

Scullyville C.N.

February 15th 1876 } Personally appeared before
the Court of Claims for Mosholatabbe District C.N.
Nancy or Molsy, who being duly sworn, deposes
and says, that she knew the mother of Ishkotubbe
in the old Choctaw Nation - did not ^{know} him - he lived
at some distance - deponent's uncle knew him and
sometimes went to see him - deponent's uncle used to say
that Ishkotubbe had a good deal of stock - horses
cattle and hogs - witness emigrated with Captain Jim
Fletcher's Company and overtook Ishkotubbe and
his two brothers just on this side of the Mississippi River -
from there they all came together to this nation. Ishkotubbe
had some ponies - rode some and packed some - He said
that he had lost some horses before we overtook him - while
travelling together, he lost some horses from time to time -
witness does not remember how many - he arrived in this
nation with but two horses left. Witness does not know of
herself how many horses, cattle and hogs he left back in the
old nation, but always understood that he owned a good
many. Ishkotubbe did not belong to our Company -
He only travelled along with us - witness knows that he
came at his own expense and believes that he never received
any pay for it. witness thinks there were two or three
children in the party - does not remember exactly how
many.

Witness E. Burgevin Molsy x her mark
Sworn and subscribed to

Before me this 15th day of
February A.D. 1876,
Tandy Walker
Chief Commissioner

Choctaw Nation

Scullyville C.N.

June 12th A.D. 1875 } On this day personally appeared before me, Sandy Walker, Chief Commissioner of the Court of Claims for the Choctaw Nation Daniel Bell who being duly sworn, deposes and says that he is well acquainted with Dsh-ko-tubbe or Washington. Knew him in the State of Mississippi - lived with him in that State. Dsh-ko-tubbe's wife was the Aunt of the witness - her name was Sophy - Witness' father came west and left witness with his Aunt and Dsh-ko-tubbe - his father returned to Mississippi - after a time - not very long, his father, Dsh-ko-tubbe - his wife - and all the family and the witness also left Mississippi and came to the Choctaw Nation West - they were emigrated by Adam Morris. Witness cannot state the year exactly - it was the last emigration that was made by Adam Morris - thinks it was about the year 1850 or 1851. Witness does not know any thing about the hoop claimed as lost by Dsh-ko-tubbe - remembers that he sold all his Cattle - there were none left - Jesse ^{Harris} ~~Nelson~~ interpreted for him when he was selling them to a white man. These Cattle belonged to his wife Sophy. Don't recollect that he

Choctaw Nation under and by virtue of "an act of the General Council of the Choctaw Nation, Dsh-ko-tubbe alias Washington aged about sixty-five years of age who being first duly sworn declares that the above and foregoing account against the Choctaw Nation is just and correct, that nothing has been paid

had but two horses - these were work horses - one of them he is satisfied belonged to his Aunt - Witness is of opinion that they sold these horses at Jackson, Mississippi where they took the Cars - Witness had a pony and his father sold it there. They were told it would take several days to reach Vicksburg and were advised to go by Rail Road. Witness was quite young - about twelve years old - but remembers well what he has stated.

Daniel Bell

Sworn and subscribed to before me
the day and year above written.

Jerry Walker

Chief Cmn. of the Court of Claims
for Washlatubbe District of the C. N.

Scullyville C. N.

The Choctaw Nation

To Ish. Ko-tahle alias Washington

D^r.

To 15 head of ponys	@ \$20 ⁰⁰	300 00
" 8 " " "	@ \$20 ⁰⁰	160 00
" 80 " " cattle	@ \$8 ⁰⁰	640 00
" 40 " " hogs	@ \$2 ⁰⁰	80 00
		\$1180 00

Witness



Scullyville C. N. 3

On this 5th day of July 1875, personally appeared before me Sandy Walker, chief Commissioner of the Court of claims for the Mosho-le-tahle district of the Choctaw Nation under and by virtue of "an act of the General Council of the Choctaw Nation, Ish. Ko-tahle alias Washington aged about sixty-five years of age who being first duly sworn declares that the above and foregoing account against the Choctaw Nation is just and correct, that nothing has been paid

