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IN THEIR DARKEST HOUR: THE PLANNED TERMINATION OF THE CHOCTAW AND

THEIR STRUGGLE FOR SURVIVAL 1907-1975

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IN THEIR DARKEST HOUR: THE PLANNED TERMINATION OF THE CHOCTAW, AND  
THEIR STRUGGLE FOR SURVIVAL, 1907-1975

A THESIS APPROVED FOR THE  
DEPARTMENT OF HISTORY  
BY THE COMMITTEE CONSISTING OF

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The journey to completing this thesis began one cold November morning almost seven years ago. I was sitting in the office of Kyle Gardner the academic advisor for transfer students at East Central University. I noticed on his wall a portrait of a distinctive man who I had seen somewhere before. Towards the end of the meeting I asked who was the man in the portrait was. Kyle informed me it was an official portrait of his paternal grandfather C. David Gardner who was Principal Chief of the Choctaw Nation from 1975 until his untimely death from lung cancer in 1978.

However, what I was not anticipating after this brief encounter with Kyle and the portrait of his paternal grandfather would be the first step in this adventure resulting in this thesis. I wish to recognize Drs. Thomas Cowger, Houston Mount, Chris Bean and Bradley Clampitt, history professor's at East Central University who opened a new world of history to me. Dr. Thomas Cowger, who at the time was the Chickasaw Nation Endowed Chair for Native American Studies, supervised my undergraduate capstone paper. I decided that my research and writing would be in the field of twentieth century American Indian history, mostly notably how Carl Albert shaped Federal Indian policy during his thirty-year tenure in Congress.

From the start of that capstone paper at East Central and its evolution to this thesis, I would become familiar with the pertinent primary documents. I would like to extend a heartfelt thank you to the staff of the Carl Albert Congressional Research Center, the Western Historical Collections at the University of Oklahoma, Norman. Choctaw Nation Principal Chief Gary Batton and his office staff, the Chahta Foundation in Durant, Oklahoma; and the Oklahoma Historical Society in Oklahoma City for their assistance in accessing all of the primary records

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## **Abstract**

For an eleven-year period starting in 1959 and ending in 1970, the Choctaw Nation was scheduled for termination by the federal government and the remaining properties and assets owned collectively by the Choctaw people were to be liquidated at auction. This thesis will provide an in-depth coverage of the Choctaw Termination era by placing it within the context of the "darkest hour" of a nighttime cycle. A period that started when Oklahoma achieved statehood in 1907 to the election of C. David Gardner as Principal Chief of the Choctaw Nation in 1975.

## PROLOGUE

### Native Termination:

#### *A Focus on the Choctaw People*

Following removal of the Five Tribes to Indian Territory in the 1830s, the U. S. government intensified efforts to terminate Native culture and political autonomy and assimilate the battle-worn survivors. Termination and assimilation go hand in hand. In some respects, one's way of life must be abandoned or destroyed to become part of a new one, usually filling the lower socioeconomic ranks. A byproduct of colonialism, some Native people sought termination; others did not. The brief story told in this prologue illustrates the complexity of termination and assimilation, especially regarding the Choctaw Nation. For example, the late nineteenth-century Native boarding school experiment intended to exterminate Indian culture where war had failed. Yet, in the name of assimilation (providing a way of economic survival to Native people) in 1897, the Dawes Commission, Chickasaws, and Choctaws finalized the Atoka Agreement that approved Native allotments in Indian Territory. The harbinger of cultural termination, a year later the Curtis Act abolished tribal courts. Fearing complete destruction of their social and political way of life, in 1905, the Five Tribes sent representatives to the Sequoyah Convention, which advocated an Indian state eligible for equal status in the U. S. Might trumped reason, and in 1906 Congress dissolved tribal governments in Indian Territory.<sup>1</sup>

During the years following Oklahoma statehood, in 1907, a large portion of Choctaws still pushed for some measure of political autonomy. Attempting to address some of these wishes, in 1933 President Franklin Delano Roosevelt designated John Collier as Commissioner

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<sup>1</sup>Dianna Everett, Linda D. Wilson, Larry O'Dell and Jon D. May. *The Encyclopedia of Oklahoma History and Culture* (2009)  
<https://www.okhistory.org/publications/enc/entry.php?entry=CH047>, retrieved July, 2019.



of Indian Affairs. Upon his Senate confirmation, Collier lobbied Congress to implement the Oklahoma Indian Welfare Act of 1936 (OIWA). This measure officially negated the 1887 Dawes Severalty Act allotment program, allocated funds for acquiring land, recognized tribal constitutions, reinforced the public health, education, and welfare infrastructure provided to Oklahoma's American Indian population and forbade the legal banishment of Native languages and culture within the state of Oklahoma.<sup>2</sup> Ironically Harry J.W. Belvin, Choctaw Principal Chief, used most of his twenty-seven-year tenure to terminate the Nation and fully assimilate his constituents.

On January 15, 1959, a letter from Belvin arrived in the Washington D.C. office of U.S. House Representative Carl Albert. At the time, Albert represented Oklahoma's Third Congressional District and served as the Democratic Party's majority whip in the House of Representatives. Much like any of the letters his office received daily, Albert's staff opened it. Seeing it was from the Choctaw Nation's Principal Chief, the letter went directly to Albert. It would have an effect for the Choctaw people going forward from 1959 up on through the twenty-first Century. While Belvin's letter to Albert was only two paragraphs long, attached was an eight-page piece of legislation that officials in the Bureau of Indian Affairs (BIA) and he had drafted. Belvin's letter urged Albert to introduce legislation preparing the Choctaw Nation for termination, "into this session of Congress at your earliest convenience."<sup>3</sup> The Choctaw

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<sup>2</sup>Ibid. See also Lawrence C. Kelly *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (Albuquerque: University of New Mexico Press, 1983); Kenneth R. Philp's *John Collier's Crusade for Indian Reform, 1920-1954* (Tucson: University of Arizona Press, 1977); Peroff, *Menominee Drums: Tribal Termination and Restoration*; Ronald Holt, *Beneath These Red Cliffs: An Ethnohistory of The Utah Paiutes* (Logan: Utah State University Press, 1991); Roberta Ulrich, *American Indian Nations from Termination to Restoration: 1953-2006* (Lincoln: University of Nebraska Press, 2010).

