did they die ?

A I don't know, both very old in '58.

Q She was a grand-daughter of Cubby Folsom ?

A Yes sir.

Q When was the last time you saw him ?

A In '52 and '53.

Q What age man was he at that time ?

A Very old.

By Mr. Herbert, Re-Direct:

Q About how old was Mrs. Teny Staley in '58 ?

A I expect she must have been a lady of about 65 or 70.

Q About how old was old Cubby Folsom ?

A A great deal older, I think about 85.

Q Mrs. Teny was his grand~~mother's~~ daughter?

A Yes sir.

Q She appeared to be 65 years old ?

A Yes sir, I didn't know Mrs. Teny Staley's age, she was afflicted with rheumatism.

Q You didn't know the ages of Cubby Folsom or her either ?

A No sir.

Q I understand you to say that the father and mother of Teny Myers was reported as dead at the time you married ?

A Yes sir.

Q You never knew them ?

A No sir.

Q When were you married to Martha J. Taylor ?

A In 1854.

Q Where ?

A In Tennessee.

Q Have a marriage license ?

A Yes sir. Got my license in Tennessee.

Q She was fifteen years of age at that time ?

A Yes sir.

Q How many children have you and she ?

A 12.

Q Name them.

A. Mary Caroline, Elizabeth Alice, deceased, Geo. Piper, Jos. Franklin, Thos. Jefferson, Buck, Buella, Ora Allen, Fritz Gerald, Wm. Riley, and Clarence Buck- - -. Have three children dead, who died without issue. Mary Caroline was married to Sam Taylor, and they have eight children: Robert, Elizabeth, Virgie, Andrew, Ida, Oscar, Ora and Marian Taylor.

Geo. P. Buck married to Cyndy Taylor, and they have one child:

Rosa Buck: And Jos. J. Buck married Julia Taylor and they have

one child; Erastus Buck. And Thos. J. Buck married Beckie Parker

and have three children; Allen, Ora May and Clenton Buck: And

Lela Green Buck married John Parker, and they have one child;

Linden Parker: Ora Allen Buck was married to W. P. Jacks and have

one child; George Washington Jacks.

Q That is all correct?

A Yes sir.

Mrs. Buck, a witness for the plaintiffs, being duly sworn,  
testifies:

Direct Examination by Mr. Herbert:

Q How many brothers and sisters have you ?

A 11 of us.

Q Can you give the names ?

A Joseph, Jefferson, Payton, Margaret, Anothony, Susan, Alice,  
Caroline, Beckie, Cosby and myself.

Q How many of your brothers and sisters living ?

A Only one brother.

Q Who ?

A Joseph Staley.

Q Where?

A In Texas.

Q The balance dead ?

A Yes sir.

Q Do your children and grand-children all live in the Chickasaw  
Nation, Indian Territory ?

A Yes sir, In Pickens County.

Q You knew Mrs. Teny Staley did you ?

A Yes sir, she was my grand mother.

Q Do you know from what your mother told you, what her age was  
when she married ?

A She must have been 15 or 16 years old.

Q What did she say to you; you know the difference between your  
mother's age and yours ?

A When I was born maw was 16.

Q How do you know?

A Maw said so.

Q What age when she married ?

A About 16.



Q Are you the oldest child?

A Yes sir.

Q What time did you leave Virginia ?

A In 1858.

Q About what age was your mother at that time ?

A I can't tell you.

Q Do you know whether or not old man Cubby Folsom was living ?

A I don't.

Q Did you see him just before you left ?

A No sir, I never seen him.

By The Court.

Q Did you ever see your grand-mother ?

A Yes sir.

Q Her name was Staley ?

A Yes sir.

Q Did she have any brothers and sisters ?

A I don't know anything about it.

Q Did you ever see any of them ?

A I was so young I can't recollect.

Q See your grand-mother ?

A Yes sir.

Q How many children did she have ?

A I don't know exactly.

Q How many did you know ?

A Tao.

Q How old was your mother ?

A I can't tell.

Q Is she now living ?

A Dead.

2-19-1

Q When did she die ?

A I don't know what year.

Q Died before you left Virginia ?

A No sir.

Q After you moved to Texas ?

A Yes sir.

Q Died since you moved to the Territory ?

A Long time before.

Q What age was she when she died ?

A I reckon about 40, I can't tell you.

By Mr. Herbert:

Q How long has she been dead ?

A I can't tell, about 17 years.

Q What is your age now ?

A Will be 50, the 11th, of May.

Witness Excused.

Mr. Herbert asks the Court to grant him until the 15th day of April to introduce new evidence. Which request was granted.

Case closes for present.

27  
Q When did she die ?

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Witness Excused.

Mr. Herbert asks the Court to grant him until the 15th day of April to introduce new evidence. Which request was granted.

Case closes for present.

IN THE UNITED STATES COURT, IN THE INDIAN TERRITORY,  
SOUTHERN DISTRICT, AT ARDMORE.

Henry Dutton, et al., and,  
Martha Buck, et al.,

Vs. THE CHOCTAW NATION.

Amended Petition.

Now comes the plaintiffs, Henry Dutton and others, and Martha Buck and others, after leave of the Court first obtained; cases No. 132, entitled Henry Dutton, et al, Vs. the Choctaw Nation, and No. 131, entitled Martha Buck et al Vs the Choctaw Nation, pending on the docket of this Court, and appeal from the Commission to the Five Civilized Tribes of Indians and consolidated both of said causes, under the style of Henry Dutton et al Vs. the Choctaw Nation; and leave of the Court being had, file this, their amended petition in lieu of their petition filed with said Commission on September 5th, 1896, the same read as follows:-

The said Henry Dutton and his children, to-wit: James H., Robert, Stephens A., David C. Dutton, and Mrs. Lela Thorn, and Mrs. Mollie Dutton, and his grand children, to-wit: Virgie, Mary L., Jessie, Dora V., Maggie, Monta, Della, Buelah, Bartie, Sherman E., Dutton, and Hattie B. Thorn and Frank Thorn and Roy Dutton;

And the said Mrs. Martha Buck and her children, to-wit: Mary Caroline Taylor, Geo. Piper Buck, Jos. Franklin Buck, Thos. Jefferson Buck and Lela G. Parker, Ora Allen Jacks, Fitzgerald Buck William R. Buck and Clarence Buck.

