

# Dallas County, Texas Probate Cases 1846 – Early 1900's

Case Number 1904

---

Dallas Genealogical Society  
Founded 1955

[www.dallasgenealogy.org](http://www.dallasgenealogy.org)



FILED BY THE DALLAS GENEALOGICAL SOCIETY-1978

# 1904

FILED BY THE DALLAS GENEALOGICAL SOCIETY-1978

THE STATE OF TEXAS.

To all Persons Interested in the Estate of *M. J. Brittain* deceased:

*Mary E. Cuskerberry* has filed, in the County Court of Dallas County, State of Texas, an application for the Probate of the last Will of said *M. J. Brittain* deceased, and for Letters Testamentary, which application will be heard and acted upon by said Court, at the next term thereof, to be held at the Court House in the City of Dallas, County of Dallas, State aforesaid, and commencing on the first Monday in *November* A. D. 189*9*, at which time and place all persons interested in said Estate shall appear and contest said application, should they desire to do so.

WITNESS: L. H. HUGHES, County Clerk of Dallas County, Texas.

GIVEN under my hand and the seal of said Court at office in the City of

Dallas, this *20th* day of *October* A. D. 189*9*

L. H. HUGHES,  
County Clerk, Dallas Co., TEXAS

By *A. Jackson* Deputy.

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILMED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILED BY THE DALLAS GENEALOGICAL SOCIETY-1978

FILED BY THE DALLAS GENEALOGICAL SOCIETY-1978

135

No. 1956  
COUNTY COURT.

ESTATE OF  
*M. J. Britain*

Deceased.

Notice of Application for Probate of  
Will and Letters.

Issued this *20th* day of  
*October* 189*7*

L. H. HUGHES, COUNTY CLERK.

By *A. Jackson* Deputy.

SHERIFF'S RETURN.

Came to hand the *20* day of *Oct*  
189*7* and executed the *20* day of *Oct*

189*7*, by posting up three copies of this Writ at  
three public places in Dallas County, one of which  
was at the Court House door of said County, and  
no two of which were in the same town or city.

*Ben C. Lacey*  
Sheriff, Dallas County.

By *G. F. Larson* Deputy.

Deputy Printing Clerk, Dallas County, Texas. 1890.

*Fee \$3.00*  
*{Recorded}*

Estate of :  
Martha Britain, Dec. : County Court  
: Dallas County Texas.

I.H.Story being duly sworn on oath says that he is one of the subscribing witnesses of the last will and testament, of the last will of Martha Britain, that will exhibited to him as the original of said will, that at time said will was executed said Martha Britain was over 21 years of age, a citizen of Dallas county and was of sound mind and disposing memory, that the will was signed by the said Martha Britain in the presence of I.H.Story and T.R.King, that said I.H.Story and T.R.King signed said will as witnesses at the request of said Martha Britain, that the said Martha Britain declared said instrument to be her last will and testament, and requested said I.H.Story and T.R.King to sign same as witnesses.

That said I.H.Story and T.R.King, signed same as witnesses in the presence of said Martha Britain, and in the presence of each other; that the said I.H.Story and T.R.King at time said will was signed by them as witnesses were each of them over the age of fourteen years.

That said Martha Britain is now dead; that she died in Dallas county Texas on the 11<sup>th</sup> Day of October 1894.

I. H. Story

*Sworn to and subscribed before me in open Court on the 6<sup>th</sup> day of March 1894  
A. S. Jackson County Clerk  
Dallas County Texas  
By J. A. Taylor Deputy*

FILED *March 6* 1894

A. S. JACKSON,  
County Clerk, Dallas County, Tex.

*J. A. Taylor*  
DEPUTY

Estate of :  
Martha Britain Dec. : County Court  
: Dallas County Texas.

T.R. King being duly sworn on oath says that he is one of the subscribing witnesses of the last will and Testament, of the last will of Martha Britain, that will exhibited to him as the original of said will is the original will, that at time said will was executed said Martha Britain was over 21 years of age, a citizen of Dallas county and was of sound mind and disposing memory, that the will was signed by the said Martha Britain in the presence of T.R. King and I.H. Story as subscribing witnesses, that said T.R. King and I.H. Story, signed said will as witnesses at the request of said Martha Britain, that the said Martha Britain declared said instrument to be her last will and testament, and requested said T.R. King and I.H. Story to sign same as witnesses.