<sup>3</sup> Letter and Amendment Proposal from Choctaw Nation Principal Chief Harry J.W. Belvin, January 15, 1959, Folder 61, Box 40, Series 7 (Legislative), Carl Albert Collection, Carl Albert Center Congressional Archives, University of Oklahoma, Norman, OK (hereafter cited as Albert Collection, CACCA, OU.).

Termination Act of 1959 was born. The policy of termination, originating during the presidency of Harry S. Truman, would finally be rejected by President Richard Nixon in 1970.<sup>4</sup>

Historian Kenneth R. Philip maintains that termination was for some federal officials and Choctaws themselves, a rejection of the Indian New Deal. While many Native communities welcomed the accommodation and preservation of their language and cultural customs, some also thought that Collier's political efforts to reconstitute their tribal sovereignty were too constrictive on their traditional political systems. Federal officials, both assimilationist and those who wanted more political autonomy at the tribal level, thought that by ending many of Indian New Deal policies their aims would become attainable.<sup>5</sup>

Belvin continued lobbying for termination until the issue died.<sup>6</sup> Yet, historians Kotlowski, Kidwell, and Lambert claim that, prolonging the arduous and lengthy process toward tribal sovereignty, congressional officials and BIA paternalism misrepresented the preponderance of the Choctaw peoples' views against termination.<sup>7</sup> As a result, Clara Sue Kidwell contends in her book *The Choctaws in Oklahoma*, "despite the many attempts by the federal government to *assimilate* [emphasis ours] the Choctaws into the mainstream American society, the Choctaw Nation has endured."<sup>8</sup>

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<sup>4</sup> David W. Clark "Carl Albert: Little Giant of Native America," *Chronicles of Oklahoma* 95 No. 3 (Fall 2015): 290-311.

<sup>5</sup> Kenneth R. Philip, *Termination Revisited American Indians on the Trail to Self-Determination, 1933-1953* (Lincoln, University of Nebraska Press, 1999).

<sup>6</sup> James C. Milligan, *The Choctaw of Oklahoma*, (Abilene, H.V. Chapman and Sons Press, 2003), 224-227.

<sup>7</sup> Dean Kotlowski, "Limited Vision: Carl Albert, The Choctaws, And Native American Self-Determination," *American Indian Culture and Research Journal* 26, No. 2 (Spring 2002): 17-43; Kidwell, *The Choctaw In Oklahoma*; Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln: University of Nebraska Press, 2007), 19-61.

<sup>8</sup> Clara Sue Kidwell, *The Choctaws in Oklahoma: From Tribe to Nation, 1855-1970* (Norman, University of Oklahoma Press, 2007), xvii.

### *Termination Scholarship*

A few historians have conducted intricate works on the Choctaw Nation's termination struggle. In the 1950s, with an enrolled membership of 20,000 the Choctaw Nation was one of the largest American Indian communities to even be considered for termination.<sup>9</sup> Wilcomb E. Washburn in *Red Man's Land, White Man's Law* notes that throughout the entirety of the termination era, Choctaws were the only one of the so-called "Five Civilized Tribes" to have a federal-government written and executed termination plan.<sup>10</sup> Yet, the experience of the Choctaws successfully resisting termination and maintaining their recognition and trusteeship status with the federal government has largely remained unwritten.

There are a few exceptions. Dean Kotlowski's *Limited Vision* details the history of the Choctaws and their journey throughout the termination era within the context of the post-World War II American Indian civil rights movement.<sup>11</sup> In *The Choctaws In Oklahoma* Kidwell constructs the Choctaw termination experience as a part of a long-range history of the struggle to survive as an American Indian nation following its removal to Indian Territory in the 1830s to the implementation of the policy of self-determination in the 1970s.<sup>12</sup> Valerie Lambert's *Choctaw Nation: A Story of American Indian Resurgence* follows a similar pattern in

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<sup>9</sup>Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln, University of Nebraska Press, 2007); 19-61.

<sup>10</sup>Wilcomb E. Washburn *Red Man's Land, White Man's Law*, Second Edition (Norman, University of Oklahoma Press, 1995); 137-138. Since the 1970s, addressing the Cherokee, Choctaw, Chickasaw, Muscogee (Creek) and Seminole Nations collectively as "The Five Civilized Tribes" has fallen out of favor within legal and academic writing because of its tendency to delineate tribal communities who are not one these five tribes as "uncivilized." In its place, scholars have chosen to address them as "The Five Tribes" or the "The Five Southeastern Tribes." In this piece of work, I have chosen to follow this same practice except in this point to familiarize readers who are not aware of this change within scholastic works and when citing primary records where "Five Civilized Tribes" was used at the time.

<sup>11</sup> Kotlowski, "Limited Vision," 17-43.

<sup>12</sup> Kidwell, *The Choctaws in Oklahoma*, xix.

constructing the story as a part of a much larger Choctaw Nation saga.<sup>13</sup> However, Lambert and Kidwell also differ. Kidwell concludes her work with the successful repeal of the Choctaw termination legislation and the codification of the policy of self-determination by President Nixon in 1970.<sup>14</sup> Lambert perceives the anti-termination movement as a critical catalyst for the reemergence of the Choctaw people as a fully-sovereign American Indian nation with David Gardner being elected Principal Chief of the Choctaw Nation in 1975.<sup>15</sup>

There are three likely explanations for the lack of coverage. The first is that when historians choose to research an American Indian community selected for termination, they often focus on a list of Native groups such as the Klamaths and Menominees<sup>16</sup> that Assistant Commissioner William R. Zimmerman mentioned in his 1947 testimony before Congress.<sup>17</sup> The second reason is that it is more timely to cover the postwar 1940s and 1950s termination period as do scholars such as Donald Fixico in *Termination and Relocation*, Kenneth Philp in *Termination Revisited*, and R. Warren Metcalf in *Termination's Legacy*.<sup>18</sup> Although Albert introduced the Choctaw Termination Act in 1959, as noted, the push for and against that tribe's termination occurred in the 1960s and early 1970s. Finally, most scholars of Indian termination deal with successful plans for communities. Similar to the Rosebud Lakota and full-blood Utes the Choctaws effectively resisted.<sup>19</sup>

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<sup>13</sup> Lambert, *Choctaw Nation*, 19-61.

<sup>14</sup>Kidwell, *The Choctaws in Oklahoma*

<sup>15</sup>Lambert, *Choctaw Nation*, 19-61.

<sup>16</sup>Ibid.

<sup>17</sup> Peroff, *Menominee Drums*.

