

*mom*

Jane Marrs, et al,

Index.

Jane Marrs.	2.
Joe Freeman,	22A
Duke Marlow,	31
Rickard Brashears,	42.



Jane Marrs, et al,

--vs--

No. 109.

The Choctaw and Chickasaw Nations,

--o--o--e--

Chas. E. McPherrren, Attorneys for Plaintiffs,  
Mansfield, McMurray and Cornish, for Defendants,

--o--

Present and presiding the Hons. Spencer B. Adams, Chief  
Judge, Walter L. Weaver and Henry S. Foote, Associate  
Judges,

---o---o---

DECEMBER 7th., 1903. This day this  
cause coming on to be heard upon the part of the Plaintiff,  
both Plaintiffs and Defendants being present by their  
Counsel and both having announced "Ready" the follow-  
ing proceedings were had to-wit;

Mr. McPherrren;

If the Court please; this is a companion case to No. 78  
Epsie Underwood vs. The Choctaw and Chickasaw Nations,  
the leading Plaintiff in that case being the sister of the  
leading Plaintiff in this case of Jane Marrs vs. The Choc-  
taw and Chickasaw Nations; and + ask whether the Court  
will permit the testimony taken in the Underwood case to  
be used in this case, in so far as the same may be appli-  
cable.



Judge Adams;

Has the Underwood case been heard?

Mr. Mc Pherren;

Yes, sir.

Judge Adams;

Have you gentlemen any objection?

Mr. Cornish;

Of course, that would mean that the entire record would be applied to this case?

Judge Adams;

Yes, sir, the whole record will be considered; and such evidence as is applicable to the case.

---o---

J a n e M a r r s ,

a Plaintiff, being sworn, testified as follows;--

By Mr. McPherren;

Q.- What is your name?

A.- Jane Marrs.

Q.- How old are you?

A.- That I cannot tell; somewhere about sixty six, seven or eight; I cannot say just what; I don't know my age.

Q.- Where do you reside?

A.- Indianola, Indian Territory.

Q.- Are you the identical Jane Marrs, who was one of the Plaintiffs, in this case?

A.- Yes, sir, I am the same.

Q.- You are the Jane Marrs what was admitted to citizenship by



the United States Court?

A.- Yes, sir.

Q.- Have you any children?

A.- Yes, sir.

Q.- Name your oldest child.

A.- Margaret.

Q.- Is she living?

A.- No, sir, she is dead.

Q.- Did she have any children?

A.- Yes, sir, she had four.

Q.- She was married then, was she?

A.- Yes, sir.

Q.- Who was she married to?

A.- A man by the name of Marrs.

Q.--Is he living?

A.- No, sir.

Q.--He is dead?

A.- Yes, sir.

Q.- They were legally married, were they?

A.--Yes, sir.

Q.- Name their children.

A.--Clara Bell; Robert, I cannot think of his double name.

Q.- Robert is sufficient.

A.- Etta Jane.

Q.- They called her Jennie?

A.- Yes, sir, they called her Jennie.

Q.- Who else.

A.--Myrtle



Q.- Name the next child.

A.- Ellen.

Q.--What is her name now?

A.- Alderson.

Q.- Has she any children?

A.- Four.

Q.- Whom is she married to?

A.- Robert Alderson.

Q.- Is he a white man?

A.- Yes, sir.

Q.- You say they have children?

A.- Yes, sir.

Q.- Give their names.

A.- Richard; Julia May, but she is just called May; Barley,  
he signs his name B.H.Alderson; Jerry.

Q.- That all the children she has?

A.- Yes, sir.

Q.- She is legally married to Alderson?

A.- Yes, sir.

Q.--Name your next child.

A.- Beckie.

Q.- What is her name now?

A.- She is married.

Q.- Whom to?

A.- The first time she married Chas. Harrison.

Q.- Is he dead?

A.- Yes, sir.

Q.- He a whiteman?

A.- Yes, sir.

Q.- Did she have any children by Chas. Harrison?



A.- One.

Q.- What is its name?

A.- Reuben.

Q.- Has she been married again?

A.- Yes, sir.

Q.- What is her name now?

A.- Rebecca Smith.

Q.- Did she marry a whiteman?

A.- Yes, sir.

Q.- What is his name?

A.- George Smith.

Q.- Is she legally married to George Smith?

A.- Yes, sir.

Q.- Did she have any children by him?

A.- One.

Q.- What is its name?

A.- Jennie.

Q.- Name your next child.

A.- Mary.

Q.- Mary what?

A.- Pritchard.

Q.- She married a man named Pritchard?

A.- Yes, sir.

Q.- Is he a white man?

A.- Yes, sir.

Q.- Is he living?

A.- Yes, sir.

Q.- Is she legally married to him?

A.- Yes, sir.



Q.- Has she any children by him?

A.- Yes, sir, six.

Q.- Name them.

A.- Flora, John, Dennis, Jennie, Rebecca and Icy. I believe  
I got them all.

Q.- Have you any other children?

A.- Yes sir, Julia A. Hamilton.

Q.- Is she married?

A.- Yes, sir.

Q.- Did she marry a white man?

A.- Yes, sir.

Q.- Is she legally married to him?

A.- Yes, sir.

Q.- Has she many children?

A.- Four.

Q.- Name them.

A.- Della May, Tandy, Thaddeus and Rauben.

Q.- Have you any other children?

A.- Yes, sir. Sam Marrs.

Q.- Is he married?

A.- Yes, sir. Married a McDougal.

Q.- Is that her maiden name?

A.- Yes, sir.

Q.--Is she a white woman?

A.--Yes, sir.

Q.- Were they legally married?

A.- Yes, sir.

Q.- Have they any children?

A.- Two.



Q.- Give their names.

A.- Bertha May and Clarence.

Q.- Have you any other children?

A.- Yes, sir.

Q.- Name them.

A.- Tom Marrs.

Q.- Is he married?

A.- No, sir

Q.- Have you any others?

A.- John Marrs.

Q.- Is he married?

A.- Yes, sir.

Q.- What is his wife's name?

A.- Minnie McInhanie.

Q.- Have they any children?

A.- One.

Q.- What is its name.

A.- Nellie May.

Q.- Who is Minnie Marrs?

A.- She was John Marrs' wife.

Q.- She was Minnine McInhanie?

A.- Yes, sir.

Q.- Who is Paul E. Hodge.

A.- That is my <sup>Great</sup> grandson's name. He is a son of Ellen Alderson.

Q.- She is married?

A.- To Robert Hodges.

Q.- They have one child?

A.- Yes, sir.

Q.- Is Robert Hodge a white man?

A.- Yes, sir.



Q.- Are they legally married?

A.- Yes, sir.

Q.- Do you claim to be a Choctaw Indian?

A.- Yes, sir.

Q.- About how much blood do you claim?

A.- I claim about one quarter; that is what I have always been taught; I was.

Q.- Who do you claim it through.

A.- My mother.

Q.- What was your mother's name?

A.- Margaret Patterson, usually called Peggie.

Q.- Where did she live?

A.- She formerly lived in Mississippi or Alabama; right on the line, I don't know which. They moved around a great deal.

Q.- Where did she die?

A.- Lehigh, Choctaw Nation.

Q.- What was your grandfather's name?

A.- John sometimes, sometimes Herman.

Q.- John who?

A.- John Patterson, or Herman Patterson.

Q.- What was his Indian name.

A.- Moontubbie.

Q.- How do you spell that?

A.- Moontubbie, I do not know how it is spelled.

Q.- Where did he live?

A.- After he come to this country, in the Choctaw Nation, o

I don't know where abouts. I never did see him.

Q.- Was he a Choctaw Indian?

A.- Yes, sir.



Q.- Then your information is you were born in 1836 or 7?

A.- Yes, sir.

Q.- Where?

A.--I cannot tell you; right on the line between Mississippi and Alabama; my mother told me once I was born on the Mississippi side.

Q.- What county was that?

A.- I don't know; I left that country when I was a child.

Q.- What part of the State was it?

A.- I don't know.

Q.- Know whether you were born in Alabama or Mississippi?

A.- No, right on the line.

Q.- Your mother lived until a few years ago?

A.- Yes, sir.

Q.- Where were you living when you can first remember?

A.- We were in Missouri when I can first remember.

Q.- How old were you when you can first remember?

A.- About four years old.

Q.- Do you remember living in Alabama or Mississippi?

A.- No, sir, I was too small.

Q.- When you first remember, you were living in Missouri?

A.- Yes, sir.

Q.- Where?

A.- Madison County.

Q.- How long did you live there?

A.- Twelve or fourteen years, may be a little longer.

Q.- Were your father and mother both living then?

A.- Yes, sir.

Q.- Did they own land in that county?

A.- Yes, sir.



Q.- Were they farmers?

A.- Yes, sir.

Q.- Did they sell this land when they left?

A.- Yes, sir.

Q.- Where did you go from Madison County, Missouri?

A.- To Texas.

Q.-What county?

A.- Fannin County.

Q.- You arrived in Fannin County what year?

A.- Some four, five or six years before the War.

Q.- Your father and mother and their family, including yourself, arrived in Fannin County, Texas, from Missouri four or five years before the War?

A.- Yes, sir.

Q.- How long did you live in Fannin County, Texas?

A.- I guess I could count up.

Q.- Great many years?

A.- Yes, sir.

Q.- Did you live in any other county in Texas?

A.- No, sir, been in others, but not to live.

Q.- You made your home there?

A.- Yes, sir.

Q.- Did you marry there?

A.- Yes, sir.

Q.- Did your father and mother own land there?

A.- Yes, sir.

Q.- Did they homestead land?

A.- No, sir, they bought a small place.

Q.- They continued to own land until they left there?



A.- Yes, sir.

Q.- Were you married before the War?

A.- Yes, sir.

Q.- Your father and husband owned land?

A.- Yes, sir.

Q.- You lived then, from the time you married, until you left, on land you owned?

A.- Yes, sir.

Q.- Your children went to the public schools?

A.- Yes, sir.

Q.- Your husband exercised the privileges of citizenship and voted in the elections?

A.- Yes, sir.

Q.- Paid taxes?

A.- Yes, sir.

Q.- When did you move to this country?

A.- In eighty six or seven.

Q.- Did your husband sell the land which he owned in Texas, when he moved here?

A.- Yes, sir.

Q.- Is your husband living?

A.- No, sir.

Q.- When did he die?

A.- Several years past.

Q.- Where did you live when you first came to the Choctaw Nation?

A.- Caddo.

Q.- Whose place?

A.- Delaney's.



Q.- Was he a citizen?

A.- Yes, sir.

Q.- You paid rent?

A.- Yes, sir.

Q.- How long did you live on that place?

A.- Two years.

Q.- For two years you lived on Delaney's land, cultivated land, and paid him rent?