That said T.R. King and I.H. Story, signed same as witnesses in the presence of said Martha Britain, and in the presence of each other; that the said T.R. King and I.H. Story at time said will was signed by them as witnesses were each of them over the age of fourteen years.

That said Martha Britain is now dead; that she died in Dallas county Texas on the 16 Day of October 1894.

*Sworn to and subscribed before me  
in open Court on this the 6th day of  
March 1897*

*T.R. King*  
A. S. Jackson Clerk of  
the County Court Dallas  
County Texas  
Per, J. H. Gardner Dy

FILED *Mar 6 1897*  
A. S. JACKSON,  
County Clerk, Dallas County, Tex.  
*J. H. Gardner*  
DEPUTY.

The State of Texas } San County Court of  
County of Dallas } Dallas County Texas

To Hon. S. H. Bush Judge of said Court  
Sitting in Probate.

Your petitioner

Complaining of M. E. Miller respectfully  
represents to the Court that heretofore  
to wit day of 1894 my wife departed  
this life leaving a purported Last Will  
and Testament, to which reference is  
here made and asked to be made a  
part of this protest, which was filed  
for Probate Oct 19<sup>th</sup> 1894 said will  
conveying to the said M. E. Miller all  
the property both Real Personal & Mixed  
that we owned jointly at the date of  
her death, and to further will and bequeath  
to her and her lawful children the Home  
stead with all its appurtenances and  
appertaining together with the personal  
possession of the same from and after  
the death of my said wife M. E. Miller  
deceased at the option of the said M. E.  
Miller and other provisions in said  
will all of which are a violation  
to the laws of this state and in direct  
violation of the Probate laws of the state  
that said pretended last will and testament  
was not made in conformity with  
the requirements of the Statutory  
Laws of this State

That all the property owned by

LEGHORN ABSTRACT  
FROM  
GEO. B. BAUSARD & CO.  
ST. LOUIS

FILMED BY THE PALM SPRINGS FILM SOCIETY

my deceased wife Mrs. Britton and myself was community property at the date of her death. Compliment to Mr. Britton says he is the surviving partner of the said Mrs. Britton is the head of the family and is entitled under the law to the possession of the homestead and its appurtenances as long as he lives and occupies it as such.

Wherefore he must solemnly protest against the probate of said pretended Last Will and Testament and that he be permitted to fully present his evidence as to the objection to the probating said pretended Will for which he will ever pray -

L. A. Williams  
Atty for Mr. Britton  
Survivor of Mrs. Britton  
Dec 24



7th 1956

Estate M. T. Britton  
J. R. K.

Protocol of M. T. Britton  
to  
Probate Will

FILED Nov. 10 189 ✓  
L. H. HUGHES, Clerk County Court.  
By W. Jackson DEPUTY

The State of Texas } In County Court  
County of Dallas } Dallas County  
Texas

Before Hon. T. F. Nash Judge of the  
County Court of Dallas County Texas

Your petitioner Mary E. Cushmanberry formerly  
Mary E. Miller shows to the Court that her de-  
ceased husband on the 16<sup>th</sup> day of October 1894

M. F. Brittain departed this life in Dallas County  
Texas have left a written will which is filed her-  
ewith as part hereof marked Exhibit (A)

That said testatrix left and estate consisting of  
real and personal property situated in Dallas  
County Texas of the probable value of One Thou-  
sand dollars

That in said last will and testament of the said  
M. F. Brittain deceased Mary E. Miller is named  
as executrix.

That said Mary E. Miller and this applicant  
are one and the same person, the said  
Mary E. Miller having since the making of  
said will intermarried with one C. F.  
Cushmanberry and being now named Mary E. Cushmanberry.

That the said Mary E. Cushmanberry resides in Dallas  
County Texas and is not disqualified from accepting  
letters testamentary on the estate of said deceased.