<sup>18</sup> Philip, *Termination Revisited*. Donald Fixico, *Termination and Relocation: Federal Indian Policy, 1945-1960* (Albuquerque: University Of New Mexico Press, 1986); R. Warren Metcalf, *Termination's Legacy: The Discarded Indians of Utah* (Lincoln, University of Nebraska Press, 2002).

<sup>19</sup>Edward Charles Valandra, *Not Without Our Consent: Lakota Resistance to Termination. 1950-1959* (Champlain, University of Illinois Press, 2006); Metcalf, *Termination's Legacy*.

This thesis builds on the saga and scholarly interpretations of the Choctaw termination period from 1959 to 1975.<sup>20</sup> Taking inspiration from Rennard Strickland's use of the cycle of the seasons in *The Indians of Oklahoma*,<sup>21</sup> this study contends the Choctaw termination period was a part of a larger seasonal cycle that many Indian communities use to describe different periods of their tribe's history. The four chapters that make up this thesis will interpret the Choctaw termination experience within a broader context of a nighttime cycle from its beginning at sunset to when it officially ends at sunrise. It should be noted that certain events and laws are repeated throughout the chapters. Each tells the termination story from a different perspective, so mentioning them multiple times has contextual relevance.

### **Chapter Summaries**

Chapter One expands on the brief history prior to 1959, outlined in the prologue, including Choctaw history after Oklahoma statehood in 1907. When this occurs, night falls on the history of the Choctaw Nation. It also provides a brief biography of both Albert and Belvin and their goals when the termination legislation was introduced. While it includes the argument that the Choctaws desired more political autonomy apart from the BIA, Belvin's resistance is detailed. The chapter concludes with a view of the chicanery involved in the termination debate.

Chapter Two describes how Albert navigated the Choctaw termination bill through the formal channels of the U. S. House of Representatives and how his prominence in that legislative body allowed it swiftly to be passed. Robert S. Kerr's role as Oklahoma's senior-ranking U. S. Senator played a key role in this process. Kerr's joint tenure as a U. S. Senator and board chair of

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<sup>20</sup>Kotlowski, "Limited Vision: Carl Albert, The Choctaws, And Native American Self-Determination," *American Indian Culture and Research Journal* 26, (2002, January 01); Kidwell, *The Choctaw In Oklahoma*. Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln: University of Nebraska Press, 2007); 19-61.

<sup>21</sup>Rennard Strickland, *The Indians of Oklahoma* (Norman, University of Oklahoma Press, 1980).

the Kerr-McGee Oil Company is considered as a possible motive for him agreeing to sponsor this legislation. This chapter also discusses the reasons why the official date of termination was delayed until 1962 and finally repealed in 1970. It would be during this period that modern Choctaw history entered its “darkest hour.”

Chapter Three pays special attention to the actual termination procedures and the resistance movement that appeared in the late-1960s under the leadership of C. David Gardner, Charles Brown, Will T. Nelson, and other key opponents in both the Choctaw and Chickasaw Nations. Gardner’s grassroots campaign to raise awareness among the Choctaws and Nelson’s vocal opposition to termination are contrasted to Belvin's role in its implementation as Principal Chief through publishing the *Hello Choctaw* newspaper.<sup>22</sup> This struggle eventually turned many Choctaws against Belvin.

Chapter Four examines the letters, speeches, and campaigns for both termination or self-determinism. It explores the role of key players in the U. S. Senate and House of Representatives, the BIA, and the Choctaw Nation who chose either assimilationist or self-determinist camps and the complex political machinations involved. It contends that the end of termination in the 1970s was only the beginning of self-determination. New Principal Chief, C. David Gardner helped usher his tribe into a new era.

The Epilogue outlines the aftermath and progress throughout the self-determination period including the first two decades of the twenty-first century.

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<sup>22</sup> Randi Dawn Gardner Hardin, *Hello Choctaw! Termination, Self-Determination, and Choctaw Tribal Governance*, M.A. thesis, University of Oklahoma, 2015.

## CHAPTER ONE

### *The Long Night*

#### *Road to Termination, 1907-1959*

The Curtis Act and the 1906 Oklahoma Enabling Act allowed Indian and Oklahoma Territory delegates to attend the constitutional convention that created a government for Oklahoma's non-Indians and sanctioned the election of state officials. These two pieces of legislation nullified Choctaw self-government, putting their affairs and political decision-making into Bureau of Indian Affairs' hands.<sup>1</sup>

Not blinking an eye, in Washington D.C., a group of individuals assembled in the Cabinet room of the White House in 1907. They consisted of a delegation from both territories and several senior ranking members of the U. S. House of Representatives and U. S. Senate. These were the individuals who had approved of Oklahoma becoming a state in 1907. President Theodore Roosevelt made a brief ten-minute appearance using two pens to sign the official documents.<sup>2</sup>

On the morning of November 16, 1907 in Guthrie, Oklahoma, a crowd of local Oklahoma territorial citizens gathered around the front steps of the city's Carnegie library. Residents awaited the official announcement of Oklahoma and Indian Territories merging to become the forty-sixth state of the U. S. For individuals awaiting the official ceremonies marking Oklahoma's full entry into the nation, the mood was optimistic and festive. Along with other states, the people of both territories had asserted some form of stability.<sup>3</sup> In Guthrie, a mock

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<sup>1</sup>Rowan Steineker, "An Educational War: Creek Education and Resistance to The Curtis Act" M.A. thesis, University of Oklahoma, 2011; See also Mihesuah, *Choctaw Crime and Punishment*, 178-234.

<sup>2</sup>"Scratch of Quill Pen Lets the New State into Union", *The Daily Oklahoman*, November 17, 1907; Pp. 1.

<sup>3</sup>"Review of Oklahoma's Long Struggle to Secure Statehood: Patriotic Citizens Gave Their Best Efforts When Seeking Self-Government", *The Daily Oklahoman*, November 17, 1907.

wedding symbolized the merger of Oklahoma and Indian territories into a single state. At the same time, the crowds in many of the main streets in the communities celebrated in joyful revelry to begin the new era as Oklahoma citizens.<sup>4</sup>

That year, the Choctaw people collectively and individually owned about 62,000 square miles of land that included their nation's coal, timber, and later oil deposits.<sup>5</sup> The intense global demand for coal and oil in the twentieth century should have provided a source of wealth at the individual and community level.<sup>6</sup> However, as Angie Debo documents in *And Still The Waters Run*, and W. David Baird notes in *The Choctaw People*, corruption in the state probate court system and the outright theft of the allotted lands were particularly apparent from statehood into the 1920s.<sup>7</sup> Thus, the Choctaws viewed the event as would future Principal Chief Victor M. Locke Jr viewed this event.— as a funeral.<sup>8</sup> Oklahoma statehood marked the sun setting on the Choctaw Nation.