A.- Yes, sir.

Q.- Where did you live when you left there?

A.- On the Canadian River, near Indianola.

Q.- Whose place?

A.- Hightower's place.

Q.- Was he a citizen?

A.- Yes, sir.

Q.- Did you rent land and pay rent?

A.- Yes, sir.

Q.- How long did you live on Hightower's place?

A.- One year.

Q.- Where did you go then ?

A.- Hugh Hamilton's place.

Q.- Did you pay rent?

A.- Yes, sir.

Q.- Where did you go then.

A.- Put in land of our own?

Q.- What year was that?

A.- 1893.

Q.- That was about the time your sister made application to Council?



A.- Yes, sir, the year after that.

Q.- Did you make application to council?

A.- Yes, sir.

Q.- You put in a place about the time you made application to Council?

A.- No, had made application before?

Q.- That was while your application was before the Court?

A.- Yes, sir.

Q.- What was the name of your mother?

A.- Before she married?

Q.- Yes.

A.- She was Margaret Patterson usually called Peggie.

Q.- She died about three years ago?

A.- Yes, sir.

Q.- How old was she when she died?

A.- About 95.

Q.- That was about three years ago?

A.- Two years ago.

Q.- Then she was born in 1806, or about that?

A.- I think she was.

Q.- Where was she born?

A.- I don't know where.

Q.- What has she told you?

A.- I don't remember of her telling me.

Q.- You lived with her all your life?

A.- Yes, sir, but I don't remember that point?

Q.- She lived until two years ago?

A.- Yes, sir.

Q.- And you are unable to state where she was born?



Q.- How much Choctaw have you been taught he was?  
A.- I have been taught he was a full blood?  
Q.- Was he married?  
A.- He married my grandmother and left her in the old country.  
Q.- What was your grandmother's name?  
A.- Jennie Allen before she married him.  
Q.- They called her Jennie Patterson after that?  
A.- Yes, sir.  
Q.- That was his English name?  
A.- Yes, sir;  
Q.- This full blood Choctaw Indian <sup>Patterson</sup> was your grandfather?  
A.- Yes, sir, that is what I have always been teached.  
Q.- Your mother is his daughter?  
A.- Yes, sir.  
Q.- Her name was Margaret?  
A.- Yes, sir.  
Q.- Did your grandfather ever come to this country?  
A.- I think so.  
Q.- With the Indians, or after they came?  
A.- With the Indians.  
Q.- And resided here?  
A.- Yes, sir.  
Q.- Did he die here?  
A.- I suppose he did; I don't know that; I just suppose he did.  
Q.- How long have you lived in the Choctaw Nation yourself?  
A.- About sixteen years.  
Q.- Did you come here with your family?  
A.- Yes, sir.



Q.- When did you marry?

A.--About Fifty six or eight, something like that; I forget now exactly what year, but it was before the War.

Q.- What was your husband's name?

A.--J.R.Marrs, is what he is always called.

Q.- These children that you have named, are his children by you?

A.- Yes, sir.

Q.- You were legally married, were you?

A.- Yes, sir.

Q.- What relation are you to Epsie Underwood?

A.- We are own sisters.

Q.- Full sisters?

A.- Full sisters.

Q.- You had the same mother and father?

A.- The same mother and father.

Q.- What was your mother's name?

A.- Margaret, usually called Peggie.

Q.- What was ~~your~~ <sup>her</sup> father's name?

A.- John Patterson or Herman.

Q.- What was your father's name?

A.- Reuben Marlow.

Q.- Your maiden name was Jane Marlow?

A.- Yes, sir.

Q.- What relation are you to Crawford Marlow and Maria Colwell, who are applicants for enrollment as Choctaw Indians before the Dawes Commission in 1896?

A.- I am own sisters to them.



Q.- How long have you claimed citizenship in the Choctaw Nation?

A.- About sixteen years.

Q.- But you never did anything with it?

A.- Yes, sir.

Q.- Did you ever make application to the Choctaw Council to be enrolled?

A.- Yes, sir.

Q.- When did you make that application?

A.- About 1891 or 2 I guess; the year after Martha Beal went through.

Q.- What relation are you to Martha Beal, who also make application to the Choctaw Council to be admitted by Act of Council.

A.- We are own sisters.

Q.- The Epsie Underwood, who is plaintiff in the case No: 78, pending in this Court, is she related to you?

A.- Yes, sir, she is a sister.

(See objection Page 11-1/2)

#### Cross Examination.

By Mr. Cornish;

Q.- You say you don't know your age?

A.- No, sir, not for certain.

Q.- About how old are you?

A.- Between fifty six, and eight somewhere, I don't know just what.

Q.- You were born about the year 1845, were you ?

A.- No, it would not make me that old.

Q.- About what year were you born?

A.- I guess about 1836 or 7, somewhere along there.



O b j e c t i o n .

Mr. Cornish;

The Nations object to all the testimony in chief of this witness, which does not bear upon the essential issues in this case; the contention of the Nations being that it is incumbent upon the applicants to prove by affirmative and conclusive evidence that they are Choctaw Indians, and such Choctaw Indians as would warrant the Court in admitting them to citizenship, and all evidence which does not go to these essential points is incompetent and should not be considered. The Nations also object to all evidence in this case which tends to establish, by hear say evidence the blood and racial status of her ancestors, it being the view of the Nations that hear say evidence is only competent to establish pedigree, and nothing other than that; particularly is it incompetent to establish blood and racial status.



A.- Yes, sir.

Q.- Your mother never was an applicant for citizenship?

A.- No, sir.

Q.- Your mother lived until two years ago, ten years after Mrs. Beal was admitted by Council and four years after you and other members of the family applied to the Dawes Commission, and yet your mother never applied?

A.- No, sir.

Q.- What was the name of your mother's father?

A.- Patterson.

Q.- What Patterson?

A.- John or Herman Patterson.

Q.- Why did you say Herman now, when you said John in the original case?

A.- That is the name. He had a double name.

Q.- Why did you not give the double name before the Dawes Commission; You never heard of Herman in or before that case?

A.- Yes, sir, heard it always.

Q.- Do you mean to state that anything was said about Herman in the case before the Dawes Commission and before the United States Court?

A.- No, sir.

Q.- He was your mother's father?

A.- Yes, sir.

Q.- When was he born?

A.- I don't know.

Q.- Where was he born?

A.- I don't know.



Q.- Where did he die?

A.- I don't know where he died.

Q.- How many children did he have?

A.- Seven.

Q.- Name them.

A.- Betsy, Bill, Ester, my mother Margaret, John, I don't know which was the oldest, Patsy or Andy.

Q.- Is that all?

A.- I think that is seven.

Q.- Is Betsy living?

A.- No, sir.

Q.- Where was she living when she died?

A.- West Texas.

Q.- Did she have a family?

A.- Yes, sir.

Q.- Where was she and her descendants living the last time you heard of them?

A.- In West Texas, somewhere about L County.

Q.- They never lived in this country?

A.- No, sir.

Q.- Never lived in the Territory?

A.- No, sir.

Q.- They have no citizenship claim pending?

A.- No sir, Betsy died a number of years ago.

Q.- Is Bill living?

A.- No, sir.

Q.- Did she have a family?

A.- No, sir.

Q.- Did he ever marry? --18--



A.- No, he died a single man in the Florida War.

Q.- Where was he living when he went to Florida?

A.- Mississippi or Alabama.

Q.- Is Ester living?

A.- No, sir.

Q.- Did she have a family?

A.- Yes, sir.

Q.- Where did she raise her family.

A.- Raised them in ~~Ark~~ Llana County Tex.

Q.- Are her descendants living down there now?

A.- She has one child living somewhere.

Q.- What is your information as to where that child is living;  
when you last heard.

A.- In that county.

Q.- Then so far as you know that child is living in Texas?

A.- Yes, sir.

Q.- So far as you know, it has no citizenship claim?

A.- No, sir.

Q.- And never has had, so far as you know?

A.- No, sir.

Q.- Is John living?

A.- I don't know.

Q.- Did he have a family?

A.- Yes, sir.

Q.- Where are the members of that family living?

A.- I don't know.

Q.- Where did they live the last you heard from them?

A.- I think in Missouri.

Q.- Then, so far as you know, the descendants of Uncle John



are now living in the State of Missouri?

A.- That was the last I heard.

Q.- Is Patsy living?

A.- No, sir.

Q.- Did she have any children?

A.- One or two.

Q.- Where do they live?

A.- They went out west.

Q.- Where?

A.- In Texas.

Q.- Is she dead?

A.- Yes, sir.

Q.- Then her descendants, so far as you know, are now living in the State of Texas?

A.- Yes, sir, so far as I know.

Q.- Is Andy living?

A.- I don't know, I heard that he was dead.

Q.- Did he have a family?

A.- Yes, sir.

Q.- Where was that family living when you last heard of them?

A.- In Missouri, up where my father lived.

Q.- Then, so far as you know, the descendants of Andy are now living in the State of Missouri?

A.- Yes, sir.

Q.- Now, when did Andy die?

A.- I don't know when he died.

Q.- When did you last hear of him?

A.- Over twenty years ago.

Q.- Where did he live in Missouri, what county, what particular



locality, when you last heard from him?

A.- I don't know for certain what county, I think Doniphan.

Q.- What postoffice address?

A.- I don't know, never had any letters from him.

Q.- What part of the State?

A.- I don't know.

Q.- Was his name Andy Patterson?

A.- Yes, sir.

Q.- Can you give the postoffice address, or the exact location where any of the descendants of Aunt Betsy live?

A.- No, sir.

Q.- What about the descendants of Bill?

A.- He did not have any.

Q.- What about Ester; can you give the names of some of the descendants of Ester?

A.- No, sir.

Q.- What about John.

A.- I don't know. They were living in Missouri, I suppose they are living there yet.

R e - d i r e c t .

Mr. McPherran;

Q.- What was the condition of your mother's mind some years before she died?

A.- Very bad and she was very hard of hearing.

Judge Foote;

Q.- What was the condition of her mind until she was about sixty?

A.- It was good. I expect it was good.

Q.- When did her mind fail?

A.- Children never notice that in mothers.



Q.- She had a good mind until she was sixty?

A.- I expect it was alright.

Q.- Up until that time she never told you where she was born?

A.- She may have but I don't recollect where she was born.

Witness excused.



Joe Freeman,

a witness produced by the Plaintiffs, being duly sworn, testified as follows, to the interrogatories propounded by

Mr. Mc Pherren;

Q.--What is your name?

A.--Joe Freeman.

Q.--How old are you.

A.--Well, I am something over 81 years, I reckon.

Q.--Where do you live?

A.--At Boggie Depot.

Q.--In the Choctaw Nation?

A.--Yes, sir.

Q.--Where were you born, Uncle Joe?

A.--In Mississippi.