And the children of Mary Caroline Taylor, Viz:- Robert, Elizabeth, Virgie, Andrew, Jessie, Ida, Oscar, Ora and Marion Taylor;

And the children of the said Geo. P. Buck, Viz:- Rosa Buck, and the child of Jos. Franklin Buck, viz: Erastus Buck; and the children of Thos J. Buck, viz: Ora May, Clenton and Alma Buck;

Chickasaw Indian by blood, and that by reason of her marriage to the said J.G.Buck he became and was and ever since said date has been a member of the tribe of Choctaw Indians and that their children and grandchildren are members of the tribe of Choctaw Indians by blood.

Wherefore, the premises being considered, the petitioners pray that they be decreed by this Honorable Court to be members of the tribe of Choctaw Indians, and in duty bound will ever pray.

(Signed) Freeman, Nesbut & Hill,

Attorneys for Petitioners

Mrs. Martha Buck upon oath states; That the statements in the foregoing petition are true.

(Signed) Martha Buck.

Subscribed and sworn to before me, this the 9th day of March, 1897.

(Signed) James H. Mathers,

Notary Public.

UNITED STATES COURT SOUTHERN DISTRICT AT ARDMORE, INDIAN  
TERRITORY.

Henry Dutton, et al, )  
and Mary Buck et al, )  
vs )  
Choctaw Nation. )

The applicants in this case all claim under one common ancestor, Cubby Folsom, who, it is alleged is a full blood Choctaw Indian. The application alleges that Cubby Folsom had a daughter named \_\_\_\_\_ Myers and there was born to \_\_\_\_\_ Myers a daughter by the name of Penny Saley, that said Penny Staley was married to Joseph, and as a result of this union, there was born a child by the name of Harriett, Staley, who it is alleged was a one fourth Choctaw and Chickasaw Indian by blood; that Henry Dutton, the applicant herein, was legally married to the said Harriett Staley in Wythe Co., West Va., in the year 1853. I think the ~~truth~~<sup>proof</sup> in this case is not sufficient to convince the Court, even if the applicants are descendants of Cubby Folsom, that she was a Choctaw Indian by blood, and that this assertion is merely a family tradition, and not supported by the evidence necessary to establish the fact that these applicants are entitled to be enrolled as citizens of the Choctaw Nation.

I therefore recommend that this application be denied.

(Signed) W.H.L. Campbell,

Master in Chancery.

Henry Dutton, et al.,

vs. No. 132, Judgment, Southern District, <sup>March 15, 1898</sup> ~~November 15, 1897,~~

Choctaw Nation.

Now at this time came on to be heard the report of the Master in Chancery, filed herein on the 23rd day of June, 1897, in causes No. 131, entitled Martha Buck, et al., vs. The Choctaw Nation, and No. 132, entitled Henry Dutton, et al., vs. The Choctaw Nation, heretofore consolidated by order of this court as No. 132, entitled and styled Henry Dutton, et al., vs. The Choctaw Nation; and at the same time came the applicants by their attorneys, and it appearing to the court that the applicants herein, through their attorneys, have excepted to the report of said Master in Chancery, wherein he recommends the applicants be denied the right to have their names enrolled as members of the Tribe of Choctaw Indians; and the court after ~~the~~ hearing said exceptions, and being fully advised in the premises, is of the opinion that said exceptions should be, and the same are hereby sustained; and that said Master's report should be and the same is in all things overruled; and it appearing to the court from the evidence that all the applicants are members of the Choctaw Tribe of Indians, it is therefore, considered, adjudged and decreed by the court, that Henry Dutton, James H. Dutton, Robert Dutton, Stephens A. Dutton, David C. Dutton and Mrs. Leila Thorn, Virgie Dutton, Mary L. Dutton, Jessie Dutton, Dora V. Dutton, Maggie Dutton, Monta Dutton, Della Dutton, Beulah Dutton, Bertie Dutton, Sherman E. Dutton, Hattie B. Thorn, Frank Thorn and Roy Dutton,; and Mrs. Martha Buck, ~~Max~~ Mary Caroline Taylor, George Piper Buck, Joseph Franklin Buck, Thomas Jefferson Buck, Lela G. Parker, Ora Allen Jacks, Fitzgerald Buck, Wm. R. Buck, Clarence Buck, Robert Taylor, Elizabeth Taylor, Virgie Taylor, Andrew Taylor, Jessie Taylor, Ida Taylor, Oscar Taylor, Ora Taylor, Marion Taylor, Rosa Buck, Erastus Buck, Ora May Buck, Clinton Buck, Alma Buck, Linden Parker, George Washington Jacks, and J. G. Buck are all members of the Choctaw Tribe of Indians by blood, and as such are

entitled to have their names enrolled as members of said Tribe of Choctaw Indians by blood, except as to Henry Dutton and J. G. Busk, who are members of said Tribe by intermarriage.

It is further considered, adjudged and decreed by the court that the Choctaw Nation, the defendant, pay all costs in this behalf expended and incurred, for which execution may issue, to which judgment of the court the defendant, the Choctaw Nation, in open court duly excepted.

38

... the Choctaw Nation, the defendant, pay all costs in this behalf expended and incurred, for which execution may issue, to which judgment of the court the defendant, the Choctaw Nation, in open court duly excepted. ...

