

# UC Berkeley

## UC Berkeley Electronic Theses and Dissertations

### Title

Phoenix on Fire: The Cherokee Nation from Reconstruction to Denationalization

### Permalink

<https://escholarship.org/uc/item/1fv5668p>

### Author

Ramage, Noah

### Publication Date

2024

Peer reviewed|Thesis/dissertation

Phoenix on Fire: The Cherokee Nation from Reconstruction to Denationalization

By

Noah Isaac Ramage

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

History

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Brian DeLay, Chair

Professor Caitlin Rosenthal

Professor Bernadette Pérez

Professor Shari Huhndorf

Summer 2024

© Copyright 2024  
Noah Isaac Ramage  
All rights reserved

Abstract

Phoenix on Fire: The Cherokee Nation from Reconstruction to Denationalization

by

Noah Isaac Ramage

Doctor of Philosophy in History

University of California, Berkeley

Professor Brian DeLay, Chair

This dissertation presents a new political and economic history of the Cherokee Nation following the twin disasters of the Trail of Tears and the United States Civil War. I argue that Cherokee nationalists built a viable government in the last third of the nineteenth century, one capable not just of managing settler colonialism but also of profiting from it.

This conclusion challenges the declension narrative that dominates Native American historiography of the late nineteenth century. For Cherokees, that declension narrative has been articulated by Morris Wardell, William McLoughlin, and others who argue forcefully that Native governments couldn't survive, let alone thrive, in a crushing settler colonial context. Thus, in 1897, when the federal government started denationalization—unilaterally stripping the Cherokee government of its sovereign powers—it was merely an ultimate step in a decades-long history of national decline and political dysfunction.

This dissertation, “Phoenix on Fire: The Cherokee Nation from Reconstruction to Denationalization,” recovers a period of dynamic political experimentation between 1866 and 1906. Starting with the Cherokee government’s approach to its own Reconstruction, I explain how the nation’s politics swung wildly from centrism (1866 to 1875) to radical traditionalism (1875 to 1879) and from liberalism (1879 to 1890) to anti-statism (1890-1898).

After Reconstruction, which resulted in a self-inflicted economic catastrophe, voters embraced a pro-development economic liberalism. Their leaders intentionally opened the country to foreign workers who were registered and required to pay a small monthly tax to work for Cherokee citizens. The Cherokee made immigrants out of would-be colonizers. The ensuing boom period, what I call the “Liberal Decade,” has been ignored by scholars of Cherokee history.

I also demonstrate that denationalization should be considered integral to the story of U.S. overseas imperialism. These were directly overlapping processes, led and opposed by many of the same figures. Both U.S. lawmakers and Cherokee nationalists compared the processes explicitly. In the words of one Cherokee nationalist, “the little Cherokee republic was an easy delicious morsel” that came immediately before the feast on Cuba, Puerto Rico, and the Philippines—though China was “too big a bug for convenient swallowing.” U.S. Continental and extra-continental imperialism have more in common than historians have supposed.

## Table of Contents

Introduction

### **Part One: Cherokee Reconstruction (1866-1879)**

Chapter One: Moderate Reconstruction (1866-1875)	7
Chapter Two: Radical Reconstruction (1875-1879)	37
Chapter Three: Reconstructionist Foreign Policy (1866-1879)	60

### **Part Two: The Liberal Decade (1879-1890)**

Chapter Four: Liberal Foreign Policy (1879-1890)	115
Chapter Five: The Bushyhead Administration (1879-1887)	143
Chapter Six: Rise of the Cherokee South (1887-1890)	244

### **Part Three: Selling the Cherokee Outlet (1890-1894)**

Chapter Seven: Negotiation (1890-1891)	319
Chapter Eight: Ratification (1892-1893)	337
Chapter Nine: Exchange (1893-1894)	352

Epilogue: Denationalization and its Aftermath (1897-1976)	408
---	-----

## List of Figures

Figure 0.1 [1890 Map of U.S. Indian Reservations]	xix
Figure 0.1 [1884 Map of Cherokee landholdings]	xix
Figure 0.3 [Map of Cherokee Nation’s Nine Residential Districts]	xx
Figure 1.1 [Three Corners of Cherokee National Politics, Visualized]	11
Figure 1.2 [1884 Map of Cherokee landholdings]	22
Figure 1.3 [1876 Appraisal of Cherokee Nation Public Buildings]	24
Figure 1.4 [Seminary Graduates of the Dawes Rolls, Charted]	26
Figure 2.1 [Permit Fee Collection by District, Charted]	46
Figure 3.1 [Postwar Removals to Indian Territory, Charted]	70
Figure 3.2 [Maps of Indian Territory before and after Reconstruction]	71
Figure 3.3: [Shifts in Federal-Indian Policy toward Indian Removal, Visualized]	101
Figure II.1 [Postwar Trust Revenue, Charted]	108
Figure II.2 [Postwar Domestic Revenue, Charted]	108
Figure II.3 [Postwar Outlet Revenue, Charted]	109
Figure II.4 [Postwar Total Income, Charted]	109
Figure II.5 [Total Federal Disbursements, Charted]	110
Figure 5.1 [1880 Cherokee Nation Productivity, Charted]	149
Figure 5.2 [1880 Census of Citizens, Charted]	153
Figure 5.3 [1880 Census of Non-Citizens, Charted]	154
Figure 5.4 [1883 Electoral Map for the Chieftaincy]	217
Figure 5.5 [1883 Electoral Map for the National Council]	218
Figure 6.1 [1887 Electoral Map for the Chieftaincy]	261
Figure 6.2 [1887 Electoral Map for the National Council]	262
Figure 6.3 [Maps of Indian Territory before and after Reconstruction]	288
Figure 6.4 [1889 Electoral Map for the National Council Midterms]	294
Figure 6.5 [The Three Two Party Systems of the Cherokee Nation, Visualized]	295
Figure 9.1 [1893 Electoral Map for the National Council Midterms]	363

## List of Images

Image 0.1 [Harvey Shelton's Business Card and Likeness]	xiii
Image 0.2 [Shelton Family Photograph, ca. 1890]	xiv
Image 0.3 [Photos of the Cherokee Nation Capital, Tahlequah, ca. 1900]	xxi
Image 1.1 [Cherokee Female Seminary Graduates of 1900]	26
Image 1.2 [Three Principal Chiefs of Cherokee Reconstruction]	30
Image 1.3 [Contemporary Illustration of the Grasshopper Plague]	33
Image 2.1 [Photographs of John Oskison Jr. and Will Rogers]	50
Image 3.1 [1880 Letter from Pawnsenopashe to Dennis Bushyhead]	90
Image 3.2 [1890 Photograph of Chief Joseph]	104
Image 3.3 [Photographs of Thomas Tibbles and Chief Standing Bear]	105
Image 5.1 [1880 Image of Cherokee National Treasury Ledger]	157
Image 5.2 [Four Cherokee Newspaper Advertisements of the Liberal Decade]	190
Image 5.3 [Photographs of Robert Ross Visiting the Old Cherokee Nation, ca. 1900]	198
Image 6.1 [Photographs Related to the Destroyed Female Seminary]	246
Image 6.2 [1887 <i>Telephone</i> Supplement Addressed to the Nation's White Voters]	257
Image 6.3 [Photographs of Assistant Chief Rabbit Bunch and Joel B. Mayes]	258
Image 6.4 [1890 Photograph of the Dunawas brothers]	304
Image 10.1 [Photographs of the Shelton Family]	415
Image 10.2 [Photographs of Jesse and Jennie Shelton]	416
Image 10.3 [Photograph of Anne Shelton's Notebook]	417

## Acknowledgments

I am greatly indebted to several dear friends and colleagues.

At the end of my research year, I was supported by the University of Oklahoma's Western History Collection in the form of the Masterson Fellowship. This opportunity was a transformative experience for me as a scholar, and I am especially grateful to Todd Fuller, Jacquelyn Reese, Lina Ortega, and Tyler Franklin. Thank you for your guidance and kindness.

That same year, I received support from the American Philosophical Society's Phillips Fund for Native American Research. I would not have been able to finish this project without this support.

Closer to home, at U.C. Berkeley, I want to thank Todd Kuebler and Erin Leigh Inama. There were countless times that you helped me navigate the many administrative obstacles of graduate school. I hope you know it was always appreciated.

Thank you to my peers who routinely gave me invaluable advice and criticism, such as Lissett Bastidas, Cameron Black, Julia Frankenbach, Sophie Fitzmaurice, Kyle Jackson, John Jamieson, Annabel LaBrecque, Tara Madhav, Franklin Sammons, Eva Vaillancourt, Carlotta Wright de la Cal, and Claire Wrigley. Many of you were members of either Berkeley West or Caitlin Rosenthal's dissertation workshops, which were tremendously helpful. Professors Mark Brilliant and Hidetaka Hirota were two other members of Berkeley West who were a great help.

My committee advisors were always generous with their time. Caitlin Rosenthal, Bernadette Pérez, and Shari Huhndorf gave me thought-provoking feedback every step of the way. They worked very hard to show me what I was missing and taught me what being a caring, thoughtful, and meticulous scholar looks like. I am very grateful for that.

My primary advisor, Brian DeLay, has moved mountains for me. I was behind in my first year of graduate school, but Brian saw this and helped me close the gap. He is the rare great historian who devotes long hours to all his students—listening, thinking, and planning. Thank you for your boundless mentorship and kindness.

My family and friends deserve their own thanks. My dad told us stories that made us writers, and my mom told us stories that made us Cherokees. My brother taught me history, and my sister taught me prose. Thank you to Bekah, Jim, Anne, Dave, Jennifer, Matthew, Jesse, and Maow for loving and inspiring us. I couldn't ask for anything more from this wonderful family.

To my wife, Gisselle: Thank you for teaching me a million things about the world and another million things about myself. I like to think that meeting you changed the trajectory of this project. Because of you, I read the past differently and often like what I see. Thank you for being the perfect partner in all things. Of course, I dedicate this "paper" to you.





**Pictured above:** My grandfather, Jesse Emerson Rice Shelton (1907-1977). Photographed in Eastern Oklahoma sometime after denationalization. I cannot say with any confidence why Jesse was posing in a turban, but I have one informed guess. His mother enjoyed painting the famous image of Sequoyah and may have asked her son to act as a model. That, or it was just plain fun.



**Pictured above:** Jesse Shelton's family posing for a Christmas photo. His spouse, Jennie Shelton (1916-2008), along with two of their daughters, Anne (left) and Rebekah (right). The third daughter, my mother Mary, is not pictured. The painting behind the three of them is that of Sequoyah holding the Cherokee syllabary and may very well have been painted by Jesse's mother. Photographed in Thomasville, Georgia. This home was part of a German P.O.W. camp during World War II before it was transformed into housing for Veterans Affairs.



**Pictured above:** My aunt's home in Charlotte, North Carolina, in 1998. This aunt is pictured as a baby in the previous image. A different painting of Sequoyah is sitting on the mantle in the living room.

**Source:** All three photographs are from the Shelton Family Papers located in Nashville, Tennessee.

## Terminology

When I started graduate school, I was convinced that “Indian” was an outdated term for academic writing. Researching the history of the Cherokee Nation, however, has taught me that “Indian” is, in many cases, a far more applicable and inclusive term than “Native” or “Indigenous.” I was surprised to see how often 19th-century Cherokees used terms like “Indian” and “citizen” interchangeably, even if they used the latter more frequently. As Chief Charles Thompson put it in 1876: “In law, the Chief sees no distinction between native and adopted citizens [as] classes, both being protected and held responsible alike, all are Indians.”<sup>1</sup>

Then as now, the Cherokee Nation owes its very existence to its Indigenous history, culture, people, and language. But by the late 19<sup>th</sup> century, it was also a multi-racial republic with many non-Indigenous citizens and even with “Native Cherokees” who had more immigrant ancestors than Indigenous ones. Therefore, I use the term “Indian” frequently because it captures every citizen of this Indigenous democracy. I use “Native” and “Indigenous” when appropriate, “Cherokee” and “citizen” to refer to the enrolled members of this nation, and “Indian” to refer to the broader category of Natives and non-Natives exercising citizenship within Indian nations.<sup>2</sup>

I also refer to the “Five Nations” rather than the “Five Tribes.” 19th-century Cherokees, many Americans, and many members of Congress were more likely to use the former term. The latter term is more popular today, but I’ve decided to defer to my sources. As any specialist can tell you, Cherokee nationalists rarely used the term “tribe” to describe their polity. They were always a “nation” and one that was part of the greater “Five Nations.”

Race is trickier. In the aftermath of the U.S. Civil War, the term “Cherokee” embraced “Native Cherokees” (of varying degrees of “blood”), Black Cherokees, Shawnee and Delaware treaty citizens, North Carolina Cherokee immigrants, adopted whites, and other treaty citizens from the Five Nations. I use the terms of the period when I can, with one exception. While there is nothing inherently wrong with the term “Cherokee Freedmen,” it starts to lose its precision after the Reconstruction period. The term also fails to acknowledge that Black Cherokees were not simply the emancipated workers of “Native Cherokees.” Many Black Cherokees had strong connections to Indigenous culture, and some had Indigenous ancestry. Other Black Cherokees had neither of these things. Both were full-fledged Cherokees, nonetheless.<sup>3</sup>

As to what “full-blood” and “mixed-blood” mean, here too, contemporaries can explain themselves. In January of 1886, a Cherokee official explained: “All Cherokees, who confine themselves to the Cherokee language in holding communication with others, are called full-bloods.”<sup>4</sup> Terms like “half-bloods” or “mixed-bloods” were used for those who mainly or only

---

<sup>1</sup> Charles Thompson to *The Cherokee Advocate*, April 22, 1876, Oochalata Collection, Box O-20, Folder 7, Western History Collection, Oklahoma University, Norman, OK.

<sup>2</sup> For more on this subject, see Brooke Bauer and Elizabeth Ellis, “Indigenous, Native American, or American Indian? The Limitations of Broad Terms,” *Journal of the Early Republic* 43, (Spring 2023) 61-74. The article is a fantastic reference for those writing Native history but offers very little about non-Indigenous citizens of Indian nations.

<sup>3</sup> I was inspired to use the term “Black Cherokees” instead of “Cherokee Freedmen” after listening to an “All My Relations” interview with the historian Tiya Miles. “Black Cherokees” does more to recognize Black Indians.

<sup>4</sup> CA, January 22, 1886.

spoke English.<sup>5</sup> Contrary to assumptions in our own times, in other words, a Cherokee with mixed ancestry could still be a “full-blood” in the mid-nineteenth century.<sup>6</sup>

One’s race or ancestry was therefore not determinative of language, though it was strongly correlated. Many “Native Cherokees” who passed as white in the United States also happened to be mixed-bloods (including my own ancestors). Many who were perceived as more recognizably “Indian” also happened to be full-bloods. Slippages between racial and linguistic definitions of these two terms were common in the nineteenth century, even among Cherokees.<sup>7</sup> Different races, like different languages, were thus an ever-present feature of the Cherokee social world.

This was a serious obstacle to national cohesion. As one Cherokee official put it in 1889, “One-half of the Nation [has] no social intercourse with the other half. The nation is divided into classes on account of color and race, but more than all else, on account of differences in language. The classes do not intermingle.”<sup>8</sup> Far from being a place where all “Native Cherokees” could celebrate their togetherness, the postwar Cherokee Nation was a place where one’s language and color might determine one’s neighbors, friends, associates, and rivals. In this way, the terms “full-blood” and “mixed-blood” were essential to contemporaries. They had a tremendous effect on social inequalities and were used self-referentially all the time.<sup>9</sup>

Perhaps the trickiest term of all is “Southern Cherokee.” I am a descendant of these Indian Confederates, but I still find the group hard to define. It is not as if there is a roll of Southern Cherokees to which we can refer. The strictest definition would only include the Confederate Cherokees fighting during the war itself, given that unlike the United States, the Cherokee Nation had no “southern” region of distinction. Still, from the end of the war until Oklahoma statehood, ex-Confederate Cherokees remained socially and politically distinctive from many of their ex-Union counterparts—most of whom were full-bloods and literally spoke a different language. Detractors continued to identify Southern Cherokees as “rebels” and “traitors.” By 1887, Southern Cherokees were powerful enough to constitute their own “rebel party” and even to begin dominating national politics. The five principal chiefs from 1887 to 1906 were all either veterans of the Confederacy or their sons. “Southern Cherokee” was not just a term for the active soldiers or the veterans, in other words. Like the Eastern Band, which had refused to remove west in the 1830s, Southern Cherokee decision-making created a distinct community.<sup>10</sup>

---

<sup>5</sup> CA, February 12, 1886.

<sup>6</sup> For more on this subject, see Circe Sturm, *Blood Politics Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley and Los Angeles: University of California Press, 2002).

<sup>7</sup> A wanted ad, for instance, might include either term in a list of physical descriptions. There is a logical explanation for this: families with few or zero white ancestors had less need or opportunity to learn the English language.

<sup>8</sup> CA, January 30, 1889.

<sup>9</sup> It seems as if the popular term for “mixed-bloods” changed more frequently than that for “full-bloods.” In earlier years, Cherokees often used the term “half-breed”—even self-referentially—as a word for “mixed-blood” Cherokees. Later, the term “half-blood” grew in popularity, likely because it was more humanizing. I use neither of these terms as they may cause some confusion: the term “half-bloods” included Cherokees with very little Indigenous ancestry.

<sup>10</sup> Nor, perhaps, was it just a term for the postwar period. According to one ex-Confederate, Clement N. Vann, ex-Treaty Party members were at the core of the Pro-South faction. Vann was an interesting case. He had been one of the wealthiest Cherokees in the country prior to Removal, and he had stood firm with Ross against the Treaty Party. He was Ross’ Assistant Chief prior to Ross switching sides to the Union. His crime, then, was not switching sides with Ross. In October of 1865, he shared that he was ashamed of his actions, that he and like-minded men felt “conscious of having committed crime.” Casting blame elsewhere, he explained that “Those men who were united by their action, in the affair of the treaty of 1835 and been still more closely united by their history since. The people know, them and

Much of the nationalistic language in this dissertation was first used by contemporaries. I try to use the same terms they did. Readers may be surprised, for instance, by referring to the Cherokee Nation as a “country,” but 19th-century Cherokees did exactly that, constantly. They referred to what they had as a “nation,” a “republic,” a “democracy,” a “foreign” government, and so on. They talked about the “chieftaincy” like we talk about the “presidency.” I am not taking authorial liberties when I use these terms.

One imposition I will make in only a few places is the use of “second republic.” 19th-century Cherokees referred to what they had as a “republic,” but they counted differently than we sometimes do today. In the past two centuries, Cherokees have erected three governments under four different constitutions. The first Cherokee constitution was established in 1827 (in what was later called the “Old Nation”). This government survived Indian Removal and transplanted itself west, only to be dissolved in 1839. A second constitution, establishing what I call the “second republic,” was formed that same year. This government survived the Civil War and the remainder of the 19<sup>th</sup> century. By 1906, however, Congress had ripped it apart, and little was left. Most Americans and even many Cherokees assumed that it no longer existed. The “lost generations” of Cherokees waited seventy years, until 1976, before regaining a national government with their ratification of a third constitution establishing a third republic. This framing is useful for understanding the longer arc of Cherokee history. This dissertation, for example, spans from the end of the Civil War to the end of the second republic in 1907.

There are a few other minor details. Cherokees referred to their bicameral legislature as the “National Council,” which consisted of the Senate and Council. It is easy to confuse the name of the lower house with that of the entire legislative branch, so I borrow another solution from the 19<sup>th</sup> century. Cherokees often used the phrase “Council branch” when talking about the lower house—undoubtedly for clarity—and I do the same in this dissertation. “National Council” refers to both houses. “Council branch” refers to the lower house.

Finally, Cherokees spelled the names of their nine residential districts differently, especially when the names were in Cherokee. One example of this is “Cooweescoowee District” which can also be spelled “Cooweeskoowee.” I use the former spelling for consistency, but both are perfectly correct. English spelling of Cherokee words varied.

---

know fearing them...they [the ex-Treaty Party members] could have commanded but a small fraction of the Cherokee South—after the breaking up of the army—but the action of the [Loyal Cherokee] council drove the people to them en mass...” Vann was highlighting something important: ex-Treaty Party members had followed Stand Watie straight from the Treaty Party into the core of the “Southern Rights Party.” The Welsh missionary Evan Jones made this same point in 1862 when he wrote: “The perpetrators of that enormous crimes against their people—the treaty of 1835—and their successors, are the chief actors in the present rebel movement.” The same separatism that Treaty Party members expressed for years cannot be wholly separated from the separatism of Southern Cherokees. Clement N. Vann to John Ross, October 3, 1865, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 670; McLoughlin, *After the Trail of Tears*, 199-200.

The strong ties between the South and the Treaty Party were perfectly logical. From the beginning, Treaty Party members were direct collaborators with the white Southerners who hoped to remove Indians from the region; they met with Andrew Jackson and had amicable visits with him; they hated abolitionism just as much as their white neighbors; they fled to Southern states like Texas and Arkansas frequently, whenever the Ross Party threatened their lives and property; many were cotton planters; they enjoyed friendly relations with the Indian agents who were pro-slavery Southerners. Cherokees continued to self-identify as “Southern Cherokees” decades after the Civil War.

## Introduction

William McLoughlin (1922-1992) helped to pioneer Cherokee history in the academy. His final gift, published posthumously in 1993, was the groundbreaking monograph *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1839-1880*. For thirty years, it has served as the indisputable book for specialists venturing past Indian Removal. *After the Trail of Tears* not only offered completely new histories and figures, but it remains the best existing survey of post-removal history. I was surprised, then, to find my great-great-grandmother on the very last page.

It was mostly right. Ann Shelton (1831-1906) was a mixed-blood, a complainer, a Christian, a snob, a racist, a widow, “a very good democrat,” a mother, a political junkie, an opportunist, a nationalist, an impoverished materialist, and, fortunately for her, the niece of Sarah Watie. Ann’s husband, Harvey, had been an enslaver, fought for the Confederacy, and died during the war.<sup>11</sup> Ann was educated, but with little means of support, she had to leave the Cherokee Nation to work as a schoolteacher in Texas. In her letters to “Aunt Sallie” (Watie) during the 1870s, she predicted a grim future for Cherokees and other Indians. She worried that Indians might all be exterminated together. In one particularly despairing letter, she wrote: “I wish sometimes the whole of us, from the pure Indians to the last one with the millionth part of a drop of blood, could be cut off in a moment and the vexed question stopped forever.” In another, she asked: “What do you think will be done to the Nation?”<sup>12</sup>

Ann Shelton offered a neat ending to *After the Trail of Tears*. She had left the Cherokee Nation, she lived among whites, and she taught their children, but she also strongly identified as Cherokee. She remained invested in the Cherokee state and Indian rights from afar. She explained how she “tried to live so that the Nation would never suffer in reputation by the least act of mine.” She obviously cared deeply for her relatives back home. McLoughlin used Ann’s story to illustrate a story of white racism in a country that “was, had always been, and would always be a multiracial and multicultural nation.”<sup>13</sup> The country to which he referred was not the Cherokee’s, though, but rather that of the multicultural United States. In this framing, Ann bore distant witness to the slow death of her country. Once Cherokee, she was slowly, painfully, and steadily becoming Cherokee-American. Reading this as an early graduate student, I accepted this grim narrative.

But I also knew that something was missing. I knew my grandfather and his brother were born in the Cherokee Nation—not Texas. I later realized what happened and what McLoughlin had omitted. Throughout the 1870s, Ann wrote desperately in her letters of wanting to return home—to her own country. She often lacked the funds but wrote constantly of plans to visit. She lived as close to Indian Territory as possible in a small town outside Paris, Texas. In 1876, Ann

---

<sup>11</sup> The introduction and epilogue of this dissertation cite papers which my family has passed down from one generation to the next over the course of a century. In rare examples, such as two bibles printed in Cherokee and Choctaw respectively, these treasures date back to Indian Removal. Harvey Shelton’s receipt for the purchase of an enslaved person in Arkansas are among the papers haphazardly preserved, mixed in with old photos, coupons, and letters. Untitled receipt for the sale of three enslaved persons filed by Jesse Shelton in Washington County, Arkansas, August 21, 1858, Shelton Family Papers, Nashville, Tennessee.

<sup>12</sup> William McLoughlin, *After the Trail of Tears, The Cherokees' Struggle for Sovereignty, 1839-1880* (Chapel Hill: University of North Carolina Press, 1993), 379.

<sup>13</sup> *Ibid*, 380.

joked that “the Nation ought to give me a school for [teaching] patriotism.”<sup>14</sup> True to her privilege and ego, she later added: “Don’t it seem that among so many influential families as I belong to that I might get a school in the Nation...I think so, and sometimes I am almost tempted to write Tahlequah and see what I can do.”<sup>15</sup> She would “come and take any school [she could] get,” using whatever connections at her disposal.<sup>16</sup> She heard stories of relatives who had “gone back”—as in they had returned to the Nation—and she wished them well.<sup>17</sup> So badly did Ann want to “go back” herself that she was willing to leave her children with her eldest daughter, Madeline, while she temporarily returned to the nation, taught, and saved up money during a school term.<sup>18</sup> That plan was just fine to Madeline, who hated her poverty in Texas, loved visiting her mother’s country, and also wanted a school of her own.<sup>19</sup> If that meant a period of separation, then so be it.

Finally, “Aunt Sallie” made the arrangements.<sup>20</sup> Beginning in 1878, Ann, Sarah, and “Lucien” (the future Cherokee senator) all schemed to get Ann a position in the Cherokee Nation. It must have helped that Bell—Ann’s younger brother—had recently been appointed to the school board (with help—unsurprisingly—from everyone’s favorite “Aunt Sallie”). It clearly helped even more that Walter Adair Duncan, superintendent of the Cherokee Orphan Asylum, was Sarah Watie’s brother-in-law because it was this public institution that offered Ann a position. At the beginning of 1880—the terminus of *After the Trail of Tears*—a Cherokee commission released the names of newly admitted, readmitted, and rejected claimants to citizenship. The list of readmitted citizens included Ann Bell Shelton, Eugene M. Shelton, Norman Shelton, and “H.W. Shelton”—my great-grandfather.<sup>21</sup> Ann had gotten her wish. Her family had “gone back.”

Harvey Wirt Courtland Shelton (1863-1935) quickly made the most of his new circumstances. He attended the prestigious Male Seminary until 1882. He was a frequent honors student. One of his classmates was the future Oklahoma representative, William Wirt Hastings.<sup>22</sup>

---

<sup>14</sup> Ann Bell Shelton to Sarah C. Watie, August 27, 1876, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4502. Western History Collections, University of Oklahoma, Norman.

<sup>15</sup> Ann Bell Shelton to Sarah C. Watie, June 10, 1876, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4500. Western History Collections, University of Oklahoma, Norman.

<sup>16</sup> Ann Bell Shelton to Sarah C. Watie, January 27, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4516. Western History Collections, University of Oklahoma, Norman.

<sup>17</sup> Madeline Shelton to Sarah C. Watie, December 31, 1877, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4514. Western History Collections, University of Oklahoma, Norman.

<sup>18</sup> Madeline Shelton to Sarah C. Watie, May 13, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4522. Western History Collections, University of Oklahoma, Norman.

<sup>19</sup> Madeline Shelton to Sarah C. Watie, March 15, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4521. Western History Collections, University of Oklahoma, Norman.

<sup>20</sup> In one letter dated January 27, 1878, Ann asked Sarah: “Did you get your man on the Board? I saw the appointments but can’t tell. I concur exactly in your plan but thought it would take capital, and hope we can manage—everything.” In another letter, dated June 16, 1878, she thanked her aunt who “always hunted me up with a kind and encouraging word and laid many good plans for my benefit, if I only had been able to have taken advantage of them” (she wrote this while finalizing her move back to the Cherokee Nation to take her new job). Ann Bell Shelton to Sarah C. Watie, January 27, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4516. Western History Collections, University of Oklahoma, Norman. Ann Bell Shelton to Sarah C. Watie, June 16, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4525. Western History Collections, University of Oklahoma, Norman. Madeline Shelton to Sarah C. Watie, May 13, 1878, *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4522. Western History Collections, University of Oklahoma, Norman.

<sup>21</sup> CA, March 3, 1880.

<sup>22</sup> Kathleen Garrett, “Dartmouth Alumni in the Indian Territory,” *Chronicles of Oklahoma* 32, no. 2 (1954) 123-141. CA, April 21, 1882.





**Image 0.1:** Harvey Shelton’s business card and likeness. His son, Jesse, pasted the card into a scrapbook of photos which I found in my parent’s home. The photos include pictures of his Cherokee family as well as pictures of Cherokee life (e.g. the seminaries). **Source:** Shelton Family Papers, Nashville, Tennessee and *The Chicago Daily News*.

With financial backing from “Uncle Lucien,” Shelton went on to Kimball Union Academy in New Hampshire before transferring to Dartmouth College and joining the class of 1887. At the time, he was one of only a handful of Native students to have attended Dartmouth. He was poorly received. One school official reported that Harvey was not a professing Christian, that he was guilty of “gross profanity” and “a user of tobacco.”<sup>23</sup> Harvey left before the end of his junior year due to a family illness. Despite this, he brought home buckets of prestige and was immediately hired to teach at the male seminary.<sup>24</sup>

Harvey—like his mother, Ann—was also deeply interested in politics. He threw himself into Downing Party organizing, which by this time closely associated itself with the Democrats of the United States. When the election of 1887 devolved into a constitutional crisis, and as armed men took over government buildings, the young Harvey sided with the conspirators.<sup>25</sup> His cousin Claude—a district clerk—swore in the usurper Joel B. Mayes.<sup>26</sup> Shortly after this dramatic experience, Harvey became the editor of a partisan Downing newspaper entitled *The Telephone* before returning to the seminary to teach history, literature, and Latin poets.

In 1890, *The Chicago Daily News* included Harvey, “a young man not yet out of his twenties,” among a list of “prominent figures in the councils of the Cherokees”—or the “Redskins that you often read about.”<sup>27</sup> His primary interest, however, was education. In 1898, on the eve of the second republic’s demise, he was appointed to the Cherokee school board.<sup>28</sup>

<sup>23</sup> Colin Calloway, *The Indian History of an American Institution: Native Americans and Dartmouth* (Hanover: Dartmouth College Press, 2010), 108.

<sup>24</sup> CA, October 13, 1886.

<sup>25</sup> CA, December 7, 1887.

<sup>26</sup> Editorial on Mayes, December 8, 1887, Joel B. Mayes Collection, Box 1, Folder 3, Western History Collection, Oklahoma University, Norman, OK.

<sup>27</sup> *Chicago Daily News* (Chicago), January 17, 1890.

<sup>28</sup> “H.W.C. Shelton: A Sketch,” *The Record*, December 15, 1898, in Shelton Family Papers, Nashville, Tennessee.



**Image 0.2:** Shelton Family Photograph, ca. 1890. Augustus Ivey, Harvey W.C. Shelton, Claude S. Shelton, and Lucien B. Bell (from left to right). All four were Cherokees and cousins. Bell made it furthest in Cherokee politics (twice serving as President of the Senate). Claude was Delaware district clerk, and Harvey was a professor of the male seminary. “Gus”—like Harvey—edited partisan newspapers. All four were committed followers of the Downing Party, which by 1887 was controlled by Southern Cherokees. **Source:** Shelton Family Papers, Nashville, Tennessee.

Harvey married a brilliant professor at the female seminary, Mary Ann Elizabeth Duncan. Her father was an outspoken nationalist and a delegate to Washington in the late 1890s (where he fought to preserve the country’s independence). “Mae” was a self-described “patriot” herself, and the two made a very impressive couple. According to their descendants, they delighted in each other’s intellect. Harvey and Mae had two sons, one of whom was my grandfather and is pictured at the start of this dissertation.

Harvey may have hoped to follow the trajectory of his wealthy uncle Lucien, who had started in the school board, made his way to President of the Senate, and nearly fulfilled his ambition to become principal chief. Harvey may have had other ambitions, such as to be appointed principal of the Male Seminary. But the year 1897 would upend his life and the world around him. It was the start of “denationalization.” After a push from an emerging superpower, the United States, the political ladder of the “little nation” fell away. Cherokee democratic institutions were obliterated overnight. Cherokee self-rule was canceled. Harvey’s nation was erased off the map.

A story exists among Harvey’s grandchildren that he was bitter and physically abusive toward his two sons. His sons left Oklahoma with bad memories of home and passed those stories down.<sup>29</sup> It is possible that Harvey was always that way; it is possible that something changed him. Either way, the family’s upward trajectory ended there. Like all Cherokees and Indians, like his two sons and his wife, Harvey Shelton was robbed of a country.

---

<sup>29</sup> Mary Shelton, audio recording, January 5, 2022 (10:00) and (1:12:00).

My point is that contra *After the Trail of Tears*, the year 1880 marked neither the end of Ann Shelton’s story nor that of the Cherokee Nation. Ann died in 1906, the same year the second Cherokee republic fell apart. Neither she nor her son nor her nation spent twenty-six years waiting around for denationalization. It was not the case, as William McLoughlin declared, that “the last years of Cherokee national existence from 1880 to 1898 were essentially a history of futility.”<sup>30</sup>

In fact, *the direct opposite is true*. 1880 signaled the rise of a stronger administrative government, a prospering national economy, and a greater increase of Cherokee wealth than at any other point in the century. Sources from the time make this abundantly clear, but the evidence was ignored by McLoughlin, as a field leader, and those who followed him.<sup>31</sup> 1880 was not the close, but the radical beginning. Yes, Cherokees like Ann had predicted doom in the 1870s. But they lived to be happily proven wrong by a new course of events in the 1880s. They spent the decade celebrating the boom and arguing about what to do with their good fortune.

I call this period the “Liberal Decade.” It lasted from November of 1879 until February of 1890.<sup>32</sup> It was a period of revolutionary change in Cherokee politics, demographics, and economics, kickstarted by pro-development liberal reformers. The National Party, led by Dennis Bushyhead (1826-1898), sought to liberalize the economy, modernize the government, build up the treasury, increase white immigration, and centralize state power. Unlike their rivals, the Nationals believed the purpose of the government was to make the communal lands profitable. The national debt had soared during the 1870s, but Bushyhead wiped it out in his first four-year term. Annual revenue reached all-time highs, multiple times. Individual Cherokees expanded their farms, built up mercantile businesses, exported more, ate more, shopped more, gambled more, and produced more. It was a period of an unprecedented accumulation of wealth and power, driven mostly by increased access to foreign labor, foreign markets, and foreign capital.

The Liberal Decade was also a period of unusual stability. During the 1880s, the U.S. government mostly left the Cherokees alone. In one crucial instance, the Supreme Court even gave the Cherokee sweeping new powers. Internal stability was equally striking. Bushyhead was the only chief to serve two full terms during the postwar period. Left alone for a while, the Cherokee state was rebuilding. It had growing teeth, power, and profits. This “Liberal Decade” is the centerpiece of this dissertation and is explored at length in **chapters four through six**.

Cherokee liberalism, however, is not where this project begins. This dissertation starts in 1866, immediately after the Civil War, as Cherokees prepared to sign a new treaty with the United States. **Chapters one through three** argue that the Cherokee managed a Reconstruction period of their own lasting from 1866 to 1879—one that they planned, legislated, and controlled. The ex-Union, full-blood Loyal Cherokees dominated this period of political history, imagined new ways to force egalitarianism on unwilling ex-Confederates, and even initiated a radical program of land-reform. Cherokee foreign policy during this period had a tremendous effect on dozens of other Indian nations. During what I call “Cherokee Radical Reconstruction” (1875-1879), full-blood power in the government peaked and then dramatically collapsed, offering Dennis Bushyhead the opportunity to plan and oversee a decade of liberal policy.

---

<sup>30</sup> McLoughlin, *After the Trail of Tears*, 368.

<sup>31</sup> For an extended field analysis, see footnote 43.

<sup>32</sup> This decade was an anomalous period of nation-building and wealth accumulation unsurpassed by any other in Cherokee history. Cherokees achieved this boom with pro-development, liberalizing economic policies.

After describing the rise and fall of the Liberal Decade, I turn to the sale of the Cherokee Outlet (1890-1894) in **chapters seven through nine**. During this period, the most important domestic question of the day, bar none, was the sale of about seven million acres of land to the United States, commonly referred to as the “Cherokee Outlet” or the “Cherokee Strip.” There were no residential districts in the Outlet. Cherokees did not live there. It was not the Cherokee Nation proper, or “home tract,” but rather surplus lands which National Party policy had made more profitable during the 1880s. This dissertation argues that the Cherokees used the sale of the Outlet, finalized in 1893, to increase their power and national autonomy, right as Frederick Jackson Turner famously declared the closing of the frontier. In 1894, Cherokee fortunes and U.S. hostility increased concurrently. Denationalization was a distant yet fast-approaching storm.

The same law that approved the Outlet Treaty in 1893 also created the Dawes Commission, but the commissioners were without real power until 1897. Before this, during the intermediate years of 1894 to 1897, the Dawes Commission could do no more than to ask the Cherokees to negotiate and then sullenly report on their refusals. Though Congress came to regret it, it had granted the Five Nations an extraordinary degree of autonomy. Even at the end of 1896, no law existed to force them to accept terms. Cherokee nationalists would not give up their autonomy willingly. It was not until 1897—when denationalization truly began—that Congress joined the effort to cancel Cherokee autonomy. Between 1897 and 1907, the U.S. forced the process of denationalization. It would result in the demolition of the second republic, the overthrow of its democracy, the annexation of Indian Territory, and the creation of the 46th U.S. state: Oklahoma.

To study this era, we need new approaches to Cherokee history. I accepted William McLoughlin’s narrative of decline until I began working with Cherokee National Treasury records that he and other scholars have neglected. These financial records reveal a nation that was rapidly increasing in wealth—beginning in 1880—by taxing settler intrusion and inviting foreign investment. This revelation led me to other seldom-used documents, such as the records of district clerks, where I discovered that several thousand white Americans on Cherokee land were cooperating with tribal authority—not conspiring against it. In other words, Cherokee government records—unlike U.S. federal reports—substantially alter the prevailing view of Cherokee history. By attending to these sources, we can see the Cherokee state develop from the perspective of local officials. Tribal letters, internal memos, census data, and congressional records have convinced me that it was not white settler encroachment or political dysfunction that caused denationalization. It was end-of-century federal imperialism.

Like other scholars, I rely heavily on *The Cherokee Advocate*, a state-sponsored publication intended to represent the people's voice at home and abroad. Cherokee law considered the paper’s editor a government official, and this “national editor” was paid a salary equal to that of the Assistant Chief and the National Treasurer—two of the highest-paying jobs in the country. The National Council selected and confirmed the national editor every two years according to a joint ballot vote, meaning that a change in party majorities called for a change in editors. Editors even occasionally explained which political party had put them into office. There was a strict rule against the “national editor” promoting his political views, and the law demanded a politically neutral *Cherokee Advocate*. National editors frequently broke this rule.<sup>33</sup>

---

<sup>33</sup> For one example see CA, November 30, 1883. In other cases, a national editor would explain that their successor was from the same party as them. It was difficult to keep the paper “non-partisan.” The New Code of Laws, Chapter

Other government officers also had a say in what stories were published. Various national editors openly admitted to conferring with the Principal Chief prior to publishing a story—or not publishing one—while the New Code of Laws required the paper to promote “the defense of Indian rights” generally.<sup>34</sup> The executive office could “request” that certain articles be published.<sup>35</sup> U.S. westerners cynically accused the editors of being paid to promote Indian nationalism, while the Principal Chief reserved the right to fire the editor at a moment’s notice.<sup>36</sup> Internal government reports and the notes of the National Council were routinely published for readers’ edification. In all these ways, *The Cherokee Advocate* was the voice and archive of an Indigenous, democratic state. The words of the national editor hold immense value, something I have benefited from by reading through all the issues published between 1870 and 1894.

Taking Cherokee politics seriously avoids a classic trap in Native American historiography. Too often, the national politics of the Cherokee Nation have been reduced to petty factionalism, a trivializing perspective that inevitably obscures the substance of political ideology. Too often, we have reduced dynamic political experimentation in Native America to a dualist struggle between “traditionalists” and “progressives.” Both impulses existed, but never in two neatly divided parties.

Among its arrays of voters and politicians, the Cherokee Nation counted ex-Union full-bloods who wanted a strong republican government to enforce strict immigration laws; ex-Confederate Southern Cherokees who—like many traditionalists—wanted “their share” of government spending; and Ross Party mixed-bloods who hoped to modernize the country’s legal system—a reform supported by Southern Cherokees but opposed by many traditionalists.

And this was just the beginning. There were party stalwarts, defectors, and returnees. Black Cherokees shifted political allegiances frequently, as the two major parties routinely betrayed them. On certain issues, full-bloods and mixed-bloods each broke away from their habitual parties to vote according to what may be called identity politics. We know that Cherokees split their votes during elections and that candidates debated the issues fiercely—even when they did not speak the same language and needed an interpreter present.

Therefore, Cherokee democracy was a fantastic muddle. Just as in other democracies, competing values pulled politics in one direction and then another before tugging off toward still another temporary destination. Failed policies persuaded the voters to change their minds, while Cherokees witnessed plenty of political movements that were too counter-intuitive or self-defeating ever to gain serious momentum. Like in other democracies, individual voters in the Cherokee Nation carried their personal stakes with them (their war history, their race, their language, their class), which determined their varying tolerance for liberalism, conservatism, traditionalism, anti-statism, and centrism. This dissertation stresses the competition of ideologies whenever and wherever it appears.

---

XII, Article VII (“Fixing Compensation of Officers”) in *Constitution and Laws of the Cherokee Nation* (St. Louis: R and T. A. Ennis Stationers, 1875). 212.

<sup>34</sup> CA, March 22, 1873; The New Code of Laws, Chapter XII, Article XI (“National Newspaper”) in *Constitution and Laws of the Cherokee Nation* (St. Louis: R and T. A. Ennis Stationers, 1875). 217-219.

<sup>35</sup> CA, March 28, 1888.

<sup>36</sup> CA, January 5, 1878; The New Code of Laws, Chapter XII, Article XI (“National Newspaper”) in *Constitution and Laws of the Cherokee Nation* (St. Louis: R and T. A. Ennis Stationers, 1875). 217-219.

These histories are much easier to uncover when one decenters the United States and “zooms in” to Cherokee developments at the national and, especially, the local level. This dissertation attempts to do this by inviting readers to all nine of the Cherokee residential districts. It travels to the towns of Tahlequah, Vinita, Fort Gibson, and Webbers Falls, into executive council meetings and National Council votes, to the rural interior, and into the bustling shops of the cities. At this level of specificity, old myths about Cherokee history fall flat. *The Advocate* helps greatly with this, as the paper solicited reports from its many “district contributors” across the nation.

Understanding the Cherokee’s nine residential districts is crucial. Each district had its own solicitor, sheriff, clerk, courthouse, and judge. Cooweescoowee and Delaware constituted the “Upper Districts”—two of the most politically liberal and economically thriving residential districts. Cooweescoowee and Delaware hired the greatest number of foreign laborers, specialized in ranching, and sent the highest number of non-native Cherokees to represent them in the National Council. They enjoyed easy access to the railroads and suffered the most intruders.

The “Lower Districts”—Canadian, Illinois, and Sequoyah—grew the most cotton, enjoyed the unique benefits of the Arkansas River, and hired the second-most foreign labor after the Upper Districts. They, too, prospered immensely. The Canadian District was predominated by Southern Cherokees, who were considered reliable supporters of the Downing Party, while Illinois District and the town of Fort Gibson were known for its concentration of Black Cherokees.

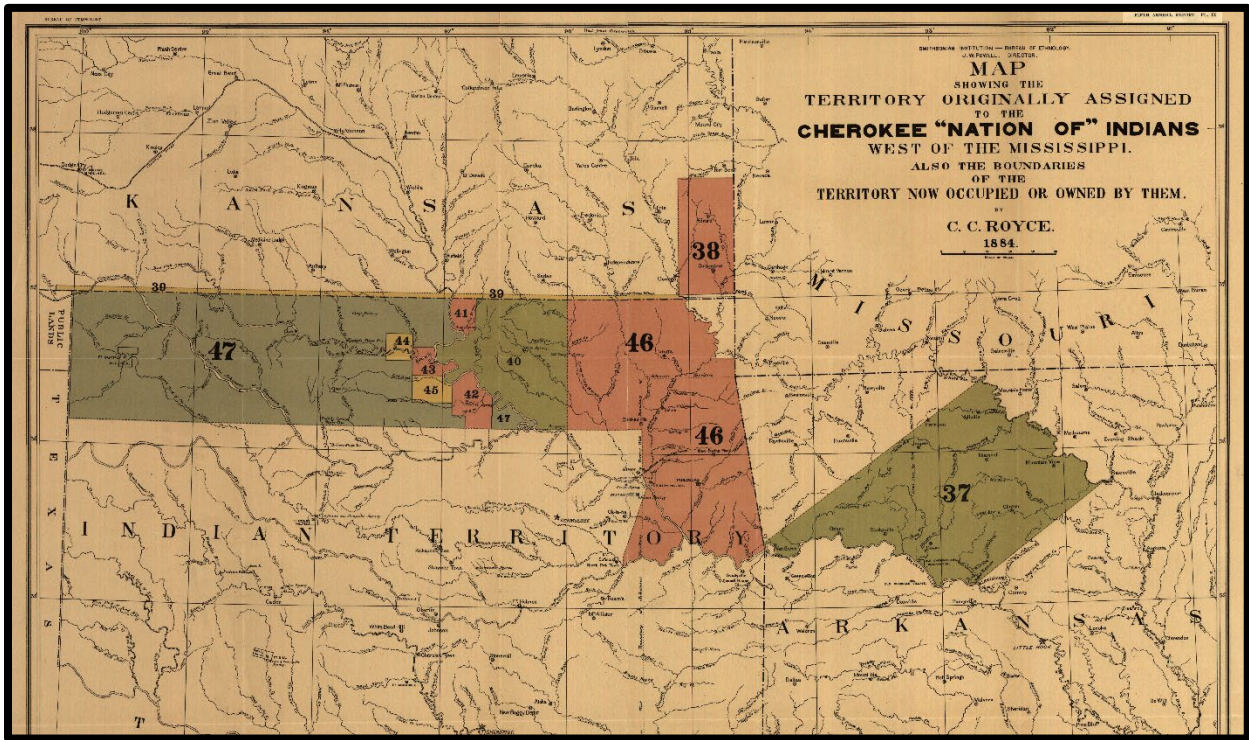
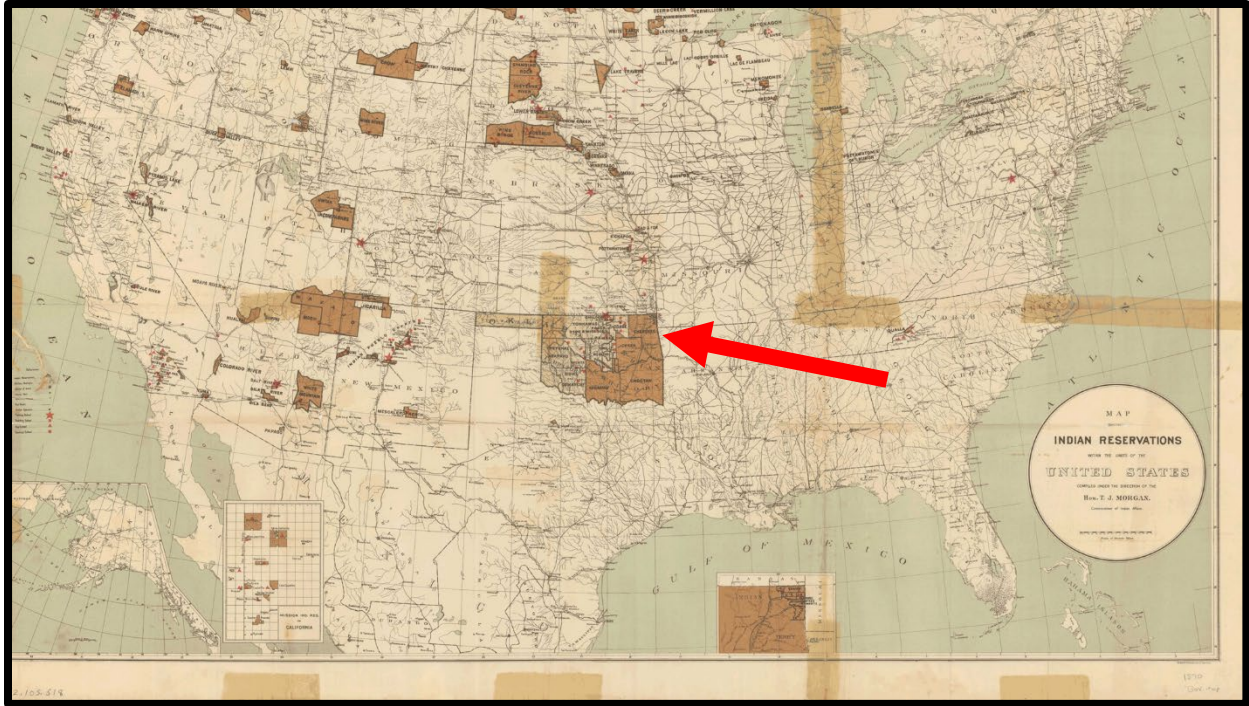
Saline, Going Snake, Flint, and Tahlequah made up what I call the “Middle Districts” (a new moniker being necessary because while Cherokees referred to the “Upper Districts” and “Lower Districts,” the less wealthy and more traditionalist center of the country was left nameless). Saline, Going Snake, and Flint had strong full-blood majorities, while Tahlequah was more diverse. Tahlequah shared many characteristics with the other “Middle Districts,” but as the capital, it was also a hub of political, economic, and social activity. One contemporary explained that this sectionalism developed after Removal, as mixed-blood populations moved away from the country’s center.<sup>37</sup> It is impossible to understand Cherokee history without its local history.

Prioritizing the national and the local also means stepping back from writing Five Nations’ histories. In my subfield, we cannot write postwar histories of the Five Nations (exploring commonalities, trends, etc.) without ever having first completed the national histories of even the most written-about people, the Cherokee. Among other things, we cannot tell you what the pivotal election of 1879 was about and why it was so consequential; we say principal chiefs retired from politics when they did not; we misattribute their parties; we skip over national crises; and despite these major shortcomings (to which I will also contribute), we know even less about the other four nations’ postwar histories. Recent and brilliant works, including those written by Andrew Denson, Julie Reed, Gregory Smithers, and Fay Yarbrough, cannot fill such extensive gaps alone.<sup>38</sup>

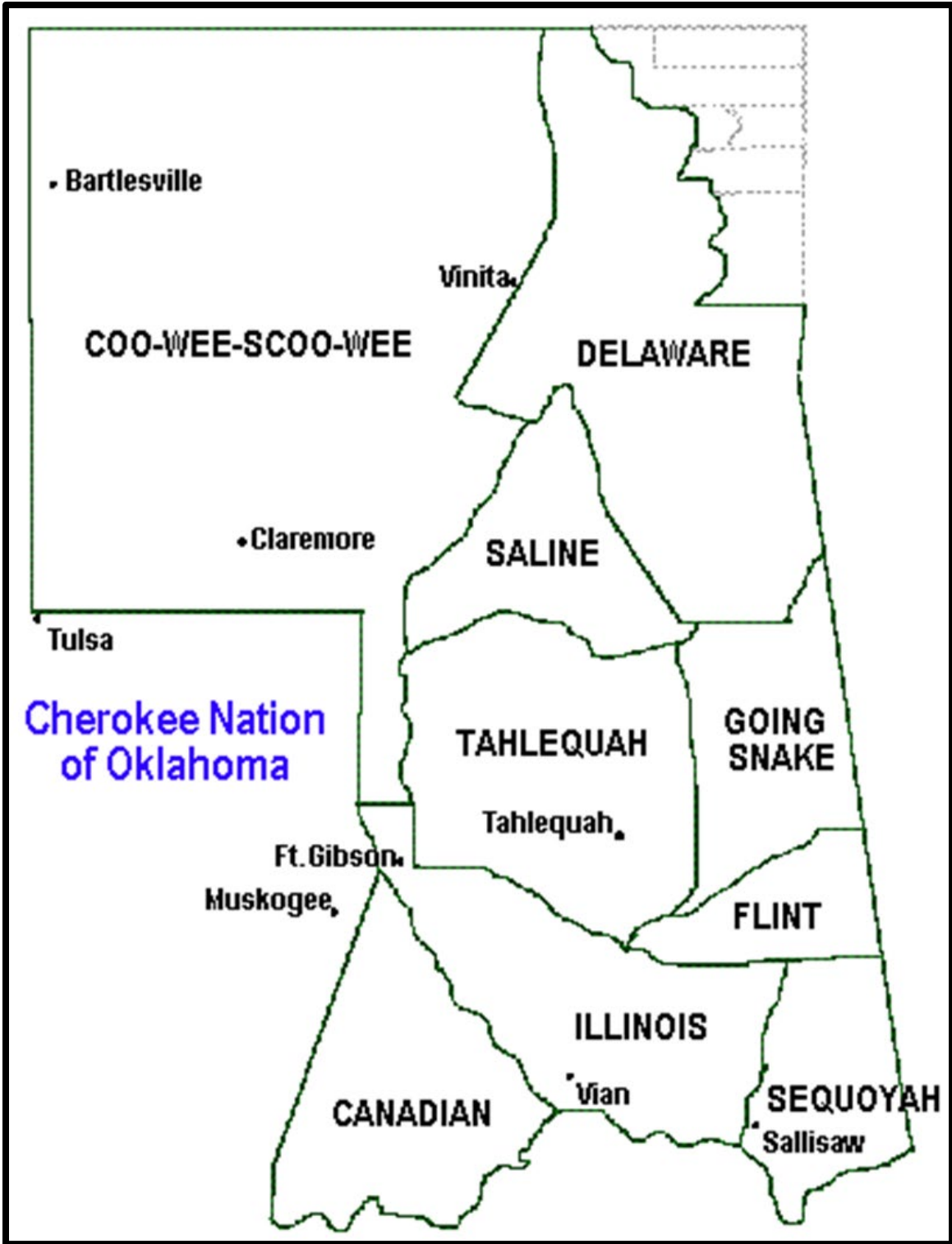
---

<sup>37</sup> CA, January 29, 1886. In this issue, the editor wrote: “When the Cherokees reached this country from Georgia, they were justly afraid of the Intermittent fever incident to newly settled land. They therefore seized first upon every spot that furnished good water and timber and promised immunity from the dreaded fever and ague. Going Snake, Tahlequah, Saline, and Flint Districts, and a portion of Delaware were consequently thickly settled by the new-comers, and it was only after the immigrants had begun to be acclimated, that other parts of the ‘Nation,’ in some respects superior, were sought for and settled. The movers were mostly of the half-breed and English-speaking class of Cherokees, leaving more room behind for the genuine Aborigines of the tribe.”

<sup>38</sup> For an extended note about postwar Cherokee historiography, see footnote 43.



**Figure 0.1 and 0.2:** 1890 Map of U.S. Indian reservations (top) and 1884 map of Cherokee landholdings (bottom). The top map’s arrow is pointing at Indian Territory, which by 1890 had the greatest concentration of different nations from across the continent. The numbers on the bottom map demarcate various Cherokee Nation territories. For example, “46” is the home tract, where all Cherokees lived and where the residential districts were established. “47” is the Cherokee Outlet, which was not residential lands for Cherokees, but was either sold to friendly Indian nations or exploited for its pasture. **Sources:** *Annual Report of the Commissioner of Indian Affairs for 1890* (top), Royce, *Cherokee Nation of Indians* (Chicago, 1883) (bottom).



**Figure 0.3:** A map of the Cherokee Nation’s nine residential districts. Each district had its own solicitor, sheriff, clerk, courthouse, judge, etc. Tahlequah was the political capital of the nation, as well as its self-proclaimed education capital, as it hosted the prestigious male and female seminaries. With the arrival of the railroads, the town of Vinita became the nation’s booming economic capital. The characteristics of the nine districts are described in the text above. **Source:** <https://sites.rootsweb.com/~itcherok/map/district.htm>





**Image 0.3:** Photos of the Cherokee Nation capital, Tahlequah, ca. 1900. In the top photo, we see a view of the town from afar. The second image is one of the city hotels and offers a glimpse of the Cherokee social world.

**Source:** "Tahlequah in 1888," 1888, and "Fuller Hotel, undated, Wadie Hudson Photograph Collection, Western History Collection, Oklahoma University, Norman, OK.

In other words, the unanswered questions in our field are not ones of specialty. They remain basic. This is an understandable but problematic consequence of the fact that Native American history as a discipline is still very young. It grows fast but never fast enough. It was in the 1950s, not so long ago, that ethnohistory was developed to raise questions of the Indigenous past which other historians would not ask. In an essay covering this subject, Russell Edmunds pointed out that “in the four decades between 1920 and 1960...the AHR published only four articles on Native American subjects.”<sup>39</sup>

Native history as we know it today arguably started with Cherokee histories written by the likes of Morris Wardell, Mary Young, Grant Foreman, and most famously, Angie Debo, but some of these works, such as Foreman’s *Indian Removal* (1952) continued to point to the inescapable disappearance of Native people. “Intermarriage between the two races,” he wrote, “has largely obliterated the former bitter feeling of the Indians, whose children know no difference between the whites and themselves.”<sup>40</sup> The Civil Rights Movement, the Vietnam War, and the Red Power movement all gave the field momentum, while Vine Deloria’s various works of the 1970s and 1980s provided the springboard for even greater changes to the academy.<sup>41</sup>

This explains why basic Cherokee history remains incomplete. It has nothing to do with the caliber of scholarship (which, today, is fantastic). As Ned Blackhawk once put it, “One would be hard-pressed to find another field of historical study that has witnessed more dramatic reversals of scholarly fortune than has American Indian history.”<sup>42</sup> Native American historiography has no shortage of brilliant thinkers and remains underdeveloped only because history kept it so. It has not had the same time and room to develop. Tribal history remains urgently necessary.

Tribal histories inherently undermine generalizations about Native American history wherever they exist, but the celebrated (and necessary) turn toward a “New Western” social history in the 1990s included with it a turn away from telling national stories like James Merrell’s *The Indian’s New World* (1989), William McLoughlin’s *After the Trail Tears* (1994), and Fred Hoxie’s *Parading through History* (1995). Cherokee historiography since 2000, for example, has included the groundbreaking works of Linda Reese, Celia Naylor, Tiya Miles, Fay Yarbrough, and Alaina Roberts, revolutionizing our understanding of Black Cherokees’ position. Carolyn Ross Johnston has made equally valuable contributions to Cherokee women’s history, while the works of Julie Reed (examining social welfare), Andrew Denson (dissecting congressional memorials), and Gregory Smithers (historicizing diaspora) have permanently altered our understanding of what the Cherokee Nation was and is. It is time to take these invaluable contributions and apply them to the yet unfinished work of tribal, national histories. For this reason and all others highlighted above, this dissertation focuses squarely on the Cherokee Nation in the postwar period.<sup>43</sup>

---

<sup>39</sup> Russell David Edmunds, “Native Americans, New Voices: American Indian History, 1895-1995,” *American Historical Review* 100 No. 3, (June 1995): 717-740.

<sup>40</sup> Grant Foreman, *Indian Removal, The Emigration of the Five Civilized Tribes of Indians* (Norman: University of Oklahoma Press, 1932), 11.

<sup>41</sup> Vine Deloria is often credited with instigating a major intellectual shift in Americans’ views toward Native subjects. For more on that subject, see Robert Warrior, *Tribal Secrets: Recovering American Indian Intellectual Traditions* (Minneapolis: University of Minnesota Press, 1990).

<sup>42</sup> Ned Blackhawk, “American Indians and the Study of U.S. History,” in *American History Now*, ed. Eric Foner and Lisa McGirr (Philadelphia: Temple University Press, 2011), 376-399.

<sup>43</sup> The most important texts to meaningfully address *postwar* Cherokee history are Emmet Starr’s *History of the Cherokee Indians and their Legends and Folklore* (Oklahoma City, 1921); Morris Wardell’s *A Political History of the*

---

*Cherokee Nation, 1838-1907* (Norman, 1938); Craig Miner's *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization* (Norman, 1976); Daniel Littlefield's *The Cherokee Freedmen: From Emancipation to American Citizenship* (Westport, 1978); Russell Thornton's *The Cherokees: A Population History* (Lincoln, 1990); Nancy Hope Sober's *The Intruders: The Illegal Residents of the Cherokee Nation, 1866-1907* (Ponca City, 1991); Theda Perdue's *Nations Remembered: An Oral History of the Cherokee, Chickasaws, Choctaws, Creeks, and Seminoles in Oklahoma, 1865-1907* (Norman, 1993); William McLoughlin's *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1839-1880* (Chapel Hill, 1994); Jeffrey Burton's *Indian Territory and the United States, 1866-1906: Courts, Government and the Movement for Oklahoma Statehood* (Norman, 1995); Katja May's *African Americans and Native Americans in the Creek and Cherokee Nations, 1830s to 1920s: Collision and Collusion* (New York, 1996); Carolyn Ross Johnston's *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907* (Tuscaloosa, 2003); Andrew Denson's *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (Lincoln, 2004); Robert J. Conley, *The Cherokee Nation: A History* (Albuquerque, 2005); Linda Williams Reese's *Trail Sisters: Freedwomen in Indian Territory, 1850-1890* (Lubbock, 2007); Fay Yarbrough's *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century* (Philadelphia, 2008); Izumi Ishii's *Bad Fruits of the Civilized Tree: Alcohol and the Sovereignty of the Cherokee Nation* (Lincoln, 2008); Celia Naylor's *African Cherokees in Indian Territory: From Chattel to Citizens* (Chapel Hill, 2008); Rose Stremmlau's *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill, 2011); Gregory Smithers' *The Cherokee Diaspora*: (New Haven, 2015); Julie Reed's *Serving the Nation: Cherokee Sovereignty and Social Welfare, 1800-1907* (Norman, 2016); and Alaina Roberts' *I've Been Here All the While: Black Freedom on Native Land* (Philadelphia, 2021).

However, of the 21 books cited above, only about half of them have a special focus on postwar domestic *Cherokee* politics (instead of either being histories of the Five Nations examined together or Cherokee histories which place a far greater emphasis on the prewar or pre-Removal period). Those 11 books are *History of the Cherokee Indians and their Legends and Folklore* (1921), *A Political History of the Cherokee Nation, 1838-1907* (1938), *The Cherokee Freedmen* (1978), *The Intruders* (1991), *After the Trail of Tears* (1994); *Demanding the Cherokee Nation* (2004), *Trail Sisters* (2007), *African Cherokees in Indian Territory* (2008), *Sustaining the Cherokee Family* (2011); *The Cherokee Diaspora* (2015), and *Serving the Nation* (2016).

But of these 11 works, only two—Wardell's *A Political History of the Cherokee Nation* (1938) and McLoughlin's *After the Trail of Tears* (1994)—are general academic surveys of postwar Cherokee history. They are, strictly speaking, two of the only tribal histories we have and are frequently cited. The field needs more than this.

There are at least two problems. The first is that while these are all brilliant scholars, this is also not many people, nor is this, collectively, a very large body of work. Native American history as a field needs a great deal more attention (and peer review) to develop as it should. We should not pretend this discipline has developed to the same extent as other fields in a fraction of the time. This is what I mean when I argue that the gaps in Native American and Cherokee history are greater, or more “basic,” than in many other sub-fields.

The second problem is that scholars of Cherokee history have shown scant interest in the latter half of the 19<sup>th</sup> century. Indian Removal, of course, is the most popular subject of study and the most developed. Consider Theda Perdue and William McLoughlin, for instance. It is hard to overstate just how important they have been to the field of Cherokee history. They made the field what it is today. All historians of slavery *and* gender in the Five Nations, for instance, work with Perdue's *Slavery and the Evolution of Cherokee Society* (Knoxville, 1979) and *Cherokee Women* (Lincoln, 1998) as foundational texts. McLoughlin's *Cherokee Renaissance* (Princeton, 1986) and *After the Trail of Tears* (Chapel Hill, 1993) are nothing short of Cherokee masterpieces. At the same time, their collective body of works had a gravitational pull that favored the first half of the century while often neglecting the second.

Other scholars have shown great interest in the Cherokees' participation in the Civil War, but the end of the war is typically where the field tapers off. Imperial and settler colonial history starts to talk over Native history. The inclination to skip from the U.S. Civil War to the Dawes Act (as if Native Americans did not consider Reconstruction), and then to finish with allotment (as if U.S. developments are all that matter) is both limiting and far too common.

Few scholars are interested in the final four decades of Cherokee autonomy and governance. Wonderful exceptions, such as Andrew Denson, Julie Reed, and Alaina Roberts, are currently demonstrating just how promising this period can be. Tribal history, however, should be priority number one in the underdeveloped study of nations.

This dissertation simultaneously situates the Cherokee Nation in its wider global context. **Chapters three and four** concern the Cherokee Nation’s foreign policy during Reconstruction and the Liberal Decade. Cherokee nationalists saw themselves as part of a much wider community of nations. They constantly consumed and commented on world news. And from Reconstruction to denationalization, they compared their “little nation” or “republic” to numerous other countries around the world. I take those claims seriously and was inspired to do so by several recent works in Indigenous Hawaiian historiography.<sup>44</sup> These claims highlight Cherokee aspirations. Their dreams were quashed with foreign intervention.

One final difference in this dissertation is that I try my best to study the “right subjects.” William McLoughlin has contributed far more to the field of Cherokee history than I ever will, but he tended to place a disproportionate emphasis on white Americans in Indian places; he wrote more about mixed-bloods than full-bloods; he prioritized those who wrote more than those who *did*. Sarah Bell Watie, for instance, left hundreds of letters for historians to examine, but in the grand scheme of things, she was marginal to Cherokee politics compared to the full-blood chief Charles Thompson—who left us comparatively little. McLoughlin was very interested in the “champions of the Cherokees,” the missionaries Evan and John B. Jones, but we are at a moment in Cherokee historiography where we know more about these two outsiders than we do about, say, the history of the Cherokee Supreme Court. We know more about the white federal agents tasked with “supervising” and “managing” Cherokee affairs than we do about the crisis of 1879 (or the constitutional crises of 1887, 1894, and 1905). Focusing on the right subjects can decenter the United States and white Americans. It is also truer to Cherokees’ everyday experience of history.

Writing a political history in this way need not decenter the country’s marginalized classes. Cherokee women—of all races—were systematically blocked from voting and from holding political office, but they frequently pushed the boundaries of these limitations. They formed social clubs and civil associations that challenged the status quo; they publicly raised the question of their rights and were often the ones tasked with teaching nationalism in schools. Black Cherokees struggled against alienation, finding tools of liberation in the ballot box, diplomacy, and litigation. Adopted citizens continued to serve in the National Council even as the legislature voted against their rights. Full-blood Cherokees often struggled with a criminal justice, economic, and education system stacked against them. In all these cases, explored further here, “subalterns” engaged a state which was overwhelmingly dominated by mixed-blood and full-blood men.

I hope in this way I can correct some shortcomings of Cherokee history without contributing too many of my own. When we fail to understand Cherokee history, we lose a bright example of 19th-century Indigenous democracy. Cherokees hold one of the oldest continuing democracies in the world. Their leap towards universal male suffrage is profoundly undervalued. That Cherokees were Indian and surrounded by the United States when they adopted their first constitution in 1827 is beside the point. In both the American and the global context, the rise of Cherokee republicanism is historically significant.

---

<sup>44</sup> Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham: Duke University Press, 2004); David A. Chang, *The World and All Things Upon It: Native Hawaiian Geographies of Exploration* (Minneapolis: University of Minnesota Press, 2016); Noelani Arista, *The Kingdom and the Republic: Sovereign Hawai‘i and the Early United States* (Philadelphia: University of Pennsylvania Press, 2019).

What exactly did this postwar Cherokee democracy look like? In 1886, Agent Robert L. Owen wrote that the Cherokees “in their local self-government are the most ardent politicians on the face of the earth, without exception.” He shared that “each [political] party has a thorough and complete organization, each with its platform, its three district lodge captains, its district managers, its three head managers, its manipulators.” Parties hosted barbecues where Cherokee orators advocated their cause and “vilified” the opposition. They polled the voters and tracked shifting allegiances: “They know [the voter’s] church, his neighbors, his kin, his old party difficulties, his boon companions; they measure up his personal pride, his present need, his ambition...and bring all this influence to bear.” Voters and non-voters followed politics closely. Owen wrote that politics was “educating the Cherokees, making them think.” Cherokee politics was a signature of this “most enlightened community.”<sup>45</sup> This was the mark of a genuinely free and self-ruling people.

Years later, we have not finished the basic story of Cherokee domestic politics. In the late 19<sup>th</sup> century, the Cherokee republic was still planning its future, embarking on a struggle for and against Jim Crow, and hosting its own conversations about gender equality and women’s suffrage. Its voters fought over the rights of both white immigrants and Indigenous full-bloods, and it stressed the need to preserve the Cherokee language and customs. It remained a nation of sectional divides, racial disparities, and class resentments.

However, it was also a state that valued its autonomy, democracy, and communal land system. It stood unified in opposition to its absorption into the United States. It followed its own history while swimming in the same global currents as the United States, Mexico, and Canada. This dissertation offers a history of an Indian democracy’s forgotten achievements, its numerous shortcomings, and its sudden downfall at the hands of the United States government.

---

<sup>45</sup> Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1886*, by U.S. Agent for the Cherokee Nation Robert L. Owen. Union Agency, Muscogee: September 20, 1886. Pg. 146-161.

I:  
**Cherokee Reconstruction (1866-1879)**

In the fall of 1865, the elderly chief John Ross returned to the West. The journey was difficult coming from Washington, D.C. and made worse by the boat getting stuck at Webbers Falls. After two days of waiting, another Cherokee man recognized his head of state and offered to lend him two horses. Chief Ross and his nephew William rode thirty miles through a destroyed nation, witnessing what war had wrought. After stopping in Fort Gibson for two nights, Ross continued to the Cherokee capital, Tahlequah, where family members welcomed him with grief and joy. He then “hastened to [his] once lovely Home” to see what remained.<sup>1</sup>

He found ruins. His wife Mary, who adored the house “[they] cherished so long,” had died two months before. The old chief searched the rubble for any artifact of their lives.<sup>2</sup> Almost nothing remained. Of the buildings, only the chicken house, the carriage house, and a slave cabin were left standing. The orchard was ruined, and the family cemetery where he would soon be buried had been overrun by weeds. A story developed that he quipped, “The ground, at least, is yet here.”<sup>3</sup> In a letter to his daughter, Annie, Ross wrote: “I cannot express the sadness of my feelings in my rambling over the Place.” He rode back to Fort Gibson to prepare for more politics.

A month later, he delivered the annual message to the National Council. Though Cherokees had not seen their chief for three long years, Ross’s poor health necessitated a brief address. He apologized for this, but nothing could resurrect the young chief of the early republic. Delivering his speech, he repeatedly denied being a traitor to anything. “I am not disloyal to the United States and there is no conceivable reason why I should be. Nor am I disloyal to the Cherokee Nation.”<sup>4</sup> It was an awkward focus point. Chief Ross had the full support of the Loyal Cherokee lawmakers, but they had also spent years defending his decision to sign a treaty with the Confederacy—a decision that many of them had opposed.<sup>5</sup>

A fading Ross declared a quiet victory. Thousands of Loyal Cherokees had fought for the Union. Many had died fighting. Many of the militant victors filled the audience. But since they shared a “little nation” with their enemies, their ruin had no sectional divide. Loyal and Southern Cherokees alike had both been forced from their homes. The same principal chief who lost his first wife to the Trail of Tears remarked: “This result has been achieved at the sacrifices of hundreds of precious lives, the loss of wealth and resources of the Nation and amid pain, suffering and

---

<sup>1</sup> John Ross to Annie B. Ross, September 18, 1865, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia Press, 2004), 2: 669.

<sup>2</sup> Mary B. Ross to John Ross, December 4, 1863, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 566.

<sup>3</sup> “Letters from Howard Payne,” June 26, 1910, John Ross Collection, Box 2, Folder 48, Western History Collection, Oklahoma University, Norman, OK.

<sup>4</sup> John Ross to National Council and fellow citizens, October 28, 1865, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 673-676.

<sup>5</sup> The Keetoowah Society, a secret organization put together by the country’s northern missionaries and its full-blood traditionalists, stood in direct opposition to the “Knights of the Golden Circle”—another Cherokee society formed by the country’s mixed-blood slaveholders. Keetoowahs opposed slavery and supported the Union. McLoughlin, *After the Trail of Tears*, 160.

destitution *hitherto unknown to our people.*”<sup>6</sup> Somehow, a second cataclysm had eclipsed Removal in a single generation. As one official put it, the Cherokees were beginning *ab initio*.<sup>7</sup>

Thousands of Cherokees—not hundreds—died during the war. As one Cherokee put it, “The war ‘broke’ the Cherokee Nation and people ‘flat.’ There never was seen anything like it since the Spaniards invaded the Netherlands.”<sup>8</sup> U.S. officials estimated that a third of the population (or 7,000 people) had been lost.<sup>9</sup> Contemporary Cherokees embraced that horrific figure, but the estimate has since been lowered to about a quarter of the population (or 5,000 people).<sup>10</sup> In truth, it is impossible to know the exact numbers. The country fell into anarchy. Killing on and off the battlefield was omnipresent. Some left and never returned.

With losses like these, the nation was still mourning when the principal chief left, yet again, for the last time. After another bout of sickness from traveling, John Ross arrived in Washington to stay at a boarding house with fifty other guests, including several members of Congress. He was there to prevent the United States from dismantling Cherokee sovereignty—his final earthly struggle. At each meal, Representative Henry Dawes of Massachusetts was seated at the head of Ross’s table.<sup>11</sup> Every night, the Cherokees’ next great adversary shared his meals with the chief who had survived eleven U.S. presidents, beginning with John Quincy Adams. Thirty-odd years after this encounter, Dawes’ last accomplishment would be to carry out that dismantling.

Ross and the rest of the Cherokee delegation spent the next several months negotiating a new treaty with the administration of Andrew Johnson – Ross’ twelfth and final president. But factionalism at home had also survived the war. By June of 1866, just a month before the Cherokee’s Civil War treaty would be finalized, Southern Cherokees grew confident that they had outmaneuvered Chief Ross. Their Washington delegation even instructed their people at home to begin forming a separatist government on Cherokee lands, and the former Confederates celebrated a victory years in the making. A bed-ridden Ross wrote the last extant letter of his life, addressed to President Johnson, urging him to consider dividing the nation in two. He insisted it was not what the people wanted, and what the people wanted was paramount. In the opening, he wrote:

“From my earliest Boyhood in reading, I was taught to reverence the Government of the United States. And after I advanced far enough to understand the beautiful system under

---

<sup>6</sup> John Ross to National Council and fellow citizens, October 28, 1865, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 673-676. Emphasis added.

<sup>7</sup> No. 16. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1872*, by U.S. Agent for the Cherokee Nation John B. Jones. Central Superintendency, Tahlequah: September 1, 1872. Pg. 232-238.

<sup>8</sup> CA, January 16, 1889.

<sup>9</sup> Clarissa Confer, *The Cherokee Nation in the Civil War* (Norman: University of Oklahoma Press, 2007), 145.

<sup>10</sup> CA, January 16, 1889; Donald Ralph Englund, “A Demographic Study of the Cherokee Nation,” PhD diss., (University of Oklahoma, 1974), 115; Russell Thornton, *The Cherokees: A Population History* (Lincoln and London: University of Nebraska Press, 1990), 94. It is difficult to know the accuracy of this number as both ex-Union and ex-Confederates fled the country, and the nation descended into anarchy. Some, like Ann Shelton, returned, while others did not. It would be even more difficult to know exactly how many Cherokees died for the Union or Southern cause, but we can be certain the number was a stunning proportion of the population. Even John Ross had sons in the Union army, and one of them would die in a Confederate prison. For years after the war, pension agents for the United States would make annual trips through the Cherokee Nation to pay ex-Union veterans. Despite its complicated involvement, the Cherokee Nation, indeed, made great sacrifices for the Union cause.

<sup>11</sup> John Ross to Sarah F. Stapler, January 19, 1866, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 681-682.

which the Constitution of the United States was established, my reverence became more firmly confirmed, *which has not and shall never be changed.*”<sup>12</sup>

His handwriting was deteriorating, but the ideas were strong. The letter provided insight into the kind of government Ross had fostered over the previous forty years. A sincere admiration for the U.S. Constitution drove his effort to bring democratic republicanism to the Cherokees. Like many other Americans, Ross bestowed his sons the names of U.S. Founding Fathers: “George Washington Ross” and “Silas Dean Ross.” He had crafted two separate constitutions, both inspired by U.S. democratic institutions. He had four sons fight for the Union, one of whom died in a Confederate prison. His son-in-law—a civilian—had been shot and killed, arguably murdered, by Confederate Cherokees as he fled his home.<sup>13</sup> These were colossal sacrifices for the Union cause.

His Confederate counterpart, on the other hand, had always found majority rule unbearable. To Stand Watie, leader of the Confederate Cherokees, democracy had been an obnoxious obstacle when a sizable majority of Cherokees preferred to resist Indian Removal. For this reason, he and many other future Confederates signed the infamous Treaty of New Echota in 1835. For years, Watie lived on the margins of politics and the nation—fully aware he was never safe among the people he had betrayed.<sup>14</sup> He gathered followers in the “Southern Rights Party,” and he understandably thought the nation was his when the Confederates refused Cherokee neutrality.

However, Ross stole this moment, too. He convinced full-blood abolitionists to follow him into a treaty with the South and secured a “second” Cherokee army to protect his government from Watie’s.<sup>15</sup> The moment the Union arrived, Ross fled the country, and Watie was elected “chief” by his own soldiers. He, too, would flee the country in a matter of months.

Later, in a highly symbolic moment of the Civil War, Watie responded to the Confederate loss of Tahlequah by leading a scouting party across enemy lines to burn the legislative chamber to the ground. Lost Cause historiography has often portrayed John Ross as a tyrant, but Watie’s

---

<sup>12</sup> John Ross to Andrew Johnson, June 28, 1866, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia Press, 2004), 2: 698-699. Emphasis added.

<sup>13</sup> Gary Moulton, *John Ross: Cherokee Chief* (Athens: University of Georgia Press, 1978), 177.

<sup>14</sup> After several post-Removal assassinations of Treaty Party members, many of the faction fled to U.S. states like Texas (my own direct ancestor, John A. Bell, did this as well), but Watie insisted he would not be intimidated. He lived the remainder of his life in the new Cherokee Nation. However, one fitting detail about Stand Watie is that his final resting place is right on the far eastern border between the Cherokee Nation and Missouri—about one mile away in fact, if not less. Arkansas is also quite close (3 miles) and it was the state that many Treaty Party members (including Watie) would flee to during moments of political danger. Whether it was Honey Creek or Webbers Falls, Watie *always* chose to live on the margins of the country, and for good reason. Within politics, he had great success as the *de facto* head of the Southern Cherokees, but this still meant that he remained in a minority for his entire life.

<sup>15</sup> McLoughlin, *After the Trail of Tears*, 185-186. As for the Cherokee’s “two armies,” the Welsh missionary Evan Jones wrote on January 21, 1862, that “to prevent the over-running of the country by the Secession troops, and having no military force of their own [unlike Watie’s men who had already been armed], nor any other means of defense, the only choice seems to be to accept the best conditions they could obtain...[Drew’s regiment] was raised for home protection...the great majority of the officers and men in this case being decidedly loyal Union men.” McLoughlin, *After the Trail of Tears*, 200. Contemporary Southern Cherokees similarly felt that John Ross had duped the Confederacy into serving his domestic interests, that he was using “his regiment to protect himself and his home (he certainly was) and General Albert Pike would later write that the Confederate Cherokees “censured me for treating with Mr. Ross...saying that the regiment of [John Drew] was raised in order to be used to oppress them.” McLoughlin, *After the Trail of Tears*, 196, 189,



attacks on Cherokee democracy were often both abstract and literal. If victorious Republicans were searching for a like-minded leader, they could not find it in Watie.<sup>16</sup>

Whatever role John Ross' letter to Johnson played in the decision, the Union ultimately chose the ideologically consistent path and only treated with the Loyal Cherokees. The U.S. abandoned any plans to treat with the ex-Confederates separately, the idea of a "Southern Cherokee Nation" was defeated, and Cherokee national sovereignty was reaffirmed. On July 19<sup>th</sup>, the Treaty of 1866 was finalized; on July 27<sup>th</sup>, it was ratified, and five days after that, John Ross was dead.

---

<sup>16</sup> Before, during, and after the war, agents of the United States, the Confederate South, and the Cherokee North and South frequently acknowledged or asserted that there was a slight majority of Loyal Cherokees throughout the conflict. Though Morris Wardell did not provide a proper footnote for this claim, he estimated that pro-slavery Cherokees numbered "between six and seven thousand. The rest, nearly eleven thousand, were either anti-slavery or had no direct party affiliations" (Wardell, *A Political History of the Cherokee Nation*, 123). General McCulloch of the Confederacy estimated in June of 1861 that a majority composed of full-bloods and mixed-bloods still wished to remain neutral, and that invading the Nation would push the Cherokees to be even more pro-Union (Ibid, 129-130). Immediately after the Cherokee Nation abandoned neutrality, missionary Evan Jones insisted that 4,000 Cherokees who understood the general conditions were true to the Federal government (Ibid, 137).

On the other side of the war, Superintendent Coffin of the Union government insisted that the "insidious influence" of Albert Pike and Elias Rector had pushed the Cherokee Nation into the Confederacy, and that once the Union army reached the country, "a very large majority of fullbloods would be found loyal to the government." These loyalists included the courageous Chunestootie who attacked any Cherokees that attempted to raise the Confederate flag on Cherokee land (Ibid, 132). The Loyal Creek Opothleyoholo moved his contingent of 1,500 Creeks and 700 freedmen into the Cherokee Nation because he believed he would absorb Loyal Cherokees along the way (McLoughlin, *After the Trail of Tears*, 193). In his 1866 report, Commissioner of Indian Affairs D.N. Cooley estimated that 6,500 Cherokees had joined the South, while "about 10,500" had been Loyal Cherokees. A Loyal Cherokee during the war estimated that "7/10ths" of the male population was loyal (Ibid, 218). After the war, various Cherokee officials frequently cited numbers like these as they demanded to be treated as loyal veterans rather than treasonous rebels during the postwar negotiations. Even the Southern Cherokees after the war estimated that they had represented "at least 8,000" compared to the "10,000" Loyalists (Ibid, 223). William McLoughlin then added that, "more realistic estimates placed the upper limit of the Southern party at 6,500 and the Loyalists at 9,000 to 10,000" (Ibid, 224).

The problem for the Cherokee Confederates and their leader, Stand Watie, was one of popularity. He and his faction had always been the militant extremists of the nation, operating cohesively but from the margins. Even in peacetime, his allies wrote to him, devising schemes to assassinate the chief "with some twenty-five or thirty white men to go and kill Ross" (Franks, *Stand Watie and the Agony of the Cherokee Nation* (Memphis: Memphis State University Press, 1979), 109). During what some have called the Cherokee Civil War of 1846, Watie formed an anti-Ross army, operated a small fort ("Fort Watie") and conducted military drills in anticipation of open conflict with the Ross Party majority (Ibid, 96-99).

In 1861, as the Cherokee Nation defended its neutral status, Watie's allies wrote to each other about how it was "the time for us to strike, or we will be completely frustrated" (Ibid, 117). They wanted to illegally treat with the Confederacy—just as they had with the United States in 1835. One of Watie's allies wrote that if they could treat with the South, "the power of the Ross faction would be broken" which would "place us if possible at least on an honorable equity with this old Dominant party that has for years had its foot upon our necks" (Ibid, 117). When Ross began raising an army for the Nation, Adair and Bell wrote with even more urgency, insisting that they had to act fast (Ibid, 117). Their urgency was one to undermine or simply replace the elected Ross government. When Ross called a mass gathering in August of 1861 to discuss the Nation's options, "seventy or eighty of [the Southern Cherokee faction] appeared there in arms with the intention to break up the meeting" (Annie Heloise Abel, *The American Indian as slaveholder and Secessionist*, 217). Because there were thousands more Loyal Cherokees there, they failed. These were all the traces of a coup that never transpired. Even one of Watie's many admiring biographers could put it no other way: "Ross knew the South no doubt would back Watie, and the outcome was a foregone conclusion—Watie would assume leadership of the tribe" (Franks, *Stand Watie and the Agony of the Cherokee Nation*, 118).

The Treaty of 1866 and the passing of John Ross were twin landmarks in Cherokee political history. Both events were seismic and represented major turning points. Whereas the prewar Cherokee Nation aimed to serve the ethnic family of Cherokees related by “blood” or marriage, the new republic would modernize itself by returning to older, more expansive Cherokee values of inclusion not tethered to race and ethnicity. Whereas the goal of the prewar nation had been to isolate Cherokees from the outside world (ostensibly to protect the “civilization” process), the new nation reluctantly agreed to embrace the foreign and the modern in granting rights of way and asylum to other removing tribes. The prewar Cherokee republic had been a one-party state—it had only ever known one executive, John Ross, and there had only ever been one “Rossian” vision of their future. Wartime devastation, Ross’s death, and the Treaty of 1866 guaranteed change. Cherokee Reconstruction had begun.

Historians Morris Wardell and William McLoughlin both saw Reconstruction as something that happened *to* Cherokees rather than something Cherokees initiated or embraced. For them, as for many scholars, “Greater Reconstruction” always had its source in the East and flowed into the West. Native governments could feel its aftershocks and suffer great damage, but they had little influence over its direction. Partly for that reason, neither Wardell nor McLoughlin ever paid much attention to Cherokee Reconstruction or even tried to explain when it ended.<sup>17</sup>

It is time for a reinterpretation. Cherokee Reconstruction was its own process, led by an Indigenous democracy. It was an Indian nation’s response to war and radical change. It centered around national and local figures struggling with one another over the kind of republic that should emerge from the ashes of the cataclysmic Civil War. Cherokee Reconstruction also had clear winners: the ex-Union, “Loyal Cherokee” traditionalists. The following three chapters recover their rise and fall in national politics, a story crucial to understanding Cherokee history, Oklahoma, and the West, but one that historians of all three fields have neglected.

Cherokee Reconstruction had two distinct phases: Moderate Reconstruction (1866 to 1875) and Radical Reconstruction (1875 to 1879). **Chapter One**, “Moderate Reconstruction,” explains how two Ross successors, his nephew William P. Ross and Lewis Downing, were political rivals even though very little separated their ideological visions. Both chiefs pursued a moderate Reconstruction, which aimed to recreate the prewar “Rossian” world. This meant balancing the interests of social welfare institutions and Victorian “progress” with the demands of full-blood traditionalists. Ross and Downing were moderate liberals who wanted Cherokees to succeed in a market economy but also hoped to keep liberalism in check. Their policies reflected a mild suspicion of “capitalists,” something which united traditionalists and former slaveholders.

But traditionalists refused to have more of the same. Racial and class disparities had driven a wedge between neighborhoods. Even moderate liberalism became intolerable. Full-bloods initiated a political movement the influential historian William McLoughlin dubbed “the Full-Blood Rebellion of 1875,” which is better understood as Cherokee Radical Reconstruction. Traditionalists controlled the government for four years and passed a sweeping reform agenda affecting land, labor, and immigration. They promoted the rights of nonwhite citizens at every turn, especially full-bloods, and they insisted on a greater share of national finances.

---

<sup>17</sup> Elliot West has been one of the leading proponents of applying the term “Reconstruction” to the U.S. West, often by employing the term “Greater Reconstruction.” Notable scholars of the West and Native America such as Richard White have followed suit. Elliot West “Reconstructing Race,” *Western Historical Quarterly* 34 (Spring 2003) 7-26.

Full-blood reconstructionists did not want to live in the pre-colonial world, but they did want the Nation to return to a more equitable, traditionalist politics characteristic of previous generations. Their adversaries portrayed them as radicals, and as they often refused compromise and incrementalism, the label was fair.<sup>18</sup> **Chapter Two**, “Radical Reconstruction,” explores how these traditionalists governed while they were in power and further explains why their greatest legislative victory ultimately led to their own political defeat.

**Chapter Three** shifts our focus toward “Reconstruction’s Foreign Policy.” Both before and after the war, Cherokee nationalists viewed their state as either foreign or one that at least carried a “domestic independence.” Cherokee diplomats used every opportunity to shore up their nation’s power, and the changes to federal Indian policy after the war provided another opening. The federal government’s reconstructionist turn toward a “consolidation” policy for Indian Territory necessitated local cooperation. Sensing the potential for profits and security, Cherokee nationalists embraced the postwar Removal policy and its core principles and accepted a new role for the nation as an asylum for Native refugees fleeing settler colonialism in the U.S. West. Embracing this role successfully established the Cherokee as a “model” Indigenous republic and promoted its sovereignty in the eyes of many white contemporaries. However, xenophobic discontent at home would erode consensus and undermine these gains by the end of the 1870s.

Together, the chapters in Part I showcase the rocky dynamism of the late 1860s and 1870s. Though Cherokee nationalists were filled with dread for what the U.S. might do to their country during these years, they worried far more about local and national politics. Wartime wounds did not heal quickly (if at all), and violent feuds persisted. Political spats over one issue or another flared into firestorms, even though the winner’s grand prize was a half-destroyed nation. In this turbulent rebuilding period, Congress appeared distant compared to the Cherokee National Council and the principal chief, which between them held—and exercised—the power to revolutionize the national economy and the Cherokee social world. By 1879, Cherokees would finally see what kind of nation their own Reconstruction had produced.

---

<sup>18</sup> McLoughlin, *After the Trail of Tears*, 312 and 342.

Chapter One:  
**Moderate Reconstruction (1866-1875)**

The first postwar editor of *The Cherokee Advocate* was William P. Boudinot, a bright example of what Cherokees had accomplished with reconciliation. Boudinot was the son of Treaty Party member Elias Boudinot who was assassinated by survivors of Removal when William was merely nine years old. William P. Boudinot had fought for the Confederacy with his uncle, Stand Watie, throughout the Civil War, and his brother was the immoderate, pro-denationalization scoundrel, Elias C. Boudinot. His family history screamed for separatism.

But not only did Boudinot drift into mainstream Cherokee nationalism, he eventually found himself in the National Party—the successor to Ross party politics which his own family members considered tyrannical. From 1870 to 1873, Boudinot published editorials which could fool anyone into thinking he had fought with the Union. For instance, in January of 1871 he recounted the events leading to war from the perspective of a Loyal Cherokee, insisting that:

“While the Cherokee Nation were in this condition of helpless uncertainty, they were accosted by one of the combatants [the South] with a pen in one hand, and a sword in the other. ‘Treat or take the alternative’ was the threatening demand. The ‘alternative’ meant war, and war meant destruction.”<sup>19</sup>

The retelling was perfectly accurate for the majority—Loyal Cherokees—and especially for the Cherokees who died for the Union. But it was categorically untrue for Southern Cherokees like Boudinot, whose early volunteering for Stand Watie was illegal even under the Nation’s own laws.

And Boudinot was remarkably consistent in adopting the Union stance, once even going to the extreme of calling his wartime allies “our old enemies.” In June of 1870, he connected the war to Removal to write a punishing interpretation of the destroyed Confederacy:

“We disclaim feeling any satisfaction in the misfortunes of the descendants of our old enemies [southerners]; but, if such an emotion could be justifiable at all, it might have been fully exercised when General Sherman, the Federal Nebuchadnezzar, [laid] waste with fire and sword, the country from which the Cherokees were so ruthlessly driven...”<sup>20</sup>

Lamenting the lost homeland “Georgia Jerusalem,” which his own father illegally sold, Boudinot framed the whole country as repeated victims of Southern—not federal—aggression. Though this was an egregious sanitization of Southern Cherokee actions, it did represent a positive development in national politics. Cherokees wanted a middle ground.

A Cherokee named Lewis Downing would help them find it. After the death of John Ross, the executive office immediately passed to the Assistant Chief, Colonel Downing of the Loyal Cherokees. Prior to the war, Downing had worked as both a Baptist minister and as a senator for

---

<sup>19</sup> CA, January 14, 1871.

<sup>20</sup> CA, June 18, 1870.

Going Snake District. He was known as an “ardent” Ross man.<sup>21</sup> During the war, Lewis Downing and the late Thomas Pegg had each served as “Acting Chief” in Ross’ absence, giving nonwhite Loyal Cherokees a glimpse of an alternative, full blood leadership. Downing was at this point the Southern Cherokees’ worst nightmare. During the war, it was Downing and Pegg who passed the “Confiscation Act” targeting Confederate property, and it was Downing and Pegg who abolished slavery before the United States.<sup>22</sup> He purchased some of these confiscated lands himself, and he solicited arms and munitions for the independent guerrilla bands waging unconventional warfare against Southern Cherokees.<sup>23</sup> Downing was a member of the Keetoowah Society, which had long conspired against slavery under the banner of Indigenous “free soil” politics. His history appeared radical—not moderate. For this reason, it seems as shocking now as it did then that it was Lewis Downing who pursued a reconciliation with the ex-Confederate separatists.

### **The Downing Years (1867-1872)**

When Lewis Downing was snubbed, history was made. The death of John Ross called for the election of an interim chief. Though Downing was second in line and had led the nation through war, the National Council decided to put John Ross’ nephew in power. It was an era-defining mistake. Cherokees missed an opportunity to elect the first full-blood chief of the republic, while William P. Ross was made Interim Chief in the fall of 1866. The possibility of forty more years of “Ross rule” hung over the nation. Downing was demoted to Assistant Chief.<sup>24</sup>

In fairness, the younger Ross had a glowing résumé. It is hard to imagine any candidate with more experience. He was a Princeton alumnus and honors student who had served as editor for *The Cherokee Advocate*, director of the seminaries, secretary to the National Treasurer, clerk of the senate, senator to the National Council, delegate to Washington, and delegate to other Indian nations.<sup>25</sup> He knew the government intimately. It was the family business. When not in the government, he worked as a merchant and attorney, but like his uncle, he would die in public office after a lifetime of service. He was devoted to Cherokee nationalism.

William Ross’ wartime record was less picturesque. He had been appointed lieutenant colonel in the short-lived First Cherokee Mounted Rifles (part of the Confederacy but filled with recalcitrant Loyal Cherokees). Soon after that he was a refugee and partner in the sutler’s store for the Third Regiment Indian Home Guard (Union).<sup>26</sup> His biography stated that “he rode no horse of any Southern Cherokee, nor did he ever injure a Northern or Southern man in person or property,”

---

<sup>21</sup> Biographical sketch, message to the National Council, and correspondence of Principal Chief Lewis Downing, 1871, n.d. *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7436. Western History Collections, University of Oklahoma, Norman.

<sup>22</sup> Laws: 1863-1867, CHN 8, Volume 251, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>23</sup> Account statement for Cherokee National School and Orphan Trust Funds, 1864; a list of confiscated farms, Canadian District, 1865; and correspondence and documents concerning Cherokee Nation finances. 1876-77. *Cherokee Nation Papers*, Roll 55, Box 193, Folder 8131. Western History Collections, University of Oklahoma, Norman. Correspondence from Acting Principal Chief Lewis Downing to Col. S. H. Wattles regarding arms for Indian regiments. Oct. 9, 1864. *Cherokee Nation Papers*, Roll 47, Box 167, Folder 6888. Western History Collections, University of Oklahoma, Norman.

<sup>24</sup> Cherokee National Council Notes, October 3, 1863, CHN 8, Volume 248, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>25</sup> Mary Jane Ross, *The Life and Times of William P. Ross* (Fort Smith: Weldon and Williams Printers, 1893), 17-24.

<sup>26</sup> *Ibid*, 24.

which indicated the real possibility that he never had to fight.<sup>27</sup> He had also been abroad for the Trail of Tears. While his people were marching in the snow, he was at Princeton buried in books, training to become a national leader just like every other Ross he knew.

That William Ross was twice selected to finish the terms of deceased chiefs demonstrates that he was a favorite of the establishment. That he was never actually elected by the people, despite his repeated efforts, shows that he always lacked something that his uncle never lost.

While Ross was being made chief anyway, Southern Cherokee separatists were plotting after the Treaty of 1866. Elias C. Boudinot wrote his uncle, Stand Watie, a defiant message:

“...we have not been successful in securing an absolute separation...[but] the better policy is to accept what they put in their treaty as it does not commit us to anything, and gives us a good chance to demand for a division at a more favorable opportunity.”<sup>28</sup>

Boudinot further claimed that the Treaty of 1866 “[gave] the Ross party no jurisdiction over us in civil and criminal cases before the court” and the “other” nation “shoulder[ed] all the responsibility of the negro matter.” His colleagues William Penn Adair and James Bell were equally dismissive of the treaty’s legitimacy.<sup>29</sup> In short, there were still Cherokees who promised to resist the government’s legitimacy. As an issue tied more closely to Removal than to slavery, separatism had plagued Cherokees for decades. There was little reason to believe that this would change.

The combination of factors gave Lewis Downing his opening. As a delegate to Washington City in 1867, he secretly approached the Southern Cherokee delegation—whose very existence undermined Cherokee sovereignty. The hardline ex-Confederates recorded their suspicion as their moderate members received him.<sup>30</sup> We will likely never know what was discussed, but since the government would be dominated by Loyal Cherokees for the next decade, specialists have fairly assumed that it was Downing who offered to form a breakaway party rooted in reconciliation and power sharing.<sup>31</sup> The new “Downing Party” traded the inclusion of Southern Cherokees in a majority party for their support of full-blood candidates.<sup>32</sup> The most zealous fighters of the war suddenly united to oust the centrist Ross Party. A genuine two-party system had finally emerged.

---

<sup>27</sup> Ross, *The Life and Times of William P. Ross*, 24.

<sup>28</sup> E. C. Boudinot to Stand Watie, July 23, 1866. *Cherokee Nation Papers*, Roll 39, Box 117, Folder 3941. Western History Collections, University of Oklahoma, Norman.

<sup>29</sup> McLoughlin, *After the Trail of Tears*, 228.

<sup>30</sup> *Ibid.*, 247. Interestingly, William P. Boudinot was one of those hardliners in April of 1867, aligning with his brother, E.C. Boudinot. But William would come around in ways that his brother never did. His appointment as editor for *The Cherokee Advocate* by Loyal Cherokees and his subsequent opposition to many Southern Cherokee interests highlight the softening of his approach to national politics.

<sup>31</sup> Southern Cherokees, upon taking control of the Downing Party in the 1880s, would engage in a bit of historical revisionism. Stand Watie, they would suggest, was the genius behind the deal. That retelling does not stand up to scrutiny. Watie was not even present in Washington when Downing approached the ex-Confederates.

<sup>32</sup> We cannot know exactly what arrangements were made at the Downing Compromise, but we can see how it was remembered by 19<sup>th</sup> century Cherokees. Emmett Starr (1870-1930) was arguably the “father” of Cherokee history. He wrote about the families he grew up with and about the nation from which he had emerged. Sometime in the 1910s, Starr provided a biography of Downing, writing: “The Reverend John B. Jones had become estranged from the Ross family and immediately commenced an intrigue between the friends of Lieutenant Colonel Downing and the leaders of the Confederate Cherokees, having for its purpose the rehabilitation of the Southern Cherokees, and the alignment of their forces with that of the friends of Downing on an understanding that they would vote together in the election

It was the Downing Party which elevated the moderate ex-Confederates who were willing to compromise (among them J.A. Scales, J. T. Adair, and W.P. Boudinot), while forever ostracizing the Southern Cherokees who refused to be “bought off” (most notably Elias C. Boudinot and James M. Bell).<sup>33</sup> It was this “Downing Compromise” which produced the editor of *The Cherokee Advocate* who could not recall his wartime allegiances, who saw little point in maintaining a semi-autonomous district for Southern Cherokees (the Canadian district), and who—unlike his “scoundrel” brother—celebrated the positive features of the Treaty of 1866.<sup>34</sup> Seemingly overnight, the Downing Compromise revolutionized Cherokee politics.

The arrangement was radical because it united perfect opposites of the political spectrum—Native abolitionists of the Keetoowahs and the “Southern Rights Party”—but somehow, some way it proved to be a resounding success. After 1866, Southern Cherokees maintained and celebrated their social-political distinctiveness but never again lobbied for a separate nation. Downing had made nationalists out of separatists and created a party which would dominate Cherokee politics. For better and for worse, reconciliation between Cherokee “North” and “South” was achieved immediately, and Boudinot declared: “We have had no reconstruction to alleviate or oppose—no rebel element to talk about—no ku klux klan to denounce—no murders to record...since the storm passed [the war], peace and quiet have reigned.” Downing would be rewarded for this diplomacy at William Ross’ expense.<sup>35</sup> Downing, not Ross, was elected principal chief in the election of 1867.

This fast reconciliation between Cherokee “North” and “South” delayed the emergence of Southern “redeemer” types who eventually would reach the chieftaincy in the late 1880s. So long as Lewis Downing was in office, the Nation could enjoy a very productive political stability, implementing policies which two like-minded parties supported. After all, Lewis Downing and William Ross both came from the Ross Party, and the brand-new Downing Party was still dominated by ex-Ross Party Loyal Cherokees whose influence would only increase. Southern Cherokees had won inclusion in the majority but by 1875 (during what I call “Cherokee Radical Reconstruction”) they would learn just how weak their influence was.

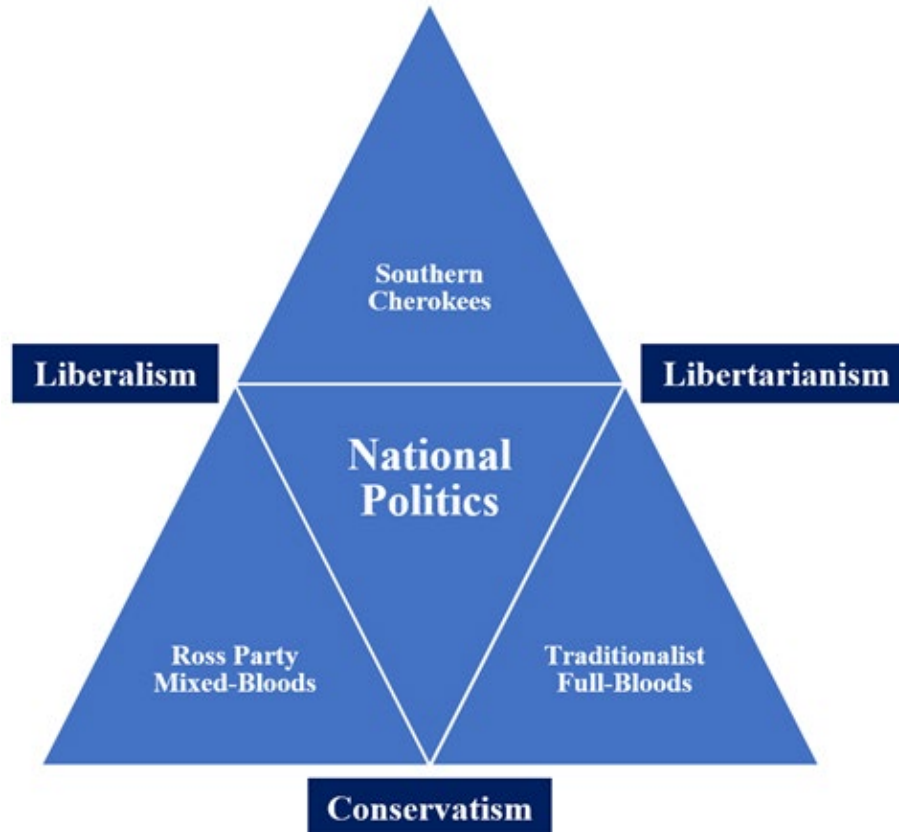
---

of August 5, 1867, for Lewis Downing as principal chief with a southern man as his assistant and that at the election of 1871, a southern man was to be chosen as a principal chief and one of Downing’s friends was to be elected as assistant chief. In the election of 1867 Colonel Downing was elected principal chief and Captain James Vann, late of Company J. Third Indian Home Guards, was elected assistant chief. Both of these men were ex-federals; but this does not seem to be disapproved, as Colonel Downing gave so much satisfaction as an executive that he was re-elected on August 7, 1871, with Robert Bruce Daniel, a Southern Cherokee, as assistant chief.” In one campaign speech of 1887, ex-Confederate Joel B. Mayes remembered the accord similarly, but said that it had been arranged along racial, social, cultural lines: “The Downing Party was organized twenty years ago...The party agreed then, and entered into a pledge with each other to the effect that the candidates for the Principal Chief’s Office should be alternately selected by the Party from the full-blood Cherokees and the half-blood Cherokees—a candidate to be taken from one division of the party to run at one election, and a candidate from the other division at the election following.” According to Mayes, then, full-blood Cherokees and Southern Cherokees had promised to trade the executive office back and forth. Biographical sketch, message to the National Council, and correspondence of Principal Chief Lewis Downing. 1871, n.d. *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7436. Western History Collections, University of Oklahoma, Norman. CA, July 13, 1887.

<sup>33</sup> It is worth adding here that James M. Bell and E. C. Boudinot were both the sons of influential Cherokee nationalists. After the Civil War, however, their inability to play politics meant that other Southern Cherokees (the Mayes family, the Rogers family, and others) replaced them on the national scene. Bell and Boudinot ultimately sought power *outside* of the Cherokee Nation. Their fame (or infamy) in the United States was predicated on supporting denationalization.

<sup>34</sup> CA, October 21, 1871; CA, December 9, 1871.

<sup>35</sup> CA, June 18, 1870.



**Figure 1.1:** Three Corners of Cherokee National Politics, Visualized. The prewar Cherokee Nation was effectively a one-party state with John Ross at the helm for four decades. This continuity, however, obscures the various coalitions operating from within. Theda Perdue highlighted how the first Cherokee constitution emerged from a compromise between the mixed-blood John Ross, the traditionalist full-blood White Path, and their followers. Ross’ strong opposition to Indian Removal and cautious incrementalism further strengthened his position among full-bloods (who held a decisive sway over national politics until 1879). Meanwhile, the mixed-bloods of the Treaty Party—led by Stand Watie—would go on to become the nucleus of the Cherokee Confederates. They despised John Ross and his followers, accusing him of majoritarian tyranny. These “Southern Cherokees” were left on the margins of politics before the war, but they did have overlapping values with Ross Party mixed-bloods. Southern Cherokees were slaveowners like many Ross Party mixed-bloods. They both wanted liberal economic policies, large-scale farms, legal reforms (e.g., the New Code of Laws), and the maintenance of elite institutions such as the seminaries. In 1879, these two groups would briefly converge under the banner of liberalism with the rise of the National Party. The alliance would not last because of their differing views on government expenditures. Southern Cherokees favored the encouragement of private wealth over state-building. After the Civil War (and after holding opposite positions on slavery), Southern Cherokees and traditionalist full-bloods discovered they had some overlapping interests. Specialists have pointed out that Southern Cherokees wanted to keep the Rosses out of power while full-bloods wanted to take over the chieftaincy, but there was more to it than factionalism. Ideologically, they both wanted to decrease the size of the government, its “tyranny,” and its corruption. They both favored per capita disbursements, and they both idealized the “old” Cherokee Nation. What they pictured, however, were entirely different countries. Alignments shifted often.



Under these circumstances, there was a very consistent path forward for the Nation between 1866 and 1875. Ross and Downing handed the executive office back and forth in these years. Downing had been Acting Chief prior to John Ross' death, after which William Ross was nominated to fill the interim (1866-1867). In the elections of 1867 and 1871, Downing beat out Ross, but he then died a year into his second term, in November of 1872. William Ross—who had just lost to Downing in the general—was yet again selected to serve the remainder (1872-1875). This time he served for three whole years—much to the dismay of the Downing Party. Though Ross' second interim as chief was marred by political instability stemming from ex-Confederate animosity, rising crime, the Depression of 1873, and the drought of 1874, almost nothing separated Ross and Downing ideologically. This was a nation of two like-minded factions.

Both chiefs were moderate liberals who hoped to plan a steady expansion of social welfare institutions without offending traditionalist values. They both sought to rebuild important prewar institutions such as the prestigious seminaries as well as borrow heavily to erect newly necessary institutions, such as the Orphan Asylum and the National Prison.<sup>36</sup> Both supported a more liberal approach to the Freedmen families denied citizenship because they could not meet the six-month window to enroll, and both sought the support of full-blood constituencies by moderately curbing the number of white settlers coming in on labor permits (and at the same time, both supported a small influx of laborers to stimulate the economy). They both held the liberal view that investing heavily in social welfare institutions would save costs in the long term, and the numerous territory bills introduced to Congress in the 1870s were soundly defeated by the leaders and members of both parties.<sup>37</sup> Downing was part of a coalition that included weakened ex-Confederates, but he still asked the National Council to establish a school for Black children at Fort Gibson, where many in this community lived.<sup>38</sup> Unlike the leaders of the future, neither chief proposed radical changes to the government or economy, and neither was greatly suspicious of foreigners. Downing and Ross were both moderate successors to John Ross and planned a Cherokee Reconstruction that would recreate the prewar system mostly as it was. Some reforms, such as the National Prison, were holdovers from the John Ross years.<sup>39</sup> Other reforms, such as removing race-based discrimination from the national constitution, were enacted without resistance.<sup>40</sup>

---

<sup>36</sup> Biographical sketch, message to the National Council, and correspondence of Principal Chief Lewis Downing. 1871, n.d. *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7436. Western History Collections, University of Oklahoma, Norman. In this annual message to the National Council (undated, but the details of the message seem to date it to 1867) Downing instructs the council to get the seminaries opened as soon as possible. Downing imagined that the accumulated interest withheld during the war would amount to “ample funds for all our educational enterprises, and for the support of the orphans, until additional income can be realized from our new investments.”

<sup>37</sup> Laws: 1863-1867, CHN 8, Volume 251, Cherokee National Records, Indian Archives, Oklahoma History Center. William P. Ross explicitly put this idea into words in his first annual message as chief: “On the part of the nation it will be wiser and more humane and less expensive to spend all her available funds in properly providing for the rising generation among us [‘the large number of destitute orphans in our midst’] than to leave them to want and neglect and then eventually [have] to restrain their vices and punish their crimes.”

<sup>38</sup> Biographical sketch, message to the National Council, and correspondence of Principal Chief Lewis Downing. 1871, n.d. *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7436. Western History Collections, University of Oklahoma, Norman.

<sup>39</sup> Annual Message of John Ross, October 5, 1857, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia Press, 2004), 2: 424-429.

<sup>40</sup> Proclamation and Amendments to the Constitution,” adopted November 26, 1866, in *Constitution and Laws of the Cherokee Nation* (St. Louis, R. and T. A. Ennis Stationers: 1875). 23-28. The greatest policy difference between them was the question of Cherokee treasury funds which had disappeared under the wartime custodianship of Lewis Ross, another uncle of John. Lewis Downing ordered an investigation of the lost funds and called the former principal chief

The arrangement worked especially well during Lewis Downing's time in office, 1867 to 1872. Since the *Cherokee Advocate* would not resume publication until 1870, this dissertation uses the reports of the Indian Commissioner to gain a murky sense of the economy between 1867 and 1870. In 1867, there was a vacancy in the Cherokee Agency, but the Superintendent of Indian Affairs reported that the Cherokees "have had peace and quiet, and have been blessed alike with the neighboring tribes with a propitious seasons and abundant crops."<sup>41</sup> In a country mostly concerned with agricultural productivity, "peace and quiet" (and rain) was all Cherokee needed to rebuild their farms. In a sign of how quickly things were changing (and stabilizing), Lewis Downing—who had once supported confiscation—signed a bill at the end of 1867 appropriating \$1,380 to the task of aiding destitute Southern Cherokees return home. Only \$442.50 was needed for Loyal Cherokees.<sup>42</sup>

The next year, 1868, William Davis was appointed Cherokee Agent and submitted a detailed report on Cherokee affairs. He gladly confirmed the optimism of the previous year:

"They are building up their wasted fortunes, and rapidly repairing the desolations of the late war. Being blest with an agreeable climate and productive soil, their farmers have produced an abundance to supply the wants of the inhabitants in the way of grain and vegetables, and a surplus that they have disposed of at remunerative prices [in the surrounding states]. Horses, cattle, and hogs are raised, and get fat without feeding; of the two former they have a tolerable fair supply, and plenty of hogs to supply the demand for pork and bacon."<sup>43</sup>

Only a year later Cherokees were growing surpluses that they could sell on the market. In addition to the ideal climate, Davis attributed the growing productivity in agriculture and animal husbandry to the Downing Compromise, after which "all [were] working harmoniously for the advancement and prosperity of their tribe." He then went on to remark that the past season had been "one of unusual good health" with "no serious epidemic."

Davis further recommended that the United States approve the 1867 supplemental treaty to bolster the Nation's finances. This treaty was intended to rectify a few oversights of the Treaty of 1866, but it would never be ratified. Conditions improved nonetheless, and Cherokees shifted their attention to the seminaries, which all parties wanted to reopen as soon as possible.

---

to testify. As far as I can tell, these investigations did not get anywhere, and all that remains is conjecture. The Civil War was simply too chaotic to keep up with Lewis Ross' misuse of funds (and, more importantly, whether William P. Ross had anything to do with it). An Act Requiring W. P. Ross, Late Principal Chief of The Cherokee Nation, and Lewis Ross, Late Treasurer of the Cherokee Nation, to Report to the National Council the Receipts and Disbursements of All Cherokee Funds That Have Passed through Their Hands from January 1, 1860, to November 4, 1867; and Also Requiring Them, The Said Parties, To Turn Over to the National Council, Now in Session, All Books And Records that Relate to Cherokee Affairs, passed November 22, 1867, in *Constitution and Laws of the Cherokee Nation* (St. Louis, Missouri Democrat Print: 1868). 147.

<sup>41</sup> No. 110. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1867*, by Superintendent of Indian Affairs James Wortham. Southern Superintendency, Fort Smith: October 21, 1867. Pg. 318.

<sup>42</sup> An Act Providing for the Removal and Subsistence of Certain Destitute Cherokees Back to Their Homes, passed December 18, 1867, in *Constitution and Laws of the Cherokee Nation* (St. Louis, Missouri Democrat Print: 1868). 191-192.

<sup>43</sup> No. 82. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1868*, by U.S. Agent for the Cherokee Nation William B. Davis. Southern Superintendency, Fort Gibson: October 1, 1868. Pg. 281.

In 1869, Cherokee Agent John Craig arrived at his post in Fort Gibson to discover that his predecessor, Davis, had been absent for more than a year, validating the theory that the Cherokee Nation supervised itself. Craig, renting an office from William Ross, reported that the Cherokee “[had] every reason to be satisfied...crops have been abundant, and the herds of horses and cattle of which the war almost totally deprived them have in some measure been replaced.”<sup>44</sup> He also saw signs of corruption, though he gave no examples, and offered that the same kind of “social demoralization” found in Southern states had emerged among the Cherokee.<sup>45</sup> The Superintendent of Indian Affairs, L. N. Robinson, added his own perspective of developments:

“From personal observation, and frequent intercourse with these people and their leading men, I can say that the tribe is making commendable progress in civilization. Farms are being enlarged, and worked upon more intelligent principles than heretofore; their schools are liberally sustained by the nation, and the average attendance larger, and progress of the scholars more marked, than during any year since the close of the war.”<sup>46</sup>

Farming, ranching, and education were all evaluated positively. The first two categories were the lifeblood of the Cherokee economy; the third was often considered the most important national expenditure and the Cherokee *raison d'être*. Cherokee officials, who always read the federal reports, would have been especially pleased with the praise for their school system.

In 1870, Agent Craig observed that a bustling trade was emerging at Fort Gibson, a convenient stopping point between Texas and many northern states. Comparing the situation to “citizens of the United States [being] in [a] foreign country” he suggested that someone be given the role and powers of “a consular agent.” Regarding the material condition of the Nation, the agent reported it as “very prosperous.” The crops had been “unusually abundant” and was “a large increase in the stock of cattle and horses.” In the northern part of the territory, there were reports of Cherokees opening coal mines, hiring U.S. citizens as workers, and exporting coal across the border to Kansas. Missionaries who had been with the Cherokees since their removal supposedly shared that “they had advanced so much as to be ‘no longer recognizable as the same people.’” Craig then added: “This is evidence that they too are fulfilling a destiny.”<sup>47</sup>

But Cherokee “destiny” took a blow in the spring of 1871. After the war, Southern Cherokee hardliner Elias C. Boudinot and his uncle, Stand Watie, started a tobacco company on Cherokee land. Exploiting the Treaty of 1866—which Boudinot had mostly reviled—their goal was to undersell American tobacco producers by about 43 cents per pound. The plan seemed to be working well until the Commissioner of Internal Revenue, Columbus Delano, ordered U.S. marshals to seize all of the factory equipment and 4,500 pounds of tobacco, sugar, licorice, and grape juice. A stipulation of the Treaty of 1866 protecting Cherokee manufacturing on the one hand and a provision of the Internal Revenue Act of 1868 on the other had come into direct conflict. The Supreme Court, with three justices absent, ruled 3-2 that federal law could always supersede

---

<sup>44</sup> No. 125. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1869*, by U.S. Agent for the Cherokee Nation John N. Craig. Southern Superintendency, Fort Gibson: September 1869. Pg. 406-407.

<sup>45</sup> *Ibid*, 405.

<sup>46</sup> No. 124. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1869*, by Superintendent of Indian Affairs L. N. Robinson. Southern Superintendency, Fort Gibson: August 1, 1869. Pg. 397.

<sup>47</sup> No. 103. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1870*, by U.S. Agent for the Cherokee Nation John N. Craig. Southern Superintendency, Fort Gibson: September 30, 1870. Pg. 287-290.

treaty law. Two thirds of Congress had been required to ratify the Treaty of 1866, but now a law passed with a simple majority could alter its contents. Native nations were now at the mercy of U.S. democracy. A major check on congressional power was gone.<sup>48</sup>

Cherokee nationalists saw this as an attack on their “domestic independence,” making the Nation “subject *wholly* to Congress...and so the Indians are reduced to beg their vaunting Protector not to destroy them.”<sup>49</sup> The power of Congress was now “unrestrained, uncontrolled, irresponsible.” Boudinot later wrote: “We virtually live under an absolute monarchy—a despotism.”<sup>50</sup>

The timing was terrible. Cherokees and their sister nations had previously been interested in uniting the nations of Indian Territory into one Ground Council, a “federal republic” to defend their interests as one body.<sup>51</sup> Neighboring western states were hostile to such an idea, and poisoned the idea with amendments that transformed it into yet another scheme to open up lands for white settlement. One Cherokee lamented that the Grand Council had become “an engine for [our] utter denationalization and final extermination.”<sup>52</sup>

Existential dread crept into Cherokee public discourse. Ann Shelton wrote her letters about the nation’s impending demise which McLoughlin would later cite without question. A poet writing as “Cherokee” remarked: “Why is thus, are we acurst/And will oblivion’s gloom/Give back no ray to tell us why/Extinction is our doom?”<sup>53</sup> In the 1870s, Cherokees not only feared but expected their imminent dissolution.

Feeling a sense of betrayal, William P. Boudinot added that very few Cherokees had expressed any interest in celebrating the Fourth of July that year. The barbecues and speeches and processions and banners were “now things of memory enjoyed.” Though many—excluding Boudinot—had carried “the old flag” through “many a battlefield,” the editor explained that the celebration for the “glorious fourth” happened only “when the stars and stripes were hailed as the emblem of the protective power.”<sup>54</sup> In 1871, the United States was failing to inspire.

Although the Supreme Court gave Congress the power to dictate, Congress would not take the opportunity against Cherokees—at least not for nearly three decades. Nine years later, the pro-South Senator Daniel Voorhees of Indiana still found *The Cherokee Tobacco* ruling absurd. After reminding his colleagues that more than a third of the justices had been absent, he remarked:

“If ‘the exterior boundaries of the United States’...do embrace, so far as sovereign title is concerned, all the Indian territories, reservations, and lands set off...I believe it is the first time in our history, or in the history of the world, where one nation has attempted to assess taxes for its own support on the citizens of another nation with which it had peaceful and friendly relations defined by treaty.”<sup>55</sup>

---

<sup>48</sup> McLoughlin, *After the Trail of Tears*, 266.

<sup>49</sup> CA, July 8, 1871.

<sup>50</sup> CA, August 24, 1872.

<sup>51</sup> For more on this subject see Denson, *Demanding the Cherokee Nation*, 121-147.

<sup>52</sup> CA, April 1, 1871,

<sup>53</sup> CA, July 8, 1871.

<sup>54</sup> CA, July 8, 1871.

<sup>55</sup> U.S. Congressional Record, Volume 10, Part 3, pg. 2631.

Congress therefore had a power it was unwilling to use—at least against Cherokees and their “civilized” sister nations. That U.S. lawmakers restrained themselves for decades, that they allowed Cherokee legal jurisdiction to expand during the 1880s while anti-sovereignty westerners experienced near-constant failures to change the status of Indian Territory, is a testament to the compatibility between sovereign Indian nations and the United States—when the latter respects the rights of the former.

At almost the same time, in March of 1871, Congress passed its annual appropriation for Indian Affairs with an ambitious but ineffectual amendment. The amendment stated, “that hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty.” Since then, scholars have over-valued this “end of treaty-making,” and there are plenty of good reasons not to believe that the “Indian Question” could be answered in a single sentence.<sup>56</sup> In addition to no material changes occurring because of the 1871 amendment, a second, almost paradoxical sentence followed the first. It read, “that nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe.” Congress swore it would not make new treaties (it did anyway), but promised that the old ones (treating tribes as nations) were still in force. The amendment—which was more of a resolution of intent than a reform—did not accomplish anything that *Boudinot vs. United States* had not done already.

After 1871, even members of Congress complained that treaties were still being made, and that the 1871 amendment appeared to be largely symbolic. In 1880, angry that an “agreement” with Utes was in the process of ratification, Senator Morgan of Alabama complained:

“If [we are making] an agreement between two governments . . . we [do it] under our own capacity as a treaty-making power. Merely because we have declared in a statute that hereafter the Indian tribes shall have no capacity to make treaties does not prevent us, it seems . . . from engaging in treaty-making.”<sup>57</sup>

The 1871 amendment could not be a stand-in for the power differentials between various tribes and the United States. Perhaps sensing that little had changed, both Cherokees and Americans continued to call their negotiated, signed, ratified and law-binding agreements, “treaties.” The “end of treaty-making,” like *Boudinot vs. United States* (1871), ultimately had no discernable impact on Cherokee nation-building in the 1870s, 1880s, and early to mid-1890s.

1872 was another complicated year for politics, one that opened the unspoken rifts within the Downing Compromise and left them terribly exposed. In the spring before Chief Downing’s death, one of the last spasms of Cherokee separatism killed eleven people. The Cherokee government had justifiably claimed jurisdiction in the murder of a Cherokee woman, Polly Beck Chesterson, by a Cherokee man, Zeke Proctor. Proctor was a Union veteran, while the Becks and

---

<sup>56</sup> Arthur Spirling, “U.S. Treaty Making with American Indians: Institutional Change and Relative Power, 1784–1911,” *American Journal of Political Science* 56, no. 1 (2011), 84-97. In this quantitative analysis of treaty-making during the long 19<sup>th</sup> century, Spirling concludes that “the end of treaty-making” had no material effect on the contents of treaties and “agreements.”

<sup>57</sup> U.S. Congressional Record, 1880, Volume 10, Part 3, pg. 2123.

their friends were ex-Confederates, but both were members of the Downing Party.<sup>58</sup> Several Becks and at least one other Cherokee ex-Confederate decided that the United States should illegally take over the proceedings. The seeking out of foreign intervention in the administration of justice came straight out of Stand Watie's playbook. Watie had baselessly demanded a federal trial for killing a Cherokee member of the Ross Party in the 1840s, flagrantly undermining his country's sovereignty in the process. When the Becks formed a posse and crossed the line into Arkansas, and when they enlisted federal marshals and U.S. citizens to stop a Cherokee trial back home, they were reenacting Watie's prewar behavior.<sup>59</sup>

When the U.S. marshals and their posse reached the Going Snake courthouse, they opened fire on the court and the accused. The court's guard and others present returned fire. Eleven people were killed in the ensuing chaos, including the deputy-marshal, most of his officers, the Cherokee defense attorney, the brother of the accused, and a Cherokee member of the public. Several others, including the Cherokee judge presiding, the deputy sheriff, a member of the jury, and other court watchers, were seriously injured. Cherokees across the political spectrum were enraged at what was rightfully called a senseless massacre. The new Cherokee Agent, John B. Jones—himself an adopted citizen—would play a central role in managing the U.S. response.

Two unarmed Cherokees in the courthouse, Ellis Foreman and Captain Arch Scraper, were subsequently arrested “with every exhibition of brutality” by the surviving U.S. officers and dragged off to the federal prison in Arkansas.<sup>60</sup> Their only offense was that they had witnessed a stunning miscalculation and obvious miscarriage of justice on the part of the federal court. Not yet satisfied, some westerners called for the end of Cherokee sovereignty, but they found few enthusiastic listeners once it was clear who had been at fault.<sup>61</sup> The new Secretary of the Interior, Columbus Delano, saw the massacre not as cause for territorialization, but as reason to do what Cherokees wanted in establishing a federal court within Indian Territory itself, one that would have juries composed of local residents and far less hostile to Native sovereignty.<sup>62</sup>

---

<sup>58</sup> Starr, *History of the Cherokee Indians*, 143-153; CA, April 29, 1876. The former source provides a list of volunteers to the Confederate and Union causes. The lists are probably imperfect, but Stand Watie's earliest volunteers give a strong sense of who was most committed to his cause. Among them we find several members of the Beck family and William Hicks (another member of the Going Snake posse). The second source listed provides evidence that Zeke Proctor joined the Downing Party after the Civil War. Zeke Proctor, a Keetoowah, confirmed his party allegiances in this issue of the CA. In an article printed only in Cherokee (but summarized by the editor), Proctor claimed that Ross' New Code of Laws was a blatant attempt of one political party to oppress the other. As for the Becks, we can very safely assume that they were in the Downing Party during the Going Snake Massacre. In truth, they had no other option. With almost no exceptions, ex-Confederates simply did not belong in the Ross Party. They would only defect later when the National Party offered an alternative without so much history. For years after this event, the Becks would also hold numerous elected offices in the Delaware District, a district which was usually solid for the Downing Party (though not as solid as Canadian, which was demarcated as a semi-autonomous district for Southern Cherokees). There are many good reasons why we should believe that the Going Snake Massacre was a moment of serious intra-party tension.

<sup>59</sup> Franks, *Stand Watie and the Agony of the Cherokee Nation*, 81-91. Franks' text is by far the best biography of Stand Watie, but the book reads as a hagiography of Watie, if not a Cherokee-themed expression of the Lost Cause. Often in Franks' narrative, John Ross is the conspiratorial villain, while the heroic Stand Watie seeks to resist him. This framing is fantasy, not history.

<sup>60</sup> CA, June 1, 1872.

<sup>61</sup> Almost every issue of *The Cherokee Advocate* through the summer of 1872 spoke to the massacre and its fallout. *The Cherokee Advocate* frequently published reprints of western newspapers calling for the abolition of tribal government and used these as an opportunity to point out their neighbors' hostility.

<sup>62</sup> CA, May 4, 1872.

Westerners in Congress “failed to make capital of it as they expected,” but local whites did manage to punish the Cherokees who survived. Arch Scrapper was put in irons even though he had reportedly been hiding “under a seat for personal safety until the shooting was over.”<sup>63</sup> He and Foreman were held without bail. This was naked imperial violence.

Foreman and Scrapper’s imprisonment further outraged Cherokee nationalists. The Sherriff of Going Snake District released a report placing the entirety of blame on the U.S. Marshals.<sup>64</sup> The national editor wrote that the U.S. Court at Fort Smith had become “a terror to citizens whom it was established to befriend and protect.”<sup>65</sup> The Department of the Interior and Congress both conducted their own investigations. Meanwhile, the Going Snake district judge, two of his family members (who were Cherokee senators), and “some other good and peaceable men,” according to Agent Jones, all fled into hiding. Still other Cherokees were “driven from their farms into the brush to avoid arrest” or, after being arrested without cause, were “kept from their business for months...[returning] impoverished to their suffering families.” Throughout 1872, Cherokees feared violent retribution from furious U.S. marshals.<sup>66</sup> “Such things call loudly for remedy,” Jones concluded, but it was ultimately he who would be tasked with procuring the solution. In May of 1873, Jones facilitated a peace deal which finally achieved the release of the Cherokee prisoners in exchange for normalizing relations.

Another challenge for Agent Jones was the intruder question. In both the “Old Nation” and the new, Cherokees struggled with “intruders,” or the settler colonists who came on to their lands hoping to exploit the common domain. Intruders had far more reason to call for denationalization than adopted citizens because their presence on communal lands was insecure. The construction of transcontinental railroads after the Civil War made it even easier for squatters to intrude.

Here, too, Jones claimed a victory in the summer of 1872. In a rare moment of federal responsiveness, the Commissioner of Indian Affairs and the War Department succeeded in organizing a response to intruders of the Cherokee countryside. Troops arrived in April of 1872, and between May and July Agent Jones and the cavalry removed around 1,500 trespassers. Removing Americans from their farms and their fields sent a grave message from the United States to western settlers that the federal government could respond to intrusions effectively—whenever it chose to try. Six years later, the number of intruders had recovered, but it was unclear whether the U.S. would commit to another spectacular intervention.<sup>67</sup>

Overall, then, Moderate Reconstruction was at its most stable under Lewis Downing, the full-blood statesman who created it. Loyal Cherokees felt secure knowing that one of their own was at the head of government, while full-bloods had even more to celebrate (as one of their own had finally become chief). Southern Cherokees were similarly relieved to be in the majority, and for all the hard feelings between them, the Ross and Downing Parties were ideologically indistinguishable. The Cherokees’ first two party system began with peace and quiet. Cherokees wanted to rebuild their farms, businesses, and schools. This was far preferable to waging war.

---

<sup>63</sup> CA, June 1, 1872; CA, May 4, 1872.

<sup>64</sup> *New York Herald*, April 28, 1872.

<sup>65</sup> CA, June 1, 1872.

<sup>66</sup> No. 124. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1872*, by U.S. Agent for the Cherokee Nation John B. Jones. Tahlequah: September 1, 1872. Pg. 235-236.

<sup>67</sup> McLoughlin, *After the Trail of Tears*, 287. Cherokees would have to come up with their own solutions.

## The Second Interim of William Ross (1872-1875)

Political instability, with no small amount of Southern Cherokee involvement, faltered when the great compromiser died. When Lewis Downing died in November of 1872, the Cherokee Senate appeared to have a Downing majority (with Charles Thompson serving as President of the Senate). It is unclear which party controlled the lower house, but for most of the 1870s and 1880s, full-blood traditionalists dominated the Council branch. According to one extreme Downing supporter (who said the “diabolical and damnable” Keetoowahs concocted “murders under the soothing influence of psalm-singing”), William Ross came to power in 1872 when “advantage was taken of the absence of members of both [houses] to pass [a] resolution [to] elect Mr. Ross.”<sup>68</sup> Many Downing Party members, including the Southern Cherokees who swore against “Ross rule,” were adamant that this was an abuse of the Constitution, and that Charles Thompson was the rightful successor. The Ross Party, after having lost two general elections in a row, dismissed this, and William Ross took his oath. The Downing Party later claimed that it had backed down in the interest of the state, but the fault surely landed with the law itself.<sup>69</sup> Under this system, an unpopular opposition candidate grabbed three years of the chieftaincy shortly after losing the general election. It was ugly, and no one in the Downing Party would forget it. The second interim of William Ross was underway.

But while 1872 was the first of many chapters of political turbulence, the economic situation continued to improve until the summer of 1874. Immediately after explaining the Going Snake Massacre, Agent Jones reported:

“I stated in my last that the Cherokees were rapidly recovering from the late war...this year I can say that they have made still greater progress in that direction...cattle from Texas and the southern portion of the Indian Territory have given the people another start in stock-raising, and every family has its little herd growing up around it, while the more wealthy and enterprising are growing vast herds of cattle and horses...last year a great many young orchards were set out. Next spring a vastly larger number will be set...there being little or no market for vegetables, horticulture receives no attention further than the production for...family use, while the culture of cereals occupies greater thought and attention.”<sup>70</sup>

The implication was that Cherokee farmers were increasingly taking cereals to the market, while simultaneously rebuilding “vast herds” of cattle and horses. There did not seem to be stagnation; every year seemed to build on the improvements of the previous year, as wealth, self-sufficiency, and access to markets increased.

This year-by-year growth can even be quantified thanks to unusually detailed records from 1872 and 1873. In 1872, the Southern Superintendency reported that Cherokees had raised a value

---

<sup>68</sup> *The St. Louis Republican*, January 11, 1875.

<sup>69</sup> No laws appear to have been broken when W. P. Ross became chief. Article IV of the Cherokee constitution provided that the National Council replace the chief (which is what Ross did). A law of 1842 provided that the President of the Senate would serve as chief until the vacancy was filled. Downing Party members felt that Thompson had been cheated, but it seems that Downing just happened to die while the National Council was in session and prepared to put Ross into office.

<sup>70</sup> No. 124. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1872*, by U.S. Agent for the Cherokee Nation John B. Jones. Tahlequah: September 1, 1872. Pg. 235-236. Note: The Southern Superintendency no longer existed so the Cherokee Agent reported directly with the Commissioner of Indian Affairs.



of \$1,923,155 in crops, mostly corn but also wheat, oats, potatoes, and hay. The value of the horses, cattle, swine, and sheep that Cherokees owned was estimated to be \$1,457,000. In 1873 the appraised value of animals owned by Cherokees rose to \$1,861,038. In what could represent both an underestimate from the year before as well as the trade with Texas and southern Indian Territory mentioned by Jones, the number of horses owned by Cherokees increased by 1,000 in 1873. The number of cattle increased by almost 100,000, while the number of swine decreased by about the same amount (perhaps indicating sale and purchase). The shift toward stock ranching was long-term; by 1880, the Cherokee would be producing 3,000 bales of cotton and 5,000 tons of hay, while cattle had increased 80,000 head above their 1873 number. The census was taken during an unusually hard year for Cherokee agriculture, but foreign observers were still impressed.<sup>71</sup> It was as Jones had written: “The wealthy and enterprising [were] growing vast herds of cattle and horses.”

Nor can these reports be boiled down to the self-promoting spin of federal officials. One of the first issues of the resurrected *Cherokee Advocate* highlighted how Cherokees saw the upward trajectory themselves. A respected nationalist named Henry D. Reese wrote to W. P. Boudinot in 1870 that he had been traveling around the country taking note of the progress. He wrote happily: “With a feeling of satisfaction I conclude our people are gradually, not merely reviving from the effects of the late ‘unpleasantness,’ but are becoming wealthy.”<sup>72</sup> In the same year, Chief Downing proclaimed that the Cherokee had not only survived “but increased in numbers [and] accumulated property...all this prosperity under God and his gospel,” he said, “we owe to our separate national existence.”<sup>73</sup> According to a committee of tribes from across the Indian Territory, the Cherokee likely grew more wheat than any other Nation in the Territory, with an average yield of about fifteen bushels, and with a yield that could go “as high as forty two.”<sup>74</sup> Two years later, one Cherokee insisted that “With all our resources, rights, privileges, and immunities, the outlook for the future *is* hopeful. The vessel *does* move before a prosperous breeze.”<sup>75</sup> Especially between 1866 and 1872, Cherokees felt optimistic about rebuilding.

The stakes of redeveloping national resources went beyond Cherokee wealth. There were rising voices in the West calling for the end of Indian nations, and it was clear to all that the Cherokee Nation would be a key player in the next chapter of Native American history. Regaining prosperity was a matter of national defense and perhaps even a pan-Indian one. As Craig framed it in 1870:

“Their advanced position in civilization is well known, and it is probably no less important to other Indians than to themselves that there should be no check or retrograding in their progress...Should they [the Cherokee] be ruined as a nation...there is nothing that other nations or tribes less numerous [and] less wealthy...can hope for...their example will not be lost on the rest of this people.”<sup>76</sup>

---

<sup>71</sup> CA, August 14, 1885.

<sup>72</sup> CA, June 18, 1870.

<sup>73</sup> CA, October 22, 1870.

<sup>74</sup> CA, January 14, 1871.

<sup>75</sup> CA, July 20, 1872.

<sup>76</sup> No. 103. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1870*, by U.S. Agent for the Cherokee Nation John N. Craig. Southern Superintendency, Fort Gibson: September 30, 1870. Pg. 285.

That the Cherokee could not actually be more “civilized” than any other people is beside the point. After the Civil War, the United States would increasingly see a growing chasm between “nations and tribes,” always referred to as separate categories. The material benefit of being considered a “nation” could be measured in the valuable powers of government a nation held over its land, language, people, and resources—its sovereignty. During the 1870s and 1880s, Cherokee nationalists wanted tribes to move across the board to the “national” side of this equation, particularly within Indian Territory. If Gilded Age Americans measured “nationhood” in terms of economic productivity and prosperity, then it truly was vital that Cherokees rebuild their economy fast and well, ostensibly helping others along the way “realize what is possible for themselves.” The more tribes demonstrated the success of Indian Territory, the safer Cherokee nationhood would be. Bankruptcy, on the other hand, would surely spell doom for Indian republics.

Putting aside the national economy at large, the Cherokee National Treasury enjoyed several injections of much-needed cash during these years. There was the delayed payment of interest funds withheld by the Union during the war, which amounted to \$150,000.<sup>77</sup> There was also the sale of the Cherokee Strip and Neutral Lands in present day Kansas (see **Figure 1.2**). The sale of these lands was slow but generated a net revenue of \$1,235,000.<sup>78</sup> These sales were by no means forced. Cherokees had a land surplus and had discussed selling these lands for many years.<sup>79</sup> The sale of the Kansas Neutral Lands figured prominently in Cherokee history, as it was used to help jumpstart an anomalous period of growth and boom which I call the “Liberal Decade” (1879-1890). Land could be a disposable asset to a nation content with its “home tract.”

Cherokees were also paid for lands sold in the so-called Cherokee Outlet to other Native nations (see **Figure 1.2**). The largest of these purchases, in terms of revenue, was that of the Osage reservation for \$1,199,137 in 1870, but there were many others.<sup>80</sup> Between 1876 and 1881, for instance, land sold to the Pawnees, Poncas, Nez Perces, Otoes and Missouriias generated a total of \$313,793.<sup>81</sup> At one point, Congress paid out more than \$648,000 at once. In general, Cherokees were happy to sell idle Outlet land to other Indian nations if it helped to consolidate Indian Territory against foreign threats. In turn, U.S. westerners tried to stop these purchases and prevent the consolidation, a topic further explored in Chapter Three.

---

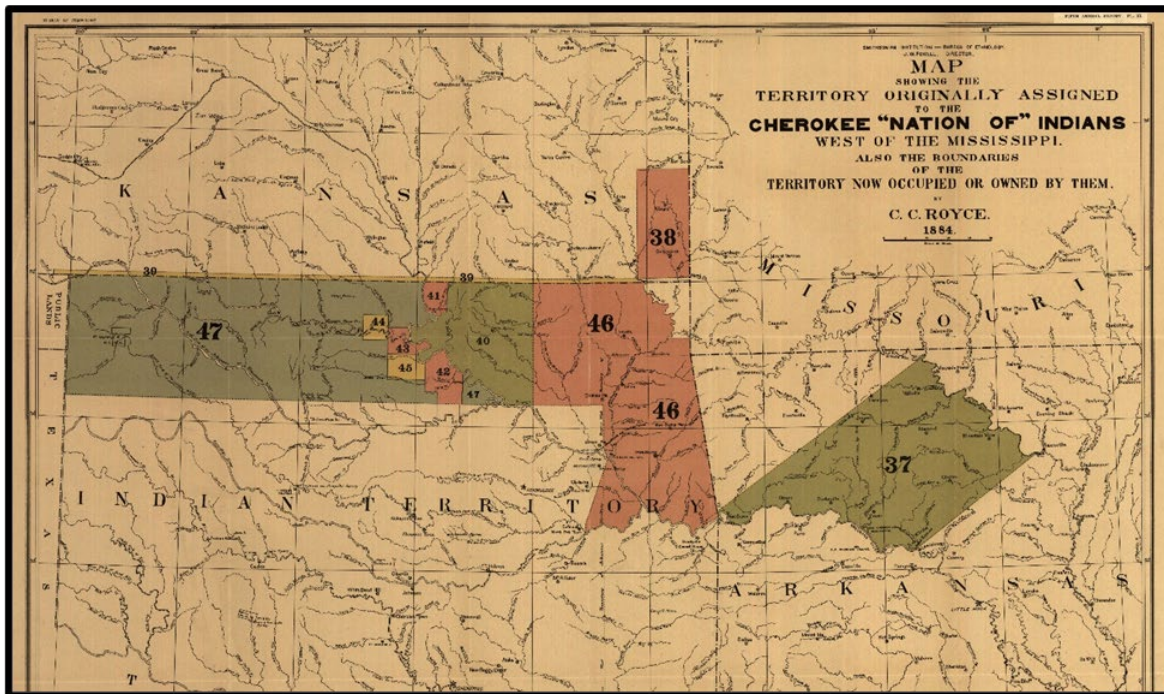
<sup>77</sup> Resolution Providing for the Payment of the National Debt, passed December 1, 1866, in *Constitution and Laws of the Cherokee Nation* (St. Louis, Missouri Democrat Print: 1868).127-128. In December of 1866, the Cherokee National Council estimated that the public debt was approximately \$110,000. It authorized the delegation to Washington to pay this debt off with the money that the Cherokee were owed for suspended annuities. It expected to be left a balance of approximately \$40,000.

<sup>78</sup> McLoughlin, *After the Trail of Tears*, 268.

<sup>79</sup> John Ross to the People of the Cherokee Nation, November 7, 1851, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 380-381.

<sup>80</sup> Though the Osage were essentially buying part of their ancestral lands from Cherokee “immigrants,” postwar bilateral relations were, for the most part, friendly. After resolving some early tensions about the settlement, Osages began to see the Cherokee as a helpful ally with relatively more power and resources. The Cherokee, for their part, saw the Osage as another “civilized” nation that could buttress their national sovereignty. Cherokee nationalists visited the Osage Nation to help with nation-building efforts; their reason for doing was as much about self-preservation as it was about benevolence. For details on the sale and negotiations see CA, November 27, 1885.

<sup>81</sup> CA, July 17, 1885.



**Figure 1.2:** Map of the Kansas Neutral Lands (38), the thin Cherokee Strip (39), the lands sold to other Native nations in the Cherokee Outlet (40-47), and the unsold remainder (47). The “home tract” is all the land east of the Osage Lands (46). The Outlet would be sold to the U.S. in 1893. **Source:** Royce, *Cherokee Nation of Indians* (Chicago, 1883).

Revenue from land sales were then reinvested in the national funds held by the U.S. Treasury. The National Fund, School Fund, and the newly created Orphan Fund were pools of money that Cherokees owned and collected interest on semiannually. As one might expect, the name of each fund corresponded to its function in Cherokee nation-building, with the National Fund being the all-purpose stash of cash to be appropriated however Cherokee lawmakers wished. As Cherokee lawmakers poured money back into these funds, the interest payouts increased, typically amounting to about five percent annually on whatever the Cherokees owned in each fund. Over the course of the late 1860s and early 1870s, the total annual interest payout for the National, School, and Orphan fund increased from \$46,000 in 1867, to \$67,000 in 1869, \$82,000 in 1872, and \$94,000 in 1873. By 1875, a delegate to Washington reported that the government would soon collect “its largest interest on investments” yet.<sup>82</sup> That steady growth would only continue.

The problem was that the growth in annuities could not keep up with the rising cost of government. In December of 1871, the national editor commented: “Here we are with double perhaps treble the annuity we had before the war, and with laws for the collection of taxes which ought to be equal to it at that time, and in debt to an amount equal to the whole expenses of carrying on the government of one year.”<sup>83</sup> In 1874, the editor would report that the national figures “would indicate that we are not quite paupers, nor yet pensioners.”<sup>84</sup> Something was beginning to fail in Cherokee economic planning, but the country’s rulers could not yet address it.

<sup>82</sup> D. H. Ross to Dennis W. Bushyhead, July 24, 1875. *Cherokee Nation Papers*, Roll 5, Box 17, Folder 488. Western History Collections, University of Oklahoma, Norman. The same letter celebrating Cherokee finances included reference to a string of murders that Daniel Ross suspected was tied to the two political parties.

<sup>83</sup> CA, December 9, 1871.

<sup>84</sup> CA, August 8, 1874.

During Moderate Reconstruction (1866-1875) the national debt hovered around \$150,000, and during Radical Reconstruction (1875-1879) it nearly increased to \$200,000.<sup>85</sup> The national editor would later claim that the latter figure was like the United States being \$500,000,000 in debt.<sup>86</sup> The opening of the expensive male seminary in 1876 could not have helped matters.<sup>87</sup>

But this did not stop either Downing or Ross from investing money according to their beliefs. Historian Julie Reed has described the “hybrid social welfare” institutions they erected, which blended Victorian reforms with Indigenous Cherokee traditions. These new institutions included the Cherokee Orphan Asylum (1873), the National Prison, (1875), a new brick capitol building (1875), and the “Asylum for the Indigent, Deaf, Dumb, and Blind” (1874). The male and female seminary were slowly reopened (1876 and 1872 respectively), and the number of primary schools increased fast after the war’s end (32 schools in 1867, 64 schools in 1868, 85 schools by 1875, and at least 100 primary schools by 1881).<sup>88</sup>

The Cherokee Nation also passed the transformative New Code of Laws (1874), a legal reform spearheaded by Ross that modernized the criminal justice system, greatly expanded the state’s regulations and responsibilities, and centralized power. A national Medical Board was also created during this time (1874), as was the new permit labor system, which transferred the responsibility of registering foreign workers from the United States to Cherokee district clerks (1867 and 1872).<sup>89</sup> The postwar Cherokee Nation was eager to build new systems of support and enforce its jurisdiction. Interestingly, and despite his unpopularity, almost all these far-reaching reforms were carried out under William Ross’ leadership (1872-1875).

In 1876, S.W. Marston of the Union Agency reported the property value of all the public institutions Cherokees had erected (**see Figure 1.3**).<sup>90</sup> The male seminary, the female seminary, and the Orphan Asylum were shown to be significant investments on the part of the Cherokee government; the seminaries were valued at \$75,000 each while the orphan asylum was valued at \$70,000. The total value of all Cherokee public buildings, not including courthouses or schoolhouses, was \$261,000. The Cherokee had accomplished most of this after the war, even though their annual income from federal interest payments stood at approximately \$100,000—most of which was needed to run the government itself.

These modest numbers did not point to a dramatic expansion of social welfare, but this only further highlights the continuities between Ross and Downing. Both moderate chiefs approved aggressive spending plans for the national institutions they deemed vital to the nation, and they considered the slow rise of the national debt to be manageable. It probably was. Their confidence was informed by the reasonable expectation that cash injections from multiple impending land sales would correct the increase in public debt.

---

<sup>85</sup> CA, November 9, 1881. McLoughlin, *After the Trail of Tears*, 264.

<sup>86</sup> CA, September 1, 1886.

<sup>87</sup> CA, March 11, 1876.

<sup>88</sup> Reed, *Serving the Nation*, 270; McLoughlin, *After the Trail of Tears*, 313; *The Daily Missouri Republican*, August 18, 1875; CA, December 23, 1881.

<sup>89</sup> McLoughlin, *After the Trail of Tears*, 296.

<sup>90</sup> No. 10. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1876*, by U.S. Indian Agent S.W. Marston. Union Agency, Muscogee: August 31, 1876. 61.

<i>Public buildings.</i>	
Capitol building.....	\$22,000
Male seminary.....	75,000
Female seminary.....	75,000
Orphan asylum.....	70,000
Blind, insane, deaf and dumb asylum.....	7,000
Printing-house.....	5,000
Jail.....	7,000
<b>Total</b> .....	<b>261,000</b>

**Figure 1.3:** 1876 Appraisal of Cherokee Nation Public Buildings. The public schools, numbering over 100 by the 1880s, were not included in the estimate. Nor were the district courthouses, so it may be more precise to say that these were the public buildings of the capital area.

**Source:** No. 10. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1876*, by U.S. Indian Agent S.W. Marston. Union Agency, Muscogee: August 31, 1876. 61.

However, these public institutions meant little to the people who could not enjoy them. Generally, the Cherokee government was most responsive to the needs of Cherokee mixed-bloods followed by half-bloods and full-bloods. Black Cherokees, Delawares, and Shawnees, as adopted classes of nonwhite citizens, were routinely marginalized. Adopted white citizens held a more ambiguous relationship with the state—they were sometimes beneficiaries, and sometimes aliens.

This form of inequity would increasingly undermine Cherokee sovereignty, even producing the kind of separatist feeling that had just been extinguished among Southern Cherokees. In 1873, Agent Jones received a letter from Black Cherokees complaining that no Black children had been admitted to the Cherokee Orphan Asylum. They shared that they had contacted the National Council but had not received relief. Jones inserted himself, forwarding the letter to the Commissioner of Indian Affairs and stating: "...owing to the prejudice existing in the minds of many Cherokees against associating with people of African blood, they urge, or even request, that their orphans not be taken into Cherokee Asylum...But they ask that a proportionate share...of this asylum fund be set aside for the benefit of the colored orphans of this Nation."<sup>91</sup> What Jones was advocating for, perhaps inadvertently, was denationalization. Southern Cherokee separatists had finally stopped requesting a disbursement of "their share" of government funds. Thanks to anti-Black policy in the orphan asylum, Cherokee Freedmen were now the ones doing that.

The Orphan Asylum had far more full-bloods than the prestigious seminaries, which were costly, taught classes in English, and were known to funnel their students into either American universities or straight into government. Devon Mihesuah has detailed at length how the female seminary "was not meant for every female Cherokee" and that "its atmosphere and attitude were [generally] white." Using a method which is borrowed here, Mihesuah shows that "the girls who graduated were...the most acculturated and affluent students at the seminary."<sup>92</sup> One of the most impressive educational systems in the U.S. West was riddled with inequities.

<sup>91</sup> McLoughlin, *After the Trail of Tears*, 320-321.

<sup>92</sup> Devon Mihesuah, "Too Dark to Be Angels: The Class System among the Cherokees at the Female Seminary," *American Indian Culture and Research Journal* 15, no. 1 (1991) 29-52. 47.

To illustrate Mihesuah's point for the earlier postwar era, we can use Emmett Starr's list of seminary graduates, and cross-reference the names with their listed blood quantum on the Dawes Rolls—an expediency which should not be considered as giving credence to “blood” as much as offering a filler for social constructions of race which we in the present cannot perceive. Someone marked as 1/32<sup>nd</sup> or 1/64<sup>th</sup> Cherokee on the Dawes Rolls, for example, was almost certainly not a full-blood, regardless of one's definition of that term. Someone marked as “full-blood” on the Dawes Rolls was almost certainly not one who could pass as white before a federal official or in any other context. Using only the names that match with the corresponding allottee, we can gather a sample of 90 seminary graduates of class years between 1879 and 1896. Doing so highlights something illustrative, yet unsurprising considering Mihesuah's previous findings.<sup>93</sup>

Of these 90 surviving graduates who enrolled for allotment, the vast majority were mixed bloods who likely either passed as white or were white (see **Figure 1.4**). This is not to say that there were not people of color or full-bloods in the seminaries. There was always diversity in the Cherokee seminaries because the Nation had a wide range of races and tribes legally incorporated into its body politic. White supremacy could not be planted here in the same way as elsewhere—this was a country that owed its existence to its indigeneity and nonwhiteness. Even still, the seminaries did not reflect the Cherokee population. Black Cherokees, adopted Shawnees, adopted Delawares, and full-bloods were seriously underrepresented in a way that mixed bloods and even white students were not. Racial disparities were visibly stark (see **Figure 1.4 and Image 1.1**).

For these disaffected groups, a radical break would always be tempting, and for those barred from nominally public institutions, a local form of anti-statism carried a particular appeal. Per capita disbursements, which had been dismissed for decades because of how they drained away government resources, were suddenly the preferred policy. A populist party promising cuts in government spending, perhaps justified by accusations of corruption, would find plenty of willing listeners among the marginalized. Cherokee full-bloods coalesced into the Downing Party, which increasingly claimed to be the real “Keetoowah Party.”<sup>94</sup> By 1875, the Downing Party fully belonged to the economically marginalized, yet politically powerful, radical traditionalists. Moderation was fast approaching its terminus.

Upon ascending to the chieftaincy in 1872, William Ross found himself unprepared to meet these internal challenges. His relatively undemocratic rise to power put him in a bad place, but things quickly got worse from there. In the same month that he came into office, the National Council passed a bill authorizing the orphan asylum's Board of Trustees to locate a new site. There were very few large buildings in the country, so it was by no means a coincidence when the board selected the Lewis Ross plantation with its three-story mansion, farm buildings, and slave cabins (one of which was converted into a blacksmith's shop).<sup>95</sup> The trustees also selected the adjoining farm, the home of the also recently deceased, Robert Ross, where the board hoped to place the freedmen's orphanage.<sup>96</sup> The purchase of both properties would benefit the new principal chief, William Ross, who was one of the main inheritors for both estates. The scandal perfectly encapsulated the country's frustrations with political elites and public institutions.

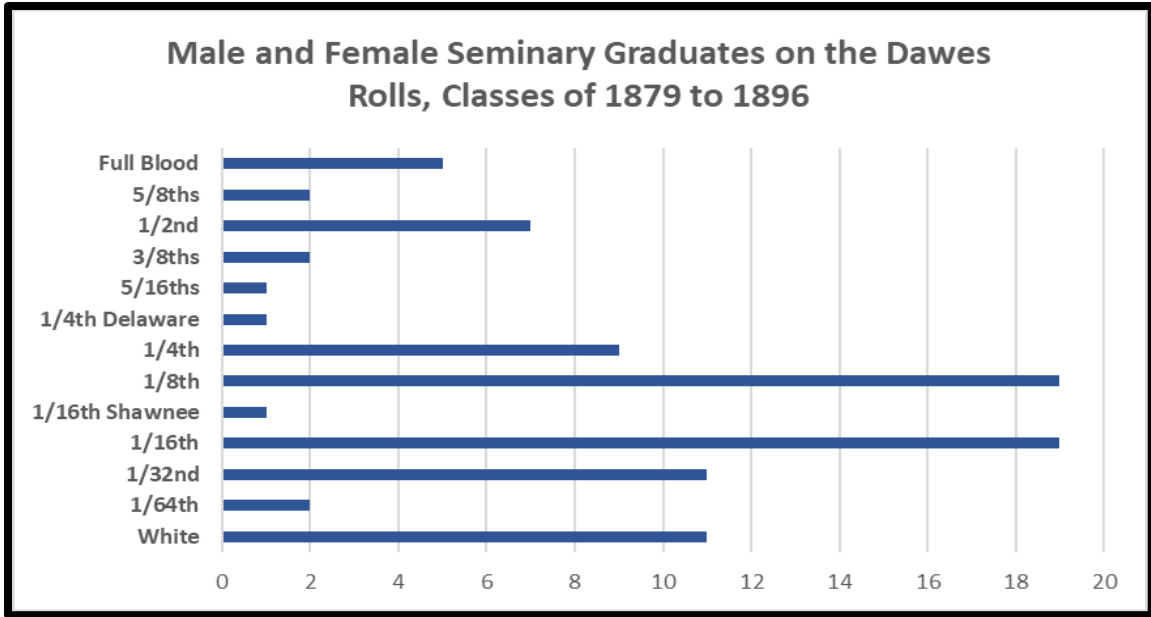
---

<sup>93</sup> Pg. 234 to 241 for Emmet Starr, *History of the Cherokee Indians and their Legends*. Starr was recording the names of his own peers. He and his family members are included in the list of 90 graduates graphed below.

<sup>94</sup> CA, July 23, 1879.

<sup>95</sup> Julie Reed, *Serving the Nation*, 123-127.

<sup>96</sup> McLoughlin, *After the Trail of Tears*, 321.



**Figure 1.4:** The graph above shows 90 graduates of the Cherokee seminaries as recorded by Emmett Starr, who was himself a graduate of the Male Seminary. Plotting the students based on their Dawes Roll’s blood quantum offers an illustration of what other scholars have already shown: the seminaries were not inviting institutions for nonwhites.



**Image 1.1:** Cherokee Female Seminary class of 1900, Jennie Fields Ross, Mary Elizabeth Gulager, Lucile McIntosh, Belle Cunningham, Josephine Barker, Eugenia Eubanks, Mollie Lipe Blackstone and Analize Eulalia Sevier. The graduating class was not necessarily representative of the Cherokee Nation, which included a wide array of races and ethnicities (Black Cherokees, Delawares, Shawnees, etc.). **Source:** Official Cherokee Nation Facebook page.

It was a boon for the opposition who would point to it for years. Prominent Cherokee citizens wrote to the Board of Trustees requesting an explanation, worried that the United States would take up the opportunity to “assume control of the School and Orphan funds, and set aside legislation of the National Council, thereby eminently imperiling our rights of self-government.”<sup>97</sup> The statement was a bit extreme, but the trustees complied, offering a perfectly reasonable answer:

“The Board did not expect to find a place of the size desired...in view of the enterprising spirit of our citizens, and the fact that they have now had forty years to make their selections of home out of the common domain it would be preposterous to expect to find a first-class place unimproved and unclaimed. The Board therefore confirmed their attention principally to improved places, of value for their natural and acquired advantages.”<sup>98</sup>

Without criticizing it, the trustees explained that they had been limited by the communal land system. In the Cherokee Nation, land was claimed with labor (be it one’s own free labor, enslaved labor, or foreign labor). To maintain a property, or a certain amount of acreage, the land had to be worked continuously. Idle land reverted to the state, at which point anyone could claim it.

Cherokees had extensive laws about claiming a site for improvements, including a requirement for two miles of separation between other improvements. The board had been forced to choose a claimed location, but they also wanted there to be good farmland and water, and it was preferable to purchase a finished building rather than pay to build a new one. Most importantly, the building had to be able to house around one hundred children and their caretakers.<sup>99</sup> It was almost inevitable that the site would be a former plantation, built with enslaved labor, whose owner was recently deceased. Lewis Ross had been one of the country’s wealthiest and had just passed away. There was no conspiracy to defraud the Nation, and the trustees fired back that, if anything, someone else was “[making] a pretext for seeking and obtaining interference of the United States in our local affairs.”<sup>100</sup>

William P. Boudinot, true to his fascinating ideological drift from other Southern Cherokees, accepted the report and opined that the whole fiasco was “vain and ill-timed.”<sup>101</sup> His wartime allies, however, refused to step away from their foray into conspiracy theory politics. Ross’ political rivals published a pamphlet in July of 1875 excoriating Ross for nepotism and corruption. Ross had “[robbed] the poor Cherokees of their money to enrich himself and his family.” The Lewis Ross estate, the pamphlet claimed, was “entirely unfit for the purpose” but after swindling the Nation once, Ross doubled his efforts and had the price inflated nearly five times its true value, “at the very time, too, when so many poor Cherokees are starving for bread.” In truth, purchasing the Ross properties was approximately \$14,000 dollars cheaper than building a new structure, based on a quote from the trustees.<sup>102</sup> Unmoored from reality, the pamphlet asked: “Will you vote for a man who is so heartless and dishonest?”

---

<sup>97</sup> “Letters of W. P. Boudinot, W. P. Ross, et. al. to the President of the Board of Trustees,” April 8, 1874, William P. Boudinot Collection, Folder, 3, Western History Collection, Oklahoma University, Norman, OK.

<sup>98</sup> Ibid, April 9, 1874.

<sup>99</sup> CA, March 11, 1876.

<sup>100</sup> “Letters of W. P. Boudinot, W. P. Ross, et. al. to the President of the Board of Trustees,” April 9, 1874, William P. Boudinot Collection, Folder, 3, Western History Collection, Oklahoma University, Norman, OK.

<sup>101</sup> “Letter of W. P. Boudinot to Editor CA,” May 30, 1874, William P. Boudinot Collection, Folder 4, Western History Collection, Oklahoma University, Norman, OK

<sup>102</sup> William McLoughlin, *After the Trail of Tears*, 321.



The 1875 pamphlet highlighted the growing trend in anti-statism; it was no coincidence that a fabricated corruption scandal revolved around one of the new, expensive institutions located on a plantation which epitomized wealth inequality and “Ross rule.” The pamphlet asked its readers: “When Cherokees are suffering for bread, and when \$200,000 of our national funds is about to be used to feed the people, Mr. Wm. P. Ross is squandering the public money by erecting costly and unnecessary buildings, from which he and his family expect to enrich themselves.”<sup>103</sup> The buildings which Ross and Downing had approved were the capital, the National Prison, the Orphan Asylum, the Insane Asylum, and the two seminaries. These were hardly “unnecessary” structures. It was basic social welfare, but for anti-statists, therein was the problem. The approaching “revolt” was just as much against Downing as it was against Ross.

Two other major “scandals” were far more serious and did nearly damage Cherokee sovereignty. Violent crime and national politics collided uncomfortably between 1873 and 1875. In August of 1873, a number of “bad men” decided to attack a Delaware-Cherokee citizen, Jordan Journeycake. Journeycake fled into an election hall, where the attackers drew their guns and began firing. Journeycake escaped, the voting was stopped, and the attackers continued a rampage at two other houses—no one was killed. One of the parties was embarrassed for its followers’ conduct, while sensational stories circulated on western telegraphs that a “civil war” was unfolding in the Cherokee Nation. This case and others, Agent Jones explained, “have been exaggerated.”<sup>104</sup>

A more serious conflagration occurred in December of 1874 when a deputy sheriff’s search for whiskey contraband brought him into a firefight with two ex-Confederate whiskey peddlers. One of the peddlers would be killed on the spot, and a member of the sheriff’s party was wounded. The confiscated whiskey was dumped, and the sheriff and his party departed. The matter could have hypothetically ended there, with officers investigating the matter more fully, or not. Instead, what William McLoughlin has labeled the “Tahlequah Riot,” erupted.

Rumors began to fly, and yet again, a prominent ex-Confederate was at the center of a spiraling situation. Major J. M. Bryan contacted Agent Ingalls, becoming the first to inform him of what was happening. According to Bryan, the attack had taken place at a Christmas Party (it hadn’t), the party had been hosted by Downing Party members (it wasn’t), there had been no liquor present (there had), and one respected Judge Joel B. Mayes (another ex-Confederate and future chief) was being targeted for a politicized arrest. Bryan also shared that a member of the sheriff’s party had been killed (he had not).<sup>105</sup> The truth was probably that some ex-Confederates in politics were tied to the liquor being transported.

But Major Bryan’s account, which informed Agent Ingalls, painted the ex-Confederates as politicians minding their own business—and certainly not drinking—before they were accosted by corrupt officers of the law. According to Bryan, soon after the shooting, over one hundred men armed themselves to begin a search for “men accused of resisting the deputy sheriff.”<sup>106</sup> This mob likely did not organize for political purposes, or to support William Ross. We know with certainty

---

<sup>103</sup> “To the Cherokee Voters, 1875,” Division of Manuscripts Collection, Box 4, Folder 17, Western History Collection, Oklahoma University, Norman, OK.

<sup>104</sup> No. 16. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1873*, by U.S. Agent for the Cherokee Nation John B. Jones. Tahlequah: September 1872. Pg. 202-208.

<sup>105</sup> McLoughlin, *After the Trail of Tears*, 329-335.

<sup>106</sup> *Ibid*, 329-335.

that Mayes and his allies did the same after a warrant was put out for his arrest, repeating actions that their wartime leader, Stand Watie, had taken against the first iteration of “tyrannical” Ross rule in the 1830s and 1840s.<sup>107</sup> Sensing the volatility of the moment, Ross dropped the warrants against Joel Mayes and fifteen other Downing men, but sustained the warrants against minor participants.<sup>108</sup> He promised protection to all individuals involved, regardless of their political affiliation. Chief Ross was desperately trying to reassert state control. If he filled the role of a conspiring “tyrant,” he played the role badly.

As with the Going Snake Massacre of 1872 and the attack on Journeycake in 1873, nearby westerners sounded the alarm that there was a “a general reign of terror” in the Cherokee Nation.<sup>109</sup> The manager of the MKT railroad requested federal troops to protect passengers and the U.S. mail, an escalation which Agent Ingalls soundly dismissed. Still, Ingalls believed the shooting was politically motivated, and wanted troops sent to Fort Gibson in the Cherokee Nation. Chief Ross insisted it was not a political matter but agreed that troops should be sent to maintain order (and perhaps help with the removal of intruders). For very different reasons, Chief Ross, Agent Ingalls, Colonel W.A. Phillips, and Senator Ingalls, both of Kansas, all recommended that troops be placed at Fort Gibson. The War Department refused: “there is no war and no likelihood of war.”<sup>110</sup>

After Ingalls’ assistant, E. R. Roberts, investigated the shooting and concluded that the “affray had no political significance whatever,” the meddling E. C. Boudinot accused Roberts, a federal official, of being “in the interest of Ross”—a ludicrous but characteristically conspiratorial suggestion. This Boudinot was a social pariah among Cherokees for supporting denationalization, but he declared that he could nonetheless uncover the truth. He urged another Cherokee ex-Confederate, James M. Bell, to get a statement from Joel B. Mayes and “the best men you know who know all about it...I will spoil Ross’s little game.” It is easy to see why westerners adored E. C. Boudinot, but had never heard of his moderate, nationalist brother, William Penn. There was a direct line between the former’s conspiracy theories and the proposed annexation of Indian nations. William Penn understood this threat and spent his life putting out his brother’s fires.

This all played well with a broader narrative that Ross was orchestrating the rising crime in the Cherokee Nation. Just days before the 1875 election, Agent Ingalls, who had once already fallen victim to ex-Confederate misinformation during the “Tahlequah Riot,” *again* relayed sensational reports that Chief Ross was using gangs to intimidate and murder Downing Party members. According to Ingalls, Ross was encouraging a gang of criminals that were terrorizing Downing families. Americans opened their newspapers to reports that “murders and riots [were] of daily occurrence” among the Cherokee.<sup>111</sup>

---

<sup>107</sup> McLoughlin, *After the Trail of Tears*, 331.

<sup>108</sup> *Ibid*, 332.

<sup>109</sup> *The Daily Missouri Democrat*, January 2, 1875.

<sup>110</sup> McLoughlin, *After the Trail of Tears*, 330-334.

<sup>111</sup> *Ibid*, 336. *South Bend Daily Tribune*, July 23, 1875. These reports across the country were often rife with misinformation. Another thing that Lewis Downing and William Ross shared was that U.S. newspapers erroneously reported their assassination at various times. Both died of natural causes.



**Image 1.2:** The three principal chiefs of the Reconstruction Era (1866 to 1879). From left to right: William P. Ross (1866 to 1867; 1872 to 1875), Lewis Downing (1867 to 1872), and Charles Thompson (1875 to 1879). All three chiefs were Loyal Cherokees for most of the Civil War. Ross ran a sutler store for the Union in Kansas, while Downing served as a colonel in the Indian Home Guard. Downing oversaw the abolition of slavery in 1863 as President of the Senate, while W. P. Ross authored the postwar amendments accepting freedmen into Cherokee society. Thompson fought without a commission for the Loyal Cherokees. All three principal chiefs were known for their support of Black Cherokees' citizenship rights, but they often did not go out of their way to ensure social welfare services reached Black citizens equally. In general, the postwar National Council was always more conservative and anti-Black than the Principal Chief, even after ex-Confederates took over.

**Sources:** "William P. Ross, Cherokee Chief," 1850-1890, Grant Foreman Collection, Folder 31, Gilcrease Museum, Tulsa, OK; Lewis Downing (public domain); Starr, *History of the Cherokee Indians* (Oklahoma City, 1921).

After Richard Fields, a district official of the Downing Party, was assassinated during a Baptist meeting, Ingalls's concerns were heightened. He promptly called for cavalry reinforcements at Fort Gibson. Latching Downing Party success to peace and stability, Ingalls wrote: "There is great probability of serious fighting this fall among the Cherokees if the Downing Men do not succeed in carrying the Election." When the election was over, William Ross would contact the Bureau of Indian Affairs alleging that Ingalls had interfered in Cherokee politics.<sup>112</sup>

The charge was almost certainly fair, and the Secretary of the Interior ordered an investigation of Ingalls' conduct. The first person assigned to the investigation, General G. P. C. Shanks, found Ingalls guilty of improprieties. After a second investigation by E. C. Watkins, Ingalls was cleared and reinstated.<sup>113</sup> Still, with extensive ties to Southern Cherokees, Ingalls interfered more than any other agent of the postwar period, and his superiors nearly punished him for the fact. He had fallen victim to the same conspiracy theories as many other Cherokees, and historians who relied too much on his perspective have fallen victim in turn.<sup>114</sup>

<sup>112</sup> McLoughlin, *After the Trail of Tears*, 336.

<sup>113</sup> *Ibid*, 337.

<sup>114</sup> I would argue that William McLoughlin relied too heavily on Southern Cherokees, and for this reason bought too many of their conspiracy theories. Too often *After the Trail of Tears* takes the position that Ross was a corrupt

These conspiracy theories were also dangerous. Sarah Bell Watie, Stand Watie's widow, shared reports that forty men had gone to Chief Ross and promised him that if another Downing man was killed, that Ross—their *head of state*—“would be held responsible for it.”<sup>115</sup> Just like his uncle, Ross was exposed to violent threats from Southern Cherokees who blamed him for the vendettas. News of these threats against Ross reached newspapers as far as Norfolk, Virginia, adding to Americans' sense that there existed a “state of anarchy” in the Cherokee Nation.<sup>116</sup>

But Ross did not make much sense as a “tyrant.” Crime was not Ross' strength, but his undoing. He was slandered for orchestrating murders that tore apart his national standing and political authority. One of Ross' defenders went case-by-case demonstrating that many murder victims had their political allegiances misrepresented post-mortem, when actually “many of the bloody scenes that have been laid by the Downing Party at their opponents' doors prove to have grown out of old family feuds.”<sup>117</sup> Once Ross lost the chieftaincy, the cries that he was orchestrating the murders suddenly stopped, and when President Grant considered him for Commissioner of Indian Affairs, the entire nation rallied behind him for this unprecedented honor. Citing his own brother, W. P. Boudinot offered that “seven tenths” of crimes were the work of American intruders. “That leaves three-tenths of the crime to be laid to Ross,” he said sarcastically, “supposing of course that without him everybody would be white and free from blemish...”<sup>118</sup> A Boudinot defending a Ross accused of murder conspiracy was about the only original aspect of Southern Cherokee's wild accusations.

Even foreign observers found the claims about Chief Ross hard to believe. Exercising far more skepticism than the Downing supporters or even Agent Ingalls, an observer for the *Daily Missouri Democrat* wrote:

“...many persons think that [Ross] winks at this lawlessness...[We] doubt the assertion that Ross encourages outrages...he must be shrewd enough to know that every outbreak of this character greatly strengthens those who demand that this fair Territory shall no longer be left to the exclusive occupation of those who either cannot or will not maintain order...”<sup>119</sup>

The Missourian reasoned that crime and political violence weakened Chief Ross; he was not directing the violence in the Cherokee Nation. The Missourian continued further, insisting that Cherokee sovereignty was “an offense which cannot long be tolerated.” The author was entirely opposed to Cherokee nationhood and yet still insisted that “it would clearly be [Ross'] interest to maintain as perfect order as possible.”<sup>120</sup> Beneath all the conspiracy theories, there was a greater, much simpler truth: Ross was born into privilege, he twice came to power unelected, and his uncle had ruled for far too long. In a country which proudly celebrated its democratic system, these were three unforgivable sins.