This claim rejected,
by the Board of Commrs
Sept-7th 1876
Wm Hampton
Clerk

The Court allowed for six horses lost on
Road at 25¢ each \$150.00
Remainder of claim disallowed in want of
proof. C. Purge Clerk

or delivered toward the satisfaction or the payment
of the same either by the U.S. or the Choctaw
Nation and that there is due him from the said
Choctaw Nation the sum of Eleven hundred
and eighty dollars as therein demanded - That
he emigrated from the state of Miss: to the Choctaw
Nation about the year 1833. that he was known
and was a "Longtown" or "Ok-la-falaya" Choctaw
Indian, and that said property was lost and
abandoned as follows i.e. fifteen head of ponies
died en route to said nation, eight head were
left and abandoned in the state of Mississippi
and the cattle and the hogs were also left on account
of the ~~means~~ want of means to bring or drive them
to the said nation

Witnesses to prove demand
Marcy ^{Ed. Purge} } Ish. K. tubbe ^{his}
_{Ed. Purge} } or Washington ^{mark}

Sworn and subscribed to before me, the day
and year above written.

Jandy Walker
Chief Com. of the Court of Claims for
Masholatubbe District of the C'n.

No. 37
Claim of
Ish. K. tubbe vs Washington

\$ 1180.00
Filed in open court this 5th
day of July 1876
Edmund Purge
Clerk
Lost property
C. DeFlore
atty
Act: Nov. 6th 1872

Self Emigration

Scullyville C. N.

The Choctaw Nation

To Isk-ko-tubbe alias Washington in his own right & for Ya-ho-na his wife, George and Pat-chi his children and as heir at law of Nat-ne-tabe and Pash-Ku-tabbe, his brothers dec'd.

To self emigration from the state of Mississippi to the Choctaw Nation in the year 1833. self	27	60
To emigration for Ya-ho-na,	27	60
" " " George	27	60
" " " Pat-chi	27	60
" " " Nat-ne-tabe	27	60
" " " Pash-Ku-tabbe	27	60
	165	60

Witness



Scullyville C. N. 300.

On this 5th day of July A.D. 1875, personally appeared before me Sandy Walker, Chief Commissioner of the Court of claims for the Mo-sho-le-tubbe district of the Choctaw Nation, under and by virtue of an act of the General Council of the Choctaw Nation approved Nov^r 6th 1872, creating a court of claims &c. Isk-ko-tubbe aged about sixty-five years of age who being first duly sworn according to law declares that the above

4938
Claim of

Ish-ko-tube & Washington

Et al & as him

of 3

Nak-ou-tabe and

Ish-ko-tube

\$165.60

~~Filed in open court this
5th day of July 1870 -
Edmund Burgerin
per~~

Emigration

to before atty

Act. Nov. 26th 1842

See claim No 37 for most
evidence.
~~This claim rejected
by the Board of
Commissioners
Sept 7th 1876~~

~~Witnesses
from demand
Marcey
C. Burgerin~~

Witness from demand
Marcey
C. Burgerin

Ish-ko-tube ^{his} mark
or Washington

Form to & subscribed this 5th day of July 1870

Jerry Walker

Chf. Comm^r Court of Claims.

The Court allowed emigration for five
persons - @ 27.60 = \$130.00
Ish-ko-tube - was emigrated by government.
E. Burgerin
C. H.

and joining account and to which his name is attached
is just and correct, that nothing has been paid or
delivered toward the satisfaction or the payment of the
same and that there is justly due him from the
said Choctaw Nation the said sum of One hundred
and sixty-five dollars and sixty cents as therein charged
and stated. That he voluntarily and at his own
expense emigrated himself and his said wife and
two children at his own expense to the Choctaw Nation
in the year 1833 or thereabouts & that his said brother
also at the same time & at their own expense emigrated
to said nation, and, that he and they emigrated
from the state of Mississippi, and that they were
known as "Langston" or "Ok-la-falaya" Choctaw Indians
and that the said Nak-ou-tabe and Pash-ku-chabe
departed this life i. e. Nak-ou-tabe about the year 1835
Pash-ku-chabe about the year 1835.

MEMORANDA FOR ARGUMENT IN SUPPORT OF MOTION
TO EXCLUDE TESTIMONY.

FIRST: All testimony taken or filed before the Commission to the Five Civilized Tribes, and offered here should be excluded, for the reason that it was taken without notice to both Nations, and all proceedings so conducted are void.

See Riddle case page 29 and following

All argument and authorities which may be here offered in support of this proposition were submitted to and passed upon by this Court in the Riddle case.

The taking and use of such testimony before the Commission and United States Courts impelled the creation of this court. The methods thus practiced and the wrongs thus perpetrated were laid before Congress and the other Departments of the government and this law and this court resulted. It was clothed with power to undo the wrongs heretofore done. It was given jurisdiction of its own ample for that purpose.