33



In the Choctaw and Chickasaw Citizenship Court, sitting at South McAlester, Indian Territory, \_\_\_\_\_ Term, \_\_\_\_\_

Petition of parties plaintiffs, in an action in the United States Court for the Southern District of the Indian Territory, at Ardmore, styled, Henry Dutton et al., plaintiffs, versus Choctaw Nation, Defendant, No. 132, for an order and Writ or Error from this court to said court for the said Southern District of the Indian Territory, directing and commanding the transfer and certification of the files, papers, proceedings, records, and all matters and things pertaining thereto, in said action in said court to this court:

Henry Dutton et al., Plaintiffs, versus	oooooooooooo	Number _____
The Choctaw and Chickasaw Nations, Defendants.		
	oooooooooooo	

Comes now the plaintiffs and petitioners herein, Henry Dutton and his children, to wit: James H., Robert, Stephens A., David C. Dutton, and Mrs. Lelia Thorn, (and Mrs. Mollie Dutton) and his grand-children, to wit: Virgie, Mary L., Jesse, Dora V., Maggie, Monta, Della, Beulah, Bertie, Sherman E. Dutton and Hattie B. Thorn and Frank Thorn and Roy Dutton:

Mrs. Martha Buck and her children, to wit: Mary Caroline Taylor, Geo. Piper Buck, Joseph Franklin Buck, Thomas Jefferson Buck, and Lela G. Parker, Ora Allen Jacks and Fitzgerald Buck, William R. Buck and Clarence Buck: And the children of Mary Caroline Taylor, viz: Robert, Elizabeth, Virgie, Andrew, Jessie, Ida, Oscar, Ora and Marian Taylor; And the children of George P. Buck, viz: Rosa Buck, and the child of Joseph Franklin Buck, viz: Erastus Buck; and the children of Thomas J. Buck, viz: Ora May, Clenton and Alma Buck; and the child of Lela G. ~~Buck~~ Parker, viz: Linden Parker; and the child of Ora Allen Jacks, viz: George Washington Jacks, together with Ray Buck son of Tom and Rebecca Buck, Clarence Herbert Parker, son of J. W. and Lela G. Parker; and Johnie A. and Janie Magnolia

Jacks, children of Pate and Ora A. Jacks; Cecil Martin son of Frank Buck; Homer J. Buck, son of Jerald and Sallie Buck; Stonewall Buck daughter of Thomas Jefferson and R. Buck, who have been born since the judgment herein was obtained in the United States Court but whose names are now enrolled with the Commission to the Five Civilized Tribes,) and respectfully state to this Honorable Court, that proceeding under an Act of Congress, of June the tenth, 1896, they filed a joint written application, and on to wit: the                    day of 66666666666666666666, with the Commission to the Five Civilized Tribes, wherein they show that they and each of them are entitled to citizenship as members of the Choctaw Tribe of Indians and entitled to have their names enrolled as such upon the rolls of Citizenship prepared by said Commission to the Five Civilized Tribes and as grounds for said application show:

That in the year 1853, near the town of Withville, in the County of Withe in the State of West Virginia, the applicant, Henry Dutton, was duly and legally married to Harriet Staley; that the said Harriet Staley was a one-fourth Choctaw and Chickasaw Indian by blood; that the said Harriet Staley was the daughter of Joseph Staley and Teney Staley; that the said Teney Staley was a daughter of John Myers and Mrs John Myers, and that the mother of the said Teney Staley was a daughter of Cubby Folsom, a full-blooded Choctaw Indian and her mother was a full blooded Chickasaw Indian.

That the applicant, Martha Buck was duly and legally married to J.G. Buck, near Taylorville, in Johnson County, in the State of Tennessee, in the year 1854, and that the said Martha Buck is the daughter of Katie and Thomas Taylor, and that the said Katie Taylor was, prior to her marriage a daughter of the said Jos. Staley and Teney Staley, as aforesaid, and the petitioners say that the said Harriet Dutton is now deceased, and that the said Henry Dutton by virtue of said marriage to said Henrietta Staley became and was and ever since has been a member of the Tribe of Choctaw Indians and that said children above named and their children are members of said Tribe of Choctaw Indians by blood; that the said Harriet Dutton, nee Staley was one-fourth Choctaw and Chickasaw Indian by blood; that the said Martha Buck is a one-eighth Choctaw and Chickasaw Indian by blood, and that by

reason of her marriage to the said J. G. Buck he became and was and ever since said date has been a member of the Tribe of Choctaw Indians and that their children and grand-children are members of the Choctaw Tribe of Indians by blood.

That the application of said petitioners was, by the Commission to the Five Civilized Tribes, rejected, and none of them enrolled upon the rolls prepared by said Commission to the Five Civilized Tribes for said Nations.

That all of said persons herein set out have continuously resided in the Indian Territory and do yet so reside.

And your petitioners, after being rejected as aforesaid, by said Commission to the Five Civilized Tribes, in due time, perfected their appeal to the United States Court for the Southern District of the Indian Territory, which was duly docketed upon the Indian Citizenship docket for said Court, styled, No. 132, Henry Dutton et al, plaintiffs, v. The Choctaw Nation, Defendant, and afterwards consolidated with No. 131, a companion case upon the dockets of said Courts; and which said court in its judgment of date, the 10 day of *March 1898*, duly admitted all of the petitioners herein as citizens of the Choctaw Tribe of Indians.

That thereafter, on or about the 17th day of December, 1902, this Honorable Court, proceeding under the provisions of the supplemental treaty made with the Choctaw and Chickasaw Nations, in an action styled, "The Choctaw and Chickasaw Nations, plaintiffs, versus J. T. Riddle et al., defendants", annulled and vacated the judgment obtained by your petitioners in said Court in said souther District and held the same for naught.