---

authoritarian, but these arguments are not based on concrete evidence. It is certainly possible both Rosses endorsed violence and assassinations, but it still must be proven, and it very likely cannot be.

<sup>115</sup> McLoughlin, *After the Trail of Tears*, 335-336.

<sup>116</sup> *The Virginia-Pilot*, July 14, 1875.

<sup>117</sup> *The Daily Missouri Republican*, August 18, 1875.

<sup>118</sup> CA, March 1, 1876.

<sup>119</sup> *The Daily Missouri Democrat*, January 2, 1875.

<sup>120</sup> *Ibid.*

Despite this political turbulence, Cherokee agriculture still had great hopes. In July of 1874, the editor of *The Cherokee Advocate* celebrated the agricultural prospect. He remarked: “the wheat crop of our country was never better or more abundant than at present, and if the corn turns out as well as the prospect indicates there will be wheat to export...Cherokee wheat will be an item in northern markets.”<sup>121</sup> The National Council, the editor suggested, should liberalize the economy and encourage greater use of the public domain. “With our cotton,” he wrote, “[to which] our country is well adapted...and our cattle which [is] beginning to increase to such numbers that we are resuming our old positions in the market, and the wheat, which like cotton is cash at some price, there is no reason why we should not be a prosperous people.”

However, there were early signs of an impending disaster. The same issue included a letter from a farmer in Martin’s Valley, writing that he had heard of “hard times and such like” but that those “time have not reached [us].” He added that there had been some “chinch bugs in our corn” but that they had soon disappeared.<sup>122</sup> A week later, the insects were a bigger problem. The editor relayed information from James Thompson of Delaware District:

“The corn crop, he says, is as promising as usual, but the chinch bugs by myriads are raiding upon it in some localities...[an effort was] made to save the corn if possible. With reapers and cradles and every man and boy in the neighborhood appearances were lively and business like. For two weeks this busy scene was continued, and the bugs [showed] no disposition to relent...”

Grasshoppers were quickly devouring Cherokee crops, and farming communities used collective effort to rush their harvesting. The result, however, would be that many came up short. Showing little understanding of what was happening, the editor continued to write on exports. Cherokees, he argued, should remain focused on producing crops “mostly in demand outside of our country.”<sup>123</sup> Months later *The Cherokee Advocate* would be condemning the lackluster response of the United States, saying that the Nation had experienced the worst of it compared to their U.S. neighbors.<sup>124</sup> That “in proportion to the population a greater number of Cherokees are destitute than in Kansas, and from the same cause, drouth and grasshoppers.”<sup>125</sup> Other Cherokees preferred to blame their neighbors, pointing to the “sluggards” in the Cherokee Nation, without whom “there would have been more corn in the country than there is at present.”<sup>126</sup>

Whatever the reason, there are few extant issues of *The Advocate* from the autumn of 1874, a scarcity which obscures our view of the nation’s Grasshopper Plague. Environmental science, accounts from other westerners, the *Advocate* issues that survived, and letters from Cherokee observers provide a bleak account. Given the tendency of grasshoppers to reproduce faster in warm and dry climate, a severe drought gave rise to a plague migrating from settled area to settled area, devouring whole fields of crops, or forcing gangs of farmers to harvest early.<sup>127</sup>

---

<sup>121</sup> CA, July 4, 1874.

<sup>122</sup> CA, July 4, 1874.

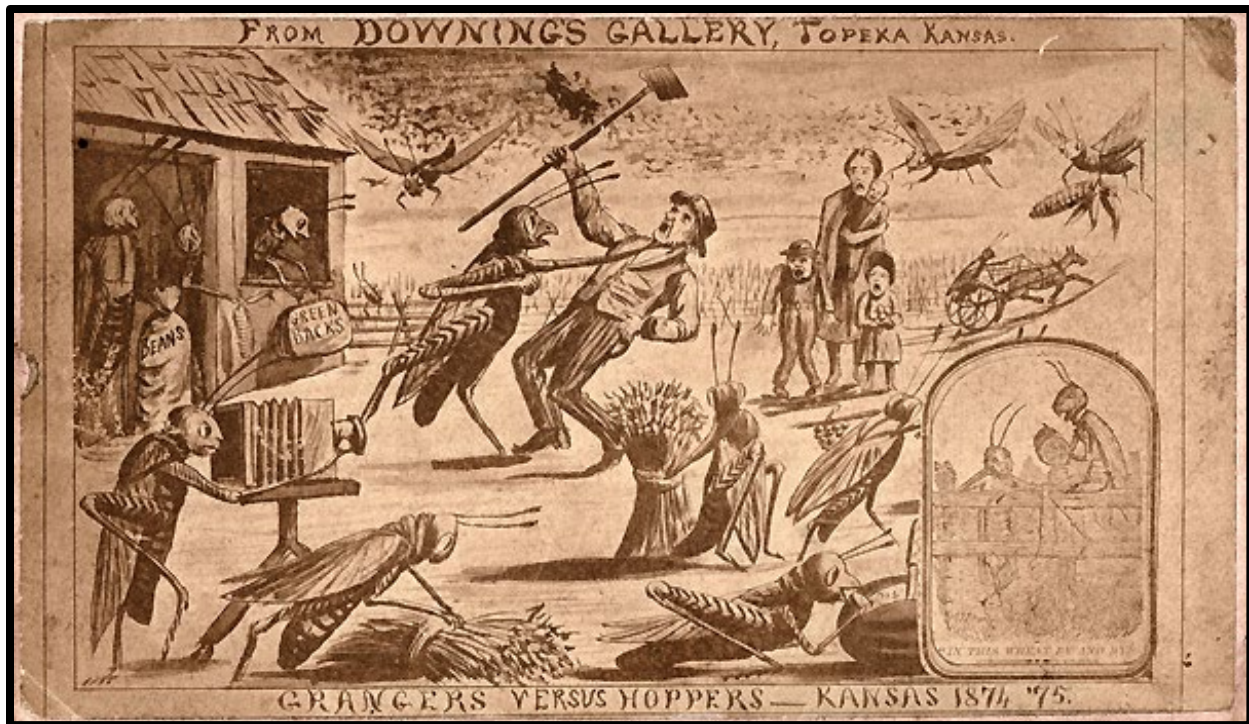
<sup>123</sup> CA, July 11, 1874.

<sup>124</sup> *The Daily Nebraska Press*, March 16, 1875. *The San Francisco Bulletin*, March 22, 1875. These bits of news were reprints and referred to “the drought and the ravages of the grasshoppers.”

<sup>125</sup> CA, January 31, 1875.

<sup>126</sup> CA, January 16, 1875.

<sup>127</sup> John T. Schlebecker, “Grasshoppers in American Agricultural History,” *Agricultural History* 27, No. 3 (1963), 85-93.



**Image 1.3:** A contemporary illustration of the Grasshopper Plague of 1874. Swarms of locust consumed whole fields of crops beginning in July of 1874. In this cartoon published out of Topeka, grasshoppers are depicted as raiders, taking everything the farmer has (not just his crops and beans, but his cash, buggy, horse and more. The farmer's family looks on in terror as the head of household is choked to death by one of the bugs. In the Cherokee Nation, the ensuing crop shortage had a transformative effect on national politics. **Source:** "Grasshopper Plague of 1874," 2003, Kansas Historical Society.

By mid-October, Cherokees were despondently realizing how short they were. One wealthy and supposedly benevolent rancher rushed to St. Louis with "a drove of beeves and a bundle of greenbax" to sell his cattle, purchase supplies, and resell locally at "short crop" prices.<sup>128</sup> The National Council, meanwhile, would meet to discuss the crisis, preparing to pass legislation for the "protection and encouragement of our agricultural interests."

It may have been too late for that. In mid-October, *The Cherokee Advocate* urged for the building contractors to hire Cherokee farmers who had failed to raise enough crops as they needed to "do something by which to obtain their winter supplies."<sup>129</sup> 154 people signed a petition to Chief Ross requesting immediate relief.<sup>130</sup> Around the same time a Southern Cherokee ex-Confederate wrote to a friend that "starvation is threatening one half of the people through the entire Nation; it is the general belief that the Council will have to feed them at the Nation's expense or a great many will surely starve."<sup>131</sup> By April of 1875, Ingalls' assistant, Roberts, shared reports that "[some were] boiling and eating bark from some kind of trees." He added: "There is no chance to overstate the want and suffering."<sup>132</sup> The poorer classes almost certainly suffered the most.

<sup>128</sup> CA, October 17, 1874.

<sup>129</sup> CA, October 17, 1874.

<sup>130</sup> McLoughlin, *After the Trail of Tears*, 328.

<sup>131</sup> Ibid, 326.

<sup>132</sup> Ibid, 328.

Because of these extreme circumstances, Chief Ross' government requested a \$500,000 loan from Congress, which was then reduced to \$200,000. Such a withdrawal would greatly complicate the treasury's ability to manage the public debt. The bread money would be disbursed per capita to citizens "by blood," making it the first of many "blood bills" in the postwar era. Just a few short years earlier, a Loyal Cherokee delegation had decried per capita disbursements as a drain on national resources; after the Grasshopper Plague of 1874, per capita payments would become a permanent feature of Cherokee life and politics. No party could afford to completely oppose them, and they would be disbursed in 1875, 1880, 1883, 1886, 1890, 1894, and during the allotment process.<sup>133</sup> Cherokee belief in public investments was waning, and the old guard that previously enjoyed a one-party state was on the wrong side of this change.

In general, then, Ross' second interim (1872 to 1875) upset the stability of the postwar era. His name had a way of inviting scandals easy to disprove, but impossible to silence. His contemporaries would later conclude that Ross was always very capable, but that "his people never fully appreciated his full greatness."<sup>134</sup> In every election, he was burdened by family history, which either reflected the pervasive democratic attitudes of the country (which refused a return to "Ross rule") or hinted at the rise of radically anti-establishment politics. Cherokee political winds shifted often and strongly, and William Ross was always in the right place at the wrong time. He was too mixed blood and privileged in 1867 and 1871. He was too liberal for the chieftaincy in 1875, and too conservative in 1879.<sup>135</sup> He was ideologically consistent, but always unable to match the national mood of the day. He ran for principal chief four times and never won once.

### **End of Compromise (1875)**

With Ross doomed, the Downing Compromise unraveled. By 1874, full-blood power within the Downing Party had reached a zenith, leaving Southern Cherokees trapped in a majority party with zero regard for Southern Cherokee interests or wants. The various members of the Downing Party could agree on encouraging per capita disbursements (without qualification) and opposing "any useless or extravagant expenditure of the public funds for the benefit of select individuals. But agreement stopped there: they certainly could not agree on liberalizing the permit labor law (which traditionalists did not want), the New Code of Laws divided them (as "progressive" Southern Cherokees were eager to enact legal reform), while any serious attempt at land-reform would have directly undermined Southern Cherokee property interests.

In a sign of ever decreasing Southern influence within the party, the Downings included among the reasons *not* to support Chief Ross the fact that "[he] signed the treaty with the Confederate States, became a lieutenant-colonel of a rebel regiment, and [then deserted] his colors."<sup>136</sup> While there was something there for everyone (as ex-Confederates viewed the Rosses

---

<sup>133</sup> McLoughlin, *After the Trail of Tears*, 328. Both platforms by this point encouraged per capita payments, but there was a small difference. The Downing Party supported disbursements without qualification while the National Party said that they supported per capita payments if money was also reinvested into the national funds.

<sup>134</sup> "Letter of C.A. Cummins from The Reporter," January 30, 1903, William P. Ross Collection, Box 2, Folder 30, Western History Collection, Oklahoma University, Norman, OK.

<sup>135</sup> In 1879, there were three major candidates: William Ross (for the new "Union Party"), Huckleberry Downing (for the Downing Party which temporarily adopted the name the "People's Party"), and Dennis Bushyhead for the National Party (also known as the "Nationals"). CA, June 18, 1879; May 28, 1879.

<sup>136</sup> "To the Cherokee Voters, 1875," Division of Manuscripts Collection, Box 4, Folder 17, Western History Collection, Oklahoma University, Norman, OK.

as traitors), there was no getting around the fact that the pamphlet was also attacking his ties to the Confederacy. On the flip side of things, one Southern Cherokee wrote to the *Daily Missouri Republican* insisting that William P. Ross had been a central figure among the traditionalist Keetoowahs, who supposedly organized murders “under the soothing influence of psalm-singing.”<sup>137</sup> But Ross’ new political rival, Charles Thompson, was also a member of the secret society, and as a monolingual Cherokee traditionalist he possessed a far stronger claim to the organization that Southern Cherokees had so greatly feared. In general, then, the Downing Party’s attacks in 1875 were prone to friendly fire, and this problem would persist.

Powerful enough to ignore the structural issues within the Downing Compromise, leaders of the Downing Party decided to chase after the full-bloods who remained in the Ross Party. The Downing Party increasingly became an extremist version of itself and promoted the rights and power of full-blood traditionalists at every turn. Their goal was to champion traditionalist wants and interests without a hint of moderation. Sensing trouble, a few well-known ex-Confederates such as J. A. Scales and W. P. Boudinot, would temporarily or permanently leave the Downing Party.<sup>138</sup> It would remain a sticking point among Southern Cherokees for years to come. It mattered who had stayed with the party, and who had left to protect their principles.<sup>139</sup>

Chief Ross’ big mistake was that he had competed for the same full-blood voters who now had the perfect alternative. Ross had catered to an electorate that would choose the greater extreme. He was too liberal to win the general election, and too conservative (and controversial) to peel off Southern Cherokee voters (who shared ideological ground with him whether they liked it or not). The growing number of moments Ross party lawmakers found consensus with ex-Confederates in the National Council were rendered meaningless. Many Southern Cherokees simply could not stomach a vote for Ross even as their interests and Ross’ converged. The gains of the Downing Party were greater than its losses.

The result was that the most immoderate principal chief in Cherokee history won the executive office. Charles Thompson was a devout, full-blood, Union veteran—just like Downing, though he fought without commission.<sup>140</sup> Before the war he was a “competent and rising” attorney, arguing cases in monolingual communities or with a translator.<sup>141</sup> He was a member of the Keetoowah Society, the very real conspiracy against slaveholders before and during the Civil War. He was not diplomatic, and he rejected compromise. He made enemies in both parties, and he took

---

<sup>137</sup> *The Daily Missouri Republican*, January 11, 1875.

<sup>138</sup> McLoughlin, *After the Trail of Tears*, 328.

<sup>139</sup> Thompson’s inability to hold the Downing coalition would lead to the party’s collapse after 1879. A “Union Party” would be formed in its stead—a redundant “compromise party” fusing ex-Ross and ex-Downing members. This was Southern Cherokees making the same mistake twice. Joel B. Mayes (an ex-Confederate) stormed out of the Union Party convention when it nominated Charles Thompson for chief in 1883, but he would ultimately be forced to cast his vote that direction anyway. Lucien Bell (another ex-Confederate) actually followed through on his threats, and organized a protest bill of Downing Party tickets to rival both the Nationals and the Union Party. This was the start of a Downing Party ruled by Southern Cherokees, but Mayes was rewarded for his timidity with the chieftaincy in 1887. The turn against Thompson was reflective of growing Southern Cherokee political power. By the late 1880s, even Cherokees on different sides of the political spectrum called Thompson a “demagogue.” National Party members and Downing Party ex-Confederates, who nearly came to bloodshed with each other in the 1887 election, agreed on this one point. “Record of J. B. Mayes,” May 14, 1891, Joel B. Mayes Collection, Box 2, Folder 11, Western History Collection, Oklahoma University, Norman, OK.

<sup>140</sup> McLoughlin, *After the Trail of Tears*, 325.

<sup>141</sup> CA, June 10, 1876.



a wildly unpredictable approach to the United States. In the early months of his term, he engaged in an ugly power struggle against the Cherokee Supreme Court, and he sought to empower the executive office while cutting away at other parts of the government. He sought the empowerment of full-blood Cherokees at the expense of many “progressive” mixed bloods, including the Southern Cherokees who had endorsed him. Even years later when he died, bitter Southern Cherokees reduced him to “a dictator” who could get full-bloods to “[vote] as he directed without question.”<sup>142</sup> Charles Thompson was a radical.

Thompson also represented the first big break from a consistent, moderate “Rossian” vision of the Cherokee Nation. He and his supporters, though certainly not the Southern Cherokees he dragged with him, spurned a return to the prewar nation with universal education (seminaries, schools, and the orphan asylum) and administration of justice (the national prison) as the top national priorities. Instead, Thompson wanted to engineer one step back to the precolonial world while simultaneously safeguarding what he called the “young republic.”<sup>143</sup> Traditionalist Cherokees, for once in Cherokee republican history, would monopolize political power. This was not the “Full-blood Rebellion of 1875” as one historian has called it. This was Radical Reconstruction in the Cherokee Nation.

---

<sup>142</sup> “Obituary on Charles Thompson” in *The Indian Chieftain*, July 2, 1891, John L. Adair, Charles Thompson Collection, Box 2, Folder 30, Western History Collection, Oklahoma University, Norman, OK.

<sup>143</sup> “Reply of Chief Thompson to J. Q. Smith, Commissioner of Indian Affairs,” January 1877 (published in CA, September 5, 1877), Box 1, Folder 20, Western History Collection, Oklahoma University, Norman, OK.

Chapter Two:  
**Radical Reconstruction (1875-1879)**

John Oskison Sr. was born “somewhere in England” in 1835, the same year the Treaty of New Echota was signed, dooming the Cherokee to a cross-country removal. By the age of two, John had lost both his parents, and “he was brought to America as an unwanted orphan.”<sup>144</sup> His uncle raised him in Illinois, though “raised” was a generous term for someone who severely overworked a child and left him “thinly clothed and badly shod.” Oskison later told his son, who he treated very well, that his uncle was a “son of a bitch” who “expected me to die before I grew up, and wanted to get all the work he could out of me while I was alive.”<sup>145</sup> Oskison’s first few years in America were miserable and produced a “restless, nervous, short-tempered” man.

In 1852, a California-bound wagon train was formed in Oskison’s neighborhood. The poor half-starved teenager ran away from home and begged a man to take him along. The neighbor supposedly obliged because “it’d be no worse than leavin’ you to die here.” Oskison hid himself in a covered wagon in case his uncle went searching for him, and the neighbor, who Oskison later called “the finest man [he] ever knew,” fed the starving boy until he was healthy again.<sup>146</sup>

Oskison Sr. lived in California for fifteen years, working as a farm hand. When he “became tired of California’s sun-hot wheatfields,” he set sail for New York, passing through the Panama Isthmus on horseback.<sup>147</sup> He also visited his childhood neighborhood in Illinois and found that his cruel uncle had died. His extended relatives welcomed him cordially, but he would not stay. None of these places would become his home. That honor belonged to the Cherokee Nation.

In 1870, John Oskison arrived in Tahlequah, the Cherokee capital. His father found the Cherokees “hospitable, friendly, and saw the Nation as a land of plenty and promise.” His future son, a successful fiction writer of the 20<sup>th</sup> century, later dramatized his arrival in writing that the town spoke to this discontented traveler, saying “Stay, restless spirit, and find peace.”<sup>148</sup>

In fact, Oskison would not have been allowed to stay if he had not secured a labor permit, which granted him legal residence (for a monthly fee) in exchange for working in the employ of a Cherokee citizen. Permit workers were overwhelmingly white tenant farmers who helped their employer claim and develop more land through the communal land system. John Oskison did this until around 1872, when he met a Cherokee woman who was willing to marry him—a two-step process which required Cherokee citizens to vouch for the suitor’s character under oath, before the suitor himself was asked to take an oath accepting his new citizenship status.

After everything was approved, John Oskison Sr. transformed from an authorized immigrant living among Cherokees to an adopted Cherokee citizen. In the eyes of the law, and

---

<sup>144</sup> John Milton Oskison, “A Tale of the Old Indian Territory: An Autobiography by John Milton Oskison,” in *Tales of the Old Indian Territory and Essays on the Indian Condition*, ed. Lionel Larré (Lincoln: University of Nebraska Press, 2012). 65.

<sup>145</sup> *Ibid*, 66.

<sup>146</sup> *Ibid*, 66.

<sup>147</sup> Kirby Brown, *Stoking the Fire: Nationhood in Cherokee Writing* (Norman: University of Oklahoma Press, 2018), 469. Brown provides a useful analysis of when and where Oskison pulled from his father’s life to write fictional stories.

<sup>148</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 469.

even in the eyes of the radical chief Charles Thompson, he was now an “Indian.”<sup>149</sup> Oskison built a log house not far from Tahlequah.<sup>150</sup> He began fathering Cherokee children who would grow up in a Cherokee society. He would become a wealthy man—not because of the American dream, but because of the Cherokee one. When he died in 1919, he still owned a building in Vinita.<sup>151</sup>

Oskison Sr.’s timing was very good. If he had arrived a couple years later, during Thompson’s Radical Reconstruction, he may have never gotten these opportunities. As traditionalist power steadily increased, so too did resentment against Cherokee land monopolies—which in the postwar period were built off white foreign workers instead of enslaved Africans. Even before Thompson came to power at the end of 1875, he was a force to be reckoned with in the Senate and pushed Chief Ross into lending support to full-blood interests. Thompson and his allies then took the moderate compromises which Ross had facilitated and discarded them. In the end, Chief Thompson attempted to destroy permit labor immigration altogether.

Beneath the disagreement between liberals and traditionalists lurked something more existential than labor policy. Because of the communal usufruct system, and because a huge portion of the nation was uncultivated, the “labor question” was inseparable from land. Admitting foreign workers was key to liberalizing large-scale farming at very little cost. Restricting foreign workers was key to land redistribution and creating an egalitarian nation free of white immigrants (even if that necessarily meant letting land lie fallow). Liberals believed that unleashing wealth accumulation was necessary to develop a strong national economy—one with enough prosperity, organization, and strength to ward off threats from the United States. Traditionalists believed that restricting foreign labor was essential to protecting the common domain, a national way of life, Native neighborhoods, and an egalitarian society of small farmers in keeping with precolonial values. In a communal system, labor policy was land policy, and land policy was the entire point.

These competing visions defined Radical Reconstruction, but it was the traditionalists who would dictate policy. Full-blood Loyal Cherokees dominated the Downing Party, and the Downings in turn enjoyed a strong majority in government. Cherokee radicals would get their chance to impose egalitarianism on unwilling ex-Confederates, but just as in the U.S. South, the task of reforming a recalcitrant population, without undermining democracy, was never so simple.

### **Origins of Cherokee Radicalism**

Cherokee radicalism had its roots in the Civil War. The Loyal Cherokee National Council did not stop with emancipation in 1863. Hoping to punish the “Arch Traitor Stand Watie and his Band of Rebels” the lawmakers went after Confederate property.<sup>152</sup> In urging for the “Confiscation Act,” Assistant Chief Thomas Pegg explained its purpose:

---

<sup>149</sup> Thompson’s views of adopted whites were profoundly interesting. He likely agreed with the “radicals” in his party that intermarriage with whites should be curbed, but he was also a nationalist and believed in the “republic.” In one of his letters to American officials, he explained that all citizens, including adopted whites, were “Indians.”

<sup>150</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 67.

<sup>151</sup> Petition for Letters of Administration for John Oskison, Craig County, Oklahoma Wills and Probate Records.

<sup>152</sup> An Act Calling for a Report from the Chief, November 3, 1863, CHN 8, Volume 248, Cherokee National Records, Indian Archives, Oklahoma History Center.

“There is a large amount of property consisting principally of improvements and stock which has been abandoned by that portion of our people which has joined the Southern Confederacy and are now making war upon us. In their attempt to destroy this nation they have forfeited all rights which are guaranteed to Cherokee Citizens. They have rendered themselves alien Enemies. Their property reverts to the Cherokee Nation.”<sup>153</sup>

All the large farms built up by Southern Cherokees with enslaved labor—which had never been purchased—would be confiscated by the government and sold to Loyal Cherokees at a price almost certainly below their true value. Pegg himself admitted that part of the need for the law sprang from the fact that individual Loyal Cherokees had already forced the issue. They had not waited for their government to tell them they could seize Confederate property. The National Council passed the Confiscation Act in May of 1863.

What ensued was a redistribution of land which resembled the forced transfer of property from mixed-blood elites to full-blood traditionalists.<sup>154</sup> Some of the most respected surnames in the country—“Vann,” “Ross,” “Rogers,” “Starr,” “Riley,” and “Campbell”—lost their farms without compensation. The people lining up to buy the property from the government included “Catcher,” “Tuneye,” “Deer in the Water,” “White Water,” and “Bark.” Even the purchasers with English surnames such as “Love,” “Hammer,” and “Baldrige” were likely full-bloods as well.<sup>155</sup> William Hendricks, the father of the fiery half-blood judge who passionately disdained Cherokee elites, was among the purchasers, while “William P. Ross,” “L. Downing,” and one “Thompson” all bought confiscated land. At least two of the future principal chiefs would not be left out of the action. William Ross for his part stuck out from the rest. Coming from a wealthy family of slaveholders, he shared far more in common with the names on the opposite side of the transfers, but he made the biggest purchase by far: \$2200 for what was presumably a very large estate. The second highest purchase was not even close, at \$675. Most purchasers spent about a tenth of what Ross did. Other purchasers could only afford to buy confiscated livestock.<sup>156</sup>

It would be short-sighted to think that these property transfers sprung out of nowhere—they were nothing more than what a civil war demanded. In fact, the abolition of slavery, the passage of an anti-Black permit law, and the Confiscation Act were all part of one grander, unified vision. The 1850s had witnessed the rise of the abolitionist Keetoowah Society, strongly influenced by Northern missionaries and predominantly composed of religious full-bloods. The organization produced tremendous anxiety among slaveholding Southern Cherokees, who formed their own secret society in turn.<sup>157</sup> They alleged that the Keetoowahs were not just anti-slavery, but anti-

---

<sup>153</sup> Acting Chief Thomas Pegg’s Message to the National Council, May 1863, CHN 8, Volume 248, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>154</sup> McLoughlin, *After the Trail of Tears*, 210-211. McLoughlin wrote about the Confiscation Act in similar terms.

<sup>155</sup> The Dawes rolls can be used to predict whether someone would be classed as full-blood or mixed-blood even when they themselves were not alive for allotment. If all the adults on the Dawes rolls with the surname “Love” are marked as full-bloods, for instance, then it is safe to infer that the older “Love” is their ancestor and that he too would be classed as a full-blood. As Circe Sturm has pointed out, “full-blood” did not mean one with “pure biological Cherokee ancestry.” In the postwar Cherokee Nation, “full-blood” was a racialized social category, composed of nonwhite Cherokees who usually spoke Cherokee and who were assumed to be traditionalists.

<sup>156</sup> A List of Confiscated Farms in the Canadian District, 1865, Box 193, Roll No. 55, Folder 8131, Cherokee Nation Papers, Western History Collection, Norman, Oklahoma.

<sup>157</sup> McLoughlin, *After the Trail of Tears*, 155.

mixed-blood as well, and it is likely those ideas overlapped.<sup>158</sup> When the war began, Keetoowahs transitioned into “Loyal Cherokees” and abolished slavery for their own reasons.

The anti-Black permit law and the Confiscation Act complete the picture. Like so many free-soilers, traditionalists found no contradictions in their plan to remove freedmen. They wanted slavery gone, but not because they were humanitarians. They sought to reorder Cherokee society. Abolishing slavery, removing freedmen, and confiscating disloyal Cherokees’ property were inter-related actions all aimed against wealthy mixed-blood elites—elites who had utilized enslaved labor to abuse the communal system and build up large farms. Traditionalists demanded an egalitarian country. Abolition and confiscation could achieve this.

The United States and postwar pragmatism prevented it. The Union would not tolerate the confiscation of lands in the Cherokee Nation any more than it would in the South. Moreover, the Confiscation Act played right into the hands of Southern Cherokees, who desperately hoped to gain their own separate nation in the postwar talks. Working from his death bed to prevent this, John Ross committed to reconciliation between Cherokee “North” and “South” in his final letter to a sitting president. The subsequent Treaty of 1866 overturned the Confiscation Act. In October of the same year, the National Council repealed it. Lewis Downing signed the bill. The confiscation of Confederate lands failed just as it would in the United States.

With the communal system, however, additional routes to confiscation existed. Under early Cherokee law, idle land reverted to the nation after two years of disuse. In 1870, the National Council reduced the time limit to just one year.<sup>159</sup> The labor gap was time sensitive. If Black Cherokees were not replaced, idle land would be forfeited to the state. After forfeiture, any citizen could claim the land, though they, too, would have to work it to retain it. Because of this, a restrictive permit law offered radical possibilities, just like the Confiscation Act. The two approaches were informed by the same vision, driven by the same actors, and aimed at the same elites. Both approaches failed were prepared in the same mixture of anti-elitism and traditionalism.

The first postwar permit system was created in the fall of 1867. Cherokees had passed permit laws prior to the war, but chattel slavery had always negated their importance. At some point before the war, the law had been repealed, but after the war (with slavery abolished), Downing concluded it needed to be revived in order to “repair the ravages of the past war.”<sup>160</sup> Hoping to encourage artisans and foreign laborers (“the more skilled the laborers the better for the country”), as well as demonstrating another point of convergence with William Ross, Downing gave this favor to Southern Cherokees who had suddenly lost their unfree source of labor. He succeeded in getting a permit bill passed, setting the monthly tax at \$1 per month per mechanic, and 50 cents per month for other workers.<sup>161</sup> The law had a very high fine and survived two years.

---

<sup>158</sup> *The Daily Missouri Republican*, January 11, 1875; Wardell, *A Political History of the Cherokees*, 120; McLoughlin, *After the Trail of Tears*, 154-160.

<sup>159</sup> An Act Regulating Settlements on the Public Domain (September 24, 1839), reprinted in *Constitution and Laws of the Cherokee Nation* (St. Louis: R and T. A. Ennis Stationers, 1875). 249; Khaled Bloom, “An American Tragedy of the Commons,” 502.

<sup>160</sup> Lewis Downing to National Council, 1871, *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7436. Western History Collections, University of Oklahoma, Norman.

<sup>161</sup> An Act to Regulate the Issue of Permits to Hire Citizens of the United States, passed November 22, 1867, in *Constitution and Laws of the Cherokee Nation* (St. Louis: Missouri Democrat Print, 1868). 148-149.

When it was subsequently repealed (for reasons we do not know), the registration of foreign workers reverted to the Cherokee Agent. Or in other words, the federal government took over, collected the taxes on foreign workers, and decided for itself who could and could not immigrate.

By November of 1872, Cherokees were ready to try again. Cherokee citizen and agent John B. Jones was administering the permit system and felt that the system was prone to abuse, and that the workload would soon grow beyond his means.<sup>162</sup> Meanwhile, the Cherokee had a relatively expansive bureaucratic system which was democratic and reached into the local communities of all nine districts. Every district had a clerk who was responsible for these exact kinds of administrative issues. The district solicitors could enforce the law in their communities. Jones suggested to the new principal chief, William Ross, that he enact legislation to revamp the system.<sup>163</sup> Ross obliged and soon signed his own permit bill.

Absorbing this responsibility, however, meant that the question of the permit system would dominate national politics for the next seven years. Traditionalists would see the permit labor system as the next great threat to the communal land system, a step too far from the precolonial past and yet another slide into a less egalitarian future. Mixed-blood “progressives” like the Rosses and the Southern Cherokees found some common ground in that they both supported labor policies which would allow the Cherokee economy to grow (something that required a healthy labor supply). Underneath this disagreement lurked something far more existential than labor policy. Because of the communal system, the “labor question” was inextricable from the immigration question and the land question. Accepting more foreign laborers was the key to expanding one’s land claims; restricting foreign laborers was the key to forcing the redistribution of land. In the Cherokee Nation, a labor policy was inseparable from a land policy.

Ross, however, was like his uncle in that he believed in governing with full-blood consensus. The permit labor law of 1872 was not liberal, meaning it favored the interests of traditionalists (while still allowing *some* foreign labor into the country). As there are no extant records of *The Cherokee Advocate* when the 1872 permit law was being signed, McLoughlin used two letters between two Southern Cherokees to fill in the gaps. Ex-Confederate J. R. Trott informed ex-Confederate James M. Bell that he heard from someone else that the bill was passed by Ross “in spite.” The theory, which McLoughlin accepted at face value, was that Ross “got it up, thinking the Downing Party would defeat it, thereby making [political] capital for Ross, and in order to evade it, they voted for it.”<sup>164</sup> If one accepts that version of events, then the 1872 bill was a Ross “mistake” that hurt everyone, and that Ross did not really support full-blood interests.

The theory has major flaws. First, as McLoughlin himself shows us, many Southern Cherokees but especially members of the Bell-Boudinot-Watie faction were by this time marginal to politics—a letter relaying a rumor does not have the strength to carry the story. Second, Ross would have clearly understood that Loyal Cherokee power was dominant; 1872 was still years before what I refer to as “The Liberal Decade,” 1879-1890. Figures like Downing and Ross, who championed moderate liberalism with respect for traditionalist power and wants, were about as liberal as it got in this political climate. Third, as this chapter has explained, there are strong indications that Ross was competing for the same full-blood votes as his successor, Charles

---

<sup>162</sup> McLoughlin, *After the Trail of Tears*, 295.

<sup>163</sup> *Ibid*, 295-296.

<sup>164</sup> *Ibid*, 296.

Thompson. It is possible if not likely that Ross wanted to appear the superior ally to full-blood interests (like his uncle had for decades), thereby undermining the Downing Compromise. Fourth, two years after this, Ross would pass a very similar permit bill with Thompson as the President of the Senate. It is hard to believe that he would make that “mistake” twice in one term, the second time doing so with the leader of the opposition, and someone almost guaranteed to be his next rival for chief. “Spite” was not the cause of the 1872 permit bill’s strictness. Politics were.

In the autumn of 1874, the combination of formulating the New Code of Laws and the onset of the Grasshopper Plague meant that many lawmakers wanted to revisit the existing permit law. The consequent 1874 permit law, also passed by Ross, was incorporated into the New Code, and represented a moderate compromise. In some ways it was more liberal and egalitarian, and in some ways, it was stricter. The monthly fee was reduced to fifty cents per month, but Cherokee citizens could only employ two Americans at a time.<sup>165</sup> The law made sense considering the hard times: more people with less money could hire laborers; the wealthier families would be reduced to just two laborers. For the most liberal of farmers—including Southern Cherokees—neither the 1872 law nor its 1874 revision was ideal. Their brand of Gilded Age liberalism, however, was still far too marginal to influence the “Rossian” vision of the Nation as a mostly “settler-free” space.

The 1874 permit law also demonstrated that radical traditionalists could embrace the modernizing, centralizing state if it could be turned to support their interests. Though many full-bloods were critical of the New Code and the National Prison (1875), both provided new tools to punish land monopolists. The 1874 New Code permit law required fines and jail time for Cherokee citizens caught violating the restrictions. For traditionalists, this was a bright spot in the New Code, as it would force wealthy mixed-bloods to think twice before abusing the communal system. A pattern of Cherokee Radical Reconstruction was emerging. Support for new expansions or restrictions on state power depended entirely on the interests of full-blood constituents.

### **The Administration of Charles Thompson (1875-1879)**

The first traditionalist attack on the permit system came in December of 1877 (perhaps after a string of traditionalists won the midterm elections for seats on the Council). The National Council removed the Permit Law from the New Code entirely, though this proved to be too much.<sup>166</sup> Any unregistered permit workers were immediately transformed into intruders, but the federal government re-assumed the power to approve foreign workers’ applications. There may have been some duplicity between lawmakers: the country’s permit system was abolished, but permit work continued. The only thing lost was the country’s system of fee collection.

This was corrected a year later. On December 12<sup>th</sup>, of 1878, radical traditionalist achieved their goal of destroying the permit system. Conflating permit workers with intruders in “An Act for the Protection of the Public Domain,” Thompson and his allies decreed that “it shall not be lawful for any citizen of the Cherokee Nation to employ any citizen of the United States... in any capacity—except mechanics working as such, unless such [Cherokee] citizens...[pay] twenty-five

---

<sup>165</sup> McLoughlin, *After the Trail of Tears*, 327; Wardell, *A Political History of the Cherokee Nation*, 274; CA, January 30, 1875. McLoughlin and Wardell wrote that it was only one employee at a time, but the printed law seemed to say two at a time.

<sup>166</sup> CA, December 22, 1876.

dollars per month, in advance.”<sup>167</sup> This was twelve to fifty times higher than the various monthly fees of the past. The point was to completely ban permit foreign immigrants. The penalty for violating this law was also greatly increased.<sup>168</sup> Violators could expect a \$100 fine, and if they could not pay, they faced imprisonment “for a period of not less than twelve months...”<sup>169</sup>

By default, Thompson was declaring every foreign worker in the Cherokee Nation an intruder, and in the very same law he ordered that the sheriffs of the several districts assist the U.S. marshals in arresting these “intruders.” If the United States failed to remove the “intruders” by August of 1879, the law authorized Chief Thompson to order the removals himself, something never done by a principal chief since the Cherokees had become a republic. To facilitate such a removal, the law ordered the district solicitors to begin collecting the names of all “intruders” in the country. Thompson had run on reducing expenses; now he proposed a purge of all non-Indians from Cherokee land. This was the traditionalists’ most radical act. If left on the books, it would have destroyed Cherokee industry, while also redistributing the communal land falling to disuse.

The passage of the bill sent shockwaves throughout the country. In a trend quite common to postwar Cherokee historiography, scholars have written about the law without exploring its local consequences. Fearing punishment and hostility, and cast out of their employers’ fenced improvements, white permit laborers left the Cherokee Nation in droves. Observers from districts across the Nation reported on this phenomenon. Three different farmers from Flint District shared news of permit workers leaving. One contributor wrote: “Politics are ‘booming’ [here]...the white man law is causing quite a stir in our district [and] the whites are making preparations to remove to more congenial quarters.”<sup>170</sup>

A pro-Thompson farmer in Delaware District reported the same news but took up an anti-democratic stance toward Cherokees opposed to the permit law. “Stop with your petition,” OBSERVER wrote, “the chief will not entertain it for a moment!”<sup>171</sup> OBSERVER went on, urging the Cherokee government to begin enforcing the draconian law. For the foreigners who had immigrated into the Cherokee Nation under permits—who were immigrants and not settler colonists—OBSERVER’s stance was harsh. He wrote, “We see now and then a poor [white] family, without any team, plodding their way for weal or wo, in the direction of Kansas. Enforce the ‘permit law!’...The Cherokee Nation is the vagrant’s Paradise. Enforce the ‘permit law.’”<sup>172</sup>

Supporters of the Permit Law had this tendency to conflate permit workers with the universally reviled intruders; these voices had no interest in sympathy for the authorized immigrant. OBSERVER continued to share his views in a way that highlighted the law’s divisiveness:

“...our trouble originates among our own citizens, and it appears to every observing mind that it is the policy of a certain class of adopted citizens, together with the Cherokee, to carry out a plan of monopoly. We could give the names of men who have introduced into

---

<sup>167</sup> CA, January 4, 1879.

<sup>168</sup> McLoughlin, *After the Trail of Tears*, 327.

<sup>169</sup> CA, January 4, 1879.

<sup>170</sup> CA, February 19, 1879.

<sup>171</sup> CA, March 19, 1879

<sup>172</sup> CA, March 19, 1879



our country from twenty to twenty-five persons, all claiming to be laboring for certain parties...This [is a] blackness of darkness...”<sup>173</sup>

To OBSERVER, adopted citizens and their Native conspirators were the origin of “our trouble,” unleashing an “unrestrained” “blackness of darkness” on the Nation: permit immigrants and land monopolies. Even the *Cherokee Advocate* editor mocked the departing permit workers, writing, “Lo the poor intruders who have become enamored of the Indian country are marrying Cherokee girls as a last resort.”<sup>174</sup> The Permit Law truly was equal parts labor, land, and immigration.

With the loss of permit workers, Cherokee nationalists who supporting the law expressed their victory with calls for independence and self-help. OBSERVER explained that the National Council had passed the law to “aim high” and “give an opportunity to the young men of our country to go to work.”<sup>175</sup> Add more/better examples here. The editor joked, “Cooweeskoowee farmers claim that the plow turns their land just as good for all Indians as it does for a white man. They sharpen them with the ‘permit law’ you know.”<sup>176</sup> More neutrally, the farmers of Flint reported that they were hard at work, saying “If we can’t get white labor we must work ourselves.”<sup>177</sup>

Cooweescoowee— “the Empire District” named after John Ross—was huge in size, had plenty of farmland, and sat on the border of Kansas. During the “Liberal Decade” (1879-1890) it would profit the most from foreign labor and a flexible immigration policy. No wonder, then, that “U.W.C.” of this district was so unhappy with the 1878 law:

“As spring advances, the farmers exert themselves to prepare for the coming season. A large proportion of our lands will necessarily lay idle, because of the Permit Law. Some regard it as a law, others do not, though all think it very oppressive...the Permit Law drives good white men from our midst, while the vagrant remains and asks for a rehearing in his claim to citizenship...In the immediate neighborhood of the whites, there are three widows with large families dependent on them; heretofore they have been fortunate in having trusty men to farm their lands, but now our solons have driven them (their laborers) from the country...it is a fact, that the law abiding class of white men, our best laborers, are the first to leave the country...Many of us have spent our all on improving farms, and now to witness the once subdued grass take possession of our once productive fields is more than we can bear in silence.”<sup>178</sup>

To “U.W.C.” there were important reasons to be liberal with permit work—in some ways it was a strange form of social welfare that allowed widows, the elderly, and the disabled to exploit the communal system (and white foreign workers) at little to no cost (if they transferred the tax to the worker). These Cherokees viewed the permit immigrants as different from intruders. They were “the law-abiding class of white men,” “our best laborers,” and “good white men.” Another Cherokee in the Sequoyah District lamented that the “the corn makers, the bread makers, the bone

---

<sup>173</sup> CA, April 2, 1879.

<sup>174</sup> CA, March 26, 1879.

<sup>175</sup> CA, March 19, 1879.

<sup>176</sup> CA, March 26, 1879.

<sup>177</sup> CA, March 26, 1879.

<sup>178</sup> CA, April 2, 1879.

and sinew of this or any other land are...going, going, gone!”<sup>179</sup> Another farmer put it more succinctly: “That blind permit law breaks the backbone of Cherokee agriculture.”<sup>180</sup> Without them, the subdued grass would take possession of “once productive fields,” threatening the property claims of individual Cherokees to the common domain.

The law also proved to be a driving wedge between Charles Thompson and some of his long-standing supporters: Black Cherokees. While Thompson had been singled out by Freedmen in the past for his anomalous support, he was also someone who had appointed ex-Confederates to the courts, who in turn had rejected many Cherokees’ legitimate claims to citizenship.<sup>181</sup> The totalizing nature of the Permit Law, which promised to remove virtually all non-citizens within the year, was never going to be supported by Black Cherokees who were themselves, or the family members of, rejected claimants. In Washington, a delegation protested in the following manner:

“The Cherokee Nation is our country; there we were born and reared; there are our homes, made by the sweat of our brows; there are our wives and children, whom we love so dearly as though they were born with red, instead of black skins...[The U.S. does not need] to obey the beck and call of the great Cherokee Nation and carry out, without question, the orders of an ignorant and corrupt court, *or a still more ignorant chief...*”<sup>182</sup>

In seeking out a heavy-handed approach to non-citizens, at least before liberalizing the self-defeating policy toward Black Cherokees, Chief Thompson created yet another enemy among the Black communities of his country. Neither the propertied ex-Confederate nor the formerly enslaved could support Charles Thompson a single moment longer.

For months, the bureaucratic arm of the Cherokee government warned Cherokee citizens in writing and in person that they would enforce the law despite its immoderation and difficulties. Solicitor D. F. Corker of Cooweescoowee, was one such figure. He wrote that it did not matter that the law “looks hard” toward “widows, orphaned children, and disabled men.” The duty of the solicitor was to enforce the existing laws or resign, and “that is a solid fact,” he explained.<sup>183</sup>

However, Corker did feel compelled to complain about the plan of execution. Chief Thompson had enacted a dramatic expansion of the government’s role and powers in favor of traditionalist interests—without increasing the pay or number of government employees. It is now “the duty of the [district] solicitor,” he explained, “to get all over their districts and take the census of all intruders, and report the same by...July 1879. He must commence that in seed-time; he don’t need to [plant] any crop; he and his family [will] live on blackberries, grapes, [and] acorns.”

---

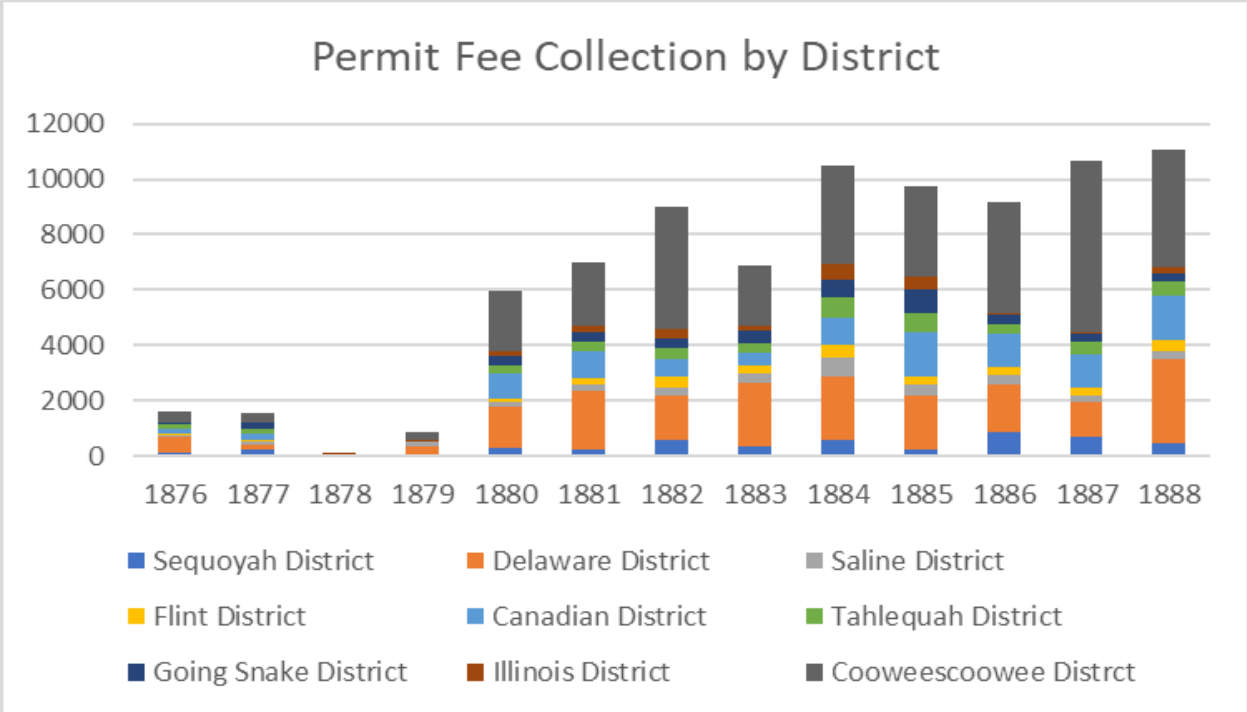
<sup>179</sup> CA, April 30, 1879.

<sup>180</sup> CA, April 30, 1879.

<sup>181</sup> McLoughlin, *After the Trail of Tears*, 253-254. The letter McLoughlin cites in these pages lends more credence to the notion that Thompson was the leader of a Cherokee Radical Reconstruction. Thompson’s dedication to promoting racial equity extended beyond promoting full-blood power. He was also invested in freedmen’s rights.

<sup>182</sup> CA, March 26, 1879.

<sup>183</sup> CA, March 19, 1879.



**Figure 2.1:** Permit Fee Collection by District, Charted. This graph shows the revenue collected from labor permit fees in each district of the Cherokee Nation (so one can use them to read the national totals as well). The graph shows a small amount of revenue in 1876 and 1877, early years of the permit system when fewer workers were present and registered. In 1878, the permit system collapsed with Thompson’s repeal of the permit law in December of 1877. The repeal did not manage to evict white workers, but the December 1878 Permit Law did, as it criminalized the employment of white workers. It took another year for the National Council to pass a new permit law, one that which drastically transformed Cherokee land, labor, and immigrations practices. This change is apparent from the fees collected from 1880 and onwards. Historians have been unable to access these figures because the internal documents of the Cherokee government are understudied. I used the records of the National Treasury and district clerk to collect this data.

The lawmakers had forgotten to let the solicitors “have something for all this extra [‘special’] duty.” Corker recommended “\$25 or \$30 for extra service” while warning that the New Permit law and other new protective policies were becoming too much to bear. “I wonder if the solicitors won’t [soon] be required to go around in the spring, and put up all those gentlemen’s fences.”<sup>184</sup> The solicitor of Delaware District, S. N. Welton, had similar complaints about riding through his district so many times.<sup>185</sup> It seems probable that these demands for greater pay or a reduced workload (with more employees) would have eventually been heard. Thompson had been elected to reduce government expenses, but by the end of his term, traditionalism had brought him to a radically different place. He was now expanding the government’s power and reach.

In mid-April of 1879, the ex-Confederate editor of *The Cherokee Advocate*, Captain George W. Johnson, appeared to violate the law against using the government’s newspaper to express a political opinion. He did so to betray Chief Thompson, the leader of his party. “We have always been in favor of wholesome, liberal, and prudent legislation, whereby our people can obtain white labor,” Johnson wrote. Seeking to soften the blow of criticizing the law, he added:

“[But] has not an advantage been taken of the liberality of the Council, and our citizens of enterprising spirit, instead of being satisfied with one, two, or three farms, went on multiplying farms, one after another, until some of them can count a farm for every finger? Remember, all their farms must have occupants and workers, and they are white. Now just consider the number of whites that such an arrangement will introduce into the Cherokee Nation. Is it any wonder that in view of all this, that some of our full blood friends have taken the alarm, and that the last Council availed themselves of a certain clause in the Constitution, ‘That the National Council shall have the power to adopt such laws and regulations as its wisdom may deem expedient and proper, to prevent citizens from monopolizing improvements with the view of speculation.’”<sup>186</sup>

Land monopolization, Johnson explained, was a perfectly understandable reason to go after permit immigration. But perhaps, he reasoned hopefully, the two issues could be separated: “If the National Council were assured that no advantage would be taken of liberal legislation—that is, in multiplying farms and introducing too many whites, that some arrangement could be made whereby our people could employ white labor living terms again.”<sup>187</sup>

Such a peaceable solution was not possible with a divisive chief. Thompson had angered the wrong people, and despite doing so, he was unwilling to negotiate. C.V. Rogers, “the most successful farmer and Cooweescoowee District” and a future friend of Oskison Sr., organized a petition with D.W. Lipe (a future National Treasurer) and C.J. Hanks (look into him) to request the law’s repeal. Chief Thompson replied on April 1<sup>st</sup> explaining that he would do no such thing. Calling the National Council for an emergency session would cost three to four thousand dollars, he reasoned, and there was a good chance the lawmakers would have no interest in revisions or repeal. He acknowledged that “a large number of the laboring class of U.S. citizens have already left the Nation...[meaning that] the relief prayed for in your petition would not in any reasonable

---

<sup>184</sup> CA, March 19, 1879.

<sup>185</sup> CA, April 2, 1879.

<sup>186</sup> CA, April 16, 1879.

<sup>187</sup> CA, April 16, 1879.

probability be granted.”<sup>188</sup> As cheap labor fled and grass invaded fields, the principal chief was unwilling to explore alternatives, like the kind of sweeping executive order he had used against the courts. It was as editor Johnson put it in his not-so-non-impartial editorial: “Our relief is in the ballot box!” Liberals organized against radical traditionalists.

Cries for a liberal labor law (and land and immigration policy) resounded from every district and in every issue of *The Cherokee Advocate*. The backlash against radical traditionalism and its attempt at forcing egalitarianism could, in turn, devolve into a promotion of a liberal inequality. A contributor to the paper going by “Q” took a stab at the poor: “If you see fit, only to cultivate a patch and be poor—it is not a reason why your next neighbor should not cultivate a thousand acres and be rich. The [communal] land is here for you both.” Of course, to cultivate so much land, one needed to hire foreign workers, and Q spoke openly about how he was violating the Permit Law almost a full year after its passage. Q did so “at the risk of being sent to jail half the year” but insisted that “there are not less than three hundred men in this district that are just as guilty...no better than [me].” Still, to avoid “[being] ordered to appear before the Grand Jury and answer the charge of hiring U.S. citizens,” the author found an elegant solution: the pseudonym “Q.”<sup>189</sup> Q would write to *The Cherokee Advocate* throughout the summer of 1879, piling criticism upon criticism of the Thompson administration.

The labor shortage was then compounded by a summer drought, and the National Council of 1879 was asked to consider another round of per capita disbursements.<sup>190</sup> The wealthy and mysterious criminal, Q, was quick to write *The Advocate* reminding readers of the connection between the Permit Law and the famine: “‘They say,’ whenever any law against labor is made, that the next year, want and hunger are the sure attendants of many good people of this Nation.”<sup>191</sup> Once that hunger set in, another contributor from Cooweescoowee also blamed the “rough permit law that hung over our agricultural interests last year.”<sup>192</sup> Just as Ross had gotten an extra kick from the Grasshopper Plague, so too would the Downing Party suffer a rough combination of disasters natural and political.

A decade later *The Cherokee Advocate* would turn back to the self-imposed hardship: “A bad season emphasized the lack of outside labor with a very poor crop. To make up for the short crops caused by the anti-permit law, two hundred thousand dollars of the money derived from the ‘Outlet’ and which should have been invested for future use, was divided Per Capita to enable the people to buy bread. The people were disgusted with such management of their affairs...”<sup>193</sup> To rectify that disgust, the Q of 1879 asked readers to take note of one of the new political parties forming, the “National Independents,” who had cleverly branded themselves as “economists” at war with the “lovers of the national money bags.”<sup>194</sup>

It is unclear exactly who these “National Independents” were, but we can make an informed guess. The new “National Party” was formed in November of 1874 and committed itself to “a wise

---

<sup>188</sup> CA, April 16, 1879.

<sup>189</sup> CA, October 29, 1879.

<sup>190</sup> CA, November 26, 1879.

<sup>191</sup> CA, August 6, 1879.

<sup>192</sup> CA, January 21, 1880.

<sup>193</sup> CA, July 27, 1887.

<sup>194</sup> CA, August 6, 1879.

and liberal policy toward labor” to “favor the fostering of industry, the encouragement of enterprise, and the development of resources.”<sup>195</sup> At the time, the Nationals were the country’s first third party movement, but in June of 1875, the Ross Party announced: “This party now takes the name of ‘NATIONAL’ for the reason that the object of their organization has relation to measures, not men, as the first consideration.”<sup>196</sup> One organization temporarily swallowed up the other.

At least in name, the National Party transformed from a third party to one of the country’s two major parties. There are clear signs, however, that the merger was fragile. Turned off by Thompson, a few Southern Cherokees signed on to the new party, including J.A. Scales.<sup>197</sup> They likely felt uneasy sharing a party with Ross, while Ross himself would not stay in the National Party for very long. So long as Ross led the National Party, the “Ross Party” lived on.

In fact, many continued to refer to the “Ross Party” instead of the “National Party,” effectively ignoring the change. We know that the “National Independents” movement originated in 1879 in Cooweescoowee, the district most reliant on foreign labor, and we know that in 1879 William P. Ross helped to form a new party (the “Union Party”) after he was denied the Nationals’ nomination. We also know that Ross signed off on a restrictive permit law in 1874 *after* many in his party had committed to a liberal labor policy. It seems likely, then, that the “National Independents” organized to wrest control of the National Party from Ross and put one of their own in charge. This would also explain why so many Rosses were keen to join a new third party.

The Permit Law of 1878 unraveled Charles Thompson because he fundamentally misunderstood something about the nation’s immigrants. They were, and perhaps always had been, an important part of Cherokee Nation communities. As George Johnson put it in August of 1879,

“Ever since the days of Ocon-es-to-ta, the Cherokees have had white men living in their midst as farmers, mechanics, teachers, and preachers. It has been to our advantage, greatly so, as no candid man will deny. Many of these white men married, and remarried families, and their descendants are now as bright shining lights in a benighted region.”<sup>198</sup>

Despite the suggestion that white immigrants and their descendants were “bright shining lights” in a “benighted region,” Johnson’s take was actually quite powerful. Figures like John Oskison Sr. were not threats to the Cherokee Nation; to say so would be to dramatically understate the durability of Cherokee nationhood. Oskison raised Cherokee children and was a doting father. When he and his Cherokee family briefly moved back to California (where was no cheap land to buy), his dying wife asked that she be taken back to the Cherokee Nation—a request which he was able to fulfill in the nick of time. When Oskison Jr.’s Cherokee aunt encouraged the boy to spend more time with his monolingual family, Oskison Sr. obliged. Oskison Jr. was tutored by a recent graduate of the Cherokee Female Seminary, and his father gave him dimes to encourage his growing appetite for reading cheap reprints of books such as *Treasure Island*.<sup>199</sup>

---

<sup>195</sup> 1874 Platform of the National Party, August 12, 1878, James R. Hendricks Collection, Box 3, Folder 34, Western History Collection, Oklahoma University, Norman, OK.

<sup>196</sup> National Party Election Handbill, June 19<sup>th</sup>, 1875, James R. Hendricks Collection, Box 3, Folder 34, Western History Collection, Oklahoma University, Norman, OK.

<sup>197</sup> McLoughlin, *After the Trail of Tears*, 328.

<sup>198</sup> CA, August 27, 1879.

<sup>199</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 68, 71, and 81.



**Image 2.1:** John M. Oskison (left) and Will Rogers (right). Rogers is to this day one of Oklahoma’s best known cultural exports and is one of two Oklahomans in the U.S. Statutory Hall (the other is another famous Cherokee, Sequoyah, who could not have considered himself an Oklahoman at all). Oskison and Rogers were close friends as teenagers and their fathers worked together in the profitable stock ranching enterprise.

**Sources:** Patricia Yarbrough, “Oskison, John Milton,” 2010, *The Encyclopedia of Oklahoma History and Culture*; Will Rogers, undated, Library of Congress.

After building a small fortune from ranching, Oskison Sr. told his son he could go to school full time and board in Vinita. Jr.’s classmate and close friend was the legendary Will Rogers, son of Senator Clem Rogers, and the younger Rogers later quipped that “John Oskison was the only one we really got educated...”<sup>200</sup> Oskison Jr. was likely one of the first Native students at Stanford University, and he had a successful fiction writing career to boot. Most of his stories were about the Cherokee Nation and the U.S. West. In one of them, a friendly permit worker’s family joins the Cherokee protagonist in an actual battle with a white adoptee.<sup>201</sup> In short, John Oskison Jr. was by no means deprived by having an immigrant father. The Cherokee Nation, for its part, was surely better off with this immigrant’s contribution.

The Oskisons were just one of thousands of immigrants and adopted citizens who had no interest, nor anything to gain, in undermining Cherokee sovereignty. The Oskison’s neighbors were intermarried with German-Cherokee and Irish-Cherokee families.<sup>202</sup> Permit workers were essentially granted free land in exchange for being a vital component of the national economy, as

<sup>200</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 83 and 484.

<sup>201</sup> Brown, *Stoking the Fire*, 48-55.

<sup>202</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 70.

demonstrated in 1879. There was a path to citizenship as many permit workers married into the body politic, and by 1870s adopted white citizens and adopted Black citizens had served in the lower council house.<sup>203</sup> Adopted citizens voted in national elections, and both Black and white citizens were talked about as “controlling” demographics in certain corners of the country.<sup>204</sup>

Immigration did not upend the practice of maintaining the Cherokee language in the Cherokee courts and legislature, and it had not destroyed the communal land system. Some of the most famous Cherokee nationalists carried the names “Ross,” “Adair,” “Thompson,” “Downing,” and “Duncan.” These surnames were not indigenous to the Americas, but these descendants of immigrants helped protect Cherokee sovereignty until the turn of the century.<sup>205</sup>

The Radical Reconstruction of the Thompson administration presented itself in several other ways. The New Code of Laws passed in the winter of 1874, but two separate fires at *The Cherokee Advocate* and a Boston printing press meant that it would be impossible to procure Cherokee translations for monolingual readers in time. With good reason, this was unacceptable to full-blood lawmakers and the new principal chief, himself a monolingual speaker. Thompson also complained, with authority, that some of the existing translations were badly done, and would therefore be a burden on Cherokee speakers in a Cherokee country.<sup>206</sup> In December of 1875, just a month into office, Chief Thompson and the National Council made the egalitarian decision to suspend the New Code until August of 1876. While the laws were properly translated and printed, all Cherokees would continue to live under what they called the “Old Laws.”

Even before the fires, there were traditionalists such as Zeke Proctor—the central figure of the Going Snake Massacre—who opined that the New Code was nothing more than the Ross Party’s attempt to “put down and to keep down the other [party],” the Downings.<sup>207</sup> Many Southern Cherokees, who composed a wing of his own party, disagreed. The New Code was yet another feature of reform and modernization which made uncomfortable allies out of mixed-bloods in the Ross and Downing Parties.

Some of those figures in the Downing Party, however, held seats on the Cherokee Supreme Court. In the spring of 1876, they decided to jumpstart the New Code themselves. Two of the three court justices—both ex-Confederates—ruled in a criminal case that while the New Code’s penal law could not be enforced, the new procedures for how courts operated, and how they punished offenders had not been suspended. They held that the National Council had only suspended part of the New Code.<sup>208</sup> It would provoke a constitutional crisis.

---

<sup>203</sup> *The Evening News*, January 17, 1890. Starr, *History of the Cherokee Indians*, 276-283. The former source was a list of influential Cherokee men in politics—none of whom were Black, but one of whom was an adopted white.

<sup>204</sup> CA, March 12, 1890.

<sup>205</sup> Furthermore, they also helped to reestablish the Cherokee Nation in the late 20<sup>th</sup> century.

<sup>206</sup> Charles Thompson State of the Nation, November 13, 1877, *Cherokee Nation Papers*, Roll 56, Box 20, Folder 1730. Western History Collections, University of Oklahoma, Norman. In the same speech he called for the arrest of Americans living in a railroad depot town.

<sup>207</sup> CA, April 29, 1876.

<sup>208</sup> CA, April 8, 1876.



Chief Thompson wrote directly to Chief Justice Adair requesting that he reconvene the justices to reconsider their ruling.<sup>209</sup> It was an interventionist idea he had borrowed from the minority vote, Justice George Scrapper, who had written to the principal chief himself. Thompson wrote: “I think it would be advisable that you act promptly on [my] suggestion” and added that “it is hard to realize that the highest court we have in the Nation should, by mandate and example, so clearly and persistently violate a plain law, and thus treat the law-making power with marked disrespect...[it is] unbecoming a Court.” The chief was attacking the courts for “undermining” the National Council. Cherokee checks and balances were coming apart at the seams.

The Court published the letter and explained its ruling again. It added “the Court here must be allowed to express their belief that the second article of the Constitution provides for the protection of the Judiciary in their prerogatives from any intimidation...”<sup>210</sup> Instead of seeking a more diplomatic solution after being accused of “intimidation,” Chief Thompson ratcheted up the pressure. His executive secretary and translator, W. L. G. Miller, wrote to *The Cherokee Advocate* condemning the court in the strongest possible terms: “...defeating a constitutional law, to effect an object of some kind, adverse to the [National Council], and to the general interest...would be in effect treason, being nothing less than an attempt to subvert the government.”<sup>211</sup> After launching the word “treason” into the fray, Miller added a sentence which, in this context, threatened the Cherokee version of judicial review: “It is the duty of the Executive, to see that the law is faithfully executed.” That duty, he explained, included forcing the justices to interpret the law “correctly.” He finished by calling the chief justice’s intimidation charge “baseless.”

By the end of April, as the Supreme Court continued to operate according to its ruling, Chief Thompson took matters into his own hands. He released a stunning executive order. Instead of seeking a diplomatic resolution, instead of resolving the matter by passing a new law to clarify the matter, the executive office sought a slash-and-burn finale: “The judges of the supreme court,” he told the Nation, “...in their arrogance and disregard of law, have been trying cases of murder...[they] have caused great confusion and distrust. There is no country in the world, under the rule of a constitutional government, where such conduct would be tolerated.”<sup>212</sup>

He ordered the district sheriffs to report all cases of murder to the judges of the circuit court, and all other cases of crime to the local judge having jurisdiction “agreeable to the provisions of the old law...and in no instance report to the judges of the supreme court any case of crime until after the first of August, 1876.”<sup>213</sup> In other words, he reimposed localism. Thompson also ordered the local judges to subvert the Supreme Court’s ruling and resume their proceedings under the Old Law. The judges of the Cherokee Supreme Court were “required to respect the law, and forebear its further violation.” This was a full-fledged attack on the courts, and it was unseemly coming from just one man in the executive office. It also enraged many Southern Cherokees, including W.

---

<sup>209</sup> Editorial on the New Code, from the *Cherokee Advocate*, April 8, 1876, Oochalata Collection, Box O-20, Folder 5, Western History Collection, Oklahoma University, Norman, OK. *The Cherokee Advocate* obtained and published copies of every letter sent back and forth between the principal chief and the supreme court justices. The letter from the executive office cited here is dated February 12, 1876.

<sup>210</sup> Editorial on the New Code, from the CA, April 8, 1876, Oochalata Collection, Box O-20, Folder 5, Western History Collection, Oklahoma University, Norman, OK.

<sup>211</sup> Ibid.

<sup>212</sup> CA, April 29, 1876. This issue printed Thompson’s executive order against the Cherokee Nation Supreme Court.

<sup>213</sup> CA, April 29, 1876.

P. Boudinot, who saw it as an attack on liberal progress.<sup>214</sup> This was the Cherokee's very own "now let him enforce it" moment.<sup>215</sup>

More disturbingly, Thompson suspended Chief Justice Adair four days prior to the order, and a week later, newspapers reported that Justice Fields was being charged with an unspecified crime.<sup>216</sup> That charge would be dropped within a month, but it seemed an improbable coincidence.<sup>217</sup> Indeed, with the Supreme Court the only branch of government not toeing the line, there seemed to be a revolving door at the court for the next year. The Supreme Court had three different chief justices come and go before the year's end, at which point Adair was reinstated as the fourth, before being suspended again the following October. The early historian of the Cherokee Nation, Emmett Starr, had to provide an explanation for the rapid changes in the court. He did so with a simple but elusive explanatory note: "This was part of the wholesale suspendings [sic] at the instance of W. L. G. Miller [Thompson's executive secretary]."<sup>218</sup>

It is worth remembering that Thompson did all of this to protect and promote the rights of full-blood citizens, a commitment which he maintained throughout his leadership. In his first month of office, he passed a bill making *The Cherokee Advocate* free to monolingual speakers, an important law which would stay active and promote Cherokee culture until denationalization forced the paper's end.<sup>219</sup> Thompson was proud of being a monolingual speaker, and shared this pride openly with U.S. officials. Even in communications with Americans, he celebrated that a majority of the National Council spoke Cherokee, and what is more, he celebrated that *he* only spoke Cherokee.<sup>220</sup> Chief Thompson demanded that the (already expensive) Cherokee delegations be increased by two so as to guarantee two spots for Cherokee full-bloods and "half-breeds."<sup>221</sup> When the United States delayed on removing intruders, Thompson authored a furious 103 page letter to the Commissioner of Indian Affairs lambasting him for inaction.<sup>222</sup>

Early in the administration, mixed-bloods in the government may have embraced this traditionalist, nationalist pride. In 1876, a delegate in Washington wrote back to the Nation complaining about how "as a last resort, the [territory] fellows ridicule the names of the members of this council." He admitted that "[the Indians] have some very funny names...but they [the whites] also have such names as 'McIntosh,' 'Adams,' 'Johnson,' 'Bean,' 'Hicks,' 'Markam' &c. &c. in their council." The delegate continued to mock the American names across the legislature and in the White House "to show how very unjust it is to *underrate* Indians on account of names

---

<sup>214</sup> William P. Boudinot had been reappointed editor of *The Cherokee Advocate* after the 1875 elections, but unlike after the Civil War (when Boudinot embraced Downing's leadership), Boudinot took an indirectly critical stance toward Thompson's traditionalist policies (as the government-run newspaper was not allowed to be partisan). Reporting favorably on the Southern Cherokees of the Supreme Court (in multiple issues in the early part of 1876), Boudinot lamented that the New Code was not yet in effect while crime was so rampant.

<sup>215</sup> The quote is a reference to the apocryphal story that Andrew Jackson said this after *Worcester vs. Georgia* (1832).

<sup>216</sup> CA, May 6, 1876

<sup>217</sup> CA, May 27, 1876.

<sup>218</sup> Emmett Starr, *History of the Cherokee Indians*, 293.

<sup>219</sup> CA, March 1, 1876. Law is printed in that issue.

<sup>220</sup> Thompson to J. Q. Smith, September 12, 1876, Oochalata Collection, Box O-20, Folder 20, Western History Collection, Oklahoma University, Norman, OK.

<sup>221</sup> Press copy book from the Executive Department, December 3, 1878. *Cherokee Nation Papers*, Roll 22, Box 66, Folder 2306. Western History Collections, University of Oklahoma, Norman.

<sup>222</sup> Charles Thompson to J. Q. Smith, January 1877. *Cherokee Nation Papers*, Roll 18, Box 52, Folder 1527. Western History Collections, University of Oklahoma, Norman.

and to show in that regard they are like the white race..." Satisfied that he had made his point, the delegate signed off with his Cherokee name: "Yours truly, Or-gun-stau-tah."<sup>223</sup> In the same issue, the *Advocate* announced a baseball game "between the De-Le-Yah Sti-gi-ga-ge's of Tahlequah and the De-le-yah Sa-ka-ni-ge's of the Male Seminary. All are invited to witness the contest."<sup>224</sup> In later years, Cherokees would use the teams' English names instead.

But support faded when radical traditionalists directly threatened mixed-blood families. Thompson's allies, for example, attempted to pass a bill imposing a \$500 fee to marry a Cherokee citizen, which would have effectively made intermarriage (and therefore naturalization) illegal. It was yet another measure aimed at stopping the influx of foreign immigrants and another slight of adopted white citizens. This measure and a traditionalist revision of the New Code were both too radical for Chief Thompson. The radical marriage bill passed and then floundered while the traditionalists' revision of the New Code passed over his veto.<sup>225</sup>

In this way, the Thompson administration also stepped away from the "civilization" process. For decades, Indian nationalists had cited "civilization" as one of the main reasons to uphold their autonomy (as they always needed more time to become more like Americans). Both U.S. lawmakers and Cherokee nationalists argued this point repeatedly throughout the century; John Ross had always pushed back against foreign interference with assertions that it would damage Cherokee "progress." Such points were so integral to protecting Cherokee sovereignty that people like John Ross probably did believe them. For Chief Thompson and his allies to reject that logic, to flip it upside down for four short years, was risky and revolutionary. Promoting nationhood and traditions was unusual in Cherokee history.

Thompson's administration must also be given some credit for defeating the territory bills just like his predecessors Lewis Downing and William P. Ross. When Thompson had been running for election in 1875, it had been his stated goal to rein in Cherokee delegations as an exorbitant expense. But campaigning was easier than governing, and cutting any funds for the delegation was a risky move. In 1876 W. P. Boudinot lamented that Cherokee delegations at "every session of Congress [was] an indispensable institution."<sup>226</sup>

Thompson looked elsewhere for places to cut expenses, but the reality was that the government had very few of the conspiratorial "leaks" that he and others had imagined. By deciding not to cut the delegations' expenses, Chief Thompson assured that by 1879 Congress beat out the remainder of the territory bills.<sup>227</sup> The cost of this, however, was that as Congress turned its sights toward a general allotment bill, while the Downing Party had failed to find a fix for the national budget. In the meantime, the public debt had reached new highs.

Successfully protecting Cherokee sovereignty, however, did not shed light on what kind of nation was being protected. The sometimes inspiring, but appalling failure of Cherokee Radical Reconstruction made that even less clear. The moderate "Rossian" vision of Cherokee nation-

---

<sup>223</sup> CA, June 24, 1876.

<sup>224</sup> CA, June 24, 1876.

<sup>225</sup> McLoughlin, *After the Trail of Tears*, 345-346.

<sup>226</sup> CA, July 8, 1876.

<sup>227</sup> Tom Holm, "Indian Lobbyists: Cherokee Opposition to the Allotment of Tribal Lands," *American Indian Quarterly* 5, no. 2 (1979) 115-134.

building was dead, but so too was its killer, radical traditionalism. The future of the nation was up in the air, and there was no telling what direction it would go next.

The Permit Law and the other controversies of Radical Reconstruction wrecked the cohesion of the Downing Compromise and permanently unsettled the standard political factions. New political parties sprung out of nowhere. In March of 1879, *The Cherokee Advocate* reported on how politics had become hyper-localized and discombobulated: “They have the ‘National Independent Party’ in Cooweescoowee. The ‘National Party’ in Illinois [District]. The Cherokee Union Party in Tahlequah. The Independent Party in Flint. The Boy Party in Going Snake. These besides the old Ross and Downing Party.”<sup>228</sup> One contributor predicted that when all was said and done four political parties would compete.<sup>229</sup> Another suggested that by the time of the election, the several parties would settle and coalesce into the “old Ross and the Downing parties, all other parties [being] swallowed up...”<sup>230</sup>

That guess was half-correct. The political fragments would indeed reassemble into two parties, but the old Ross and Downing were beyond repair. As the country realigned, the Ross Party disappeared forever, and the Downing Party crumbled soon afterward. Radical Reconstruction had destroyed the first two party system. The new parties were on the rise.

By November of 1879, the Permit Law, or what the Cherokees called “the labor question,” was the “principal question” of the much-anticipated election.<sup>231</sup> A consensus would slowly emerge that the “very poor crops” of 1879 were “caused by the anti-permit law.” Furthermore, “two hundred thousand dollars which should have been invested for future use, was divided Per Capita to enable the people to buy bread...[and] the people were disgusted with such management of their affairs.”<sup>232</sup> In a situation, the obvious solution seemed to be to liberalize the country, invite permit workers back, and do everything one could to increase productivity again.

The widespread desire to liberalize the country’s immigration, labor, and land policy meant that the country’s newest party found its perfect political climate. The National Party, which had been formed in the summer of 1874, promoted a liberal policy toward labor and a careful investment in the national trust funds.<sup>233</sup> They believed in keeping the communal system, but also making it profitable. Their leader was one of the most liberal voices in the country: the cosmopolitan Californian, Dennis Bushyhead.

### **End of Reconstruction (1879)**

People expected big things from Dennis Wolfe Bushyhead. At the age of twelve, his influential preacher father led him and 1,000 Cherokees on a march to the new western nation. Just three years later, the young Bushyhead was sent back East to school in New Jersey and was simultaneously selected to join the Cherokee delegation to Washington. There, the fifteen-year-old Bushyhead attended the inauguration of William Harrison, before continuing his education

---

<sup>228</sup> CA, March 19, 1879.

<sup>229</sup> CA, March 12, 1879.

<sup>230</sup> CA, April 9, 1879.

<sup>231</sup> CA, June 27, 1887.

<sup>232</sup> CA, June 27, 1887.

<sup>233</sup> McLoughlin, *After the Trail of Tears*, 327-328.

abroad for three more years. He was, of course, not really a delegate, but his inclusion as a teenager showed something more interesting. Ross or his father or both had wanted Bushyhead to get an early taste of America.<sup>234</sup> They had big plans for him.

When Bushyhead returned to the Cherokee Nation in 1844, he traveled with the Cherokee delegation yet again. When the group reached Arkansas, the eighteen-year-old received the news of his father's passing. This was one of his strongest memories as a youth before leaving the country. He worked as a store clerk for Lewis Ross, and served as a clerk to the Cherokee Senate, but his steady rise in standing was not enough to keep him there. In 1849 he decided to leave for California to take part in the Gold Rush. In choosing fortune over salvation, he departed from his father. He would be cut off from his people for two decades.

Bushyhead traveled with thirteen Cherokees, but only three survived the journey. He worked in placer mining near Sacramento all these years until, in 1868, he sailed from San Francisco to New York (by way of the Panama Isthmus) before continuing to Fort Gibson. When he arrived, he took over the mercantile business of his brother who had recently been killed. He had vanished in his early twenties and returned in his early forties.

But despite this long absence, soon after returning home Cherokee nationalists began to realize, again, Bushyhead's promise. William Ross was supposedly the first to do this, picking up where his uncle left off. Bushyhead was elected National Treasurer with unanimity in November of 1871. He served in that role for eight years under Lewis Downing, William Ross, and Charles Thompson—each the leader of a different political party. Even then, he was exceedingly popular. Part of the reason for this was probably his absence. His father had been a staunch Ross supporter, but Bushyhead himself had ties to neither the Union nor the Confederacy.<sup>235</sup> Every principal chief before Bushyhead was a Loyal Cherokee; every principal chief after Bushyhead had strong ties to the Confederacy. The Cherokee government was sliding toward Southern politics, and Bushyhead was the steppingstone away from both whiggish Ross politics and radical traditionalism.

When Bushyhead ran for principal chief in 1879, the country was at risk of bankruptcy. By the fall, the government would be \$210,000 in debt. Because of excessive delays in repayment, Cherokee script was then worth between 25 and 40 cents on the dollar, meaning that Cherokee citizens had lost approximately \$135,000 collecting on debts their government owed them. The National Treasury, meanwhile, still had to pay every single cent that it owed to the new holders of that debt. The creditors' risk was that the government would fail to pay its obligations at all.<sup>236</sup> Here was a Native nation of the West whose very existence depended not on its ability to repel intruders or fight off soldiers, but on its ability to correct its path toward financial ruin.

It was a scary thing to confront this debt and devaluation of the currency, while also battling territory bills in Congress. Back in 1876, when Cherokees were hearing a rumor that increased salaries under the New Code were draining the treasury, Boudinot stepped into correct the record. Those salaries had not gone into effect yet, he wrote, but, he admitted:

---

<sup>234</sup> Brief Autobiography of Dennis Bushyhead, 1880s, Dennis Bushyhead Collection, Box 3, Folder 26, Western History Collection, Oklahoma University, Norman, OK.

<sup>235</sup> John Bartlett Meserve, "Chief Dennis Wolfe Bushyhead," *Chronicles of Oklahoma* 14, no. 3 (1936), 349-360.

<sup>236</sup> Bushyhead's Platform Speech for the 1879 Election, July 31, 1879, Dennis Bushyhead Collection, Box 2, Folder 63, Western History Collection, Oklahoma University, Norman, OK.

“It is a good sign, however, to see the people waking up to their finances...every officer of the nation in his peculiar province, is to be regarded as more or less responsible in regard to the public expenses...[And] With a treasury as full as ours was expected to be, and as empty as it is, there must be either an excess of fingers in the public pocket, or, what is much more serious, there must be some hidden holes in the bottom of it...[but it seems] the poor condition of our finances is indicative rather of carelessness than of anything worse...”<sup>237</sup>

Protecting the country’s finances was just as important as sending delegations to Washington to fight territory bills, and, a matter of fact, doing the latter required the former.<sup>238</sup> “The life of a nation is in its revenue,” he added.<sup>239</sup>

Bushyhead ran for chief on this problem, carefully explaining all of this as he delivered his speeches for candidacy in the summer of 1879. He was the “only treasurer who [had] settled with the Council since the war,” and he had received a grand total of \$1.5 million in seven and a half years of work, “a much larger sum than any treasurer of this Nation ever [received]...”<sup>240</sup> Since the war’s end, Downing and Thompson had successfully sold themselves as Loyal Cherokee war heroes and parliamentarians. Bushyhead would smartly paint himself as the successful ex-treasurer whose main principle in life was “to endeavor to always live within [his] means.” The same principle, he offered, could be applied to governments.

Cherokee finances also had to be reformed. “It [‘our financial matters’] is the life of our Nation,” he explained. Cherokees were going to bring in revenue from lands in Kansas and the Outlet, but soon those pools of money would run dry. There would be “no more land to pay future indebtedness,” he cautioned. The sale of land was not a sustainable way to protect the country’s finances, nor was it a positive form of economic planning. Bushyhead wanted to build up the government’s revenue. His father was devoted to God; Bushyhead was devoted to finances.

The conditions were perfect for a third-party upset. The wealthy Upper Districts were in an uproar over the permit law, and Bushyhead spoke their language of liberalism. Contrary to what other historians have written, Charles Thompson did not resign from politics, but instead either abandoned the Downing Party or was forced out of it. Astonishingly, he would run for Assistant Chief on the newly ascendant “Union Party” ticket—which had William P. Ross as its candidate for chief.<sup>241</sup> The Downing Party (or perhaps the rebranded “People’s Party”) looked desperate in putting up a relative of Lewis Downing (Huckleberry Downing), while it was inescapably obvious that a falling out had occurred between the current principal chief and the party leaders. The

---

<sup>237</sup> CA, March 1, 1876.

<sup>238</sup> CA, July 8, 1876.

<sup>239</sup> CA, March 1, 1876.

<sup>240</sup> Bushyhead’s Platform Speech for the 1879 Election, July 31, 1879, Dennis Bushyhead Collection, Box 2, Folder 63, Western History Collection, Oklahoma University, Norman, OK.

<sup>241</sup> CA, June 18, 1879. In U.S. politics, it seems strange that someone who was already chief would run for Assistant Chief. In Cherokee politics, it made more sense. The original Downing Compromise had supposedly suggested that full-bloods and Southern Cherokees exchange the chieftaincy every four years. This rule was never honored. During Reconstruction, ex-Union full-bloods monopolized the chieftaincy. During the 1880s, 1890s, and early 1900s, the ex-Confederates who claimed continuity with the original Downing Party also violated their promise to exchange the office with full-bloods. In this case, then, the Union Party seemed to be living up to its unusual rule, though it probably also did so because Charles Thompson was so unpopular (and could not be allowed to run for chief again).

Nationals seemed to have the only organized party in the country. It is very likely that the full-blood vote was split between the Union and Downing Parties, providing a clear path for someone who was the antithesis of Charles Thompson.

Bushyhead won the chieftaincy, and Cherokee Reconstruction came to an end. There would be no more ex-Union principal chiefs; there would be no more full-blood chiefs; there would be no more talk of land redistribution. Full-blood radical traditionalism, which had truly been at the center of national politics for four years, returned to the margins. Immigration, business, and the pursuit of profit would be encouraged. The second party system would agree on this much.

This was also the end of constructing new social welfare projects. For all his anti-statism, Chief Thompson had assisted in the rebuilding of the *Cherokee Advocate* printing office and the final completion of the Insane Asylum. Toward the end of his term, he had learned to use the new public institutions to enforce a traditionalist and egalitarian agenda (e.g., the National Prison's role in threatening land monopolists). In this way, small pieces of Ross and Downing's reconstructionist policies were carried over into the Thompson administration.

But from 1879 onward, while government expenses would increase greatly, public funds were mostly channeled into the pre-existing institutions. A large remainder went to per capita disbursements, which were already a fundamental part of governing. The nation-building in the 1880s would increasingly be driven by private enterprise spurred on by frequent injections of government cash. A Cherokee Gilded Age was emerging, and the California chief welcomed it.

Herein lies the mistake of past Cherokee scholarship. 1879 was the final year of a tumultuous, stressful, hateful, violent, and existential decade. Many Cherokees and westerners had expected a territory bill to pass, and both were genuinely surprised when Congress refused to take that step. But 1879 was not an endpoint by any metric. It was as much a terminus for Cherokee nation-building as the Compromise of 1877 was the final word on the postwar South. The end of Reconstruction did not usher in the "twilight of sovereignty" in Cherokee history.

Additionally, too much was left unsaid for ambitions to go quiet. Black Cherokee, Shawnees, and Delaware citizens were still adamant to obtain their rights. Traditionalists were stunned by the firestorm against the landmark Permit Law and would see the world turned upside down before the year's end. Southern Cherokees were relieved to be free of Thompson, but the executive office still eluded them. Adopted whites would have lingering anxieties about how the Nation had scapegoated them for land monopolies, and the permit workers who fled the country may have been hesitant when called to return. Bushyhead was the most popular chief of the postwar era, but he meant different things to different people. The future remained unclear.

On November 10<sup>th</sup> of 1879, Bushyhead delivered his first annual message. He stated in no uncertain terms that he would make the communal lands profitable:

"Agriculture and stock raising must ever remain the true source of our personal wealth. Therefore there pursuits should be fostered and encouraged...How best to make the common domain most profitable to each citizen...should be your especial care....all citizens have an equal right in [the common domain] and to a profitable use of it."<sup>242</sup>

---

<sup>242</sup> CA, November 26, 1879.

Many years before, John Ross had spoken with suspicion of the “capitalists” who wanted to exploit the Cherokee countryside. Now a liberal principal chief wanted to emulate that very thing, to unleash resource extraction and immigration, ostensibly for the benefit and profit, of the people.

Coming off the heels of Thompson’s failed reforms, these ideas were popular. Earlier in the year, George Johnson had proclaimed: “The Cherokee Nation is the most liberal body politic in the world.”<sup>243</sup> It was an overstatement, of course, but it reflected the general mood. The “Liberal Decade” had just replaced Cherokee Reconstruction.

---

<sup>243</sup> CA, September 24, 1879.



### Chapter Three: Reconstructionist Foreign Policy (1866-1879)

In November of 1869, an Osage delegation wrote to the Cherokee National Council. Mere rumors that the Osage were selling “[their] country” to the United States had resulted in a wave of white settlers intruding on their lands: “[They have] laid out towns and cities and in short have made it impossible for our people to live there—in consequence we have moved farther south and are now upon the lands of the Cherokees.”<sup>244</sup> The delegates’ message was one of understandable desperation, but also one of strained familiarity and friendliness:

“We have nowhere else to go—we have no country of our own...we have no friends but the Cherokees...we therefore humbly petition that you will remember that we are brothers—that we were also once powerful—and are now homeless—that you will not drive us from your Country—but let us shelter our woman and children in your western country until the U.S. shall deal more justly with us and assign a home.”<sup>245</sup>

It was a request for asylum and relief from an endless settler colonization. They wanted their family members to be safe from harm (on Cherokee lands) while they waited for a new country to call home. There was a hint of a foreboding in the letter, as the Osage reminded the Cherokee “that we also were once powerful.” The cruel irony of all this was that the Osage were the original inhabitants of the territory to which Cherokees were forcibly removed. By 1869, that troubled history was declining in relevance, as Osage and Cherokee nationalists increasingly cooperated against an aggressive United States. This desperate letter marked the beginning of a new chapter in that relationship.

The Osage were not alone. After the war, the U.S. accelerated the Removal process, moving over two dozen Native nations into Indian Territory, or modern-day Oklahoma. Even before the ethnic cleansing of Kansas and Nebraska began, Cherokee officials knew what was about to happen. Living in Kansas during the war, Loyal Cherokee refugees heard the familiar cries for Indian Removal, and after the war, the negotiations for the Treaty of 1866 constantly returned to the subject of *other* tribes needing to be resettled on to Cherokee land.<sup>246</sup> Upon ascending to the chieftaincy, William Ross warned Cherokee lawmakers that the “protracted war” which had “desolated the land” would very soon be followed by a “material change in the policy of the Government toward the Indians.”<sup>247</sup> He was referring to the acceleration of Indian Removal, and he issued the warning because he thought, like it or not, Cherokees would be made to play a leading role. He was right. Out of the twenty-six postwar removals, the Cherokee Nation was to be directly involved in nine of them.<sup>248</sup>

---

<sup>244</sup> Petition of the Osage Nation delegation, November 10, 1869. *Cherokee Nation Papers*, Roll 22, Box 66, Folder 2273. Western History Collections, University of Oklahoma, Norman.

<sup>245</sup> *Ibid.*

<sup>246</sup> Moulton, *John Ross*, 177-178.

<sup>247</sup> William P. Ross First Annual Message, CHN 8, Volume 251, Cherokee National Records, Indian Archives, Oklahoma History.

<sup>248</sup> A factor which complicates the counting of removals is the eastern holders of the Southern tribes. North Carolina Cherokees and Choctaws who also never removed made “second” removals in the postwar years. With the removing Choctaws the count would be nine out of twenty-seven.

In the earliest years of Reconstruction, Cherokees embraced the idea that their republic—which was now multi-racial—should altruistically invoke “Article 15” of the Treaty of 1866. This provision was intended to facilitate the removal of even more Native peoples to Indian Territory and allowed Cherokees to grant asylum and citizenship to foreign Indians. These were victims of Indian Removal just like the Cherokee. Leaders had warmed to the idea of a nation of citizens “native and adopted,” living under a system “friendly to the rights of every color.”<sup>249</sup> Between 1866 and 1871 there was a moment of tolerance in the Cherokee Nation.

As time wore on, however, this accommodating approach attracted more and more Cherokee critics. By 1871, Cherokees turned their back on foreign tribes and instead invoked a different provision of the 1866 Reconstruction treaty: “Article 16.” Article 16 allowed the Cherokee Nation to sell parcels of their Outlet lands to removing nations, instead of granting them asylum within the nine residential districts. So located, such newcomers would remain autonomous on their newly purchased territories but would not benefit from joining a pre-established community and would not be granted Cherokee citizenship.

Ironically, under both approaches postwar Cherokee nationalists accepted Indian Removal as a necessary evil in the face of widespread calls for ethnic cleansing and extermination of Native peoples. Meanwhile, many westerners—with their own spat of irony—opposed any further removals on the grounds that these forced migrations assisted in the consolidation of Indian Territory. Indian Removal as federal policy only ceased when support for general allotment intensified in the halls of Congress.<sup>250</sup> Lawmakers increasingly hoped to “civilize” the Indian where he already was, but nor could he keep all his lands. If Indian Removal suggested that separateness would save the Indian, allotment suggested the opposite, and so Native peoples needed white neighbors. They needed allotment. They needed their land taken and redistributed.

The end of Indian Removal, therefore, extracted a heavy and ironic cost for Native nations. As Removal faded, Indian Territory, as the established home for removed peoples, lost its *raison d'être*. The first victims of the Removal policy, now democratic republics, now ironically suffered the loss of the policy. The government’s “Greater Reconstruction” of Indian Territory ended.

Unlike the Reconstruction of Chapters One and Two, the postwar removals discussed in this chapter were both Cherokee and U.S. projects—a Greater Reconstruction with multiple actors. Were it not for the Civil War and the Reconstruction Treaty of 1866, Cherokees would not have relaxed their ethnonationalist approach to citizenship. They would not have become a nation of new citizens with a body politic including Freedmen, Delaware, Shawnees, and other Indigenous

---

<sup>249</sup> CA, October 17, 1874. Quoted here is a segment of William Ross’ speech to a gathering in Vinita, during which he also condemned violence against African Americans in the South.

<sup>250</sup> 1879 was not just a watershed moment in Cherokee politics (with the end of Cherokee Reconstruction and the decisive rise of economic liberalism in Cherokee planning—see Chapters One and Two). 1879 was also a turning point in two kinds of congressional legislation: territorialization and general allotment. Throughout the 1870s, westerners repeatedly attempted and failed to pass multiple bills transforming Indian Territory into a federal territory; they hoped to destroy Indian nations’ sovereignty and open the floodgates for unrestricted white immigration in the process. These bills started to disappear in 1879 as—for reasons this chapter will address—both easterners and westerners shifted their focus toward the General Allotment Act (which was passed eight years later in 1887). General allotment as a policy was diametrically opposed to the Indian Removal policy and was supported by anti-Removal constituencies. They could not coexist except under extenuating circumstances (e.g., the Fort Sill Apache). I draw part of my argument that 1879 is an important year for federal-Indian policy changes from Tom Holm’s “Indian Lobbyists.”

immigrants. In this Reconstruction, the United States and the Cherokee Nation were obviously unequal partners. The federal government hoped to remake the West from afar, using the Treaty of 1866 to enlist Cherokee support. For their part, the Cherokee would be tasked with governing the new treaty citizens fairly or selling surplus lands to Indian Territory's most recently dislocated nations—their new neighbors. Ultimately, the U.S. turned away from this project, from its cooperation with the Cherokee, from its commitments to Indian Territory, from its Reconstruction of Indian Territory, and finally from the project of Indian Removal in 1879.

### The Promise of Indian Territory

Daniel Ross, another nephew of John Ross, was astounded by what he saw in August of 1872: “On the morning of the 24<sup>th</sup>, small bands from various tribes began to arrive, and by night the beautiful plain all around was animate with hundreds of horses and mules while along the banks of the serpentine creek camp fires blazed up and the hum of many voices in various dialects attested the fact that a grand gathering of red men had commenced.”<sup>251</sup> Some of the Native diplomats hesitated in the final moments before the council. The Kiowa and Comanche, for instance, had spotted “seven hundred” U.S. soldiers on their approach, and for this reason they nearly withdrew. Some of the tribes in attendance—such as the Cherokee—had enjoyed decades of stable permanence in Indian Territory, while others—such as the Kiowa—had called “Indian Territory” their home long before it was ever designated as such. These nations with significantly different histories gathered with the United States near present day Anadarko to negotiate an end to Kiowa raiding. Their togetherness symbolized both the U.S. and Indigenous purpose of Indian Territory as the “final resting place” for Native peoples fleeing colonialism.

About a dozen nations were represented. The Cherokee, Muscogee, Seminole, Kiowa, Comanche, Apache, Caddo, Cheyenne, Arapaho, Wichita Affiliated tribes, “Quarle,” “Nocone,” “Yaparrika,” “Weegune” and the United States all participated.<sup>252</sup> “To give you some idea of the number of Indians who attended...” Ross wrote, “we will add that one hundred and fifty beeves were consumed, thirty-five barrels of sugar, and coffee and flour in proportion.” Ross also explained why so many Indian nations were invited to what was really a Kiowa issue: “One of the leading objects of the Commission was to encourage and strengthen these *middle men*,” such as the powerful Cheyenne, “to keep the peace themselves and induce their brother the Kiowa to do

---

<sup>251</sup> CA, August 31, 1872.

<sup>252</sup> For basic information about how each of these nations came to Indian Territory, consult the following texts. For a good and recent summary of the Five Nations' removals, see Claudio Saunt, *Unworthy Republic: The Dispossession of Native Americans and the Road to Indian Territory* (New York: W. W. Norton and Company, 2020). For an account of the ethnic cleansing process which led to Comanches, Kiowas, Yamparicas, Quahadas, and Naconis relocating to Indian Territory, see Gary Clayton Anderson, *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875* (Norman: University of Oklahoma Press, 2005). See also Pekka Hämäläinen, *The Comanche Empire* (New Haven: Yale University Press, 2008). The latter text focuses on Comanche history (rather than the imperial processes), a move which showcases more of the Comanche's dramatic rise and fall as a polity. For the Caddos and Wichitas, see F. Todd Smith, *The Caddos, the Wichitas, and the United States, 1846-1901* (College Station: Texas A&M Press, 1996). For Cheyenne, see Donald J. Berthrong, *The Southern Cheyenne: Reservation and Agency Life in the Indian Territory, 1875-1907* (Norman: University of Oklahoma Press, 1963); John H. Moore, *The Cheyenne Nation: A Social and Demographic History* (Lincoln: University of Nebraska Press, 1987). These texts can also be used to understand how the Arapaho were removed to Indian Territory, but an additional resource can be found in Virginia Cole Trenholm, *The Arapahoes, Our People* (Norman: University of Oklahoma Press, 1986). For the Apache, see Donald E. Worcester, *The Apaches: Eagles of the Southwest* (Norman: University of Oklahoma Press, 1979); Paul Conrad, *The Apache Diaspora: Four Centuries of Displacement and Survival* (Philadelphia: University of Pennsylvania Press, 2021).

the same.” Toward the end of the council, the Kiowa agreed to return white captives, appoint a delegation to Washington, and return to their Agency in Indian Territory. In exchange they only asked that the Americans finally release the Kiowa chief Satanta, a request which was fulfilled.<sup>253</sup>

Throughout all of this, the Five Nations played their roles. Daniel—a frequent delegate to Washington—was made secretary of the commission while Colonel Chilly McIntosh (Muscogee) was made permanent chairman. At one point in the talks, Colonel Jumper of the Seminoles spoke on behalf of the commission, while McIntosh, Black Beaver (Lenape), and George Washington (Caddo) urged the Kiowas to accept the offered terms. None of the Five Nations could offer anything like what the Cheyenne could—that is, military strength—but it seemed that their degree of “civilization” and wealth entitled them to central roles. The Cherokee, Muscogee, and Seminole were there to demonstrate the happy “end-result” of accepting the settled, agrarian, and even autonomous lifestyle of Indian Territory.

The council was a diplomatic coup for the tribes of Indian Territory, but it was perhaps especially so for the Five Nations. If Indian Removal had originally been intended to “civilize” in separation, then the Five Nations’ growing similarity to white Americans was a growing liability. Indeed, decades after this council meeting, as Congress debated denationalization in the late 1890s, the corrupt and inauthentic “white Indian” was repeatedly conjured. In joining these talks, the already “civilized” nations discovered their new purpose. Tribes like the Cherokee could not be denationalized by the United States because their “younger” brothers supposedly required mentorship. Especially in the postwar decades, this idea helped power forward the sovereignty of Indian Territory, the Cherokee Nation, and all its “sister nations.”

For instance, in the middle of the talks, a Chickasaw Nation household was raided by Comanches who carried off twenty-two stolen horses. This had the potential to put a damper on the news that Kiowas would return their white captives and foreswear excursions into Texas, but the victim contacted the Comanche’s supervising agent who in turn contacted the Peace Commission. The commission discussed the matter and quickly determined who was responsible. That same evening the stolen property was located, and the next morning thirty-two hoses were presented to the victim of theft. For reasons made clear, *The Cherokee Advocate* reported on the story with delight: “[This is] how Indians sometimes do up business among themselves.”<sup>254</sup>

This was the image Cherokees cultivated in the West, but it was not the upper limit of their aspirations. Long after the Civil War, even decades after the end of treaty-making, Cherokees remained committed to the idea that their nation was like any on Earth. At the “Centennial Celebration” of the United States in 1876, the Cherokee delegates attended with the aim of making friends in high places. Writing back home to the Nation, the delegates shared that they had “expected to meet Queen Victoria and Emperor William there, by previous engagement, and hoped also, to meet Dom Pedro, and render to him a fitting apology for not having greeted him in *person*, a few days ago, on his arrival to the shores of America.” Victoria and William were not there, but Dom Pedro was, “hiding himself behind the President’s cottail, [so] that it was impossible for us, to pay our apology to him, except in a general way.” Western and worldly matters collided here—the delegates showed disdain for the horse Custer rode “when he captured, ‘Black Kettle’s’ outfit

---

<sup>253</sup> CA, August 31, 1872.

<sup>254</sup> CA, August 31, 1872.

of sick women and children in the Indian Territory” (and this was just a month before the Battle of the Little Bighorn). Another marveled at the dozens of foreign nations represented, “speaking all their languages and revealing their peculiar habits and manners.” He had approached many foreign visitors and delighted in that “no one seem[ed] too busy to answer an inquiry.”<sup>255</sup>

Neither slights from foreign dignitaries nor scattered conversations with travelers convinced the Cherokee that theirs was not a real nation. In fact, it was quite the opposite. In the postwar era, Cherokee nationalists learned more and more about the world beyond the United States, and these lessons further convinced them that “our influence, small as it may be, should be felt among the great nations in shaping up the affairs of the world.”<sup>256</sup> At this point in time, the Cherokee Nation was still larger than Denmark, though it was significantly less populated. Nationalists compared their struggle against the United States to that of Poland, Cuba, Crete, China, and others.<sup>257</sup> The same Ann Shelton discussed in the introduction expressed her deepest sympathies for the Turks in their war 1877 war against Russia.<sup>258</sup> When the French monarchy fell in its 1870 war against Prussia, the Washington delegation remarked that “the dismemberment of Empires and the rising of Republics seems to be the final issue of that gigantic struggle...[though] it must be a consolation to you to know that it occurs far too off to imperil the Nationality of the Cherokee Nation or compel you to take sides against your will.”<sup>259</sup>

The Cherokee doctor W.A. Reese delivered a passionate speech to the Cherokee Farmers’ Club on this very subject. “Monarchy,” he exclaimed positively, “can no more rear its Hydra head over the French people.” Comparing this to the Cherokee experience of the Civil War, Reese added: “Our own country recently passed through a fiery ordeal, and though relieved of our incubus to its perfect development, much remains to be done before it can take the position among nations that it should as the Pioneer and model Republic.” He imagined that Cherokees were joining the “civilized” countries of the world, and that the “Red Man, then untutored, now enlightened, a Christian, [had] enlisted in the grand army of Progress, and [was] doing service side by side with the Caucasian.” Together, progress and Christianity would soon “penetrate pagan Asia, idolatrous Africa, [and] superstitious South America.”<sup>260</sup> Whether it was France falling back into a republicanism which Cherokees had long enjoyed, or “idolatrous Africa” being missionized, Reese imagined that the Cherokee story of national progress was as significant as any other. Regardless of how we may feel about that, they believed it anyway, and constantly referred to themselves as “foreign” to the United States in the 1870s, 1880s, and 1890s. In short, Cherokees were serious about nation-building for the *entirety* of the 19<sup>th</sup> century.

What—or whom—Cherokees were defending was just as important as what they called a “nation.” This was a period in which Americans committed colossal atrocities against the Cherokees’ Indigenous “brethren”—even murdering hundreds of noncombatants at a time. *The*

---

<sup>255</sup> CA, May 27, 1876.

<sup>256</sup> CA, August 24, 1872.

<sup>257</sup> For Poland, Hawai’i, Madagascar, Cuba, and others, see CA, February 11, 1893; April 1, 1893. For China, see *The Indian Chieftain* (Vinita), August 19, 1900. For Crete and Cuba, see CA, May 15, 1897. These are starting examples. Cherokees were constant observers of global conflicts and understood that their country was a small part of it all.

<sup>258</sup> Ann Bell Shelton to Sarah C. Watie. August 27, 1876. *Cherokee Nation Papers*, Roll 40, Box 126, Folder 4502. Western History Collections, University of Oklahoma, Norman.

<sup>259</sup> CA, November 5, 1870.

<sup>260</sup> CA, October 14, 1871.

*Cherokee Advocate* witnessed these events in real time and offered sharp condemnations of the United States' violence.<sup>261</sup> From this perspective, there was nothing irrational about the principal chief insisting that denationalization would unleash murder and terror upon Cherokees.<sup>262</sup> They would lose their democratic rights as well, William Ross warned. Perhaps in reference to the Colfax Massacre in Louisiana, Ross told his constituents that the vote would not be the "king-cure all" if denationalization succeeded: "The newspapers teem with accounts of the intimidation, abuse, and slaughter of hundreds of American citizens for simply daring to exercise the elective franchise, and will it be better with you?"<sup>263</sup> In the eyes of these nationalists, then, Southern "redemption" and the slow, bloody rise of Jim Crow offered regular warnings of what awaited Cherokees if they lost control of their country. The violence had precedent and terrified many.

Cherokees commented on violence against their "brothers and sisters" with frequency. The national editor railed against Indians joining the U.S. military in 1871, asking, "Does any one suppose that under this plan, if it should succeed, there would not be any end to Indian wars until the Race was exterminated?"<sup>264</sup> This necessarily meant that *The Cherokee Advocate* was another voice in the minority on a number of issues, such as when it advocated for imprisoned Kiowas, denounced Custer's incursions against the Sioux, or urged for sympathy on behalf of Montana Indians and the Modocs.<sup>265</sup>

This advocacy was also long lasting, Six months after Wounded Knee, the national editor asked: "Was it remorse at having been forced to kill innocent women and children by his brutal commander that caused the Wounded Knee ex-soldier to commit suicide the other day?"<sup>266</sup> Cherokees may have been "civilized" and "advanced" (according to U.S. understandings and their own), but that did not mean they stopped caring for other Native peoples.<sup>267</sup>

---

<sup>261</sup> For an example of the national editor encouraging Cherokees not to join any of the Indian War campaigns, see CA, December 9, 1871. "The Friendly Indian did not then, and should not now, nor at any time, serve the Government in the double capacity of victim and butcher...friendly Indians are, we submit, fit for something else than to kill or be killed." He also wrote: "Does any one suppose that under this plan, if it should succeed, there would not be any end to Indian wars until the Race was exterminated?" For an example of the national editor dismissing false reports of violent hostilities among the Kiowas, and urging sympathy for their imprisoned leaders, see CA, July 20, 1872. For an example of the national editor launching an extended tirade against the "useless" and unjustified actions of General Custer against the Sioux, see CA, September 19, 1874. For two other examples of the national editor calling for fair treatment of Montana Indians and Modocs, see CA, March 22, 1873. Six months after Wounded Knee, the national editor asked: "Was it remorse at having been forced to kill innocent women and children by his brutal commander that caused the Wounded Knee ex-soldier to commit suicide the other day?" (CA, July 15, 1891. In truth, this footnote only scratches the surface. One of the explicit purposes of *The Cherokee Advocate* according to law was to offer a defense of all Indigenous people, not just Cherokees. The examples of the state newspaper condemning U.S. wrongdoings are too numerous to count. The general policy of *The Cherokee Advocate* was the Indian nations should be left alone to govern themselves and not be forced to allot their lands.

<sup>262</sup> CA, October 17, 1874

<sup>263</sup> CA, October 17, 1874

<sup>264</sup> CA, December 9, 1871.

<sup>265</sup> CA, July 20, 1872; September 19, 1874; March 22, 1873.

<sup>266</sup> CA, July 15, 1891.

<sup>267</sup> These are just some examples. There are many more. One of the legally defined purposes of *The Cherokee Advocate* was to offer a defense of all Indigenous people, not just Cherokees. There are countless other examples of the state newspaper condemning U.S. violence.

As if trying to confirm these fears, U.S. westerners wrote callously of their plans for Indian Territory. A threatening letter was found in Chickasaw Nation in the spring of 1872. It is worth sharing large excerpts of that letter in full:

“Dear Sir: Brother requests me to drop you a few lines to let you know hoe he is getting along in regard to raising men to clean out the Chickasaw Nation. He has at this time three hundred men well mounted. He heard from Mr. F. of Missouri; he says that he can get all of the men he wants there, and if he don’t get the quota filled I Missouri, he can get them from Illinois and Arkansas.

Will says for you to find out every man’s name in the Nation, and what he does and how he came there; also find out those white men that favors the Indian...it is my intention not to leave one of them above ground...This Territorial bill will pass this session. The Indians have got to submit to something. Soon it is my intention not to leave one of them alive, the thieves of hell. The white men have been imposed upon too long now...

The Indians of in the Cherokee Nation is getting their fill...The men [there] that raises the most objections [to intruders] are the low dirty white men that are galvanized citizens of the Nation; those men their days are numbered...

We will burn and kill just to satisfy these devils that the whites are getting reckless, they have raised so many objections to the white man it is high time the scale was turned.”<sup>268</sup>

The incendiary letter was probably one of three things. One, there could have been a real conspiracy to murder Native people and their allies in the Indian Territory which never transpired. Two, it could have been a hoax, one that merely reflected the Five Nations’ powerful fears of anti-Indian violence. Three, the letter could have simply been the exaggerated machinations of an angry white intruder with homicidal feelings toward Indians. Whatever the truth of it, the letter’s publication further convinced the Five Nations that there were tremendous dangers awaiting them if territorialization succeeded. Perhaps this conspiracy was real, perhaps it was not; but either way, there were angry white men out there who felt as he did—that they had “been imposed upon too long now,” and that it would be better to “burn and kill to satisfy [Indian] devils that the whites [were] getting reckless.”

A different conspiracy played out in the open. Indian Territory would not be territorialized for three decades, but the planning started early. Early Oklahoma bills, for example, suggested that the whole of Indian Territory be thrown open to whites and governed by Presidential appointee. The franchise would then be extended to all male persons over the age of twenty-one, rendering voters of the Five Nations’ politically insignificant.<sup>269</sup>

Bills like these outraged the principal chief and the Washington delegation. The Five Nations had themselves considered adopting a “federal republic of Indian states,” but westerners

---

<sup>268</sup> CA, June 15, 1872.

<sup>269</sup> CA, March 2, 1872.

in Congress hijacked the idea, turning federalization into denationalization.<sup>270</sup> Contrasting the approaches, Lewis Downing and the protesting delegates wrote:

“The constitution adopted [by us] at Okmulgee provides for the security of said Indians, and the preservations of their race through the reservation of their treaty rights, and the machinery of a government in which the governor and legislature are elective by the people. The judges are appointed by the governor...and the whole constitution is framed in view of the election of an Indian governor by the people...

...Mr. Harlan’s bill [on the other hand] gives the appointment of these important officers and others to the President...the President of the United States [would] appoint a white man from outside our borders, to rule over us, our Indian state would decay. The municipal subjugation of the nations would be completed by their acceptance of alien rule; their treaty rights would be superseded by territorial enhancements controlled by the veto power of a white governor, who would continue what the Judiciary Committee so tersely called the *great sins of civilization*. The white governor would as inevitably represent some of the rings that seek to despoil us, as he would get his appointment.

The governor [could] veto measures of importance to our domestic interests and thereby impede or altogether defeat necessary legislation. He [could] appoint white men to office. He could pardon criminals convicted in our courts for offenses against Indians. He could remit fines and penalties for breaches of our laws, and if disposed to abuse his high office he might reverse the whole order of society, subjecting us to the domination of our enemies.”<sup>271</sup>

In other words, a white governor imposed on to Indian Territory’s Indian nations would have the power to force denationalization. The governor could intentionally misrule, allow violent crimes against Indians to go unpunished, and prevent the Indian legislatures from passing useful legislation. Cherokee sovereignty would stop here full-stop, and the nations would not have it. They would turn on the bills they had helped to conceive.<sup>272</sup> Cherokees would organize meetings in their homes to oppose them.<sup>273</sup> The national editor wrote in a fury: “We demand *such* a recognition of our nationality and independence as our treaties describe to be ours.”<sup>274</sup>

Cherokees were therefore vulnerable to all kinds of attacks on their sovereignty from westerners, but it was not all as McLoughlin put it—that it was pointless to resist territorial bills or that “the last years of Cherokee national existence from 1880 to 1898 were essentially a history of futility.”<sup>275</sup> This was the same mistake contemporaries made; one Valentine Dell of *The Fort Smith New Era* warned his Indian neighbors “to prepare, like wise men, for the event as inevitable

---

<sup>270</sup> CA, March 18, 1871.

<sup>271</sup> CA, March 18, 1871.

<sup>272</sup> CA, September 30, 1871. In this issue, it was explained: “The instrument aimed at creating a new federation in the larger one of the United States, because the Indian’s aim was that of an independent State, not a Federal Territory, or even a State in our sense of the Term...it was that killed the bill, more even than the antagonism of the railroad sharks, who were after its destruction.”

<sup>273</sup> CA, January 16, 1875. This meeting took place at Spring Frog’s home.

<sup>274</sup> CA, March 18, 1871.

<sup>275</sup> McLoughlin, *After the Trail of Tears*, 280 and 368.



as tomorrow's sun of seeing their territory opened to white immigration."<sup>276</sup> It was a statement he wrote 36 years before Oklahoma was granted statehood, which he himself would not live to see (he died in 1885). "Tomorrow's sun" took ages to rise, Cherokees held on to their state and autonomy until the turn of the century, and something must have protected the sovereignty of the Five Nations for all those decades.

We already know what that something was. Westerners' calls for territorialization were unpopular. Congress repeatedly blocked every territorial bill of the 1870s, because the laws were blatant violations of the country's obligations to the Five Nations—Indian nations that the U.S. held in very high regard.<sup>277</sup> Cherokees had assigned federal agents who were themselves Cherokee citizen (multiple in the postwar years) and after losing to Charles Thompson, William P. Ross was put in the running for Commissioner of Indian Affairs.<sup>278</sup> Individual states—such as Iowa—sometimes passed resolutions instructing their Washington representatives to oppose any effort to open the Indian Territory, and Tahlequah was the frequent host of Washington lawmakers who complimented the advancement of these "civilized" nations.<sup>279</sup> In one instance, a senatorial committee rejected even the premise of *investigating* the need to open Indian Territory.<sup>280</sup> One Cherokee contributor put it nicely in 1872, writing that the Cherokee Nation "is stronger abroad today as she is at home, than at any time since the war." He saw no serious threat, and "did not consider the danger of a dissolution of our nationality imminent." The best thing to do, he added, was to focus on domestic matters and develop the country's resources.<sup>281</sup> Most other Indian nations could not imagine such a privileged position.

Indian Territory, largely because of the Five Nations' anomalous treatment, was therefore one of the safest places for Indians and Indigenous autonomy. Cherokees knew this, celebrated this, and thought it could be useful to newly removed nations. "The government [we have] is a democracy," W.A. Reese explained, "The humblest child may become the chief." Cherokees had a "pioneer and model republic," one that any of Indian Territory's nations could replicate.<sup>282</sup> Some of those foreign nations would enjoy it with the Cherokees in their own borders (under Article 15) while others would set about rebuilding their own nations (under Article 16), but in all these cases the Cherokees promoted a future where Indian Territory was left alone to develop itself.

### **Article 15: New Cherokee Citizens (1866-1871)**

When the Kansas-Nebraska Act of 1854 was passed, it unleashed a fury of invading squatters onto Indian reservations. There was not a hint of protection. The "friends" of Kansas Indians negotiated treaties to reduce the size of nine reservations, the squatters worked brazenly to take over these reservations, and the military did little to expel the intruders. Violence was omnipresent. The Shawnee agent was shot outside of his station, while a "reign of terror" unfolded for the tribe at

---

<sup>276</sup> *Fort Smith New Era* (Fort Smith), June 30, 1871.

<sup>277</sup> Tom Holm, "Indian Lobbyists," 115-134.

<sup>278</sup> CA, March 11, 1876. *The Advocate* was furious when W.P. Ross was passed over for this position: "[The Indian] will be consigned permanently to the position of a mere subject to another government besides his own, without a freeman's voice in matters most nearly affecting him, and above which position no advance in civilization and intelligence—no degree of personal worth—will ever elevate him."

<sup>279</sup> CA, August 31, 1872. CA, June 20, 1872.

<sup>280</sup> CA, December 26, 1874.

<sup>281</sup> CA, June 20, 1872.

<sup>282</sup> CA, October 14, 1871.

large. The Commissioner of Indian Affairs wrote that in the time since the opening of Kansas, “Indians have been personally maltreated, their property stolen, [and] their timber destroyed...” Indian agents were physically abused and run out of their agencies, leaving entire reservations cut off from federal aid.<sup>283</sup> Many Osage fled their homelands before ever receiving authority to do so; trust in the United States was brought to a new low. This was the other side of “Bleeding Kansas.” John Ross had referred to it as “Squatter Sovereignty...the principle that ‘*might gives right.*’”<sup>284</sup>

Despite this orgy of violence, white settlers who demanded the *complete* removal of Kansas tribes—not just the diminishment of reservations—had a serious obstacle to confront. They were only the most recent U.S. state to demand ethnic cleansing, and indeed many of “their” Indians had already been violently removed by neighboring states.<sup>285</sup> The question was, where else could Indians go? The Shawnee had been promised their “permanent” reservation in 1825; the Delaware, in 1829. The other nations had been promised the same thing. Where they already were was meant to be their final reservation, and there were no more unpromised, unclaimed lands left in Indian Territory. Congressman William Seward of New York asked pressingly: “Where will [these Indians] go? Back [east] across the Mississippi? Where will it stop—the Himalayas?”<sup>286</sup>

The Civil War answered the question. Because of the “disloyalty” of the Five Nations, Indian Territory could now be entirely reimagined (see maps one and two). Under the mantle of victory, the Union purchased all the land it needed for future victims of Removal, but essentially left the Cherokee Nation intact. It left untouched the Cherokee Nation proper, or the “home tract,” while the surplus lands of the Cherokee Outlet were sold in a piecemeal fashion over the course of decades. There was no rush to buy land from the Cherokee because the treaty commissioners had planned something else entirely. Removing Native nations could join the Cherokee Nation and become Cherokee citizens. Article 15 of the Treaty of 1866 provided for this form of migration.

In April of 1867, Interim Chief William Ross negotiated the first of these asylum agreements with 985 Delawares removing from Kansas. It was the most consequential act of his first stint in office. It was arguably one of the most consequential acts of Cherokee Reconstruction. Those who hoped to escape detribalization and allotment in Kansas could instead opt for a traditionalist hybrid form of “allotment” within the Cherokee Nation’s borders: that is, Delawares could collectively purchase 160-acre land claims which would remain part of the Cherokee national land base. Put simply, 985 Delawares purchased over 100,000 acres in communal land claims and the inherent right to claim more acreage in the future—any Cherokee citizen, including Delawares, could claim unused land. Removing Delawares were granted all the political rights of “Native Cherokees”—a term with newfound and growing significance—while at least \$279,443 of Delaware funds were transferred to the Cherokee National Funds.<sup>287</sup> Delawares remained a distinct community but became Cherokee citizens.

---

<sup>283</sup> Craig E. Miner and William E. Unrau, *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871* (Lawrence: University Press of Kansas, 1977), 11-17; 16, 8, 24.

<sup>284</sup> Moulton, *John Ross: Cherokee Chief*, 164.

<sup>285</sup> Hagan, *Taking Indian Lands: The Cherokee (Jerome) Commission, 1889-1893* (Norman: University of Oklahoma Press, 2003), 5-8; Miner and Unrau, *The End of Indian Kansas*, 1-24; Robert Lee, “The Boon’s Lick Land Rush and the Coming of the Missouri Crisis,” in *A Fire Bell in the Past: The Missouri Crisis at 200*, eds. Jeffrey Pasley and John Craig Hammond (Columbia: University of Missouri Press, 2021), 77-112.

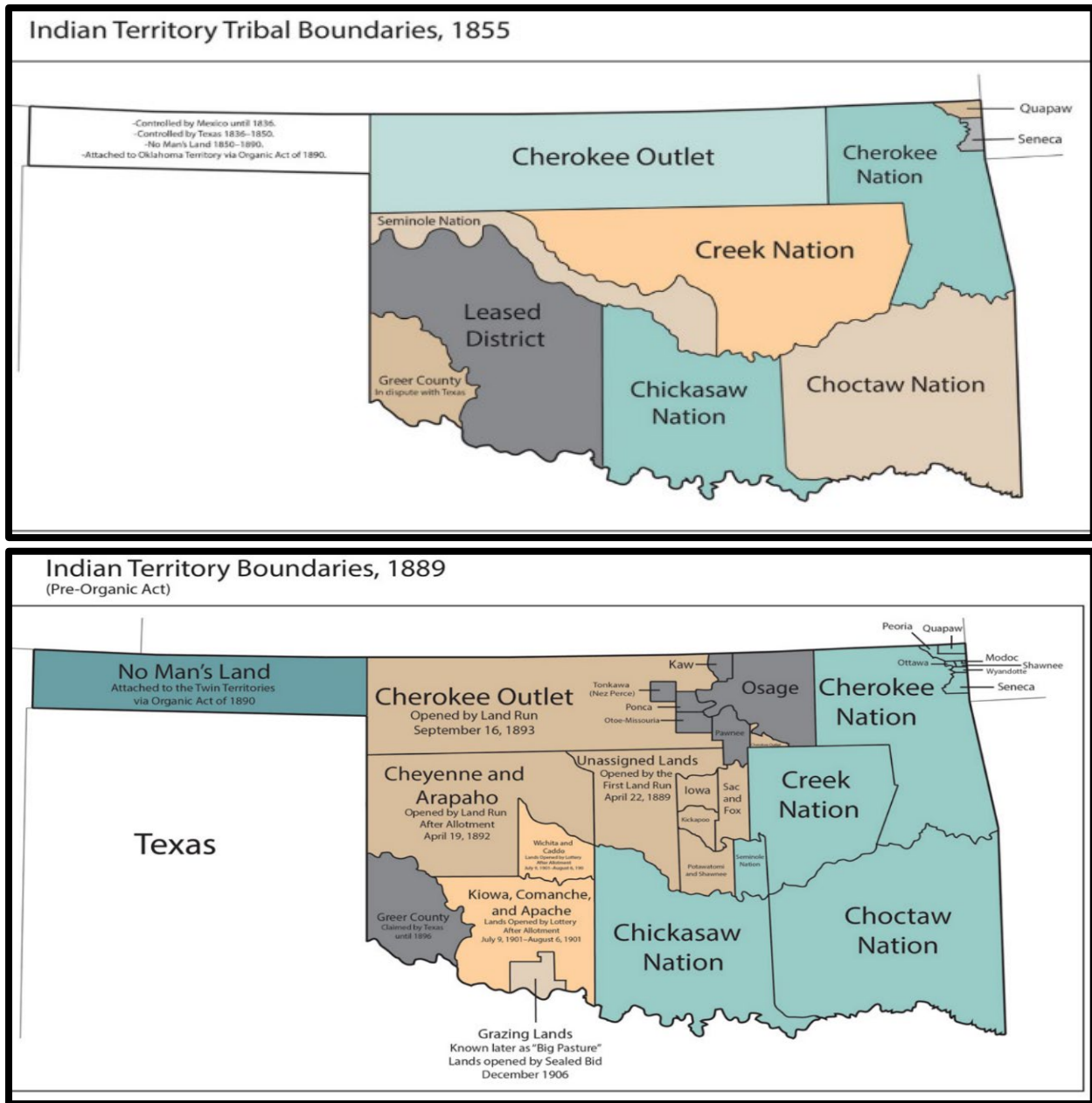
<sup>286</sup> Miner and Unrau, *The End of Indian Kansas*, 11.

<sup>287</sup> McLoughlin, *After the Trail of Tears*, 260.

<b>Tribal Nation of Indian Territory (I.T.)</b>	<b>Date of Removal</b>	<b>Assigned Land in I.T.</b>
Comanche	1865-75	Southwest I.T.
Munsee ( <b>agreement never carried out</b> )	1867	<b>Cherokee Nation (granted citizenship)</b>
Miami (including Eel River Indians)	1867-1873	Northeast I.T. (Cherokee neighbors)
Kiowa	1867	Southwest I.T.
Ottawa	1867	Northeast I.T. (Cherokee neighbors)
Confederated Peoria (including Kaskaskia, Piankashaw, and Wea) (Miami joined)	1867	Northeast I.T. (Cherokee neighbors)
Meskwaki and Sauki (Sac and Fox)	1867-1869	Central Indian Territory
Wyandotte	1867	Northeast I.T. (Cherokee neighbors)
Apache	1867	Southwest I.T.
Citizen Potawatomi	1867	Central I.T.
Lenape (Eastern Delaware)	1867	<b>Cherokee Nation (granted citizenship)</b>
North Carolina Cherokees	1868-1878	<b>Cherokee Nation (granted citizenship)</b>
Southern Cheyenne	1869	Western I.T.
Loyal Shawnee	1869-1871	<b>Cherokee Nation (granted citizenship)</b>
Arapaho	1869	Western I.T.
Osage ( <b>removal back to I.T.</b> )	1871	<b>Cherokee Outlet</b>
Kaw (Kansa)	1873	<b>Cherokee Outlet</b>
Modoc	1874	Northeast I.T. (Cherokee neighbors)
Kickapoo	1873-1883	Central I.T.
Pawnee	1874-1876	<b>Cherokee Outlet</b>
Otoe-Missouria	1876-1881	<b>Cherokee Outlet</b>
Ponca (reservation given to Sioux)	1877	<b>Cherokee Outlet</b>
Nez Perce	1877-1878	Northeast I.T. (Cherokee neighbors)
Iowa	1878-1883	Central I.T.
Tonkawa ( <b>two removals within I.T.</b> )	1859 and 1884-1885	<b>Cherokee Outlet</b>
Fort Sill Apache (final removal to I.T.)	1894	Southwest I.T.

**Figure 3.1:** Postwar Removals to Indian Territory, Charted. This is a chart of all the postwar removals to Indian Territory. Many patterns emerge when one looks over the removals together in a table like this. First, Cherokees played an outsized role in the postwar removals; they granted citizenship to three removed peoples (only in the early years of Reconstruction) and sold the Outlet lands to others (which they were happy to do until the Outlet became their most profitable asset in 1883). Second, one gets a sense of when and how the Removal policy to Indian Territory finally died. The removals of the Nez Perce and Ponca provoked such moral outrage that the Removal policy increasingly became untenable (removals did continue, but there was almost always staunch opposition, and allotment was preferred). Removal became increasingly rare, and in the Ponca and Nez Perce cases, the removed were allowed to return, splitting each nation into separate halves.

Note: The dates of removal have been simplified to fit this page. The hyphens do not show how long a removal took place (e.g., the Comanche were not removed over ten years). Instead, this shows the beginning and endpoints. For instance, the Comanche's reservation was created in Indian Territory (1865) long before removal was finished (1875).



**Figure 3.2:** Maps of Indian Territory before and after Reconstruction. The maps above provide a “before” and “after” story of what be called “Greater Reconstruction” in Indian Territory. The first map depicts Indian Territory in 1855, and the Five Nations take up almost the entirety of what is today Oklahoma.

The Civil War treaties would change that substantially. The Creek and Seminole Nations were ripped apart. The latter became a completely different territory. Meanwhile, the Outlet would remain in Cherokee hands until it could be fully peopled by removing nations. Many nations did relocate to the Outlet (pictured in grey to the west of Cherokee Nation home tract), but many others resisted such a move. As this chapter explains, a combination of westerners (who opposed the further consolidation of Indian Territory) and eastern humanitarians (who increasingly supported allotment) ensured that the Indian Removal policy was discontinued.

**Source:** Katie Bush, Maps of “Removal of Tribal Nations to Oklahoma,” 2018, Oklahoma Historical Society.

After William Ross left office, one of the very first acts of the new chief, Lewis Downing, was to attempt his own asylum agreement. In November of 1867, two delegates of the Munsee, or the “Christian Indians of Kansas,” wrote to the Cherokee National Council. Their total population was only 41 and although they owed their separate existence to embracing the Moravian church, this history was of no consequence to the white Kansans who wanted their land. “The condition of our people,” they explained, “is such that they are not far enough advanced to live amongst the whites, and they would prosper better by being away from the whites.”<sup>288</sup> A desire for separation from whites had pushed the tribe into “respectfully petitioning” for the “privilege of becoming citizens of the Cherokee Nation.” The delegation was short on funds needed to stay in Tahlequah, and therefore probably also short on the funds needed to purchase citizenship, but Chief Downing urged the National Council to approve their request and to grant them asylum.<sup>289</sup>

In fact, he did so with urgency. Within a week, Chief Downing negotiated and signed an agreement with the delegation to receive the Munsee into the Cherokee body politic.<sup>290</sup> Had the agreement been ratified the Munsee would have been enfranchised as Cherokee citizens with all the rights to vote and claim land—just like the removing Delaware. Instead, the “push” side of the equation lost momentum. An anti-Removal faction of the Munsee rallied against the move in a protracted struggle, while the Cherokee—over time—grew sour toward the arrangement.<sup>291</sup> By 1882, after hearing news that a Munsee and Chippewa delegation was again visiting Tahlequah to *again* discuss the prospect of citizenship, Daniel Ross for the *Cherokee Advocate* remarked: “We do not know what will be done...[but] the assets of the Cherokee Nation have increased so much of late years” that “it will cost, now and hereafter, much more than it did the Delawares.”<sup>292</sup> This callous and boasting treatment of another tribe was both a measure of changing attitudes toward immigrants and a growing self-confidence in Cherokee nation-building and wealth-accumulation. The Munsee never became citizens.

In June of 1869, the Shawnee became the next tribe pushed out of Kansas and into the Cherokee Nation. That year and the year after, the Shawnee agent described a tremendous commotion; despite being settled on their lands for nearly half a century, many in the tribe rushed to exit Kansas to get to Indian Territory. Farming was abandoned as most were prepared to leave, support for Shawnee schools was withdrawn, drinking increased, and agricultural productivity was falling apart.<sup>293</sup> The next year, some Shawnees reportedly left without selling their properties—perhaps hoping to sell their land at a future date for a greater price, but also demonstrating a total unwillingness to stay any longer.<sup>294</sup> White Kansans wanted the Shawnees gone, but many

---

<sup>288</sup> Petition of the Munsee delegation, November 30<sup>th</sup>, 1867. *Cherokee Nation Papers*, Roll 3, Box 8, Folder 197. Western History Collections, University of Oklahoma, Norman.

<sup>289</sup> Lewis Downing to the National Council, November 30<sup>th</sup>, 1867. *Cherokee Nation Papers*, Roll 3, Box 8, Folder 197. Western History Collections, University of Oklahoma, Norman.

<sup>290</sup> Cherokee-Munsee Agreement, December 6<sup>th</sup>, 1867. *Cherokee Nation Papers*, Roll 3, Box 8, Folder 197. Western History Collections, University of Oklahoma, Norman.

<sup>291</sup> For more on Munsee resistance to Removal, see Joseph Herring’s *The Enduring Indians of Kansas: A Century and a Half of Acculturation* (Lawrence: University Press of Kansas, 1990), 55-69.

<sup>292</sup> CA, December 1, 1882.

<sup>293</sup> No. 116. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1869*, by U.S. Agent for the Shawnee Nation Reuben L. Roberts. Central Superintendency, Shawnee: September 20, 1869. 376-377.

<sup>294</sup> No. 98. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1870*, by U.S. Agent for the Shawnee Nation Reuben L. Roberts. Central Superintendency, Olathe: September 26, 1870. 271-272.

Shawnees wanted to be gone as well. 770 people would ultimately remove themselves.<sup>295</sup> The 1880 Cherokee census counted 503 Shawnees in the country.<sup>296</sup>

Cherokees were also concerned with their own people, who as Gregory Smithers has highlighted, were dispersed across the United States and beyond.<sup>297</sup> As early as 1842, only a couple years after the Trail of Tears, traveling Cherokees visited their old homelands in Georgia and wrote to Chief John Ross about all those who had stayed behind:

“I find the Cherokees who have *unfortunately* remained in this country now very anxious to remove west and join their people...but in consequence of the hardness of the times it is out of their power to do so. I am of the opinion that should you make any arrangement for the North Carolina Cherokees—that all the Cherokees ought to be included who still remain east, and while I am in this country I will take pleasure in rendering any service I can in effecting the removal of the Cherokees in this country.”<sup>298</sup>

Cherokees had done all they could to prevent Indian Removal, but once it was done, protecting their people in the new western homeland—in other words, completing Removal for themselves—was viewed as a national priority. The North Carolina Cherokees, thought to be “left behind,” remained present in the minds of “western” Cherokee leaders for decades to come.

North Carolina Cherokees had an interesting history. Even during the pre-Removal years, North Carolina Cherokees were distinct from the Cherokees of Georgia. In 1835, they numbered 3,644, meaning that about a quarter of the pre-Removal nation lived in North Carolina—second only to Georgia where 8,946 citizens resided. This quarter of the population in North Carolina was predominantly composed of traditionalist full-bloods with less wealth than their Georgian counterparts; tellingly, only two percent of all enslaved Africans in the Cherokee Nation resided among North Carolina Cherokees.<sup>299</sup> If one were looking for an exception to the idea that all Cherokees had “assimilated,” they could find it on the easternmost edge of Cherokee lands.

In an ironic twist, North Carolina Cherokees were also among the first to be enveloped by U.S. jurisdiction and granted a quasi-citizenship. An 1819 treaty swallowed up Quallatown, which was of vital importance to local politics and trade. Once this was done, some Cherokees in North Carolina relocated across the border into the Cherokee Nation, but many chose to stay, accepting a fragile and vague dual citizenship. They were subject to North Carolina’s whim, and crucially, could be taxed, but whenever they crossed the nearby border “back” into the Cherokee Nation, they carried all the rights of Cherokee citizenship with them. It was the ambivalence of this system which allowed these Indigenous “binationals” to successfully resist their forced removal to the West, even though they were the very last Cherokees Jacksonians had in mind when they offered that “qualified” Indians could choose to stay if they surrendered their sovereignty.<sup>300</sup>

---

<sup>295</sup> Wardell, *A Political History of the Cherokees*, 219.

<sup>296</sup> Cherokee Nation 1880 Census Citizen Population by Race. Cherokee Nation Papers, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>297</sup> For more on the Cherokee diaspora, see Gregory Smithers, *The Cherokee Diaspora*, 2015.

<sup>298</sup> Thomas Fox Taylor to John Ross, June 12<sup>th</sup>, 1842, in *The Papers of Chief John Ross*, ed. Gary Moulton (Athens: University of Georgia press, 2004), 2: 162.

<sup>299</sup> Finger, *The Eastern Band of Cherokees: 1819-1900* (Knoxville: University of Tennessee Press, 1984), 16.

<sup>300</sup> *Ibid*, 10-19.

But this exchange resulted in a branch of Cherokees who were left without the shield of sovereignty that their western counterparts enjoyed. Their lands were not their own. A benevolent adopted white by the name of William Thomas purchased their “reservation” lands in his own name, concocting an extremely tenuous position for the tribe, as pro-Removal North Carolina Cherokees correctly pointed out that Thomas’ death alone could prove to be disastrous.<sup>301</sup>

They also lost what Cherokees had treasured for a generation and a decade respectively: a national government and a republican government. They were forced to be dependent on the state of North Carolina in a way that their removed kin were not. It would take until 1868 for the Eastern Band to be recognized as a tribe with any kind of federal protections, and even then, the anomalous “mixed system” of federal and state oversight continued with many damaging results. Because of their relative lack of sovereignty and power—which they did build up in the postwar era—the North Carolina Cherokees were far more exposed to federal corruption and exploitation.

The Cherokees of the West continued to watch this all unfold with real concern. The issue was taken up with even more urgency after the Civil War—which added starvation to the North Carolina Cherokees’ difficulties and strengthened the local argument for a “second removal.”<sup>302</sup> After many North Carolina Cherokees authored petitions in favor of emigration, and after they sent these petitions to the Cherokee National Council, action was taken. In December of 1869, Downing’s government passed a law authorizing the chief to contact the Commissioner of Indian Affairs to arrange for further removals.<sup>303</sup> The new law—correctly and with great irony—pointed out that the cost of such removals would be the federal government’s burden to bear, just as it had been so many years before. The law also authorized the chief to contact the North Carolina Cherokees directly, which initiated a long pattern of Cherokee officials traveling to the East to visit their “brethren,” assuring them that “they [were] all welcome to come ‘home’” whenever ready.<sup>304</sup> Lewis Downing in particular was adamant that in removing west, Eastern Cherokees escape their status as “mere peons” “driven about from farm to farm like so many cattle.”<sup>305</sup>

But just as with the Munsee and so many others, the choice of Removal depended on one’s politics, and in fact, many Eastern Band politicians expatriated to the West without their resistant constituents.<sup>306</sup> The prominent Eastern Cherokee George W. Bushyhead claimed that 800 people wanted to emigrate after the war, but only 330 more Cherokees ultimately removed themselves to the West.<sup>307</sup> The difficulty of the trek, a lack of federal support, a timely building up of the Eastern Band’s government, and Cherokee xenophobia likely all combined to dissuade emigrants. Eastern Cherokees were not an example of a tribe applying to immigrate under Article 15 of the Reconstruction treaty, but the Civil War played a central role in these three hundred foreigners finally making the journey to enter a country they had never known.

---

<sup>301</sup> Finger, *The Eastern Band of Cherokees*, 32 and 36.

<sup>302</sup> For more on this and North Carolina Cherokees’ service for the Confederacy, see John Finger’s chapter on the Civil War in *The Eastern Band of Cherokees* and Gregory Smithers’ chapter on the same (“The Refugee Business”) in *The Cherokee Diaspora*.

<sup>303</sup> CA, April 22, 1876.

<sup>304</sup> CA, April 22, 1876.

<sup>305</sup> Finger, *The Eastern Band of Cherokees*, 112-113.

<sup>306</sup> Ibid, 114-115.

<sup>307</sup> Ibid, 104. McLoughlin, *After the Trail of Tears*, 262.

Other tribes, including the Osage, Kaws, Chippewas, Canasauga tribe of Mohawks, Navajos, and the Miami and Peoria, all considered or attempted to negotiate an Article 15 settlement on Cherokee lands. However, either because of resistance from Cherokee lawmakers or the would-be emigrants, these removals into the Cherokee Nation failed.<sup>308</sup>

By 1873, the postwar Cherokee body politic was coming into shape. The nation included “Native Cherokees,” Delawares, Shawnees, Freedmen, adopted whites, North Carolina Cherokees, Muscogee Creeks, and Natchez Indians.<sup>309</sup> Hundreds of Creeks lived on Cherokee lands according to a prewar compact and many held citizenship, which likely encouraged the creation of multinational families. As William Ross had once put it, the Cherokee Nation was now a country friendly to the rights “of every color.”<sup>310</sup> “In law,” Charles Thompson explained in 1876, “the Chief sees no distinction between native and adopted citizens, both classes being protected and held responsible alike, all are *Indians*.”<sup>311</sup> For the face of the 1878 Permit Law to insist that adopted whites and Blacks were all “Indians” was telling. After Reconstruction, the multi-racial republic could not be undone, making Thompson’s commitment to traditionalism all the more fascinating.

Moreover, the Cherokee republic did not just absorb Native refugees; it also sought to maintain them within the body politic. When the Delawares felt unsettled in November of 1868, they wrote to Chief Downing explaining that they hoped to remove themselves west into the Outlet lands, to “keep up [their] nation.” They felt that autonomy would serve them better than a minority status under a Cherokee democracy. Chief Downing successfully encouraged them to stay, and his reasoning sheds light on how he viewed the absorption of other Indian nations. “My friend and brother...You see for yourself,” Downing wrote, “that a fearful scene is being enacted in the destruction of the Red people of the Plains...The Indian Territory proper will, in all probability, be the only Indian Territory that can be saved from the rapacity of the whites, and that only by the united efforts of the Indians themselves...I advise unity and brotherly love among us all.” The Pan-Indian message probably resonated most strongly with nonwhite Natives under Downing and Thompson, who were full-bloods. Downing further urged the Delaware to lodge their complaints with the Council before adding: “Pay me a visit, and we can talk over matters...in a friendly and private way.”<sup>312</sup>

During these early years, Cherokee nationalists imagined that at least some Indigenous immigration could prove mutually beneficial. Exploring the differences between the Cherokees of the West and the Cherokees of North Carolina, William P. Boudinot wrote:

“There is but one essential difference between this country and that part of North Carolina occupied by the Cherokees there... [and that is] the health of the people...In every other respect ...this country is far superior to the Cherokee portion of North Carolina...[but] this country has the usual drawback to *every new* and rich country [sickness]. As in the case of

---

<sup>308</sup> McLoughlin, *After the Trail of Tears*, 260.

<sup>309</sup> Ibid, 261.

<sup>310</sup> CA, October 17, 1874.

<sup>311</sup> CA, April 22, 1876.

<sup>312</sup> Lewis Downing to Captain Sarcoxie, November 13, 1868, *Cherokee Nation Papers*, Roll 3, Box 9, Folder 198. Western History Collections, University of Oklahoma, Norman.



Illinois and other fine States, time...will eventually make this country populous and suitably productive [and] will extinguish those drawbacks.”<sup>313</sup>

In other words, Boudinot saw population growth as central to improving the overall health of Cherokee people, but in his mind, Cherokee immigrants would assist in this effort. Immediately after explaining how population growth would make the Cherokee “healthy and happy,” Boudinot segued to criticize the numerous obstacles which North Carolina Cherokees had experienced in attempting to relocate. “It is said,” he offered, “that one material hindrance to the further emigration of Cherokees left behind to this Nation, has been the difficulty experienced by [emigrants] in having their right to citizenship recognized after they arrive here.” To help their “brothers and sisters East” make the trek to safety, Boudinot suggested that a “competent and trusted committee of North Carolina Cherokees” be authorized to take a census of their numbers to help speed up the process. “It is decidedly impolitic,” he continued, “for our authorities to allow any difficulty of the sort to retard the ‘removal’ of the *bona fide* Eastern Cherokees, and the practical acquisition of their right to live here. The road is long enough without...uncertainties to meet with at the end.” Indigenous immigration—or Removal—had the potential to unlock Cherokee population growth while simultaneously helping “brothers and sisters” reach a place of safety.

Cherokee asylum showcased the benevolent side of Removal, or at least, a Pan-Indian one. Chief Downing, a fierce anti-colonialist, was a supporter of Indian Removal by way of brutal circumstance and pro-Indian ideology. With good reason, he had come to accept that, in his words, “the Cherokees, and the whole Indian race are in distress and danger...the cry for extermination of Indians, is heard from quarters, so high and influential to give harm to the whole Indian race.”<sup>314</sup> Amid this “general decay of Indian nations,” the Indian Territory seemed to be the only place where Native peoples had “not only survived but increased in numbers [and] accumulated property.”<sup>315</sup> That Indian Territory owed its existence to Removal was not lost on Downing, who in one speech before Congress in 1871 (arguing against territorialization) approvingly quoted at length a Jacksonian-Era senator, Thomas H. Benton, who had claimed: “The removal saved the southern tribes from the fate [of other tribes]...[by giving] them new and unmolested homes beyond the verge of the white man’s settlement...”<sup>316</sup> In this manner, Cherokees increasingly cited the dusty and deadly logic of Indian Removal to get endangered tribes removed safely to Indian Territory—and to protect their autonomy once they arrived.

During his own time as principal chief, William Ross expressed a similar fear of the outside world. He delivered a harrowing speech in 1874 before a Cherokee crowd in Vinita:

“When I see the tired and wanted remnants of once powerful tribes, like the Delawares, the Shawnees, and the Modocs, which have been driven into this territory from states far and near, and know that wrongs, indignity, and murder are wantonly perpetrated upon

---

<sup>313</sup> CA, April 22, 1876.

<sup>314</sup> Lewis Downing Thanksgiving Proclamation, October 22, 1870, *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7422. Western History Collections, University of Oklahoma, Norman.

<sup>315</sup> *Ibid.*

<sup>316</sup> Protest of the Cherokee Nation delegation, March 18, 1871, *Cherokee Nation Papers*, Roll 49, Box 175, Folder 7433. Western History Collections, University of Oklahoma, Norman.

individual Indians by depraved and unprincipled men...*I confess that my prayer is that these things may be averted from our families and our country.*"<sup>317</sup>

In Ross' eyes, Cherokees, Delawares, and Shawnees all possessed an unusual safety under one unusually strong Native government. If they lost this government—if the Cherokee Nation was ever taken under U.S. rule—this safety would be lost. The result would be “the extension of a new form of government without [your] consent,” Ross explained, “in which [you] will be insignificant in numbers [compared to those] who will rule and control....[this] means repetition of all those [indignities]. It means conquest [and] revolution...It means wrong, fraud, deception, vice, immorality, insult, retaliation, blood, extermination.” All these curses, he warned, awaited both Cherokees and the new immigrants if they lost their nationality. If they kept it, then Native Cherokees and adopted citizens alike would be safe and “imperceptibly mingled in blood, sentiment, intelligence and high aspirations.” Both the Cherokee Nation and Indian Territory, Ross promised, would become pan-Indian spaces. No one would be able to distinguish the “Native” Cherokees from the Native newcomers.

Indian Removals took on a new meaning in this context. In 1871, a federal official wrote: “The Department [of the Interior] will visit London [Tennessee] to make such arrangements as necessary for the removal of such [North Carolina Cherokees], as are entitled, to Cherokee country Indian Territory.”<sup>318</sup> The official asked that the Cherokee government send its own representatives to ensure that they could “gather as many people as [we] can,” but the language used here was crucial. Both federal officials and Cherokees increasingly referred to Removal and transportation payments as “entitlements,” or treaty-obligations, which technically and ironically, they were. In 1835, the federal government had promised to pay for the costs of Cherokee Removal; three decades later, that “obligation” remained alive for any North Carolina Cherokee still hoping to claim this very particular treaty right.

Perhaps more importantly, after the Civil War Cherokee nationalists themselves referred to the Removal policy with growing positivity. In one of the very earliest postwar *Cherokee Advocate* issues, W. P. Boudinot wrote about American hostilities with the Comanche and Apache:

“The consolidation of the Indian Tribes of this [Indian] Territory, and the opening up of the vacant parts for settlement by Indians may have a good effect after a time upon all the Tribes of the Southwest...We do not see why intercourse between the Tribes, civilized and uncivilized, should not continue to enlarge with happy results.”<sup>319</sup>

But the word “consolidation” was inseparable from its prerequisite: Removal. The Comanche and Apache could only experience “intercourse” and “settlement” if they were forcibly removed to Indian Territory, and Boudinot was fully committed to this idea. “Let us understand,” he added, “that a Consolidation of the Nations of the Indian Territory has been, since and before the Treaty of 1866, a foregone conclusion as part of the [federal] Indian policy...and we should cheerfully make the most of it.” The influence of “civilized Tribes” over their “wild brothers of the Plains”

---

<sup>317</sup> CA, October 17, 1876. Emphasis Added.

<sup>318</sup> Secretary of the Interior B. R. Cowen to James Obediah, September 23rd, 1871, *Cherokee Nation Papers*, Roll 6, Box 19, Folder 592. Western History Collections, University of Oklahoma, Norman.

<sup>319</sup> CA, January 14, 1871.

would be “undoubtedly very great” under this new policy of consolidation, and for this reason Cherokees should “cheerfully” pursue “happy results.”<sup>320</sup>

Despite this rose-tinted framing, no one could accuse the Cherokee of underestimating the hardship of Removal. The “removal generation” was still very much alive. Boudinot’s own father and relatives had been murdered for signing the Treaty of New Echota. Thousands of more Cherokees died on the infamous trek. In spite of all this, postwar Cherokees looked to their own troubled history and current events to formulate a difficult pro-Removal conclusion. In another editorial about “consolidation,” Boudinot wrote:

“If Indians had studied their own history...they would have found out that out of the many, many trials which have been made to keep possession of soil held in that way, not one has ever succeeded...Tribes too numerous to mention, have each all made the trial only to be successively defeated, crushed, and exiled.”

Like their western counterparts, Cherokee nationalists accepted that some kind of “destiny” was at play between Indians and whites, one which inevitably ended in exile to Indian Territory. But Cherokees empathized with exiled Indians—for they too were exiles—and they believed they possessed the only viable refuge in existence. Boudinot explained: “If there is one object nearer and dearer to our heart than another, it is it see and have preserved the Aboriginal Race...*The only hope for this* lies with the remnant gathered now in the limits of the Indian Territory.”<sup>321</sup> Treating Indian Territory as the biblical promised land, he added that exiled Indians would all cleverly “shun the rock upon ignorantly struck and went down,” avoiding Moses’ consequential sin, and allowing safe passage to the one true asylum for all Native peoples: Indian Territory.<sup>322</sup>

For its part, the federal government also understood the value of cooperation with the Cherokee Nation. One illustrating example of this can be found in the Cherokee Agent John Jones’ 1873 report on the Orphan Asylum. Agent Jones had a radical idea to share with his superiors:

“It is the desire of the Cherokees to make their asylum a model institution of its kind; to make it a place where the unfortunate [orphan] children...belonging to any and all tribes of Indians, can find a home...I recommend...that measures be taken to induce other tribes who have an orphan fund to unite their means with that of the Cherokees...[so] that where tribes have no such fund the Government [can] take their friendless children and bring them to this asylum...you could gather many children from the wild tribes of the plains and Rocky Mountains and place them here among the most intelligent Indians of the continent...They would still be among Indians and have their instructions from persons of their own race, and yet from persons completely civilized.”<sup>323</sup>

Jones was suggesting something both touching and disturbing all at once. He figured that Native peoples might prefer to be “civilized” by their own people, rather than by whites, and he figured that if Native orphans of other tribes could not be cared for, they could be removed from their own

---

<sup>320</sup> CA, March 18, 1871.

<sup>321</sup> CA, September 30, 1871. Emphasis added.

<sup>322</sup> CA, September 30, 1871.

<sup>323</sup> No. 16. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1873*, by U.S. Agent for the Cherokee Nation John B. Jones. Tahlequah: September 1873. Pg. 202-208.

nation and brought to the Cherokee's "model institution." Under this plan (which of course never materialized), the Cherokee Orphan Asylum would have become a Pan-Indian proto-boarding school run entirely by Cherokees. The orphans, presumably, would be raised as Cherokees. Considering what was soon to emerge with the boarding schools, it was a tempting but twisted possibility. At the center of it was the same idea: the Cherokee were "completely civilized," and therefore, best suited to help the "wild tribes of the plains and Rocky Mountains."

Removal, then, was ostensibly a family affair with Cherokees exercising a distinctly paternalistic role. Indian nationalists articulated a genuine claim to familial connectedness: "*We* stand in relation to them as *elder brothers* of the same family, as natural allies, with a future alike in trouble, perplexity, and danger to us all."<sup>324</sup> This was reason enough for white Americans to stay out of "Indian business" and let the "five advanced Nations of Indians, knowing well the wish of the Federal Government to improve ruder members of their race by settling them, and teaching them to cultivate the soil...[serve as] the most effectual aids."<sup>325</sup> What the "ruder members of their race" may have thought about being resettled and forced to practice a settled agriculture was not considered. Autonomy was what Cherokees sought to defend; "civilization" was not up for debate.

Beyond this paternalism, however, there was a very understandable reason that Cherokees hoped the new arrivals would adopt their settled, agrarian, nationalistic mode of life. Cherokees understood that the unoccupied lands within the Cherokee Nation and Indian Territory were serious threats to Indigenous sovereignty. With great insecurity, *The Cherokee Advocate* reported in 1872 that "the number of cultivated acres in the Cherokee Nation [stood] at seventy thousand...[or] about one seventieth of the tillable soil in it." Regardless of the figure's accuracy, Boudinot insisted that "the grand plea [from westerners] which is urged upon the government...[to] rob us of our land has reference therefore to sixty-nine seventieths...of the entire domain, and *no less*."<sup>326</sup> Emptiness was a threat to security. The longer Indigenous lands remained uninhabited the more U.S. citizens would shout for annexation. In this regard, immigration to Indian Territory provided a much-needed solution to the problem of unoccupied lands. It was no wonder, then, that Cherokees applauded President Grant's statement that any changes to federal policy must "be on the side of centralization and colonization of the Indians."<sup>327</sup> Cherokees wholeheartedly believed in "Indian colonization" (Removal) so long as it strengthened the nations of Indian Territory.

Under these circumstances, views of Cherokee history were changing fast. Nationalists still looked back to their ancestral homelands with sorrow and longing, and *The Cherokee Advocate* was often the medium for these public expressions, but even their own Removal started to change meaning. Their suffering and removal had secured their title now under threat, and even many of the authors of their ethnic cleansing—the Southern states—decided that their previous support for Indian Removal necessitated a serious respect for Indian Territory's separate sovereignty.<sup>328</sup> In one especially startling example of this shift, *The Cherokee Advocate* printed the entirety of the

---

<sup>324</sup> CA, March 18, 1871.

<sup>325</sup> CA, March 18, 1871.

<sup>326</sup> CA, August 3, 1872.

<sup>327</sup> CA, March 22, 1872.

<sup>328</sup> Section Three of this dissertation discusses the number of ex-Confederate congressmen who supported the Cherokee's attempts to defend their sovereignty in the 1890s.

Indian Removal Act (1830) in full, without any criticism, to help emphasize the security of its land title, and to highlight the law which “authorized the issuing of [our] patent.”<sup>329</sup>

If consolidation, or “Indian colonization,” served Cherokee national interests, then how did it benefit Indigenous immigrants? A positive case can be found in the Verdigris Valley of the Cooweescoowee District, where Delaware immigrants deeply impressed their Cherokee neighbors. In June of 1872, “Turtle” submitted several updates about the Cooweescoowee District to *The Cherokee Advocate*, a genre which was common for the newspaper and which virtually every district submitted from time to time. The Delawares featured prominently and positively. Reverend Charles Journeycake, leader of the Delawares, had organized a Baptist church that was increasing in numbers. Agriculture, too, was a bright spot for the newcomers:

“Most of our settlers belong to the Delaware tribe...They came here and settled, and by their having the means wherewithal, they have fine improvements; this serving as an impetus to our original citizens to a competition...The spring crops look well.”<sup>330</sup>

In this community, the immigrating Delawares were being celebrated as Cherokees and newcomers reportedly prospered alongside one another. The Journeycake family had opened a successful Steam Saw Mill, and “Turtle” added that “there [was] still plenty of room for more settlers,” indicating that even more foreigners would be welcomed. The health of the people was good, the soil was fine, there was plenty of timber and good wells. This was not a bad place for Delaware-Cherokee citizens to call home.<sup>331</sup>

Agent Jones confirmed this positive state in 1872. The Delawares were finally settling into the Cherokee Nation, and he was happy to report that “they [were] among our most industrious and enterprising citizens.” Some Delawares were opening “very large farms” and “setting out orchards” and “surrounding themselves with fine herds of horses and cattle.”<sup>332</sup> He shared the same news “Turtle” had about the newly built church, but added the flattering note that it would “excel any house of worship in this nation as to style and general appearance.” Even better, the Delawares had the money to pay for it, “already contributed by themselves.”<sup>333</sup>

Meanwhile, the Superintendent of Indian Affairs expressed his concern that not all the Shawnees had removed to the Cherokee Nation. “The Black Bob band,” he explained, “are scattered in various directions...without permanent homes, while their fertile and exceedingly valuable lands near Kansas City are occupied by squatters...” He suggested that the squatters be removed as soon as possible, so that “fair competition [would] be allowed to take place,” raising the value of their lands to anywhere from \$10 to \$30 per acre. Once this was done, their lands could be sold fairly, and the Black Bob band would be able “to join their brethren in the Cherokee

---

<sup>329</sup> CA, September 7, 1872.

<sup>330</sup> CA, June 1, 1872.

<sup>331</sup> CA, June 1, 1872.

<sup>332</sup> No. 124. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1872*, by U.S. Agent for the Cherokee Nation John B. Jones. Tahlequah: September 1, 1872. Pg. 235-236.

<sup>333</sup> Ibid.

Nation, and secure for themselves comfortable homes, after which their agency could be discontinued.”<sup>334</sup> Indian Removal, again, was the solution to the predation of white squatters.

Of course, not all Cherokees welcomed these Native newcomers, and the lack of hospitality seemed to grow over time. Cherokees—just like Gilded Age Americans—could be deeply skeptical of foreign immigration. William P. Boudinot, despite his liberal tendencies, could not imagine how the country could sustain this immigration, even when the arrivals were Cherokees:

“A band of one hundred and twenty-five North Carolina Cherokees arrived this week from that State at Fort Gibson Station. Another band of seventy-five to follow soon—expected every day. These and the remainder who will certainly come when they can, and the blacks who are petitioning for admittance and the Cherokees from somewhere else, and the Indians whom the President will move into the country, and our natural increase of population, and the white men marrying into the country will soon leave us less than 160 acres apiece if we only wait a while.”<sup>335</sup>

The very same author who had decried the unoccupied lands within the Cherokee Nation, then, also worried that somehow “sixty-nine seventieths” of the country would be quickly lost to incoming Cherokees, Indigenous asylum seekers, freedmen, and adopted whites. It was not a rational fear by any means—by his own admission unoccupied land was still plentiful—but the fact that one person could hold two diametrically opposed views about immigration shows just how anxious xenophobic Cherokees were becoming.

A highpoint in tensions between “Native Cherokees” and Indigenous immigrants was reached in 1869, when approximately three hundred Delawares left (or perhaps fled) the country in response to “quarrels.” Boudinot did not share Lewis Downing’s concern for their return. He was at best ambivalent about these new treaty citizens:

“Efforts to persuade them back ‘home’ have been fruitless, a determined refusal being returned for answer to every invitation. The talk is now of using force, but if the Peorias [their hosts] are and will remain satisfied, we cannot see why a pacific arrangement cannot be made to answer. This forcing people to live where they don’t want to...is not very plausible business to say the least...The disturbance in Coo-wee-skoo-we District where these Indians first made their acquaintance with the Cherokee Nation is said to be the cause of their ‘emigration’ to a neighborhood more quiet. If so, the Cherokees should be the last to propose compulsion to effect their return.”<sup>336</sup>

To Boudinot, it was questionable that the Delawares could call the Cherokee Nation “home,” and a “disturbance” in the Cooweescoowee District seemed to be evidence of incompatibility. Though Cherokees and Delawares had already signed an agreement making the Delawares citizens, Boudinot proposed that a new one be drafted so that the Delawares could live somewhere else. There was some hinting that Cherokees were not in the business of compulsory removals, especially when Cherokees of the Cooweescoowee District had caused a “disturbance,” but based

---

<sup>334</sup> Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1871*, by Superintendent of Indian Affairs Enoch Hoag. Central Superintendency, Lawrence: October 5, 1871. 461-462.

<sup>335</sup> CA, October 14, 1871.

<sup>336</sup> CA, April 1, 1871.

on Boudinot's support for other Removals and his broader anxieties about immigration, this also could have been a pretense to prevent the Delawares from returning. Perhaps to his chagrin, the unhappy Delawares did return, and Turtle's positive report was written right after the discord.

In 1870, Cherokee Agent John Craig reported on the growing hostilities between natives and newcomers. Perhaps referring as much to the United States as the Cherokee Nation, he offered that "the introduction of different people into a community carrying on government on the basis of universal suffrage was likely to bring troubles..."<sup>337</sup> The neighborhoods where Delawares had settled had "been disturbed by quarrels" and complaints were made that "justice [was] not fairly administered from the jury box." Delaware discontent was growing, but Craig struck a hopeful tone: "I am satisfied the Cherokees desire their new citizens shall be fairly treated."<sup>338</sup>

Craig could not express the same hopefulness for a different class of new citizens: Freedmen. Black Cherokee citizens—and not the many who had been denied citizenship—were in "in some degree dissatisfied with their condition." This was an even higher priority for Craig as the Freedmen's numbers were "considerable" and their leaders had reached out to him asking for a separation. It was as if the separatism which had just died among Southern Cherokees had transferred to Black Cherokees—a logical trade since "Moderate" Reconstruction was achieved through the quick reconciliation between Loyal Cherokees and ex-Confederates. In this case, Craig pessimistically predicted that the Freedmen citizens would soon get what they wanted (separation), but he was mistaken. Formal separation never happened, nor would there be a reconciliation between the 19<sup>th</sup> century government and its Black citizens. Both for the Delaware and the Freedmen, the acquirement of citizenship proved ineffective at securing rights and respect.

This othering of Black Cherokees caused all kinds of hardships. It was the reason why the Loyal Cherokees attempted to abolish slavery *and* recategorize all Black residents as foreign permit workers during the Civil War. It was the reason why so many Black Cherokees were forever denied their citizenship after failing to return to the Nation within six months of the war's end, a problem which only intensified as Black Southerners began to trespass on Cherokee lands. It was the reason why even those who were enrolled as citizens were often left on the margins. Black Cherokees were imagined and treated as foreigners despite their extensive roots in the nation.

During Reconstruction, efforts to reform this ugly state were often led by the Principal Chief (Ross, Downing, and Thompson all favored a more liberal policy). These moves were rejected by the lawmakers. After Chief Ross recommended a new law to admit more Freedmen in December of 1871, the Senate quickly swatted it down. In response, William Boudinot tied the Black citizenship issue directly to the immigration question. He said that he "admired the generous feeling" of those who were advocating for the Freedmen—Cherokee citizenship for them would have been the "greatest boon ever given to any of the Race"—but the Reconstruction immigration policy necessitated a strict enforcement of the Freedmen citizenship restrictions:

"If we were not morally certain that there are very many...Cherokees who are yet to return to the Nation—Cherokees for North Carolina, Georgia, Texas, and elsewhere—if we were not morally certain that the Cherokee Nation would have many additions to its population

---

<sup>337</sup> No. 103. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1870*, by U.S. Agent for the Cherokee Nation John N. Craig. Southern Superintendency, Fort Gibson: September 30, 1870. Pg. 287-290.

<sup>338</sup> *Ibid.*

from other Indian Tribes to be admitted by the Treaty of 1866, if we did not know that hundreds of white men will soon be citizenized...we might perhaps agree personally to make a present of some land to each of the colored applicants.”<sup>339</sup>

Boudinot fully admitted that many of these claimants attempting to gain citizenship were formerly enslaved by Cherokees, but to him, it did not matter. In December of 1871 he still fully expected that more Cherokees and more foreign Indigenous peoples would be removed and—crucially—fully incorporated into the body politic. Following this train of thought, all Indigenous or white immigrants were genuinely or begrudgingly welcome; Black Cherokees, however, were not.

North Carolina Cherokees were also mistreated by their compatriots. One “Eastern Cherokee” immigrant, John E. Welch, wrote to *The Cherokee Advocate* in 1876, shortly after seeing the editor confess that he did not know how North Carolina Cherokees were left behind. Welch informed the paper’s readers “why they were left” and the amount of discrimination and exploitation they faced in the East. But then he turned toward the more recent past in the West. New arrivals from North Carolina, some of whom “came at their own expense, [and] spent very near all they had,” were now being mistreated by their fellow Cherokees. Welch listed several members of one North Carolina Cherokee family whom he knew personally. “Only one son and daughter” had been accepted as citizens and were “permitted to draw their equal parts of the per capita [payments].” The rest of the family had been denied citizenship—despite their long trek—and thus had been denied any part in the emergency bread money of 1875.<sup>340</sup>

Such mistreatment did not go unnoticed, Welch warned. Even after journeying from one nation of Cherokees to another, families and friends could still contact each other, and could easily report back what was waiting for new emigrants. The rejected women, Welch explained, had already acted accordingly:

“Those two *Ladies* [who were rejected] belong to a large influential connection in the old Nation, who write to know them all the obstacles that are thrown in their way, and when they hear of their claims being denied them, after they have traveled more than a thousand miles and exhausted their means, they readily decide to remain in the hills...”<sup>341</sup>

Welch therefore insisted that mistreatment of immigrants would destroy the project to reunite Cherokees. As a self-described Eastern Cherokee, he sought to keep that project alive, improve the treatment of his fellow immigrants, and he hoped that “then the Eastern Band will join their brethren in the West.” In the end, then, despite “how badly they [had] been treated” by their fellow Cherokees, Welch still thought that reunification in the West was a worthy objective.<sup>342</sup>

Cherokees were even xenophobic of people far beyond their borders. Sinophobia spread among Cherokee nationalists—particularly intellectuals. Walter Adair Duncan, the founder of the Cherokee Orphan Asylum and my great-great grandfather, defended the pace of Cherokee “civilization” with specific reference to Chinese people:

---

<sup>339</sup> CA, December 9, 1871.

<sup>340</sup> CA, June 3, 1876.

<sup>341</sup> CA, June 3, 1876.

<sup>342</sup> CA, June 3, 1876.



“Considering the short lapse of time they have been in possession of the elements of civilized life, and considering, also, the formidable discouragements...I think [Cherokees] have at least equaled, if they have not excelled, every other people in passing from a natural to a civilized state of life. It took centuries to warm the nations of North Europe into the manners and forms of polite living. And at the present day those same centuries have failed to cool the blood of the Asiatic. In many places he [the ‘Asiatic’] is...much now what he was two thousand years ago.”<sup>343</sup>

The Cherokee, according to Duncan, were fast in the process of “civilization”—perhaps even faster than the nations of North Europe. But his theory, of course, carried a grim conclusion. Other races of the world, such as “the Asiatic,” were inferior to “civilizing” Natives. Asians had centuries to “cool the blood” and yet they supposedly failed. Walter’s brother, Dewitt, another prominent nationalist and poet expressed similarly Sinophobic ideas, as did many other Cherokees.<sup>344</sup> The 1890 Census of Indian Territory would count just a single Chinese person in the Cherokee Nation (18 lived in the Indian Territory as a whole), but Cherokees still parroted the anxieties of their U.S. peers. They had studied America’s Sinophobia and brought it home.

What the Cherokee Nation really needed, according to some, was a wall. In the 1870s, westerners increasingly and critically referred to Indian Territory’s “Chinese Wall”—erected by the federal government to keep out commerce and progress. “Of course they want to pull it down,” Boudinot complained to his readers, and as he pointed out, there was tremendous irony in westerners selecting this particular metaphor:

“What does [he] really mean by the ‘Chinese wall’? Does he mean to liken us to Chinaman?...And does he mean to say that the horde to be kept out [settlers] have the instincts, habits and objects of regular Tartars, callous to pity, ferocious as fury itself, and so dangerous to deal with that a wall has been built...?”<sup>345</sup>

In line with their own interpretation of Chinese history, Westerners had unintentionally cast themselves as the “callous” and “ferocious” invaders which the “Chinese wall” could repel. Put this way, the wall certainly sounded like a good thing to Cherokees—a wall “made of promises and cemented by oaths.” The Cherokee were the “Chinaman” on the other side, safe from the “predatory character of the people intended to be excluded.” The Cherokee actually wanted their “wall,” they wanted protection, and they wanted to repel the invaders who were “ferocious as fury itself.” In a settler colonial context, theirs was a xenophobia that was both rational and irrational. It was absurd to fear the “uncivilized” influence of a couple hundred refugees escaping settler colonialism (just as the Cherokees had in the 1830s), but it was perfectly logical to fear the hostility of incoming Americans who wanted to open the country.

---

<sup>343</sup> CA, September 7, 1872.

<sup>344</sup> *The Indian Chieftain* (Vinita), August 9, 1900. In this fiery editorial against imperialism abroad and at home (against the Cherokee Nation), Dewitt Clinton Duncan wrote of how imperialism in Asia was undermining American democracy. His criticisms were marked with gory racism: “...American citizens are made the butts of Mongolian boots; their lifeless bodies dragged through foreign streets...pelted for days and days, with cannon shot at the hands of a horde of unclothed savages...”

<sup>345</sup> CA, April 15, 1876.

If they had been allowed, Delawares, Shawnees, North Carolina Cherokees, other Native immigrants, and especially Freedmen could have proved invaluable in one of the Cherokee Nation's greatest conundrums: sustainable population growth. By 1880, the citizen population would reach a little over 20,000, with a total population of about 25,000 (intruders were estimated to make up 1,821 of that figure).<sup>346</sup> This was not enough people to meet Cherokee ambitions of productivity, development, and even urbanization, and some worried that the Cherokee found themselves in a trap. Was there a way to build cities and to boom without surrendering their sovereignty? Boudinot dwelled on this at length in 1876, after noticing that wealthy Cherokees (whom he grew up with) were speculating in city lots around the country. To him it was alarming:

“They expect a real city to spring up *there* [in Vinita] of course...But who is to build the city, and who is to want to buy their lots again? Not Cherokees surely. They have expended all *their* enterprise in that direction on Tahlequah. The whole nation brought together would hardly fill up Fort Gibson, city fashion, and then what would become of Tahlequah and Vinita and various other embryo cities...No it certainly cannot be intended that the Cherokees will people these infant places, unless instead of becoming extinct they put our white friends to shame and become prolific beyond the experience of Chinese or Mormons. If these prospectively large cities ever become such in fact which they must do to make lots in them as valuable as anticipated, there must be white immigration...”<sup>347</sup>

And this was the threat. Boudinot predicted that Cherokees could not people these “embryo cities” unless they began reproducing “beyond the experience of Chinese or Mormons.” That would present a problem for the Cherokee speculators, who might secretly be hoping that the country would be forcibly opened, that the “Chinese Wall” would come down. “And yet,” Boudinot added, “if he [the speculator] is a patriot...He knows that our ‘status’ toward the United States Government is incompatible with the erection of cities on our own soil.”<sup>348</sup> Unable to imagine the Cherokee's population growing that high—and unlikely to imagine thousands of Freedmen or Indigenous immigrants helping in that regard—Boudinot concluded that any kind of city would always be a threat to Cherokee nationhood.

The additional irony here was that William Boudinot was correct when he worryingly predicted that “there must be white immigration.” Delawares, Shawnees, North Carolina Cherokees, and Freedmen were all *rightful* citizens under the law and more Native immigrants could have come under Article 15, but as the Cherokee Nation soured against taking in these nonwhite newcomers, it found its developmental needs satisfied by white permit workers who would quickly outnumber all these groups combined.

In Chapters One and Two, I highlighted how “liberal” Cherokees demanded a liberal immigration, labor, and land policy to attract foreigners, to build up farms, and to acquire wealth. Despite all his trepidations about immigration of all kinds—including white immigration—Boudinot was an early supporter of liberalizing the permit law. In 1876, years before Thompson tried to destroy the permit system altogether, Boudinot wrote: “The nation has all of its work done by foreign laborers and no harm done...[Orphans, widows, ‘all the women in fact’] have the same right to the soil and productions as the strong man has, but for want of a suitable law their right is

---

<sup>346</sup> Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>347</sup> CA, September 7, 1872.

<sup>348</sup> CA, September 7, 1872.

valueless to them.”<sup>349</sup> He was fearful of what Delawares, Shawnees, North Carolina Cherokees, and Freedmen could do to the national domain, but when it came time to decide how many white foreigners would be invited into the country, the floodgates opened, the so-called “Chinese Wall” came down, and his usual xenophobia lost its sharpness. The Cherokee Nation, with the help of thousands of immigrants, would be a whiter country than it had been previously.

If Native immigration flourished in the Cherokee Nation at this time, so too did Indigenous xenophobia. While some Cherokees clamored for more newcomers— especially their “brothers” and “sisters” in danger—other Cherokees increasingly rejected the idea of absorbing new citizens, especially if the newcomers could not afford to pay for the rights of citizenship. They complained about immigrants taking up communal resources and expressed fears of “semi-civilized” peoples being brought onto their lands. Black Cherokees—who were not foreigners—were frequently denied citizenship rights altogether, while illiberal traditionalists decried the law-abiding permit worker as no better than the “soulless” intruder. Cherokees, just like Americans, were reacting to a postwar world of immigration—one that almost always prioritized white immigration—and their reactions reshaped the American West in the process.

Furthermore, what makes xenophobia in the Cherokee Nation so fascinating is that it was an *Indigenous* republic’s response to immigration. One American traveler even likened the Keetoowahs to the Know-Nothings of the United States.<sup>350</sup> Xenophobia in the Cherokee Nation could be genuinely anti-colonial (if not also self-destructive). At the heart of it, Chief Thompson had attempted to ban foreign immigration to defend the traditional communal land system. The fact that this failed says a lot about what the Cherokee Nation had become by 1879: an Indigenous nation of immigrants, but more than anything, an Indigenous nation of *white* immigrants.

At the same time Cherokee xenophobia could also be anti-Indigenous. Chief Downing had embraced the understandable prediction that Native people beyond Indian Territory were doomed—but his sense of urgency lost to a general self-interest in the 1870s. During these years, even as white settlement ensnared Native nations and even as westerners repeatedly attempted to territorialize Indian Territory, Cherokee nationalists still rejected the policy of incorporation, and would remain bitter toward it until they found the opportunity to pointlessly repeal it in their 1893 treaty with the United States. Until then, the Cherokee found other ways to reject Indigenous immigrants; and tellingly, no tribe would gain Cherokee citizenship after the Shawnee in 1871.

While U.S. Southerners struggled against a Reconstruction-Era inclusive body politic, Cherokee nationalists did the same. With just as little remorse but far more legal standing, they insisted that a foreign power had forced them to adopt Black citizens. The Treaty of 1866 accomplished that but also set up a process for an inclusive Indigenous immigration to the Cherokee Nation: Article 15. In this new approach to the Removal policy, the Cherokee Nation and the United States were unequal partners, giving the Cherokee just enough power to dig in their heels and turn their backs on other tribes that wanted asylum like the Delaware and the Shawnee. Because of this, in 1871 the shift would take place. Indigenous immigration to the Cherokee Nation

---

<sup>349</sup> CA, May 6, 1876.