#### *Land, Natural and Mineral Resources as A Motive for Termination*

Looking back, the attempted Choctaw demise was inevitable. Under the requirements of the Treaty of Dancing Rabbit Creek in 1830, the Choctaws walked the Trail of Tears and relocated from their homeland in central Mississippi to what is now Southeastern Oklahoma.<sup>9</sup> Once resettled, the Choctaws began the long and difficult task of rebuilding everything they had enjoyed in Mississippi, defending what they had built from routine raids from the Kiowa, Comanche, Apache, and Osage.<sup>10</sup> During the 1840s and 1850s the Choctaw Nation enjoyed a

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<sup>4</sup> "Indian Territory and Oklahoma are Symbolically Wed", *The Daily Oklahoman*, November 17, 1907.

<sup>5</sup> Kidwell, *The Choctaws In Oklahoma*, 185.

<sup>6</sup> Ian Tyrrell, *Crisis of The Wasteful Nation: Empire and Conservation in Theodore Roosevelt's America* (Chicago, University of Chicago Press, 2015).

<sup>7</sup> Angie Debo, *And Still the Waters Run: The Betrayal of The Five Civilized Tribes* (1940, Princeton, Princeton University Press, 1991); 230-358. Baird, *The Choctaw People*, 80-81.

<sup>8</sup> Vance Trimble, *Choctaw Kisses Bullets and Blood*, (Market Tech Books, 2007).

<sup>9</sup> W. Baird and Danney Goble, *Oklahoma: A History* (Norman, University of Oklahoma Press, 2008); 71-104.

<sup>10</sup> *Ibid.*



period of prosperity. Members identified with the Irish people's plight during the potato famine. They made the collective effort as a unified American Indian nation and raised \$710.00 to send to Ireland for the relief of the Irish people.<sup>11</sup>

Thirteen years after their donation, the American Civil War forced the Choctaw people to identify with one of two opposing groups. Wealthy Choctaw and Chickasaw citizens owned slaves, and both worried they would be vulnerable to a Southern invasion. Thus, before the war's beginning, the Choctaw and Chickasaw nations signed a compact stating if a war between the North and the South was to occur, they would side with the South.<sup>12</sup>

While the Choctaws sided with the Confederacy to protect their autonomy and create a source of social and economic power, the war proved devastating. Even though the Civil War only lasted four years, the resulting damage took decades for the Choctaws to recover from and rebuild. A Union victory in 1865, allowed the federal government to require the Choctaws to sign the Reconstruction Treaty of 1866 that stripped nearly half of all the lands the government had promised them in the Treaty of Dancing Rabbit Creek. Under both the Treaty of Dancing Rabbit Creek and the 1866 Reconstruction treaty, the Choctaw people not only received ownership in-common of the land but also the right to sell, lease, and extract the natural resources that were in their national boundaries. The Choctaws began to use the region's rich timber resources to set up their nation's infrastructure through sales.<sup>13</sup> Then in 1866, with special permission from the Choctaw state, J.J. McAlester opened the first of multiple coal mines that

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<sup>11</sup> Milligan, *The Choctaw of Oklahoma*, 136, 309. See also Ciaran O Murchadha's *The Great Famine: Ireland's Agony 1845-1852* (London, Bloomsbury Academic Press, 2011); 192; and Marie-Louise Fitzpatrick's *The Long March: The Choctaw's Gift to Irish Famine Relief* (Berkeley, Tricycle Press, 1998).

<sup>12</sup>Bradley R. Clampitt, "For Our Own Safety and Welfare: What the Civil War Meant in Indian Territory" in *Main Street Oklahoma: Stories of Twentieth Century America* ed. Linda Reese and Patricia Loughlin (Norman, University of Oklahoma Press); 9-28.

<sup>13</sup>W. David Barid and Danney Goble, *Oklahoma*, 75-104.

would bring an economic windfall for the Choctaw people and help fund the Choctaw Nation's common education system.<sup>14</sup>

Another stipulation in the new treaty forced them to abolish slavery and to recognize their former slaves as full members of the nation.<sup>15</sup> The 1887 Dawes Act imposed allotment policy. It divided the land that American Indians held in common into individual allotments. If an Indian head of household would take possession of and in theory, hold onto this allotment for twenty-five years, this person would receive U.S. citizenship and a clear title to the land.<sup>16</sup>

The Reconstruction era treaties between the Choctaws and the other Five Tribes forbade the break-up of commonly held land, exempting these properties from the allotment policy but; white settlers soon demanded allotments belonging to the Five Tribes. The earlier mentioned Atoka Agreement of 1897 and the Curtis Act of 1898 officially began the preparations to allot the commonly held Choctaw land and disband the Choctaw Nation, making way for Oklahoma statehood.<sup>17</sup>

Devon Mihesuah's *Choctaw Crime and Punishment* and Vance Trimble's *Choctaw Kisses, Bullets, and Blood* point out the allotment policy was the incentive for reviving many of the old political feuds between the nation's factions, commonly termed full-bloods and mixed-bloods. These terms are often still used in the twenty-first century to delineate the amount of ancestry that Choctaw citizens have in comparison to those who appeared on the original Dawes Roll. However, the nineteenth-century Choctaw Nation's use of "full blood" and "mixed blood" was used to separate those who supported assimilation versus those who did not. The significant resistance to allotment and statehood would come from the nation's full-bloods who wanted to

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<sup>14</sup>Barid and Goble, *Oklahoma*, 123.

<sup>15</sup>Ibid.

<sup>16</sup>Barid and Goble, *Oklahoma: A History*, 153-178.