Q.- How long did you live in Mississippi?

A.- I lived there until I was seventeen or eighteen years old, I reckon.

Q.- Where did you go then?

A.- Came to the Choctaw Nation, here near Dokesville.

Q.--Where have you resided since that time?

A.- About in the Choctaw Nation.

Q.--Ever since that time?

A.--Yes, sir.

Q.--Did you know a man by the name of John Patterson?

A.--Yes, sir.

Q.- In the State of Mississippi?

A.--Was he an Indian?

Q.--Yes, sir.

A.--Yes, sir.

Q.--Where did he live?

A.- He lived-- I don't know exactly where he lived; he was there in Mississippi; he lived four miles on the other side of Holly Springs,

Q.- Did you ever see this same John Patterson in the Choctaw Nation?

A.- He was here when I moved from Mississippi; I saw him different places there and when I came here I saw him here again.

Q.- Do you know whether or not this John Patterson was married?

A.--Well, he was married; I never did see his wife, but I am satisfied he was married.

Q.--Ever see a woman named Margaret Patterson or Peggie Patterson in this country?

A.--Yes, sir, see'd one by the name of Peggie Patterson.

Q.--Where did you see her?

A.--Down here at Boggie.

Q.--Boggie Depot?

A.- Yes, sir.

Q.- When did you see her here?

A.- It has been some eight or ten years ago, I reckon.

Q.--Was she an old woman or a young woman when you saw her?

A.--A very old woman.

Q.- Whose daughter was she, if you know?



A.--I don't know who her father was; I got my house burned up and I went over there; she was at Underwood's; I saw her and got to talking to her and she told me then - - Underwoods gave me some things and nearly every body gave me some things.

Mr. Cornish;

We object and ask that it not go in the record.

Mr. McPherrren;

Q.- How long ago was this?

A.- Eight or ten years ago.

Mr. Cornish;

This same woman lived until two years ago and her testimony has not appeared in this case.

Mr. McPherrren;

Q.- Was she married; Peggie; the woman who said her name was Patterson?

A.- I don't think she was at that time; but I was not very much acquainted with her.

Q.--Had she previously been married?

A.--I think she had; but I am not certain.

Q.- She was living with Mrs. Underwood at that time?

A.- Yes, sir.

Q.- Did she look to be a Choctaw woman?

A.--Looked like about a half breed.

Q.- How much Choctaw blood did John Patterson have?

A.- He looked like a full blood to me.

Q.- Do you know his Choctaw name?

A.- They called him Moontubbe.

Q.- You know when he came from the old Nation in Mississippi to the present Choctaw Nation?

A.- I really don't, I don't know when he left Mississippi; I think he left there before I did; a long time before I came out here I had missed him.

Q.- How old did you say you were?

A.- Over eighty, I think.

Q.--Know how much over eighty?

A.- I always call myself 82, from what my master told me; he had a son about as old as I was and he told me how old he was; he had his name in a book; that would make me eighty two if that is correct.

Q.--How old were you when you came out here?

A.- About thirteen or fourteen.

Q.- When you came to the Choctaw Nation?

A.- Yes, sir.

Q.- Who did you come with?

A.- Brit Willis.

Q.- You saw this man John Patterson out here?

A.- Yes, sir.

Q.- This same John Patterson?

A.- The same ~~name~~ man.

-24-



Cross Examination.

Mr. Cornish;

Q.--How many cases have you testified in before this Court,  
Uncle Joe?

A.- This makes the third one, I think.

Q.- Where have you been since you were here the other day?

A.- Down home.

Q.- When did you leave home to come up here?

A.- Yesterday morning.

Q.- Where do you live?

A.- Down about Boggy, now.

Q.- Who first talked to you about this case?

A.- Talked to me, how?

Q.- That is what I mean to say; who first talked to you about  
this case?

A.- About coming here?

Q.- No about John Patterson; who first talked to you about this  
case?

A.- Mrs. Underwood.

Q.- When?

A.- About a week ago.

Q.- You were never talked to about it before?

A.- No, sir, never did.

Q.- You know these people a good many years?

A.- Yes, sir.

Q.- You knew Mrs. Underwood a good many years ago, when she  
gave you these things?

A.- Yes, sir.

Q.- You never talked to her anything about the case then?



A.- She did not know that I knew then.

Q.- The first time you were talked to about this case was a little over a week ago?

A.- Yes, sir.

Q.- You lived about Holly Springs in Mississippi?

A.- Yes, sir.

Q.- Never lived any place else in Mississippi?

A.- No, sir.

Q.- You were brought from there to this Nation?

A.- Yes, sir.

Q.- Now you were about thirteen or fourteen years old when you came to this Nation?

A.- I think I was.

Q.- How long before the War?

A.- A long time. Just like it was the other day; I cannot say just how long.

Q.- Fix it as near as you can.

A.- It is guess work.

Q.- I want your best information and best judgment.

A.- My best judgment, it is just like the other day; I told you I don't know; I might say it was fifteen or twenty years.

Q.- Fifteen or twenty years before the War.

A.- It might have been; I never keep no time; I am getting old and very forgetful.

Q.- Fifteen or twenty years before the War; that is your best judgment?

A.- Yes, sir.

Q.- You went to Dokesville?

A.- Yes, sir.



Q.- Where in the Choctaw Nation was the man named John Patterson?

A.- In the Choctaw Nation the other side of Holly Springs.

Q.- I mean in this Nation.

A.- Up about Spencer Academy.

Q.- How far is that from Dokesville?

A.- About ten miles.

Q.- How many times did you see him?

A.- Very frequently; of course I could not give you the times; never paid any attention when I did see him. Only knew his name.

Q.- How old a man was he when you saw him?

A.- Very old.

Q.- How old?

A.- I could not tell you; he looked like a very old man.

Q.- Ever see him any where except Spencer Academy?

A.- Saw him about Dokesville.

Q.- Where did he live?

A.- Up about Spencer Academy.

Q.- How do you know he did?

A.- Saw him come from there.

Q.- Did he have a family?

A.- I guess he had, but I don't know much about them.

Q.- You don't know anything about the family?

A.- No, sir, not much; I know he had a son.

Q.- Did you ever go to his home?

A.- No, sir, I have been by there. I know he had a son, Jim Patterson they called him; he killed a fellow that was named Tom Hayes; a Choctaw man.

Q.- When did that killing occur?

A.- That was long before the War.



Q.- You continued to live there until a few years ago?

A.- Yes, sir.

Q.- What became of this man John Patterson?

A.- I don't know.

Q.- You kept on living there?

A.- Yes, sir. When he left I don't know where he went.  
I think he went to the Chickasaw Nation, but I don't know.

Q.- What did he do for a living?

A.- I don't know that.

Q.- Was he about these horse races?

A.- I don't remember seeing him. If he ever followed horse  
races I don't remember.

Q.- Was he a whisky drinker?

A.- Yes, sir.

Q.- Was he a fiddler?

A.- No, sir, never ~~of~~ heard of him being a ~~fiddler~~ fiddler.

Q.- Was he a horse racer?

A.- I don't know; he might have been but I don't know.

Q.- When was the first time you ever saw this man John Pat-  
terson?

A.- I don't remember

Q.- Then you are unable to state the first time you saw him?

A.- I know I saw him a good many times; the first time was in  
Mississippi.

Q.- I mean there about Dokesville.

A.- He ran with Mohia and several men, Tom Hayes, all of them  
them are full bloods and several Chickasaws; of course  
I could not call the names; I could not do it if I was  
a young man; I knew the names of pretty much every <sup>one</sup> down  
there, but to call their names I could not do it; I cannot



call the names of the people there in the settlement where I live now.

Q.- You know all of the Choctaws that live in the Nation, now?

A.- Most of them.

Q.- What people are living now that were living around there then.

A.- There are not many of them living.

Q.- Was Peter Matubbe living there; did you know him?

A.- Yes, sir.

Q.- Did he know this man?

A.- I guess he did.

Q.- You knew Calvin Perry?

A.- Yes, sir.

Q.- He knew you?

A.- Of course he did.

Q.- What other old Choctaws are living that lived there and knew this man?

A.- I don't remember.

Q.- You knew old man Bill Spring, who lives down there at Goodland?

A.- Yes, sir.

Q.- Did he live there in that country?

A.- I don't think he did.

Q.- These are two, who else?

A.- I could not call their names.

Q.- Where did Peter Matubbe live in these days?

A.- I don't know exactly; he did live down here about Dokesville, then he moved up here about Old Boggy.



Q.- I am talking about this time twenty years before the War. Did he live about Dokesville?

A.- I expect he did.

Q.--Did he?

A.- I expect he did.

Q.- Where did Calvin Perry live?

A.- He lived down below Dokesville.

Q.- How far?

A.- About ten or twelve miles may be, and may be not so far. It has been so long.

Q.- Did you ever see Peter Matubbe around this man Patterson?

A.- I don't think I have .

Q.- Did you ever see Calvin Perry with him?

A.- I don't think I have.

Q.- What Indians did you ever see with him?

A.- I never paid any attention; of course I know a great number of Indians and may have see them with him.

Q.- Give the names of all the Indians you ever saw around this man John Patterson?

A.- I cannot do that if you give me time here until morning.

Q.- You are unable to mention a single Indian you ever saw with him?

A.- Thomas Hayes and others.

Q.- You say you saw this man John Patterson in Mississippi?

A.- Yes, sir.

Q.- Where?

A.- At Holly Springs.

Q.- How far did John Patterson live from you?

A.- I don't know, but knowed he lived in the neighborhood.



Q.- Then you are unable to state where he lived in Mississippi?

A.- I am unable to state, I don't know.

Q.- How many times did you see him there?

A.- I don't know; I never paid any attention.

Q.- Who did you see him with there?

A.- Lots of people.

Q.- Are you able to give the name of a single person you saw with John Patterson in Mississippi?

A.- I could not exactly, because I never did think about it.

Q.- What were the names of the members of his family?

A.- I don't know that.

Q.- Do you know the name of his wife?

A.- I do not know that; I told you I did not know her at first.

Q.- When you first came before this Court, who did you testify for?

A.- My memory is not very long; of course, I knew at the time.

Q.- Was it about this Choctaw Billy business.

A.- Yes, sir.

Q.- Who was Choctaw Billy kin to?

A.- I told you at that time.

Q.- I want you to tell me now?

Mr. McPherrren.

I object.

Mr. Cornish;

Q.- Who was Choctaw Billy kin to?

A.- I could not call the name; I am very aged; I told you the other day, but I forget it now.

Q.- Who else did you testify about down in that country?

A.- Well, of course, I am forgetful, that is very true; of course, if you will give me time, it will take right smart,



if you get me on one case and get me tangled up, I can not tell about any others; I ~~xxxxxxx~~ came here to testify to the truth and what I know. Every case I come here in I am forgetful of the names,

Q.--But you would know them, if called over to you?