WHEREFORE, the premises considered, your petitioners respectfully pray that they have an order and Writ of Error, directing and commanding the United States Court for the Southern District of the Indian to transfer and certify the papers, files, proceedings, records, and all matters and things pertaining thereto as a part thereof, in said case in said court as well as all papers, files, proceedings, records, all matters and things pertaining thereto in case No. 131, Martha Buck et al v. Choctaw Nation,

as consolidated

as consolidated, in said case in said court to this court, and for all other relief to which they may be entitled in equity and good conscience.

Hubert Walker Cannon  
Attorneys for Petitioners.

J. G. Buck and Martha J. Buck

parties petitioners in the above and foregoing petition upon their oath state that they are familiar with the matters and things therein set out and to their own personal knowledge the same is in all things correct correct and true.

J. G. Buck  
Martha J. Buck

Subscribed and sworn to before me this the 6<sup>th</sup> day of March, 1903.

(Seal)

D. M. Jay Notary Public  
Southern District Indian Territory.

Henry Sutton et al  
versus  
Choctaw & Chickasaw  
nation

Petition for writ  
of error

In the Choctaw and Chickasaw Citizenship Court, sitting at  
Tishomingo, in the Southern District of the Indian Territory.

Henry Dutton, et al.,

vs.

No. 97.

Choctaw and Chickasaw Nations.

DECREE OF COURT.

On this            day of            , 1904, this cause coming  
on for final decision, the same having heretofore been submitted  
upon the law and the evidence, and the Court being well and  
sufficiently advised in the premises, doth find that the  
plaintiffs, Henry Dutton, James H. Dutton, Robert Dutton, Ste-  
phens A. Dutton, David C. Dutton, Lelia Thorn, Virgie Dutton,  
Mary L. Dutton, Jesse Dutton or Jessie Dutton, Dora V. Dutton,  
Maggie Dutton, Monta Dutton, Della Dutton, Beulah Dutton,  
Bertie Dutton, Sherman E. Dutton, Hattie B. Thorn, Frank Thorn,  
Roy Dutton, Martha Buck, Mary Caroline Taylor, Geo. Piper Buck or  
George Piper Buck, Joseph Franklin Buck, Thomas Jefferson Buck,  
Lela G. Parker, Ora Allen Jacks, Fitzgerald Buck, William R.  
Buck or Wm. R. Buck, Clarence Buck, Robert Taylor, Elizabeth  
Taylor, Virgie Taylor, Andrew Taylor, Jessie Taylor, Ida Taylor,  
Oscar Taylor, Ora Taylor, Marian Taylor or Marion Taylor, Rosa  
Buck, Erastus Buck, Ora May Buck, Clenton Buck or Clinton Buck,  
Alma Buck, Linden Parker, George Washington Jacks, are not  
entitled to be deemed or declared citizens of the Choctaw  
Nation, or to enrollment as such, or to any rights whatever  
flowing therefrom; and the Court doth further find that it has  
no jurisdiction over the petitioners Mollie Dutton, Ray Buck,

Clarence Herbert Parker, Johnie A. Jacks, Janie Magnolia Jacks, Cecil Martin Buck, Homer J. Buck, and Stonewall Buck.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs, Henry Dutton, James H. Dutton, Robert Dutton, Stephens A. Dutton, David C. Dutton, Lelia Thorn, Virgie Dutton, Mary L. Dutton, Jesse Dutton or Jessie Dutton, Dora V. Dutton, Maggie Dutton, Monta Dutton, Della Dutton, Beulah Dutton, Bertie Dutton, Sherman E. Dutton, Hattie B. Thorn, Frank Thorn, Roy Dutton, Martha Buck, Mary Caroline Taylor, Geo. Piper Buck or George Piper Buck, Joseph Franklin Buck, Thomas Jefferson Buck, Lela G. Parker, Ora Allen Jacks, Fitzgerald Buck, William R. Buck or Wm. R. Buck, Clarence Buck, Robert Taylor, Elizabeth Taylor, Virgie Taylor, Andrew Taylor, Jessie Taylor, Ida Taylor, Oscar Taylor, Ora Taylor, Marian Taylor or Marion Taylor, Rosa Buck, Erastus Buck, Ora May Buck, Clenton Buck or Clinton Buck, Alma Buck, Linden Parker, and George Washington Jacks, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom; and as to the petitioners, Mollie Dutton, Ray Buck, Clarence Herbert Parker, Johnie A. Jacks, Janie Magnolia Jacks, Cecil Martin Buck, Homer J. Buck, and Stonewall Buck, the Court having no jurisdiction, their petition is dismissed.

.....  
Chief Judge.

.....  
Associate Judge.

.....  
Associate Judge.

IN THE CHOCTAW AND CHICKASAW CITIZENSHIP COURT,  
SITTING AT TISHOMINGO, JUNE TERM, 1904 .

Henry Dutton, et al,

vs. No. 97.

Choctaw and Chickasaw Nations.

Herbert, Walker & Cannon, Attorneys, for plaintiffs.

Mansfield, McMurray & Cornish, for Defendants.

Present and presiding the Hon'ables Walter L. Weaver and  
Henry S. Foote, Associate Judges.

JUNE 21, 1904. This day this cause coming on to  
be heard, both plaintiffs, and defendants bein represented  
by counsel and both having announced ready for trial, the follow  
ing proceedings were had, to-wit:

JUDGE WEAVER:

Desire to offer any evidence.

Mr. Herbert:

I do not. I desire to submit a motion in writing if the  
record does not show that a motion was made, I desire  
until two o'clock to prepare a motion to dismiss it.

JUDGE WEAVER:

The case is submitted upon the record. The court  
will not permit the motion to be filed upon your state-  
ment that you do not intend to offer any evidence in the  
case.

No motion has been made. The oral motion is not  
entertained, and the written motion will not be permitted  
to be filed.