<sup>350</sup> “Saddle Sketches” by Eugene Lanner Gross for the Illinois State Journal, May 1873, Division of Manuscripts Collection, Box 12, Folder 17, Cherokee Nation Papers, Western History Collection, Norman, Oklahoma; Wardell, *A Political History of the Cherokees*, 237.

essentially ended while the only alternative was embraced. The Cherokee Outlet would be populated under the provisions of Article 16.<sup>351</sup>

### **Article 16: New Separate Nations (1871-1879)**

In March of 1871, the Cherokee delegation to Washington reported back on their progress. They shared with the public that they had been summoned before the Secretary of the Interior. The first matter that had to be discussed was the Texas Railroad Company's demand to purchase additional lands alongside its roads, but the Secretary "very properly declined to act...the Cherokees were owners of their lands," and therefore it was a matter for the Cherokee Nation and the company to discuss. The next order of business was the Osage, whose agent "claimed the right of settling the Osages, on Cherokee lands, *east* of the 96<sup>th</sup> degree, of west longitude." In other words, the Osage Agent wanted Osages to be placed *within* the Cherokee Nation, under Cherokee jurisdiction, as Cherokee citizens, under Article 15 of the Treaty of 1866.

This never happened. After listening to the Cherokee delegation and the Osage agent debate the matter, the Secretary of the Interior made his decision:

"The Secretary decided, that no Indians, except 'civilized Indians,' can under the 15<sup>th</sup> Article of our Treaty of 1866, be settled, on Cherokees lands east of 96<sup>th</sup> degree, and the Osages not being civilized but being 'blanket Indians,' inhabiting *portable* skin villages, and living by the chase, can not be settled *east* of that line. Accordingly, [he] decided to settle the Osages west of 96<sup>th</sup> degree under the 16<sup>th</sup> article of our Treaty of 1866."<sup>352</sup>

This back and forth was the unequal partnership of the United States and the Cherokee Nation in the postwar removals. The Osage Agent wanted to put Osages on Cherokee land, making them Cherokee citizens, which would have shaped their history into the present. The Cherokee delegation, reflecting the shift against the Delaware and Shawnee Agreements of the past refused. The letter is unclear whether the Cherokee delegates suggested the claim that the Osage were "uncivilized" and therefore unfit to settle on Cherokee lands that had once been theirs, but there would be a terrific irony in all of this. In planning a separate national homeland for the Osage, the Cherokee were about to sell some of the most oil and gas rich lands of Indian Territory.

The year 1871 was a clear turning point in this regard. It was the last year a foreign tribe was brought into the country as Cherokee citizens, and it was the first year the Treaty of 1866's Article 16 was put into use. The Osage were the first of seven Native nations to be removed to the Cherokee Outlet and settle there. In doing so they became the next-door neighbors of the Cherokee, as their new 1.47 million acre homeland to the West severed direct access between the Outlet and the "home tract" (see map one). The rest of the Outlet, importantly, remained in Cherokee hands, meaning that the Osage shared an eastern *and a* western border with the Cherokee, and that the

---

<sup>351</sup> In the last few decades, "Reconstruction" has often been the story of missed opportunities. In this sense, the Cherokees had a lot of different kinds of missed opportunities. Thompson tried and failed to make the country radically more egalitarian and one which prioritized the needs of the full-bloods. For the purposes of this chapter, the missed opportunity related to building up a stronger, even more populated community of Indigenous people, rather than one filled with permit workers (who likely did not have quite the same commitments to Indian sovereignty). Cherokees could have filled a crucial need for foreign Indigenous peoples fleeing settler colonialism, but instead they would prioritize their own economic growth and development, pushing for white immigration instead.

<sup>352</sup> CA, April 1, 1871.

two had a growing number of reasons to work cooperatively. In the coming years, the importance of the Cherokee-Osage relationship would begin to rival the long-standing importance of the Cherokee-Muscogee (Creek) relationship.

Such cooperation, however, was a process; predictably, there were pressing details that needed to be hammered out. The moment the Secretary of the Interior decided that the Osage were not “civilized” enough for Cherokee citizenship, the Osage Agent pressed for the removal of Cherokees from what would soon be the Osage’s lands. The Cherokee delegation, however, retorted that Cherokee “who had located in good faith” or owned property on them should be protected and compensated “for all loses and damages that they sustain, on account of the settlement of the Osages, or any other Indians, west of 96<sup>th</sup> degree.” Immediately after making this request, they asked for the federal government to send the transportation funds to the North Carolina Cherokee, seemingly the only group of people the Cherokee were still interested in bringing to their nation.<sup>353</sup> Cherokee interest in Article 15 was finished.

Meanwhile, Osage difficulties would persist.<sup>354</sup> They had preferred to settle in the Cherokee Nation, and were now left with lands that, in the words of their agent, had a “large portion of it...[that] is broken, rocky, sterile, and utterly unfit for cultivation...and the best portions of the remaining were already occupied...by about 150 families of Cherokees, Delawares, and Shawnees.”<sup>355</sup> Some Cherokees sold their improvements to the removing Osages, but most protested. When the Osage began collecting timber for the construction of a saw-mill, they had to periodically stop working “to avoid a conflict with their Cherokee friends, who resisted the necessary appropriation of timber.” This was a mess that could only be resolved after individual claims to Osage lands were settled. The Osage were understandably frustrated.

But once these claims were settled, the Osage deal arguably became a bright spot for the 16<sup>th</sup> Article. After coming to terms with the resettlement, both sides invested in a mutually beneficial project of Osage nation-building—much to the dismay of the Osage’s assigned agent.

It began in 1873 when Agent I.T. Gibson reported strong progress in the realm of agricultural productivity, but had serious complaints about the Osages’ neighbors, the Cherokee. The frequent delegates to Washington, C. N. Vann and W. P. Adair had come on to the Osage reservation and were staying “in the camps of the Osages for several days.” The pair were supposedly there to collect money for services rendered in Washington. They claimed—perhaps dubiously, perhaps sincerely—that they had interfered on behalf of the Osage in Washington on several matters, and they needed for the tribe’s leaders to sign off on their fees. Gibson denied that the Cherokee had played any role in the Osage’s legal victories, writing—with comparable artfulness—that the legal victories were “an act of justice, plain and uncovered, requiring no corrupting influence...”<sup>356</sup> Gibson related that he confronted the Cherokees, who refused to talk

---

<sup>353</sup> CA, April 1, 1871.

<sup>354</sup> For more about Osage history in the postwar era, see Louis F. Burns, *A History of the Osage People* (Tuscaloosa: University of Alabama Press, 2004); James R. Christianson, “A Study of Osage History Prior to 1876,” PhD diss., (University of Kansas, 1968).

<sup>355</sup> No. 73. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1871*, by U.S. Agent for the Neosho Agency Isaac T. Gibson. Central Superintendency, Parker: October 1, 1871. Pg. 489-491.

<sup>356</sup> No. 22. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1873*, by U.S. Agent for the Osage Agency Isaac T. Gibson. Parker: October 1, 1873. Pg. 215-218.

to him, at which point Gibson asked them “to desist importuning the Osages [and] interfering with the business of the chiefs at the agency...” The two men responded with a veiled threat that if they were not left alone “they would let [Gibson] alone.”<sup>357</sup>

It seems likely that Adair and Vann were trying to exploit the Osage, but whatever their intentions, it turned into a farce. The Osage signed an order asking the Department of the Interior to investigate the delegates’ claims and to pay them whatever they were truthfully due. Adair and Vann were ultimately paid just \$50,000—a sixth of what they had requested.<sup>358</sup>

Two years later, William Penn Adair returned to the Osage Nation—this time showing a personal interest in promoting Osage self-rule. Gibbons wrote about it despondently:

“W.P. Adair, a Cherokee, privately visited the reservation and corresponded with those dissatisfied, and ridiculed them for laboring [in exchange for their rations] telling them their agent had no authority to purchase supplies for them, but it was his duty to give them their money in hand, so they could buy what they pleased, and have white men and other Indians to do their work; that they were not children to be treated in this manner &c...Forcible seizure of the subsistence was urged and appeared imminent...”<sup>359</sup>

In short, Adair found the agency backwards in its treatment of Native peoples. The Osage, he argued, were not children that needed a federal agent to control their money for them. Self-rule meant control over national resources. Forcing the Osage to labor in exchange for money that was already theirs was beyond the pale.

Other “leading Cherokees” supposedly advised the Osage to ‘disregard all Government surveys...obliterate evidences of section-lines, and hold their land in common.’<sup>360</sup> Both in finances and land-ownership, then, Cherokee nationalists urged the Osage to adopt the “Cherokee model.” In Adair’s case, though he also seemed perfectly capable of trying to exploit the Osage, he found their agent (and the agency itself) unbearable. Osages deserved more than to labor for funds that were theirs already. Demonstrating how an Indian agent might interpret this form of Native self-rule, Gibbons complained that the Cherokees were “corrupt, *uncivilizing* influences.”<sup>361</sup>

Over the next few years, the Osage-Cherokee and even the Osage-Adair relationship seemed to improve. In December of 1880, the governor of the Osage, Joseph Pawnenopashe wrote to Chief Bushyhead, offering his condolences. The “friend” of the Osage, William Penn Adair, had recently passed. After expressing his sadness at this, Pawnenopashe pressed on to official matters, telling his Cherokee counterpart that he was “glad to hear that [Bushyhead] sympathize[d] with us and [had] expressed [his] willingness to render...all the assistance [he could] in regard to becoming a self-governing people as the Cherokee are.” In particular, the Osage wanted to “secure a constitutional government” and they wanted the Cherokee’s help.<sup>362</sup>

---

<sup>357</sup> Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1875*, by U.S. Agent for the Osage Agency Isaac T. Gibson. September 1, 1875. Pg. 276-281.

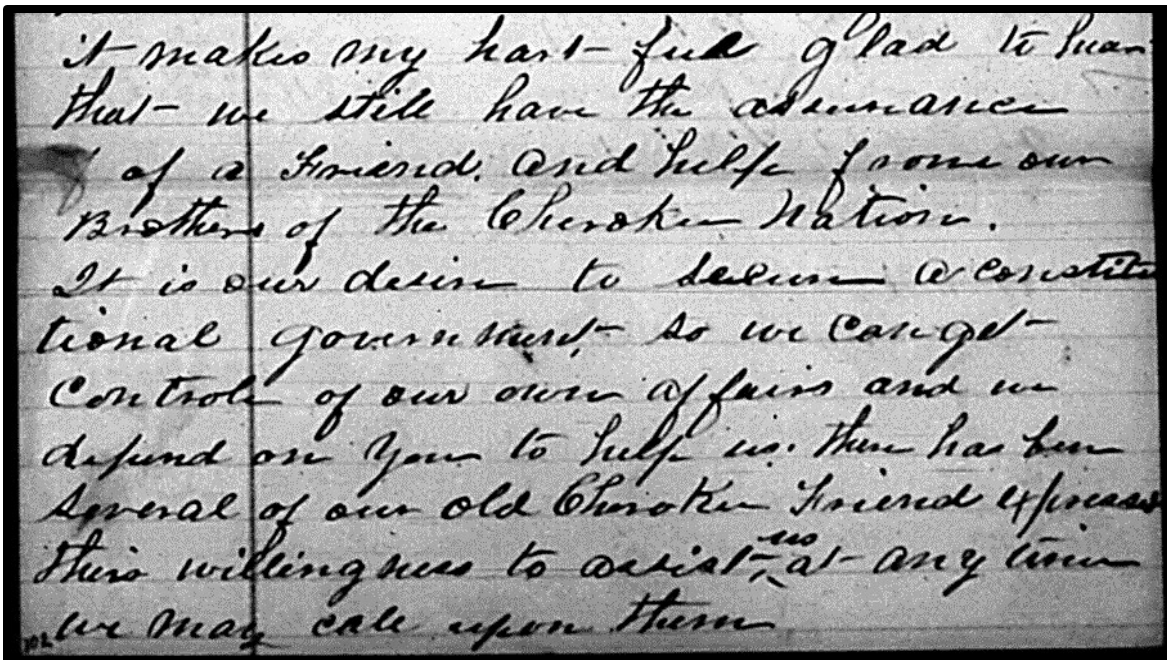
<sup>358</sup> Ibid.

<sup>359</sup> Ibid.

<sup>360</sup> Ibid.

<sup>361</sup> Ibid. Emphasis Added.

<sup>362</sup> Joseph Pawnenopashe to Dennis Bushyhead, December 13, 1880, CHN 81 (Foreign Relations), Cherokee National Records, Indian Archives, Oklahoma History Center.



**Image 3.1:** Pictured above is an excerpt from Pawnenopashe to Dennis Bushyhead. Halfway through the letter Pawnenopashe assured his Cherokee counterpart that the Osage Nation desired “to secure a constitutional government” like the Cherokee so that they could “get control of our own affairs.” “We depend on you to help us,” Pawnenopashe added. Indigenous republicanism was spreading within Indian Territory. **Source:** Cherokee National Records, Indian Archives, Oklahoma History Center.

What is more, despite the loss of Adair, Pawnenopashe still seemed to have Cherokees willing to provide their assistance. He asked Bushyhead to instruct the Cherokee delegation to represent their interests in Washington as they would not be able to send their own delegation. In addition to Bushyhead, others would help: “There has been several of our old Cherokee friend expressing their willingness to assist us—at any time we may call upon them.”<sup>363</sup> With their support, he imagined, Osage self-rule was not so far off. He added: “I hope the day is not far off when we can control our own affairs as you do...”<sup>364</sup>

The Osage never quite achieved the power over their own affairs that they sought—at least in the 19<sup>th</sup> century. They did, however, exploit their relationships with the Cherokees to “ascend” civilization in the perception of whites. In the halls of Congress and in the newspapers, many began to refer to “Six Civilized Nations” or simply the “Five Civilized Tribes” (with the Osage replacing the Seminole). This had tangible results. In 1887, the Osage were one of the very few tribes in the country (besides the Five Nations) to be specifically protected from Dawes Act powers. In the early 1890s, federal commissioners tried to convince the Osage to consent to allotment anyway, but the Osage flatly refused. Following in Gibbons’ footsteps, the commissioners concluded that the meddling Cherokees must have encouraged the Osage to resist the U.S.<sup>365</sup>

---

<sup>363</sup> Interestingly, I have family that worked with the Osage Nation at this time. In a “family archive” of sorts, I recently came across an 1890 letter from the Osage National Council to my great-grandfather, asking him to come to the Osage Nation to copy and print their new laws for publication.

<sup>364</sup> Joseph Pawnenopashe to Dennis Bushyhead, December 13, 1880, CHN 81 (Foreign Relations), Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>365</sup> Hagan, *Taking Indian Lands*, 232.

The Osage were a bright example of what could still be achieved (in terms of intertribal cooperation) if Article 16 was invoked. There were, of course, more difficult histories. In 1873, the impoverished Kansa (Kaw) were removed from Kansas and brought to the Osage reservation (of which they would hold a small part). They, like the Osage, would be subjected to the semi-autocratic powers of Agent Gibbons. In 1875, for instance, they and the Osage were ordered to return early from their summer hunt because of the opening hostilities in the Great Sioux War, and “hence they have been subsisted almost entirely upon food procured by the Government with their own funds appropriated by Congress.” During the same year, Gibbons wrote that the Kaws were making progress “under the stimulating influence of the law requiring labor for their rations.”<sup>366</sup> Again, even without a trace of fraud, tribes without strong governments could still have their resources sapped by the agents supervising them. Indian Territory was no exception.

But worst of all, in 1879 Agent L. J. Miles reported that the Kaw’s numbers had dropped to 360. “They are rapidly diminishing,” he wrote, “having lost about one-half of their number in seven years, caused mainly by contagious diseases...” It was a startling loss of life, which might have been abated if the tribe had been allowed to settle within a well-established nation. With their numbers small, the Kaw could not seriously have affected Cherokee availability of land, and the counter-factual brings up a stunning possibility. Among the Kaw survivors was the family of Charles Curtis—a future U.S. Senator, this country’s first and only Native vice-president, and the namesake of the 1898 law which would dismantle the Cherokee government. Things may have certainly turned out differently if the Curtis family had immigrated to the Cherokee Nation instead.

Of course, it impossible to say, but for the rest of the Kaw, resisting the United States was not so difficult. In the 1890s, federal commissioners hoped to get the tribe to agree to an allotment plan. Even though they lacked the protections of the Osage—immunity from Dawes Act powers—the Kaw nonetheless refused to negotiate. They declared that they would remain in lockstep with the resistant Osage. Native nation-building was contagious in this way.<sup>367</sup>

Next came the Pawnee (1874-1875), who at one point in their history had stood guard for western railway builders and U.S. military officials alike—General Sherman included.<sup>368</sup> By the early 1870s, the ecological destruction of the bison and the swarming of white settlers was taking a heavy toll. Then, in 1873, disaster struck as Sioux raiders attacked a Pawnee hunting party and massacred well over one hundred men, women, and children.<sup>369</sup> Immediately, mourning mixed with calls for action. Entire factions of the Pawnee announced their intention to remove south to Indian Territory. At one council, a formal invitation from the Wichita, their old allies, was presented as more reason to make the move. Among the Pawnee, the pressure for Removal was driven by the tribe itself rather than the federal government. Beginning in 1874 and ending in 1875, over two thousand Pawnees removed to Indian Territory. Some did so early and illegally (without federal authorization); some did so later and legally (under the formal process of Removal).

In this case, even though the Cherokee had lost direct access to the Outlet lands, they remained a diplomatic gatekeeper to anyone interested in Article 16 resettlement. In December of

---

<sup>366</sup> Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1875*, by U.S. Agent for the Osage Agency Isaac T. Gibson. September 1, 1875. Pg. 276-281.

<sup>367</sup> Hagan, *Taking Indian Lands*, 233.

<sup>368</sup> Hyde, *The Pawnee Indians*, 286.

<sup>369</sup> *Ibid*, 314.



1874, *The Cherokee Advocate* reported that “through their Agent, Mr. William Burgess, the Pawnees have made application for settlement in our country west of 96. The application was made to Chief [William] Ross while in attendance upon the Peace Commissioners at Muscogee.”<sup>370</sup> The Pawnee agent had taken advantage of a public event to speak with Chief Ross; purchasing Outlet lands triangulated the federal government, the Cherokee Nation, and removing tribes.

Pawnee enthusiasm for Removal was met with several depressing factors. The federal government would not tolerate the construction of earth-lodges, and the Pawnee had lost many of their comfortable cow-skin tipis in the 1873 massacre. The result was that they lived in uncomfortable canvas tipis in a new environment, without enough food supplies, and a growing number of sicknesses. Approximately 1,000 Pawnees died between 1872 and 1879, meaning that nearly half of the tribe was lost over the course of just seven years—just like with the Kaw.<sup>371</sup> Even still, the Pawnees survived, and their material conditions improved over the course of the 1880s.<sup>372</sup>

While the Pawnee struggled to make a life in Indian Territory, the Otoe-Missouria Removal (1876-1881) was being finalized. Their Removal was a schism. The “Coyote Band,” composed of traditionalists, wanted to remove to Indian Territory to preserve their way of life free from interfering whites. The “Quaker Band” disagreed and hoped to stay in Nebraska. The conflict turned into a farce once the United States decided that both would be removed to Indian Territory.<sup>373</sup> The United States did not care what each band wanted.

In effect, the Coyote Band’s hopes could be boiled down to something far more fundamental: self-determination. As this section has shown, however, they would not find what the Old Settlers once had. It was the same driver which had once pushed the “Old Settlers” of the old Cherokee Nation into Indian Territory decades prior. The Old Settlers found what they were looking for, but the Coyote Band would not. The Otoe-Missouria agents in the Outlet would still ban traditional ceremonies and would force their children to go to boarding schools. In addition, the money from the sale of their homelands was withheld for decades.<sup>374</sup>

The Removal of the Ponca (1877) started with a federal oversight. In 1868, U.S. treaty-makers accidentally ceded the entirety of the Ponca’s Nebraskan lands to the Teton Dakota. For their part, the Teton Dakota were historic enemies of the Ponca and were periodically armed by the United States at this time.<sup>375</sup> This was a recipe for disaster, and Ponca conditions seriously worsened while—for eight long years—the United States did nothing to rectify the mistake. Finally, in 1876, Congress found a “solution” that the tribe would resist adamantly: the Ponca—being the weaker of the two nations—would have to remove to Indian Territory in 1877.

The trek was difficult and worsened by sickness. Ponca children seemed especially vulnerable to the move and of all things a tornado struck the removal party along the way. When the tribe arrived at the Quapaw Agency (the northeast corner of Indian Territory), federal

---

<sup>370</sup> CA, December 19, 1874.

<sup>371</sup> Hyde, *The Pawnee Indians*, 314.

<sup>372</sup> Ibid, 345.

<sup>373</sup> Dickey, *The People of the River’s Mouth*, 135.

<sup>374</sup> Ibid, 136.

<sup>375</sup> Howard and LeClaire, *The Ponca Tribe*, 33.

provisions were severely lacking as usual. The next year, 1878, the Ponca succeeded in their demand for a second removal to better lands on the Cherokee Outlet. Fortunately, no one died on this second removal, but the Ponca—like the Pawnee—were greeted with malaria and fevers. Overall, since removing from Nebraska, one third of the tribe had been lost. In December of 1878, Chief Standing Bear’s eldest son would join the dead. It was this father’s loss that would transform Native history and reshape federal-Indian relations forever.

The final Removal to the Cherokee Outlet took place in 1885. Like the Pawnee, the Tonkawa were historic allies of the United States—or more precisely, the state of Texas. Their partnership in fighting Comanches and Kiowas proved invaluable until the Comanches and Kiowas were themselves removed to Indian Territory.<sup>376</sup> During the Civil War, the Tonkawa sided with the Confederate Texans (their historic allies), which in one day cost them a staggering 137 villagers in one of the tribe’s worst massacres of noncombatants. Catastrophic moments like this reduced their numbers from over 600 in the 1840s to less than two hundred in the 1870s—a figure which includes the Lipan Apaches who joined their ranks.<sup>377</sup> When Texas finally had peace, the Tonkawa wanted to stay with their allies, but Texas disagreed. The federal government spent the first few years of the 1880s busily deciding where to put the tribe in Indian Territory.<sup>378</sup> In 1885, 98 Tonkawas and Lipan Apaches removed themselves to the Cherokee Outlet.

Tragically, because of their late resettlement, the Tonkawa were only on their new homes for two years when the President was granted the power to allot their lands at a moment’s notice. When federal commissioners went looking for the Tonkawa in the fall of 1891 (to discuss allotment terms), they found a tribe of 67 people.<sup>379</sup> The commissioners and Congress exploited the weakness of this tiny tribe as much as they could, claiming to have secured an agreement which the Tonkawa later denied. The historian William T. Hagan later wrote, “No member of Congress rallied to the support of the tiny group...[the commissioners] appeared to be becoming more cynical, more ruthless in their treatment of small tribes that resisted allotment...”<sup>380</sup> In Indian Territory as in so many places, there was always strength in numbers, and this of course worked against Tonkawa interests. This was another pitfall of Article 16 resettlements.

It is impossible to say exactly how outcomes would have differed for removing nations had they been allowed to settle under Article 15 rather than Article 16, nor can we predict how xenophobic Cherokees would have reacted to “uncivilized” tribes attempting to negotiate their immigration (except, of course, in the Osage example). The Osage rallied for incorporation under Article 15, but after being rebuffed, were rewarded with a nation of their own, and quickly cultivated a meteoric rise in political prominence. One struggles to imagine an Osage citizen today saying that they wish Cherokee citizenship had been conferred instead. The wealth of oil and gas reserves on their lands alone has radically shaped their history and expressions of sovereignty.

The trauma of these Removals in many ways reinforces Cherokee nationalists’ claims that Indian Territory was the only safe place for Native peoples. The Pawnee were massacred by Indigenous enemies locked in their own struggle with the United States; the Tonkawa were

---

<sup>376</sup> McGowen, *The Texas Tonkawas*, 132.

<sup>377</sup> *Ibid*, 86.

<sup>378</sup> *Ibid*, 138-141.

<sup>379</sup> Hagan, *Taking Indian Lands*, 141.

<sup>380</sup> *Ibid*, 142.

rejected by the state that they had served for so long; the Ponca's lands were wiped off the map with a stroke of the pen. Indian Removal was a deadly, catastrophic process, yes, but the Cherokees—who themselves lost thousands of people on their own Trail of Tears—supported consolidation (“Indian colonization”) for a reason. Cherokee leaders of the 1870s were still the same generation which had crossed the country into the West; in the 1880s, they would preside over the Cherokee's greatest decade of prosperity and growth. Removal was an evil with long-term consequences that aided Indigenous sovereignty. Allotment would destroy that.

On the other hand, the Pawnees advocated for their own Removal (after experiencing a horrific massacre) only to be met with an even greater degree of loss in Indian Territory. “Civilization” efforts were partially to blame as Pawnees were denied proper shelter in a new environment, but that was yet another shortcoming of Article 16. Tribes removing into the Cherokee Nation under Article 15 were guaranteed a genuinely free constitutional government where federal agents could not exercise autocratic powers. Tribes removing into the Cherokee Outlet, in contrast, struggled with overpowered agents who sought to maintain the same level of authority as agents across the reservation system. Article 16 provided “autonomy” in the sense that the lands were not the Cherokees', and the Cherokee majority was not in control, but it provided autocracy in the sense that the lands remained in trust (unlike under the Cherokee system) and were still ruled by white American officials. In this, the Cherokee were at least partially complicit.

Finally, in all these cases, regardless of whether a tribe enjoyed their new home or not, and regardless of whether they came to Indian Territory willingly or unwillingly, the Cherokee Nation collected large sums of money for the sale of lands it did not want. The sale of lands for the Osage, for example, generated nearly 1.2 million dollars over the course of sixteen years.<sup>381</sup> Land sold to the Pawnees, Poncas, Nez Percés, and Otoes and Missouriias generated a total of \$313,793.<sup>382</sup> These sales overlapped with new forms of revenue generation that Chief Bushyhead presided over, making them an important part of a larger portfolio of Cherokee wealth-building during the 1880s. Removals to Indian Territory, for Cherokees most of all, could also be profitable.

### **End of Removal (1879)**

When Chief Joseph and the Nez Percé fled their Removal to Idaho, a war erupted. At the end of five months, with skirmishes spanning over one thousand miles, the United States was surely embarrassed by the result. A few hundred Nez Percé chased by a few thousand soldiers had resulted in nearly one million dollars of additional expenses for the military. 127 soldiers and 50 civilians had been killed. It was estimated that 151 Nez Percé had been killed, making U.S. and Native losses in combat unusually comparable. In a different day and age, the tribe would have been reviled universally without exception.<sup>383</sup>

Not so in 1878. The military would hold its grudge and betray a peace settlement to send Chief Joseph's band into exile in Indian Territory; much of the rest of the country disagreed. The newspapers depicted Joseph and his band as military geniuses; the city of Bismarck threw an elaborate banquet with Chief Joseph as the guest of honor; crowds of white Midwesterners rushed

---

<sup>381</sup> Annual Expenditures Receipts and Refunds, Records of the U.S. Treasury for years 1874 to 1890.

<sup>382</sup> CA, July 17, 1885.

<sup>383</sup> Haines, *The Nez Percés*, 281. See also Elliot West, *The Last Indian War: The Nez Perce Story* (Oxford and New York: Oxford University Press, 2009).

to hand food to the prisoners; the Nez Percé would become a rallying cry for reformers like Helen Hunt Jackson. Joseph would visit Washington in 1879 to condemn his mistreatment. He would participate in the dedication of ceremonies at Grant's Tomb in the 1890s.<sup>384</sup> Throughout the 1880s, reformers continued to demand justice on Joseph's behalf. They demanded he be reunited with his people in Idaho, and that his exile in Indian Territory be lifted.<sup>385</sup> Joseph asked for more than the freedom of movement: "We should have one law to govern us all...All should be citizens of the United States" (though of course that was exactly what Cherokees hoped to prevent).<sup>386</sup>

As Americans fawned over Chief Joseph, one can imagine President Hayes or the Secretary of the Interior sighing in exasperation, wishing whole the saga would end. They would not be so lucky. In January of 1879, the mourning chief of the Ponca, Standing Bear, slipped off the reservation with his son's remains. Eager to bury his son with his ancestors, Standing Bear's goal was to get to the Ponca traditional lands and bury him there. Twenty-nine men, women, and children accompanied him, and based on Standing Bear's thoughts about their Indian Territory lands, we don't need to guess why the others joined him:

"I was in an awful place, and I was a prisoner there. I was not a free man...I said I will take a small party and start back to my old home. If the soldiers come after us, I will not fight. Whatever they do, it can't be worse than to stay here."<sup>387</sup>

They walked on foot and it was later written that they did so "molesting nobody, and subsisting upon charity."<sup>388</sup> It was an expatriation, a homecoming, and a peace march all at once. When they reached the Omaha reservation, they were nursed to health by old friends and allies while the Omaha agent telegraphed the Department of the Interior. The Department of the Interior contacted the War Department which was instructed to forcibly return the party to Indian Territory.

But the orders were handed down to one Gen. George Crook who did have the party arrested and brought to Fort Omaha, but then decided to do something else. He enlisted the help of a reporter, Thomas Tibbles, who was of like-mind about the federal Indian policy of Removal. Tibbles interviewed Standing Bear and his companions, who predicted that if they were forced back to Indian Territory, the children that accompanied him would soon die like his son.<sup>389</sup>

Tibbles acted. He formed a legal team of two and the partners decided to file a historic writ of habeas corpus to prevent the removal order. It was apparently General Crook's idea, and they based their filing on the idea that because Standing Bear had willingly separated from his tribe, he was an expatriate entitled to 14<sup>th</sup> amendment protections.<sup>390</sup> The argument worked, a trial ensued, and the presiding judge ruled that "Indian possess the inherent right of expatriation...and have the inalienable right to 'life, liberty, and the pursuit of happiness'..." Standing Bear would be free, and perhaps more importantly, he would bury his son as he wished. Anti-Removal activists celebrated while their numbers multiplied; meanwhile it was not hard to read the writing on the

---

<sup>384</sup> Haines, *The Nez Percés*, 289-290; Josephy, *The Nez Perce Indians and the Opening of the Northwest*, 642.

<sup>385</sup> Josephy, *The Nez Perce Indians and the Opening of the Northwest*, 640-641.

<sup>386</sup> West, *The Last Indian War*, 305.

<sup>387</sup> Dwyer, *Standing Bear's Quest for Freedom*, 45.

<sup>388</sup> *Ibid* 46.

<sup>389</sup> *Ibid*, 61.

<sup>390</sup> *Ibid*, 73.

wall. Native peoples' "new" right to expatriation and the Indian "consolidation" plan could not coexist. The *Standing Bear* case was a timely signal that Indian Removal's days were numbered.

The case had already provoked a fervor among East coast humanitarians, but Standing Bear and his legal team kept adding fuel to the fire. Tibbles left Nebraska to deliver lectures on the East coast while Standing Bear and his interpreter Bright Eyes of the Omaha tribe delivered their own lectures in Omaha. Returning from one of his trips, Tibbles caught one of the Omaha lectures and decided they should all travel the East coast circuit—which they started in October of 1879.<sup>391</sup> Standing Bear and Bright Eyes shared their stories with crowds in Pittsburgh, New York, Philadelphia, and Washington, but in Boston they inspired a different kind of force. Helen Hunt Jackson was in the audience and on December 21, 1879, she wrote that the words "Indian" would be engraved on her brain even after death: "A fire has been kindled within me, which will never go out."<sup>392</sup> She went on to write one of the most famous books ever written about Native peoples. It was entitled, *A Century of Dishonor: A Sketch of the United States Government's Dealings with Some of the Indian Tribes* (1881).

But Jackson's *Century of Dishonor* was as much a condemnation of Removal and abuse as it was a treatise for general allotment.<sup>393</sup> Bishop Henry Whipple and Julius Seeyle wrote the preface and introduction respectively; the former called the Cherokee Removal "one of the darkest crimes ever committed by a Christian nation," the latter prophesized that through "wise and Christian treatment... tribal relations will become extinct." Seeyle promised that "the whole system of Indian reservations" would be brought to an end, and that "the continued isolation of the Indian Territory" would be forbidden.<sup>394</sup> Whipple differed, arguing that those who planned to "wrest [the Cherokee's] land" from "its rightful owners" were committing a "great iniquity" Still writing about the Cherokees, he added, "They will defend their country with their lives." Both agreed Removal was a crime; Cherokee land, on other hand, divided them. It would do so for years on end.

Jackson inadvertently highlighted the costs of the end of Indian Removal throughout her work. She did not believe in immediate citizenship for all Native peoples—which was a radical idea at the time—but she agreed with others that without U.S. citizenship "wards and dependents" would "only partially exercise the rights of free government."<sup>395</sup> In her case studies of the Cheyenne, Sioux, and Winnebagoes (Ho-Chunk), allotment was presented as something that "anxious" Indians "clamored" for, something which gave them peace, and something which caused feelings of betrayal whenever the process was withheld.<sup>396</sup> In the chapter on the Winnebagoes (Ho-Chunk), as Jackson antagonized the pro-Removal report of the Commissioner of Indian Affairs, she turned toward the official's disapproval of allotment and criticized it mercilessly.<sup>397</sup> The anti-Removal tribes which had inspired her—the Nez Perce, the Ponca, and the Cherokees of the 1830s—were put front and center. In her eyes, allotment was not something that needed to be forced. Given time, Indians would willingly embrace it.

---

<sup>391</sup> Dwyer, *Standing Bear's Quest for Freedom*, 137.

<sup>392</sup> *Ibid*, 140.

<sup>393</sup> Another activist and ethnologist shaped the formation of the Dawes General Allotment Act: Alice Fletcher. She composed a nearly 700-page document in favor of general allotment and Henry Dawes drew from her work.

<sup>394</sup> Jackson, *A Century of Dishonor*, ix-3.

<sup>395</sup> *Ibid*, 340-341.

<sup>396</sup> *Ibid*, 85, 169, and 245-256.

<sup>397</sup> *Ibid*, 248.

Westerners had their complaints about the Removal policy. In June of 1876, *The Fort Smith New Era* responded to false reports that the Black Hill Sioux would be removed to the Indian Territory. They were angry, but not for any humanitarian reasons:

“Arkansas, Missouri, Texas, and Kansas ought to protect energetically against this consummation, as it will essentially retard the development of the Indian Territory, far more valuable to the interest of those four border States and the country at large than the distant and sterile Black Hills.”<sup>398</sup>

Westerners, or in this case the people of Arkansas, Missouri, Texas, and Kansas felt a growing common cause. For years, the federal government had repeatedly insisted that Indian Territory would be off limits for white settlement, and that Native peoples of the United States—as far west as California, as far North as the Dakotas, and as far East as North Carolina—would all continue to relocate to Indian Territory—a block of land in the heart of the American West, surrounded by the states of Arkansas, Missouri, Texas, and Kansas.

By the 1870s, these states were beginning to realize that Indian Removal had lost its appeal. In the past, all four states had played a role in pushing Native nations into Indian Territory, but now they were slowly coming to realize what Removal had left them with. They surrounded a mass of Native nations that by law could not be opened to settlement, that could not be developed (at least by non-Indians), and that seemed to pose a significant threat to their own political and economic interests. So, was Indian Removal still the favored policy of the Jacksonians’ descendants? It certainly was not.

These four states were some of the most frequent supporters of bills that attempted to “territorialize” Indian Territory after the Civil War, or in other words to transform dozens of Indian nations into one federal territory (presumably open to white immigration). These attempts all failed until the West shifted its attention to the General Allotment Act in 1879, but before that happened, they began to send a warning to their congressional colleagues. Perhaps they could not succeed in territorializing Indian Territory, but they would—increasingly—declare war on the decades-old Removal policy. Removal itself now stood in the way of further colonization.

Missouri led the charge in the summer of 1876. A representative from Texas, Roger Mills, put forward a bill to remove thousands of Indians from the Fort Sill reservation (in southwestern Indian Territory) to the Baxter Springs reservation (in northeastern Indian Territory). His sole purpose was to get the Indians off the border of Texas, and onto the border of Missouri, Kansas, and Arkansas. His colleagues reacted with dismay. Representative Benjamin Franklin of Missouri protested, arguing that the move would endanger the three states mentioned. He then expanded his criticism to something else entirely:

“What we want is more civilization and less barbarism. I know it is the policy in some quarters to make the Indian Territory the home of all wild tribes of the plains, but I trust a higher destiny is in the near future for that God-favored land and that the day will soon dawn that will subordinate the people of what is known as the Indian Territory to the same laws...that we as a nation enjoy.”<sup>399</sup>

---

<sup>398</sup> CA, June 10, 1876.

<sup>399</sup> U.S. Congressional Record, Volume 4, Part 4, pg. 3501.

This was another subject entirely. The Fort Sill reservation was already established in Indian Territory, thousands of people lived on it, and moving from one part of Indian Territory to another would not change the composition of Indian Territory itself. Franklin was signaling that his state was growing tired of Indian Removal. Indian Territory, he imagined, was destined for better things than “wild tribes.”

The conversation was renewed two days later; Representative Richard Bland—also of Missouri—insisted that Indians could not “be allowed perpetually to remain there” in the “garden-spot of this country.” But instead of removing the nations of Indian Territory somewhere else, Bland insisted that they be forced to accept federal control. “This system of things”—presumably the Removal policy—“cannot last...” he promised. Territorialization was coming—the sooner it was done, the better.<sup>400</sup>

A month later, on July 20<sup>th</sup>, the House received the Senate’s changes to a bill that would remove the Otoe-Missouria tribe to the Cherokee Outlet. Yet another Missourian, Charles Morgan, shared his reason for refusing to sign the bill:

“The amendment made by the House struck from the bill the provision for the removal of the Indians to the Indian Territory...upon this we had our conference. Now, I am utterly opposed to the further removal of Indians to the Indian Territory...I think it is a great injustice to the Indians; and I believe that the provision requiring the consent of the Indians to the removal has but little significance. We all understand how easily the consent of these Indians is obtained and by what means. I also consider it a great injustice to the people of the adjoining states [including my own], who are opposed to the settling up of that country with an idle, worthless population.”<sup>401</sup>

The irony was tremendous. After Missouri had cleared its lands of Native peoples, it now found Indian Removal offensive. The House had apparently attempted to remove the provision that the Otoe-Missouria would be removed to Indian Territory, and the Senate had insisted otherwise. What followed was Morgan’s tantrum: treaties were a farce, corrupt forces easily obtained “consent” from tribes, and the impending Removal was a “great injustice” to Native peoples—whom he also considered to be “an idle, worthless population.” When a perhaps incredulous representative from Kansas asked Morgan if he was objecting “on the single ground that he is opposed to the removal of the Indians,” Morgan corrected him—he opposed removals to *Indian Territory*. Representative Bland—again—took this occasion to repeat his disdain for the Removal policy, relocating tribes from northern territories was “in the interest of Chicago and other northwestern cities.” He proposed to “fight it out...all this hot summer and a hundred succeeding summers.” It would have no influence on this result—the Otoe-Missouria would be removed to the Outlet—but Missouri had made its point: Indian Removal was in trouble. All that was needed was a turning point. The Removal debacle of the Nez Perce and Standing Bear’s trial proved to be those moments.

By virtue of being closest in proximity to Indigenous nations (unlike the “sentimental” Eastern reformers), westerners were often the most callous toward Native peoples’ rights and sovereignty (just as the Southerners of the Jacksonian period had been before them). However,

---

<sup>400</sup> U.S. Congressional Record, Volume 4, Part 4, pg. 3560.

<sup>401</sup> U.S. Congressional Record, Volume 4, Part 5, pg. 4773.

unlike those early 19<sup>th</sup> century Southerners, there was nothing as isolated as Indian Territory left in the country—the “frontier” was fast closing. Thus, Indian Territory’s neighbors—Texas, Missouri, Arkansas, and Kansas—organized against Indian Removal. They opposed the removal of the Sioux to Indian Territory in the aftermath of the Battle of Little Bighorn (and their removal to Indian Territory was prohibited in 1877); they tried and failed to stop the removal of the Nez Perce to the Indian Territory (and it had little to do with protecting tribal rights); the removal of Apache and “other Indians of Arizona and New Mexico” to Indian Territory was prohibited in February of 1879 and the removal of the Utes to Indian Territory after the Meeker Massacre was prohibited in December of the same year; they tried and failed to get a bill passed explicitly banning *any* further removals from any U.S. state to Indian Territory in March of 1880.<sup>402</sup> Encouraging the nascent boomer movement, the Cherokee scoundrel Elias Boudinot pointed to all these restrictions against further Indian Removal policies and concluded: “These laws practically leave several millions of acres of the richest lands on the continent free from Indian title or occupancy, and an integral part of the public domain.”<sup>403</sup>

Between westerners hoping to open Indian Territory and Eastern reformers who believed in civilizing the Indian “where they are,” Indian Removal was fast fading. The Nez Perce and Ponca removals were disasters which further convinced the country. The 1876 Battle of Little Bighorn raised the specter that removed nations could be more dangerous than previously considered and Stand Bear’s 1879 trial interpreting Indians as constitutional “persons” threw the whole concept of Removal into question. The boomer movement, also starting in 1879, specifically targeted these unassigned lands. Westerners had a clever strategy in both decrying the empty lands of Indian Territory *and* keeping those lands empty. Indian Removal was over.

Even Cherokees interpreted this as the end of Indian Territory’s Removal policy. DeWitt Clinton Duncan, writing as “Too-Qua-Stee,” believed that a law had been passed “prohibiting Indians from being moved into Indian Territory...[as] the government has concluded not to locate Indians there”—which was not the case.<sup>404</sup> As a matter of fact, no such law was necessary: Indian Removal died hard as federal policy in the late 1870s without the need for legislation. By 1883, Principal Chief Bushyhead remarked about the Outlet: “From information derived from the highest authorities of the United States there is not much likelihood of other Indian tribes being removed to it, as the northern tribes justly protest against being sent thither.”<sup>405</sup> In many ways, then, the end of Indian Removal was the thing everyone agreed on: Cherokees wanted the land for profit, westerners wanted to keep the land empty, easterners advocated for humanitarianism, and Native nations hoped to stay on their own lands.

Those who opposed the end of Indian Removal raised sound questions. “Where will they go?” asked one American. “They are to be removed, but must go somewhere else...The refusal to

---

<sup>402</sup> *Daily Inter Ocean*, July 8, 1875; *Galveston Daily News*, October 3, 1876; *Galveston Daily News*, November 12, 1876; *St. Louis Globe-Democrat*, December 8, 1876; “An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department” (The States At Large, Library of Congress, 1877), Pg. 271; *St. Louis Globe-Democrat*, October 26, 1877; *Milwaukee Daily Sentinel*, May 8, 1878; “An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department” (The States At Large, Library of Congress, 1879), Pg. 295; *Whig and Courier*, December 12, 1879; *Arkansas Gazette*, March 11, 1880.

<sup>403</sup> *St. Louis Globe-Democrat*, April 24, 1879.

<sup>404</sup> CA, February 9, 1881.

<sup>405</sup> CA, May 4, 1883.



settle the Indian Territory for all time as the ultimate home of all the Indians, out of mere deference to local opposition [is] certainly a piece of stupidity, and showed at once that the present Congress is wholly unequal to the production of a wise and final Indian policy.”<sup>406</sup> Incidentally this was the same position as the Cherokees. Nowhere was safe for Native people—allotment was always destructive. If Indians were barred from Indian Territory, where would their home be?

It may be expected that Cherokee nationalists would—somehow—be the last ones in the room defending Indian Removal. In truth, it was more complicated than that. They had never really advocated for Removal without consent (though how one extracted “consent” for Removal was always left unsaid). They owed their separate national existence and prosperity to their separation from the United States, but they also were frequent outspoken critics of violence and government incompetence which led to the deaths of their “brethren.” It never was a simple story.

It was, however, made simpler by the national election of 1879. As Cherokee Reconstruction crumbled and as a staunch liberal was brought into office, Cherokee priorities shifted even further from the postwar years. Bushyhead looked to the Outlet and saw not a place for the future of removed Indigenous peoples, but an opportunity for profit. After the Permit Law, one of his top priorities coming into office was to generate revenue from the Outlet.<sup>407</sup> Unwilling to wait for it to be sold chunk by chunk, and unhappy with previous attempts to collect taxes from individual foreign ranchers, Bushyhead sent his national treasurer to Caldwell, Kansas to negotiate with the cattlemen. The long-term result of this—after a U.S. show of force in the Cherokee’s favor in 1879—was a more than doubling of the national income during the 1880s.<sup>408</sup> After this development, the Cherokee were in no rush to sell Outlet land to other Native nations.

In this way, all the stars aligned for Removal’s end, but this end would extract a cost. If tribes were not slated to one day exchange their homelands for lands in Indian Territory, then was allotment (somehow) the only other option? In the eyes of many, it was, and in the eyes of both eastern reformers and anti-sovereignty westerners, the immediate transition from Indian Removal to allotment could not have arrived any sooner. Meanwhile, the lands in Indian Territory which had been kept open for future Indigenous settlement now looked as if they would be empty forever. Militant boomers clamored with new energy for the opening of their Eden: “Oklahoma.”

By 1880, the Secretary of the Interior, Carl Schurz, noted the changes that were taking place in federal Indian policy. He had been trained during a time when the leading philosophy was “consolidation” (i.e., the continuation of the Removal policy). He had accepted it, ruled with it, but now, years later he had decided that it was a “mistaken policy.”<sup>409</sup> Not only was it better to leave Native nations where they were, he observed, but one could not escape that whites would not tolerate large reservations. “The policy of changing, shifting, and consolidation reservations...was therefore abandoned.”<sup>410</sup> For Schurz to write that, it must have been true. For Cherokees it was the end of a policy which justified the Indian Territory’s separateness, and Native people were soon to suffer not only from the beginning of Indian Removal, but the end of it too.

---

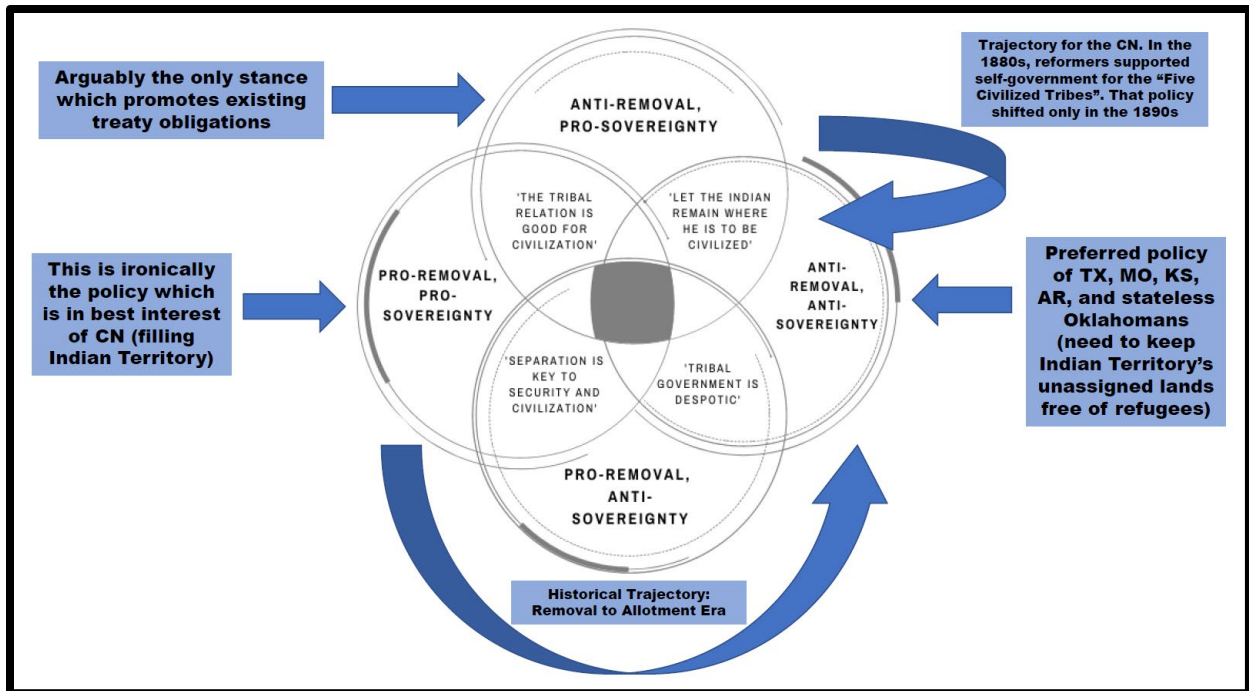
<sup>406</sup> *Rocky Mountain News*, December 13, 1879.

<sup>407</sup> William W. Savage Jr., *The Cherokee Strip Live Stock Association: Federal Regulation and the Cattleman’s Last Frontier* (Columbia: University of Missouri Press, 1973), 25.

<sup>408</sup> Section Two covers the Cherokee Strip Live Stock Association and its effects on Cherokee wealth in more depth.

<sup>409</sup> Prucha, *American Indian Policy in Crisis*, 111.

<sup>410</sup> *Ibid*, 111.



**Figure 3.3:** Shifts in Federal-Indian Policy toward Indian Removal, Visualized. For understandable reasons, Cherokees were invested in the consolidation of Indian Territory with more autonomous Indian nations. U.S. westerners had the exact opposite motivations. They disfavored both sovereignty and removal (as Indian Territory was *the* designated place for removed nations to go).

For decades, Native people had accepted Removal for their own ends. Their brutal journeys west was the stuff of nightmares, but their exile in the heart of the country also offered a respite from colonialism. In the summer of 1872, an Odawa writer named “Collins” wrote to *The Cherokee Advocate*. Collins was from Northeast corner of Indian Territory—the Quapaw special agency—where there were “snugly nestled six small tribes” (soon to be more), surrounded by the Cherokee Nation, Kansas, and Missouri. He had recently read an editorial about his region and had decided “to try and give [your readers] a somewhat fuller account of our locality.”<sup>411</sup>

Realistic or not, Collins painted an idyllic picture: “The Neosho river forms our western boundary, while that clear, swift and beautiful stream—Spring river, with her heavily timbered shores, runs through from the north, till, with the Neosho, it becomes lost in the Grand river.” The Quapaws and the Senecas were the oldest residents of the country—the first to be removed here—and they lived “mostly in the timber, in poor huts, content with the little corn patches, and herds of ponies and hogs...” The more recent arrivals, such as the Peoria and the Ottawa, “present the appearance of very flourishing border settlements...[with] many well-built farmhouses and farms, nicely kept gardens, and well tilled fields.” Three Peoria farmers [had] fenced 160-acre fields while the Wyandots and the Eastern Shawnee had their own impressive improvements hidden deep within the woods. Overall, the season’s harvest was doing well.<sup>412</sup> He signed off with his compliments for the newspaper: “We always like the determined stand you take for Indian rights. Hold on. American people will awake to justice.”

Collins really had nothing negative to say about the Quapaw Agency. At least in the moment he was writing, he was content. That year’s federal report on the Quapaw Agency seemed to largely confirm what Collins was sharing. Agent Hiram Jones wrote that despite some discouragements, “it [had] been a year of general good health among the Indians.” The Seneca had “good farms, houses, and barns,” the Eastern Shawnee had plenty of corn for the winter, the Ottawas “[were] doing well” and had good improvements, while the Miamies on the Peoria were quickly adjusting to life on the Peoria reservation.<sup>413</sup> Unlike other parts of Indian Territory, disaster did not seem to be striking this diverse amalgam of nations.

Collins’ view of the Quapaw Agency also highlights something we tend to overlook. For all the nations of Indian Territory—the Cherokee included—community life and history and development continued after Removal. The Cherokee 1850s and the 1880s were highpoints long after the 1830s, and those highpoints could have repeated over and over. Without discounting the deaths that took place (the Cherokee lost thousands), Indian Removal was not a cataclysmic “final chapter” in each tribal history. For all its evils, the Removal policy genuinely did offer something that could not be found in any other part of the United States: a sincere promise—upheld for most of the century—that dozens of consolidated Native nations would be shielded from the ravages of settler colonialism and imperialism in one particular place: Indian Territory.

At first this promise was extended to just the Five Nations, the Seneca-Cayuga, and the Quapaw. Over time, however—and especially after the Civil War—Cherokee Reconstruction and the “Greater Reconstruction” of the West collided into one. The postwar settlement resulted in

---

<sup>411</sup> CA, August 3, 1872.

<sup>412</sup> CA, August 3, 1872.

<sup>413</sup> No. 20. Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1872*, by U.S. Agent for the Quapaw Agency Hiram Jones. September 1, 1872. 243-244.

tribes all over Kansas and Nebraska being forced from their “permanent” homes into the newly available lands. Exploiting Indian Territory’s numerous alliances with the Confederacy, the Reconstruction era was marked by the federal government rearranging the American West using Indian Territory as its depository (a process which virtually ended in the late 1870s at the same time as Southern Reconstruction). Throughout all of this, the Cherokee government played an outsized role in how that rearrangement was realized.

The end of this process—the end of both Article 15 and 16 removals—was ironically harmful to Indian Territory’s existence. Too many lands were unoccupied by nations which were never coming. Late federal attempts to “fill” these lands with newly removed tribes were squashed by the anti-Removal activists urging for general allotment.<sup>414</sup> White settlers peered over maps of Indian Territory and interpreted “unoccupied lands” as “public lands.”

Meanwhile, the complete shift to Article 16 resettlements after 1871 may have signaled the triumph of a nationalist xenophobia, but Cherokee nationalists never fully lost interest in absorbing foreign Native peoples. In December of 1881, *Cherokee Advocate* editor Daniel H. Ross asserted that the Cherokee had created a government “which today stands as the only successful model for those who would elevate the native citizens of this country...”<sup>415</sup> Continuing this line of thought, he reported federal abuses against the neighboring Osage with disgust. To help the Osage Nation, Ross could only imagine two solutions. The first idea was for the U.S. to hand the Osage more power over its government and resources (like the Cherokee). The second idea was radical:

“Why not, with their consent, incorporate the Osages and also upon the same terms, the Quapaws, and other small tribes bordering on to our Nation and the states of Kansas and Missouri [see chart above]. It would add materially to our domain and funds...[and] we do think that such an arrangement might suit all the parties.”

Ross did not propose annexing neighboring nations without their consent, but it is clear to see why a Cherokee would suggest this (beyond the obvious reason of self-interest). Even the tribes within Indian Territory were not afforded the same degree of autonomy that the Cherokee enjoyed. If the Cherokee really were “the advanced guard in defending the interests and rights of the Indian people”—as Ross claimed—then they would surely share their power with other Native peoples, absorbing their land in exchange for making them citizens.

In an Indian Territory where Article 15 was intolerable and Article 16 was failing, Cherokees looked to an imaginary third option where sharing power simply meant the rising Cherokees taking control over Indian Territory’s affairs indefinitely. In their minds, the model of self-rule, “civilization,” and communal landholding was the only model that could work. As the U.S. was destroying nearly everything else, they were justified in that position.

This feeling is what would define Cherokees’ diplomacy of the 1880s. With more wealth and influence than ever before, and with a newfound security as a recognized political nation, Cherokee delegations to Washington spent most of their time assisting their “brethren” in an ideological battle against general allotment. They failed while their own state flourished.

---

<sup>414</sup> Prucha, *American Indian Policy in Crisis*, 111.

<sup>415</sup> CA, December 2, 1881.



**Image 3.2:** Chief Joseph of the Nez Percé on the Lapwai Reservation in Idaho. Pictured to the right is Alice Fletcher, a big supporter of the General Allotment Act and an influence on Henry Dawes. To the left is an interpreter named James Stewart.

**Source:** “Chief Joseph with Alice Fletcher,” 1890, Idaho state Historical Society.



**Image 3.3:** Thomas Tibbles (left) in his study; Chief Standing Bear (right) posing for a photo on his allotment. Tibbles represented Standing Bear in the historic trial *Standing Bear vs. Crook* (1879). The irony of both of these photos, perhaps, is that Chief Joseph and Chief Standing Bear sought out anti-Removal and anti-allotment positions. Their staunchest allies, however, frequently embraced the former, not the latter.

**Sources:** Standing Bear and family on his own allotted land, 1903. Courtesy History Nebraska, RG2039– 08; Tibbles in his study with his dog, 1908. Courtesy History Nebraska, RG2737– 05. Both images were found in Lawrence A. Dwyer, *Standing Bear's Quest for Freedom: The First Civil Rights Victory for Native Americans* (Omaha, 2019).

## II: The Liberal Decade (1879-1890)

On October 24<sup>th</sup>, 1889, John Ross' grandson locked the door to the office of the National Treasury and started home. Robert lived close to the capital and always went on foot. As he approached his home, he noticed a stranger rising from a thicket of high weeds. The stranger was wearing a mask, he had a shotgun, and he knew Ross' work schedule. Another masked figure appeared, and then a third. The first man instructed Ross to "halt" as he pushed his way through the weeds. Instead, Ross took off running as the men threatened to shoot. "The trusty custodian's legs" were impressed "with a keen sense of their duty" and Ross was restored to "the fleetness of youth." He shouted out to the Fort Gibson mail hack, and the would-be thieves were scared away.<sup>416</sup>

Ross was soon back in the capital, setting the alarm. A posse of men on horses was formed and immediately took off. The posse soon found the field where the would-be thieves had camped, and in that place, they found "a chain, a bunch of Ballona sausages, a tin beef can, a box that had contained crackers, two large cotton handkerchiefs, three new seamless sacks, and a shotgun." The tin can and wooden box were "identified as having been sold to a stranger in town the night before," while others found it strange that the men knew Ross was unarmed. The plot was now clear:

"A confederate gave notice to the secreted 'agents' when and how the Treasurer left for home. He had the door key and the combination. The safe, and money therein, was kept in the Capitol building which has been, most of the time, left to guard itself. The plan was to capture Ross, gag him with handkerchief, keep him until night, convey him to some place near enough to the Capitol, use the chain if necessary, force the combination from him by torture, if necessary, fill their seamless sacks with plunder, and leave everything 'in statu quo.' The next day Ross would have been missed, and those who do not know him would have aired their wisdom with reflections on his integrity while his lifeless body would have been lying in some secret place..."<sup>417</sup>

The National Treasurer would have disappeared along with all the nation's cash, and all would have assumed that Robert had followed in the footsteps of his great uncle Lewis (who allegedly embezzled money during the war). It would have been a tragic ending for Ross and a terrible loss for his family and the government. The safe, "left to guard itself," was then holding \$246,090 in spare cash—a rising sum that would soon be deposited in the St. Louis sub-treasury and which would force Treasurer Ross to increase his bond.<sup>418</sup> Cherokee finances were in a prospering condition, and even thieves had heard the news.

It was also a story that could only have taken place in the 1880s. In the 1870s, the safe was frequently empty. Cherokees had nearly drowned in debt. In the 1890s, anti-statist economic planning would cause the debt to soar yet again. The 1880s were the anomaly, a "Liberal Decade," and this was especially true at the end of 1889—a historic peak in Cherokee finances. It was also the exact moment these armed men tried to rob Robert Ross. By February of 1890, right on time, the United States would seize the Cherokee Outlet, causing a loss of \$200,000 per year, and much

---

<sup>416</sup> "Attempted Robbery of the Cherokee Treasury," CA, October 30, 1889.

<sup>417</sup> "Attempted Robbery of the Cherokee Treasury," CA, October 30, 1889.

<sup>418</sup> CA, November 6, 1889; December 11, 1889.

more than that in the long term. The 1880s were a unique period of strength for Cherokees, one driven by economic liberalism, framed in that language, by capable, reformist public officials.

Domestically, the Liberal Decade presented itself in several ways, but we can start with government revenue, which contemporary Cherokees understood to be vital to their national survival. The state had three basic sources of income. The first was “trust revenue,” which was the annual interest they received from funds held by the federal government. These funds mostly came from Indian Removal, meaning that a traumatic dispossession powered Cherokee governance.

“Trust revenue” was the oldest and largest source of income for Cherokees until the 1880s. While it was subject to federal control, Cherokees could increase future annual gains by investing in principals (which they did in the 1880s). Adding \$100,000 to a fund with a treaty-obligated five percent annual interest, for example, would generate \$5,000 of additional cash for the government to spend every year. This also meant that Cherokees were always planning 20 years ahead, which was about the time it took to see profits from their original investments. Investing like this was necessary to keep up with the rising cost of government.

The second source was “domestic revenue,” which is a term I use only for the money collected *within* the nine residential districts.<sup>419</sup> “Domestic revenue” included taxes on merchants, permit workers, royalties for the sale of communal resources such as timber, and more. The Cherokee Nation was mostly ineffectual at building domestic revenue until the Liberal Decade.

The third source was “Outlet revenue,” which was the money collected from foreign ranchers on the Outlet, where almost no Cherokees resided. Dennis Bushyhead conceived the idea while he was treasurer but could not enact the policy until he was elected chief in 1879. This source of income also required permission from the United States, which it granted in 1880.

All three sources of income increased significantly during the Liberal Decade. While the withdrawal of funds for emergency bread money in 1875 and 1880 brought the annual interest payments to flatline at about \$101,000 per year from 1883 to 1888, a hefty investment in the principal amounts brought the nation’s annual interest payments to about \$138,000 permanently beginning in 1889 (see **Figure II.1**).<sup>420</sup> While domestic revenue existed prior to 1880, it was very weak. The National Party enacted several new taxes and constantly sought new sources of domestic revenue. In Charles Thompson’s last year as chief, domestic revenue collapsed to \$3,406 while the country sank deeper into debt. By 1882, the debt was nearly paid, and Cherokees collected a historic \$31,727 in domestic revenue—a ten-fold increase (see **Figure II.2**).<sup>421</sup>

Outlet revenue has the simplest story of all. It did not exist until the Bushyhead administration, and over the course of the 1880s, it became the single greatest source of revenue that Cherokees had (see **Figure II.3**). When we chart all these sources of revenue together, a clear picture emerges: Cherokees built up a prosperous system in the 1880s (see **Figure II.4**).<sup>422</sup>

---

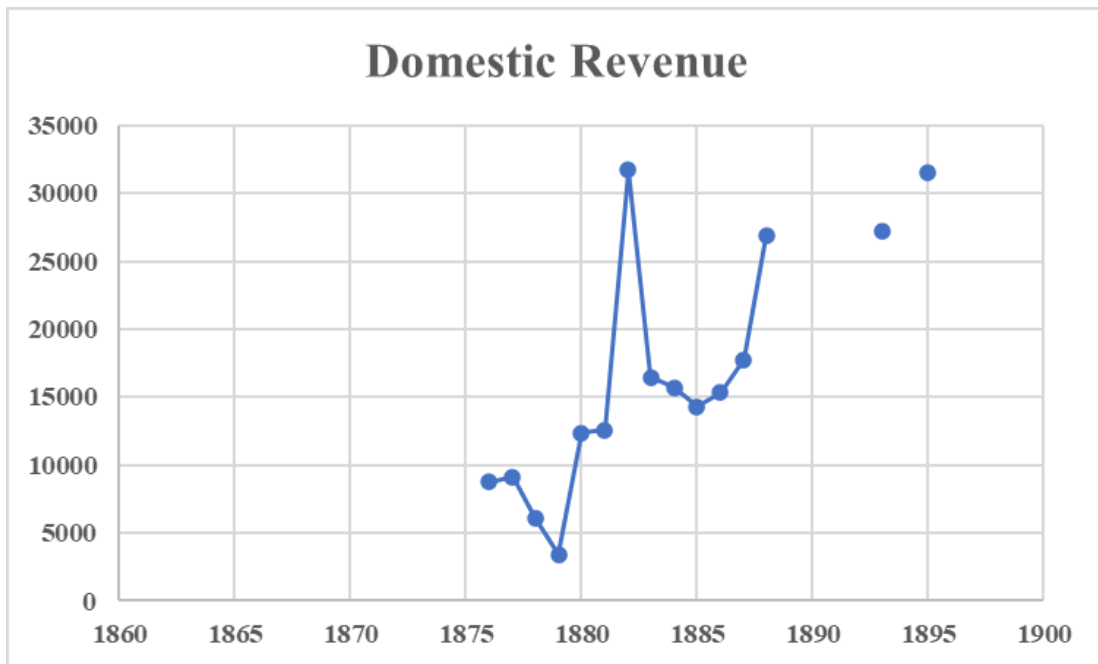
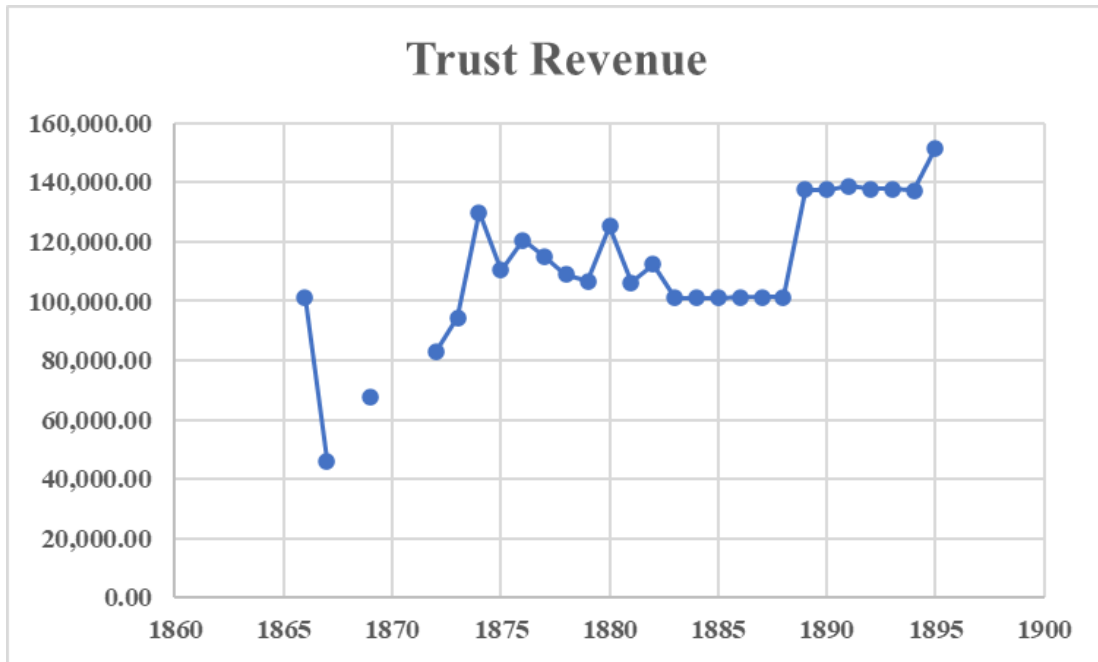
<sup>419</sup> Contemporaries referred to “revenue east of 96” (as in the 96<sup>th</sup> parallel), but I find “domestic revenue” clearer.

<sup>420</sup> Treasury Department, Combined Statement of Receipts, Expenditures, and Balances of the United States Government, 1866-1903. I used these 37 treasury reports to graph how federal disbursements changed over time.

<sup>421</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center.

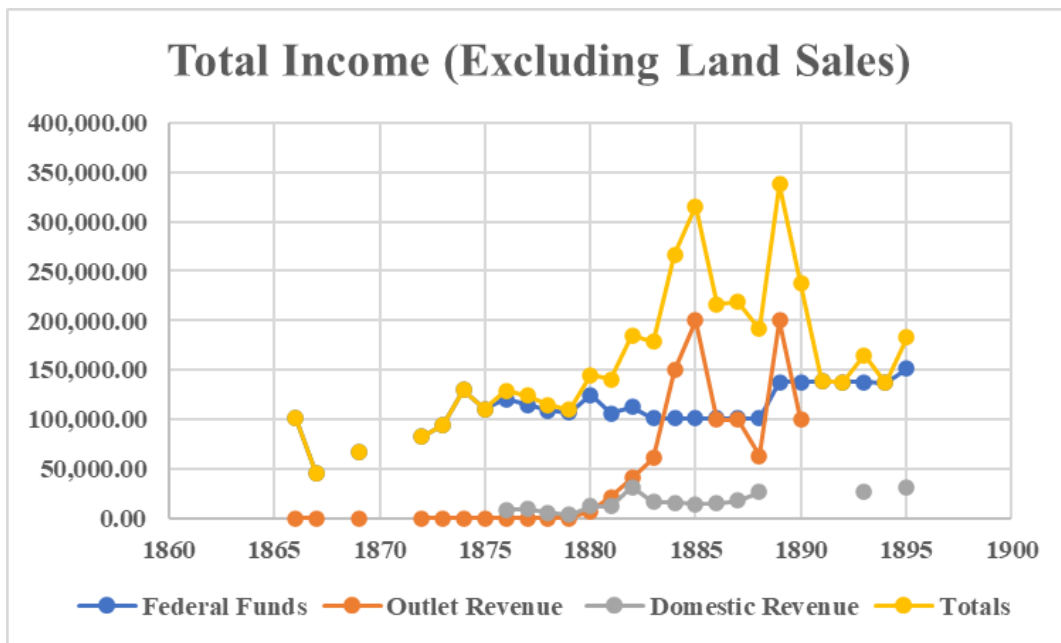
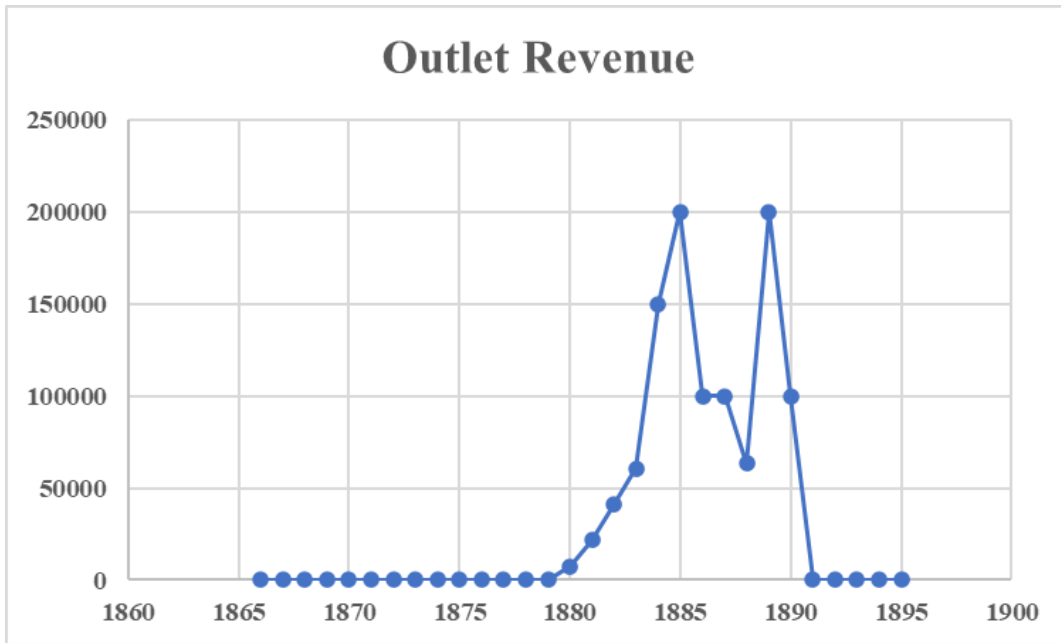
<sup>422</sup> These four graphs purposefully exclude the proceeds from land sales, a decision which is explained in Figure II.5.





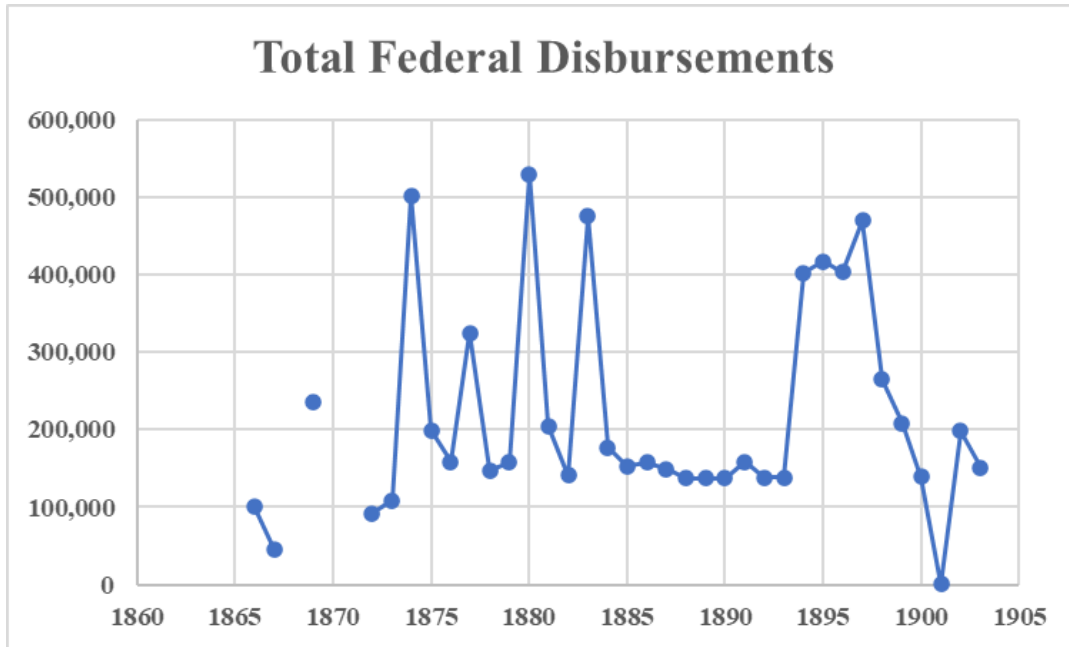
**Figure II.1:** The trust revenue of the Cherokee Nation according to the treasury reports of the United States. The U.S. delivered more than this in many of these years, but it was often for money owed from the proceeds of previous land sales. By omitting the payments from land sales, I provide a clearer picture of what the Cherokee Nation’s baseline annuities were. Cherokees had once celebrated their greatest annuity payment ever of \$94,464 in the 1870s. Long-term investing at the end of the Liberal Decade would push their baseline to \$139,000 permanently.

**Figure II.2:** The domestic revenue of the Cherokee Nation according to the Cherokee Nation’s Annual Reports of the National Treasury. Cherokee officials had previously been tax-adverse for decades (and there was even a sharp decline in domestic revenue collection during the Thompson administration), by the 1880s, the state’s ideology reversed entirely. Taxes on merchants generated \$230 in 1879 and \$3,595 in 1895. The nine district clerks generated \$68 in 1878 (with the collapse of the permit system) and \$15,326 in 1895. Cherokees were building a better tax system.



**Figure II.3:** The Outlet revenue arose out of Bushyhead’s idea to tax foreign ranchers on the Cherokee Outlet. He was unable to enact the idea under Thompson but put the plan into effect starting in 1880. Outlet revenue surpassed trust revenue in 1889 but was immediately obliterated by the United States’ seizure of this land. Also, on this chart, the information for 1885 is misleading. In 1885, Cherokees were paid for two years of use by their corporate lessee.

**Figure II.4:** This graph combines the data displayed in Figures II.1-3. It does not include the proceeds of land sales (which are discussed in Figure II.5). What we see by putting all the data together is that the Liberal Decade was the only period in Cherokee history where there was a source of revenue that exceeded the federal annuities, and it should be added here that this was a source of revenue which promised to increase exponentially (Cherokees received offers during the 1880s for leases up to \$720,000 per year, and which extended into the 20<sup>th</sup> century). We also see that while domestic revenue collection was increasing, it still paled in comparison to other sources of revenue.



**Figure II.5:** Plotting all the federal disbursements (including land sales) obfuscates many important domestic developments, but it also highlights others. For example, the bumps prior to 1884 are from the delayed proceeds of land sales or Cherokees’ emergency withdrawals of money against the principals (1874 and 1880). These spikes are not actually healthy and can highlight the Cherokees borrowing *against* their future.

Chief Bushyhead can receive some credit for the \$300,000 delayed payment for lands in 1883 (pictured here) which he probably secured through corrupt means. After this payment, the big injections of cash seem to stop until the Cherokee were forced to sell the Outlet in 1893 (another spike). The plateauing from 1884 to 1893, then, reflects a stabilization as the federal government enacted a liberal policy toward the Cherokee Nation from 1879 to 1890.

Removals had ended, and—after a short delay—so too did the payment of proceeds from land sales. Annuities stabilized because Cherokees were no longer selling their surplus lands; instead, they turned the Outlet into their biggest source of profit. The plateauing we see in the 1880s may be a sign of something positive.

In the meantime, they had to develop a government which would not be so dependent on land sales to operate. They did exactly that until the United States essentially forced the return of dependency by seizing the Outlet. The several millions of dollars received for the Outlet in 1894 is not plotted because technically the money was received from a private institution (see chapter nine) and because the spike is so great it would make the rest of this graph unreadable. The final part of the graph appears to show the government collapsing with denationalization.

Nor was it just the treasury that thrived. Dennis Bushyhead had run for office on the promise of relaxing the country's labor and immigration policies. This policy, in turn, would liberalize the country's land policies (as land could only be acquired and held through labor). As the country grew hungry from the drought of 1879 and a self-defeating attack on foreign labor, the new National Council prepared a bill repealing the "anti-permit" law (or "white man" law) and passed a new one, reducing the monthly fee per laborer from 25 dollars to just one.<sup>423</sup>

This was the cheapest foreign labor had ever been, and the effects of this pro-development change were immediate. The number of large-scale farms increased substantially (and so too would monopoly), while the country's total acreage in production exploded (and so too would the number of white residents). With permit labor now permissible, farmers put out wanted ads for farmhands, hoping for "good, industrious" men, while the district clerks "were issuing permits with a vengeance."<sup>424</sup> In just the first fiscal quarter after legalization, the nine district clerks collected \$3,044 in permit fees.<sup>425</sup>

Within a year, the demand for workers would drive labor prices to "seventeen dollars a month, while others sought out sharecropper tenants."<sup>426</sup> Even in the full-blood majority Flint District, one farmer wrote: "We think our farmers have with one accord acquiesced in the requirements of the permit law. All having white labor employed, procuring permits."<sup>427</sup> The permit law "was in full blast."<sup>428</sup> In 1880, there were 2,744 permitted persons in the country; by 1890, there were 21,504.<sup>429</sup>

An influx of foreign labor meant bigger farms, bigger profits, and more productivity. The Cherokee absentee "landlord"—usually, but not always a mixed-blood—could start up multiple farms across the country and enjoy a passive income while seeking new ventures. From week to week, Cherokees across the nine districts described booming commercial activity, the steady arrival of new businesses, and the importation of new goods. Cherokees suddenly had better access to cash, and they either invested it in their future (hiring labor, paying school tuition, or starting a business) or spent it on the growing number of cheap luxuries appearing in the country (baseball games, oyster parties, Christmas trees, and imported fashions). They had requested emergency bread money twice in the previous decade. They would not fall on such hard times now.

More importantly, and more demonstratively, contemporary Cherokees also described this as a period of unusual economic growth. When Rabbit Bunch, Bushyhead's Assistant Chief, ran for chief in 1887, he enjoyed all the advantages of an incumbent running for reelection with a thriving national economy. Speaking with the aid of a translator, at one debate, he remarked:

---

<sup>423</sup> CA, December 10, 1879.

<sup>424</sup> For advertisements right after the new law was passed: CA, January 7, 1880; January 21, 1880. For the rush to purchase permits, see CA, March 17, 1880; April 21, 1880.

<sup>425</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. See also CA, April 21, 1880.

<sup>426</sup> For two examples of Cherokees describing the demand for permit labor, see CA, March 16, 1881; March 30, 1881.

<sup>427</sup> CA, March 30, 1881.

<sup>428</sup> CA, May 12, 1882.

<sup>429</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman. For the 1890 census summary, see CA, April 1, 1893. For the number of permit workers in 1890, see Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian.

“I am truly glad to hear [the opposition] Mr. Mayes own to being so well pleased with the present prosperous, happy, and peaceable condition of the country and with apparent thrift manifest everywhere. This prosperous condition, remember, exists under the National Administration—Mr. Bushyhead being the leader. The acknowledged prosperity of the country is a confession by Mr. Mayes of the success and merit of the National party. Eight years ago, our country and our people were discouraged and greatly discontented. There was but little apparent progress perceivable at that time. The Downing Party had practically been in power ever since the war. The Cherokee Nation had a debt hanging over it of over \$180,000. Scrip was selling for 20 cents a dollar and no sale at that; and no attempt had been made to relieve the people of their burdens, although the Downing party had entire control and disposition of the Kansas Strip fund for not less than seven years—for no purpose, it seemed, except to waste it and run the Nation in debt.”<sup>430</sup>

Everyone in the country knew Bushyhead had paid off the national debt in three years, that national certificates traded equally with the dollar, that Cherokees no longer starved, and that many were now exporting for profit. The opposition could not deny this and did not bother trying. The country was in a better position than ever. The opposition was forced to focus on corruption.

The strategy worked but with diminishing returns. By the election of 1891, even members of the Downing Party—Bushyhead’s bitter rivals—looked back to his administration fondly. The partisan newspaper editor, August Ivey, wrote: “As the whole country knows, Mr. Bushyhead went to work [in his first term], taking this money [from the Strip lands] together with our regular annuities of \$143,000 and in twelve months had the debt of \$194,000 canceled and our scrip worth dollar for dollar.” The new chief, “Mr. Mayes,” on the other hand, had driven the country’s finances into the ground by 1891 (with a strong push by the United States), and Ivey calculated a “\$597,000 [difference in spending] in favor of the Bushyhead’s administration.”<sup>431</sup>

The current chief’s “financial management or mismanagement rather,” Ivey explained, “has been a disgrace to the Cherokee people, no fair-minded persons will dispute...he went into the office of chief with nearly, or about, \$118,000 [surplus] in cash in the treasury, besides during his administration about \$200,000 of grass funds has been squandered, but today the Nation is head over heels in debt and not a dollar of general funds on hand.”<sup>432</sup> As for the 1891 candidates themselves, the new chief was forced to admit that his first term had been “rocky” while Bushyhead—coming out of retirement to run for a third term under the new “Liberal Party”—“reviewed the history of the country from 1879 to the present time, the first eight years of which he was chief magistrate, contrasting the peace, prosperity, and financial fullness of the country during his last incumbency with what he called the desolation of to-day under Mr. Mayes.”<sup>433</sup> The unusual prosperity of the 1880s was not up for debate. Contemporaries agreed on that much, and we should believe them. The Liberal Decade was a special period in Cherokee history during which the “financial fullness of the country” was widely felt.

---

<sup>430</sup> CA, July 13, 1887.

<sup>431</sup> Editorial on Joel B. Mayes, July 30, 1891, Joel B. Mayes Collection, Box 2, Folder 34, Western History Collection, Oklahoma University, Norman, OK.

<sup>432</sup> Editorial on Joel B. Mayes, May 14, 1891, Joel B. Mayes Collection, Box 2, Folder 11, Western History Collection, Oklahoma University, Norman, OK.

<sup>433</sup> Editorial on Speeches Made by J.B. Mayes, D. W. Bushyhead, July 23, 1891, Joel B. Mayes Collection, Box 2 Folder 28, Western History Collection, Oklahoma University, Norman, OK.

I call this period between November of 1879 and February of 1890 the “Liberal Decade” because, at every turn, the government’s new leaders and parties enacted a pro-development, pro-profit vision by pushing for a liberalization of the national economy. The chief and lawmakers suddenly agreed that white immigration should be strongly encouraged, not completely blocked; that farms should be allowed to expand; that access to foreign markets, foreign capital, and foreign goods was a net positive; that the common domain’s resources should be exploited and traded for profit; and that the country’s new monetary gains should be put toward developing a more efficient, modern administrative state. The consequences of these liberal reforms were transformative: the country and its citizens would become quantifiably richer (and unequal), and they said as much, in their own words, repeatedly. The Cherokee Nation of 1890 was worlds apart from that of 1880—demographically, economically, and socially.

The local theory behind this economic planning can be described as “communal capitalism.” Beginning in November of 1879, the driving motivation of lawmakers and officials was to make the communal lands as “profitable” as possible. In his first annual message, the newly elected Dennis Bushyhead told the National Council, “How best to make the common domain most profitable to each citizen...should be your especial care.”<sup>434</sup> Cherokees consistently enacted that policy throughout the decade, but neither was it a straightforward example of capitalism.

Cherokees were critical of capitalism, socialism, communism, and anarchism (writing in those exact terms), and although they did occasionally refer to Cherokee “capitalists,” they proposed something else entirely.<sup>435</sup> They were capitalist economic planners with a promising communal land base. As Bushyhead put it in *The New York Independent*, “Our people have been taught that the surface of the Earth is not chattel. We are neither socialists nor communists, but we have a better land system for us than anything you [Americans] could concoct for us. Individual rights are respected, but the rights of the whole people are not destroyed.”<sup>436</sup> Cherokees’ pursuit of profit was driven by a different “plan” than the United States. It was the ideology of communal capitalism that strained the communal lands to produce more wealth.

One underlying cause of this prosperity can be found in the international arena, where there was also a “Liberal Decade.” Cherokees had been bombarded with territorial bills threatening to destroy their governments in the 1870s, but in 1879, a shift took place. Momentum was gained in Congress for a general allotment bill that would exclude the Five Nations from its purview. Territorial bills subsided. Cherokees declared victory prematurely. U.S. threats coincidentally stopped at the same time Bushyhead came into office. Many Americans rallied for allotment while simultaneously insisting that Indian Territory should be off-limits to reforms. Suggestions that the Five Nations be included in the Dawes Act were easily swatted away, and proposals to undermine Cherokee national sovereignty were consistently rejected. Cherokees could only make the Outlet profitable because the U.S. backed up its efforts to lease it (and keep intruders out).

---

<sup>434</sup> CA, November 26, 1879.

<sup>435</sup> For a few examples of Cherokees writing critically of “communism” see CA, January 5, 1881; April 13, 1881; August 25, 1886. For some examples of Cherokee critiquing capitalism, see CA, February 9, 1881; April 13, 1881; January 18, 1888; July 4, 1888. These are just a few examples and there are countless others. Principal chiefs and delegations often said and wrote a lot about economic systems. See also Denson’s *Demanding the Cherokee Nation*.

<sup>436</sup> CA, April 13, 1881.

Meanwhile, Cherokees won a major victory at the U.S. Supreme Court in 1886, just as the Dawes Act neared its passage. The ruling was a win for Indian sovereignty which would expand, not restrict, Cherokees' ability to govern the non-citizen residents of their nation. This was the height of the Cherokees' exceptional treatment, but it ended abruptly in 1890. The U.S. reversed itself and seized the Outlet. This action signaled a decisive shift in the two nations' relationship.

The underlying story of diplomacy is the subject of **Chapter Four**, "Liberal Foreign Policy" (1879-1890). The chapter explains the unusually friendly policy of the federal government during this time and argues that this decade represented the height of Cherokee exceptionalism in U.S. law, culture, and diplomacy. White Americans did not see the contradiction in their concurrent support for general allotment and the protection of Indian Territory. Chapter Four highlights the number of times the U.S. promoted Cherokee sovereignty during the Liberal Decade. I then explain how this policy ended abruptly with the federal seizure of the Outlet in 1890.

**Chapter Five**, "The Bushyhead Administration" (1879-1887), turns toward domestic politics, economics, and a new social world. This chapter covers all but a few months of the Bushyhead administration, though a few sections cover the whole decade thematically. Cherokees requested their final round of emergency bread money in 1879, but from this point forward a booming agricultural sector sustained the country and allowed for exportation. Bushyhead's first term was remarkably stable. Cherokees described an "Era of Good Feelings." A government scandal in 1884 called for a return to hostilities, and a third two-party system soon emerged, but Bushyhead himself remained uniquely popular during his two terms in office.

By the spring of 1887, Cherokee politics was undergoing another seismic shift. The ex-Confederate Southern Cherokees resurrected the defunct Downing Party and made it theirs. Throughout the 1880s, they helped liberalize the national economy—they agreed with Bushyhead on this point—but they also believed the principal chief had developed a corrupt "machinery of government." These were the true champions of per capita disbursements—an anti-statist economic policy that intentionally withheld revenue from the state. The Downing Party would ultimately triumph, weaken its own government on the eve of denationalization, and institute what may be called "Cherokee Jim Crow." The party's historic rise to power and their first two years in office are the subject of **Chapter Six**, "Rise of the Cherokee South" (1887-1890).

Together, these chapters aim to fully explain the Liberal Decade and its significance. The isolation and radical egalitarianism that Thompson tried to institute suffered a dramatic death in 1879. The new policy of communal capitalism took hold, and by 1885, there was no longer a major party to refute it. Cherokees pursued capitalistic economic policies at home while exporting their model for Indian nationhood abroad. Even at the close of the 19<sup>th</sup> century, Native American history remained dynamic and surprising. If left to their own devices—as many Indian Territory nations were—Indigenous nations could rise in power and stature. In this Liberal Decade, the Cherokees would build a state and economy an unprecedented period of growth.

Chapter Four:  
**Liberal Foreign Policy (1879-1890)**

In March of 1880, a Cherokee in Flint had a terrible nightmare. “Unakah” dreamed of denationalization and how it would kill him. The next morning, he decided to share his vision with the rest of the nation. He called it his “Dream of Oklahoma.”

“I dreamed that it was Saturday evening, at which time the Teachers and folks generally round about the little post office of Flint, usually meet...to receive their mail and to discuss the topics of the day, including all the little tid bits of scandal current in the neighborhood...

When I arrived at the office, I found quite a crowd collected, and I noticed when each gave a friendly greeting, that all were heavily armed, some carrying shotguns and the remainder firearms of some description, and I further observed a look of fixed determination, on the face of each one. Not stopping to enquire to cause of all this martial display, I passed on to the door...with difficulty I succeeded in getting inside the house, where I proceeded to question the postmaster, relative to the proceedings of which I had been a witness: without speaking he handed me a copy of the latest Sun, silently pointing as he did so to a paragraph headed—‘The Great scheme consummated.’ ‘The Oklahoma bill passed at last’...

There was no longer any mystery connected with the military preparations going on about me...the passage of the bill was an actual fact...indignation meetings had been held throughout the country and [there] was an understood determination on the part of the five civilized tribes to make a final stand for their homes...

Agents had been sent to various wild tribes to ask for their cooperation, in a general war against the United States...the government had sent notices to all points where arms and ammunition were kept, and to all merchants doing in the same, to forbear from selling to any Indian, or any person on the reservation of the Indian tribes.

While we yet conversed the sullen roar of cannon broke in our ears, which I was informed were salutes were being fired at Fort Gibson, whither a large squadron of United States troops had been hurried immediately on the passage of the act...

About this time, a messenger arrived from Tahlequah, bringing the intelligence that a regiment of United States cavalry had arrived at that point, and taken virtual control of the [Cherokee] Capitol, and other public buildings of the Nation. [They] had ordered the [national] editor to forbear from issuing the Weekly Advocate, unless he would advise acquiescence in the law, and exhort the people to forbearance, which he had firmly refused, which had led to his arrest and confinement in the National Prison.

[A plan was formed] to march secretly that night to, or near, Illinois River, where they would find Tahlequah district *en-masse* to cooperate in an attack on the troops then stationed at Tahlequah.”<sup>437</sup>

---

<sup>437</sup> CA, March 31, 1880.



Towards the end of his dream, “Unakah”—an adopted white—returned to his home and to his Cherokee wife, Miranda. Furious with the new “Oklahoma” law, with white people, and the United States, Miranda grabbed a poker and stabbed her husband through the shoulder, screaming “I must vent my wrath on someone.” As the poker entered Unakah’s body he was jolted awake. His wife Miranda urged him to go back to sleep. It was nothing but a nightmare.

This was what “Oklahoma” meant to an Indian in 1880. It meant, hypothetically, the passage of a law stripping the Cherokee Nation of its national sovereignty, the immediate, preemptive deployment of soldiers to Indian Territory, the militarization of the Five Nations and their Indian neighbors, the occupation of Indian capitals like Tahlequah, the imprisonment of the country’s highest public officers, and even war. Denationalization conjured images of Cherokees attacking U.S. soldiers “in a final stand” for their homes and their remaining rights. It even conjured images of a race war, with Cherokee wives murdering their foreign-born husbands. Looking around the American West, there was no reason for Cherokees to think this impossible. Their existential fears of “Oklahoma” were warranted.

But the territory of “Oklahoma” would not exist until May of 1890, and the state of Oklahoma would not appear until November of 1907 (10 and 27 years into the future respectively). The Cherokee Nation’s extraordinary powers to govern itself would not be infringed upon until 1897, which was largely a consequence of the congressmen of the 1880s refusing to consider subjecting the Five Nations to the sweeping powers of the Dawes Act. Cherokees felt like they could be ruined at any moment in the 1870s, they were positively boastful of their sovereignty in the 1880s, and they returned to dread in the mid-1890s.

This chapter attempts to highlight the degree of confidence Cherokees exhibited during this decade—how sure they were that their sovereignty could survive into the twentieth century. Their feelings of greater security in Washington translated into a turn to focus on domestic matters of the West. I argue these feelings were new, powerful, and tell the opposite story from what we have been told: that beginning in 1880, everything was “futile.” Just as with its domestic policy, the Cherokee Nation seemed to expand their power and confidence during the Liberal Decade, instead of losing it. This caused Cherokees to reach the height of their exceptional status between 1887 and February of 1890, at which point the United States finally reversed itself.

### **The Liberal Decade in Foreign Policy**

The argument of this chapter is hardly original. Historians of Oklahoma like Roy Gittinger and Edward Dale were always aware of how long it took to achieve the state of Oklahoma—and the anomalous obstacles encountered along the way.<sup>438</sup> In 1876, for example, Congress was so sensitive to Native nations’ opposition to territorialization that they substituted the word “Province” for “Territory.”<sup>439</sup> The only half-original point in this chapter is that the Cherokee benefited tremendously from Oklahoma’s delays, and that this was especially true during the Liberal Decade.

---

<sup>438</sup> Roy Gittinger, *The Formation of the State of Oklahoma (1803-1906)* (Berkeley: University of California Press, 1917); Edward Everett Dale and Morris L. Wardell, *History of Oklahoma* (New York: Prentice Hall, 1948); Holm, “Indian Lobbyists,” 115-134. These are just three examples. The scholarship of Oklahoma generally agrees that Indian Territory presented a unique challenge for those hoping to make it into a U.S. state.

<sup>439</sup> Gittinger, *The Formation of the State of Oklahoma*, 96.

These scholars also recognize 1879 as a major turning point: the constant wave of territorial bills suddenly stopped in April of 1879, and “a new period had begun in the history of the Indian Territory.”<sup>440</sup> The new period would be defined by the boomer movement (which also was a failure), and the passage of the General Allotment Act (which protected the Five Nations from its powers). The federal government would not start imposing on the Cherokee until February of 1890. In many ways, then, the Cherokees’ domestic Liberal Decade perfectly aligned with the Liberal Decade in foreign policy. Both lasted exactly from 1879 to 1890.

The tone of Cherokees’ writing about this period is notable. On multiple occasions, Cherokee nationalists and their delegates to Congress prematurely declared victory. The 1880 delegate to Washington concluded:

“It cannot be well doubted that, for a number of years, the question of Indians rights were never more favorably entertained than they are now by Congress or the Department of the Government. The treaties with all the Indians, especially with the five civilized tribes, in protection from intrusion, and in all their stipulated rights—were never considered more binding than at present...the question of national concern as to treaty rights—I can but believe is at rest for the present.”<sup>441</sup>

The job of a delegation was getting considerably easier. In May of the same year, the delegate reported that,

“The only thing new, at present, of any importance or special interest to the Cherokee Nation or the Indian Territory...is a contemplated railroad from Arkansas City or Wichita Kansas, through the Cherokee Nation, to Fort Smith, Arkansas...”

[We ask] will there be any change in the Indian policy when the new administration comes in whether Republican or Democratic. It may be safe to say that, if there is any change at all, it will not be very material, or different from that which has been evident in the last few months...The conclusion is correct that this is now the policy to be pursued in the future, leaving intact the present community of lands as now held by the [Five Nations].”<sup>442</sup>

Cherokees felt more comfortable with the United States than they had in years. Their delegations reported as much. If they felt that the boomer movement represented a genuine threat to their national existence, they weren’t saying that between 1880 and 1885 (when that movement was most active). They reviled the boomers and opposed allotment, but when evaluating their own position, they felt much safer than before.

A year later, in March of 1881, the tone was very similar, and the delegation was beginning to explicitly acknowledge the shift taking place:

“No ‘Territorial Bills’ have been presented at this session Congress nor are now likely to be presented. After a dozen years of discussion Congress seems to have got to an

---

<sup>440</sup> Gittinger, *The Formation of the State of Oklahoma*, 97; Holm, “Indian Lobbyists,” 3.

<sup>441</sup> CA, February 4, 1880.

<sup>442</sup> CA, May 19, 1880.

understanding of the invasion of our rights which such bills involve and contemplate, and are united in condemning the method with the object.”<sup>443</sup>

And a year and a half after that, in December of 1882, the national editor concluded: “The situation in this regard has undergone a change. Oklahoma Bills cease to threaten us with overthrow.”<sup>444</sup> With good reason, Cherokees felt they had reached the end of one historical period and could enjoy the start of the next. They figured their relations with the United States had matured to a point where they could exist alongside each other, and Washington gave them almost no reason to doubt that feeling. We can question their expectations now, but only with hindsight.

Even David Payne and the boomer movement were products of the Liberal Decade. The Cherokees despised them, branded him “an insignificant deciple of [William] Walker in Nicaragua,” whose movement was “devoted to the success of the Filibusters,” nihilists, atheists, and anarchists, but even Payne’s justification for colonization was “liberal.”<sup>445</sup> While on trial in August of 1880, Payne’s defense for invading the Indian Territory “[was] that the lands in question [were] not Indian lands within the meaning of the statutes.”<sup>446</sup> The boomers’ whole movement was to colonize the yet *unassigned* lands of Indian Territory (see chapter three). They ostensibly made no claim to the settled Indian nations. Unlike the westerners of the 1870s and 1890s, they were specifically not calling for the Cherokees’ residential districts.

And even then, they still failed. The boomers were unpopular in the American East. Cherokees viewed them as desperate tramps. Cherokee lawyer DeWitt Clinton Duncan was assigned to the prosecution of David Payne in the fall of 1880. He decided to take a trip to see Payne’s camp and the boomers in December of that year. He genuinely pitied them:

“We found their number to be about seventy-five, instead of many hundred as they, and certain newspapers in their interest, had so often falsely reported. They had thirty-two pretty good lumber wagons with shabby teams. They presented a most miserable appearance. They are evidently the dregs of the white population of Kansas and adjoining states. They bear the aspect of a desperate, uncultured band of frontier ruffians—just such fellows as are usually found in a muss with the Indians. There were no women or children with them. They were destitute of everything that might indicate, on their part, either an ability or a disposition to enter into and develop the resources of any new country; while at the same time they carried themselves disencumbered of everything that might impede their movements as a band of organized desperadoes...They seemed to be very short of ‘grub.’ We were told by some who had good chance for knowing the facts that they had rations enough to feed upon only for a few days...

About ten rods from the camp of the intruders, and between them and the line of our country, lies the camp of the United States soldiers, one hundred and fifty in number...The soldiers were watching them...

---

<sup>443</sup> CA, March 2, 1881.

<sup>444</sup> CA, December 1, 1882.

<sup>445</sup> CA, August 11, 1882; January 30, 1885; March 6, 1885; May 4, 1887; October 12, 1887.

<sup>446</sup> CA, August 25, 1880.

We were glad to learn that the better class of people in Kansas are not in sympathy with this rabble movement. They say it is irregular and lawless...We feel confident...that there is no danger to be feared in this quarter at present.”<sup>447</sup>

Duncan’s report sought to make clear that the movement was small, poorly supplied, supported by the most desperate and impoverished people, and solidly outmatched by the U.S. soldiers who were watching them. It is doubtful the boomers could have made it that long in Indian Territory if the U.S. army had not removed them. We have failed to take that message to heart in the modern day. Modern Oklahomans’ urge to write hagiographies about the boomers is understandable but dubbing Payne “the Father of Oklahoma” writes too much power on yet another failed “filibuster.” Payne was dead by 1884. Senator Orville Platt of Connecticut, Henry Dawes of Massachusetts, and Presidents Cleveland and Harrison of New Jersey and Ohio respectively did far more to help create the state of Oklahoma. Inflating Payne’s influence is a mistake.

Many in the U.S. East made clear they despised him. Congress had no shortage of politicians who held the Five Nations in high regard, and their constituents rallied behind them. When the boomers first attempted to force their way into the Cherokee Outlet, 13,000 people in Philadelphia signed a petition remonstrating against the invasion (at a time when the city’s population was around 847,000). The petition, organized by women activists, was strong in its defense of treaties. It urged for the president and Congress “to take all needful steps to prevent the encroachments of white settlers upon the Indian Territory, and to guard the Indians in the enjoyment of all the rights which have been guaranteed to them...”<sup>448</sup> Beyond voicing strong opposition to their fellow countrymen invading Indian Territory, the petitioners upheld the “moral obligation” of treaties with Native nations and promoted the status quo. They explained that “We suggest no policy to [our Government] ...we would express that when a treaty is changed or modified the free consent of both parties is necessary...no pressure, no combination of difficulties which may arise shall influence our Government to depart from this law of treaties.”<sup>449</sup>

The petition from Philadelphia was sent around “towns, cities, and States” which might explain the similar petitions submitted to Congress during the same session. Regarding the same subject and expressing the same stance, a petition signed by 28 residents of Michigan was submitted through Representative Eben Stone, a Republican from Massachusetts; 13 citizens of Ohio submitted the same through Representative Richard Warner, a Democrat from Tennessee; several petitions from all across the state of Pennsylvania were presented by Senators Justin S. Morrill of Vermont, Donald J. Cameron of Pennsylvania, and Representatives William Ward and Alfred Harmer of the same state. The support for Indigenous people’s treaties as well as the hostility to the invasions of Indian Territory was a stance that could cut across regions and party lines. Like the Philadelphia petition, many of these petitions demanded that the United States honor all treaties “until they are changed by the mutual and free consent of both parties.”<sup>450</sup>

The extent to which these petitioners genuinely supported the Five Nations’ self-government was made clear in 1882 when tensions emerged between Philadelphian reformers and Cherokee nationalists. In the Spring of 1882, an influential pro-allotment activist named Amelia

---

<sup>447</sup> CA, January 5, 1881.

<sup>448</sup> U.S. Congressional Record Volume 10 Part 2 Pg. 1044.

<sup>449</sup> U.S. Congressional Record Volume 10 Part 2 Pg. 1044.

<sup>450</sup> U.S. Congressional Record Volume 10 Part 1.

Quinton wrote to Daniel Ross, the editor of *The Advocate*. Responding directly to Ross' criticisms of the reformers, Quinton assured the editor of the reformers' intentions:

“...you need [not] fear lest the ‘exuberance’ of our heart-interest in your people may prove a ‘misdirected friendship’ to ‘smother’ rather than shield them...In our plea for ‘lands in severalty’ and ‘citizenship,’ when Indians desire these, we have the northwestern tribes, in mind rather than those of the Indian Territory, who already have, and to keep, we trust, jurisdiction over their own affairs.”<sup>451</sup>

That Quinton predicted that the nations of Indian Territory could “keep...jurisdiction over their own affairs” was a significant declaration, but she was not alone in believing this. Earlier that year, pro-allotment Philadelphian activists had already committed themselves to supporting self-government in Indian Territory. The Platform of Principles adopted by the Press of Philadelphia demanded that Congress “Keep all intruders out of the [Indian] Territory. Continue the self-government of the civilized tribes. Let them regulate their own land tenure.”<sup>452</sup> These items were placed second in the platform, right after the first commandment: “Never break faith with the Indians.”<sup>453</sup> The platform was endorsed by the cardinal archbishop of New York, who supposedly said, “he would do everything possible in his jurisdiction to aid the policy,” and the governor of Pennsylvania, who invited several governors from other states to join in support.<sup>454</sup>

In May of 1881, Cherokees, again, declared victory prematurely. When Judge Isaac Parker of Fort Smith found Payne guilty of trespassing onto Indian lands, Duncan wrote: “Today Captain Payne is beaten.” *The Cherokee Advocate* celebrated the news with an editorial entitled: “DEATH OF OKLAHOMA.” The national editor was triumphant:

“Oklahoma was the name given by the invaders of the Indian Territory to about fourteen million acres of it which they pretended had been made public lands of the United States...The defeat of the [first] scheme seemed only to fan the desire to settle ‘Oklahoma,’ and a second invasion of larger proportions was set on foot under the leadership of the aforesaid Payne. The President tried to warn this second movement into silence, but failed to make much impressed on the deluded colonists...”

[The] so wicked and deformed ‘Oklahoma’ may now be declared dead and buried...the Indian tribes are now safer from unprovoked spoliation than they have been for years, and this safety is due to the growing acquaintance with, and respect for, them on part of the masses of the American people.”<sup>455</sup>

This was totally unambiguous. Cherokees assumed that the United States would continue to offer this new level of protection, and that even the bare concept of “Oklahoma” would not be

---

<sup>451</sup> CA, May 19, 1882. These words were celebrated with a hint of sexism. The national editor called it a “splendid letter from a woman.” Quinton also pointed out that her organization completely agreed with five specific sentences that Ross had written in his own article, which included the sentence: “Where we are peaceable, content, and progressive let us alone to work out our own salvation.”

<sup>452</sup> CA, May 12, 1882

<sup>453</sup> CA, May 12, 1882. The Platform of Principles was sent to *The Cherokee Advocate* by one James W. M. Newlen, the same Newlen who was holding meetings with Archbishop Wood in New York.

<sup>454</sup> CA, October 13, 1882.

<sup>455</sup> CA, May 11, 1881.

entertained. They declared Oklahoma “dead and buried,” and credited their success to their improving relationship with “the masses of the American people.”

As was so often the case, July 4<sup>th</sup> was another indicator of where Cherokee-U.S. relations stood (see chapter one). Vinita’s celebrations in 1881 were Payne-themed:

“At about 9 o’clock this morning it seemed as if the whole Cherokee Nation was coming into town. The people were in wagons, buggies, carriages, and some on horseback...At about ten, the Payne burlesque marched in, all in false-faces of course, but many a countenance reminded one of the times when the intruders came into our old Nation by hundreds. Had you heard explosion of laughter, you would have believed that that it was a sure enough burlesque, for in the procession was every type of face—long, short, bulldog, sheepdog, in fact every characteristic of a squatter on Indian lands...I believe if Payne had been here, he would have resigned his position and turned to an honest man.”<sup>456</sup>

That July Fourth, then, Cherokees were literally mocking, impersonating, and *laughing at* the boomers. They wore painted faces (perhaps white ones) and dehumanized the squatters as lesser beings. It was a big joke that year because Cherokees felt they had won the struggle.

In what amounted to an Indigenous adaption of Frederick Douglass’ “The Meaning of July Fourth for the Negro,” G. W. Grayson of the Muskogee Nation delivered an extended speech on what everyone was celebrating. He confessed to his audience of more than a thousand that Indians had little reason to celebrate July 4<sup>th</sup>, that they had “lost all [they] once claimed,” and he dared the audience to tell him what it, the United States, had previously “done for the once-powerful race of American Indians.” But for Grayson, Payne’s arrest and defeat in the courts made all the difference:

“We have recent and peculiar reasons for joy which in no way relate to the declaration of American Independence...[When] we observe the government of the United States standing forth in the royal robe of power and might, declaring to her citizens and the world that the Indian, despite all his weakness, is nevertheless a man whose rights and prerogatives must and shall be respected, we, as living freemen...cannot represses the spontaneous desire that impels us to show forth that gratitude.”<sup>457</sup>

Cherokees and their neighboring nations were fully prepared to celebrate the United States and accept the bonds between them—if their rights and sovereignty were respected. During good years, like 1884, they would find ways to fuse their July 4<sup>th</sup> into one, writing things like “The United States the Cherokee Nation celebrate their declaration of independence. The United States from the yoke of tyranny, the Cherokee Nation from the chains of ignorance.”<sup>458</sup> In the 1880s, but especially between 1880 and 1887, the Cherokee were happy and celebratory over their improving relationship with the United States. July 4<sup>th</sup> could be theirs too.

Prior to his death in 1884, Payne did a loop of failed invasions, arrests, imprisonments, court trials, planning for more invasions, and failing all over again. Payne may very well be a

---

<sup>456</sup> CA, July 20, 1881.

<sup>457</sup> CA, July 20, 1881.

<sup>458</sup> CA, May 9, 1884. Reading this most generously we could say that Cherokees turned their July 4<sup>th</sup> into a celebration of democracy and constitutional freedoms, which were indeed inspired by U.S. republicanism.

notable part of Oklahoma history but he was not that important in Cherokee history. On his last attempt to foment revolution against Indian Territory, a contingent of U.S. soldiers arrested him and his collaborators on the Cherokee Outlet, burned their settlements to the ground, seized their printing press, and arrested all participants.<sup>459</sup> The arrested boomers were then marched through Muscogee and the Cherokee capital of Tahlequah by a squad of Black soldiers.<sup>460</sup> Payne died in December of 1884, and there is no indication that his movement guaranteed Indian Territory's annexation. His movement was a self-victimizing performance of failure. Even in death, *The Cherokee Advocate* mocked him, commenting that the night before he passed, he had made one last speech "expressive of his purpose to at once lead his adherents one more 'on to Oklahoma.'"<sup>461</sup> They felt they had seen the last of Payne's ilk, and in some ways, they had.

While the boomer movement fizzled, Cherokees placed more emphasis on congressional developments. They knew Washington lawmakers would be far more impactful than Kansas boomers, and here too, Cherokees claimed numerous victories during the Liberal Decade. The biggest of these was the General Allotment Act. The bill gave the President power to unilaterally force allotment on an Indian nation whenever he so pleased. In other words, it gave the power to denationalize tribes and seize land at a moment's notice. For the westerner of the 1870s, it would have been a dream to make it apply to all Indian tribes equally (and all that would be needed then was a president hostile to the Five Nations), but Congress never considered doing this. The Five Nations possessed fee-simple titles to their lands, which was the same unqualified, irrevocable, and "sacred" form of property-ownership which senators practiced themselves. Congress took its obligations to the Five Nations seriously and treated them exceptionally. There never was a question of whether the Five Nations would be included in these sweeping powers. From 1880 to 1887, as this Dawes Act was drafted, revised, and retried, it was only a question of whether all of Indian Territory could be spared, or just the Five Nations. In the end, it would be just the Five Nations and a few others. This cleared the way for western Indian Territory to become Oklahoma.

Another congressional development was the elusive "Court bill." Federal courts were in many ways like the railroads. Despite our presumptions, Cherokees did not oppose them. In fact, they badly *wanted* both so long as they could be delivered on friendlier terms. Cherokees found the existing court system highly objectionable, and we need only turn back to the Going Snake Massacre of 1872 to understand why. The practice of being dragged to Fort Smith by unpopular federal marshals to be tried by a jury of hostile, foreign whites was an affront to sovereignty. Having a new federal court within Indian Territory, or better yet, in the Cherokee Nation, was viewed as an expansion of Indian sovereignty, not a diminishment of it.

In the first couple years of the Liberal Decade, Senator George Vest of Missouri frequently put forward court bills loaded with poisonous supplements. These were the last gasps of territorialization. Everyone else had turned their attention to the Dawes Act. In 1880, for example, Senator Vest introduced a "A Bill to Create a U. S. District Court in the Indian Territory, and For Other Purposes." "Other purposes" included a delegate in Congress (which Cherokees were already entitled to), the forced allotment of lands, the privilege of becoming U.S. citizens, the

---

<sup>459</sup> CA, August 15, 1884.

<sup>460</sup> CA, August 22, 1884; September 5, 1884.

<sup>461</sup> CA, December 5, 1884.

division of national funds to those who leave their nation, etc. In short, Vest was putting a denationalization bill forward disguised as a court bill.<sup>462</sup>

Reflective of the times, the bill failed dramatically. Clearly happy with all this, the delegate reported on how it went down so quickly:

“Perhaps there never was a measure so roughly handled and the honest intention of those who advocate it as much questioned. Some of the leading news journals would like to be informed why a District Court, with civil jurisdiction, has become so suddenly necessary in Indian Territory?...Why a clean court bill as authorized by the treaties, if a court must be created in the Indian Territory, cannot be prepared and introduced in Congress without a long string of provisions wholly foreign to judicial purposes? The attack is not only by the public press but by such men as Senators Thurman, Edmunds, Allison, and Maxey.”<sup>463</sup>

This was the response to territorial bills now, and as previously shown, Cherokees viewed this as both a recent and very positive development. They wanted a clean court bill and nothing more. Vest wanted a court bill loaded with anti-sovereignty measures. The Cherokee Nation prevailed, and Vest would be forced to support a clean court bill.

As soon as June of 1882, these court bills were sufficiently watered down, as requested, for Cherokees to support them. It became a court bill in the true sense of the word, and the national editor reported: “Our Delegation have agreed to the U.S. Court bill, with certain amendments, as near as the treaty provided and intended...Vinita, Fort Gibson, and Muscogee are all spoken of as being the places [for the new court].”<sup>464</sup> A few weeks later it added, triumphantly: “All those provisions of the original bill relating to allotment in severalty of lands, naturalization, etc., etc., have been stricken out...to make it strictly a judicial measure...If Senator Vest is able to protect and pass this bill without material alteration, he will effectually cut off all opposition on the part of Indians and greatly strengthen their defenses against future attempts to break down their governments and overrun their country.”<sup>465</sup> This, of course, was never Vests’ intentions, but a combination of reliable congressmen and Native delegations forced him to acquiesce. The Vest Court Bill was put in limbo for a few years after that, but Cherokees routinely supported it, as it was “by all odds the most liberal proposition ever made on that subject.”<sup>466</sup>

The policy would not be enacted until 1889, but throughout the decade Cherokees advocated for a federal court being placed among them, going so far as to cast it as an unfulfilled treaty obligation.<sup>467</sup> They cited the fact that they had thousands of reliable white residents, “railroad employees and farmers working under permits for Indian citizens,” who would be qualified to serve as jurors, and who “in most instances...[were] superior to the Arkansas jurors.” Cherokees wanted it in Fort Gibson (in their nation), but instead it would be placed across the river in Muscogee.<sup>468</sup> This was yet another positive development of the Liberal Decade.

---

<sup>462</sup> CA, March 3, 1880.

<sup>463</sup> CA, March 17, 1880.

<sup>464</sup> CA, March 3, 1882; June 2, 1882.

<sup>465</sup> CA, June 23, 1882.

<sup>466</sup> CA, December 14, 1883.

<sup>467</sup> CA, March 14, 1888.

<sup>468</sup> CA, March 14, 1888.



Perhaps one of the most liberal U.S. policies toward the Cherokee, however, was in its granting permission to tax foreigners on the Outlet. By June of 1880, Cherokee officials were enabled to tax foreign ranchers, and the national treasurer began to sell them grazing permits. Cherokees issued these permits to individuals until the summer of 1883. During those three years, more ranchers paid the tax each year, because the United States made clear that it was committed to removing intruders. In January of 1883, after the U.S. committed itself to protecting the Cherokees against unauthorized wire-fencing, the newly formed Cherokee Strip Live Stock Association (C.S.L.S.A.) began submitting considerable offers to lease the entire Outlet.<sup>469</sup>

There were many other ways Congress protected the Five Nations' special status. The 1880s were generally a period during which the U.S. asserted more and more control over Indian affairs. The Major Crimes Act of 1885, for example, gave the United States new powers over crimes committed between Native Americans. It was passed through an amendment to the Indian Appropriations Bill (as per usual) and was constructed to spare the Five Nations from its purview. Cherokees and their neighbors continued to prosecute major crimes, issuing their own prison sentences and executions for the same.<sup>470</sup> Often this exceptional treatment was the product of the work by delegations and the hired attorneys in Washington. In April of 1883, the national editor reported: "By the timely interposition of Hon. Wm. A. Phillips Special Agent and Counsel of the Cherokees—the five civilized Nations...are exempt from the operations of the 'Penale Code' ordained by the Department of the Interior." Under this semi-autocratic code, "Dancing, Sorcery, Influence of Chiefs" were held to be "Indian Offenses...punishable with deprivation of supplies and annuities, with labor, imprisonment, ball and chain, etcetera."<sup>471</sup> There were great costs, then, in maintaining the exceptionalism granted by the United States (in the form of expensive delegations and attorney fees). But there were rewards as well (such as self-rule).

Only during a period of such security and growth could Cherokee nationalists suggest the annexation of their Indigenous neighbors. In January of 1882, national editor Daniel Ross wrote: "We understand that the Osages are desirous of becoming a part of the Cherokee Nation, and want to pay in an equal amount to our people and become citizens. They want us to make another District, and let them compose it, just the same as one of our other Districts" (ironically, this was what the Osage had originally suggested in the 1870s).<sup>472</sup> When the Munsee and Chippewas made a new application to become citizens later that same year, Ross asked: "Would it not be eminently proper to consider also whether it would not be policy, with their consent, to annex the Osages and Kaws and little Tribes on our Northeastern Boundary [of which there were several]?...The Osages, we are informed, desire some such arrangement, and we have cause to believe, that, the others do also...The United States could hardly object to this mode Indian consolidation."<sup>473</sup> Two years later in November of 1884, "a Cherokee statesman" asked the same question: "How would it do for the Cherokees, with their consent, to absorb all the little Indian Nationalities lying between the Nation proper and her western possessions?" To which Ross responded: "It would be a grand stroke of public policy."<sup>474</sup> This was a consolidation plan formulated entirely by the Cherokee Nation.

---

<sup>469</sup> CA, January 5, 1883. For the best account of this, see Savage, *The Cherokee Strip Live Stock Association*, 15-66.

<sup>470</sup> "An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department" (The States At Large, Library of Congress, 1885), Pg. 362.

<sup>471</sup> CA, April 20, 1883.

<sup>472</sup> CA, January 27, 1882.

<sup>473</sup> CA, December 1, 1882.

<sup>474</sup> CA, November 21, 1884.

The nation's anomalous decade continued with a Supreme Court case entitled *Eastern Band vs. The United States and Cherokee Nation* (also known as *The Cherokee Trust Funds*). At its heart, the case was about whether North Carolina Cherokees were still citizens of the Cherokee Nation (and therefore entitled to the windfalls of the Liberal Decade). The case originated in the North Carolina Cherokees' suit for a proportionate share of the Cherokees' federal funds—the ones originally created by the 1835 Treaty of New Echota. Cherokees argued that anyone who had stayed behind (as individuals) was not a party to the Removal treaty.

In a landmark victory, the Supreme Court unanimously ruled in favor of the Cherokee Nation. In choosing to stay in the East, North Carolina Cherokees had broken their national ties and become something new (the Eastern Band of Cherokee Indians). On March 1, 1886, William A. Phillips sent a telegram to Chief Bushyhead, which read: "Cherokee Nation has gained North Carolina Suit in the Supreme Court and rights and jurisdiction of the Nation affirmed."<sup>475</sup>

The ruling also expanded Cherokee legal jurisdiction at the expense of federal officials. This is because the Court ruled that only the Cherokee Nation could determine who was a citizen and who was not. For years the federal government had interfered in this, undermining Cherokee sovereignty. Whenever the U.S. determined that a resident deserved Cherokee citizenship, the U.S. would grant that individual *prima facie* papers—even if the Cherokees had already rejected the claim themselves. The *prima facie* approach was aggressive and interventionist. It opened a backdoor for intruders, offered an excuse to delay removals, and withheld the Cherokees' basic right to determine their body politic. The United States' effort on behalf of Black Cherokees, for example, was both anti-racist and imperialistic, but now Cherokees would decide for themselves.

With *The Cherokee Trust Funds*, the federal government was ordered to stop granting *prima facie* citizenship and accept Cherokee determinations for who was and was not a citizen. In other words, Cherokee legal jurisdiction was dramatically expanded in 1886—just one year before the Dawes Act would pass and inflict tremendous harm to other Indian nations. The decision was widely celebrated in the Cherokee Nation. The national editor responded:

"The recent decision of the Supreme Court of the United States settles forever the question of claims of Cherokee Citizenship on account of Cherokee blood. The Cherokee National Council has the sole authority to decide the same. Would it not be a good thing for this Country for the present Council to provide some means for the summary ejection of all those claiming rights through Cherokee Blood and who have been decided against this Nation as well as the horde allowed to remain here and occupy valuable portions of our public domain, by the Interior Department, upon the ground that they had *prima facie* rights. There is no good reason for allowing these imposters and worst of enemies to our Country to remain one day longer..."<sup>476</sup>

The ruling, then, was emboldening. Cherokees had worried for years about balancing the need to control the decision-making over who was a citizen with inviting the ire of the United States. The Supreme Court, perhaps annoying the "Friends of the Indian" like Dawes, had just granted that the Cherokee Nation had the exclusive right to determine who was part of their nation. The ruling also

---

<sup>475</sup> CA, March 5, 1886.

<sup>476</sup> CA, April 16, 1886.

created a considerable headache for the federal government: they were already treaty obligated to remove non-citizen intruders, and now they had to accept the Cherokee's own definition of who did and did not belong. Theoretically, they were trapped.

By August of 1886, Cherokee citizen and U.S. federal agent Robert Owen announced the change in policy. The United States would no longer allow *prima facie* certificates.<sup>477</sup> Just being able to write such a bizarre sentence is a testament to the anomalous degree of autonomy Cherokees possessed in the final two decades of the 19<sup>th</sup> century.

Given that they faced few external threats during the 1880s (compared to the 1870s and 1890s), Cherokees were free to turn their attention toward other Indigenous nations. Tom Holm has already written about how Cherokees lobbied for other nations during this time, but I find it useful to think of this practice as “proxying.”<sup>478</sup>

Cherokees were not directly threatened by an attack on another, distant nation's communal system or its hopes to self-govern, but Indian nationalists increasingly understood that their position would be strengthened in the long run if their “model” was exported and allowed to develop elsewhere. Cherokees adopted the policy of “proxying” throughout the 1880s, but the practice unsurprisingly tapered off after 1887 (with the passage of the Dawes Act), before ending completely in 1889 (after the opening of the Unassigned Lands). Once the Cherokee Nation faced its own existential threats in the 1890s, it no longer had the flexibility to advocate for others or export its model of Indigenous republicanism.

### **Proxying for Communalism**

On September 29th of 1879, Colorado Utes attacked a federal agency that had attempted to suppress the religious freedoms of their people, killing ten men in what would be called the “Meeker Massacre.” Simultaneously, a separate group of Utes attacked a command of U.S. soldiers, killing an additional fourteen people and wounding dozens. Hostages were taken to prevent the U.S. from responding with full force. Fearing an all-out war with “four thousand Indians” and fearing that lives, civilian property, and a huge amount of money would be lost, Congress believed that the only good solution was a diplomatic “agreement.”

Or was it a treaty? To Senator Morgan this “agreement” violated the infamous 1871 congressional amendment which had supposedly put an end to Indian treaty-making (it did not). Federal agents had been sent by President Hayes to negotiate the end of hostilities. After that failed, Ute representatives were invited to the nation's capital to finish the diplomatic efforts. The United States repeatedly held “the attitude of a sovereignty” toward their Ute counterparts. The resulting “agreement” was now before Congress for ratification in March of 1880. The process looked just like treaty-making, and Morgan condemned this:

“If that proposition is conceded--that [this] is an agreement between two governments...it must be conceded that whatever we do in reference to the consummation of this contract, we must do under and in virtue of our own capacity as a treaty-making power. Merely

---

<sup>477</sup> CA, August 25, 1886.

<sup>478</sup> Holm, “Indian Lobbyists,” 115-134.

because we have declared in a statute that hereafter the Indian tribes shall have no capacity to make treaties does not prevent us, it seems...from engaging in treaty-making...”<sup>479</sup>

Though his motivations were ugly, Morgan’s logic was spot-on. In his eyes, the “Ute Agreement,” which would pass, *was* a treaty, and therefore tribes were *still* sovereigns. Even Morgan’s detractors, who rambled on about how this was not a treaty, but a “contract,” ironically slipped into calling it a “treaty” for simplicity’s sake.<sup>480</sup> Morgan was right. Treaty-making continued well after 1871 despite the will of Congress and despite the procedural revision to treaty ratification.

What this meant for the persistence of tribal governments was anyone’s guess, but Morgan was not willing to leave that question in the air. Hoping to get the “Ute Agreement” thrown out, he suggested a radical substitution. He urged his colleagues to view the 1871 amendment as having explicitly “destroyed” tribal government—not just treaty-making. Thus, it was time to start unilaterally legislating without bothering to ratify “agreements.” The contents of the Ute bill were to be preserved, but any recognition of a sovereign had to be removed:

“I would say this to them: ‘Your tribal relation is destroyed by an act of Congress. You are now subject to the laws of the United States precisely as if you had never belonged to a tribe. *We have declared that you are no longer an independent nation or power either within our territorial limits, or to be treated as a foreign power...having abolished your government...having dethroned your rulers [who were ‘mere tyrants and despots’] we will now assume ourselves the execution of all of these trusts.*’”<sup>481</sup>

Based on Morgan’s opposition to general allotment, the termination of tribal government and the negation of that “attitude of a sovereignty” was an even higher priority than the absorption of land. When asked how the United States would justify this action, Morgan chillingly responded that Reconstruction was his precedent: “...the people of a state, my state, [were] subjected to military rule after they had been at war...the United States proceeded in exercising [what was] a constitutional power to *reconstruct us*, and to impose these conditions and terms upon us.”<sup>482</sup>

But Morgan was extreme *and* inconsistent. A year later, in January of 1881, he expressed his opposition to a general allotment bill before Congress. He told his colleagues:

“I wish to call the attention [to] the settled policy of this Government...we expressly reserved to [the Indians] their right of tribal organization and tribal government, and that reservation has worked no injury, so far as I can discern, to the people of the United States

---

<sup>479</sup> U.S. Congressional Record, 1880, Volume 10, Part 3, pg. 2123.

<sup>480</sup> U.S. Congressional Record Volume 10, Part 3.

<sup>481</sup> U.S. Congressional Record Volume 10, Part 3.

<sup>482</sup> Ibid. Emphasis added. Plenty of other members of Congress echoed Morgan’s idea. Senator Beck of Kentucky (Democrat), Senator Burnside of Rhode Island (Republican), and Senator Bruce of Mississippi (Democrat) all agreed that tribal governments were unacceptable. Bruce of Mississippi. Senator Butler of South Carolina, whose niece was married to the Principal Chief of the Cherokee Nation, agreed that Utes should be absorbed into Colorado’s jurisdiction, and even made the appalling, though intriguing, comparison between the Freedman’s Bureau and the Indian Bureau—calling them both ‘failures.’ Another called them “un-American,” while a third compared the situation to that of the British government eliminating Scottish clanships: “there shall be no more McDonalds and McGregors and Camerons...” What these views brushed over was that southern states *had* regained their sovereignty after war, with “redeemed” governments representing yet another *imperium in imperio*, not too unlike tribal nations.

thus far...[In 1871] we [said] that we shall not...make a treaty with them...*and that is as far as we went toward the destruction of the tribal relations...*<sup>483</sup>

If it seems as if this argument blatantly contradicted what he had argued a year prior, that is because it did. Previously Morgan had called for a sweeping erasure of tribal governments and treaties—a “reconstructing” of the West. Now he was offering that tribal governments (which apparently still had a right to exist) were not obstacles to the United States at all. In a related speech he went so far as to say that many tribes had already proved their ability for self-government.

The two sides of Morgan must be reconciled. The best explanation can probably be found in the 1871 amendment; that provision found it necessary to say that neither “nations” nor “tribes” could make treaties. Then, but especially in the late 1880s and early 1890s, there was a growing legal distinction between the two categories. In all his speeches about general allotment, Senator Morgan went well out of his way to make clear that the “Five Nations”—a term used interchangeably for the “Five Civilized Tribes”—were exempt from his harsher points about Indigenous self-government. In one example, he explained:

“Of course I do not include in this remark the five civilized nations, because they hold our land patents to their lands. As I understand, the patent reads that their title should continue while water runs and grass grows. That title is irrevocable until we shall gain that period in our infamous conduct with our Indians...where we shall rob them of this title.”<sup>484</sup>

At another point he rebuked one of the senators from Kansas, insisting that “below [your] own State, in the Indian Territory, there are five tribes who vie with [you] in [your] civilization, whose codes of law compare with that of [your] own State, whose constitution is as good as that of [your] State, whose institutions are as well applied to Indian civilization as the laws of Kansas are applied to Anglo-Saxon civilization.”<sup>485</sup> When that same senator from Kansas tried to discount the success of tribal governments “due to the infusion of [white] blood,” Morgan, an avowed white supremacist himself, responded: “Indian civilization among the [Five Nations] is *as much due to pure Indian blood* as it has been the infusion of white blood.”<sup>486</sup> When it came to the Five Nations, all of Morgan’s rules shifted: tribal governments measured up to state governments, and even the non-white leaders of the tribes could be celebrated for this. Though every scholar of Native history knows that the “Five Tribes” occupied an exceptional status in the eyes of white Americans, the incredible extent to which their governments were defended over others remains noteworthy.

Even westerners were affected by the political capital held by the nations of Indian Territory. Senator Maxey, a Democrat from Texas, submitted a petition from the Five Nations’ delegates for the forfeiture of condition land grants to railroads; a decade later a westerner showing a shared interest with the Five Nations would be unthinkable. Similarly, one group of constituents in Kansas hoping for a railway knew to keep their demands limited. Their representative explained the petition they had authored in an almost apologetic fashion:

---

<sup>483</sup> U.S. Congressional Record Volume 11, Part 1, 785

<sup>484</sup> U.S. Congressional Record Volume 11, Part 1, 786.

<sup>485</sup> U.S. Congressional Record Volume 11 Part 2, 1033.

<sup>486</sup> U.S. Congressional Record Volume 11 Part 2, 1033. Emphasis inserted.

“Mr. Speaker, I desire to present a memorial of 1,000 citizens of my State... Although that Indian country is the paradise of America and would make happy and prosperous homes for millions of people in the East who are homeless, *they do not ask to have that Territory opened to settlement*, but simply that it shall no longer be allowed to remain as an impassable barrier to commerce. *They are willing that it shall remain the home of the Indians, and they believe the opening of the lines of commerce will in no wise injure any interest of the Indians*, but, on the contrary, will prove a civilizing agency.”<sup>487</sup>

Though the residents of Indian Territory would probably take exception to commerce providing a “civilizing agency,” they would have entirely agreed with the contents of the petition itself. The Five Nations often campaigned for better infrastructure and transportation networks which would better connect them to markets in the East. Commerce was no threat to the Five Nations.

Being understood as closer to a “nation” than a “tribe” meant the difference between being included in transformative, harmful Indian policies or not. In 1881, President Chester Arthur asked Congress to pass a law that would extend the laws of Arkansas over the parts of the Indian Territory “not occupied by the five civilized tribes.”<sup>488</sup> Likewise, every general allotment bill drafted since 1879 had specifically excluded either the entirety of the Indian Territory or each of the Five Nations. The final version of the Dawes Act (1887) included the all-important proviso:

“That the provisions of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sac and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York...nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation...”<sup>489</sup>

Out of hundreds of tribes and nations within the boundaries of the United States, these were the only exceptions. All other tribal reservations were subject to forced allotment in severalty by order from the president. Throughout the whole of the 1880s, an attack on the nationhood status of the Five Tribes remained a non-starter.

Diplomatically, this made the 1880s an interesting time for the Cherokee Nation. The Nation was often on the offensive instead of struggling to defend its rights. Though its own systems were never under attack, Cherokee leaders understood that, more broadly, communal land ownership and tribal self-government were. For this reason, the Cherokee National Council authorized its Washington delegates to begin opposing *any* allotment schemes in Congress, even those that did not threaten its own national system.<sup>490</sup> Explaining this phenomenon, if not bitterly complaining about it, Senator Coke of Texas exclaimed:

“The extraordinary progress made by these Indians of the civilized tribes in all methods and practices of civilization is evidenced by the alacrity with which they are now attending *to everybody else’s business besides their own*...secure in their own country and behind

---

<sup>487</sup> U.S. Congressional Record Volume 10, Part 1. Emphasis added.

<sup>488</sup> Chester Arthur, “First Annual Message,” transcript of speech delivered to Congress, December 6, 1881.

<sup>489</sup> Indian General Allotment Act, 24 Stat. 388 (1887).

<sup>490</sup> Holm, “Indian Lobbyists,” 118.

these treaties, they protest against other Indians, entirely separate and distinct from themselves, being granted the privilege of tenure in severalty...”<sup>491</sup>

What Coke was describing was the indirect conflict emerging between the advocates of allotment and the “civilized tribes” who hoped to protect tribal self-government and communal landownership well beyond their own borders. In response to these frequent charges of meddling in the affairs of others, Cherokee delegates offered that “this [was] their privilege and their duty...”<sup>492</sup> This indirect back-and-forth in the United States legislature amounted to a “proxy conflict” between the Five Nations and westerners.

The extent to which the Five Nations, their allies, and westerners were committed to these “proxy conflicts” cannot be overstated. After the Meeker Massacre, white Coloradoans called for the forced removal of the Utes. A strong ally of the Cherokee who met personally with the Nation’s delegates, Senator Henry Teller (Colorado-R) favored the removal of Utes to Indian Territory. On the other side of things, Senator Cockrell from Missouri made sure to push through an amendment that banned the Ute’s removal to Indian Territory, an obstructive revision which would see the “Ute Bill” include provisions for the dividing of their land in severalty. Ironically, Teller’s position was preferred over allotment by the very nation that had experienced the Trail of Tears, both because of the attack on communal land ownership and because westerner politicians pointed to the still-unassigned lands in the Indian Territory as reason for opening the lands to settlers. The fact that they were usually the ones preventing Native nations from being relocated to Indian Territory was beside the point.

After the “Ute Bill” became yet another experiment in allotment, allies of the Cherokee Nation pounced on it. Senator Teller, whose own state had experienced the violence, opposed it, pitting one of the troubled state’s senators against the other. In the House of Representatives, three lawmakers from the northeast, southeast, and western parts of the country filibustered the “Ute Bill” together. One of these three men was Thomas Gunter, a curious representative for Indian Territory’s neighbor, the state of Arkansas. Gunter, just like Teller, opposed the “Ute Bill” because he opposed any further experimentation with allotment. In a speech which referenced the Cherokee and the Five Nations far more than it did the Ute, Gunter alleged that,

“This Senate bill giving the Utes their lands in severalty is but the entering wedge, *the first step toward one more attempt at the integrity of the Indian Territory*, the first move... Under the communal system of land ownership we have seen the Indians gradually passing from the nomadic life... to a higher civilization... why should we now be guilty of the injustice of tearing down the fabric we have raised?”<sup>493</sup>

Gunter not only supported Indian communal land ownership, but also the rights of tribal governments to be left to their own devices. In his mind, separation from white Americans was the entire source of prosperity for the Five Nations.<sup>494</sup> In a part of his speech exclusively about Indian Territory, a bit of a stretch during this vote on the “Ute Bill,” Gunter explained the simplicity of what he wanted: “So far as the [Indian] Territory is concerned, I would retain the status quo; leave

---

<sup>491</sup> Congressional Record, Volume 11 Part 1, 875. Emphasis added.

<sup>492</sup> CA, April 4, 1882.

<sup>493</sup> U.S. Congressional Record Volume 10, Part 5, 4253.

<sup>494</sup> U.S. Congressional Record Volume 10 Part 5, 4255.

as it is. The Indians there are working out the problem.”<sup>495</sup> The Utes, and all Native nations, did not need allotment; they needed communal lands and self-government. Though he urged the house to reject the “Ute Bill,” it passed 174-15, a sizeable defeat for the Five Nations by proxy.

But there were numerous other “proxy conflicts” which the Cherokee Nation and the rest of the Five Nations won. In the early 1880s, westerners attempted to push through a bill that would specifically annex and allot the lands of the Peorias, Weas, Miamies, Piankeshaws, and Kaskaskias. These allotments would have signified the first disturbance to the integrity of Indian Territory. The Principal Chief of the Cherokee and delegates from the Five Nations submitted a protest. The delegates charged that allotment bills “were not intended to apply to the Indian Territory, as there [was] no provision for white settlement in that country...”<sup>496</sup> Asserting their right to choose and reject allotment at their own pleasure, the delegates insisted: “Our people have not asked for or authorized this...our own laws regulate a system of land tenure suited to our condition...every one of our citizens is sure of a home.”<sup>497</sup> The small irony here, and a sure sign that this was a proxy conflict, was in the fact that the bill would not affect any of the delegates underwriting the protest. It was easy for westerners to pick apart the petition’s use of phrases such as “our people,” but the bill failed in committee by near unanimity. The Cherokee celebrated, and the Miamis and Peorias would eventually become one of the exempted tribes of the Dawes Act. It was a victory for the Cherokee by proxy, who wrote: “Friends of allotment are very sore over their defeat.”<sup>498</sup>

Just like many “proxy conflicts,” the stakes for the Five Nations were often more ideological than material. Explaining to readers of *The Advocate* why the government had committed to opposing *other* tribes’ allotments, Daniel Ross commented: “the thirty odd nations and tribes of Indian Territory are in the broadest sense a common sisterhood, dependent in certain respects, upon each other, just as much as the States of the American Union.”<sup>499</sup> Transforming the same idea into a formal policy, the Cherokee National Council passed a law in 1882 instructing its lobbyists to “aid other Nations and smaller tribes in resisting their encroachments among them, thus destroying the security and hindering the progress of the Nations and tribes of the Indian Territory.”<sup>500</sup> In attacking the material problems associated with allotment, Cherokee nationalists alleged that the policy’s “real purpose” was “to dispose of large portions of the lands now owned by Indians, without securing these Indian owners their real value.”<sup>501</sup> In attacking the ideology behind allotment, Cherokee nationalists maintained that “the principle underlying this bill is that the land must become a chattel,” which was an affront to Indigenous practices.<sup>502</sup> Allotment anywhere represented an attack on these traditional practices, and the Cherokee Nation warned that Indian Territory would soon become the “refuge for [all of the] victims” of land in severalty.<sup>503</sup>

---

<sup>495</sup> U.S. Congressional Record Volume 10 Part 5, 4256.

<sup>496</sup> U.S. Congressional Record Volume 11 Part 1, 875.

<sup>497</sup> U.S. Congressional Record Volume 11 Part 1, 875.

<sup>498</sup> Holm, “Indian Lobbyists,” 118-120. CA, April 14, 1882

<sup>499</sup> CA, April 14, 1882.

<sup>500</sup> CA, May 11, 1883, but the law was originally passed December 5, 1882.

<sup>501</sup> CA, April 25, 1884.

<sup>502</sup> CA, April 25, 1884.

<sup>503</sup> CA, April 25, 1884. Nor were the Cherokee always the first to wage these “proxy conflicts” in favor of self-government. When the Ottawa of Indian Territory were threatened with allotment (and denationalization), the Creek delegation responded before any of the other Five Nations (CA, March 2, 1883). The Creek memorial condemned the disastrous effects of past attempts at allotment and celebrated the existing communal system.



The most important “proxy conflict” of all was that over the numerous general allotment bills that went before Congress. In the late 1870s, westerners realized that their efforts to simply extend U.S. jurisdiction over Indian Territory and annex it had failed.<sup>504</sup> In 1878, even the Senate Committee on Territories (which would later gain a reputation for aggressive action) flatly rejected these bills as blatant and unconscionable violations of treaty obligations. From 1879 until the final passage of the General Allotment Act in 1887, the new western strategy was to hand the President the power to divide all tribal lands in severalty. Though its passage took nearly a decade, general allotment was a reform that united Northeastern humanitarians such as Henry Dawes with western “land-sharks” such as George Vest. The interest convergence of lawmakers widely separated by geography and ideology was likely the defining catalyst for the law’s passage.

However, it is significant that multiple general allotment bills failed to pass from 1879 until 1887. Tom Holm has already shown that previous iterations of the Dawes Act failed at least partially because of the Five Nations’ lobbyists. Cherokee delegates could privately meet with senators, personally voice their objections in committee, and—against westerners’ objections—submit a petition from the Five Nations to the whole of Congress, one which was read on multiple occasions.<sup>505</sup> Even more perceptibly, the earlier “Coke Bill” failed due to stalling from two allies of the Five Nations, Senators Henry Teller (Colorado) and John T. Morgan (Alabama). While Teller made numerous speeches about the value of communal land ownership, Morgan seemed to cynically clog the wheels of the Senate, reading various reports from the Bureau of Ethnology about traditional land practices and pushing through an assorted number of amendments, almost all of which were rejected, and which one western senator called “frivolous” and “untenable.”<sup>506</sup>

In fact, the pair of congressmen were even accused of purposefully trying to stall the legislation to death, which is indeed what happened. Senator John James Ingalls (Kansas-R) accused Teller and Morgan in the following manner:

“The debate on this bill began on the 20<sup>th</sup> of January [1881], and has now been continuing for nearly two weeks. This delay has been induced very largely by the efforts of the Senator from Alabama and the Senator from Colorado, who have been assiduously and sedulously assailed the committee [of Indian Affairs]...apparently to retard progress and to defeat the final adoption of the bill.”<sup>507</sup>

---

<sup>504</sup> Holm, “Indian Lobbyists,” 118.

<sup>505</sup> *Ibid.*, 119.

<sup>506</sup> U.S. Congressional Record Volume 11 Part 1. Arguing against general allotment, Morgan explained that he did not oppose the policy of allotment but wished “to maintain the right of the Indian to take his land in severalty, as the light of civilization dawns upon him...so that he is sufficiently informed of his own interests to seek land in severalty.” (US Congressional Record Volume 11 Part 1, 785). Allotment should be an “informed” choice for individual tribal governments rather than something that could be forced on tribes by the president. This opposition to allotment even slid into a half-hearted defense of communal land ownership: “There has not been one instance in the history of the Indians of North America, commencing with the Aztecs, with their comparatively splendid civilization, down to the present time where they have ever enacted laws to hold lands in severalty...it is not known even among the civilized tribes...it is a matter of religion with them that their communal interest in land is not interfered with.” (U.S. Congressional Record Volume 11 Part 1, 785).

<sup>507</sup> U.S. Congressional Record Volume 11 Part 2.

In the ensuing debate, which was quite fierce, both Morgan and Teller alluded to the fact that they *were* trying to obstruct the bill, with Teller candidly explaining “I expect to retard it if I can; I expect to vote against it; I hope I may defeat it, but I have very little expectation of that.”<sup>508</sup>

Teller’s pessimistic prediction, though inaccurate in the short-term, proved correct in the long-term. Though the Cherokee Nation spent most of the 1880s in “proxy conflicts” over general and specific allotments, it would ultimately be defeated in almost every category. The exemption of the Indian Territory in its entirety failed; only the Five Nations and a few other tribes were marked as exempt.<sup>509</sup> A close to final version of the Dawes bill contained an amendment which required majority consent from tribal members for allotment to be executed, a feature which would have made the law far less objectionable. The Senate rejected the amendment, however, and the resulting conference committee saw that one redeeming provision withdrawn. The Five Nations entered the 1890s virtually alone in the kind of anomalous autonomy they enjoyed.

### **Proxying for Self-Government**

The Cherokee did more than lobby for the theory of communal landownership. Their leaders and lobbyists also promoted the right of other tribes to self-government, especially in the form of indigenous republics for which the Nation served as “the only successful model for those who would elevate the native citizens of this country and preserve a remnant of [our] society,” as one Cherokee nationalist put it.<sup>510</sup> While there was no truth in the assertion that the Cherokee maintained the “only successful model” for Indigenous nations, it *was* a system that functioned well and demanded respect from the United States. Furthermore, if tribes increasingly adopted the republican style of governance, the Cherokee could feel safer in their own form of self-government.

For instance, in December of 1881, Daniel Ross felt the need to comment on the condition of the Osages. Despite the wealth of the tribe, the Osage remained “far behind in all that goes to make a prosperous people.”<sup>511</sup> Osage leaders maintained that their agent was corrupt, misused tribal funds, and practiced nepotism in the agency’s office, refusing to hire tribal members to work for their own nation.<sup>512</sup> Wealth was made irrelevant if a tribe lacked control over the direction of its own resources. Ross therefore argued that the Osage needed self-government:

“We think the answer is simple, and it concerns the Cherokees as well as every other nation and tribe in this [Indian] Territory, *and out of it also*. The Osages are not lacking in intelligence. They have men capable of conducting a simple form of government of their own... We believe that they could do [so], impartially and wisely.”<sup>513</sup>

Importantly, this was not a question of the system of land tenure among the Osage, but their right to rule their own affairs, and Ross insisted that this question of self-government extended throughout and even beyond the Indian Territory. If the Osage preferred a different solution, Ross recommended that, “with their consent,” the Osage could join the Cherokee Nation’s body politic,

---

<sup>508</sup> U.S. Congressional Record Volume 11 Part 2.

<sup>509</sup> Holm, “Indian Lobbyists,” 122.

<sup>510</sup> CA, December 2, 1881.

<sup>511</sup> CA, December 2, 1881.

<sup>512</sup> CA, December 2, 1881.

<sup>513</sup> CA, December 2, 1881. Emphasis added.

adding “materially to our domain and funds.”<sup>514</sup> This idea also had precedent; plenty of tribes had already been incorporated into the Nation and granted Cherokee citizenship. In late January there were rumors circulating in *The Advocate* that the Osage wanted to join the Cherokee Nation, but nothing came of it.<sup>515</sup> The Osage preferred their own republic.

The Osage situation was one of many instances in which the Cherokee government advocated for Native self-government. When the Wichitas, Caddos, Kiowas, Comanches, Cheyennes, Arapahoes, Apaches, and Delawares of Indian Territory were threatened with allotment, the Wichita and Caddo chiefs submitted a memorial to Congress on behalf of themselves and the rest of these tribes. They informed Congress that they preferred to “obtain [fee simple] titles to their land of the same kind and in the same way as the [Five Nations].”<sup>516</sup> But beyond the land question, the tribes offered that “All of these tribes in common with your petitioners are in favor of organizing governments similar to the other Indian governments of the five nations...by which they can manage their own affairs.”<sup>517</sup> *The Advocate*, itself the voice of the government, strongly supported the memorial, and it is more than likely that the Five Nations supported the effort in Congress as well.<sup>518</sup> The “common sisterhood” of Indian Territory was more than rhetoric.

But even when there were no “proxy conflicts,” during moments that neither communal landownership nor the right to self-government were under review, the Cherokee still advocated for the rights of other tribes. The U.S. Civil War was and is the last time the Cherokee state took up arms, but the Nation persistently condemned violence against Native peoples. Responding to various “Indian wars,” *The Advocate* often took the position that Natives usually only resorted to violence of desperation or in defense of their treaty rights. In December of 1881, when the *Caldwell Commercial* accused the Cheyennes, Arapahos, and other tribes of shooting cattle on the Cherokee Outlet, *The Advocate* insisted that white intruders of Indian Territory might be the real perpetrators.<sup>519</sup> In April of 1882, writing against an expansion of the military, the *Sedalia Democrat* of Missouri argued that “...most of the murdering done lately has been done by [our] color. White men have been the authors of every border war for the last twenty-five years.”<sup>520</sup> *The Advocate* reprinted the editorial in full. In September of 1887, responding to yet another flareup between the already-removed Utes and white settlers, *The Advocate*’s editor lamented: “the Utes, under [Chief] Colorow, have been driven do what they have by the whites...They have not only stolen the property of the Indians but have aggravated them in every possible way they could.”<sup>521</sup> In the very same issue, the editor condemned the destruction of the buffalo, which certainly did not affect the Cherokee, asking “When will justice have her reckoning? ...A nation can go so far in tyranny over its weak and vanquished foe and then it must fall, and ‘great will be the fall.’”<sup>522</sup>

---

<sup>514</sup> CA, December 2, 1881.

<sup>515</sup> CA, January 27, 1882.

<sup>516</sup> CA, April 7, 1882.

<sup>517</sup> CA, April 7, 1882.

<sup>518</sup> CA, April 7, 1882. The memorial came with the added benefit of requesting that the Cheyenne and Arapahoes be separated from the Wichita land base and finally be given the lands they had purchased in 1868, an action which would have at least chipped at the problem of unassigned lands in Indian Territory

<sup>519</sup> CA, December 2, 1881.

<sup>520</sup> CA, April 7, 1882.

<sup>521</sup> CA, September 14, 1887.

<sup>522</sup> CA, September 14, 1887... The trend would continue well into the 1890s, when the Cherokee government was one of the few semi-autonomous Indian republics left standing. After the 1890 Wounded Knee Massacre, *The Advocate* wrote a furious piece about the reactions from the American press: “The newspaper correspondents flippantly style

This type of anger expressed by the editors of *The Advocate* was quite palpable. The tribes the editor often called “brothers,” “sisters,” and members of “our race” were under constant attack. As the *St. Louis Globe Democrat* put it in 1882, “The wonder is that there is an Indian in the United States territory without war-paint on.”<sup>523</sup> *The Advocate* printed that one as well.

Of course, when we say that the Cherokees were “proxying” for other Native peoples, that of course means that they were defending their own interests simultaneously. In February of 1887, delegates of the Chickasaw, Creek, and Cherokee Nations memorialized President Grover Cleveland to veto the Dawes Act. They explained that “Although the nations, which are represented by the undersigned delegates, are, by the terms of the bill, exempted from the immediate and direction operation of its provisions, the enactments of the law is certainly to be followed, at an early day, by far-reaching consequences as disastrous to the civilized nations of Indian Territory as to the tribes immediately and directly affected by this bill.” Empowering the President to force any Indian nation to allot their lands (destroying all hope of developing their autonomy) was of particular concern. “The point is reached, at last, where the Indian has no treaty rights which the white man is bound to respect.”<sup>524</sup> This was proxying, but the Five Nations still viewed this as a high stakes matter. Their future was intertwined with distant, foreign tribes.

Despite all these efforts to project power beyond its borders, politically, the Five Nations ended their decade in almost the same place it had started. The Cherokee and the other Five Nations lost most of their “proxy conflicts,” but maintained their exceptional “nationhood” status. Though there were meaningful respites for the select tribes of Indian Territory which joined the Five Nations in exemption from the Dawes Act, by that same policy most Native peoples were suddenly subject to allotment at the president’s whim. That new power would be a deciding threat to force results in “negotiating” allotment for tribes, including for nations all over Indian Territory. In the final years of the 1880s and the opening years of the 1890s, the gap between the Five Nations and every other tribe in the country was wider than ever. The Cherokee national economy boomed while most of the tribes once in a “common sisterhood” with them lost well over 90 percent of their lands. With the integrity of Indian Territory broken, but the economic power of the Five Nations growing stronger, the contradictions in federal policies toward “nations” and “tribes” became impossible to ignore. The question would repeatedly surface in the 1890s.

### **The Height of Exceptionalism (1887-1890)**

In 1849, the National Council authorized Principal Chief John Ross to procure and ship a block of Cherokee marble to the Washington Monument Association. Ross did this, and so to this day one of the 193 commemorative stones included in the Washington Monument has the words “Cherokee Nation, 1850” carved into it. The Tuscarora and Anacostia were the only other two Indigenous nations to make donations to the project. To me, the Cherokee Nation’s permanent place in the

---

the dead as ‘bucks, squaws, and papooses.’ It would have been in better taste to have said, men, women and children...They were certainly human beings...” (CA, January 14, 1891). Sympathizing with those who died, *The Advocate* bitterly wrote that the victims were already “pinched by hunger to the verge of starvation [and] denied that which rightfully belongs to them...” (CA, January 14, 1891). In the ensuing years *The Advocate* made passing references to what happened at Wounded Knee, always insinuating that it was a stain on American history. Here was a sure sign that Cherokee readers cared about the violence against other Native peoples and were eager for the violence against their “race” to finally end (CA, July 15, 1891, December 9, 1893 and a quoted speech, June 27, 1896).

<sup>523</sup> CA, June 2, 1882.

<sup>524</sup> CA, February 9, 1887.

Washington Monument is indicative of the special relationship these two sovereigns. Of course, there is no inherent reason behind why the Cherokee Nation and the United States had such a special relationship, but that does not change the fact that they did.

The high point of this special relationship was the Liberal Decade. The Supreme Court's 1886 ruling in *Eastern Band versus the United States*, for instance, greatly expanded Cherokee's legal jurisdiction over its residents while the government built up its revenue and reach. From 1885 to 1889, the federal agent in charge of "overseeing" the Five Nations was Robert Owen who—like John B. Jones before him—was a Cherokee citizen deeply invested in the Cherokee national project. William P. Ross was nearly made commissioner of Indian Affairs in the 1870s, and the Five Nations' fee simple titles routinely protected them from foreign intervention. Cherokees were expanding their wealth and power at the end of the 1880s, while other Indian nations were subjected to the semi-autocratic rule of their agents. As this chapter has shown, Cherokees had enough flexibility to lobby on behalf of other Native nations. In short, few Americans supported any sort of Indian nationhood, but Cherokees were one of the limited exceptions to that rule.

The "height of exceptionalism" was reached between 1887 and 1890. Major events bookmarked the start and end of this period, from the passage of the Dawes Act—which decided to leave only the Cherokees and eight other nations alone—to the seizure of the Cherokee Outlet in February of 1890—which made clear that their exceptional status was not infallible. During these three years, proxying for other Indian nations was nearly impossible, and already Cherokees were developing a sort of isolationist, self-interested foreign policy. They could not do anything about the Dawes Act or all the nations that were about to be allotted. They could, however, plan out their own country's future and success, imagining it would last into the twentieth century.

Three topics dominated Cherokee foreign policy during these three years, and they had little to do with other Indian nations. The first topic was Henry Dawes' attempt to strip white adopted citizens of their status in 1888; the second was Cherokees' continued efforts to prevent the creation of the Oklahoma territory; and the third was Cherokees' effort to block a sale of the Outlet beginning in the summer in 1889. In the first case, Cherokees would be successful yet again in protecting their special status from most Indian reforms. In the second case, they would successfully block any territorialization schemes until the summer of 1890, but they increasingly recognized that they would have a new U.S. territory to the west. In the third case, Cherokees would be obstructionist in the hopes of preventing the Outlet's sale, until an increasingly hostile and aggressive Washington took matters into its own hands in February of 1890.

The first of these developments was Henry Dawes' reform against adopted whites. The original bill in stripped adopted whites *and* their Indian wives of Indian citizenship and granted both U.S. citizenship without any of the rights to tribal property.<sup>525</sup> The bill outraged the Five Nations, who often had no qualms about their white adopted citizens. The national editor wrote:

"He derisively calls them 'Squaw men.' When, if he knows anything about them, he knows their wives and daughters will compare favorably, in point of education and good manners, with his own wife and daughters. Without intending to do so he pays these intermarried

---

<sup>525</sup> Using the term "Indian" makes more sense here because it did not matter what race a tribal citizen was, or if they were indigenous at all. For example, one could be a Black Indian woman marrying a U.S. citizen.

whites the highest of compliments. He shows that he incensed at them because they have stood true their Indian families.”<sup>526</sup>

There were adopted citizens—Black, white and Shawnee—serving in the Council branch. There were adopted white citizens who wrote about the United States in the third person, and the Cherokee Nation in the first. The vast majority appeared to be sincere nationalists.

Cherokees were most incensed when interpreting this bill as an attack on “their” women. “It was contemptible in any man,” *The Cherokee Advocate* exclaimed,

“...to take advantage of his position to speak of the women of any Nation in what he meant to be terms of derision. God bless the noble women of this Nation who have done much in assisting in educating its people. They have helped prepare them to bravely and successfully resist attacks on their rights, property, and Nation. These people [the women] plainly tell Dawes while they don’t want to be made citizens of the United States, yet if and those whose cause he champions, put that burden on them they will have to receive them as a landed Aristocracy—holding on to every acre they now possess—and not as a poor plundered race who have been cheated...These women are the fit mates of any man on Earth.”<sup>527</sup>

In the eyes of many Cherokee men (and doubtless many women too), Cherokee women were at the forefront of the efforts to “civilize” the country—which remained the stated reason of being for Cherokee nationhood (or at least in Washington). Cherokee women had no interest in being made U.S. citizens against their will. They were “patriots” of their own country. In threatening Cherokee women, Dawes’ new bill threatened Cherokee nationhood to its core.

Furthermore, it was clear to all how the Dawes’ bill could be used to secure a long-term denationalization: “The Senator admits that one very popular method of settling the Indian problem has been that of ‘whitening them out.’” *The Atoka Independent* of the Choctaw Nation framed this as an attempt to “bluff to scare the ‘Squawman’ into using his influence among the less enlightened, that they may be accept the terms offered by the Peele or Townshend [territorial] bills.” *The Cherokee Advocate* took some comfort in this, insisting the treaties favored their rights, and that the bill was merely “meant to frighten the Indians into concessions that will be to his disadvantage and *which all lawyers who examine the questions realize he need not make...the United States, under its own Constitution, is powerless to take one acre from these civilized tribes unless it bluffs them into a sale.*”<sup>528</sup> Citizens of the Five Nations knew their own power.

The bill also solicited plenty of opposition from the friends of the Cherokee Nation abroad. One Texas contributor responded: “Mr. Dawes thinks the white men favor the tribal system, and he is just right... You [Cherokees] are the only people who live in a free country, and my advice is to keep it so. Now to the Indian women: laugh Mr. Dawes’ bill to scorn, marry whom you please, and tell Mr. Dawes to come again.”<sup>529</sup>

---

<sup>526</sup> CA, January 18, 1888.

<sup>527</sup> CA, January 18, 1888.

<sup>528</sup> CA, January 18, 1888.

<sup>529</sup> CA, January 18, 1888.

The bill was a personal matter for one U.S. senator, Matthew Butler of South Carolina. The national editor explained: “Senator Butler will know what he is talking about. He lived among these people for years. His brother married a worthy Cherokee lady. His brother’s widow and her family yet reside among us. The niece has been with General Butler. He can tell Dawes that *she*, with the immortal Perry and Butler’s in her veins, that she has no cause to regret the Cherokee part of her blood.” This very same niece, Eloise Butler, had recently changed her last name to “Bushyhead” in 1883. She had married the principal chief.

There almost seemed to be greater opposition to Dawes’ bill against adopted whites than to the Dawes Act itself, which was perhaps logical: one directly attacked the rights of the Cherokees, and the other did not. The final law, however, would exclude the Five Nations from its purview just like the General Allotment Act (a change which was submitted by Senator John T. Morgan of Alabama who in the late 1890s would finally change his stance on Cherokee nationhood).<sup>530</sup> By the end of 1888, at least in the legal context, the persistent exceptionalism of the Five Nations had yet to be breached. Cherokee autonomy remained extraordinary.

Another indication of this can be gleaned from the westerners’ change in tactic on the proposed territory of “Oklahoma.” They no longer suggested the Five Nations be included (as they had in the 1870s), but in the late 1880s, they put forward numerous bills to territorialize *western* Indian Territory—land which was either unassigned or almost entirely subject to the new sweeping powers of the Dawes Act. But even in this case, to protect Indian Territory and its own property in the Outlet, the Cherokee delegations fought this reform as well, which would pass in 1890.

Cherokees and other Native nations understood the urgent need for diplomacy. The “Springer Bill” to create Oklahoma was put forward in 1888, and while it suggested a delayed annexation of the Cherokee Outlet until after Cherokees gave their consent, it also “[barred] our Nation from all use and profits of the property until our consent [was] given...thus the imprisoned victim is condemned to take the poor nourishment offered by his jailer or starve to death.”<sup>531</sup> This put the whole idea of Cherokee exceptionalism into question, and it was within this context that Cherokee embarked on one of their last attempts at Cherokee pan-Indian diplomacy. A meeting was held in Washington with the “Iroquois, from Maine; [the] Senecas, from New York; a Stockbridge, from Wisconsin; Chippewas, from Minnesota and Dakota; Cherokees from North Carolina and some other delegation from other tribes besides the Chickasaws, Creeks, and Cherokees.”<sup>532</sup> They discussed their various challenges, but those challenges—of course—were very different. The Five Nations’ delegates, unhelpfully, advised their “younger” brothers to “fall into the ranks of progressive humanity as the surest way to hold their own.”

Cherokees were pouring all they could into diplomatic efforts. In February of 1889, one Cherokee visiting Washington gave a report on the various delegations he ran into. In just one day, “After a *Turkish* bath and an *African* shave we called on the delegates, Harris and Bushyhead whom we found busy and worried to death over the Oklahoma Bill...and while in conversation with Harris, some gentlemen stepped up and when we began to shake hands with them, we might easily have imagined we were in a Tahlequah Hotel, for there was little Mr. Wallace, Ed Hewin,

---

<sup>530</sup> CA, February 8, 1888.

<sup>531</sup> CA, April 4, 1888.

<sup>532</sup> CA, April 4, 1888.

and would you believe it, Hon. Norwood of Cooweescoowee District!”<sup>533</sup> The visitor was able to visit Senator Pugh of Alabama, who “showed the country bearing and hospitality of a true southerner,” while the Cherokee Joel Mayes Bryant—who represented Old Settlers’ claims against the government—was also in town. Cherokees were all over town, and the quip that one could think they were in the Cherokee capital instead was telling. The national editor might have been certain that “if the Oklahoma bill should become a law...we are [still] perfectly safe” under the Supreme Court’s protection, but the delegations would never leave that up to chance.

And Cherokee could, indeed, achieve a lot with these persistent diplomatic efforts. This delegation would stall the Oklahoma bill for about two years, and by the time the bill was ready for passage in 1890, the delegation would report on it positively. The more aggressive Springer bill of the House failed while the more agreeable Platt bill of the Senate succeeded. The new bill specifically excluded the Cherokee Outlet from Oklahoma territory until it could be legally acquired by the United States. The delegate to Washington reflected:

“Of this [Platt] bill I have written before...that to it we could have no objections as it does not interfere with Indian rights of privileges...[and] Though we have no objections to the bill to create a government for Oklahoma or to the amendment to add No Man’s Land to it, yet we are somewhat apprehensive that the Springer bill will be substituted in the House, or such amendment added as will necessitate its submission to a conference committee and a compromise of differences between them...and if anybody is to be sacrificed, it will be the Indian...[Still] As far as understand them, or as far I can pre-judge them, our affairs are in no alarming condition.”<sup>534</sup>

Cherokees, begrudgingly, had come around to the idea of an Oklahoma territory being created to their immediate West, so long as that territory, their inhabitants, and Congress did not interfere with either the Five Nations’ or, more importantly, their own national sovereignty. This was a compromise which imposed the end of proxying and whatever was left of pan-Indian diplomacy. It was also one which resulted in the strange condition of affairs in which the Cherokee Outlet—which was a site of profitable resource extraction—was better protected from the United States than other Indian nations’ residential lands. For a delegate to write, “Our affairs are in no alarming condition” in February of 1890 was something very few Indigenous peoples could do.

By this point, however, the United States had no interest in allowing the Cherokees to keep their lands in western Indian Territory. The Cherokee Commission was created by Congress in 1889 to negotiate for all the lands of western Indian Territory, including the Outlet. The commissioners were instructed to offer the Cherokees \$1.25 per an acre, and if this were rejected, to negotiate “as may be just and equitable.”<sup>535</sup> This was insultingly low, and offered all the more reason to reject U.S. offers. Cherokees were immune to the Dawes Act powers. There was nothing forcing them to sell to the United States.

Americans could already tell the Cherokees planned to reject a sale. They could do the math and see that the legal maximum of \$1.25 per acre was insulting. That came out to approximately \$8 million for the entire Outlet. Cherokees were going to get about that much in

---

<sup>533</sup> CA, February 13, 1889.

<sup>534</sup> CA, February 26, 1890.

<sup>535</sup> Hagan, *Taking Indian Lands*, 165.



just fifteen years (without selling anything at all). In other words, the Cherokee Nation would not part with the Outlet willingly. Force would be required.

Not to be frustrated, the attitude toward Cherokees in Washington was increasingly hostile. “There is no denying or concealing the gravity of the situation of our Nation,” the national editor wrote in November of 1889.<sup>536</sup> Hitting a wall in their negotiations, the Secretary of the Interior had already threatened to clear the Outlet of cattle (thereby canceling the lease) if Cherokees did not comply. At the same time, the United States attorney general ruled that, contrary to what many Cherokees were arguing, their constitution did not need to be amended prior to the sale of their land. “The principle of the Attorney General’s ‘Opinion’ is that the U.S. Government has as complete control over the affairs of this Nation as that Government would have, if the Cherokee country were already within the Territory of the United States; and the Attorney General, in fact, so says in the letter.”<sup>537</sup> Where once the United States agreed to and supported the Cherokees’ desire to lease the Outlet, here they claimed the Cherokee Nation was acting in violation of the law. In the diplomatic arena, the Liberal Decade was approaching the end.

It was under these trying circumstances that the National Council met in November of 1889. Mayes’ third annual message could not escape the direness of the situation:

“The Cherokees have, within the last year, been compelled to listen to the clamor that is being raised by many citizens of the United States and even officials of high standing to take from the Cherokees lands that we have justly owned so long...

The same influences that drove the Cherokees from the ancient homes of their forefathers east of the Mississippi are beginning to marshal their forces and clamor for our land—you hear great, and what ought to be good, men and the great American Press say, ‘If we cannot buy it, we will take it.’ We must hope that God, in His mercy will arrest the hand that thus attempts to rob us.”<sup>538</sup>

Cherokees of the 1870s had been accustomed to such a “clamor for [their] land” from westerners, but Cherokees of the 1880s had grown used to a different sort of treatment. The threats and territorial bills had temporarily stopped. Even the U.S. of 1889 did not make any claims to the nine residential districts, but its desire for the Outlet alone was still too much for Cherokees. They did not live there, but it had just become the great source of their wealth.

In other parts of his speech, Mayes stood firm on his position that the constitution had to be amended before any proposition from the United States could be considered. He insisted that the Cherokee had already sold lands which now constituted the states of the Carolinas, Virginia, Georgia, Kentucky, Tennessee, and Alabama, and that “this remnant portion of our once powerful tribe certainly should be permitted to rest on this little spot of earth where it can have a permanent home protected from the danger of land pirates and boomers who know no law except that of might.”<sup>539</sup> He left the door open to the Cherokees never selling the Outlet (exactly was what was frustrating the commissioners) and then he moved on to other important matters.

---

<sup>536</sup> CA, November 13, 1889.

<sup>537</sup> CA, November 13, 1889.

<sup>538</sup> CA, November 13, 1889.

<sup>539</sup> CA, November 6, 1889.

He urged for actions against the intruders and better systems of revenue collection, and he recommended a per capita payment of \$300,000 be disbursed in the summer of 1890—something he would soon come to regret. He shared the good news of the C.S.L.S.A.’s extension offers, celebrated the reopening of the Female Seminary (which was back in operation), asked that repairs be made at the Male Seminary as soon as possible, and announced that the “Colored High School” was nearly complete. While he did not think that “Congress would even think of seizing and confiscating our soil,” he asked that a delegation be sent to Washington as soon as possible. He asked for lower barriers to prospecting in the mining industry, and for further investments in the nation’s public buildings. Many of these demands—such as asking for investments while also asking for a per capita—were in direct conflict with one another.

After the legislative session ended, Cherokee obstinance continued. Senator Lucien Bell, who was also one of the negotiators meeting with the Cherokee Commission, asserted that the United States already “owed the Nation the removal of intruders,” and that this should be carried out “*before* another trade should be made, and another debt collected.”<sup>540</sup> Chief Mayes continued to demand the full value of the Outlet (knowing the commissioners could not legally offer this), and asking for relief from “you as free American citizens, who live under a flag that gives justice to the oppressed and liberty to all...the Cherokees keep the fire of liberty and patriotism perpetually burning on the alter of their hearts.”<sup>541</sup> Even the commissioners threats to resettle thirteen tribes of western Indian Territory in the Cherokee Nation were fruitless (likely because Article 15 required Cherokee consent as well).<sup>542</sup> Mayes called the suggestion to “‘dump’ them all down on the lands of the Cherokees east of 96...preposterous in the extreme.”<sup>543</sup> In short, the negotiations were going nowhere (which was Cherokees’ intention) and the commissioners lacked the powers of the Dawes Act to force an agreement. Cherokees were still immune to that law.

On January 1<sup>st</sup>, 1890, *The Cherokee Advocate* reported “All Negotiations Off.” The U.S. Commissioners had left Tahlequah emptyhanded, and were now off to “their respective homes, thence to Washington to report its fruitless efforts.” The national editor summarized the Cherokees’ current position in the following manner:

“Whether the finale of the attempted negotiations for said lands, on the part of the Cherokee Nation, has been wise and prudent, or otherwise, is not for us to say...the whole question is left in unsatisfactory condition. The result is this: after six months of corresponding and conferring as to those lands for their cession to the United States, we find ourselves at the close just where we began, resting on the unsatisfactory treaty of 1866.

Of course, should the provisions of the treaty be faithfully carried out by the Government, we can have no cause of complaint, be the consequences what they may...

We do not believe the Hon. Commissioners will, after a thoughtful review of the entire situation make such report as will prejudice the kindly relationship of their Government towards the Cherokee people...”<sup>544</sup>

---

<sup>540</sup> CA, December 4, 1889.

<sup>541</sup> CA, January 1, 1890.

<sup>542</sup> CA, December 18, 1889.

<sup>543</sup> CA, December 18, 1889.

<sup>544</sup> CA, January 1, 1890.

*The Cherokee Advocate* believed the issue could take any number of directions next. The paper's editor believed the commissioners would not be prejudicial in their reports to Washington, and there was still a glimmer of hope that the Treaty of 1866 would be upheld.

*The Chieftain* was not so sure. A Kansas City journal claimed to have general outline of the commissioners' report. The commissioners planned to write that the chief had delayed meeting with them for weeks, that he had refused to call the National Council into session, and that their tactics exhibited "gross discourtesy toward the government." Editorializing, the Kansas paper added: "The Cherokee Nation's government, carried on by men with great preponderance of white blood in their veins, is extravagant. Four hundred thousand dollars annually is expended, while \$150,000 would be an ample sum."

Echoing the same thing the Downing Party had been saying about the government for years (to gain power), the Kansas reporter described "the alleged 'Cherokee Nation'" as an irredeemably corrupt country. The reporter relayed that the commissioners would recommend Article 15 be weaponized against the Cherokees, and added: "The Cherokees having refused a generous offer for alleged ownership of the Cherokee outlet, it now lies with congress to say whether the cattlemen and unscrupulous class of white men, calling themselves Indians, can thwart the government's purpose to furnish homes for a little of ground from which they may derive sustenance for hungry families."<sup>545</sup>

In about a month, they would all learn that the United States was prepared to take aggressive action. Washington was ready to betray the Cherokee Nation. According to the delegation writing on February 9th, Congress was considering a bill which would annex "all that part of the Indian Territory not *actually* occupied by the five civilized tribes." The bill would not pass in that form, but the delegation was extremely concerned:

"That which concerns us most, and has since our arrival, is the growing and impatient demand for our western lands. I am about concerned that something must be done on our part in order to secure the best terms and a speedy settlement of the entire question. It is rumored that the President of the United States has decided that the cattlemen shall vacate the Strip next spring. Secretary Noble has declared that if the Cherokees will not accept a dollar and a quarter an acre, they shall accept their appraised value of 47.49 cents."<sup>546</sup>

The United States had reached its limit. At such a late date, it would no longer tolerate an Indian nation as wealthy and autonomous as the Cherokees'. The Outlet land would be taken.

On February 17<sup>th</sup>, 1890, President Harrison issued an executive order prohibiting grazing on the Cherokee Outlet. The leasing of the Outlet was over, and the Cherokee's greatest source of revenue was seized from them in the process. More than half the country's annual income would be lost overnight. All progress in both foreign and domestic policy was endangered. With such an aggressive act, Cherokee sovereignty was no longer be assured. After a long hiatus, coercion was back. The Liberal Decade ended then and there, full stop.

---

<sup>545</sup> *Chieftain* (Vinita), January 2, 1890.

<sup>546</sup> CA, February 19, 1890.