A.- Yes, sir, of course, but I would forget some of them.

Q.- You say you knew the man you came here to testify for?

A.- Of course I did, but I have forgotten his name. Now, I would not come here to testify to something I did not know. You see, of course, I am getting old, I am very forgetful at the best; these men asked me Mr. Underwoods name, and I could not tell them. It is a very common name, but when I get old I am forgetful.

Witness excused.

Mr. McPherrren.

I have a motion I desire to file; we have some witnesses we expected here today, but they did not get here. We can get them here in a week; I have filed a motion that we be given until the 21st. to get them here, with the understanding that we will get them here before if possible.

The Court;

Alright, get them here by the 21st., before, if possible, as we have several cases set for that day and wish to adjourn on that day.



Dec. 12, 1903.

Before Judges Weaver and Foote.

Mr. McPherrren,

If the Court please, this case was continued until the 21st, for the Plaintiff to ~~lx~~ get the testimony of some witnesses; we have some witnesses here now and we would like to introduce them.

Judge Weaver;

You may proceed.

DUKE MARLOW,

a witness produced on behalf of the Plaintiffs, being duly sworn testified as follows in answer to the interrogatories propounded by Mr. McPherrren;

Q.- What is your name?

A.- Duke Marlow.

Q.- How old are you?

A.- I will be 78 years old the 2nd day of January.

Q.- What is your Postoffice address?

A.- Denison, Texas.

Q.- Do you know Jane Marrs?

A.--Yes, sir.

Q.- What relation are you to her?

A.- I am a half brother.

Q.- Did you all have the same father or the same mother?

A.- Same father, but different mother; her mother was my step mother.

Q.- What was her mother's name before she married your father?

A.- Margaret Patterson was her proper name; they called her ~~peggie~~ peggie for short.



Q.- What was your father's name?

A.- Rueben Marlow.

Q.- Did you ever hear what Margaret's Patterson's father's name was?

A.--My understanding, her father's name was John Patterson.

Q.- Ever see him?

A.- Never seen him.

Q.- Did Margaret Patterson and your father live together as husband and wife?

A.- Yes, sir.

Q.- They were legally married, were they?

A.- Yes, sir, I suppose so; I am satisfied they were legally married.

Q.- Did they have any children?

A.--Yes, sir. By her?

Q.--Yes, your father and Margaret Patterson?

A.- Yes, sir, she had children.

Q.- How many?

A.- Well, I will have to count them, I reckon.

Q.- Name them.

A.- The oldest one was Martha, she married a fellow named Beal; the next oldest one is dead; called him John Allen. The next oldest one was I believe, he is dead too, they called him Billy. The next oldest one was Jane Marrs that is here.

A.- The applicant?

Q.--Yes, sir. The next Cynthia Ann Marlow, married a fellow named Wade. They are both dead.

A.- Give the next.



A.- I don't know whether I can exactly locate them apart or not.

Q.- Was one named Crawford?

A.- He was next youngest to Billy.

Q.- Just name them.

A.--One was named Bertie, Missouri, Jasper, Maria; that is all. That is all that is living; they are not all living.

Q.--Where does Maria live?

A.- She lives here by--- this little mining town, Lehigh.

Q.--Is she married?

A.- She was married but her husband is dead.

Q.- What is her name now?

A.- Colwell.

Q.- Where does Crawford Marlow live?

A.- Right close to Lehigh.

Q.- Is he a brother and is Maria Colwell a sister to Jane Marrs?

A.- Yes, sir.

Q.- You are a half brother?

A.- Yes, sir, I am only a half brother.

Mr. Cornish;

The Choctaw and Chickasaw Nations wish to state an objection to the testimony of this witness as to the pedigree of Jane Marrs, upon the ground that he has not shown himself to be qualified so that he can testify as to pedigree.



Cross Examination.

Mr. Mansfield;

Q. You say you are a half brother of this Jane Marrs?

A.- Yes, sir.

Q.- Your father married Margaret Patterson?

A.- Yes, sir.

Q.- Was Margaret Patterson your mother?

A.- No, sir.

Q.- Who was your mother?

A.- My mother was Susan Ward.

Q.- Your mother was Susan Ward and your father was whom?

A.- Marlow.

Q.- What was his given name?

A.- Reuben Marlow.

Q.- Then you are not related by blood to Jane Marrs and others in this case?

A.- Yes, sir, from my father.

Q.- What was Jane Marrs' mother's name?

A.- Margaret Patterson Marlow, after she married.

Q.- How do you know that; when did you first see this Margaret Patterson, how old were you?

A.- I suppose I was, I can hardly locate the age exactly, but some six or seven years old.

Q.- When your father married her?

A.- Yes, sir.

Q.- Where were they married?

A.- That I cannot tell, I was not there, did not see it.

Q.- Where were they first living when you first knew them.

A.- When I was first carried to them they were living in



the edge of Tennessee, when I was first taken to them.

Q.- Near what place?

A.- There was not much of a place there I cannot tell you what place was nearest. The nearest place was twenty five miles.

Q.- What was your father's postoffice address?

A.- While he lived there?

Q.- Yes sir.

A.- He did not live there long until he moved to Alabama. He had no address there that I know of,

Q.- He lived twenty five miles from what town in the State of Tennessee?

A.- I cannot think, it is the county seat of that county, I cannot think of the name of it.

Q.- What year was it when he lived in Tennessee?

A.- I cannot tell you.

Q.- You know what county it was?

A.- No, I don't know what county it was, you see he only stayed there two or three months. About four or five months.

Q.- But it was, according to your statement, seventy one years ago, when he married Margaret Patterson in the State of Tennessee?

A.- It might have been.

Q.- You are seventy eight years old?

A.- Yes, sir.

Q.- That would make it seventy one or two years ago; how long had they been married when you went to live with them in the State of Tennessee?

A.- I don't know exactly how long, I was living with my grand-



father, they might have been married two or three months; may be less, when I was carried to them, and then they did not stay there but a little while and went into Alabama.

Q.- Did they have any children?

A.- No, sir.

Q.- How long before the first child was born?

A.- I cannot exactly tell you.

Q.- Where did they move to in the State of Alabama?

A.- In Jackson County.

Q.- How long did they live there?

A.- I don't know how long they did live there, hardly.

Q.- Near what town did they live in the State of Alabama?

A.- Boliver.

Q.- Alabama?

A.- Yes, sir.

Q.- How close to that town?

A.- About six or seven miles.

Q.- In what direction?

A.- I don't know exactly, I think it was north, partly north any way.

Q.- Your father did not claim to be an Indian there?

A.- No, sir.

Q.- He was a white man?

A.- Yes, sir.

Q.- He lived as a citizen in the States of Tennessee and Alabama?

A.- Yes, sir. He was a citizen.

Q.- Where did they move to from Boliver, Alabama?

A.- To Missouri.

Q.- What part of Missouri.



Q.- What part of Missouri?

A.- Well, they moved into Wright County Missouri, then moved back into Madison County, near Iron Mountain.

Q.- How long did they live there?

A.- About 18 or 20 <sup>years.</sup> ~~miles from the county seat.~~ I don't remember exactly.

Q.- Whereabouts did they live in Madison County?

A.- About six or eight miles from Fredericktown, the county seat.

Q.- How long has this Margaret Patterson been dead?

A.- Yes, sir.

Q.- How long has she been dead.

A.- Well, I reckon she has been dead one or two years.

Q.- Where did she die?

A.- Here in the Nation; down here at Lehigh.

Q.- Now, did your father move from the State of Missouri, after living there about twenty years?

A.- Yes, sir, he moved to Texas.

Q.- Your step mother was still with you at that time?

A.- Yes, sir.

Q.- Where did they locate in Texas?

A.- Located down here in Bonham.

Q.- What year was it when they moved to the State of Texas?

A.- I don't know that either.

Q.- How many years ago?

A.- It might have been Forty seven or eight, somewhere along there, I don't remember.

Q.- What part of Texas did your father move to?

A.- In Fannin <sup>County.</sup> Texas, not far from Bonham.

Q.- Did he buy land there and have a home?

A.- Yes, sir.



Q.- Which direction from Bonham?

A.- It was a little north west.

Q.- About how many miles?

A.- About eight miles.

Q.- Did your step mother, Margaret Patterson, live there with your father until what time?

A.- She lived with him there until he died?

Q.- What year did your father die?

A.- Well, I don't remember what year he died in; it was somewhere along about 1870, I reckon.

Q.- How long after that before she moved away from there?

A.- Well, she left there about two years after; a year, may be two.

Q.- She left there about seventy two or three then?

A.- Yes, sir, she left there about 1871 or 2.

Q.- Where did she come to.

A.- She went to the Nation.

Q.- What part of the Nation?

A.- She went up here by this little place, I have spoken of, Lehigh.

Q.- Had she married again?

A.- No, sir.

Q.- She moved to the Nation near Lehigh?

A.- Yes, sir.

Q.- That is about all you know of her movements up to this time?

A.- Yes, sir.

Q.- She stayed there until she died?

A.- No, sir, she came back to my house and stayed a while and then she went back.

Q.- You said here that her father was John Patterson?



A.- Yes, sir.

Q.- Do you state that from personal knowledge or hear say?

A.- No, sir, I stated that was my understanding; that is the way I said it.

Q.- You state that from hear say?

A.- Yes, sir.

Q.- Did you know Margaret Patterson's mother?

A.- Yes, sir.

Q.- What was her name?

A.- Jane.

Q.- Where did you know her.

A.- There in Alabama.

Q.- She lived in Alabama?

A.- She lived there, yes sir.

Q.- Did you know her father?

A.- The old lady's father?

Q.- No, Margaret Patterson's father?

A.- No, sir.

Q.- Where was he at the time you were acquainted with the mother.

A.- I do not know where he was; I cannot tell you where he was, any more than hear say.

Q.- You knew the mother there of this Margaret Patterson, but you did not know her father?

A.- I knew Margaret.

Q.- Did you ever know her grandmother in Alabama?

A.- My step mother's grandmother?

Q.- Yes.

A.- No, sir.



Q.- Did you know her grandfather?

A.- No, sir.

Q.- Did you know any of her brothers and sisters in Alabama?

A.- My step mother's brothers and sisters?

A.- Yes.

A.- I knowed them all.

Q.- How many?

A.- Bill, John, Andy.

Q.- Any of them still living?

A.- No, sir, Bill died a long while ago. I heard one of the others had died, they were in Missouri, I don't know which one, may be both for all I know. The girls were Betsy, Ester and Patsy, and my step mother. That is about the number of the children.

Q.- Where were they living when you last hear of them?

A.- In Alabama and part in Missouri.

Judge Foote:

Q.- You say you went over from Tennessee to Alabama, Jackson County?