That by the provisions of said written will, said  
executrix is not required to give bond and  
no further action is to be taken in the County  
Court than probating said will, making  
and filing inventory and appraisement, together  
with a list of claims against said estate.

Wherefore petitioner prays that she be granted letters  
testamentary on the estate of said deceased.

And she will ever pray &c

G. D. Casby Atty for Applicant

No. 1956

In Re

Estate of

M. T. Brittain Dec'd

Application is Probate  
Wills and for Letters

FILED

OCT 19 1894

L. H. BRIDGES, County Clerk

at *As Jackson*

(Recorded)

(J.)

See 10/20/94

State of Texas

County of Dallas

In the Name of God

Amen. Amen

I M. T. Britton wife of  
E. C. Britton of the County of Dallas &  
State of Texas

Being of Sound and  
disposing Mind & Memory, do make,  
and seal with this my last will &  
testament, hereby revoking all former  
wills by me heretofore made. And as  
to my worldly Estate including  
Real & personal & mixed of which I shall  
be seized & possessed or to which I  
shall be entitled at the time of my  
decease, (with the certainty of death  
before me) I devise bequeath and  
dispose of in the manner following -  
(To wit) My Will is that all my Just  
debts & funeral expenses shall be  
paid by my Executrix hereinafter  
out of my estate as soon after my  
decease as shall be found convenient  
by my said Executrix.

I give devise and  
bequeath that my said husband  
E. C. Britton may remain upon our  
homestead the property upon which  
we now live with my daughter  
M. E. Miller & her two children  
to wit

Said Homestead containing one  
hundred acres. & now to wit one tract  
of 75 acres Abstract 489 of the S. B.  
Mortgomery Survey & one tract of 25  
acres Abstract 900 of the S. B. Martin  
Survey all of Dallas County Texas.

being about 18 miles north west from  
The City of Dallas in Dallas County Texas.  
I will devise & bequeath to my said  
daughter M E Miller all my interest  
in the said real estate above mentioned  
to her & her children to wit

To have to hold forever I further  
will devise & bequeath to my said  
daughter M E Miller all my household  
& kitchen furniture with full  
privilege to remain upon the  
premises to wit our said house and  
at her pleasure.

I will devise &  
bequeath to my son J. G. Britton  
all my interest in the 80 acres  
of land upon which he now lives  
said tract being known as a Sub tract  
1138 of the G & D Palms Survey the  
same being Community property  
between my said husband & I Britton  
& myself. I give devise & bequeath to  
my daughter Margaret & Stewart of  
Ellis County Texas the sum of five  
dollars to be paid by my said executor  
as soon as convenient after my decease.  
I will devise & bequeath to the children  
of my son John Collie Cleared the  
sum of five dollars to be equally divided  
& paid in like manner by my said  
executor.

And as to my interest in  
all other property of which I shall be  
seized and possessed or shall be  
entitled to at my decease I will  
devise & bequeath that the same shall  
be equally divided between my son H. W.

Written by daughter M. E. Miller  
My son M. T. Britten

And I hereby  
appoint my said daughter M. E. Miller  
sole executrix of this my last will  
testament and direct that it  
shall not be necessary for her to  
give bond in order to carry this  
will into effect.

And that no further  
action shall be had in the  
probate Court in relation to the  
settlement of my said estate than  
the probate to establish this will the  
probate records including filing  
an inventory & appraisement of  
my said estate together with a  
list of the claims against my  
estate.

In witness whereof I the  
said M. T. Britten have to this  
my last will testament subscribed  
my name on this the 5<sup>th</sup> day  
of July 1889.

M. T. Brittain  
Signed published & declared  
by the said M. T. Brittain as  
his last will &  
testament in the presence  
of us who at his request  
in his presence in the  
presence of each other have  
subscribed our names as  
witness thereto.

M. T. Brittain Residing Sallis County  
J. H. Story Sallis County  
P. R. King Sallis County

Last will  
of  
M. P. Britton

Exhibit (A)

FILED

OCT 19 1894

L. H. HUGHES, County Clk.

at *A. Jackson*  
Provy

{Recorded}  
J.