## Chapter Five: The Bushyhead Administration (1879-1887)

In December of 1879, Cherokees went hungry. The contributor “Unakuh” described his suffering in detail. *The Advocate* had solicited a word from him, and his wife encouraged him to “write in obedience to the call.” Therefore, he rose up with “drooping energies,” put on his old coat, “already in rags,” seized his pen, and began to “unburden [himself] of the woes” he faced. The corn crib was empty. His poor old cow was “reduced to a mere skeleton of her former self.” He asked himself: “Is this woman clothed in rags, with unmistakable signs of want on her every feature, the one fair bride of Unakah?” She was, and she was the same who had received a possum from their neighbors as a gift (or charity) and prepared it as a meal. While Unakah dreamed of “roast goose [and] pound cakes,” the corn crib was empty, the smokehouse was empty, his stomach was empty, his wife was starving. And what was to blame for all this? Citing scripture and reflecting on the labor crisis, he offered: “The harvest is plentiful, and the laborers are few.”<sup>547</sup>

The new chief and lawmakers, however, had already addressed both issues. Two of the first pieces of business they handled in the new session were that of emergency bread money and foreign labor. On December 3<sup>rd</sup>, the National Council instructed the delegation to borrow \$500,000 from the nation’s funds to feed the people.<sup>548</sup> This would cause a permanent decrease in the annual trust revenue, but it was framed as necessary in this national emergency. The other policy, passed on December 5<sup>th</sup>, was the passage of the “Act Authorizing and Requiring the District Clerks to Issue Permits.”<sup>549</sup> The permit fee was dropped from twenty-five dollars a month to one dollar a month. Thompson’s 1878 changes to the Act for the Protection of the Common Domain were repealed. This was the difference between the complete expulsion of white foreign labor (which was Thompson’s intention) and a whole-hearted invitation for cheap foreign labor to return (which was Bushyhead’s). It was the first of many steps toward economic liberalization.

In less than two years, the country would be in a completely different place. “In Times of Peace Prepare for War.” It was this simple adage that the *Cherokee Advocate* published on August 10<sup>th</sup> of 1881. “We are led to have these thoughts,” the national editor explained, “upon observing the fair and pleasant appearance of things in and about the condition of our Nation at the present time...the country is much better off in all respects [than] it has been since the war *and for some time before...*”<sup>550</sup> The legislators of the United States, including many westerners, had accepted that the fee simple titles of the Five Nations were untouchable. The Cherokee Nation had numerous, powerful friends in both bodies of Congress, maintained the largest trust fund of any tribe in the country, operated over one hundred schools, and repeatedly defused all efforts to extend territorial jurisdiction over its borders. The Civil War had been a time of apocalyptic infighting, Reconstruction had been a time of mourning, liberation, radicalism, and hunger, but clearly something had shifted by 1881. The *Advocate* believed that the time to project strength had arrived.

The point of the article was to promote a general recommendation to the Cherokee government: reform. As the editor of the government-owned newspaper put it:

---

<sup>547</sup> CA, January 21, 1880; December 17, 1879.

<sup>548</sup> CA, June 23, 1880.

<sup>549</sup> CA, December 10, 1879.

<sup>550</sup> CA, August 10, 1881. Emphasis added.

“Wisdom cries unto us to make good use of [this moment] ...there are fewer things beyond our own control to operate as obstructions to any measure of advancement we may be inclined to try...we may now devote all our energies *to internal measures of reform and progress*, to the development of our internal resources and strength...”<sup>551</sup>

Using other editorial pieces from the same newspaper, or simply other historical examples, it is not difficult to imagine what “internal measures of reform,” or modernization, might mean. The *Cherokee Advocate* constantly called on the government to find new sources of national revenue, expand the existing ones, and invest heavily into the growth of the Cherokee government, schools, and social welfare institutions. By this time the Nation had erected its own orphanage, asylum, prison, and the prestigious male and female seminaries which sent their graduates to public office or to universities such as Dartmouth and Vanderbilt.<sup>552</sup> None of this precluded the Nation from experimenting further with “any measure of advancement we may be inclined to try.” Doing so would “give the Nation strength at home and abroad.”<sup>553</sup>

With the benefit of hindsight, we can say that the national editor had more reason to be optimistic than he knew. Over the course of the 1880s, the Cherokee Nation negotiated two consecutive leases of the six-and-a half million acre “Cherokee Outlet” to a ranching syndicate. These contracts were worth millions of dollars and carried the additional benefit of wedding the interests of a powerful private corporation with a powerful tribal nation. Since no Cherokees lived on the Outlet (as there was ample space in the seven million acre “home tract”), this alienation of communal land did not infringe on anyone’s traditional rights. The leasing of the Cherokee Outlet was so profitable that it showed no sign of faltering before 1890, worrying western home seekers who viewed Cherokee sovereignty as a land monopoly. Angry calls, populist in nature, thundered across the West for the government to intervene against the cattle syndicate.

But before they were canceled, these revolutionary contracts were representative of a very positive trend in Cherokee history. During the 1880s, the Cherokee government injected large sums of money into its federal trust fund, thereby securing greater annual returns for future generations. The principal grew significantly by the end of the 1880s. The government also developed new sources of revenue that had previously never existed. In 1879, the tax revenue collected from the Nation’s nine residential districts was a dismal \$3,406.<sup>554</sup> By the end of the 1880s and throughout most of the 1890s, the National Treasury was collecting approximately \$30,000 from the residential districts each year, a figure which excludes the immense sums from the Outlet leases and the federal interest payments.<sup>555</sup> All of this money was forwarded to a Cherokee National Treasury with a dramatically increasing spending power. The “internal measures of reform” kickstarted in the 1880s were successful.

---

<sup>551</sup> CA, August 10, 1881. Emphasis added.

<sup>552</sup> An actual success of these institutions was that they were not simply “colonial” imports from the United States. Julie Reed’s *Serving the Nation* has convincingly argued that these social institutions were maintained by the “consent” of a traditionalist majority, a reliance on traditional understandings of community support, and a relatively stronger avoidance of the kind of coercive control employed widely in federal institutions such as the boarding schools.

<sup>553</sup> CA, August 10, 1881.

<sup>554</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>555</sup> *Ibid.*

The scholarship of the Cherokee Nation does not acknowledge this as a period of optimistic nation-building, but the evidence of national power increasing during this time speaks for itself. Politically and economically, the government had never experienced a decade of prosperity to match the 1880s. This respite from the threat of denationalization also translated into an economic golden age. The national economy made huge strides during the 1880s, the national debt was eliminated, a surplus emerged, trust revenue increased, new sources of domestic revenue were created, private wealth skyrocketed, and a functional labor system was created that could incorporate immigrating white settlers (and therefore blunt the impact of what Daniel Immerwahr called the “settler bomb”). It is no wonder, then, that Cherokee nationalists of the 1890s seriously believed that the “status quo”—that is, their national sovereignty—could be sustained and enhanced into the 20<sup>th</sup> century.

This chapter examines these developments between 1879 and the spring of 1887, or in other words, the Bushyhead administration up until the general election of 1887. It contains sections that explains what the Cherokees’ new economy looked like during the whole decade (1880-1890), while the political developments are contained to the seven years previously mentioned. Bushyhead’s first term was understood by contemporaries as “an era of good feeling,” while a national scandal in 1884 assisted the rise of a “rebel party” led by ex-Confederates.<sup>556</sup> The chapter concludes with the passage of the Dawes Act but is careful to note that while Cherokees’ fought the bill, it did not affect them directly. And while the law altered their relationship with other Indigenous nations, Cherokees’ own nation-building accelerated afterward, and—despite aggression from the United States—even continued into the 1890s.

### **Fifty Starving, Fifty Overfed (1880)**

While Cherokee census takers traveled the country in 1880, they reported “large sections of Illinois, Tahlequah, and other Districts [were] in need of bread on account of the dry season last year.”<sup>557</sup> The Tahlequah census taker detailed how the neighborhood of “Caney Creek” produced a mere 2,827 bushels of corn for eighty families on 630 acres, while “Sugar Mountain”—a smaller settlement—produced just thirty-five bushels on 75 acres.<sup>558</sup> A district contributor for Delaware shared: “Mr. Joe L. Thompson census taker of this district reports that bread stuffs are scarce, and that the majority of the people are very badly needing the subsistence money. All the hope depends upon delegation.”<sup>559</sup> The “much-needed” bread money was the subject of constant discussion among Cherokees, who expected “considerable suffering” if they could not secure relief.<sup>560</sup> One Reverend Smallwood visited the office of *The Cherokee Advocate* and reported “very hard times in portions of Going Snake and Flint Districts on account of the scarcity of bread stuffs.” Private money had been disbursed in the form of charity, and while some of the “working Cherokees object to this,” the editor encouraged sympathy for “their Women and children.”<sup>561</sup> *The Cherokee*

---

<sup>556</sup> James R. Hendricks’ Reactions to Crisis of 1887, December 24, 1887, James R. Hendricks Collection, Box 1, Folder 9, Western History Collection, Oklahoma University, Norman, OK.

<sup>557</sup> CA, March 10, 1880.

<sup>558</sup> CA, March 10, 1880.

<sup>559</sup> CA, March 31, 1880.

<sup>560</sup> CA, February 4, 1880; March 10, 1880; May 19, 1880.

<sup>561</sup> CA, May 12, 1880.

*Advocate* would retroactively explain that crops had failed in Going Snake, Flint, Tahlequah, Sequoyah and Illinois. The wealthy Upper Districts had been spared.<sup>562</sup>

Throughout May of 1880, extreme heat and a lack of rain compounded Cherokees' fears and desperation. The national editor reported: "From present indications the drought of 1879—last year, which left many of our people without the necessary means to the 'support of life'—is to be repeated. No rain for a month or more—wheat all ruined, oats a failure, gardens burned up and even corn which generally withstands an early drought is twisting and withering up."<sup>563</sup> "R," a contributor from Going Snake who like many was angry his district was accused of "idleness" in the article cited above, insisted that all young men "in the nine Districts" were now serious farmers of "books, plows, and the anvil," They worked "as faithfully as any people," but "could not control the elements." "We certainly are as deserving of favors in time of famine, as are the Irish or other Nations," he added, "who have been fed Gratuitously by the people of the US." He was also angry that Cherokees had to ask Congress to withdraw their own money. "The money we call for is our money," he wrote, "and we are not Blanket and moccasin Indians that we need to have to have a guardian like a child under age."<sup>564</sup> In the last days of the month, *The Advocate* predicted: "The outlook at the time of going to press this week, is that the drought of this year is to be far more severe than last year, as it has commenced much earlier...[and] if the government refuse aid this year, of course it will be refused again, and then, Heaven help this people."<sup>565</sup> Cherokees feared for the future. Ex-Chief Charles Thompson posted an ad in Cherokee inviting citizens to "come to his house with a hoe," and he would give them "one bushel of corn every day they work."<sup>566</sup>

These fears were premature. In June, rain finally came and so did the bread money's congressional approval.<sup>567</sup> On June 2nd, the national editor wrote: "At last we have the rain 'for the just and unjust.' If the season fails after all, and bread is scarce next year, there is still 'bread money' too for a last recourse."<sup>568</sup> A week later the country continued to celebrate the crop prospects and rejoiced as well for the bread money's passage through the House.<sup>569</sup> The emergency withdrawal was reduced from \$500,000 to \$300,000 but it was still a major aid. Cherokee Nation merchants started trading on credit the moment the bread money bill passed both houses, and the national editor congratulated its delegation: "Our Delegates will be home in a few days more. Every Territorial measure has been virtually defeated, our pressing need for bread stuff is soon to be allayed in the shape of about fifteen dollars a head to each man, woman, and child of the Nation. Truly, we could not have asked a delegation to make a better record."<sup>570</sup>

Chief Bushyhead had meanwhile taken a strong command of the finances. The National Treasury was undergoing a dramatic transformation even while the people remained hungry. On March 24<sup>th</sup>, the national editor commented: "An infallible indication of the prosperity of the country is the condition of its finances and the value of its 'promise to pay.' Cherokee Warrants

---

<sup>562</sup> CA, September 8, 1880.

<sup>563</sup> CA, May 26, 1880.

<sup>564</sup> CA, May 26, 1880.

<sup>565</sup> CA, May 26, 1880.

<sup>566</sup> CA, May 26, 1880.

<sup>567</sup> CA, June 2, 1880; June 9, 1880; June 16, 1880.

<sup>568</sup> CA, June 2, 1880.

<sup>569</sup> CA, June 9, 1880.

<sup>570</sup> CA, June 16, 1880.

and Tickets have gone up fifty per cent in the last four months.”<sup>571</sup> By the start of June, national certificates were “now worth over fifty cents in cash,” and “so great was the demand for them in Cooweescoowee District recently, that it is said speculators finally demanded a premium of ten cents.”<sup>572</sup> By June 23<sup>rd</sup>, national certificates were “now selling for seventy five cents per dollar in trade,” with the hope that a good administration could push them higher still. More than anyone, this change benefited ordinary citizens. As the national editor put it: “It is not the Office holders or Contractors or Merchants, that are directly and pecuniarily interested; they can save themselves, no matter what Certificates may be worth to the first holder. It is the people who are immediately and most interested in the price...”<sup>573</sup> When the teachers, jurors, and guards were paid for their services, it was important they were paid the full value of their labors. By August of 1882, the national editor would report: “Perhaps never before in the history of our country has National scrip been so near on par as it is now...From 90 to 95 cents on the dollar in goods or cash is the price at which they are going.”<sup>574</sup> It was a miraculous financial recovery.

But as the National Council planned the per capita payment in June of 1880, it was increasingly clear that the country had suffered unequally. “The bread money is a fixed now a fact,” wrote the national editor, “and many of our people can now sit down to a ‘square meal’ where two weeks ago a crust would have been welcome.” But in Delaware, Cooweescoowee Canadian, and certain other Districts, “the crops were mostly good last year.” These were three of the wealthiest districts in the country, and the top three employers of foreign labor. These three districts had rushed to acquire the most foreign labor in the first financial quarter after the new permit law.<sup>575</sup> Some of these actors in the Upper and Lower Districts were not experiencing a crisis at all, while the Middle Districts (Unakah’s Flint and Smallwood’s Going Snake, Illinois, and Tahlequah) suffered much more. Still, explained the national editor, “It [was] much better to overfeed fifty men than let fifty others starve to death.”<sup>576</sup> The liberal inequality of the decade was beginning to present itself.

In fact, many Cherokees were quite prosperous during the emergency. In January of 1880, the national editor had remarked: “Even we in Tahlequah feel the great stimulus everywhere noticed in trade called the ‘business boom.’ Our merchants are doing a good trade and our streets present a much livelier appearance than they did last year at this time.”<sup>577</sup> A merchant of Webbers Falls bragged that Canadian District had “shipped about sixteen thousand dollars’ worth of Cotton this year and that the enterprising folks of that District were preparing to raise a much larger crop this next year.”<sup>578</sup> In March, while the Tahlequah census taker was stumbling upon suffering, it was estimated that five thousand bales of cotton would be raised in the Cherokee country’s Lower “cotton Districts” of Illinois, Sequoyah, and Canadian.<sup>579</sup> In February—many months before relief was delivered—Charles Fargo of Sequoyah was planning to put up “two hundred acres of cotton”—two years later it would be 400—while future chief Joel B. Mayes expected to ship

---

<sup>571</sup> CA, March 24, 1880.

<sup>572</sup> CA, June 2, 1880.

<sup>573</sup> CA, June 23, 1880.

<sup>574</sup> CA, August 11, 1882.

<sup>575</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. See also CA, April 21, 1880.

<sup>576</sup> CA, June 23, 1880.

<sup>577</sup> CA, January 7, 1880.

<sup>578</sup> CA, January 21, 1880.

<sup>579</sup> CA, March 10, 1880.



“eight or ten thousand bushels of apples if the coming year [was] a good one for fruit.”<sup>580</sup> W.A. Reese was doing well enough to take a pleasant vacation to Eureka Springs in Arkansas; the Council chamber hosted a lavish ball in January attended by “several of the nation’s dignitaries,” and Cherokee cattle buyers may have exploited the hard times to expand their stock: a report in May shared that the cattle-buyers were traveling throughout the country “dropping a good many greenbacks,” and that as the money flowed into the stores, the “merchants [were] having a great time.”<sup>581</sup> For some the “Liberal Decade” had already begun; for others, there would be a long wait.

This was also clearly reflected in the 1880 national census. Despite the drought and labor crisis, the nation counted 59,486 acres in cultivation for corn, 9,899 for wheat, 5,420 for oats, 5,207 for cotton, 3,757 for orchards, 529 for Irish potatoes, 438 for sweet potatoes. 110,955 acres were enclosed.<sup>582</sup> More importantly, Cherokees produced 731,601 bushels of corn, 59,118 bushels of wheat, 53,893 bushels of oats, 26,775 bushels of potatoes (sweet and Irish), 9,041 bushels of turnips, 10,222 tons of hay, and 2,449,830 pounds of cotton.<sup>583</sup> As for stock, the country possessed 67,405 cattle, 108,552 hogs, 14,574 sheep, 1,259 mule, and 13,643 horses.<sup>584</sup> Analyzing this information, and comparing it to many U.S. southern states’ production ten years prior, the national editor concluded:

“The Cherokees raised more last year raised more corn than any of them [Alabama, Arkansas, Tennessee and N. Carolina] in proportion to population, in spite of the drouth. The Cherokees raised more wheat in proportion to population than Alabama, Arkansas, or N. Carolina—more oats than Arkansas or Alabama—more Irish potatoes than Alabama or North Carolina—more hay than either North Carolina, Tennessee, Arkansas, or Alabama—nearly as much cotton as North Carolina or Tennessee, but is considerably behind all these states in sweet potatoes.”<sup>585</sup>

Indian Territory, *The Advocate* explained, was a dark horse, which still needed time to progress, but “[wasn’t] entirely a scrub pony in the race.”<sup>586</sup> Cherokees bragged about all this production, and yet they hinted that they might have more. Throughout 1880 *The Advocate* encouraged citizens not to hide their wealth from census-takers, but by the time the final reports came out, the paper was certain that “[the numbers] fall short on account of the indisposition of some our citizens to make a report of what they own.”<sup>587</sup>

But these gains were widely unequal (**see Figure 5.1**). The Upper Districts (Cooweescoowee and Delaware) and the Lower Districts (Canadian, Sequoyah, and Illinois to a lesser degree) boasted strides in farming and livestock which far surpassed that of the full-blood majority Middle Districts (Saline, Going Snake, Flint, and Tahlequah).

---

<sup>580</sup> CA, February 11, 1880; March 31, 1880.

<sup>581</sup> CA, March 24, 1880; January 21, 1880; May 12, 1880.

<sup>582</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

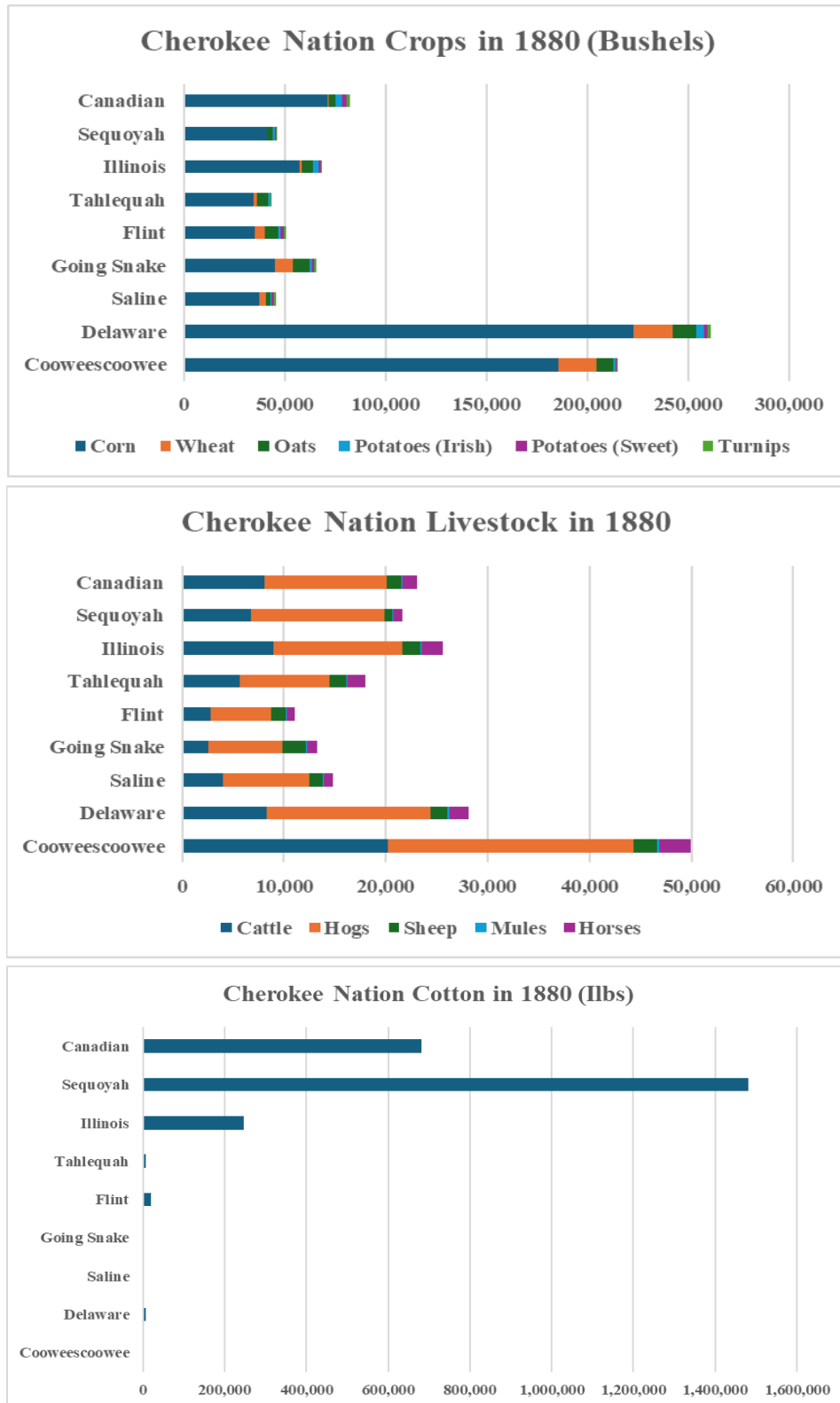
<sup>583</sup> Ibid.

<sup>584</sup> Ibid.

<sup>585</sup> CA, September 1, 1880.

<sup>586</sup> CA, September 1, 1880.

<sup>587</sup> CA, September 22, 1880.



**Figure 5.1:** The three charts above are 1880 census summaries of the Cherokee Nation’s agricultural productivity and livestock. In these charts, the sectional divides of the country are visible. The Upper Districts (Cooweescoowee and Delaware) were the richest in corn production and ranching. They hired the most permit workers to expand their farms. The Lower Districts (Canadian, Sequoyah, and Illinois) specialized in cotton. The Middle Districts produced less.

The “empire district” of Cooweescoowee and Delaware had 29,521 and 25,387 acres enclosed while the other seven possessed a range from 6,453 to 9,629. The Upper Districts possessed half the country’s total cattle and produced six times more corn than many of the Middle Districts. The Lower Districts accounted for almost all the nation’s cotton. The two Upper Districts had a combined 39,586 acres in production, the four Middle Districts had 26,346 in production, and the three Lower Districts had 18,903 acres. Broadly speaking, it appears that the Upper and Lower Districts were more concerned with exports, while the Middle Districts—on the whole—focused relatively more on subsistence. The 1880 census also reveals that the Middle Districts counted a disproportionate share of the nation’s orphans; Saline had 120 orphans to Delaware’s 36, despite the latter’s population being double that of the former.<sup>588</sup> In numerous ways, the nine residential districts were on different economic trajectories.

The disparate halves of the country converged for the per capita. By late June—before the payment— “hundreds of people of people” were already trading on credit in economic centers like Tahlequah and Vinita.<sup>589</sup> Traveling merchants—who would be replaced by permanent businesses as the Cherokee Nation became less isolated—traveled to the payment to sell their wares or services.<sup>590</sup> Every Cherokee “by blood” received \$16.55, and the payment took only 10 minutes per person.<sup>591</sup> At each payment the streets were full people, and even the orphans and prisoners were included by law. Merchants from Fort Gibson, Vinita, Webbers Falls, and even Cincinnati arrived in Tahlequah to “[look] after their interests.”<sup>592</sup> The store clerks “[were] so busy they [could not] find time for eating or sleeping.”<sup>593</sup> \$116,000 was disbursed in the capital before the payments moved on to Fort Gibson.<sup>594</sup> After all the commotion, “Suddenly the capitol square looks deserted” and the “merchants [could] finally breathe.”<sup>595</sup>

Both emergency and non-emergency per capitas provided a stimulus to the national economy. The merchants and collectors were very happy with the “prompt and satisfactory manner in which all accounts were settled,” while the national editor claimed that the “\$300,000 ‘relief’ money provided per capita among the Cherokees, and thrown into circulation of cash in the Nation, is equivalent to the sum of \$600,000,000 added to the money circulation of the United States.”<sup>596</sup> The contributor for the rural Flint district shared that they had “Plenty of money. Plenty of Grub,” and that their merchants were “supremely happy over the payment.”<sup>597</sup> By the end of August the Vinita payment was finished, and, perhaps because of a recent windfall, the prominent Cherokee merchant John W. Stapler threw a party for “the young people,” right before he and his family embarked on a vacation east (where they would visit Saratoga, New York, “other places of interest,” and their extended relatives in Delaware).<sup>598</sup> Trade slowed down by September (as the payments finished) because Cherokees were “only buying the necessaries of life,” but at the same time “an

---

<sup>588</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>589</sup> CA, June 23, 1880.

<sup>590</sup> CA, July 14, 1880.

<sup>591</sup> CA, July 28, 1880.

<sup>592</sup> CA, July 28, 1880.

<sup>593</sup> CA, July 28, 1880.

<sup>594</sup> CA, August 4, 1880.

<sup>595</sup> CA, August 4, 1880.

<sup>596</sup> CA, August 11, 1880; September 22, 1880

<sup>597</sup> CA, August 25, 1880.

<sup>598</sup> CA, August 25, 1880.

impromptu ball and supper was given at the Tahlequah House...in honor of the newly married couple.”<sup>599</sup> While the national editor advised that “now [was] the time to look out for a good renter,” the merchants were expected to import “a larger fall stock than ever before”—a strong indication of “the increasing wealth of the country.”<sup>600</sup> Whether to purchase foreign labor permits or more goods to sell, many Cherokees used their bread money on something other than their stomachs.

A new and stronger economy was emerging. On October 13<sup>th</sup>, *The Cherokee Advocate* happily reported that the amount of collected by the treasurer from domestic and Outlet revenue had nearly equaled the value of certificates issued for the year—a fact which was largely a product of Bushyhead’s recent reforms (nearly half of the domestic revenue came from permit fees; while \$7,620 of taxes was collected from foreign ranchers in the 1880 fiscal year).<sup>601</sup> “This is the first time,” explained the editor, “we believe since the war or in [the] history of the Nation that the revenue has come as near being equal to the amount of certificates issued...[and] it can safely be conjectured that next year will [give] an even better show.”<sup>602</sup> Just two weeks later, it was remarked “that there are more goods in Tahlequah now than ever have been since the war if not before. This bespeaks the healthy condition of trade which shows conclusively an unparalleled prosperity.”<sup>603</sup> If “money [was] the blood of the country”—and Cherokees said it was—then foreign ranchers, permit workers, and merchants were revolutionizing national finances for the better, and even contemporary Cherokees were stunned by the rapid improvement of the treasury.<sup>604</sup>

The stakes of building a new economy went far beyond personal gain or balancing a budget. Cherokee finances and productivity were a matter of national survival. A sovereign Cherokee Nation could not persist if its people starved, and the potential consequences of a government default would have likely been catastrophic for Cherokee autonomy (though it never happened, because the debt was wiped clean in Bushyhead’s first term in office). One Charles Pierce delivered his thoughts on this very subject at the South Bethel School Picnic. The speech was principally concerned with economic matter, the Cherokees’ advantages in the approaching business boom, and the like, but his conclusion was very interesting:

“The Cherokees are at this time engaged in a conflict with the white race just as surely as any Indians ever have been in the whole history of the settlement of North America. This conflict is proceeding quietly, peaceably, without disturbing scenes of violence or bloodshed. But it is nonetheless a conflict. What is required here is that this land shall be cultivated by somebody.”<sup>605</sup>

It was a remarkable thing to say while some of the so-called “Indian Wars” continued, but there must have been some truth in it. The Cherokee Nation had already gone to war for the last time, but a “cold” struggle had emerged. The challenge for Cherokees was to develop a strong enough

---

<sup>599</sup> CA, September 1, 1880.

<sup>600</sup> CA, September 8, 1880.

<sup>601</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. See also CA, October 13, 1880.

<sup>602</sup> CA, October 13, 1880.

<sup>603</sup> CA, October 27, 1880.

<sup>604</sup> CA, October 27, 1880.

<sup>605</sup> CA, July 14, 1880.

economy and state, to produce as much as they could, and to somehow blunt the impact of would-be settler colonists. From 1880 to 1890, they proved they could do this, and largely *because* their state prospered, and because the white immigrants embraced their sovereignty, the United States was compelled to intervene in 1890. The next three sections explore the new Cherokee economy—its laws, business, and social world—all built on the principles of “communal capitalism.”

### **Laws of the New Economy (1880-1890)**

After 1880, the Cherokee Nation never disbursed bread money again. There was little need for it as production increased. The country had a strong harvest in 1880 and 1881. In 1882, there widespread calls for bread money in the first half of the year, but the calls were dropped after the harvest turned out to be unusually abundant. At points in the 1870s, Cherokees had been reduced to eating the bark off trees; in the 1880s they ate better than ever before.<sup>606</sup> There would always be hunger and inequality, but not the same kind of national, collective desperation experienced in 1875 and, to a lesser extent, 1880. Whatever criticisms we may have of communal capitalism, the new economy fed the people and prevented further withdrawals from the national funds.

The new economy achieved this by liberalizing labor and immigration (greatly multiplying the agricultural productivity of the nation), adopting better approaches to farming (which is how contemporaries framed it), increasing their access to foreign markets and capital (allowing for more cash circulation), and encouraging a greater use of the common domain for profit. The government built up its revenue with its exploitation of the common domain, and the people did the same. The problems with this system—which would emerge in the 1890s immediately prior to denationalization—was that the pursuit of profit at the expense of the common domain was perhaps an unsustainable one. Cherokees did not just want their bread—they wanted to be rich.

It makes sense to begin with government policy, especially because the liberalization of the national economy was in large part unidirectional during this decade. As the other sections of this chapter will explain, neither the Union Party (1881-1885) nor the new Downing Party (1885-1906) would quarrel with the National Party (1879-1906) over its pro-development, pro-profit principles.<sup>607</sup> By 1885, for example, both major parties supported a further liberalization of foreign permit labor, and the National Council would not place a restriction on the system until November of 1892.<sup>608</sup> The following is a condensed history of the decade’s economic reforms.

The legislative session at the end of 1879 was the first of the Bushyhead administration. As has been noted, the most significant change was the repeal of Charles Thompson’s anti-permit labor law (colloquially referred to as the “White Man’s Law”). The permit fee was dropped from twenty-five dollars per month per laborer (a policy which effectively made permit labor illegal) to one dollar per month per laborer (which immediately unleashed the system in the first few months of 1880). By the summer of 1880, there were already 2,744 permitted persons in the country.

---

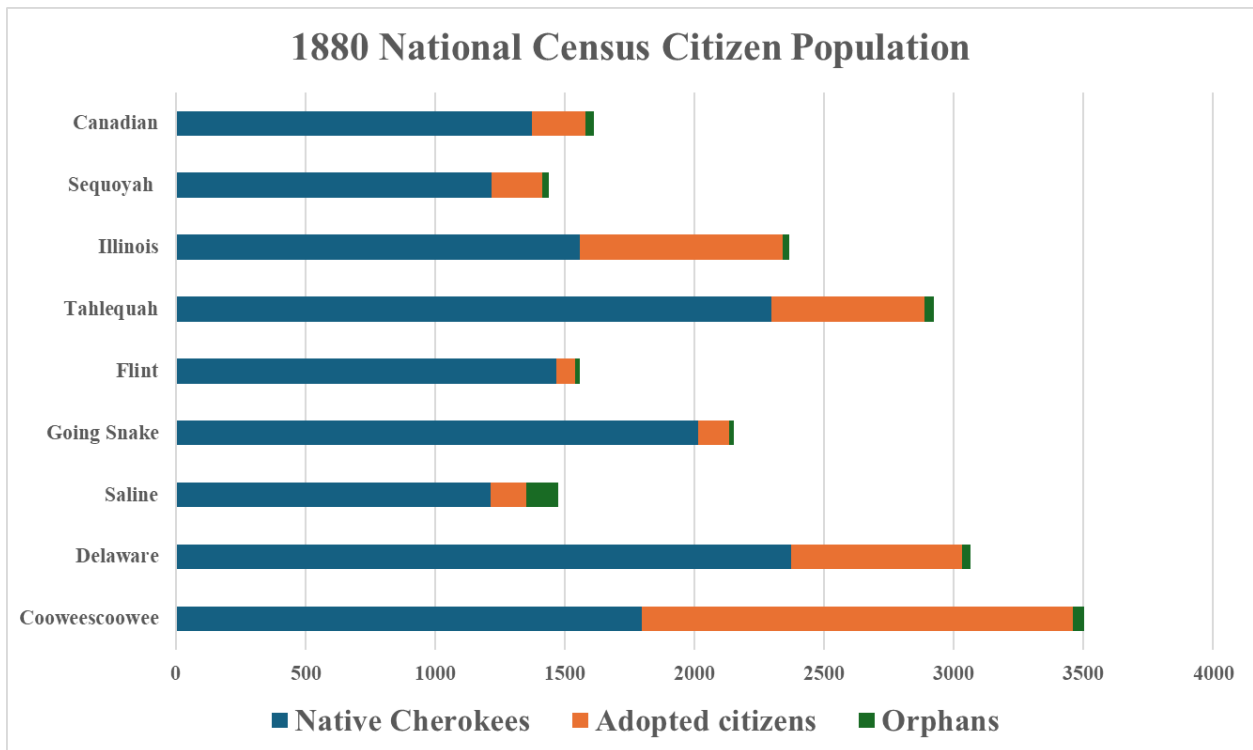
<sup>606</sup> McLoughlin, *After the Trail of Tears*, 328.

<sup>607</sup> These years attached to the political parties are not when the party was founded, but when each party became one of the two major parties (Cherokees really only had two at a time, just like in the United States).

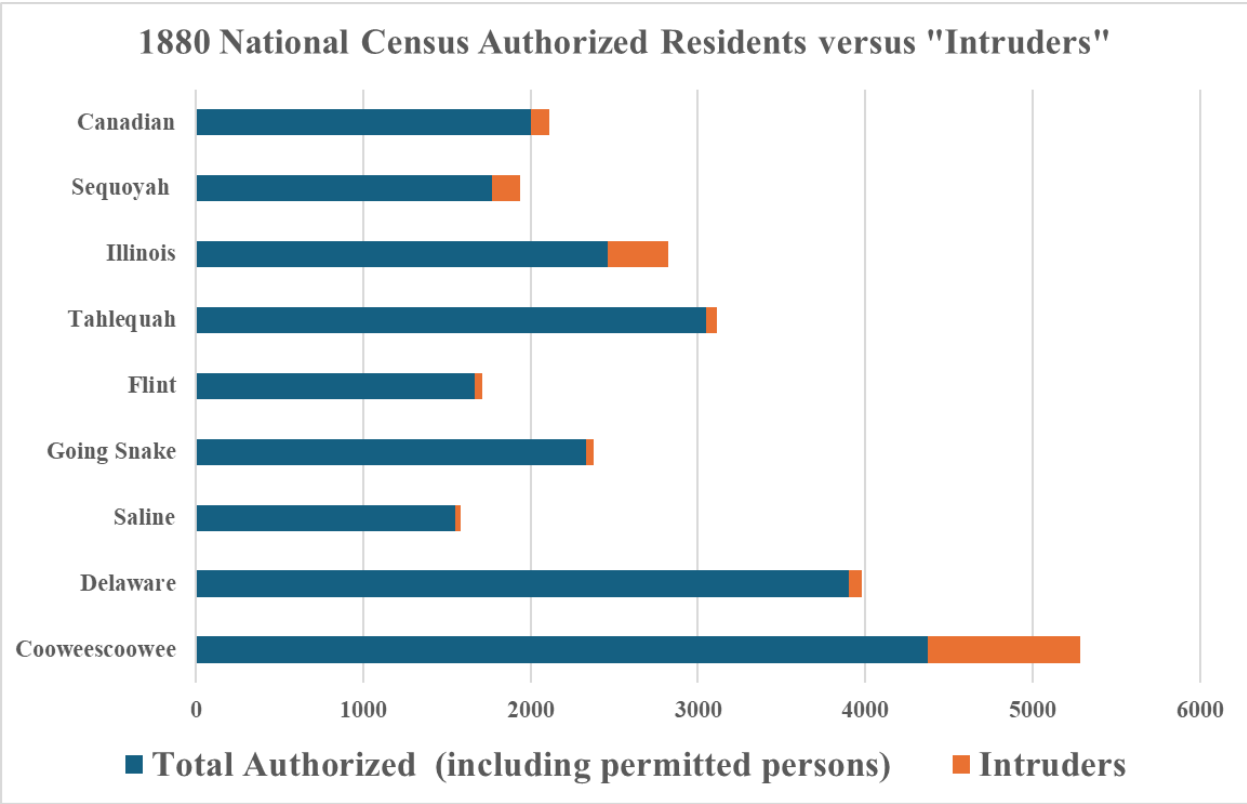
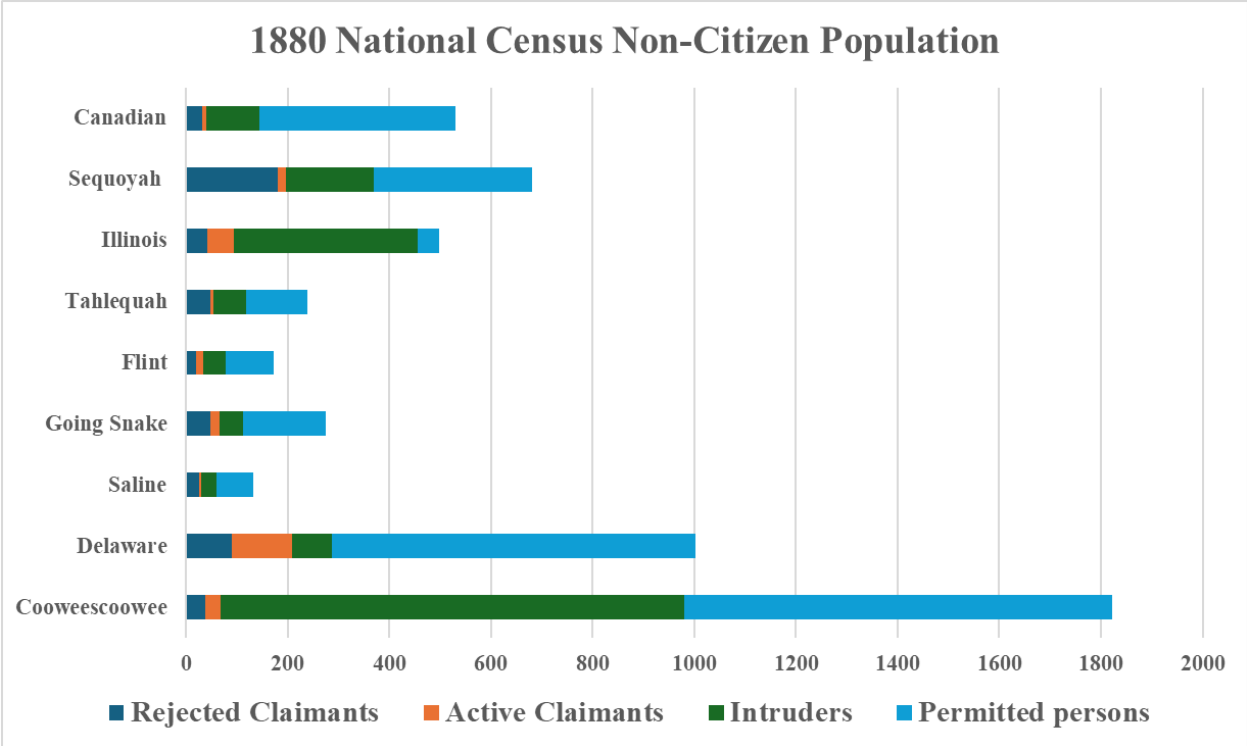
<sup>608</sup> CA, March 11, 1893.

*Summary of the census of the Cherokee Nation — 1880*

<i>Cherokee Nation Indian Territory</i>	<i>Aggregate Population Resident in Cherokee Nation</i>									
	<i>Citizen Population</i>				<i>Non-citizen Population</i>					
<i>Names of Districts</i>	<i>Cherokees</i>	<i>Adopted Citizens</i>	<i>Orphans</i>	<i>Total Population</i>	<i>Black Cherokees</i>	<i>Blacks not by birth</i>	<i>Whites</i>	<i>Persons with names not furnished</i>	<i>Total Non-citizens</i>	<i>Total Citizens &amp; Non-citizens</i>
<i>Cooweescoowee</i>	1797	1661	43	3501	37	31	912	842	1822	5323
<i>Delaware</i>	2371	659	36	3066	90	118	79	715	1002	4068
<i>Saline</i>	1212	141	120	1473	25	5	29	73	132	1605
<i>Going Snake</i>	2015	188	17	2150	47	18	48	161	274	2424
<i>Flint</i>	1469	71	17	1557	20	13	46	94	173	1730
<i>Tahlequah</i>	2298	590	35	2923	48	8	66	120	239	3163
<i>Illinois</i>	1556	785	24	2365	42	52	362	42	498	2863
<i>Sequoyah</i>	1217	195	27	1439	150	16	173	312	651	2120
<i>Canadian</i>	1372	208	32	1612	32	7	106	386	531	2143
<i>Total</i>	15307	4428	351	20086	621	265	1821	2745	5382	25468



**Figure 5.2:** This is another example of why using government documents is so important. In 1880, the Cherokee collected their own census of the nation’s residents (top image). Graphing this data can be illuminating. Each of the nine districts had a different demographic character. The “Upper Districts” of Cooweescoowee and Delaware were known for the adopted citizens and would send numerous adopted citizens to serve in the Cherokee National Council. The Middle Districts (Flint, Going Snake, Saline, and Tahlequah) were less popular and more impoverished, with the capital being an outlier. Illinois’ large population of Black Cherokees explains its anomalous “intruders” number.



**Figure 5.3:** This is another example of why using internal government documents is so important. The census report not only shows that permit workers greatly outnumbered intruders, but it also shows that a year after permit workers were evicted by their employers, 2,745 workers and their family were back in the Cherokee Nation. That increase would steadily continue over the next ten years. Foreign labor was the most important factor in expanding farms.

In 1885, shortly after the anti-Bushyhead Downing Party took control of the National Council, an amendment to the permit law was passed, cutting the fee in half to fifty cents, and therefore further liberalizing foreign labor and immigration.<sup>609</sup> In 1887, Dennis Bushyhead suggested removing the permit fee altogether—regulating permit workers tax-free—but this never went through.<sup>610</sup> As a result of all this, by 1890 there were 21,504 permitted persons in the country, composing 38.2 percent of all residents.<sup>611</sup> By 1882, permit workers were reportedly fencing “large tracts of land—thousands of acres” in the Upper Districts.<sup>612</sup> These workers not only transformed the country’s racial demographics; they were also the indisputable source of the Cherokee Nation’s agricultural boom, and their labor was a strong incentive for Cherokees to acquire more cash.<sup>613</sup>

But permit labor was valued specifically because it was composed of non-citizens without legal recourse. When a Cooweescoowee farmer, rancher, and mill-owner employed nearly 100 non-citizens in 1887, his greatest power over the workers was that—technically—he could evict any individual from the country he wanted (unless someone else hired that worker).<sup>614</sup> The National Council, meanwhile, did all it could to keep the profits of the common domain among Cherokee citizens exclusively. While Bushyhead believed that permit workers’ children should be admitted into Cherokee schools, and while his successor promised to listen to workers like constituents (even though they could not vote)—virtually every law passed to regulate the common domain during the 1880s curtailed what foreign workers could do with it.<sup>615</sup> Under Cherokee law, permit workers could not hunt on the common domain; they could not cut the country’s grass and trees; they could not graze more than 5 cows for family use on communal pastures; etc.<sup>616</sup> They were second-class residents—not citizens. The common domain was for Cherokee citizens to exploit—not foreign workers, and not intruders. Communal capitalism was for Cherokees.

As the new principal chief, Bushyhead also wanted to make the Outlet profitable—a reform which he had apparently proposed as treasurer.<sup>617</sup> On November 19, 1879, he sent a message to the National Council, informing them that the Outlet remained in Cherokee possession, that it would remain in Cherokee jurisdiction until it was sold, and that until that happened, there was “no good reason why the profits of millions of acres of fine pasturage yet remaining to us...should not be shared in proper proportion between those who have used, and will use those lands to the extent represented, without any right to use them unpermitted [foreign ranchers], and those who

---

<sup>609</sup> CA, March 5, 1886.

<sup>610</sup> CA, November 3, 1886.

<sup>611</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman. For the 1890 census summary, see CA, April 1, 1893. For the number of permit workers in 1890, see Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian.

<sup>612</sup> CA, July 14, 1882.

<sup>613</sup> CA, February 16, 1881. In this issue, a Flint district contributor complained of “a scarcity of tickets with which to procure permits is strongly felt among our people.” There are many examples of Cherokees complaining of needing more cash for permit workers.

<sup>614</sup> CA, August 31, 1887.

<sup>615</sup> Bushyhead to Cherokee Senate, November 19, 1884, Dennis Wolfe Bushyhead Collection, Box 2, Folder 13, Western History Collection, Oklahoma University, Norman, OK. Mayes to J.K. Clingan, February 12, 1891, Joel B. Maye Collection, Box 2 Folder 8, Western History Collection, Oklahoma University, Norman, OK.

<sup>616</sup> CA, August 25, 1886; January 4, 1884.

<sup>617</sup> CA, February 6, 1885.



the right alone, at the present time to use them and to grant others permission to do so—i.e. the Cherokee Nation.”<sup>618</sup> Bushyhead insisted that Cherokees already had a right to tax the foreign ranchers, that they could sell them permits under existing law, that they should make the permits cheaper to entice foreign ranchers, and that all they needed was permission from the United States. He therefore asked that the delegation be instructed to secure permission to tax Americans, which the U.S. in turn approved—a decision indicative of its “liberal” foreign policy during this decade.

By June of 1880, permission was already secured from the United States and the National Treasurer D.W. Lipe met with the ranchers in Caldwell, Kansas. They agreed that the tax would be placed at five cents per head each month, but “where a permit was taken out for one year the tax would be placed at fifty cents per year.” The meeting was reportedly friendly, the ranchers swore against “all intention or right as individuals to make our homes on the [Outlet],” and that they would do their best “to protect the timber from fires and keep trespassers from settling on our grazing grounds while occupied by us.” They tried to reduce the tax even further, but Treasurer Lipe refused. Still, Lipe was positive, “Feeling assured of the friendly relations and brotherly love existing between the people of the State of Kansas and the Cherokee people, and feeling confident that these relations will continue.”<sup>619</sup> Later that month Lipe collected the nation’s first revenue from selling grazing permits; by the end of the fiscal year he would collect \$9,453.95.<sup>620</sup>

Cherokees continued to issue individual permits on the Outlet until 1883. Every year, more ranchers paid more in taxes, because the United States made very clear that it was committed to the removal of intruders. Even the ranchers acknowledged this causality, though they also became outspoken defenders of Cherokee sovereignty.<sup>621</sup> In fact, both parties hoped to formalize the relationship in the form of a long-term lease. In December of 1881, the National Council rejected a lease offer for \$25,000 per year—this was far too low.<sup>622</sup> On December 15<sup>th</sup>, 1882, the National Council passed “An Act Authorizing the Lease of the Cherokee Outlet West of the 100<sup>th</sup> Meridian.”<sup>623</sup> The law made clear that the Outlet “should be utilized as a source of income and profit,” and that the principal chief was empowered to arrange a lease for no more than 20 years.<sup>624</sup> Two months later, after the United States committed itself to protecting the Cherokees against unauthorized wire-fencing on the Outlet, the newly formed C.S.L.S.A (Cherokee Strip Live Stock Association) began submitting more serious offers.<sup>625</sup>

---

<sup>618</sup> Bushyhead to Senate and Council, November 19, 1879, Dennis Wolfe Bushyhead Collection, Box 1, Folder 4, Western History Collection, Oklahoma University, Norman, OK.

<sup>619</sup> CA, June 16, 1880.

<sup>620</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>621</sup> CA, August 24, 1881. For two examples of Kansas ranchers expressing support for the Cherokee Nation, see CA, November 9, 1881, and January 6, 1882. In the latter issue, the *Caldwell Commercial* insisted that the Cherokee had “full control” over the Outlet and that it was their property.

<sup>622</sup> CA, December 2, 1881.

<sup>623</sup> CA, April 20, 1883.

<sup>624</sup> CA, April 20, 1883.

<sup>625</sup> CA, January 5, 1883. Savage, *The Cherokee Strip Live Stock Association*, 15-66.

Treasurer's Report of Revenue collected in Outlet West of Arkansas River

Permits issued and Revenue collected on cattle grazed by citizens of the U. S. States west of the Arkansas River by Geo. O. Sanders & John E. Sermpacher

1880	To whom issued	1880	1881	1880			
		Commencing	Ending	Date issued	N <sup>o</sup> Head	Dollars	Cts
	Wmmt Orider	1 year Aug 1	July 31	Aug 21	3000	1500	00
	C. H. Manning	6 mos " "	" "	" 10	160	40	00
	J. A. Blair Co.	1 year " 14	Aug 13	" 14	450	225	00
	A. B. Overell	2 mos July 15	Sept 15	" 14	250	25	00
	Mrs. Mullalby	1 year Aug 1 <sup>st</sup>	July 31	" 14	800	400	00
Copper, Basin & Battlin	J. L. Mayhew	1 year Aug 1 <sup>st</sup>	July 31	" 14	500	250	00
	James B. Co.	6 mos Aug 1	July 31	" 14	200	60	00
	Eddie Aut.	1 mos Aug 7	Sept 19	Aug 19	1000	50	00
	David & Dan	6 " " 16	Sept 16	" 16	100	30	00
	S. S. Bondfield	1 year " 18	Aug 18	" 18	800	600	00
	J. N. Hamilton	6 mos " 18 <sup>th</sup>	Jan 31	" 18 <sup>th</sup>	900	220	00
	L. L. Zimmerman	3 mos " 1 <sup>st</sup>	Jan 31	" 19	1200	300	00
	St. Joe Point	3 mos " 20	Nov 20	" 20	250	37	50
	A. M. Colson	6 " May 1 <sup>st</sup>	" 1 <sup>st</sup>	" 20	400	100	00
	Erns. Mofen	2 " Aug 1	Sept 30	" 21	800	80	00
	L. E. Rock	6 " " 21	Sept 21	" 23	400	120	00
	J. A. Hall	1 year " 23	Aug 23	" 23	120	60	00
	Er. Or. Woods	1 yr " 23	" 22	" 23	120	75	00
	P. Montgomery	1 mo " 24	Sept 24	26	1700	85	00
	W. E. Cannon	3 mos " 30	Nov 30	" 30	700	105	00
	C. Carney & Co.	3 mos Sept 1 <sup>st</sup>	Nov 30	Sept 1 <sup>st</sup>	300	52	50
	Mrs. Mesherick	3 mos Sept 1	Oct 30	Sept 1	100	15	00
	J. H. Lewis	3 mos Aug 30	" "	" "	150	22	50
	H. Hummel	1 mo Sept 1	Oct 1	Aug 30	400	20	00
	C. Warden	2 mos Sept 1	Oct 31	Sept 3	300	30	00
	J. W. Sanderson	" " 1 <sup>st</sup>	" "	" "	50	5	00
	John B. B. Co.	8 mos " 1	May 1	" 1	400	160	00
	Attingham & Garland	2 mos Aug 20	Oct 20	Aug 20	500	50	00
	W. B. Ebbens	6 " " 23	Oct 23	" 23	34	10	20
	A. B. Fisher	3 " " 20	Nov 20	" 20	400	60	00
	E. W. Montague	1 yr " 25	Aug 25	" 25	80	40	00
	W. W. Morrow	3 mos " "	Nov 20	" "	175	26	25
	S. M. Smith	3 " " 26	" 26	" 26	200	37	50
	Bygones & Orason	2 " " 27	Oct 27	" 27	200	20	00
	Wagon & Orason	3 " " 28	Nov 28	" 28	300	60	00
	M. S. Snow	8 " " "	Apr 28	" 28	95	35	00
			Comd. Found			5260	20

Image 5.1: Beginning in 1880, the Cherokee Nation sent tax collectors to the Outlet and charged foreign ranchers for grazing permits. Taxation in the Outlet was Bushyhead's idea and became a major source of new revenue. In 1883, Cherokees would replace the system with an outright lease to the Cherokee Strip Live Stock Association (C.S.L.S.A.). The first five-year lease nearly doubled the national income overnight.

Source: Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center.

This all culminated in what must have been the peak of the Bushyhead administration's popularity. At the end of April 1883, the principal chief called an extraordinary session to consider two very positive economic developments. First, the nation's delegates had successfully convinced Congress to pay a delayed sum of \$300,000 for lands sold to friendly Indian nations removed to the Outlet during the 1870s (e.g. Pawnees, Poncas, Nez Perces, Otoes and Missouriias, etc.). Bushyhead instructed the National Council to decide what to do with this money, and the lawmakers would decide to issue the country's first non-emergency per capita payment.

Second, Indian Removal was effectively dead. According to the Treaty of 1866, the United States could only purchase Outlet lands for Indian resettlement. The remaining unsold portions of the Outlet—where the ranchers were—was set to remain in Cherokee hands permanently. “To prevent loss to the National revenue,” he wrote, “to increase it, to reduce the expenses of collection, to secure the tract from all abuses, to increase its value, to prevent lawless and violent persons from trampling on our rights and taking our property without adequate remuneration, and above all to act in such a manner as to secure the confidence of the government of the United States,” the Cherokee needed to secure a long-term lease. Bushyhead recommended a five-year lease which reserved the Outlet's salines for Cherokee use and exploitation. He also suggested that Cherokee officials be sent to survey the salines.<sup>626</sup> As in the case of the permit law and Outlet taxes of 1880, the Bushyhead administration was multi-tasking in its efforts to encourage development. It wanted a profitable lease with the ranchers *and* a team of Cherokees sent west to check on the salines. Bushyhead and his planners were insatiable.

In May, the National Council passed a per capita law for the \$300,000 received for sold Outlet lands and approved a lease with the C.S.L.S.A for \$100,000 per year.<sup>627</sup> On October 2<sup>nd</sup>, 1883, the treasurer of the C.S.L.S.A. arrived in Tahlequah to deliver the company's first \$50,000 installment. Treasurer Lipe, who had previously collected the very first taxes on the Outlet three years before, received the cash payment.<sup>628</sup> The Cherokees would continue to be paid \$100,000 per year throughout the entirety of the five-year contract. Their second contract, finalized at the end of 1888, would be worth double the first at \$200,000 per year. The U.S. would intervene against it. The offers received for a third lease—which the U.S. would prevent—were worth substantially more: the number to beat was \$400,000 per year for the first five years and \$720,000 for the second five years in a contract which would finish on December 31, 1903.<sup>629</sup>

The change over time was remarkable. In 1884, one citizen wrote: “The Cherokees paid very little attention to common property in land west of the 96<sup>th</sup> meridian until about four years ago.”<sup>630</sup> The stockmen did, and got very wealthy on the use of it, “while the owners were dividing the principal of their investments Per Capita to keep themselves from starving.”<sup>631</sup> By February of 1885, a growing number of Cherokees were convinced they were being “cheated” with the criminally low pay of \$100,000 per year, and they eagerly awaited the end of the contract.<sup>632</sup> To get a sense of how much Cherokees expected to profit from the Outlet in the 20<sup>th</sup> century, we can

---

<sup>626</sup> CA, May 4, 1883.

<sup>627</sup> CA, May 11, 1883; May 18, 1883.

<sup>628</sup> CA, October 5, 1883.

<sup>629</sup> CA, December 4, 1889.

<sup>630</sup> CA, May 16, 1884.

<sup>631</sup> CA, May 16, 1884.

<sup>632</sup> CA, February 6, 1885.

look to an instance from December of 1888. The Cherokees were at that time offered \$18,000,000 from the Midland National Bank for the Outlet. Mayes transmitted the offer to the National Council and reminded them of the land's immense value: "There is no question today but that if Gould or Vanderbilt owned this land, they would realize not less than one hundred millions of dollars on said lands. If it is worth that much to anyone, it is certainly that much to the Cherokees."<sup>633</sup>

Another way the government hoped to exploit the common domain for profit was through the country's natural resources. In May of 1880, the national editor wrote at length on the subject. His writing highlighted a new emerging ideology toward exploiting natural resources:

"As matters and things now stand, many of our able-bodied young men are idle, which would not be the case if encouragement was given to open up our hidden resources of lead, coal, iron, petroleum, marble, and copper...

We remember a few years since a petition was sent before the National Council by several of our best men praying to be incorporated as the 'Cherokee Mining and Manufacturing Company,' and the prayer only received a few votes... We regretted to see that there was a deep rooted prejudice against mining... It is supposed by some, that the gold mines of Georgia discovered in eastern Cherokee Country in 1830 was the sole cause of our removal west. This is a mistake. For we do well know that our trouble began prior to the discovery of gold at the Sixes...

Well then, what next? We desire to see the lead of Spavineau brought to the surface, and lead works erected thereon the spot. We desire to see that superior quality of coal at the mouth of the Salisaw dug up, and sent down the Arkansas River in barges, thus supplying all the river towns of the State of Arkansas with coal. And also to see that that fine supply of coal on Russell Creek near the M.K.&T. Railroad sent off northward and the money come back in its stead. And do you know that we have an iron mountain in Delaware District of almost pure iron? We have seen it. What an opening for a foundry. And then we have a beautiful variegated marble, and like it, of that with which the Capitol building in Washington is finished off. It has the appearance of Castile soap in color. And then we have a grindstone grit superior to any that our merchants can bring here. All this can be developed if we can get prudent, liberal legislation on the subject."<sup>634</sup>

William Boudinot's son, E.C. Boudinot Jr., was urging for a shift in Cherokee political thinking, which would, indeed, come. In the 1870s, Cherokee lawmakers had justifiably feared the prospect of exploring mineral exploitation. They were constantly bombarded with territorial bills (in a way they were not in the 1880s) and they had this history with the gold mines in Georgia. Profit, in other words, was not worth national destruction. Starting with the National Party, however, the liberals of the country began to wonder if they could have both profit and sovereignty. They felt that the country's mineral resources were too extensive to ignore any longer.

Very slowly, the Cherokee began to exploit the mineral wealth which the new state of Oklahoma would one day appropriate. As was the case with permit fees and taxes on cattle,

---

<sup>633</sup> CA, December 19, 1888.

<sup>634</sup> CA, May 12, 1880.

Bushyhead felt that the existing mineral laws were too stringent. Linking together coal and timber in his fourth annual message of 1883, Bushyhead remarked:

“The fact that our richest bottoms cannot be cleared for farming purposes without some disposition of the valuable timber thereon—that timber naturally deteriorates and reduces in value after maturity—that the market for lumber in our country is easily supplied, leaving a large surplus, especially walnut, to be saved or lost according to regulations made by law for its disposal—impels me to suggest the passage of a law authorizing some economical disposition of the Nation’s crop of matured timber...

In regard to the existing law regulating the lease and working of coal mines, it is well known that the law does not adequately serve its purpose of revenue. I recommend such a change in its provisions as will give more encouragement to the prospecting and operating of such mines, and as will secure to the Nation the profits from that species of it property, which ought to be realized.”<sup>635</sup>

In Bushyhead’s eyes, the problem with timber and coal was the same. The way to “prevent the great loss arising from waste, decay, and depredation,” was to liberalize the regulations against timber exportation (which at this point was illegal) and reduce the taxes on mining operations (which at the current rates disincentivized Cherokees from trying the industry). Cherokees need not worry about the supplies of these resources, Bushyhead argued, because there was a surplus of these resources, and “the market for lumber in our country is easily supplied.” In the same speech, the principal chief announced that a recent act of Congress had granted the Cherokees permission to lease their salt mines in the Outlet—yet another example of U.S. encouragement of these reforms (encouragement which would promptly end in 1890).<sup>636</sup> Bushyhead would later petition Congress to improve the Grand River, so that it could be made navigable to the Grand Saline.<sup>637</sup>

The National Council followed the chief’s direction. On December 15<sup>th</sup>, 1883, a new mineral law was passed reducing the royalties to 10 cents per ton for stone coal, 2 dollars per 1,000 pounds for lead ore, 10 cents per 40 gallons for coal oil, three cents for each ton of stone exported, and one dollar for each ton of salt manufactured.<sup>638</sup> The law had previously demanded five percent of all profits.<sup>639</sup> Just a year before this law’s enactment, in 1882, H.W. Fawcett of the Pennsylvania Oil Company visited Tahlequah “on a quest to find new oil fields,” and perhaps because of visits such as these, the National Council passed a law in 1884 entitled “An Act Authorizing the Organization of a Company for the Purposes of Finding Petroleum or Rock Oil, and Thus Increasing the Revenue of the Cherokee Nation.”<sup>640</sup> The law required the hypothetical company to pay the National Treasury five percent of all future earnings if it was successful in finding oil, and acknowledged that it was “necessary to offer proper privileges to justify anyone risking the

---

<sup>635</sup> CA, November 10, 1882.

<sup>636</sup> CA, November 10, 1882.

<sup>637</sup> CA, March 7, 1884.

<sup>638</sup> “An Act to Amend Section 81, 85, and 86 of Article 18, Chapter 12 of the Compiled Laws (Minerals)” in *Laws and Joint Resolutions of the Cherokee Nation: Enacted During the Regular and Special Sessions of the Years 1881-2-3* (Tahlequah: E. C. Boudinot Jr., 1884). 114-117. See also CA, January 4, 1884.

<sup>639</sup> “An Act Adopting the New Code of Laws, Chapter XII, Article XVII (Minerals)” in *Constitution and Laws of the Cherokee Nation* (St. Louis: R. and T. A. Ennis Stationers, 1875). 226.

<sup>640</sup> CA, December 8, 1882.

large amount of money necessary to test the question [by sinking prospecting wells].”<sup>641</sup> In 1888, the National Council added royalties for copper (priced at \$1.00 per ton), zinc (\$.75 per ton), tin (\$1.50 per ton), iron (which was reduced to \$.50 per ton), and lead ore (\$1.00 per ton).<sup>642</sup> In February of 1888, an act was finally passed authorizing the leasing of the Outlet salt mines (which Bushyhead had been exploring for years).<sup>643</sup> In all these cases, however, while mining may have been profitable for individual citizens, it appears that the quantities extracted were not great enough to generate significant revenue for the state. Cherokee officials spoke openly of the unavoidable need to “raise sufficient [foreign] capital to successfully work the mines of mineral oil wells”<sup>644</sup>

The royalties of the new mineral law were constantly increasing each year—repeatedly multiplying their pre-1880 levels. But they never quite took off prior to denationalization. Citizens were reportedly profiting from the coal trade, but the government was not. In December of 1888, Treasurer Robert Ross suggested some reforms to improve this state of affairs, such as allowing lessees to build connections to the nearest railroads (taking inspiration from the Choctaws), and setting up a better system for hiring foreigners to “safely cooperate with citizens in the various mining industries of the country.”<sup>645</sup> Ross also suggested that hay exportation be legalized and remarked hopefully that the government at “no distant day” would “realize a large revenue” from a few of the more promising mineral ventures.<sup>646</sup> Perhaps even more so than the ranching industry, the prospective mineral industry which the Cherokee Nation could have enjoyed is tantalizing to consider. Oklahoma’s great oil boom would explode a mere twenty years later. Contemporary Cherokees perhaps even predicted this side of their dispossession. In December of 1889, the national editor referred to “the mineral and agricultural lands” as the only land “worth a white man’s ‘taking.’”<sup>647</sup>

Timber, hay, and fish were more complicated subjects, as the government vacillated between its desire to open opportunities for exportation and profit on the one hand, and the protection of these resources on the other. Timber generated large amounts of revenue for the treasury during the 1880s, but the law governing its use and sale changed frequently. In December of 1879 the National Council passed a new penal law criminalizing timber exportation while establishing that a domestic trade was perfectly legal.<sup>648</sup> A year later, Bushyhead explained in his third annual message that the fines for violating this law were too low, and that the timber trade made them worth risk.<sup>649</sup> Therefore the National Council passed another law increasing the fine to \$1000 for every shipment of lumber illegally shipped.<sup>650</sup>

---

<sup>641</sup> “An Act Authorizing the Organization of a Company for the Purposes of Finding Petroleum or Rock Oil, and thus increasing the revenue of the Cherokee Nation” in *Laws and Joint Resolutions of the Cherokee Nation: Enacted During the Regular and Special Sessions of the Years 1884-5-6* (Tahlequah: E. C. Boudinot Jr., 1887). 22-24.

<sup>642</sup> CA, February 7, 1888.

<sup>643</sup> CA, February 22, 1888.

<sup>644</sup> CA, March 7, 1884.

<sup>645</sup> CA, December 12, 1888. Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. See also CA, October 13, 1880.

<sup>646</sup> CA, December 12, 1888.

<sup>647</sup> CA, January 16, 1889.

<sup>648</sup> CA, January 7, 1880.

<sup>649</sup> CA, November 9, 1881.

<sup>650</sup> CA, December 9, 1881.

But as has already been shown, Bushyhead was not consistent on this and he would come around to the liberalization of the timber industry. Many liberals in the country, such as national editor E. C. Boudinot Jr., felt that the government was approaching the issue incorrectly. In a great example of the ideology of communal capitalism, Boudinot wrote:

“A reasonable tax should be levied by this Nation on all those articles and thing which are held by the Nation in common, so far as they are made articles of trade at home or abroad. We will take for example, the single article of timber.

It must be admitted that the trees of the forest, being an attachment or part of the ‘common domain,’ belong in their natural state to all citizen Cherokees equally. Then as a matter of course, the value of a standing tree, no matter where within the national limits, should be secured to the owner—that is the Nation—before the tree is touched for any purpose whatever, *unless* the Nation, or all the owners, allows the individual owner to cut and use the timber as he pleases.

But the Nation does no such thing. On the contrary, the fundamental agreement between all the owners or citizens of the Nation is that...not a foot of land, a stick of timber, a yard of stone can be legally applied to a [private] citizens except for ‘improvement’ objects. When it comes to making any of it a trade with citizens or with foreigners, permission is not given to use it, but it rests with the National Council to see that the Nation gets valued received for every part of the common property before it is severed from the common domain and made personal property for purposes of selling again.”<sup>651</sup>

Boudinot therefore highlighted something crucial about extraction from and exploitation of the common domain. The idealized traditional approach to the communal lands was that citizens would only take what they needed for themselves, their families, their improvement. They could not take “a stick of timber, a yard of stone” and export it. The system was much more sustainable, but it was not profitable. Introducing trade, foreign markets, and profit—which was a key development of communal capitalism—meant that Cherokees were suddenly being encouraged by their own government to plan new ventures, extract minerals, hire foreign labor, produce more food than they needed, export goods, and, in other words, make the common domain as “profitable” as they possibly could. Boudinot correctly pointed out that in many cases the law still reflected the traditional system (which discouraged these things), while the country’s leaders and citizens were embracing something else. Already this chapter has discussed at length the new laws and policies created during this decade which sought to do what Boudinot was asking—he wrote this in 1881.

The false ultimatum Boudinot presented was this: either the government could protect the people’s communal property and compensate them (in the form of collecting a tax from a newly legalized timber industry), or the currently illegal timber industry would continue to steal communally owned timber without any compensation to the citizens. One reason the ultimatum was a false one was that Cherokees *technically* could export timber legally—so long as they only exported confiscated timber which the government routinely sold to private parties. In Bushyhead’s Fourth Annual Message—cited above—the liberal chief adopted this position, suggesting that the country could enjoy its timber and export it too, and he too proposed its full

---

<sup>651</sup> CA, August 24, 1881.

legalization. It took some time, but in December of 1886, timber exports were legalized. The law explained its reasoning: “walnut lumber and timber is a material the chief value of which depends upon its being a marketable commodity.”<sup>652</sup> Cherokees wanted to trade and export timber.

They would quickly change their minds. The first upper limit of the Liberal Decade had been breached. Only a few months after the legalization of the timber industry, “Voter” complained: “What a mistake Council made in regard to walnut timber. It let a gap open, and persons are now making claims by sticking up stakes where there is a walnut tree. Ere the new law comes in force, they are cutting and hauling walnut timber to the railroad for shipping...[and] by the time the new law comes in force all the walnut timber in this (Cooweescoowee) District will be shipped out.”<sup>653</sup> Timber production exploded to unsustainable levels. Chief Bushyhead issued an executive order to the Sheriffs of seven of the nine districts, urging them to get the situation under control in their districts.<sup>654</sup> The timber law was repealed roughly a year after its passage, in February of 1888.<sup>655</sup>

The exportation of hay was treated similarly: while many officials—such as Treasurer Robert Ross—felt that the trade should be legal and taxed, others felt the exact same way they did about timber. It could not have helped that the Cherokee Nation had a thriving cattle industry with a powerful Stockmen’s Association, which certainly did not want to risk their supplies of hay. In his 1888 Annual Message, the new Principal Chief Joel B. Mayes—who had been a rancher himself—shared his ambivalent feelings with the National Council:

“Hay is an article of commerce that has been taken from the common domain for several years for the benefit only of private individuals, and in many instances by non-citizens, without the Nation receiving any revenue on the same. I have now in the Executive Department a bill passed by your body at the close of the last session of the council prohibiting the exportation of hay entirely. At that time I urged upon you in a message the propriety of placing a royalty on the same and allow its exportation...I now deem it best for the country that you either place a royalty on this article of commerce or stop the cutting and shipping of the same.”<sup>656</sup>

In other words, Chief Mayes was ambivalent. He preferred to legalize the exportation of hay, but if the opposition disagreed with him, he would sign their bill as it was. After all, these were not completely unlike policies. Mayes’ slight preference for a “reasonable royalty” implied a higher one—one that could help clamp down on the unimpeded exploitation of the common domain all the same. This was the end of 1888; ever so slowly, Cherokees were rethinking their liberal policies.

A small but still significant example of this can be found in Cherokee game and fishing regulations. Over the course of the 1880s, reports abounded of Cherokees “powder fishing” and using dynamite to get more fish.<sup>657</sup> These same sources indicate a subtle change over time. At first, many Cherokees saw nothing wrong with using these tools to catch more fish, and they enjoyed

---

<sup>652</sup> CA, December 7, 1886.

<sup>653</sup> CA, February 23, 1887.

<sup>654</sup> CA, April 6, 1887.

<sup>655</sup> CA, February 8, 1888.

<sup>656</sup> CA, November 7, 1888.

<sup>657</sup> CA, March 23, 1881; April 26, 1881; April 20, 1881; April 21, 1882; August 31, 1883; May 7, 1886; May 12, 1886; June 20, 1888; January 2, 1889.



the abundance. But “killing about 250 pounds” of fish per visit to the river was not sustainable, and *The Cherokee Advocate* took an increasingly unforgiving tone.<sup>658</sup> It referred to the fishers as “the poisoners,” whose pollution of the rivers was going to prevent the U.S. Fish Commission from stocking its rivers; it insisted: “Our game and fish need as much protection as the white man’s, and the white man has found that he must protect his by law or have none.”<sup>659</sup> When a district judge and solicitor were “caught” doing powder-fishing, the national editor responded that the former should be “blown up for it.”<sup>660</sup> When a foreign worker was caught doing the same the national editor offered a very severe response: “A person of such destructive habits ought to have his permit revoked and be sent where the local laws can be enforced against his inclination to let his laziness and selfishness be gratified at the expense of others.”<sup>661</sup> The next foreigner caught doing it—even though it was still legal—ought to be “[fired] across the nearest State line.”<sup>662</sup> On December 4, 1888, dynamite fishing was banned, though the national editor was incensed that powder fishing was left untouched.<sup>663</sup>

A similar story played out with the nation’s game. Cherokee game had long since been decreasing—even more so as farms expanded more than ever before. One contributor from the Canadian District named “Black Fox”—who was likely an ex-Confederate—wrote:

“I know that we were once a far happier people than we are today. There were but few whites among us, the Indian subsisted to a great extent by hunting game with which the country abounded. Where now is the game? A great many of them had slaves to till the soil for them. Where now are the slaves? ...Such independence as existing in those times is a thing of the past.”<sup>664</sup>

“Black Fox” romanticized an antebellum past which blended together an indigenous appreciation for hunting game with the Cherokee adoption of chattel slavery, and dubiously claimed they were two sides of the same coin. This was more than questionable, but it did point out something else unsettling about permit labor’s effect on the environment. By 1890, permit laborers had not just replaced the labor of enslaved Black Cherokees; population-wise, they had exceeded the number of previously enslaved people many times over. The environment, or in other words the common domain, was being strained by the influx of mostly white foreigners.

Traditionalist Cherokees who wanted to hunt were especially bothered by this. Coincidentally writing from the same place slavery was abolished, “S.” complained that his neighbors had “20-40 whites upon their places, including children, and after corn is gathered, hunting is the next thing in order.” He used to be able to “get a prairie chicken, or quail, occasionally,” but now it was “almost a thing of the past.”<sup>665</sup> Other Cherokees wrote frequently about how their neighborhoods had once been wilderness a decade or two before.<sup>666</sup> Few Cherokees seriously hoped to reverse all this—they were beneficiaries as well—but they did want

---

<sup>658</sup> CA, August 31, 1883.

<sup>659</sup> CA, September 1, 1882; May 7, 1886.

<sup>660</sup> CA, May 7, 1886.

<sup>661</sup> CA, June 20, 1887.

<sup>662</sup> CA, June 20, 1888.

<sup>663</sup> CA, December 5, 1888.

<sup>664</sup> CA, January 30, 1885.

<sup>665</sup> CA, December 4, 1885.

<sup>666</sup> CA, May 8, 1885; December 12, 1884; April 16, 1886.

some kind of environmental protections. On November 28, 1885, a law was passed banning the exportation of game. This law also banned permit workers from hunting altogether.<sup>667</sup>

It was certainly ironic, that as all this was going on a Cherokee dedicated a poem to Bushyhead which exclaimed:

“Dear Native Land!/Dear Native Land!/We love thy prairies free/We love thy pathless woods and plains/As boundless as the sea...We Could Not Change Thee Native Land/We love thee as thou art”<sup>668</sup>

Bushyhead was leading several legal reforms which were dramatically reshaping the country. The general trend with many of these laws was that the Cherokee Nation and its people were getting wealthier, but that there was always an exacted cost in return. Permit labor was causing a tremendous spike in agricultural production and silencing the calls for emergency bread money, but it was also helping to clear the country’s wilderness and remove the availability of game for Cherokee hunters. The natural resources of the country could make everyone profit equally if timber exportation was legalized, but this, too, would cause deforestation and reduce the availability of wood for local Cherokees. Under communal capitalism, there was always a price—one that was somehow shared unequally.

### **New Administrative Reforms (1880-1890)**

These laws liberalizing or restricting the economic activities of Cherokee citizens would have been more difficult, if not impossible, under the previous administrations. The phrase “machinery of government” (used both positively and negatively) entered the political lexicon in this decade for a reason. With multiplying new sources of revenue and with a newly massive permit system, the government needed to undergo its own list of administrative reforms just to keep up with its citizens and their business ventures. This, too, was part of the Liberal Decade.

Financial transparency and internal accountability were both musts. On November 30<sup>th</sup>, 1880, the National Council passed “An Act Relating to the Revenue,” requiring all public officers to record and submit financial reports to the offices of the National Treasurer and *The Cherokee Advocate*.<sup>669</sup> Another law passed December 14, 1883 authorized the principal chief to bring suits against the country’s revenue collectors (in case of irregularities), on December 14, 1885, the office of the national auditor was created, and at the end of 1889 the office of Attorney General was created at a salary of one thousand dollar a year.<sup>670</sup> The government’s public reports started to swallow up entire issues of the government-owned newspaper. It even became a matter of national pride to read these reports, with the editor writing: “All patriotic citizens interested in the disposition of the Nation’s money should carefully read and study the Treasurer’s Report.”<sup>671</sup>

What Bushyhead had done was to force others to keep the same kind of meticulous record-keeping that he had brought to the National Treasury in the 1870s, and which he now brought to the Executive Office. In 1880, the national editor commented: “The books in the Executive Office

---

<sup>667</sup> CA, January 8, 1886; March 5, 1886.

<sup>668</sup> CA, November 3, 1882.

<sup>669</sup> CA, February 16, 1881.

<sup>670</sup> CA, January 4, 1884; March 5, 1886; December 4, 1889.

<sup>671</sup> CA, November 10, 1886.

are a please to look at... The Executive Office is so well kept in order that one can find out anything he wishes in regard to the condition of the country in fifteen minutes.”<sup>672</sup> In January of 1882, Chief Bushyhead overhauled the census rolls “so that intruders’ names can be more surely got at,” and simultaneously ordered yet another reorganization of Executive Office papers “so that they can be gotten hold of at a moment’s notice.”<sup>673</sup> He also had the government begin printing blank indictments to speed up the criminal justice system and asked that the nine district clerks send him quarterly reports concerning the permit workers.<sup>674</sup> So much paper was being used for the government by this point that in November of 1884, *The Cherokee Advocate* was forced to print a half-sheet and apologize: “The amount of printing required of us by the Nation outside the paper at present is in excess of the our office.”<sup>675</sup> An organized and thorough paper trail was likely central to the increasing efficiency of the government, and this dissertation would have been impossible to write without many of the financial reports Bushyhead and his successors left behind.

So impressed were many by Bushyhead’s organizational reforms that they even credited them with the new direction of the country. The editors of *The Chieftain* took it so far as to say: “The fact cannot be too strongly impressed, *Without organization of the Executive Department there can be no proper Government...[and] Without organization there is no government.*”<sup>676</sup> In this regard Bushyhead was without equal:

“Mr. Bushyhead was the first of our treasurers who kept a careful and complete record of monies placed in his charge...and he carried the system into the Executive Department. Every letter and document is filed carefully, and registered as to date, person, and substance in a large ‘letter register.’ He is fully informed as to the affairs of the Nation, and by this system alone able to manage them. It is necessary to keep three clerks employed to attend this business...the thorough organization of the Executive Department is the chief plume in Mr. Bushyhead’s administration, the successful financial management is simply an incident to a correct policy.”<sup>677</sup>

This was high praise. *The Chieftain* not only believed that Bushyhead had introduced a more proper form of government simply with the organization of papers, it also believed that the country’s “successful financial management [was] simply an incident” to this thorough record-keeping.

Communication also sped up. In November of 1884, the National Council approved the construction of a telephone line between the Cherokee and Creek capitals, a connection which was vital to the inter-twined futures of both nations.<sup>678</sup> Telephone and telegraph lines continued to be built up over the course of the 1880s, and by the end of the decade, the meaning of rapid communication had changed drastically. In January of 1890, a Tahlequah resident could call up their child in the male seminary and speak with them directly, a resident of Fort Gibson could call their relative in the capital; news of the 1888 fire of Muscogee was transmitted by the phone; and when High Sheriff Jesse B. Mayes was suddenly on his deathbed, his wife was urgently summoned

---

<sup>672</sup> CA, March 24, 1880.

<sup>673</sup> CA, January 6, 1882.

<sup>674</sup> CA, February 24, 1882; January 25, 1884.

<sup>675</sup> CA, November 14, 1884.

<sup>676</sup> *Chieftain* (Vinita), August 3, 1883.

<sup>677</sup> *Chieftain* (Vinita), August 3, 1883.

<sup>678</sup> CA, November 14, 1884.

by telephone.”<sup>679</sup> Further along in the 1890s, Cherokees would conduct diplomacy over the telegraph, and could hear all news good and bad within minutes. Because of their own decision-making, Cherokees were now part of the ever-shrinking world.

Another administrative development of the Liberal Decade was the rise of Cherokee municipal governments. Vinita, Tahlequah, and Fort Gibson were the country’s biggest cities, and it was during this decade that Tahlequah formed “the legal machinery” of municipal governments.<sup>680</sup> A new law for the sale of town lots was passed December 5, 1882, and significantly, part of the necessity for the new law was that a previous, less organized administration had lost the records of sales.<sup>681</sup> A year after this, an amendment was passed adding instructions to the nation’s town commissioners for the survey of lots, while another law established “labor on the streets of the town” as a suitable punishment for disturbing the peace.<sup>682</sup>

Tahlequah held meetings to discuss forming a fire company, and the national editor urged for the development of water works.<sup>683</sup> The High Sheriff of the National Prison was instructed under new laws to improve the capital. Convicted prisoners were put to work cleaning the Tahlequah Graveyard, filling the gullies with gravel, chopping wood, fixing the streets of town, improving the capital square and surrounding grounds, trimming trees, repairing public buildings, and cleaning the streets.<sup>684</sup> On the one hand, Cherokees appreciated prison labor’s effect on the capital’s appearance and infrastructure (“High Sheriff Starr has put the public roads into town in great order”).<sup>685</sup> On the other, many felt that the prisoners spent too much time in the public sphere. “Those inmates condemned to hard labor appear scarcely to be confined,” Walter Adair Duncan wrote:

“Many of them are allowed to go at-large...without any guard...I have seen them driving hacks for passengers as far away as thirty miles from Tahlequah...They often pass round among the community of this vicinity of the Capital apparently as free as anybody; only they wear the convict’s stripes...A consequence of this benign treatment is that some of them make their escape...The moral effect of the law is certainly bad. It narrows down the space between crime and innocence.”<sup>686</sup>

Bushyhead had wanted the National Prison to become more self-sustaining, or at the very least, save money for the government by laboring for other public institutions.<sup>687</sup> He had achieved this, certainly, but not without pushback, and not—as Duncan put it—without “[narrowing] down the

---

<sup>679</sup> CA, September 11, 1889; January 29, 1890; July 18, 1888; May 15, 1889.

<sup>680</sup> For the development of Tahlequah’s government, see CA, July 7, 1880; March 2, 1883; January 15, 1886; October 24, 1888; January 8, 1890; January 22, 1890; February 12, 1890.

<sup>681</sup> “An Act in Relation to Towns on The Line of Railroads Passing Through the Cherokee Nation Tahlequah and Fort Gibson Included” in *Laws and Joint Resolutions of the Cherokee Nation: Enacted During the Regular and Special Sessions of the Years 1881-2-3* (Tahlequah: E. C. Boudinot Jr., 1884). 97-100.

<sup>682</sup> “An Act Amending an Act of The National Council in Relation To ‘Towns’” in *Laws and Joint Resolutions of the Cherokee Nation: Enacted During the Regular and Special Sessions of the Years 1881-2-3* (Tahlequah: E. C. Boudinot Jr., 1884). 117-120.

<sup>683</sup> CA, April 6, 1887; January 2, 1889.

<sup>684</sup> CA, March 30, 1881; August 31, 1881; February 8, 1884; April 4, 1884; April 10, 1885; May 22, 1885; January 22, 1886; March 2, 1887; April 13, 1887.

<sup>685</sup> CA, August 28, 1889.

<sup>686</sup> CA, March 5, 1886.

<sup>687</sup> CA, March 19, 1881.

space between crime and innocence.” A prisoner “at work” might be caught in a store playing cards, or might take the opportunity to run away.<sup>688</sup> Duncan took particular issue with how much contact the children of the seminaries had with convicts chopping wood for them: “Indeed, I have seen young ladies and little girls working on the yard with the convicts—in this sense; the convicting chopping the wood and the young ladies picking it up almost from under their axes.” The country’s desire for free labor on its streets and public institutions had “[emptied] the dungeon of its convicts and [placed] them on the door-yards of National Seminaries.”<sup>689</sup>

Not all the officers got the memo concerning the Liberal Decade’s reforms. Transparency and reporting helped the government to correct its mistakes, anticipate threats, and calculate the wants and needs of the country. But it also exposed ugly truths about the state of Cherokee affairs. It highlighted necessary reforms which would be deeply unpopular; it exposed the wide inequality between districts and the extent to which many Cherokees were monopolizing the common domain. The incompetency and even the corruption of public officials was soon observable to all. One great irony of this period was that the government had never been more transparent, and yet the allegations of widespread corruption and conspiracy theory politics would reach a fever pitch. Another great irony of the decade was that Bushyhead’s own efforts to impose transparency would come back around to haunt him—his very own openness with financial records would be his downfall.

Liberal Cherokees were especially disgusted with the nation’s costly criminal justice system. They wanted fewer “leaks,” more competent officials, and a reform to the nation’s bail system (which allowed defendants to opt for a personal guard instead of awaiting trial in prison). One look at their financial reporting explains why. In May of 1884, the national editor posted the quarterly reports of the district courts and shared his outrage. A defendant in Sequoyah District who had been put on guard for just one day had cost the nation \$797.50—“How the cost of the case could run up to nearly eight hundred dollars is not explained.” *The Advocate* then mocked the Illinois solicitor’s ill-advised attempt to try someone for the crime of “Felony,” and shared his incredulity that Tahlequah District had racked up a bill of \$3,217 for the pay of guards. “The National Jail was convenient,” the editor wrote angrily, “and the prisoners who could not give bail might as well and as securely have been kept at one tenth of the cost.” Delaware badly needed “a more learned Prosecuting Attorney,” who—despite inevitably costing at least \$200 more—would save the money “more than that sum in cash.”<sup>690</sup> It was, to be fair, a tremendous waste of Cherokee finances, but there seems to be one reason reforms were slow-coming. Full-bloods politicians, whose constituents were often less wealthy and perhaps more likely to serve as guards, were always hesitant to embrace legal reforms such as a cash bail system.

Plenty of other public officials were put in this hot seat as never before. The Board of Education was scrutinized throughout the spring of 1881 because the School Fund’s cash on hand had collapsed from \$89,272 in 1875 to just \$2,227 in 1880.<sup>691</sup> Despite their defenses against irregularities in the School Fund, two of the three members were charged with malpractice and malfeasance by the Council branch.<sup>692</sup> By the end of the year the charges would be dropped, but not before an entirely new board was appointed—a shakeup which provided the future first senator

---

<sup>688</sup> CA, September 22, 1886.

<sup>689</sup> CA, March 5, 1886.

<sup>690</sup> CA, May 9, 1884.

<sup>691</sup> CA, February 2, 1881.

<sup>692</sup> CA, March 23, 1881; April 27, 1881.

of Oklahoma, Robert L. Owen, his next step up the political ladder.<sup>693</sup> Public officials who delayed in submitting their financial reports were publicly shamed in *The Cherokee Advocate* and in January of 1884, the Board of Education instituted a new rule that it would not hire school teachers who “use intoxicants, profane or obscene language, or [who were] addicted to the vice of gambling.”<sup>694</sup> Finally, there is the example of High Sheriff French—who in 1882 lashed out at the national editor for criticizing his job performance. French accused Editor Daniel Ross of “partisanship” which was illegal at the state-owned newspaper, but there is good reason to believe this was a cover.<sup>695</sup> Ross wasn’t the only one saying that law enforcement had relaxed, and a month later the leading “doctors, merchants, lawyers, farmers, and printers” gathered together to confront French over allegations that he had been sleeping at the Vinita Fair.<sup>696</sup> There were fewer places than ever for public officials to hide, and the long-delayed arrival of the country’s first privately owned, partisan newspapers would only heighten the level of scrutiny. These new journals of the Liberal Decade were *The Indian Chieftain* (1882, Vinita, Downing Party), *The Indian Arrow* (1888, Fort Gibson, National Party), and *The Telephone* (1888, Tahlequah, Downing Party).

As in other places, the High Sheriff, district sheriffs, district solicitors, and town constables were expected to secure order and protect private property. In the Cherokee Nation, the unimproved common domain was a shared private property which had to be protected. Although large-scale farming was changing things, in the 1880s, there was still a great deal of unclaimed land and resources. To foreigners in the United States, the temptation to exploit these unused communal lands, as the Cherokees were, was great. The job of these officials, increasingly, was to protect unclaimed resources so that only Cherokee citizens and their employees could exploit them for profit. Call it the “intruder rule” of communal capitalism, but it was the reason why all these officials confiscated the wire-fencing, cattle, and even the farms of intruding non-citizens, before auctioning them off to Cherokee citizens.

As a cost-cutting measure, the National Council of 1880 repealed one of Thompson’s pro-traditionalist reforms. The law making the state newspaper free to monolingual Cherokees was repealed. They would now have to pay fifty cents per year, which was half the price of English speakers.<sup>697</sup> It was a small but significant change. Charging poorer full-bloods for the state’s newspaper was regressive, but an equalizing reform likely welcomed by wealthier mixed-bloods who felt that they were subsidizing the paper’s full-blood readership. In the early years of the Bushyhead administration, there appeared a simple contrast between Thompson and Bushyhead’s approaches to government. Bushyhead (through the permit system, exploitation of the common domain, etc.) represented a liberal inequality, whereas Thompson (with his attacks on the courts, championship of full-blood rights and equality) represented an illiberal equality.

However, as Chapter Six will explain, the ideological contrast became more complicated as the decade wore on, and new laws often reflected that. Many full-bloods did seem to coalesce against Bushyhead *prior* to the 1883 election, but they became a base of support in his second term. Each year, more full-bloods seemed to join the National Party. The Middle Districts slowly became

---

<sup>693</sup> CA, December 2, 1881; July 13, 1881.

<sup>694</sup> CA, June 13, 1884; January 11, 1884.

<sup>695</sup> CA, September 8, 1882.

<sup>696</sup> CA, October 27, 1882.

<sup>697</sup> CA, January 19, 1881.

more pro-National than anywhere else. They did so because there was an ideological shift taking place. Voters' attitudes toward the government were moving.

By 1885, both major parties promoted pro-development, pro-profit economic policies as Bushyhead had. That conversation was finished. Bushyhead could win over full-blood majority districts while continuing to liberalize the national economy. Liberalism was popular for now.

A different debate over what to do with the profits from the common domain had just begun. In 1883, for example, the Union-dominated legislature would reinstate *The Cherokee Advocate's* previous policy giving full-bloods free subscriptions. Bushyhead, perhaps leaning with the shifting political winds, signed the bill into law. By 1887, the National Party was still the entity that kickstarted the Liberal Decade, but they would place a stronger emphasis on "equalizing the profits." Perhaps justified by the growing strength of the National Treasury, *The Cherokee Advocate* would remain free to full-bloods until the policy was again reversed in the 1890s.

### **The New Economy (1880-1890)**

Communal capitalism in some ways can be boiled down to the rise of a pervasive Cherokee commercialism. With the help of foreign labor, markets, and capital, the population boomed, agriculture boomed, exports boomed, imports boomed, and cash circulated through Cherokee towns and neighborhoods like never before. The National Treasury paid its obligations on time like never before, and the national certificates traded dollar for dollar. Cherokees took the cash they got their hands on and did more than purchase breadstuffs. They invested in farming tools, they purchased labor permits, started new businesses, and even bought new farms altogether. This section shifts gears to the nation's private sector, where many Cherokees—even regardless of race—exported to foreign markets.

To start, there was cotton production, primarily based in the Lower Districts—Canadian, Sequoyah, and Illinois. Sequoyah raised more than double the cotton as Canadian in 1880, and Canadian raised more than double that of Illinois, but even Illinois raised ten times more than the next district.<sup>698</sup> Still other districts tried it anyway, hoping to capture some of the wealth that it was bringing to the Lower Districts. Giving an informal history of cotton production in the country, the national editor wrote: "For a long time it was thought that this country was too far north to raise cotton for profit, until a few timid renters showed that it could be safely calculated that our land would produce at least a half of bale to an acre. In some instances a bale to the acre has been raised on farms of a hundred acres."<sup>699</sup> In 1879, Sequoyah had reportedly raised \$60,000 worth of cotton, while one enterprise named "Cobb and Hutton" handled \$20,000 worth in the Canadian District.<sup>700</sup> The national editor encouraged other districts to "experiment" with cotton in other parts of the nation, and that is exactly what they did.

It is only dimly reflected in the 1880 census, but over the course of the decade, the Cherokee Nation seemed to catch "cotton fever," as there was "no other product grown out of the soil so easily converted into cash."<sup>701</sup> In April of 1881, "for the encouragement of the industry,"

---

<sup>698</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>699</sup> CA, September 22, 1880.

<sup>700</sup> CA, September 22, 1880.

<sup>701</sup> CA, July 23, 1890.

the nationalist W.A. Duncan set up a contest for the “cotton-growing interests of the country.” Cash prizes (in total amounting to \$1000) were offered for “Producing the greatest amount of cotton, \$100,” “Greatest amount of new land planted, \$50,” “The woman who works longest time in picking cotton \$30,” and so on.<sup>702</sup> Cherokees were erecting gins all over the country, including several steam-engine cotton gins, which could dramatically increase productivity.<sup>703</sup> It is of course difficult to say with certainty, but judging from the news, it seems that there was a flurry of new gins erected in the early 1880s, but that by the second half of the decade, the established ginners monopolized exportation (and the construction of new gins slowed down). A good example of this might be the Queensberry and Wheeler steam cotton gin, which would go on to be a major exporter, but which celebrated its first ginned bale in October of 1881.<sup>704</sup> The steam gins were new.

The neighborhoods that still lacked a gin—Tahlequah in early 1881 for example—shared their hope to catch up: “We predict that in two or three years from date the area of ground in cultivation in this vicinity will be nearly doubled. The staple crops will be cotton and wheat. A fine flouring Mill with a cotton gin will be in full operation... Can’t some enterprising person with the means help our prophecy come true?”<sup>705</sup> Later that same year, the national editor commented on how the local merchants were stocking up seed cotton. One had 30,000 pounds, and continued to receive more; other merchants were doing the same: “Why not have a gin at this place,” he asked, “to prepare the cotton for Eastern markets, in place of having to [patronize] other places for that purpose?”<sup>706</sup> It’s unclear whether Tahlequah got the gin operation it wanted, but by November of 1882 it celebrated the completion of the Tahlequah Steam Mill, with its “boiler and engine of thirty horse power.”<sup>707</sup> It apparently ran day and night, non-stop.<sup>708</sup>

Here too, Cherokees were exporters. The Lower Districts shipped their ginned cotton straight to places like St. Louis.<sup>709</sup> They would load several hundred bales of cotton onto steam boats on the nearby Arkansas River and ship them off.<sup>710</sup> In March of 1883, a Sequoyah contributor reported “towering stacks of cotton seed lying on the wharf [in Fort Smith, Arkansas] boated down from the nation—[something that] would convey the idea that the Territory was a cotton country.” Meanwhile, another steam boat was preparing to embark “to the nation, laden with goods for the new store of W. F. Sanders.”<sup>711</sup> Cotton-picking always made “business lively for the merchants,” and whenever the river got too low—as it did in the spring of April of 1887—Cherokees would leave several hundred bales of cotton the banks, waiting for the water to rise.<sup>712</sup>

---

<sup>702</sup> CA, April 13, 1881.

<sup>703</sup> For examples of Cherokees erecting gins, see CA, September 22, 1880; October 20, 1880; August 17, 1881; October 19, 1881; January 27, 1882; March 31, 1882. For an example of Cherokees advertising gins, see CA, October 27, 1880. For examples of Cherokees talking about their country’s gins in passing, see CA, October 26, 1881; May 26, 1882; November 17, 1882; January 5, 1883; March 16, 1883; December 14, 1883; April 4, 1884; March 5, 1886; May 8, 1889. For examples of Cherokees talking about steam-powered gins specifically, see CA, October 19, 1881; January 6, 1882; April 4, 1884; March 5, 1886.

<sup>704</sup> CA, October 19, 1881.

<sup>705</sup> CA, January 19, 1881.

<sup>706</sup> CA, October 12, 1881.

<sup>707</sup> CA, November 3, 1882.

<sup>708</sup> CA, September 14, 1887; March 21, 1888.

<sup>709</sup> CA, November 24, 1880.

<sup>710</sup> CA, January 15, 1886; April 6, 1887.

<sup>711</sup> CA, March 9, 1882.

<sup>712</sup> CA, September 21, 1887; April 6, 1887.



Increasing the productivity of the common domain was key. Planters used renters to claim more land, produce more, and export more.<sup>713</sup> One J.S. Scott, referred to as “Cotton King of the Cherokee Nation” in January 1881, ginned three times as many bales the following season (300 versus 100).<sup>714</sup> Blackstone and Hays ginned the same amount in their steam-gin, while Irving Vore ginned 100 with his horse gin.<sup>715</sup> In January of 1882, a local contributor to *The Advocate* who shared advice about agricultural science wrote: “Within a half dozen years, cotton has increased largely in average from Fort Gibson to Fort Smith, and will continue to do so as long as it remains a cash product at remunerative rates.”<sup>716</sup> Sequoyah district contributors claimed to have more cotton gins and grist mills than any other district in the nation; they also claimed in 1884 that “about one thousand” new acres of land would be put into cultivation.<sup>717</sup> Visitors to the capital from Canadian Districts reported that the gins had “all the work they can do” in December of 1882; “Black Fox” reporting from the same place said that “cotton [was] rolling into the gins by the wagonload.”<sup>718</sup> In May of 1885, a resident of the town Sallisaw in the Illinois District reflected: “Our section of the country is improving gradually; fourteen years ago it was nothing more than a wilderness; but today you can, by riding through the country, see comfortable buildings and nice fences. The acreage in cotton this year will be 100 percent greater than last.”<sup>719</sup> Webbers Falls—a major export town in the Canadian District—reported 700 bales put on the steam boats in 1886, 1,600 bales of cotton ginned (for a \$64,000 value) in 1887, and 3,000 bales ginned in “the neighborhood cotton gin” in 1889.<sup>720</sup> The national editor remarked that the river bottoms in Webbers Falls had been completely taken over by cotton farms: “There must be ten or twelve thousand acres of farms in the bottoms, on both sides of the river, in that settlement or neighborhood alone.”<sup>721</sup> Cherokees were almost constantly claiming that they were producing more cotton than “ever before.”<sup>722</sup> Whether the claim was perfectly accurate every year is unimportant. Cherokees *felt* like their economy was at a historic high for a reason.

As in the U.S. South, certain names dominated the local cotton trade. Among Cherokees it was “Blackstone,” “Scott,” “Alexander,” “Wheeler,” “Queensbury,” and more. These exporters—like other successful Cherokees—took their profits and branched out. Blackstone started a store and exported cattle too.<sup>723</sup> Wheeler and Queensbury of Sallisaw exported cotton (they ginned 450-500 bales a season), shipped ground corn to St. Louis and 7000 pounds of wool elsewhere, and kept 182 horses around their store.<sup>724</sup> Cookson and Madison of Garfield ran a busy store, a steam cotton gin, and a corn mill, and they donated money to schools for better desks and benches.<sup>725</sup>

---

<sup>713</sup> CA, January 5, 1881.

<sup>714</sup> CA, January 26, 1881; October 26, 1881. In the *Cherokee Advocate* issue of January 19, 1881, it was estimated that Scott’s 154 bales of cotton were worth \$8000.

<sup>715</sup> CA, January 6, 1882.

<sup>716</sup> CA, January 27, 1882.

<sup>717</sup> CA, February 3, 1882; April 4, 1884.

<sup>718</sup> CA, December 15, 1882; November 30, 1883.

<sup>719</sup> CA, May 8, 1885.

<sup>720</sup> CA, January 15, 1886; March 2, 1887; May 8, 1889.

<sup>721</sup> CA, May 8, 1889.

<sup>722</sup> CA, March 31, 1882.

<sup>723</sup> CA, January 6, 1882.

<sup>724</sup> CA, May 26, 1882.

<sup>725</sup> CA, March 5, 1886.

Neither was cotton production the exclusive purview of mixed-bloods (although they did predominate it). In October of 1882, *The Cherokee Advocate* complimented the Honorable George Sanders (Saw-ge-wa) of Saline District, who had come into town with “a portion of his cotton crop, which he had disposed of to Messrs. J. Thompson and Son at 2.5 cents per pound.” Sanders related to the editor that he had 10 acres and that the yield “would not average less than 1,000 pounds per acre” (which would total something like \$250 for the season at the local rates).<sup>726</sup> He also shared that his two full-blood neighbors—one of whom was a former member of the Executive Council—had 6 and 8 acres of cotton respectively.<sup>727</sup> The district contributors of Flint and Going Snake—which were districts with majority full-bloods—routinely described how they were experimenting with cotton in the 1880s. They must have had some success with it—as they continued to try—but it could not never match the yields of the Lower Districts. Flint and the other Middle Districts were “pursuing the cotton boom,” but at the end of the day, “Flint [was] not the cotton belt,” and neither were the other Middle districts.<sup>728</sup>

The next major export to consider is corn, and one might even say that corn, cattle, and cotton were the Cherokee’s three principal exports.<sup>729</sup> For both corn and cattle, the Upper Districts predominated. In 1880, the Upper Districts (Cooweescoowee and Delaware) produced over fifty five percent of the country’s total corn and nearly sixty-five percent of the country’s total wheat.<sup>730</sup> However, instead of shipping their goods out on the Arkansas River (as the Lower Districts did with cotton), they exported newly built railroad which crisscrossed their districts. As one contributor from Fort Gibson put it in 1881: “The M. K. & T. Railroad is a settled fact of eight years growth, and it only remains to take suitable advantage of it. The nearer grain is to market the more profitable the production, and the nearer it is to the inside of the of the cars the nearer it is to market.”<sup>731</sup> The trick, “FARMER” explained, was to scale upwards on these lands next to the railroad: “Companies are as possible in farming as in merchandise or railroading or any other business—taking the intelligence to see the advantages of combination for granted.” “FARMER” also did the calculations for readers: The total cost of fencing, breaking, seeding, sowing, reaping, threshing, and marketing for 200 acres of grain came out to \$1,600, and “allowing \$500 more to pay for [tools], there will be a handsome profit and a large pasture and everything paid for.”<sup>732</sup> With corn going locally for anywhere from 50 cents to \$1.10 per bushel in this decade, 3,000 bushels was a good product, and perhaps even just a starting point. As the national editor put it a month later, corn-planters “and an endless variety of plows for sale by our merchants” were both a sign of the “increasing prosperity of the country.”<sup>733</sup> But “what our farmers now want”—and what they would soon have—was “a market for their produce.” Cotton was “cash at a fare figure already—now what is lacking is a first class flouring mill and a cotton gin.” Making flour and cornmeal domestically could significantly increase their income.<sup>734</sup> Just like cotton planters (who

---

<sup>726</sup> CA, October 20, 1882.

<sup>727</sup> CA, October 20, 1882.

<sup>728</sup> CA, February 16, 1881; June 9, 1882.

<sup>729</sup> The nation’s principal grains were corn, wheat, and oats. However, the bushels of corn outnumbered wheat and oats 12 to 1 in 1880.

<sup>730</sup> For the 1880 census summary, see Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>731</sup> CA, February 2, 1881.

<sup>732</sup> CA, February 2, 1881.

<sup>733</sup> CA, March 30, 1881.

<sup>734</sup> CA, March 5, 1881. This contributor lists off the going price of flour at “\$3 per best.” On numerous occasions throughout the 1880s, the national editor urged for the erection of flour mills, especially steam flour mills, so farmers

probably had the longest history of profitable trade in the country), the Upper Districts—now connected to the newly built railroads—wanted cash and foreign markets for their corn.

As with cotton, increasing productivity was key, and—thanks to the liberalizing permit laws of 1879 and 1885—the Upper District would hire more foreign labor than anywhere else. In April of 1880, a Delaware contributor reported that the district clerk was “issuing permits with a vengeance,” and added: “Everywhere on the route [I traveled] I found evidence of thrift and prosperity, new fences, more land taken in, wheat looking fine, [and] preparations for a large corn crop.”<sup>735</sup> By 1882, permit workers were reportedly fencing “large tracts of land—thousands of acres” in the Upper Districts.<sup>736</sup> By 1890, a little more than sixty one percent of the country’s permitted persons—13,227 out of 21,504—lived and worked in the Upper Districts.<sup>737</sup> They were overwhelmingly farmhands, either tenants of Cherokee “landlords” or paid laborers, and they helped to grow the principal cash crop of the area: corn. During the difficulty of 1880, it was said that the districts of Delaware, Cooweescoowee, and Canadian hardly suffered compared to the others.<sup>738</sup> It seems difficult if not impossible to disentangle that story from these districts’ embracement of foreign labor.

Farms were growing larger everywhere—an unsurprising result of the country’s communal land policy (making expansion free) and a liberal labor and immigration policy (providing the labor to claim more). In September of 1882, a district contributor from Flint wrote:

“Your correspondent has traveled over portions of Flint, Sequoyah, and Illinois districts, inside the last two weeks, and was pleased to notice the evidences of thrift and enterprise, among people everywhere plainly discernible—new buildings—new fences—fields being enlarged—and everything indicating a step onward in a higher scale of enterprise. This is a suggestive, and means less cry for bread-stuff in the future. We were also pleased to notice the flattering prospects of an abundant yield of corn.”<sup>739</sup>

New buildings, new fences, bigger fields—this was how Cherokees could “purchase” new land with their labor, and then sell the products of their farm for profit. Charles Fargo had 200 acres of cotton in 1880, 400 acres in 1882; and by 1883 he was hosting oyster suppers for his dinner guests.<sup>740</sup> When Lewis Rogers of Cooweescoowee died, he left behind “250 head of cattle, 20 horses, a hundred acre farm, some town property in Vinita, and some mining interests on [the Verdigris].”<sup>741</sup> In the town of Oakes, Delaware District, “a great deal of new land [was] taken in”

---

could keep their business at home—see CA, September 8, 1880; August 14, 1889. In the later example, the editor urged citizens to grow wheat for their “first class mill.” The goal, he explained, was to prevent large amounts of money flowing out of the country to Arkansas for their flour.

<sup>735</sup> For the rush to purchase permits, see CA, March 17, 1880; April 21, 1880. See also Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. The records of the National Treasury demonstrate that there was a sudden boom in permit fee collection in the Upper Districts.

<sup>736</sup> CA, July 14, 1882.

<sup>737</sup> For the number of permit workers in 1890, see Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian.

<sup>738</sup> CA, June 23, 1880.

<sup>739</sup> CA, September 22, 1882.

<sup>740</sup> CA, February 11, 1880; March 31, 1882; January 12, 1883.

<sup>741</sup> CA, March 30, 1883.

in 1883, and “they would soon be living as well as they were before the late war.”<sup>742</sup> A Sequoyah contributor estimated 1,200 new acres of land was being put in cultivation in the spring of 1882.<sup>743</sup> In the same season, a Delaware contributor reported:

“[Farmers] are so much encouraged by this year’s success, that many more acres will be sown this fall than ever before. Each year witnesses great strides in improvement. More and larger farmers opened up; more grains raised; better, and improved machinery; and better houses; as well as stock of all kinds; more new wagons and sewing machines and finer clocks. The corn crop is one of the finest ever grown.”<sup>744</sup>

Cherokees of the Upper Districts were describing a new-found sense of plenty. Their larger farms were bringing in more crops, and their success in the market was bringing back “new wagons,” sewing machines, and “finer clocks.” They claimed that Delaware was “not far from 100,000 bushels of wheat”—which if true was 5 times the amount the district raised two years before.

By the end of the decade, land monopoly would be a much serious problem, and one which highlighted a divide between full-bloods, mixed-bloods, and the districts they called home. In October of 1883, the national editor wrote: “...the practice that is obtaining in my parts of our country, [is that of] of farming out by citizens to non-citizens, of large tracts of the public domain...[it] has already been indulged in to such an extent—especially in the upper and lower districts.”<sup>745</sup> Traditionalist Cherokees were expanding their farms, albeit with a preference to hire other Cherokees: “The home of our ex-Chief Thompson would pass any where in Missouri or Arkansas for the home of a man of means and of industry.” He, Neo-cowee of Saline District, John Wickliffe and Gourd Eater of Verdigris, the late T. Springfrog, and “dozens of others” “not only take hold themselves, but employ altogether laborers of their own nationality and race.” Another crucial difference was that they built up their farms away from the “highways of travel.”<sup>746</sup>

One instance in particular highlights how committed Cherokees were to an unrestricted land policy. In December of 1888—as land monopoly was growing to become a much more significant issue—one lawmaker proposed a 640-acre limit for each Cherokee family. It was arguably still very liberal—each Cherokee could do a lot with 640 acres—but the bill “looked like sectionalizing” to many, and the National Council voted “to let monopoly alone.” The national at the time, William Penn Boudinot again, was of two minds about it. Something had to be done about the land monopolies, he offered, but the plan to “confine each adult or family to 640 acres” was “simply ridiculous.”<sup>747</sup> He suggested a *moderate* tax on farmers who were using more than a certain amount of land. The country did not listen—there was no restriction passed until the 1890s.

Therefore, for corn planters, large-scale farms meant large-scale production. In 1882, as so many others had said and would say: “the splendid prospects for good and large crops all over the Nation has about hushed the cry for ‘bread money,’ and we are glad of it too.”<sup>748</sup> Bushyhead—

---

<sup>742</sup> CA, May 11, 1883.

<sup>743</sup> CA, March 31, 1882.

<sup>744</sup> CA, October 6, 1882.

<sup>745</sup> CA, October 12, 1883.

<sup>746</sup> CA, May 12, 1880.

<sup>747</sup> CA, December 12, 1888.

<sup>748</sup> CA, April 14, 1882.

who hired workers and would often be away in Washington for months at a time—was raising several thousand bushels of corn in 1882, and in the same season a Flint contributor wrote: “the corn crop throughout our district will be the largest gathered for several years.”<sup>749</sup> Just as with cotton production, the district contributors all said something to that effect every year. In 1884, the once-hungry U-na-kuh—also from Flint—reported: “The corn crop of this district we are told will be the largest harvest for a number of years.”<sup>750</sup> The Tahlequah district claimed its own historic high for wheat in 1886, and in February of the same year, the national editor explained: “The figures, showing the amount of our stock and grain...were taken from the census five years since when the crops were badly cut short by drouth. They have been double every [since].”<sup>751</sup> In July of 1889—close to the end of the Liberal Decade—*The Advocate* reported: “From parties just in from all over the country, we learn that crops are good everywhere.” The editor also predicted: “The census of next year will show not less than 500,000 bushels of corn raised in this Nation, and not more than five million bushels. We predict [it] will be nearer the latter than the former.”<sup>752</sup>

One other instance is telling for picturing the increase in productivity. When Federal Agent Tufts submitted his annual report on the Cherokee Nation for 1884, he made the mistake of insulting Cherokee agriculture. He wrote that cattle had suffered because “No feed [was] provided nor care taken of cattle.” Trying to add a positive note—and failing—he added: “The crops of corn, wheat, oats, cotton, and pecans promise an abundant yield.”<sup>753</sup> The national editor was furious, reprinting his words and writing:

“After asserting this, it would hardly have done to mention the thousands of tons of hay, put up in the Cherokee Nation alone for winter use. Nor would it have answered to even guess at the amount of corn, oats, and cotton seed produced, nor hint at the use made of the surplus. So these matters are left untouched. The *millions* of bushels of corn and the thousands of bales of cotton made yearly by the five tribes are made to appear ‘abundant’ by being put in the same rank with the few bags of pecans which find their way to Muscogee.”<sup>754</sup>

Cherokees were angry for good reason. Their economy was thriving as never before, and no one seemed to notice (and still neither would historians). They were not a localized economy of pecans and berries any longer—though we can question why that was so offensive. Cherokees had developed an export economy, and, in the face of westerners’ hostility, they wanted their due.

Steam mills, threshers, and other machinery helped move things along. In October of 1882, *The Cherokee Advocate* excitedly reported: “Our ‘go ahead’ town’s man H. G. Wood has just received a grain drill of the ‘Hoosier’ patent—the first we believe, of such article of farm machinery brought for use into this section of country [Tahlequah].”<sup>755</sup> A year later in June of 1883, it was reported that,

---

<sup>749</sup> CA, April 14, 1882; August 18, 1882.

<sup>750</sup> CA, October 10, 1884.

<sup>751</sup> CA, September 1, 1886; February 12, 1886.

<sup>752</sup> CA, July 3, 1889.

<sup>753</sup> CA, May 15, 1885.

<sup>754</sup> CA, May 15, 1885. Emphasis added.

<sup>755</sup> CA, October 20, 1882.

“Two of our enterprising citizens have purchased a \$500 Railroad two horse power Threshing Machine and Stacker—Capacity from three to four hundred bushels per day. Four good horses or mules and as many men required to accomplish this result. It is ‘the’ thing for this country.”<sup>756</sup>

Like other businesses and other large-scale farms in the United States, Cherokees were trying to mechanize some of their labor and also use cheap foreign labor. Coody’s Bluff in Cooweescoowee had its first steam thresher by August of 1884, Locust Grove in Saline was repairing its machine for neighborhood use in 1886, and the Delaware Farmers Alliance steam thresher was bogged in the mud in 1890.<sup>757</sup> In June of 1887, *The Benton County Democrat* of Arkansas heaped praise on the industriousness of three Cherokees who were using all kinds of equipment to harvest their wheat: “They run five twine biners, a steam thresher, five mowers, table rakes, sulky turning plows, sulky cultivators, and wheat drills. Their combined crop this year is estimated at 15,000 bushels of wheat, 15,000 bushels of oats, 25,000 bushels of corn, and all their mowers can cut in three months, put up with a steam baling hay press. They contemplate ordering steam breaking plows.”<sup>758</sup> Based on the way Cherokees presented this news, these were new developments. The Cherokee Nation was part of a much larger story of mechanized, capitalistic farming—one they had brought to the common domain.

The erection of steam mills was another important development in this decade. Tahlequah, for example, was desperate for one, and between 1880 and 1882, repeatedly called for some enterprising citizens to build one. It was a matter of constant discussion, until the capital finally had one in November of 1882.<sup>759</sup> When the long-awaited Tahlequah Steam Mill blasted its whistle, the national editor knew it was completed, and went to check it out:

“We have been there, on the ground, in the mill, and round about the machinery and other fixtures—and can testify, that, it is now ready also to make flour—good flour, lots of it, and of superior quality. The mill wright, Mr. White, promises to let us see it perform... The main building is frame, forty feet by twenty-six feet wide, two and a half stories high. Adjoining this is a one story shed room, in which is placed the boiler and engine, of thirty horsepower. On the lower floor of the main building are located two runs of French Burrs, side by side, one for corn and one for wheat, with hoops, and hoppers, and fixtures for raising and lower, and otherwise manipulating, all the most improved patterns...”<sup>760</sup>

Editor D. H. Ross was from a wealthy family—he had been a delegate to Washington and seen the Eastern world—but he was clearly awe-struck by the new mill and its machinery. He described its inner-workings at length (for four more paragraphs) and noted the “marvel [of its] simplicitiy and efficiency.” In walking distance to the National Prison, Cherokees now had a mill which “[would] be a success in making meal and flower, a success in making money for its owners, and a success in stimulating the growth of more wheat and more corn by our fellow citizens.”<sup>761</sup>

---

<sup>756</sup> CA, June 1, 1883.

<sup>757</sup> CA, August 1, 1884; September 1, 1886; September 3, 1890.

<sup>758</sup> CA, June 29, 1887.

<sup>759</sup> CA, March 31, 1880; September 8, 1880; February 2, 1881; April 6, 1881. Other places were also calling for the construction of mills and gins: CA, March 3, 1881.

<sup>760</sup> CA, November 3, 1882.

<sup>761</sup> CA, November 3, 1882.

Suddenly the steam mills were everywhere. In 1881, Cooweescoowee district contributors announced a new flouring mill in Bartlesville (where oil would be discovered in 1917).<sup>762</sup> After J. H. Alexander, the cotton planter, purchased a mill for \$3,500 in November of the same year, Cherokee officials seized it as it had been erected and sold off by an intruder.<sup>763</sup> In 1882, the Starr family was trying to get one built in Flint district, while Sequoyah contributors claimed they had “more cotton gins and grist mills than any other district in the Nation.”<sup>764</sup> Fort Gibson’s steam mill was destroyed by fire in 1884; Vinita’s millers were reportedly “very busy” in 1885; and the “Tahlequah mills [ran] day and night” in 1887.<sup>765</sup> Steam mills were quite literally framed as a matter of national economic planning: “Now that we have a first class mill, all of our farmers should raise wheat, so as to supply this market with flour and stop the enormous amount of money that goes to Arkansaw every year for flour.”<sup>766</sup>

One other difference marker—in addition to foreign labor and new machinery—was the rising popularity of agricultural science. At least according to contemporary Cherokees’ claims (which may have been overstated), Cherokees were now much more interested in the science of agriculture than they had been before. They did not just want to farm with modern tools, but—as they put it—“modern ideas.” “Our people,” wrote one contributor of Fort Gibson, once “waited for the black berries to redden ere they planted their corn—that custom is now happily obsolete—and they are today farming upon modern ideas.”<sup>767</sup> Individual Cherokees traveled to the “Agricultural Congress of the United States,” read “all the agricultural magazines and put the knowledge to work,” and advocated for an agricultural school.<sup>768</sup> A column was started up 1881 called “The Demands of Agriculture.” It was run by an anonymous farmer who made scientifically based suggestions to fellow citizens on what to plant where and how to do it. The author covered topics ranging from cotton to vegetables, from tobacco to sugar. He or she became a local celebrity of sorts, and the paper’s readers demanded to know who it was: “Suffice it to say,” *The Advocate* responded, protecting the writer’s identity, “the several articles which have already appeared in our columns mark him as a ripe scholar, pure thinker...[who wants to] make us a better, wealthier and happier people... These articles if contributed to any one of the great agricultural journals of the United States would command the highest appreciation and money value. As it is they are given to the Cherokee people, and to readers of the Advocate, without money and without price.”<sup>769</sup>

The third major export of the Cherokee Nation was cattle and other livestock, and it was the most straightforward. Perhaps besides the use of wire-fencing (which was severely curtailed to prevent monopoly), there was not manufactured machinery or tools which were needed. Permit workers overwhelmingly worked in growing crops—stockmen did not need as many laborers as the farmers. The three principal needs of the Cherokee rancher were hay (to feed cattle), access to the railroad (to export), and perhaps above all else, cash, to build up herds and make a real profit.

---

<sup>762</sup> CA, April 20, 1881.

<sup>763</sup> CA, November 9, 1881.

<sup>764</sup> CA, January 27, 1882; February 3, 1882.

<sup>765</sup> CA, April 4, 1884; June 26, 1885; September 14, 1887.

<sup>766</sup> CA, August 14, 1889.

<sup>767</sup> CA, February 10, 1882.

<sup>768</sup> CA, February 3, 1882; April 18, 1884; March 17, 1880; May 12, 1880

<sup>769</sup> CA, February 10, 1882. For some other examples of Cherokees talking about farming according to “scientific methods” in passing, see May 12, 1882; September 1, 1882; October 30, 1889.

It was no coincidence that many of the country's farmers and merchants took their profits from other ventures and invested in the growing world of ranching; it was an especially great industry for those who could make big investments.

It was perhaps also the closest thing Cherokees had to a market for speculation. Cherokee ranchers watched the local, national, and international news closely to decide when to buy up livestock or sell. In 1881, a contributor from Martins Valley in the Illinois District wrote: "The probabilities are that the recent order of the French Government prohibiting the importations of American hog meats, will cause something of a panic in our hog market here, but we think the order will be modified soon, our board of trade will hold a session in a few days."<sup>770</sup> Cherokees watched out for trouble in the U.S. states around them and tried to benefit from it. In March of 1881, *The Advocate* reported:

"Our enterprising citizens are not behind the times in the cattle business this year. Foreseeing the probable and almost certain rise in the price of cattle on account of the great losses west of here, Cherokees of this section have bought up about all there were for sale. We are glad to see this as it will leave more money in the country..."<sup>771</sup>

Cherokees knew to keep an eye on the news and the government-owned newspaper tried to help. When the U.S. hog home market was low, the national editor shared the news and added: "the wise may profit by this hint."<sup>772</sup> When the price for cattle in St. Louis was high in the summer of 1882, Cherokees rushed to get their cattle to market—St. Louis was where many of them exported anyway.<sup>773</sup> And finally, it seems hard to believe that the Upper District ranchers did not benefit, intentionally or otherwise, from the hunger of 1880. Their crops were just fine, but in May, right before the bread money disbursement, they were also buying up cattle, dropping a "good many greenbax" in a struggling country.<sup>774</sup> Like any other capitalists, Cherokee ranchers understood that one person's loss was another's gain, and that the distance between them and other districts, other "Americans," or even the French—was made smaller by the so-called "invisible hand."

It was a profitable industry, especially for the Upper Districts. In April of 1882, a resident of Sallisaw in Illinois reported that the cattle were being "rapidly gathered up in heards for market. We will soon have 'Bread Money' from private sources."<sup>775</sup> It was, of course, sarcasm. In both planting and ranching, Cherokees were getting more cash than ever—"bread money"—from private sources. The exportation of cattle to St. Louis, Chicago, and elsewhere was very profitable.

In other words, foreign markets were what they were after. S.S. Cobbs would ship "5 car loads of beef cattle" to St. Louis at a time.<sup>776</sup> James Stapler—of the same "Old Family" which had married into the Rosses—was stall-feeding one hundred beef steers in 1882, and keeping an eye on the high price of beef in St. Louis.<sup>777</sup> In April of 1883, he shipped 100 head to St. Louis.<sup>778</sup>

---

<sup>770</sup> CA, March 16, 1881.

<sup>771</sup> CA, March 23, 1881.

<sup>772</sup> CA, September 15, 1882.

<sup>773</sup> CA, June 2, 1882; June 30, 1882.

<sup>774</sup> CA, May 12, 1880.

<sup>775</sup> CA, May 12, 1882.

<sup>776</sup> CA, May 26, 1872.

<sup>777</sup> CA, August 4, 1882.

<sup>778</sup> CA, April 6, 1883.



Caleb Starr shipped cattle to Coffeyville, Kansas, and one Mr. S, shipped his to Chicago, Illinois.<sup>779</sup> A district contributor of Choteau reported in 1882: “Cattle and hogs are shipped from this place nearly every week car loads.”<sup>780</sup> In the Lower Districts—which could not boast the same kind of railroad advantage of Vinita and the Upper Districts, young men were loading cattle onto boats. The problem was that they were putting profit over safety. In June of 1883, the national editor warned these “boys who are impatient to cross with their herds of cattle and horses,” that they had to wait for the water-levels to go down. “Beef is too valuable and human life too precious to be risked in the dashing Illinois and Arkansas Rivers.”<sup>781</sup>

The Cherokee, and especially the Upper Districts, had one advantage that many small to medium scale ranchers in the United States did not have. They enjoyed the ability to exploit a sizable amount of unclaimed communal land without paying anything to anyone. Cooweescoowee was called the “Empire District” for a reason—relative to the others (especially the Middle and Lower Districts), it was massive. It was the “West” of the Cherokee Nation, and Cherokees actually did refer to people who moved there as those who had “gone west.”<sup>782</sup> Its wide-open prairie lands—communally owned—were the ideal place to build a large herd of livestock, away from the center of Cherokee governance, and away from the densely settled cotton lands of the South.

Of course, communal capitalism proposed that Cherokee ranchers exploit the common domain to its utmost capacity, and while this built up the wealth of the ranchers, it also caused problems of monopoly and inequality. Shaming him by name, *The Cherokee Advocate* shared that Allen Gilbert was building a pasture fence 16 miles long on the far western edge of Cooweescoowee District, and that he had hired “a large force of men” to make the posts and haul them. “It is amazing to us what liberties are taken by some of our citizens with the common domain,” wrote the national editor.<sup>783</sup> A law was passed December 9, 1882, making it illegal to have more than 50 acres enclosed for pasturage in the residential districts, and the Cooweescoowee Sheriff would break down and confiscate wire-fencing which violated this law, but it does seem as if the ranchers of the Cherokee West broke this law frequently for personal gain.<sup>784</sup> In February of 1882, a contributor from Cooweescoowee estimated: “Some fifteen thousand more cattle turned loose on the range in this District than ever before.”<sup>785</sup> There were even absentee ranchers building up large herds: in 1885, the High Sheriff of the country would take frequent trips to check up on his ranch in the Cooweescoowee District—a fair distance from the nation’s capital and prison.<sup>786</sup>

There was not another official counting of cattle until the 1890 census, but the hard winter of 1883-1884 gives us some account of how large an enterprise stock ranching had become. The winter killed off many hogs and many cattle, and March and April, reports were flooding in from Canadian, Flint, Sequoyah, and others about the large number of cattle and horses that had

---

<sup>779</sup> CA, June 22, 1883.

<sup>780</sup> CA, November 17, 1882.

<sup>781</sup> CA, June 15, 1883.

<sup>782</sup> CA, February 3, 1882; May 26, 1882; the expression was used often.

<sup>783</sup> CA, January 5, 1883.

<sup>784</sup> CA, January 5, 1883; August 29, 1884; June 1, 1887.

<sup>785</sup> CA, February 10, 1882.

<sup>786</sup> CA, June 5, 1885.

perished.<sup>787</sup> “Mr. Thos. Blair has lost fifty head of cattle, out of a herd of one hundred and fifty head. Mr. W.H. Turner, his entire stock of cattle, and a greater many others—have lost heavily.”<sup>788</sup> The Upper Districts, of course, had the most to lose: “Twenty thousand head of cattle, says one of our best businessmen, have died in Kooweescoowee and Delaware Districts since the 1<sup>st</sup> of last December, worth not less than \$400,000. Half that many or 10,000 head have died in the 7 other Districts—worth \$200,000, and many more will yet die before grass comes.”<sup>789</sup> The Upper Districts had claimed 28,475 cattle in 1880; so either they lost seventy percent of their cattle (which seems unlikely), or they had built up their total holdings substantially before this winter. Pointing to how immensely wealthy the ranchers had become—and perhaps implying this was some divine intervention—the nation editor concluded: “The loss sustained by the worshippers of the ‘golden calf’ in this Nation the past winter and present Spring will not fall much short One million dollars.”<sup>790</sup> But if it was really an industry that profitable—with millions of dollars on the line—we should not be surprised the “worshippers of the golden calf” did not give up their industry.

Like the American West, Cherokees in the other 7 districts—cast in the role of the pre-established “East”—started to feel threatened by the Upper Districts’ rise. Political and economic power was shifting up and west, and the change was not going unnoticed. At least one Cherokee tried to warn his compatriots, and get them to take action:

“Cooweescoowee District is too large, so is Delaware District. These districts have the largest representations in council and are rapidly increasing in population. If the present rate of increase continues, it is probable that these two districts will have a larger representation than all the rest combined.

The large size of these district renders the execution of the law very difficult and burdensome. Many citizens live over a day’s journey from the courthouse. To be summoned as a witness is to a great many a veritable calamity.

It is bad statesmanship to to have some districts too much larger than the others. The nearer all the districts are to being the same size, the nearer equal will be the representation of all. The remedy is simple. Reorganize the districts.”<sup>791</sup>

In other words, the Cherokee government as a whole was threatened if the outsized and booming Upper Districts were not brought under control. The other seven districts were a similar size, but Cooweescoowee in particular, the so-called “Empire District,” was a monstrosity of population and profit. The writer told citizens there was no reason to think the breaking up or reorganization of districts was an extreme measure—“One has been added [already] by the diving of Saline—so that we now have nine districts.” The constitution allowed for at least one more division.

And sure enough, Cherokee politics became a western affair during the Liberal Decade. All the chiefs after Bushyhead were Southern Cherokees, but they were mostly Southern

---

<sup>787</sup> CA, April 4, 1884. This was just one issue that contained bad reports from all these districts, but other reports can be found in many other issues from this winter.

<sup>788</sup> CA, April 4, 1884.

<sup>789</sup> CA, March 21, 1884.

<sup>790</sup> CA, March 21, 1884.

<sup>791</sup> CA, October 19, 1883.

Cherokees who had “gone west.” Four of the five chiefs after Bushyhead were from the Upper Districts, and only one of them—C.J. Harris—was from the Canadian District (the “traditional” homeland of Southern Cherokees, so to speak). One advantage of this shift was that this new political class had a clearer understanding of the Cherokee Outlet’s terrific value. The greatest legacy of Chief Mayes—who was himself a stock-man—was that he single-handedly forced the ranching cartel to double the amount it paid annually. The National Party—which by that point dominated the Middle Districts—would suffer a political cost for supporting a renewal of the contract according to its original terms.

The railroad town of Vinita was positioned right between these two districts, and—during this decade in particular—rose to become the Cherokee’s undisputed economic capital (replacing Fort Gibson which was the most important trade zone prior to the railroad). Many prominent Cherokees relocated to Vinita (including the ex-Chief Ross).<sup>792</sup> Vinita contributors constantly bragged of their progress, explaining how their “rush of business interests” caused three week delays in reporting, and visitors were often forced to agree. One visitor wrote: “This appears to be the biggest town in the Territory,” one wrote, and it was “still growing and improving... There is nothing to keep this people from getting rich in a few years years, as they have a market for everything that grows out of the ground.”<sup>793</sup> In 1882, it established one of the first privately owned newspapers in Indian Territory, *The Indian Chieftain*.<sup>794</sup> It had a municipal government long before Tahlequah did.<sup>795</sup> Railroad workers from the United States made the “town quite lively,” and when they finished a 25 mile addition to the railroad in 1882, *The Cherokee Advocate* reported: “This makes Vinita lively. Instead of hurting V. It helps to make it better, the farther it gets west.”<sup>796</sup> Vinita celebrated that it was now “at the junction of the largest railroads in the southwest,” and it hoped to soon “double the largest [town] in the Territory.”<sup>797</sup> Vinita already had everything Tahlequah wanted: four dry good stores, four grocery stores, and cider saloons on every corner; Tahlequah got its first drugstore in 1882.<sup>798</sup> At the same Tahlequah celebrated that, Vinita had hotels, a racetrack under construction, an art business, a new millinery store, and probably more than that.<sup>799</sup> By 1884, Vinita even had “a well patronized” skating rink.<sup>800</sup>

But Vinita also had many things Tahlequah did not want. For example, in 1882, one resident of Vinita wrote that,

“Everybody seems to be making money; plenty of ‘red eye’ [liquor] and all other luxuries, here to make a man’s life joyable, (or vice versa) and make him feel that he is playing the

---

<sup>792</sup> For just a few examples of the leaders relocating to Vinita, see CA, March 3, 1880; August 4, 1880; November 30, 1883. Stand Watie’s wife, Sallie Watie, was another example.

<sup>793</sup> CA, February 3, 1882; June 8, 1881.

<sup>794</sup> CA, September 29, 1882.

<sup>795</sup> CA, January 6, 1882. Today it is often said that towns like Vinita and Fort Gibson were not incorporated until 1898 (i.e. during denationalization). This is incorrect. The distinction we should make is by pointing to a city’s incorporation under Cherokee law versus state law. Vinita, Fort Gibson, and Tahlequah were all incorporated prior to denationalization.

<sup>796</sup> CA, February 3, 1882; June 9, 1882.

<sup>797</sup> CA, June 30, 1882.

<sup>798</sup> CA, March 9, 1883; February 10, 1882.

<sup>799</sup> CA, August 18, 1882.

<sup>800</sup> CA, February 22, 1884.

‘divil,’ whether is is or not. The ‘Wheel of (Mis)fortune’ still rolls, and the town is lively.”<sup>801</sup>

As already mentioned, there were cider saloons “on every corner” seeking their own profits, and the town’s proximity to the state line kept the alcohol coming.<sup>802</sup> A new reputation for was partially, if not mostly, a consequence of the railroad as well. Foreign workers supposedly brought their games of chance with them. One person returning to Tahlequah from Vinita shared: “A man can get any kind of game he wants there—faro, m poker, wheel of fortune, mountain euchre, keno, or just anything in that line. The town is alive with professional gamblers, railroad workmen, and other kinds of people. Business is brisk in every branch.”<sup>803</sup> Agent Tufts reportedly “‘bounced’ all the white gamblers out of Vinita” that same year, but they would be back soon enough.<sup>804</sup>

One foreign traveler, John Musick, offered a helpful contrast between the accessibility of Vinita and Tahlequah when he traveled from one town to the other in 1886 and recorded his observations. After boarding a train from Vinita to Muscogee, the Creek capital, and after taking note of how the Five Nations dressed similar to the “ladies and gentlemen” of the United States, he got on a daily hack from Muscogee to Tahlequah with one change in Fort Gibson, and one crossing of the Arkansas River “by a miserable flat boat” run by “a long haired Creek who evidently [had] some of the African blood in his veins.”<sup>805</sup> After a bumpy and uncomfortable ride through rocky roads, Musick finally arrived in Tahlequah and was “surprised to see the improvement in the little Cherokee Capital.” It wasn’t his first trip to Tahlequah, and he remarked:

“A little over a year ago it was a dull little town; now it is wide awake and filled with new life and animation. Everybody has a brisk business look. The air resounds with hammers and rasping of saws. There were eight or ten new houses in course of erection, among them a large, elegant, three story hotel, which will be quite an ornament to the town... The hotel accommodations at Tahlequah are as good as can be found in any town of its size in the States.

When Musick asked the owner of the National Hotel, Mrs. Alberty, what had “caused this sudden awakening and improvement,” Alberty responded “There is promise of a new railroad. It’s to come through Tahlequah and we’ll grow to a city yet. People would come here oftener than they do, if they wasn’t afraid Indians would scalp them.” About the scalping, she was joking, but the first part was very true. “Tahlequahites” wanted their capital to grow, they wanted more visitors, and more business—a new railroad could hypothetically achieve this, making them more like Vinita. They also wanted to keep the status quo and maintain their republic, and they saw no contradiction there. Cherokees were now businessmen and women seeking out the profits of the common domain.

In January of 1889, ex-Chief Bushyhead, “who [was] among the most liberal of the Cherokees,” sat down for an interview in Washington, where he was serving as a delegate. His outlook on his country was extremely positive:

---

<sup>801</sup> CA, March 3, 1882.

<sup>802</sup> CA, January 6, 1882.

<sup>803</sup> CA, February 24, 1882.

<sup>804</sup> CA, March 3, 1882.

<sup>805</sup> CA, September 22, 1886.

“The Cherokees as a nation are now rich and powerful above all other tribes, and naturally are jealous of any encroachments upon the rights guaranteed them...Look at the progress the Cherokees have made during the last decade, look at the churches, the schools, the prosperous towns, the broad fertile plantations and immense herds of cattle everywhere apparent upon our soil. They speak better than anything else of our condition.

We are not opposed to railroads either...The recent completion of the K & A.V. was an occasion of general rejoicing in every district the iron horse reached, and other roads will be welcome if they will be content with our business and right of way, and not want the country besides. No railroad that has applied for admission in the proper spirit has been refused, for we are vastly more prosperous now than when we had no roads at all...[we] recognized the benefits they bring [us].”<sup>806</sup>

Cherokees did not fear the railroad. They feared denationalization. They had spent a decade learning the immense value and rewards of foreign capital, labor, and markets. They were exporters and news-watchers, and they valued the world market’s ability to improve their fortunes and that of their families. Regardless of what we may think about it now, or what problems may have lay ahead, many Cherokees celebrated the new economy, communal capitalism, and the rapid transformations of the Liberal Decade.

### **A New Social World (1880-1890)**

In the summer of 1883, the Cherokee National Treasury disbursed a per capita of \$300,000. This was not emergency “bread money” like previous payouts. In 1883, 1886, 1890, and 1894, the Cherokee government took large sums of money it had received, and instead of investing it into the country’s trust funds or building new public institutions like it had in the 1870s, it would give the money to the people—or rather to citizens “by blood”—for them to enjoy as private consumers. It was a policy reversal (Cherokees had previously opposed per capita payments) but one product of the Liberal Decade was that per capita became the new norm. These payments were new and unusual in the 1880s but did not strongly affect Cherokee governance. In 1890 and 1894, they would become terribly unsustainable and self-defeating.

The sight of these payments was carnival-like. At the Tahlequah payment of 1883, for “those who [had] money to spare, there were:

“[Two] Swings...[Three] Jewelry stands. [Two stands for] books and pictures. One [for a musical attachment sewing machine out-door emporium. Six lemonade, cider, lunch, and cigar stands. One, a square breakfast, dinner, and supper stand, with hot and cold drinks to accompany—or alone—“as you like it.” [Three] photograph galleries. [Two] shooting galleries. One [was] a ball throwing at baby dolls gallery. Two [were] ring pitching galleries. One [was] a ball throwing at a darkey’s head gallery. One a trial of strength gallery. One a Minstrel Pavilion. One of the wheel of fortune Pavilion —and two are said to be Vinita Traveling Banking Houses where the ‘more you put down the less you take up.’ All these ...[were] doing a large ‘exchange’ business and seem to be making money.”<sup>807</sup>

---

<sup>806</sup> CA, January 2, 1889.

<sup>807</sup> CA, September 28, 1883.

It was a care-free, festival-like atmosphere, which unfortunately coincided with both discrimination against adopted citizens (e.g. Black Cherokees), and in this case, a casually violent, racist carnival game where participants paid to throw balls “at a darkey’s head”—as they put it.

This kind of atmosphere was indicative, however, of yet another aspect of the new economy. Whether from exports or from per capita payments, whether from the rising value of national certificates or from selling goods locally, Cherokees typically had more cash on hand than they did in the previous decade. New businesses popped up everywhere, new construction was constant, and new organizations and leisure activities emerged. In early 1890, the Tahlequah Opera House was completed—a development in the rural capital which was demonstrative of national changes. Middle to upper class Cherokees donated their cash to public causes or frequented the newly built bakeries. They paid for concerts and lectures and minstrel shows. They traveled widely around the United States and beyond. They segregated their leisure according to race, gender, language, and class. They bought the latest fashions and perfumes. They drank, gambled, took morphine, and paid for sex work. If exporting was work, then these new businesses and activities were the rewards of communal capitalism.

To sell these rewards, new businesses were erected all over the towns. In 1882, the national editor described a wave of new construction on Tahlequah’s north-side:

“Dutch Town...is improving rapidly. A Mr. Thompson has built a store house there, near the branch, in which he expects to put goods in a few days; Wm. Triplett, our solicitor, has built him a nice dwelling out there; and a blacksmiths shop is there’ also Scharble’s shoe and boot shop makes up; and several other foundations for new buildings are laid.”<sup>808</sup>

One William Butler had erected 13 houses in ten years and was working on another.<sup>809</sup> Tahlequah’s “half-dozen or more” carpenters were “kept busy from early to late—and there [was] demand for more.”<sup>810</sup> The poor national editor was subjected “all day long” to “the buzz of the Carpenter’s Saw, and the tap, tap tap of his hammer.”<sup>811</sup> These builders were often erecting new businesses or helping store-owners expand existing ones.<sup>812</sup> As with the public buildings, many of the people building the stores and businesses were foreigners. A fight which broke out between two non-citizen carpenters in 1886.<sup>813</sup> At least one builder in Tahlequah was probably Mexican: “Our friend John Gonzales or Jonney Mexican is the artisan” of “a stone store house...two stories high.”<sup>814</sup> Many of the country’s builders came and went from their homes in the United States—traveling even to the country’s isolated towns to work on projects.<sup>815</sup> District contributors from across the nation—but especially the Upper and Lower Districts—described booming new

---

<sup>808</sup> CA, March 3, 1882.

<sup>809</sup> CA, October 6, 1882.

<sup>810</sup> CA, October 20, 1882.

<sup>811</sup> CA, August 3, 1883; April 24, 1885.

<sup>812</sup> CA, April 24, 1885.

<sup>813</sup> CA, November 17, 1886.

<sup>814</sup> CA, February 9, 1883.

<sup>815</sup> CA, January 16, 1889.

construction just like this.<sup>816</sup> In August of 1888, *The Cherokee Advocate* put this all in much simpler terms: “The building boom has struck us.”<sup>817</sup>

Cherokee were putting up bigger and more elaborate structures. In 1886, a large amount of lumber was gathered in Tahlequah for a three-story hotel (likely the one pictured in the introduction).<sup>818</sup> William Boudinot, the first postwar national editor, planned a new two-story home in 1884.<sup>819</sup> Cherokees increasingly used the word “mansion” to describe the homes of its richest citizens, and aesthetics increasingly mattered rather than just function (“the new residence of W.W. Ross...in the western part of the City...promises to be one of the substantial and architecturally beautiful residences in the town”).<sup>820</sup> The risks naturally increased: a worker was pronounced dead in 1888 after falling from a scaffolding in Vinita.<sup>821</sup>

More people owned multiple homes in multiple places. They wanted to keep their large estates (built up by foreign workers), while holding a stake in the country’s political and economic capitals (Tahlequah and Vinita). For example, in 1887, a wealthy resident of Cooweescoowee District was building two new homes on Tahlequah’s Main Street—perhaps to sell off or perhaps to live in—Tahlequah burst with influence whenever the government was in session.<sup>822</sup>

Cherokee “cities” were emerging, and locals described their “metropolises” in those exact terms. By 1887, a visitor to the nation’s capital wrote:

“Yours is a beautiful little city, of about 1,200 inhabitants—yes, it is a beautiful place...it is systematically laid out, and filled in with handsome residences, and stately business houses—its ‘Public Square’ encloses about four acres of ground, set with shade-trees...In the centre of the square rises the Capitol Building; a magnificent brick structure, of the most approved modern architecture.

Tahlequah may not have had Vinita’s railroad, but it carried something special in the form of the nation’s leaders and capital and lawmakers. Prestige and influence was one of those special things: “It is here,” wrote the Cherokee visitor, “that the elite of our Nation, array themselves in splendor, and make their debut with éclat into society.”<sup>823</sup> If a Cherokee wanted to meet and mingle with the country’s lawmakers and businessmen, Tahlequah was a good place to go.

Perhaps an even better indication of the country’s “urbanization” could be found in the dollars and cents of it all. In 1879, the sale of town lots generated \$108 in taxes; by 1885, it was \$1,383; in 1895, it hit a record-high of \$7,140.<sup>824</sup> Probably because these were sales affected by cash-scarcity, there were drop-offs along the way (town lots generated only \$51 in 1888 and \$228

---

<sup>816</sup> CA, January 6, 1882; January 13, 1882; February 3, 1882; April 21, 1882; July 7, 1882; July 14, 1882; September 22, 1882; May 11, 1883; May 8, 1885; April 6, 1887. Almost all of these are district contributors’ reports on the buildings going up in their area.

<sup>817</sup> CA, August 15, 1888.

<sup>818</sup> CA, January 22, 1886.

<sup>819</sup> CA, October 24, 1884.

<sup>820</sup> CA, April 3, 1885; February 9, 1887; November 10, 1886.

<sup>821</sup> CA, March 14, 1888.

<sup>822</sup> CA, January 19, 1887.

<sup>823</sup> CA, September 7, 1887.

<sup>824</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. CA, November 6, 1895.

in 1893), but these gains over time were significant, nonetheless.<sup>825</sup> In October of 1882, the national editor pointed to the change in real-estate prices: “Town property is advancing, a vacant corner lot 90x180 on Main Street, was this week sold for \$175—which same lot, less than a year ago changed hands at \$100.”<sup>826</sup> Just five years later, in 1887, one of Tahlequah’s “leading merchants” bought a property to erect a two story brick residence, the cost of which would be “not less than four thousand dollars.”<sup>827</sup> The value of living in a Cherokee city was rapidly increasing.

But one of the most fascinating questions emerged from this “urbanization” (or at the very least: the prospect of becoming cities in the future). Was there to be such a thing as *urban* communalism? Could the Cherokee traditional land-owning system be applied to a capitalistic city? Cherokees discussed this question in 1889, one of the peaks of their economic power, and as their towns were booming with construction and business. The national editor insisted urbanization changed nothing, but that the law had to be enforced:

“If I buy a [town] lot I may hold it as mine exclusively and indefinitely without ever improving it. What is the difference between such a title and title in severalty except in name?...The fact is, town lots should be improved and occupied within a certain appointed time after sale or the lot should revert [to the government] and be sold over again; it should be subject to occupancy by any citizen...[just like] the rest of the common domain is].”<sup>828</sup>

The editor felt that the National Council—in the special case of town lots—could claim lots and then sell them (as if they were abandoned improvements), and if later on a town resident was not properly occupying the space, the government could take it within two years and sell it off to someone else. This was one Cherokees’ idea of how communal capitalism could enter the cities.

One contributor going by “VIDOCQ” took it one step further. He or she asked: “Under what authority has the Cherokee National Council the right to authorize laying off and selling town lots on the lands of the Cherokee ‘public domain?’”<sup>829</sup> This was a much more sweeping question: it questioned the very right of the government to sell town lots at all. “VIDOCQ” insisted the constitution demanded that all lands remain “common property” until claimed and settled. That Cherokees now rushed to towns to start new businesses and sell their goods was completely irrelevant. If taken to its most extreme, “VIDOCQ” was saying that town lots could not be sold for money at all, unless there was already an occupant looking to transfer it. The debate against government intervention in communal capitalism was also reflective of a shift in political views by 1889: many Cherokees were increasingly anti-statist, while still being committed nationalists.

What filled these new businesses in the cities is very important. In 1880, at the emergency bread money payment, the national editor remarked: “Nothing is being bought, but what is actually needed. Purchasers are paying cash for what they buy, and are only buying the necessities of life... ‘bread money’ is not gong for jim cracks, ‘gew-gaws,’ and things of no value.”<sup>830</sup> Tahlequah

---

<sup>825</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center. CA, November 18, 1893.

<sup>826</sup> CA, October 20, 1882.

<sup>827</sup> CA, March 30, 1887.

<sup>828</sup> CA, January 9, 1889.

<sup>829</sup> CA, January 23, 1889.

<sup>830</sup> CA, September 1, 1880.



did not even have a drugstore at the time, and it lamented its need for a physician in the town.<sup>831</sup> By 1884, it had two drugstores, and by 1886, it had seven doctors living in town.<sup>832</sup> By 1884, the capital would have a bakery where previously there had not even been a wheat mill, and by 1889, the bakery would have competition.<sup>833</sup> In other words, once the “necessaries of life” were covered, and as Cherokees realized they had cash to spare, a different kind of commerce sprung up in the Cherokee capital. During and after the Liberal Decade, the merchants—as the country’s importers—were bringing in much more than the necessities.

During this decade, Cherokees became avid consumers. Already by 1881, a Tahlequahite could easily purchase a piano or a Crown sewing machine without trouble, and one merchant in Vinita wrote about his sewing machines: “Go borrow the money and buy it.”<sup>834</sup> In the same year, Tahlequah described its business scene in the following manner:

“Our merchants are doing a thriving business. Never before have we seen so much trade...There is but one way to account for it, our merchants are surely offering greater inducements to purchasers. Go to Thompson’s and you will find a complete assortment of ready-made clothing from the broad cloth that pleases the dandy’s eye to a cheap out-fit for the laboring man. Enter Stapler’s store and you can almost hear the shelves groan with their weight of all kinds of goods. Calico for the modest maiden and silk for her showy sister, at prices never heard of in Tahlequah. Mr. Stapler also has the latest styles in hats. William Johnston also has his store crowded with goods and customers of all descriptions...The neighborhood is a good one and is fully able to support full stores or as many more and competition gives all a chance.”<sup>835</sup>

Laboring Cherokees wanted something cheap and simple, but still wanted something new. Ostentatious Cherokees, “the showy sister,” wanted to stand out and impress—perhaps at one of the many balls and social affairs which the Cherokees arranged in this decade. Cheaper price for everyone was perhaps a result of greater accessibility to foreign markets, which were manufacturing more than ever in the Gilded Age. This was the start of Cherokee conspicuous consumption at the end of the century.

To satisfy growing demands of all kinds, new big and small businesses opened everywhere (in those brand-new buildings), while existing ones expanded their stocks. B.W. Foreman opened a barbershop on Tahlequah’s Main Street in 1882, expanded it a year later (“this thing of ‘shaving’ is a ‘progressive’ art”), installed a bathhouse in 1885, and in 1887 left the business altogether: to start up the B.W. Foreman Grocery and Restaurant.<sup>836</sup> Foreman and Stapler—competing with each other—both started offering free deliveries in December of 1888.<sup>837</sup> The neighboring merchants increasingly imported and advertised perfumes and cigars.<sup>838</sup> On any given day in Tahlequah one could easily find: “Some beautiful goods—consisting in part of flower vases—China tea and

---

<sup>831</sup> CA, January 19, 1881.

<sup>832</sup> CA, August 15, 1884; March 12, 1886.

<sup>833</sup> CA, October 3, 1884; December 12, 1884; February 27, 1889.

<sup>834</sup> CA, July 13, 1881.

<sup>835</sup> CA, November 2, 1881.

<sup>836</sup> CA, June 2, 1882; January 12, 1882; May 1, 1885; September 21, 1887.

<sup>837</sup> CA, December 5, 1888; December 19, 1888.

<sup>838</sup> For perfumes being treated as newsworthy, see CA, November 30, 1883; February 23, 1887; August 24, 1887. For cigars, see CA, May 29, 1885; March 7, 1888; August 28, 1889; September 19, 1889.

coffee cups and saucers and mugs—match-boxes—dolls—combs—fine candies—perfumes—toilet soaps—and many other things suitable for presents and adopted to the fancies and necessities of the people—young and old.”<sup>839</sup> Ed Hicks opened an ice cream and lemonade stand in the capitol square.<sup>840</sup> The first attempt to install a bakery oven failed in 1883 (collapsing under its own weight), but a year later the “Capital Bakery” opened its doors, and a year after that, its stock was greatly expanded to include “all kinds of can goods, including some of the finest California fruits...fine candies, cigars, and tobaccos.”<sup>841</sup> Mary Jane Ross, the wife of the ex-Chief, shopped there.<sup>842</sup>

Susie Eiffert started Vinita’s first millinery business in 1882 (“She is going to have everything that the ladies want, and of the latest style”), a move which made her just as entrepreneurial as her husband, Henry (who was building the Cherokee telephone lines).<sup>843</sup> The Staplers—who were already miles ahead of everyone else—announced they were opening Tahlequah’s first furniture store in 1883, and by the next year they were advertising wooden shingles, bedsteads, folding lounges, as well as the usual agricultural implements (e.g. John Deere Plows).<sup>844</sup> B.H. Stone started a landscape and portrait photography business in the capital during this time (and in fact, the family photos shared in the introduction were taken there).<sup>845</sup>

William Butler started an art business and displayed his works around the capital.<sup>846</sup> Ex-Chief Thompson built an addition to his dry goods store in the Delaware District (where a year prior he shot a thief for trying to break inside).<sup>847</sup> In the summer of 1889, children enjoyed soda, confectionary stands, shooting galleries, candy, and ice cream; their parents enjoyed the “handsome parasols” on sale while walking around in the sun, and the “luxurious” moss mattress waiting for them at home.<sup>848</sup> Only a few years earlier a Cherokee had remarked: “The fashion of having Christmas Trees is becoming more and more prevalent,” but by 1889, Christmas presents were becoming an expectation, and the merchants reminded parents to come buy their “toys and Christmas goods suitable for presents.”<sup>849</sup> By July of 1891, the construction of Tahlequah’s first bank was well underway.<sup>850</sup> As a railroad town, Vinita was ahead of Tahlequah in practically every kind of business. After all, they had a skating rink and horse track as early as 1884.<sup>851</sup>

---

<sup>839</sup> CA, November 30, 1883.

<sup>840</sup> CA, July 13, 1881.

<sup>841</sup> CA, October 12, 1883; October 3, 1884; December 5, 1884; March 27, 1885.

<sup>842</sup> CA, December 12, 1884.

<sup>843</sup> CA, July 21, 1882.

<sup>844</sup> CA, February 9, 1883; July 11, 1884

<sup>845</sup> CA, July 11, 1884.

<sup>846</sup> CA, April 9, 1886

<sup>847</sup> CA, January 27, 1882; January 5, 1881.

<sup>848</sup> CA, May 9, 1888; September 19, 1888; May 1, 1889; May 8, 1889; May 9, 1888; November 10, 1886

<sup>849</sup> CA, January 5, 1883; December 4, 1889.

<sup>850</sup> CA, July 15, 1891

<sup>851</sup> CA, February 22, 1884.

**J. W. Stapler & Son,**  
Only dealers in  
Tahlequah who  
keep  
**BRYAN, BROWN  
SHOE CO.'S**  
CELEBRATED  
BOOTS AND SHOES  
OWN SHOP-MADE  
AND  
WARRANTED.  
Look for their Name on  
Bottom or Lining.  
These goods are made in  
St. Louis, and are far su-  
perior to Eastern work.  
—SEE THE—  
BLUE RIBBON SCHOOL SHOE

“Come now Darius, do put down that paper! 'Sposin  
Jno. W. STAPLER & SON do handle the best Boots & Shoes  
made; we are wearin' of them, and are well aware of their  
bein' better goods as we ever bought.

N. B.—In addition to above we are general out-fitters  
and keep everything bought at the closest prices for cash, and  
sold on the same basis at prices that defy competition.

**JNO. W. STAPLER & SON.**

april 23, 3-ms.

**H. BALENTINE**  
(EAST SIDE OF TRACK.)

Staple and Fancy  
**GROCERIES!**

*Joe Heinrichs,*

BOOT & SHOE

MAKER.

TAHLEQUAH ..... C. N.

Having just received a Complete Assortment of  
Fine Morocco and French Calf Skin Leather, I am  
better prepared than ever to make the Finest  
Boots and Shoes in the market. Satisfaction Guar-  
anteed. Highest Cash Price paid for Hides, Furs,  
Deer Skins and Wool.

**INTERNATIONAL FAIR**

MUSKOGEE, IND. TERR,

—WILL BE HELD—

September 28, 29, 30, and October 1st, 1886.

**Image 5.2:** Four Cherokee advertisements which highlight the increasingly consumerist world of the Cherokee Nation during the 1880s. Top left: an ad for J.W. Stapler and Son, a historic Cherokee family business which also depicted their own refined customers (*Cherokee Advocate*, May 12, 1886). Bottom left: an ad for the Staplers' competitors at Joe Heinrichs, and highlights the increased attention paid to fashion and high quality (*Cherokee Advocate*, August 25, 1886). Top right: an ad for a grocery store in Vinita featuring refined customers (*Indian Chieftain*, April 22, 1886). Bottom left: an ad for the annual Indian International Fair held in Muskogee (*Cherokee Advocate*, April 24, 1885).

Less burdened by intensive labor—which thousands of foreign workers were doing for them—the Cherokee elite sought out new leisure activities to “array themselves in splendor, and make their debut with *éclat* into society”—as one Cherokee put it.<sup>852</sup> They did this with both traditional and masquerade balls, attended by the “nation’s dignitaries” and the country’s wealthiest families.<sup>853</sup> In January of 1883, a particularly extravagant ball took place in Childers Station in Sequoyah District: Just one wealthy citizen, Mr. C. O. Frye, hosted a “Grand Masquerade Ball at [his] residence...[with] Oysters in abundance.”<sup>854</sup> Another masquerade party took place at the hotel National House in February 1887, and another in January of 1889 with “the finest string band in the Territory” and a very “gentlemanly set of men.”<sup>855</sup> Marginalized citizens like Black Cherokees had their own balls, and Cherokees were also invited to the ball thrown by their new corporate ally: the Cherokee Strip Live Stock association.<sup>856</sup> There were many others.<sup>857</sup>

These events were unsurprisingly elitist. Elitism was arguably the point. Regular dances were more frequent, more public, but even those charged money. In 1887, the national editor went to the Tahlequah barbershop, and noticed “three of our town boys...[who] visit the barber shop regularly every week.”<sup>858</sup> The editor wrote down their conversation and then published it. One of the boys shared that he had gotten out of paying a twenty-five-cent fee “to the chap who was collecting” by pretending to know the fiddler. The other kicked himself for not thinking of this, while the editor stepped in to complain about boys like this: “You little manish boys, now a days, financially spoil a dance. You crowd yourselves in, and crowd out the men who delight in paying the fiddlers decently, while you manish boys want to pay a fellow in promises.”<sup>859</sup> The fiddler, for his part, was out \$12 to \$20. In other words, the Cherokees with cash—the national editor—looked down on the “boys” who could not pay to play. “Real men” paid for their leisure and did not worry about their quarters. Age and class divisions were splitting people apart.

Throwing a ball—or being seen attending one—was a great way to flaunt newly acquired wealth, but so was a wedding. As in many places, Cherokee weddings were put off during hard times, and during prosperous times, they became more and more elaborate.<sup>860</sup> In February of 1884, William Fortner of Arkansas married Annie Taylor “of this Nation,” and the couple invited 200 guests to their ceremony. Fortner wore plain black, while Taylor wore “a close fitting cream colored satin brocade dress...She looked every inch a queen.” The dining room somehow accompanied everyone present, and the celebrations continued to midnight.<sup>861</sup>

A similarly lavish affair took place later that summer. When Dr. R. L. Fite of Georgia married Nannie K. Ridge of the Cherokee Nation, they arranged for their bridesmaids and groomsmen to wear matching “immaculate white” dresses and “black [suits] with white vests and

---

<sup>852</sup> CA, September 7, 1887.

<sup>853</sup> CA, January 21, 1880.

<sup>854</sup> CA, January 5, 1883.

<sup>855</sup> CA, February 2, 1887; January 2, 1889.

<sup>856</sup> CA, December 2, 1881; February 2, 1882.

<sup>857</sup> CA, February 11, 1880; September 1, 1880; January 26, 1881; May 5, 1882; December 5, 1883; December 21, 1883.

<sup>858</sup> CA, August 31, 1887.

<sup>859</sup> CA, August 31, 1887.

<sup>860</sup> CA, March 10, 1882.

<sup>861</sup> CA, February 8, 1884.

neck ties.”<sup>862</sup> After the ceremony, the guests retired to the Tahlequah House “where they partook of an elegant supper, prepared for the occasion by the generous host Mr. John Taylor.”<sup>863</sup> A different wedding in 1885 offered seven varieties of cake for the guests—“all of rare beauty in their trimming”—however, the wedding of W.T. Culbertson of the Choctaw Nation and Ida Harris of the Cherokee Nation may have beat them all.<sup>864</sup> The couple married in the Choctaw Nation, left on M. K. & T. railroad right after supper for “their bridal tour,” while the remaining guests threw a two-day celebration, including an evening ball at Barret’s Hotel. Numerous prominent Cherokees attended, and the gifts were lavish: “[A] solid silver castor...[a] silver fruit stand and basket...[a] crystal and gold toilet set...[an] elegant work basket and card receiver...[another] silver castor...[a] fancy clock...[a] set [of] silver knives and forkes...[a] toilet set...[a] parlor stove...[a] cookstove and complete kitchen outfit...and many others that space will not permit mentioning.”<sup>865</sup>

Another leisure activity Cherokees frequented was paid entertainment, including concerts, plays, horse-races, lectures, fairs, and minstrel shows (of which there were three just in 1882).<sup>866</sup> The schools were often the site of these concerts, but in April of 1890, a much larger opera house was completed in Tahlequah, and this venue soon served as host to visiting performers and musicians.<sup>867</sup> The Tahlequah String Band was frequently hired to play for balls and dance, and also performed serenades to the Female Seminary students)<sup>868</sup> For a small entrance fee, the legislature’s translator delivered lectures on “theoretical astronomy,” and a Black Cherokee woman named C. L. Thomas delivered lectures on the “Origin of the Negro Race: Their Fortunes and Failures” to the country’s “respectable citizens belonging to the three main Races.”<sup>869</sup> The national editor was forced to admit he was impressed, but that may have also had to do with Thomas’ accommodationist position. She fully embraced the racist “Curse of Ham” myth.

Unfortunately, there was no shortage of minstrel shows, and there was therefore no shortage of turning the mockery of Black Americans and Black Cherokees into a twisted form of entertainment. In 1882, for just 25-50 cents (depending on the seats), Cherokees in the nation’s capital could treat themselves to a minstrel show “consisting of Negro Acts, Songs, Dances, Burlesques, Negro Eccentricities, Plantation Scenes, Magic, Comicalities, etc.”<sup>870</sup> The Dora Bloom Minstrels gave two concerts in the Delaware district to packed audiences.<sup>871</sup> But most importantly, and perhaps inspired by these traveling shows, the newly formed Tahlequah Novelty Company offered its own minstrel show in November of 1886—this time performed by local Cherokees. “In the cast of Negro Characters,” the national editor explained,

“George W. Hughes Jr. Compositor in this Office represented ‘Sambo,’ and Steve Smith ‘Bones.’ Both did their parts to perfection. Little Johnny Taylor as ‘Judy’ in a song and dance was heartily encored. Daisy Wolf represented a rather coquettish dusky Maiden and his voice and manner was so true to the representation that one could hardly believe that it

---

<sup>862</sup> CA, July 18, 1884

<sup>863</sup> CA, July 18, 1884.

<sup>864</sup> CA, January 2, 1885.

<sup>865</sup> CA, January 15, 1886.

<sup>866</sup> CA, April 7, 1882; April 28, 1882; June 2, 1882. This was just one year.

<sup>867</sup> CA, January 8, 1890; February 19, 1890; April 9, 1890; April 16, 1890.

<sup>868</sup> CA, May 12, 1886.

<sup>869</sup> CA, January 20, 1882; March 30, 1887.

<sup>870</sup> CA, April 28, 1882.

<sup>871</sup> CA, April 7, 1882.

wasn't really a little 'darkey gal.' Little Louis Downing performed the trapeze in such a style and skill that the general verdict was, 'done as well as in a first-class traveling show.'"<sup>872</sup>

All these young performers had received a thorough lesson in "the true representation" of their Black neighbors, so much so that the Cherokee audience claimed they "could hardly believe" they weren't Black "coquettish" youths themselves. As the next chapter will explain, the Cherokee Nation was increasingly becoming the domain of its Southerners and their culture, where it had previously leaned into traditionalism and northern abolitionist influence. The growing popularity of minstrels shows in the Cherokee Nation was just one example of this major cultural shift.

With more cash to spare, Cherokee elites—especially women—started to organize philanthropic events. This was part and parcel of another important development of the Liberal Decade: a booming culture of social and civic organizing. In 1884, the Ladies of Eureka Presbyterian Church announced a supper and concert for the benefit of a new church. The supper would include "Turkeys, chickens, and everything the market affords, with cake in abundance."<sup>873</sup> During the same month the Ladies Missionary Society of Fort Gibson threw a fair and festival, including a charity auction which culminated with "a large and beautifully decorated cake—the gift of Mrs. W. P. Ross" which she had purchased at the Tahlequah Bakery.<sup>874</sup> At another charity auction in 1888—organized on behalf of the city cemetery—a pageant was organized. Attendees paid five cents per vote, and one Carrie Lindsey took the cake. Literally, as it were, because the prize was a cake, sold for a total of \$155.<sup>875</sup> The seminaries frequently hosted philanthropic events (including a tea party which raised \$100 in 1883), and in 1887 "a Japanese Wedding entertainment was given at the [Vinita] Opera House by the Ladies' Society"—where over \$70 was taken in).<sup>876</sup> As in other places all over the world, women—but especially elite women—were carving out power from social and civic organizing. A cash surplus also helped.

All kinds of other social and civic activities emerged among those who could spare the time and money. Within a week of each other in 1880, a new dancing school and a new music class were advertised to citizens.<sup>877</sup> Tahlequah formed a rifle team in the spring of 1881, and many of the country's most prominent men participated.<sup>878</sup> The Tahlequah Literary Society was formed in 1882, just a few months after Vinita had led the way.<sup>879</sup> Vinita had a jockey club in 1883 (reflecting its interest in horse-racing and its general western attitude), and in 1886 the Tahlequah Chess Club was formed.<sup>880</sup> A Tahlequah Local Improvement Society was formed in 1888 by Mrs. Ross—the object of which was "the improvement and decoration of the public grounds" and the organization of "entertainments of good moral character."<sup>881</sup>

---

<sup>872</sup> CA, November 10, 1886.

<sup>873</sup> CA, December 12, 1884.

<sup>874</sup> CA, December 12, 1884.

<sup>875</sup> CA, March 14, 1888.

<sup>876</sup> CA, December 14, 1883; January 4, 1888.

<sup>877</sup> CA, September 8, 1880; September 15, 1880; March 30, 1881

<sup>878</sup> CA, March 2, 1881; March 16, 1881; April 20, 1881.

<sup>879</sup> CA, May 19, 1881. December 16, 1881.

<sup>880</sup> CA, June 1, 1883; March 26, 1886.

<sup>881</sup> CA, April 18, 1888. For just a few other examples, see singing school organized in May of 1886, the Tahlequah Novelty Company organized in 1887, the Bazo Public Company formed in April of 1888, and the Tahlequah Dramatic Club organized in August of 1888; CA, May 7, 1886; August 24, 1887; April 11, 1888; August 8, 1888.

Many of the elite organizations provided a space for Cherokees to question the status quo safely and respectfully. The Sequoyah Literary and Historical Society debated whether men and women were intellectual equals in March of 1883. They decided they were, and resolved to debate whether women should have “an equal right with man in the government” at their next meeting—which was to be “held at the mansion of the president.”<sup>882</sup> Vinita debated “the Indian has received more injury at the hands of the whites, than the negro,” and ultimately decided that Black people “had the most cause for complaint.”<sup>883</sup> And even while the government was on the verge of collapse due to an institutional coup in 1887, the seminary students hosted a debate over whether “Indians have been and are their own worst enemy.”<sup>884</sup> We don’t know how that one was resolved.

Cherokee temperance organizing and the Woman’s Christian Temperance Union (W.C.T.U.) also got off the ground during this time. Cherokee temperance organizing seemed to explode in this period, with speech-making and organizing becoming a weekly occurrence, and Frances Willard paid Tahlequah a visit in May of 1889.<sup>885</sup> Not only did Cherokees have a very active W.C.T.U. of their own during this period (which was probably formed in the 1880s), but in the summer of 1888, a convention was held in Muscogee to form a W.C.T.U. for the Indian Territory.<sup>886</sup> In 1883 plans were put forward for a temperance hall in Tahlequah (which was estimated to cost \$400) and many of the Cherokee laws passed against gambling and alcohol of this period reflected the growing power of women’s voices vis-à-vis the temperance movement.<sup>887</sup>

What the Cherokee Nation W.C.T.U. fought against was other Cherokees’ rising underworld of leisure. Liquor had always been illegal in this country, but with the introduction of the railroad and thousands of foreign workers unused to such restrictions, accessibility to alcohol only increased (or as public officials framed it: the “problem” seemed to worsen). In December of 1880, the National Council passed a law authorizing the nation’s sheriffs to destroy the seized property of whiskey-traffickers and setting a \$50-100 fine for those who violated it. The law was an attempt to crack down on liquor trafficking in that it increased the minimum sentence from one month to six months.<sup>888</sup> The law must have had a very limited impact: liquor remained a readily available substance to both the haves and have nots of the country. It was a cheap thrill, it was both fun and dangerous, and even the poorest classes of the Cherokee Nation could enjoy it.

Gambling was another vice Cherokees enjoyed and, unlike liquor, this was a change over which they had great influence. Because of their political decision-making and economic planning, they had significantly more cash in the Liberal Decade, and therefore had much more to gain and lose and risk. In June of 1881, the national editor complained: “Gambling, intemperance, and the carrying of deadly weapons, are too much indulged in by the youth of this country.” Indian Removal “ought to remind all of those who are old enough to remember [it] of the insecurity that

---

<sup>882</sup> CA, March 30, 1883.

<sup>883</sup> CA, January 26, 1881.

<sup>884</sup> CA, December 7, 1887.

<sup>885</sup> CA, May 1, 1889. She had been invited by Tahlequahites as early as 1881.

<sup>886</sup> CA, July 11, 1888. Izumi Ishii, *Bad Fruits of the Civilized Tree: Alcohol and the Sovereignty of the Cherokee Nation* (Lincoln and London: University of Nebraska Press, 2008) is a fantastic resource for this subject. Chapter Six: Cherokee Temperance, American Reform, and Oklahoma Statehood describes the Liberal Decade’s organizing in everything but name. Ishii writes that in 1884 a Cherokee woman named Ada Archer “became the first woman to speak in public on temperance” (133).

<sup>887</sup> CA, December 14, 1883.

<sup>888</sup> CA, December 15, 1880.

life was placed in.”<sup>889</sup> By 1887 Tahlequah had a fully-fledged billiard hall about which to complain, but attempts to destroy the hall’s business (by purchasing the venue outright) failed when gaming simply moved to another location in town.<sup>890</sup> The working-class youth of the country seemed to always know where games of chance could be found, while the rich and powerful were tempted as well: Assistant Chief Rabbit Bunch was accused of playing cards while Senator Lucien Bell openly admitted to it.<sup>891</sup> Hoping to put a check on this growing illegal enterprise, an amendment to the gaming law was added in February of 1888 which gave the district sheriffs, town constables, and High Sheriff the power to “search all places known or suspected to be used as gambling resorts” and “to seize and destroy all cards, dice, checks or other devices used for the purpose of gambling.”<sup>892</sup> The reformers of the Cherokee Nation wanted “rational entertainment” for the youth, and that did not include drinking and gambling.<sup>893</sup> But just like drinking, gaming continued.

Organized baseball also started up during this decade, offering another tantalizing story of what could have been if not for denationalization. In the Cherokee Nation—as in many other places—baseball started out as a casual game between neighbors, students, workers and more. But by 1888, baseball was becoming a much more serious and elaborate affair. Indian Territory’s cities formed clubs and sent their teams to go play other cities, and the inning-by-inning results were posted in the newspapers along with detailed commentary.<sup>894</sup> Just a week after Muscogee thrashed the Tahlequah “Browns,” a game between the Vinita “Bontons” and the Ft. Gibson “Blues” was scheduled on the Gibson grounds, while Tahlequah and Muscogee organized a rematch, and the brick-layers at the Female Seminary formed yet another baseball club.<sup>895</sup> Soon, these teams were playing each other regularly, traveling up and down the country, and forming rivalries (such as that between Tahlequah and Vinita). Observers spoke of the “season just beginning” as the sports calendar became regularized; and the teams even hired new managers and recruited new players. In March of 1889, the national editor reported: “Waddie Hudson, Will Tin-can-up, Albert Taylor, and Percy Johnson [were] the new players that manager Smithed [had] secured [in 1889].”<sup>896</sup> Cherokees even began to speak of sports contracts: “Pitcher Powers and shorts Pendleton have been released by the Gibson Blues,” reported the national editor in 1888; and “Russell, the great south paw pitcher of the Tahlequah Club has been laid off, on account of a sore arm.”<sup>897</sup> In other news, my great-grandfather, “late of the Seminary Club, [had] signed as short stop with Tahlequah.”<sup>898</sup> It would have been inevitably small, but a Cherokee sports league was forming.

There was perhaps nothing more symbolic of Vinita’s rise than the Vinita Fair, which started up in 1881 and was the only Cherokee national fair of its kind.<sup>899</sup> The fair took its

---

<sup>889</sup> CA, June 1, 1881.

<sup>890</sup> CA, March 16, 1887; March 30, 1887.

<sup>891</sup> CA, September 21, 1881; August 24, 1887; May 23, 1888.

<sup>892</sup> CA, January 15, 1890.

<sup>893</sup> CA, February 19, 1886.

<sup>894</sup> CA, June 6, 1888.

<sup>895</sup> CA, June 13, 1888.

<sup>896</sup> CA, July 17, 1889; March 13, 1889. For a longer list of examples of baseball games and the results, see April 25, 1884; April 11, 1888; June 6, 1888; June 13, 1888; July 4, 1888; July 11, 1888; July 18, 1888; August 15, 1888; March 13, 1889; June 17, 1889.