Mr. Cornish:

The Choctaw and Chickasaw Nations wish to state in the  
light of the conditions that exist in connection with the



submission of the case to the final decision of the Court, that they have examined the papers which have been transferred to this court ~~from the~~ from the United States Court for the Southern District of the Indian Territory, in pursuance of its writ of error, and have made a careful investigation in the the truth or falsity of the facts originally alleged. Since no competent evidence is offered by the applicants in this case in support of the essential issues, the Nations which to take no further action than that which has already been taken, but in the event the applicants had seen fit to offer competent evidence in support of the of the issues originally alleged, the Nations are prepared to show by the most positive and conclusive evidence that the original allegations are not founded in fact, and that the applicants are not Choctaw Indians and are not entitled to be admitted as such.

Mr. Herbert:

Will the Court permit me to ask counsel, is there any matter in that that will aid the Court to determine the case /

JUDGE WEAVER:

The Court will answer that. It is not.

Mr. Herbert:

Like for the record to show that I made an oral motion and that the Court refused to entertain it.

- - - - -

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 Ter-

ritory, at Leshwinigo, by Henry Dutton 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 Henry Dutton et al

File No. 132 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 23

day of March A. D., 1903.

James B. Cullen Clerk.

By \_\_\_\_\_ Deputy.

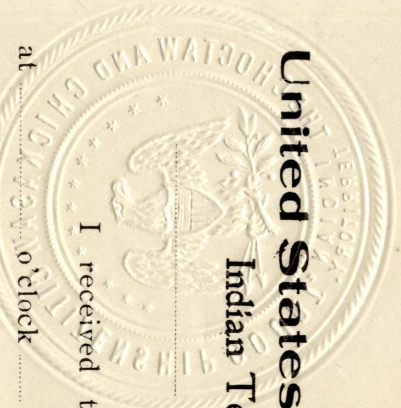


MARSHAL'S RETURN

MARSHAL'S RETURN.

United States of America,  
Indian Territory,  
DISTRICT.

*James B. Spencer*  
Deputy.



I received this summons this 23 day of March, 1903, at 10 o'clock 10 m. and served same by copy, as follows:  
Personally on P. S. Moseley, at 10 o'clock 10 m. Indian Territory,  
This 23 day of March, 1903, 10 m.

By James B. Spencer Deputy.

Duplicate  
No 97-7

**SUMMONS  
INEQUITY.**

Nancy Sutton et al  
vs.  
Choctaw and Chickasaw Nations.

Summons issued 23 day of  
March, 1903. Returnable instant.

**Marshal's Fees.**

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

W. S. Moseley  
W. S. Moseley  
Attorneys for Plaintiff.  
W. S. Moseley

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

Martha Buck, et al.,

vs

The Choctaw Nation.

Court No. 130.

Dawes No. 639.

Under date of March 7, 1898, the court record shows that this case was "Consolidated with No. 132, Henry Dutton, et al., vs Choctaw Nation, as # 132" L

*From report of  
P. B. Hopkins  
to Dawes Commission.*

Henry Dutton, et al.,

Court No. 132.

vs

Dawes Nos. 319 & 631.

The Choctaw nation.

The case of Martha Buck, et al., vs The Choctaw Nation, Dawes No. 631, was consolidated with the case of Henry Dutton, et al., vs The Choctaw Nation, Dawes No. 319, after appeal had been taken to the Southern District Court. The original application in the Dutton case, to the Dawes Commission, is on file in the Clerk's office, and the original application to the said Commission in the Buck case is not on file, but copies of both, filed with the authorities of the Choctaw Nation in 1896, have been procured and are hereto attached, and marked "Exhibit H".

An amended petition, in the consolidated case, was filed by the applicants March 9, 1897, "in lieu of their petition filed with said Commission on September 5, 1896".

The names of Virgie Dutton and Ora Taylor, set forth in said amended petition, and also admitted by judgment of the court, do not appear in the original Dutton application, or in the copy of the original Buck application to the Dawes Commission

The case has been appealed to, and is now pending in, the United States Supreme Court.

a  
HENRY DUTTON, ET AL.,

VS

CHOCTAW NATION.

Said cause being a consolidation of causes No. 131 Martha Buck, et al., and No. 132, Henry Dutton, et al., vs The Choctaw Nation, recently pending upon the docket of the United States Court in and for the Southern District of the Indian Territory, at Ardmore.

Explanatory Affidavit of J. G. Buck.

Before me, the undersigned authority, on this day personally appeared J. G. Buck, and after being by me first duly sworn, deposes and says:

That he and Henry Dutton are brothers-in-law. Affiant states that in 1896 that he, (the said J. G. Buck), employed one J. E. Grinstead, a newspaper editor and notary public at Oakland, Indian Territory, to file an application with the Dawes Commission for himself, children and grand children, to be enrolled as members of the tribe of Choctaw Indians, the wife of affiant claiming to be a member of said tribe by blood; and at the same time the said ~~H~~ Henry Dutton employed the same person, the said Grinstead, to file an application for himself, his wife, children and grand children, before the said Commission, to be enrolled as members of said tribe of Indians; and after said application was filed with said Commission, this affiant and the said Dutton were notified that said applications were refused; and thereupon they employed the law firm of Furman, Herbet & Hill, to prosecute an appeal ~~the~~ from the decision of the said Dawes Commission, to the United States Court for the Southern District of the Indian Territory, in accordance with the rules of said court; that said appeal was perfected in accordance with the

rules of said court, and that after the same was perfected, at the suggestion of said attorneys, the two said causes number 131, Martha Buck, et al., vs The Choctaw Nation, and number 132, Henru Dutton, et al., vs The Choctaw Nation were consolidated, and said causes as appealed were prosecuted in said court as one cause under the name and style of Henry Dutton, et al., vs The Choctaw Nation, number 132; that when said attorneys amended said application, as aforesaid, the original application of Martha Buck, et al., vs The Choctaw Nation, was mislaid, or lost and could not be found; and that this affiant undertook, from memory to state to his said attorneys, the names of all persons in said applications, and from such statement the said attorneys prepared said amended application, as aforesaid, designating the same "Amended Petition", which was filed in said Court March 9, 1897, and is still on file in said cause in said court.