<sup>17</sup> Ibid.

keep their commonly-held land as a strong, independent American Indian nation. Mixed-bloods supported allotting Choctaw lands and allowing their nation to become a part of a state.<sup>18</sup>

It is no wonder that many non-Native individuals believed that Oklahoma's American Indian history ended in 1907. This assumption originated within the official historiography and the curriculum used to teach the state's history. In *The Rise and Fall of The Choctaw Republic* Debo aptly points out that the history of the state's indigenous population had been “fused with the greater history of the State of Oklahoma.”<sup>19</sup> To provide more clarity to this transitional period, scholars such as Rennard Strickland interpret statehood in a cyclical manner.<sup>20</sup> Each Indian tribe's cultural customs, language, and kinship ties continued throughout the twentieth century at the individual, family, and community level.<sup>21</sup>

During the Great Depression, most of the loss of natural resource rich properties nearly stopped.<sup>22</sup> The Depression led to a worldwide decline in consuming coal, oil, and timber and in turn depreciated the value of these resources the Choctaw people still owned.<sup>23</sup> Thus, when people thought that they could not make a profit from extracting these resources, the number of individuals pushing to buy these properties declined. BIA Commissioner Collier also played a role in stopping the loss of these lands by influencing Congress to extend the time Choctaw allotments remained in federal trust and refused to approve the sale or leasing of the nation's remaining mineral rights.<sup>24</sup>

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<sup>18</sup>Mihesuah, *Choctaw Crime and Punishment*, 3-14, 178-234. Trimble, *Choctaw Kisses*.

<sup>19</sup>Debo, *The Rise and Fall of the Choctaw Republic* (Norman, University of Oklahoma Press, 1934); 290.

<sup>20</sup>Rennard Strickland, *The Indians of Oklahoma* (Norman, University of Oklahoma, 1980).

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York, Free Press, 1991); 190-225.

<sup>24</sup> Milligan, *The Choctaw of Oklahoma*, 240-250

Eventually Native communities reconstituted themselves as sovereign nations in the 1970s.<sup>25</sup> Several key institutions such as the predominantly Choctaw congregations of the Presbyterian Church helped sustain the community throughout the century. Although assimilationist in some respects, these institutions provided light for the Choctaw culture and language to continue the journey throughout dark times. When C. David Gardner, Will T. Nelson, Charles Brown, and other individuals led the push to reconstitute the Choctaw Nation in the 1960s and 1970s, these institutions would serve as an important starting point for their movement.<sup>26</sup>

Another institution that would provide a significant source of light would be the office of Principal Chief which remained in place when the Choctaw national government ceased to function following statehood. The decision to retain the position of Principal Chief came when BIA officials and the Choctaw Nation realized that the liquidation of the Nation's remaining assets would not be accomplished by the time statehood occurred. Therefore, under the assumption that the Five Tribes needed additional time to resolve their remaining affairs, Congress amended the Curtis Act in 1906 to allow for the continuation of the office of Principal Chief after statehood.<sup>27</sup>

This decision would prove controversial, because under provisions of the amendment stated that the person chosen for this position would serve at the discretion of the President of the U. S. Just before the amendment, the Choctaws held an election and chose Wesley Anderson to serve as their first post-statehood era Principal Chief. However, much to the ire of many

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<sup>25</sup> Ibid.

<sup>26</sup> Hymns of Our Nation, available on the Choctaw Nation YouTube channel <https://www.youtube.com/watch?v=oDbgE74frSs>. See also Valerie Lambert, *Choctaw Nation*, 73, 86-87, 97, 150-151, 268.

<sup>27</sup> Milligan *The Choctaw of Oklahoma*, 224-227.

Choctaw voters, President Roosevelt chose not to appoint Anderson and instead offered the position to Green McCurtain, the Nation's incumbent Principal Chief. The BIA maintained that if Roosevelt chose McCurtain, Choctaw people's final affairs would be completed swiftly.<sup>28</sup>

While the goal of keeping McCurtain as Principal Chief was to speed up selling surplus land and assets leftover from the Choctaw allotment period, BIA officials faced unexpected roadblocks. There was early progress in selling some of the nation's assets with a net profit of \$19,000,000.00 dollars given to the Choctaw people who had registered for the Dawes Rolls in the form of per capita payments. The money these Choctaws received ranged from \$500 to \$50,000 each year from 1916 to 1925.<sup>29</sup> However, further attempts to sell more assets ended in failure because BIA officials, the Choctaws, and potential buyers could not agree on a reasonable purchasing price.<sup>30</sup>

Moreover, the Choctaw Nation frequently changed leadership. While the BIA's push for McCurtain's appointment as Principal Chief created a short-term continuity to dissolve property, McCurtain's death on December 27, 1910, created a vacancy in the office.<sup>31</sup> At first the BIA vetted several candidates, but popular sentiment was that then President William Howard Taft would appoint the late McCurtain's son David to fill the vacancy.<sup>32</sup> But allegations of corruption gave fate a turn. An inquiry spearheaded by U.S. Senator Thomas Gore unearthed that J. Frank Murray fraudulently billed the Choctaw Nation over \$1,000,000.00 and then, to ensure silence, bribed Congressional and BIA officials, along with the Principal Chief.<sup>33</sup>

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<sup>28</sup>Ibid.

<sup>29</sup> Barid, *The Choctaw People*, 82.

<sup>30</sup> Milligan *The Choctaw of Oklahoma*, 229-234.

<sup>31</sup> "Death Calls Indian Chief" *The Daily Oklahoman*, December 28, 1910.

<sup>32</sup> "Choctaw Chief Desired by Taft" *The Daily Oklahoman*, January 3, 1911. Trimble, Choctaw Kisses.

<sup>33</sup> "Committee Asserts Hamon Offered Gore and Creager Bribes to Influence Votes", *The Daily Oklahoman*, March 1, 1911.

The resulting outrage by the public was strong enough to force President Taft to disqualify the younger McCurtain as his father's successor. In a surprising move, Taft appointed the late Principal Chief's private secretary Victor M. Locke, Jr. Scholar Vance Trimble points out that because his rise to power was the result of a political scandal, Locke and Patrick Hurley, David McCurtain's replacement as the Choctaw Nation's legal adviser, were quite cautious when at the negotiating table.<sup>34</sup>

Negotiations to sell the surplus Choctaw lands continued throughout Locke's seven-year tenure as Principal Chief. In 1918, as an active commissioned officer in the U.S. Army, Locke resigned as Principal Chief. President Woodrow Wilson appointed William F. Semple to be his successor, and the negotiations continued for the next two and a half years.<sup>35</sup> When Warren G. Harding assumed the office of President, he chose not to keep Semple, who was a Democrat, and instead appointed a fellow Republican William H. Harrison to serve as Principal Chief.<sup>36</sup>

Much like his predecessors, for three years Harrison continued to negotiate surplus land sales and close out the affairs of the Choctaw Nation. However, beginning in 1925 Harrison faced rebellion from many Choctaws, beginning with Harrison naming Semple the nation's legal adviser.<sup>37</sup> This decision resulted in a hostile response among many individuals, especially a committee of five prominent Choctaws led by Dr. Eliphalet Wright. In their petitions to both BIA officials and the press they called Chief Harrison's behavior "unsatisfactory and obnoxious to his people."<sup>38</sup>

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<sup>34</sup> Trimble, *Choctaw Kisses*.