<sup>897</sup> CA, August 15, 1888.

<sup>898</sup> CA, August 15, 1888.

<sup>899</sup> CA, August 14, 1885; August 25, 1886. The former issue described the 1885 fair as the “Fourth Annual” and the latter issue described the 1886 fair as the “Fifth Annual.”



inspiration from the Indian International Fair of Muskogee and aimed to compete with this more established event. The fair's organizers constructed a racetrack in the summer of 1882, which added greatly to the fair's appeal.<sup>900</sup> That summer, "the attendance was large—several thousands of persons passing through the main gate-ways, daily during the four days of the Fair"—many were visiting Cherokees and many were visiting Americans. Whites and Indians competed in farming contests, all kinds of gambling, and horse-racing. One Cherokee complained that before the war they had far better horses than their white neighbors—"We can easily have them again. Money will secure them."<sup>901</sup> The Vinita Fair had a Ladies' Department where Victorian Cherokee women exhibited "quilts, knit goods, embroidery," and more; there were eating tents and candy stands and ring pitchers and dance floors and "a Minstrel Troupe open every night." At the Vinita Fair "Everything [was] booming," and hundreds of dollars taken in at the gates each day.<sup>902</sup> In 1888, the fair organizers predicted that the fair would soon "surpass in interest and attendance all six of its six predecessors...the amount of money appropriated for premiums [was] double that of preceding years" and "a line of superior attractions consisting of races, balloon ascensions, baseball games, etc. have been provided...the purses offered will make them exciting."<sup>903</sup>

With more cash, Cherokees also took more vacations across Indian Territory, the United States, and beyond. Throughout the Liberal Decade, Cherokees escaped to Saratoga, spent their summers in St. Louis and Georgia, and trekked to see major events such as the New Orleans Exposition.<sup>904</sup> Gus Ivey, a prominent Southern Cherokee newspaper editor, toured Alabama, Georgia, and some other Southern states in 1889, while in 1883, R.M. Wolfe—the well-known delegate to Washington—took a detour home to visit the Brooklyn Bridge, Niagara Falls, Chicago, and more.<sup>905</sup> In 1882, John Lyons saw Oscar Wilde lecture in New York City; in 1883, a member of the Board of Education took a trip to New Mexico and Colorado; adopted whites went as far as England and back to visit their loved ones; and the country's leading thinkers toured the United States to lecture on the Indian Question and generate sympathy.<sup>906</sup> In other words, many Cherokees—and more often than not English-speaking mixed-bloods and adopted whites—took flying trips abroad, coming and going as they pleased. After traveling through Colorado, California, Nevada, and Oregon for two years, Tom Trainor reported: "The Cherokee Nation is by far the best country to make a living *and to make the money*."<sup>907</sup>

The most meaningful form of tourism was perhaps when Cherokees embarked on trips to see the "Old Nation." For many, the railroad made this possible. In December of 1880, the national editor shared a tempting offer with the readers:

"There will be an excursion from Fort Smith to various points in Georgia, Tennessee, North and South Carolina, to start on the 20<sup>th</sup>, tickets good for 30 days. The railroads have put their prices down within the reach of everyone, and a round trip to any of the places designated in their advertisement in the above names States will not cost over thirty dollars.

---

<sup>900</sup> CA, June 30, 1882.

<sup>901</sup> CA, October 27, 1882.

<sup>902</sup> CA, October 5, 1883.

<sup>903</sup> CA, September 19, 1888.

<sup>904</sup> CA, August 25, 1880; August 18, 1880; July 21, 1882; March 6, 1885; March 27, 1885.

<sup>905</sup> CA, October 30, 1889; July 6, 1883.

<sup>906</sup> CA, February 17, 1882; August 10, 1883; September 28, 1887; December 23, 1881.

<sup>907</sup> CA, November 24, 1880

The round trip ticket to Chattanooga, and return will only cost twenty dollars. The old homes of the Cherokees will lie along the route through Tennessee and Georgia and no better opportunity to visit either your friends or your old homes will be given...To spend the holidays in the sunny South is a treat.”<sup>908</sup>

The South was in many ways still a Cherokee place with Cherokee people and memories. With access to cheaper and faster travel on the railroad, Cherokees could blunt the impact of their exile, and freely return to their homelands in the South. They could see living relatives who had stayed behind or visit sites of memory such as John Ross’ cottage or Path Killer’s cemetery. They could keep up these connections if they had cash, and so cash helped to keep up connections to their long-lost homes. The divide between traditionalism and capitalism was not always so simple.

Cherokees may have been building up their wealth, increasing their access to dollars, and looking for new sources of profit, but they were still distinct from many of their American peers. They were then, and still are, a nation in exile—one that might want to spend their spare cash on visiting old homelands or helping relatives relocate to the new nation. They built the Cherokee community with fairs, sports, drinks, temperance meetings, and more. As they threw up new buildings in the capital, they named one new neighborhood “North Carolina,” and one of the neighborhood merchants was himself a North Carolina Cherokee immigrant.<sup>909</sup> Communal capitalism was changing the Cherokee social world, but it could never destroy what came before.

---

<sup>908</sup> CA, December 15, 1880.

<sup>909</sup> CA, August 4, 1882.



**Image 5.3:** Robert Bruce Ross (1845-1930), the grandson of John Ross, visiting the Old Cherokee Nation with U.S. senator Newell Sanders (1850-1939) of Tennessee. In the top image, they are visiting the tomb of Path Killer, who was the last hereditary chief of the Old Cherokee Nation. In the bottom image, Ross visits his grandfather's pre-Removal home. Both images were taken in Tennessee. **Source:** Wadie Hudson Photograph Collection, Western History Collection, Oklahoma University, Norman, OK.

### “An Era of Good Feeling” (1880-1883)

In August of 1882, the national editor reflected on the country’s positive mood. Members of opposing parties were “visiting each other” freely, and older Cherokees “noticed the sentiments of the country...[had] observed a great change in political feeling in the last four or five years.” It was “much more liberal and generous.” There were no crises to speak of, and the two parties were as close as they were under Lewis Downing—if not closer. “The era of good feeling,” the national editor wrote, “now seems to have arisen.”<sup>910</sup>

Dennis Bushyhead could claim much of the credit. He was historically popular. He was intelligent, a good planner, and a great speaker. He was in California during the Civil War, so considered neither ex-Union nor ex-Confederate. He was the son of a full-blood minister, and the husband of a Southern Cherokee. He spent more time in Washington than any other postwar chief, and he gave numerous interviews with the U.S. press. The 1881 law sending a delegation to Washington specifically requested that the chief go too.<sup>911</sup> Americans were taken with him, and one Cherokee noted: “Our chief is getting to be quite a noted man abroad.”<sup>912</sup> They understood the value of a popular chief, and this popularity reflected the successes of the Liberal Decade. Bushyhead first term in office (1879-1883) was tranquil. This section, then, is a history of non-events between the disbursement of money in 1880 and the end of Bushyhead’s first term in 1883.

The National Council met shortly after the 1880 bread money disbursement, and it was a quiet session. The lawmakers poured over the 1880 census, checking for mistakes and omissions. They reduced the delegation to Washington to just two individual and the chief, “there being no demand this season for ‘bread money.’” They hired Dewitt Clinton Duncan to participate in the prosecution of David Payne and established a commission to meet with the United States over “the vexatious question of the rights of colored claimants to citizenship.” The “considerable revenue” derived from taxing ranchers on the Outlet was discussed, and so “an act was passed making liberal provisions for grazing stock in that section of the Cherokee domain.” They appointed two commissioners to visit the North Carolina Cherokees and “invite them to remove from where they are poor and must remain poor, to a country where they will have all the excellent opportunities enjoyed by Cherokee citizens.” A “more stringent” law was passed against the introduction of liquor, teachers received a five dollar monthly pay increase (their salary had been cut in 1879), and a new marriage law was passed that had remarkable implications.<sup>913</sup> The law had previously stated that anyone marrying “a female Cherokee citizen” was entitled to adoption; the new law revised this language to “a Cherokee, Delaware, or Shawnee woman.”<sup>914</sup> The intention was obvious, and Bushyhead would soon point it out: Black Cherokee women could not grant citizenship to their spouses. It was more petty than impactful: their children would still be citizens. Still, it was a productive session, and one seemingly without conflict.

---

<sup>910</sup> CA, August 18, 1882.

<sup>911</sup> CA, February 2, 1881.

<sup>912</sup> CA, May 12, 1882.

<sup>913</sup> CA, December 15, 1880.

<sup>914</sup> “Intermarriage of White Men and Foreigners,” Chapter XII Article XV in *Constitution and Laws of the Cherokee Nation* (St. Louis: R & T. A. Stationers, 1875). 221-224. CA, January 5, 1881.

The bipartisan spirit of these years was solidified by the collapse of the Downing Party after 1879 and the rise of the Union Party in its place. Formed in Tahlequah, the Union Party had been William P. Ross' response to the rise of the liberal National Party, and the ticket upon which he ran for principal chief in 1879 (with Charles Thompson and against both Bushyhead and Huckleberry Downing).<sup>915</sup> It claimed to be the terribly redundant compromise party for members of the old Ross and Downing parties (even though the Downing Party was young and also formed as a compromise party). The Union Party could claim one significant victory, however. Between 1879 and 1883, it squished together the Rosses and their allies, many of Charles Thompson's followers (who distrusted the Rosses), and many Southern Cherokees (who hated them both). The result was a party with so much ideological diversity, it offered no real opposition to Bushyhead and his liberal program. It would unsurprisingly collapse into pointlessness and in-fighting after 1883, but not before renominating Charles Thomson for principal chief and watching him lose spectacularly against Dennis Bushyhead. The Union Party was also a bad memory for the ex-Confederates who joined it, but a tremendous boon for national stability and peace. It was barely an opposition party. This was why there was "an era of good feeling."

Bushyhead gave an interview with *The New York Independent* which allowed him to boast of his administration's accomplishments to the American reader. "One year and a half ago," he explained, "the public debt was about \$190,000...[it] has been reduced to less than \$40,000 at present."<sup>916</sup> Any suggestion that his government was misusing funds was "absurd," and the "charge that a million of dollars has have been expended on delegations is the wildest fiction." The government was efficient and free of corruption. He explained that since the Civil War, "We have raised our invested fund from \$780,000 to \$2,750,000. Our increase even with reduced rates of interest from \$40,000 to \$140,000," and the United States still owed the Cherokee \$2,870,000.<sup>917</sup> Cherokee "rulers need not be ashamed" of their record; their country was thriving, and would continue to do so if left to their own devices.

Bushyhead was skilled at curating his image at home and abroad. Friends and critics alike repeated many of his talking points. With the opposition not much of a threat to his economic planning, and with the security of his veto power, Bushyhead could afford to turn his focus to cultivating new followers of the National Party. He aimed to bring full-blood and Black Cherokees into the party (without changing his pro-profit policies), a decision which would slowly transform the ideology of the National Party and antagonize ex-Confederate Southern Cherokees.

An example of this can be gleaned from the 1881 midterm elections. The National Party of the Illinois District—which had the greatest concentration of Black Cherokees—organized a barbeque celebrating the 22<sup>nd</sup> anniversary of the Keetoowah Society. Speeches were given by both full-bloods and Black Cherokees alike before the chief spoke. Paternalizing and pandering all at once, Bushyhead promised equal treatment under the law for all Black citizens, while offering he could do nothing for those who had failed to return within six months of the Treaty of 1866. He also reportedly "warned the colored people against putting too much trust in individual promises"—a "representative of Illinois could promise them nothing but his effort in their behalf."

---

<sup>915</sup> CA, March 19, 1879.

<sup>916</sup> CA, April 13, 1881.

<sup>917</sup> CA, April 13, 1881.

Even still, he promised that if the National Council passed a law “for the relief of the class colored people excluded from Cherokee citizenship by the treaty that he would surely approve the act.”<sup>918</sup>

There is a good reason Bushyhead went after Black Cherokees’ votes. Charles Thompson had been a strong ally of the country’s freedmen, until his radical law against permit workers and intruders destroyed the relationship. The Downing Party under Thompson’s control must have at one point seemed promising to Black Cherokees, but it betrayed their interests and then combusted. Freedmen were therefore a significant voting bloc looking for a new home, and Bushyhead would offer to host them until he too betrayed their interests.

Bushyhead also appealed to full-blood communities, who were perceived to be one of, if not the most significant voting blocs in the country. The interesting thing here was that while the Union Party had the stronger claim to the Keetoowah Society, the National Party was competing for the very same title. The 1881 barbecue mentioned above is one example, but by 1883, National Party organizers at the district level—and especially in the Middle Districts—increasingly claimed that the National Party and the Keetoowah Society were one in the same.<sup>919</sup> When the Union Party collapsed after 1883, most full-bloods would move to the National Party—not the Southerner’s new Downing Party—which also explains why the Middle Districts were National Party strongholds during the 1890s. In other words, Bushyhead’s outreach to full-bloods was successful.

The midterm election of 1881 passed “quietly and satisfactorily everywhere.”<sup>920</sup> Every citizen “was allowed to vote and did vote as he...pleased” and there were reportedly “more split tickets voted on the present occasion than were ever noticed or known before.” The Union Party overwhelmed the Council branch while the National Party barely won the Senate. For reasons made clear already, the results did not upend the direction of policy in any way (especially compared to the political strife which would emerge in the second half of the decade). It was right after this peaceful election that the “In Times of Peace, Prepare for War” editorial was published (cited in the introduction to this chapter). Because many offices in the government were selected by a joint-ballot of the two houses, the Union Party got to make all these appointments.<sup>921</sup> In a sign of the friendly times, their choice for national editor—Daniel H. Ross—was also a very vocal (if not partisan) defender of the principal chief. It would not be long, after all, before the Rosses were National Party members themselves.

As was always the case, Bushyhead addressed the National Council and the people before the legislative session started. It was his third annual message and the end of his second year in office. He mourned the death of President Garfield and acknowledged that “with the exception of a protracted drought which reduced the productions of the earth...to something near one half of its ordinary yield,” the year had been generally prosperous.<sup>922</sup> He boasted the direction of the country’s finances—its growing sources of revenue and the near total elimination of the public debt. “By the end of the present fiscal year,” he predicted, “we may confidently expect the entire

---

<sup>918</sup> CA, April 13, 1881.

<sup>919</sup> CA, May 11, 1883; June 22, 1883

<sup>920</sup> CA, August 3, 1881.

<sup>921</sup> CA, August 3, 1881.

<sup>922</sup> CA, November 9, 1881. The partial drought would result in widespread calls for bread money in the first half of 1882, but by the second half of the year, crops would be so abundant, that the calls were abandoned—even by many of those who had called for it themselves. After 1882, there would be no further calls for emergency bread money.

debt to be extinguished.”<sup>923</sup> He urged for the protection of timber and coal and asked for the law authorizing a delegation to continue pressing for the money owed for lands settled by friendly Indian nations in the Outlet. He celebrated the appointment of Isaac Parker to Fort Smith’s federal bench, as Parker was and would continue to be a tremendous ally, and that was it. After speaking for two hours in the chilly air and being interrupted by a drunk man, he had not proposed any new radical ideas or liberal reforms. Silently, however, he had made clear that the pro-profit, pro-immigration, pro-intervention policies initiated two years before would not be reconsidered. And the “opposition” for its part was completely fine with that.

The legislative session was quiet too. An amendment to the drover’s tax was passed requiring stockmen to register their cattle (which was arguably a check on liberalization) while also making it a crime to drive anyone’s stock off the public domain (which was arguably an enhancement of liberal pro-profit politics).<sup>924</sup> There were debates between the houses over whether two or four delegates would go to Washington, and the fine for violating the timber law was increased to \$1000, but overall, there were no major reforms.

The start of 1882 was more complicated. In his third annual message, Bushyhead referred to the crops coming up short, and by March of the following year, foodstuffs were running low. One Walter Thompson Adair was delivering thousands of vaccinations throughout the country when he saw what was happening. Like the census takers of 1880, he returned home with stories of widespread hardship and hunger:

“We believe—we feel satisfied—in a word *we know* from what we have seen, and heard of late, as we have had occasion to mingle with the people, of the upper districts, that the time *is at hand*, when a large proportion of our indigent population are piteously and *grievously in need* of the means of subsistence. What must they do? They are too poor, to buy, even the necessaries of life!”<sup>925</sup>

It said something about the continuing (though fading) isolation and segregation of the Cherokee Nation that it was always the census takers and vaccinator who discovered the poor’s suffering, but Adair was also careful to be very precise in what he was describing: “There are a majority of our people, we believe fully able to ‘weather the storms’—and can and will do so, without a murmur. But there are at least, *two fifths* of them, who must be *driven to the wall*.”<sup>926</sup> In other words, he was well aware a large portion of Cherokees were not suffering at all. He recommended that bread money be issued only to the indigent, and it could be taken out of future per capita.

It was a smart solution, liberal, and one which would have demanded another expansion of the administrative state. However, Adair may have made the question political when he offered a thinly veiled threat:

“We say by all means, let them have it—it is theirs, and they must have it—*will have it*.”

---

<sup>923</sup> CA, November 9, 1881.

<sup>924</sup> CA, January 6, 1882.

<sup>925</sup> CA, March 3, 1882.

<sup>926</sup> CA, March 3, 1882.

If there are any who can doubt, as to whether the people *will have sucor* or not, let such a one but lift the curtain that shifts out the past, read a little Cherokee history—he will find that though our people have always proven to be a law-abiding people—ready to uphold the majority of the law—yet they cannot—must not—*will not starve*.”<sup>927</sup>

Adair was not only saying the people should have their bread, but that they *would* have it, no matter what. Cherokees “*will not starve*” if forced to choose between food and “upholding the law.” The same words could have been issued by a communist intellectual in Europe or the United States.

Unlike previous debates over bread money, this was the tenor of early 1882. “*Let us have bread*,” was the mantra Adair repeated over and over from March to May.<sup>928</sup> “We want that bread money,” wrote Unakah, hungry again, “and we must have it, otherwise we will be compelled to do as our neighbors did two days” when “a citizen of this Nation had an account against another citizen, got his horse near the line, had it jayhawked and attached, made his money, treated the crowd, and went home.”<sup>929</sup> The threat repeated throughout the country was that that law would not be upheld if the people were left hungry. The threat was made real after a spike in robberies of smokehouses, including multiple persons who one night in April got away with “five or six hundred pounds of hams and side-meat from the Male Seminary.”<sup>930</sup> Reflecting the rising tide of illiberalism, a Vinita contributor wrote: “[It’s said] ‘bread money is becoming an institution.’ I say let it be so the sooner the better...who’ll dare to say anything against bread money?”<sup>931</sup>

But many *would* oppose the call for bread money. And unlike the hunger of 1880, the calls issued in 1882 were highly controversial. As Adair explained it:

“The subject of “*Bread*” and “*Bread Money*,” for the people is one that has enlisted the interests, and engaged the attention of the Cherokee people, for a few years back, to such an extent, that is beginning to infuse itself into our very life-blood—so much so, that it promises to become the *Roulette Wheele*, with which we are to drive the Machinery of State in the future—it has been discussed and debated, among our people of late, from ‘early morn, to the close of day’...it promises fairly to become an ‘*institution*.’”<sup>932</sup>

The statement was both an observation of how much thought and discussion was put toward the recent per capita payments, as well as a prescient statement about the future. Per capita—once blocked from becoming a part of national economic planning—were quickly becoming a norm and “an institution”—one that had “infused itself” into Cherokees’ “very life-blood” and promised “to drive the machinery of state.” Before that could happen, however, Cherokees would stay up night and day debating the issue. It was a serious controversy.

Advocates of a liberal inequality blamed the poor for their own suffering. The hungry were lazy, and there was nothing more to it. “If everybody could afford to be lazy,” one Cherokee grumbled, “there would be tight times hereabouts. Don’t depend on your neighbor for a living

---

<sup>927</sup> CA, March 3, 1882.

<sup>928</sup> CA, May 12, 1882.

<sup>929</sup> CA, April 14, 1882.

<sup>930</sup> CA, April 21, 1882.

<sup>931</sup> CA, March 31, 1882.

<sup>932</sup> CA, March 3, 1882.



because he has a big field and is industrious.”<sup>933</sup> The same contributor rejected the notion that relief could go only to the suffering (as “Cherokees [were] the same as a huge family. If you give to one you must give to all”). “IGNORAMUS” of Flint District asked how it was fair to reward the citizen “who idled and hunted last summer, and now has nothing?”<sup>934</sup> “SALINE” added: “It would be exceedingly unwise to give out bread money again, with the fearful repetition of pistols and feathers, chuck-a-luck and whiskey... If we had the fund it would demoralize and render more indolent our people. Thank Heaven, we have it not.”<sup>935</sup> A contributor from Childers Station share the story of his alcoholic neighbor who refused to put the little money he had toward feeding his wife and children (“his family are destitute, they will suffer”).<sup>936</sup> What all these writers had in common was that they viewed bread money as harmful to the lower classes. The idea was that “they” would never learn if “they” were not forced to take responsibility for reckless actions and laziness. And if they *were* paid bread money, their “idleness” would only reach new extremes.

In this way, the 1882 calls for and against bread money exposed how little sympathy there could be between the various economic classes of the Cherokee Nation. Walter T. Adair, adopting the voice of the hungry Cherokees, was furious with the well-to-do Cherokees:

“The whole army of ‘smart fellows’ have strenuously objected to ‘bread—bread money’—or anything else—for the relief of those of our people who by reason of their poverty have been unfortunate enough to experience the keen, sharp stroke of the talons of hunger...[theirs was] the *Dictum* of a sleek office-holder *cringing* lest a part of his salary might to satisfy the demands of an earnest stomach.”<sup>937</sup>

As usual, Adair’s writing was militant and demanding, but this piece had the added effect of villainizing the country’s educated office holders—the “whole army of smart fellows” objecting to bread money because they were salaried officeholders.

In Adair’s defense, there truly was a large contingent of educated Cherokees rationalizing the suffering of their compatriots. “The advocacy of bread-money seems to spring from a misconception of what kind of necessity is the proper subject of national action,” a contributor named “SALINE” wrote.<sup>938</sup> “No matter how great their necessities,” those who were “too careless” or “too lazy to make their own living” deserved no sympathy. Could these people truly not help themselves, SALINE asked. “If they have anything to *sell* they won’t starve. Now have they anything to sell and is there anybody to buy their wares?” This cold reasoning was what Walter Adair meant when he wrote: “We doubt very much [‘these gentlemen’] would divide his ‘last crust’ with a hungry ‘squaw,’ or a crying ‘papoose.’ There would be no Logic or Rhetoric in that!”<sup>939</sup>

But regardless of how controversial bread money was, between March and May of 1882, the suffering was widespread and acute. Writing from Baties Prairie in Delaware District, one contributor offered:

---

<sup>933</sup> CA, March 17, 1882.

<sup>934</sup> CA, March 31, 1882.

<sup>935</sup> CA, April 14, 1882.

<sup>936</sup> CA, March 31, 1882.

<sup>937</sup> CA, May 12, 1882.

<sup>938</sup> CA, April 14, 1882.

<sup>939</sup> CA, May 12, 1882.

“So far as my knowledge extends at least three fifths of the full-blood population are on the verge of starvation. Old women have been known to appeal in tears to their more fortunate neighbors for bread...The destitution is much greater now than two years ago, meal was hauled from a distance then and sold in Tahlequah for 60 cents per bushel while today it can't be had within our borders for less one dollar.”<sup>940</sup>

Written about in the third person, the “full-blood population” and the “old women” were on the verge of starvation. Destitution was said to be worse than in 1880. Another contributor in Fort Gibson added: “I know of families that had not seen bread for three days, a month ago, a gentleman just from Sequoyah District says, ‘There are neighborhoods where there is not a bushel of corn for fifteen and twenty miles around.’”<sup>941</sup> Cherokees traveled to other districts to find breadstuffs, and many travelers showed up at the principal chief's home to ask for relief shortly after *The Cherokee Advocate* complimented Bushyhead for his terrific corn prospects.<sup>942</sup> “The schools are feeling the effects of it,” wrote a Flint contributor, “the patrons having not even bread for their children to carry with them to eat.”<sup>943</sup> J. H. Alexander, one of the country's richest cotton planters and the owner of a gin and mill, shared in May that,

“Being a mill owner I have a pretty good chance to learn the condition of the people in regard to meal...There is no 100 bushels of corn for sale in Sequoyah District. There are many of our people who have neither corn, nor money, nor anything to sell to bring money; there but a few farmers in a condition to pay cash for labor. There is no capitalist in our District able to furnish the people on credit, even if one is desired...it does not look reasonable that a people rich in lands and money should starve, or even suffer from actual hunger—and yet it is even so.”<sup>944</sup>

While some might have accused the mill owners (such as Alexander) of possessing “a worldly desire to secure a cheap popularity or a fond hope of selling wheat and flour,” it was still noteworthy for Alexander to join the calls for relief.<sup>945</sup> Hungry Cherokees were breaking into smokehouses to steal their next meal. From the way this kind of theft was discussed among district contributors, it was becoming a common occurrence.<sup>946</sup> As promised, then, law and order was breaking down as many others demanded government action. The last piece of information Alexander shared was that, “There are many who must either steal or starve if they don't get help from the Nation. Most of our citizens with whom I have conversed think that this is an emergency in which the Chief should call the Council together.”<sup>947</sup>

But tellingly, the government did not act—or, at least, it did seem to try very hard. A delegation was in Washington but would noticeably fail to secure bread money for perhaps the first in the country's history. It's possible they were hedging their bets—withdrawing another \$300,000 from federal obligations would have serious consequences for long-term budgeting, and

---

<sup>940</sup> CA, March 17, 1882.

<sup>941</sup> CA, March 17, 1882.

<sup>942</sup> CA, March 24, 1882; May 19, 1882.

<sup>943</sup> CA, May 12, 1882.

<sup>944</sup> CA, May 26, 1882.

<sup>945</sup> CA, April 14, 1882.

<sup>946</sup> CA, March 31, 1882; April 21, 1882; May 26, 1882.

<sup>947</sup> CA, May 26, 1882.

the delegates were undoubtedly being kept up to date on the country's food situation. Even the supporters of bread money admitted it was unclear how many people were in want, and they urged for better mechanisms for measuring the country's need.<sup>948</sup> The politicians at home also seemed to be hedging their bets. According to Adair, they refused to share their stance on bread money—a clear acknowledgement of how controversial the proposal was.<sup>949</sup>

Fair or not, the opposition to bread money won out. By June, the cries for bread money suddenly cut off. District contributors throughout the nation reported one of the most abundant crop yields in years. At the end of May, a resident of Canadian predicted that “a few more weeks and the cry for bread will be over because of this harvest.”<sup>950</sup> In June, a Flint contributor reported corn and blackberries were coming in “we hear very little talk of bread money.”<sup>951</sup> In July, the national editor concluded: “The abundant crops of wheat, corn, potatoes, and all kind of fruit have knocked the idea of ‘bread money’ of the hungriest man in the country.”<sup>952</sup> In August, a contributor from Oakes in Delaware District wrote: “Bread money is no object now—flour is cheap at \$2.40 per cwt, and roasting ears are plenty.”<sup>953</sup> For the rest of the year, Cherokees all over the country said it was a historically abundant harvest. 1882 was not a repeat of 1880. Plenty replaced scarcity.

The difference between the suffering of 1880 and 1882 seems clear. By the winter of 1879, there were already reports of hunger and suffering—which was long before the next batch of crops would come in. By August of 1880, it was obviously much more serious, and the bread money disbursement was not controversial at all. In 1882, on the other hand, the calls for bread money started in March—just a few months before the first crops of the season would turn up—something which many of the anti-bread money Cherokees pointed out. Adair was not wrong about the suffering, but he was probably wrong about the response: the Cherokee state was just still incapable of delivering relief fast enough to beat the next batch of crops. From May to the end of year Cherokees only spoke of how plentiful the harvest was. One Flint contributor, “IGNORAMUS,” held out for bread money longer than anyone, but by August of 1882, he too was celebrating the plentiful harvest.<sup>954</sup> The story of 1882 was one of an averted disaster.

After 1882, there would never again be such widespread calls for bread money. The economy had changed. Cherokees would certainly be hungry, and they would resent their richer neighbors, but they would no longer starve. The increase in productivity thanks to foreign labor helped. “IGNORAMUS” observed “New buildings—new fences—fields being enlarged” in Flint, Sequoyah, and Illinois, “everything indicating a step onward in a higher scale of enterprise.” This “means less cry for bread stuff in the future,” he concluded.<sup>955</sup> Larger businesses also changed things: the new steam-mill and gin at Wheeler and Queensberry was “supplying most of [the] farmers [of Salisaw] with bread and meat.”<sup>956</sup> In other words, better access to foreign markets,

---

<sup>948</sup> CA, March 10, 1882.

<sup>949</sup> CA, May 12, 1882.

<sup>950</sup> CA, May 26, 1882.

<sup>951</sup> CA, June 30, 1882.

<sup>952</sup> CA, July 21, 1882.

<sup>953</sup> CA, August 25, 1882.

<sup>954</sup> CA, August 18, 1882.

<sup>955</sup> CA, September 22, 1882.

<sup>956</sup> CA, May 26, 1882.

new machinery and new approaches to farming were allowed for a greater supply of everything. That change happened because of the liberal reforms. It was not some inevitable development.

Bushyhead was also one of the first postwar chiefs not to be brought down by a bad harvest. William P. Ross' political standing was badly hurt by the Grasshopper Plague, and Charles Thompson was similarly brought down by the combination of a drought and labor shortage. Bushyhead, however, remained as popular as ever, and had adeptly avoided issuing bread money without any political cost. At his fourth annual message in November, he blamed the United States and urged the country to double down on his brand of communal capitalism and economic nationalism. Speaking on the country's troubles before the summer, he offered:

“Blessings sometimes have at first the appearance of afflictions. The scarcity in bread of last year was vainly attempted by the Washington Delegation to be remedied by what is now familiarly known as ‘*bread money*.’ The failure to obtain by an appropriation of Congress another ‘Per Capita’ distribution of our money...must teach us that relief for exceptional short crops cannot be certainly relied upon in that direction. At the same time we are fully consoled by the assurance, that the increased energy of the people has enabled the Nation to get along very well without such relief; and that another permanent reduction of our National means as thus been avoided...[it] has taught—that present industry and economy are our true and only certain refuge against the recurrence of bad seasons; and that the money which we have not succeeded in spending, is still ours to use hereafter, for some permanent National advantage.”<sup>957</sup>

There were two points to dissect there. The first was Bushyhead telling the country's lawmakers that they could not rely on emergency bread money anymore. It was too slow, and it was a source of relief delivered at the whim of the United States. The “present industry and economy” of the country were the “true and only refuge” during a bad harvest. To put it simply, Cherokees needed to build a strong national economy to prevent future close-calls, and that's exactly what happened.

Like his previous annual messages, his fourth and last before the next election was another victory lap: “The commencement of the fourth year of my administration finds the Cherokee people in a more prosperous condition than at any previous date in their history.” The crops gathered after May were “extraordinarily abundant” thanks to a “remarkably favorable” season. He presented a long-list of policies which he had suggested in previous years, and he added to that list a number of new ideas. He suggested a “new system in the work of legislation,” including special committee that could specialize in particular topics (e.g. the Committee on Foreign Policy) and a clerk system; he announced that the escape from debt was “about accomplished”; he recommended that the tax revenue—“now greater than ever before”—be put toward a liberal investment in the seminaries and that poor children be allowed to enter the schools (exchanging labor for tuition). He urged for the National Council to adopt some kind of liberal policy toward Black Cherokees without citizenship and he finally pointed out the exclusion of Black Cherokee women from the marriage law passed two sessions before. He boldly urged for “the machinery of government [to] be erected” on the Cherokee Outlet, “for the protection of their rights there, individual and National.”<sup>958</sup> He asked for the legalization of timber exportation (one of his most

---

<sup>957</sup> CA, November 10, 1882.

<sup>958</sup> CA, November 10, 1882.

liberalizing suggestions yet), and he asked for a more attractive mineral law to get foreign investors interested. He announced that Congress had authorized the Cherokee to lease their salt mines, and he asked for a law on this matter as well. From beginning to end, Chief Bushyhead redoubled his commitments to a pro-profit, liberal economic policy. He asked the National Council to do the same. The “opposition” in the Union Party took up almost all his suggestions.

It was around this time that *The Cherokee Advocate* declared “An Era of Good Feelings,” but it was also around this time that the Union Party was beginning to wobble. It was a lost party. In May of 1882, Walter Adair Duncan was considered “the almost unanimous choice for Principal Chief” and Huckelberry Downing was considered the favorite nominee for Assistant Chief (“A full-blood will run with [Bushyhead]”).<sup>959</sup> By August of the same year, the Union Party conventions were still failing to secure a nomination for the 1883 election, while the National Party already had a Bushyhead-Rabbit Bunch ticket established.<sup>960</sup> Another Union Party convention in September also failed to nominate someone.<sup>961</sup> Later that month, one of the many names in contention—Huckleberry Downing of Flint—died.<sup>962</sup> The stakes were increasing. The character and direction of the party was totally unclear. The National Party was perceived as the heroic administrators who had revolutionized the government and economy overnight. The Union Party—at least in its quest for a party leader—was a complete mess.

And then the Union Party committed the most spectacular own goal. Likely desperate to make a nomination, they met at 14-mile Creek in Tahlequah District on October 2<sup>nd</sup>, 1882.<sup>963</sup> Future members of the National Party were everywhere, and there were also many Southern Cherokees growing increasingly frustrated. Women participated but only as the cooks of the occasion. Debate was fierce. Prominent Cherokees stormed out of the convention—some leaving the party forever.<sup>964</sup> Some stayed to watch the party disintegrate. After three days of politicking, a vote was put up between ex-chief Charles Thompson and Robert Ross. Charles Rogers and Allen Ross competed for the Assistant Chief’s nomination. Rogers won the nomination for Assistant Chief, but the winner of the top prize was shocking. After almost single-handedly destroying the Downing Party in 1879, Charles Thompson won a second nomination for principal chief.

The selection—and perhaps just being forced to choose between a Ross and Charles Thompson—outraged Southern Cherokees. Reflecting on the story in 1891, Augustus Ivey wrote:

“Between 1879 and 1882 there was a wholesale desertion of the Downing Party by many voters who had long been known as Downing men, and who went over to what was called a ‘Union Party’—one of the most unholy alliances ever formed in this or any other country. This unholy alliance was made simply to corral all the official positions in the Nation, regardless of the weal or woe of the common people—it was simply a move of political tricksters who misguided a great many good men into the scheme. Chief among them who

---

<sup>959</sup> CA, May 19, 1882.

<sup>960</sup> CA, August 18, 1882.

<sup>961</sup> CA, September 15, 1882.

<sup>962</sup> CA, September 28, 1882.

<sup>963</sup> CA, October 13, 1882.

<sup>964</sup> “Record of J. B. Mayes,” May 14, 1891, Joel B. Mayes Collection, Box 2, Folder 11, Western History Collection, Oklahoma University, Norman, OK.

helped to make this unholy alliance, and who deserted the Downing Party, was J. B. Mayes, now the present nominee of the Downing Party.

In 1883, [ex-Confederate] J. B. Mayes and others were delegates from Cooweescoowee to the convention of 14-mile Creek, which nominated Hon. Charles Thompson, as the Union nominee, but bolted the convention and went home before the nomination was made—tho' he claimed to be a 'Union Party' man at the time. MR. Mayes at that time had a man to nominate, and because he could not override the majority of delegates and force them to nominate his man, he got made and left the grounds and went home.

Later however he was introduced to cast his vote for the Union nominee, tho' he never turned his hand over toward helping to elect him, and such apathy on the part of Mr. Mayes and his friends, caused Mr. Bushyhead's election by a larger majority than ever—caused the Nationals, headed by Mr. Bushyhead to make a clean sweep of the Nation...

Be it said to the credit of L.B. Bell of Delaware [another ex-Confederate], as he was one of the prominent men at that day, they could never persuade him into the Union Party, into the unholy alliance. He made the fight almost single-handed and alone in Delaware District, against this trade and intrigue gotten up as the 'Union Party.' He stuck to the old Downing Party and its principles with unequalled zeal, tho' the odds seemed greatly against him. He and a few others got together in Delaware District and nominated a straight Downing ticket, and run it against both the Union and National tickets—electing several straight out Downings to District officers, and to the National Council.

This devotion to the principles of the Downing Party, led by L.B. Bell, spread, and caused the party to be rehabilitated—and also caused the downfall of the Union Party. It was the nucleus left of the Downing Party—and the only nucleus—to which to build. J. B. Mayes, after the party had been built up, sought and obtained the nomination for Principal Chief, and upon a platform and pledges set forth, to the people.”<sup>965</sup>

The story is worth sharing in full because it is our only clear record of what happened at 14-Mile Creek, how everyone responded, and how the decisions ultimately led to the collapse of the Union Party and the rise of a new, “rehabilitated” Downing Party (this time under Southern Cherokee control). While some Southern Cherokees, such as future chief Joel B. Mayes, would let the nomination of Charles Thompson play out (and let “the demagogue” lose terrifically), other Cherokees—such as Senator Lucien Bell—abandoned the party altogether to build something new entirely. Thompson's nomination for chief was one of the pivotal moments in Cherokee political history; the current scholarship incorrectly suggests that he fully retired from politics in 1879.<sup>966</sup>

Bushyhead would have received the news very positively. In 1879, he had been elected chief after beating both William P. Ross and Huckleberry Downing (Thompson's substitute) in a three-way contest. The country was almost unrecognizable in the three years since. He knew he was tremendously popular, he knew Thompson was just as unpopular, and he knew that a large segment of the Union Party (Southern Cherokees) were in all-out rebellion. Thompson's

---

<sup>965</sup> “Record of J. B. Mayes,” May 14, 1891, Joel B. Mayes Collection, Box 2, Folder 11, Western History Collection, Oklahoma University, Norman, OK.

<sup>966</sup> McLoughlin, *After the Trail of Tears*, 365.

nomination in some ways confirmed the popularity of Bushyhead's reforms. The party of pro-profit, pro-intervention economic liberalization was thriving; it was courting Black Cherokees and full-bloods; it had unity. The Union Party had picked someone popular with many of the traditionalists in its base, but in so doing they had nominated which a large majority of Cherokees disliked. Bushyhead would have entered the legislative session of 1882 with a new wave of confidence. He now knew he would be reelected; he would barely campaign.

The plans to lease the Cherokee Outlet outright would only bolster his popularity further. Soon, the leasing of the Outlet would nearly double the annual revenue of the Cherokee Nation overnight. The Cherokees had rejected an offer to lease the Outlet for \$25,000 per year in December of 1881.<sup>967</sup> In December of 1882, the National Council reportedly passed a bill to lease the Outlet to the highest bidder, for no less than \$65,000.<sup>968</sup> The principal chief did not seem to sign this bill (though we have no record of the bill or his veto). He likely preferred to keep the law as open-ended as possible. The specifics would come later.

Before signing the new law on December 15<sup>th</sup>, Bushyhead made clear that this was a deal between a sovereign Cherokee Nation and a private corporation—the United States was not a party.<sup>969</sup> After the National Council included a provision which required approval from the Secretary of the Interior, Bushyhead vetoed the bill and shared his objections: “In no instance, however serious the emergency, have [Cherokees] permitted [the United States] or any other government to intermeddle with affairs that only concerned themselves. [We have] the right to govern ourselves.”<sup>970</sup> The lawmakers seemed to keep the original language (making the deal “subject to the approval of the Secretary of the Interior”), they gave Bushyhead the power to negotiate the lease (“if he [could] do so on terms that would properly remunerate the Cherokee Nation”) and they also set a 20-year maximum on any negotiated lease.<sup>971</sup> Bushyhead signed the bill and the Cherokee Nation prepared to receive bids in the new year.

The new year of 1883 was much quieter than the previous. The political scene was silent until March, when the nation received great news. Though many of the Outlet lands had long since been settled by friendly Indian nations, the Cherokee had only been paid \$300,000 thus far (a deposit which had only been paid to disburse the bread money of 1880). In March of 1883, the delegates to Washington, Richard M. Wolfe and Robert B. Ross, announced that the next payment of \$300,000 for occupied lands had just been approved by Congress and the President. The payment was long overdue, and it wasn't everything, but Cherokees celebrated, nonetheless. Not only would the Cherokee government receive a significant sum of money owed, but a “principle thus established” was “of incalculable value.” Cherokees would get what they were owed, and from this point forward, the national editor claimed, “the Cherokee Nation must be consulted in any further disposition of her western lands, before title can pass to other parties.”<sup>972</sup> “We do not see how any set of men could have done more in so short a time. The results are great—grand.”<sup>973</sup>

---

<sup>967</sup> CA, December 2, 1881.

<sup>968</sup> CA, December 8, 1882.

<sup>969</sup> CA, April 20, 1883.

<sup>970</sup> Bushyhead to Senate and Council, December 1882, Dennis Wolfe Bushyhead Collection, Box 1, Folder 71, Western History Collection, Oklahoma University, Norman, OK.

<sup>971</sup> CA, April 20, 1883.

<sup>972</sup> CA, March 9, 1883.

<sup>973</sup> CA, April 6, 1883.

Shortly after the celebrations over the \$300,000 payment had finished, there was even better news. Washington had made it clear they would support the Cherokee Nation in its desire to lease the entire Outlet. To address both developments, Chief Bushyhead called a special legislative session in April of 1883, and the National Council was together by May.<sup>974</sup> In two separate messages, Bushyhead explained what was on the docket. On the one hand, the National Council had to decide what to do with the \$300,000. There was “no occasion or demand for a distribution of what is popularly known as ‘bread money,’” so the money would either be disbursed as random per capita (a stimulus of sorts), or it would be invested back into the government.<sup>975</sup> The other thing the National Council had to do to was to structure a lease agreement for the ranching interests seeking a deal. “Two cents per acre per annum [was] the minimum amount” for any lease to be considered, a figure which was both liberal and would double the national revenue.<sup>976</sup> The chief and legislature continued to work out the details of a lease until a bill demanding a contract for no less than \$100,000 per year was approved.<sup>977</sup> Soon after that, a deal with the Cherokee Strip Live Stock Association for this amount was finalized.<sup>978</sup> In October, the first semi-annual lease payment of \$50,000 was delivered.<sup>979</sup>

At that same time, the country finished deciding whether to do a per capita disbursement or invest the funds in the government. It chose the former despite the misgivings of many. One Sequoyah contributor explained:

“The per capita is being freely discussed amongst our people, [and] the prevailing opinion seems to be, that a payment would be a curse instead of a blessing, at this time one class of the people would be benefitted thereby while another class, would squander in riotous living, in ribbons and fol-de-rols their per-capita.”<sup>980</sup>

Another Cherokee in Fort Gibson agreed:

“I believe it does the people no good. It encourages laziness. Why can’t we have the money invested so as to have it ready for some future emergency?...If we could agree to hold this \$300,000 on interest, we would have something to fall back on when the next drought comes along. There is plenty to eat yet.”

And finally, while many said the \$300,000 per capita payment would “increase the crops two-fold,” the national editor was skeptical: “Will it do that? Will it increase the productions of the Country at all? [Or] Will a per capita reduce and retard production?”<sup>981</sup> All these writers repeated the arguments of 1882—that “bread money” was disastrous for “idle” and “lazy” farmers. One suggested the treasury hold the money, build up some interest, and plan for some future need.

Besides the one writer thinking of the national funds, these were the paper-thin arguments of the country’s elites. Between the poor Cherokees (who could not afford to reject a per capita)

---

<sup>974</sup> CA, April 20, 1883; May 4, 1883.

<sup>975</sup> CA, May 4, 1883.

<sup>976</sup> CA, May 4, 1883.

<sup>977</sup> CA, May 11, 1883.

<sup>978</sup> CA, May 18, 1883.

<sup>979</sup> CA, October 5, 1883.

<sup>980</sup> CA, April 20, 1883.

<sup>981</sup> CA, March 30, 1883.



and the wealthy Southern Cherokees (who were also, on the whole, unsupportive of government expansion), there was very little room for maneuvering against per capita. Already by 1883, per capita were on the verge of becoming an expectation—an “institution.” In May, *The Cherokee Advocate* expressed support for a per capita disbursement, and warned: “The people will be disappointed unless that \$300,000 is paid out ‘per capita,’ before a great while.”<sup>982</sup> Before the per capita was even approved, one Tahlequah attorney, J. L. Springston, advertised that his office specialized in “Claims against the Nation arising from per capita payments.”<sup>983</sup> As the politicians would learn soon, per capita were overwhelmingly popular.

The National Council passed a “blood bill”—a per capita law which excluded Black Cherokees and adopted whites, Shawnees, and Delawares. A majority of both parties approved it.<sup>984</sup> Living up to his promises to Black Cherokees around the country, Bushyhead vetoed the bill. In his veto message, he wrote:

“It may be said that the payment per capita in [1880] was made [only] to this class [‘Cherokee citizens by right of Cherokee blood’]... That is true.

It may be said that that the lands of the Cherokee Nation west... were conveyed to the Cherokee Nation, at that time composed wholly of Cherokees by blood. That is also true...

[That] whatever their rights may t be to an interest in our lands east of 96°, have paid nothing for an equal interest with native Cherokees to the lands west of the Arkansas River. That is also undeniable.

But, senators, it is just as true and indisputable that the Cherokees by blood, who were once the sole owners of the eastern country and this, were competent and qualified to share their common interest with whoever they might choose.

There are two methods of disposing the national right to this country. One is a sale of lands by national authority alone. The other is by incorporating outsiders, and investing them with the rights and privileges of native Cherokees without qualification.”<sup>985</sup>

Bushyhead insisted that Cherokees had done the latter. It did not matter that there had been “blood bills” previously.” It did not matter that the Cherokee had been an ethno-nationalist state in the past, at one time “composed wholly of Cherokees by blood.” What mattered was that they had made a covenant with Black Cherokees, and they could not violate it. They were “competent and qualified to share their common interest with whoever they might choose.” Over the years, they had chosen white immigrants, Shawnee and Delaware refugees, and the Black Cherokees they had formerly enslaved. They made all these people Cherokees and conferred them citizenship, and “if the lands of the nation were and are the common property of citizens, then no citizens be deprived

---

<sup>982</sup> CA, May 4, 1883.

<sup>983</sup> CA, April 27, 1883.

<sup>984</sup> CA, May 25, 1883.

<sup>985</sup> Bushyhead to National Council, May 18, 1883, Dennis Wolfe Bushyhead Collection, Box 1, Folder 82, Western History Collection, Oklahoma University, Norman, OK.

of his or her right, and interesting in the property without doing an injustice and without a violation of the constitution.”<sup>986</sup> Bushyhead vetoed the bill and sent it back to the Senate.

This transformed the “blood bill” into a partisan issue. Before the veto, two Union senators had voted against it—Ross of Tahlequah and Rogers of Cooweescoowee. They likely did so because they were looking out for their adopted constituents (Rogers, in particular, would have been very vulnerable to the adopted citizens of his district). After the veto—and likely under immense pressure from their party—they changed their votes to abstentions. All but three of the National Party senators voted with their party against the blood bill. None of the Union senators who had originally voted for the bill changed their votes. In other words, two Union senators protecting their careers prevented non-Native Cherokees from enjoying their full rights as citizens.<sup>987</sup> The bill passed over Bushyhead’s veto in the Senate and then went to the Council branch—where only two counselors opposed it.<sup>988</sup> On May 18<sup>th</sup>, the law authorizing a per capita payment was passed.<sup>989</sup>

All of this took place just two months before the general election, where every seat in the National Council and the chieftaincy was up for grabs. It is hard to imagine, then, that the election had not carried a major influence on how the lawmakers voted, or that the election would not now serve as referendum on those lawmakers’ decisions. All of the sudden, the Unions were the party of blood-bills, and the Nationals the party of adopted citizens. In another unfortunate twist, a majority of votes for a blood bill were cast by full-blood senators, pitting one marginalized class against the other. As one Cherokee sarcastically explained it in 1886, “It is wonderful what influence a few voters have over their member, which will be seen simply referring to the District where the colored voters live. And the District where there were no colored or adopted voters, the member all voted for the money to be paid to the ‘blood’ where it rightly and justly belongs.”<sup>990</sup> To put it simply, districts with a lot of adopted citizens (the Upper Districts and Illinois, for example) struggled with blood-bills; the districts with a uniform Native Cherokee population (the Middle Districts, for example), found the question much more straight-forward. They didn’t want to share their money with Black Cherokees, nor adopted whites, nor the Shawnees and Delawares.

Black Cherokees were intent to punish the Union Party and reward the Nationals. In July of 1883, they met at a barbecue to organize their response. They, reportedly, “voted to consolidate and throw their votes and influence against the Full Blood Cherokees in the coming election.”<sup>991</sup> The editor—a member of the Union Party himself—was deeply critical. “We earnestly trust that is not so,” he wrote, “The colored people cannot afford to commit ‘Hari Kari’ by arraying themselves as a class against the Full Blood Indians...Our colored citizens are indebted as much to the Full Bloods as to the Half-Breeds for whatever they rights they have.”<sup>992</sup> Ultimately, a correction was issued one week later, when one Black Cherokee explained that the report was false,

---

<sup>986</sup> Bushyhead to National Council, May 18, 1883, Dennis Wolfe Bushyhead Collection, Box 1, Folder 82, Western History Collection, Oklahoma University, Norman, OK.

<sup>987</sup> CA, May 25, 1883.

<sup>988</sup> CA, May 25, 1883.

<sup>989</sup> CA, May 25, 1883.

<sup>990</sup> CA, February 19, 1886.

<sup>991</sup> CA, July 27, 1883.

<sup>992</sup> CA, July 27, 1883.

and “they [had] agreed to vote for the parties National Ticket.”<sup>993</sup> The slippage was still telling, and highlighted the challenges Bushyhead would face in winning over Black *and* full-blood voters.

Still, the differences between the National and Union parties remained narrow. Commenting on the state of politics, one “O.C.”—a contributor for *The Chieftain* of Vinita—wrote:

“If you ask the ordinary voter what is the distinctive difference between the National and Union parties he will have some difficulty in telling. If he is an *intelligent thinker* of the Union party he knows that his ideas of government are very much the same as the idea of like men in the National party, and he doesn’t clearly see his difference of position from National men...in the same way the anti-progressive elements of both parties, composed more largely of the full-blood, conservative lovers of the past, see no special difference of *opinion* in each other...you will hear that there is no special *issue* between the two parties.”<sup>994</sup>

This was the Cherokee “Era of Good Feelings” in so many words. Thompson’s fall and Bushyhead’s rise had scattered the parties and reorganized them into two like-minded entities. The editors of *The Chieftain*—future U.S. senator Robert Owen and one J. L. Sweesy—who very soon would have sound reasons to attack the Bushyhead government—sounded like they were running a National Party newspaper. According to O.C., both parties were composed of two classes: “1<sup>st</sup>, a thinking, pushing, enterprising class who have proper ideas of republican government; and 2<sup>nd</sup>, of a conservative, custom-loving class who care nothing much for progress.”<sup>995</sup> Supposedly, the former were adopted citizens and mixed-bloods, while the latter were full-bloods. Both classes could be found in both political parties.

So, what was the difference between them? In the eyes of “O.C.,” “It [was] this.” The National Party “has enough of the progressive element to control its movements and it has the acquiescence of its full-blood supporters to an enlightened policy...the Union Party [meanwhile] is controlled by unprogressive, anti-labor elements...”<sup>996</sup> The Union Party had put forward the Keetoowah Society’s founding documents as a platform, but the words of 1859 said little to nothing about the state of national politics in 1883. “Their platform and Chief’s nomination pander to full-blood prejudice to secure their vote,” the editors wrote, while the National Party “has a controlling majority with opposite views, favoring liberal labor laws, and legislation [that] is suited to our enterprising class.” The Union Party said nothing about the North Carolina Cherokees—the Nationals favored “reunion of Cherokees as one people” as soon as possible. The Union said nothing of the national debt (which its two successor parties had racked up)—the National Party proposed to incur no more debt whatsoever. The Union said nothing of the country’s national economy—the Nationals “[favored] *industry, enterprise, and the development of the resources of the Nation by a wise and liberal policy toward labor*” and hoped “to develop *agriculture and stock-raising*.” In the Union platform, “we see no hope,” O.C. wrote. “In the National there is every hope.”<sup>997</sup> The Nationals had direction; the Unions struggled to find a unifying message.

---

<sup>993</sup> CA, August 3, 1883.

<sup>994</sup> *The Chieftain* (Vinita), August 3, 1883.

<sup>995</sup> *The Chieftain* (Vinita), August 3, 1883.

<sup>996</sup> *The Chieftain* (Vinita), August 3, 1883.

<sup>997</sup> *The Chieftain* (Vinita), August 3, 1883.

O.C. was just as harsh in comparing the candidates. To him, Charles Thompson was a disaster of a nomination. People all over the nation now called him a “demagogue.” He “cannot speak English,” he added, “and is almost quite blind, and [he] would be at the mercy of his interpreters and advisors *for his facts* and his arguments.”<sup>998</sup> Bushyhead on the other hand was responsible for the “sudden and extraordinary improvement in our financial condition.” The national script was trading on par with the U.S. dollar, the country’s credit was fantastic, and the debt was nearly gone. They incorrectly claimed that Bushyhead had increased the national revenue from “\$3,000” to \$130,000, but these were just exaggerations of half-truths—exaggerations which many people believed. Bushyhead was *extremely* popular; he was viewed as savior of the country’s finances and economy. One Delaware contributor announced in June that “The people say he has made the best Chief the nation has ever had since the war of the rebellion.”<sup>999</sup>

Going into his second and final term, Bushyhead’s Assistant Chief already represented the future of both the National and the Union Party all at once, while Southern Cherokees would rally against him in a “rehabilitated” Downing Party. Bunch was the most senior ranking full-blood in the country, and he openly endorsed the National Party platform principles. “He will satisfy the desire of more than half the Nation to have a competent full-blood in the executive office,” *Chieftain* editors Owen and Sweesy explained. He had “successfully resisted the dangerous efforts of demagogues to unite full-blood against half-breed.” Once the pro-profit, pro-development stance of the government became inescapable, irreversible, more and more full-bloods would rally to his brand of liberalism: a pro-business administration which also favored an “equalization” of the profits.

One final benefit for Bushyhead in the general election was that between May and August (when the election was held), the country was already trading on the in-coming per capita which the chief had procured. By mid-June district contributors were describing a lively trade on the in-coming per capita, while the merchants delivered their usual warning against “obtaining goods on false pretenses.”<sup>1000</sup> The Vinta merchants were rushing “to buy new stocks” and “preparing and feasting on the joyous anticipation of the future.”<sup>1001</sup> The classes excluded from this boom, of course, were Black Cherokees, and the country’s adopted whites, Delawares, and Shawnees. A contributor from Webbers Falls highlighted the most immediate material consequences of racial discrimination: “The trade on ‘Head right’ is making our little town lively, and an Indians credit is better at present than a white mans or negroes.”<sup>1002</sup>

When the time finally came to vote and count the ballots, the results were surprising only in their scale. Bushyhead won in a dramatic landslide, “by over seven hundred majority”—which in the Cherokee Nation was a stupendous difference.<sup>1003</sup> He won eight districts in the nation—meaning he even won the Middle Districts, which had been expected to favor Charles Thompson (as the champion of full-blood voters).<sup>1004</sup> To be fair, his margins in the Middle Districts were much tighter, but not for his liberal Assistant Chief Rabbit Bunch who dramatically outperformed

---

<sup>998</sup> *The Chieftain* (Vinita), August 3, 1883.

<sup>999</sup> CA, June 22, 1883.

<sup>1000</sup> CA, June 15, 1883; July 6, 1883.

<sup>1001</sup> CA, July 6, 1883.

<sup>1002</sup> CA, July 20, 1883.

<sup>1003</sup> *The Chieftain* (Vinita), August 10, 1883.

<sup>1004</sup> *The Chieftain* (Vinita), August 10, 1883.

him in the Middle Districts while underperforming in many of the majority mixed-blood districts. Identity politics remained strong, and if one were a strategist for the party, a clear signal had been sent. If the National Party wanted to win over the Middle Districts, then Rabbit Bunch was the indisputable heir apparent. He was a well-liked, pro-profit full-blood who could win over other full-bloods and still promote a liberal party and platform.

As predicted, Thompson was a doomed candidate, and even after the election, the country could not make sense of it. In a congratulatory letter to Bushyhead shortly after the 1883 election, Augustus Ivey, a Southern Cherokee of the Union Party, expressed his immense frustration. Repeatedly putting the “Union Party(?)” in quotes and adding a question mark made clear that he questioned the usefulness and viability of this party. He was angry:

“‘The Union’ be d—d. It’s just what beat us. Such political quarrels...and others who were responsible for Oochie’s [Thompson’s] nomination done the work. I am glad from my heart it has turned out this way—this experience will teach some of our party to not listen at every political demagogue who croaks. I voted for my party, not for ‘Oochie’—because as I said before he was not a fit representation of the Downing Party.”<sup>1005</sup>

But the Downing Party—at least for now—did not exist. The party had “disappeared with the birth of the Union Party” and had not existed since 1879.<sup>1006</sup> For the umpteenth time in their political history, Southern Cherokees had been forced to let others drive party decision-making, and the nomination of Thompson and his dramatic defeat was, for them, a breaking point. Many liked Bushyhead, but wanted their own power, nonetheless. According to Gus Ivey’s punctuation, the Union Party was now in question.

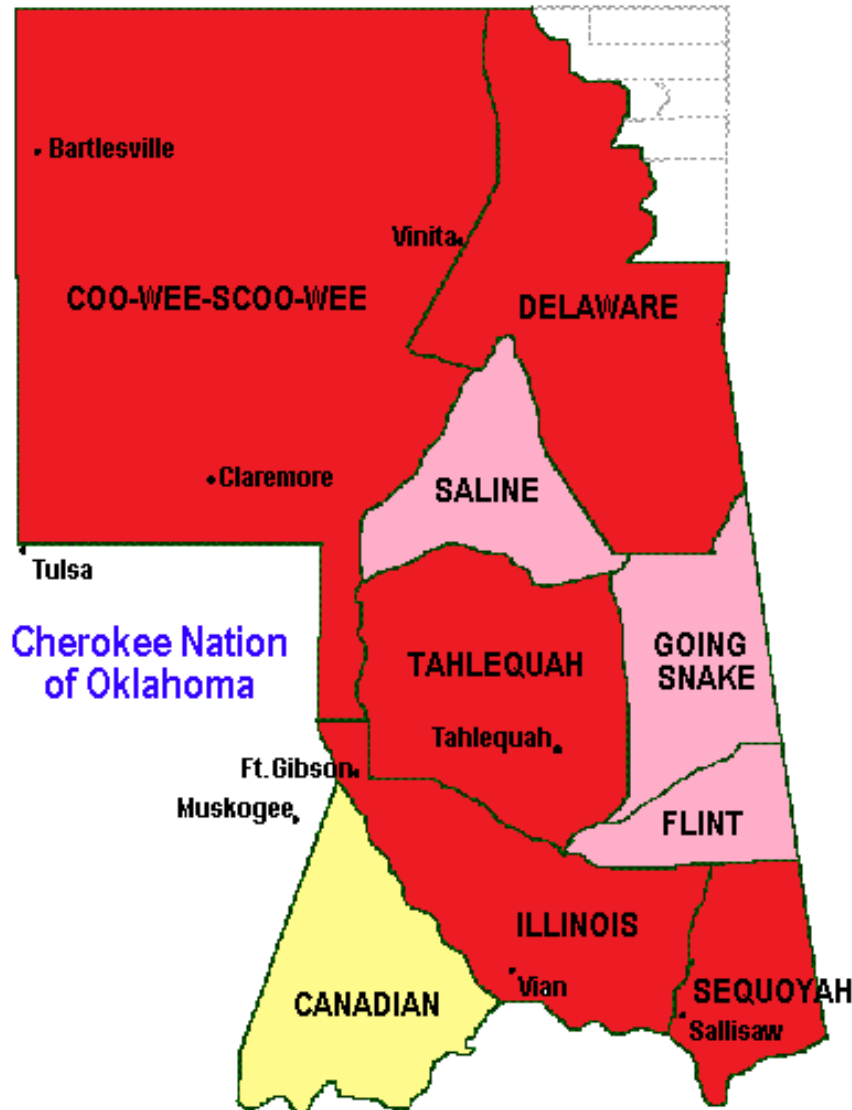
The Union Party had won supermajorities in both houses of the National Council, but it was a pyrrhic victory. The Union’s 12-6 majority in the Senate, and its 21-9 majority in the Council branch would do absolutely nothing to prevent its quiet collapse by the next general election.<sup>1007</sup> Cherokees all over the country seemed to have split their tickets: a vote for Bushyhead at the top to reward him for the successful reforms, and another vote for their local Union Party official—who could be anywhere on the ideological spectrum from a traditionalist to an ex-Confederate. Instead of using their supermajorities to block Bushyhead’s agenda, the new National Council gave the principal chief his most productive session yet; and the officers appointed to positions by joint-ballot (e.g. Daniel H. Ross for national editor) would soon be going well out of their way to defend Bushyhead as a leader. The “Era of Good Feeling” would continue until the spring of 1884, when the stable relations between parties would suddenly come undone.

---

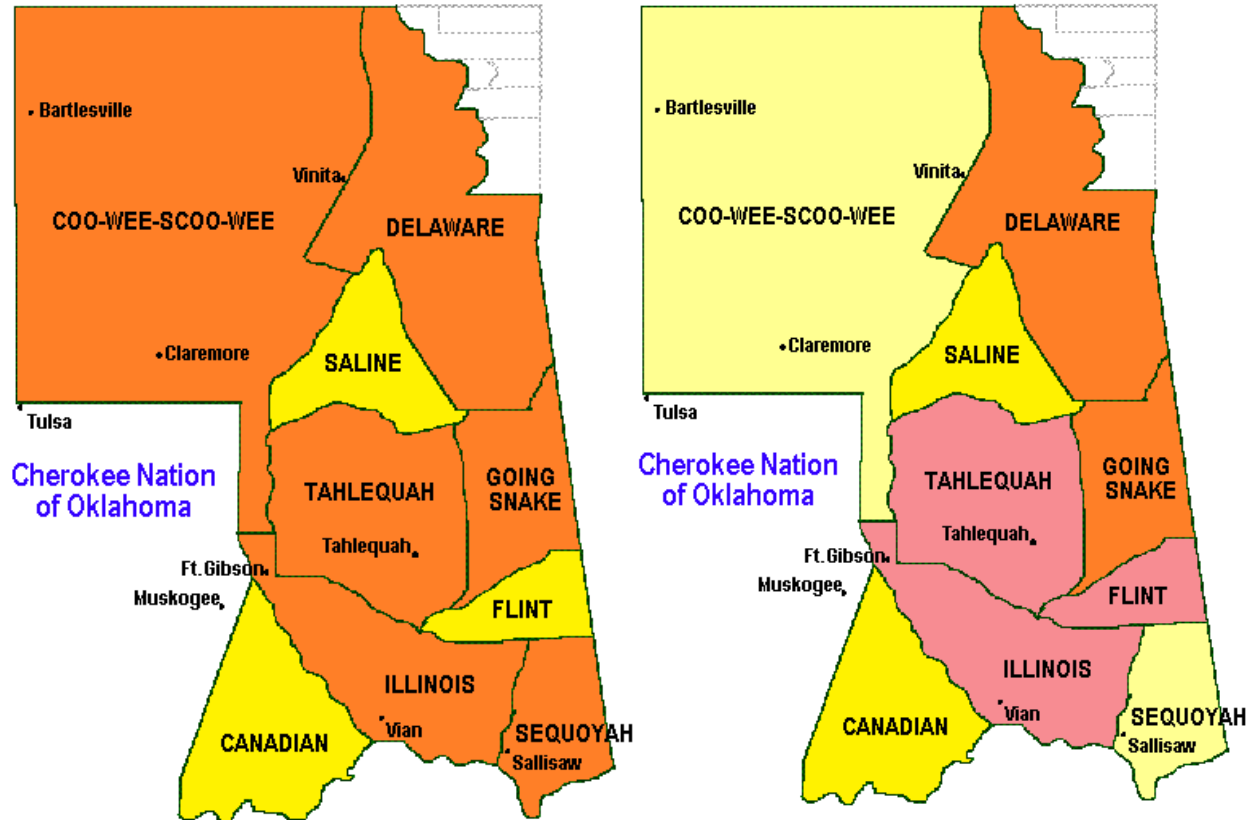
<sup>1005</sup> Augustus Ivey to Dennis Bushyhead, August 9, 1883, CHN 94, Volume 4 (Political Parties), Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1006</sup> *The Chieftain* (Vinita), August 3, 1883.

<sup>1007</sup> CA, August 17, 1883. The Council branch’s results were not fully reported by this point in time, so the Union’s majority in the Cooweescoowee and Delaware district could have been even higher.



**Figure 5.4:** The election map for principal chief in 1883. Red represents the National Party, while yellow represents the Union Party. Lighter shades of red and yellow indicate a closer election. Bushyhead won every district except Canadian by these listed margins: Sequoyah (100), Delaware (120), Cooweescoowee (161), and Going Snake (11), Tahlequah (93 votes), Illinois (202 votes), Flint (63 votes), and Saline (63 votes). Charles Thompson won Canadian District by 84 votes. Even though the Union Party was tremendously successful in the National Council, the blowout in the race for the chief badly hurt the party members' confidence. Bushyhead's smaller margins in Saline, Flint, and Going Snake are notable: soon these majority full-blood districts would be National Party strongholds, but that development had yet to transpire. Bushyhead's wider margins in the Upper Districts and Sequoyah are significant for the exact opposite reason—they would soon become reliable anti-Bushyhead, Downing Party districts. For full results, see *Chieftain* (Vinita), August 10, 1883 and *Cherokee Advocate* (Tahlequah), August 17, 1883.



**Figure 5.5:** The election map for the Senate (left) and the Council branch (right) for the election of 1883. Red represents the National Party, yellow represents the Union Party, and orange represents split districts (e.g. one National senator, one Downing senator). Lighter shades of red and yellow indicate districts where one party won a majority of Council seats, but not all of them; solid colors on the Council map indicate a clean sweep of all the seats available (e.g. Canadian District). The Senate map (left) shows a 12-6 supermajority for the Union Party. The Council branch map (right) shows a 23-17 Union majority. The breakdown of these seats was as follows: Canadian (4 Union Party councilors), Saline (3 Union), Flint (2 Nationals, 1 Union), Going Snake (2 Nationals, 2 Union), Illinois (2 Union, 3 Nationals), Tahlequah (3 Nationals, 2 Union), Sequoyah (2 Union, 1 National), Cooweescoowee (4 Union, 3 Nationals), Delaware (3 Nationals, 3 Union). For the full election results see *Cherokee Advocate* (Tahlequah), August 10, 1883. For the Saline and Illinois special election results, see *Cherokee Advocate* (Tahlequah), September 14, 1883. This election represented the height of the Union Party’s success, but it was a pyrrhic victory. Even though the Union Party had an incredibly strong joint ballot majority, they would use that to appoint very pro-Bushyhead figures into positions of power (e.g. the national editor). The Union Party would not exist by the next general election for a reason: it was not a true opposition party, but a coalition of ideologically opposed lawmakers who could win locally under the same banner without finding common ground at the national level.

In September and October of 1883, the per capita was delivered. \$15.50 went to every Cherokee citizen “by blood,” regardless of age or gender. 17,547 names qualified, and it was estimated that a third of the money disbursed would go straight to the merchants, who in turn would expand their businesses or build up new ones.<sup>1008</sup> Once this was done, it was nearly time for the new lawmakers to meet, and for Bushyhead to deliver his fifth annual message—the first of his second term in office.

Bushyhead’s annual message began with a celebratory announcement: “The debt which burdened the strength and obstructed the progress of the Nation four years ago is now paid.”<sup>1009</sup> To prevent it from ever building up again, he urged for the National Council to guard the country’s finances with strong revenue collection and wise legislation. He reported that \$340 had been collected from the country’s merchants (who, taxed at one fourth of one percent, reported \$136,192 worth of good sold in the previous fiscal year)—and Bushyhead seemed to suspect the merchants were underreporting their sales. Similarly, he suspected the country’s employers were underreporting their permit workers, and he wanted action on that. In general, then, he figured the treasury was owed more money than it was collecting, and that collection methods had to be improved to improve the treasury. He celebrated the new Outlet lease deal, and the delivery of the first semi-annual deposit of \$50,000.

Bushyhead also outlined the future direction of National Party policy—something which would win over traditionalists and alienate Southern Cherokees. If the 1883 message had a theme, it was Bushyhead’s hopes to make big investments in the government and to start working on a laundry list of new government projects. The National Council had passed a historic law at the special session of 1883 which demanded every \$300,000 built up from the leases be disbursed as a per capita.<sup>1010</sup> Hoping to keep that money in the government, Bushyhead asked for its repeal, and explained that if they did so, “there will be subject to your disposal for general purpose of Government at this Session of Council the sum of \$193,363.09—aside from the Annuities for School, Orphan, and Asylum purposes.”<sup>1011</sup> He wanted the government to make liberal investments with the money—not give it all to the people for their own purposes. The National Council disagreed and kept the per capita system in place—a decision which would have long-term consequences for Cherokee national sovereignty.

He wanted nine new courthouses for each residential districts (which the National Council would approve), he wanted public libraries established around the country (which would not be approved), and a monument erected for Sequoyah (another nationalist project which would also not be approved). He wanted the National Council to make liberal investments in the Indian International Council (viewing it as a matter of national security—nothing something which should be supported half-heartedly) and he hoped that this council could be formalized into a federalized structure for the protection of the nations of Indian Territory. He believed that in order to attract the most capable persons for national offices, that salaries should be increased across the board. The national editor needed a higher salary, as did his translator, the Board of Education,

---

<sup>1008</sup> CA, September 28, 1883.

<sup>1009</sup> CA, November 9, 1883.

<sup>1010</sup> “An Act to Amend an Act to Tax Stock Grazing Upon Cherokee Lands West of the 96<sup>th</sup> Meridian,” passed May 19, 1883, in *Laws and Joint Resolutions of the Cherokee Nation: Enacted During the Regular and Special Sessions of the Years 1881-2-3* (E. C. Boudinot Jr.: 1884). 142-146.

<sup>1011</sup> CA, November 9, 1883.



and the High Sheriff. Increasing these salaries, as well as increasing the School Funds, would be a powerful investment in the Cherokee Nation's future. He also believed that a healthy investment in the school's future financing would prevent the Cherokees from suffering the fate of the neighboring U.S. states, where "our white brothers ['resort'] to mob law and violence."<sup>1012</sup>

Fixing the school system also meant making the schools equal and fair institutions—which they were not in 1883. Even the chief could admit it:

"Among the most apparent of such defects ['our present school system']...[is] the almost exclusive adaption of the system to the education of a fortunate minority of our citizens. The system should be improved so as to give a chance to those children who are reared in Cherokee speaking families to be taught the oral use of the English language.

Their scholastic education cannot even *begin* without such acquirement. The unfair result is, that the benefits of our school investments which belong to all, and should be shared equally, are confined almost wholly to the more fortunate and less numerous class of English speaking children. Simple justice and equal dealing seems to require of the Nation, a larger proportionate expenditure of funds upon the plan of learning a language by social intercourse with those who speak it."<sup>1013</sup>

The pretext was impossible for a wealthy Cherokee to miss. Bushyhead had spent the first four years of his time in office building up the country's revenue, encouraging profitable industry on the common domain, and he would continue to do both those things. However, now there was an added policy—one which would directly affect the wealthy ex-Ross Party members and the wealthy Southern Cherokees, and their children in the prestigious seminaries. Everyone talked about equity, but now Bushyhead was offering a hard solution. The money which was funneled into the seminaries had to be shared. Bushyhead had built up profits; now it was time to equalize the benefits among all the country's citizens. The full-blood lawmakers of the Union Party likely heard this bold message and felt taken by it; the Southern Cherokees of the same political party would have felt differently.

There were also other pro-business, pro-profit initiatives which Bushyhead wanted to address. The national income, he explained, could be increased by at \$25,000 a year "by wise laws for the mining of coal and lead, by the manufacture of and export of salt, by the saving of grass which will otherwise be burned, and of timber which will otherwise rot in the woods." There was no use fearing that such natural resources might attract the Cherokee Nation's invasion or colonization:

"If such national wealth could be hidden away from the covetous eyes of the world, we might feel a miser's pleasure in known that the Nation has plenty of wealth which is secure, though it does no good...We have choice of two courses—either to let it remain as it is, within easy reach of our labor and enterprise, unworked and profitless...or to use it while we can, for our benefit in the ways I have suggested, as materials for labor and trade."<sup>1014</sup>

---

<sup>1012</sup> CA, November 9, 1883.

<sup>1013</sup> CA, November 9, 1883.

<sup>1014</sup> CA, November 9, 1883.

This was Bushyhead marrying the pro-profit, pro-development aspect of his platform (which many full-bloods had previously opposed) with the demand for liberal investments in government institutions to make them more equitable (something which many full-bloods could get behind). The open invitation to foreign capital, labor, and markets did not necessarily need to conflict with the government's commitment to imposing social, economic, and racial equality.

Once in session, the National Council passed a flurry of new laws. It was a historically productive session. A new law regulating merchants was passed; a law barring all claimants from building improvements until they were approved was passed. A law authorizing the chief to sue the nation's officers for financial discrepancies was passed, as was a law encouraging mineral exploitation. A law authorizing and regulating the sale of prison labor was passed, as was a law regulating the stewards of the seminaries. A law was passed barring non-citizens from letting their stock graze was passed, as was a law forcing the nation's officers to submit their quarterly and annual financial reports. A law outlining various offices' fee governance structure was passed, as was a law against the discharge of a firearm without cause.<sup>1015</sup> The session was especially productive in terms of increasing the efficiency, transparency, and accountability of government officers. Officers were getting to a better understanding of what the people expected of them.

Dennis Bushyhead would remain a very popular politician, and nothing could change his abilities as a diplomat. 1883, however, was the high point of his career—the end of the “Era of Good Feelings.” The peace which the Union Party generated came at the expense of its own survival—it would not last. The \$300,000 which Bushyhead had secured from Washington and the new Outlet lease were widely celebrated, but soon Cherokees would question the chief's plans for all this money. They asked themselves whether his plans for a bigger government were noble or sinister. Accusations of corruption in the executive office were unknown between 1879 and 1883, but they were about to explode, and the word “corruption” would become one of the most ubiquitous terms of Cherokee political debate. The Phillips scandal changed everything.

### **“The Machinery of Government” (1884-1885)**

The story broke in February of 1884, just months after Bushyhead's landslide victory. There had been much more to the \$300,000 federal disbursement than the United States fulfilling a treaty obligation. The reviled Cherokee-U.S. citizen, Elias Boudinot, gave testimony in Congress to the effect that the delegation to Washington “paid...\$22,500 to William A. Phillips under the pretense that it was to pay Secretary Teller and Senator Dawes for their influence in procuring the appropriation of said \$300,000.”<sup>1016</sup> In short, the Cherokee delegation and its attorney were accused of bribing U.S. senators to get them to follow through on a treaty-obligation, and what is more, both the \$22,500 Cherokee appropriation and the \$300,000 U.S. appropriation went through.

It was a bombshell revelation, and perhaps the main historical event to undo the Union Party. Though the 1885 midterm elections were two years away, this would be the point of focus from this moment onward. For years, Phillips had been an omnipresent figure of Cherokee national diplomacy. He had blocked attempts at federal interference on multiple occasions; he had secured the \$300,000 appropriation (which was money the United States owed for lands already settled),

---

<sup>1015</sup> CA, January 4, 1884.

<sup>1016</sup> CA, February 22, 1884.

and he was the main attorney representing the Cherokee Nation against the North Carolina Cherokees (who were litigating for a right to the national funds). Phillips also fought with the Union-aligned Cherokees during the late war—a fact which did not help him as he ducked Southern Cherokees’ attacks on his character.

The scandal looked bad for the National Party. In May of 1883, Union Party lawmakers had even asked what the \$22,500 item was for, but they had not gotten a straight answer.<sup>1017</sup> Severe questions of accountability were raised. How easy was it to take the people’s money without them knowing it? And if the answer was very easy, then many asked themselves whether perhaps the per capita was the safest place for public funds. Anti-statism would begin its slow rise.

To many it looked as if a corrupt government had embezzled \$22,500 of the people’s money and used it to make a shady deal in Washington. Others decided they could live with such backroom dealing, framing the United States, not the Cherokee government, as the corrupt entity. The issue would split the Union Party into “pro-Bushyhead” and “anti-Bushyhead” contingents, and badly hurt the party’s coherence.

While new courthouses were being erected in all nine of the districts, and while the stockmen suffered the worst loss of cattle since the Civil War, a debate erupted between Cherokees. The question was whether Cherokees could tolerate their delegates making corrupt deals in Washington—even if the bribes were used to enrich the Cherokee public. They were, after all, securing a long over-due federal disbursement which was then immediately released to the people as a per capita. It was not the everyday story of embezzlement. It was about whether efficient corruption was tolerable. Cherokees now spoke of “the machinery of government.”

Soon, the witnesses were called to testify. Elias Boudinot Senior was not a central figure in domestic politics, so those people were now called to Fort Smith, Arkansas for questioning. William P. Boudinot, John L. Adair, Robert Ross, and Richard M. Wolfe were the first to be summoned.<sup>1018</sup> Every week, new pieces of information came out. One Cherokee helpfully retraced the events in the legislature, and how the National Council had approved the money “without asking superfluous question.”<sup>1019</sup> A proponent of the bribe, this same contributor added: “That *something* was due *somebody* there can be no question. The U.S. Government is not in the habit of doing justice to Indians upon the mere asking; and ought to be held a matter for congratulation that the victory did not cost more. That is there is of it.”<sup>1020</sup> Much like Bushyhead’s response to the bread money debate of 1882, this Cherokee was saying that the U.S. could not be trusted to meet its obligations. Sometimes “*somebody*” had to get “*something*” for justice to be done.

The testimony of the nation’s leading politicians caused another bombshell. Under oath, John Adair testified that a warrant was drawn for \$22,500 date the 1<sup>st</sup> of June, that it was cashed by a draft of the Assistant Treasurer of the Nation, in favor of Dennis Bushyhead.<sup>1021</sup> The principal chief—who could not testify because he was in Washington—was directly implicated. The people’s most popular principal chief since the war had very possibly arranged a bribe.

---

<sup>1017</sup> CA, May 25, 1884; February 8, 1884.

<sup>1018</sup> CA, March 28, 1884.

<sup>1019</sup> CA, February 8, 1884.

<sup>1020</sup> CA, February 8, 1884.

<sup>1021</sup> CA, April 4, 1884.

The delegation to Washington also testified. Richard Wolfe was grilled about the \$22,500 before he was asked for whom the money was intended. Wolfe, without a doubt, knew the answer, but he refused to give it to U.S. law enforcement. The Cherokee Nation had the right “to expend its money as its own discretion,” so he declined to answer the question, and refused “to concede the right of anybody to interfere with the Nation’s prerogatives.” Robert Ross took the exact same position, and William Penn Boudinot couldn’t give a clear answer either. They did testify that the money was used in Washington, not Indian Territory, a detail which could not have been appreciated by officials in Washington.<sup>1022</sup> The Cherokee witnesses were trying to make the United States look just as corrupt as them—if not more so.

Daniel Ross as national editor was firmly on Bushyhead’s side regardless of being a two-time “Union” appointee, but he could not stop the district contributors from sharing their disgust. “TZP,” a contributor from Flint, could not believe that his fellow Cherokees were defending this:

“Everything connected with the transaction appeared to be shrouded in secrecy—no name was mentioned; no fact was specified; no evidence was tendered to the public, to show that it was but the cancelation of a just obligation. The people were then justly alarmed at this plan deviation from the established principles of our government...the stability of our government depends in a great measure upon the rendering of a full, exact and open account of all the receipts and expenditures of our government; to do otherwise is to invite financial ruin...the good man of today may become the bad tomorrow.”<sup>1023</sup>

They had a point. Even if the Cherokee Nation was wronged by the United States’ delay on the payment, the Phillips scandal was anti-democratic, secretive, and corrupt. The Cherokee Nation was a democratic Indigenous republic, and for the Cherokee National Treasury, \$22,500 was not a small amount of money to make disappear. Ignoring that could, in the long-run, “invite financial ruin.” Bushyhead did it to get the people a per capita; the next chief might not be so honest.

“Voter” of Tahlequah was equally incredulous after reading this contribution. He did not feel the necessity of financial transparency “applies in this instance.” Here was “an equitable claim passed by Congress, of \$300,000—every bit a clear gain to the Cherokees... That so great a victory must have cost something no one could doubt...and if the parties who wished to the service, wished to remain ‘incognito,’ the risk would be theirs, and the Nations.”<sup>1024</sup> The National Council, for its part, could have always refused to make the payment—“Voter” argued—but this would have been political suicide. They accepted “so great a victory” “upon the terms proposed,” including seven and a half percent of the whole amount “to *unknown* parties.”<sup>1025</sup> The people, and especially not the lawmakers who had approved the appropriation, could not complain after the fact.

The debate between “Voter” and “TZP” continued through the start of the summer. The former contributor framed the question of whether the Cherokee Nation could choose to operate in secrecy. He argued “To inquire whether the money was justly due is very different from inquiring to whom it was due.”<sup>1026</sup> In other words, Bushyhead and the delegation had not violated

---

<sup>1022</sup> CA, April 4, 1884.

<sup>1023</sup> CA, April 18, 1884.

<sup>1024</sup> CA, April 25, 1884.

<sup>1025</sup> CA, April 25, 1884.

<sup>1026</sup> CA, May 23, 1884.

anyone's trust—they had been honest about their secrecy. “TZP” felt otherwise—that not “even the Council [had] the right to conceal from the people, under the flimsy pretext of ‘not expedient’ any financial transaction whatsoever.”<sup>1027</sup>

But while these two argued, the rest of the country put the controversy on ice. The next midterm elections were almost two years away. It was too early to drum up opposition to the government, and it behooved both parties to lay the question to rest while the United States investigated. By 1885, the “anti-Bushyhead” forces would raise the issue again, and their criticism would be fierce. Until then, however, everyone stood to gain from a tense peace.

Then, suddenly, it was November, and time for another legislative session. Bushyhead delivered his sixth annual message—the second of his term. It was remarkably short—which was uncharacteristic. He urged for the schools to include vocational training (they currently taught “the use of the brain, but not the use of the hands”) and that the girls ought to be taught “designing, cutting, fitting, dress-making, the basics of cooking, and general housekeeping.”<sup>1028</sup> He advocated for the approval of a congressional court bill which Cherokees found friendly to their interests, asked for a law to protect against monopoly, celebrated the recent removal of boomers by the federal government, suggested changes to the stock law, and asked for a gun confiscation law.<sup>1029</sup> He had no other suggestions. Toward the end of the session, William A. Phillips visited the nation and addressed the Senate chamber. Speaking as the country's top attorney in Washington, he offered a glowing report: “The Nation is today in better shape and stronger than ever before.”<sup>1030</sup>

The legislative session was uneventful, except for a controversial new school law. An Act Relating to the Male and Female Seminaries, passed November 21, 1884, set quotas for the nation's impoverished children. All they had to do was approach their district clerk and submit a sworn statement that they were unable to pay the school board and that there were no public schools in their neighborhood.<sup>1031</sup> The distribution for the quota was based on population size, so Cooweescoowee and Delaware got 16 and 15 spots respectively, while Flint and Saline got 8 and 7 spots respectively. 50 spots in the male seminary and 50 spots in the female seminary were reserved for impoverished children.<sup>1032</sup>

Many Cherokees—though probably not the beneficiaries—were uncomfortable with this kind of class-based legislation. One offered that it was indecent to ask the poor to swear to their poverty.<sup>1033</sup> Another contributor complained that the system would the law “will throw out of school 50 girls and 50 boys who have been at the seminaries but a short time, and who have but recently been outfitted with new clothing.”<sup>1034</sup> The law's intention, wrote another, was “to confine the benefits of the primary departments to the poorest class of the people. This is very good as far as that class is concerned, but to exclude those who are squeezing along between the ragged edges

---

<sup>1027</sup> CA, May 9, 1884.

<sup>1028</sup> CA, November 7, 1884.

<sup>1029</sup> CA, November 7, 1884.

<sup>1030</sup> CA, November 21, 1884.

<sup>1031</sup> CA, January 23, 1885.

<sup>1032</sup> CA, January 23, 1885.

<sup>1033</sup> CA, January 9, 1885.

<sup>1034</sup> CA, December 19, 1884.

of actual want and a pinching competency is not so well...it is a big to become poorer.”<sup>1035</sup> The law stayed on the book, but the pushback was telling. Liberalizing the national economy, embracing communal capitalism—that had been one thing. Using the government’s money to “equalize the profits”—doing things like saving seats for impoverished children which middle and upper-class children could not have—that was, for many, a bridge too far.

The Phillips scandal returned to the center of national attention in 1885. This was right on time for the midterm elections, and the federal government’s continued investigations kept the issue alive. Delegate Richard Wolfe was subpoenaed to testify before a congressional subcommittee in January of 1885. At first, he refused but he later acquiesced.<sup>1036</sup>

His testimony was remarkable. Members of Congress demanded the Cherokee delegate give answers, and Wolfe flat-out refused. They repeatedly asked him what the \$22,500 had been appropriated for, and Wolfe repeatedly refused to answer. The congressmen also knew that they could hold the Cherokee delegation in contempt for refusing to cooperate, but only if they get the delegation to admit that they entered a contract with a U.S. citizen. But the Cherokee delegation had good attorneys and were fully prepared for this.

Q: I desire to ask you next, was not that \$22,500 appropriated to meet contracts of the delegation in regard to that money. Is not that true?

Mr. Wells [attorney] to witness: You need not answer.

The Witness: I have already declined to answer.

Q: You decline to say whether it is so or not?

A: Yes.

Q: Is it not true that the \$22,500 was drawn by Chief Bushyhead upon a warrant under that act?

Mr. Wells: Do not answer.

The Witness: I decline to answer any question of that character.

Q: Was not that \$22,500 paid over to you and your colleague, Mr. Ross, by Chief Bushyhead in Washington City?

A: I cannot answer any further questions.

The Chairman: You can decline to answer anything if you desire to, but still I am going to put my interrogatories.

Q: You have answered that you were present at Tahlequah when this appropriation was made there. Was William Phillips there?

---

<sup>1035</sup> CA, January 9, 1885.

<sup>1036</sup> *Whig and Courier* (Bangor), January 12, 1885.

A: I cannot answer further.

Q: Was not Mr. Phillips present and did he not take the floor and state to the Council that it was necessary to appropriate this \$22,500 in order to meet the obligations of [the] Delegation in procuring the \$300,000 appropriation?

(The witness remained silent)

Q: Do you decline to answer?

A: I cannot answer any further.

As the questioning continued, Wolfe became increasingly agitated. So did the congressmen:

Q: Was not William A. Phillips at the time this appropriation was made by the 47<sup>th</sup> Congress the Attorney of the Cherokee people, your tribe?

A: Go ahead with your questions.

Q: You decline to answer all of them.

Over and over Wolfe refused to answer any questions until finally he was allowed to read the written statement. The statement read:

“...I am advised and believe that neither this honorable Committee nor the House of Representatives has any jurisdiction, power of authority to inquire into the matter of the said disposition of that money. I am further directed by my people, the Cherokee Nation, whose Delegate and Attorney I am, and the law under which I am appointed that I am not to submit any such matter to the jurisdiction, trial or inquiry of this honorable Committee, or any other, excepting only the proper tribunals of the Cherokee Nation, which alone has power and jurisdiction to inquire in respect to such matter.”<sup>1037</sup>

It was a powerful thing for an Indian nation to do at the close of the 19<sup>th</sup> century. Risking a charge of contempt—which would be brought to court—Delegate Wolfe was telling the legislature of an emerging superpower that the Cherokee Nation was under no obligation to answer their questions, that the dealings of an autonomous Indian nation were out of their jurisdiction, and that “only the proper tribunals of the Cherokee Nation” could ask him the questions the congressmen now asked.<sup>1038</sup> Ultimately, Wolfe prevailed—a U.S. judge found he could not be held in contempt as a citizen of a foreign nation.<sup>1039</sup> U.S. lawmakers now felt something they rarely did in this postwar era: powerlessness against Indigenous sovereignty, personified in Wolfe’s refusal to recognize their jurisdiction.

However, there was a cost to everything. Every step of the way the Bushyhead administration was implicated in the Phillips scandal, and the United States would not let Cherokee voters forget it. An ugly rivalry developed between the soon-to-be Downing affiliated *Chieftain* of

---

<sup>1037</sup> CA, April 10, 1885.

<sup>1038</sup> CA, March 20, 1885.

<sup>1039</sup> CA, March 27, 1885.

Vinita and the state-owned *Cherokee Advocate* of Tahlequah—a rivalry which tested the latter’s ability to remain politically impartial. With some justification, a wave of conspiracy theory politics gripped the Cherokee Nation, which in turn upended the decade’s political stability. An institutional coup would be launched in the winter of 1887, and it all began with the Phillips scandal. It was a permanent mark on the otherwise glowing record of the National Party.

By April, the rivalry between *The Chieftain* and *The Cherokee Advocate* was in full swing. In response to *The Chieftain*’s criticisms of the Washington delegation, *The Advocate* responded: “The Chieftain [is] standing in with the conspirators who prompted the investigations...and now because they did fail the Chieftain is disappointed and angered and vents its spite by spitting out insinuations that are unworthy of even that unpatriotic sheet.”<sup>1040</sup> In the eyes of Daniel H. Ross—now a Union Party member but soon to be a National—*The Chieftain* was disloyal and unpatriotic, while Delegate Wolfe had “made a manly fight and won.” *The Chieftain* had done all it could “to put the Cherokee Nation on trial in the Committee of Congress,” but fortunately, had failed.<sup>1041</sup>

*The Chieftain* was adamant that the people were with them. “Our issue of four weeks ago was on March 19, and beginning with that day we have *sixty four* new subscribers...If this may not be reasonably considered a flattering indorsements we do not know what to call it.”<sup>1042</sup> Then, the editor, S.J. Thompson, addressed the questions of his loyalty. “I am charged with a want of patriotism,” he wrote, “...the only evidence of the truth of the assertion is that dishonesty should be no longer tolerated by a people who call themselves free.” Thompson felt that his job was to expose lies and criticize—he was still a proud citizen. “To say that a people are capable and have a right to self-government, who willingly suffer themselves robbed by the duplicity of an agent [William Phillips], is a sad comment upon their common sense of manhood.”<sup>1043</sup>

Daniel Ross was rallying the people to trust their public officials—perhaps even blindly. “Unlike the Chieftain, the Advocate prefers to believe all our officials honest—probably incompetent in some instances, but honest—having the best interests of the Nation at heart.”<sup>1044</sup> *The Chieftain* found this absurd and undemocratic: “the Advocate is only at its old tricks—trying to protect its brood...Don’t the officials themselves—many of whom are pure gold, no doubt—know that some were dishonest—rotten to the core—and yet this advocate weeps crocodile tears over their putrid carcasses.”<sup>1045</sup> Regardless of who may have been closer to the truth, the situation looked bad. The newspaper of the state urged the people to trust in public officials; the only private newspaper of the country asked the citizens to watch out for leaders “rotten to the core.”

The feud between the papers would last all year, and it was increasingly personal. “By the way, Mr. Ross,” *The Chieftain* asked, “in what corn field did you learn the newspaper business?”<sup>1046</sup> *The Advocate* responded: “The people know now that the Chieftain [has] no other motive in view in talking about the \$22,500, etc. etc. than to break down our nationality and bring

---

<sup>1040</sup> CA, April 10, 1885

<sup>1041</sup> CA, April 24, 1885.

<sup>1042</sup> *Chieftain* (Vinita), April 16, 1885.

<sup>1043</sup> *Chieftain* (Vinita), April 16, 1885.

<sup>1044</sup> CA, April 24, 1885.

<sup>1045</sup> *Chieftain* (Vinita), April 30, 1885.

<sup>1046</sup> *Chieftain* (Vinita), April 23, 1885.



ruin on the country.”<sup>1047</sup> *The Advocate* also demanded respect as “the ‘old and reliable’ [paper], as the reading public loves to describe us.”<sup>1048</sup> They mocked each other’s spelling.<sup>1049</sup> In one issue, the state-owned *Advocate* replied: “Were it possible for us to do so, we should say, that if an opponent of opinion is, in the Chieftain’s view, ‘the *biggest* ass of the Territory,’ the Chieftain himself is the *least* the lousiest and the nastiest.”<sup>1050</sup> It political, it was petty, and it went on like this for months.

The ugliness of the feud was also undermining a historic public institution: *The Cherokee Advocate*. The newspaper was required by law to be impartial. It predated Indian Removal. It had mostly functioned well as an impartial newspaper, with occasional exceptions, and yet Daniel Ross was throwing himself into political controversy. *The Chieftain* had a point—for instance—when it reprinted a particularly critical and personal attack in *The Advocate* and added: “That his employers, the people of the Cherokee Nation, may know just what their hired man is doing, we reproduce his last week’s leader, *verbatim et literatim*.”<sup>1051</sup> It may seem unfair, but Ross could not involve himself in a political feud. It was against the law, and in this the national editor failed to keep control. The people would increasingly and justifiably accuse *The Advocate* of partisanship.

They were also losing faith in their public officials. Conspiracy theory politics could certainly win elections—it would in 1885 and 1887—but it also affected the people’s trust in any officeholder. One Vinita contributor admitted he was glad to be back home “before the loud-mouthed politicians congregate on the corners, in the shade, and discuss their prospects with more energy than an average cyclone. They are a restless uneasy set, always in motion... They are like a Joint Snake even; though politically decapitated; as soon as the sun goes down they pick themselves up and are all ready again, livelier than ever for the next political hoo-doo.”<sup>1052</sup> They made their living off of office-holding and were rewarded for their scheming and failures. Cherokees were talking like this—even though the political scene had changed very since the Phillips scandal. The public trust had been violated.

Cherokees also did not trust the United States’ handling of their money. When a group of senators visited Tahlequah in May of 1885, *The Chieftain* asked whether they would confess to taking the \$22,500 bribe.<sup>1053</sup> Another Vinita contributor suggested: “Sell the Outlet for spot cash and divide the cash among the people. We don’t want Uncle Sam for our Banker any longer... When [he] gets his clutches on our money he requires too many ‘whys and wherefore’ before he lets us have it back.”<sup>1054</sup> It was an argument in favor of per capita, and reflective of the anti-statist feeling rising in Cherokee politics. Neither the United States nor the Cherokee government could be trusted with the people’s money—per capita were the only solution.

By the summer of 1885, the midterm elections were in full swing. “The political parties of the Cherokee Nation seem to be undergoing reorganization,” wrote a contributor from Grand River,

---

<sup>1047</sup> CA, May 1, 1885.

<sup>1048</sup> CA, May 1, 1885.

<sup>1049</sup> CA, May 1, 1885.

<sup>1050</sup> CA, May 22, 1885.

<sup>1051</sup> *Chieftain* (Vinita), April 23, 1885.

<sup>1052</sup> CA, July 17, 1885.

<sup>1053</sup> CA, May 29, 1885.

<sup>1054</sup> CA, April 10, 1885.

Delaware District.<sup>1055</sup> The “Downing Party”—which had not put up a nomination in its own name since 1879—nominated Allen Ross for Tahlequah District clerk, but he would decline the nomination.<sup>1056</sup> He seemed to decline because he was already on another nomination ticket—that of the Tahlequah Union Party.<sup>1057</sup> In addition to the “Independents,” a brand new “Citizens Party” was formed. Their platform demanded “reform in the administration of our laws and in the expenditure of our public funds.” They were “not in favor of continuing the services of Wm. A Phillips” and were opposed to “appropriating sums of for unknown purposes and unknown persons.”<sup>1058</sup> In other words, the new “Citizens Party” owed its entire existence to the Phillips scandal and sold itself as the party of financial transparency.

This kind of political reorganization had happened before, in the summer of 1879. Cherokees, it must be understood, almost always had a two-party system, so when new parties popped up left and right it was an existential threat to the existing two. In the Thompson years, the National Party had swung into power and forced both the Ross and Downing Parties to regroup into the Union Party. Between 1885 and 1887, the rise of a new Downing Party would mean the end of this short-lived Union Party. The Nationals would struggle greatly with this new party.

Tahlequah’s senatorial debate at the end of July highlighted how change was on the horizon. In a three-way debate between Samuel Houston Benge (for the Nationals), Ned Grease (for the Union), and John Lynch Adair (for the Citizens), Benge had defected from the Union Party and was part of a general shift of the Middle Districts toward the Nationals. The focus of debate, unsurprisingly, was William A. Phillips—the number one subject of the midterms. The Union Party full-blood candidate—Ned Grease—said the least and did not even bother joining the Phillips debate—a smart move for a candidate from a dying party. Ex-Confederate Adair tore into the subject of Phillips and suggested he be let go. Benge defended Phillips only because he found Phillips to be extremely capable—Phillips had on numerous occasions done fantastic work for the Cherokees. Benge also took the stand of Daniel H. Ross and other future members of the National Party—\$22,500 was a small sum in relation to the chunk of money the Cherokee were given (and which they had been owed). If anybody was to blame, he added, it was the National Council for approving the measure.<sup>1059</sup> Ned Grease of the Union Party would go on to win the race.<sup>1060</sup>

The midterm results were a sharp rebuke of the Phillips Scandal. “From one end to the other,” *The Chieftain* wrote, “these returns all tell the same story—PHILLIPS MUST GO. All save perhaps one of these senators are opposed to this man’s robbing and thieving schemes.”<sup>1061</sup> A few weeks later *The Fayetteville Sentinel* of Arkansas also celebrated the results: “The Phillips and Bushyhead parry were badly beaten, the senate standing thirteen to five against them... Much credit is due *The Indian Chieftain* for its persistent fight on the rotten ring.”<sup>1062</sup> Even the foreign papers

---

<sup>1055</sup> CA, July 17, 1885.

<sup>1056</sup> CA, June 26, 1885.

<sup>1057</sup> CA, July 3, 1885.

<sup>1058</sup> CA, July 17, 1885.

<sup>1059</sup> CA, July 31, 1885.

<sup>1060</sup> “Ned” or Edward’s last name was spelled in multiple different ways that election (“Greece,” “Grease,” etc.).

<sup>1061</sup> *Chieftain* (Vinita), August 6, 1885.

<sup>1062</sup> *Chieftain* (Vinita), August 27, 1885.

seemed to understand that *The Advocate* had become Bushyhead's paper: "The Advocate man whines and mourns, but he, with the balance of the thieving ring will have to go."<sup>1063</sup>

The new Cherokee Senate was very bad news for Bushyhead, but the Council branch was still with him. In the branch there was either a National Party majority or a mixed majority of Nationals and Union Party members friendly to him. Elias C. Boudinot Jr., another future National Party member, was appointed national editor by a joint ballot. Not even trying to hide the partisan nature of the appointment, Daniel Ross wrote: "[Boudinot] has been elected from the ranks to which we belong and will work in the same channel in which we have worked. His election, therefore, is a vindication of our conduct of the Advocate."<sup>1064</sup> Boudinot, whose grandfather had been assassinated by members of the Ross Party, had landed in the same political ranks as the Rosses—as had his father William Penn. The *Advocate-Chieftain* feud continued without skipping a beat, as did *The Advocate's* staunch—perhaps inappropriate—defense of the principal chief.<sup>1065</sup>

The new National Council—dominated by what this project calls Liberals—immediately reduced the permit fee to fifty cents.<sup>1066</sup> For Bushyhead this was not controversial, and he signed the bill into law. The law would, of course, double down on foreign labor, large-scale farms, and white immigration, but the body politic still found the profits to be worth the costs. Bushyhead and his critics never disagreed on embracing communal capitalism.

They strongly disagreed on two other issues. One, the anti-Bushyhead members of the Senate were adamant that they would not allow a repeat of the Phillips scandal. To ensure that, they wanted more control over who was nominated. Two, Bushyhead and his rivals disagreed over blood bills. Now that the Outlet lease had generated its first \$300,000, it was time to arrange another per capita—the National Council had not listened to Bushyhead's suggestion to keep the money in the treasury. During the 1885 session, these two issues would provoke a minor crisis.

It started when the National Council passed a new blood-bill for the next per capita. Bushyhead vetoed it as he had in 1883.<sup>1067</sup> The difference now, in 1886, however, was that "though the majority of the Senate was largely in favor of discrimination, the requisite two third vote could not be obtained, the veto carried."<sup>1068</sup> In his veto message, Bushyhead adopted the same position as three years previously, though he perhaps did so with less diplomacy: "To whom does this money belong to as it stands before a division?" he asked rhetorically, "To the Cherokee Nation. Who composes the Cherokee Nation? The citizens of the Nation."<sup>1069</sup> Viewing blood bills as a violation of the constitution, he was not willing to budge from his principles.

Elias Boudinot Jr., who supported the principal chief on everything but his opposition to blood bills, suggested that perhaps the Supreme Court could take up the matter, but this did not make a lot of sense.<sup>1070</sup> No bill had passed; Bushyhead had simply blocked what he viewed as an

---

<sup>1063</sup> *Chieftain* (Vinita), August 27, 1885.

<sup>1064</sup> CA, November 13, 1885.

<sup>1065</sup> CA, November 20, 1885.

<sup>1066</sup> CA, January 8, 1886.

<sup>1067</sup> CA, December 4, 1885.

<sup>1068</sup> CA, December 11, 1885.

<sup>1069</sup> CA, December 11, 1885.

<sup>1070</sup> CA, December 11, 1885.

unconstitutional bill. Ideally, the struggle could have ended there. Cherokee lawmakers could have admitted that while they wanted a discriminatory per capita—a blood bill—they could not get a per capita without the chief’s signature. Instead of delaying the people’s per capita, the lawmakers could have agreed to include all the country’s citizens in the disbursement.

But the hostile Senate chose to use a more heavy-handed approach. They could (and did) stall for time. If the National Council refused to pass any per capita bill, they could try to pin the delay on the principal chief and his support for adopted, second-class citizens. Politically, their job was easier in this sense—Bushyhead was literally offering “Native Cherokees” less money than the Senate was (since they wanted to include fewer people), and the per capita bill would not be approved until the summer of 1886. Between December and April, the people would grow increasingly frustrated with Bushyhead’s veto. It also did not help his efforts to win over the Middle Districts, which in the past had supported blood bills consistently.

The Senate could also (and did also) hold other pieces of legislation hostage. The most extreme version of this was the delegation bill, which the Senate refused to pass because they wanted to control who was sent to Washington. The Chief put up P.N. Blackstone for the delegation; the Senate rejected him on spurious grounds. The Chief put up Samuel Smith—a full-blood Cherokee—“of the party opposed to the Chief” but he would be Bushyhead’s running-mate in 1891—he was also rejected. Adam Feeling, another full-blood Cherokee, was rejected. As was Adam Lacie, George Downing, Adam Spears, and George Sanders. “By this time the fact began to appear beyond doubt that the Senate was determined to reject all nominations until someone should be nominated whom itself had selected. This was made clear by this remarkable fact to wit: that the Senate appointed a special committee to wait on the Chief and notify him what man would be acceptable.”<sup>1071</sup>

The Nationals of the country found this outrageous. Elias C. Boudinot Jr. wrote: “The Constitution, as construed by the practice of the U.S. Senate does not allow this. Such a practice would vest the right of preference in the Senate instead of the Chief, and the Constitution places it in the Chief.”<sup>1072</sup> What is more: this kind of high-risk strategy was a danger to Cherokee national security. They would not appoint a delegation to Washington *at all* during the legislative session.<sup>1073</sup> Less than eight years before the creation of the Dawes Commission, the upper chamber of the Cherokee legislature was risking the country’s safety for partisan ends.

Bushyhead, for his part, may have still figured out a way to score some points himself. The list of names he suggested for the delegation were overwhelmingly Cherokee-speaking full-blood politicians. Many were friendly to Bushyhead, holdovers from the “Era of Good Feelings,” and future members of the National Party. The Senate wanted to prove a point and assert power over Bushyhead, but Bushyhead in turn would force them to reject a long list of the country’s prominent full-blood leaders in the process. Without any evidence, however, one can only wonder if these rejections carried long-term significance for the slighted nominees.

The new Cherokee Senate also investigated the Phillips scandal and issued a report the Bushyhead administration’s conduct. The report—trying to raise the stakes—claimed that the

---

<sup>1071</sup> CA, December 18, 1885.

<sup>1072</sup> CA, December 25, 1885.

<sup>1073</sup> CA, December 25, 1885.

Bushyhead administration had sold the entire Outlet for \$300,000, not just the occupied lands. This was a total fabrication, but as far as political myths went, it would have some staying power (the Downing Party would still be talking about it during the general election of 1887). The national editor—again violating his oath against partisanship—blasted the majority report: “the report of the majority of the Senate winds up on this point with nothing stronger than an inference which is not sustained by a word in the treaty or the law.” Later he added about another issue: “It is to be regretted that the committee was not frank enough to state that fact.” The minority report, on the other hand, “was a masterly report and fairly stated the rights of the Cherokee Nation.”<sup>1074</sup>

The “Era of Good Feelings” was well and truly dead by 1885. Right or wrong in his views, the national editor was openly partisan in almost every issue. The anti-Bushyhead Senate was risking the country’s safety in Washington to assert their power at home. A per capita bill worth \$300,000 was stuck in the National Council, and the people—of all colors—demanded their money. The people demanded their money, in part, because they had lost faith in both the United States and the Cherokee Nation to handle it honestly. In such unstable times, only agents of chaos could profit. In this case, such agents were the members of the new, ascendant Downing Party.

### **A New Downing Party (1885-1887)**

Cherokees entered the new year in a precarious position. Many voters could not understand how the National Council could put partisan politics above national security. Charles O. Frye of Delaware District was not one “to argue the cause of Mr. Phillips.”<sup>1075</sup> was deeply concerned about the delegation question nonetheless:

“Having just read the Washington correspondence to the *Globe Democrat* under date of Feb. 23<sup>rd</sup>, I see the House Committee on Indian Affairs has decided to report favorably on the House on all bills granting right of way through the Indian Territory. Here we are left with the ‘bag to hold,’ and no delegation, not even an Agent to represent our interest before the General Government, yet I have heard it said ‘that we need no Delegation, that there is nothing coming up before this session of Congress that will materially injure us...

Should any bill pass this session of Congress effecting our Nationality, who will be to blame? This question is a very plain question for one answer, the Senate of 1885. The Chief saw the need of a Delegation, and after the passage of the bill authorizing the appointment of a Delegation, recommended several good and intelligent men to go as Delegates, yet they were rejected by their own political friends.”<sup>1076</sup>

Cherokees like Frye were invested in national politics—they cared deeply for their parties and for the results of an election—but many voters feared it was dangerous to invite hyper partisanship into foreign policy. Frye did not care for William Phillips, but he figured the Cherokees needed someone like him—someone with power: “We all know that our Delegates are not permitted to enter either house of Congress they having never been members of either body...it is [thus] very essential that the Cherokee Nation have an Attorney who will be allowed the privileges.”<sup>1077</sup>

---

<sup>1074</sup> CA, December 18, 1885.

<sup>1075</sup> CA, January 15, 1886.

<sup>1076</sup> CA, March 12, 1886.

<sup>1077</sup> CA, January 15, 1886.

Throughout the century, the Cherokee and the rest of the Five Nations had used their capable delegations and their friends in high places to protect their national sovereignty; it was worrying that they did not have it at the start of 1886.

After the lawmakers went home for the year, there was no solution in sight. Bushyhead had no immediate plans to call an emergency session.<sup>1078</sup> It was unclear that doing so would affect the Senate's stonewalling. Instead, foreign diplomacy turned into "every man for themselves." Bushyhead and one his main rivals, Lucien Bell, traveled to Washington on their own account and without any official instructions. Bell went in February; Bushyhead went in March.<sup>1079</sup> Political theater was as much the goal as protecting the nation from harm. Bell returned after a rapid visit to Washington and shared "that there [was] no imminent danger to the Nation from Territorial Bills, etc."<sup>1080</sup> Responding optimistically, the national editor asked: "Wouldn't it be funny if our people were to find out that a delegation isn't always an absolute necessity?"<sup>1081</sup>

Bushyhead knew better and secured a resolution from the National Council to make a flying visit to Washington.<sup>1082</sup> Delegations were meant to stay in Washington much longer than Bell had, and Bell was remarkably incapable as a diplomat.<sup>1083</sup> Another irony of the Senate's obstruction was that William Phillips was sent to discuss matters with the Committee of Indian Affairs. This could not have been the goal of the anti-Bushyhead senators, and it likely did not help the Cherokee's standing to have a controversial figure at the forefront of their diplomacy. For all of March, then, Bushyhead left the government in Rabbit Bunch's hands while he took an extended trip to Washington, by way of Vinita and St. Louis.<sup>1084</sup>

Bushyhead did seem to make the most of it. The Cherokee Nation had a function which in this instance could score the principal chief some political points: their delegations were required by law to provide frequent updates on their work. The reports were then published in *The Cherokee Advocate* as a matter of public interest and accountability. Though it was not required of him—he was not part of an official delegation—Bushyhead submitted a Washington Letter anyway. It likely did do some damage to the Senate's reputation; he hoped to make it clear that threatening the nation's delegation was a step too far:

"Since my arrival here I find that a great many bills have been introduced to Congress, and some of them partially considered or acted on, which propose to affect the right and interests of the different Nations of the Indian Territory. These have been urged with great vehemence by certain interests represented in the lobby and in the Departments. I have reason to believe that largely at the instance of railroad men and land speculators, who are exceedingly anxious to change the condition of things in the Indian Territory.

---

<sup>1078</sup> CA, January 22, 1886.

<sup>1079</sup> CA, February 12, 1886; February 19, 1886; March 5, 1886; March 19, 1886.

<sup>1080</sup> CA, February 19, 1886.

<sup>1081</sup> CA, February 19, 1886.

<sup>1082</sup> Bushyhead to Senate and Council, April 14, 1886, Dennis Wolfe Bushyhead Collection, Box 2, Folder 40, Western History Collection, Oklahoma University, Norman, OK.

<sup>1083</sup> Hagan, *Taking Indian Lands*, 87-95. Bell's outbursts during high-stakes negotiations were numerous, and his unbridled racism against Black Cherokees (who he referred to by another word) put off many federal officials.

<sup>1084</sup> CA, March 5, 1886.

...Many do not know, or seem to ignore, the fact that the Cherokee Nation does not own her lands by Indian Occupancy title, but by a fee simple title from the United States and are thus not subject to disposition in any manner by Congress. The point has been forcibly called to their attention, and I am glad to say that in one of the few bills acted on it was recognized. This was a bill of Senator Dawes...which has after amendment passed the Senate. It took the place of all the other bills on the subject. Our friends found it impossible to exclude the whole Indian Territory from the operation of the bill.”<sup>1085</sup>

Bushyhead was referring to the early drafts of the Dawes Act, which would be passed by Congress in one year. The National Council had chosen a wild moment to pause their delegations. Previous versions of the Dawes Act had protected all of the Indian Territory from general allotment, but the Cherokees’ “friends found it impossible” to keep those provisions. In addition to the Dawes Act, there were “many dangerous bills of a judicial character which have been introduced and pending.”<sup>1086</sup> The principal chief was telling readers of the “national organ” that the country was endangered without a delegation; every week the national editor—who was a bit too friendly with the administration—helped to drive this point home.

In the meantime, Cherokees also grew increasingly frustrated over the delayed per capita. Blood bills were popular—they would remain so into the 1890s—and Bushyhead had adopted a morally superior but politically disadvantaged position. The country was not with him. The national editor even insinuated that the National Council could go behind Bushyhead’s back:

“Much talk there is about the three hundred thousand dollars that will soon be lying in our Treasury drawing not interest, not insured, and doing no more good than that much paper. This money belongs to the Cherokee people and if the matter is left to them, Nine-tenths will vote to have it distributed per capita. A law has already been passed (1884) making provision for the per capita distribution of it [according to ‘blood’] and the only additional legislation necessary is to provide for the taking of a census of those who under the said law are entitled to it.”<sup>1087</sup>

The unrealistic hope was that the country could force the per capita through according to the law passed in 1883—but it was a bit of a stretch. Those who understood that the per capita bill wasn’t going anywhere without the chief’s approval—that neither an old law or the Cherokee Supreme Court could intervene—were angrier in their approach. Charles O. Frye of Delaware wrote:

“What about the per capita? This question is asked on every corner. The people should have the money paid to them, for many of them have been looking for that day to come...They should give it to the Cherokees by blood. It is wonderful what influence a few voters have over their members, which will be seen simply by referring to the District where the colored voters live. And the District where there were no colored or adopted voters, the members all voted for the money to be paid to the ‘blood’ where it rightly and justly belongs.”<sup>1088</sup>

---

<sup>1085</sup> CA, April 2, 1886.

<sup>1086</sup> CA, April 2, 1886.

<sup>1087</sup> CA, February 19, 1886.

<sup>1088</sup> CA, February 19, 1886.

Like Frye, many Cherokees successfully framed this as an issue of “Native Cherokees” versus their adopted citizens who wanted to take too much. The “influence” which Black Cherokees had in Illinois District, for instance, was seen as intolerable, and could not seriously be considered when it came to the people’s money. By mid-March, the pro-Bushyhead national editor had run out of patience: “The people need the money. It is theirs, and there is no good reason for withholding it. The question as to who is entitled to draw, having become a grave on, there is but one way to settle it and that is to divide the money as the majority wish and if any are not satisfied, let them seek the remedy by due course of law.”<sup>1089</sup> It was another non-solution: Bushyhead had been elected by an overwhelming majority of voters (he had the veto power); the National Council had a majority in favor of blood bills. The country was stuck.

Adopted citizens, for their part, also kept up the pressure. Black Cherokees demanded their rights. One Lawrence T. Ross of Tahlequah District was especially strong-worded:

“The Negro now more than anybody else is made a subject of all kinds of criticism...He is considered hardly a human being...When appalling disasters befalls this Nation do we not mourn with those that mourn? Who are the Nation’s true friends? They are the negroes who were made citizens by the treaty of 1866. Who are the best law abiding citizens of this Nation? They are the colored ones. If there is one negro in this nation in favor of opening the country for white settlers the fact is unknown to the majority...I tremble for my country [the Cherokee Nation] when I remember that God is just and his vengeance cannot sleep forever.”<sup>1090</sup>

It was one of the more defiant letters we have of Black Cherokees. Ross insisted that Black Cherokees were loyal, law-abiding citizens. They were not, he insisted, supporters of denationalization or opening the country to whites in any way—and we can imagine that Black Cherokees had their own reasons for not wanting the country opened up to whites. The final statement was particularly powerful. Ross believed God punished sinful nations; an Indian nation like the Cherokee’s was no exception.

The national editor was openly dismissive of these points: “The above has been contributed by one of our colored citizens. In some statements our readers will think he exaggerations. How did he become a citizen at all, with “all the rights of Native Cherokees?”<sup>1091</sup> Unfortunately, this kind of dismissiveness of Black Cherokees was common (evidenced most of all, perhaps, by the popularity of the blood bills). When Cherokees refused to hear their Black citizens’ complaints, these same citizens took their complaints to the United States. While the Cherokee still lacked a formal delegation, Henry Dawes was pushing a bill to remove \$75,000 from the Cherokee’s trust funds to pay a per capita to Black Cherokees.<sup>1092</sup> Dawes’ move was anti-racist and imperialistic all at once, and it highlighted the risks Cherokees faced in discriminating against their own people.

But despite the lack of a delegation and general feelings of insecurity, the Cherokee Nation then won a landmark legal victory in *Eastern Band of the Cherokee Indians vs. The United States* (a topic previously discussed in Chapter Four). From this point forward, the Cherokee state could

---

<sup>1089</sup> CA, March 19, 1886.

<sup>1090</sup> CA, March 12, 1886.

<sup>1091</sup> CA, March 12, 1886.

<sup>1092</sup> CA, March 12, 1886.



assert more control over the nation's residents. Its legal jurisdiction was expanding, not diminishing, and the National Council wanted to shore up this change with legislation.

The lack of a delegation, the Supreme Court ruling, and the transfer of the \$300,000 to the national treasury on April 1st demanded immediate action. While still in Washington, Bushyhead asked Rabbit Bunch to call a special session, which Bunch did.<sup>1093</sup> Bushyhead arrived from Washington just in time for the special session. The national editor commented: "Late in the evening, Saturday, hearing a murmur of people on the street, we looked out and beheld our Superb Chief and his stately wife just coming in from the railroad. Mrs. Bushyhead [the niece of U.S. Senator Matthew Butler] had been to Muskogee to meet her husband who had just arrived from Washington."<sup>1094</sup> It was almost certainly political theater, and Eloise Butler Bushyhead had played her role as well. Bushyhead wanted people to see him return from single-handedly defending the country's interests abroad, on his own account, all thanks to the irresponsible tactics of the Cherokee Senate.

It was a showdown. The per capita bill had to be passed, and everyone knew it. J. Milton Turner of St. Louis, "the great colored lawyer" representing the Black Cherokees' interests, was there to advocate for the rights.<sup>1095</sup> So was Senator Lucien Bell, one of the main faces of the rising Downing Party and someone who believed Black Cherokees should not be citizens at all.<sup>1096</sup> As Tahlequah sprung to life, the High Sheriff, U.S. marshals, and the traveling showmen all made their presence felt.<sup>1097</sup> The National Hotel, full of politicians and lobbyists, had "the most complete in all its arrangements of any in the Nation. Fresh natural flowers adorned the tables, and pictures and other tasteful decorations were arranged the most refined skill and symmetry...the table groaned with all the choice delicacies, luxuries, and substantial..."<sup>1098</sup>

All eyes, however, remained on Chief Bushyhead. Only he had veto power, and the Senate still lacked the votes to pass a discriminatory blood bill. The Senate had something the chief wanted (a formal delegation bill and a permanent delegation in Washington), while the chief had something the Senate wanted (his signature on a blood bill). With the nation's safety at risk in Washington, the stakes were high. Both issues were urgent, though it could be argued that the anti-Bushyhead faction had done all they could to make a simple delegation bill into an emergency.

We cannot know for sure, but it appears that an ugly bargain may have been made. Initially, Bushyhead decried the Senate for "the imminent danger to our Nation resulting from the absence of any Representatives of the Nation before Congress," and again demanded the rights of "the four classes of citizens" excluded from previous per capita disbursements—Black Cherokees, adopted whites, Shawnees, and Delawares.<sup>1099</sup> Initially, nothing had changed in the chief's position.

---

<sup>1093</sup> CA, March 26, 1886.

<sup>1094</sup> CA, April 16, 1886.

<sup>1095</sup> CA, April 16, 1886.

<sup>1096</sup> Hagan, *Taking Indian Lands*, 94-95.

<sup>1097</sup> CA, April 16, 1886.

<sup>1098</sup> CA, April 16, 1886.

<sup>1099</sup> Bushyhead to National Council, April 14, 1886, Dennis Wolfe Bushyhead Collection, Box 2, Folder 40, Western History Collection, Oklahoma University, Norman, OK; Bushyhead to National Council, April 14, 1886, Box 2 Folder 41, Western History Collection, Oklahoma University, Norman, OK.

But there was a ticking clock at this special session. The lease law passed in 1883 required that whenever \$300,000 was accumulated from the Outlet, it would immediately be disbursed to the people in a per capita. Charles Frye, again, waded into the controversy: “The [1883] lease bill was passed, and the money is now in the Treasury, and should not be withheld from the *poor full-bloods* because they expect it, and should not be held in suspense on the pretext that it belongs to all citizens of the Cherokee Nation.”<sup>1100</sup> There was an argument, however questionable, that the government was *required* to arrange the per capita—that it had not given itself any wiggle room to withhold the per capita while the details were hammered out. The Senate passed yet another blood bill and, yet again, it was Bushyhead’s job to veto it.<sup>1101</sup>

Except for this time, he didn’t. “The matter of the greatest moment to the people,” the national editor wrote, “was the payment of the per-capita or ‘grass money,’ and a bill was finally gotten through and signed by the Chief paying it to CHEROKEES BY BLOOD ONLY to the great Chagrin of our colored brother and some of our adopted citizens.”<sup>1102</sup> Bushyhead immediately returned to Washington “whither important national business [called] him.” Rabbit Bunch was left in charge of the nation and of organizing a census for the per capita payment.<sup>1103</sup>

Bushyhead’s reversal was one of two things. One possibility is that there was an exchange, with the anti-Bushyhead Senate finally agreeing to approve Bushyhead’s delegation bill in exchange for a blood bill. Another possibility, with the same result, is that both sides caved—the Senate realized it was too risky to endanger the country’s national security and the chief did a similar calculus: the political cost of blocking a per capita until November of 1886 would have been catastrophic. An argument in favor of the former theory is that Bushyhead gave the Senate exactly who they would have wanted. John Chambers was a mixed-blood, he was likely an ex-Confederate and, he was a resident of Cooweescoowee District.<sup>1104</sup> The chief would have wanted something in return. An argument against the theory is that Chambers was nominated on April 15<sup>th</sup>, while the new per capita law was signed on April 28<sup>th</sup>—a substantial gap if there was a trade.<sup>1105</sup> One final argument in favor of there being a trade is that the Chamber’s nomination was not finalized until the last moment—right when the per capita bill was approved.<sup>1106</sup>

Either way, Bushyhead made a very consequential political calculation. His decision to sign the blood bill badly hurt his credibility with Black Cherokees. He had previously gone out of his way to seek their vote, he had explicitly won them over with his 1883 veto of a blood bill, and he had likely won the support of many other adopted citizens in the process. That story was over in 1886. If what contemporary Cherokees said was true—that the Districts without adopted citizens usually supported blood bills—then Bushyhead could not have both the Illinois District (where the most Black Cherokees lived) *and* the Middle Districts (with their full-blood majorities). Forced to choose, he opted for the latter, and the Middle Districts would soon transform into solid National supporters. Black Cherokees, on the other hand, would return to being a people without a party.

---

<sup>1100</sup> CA, April 23, 1886.

<sup>1101</sup> CA, April 23, 1886.

<sup>1102</sup> CA, April 30, 1886.

<sup>1103</sup> CA, April 30, 1886.

<sup>1104</sup> Bushyhead to National Council, April 15, 1886, Dennis Wolfe Bushyhead Collection, Box 2, Folder 42, Western History Collection, Oklahoma University, Norman, OK. Starr, *History of the Cherokee Indians*, 148-151.

<sup>1105</sup> CA, May 12, 1886.

<sup>1106</sup> CA, April 30, 1886.

The National Council also took the opportunity to formalize its discrimination against the adopted classes with its “Construction of the Rights of Cherokee Citizenship as designed to be conferred upon Freedmen and Friendly Indians by the 9<sup>th</sup> and 15<sup>th</sup> Articles of the Treaty of 1866,” passed April 27, 1886.<sup>1107</sup> The resolution did not require the chief’s signature and did not get it. The construction stated:

“That the phrase ‘all the rights of Native Cherokees’ as used in the 9<sup>th</sup> and 15<sup>th</sup> articles of the Treaty of July 19<sup>th</sup>, 1866, between the United States and this Nation, is hereby construed to mean, the individual rights, privileges, and benefits enjoyed by white adopted citizens...who had been by law admitted to ‘all the rights of Native Cherokees’—civil, political, and personal—as subjects of the Cherokee Nation of Indians, without acquiring any right or title to the Cherokee domain or to the proceeds thereof when made subject to a division [per capita] among those to whom such domain had been conveyed.”<sup>1108</sup>

Shawnees and Delaware were understood to occupy a slightly different position. They had paid for their rights to the Cherokee home tract in dollars and cents but adopted whites and Black Cherokees had attained “all the rights of Native Cherokees” without contributing anything. Therefore, the National Council explained, they were not entitled to Cherokee property. Lucien Bell, president of the Senate, signed off on it, and the resolution was concurred in by the Council branch. What had previously been a rule in flux—the blood bill—was now formalized into a definitive (though questionable) construction of a treaty obligation. Adopted whites, Shawnees, Delawares, and Black Cherokees had no rights to the Outlet as a shared property of the Cherokees. The Outlet was what mattered; Cherokees had no intention of selling or leasing anything else. Over the summer of 1886, the per capita was disbursed exclusively to Cherokees “by blood.”<sup>1109</sup>

The one exception to the discrimination rule was the Cherokees immigrating from the East. In the same extra session of the National Council, some members of the National Council wanted to punish the North Carolina Cherokees who had brought suit against the nation, revoking the country’s invitation to come west. One Coos Thompson argued adamantly against the repeal, saying “The Fox have holes, and the birds of the air have nests, but the poor North Carolina Injin hath not where to lay his head.”<sup>1110</sup> Ultimately, the open invitation to the Eastern Band stayed in place, and anyone who immigrated—a Cherokee “by blood”—would have all the rights the adopted classes lacked if they moved and applied to citizenship.

Bushyhead’s turn against the adopted classes was purposeful and permanent—his final message to the National Council in November of 1886 made this very clear. In a fantastic reversal, Bushyhead not only encouraged discrimination against the adopted classes, but suggested a race-based policy against monopoly:

“Under our present organization and management, the Cherokees by blood, aided by the contribution to the common funds of the Nation made by the Delawares and Shawnees when incorporated into the body politic as Cherokees, support the whole machinery of our

---

<sup>1107</sup> CA, May 7, 1886.

<sup>1108</sup> CA, May 7, 1886.

<sup>1109</sup> CA, September 1, 1886. There is a gap of nearly three months in the surviving newspaper records, so we only have references to the 1886 per capita after it was already disbursed.

<sup>1110</sup> CA, April 30, 1886.

Government. The remaining portion of our citizens [adopted whites and Black Cherokees] **contribute nothing toward meeting the expense of alleviating the burdens of the National support, while they enjoy even more than every right enjoyed by the others.**

**There should be therefore a limit fixed and enforced which citizens should not be allowed to exceed in their appropriation of the Common Domain for personal benefit.**

The use by a single citizen of what belong to all alike, beyond his own just proportion, should be paid for by the beneficiary in the form of a just tax for the exceed used by him...For the use of either class of such lands, in excess of the quantity allowed free, impose a tax payable annually to such collectors as may be appointed by law to be turned into the Treasury of the Nation...

The income arising from these sources should become a part of the public funds of the Nation, and be applied to such public improvements or other public benefits...The course here suggested, if adopted and properly carried into effect will at once check the spirit of speculation and self-appropriation of our lands and material resources now so rife and widespread among a portion of our citizens, and secure a share of justice to those less wealthy, less intelligent, and less grasping.”<sup>1111</sup>

Bushyhead never explicitly tied the two subjects together and his language was vague enough, but his lack of any segue made the radical insinuation clear. Adopted citizens—and he likely meant adopted whites—had taken too much of the Cherokee domain without contributing anything to the “machinery of government.” Without transition, he then offered: “There should therefore be a limit fixed and enforced which citizens should not be allowed to exceed in their appropriation of the Common Domain.” These were treated as one in the same subject without any explanation. Bushyhead either wanted the National Council to either pass a race-based property tax or a race-blind property tax in response to racial inequality. It was a radical alteration to his politics.<sup>1112</sup>

His annual message was radical in other ways too. For years, the most liberal Cherokees in the country had advocated for a repeal of the permit tax altogether. The chief offered: “It is the opinion of many that labor should not be taxed—that it should be free for the employer to obtain, only restricted in our case so as to prevent bad men from coming among us. By a system of permits the Government should be made aware of the character and status of each foreign laborer before he comes and as long as he stays.”<sup>1113</sup> Making foreign labor free to obtain would open the floodgates to even more white immigration, but in combination with his other suggestion (to place a tax on either some or all citizens for the amount of land they used), Bushyhead was reimagining communal capitalism altogether. Anyone, regardless of the cash they had, could get free foreign labor to expand their farms. No one could use foreign labor to build up massive monopolies. The National Council, perhaps not wanting to democratize permit labor to that degree and perhaps still uncomfortable with any resembling sectionalizing, would not take him up on either suggestion, but it did reflect how much the country’s attitude toward permit labor had changed.

---

<sup>1111</sup> CA, November 3, 1886.

<sup>1112</sup> Though it reflected an internalized anti-indigenous thinking, his suggestion that the “less wealthy, less intelligent, and less grasping” citizens needed protection was probably in reference to full-blood Cherokees.

<sup>1113</sup> CA, November 3, 1886.

As usual, Bushyhead favored investments in the government funds. He estimated that between the Outlet revenue and the final sale of surplus lands in Kansas, the Cherokee would soon “have the sum of \$200,000 subject to [the legislature’s] care on behalf of [its] people.”<sup>1114</sup> He urged for his money to be invested in the School Fund, which—in order to hold its power into the future—needed routine investments of cash. He suggested the legalization of timber exportation, again, as well as the legalization of hay exportation. He made reference to the plight of Black Cherokees—many of whom still lacked a recognition of their citizenship—and he urged for North Carolina Cherokees’ claims to citizenship be fast-tracked. He warned against the bills in Congress suggesting that Indian Territory’s “No Man’s Land” be opened to white settlers, and he urged for the erection of “a union of the tribes [of Indian Territory] in a confederation”—one that would “command the respect of the people and the Government of the United States.”<sup>1115</sup> The National Council would take him up on the legalization of timber exportation, but would disregard almost everything else. After seven years in office with many highs and lows, Bushyhead had finally reached the point where his sun was setting. He had only one session left, and his relationship with the Senate was in tatters. The country was already looking forward to the election of 1887.

The country’s political landscape was now unrecognizable. We do not know exactly when the Union Party ceased to exist, but we do know a few things with certainty. First, the party reached the height of its power during the election of 1883, when it won a mostly meaningless supermajority of the National Council. What soon became apparent to all, particularly in the aftermath of the Phillips scandal, was that one’s attitude toward Bushyhead determined who one’s real friends were—much more so than party affiliation. Likely aware of these tensions, Bushyhead forced his rivals to repeatedly reject Union Party nominations to the Washington delegation, perhaps hoping he could drive a wedge between those who were friendly with him and those who were hostile (many of whom were Southern Cherokees).

Second, we know that 1885 was the last election to see the Union Party put up nominations for public office. The Downing Party had started its slow rise to becoming a major party, but it had not yet reached that point by the midterms. Many places, like Tahlequah District for instance, had a three way race (the short-lived “Citizen’s Party” may be understood as part of a general anti-Bushyhead movement in the Downing direction). In 1885, the Downing Party was part of a small but rising coalition which included Union Party members as well.

Third, we know that by the end of 1886, the Union Party was dead, and only the Downing Party remained. A number of factors made this possible, including but not limited to the 1882 nomination of Charles Thompson for chief (which supposedly led to the creation of a new minor Downing Party under Lucien Bell’s control); the 1883 landslide Bushyhead victory (which seemed to confirm these Southern Cherokees’ complaints); the 1884 Phillips scandal and the subsequent investigations (which separated the pro-Bushyhead Union Party members from the anti-Bushyhead Union Party members); a growing acceptance for liberal economic policies (which made more full-blood Cherokees open to the National Party); and finally, Bushyhead’s prioritization of full-blood Cherokees as a voting bloc at the expense of Black Cherokees (which may have done the most to attract friendly politicians out of the Union Party and into the National Party). By the start of 1887, the (new) Downing Party was one of two major parties.

---

<sup>1114</sup> CA, November 3, 1886.

<sup>1115</sup> CA, November 3, 1886.

This Downing Party was unrecognizable from the original. Scholars of the Cherokee Nation only refer to one Downing Party, but this is misleading (which was perhaps also the intention of those “rehabilitating” the party in the 1880s). The original Downing Party was controlled by full-bloods and promoted moderate and traditionalist policies with Southern Cherokee support. The “rehabilitated” Downing Party was led by Southern Cherokees and promoted liberal and anti-statist policies with some full-blood support (but not much). The original Downing Party had been built on the promise of sharing power with Southern Cherokees, but in truth it refused to do this (all its candidates for chief were full-bloods), and the party disintegrated after Thompson’s radicalism alienated far too many Southern Cherokees. The “rehabilitated” Downing party was reportedly built up by Southern Cherokees on their own (Lucien Bell was one of the main “founders”) and while they claimed to carry on the Downing tradition of power-sharing, they would also refuse to do this. There were no full-blood chiefs after Charles Thompson, and the Downing Party was largely responsible for this. Every chief and Downing candidate for chief from 1887 onwards was a Southern Cherokee. There was, in some ways, a false promise of the “Downing Compromise”—neither iteration of the Downing Party ever successfully shared power with its ideological and socio-cultural “opposite.”

The platform of the new Downing Party was also unrecognizable. To put together its first party platform since the 1870s, the new Downing Party met in Tahlequah in November of 1886—just days after Bushyhead’s final annual message.<sup>1116</sup> The principles they laid down could have just as well been the National Party platform of 1879. They committed themselves to “progress and the use of resources to the best advantage of the Cherokee people to the end that industry and enterprise may be encouraged, and labor rewarded.” They committed themselves to expanding everyone’s educational opportunities, they opposed white settlement in Indian Territory, they favored a “liberal but not wasteful” approach to public funds, and were “decidedly in favor encouraging [Cherokees’] two branches of industry,” farming and stock-grazing, “our greatest resources for the accumulation of wealth.”<sup>1117</sup>

There were of course unspoken principles as well. The party embraced conspiracy theory politics and, unlike the Union Party, was unquestionably anti-Bushyhead. Many “Downing men” explicitly identified itself with the Democratic Party of the United States. It was a Southern party for Southern Cherokees to lead, and its members advocated for a Cherokee Jim Crow (although they never called it that). Their most extreme members, like Lucien Bell (a founder), wanted all Black Cherokees stripped of their citizenship, removed from the country, and settled in the Cherokee Outlet. Their members wondered why Black Cherokees could vote at all and hoped to limit their political influence.<sup>1118</sup> The Downing Party was the self-proclaimed champion of the adopted white citizen, and its officials were greatly concerned with the separation of Black Cherokees from the rest of the body politic. At every step of the way, the Downing Party was a party for ex-Confederates, and their enemies knew it. Some ex-Union Cherokees referred to them derisively as the “Rebel party.”<sup>1119</sup>

---

<sup>1116</sup> CA, February 2, 1887.

<sup>1117</sup> CA, February 2, 1887.

<sup>1118</sup> Editorial on Joel B. Mayes, August 21, 1890, Joel B. Mayes Collection, Box 1, Folder 69, Western History Collection, Oklahoma University, Norman, OK.

<sup>1119</sup> James R. Hendricks’ Reactions to Crisis of 1887, December 24, 1887, James R. Hendricks Collection, Box 1, Folder 9, Western History Collection, Oklahoma University, Norman, OK.

The National Party had a certain newness as well. In 1886, there had been a split in the party over whether to offer Bushyhead a third term (potentially creating another John Ross), but “the anti-third term men” successfully nominated his assistant chief, Rabbit Bunch.<sup>1120</sup> This was a new direction for the party. It could be argued that the National Party caught its initial break from its direct opposition to Thompson’s radical traditionalism. The National Party had been formed with an attractive vision of communal capitalism and had at first promised nothing more than a “profitable” common domain. By 1887, there was no longer a party that opposed this (pro-profit governance had won). One of the party’s earliest full-blood supporters, Rabbit Bunch—who had never joined the Union Party—was the beloved heir apparent. He and other full-blood Cherokees of the National Party accepted foreign markets, labor, and capital as part of their world, but the new added goal was to “equalize the profits.” The Middle Districts, with full-blood majorities described as “eminently conservative,” would soon be solidly National.<sup>1121</sup>

The National Party platform placed a greater emphasis on cultivating “the highest moral, intellectual, and social welfare of all classes,” it swore off corruption, opposed any “special legislation whereby valuable and far-reaching privileges may be conferred on individuals,” and continued to “foster industry, encourage enterprise, and aid the development of the resources of the Nation by a liberal policy toward labor and the agricultural and stock-raising interests of the Nation.”<sup>1122</sup> It promoted full-blood Cherokees into positions of power left and right, and by 1887—with notable exceptions like William P. Boudinot and his son—the party was increasingly home to the country’s ex-Union veterans and families.

There was one unprecedented development at the end of 1886. Ever since the Civil War, no political party had put forward an ex-Confederate Cherokee for the chieftaincy. Despite John Ross’ wartime decision-making, full-bloods were overwhelmingly anti-slavery and anti-South, and in the postwar years—right up into the 1880s—observers of national politics continued to estimate that the country remained majority full-blood. Full-bloods dominated the Downing Party until 1879; there was a reason Southern Cherokees put up with it as long as they did. Full-bloods dominated the Union Party; there was a reason Southern Cherokees made the same mistake twice. Ever since the days of Stand Watie, Southern Cherokees had framed themselves as an oppressed minority—the victims of the tyranny of the majority. They were an unpopular minority, they were strongly associated with treason (first for the Treaty Party, second for the Civil War), and frankly, they planned around these obstacles for years.

But the Cherokee Nation was different at the end of 1886. The mistake of nominating Charles Thompson for chief again—the move in 1883—would not be repeated. Southern Cherokees wanted their own nominee, and they would have him. They selected Joel Bryan Mayes as the first Downing nominee for chief in almost ten years. Mayes was “connected by blood with several of the most prominent families of the Nation,” he graduated from the Male Seminary I 1854, and when the Civil War broke out, he volunteered as a private under General Stand Watie.<sup>1123</sup> When Stand Watie assumed control of the nation, Mayes served as Assistant Secretary to the Confederate Convention which “elected” Stand Watie chief.<sup>1124</sup> Mayes was then promoted

---

<sup>1120</sup> CA, July 27, 1887.

<sup>1121</sup> CA, January 29, 1886.

<sup>1122</sup> CA, May 16, 1887.

<sup>1123</sup> CA, December 16, 1891.

<sup>1124</sup> Starr, *History of the Cherokee Indians*, 300-301.

from private “to the rank of major, quartermaster, and paymaster of the First Cherokee Regiment.”<sup>1125</sup> He was unquestionably part of what contemporaries referred to as the “Cherokee South.” He had very likely been one of the many who had dreamed of a separate state entirely: a “Southern Cherokee Nation” which the Treaty of 1866 precluded.

Just Mayes being nominated for chief was unprecedented. The idea of him winning and taking charge was another thing entirely. This was a still a nation that could (and did) divide itself along Civil War allegiances. A Southern Cherokee becoming principal chief was like the story of “redeemers” in the South if the Southerners had never held office in the first place (John Ross had always outmaneuvered them). Joel Mayes’ run for office would quite literally almost bring the Cherokee government to its ruin. The Cherokee Nation would survive, but upon its emergence it would be a different nation entirely. The Cherokee South was on the rise.

---

<sup>1125</sup> CA, December 16, 1891.



Chapter Six:  
**Rise of the Cherokee South (1887-1890)**

In March of 1887, the national editor explained that public buildings like the capitol told its visitors, “stronger than any language could, that the Cherokees expect to live and die in this their home and country.”<sup>1126</sup> Then, on Easter Sunday—April 10<sup>th</sup>—the Female Seminary went up in flames. Alarms rang out while the girls and their teachers evacuated. “Three gentlemen” rescued furniture and bedding, while three teachers named Etta Duncan, Cherry Brewer, and Olive Heath saved most of the school’s books. The sick daughter of a Cherokee senator was helped from her bed.<sup>1127</sup> Some lost everything they had. “In less than an hour,” the seminary was destroyed.

No lives were lost, it appears no one was injured, but this was akin to one half a state’s leading university being destroyed. The building would cost approximately \$100,000 to rebuild (which for the Cherokees was a great sum), and in the meantime the nation’s girls and women would be deprived of a first-rate education.<sup>1128</sup> This was not just a tremendous loss but a profoundly historical moment:

“This spring will be remembered for years to come...[so] as long as there is one of us living who witnessed the smoldering remains of the dear old Seminary last Sunday. Many of our mothers and sisters were educated there, some of whom have long passed over the river. Once the pride of every citizen of this Nation. Now nothing more than a pile of brick and ashes, [it] is enough to make one’s heart sink within them.”<sup>1129</sup>

The Male and Female Seminaries were at the heart of Cherokee national life. The building had “stood all through the war and was burned down in time of peace.”<sup>1130</sup> Its loss was a “great calamity.”<sup>1131</sup> Even those that could not attend them understood their importance. These schools produced Cherokee Senators and taught their children. They raised future principal chiefs and future U.S. congressmen. Women were barred from public office, but they received a nationalistic education too. Many of the nation’s teachers were graduates of the Female Seminary, and reliable faces in elite social circles. Cherokee women could not vote, but they could practice politics indirectly at dinners, parties, W.C.T.U. meetings, and more. For better and for worse, the Female Seminary produced the “ideal,” Cherokee lady for public society. And now it was gone.

Cherokees mourned the loss of the seminary in different ways, but many wanted to take a piece of the old building with them. The visitors inspecting the ruins in June likely took some debris with them, and they probably were not the first. An assistant at *The Cherokee Advocate* “delved down into the ashes and debris of the Female Seminary and got out the large bell clapper,” which found a new home at the Editor’s table.<sup>1132</sup> My own great-grandfather and great-

---

<sup>1126</sup> CA, March 2, 1887.

<sup>1127</sup> CA, April 13, 1887.

<sup>1128</sup> CA, February 27, 1889. The National Council would first appropriate \$70,000 to rebuild the seminary, but a year later they would increase that figure to about \$80,000. Chief Mayes, speaking before Congress in 1889 estimated the final cost would be \$100,000, reflecting various additional costs.

<sup>1129</sup> CA, April 13, 1887.

<sup>1130</sup> CA, April 27, 1887.

<sup>1131</sup> CA, April 27, 1887.

<sup>1132</sup> CA, May 4, 1887.

grandmother were alumni and teachers at each of the seminaries, and one of them took a brick from the ruins which has been passed down for generations (see **Image 6.1**).

Cherokees also felt outrage—not just sadness—and the loss of the seminary highlighted a bitter new divide in Cherokee politics: liberalism versus anti-statism. For years *The Cherokee Advocate* had pushed for its valuable public buildings to be insured. The National Council had ignored the suggestions, and now faced the consequences. The national editor was irate:

“The Female Seminary building was not insured. Why? Because the Council failed to pass a law by which it could be. There was a law authorizing the Principal Chief to have the Seminaries insured but limited the premium to be paid to one per centum. The Chief could get any *responsible* company to take the risk for that amount, so the Female Seminary is a total loss to the Cherokee Nation...

Certain intelligent senators were of the opinion that it was a waste of the people’s money to insure the public buildings, using the invincible argument that they never should, would, or could burn up.”<sup>1133</sup>

The National Council had embraced a form of penny-saving that Bushyhead had warned against. Many in the anti-Bushyhead faction (crystalized into the Downing Party) and perhaps even some Nationals had accepted a huge risk in refusing to insure the public buildings. It had, of course, backfired and the national editor’s anger was palpable: “How do you feel now, gentlemen, over your great saving of the people’s money?”

The cost of reckless decision-making would not be cheap. Cherokees demanded the National Council move heaven and earth to get the Female Seminary back in operation. Within three days of the fire, several of “the prominent men of Tahlequah, consisting of the merchants and others,” organized a petition to the Board of Education “tendering them the use of the new hotel” to keep the school running. They also asked the principal chief to call an emergency session so that reconstruction could begin immediately—regardless of cost. The national editor optimistically predicted that the seminary could be rushed to completion by the end of the summer—just in time for the fall session.<sup>1134</sup> Both because of the importance of the seminary and likely because the country’s “prominent men” were asking, Bushyhead called a special session on the 19<sup>th</sup> of April 19. The National Council would convene in May.<sup>1135</sup>

The stakes of the special session were clear. “A year’s total suspension of the High School would put the Nation back five years in the education of its girls—a disaster not to be borne if it can be helped.”<sup>1136</sup> The National Council needed to formulate a plan that would “let the school go on, and the school building go up.” The lawmakers also needed to (finally) insure the public buildings to protect the nation’s future. In his special to the legislators, the principal chief explained that “the occasion was sufficiently extraordinary and imminent to justify...[an] Extra Session.”<sup>1137</sup> He wanted temporary arrangements for the students, and a bill for the new seminary immediately.

---

<sup>1133</sup> CA, April 13, 1887.

<sup>1134</sup> CA, April 13, 1887.

<sup>1135</sup> CA, April 20, 1887.

<sup>1136</sup> CA, April 27, 1887.

<sup>1137</sup> CA, May 11, 1887.



**Image 6.1:** Two photographs from my family's papers and a brick taken from the destroyed Cherokee Female Seminary. My great-grandmother, Mae Duncan (pictured on the bottom right), was an alumnus of the original seminary and a professor at the rebuilt school. She was likely the one to take a brick from the destroyed seminary and pass it down to her son (my grandfather), who in turn passed it down to his daughter (my mother). She may have also been the one to keep a photo of the seminary shortly after it burned down (top image).

**Source:** Shelton Family Papers, Nashville, Tennessee.

He then added: “The Nation is unanimous in its high estimate of woman’s ability, rights, and influence upon a nation’s destiny.”<sup>1138</sup> This was a national symbol; it had to be rebuilt.

Cherokees expected national unity over the seminary, but they would not find it. The ex-Confederate President of the Senate and the founder of the “rehabilitated” Downing Party, Lucien Bell, had other ideas. During the final debates over a bill for a new seminary, Bell said:

“I am opposed to the rebuilding of the Female High School or Seminary, because the measures does not indicate what it was to be built of.

Secondly, I oppose the provisions of Section 9, appropriating \$60,000, because we have not the money for that purpose, except the monies derived from lands leased for grazing purposes, west of 96. **It is not right to use that, the people’s money, set aside for a Per Capita.** At least I think best to wait until next November. Then it will be indicated whether the people will be willing to use it for said purpose.”<sup>1139</sup>

This was truly radical. A lot had changed about the Cherokee Nation—its politics, values, economy—but the seminaries were the country’s oldest social welfare institutions. Cherokees tinkered with the seminaries (e.g. trying to find ways to get impoverished children in them) but they never dismissed the value of these schools in general. Bell specifically proposed inaction; the per capita was more important to him than the seminaries, and he was willing to put the seminary’s construction off to November—if not longer. Bell was not liberal; he was anti-statist.

A full-blood senator of Saline District named George Sanders responded. He did not speak English, but he was known as a great orator.<sup>1140</sup> His words translated into English were:

“I am compelled to reply to his Hon. Senator Bell...His reason for the position he takes is because there is near at hand the general election throughout our country, for Chiefs and District Officers...[but] would not the school building with which [‘the people’s money’] was built, still belong to the people?

Or, are we now, after being so successful in our educational system to abandon it entirely? Are we now to begin to drift back into our former state and condition? It is not well for those who are not progressing. It is my desire that what our forefathers did for us as we can plainly see today, namely, the provisions they made that you are opposing so bitterly, and educated and intelligent as you are, you must know was good—that we make the same provisions for our girls as they did.

For myself, I have often been sorry for not having an English education...At one time there came to my house a white man, and as I learned afterwards, said to me: ‘Have you got some corn to sell?’ Of course not understanding him I supposed he was inquiring for the next house. I told him that ‘the next house was just ahead.’ Again the stranger said to me as I afterwards learned, ‘I’ll give you a dollar a bushel.’ To that inquiry, as I understood it, I replied, ‘the house I speak of is about five miles ahead.’

---

<sup>1138</sup> CA, May 11, 1887.

<sup>1139</sup> CA, June 1, 1887.

<sup>1140</sup> CA, January 8, 1886.

That is why I don't want our children to grow up in ignorance, and it is for these reasons I hope we will now make provision for the reestablishment and rebuilding of the Female High School."<sup>1141</sup>

Sanders was presenting a full-blood's view of the matter, but one that was more liberal than Bell's. In his eyes, Bell and many other anti-statist mixed-bloods, "educated and intelligent as [they were]," had chosen a funny time to turn against investments in education. Bell, he argued, "must know [it] was good" as they now enjoyed tremendous success, "as [they could] plainly see today." All Sanders wanted was "the same provisions for our girls as they did." It was a demand for the equalization of the profits.

Sanders' speech was also notable for acknowledging the immense importance of an English education to succeeding in a market. He lamented that he had never learned English, and on at least one occasion, he had been unable to do business with a white man because of it. Practically speaking, this was a very high price for educational inequality. In Sanders' eyes, poverty and inequality could be corrected with new investments in Cherokee education.

The bill to rebuild the seminary passed and the money was set aside. Somewhat violating its pledge against impartiality again, *The Cherokee Advocate* concluded: "It was by the influences of such men [like Sanders] that a growing sentiment to delay the building of Seminary and pay the money on hand per capita was nipped in the bud, and *the evil councillors* of such a course driven from the field."<sup>1142</sup> Lucien Bell's opposition to rebuilding the seminary in favor of a future per capita was therefore poorly received, but growing in popularity. In 1890, the country would choose a per capita over the seminaries—exactly what Bell had suggested here. The country's politics were undergoing another major shift, this time toward anti-statism on the eve of denationalization.

The leaders of this movement were the ex-Confederate, anti-Bushyhead, pro-profit Cherokees who had coalesced into the new Downing Party, "rehabilitated" by Lucien Bell. As they took over the party (or the new party), more full-bloods made their way into the National Party, and the Middle Districts became strongholds for the Nationals. The Downing Party explicitly identified with the Democratic Party of the U.S., and suggested radical, new ideas for disenfranchising Black Cherokees. Blood-bills were the most quantifiable form of racial discrimination, but there really was a "Cherokee Jim Crow" developing on the eve of denationalization. As this chapter explains, the threat of denationalization complicated its rise.

The destruction of the seminary also forced Cherokees to reflect on how much the country had changed over the years. In June, the new building committee, the High Sheriff, and several convicted prisoners proceeded to the ruins of the "late Female Seminary for the purpose of exhuming the relics contained under the Corner Stone." After "much labor by the convicts," in removing the debris, the capstone was broken and removed. The first Cherokee to remove the box and wipe off the debris was confronted with the printed words "Cherokee Nation, June 1<sup>st</sup>, 1847." He exclaimed: "Forty years ago lacking three days!"<sup>1143</sup> The contents of the box included:

"1<sup>st</sup> Cherokee Testament Printed by Edwin Archer at Park Hill, C.N., 1844.

---

<sup>1141</sup> CA, June 1, 1887.

<sup>1142</sup> CA, June 22, 1887. Emphasis added.

<sup>1143</sup> CA, June 22, 1887.

- 2<sup>nd</sup> “Muskogee” Spelling book, Printed by Edwin Archer at Park Hill, 1847.
- 3<sup>rd</sup> A Pamphlet on Temperance in Cherokee Print in 1842.
4. Muskoke Hymns, 1847—Edwin Archer Printer, Park Hill.
5. Illustrated Cherokee Primer, 1843.
6. Illustrated Cherokee Primer, 1846.
7. Greek Testament
8. Cherokee Alphabet
9. Acts of National Council and Constitution of Cherokee Nation, printed by Gales and Seaton, Washington D.C. 1840
10. Acts of National Council, printed at Cherokee Advocate Office, 1847.
11. Cherokee Advocate of Oct. 26, 1844, Vol. 1. No. 5
12. Laws of Cherokee Nation, 1844-1845.
13. Cherokee Almanac, 1847, printed by Park Hill Mission Press, Edwin Archer, Printer.
14. Cherokee Advocate, Vol. No. 26, June 17, 1847.”<sup>1144</sup>

These were relics from an almost unrecognizable past. In the mid-1840s, mass Cherokee settlement had only just taken root. Many had only farmed a few seasons, and most of the country would have been described as “wilderness.” The constitution and laws described a republic for Cherokees by

blood only—and indeed it would have been difficult for many to imagine anything else. Enslaved Africans and Black Cherokees were building up the nation against their will, and they possibly helped with the original seminary. Many of the citizens who put the Cherokee-language documents in the box could read them; most of those present in 1887 could not (already in the 1880s Cherokees worried for the survival of the language). Cherokees were probably more religious and conservative than they would be in the 1880s, and they were also less wealthy and more isolated.

Finally, the country’s political scene was now wide-open. One of the other things pulled from the cornerstone was a reminder for the 1847 national election, announcing William S. Coody as the candidate running against the incumbent chief John Ross. One truly did not need to be a Cherokee inspecting the seminary ruins to know the results of that contest. John Ross had ruled for decades and never lost an election, and it is likely that at least one of the Cherokees present that day reflected on how different national politics had become. In less than two months, voters would go to the polls in a hotly contested race for Bushyhead’s successor. It would be the most violent, divisive, and dangerous election in the history of the Cherokee republic.

---

<sup>1144</sup> CA, June 22, 1887.

## The Election of 1887

The nation was on a knife's edge in 1887. The High Sheriff Samuel Sixkiller was assassinated in a store right before the new year.<sup>1145</sup> Even several months before the election, customers in a store could get in heated arguments over “the two nominees for the chieftaincy.”<sup>1146</sup> Inspired by “the notorious [Cherokee] Amazon,” some young women of Tahlequah took to wearing cartridge belts and wearing six shooters “in the approved Belle Starr style, and many young Cherokee men did the same no matter “how ugly it looked” to the posh.<sup>1147</sup> The new liberal timber law was uprooting trees all over the country, just months after its passage.<sup>1148</sup> Toxic rumors spread that Mayes or Bunch had dropped out of the race, or that there was “collusion between the Executive Department of this Nation and certain favorites in that District” to cut railroad ties without permits.<sup>1149</sup> Political meetings were being held everywhere, and the national editor encouraged young men not to “lose your temper in a matter of this kind.”<sup>1150</sup> Unlike the previous general election, no one seemed to know who would win in 1887, and there was great uncertainty everywhere. One Vinita contributor lamented: “The civilians and officials, the aristocratic and the humble, will soon be contaminated with the corruption of politics.”<sup>1151</sup>

Even contemporaries seemed to recognize that something had shifted beneath their feet, and that the coming election would be dangerous. There must have been something in the air when *The Cherokee Advocate* issued a warning which would have sounded absurd in the first half of the decade. In an article about getting the political parties together to peacefully debate each other, the national editor wrote: “As *The Chieftain* says ‘there is no use of going back to the late war.’ If war and its blots must be talked about, let us hear about the *next* one. The way to talk about that is—how to avoid it, and war’s trouble, disaster, loss, and misery...Now how can peace and prosperity be best secured to this Nation? Come, Candidates tell us.”<sup>1152</sup> Something was deeply wrong in Cherokee politics, and the discussion of wars both past and future was one warning sign of many.

A major source of the problem—if not *the* source of the problem—was that conspiracy theory politics had reached a zenith. The tactic had been potent in the midterm elections of 1885, and so there appeared little reason to not kick it up a notch. Downing party newspapers like *The Chieftain*—now explicitly described as such—were some of the worst offenders. Just a few years previously, the paper’s editors had been very supportive of the Bushyhead administration, but by 1887 they reviled him. They returned to the subject of the Phillips scandal over and over, and their other accusations became more and more serious. In an article about the “Secret Organization of the Leaders of the National Party” and how “a strong effort [was being] made to control the reins of government and hold all offices to the exclusion of all other parties except their own,” the editors alleged that Rabbit Bunch had already approved the “Laws of the United Keetowas.” Those laws—supposedly—were as follows:

---

<sup>1145</sup> CA, January 5, 1887.

<sup>1146</sup> CA, January 26, 1887.

<sup>1147</sup> CA, January 19, 1887; August 24, 1887.

<sup>1148</sup> CA, February 23, 1887.

<sup>1149</sup> CA, February 16, 1887; June 22, 1887.

<sup>1150</sup> CA, March 30, 1887.

<sup>1151</sup> CA, April 6, 1887.

<sup>1152</sup> CA, March 23, 1887.

*“[We commit] To place under foot the different parties, the first of which is the Downing Party, and second the adopted white citizens, and third those who in the late war went South, and fourth the negro, and fifth the Delaware and Shawnees.*

*And further we to have nothing to do with them whatever, and it is made obligatory on all to keep the above laws secretly and anyone divulging the same shall be considered as surrendering his life.*

*And in case we are charged with any crime we are to do everything in our power to have him cleared. On the contrary if others than our party are charged with a crime we are to do everything in our power to have them convicted... ”<sup>1153</sup>*

*The Chieftain* claimed to have acquired the laws from a National Party lodge captain in Tahlequah District, but this seems very unlikely. The “laws” targeted almost every class of people in the nation except the full-bloods, embraced corruption to an almost cartoonish extent, and seemed designed to put off as many voters as possible (which it probably was). The laws also targeted anyone who “went South” in the late Civil War. Another contributor to *The Chieftain*, Jesse B. Mayes, accused one of Rabbit Bunch’s assistants of attempting to rob the National Treasury, while pretty much everyone in the Downing camp accused the Assistant Chief of being an “accessory” of some kind to the Phillips scandal. Cherokees debated to what extent the parties had devolved into a struggle between “northern full-bloods” and “southern half-breeds”—in those terms.<sup>1154</sup>

The Civil War was back at the center of Cherokee politics—probably because the country had never had a Southern Cherokee as chief. In an article entitled “North and South,” a correspondent to *The Chieftain* abhorred “the revival of such issues.”<sup>1155</sup> He blamed the National Party for stoking the fire:

“The so-called northern and southern Cherokees have all alike sworn fealty to its conditions, and for more than twenty one years they have worked side by side in developing the country and cultivating a feeling of unity until we had begun to feel that we were once more a brotherhood of Cherokees and that the old war issues were matters of the past, with which, we and our children have nothing to do.

We fear we have reason however for grave apprehensions for the future. The old military necessities of the rebellion, the doctrine of ‘hot and cold,’ of ‘north and south,’ of full-blood and half-breed are disseminated among the people by prominent National [Party] leaders, and we think the signs of the times demand a change...

If we believed that Judge Mayes and Capt. Samuel Smith or their adherents were capable of preaching a doctrine that would limit the rights of a single northern Cherokee so-called, we would denounce them untrue and unfaithful leaders... ”<sup>1156</sup>

---

<sup>1153</sup> *Chieftain* (Vinita), July 21, 1887.

<sup>1154</sup> *Chieftain* (Vinita), July 21, 1887.

<sup>1155</sup> *Chieftain* (Vinita), July 7, 1887.

<sup>1156</sup> *Chieftain* (Vinita), July 7, 1887.



A reconciliation which Cherokees had long celebrated was thus slowly fading out of sight. The Civil War had not been a campaign question in years; now it was a main topic of discussion.

William A. Phillips was part and parcel of the return of Civil War grudges. Phillips, after all, had fought hard against the Southern Cherokees, and to suppose that had nothing to do with their hatred of him (or vice versa) seems unlikely. Phillips wrote a letter to Samuel Smith, the full-blood Downing candidate for Assistant Chief in April of 1887, warning him against joining Joel B. Maye's ticket:

“The men that are making efforts to influence the Downing party to support Mayes are not men who are disposed to pursue justice and are not the men who could be trusted, from the fact that non-citizens are advocating their cause...you have served and shared with my soldiers and from that time hence you have known me and you know my sympathy is for you and your people...You have the power to save your country...

Old friend and comrade,  
W. A. Phillips.”<sup>1157</sup>

Phillips painted a picture of a Downing Party influenced by untrustworthy men, supported by non-citizens, and which needed to be stopped by people like Samuel Smith—a former comrade of the war. It was an astonishing attempt to influence a running candidate for office, and it was also very poorly conceived. Phillips achieved nothing more than to justify further attacks from *The Chieftain* whose editors asked “Shall we have Phillips for chief?...He is certainly paving his way to such a position [with] his letters, and probably his money.”<sup>1158</sup>

Smith responded, celebrating the Downing Party and Joel B. Maye as worthy organizations. Phillips' constant appeals to the Civil War were also addressed:

“I cannot, nor will I, approve any measure that will tend, in the least, to revive the animosities of the late war, but, if I could I would erase the recollection even of that great trouble from the minds of our people...not to put them at war with each other by dissensions dangerous to the peace of the country...we have pledged ourselves to forgive and forget old grievances...”<sup>1159</sup>

Smith's appeal was the same in the National Party. Both parties insisted they wished they could “erase the recollection...of that great trouble,” while at the same time fear-mongering at the local level. Southern Cherokees talked of another ex-Union government oppressing them; ex-Union Cherokees talked of the country's first ex-Confederate government doing the same. The Civil War was an inescapable part of the election of 1887 no matter what Smith said about it. As many full-bloods would soon realize, Smith was just a pawn—a sly effort to pick off full-blood voters. The ex-Union full-blood leaders had done the same thing to Southern Cherokees back in the 1870s. Once in office, the Southern Cherokees would not share power and would not honor the promises they made regarding another “Downing Compromise.”

---

<sup>1157</sup> *Chieftain* (Vinita), July 14, 1887.

<sup>1158</sup> *Chieftain* (Vinita), June 30, 1887.

<sup>1159</sup> *Chieftain* (Vinita), July 14, 1887.

The timing of all this was also fascinating. As many contemporaries pointed out at the time, Cherokee reconciliation was (supposedly) achieved immediately in 1866. There was nothing quite like the Downing Compromise uniting opposite ends of the political spectrum in the United States. The Downing Compromise unraveled and then was ripped apart under the radical tenure of Charles Thompson, before being stitched back together—somewhat and temporarily—during Bushyhead’s first term. In 1887, it was as if everyone blinked, and twenty years never happened. One “R. K. Adair” explained his reasoning for supporting Mayes, and it included “because of Bunch’s hatred of Southern Cherokees, of which I’m one.”<sup>1160</sup> Old Civil War loyalties were everything again. There were “northern full-bloods” and “southern half-breeds.” The former marched to the National Party; the latter to the (new) Downing Party. The country was off to war.

The campaign was also heavily racialized. Would the country have an ex-Union full-blood chief again (the first since the “demagogue” Charles Thompson), or would it have its very first ex-Confederate chief (a leap into the unknown)? Here was another place where campaigning got ugly. Rabbit Bunch had been twenty years old when the Civil War broke out; he had fought in the war, and he had never learned English. He was known for his great intelligence and skills as an orator, but there were plenty of anti-indigenous Cherokees in the nation who labeled him incapable. A contributor to *The Chieftain* from Saline District wrote:

“[People] are anxious for a change in the administration of our affairs, which are not in safe hands at the present time. The people have been living in suspense long enough...Our government has been used as a machine to make money...but if Rabbit Bunch is elected our country will not stand three years longer. We don’t want a man for our next chief who will be an ignorant, helpless tool in the hands of old Bill Phillips...”<sup>1161</sup>

A second contributor named “Observer” added:

“When the Downing Party nominated Charles Thompson for principal chief, he being incompetent to handle the affairs of this country, someone else would have naturally had to be chief, thereby throwing the responsibility of their actions upon his shoulders...Now the National Party has made the mistake, placing Bunch at the head, an incompetent man, to handle our affairs when we need the very best material we have to guard our interests...[Bunch] is not competent to guard and protect those rights and interests, not being able to read, write, or speak the language which all our business is done in.”<sup>1162</sup>

And finally, a third contributor named “Citizen” wrote: “It would be wholly unmeasurable and absurd for us to vote for a man who is as illiterate as Bunch for that high office...[what example] would be set before the Cherokee children of our country by the election of an illiterate like Bunch[?]....[these ‘illiterates’] remind one more of a lot of Egyptian idles than of anything else.”<sup>1163</sup> These writers believed that anyone who could not speak English could not be chief.

Of course, these were not race-neutral attacks on Rabbit Bunch’s abilities. The feeling among mixed-blood and white Cherokees was that Bunch and Thompson were one in the same.

---

<sup>1160</sup> *Chieftain* (Vinita), July 21, 1887.

<sup>1161</sup> *Chieftain* (Vinita), June 23, 1887.

<sup>1162</sup> *Chieftain* (Vinita), July 14, 1887.

<sup>1163</sup> *Chieftain* (Vinita), July 21, 1887.

They could not understand English, they were not white, and were incapable of leading. To these voters, the nation would not survive “three years longer” if left in the “ignorant” hands of Bunch. It was a sentiment only a degree or two away from explicitly saying that full-bloods were inferior.

These kinds of attacks elicited the fury of *The Cherokee Advocate*, which by this point was barely attempting to hide its pro-Bushyhead slant.

“The most blatant and persistent charge of Mr. Mayes’ supporters is that Mr. Bunch is a full-blood Cherokee who talks sense in his native language is not able to talk sense in English. In fact...capacity and want of capacity have nothing to do with the question with these short-sighted politicians.

The objection is that Mr. Bunch is in the same fix in that respect with one half or three fifths of the entire nation [he being a full-blood]. It is but fair to say that Mr. Mayes himself approves of no such ‘imperent’ slurring of the blood we ought all to be proud of. Mr. Mayes is said to have said that he has been voting for full-bloods for a score of years, and will continue to do again if the candidate of his party is a capable man.”<sup>1164</sup>

The national editor hoped to compliment Joel B. Mayes on standing out from his party, but still aimed to take a hardline against Bunch’s critics. Bunch was inarguably capable and accomplished in the eyes of *The Cherokee Advocate*, and papers like *The Chieftain* “outrun their discretion and sense of decency” when it promoted anti-full-blood bigotry and rhetoric. Because of such slanders, race, “blood,” and language were all on the ballot as much any other campaign question.

Many even voted according to their race and war-time allegiance. One big story after the 1887 election was that the Downing candidate for Assistant Chief, Samuel Smith, outperformed the name at the top of the ticket, Joel B. Mayes, by a thousand votes. “Of course, a great many who voted for Bunch must have voted for Smith, who ran on the Downing ticket,” the national editor explained, “while at the same time none or hardly any in the lower districts who voted for Mayes neglected vote also for Smith on the same ticket.”<sup>1165</sup> This was reason enough for ex-Confederates like Mayes to tread carefully. They had finally reached a point where they could win a party nomination and even win their race, but large segments of the nation still played an identity politics which disadvantaged Southern Cherokees. To ignore that fact was a dangerous thing to do.

Both parties, then, settled into a deceitful agreement. The National and Downing platforms both committed to “equal rights” for all four adopted classes (Black Cherokees, adopted whites, Shawnees, and Delawares), but blood-bills remained as popular as ever, and neither party was willing to reform the practice. On the one hand there were the full-bloods who frequently voted for blood-bills (neither party could afford to alienate them), and on the other hand were all the adopted classes (and neither party could afford to lose them). The result was that each party continued to blame the other for a practice which both supported; both claimed to champion the adopted citizen (of all colors) while refusing to do anything for him.

One Black Cherokee named Lawrence T. Ross was gravitating to the Downing Party—he no longer felt that the National Party was a home for his race. The attorney for the Cherokee Freedmen, a Black American named James Milton Turner, disagreed. After reading each party

---

<sup>1164</sup> CA, July 27, 1887.

<sup>1165</sup> CA, August 3, 1887; *Chieftain* (Vinita), August 4, 1887.

platform, Turner wrote that the Mayes Party seemed to be the party of blood-bills, and that “[a Freedman’s] vote cast for the Mayes platform would likely have the effect of defeating their bill at Washington [to secure compensation for a blood bill].” Lawrence Ross responded: “The truth is, I pay very little attention to the expressions or promises of party platforms and especially at this time the National platform, for I know the rank and file of what that party is composed of. It has been weighed in the balance and found wanting with all its pretended professions of sympathy for my race...I shall [now] have to run the risk, it may be, of incurring your displeasure by supporting Mr. Mayes for principal chief.”<sup>1166</sup> This was not the South. With the interests of adopted whites, Shawnees, and Delawares swirling around with the competing interests of full-bloods, mixed-bloods, and Black Cherokees, it was never easy to predict where common cause might be found, nor was it possible to believe the promises of the major parties. For now, most Black Cherokees would continue to vote National, but Ross had issued a warning. Their votes were not free of charge. Whoever wanted Illinois District had to give *something* in return.

One strangeness of Cherokee politics was that adopted whites were in a similar position to Black Cherokees. The National Council of 1886 had even explicitly used the limitations on adopted whites’ property rights and applied them to the other three adopted classes (Black Cherokees, Shawnees, and Delawares). It was for reasons like this that adopted whites *also* struggled to find a political home. A June convention of adopted citizens in Cooweescoowee, for example, “was a complete failure, there being as many for one party as the other, and consequently there [would] be no unanimous vote of the adopted citizens.”<sup>1167</sup> These citizens were almost certainly whites, and we can understand their dilemma using Lawrence Ross’ same explanation: “The blood laws or bill, as it is sometimes called, which you are evidently under the impression the Downing Party is wholly responsible for, was contended for and fought for by every leader in the [National] Party now supporting Bunch that held position at the time, save the chief. In this [Bushyhead] antagonized his party and with this and other liberal views held by him, the recent National convention snowed him under very effectually.”<sup>1168</sup> All adopted citizens—black, white, and red—knew that Bushyhead had done more than any other chief to block discriminatory per capita, but they also knew that the weight of the National Party was not with him on this. It was unclear which party *truly* supported adopted citizens because, in truth, that party would never exist.

Adopted whites did have one very significant advantage over Black Cherokees when it came to blood bills. Without exception, they were all part of “Native Cherokee” families, and—almost without exception—they were the male head of households in these Cherokee homes. A five- or six-person family, for instance, might receive \$100 in total, but that \$100 most likely belonged to the white head of household to spend as he pleased. In addition to anti-Black racism, such a difference may have been enough to prevent the adopted classes from ever banding together to force the issue democratically, while it also explains why Black Cherokee, Shawnee, and Delawares sued for their rights long before adopted whites. White citizens in the Cherokee Nation had greater access to the Cherokee national funds than their nonwhite adopted counterparts.

This made it much easier for the Downing Party to court them in the same way that the Nationals courted Black voters. White immigrants from the U.S. South would have been

---

<sup>1166</sup> *Chieftain* (Vinita), June 16, 1887.

<sup>1167</sup> CA, June 8, 1887.

<sup>1168</sup> *Chieftain* (Vinita), June 16, 1887.

immediately drawn to the party identifying with U.S. Democrats, but the Downings made it explicitly clear that their party was looking out for white citizens' interests. As the National Party base solidified in the full-blood Middle Districts and the Black Cherokees' Illinois District, this gave the Downings an opportunity—perhaps even an obligation—to zealously promote the rights of adopted white citizens (there were many of this class in the Upper Districts and their vote was worth the same as any full-blood or mixed-blood). One pamphlet published just days before the 1887 election (pictured below) accused the Nationals of preventing adopted whites from speaking at a public event. The Downings took full advantage: “Adopted citizens can you vote for a party...that will deny the right of free speech in a free country?...They deny your color a right to speak at a public meeting...[and] when a party denies its white citizen the right, the constitutional guarantees...we think it is time some other conservative party come in power.”<sup>1169</sup>

The 1887 election was also extreme in that the campaigning was everywhere, and it was highly organized. There had been “no canvassing of the Nation whatever” in 1883.<sup>1170</sup> Rabbit Bunch and Joel B. Mayes, the two candidates, traveled all over the country, visiting all nine districts. The papers commented on their movements and described certain districts as “battlegrounds.”<sup>1171</sup> The candidates speaking schedules were posted in the newspaper. Bunch was set to speak at Carey’s Ferry one Friday in June, and the next day he would do the same in Vinita.<sup>1172</sup> Less than a month later he retraced his steps hoping to talk to as many people as possible in the populous Cooweescoowee District (with another trip to Vinita July 12<sup>th</sup>, Coody’s Bluff July 14<sup>th</sup>, and Goose Neck July 16<sup>th</sup>).<sup>1173</sup> In between these trips, he attended two different debates—one in Delaware District (where Bushyhead and Bunch debated Lucien Bell before a crowd numbering “between 1500 and 2000 at least”) and another event in Bunch’s rural home district of Flint (where he sparred directly with Joel B. Mayes with the help of a translator).<sup>1174</sup> People traveled far and wide to be present, to see the candidates speak.<sup>1175</sup> Elections brought the country alive with the gifting of watermelons, cigars, and soon—according to one accuser—cash in exchange for ballots.<sup>1176</sup> Protecting his party, colleague, and legacy, the lame duck chief also joined the campaign all over the country—sometimes splitting up to cover more ground.<sup>1177</sup> The campaigning was inescapable, and the Nationals ran a very strong campaign.