A.- Yes, sir.

Q.- You say your father married in Tennessee and went to Alabama?

A.- Yes, sir.

Q.- Don't you know that there is no place called Boliver in Jackson County, Alabama?

A.- Yes, sir, there is a place there.

Q.- Are you not thinking about Boliver, Tenn.

A.- No, sir. I know there is a Boliver in Alabama. It lies in below Butler Creek, not far from the Tennessee River.



Q.- You don't recollect positively about that do you?

A.- Which.

Q.- That there is a Boliver in Jackson County, Alabama.

A.- Yes, sir, I recollect that very well.

Q.- Where is Florence, Alabama; on what river?

A.- I don't understand that.

Q.- I will ask you what river was there where he lived?

A.- The Tennessee River.

Q.- Is not Florence on the Tennessee River?

A.- I never heard tell of that.

Q.- Did not you say you went to Florence?

A.- No, sir.

Q.- I understood you to say you lived there?

A.- No, sir. You are mistaken, I never heard of that place.

Q.- You never were at Florence Alabama?

A.- No, sir. If there is such a place I never heard of it.

Q.- Do you know what county they lived in, in Tennessee?

A.- No sir.

Q.- How far from the Tennessee River, in Tennessee, did you live?

A.- I don't remember exactly how far it was, but I expect it was fifteen, may be twenty miles; may be not so far; I don't recollect; cannot remember; I was not a very large boy at that time.

Witness excused.



Richard Brashears,

a witness produced on behalf of the Plaintiffs, being duly sworn testified as follows;--

Mr. McPherrren,

Q.--What is your name?

A.--Richard Brashears.

Q.--How old are you?

A.--I was born in 1821.

Q.--What is your postoffice address?

A.--Brazil now.

Q.--What County is that in?

A.--Skullyville County.

Q.--Where were you born?

A.--In Alabama.

Q.--How long did you live in Ala.?

A.--I was about six, seven or eight years of age when they brought me away from there.

Q.--Where did you go then?

A.--To Mississippi on the ~~Yazoo River~~ Yazoo River.

Q.--How long did you live there?

A.--About three years as well as I can recollect.

Q.--You belonged to Brashears?

A.--Yes, sir.

Q.--Give his given name.

A.--Von. Brashears.

Q.--Did you live in among the Indians?

A.--Yes, sir. Was brought up and born right among the Indians.

Q.--Was Brashears an Indian?

A.--Yes, sir, a quarterroon.

Q.--Was he a Choctaw or Chickasaw.



A.--He was a Choctaw.

Q.--When did you come to the Indian Territory?

A.--In '31.

Q.--In 1831?

A.--Yes, sir.

Q.--Who did you come with?

A.--Brashears.

Q.--With Von Brashears?

A.--Yes, sir.

Q.--Where did he stop?

A.--At Dokesville.

Q.--Where have you been living since '41.

A.--Me?

Q.--Yes.

A.--First one place and then another in the Territory.

Q.--You mean in this territory and Nation.

A.--Yes, sir, never did live anyplace else.

Q.--Are you a Choctaw or Chickasaw Freedman?

A.--I am a Chickasaw now, they sold me to the Chickasaws just a few years before the war and I am a Chickasaw Freedman, but my old master was a Choctaw.

Q.--Did you know a man named John Patterson in the State of Mississippi?

A.--Yes, sir, I knowed him.

Q.--Where did you know him?

A.--I seen him there in Mississippi and when we came to this country again.

Q.--Did John Patterson come to this country?

A.--Yes, sir.

Q.--Where did he live?



Q.--He lived down here about Dokesville in the Choctaw Nation.

Q.--Did John Patterson have a brother?

A.--Yes, sir.

Q.--What was his name?

A.--Jim, he had two brothers, Jim and Isaac; there was a third but I do not recollect him.

Q.--Did John Patterson marry in Mississippi before he came here?

A.--Yes, sir; had a wife and two children.

Q.--What was his wife's name?

A.--Jennie.

Q.--Did he bring Jennie out here with him?

A.--No, sir, he came by himself, and left and went back?

Q.--Did he come back?

A.--Yes, sir.

Q.--Ever see him with his wife?

A.--No, sir, I did not.

Q.--Did you know Peggy Patterson?

A.--Yes, sir, I saw her once after we came out here. Saw her in Texas.

Q.--Who was she?

A.--Her husband was named Marlow.

Q.--Whose daughter was she?

A.--John Patterson's.

Q.--She married a man named Marlow?

A.--Yes, sir.

Q.--Do you know his given name?

A.--No, sir.

Q.--Is John Patterson dead?

A.--I expect he is; I have not heard of him in several years.



Q.--Is Jim Patterson dead?

A.--Yes, sir, I think he is; I heard he died.

Q.--Was John Patterson a Choctaw Indian?

A.--Yes, sir; he was a full blood, only he was not a real dark Indian, but he was a full blood and so was his brother Jim.

Q.--Could he talk the Indian Language?

A.--John Could not but Jim could.

Q.--Was Jim Patterson's wife a white woman?

A.--Yes, sir.

Q.--Peggy was Jim Patterson's daughter, you say?

A.--Yes, sir.

Q.--By his wife Jennie?

A.--Yes, sir, that is right.

Q.--You don't know Jane Mars, do you?

A.--No, sir.

Q.--You don't know Crawford Marlow, do you?

A.--No, sir.

Q.--You don't know these applicants in this case?

A.--No, sir. Did not know his given name; just knowed Marlow.



C r o s   E x a m i n a t i o n

By Mr. Mansfield;

Q.--What year were you born?

A.- In 1821.

Q.- At what point in Mississippi?

A.- Alabama is where I was born, on the Tom Bigbie River.

Q.- Near what town?

A.- That is something I don't know; there was a little town, I don't know whether it was a little one or a big one, called Livingston that was the closest one I ever heard of.

Q.- You were born in 1821?

A.- Yes, sir.

Q.- You were born a slave?

A.- Yes, sir.

Q.- What was your master's name?

A.- Von Brashears.

Q.- Was he a white man?

A.- No, sir. He was a quarter Choctaw.

Q.- Did he live near this little town in Alabama, what was he doing?

A.- He was living there.

Q.- Was he a farmer?

A.- Yes, sir. Farmer and whisky drinker.

Q.- Did he own some land there?

A.- Yes, sir. He owned a farm there.

Q.- How long did you live there before you moved to Mississippi?

A.- I was about seven or eight years of age.



Q.- Where did you go in the State of Mississippi?

A.- On the Yazoo River.

Q.- Where ~~abouts~~ abouts; what point?

A.- A place there called Horse Shoe Bend; some called it Honey Island. We lived right in there.

Q.- What was your master doing?

A.- Farming.

Q.- Did he buy the farm?

A.- I don't know whether he bought it or whether it was given to him, but he sold it to a man named Davis, Wiley Davis.

Q.- When did he leave there?

A.- In 1830

Q.- What time in 1830?

A.- Some time in the Fall he came to Little Rock and laid by until summer and then came to Dokesville.

Q.- Who came with you?

A.- Fulsoms, Harlins, McCoys, Vincents; I could not think of some third of them.

Q.- You knew John Patterson in the State of Mississippi?

A.- Yes, sir.

Q.- Now, where abouts in the State of Mississippi did you know this John Patterson?

A.- There was a place there called Brack Creek, close to a little town named Rankin.

Q.- How old was John Patterson then?

A.- That I cannot tell you.

Q.- A grown man?

A.- Yes, sir.

Q.- How old was he?



A.- I could not tell you.

Q.- Did he live close to this little town?

A. - ~~Yes, xxxk.~~

A.- Yes, sir, some wheres in there.

Q.- You have seen his house?

A.- No, sir, I did not see his house; he was always around with my old master drinking.

Q.- You never saw his house?

A.- No, sir.

Q.- Never saw his family?

A.- No, sir.

Q.- All you saw of John Patterson, he would come to your master's place and be drinking there with him?

A.- Yes, sir.

Q.- How did you get acquainted with his wife?

A.- Seen her at my master's with him.

Q.- She would come among these drinking men?

A.- Sometimes.

Q.- How many times?

A.- I could not tell you.

Q.- Your statement to the Court is that you got acquainted with Jennie Patterson and learned her name, while she came there on drunken sprints with her husband?

A.- I could not say that; she was there several times.

Q.- How did she come?

A.- I could not tell you; she should have come horse back; they did not ride in buggies and wagons in those days.

Q.- How did she come?

A.- I don't know.



Q.- Don't you know that they came horse back?

A.- Yes, sir, that is the way the Indians traveled.

Q.- You never were at the home of John Patterson?

A.- No, sir.

Q.- You never saw him and his wife there?

A.- No, sir.

Q.- How did you find out what her name was?

A.- I heard John Patterson call her name?

Q.- While they were there on these drunken sprees?

A.- To tell the truth that is the way I learned my Miss's name; did not know it until I heard some one call it.

Q.- How long did you live there?

A.- I was seven or eight years old when I left Alabama and came to Mississippi.

Q.- You were born in 1821 and left Mississippi in 1830?

A.- I was seven or eight years old when we left Alabama and come to Mississippi.

Q.- You know the year you were born in?

A.- 1821.

Q.- You know the year you left Mississippi was 1830?

A.- Yes, sir.

Q.- How long after you left Mississippi before you saw John Patterson and Jennie, his wife.

A.- Never seen her after, but seen him.

Q.- Where did you afterwards see him?

A.- There in Mississippi.

Q.- I mean after you got out here?

A.- At Dokesville.

Q.- What year was that?



A.- 1831. We came here from Mississippi and he came with us.  
I was told that we were the first Choctaws that emigrated  
to this country; I was told that.

Q.- Are you testifying from what you know?

A.- I was told this.

Q.- John Patterson came along with you?

A.- Yes, sir.

Q.- Is there an Indian living at this time that knew the  
John Patterson that came along with you?

A.- I don't know.

Q.- What did you say were the names of the children of John  
Patterson?

A.- I only knew of one, that was Peggie. I would not recollect  
her name if I had not seen her in Texas.

Q.- You did not recollect anything about her until you saw  
her in Texas?

A.- Yes, sir.

Q.- What year was that?

A.- Just a while before the War.

Q.- Now, how many children did John Patterson have when you  
first knew him in the State of Mississippi.

A.- I cannot tell you, because I don't know.

Q.- How many girls and how many boys?

A.- I could not tell you.

Q.- You don't know their names.

A.- I knew he had several children; the names I don't know.

Q.- How do you know he had several children?

A.- I saw them.

Q.- Where.



A.- Saw them come with their mother to where we lived.

Q.- Was that at your master's?

A.- Yes, sir, they came there once in a while.

Q.- You learned their names at your master's?

A.- I did not learn their names.

Q.- How did they come there?