<sup>35</sup> "Semple Is Slated as Choctaw Chief", *The Daily Oklahoman*, July 18, 1918; Trimble, *Choctaw Kisses*.

<sup>36</sup> Milligan, *The Choctaw of Oklahoma*, 230.

<sup>37</sup> "Choctaw Agents Ask for Removal of Harrison As Chief Man of the Tribe", *The Daily Oklahoman*, March 21, 1925.

<sup>38</sup> *Ibid.*

In their grievance against Harrison, these five men recommended the Coolidge administration remove Harrison and allow the Choctaws to hold an election to choose the next Principal Chief.<sup>39</sup> Harrison was not removed. Yet, as a concession Coolidge did not approve Semple's appointment as the Choctaw Nation's legal adviser, a move that further delayed selling the surplus Choctaw land for the remainder of Harrison's tenure.<sup>40</sup>

On September 25, 1929, Harrison died of complications related to a stroke, and once again, the office of Principal Chief became vacant.<sup>41</sup> In the four months that followed Harrison's passing, a fight ensued within the Nation on whom should be his successor. The origins of this row came when Wright petitioned that he be appointed to serve as interim Principal Chief until an election could be held.<sup>42</sup> This request resulted in E.O. Clark, Ben Dwight, and to a lesser extent, Wright's daughter Muriel to sort.<sup>43</sup> In January of 1930, a haggard President Herbert Hoover informed the Choctaw people that he had appointed Ben Dwight as the next Principal Chief, and that no election would take place.<sup>44</sup>

As mentioned earlier, the predominately Choctaw churches, families, and communities, provided the guiding light of the Choctaw Nation's culture, language, and kinship ties after the nightfall of Oklahoma statehood. However in 1933 the Choctaws received another potential source of light with the appointment of John Collier as Commissioner of Indian Affairs and his implementation of the Indian New Deal.<sup>45</sup> Throughout his twelve-year tenure as BIA Commissioner, Collier and Roosevelt's two goals were to provide sorely needed federal aid due

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<sup>39</sup>Ibid.

<sup>40</sup>"Tribe Wins First Fight to Oust Man", *The Daily Oklahoman*, March 20, 1925; "Choctaw Chief Will Continue in Office", *The Daily Oklahoman*, May 16, 1925. "Tucker Draws Choctaw Post", *The Daily Oklahoman*, July 15, 1925.

<sup>41</sup>"Funeral Held for Harrison", *The Daily Oklahoman*, September 28, 1929.

<sup>42</sup>"Woman May Be Choctaw Chief" *The Daily Oklahoman*, January 18, 1930.

<sup>43</sup> Ibid.

<sup>44</sup> Milligan, *The Choctaw of Oklahoma*, 233.

<sup>45</sup> John S. Blackman, *Oklahoma's Indian New Deal* (Norman, University of Oklahoma Press, 2013); 3-12.

to the failure of assimilation, economic collapse and the preservation and reestablishment of Native culture, language, and political sovereignty.<sup>46</sup> Collier also changed the mission of the boarding and day schools run by the BIA from total assimilation to one that allowed Indian culture and encouraged acculturation on Indian terms.<sup>47</sup> Additionally to the Indian Reorganization Act of 1934, Congress passed the Oklahoma Indian Welfare Act two years later, which provided the Indian New Deal programs to Oklahoma's indigenous population.<sup>48</sup>

Many politicians and Choctaws expected that when the tribe had the opportunity to reconstitute its national sovereignty under the 1936 Oklahoma Indian Welfare Act (OIWA) it would do so. However, the issue of political reconstitution became complicated.<sup>49</sup> W. David Baird in *The Choctaw People* and James C. Milligan in *The Choctaw of Oklahoma* point out that the political feuds between the Choctaw Nation's so-called full-bloods and mixed-bloods at the close of the nineteenth century calmed after Oklahoma statehood. Yet, violent disputes returned during Collier's tenure.<sup>50</sup> By the 1930s, the Choctaws felt the effects statehood had brought, including the theft of land, a byproduct of the Atoka Agreement allotments. Some Choctaws believed that restoration under the OIWA, would prevent the theft of future allotted lands and possibly return the properties that were stolen before Collier's tenure as BIA Commissioner.<sup>51</sup> They were wrong. Again, citing Debo in *And Still the Waters Run* this period birthed, "a vast criminal conspiracy to wrest a great and rich domain from its owners."<sup>52</sup>

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<sup>46</sup>Ibid.

<sup>47</sup>Ibid.

<sup>48</sup>Milligan *The Choctaw of Oklahoma*, 235-238

<sup>49</sup> Blackman, *Oklahoma's Indian New Deal*, 78-117. Hochtritt, "Let Us Help You Help Yourselves", 175-200. Milligan, *The Choctaw of Oklahoma*, 236-238.

<sup>50</sup>Barid, *The Choctaw People*, 85-86.

<sup>51</sup>Debo, *And Still the Waters Run*, 379-404.

<sup>52</sup>Angie Debo, *And Still the Waters Run: The Betrayal of The Five Civilized Tribes* (1940, Princeton, Princeton University Press, 1991); 196-197.