But so did the Downings. Not only did they constant support from *The Chieftain* (which could openly support Mayes in a way *The Cherokee Advocate* could not), they also had speaking events all over the country.<sup>1178</sup> Mayes had the benefit of being from Cooweescoowee himself—the most populous district in the country. Though the district had been key to the National Party’s initial rise, it would not turn against one of their own.

---

<sup>1169</sup> Supplement to *The Telephone*, July 30, 1887, James R. Hendricks Collection, Box 3, Folder 38, Western History Collection, Oklahoma University, Norman, OK.

<sup>1170</sup> CA, July 27, 1887.

<sup>1171</sup> *Chieftain* (Vinita), June 23, 1887. This issue put forward that Tahlequah and Illinois would be the battle ground district of the 1887 election, and that Mayes would run the best Downing campaign there in years. Estimations about the gaps between candidates were frequent in most elections.

<sup>1172</sup> CA, June 22, 1887.

<sup>1173</sup> CA, July 6, 1887.

<sup>1174</sup> CA, June 29, 1887; July 13, 1887.

<sup>1175</sup> CA, July 13, 1887.

<sup>1176</sup> CA, August 14, 1889. This is just one example. Accusations of parties bribing voters were common.

<sup>1177</sup> CA, June 29, 1887; July 13, 1887; July 27, 1887.

<sup>1178</sup> CA, June 15, 1887; June 22, 1887; July 13, 1887.

Telephone Supplement,  
SATURDAY, JULY, 30.

---

---

**PROSCRIPTION,**

BY NATIONAL PARTY AGAINST  
**The White Adopted  
citizen.**

B. H. Stone, and Mr. Ingram  
has been denied the right of making  
a speech to-day, after the following  
invitation was extended to divide  
time.

TAHLEQUAH, C. N. }  
July 23rd, 1887. }

Hon's. J. B. Mayes, and Samuel  
Smith.

Chouteau, C. N.

Gentlemen:—

You are respectfully informed  
that there will be held on the 30th,  
inst. (Saturday) a "Barbaque" by  
the National Party at this place,  
you are cordially invited to be  
present on that occasion, and to  
take part, if agreeable to your-  
selves, in the discussion of public  
questions.

Very truly and Respectfully,  
Committee } Jas. S. Stapler,  
on } E. C. Boudinot Jr.  
Arrangements. } Robt. B. Ross.

Adopted Citizens can you vote  
for a party that will pledge what  
the National party does in the 7th  
Section of their platform, and then  
deny that citizen the right of free

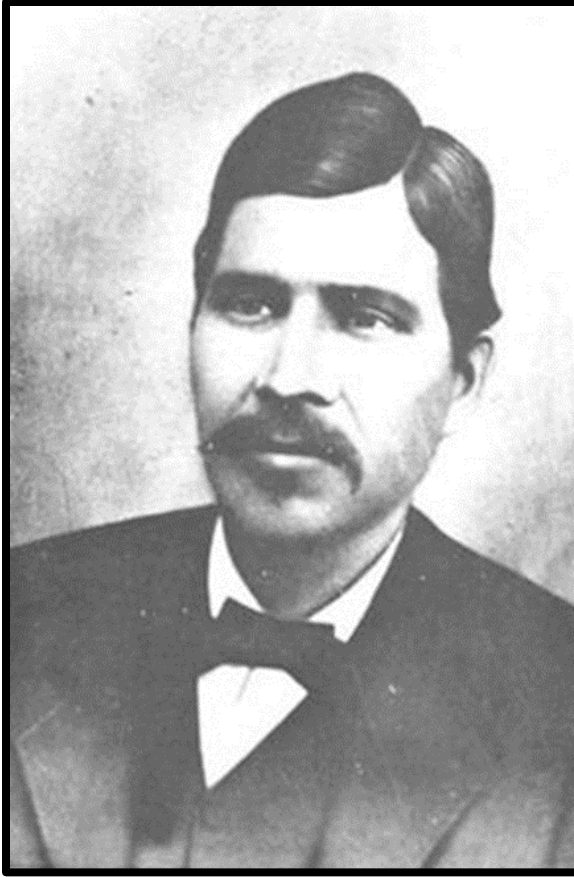
speech in a free country—God for-  
bid that this country should fall  
under the reign of a tyrannical  
a party as the National party.  
**THEY DARE NOT DENY THIS—  
WE DEFY THEM TO DENY IT.**

They preach to you adopted citi-  
zens that they are your friends,  
yet they deny your color a right  
to speak at a public meeting; a sa-  
lemn right the constitution of this  
nation guarantees to every citizen.

Away with your damnable doc-  
trine of equal right to adopted citi-  
zen, when you deny them the  
right of free speech—nor do we  
believe you are a friend to a free  
government when you suppress  
free speech.

We hold a party responsible for  
what its leaders do. When a party  
denies its white citizen the right  
the constitution guarantees, a right  
no honorable government—even a  
despotic government does not  
prohibit, we think it time some  
other conservative party come in  
power.

**Image 6.2:** A supplement to *The Telephone*, a partisan Downing Party newspaper, published days before the 1887 generation election. The supplement accuses the National Party of attacking the free speech of adopted whites and denying citizens their “constitutional guarantees.” The pamphlet places the most emphasis on “The White Adopted citizen,” which was indicative of a party effort to win over white citizens as a voting bloc. The supplement also accuses the National party of being an enemy of free government. **Source:** Supplement to *The Telephone*, July 30, 1887, James R. Hendricks Collection, Box 3, Folder 38, Western History Collection, Oklahoma University, Norman, OK.



**Image 6.3:** Rabbit Bunch (1841-1891) (left) and Joel B. Mayes (1833-1891) (right). Their contest for the chieftaincy in 1887 was the most toxic and dangerous election in Cherokee history.

**Sources:** Rabbit Bunch (public domain); "Joel B. Mayes, Cherokee Chief," 1850-1900, Grant Foreman Collection, Folder 19, Gilcrease Museum, Tulsa, OK.

This may have made things easier for Mayes. Every trip back home was a major campaign stop. By the end of the campaign he “[had] addressed the people in every District, and his own District (Cooweescoowee) several times.” Rabbit Bunch could boast “the same thing with the exception of Tahlequah District where he [would] address a ‘barbecue’ meeting...two days before the election.”<sup>1179</sup> This was all campaign strategy: Tahlequah was safely National for Bunch—he could put it off to the very end. Cooweescoowee would overwhelmingly go for Mayes, but as a challenger against the incumbent and the first Southern Cherokee nominee for chief, nothing could be left up to chance. Mayes was everywhere.

Bushyhead, Bunch, and Lucien Bell (as a surrogate) had debated each other in June, but it seems that Bunch and Mayes met only once during the campaign, in July.<sup>1180</sup> The Downing Party managers hosted a picnic in Flint District (Bunch’s home), and each candidate was asked to give an extended speech before everyone present. As far as the author can tell, this was the first time that rival candidates gathered to debate each other in person—at least in the postwar era—and because Mayes spoke only English and Bunch spoke only Cherokee, an interpreter was required to translate their speeches for each other and everyone else. If it were not for the alarming hostility between the political parties, the debate would have been a beautiful example of a bilingual country practicing democracy without always sharing a common language. Perhaps it still was.

Joel Mayes went first. He probably stopped every few moments because one Mr. Coval was translating everything he said into Cherokee: “[I] congratulate you all upon the happy, peaceful, and prosperous condition of the country...” He explained that he was raised in Flint District, and while Flint’s politics were very different from his own, he had many friends in the district. He then explained the history of the Downing Party as if it never dissolved for a decade: “The Party agreed then, and entered into a pledge...that the candidates for the Principal Chief’s Office should be alternately selected from full-blood Cherokees and the half-blood Cherokees—a candidate taken from one division of the party to run at one election, and a candidate from the other division at the election following.”<sup>1181</sup> It is no wonder that Mayes placed so much emphasis on the original Downing Compromise. Lewis Downing, his administration, and his reconciliation party were all very popular with full-bloods. Flint District was a full-blood district. Mayes could pretend, but he was absolutely speaking in hostile territory.

Mayes spoke in very broad terms about unity and prosperity. He guaranteed to every citizen, untruthfully, “whether Native Cherokee, Colored, Delaware, Shawnee, white, or Creek, equal protection...our destiny is the same. The Downing Party does not propose to throw any passenger overboard.” He denied repeating the lie about the entire Outlet already being sold by the National Party—a popular conspiracy theory. He also promised fiscal conservatism:

“Should I be elected I promise not to squander your money—as has been done by the National Administration...In 1885, \$15,000 internal revenue was reported east of 96. There were 36 stray sales in one year, besides sales on Town Lots and taxes collected on merchandise, and besides all these amounts \$19,000 was collected on permits in 1885. I ask where has all that money gone?”<sup>1182</sup>

---

<sup>1179</sup> CA, July 27, 1887.

<sup>1180</sup> CA, June 29, 1887; July 13, 1887.

<sup>1181</sup> CA, July 13, 1887.

<sup>1182</sup> CA, July 13, 1887.



Mayes had no gripes with communal capitalism. He did, however, dislike that the National Party had shifted into this ideology to “equalize the profits.” He framed it as “squandering” in speech after speech, and accused the Bushyhead administration of embezzling money out of the treasury.

Then it was Bunch’s turn to speak. Translated into English, he said: “I am truly glad to hear Mr. Mayes own to being so well-pleased with the present, prosperous, happy, and peaceable condition of the country...This prosperous condition, remember, exists under the National administration—Mr. Bushyhead being the leader.” He reminded the audience of their misery in 1879, and that at that time “The Downing Party had practically been in power ever since the war.” It is doubtful that *this* “rehabilitated” Downing Party was the same as the one dissolved after 1879, but if the Downings were going to be the beneficiaries of the claim, Bunch could make them pay for it: “The Cherokee had a debt over it of over \$180,000. Scrip was selling for 20 cents a dollar...[and] no attempt had been made to relieve the people of their burdens.” The charges of “squandering” the country’s money were totally unfounded and could “not [be] sustained by a single figure from the Treasurer’s books.” He added: “Such is the difference in a financial view between the National and Downing parties.”

Bunch also attacked Mayes’ use of the Downing Compromise. Reflecting how the parties were falling into old Civil War alignments, Bunch chose his words differently than Mayes. He said that the Downing Compromise was a deal between the “Southern Cherokees.”

“As for myself, I am unable to see any chance for our people to unite under any such trade. The bargain of the Downing leaders plainly recognizes and attempts to divide the Nation into two classes...I am called leader of the National Party. Well, so far as I am concerned, the doors of my party are open to my people, citizens of the Cherokee Nation, without distinction.”<sup>1183</sup>

Only Bunch could have made this criticism with such effect. To the full-bloods of Flint District, Bunch asked why a race-based compromise was necessary in the first place. With this, he turned the tables on Mayes and the Downing Compromise: full-bloods could be leaders on their own account—they did not need secretive deals to climb the political ladder.

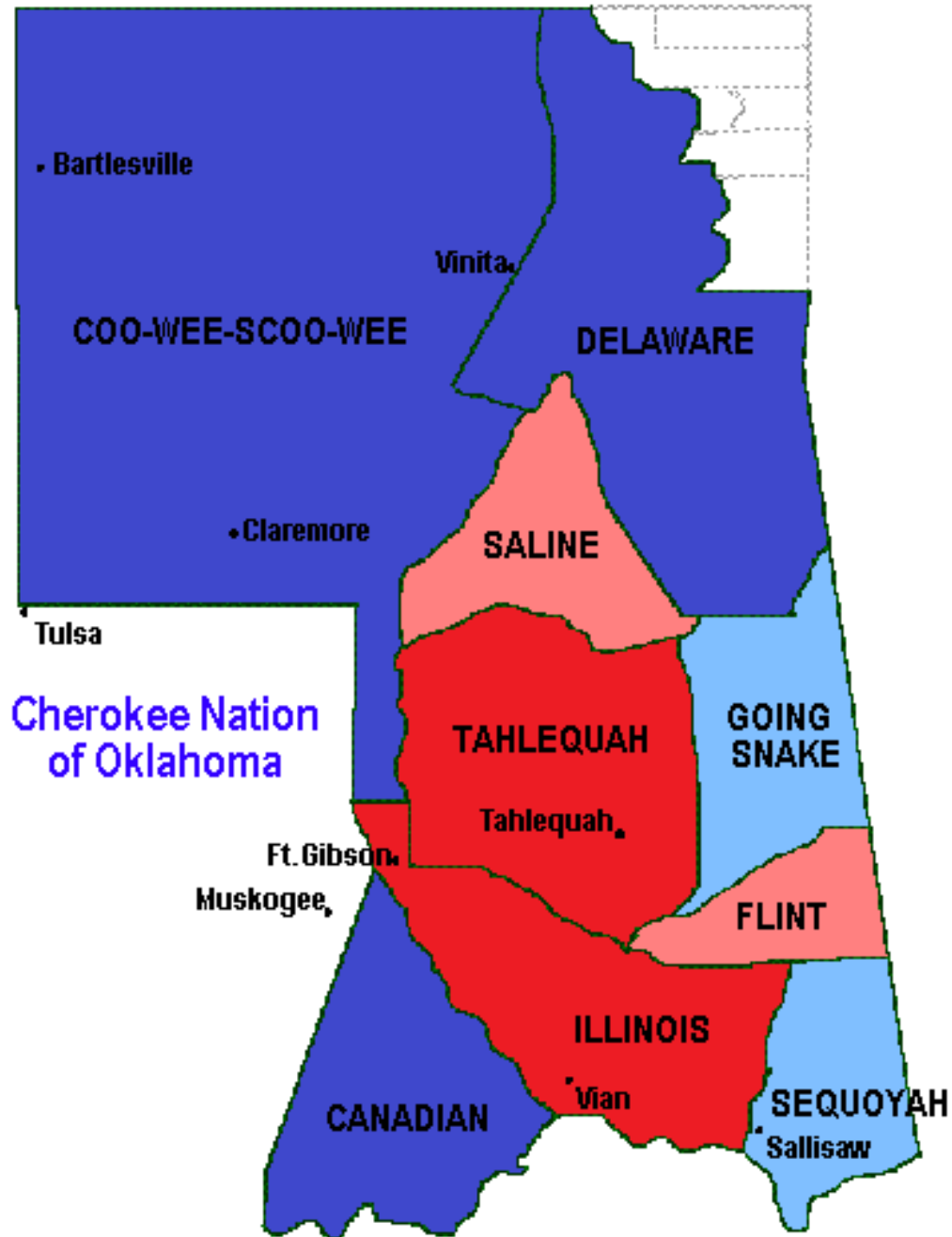
It was an overoptimistic viewpoint. The Cherokee Nation was undergoing a seismic change, and full-bloods’ political strength was in decline. It was the reverse of Reconstruction. In partial thanks to the abuses against full-bloods, Mayes won the chieftaincy by the barest of majorities.

One “C. C. Lipe” sent a letter to his friend G. B. Foreman to discuss the news: “We have got Mayes completely tied up, by getting a majority in two houses, but I was awful sorry that Bunch got beat. This settles it with me, that we will never have another full-blood for Chief, for I am satisfied that there will never be another such effort made to elect one.”<sup>1184</sup> Bunch represented a closing opportunity. Despite the accomplishments of the Bushyhead administration, bigotry played a major role in denying Bunch a reward. And there would never be another full-blood chief.

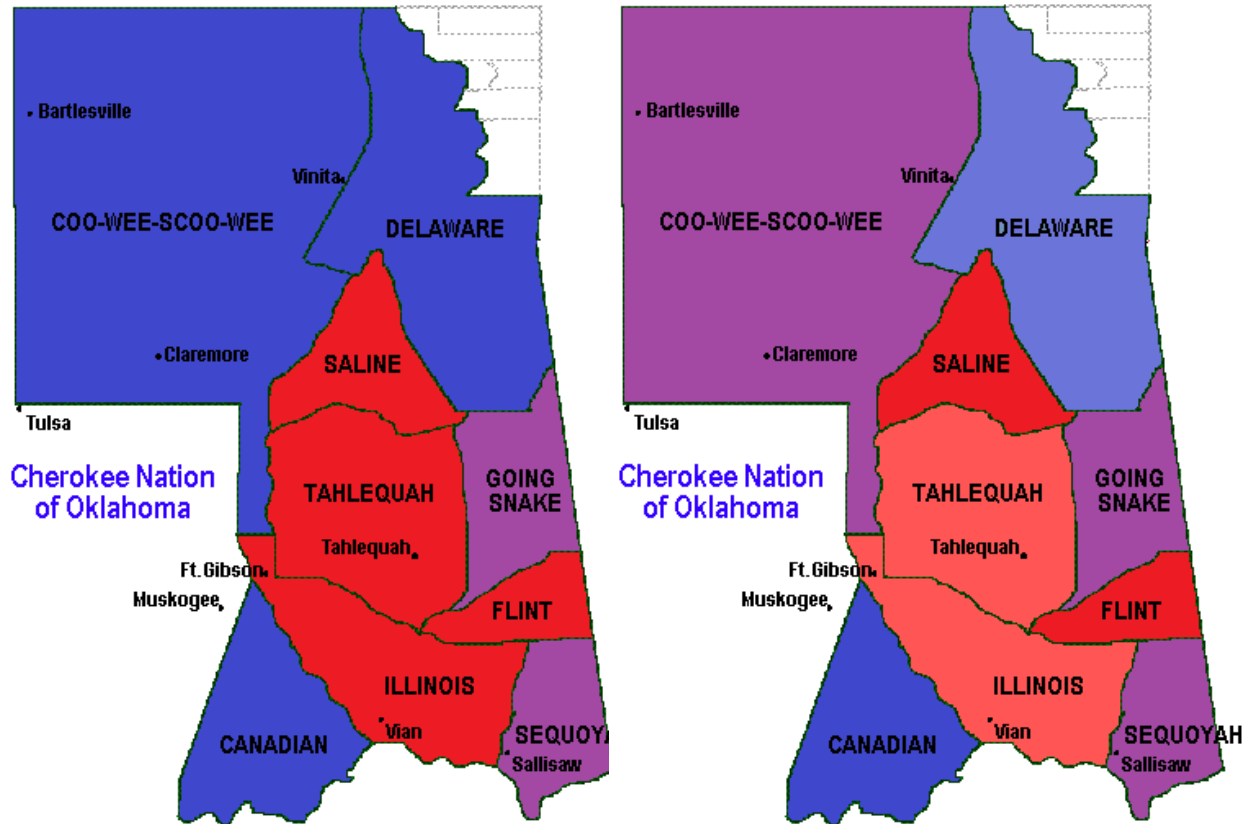
---

<sup>1183</sup> CA, July 13, 1887.

<sup>1184</sup> C. C. Lipe to Bullet Foreman, Edward Everett Dale Collection, August 10, 1887, Box 242, Folder 1, Western History Collection, Oklahoma University, Norman, OK.



**Figure 6.1:** The election map for principal chief in 1887. Red represents the National Party, while blue represents the Downing Party (the Downings actually did identify with the color blue). Lighter shades of red and blue indicate closer elections. Mayes won the following districts by these listed margins: Canadian (181 votes), Sequoyah (30), Delaware (105), Cooweescoowee (88), and Going Snake (15). Bunch won the following districts by these listed margins: Tahlequah (83 votes), Illinois (89 votes), Flint (58 votes), and Saline (46 votes). After this election, Sequoyah would settle more into a solid blue district like Canadian, while Going Snake would do the same for the Nationals.



**Figure 6.2:** The election map for the Senate (left) and the Council branch (right) for the election of 1887. Red represents the National Party, blue represents the Downing Party, and purple represents split districts (e.g. one National senator, one Downing senator). Lighter shades of red and blue indicate districts where one party won a majority of Council seats, but not all of them; solid colors on the Council map indicate a clean sweep of all the seats available (e.g. Canadian almost always sent a completely Downing delegation to the National Council). The Senate map (left) shows a 10-8 majority in favor of the National Party. The Council map (right) shows a 22-18 majority in favor of the National Party. The breakdown of these seats was as follows: Tahlequah (4 Nationals, 1 Downing), Illinois (4 Nationals, 1 Downing), Saline, (3 Nationals), Canadian (4 Downings), Sequoyah (2 Downings, 1 National), Flint (3 Nationals), Going Snake (2 Nationals, 2 Downings), Delaware (4 Downings, 2 Nationals), and Cooweescoowee (4 Downings, 3 Nationals).

**“A coup ‘d’état has been resorted to...” (1887)**

Both *The Cherokee Advocate* and *The Chieftain* immediately called the election for Mayes in the first week of August. The gap between candidates was nothing. *The Cherokee Advocate* estimated that Mayes had won by 143 votes, but this was according to “the verbal reports from the several sheriffs”—the law required the returns sealed until the first of November.<sup>1185</sup> It was widely agreed that Canadian District’s turnout had made the difference. C.C. Lipe wrote: “Canadian played h—l with us. Mayes can give that District credit of electing him, it just took that majority to put him in.”<sup>1186</sup> *The Chieftain* made a similar conclusion: “Grand Old Canadian is True Blue as Usual...The Downing Party have carried every office in the district. The mystery is solved: ‘What’s the matter with Canadian?’” The district which had nearly become the autonomous “Southern Cherokee Nation” had been decisive in electing the country’s first Southern Cherokee chief. Mayes had just become what Stand Watie could never be: a democratically elected chief.<sup>1187</sup>

*The Chieftain* was overjoyed by the results and looked forward to four years of harmony. Its editors remarked, “*The Chieftain* has been hammering away for several years to demolish a ring of a lot of bloodsuckers who had fastened themselves on the vitals of our nation” but now had the joy of “a surety of ultimate success next November.” *The Chieftain*, which had once celebrated Bushyhead’s second victorious election, fully embraced its role as partisan paper and expected to continue in that role: “Repeated returns to old battle grounds may be expected.”<sup>1188</sup>

But something happened in August. The National Party at the local and national level cried foul and accused the Downings of stealing the election. Adopted citizens were at the heart of the controversy, and “Much stress [was] put upon the part the white adopted citizens of the country took in the election, as though they had no right to exercise any choice in selecting the chief who should rule over them.”<sup>1189</sup> Even the pro-Bushyhead *Cherokee Advocate* found the accusations dangerous, writing “When a man is fairly and honestly elected to an office he ought to have it. We do not believe in contesting an election unless there is good reason for it.”<sup>1190</sup> Two weeks later, however, E. C. Boudinot Jr. was forced to change its tune. Prematurely designating Mayes as chief had its risks as well, and so the editor changed to writing “Whoever is next chief” and “the next chief.”<sup>1191</sup> He had no interest in provoking the ire of half the country at the expense of the other. The accusations were casting doubt on the results and threatened the peaceful transition of power.

*The Chieftain* found the charges ridiculous: “The complain that the Downing Party elected their chief by fraudulent means, though first by some of the leaders of the National Party, cannot

---

<sup>1185</sup> CA, August 3, 1887.

<sup>1186</sup> C. C. Lipe to Bullet Foreman, August 10, 1887, Edward Everett Dale Collection, Box 242, Folder 1, Western History Collection, Oklahoma University, Norman, OK.

<sup>1187</sup> Some will claim that Stand Watie was a principal chief during the Civil War, but this is a Lost Cause exaggeration. The nation had already descended into war and anarchy when Watie asked his own soldiers to vote him into power. It cannot seriously be said that he was elected by the country, and only a couple months after this “election,” he was forced to flee the country just like John Ross. He was never chief in the true sense of the word; he never governed.

<sup>1188</sup> *Chieftain* (Vinita), August 18, 1887.

<sup>1189</sup> *Chieftain* (Vinita), August 25, 1887.

<sup>1190</sup> CA, August 24, 1887.

<sup>1191</sup> CA, September 7, 1887.

cover up, nor draw attention from the dirt they did themselves in the election.”<sup>1192</sup> Editor John Lynch Adair then tried to turn the tables:

“Circumstances [were] brought about by foreign interference and introduction of early California management of political campaigns, that resulted in trouble and vigilant committees...the parties interested [hoped] to secure a continuance in power of the National Party, and [there was] the outlay of large sums of money to buy dishonest voters. This is certainly the alarming state of affairs which is endangering the peace and general prosperity of the Cherokee people...In such things as this the party in power has great advantages, and the allegation is not without foundation that the extraordinary and unusual means to carry the late election in favor of the National party had their origin in such considerations.”<sup>1193</sup>

Both parties saw blatant criminality in the other. To the Nationals, the Downings were a party that had used adopted white citizens to steal an election. If they could cheat to win an election, they were surely capable of much worse. The Downings, for their part, felt the exact same way, and accused the Nationals of cheating and bribing to win the National Council. “A defeated candidate” accused Bunch’s managers of traveling throughout Saline District, paying off as many destitute voters as they could.<sup>1194</sup> The Downings had one advantage in this fight. As Adair pointed out, the Nationals were considered the corrupt “party in power.” Surely this meant they were the schemers.

Hypothetically, if there was cheating in the 1887 election, we already know where it took place. Only one district had an unusual blowout, and that was the Southern Cherokees’ Canadian District. Bunch lost Canadian by 181 votes.<sup>1195</sup> Two districts with similar population sizes—Going Snake and Sequoyah—had a Mayes majority of 30 and 15 respectively. These kinds of margins were more typical. In the previous general election, Charles Thompson had beat Bushyhead in the Canadian District by 84 votes and Bunch had won the district (as Assistant Chief) with a 49 vote majority.<sup>1196</sup> This was a district which had favored a controversial Union Party full-blood in 1883, and even favored Rabbit Bunch for Assistant Chief by 49 votes. Did it really turn around four years later to blow Bunch out of the water? And how could the district do so by such a wide margin as to determine the election, when even the substantially more populous Upper Districts could not do the same? Something was unusual—though not necessarily illegal—in the Canadian results.

We can speculate that it was one of two things. On the one hand, Canadian District was probably the most ideologically consistent district in the country. Its long history of being a home for Southern Cherokees made it uniform in many ways. Contemporaries commented on this all the time and talked about Canadian’s results being “True Blue as usual.” This district never surprised Cherokee observers, and it was not a battleground like Cooweescoowee often was. It is possible, then, that this is just a story of hyper-partisanship driving the Southern Cherokees to organize and vote better than ever before. It could be that the rise of “a Southern Cherokee Nation”—which is how we should understand the impending dominance of the ex-Confederates—was sparked democratically by the Southern Cherokees’ home district.

---

<sup>1192</sup> *Chieftain* (Vinita), September 1, 1887.

<sup>1193</sup> *Chieftain* (Vinita), September 1, 1887.

<sup>1194</sup> *Chieftain* (Vinita), September 15, 1887.

<sup>1195</sup> CA, August 3, 1887.

<sup>1196</sup> *Chieftain* (Vinita), August 10, 1883.

On the other hand, there is another possibility, one far more sinister. Ballot-box-stuffing was very common in the Gilded Age and in the U.S. South, and it is possible that Canadian's hyper-partisanship drove its leaders to produce enough ballots for their candidates to swing the whole election. During the 1891 general election, for example, Mayes won Canadian District by 325 votes. This was a preposterous anomaly in what was otherwise a very close election. In that year, Mayes won Cooweescoowee by only 46 votes, Tahlequah by 5 votes, Flint by 51 votes, Sequoyah by 95 votes, and Going Snake by 18 votes. His rival won Delaware by 54 votes, Saline by 74 votes, and Illinois by 10 votes.<sup>1197</sup> *The Chieftain* had slightly different estimates but it told the exact same story.<sup>1198</sup> Eight of the nine residential districts were won by either candidate by an average 44 vote majority; Canadian District alone was won by 325 votes. In 1891, Cherokees were expected to believe that 75 percent of the chief's majority came from one district which was not remotely as populous as the Upper Districts. It is possible that the story of a "Southern Cherokee Nation" could be boiled down to one district becoming an anti-democratic ballot machine.<sup>1199</sup>

Either way, Canadian District was the Treaty of 1866 coming back to haunt its signatories. Through means fair or foul, the Southern Cherokees' home district was the decisive piece in the ex-Confederates coming to power and keeping it until denationalization and statehood. There would never be another ex-Union chief, there would never be another full-blood chief, and every chief starting with Mayes had strong ties to the Confederacy. The Treaty of 1866 had come back to haunt its signatories. The district which had nearly become its own separate nation was in control.

The two parties were on collision course, and by the start of September Cherokees could already predict the coming crisis. They could even guess—correctly—how it was going to unfold. Editor John Lynch Adair of *The Chieftain* explained that "the plan, if there is any such intention, will be to count Mayes out and Bunch in...the National Party having, as they claim, a majority in both houses...[when the session convenes] they could arbitrarily throw out enough of Mayes' votes to seat Bunch...[but this] surely will not be attempted, because trouble might be the consequence."<sup>1200</sup> Rumors of this exact conspiracy were widely discussed, and Adair said they "more or less seem true." Trying his best to warn the Nationals against this course of action, Adair added: "No party can honorably submit to a wrong or to the domineering spirit of another party who, without any legal right or authority, would force submission to their will. Those who contemplate violence in determining who shall be chief will find that there are good and prudent men in either party who will see that the law has its course."<sup>1201</sup> Week after week, *The Chieftain* insisted that this was the plan of the Nationals, and a wild fear broke out across the nation.

The fears were given a stronger voice at the end of September. The Downing Party met in Cooweescoowee to formalize their fears and warnings—"the object was to take into consideration the state of the country and corruption of the National Party during the late election, and the unlawful opening of the election returns since they came into the hands of the principal chief." The delegates drafted a severe resolution. It threatened "revolution" and hinted strongly at violence:

---

<sup>1197</sup> CA, August 5, 1891.

<sup>1198</sup> *Chieftain* (Vinita), August 6, 1891.

<sup>1199</sup> These are, again, speculations. Extensive research would be necessary to determine which of the two theories is more accurate. In any case, whether it was done democratically or through box-stuffing, the Canadian District was central to the Southern Cherokees taking power of the country and keeping it up until denationalization.

<sup>1200</sup> *Chieftain* (Vinita), September 8, 1887.

<sup>1201</sup> *Chieftain* (Vinita), September 8, 1887.

“WHEREAS, It is rumored, and generally believed, that the election rolls have been tampered with since they have come into possession of the principal chief [Bushyhead]...

WHEREAS, That such unlawful handling of the election rolls can be for no other purpose than to seat three senators and three councilors who were lawfully defeated at the election in Cooweescoowee, Delaware, Tahlequah, and Goingsnake districts and thereby through such fraud, give the National Party a majority vote in the organization of the national council...

...that no other conclusion can be reached is evident from the following statement of facts: At the late election in Cooweescoowee District Abe Ketchum and Arch Nelms received 588 votes each, thereby making a tie. No proclamation for a new election has been issued, notwithstanding the fact has been notorious for more than fifty days; and

WHEREAS, From the expression of some of the leading men of the National party, the people are led to believe that...Joel B. Mayes and Samuel Smith...will be defeated by a fraudulent count of the vote and the seating of the defeated candidates [Bunch]; and

WHEREAS, These practices are creating alarm throughout the country which if continued may result in revolution and political ruin of the Cherokee Nation; and

WHEREAS, We believe that Joel B. Mayes and Samuel Smith have been duly and lawfully elected principal and assistant chief of the nation, thereby be it

*Resolved*, That the Downing Party desires peace and good will among the people of the Cherokee Nation and will do all in its power to preserve them, but it will not sacrifice honor and the rights guaranteed to the people under the laws and constitution...

...Reiterating our beliefs that Joel B. Mayes and Samuel Smith have been elected principal and assistant principal chief we invite all good citizens to take all lawful means to place them in the offices to which they were elected, and let it be known that any attempt by traitors at home, stimulated by the money of cattle syndicates abroad, and the hope of a speedy dissolution of our country to stifle the voice of a free people fairly expressed will be met by the necessary resistance...

...the only hope of permanency for our country is in the cheerful submission of its citizens to the will of the majority.”<sup>1202</sup>

The National Council still had more than a month before they would meet, but the Downings had already decided that the plot was underway. If the National Party did not accept Mayes and Smith as the rightful victors of the election, they would “be met by the necessary resistance,” which would “result in revolution and [the] political ruin of the Cherokee Nation.” One of the two major parties of the nation was openly threatening the government and accusing of it a scheme to disenfranchise the voters. Regardless of who was closer to the truth, Cherokees were now flung into a full-blown constitutional crisis.

---

<sup>1202</sup> *Chieftain* (Vinita), September 29, 1887.

Almost every week before the legislative session, *The Chieftain* played its role perfectly, pounding a drum to rile up the Downing Party.<sup>1203</sup> It is certainly possible Bushyhead considered an institutional coup (we really cannot know for sure), but Adair depicted him as leader actively preparing to seize power. He circulated rumors that Bushyhead had tampered with the election returns, while pretending to find it unbelievable: “[It] is such an unprecedented outrage of executive trust, and so dangerous in effect, that those who appreciate the enormity of so great a crime...cannot entertain it for a moment.” In the same breath, he shared rumors that “the chief has notified all the district sheriffs to be present, with twenty-five armed men, each, at Tahlequah, when the council meets.” This too “surely [was] not so,” Adair added, “because a standing army would have to be organized to maintain usurpation of power, which the government of the United States [would] not permit, nor [would] our own be able to support.”<sup>1204</sup> Neither of these statements were genuine. Two weeks later *The Chieftain* openly accused Bushyhead of opening the returns, and of getting in a fight with a Downing Party member.<sup>1205</sup> The week the National Council met, *The Chieftain* went one step further:

“If correctly reported by a Globe-Democrat reporter at Tahlequah, what does the chief mean by saying that he intends to recommend certain things in his next annual message? Does he expect, on account the muddle affairs are in, to keep on being chief? Or is he going to have a message ready for his successor in office?...”<sup>1206</sup>

At least one half of the nation had come to believe the unthinkable: that Cherokee democracy could fall apart to such an extent that Bushyhead would refuse to leave office after his term had expired. They believed, with complete sincerity, that their government was to be taken over by the defeated and corrupt Nationals, and they therefore responded accordingly. In the last issue before the session, *The Chieftain* wrote: “Council meets next Monday. Trouble is generally expected.”

At first the country was hopeful. Early reports indicated there was “no likelihood of trouble.” The streets of Tahlequah were crowded. Bunch and Mayes both made their presence felt; Mayes did so by arriving in the capital with “about twenty loaded hacks and buggies.” The Nationals were allowed to swear in their lawmakers and select the new president of the Senate. A correspondent from *The Chieftain* reported “Nothing unusual observed.”<sup>1207</sup>

But that was only because they were looking in the direction. Without making much of it, *The Chieftain* did report on one strangeness: “Two Downing members have absented themselves, thus preventing a quorum.” At this early date, the Downing strategy had presented itself. Their intention was to block the National Council from counting the votes for chief. It was a very aggressive strategy. The immediate result was that the legislature ground to a complete halt. Within a month, the maneuver would bring down the government and nearly destroy Cherokee democracy.

Each party’s demands were simple, but problematic. Lucien Bell, as President of the Senate in the previous session occupied the same position for informal discussions in the chamber. The

---

<sup>1203</sup> There was not yet a partisan paper for the Nationals, but one would be formed at the start of 1888. *The Indian Arrow* was likely created with some connection to this crisis and the feeling that the Nationals did not have a press.

<sup>1204</sup> *Chieftain* (Vinita), October 6, 1887.

<sup>1205</sup> *Chieftain* (Vinita), October 20, 1887.

<sup>1206</sup> *Chieftain* (Vinita), November 3, 1887.

<sup>1207</sup> *Chieftain* (Vinita), November 10, 1887.



Nationals wanted the Senate to meet, examine the ballots, throw out an “illegal votes,” and then count the majority. The Downings wanted to count the vote but insisted that no ballots could be questioned or thrown out. One correspondent in Tahlequah reported: “the right to object to any vote, of illegality is waived, as claimed by the friends of Mayes, because no contest for his seat is made.”<sup>1208</sup> The Downings insisted that whatever was in the returns had to be the count.

Legally, this was true, and as was often the case, the fault probably lay with the law itself. The New Code of Laws stipulated: “It shall be the duty of the [district] superintendents, clerks, and supervisors of elections, to challenge the vote of any person, whom they know, or suspect, to be not a legally qualified voter.”<sup>1209</sup> The New Code also provided a manner for contesting an election, which required the signature of one hundred electors, at which point an investigation by the National Council would be triggered.<sup>1210</sup> The oversight seemed to lay in the gap. Under this system, hypothetically, a corrupt district could approve a corrupted election return, send it to the President of the Senate, and since the district officers were responsible for “challenging the vote of any person,” the National Council would be forced to approve the results if no one had contested the election in advance. The Downings correctly point out that the National Council had the right to count—not adjudicate—ballots, which was a major oversight of the law. Both parties believed in scrutinizing and invalidating “illegal votes”—they would both do it at the 1887-1888 session, but there was not enough proscription for it in the law. And the oversight benefitted the Downings.

*The Cherokee Advocate* sided with the National Party. The national editor found the lawmakers’ hopes to review the ballots perfectly legitimate:

“In the United States, or in any of the States, the right vote presumes the possession of civil rights only. So, should one who is not a citizen there cast his vote, the personal rights of other citizens are not so much affected. The votes of a few non-citizens in South Carolina, for instance, or the *repeated* votes of a few citizens of that state might, if undetected and counted, seat a Governor who is not entitled. But the right of every other citizen to what lands and money he had before the election would remain the same as ever.

It is not so in this Nation by a very great deal. All of the very valuable Cherokee lands—valuable because there are no other lands possible for the Cherokees to obtain—belong to the Cherokees *in common*...the bona fide citizens of this Nation are really well off; but they are not so well off as to be able to divide with those who have no legal right to share with them.

Such a suicidal division can be made very easily by the National Council by counting the votes of any persons who, in the hurry...of an election, and from ignorance or intention...may have been registered as citizens of the Nation and as qualified electors...

---

<sup>1208</sup> *Chieftain* (Vinita), November 18, 1887.

<sup>1209</sup> “An Act Relating to Elections,” Chapter VIII, Article I (“Relating to Elections”), Section 12, in *Constitution and Laws of the Cherokee Nation* (St. Louis: R. and T. A. Ennis Stationers, 1875). 168.

<sup>1210</sup> “An Act Relating to Elections,” Chapter VIII, Article II (“Manner of Contesting Elections”), Section 26, in *Constitution and Laws of the Cherokee Nation* (St. Louis: R. and T. A. Ennis Stationers, 1875). 171.

The elimination of such unlawful votes as the Council may find to be unlawful upon ‘examination’ of the returns for Chief is therefore an indispensable procedure... This question, therefore, has nothing to do with the ‘contesting’ of the election of Chief...”<sup>1211</sup>

This was a flimsier legal argument than what the Downings had. The New Code did, it should be said, require the National Council “to open and examine the returns from each district, one at a time, in the presence of the two houses, and carefully compute and publish the result.”<sup>1212</sup> This sentence was the entire basis of the editor’s argument, and could not make up for the gap in the law. While the Downing Party undermined its own legal theory by playing it both ways (contesting votes just like the National Party), they were correct that there was no legal procedure for it.

That does not mean that the Downing Party was in the right. The refusal to seat its senators was a purposeful attempt to bring the government to a halt. An anti-statist party, for example, could cause its own institutional coup in this way—bringing down the government through the absence of lawmakers. The National Party had a good point when it refused to meet with the Downing Party to negotiate an end to the stalemate: “What you are pleased to term a ‘deadlock’ in the Senate is nothing more or less than refusal of members already recognized and qualified to sit and act as member of that Body... If we are to understand you as proposing a ‘compromise’ of our duty to uphold the Constitution for the purpose of recognizing the right of absent members to remain absent until such compromise may be illegally agreed to, we can only reply, with the utmost respect, that we do not feel authorized as the People’s Representatives, either to offer or to accept the proposal.”<sup>1213</sup> The Nationals had a simple but very reasonable position. Negotiating for a quorum made no sense. The lawmakers were already required by law to be present and to serve. It was a dangerous, perhaps illegal, precedent to allow a political party to withhold a quorum to force an issue. The Nationals, in this instance, promised they would not organize a “compromise” to find a quorum, and the Downings promised they would not back down either. “Revolution” and “dissolution” of the government were openly acknowledged as looming dangers.<sup>1214</sup>

Despite repeated meetings, both parties refused to budge, and the legislature was frozen. This was probably the worst result for everyone. False dispatches were going out to the United States that civil war had already broken out between the parties; prominent Cherokees drafted a resolution refuting the false reports.<sup>1215</sup> Efforts to get the parties to talk things over were failing entirely, and the no regular business could be attended to before then. Bushyhead was still acting as chief long after his constitutional term had ended, and the peaceful transition of power had been disrupted. The government could not appropriate money for anything; it was literally falling apart.

One thing observers of various political strands agreed on was that the capital was eerily quiet for all of November. “Extreme quiet prevails,” wrote one contributor. On November 21<sup>st</sup>, after two weeks of the regular session had passed, one correspondent wrote:

---

<sup>1211</sup> CA, November 9, 1887.

<sup>1212</sup> “An Act Relating to the Duties of Officers,” Chapter I, Article I (“Duties of Principal Chief”), Section 1, in *Constitution and Laws of the Cherokee Nation* (St. Louis: R. and T. A. Ennis Stationers, 1875). 36.

<sup>1213</sup> CA, November 23, 1887.

<sup>1214</sup> CA, November 23, 1887.

<sup>1215</sup> CA, November 9, 1887.

“Nothing done yet! I hear it asked: ‘How long are you going to keep this thing up?’ ‘We intend to fight it out on this lie if it takes all summer!’

That as yet seems to be the grit manifested by both sides...All good citizens of every degree or name or party express the hope that it all will be settled peaceably. The fact that no violence has as yet been attempted, but that the first day’s excitement passed over quietly, it looked upon by many as an omen of good...Those holding opposite sides can be seen peaceably and jovially exchanging jokes and even cautiously, calmly, and with good nature probing and prodding one another. This is all much better than bloodshed.

The town is remarkably quiet and still both day and night. ‘In the memory of the oldest inhabitant’ Tahlequah never saw so quiet a council time. Since the six of the month there has not been seen here a drunken man. That could never said of Tahlequah before.

...Business dragged so slowly that quite a number of the ‘members’ went home last week. They are coming in now and the town is filling up again, and a good many are anxiously awaiting Monday, expecting that ‘*something will happen.*’

Let us all hope let all Christians pray earnestly that nothing bad will happen, but that law, order, and right may win every time. Yours for the right, MORE ANON.”<sup>1216</sup>

It was easy to vilify the Nationals as a corrupt gang from Vinita, but the truth was often less interesting. Overall, the Nationals and Downings had more uniting them than dividing them.

The national editor thought it was over at the end of November. He believed, incorrectly, that the fighting had stopped, that the National Council was getting back to business, and that lawmakers had learned “the defects as well as the excellencies of other democratic governments.” He had some good reason to hope for that: the Senate had, indeed, organized at last. Boudinot charitably concluded: “We are bound to consider this important episode in our political experience as more the result of thoughtlessness and of ignorance of the principles of our government than of a deliberate desire to overthrow it.”<sup>1217</sup> While the Downing lawmakers had wasted \$6,000 of the people’s money in the process, he was glad it was over and that “the National Council is *now* fully organized and ready for business.”<sup>1218</sup>

*The Advocate* was wrong. The Senate organized but did not want peace. Immediately upon getting together, the question of whether the vote for the chief or the contested cases for the National Council should be settled. The Downings wanted the chief question settled, the Nationals wanted the contested cases for National Council prioritized. According to a contributor to *The Chieftain*, “The debate in the Senate became so hot that they adjourned until next at 2 o’clock. According to adjournment the Seante convened, by there being no quorum [again], President Hawkins adjourned the Senate until the Monday morning following at 9 o’clock.” That session again erupted into a fury over the same question, and “in the midst of this conflict of opinions, between law and a lawless determination to override all opposition, the senate adjourned [again] until 2 o’clock...At the appointed hour, the senators took their seats and the conflict was renewed.”

---

<sup>1216</sup> *Chieftain* (Vinita), November 24, 1887.

<sup>1217</sup> CA, November 30, 1887.

<sup>1218</sup> CA, November 30, 1887.

The Nationals—with their majority—won every measure to take up the contested cases, but they lost the room: “Further efforts to combat a majority long since determined to carry their point now became evidently useless. The hour being late, Mr. Gray moved to adjourn, but was overruled. To take immediately advantage of his victory, President Hawkins directed the trial of contest cases to begin...Mr. Gray rose to his feet, and taking up his hat, emphatically declared that he would not take part in that which was so contrary to the laws and constitution. A regular stampede because evident, but Soggy Sanders moved to adjournment until [the next day] at 9 o’clock. The Downing members say they have now exhausted all means to effect a peaceful and friendly adjustment.”<sup>1219</sup> The correspondent, clearly responding to rumors which were already circulating in the capital, added: “The readers of the CHIEFTAIN need not be startled to hear that a coup ‘d’état has been resorted to before the close of the week, because in the history of nations such things have to be done sometimes.”<sup>1220</sup> A very real conspiracy was underway.

On December 7<sup>th</sup>, 1887, the Cherokee government fell. The Downings had met the night before and “agreed to make one more effort to induce the senate to count the vote for chief.” With little hope for success (“the Nationals have a grip on it and intend to hold on”) they surely made the arrangements for their other plan that same night. The same correspondent present at the Downing planning session the night before reported:

“About 4 PM today Mayes with probably 100 men as an escort started to the executive office to take the oath as chief. The door of the executive department was locked and Bushyhead refused to surrender the office. The door was kicked open and the crowd entered and informed Bushyhead that he was relieved of the responsibility of the place. He replied that he would not surrender except by force. He was told that force would be used if necessary. There is much excitement though no demonstrations of an armed conflict. C. S. Shelton, clerk of Delaware District, administered the oath of office. No count of votes has been made.”<sup>1221</sup>

Mayes and the Downing Party seized control and occupied the capital by force. *The Cherokee Advocate* was handed over to a Southern Cherokee, Ridge Paschal, even though the majority-National legislature was in session and could appoint someone themselves. Violence had been used to remove Bushyhead from power (albeit long after his term had expired), and “Mr. Bushyhead said he had been ready to turn the office over to whoever might rightly demand it ever since Council met.”<sup>1222</sup> This seizure of power was an astonishing moment in the history of Cherokee democracy. The immediate future of the nation was totally uncertain.

The Nationals fled the capital to Fort Gibson.<sup>1223</sup> A mass meeting was held outside the capital, with Downing Party members in the majority. Mayes delivered his first speech as chief (though no votes had yet been counted); Ridge Paschal—the unelected national editor—reported on it. He blamed the Senate for obstruction and declared that the leaders of the National Party had acknowledged his victory. He said the counts for chief should have been counted on the first day of the legislative session (though his own party had prevented this) and “he believed the Cherokee

---

<sup>1219</sup> *Chieftain* (Vinita), December 8, 1887.

<sup>1220</sup> *Chieftain* (Vinita), December 8, 1887.

<sup>1221</sup> *Chieftain* (Vinita), December 8, 1887.

<sup>1222</sup> CA, December 7, 1887.

<sup>1223</sup> *Chieftain* (Vinita), December 15, 1887.

people knew their actions had saved their government from anarchy.” He also explained that part of his reasoning for the coup was that if the National Council adjourned without a new chief, there would be no power to call it back for an extra session (and it should be added: it would have left Cherokee democracy hanging in the balance for a year). He promised the government would maintain order in Tahlequah and throughout the nation, and “there were no armed guards to terrify anyone.” A resolution was then drafted which accused the National Party of attempting “to bring about a condition of anarchy.” My great-grandfather signed the document.<sup>1224</sup>

One positive development was in the resolution the Nationals still in Tahlequah drafted. It urged for peace and moderation, and declared: “The safety of the Cherokee people at large depends upon peace and that any resistance by force of arms will only serve to hasten the end of the Cherokee government.”<sup>1225</sup> The Assistant Principal Chief, Samuel Smith, likely helped to moderate things as an ex-Union full-blood: “With feelings of profound respect and gratitude, allow me to thank you for your above expressions of concern for our common country and people.” All-out civil war or bloodshed was close, but not inevitable. There was still time for everyone to make the right decisions. And to their credit, everyone would. The lowest point had already been reached.

Federal agent Robert L. Owen—a Cherokee citizen, Downing Party supporter, and a Democrat—was present to help control the situation. In Owen, there was a testament to the power of self-government and sovereignty. Even the representative of the United States present to “interfere” in Cherokee matters was himself a Cherokee citizen and patriot. On December 12<sup>th</sup>, he spoke before about 500 people in the capital. He urged for a moderate interpretation of the unfolding events; that it was no one’s fault but that different parties had adopted different interpretations of “the complicated machine called ‘government.’” He had spent a week interviewing the leaders of both parties, and felt they were both sincere. Owen also seemed to imply that fault may lie with the election law’s lack of clarity (which was probably right). In other words, Owen did everything partisans like *The Chieftain* had not. He dumped conspiracy theory politics and urged for Cherokees to see the humanity in the opposition. He promised that any resort to arms would result in the destruction of the Cherokee government and the breaking up of their happy homes. He asked them to “do nothing that would excite the feeling of the opposite party.”<sup>1226</sup>

Each party drafted resolutions to Robert Owen explaining their positions and demands. The Nationals—in a resolution drafted by William P. Ross, James M. Keys, David Muskrat, George Sanders, Daniel Redbird, and William P. Boudinot—demanded “that the present armed and irresponsible body of men now in possession of the Capitol and other public buildings and offices at Tahlequah acquired by force and violence, be immediately disarmed and disbanded”; “That the status as it existed prior to the seizure of the Executive office on the 7<sup>th</sup> inst....be fully restored” or in other words that Bushyhead be returned to power in the interim; and that each party submit itself to arbitration to come up with a way to count the vote for chief.<sup>1227</sup>

The Downings rejected this. They insisted that, “The Capitol and offices are not in the hands of an armed mob, but in the hands of the regularly elected and constitutional officers of all branches of Government of the Cherokee Nation”—this was not true as Paschal was unlawfully

---

<sup>1224</sup> CA, December 7, 1887.

<sup>1225</sup> CA, December 7, 1887.

<sup>1226</sup> CA, December 14, 1887.

<sup>1227</sup> CA, December 14, 1887.

occupying the position of national editor. They wrote that neither Bushyhead nor Rabbit Bunch had been legally recognized officers of the nation since November 7, 1887—there was no justification for returning them to office after the expiration of their terms. That was a very fair point. And finally, they rejected arbitration. They were in the controlling position. They accused the Nationals of “furthering a conspiracy long formed to defeat the will of the people and count in a defeated candidate for Principal Chief...our country was drifting into anarchy, and we conceived to be the duty, however distasteful...to take position of the offices to which they had been elected.” The authors of this resolution were Lucien Bell, Stan Gray, Joseph Martin Lynch, Clement Vann Rogers [the father of Hollywood actor Will Rogers], Ridge Paschal, and John Lynch Adair. Stan Gray’s wartime allegiances are unknown, but he was a senator from the most pro-South district in the country—Canadian. The other authors were all ex-Confederates.

Meanwhile the national editor Ridge Paschal gave the country a taste of what Southern Cherokees had been feeling for years—that *The Cherokee Advocate* had slipped into becoming a state-run partisan newspaper. Formally announcing his tenure, Paschal took swipes at the forcibly removed editor:

“While we remain in charge we hope that we will convince all that we can publish an official paper without making it a party organ.

We *all* know that the Law has always prohibited it and does now. But the best of us while in our own opinion think we are only contending for the interest of the Nation, let our party’s and Nation’s interests get so blended that is difficult to discover just what is the governing power of our action.”<sup>1228</sup>

But Downing Party members would not be blocked from the national editorship for much longer, and Paschal proved that impartiality at a state newspaper was easier said than done. The same week he announced his control of the newspaper, he also signed the Downing Party resolution to Robert Owen (cited above), and appeared to mock the Nationals for fleeing the capital after a “false alarm” that their lives were threatened. He then added: “It seems that in this country some people are ready to start an alarm because their special friends are not in charge of the government.”<sup>1229</sup> If Nationals wanted a glimpse of what *The Cherokee Advocate* would look like in the future, they simply needed to read Paschal’s newspaper. The tables would be turned.

In a significant reversal of historical roles, it was the Nationals as the weaker party which invited the federal government to intervene on their behalf (in the past it had always been Stand Watie and his allies against Ross and his wide majorities). Right before help arrived, there were rumors—perhaps untrue—that an anti-Mayes plan was being concocted to attack the capitol building “and restore the executive department to Bushyhead and Bunch.”<sup>1230</sup> At this moment, on December 18<sup>th</sup>, federal inspector Frank Armstrong arrived in Tahlequah to help resolve things.

Armstrong was an interesting figure to enter the fray. He, too, was an ex-Confederate but he also “personally knew Ex-Chief Bushyhead and several more of our prominent men.”<sup>1231</sup>

---

<sup>1228</sup> CA, December 14, 1887.

<sup>1229</sup> CA, December 14, 1887.

<sup>1230</sup> *Chieftain* (Vinita), December 22, 1887.

<sup>1231</sup> CA, December 21, 1887.

Armstrong had been sent by President Grover Cleveland, and he adopted a non-interventionist approach. He cast himself merely into the role of a figurehead. One Cherokee wrote Armstrong was “clothed with authority, either persuasive or dictatorial, [but] it cannot be denied that his presence was not necessary.”<sup>1232</sup> Armstrong suggested that the Cherokees resolve this on their own terms, according to their own laws, and without action from the federal government, but he also warned that he was “fully authorized to call for and use enough of the Army” if an “armed conflict” broke out. He suggested the count for the chief be done at once (which is what the Downings wanted).<sup>1233</sup> The Downings agreed immediately, as this matched their demands.<sup>1234</sup> In a letter drafted by Dennis Bushyhead, Rabbit Bunch, George Sanders, William P. Boudinot, Daniel Bird, William P. Ross, James Keys, Richard M. Wolfe, Samuel Houston Benge, and Jesse Cochran, the Nationals made many of the same demands as before. They asked for Bushyhead and Bunch to be restored to power before a peaceful transition of power, they asked for the armed guards to remove themselves from the capital, for the occupation of the National Prison to end, and for the right of lawmakers to scrutinize the count for chief to be preserved.

The Mayes faction rejected all of this and released their claim to a contested seat in the Senate as a show of good will. Armstrong then effectively sided with Mayes, “decline any further excuses, and demanded the count be made at once.” This was done immediately. The final count, which precluded any challenges to the ballots, revealed that Mayes had won with a 133-vote majority, while his Assistant Chief Smith had won with a 674-vote majority.<sup>1235</sup> Mayes said he considered his first oath of office binding, but for the sake of harmony, he agreed to be sworn in again.<sup>1236</sup> He took the oath the night of the 23<sup>rd</sup>, and on the 24<sup>th</sup>, he addressed the National Council. He declared: “The political strife has now ended...let it forever be buried...” But in the same breath, he acknowledged the platform which had brought him to power: “The rights of soil and self-government...seems today to be safe, but there are many steps and moves in this machinery of government that are liable to endanger these sacred rights.”<sup>1237</sup> Mayes would be more moderate than many of his colleagues, but he was still an anti-statist in many regards. On the eve of denationalization, the new administration would seek out the sources of corruption in the government. Political strife was far from over, and it would truly never be buried.

Overall, the crisis of 1887 did serious damage to the Cherokee state. The government, without exaggeration, had nearly collapsed. The national scrip had fallen to fifty cents on the dollar, and no government employee (e.g. teachers) could be paid their salaries while the crisis persisted.<sup>1238</sup> Even the Downings’ *Chieftain* had come to fear the weaponization of the quorum rules and the nation’s hyper-partisanship, while hardly anyone learned the lesson about the dangers of conspiracy theory politics.<sup>1239</sup> It continued on as a phenomenon, and many of the same people who had sought to make it their weapon would soon find that it could just as easily be turned against them. A Choctaw delegate to Washington, George W. Harkins, reported in January of 1888

---

<sup>1232</sup> *Chieftain* (Vinita), December 29, 1887.

<sup>1233</sup> CA, December 21, 1887.

<sup>1234</sup> *Chieftain* (Vinita), December 29, 1887.

<sup>1235</sup> *Chieftain* (Vinita), December 29, 1887.

<sup>1236</sup> CA, January 4, 1887.

<sup>1237</sup> CA, January 4, 1887.

<sup>1238</sup> CA, December 21, 1887.

<sup>1239</sup> *Chieftain* (Vinita), January 5, 1888; January 12, 1888.

that “The late conduct of the Cherokee Nation in the so-called ‘dead-lock’ has done much towards placing the Indian people in an unenviable position before Congress and the United States.”<sup>1240</sup>

So much is murky about the crisis of 1887. It is unclear, for instance, whether the Nationals ever had a serious plan to block Mayes from the chieftaincy, though it seems likely that any political party would try it if a genuine opportunity presented itself (what if, for instance, there *had* been illegitimate votes when the lawmakers “examined” the count?). It is equally unclear whether the Downing Party would have done the same to the Nationals (trying to take the legislature from them), but again, if a genuine opportunity presented itself, they may have tried it. With so much going on behind closed doors in a completely frozen Tahlequah, and with no records of the National Council’s deliberation from the non-existent sessions, it may be useful to reduce the crisis to its most basic, incontrovertible facts.

These are the three most basic facts about the crisis of 1887. One, the Canadian District almost singlehandedly won Mayes the chieftaincy. Accusations of cheating were made by both the Nationals and the Downings alike. The Downings genuinely believed that the first Southern Cherokee elected to office would be blocked from taking it. The Nationals genuinely believed the opposite, that their razor thin majority in the legislature would be undone by the Downings. Two, the Downings—and *not the incumbent Nationals*—blocked the peaceful transition of power out of fear for what would happen next. The attempt to withhold a quorum to force an issue was extremely dangerous to an Indian nation’s sovereignty. Bushyhead stayed in office long past the expiration of his term, but if he had resigned, he would have been handing the chieftaincy to one of the candidates. Three, Joel Mayes and his allies eventually conspired to overthrow the government, and they succeeded. Mayes was sworn in, but the violence stopped there. Cherokee citizen and federal agent Robert Owen was in Tahlequah within two days of the coup. With the threat of U.S. intervention, the Cherokee were forced to an “agreement” on their own terms. The Downings agreed to what the U.S. suggested because it matched exactly what they had been asking for all along (a count without the ability to throw out illegal votes). The Nationals resisted this suggestion but were overruled by the urgency of the moment. On December 16<sup>th</sup>, 1887, Joel B. Mayes was declared victor by 133 votes and was took a second oath of office—this time without one hundred armed guards present. After a struggle, the Nationals took the legislature (though they were made to fight for every seat). “A Southern Cherokee Nation,” with executive power monopolized by the ex-Confederates, was on the rise. It would remain in power until statehood.

### **A Western Cherokee Nation (1888-1889)**

The extended legislative session now turned to haggling over the contested elections for the National Council—aware or not of the fact that they were battling over seats which had nearly ceased to exist thanks to each party’s obstruction of regular order. Chief Mayes, moments after asking for peace to be restored, transmitted a protest from the citizens of the Nation accusing three councilors of being imposters, because they had won their seats in special elections ordered by Bushyhead after the chief’s term had already expired.<sup>1241</sup> To many, however, this was devolving into pointless squabbling. The composition of the National Council would not change, nor would the principal chief. Due to their joint-ballot majority, the National Party would appoint almost

---

<sup>1240</sup> CA, February 8, 1888.

<sup>1241</sup> CA, January 25, 1888.



every officer in the government (from the national editor to the national treasurer). Unable to escape this, it was time for the parties to do something other than fight for seats.

Fortunately, there was one pressing issue which demanded the lawmakers' attention, and which may have helped to get everyone back to business matters. The five-year Outlet lease would expire on October 1<sup>st</sup> of 1888, and a new lease needed to be negotiated as soon as possible. Getting that in order was a bipartisan issue. No one wanted the lease to fall apart. Setting the terms was where there would be disagreement, but the pursuit of a greater profit united Cherokees again.

In these disagreements, Mayes would come to the table not as a southerner (which he very much was), but as a westerner. He had lived in the "Empire District"—Cooweescoowee—for many years. He was a rancher, and people from his part of the country understood the business far better than their peers in the Lower or Middle Districts. His expertise in this matter would deliver a tremendous windfall to the Cherokee Nation and would soon become Mayes' greatest legacy.

From the start of February to the start of December, securing a new lease with a ranching cartel was the number one, all-consuming issue. There was practically no other domestic issue considered but the new Outlet lease. The annual Outlet revenue was the greatest source of revenue collection, and very nearly matched the annual trust revenue (under Mayes it would surpass it). As early as 1885, Cherokees—whose finances had been greatly enhanced by the first lease—were slowly beginning to realize that \$100,000 per year was nothing:

"The National Council was convened by Bushyhead in May, 1883, to devise the means to vanquish the greedy obstinacy of the squatters, who wanted to pay nothing for what they got...Thirty five thousand a year in bulk was offered for rent of the lands—then sixty thousand. Finally a hundred thousand was offered by the Kansas Company...It was considered a fair price, if not too high. That it was too low nobody thought, and of course nobody said.

The cry [is now] raised, by certain disappointed parties, that the Cherokees had been cheated...[But only] If it is possible for man to foresee the future, then the Cherokees were cheated, they were not cheated by made a fair trade upon the basis of what was at the time known and knowable."<sup>1242</sup>

Thus Cherokees—while not frustrated with the first Outlet lease—felt much wiser after just two years of leasing. They already had schemes to make the most of the Outlet in 1888 when the first lease expired. Walter Adair Duncan wanted to "widen ['the boundaries of the National domain'] out." He wanted the Cherokee Nation to lay full claim to the Outlet again and erect the machinery of government there.<sup>1243</sup> The Tahlequah contributor going by "PATRIOT" had a similar idea, and suggested the government could "fence the whole of it off into pastures of different sizes...By this we could make off of the smaller cattlemen the money that the Kansas Company is now making... We could [also] allow our citizens to lease pastures near the size they wanted, by paying the same as the whites...our terms would be cash strictly in advance delivered at the Capitol...[and] then we would have full control of it, and there would be no chance for a band of land-thieves like

---

<sup>1242</sup> CA, February 6, 1885.

<sup>1243</sup> CA, April 24, 1885.

Payne's outfit."<sup>1244</sup> Many Cherokees had ideas like this. They wanted to cut out the middle man and work directly with foreign ranchers for the greatest profit and power.

The one thing Cherokees did not consider was breaking the first lease. They understood the rules of capitalism and contracts. If the lease was broken, "Every contract made and to be made by the Nation, would be paralyzed by distrust...the Nation would be barred from all transactions with honorable parties and would have to put with either no transactions at all, or with parties who [were] as ready to repudiate and to stand repudiation as the Nation [was]."<sup>1245</sup> Cherokees embracing communal capitalism could not adopt a policy that would deter future corporations from conducting "transactions" with the nation. Foreign capital had to trust the Cherokees.

These "Indian leases" began to signify radically different things in Washington in Tahlequah. In Washington, Commissioner of Indian Affairs John Atkins objected to the system on the grounds that it allowed rich men in the tribe to appropriate the common land and leave the rest of the population in a "condition of semi-slavery."<sup>1246</sup> This condition, Atkins explained, "grows directly out of the holding of lands in common."<sup>1247</sup> Whether he knew it or not, Atkins was making a direct critique of the capitalism which Indians themselves brought to the common domain. The "problem"—which was to many not a problem in the United States—was that the greedy and entrepreneurial Indians had exploited the common domain for as much profit as possible, leaving the rest of the country far behind. This was considered "semi-slavery."<sup>1248</sup> In the United States, it was considered the cold realities of the market.

Atkins may have been surprised, then, to witness how democratic the support for the leases could be. In December of 1886, the Cherokee Strip Live Stock Association made an offer to the National Council to extend their lease five years after the expiration up to October of 1893. The company was offering \$120,000 per year—an almost insulting increase given the circumstances. Perhaps not thinking much of it, a councilor of Going Snake proceeded to introduce a bill in the lower house, which mistakenly renewed the lease for just \$100,000 per year. The error was fixed in committee, but one John Miller of Delaware District argued that extending the lease two years before its expiration was nonsensical. And that furthermore, the government could be demanding as much as \$300,000 per year from its lessee. These developments prompted a mass meeting in the Senate chamber attended "by a hundred or more citizens" voicing the "general objection among all classes of Cherokees to the re-leasing of the land west of 96 at this time."<sup>1249</sup> Cherokees across the political spectrum demanded that no offers be considered so early. Getting the full value of a lease was a top priority for voters. It directly affected them in the form of the per capita.

In February of 1888, the contest began. The C.S.L.S.A offered \$125,000 per year, which the national editor found insulting. This sum would "be disastrous to our nation," he wrote, "[it] will be a great and positive loss to the whole nation." Factoring in the value of the fencing already put up, "the 'Association' now propose to pay...\$15,000 less a year for the second five years."

---

<sup>1244</sup> CA, February 20, 1885.

<sup>1245</sup> CA, November 27, 1885.

<sup>1246</sup> CA, November 24, 1886.

<sup>1247</sup> Report of the Commissioner of Indian Affairs, Office of Indian Affairs, *Annual Report of the Commissioner of Indian Affairs for 1886*, by Commissioner J.D.C. Atkins. Washington: September 28, 1886. Pg. v-xii.

<sup>1248</sup> See also CA, November 24, 1886.

<sup>1249</sup> CA, December 1, 1886.

Perhaps believing it was the best deal they could get, both houses of the National Council signed off on the renewal on these terms and sent it off to Mayes for his signature. They approved the bill even though another “mass meeting” was organized in Tahlequah on January 26th. The people wanted the “most safe and most profitable” deal. \$125,000 was not enough.<sup>1250</sup>

Mayes did what the people could not and vetoed the bill. In what would become an extended struggle between the principal chief and the National Council, the reasoning behind so many vetos would always be the same: the government had to “realize the greatest amount of revenue [it could]” from the Outlet. On February 1<sup>st</sup>, he wrote: “I have reliable information that similar grazing privileges in the adjoining States and Territories are worth from four to twenty cents per acre. The terms offered [to us] would bargain the land for less than two cents per acre.”<sup>1251</sup> In other words, Mayes thought the true value of the Outlet was *at least* \$250,000 per year, and at forty cents per acre, it would be more than \$1,000,000 per year. Mayes would not settle for less than \$200,000 per year and would veto every bill offering less than that amount. Twelve senators, or three quarters of the Senate, overrode his veto—which is to say that half of the Downing Party voted against its chief. In the Council branch, the override failed in a 24-20 vote. A majority of both houses believed that they risked losing the country’s main source of income if they did not get the bill approved, but this majority did not constitute a supermajority.<sup>1252</sup> Mayes’ veto held.

Cherokee observers demanded more. “Adopted citizen” was blocked from enjoying a per capita of his own, but that did not mean he didn’t want the best for his new nation: “I think that we can just as well get \$200,000 or more, provided our Council will only put confidence in themselves and ask for it and not let cattle syndicates have it at their first and only bid” (the use of the words “we” and “our Council” was very telling).<sup>1253</sup> The contributor “C.O.A.” could not see the nation getting less than \$300,000 per year if competition for the lease was allowed.<sup>1254</sup> James A. Norman agreed on this exact figure, and shared a caricaturizing story of a Black Cherokee accidentally cheating himself out of fair compensation for the services he provided the country’s merchants—“Council ought not to act as simple as [this] negro did...[I hold] for the ‘most dollars.’”<sup>1255</sup> The national editor predicted that so long as the Outlet lease was advertised to more parties, the competition would bring in at least \$200,000 per year, and if leased for six cents an acre, “a little more than three hundred sixty thousand dollars per year” would “pour into our Treasury.”<sup>1256</sup> This was everyone’s property and they wanted the market value.

The National Council adjourned on February 9<sup>th</sup> without arranging a new lease. At this point, some Cherokees preferred to sell the Outlet altogether. The idea had been in circulation for years. Many felt ambivalent about the Outlet, but the two major parties had always rejected the sale of land. The end of the first lease offered an opportunity to reconsider old ideas. The national editor did the math for everyone: if the Outlet was sold for twelve million dollars, and invested in the trust funds, the annual interest would be \$720,000 per year at six percent, \$600,000 at five

---

<sup>1250</sup> CA, February 1, 1888.

<sup>1251</sup> CA, February 8, 1888.

<sup>1252</sup> *Chieftain* (Vinita), February 9, 1888.

<sup>1253</sup> CA, February 15, 1888.

<sup>1254</sup> CA, May 30, 1888.

<sup>1255</sup> CA, October 10, 1888.

<sup>1256</sup> CA, March 14, 1888.

percent, \$480,000 at four percent, and \$360,000 at three percent. Even the lowest consideration, two percent interest, would bring in \$240,000—still more than what the ranching cartel was offering them. Taking these possibilities into consideration threw even more impetus behind the demands for more money. Now that national editor estimated that “a yearly revenue of \$480,000” was fair...The Cherokee Strip is better than Texas cattle ranges and will command a better price.”<sup>1257</sup> Clearly, many Cherokees were insistent they would not be “cheated” again.

The lease question, again, was the top subject of the year. Robert Owen addressed yet another mass meeting in Tahlequah at the start of February “as a citizen of the Cherokee Nation, not as an officer of the United States.” His speech was full of recommendations for how to get more out of the leases, which if followed could bring in “four of five hundred thousand dollars [per year].”<sup>1258</sup> A formal debate concerning the \$125,000 offer was scheduled the same day between several of the country’s leading politicians.<sup>1259</sup> Agent Owen continued to throw his weight behind the principal chief, and in one letter to *The Cherokee Advocate* (i.e. the public), he wrote: “Mr. Mayes proposal [against the \$125,000 offer] is manly and frank appeal for support in the right and in this special effort I pledge him mine as a citizen of the Cherokee Nation.”<sup>1260</sup> Besides the Oklahoma bill, which in 1888 failed yet again, this topic monopolized everyone’s attention.

In mid-April, the C.S.L.S.A. made its second to last semi-annual payment of \$50,000 without offering anything more for a new lease.<sup>1261</sup> Facing internal pressures and risking the loss of a great source of revenue, Chief Mayes tried to win over the public in May of 1888. It was unusual for the chief to write directly to the people about a political matter in this way, but we can imagine that directness was effective. Because the National Council was not in session, we can also imagine that he hoped to protect his veto by keeping his own pressure on the lawmakers.

He explained the history of the Outlet lease and the offers made by the cattle syndicate. He explained how there had been attempts in 1886 and 1887 to get a new lease organized, but that both efforts failed. Mayes continued:

“In the meantime I had made an endeavor to learn the market value of these lands, and I know, beyond the shadow of a doubt, that this value was far in excess of the sum paid by them on the previous lease, to wit: \$100,000 per annum.

They succeeded, however, in securing the passage of a bill to release to them this property for \$125,000, which I promptly vetoed, because I positively knew that the amount was far below the market value of the property.”<sup>1262</sup>

Mayes explained that he then asked the National Council to pass a law for the advertisement of the Outlet, to invite competition. The lawmakers failed to override his veto and also failed to pass a law advertising for bids. He explained to the citizens that it was his intention to get a new lease

---

<sup>1257</sup> CA, March 23, 1888.

<sup>1258</sup> CA, February 15, 1888.

<sup>1259</sup> CA, March 7, 1888.

<sup>1260</sup> CA, May 16, 1888.

<sup>1261</sup> CA, April 18, 1888.

<sup>1262</sup> CA, May 9, 1888.

arranged well before the October deadline, but to wait a bit longer for the opportune moment: “After beef move on the market, cattlemen, from whom we may reasonably expect bids, will be in a better condition and humor to make bids; the competition will be livelier.” He essentially asked the people (and their representatives) to trust him and the process, and “to sustain these views if they are just and right.” He was bidding for time.

In mid-June, Mayes called the special session. His goal, politically speaking, was to demand as much money for the Outlet as possible (hopefully not less than \$200,000) without the National Council overriding his veto.<sup>1263</sup> The cattle syndicate, for its part, had budged, but only just. Informed by what they were being offered, the lawmakers tried to pass a bill authorizing \$125,000 per year—it failed by one vote. A bill demanding \$135,000 was attempted and also failed. Finally, a bill setting a \$150,000 annual minimum passed both houses.<sup>1264</sup>

Mayes had already made a significant impact, but he was not finished yet. He vetoed the bill charging \$150,000 per year.<sup>1265</sup> His reasoning had not changed. Advertising and soliciting sealed bids would get the best deal possible. The national editor egged him on, pushing for \$175,000 as the new minimum. Doing so, he wrote, would push the bidders to aim high, and Cherokees would probably get offers as high as \$250,000 per year.

A few days later, the National Council tried to set a minimum of \$175,000 after the C.S.L.S.A. made clear they could meet that offer. A new bidder was offering \$185,000 per year.<sup>1266</sup> In the eyes of the national editor, this seemed to confirm Mayes’ aggressive strategy: “...The association has declared its willingness to pay \$175,000 per year instead of the \$125,000 which they urged should be accepted...[we] ought to realize that in effect they would have taken twelve or more dollars *out of the* pockets of every Cherokee, not excepting widows or orphans...”<sup>1267</sup> The only way to keep that money in the “pockets of every Cherokee” was to force a true competition between different foreign corporations.

Mayes’ strategy was working, but it was not without cost. By mid-July, the National Council had been in an extraordinary session for four weeks, and there was still no law for the advertising of bids. Mayes admitted that “[he had] exhausted all the recourse I can conceive of to have our grazing privileges awarded to the highest bidder...[and he was] thoroughly satisfied that it [was] useless to waste anymore of our public fund” on the special session. He adjourned the session on July 18th but also announced that there were responsible parties “ready to offer two hundred thousand dollars for this franchise if allowed the opportunity to do so.”<sup>1268</sup>

The end of the special session guaranteed that the October deadline would pass without a new lease. Real threats and dangers were presenting themselves, and Mayes was literally gambling with the people’s money. Some were confident: Cooweescoowee District, true to its ranching expertise, held a mass meeting at the end of August which decried \$125,000, \$150,000, *and* \$175,000 as all too low for what the Outlet lease was worth. They endorsed “the action of Chief J.

---

<sup>1263</sup> CA, June 13, 1888.

<sup>1264</sup> CA, July 4, 1888.

<sup>1265</sup> CA, July 11, 1888.

<sup>1266</sup> CA, July 18, 1888.

<sup>1267</sup> CA, July 18, 1888.

<sup>1268</sup> CA, July 25, 1888.

B. Mayes” just as the pressure was starting to build. Even at this late date, Walter Adair Duncan still demanded something in the ballpark of \$360,000 per year, insisting that “Cherokees have surely evolved beyond the period when they [had to] to sit down and take the crumbs which fall to them from the deceptive fingers of what is called a ‘Christian civilization.’”<sup>1269</sup>

Others were not so certain. One of the Washington delegates urged the principal chief to accept the \$175,000 offer; the country risked losing “all of what has been achieved” with the increasing offers.<sup>1270</sup> The national editor, who had repeatedly supported Mayes in the past, similarly worried that the \$175,000 offer could be lost: “It is...a matter of difference whether the chief should have signed the last bill passed by the council to lease for one hundred and seventy-five thousand dollars to the C.S.L.S. Association. The fact that this difference of opinion (so radical a difference) exists should cause the leaders on both sides to reconsider and try and get from the product of these extremes a mean that would satisfy everybody, or the majority at least.”<sup>1271</sup> Mayes was on the furthest end of one of those extremes, and he was making people nervous. The country wondered if compromise would be better.

The difference maker was probably the riskiest part of Mayes’ delaying. On September 12<sup>th</sup>, he was forced to issue a proclamation to their lessees on the Outlet. On the first of October, the Cherokee Nation would resume control of the Outlet. “All improvements on said land made by lessees will revert to and become the property of the Cherokee Nation.”<sup>1272</sup> He did not mention it the proclamation, but the plan was to send tax collectors as had been done under Treasurer Lipe in 1883—Treasurer Robert Ross, Ridge Paschal, and future chief C. J. Harris were among those sent out west.<sup>1273</sup> Mayes also announced that on November 1<sup>st</sup>, when the National Council convened for a regular session, further offers would be considered.

The United States then intervened. On September 28<sup>th</sup>, Secretary of the Interior William Vilas informed Chief Mayes that “in view of the information that some steps have been taken by you or by the council or authorities of the Cherokee Nation, with a purpose to renew the lease [for the Outlet],” it had to be made clear that “the United States government [would] recognize no lease or agreement for the possession, occupancy, or use of any of the lands of the Cherokee Outlet as of legal effect or validity,” and that any lease made without the consent of the United States government “[would] be subject to cancelation.”<sup>1274</sup> Cherokee friends in high places such as Representative Barnes of Georgia immediately questioned Vilas’ order, but it was no use. The federal government was not blocking a lease, but it was warning it had the power to bring about the lease’s “instant termination,” and it was leaving the Cherokees to fend for themselves. If the Cherokees needed help enforcing a contract, for instance, the United States would not assist them. Robert Owen, as a federal agent, was forced to relay the announcement to his people.<sup>1275</sup>

To Mayes and the Cherokee Nation, it was treaty-breaking. Half a page of *The Cherokee Advocate* was dedicated to Mayes’ response. He cited treaties and case law to highlight how the

---

<sup>1269</sup> CA, September 26, 1888.

<sup>1270</sup> CA, September 5, 1888.

<sup>1271</sup> CA, September 5, 1888.

<sup>1272</sup> CA, September 26, 1888.

<sup>1273</sup> CA, October 3, 1888.

<sup>1274</sup> CA, October 10, 1888.

<sup>1275</sup> CA, October 17, 1888.

Cherokees owned the Outlet in fee simple. He cited the struggle of Indian Removal to further his point: “We only claim that which is certainly ours...This little vineyard that is the fortune of the Cherokees to own and occupy as patrimony—a heritage from our forefathers...[was secured] under circumstances that forced them away from their native homes they had loved and cherished so long...”The nation had enjoyed the use of the Outlet “for more than half a century undisturbed,” and for that reason, Mayes wrote, “We expect to continue to own and use it—especially to derive a revenue from its various resources, minerals, timber, and grazing privileges.”<sup>1276</sup> It was a strong defense of Indian sovereignty. If Cherokees were looking for something to unify the political parties after the crisis of 1887, the United States had just provided.

Vilas responded on October 23<sup>rd</sup>, and his response resembled a capitulation in many ways. He wrote to Mayes:

“Dear Sir: I have duly received your communication of the 10<sup>th</sup> of October...It was deemed advisable, if not necessary, to give the notice contained in my communication of the 28<sup>th</sup> of September, in view of the apparent probability that your Nation would soon renew the previously existing lease or make a new lease of the lands in the Cherokee Outlet.

I think that notice sufficient to protect the rights of the United States, whatever they are. On the other hand, I am so far from desiring to trench upon the rights of the Cherokee Nation that I strongly wish to see all their rights fully protected. If occasion should arise, and none has yet arisen, for me to attempt to define the line of demarcation between the rights of the United States and the rights of the Cherokee Nation, I shall then undertake it with careful consideration of the rights of the Cherokees, as well as the Government’s.

Meantime, no further action appears necessary on the part of the Department, and I write this more particularly to assure you and your people that there is no disposition to abridge or diminish either your rights or the full exercise and enjoyment of them, or to depreciate the worth or value of them in any manner.”<sup>1277</sup>

This was much less threatening. Vilas made clear that it was only a notice, that it was precautionary and no occasion had yet arisen for him to even demarcate the property rights of the Cherokee Nation versus the United States, and that he had no desire “to trench upon the rights of the Cherokee Nation.” In as many words, Vilas made clear that the United States would do nothing to stop another lease being arranged. The fact that he also said the United States would not recognize such a lease was of little concern to the Cherokees. They could make a contract without the United States, and that is what they did.

On December 4<sup>th</sup>, 1888, the political question of the year was settled. A bill leasing the Outlet for \$200,000 per year was passed.<sup>1278</sup> The C.S.L.S.A. would make semi-annual payments of \$100,000 in January and July for a period of five years (ending in 1893). The C.S.L.S.A. also agreed to giving backpay for the months of October and November (after the first lease had expired). Simply through the art of negotiation, Chief Mayes had secured an additional \$80,000 per year for the Nation (for a total of \$400,000 over the course of five years). The national editor

---

<sup>1276</sup> CA, October 17, 1888.

<sup>1277</sup> CA, October 31, 1888.

<sup>1278</sup> CA, December 5, 1888.

reflected: “Honor to whom honor is due should *nowhere* and *never* be an empty phrase.” It was “due to the Chief and to the minority of the Council which supported him...that the Nation gets \$200,000 instead of \$125,000 for our grazing privileges west of 96.”<sup>1279</sup> This was a career-defining accomplishment for Mayes. The national income would soon leap again.

It also afforded Mayes tremendous popularity. The law requiring per capita of every \$300,000 acquired from the Outlet was still in effect—in other words Mayes had ensured that per capita would happen twice as often as they had in the past. *The Chieftain* explained: “The people received from the old lease of the outlet, \$16.85 each. The amount they will receive from the same source under Chief Mayes’ administration will be over \$56.000 on the same basis of the population. This increase of something like \$40 per head will offset at election time a good deal of political buncombe and cheap thunder.”<sup>1280</sup> Per capita could go far to winning a chief popularity (or as we shall in chapter nine—notoriety).

Mayes was bursting with confidence. On December 3<sup>rd</sup>, Mayes had received an offer from a banking interest to buy the Outlet outright for \$18 million. He urged against it for a number of reasons. First, opening any lands of Indian Territory “for any other race, other than Indians simply means a rapid step toward the destruction of termination of the Cherokee government.” Second, “the true theory in handling the estate of the Cherokees to teach our people to fully appreciate its value...there is no question today but that if Gould or Vanderbilt owned this land, they would realize not less than one hundred millions of dollars on said lands. If it is worth that much to anyone, it is certainly worth that much to the Cherokees.”<sup>1281</sup> Lands that the Cherokees previously owned—such as the Kansas Strip lands, were now worth fifty times what they were when the Cherokees sold them. Cherokees were tired of being boxed out of the market because they were Indians. They wanted the full value of everything they owned, and they wanted to generate profits.

The victory as well as the difficult moments with both the cattlemen and the United States also boosted patriotic fervor and nationalism. After the Vilas letter but right before the new lease was signed, the national editor suggested: “Since the Cherokees have held their lands...*in common*, they must have a *common* interest...in a ‘history’ of the nation...Would it not serve to cultivate a national spirit among our boys and girls at school to have a geography and map of their own Country to learn and a history of their Nation to read? So the Nation would become imbued with a common feeling of patriotic pride in our progressive past.”<sup>1282</sup> In January of 1889, ex-Chief Bushyhead, “who [was] among the most liberal of the Cherokees,” sat down for an interview in Washington and said: “The Cherokees as a nation are now rich and powerful above all other tribes.”<sup>1283</sup> A celebratory poem was dedicated to Chief Mayes and his accomplishment:

“The ‘Immortal Fourteen’ [who upheld the vetoes] stood their ground,  
Stood by the oath which they were bound,  
With the chief and the people were they ever found,  
While the people watched and waited...

---

<sup>1279</sup> CA, December 12, 1888.

<sup>1280</sup> *Chieftain* (Vinita), December 13, 1888.

<sup>1281</sup> CA, December 19, 1888.

<sup>1282</sup> CA, November 21, 1888.

<sup>1283</sup> CA, January 2, 1889.



The fight went on—Mayes would not yield,  
The brave ‘Fourteen’ staid in the field,  
The people’s rights, their sword and shield,  
Their country’s good, their banner.

At last, the cowmen came to terms,  
And looked like they possessed the germs,  
Of a first-class chronic case of worms,  
And sadly, needed rest.

So, to \$200,000 they raised their bid,  
And prided themselves on what they did,  
With such dispatch in getting rid,  
Of quite a troublesome pest.”<sup>1284</sup>

Therefore at the start of 1889—almost two years after the passage of the Dawes Act—the Cherokee Nation was continuing to grow richer and more powerful. The Cherokees’ belief in their state had been battered by the crisis of 1887 but had quickly recovered the following year. With a new Outlet lease worth double the first, the Cherokee would enjoy one more year of the Liberal Decade.

### Height of the Decade (1889)

There were other important developments in 1888, but they were quiet next to the lease negotiations. Tahlequah had an extravagant “gala day” in May of 1888 to celebrate the laying of the corner stone at the new Female Seminary. A march, a string band, political speeches, singing, a dinner—these were the order of the day before a time capsule of documents was filled just as it was the first time. All the original documents from 1847 were deposited along with “the names of the present board of education; catalogues of both the male and female seminaries; three copies of the *Telephone* [a Downing paper], one of the *Indian Arrow* [the new National paper], two of the *Muskogee Phoenix*...one of the *Tahlequah Bazaar*. A copy of the proceedings of the Grand Lodge of Masons of the Indian Territory for 1887; a one dollar national certificate, a silver coin, a silver star with private name and date, an account of the school work of both the Baptist and Presbyterian Mission; a program of the day’s proceedings; the 9<sup>th</sup> section of the Cherokee law; blank warrants, copy of compiled laws of 1880, copy of laws printed in Cherokee in 1884, copy of laws printed in Cherokee in 1884, copy of laws in both Cherokee and English from 1884 to 1889, copy of Cherokee Elementary Arithmetic, copy of Cherokee testament, copy of Barnes’ remarks on Oklahoma [and] two copies of *Cherokee Advocate*.”<sup>1285</sup> Between the original documents of 1847 and the new documents from 1888, the contrast could not be stronger. The decision to include a Cherokee dollar this time around seemed especially telling.

Another law to finish the school’s construction was passed in July of 1888.<sup>1286</sup> The new seminary—the largest 19<sup>th</sup> century building erected by an Indian nation—was finished and dedicated in May of 1889 to the sound of the Male Seminary students singing a song in

---

<sup>1284</sup> *Chieftain* (Vinita), December 13, 1888.

<sup>1285</sup> CA, May 2, 1888.

<sup>1286</sup> CA, July 11, 1888.

Cherokee.<sup>1287</sup> In 1888, Treasurer Robert Ross also solicited and received bids for the three Outlet salines.<sup>1288</sup> Besides this, there were not many significant developments. Mayes was part of an anti-statist movement; it was logical that the number of legal reforms dwindled on his watch. Cherokees acknowledged this was happening, but differed over whether it was positive or negative.

There was also Mayes' second annual message which was really his first (there being no peaceful transition of power in 1887. Mayes placed a greater emphasis on God, praising the "peace and security that *He* has given our government," and celebrated the state of the treasury, which at that moment had a surplus of \$71,817. At that point in time the Outlet lease had not been finalized yet, so that was his top priority. Mayes suggested that a reasonable salary structure replace the percentage-based system (which as revenues increased paid extravagant sums of money to public officials); he asked for the creation of the attorney general's office "to sue and prosecute officers and all persons from whom revenue is due," and he suggested he was ambivalent about the question of hay exportation—the National Council could either ban exportation or set a good royalty for its trade. Mayes, like Bushyhead before him, warned against the rise of land monopolies in the country which were exploiting the permit system ("some citizens have leased as many as thirty farms"), but even under a National Party majority, nothing would be done about that in this decade—many of the lawmakers themselves were likely enriching themselves with the help of foreign labor. He warned against coal and oil monopolies taking root, and he asked for a law making it a misdemeanor for Cherokee citizens to graze the stock of foreigners on the home tract. He asked for other policies protecting the country's ranching industry, and he asked for the building of a treasurer's office and an office for the national auditor to protect the country's money and valuable records. He asked that the school fund—which needed to grow to meet rising expenses—be invested with funds "from any available source." What Bushyhead said—and Mayes would not—was that this gap could only be filled in by the per capita fund.<sup>1289</sup>

Mayes also wanted the construction of a "Colored High School" for Black Cherokees. Embracing a Southern paternalism, he offered:

"The Cherokees have been more generous to their colored citizens than any community was ever known to its freedmen. Since they have become our fellow-citizens, to remain among and to share a part of the responsibilities that attach to our self-government, it is decidedly best for our government to make an effort to increase their capacity for usefulness...The better and more respectable citizens you make these people, just in that proportion you make a better government, and they certainly compromise a part of our Government...[they must] be prepared for useful citizenship..."<sup>1290</sup>

Many Southern Cherokees and many in his party would question Black Cherokees' right to remain in the country, but Mayes was a "moderate" in this regard. His request for the construction of a high school for Black Cherokees was reflective of the rise of a "Cherokee Jim Crow" (discussed in the next section)—a historical development which started but which was disrupted by the United States' denationalization of the Cherokees.

---

<sup>1287</sup> CA, May 8, 1889.

<sup>1288</sup> CA, May 2, 1888; May 9, 1888.

<sup>1289</sup> "Annual Message of Hon. J. B. Mayes, Principal Chief of the Cherokee Nation," CA, November 7, 1888.

<sup>1290</sup> "Annual Message of Hon. J. B. Mayes, Principal Chief of the Cherokee Nation," CA, November 7, 1888.

Mayes asked that the time limit for North Carolina Cherokees to relocate west be extended yet again—“These people, unfortunately have been left there, where, I am informed, they scarcely make a subsistence... They are own people and of the same blood, kith and kin...” He suggested that *The Cherokee Advocate* be contracted out to the lowest bidder (which would have privatized an institution managed by a democratically selected public official), that the office of medical superintendent be abolished as “a matter of economy,” and in his place, he recommended “placing a competent physician in charge of the Insane Asylum.” Like Bushyhead before him, he wanted the National Prison to teach “useful trades” such as blacksmithing and woodworking to create “a more useful citizen.” Finally, and because there were “thousands among the Cherokees and other tribes” that were not prepared to live “under the same government with the Anglo Saxon race,” Mayes urged for a delegation to the Creeks, advising them “not to do anything that will let a foreign race in Indian Territory.” Only if Indian Territory’s special status was protected could “what is left of the Indian race... take their stand by the side of other enlightened nations of the Earth.”<sup>1291</sup>

1889 was quiet for domestic politics, largely because foreign policy was all-consuming. As the Liberal Decade began to close—or, at least, as westerners tried and failed to close it—Cherokees across the political spectrum rallied behind a common cause. The most immediate of these far-reaching questions would be asked with the congressional creation of the Cherokee Commission on March 2<sup>nd</sup> 1889. Created by an amendment to the Indian Appropriations law, the Cherokee Commission was authorized “to negotiate with the Cherokee Indians and with all other Indians owning or claiming lands west of the ninety six degree of longitude in the Indian Territory for the cession to the United States of all their title.”<sup>1292</sup> Crucially, the Dawes Act empowered commissioners to threaten the seizure and allotment of Indian lands with or without a tribe’s consent. In the Cherokee case, the commissioners had no weapon at all like this. They needed to get consent and, legally, they could not force it.

Chief Mayes had actually been in Washington, doing his best to prevent the amendment’s passage. He related that the Cherokee Outlet generated \$200,000 annually. The senators asked Mayes what the nation did with the money. “We use it for school purposes and general purposes,” Mayes replied, “We built a female seminary with it this year. Our female seminary was burnt down and we rebuilt it this year. That will cost us, I suppose, \$100,000 when finished and all complete... We are also building a colored high school... [which] will take \$10,000 to finish... we use a great deal of the fund for general purpose—to carry on the institutions and the government.”<sup>1293</sup> The Outlet had become an indispensable part of supporting a Cherokee government and meeting people’s needs. Disrupting that would do terrific harm to the state.

Undoubtedly to many that was the whole point. “If you should cut us off from that [money] we would suffer,” Mayes added. “That is what would happen. We would have to stop our schools... We do not want to sell you that land now, I can tell you that.” The committee chairman then asked, “Suppose we want to buy it?” Mayes responded: “It takes two to make a bargain. One man cannot make a trade all by himself.” Senator Matthew Butler, who was friendly to Cherokees and even lived in the Cherokee Nation as a child, added: “Unless he does it by force.”<sup>1294</sup>

---

<sup>1291</sup> “Annual Message of Hon. J. B. Mayes, Principal Chief of the Cherokee Nation,” CA, November 7, 1888.

<sup>1292</sup> “An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department” (The States At Large, Library of Congress, 1889), Pg. 1005.

<sup>1293</sup> CA, February 27, 1889.

<sup>1294</sup> CA, February 27, 1889.

Another matter of urgency but of secondary importance was the Creek situation.<sup>1295</sup> On January 31<sup>st</sup>, threatened and cash-strapped Creeks agreed to sell the Unassigned Lands located in the very heart of Indian Territory. The agreement was then ratified by Congress and passed through the very same Indian Appropriations bill. After decades of resistance, it was the first part of Indian Territory to be opened to Americans. On April 22<sup>nd</sup> of the same year, tens of thousands of settlers poured on to these lands. The fault for this violation of red, white, and black Indians' trust lay with the federal government, and not the home seekers. Less than two months into his presidency, Benjamin Harrison—a Republican—had obliterated the centuries-old practice of leaving Indian Territory for the Indians. His predecessor, Grover Cleveland—a Democrat—had negotiated the sale. The attack on Indian Territory's autonomy was becoming a bipartisan issue.

Creeks and Cherokees' paths had diverged. One American supposedly commented that the Creeks had "chosen the better part" in selling their lands to whites, while condemning the Cherokees, "For what he, in his righteous judgement, terms 'a corrupt alliance' with a cattle syndicate, and for [our] obstinate refusal to accept the logic of events."<sup>1296</sup> While many Americans were angry with the Cherokees for leasing instead of selling, the Cherokees, for their part, were equally as angry with the Creeks. In a furious comment on March 6<sup>th</sup>, the national editor wrote: "We made a compact with the Creek Nation years ago. They have broken it by selling Oklahoma without consulting us. That compact authorized citizens of that nation to live among us, and now that they have broken it, we think they should go. They no longer have any right to live in our nation. They are intruders and should be put out as such."<sup>1297</sup> Others would make the same argument against the Creeks remaining in the country. The historic Cherokee-Creek relationship was falling apart, at least for now. While they continued to enjoy the profits of their lease, Cherokees could not understand how the Creeks had invited Americans into Indian Territory.

To be fair, the contrast was stark. While the United States prepared the Unassigned Lands for settlement, Chief Mayes was elected "an honorary member of the Cherokee Strip Live Stock Association." Speaking as the guest of honor in Caldwell, Kansas, Mayes related that the Nation would stick to the other party if the other would stick the Nation. In different words, the national editor insisted Cherokees could not sell the Outlet even if they wanted to, "because [the nation had] made a contract with the C.S.L.S. Association for five years, and four of these years still ahead."<sup>1298</sup> In short, the bond between lessor and lessee was strengthening at this time; Cherokees had absolutely no intention of giving up their prized possession.

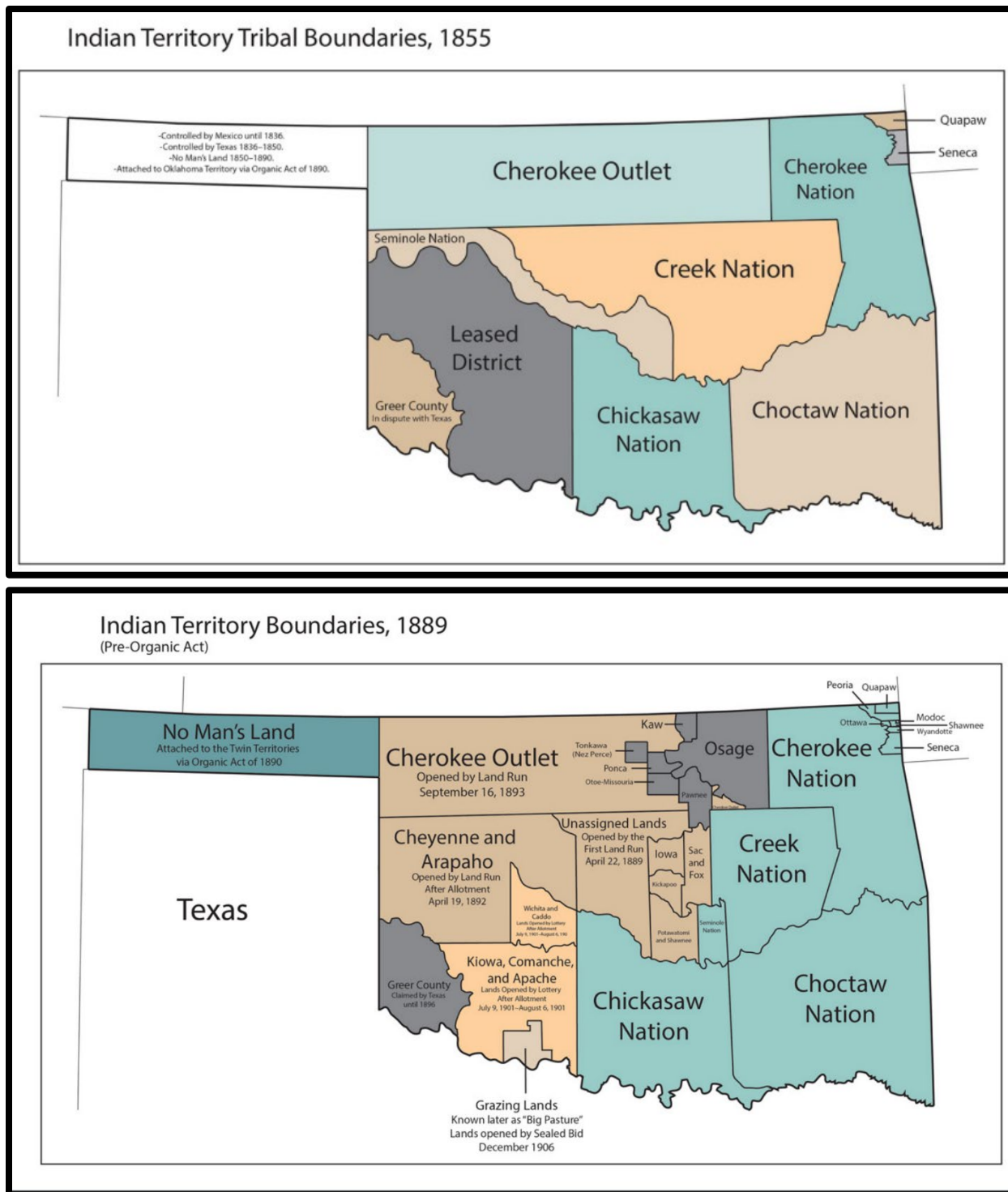
---

<sup>1295</sup> The sale of the Unassigned Lands was key to Oklahoma becoming a state. The very heart of Indian Territory was opened to whites (see **Figure 6.3**). For more on this important development from the Creek perspective, see Angie Debo, *The Road to Disappearance: A History of the Creek Indians* (Norman: University of Oklahoma Press, 1941); Mary Jane Warde, *George Washington Grayson and the Creek Nation, 1843–1920* (Norman: University of Oklahoma Press, 1999); Gary Zellar, *African Creeks: Estelveste and the Creek Nation* (Norman: University of Oklahoma Press, 2007); David Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832–1929* (Chapel Hill, University of North Carolina Press, 2010). For Oklahomans' perspectives, see Roy Gittinger, *The Formation of the State of Oklahoma (1803–1906)* (Berkeley: University of California Press, 1917); Edward Everett Dale and Morris L. Wardell, *History of Oklahoma* (New York: Prentice Hall, 1948); John Thompson, *Closing the Frontier: Radical Response in Oklahoma, 1889–1923* (Norman: University of Oklahoma Press, 1986).

<sup>1296</sup> CA, March 6, 1889.

<sup>1297</sup> CA, March 6, 1889.

<sup>1298</sup> CA, March 27, 1889.



**Figure 6.3:** Maps of Indian Territory in 1855 (top) and 1889 (bottom). Looking at these maps side-by-side allows us to see not only Reconstruction’s impact on the territory, but also the impending land runs. The first territory to be opened for white settlement was the “Unassigned Lands” located in the center of modern-day Oklahoma. The Cherokee Outlet would not be opened until September 16, 1893, largely because Cherokees resisted the sale of the Outlet for years.

**Source:** Katie Bush, Maps of “Removal of Tribal Nations to Oklahoma,” 2018, Oklahoma Historical Society.

In July, they would be vindicated. The Williamson, Blair, and Company—part of the C.S.L.S.A.—made a new offer to Chief Mayes. They wanted to extend their lease by ten more years, to 1903. They offered \$400,000 for the second five years, \$720,000 for the third five years, “making in all for the fifteen years, \$6,600,000.”<sup>1299</sup> It was a credible offer from a trustworthy source, and for the Cherokees, it was a tremendous sum of money. It was wealth that could power Cherokee sovereignty into the twentieth century. The cattle syndicate was now offering roughly the same amount of money as the United States—only they were bidding for a temporary lease. The United States wanted to take it forever and settle it with people hostile to Indian sovereignty.

The immense value of the Outlet was the fundamental reason Cherokees rejected a sale, but it was not the only one. There were moral reasons as well. The end of Indian Removal had greatly diminished the Cherokees’ role in the affairs of Indian Territory, while the Dawes Act and the opening of the Unassigned Lands carried a similar effect. However, if the Cherokees did sell the Outlet, they would be violating the same principle the Creeks had just violated. The national editor wrote: “The Agreement we have made in treaty, looking to the settlement of friendly Indian tribes on the ‘Strip’ will, or should, prevent our negotiating to have those Tribes swallowed up by a dense white population on every side, unless the tribes agree. It was under that implied understanding that some tribes have already been settled there... We cannot ignore that fact and be just to them.”<sup>1300</sup> Months later he asked the question again: “Have we the right to sell the for white settlement any of those lands contiguous to those tribes without their consent, when we know that those tribes took their lands for homes with the express understanding all around that the lands were to be used for Indian settlement only?”<sup>1301</sup> This was the last gasp of the pro-consolidation policy. The nation seriously considered its moral obligations to the Indian nations of the Outlet. Defending other Indian nations was still part of the Cherokees’ reason for being.

For these reasons and more, a strong majority settled against the sale of the Outlet. At a political meeting in April, one candidate for office suggested he was open to selling the Outlet, but “this did not suit the fullbloods who were present, and brought from one of their leaders, a pretty warm reply. He said that any white man or halfbreed who wanted to sell land should go to Arkansas as that was the place for them.”<sup>1302</sup> Not only was there no legal power forcing them to agree, but a sale made no sense. The United States could not offer what the corporate lessees could, and the political parties were beginning to unify against the threats. “There is absolutely no difference between the National and Downing Parties about the title the Cherokee Nation has to her lands,” the national editor wrote, “That title is not disputed, but is *threatened* to be disputed by the Commissioners who are soon to be here.” The commissioners could also be expected to threaten the cancellation of the Outlet lease, causing “all of our revenue [to be] stopped from that source,” but even then, the editor urged for the Cherokees to courageously “return the answer ‘no sell.’”<sup>1303</sup>

There were of course some Cherokees interested in a sale—there always had been—and these parties were no less invested in the Cherokee state than their peers. Many viewed the sale of the Outlet as “a chance for diplomacy...the only opportunity Cherokees will perhaps ever have to secure the advantages that are possible in the sale of their lands out west. [In this] The market price

---

<sup>1299</sup> CA, July 10, 1889; September 4, 1889.

<sup>1300</sup> CA, June 12, 1889.

<sup>1301</sup> CA, September 11, 1889.

<sup>1302</sup> CA, May 1, 1889.

<sup>1303</sup> CA, July 24, 1889.

of the lands is a mere secondary consideration and should be considered as such.” What was “more valuable than dollars and cents” was “the establishment of our government on a firmer basis...[its] national security, peace, and prosperity for all time to come.”<sup>1304</sup> These Cherokees, who would only grow more numerous, viewed the sale of land as a way to secure their nationality and relationship with the United States into the twentieth century.

Another thing this camp focused on was Article 15 of the Treaty of 1866. It was clear to everyone that the United States hoped to clear western Indian Territory of its Indigenous nations. Cherokees began to worry that they were exposed by Article 15 of the Treaty of 1866 (see chapter three). This provision allowed the United States to “settle any civilized Indians, friendly with the Cherokees...within Cherokee country...on such terms as may be agreed upon by any such tribe and the Cherokees.” The emerging fear was that the foreign Indians of western Indian Territory would be pushed into eastern Indian Territory, including the Cherokee home tract. United States officials suggested this ought to be done—Indian Removal’s return was briefly considered. In October the national editor wrote: “No part of our treaties *need* to be abrogated on our own suggestion except the 15<sup>th</sup> Art. Of the treaty of 1866.”<sup>1305</sup> Article 15 had become a threat.

The most extreme element of the Southern Cherokees—who on this issue were marginal—believed that Article 9 could be revisited as well. Lucien Bell, for instance, would promote the fringe idea that if the Cherokees sold the Outlet, they could get a provision stripping Black Cherokees of citizenship, after having removed to the newly available Outlet. The suggestion of a second Indian Removal for Blacks into the Outlet was too ludicrous for most Cherokees to consider, but it certainly highlighted the level of hostility which many ex-Confederates felt toward Black Cherokees.<sup>1306</sup> Unlike Article 15, a repeal of Article 9 would not be considered.

Meanwhile, the campaign for the 1889 midterms was beginning. Cherokees were mostly unified in their opposition to selling the Outlet, so there were very few new developments which could separate the parties. This meant, in effect, that the midterms would simply offer a referendum on the politics of the Outlet lease, finalized in December of 1888. In this it should come as no surprise: Joel Mayes and the Downing Party had a very strong advantage.

The Outlet lease had not really been a partisan issue. Half the Downing senators, for example, had tried to approve the original \$125,000 offer. But Cherokee voters—like voters everywhere—could have very poor memories. It was easy to translate Mayes’ victory with the lease into another victory for the Downing Party, which is what these party’s followers and strategists did. Added to the Philips scandal which was still brought up with frequency, the new conspiracy theory was that a majority of the National Council had been bought out by the C.S.L.S.A., and that only Mayes had stopped them from fulfilling a corrupt bargain. Even the national editor, whose position was at this time probably being filled by the Downing Party substitute, Ridge Paschal, wrote sarcastically that, “A patriotic majority of the Council wanted to take a less price the second term than was paid the first [in terms of value]...Now who composed that majority?...[we should] inquire as to give the late members of Council who composed a majority a fair opportunity to make such explanations as they can, before they apply again for the

---

<sup>1304</sup> CA, May 29, 1889.

<sup>1305</sup> CA, October 23, 1889.

<sup>1306</sup> Hagan, *Taking Indian Lands*, 94-95.

same high positions of trust.”<sup>1307</sup> In the eyes of some—and perhaps there was some reason to it—all that mattered was who had the majority. The answer was the Nationals.

*The Chieftain* and its contributors, unsurprisingly, were much more explicit. In late April, the partisan newspaper commended Mayes on his efforts to keep the National Council apart from the federal commissioners. They were not to be trusted: “The factious opposition he met through a series of sessions, in getting the \$200,000 rental for grazing on the Outlet, is sufficient to sever all further relations between him and a council that is not nor will be in harmony with him.” The question had to be asked, *The Chieftain* added, why the National lawmakers were “so anxious that the council be convened?”<sup>1308</sup> A Cooweescoowee contributor and “One of the Immortal 14”—the lawmakers who had blocked a veto override—lamented “the bitter corruptness that we [have] had to contend with at the last three national councils, with a majority in both houses against us.”<sup>1309</sup> Right before the midterms, *The Chieftain* asked: “Which one of the two political parties is to be more trusted than the other in the management of our affairs, the National with their lease record in trying to divide the rental between themselves and the nation, or the Downing with theirs in trying to secure the highest possible amount for the people, and in securing after a long and desperate struggle, the present lease of \$200,000 per anum?”<sup>1310</sup> This was certainly persuasive.

Crediting Mayes and the Downing Party for the new lease could also be framed positively. *The Chieftain* wrote: “Chief Mayes is not only endorsed by his own party, but by hundreds of honest men of the National who for his conduct in the lease of the strip lands...”<sup>1311</sup> A contributor named “Too Stoo” wrote: “The Downing Party points with pride to its record in the lease question with a majority of the national council opposing. They have saved to their people a quarter of a million dollars.” The National Party, on the other hand, was “like the avalanche...[it] carries destruction to the Cherokee people in its body with poverty and desolation to the people...in the shape of monopolies.”<sup>1312</sup> Weeks later, “Too Stoo” announced that several Downings were organizing themselves into “club” to better organize for the party, while warning against bribery and corruption at elections: “Christianity in behalf of the unpolluted ballot is bound to demand repressive legislation...Let us have a free ballot and an honest count, with the money of the syndicates kept out of our politics.”<sup>1313</sup> The implication was that the Nationals, who were not coincidentally still the party of Black Cherokees, “polluted” the ballot with money from the cattle syndicates. Only the Downing Party could stop the Nationals’ persistent corruption.

There was one other fateful topic of discussion. Anti-statist politics was on a steady, continuous rise, and its local proponents, Southern Cherokees, directly mimicked a politics expressed in the U.S. South.<sup>1314</sup> Many Cherokees were not happy with the fact that two fifths of

---

<sup>1307</sup> CA, December 19, 1888.

<sup>1308</sup> *Chieftain* (Vinita), April 25, 1889.

<sup>1309</sup> *Chieftain* (Vinita), April 18, 1889.

<sup>1310</sup> *Chieftain* (Vinita), July 25, 1889.

<sup>1311</sup> *Chieftain* (Vinita), July 11, 1889.

<sup>1312</sup> *Chieftain* (Vinita), January 31, 1889.

<sup>1313</sup> *Chieftain* (Vinita), February 21, 1889.

<sup>1314</sup> Historian Richard White put it like this: “School spending provided one of the starker measures of the difference between North and South. In 1880 the sixteen former slave states spent roughly \$12 million on education. The former free states appropriated more than five times as much. In North Carolina the state spent 87 cents per child. Only five states spent \$2.00 or more per student to educate their children. Average northern spending per child ranged from a low of \$4.65 in Wisconsin to \$18.47 in Massachusetts, with only two other states spending below \$5.00 per student.



the profits for the first lease had been used up by the government instead of being disbursed as a per capita under the law of 1883. *The Chieftain* hinted at the rising grievances: “The last \$200,000 has gone glimmering and numbered with the things that were, and the distribution has melted away like a wreath of mist in the morning. Regular sessions of the councils, special sessions of the councils, drawn out into ‘long links of sweetness,’ aided by the deficiency in the school fund, in the general fund, in the orphan fund, to meet expenditures, and the building of the new female high school, has taken it all in as clean as the whale did Jonah.”<sup>1315</sup> Many people had scoffed at Lucien Bell for trying to stop the rebuilding of the female seminary so that a per capita could go through. In 1890, under a Downing majority in both houses, the National Council would choose a per capita over the schools. This self-destructive politics was not just toxic; it was also popular.

The Nationals therefore had their work cut out for them. There does not appear to be evidence of corruption in the lawmakers’ support for the cheaper lease. Many Downings’ support for the very same seems to absolve each party of any malicious intent (unless the entirety of both houses were bribed, which would be such a sizable conspiracy it would be unlikely to stay hidden). It seems simpler than that: the Nationals, and many Downing Party members too, had been short-sighted to demand so little for the second lease. Mayes had not been so short-sighted and would share the credit for his win with the rest of his party (even those who had opposed him). The July offer for \$400,000 annually for the second five years and \$720,000 annually for the third five years seemed to further confirm Mayes’ abilities and the National Council’s incompetence. Frustrated by all this as well, the national editor commented: “The Nation would have got a hundred thousand dollars more than they are now getting had the people and their representatives in Council understood each other and the subject to be acted upon, *before the councilors were elected.*”<sup>1316</sup> The Nationals—founded on the premise of generating the most profit of the common domain—had been eclipsed on that very issue. The cost of the National Party’s short-sightedness would be both houses of the National Council. In the election of 1889, the Downing Party would win control the whole government for the first time in its history.

A barbeque in Cooweescoowee on the eve of the election was indicative of the country’s political mood. Technically, members of both parties were allowed to speak, but it was a purely Downing affair. The star of the gathering was William Penn Boudinot—the ex-Confederate who had been a National Party member for years—who spoke alongside his son, Elias C. Boudinot Jr. (who should not be confused with his pro-allotment uncle). They were not leaving their party, but they announced that they would be voting for Downing candidates this time around. The older Boudinot in his speech explained Mayes’ victory with the lease “entitled Mayes and his party to the support of all patriotic National men, and for one he was giving him that support and advised all to vote for the Downing nominees for the council.”<sup>1317</sup>

---

The results were predictable. Although the percentage of illiterates in the country fell from 20 percent to 17 percent between 1870 and 1880, the total number rose from 5.7 million to 6.2 million. They were concentrated in the South, which had 65 percent of the country’s illiterates. In the South as a whole, 37 percent of the population was illiterate, with a high of 54 percent in South Carolina.” Richard White, *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age, 1865-1896* (New York: Oxford University Press, 2017), 586.

<sup>1315</sup> CA, June 13, 1889.

<sup>1316</sup> CA, July 17, 1889.

<sup>1317</sup> *Chieftain* (Vinita), August 1, 1889.

At this point, any supporter of the National Party was invited to speak but no one responded. The younger Boudinot then took his turn to speak, and echoed many of his father's points before adding that the Nationals did not deserve Black Cherokees' votes: "[Boudinot] said he was willing to share with them [in the per capita]. And although Bushyhead had been elected by their votes for eight years, he had failed to speak in their favor in this matter...[Black Cherokees] got their first school under the Downings, and their high school under Mayes' administration."<sup>1318</sup> According to the younger Boudinot, the Nationals were cheating the Black Cherokees out of their votes, in addition to being the true supporters of blood bills.

It was certainly more complicated than that (both parties strongly supported blood bills), but the even more telling thing was in the Boudinot's support for the Downing Party. Both father and son—but especially William—had been major figures in the National Party for years. The drama of the second lease had changed that—at least for one election. The Nationals had lost their vote, and the Downings had won it. The National Party was in trouble.

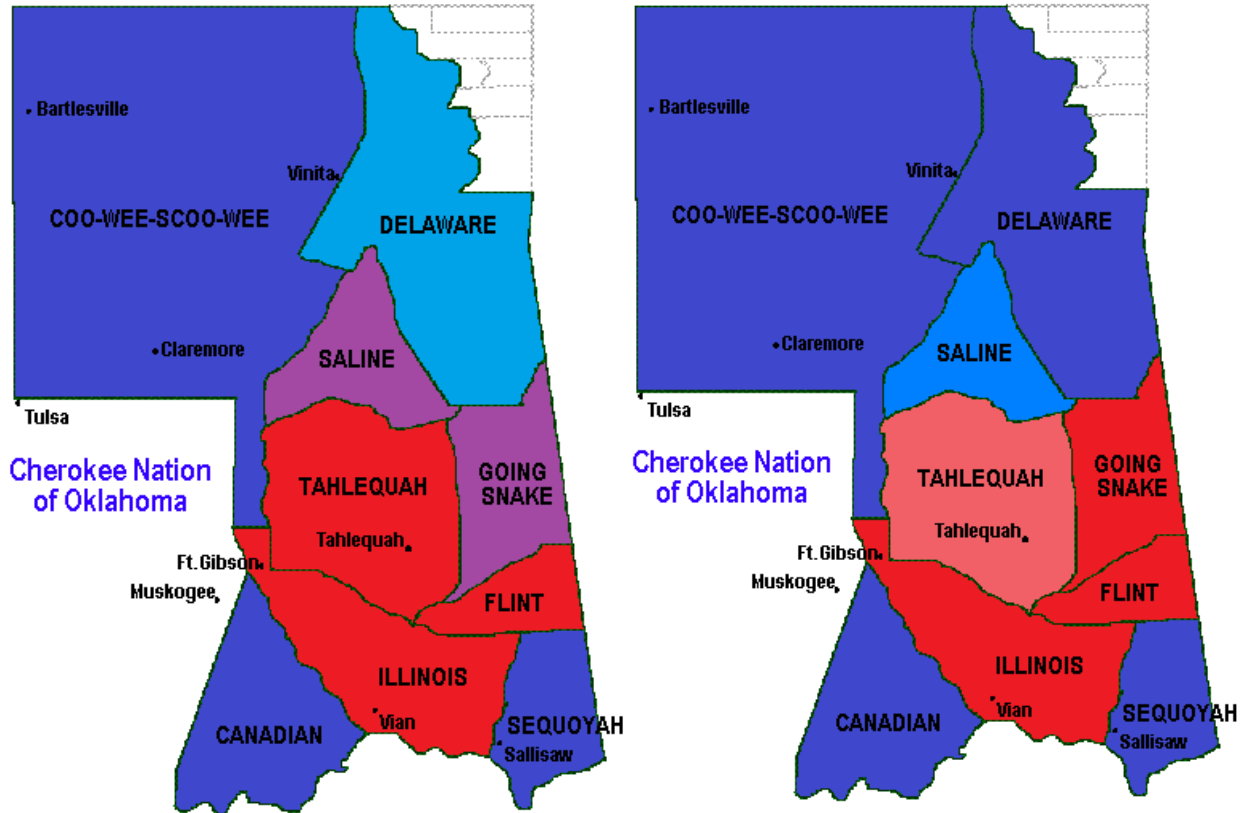
The Downings ultimately won a six-seat majority in the Council branch, and a plurality in the Senate (there was one independent senator from Delaware who very likely voted with them). The country's nine districts were also settling into the new political geography. The Nationals won the Middle Districts and Illinois (with their large sections of full-bloods and Black Cherokees), while the Downings increasingly dominated the Upper and Lower Districts (except for Illinois).

For all the threats thundering from the East, almost nothing had changed domestically between the start and end of 1889. Cherokees were still bursting with confidence, and they had just rewarded Mayes with the National Council after his 1888 victory with the Outlet. The state of the nation remained strong, and Cherokees were looking forward to potentially making \$400,000 and then \$720,000 annually in Outlet revenue. They had no intention of selling the Outlet unless they were forced, and Congress had not yet enacted a law which could force them. Toward the close of the Liberal Decade, the fall of the Cherokee Nation was a distant, if not negligible prospect. The national treasury was healthy and in good hands. There was plenty of cash stored in the safe.

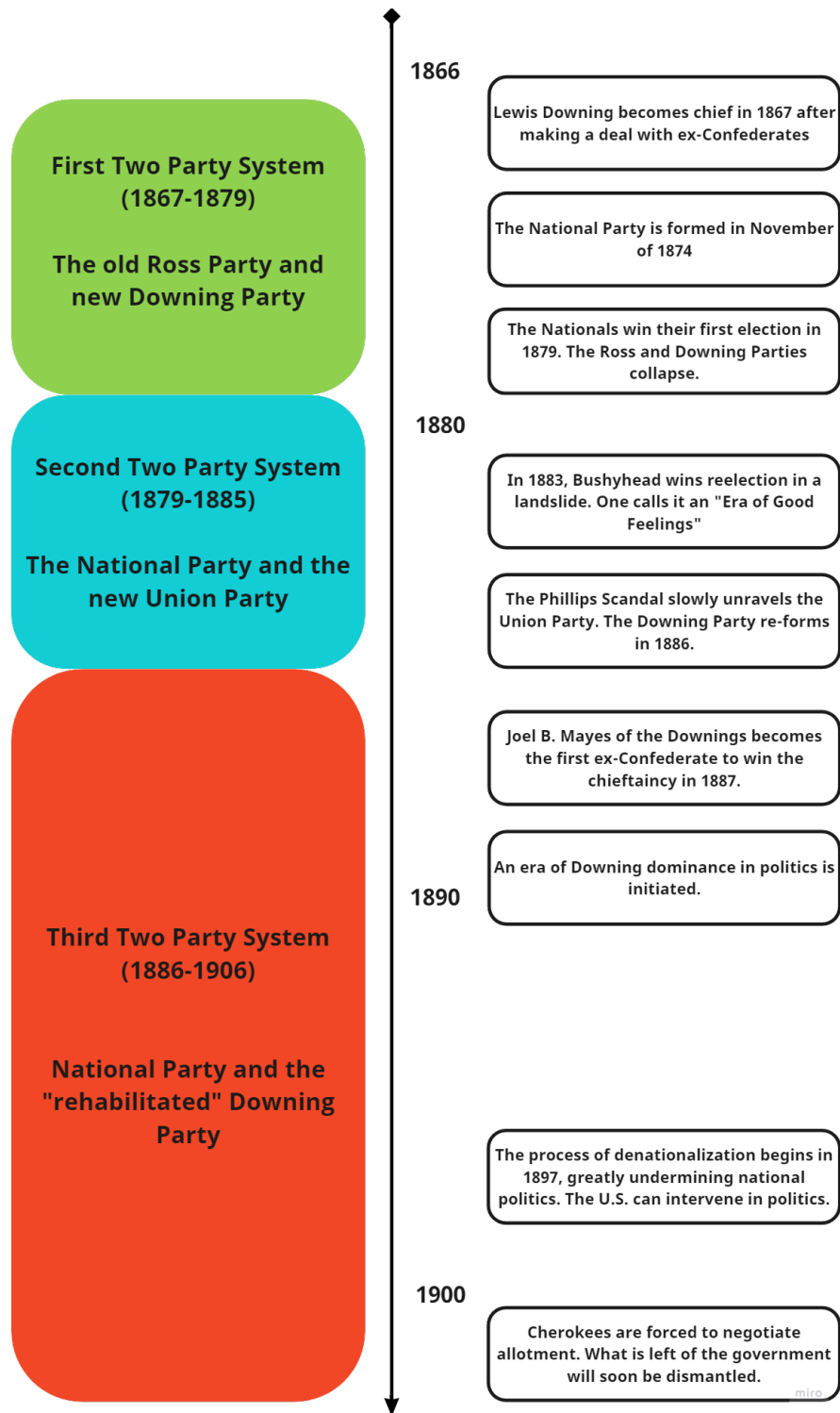
In October of 1889, right before the new legislature met, Treasurer Robert Ross locked up his office and began his daily walk home. As he neared his house, three masked men appeared from behind some weeds. One of them was armed with a shotgun. They ordered him to stop. Instead, Ross took off running, saving his country from a grand robbery. Where these three men failed, the United States succeeded.

---

<sup>1318</sup> *Chieftain* (Vinita), August 1, 1889.



**Figure 6.4:** The election map for the Senate (left) and the Council branch (right) for the election of 1889. Red represents the National Party, blue represents the Downing Party, and purple represents split districts (e.g. one National senator, one Downing senator). Lighter shades of red and blue indicate districts where one party won a majority of Council seats, but not all of them; solid colors on the Council map indicate a clean sweep of all the seats available (e.g. Canadian almost always sent a completely Downing delegation to the National Council). The Senate map (left) shows a 9-8-1 plurality in favor of the Downing Party (with one independent senator from Delaware District). The Council map (right) shows a 23-17 majority in favor of the Downing Party. The breakdown of these seats was as follows: Tahlequah (4 Nationals, 1 Downing), Illinois (5 Nationals), Canadian (4 Downings), Sequoyah (3 Downings), Salines (2 Downings, 1 National), Flint (3 Nationals), Going Snake (4 Nationals), Delaware (6 Downings), and Cooweescoowee (7 Downings). By comparing this map to the 1887 map, we can see that the districts were becoming much more solidly partisan—Cooweescoowee and Delaware were settling into being solid Downing districts while the Middle Districts were settling into becoming solid National districts. See *Cherokee Advocate* (Tahlequah), August 7, 1889, and *Chieftain* (Vinita), August 15, 1889.



**Figure 6.5:** The Three Two Party Systems of the Cherokee Nation, Visualized. This dissertation has written in passing of the various “two party systems” of the Cherokee Nation. Now that each shift has been discussed, this figure offers a visualization of the various two-party systems. The first two party system emerged when Lewis Downing abandoned the Ross Party after the Civil War. The second two party system emerged with the National Party’s victory in 1879. The third two party system emerged after the “rehabilitated” Downing Party was formed to replace the Union Party.

## Cherokee Jim Crow

By the 1880s, the Cherokee Nation was already a segregated place. This segregation presented itself firstly in the demographics of each district. The Middle Districts had strong full-blood majorities, were often poorer than the Upper and Lower Districts, and had very few white or black residents. Illinois was known for its concentration of Black Cherokees (who constituted over a third of the citizen population in 1880). Cooweescoowee and Delaware had more white citizens and white immigrant workers than anywhere else, but the former district was large enough to host a sizable Black community as well. Tahlequah, as usual, was the exception. Hugging Illinois to its south, the Middle Districts to its north and east, and Cooweescoowee to its west, the capital district was home to a diverse array of Black Cherokees, adopted whites, full-bloods, and mixed-bloods.

Segregation became more personal at the local level. Mixed-blood Cherokees enjoyed the most reliable access to public institutions (except for the National Prison). Black children were barred from entering the Cherokee Orphan Asylum and the two national seminaries. Primarily due to the language barrier but probably also because of classism and colorism, full-blood citizens were also dreadfully underrepresented in the seminaries. Full-blood men (to a greater extent) and Black Cherokees (to a lesser extent) were more likely to be arrested, imprisoned, or executed by Cherokee law enforcement.<sup>1319</sup> Even contemporaries acknowledged this disparity.<sup>1320</sup>

Cherokees began referring to “full-blood schools.” These were the neighborhood schools “composed entirely of full-blood children, or where but few English-speaking pupils are found.”<sup>1321</sup> According to “TEACHER,” the education system was failing these children. Because of residential segregation, full-blood children were not being exposed to enough English beyond the classroom, making their lessons (often taught by mixed-bloods in English) much less useful.

According to “TEACHER,” the solution was to integrate: “We must have English speaking children in our schools. One child that speaks English only is worth two textbooks to a full-blood school.”<sup>1322</sup> In 1889, the national editor suggested that full-blood children board with mixed-blood families for two years at the government’s expense.<sup>1323</sup> These were the kind of sweeping solutions which would not be pursued in the Liberal Decade. Most full-bloods would continue to go to “full-blood schools” and not learn English. A select few would find their way to the seminaries. “It cannot be denied that the present system is a failure in that respect,” the editor added.<sup>1324</sup>

At the end of the decade, the national editor reflected on just how little had changed:

“Within the last ten years, there has been spent then \$400,000 belonging to the Cherokee speaking population in order to educate them. But so far from doing that, this same population have not even acquired the preliminary knowledge absolutely necessary to get

---

<sup>1319</sup> To make this claim, I used the High Sherriff’s Annual Report of 1886, which lists the names of all its prisoners, and cross-listed their names with the Dawes Rolls. I found that a significantly disproportionate share of prisoners (as many as 68% or as few as 57%) were full-bloods. An even more systematic approach to this question would be to compare annual prison reports from across the years. The names of prisoners were published every year.

<sup>1320</sup> CA, October 28, 1893. The text of this example is used in a later part of this section.

<sup>1321</sup> CA, April 29, 1881.

<sup>1322</sup> CA, April 29, 1881.

<sup>1323</sup> CA, January 30, 1889.

<sup>1324</sup> CA, January 30, 1889.

any education at all...if any benefit has been derived from its expenditure, it has been derived by the class who were already acquainted with English, and to whom the money did not belong.”<sup>1325</sup>

In other words, the national school funds disproportionately benefitted mixed-blood Cherokees. Full-bloods as late as 1889 continued to be left behind, and the avenues for communication remained limited. “The nation is divided into classes on account of color and race,” the editor added, “but more than all else, on account of differences in language. The classes do not intermingle.”<sup>1326</sup> The Cherokee Nation remained deeply segregated.

It should be added here that attempts were made to make the seminaries more accessible. In his annual message of 1883, Chief Bushyhead rallied the nation’s lawmakers to action: “The benefits of our school investments which belong to all, and should be shared equally, are confined almost wholly to the more fortunate and less numerous class of English speaking children.”<sup>1327</sup> A law passed in 1884 (discussed more fully in Chapter 5), set quotas for the nation’s impoverished children. Fifty spots in the male seminary and 50 spots in the female seminary were reserved for these students, although a small irony of this legislation was that it was population based (and therefore the more prosperous and whiter Upper Districts had far more spots than the full-blood majority districts).<sup>1328</sup> Nonetheless, some full-blood Cherokees likely benefitted from this reform.

Around the same time, the racial segregation of schools was crystalizing. The 1885 Board of Education reported that there were “fourteen primary schools [for] colored children, citizens of the Nation, [and] these are taught by colored teachers.” The student population of these schools was growing, and the number demanding access to higher education was also growing. “Their request is legitimate and commendable,” the board reported, but problems remained. “The question of the rights of colored children to attend the primary schools established for Cherokee children having been quite recently raised, the Superintendent in charge decided that the legislation of the council established separate schools for them, and that the children could not be mixed without the consent of the patrons of the schools.”<sup>1329</sup> Swimming in the same currents as the U.S. South, Cherokee officials planned for “separate schools” to prevent “mixing” children of different races.

This racial segregation started to present itself even more visibly under the newly empowered ex-Confederates. As already discussed in this chapter, the nation’s “Colored High School” was erected in 1890 under the chieftaincy of Joel B. Mayes. Schooling, then, was one form of segregation which ironically put full-bloods and Black Cherokees into similar classes of suffering. On the one hand, there were “full-blood schools” openly referred to as such, which reportedly failed to teach the nation’s language of business (English). On the other, there were “colored” schools which were intentionally separated from the rest of the education system (as the “mixing” of races was already a concern). Mixed-bloods for their part monopolized the country’s strongest schools at the expense of everyone else.

---

<sup>1325</sup> CA, January 30, 1889.

<sup>1326</sup> CA, January 30, 1889.

<sup>1327</sup> CA, November 9, 1883.

<sup>1328</sup> CA, January 23, 1885.

<sup>1329</sup> CA, October 30, 1885.

A similar situation presented itself in agriculture. The foreign labor of the Cherokee Nation was almost exclusively white. 96 percent of permitted persons were white in 1880, while 98 percent were white in 1890.<sup>1330</sup> Whenever Cherokees wrote about the country's foreign workers, they wrote of "white men"—as if all of them were. Contemporaries also wrote that mixed-bloods and adopted whites were most likely to hire foreign labor, while full-bloods were least likely to do so. While more research is required to confirm this beyond a doubt, the full-blood majority Middle Districts hired a small fraction of foreign labor compared to the Upper and Lower Districts. As the national editor put it in 1885, "About one fourth of the male heads of citizen families—not more—hire white men. The other three-fourths, including nineteen twentieths of all of the full-bloods, live in comfortable homes, raise plenty of grain, and stock to subsist well."<sup>1331</sup>

Political values may have played a role in that, but language was an immediate barrier. In 1889, the national editor imagined a fictional conversation between a Cherokee citizen soliciting employers and a foreigner seeking work:

Non-citizen: "You want to hire me?"

"Yes."

"Upon what terms?"

Ans. "I will pay you a proportion of the crops."

"All right; for how long?"

A. "A year at farthest; but if we agree I will renew your permit."

Q. "That is all right again. Will you enter into a written contract?"

A. "Yes—with pleasure."

Q. "Should there be a misunderstanding or failure on part of either party to comply with the contract, who will decide between us?"

A. "I will. There are no courts to carry such differences to for adjustment."

Q. "You indeed! Such a dispute cannot be referred to a third party, but must be settled by one of us, why not me as well as you?"

A. "Oh, you would have all the advantage then."

Q. "But can't you see that in the other case *you* would have all the advantage?"

A. "It does look that a-way. But such is the law."

---

<sup>1330</sup> For the Cherokee Nation 1880 Census, *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman. For the 1890 census, see Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian.

<sup>1331</sup> CA, May 15, 1885.

Q. “The want of law, you mean. What well meaning and sensible man would thus put himself in the power of another, or ought to be asked to do it? But I know you personally to be a fair man. I will rely on you if my children can go to a school while I am working for and supporting them.”

A. “I live where there is a good school.”

Q. “You do? What will it cost me for each child a month?”

A. “Oh—ah—I forgot, the laws of the nation won’t allow the children of non-citizens to attend our schools.”

Q. “Not if he pays for the teaching?”

A. “No.”

Q. “Then my children must grow up in ignorance while I am working for you. The honor you would do me is not worth the sacrifice of my family and the state of dependency you would subject me to.”

And so the attempt to get a sensible non-citizen to work in this nation to the mutual advantage of both parties and to the nation would fail in nine cases out of ten. The places that ought to be filled in this nation by that class of non-citizens, are partly filled by another class that care nothing for law and care as little for the education of their offspring.”<sup>1332</sup>

There were plenty of obstacles to hiring foreign workers, then, even without a language barrier. Full-bloods—who did hire foreign labor—faced additional challenges. Unlike their adopted and mixed-blood counterparts, they didn’t share a common language with the permit worker, and that had stark economic consequences. Labor bought communal land in the Cherokee Nation (which ostensibly belonged to everyone), and without foreign labor (employed under terms negotiated in English), full-bloods lacked the same opportunities to build wealth.

Black Cherokees, for reasons unclear to me, experienced similar problems. Unless they hired white workers (which seems unlikely), then very few Black citizens employed others. In 1890, there were zero Black permit workers in the Middle Districts of Flint, Going Snake, and Saline (which otherwise had a total of 2,019 permitted persons). Tahlequah and Delaware had only 13 and 6 Black permitted persons respectively (out of 4,882 total workers and their families). Even Canadian District, which had been the center of Southern Cherokee life prior to the war, and Illinois District, which had the greatest concentration of Black Cherokees, had only 14 and 38 Black permitted persons respectively (out of 7,035 total workers and their families). About half the country’s Black foreign labor lived in Sequoyah (the richest of the country’s cotton districts) while the other half lived in the populous Cooweescoowee. 195 and 149 permitted persons lived in these two districts respectively (out of 3,351 total workers and their families).<sup>1333</sup> Black citizens were everywhere in Cherokee society. Black foreign labor was not.

---

<sup>1332</sup> CA, January 30, 1889.

<sup>1333</sup> Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian.



I can only speculate as to why this might be the case. It is possible that district clerks systematically refused Black citizens the right to hire foreign labor. This would fit with widespread attitudes toward Black Cherokees, and the general sense that they had limited rights to communal property (Cherokees often resented the adopted white who claimed too much land, and we can imagine these feelings doubling for the Black citizen). The strength of this theory is that it seems hard to imagine that so few Black farmers would be hired across the nation's districts without some kind of structural force imposing conformity. The weakness of this theory is that there is no evidence, as of yet, that district clerks discriminated against Black foreign workers.

Another possibility, which has only extra iota of evidence, is that Cherokees stigmatized Black foreign labor and immigration, even more so than white foreign labor and immigration. Not only was the permit worker always describe as a "white man," but when that rule was broken, notice was taken. In July of 1892, for example, *The Cherokee Advocate* printed a contribution which shamed a private citizen for hiring Black men:

"[There are] those who have already gobbled up large tracts of public lands and colonized Aliens....For example there is old Zack Foreman on the Arkansas River below Webber's Falls who, has inclosed several thousand acres of the very best agricultural lands...on which he has colonized nearly one hundred worthless Alabama negroes."<sup>1334</sup>

From this perspective, even the Black permit worker in good standing with the law was a problem, a "colonist," and a "worthless Alabama negro." Hiring such a person could, at least in this case, result in public shaming.

A similar idea was expressed in May of 1886 by a contributor of Oaks. "A. B. C." wrote in to defend the permit workers, who another writer had called the country's "white trash." In defending the permit workers (or at least the white ones), A. B. C. directly linked the country's prosperity to the race of the workers themselves:

"We agree with Mr. Striker this far; that there is a general aspect of thrift in our neighborhood of late, farms being enlarged, new houses going up, goods coming into town daily, in short everything is in a flourishing condition; the class of people here now seem to be energetic and industrious, all pushing 'onward and upward.'

...But let me ask my Electrical friend one question: who is doing this work? Is it you who having grown weary in waiting and watching for bread money and finding your waiting all in vain, have gone to work from sheer necessity? Not you, my dear illuminous sir, for work is not an ingredient in your composition...

...It is the 'white trash' that is doing this work, and we confidently assure you and your [friend] that they are glad that they are white and not black, for we think if Lighting would strike a little nearer home, by the dazzling glare he would find trash more offensive [than] white trash that Is not white or nor even red but our charitable nature keeps us from mentioning the color."<sup>1335</sup>

---

<sup>1334</sup> Contribution of C.C. Robards, CA, July 27, 1892.

<sup>1335</sup> Contribution of "A.B.C.," CA, May 7, 1886.

In both these instances, a cultural force, rather than a governmental one, discouraged Black immigration. “White trash” was to be celebrated because it was white and not Black. Black permit workers were considered “more offensive,” which may explain why the very few Black workers in the country were almost entirely hired by Black Cherokee citizens.

Full-bloods and Black Cherokees also experienced state and non-state violence differently. Full-bloods were frequently cast as the poorest members of Cherokee society (and quantitative evidence presented in other chapters of this dissertation seems to back that claim). Perhaps because of this structural inequality, it appears that they were much more likely to be executed by the state for murder or to be the victim of a murder themselves.

Consider these 18 randomly selected examples of capital offenses prosecuted from 1880 to 1895.<sup>1336</sup> In September of 1881, a full-blood named “Armeta” was executed for the killing of John Dry (who was likely a full-blood as well, according to the Dawes Rolls). *The Cherokee Advocate* remarked that many had felt Armeta deserved a commutation and that justice was not served.<sup>1337</sup> In March of 1882, a Sequoyah contributor reported that William Holmes (who was likely full-blood) was on trial for the murder of George Beaver (who was also full-blood).<sup>1338</sup> In April of 1882, the nation expressed great interest in the trial of George Butler (who was likely mixed-blood) and Dosh Bennett (who was likely either a mixed-blood or adopted white) for the murder of Dick Chicken (who was a full-blood). The two men were accused of drunkenly murdering Chicken on the road, but both men were convicted of manslaughter, instead.<sup>1339</sup> In June of the same year, the national editor reported that Suagee (who was a full-blood) had escaped his guard in the Delaware District while awaiting trial for the murder of Mose Downing (who was almost certainly a full-blood but could also have been a Black Cherokee).<sup>1340</sup>

In January of 1883, a Cherokee named Hawk was convicted in Saline District for the murder of Iuwee. The two men had “been on a spree together,” when a dispute erupted between them (their names and home district indicate that they were likely full-bloods, while the judge presiding over their trial was the future mixed-blood chief, Joel B. Mayes).<sup>1341</sup> In April of 1883, there were three men awaiting execution at the National Prison. Their names were “Blossom,” “Stealer Chu-wau-chucker,” and “Hawk.” All three men were full-bloods.<sup>1342</sup>

In July of 1883, Douglas Murrell, “a colored citizen of the Creek Nation,” was sentenced to hang by a court in the Cooweescoowee District for the high-profile murder of “young” William Cobb (who was mixed-blood). In an international incident which strained Creek-Cherokee

---

<sup>1336</sup> To get a random sample of capital offenses during these years, I searched the word “execution” in one database of *Cherokee Advocate* newspapers. 481 results appeared. I used only the 427 results that were dated between 1880 and 1895. I then opened all of them. Most results were irrelevant and unusable. These were sources which used the word “execution” as a synonym for “implementation.” News of executions in other countries, such as the United States, were also omitted. In the end, only 18 results remained (all of which related to the issuing of a death sentence). I then collected as much information as I could about the 18 cases which appeared.

<sup>1337</sup> “Confession of Armeta” and “Local News,” CA, September 21, 1881.

<sup>1338</sup> “Sequoyah Items,” CA, March 10, 1882.

<sup>1339</sup> “Trial of George Buttler and Dosh Bennett for Murder,” CA, April 14, 1882.

<sup>1340</sup> “Local News,” CA, June 30, 1882.

<sup>1341</sup> “Convicted of Murder in the First Degree,” CA, January 26, 1883.

<sup>1342</sup> “Local News,” CA, April 13, 1883.

relations, several Black Creeks were tried and sentenced for this crime over the years.<sup>1343</sup> In June of 1884, Louis Dragger (a full-blood) was sentenced in Going Snake District for the shooting of Corn Silk (who was likely also full-blood).<sup>1344</sup> In July of 1884, it was reported that Ground Hog (who was likely full-blood) had been sentenced to hang in Cooweescoowee District for the murder of John Moore (who was likely full-blood but could have been Black Cherokee). Observers called the verdict “a righteous one.”<sup>1345</sup> Both Dragger and Ground Hog were soon afterward pardoned by Chief Bushyhead for reasons unclear (though perhaps building a coalition of full-blood voters was part of the equation).<sup>1346</sup> In September of 1887, Spade Sunshine, or Dunnuluske, was hung at the National Prison for the killing of Long John in Sequoyah District. At the time of the killing, the national editor concluded with, “No further particulars yet—both fullbloods.”<sup>1347</sup>

A remarkable feature of Sunshine’s execution was that his confession included some damning accusations against the National Party. He said that if he had one or two thousand dollars, he could have bribed Chief Bushyhead to pardon him (as, he claimed, others had). “Such things I have heard of the chief,” he added, and “the rumor is that the Chief steals the people’s money; now which is the worst, to hang a man for stealing the people’s money, or one who killed a man? They are equally as mean.”<sup>1348</sup> This could not have helped a nation already on the brink.

Sunshine then turned his attention to the full-blood Assistant Chief, Rabbit Bunch, who was already locked in a constitutional crisis. “When I first became a voter,” he explained, “party meetings would be held in the woods, sometimes at night. A great many times I heard James Vann speak; he advised us when we killed Southern men to always try to get one another out. I knew other parties who talked in the same manner. Rabbit Bunch is one of them.”<sup>1349</sup> In a country of Southern Cherokee voters who already feared “oppression” at the hands of ex-Union full-bloods, this was lighting a fuse right at the moment of death.

For more examples, in January of 1888, *The Cherokee Advocate* reported: “Jeff Thompson, the darkey who is confined in the National Prison at this place awaiting execution, was baptized Sunday last.” Thompson had been convicted of murdering his brother in the Illinois District the previous summer.<sup>1350</sup> Thompson later escaped, killing two of the Illinois sheriff’s posse in the process, before being recaptured in 1889.<sup>1351</sup>

In October of 1890, it was reported that one Jeff Minner, who had already been sentenced to hang for his brother’s murder (and who was likely a Black Choctaw), was very ill with consumption in the National Prison.<sup>1352</sup> In April of 1891, two young men named Fred and George Dunawas (also spelled Dunawa in the press) were sentenced to hang in Going Snake for the murder of their cousin, an ex-Sheriff named Washington Lee.<sup>1353</sup> All three men involved were full-bloods.

---

<sup>1343</sup> “Local News,” CA, July 13, 1883; “Douglas Murrell Respited,” CA, October 5, 1883.

<sup>1344</sup> “Local News,” CA, June 20, 1884.

<sup>1345</sup> “Local News,” CA, July 4, 1884.

<sup>1346</sup> “Local News,” CA, September 19, 1884.

<sup>1347</sup> “Local News,” CA, January 5, 1887.

<sup>1348</sup> “The Gallows!” CA, September 13, 1887.

<sup>1349</sup> Ibid.

<sup>1350</sup> “Local News,” CA, January 25, 1888.

<sup>1351</sup> “Local News,” CA, March 27, 1889.

<sup>1352</sup> “Local News,” CA, October 22, 1890.

<sup>1353</sup> Executive Council Meeting, CA, April 15, 1891.

Notably, within a week of their execution, seven Black men in the Creek Nation were executed by firing squad for the murder of two Indians.<sup>1354</sup> In April of 1892, John Waner (who was full-blood) was hung for the murder of George Daugherty (who was likely full-blood). During Waner's confession, he charged Ball Christie and John Muskrat (both of whom were full-blood) with participating in the murder (Christie would later be executed).<sup>1355</sup> Waner delivered a song in Cherokee immediately before his death.

In December of 1893, Thompson Bearpaw (who was a full-blood) was executed for the murder of Rasberry Manus (who was likely also full-blood).<sup>1356</sup> Prior to his capture he had been hiding in a cave.<sup>1357</sup> In his confession at the gallows, Bearpaw hinted at the immense struggles of full-blood Cherokees. He admitted he didn't know his age, but "I think I am twenty-nine years old."<sup>1358</sup> He urged parents to give their children an education, "learn them to read Cherokee if nothing more," and to be kind to their children. He was describing challenges he had faced.

In August of 1893, it was announced that Ball Christie (who was a full-blood) and Jim Williams (who was an adopted white) would soon be executed.<sup>1359</sup> In October of the same year, Sam Mayes (a relative of late principal chief, Joel Mayes, and a mixed-blood) was hung for the murder of Jim Christie (a full-blood and the son of Ned Christie).<sup>1360</sup> In December of 1894, one Walker Bark (who was a full-blood) was sentenced to death in Going Snake District for the murder of Johnson Reese (who was also likely full-blood).<sup>1361</sup>

Finally, at the end of December in 1894, it was announced that the execution of Eli Levi (who was likely full-blood) would be postponed due to a conflict with the execution of Walker Bark (previously mentioned) and Chute Starr (who was either full-blood or mixed-blood).<sup>1362</sup> Starr was convicted for the murder of Glover Thornton (who was probably a mixed-blood).<sup>1363</sup>

Altogether, these make 18 randomly selected cases over the course of about fourteen years. And yet the results are, in many ways, stunning. In these 18 capital offenses, a single full-blood was sentenced to hang in 11 of these cases, while a full-blood (with or without a co-conspirator) was sentenced to hang in 13 out of 18 cases (or nearly three fourths of the sample).

Black Indians were sentenced to hang in three of these 18 cases. A mixed-blood was sentenced in at least one and at most two of these 18 cases, even though their share of the population was several times that figure. What is more: in the one above case involving only mixed-bloods, the charges were reduced from murder to manslaughter (for reasons somewhat unclear).

---

<sup>1354</sup> Multiple News Items, CA, April 22, 1891.

<sup>1355</sup> "John Waner Pays the Penalty for the Murder of George Daugherty last July—His Confession," CA, April 20, 1892.

<sup>1356</sup> "The Execution of Thompson Bearpaw," CA, January 4, 1893; "Local News," CA, October 5, 1892.

<sup>1357</sup> "Local News," CA, October 19, 1892.

<sup>1358</sup> "The Execution of Thompson Bearpaw," CA, January 4, 1893.

<sup>1359</sup> "Local News," CA, August 12, 1893; "Local News," CA, February 4, 1893.

<sup>1360</sup> "Execution of Sam Mayes," CA, October 7, 1893.

<sup>1361</sup> "Local News," CA, December 19, 1894.

<sup>1362</sup> "Local News," CA, January 2, 1895.

<sup>1363</sup> "Local News" CA, March 21, 1894.



**Image 6.4:** Photograph of the two Dunawas brothers, Fred and George (ca. 1890). The two young men were sentenced to hang for the murder of ex-Sheriff Wash Lee in Going Snake District. “Much sympathy in their behalf” was elicited due to their young age. This photo was likely taken from the day of their execution, April 22, 1891, as they are both wearing the outfits that newspapers described. **Source:** Official Cherokee Nation Facebook page.

The murder they committed related to permit workers. A year or two before September of 1890, a white family had “come into the country” to work for the ex-Sheriff of Going Snake, Wash Lee. The daughter of that family married Fred Dunawas. Much later, a fight broke out between Fred’s wife and Lee’s. Lee’s wife, whose name we do know, claimed she was beaten by Lee.

Fred, and his brother George, sought revenge. “On the fateful day Lee has occasion to go to the house of his rent above mentioned and after being there a short time, George and Fred came.” After an altercation, the two brothers shot Lee repeatedly, who was only armed with a knife.

Over a century later, the Dunawas’ story has had remarkable staying power in the Cherokee Nation. In December of 2020, the Cherokee Nation facebook page posted this image and asked its followers if they knew who these boys were. Several responded correctly. See CA, April 15, 1891; CA, April 22, 1891.

The picture looks even worse when we consider the victims of each of these murders. Out of 16 murder victims, at least 11 and as many as 12 of them were full-bloods, while at least two and as many as three were Black Indians. Only two victims in the cases above were mixed-bloods, even though, again, their share of the population was several times that figure. The emerging picture has very little to do with guilt or innocence. Full-bloods were significantly more likely to suffer state and non-state violence, even as the mixed-blood population increased in size.

This inequity is even more stark when we try to get a vague sense of the country's demographics. The Cherokee census never asked whether a citizen was "full-blood" or "mixed-blood," always counting both as "Native Cherokees." The United States at the turn of the century, however, logged allottees according to a pseudo-scientific understanding of blood (which *does not* mean these rolls are useless). While it cannot exactly tell us how many people self-identified as "full-blood" or "mixed-blood," the Dawes rolls still have some value, and the final rolls counted 8,698 full-bloods out of a total of 41,798 citizens (or just 20 percent).<sup>1364</sup>

That number was deeply flawed, of course, and the percentage of full-bloods in the country was likely much higher. We could guess that this figure was 100% off target and that self-identifying full-bloods accounted for 41 percent of the population, or we could look at how full-bloods controlled only 15 out of 40 seats in the Council branch in 1886, or we could use the national editor's best guess in January of 1889 (when he estimated that half the country was mixed-blood and the other half was full-blood).<sup>1365</sup> In either case, full-bloods were still suffering from state and non-state violence at a *drastically* higher rate than their share of the population (three fourths of the sample), while the opposite was true for mixed-bloods (who occupied a very privileged position). This was the "Jim Crow" full-blood Cherokees suffered, and it was violent.

And, to their credit, contemporary Cherokees were not oblivious to this inequality in the criminal justice system. In one rare but meaningful example, the outgoing national editor criticized the country's police directly. In 1893, the editor asked whether "our police" were "going on the plan of favoritism...for, men can get drunk and whoop, curse, swear, and use any kind of obscene language on our streets and yet nothing done." But "let a poor full blood or, we have seen little boys as they (the Police) may consider not of much consequence [do the same]...[and] they are taken the calaboose."<sup>1366</sup> The discrimination against full-bloods was very plain to see.

Black Cherokees probably experienced another kind of violence: lynchings. Like many events of the rural west, details can be hazy, but in September of 1880, the national editor reported:

"Two negroes were found hung last week at some place not certainly designated, but in Cooweescoowee District, in this Nation. Who the negroes are, or rather were, has not been reported, as for the hanging at all, we only give the report for what it is worth. The whole may be a story out and out.

What we wish to remark, whether the report may be true or false, is this: When a man is found hung, he is almost always found to be one who steals, or helps along the business of theft...

---

<sup>1364</sup> Wardell, *A Political History*, 333.

<sup>1365</sup> "The Council Branch," CA, February 12, 1886. "Forward! March!" CA, January 30, 1889.

<sup>1366</sup> CA, October 28, 1893.

We are opposed to “Vigilance committees.” But we are still more opposed to a condition of lawlessness that sacrifices honest men to rascals.”<sup>1367</sup>

Such murders in Cooweescoowee would be damning if true, as we do not typically think of lynchings occurring in the Cherokee Nation. In this case, the state-run newspaper published an ambivalent attitude toward such extra-judicial violence. The concept of lynching was not foreign.

There are other examples which were comparably murky. In February of 1882, a Black Cherokee man named Willis Petit shot and killed a Black woman named Margaret Bird. He lived in Tahlequah and spent the whole night in hiding with “one of his concubines.” In the morning, he gave himself up to another Black Cherokee man, “so that he might escape being killed or mobbed.” And indeed when Petit arrived at the Cherokee National Prison, “a party who had been on hunt of him, ran upon him very much excited with guns and pistols, but seeing him in chains, their passions were allayed, and calmer judgement prevailed.”<sup>1368</sup>

In February of 1883, *The Cherokee Advocate* celebrated the lynching of a man named Cobb who had killed a sheriff in the Kansas borderlands, and in September of 1885, under an article entitled “A Bad Negro,” a Vinita correspondent shared that the Black Cherokees of the town had taken a Black American to the woods and beaten him for entering the room of a 13 year old girl.<sup>1369</sup> In 1893, a Vinita correspondent estimated that Indian Territory had seen seven lynchings over an unspecified period of time (and he also did not specify the locations).<sup>1370</sup> In 1895, a Black man and a white girl (reportedly 13) married in Chelsea, and the city marshal immediately “placed the negro under arrest.” While the man was still in custody, “there was very strong talk of lynching, but the better judgement of cooler heads prevailed.”<sup>1371</sup>

Implausibly, Cherokee nationalists claimed they had no lynchings at all, and compared themselves favorably to the United States: “It is almost a daily occurrence in the states for some poor wretch to be lynched without the privilege of a hearing. There is no need of lynching in the Cherokee Nation, because we *enforce* our laws.”<sup>1372</sup> In another instance, the national editor claimed: “no Indian ever committed suicide or has a lynching ever took place among the Indians in this Territory.”<sup>1373</sup> This was almost certainly untrue.

It does seem that lynching was less common in Indian Territory than it was in the South, but a culture of lynching certainly existed here, and may have been getting worse as the century wore on (as it did in other places). In one extreme case from 1897, for example, the national editor reported that “a vigilance committee of Davis, Chickasaw Nation, have invited the negro population of that town to leave. Otherwise, there might be unpleasant things.”<sup>1374</sup>

Full-bloods and Black Cherokees, then, both experienced segregation in the form of education, labor, opportunity, and violence, but it would be inaccurate to say that they were equally

---

<sup>1367</sup> “Vigilant Committees,” CA, September 22, 1880.

<sup>1368</sup> “A Diabolical Murder in Tahlequah!” CA, February 24, 1882.

<sup>1369</sup> “A Bad Negro,” CA, September 11, 1885.

<sup>1370</sup> “Items from Saline,” CA, July 8, 1893.

<sup>1371</sup> “With A White Girl,” CA, August 7, 1895.

<sup>1372</sup> Editorial on Cherokee Law and Order, CA, August 15, 1894.

<sup>1373</sup> “Local News,” CA, February 13, 1895.

<sup>1374</sup> “Territory Cleanings,” CA, May 1, 1897.

marginalized in Cherokee society. This was still an Indian country—a tri-racial nation where whites and Blacks were second class citizens compared to a diverse array of “red” Indians. Section One of this dissertation described full-blood Loyal Cherokees as the political victors of Reconstruction. They were a dominant force in national politics until the end of Thompson administration. Their votes and their political strength mattered, and their interests could not be ignored. In other words, the rise of a Cherokee Jim Crow often benefited full-bloods.

Black Cherokees had this kind of power in the Illinois District, but hardly anywhere else. The thousands of Black Cherokees in Cooweescoowee District, for instance, seemed to struggle for democratic rights. In July of 1877, for example, it was reported:

“For several elections we have had more or less trouble in Cooweeskoowee district with our colored voters, and to obviate that trouble, I spoke to our Chief in regard to issuing a proclamation for Canadian District [the home of Southern Cherokees], and *Northwest* of Grand river, calling attention to the judges of elections at the various precincts to the rights of colored voters guaranteed by the 4<sup>th</sup> Art. Of the 1866 treaty...

If we have colored voters, provided by our Constitution, treaties and laws, I, for one say, give them *all* their *rights* thus guaranteed.”<sup>1375</sup>

The editorial was revealing on several counts, then. One, it is easy to understand what “trouble” for “colored voters” meant: Black voters were disenfranchised either by local officials or mobs. The national editor estimated there were “about one hundred legal colored voters in Cooweeskoowee,” but even that was too many for some. Two, the Canadian District (the center of ex-Confederate life) and the northwest of Grand River (in Cooweescoowee) were the two places with the most suppression. Illinois must have been relatively safe for Black voters.

The greatest form of disenfranchisement, however, presented itself in another form. Hundreds, if not thousands, of Black Cherokees were blocked from becoming citizens under a special provision of the Treaty of 1866. Only those emancipated persons who had returned to the country within six months could be citizens. The same editorial cited above, which demanded Black Cherokees’ right to vote, also wrote: “to *citizenize* even *one person*, it is a *mistake*. I have always opposed fraudulent citizens or assisting pretenders to obtain citizenship.”

More evidence of disenfranchisement can be gleaned from Black representation in the National Council. In 1880, Black citizens accounted for ten percent of the citizens population, but they had no representation in the legislature, at that moment. The Black Cherokees of the nation organized against this early, announcing in July of 1879: “We the undersigned colored people of the Cherokee Nation have organized ourselves in on political body to help to elect, and select our best men to run our Government.” They demanded justice and sought political allies.<sup>1376</sup>

Many Cherokee parties and leaders would take them up on that, but others were scandalized. George W. Johnson, the national editor at the time, responded dismissively:

---

<sup>1375</sup> “Politics,” CA, July 25, 1877.

<sup>1376</sup> Letter to the Editor, CA, July 30, 1879.



“We say to our colored friends that the treaty of 1866 is the rule for them to consult, and if that instrument is not in their favor, there is no help for them; they cannot live in this Nation as citizen. No Cherokee denies them their treaty rights, if the treaty gives them any.

As an individual, we shall at all times object to having our colored citizens sitting in our Council to legislate for us. Our principal reason is, we know of none that has the capacity to make laws for us, and as to voting on bills, we know from the past, that their votes would be cast according to the dictation of others.”<sup>1377</sup>

In the eyes of this ex-Confederate state official, Black Cherokees were incapable of governing. They could vote, but they could not hold office, sit in the Council, legislate, or even vote on bills. That was objectionable, and that attitude (plus the disenfranchisement) would keep many Black citizens out of the National Council.

Black Cherokees organized anyway and ran for office all the same. They had plenty of failed candidates, and their failures were often great. In August of 1881, for instance, the national editor reported: “The two colored candidates in this District for council...tied on the lowest number of votes. One of them was of the opinion that the race should be run over.”<sup>1378</sup>

Illinois District, unsurprisingly, was where they won their first victory. In the midterm election of 1885, one Jack Brown won a seat in the Council branch (where his district held five seats according to population). He was joined by 20 mixed-bloods, 15 full-bloods, two Shawnees, and two white men.<sup>1379</sup> To repeat an earlier point: this is where full-bloods, Black Cherokees, and Indigenous immigrant experiences diverged. Yes, they were all non-white people who struggled with a discriminating government to one extent or another, but at the end of the day, full-bloods had a tremendous say over policy in ways that Black Cherokees and Indigenous immigrants did not. Full-bloods could have chipped away at this inequality, but very often, they cast their ballots to support its development. Simply put, they were “Native Cherokees.” Black citizens were not.

At this point it is worth turning toward violations of Black Cherokees’ civil rights. In the Cherokee Nation, access to communal property was a civil right. As economist Melinda Miller has demonstrated, Black Cherokees exercised that right and became self-reliant in ways that their Southern counterparts could not.<sup>1380</sup> With racial wealth inequality relatively lower than it was in the South (where Black access to land was cut off), the model of sharecropping with landless Black workers would not be replicated in this nation.

We must complicate that story even further. Not all Black Cherokees were citizens, and even Black citizens did not have full rights to the common domain. They had limited rights, and as time went on, their rights diminished. Cherokee authorities could and did remove intruders, and the 1880 census reports an unusual percentage of intruders in the Illinois District (**see Figure 5.3**). Black Cherokees, unlike every other class in the country, were also blocked from passing

---

<sup>1377</sup> Editor’s Response, CA, July 30, 1879.

<sup>1378</sup> “Local News,” CA, August 3, 1881.

<sup>1379</sup> “The Council Branch,” CA, February 12, 1886.

<sup>1380</sup> Melinda Miller, “The Righteous and Reasonable Ambition to Become a Landholder’: Land and Racial Inequality in The Postbellum South,” *The Review of Economics and Statistics* 102 no. 2 (May 2020): 381-394.

citizenship to their spouses, a policy which made many families' residency insecure.<sup>1381</sup> These Black "intruders" lived in fear of removal and separation from their families.

Black citizens faced their own problems, which should be explored much further. They were some of the last citizens to claim their own lands, while "Native Cherokees" possessed claims that were decades old. Inheriting a claim as other citizens could was of course impossible.

Also, based on their settlement patterns, it seems unlikely that Black Cherokees could safely settle wherever they wanted. 77% of Black Cherokees lived in three districts: Illinois, Cooweescoowee, and Tahlequah. Just 7% of Black Cherokees lived in the other three Middle Districts of Saline, Going Snake, and Flint.<sup>1382</sup> They appeared to live in the more urban zones of Tahlequah, Fort Gibson, and perhaps Vinita, while avoiding the rural interior.<sup>1383</sup> Their opportunities may have been better than many Black Southerners (as Miller demonstrates), but it seems very unlikely they possessed the same opportunities as "Native Cherokees."

This is most clear in the form of the per capita disbursements. As this dissertation has previously explained, per capitas were generated from the sale or leasing of communal land. Every citizen was entitled to their share of the proceeds, but over the course of the late 1870s and 1880s, lawmakers passed "blood-bills." Only "Native Cherokees" were given cash for the sale or leasing of communal lands, while Black Cherokees, Shawnees, Delawares, and whites were all excluded.

In practice, "blood bills" split the country into three classes, not two. Indians, or "Native Cherokees" had full rights to the money. Adopted white men had no rights to the money themselves, but got their family's share (and as the head of household, likely spent it). Black Cherokees, Shawnees, and Delawares got nothing, even if they had much deeper roots in the country than the recently adopted white. As per capitas greatly increased in size during the 1890s, the social and economic disparity between these classes must have widened.

From a social perspective, Black Cherokees were not accepted. Cherokees took their own traditions and pre-contact history seriously, while simultaneously patronizing minstrel shows which mocked their Black neighbors.<sup>1384</sup> Cherokees gathered to pick up per capita money (which Black citizens were blocked from) and promptly played carnival games that involved throwing objects at a Black man's head.<sup>1385</sup> When two Black men were found hung in Cooweescoowee, the state newspaper concluded that, whoever they were, they must have been thieves or "scamps."

Black Cherokees were ridiculed endlessly in the press. "R.H.F." was a frequent contributor to *The Cherokee Advocate*, and in May of 1886, he railed against Black Indians:

---

<sup>1381</sup> CA, November 10, 1882.

<sup>1382</sup> Cherokee Nation 1880 Census. *Cherokee Nation Papers*, Roll 2, Box 5, Folder 94-99. Western History Collections, University of Oklahoma, Norman.

<sup>1383</sup> A well-publicized outbreak of illness in a Black neighborhood of Cooweescoowee killed dozens of people during the winter of 1882-1883. It is possible that this was a result of the settlement's location. Black Cherokees were blamed for their own suffering in the press, but it is possible that the location played a role. The town of Fort Gibson, which had many Black Cherokees, was relocated in 1900 for this reason. CA December 8, 1882; CA, April 13, 1882.

<sup>1384</sup> CA, April 28, 1882; CA, April 7, 1882; CA, November 10, 1886.

<sup>1385</sup> CA, September 28, 1883; CA, October 12, 1883.

“I wish I could draw a brilliant picture of the Darkey and his condition, that I could say that had prospered financially and improved mentally since he had received the great boon of liberty, but I like to tell the truth sometimes, and the truth compels me to say that I think he is very much the same careless easy-going improvident fellow that he was before the Emancipation...

If confronted [by his employer] and asked why he did not appear, the answer comes in a moment: ‘golly Boss, I was jis gwine to come shuah but you see Sam Johnson dun borried my shoes and never fotch em back an I cant do a lick widout dem shoes or fo God I calculated to come bright an airly but I done overslep myself an forgit all about it!’

...It is not deceit in him but a part of that easy going careless spirit so characteristic of these sons of Africa...

Fortunately, for him,” R.H.F. concluded, “he lives in a land [the Cherokee Nation] where there is no pressure upon him, where the conditions of life are easy, and his simple wants can be at any time satisfied.”<sup>1386</sup>

The contribution was droned on and on, and every sentence was a scathing attack on the country’s Black citizens. Even the national editor found these words a bit too harsh and did something rare. He added a short response at the end of the contribution: “The writer must remember that the negro has been freed hardly two thirds of a generation.”

Black Cherokees were expected to be grateful to full-blood and mixed-bloods alike for their freedom, and for whatever other rights they were granted. When the “Colored High School” (which some called the “Darkey High School”) began construction in 1889, the national editor commented: “We don’t think a better selection could possibly have been made. This puts the school about six miles northwest of Tahlequah, which in our judgement, is as near the center of the Nation as it could possibly have been located...Now what more could be desired?...We think this ought to satisfy any set of people.”<sup>1387</sup> When rumors swirled in 1883 that Black Cherokee voters were organizing against full-blood candidates, *The Cherokee Advocate* responded: “Our colored citizens are indebted as much to the Full Bloods as the Half-Breeds for whatever rights they have, and privileges they enjoy, as citizens of the Cherokee Nation.”<sup>1388</sup> In these cases and many more, Black citizens were asked to be grateful as well as compliant.

If such a thing as “Cherokee Jim Crow” ever existed, then how should we periodize it? What change over time is perceptible? To answer this, we can point to several moments.

The periodization of Cherokee Reconstruction is crucial. This was the height of full-blood power in government, which is reflected in its policies toward land, labor, race, and more. For all its failures, Charles Thompson’s anti-permit law was the single most ambitious effort to redistribute wealth in Cherokee history. Full-bloods, Black Cherokees, and Indigenous immigrants would have benefitted immensely, while wealthier ex-Confederates would have lost their advantage. Thompson’s attempts to uplift full-bloods in other ways (such as making *The Cherokee*

---

<sup>1386</sup> “The Negro,” CA, May 12, 1886.

<sup>1387</sup> Update on the Colored High School, CA, February 6, 1889.

<sup>1388</sup> “Friendly Advice,” CA, July 27, 1883.

*Advocate* free or demanding that two delegates always be full-bloods) were unique to this period. The end of Reconstruction was impactful in this regard.

Black Cherokees briefly found a home in the National Party under Bushyhead's leadership, who pushed his coalition to respect the rights of Black citizens. This worked, until it didn't. As Chapter Five explained in greater detail, Bushyhead was forced to concede on blood-bills in April of 1886. Shortly thereafter, on April 27th, the National Council passed a formal reinterpretation of the Treaty of 1866. All adopted citizens, including Black Cherokees and Indigenous immigrants, were to have no more rights than the adopted white citizen, who could not acquire "right or title to the Cherokee domain, or to the proceeds thereof when made subject to a division among those to whom such domain had been conveyed."<sup>1389</sup> Only "Native Cherokees" could enjoy the profits generated from the Cherokee Outlet.

In terms of periodizing Cherokee Jim Crow, this was both the moment blood-bills were formally enshrined into law, and the moment that Nationals caved to popular pressure. Many Black voters stayed in the National Party, but only because they had no other recourse. The new construction of the Treaty of 1866 was a great slide backward in racial progress.

The year 1886 was significant for another reason. It was the year that a "rehabilitated" (i.e. new) Downing Party was established. This latest iteration of the party, reconstituted in November, was dominated by ex-Confederates, many of whom had disturbing solutions to the "problem" of Black Cherokees. Lucien Bell, as this dissertation has pointed out, wanted Black Cherokees removed to the Outlet. Joseph A. Scales wanted Black voters completely disenfranchised, "eliminated" from Cherokee politics.<sup>1390</sup> The ascendance of this new Downing Party in 1887, delivered by the Southern Cherokee Canadian District, was a moment of massive importance.

From that point forward, Cherokee Jim Crow developed more assuredly, but in ways that require a local lens. There was the erection of the "Colored High School" in 1890 (previously discussed) as well as a controversy regarding segregated cemeteries. "Native Cherokees" did not want their dead buried alongside Black Cherokees. The issue came to a head after the Tahlequah "Local Improvement Society"—run by wealthy Cherokee ladies—raised money for the cemetery:

"About a year ago the ladies of our City organized a society which...was to improve the very bad condition of the City Graveyard. Lately it was decided to remove the dead from their present place of interment to a site further removed from the town and better suited for such a purpose.

The above mentioned Society was composed of Cherokee ladies. Not one negro took part in the enterprise. Not one cent of any colored person's money is in the fund of several hundred dollars, which the Cherokees of Tahlequah have raised, for the purpose of improving their burial ground; and yet some colored persons have thought it proper to claim a right to use the new burial ground.

If they would only follow a good example they would select for themselves a place for a cemetery where none but their dead would be buried. Or, it would suit us just as well if

---

<sup>1389</sup> "Construction of the Rights of Cherokee Citizenship..." CA, May 7, 1886.

<sup>1390</sup> Letter from J.A. Scales to Jesse Cochran, CA, March 12, 1890.

those persons who are not satisfied with the plan adopted by the Local Improvement Society, Cherokees as well as colored folks, would accommodate us by shuffling off this mortal coil before the cemetery is moved. We'll bury them.”<sup>1391</sup>

At the local level, this was segregation in action. Piece by piece, “Native Cherokees” demanded a separation from Black Cherokees which had not previously existed. They had often been buried together before, but now those times were over. They wanted separation, and they wanted Black Cherokees to have cemeteries “where none but their dead would be buried.” And sure enough, by December of 1891, a man named Wash Smith, who *The Cherokee Advocate* called “a quiet inoffensive negro,” was buried in the newly built negro cemetery.<sup>1392</sup>

Even full-bloods had reason to fear these developments. From a bird’s eye view, this project describes their slow decline in power from the end of the Civil War to the moment of denationalization. The rise of the new Downing Party, which would dominate the government until statehood, was devastating in this regard. There was a reason Bullet Foreman predicted (correctly) in 1887 that there would never be another full-blood principal chief. Their power was also in decline, and Cherokee voters increasingly adopted explicitly anti-indigenous views toward full-blood candidates. Call it linguisticism, racism, or colorism, but whatever it was, it was on the rise.

Central to all of these developments, arguably, was the increasing power of Southern Cherokees (who had suffered marginalization and “suppression” prior to the war and during Reconstruction). The ex-Confederates came to power at a very specific moment in the country’s history, and they got there with a decisive number of votes from the Canadian District, which had nearly been made a separation nation in the postwar talks (called the “Southern Cherokee Nation”).

The rise of a “Southern Cherokee Nation” was strongly felt after 1887. At all levels of culture and society, a pro-South sentiment began to creep in. Ex-Confederates in Congress were slowly becoming the Cherokees’ most reliable allies (there was Matthew Butler of South Carolina, William Bate of Tennessee, and several others). A growing number of Southern Cherokees coming to power grew up in the U.S. South (such as Robert Owen and Colonel J. Harris) while those born and raised in the Cherokee Nation, such as August Ivey, went on flying tours of “Alabama, Georgia, and other southern states.”<sup>1393</sup> Southern Cherokees seemed well positioned to replicate what many Southerners to the east of them were doing in regard to race. Their only complications stemmed from the fact that theirs was an Indian nation, and not a white one.

A Cherokee “Lost Cause” was taking root, as Southern Cherokees increasingly celebrated their historic ties to the Confederacy (and for a contrast to this, one only needs to return to William Boudinot’s condemnation of the South immediately after the war). In June of 1894, for example, many Cherokees—mostly mixed-bloods—gathered for the seminaries’ closing commencement exercises. The cultural shift was on full display, and it was the young students who put it there:

“The valedictory, ‘Lost Cause,’ by D. E. Dannenberg made complete the orations of the graduates and it goes without saying that the subject was handled in a masterly manner...He was greeted by hearty applause and received many flowers and a Bible.

---

<sup>1391</sup> Update on the New City Cemetery, CA, February 13, 1889.

<sup>1392</sup> “Local News,” CA, December 9, 1891.

<sup>1393</sup> “Local News,” CA, October 30, 1889.

Miss Sadie Dove was called on for a solo. She said the subject of the last oration had so touched her Southern heart that she could sing but one song—'Swanee River.' The melody was perfect as executed and the singer was greeted by a heart encore.

['Swanee River' is a minstrel which mocks Black Southerners' manner of speech and expresses 'longing for de old plantation.' It is also the official state song of Florida]."<sup>1394</sup>

There were other speeches not about the South, such as J. T. Edmundson's celebration of "Our Institutions" in the Cherokee Nation, S. F. Parks' explanation of the "Triumphs of Science," and Rufus Ross' history of "The Indian" and his accomplishments. But, increasingly, these different values were all fusing together. Cherokees could all at once be modern and nationalistic and possess "Southern hearts" that longed for "de old plantation."