This affiant states that his attention has been called to an apparent discrepancy in the original application filed in said Dutton cause before the Dawes Commission, and in the judgment rendered in this, that in the judgment the name of "Virgie" Dutton appears, and is decreed to be a member of the tribe of Choctaw Indians, and this affiant says that he knows no "Virgie" Dutton, but does know of a John Virgil Dutton, whose age, at the time of filing said application, was seven years, and whose age at this time is nine years past, and that in his opinion the name of Virgie is a clerical error, and should have been written Virgil or John Virgil Dutton, in said judgment.

Affiant further states that his attention has been called to the original application furnished the Chief of the Choctaw Tribe wherein the name of "Keil" Taylor appears as one of the original applicants in the said Buck application filed with the Dawes Commission, and this affiant says that he knows nothing

~~SS~~

of any Taylor by the name of "Keil" Taylor, but in the amended application the name of Ora Taylor appears, and in the judgment the name of Ora Taylor appears, which he takes to be the same person the draftsman in said original application intended to describe, because he says that said Ora Taylor was four years old at the time said application was made to the Dawes Commission, and is now six years old past, and he states the said clerical errors, if any, were committed were committed by said Grinstead who filed said original application, or were committed as a result of said statement to his said attorneys, Furman, Herbet & Hill, and was not committed as a result of the fault, knowledge or agreement of the said attorneys, as aforesaid, and that such ~~apparent~~ apparent or clerical errors were unknown to this affiant until his attention was called to the same on yesterday, the 30th day of January, 1899; and further deponent sayeth not.

J. G. X<sup>his</sup> Buck  
mark.

Witness: C. F. Herbett,  
M. L. Crawford.

Subscribed and sworn to before me this the 31st day of  
January, 1899.

(Signed) James H. Mathers,  
Notary Public, Southern District,  
Indian Territory.

~~XXXX~~



SUMMONS.

United States of America,

Indian Territory,

ss

Choctaw and Chickasaw Citizenship Court.

The President of the United States of America,

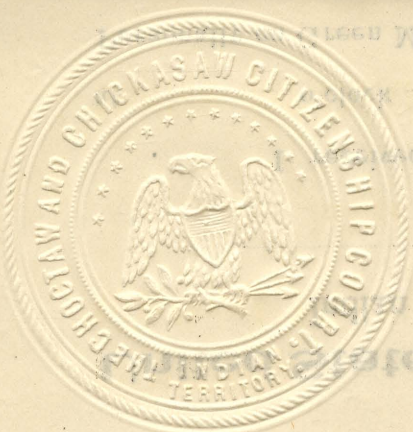
To the United States Marshal for the Indian Territory, Northern District,

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 *Teihovinego*, by *Henry Sutton 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 *Henry Sutton et al* File No. *132* 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 *23* day of March A. D., 1903.

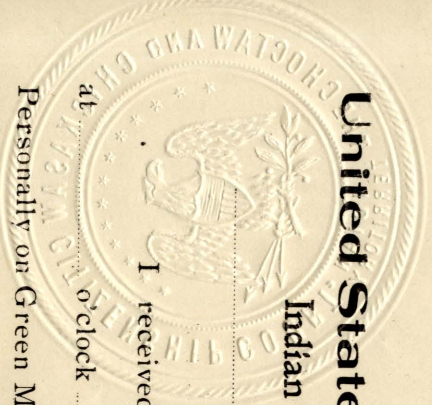


*James B. Cassada* Clerk.

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.

*Duplicate*  
No. *97-T*

SUMMONS  
IN EQUITY.

*Henry Sutton et al*  
vs.  
Choctaw and Chickasaw Nations.

Summons issued *23* day of  
March, 1903. Returnable instant.

Marshal's Fees.

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

*Herbert Walker & Co. v. Green*  
Attorneys for Plaintiff.  
*Adrian, J. T.*

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

Henry Dutton et al. No. 97

✓ Henry Dutton

✓ James H. Dutton

✓ Robert Dutton

✓ Stephens A. Dutton

✓ David C. Dutton

✓ Lelia Thorn

✓ Mollie Dutton

✓ Virginia Dutton

✓ Mary L. Dutton

✓ Jesse ~~W.~~ Dutton or Jessie Dutton

✓ Dora V. Dutton

✓ Maggie Dutton

✓ Monte Dutton

✓ Della Dutton

✓ Beulah Dutton

✓ Bertie Dutton

✓ Sherman C. Dutton

✓ Walter B. Thorn

Register

Shoetan

- ✓ Frank Thorne
- ✓ Roy Winton
- ✓ Martha Buck
- ✓ Mary Caroline Taylor
- ✓ Geo. Piper Buck or George Piper Buck
- ✓ Joseph Franklin Buck
- ✓ Thomas Jefferson Buck
- ✓ Lela G. Parker
- ✓ Ora Allen Jacks
- ✓ Fitzgerold Buck
- ✓ William R. Buck or Wm R. Buck
- ✓ Clarence Buck
- ✓ Robert Taylor
- ✓ Elizabeth Taylor
- ✓ Virginia Taylor
- ✓ Andrew Taylor
- ✓ Jessie Taylor
- ✓ Ida Taylor

- ✓ Oscar Taylor
- ✓ Ora Taylor
- ✓ Marian Taylor or Marion Taylor
- ✓ Rosa Buck
- ✓ Erastus Buck
- ✓ Ora May Buck
- ✓ Clinton Buck or Clinton Buck
- ✓ Alma Buck
- ✓ Linden Parker
- ✓ George Washington Jacks

Ray Buck

Clarence Herbert Parker

Johnnie A. Jacks

Jamie Magnolia Jacks

Lecil Martin Buck

Homers J. Buck

Stonewall Buck

South McAlester, Indian Territory, June 12, 1903.