Poverty exacerbated the situation. Historian James Hochtritt notes in *Let Us Help You Help Yourselves*, that during the Indian New Deal when many American Indians lost their Dawes Commission allotments, they were reduced to a state of destitution made worse by the Great Depression.<sup>53</sup> Some Choctaws hoped that the economic aid derived from the OIWA would help their Nation's economically, but it was too little too late.<sup>54</sup> Thus, the Choctaws did not accept Collier's OIWA offer. The decision was a product of unresolved conflict between nationalists (full bloods) versus assimilationists (mixed bloods) who believed the entire surplus lands should be sold. Jon Blackman in his work *Oklahoma's Indian New Deal*, points out the assimilationist faction garnered allies with white farmers, entrepreneurs, and lawyers who took a significant interest in seeing the remaining assets owned by the Choctaw Nation to be put on the open market.<sup>55</sup> Nationalists were suspicious of President Roosevelt's New Deal and the Indian New Deal, seeing it as an overreach of federal power.<sup>56</sup> One of the fiercest criticisms of Collier's reforms came from *The Daily Oklahoman* that smeared the Indian New Deal as federal intrusion into the affairs of Oklahoma's American Indians.<sup>57</sup>

Originally, Ben Dwight supported reconstitution, incorporating under the OIWA and reconstituting the Choctaw national government early during his tenure as Principal Chief. The rationale for his assertion for incorporation was that it would have gave the Choctaw people a voice concerning who was eligible to vote for their Principal Chief and who would sit on the tribal council. However, when Dwight faced aforementioned opposition from both within and

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<sup>53</sup>James Hochtritt, "Let Us Help You Help Yourselves: New Deal Economic Recovery and The Five Tribes in Rural Oklahoma" in *Main Street Oklahoma: Stories of Twentieth-Century America* ed. Linda W. Reese and Patricia Loughlin (Norman, University of Oklahoma Press, 2013); 175-200.

<sup>54</sup>Ibid.

<sup>55</sup>Jon S. Blackman, *Oklahoma's Indian New Deal* (Norman, University of Oklahoma Press, 2013).

<sup>56</sup>W. David Barid and Danney Goble, *Oklahoma: A History* (Norman, University of Oklahoma Press, 2008); 205-236.

<sup>57</sup>Milligan, *The Choctaws of Oklahoma*, 235.

outside the Choctaw Nation, he promptly reversed his support for the OIWA and embraced a pro-liquidation and assimilationist perspective. William A. Durant continued this opinion when President Franklin D. Roosevelt appointed him to replace Dwight when he resigned as Principal Chief in 1937.<sup>58</sup>

Despite the reassertion of an assimilationist mind-set among the two individuals who served as the Choctaw Nation's Principal Chief for the remainder of what is considered the "Indian New Deal" era. There were many Choctaw citizens who. As like with Chief Dwight, many of these citizens thought that reconstituting under the OIWA would allow the new government would serve as a platform for negotiating more political autonomy in the future.<sup>59</sup> However, what sabotaged the ability of these individuals to force the issue was that about after being under the self-inflicted administration of the BIA for nearly thirty years. Many stalwart Choctaws said that for them to support the Nation's reinstatement under the OIWA, it had to be a complete restoration of political power of the pre-statehood era with no federal oversight.<sup>60</sup>

As World War II drew to a close, concern arose among academics, government officials, and executives in the American coal and oil industries about the extent of coal and oil reserves. The nation's coal and oil consumption fell due to the Depression, and the decreased consumption continued through World War II when the federal government-imposed rationing of many coal and oil-based products.<sup>61</sup> The post-war economic boom returned the U.S.'s coal and oil consumption levels to pre-Depression era levels. Before the 1961 oil strike at Prudhoe Bay Alaska many individuals were afraid that the economic boom that followed the war along with

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<sup>58</sup>Ibid.

<sup>59</sup>Ibid.

<sup>60</sup>Barid, *The Choctaw People*, 101-104.

<sup>61</sup>Yergin, *The Prize*, 376-378. See also Donald Worster's *Shrinking the Earth: The Rise and Decline of American Abundance* (Oxford, Oxford University Press 2016); 139-144.

the potential threat of another global conflict could lead the U. S. to exhaust all of its coal and oil supplies.<sup>62</sup>

Thus, the Choctaws did not reorganize under the OIWA. Although controversial to some Choctaws, Collier resigned as BIA Commissioner in 1945, and the attitude in Congress on Indian policy shifted from accommodation to total assimilation through official termination. With no national government the Choctaw people were completely vulnerable,<sup>63</sup> evidenced by the termination act of 1959.<sup>64</sup> Two major political actors were responsible for scheduling Choctaw termination. The first was Carl Albert who represented Oklahoma's Third Congressional District in the U. S. House of Representatives from 1947 to 1977, serving as House Speaker during the last five years of his tenure as a House member. The second was Harry J.W. Belvin who served as Principal Chief of the Choctaw Nation from 1948 to 1975. Throughout most of his tenure Belvin would be one of the primary architects of the 1959 legislation and would continue to push for termination until it became unpopular in the late 1960s. Ironically, Albert pushed to have the law repealed in 1970.

Carl Albert had become known throughout his thirty-year long congressional career as “The Little Giant from Little Dixie” because of the strong convictions he reiterated both in writing and his powerful oratory skills in the U.S. House of Representatives. Albert was born in 1908, the oldest child born to Ernest and Lenora Albert. Carl grew up in a working-class family that moved up to the lower rungs of the middle class. Because of the intensive labor at their family farm in Bugtussle, Oklahoma and his father's labors in the coal mines surrounding

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<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup>R. Warren Metcalf, *Termination's Legacy: The Discarded Indians of Utah* (Lincoln, University of Nebraska Press 2002

McAlester,<sup>65</sup> after visiting with Representative Charles D. Carter at the Bugtussle school, Carl dreamed that one day he would run for Congress.<sup>66</sup>

On graduating as the valedictorian from McAlester High School's class of 1927, Albert went on to study political science at the University of Oklahoma, where he became one of the first of the university's graduates to win the Rhodes Scholarship. This opportunity allowed him to read law at Oxford University.<sup>67</sup> When he graduated from Oxford in 1934, he returned home to Oklahoma, passed the state bar examination, and began building a law career in the middle of the Great Depression.<sup>68</sup>

When Japan attacked Pearl Harbor on December 7, 1941, the U. S. entered World War II. Albert turned down a lucrative law partnership and accepted a commission of second lieutenant in the U. S. Army Judge Advocate Corps. For the next four years he would be on General Douglas MacArthur's legal staff in the Pacific Theater.<sup>69</sup> In 1945, Albert left the Army as a lieutenant colonel, and with his new wife Mary returned to Oklahoma tentatively to set up a law practice. However, when Oklahoma's Third Congressional District became an open seat in the 1946 congressional elections, Albert ran and won.<sup>70</sup> Albert's support of termination was quite ironic. Seemingly progressive on some level, Chief Belvin convinced Albert that termination would help the Choctaws bypass the BIA and its meddling into tribal finances and government. Belvin's intention was to hasten to dispossession of tribal resources in order to terminate the Nation. By placing the nation's properties and assets in a corporation organized under Oklahoma

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<sup>65</sup>Carl Albert and Danney Goble, *Little Giant: The Life and Times of Speaker Carl Albert* (Norman, University of Oklahoma Press, 1990),

<sup>66</sup>Ibid.