Other graduation years had more of the same (all-out celebrations of the Old South). In one year, the number of speeches on behalf of the Confederacy outnumbered everything else:

"After appropriate opening exercise, the contest began with a recitation of extract from speech of Fitz-Hugh Lee, by D. E. Dannenberg, subject on 'Confederate Dead.' Dan did honor to the cause to himself as well.

'New South.' By Henry Grady [which remarked: 'The South has nothing for which to apologize...her convictions were as honest as yours.'] was delivered by S. W. Woodall, he also acquitted himself well.

'Star and Stripes.' By Ben Hill, [the third Confederate address in a row] was delivered by J. L. Williams. It was a fine production, and well delivered."<sup>1395</sup>

The only oration delivered by a Unionist writer was "A Vision of the Past" by Robert Ingersoll, and the national editor was unkind to this selection. A Vision of the Past, "so-called" was full of "high-sounding words and meaningless nonsense." Dannenberg with his recitation of "Confederate Dead" won the day. The national editor merely remarked: "It is hoped that they may continue to imitate those great men."

The threat of denationalization in the 1890s would give nationalists pause, and greatly interrupt the development of a Cherokee Jim Crow. As Chapter Nine especially will highlight, it made little sense to oppress Black citizens when the nation was under siege by a much stronger, external force. Even Southern Cherokees born into a world of slavery came around to this logic, not because of their morals, but because of the practical necessities of denationalization.

We must balance two very different ideas, then. On the one hand, Cherokees *were* in the process of developing their own "Jim Crow" throughout the 1880s and 1890s. There is also every indication that the newly empowered ex-Confederates would have continued to build on this trend and attempt to further replicate what they were seeing in the U.S. South (in regard to segregation, disenfranchisement, and so on). It is even possible to imagine that a "modernizing" Jim Crow would have chipped away at the country's rising anti-statism.

---

<sup>1394</sup> "Oratorical Contest," CA, June 27, 1894.

<sup>1395</sup> "Oratorical Contest at the Male Seminary," CA, July 1, 1893.

On the other hand, Cherokees never fully developed their own system of Jim Crow. Just as the system began developing in the U.S. South, the Cherokee Nation was denationalized. The mere threat of denationalization made segregating the country a low priority at best, and indeed some ex-Confederates came to realize that discriminatory policies were suicidal. Cherokees were not prevented from enacting Jim Crow out of choice, then, but rather because of external forces.

### **End of Liberalism (1890)**

Americans could already tell the Cherokees planned to reject a sale of the Outlet. They could do the math and see that the legal maximum of \$1.25 per acre was insulting. Cherokees figured they were going to get that same amount in just fifteen years of leasing the Outlet, without selling it at all. In other words, the Cherokee Nation would not part with the Outlet willingly. The Cherokee Commission could not force the Cherokees to negotiate, so they needed leverage that only the federal government could create. Force would be required, and force would be used.

In December of 1889, the commissioners begged the Secretary of the Interior to secure an executive order clearing the Outlet (or, put another way, seizing it). Secretary Noble was on board, but President Harrison hesitated. Chairman Lucius Fairchild would resign over this, telling his wife that Harrison had not offered the commissioners “proper backing.”<sup>1396</sup>

That would soon change. In January of 1890, the commissioners were in Washington, lobbying for assistance. Horace Speed, the commission’s ambitious secretary, testified before congressional committees, met with the Secretary of the Interior, and even visited with President Harrison. Speed again urged Harrison to issue a proclamation unilaterally canceling the Outlet leases (a feat that could put Speed in line to become Oklahoma territory’s first governor). For her part, Alice Robertson, the stenographer, also joined the efforts, testifying before Congress and doing research behind the scenes. Dennis Bushyhead and John L. Adair were lobbying against these moves, but they were now greatly outnumbered. The president was ready to act.<sup>1397</sup>

On February 17<sup>th</sup>, 1890, President Harrison issued an executive order prohibiting grazing on the Cherokee Outlet. The leasing of the Outlet was over, and the Cherokee’s greatest source of revenue was seized in the process. More than half the country’s annual income would be lost overnight. With such an aggressive act, Cherokee national sovereignty could no longer be assured. Unapologetic coercion was back. The Liberal Decade ended right then and there, full stop.

All the prosperity promised in the 1880s was stolen away. Looking back on it, it is difficult to say whether this promise was hollow or not. Some readers may ultimately decide that communal capitalism was a doomed concept from the beginning; that it had been foolish of any Indian nation to try and harness the economic forces which so often destroyed Indigenous sovereignty and customs. From this perspective, Bushyhead merely paved the way for another round of expansion.

This is certainly a fair interpretation, but it is not what most 19<sup>th</sup> century Cherokees believed. We know this from their ballots. A democratic majority of Cherokees believed in the tenets and usefulness of communal capitalism. Full-bloods increasingly voted for the same chief who had liberalized the economy and pushed for development. A great majority of voters in both

---

<sup>1396</sup> Hagan, *Taking Indian Lands*, 36-37.

<sup>1397</sup> *Ibid*, 38-39.

parties believed they had a better system than capitalists and socialists alike. They used those exact terms in rejecting both. They believed that money could power their national sovereignty and protect them from an aggressive neighbor (and they were perhaps correct on one of those scores).

In my own view, the Cherokee Nation was not destroyed by the economic system it developed (which did provide benefits). The Cherokee government was destroyed by a rising tide of U.S. imperialism at the end of the century. The Cherokees' attempt to fuse capitalism and communalism to protect Indian sovereignty failed, but only because hostility with the United States resumed unlike ever before. This was through no fault of the Cherokees themselves.



### III Selling the Cherokee Outlet (1890-1894)

The largest piece of land the Cherokee ever sold was not their eastern homeland but the sprawling Cherokee Outlet. Amounting to about half the territory of the Gadsden Purchase, the acquisition of the 6.5-million-acre Outlet, along with the rest of western Indian Territory, was another watershed moment in the history of the West. Even today the schoolchildren of Oklahoma still celebrate the massive Land Run of 1893, which took place on these newly acquired Outlet lands.

Cherokees, of course, remember the Outlet's sale differently. They remember the Outlet as another settler colonial land grab. The President of the United States, they say, illegally forced them off their own lands, and then "negotiated" with them under duress. In 1961, the Indian Claims Commission adopted this view, and since the 1990s, historians have been prone to adopt the Cherokee side of things. The Outlet's sale is pessimistically interpreted as a crushing and conclusive blow to Cherokee sovereignty and finance. Ever the victims, Cherokees were wronged.

Neither interpretation is satisfactory. It is true that the United States military occupied the Outlet before purchasing it, and it is true that the United States abused its trust relationship to secure this territory. It was seized when President Harrison forcibly took control of the area, and notorious imperialists in Congress (such as Orville Platt) issued calls for its direct annexation.<sup>1398</sup> But over the years, historians, Oklahomans, and Cherokees have all forgotten just how ambivalent the Cherokee Nation and its citizens felt toward the Outlet itself. By 1890 the U.S. was indeed an aggressive customer, but that did not make the Cherokee an uninterested seller.

What is more, historians, Oklahomans, and Cherokees have also forgotten how much power the Cherokee brought to the negotiating table, while also inflating how much power the Americans had. The Jerome Commission, which was tasked with these negotiations, could travel across most of Indian Territory with a devastating legal weapon in their arsenal. The Dawes Act of 1887 gave the president the power to unilaterally force allotment on any Indian tribe and then sell the surplus land. Any tribe that refused the commissioners' first offer was informed that the president could easily force a change. These negotiations were a farce.

However, the Cherokee and the rest of the Five Nations were exempt from these powers. They could say no, forcefully, where other Indian nations could not. Without a new federal law, the commissioners had no weapons at their disposal.

This dynamic between determined buyers and ambivalent sellers meant that Cherokee nationalists suddenly had a prime opportunity to shore up *their* government's power in what they framed as their "final treaty" with the United States. They succeeded in this.

The following chapters explore the sale of the Outlet in three distinct parts. During the "Negotiation," outlined in **Chapter Seven** (1890-1891), the Cherokee won significant concessions from the United States. They secured a strong deal despite tough circumstances, and—because the United States forced them—they prioritized securing favorable policy changes over fair monetary

---

<sup>1398</sup> Congressional Record. Volume 21, Part 2. Page 1196. February 11<sup>th</sup>, 1890. Platt's exact words were: "If it shall be demonstrated to Congress that the Cherokee Nation is determined not to surrender its rights [to the Outlet]...I think that the Senate and House of Representatives will endeavor to find some way in which to acquire the land." His words reportedly scandalized Senator Teller of Colorado. CA, February 19, 1890.

compensation. They celebrated the hard-won “Intruder Clause” as the treaty’s most valuable provision and saw it as the tool that would defend their national sovereignty into the 20<sup>th</sup> century.

In **Chapter Eight**, I turn toward the next step in this process: “Ratification” (1891-1893). As one Cherokee nationalist and frequent delegate to Congress explained: “The United States, conceding our equality with itself in law, came to us begging a purchase of our Strip lands, and immediately upon our agreement to sell we take the position of the begging party.”<sup>1399</sup> While Congress considered the Outlet Treaty in its original form, Senator Orville Platt of Connecticut suggested amendments to the Intruder Clause intended to strike at the heart of the Cherokee state.

In one noteworthy moment during debates, Platt’s co-conspirator Henry Dawes would openly admit that the purpose of these revisions was to undermine the Cherokee Nation’s ability to govern. Dawes remarked:

“You have come to where you must decide whether by force of your own law you will invade that government, put it down, and put over it a government of law and order, so that life and property shall be secure there, or you must bring about that same result by such wise negotiations with this tribe and with the other four civilized tribes, as they are called, *which will bring around that end.*”<sup>1400</sup>

There was no pretense. Platt’s intention in revising the Intruder Clause was to help overthrow the Cherokee government in the long term. Henry Dawes described a false choice: the United States could either “invade that government, put it down,” and put up a new one, or it could impose unfriendly terms meant to undermine the Cherokee government and “bring around” the same end.

The treaty—with Platt’s amendment—was ultimately ratified in March of 1893. The time had come for an actual “Exchange,” which I discuss in **Chapter Nine** (1893-1894). The Outlet was opened to settlers in September while the Cherokee worked to secure their rewards from the U.S. government. A federal commission began evaluating the property claims of intruders, who were soon to be evicted from the country.

Meanwhile, Cherokees anxiously awaited the arrival of more than 8.5 million dollars in compensation, the greatest single injection of cash in the country’s history. At this moment, they were far less concerned with the creation of the Dawes Commission or the threat of denationalization—though perhaps they should have been. Money and the promise of an intruder-free country were exciting, promising developments.

In other words, the 1890s looked different to them than it does to us. We expect to find “futility” and a long, silent acceptance that denationalization was inevitable. Contemporary Cherokees tell us the opposite. They wrote they were confident that their state could survive into the 20<sup>th</sup> century—that the Dawes Commission was powerless to tell them otherwise. They wrote that the money for the Outlet, while less than it should have been, was about to improve their lives substantially. They wrote of a country that would soon be free of obnoxious intruders, and when they pictured all these things, they considered the Outlet’s sale well worth the trouble. Even in the mid-1890s, Cherokee nation-building was ongoing.

---

<sup>1399</sup> CA, February 4, 1893.

<sup>1400</sup> U.S. Congressional Record, 1893, Version 24, Part 2, Pg. 1189. Emphasis added.

At the same time, one of the greatest threats to national sovereignty at this moment was an internal one. The Liberal Decade ended promptly in 1890, and in that same year the anti-statist politics of Lucien Bell—which had once been fringe—were becoming mainstream. The Cherokee body politic increasingly made two ideas clear: they wanted the independence of their government preserved, and they wanted the government to hand its money over to the people. This was an extreme version of the liberal reforms. It meant profit for the people at the expense of the state.

The degree to which anti-statists committed to this belief cannot be overstated. In one furious internal struggle in 1890, the National Council forced the closure of the nation's schools so that a per capita bill could pass through. Internal politics caused this—not the United States. Even more remarkably, almost none of the millions of dollars paid for the Outlet was to be used by the government. It almost all went to one massive per capita payment. In the years leading up to denationalization, then, anti-statist Cherokees provided their government with very few resources to resist the U.S. expansion.

## Chapter Seven: Negotiation (1890-1891)

Two days after President Harrison's executive order of February 17th, *The Cherokee Advocate* was behind on the news. Editor John L. Adair could only respond to anxious whisperings: "It is rumored that the President of the United States has decided that the cattlemen shall vacate the Strip next spring. Secretary Noble has declared that, if the Cherokees will not accept a dollar and a quarter an acre for the lands, they shall accept the appraised value of 47.49 cents."<sup>1401</sup> The rumors probably did not surprise Cherokee readers who were becoming increasingly familiar with an uptick in heavy-handed tactics from the United States. The same newspaper issue reported that a week earlier Senator Orville Platt of Connecticut had suggested "abrogating the treaty [of 1866] and taking the land" without consent.<sup>1402</sup> Platt's exact words were: "If it shall be demonstrated to Congress that the Cherokee Nation is determined not to surrender its rights [to the Outlet]... I think that the Senate and House of Representatives will endeavor to find *some way* in which to acquire the land."<sup>1403</sup> The President's order to clear the Outlet of the cattlemen, seize it, and deprive the Cherokee Nation of its largest source of revenue proved to be "some way."

A week later, the news of the executive order could be confirmed. The order was published in full. Bitter complaints abounded throughout multiple issues of *The Cherokee Advocate*:

"Why could not this proclamation have been deferred till the first of July next? ... Of course, orders of this character have heretofore emulated from former Presidents, or, at least, one, that we can recollect of, but has this been done in cases where Indians held patents to their lands? We think not."<sup>1404</sup>

The *Advocate* asserted that Cherokee treaties contained unique property protections for a tribal nation. After all, the Cherokee were one of very few tribes in the country who owned their land in a fee simple title. They were not "occupants of the soil" under U.S. law nor were they dependent on the United States. Thus, the author argued, the usual applications of force so often deployed against *other* Indians should not have been possible here.

The same author argued that the Cherokee Nation had significantly enhanced the value of the Outlet through its facilitation of the leases and the accompanying fenced improvements.<sup>1405</sup> To secure the true value of the Outlet, the author called for total unity among Cherokees: "It is hoped... that the people shall stand as one man, battling for the rights and interests of the whole people. This is not a time for schisms, factions, or divisions, which will only result in our disadvantage..."<sup>1406</sup> To succeed in "passing through [this] ordeal," presumably to something better, would require the Cherokee remain firm in their negotiations with an increasingly hostile power.<sup>1407</sup>

---

<sup>1401</sup> CA, February 19, 1890.

<sup>1402</sup> Ibid.

<sup>1403</sup> Congressional Record, Volume 21, Part 2. Page 1196. February 11<sup>th</sup>, 1890. Emphasis added.

<sup>1404</sup> CA, February 26, 1890.

<sup>1405</sup> Ibid.

<sup>1406</sup> Ibid.

<sup>1407</sup> Ibid.

Yet again *The Advocate* was slow. Citizens had begun organizing four days before that first call for unity was publicized. A wave of Cherokee nationalism, pride, and outrage followed the President's order. In the town of Vinita, a mass meeting was held on February 22<sup>nd</sup>, for the purpose of drafting a resolution to condemn Harrison's executive order, decrying the removal of this important source of revenue, and demanding that the United States pay the Outlet's true value (\$3 to \$5 per an acre depending on the land).<sup>1408</sup> The elected five person committee, including my great-grandfather, argued that the cost of the Outlet should include the removal of intruders "as declared by the courts of the Cherokee Nation," a repeal of laws that would build railroads through the Nation, "full recognition of the Cherokee Nation in defense of its title to lands," and so on.<sup>1409</sup> In short, Vinita wanted the United States to pay for the Outlet in both money and friendly policy.

A separate mass meeting was held in the town of Riverside around the same time. These Cherokees also demanded "something like the full value of said lands...so that both the Cherokee people and the United States government would receive much benefit from the sale."<sup>1410</sup> While the Riverside convention also urged for the removal of intruders as a condition of sale, they were especially determined for the United States to relinquish its right to settle "friendly Indians" in the Cherokee Nation proper—something which had led to a whole host of legal difficulties and xenophobic tensions.<sup>1411</sup> Interestingly, many of the demands from both of these meetings would be successfully inserted into the final sale of the Outlet, much to the chagrin of U.S. lawmakers.

Not to be outdone by his own constituents, Principal Chief Mayes, who had coolly negotiated the renewed, revolutionary \$1 million, five-year lease of the Outlet to ranchers, published a letter he had sent to President Harrison:

"I approach you, as you might say, an alien subject entirely, as it seems, only to your will as the ruler of a great Nation. In this that you have seen fit to deprive the Cherokees of the use of a piece of property that they have been taught is rightfully theirs. They have been taught so by all your predecessors, by treaty after treaty...They have been taught so by the Patent they have to this possession, signed by Martin Van Buren...When they shook hands over this contract, they used the word 'forever.'"<sup>1412</sup>

Mayes went on to invoke the hardship of the Trail of Tears, the heavy price for the promise of the Outlet, the Cherokee Nation proper, and all other property held in common by his people. Mayes urged the President to follow precedence and "pause and consider before you take our property... [held in] a Patent from your government."<sup>1413</sup> The plea would mostly fall on deaf ears.

Chief Mayes quickly followed this up with a legal inquiry. Writing to President Harrison and the Secretary of the Interior, John Noble, he asked if Cherokees themselves would be prohibited from bringing their stock onto the Outlet.<sup>1414</sup> Considering that the Outlet had not yet

---

<sup>1408</sup> CA, March 5, 1890.

<sup>1409</sup> Ibid.

<sup>1410</sup> Ibid.

<sup>1411</sup> Ibid. There were numerous conflicts in the 1880s and 1890s over the exact meaning of Cherokee citizenship for the "friendly Indians." The Delaware and Shawnee were two complainants.

<sup>1412</sup> CA, March 5, 1890.

<sup>1413</sup> Ibid.

<sup>1414</sup> Savage, *The Cherokee Strip Livestock Association*, 118.

been sold, there seemed to be no justification for preventing Cherokee citizens from utilizing lands which were still legally theirs, and the Indian Claims Commission years later would say as much.<sup>1415</sup> Mayes was also interested in acquiring \$250,000 worth of improvements left behind by the cattlemen.<sup>1416</sup> With both the abandoned improvements and the possibility of Cherokees using the Outlet themselves, the options for revenue extraction had not yet been exhausted.

But the order was not sent out to challenge a tribal nation's right to lease land; instead, it was a cynical move to force the cession of the Outlet. This was made even more obvious when the Principal Chief got his response on March 29<sup>th</sup>. The Commissioner of Indian Affairs, Thomas J. Morgan, sent out a notice that *all cattlemen*, "whether white men or Indians," would be disallowed from grazing on the Cherokee Outlet after the October deadline.<sup>1417</sup> Though the federal government admitted that the Cherokee held title to the Outlet, it would soon be illegal for individual Cherokee citizens to graze upon land which they still held in fee.

Still, over the next three years Cherokee officials and citizens would openly defy the United States in ways that historians have almost universally overlooked. John W. Jordan and former Principal Chief Bushyhead urged for their fellow citizens to "not be tempted by the glitter of gold," and consider "annexing" the chunk of the Outlet east of the 98<sup>th</sup> parallel.<sup>1418</sup> As a Cherokee "settler" of the Outlet himself, Jordan insisted that "There is not another six million acres of land west of the Mississippi river that will excel the Cherokee Outlet." This included, he warned, the home tract.<sup>1419</sup> Even after Harrison's order was in effect, Jordan encouraged Cherokees to relocate to the Outlet, defy the U.S. order to vacate, and build new communities.<sup>1420</sup> When threatened with arrest by U.S. officials, Jordan replied this his community of about fifty Cherokees were "law abiding Cherokees, on Cherokee land."<sup>1421</sup> When he was arrested on his stone works in March of 1891, Jordan wrote to *The Advocate*, pointing out the twisted irony of the situation: "...I must own a strong feeling in being a prisoner for intruding on our own land."<sup>1422</sup> The trial would provide reason enough to stall negotiations with the United States, on the off-chance that it became a test case for Cherokee ownership to the lands in question.<sup>1423</sup>

These "pioneers" of the Outlet, however, were a tiny minority. While most Cherokee citizens were angered by the president's decree, many felt very little attachment to the Outlet itself. Prior to the leases of the 1880s, the Nation had repeatedly attempted to sell the Outlet to the United States, and while it was ironic that the U.S. finally wanted it after the land had been made profitable, this did not make for an uninterested seller. For the right price, the Cherokees would sell.

---

<sup>1415</sup> Hagan, *Taking Indian Lands*, 165.

<sup>1416</sup> Savage, *The Cherokee Strip Livestock Association*, 118.

<sup>1417</sup> *Ibid*, 118.

<sup>1418</sup> CA, May 7, 1890.

<sup>1419</sup> *Ibid*.

<sup>1420</sup> CA, August 13, 1890. May 7, 1890.

<sup>1421</sup> CA, August 13, 1890.

<sup>1422</sup> CA, March 11, 1891.

<sup>1423</sup> Eventually Harrison would revise his order, temporarily allowing pre-existing Cherokee communities to remain on their improvements until an agreement was made. Preying on this minor concession, Cherokee opportunists slipped into the Outlet with tens of thousands of cattle owned by U.S. stock ranchers, infuriating Cherokee officials (who were deprived of revenue), eager homesteaders (who were deprived of land), and U.S. officials (who were deprived of order). When the United States failed to remove these Cherokees in 1892, Principal Chief C. J. Harris (Mayes' successor) would openly defy the United States by sending agents back into the Outlet to collect taxes.

In fact, it did not take long for Cherokees to start imagining what the Nation could do with the sale of the Outlet. Some insisted that the impending treaty should include a provision blocking the U.S. from taking money out of the tribe's funds. *The Cherokee Advocate* imagined that the openings of settlements around the home tract would create a "a very large exodus" of intruders, as evicted trespassers could easily find new homes on purchased lands.<sup>1424</sup> J. A. Scales believed that revenue from the Outlet's sale could strengthen the Nation's cultural cohesiveness:

"I would have no objection to the investment of a sum sufficient [from the sale] ...to be applied to the education of our children, in one or more boarding schools...all the Cherokee speaking class would by association readily learn English, and many of the English speaking would thereby learn Cherokee. The next generation of adults would be brought nearer together in sympathy, language, and interest."<sup>1425</sup>

Scales believed that the Outlet's sale could lead to a total reimagining of the Cherokee educational system, which was already quite strong. His vision of that restructuring would bring future generations of full-bloods and mixed-bloods (in the Cherokee meaning of those words) closer together in a country that was constantly hiring translators to bridge the gap between communities. It was an optimistic, tolerant, and even beautiful sentiment expressed during a turbulent moment.

But Scales also believed that the sale of the Outlet would be an opportunity to take care of another "problem" in the Nation: Black Cherokees. Scales figured that the impending negotiations would be a good opportunity to remove the stipulations of the Treaty of 1866 making Black Cherokees *bona fide* citizens. Like so many Southerners, Scales was convinced that Black Cherokees polluted the country's democratic systems:

"What negroes have any rights in the Cherokee Nation? ...I am in favor of eliminating the negro from our politics...Is there any reason why the thousand intelligent Cherokees, white men, Delawares, and Shawnees of Cooweescoowee District should allow the rotten [Black] bosses of Gooseneck to control that district?"<sup>1426</sup>

To Scales, a tribal nation with recognized Indigenous citizens from various tribes—all "intelligent"—was one thing. The continued acceptance of Black Cherokees was another matter entirely. In one breath, Scales thought the Outlet's sale could bring all Cherokees (except Black ones) closer together culturally, while also believing it offered enough leverage to cruelly deport Black citizens.

Scales' proposal for disenfranchising Black Cherokees would even meander its way into the formal negotiations with U.S. commissioners.<sup>1427</sup> L. B. Bell, the President of the Cherokee Senate, suggested that the Outlet sale include a stipulation providing allotments for Black Cherokees living on the home tract.<sup>1428</sup> In other words, he proposed the deportation of thousands of Black Cherokees. This amounted to something the Cherokee Nation simply could not afford: the permanent loss of citizens who were culturally Cherokee, many of whom had long—and

---

<sup>1424</sup> CA, May 27, 1891.

<sup>1425</sup> CA, March 12, 1890.

<sup>1426</sup> Ibid.

<sup>1427</sup> Scales was on the board of Cherokee negotiators and was even one of the Cherokees assigned to help draft the final agreement. He was almost entirely silent for the negotiations. Hagan, *Taking Indian Lands*, 158.

<sup>1428</sup> Ibid, 94-95.

painful—ties to this Nation. Other nationalists, sometimes even Southern Cherokee ones, were prone to make this point. Fortunately, nothing ever came of Bell’s self-defeating suggestion.

What Scales and many other Cherokee leaders did not understand was that anti-Blackness undermined their dreams for the country. Treating Black Cherokees as a “disgraceful blot” provided little incentive for Black Cherokees to rally around issues of national concern such as the Outlet. One convention of Cherokee Freedmen, drawing delegates from every district in the Nation, offered an unpopular response to the unfolding events. The convention’s elected committee was composed entirely of recognized citizens, and yet its printed resolution *celebrated* the President’s executive order.<sup>1429</sup> The committee went on to lobby for per capita payments after the sale of the Outlet (showing little interest in directing money toward nation-building efforts), and the committee also praised the widely despised Colonel E. C. Boudinot—the anti-sovereignty Cherokee—as a “true friend of the Freedmen.” A few words at the end of the resolution provide all the explanation historians could need: “We are satisfied the Cherokee nation will not do us justice.”<sup>1430</sup> Given what Scales and Bell were asking for, who could blame them?<sup>1431</sup>

As for the federal Cherokee Commission, President Harrison had given them exactly what they asked for and it was still not enough. The lingering possibility of holding onto the profitable Outlet was too promising to rush Cherokee leaders, and there still existed no mechanism to force the sale outright. The Dawes Act of 1887 specifically did not apply to the “Five Civilized Tribes,” and there was no political will to change that. While some westerners hoped that perhaps the Oklahoma Bill of 1890 might tip the scales, the final version of the law did little to intimidate Cherokee nationalists, with *The Advocate* calling it “not so very objectionable after all.”<sup>1432</sup>

Even Senators from the West, namely Henry Teller of Colorado (future author of the anti-imperialist Teller Amendment) as well as J. J. Ingalls of Kansas, voiced their strong opposition to the seizure of the Outlet.<sup>1433</sup> With the Americans, not the Cherokees, feeling the pressure, one of the three commissioners, Warren Sayre broke ranks, and informed the White House that Chairman Fairchild was responsible for the delays.<sup>1434</sup> In the eyes of the commissioners, all this pressure was coming at the worst possible moment. Surely after February’s executive order an agreement would soon transpire. In fact, the commission would not succeed in a negotiated sale until December 19th of 1891, nearly two years later.

### **No Writing on the Wall (1890 to 1891)**

The deans of post-Removal Cherokee history have shown scant interest in the Outlet Treaty of 1893.<sup>1435</sup> Morris Wardell barely acknowledged the existence of such an agreement.<sup>1436</sup> With little

---

<sup>1429</sup> CA, March 12, 1890.

<sup>1430</sup> Ibid.

<sup>1431</sup> For recent works on the postwar mistreatment of Black Cherokees, see Celia Naylor’s *African Cherokees in Indian Territory*, Fay Yarbrough’s *Race and the Cherokee Nation*, and Alaina Roberts’ *I’ve Been Here All the While*.

<sup>1432</sup> Hagan, *Taking Indian Lands*, 41.

<sup>1433</sup> Ibid, 41.

<sup>1434</sup> Ibid, 40.

<sup>1435</sup> Federal officials and later scholars referred to it as an “agreement” but at the time both pro-sovereignty Cherokees and anti-sovereignty westerners referred to it as a “treaty.” In an earlier part of my dissertation, I make the argument, also made by plenty of others, that overemphasizing the “end of treaty-making” in 1871 is a common mistake.

<sup>1436</sup> Wardell, *A Political History of the Cherokees*, 237.



room left in *After the Trail of Tears* to explore the matter, William McLoughlin explained it at a breakneck speed: “To obviate this profitable incentive [of leasing the Outlet], the [Cherokee] Commission obtained a ruling from the U.S. attorney general in 1892 that it was illegal for the Cherokees to lease land... Seeing the handwriting on the wall, the Cherokee struck a hard bargain and sold the Outlet for \$8,595,736.12.”<sup>1437</sup> Only William T. Hagan identified what Cherokee nationalists had been shouting from the archive: during the four rounds of negotiation spanning twenty three weeks over the course of three years, Cherokees ran circles around the Americans.<sup>1438</sup>

And Cherokee strength extended far beyond the negotiating table. Between June of 1890 and the summer of 1893, the Nation would collect close to *nothing* from its most important source of revenue, the Outlet, and yet nearly all government functions would continue to operate. In 1890 and 1891, during the two years in which the negotiations were stalled, the Cherokee prospered. The Cherokee Nation had first seen “writing on the wall” in 1888, when the Secretary of the Interior, William Vilas, announced that no future leases of the Outlet would be recognized by his government.<sup>1439</sup> But the Cherokee Nation repeatedly and confidently ignored these messages, and set up a new lease for the Outlet anyway. In fact, Cherokee nationalists hinted at defiantly keeping the Outlet all the way up until the deal was ratified by Congress and the National Council in April of 1893. In short, historians have vastly underestimated the financial condition and political will of the Nation throughout the Outlet negotiation process.

There are numerous factors that explain the Cherokee Nation’s good financial condition during 1890 and 1891. To start, the order of 1890 was powerless to remove the wealth that the country had already built up from the leasing of the Outlet. Starting in 1880 under Chief Bushyhead and continuing under his successor, Chief Mayes, not only did the tribal government aggressively pursue new sources of national revenue (including the two Outlet leases), but it also invested heavily into the trust funds that the United States government held on its behalf.<sup>1440</sup> In doing so, the Cherokee were exploiting both the industrializing U.S. economy and its supposedly “paternalistic” relationship with the federal government.<sup>1441</sup> The Nation sent the U.S. as much surplus revenue as it could afford, knowing that the more the principal funds grew, the higher rewards they would see with the annual interest payments (about five percent on every fund the U.S. held in trust).<sup>1442</sup>

One year marked the largest expansion of the Cherokee national budget. In the fiscal year of 1888, the federal interest payment on Cherokee trust funds was \$101,262 (it should be noted here that the tribe had numerous other sources of revenue in addition to interest payments--for

---

<sup>1437</sup> McLoughlin, *After the Trail of Tears*, 375.

<sup>1438</sup> Hagan, *Taking Indian Lands*, 159.

<sup>1439</sup> Savage, *The Cherokee Strip Livestock Association*, 111.

<sup>1440</sup> CA, December 24, 1890.

<sup>1441</sup> For the logic on the United States holding money in trust for tribal governments, see George Harmon, “The Indian Trust Funds, 1797-1865,” *The Mississippi Valley Historical Review* 21, No. 1 (June 1934): 23-30.

<sup>1442</sup> For its part, the United States could invest millions of dollars of tribal funds into the states’ economies--so long as it could guarantee a safe return. Occasionally the interest on safe investments was significantly higher than five percent, giving the United States a nice way to cover other costs within the Indian Bureau. At times this could be a symbiotic relationship, but deep tensions existed regarding the power of such funds. The United States would occasionally pull thousands of dollars out of the trust fund interest payments—asserting its right to do as trustee; for the Cherokee Nation the trust fund’s interest payments offered an escape from the unsustainable model of funding sovereignty through the sale of surplus territory to the U.S.

example, this doesn't count the payments from the Cherokee Strip Livestock Association). Around this time, the Nation injected approximately \$720,000 into its trust funds, translating lease revenues and land sales into interest payments that future Cherokees could enjoy. During the next fiscal year of 1889, the same five percent interest payment increased to \$137,469, and it would stay at this level until 1895 (when the sale of the Outlet would once again increase these payments).<sup>1443</sup> While an extra \$36,000 every year might not sound like much, it covered more than half of the budget of the seminaries—expensive educational institutions which were essential to promoting Cherokee culture and nationalism.<sup>1444</sup> For a nation of 27,000 people (not including permit laborers and merchants who were legal residents), this was a substantial baseline income.

Another explanation for the Cherokee's financial condition can be found in the growth of its internal revenue, or money that it collected within the home tract. From 1880 onward, politicians, treasurers, and journalists had urged for the Nation to seek out every potential source of revenue within its borders. In the end, the country made modest but significant gains. In 1878 the internal revenue was \$68. In 1888, the internal revenue stood at \$26,855. In 1896 this figure rose to \$36,975.<sup>1445</sup> This slow growth certainly discouraged Cherokee nationalists, but it was still a noteworthy source of government funding. As the national debt inflated during the Outlet negotiations, the National Treasury managed it. Never once did the National Council openly consider drawing a loan out of the trust funds as it had done during past depressions. After all, officials knew once the payment for the Outlet was finalized, the national debt would vanish.

In the fall of 1891, the financial condition of the Nation would have been *even* stronger if not for a drought and a short-lived political crisis. A drought struck sections of the Nation during the summer of 1891, causing crops to fail.<sup>1446</sup> During the drought, Chief Mayes wrote to the Commissioner of Indian Affairs, citing hardships as a reason to return to the Outlet which had provided so much revenue to the Cherokee. His tone was urgent: "The greater part of our present crops are distroyed by the great drought...now in this season of suffering will your government take from our people this much needed revenue? Is this charity?"<sup>1447</sup> Around the same time, the seminaries were closed due to a funding crisis, and seeing all of this, William Thomas Hagan hypothesized that the next round of Outlet negotiations in December of 1890 were welcomed by a country forced to close its schools due to the loss of Outlet revenue and a coinciding drought.<sup>1448</sup>

This understanding of the crisis fails to pass muster. In the letter cited above, Mayes sought to weaponize the drought to secure relief from the President's Outlet order. It was not truly as apocalyptic as he let on. In the middle of the drought, *The Cherokee Advocate* reported: "Although the drought has been a severe one, there need be no fears entertained that anything like suffering will prevail anywhere in this country for want of bread stuff to supply the home demand."<sup>1449</sup> In many parts of the country there was an abundance of rain, in some there was too much rain, and

---

<sup>1443</sup> U.S. Treasury Reports of Receipts and Expenditures, 1880 to 1900.

<sup>1444</sup> CA, January 20, 1892.

<sup>1445</sup> Annual Reports of Revenue Collected 1876-1888, CHN 125, Volume 400, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1446</sup> CA, August 13, 1890.

<sup>1447</sup> CA, September 10, 1890.

<sup>1448</sup> Hagan, *Taking Indian Lands*, 85.

<sup>1449</sup> CA, August 13, 1890.

many sections of the country needed no aid at all.<sup>1450</sup> On top of all this, the Nation was still holding the last \$300,000 from the Outlet leases paid before the President had made his order. Given that this amount of money had the power to fund one normal year or two austere ones (on top of the increased interest payments), the Cherokee were in a strong financial position. Many nationalists called for an investment into the trust funds, urging that “our expenditures will and must keep equal pace with our progressive condition.”<sup>1451</sup> Cherokee citizens, journalists, and the Chief Mayes agreed that all the Nation needed to do was to spend the remaining \$300,000 wisely.

However, many members of the National Council then cited the drought as justification for a wholesale per capita disbursement of the final \$300,000—a per capita disbursement so extreme that it would mean depriving the government of an opportunity to invest in its trust funds and liquidate its debts. Seeing others weaponize the same rhetoric of suffering against him, Mayes vetoed the law passed by the National Council, citing the same reasons mentioned above. He also questioned why the National Council had yet to provide an appropriation for the schools.<sup>1452</sup>

The National Council ignored Mayes’ advice as well as his suggestion that a maximum of \$200,000 be disbursed in per capita payments.<sup>1453</sup> The legislative branch went ahead with a full \$300,000 and refused to fund schools. Mayes forced an extra emergency session to have the seminaries and “colored high school” funded with cuts across the board—and still the National Council refused to make an appropriation. At this point, Mayes would finally pivot away from his earlier rhetoric as he lambasted the National Council: “You have turned loose out of the Treasury \$300,000 to be given promiscuously to the rich and the poor...you must yourselves account for this reckless and unreasonable legislation.”<sup>1454</sup> A contributor to *The Cherokee Advocate* would then use the seminaries’ budget to show that the schools could have been funded with modest pay cuts, while a teacher from the seminary would blast that the National Council had made a “pretended plea of economy” to deprive children of their education.<sup>1455</sup> In short, the schools did not close because of the loss of the Outlet funding, nor did they close because of an apocalyptic drought. The schools closed for a year because of a completely preventable budgetary crisis, and if the National Council had approached the question differently, the government may have held even more financial leverage than it did in the winter of 1891.

Unlike 1890, 1891 was a year of plenty without qualification. *The Cherokee Advocate* typically had a few articles each week dedicated to commenting on the conditions of all nine residential districts. Starting in April of 1891, and continuing through the summer, *The Cherokee Advocate* published all accounts from travelers who seemed to be seeing a boom in every district they crossed.<sup>1456</sup> Then, on May 27<sup>th</sup> of 1891, after confirming the rumors of a boom in every district, *The Cherokee Advocate* shared that “Reports from every section of the country agree the prospect of the growing crops of every variety has never been more promising than at present,” with the

---

<sup>1450</sup> CA, August 13, 1890; August 20, 1890; August 27, 1890; October 1, 1890. Also, we can look to Mayes’ total dismissal of the wholesale disbursement of the final Outlet payments as a marker of the drought’s severity. A product of the Nation’s public schools, Mayes was a vocal defender of the poorer classes and likely would not have dismissed the policy if it was as severe as he previously claimed. See example below as well.

<sup>1451</sup> CA, December 3, 1890.

<sup>1452</sup> CA, December 3, 1890; Nov. 5, 1890.

<sup>1453</sup> CA, December 10, 1890.

<sup>1454</sup> CA, December 24, 1890.

<sup>1455</sup> CA, January 21, 1891; January 14, 1891.

<sup>1456</sup> CA, April 22, 1891; May 13, 1891; May 20, 1891.

corn prospect in particular better than it had been in years.<sup>1457</sup> Cotton also exploded to life, and “gardens [were] literally growing under the weight of their products, such as beans, peas, tomatoes, beets...and Irish potatoes so large they look indecent on the table.”<sup>1458</sup> Tahlequah raised more wheat than it had in any year since the Civil War.<sup>1459</sup> In the midst of plenty, *The Advocate* celebrated the national fortune: “Everything is on boom this year...”<sup>1460</sup>

Contrary to a truism of Native American historiography, white Americans did not undermine this prosperity. In fact, they helped produce it, working on massive farms for wealthy Cherokee “landowners.”<sup>1461</sup> In September of 1890, the national government counted 8,794 registered permit laborers and their family members—*not including Cooweescoowee District*—the “Empire District” which held the highest population overall and the highest number of registered permit laborers.<sup>1462</sup> It was later revealed, in the under-examined Schedule 6 of the 1890 Cherokee Nation census, that Cherokee officials had counted 21,504 permit workers and their family members registered nationwide.<sup>1463</sup> Historians of my field have often dismissed permit labor altogether; they did not envision an Indigenous nation with more than 10,000 Americans working as authorized migrant laborers. Perhaps even more importantly, this finding refutes one of the most important truisms of Indian Territory: that Cherokees and other nations were hopelessly overwhelmed by American settlers. In fact, intruders were a small minority of the population, vastly outnumbered by Cherokee citizens and immigrants who were paying their fees for residency.

Non-citizen laborers worked under Cherokee “landlords” who—ironically—practiced a degree of paternalist and patriarchal surveillance over their workers *and* their families.<sup>1464</sup> These laborers subjected themselves to Cherokee taxes, moors, surveillance, and laws. They could be subpoenaed by local administrators who had the power to revoke their permits, and when they were not disturbing a community, the Nation celebrated them as “honest” men.<sup>1465</sup> Some even developed “deep sympathy and tenderness” toward the Nation.<sup>1466</sup> The merchants of the Nation, numbering nearly 150 in 1893, were in a similar position as authorized foreign immigrants.<sup>1467</sup>

Meanwhile, the capital city of Tahlequah was also flourishing. On June 10<sup>th</sup> of 1891, *The Cherokee Advocate* described the rapid changes as follows:

---

<sup>1457</sup> CA, May 27, 1891; July 29, 1891; May 27, 1891; June 17, 1891; June 24, 1891; July 15, 1891; July 22, 1891.

<sup>1458</sup> CA, June 24, 1891.

<sup>1459</sup> CA, July 15, 1891.

<sup>1460</sup> CA, April 8, 1891.

<sup>1461</sup> For more on this phenomenon and the wealth it built for Cherokee citizens, see “An American Tragedy of the Commons: Land and Labor in the Cherokee Nation, 1870-1900” by Khaled J. Bloom in *Agricultural History* 76, No. 3 (Summer 2002): 497-523.

<sup>1462</sup> CA, September 10, 1890. Cooweescoowee District was still busy counting as the other eight districts reported their grand total number listed above.

<sup>1463</sup> Cherokee Nation 1890 Census, National Archives Roll 7RA8.6. Federal Archives and Records Center, Fort Worth, TX, Records of the Bureau of Indian Affairs Group 75: Cherokee Census of 1890, Residents of the Cherokee Nation (Roll 6 of 6).

<sup>1464</sup> CA, July 15, 1891. April 22, 1891.

<sup>1465</sup> CA, December 24, 1890; April 20, 1892.

<sup>1466</sup> CA, April 1, 1891.

<sup>1467</sup> Annual Reports of Revenue Collected from Merchants 1884-1892, CHN 125, Volume 413, Cherokee National Records, Indian Archives, Oklahoma History Center.

“The steady improvement going on in the city of Tahlequah is remarked by all who visit the Capital. It is not the cyclonic rush we read of now and then, but a constant, upward and onward progress indicative of confidence in the future prosperity of the Nation’s metropolis. Several new residences are being built...In the way of business structures [many tradesmen] have now commenced work on buildings [which] when completed will beautify and adorn that portion of town...”<sup>1468</sup>

“Tahlequahites” were eager for the boom, instead of seeing it as a sign of conquest or settler encroachment. Walking through town, one might be solicited by J. M. Smith selling musical instruments, non-citizens’ barbers competing for business, vendors selling goods at the Tahlequah Market or another grocery, WCTU members advertising an upcoming meeting, or drunk men stumbling from illegal saloons.<sup>1469</sup> While the Tahlequah Cotton Gin was in “full blast,” the Tahlequah Flour Mill’s change of ownership would result in a long series of technological improvements that would quickly double its production.<sup>1470</sup> Such was the confidence of the Nation during this time that *The Advocate* declared: “Give this Nation factories of all kinds suited to her resources, which are many, and with her mineral resources developed she will be the most prosperous country in the world!”<sup>1471</sup> On January 27<sup>th</sup> of 1892, *The Cherokee Advocate* wrote: “We are expecting another large sized boom for Tahlequah the coming spring...the indications are that the coming year will be unparalleled in business developments in all directions.”<sup>1472</sup>

During this soon-to-end era of affluence, Tahlequahites attended operas, concerts, and academic lectures on women’s history.<sup>1473</sup> They frequented Tahlequah’s first restaurant, including its oyster bar, and rubbed shoulders with the elite at Indian Territory’s lavish masonic banquets.<sup>1474</sup> Cherokees also held their place in the elite circles of the East: General Daniel Rucker, whose Cherokee daughter, Irene, married General Philip Sheridan, continued to visit the Nation of his children. The Nation, in turn, continued to recognize his daughter as “a Native Cherokee and grandniece of John Ross.”<sup>1475</sup> Not only did the Cherokees embrace “high culture” during this period, but nationalists explicitly figured that this was the product of them being a member of the Five “*Civilized*” Tribes, a moniker that they increasingly used themselves.

In fact, Cherokee exceptionalism played a central role in the Outlet negotiations, largely because under U.S. law, this exceptionalism *was* real--or at least numerous treaties had made it real. The title was the subject of countless debates in Congress as Senators figured out how to wiggle around it. Few other tribes owned their property in a fee simple title, and to the credit of the United States, Congress had refused to seriously disrupt this title since the original removal treaty was signed in December of 1835.<sup>1476</sup> Principal Chief CJ Harris (Maye’s successor) described the enormous power of the fee simple title in militaristic terms: “The fee simple title...has proven the bulwark of the National citadel, and has successful withstood the assaults of

---

<sup>1468</sup> CA, June 10, 1891.

<sup>1469</sup> CA, June 12, 1891; January 4, 1893; July 29, 1891; February 24, 1892; May 18, 1892.

<sup>1470</sup> CA, October 14, 1891; May 11, 1892.

<sup>1471</sup> CA, July 29, 1891.

<sup>1472</sup> CA, January 7, 1892.

<sup>1473</sup> CA, January 14, 1891; March 18, 1891.

<sup>1474</sup> CA, March 9, 1892; May 4, 1892.

<sup>1475</sup> CA, November 16, 1892.

<sup>1476</sup> CA, November 4, 1891.

our enemies within and without...[it] cannot be destroyed by legislation in Congress without doing violence to vested rights and unsettling the tenure by which private lands everywhere in the States are held.”<sup>1477</sup> Not only was the fee simple title an impenetrable form of national defense, but the U.S. could not harm it without irreparably harming its own constitutional principles. The nation’s property seemed safe.

The Cherokee confidence in their property was so great that it could also turn against other Native peoples in comparable positions. On May 20 of 1890, *The Cherokee Advocate* posted an update on the Cherokee Commission’s dealing with other negotiating tribes:

“Warren Sayre, one of the Commission, expresses himself as being decidedly opposed to giving the Cherokee more than \$1.25 per acre for [the Outlet]. We have no objection to such an expression while treating with those Indians. The Commission is buying land and it would not be very good diplomacy to tell those people they are going to give the Cherokees more...”<sup>1478</sup>

The assumptions behind this writing are not hard to detect. The Cherokee Nation had not even drafted an agreement with the Cherokee Commission, much less ratify it, and this author was certain that it would be receiving more, if not *deserving* more, than “those Indians,” even when Sayre himself said the opposite.

A comparably awful demonstration came in December of 1892, when a delegation of Poncas came to Tahlequah seeking advice from Cherokee leaders, well known for their abilities in navigating U.S. legal codes. The Poncas explained that “the U.S. commission [was] endeavoring to force them into giving their consent to allotment, by threats of ‘burning him.’”<sup>1479</sup> *The Cherokee Advocate* harshly dismissed them: “We cannot believe, that the Commission would resort to intimidation in dealing with those simple-minded savages to obtain their consent.”<sup>1480</sup> Both examples show that the Cherokee Nation felt its property rights were more substantial than other tribes negotiating with the Cherokee Commission, and this belief (or reality in the eyes of the law) would prove a major obstacle for commissioners attempting to “dictate” to a proud tribal nation.

The market value of the Outlet’s patent was also a major consideration behind Cherokee planning for the negotiations. During the middle of the Outlet negotiations of 1890, private offers for the land bombarded Tahlequah. On December 6th of 1890, Principal Chief Mayes was offered \$10 million from a businessman in Chicago. Two days later he was offered \$20 million from a corporation based in Kansas City. One day after that Mayes found himself looking at a \$30 million bid from Colorado.<sup>1481</sup> In a fantasy world, if only half of that third offer was invested into the Cherokee National Fund, it would have resulted in the Nation’s yearly federal interest payments jumping from \$139,000 to approximately \$900,000. Chief Mayes knew very well that selling to a

---

<sup>1477</sup> CA, November 9, 1892.

<sup>1478</sup> CA, May 20, 1892.

<sup>1479</sup> CA, Dec. 7, 1892.

<sup>1480</sup> CA, Dec 7, 1892.

<sup>1481</sup> Savage, *The Cherokee Strip Livestock Association*, 121.

private party was impossible but given that the Cherokee owned the Outlet with a fee simple title, they were arguably entitled to something approaching a market value from the government.<sup>1482</sup>

Just as important as the financial condition of the Cherokee Nation was its political climate, and, unfortunately for the Cherokee Commission, there existed no political will within the Cherokee government to undervalue the Outlet. The revenue from the Outlet had been an incredibly important source of building wealth and disbursing equal per capita payments to Cherokees “by blood.” To no one’s surprise, the United States’ interference in a lucrative national contract (and its fee simple patent) produced a unifying effect: the Downing and National political platforms of 1891 were nearly identical, all listing off numerous demands for the treaty, and even in the weeks leading up to the election for Principal Chief “the kindest feelings [seemed] to prevail among the politicians over this Nation.”<sup>1483</sup> The commissioners would not find the divisions that had served unscrupulous treaty negotiators so well in the past. In this case, the cost of American heavy-handedness was that Cherokee political leaders usually enraged with each other were now experiencing an unusual peace.

Impressively, this political unity did not budge in the face of incredible threats. In February of 1891, angry boomers threatened violence and invasion of the Outlet if their demands were not met. In September of the same year, militant boomers organized attacks on the Outlet, burning the land in the hopes of damaging the land.<sup>1484</sup> *The Cherokee Advocate* coolly responded in both cases:

“Ten or twelve years ago or less, a gentleman known as Capt. Payne frightened us nearly to death making these grand announcements of a splendid invasion...as time wore on, we became better reconciled and did not take to heart so much these terrible threats...*this boomer threatening business has no terrors for us now, we are used to it. We do not propose to take a nickel less for the land on that account...*”<sup>1485</sup>

The official policy of the tribe during this time might as well have been the *Cherokee Advocate*’s favorite response to threats from westerners: “let us be robbed rather than submit.”<sup>1486</sup> In many ways, it was. The Nation insisted it had all the time and options in the world; westerners said the opposite.

Spurring this obstinate policy on was a wide array of Cherokee nationalists. The Downing Party, now dominated by Southern Cherokee ex-Confederates, was unusually combative with the United States and went one step further than its rivals in the National Party. It proposed a demand for the federal removal of intruders *before* any new treaty was made.<sup>1487</sup> Meanwhile, the generation that had experienced the Trail of Tears was slowly dying out, but its last members gave their last words to the struggle over the Outlet. Chief Mayes, former Chief Bushyhead, and Walter Adair

---

<sup>1482</sup> In 1961, the Indian Claims Commission would rule that the United States should have paid \$22,585,384.14 for the Outlet—more than the Cherokees themselves demanded.

<sup>1483</sup> CA, July 22, 1891.

<sup>1484</sup> CA, September 2, 1891

<sup>1485</sup> CA, February 11, 1891; September 2, 1891 (same exact phrase about not budging a nickel was used here too).

<sup>1486</sup> CA, June 1, 1892.

<sup>1487</sup> CA, May 6, 1891.

Duncan composed an older, vengeful brand of Cherokee nationalism that still meandered its way into national and grassroots politics.<sup>1488</sup>

The youngest generation, especially the graduates of both male and female seminaries and the public schools, knew nothing of Removal but fully expressed their commitment to protecting the status quo.<sup>1489</sup> Many alumni went straight from the seminaries into the trials of national politics and bureaucracy.<sup>1490</sup> One person to do this, William Wirt Hastings (a future U.S. representative), eventually served as a delegate to Congress during the ratification of the Outlet Treaty. All these Cherokee nationalists, young and old, rallied behind the tough stance of the country's negotiators.

The Cherokee government also wanted to project strength toward its residents during this period. Historians of this topic have not appreciated the extent to which even during this late period Cherokee officials were prepared to be combative, often to the point of defying U.S. law. For instance, it was technically illegal for the Cherokee Nation to seize occupied intruder improvements (as that would mean claiming a jurisdiction over U.S. citizens), but Cherokee Nation sheriffs did it anyway. In May of 1890 a mob of intruders, "laboring under the hallucination that the U.S. Government will protect them," resisted a Cherokee sheriff's attempts to seize their improvements.<sup>1491</sup> The incident, which nearly became violent, was serious enough that the Department of the Interior intervened, warning High Sheriff Adair against his department's practice of selling improvements which were not actually abandoned.<sup>1492</sup>

But Sheriff Adair's willingness to defy the United States was part and parcel of a larger trend in Cherokee politics, and it was one that extended all the way up the executive branch. Both Chief Mayes and Chief Harris openly threatened to take matters into their own hands if the United States failed to remove its intruders.<sup>1493</sup> When the military failed to remove cattle ranchers after the order went into effect, the Cherokee government sent its revenue collectors back into the Outlet, a move that was legally questionable.<sup>1494</sup> In his annual message to the National Council in November of 1892, Principal Chief Harris announced that if the sale was not ratified before its deadline, the government would take a bold approach: "[If] Congress [fails] to ratify the agreement...these lands ought to be placed under the jurisdiction of one of the districts until such time as the number of citizens there be sufficient to organize a district west of the Arkansas River."<sup>1495</sup> Put simply, the Cherokee Nation's leaders were in no mood to submit to the demands of the United States.

---

<sup>1488</sup> CA, January 21, 1893. Former Principal Chief Bushyhead was the head of a convention assembled to protest U.S. attacks on Cherokee sovereignty. In the previous election he had run for a third party and then dropped out before the race. His commitment to "the cause" continued well after his political career was over.

<sup>1489</sup> There are many great examples of students at seminaries expressing their commitment to tribal sovereignty, but one of my favorites comes from a student at the Cherokee Female Seminary and was published in *The Cherokee Advocate* on July 6<sup>th</sup>, 1892. C. W. Willie gave a speech on patriotism, arguing that Cherokees should defend their independence well into the future: "Let us be a nation of prosperity, not a monument of our oppression and terror, but of wisdom and peace, upon which the world may gaze with admiration forever."

<sup>1490</sup> CA, November 9, 1892.

<sup>1491</sup> CA, May 13, 1891.

<sup>1492</sup> Ibid.

<sup>1493</sup> CA, November 4, 1891; November 9, 1892.

<sup>1494</sup> CA, June 17, 1891.

<sup>1495</sup> CA, November 9, 1892.



The financial condition and political climate of the Nation in 1890 and 1891 precluded any hasty steps toward an agreement. In December of 1890, *The Cherokee Advocate* correctly predicted that there would be no treaty signed anytime soon, and we should treat this as a reflection of the national policy toward the Outlet's sale.<sup>1496</sup> At this time, too many questions were left unanswered to let the Outlet go on the cheap. Stalling was a tactic embraced by a national government that wanted to see what happened next with the legal challenges to President Harrison's orders. Stalling was a tactic that gave the government time to weigh the possibility of just keeping the Outlet and settling it with Cherokee citizens. The Cherokee Nation successfully stalled the commissioners in December of 1890 and stalled them again in the next year when it sent delegates to Washington D.C. with explicit orders not to negotiate with the Cherokee Commission.<sup>1497</sup> There was no rush.

Meanwhile, the delays in acquiring the Outlet resulted in U.S. senators opening a formal investigation, highlighting the unease that Washington felt with these delays.<sup>1498</sup> Homesteaders in the West screamed for the Outlet to be opened, threatening violence, and their elected officials were forced to listen to them. The U.S. felt more pressure to buy the Outlet than the Cherokee felt to sell it, and with each passing month and year the pressure to accept a myriad of Cherokee nationalists' demands grew and grew and grew. A prosperous year for the Cherokee in 1891 meant that U.S. commissioners received a bad hand in their hopes of coercing the Nation to sell.

This was the context under which the Cherokee Nation sold the Outlet. The Nation did not come to the negotiating table in 1890 and 1891 out of financial desperation, nor did they do so while suffering under a volatile political climate. Direct coercion from the White House and boomers did not sway the situation as much as we may expect, and Cherokee nationalists were adamant that they would rather be forcibly dispossessed than submit to a humiliating treaty. Meanwhile, Cherokee legal thinkers were confident that the U.S., under its own laws, held the "possibility of reversion, but not the right of reversion," and because of this principle, Cherokee leaders prepared for the possibility that the Outlet would be retained. In December of 1891, when the Nation finally came to an agreement with the Cherokee Commission, it was not because their conditions demanded it. There was no writing on the wall.

### **The Turning Point**

If the Cherokee held the power all the way up until the treaty was signed, then why did the Nation agree to sell the Outlet at all? Why sell the land when the financial and political conditions of the country were healthy? Three important factors explain the decision to sell in December of 1891: a continued ambivalence toward the Outlet as territory, the growing legitimizations of boomer propaganda, and most crucially, a desire by Cherokee nationalists to revise and enhance the nation-to-nation relationship with the U.S. in the "last treaty" the Cherokee would ever sign.

The first factor pushing the Cherokee toward consenting to the sale of the Outlet was no turning point at all. Since the Civil War, the Nation had *always* been comfortable with selling the Outlet at a fair price. Even in 1891, there were very few Cherokee "settlers" living on this land. During the 1880s, the CSLSA leases *did* revolutionize the Cherokee economy—and portions of

---

<sup>1496</sup> CA, December 17, 1890.

<sup>1497</sup> Hagan, *Taking Indian Lands*, 97.

<sup>1498</sup> *Ibid*, 88-89.

lease payments were often disbursed as per capita payments—but everyone seemed to know that selling the Outlet would provide astronomically higher per capita payments, and it would do so much sooner. This was because even the unconscionable sum of \$8.5 million represented *at least* forty years of the current annual rate of CSLSA payments condensed into a onetime payment. For this reason, despite the anger that nationalists held toward U.S. interference, Cherokees continued to be open to a sale of the Outlet if the evaluation and conditions were fair.<sup>1499</sup>

The second factor pushing the Cherokee to sell was more sinister. Around 1890, boomers had successfully convinced the country to trade in its colonial fantasies. For years, boomers had made ludicrous claims about Cherokee property claims, especially regarding the Outlet, but now this misinformation was flooding into the major newspapers, courtrooms, and the halls of Congress. In 1889, a letter to *The New York Tribune* mused:

“The patent of the Cherokee lands contained the condition that the lands should revert to the United States in case the ‘Cherokee Nation becomes extinct or abandons the same.’...Is the Cherokee Nation extinct? Or has it abandoned the Outlet? Both questions must be answered in the affirmative...[The] Intermarriage of whites and Cherokees continued for generation has transformed the Cherokees into white people.”<sup>1500</sup>

This argument was especially extreme as it refused to even recognize the existence of the Cherokee, but it was one of countless ideas collectively attacking the security of a real title to land. Another report bouncing around the West was that the Nation had already been paid for the Outlet, and that an earlier payment of \$300,000 was all the tribe would be receiving.<sup>1501</sup> Frustrated by the lack of integrity shown by his U.S. counterparts, Bushyhead fumed to a reporter: “It is rather late to affirm that a series of blunders has been perpetrated and repeated in treaties and acts of Congress from 1828 down to the present time without anyone discovering or suspecting it...”<sup>1502</sup> In a pattern which would only intensify under the Dawes Commission, truth was hard to come by.

Another rumor making the rounds was that John C. Calhoun, in 1821, had told Cherokees that regarding their deed, “[they] had no right to the soil, but merely to an Outlet...”<sup>1503</sup> Westerners read this story repeatedly in the papers, believing it meant that no purchase was necessary—the Cherokees had no real title to the Outlet. The only snag was that the Cherokee Outlet didn’t even exist until years later. Calhoun’s speech was about a completely different matter entirely.

The bare falsity of these claims likely did not frighten Cherokee nationalists. After all, they were accustomed to the boomers and their antics. What raised alarms was the growing frequency with which these blatant lies were entering the political mainstream. Newspapers all over the country published them. Assistant Attorney General Shields of the Interior Department, speaking before the House of Representatives, cited the same speech by Calhoun which had no relevance at

---

<sup>1499</sup> At the start of this chapter, I referenced several conventions and contributors that responded to the order from President Harrison. Almost all these articles expressed a desire that at least some form of per capita payments.

<sup>1500</sup> *New York Tribune*, October 21, 1889.

<sup>1501</sup> CA, January 7, 1891.

<sup>1502</sup> CA, March 5, 1890.

<sup>1503</sup> CA, March 5, 1890.

all to the real Outlet.<sup>1504</sup> Secretary Noble of the Interior Department agreed with Shields.<sup>1505</sup> Members of Congress used them to argue for a simple annexation (which would have been a very straightforward example of imperialist action).<sup>1506</sup> And Judge Green, in ruling on the test case for Cherokee property rights in September of 1891, not only cited the Calhoun myth, but also proclaimed that "...if the Cherokee Nation has ceased to use the Outlet, as an outlet, the cesser of the use has terminated their estate, and the lands have been reverted to the United States."<sup>1507</sup> It was what all boomers wanted to hear. It was also a lie.

The third factor, and by far the most important of all, was the growing demand to shore up the Nation's relationship with the United States. Cherokees were dissatisfied with the status of the country as defined by the hostile treaty of 1866, and genuinely hoped to strengthen their position. Nationalists often referred to this as the Nation's "last treaty" with the United States. In November of 1891, weeks before an agreement was finally made, Chief Mayes offered the following blessing: "Let our relations with the United States be more accurately defined and let every right that belongs to the Cherokees be permanently secured. Let many objectionable and oppressive features of the treaty of 1866 that were forced upon the Cherokees at the close of the war be stricken from it as a condition of the sale."<sup>1508</sup> The Outlet treaty was not to be "final" as in fatal. It was meant to be "final" as in complete, permanent, and settled. Cherokees imagined that their nation could enter the 20<sup>th</sup> century on better footing, all thanks to the Outlet's sale.

Even the U.S. understood that this treaty had the potential to permanently solidify the sovereignty of an Indian nation. In November of 1889, the commissioners had written to the National Council, outlining the ways a future Cherokee state would benefit from a sale:

"The Government offer for the cession of the Cherokee title, claim, or interest in the Cherokee Outlet would amount to \$7,11,846 net. This sum the Cherokees could leave with the Government and draw over \$350,000 yearly interest [\$389,475 to be exact]—which is nearly twice the present income...

Or [divide] the whole amounting to about \$300 to each person, or about \$1,200 to each average family—supposing the Cherokees number 24,000—thereby giving the poorer Cherokees means to fence and improve a farm on the domain before it is all taken up by the wealthy and by those claiming to be hired by Cherokees...

They paying of these sums and the inclosing of lands by the Cherokees that would follow would be a sure relief from the intruder and land monopoly troubles that threaten [you]."<sup>1509</sup>

The Outlet's sale had the potential to double the annual income, returning it to where it had been in the 1880s. Or, if disbursed, that amount of private wealth could be a fantastic check on land monopolization and intruders (as Cherokees of all classes built up larger farms).

---

<sup>1504</sup>Hagan, *Taking Indian Lands*, 159.

<sup>1505</sup> *Ibid*, 159-160.

<sup>1506</sup> CA, May 20, 1890. Mansur was one of many in Congress who cited these myths.

<sup>1507</sup> CA, October 7, 1891.

<sup>1508</sup> CA, November 4, 1891.

<sup>1509</sup> Cherokee Commission to Cherokee negotiators, November 14, 1889; Hagan *Taking Indian Lands*, 145.

In 1891, the Committee on Territories offered that, if the commissioners could convince the Cherokees to accept the lower figure of \$5,000,000 (they couldn't), the tribe's annual interest payment would theoretically increase to about \$389,475. The tribe would be "possessed of all the comforts of life, carry on all educational facilities desired, and pay all governmental expenses, free from all taxation of their own people."<sup>1510</sup> From the committee's point of view, selling the Outlet would mean that the Nation could have its economic vitality and its independence on the home tract—all without taxing its people or seeking out new forms of revenue. The prediction sounded utopian, but many Americans and Cherokees genuinely believed that selling the Outlet would transform the nine residential districts into a healthier, more independent country.

Tribal negotiators indeed projected confidence to the U.S. commissioners throughout the final negotiations. On December 18<sup>th</sup>, both sides announced that they had already made their final offer. The next day Cherokee negotiators held firm while the U.S. began to crack, desperate not to leave Tahlequah empty handed yet again. Commissioner Jerome offered a "final" incentive of \$80,000 more, insisting that "This [was] the extreme limit..." Maintaining their composure, the Nation rejected the "extreme limit" and submitted their own offer as "the last one we shall make you." The commissioners, perhaps dreading the possibility of a fifth diplomatic visit to Tahlequah, meekly accepted. The Americans, not the Cherokees, blinked first.<sup>1511</sup>

There were many advantageous conditions in the final version of the Outlet Treaty (before ratification), but the most important of all was what the U.S. and the Cherokee Nation would begin calling the "Intruder Clause." Article II Section I provided that the United States would remove all citizens, without delay, "upon the demand of the Principal Chief of the Cherokee Nation."<sup>1512</sup> The United States would then pay the intruders for their improvements. The value of this clause was so great that on numerous occasions *The Cherokee Advocate* said of the provision:

"The pitiful sum of \$1.40 per acre for lands that upon the instant of becoming private property would average from five to fifty dollars...is not what we are after. Safety, protection, and absolute equality of rights in the few acres left, and the manner of government the majority are in favor, [is] what we want."

The Intruder Clause, nationalists believed, would secure that. If it was removed by Congress, the Cherokee Nation swore there would be no ratification.<sup>1513</sup> If we are to take the Cherokees at their word, the Outlet was ultimately not sold for money—it was sold for the Intruder Clause.

Almost immediately after the agreement was signed the year of prosperity was over. The last Principal Chief to have experienced the Trail of Tears passed away. Mayes died on December 14<sup>th</sup>, five days before the Outlet Treaty was finalized. His death struck hard at a Nation deeply preoccupied with revisiting its relationship with the United States. Cherokees across the country acknowledged that Mayes had commanded respect from the United States, becoming "the strength of our people."<sup>1514</sup> Another commented that "no man is among us is so hardy...who does not wish

---

<sup>1510</sup> Committee on Territories, February 11, 1891, 51<sup>st</sup> Congress, 2<sup>nd</sup> Session (5).

<sup>1511</sup> Hagan, *Taking Indian Lands*, 158.

<sup>1512</sup> CA, January 20, 1892.

<sup>1513</sup> CA, June 1, 1892.

<sup>1514</sup> CA, December 16, 1891

his hand could still hold the helm of state.”<sup>1515</sup> A year later, his successor C. J. Harris admitted that “He died when his experience and usefulness were most needed...”<sup>1516</sup> Nationalists worried that the country’s future would be less safe if Mayes was not replaced by new, strong leaders.

Meanwhile, in 1892, two existential crises struck the Nation at once. The first crisis was that the intruder problem suddenly intensified. The Cherokee Nation’s Citizenship Committee was inundated with fraudulent claims, as the *Muldrow Register*, the voice of the intruder, openly encouraged the illegal settlement of Cherokee lands. The Cherokee Indian Citizenship Association solicited hefty dues from its members so that it could lobby Congress for one of two things: citizenship in the Cherokee Nation or annexation.<sup>1517</sup> By March of 1892, *The Cherokee Advocate* was saying that the intruder was now as dangerous for the tribe as the anarchist was to Chicago.<sup>1518</sup>

The paper also theorized that the inundation was caused by the Outlet Treaty itself. “The greatest fad since the Cherokee Strip has been priced is the claiming of Cherokee citizenship.”<sup>1519</sup> Intruders, said the paper, were boldly flocking into Tahlequah to apply for citizenship because of the enormous per capita spoils that would follow the treaty’s ratification. Just one per capita payment would amount to what most American workers earned in a year, and in families with several children, Cherokee citizens would earn several times the average American’s yearly wage in one momentous day. Succeeding in fraud, though unlikely, had the potential to radically alter one’s prospects. Unable to shake this desperate nuisance, the Cherokee Nation would struggle with these trespassers for years to come, both in Indian Territory and in the lobbying halls of Congress.

The second crisis was that the lack of incoming Outlet revenue had finally caught up with the government. To continue managing the public debt (standing at \$119,998) and maintain the government’s solvency, Chief Harris and the National Council organized austerity measures that applied to nearly every office in the government. Everyone from the district clerks to the Principal Chief saw their pay reduced.<sup>1520</sup> While this was certainly necessary—or at least it had *become* necessary after the failure to spend \$300,000 wisely—the austerity measures worsened what was likely inevitable. A national depression struck the Cherokee.<sup>1521</sup> Citizens described the situation as “embarrassing” and, at least for the time being, the country lost its confidence.

In February of 1893, shortly before the Outlet Treaty would be ratified, Walter Adair Duncan tried to make sense of the timeline of events leading up to ratification:

“The United States, conceding our equality with itself in law, came to us begging a purchase of our Strip lands, and immediately upon our agreement to sell [in December of 1891] we take the position of the begging party, and hurriedly dispatch our delegates to Washington under instruction to ‘urge,’ that is to say, beg the Government to ‘ratify’...”<sup>1522</sup>

---

<sup>1515</sup> CA, December 16, 1891.

<sup>1516</sup> CA, November 9, 1892.

<sup>1517</sup> Memorial of the Cherokee Indian Citizenship Association to Congress, Undated, CHN 83, Intruders Record Undated and 1859-1884, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1518</sup> CA, March 22, 1892.

<sup>1519</sup> CA, November 23, 1892.

<sup>1520</sup> CA, November 30, 1892.

<sup>1521</sup> CA, November 23, 1892.

<sup>1522</sup> CA, February 4, 1893.

Duncan's disappointment was profound. He opposed ratification of the Outlet Treaty after Congress modified it, insisting that accepting the changes would be an affront to national honor. The Cherokee negotiators had held the upper ground, he believed, right up until December 19<sup>th</sup>, 1891, the day on which the Outlet Treaty was first signed. December 19<sup>th</sup> of 1891 was one of the highpoints of Cherokee national power in the 1890s, but from this moment forward, the East would do all it could to unravel Cherokee progress. The prosperity of 1891 was over, and the Nation was locked in a depression. What happened next would be almost entirely in the hands of Congress.

## Chapter Eight: Ratification (1892-1893)

The calls to ratify the agreement reverberated across the West. In 1893, 800 self-appointed “delegates” gathered in the Oklahoman town of Guthrie to draft a letter to Congress. They had several demands—all of which related to the future of tribal lands and government. Two of these demands were especially noteworthy. First, the settlers prayed for the *immediate* approval of the Outlet Treaty. In their own words, “the people of the United States are anxious for their government to consummate said treaty and throw open the purchased land to [non-Native] settlement...” Their use of the word “treaty” instead of its legal substitute, “agreement,” was a telling slip. Second, the delegates demanded that all remaining lands of Indian Territory be thrown open to settlement *immediately*. In their own words, “To wait upon that consent implies either a voluntary generosity of the Federal Government or an indefensible and independent sovereignty in each of the tribes. *The latter is intolerable...*”<sup>1523</sup>

What the settlers of Guthrie didn’t realize was that the Outlet Treaty could only go into immediate effect if Congress passed it without inserting amendments. Otherwise, negotiations—between two legal sovereigns—would continue. Consequently, if Congress passed the Outlet Treaty “immediately” they would be agreeing to several Cherokee authored terms which would likely secure the independence of the Cherokee Nation for years to come. This was a paradox which no one at Guthrie’s convention could escape. The settlers were unknowingly asking for two contradictory things at once: the immediate ratification of an agreement with a powerful Indigenous sovereign *and* the immediate abolishment of that same sovereign.

The Oklahomans’ hunger for cheap land fast clouded their ability to understand the counterproductive nature of these requests. The ratification the Outlet Treaty in 1893 was a complicated and chaotic process, which simultaneously dispossessed *and* secured the Cherokee Nation. The ratification of the treaty prolonged Cherokee sovereignty as well as congressional recognition of Cherokee rights, and ironically it was often westerners who fought the hardest to keep the treaty in its original form. In examining the debates of House representatives and U.S. Senators, we see that just like the delegates at Guthrie, many members of Congress, but especially westerners, had no clue how they were going to overcome Cherokee sovereignty.

It makes sense, then, that it was *not* a westerner who would lead the charge in manipulating the Outlet Treaty’s provisions. Orville Platt (Connecticut, R) was later known for his jingoist views regarding the Philippines, Hawaii, Cuba, and many other far-flung places. He was the namesake of the infamous Platt Amendment, which made Cuba a *de facto* protectorate of the expanding United States. In 1894 Platt candidly remarked that “while I have no disposition to acquire territory for the sake of territory...I firmly believe that when any territory outside of the present limits of the United States becomes necessary for our defense or essential for our commercial development, we ought to lose no time in acquiring it...”<sup>1524</sup> To put it plainly, Platt and many of his Republican colleagues were imperialists in what is often regarded as the height of U.S. imperialism.

---

<sup>1523</sup> “Resolutions Adopted at a Meeting Held at Guthrie, Oklahoma Territory, January 18, 1893, Praying for the Ratification of the Treaty Providing for the Opening of Cherokee Outlet for Settlement,” February 7, 1893, 52<sup>nd</sup> Cong., 2d session Senate Committee on Indian Affairs.

<sup>1524</sup> David Healy, *U.S. Expansionism: The Imperialist Urge in the 1890s* (Madison: University of Wisconsin Press, 1976), 173.

But imperialism aligned quite nicely with at least one of the demands of westerners. In 1893, when members of Congress were running out of time to ratify the treaty, the Senate was looking even further ahead to a total denationalization and allotment of the Five Tribes. Platt would join the Western Democrats in condemning the persistence of “five separate, independent governments” in the heart of the country.<sup>1525</sup> As he rose to speak, he did not mince words: “The joint resolution itself which scarcely touches the great question which should interest us most, because it does not in terms look at all to the wiping out of those governments, if I may be pardoned the expression.”<sup>1526</sup> To Platt, dividing or allotting tribal lands wasn’t going far enough. Tribal governments needed to be “wiped out.”

Despite this heavy-handed attitude, Platt was well-versed in the subtleties of Federal-Indian policy. Tracing the history of the Cherokee Nation in his speech, Platt corrected his colleagues on several fronts. The Five Tribes *did* have political independence, separate legislative, executive, and judicial powers, and separate constitutions. Their patent was just as difficult to undermine as Chief Mayes had insisted. He therefore argued that many of the proposals under consideration would fail to pass the constitutional test of time. For instance, Platt helped Senator Richard Coke (Texas, D) understand that there would be extensive legal limitations on any ill-advised attempt to simply “exercise the right of eminent domain” over tribal lands.<sup>1527</sup> If it was to destroy tribal independence, Congress would need to formulate a thoughtful legal strategy.

To justify this aggression, Platt argued that the “strange and anomalous condition” of tribal sovereignty was set up when the United States had been a different place:

“The original idea when the Government gave the guarantees by which these Indian governments have been established was that white people were not to dwell in that country; that it was to be a purely Indian country...that condition of things is all changed...The white people there outnumber the Indians in at least four of those governments; I think in all of them. [They] are just as far removed from participation in political affairs as if they were in Mexico...therefore, the entire reason of the guarantee is gone...”<sup>1528</sup>

To Platt it was unthinkable for white Americans to be left without a representative government that served their interests. It was even more unthinkable to leave those white Americans within the jurisdiction of five independent governments “with no allegiance to the United States [and] with no responsibility to the United States Government...”<sup>1529</sup> Once white Americans—most of them trespassers—made their way into the Cherokee borders, the Cherokee Nation’s right to exist “entirely vanished.”<sup>1530</sup> To the imperialist Republican, the Five Tribes could surely govern “half-breeds” and other “Indians,” but it defied the natural order of things for them to rule over white people. The fact that Platt urged his fellow senators not to remove these trespassers—despite the numerous treaties obligating the U.S. to do so—spoke volumes. The mere presence of white Americans in Indian Territory (who could be removed) voided a century of treaties. With or without tribal consent, Platt promoted the end of tribal independence.

---

<sup>1525</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.

<sup>1526</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.

<sup>1527</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.

<sup>1528</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.

<sup>1529</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.

<sup>1530</sup> U.S. Congressional Record, 1893, Version 24, Part, 1, pg. 100.



It would seem, then, that the perfect storm had brewed. Imperialism was on the rise, and imperialism favored the disintegration of tribal governments. In a rare three-party system, there were Democrats, Republicans, and Populists who all pushed for “the wiping out of those governments.” Even if they claimed to champion “the Indian”—and many did—they despised his independence. This was a far different picture from half a century earlier when the Indian Removal Act was passed along party lines. By the 1890s, settler colonialism was a bipartisan effort.

But ironically, the successful purchase of the Cherokee Outlet would unravel this convergence of interests. The Cherokee Nation had inserted a deadline for U.S. ratification to cut off congressional tactics of delay or modification. If Congress failed to meet the March 4<sup>th</sup> deadline, U.S. negotiators would have to send another commission to the West and restart the entire process from scratch. Both sides estimated that the price for the Outlet would then be higher, which in turn would strengthen the Cherokee Nation’s economic might. Members of Congress—especially those representing Western states—were desperate to avoid this.<sup>1531</sup>

It was under these “desperate” conditions that Congress would hastily accept stipulations which contradicted everything they believed about tribal independence. To get the Outlet agreement passed and executed, they suspended their hatred and mistrust of tribal autonomy. In order to get the Outlet open as quickly as possible, members of Congress agreed to provisions which considerably altered both the immediate and distant future of the Cherokee Nation. A band of congressional marauders eager for more land paradoxically signed “anti-settler” legislation into law just to secure the Outlet. The impatient drive for more Indigenous land—in this instance—would hurt settler colonial interests. Their short-term vision created significant, long-term headaches for the federal government, and likely prolonged the life of Cherokee independence.

### **Purchase vs. Pragmatism**

Compounding the “desperation” of Western states to ratify the Outlet Agreement were many, somewhat peculiar defenders of Cherokee sovereignty. These members of Congress, like most Cherokee officials, accepted that the Outlet needed to be transferred. Moreover, also like the Cherokee, they were staunchly opposed to making any modifications to the Outlet Agreement as it contained stipulations which would secure the tribe’s future indefinitely. In the absence of this stubborn minority (and ironically, anxious westerners), it is possible that Congress could have added more unfavorable terms than they ultimately did. Instead, frequent conflicts emerged between the genuine defenders of Cherokee nationhood, the over-eager Westerners, the relatively pragmatic Eastern Republicans, and the advocates of intruders. These conflicts caused delays which pushed the Agreement’s passage until the final day possible. In this section, I will explain each interest group’s importance to the larger story of 1890 to 1893.

The most outspoken defenders of Cherokee nationhood were southerners. Matthew C. Butler was a senator from South Carolina and is perhaps the best example of “redeemers” siding with the Five Tribes. Butler was also an accessory to terrorism at the infamous Hamburg Massacre. While historians do not know the exact details surrounding the ex-Confederate’s involvement in the killing of six Black men by white supremacists, he was a political leader present at the massacre

---

<sup>1531</sup> Judging by the vast number of associations which submitted petitions urging for the passage of the Cherokee Agreement, their chances of reelection (even under the old system of state legislatures electing senators) hinged on the Agreement’s ratification. For a moment the West would bow to Cherokee power.

and served as the attorney for the main instigators. He would spend the rest of his life—in true Bourbon Democrat fashion—claiming that he had tried to keep the peace: “Certainly, that is murder. There is not a civilized man who can justify that thing, but I had no control over it.”<sup>1532</sup> Southern newspapers circulated this version of the tale, helping to propel him into the Senate.<sup>1533</sup>

Butler did not receive a warm welcome. Several Republican senators tried to prevent Butler from taking his seat. One such Senator, Roscoe Conkling (New York, R), powerfully argued:

“[A senator] may be unlettered, he may have been painted black by nature’s brush... whether he wears robes or rags, I would accept his plighted faith with more confidence than I would take the oath of any man...who was ever, in coldness or in passion, accessory before or after the fact, when the defenceless, the ignorant, the inoffensive, the harmless, were brutally shot down...”<sup>1534</sup>

Many of Butler’s colleagues found it difficult to believe that the South Carolinian had been a “peacekeeper” at Hamburg. It was Senator Conkling’s view that Butler had participated in the killings directly. There is a strong likelihood he did. None of this, however, prevented Butler from enjoying nearly two decades of power in the U.S. Senate—a tenure which was indicative of the North’s eagerness to reconcile with the “New” South.

It may be surprising, then, to learn that Senator Butler was the Cherokee Nation’s strongest ally in Congress. In fact, his ties to the Cherokee Nation were deeply personal. In 1848, President Polk appointed Butler’s father Agent to the Cherokee Nation.<sup>1535</sup> The Butlers soon retraced the steps of the exiled Five Tribes as they moved from their ancestral home in the South to the emerging nations of Indian Territory. Matthew Butler was twelve at the time and would spend the next three years of his life living in an Indigenous state. Though he would move back to South Carolina at age 15 and never return, his formative years in the Cherokee Nation radically shaped his views of Cherokee sovereignty. He even wrote directly to Chief Mayes about the unraveling issues over the Outlet.<sup>1536</sup> At a time when many Democrats, Republicans, and Populists were united in destroying tribal nations, Butler was a rare—and to the modern reader unsettling—friendly voice. He genuinely believed that the Cherokee were entitled to their full independence.<sup>1537</sup>

He wasn’t alone. While there were many ex-Confederates (especially in the West) who were hostile to tribal sovereignty, there were also many who shared Butler’s views. Senator William Bate (Tennessee, D) was comparable in his consistent defense of the Five Tribes’

---

<sup>1532</sup> Jenny Heckel, “Remembering Meriwether: White Carolinian Manipulation of the Memory of the Hamburg Massacre of 1876” PhD diss., (Clemson University, 2016), 34.

<sup>1533</sup> Importantly, there is another reason we can be skeptical of Butler’s version of the events. When Butler’s seat was challenged by Benjamin Tilden in 1895, the two politicians began “competing” over who had “done more” at this massacre. When it was politically expedient to deny wrongdoing, he did. When it became politically expedient to do the opposite, he did the opposite.

<sup>1534</sup> Alfred Conkling, *The Life and Letters of Roscoe Conkling: Orator, Statesman, Advocate*, (New York: C. L. Webster, 1889), 554-555.

<sup>1535</sup> Yates Snowden and Harry Gardner Cutler, *History of South Carolina* 4 (Chicago: Lewis Publishing Company, 1920), 131.

<sup>1536</sup> CA, January 28, 1891.

<sup>1537</sup> U.S. Congressional Record, 1893, Version 24, part 2, pg. 1191.

sovereignty. House Representatives such as T. R. Stockdale (Mississippi, D), Charles Hooker (Mississippi, D), and Albert James E. Cobb (Alabama, D)—all of whom had served in Congress since 1887—were three more supporters of the Five Tribes’ autonomy, and the Cherokees recognized them as such.

For example, in February of 1892, Congressman Samuel W. Peel (Arkansas, D) proposed a bill which would have forcibly charged the Cherokee Nation’s Treasury in the payment of a plaintiff which the Cherokee Supreme Court had already ruled against. These three Southern legislators each led a passionate charge against the bill, but Stockdale’s words were the strongest:

“I have not been able to understand...why we should be assuming the guardianship of the Cherokee Nation...[particularly] in view of their acute interest in the Fiftieth Congress [1887-1889] for the Cherokees as an independent nation. *It was almost dangerous then for a man to say here that these Indians were not an independent nation...*[Now, we say] ‘you repay us, whether you are willing or not.’”<sup>1538</sup>

In this passage, Stockdale points at what he saw as a shift in how Congress treated the Five Tribes; no longer seeing them as “exceptional” nations, even these “independent nations” were slowly becoming wards. With these three congressmen coordinating their arguments against Peel, the bill failed. Despite—or perhaps because of their time in the Confederacy, many Southern Senators and Representatives were committed to protecting the Five Tribes’ autonomy from the federal government—even in ways that Americans of the present day are not.<sup>1539</sup> Whenever bills or amendments came up which took aim at that sovereignty—even when small amounts of money were at stake—these legislators were quick to voice their opposition.

Of course, this was not a value held solely by Southern Congressmen. Anthony Higgins (Delaware, R) only served one term in the U.S. Senate, but that was apparently enough time to be openly ridiculed by his Republican colleagues for siding with the likes of Butler and Bate in matters related to Cherokee sovereignty.<sup>1540</sup> When the Intruder Clause was scrutinized by Congress, Republican imperialists--*not the Western Democrats*--led an effort to force the Cherokees to pay for the intruder improvements. Higgins joined Butler in a rebellion against Platt’s amendment while the two of them also pushed for a different amendment to make settlers of the Outlet pay. After those efforts failed, the duo coordinated the passage of an amendment which ensured that the Cherokee Nation would not be charged more than \$250,000.<sup>1541</sup> This “excessive” friendliness with Southern Democrats likely cost Higgins his seat in 1895.<sup>1542</sup>

---

<sup>1538</sup> U.S. Congressional Record, 1892, version 23, part 2, pg. 1162-3.

<sup>1539</sup> There are a few possibilities for why these Southerners supported the Five Nations’ sovereignty. The Five Nations might have been considered “natural allies” of the South, as the slaveholding mixed-blood elite drove their nations to join their secessionist cause. Also, Southerners often expressed an obligation to the people who they had removed (a Georgian, for example, might feel especially indebted to Cherokees). It could also be more complex than that. A notable characteristic of Bourbon Democrats was their paternalistic commitments to the “Old South.” Perhaps protecting the treaty-obligated rights of the Five Nations comported well with these traditions.

<sup>1540</sup> U.S. Congressional Record, 1893, version 24, part 2, pg. 1189.

<sup>1541</sup> U.S. Congressional Record, 1893, version 24, part 2, pg. 1186; part 3, pg. 2387.

<sup>1542</sup> “Mr. Addicks Really Is a Candidate for the Senate,” *New York Times*, January 5, 1889; “Higgins and Addicks Both Out,” *New York Times*, May 9, 1895.

Importantly, the support which Higgins and Butler put toward Cherokee sovereignty did not mean they were opposed to a *negotiated* allotment or an “honorable” colonialism. When the amendment to create the Dawes Commission was proposed, Butler confessed that he “[did] not know that [he] had any objection to that amendment, as it only contemplated negotiation with these Indians looking...to extend the laws of the United States over their Territory.”<sup>1543</sup> Similarly, Higgins also supported westerners’ push for a commission *if* consent could be obtained. However, the way Higgins articulated that support was notably different. In his own words:

“I went to the Indian Territory since the last session of Congress...I looked almost in vain for an Indian. I asked men with whom I was thrown in contact to show me an Indian. Everybody was white. While these people claiming Cherokee rights are of Cherokee blood, they are not the red Indian; they are not the blanket Indian. *The fact is they are white people, and it is simply amusing and grotesque for them any longer to be posing as wards of the nation...* That amendment provides for a commission to...[see if and] upon what terms they will consent to an abandonment of their possession under the treaties...”<sup>1544</sup>

Higgins grounded his support of the Dawes Commission in his interpretation of Cherokees as “white people...[‘grotesquely’]...posing as *wards*,” but he was unwilling to go any further than *seeking* consent. This support of the Cherokees was markedly different from that of the southern congressmen, particularly in its linguistic substitution of “nationhood” with the more common designation (for Indians), that is, “ward.” Other Northern politicians who campaigned for the Outlet Agreement’s passage with its original terms made similar slips. For instance, Representative Hosea Rockwell (New York, D) fought to protect a stipulation which would allow the Cherokee Nation to sue the U.S. for any accounting errors made in the *nine* treaties signed since 1817.<sup>1545</sup> But Rockwell’s support of the Cherokee *Nation* was tainted by the same shift in language that T. R. Stockdale had found so troublesome:

“[If] I am to understand [correctly]...the United States, by contract with the Indians, *who are its wards*, has bound itself to pay [a] certain and specific sum of money, [but] the gentleman [Mr. Dingley] objects...and desires that this Government shall avail itself...in avoiding the payment of its honest debts to these Indians...”<sup>1546</sup>

Judging from this sympathetic language, Rockwell and like-minded politicians in the House would have probably voted alongside many of Butler and Higgins’ objections. However, the growing

---

<sup>1543</sup> U.S. Congressional Record, 1893, Volume 24, part 1, pg. 786.

<sup>1544</sup> U.S. Congressional Record, 1893, Volume 24, part 1, pg. 792.

<sup>1545</sup> U.S. Congressional Record, 1893, version 24, part 1, pg. 186.

<sup>1546</sup> U.S. Congressional Record, 1893, Version 24, part 1, pg. 575...The difference in language here really matters and reflects a broader worldview. We can even put Hooker (the Southern Congressman previously mentioned) in direct conversation with Rockwell on the “Indian question.” In 1893, the two of them had a fierce debate about the importance of the boarding schools. Hooker said “these schools have been sending out to the Indian country educated Indians...capable of taking creditable positions not only in their own tribes, but even in the halls of Representatives and the Senate, where I hope soon to see, as a tardy justice, Indians representing their own people with their own native ability improved by education derived from our citizens.” Arguing against the cost of some of these schools, Rockwell told a joke: “You might go to one of these Indian communities and take out three hundred of these Indian children, transport them to the most prosperous village in New England, taking them before they are a year old, and keep them there until they were 21 years of age... [these Indians] that were educated in the New England community would still be vagabonds and barbarians.” Though Hooker’s understanding of Native peoples was based off a paternalist view of Native peoples, he refused to see biology as a barrier to Indigenous power rising.

sense among Eastern “allies” that the Cherokee were “wards”—instead of a sovereign nation with no dependence on the United States—reflected a slow boil of change against the Five Tribes.

This brings us to a third cohort of legislators defending Cherokee sovereignty—the senators and representatives from the western states. Though many of their constituents demanded that the Five Tribes’ lands be broken up, many of these men were still attorneys. They understood that any changes to the Outlet Agreement required consent from Cherokee officials. While slight changes would probably be tolerated, they frequently voiced their anxieties that the amendments of fiscal conservatives and Republican imperialists were going to spoil the deal. This put them in the bizarre position of feigning—or perhaps actually developing—a limited degree of respect for Cherokee sovereignty. They shared and expressed ideas of what an “honorable” colonization looked like (“consent” through coercion). At the end of the decade when Congress pursued a forced denationalization, a few of these western members even voiced their “shock” at that shift in policy.

There are many examples of this in the congressional record. When Henry Dawes announced that the House of Representatives had revised the Outlet Agreement so that the Cherokee would be paid in installments with interest, Senator Roger Mills (Texas, D) asked for confirmation that the Cherokees had agreed to this alteration.<sup>1547</sup> When several fiscal conservatives decried the cost of the Outlet, the non-voting delegate from Oklahoma Territory, David Harvey, offered a fascinating response: “This is not an appropriation, but a loan...we propose, at the proper time, to offer an amendment requiring the settlers shall pay the Government for their lands as they enter them, such payments to go to the credit of the Cherokee Nation...I hope, in behalf of my people...that the bill will pass as reported from the committee...”<sup>1548</sup> Ironically, while Platt and Dawes shuddered at the idea of passing the deal in its original form, many western representatives had stubbornly resisted *any* changes beyond the payment structure before sending it to the Senate.

The extent to which these western legislators (temporarily) recognized Cherokee sovereignty is noteworthy. Samuel W. Peel (Arkansas, D) had once proposed unilaterally absorbing the Five Tribes as a U.S. state, but he was also one of the most aggressive supporters of the Outlet Agreement. He lived close to the Cherokee Nation, and his constituents flooded him with letters, “praying for God’s sake to do something about the Outlet.”<sup>1549</sup> Perhaps he more than anyone else was sensitive to the modifications being proposed. In one speech, he remarked:

“There Cherokees are as intelligent as any people in this country...They claim that they pay out more money to educate their children than any State in the Union of the same population...[‘being so intelligent,'] they insisted upon putting a stipulation into this contract that unless we ratify the contract in its entirety on or before the 4th day of March, 1893, it shall be absolutely void...***unless this contract is ratified in such terms as the Indians will accept, many years and many Congresses will pass before we shall again obtain terms so satisfactory to us...*** I do hope, however, that no amendment will be made so radical as to make the Cherokee Nation refuse to ratify it, because if this contract fails now, we shall be years and years in obtaining another as favorable.”<sup>1550</sup>

---

<sup>1547</sup> U.S. Congressional Record, 1893, version 24, part 3, pg. 2384.

<sup>1548</sup> U.S. Congressional Record, 1893, version 24, part 1, pg. 574.

<sup>1549</sup> U.S. Congressional Record, 1893, version 24, part 3, pg. 2019.

<sup>1550</sup> U.S. Congressional Record, 1893, version 24, part 3, 571.

For this reason, Peel aggressively pushed through the stipulations that the Cherokee negotiators inserted. When the payment structure was switched to six installments, he argued against it.<sup>1551</sup> When his colleagues expressed hesitation about the federal government removing intruders according to the Principal Chief's definition, Peel insisted, untruthfully, that this was already the law.<sup>1552</sup> As for the question of suing the government for discrepancies in treaty payments, Peel urged the House that this was "certainly not an unreasonable proposition."<sup>1553</sup> Through Peel's eagerness we can see the jagged edges of sovereignty. While some northerners used the denationalizing language of "guardianship" to protect treaty rights, many westerners used a recognition of sovereignty—even recognizing claims against the federal government—as a tool to expropriate more land.

Of course, there were many westerners who passed the Outlet Agreement—with all its favorable terms toward the Cherokee Nation—and yet insisted that nothing had changed in the way of sovereignty's end. Senators were less vulnerable to political upheavals, and a good representation of that might be found in Senator George Graham Vest (Missouri, D). Vest served 24 years in the Senate, and his hateful views of sovereignty were perfectly consistent. Immediately prior to the Outlet Agreement's passage, Vest said the following:

"The indomitable and inevitable tendency of the race to which we belong [has always] settled the question. As a result, the country has been opened up settlement, and the Indians have given way to the Anglo-Saxon civilization that dominates the world...I am greatly in hope, in fact I am sanguine, that the result in this case...will teach the Indians and half-breeds of the Indian Territory what must be the inevitable result of the question which is now awaiting solution in the near future as to their system of tenure in common...if they cannot learn that they must accept the inevitable...then their case is absolutely hopeless."<sup>1554</sup>

From this speech, it's clear that Vest had no pretenses about his plans for the Five Tribes. He figured they had to accept allotment, or their case was "absolutely hopeless." Populists such as Jeremiah Simpson (Kansas, P) insisted the Outlet's purchase was just the beginning of a longer imperial conquest: "...and in time to come the state of Oklahoma will be one of the brightest gems in the starry banner and complete the foundation on which is being built the great empire of the West, that in time will come to rule the world."<sup>1555</sup> These westerners echoed the language of northern imperialists and were—rhetorically but not practically—uncompromising toward the Cherokee. This aggression without "honor" was a sign of what was to come.

At this point, this chapter has outlined three groups of legislators who were unwilling to make changes to the Outlet Agreement: Bourbon Democrats who defended the Cherokee's national sovereignty, northern legislators who evoked the language of "guardianship" to protect Native rights, and western politicians who worried that modifications would ruin their chances of actually securing the Outlet. Some of these ideas were in the minority, but together these three groups made it extremely difficult for the Eastern pragmatists of Congress to undo what the

---

<sup>1551</sup> U.S. Congressional Record, 1893, Version 24, part 1, 578.

<sup>1552</sup> U.S. Congressional Record, 1893, Version 24, part 1, 576.

<sup>1553</sup> U.S. Congressional Record, 1893, Version 24, part 1, 576.

<sup>1554</sup> U.S. Congressional Record, 1893, Version 24, part 1, 2386.

<sup>1555</sup> U.S. Congressional Record, 1893, Version 24, part 1, 2596.

Cherokee negotiators had successfully inserted, and we see this in the dismissal of objections from fiscal conservatives and “intruder interests.” As the Outlet Agreement was being passed, these two “interest groups” watched their stock plummet.

Representing the fiscal conservatives, House member Nelson Dingley Jr. (Maine, R) believed that the Outlet Agreement would be a costly mistake. His colleagues William Holman (Indiana, D), John Wilson (Washington, R), and others agreed but thought the financial provisions of the Outlet Agreement could be saved through heavy revision. These legislators saw the terms of the Agreement as blatantly overgenerous to the Cherokee Nation and urged their Western counterparts to practice pragmatism and patience. In fact, they believed that the purchasing of Native lands in general had gone too far. In Dingley’s words:

“I am aware that the pressure for the immediate purchase and use of all lands that belong to various Indian tribes in the United States is so great that it is impossible to resist it. There seems to be a determination on the part of a great many people in this country to seize upon and use immediately every acre of arable land... I regard this as an exceedingly unwise policy. I think we should reserve some of those lands for future wants...”<sup>1556</sup>

According to this fiscally conservative argument, neither land dispossession nor the end of tribal sovereignty was worth its economic cost. Holman was also skeptical of “the opening of these lands in immense quantities at one time,” saying that Congress had “lay heavy mortgages on the early future.”<sup>1557</sup> Unlike Dingley Holman also acknowledged the westerner zeal for land and settled for trying to revise the payment structure. Even then only one of his pragmatic amendments were accepted. John Wilson was worried about the cost of using the military to remove intruders in the Cherokee nation proper, but Peel assured him the cost would be greater to remove trespassers in the Outlet if Congress failed to act.<sup>1558</sup> On the deadline day of the Outlet Agreement, Dingley stalled the vote, but his impatient colleagues repeatedly chanted “Vote, Vote, Vote!” over everything he said.<sup>1559</sup> In general, the complaints of fiscal conservatives fell on deaf (western) ears.

Another group who (strangely) found themselves ignored were illegal intruders. Cherokee negotiators had insisted that the federal government execute a specific plan for removing intruders (in the past they had only vaguely agreed to this obligation). This plan included the Commissioner of Indian Affairs’ termination of *prima facie* citizenship papers (especially for individuals the Cherokee Nation had designated intruders), an appropriation for a federal commission which would appraise intruder’s property improvements, and finally the removal of intruders within three years. Preventing more settlers from coming in was technically already the law. If Platt’s justification for ending tribal independence was the presence of U.S. citizens on tribal lands, Cherokee negotiators had responded in turn with a detailed solution to that problem. While Senator Platt was able to revise many aspects of what that process looked like, he was wholly unable to remove it. A small piece of “anti-settler” legislation was passed. Shortly after the Agreement’s ratification, intruders of the Cherokee Nation were probably surprised to see a federal commission investigating their property rights, interviewing them about their lives, and evaluating their homes. This was not the settler colonial script to which they were accustomed.

---

<sup>1556</sup> U.S. Congressional Record 1893, version 24, part 1, 574.

<sup>1557</sup> U.S. Congressional Record 1893, version 24, part 1, 576-77.

<sup>1558</sup> U.S. Congressional Record 1893, version 24, part 1, 2586.

<sup>1559</sup> U.S. Congressional Record 1893, version 24, part 1, 2593.

In yet another twist of irony, “boomers” fought hard to protect these anti-intruder stipulations. Yet again, Representatives Peel and Harvey (Oklahoma Territory) were central to these efforts. When William Bynum (Indiana, D) questioned the wisdom of removing intruders on the orders of the Principal Chief, both asserted—untruthfully—that “it [left] the law just as it is now.”<sup>1560</sup> Similarly, Senator James Berry (Arkansas, D) presented a petition from illegal intruders in the Outlet “remonstrating against the ratification of the Cherokee agreement until their rights in that Territory [were] properly provided for...”<sup>1561</sup> No such provision was considered. House member William Crawford (North Carolina, D) suggested an aggressive amendment which would have given U.S. courts the power to “hear, determine, and adjudicate all cases... involving the rights of Indian citizenship in any Indian tribe or nation in the said Indian Territory.”<sup>1562</sup> In explaining his proposal, Crawford insisted that allowing the Cherokee Nation to compile its own list of trespassers was “a dangerous power to confer upon this Indian tribe.” Both the Chairman and Samuel Peel soundly rejected this amendment for being out of order. It was not even discussed.<sup>1563</sup>

The Outlet Agreement made Congress equally dismissive of “intruder interests” on other reservations. As the House chanted “VOTE!” on the deadline day, Representative John Pickler (South Dakota, R) tried to protect the white trespassers of his own state:

“The conferees have allowed the settlers on the Crow Creek and Winnebago Reservation to suffer... the people of that country were compelled to leave the reservation, were driven off by the force of the bayonet, and they lost everything... **Mr. Speaker what I claim on this report is its injustice and its bartering away the rights of these settlers to get something else in [the Outlet]...** [Cries of “Vote!”] Gentlemen, you will get a vote a great deal quicker by allowing me a few minutes longer.”<sup>1564</sup>

In the face of a buzzing House ready to add the Outlet to its imperial possessions, Pickler was adamant that his colleagues were focusing too much attention on the Cherokee Agreement. To Pickler, who did support the Outlet deal despite its provisions to remove *even more* intruders, his fellow representatives were neglecting the “rights” of white trespassers who had been “unjustly” removed from the Crow Creek and Winnebago Reservation. However, in the broader context of the Outlet finally being transferred, these men cared little about the hardships of “wronged” settlers.

In some ways, then, the Cherokee Agreement of 1893 was a “sovereign-friendly” piece of legislation. This is not to forget that the Outlet was acquired under unconstitutionally coercive measures—it was. But once Cherokee negotiators sat down to arrange the transfer, they maintained the upper hand through most of the process. Though admittedly they would have made (a lot) more money from holding the Outlet in the long term, and that money could have been re-invested in the interest-bearing National Fund, its sale brought them over eight million dollars (with interest for delayed payments). On top of that, the Cherokee Nation was not expected to use any of that money for the appraisal committee or the physical removal of intruders—that cost belonged to Congress. Further still, the scheduled payments for the Outlet did not include the money which the Cherokee Nation would gain from being provided the legal outlet to sue the U.S. for treaty

---

<sup>1560</sup> U.S. Congressional Record, 1893, version 24, part 1, 583.

<sup>1561</sup> U.S. Congressional Record, 1893, version 24, part 1, 327.

<sup>1562</sup> U.S. Congressional Record, 1893, version 24, part 1, 583.

<sup>1563</sup> U.S. Congressional Record, 1893, version 24, part 1, 583.

<sup>1564</sup> U.S. Congressional Record, 1893, version 24, part 3, 2610-11.



discrepancies (which Dingley *correctly* predicted would cost the U.S. millions of dollars).<sup>1565</sup> Given these favorable terms, it is no wonder that the passage of the Outlet Agreement became a surreal moment in Congress when both white Oklahoman settlers and Cherokee delegates lobbied on the same side of an issue. As David Harvey (Oklahoma Territory, R) imperceptively put it: "...so far as 'coercion' being used, as has been suggested by the gentleman from Tennessee, the delegates of the Cherokee Nation are here...urging this legislation."<sup>1566</sup>

What Harvey did not quite understand was that the Cherokees' lobbying for the Outlet Agreement did not discount the presence of coercion (or "consent" through coercion). What the Cherokee delegates knew was that since the original deal had been signed, they had maintained most of their original demands over a year later--the most important of which, by far, was the Intruder Clause. Harvey and others wanted the land so much, it blinded them to the fact that the Cherokees could soon secure a long-term sovereignty.

### **Fiduciary Imperialism in the West<sup>1567</sup>**

For obvious reasons, this did not sit well with Senator Platt (Connecticut, R). To him and Henry Dawes, the purchase of the Cherokee Outlet was a chance to reconsider tribal sovereignty, not empower it for the foreseeable future. After the House of Representatives passed the Outlet Agreement with only a small revision to the payment schedule, Platt intervened. His amendment to the deal—which ultimately passed—was the only significant change. He suggested that instead of the United States paying for the improvements of intruders in the Cherokee Nation proper, the agreement should be amended to force the Cherokees to pay these U.S. settlers out of their own treasury. In short, he wanted the Cherokee Nation to buy out its own trespassers.

Examining Platt's justification for this change (which contradicted former treaty obligations) reveals a few interesting colonial logics at play. In his own words, Platt argued:

"[In the Committee on Indian Affairs] The question then came up, who is going to have these improvements if the intruders are removed? The Cherokee Nation is going to have them, and the Cherokee Nation is going to have the disposal of them. They can place people whom they do acknowledge as citizens in possession of these improvements. Then it occurred to the committee that, after all, there could be no great hardship and injustice under the circumstances, if, upon the removal of these intruders, the Cherokees should be called upon to pay for the improvements, as the improvements would belong to the nation and...get back what they paid for the improvements. I think that is the only fair way..."<sup>1568</sup>

---

<sup>1565</sup> U.S. Congressional Record, 1893, version 24, part 1, 572.

<sup>1566</sup> U.S. Congressional Record, 1893, version 24, part 3, 2592.

<sup>1567</sup> The term "fiduciary colonialism" was coined by Emilie Connolly to describe "a mode of territorial acquisition and population management carried out through the expansion of administrative control over Native peoples' wealth." In this context the term needs tweaking. Instead of using fiduciary controls to take land or control the population (which it could not do), Congress used the same tools Connolly describes to undermine Cherokee national sovereignty in the longer term. For this reason, I borrow Connolly's useful term but substitute the word "imperialism." Emilie Connolly, "Fiduciary Colonialism: Annuities and Native Dispossession in the Early United States," *American Historical Review* 127, no. 1 (2022): 223-253.

<sup>1568</sup> U.S. Congressional Record, 1893, version 24, Part 1, 788.

Though identifying the intentions of a source is always tricky, I think that we can safely interpret this reasoning as disingenuous. His words here suggest that the Cherokee should pay intruders because they were going to enjoy the improvements for the foreseeable future; he even said that the Nation would “get back what they paid,” implying that Cherokee citizens would have time to cover their losses. But Platt in the very same session of Congress demanded the end of the Five Tribes’ sovereignty—with or without their consent. He did not believe in the same kind of colonialism with “honor” that a few southerners, a few northerners, and even fewer westerners championed, and here he was *pretending* to do just that. Platt followed up these words by expressing his strong hesitation to remove white intruders *at all*:

“I do not know but that I am too tender-hearted, but really my whole heart and mind revolt at the idea of sending an army down there...and taking those people out of their homes, their children away from their schools and their firesides, and *deporting them* all over into another State...[but] if the agreement stands without amendment, that is all there is to it.”

Instead of viewing the intruders of Indian Territory as federal criminals (often violently) squatting on the remainder of Indigenous lands, Platt rhetorically transformed them into victims of a humanitarian crisis. He was likely hopeful that the removal of intruders would not happen; but if it did, Platt—literally—wanted the Cherokees to pay for it.

Through all this Platt maintained a withholding demeanor. It was only after Senators Butler and Higgins rebelled against his amendment that he and Dawes revealed their intentions. It started with a powerful, antagonistic objection by Senator Butler:

“The Senator from Connecticut tells us that perhaps he is too tender-hearted...that it would shock the civilized world to enforce the treaty stipulations...It is a pity that some of the tears being shed for the intruders had not been shed for the poor Indian himself...**If as the Senator from Connecticut so *pathetically* stated a while ago, it would be a hardship to put these people out without payment for their homes, why should not the Government put its hand in its own pocket and pay the money and protect us from the anathema and excretion of the civilized world for cruelty to these people?** Why [say], ‘You must pay \$250,000 of this money, which is yours, not ours, to compensate men who we must assume have come in without even the color of title’? That is a novel principle of law, Mr. President, one that I have never heard of before in a civilized government.”<sup>1569</sup>

Butler had caught Platt’s crocodile tears. He asked the Senate why the victims of intrusion should pay its trespassers, when it was the United States who had failed to act on its treaty obligations. Answering his own question, he insisted that Platt “pathetically” sympathized with the removal of white settler families, *but only if it directly cost the Cherokee government* a sizeable chunk of their national funds. Butler was insinuating that Platt was using the “tender-hearted” approach as a shameless act to *financially* dispossess the Cherokees.

Platt did himself no favors in dissuading Butler of this view. In yet another discussion of Platt’s amendment, tensions arose between Butler, Dawes, and Platt. Platt said the following:

---

<sup>1569</sup> U.S. Congressional Record, 1893, Version 24, Part 1, 790-91.

“I simply want to make one remark in relation to what the Senator from South Carolina has predicted, that if the Senate agrees to the report of the Committee on Indian Affairs in this respect the Cherokee Nation will not assent to it, and that we shall lose the opportunity to open this land. I do not entertain that opinion...I know that there are men who *assume* to lead in the Cherokee Nation who are as white in appearance as you and I, and whiter, perhaps, **who think that they control matters down there**, and who say now that they will not ratify the agreement [with] this amendment...I believe that even those men will think better about it...**those people, who call themselves a nation and a government, and who talk about ‘your Government’ and ‘our government.’**”<sup>1570</sup>

Evidently, Platt did not genuinely believe that the Five Tribes would be allowed to continue in their independence. His claim that the Cherokee Nation should pay the intruders compensation as the “*nation*” would enjoy the new property, therefore, seems peculiar at best. So, is it possible that Platt wanted to force the tribe to pay for the improvements to undermine their government?

His friend and colleague, Henry Dawes, answered that question very plainly. In response to an objection from Senator Higgins (who had claimed it was unjust to charge the Cherokee Nation for the improvements of illegal trespassers) Dawes remarked:

“You have come to where you must decide whether by force of your own law you will invade that government, put it down, and put over it a government of law and order, so that life and property shall be secure there, *or you must bring about that same result by such wise negotiations with this tribe and with the other four civilized tribes, as they are called, which will bring around that end.*”

The ultimatum Dawes presented, especially within this specific conversation, is perfectly clear. Either Congress could invade the Five Tribes and forcibly dismantle their governments, or it could set up the financial conditions which “would bring about that end.”<sup>1571</sup> Diplomatically attacking the finances of the Cherokee Nation was absolutely a means to disempower its independent government, but it is not a strategy scholars typically address while examining the strategies of settler colonialism. This was an act of financial imperialism against the Cherokee Nation.<sup>1572</sup>

There are many reasons why Platt, Dawes, and others might have chosen this course. The Cherokee Nation was unlike any other “wards” whose land Dawes had previously sought. This government had its own independent sources of revenue, it had police forces, prisons, courts, and bureaucratic officers. Over ten thousand permit laborers worked for Cherokee citizens. Its government could live off the interest of its National Treasury. It was constantly searching for new sources of independent revenue to build its wealth. In that the Cherokee Nation reflected many Euro-American governments, here were some “wards” with access to western capital and financial power unlike anything outside of Indian Territory. A unique power in Indian Country required a unique “solution” to chip away at their sovereignty. That solution was financial imperialism.

---

<sup>1570</sup> U.S. Congressional Record, 1893, Version 24, Part 2, 1192.

<sup>1571</sup> U.S. Congressional Record, 1893, Version 24, Part 2, 1189.

<sup>1572</sup> Interpreted this way, Higgins and Butler’s successful efforts to place a \$250,000 ceiling for payments in the intruder improvements could be viewed as placing an anti-imperialist limit on what Platt and Dawes were doing.

In fact, Cherokee nationalists might have increasingly seen themselves as a part of the larger story of U.S. imperialism. In February of 1893, *The Advocate* posted an anti-imperialist op-ed from the *St. Louis Republic* which explained, “[While] it might not be hard for this country to annex the Sandwich Islands first; then Mexico; then Cuba, and then Canada...but [this would be to] repudiate the government ‘of, for, and by the people.’”<sup>1573</sup> *The Advocate* agreed and added that it did so for the “thoughtless persons” who believed that “because the U.S. Government has the power that she will allow the Cherokee Strip to be settled in an illegal way...”<sup>1574</sup> Another reprint compared the United States’ treatment of Indian nations to the other European powers, saying they were driven by the same forces of reckless greed: “Thus Poland was blotted out from the map of Europe by Russia, Austria, and Prussia. Thus, France has overwhelmed Madagascar with tyranny and crime. Thus, England has again and again sacrificed humanity on the altars of Mammon.”<sup>1575</sup> “And still,” the author added, “our Fourth of July and Columbian orators will talk proudly of this great, noble, generous, justice loving, liberty defending, country of ours—this friend of the oppressed.”<sup>1576</sup> The Cherokees, for understandable reasons, were early anti-imperialists.

But regardless of whether Platt’s revision should be viewed as an act of imperialism, as an amendment it passed. In a bizarre piece of U.S. history, Native peoples began directly paying intruders for their improvements. While today we might interpret that as a cruel (strangely financial) act of settler colonialism, the Cherokee Nation had the money for it. Principal Chief C. J. Harris was not happy with the modification, and he expressed that annoyance, but he also knew the Nation would deem it worth the cost. Platt’s amendment was “pathetic” in that it was petty, and it was all an imperialist could do for the time being. The stakes of the Outlet Treaty were too high for further revisions. The Cherokee Nation had strong southern allies in both houses and western members, for the time being, wanted nothing to do with attacks on tribal sovereignty. At least for a moment, Cherokee sovereignty—strangely—looked like it might have a brighter future.

### To Answer the Intruder Question

The Cherokee Nation declared victory after the Outlet Treaty was finally ratified in 1893. Likening the entire ordeal to a battle, *The Cherokee Advocate* expressed relief:

“...the great mooted intruder question is settled, and the great struggle has died away to some extent, the din of battle and the smoke of its torment is a thing of the past, and only will be reheard as relics of history...the great United States have sided with us...You Mr. Intruder...are to blame for your timely downfall and glorious defeat.”<sup>1577</sup>

To the paper’s credit, almost every issue for a year and a half had contained predictions that the United States would side with the tribe over than the intruder. In March of 1893, it did seem like the Nation had bet correctly.

Even Senator Platt’s revision, a financially imperialist amendment which conveyed the responsibility of intruder payouts to the tribe, was not an insurmountable problem. The Cherokee

---

<sup>1573</sup> CA, February 11, 1893.

<sup>1574</sup> CA, February 11, 1893.

<sup>1575</sup> CA, April 1, 1893.

<sup>1576</sup> CA, April 1, 1893.

<sup>1577</sup> CA, March 11, 1893.

Nation, while angry about the stipulations at first, had the institutions and the resources to carry out their end of the bargain. Soon, the federal government would send officials into Cherokee territory to appraise the values of intruders' homes and record the value owed to each household prior to removal. The Cherokee hired armed men to carry the payments securely through the countryside, and they actually paid all the eligible families who agreed to accept the appraised amount. Even federal officials thought this would be the end of the issue. They believed that once the appraisal of intruder improvements was complete, and payments disbursed, there would be "nothing further for the Government to do under the law...but to remove them."<sup>1578</sup> The Intruder Clause had greatly clarified the U.S. position.

Of course, the celebrations in the Cherokee Nation were tempered by the simultaneous creation of the Dawes Commission. Seeking a way to outmaneuver the pragmatists in Congress (who were planning to filibuster the Outlet Treaty), several westerners had decided to ratify the agreement as an amendment to an appropriation—not as its own bill.<sup>1579</sup> The result was that Congress had finally overcome the paradox at Guthrie. In the same bill ratifying the Outlet Treaty, a separate amendment created a commission to negotiate for the allotment of the Five Nations.

In response, Cherokee nationalists swore they had already made their last sale, that they would never sell the home-tract, and that the United States would have to turn "high-land pirate" if it wanted to take it from them. It was left unclear how aggressively the U.S. would or could approach the question, especially as the President could not force allotment on the Five Nations as he could elsewhere.<sup>1580</sup> Matters were surreal and confused as *The Advocate* wrote: "We are like a ship in a storm about wrecked amid merciless waves. Our safety is in the nearest port."<sup>1581</sup> Safety would not be found, but the shipwreck would take longer than anyone expected (or remembered).

The next few years were marked by fast, radical changes in Congress. Political upheaval in the South caused Butler, Stockdale, and Hooker to all lose their seats at once. Higgins also lost his position the same year, partially due to his friendliness with these southern Democrats. Samuel Peel left office after the Outlet Treaty's passage, and only Senator Bate (Tennessee, D) was left to carry on Butler's pro-sovereignty efforts. The congressional philosophy that the Five Nations' status was untouchable began to fade, as the tribes were newly and increasingly slandered as worse than "any barbarous nation on the globe."<sup>1582</sup> The legislation by amendment to appropriation bills became the weapon of choice against the Five Nations. The situation changed so drastically that even Senator William Vilas, who as Secretary of the Interior had ordered the Cherokee Nation to cease their leasing arrangement, and who had often sided with Platt over Butler, simply could not accept denationalization. He found the changes in policy of the late 1890s to be dishonorable, "unmanly," and "revolutionary."<sup>1583</sup>

---

<sup>1578</sup> Commissioner Thomas P. Smith to the Secretary of the Interior, May 1, 1895, in the Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1579</sup> CA, January 4, 1893; March 4, 1893.

<sup>1580</sup> CA, April 1, 1893.

<sup>1581</sup> CA, March 11, 1893.

<sup>1582</sup> U.S. Congressional Record, 1897, version 30, part 1, 735.

<sup>1583</sup> U.S. Congressional Record, 1897, version 29, part 2, 2352.

Chapter Nine:  
**Exchange (1893-1894)**

Soon after the Dawes Commission was formed, the youngest chief in Cherokee history took decisive action. He was only thirty-seven, but C.J. Harris was as shrewd as he was combative. On March 30th, he warned the National Council of what Congress had done:

“[The new law] looks to the ultimate destruction of the several Indian Nationalities, the absorption of the people thereof, into the mass of the United States citizenship, and the creation of a new state or states to be controlled by the overwhelming influx of a population that would come...trampling upon the rights of the present owners of the soil.”<sup>1584</sup>

In other words, denationalization meant the destruction of the Cherokee people under the supervision of a foreign democracy. Cherokee chiefs had issued similar warnings for decades, but here, at last, the danger was present. Harris contacted the other chiefs and governors of Indian Territory, “asking [for] a united effort against this policy of destruction,” and further requested that Cherokee lawmakers plan an International Council to meet with their Indian neighbors. In this instance and in others, Harris offered a forceful challenge to denationalization.

But Harris’ single term in office (1891-1895) would not be defined by the Dawes Commission. From the ratification of the Outlet Treaty in March of 1893—when Henry Dawes retired from the U.S. Senate to join the commission—until the end of 1894, Cherokee nationalists were more concerned with other pressing matters. Their top priorities were securing what Congress had promised in exchange for the Outlet: several million dollars and the expedited removal of intruders. Instead of signaling calamity, the arrival of the Dawes Commission began as a muted sideshow. From 1893 to 1897, no existing law could force the Five Nations to negotiate, as the Dawes Act of 1887 ironically protected them from its frustrated namesake.

In fact, not only was allotment muted, but in 1893 Cherokees were positively boastful about their future. Their assumption was that the “Strip money” would come as quickly as the 6,000 intruders in the country would be removed, at which point the country and money would be theirs to enjoy. Cherokees planned to enter the 20<sup>th</sup> century free of debt and squatters. Permit workers would stay, but the National Council mindfully passed a law blocking intruders from employment.<sup>1585</sup> Scandalized officials would indeed have to compensate many of these intruders for their illegal improvements, but the government had the money for this. It could also pay off the national debt in full and pay each citizen a handsome settlement for the Outlet. Just as the intellectual Frederick Jackson Turner was preparing a final declaration of victory against the Indigenous world, Cherokee national sovereignty seemed bright and hopeful as ever.

Only with hindsight is it possible to dismiss the expectation as short-sighted. Congress, after all, had planned this very outcome. On paper, the Cherokee state was much more secure in 1895 than it had been a decade or two or three before. Platt’s amendment to the Outlet treaty had been obnoxious, but it was really just that.<sup>1586</sup> Cherokee nationalists were willing to sacrifice a

---

<sup>1584</sup> CA, April 8, 1893.

<sup>1585</sup> CA, May 23, 1894.

<sup>1586</sup> CA, April 8, 1893.

little pride to achieve a favorable agreement. Congress would have to introduce new legislation to undermine the Cherokee government and its 1893 treaty, but that would not be achieved until 1897.

This chapter examines a single, but eventful, year prior to that shift: March of 1893 through the summer of 1894. During this year the United States made a sincere effort to execute the terms of the Outlet Treaty—terms which promised to secure Cherokee sovereignty. While the U.S. sought to pay its debts, the Cherokees prepared for the second half of the 1890s as if denationalization was an ugly fantasy—nothing more. It was, at last, time for an overdue exchange.

### **\$8,595,736.12**

In a published letter to Chief Harris, the delegates to Washington debriefed about their efforts to ratify the Outlet Treaty. They had arrived in Washington in December of 1892 and stayed there for months, working hard to keep the original deal intact. They mostly succeeded in this, but Platt's amendment was the notable exception. Senator Butler had "made a gallant fight for the maintenance of Treaty obligations" while the rest of Congress was "strongly in favor of forcing us to change our form of Government." To finance the deal, Congress appropriated \$295,736.12 up front, while the remaining \$8,300,000 would be paid in five equal annual installments—the first of these would be paid on March 4<sup>th</sup>, 1895. Congress would be paying off obligations to the Cherokee Nation until the turn of the century, and this did not include the \$1,111,284.70 that the United States would soon be obligated to pay for missing treaty obligations going back a century. Thus, despite the clamoring demands for Cherokee to "be forced to abandon [their] present form of Government" and the infectious belief "that [they had] misgovernment," the future of Cherokee finances shined bright through darkening clouds.<sup>1587</sup>

The Cherokee government, however, would have very little say in how the money was spent. Though prewar Cherokees had rejected the premise of per capita disbursements—and had continued in this policy even at the height of Civil War suffering—three successive waves of traditionalism, liberalism, and libertarianism had utterly reconfigured the nation's relationship with its own government spending. In 1893 there was bipartisan agreement that the several millions of dollars owed to the nation should be quickly and equally disbursed among the people, who numbered only 27,000 at a maximum (if all citizens were paid) and 21,000 at a minimum (if only Cherokees "by blood" were paid). Proposals to disburse small amounts over time were soundly rejected: "the general cry is for all the amount to be paid to the people at once. They want the 'whole hog or none.'"<sup>1588</sup> That kind of windfall per person quickly dispelled any concern for the government's ability to nation-build after the fact. As the moment of denationalization approached, internal Cherokee decision-making helped determine the republic's fighting chance. It is doubtful those decisions were always far-sighted.

For Cherokee households, however, it was going to be a tremendous amount of money, and everybody knew it. While American families living in industrial cities frequently subsisted on household incomes at or below seven dollars a week, Cherokee households of four or more persons would collect well over a thousand dollars at once, for lands they had never seen, before returning

---

<sup>1587</sup> CA, March 18, 1893.

<sup>1588</sup> CA, April 1, 1893.

to their rent-free, tax-free farmlands.<sup>1589</sup> After a long year of austerity measures and mounting debts, and as a financial panic gripped the United States, Cherokees expected to briefly become some of the richest small farmers in North America. Denationalization was simply not their top priority.

The excitement deflated opposition to Platt's amendments. The nationalist reverend Walter Adair Duncan had expressed opposition to the revisions, but by April of 1893, few other public figures were willing to risk the existing deal. *The Vinita Globe* was an outlier and insisted that the "United States government is not anything like as mean as some people...[said] it was" and that "if the Cherokees...contend for the original agreement they will get it without trouble."<sup>1590</sup> Contributing to *The Advocate*, "A" disagreed, and asked whether a better deal could be secured. If not, and if the existing deal failed, "All that has been accomplished would, in such an event, be lost, and no one can say that is not much, or, to a certain extent, not satisfactory."<sup>1591</sup> After all, "A" continued, the truly objectionable policy changes regarded the Dawes Commission, and while that was development was certainly menacing, "there [was] nothing compulsory in the matter." As the *Indian Citizen* put it, "Consenting to allotment on the government and treaty plan is tomfoolery and child's play. Just as well consent to being a human when all creation knows you are one."<sup>1592</sup> If Cherokees knew they had the money for Platt's amendment (which they did), and if allotment was a reform which required Cherokee consent (which it did), then it was perfectly logical to ratify the new agreement. One Cherokee senator proposed paying the intruders under formal protest.<sup>1593</sup> By the spring of 1893, this was the position of most Cherokees.

Historians of course cannot know what would have happened if the Cherokees had pressed for the original agreement. Platt had arguably compromised more than the Cherokees—constantly bowing to his western colleagues throughout the ratification process. He personally had suggested taking the Outlet by force—a stance which mirrored his infamous zeal for U.S. imperialism overseas, and a position which he would have almost certainly returned to in the face of any further opposition. In this way, the hardening imperialists of Congress may very well have been emboldened by Cherokee defiance, thereby accelerating the timeline of denationalization.

The Cherokees, for their part, had very limited options. Short of renegotiating the entire agreement (which would have been treacherous), they could have demanded parts of the original agreement but certainly not all. There were, after all, many congressmen who found it nonsensical for the Cherokees to compensate their trespassers. With their support, and with the western clamor for the Outlet, it is possible Cherokees could have scraped \$250,000 back into their own treasury. This money would have been immediately available as it was part of the \$295,000 that Congress had appropriated up front.<sup>1594</sup> Half the money was needed to wipe out the Cherokee national debt while the remainder could have served other useful purposes.

---

<sup>1589</sup> Federal Reserve Bank of St. Louis and US. National Bureau of Economic Research: Laborer's Average Hourly Rate of Wages, Weighted for United States [A08139USA052NNBR], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/A08139USA052NNBR>, December 1, 2023.

<sup>1590</sup> CA, April 1, 1893.

<sup>1591</sup> CA, April 1, 1893.

<sup>1592</sup> CA, April 1, 1893.

<sup>1593</sup> CA, April 8, 1893.

<sup>1594</sup> CA, May 27, 1893; April 1, 1893.



As for demanding a one-time payment instead of a five-year payment plan or even forcing Congress to rescind the creation of the Dawes Commission, these were proposals unlikely to succeed, and in any case, the Cherokee Nation held the strong position it did in 1895 not despite, but *because* it had accommodated its aggressive neighbor. The United States had been forced to treat with the Cherokee Nation under the old system of nation-to-nation diplomacy, while many frustrated voices in the United States had advocated for a “revolutionary” change: the complete termination of Indigenous sovereignty, once and for all.

Perfectly aware of these small victories, the new Outlet agreement had no trouble passing the Cherokee legislature. Congressmen Peel and Colonel Phillips visited the National Council in a joint special session to warn against any delays (calling such moves “hazardous”), but the lawmakers truly did not need convincing.<sup>1595</sup> Chief Harris urged for ratification, and he took it as a given. The deal was ratified immediately. Almost everyone in the Cherokee Senate and lower house voted for it—there was overwhelming bipartisan consensus. Meanwhile, Harris’ bill to authorize an International Council failed to pass, suggesting—at least in the short term—a dangerous commitment to austerity after the creation of the Dawes commission.<sup>1596</sup>

Concern for a lack of money also drove the National Council to pass a bill to secure the “Strip money” faster. Prior to ratification, Chief Harris informed the National Council that he had already “written several banking houses” to suggest his terms for selling the U.S. debt at a premium. The Cherokee would get their millions all at once, fast, in exchange for giving up a slice of the payout. If Cherokee finances had been healthier, the nation could have theoretically held out for five years and collected everything with interest, but there was no appetite for that in the spring of 1893. The \$8,300,000 that the United States owed would not be what the Cherokees collected.

Harris recommended that the National Council create a commission to “proceed at once” to Washington to “make and execute a contract with the Secretary of the Interior for payment.” After that the commission would “thoroughly advertise and receive propositions for negotiating a loan.” The National Council passed the law speedily, within the week. Harris, for his part, was confident that the sale of debt would be accomplished quickly: “the Cherokee Nation will have no difficulty in negotiating such contracts at a fair and reasonable premium in the money markets.”<sup>1597</sup> But during troubled economic times, he would eat those words.

The next order of business was the census. Cherokees had completed a detailed census in 1890, but the Outlet Treaty necessitated another one just three years later. As Harris put it, “Every important question connected with the agreement and the future welfare of the country depends largely upon the correctness of this census.”<sup>1598</sup> It was no exaggeration. The 1893 census was where the all-important issues of the per capita payment and the removal of all intruders converged. Cherokees needed to give the federal government a detailed list of the people they wanted removed. For their own people, they needed an exact list of Cherokee citizens—even the recent newborns, whose well-timed birth could provide their family with an additional three hundred dollars. Harris further suggested that the National Council meet in yet another special session to pore over the results and authenticate the names of their districts. Whether it was to reward citizens, punish

---

<sup>1595</sup> CA, April 1, 1893.

<sup>1596</sup> CA, April 8, 1893.

<sup>1597</sup> CA, April 1, 1893.

<sup>1598</sup> CA, April 1, 1893.

intruders, or protect permit workers, everyone had to be accounted for in a very exact manner. By April 15<sup>th</sup>, the new census bill was signed into law. Cherokees hoped to be paid that summer.

Well in advance of the actual payments, individual families discussed what they would do with the money. The editor of *The Cherokee Advocate* claimed to have “talked to a great many from every District in the Nation” and shared that the “cry is to ‘give us the money.’” The “whole amount”—paid at once—would “enable us to buy us homes, improve our homesteads, and provide for our families.”<sup>1599</sup> During a time that Cherokees were expanding their consumption habits, some would almost certainly use their per capita payments to buy pianos and sewing machines (which many citizens were already buying).<sup>1600</sup> Once the “Strip money” was a “foregone conclusion,” Cherokees dreamily planned for the big payout: “We can trade on the strength of it, we can plan, we can build air castles and we can do a great many imaginary things.”<sup>1601</sup>

But many could not wait for the payment to come. *The Cherokee Advocate* described the rule in simple terms: “Whenever you place a value on the Cherokee lands, the Cherokee sell it as a per capita to the merchant.”<sup>1602</sup> Because Cherokees already knew that they could expect approximately \$300 per citizen, any head of household—most likely a man—could immediately begin trading on the strength of that sum multiplied by the number of Cherokee dependents within his family. If such a patriarch had, for instance, a wife and three young children, he could approach the merchants of Tahlequah, Vinita, or any other place, and trade on the strength of \$1,500. A fourth dependent—even if it was his newborn infant—would grant him an additional \$300 credit with which to trade. Even an average size family might thus expect nearly \$2000. Suddenly—and even with absolutely no cash in hand—Cherokees possessed a tremendous buying power which would draw even more commerce into their orbit.

The economy boiled. On April 22<sup>nd</sup>, Tahlequah was reportedly “on a big boom. All jubilant over the strip payment. Merchants selling goods right along.”<sup>1603</sup> A week later the same was reported—that merchants were “on a boom in the way of trade” and that “big, little, old, and young can have anything in the way of dry goods, groceries, &c on the Strip.”<sup>1604</sup> The week after that the depot at Fort Gibson was “crowded to its utmost capacity with freight,” supposedly due to “Cherokee merchants [trading] on the prospects of the big payment.”<sup>1605</sup> New wagons were becoming plentiful, Saturdays offered a “rush in trade,” while *The Cherokee Advocate* celebrated that the Cherokees were purchasing “things that are substantial.” The “full bloods,” in particular, it wrote, “or as they are called by some the ‘ignorant class,’ are spending their money in buying farming material, horses and cattle, while some of them are refusing all temptations and denying themselves of the harvest until the money is paid out.”<sup>1606</sup> To spend or save the per capita money was both a matter of preference and necessity.

---

<sup>1599</sup> CA, April 1, 1893.

<sup>1600</sup> “It seems every woman in the Cherokee Nation is to have a sewing machine,” CA, July 8, 1893.

<sup>1601</sup> CA, April 8, 1893.

<sup>1602</sup> CA, June 10, 1893.

<sup>1603</sup> CA, April 22, 1893.

<sup>1604</sup> CA, April 29, 1893.

<sup>1605</sup> CA, May 6, 1893.

<sup>1606</sup> CA, May 6, 1893.

For those choosing to spend, there was never any shortage of retailers to patronize. By 1893, Tahlequah boasted 12 dry goods and grocery stores, one hardware store, three drug stores, two millinery stores, one bank, one jewelry store, three restaurants, three barber shops, four blacksmith shops, two liver and feed stables, three law offices, three shoe shops, one tin shop, one dental office, two saddle and harness shops, one photograph gallery, three carpentry shops, one flouring mill, one cotton gin, grist, and planing mill combined, one paint shop, a marble and granite shop, a candy stand, at least two hotels, and at least two bakeries.<sup>1607</sup> To the dismay of *The Cherokee Advocate*, there was even a brothel by May of 1893.<sup>1608</sup> A fair number of stores were run by Cherokees themselves, who encouraged Cherokees to “patronize home industry.” These storeowners might also advertise their goods in Cherokee.<sup>1609</sup>

Whatever stores couldn’t offer, home agents such as J. M. Smith could. As Cherokee consumers clamored to buy sewing machines, pianos, organs, and other high ticket items, Smith warned his compatriots against patronizing outsiders. “Foreigners sell you goods and get your money and are gone,” he said. Smith, on the other hand, was a local offering warranties and repairs to all his customers.<sup>1610</sup> Because of Smith—and undoubtedly because of foreign salesmen as well—Cherokees had ready access to many new consumer goods. Even those living in the lesser populated Saline District experienced increasing access to foreign markets. One resident even joked: “It seems as if every woman in the Cherokee Nation is to have a sewing machine.”<sup>1611</sup>

Commercially, then, the Cherokee Nation was nearly indistinguishable from its rural western neighbors. Cherokees had, like many U.S. citizens in small towns, ready access to cigars, liquor, playing cards, pianos, fashion, jewelry, and other goods of leisure. Their capital—sometimes generously referred to as a “metropolis”—was the site of comedy shows, concerts, political gatherings, traveling circuses, teachers’ conventions, and more. Cherokees ordered cakes to bring to friends’ houses and sported the latest dresses from the millinery stores. They erected bridges, lobbied for streetlights, dumped trash in the road, fired guns in the air, ate oysters at restaurants, flaunted new jewelry, and debated politics within the comfort of a billiard hall. The rise of a consumer culture did not pass over the Cherokees, and, if anything, the impending Strip payment resulted in Cherokees spending far more than many of their poorer U.S. counterparts. By September of 1893, the merchants of the Cherokee Nation claimed that they had already “sold on credit merchandise to the amount of several hundred thousand dollars.”<sup>1612</sup> The summer of 1893 had been a frenzy of commercial activity.

It could not last. The frenzy of economic activity had been predicated on the expectation that Cherokees would be paid quickly. On April 22<sup>nd</sup> of 1893, as the delegation departed for Washington, the mood was jubilant—there was “hope and trust” that the money business would

---

<sup>1607</sup> CA, April 29, 1893; Ibid, July 29, 1893 (granite and mobile works); Ibid, August 18, 1893; Ibid, March 7, 1894 (cakes); Ibid, January 31, 1894 (candy stand). Many of these businesses did not exist in the 1870s. It was true what Cherokee observers wrote: the nation was booming, trade was increasing.

<sup>1608</sup> CA, May 20, 1893. The national editor lamented: “Tahlequah is a sad victim. A few years ago who thought that today in our beautiful little city we would be cursed with houses of ill repute? Are our people asleep and fail to see this growing evil? What will it terminate in? Our wives, daughters, mothers and sisters are forced to look on this degraded class of women day by day. What are we to do?”

<sup>1609</sup> CA, July 29, 1893.

<sup>1610</sup> CA, January 31, 1894.

<sup>1611</sup> CA, July 8, 1893.

<sup>1612</sup> CA, September 9, 1893.

soon be concluded.<sup>1613</sup> As the delegation negotiated a contract to sell their debt to the highest bidder, *The Cherokee Advocate* reprinted a prediction from the *Globe-Democrat*. It was imagined that “the entire transaction [could] be closed within sixty or ninety days.”<sup>1614</sup> Colonel D. M. Wisdom piled on these expectations after he returned from Washington in late May. The *Advocate* reported that Wisdom had been confident about the coming weeks. “[He said] the Cherokees need have no fears, but that they will be paid in a few weeks about \$6,640,000 of the proceeds of the sale.”<sup>1615</sup>

At least one Cherokee nationalist even expected that the quick arrival of Strip money would greatly assist the nation’s campaign against denationalization. H.M. Adair satirically adopted the desperate voice of the “statehood sooner” as he made this point:

“Oh statehood! Statehood! Give us statehood! ...They are becoming too civilized—they are taking up the good land...the choice acres we have been longing for for more than twenty years will be plowed up by the Indian. Oh, statehood, statehood! Give us quick statehood, ere the strip money is paid out per capita. Give us statehood before then, or else every Indian in the Cherokee Nation will have made himself a farm.”<sup>1616</sup>

He had a point. The Cherokee treasury would be refused a windfall by its citizens, but those same citizens would have more cash on hand than ever before. Soon enough, poor farmers would not hesitate to pay the permit fee, thus adding foreign workers to their farms and expanding their claims. Better farm equipment and more livestock would be easily attainable. The Cherokee countryside, according to this theory, would suddenly burst with productivity. After all, the Strip payment would have been a major stimulus for any American economy—not juts the Cherokee one. Westerners were right to fear its consequences for denationalization. Or, at the very least, Adair was right to assume that they *should* be worried.

On May 17<sup>th</sup>, a contract for the purchase of the Cherokee strip was signed in Washington. Secretary of the Interior Hoke Smith signed on behalf of the United States while Chief Harris, Treasurer E. E. Starr, Delegates J. T. Cunningham and D.W. Lip signed on behalf of the Cherokee Nation. The Cherokee would be issued U.S. bonds bearing the rate of 4 percent interest. It was expected that Secretary of the Treasury John Carlisle “[would] cooperate with Chief Harris and the delegation in shaping the bonds as to bring the best market price.” Once Carlisle and Harris had an understanding, the principal chief would travel to New York City “and confer there with the moneyed men.” After a correspondent for *The Republic* caught Harris walking at night—presumably in Washington—Harris took the opportunity to directly advertise his plans to the American people: “We propose now to go to New York and Boston and make known to the moneyed men of these cities that we have what is really a government 4 percent loan to place...Those who make the best offer will get the loan.”<sup>1617</sup> If the Strip money really would bolster the Cherokee against denationalization, then this newly enhanced sovereignty would be delivered to Tahlequah from—of all places—Wall Street.

---

<sup>1613</sup> CA, April 22, 1893.

<sup>1614</sup> CA, May 13, 1893.

<sup>1615</sup> CA, May 27, 1893.

<sup>1616</sup> CA, April 15, 1893.

<sup>1617</sup> CA, May 27, 1893.

Until July Cherokees could be forgiven for expecting a quick exchange. Historical events seemed to move at light speed. By May the census takers were already working in the capital.<sup>1618</sup> The Cherokee's representative for the commission which would appraise intruder improvements (prior to their removal) was selected a week later.<sup>1619</sup> The Cherokee Outlet would be settled by September. The contract with the government had already been signed. American newspapers informed Cherokee readers that syndicates had already been formed to purchase the bonds.<sup>1620</sup> Once the bonds were purchased, the transfer of money would be almost immediate. The predictions that the Cherokee would be disbursing their millions within a matter of weeks were never unreasonable. In a different year, it could have been achieved.

Instead, the markets crashed. The same financial institutions which the Cherokees hoped to exploit had been built on a wobbly foundation. Railroad corporations in particular—central to the U.S. economy—were corrupt, dysfunctional, and drastically overvalued. Their mounting debt was, as Richard White has put it, “a gun aimed at the larger economy, [one that] was always loaded and events that reduced access to credit could pull the trigger.”<sup>1621</sup> By March 4<sup>th</sup>, the day of Grover Cleveland's inauguration and the day after Congress ratified the Outlet Treaty, gold reserves in the U.S. had fallen to \$100 million, the minimum amount considered necessary to meet government obligations. Corporations were collapsing; Wall Street fell into panic on May 5<sup>th</sup>.<sup>1622</sup> The country was in for a rude awakening. Deeply integrated into the U.S. economy, the Cherokee Nation would be no different. The Cherokee, after all, were no less part of the global capitalist system.

Tahlequah's first acknowledgement of financial headwinds came in early June. Ironically, the context came in the form of the Cherokee expressing confidence that the bonds would be soon quickly and on favorable terms.

“Though the credit on the Strip debt has been extensive, the Nation will make no sacrifices on that account in order to get the money in bulk. It is useless for moneyed men to pool and bid for the bonds with any such expectation...The Cherokee Nation has been forced already to make unnecessary sacrifices in the disposal of the Strip lands and further

---

<sup>1618</sup> CA, May 20, 1893.

<sup>1619</sup> CA, May 27, 1893.

<sup>1620</sup> CA, May 27, 1893.

<sup>1621</sup> White, *The Republic for Which It Stands*, 768.

<sup>1622</sup> *Ibid*, 771-773. Summarizing the events succinctly, White wrote: “On May 5, full-scale panic hit the New York Stock Exchange, and all over the country banks faced runs as depositors demanded cash. Starved for capital, the national banks between May and October reduced their outstanding loans by nearly 15 percent, more than twice the reduction during the Panic of 1873. Virtually all private banks, state banks, and national banks were under siege. New York banks raised the cost of credit and through the use of clearinghouse certificates extended credit to each other, which temporarily stilled the panic...The Erie Railroad failed, and stocks plunged again. Western and Southern banks continued to collapse. Credit dried up, and in California farmers could not borrow either to harvest or to ship their crops...Congress finally repealed the Sherman Silver Purchase Act at the end of October. Repeal was supposed to restore confidence and, with it, the economy; instead, more failures followed. In 1893 alone 360 national and state banks—343 in the Midwest, South, and West—shut their doors, with an eventual loss of roughly \$42 million. The iron industry suffered the worst year in its history; textile mills closed, and railroads steamed into the abyss, unable to meet their interest payments or repay their loans. In all, 119 railroads went into receivership in 1893, including Henry Villard's Northern Pacific; the Atchison, Topeka and Santa Fe; and the Union Pacific...By 1895, 25 percent of the country's railroads were in receivership. Total business failures mounted to more than fifteen thousand. Gold continued to drain from the country. This depression—which until the 1930s would be known as the Great Depression—meant that tax revenue, particularly from the tariff, declined.”

sacrifices on part of the Nation is out of the question, especially, for nothing more than to get the money paid in bulk... There will be no pressure brought to bear upon Council strong enough to make any such blunder. The Cherokees are too good financiers to commit any such mistake.”<sup>1623</sup>

The feeling on June 3<sup>rd</sup>, then, was that the mounting credit of Cherokee Nation merchants was dangerous, but certainly would not pressure the legislature to consider unfavorable terms for the sale of the bonds. The Cherokees were “too good financiers” to “make any such blunder.” A week later—in striking the same tone—Adair pronounced that “the Cherokees are too good financiers to be imposed upon at this age and time.” The country, he assured his readers, “could wait until ‘after the gold policy stringency becomes a little less stringent’ to dispose them.” The St. Louis Republic agreed.<sup>1624</sup> It was as if all the “Napoleons of finance” were jostling for the bonds.<sup>1625</sup>

They were not. Some time before June 3<sup>rd</sup>, Tahlequah received an ominous telegram from the delegates: “No bids received that we can accept.”<sup>1626</sup> It was not common knowledge at the time, but the Cherokee delegates had established a deadline of May 31<sup>st</sup> for any prospective bidders. According to Chief Harris himself—who had traveled to Washington himself to help things along—“the time arrived, but no bids were received.” “The cause of this,” he added—speaking to directly to his people, “...is the present depressed condition of money matters throughout the United States, and not on account of any irregularity in the character of the bonds or any omission to make them secure.” If it were no for the “money matters” in the United States, “an early and satisfactory sale of the bonds could have been effected.”<sup>1627</sup> In other words, Cherokees were slowly beginning to realize that the financial panic in the United States would deprive them of a quick settlement. Short of heavily discounting the bonds—and therefore depriving the people of even more money per capita—there was nothing to be done.

Even still, confidence was hard to kill. The bad news of June 17<sup>th</sup>—that had been no bids—carried a hopeful caveat. The delegation added that negotiation was underway with a party who “we believe, in the near future, will give a satisfactory price for the [bonds].”<sup>1628</sup> “Nothing seemed to come of that, but the moment the delegates returned from Washington (completely empty-handed), a different bidder invited them to Chicago. The delegates rushed to Chicago, and once the negotiations advanced, they hurried back to Tahlequah, retrieved the principal chief, and rushed back to Chicago. *The Cherokee Advocate* shared the news triumphantly and added that “the present gold stringency, in the United States, has become a little stringent’ and the Cherokee bonds are now as good as sold... No doubt by our next issue the trade will be completed.”<sup>1629</sup> On July 8<sup>th</sup>, *The Advocate* reported that “the great financial scare is over with.”<sup>1630</sup> Surely this time the bonds would be sold.

---

<sup>1623</sup> CA, June 3, 1893.

<sup>1624</sup> CA, June 10, 1893.

<sup>1625</sup> CA, June 3, 1893.

<sup>1626</sup> CA, June 3, 1893.

<sup>1627</sup> CA, June 17, 1893.

<sup>1628</sup> CA, June 17, 1893.

<sup>1629</sup> CA, July 1, 1893.

<sup>1630</sup> CA, July 8, 1893.

They were not. After failing in Chicago, the delegation raced to St. Louis for another last-ditch effort. This also failed while a vague, separate attempt with “London capitalists” looked “gloomy.”<sup>1631</sup> On July 17<sup>th</sup>, for the second time in one summer, the chief returned to Tahlequah empty-handed. He was welcomed with the headline: “The Delegates Home, They Effect no Sale—Rumor Says no Council.” They “report everything as uncertain,” wrote *The Advocate* paraphrasing the delegation. “They thought they would succeed, but from the sudden calling of Congress [for an emergency session] and the action concerning the silver question, they did not receive any bids they could accept. One other drawback in the sale was the bonds not being payable in gold,” and so altogether “the par value for the bonds [was] doubtful unless the money market [relaxed].”<sup>1632</sup> Worse still, the delegation commented that there was no need for the chief to call his own special session: ‘it would not make matters better in any way whatever.’<sup>1633</sup> In other words, widespread depression in the United States and a general shortage of cash was nothing the “little nation” could affect. The Chief “[expressed] his sympathy for the merchants and the people and [said] that they [had] done all that could be done...”<sup>1634</sup> Even still, the money wasn’t coming.

Frustration boiled over. *The Cherokee Advocate* talked of merchants charging “war prices for goods.”<sup>1635</sup> Adair condemned “those persons...[which] are now, for political purposes, censuring the Cherokee Delegates.” They were “ridiculous in the eyes of men who have taken the trouble...to keep track of the money traffic.”<sup>1636</sup> A farmer from Grove wrote: “Our merchants look rather sickly over the failure of the Delegation to sell the Strip bonds.”<sup>1637</sup> He also complained of the plummeting food prices: “Wheat is worth 43 cents at Seneca...‘haul you wheat over to the railroad and give it away.’”<sup>1638</sup> Cherokees spoke of “many farmers in California [being] compelled to let their wheat crops waste in the field for lack of means to have them harvested. The merchants, who always supplied the farmers sufficient means to secure their crops, on account of the money stringency, were unable to do so this season.”<sup>1639</sup> While reading this, local farmers undoubtedly thought of their own crops and their own merchants—who on August 3<sup>rd</sup> met in Wagoner “to discuss the all absorbing question, [of] how many can be got on the Strip Bonds.”<sup>1640</sup> Together, the country’s merchants were starting to flex their political muscle.

The August meeting was deeply influential. The merchants drafted a petition for the chief, informing him that they had been led to believe that the bonds could be sold quickly and at a premium. They had been led to believe that the executive branch had already received good offers, and because of these beliefs, they had gone ahead and sold several hundred thousand dollars’ worth of goods on credit. In other words, they argued that the government’s misrepresentation of its progress was the reason they were so overextended. They blamed the principal chief.<sup>1641</sup>

---

<sup>1631</sup> CA, July 22, 1893.

<sup>1632</sup> CA, July 22, 1893.

<sup>1633</sup> CA, July 22, 1893.

<sup>1634</sup> CA, July 22, 1893.

<sup>1635</sup> CA, August 12, 1893.

<sup>1636</sup> CA, July 15, 1893.

<sup>1637</sup> CA, August 5, 1893.

<sup>1638</sup> CA, August 5, 1893.

<sup>1639</sup> CA, August 5, 1893.

<sup>1640</sup> CA, August 5, 1893.

<sup>1641</sup> CA, September 9, 1893.

A few days later, on August 7<sup>th</sup>, 1,200 Cherokees attached their name to a petition urging Chief Harris to call a special session “as will relieve us of our financial distress which was brought about by the failure of the Cherokee Nation, through its representatives, to negotiate the bonds.”<sup>1642</sup> (*The Cherokee Telephone* claimed that 2,400 people signed the petition).<sup>1643</sup> The petition was embarrassing for Harris on a number of fronts. On the one hand, he had been the highest-ranking member of the delegation now accused of failure. On the other hand, these petitioners were asking him to do something which he had already promised not to do. He was trapped.

Politically, the timing of these events was disastrous for C. J. Harris. The second petition circulated on the same day as the midterm elections, meaning Harris would not be able to respond in time. The National Party, which had lost control of both chambers in the 1891 election, bounced back to win a whopping fourteen out of eighteen seats in the senate—a supermajority consisting of over three quarters of the chamber.<sup>1644</sup> Only one district, Canadian, “went as usual” in electing two senators from the Downing Party; the other districts that usually went Downing had dramatically underperformed (Canadian was a stronghold for Southern Cherokees and after the Civil War had nearly become the “Southern Cherokee Nation”). In the lower house, the National’s victory was less emphatic, but deeply consequential, nonetheless. The party won twenty six out of forty seats in that chamber, regaining the majority.<sup>1645</sup> The National Party now could and would pass legislation over Harris’ veto. Harris had been swept—punished for his failure to deliver the per capita money. A deeply hostile National Council would come into power. The new *Cherokee Advocate* editor would be selected by the National Party, and for all intents and purposes, Harris’ fate as a one-term chief was assured. Lesser men would replace him.

It was no wonder that he was the subject of so much ire. He had quite literally promised to do nothing. He in fact warned the people that doing anything was dangerous. Doing something risked devaluing the bonds on the market. Every protest, every proposal to “hurry things along,” every sign of desperation carried the potential to encourage “moneyed men” to withhold their offers. It was a logical stance—and easily defensible more than a century after that fact—but it was a losing stance in politics. The hostile National Party took control of both chambers of the National Council. This would prove deeply consequential to the longer arc of Cherokee politics.

Nearly a month after the election, Harris finally responded. “I am constrained to say,” he wrote, “with sincere sympathy and respect, that I fail to see wherein the interest of a majority of the people will be better subserved by convening the National Council in extraordinary session...” The law for disposing of the bonds had already been passed, and since its passage the delegation had worked “assiduously” to find a buyer. The problem was, according to Harris, the “almost unprecedented distress of the moneyed world,” he added, and “the Council, if convened, could not possibly relieve this.” A far more powerful body, the United States Congress, would legislate on the matter and improve the situation. If they instead failed, “it [was] more than useless for our Council to attempt any relief.”<sup>1646</sup> He was acknowledging the vast difference in power between the United States and the Cherokee Nation, and no one could argue with that.

---

<sup>1642</sup> CA, September 9, 1893.

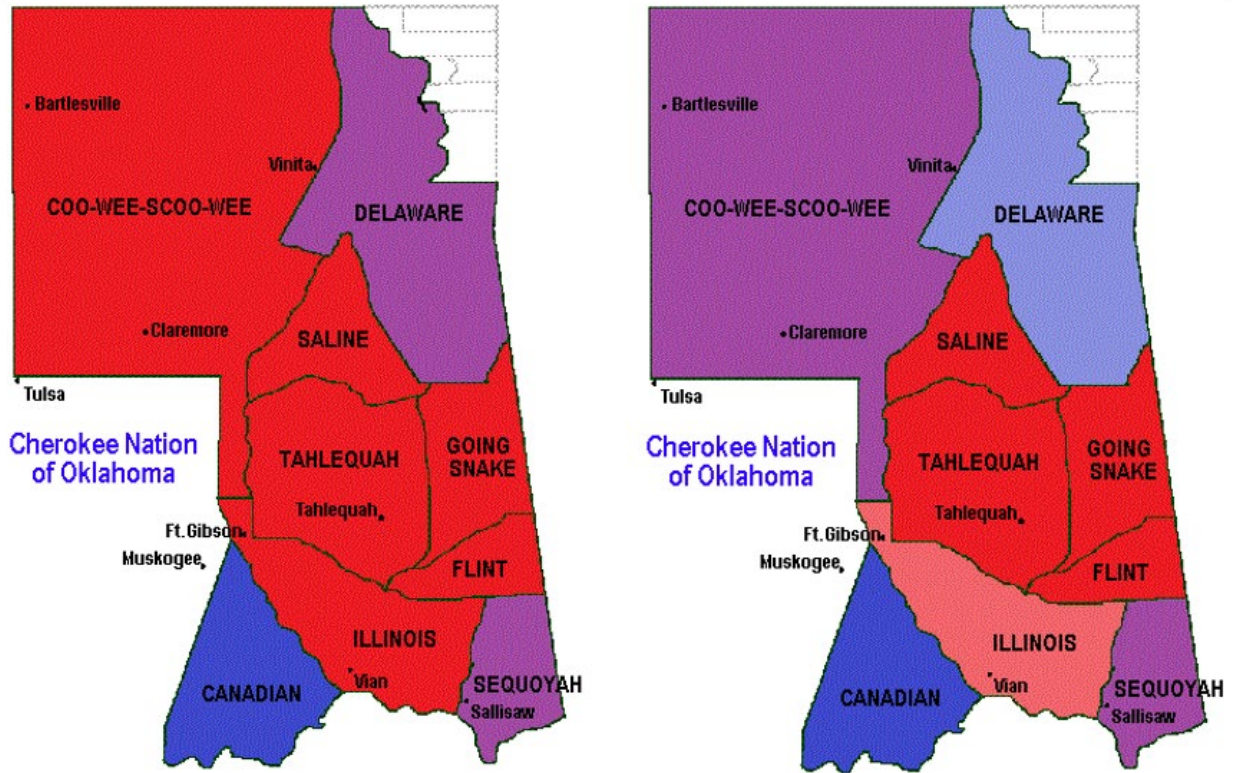
<sup>1643</sup> *Cherokee Telephone*, September 2, 1893.

<sup>1644</sup> CA, August 12, 1893.

<sup>1645</sup> CA, August 12, 1893.

<sup>1646</sup> CA, September 9, 1893.





**Figure 9.1:** The results of the 1893 midterm elections. The map on the left shows us the Senate results; the map on the right shows that of the Council branch. Red represents the National Party; Blue represents the Downing Party. Purple is used to show split districts (for example, Delaware had one Downing senator, one National). For the map of the Council branch, solid colors mean that the party swept the district, while lighter shades mean that they won a majority of seats without sweeping all of them. These map shows that the Downings suffered a terrible defeat. The Senate would have a supermajority of Nationals, while the situation in the Council branch was only marginally better.

In his mind, the only possible alternative was to put the bonds on the market before the money stringency relaxed, causing “much loss in the value of the bonds.” This loss would “be sustained by the people” whose per capita payments would be reduced significantly. He framed a struggle between decisive inaction (his chosen course) and suffering “a greater discount” than had already been offered. The financial panic in the United States was certainly unfortunate and “unforeseen,” but it was the merchants who had “risked their goods on credit to the people,” and he seriously doubted that relieving them was good policy. Harris yet again promised not to call an extra session, and insisted that the country wait patiently. The National Council would convene in its regular session “only two months from the present date.”<sup>1647</sup> He simply would not budge.

Harris’ defenders were less diplomatic. The liberal Walter Adair Duncan—who had previously launched a futile effort to unseat Mayes in 1891—was suddenly Harris’ most outspoken supporter.<sup>1648</sup> “As to the Strip matter,” he wrote, “I was opposed to selling the land at all. But when it was sold, I was opposed to any changes in the agreement under which the sale was made. And since those changes are made, and the money has been hung up under the act of Congress, I am opposed to sacrificing that money for any purpose whatever.”<sup>1649</sup>

He thought the cries for money were pathetic. The country was “scarcely ever loaded with more exuberant crops,” he exclaimed. To “cry out for bread money” every few years was “not creditable to the Cherokee name.” No, “not even the Siminoles,” he added, were so “disfavored by misfortune” as to require constant disbursements of government revenue. It was a rough swipe at his own people, who often “boasted of being the grandest people in the world,” and it was one that was intended to compare them unfavorably to a supposedly “lesser” tribe, the Seminoles.

Duncan also pointed out that the foreigners in the country seemed to be doing just fine. Among them, “there [was] no complaint of ‘destitution and misery,’ and more foreigners were “moving into the nation every day because they find more abundance here than anywhere else.” They were already “doing almost all the manual labor of the country and [were] living with the profusion of nabobs.”<sup>1650</sup> If their white workers and tenants were thriving, then how could Cherokees lay claim to misery and destitution?

Like many other contemporary liberals, Duncan refused to believe that his neighbors were struggling. And anyways, *he* had “not traded in the prospect of the strip money,” so he did not feel “any ‘distress’ in the matter.”<sup>1651</sup> Nor did he believe that “ninety-nine of every hundred” Cherokees wanted an extra session and a discount on the bonds, and if they did, he deeply resented the possibility that he should “sacrifice [his] claim against the Government to help [the merchants] out.”<sup>1652</sup> “Capital,” he wrote, should sacrifice for the people, and not the other way around.<sup>1653</sup> A bailout for the merchants was morally repugnant when it was the school fund that needed money.

---

<sup>1647</sup> CA, September 9, 1893.

<sup>1648</sup> In 1891, Dennis Bushyhead and Walter Adair Duncan launched a new third party, the “Liberal Party,” which attempted to unseat Joel B. Mayes. The attempt failed terrifically despite Bushyhead’s popularity as chief in the 1880s.

<sup>1649</sup> CA, September 23, 1893.

<sup>1650</sup> CA, September 23, 1893.

<sup>1651</sup> CA, October 31, 1893.

<sup>1652</sup> CA, September 23, 1893.

<sup>1653</sup> CA, October 31, 1893.

Duncan's broader political views are important to understand; not simply because he was a national figure, but because the school of thought to which he subscribed had fallen deeply out of favor. He was an ardent nationalist, just like most Cherokees, but he supported liberal reforms that had little to no traction. He supported an expansive system of taxation, increasing government expenditures, and turning away from the libertarianism which had gripped an overwhelming majority of Cherokee voters.<sup>1654</sup> While others called for cuts to government spending and a complete disbursement of the Strip money, Duncan urged for a portion of the Strip money to be set aside for the school fund. The now common reflex to keep money in private hands was "beating the Nation out of a little money here and a little money there," but Duncan insisted that in the long run "we are really beating the Nation out of its very existence."<sup>1655</sup>

Duncan acknowledged the ground had shifted beneath his feet. As a young man, he had served as a secretary to Chief John Ross before the Civil War, and up until his death he would fight denationalization in Washington. Before the Civil War and immediately afterward, Cherokees rejected per capita disbursements as drains on national spending.<sup>1656</sup> Decades later, after the National Party's liberal reforms and the Downing Party's libertarian policies, the political landscape was unrecognizable. Duncan wrote:

"It was [even] provided in the treaty of '66, that a portion of all monies received on the sale of lands should be set aside for school purposes. The National Platform provides that the school fund shall be replenished out of the Strip money. And yet, in the Strip business the educational interests have been entirely overlooked. In fact, I have met no one who is willing that any of the Strip money shall be applied to the benefit of the schools. All seem to stand on the Downing platform, so far as that money is concerned, which provides that 'every dollar' of it shall be distributed among the people."<sup>1657</sup>

There was bipartisanship agreement on the Strip money, but it was a bipartisanship which brazenly ignored the nation's finances and the needs of its schools. On the eve of denationalization, the Nationals had smartly decided to outmaneuver the Downings and adopt their own brand of libertarianism. The problem with this, however, was that with both political parties racing to "beat the nation out of a little money here and a little money there," they were also undermining their government's ability to resist denationalization. In the 1890s, Cherokee nationalism and libertarianism coexisted, but they did so dysfunctionally.

Meanwhile, the Strip money tore wide rifts within Cherokee society. The poor could not believe Duncan's claims that they were not struggling. One anonymous contributor wrote:

"How can he close his eyes to the destitution and misery around him and say that no harm can come if [there is a] delay, is something that surpasses my comprehension... Why within the last two days I have seen corn offered for sale on the streets of this town at fifteen cents

---

<sup>1654</sup> CA, August 26, 1893.

<sup>1655</sup> CA, August 26, 1893.

<sup>1656</sup> Cherokee delegation to Andrew Johnson, July 13, 1866, *Cherokee Nation Papers*, Roll 5, Box 17, Folder 472. Western History Collections, University of Oklahoma, Norman.

<sup>1657</sup> CA, September 9, 1893.

a bushel and no buyers, simply because there is no money to buy with. The merchants who are straining every nerve to aid people, do no take in enough cash to pay their freight.”<sup>1658</sup>

According to this writer, it was easy for the fortunate men of the Nation—the Dartmouth graduate Walter Adair Duncan, the salaried principal chief—to put on a brave face and urge patience. The poor Cherokees were not so lucky. For them, money had disappeared from sight, to the point that “one dollar in cash today... will contribute more to the welfare of its possessor than two in ordinary times.” The “great mass of deserving” Cherokees demanded their pay, and this was the desire “not only of the merchants, *speculators* and professional men of this nation but of nine tenths of the people.”<sup>1659</sup> In this way, the poor undoubtedly helped to drive the resistance to Harris’ inaction.

Others blamed the poor. T.S. Remsen ridiculed the merchants and the 1,200 Cherokees who had signed the petition for an emergency session of the National Council. “Our chief is not a manipulator of the weather,” he wrote, “His is not by Law authorized to regulate our Trade.” Those who had recklessly “run in debts for goods that were not an absolute necessity” and were “to lazy to work” now turned against the chief “because rockes are not converted into bread, by *petitions*.” Remsen, like Duncan, resented the notion that he could receive less money at the Strip payment on account of another’s “laziness” or recklessness. Unlike Duncan, however, he had nothing to say about saving money for the government and its schools—that was Duncan’s fight alone.

Even *The Cherokee Advocate* contributed to the culture of distrust. In one small but notable example, the state-run newspaper went so far as to encourage suspicion of the merchants. H.M. Adair, the Downing Party editor, warned his readers: “We are informed that some of the merchants have already taken mortgages on the *homes* of some of our people. They do not want their homes now—but are willing to abide the time and wait until the land passes into the hands of the citizens. Look out! Look out!”<sup>1660</sup> In another case—with a greater impact—readers who were angry with Harris’ handling of the bonds complained that Adair had been too friendly toward the Harris administration, and too hostile toward the merchants’ criticisms and suggestions for an extra session. Their complaint had merit, and technically, Adair’s actions violated the law (as the editor of *The Cherokee Advocate* was bound to neutrality). Therefore, on September 16<sup>th</sup> of 1893, after facing “a lot of criticism,” Adair proceeded to share “what we conceive, or have understood, to be the principal reasons why a special session would have been advisable.”<sup>1661</sup> The whole thing seemed to be very half-hearted, and it is likely that the National Party was looking forward to replacing Adair after their majority was finally sworn in.

The hardest question plaguing society, however, was that of who exactly counted as a Cherokee citizen. The question was not new—in fact, it was as old as the republic itself—but the stakes were higher than ever. Thousands of dollars *per family* could potentially be gained or lost from recognition, and each of these families were experiencing the economic downturn in one way or another. Adopted whites, Shawnees, Delawares, Black Cherokees, North Carolina Cherokees, and even those returning from what Gregory Smithers has called “the Cherokee diaspora,” all occupied a precarious position within Cherokee society. With every economic incentive to discriminate, “blood bills” regained their popularity, while the resistance to them grew fierce.

---

<sup>1658</sup> CA, September 16, 1893.

<sup>1659</sup> CA, September 16, 1893.

<sup>1660</sup> CA, June 10, 1893.

<sup>1661</sup> CA, September 16, 1893.

To his credit, C.J. Harris was an impressive leader in this regard. He—like most leaders of the Downing Party after 1883—came from a family of ex-Confederates.<sup>1662</sup> The Southern Cherokees dominated his party, the myth-making of the “Lost Cause” was more popular than ever, and many explicitly aligned the Downings with the Democratic Party of the United States.<sup>1663</sup> Nothing in his background suggested that he would turn against racial discrimination, but this he did in a special message to the National Council. He urged for “all the citizens of the Cherokee Nation alike” to be paid an equal share. His reasoning was legalistic and pragmatic, more than moralistic. He felt that treating each citizen equally could head off the litigation winding its way through the courts; he believed that “their equal rights” were already assured under the constitution and laws of the Cherokee Nation as well as the postwar treaties; and finally, the specter of denationalization could not be ignored. “At this stage of our national existence,” he wrote, the country needed “the united and patriotic effort of every citizen of the Cherokee Nation.”<sup>1664</sup>

In other words, Harris believed that creating a unified multiracial body-politic—arguably for the first time in the nation’s history—would be necessary to prevent denationalization. This was logical and harkened back to Bushyhead’s suggestions that schools be built for the children of permit workers (to secure their loyalty). Members of both the Nationals and the Downings, however, disagreed, and preferred to elevate Cherokees “by blood”—even if the consequences for the nation were great. Harris, again, proved headstrong and thoughtful, but he was incapable of swaying a government intent on making all the wrong choices. He failed to prevent racial discrimination at the Strip payment, and a unified body-politic would never emerge.

In the months leading up to the Strip payment, the disenfranchised segments of the population organized against their treatment. In May of 1893, adopted white citizens organized a meeting and elected an executive committee. Speeches were then given by three prominent

---

<sup>1662</sup> Harris actually helps us build on the idea of a sustaining notion of “Southern Cherokees.” Harris himself had been too young to fight in the war; he was not even five years old when the Civil War began. However, his father William Harris did fight with Stand Watie, and the younger C.J. Harris started his political career in the Canadian District—the most solidly Downing district in the country due to its history. Canadian District was the semi-autonomous district set aside for Southern Cherokees in the Treaty of 1866. Emmett Starr, *History of the Cherokee Indians*, 143-153.

<sup>1663</sup> By the 1880s, Cherokees increasingly framed the Downing Party and the Democratic Party of the United States as ideological matches (given Southern Cherokees’ leadership over the new Downing Party that made sense). Margaret Fletcher wrote in her diary, “My dad was a Downing, same as the Democrats.” Robert L. Owen, a Southern Cherokee and future U.S. senator wrote in 1892: “The Cherokee people are largely democrats...democrats from principles and from the deep convictions of the heart. Men who hate the tariff tax that robs their labor and the force bill that threatens their liberties and lives with a race war.” Owen wrote this during a period of Downing Party dominance. Many Downing politicians (such as William C. Rogers) were openly Democrats, while many National Party members (such as William P. Boudinot) were openly Republicans. A great many Cherokees went straight from being Downing Party supporters to Democrats at the moment of denationalization, and this was the case in my family as well (Harvey Shelton of the introduction was a Downing Party organizer and then a staunch democrat). His mother had called herself “a very good democrat” while living in Texas (though of course she could not vote). In 1905, *The Vinita Republican* explained that “a majority of the members of the Downing party are Democrats” while “the Nationals at their last general convention changed the name of their party to the Republican Party.” The overlap between the blue Downing Party and the blue Democratic Party was widely acknowledged. Diary of Margaret Catherine Fletcher, 1879-1914, Margaret Catherine Fletcher Collection, Western History Collection, Oklahoma University, Norman, OK; Letter of R. L. Owens to C. J. Harris published in *The Purcell Register*, September 23, 1892, C. Johnson Collection, Box H-55, Folder 7, Western History Collection, Oklahoma University, Norman, OK; Editorial on William Charles Rogers in the *Vinita Republican*, June 9, 1905, William Charles Rogers Collection, Box 2, Folder 67, Western History Collection, Oklahoma University, Norman, OK.

<sup>1664</sup> CA, April 18, 1894.

Cherokees—Dennis Bushyhead, Gideon Morgan, and Ridge Paschal. None of the speakers were adopted whites, which spoke to how the citizens’ association sought to inoculate itself *within* the Cherokee social and political world. They agreed to meet in a week—if not weekly—to begin assessing the needs of their community.<sup>1665</sup> Surely one of their top priorities as an organization was the fact that adopted whites were barred from collecting per capita payments.

The meeting did not go unnoticed; and interestingly, it was another white citizen who first took issue with the development. A contributor going by “Clod Hopper” dubbed the organizing “an agitation”—spurred mainly by “the desire of the adopted white citizens to participate in the division of the moneys due the Cherokees.” “Clod Hopper” did not mince words:

“There is a class of people in any country, that can never be satisfied...they are eternally whining and complaining about being slighted, neglected and having their rights trampled on. The majority of the adopted white citizens have treated this matter with silent contempt...[but] I feel safe in saying that at least three-fourths of the adopted white citizens have no desire to be recognized in this matter, unless it should be by a free, voluntary act of the Cherokees by blood...I never furnished an acre of an inch, of the Cherokee land; and that I do not hold any claim against the same, or against the proceeds of the sale thereof.”<sup>1666</sup>

“Clod Hopper” was a fascinating case. From his perspective, the adopted whites had no claim to the Outlet money, because the exchange of eastern lands for western lands during Indian Removal predated them. They were citizens, and even part of the metaphorical “family,” but he already felt that “the Cherokee laws give us all the privilege that we could reasonably ask for,” including unfettered access to communal land. Furthermore, he claimed that the majority of adopted whites were with him— “at least three-fourths” of them. It is, of course, impossible to trust that estimate in a nation with thousands of adopted whites, but his best guess was significant, nonetheless. There must have been no small number of white citizens who agreed with him.

The article kicked off a debate which lasted through the summer. D.W. Smith of Tahlequah responded, beginning with the accusation that “Clod Hopper” was not an adopted white citizen at all, as “the gist of my friend’s words tend to make him look ridiculous in the eyes of the people whom he pretends to represent.” Clod-Hopper may have likened adopted citizens to the “Cherokee Nation’s son-in-laws” but “we, as men,” Smith wrote, “call ourselves citizens of the Cherokee Nation under the law.” Any law that treated Cherokee citizens differently based on race was “unconstitutional and void.” Smith challenged Clod-Hopper to tell what a citizen was: “What is a citizen? Is a man a citizen in a country where he has not equal rights and privileges with other citizens of that country? Is it possible for a man to be a part citizen in any country?”<sup>1667</sup>

It was perhaps the wrong century to ask such a question. When Clod-Hopper responded in July, he had a simple answer for Smith—one which was doubly meaningful as both of them were white immigrants from the United States:

---

<sup>1665</sup> CA, June 3, 1893.

<sup>1666</sup> CA, June 17, 1893.

<sup>1667</sup> CA, June 24, 1893.

“The gentleman will not have to go beyond the limits of the United States to find thousands and thousands of these ‘part citizens’ who have not even political rights, much less the right to demand and receive other people’s property, without consent of the owner [the property being communal land]. [In the United States] thousands are denied even the principal and distinguishing right of a citizen—the right to vote. With us, it is different. We are ‘full-fledged’ Cherokee citizens, except that we have not the right to hold the office of Principal Chief.”<sup>1668</sup>

In other words, adopted white citizens had far more rights in the Cherokee Nation than Black Americans in the South. Adopted whites had access to the national communal lands, they could (and did) vote in elections, and they could (and did) hold political office. The Strip money, Clod-Hopper argued, was communal property, but it was the communal property of the Cherokees “by blood”—those who had signed the Treaty of New Echota which transferred the Outlet to them. Some adopted whites, Clod-Hopper added, were too quickly to begin “talking about ‘we Indians’ and ‘our country’ and cursing white men...[he tries] to be a full-blood, but he makes a poor imitation.” These same men were doing the “loudest ‘howling’ about ‘their money.’”<sup>1669</sup>

As Smith, Clod-Hopper, and other white men feuded over what their citizenship included, a Cherokee woman in Russell Creek insisted that her voice be heard as well: “It hasn’t been common this far in Cherokee politics for women to speak, but as the questions of the day concern us as much as another class of citizens, I think it is our time to speak.” She supported sharing the Strip money with adopted Delawares and Shawnees, but she was opposed to including the adopted whites and Black Cherokees. Her reasoning was as follows:

“We who are native born Cherokees have always been taught, and fully believed, that this is our land, our country, left for us by our ancestors—not withstanding the clamor of the colored and white people who have been permitted live among us and enjoy with us our good things. Of course the Delawares and Shawnees bought a right here by paying money into our Treasury, but where is the justice to our full-blood Cherokees to take a part of their money and land and give it to the adopted white and the colored citizen? That is perfect robbery.”<sup>1670</sup>

Therefore “A Cherokee” made a distinction between Shawnees and Delawares (who had paid money in separate treaties for Cherokee citizenship) and those who gained citizenship through either marriage (mostly adopted whites) and the Treaty of 1866 (which had unconditionally granted Black Cherokees citizenship). These latter groups had not paid for the communal property that was now being sold, she argued.