SECOND: All ~~hear~~ All testimony taken or filed before said Commission should be excluded where it has not been shown that witnesses are dead.

THIRD: All hearsay testimony taken or filed before said Commission as to pedigree or family relationship should be excluded where the legal relationship of the witnesses to the persons interested and the person or persons whose statements are quoted has not first been established by testimony other than his own.

Wartons evidence Vol. 1, Section 202; also same book section 204; also same book section 218. See also Blackbourn vs. Crawford 70 U. S. page 186.

FOURTH: All hearsay testimony taken or filed
before said Commission which tends to establish the
racial status, blood or any fact or facts other than
pedigree or relationship of the parties should be
excluded.

*W*Horton's evidence section 206; also Queen
vs. Hepburn, 7 Cranch, 291; also Davis vs. Wood l
Wheat. 10; also Vigel vs. Naylor 65 U. S. 646;
also Stte vs. Waters 3 *Mc*L. (25 N. C.)

declares that the declarations of the grand mother
of one who was charged to be a person of color that his
mother was the off spring of a white man and herself
were not admissable evidence in that question.

Pedigree defined.

Am. & Eng. Enc. Law, old edition Vol.
18 page 257.

Hearsay testimony even to establish
pedigree must be received with the utmost caution,
and too much weight must not be given it.

*W*Horton's evidence section 207.

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These authorities define the rules. They
are well established, and have been uniformly follow-
ed.

Why should it be suggested that they be
varied here.

Property is sought to be acquired, and
property rights are sought to be enforced.

Riddle case, page 29 and following.

MEMORANDA FOR ARGUMENT OF DEMURRER.

Conditions leading up to treaty of 1820. *No patent*
What it was hoped to accomplish. It failed. (United States vs. Choctaw Nation 179 U. S. 292) (Riddle case, page 17 and following). *changed by congress.*

Treaty of 1830. What it was expected to accomplish, and what it did accomplish. Fulfillment of policy of government. Quote article two and comment. Quote patent page 30, Choctaw laws and comment. These state consideration passing from government.

Quote article 3 and comment; also article 16 and the fifth subdivision of article 19 and comment. These state consideration passing from the Choctaws.

Treaty of 1830 transferred Choctaw Nation, people and interests West of the Mississippi River with one exception: 14 article. Quote 14 article and comment. Entire Nation divided into two parts and only two. Record of both. As to emigrants, emigration rolls; as to 14 article claimants, rolls of that. *Elk vs. Wilkins, further - not parallel*

Enrollment has always been test. "Net Proceeds" "Leased District" and other payments. All Choctaws before participating in these funds were required to prove their descent from original ancestors.

Treaty of 1866 - not adopted
Policy of government. It dealt with only Nation or tribe, and the test of those who constituted its members was enrollment. Those who were enrolled and carried out obligations of treaty were in harmony with policy of government, and tribal organization maintained. Those who refused to adhere to either class fixed by treaty of 1830 were in opposit-

Not a property but property

Not a property but property

ionto policy of government.

Decision Supreme Court: Eastern band of Choerkees vs. United States 117 U. S. 180.

Applicants have for several generations lived in surrounding States and enjoyed comforts and benefits, and exercised the rights and privileges of citizens there. Assuming that they possess some degree of Choctaw blood, can it be said, that, after avoiding the obligations and accepting the hardships of Choctaw citizenship for generations they can now be permitted to share equally with those who have remained with the tribe.

All who wish to share must trace their right to treaty of 1830. It divided the Choctaw Nation into two classes and only two: emigrant Choctaws, who composed the Choctaw Nation transferred West of the Mississippi River; and 14 article Choctaws who might follow along and rejoin the tribe.

Not Proceeds

Alata

Papers in Immigration
Claim of Ish-Ko-tubee
of Washington in which
testimony of Washington
is contradicted suborned
by Daniel Beel.

To be introduced

in Bid die case, as
well as all other in
which testimony of
Ish-Ko-tubee is re-
lied upon by claimant.

Bid die Case

In Biddie Case.

Daniel Bell contradicted outright the testimony of Ish-ko-tubbe or Washington in the matter of his claim on account of emigration from Mississippi - the claim and the testimony of both Ish-ko-tubbe or Washington and Daniel Bell appearing with the paper in said emigration case now in the office.

From the foregoing it is thought Daniel Bell would make good impeaching witness and that this record could probably be introduced as corroborative evidence of the unreliability of Ish-ko-tubbe or Washington. To be introduced in Biddie case or any other case in which the testimony of Washington is relied upon by claimant.

D. C. M.