A.- They must have come on horse back . They did not ride in Wagons.

Q.- The only place you saw the children was when they would come there to your master's place?

A.- Yes, sir.

Q.- Did you see the children of John Patterson at all in Mississippi?

A.- Yes, sir.

Q.- What kind of looking children?

A.- Half breeds.

Q.- How old were they?

A.- O, my goodness, I could not tell you that.

Q.- You can tell about their ages?

A.- No, sir.

Q.- Were they girls or boys?

A.- Some girls, as well as I recollect; but I cannot tell you how many boys or how many girls.

Q.- When was the last time you saw this woman and these children at your master's place?

A.- I could not tell you that.

Q.- That would be in 1830, if you lived there in 1830?

A.- I can not tell how many children.

Q.- You cannot give any idea as to how old they were at that time?



A.- No, sir, I cannot.

Q.- Where was this woman and these children when John Patterson came to the Territory?

A.- He left them in Mississippi.

Q.- How do you know he left them in Mississippi?

A.- He must have left them, because he did not bring them along.

Q.- You assume that because you did not see them here?

A.- He went back after them.

Q.- How long did he live here before he went back?

A.- Two years.

Q.- Where did he live?

A.- Close to Dokesville.

Q.- How are you able to state that he lived close to Dokesville?

A.- Yes, he did.

Q.- How do you know.

A.- I know he did; I am satisfied he did.

Q.- Did you ever see his house?

A.- No, sir.

Q.- Ever see his farm?

A.- No, sir.

Q.- How many times did you see him?

A.- I could not say that.

Q.- Did he live near there?

A.- I don't know.

Q.- Whom did you see him with and where?

A.- Saw him in Dokesville when he would come to trade in the stores.

Q.- He traded at Dokesville?



A.- Yes, sir.

Q.- Can you name any of these old Indians that knew John Patterson at Dokesville?

A.- No, sir.

Q.- How long did he stay at Dokesville before he went back?

A.- I don't know.

Q.- Several years?

A.- Yes, sir.

Q.- How do you know he went back?

A.- I heard it.

Q.- Did he tell you?

A.- No, sir, heard him talking to other men.

Q.- Do you know he went back?

A.- He must have gone.

Q.- How long did he stay?

A.- I don't know.

Q.- When did you next see him?

A.- I don't know, I cannot tell you that.

Q.- He came back again, did he?

A.- Yes, sir he come back.

Q.- Can you tell what year you saw him?

A.- No, sir.

Q.- Can you state the names of any Choctaw Citizens, that knew this man John Patterson out here, that are living now?

A.- No, sir. I don't know.

Q.- Mr. Brashears, you are an intelligent man, you know about these old men, you know where old man Fulsom lived?

A.- Right in Dokesville.

Q.- You knew where Peter Matubbe lived?



A.- No, sir, I don't know that I do.

Q.- You can name the old Indians there?

A.- No, sir.

Q.- You can name some who would know him?

A.- No, sir.

Q.- When he came back here; how did you learn he came back?

A.- I saw him there in Dokesville.

Q.- Did he have his wife with him?

A.- No, sir, not when I saw him.

Q.- Did he bring his wife and children back with him?

A.- Not that I know of.

Q.- Where did he live when he came back?

A.- Somewhere near Dokesville, but I never found out.  
What finally became of him; did he leave there?

Q.- ~~Did he bring his family back with him?~~

A.- He must have, I reckon he did.

Q.- Do you know when he left there?

A.- No, he did not live at Dokesville; he lived fifty five miles north east ~~at Tuskhonax~~ of Dokesville.

Q.- Do you know what became of him?

A.- No, sir, suppose he must have died.

Q.- You are positive about his being a full blood?

A.- Yes, sir, he was a full blood.

Q.- You judge that from his appearance?

A.- Yes, sir.

Q.- Are you as positive about that, as you are about these other statements?

A.- Yes, sir; he must have been a full blood; I knew his father, I did not know his mother.

Q.- You knew his father?

A.- yes, sir.



Q.- Where did he live?

A.- In Mississippi.

Q.- What was his name?

A.- Amontubbe.

Q.- Where did you see him?

A.- Saw him there in Mississippi.

Q.- Where did he live in the State of Mississippi?

A.- I don't know exactly where abouts; somewhere on a farm on the line of Mississippi and Alabama.

Q.- How did you get acquainted with him?

A.- Would get acquainted with them old Indians when they would come over to my old masters to drink whisky and fight.

Q.- Did you see him on the Yazoo, too?

A.- No, sir, we lived somewhere near Rankin.

Q.- Did yourmaster live close to Rankin on a farm?

A.- Yes, sir, he had a farm.

Q.- How many crops did he make before he moved?

A.- I don't know.

Q.- Two, three or four, just give your best judgment.

A.- It seems to me like he lived on his brother in law's place and made two crops and then moved across the river, but to tell you whether north east or south, I could not tell you, and he made crops there and sold the place and started west.

Q.- He made two crops there?

A.- I don't know whether he made one or two, but I am satisfied he stayed in Mississippi three years.

Q.- So the greater part of the time you lived in Mississippi



you did not live in the Yazoo Bend there?

A.- We lived there a part of the time, yes we did,

Q.- And most of the time you lived close to Rankin?

A.- That is right.

Q.- You remember well about these things?

A.- Yes, sir.

Q.- You testified a while ago that you lived in Yazoo Bend;  
now you say you did not live there all the time.

A.- No, I said he lived close to Rankin on his brother in  
laws place, then moved across the river.

Q.- You know John Patterson had some sons?

A.- Yes, sir.

Q.- You testified a while ago that you knew the names of his  
two children.

A.- Peggie is the only one I know.

Q.- Did not you testify a while ago that you knew the names  
of his two children?

A.- One.

Q.- You just know the woman these poeple claim to get their  
blood from?

A.- Yes, sir.

Q.- How did you happen to be a witness in this case?

A.- Mr. Hamilton understood I knew something about the old  
Choctaws and he came to see me and asked me and I told  
him what I knew.

Q.- When was that?

A.- The first of this week.

Q.- He came to you to see you about the old Choctaws?

A.- Yes, sir.



Q.- What did he say to you?

A.- He asked me if I knew John Patterson and Jim and others,  
and I said I did.

Q.- Did he ask you about Peggie?

A.- Yes, sir.

Q.- About the others?

A.- Yes, sir, yes sir, but I could not tell you much about  
it.

Q.- He asked you about that?

A.- Yes, sir, he did not talk much because I knew.

Q.- You said you would not have known this Peggie, except  
you met her in Texas, and she was the only one you re-  
membered?

A.- Yes, sir.

Q.- You would not have remembered her except that your attention  
was called to it by your remark, is that true?

A.- Yes, sir.

Q.- These children that you testified about in your examina-  
tion in chief, you say that you would not have known ~~this~~  
this Peggie that you saw in Mississippi?

A.- I met her in this way; I was in Texas and this man Von  
made himself acquainted with me, and I said your uncle  
raised me and he said here is John Patterson's daughter;  
she is a Choctaw and her name is Peggie Marlow.

Q.- That is how you got your information?

A.- Yes, sir.

Q.- When he told you that then you remembered seeing her in  
Mississippi?

A.- Yes, sir.



Q.- How old was she when you saw her in the State of Mississippi?

A.- I cannot tell you.

Q.- You saw how many children there? Two that you remember?

A.- Saw them with the other children, if I would try to tell that, I would tell something I did not know.

Q.- You can tell something about their size; they came with their parents on horse back.

A.- I was told they was his children, but I could not tell the size.

Q.- You can give some idea?

A.- No, sir.

Q.- But I insist on your giving just what you remember as to the size of these children; how old were ~~you~~ they?

A.- I could not tell you?

Q.- 14 or 15?

A. I cannot tell; I did not keep up with the age of a person then.

Q.- Cannot you say whether they were babies?

A.- They were big enough to run; were not all babies.

Some were small children and some of them were large?

Q.- Were any of them grown?

A.- No, sir.

Q.- How old was the biggest one?

A.- I don't know.

Q.- There were some of them big enough that their mother would take them when she went to visit?

A.- Yes, sir.

Q.- Don't you know that this woman Patterson was a married



woman living in ~~at~~ the State of Tennessee in 1830.

A.- She was?

Q.- Yes, sir.

A.- Why these folks were living in Mississippi; the Pattersons were living in Mississippi.

Q.- Don't you know you are mistaken about that and that she was not living there in 1830. Don't you know she was a married woman in 1830; married to this man Marlow and was his second wife and was living in the State of Tennessee?

A.- I know that John Patterson was living in Tennessee, but to tell you where his daughter was living before that, I don't know: I told you she was living in Texas; I saw the children when they were small in Mississippi and never saw them any more.

Q.- Can you swear that the Peggie Patterson you saw in Texas was the same that you saw in Mississippi? In 1830?

QA- I don't know what year it was I seen her.

Q.- You left there in 1830?

A.- Yes, sir.

Q.- You saw them before that?

A.- Yes, sir.

Q.- She was a child there with her mother?

A.- Yes, sir.

Q.- You say that John Patterson used to drink whisky there with your old master; now have you not got that wrong; Did not you get this information from the people that came to you about this case?

A.- No, sir, I just told what I know.



Q.- Now, as a matter of fact, don't you know that this woman, Peggie Patterson, was living in the State of Tennessee at that time?

A.- In 1830?

Q.- Yes, sir, and that she was not living in Mississippi at all, but that she was grown up and had married and was living in the State of Tennessee.

A.- I don't know; I told you I saw her in 1830; I saw her before that when they was children; I expect she was older than I am.

Q.- You are certain that John Patterson was not a half breed; don't you know he was a half breed?

A.- No, sir, if he was he did not show it.

By Judge Foote;

Q.- Now, Richard, I want to know how old this woman Peggie Patterson was when you saw her in Texas?

A.- I don't know.

Q.- How old did she look to be?

A.- I cannot tell you.

Q.- You can give your best judgment; you don't have to give the exact date.

A.- I can not tell you.

Q.- Was she twenty five or thirty?

A.- I cannot tell you.

Q.- Did she have any children?

A.- I saw some children there; supposed they were hers.

Q.- You say you had seen her as a small child in Holmes County, Mississippi?

A.- No, sir.

Q.- Where did you see her?



A.- Rankin.

Q.- In Rankin County on Pearl River? Did you see them there in Rankin?

A.- That is where I saw them.

Q.- What sort of a looking country was it?

A.- I don't know.

Q.- How long did you stay in Rankin?

A.- As well as I can recollect we made two crops on that place.

Q.- In Rankin?

A.- Yes, sir.

Q.- Are you not thinking of Brandon, that is the County seat of Rankin County?

A.- No, sir.

Q.- Did you ever see the Pearl River?

A.- No, sir.