She thought all this even though she herself was married to an adopted white citizen. Perhaps thinking of her husband she wrote, “a great number [of adopted whites] came here landless, homeless, ignorant, and wicked...they married for the sake of a ‘right’ and the opportunity it gave them to make money.” They had already built fortunes thanks to their marriages with Cherokee women (such as herself), so it was unjust to give them the Strip money as well. She certainly did not want to “kick them out,” but she also felt that to give them the money would encourage

---

<sup>1668</sup> CA, July 15, 1893.

<sup>1669</sup> CA, July 15, 1893.

<sup>1670</sup> CA, June 3, 1893.

thousands of more white Americans to flood into their borders and take over the country. Soon the Indian would be kicked out by adopted whites, she predicted: “I know it, for I have heard them talk speak of the full-bloods with contempt, and that the most of them care for, is the money.”

Her hatred of coverture essentially colored her view of the Strip money. A Cherokee woman who married a white man “works hard and faithfully for twenty-five years—helping in every way possible...to make a home and accumulate property.” In the end, however, it all belonged to him. She had no right to sell a few bushels of grain to have money of her own. She was required to have his consent before purchasing something. It was almost as if “she were a beggar or a dependent on his bounty.” The entire thing was “humiliating” for her, as everything she worked to build in the Cherokee Nation—on communal land—belonged to him, a white immigrant man. The stance was unusual in one important regard: in advocating against a payment to adopted whites, she was advocating against an additional \$300 toward her own family. Her motives were therefore not driven by economic gain, but rather by early feminism and xenophobia.

The case of the Delawares, Shawnees, and freedmen was different. Their status was more secure than that of the adopted whites (who lost their citizenship if they remarried a foreigner). When per capita disbursements took off during the 1880s, these three groups of Cherokees organized forcefully against the “blood bills.” The discrimination they faced—and the lack of relief they found at home—forced them to seek relief in Washington with their own delegations. They succeeded, for example, in forcing the Cherokee Nation to compensate them in 1891, but the rights of these citizens to Cherokee money had yet to be adjudicated.<sup>1671</sup>

As Cherokees struggled over whether to end the practice of “blood bills,” Walter Adair Duncan, stepped into to provide racial discrimination with an air of intellectual legitimacy. In an essay entitled “Monopoly,” Duncan accused the Delawares of occupying more than their fair share of the nation’s property. No country in the world, he argued, included the promise of property ownership, and when the Delawares had become Cherokee citizens, they had only purchased 160 acres apiece. Somewhat chillingly, he added: “They can legally occupy and use only this much; all beyond this would be monopoly, if not intrusion.”<sup>1672</sup> Duncan was not simply arguing that the Delawares had no right to the Outlet lands. He was arguing they had no right to the communal lands beyond the acres they had originally purchased.

It was an inflammatory argument, which further brought into question the rights of the Delawares. If occupying more than 160 acres a piece was “intrusion,” could the government evict Delaware-Cherokees from their farms? If Delawares had originally failed to pay “the same proportion of the entire value of all the lands of the nation,” did that mean that the government should tax them differently from other citizens? Duncan was promoting the idea that the only true owners of the soil were “Native-born Cherokees”—whose ownership of the land extended far back into a precolonial history—before the republic, before its constitution, and before the very concept of citizenship. He was articulating a strange kind of Indigenous nativism against another Indigenous people, which also mirrored the sentiments swirling in the U.S. South (Duncan argued that the Delaware citizen “was not only placed on ‘equal terms’ with native citizens, but he is fixed off far better than the Cherokees themselves”—a thought which eerily resembled the way that

---

<sup>1671</sup> CA, May 20, 1891.

<sup>1672</sup> CA, September 2, 1893.



Southern whites spoke of their Black neighbors). Thus, it was all the more concerning when Duncan urged for the National Council to “take measures to abate the evil of monopoly all over the country.” His idea of “monopoly,” however, included Delaware’s equal rights.<sup>1673</sup>

The final claimants which Cherokees worried about were Cherokees themselves. For all their negative influence on state finance, per capita payments were an effective way to make Cherokees return home. Cherokees only qualified for the money—in this case a life-changing sum of money—if they were citizens, and Cherokee law dictated that Cherokees living abroad were not citizens (though they could reapply each time they returned). When news of another major payout was circulated across the United States—this one the biggest yet—Cherokees living in other places flocked back home (or in the case of North Carolina Cherokees, *away* from home) and reapplied for citizenship. What is more: they had no idea when the actual payment was going to take place. Their return was indefinite.

On November 18<sup>th</sup>, *The Cherokee Advocate* reported that “Eleven hundred petitions to citizenship” had been received by the National Council. The petitioners had come “from nearly every State in the Union.” The Cherokees, Butler added, “must have been badly scattered at one time.”<sup>1674</sup> The diaspora was coming home for the Strip payment, and some would likely stay.

Predictably, the Cherokees who had stayed in the nation felt aggrieved. “Many claims have been introduced for readmission,” Butler explained, but “Just how many frauds are on the to watch them!”<sup>1675</sup> A week later *The Cherokee Advocate* added that the National Council had received more applicants for Cherokee citizenship than ever before. “They say,” Butler added critically, “that it has *always* been their desire to return and live among *their* people and that the prospective Strip money is a *secondary* consideration.” With a hint of disbelief, he then added: “Of course it is.”

It was left unclear if Butler was questioning their status or motives as Cherokees, but in many ways, it did not matter—these were related fears. In a growing state of paranoia, Cherokees worried that white Americans would successfully cheat their way into citizenship, pretending to be long-lost kin. At the same time, they resented Cherokees who had been living abroad for years, who—in their minds—were about to take advantage of the “real Cherokees” they left behind. For this reason, all the applicants for readmission were treated with distrust at best and disdain at worst.

When there were delays with processing citizenship claims, allowing temporary residency to the claimants, the national editor made public his frustration:

“The citizenship evil continues without abatement, claims for recognition as Cherokees by blood are pouring in like ‘leaves in Vallombrosa.’ Sand-hoppers from Georgia, Goober grabbers from North Carolina, Flint-heeled bear hunters from Arkansas, and crackers from everywhere are all over the Capital boasting of their Indian blood, and indulging in the reminiscences of the Indian freaks of their ancestors—Pocahontas, King Phillip, Cornplanter, Red Jacket, and Buffalo Bill.”<sup>1676</sup>

---

<sup>1673</sup> CA, September 2, 1893.

<sup>1674</sup> CA, November 18, 1893.

<sup>1675</sup> CA, November 18, 1893.

<sup>1676</sup> CA, December 2, 1893.

In short, the mere presence of these claimants (who would today be called “Pretendians”) was offensive. They were, in the eyes of the editor, the lowest grade of the most backward states in the South, comparable even to pests. None of them had a drop of Indian blood, the editor exclaimed, but because of the “apathy” of the National Council, they were allowed to stay as they awaited adjudication. The editor suggested that instead, “these swagger poltroons should be kicked, and kicked awful hard, over the line...back [to] where they came from, White river county, Arkansas, and Bumcum county, North Carolina, whose population does not know that the war is ended.”<sup>1677</sup> Needless to say, the Cherokees did not just despise these white claimants, and they did not just want them deported immediately. They also considered themselves superior to them in every way.

It was not all doom and gloom, though. A twisted humor emerged from the debacle of the Strip money, and the punchline was always the same (that the Cherokee world—life and death—now revolved around the expectation of money). When Mr. and Mrs. Dave Trainer had a baby, *The Cherokee Advocate* announced the news by remarking: “No wonder Dave looks so pleasant. No wonder [he’s] whooping up the strip payment, now hurrah for Dave.”<sup>1678</sup> In another story—which was at least presented as real news—one Mr. Foreman shot and killed an unnamed man at a dance in Muldrow. When the victim’s body was discovered the next day, “the question was asked. Who would get his ‘Strip money?’ Foreman said, ‘By — I will, because I killed him.’”<sup>1679</sup> A third and final example doubled as a jab at the increasingly unpopular chief. When C.J. Harris had a newborn daughter amidst the Strip money debacle, he hurried to the national editor to share the news. The editor shared that as the chief approached with “a bright smile, like sunshine played over his countenance,” everyone who saw him “felt happy also, for they felt sure the Strip bonds had been placed and he had just received the good news.” The people then asked him what the news was, and he replied: “It’s another girl.”<sup>1680</sup> The joke was that this was not good news.

The smiles surely faded after the National Council reconvened in November. The session started as usual, with the Chief’s Annual Message to the legislators. This year, however, the ex-treasurer chief painted a very bleak picture. Decades before, the Cherokees had run their government with “a few thousands of dollars. Since then—like a family—the population had grown and so had its expenses. The nation’s annual revenue was now “largely insufficient” to meet the expenses of government. “Our public debt is gradually growing larger and more dangerous to the repose of our institutions,” he warned.<sup>1681</sup>

Harris had already overseen historically drastic austerity measures the year before; he now proposed more. The principal chief wanted—among other things—the creation of a cash-bail system; the end of state-subsidized board for students of the seminaries and the Colored High School; the sale of valuable properties in Fort Gibson (which had recently been acquired from the federal government); and for miscellaneous claims against the government to be scrutinized and investigate. For revenue, Harris speculated that “existing laws may be sufficient for the purpose of revenue,” but that “we may blame of no small amount at the doors of the district clerks” for their

---

<sup>1677</sup> CA, December 9, 1893.

<sup>1678</sup> CA, August 19, 1893.

<sup>1679</sup> CA, July 22, 1893.

<sup>1680</sup> CA, June 24, 1893.

<sup>1681</sup> CA, November 11, 1893.

failure to collect efficiently.<sup>1682</sup> This was almost certainly not true, but the clerks were apparently his chosen scapegoat. As for the bonds, Harris shared that he had nothing new to report.

Despite his liberal tendencies—which was just one way he stuck out from the rest of his party—Harris was no Walter Adair Duncan. If the Cherokees failed to implement austerity, he said, “our Nation will become bankrupt and be forced to adopt a system of taxation.” Therefore, a robust national system of taxation—which Duncan hoped for—was what Harris hoped to avoid entirely. It was becoming increasingly obvious that austerity measures could not adequately offset the cost of expenses—Harris himself admitted that many reforms the Cherokees needed would add even more costs, but he still refused to consider taxation and he never pushed hard against the per capita disbursement. Support for government intervention was truly dead in national politics.

There was another reason Harris was so frustrating to so many: Cherokees had just experienced one last bout of false hope before the year could finish. At the very end of October, Chief Harris had received a telegram from someone named “Chaddick” who offered to buy the bonds. He urged the principal chief to meet him in Wagoner, and continue on with him to Muscogee to discuss the matter.<sup>1683</sup> A week before, “Merchants, Farmers, and everybody [had been] jubilant of the prospects of getting [the] ‘Strip Money,’” and by mid-November, many Cherokees had somehow come to believe that the bonds had already been sold.<sup>1684</sup> In Wagoner, one farmer reported: “The bonds being sold the citizens were out Saturday with their smiling faces for the first Saturday, since the trading on the strip money was stopped.”<sup>1685</sup> Chaddick got closer to buying the bonds than anyone before him (which may explain the confusion), but the false rumors had another effect. Yet again, Chief Harris was the bearer of bad news, as his Annual Message made clear that no sale had been made.

Harris’ special message to the National Council on November 21st was even more frustrating. In an about-face, Harris wanted to give up on selling the bonds:

“The bonds, I fee I assured, cannot be sold without serious loss; at least I now see no prospect of getting even a reasonable sum of the large amount accrued as interest [\$188,870], under any disposition of them to private parties...[We] believed that there would be no difficulty in selling the bonds even at a premium. In this we have been disappointed...”<sup>1686</sup>

Harris seemed to be conceding defeat on the matter, but he also offered a new solution for the bonds. Congress was already on the hook for a large sum of interest because of the five year payment plan it had devised. Meanwhile, Cherokee delegates to Washington had been discussing the matter with “those high in authority” and had come to believe that “if the bonds provided by congress could not be sold at a fair valuation, that congress could be induced to make the appropriation of the amount due to date, thus relieving the United States from the payment of further interests.” The Cherokees would keep a large sum of interest (rather than selling it), the U.S. would save hundreds of thousands of dollars on paying that same interest, and the Strip money

---

<sup>1682</sup> CA, November 11, 1893.

<sup>1683</sup> CA, October 28, 1893.

<sup>1684</sup> CA, October 21, 1893.

<sup>1685</sup> CA, November 18, 1893.

<sup>1686</sup> CA, November 25, 1893.

would become immediately available. Furthermore, the U.S. would be eager to pass the legislation because Cherokee citizens and merchants owed large sums of money in St. Louis, Kansas City, and Fort Smith, “to say nothing of the indirect interest of all the people of the border states in having so large a sum of money in these hard times turned loose in their midst...”<sup>1687</sup> Everyone had something to gain from this change in the approach.

But judging from the reaction of the opposition, the special message was not received well. It was a last-minute change in policy after Harris had refused to call the special session. The chief had failed to sell the bonds, but he had always encouraged the people to be patient and wait for a buyer. He had refused to do anything to make the bonds more attractive (in the form of a discount), all the while insisting that the bonds would be sold on the market eventually. The special message was in many ways an admission of defeat, showcasing the weakness of his government, and exposing the Downing Party to further criticism (nor did it really make sense for the United States to change its policy on the bonds—it would have meant spending millions at the height of the depression for something it had already acquired). Meanwhile, the National Party had just sworn in a supermajority in the Senate and a very strong majority in the Council. They could pass laws over Harris’ vetoes. They could govern without the chief.

On November 25th, the Nationals took matters into their own hands.<sup>1688</sup> The country had clamored for an extra session over the summer, hoping to get some kind of proactive legislation passed to sell the bonds. Harris had refused them and advised patience, but the balance of power had shifted dramatically. Senator G. W. Benge of Tahlequah District introduced Senate Bill No. 9, or “An Act to Secure for the Cherokee Nation a loan upon the contract and obligations of the United States.” The bill called for the election of three financial agents by the National Council (at least two of whom would almost certainly be Nationals), “who shall be authored to represent the National Council of the Cherokee Nation in negotiating said loan and borrowing money on the contract of the United States.”<sup>1689</sup> It was a loan instead of a sale, but it is difficult to see how that helped the matter in any way. There was still a cash shortage in the United States, which made acquiring both sales and loans incredibly difficult for everyone. For that reason, we can see the bill for what it truly was: the National Council passing a law to take control of the bonds.

Chief Harris was of course furious and vetoed the bill. He called the law “a violation of the constitution, which each of you, as well as myself, have taken a solemn oath ‘to observe, conform to, support, and defend.’”<sup>1690</sup> This was because the right to appoint delegates was reserved to the principal chief, and the right to approve these delegates was reserved to the National Council. With good reason, Harris insisted that these “financial agents” were delegates in everything but name: “I would ask you, how you expect to exchange the present contract and securities of the United States...without transacting business with the United States government.”<sup>1691</sup>

The National Council seemed to justify part of the legislation based on a law that the U.S. Congress had recently passed. Harris took special issue with this. “I do not think it will be contended,” he wrote, “that the act of congress, can large and amplify the powers of the National

---

<sup>1687</sup> CA, November 25, 1893.

<sup>1688</sup> CA, January 3, 1894.

<sup>1689</sup> CA, December 2, 1893.

<sup>1690</sup> CA, December 9, 1893.

<sup>1691</sup> CA, December 9, 1893.

Council, and at the same time circumscribe and limit the powers of the Executive department of [our] government.” The fact that the National Party had attempted to gain power from an act of Congress was deeply disturbing to him. Not pulling any punches, Harris added: “The readiness with which you accept, the power, which seem to be conferred on you by Congress to do violence to your constitution, shows—that it will be no difficult matter to destroy your Nationality, whenever one department of your government, can be arrayed against another.”<sup>1692</sup> The Nationals may have simply wanted to take over the sale of the bonds and score cheap political points, but they had suddenly waded into a full-blown constitutional crisis.

The new bill was also “useless,” Harris charged. He failed to see how it altered the economic landscape the Cherokees found themselves in, and he worried that the National Council was already prepared to offer a huge discount to sell the bonds. The interest on the bonds would soon be over \$200,000, he explained, and this “large sum of money” was not to be sacrificed. It belonged “to the people.” Harris urged the National Council to adopt the plan from his special message (aiming to convince Congress to appropriate the money that was owed to save on further interest payments). That plan was comparably unrealistic, but it was not unconstitutional.

The Nationals were undeterred and passed the law over his veto—ignoring his insults, and kickstarting a political drama which escalated into a national embarrassment. The drama highlighted what was becoming increasingly clear since 1890 at the earliest and 1891 at the latest: there was no longer any political party looking after the nation’s finances. The Nationals were finally outmaneuvering the Downings only because they had adopted a far more reckless and libertarian approach to the Strip money than what Harris had proposed. They no longer believed in saving any money for the government and its expansion (as they had since their founding), and they were willing to do whatever was needed to get the people their per capita money. No one was left to advocate for Bushyhead’s rational monetary policies. The Liberal Decade’s political stability and careful economic planning was over. This was, of course, very bad timing.

The race to the bottom extended to other parts of national politics besides the Strip money. Harris had correctly targeted the criminal justice system as a useful place to start cutting costs and had suggested a cash bail system as one way to save the government thousands of dollars per year. The Cherokees still had an extremely impractical system involving the use of “so many guards on our streets” hired to watch over criminal defendants awaiting trial.<sup>1693</sup> This really should have been something Cherokees could address, but the Nationals of the lower house (predominantly traditionalists) successfully blocked a new cash bail law which even the Senate (with its National supermajority) had been able to pass.<sup>1694</sup>

It is difficult to say with complete confidence what their reasoning was, but we can easily guess. According to even the national editor, the Cherokee justice system was colorist. Right before being replaced by the National Party’s nominee, H. M. Adair asked whether “our police” were “going on the plan of favoritism...for, men can get drunk and whoop, curse, swear, and use any kind of obscene language on our streets and yet nothing done.” But “let a poor full blood or, we have seen little boys as they (the Police) may consider not of much consequence [do the

---

<sup>1692</sup> CA, December 9, 1893.

<sup>1693</sup> CA, July 29, 1893.

<sup>1694</sup> CA, December 9, 1893.

same]. . . [and] they are taken the calaboose.”<sup>1695</sup> In other words, the police did not treat full-bloods (or other non-white presenting Cherokees) the same as they treated white Cherokees, and the police obviously showed deference to the wealthy. Cash bail offered to concretize this inequality even further, and it was perhaps for this reason that National Party Senator Washburn proposed amendments to the bill preventing defendants from having to live with convicted prisoners or wear the prison uniform (just because they could not afford bail), and protecting their right to collect bail in the first place (even if it took them time because they were poor). The failure of the cash bail law was a failure of pragmatism and financial planning, but it was likely a victory for equity. Poor traditionalists would not be locked up for alleged crimes simply because they lacked the money for bail; after denationalization, that would certainly not be the case.

Another stunning development was the National Party’s turn against the seminaries. The prestigious male and female seminaries had long since been a source of tension and resentment among full-bloods due to the schools’ cost and the fact that the student population benefiting was overwhelmingly white, mixed-blood, and wealthier than the rest (it was perhaps even equitable, then, for Harris to suggest that the government stop subsidizing board fees for these students). But at the new legislative session, the National Party did something remarkable. Citing “economy,” the Nationals abolished the Medical Superintendent of the seminaries. They did this even though the seminaries were more crowded than ever, causing many students to become ill throughout the fall semester.<sup>1696</sup> In a turning of the tables, two Downing senators opposed the bill because “those who had children at the Seminaries, and lived far away from here would be afraid that when their children were taken sick they would not receive proper attention.” The Nationals dismissed the criticism, passed the bill over Harris’ veto, and established a medical superintendent for the Orphan and Insane Asylum (which had relatively more full-bloods than the seminaries).<sup>1697</sup> Suddenly it was the Downings defended government spending, and the Nationals critiquing it.

On December 11th, Chief Harris called for an extra session to finish must-pass legislation. The National Council had yet to pass appropriations for the high schools and primary schools, for the National Prison, for the Insane Asylum, and for the Executive Department. It had also under-appropriated for the expenses of the Cherokee delegation to Washington—an arm of the government with growing importance thanks to the threat of denationalization.<sup>1698</sup> In 1890, the government had struggled greatly over the passage of school appropriations, but by 1893, it struggled to pass the funding for several offices during the regular session. This was due partially to the fact that the National Council was tasked with finalizing the per capita rolls of each district, but it was still a bad sign for lawmakers.

The National Party had seen enough. On Saturday, December 16<sup>th</sup>, the lower house of the National Council voted to impeach C. J. Harris for misdemeanor and malfeasance in office. The

---

<sup>1695</sup> CA, October 28, 1893.

<sup>1696</sup> During the fall semester of 1893, Cherokee seminary student wrote that the school was overcrowded and sickly. There were so many students at the male seminary that boys were forced to sleep on the floor, and several students were without books (CA, September 16, 1893). Other reports throughout this semester described similar stories of over-crowding and sickness—issues that were almost certainly related. As past officials had correctly predicted, the school funds had to be built up fast to keep up with the growing number of students the nation would be serving.

<sup>1697</sup> CA, December 9, 1893.

<sup>1698</sup> C.J. Harris to National Council, December 11, 1893, C. Johnson Harris Collection, Box H-55, Folder 29, Western History Collection, Oklahoma University, Norman, OK.

charges were related to the Strip money and the recently passed law transferring the sale of the bonds to the National Council. Chief Harris—after vetoing the bill for being unconstitutional—had then apparently refused to recognize the law’s legitimacy after its passage.

Harris faced three charges:

“1<sup>st</sup>, That [he]...violated his oath of by willfully refusing to commission the three financial agents as provided by law, and elected by the National Council...

2<sup>nd</sup>., That he paid the salary of the Attorney General for a certain specified time, to W.W. Hastings, instead of R.W. Walker, who was the legal Attorney General of the Cherokee Nation.

3<sup>rd</sup>. That he withheld from R.W. Walker, Attorney General, the salary for that office, in violation of his oath of office.”<sup>1699</sup>

In many ways these charges resembled that of Andrew Johnson’s in the United States. Even to contemporary observers, the charges seemed politically driven. Charles Thompson, for example, had done far more to threaten the balance of power between the branches of government and yet he never faced impeachment. In Thompson’s case, the mere threat of impeachment had convinced the branches of government to find peace.<sup>1700</sup> But by 1893 and in a punishing mood, the lower house did not delay and quickly impeached the principal chief. The vote for his impeachment was overwhelming—22 to 10—meaning that even members of the Downing Party had joined the opposition. Thus, despite his pragmatism and diplomacy, C.J. Harris became the first Cherokee principal chief to be impeached. He would not be the last.

The impeachment trial in the Senate began immediately. The lower house appointed a committee to prosecute the charges while Harris was empowered to employ legal counsel. The charges were read in the Senate by Byrd Jones of the house and of the committee on prosecution, while Senator Robert Ross—the grandson of John Ross—moved for the Senate to begin the trial. All members of the Senate took their oaths, and began discussing the rules for an impeachment in advance—the Cherokees had never impeached a chief, and it would take some time to plan. The President of the Senate, for instance, was under the impression that he would preside, while the other senators served as jury, but observers in the nation were quick to point out that the “whole senate—each members—are to be the Court of Impeachment” according to the constitution.<sup>1701</sup>

We know little about the trial itself, but ultimately, we may not be missing much. The trial was divisive, but there is good reason to think it was a farce. After impeachment charges were introduced, *The Muscogee Phoenix* offered that the move was widely popular, but motivated entirely by the Strip money: “Advices from Claremore, Afton, Chelsea, and other points in the Cherokee Nation indicate that the action of the council is being generally indorsed, as it is generally understood that the chief was the principal obstacle in the way of a sale of the Strip bonds and a

---

<sup>1699</sup> Editorial on C.J. Harris, December 14, 1893, C. Johnson Harris Collection, Box H-55, Folder 31, Western History Collection, Oklahoma University, Norman, OK.

<sup>1700</sup> McLoughlin, *After the Trail of Tears*, 346.

<sup>1701</sup> Proceedings of the Impeachment Trial of Chief C.J. Harris, December 21, 1893, C. Johnson Harris Collection, Box H-55, Folder 35, Western History Collection, Oklahoma University, Norman, OK.

large per capita payment.”<sup>1702</sup> According to the *Muscogee Phoenix*, then, the unfolding drama began and ended with the Strip money. Harris’ crime was in failing to sell the bonds.

A lifeline was extended on December 30<sup>th</sup>. Harris finally received a good offer. R.T. Wilson and Co., the Wall Street bankers and commission merchants, wanted the bonds. Harris—in the middle of his trial—transmitted the telegram to the National Council, “which explains itself.” By January 8<sup>th</sup>, the sale had been approved by both legislative chambers and the chief.<sup>1703</sup> Proving right everyone who said the trial was a farce, the impeachment charges were dropped the very next day in a 19-12 vote. “The whole thing,” wrote the *Muscogee Phoenix*, “seems to have hinged on the bonds, and as a successful sale has been effected, it was in order to withdraw the charges.”<sup>1704</sup>

The response of the national editor is perhaps the best evidence of the impeachment being a farce. George Butler had been appointed by the National supermajority of lawmakers, but even found the entire thing shameful. Remarkably, he said nothing about the trial as it unfolded, and waited until after the charges were dropped to share his thoughts:

“The charges to impeach the PC resulted as we predicted. The lower house withdrew them and when the motion was made in the senate to withdraw them it was unanimously carried. In the first place the charges were ill advised, for the more strife and trouble we stir up among ourselves, the less chance we will have to hold our country. The chief is able and will see that the interest of the Cherokees are taken care of.”<sup>1705</sup>

To Butler, the impeachment had always been a mistake, “trouble we stir up among ourselves,” which threatened the Cherokee on the eve of denationalization. The fact that the Cherokee Senate—unlike the lower house—voted unanimously to withdraw the charges suggests that the Nationals in the Senate were significantly more moderate than their counterparts in the lower house (and this could also explain their difference on the question of cash bail). George Butler’s views on the matter were probably closer to that of the Senate, and he felt that Harris “was able and will see that the interests of the Cherokees are taken care of.” It was a rare moment of bipartisanship.

But some damage had been done. In hindsight, the first Cherokee impeachment was a clear marker of growing internal problems. Harris—like Bushyhead before him—had risen to the chieftaincy after serving as national treasurer. This likely had much to do with how careful and calculating he could be. He was diplomatic, strategic, and bold enough to tell his constituents when they were wrong. He had smart views on economic matters and the question of race, and he was a deeply committed nationalist with a knack for constitutionalism. He was, in other words, the most ideal person to lead the Cherokees during the struggle against denationalization, but his impeachment trial would reduce him to a single term in office.

This also made him the first chief since 1879 to be kept to a single term. Bushyhead and Mayes had both won two terms in office, highlighting the political and economic stability of the

---

<sup>1702</sup> Editorial on the Impeachment Trial of Chief C.J. Harris, December 21, 1893, C. Johnson Harris Collection, Box H-55, Folder 35, Western History Collection, Oklahoma University, Norman, OK.

<sup>1703</sup> CA, January 10, 1894.

<sup>1704</sup> Editorial on the C.J. Harris, January 11, 1894, C. Johnson Harris Collection, Box H-55, Folder 41, Western History Collection, Oklahoma University, Norman, OK.

<sup>1705</sup> CA, January 17, 1894.



Liberal Decade (1879-1890) and the immediate years afterward (1890-1893). Before Thompson (1875-1879), Lewis Downing had also won two terms during a period of impressive unity and moderation (1867-1871). But no chief after Harris would win a second term. C.J. Harris (1892-1895), Samuel Houston Mayes (1895-1899), Thomas Buffington (1899-1903), and William Charles Rogers (1903-1907) would all serve just one term. Something important was breaking within Cherokee national politics.

At the very moment that U.S. citizens were starting to turn on the idea of tribal governments, at the very moment that westerners were calling Indigenous states “farces” and “toy republics,” Cherokee lawmakers had unintentionally handed their enemies a small victory, free of charge. Impeachment, by all appearances, was a farce carried out by a farcical Indian republic. The whole thing had revolved around the petty realization of money. If Cherokees could not find common ground, Butler warned, they risked losing hold of their country altogether. The impeachment of a very capable chief was therefore a troubling indication for how the nation would hold up against the impatient and expansionist United States.

### The Other Commission

In January of 1894, a white adopted citizen of the Choctaw Nation authored an editorial which circulated Indian Territory. His target of criticism was other white immigrants:

“White people from the United states have gone to Hawaii and are doing just as the non-citizens do in this country and like they do in every country to which they go. After they have increased in numbers and get the advantage of the natives, they want to take their government from them and get control themselves. Instead of working for the interest of the people who have extended them the courtesy of residing in their country and trying to uphold a government under which they have lived and thrived, they begin to want to tear it down. It is no wonder that many countries and governments occupied and controlled by races other than the Caucasians are loath to let the white people come among them. Their greed for gain will not permit them to remain long in a country without trying to overthrow the government and break down her institutions. This is done too by an unscrupulous class of aliens who do not hesitate to do most anything and make any kind of representation to carry their point. **It is this way in the Indian country, in Hawaii, and will be so in other countries.**”<sup>1706</sup>

It was a powerful denunciation of white immigrants and their complicity in global imperialism. The editorial was significant not simply because an adopted citizen wrote it, but also because it yet again placed the Indian country, Hawaii, and “other countries” into a single category. The problem in all of these places was not the “settlers” or the “intruders” per se. The problem was that when so many white immigrants flooded into a country (legally or otherwise) they too often began to “take [the] government from [Native people] and get control themselves...” Because of their “greed for gain,” they could not be in a country long “without trying to overthrow the government and break down her institutions.” In other words, both in Indian country and Hawaii and elsewhere, immigration was not the problem, but it was a root cause. The problem was denationalization.

---

<sup>1706</sup> CA, January 10, 1894.

The editorial proved something else. White immigration may have been a common linkage between Hawaii and Indian country, but the decision to “overthrow the government and break down her institutions” was just that—a choice. This particular author was an adopted white citizen condemning these acts. If more of the white immigrants to Hawaii and the Indian country had resisted “their greed for gain” and been more like this particular author, neither country would have been denationalized. Immigration may have been a root cause of denationalization, but it had to be more complex than that. No invisible power forced the newcomers to reject Indigenous governments. In the Five Nations, plenty of white newcomers accepted them.

The Cherokees, for their part, hoped to minimize their risk. They continued to embrace the adopted whites and permit workers (often with a suspicious eye on the former), while wholeheartedly rejecting the intruder as their “one common enemy.”<sup>1707</sup> They were lucky, then, that they had recently won a major concession from the United States in the Outlet Treaty of 1893. The intruders were set to be removed pending the appraisal of their property. After this was done, only the adopted whites and permit workers would remain, and these classes were considered at worst tolerable and at best essential. Despite the Choctaw editor’s denunciation of all white immigrants, Cherokees did not want all the newcomers gone—just the intruders.

Quite farcically, then, there was not one, but two federal commissions created by Congress in 1893. The better known of the two was the Dawes Commission, tasked with convincing the Five Nations to give up their governments and accept allotment. They would largely fail in this task between 1893 and 1897, especially as the Cherokee viewed the commission’s existence as an affront to their national sovereignty. Of course, the Dawes Commission would succeed eventually, but only after Congress started the process of denationalization.

The lesser known of the two commissions—with very different intentions—was the intruders’ commission, tasked with appraising intruders’ property in the Cherokee Nation before the United States evicted them from the country. The completion of their work would allow the eviction of thousands of U.S. settlers who had entered the country illegally. This was a special concession to the Cherokee Nation, only won through the sale of the Outlet in 1893.

It was also extremely valuable. Cherokee nationalists often said that the “Intruder Clause” was worth far more than all the millions of dollars the U.S. would pay for the Outlet itself.<sup>1708</sup> This idea referred to two things: one, that the monetary value of freeing up all of intruders’ improvements would exceed several million dollars; and two, that the removal of intruders had a priceless value as it would help secure the Cherokee state’s existence into the twentieth century. For this reason, in 1893, Cherokees were confident that they could secure what they wanted from the intruders’ commission—often referred to as the Board of Appraisers—while flatly rejecting Henry Dawes and his companions. At the time, it was a perfectly logical expectation.

In fact, it is hard to understate Cherokees’ over-confidence on the intruder question. In many ways it surpassed even their confidence regarding the Strip money. “CITO” in Fort Smith wrote that “the entire world has gone back on [the intruder].”<sup>1709</sup> “Intruders must go,” added the

---

<sup>1707</sup> CA, December 20, 1893.

<sup>1708</sup> CA, May 13, 1893.

<sup>1709</sup> CA, May 13, 1893.

national editor, “the pests...must pack up and leave. So says Uncle Sam.”<sup>1710</sup> The editor also hoped—quite unrealistically—that the intruders could be removed before the Cherokee Outlet was opened to U.S. settlers in September.<sup>1711</sup> A newspaper in the Chickasaw Nation predicted that “blood may be shed but the Cherokees shall be backed by the power of the United States, and those denominated intruders, shall go...So, it is bound to be in the other [Indian] nations.”<sup>1712</sup> As late as December, 1893, Cherokees continued to express their confidence: “We trust that the U.S. Government will soon carry out its promise to removing the Intruders.”<sup>1713</sup> The Outlet had been sold primarily in exchange for the removal of intruders. Cherokees thought they had already won.

So too did the intruders. They had advocated against the “Intruder Clause” and failed. It was an especially difficult time for the town of Muldrow—a hotbed of intruders, the site of the intruder newspaper called *The Muldrow Register*, and the home of the “Cherokee Citizenship Association” which doubled as an activist lobby and a pyramid scheme (offering citizenship in the Cherokee Nation to rejected claimants and intruders—eventually—for a price). One “John Smythe”—who may have been Cherokee—wrote to *The Advocate* from Muldrow:

“The colaps of the Citizenship Association is the all absorbing theme of conversation in Muldrow now a days. It is rumored, ‘and generally credited,’ that the Royal Family has decided to cut loose from all impediments like the Association...All the same the President and Secretary are now very busy the past few days, gathering in the sheckles preparatory to the final denouncement. A spirit of disgust and unrest seems to pervade the entire Association. They can be seen in small groups on the street corners quietly discussing the new turn affairs are taking and condemning W.J. Watts and his associates in unmeasured terms.”<sup>1714</sup>

Leaders of the Cherokee Citizenship Association (sometimes referred to as the C.C.A.) had promised rejected claimants and intruders that if they paid their dues, they would eventually be granted Cherokee citizenship or a claim in the nation. The “Intruder Claus” upended that, it created a situation where “the entire world” had gone back on him. The leaders of the C.C.A. were apparently rushing to collect more money, but according to John Smythe the members were “disgusted” and condemning the Association’s leaders on the street corners of Muldrow.

In November of 1893, another Cherokee living in Muldrow, “XXX,” added that “the dark cloud of gloom are telling heavily on the faces of the intruders. The face of the [Association] President, [with] smiles and cheerfulness has now been changed to a state of lethargy and melancholy.”<sup>1715</sup> The farmers of Muldrow could celebrate over the prospect of the wheat crop, but “XXX” concluded that this merely highlighted “the intruders expected to reap another crop here.” This was “all delusion.” The impending removal of the intruders was a surety:

“The enrolling of the intruders property have been completed here in Sequoyah District. Our inevitable Sheriff Robt. Schonico, and his efficient deputies George and Billy Bethel

---

<sup>1710</sup> CA, May 20, 1893.

<sup>1711</sup> CA, July 29, 1893.

<sup>1712</sup> CA, April 29, 1893.

<sup>1713</sup> CA, December 2, 1893.

<sup>1714</sup> CA, May 20, 1893.

<sup>1715</sup> CA, November 18, 1893.

rounded em'er fellers in...Just so as it was with Sodom and Gomorrow, when they were warned to flee from the wrath of destruction, they resisted until brimstone and fire was rained upon them and swept them from the face of the earth. Just so it is going to be with the intruders of this District.”<sup>1716</sup>

In other words, “XXX” predicted the biblical destruction of the intruders and their own “Sodom and Gomorrow,” the town of Muldrow. “Brimstone and fire” would rain upon them—courtesy of the United States government—and “[sweep] them from the face of the earth. Just so it is going to be with the intruders of this District.” The certainty of intruder removal endured for years.

To secure the removal of the intruders, the Cherokee Nation also had to dismiss all appeals to humanitarianism. They often accomplished this through depicting the intruders as sub-human predators or dangerous radicals. A Cherokee official visiting an intruder encampment in 1881 reported on the people he met to be “the most degraded and ignorant specimens of human society...deluded and shamefully imposed upon by [their leader].”<sup>1717</sup> In the 1890s, the national editor referred to the intruders as “revolutionists,” and their newspapers as “revolutionary journals.”<sup>1718</sup> They were “soulless” “wolves,” “heathens...ignorant non-citizens,” and “annoying pests.”<sup>1719</sup> They were the source of all criminality, “destitute of all honor...like barnacles on a ship.”<sup>1720</sup> The word “anarchist” was frequently used to describe those calling for the seizure of Indian lands.<sup>1721</sup> Intruder’s newspapers were “just as detrimental to Cherokee interests as were the Anarchist and Nihilist journals of Chicago to the interests of that city.”<sup>1722</sup> The intruder urging a change of government at home was compared directly to the foreign “nihilist,” “anarchist,” and “striker” urging revolution in the United States.<sup>1723</sup> Even Henry Dawes was not spared a comparison to the “Chicago Anarchist.”<sup>1724</sup> They were godless criminals without morals—the next chapter of unforgiving cruelty against Indians.

And they deserved nothing. In April of 1893—shortly after the Outlet Treaty had been ratified—Senator E. W. Buffington stood before the National Council and proclaimed:

“I am satisfied that there is not a citizen in this country that will come up and admit that we owe anything to the intruders. I am satisfied that there is not a citizen in this country that will come up and admit that we owe anything to the intruders. I am satisfied that there is not a citizen in the Cherokee Nation that will admit that the intruders are entitled to the improvements, but we are willing to accept the trade, and pay the intruders.”<sup>1725</sup>

---

<sup>1716</sup> CA, November 18, 1893.

<sup>1717</sup> D.W.C. Duncan to W.P. Boudinot, January 4, 1881, *Cherokee Nation Papers*, Roll 19, Box 52, Folder 1570. Western History Collections, University of Oklahoma, Norman.

<sup>1718</sup> CA, April 29, 1893.

<sup>1719</sup> Stremmlau, *Sustaining the Cherokee Family*, 102. CA, April 29, 1893; November 9, 1892; March 11, 1893; March 21, 1894.

<sup>1720</sup> CA, March 21, 1894.

<sup>1721</sup> CA, May 4, 1887; *Ibid*, October 12, 1887.

<sup>1722</sup> CA, March 30, 1892.

<sup>1723</sup> CA, July 11, 1894.

<sup>1724</sup> CA, January 18, 1888.

<sup>1725</sup> CA, April 8, 1893.

It is vital to understand the sentiment. If Senator Buffington really did speak for a majority (which in this case seems likely), then it should be noted that Cherokees held a draconian view toward intruders. They did not simply want to be excused from compensating the evicted intruders; they felt that no one should pay them anything. Even those who had lived in the country for decades—as trespassers—should have been removed without a cent of pay. They were settling for a compensated eviction, but Cherokees had hoped for a harsher punishment: eviction with no relief.

“They deserve no pity,” wrote the national editor. They alone had “heeded the advice of schemers given in defiance of the order of the Interior Department.”<sup>1726</sup> They had exaggerated their numbers “to bulldoze the United States on account of their...number being so enormous, and...to arouse the sympathy of the Court in their behalf.” But humanitarian sympathy was no substitute for the written law, and the law could “have no pity for the guilty, [for] otherwise it is worthless.”<sup>1727</sup> Cherokees therefore appealed strongly for a tough execution of the law, knowing it favored them, while expansionist westerners and imperialist easterners (notably Orville Platt) appealed to humanitarian sympathy. They demanded fair treatment toward the Cherokees’ trespassers.

The intruders, for their part, had zero interest in going quietly. Even before the Outlet Treaty had been ratified, a representative for the intruders had reportedly told a congressional committee that “unless some Congressional action was had to protect their ‘rights’ here there would be bloodshed, and that soon.”<sup>1728</sup> A year later, after no such changes were made, intruders gathered together in Wagoner and made wild speeches depicting the Cherokees “as a gang of robbers, cut-throats and thieves, finally winding up with the declaration that the Cherokee Nation would be openly defied when the time came for their removal.”<sup>1729</sup> In February of 1894, as intruders edged closer to the time of removal, *The Muldrow Register* assured its members that “all persons, Cherokees by blood, that belongs to the citizenship association will remain in this country even if they have been rejected by the Cherokee authorities.”<sup>1730</sup> *The Cherokee Advocate* were quick to point out that this was false, that the Supreme Court had ruled that only the Cherokees could decide their citizenry in 1886, and that the federal government was still committed to intruder removal. The “8000 intruders will have to go and ‘don’t you forget it.’”<sup>1731</sup>

To dissuade this kind of activism, at least some Cherokees proposed a draconian and highly illiberal response. “X.X.X.” living in Muldrow wrote:

“The [intruders] say that the work of the Commissioners [is] a farce. Every citizen in this Nation should put their shoulder to the wheel and declare that the Tribal Government of this glorious little Nation should not be molested by traitors, intruders, or Congress, as the right to Government is guaranteed by the Authorities of the United States. It would be just to our Nation to stop those meetings for the purpose of passing resolutions and petitioning Congress to help them. Those leaders are all notorious characters boasting of their intentions, which marks them as traitors and rebels to the Cherokee Nation, and should be

---

<sup>1726</sup> CA, June 24, 1893.

<sup>1727</sup> CA, June 29, 1893.

<sup>1728</sup> CA, June 1, 1892.

<sup>1729</sup> CA, April 29, 1893.

<sup>1730</sup> CA, February 7, 1894.

<sup>1731</sup> CA, February 7, 1894.

dealt with as such by the Authorities of the Nation. **There should be a Committee of three or five good citizens, appointed by the Chief, to attend every meeting or convention and they should be instructed to take the names of the leaders of such convention and report the same to the Authorities of our Nation, and they should be dealt with to the uttermost extent of the law as rebels and traitors of this Nation.** And we hope that the next Council will make wise provisions sufficient to meet those emergencies. We all know that it was the rebels and traitors, who caused the South to rebel against the North or the United States. **They were permitted to hold their conventions and pass resolutions against the Government, and the result was a bloody war. Just so it will be here if those traitors are permitted to go on without being stopped. The plot and plan should be nipped in the bud.**<sup>1732</sup>

To “X.X.X.” the Cherokee Nation’s security outweighed a person’s freedom of speech and their right to assemble. The lesson that could be taken from the U.S. Civil War was—apparently—that when “rebels and traitors” were allowed to hold meetings and “plot and plan” “the result [would be] a bloody civil war.” It was, to him, an easy choice. The intruder assemblies had to be stopped, and the way to stop it was to appoint Cherokee citizens to surveil and report on the leaders of the intruders, before dealing with them “to the uttermost extent of the law as rebels and traitors of this Nation.” He offered no specifics when he suggested that the National Council should “make wise provisions sufficient to meet those emergencies.” It is clear, however, that many Cherokees wanted intruder organizing shut down—regardless of what it meant for the nation’s liberal values.

The realists probably acknowledged the fragility of the situation. Intruders may have composed a minority of the Cherokee Nation’s inhabitants compared to citizens and especially compared to citizens and permit workers, but there were still thousands of them. The census of 1893 counted 7,629 squatters and 602 improvements in all nine districts.<sup>1733</sup> By the start of 1895, the federal government put that figure at 8,526, while the main intruders’ association estimated 1,000 newcomers had joined their ranks (which was probably an overstatement). In some districts, intruders were dangerously close to reaching the citizen population.<sup>1734</sup> In Illinois, Cherokee citizens numbered 3,252, while intruders numbered 2,334 (though in this district many of these “intruders” were disenfranchised Black Cherokees).<sup>1735</sup> Permit workers made all the difference here, as they numbered over twenty thousand (greatly outnumbering intruders) and were genuinely willing to cooperate with Cherokee society.

This made the impending removals all the more meaningful. Cherokees were on the verge of returning to a demographic majority (outnumbering foreign nationals for the first time in year). It would have been something like settler colonialism in reverse, assisted by the United States—a change which would greatly undermine the efforts of those championing denationalization in Congress. Expansionists like Orville Platt had every reason to stop it from ever happening, Cherokees remained hopefully optimistic in their vulnerable position.

---

<sup>1732</sup> CA, November 18, 1893.

<sup>1733</sup> “Intruder Statistics Compiled from the Intruder Census,” CA, September 30, 1893.

<sup>1734</sup> Final Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, March 16, 1895, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center. 5.

<sup>1735</sup> CA, January 17, 1894.

It was therefore imperative for the government to move quickly, and it did. By April 10<sup>th</sup>, 1893, Chief Harris released a proclamation reminding citizens that it was illegal to purchase intruders' property (including their fenced improvements, i.e., farms), as all immovable intruder property belonged to the Cherokee government (and would be auctioned by the same). He also ordered to the district sheriffs to "take charge of, in their respective Districts, all such improvements that may be abandoned or that may have been placed in the hands of a citizen of this Nation, and same hold it until it shall be disposed by the National Council."<sup>1736</sup>

By May the census takers started their work, which continued throughout the summer.<sup>1737</sup> By June, ex-Senator Clement V. Rogers of Cooweescoowee District (and the father of the Hollywood star, Will Rogers) was appointed to serve as the Cherokee member of the Board of Appraisers.<sup>1738</sup> On July 19<sup>th</sup>, the work of appraisal began in Tahlequah.<sup>1739</sup> By October 6<sup>th</sup>, the work for seven of the nine districts had been completed. The two remaining districts—Cooweescoowee and Delaware—comprised "about one-half area of the Cherokee Nation."<sup>1740</sup> Already this was one of the most serious commitments by the federal government to its obligation to remove intruders.

The intruders bought some time in October.<sup>1741</sup> One of three appraisers, Chairman Joshua Hutchins, contracted fever from the Arkansas River bottoms.<sup>1742</sup> This stopped the Board of Appraisers in their tracks, especially after the Assistant Attorney-General for the Interior Department suggested that appraisals could only continue if the intruders "signed an agreement to waive the absence of the third member of the board."<sup>1743</sup> The intruders, of course, had no incentive to sign such a document, "because they were interested in delaying the work of appraisal in order to gain time to plant another crop and to seek legislation from Congress in their own behalf."<sup>1744</sup> The board "remained nominally in session," but its funding started to dry. By December 22, the Secretary of the Interior suspended the Board's work "pending an appropriation to complete it."<sup>1745</sup>

Quite remarkably, the Cherokee Nation then offered to pay for the commission itself. The National Council, eager to remove the intruders, had even appropriated funds for the task, and only needed permission from the federal government to pay the officers. Predictably, the Department of the Interior refused, and not simply because there were many in the United States who disagreed with the policy. The Commissioner of Indian Affairs responded to the Cherokees, writing: "Even if it were not prohibited by law [to create 'a deficiency by the acceptance of money offered by the

---

<sup>1736</sup> CA, April 15, 1893.

<sup>1737</sup> CA, May 20, 1893. Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1738</sup> CA, June 24, 1893.

<sup>1739</sup> Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center. CA, July 29, 1893.

<sup>1740</sup> Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1741</sup> CA, October 28, 1893.

<sup>1742</sup> Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1743</sup> Ibid.

<sup>1744</sup> Ibid.

<sup>1745</sup> Ibid.

Cherokees’], as it appears to be, I would question the propriety of accepting the money.”<sup>1746</sup> Only Congress could fund the Board of Appraisers and the removal of intruders, and Congress had good reason to make Cherokee life difficult.

These congressmen, of course, could not entirely ignore the Cherokees demanding a new appropriation. As Walter Adair Duncan lobbied Washington to fund the Board of Appraisers, an interesting conundrum was raised. The Cherokees could not seriously be expected to negotiate with the Dawes Commission if another treaty less than one year old had yet to be faithfully executed. In the words of the Cherokee delegation, “These two questions [the Strip money and the intruder removal] stand prominent in the minds of the Cherokee people and will prevent a patient hearing or faithful consideration of other grave questions pending.”<sup>1747</sup> Ex-Chief Bushyhead echoed this sentiment in an interview with *The Indian Citizen*, insisting intruder removal must precede any further negotiation.<sup>1748</sup> Just like with the sale of the Outlet, the congressional path to denationalization was twisted and, at times, completely counter-intuitive. Cherokee nationhood would appear to strengthen before it was undone. Congress would fund the Board of Appraisers.

By the end of February 1894, Cherokee delegates were increasingly certain that they had convinced Congress to fund the Board of Appraisers.<sup>1749</sup> At the start of March the national editor celebrated a bill had been favorably reported in Congress appropriating \$12,000 for the Board of Appraisers, adding boastfully: “Get ready [Intruders] to move.”<sup>1750</sup> On May 9, one of the delegates to Congress shared that the appropriation would soon be passed, and on August 15<sup>th</sup> that appropriation—for \$4,996—was finally made.<sup>1751</sup> By October, the Board of Appraisers were back in the field.<sup>1752</sup> Overall, then, in the middle of 1894, at a time when U.S. legislators hoped in vain for a for denationalization, Congress continued to execute a sweeping obligation. Though intruders were defiant, there was good reason to believe they would actually be removed.

The Cherokees, for their part, were in a strengthened position. Congress had appropriated the rest of the money needed to appraise intruders’ improvements. The Cherokee Nation had conducted its census of citizens of intruders and passed a law banning intruders from becoming permit workers.<sup>1753</sup> The Board of Appraisers would also find that very few intruders were entitled to any compensation at all, making their removal comparatively simple. All the while, a promising 1893 ruling from the Court of Appeals (*Mehlin vs. Ice*) found that Cherokee courts could claim jurisdiction over U.S. citizens *if* said persons waived “the treaty and statutory stipulations exempting him from the jurisdiction of the Cherokee courts”—an action which could be accomplished simply by appearing voluntarily in said courts.<sup>1754</sup> Even in the summer of 1894, Cherokees were not filled with existential dread. They had great hopes for the future.

---

<sup>1746</sup> CA, February 21, 1894.

<sup>1747</sup> CA, February 21, 1894.

<sup>1748</sup> Editorial on Bushyhead, November 23, 1893, Dennis Wolfe Bushyhead Collection, Box 3, Folder 19, Western History Collection, Oklahoma University, Norman, OK.

<sup>1749</sup> CA, February 28, 1894.

<sup>1750</sup> CA, March 7, 1894.

<sup>1751</sup> CA, May 9, 1894. “An Act Making Appropriations for the Current and Contingent Expenses of the Indian Department” (The States At Large, Library of Congress, 1894), Pg. 286.

<sup>1752</sup> Report of Board of Appraisers on Improvements of Intruders in the Cherokee Nation, CHN 83, Cherokee National Records, Indian Archives, Oklahoma History Center.

<sup>1753</sup> CA, May 23, 1894.

<sup>1754</sup> CA, June 10, 1893.



## Fearing Denationalization

In November of 1892, Harris delivered his first annual message as principal chief. Though Congress had yet to create the Dawes Commission, he treated the threat of allotment seriously. The transition to lands in severalty would be nothing short of destructive:

“This is the system of the people the United States, where it has been practiced for more than a hundred years...Do we find it [successful]? Far from it, more than half of the people of the United States engaged in agricultural pursuits are landless, and their constant cry is for more land for the homeless. The source from which the supply, to meet the constant growing demand, the extinguishment of Indian’s title, is now exhausted; and the people of the United States are now entering the threshold of a period, when the aggregation of the lands, in the hands of the rich, through mortgages will be greatly accelerated, and the countless number of the homeless, be enormously increased. In the light recent statistics, this system has proven a failure so far as providing homes for the majority of the people of the United States are concerned, and its wisdom is being seriously questioned by some of the best thinkers of the times. The people of the United States have no year of Jubilee to look forward to, when there will be a redistribution the lands; but when the lands shall be accumulated hands of the rich, when the rentals shall be increased, until the laborer can eke out only a miserable existence, and when the grievous burden can be borne no longer, the system will be wiped out in revolution.”<sup>1755</sup>

It was a fascinating perspective of Gilded Age American life. Blending elements of Marxism with something akin to Frederick Jackson Turner’s frontier thesis (before it was published), Harris concluded that the successful conquest of Indian lands paired with the rejection of communal landholding had made U.S. capitalism utterly unsustainable. Crushed under the weight of rising mortgages and rents, the poor laborer—who could “eke out only a miserable existence”—would eventually turn against the capitalist, and “the system [would] be wiped out in revolution.” Importantly, Harris was predicting that the U.S. economic system—not the Cherokees’—would soon collapse in a state of revolution.

The Cherokee’s economic system, on the other hand, compared favorably—or at least in the eyes of the principal chief. Harris continued:

“The Cherokee system breeds no millionaires, no land syndicates, no mortgage sharks. Land is not degraded to the level of speculation. Every citizen, however poor or humble, with a little energy, and by a little physical labor, can have a home of his own to shelter wife and children. He is not ever looking for a place to rest and exist...The ownership of our lands in common, is the foundation upon which our National existence rests; destroy this common ownership, and the bond that holds us together as a Nation is destroyed.”<sup>1756</sup>

There would be no class revolution in the Cherokee Nation because capitalism had been prevented from fully taking root. This had been accomplished primarily through ensuring that land was never “degraded” to chattel or “the level of speculation.” Only workers of the land could claim the land, which explains why so many nationalists (including Harris) insisted that theirs was a nation

---

<sup>1755</sup> CA, November 9, 1892.

<sup>1756</sup> CA, November 9, 1892.

without homelessness. According to Harris, this communal capitalistic system was “the foundation upon which our National existence rests.” There was no Cherokee Nation without it.

In fact, Cherokees across the political spectrum had little to no tolerance for land reform. The communal system was viewed as an existential aspect of Cherokee national life. The general election of 1891 had seen one of the country’s most popular former chiefs—Dennis Bushyhead—get trounced on the third party “Liberal” ticket for suggesting a Cherokee-led allotment of communal lands in order to outmaneuver the United States. The Downing Party chief Joel Mayes at that time won a second term, and after his death, his successor was exploiting the annual message to condemn those who favored such plans: “It [was] to be deplored that some of our people [were so] deluded by their fear of a change in our government, or actuated by their greed.”<sup>1757</sup> The other major party in the country, the National Party, was equally or perhaps even more opposed to allotment. In other words, there was zero political appetite for land reform.

This is where historians have missed the mark. We have often assumed that allotment had strong supporters among Cherokees, but in fact, there was nearly unanimity against it.<sup>1758</sup> Internally, denationalization and allotment were politically unifying subjects. Like their U.S. neighbors, the Cherokees of the 1890s were deeply nationalistic—even to a fault. Those who advocated for anything other than the existing status quo were often painted as “treasonous,” so there were very few people willing to adopt such a position. Even in the 1890s, Cherokees had no intention of entertaining denationalization, and they were adamant that their government would persist into the 20<sup>th</sup> century. They pressed such claims even as they recognized that Indian nations were suffering all around them. What is more: they nearly achieved what they were promising. Denationalization did not start until 1897.

Of course, the fear of denationalization was growing more pronounced, and how that fear was expressed is important. Nationalists here—as elsewhere—had to outline the stakes for their people to rally around their cause. Many Cherokees, for example, did not advocate for the survival of their “culture” or language per se, because Cherokee national sovereignty was largely premised on the “eventual” success of the civilization program. Instead, Cherokees made constant reference to the crushing weight of settler colonialism and capitalism—just as Harris did in his 1892 message. Between March of 1893 and the summer of 1894, the Strip money figured even more prominently

---

<sup>1757</sup> CA, November 9, 1892.

<sup>1758</sup> The best example of this (because he paid so much attention to postwar Cherokee history) is William McLoughlin. McLoughlin concluded that “the more acculturated mixed-bloods like James M. Bell, Spencer S. Stephens, and E. C. Boudinot had decided long before 1887 that they could live without their old tribal systems” (McLoughlin *After the Trail of Tears*, 377). The situation was “somewhat different” for full-bloods who McLoughlin said were much strongly opposed. Still, he added, “The great mass of the Cherokees were neither as ready for denationalization as those like Bell and Stephens nor as desperate to hang on to their old ways as the Keetoowahs” (Ibid, 378).

When one closely examines Cherokee politics at the local and national level, this framing falls flat. Bell and Boudinot were not central figures in domestic politics; they were the Cherokees that contemporary Americans wanted to listen to. Boudinot’s own brother, William, was far more prevalent within domestic politics. He and his sons were staunch nationalists who fought denationalization to the very end. Lucien Bell, who was far more important to national politics than his louder older brother, had a similar position. He had briefly promoted the idea of a Cherokee Nation-led allotment in the 1880s (to prevent rather than to embrace denationalization), but voters forced him to retract this view in the 1890s. Allotment did not have any significant political backing within Cherokee democracy. Cherokees’ commitments against denationalization and allotment were impressive and overwhelming.

in national politics than denationalization, but discussion of it was ever present, and how Cherokees pictured denationalization during this time is important to understand.

The most important thing Cherokees pictured when considering denationalization was economic ruin, often framed as the true force behind Indian's destruction. Walter Adair Duncan only echoed C.J. Harris when he shared his experience traveling to California in 1892:

“One year ago, I had an opportunity of witnessing the condition of some of the Indian tribes west of the Rocky Mountains. When gold was discovered on the Pacific coast, the whites, in waves of thousands, rolled into that country, and, of course, the Indian had to go to the bottom. While on the Coast Range, I was told by a man, an old “forty-niner,” that in the early days of mining there, it was a practice to actually hunt for Indians in order to shoot them down like wild game. The condition of what remains of those Pacific tribes is most wretched. They are ignorant, homeless, abused, scorned, kicked about like dogs, all at the hands of what is called ‘Christian civilization.’ I saw this state of things myself.”

“This is the hades” for Indians, he added, that the “‘Christian civilization’ of the age proposes to turn the tribes of this Territory.” Cherokees too would be “ignorant, homeless, abused, scorned, [and] kicked about like dogs.” Cherokees too would be left to suffer the “gentleman” in Denver, who told Duncan—an Indian delegate to Congress—that “the last Indian ought to be killed.” Without a single battle, “the white, in waves of thousands” could force the Cherokees and their neighbors “to go to the bottom” of society and die there.

“Homelessness” was often the key word. A Cherokee living in Texas warned against “what it is to be really a United States citizens with all the rights and privileges...” Texas was overwhelmed by its “many monopolists,” and the inability to “settle up Texas” and its land monopolies was exactly why there were so many home seekers in Oklahoma. If the Cherokees—stripped of “their nationality”—were placed among whites and taxed, “you will see that many of our people will be homeless, swindled, and left to the mercy of those who have robbed them.”<sup>1759</sup> Cherokees may consider themselves “far superior now to the Mexican [living in Texas],” but that would change dramatically after losing their nationality.

“There are millions of homeless poor people now living under the white man’s government,” Walter Adair Duncan added, “and if that government has such effect upon the whites themselves...it would reduce [Indians] to a condition but little better than death itself.”<sup>1760</sup> Among Cherokees, added the national editor, “there are no homeless people...and no father or mother are forced to hear their little ones crying for the want of clothing and shelter.”<sup>1761</sup> Allotment, he added, would change that forever, and “indeed misery will take the place of happiness.” Cherokees would be far worse than before, having traded in their “lands and homes” for “civilization and progress”—neither of which “comes to your rescue when you are starving.”<sup>1762</sup> Cherokee nationalists saw an economic hell in the United States (Adair had referred to it as a “Hades”). National sovereignty was the only thing protecting them.

---

<sup>1759</sup> CA, January 17, 1894.

<sup>1760</sup> CA, September 16, 1893.

<sup>1761</sup> CA, February 14, 1894.

<sup>1762</sup> CA, February 21, 1894.

Importantly, Cherokees were not just recycling caricatures of U.S. capitalism. They were astute observers of U.S. internal politics, just as with other foreign developments. In the spring of 1894, for instance, thousands of populists marched on Washington, demanding work during the depression. This movement, “Coxey’s Army,” intrigued Cherokees immensely, but only in so far as it benefited them. Nationalists insisted that “Coxey’s Army” proved their larger point:

“Men from every state and Territory of the U.S. have joined the ranks, except the Indian Territory...because there are no paupers among the five civilized tribes. Just as soon as this country becomes a state then there will be men clamoring for work. When we know there is so much suffering in the States from the want of work, how can conscientious men ask that this country be allotted?”<sup>1763</sup>

The United States, in other words, was in no place to force reform on the Cherokee Nation when its own citizens were in open rebellion. *The Cherokee Advocate* repeated these arguments (linking the protests to allotment) throughout the protest march, and there can be no doubt that many Cherokee nationalists quietly hoped the unrest would continue indefinitely.

Plenty of white Americans dissatisfied with capitalism were seduced by these arguments. In *Labor, Land, and Law: A Search for the Missing Wealth of the Working Poor*, William A. Philips—who had fought with the Cherokees in the Indian Home Guard and in the halls of Congress—was deeply inspired by their system of land tenure, and like many of his time, disgusted with the “non-producing member on society”—the landlord. In explaining the Cherokee’s system, Philips wrote: “Monopoly in land is forbidden by the terms of their written constitutions. It is a striking fact that these people, even in forming governments modeled after that of the United States, include their own land system in plain, unmistakable terms.”<sup>1764</sup> He proposed that the United States make occupancy a requirement for property ownership, which was Cherokees already practiced.

At the heart of these calls against denationalization was a fear not of an authoritarian imperialism, but of an American “empire of liberty.” Cherokees were afraid of losing their conservative values to the relatively liberal, permissive United States. William Eubanks, an eccentric clerk to the Supreme Court enamored with what he called “the Wisdom Religion of the East,” decided to blast Americans and their economic systems under the pseudonym “Corn silk.”<sup>1765</sup> In one satirical essay, he wrote:

“This is an age of freedom...I am in favor of lands in severalty and statehood. I am a progressive man and wish to keep up with the age of progress. I want a state so that we could have everything that people have in the States of the United States, such as whiskey, saloons, gambling halls, poor houses, and other kinds of houses...we would have...the right to kill our old mothers and grand mothers for sixteen dollars and forty cents...we could be frauds, thieves, robbers, cut-throats and sneaks and if we felt any ways modest after learning all these things we could join the church, same as they do in the states.”<sup>1766</sup>

---

<sup>1763</sup> CA, April 25, 1894.

<sup>1764</sup> William A Philips, *Labor, Land and Law: A Search for the Missing Wealth of the Working Poor* (New York: C. Scribner's sons, 1886), 290.

<sup>1765</sup> CA, May 23, 1894

<sup>1766</sup> CA, April 18, 1894.

Cherokees were not afraid of the United States imposing new rules and regulations. They feared unrestrained liberalism. They feared the hypocritical, godless, “educated man,”—a progressive—deregulating Cherokee life. As one white ally of the Cherokee Nation put it in 1892, “one of the first things [you] will have to surrender will be [your] temperance law...another thing you will have to surrender is the law that provides that the Bible shall be read daily in the schools.”<sup>1767</sup>

Frustrated with this, a small number of Cherokees turned against “civilization” itself. “Cornsilk” again took a radical and caustic stance. His pieces defending Indian nationhood were some of the most scandalous ideas ever published in *The Cherokee Advocate*. In one such article, he questioned the very thing Cherokees used to defend themselves from foreign intervention:

“State-craft...is nothing but the weapon of the thief...If you object to paying tax you are immediately excommunicated, and called a backslider and a son of the devil by these money making, land grabbing materialists called christians, who are deeply interested in the welfare of the Indian’s soul as long as he has any land...Is this all of the Christian religion?...If you say it is, with due deference to you and everybody, I say damn any such religion. Does God approve of the way that these civilized people of great American are imposing on us Indians? ...If you say he does, then with due deference to you and everybody, I say damn any such God.”<sup>1768</sup>

*The Cherokee Advocate* published these words, even though the Cherokee Nation was deeply religious and highly conservative. “Cornsilk” publicly damning both Christianity and “any such God”—in those exact words—would have surely raised eyebrows. He may have purchased some sympathy and agreement, however, when he added: “A civilized cruelty is worse than the cruelty of the savage.” The very real threat of denationalization was the necessary context to make these writings permissible. Cherokees of the 1890s—just like their ancestors from the Removal Era—felt deeply aggrieved that they had done everything they could in the way of “civilization,” only to see their nation’s existence imperiled yet again.

The danger within the United States also extended from its anti-capitalist forces. In an even more furious piece, appropriately entitled “Measure for Measure,” Cornsilk promised that whatever “the so-called Christian government of the United States” did to Cherokees would in turn be done against them. The U.S. loved to “wink approvingly” at the intruder, who were like “battering rams to tear down the nationalities of the Indians,” but the punishment for these actions was supposedly already in motion:

“The United States with ignorant liberality has thrown wide open the doors and entrance ways to her country and admitted that class hostile to her welfare and prosperity, with not an iota of gratitude, but of the same element of our intruder and some citizens, continually squalling out for a change of government. Think of the nihilist, the anarchist, the striker, the uprising of that foreign pauper against the capitalist of your country.”<sup>1769</sup>

Though it was a bit of wishful thinking, Cornsilk repeatedly promised that whatever the U.S. did to the Cherokees would “be measured to you again.” The waves of immigrants intruding upon

---

<sup>1767</sup> CA, July 29, 1893.

<sup>1768</sup> CA, February 7, 1894.

<sup>1769</sup> CA, July 11, 1894.

Cherokee lands were the same “nihilists,” “anarchists,” “strikers,” and “foreign paupers” who were plotting an “uprising” and “a change of government” against the “capitalist of your country.” Cherokee denationalization, Cornsilk predicted, would harm the United States in turn.

Another important interpretation of denationalization was that it was Indian Removal all over again. The generation who had survived the Trail of Tears was quickly dying out, and many of their descendants wondered if history was to repeat itself. The national editor wrote: “The Cherokees are [today] more prosperous than any other people on earth...Should a change in government come it will only be a repetition of the suffering and hardships in the Old Nation.”<sup>1770</sup> Denationalization was unthinkable to Cherokees because Removal “was planted in the hearts of this people through hardships and wrongs too great for language to describe.”<sup>1771</sup> Pro-territorial newspapers could not therefore change “the sentiment...shaped by the U.S. Government from 1820 to 1828 [sic] when they (Indians) were driven from their country...[in] a ‘century of disgrace.’”<sup>1772</sup> A contributor from Tahlequah, writing as “X,” shared that “the old residents of the Nation, who witnessed the hardships [of Removal]” saw an ominous sign in the arrival of “seven, fourteen, or twenty-one year locusts.” The locusts were quickly eating the grass which ensured the Cherokee’s land patent (which was good “as long as the grass grows”), and were apparently “as thick as General Scott’s soldiers were, when our fathers and mothers were driven from their homes in Georgia, to this country.”<sup>1773</sup> Cherokees all over the nation worried that if denationalization was carried out, the horrors of Indian Removal would be repeated.

Many of the things white Americans said, and did, seemed to confirm these existential fears. Cherokees opened their newspaper to find that a Creek citizen named Jess Pigeon had been brutally murdered in Fort Smith, Arkansas for just 40 cents. A fellow patron at a saloon had asked him to take a drink of whiskey, and then immediately demanded payment. When Pigeon replied that he had no money, the fellow patron allegedly beat him to death, and then tossed him out of the building. Pigeon was left there in the street, “his brains beaten out,” at “an hour when the streets were full of people.”<sup>1774</sup> Regardless of whether the events unfolded as described, Cherokees would have read this and felt a similar anger to when they read about a Choctaw named John Smith being thrown out of a moving train after purchasing a ticket.<sup>1775</sup> It seemed to them that the world beyond their nation was one where Indigenous people were still killed and harassed indiscriminately, one where politicians made “startling remarks” about how Oklahomans could “console themselves...[that] fine houses have been built on the land that the Indians once owned and where they were exterminated.”<sup>1776</sup> That destructive world could not be allowed to penetrate the borders of the Cherokee Nation.

Other Cherokees worried that denationalization would subject the eastern half of the state (Indian Territory) to an endless exploitation from the western half of the state (Oklahoma). The territory of Oklahoma, wrote Walter Adair Duncan, was “a young giant in population and pretension, but burdened with debt and unable to pay her taxes.” The founders of the state of

---

<sup>1770</sup> CA, March 28, 1894.

<sup>1771</sup> CA, June 3, 1893.

<sup>1772</sup> CA, June 3, 1893.

<sup>1773</sup> CA, May 16, 1894.

<sup>1774</sup> CA, April 18, 1894.

<sup>1775</sup> CA, October 7, 1893.

<sup>1776</sup> CA, May 9, 1894.

Oklahoma, Duncan warned, “desire a union with the five civilized tribes because Oklahoma will not be able to pay taxes for 4 or 5 years to come and that exalted privilege would be relegated to the Indian Territory.”<sup>1777</sup> As the *Indian Journal* put it, “we will find ourselves the tail and Oklahoma the kite.”<sup>1778</sup> Cherokees worried that white Oklahomans shared a plot to burden the Indian Territory with taxes and poverty, and this assumption was boosted by their high esteem for themselves (and their prosperity) and their low regard for Oklahoma “boomers” (and their class).

The argument for and against denationalization was often plagued by another debate of significant importance: whether the Cherokee Nation or the United States was better suited for the “poor full-blood.” On this question, a protracted debate unfolded between the national editor and that of the *Indian Chieftain*, David M. Marrs. An adopted white citizen, Marrs courted immense controversy for supporting denationalization from Vinita, the country’s largest city. The Cherokee’s “piratical dictators”—mixed-bloods—had for generations oppressed and robbed the only “real Indians here.”<sup>1779</sup> Denationalization was the only recourse:

“The wrong, and the misrepresentation, and the fraud is this, that the Cherokees—or the other nations as to that matter—are moving along all right; that they have a model local government...that the full blood is getting a good living out of the present system...Nothing could be further from the truth...The full-blood is a poor, deluded, listless, and hopeless creature, shut out from the world and its civilization...he is as poor as he can ever get in this world...He is told by mixed blood brothers that he is as well of as he is, and he probably believes it...We need a change of government (if for no other purpose) for the defense and protection of the full-blood.”<sup>1780</sup>

It amounted to a full-throated agreement of white Americans’ claims that Cherokees were not “real Indians,” and that the corrupt mixed-blood had long since taken over the nation’s affairs, money, and land. They were “dictators” hoodwinking the “poor, deluded” full-blood who desperately needed intervention from the United States. The “real Indian” was being destroyed by sovereignty itself, and for this a (forced) change in government was necessary—if “for no other purpose” than “the defense and protection of the full-blood.”

This, of course, elicited sharp controversy. The national editor, George Butler (NP), responded harshly:

“[Marrs] appoints himself guardian of the Indian and proceeds to call his wards, ‘poor, deluded, listless, and hopeless creatures...If Vinita is not the place to study the full blood Indian, how can their kind hearted guardian (who lives in that city) give other people advice on their conditions? We may be wrong, but we still venture to say, that it is hardly possible that the Editor of the *Chieftain*, or his assistant, has ever had an hour’s conversation with a full blood Indian in their lives, much less been welcome visitors to his home.”<sup>1781</sup>

---

<sup>1777</sup> CA, February 21, 1894.

<sup>1778</sup> CA, September 23, 1893.

<sup>1779</sup> *Indian Chieftain* (Vinita), February 9, 1893.

<sup>1780</sup> *Indian Chieftain* (Vinita), February 8, 1894.

<sup>1781</sup> CA, February 14, 1894.

In short, Marrs was the city dweller attempting to speak on an issue he knew nothing about. He could not claim to know any full-bloods personally, and therefore his attempts to speak on their behalf were shallow and arrogant. Furthermore, added Butler, his claims were irrelevant. The treaty guarantees of national sovereignty were iron-clad, “made a long time ago, yes, before the *Chieftain*’s Moses ever thought of immigrating to this country.”<sup>1782</sup>

Marrs responded predictably, asserting that during the “more than fifteen years” he had been in the country as an adopted citizen, “the greater portion of this time [had] been spent among, and in close proximity to the full bloods, and we repeat the assertion that there are no poorer people on the face of the earth.”<sup>1783</sup> It was easy for Butler to defend national sovereignty and dismiss full-blood poverty “with his nose in the public trough” but the full-blood Cherokee enjoyed no such positions, had been absent from the delegations to Washington for years, and experienced Cherokee life as a second-class citizen. Searching for evidence of his claims, Marrs went so far as to travel to Tahlequah to visit the prestigious Cherokee seminaries. In his words, “[This] revealed the fact to the writer that the fullbloods were not ‘in it,’ so far as those two very excellent schools were concerned.”<sup>1784</sup> Framing all of this as class struggle, Marrs added: “Shame on the man or nation that will not protect its poor.”<sup>1785</sup>

Butler responded: “We have never said that the editor was not a citizen of this Nation, but surely he cannot be a *good one*, or he would not abuse or misrepresent a portion of his people.” There was poverty in the Cherokee Nation, and there were plenty of poor full-bloods, but there were “thousands of people” in Marrs’ home state of Arkansas “who have not that much” and as for the mere existence of poverty: “Is this a crime?” he asked. “The bloated plutocracy of this country may be of this opinion, but you cannot convince the classes of the fact.”<sup>1786</sup> There was nothing rotten in Cherokee society or governance causing inequality, and overall, it was still a nation far more equitable than the United States. As for the seminaries, Butler insisted that at that moment there were “fifty pupils at the Male and Female Seminaries (each) who are clothed, fed and given instructions at the Nations cost—all these children are full-bloods, as the ‘writer’ is pleased to call them...”<sup>1787</sup>

A final reason to fear denationalization was somehow even more existential. Both Cherokees and Americans wondered about what happened the day after denationalization—right after setting the precedence for violating fee simple titles, national self-determination, and democratic governance. In the 1870s, Chief Ross had promised that the United States could not territorialize the Cherokees without destroying its own institutions, and Cornsilk had promised a “measure for measure.”<sup>1788</sup> The Five Nations, *The Advocate* argued, “all have republican form of governments...the Cherokee Nation have as fair elections as any of the states, we never had any stolen ballot boxes...we all love our country and present form of government.”<sup>1789</sup> In destroying

---

<sup>1782</sup> CA, February 14, 1894.

<sup>1783</sup> *Indian Chieftain* (Vinita), February 22, 1894.

<sup>1784</sup> CA, March 28, 1894.

<sup>1785</sup> *Indian Chieftain* (Vinita), February 22, 1894.

<sup>1786</sup> CA, February 28, 1894.

<sup>1787</sup> CA, March 28, 1894.

<sup>1788</sup> CA, October 17, 1874; July 11, 1894.

<sup>1789</sup> CA, July 29, 1893.



the Cherokee government, the U.S. would be destroying one of the world's oldest existing democracies—one that had drawn its inspiration directly from the Jacksonian United States.

Then, there was the question of nationalism, which was of growing importance at the close of the century. As the *Indian Journal* put it, “Next to the ties of kindred there are none so strong or so commendable as love of country, of national organization, and national brotherhood, and no people will entertain this sentiment more strongly than the Indians.” This was “never considered” by the advocates of denationalization who cared only for “personal gain.” Neither did it mater, at the end of the day, whether Indian governments “fare well or badly, progress rapidly or slowly, let them alone. The country is their to enjoy as they please.” If the self-determination of the Five Nations was violated, if the some of the last truly sovereign governments were dismantled, it “would be an outrage upon justice and liberty that would win the condemnation of every school boy if handed down from the dark ages.”<sup>1790</sup>

The question that concerned Americans most of all, however, was that of the Five Nations' fee simple titles to their land. Even politicians who did not particularly care for Native Americans worried about violating this precedent. Senator William Roach—a Democrat from North Dakota—said in one interview: “The Indian has a title to their lands from government just as good as the title he has to his Dakota farm, and if we begin uprooting such titles there will be no safety for anyone.”<sup>1791</sup> In a similar vein, John Sharp of the National Council was asked whether “there was any danger of Congress passing a law allotting the Cherokee lands at this session of Congress. He very readily answered no...If Congress [could] pass a law doing away with the Cherokee [fee simple] title it [could] deprive President Cleveland of this home.”<sup>1792</sup> The national editor readily admitted that the Supreme Court had given Congress the right to repeal any treaty, but “we will ask,” he wrote, could “it repeal a ‘fee simple’ title” to millions of acres of land? Surely, Butler reasoned, it could not, and surely the “patent [would] act as a restraining influence.”<sup>1793</sup> The U.S. could not damage it without damaging its own system and values.

But in 1893 and 1894, the fear of denationalization was just that and nothing more. The process of denationalization would not start until 1897 and would not finish until 1907, placing it firmly within another chapter of U.S. history. Even the progress of the Board of Appraisers compared positively to that of the Dawes Commission, as Cherokees flatly refused to negotiate away their sovereignty. The reason for the obstinance was simple: the Dawes Commission had been created as an after-thought by Congress (even Senator Matthew Butler had not bothered to oppose its creation), and it had not been given any special powers, especially compared to the last commission which had operated in Indian Territory.

Cherokees knew this and reminded each other of their security. Walter Adair Duncan urged calm on the matter of denationalization, sharing: “I am not alarmed,” for Congress “will not do it, nor could do it, if it had the disposition.”<sup>1794</sup> Prior to impeaching Chief Harris, the National Council passed a joint resolution against entertaining any proposal to dissolve the Cherokee government

---

<sup>1790</sup> CA, February 7, 1894.

<sup>1791</sup> CA, April 25, 1894.

<sup>1792</sup> CA, June 6, 1894.

<sup>1793</sup> CA, February 21, 1894.

<sup>1794</sup> CA, October 28, 1893.

or allot its lands.<sup>1795</sup> In March of 1894, as even the intruder newspapers admitted the failure of the Dawes Commission to make progress, *The Advocate* forcefully replied “that the [Dawes] Commission can only report their finds while in the Territory, to their superiors...and we know if they find the sentiment of our people, who are the owners of the soil, against allotment, they will so report.”<sup>1796</sup> Even in June of 1894, the national editor continued to reassure its readers that denationalization was not coming: “Allotment is not so close as some people think...This Nation will not be allotted for years to come, and if the [intruders] are waiting for this they might as well pull up stakes and leave, for it might save ‘Uncle Sam’ the trouble of moving them.”<sup>1797</sup> Even in June of 1894, Cherokees remained confident regarding denationalization and intruder removal.

The Dawes Commission found this very frustrating. By January 30<sup>th</sup> of 1894, the Dawes Commission was meeting in Muskogee with representatives from the Five Nations. According to the commissioner’s report, the Cherokees quickly rejected them: “They presented to us a copy of the resolutions adopted by their tribal council, under which they were appointed, which expressly forbade them from entering upon negotiations with this commission.”<sup>1798</sup> They did agree to meet again, but under the resolution, they would not negotiate. The Cherokee national policy was to “not object to Oklahoma’s ambition to become a state” but to flatly “object to them asking for statehood for us.”<sup>1799</sup> The Cherokees’ goal was therefore to persuade the commissioners to go home empty-handed. After all, the worst thing the United States could do was forcibly take the same thing they were asking Cherokees to give up willingly: their national autonomy.

Henry Dawes of Massachusetts, Meredith Helm Kidd of Indiana, and Archibald S. McKennon of Arkansas still got to make their threats. Dawes acknowledged his lack of power in roundabout fashion, declaring: “We are not here for the purpose of coercing you into anything...unless you shall decline to make any changes whatever in your condition...” At that point Congress would “take it out of your hands.”<sup>1800</sup> Kidd added, “It is always with reluctance that an honorable nation disregards its treaty obligations, but when it becomes a necessity, it is done by the greatest and most powerful nations in the world. Russia agreed not to reconstruct the fortifications of Sebastopol, but when the treaty became a positive injury to her, she tore it in ribbons, and flung it in the face of three of the most powerful nations in the world.”<sup>1801</sup> Dawes and Kidd both wanted to make clear that Congress was ready to break its treaties—just like any of “greatest and most powerful nations in the world”—but the Five Nations remained unconvinced.

Kidd and McKennon did have two interesting “carrots” for negotiation. Kidd offered an ultimatum: the federal government “by agreement [could] confine voting to landholders, and allow you to government yourselves,” or—if the Cherokees refused to negotiate—“the right to vote [could] be given to every man 21 years of age, whether he be white, black, or red.” At that point all the Cherokees nightmares of denationalization would come true, and the tyranny of a new majority would introduce “whiskey and saloons in your midst without stint, and your downward

---

<sup>1795</sup> CA, December 9, 1893.

<sup>1796</sup> CA, March 28, 1894; Ibid, March 21, 1894.

<sup>1797</sup> CA, June 6, 1893.

<sup>1798</sup> No. 24. Office of Indian Affairs, *Report of Commission to the Five Civilized Tribes*, by Henry Dawes, Meredith Kidd, Archibald McKennon. Washington D.C.: November 1894. 1-12.

<sup>1799</sup> CA, December 2, 1893.

<sup>1800</sup> CA, February 14, 1894.

<sup>1801</sup> CA, February 14, 1894.

course would be more rapid than your course upward has been.” McKennon offered a similar ultimatum: the Five Nations could either be annexed into the state of Oklahoma (bringing “ruin to your people”) or they could negotiate and get their own territorial government “placing the power of that Government in your hands.”<sup>1802</sup>

These were tempting offers from what was, indeed, one of the most powerful nations in the world, but the Five Nations were not swayed. At another three-day conference, the commissioners almost felt that they were making progress when “telegraphic dispatches from Washington reached them indicating that the sentiment of the Government, and especially of Congress...was strongly in favor of what they maintained as the “treaty situation,” and that no steps would be taken looking to a change unless they desired it.”<sup>1803</sup> According to the commissioners, this caused a sudden about-face among all the Indian representatives, “and the result at this international conference was the adoption of resolutions strongly condemning any change and advising the several tribes to resist it.”<sup>1804</sup> The Dawes Commission was in effect warning its friends in Congress that their statements could impact negotiations hundreds of miles to the west. If well-informed Indian nations did not believe denationalization would materialize, they would be far less willing to negotiate.

All the commissioners had to show for their work was slander and bitter arguments. In their 1894 report, the Dawes Commission concluded that the Five Nations “have demonstrated their incapacity to govern themselves, and no higher duty can rest upon the Government that granted this authority [self-government] than to revoke it when it has so lamentably failed.”<sup>1805</sup> The governments of the Five Nations had “fallen into the hands of a few able and energetic Indian citizens, nearly all mixed blood and adopted whites...” The “real Indians” were “eking out an existence on a few acres of corn” “far from the whites and from all civilizing influences.” Both Indian nationhood and the “civilization” project was failing (thanks to national sovereignty), and only the United States—by forcing a change in government—could repair the damage.

This hostile attitude quickly spent the commissioners’ goodwill as bitter quarrels unfolded. According to an anonymous informant, another conference at the end of February was disrupted “[after] a heated argument took place between [E.C.] Boudinot and Senator Dawes; Major Kidd chipping in, on behalf of Dawes, and delegates Porter and McIntosh came to the rescue of Boudinot.”<sup>1806</sup> By July the national editor was openly criticizing the commissioners and accusing them of “dangerously breaking the 9<sup>th</sup> commandment”—bearing false witness against your neighbor—to convince Congress to force denationalization.<sup>1807</sup> The Dawes Commissioners left that night without any progress. When the commissioners made plans to visit the nation’s political parties at their conventions, they made the mistake of announcing that they wished to give speeches and answer people’s questions but that they did not intend to have a two-sided discussion about

---

<sup>1802</sup> CA, February 14, 1894.

<sup>1803</sup> No. 24. Office of Indian Affairs, *Report of Commission to the Five Civilized Tribes*, by Henry Dawes, Meredith Kidd, Archibald McKennon. Washington D.C.: November 1894. Pg. 1-12.

<sup>1804</sup> No. 24. Office of Indian Affairs, *Report of Commission to the Five Civilized Tribes*, by Henry Dawes, Meredith Kidd, Archibald McKennon. Washington D.C.: November 1894. Pg. 1-12.

<sup>1805</sup> No. 24. Office of Indian Affairs, *Report of Commission to the Five Civilized Tribes*, by Henry Dawes, Meredith Kidd, Archibald McKennon. Washington D.C.: November 1894. Pg. 1-12.

<sup>1806</sup> CA, February 28, 1894.

<sup>1807</sup> CA, July 25, 1894.

allotment. “If the U.S. Commissioners propose to do all the talking and only condescend to answer certain questions, it will be a one-sided thing...If the Cherokees choose to reject the propositions of the U.S. Government they should be allowed to give their reasons for so doing.”<sup>1808</sup> There was no respect for the commissioners’ approach.

Even observers beyond the Cherokee Nation were dismayed by the Dawes Commission’s tactics. The ex-Confederate General Joseph Wheeler had a public back and forth with one of the Dawes commissioners, Major Kidd.<sup>1809</sup> *The New York Sun* wrote: “We do not believe that the commission has any right to use such [threatening] language as it has addressed to the Tahlequah council, or is authorized to make such threats as it has made...Its business is to negotiate in a friendly way with the Indians, not to dictate unacceptable terms in preemptory language.”<sup>1810</sup> Perhaps because of the bad press commissioners were receiving in the Cherokee Nation, Washington reportedly instructed the commission to cancel all its April engagements in the Cherokee Nation and to redirect all its attention to the Choctaws and Chickasaws.<sup>1811</sup> If Cherokees were so confident the law favored them, then they could be left for Congress to sort out.

At his first annual message in 1892, Chief Harris focused on the danger of U.S. capitalism after the successful conquest of Indigenous lands. A year later, at this second annual message—shortly before his own impeachment—he turned his focus inward. The enemies of Indigenous sovereignty—including the commissioners—were all searching for dysfunction within the Cherokee Nation. They insisted that full-bloods would be better off under U.S. rule, and that these “real Indians” suffered under “piratical dictators”—mixed-bloods like Harris. Harris, for his part, had now seen first-hand the political dysfunction which was taking root in the country. Cherokees could no longer afford to ignore their internal difficulties. As the chief put it:

“Individual rights are gradually superseding, in the minds of the people, the traditional ideas of the common. The people of no nation are ever in step with the general advancement. Some are bound to be behind and some before...[However] No one citizen has any superior rights in the common property over another, or entitled to greater benefits therefrom. An accommodation, therefore, somewhere between these two conditions—the less and the more advanced of our people—should be arranged that general satisfaction may be secured. This cannot be done by a denial of what may be considered the rightful and necessary aids to industry and enterprise. Friction between the two classes is to be avoided, if possible, being dangerous to self-government.”<sup>1812</sup>

Economic inequality was a threat to their national existence and self-government. The economic liberalism of the Cherokee Nation had created a society of haves and have nots, and the “blood bills” had created massive groups of citizens with incentives to favor denationalization. Cherokee institutions favored the mixed-blood at the expense of the full-blood, the Black Cherokee, and Indigenous immigrants. Permit workers were not advocating for statehood in the same way that intruders were, but they were contributing to the “monopoly of lands” that is “already a grievous complaint among our native citizens.” The Dawes Commission may have lacked the power to

---

<sup>1808</sup> CA, July 25, 1894.

<sup>1809</sup> CA, March 7, 1894.

<sup>1810</sup> CA, March 7, 1894.

<sup>1811</sup> CA, April 4, 1894.

<sup>1812</sup> CA, November 11, 1893.

force a change, but there were internal threats, initiated by liberalism and compounded by libertarianism, which had to be addressed.

### **\$6,740,000**

In January of 1894, the Cherokee were looking forward to the largest injection of cash in the history of their nation. They had given up \$1,855,736 to sell the bonds for the Outlet, but they were walking away with nearly seven million dollars (and they would be owed an additional million thanks to another portion of the Outlet Treaty). They had stepped away from a constitutional crisis in withdrawing their impeachment charges against C.J. Harris, and they had turned their focus to the Dawes Commission (which held its first conference with the Cherokees only a couple weeks after the impeachment crisis was over). Acknowledging the farce of all this is crucial: without any tool in his power except the power to report, Henry Dawes was trying to convince the Cherokees to give up their lands and government at the same time that the Board of Appraisers readied the federal government to remove all of the country's intruders and at the same time that Cherokee government was about to disburse millions of dollars to its citizens. This is not the Indigenous experience of the 1890s that non-specialists expect to see.

However, the sale of the bonds also demanded a final answer to the difficult questions haunting Cherokee society. In their last opportunity to turn away from racial discrimination (at which point the United States would force the issue anyway), Shawnee-Cherokee citizens brought a bill to the National Council “to allow them to participate with the Cherokees by blood in the ‘Strip money.’”<sup>1813</sup> If the bill was passed into law, the Shawnees would withdraw their suit against the Cherokees in Washington. An embarrassing example of internal strife and discrimination would be removed from a foreign court, and the Cherokees could prove to their aggressor that they could govern their own affairs. The bill could have also served as a starting point for repairing relations with other alienated classes in the country (i.e. Delawares, Black Cherokees, and adopted whites). Chief Harris urged passage of the bill, as he was ideologically opposed to discriminating against any citizens in the face of the much larger threat of denationalization. Violating the law against partisan reporting, the national editor made no effort to hide his support for the bill.<sup>1814</sup>

The bill caused “very lively debate in the Senate and the House.” Senator Robert Ross of the National Party—and the grandson of John Ross—urged the bill’s passage, understanding Shawnee enjoyment to the full rights of citizenship to be a sacred treaty obligation. Many other senators made the same argument, including one of the only Downings left in the chamber (who was “a warm friend of the adopted class of this country”). The bill passed the upper chamber, but was defeated in the House. Two members of the National Council shared their reasoning: One said that he was “protecting the interest of Cherokees by blood,” while the other shared that during his last campaign for office he had “[run] on a platform advocating the opposite of the bill.” The latter figure also said that he wanted the suit in Washington “to take its course.”<sup>1815</sup> The bill died; a pointless and self-destructive form of discrimination survived.

Taking their cue from the Shawnees, Delawares, and Freedmen, the adopted whites finally planned their own litigation for their share of the Strip money. They had a much weaker case in

---

<sup>1813</sup> CA, January 17, 1894.

<sup>1814</sup> CA, January 17, 1894.

<sup>1815</sup> CA, January 17, 1894.

U.S. courts because they were not citizens by treaty, but they were fully-fledged citizens, nonetheless. After months of organizing in 1893, in February of 1894 the national editor could finally announce that “a few of the white adopted citizens of this Nation intend to sue Cherokee Nation (in the U.S. Courts).”<sup>1816</sup>

George Butler acknowledged it was illegal for him to express an opinion on the matter, but he then wrote: “[This] will be hurtful to all our people...it will result in tying up the [Strip] money, and deprive their own wives and children of their money for a long time.”<sup>1817</sup> The adopted white was only hurting his own family with this latest obstruction. “The Cherokee Government,” he added later, “has had a long and hard struggle [to acquire the bonds]...and now, when the money is nearly in our citizens’ reach,” these adopted whites were about to inflict a “a great hardship to the majority of our citizens” and “subvert the Constitution of this Nation.”<sup>1818</sup> Their actions against the nation would certainly “merit the approval of the intruders.” The Cherokees had “a country that [was] independent of the United States”—the adopted whites were illegally asking for protection from “a foreign government.”<sup>1819</sup> Saying everything but the word itself, Butler was accusing the whites of treason against their adopted country.

The adopted whites would be denied relief from the United States (despite some congressmen’s efforts on their behalf), but they weren’t the only last-minute claimants to the Strip money. Renewing their claims from the 1880s (that they were part of the Cherokee Nation of the West), the attorney for the Eastern Band of Cherokee Indians sued for their nation’s pro-rata share of the Strip money (which came out to \$1,159,090).<sup>1820</sup> The national editor reacted furiously to this development as well, writing: “The North Carolina Cherokees are not citizens of this Nation, and our laws have no jurisdiction over them, and we cannot see upon what grounds they can ask for a share of the strip money.”<sup>1821</sup> The matter had also already been settled before the Supreme Court in 1886, but this did not stop Congress from introducing a joint resolution on the North Carolina Cherokees’ behalf. “It looks that some people are determined not to allow this Nation to get all of the money that is due,” Butler added cynically, but the Dawes Commission could forget about enjoying productive negotiations “as long as Congress entertains every memorial that is presented to it asking the signers be allowed to reap benefits that are in no way to due them.”<sup>1822</sup>

The Cherokee Nation successfully deflected this claim with the same defense it had used in the 1880s, but there was one last loose end which had to be tied: a man named Edwin D. Chaddick of New York City. Prior to R.T. Wilson and Co. purchasing the bonds, Chaddick had gotten closer than anyone else to acquiring the bonds. His bid had failed for not being “drawn up according to agreement” in December of 1893, and it’s possible that this latest failure was what led to Harris’ impeachment.<sup>1823</sup> Chaddick then filed an injunction to prevent the sale and to enforce the sale to him according to the abandoned agreement.<sup>1824</sup> The Cherokees argued in court that it was

---

<sup>1816</sup> CA, February 28, 1894.

<sup>1817</sup> CA, February 28, 1894.

<sup>1818</sup> CA, April 4, 1894.

<sup>1819</sup> CA, April 25, 1894.

<sup>1820</sup> CA, February 28, 1894.

<sup>1821</sup> CA, April 11, 1894.

<sup>1822</sup> CA, April 11, 1894.

<sup>1823</sup> CA, January 3, 1894.

<sup>1824</sup> CA, February 28, 1894.

impossible to sue an Indian tribe without congressional approval, while R.T. Wilson and Co. sent another attorney to aid the Cherokees and protect their investment.<sup>1825</sup> On the evening of March 3, the Cherokees received two telegrams from their allies in Washington. One read, “Injunction in Chadick case dissolved today.” The other read “Transfer will be made Monday.”<sup>1826</sup> The Cherokees would finally get their money.

Hostile members of Congress tried to intervene against the Cherokee’s progress. The House Judiciary Committee considered a resolution which allowing Chaddick to bring suit to the Court of Claims (with a right of appeal to the Supreme Court), while Cherokee delegates argued that “an indefinite postponement” would be catastrophic for the merchants and creditors “[brought] to the verge of financial ruin.”<sup>1827</sup> The deeply anti-Indigenous senator of South Dakota, Richard Pettigrew, proposed a tax on the Strip money—a suggestion which threatened to upend the bond sale altogether.<sup>1828</sup> None of these last-minute obstacles would stand, however.

The reason is important. Like the sale of the Cherokee Outlet, westerners had a strong incentive to help the Cherokees get their money. The millions that flowed into the Cherokee Nation would quickly flow out as Cherokee citizens spent it all. Cash poor merchants and creditors in Fort Smith, St. Louis, and other western hubs had little reason to block the Cherokee’s money—even if it ran counter to longer-term goals of denationalizing Indian states. Ex-representative Samuel Peel of Arkansas—one of the most zealous supporter of the Outlet Treaty—somehow arranged for the Cherokees to appear before the Judiciary Committee and argue against intervention, as he was “interested in having the matter adjusted as speedily as possible.”<sup>1829</sup> The white merchants of Fort Smith organized a petition in favor of the Cherokees and then forwarded it to Congress.<sup>1830</sup> Agents of R.T. Wilson and Co.—not unlike the livestock association before them—traveled to Washington to support the Cherokee delegates. Not for the first time and not for the last, U.S. capitalism and Indigenous sovereignty found a shred of common ground.

Once these minor obstacles were removed, the money saga moved forward at lightning pace. Congress helped by passing a resolution authorizing the Secretary of the Treasurer to receive \$6.74 million at the sub-treasury in New York.<sup>1831</sup> The Chaddick problem lost what little steam it had left when the Secretary of the Interior, rendered an opinion (“which should be written in letters of gold”) that the “Cherokee Nation alone has a right to decide who is entitled to the bonds.”<sup>1832</sup> On April 3<sup>rd</sup>, 1894, Chief Harris received a telegram from the Cherokee delegates in New York which stated: “We are out of the woods—money in the Sub Treasury here.”<sup>1833</sup>

Confidence had been restored. A false report in mid-January had predicted that “in a few weeks [the] several million dollars will be turned loose in the Nation.”<sup>1834</sup> Cherokee Senator George Washington Bengé assured the public that “the merchants now have no fear of selling their

---

<sup>1825</sup> CA, March 7, 1894.

<sup>1826</sup> CA, March 7, 1894.

<sup>1827</sup> CA, March 14, 1894; *Ibid*, February 21, 1894.

<sup>1828</sup> U.S. Congressional Record, Volume 26, Part 4, pg. 3269.

<sup>1829</sup> CA, March 14, 1894.

<sup>1830</sup> CA, March 14, 1894.

<sup>1831</sup> CA, March 28, 1894.

<sup>1832</sup> CA, March 21, 1894.

<sup>1833</sup> CA, April 4, 1894.

<sup>1834</sup> CA, January 17, 1894.

goods on the strip, as the people [would] soon get their money.”<sup>1835</sup> Ex-principal chief Bushyhead projected the same message, and in April of 1894, there was reportedly an “unthought of excitement on Main Street” after a “grand rush” of the ladies of Tahlequah on Mrs. E. E. Starr’s new millinery store.<sup>1836</sup> *The Cherokee Advocate* urged the merchants to advertise their goods en masse. The newspaper would “place their ‘ads’ in both the Cherokee and English languages.”<sup>1837</sup> Cherokee commercial activity was hot again, and it would only get hotter as the date of disbursement approached.

Cherokee officials now hurried to plan the payment. A mid-April special message from the principal chief set out the way forward. Harris announced that the money would soon be deposited to the sub-Treasury in St. Louis at which point they money would need to be securely withdrawn and brought to Tahlequah. The National Council still needed to draft a final version of the citizenship rolls, it had to decide what form of payment the disbursement would take (cash or check), where the disbursements would take place, how much money would be appropriated to the government, how money due to orphans would be handled, and how the transaction would be protected from robbery.<sup>1838</sup> All of this would have to be legislated before the payment.

Harris was a fading voice of reason on many of the loose ends. He made one last effort to end the practice of racial discrimination: “I recommend that you provide for an equal distribution among all the citizens of the Cherokee Nation alike, provided that the Delawares, Shawnees, and Freedman first agree to withdraw their suits.” They were entitled to equal rights under the constitution, he insisted, and furthermore, “the protection of our common interest demands, at this stage of our national existence, the united and patriotic effort of every citizen of the Cherokee Nation.”<sup>1839</sup> Continuing to discriminate against “non-blooded” citizens on the eve of denationalization was nothing short of self-destructive. “If our internal dissensions are not allayed,” Harris warned, “our fight against the advocates of those seeking a change in our present form of government will be much more difficult.” If they could not “cement our whole people into one loyal citizenship, with common interest and a common destiny,” they would likely lose their country.<sup>1840</sup> He was right, of course, but the National Council would not reconsider the matter.

One false step avoided regarded the national debt. In April of 1894, a mind-boggling policy toward the public debt was suggested by George Butler, the National Party editor of *The Cherokee Advocate*. Butler proposed that the National Council had a difficult choice ahead of whether to pay off the debt at all. “Some of our citizens may say,” he wrote, “that the debt should not be paid out of the \$6,740,000 for the reason that all classes of our people should give their ‘pro rata’ share in paying the debt.” The “problem” Cherokees faced was that the “Shawnees, Delawares, and negroes [had] succeeded in having the U.S. authorities hold our part of the ‘Strip money’ for their benefit, [and] they would not contribute one cent toward paying the National debt.”<sup>1841</sup>

---

<sup>1835</sup> CA, January 31, 1894.

<sup>1836</sup> CA, January 31, 1894; Ibid, April 25, 1894.

<sup>1837</sup> CA, March 7, 1894.

<sup>1838</sup> CA, April 18, 1894.

<sup>1839</sup> CA, April 18, 1894.

<sup>1840</sup> CA, April 18, 1894.

<sup>1841</sup> CA, April 18, 1894.



The obvious solution was to end the practice of discrimination, pay citizens equally, and receive the money withheld from the United States. But assuming Cherokees did not do that, and that the U.S. would force them to pay the country's "non-blooded" citizens, the Cherokees faced a deeply ironic predicament of their own making. The "Native Cherokees" would sacrifice a sliver of their share of the per capita money to pay off the public debt, while the second-class citizens of the nation would receive their pay in full. Butler's favored plan—simply not paying the debt at all—was nothing short of self-destructive, and fortunately, his suggestions were ignored.<sup>1842</sup> In the words of Chief Harris, "the nation [was] a pauper" compared to its citizens, but it would soon erase its debt without a fuss.

As April came to an end, Cherokees started to have a better sense of what the payment would look like. It was coming soon—within a matter of weeks, it would be a summer affair—and already there were "several strangers in town."<sup>1843</sup> Cherokees chattered over what they would do with the money—if they had not already spent it all—while the national editor urged citizens to either pay "your honest debts" or "improve your home."<sup>1844</sup> There would be a "thousand different things that will be here to take your money," the editor correctly predicted.<sup>1845</sup>

There were also still lingering tensions over the diasporic Cherokees who had traveled home and reenrolled just to get their per capita money. Butler felt they should have been excluded, but public order would be maintained by the swarms of armed guards hired by the government.<sup>1846</sup> Jessie Cochran—the ex-Sheriff of Cooweescoowee District—was elected "Commander of the Guards" and he would be tasked with protecting the National Treasurer, Emmett Starr, and all of his assistants.<sup>1847</sup> At each payment—which would occur in different towns at different times—a tent would be set up for the merchants collecting debts.<sup>1848</sup> A detailed plan was taking shape.

And then, it was finally time to carry out these plans. How well they could be executed was never clear. The country stood on a knife's edge; it was scared and celebrating all at once. It was surreal, the spectacle of Cherokee guards—each armed with a Winchester rifle and a pistol—escorting \$1.5 million into the country at a time. If they failed to protect the cash from American thieves, their nation could lose both the land and the money. The national editor cautioned that "it would be exceedingly warm" for anyone who dared to attack these guards.<sup>1849</sup>

In an address to the nation, Harris celebrated "the largest sum of money" the nation had ever received, but he also warned of the "attendant dangers and melancholy aspect of the present per capita distribution." The country would be flooded with "hundreds of adventurers, sharps, and tricksters" working "for dishonorable purposes." Never "in the history of our Nation" had so many "bad characters" descended upon their lands. For any crimes the opportunists committed, Cherokees would be blamed, and whatever scandal they caused threatened "political extinction" for the nation. Harris warned his "fellow citizens" not to drink when such dangers surrounded

---

<sup>1842</sup> CA, April 18, 1894. "We are of the opinion that the debt will not be paid with this load of poles."

<sup>1843</sup> CA, April 25, 1894.

<sup>1844</sup> CA, May 23, 1894; *Ibid*, April 25, 1894.

<sup>1845</sup> CA, May 23, 1894.

<sup>1846</sup> CA, April 25, 1894.

<sup>1847</sup> CA, May 9, 1894.

<sup>1848</sup> CA, May 9, 1894.

<sup>1849</sup> CA, June 6, 1894.

them; he urged them to “make the best” of their money, and to put it toward “comfortable homes and good farms.” Any further mistakes would add to the multiplying questions about Cherokees’ “moral and political unfitness for self-government.”<sup>1850</sup>

At the first payment in Tahlequah there were reportedly 25 city guards and 50 special guards to protect the payment—addiction to any “intoxicants” was disqualifying.<sup>1851</sup> Merchants from the United States set up shop in the capital, hoping to entice cash-rich Cherokee citizens.<sup>1852</sup> Cherokee merchants urged their fellow citizens to “patronize home industry.” One of Fort Smith’s leading merchants was in town just “to take in the payment,” but so too were travelers “without any visible means of support”—and the national editor urged the mayor of Tahlequah to look out for them.<sup>1853</sup> The churches were putting on shows to raise money—“Shakespearian entertainment” and a concert with soloists—perhaps hoping to be included in the windfall.<sup>1854</sup> Creditors stalked their debtors, ready to get what they were owed—including Cherokee Senator Ellis Starr, who apparently had “credited a great deal on the Strip.”<sup>1855</sup> It was later reported that the merchants of Tahlequah “collected very near all what was due them.”<sup>1856</sup>

The whole world nagged Cherokees over where to spend their money. In the weeks before and during the payment, there were far more advertisements than usual for everything from “fine wines, brandies, liquors, and cigars”—in a country where alcohol was banned—to “notions, hosiery, and gents furnishing goods.”<sup>1857</sup> They offered “drugs, chemicals, patent medicines, toilet and fancy goods, wall-paper, window shades, paints, oils, and varnishes.”<sup>1858</sup> Gold watches, “silverware of all kinds,” and calendar clocks.<sup>1859</sup> R. A. Hosey of Tahlequah Marble Works promised to be at all the payments, offering “monuments, tombstones, etc. for departed friends...[at] low prices.”<sup>1860</sup> N.D. Porter didn’t even have a storefront for his dry goods—just a tent he had hastily thrown up, while the national editor suggested that every Cherokee own a Winchester rifle.<sup>1861</sup>

There was “fully ten thousand people in town.”<sup>1862</sup> Barbers made their own windfalls cutting hair, while swings and lemonade stands offered cheap smiles.<sup>1863</sup> Dentists competed with the “Senter Payton Popular Comedy Co.” which had decided to do a two week show in Tahlequah during the payment.<sup>1864</sup> Candy stands and brass bands littered the streets, filling the air with music.<sup>1865</sup> For the sentimental, Gannaway’s urged its customers to come get their photos taken, while one local jewelry store asked the Cherokees: “Are you going to get married when you get

---

<sup>1850</sup> CA, May 30, 1894.

<sup>1851</sup> CA, May 30, 1894.

<sup>1852</sup> CA, May 30, 1894.

<sup>1853</sup> CA, May 30, 1894.

<sup>1854</sup> CA, May 30, 1894; Ibid, June 13, 1894.

<sup>1855</sup> CA, May 30, 1894.

<sup>1856</sup> CA, June 20, 1894.

<sup>1857</sup> CA, May 30, 1894.

<sup>1858</sup> CA, May 30, 1894.

<sup>1859</sup> CA, May 30, 1894.

<sup>1860</sup> CA, May 30, 1894.

<sup>1861</sup> CA, May 30, 1894; Ibid, June 13, 1894.

<sup>1862</sup> CA, June 6, 1894.

<sup>1863</sup> CA, July 2, 1894. Ibid, June 13, 1894.

<sup>1864</sup> CA, May 30, 1894.

<sup>1865</sup> CA, June 6, 1894.

your strip money? Well, that's right and don't forget to your engagement ring and your wife will think more of you...<sup>1866</sup>

Many simply paid their debts and put deposited the rest into their savings, many others got mixed up in the stalking underworld of opportunists.<sup>1867</sup> On June 9<sup>th</sup>, Chief Harris released a special message to the district sheriffs urging them “to suppress, at all times and in all places, all sorts of gambling in your respective districts...This order is especially directed to the sheriffs of the districts in which payments are to be made.”<sup>1868</sup> The people's money was at stake, and could be quickly lost in “games of hazard” which were almost certainly rigged.

“Fakirs, peddlers, and gamblers” were “out in full force” at every one of the Strip payments, but so were the thieves.<sup>1869</sup> Large families with children would have almost certainly been targeted, as everyone knew they could be carrying \$2,000 or more. One Joshua Ross and William Drew were robbed of their money and belongings, while on a dark country road, one Mrs. Nan Duncan was murdered by a drunk thief named Levi Sanders—who in turn was shot and killed by her surviving son.<sup>1870</sup> The barber George Craft was murdered and his body stashed in a field with \$220 still in his pocket, and at night there was constant gunfire.<sup>1871</sup> Stories abounded that an old lady was robbed of \$1,500 and that a whole family was killed on the Illinois river, but *The Cherokee Advocate* insisted these were all false rumors.<sup>1872</sup> Still, on the eve of denationalization *The Cherokee Advocate* had good reason to underreport the crimes and chaos, and its claim that there was no drinking at the Tahlequah payout was unquestionably false.<sup>1873</sup> With all this excitement surrounding the payment, it was no wonder that annual teacher's institute generated “very little interest” owing to the hot weather and “the excitement of the payment.”<sup>1874</sup>

And then the payment moved on to the next town, like Vinita on June 20<sup>th</sup>. All the foreign merchants and creditors and opportunists followed along—even the lemonade stands packed up and moved.<sup>1875</sup> Thousands had come into the country just “to beat the people out of their money.” Reflecting on this whirlwind of events, the national editor wrote: “It seems that no Indian tribe can get what is justly his without people from state [who] are ready to fleece him out of it.”<sup>1876</sup> In the same week, *The Muscogee Phoenix* alleged that there was a smallpox epidemic in Fort Smith, Arkansas, but that the papers of that city were covering it up. “This is natural,” added Butler, “[for] the citizens there are expecting a big trade from the Cherokee Nation in the next month or two. They don't care how many ‘Injins’ die with small pox so they get their trade.” They would all

---

<sup>1866</sup> CA, July 11, 1894. Ibid, May 30, 1894.

<sup>1867</sup> CA, June 13, 1894

<sup>1868</sup> CA, June 13, 1894.

<sup>1869</sup> CA, July 25, 1894.

<sup>1870</sup> CA, July 11, 1894; Ibid, June 13, 1894.

<sup>1871</sup> CA, July 2, 1894. Ibid, July 11, 1894.

<sup>1872</sup> CA, June 6, 1894.

<sup>1873</sup> CA, June 13, 1894. The July 18<sup>th</sup> issue of *The Cherokee Advocate* reported that the Illinois guards had dumped hundreds of gallons of moonshine. In the next section, John Oskison Jr. shares a detailed account of what he saw at the payments, while in a likely exaggerated account, the July 25<sup>th</sup> issue of *The Advocate* featured an accusation from one J.E. Wolfe that the payment had even been administered by a “drunken, slobbering, indecently clad, and filthy, tobacco stained scoundrel.”

<sup>1874</sup> CA, July 2, 1894

<sup>1875</sup> CA, June 13, 1894

<sup>1876</sup> CA, June 6, 1894

continue to “pull their hats to you” and treat you well; they would—according to one Cherokee—clean out the city of Fort Smith and instruct the police “that no more battered, beaten and robbed Indians shall have the city until the last dollar of their strip payment is paid out.”<sup>1877</sup> But once the money was gone, all that would be over. They hated Indians and loved their money. Cherokees well understood this but were powerless to influence what happened the day after payment.

### **\$265.70 per person**

John Oskison Jr., like his father, traveled widely. “Ever sympathetic with the Odysseus urge,” his father gave him \$500 to do his own wandering around Naples, Rome, Florence, Venice, and Paris. The Cherokee youth who watched his country die “walked Rome’s old streets [and] saw the Colosseum by moonlight.”<sup>1878</sup>

Somehow the per capita payment of 1894 left a greater impression. In his autobiography, Oskison Jr. shared what he saw at the Vinita payment. No other account could match his detail:

“For the Cherokees of our section the payment was made at Vinita, in a big tent roped off and protected by rifle-armed guards patrolling inside the ropes. One by one, Indians ducked under the ropes, identified themselves, and received from the tribal treasurer the cash to which he and his family were entitled. Lawyer Bill Hastings was there to consult with the treasurer when necessary, and advise with full-bloods who could not speak English or who had difficulty in identifying themselves. Hastings seemed to know every full-blood family in the Nation.

Names checked off on the roll of citizens made by the [authorities], bills and silver in their pockets, payees passed from the main tent to another, long and narrow, in which merchants of Vinita, Nowata, Chelsea, Claremore, Miami, and other trading centers sat with lists of debts owed them by Indians to whom they had extended credit. They paid unquestioningly the amounts demanded, some emerging with pockets turned inside out, and grinning, after creditors had taken all. Only a few came out with the whole amount they had been paid. Dick and I were among these, handing our money to Father to be put into his account at the bank and kept for us. Neither Father nor Bert received the payment; adopted citizens, it had been ruled, could not share, and Bert, the son of white parents, had no claim either to land or money.

The payment proceeded slowly, lasting a week. Each morning I watched from Smith’s office clerks carrying chests of money from bank to pay-tent, surrounded by guards who had stood in front of the bank all night. At sunset, the chests were carried back to the bank.

When I decided that I had read as much of Blackstone as I could absorb for the day, I went down to make a tour of the attractions set up on vacant lots and the Frisco railroad right-of-way: shooting galleries; ring toss, spin the wheel, and fortune-telling booths; guess your weight and get your nickel back scales; ring the bell with a maul and get a good cigar pitch; pale imitations of Little Egypt and other shows “straight from the Midway at Chicago’s Mammouth Fair”; the taffy-pulling hook where the sweating manipulator chanted, “It

---

<sup>1877</sup> CA, May 23, 1894

<sup>1878</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 111.

cleans your teeth, curls you hair, and gives you a smile that's fit to wear!" I remember the shy, soft laughter of Indians emerging from the dime traps, pistol shots in the night, and shrill whoops of young half-breed rioters drunk on bootleg whiskey, and the clatter of running horses' hooves along the dirt streets. These are among the impressions that were later incorporated into some of the stories I wrote."<sup>1879</sup>

To Oskison, the payment was a tale of non-stop manipulation and greed. A sign of ugliness Americans brought to Native people. The payment was a dizzying flurry of gain and loss, and the background of it all was land dispossession. It was a festival, a fair with the "soft laughter of Indians" echoing in his head years and years later, and yet it was also brutal and exploitative.

In one of his stories, he returned to the Strip payment, bringing even sharper criticism to the moment than he did in his autobiography:

"The town was in a fever of temporary activity," he wrote. "Store-keepers' clerks stood on the sidewalks as pullers-in, competing with street peddlers; merry-go-rounds, soft-drink booths, chile cooks, friers of chicken and catfish, cheap jewelry vendors had taken spaces in vacant lots and along the sidewalks; horse traders paraded their steeds through the streets...Gamblers had set up poker and crap tables and chuck-a-luck games in curtained off sections of innocent appearing huckster's tents...bootleg whiskey was flowing from pop bottles that hard-eyed [sex workers] were serving as lures for the gamblers...the riotous jumble of sound and color, this cheap-jack show...Everywhere was sound, color and smell, loud and coercive..."<sup>1880</sup>

At the peak of their wealth and on the eve of denationalization, Cherokees were drinking and gambling, playing and laughing, planning and scheming, hoping and praying. Their country was a flurry of business and enjoyment— "loud and coercive." The people were getting richer; the government was getting poorer. The chief warned his people to prepare themselves for whatever came next. Americans of all creeds and colors were going to torch their government. The Cherokee phoenix would be put to flames, disappearing into the fire. It would burn like that for seventy years.

---

<sup>1879</sup> Oskison (ed. Larré), *Tales of the Old Indian Territory*, 89-90.

<sup>1880</sup> John Milton Oskison Jr., *Black Jack Davy* (New York: D. Appleton and Co., 1926), 168-169; Larré, *Tales of the Old Indian Territory*, 491.

Epilogue:  
**Denationalization and its Aftermath (1897-1976)**

On December 29, 1835, twenty treasonous Cherokees signed the Treaty of New Echota, trading all their eastern lands for a new home in the West. With the scratch of their signatures or their x marks, the Cherokee Nation became a completely different place: a “home tract” on the far edge of the United States, “a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven million of acre as far west as the sovereignty of the United States and their right of the soil extend.”<sup>1881</sup> The signing of this document ultimately led to the fall of the Cherokee’s first republic and the deaths of thousands of people on the Trail of Tears. It remains a complicated and painful part of the country’s history.

Adopting a thoroughly anti-democratic stance, the signatories—who represented a tiny fraction of the nation—insisted they had done what was best for the anti-Removal majority. Even as members of the Treaty Party were assassinated in the West, they continued to insist on this. John Adair Bell and Stand Watie, for instance, posted a defiant message in the *Arkansas Gazette*: “Sooner let us fall by the hand of the midnight assassin, than have our names loaded with infamy, and handed down to posterity as traits, who had ‘saved their country from total destruction, by making the best treaty ever made for any Indians!’—The historian will do justice to the memories of the fallen.”<sup>1882</sup> In their eyes, whatever new country awaited them in the West was far better than the uncertain future of the “Old Nation” in the East.

But instead of fearlessly returning to the Cherokee Nation, as Stand Watie would, John A. Bell fled to Texas. He had no intention of dying for a cause. He would not enjoy the country which his own treachery had created. Going with him into exile was his four-year-old girl, Andromache Bell, who would one day become Ann Bell Shelton—my great-great-grandmother.<sup>1883</sup>

And then, a people betrayed formed a second republic. The Indian Removal policy of the 1830s ironically provided ideal conditions for Native nations and immigrating settlers to coexist on Indigenous terms. Notwithstanding its cruelties, treacheries, and traumas, and notwithstanding the fact that Removal necessarily deprived Osages and others on the prairies of homelands, Removal enabled eastern nations to build durable political power in Indian Territory. The result of this was that Native peoples were given the time and the space to construct politically and fiscally resilient governments. In their new lands, Cherokees could absorb land-hungry settlers as permit workers, give them a path to citizenship through marriage to Cherokee women, and leverage the resulting demographic and economic strength to protect their distinctive land practices and nationhood. To different degrees, all the Five Nations followed this basic trajectory.

---

<sup>1881</sup> Treaty of New Echota, U.S.-Cherokee Nation, Article 20, December 29, 1835, *ratified* March 1, 1836.

<sup>1882</sup> Vicki Rozema, *Voices from the Trail of Tears* (Winston-Salem: John F. Blair, 2003), 166-169.

<sup>1883</sup> The justifications Bell shared for his actions have been passed down in my family from one generation to another. Our mother used to always tell us that “we” did not trust Andrew Jackson and so “we” made a deal to leave early, and that “we” had been spared the bulk of the suffering thanks to our far-sightedness. That was a fantastic sanitizing of history, but my mother did not get it from a book. Her father gave her that repeatedly washed story, which he in turn got from his parents, who got it from Ann herself, before finally, we reach the original source himself. I suppose as a historian I’m uniquely positioned to “do justice” to my ancestor, who claimed to have “saved the country from total destruction,” but I have no intention of doing that. Watie and Bell and others caused tremendous, irrevocable harm to their own people.

Along the way, the Five Nations helped others recreate the model. The Osage Nation is an excellent example of a tribe that the Cherokee often collaborated with in the late 19th century to increase the former's autonomy and self-sufficiency. There were other examples. The Wichita and Caddos petitioned Congress for a government like the Cherokee's, and the Cherokees obviously supported them in that—it was in everyone's best interest. Removal, then, unintentionally assisted in the rise of settled and separate Indigenous republics. In these Removal lands, the myth of the Jacksonian Era, that Native nations had to be isolated for their own good, produced inspirational experiments in Indigenous democracy. Those experiments are ongoing.

Cherokee history continued unabated. As the 19<sup>th</sup> century wore on, Cherokees enjoyed more power over their affairs, not less, and the United States routinely upheld its promises to keep Indian Territory separate from the rest of the country. This meant that local and national developments were far more immediate in Cherokees' lives than federal Indian policy.

During Cherokee Reconstruction (1866-1879), for instance, the ex-Union "Loyal Cherokees" enjoyed an uninterrupted period of political dominance and reimagined what their country could be. The first and last full-blood chiefs were elected during this period, while the government erected social welfare institutions, healed ruptures between previously warring factions, and attempted radical solutions to racial and economic inequality.

After Reconstruction, a starkly different set of reforms was initiated. The Cherokee state and people prospered more than ever before, thanks to a successful economic policy of "communal capitalism"—a new approach to planning that sought profit for the people sourced from foreign capital, markets, and labor. This was the Cherokees' "Liberal Decade," and it proved something crucial about our history. In the aftermath of both the Removal and the Civil War, Cherokees have always reconstituted themselves, relearning to thrive and enrich themselves again.

By the 1890s, the liberal direction of the country had been violently replaced with an anti-statist ideology driven by the likes of Lucien Bell. In every instance, this wave of politics favored the encouragement of private wealth at the expense of public finance. These libertarians did not support denationalization—they were still fiercely nationalistic—but their movements against the state were poorly timed and one of many factors that would undermine the Cherokee's ability to resist annexation. The height of this political movement was reached in the summer of 1894 when millions of dollars—which could have revolutionized state spending overnight—were disbursed to citizens per capita in a carnival-like atmosphere.

Even still, Cherokee nationalism did not end with a party. In negotiations with the Dawes Commission, Cherokees held out longer than any of the Five Nations and refused to give up their country voluntarily. Private Cherokee wealth, boosted by the enormous per capita payment of 1894, continued its upward trajectory. The U.S. was still obligated to remove the 8,000 intruders in the country, and the preparations for this were concluded by 1895. There were still plenty of optimistic Cherokees in the second half of the 1890s, and current events did little to persuade them otherwise. Not even anti-statism (which was of a cyclical political nature) could unravel Cherokee sovereignty as the United States would. The Cherokee state remained an enduring success.

This success vexed hostile white Americans and their government. An increasingly western United States refused to ignore the calls for denationalization any longer. Richard Pettigrew, the first senator of South Dakota, remarked:

“A condition of affairs exists in that country unequaled in any barbarous nation on the globe. [In each of the tribes] Laws are framed for the purpose of plundering the people...the whole machinery of government is prostituted by a few [‘white’] men, claiming to be Indians for the purpose of plundering them.

...White men have gained control of the tribes, control of the governments, control of their courts. They are white men claiming to be Indians, yet who would not be recognized as Indians unless you are told they are Indians...We set that country apart for the Indians...[but] we failed to do it. There are about...32,000 Indians, about 28,000 white men who claim to be Indians, and 300,000 citizens of the United States who...are paying rent to the so-called Indians.”<sup>1884</sup>

Pettigrew thought he was describing the irredeemably corrupt nature of the Five Nations’ governments, but in fact, he was describing the nations’ recent embrace of capitalistic economic systems. Many of the white renters were not renters at all, but foreign workers described as such by contemporary Cherokees. The laws “framed for the purpose of plundering the people” were the pro-development policies embraced during the 1880s. Rich Indians were the real problem.

For some, denationalizing the Cherokees because of their greed and corruption was nonsensical. For Senator William Bate of Tennessee, it was the height of hypocrisy:

“I know nothing about what the Senator from Arkansas said as to the condition of things, unhappy as it may be, in the Indian Territory. I know nothing about [these claims], which I take for granted [my colleague] knows to be true, unless he would not have stated it...

But let us look around. Are we doing any better? I read but yesterday morning in the papers where there was a factory worth \$2,000,000 and works 1,000 hands, owned by two men; and does that make them dishonest? They have a right to own it if they come by it honestly. They have a valuable property, and they have men under them who get only \$1 a day for their services. Ought we take it away from them because they own it, as do other Indians their lands?

I do not believe in that kind of talk. I do not believe in that kind of legislation either. If it is true that sixty-one of the Indians have this amount of land, let them be regulated by the Indian court. They can do it. It is not ours, and we should interfere with it without their consent.”<sup>1885</sup>

In a nutshell, this was the dilemma Cherokees faced. They could pursue profit and industry just like the United States. They could embrace their own form of capitalism just like the United States. But ultimately, in Americans’ eyes, they were still Indians, and their exceptional status had now expired. They could not be allowed this kind of wealth nor this degree of national sovereignty.

---

<sup>1884</sup> U.S. Congressional Record, 1897, Volume 30, Part 1, 735.

<sup>1885</sup> U.S. Congressional Record, 1897, Volume 30, Part 1, 737.



That Cherokees were ever this successful in the first place proved that Cherokee and American states and systems were compatible. And if they were compatible, there was little reason to wipe Indian nations off the map. On the eve of the twentieth century, the Indigenous republics of Indian Territory were the stubborn survivors of a brutal federal Indian policy.

Not even white immigrants could bring the country down. During the Liberal Decade, Cherokees ingeniously embraced the power of foreign immigration and used it to boost their national economy. They built their own immigration systems. The tens of thousands of mostly white immigrants in the Five Nations did not seem hard-pressed to denationalize their governments. Intruders certainly were, but they were not nearly as numerous as we once thought they were. Permit workers greatly outnumbered them. And if neither settlers nor internal politics would denationalize the country, then an increasingly imperialist Congress would have to lead the process.

Senator Pettigrew held the draconian solution: “The governments themselves should be destroyed...their power to legislate should be taken away...their courts should be ousted, and a proper judicial system furnished to those people. It is our duty to do it...it is our duty to enact laws which will oust their governments completely.”<sup>1886</sup> This was his conclusion, but something was missing. Indian land, their misuse of land, American settlers needing more land—all these questions were noticeably absent. Instead, Pettigrew was concerned with Indian governments. He was concerned with persuading Congress to unilaterally extinguish those governments.

By June of 1897, Pettigrew got his way. Congress passed and the president signed a series of laws to strip the final holdouts—the Five Nations—of their independence. Denationalization started with giving the President the power to veto any new laws that the Five Nations passed and gave U.S. courts jurisdiction over all civil cases in Indian Territory, regardless of one’s nationality. Despite this extraordinary attack on Cherokee self-determination, the Cherokee Nation still refused to give up its nationhood—to negotiate the end of its own existence with the Dawes Commission. Congress would have to keep trying.

In 1898, Congress accelerated the process of denationalization. In a law named after our first and only Indigenous Vice President, Charles Curtis, Congress abolished all tribal courts, therefore eliminating an entire branch of government in each of these nations. Some of the other new measures took away Indian nations’ ability to collect taxes and build revenue. The law also gave the president the power to seize, allot, and sell Five Nations’ lands at his discretion; in other words, it removed the Five Nations’ protection from the Dawes Act. By 1898, then, autonomy was destroyed. This was the power that Dawes negotiators had been missing. Before, they had no tool to force an agreement; now, they did. This made the annexation of Indian Territory inescapable.

Under these pressures, and to preempt the U.S. from unilaterally imposing unfavorable terms, Cherokee leaders gave in. The people’s second republic—formed immediately after Indian Removal—would be undone by a 1900 “agreement” that was anything but.<sup>1887</sup> The United States forced the process from beginning to end. The loss of land during allotment was immense and impoverishing. Self-rule evaporated, and the Cherokee language lost its public spaces (the courts and councils). The new state of Oklahoma stood on top of Indian Territory’s remains in 1907.

---

<sup>1886</sup> U.S. Congressional Record, 1897, Volume 30, Part 1, 735.

<sup>1887</sup> For a terrific overview of the allotment negotiations and 1901 agreement, see Andrew Denson, *Demanding the Cherokee Nation*, 201-242.

Senator Pettigrew and his allies had prevailed on the field of narrative. They crafted a convincing story about the inevitability of Indian decline. This declension narrative justified the passage of newly aggressive laws against the Cherokee and the other members of the Five Nations. Cherokee misrule was “unequaled in any barbarous nation on the globe.” Corrupt “White Indian” caricatures were oppressors, and only the United States could save the “real Indian” from the farcical “nations” of the West. The genius of this framing was that it positioned denationalization as a liberating, pro-Indian reform. A wildly overstated narrative of decline was used to denationalize the Cherokee government, and once that was done, it became a fact of history.

In the decades after statehood, for example, historians corroborated and elaborated upon that declension narrative. One of the foundational books of postwar Cherokee history framed this period as a tale of futility and decline. The reviewers made the point even more forcefully than the book. Elaine Eastman, the writer, and spouse of the Sioux reformer Charles Eastman, wrote:

“Prof. Wardell tells the story impersonally...But history hardly points a clearer lesson for the benefit of any who may still think to segregate a half-civilized tribe of a few thousand individuals under ‘native’ rule, thus dooming them to slow disintegration...”<sup>1888</sup>

Another reviewer wrote that the book concerned the “toy republics” of Indian Territory. Ironically, 19th century Americans had been quite celebratory of the Five Nations’ success with republicanism in the West. 20th century Americans found the idea backwards, unthinkable even.

Since that book’s publication in 1938, we have expanded upon the declension narrative which helped to legitimize denationalization. In what is likely the most cited text in postwar Cherokee historiography, a book you can buy at any Cherokee Nation historic site, William McLoughlin insisted that the last three decades of Cherokee political history could be written off as a period of dysfunctional decline. As he put it: by 1879, “It did not matter anymore who was chief...the fight to sustain Cherokee sovereignty was all but over by 1880.”<sup>1889</sup>

The argument rested on the assumption that the U.S. pursued the same policy in the 1870s that it had in the 1830s (an idea that misunderstands both Indian Removal and denationalization). According to McLoughlin, the federal government “followed the same policy of attrition that Andrew Jackson adopted” by refusing to remove white intruders. After “having destabilized their countries,” presumably in the 1870s, “Congress declared the Indians incapable of government.”<sup>1890</sup> He ignored that Congress withheld that declaration until the late 1890s. Cherokees became victims in waiting, history-less, from 1880 to 1907. This project has shown this to be categorically untrue.

This narrative of decline is not particular to the Cherokee; it’s not particular to the Five Nations; it’s not particular to Indian Territory. Even as historians are locating stories of Indigenous power in the 18th and 19th centuries, we seldom question the idea that declension is the only story

---

<sup>1888</sup> Reviews of Morris Wardell’s *A Political History of the Cherokee Nation*, 1938-1939, Morris Wardell Collection, Box 84, Folder 12, Western History Collection, Oklahoma University, Norman, OK.

<sup>1889</sup> McLoughlin, *After the Trail of Tears*, 365.

<sup>1890</sup> *Ibid*, 368.

by the 1880s, 1890s, and onward. The result, far too often, is a total disinterest in what Native people were doing at the local and national levels.<sup>1891</sup>

To be fair, there is a good reason for that assumption. The defeats, deportations, and massacres of this period are well-known. The turn of the century was also when the Indigenous population of the U.S. reached its lowest. This was a time of tremendous suffering.

But the long shadow of the declension narrative has obscured too much. The story of decline has become too totalizing, leading us to see it even when the evidence says otherwise. It has led us to be urgently wrong about Cherokee history. Declension has taken too many liberties in Native and western history generally. Tribal history will fix that, and new histories will emerge.

Miraculously, the Cherokee Nation was not destroyed. It was not even terminated. The government had been torn to shreds, yes, and many Cherokees—with good reason—assumed it was lost, but Congress never terminated the Five Nations. In 2020, the Supreme Court ruled as much in *McGirt vs. Oklahoma*, declaring that the Indian reservations, which many assumed were long gone (including McLoughlin), were never broken up. This was not historical revisionism: it simply never happened. The United States and Oklahoma, at the turn of the century, were so confident in their conquest of Indian nations that they never finished what they started. The Cherokee were denationalized, but never terminated. Their sovereignty survived. The nation lived on quietly for the next seventy years—at which point a third Cherokee republic would emerge.

In my own family, this story rings true. Somehow, the nation never died. Ann Shelton's son, Harvey Wirt Courtland (1863-1935), and Walter Adair Duncan's daughter, Mary Anne Elizabeth, married right before the Outlet Treaty was ratified.<sup>1892</sup> They were both professors at the male and female seminaries respectively, and since he was a man, Harvey was allowed to participate directly in Cherokee national politics. "Mae" Shelton's father was one of the last delegates to Washington, and his pleas against denationalization were not heard. Harvey and Mae had their first son in the summer of 1897 and named him after his father. This younger Harvey was born a Cherokee citizen; not an American. My grandfather, Jesse, was born later in September of 1907 after denationalization was finished. Unlike his brother, Jesse was born a U.S. citizen and not a Cherokee. This was the line that could divide families, and here it did as well. The term "too lates" or "too laters"—previously used to describe Black Cherokees who did not return to the nation in time get citizenship—was now used for those born after allotment was over.

---

<sup>1891</sup> The problem is also an old one, and we need only look to a few of the field's most celebrated texts which venture deep into the 19th century. For instance, despite presenting excellent research demonstrating otherwise, Craig Miner's *The Corporation and the Indian* (Norman, 1976) concludes that "the history of Indian Territory from the Civil War to [Oklahoma] statehood, then, was dominated by the rise of the corporation and the decline of the sovereignty of the tribes." Francis Paul Prucha's *American Indian Policy in Crisis* (Norman, 1976), as the title suggests, cares very little for Indian nations' domestic policies, which in many cases could have reshaped his conclusions. Robert Utley's *The Indian Frontier* (Albuquerque, 1984) mostly agrees with Frederick Jackson Turner's original idea of frontier history ending in 1890, with the caveat that the Five Nations "clung precariously to sovereignty" a little longer, and that "Modern America became, as Turner failed to perceive, a blend of its immigrant and native heritages." The anti-hero protagonist throughout Frederick Hoxie's *A Final Promise* (Lincoln, 1984) is the United States and all its decision-makers, while the book's subtitle, "The Campaign to Assimilate Indians, 1880-1920" understandably closes off most discussion of what Native nations were doing during this late period. After reviewers criticized Hoxie for this, however, his response was to write an expansive tribal history entitled *Parading through History* (Cambridge, 1995).

<sup>1892</sup> CA, February 4, 1893.

According to his daughters, Harvey and Mae did not do well after Oklahoma statehood. Harvey may have been a Dartmouth alumnus (who failed to graduate); he and Mae might have had a “playful” disagreement over whether Greek or Latin “was better” (Harvey taught the latter at the Male Seminary); but at the end of the day, Oklahoma statehood made them small fish in a bigger pond. They were self-important, rather than important. Harvey, obviously, did not stay on the Cherokee Board of Education (which ceased to exist). They were farmers, but their success was limited. They started a grocery called the “Good Luck Store” which apparently also failed.<sup>1893</sup> Their two sons sent cigars, clothes, and cash to help them along.<sup>1894</sup>

They would have believed the nation was dead—truly dead—but paradoxically it still loomed large in their lives. Mae liked to paint, and she liked to paint the famous image of Sequoyah. During the Depression, she reached out to the Cherokee Hollywood actor Will Rogers to see if he would be interested in purchasing a “picture of Sequoyah for him, or an Oklahoma scene,” but his secretary responded on his behalf, writing that he would not be buying more pictures. “And he’s a millionaire!” Mae complained to my grandfather, Jesse, “I thought about his spectacular trips all over Texas and Okla to aid the Arkansaw farmers because his wife is Arkansawyer, and I was not asking charity. I was offering a business deal, which he ought to have appreciated if he had any sort of patriotism.”<sup>1895</sup> She meant Rogers was not a true *Cherokee* “patriot.” She wrote that in 1931.

It is useful to split the generations here. People like Harvey and Mae had lived in a different country for most of their lives (and “country” was the exact word they used). Their neighbors and friends and family members were ex-Cherokee lawmakers and store owners who they still saw around the newly created state of Oklahoma. Denationalization could wipe their country off the face of the map; it could convince future generations of Americans that an *imperium in imperio* was unthinkable, but it could not destroy *these* Cherokees’ idea of national separateness. They were the last Cherokees of the second republic. They were born foreigners—citizens of the Cherokee Nation, and not the United States. Being “American” was new to them.

My grandfather’s generation was different. Jesse Shelton (1907-1977) had the peculiar timing of being born right after the Cherokee were denationalized, and dying right after it was reconstituted under a third government. In other words, Jesse was the near-perfect embodiment of that “Lost Generation”—which had no government of their own from 1906 to 1976. For this “Lost Generation,” keeping hold of something unfindable on a map while moving around Texas, Georgia, and Tennessee—or while driving soldiers to the front in World War II Europe—was difficult.<sup>1896</sup>

And still, they tried. Jesse knew how to write some Cherokee words which he taught his daughters (**see Image 10.3**).<sup>1897</sup> He kept his mother’s painting of Sequoyah on the wall, and since he painted too, he could refresh it from time to time (**see introduction**). He kept the brick from the Cherokee Female Seminary, explained its significance to his daughters, and passed it down to them (**see Image 6.1**).<sup>1898</sup> He took his families on detours to New Echota (where his ancestors and

---

<sup>1893</sup> Mary Shelton, audio recording, January 5, 2022 (8:00).

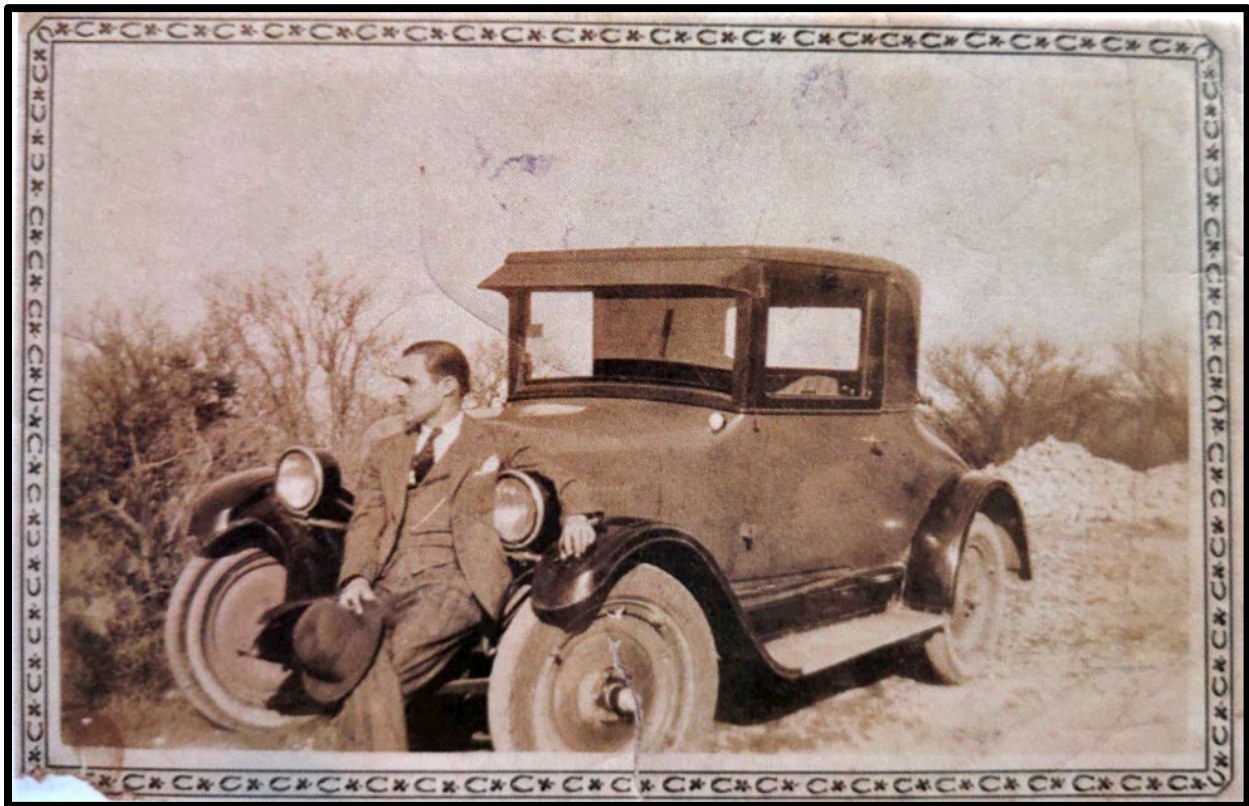
<sup>1894</sup> Mary Shelton, audio recording, January 5, 2022 (8:00); Mae Duncan Shelton to Jesse Shelton, November 28, 1931, Shelton Family Papers (Nashville).

<sup>1895</sup> Mae Duncan Shelton to Jesse Shelton, November 28, 1931, Shelton Family Papers (Nashville).

<sup>1896</sup> Rebekah Kelley, audio recording, December 29, 2021 (39:00).

<sup>1897</sup> Rebekah Kelley, audio recording, December 29, 2021 (23:00).

<sup>1898</sup> Mary Shelton, audio recording, January 5, 2022 (48:00).

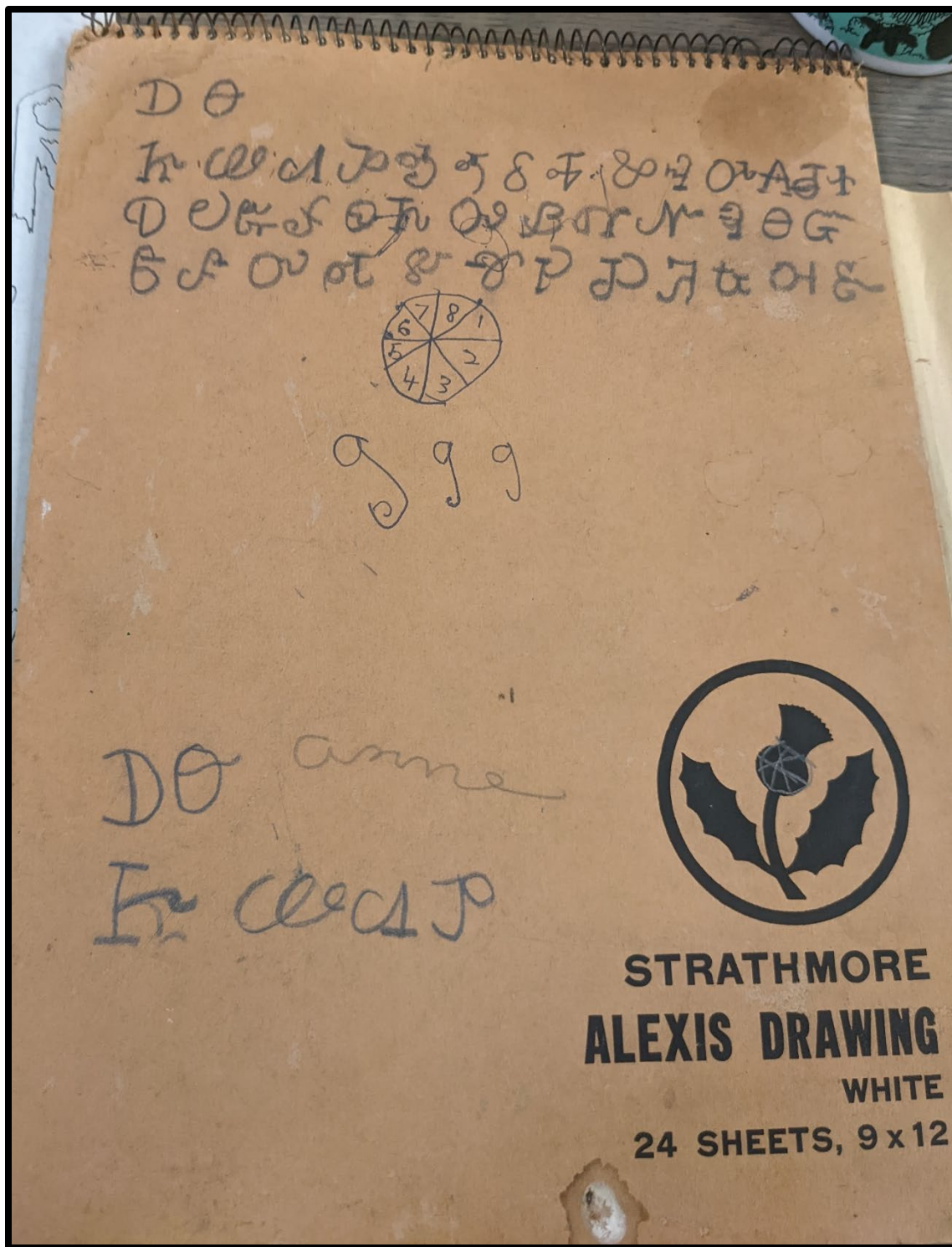


Full Name	Relationship	Age	Sex	Marital Status	Color	Height	Weight	Place of Birth	Year of Birth	Place of Birth	Year of Birth
Shelton Harvey	Head	37	m	Mar	64	130	no	Texas	87	Mixed blood	Okla
Mary E.	Wife	38	f	Mar	53	100	no	Texas	87	White	Okla
Leming Rattie	Daughter	10	f	Unm	30	50	no	Arkansas	25	Mixed blood	Okla

**Image 10.1:** Harvey and Mae Shelton (top left), Jesse Emerson Rice Shelton (top center), and Jesse’s brother, Harvey Wirt Courtland Shelton Jr. (top right). Jesse Shelton is pictured again in the middle image, posing with a car, most likely in Texas which is where he moved as a young man. In the bottom image, we can see how Harvey and Mae responded to the 1930 federal census. For father’s birthplace, they wrote “Mixed blood.” For mother’s birthplace, they wrote “Cherokee.” This was intentional—both could read and were well-educated. They made a conscious decision to insert their Cherokee identity where it did not belong.



**Image 10.2:** Jesse Shelton (1907-1977 pictured with his youngest daughter in about 1957 (top image) and Jennie Davenport Shelton (1916-2008)—Jesse’s spouse—pictured sometime in the 1940s (bottom image). Jesse’s youngest daughter, Rebekah, credits her white mother Jennie with keeping her connected and interested in her Cherokee roots.



**Image 10.3:** A notebook which belonged to Anne Elizabeth Shelton (1946-2015). Anne was the oldest daughter of Jesse and Jennie Shelton, and between her and her younger sister, Mary, the first two children carried the name of their grandmother: Mary Anne Elizabeth. Jesse had an amateurish ability to write Cherokee letters and words, which he attempted to pass down to all three of his daughters. On the front of this notebook, Anne practiced what she knew.

**Source of images 10.1 through 10.3:** Shelton Family Papers, Nashville, Tennessee.

mine betrayed their country).<sup>1899</sup> He relayed all the justifications of the Treaty Party.<sup>1900</sup> He celebrated finding a copy of Emmett Starr's *History of the Cherokee Indians* in the 1940s, which his brother Harvey later stole from him as "he needed it more because [Jesse] didn't have any sons."<sup>1901</sup> His daughters thought of their white mother as Cherokee because she, too, was part of their household (which is exactly how I view my father, my wife, and my siblings' spouses).<sup>1902</sup> In 1968, he tried to take his daughters to the allotment where he was born in Centralia, but he couldn't find it. He felt embarrassed around Oklahoma relatives that he could no longer play the fiddle (see **Image 10.1**), and my mother remembers searching for his old house: "We were standing on the side of the road, and my dad got out and looked at the map a little bit more, and then he gave up. I remember feeling bad for him...he had gone all that way just to see home, and home was gone."<sup>1903</sup> Just like the rest of this generation, Jesse Shelton was lost.

The thing that made me angriest for Jesse Shelton, however, was to find among his papers a blank application for Cherokee citizenship. He died at the worst possible moment, less than a year after the Cherokee Nation was reconstituted. In November of 1979, the new principal chief, Ross Swimmer, sent out a form letter to the already dead Jesse Shelton reminding him to "re-register as a member of the Tribe."<sup>1904</sup> The form that they sent was forever left blank, and probably unread until I picked it up decades later. I think it is significant that his spouse, Jennie, understood the value of the letter and placed it with his other treasures, instead of throwing it away. In other words, Jesse was not just a "too late," he was also a "too early." The "Lost Generations" of Cherokees, who lived between 1906 and 1976, were robbed of something meaningful to them.

Something that does give me hope is that it was apparently my white grandmother who insisted her daughters continue honoring who they were. Jesse's three daughters were still fairly young when he died. For this reason, the one member of the family who was *not* Cherokee, according to a modern definition, played the biggest role in mentoring three Cherokee young women. In an interview, my aunt related: "She actually is a *big* reason for why we know as much as we do, because he died when I was twenty, you know, I really wasn't paying that much attention yet. So, a lot of...the things that we learned...the stories that she shared, were after he was dead... I probably actually got more concrete information from her, not him."<sup>1905</sup> In the Jim Crow South, Jesse told each of his daughters to tell people they were white, "not Indian."<sup>1906</sup> After his and Jim Crow's end, his wife thought differently and urged her children to embrace who they were. A white American did that, which speaks to how many kinds of people support Native sovereignty.

My family story is just one of thousands, but each speaks to the immense difficulty of convincing an entire people to give up their identity and sovereignty in exchange for another. The United States tried and failed. Ideas, objects, photos, paper, grudges, stereotypes, and more all get left behind, and force people to think about what they had and what they were before.

---

<sup>1899</sup> Mary Shelton, audio recording, January 5, 2022 (46:00).

<sup>1900</sup> Mary Shelton, audio recording, January 5, 2022 (1:25:00).

<sup>1901</sup> Mary Shelton, audio recording, January 5, 2022 (19:00).

<sup>1902</sup> Mary Shelton, audio recording, January 5, 2022 (41:00).

<sup>1903</sup> Mary Shelton, audio recording, January 5, 2022 (31:00).

<sup>1904</sup> Ross Swimmer Form Letter to Jesse Shelton, November 19, 1972, Shelton Family Papers (Nashville).

<sup>1905</sup> Rebekah Kelley, audio recording, December 29, 2021 (31:00).

<sup>1906</sup> Rebekah Kelley, audio recording, December 29, 2021 (22:00); Mary Shelton, audio recording, January 5, 2022 (41:00).



The children often want to be like the parents, and in this, we can see how the last remnants of the second Cherokee republic (your Harveys and your Maes) can convince others to grab hold of something invisible. Denationalization is an important and sad aspect of Cherokee history, but if anything, it only furthers the point that Indian nations will strive into the distant future. To me, the persistence of Cherokee nationalism throughout this seventy-year period proves that this history is just beginning. Regardless of the form it takes, there will be a Cherokee Nation tomorrow, and there will be one in 100, 200, and 300 years.

The only thing uncertain is what kind of nation it will be, and that is for us, and us alone, to determine. It has been almost exactly two hundred years since Cherokees formed their first constitution. Prior to denationalization, Cherokees had one of the oldest democracies in the world—not in the country or the continent—but in the world. In that time, the Cherokee Nation has always undergone radical, tumultuous changes, for the better and for the worse. Today, that Cherokee democratic experiment is ongoing and strong.

Smaller nations are of no lesser significance. In one editorial written by Walter Adair Duncan—Mae’s father—he described what the point of these little nations was in the first place:

“Our little nation is not wholly ought of sight. Some stars are so little and so far away some men cannot see them. But there is one eye that sees them. It is the eye of God. God puts those little sparks up there to do their part in lighting up the universe. So God sees our little nation. He intended that our influence, small as it may be, should be felt among the great nations in shaping up the affairs of the world for a better state of things.”<sup>1907</sup>

Indian nations were small, indeed, but their efforts to do good were subtle and worldly.

---

<sup>1907</sup> CA, August 24, 1872.

## Bibliography

### Archives

- Federal Archives and Records Center, Fort Worth  
Records of the Bureau of Indian Affairs.
- Oklahoma Historical Society. Oklahoma City  
Cherokee National Records. Microfilm.  
Indian-Pioneer History Collection. Microfilm.
- Western History Collection. University of Oklahoma, Norman  
Cherokee Nation Papers. Microfilm.  
W. P. Boudinot Collection.  
D. W. Bushyhead Collection.  
Edward Everett Dale Collection.  
Margaret Catherine Fletcher Collection.  
C. J. Harris Collection.  
J. R. Hendricks Collection.  
Division of Manuscripts Collection.  
J. B. Mayes Collection.  
Oochalata Collection.  
W. C. Rogers Collection.  
John Ross Collection.  
W. P. Ross Collection.  
Morris Wardell Collection.
- Shelton Family Papers. Nashville

### Newspapers

- Circulated in the Cherokee Nation (arranged chronologically):  
*Cherokee Advocate*. Tahlequah, Cherokee Nation. 1844-53, 1870-1875, 1876-1906.  
*Indian Chieftain*. Vinita, Cherokee Nation. 1882-1902.  
*Telephone*. Tahlequah, Cherokee Nation. 1888-1890.  
*Indian Arrow*. Fort Gibson, Cherokee Nation. 1888-1894.  
*Cherokee Telephone*. Tahlequah, Cherokee Nation. 1890-1894.  
*Tahlequah Arrow*. Tahlequah, Cherokee Nation. 1896-1912.
- Circulated Abroad (arranged alphabetically):  
*Arkansas Gazette*. Little Rock, Arkansas.  
*Chicago Daily News*. Chicago, Illinois.  
*Daily Inter Ocean*. Chicago, Illinois.  
*Daily Missouri Democrat*. St. Louis, Missouri.  
*Daily Missouri Republican*. St. Louis, Missouri.  
*Daily Nebraska Press*. Lincoln, Nebraska.  
*Evening News*. Washington, D.C.  
*Fort Smith New Era*. Fort Smith, Arkansas.  
*Galveston Daily News*. Galveston, Texas.  
*Milwaukee Daily Sentinel*. Milwaukee, Wisconsin.

*New York Herald*. New York, New York.  
*New York Tribune*. New York, New York.  
*New York Times*. New York, New York.  
*Record*. Philadelphia, Pennsylvania.  
*Rocky Mountain News*. Denver, Colorado.  
*San Francisco Bulletin*. San Francisco, California.  
*South Bend Daily Tribune*. South Bend, Indiana.  
*St. Louis Globe Democrat*. St. Louis, Missouri.  
*St. Louis Republican*. St. Louis, Missouri.  
*Virginia Pilot*. Norfolk, Virginia.  
*Whig and Courier*. Bangor, Maine.

## Interviews

Mary Shelton, interview by Noah Ramage, Nashville, Tennessee, January 5, 2022.  
Rebekah Kelley, interview by Noah Ramage, Nashville, Tennessee, December 29, 2021.

## Other Primary Sources

*Annual Reports of the Commissioner of Indian Affairs*, 1826-1932.  
*Annual Reports of the Commission to the Five Civilized Tribes*, 1894-1905.  
Conkling, Alfred. *The Life and Letters of Roscoe Conkling: Orator, Statesman, Advocate*. New York: C. L. Webster, 1889.  
*Constitution and Laws of the Cherokee Nation*. St. Louis: Missouri Democrat Print, 1868.  
*Constitution and Laws of the Cherokee Nation*. St. Louis: R and T. A. Ennis Stationers, 1875.  
Jackson, Helen Hunt. *A Century of Dishonor: A Sketch of the United States Government's Dealings with Some of the Indian Tribes*. New York: Haper & Brothers, 1881.  
*Laws and Joint Resolutions of the Cherokee Nation Enacted During the Regular and Special Sessions of the Years 1881-2-3*. E. C. Boudinot Jr.: 1884.  
Moulton, Gary E., ed. *The Papers of Chief John Ross*. 2 vols. Norman: University of Oklahoma Press, 1985.  
Oskison, John Milton. "A Tale of the Old Indian Territory: An Autobiography by John Milton Oskison." In *Tales of the Old Indian Territory and Essays on the Indian Condition*, edited by Lionel Larré. Lincoln: University of Nebraska Press, 2012.  
Phillips, William A. *Labor, Land and Law: A Search for the Missing Wealth of the Working Poor*. New York: C. Scribner's Sons, 1886.  
Probate Records of Craig County and the State of Oklahoma, 1919.  
Ross, Mary Jane. *The Life and Times of William P. Ross*. Fort Smith: Weldon and Williams Printers, 1893.  
Rozema, Vicki. *Voices from the Trail of Tears*. Winston-Salem: John F. Blair, 2003.  
Starr, Emmet. *History of the Cherokee Indians and their Legends and Folk Lore*. Oklahoma City: Warden, 1921.  
Statutes at Large, Library of Congress.  
Treasury Department, Combined Statements of Receipts, Expenditures, and Balances of the United States Government.  
"Treaty of New Echota." December 29, 1835. Ratified March 1, 1836.

“Treaty of 1866.” July 19, 1866. Ratified July 27, 1866.  
United States Congressional Record.

## Secondary Sources

- Abel, Annie Heloise. *The American Indian as Slaveholder and Secessionist*. Cleveland: Arthur H. Clark Company, 1915.
- Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754-1766*. New York: Knopf, 2000.
- Anderson, Gary Clayton. *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820-1875*. Norman: University of Oklahoma Press, 2005.
- Arista, Noelani. *The Kingdom and the Republic: Sovereign Hawai'i and the Early United States*. Philadelphia: University of Pennsylvania Press, 2019.
- Axtell, James. “The White Indians of Colonial America.” *The William and Mary Quarterly* 32, no. 1 (1975): 55-88.
- Barr, Juliana. *Peace Came in the Form of a Woman: Indians and Spaniards in the Texas Borderlands*. Chapel Hill: University of North Carolina Press, 2007.
- Bauer, Brooke and Elizabeth Ellis. “Indigenous, Native American, or American Indian? The Limitations of Broad Terms,” *Journal of the Early Republic* 43, no. 1 (2023): 61-74.
- Bauer, William. *We Were All Like Migrant Workers Here: Work Community and Memory on California's Round Valley Reservation, 1850-1941*. Chapel Hill: University of North Carolina Press, 2009.
- Blackhawk, Ned. *Violence Over the Land: Indians and Empires in the Early American West*. Cambridge: Harvard University Press, 2006.
- . “American Indians and the Study of U.S. History.” In *American History Now*, edited by Eric Foner and Lisa McGirr. Philadelphia: Temple University Press, 2011.
- Bloom, Khaled J. “An American Tragedy of the Commons: Land and Labor in the Cherokee Nation, 1870-1900” *Agricultural History* 76, no. 3 (2002): 497-523.
- Brooks, James F. *Captives and Cousins Slavery, Kinship, and Community in the Southwest Borderlands*. Chapel Hill: University of North Carolina Press, 2002.
- Brown, Kirby. *Stoking the Fire: Nationhood in Cherokee Writing*. Norman: University of Oklahoma Press, 2018.
- Burton, Jeffrey. *The Indian Territory and the United States, 1866–1906: Courts, Government, and the Movement for Oklahoma Statehood*. Norman: University of Oklahoma Press, 1995.
- Calloway, Colin. “Neither White Nor Red.” *Western Historical Quarterly* 17, no. 1 (1986): 43-66.
- . *White People, Indians, and Highlanders: Tribal People and Colonial Encounters in Scotland and America*. Oxford: Oxford University Press, 2008.
- . *The Indian History of an American Institution: Native Americans and Dartmouth*. Hanover: Dartmouth College Press, 2010.
- Chang, David. *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929*. Chapel Hill, University of North Carolina Press, 2010.
- . *The World and All Things Upon It: Native Hawaiian Geographies of Exploration*. Minneapolis: University of Minnesota Press, 2016.
- Confer, Clarissa. *The Cherokee Nation in the Civil War*. Norman: University of Oklahoma Press, 2007.

- Conley, Robert J. *The Cherokee Nation: A History*. Albuquerque: University of New Mexico Press, 2005.
- Connolly, Emilie. "Fiduciary Colonialism: Annuities and Native Dispossession in the Early United States." *American Historical Review* 127, no. 1 (2022): 223-253.
- Crandall, Maurice. *These People Have Always Been a Republic: Indigenous Electorates in the U.S.-Mexico Borderlands, 1598–1912*. Chapel Hill: University of North Carolina Press, 2019.
- Dale, Edward Everett and Morris L. Wardell. *History of Oklahoma*. New York: Prentice Hall, 1948.
- Debo, Angie. *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*. Princeton: Princeton University Press, 1940.
- . *The Road to Disappearance: A History of the Creek Indians*. Norman: University of Oklahoma Press, 1941.
- DeLay, Brian. *War of a Thousand Deserts: Indian Raids and the U.S. Mexican War*. New Haven: Yale University Press, 2008.
- Denson, Andrew. *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900*. Lincoln: University of Nebraska Press, 2004.
- Dickey, Michael E. *The People of the River's Mouth: In Search of the Missouri Indians*. Columbia: University of Missouri, 2011.
- Dowd, Gregory Evans Dowd. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745-1815*. Baltimore: John Hopkins University Press, 1992.
- Dwyer, Lawrence A. *Standing Bear's Quest for Freedom: The First Civil Rights Victory for Native Americans*. Lincoln: University of Nebraska Press, 2022.
- Edmunds, Russell David. "Native Americans, New Voices: American Indian History, 1895-1995." *American Historical Review* 100, no. 3, (1995): 717-740.
- Englund, Donald Ralph. "A Demographic Study of the Cherokee Nation." PhD diss. University of Oklahoma, 1974.
- Finger, John R. *The Eastern Band of Cherokees: 1819-1900*. Knoxville: University of Tennessee Press, 1984.
- Foreman, Grant. *Indian Removal, The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press, 1932.
- Franks, Kenneth. *Stand Watie and the Agony of the Cherokee Nation*. Memphis: Memphis State University Press, 1979.
- Frymer, Paul. *Building an American Empire: The Era of Territorial and Political Expansion*. Princeton: Princeton University Press, 2017.
- Garrett, Kathleen. "Dartmouth Alumni in the Indian Territory." *Chronicles of Oklahoma* 32, no. 2 (1954) 123-141.
- Gittinger, Roy. *The Formation of the State of Oklahoma (1803-1906)*. Berkeley: University of California Press, 1917.
- Hagan, William T. *Taking Indian Lands: The Cherokee (Jerome) Commission, 1889–1893*. Norman: University of Oklahoma Press, 2003.
- Haines, Francis. *The Nez Percés: Tribesmen of the Columbia Plateau*. Norman: University of Oklahoma Press, 1955.
- Hämäläinen, Pekka. *The Comanche Empire*. New Haven: Yale University Press, 2008.
- Harmon, George. "The Indian Trust Funds, 1797-1865" *Mississippi Valley Historical Review* 21, no. 1 (1934): 23-30.

- Healy, David. *U.S. Expansionism: The Imperialist Urge in the 1890s*. Madison: University of Wisconsin Press, 1976.
- Heckel, Jenny. "Remembering Meriwether: White Carolinian Manipulation of the Memory of the Hamburg Massacre of 1876." PhD diss. Clemson University, 2016.
- Herring, George. *From Colony to Superpower: U.S. Foreign Relations Since 1776*. Oxford: Oxford University Press, 2008.
- Herring, Joseph. *The Enduring Indians of Kansas: A Century and a Half of Acculturation*. Lawrence: University Press of Kansas, 1990.
- Holm, Tom. "Indian Lobbyists: Cherokee Opposition to the Allotment of Tribal Lands." *American Indian Quarterly* 5, no. 2 (1979): 115-134.
- Howard, James H. and Peter LeClaire. *The Ponca Tribe*. Washington, U.S. Government Printing Office, 1965.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920*. Lincoln: University of Nebraska Press, 1984.
- . *Parading through History: The Making of the Crow Nation in America 1805–1935*. Cambridge and New York: Cambridge University Press, 1995.
- Hyde, Anne. *Empire, Nations and Families: A New History of the North American West, 1800-1860*. University of Nebraska Press, 2011.
- Hyde, George E. *The Pawnee Indians*. Norman and London: University of Oklahoma Press, 1951.
- Immerwahr, Daniel. *How to Hide An Empire: A History of the Greater United States*. New York: Farrar, Straus and Giroux, 2019.
- Ishii, Izumi. *Bad Fruits of the Civilized Tree: Alcohol and the Sovereignty of the Cherokee Nation*. Lincoln and London: University of Nebraska Press, 2008.
- Jacobson, Matthew Frye. *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917*. New York: Hill & Wang, 2000.
- Johnston, Carolyn Ross. *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907*. Tuscaloosa, University of Alabama Press, 2003.
- Joseph, Alvin M., Jr. *The Nez Perce Indians and the Opening of the Northwest*. Boston and New York: Houghton Mifflin Company, 1965.
- LaFeber, Walter. *The New Empire: An Interpretation of American Expansion, 1860–1898*. Ithaca, Cornell University Press, 1963, 1998.
- Littlefield, Daniel. *The Cherokee Freedmen: From Emancipation to American Citizenship*. Westport: Greenwood Press, 1978.
- Kantrowitz, Stephen. *Citizens of a Stolen Land: A Ho-Chunk History of the Nineteenth-Century United States*. Chapel Hill: University of North Carolina Press, 2023.
- Kelley, Robin D. G. "The Rest of Us: Rethinking Settler and Native." *American Quarterly* 69, no. 2 (June 2017): 267-276.
- Kenny, Kevin. *The Problem of Immigration in a Slaveholding Republic: Policing Mobility in the Nineteenth-century United States*. Oxford: Oxford University Press, 2023.
- Kramer, Paul. *The Blood of Government: Race, Empire, the United States, and the Philippines*. Chapel Hill: University of North Carolina press, 2006.
- Madley, Benjamin. *An American Genocide: The United States and the California Indian Catastrophe, 1846-1873*. New Haven and London: Yale University Press, 2016.
- May, Katja. *African Americans and Native Americans in the Creek and Cherokee Nations, 1830s to 1920s*. New York: Garland Publishing, 1996.

- McGowen, Stanley S. *The Texas Tonkawas*. College Station: State House and McWhiney Foundation Press, 2020.
- McLoughlin, William G. "Thomas Jefferson and the Beginning of Cherokee Nationalism, 1806 to 1809." *William and Mary Quarterly* 32, no. 4 (1975): 547-580.
- . *Cherokee Renaissance in the New Republic*. Princeton: Princeton University Press, 1987.
- . *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1839– 1880*. Chapel Hill: University of North Carolina Press, 1993.
- . *Champions of the Cherokees: Evan and John B. Jones*. Princeton: Princeton University Press, 1990.
- Meeks, Eric. *Border Citizens: The Making of Indians, Mexicans, and Anglos in Arizona*. Austin: University of Texas Press, 2007.
- Merrell, James H. *The Indians' New World: Catawbas and Their Neighbors from European Contact through the Era of Removal*. Chapel Hill: University of North Carolina Press, 1989.
- . *Into the American Woods: Negotiators on the Pennsylvania Frontier*. New York: W.W. Norton & Company, 1999.
- Meserve, John Bartlett. "Chief Dennis Wolfe Bushyhead." *Chronicles of Oklahoma* 14, no. 3 (1936): 349-360.
- Mihesuah, Devon. "Too Dark to Be Angels: The Class System among the Cherokees at the Female Seminary." *American Indian Culture and Research Journal* 15, no. 1 (1991): 29-52.
- Miles, Tiya. *Ties that Bind: The Story of An Afro-Cherokee Family in Slavery and Freedom*. Oakland: University of California Press, 2005.
- . *The House on Diamond Hill: A Cherokee Plantation Story*. Chapel Hill: University of North Carolina Press, 2010.
- Miller, Melinda. "'The Righteous and Reasonable Ambition to Become a Landholder': Land and Racial Inequality in The Postbellum South." *The Review of Economics and Statistics* 102, no. 2 (2020): 381-394.
- Miner, H. Craig. *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in the Indian Territory, 1865–1907*. Norman: University of Oklahoma Press, 1976.
- Miner, Craig E. and William E. Unrau. *The End of Indian Kansas: A Study of Cultural Revolution, 1854-1871*. Lawrence: University Press of Kansas, 1977.
- Moulton, Gary E. *John Ross: Cherokee Chief*. Athens: University of Georgia Press, 1978.
- Naylor, Celia E. *African Cherokees in Indian Territory: From Chattel to Citizens*. Chapel Hill: University of North Carolina Press, 2008.
- Ngai, Mae. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton: Princeton University Press, 2004.
- Perdue, Theda. *Slavery and the Evolution of Cherokee Society, 1540-1866*. Knoxville: University of Tennessee Press, 1979.
- . "Traditionalism in the Cherokee Nation: Resistance to the Constitution of 1827." *Georgia Historical Quarterly* 66, no. 2 (1982): 159-170.
- . "The Conflict Within: The Cherokee Power Structure and Removal." *Georgia Historical Society* 73, no. 3 (1989): 467-491.
- . *Nations Remembered. An Oral History of the Cherokee, Chickasaws, Choctaws, Creeks, and Seminoles in Oklahoma, 1865–1907*. Norman: University of Oklahoma Press, 1993.
- . *Cherokee Women: Gender and Culture Change, 1700-1835*. Lincoln: University of Nebraska Press, 1998.

- . “Mixed Blood Indians”: Racial Construction in the Early South. Athens: University of Georgia Press, 2003.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- Reed, Julie. *Serving the Nation: Cherokee Sovereignty and Social Welfare, 1800–1907*. Norman: University of Oklahoma Press, 2016.
- Reese, Linda Williams. *Trail Sisters: Freedwomen in Indian Territory, 1850–1890*. Lubbock: Texas Tech University Press, 2013.
- Reid, Joshua L. *The Sea is My Country: The Maritime World of the Makahs*. New Haven: Yale University Press, 2016.
- Richter, Daniel. *Facing East from Indian Country: A Native History of Early America*. Cambridge: Harvard University Press, 2001.
- . “His Own, Their Own: Settler Colonialism, Native Peoples, and Imperial Balances of Power in Eastern North America, 1660-1715.” In *The World of Colonial America: An Atlantic Handbook* edited by Ignacio Gallup-Diaz. New York: Routledge, 2017.
- Roberts, Alaina. *I’ve Been Here All the While: Black Freedom on Native Land*. Philadelphia: University of Pennsylvania Press, 2021.
- Rosenberg, Emily. *Financial Missionaries to the World: The Politics and Culture of Dollar Diplomacy, 1900-1930*. Cambridge: Harvard University Press, 1999.
- Royce, Charles G. *The Cherokee Nation of Indians* (Washington: Bureau of Ethnology, 1887; Chicago: Aldine, 1975).
- Savage, William W., Jr. *The Cherokee Strip Live Stock Association: Federal Regulation and the Cattleman’s Last Frontier*. Columbia: University of Missouri Press, 1973.
- Saunt, Claudio. *A New Order of Things: Property Power, and Transformation of the Creek Indians, 1733-1816*. New York: Cambridge University Press, 1999.
- Schlebecker, John T. “Grasshoppers in American Agricultural History.” *Agricultural History* 27, No. 3 (1953): 85-93.
- Silva, Noenoe K. *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. Durham: Duke University Press, 2004.
- Snowden, Yates and Harry Gardner Cutler. *History of South Carolina*. Chicago: Lewis Publishing Company, 1920.
- Snyder, Christina. *Slavery in Indian Country: The Changing Face of Captivity in Early America*. Cambridge: Harvard University Press, 2010.
- Smithers, Gregroy. *The Cherokee Diaspora: An Indigenous History of Migration, Resettlement, and Identity*. New Haven: Yale University Press, 2015.
- Sober, Nancy Hope. *The Intruders: Illegal Residents of the Cherokee Nation, 1866–1907*. Ponca City: Cherokee Books, 1991.
- Spirling, Arthur. “U.S. Treaty Making with American Indians: Institutional Change and Relative Power, 1784–1911.” *American Journal of Political Science* 56, no. 1 (2011): 84-97.
- Starr, Emmet. *History of the Cherokee Indians and their Legends and Folk Lore*. Oklahoma City: Warden, 1921.
- Stremmlau, Rose. *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation*. Chapel Hill: University of North Carolina Press, 2011.
- Sturm, Circe. *Blood Politics Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley and Los Angeles: University of California Press, 2002.



- Thornton, Russell. *The Cherokees: A Population History*. Lincoln: University of Nebraska Press, 1990.
- Thompson, John. *Closing the Frontier: Radical Response in Oklahoma, 1889–1923*. Norman: University of Oklahoma Press, 1986.
- Utley, Robert. *The Indian Frontier of the American West, 1846-1890*. 2003. Reprint. Albuquerque: University of New Mexico Press, 1984.
- Warde, Mary Jane. *George Washington Grayson and the Creek Nation, 1843–1920*. Norman: University of Oklahoma Press, 1999.
- Wardell, Morris. *A Political History of the Cherokee Nation, 1838–1907*. 1938. Reprint. Norman: University of Oklahoma Press, 1977.
- Warrior, Robert. *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Minneapolis: University of Minnesota Press, 1990.
- Warren, Louis. *God's Red Son: The Ghost Dance Religion and the Making of Modern America*. New York: Basic Books, 2017.
- West, Elliot. "Reconstructing Race." *Western Historical Quarterly* 34, No. 1 (2003): 6-26.
- . *The Last Indian War: The Nez Perce Story*. Oxford and New York: Oxford University Press, 2009.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*. New York: Cambridge University Press, 1991.
- . *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age, 1865-1896*. New York: Oxford University Press, 2017.
- Williams, Beth Lew. *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America*. Cambridge: Harvard University Press, 2018.
- Williams, Walter L. "United States Indian Policy and the Debate over Philippine Annexation: Implications for the Origins of American Imperialism." *Journal of American History* 66 (1980): 810-831.
- Wolfe, Patrick. "Settler Colonialism and the Elimination of the Native." *Journal of Genocide Research* 8, no. 4 (2006): 387-409.
- Woodward, Grace Steele. *The Cherokees*. Norman: University of Oklahoma Press, 1963.
- Yarbrough, Fay A. *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century*. Philadelphia: University of Pennsylvania Press, 2008.
- Zellar, Gary. *African Creeks: Estelivste and the Creek Nation*. Norman: University of Oklahoma Press, 2007.