Henry Dutton, et al

vs. T. No. 97 Southern District No. 132.

Choctaw Nation.

LETTER OF INSTRUCTIONS.

TO \_\_\_\_\_.

The office files of the papers in this case are herewith delivered, and you are directed to make investigation along the lines indicated in this letter, and to return the papers herein together with your written report and exhibits attached thereto at the earliest practicable date.

An examination of the record in this case will disclose that the applicants by blood <sup>a</sup> ~~in this case~~ claim their right to admission and enrollment as citizens of the Choctaw Nation by reason of their descent from an alleged full blood Choctaw Indian by the name of Cubby Folsom. <sup>TP</sup> Apparently this case is the fabrication of the unreliable testimony of the parties applicant, and is based almost entirely upon family tradition.

This cause as originally instituted before the Dawes Commission was under the separate title of Henry Dutton, et al. vs. Choctaw Nation, Dawes Commission numbers 319 and 361, and Martha Buck, et al. vs. Choctaw Nation, number 639. The applicants were all denied by the Commission, and the cases on appeal to the United States Court for the Southern District of the Indian Territory were consolidated and trial was had under the title of Henry Dutton, et al vs. Choctaw Nation. <sup>TP</sup> By the judgment of the United States Court of March 15, 1898 forty-six persons, <sup>were admitted</sup> all of whom were undoubtedly included in the original petition filed with the Dawes Commission, forty-four by blood and two by intermarriage. All of the persons included in the decision of the federal court are included in the petition for writ of error directed to the Choctaw and Chickasaw Citizenship Court, and in addition thereto the following names appear <sup>in</sup> upon the petition for writ of error:

Mrs. Mollie Dutton, Ray Buck, Clarence Herbert Parker, Johnnie A. and Janie Magnolia Jacks, Cecil Martin, Homer J. Buck and Stonewall Buck.

<sup>TP</sup> The parties in the original application of Henry Dutton, et al. allege that Harriett Staley, a one fourth blood Choctaw Indian was married to Henry Dutton, a white man in Wythe County, Virginia in 1853, and that the applicants, with the exception of Henry Dutton

are her direct lineal descendants. They further allege that Harriett Staley was the daughter of a Choctaw woman named Tina Staley, whose maiden name was Myers, and whose mother was a daughter of Cubby Folsom, an alleged full blood Choctaw Indian. <sup>TP</sup> The applicants in the case of Martha Buck, et al, are the descendants of the said Martha Buck, whom it is alleged <sup>is the daughter</sup> ~~is the sister~~ of Katie Staley, an alleged one fourth blood Choctaw Indian, who was married to Thomas Taylor, a white man; that Katie Staley was the <sup>sister</sup> ~~daughter~~ of Harriett Staley, who married Henry Dutton, and the descendants of Matha Buck therefore claim through the same line <sup>as descent as</sup> of Harriett Dutton family, <sup>is</sup> namely, from Cubby Folsom.

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The testimony in connection with the petition to the Dawes Commission in 1896 was mainly the ex-parte affidavits of the applicants themselves, with the exceptions of the affidavits of Hunnally Williams and Elcie Perkins, and the testimony adduced at the hearing of the cause before the master in Chancery <sup>in the U. S. Court, Sec. District</sup> was that of the applicants themselves, and is <sup>considered</sup> not of any materiality.

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Our theory of this case is that it was manufactured entirely by the applicants who have



within the past ~~two~~<sup>few</sup> years removed to and maintained a residence in the Choctaw and Chickasaw Nations , and is entirely without foundation.

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Considering the allegations of the several applicants it would appear that Harriett and Katie Staley, who were married in Virginia and Tennessee respectively in 1853 and 1854 must have ~~been~~<sup>been</sup> born in Wythe County, Virginia about 1835 or 1836. The parents of these two women appear to have been Joseph Staley and Tina Staley, whose maiden name was Tina Myers. It would then appear from the most reasonable and conservative calculation that Tina Staley must have been born about the year 1818. This woman is alleged to have been the daughter of a woman by the name of Myers by a white man named John Myers, and it is apparent that the Myers woman, the mother of Tina Staley must have been born about the year 1800. The Myers woman is alleged to have been a daughter of Cubby Folsom, an alleged full blood Choctaw Indian. It will be easily seen that this man, if there ever was such a person, must have been born about the year 1780, and was consequently in 1830 at least fifty years of age. It is a notable fact that nowhere in the record, either in the petition of the applicants , or in the allegations of the witnesses is

any claim made that the ancestors of these persons ever resided in Mississippi or Alabama, but the record clearly indicates that they always lived in Wythe County, Virginia until about <sup>1850 or</sup> 1855, when they pre-sumably removed to Western Tennessee, and *their descendants* from there to Texas, Arkansas and later to the Indian Territory. <sup>It</sup> It has been the evident intention of the applicants to connect the well known family of Choctaws by the name of Folsom with the alleged ancestor Cubby Folsom, through whom they claim. In order to dispose of any possible claim that these applicants may set up as <sup>being the descendants of</sup> ~~to~~ fourteenth article Choctaws, an examination has been made of those persons who signified their intention to remain and become citizens of the States under the fourteenth article of the treaty of 1830, and those who were subsequently adjudicated beneficiaries thereunder by the two United States Commissions of 1837 and 1842, and the names of Staley, Myers or Cubby Folsom are not found thereon.