Q.- Don't you know that you crossed the Pearl River in coming from Rankin County to the Yazoo?

A.- No, sir.

Q.- You say you moved from Rankin to the Yazoo, how far was it?

A.- Not very far.

Q.- How long did it take you to go from Rankin to the Yazoo River, Honey Island in Mississippi?

A.- It was not a days travel.

Q.- How do you know you moved to Honey Island?

A.- My master told me.

Q.- You say these people came from Rankin to see you all on the Yazoo River; how far did they come to see you on Yazoo River from Rankin?



A.- I don't recollect seeing them cross the River.

Q.- How far did they live in Rankin from the Yazoo River?

A.- I don't know.

Q.- About how far was it?

A.- Not far.

Q.- Don't you know that Rankin County is a hundred miles from Honey Island.

A.- I was telling you about a little place called Rankin. We lived near that; There was a place there called that.

Q.- You came from north Alabama, on the Tom Bigbie River?

A.- No, sir, born in South Alabama on the Tom Bigbie.

Q.- At a town called Livingston?

A.- Yes, sir.

Q.- Rankin is about the center of the State?

A.- I don't know.

Q.- What kind of country is between Alabama and the Mississippi River; is a pine woods and hilly country?

A.- Yes, sir.

Q.--And what kind of country around the Yazoo; is it swampy?

A.- Yes, sir.

Q.- Then you do remember that it is a pine woods and hilly country around Rankin, and the other place is swampy?

A.- Yes, sir.

Q.- Yet you don't know how long it took you to go there?

A.- It did not take us a day. We were not far from the River.

Q.- Are you not talking about Rankin County and don't you know that Rankin County is a hundred miles from the Yazoo, Honey Island.



A.- I am telling just what I learned when I was there; there was a little town there called Rankin, but it was not far.

Q.- You say that Rankin is on the Yazoo River.

A.- It was not far.

Q.- Did you ever hear of Tchula?

A.- Yes, sir.

Q.- Ever heard of Lexington?

A.- No, sir.

Mr. McPherrren;

Q.- You don't know anything about Rankin County, Mississippi?

A.- No, sir, I don't know anything about that.

Q.- You are testifying about a little place situated near the Yazoo River, that they called Rankin?

A.- Yes, sir.

Q.- And it was not very far from Honey Island?

A.- No, sir, it was not far.

Q.- As to whether the place is there now or not, you don't know?

A.- No, sir.

Q.- You stated a while ago that Herman Patterson was called Montubbe, did he have any other name?

A.- John.

Q.- His name was John or Herman Patterson and his father's name was Amontubbe?

A.- Yes, sir.

Q.- He was some times called John or Herman and sometimes Moontubbe?

A.- Yes, sir.



By Judge Weaver;

Q.- You were never back there after 1830?

A.- No, sir.

Q.- You don't know what changes have been made there since you left?

A.- I saw a man down at Stigler, who had lately come from there and he told me that the place called Rankin when I was there, is not there now.

Mr. McPherrren;

Q.- You don't know that Rankin was a postoffice.

A.- No, sir.

Q.- You were a slave?

A.- Yes, sir.

Q.- And a boy?

A.- Yes, sir.

Mr. Mansfield.

Q.- You testified as to the full blood name of the father of John Patterson?

A.- Yes, sir.

Q.- You cannot be mistaken about that?

A.- No, sir. I don't think so.

Q.- You knew the full blood names better than you did the English?

A.- Yes, sir.

Q.- I will ask you this; did any body ever tell you this man's English name?

A.- I knew Amontubbe, I knew he was John's father.

Q.- You are sure about the names?

A.- I don't think I am mistaken about it.

Q.- You say you knew his father and his name was Amontubbe?

A.- Yes sir.

Q.- Were there any brothers of John Patterson?



A.- There was Jim, Isaac and another one.

Q.- How is it he was not called Moontubbe?

A.- Jim was sent to school and he was given the name of Patterson, and he gave the name of the balance.

Q.- And the boys were called Patterson?

A.- No, sir, I don't think they got that name until they came to this country.

Q.- ~~Isaac~~ John was married back there in 1830?

A.- I don't know what year he married but know he had a family.

Q.- Now, don't you know there was no Indian, no full blood Indian, back there named Amontubbe?

A.- Why, there ~~waxer~~ were lots of names ending in Tubbe; there were more Tubbies than anything else.

Witness excused.



In the Choctaw and Chickasaw Citizenship Court, sitting at South  
McAlester, in the Central District of the Indian Territory,  
March Term, 1904.

Jane Marrs, et al., :  
: :  
vs. : No. 109.  
: :  
The Choctaw and Chickasaw Nations. :

DECREE OF COURT.

On this 28th day of March, 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, Jane Marrs, Clara Belle Marrs, Ellen Alderson,  
Richard M. Alderson, Julia May Alderson or Julia M. Alderson,  
Barley H. Alderson, Rebecca Smith, Reuben Harrison, Jane Smith,  
Mary Pritchard, Flora Pritchard, John Pritchard, Dennis Pritchard  
or Dennie Pritchard, Jennie Pritchard or Jane Pritchard, Julia A.  
Hamilton or Julia Hamilton, Della May Hamilton or Delia May  
Hamilton, Tandy Hamilton, Sam Marrs or Samuel Marrs, Bertha Marrs,  
Tom Marrs or Thomas Marrs and John Marrs, 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 Robert Marrs, Jennie Marrs, Myrtle Marrs,  
Jerry Alderson, Paul E. Hodge, Becky Pritchard, Isey Pritchard,  
Thadious Hamilton, Reuben Hamilton, Clarence Marrs, Nellie Marrs,  
May Marrs and Minnie Marrs.



IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petition of the plaintiffs Jane Marrs, Clara Belle Marrs, Ellen Alderson, Richard M. Alderson, Julia May Alderson or Julia M. Alderson, Barley H. Alderson, Rebecca Smith, Reuben Harrison, Jane Smith, Mary Pritchard, Flora Pritchard, John Pritchard, Dennis Pritchard or Dennie Pritchard, Jennie Pritchard or Jane Pritchard, Julia A. Hamilton or Julia Hamilton, Della May Hamilton or Delia May Hamilton, Tandy Hamilton, Sam Marrs or Samuel Marrs, Bertha Marrs, Tom Marrs or Thomas Marrs and John Marrs, 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 Robert Marrs, Jennie Marrs, Myrtle Marrs, Jerry Alderson, Paul E. Hodge, Becky Pritchard, Isey Pritchard, Thadious Hamilton, Reuben Hamilton, Clarence Marrs, Nellie Marrs, May Marrs and Minnie Marrs, the Court having no jurisdiction, their petition is dismissed.

.....  
Chief Judge.

.....  
Associate Judge.

.....  
Associate Judge.



In the Choctaw and Chickasaw Citizenship Court, sitting at South McAlester, in the Central District of the Indian Territory, in the Choctaw Nation, March Term, 1904.

Jane Marrs, et al.,  
Appellants,

vs.

No. 109.

Choctaw and Chickasaw Nations,  
Appellees.

Epsie Underwood, et al.,  
Appellants,

vs.

No. 78.

Choctaw and Chickasaw Nations,  
Appellants.

George Lee White, et al.,  
Appellants,

vs.

No. 120.

Choctaw and Chickasaw Nations,  
Appellees.

George Lee White, et al.,  
Appellants,

vs.

No. 125.

Choctaw and Chickasaw Nations,  
Appellees.

OPINION, by FOOTE, Associate Judge.

All of these cases come here on appeal under the Act of July 1, 1902, from the United States Court for the Central District of the Indian Territory. All of the appellants claim Choctaw Indian blood or intermarriage with persons claiming it, through the same common ancestress, Peggy or Margaret Marlowe, alleged to be the daughter of one Moontubbee or John Patterson.

The opinion in this case is to determine the rights of all of the appellants before this Court, in each and every



of the above styled cases. It was agreed by both parties appellant and appellee that the evidence in all these cases, so far as applicable, should be considered in each and every of the causes, and hence this opinion applies to them all. Separate judgments, however, are to be rendered in each case.

Susan Eliza Pierce, a white woman of respectable appearance and bearing, was introduced as a witness for the Choctaw and Chickasaw Nations, who testified in substance, as follows:

She stated that she was fifty-seven years of age and lived in Fannin County, in the State of Texas, and had lived in that State about fifty years. She was acquainted with Reuben Marlow's wife, Margaret or Peggy, who is the common ancestress through whom these applicants, and those involved in the case of Epsie Underwood, and of Jane Marrs, and others mentioned herein, claim their Indian blood. She got acquainted with this woman, the wife of Reuben Marlow, called Margaret or Peggy, about fifty years ago, and knew her up to about twelve or thirteen years ago; that woman is now dead, and she went before that time, about eight or nine years ago the witness thinks, to Cooke County, Texas, and then she, Peggy or Margaret Marlow, as she was called, came to the Indian Territory. The witness knew that woman about as well as she could; lived within three or four hundred yards of her, and was very intimate with the family for a great many years. She first heard talk in that family about a Choctaw claim and Choctaw blood, she cannot tell the exact time, but it was about the time that a man named Beal, a member of that family, came back from the Indian Territory, and through all the years that she had thus been intimate with this family she never heard any talk among



them about their having Choctaw blood, until this Martha Beal came to the Indian Territory, then she heard the old lady Peggy or Margaret Mawlow talk about it, and she heard her say she had no Indian blood in her a dozen times, and that the old lady did not like for her descendants to make the claim of Choctaw blood which they did, and so far as she knows the old lady did not join in the claim; and in fact the records in all these cases show that she did not join in any of them.

On cross examination the witness reiterated that the old lady above referred to told her that she had no Indian blood in her and that she looked with disfavor on the claim her children were making because she had no Indian blood, and that she told her so a dozen times after the Beals moved to the Indian Territory from Texas. That she, the old lady, always repudiated that she had Indian blood, and that she thought the old lady said so because she, the old lady, thought she had no Indian blood.

There was then introduced a record in print of a case, No. 12742, wherein the Choctaw Nation and the United States were parties, and particular reference made to pages 255 and 908 thereof, wherein is given the family and children of Moontubbee a Choctaw Indian whom the applicants in this Court allege to be identical with John Patterson whom these claimants now for the first time in the case, according to the original petitions, claim to have been the father of the old lady Peggy or Margaret Marlow.

Attention was also called to the fact that the applicants had relied heretofore in the case below, on the affidavit of a man named Sam Perry, who stands before this Court in other cases as an unreliable witness.



The appellants in rebuttal then called S. H. Pierce, the husband of Mrs. Pierce whose testimony I have stated above. He corroborated the statements of his wife as to the residence of himself and wife in Fannin County, Texas, within three or four hundred yards of the family of Mrs. Marlow (Peggy or Margaret) as heretofore stated. He stated that he had never known that Peggy or Margaret Marlow ever claimed Indian blood; he did not know that she was the daughter of John Patterson, but she claimed to have a brother of that name who lived in the State of Missouri, who she was looking to come and see her, but he did not believe he came to see her. There was then read to him by the counsel of the plaintiffs what purported to be an affidavit, which he said he had not signed and did not make, and could not recall it. He did not remember the statement in the alleged affidavit that these people had Choctaw blood in them; does not recall that he said all that was thus read to him, and he recalls making some affidavit before a Justice of the Peace, and the things stated therein, some of them, are not true as he said.

Reuben Marlow was then called for plaintiffs and testified that the "old Lady", Peggy or Margaret Marlow, was the wife of his grand-father. He stated that his grand-father at one time told him that his wife had Indian blood in her, when he was small, but if the tribe she belonged to was mentioned he does not remember it; that he was brought here today as a witness for the Nations; his grand mother has been dead two or three years, and he further states that she told him, after she came to the Territory, after some of these people had been admitted as citizens of the Choctaw Nation, about the time of the winding up of the Dawes Commission, that she had a right in the Choctaw Nation as an Indian, and would claim it and give it to him. Of course all the statements this witness made



as to what his grand mother told him are incompetent, being hearsay and self serving, and the declaration of one in his own behalf to another is competent when against the interest of the declarant but not in his or her favor. see P. & T. R.R. Co. v. Stimpson, 14 Peters, U. S. Sup. Ct. Reports, 448.

George Lee White one of the claimants was introduced for the appellants. He stated that he first moved from Texas to the Indian Territory about 1892. He lived in the Choctaw Nation about three years, then went back to Texas to wind up his father's estate, and was in Texas three years, but his intention was to come back to the Territory. His mother was Cynthia Marlow, the daughter of the old lady Peggy or Margaret Marlow. His evidence as to his alleged ancestor, the alleged Moontubbee or John Patterson, was mere hearsay statements as to claims of his grand mother Peggy or Margafet Marlow, and is incompetent. The witness is an interested witness and in his original application makes no mention of Moontubbee alias John Patterson. He never knew this man except by tradition, and his understanding is that Moontubbee is on Ward's Roll as a Mississippi Choctaw claiming under the treaty of 1830. He heard this from Henry Byington, his attorney, at Caddo. Then he says he believes he first heard it from Dixon Durant, a witness for him. He says Peggy or Margaret, his grandmother, was never a party to any claim as a Choctaw by blood. His grand mother came from Missouri to Texas many years ago. He first looked over Ward's Roll at the instance of Henry Byington. He sold his last land he owned in Texas four years ago after his admission to be a citizen by Judge Clayton of the United States Court for the Central District of the Indian Territory. His Mother's sister was the first one that told him about Moontubbee and Ward's Roll; before that he had only heard



that Peggy was the daughter of John Patterson, and he never heard his mother say anything about being related to Moontubbee.

There was then offered as witness for the plaintiffs Duke Marlow, a step-son of Peggy Marlow, his father being her husband after the death of his mother. He is a white man and quite venerable in appearance. He was somewhere about four or six years old when his father married Peggy or Margaret Marlow and he was born about the year 1826. On cross examination he states he was born in the State of Alabama and afterwards lived in the state of Missouri; his father lived in Wright County in that State and then moved to the County of Madison in the same State, and he himself lived there until he went to the State of Texas about the year 1850. When he first came to his father's home from Alabama, when after his mother's death, as a small child he had been living with his grandfather in Alabama, he found his father and his step-mother Peggy or Margaret Marlow, living in the State of Tennessee in the Cumberland mountains. The Cumberland mountains as is well known are in East Tennessee, far removed from the Choctaw Nation in Mississippi. They lived there six months and then went to Alabama after the mother of Peggy aforesaid, who lived in Jackson County, Alabama. He knew his step-mother Peggy from that time until her death about two and a half or three years ago. He knows not what her blood was or who her father was save by hearsay. He thinks it was about 1832 that his father married Peggy. Again he says the first time he ever saw her was in the Cumberland mountains in Tennessee.

It appears in evidence in the Epsie Underwood case, a companion case to this, that the said Epsie Underwood, a witness for herself, made an affidavit in 1896 to be used before the Commission to the Five Civilized Tribes, ex-parte before her



attorney also acting as Notary Public. All this witness Epsie Underwood, knew about her being a Choctaw by blood, is hearsay and inadmissible. She first remembers herself in Missouri and then in Texas. She has no knowledge of the residence of her ancestors either in Mississippi or Alabama.

Crawford Marlow, the brother of Epsie Underwood, as a witness, testified, he claims to have been admitted and his sister Mrs. Beal in the same case, which has not been appealed. His grand-mother Peggy Marlow was never an applicant for admission to citizenship as a Choctaw by blood; he knows nothing except by hearsay as to her Indian blood; he never heard his mother say to what blood "Peggy" belonged; he was born in Missouri. Mrs. Beal, his aunt, was a witness in 1892, for him before the Choctaw council and for Epsie Underwood also; his mother was living in 1896 and he doesnot remember whether she still lived in Texas or had removed to the Indian Territory. His father owned land in Missouri when he left there and went to Texas; he started from Missouri to Texas going through Little Rock, Arkansas and Clarksville, Texas; he has quite a number of brothers and sisters whose descendants now live in Texas; he claims, by hearsay, about one sixteenth Choctaw blood.

Others of the interested witnesses testify that Peggy or Margaret Marlow did not apply for citizenship in the Choctaw Nation and did not want it.

William A. Underwood a witness for claimants says, on cross examination, that he never heard his wife had any Choctaw blood until after his marriage; the older members of the family started the claims and he joined in. His wife's mother Peggy or Margaret Marlow was the oldest of the family and knew more than anyone else about whether they had Indian



blood or not, and she seems to have denied to disinterested witnesses time and again that she had any Indian blood.

I have not been able to find, after diligent search and examination, of all the oral evidence adduced here, in all the cases herein intended to be decided, and mentioned in the caption of this opinion, any evidence from any of the parties hereto, of a competent nature which shows that the "Peggy" or "Margaret" Marlow, under whom all these appellants claim, had any Indian blood in her veins.

Although these parties originally do not seem to have claimed through Moontubbee or John Patterson, as they claim him to have been, yet now they do claim through him.

It is interesting and instructive in this connection to advert to pages 50, 255 and 908 of a record before the Court of claims of the United States, entitled the Choctaw Nation against the United States. It will there be found that according to that record Moontubbee in 1838, had as his oldest child a man named James Patterson; that he was 22 years old in 1838, or 15 years old in 1831, or 16 in 1832, and living in the state of Mississippi, and yet this Peggy or Margaret Marlow (nee Patterson) was then married up in the Cumberland mountains in Tennessee, and the record of that case shows from the lips of her alleged father Moontubbee, under oath, that he had no such child as she was, and that his son and oldest child, was only 15 years of age in 1831 and 16 years old in 1832. This alone utterly disposes of any descent on the part of this "Peggy" or "Margaret" Marlow from Moontubbee, and many other facts appearing on the above mentioned pages of that record show the same thing.

Then again D. D. Durant, an affidavit maker for these



people, is shown in the case of John Mitchell, et al., No. 101, on our Choctaw Docket, in his oral testimony before this Court, to have made affidavits in various citizenship cases like this and stated facts to be true therein, which he either knew to be untrue, or knew nothing about, except what some of these applicants told him. The use of such evidence as his and Sam Perry's, show these applicants utterly devoid of good faith in their applications, and taken in connection with all the other facts and circumstances developed in these cases, stamp their efforts to obtain by such means, the property of others, with the ineffaceable brand of fraud.

It is plain to me that these peoples' ancestors were not Choctaw Indians at all, nor do I believe they were of any other Indian blood.

They or their ancestors are never shown to have been in the State of Mississippi where the Choctaws lived, or at all. As early as 1831 or 1832 Peggy or Margaret Marlow, through whom they claim, lived and was a married woman, wife of a white man named Marlow, in the Cumberland mountains in Tennessee. They moved from there to North Alabama, and then to Missouri and then to Texas, where she lived for more than forty years. One of her daughters who married a man named Beal, came to the Indian Territory, and then it was that against the wishes of their alleged Indian ancestress, they hatched up the scheme to claim Choctaw Indian blood, and obtain rights as citizens. In dealing with the Choctaw council they either must have deceived it, or used other questionable means to get on the roll, for if the true facts in their case had been developed then, as they are now, they could never have justly obtained what they sought, and others of the same blood have apparently done the same.

I am of the opinion that none of the parties to this



appeal, who are properly before this Court, (and none are except those included in the judgments below, and in the petition for appeal here), are entitled to be declared citizens of the Choctaw Nation, either by blood or intermarriage as their claim may be, or entitled to enrollment as such, or to any rights which flow therefrom, AND IT IS SO ORDERED.

(Signed) H. S. Foote  
Associate Judge.

We concur:

(Signed) Spencer B. Adams  
Chief Judge.

(Signed) Walter L. Weaver  
Associate Judge.





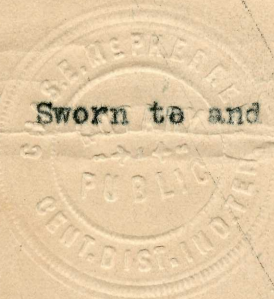


said Act, pray that the files, papers and proceedings before said United States Court at South McAlester be transferred and certified to this Court; that this Court make ~~an~~ proper order for such transfer and certification; that this Court consider and review the said cause and fully hear your petitioners herein, adjudging them to be members of the Choctaw Tribe of Indians by blood or intermarriage as such case may be and entitle them to the rights and benefits as such Indians.

Jane marr  
Julie Hamilton  
Ellen Alderson  
John Marr

Petitioners herein, signing for themselves and the above named petitioners

Sworn to and subscribed before me on this 10th day of March, A. D. 1903

A circular notary seal is embossed on the left side of the page. The text within the seal includes "CENTRAL DISTRICT OF THE INDIAN TERRITORY" around the perimeter and "NOTARY PUBLIC" in the center.  
*Charles W. [Signature]*  
Notary public for the Central District  
of the Indian Territory.



Before the Choctaw & Chickasaw Citizenship Court at South Mc  
Alister , Indian Territory.

Jane Marris et. al.

vs.

Motion to be Granted Further Time.

Choctaw & Chickasaw Nations.

Comes now the plaintiff, Jane Marris, and moves the court that  
the plaintiffs herein be granted further time and until the 21st. day of  
December, 1903 in which to adduce further testimony in behalf of the  
plaintiff in the above styled cause.

Jane Marris

Received a copy of the within motion this the 7th. day of Dec. 1903.

\_\_\_\_\_  
Attys. for Choctaw & Chickasaw Nations