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EVIDENCE.

The only two witnesses who appear in this case aside from the applicants themselves are Hunnally Williams and Elcie Perkins. It is presumed that the Hunnally Williams and Elcie Perkins,

are Humady Williams of Homer, Indian Territory and Elsie Perkins of Caney, Indian Territory, both of whom are now deceased. It is therefore impossible to take any steps to controvert the testimony of these witnesses, but their evidence is referred to herein for the purpose of showing <sup>e</sup>that absurdity thereof as compared with the claims of the applicants.

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Hunnally, (Humady) Williams in his ex-  
parte affidavit of ~~the~~ April 9, 1897 alleges that he  
is 85 years of age, and resides at Homer, Chickasaw,  
Nation, Indian Territory. Was born and raised among  
the Chickasaw and Choctaw Indian in Mississippi;  
assisted in moving the Indians from Mississippi  
when they came West, and then returned to the house  
of Ben Love, Chickasaw Nation, Mississippi; that he  
belonged to Moses Sperry and Ben Love, to the latter  
when he moved to the Indian Territory and came with  
him. Further alleges that he knew Cubby Folsom when  
he was a boy and played with him; knew him to be a  
full blood Choctaw Indian and that Cubby Folsom mar-  
ried a full blood Chickasaw Indian woman named Thomp-  
son, by whom he had a daughter who married a white  
man named Myers. Witness alleges that the Chickasaw  
and Choctaw Indian<sup>o</sup> while residing East of the Miss-  
issippi often made trips and visits into the States

of Tennessee and Virginia, and that he himself had been taken on these visits to Virginia by his owners, who were Indians. <sup>TPD</sup> This man from his own testimony was born in 1812, and at the time of the Choctaw treaty of 1830 must have been a boy about 18 years of age. His statement that he kneaw Cubby Folsom when he <sup>Folsom,</sup> was a boy and played with him ~~is~~ inconsistent, as it is apparent that the Cubby Folsom from whom the applicants claim could not have been less than fifty years of age at the time of the treaty of 1830. His allegation that he knew Cubby Folsom was married to a full blood Chickasaw woman named Thompson, and that they had a daughter named Myers can be no <sup>me</sup> other than hearsay, as the statements of the applicants themselves would clearly indicate that Cubby Folsom was married and that the Myers girl referred to was born about 1795 or 1800, from twelve to fiteen years before this witness himself was born. <sup>TPD</sup> The affiant has often appeared in other citizenship cases, and is a professional witness. It is our opinion however that this is the first affidavit in which he alleged that he was ever in the State of Virginia, or knew persons who originally came from thã locality.

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Elcie Perkins in her affidavit of September 10, 1897 alleges that she is 75 years of age, a citizen by blood of the Choctaw Nation, the daughter of

Robert Folsom, who was a Choctaw Indian and the grand daughter of Nathaniel Folsom, a white man who married an Indian woman by the name of Shokboma; also knew McKee Folsom the father of Peter and McKee Folsom, Jr., who was known as Cubby Folsom, and that McKee Folsom, Sr. was her uncle. There is no evident attempt in this affidavit to connect the common ancestor of the applicants in this case with Nathaniel Folsom and his wife ~~Shokboma~~ <sup>Shokbohoma</sup>, whose descendants are evidently at this time recognized citizens of the Choctaw Nation. According to the allegations of this affiant the Cubby Folsom, son of McKee Folsom, Sr. whom she knew must have been her first cousin, and could not possibly have been over seventy-five or eighty years of age in 1896, while the Cubby Folsom from whom the applicants claim could not possibly have been born later than 1780 and would have attained the age of nearly one hundred and twenty years at the time the witness made her affidavit.

It is our opinion that the affidavits of Humady Williams and Elsie Perkins if not forgeries were prepared for these witnesses, <sup>signatures</sup> without any knowledge <sup>being</sup> imparted to them of their contents. Both of the affidavits are signed by mark, the one of Humady William being unwitnessed, and that of Elsie Perkins being witnessed by Henry Byington, whose reputation for procuring fraudulent affidavits is well known.

Attention is also directed to the fact that the affidavits of these two witnesses , while appearing as exhibits to the original petition submitted to the Dawes Commission in 1896 were not executed until April and September, 1897, while the original papers were transmitted from the Dawes Commission to the United States Court for the Southern District of the Indian Territory February 15, 1897. It is also to be noted that at the time of the hearing of the testimony in this case before the Master in Chancery at Ardmore March 9, 1897, the attorneys for ~~the~~ appellants filed, with the leave of the Court , an amended petition in lieu of the petition<sup>o</sup> filed with the Dawes Commission September 5, 1896, and on this amended petition the report of the Master in Chancery and the judgment of the Court were based.

<sup>TP</sup> In view of the fact that **there are no living witnesses** with the exception of the applicants **themselves ap-**pearing in this case an **investigation at this time** in the field is not considered necessary. **It is our** opinion however that the case rests entirely upon the testimony of the applicants themselves, <sup>and</sup> ~~on~~ which by its absurdity would preclude them from recognition and admission as citizens of the Choctaw Nation. In the event that on the re-trial of this case another claim than that heretofore made it set up by the applicants, the testimony adduced on the re-trial can then be impeached by their former testimony given before the Dawes Commission in 1896, and

the United States Court in 1897.

Yours very truly,

South McAlester, Indian Territory, May 18, 1903.

Messrs. Hays & Craig,

Russett, Indian Territory.

Gentlemen:

We are informed that you have information in regard to the present address of Mrs. I.W. Whitus, formerly of McMillan, Indian Territory.

We wish to communicate with her in regard to a matter of business, and if you will be good enough to give us her address, you will greatly oblige.

For your convenience in reply, we enclose self-addressed stamped envelope.

Very truly yours,

Dictated.