<sup>67</sup>Albert and Goble, *Little Giant*, 50-116

<sup>68</sup>Ibid.

<sup>69</sup>Albert and Goble, *Little Giant*, 117-149

<sup>70</sup> Ibid.

law.<sup>71</sup> In 1959 the Choctaws lobbied Congress to approve the sale of what was left of tribal assets and “retention of half of all mineral rights which could be managed by a tribal corporation.”<sup>72</sup> Albert also pushed to close BIA-run schools, holding that they violated the 1954 *Brown v. Board of Education* Supreme Court decision that racial segregation in common education was unconstitutional.<sup>73</sup>

Moreover, Albert refused to write or sponsor legislation without the consent of a tribe or nation's membership.<sup>74</sup> Albert received numerous complaints from Belvin about BIA officials stalling his plans to terminate the Choctaw Nation, but there is no record of Belvin corresponding with him about the impact of termination on tribal assets. Moreover, the legislative record is silent on the subject of Albert's views about the Choctaws' remaining coal and oil assets being a motive for termination. This is a radical departure from Arthur Watkins, E.Y. Berry, and Dillion Meyer who selected to terminate a Native community against the wishes of that people. However, within the context of his own congressional career during the termination era Albert did not keep tabs on what Indian constituents thought of termination, but, instead, listened only to men like Belvin.<sup>75</sup>

In contrast to Albert's “rags-to-riches” rise to becoming a member of the U.S. House of Representatives. Belvin's life began in Indian Territory nearly seven years before Oklahoma statehood. Belvin's father Watson Belvin practiced law in the last thirty years of the Choctaw Nation and by the first two decades of Oklahoma statehood had transformed his family's

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<sup>71</sup> Lambert, *Choctaws in Oklahoma*, 209-210.

<sup>72</sup> A Medley of Potpourri, <https://amedleyofpotpourri.blogspot.com/2018/08/indian-termination-policy.html>.

<sup>73</sup> “The Life and Career of Carl Albert”, C-SPAN, accessed February 12, 2018, [www.cspan.org/video/?15083-1/life-career-carl-albert](http://www.cspan.org/video/?15083-1/life-career-carl-albert). See also David W. Clark, “Carl Albert: Little Giant of Native America”, *The Chronicles of Oklahoma*, Volume 93, No 3, Fall (2015); 290-311.

<sup>74</sup> Letter and Statement to Chairman of the Committee on Interior and Insular Affairs Representative Wayne N. Aspinall, January 22, 1959, Folder 61, Box 40, Series 7 (Legislative), Albert Collection, CACCA, OU.

<sup>75</sup> Dean J. Kotlowski (2002) Limited Vision: Carl Albert, the Choctaws, and Native American Self-Determination. *American Indian Culture and Research Journal*: 2002, Vol. 26, No. 2, pp. 17-43.

allotments into a multi-million-dollar cattle-ranch.<sup>76</sup> While Belvin was half Choctaw, his father forbade him from taking part in the Choctaw culture and language. The elder Belvin's assimilationist opinions would shape his son's attitudes about Indian policy during his tenure as Principal Chief.<sup>77</sup>

His father's wealth allowed Belvin to earn an undergraduate degree in education from what is now Southeastern Oklahoma State University. After his 1923 graduation he began a career as a classroom teacher in rural schools in Bryan and Choctaw counties. Upon receiving a master's degree in education from the University of Oklahoma, he became a building principal. In 1940, the people of Bryan County chose him to serve as Superintendent of Bryan County Schools, administering all school districts in Bryan County.<sup>78</sup>

During his tenure as county superintendent Belvin disapproved of Durant's handling Choctaw and Chickasaw coal and asphalt land rights sales. While many attempts to sell these lands occurred immediately after statehood, the barriers that prohibited the sale of other surplus Choctaw lands still existed. In 1937, as Principal Chief, Durant resurrected the negotiations to sell these lands and divide the profits among the Choctaw people in the form of per capita payments.<sup>79</sup>

However, Collier's reluctance to approve selling the Choctaw and Chickasaw land and mineral rights proved to be a significant barrier in the negotiations to put these lands on the market.<sup>80</sup> When Collier stepped down as BIA Commissioner in 1945 following the death of President Franklin D. Roosevelt, talks began between the BIA and the Choctaws and Chickasaws

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<sup>76</sup>Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln, University of Nebraska Press, 2007), 73

<sup>77</sup>Barid, *The Choctaw People*, 101-104.

<sup>78</sup>Ibid.

<sup>79</sup>Milligan, *The Choctaw of Oklahoma*, 239.

<sup>80</sup>Ibid.

about selling these lands, but in Belvin's eyes, not quickly enough. In a 1946 speech calling for the sale of these lands and mineral rights, Belvin blamed the logjam on Chief Durant and officials in the post-Collier BIA.<sup>81</sup>

Belvin's assimilationist mind-set explains his push for the termination of the Choctaw people from his appointment in 1948 to his retirement in 1975. The Choctaw's surplus lands and untapped coal and oil reserves made the Tribe a target for termination. In 1955, four years before Chief Belvin sent the Choctaw Termination legislation to Carl Albert, Assistant Secretary of Interior Orme Lewis sent Vice President Richard Nixon a memorandum on the potential effect of Choctaw termination on the nation's energy needs.<sup>82</sup>

The BIA ignored Belvin during the two-year period he campaigned for an expedited liquidation of the Choctaw and Chickasaw coal and asphalt lands. But in the spring of 1948, the political fortunes of the post-statehood Choctaw Nation changed when the aging Durant informed President Truman of his departure as Principal Chief.<sup>83</sup> Unlike his predecessors, Truman decided to allow the Choctaws to hold an election to choose the presidential appointee.<sup>84</sup>

Truman's decision to call for an election to decide the Choctaw Nation's next Principal Chief advantaged Belvin. His campaign to speed up selling the Choctaw and Chickasaw Nation's coal and asphalt assets created name recognition among the Choctaws, especially among the assimilationist faction and those who thought the per capita payments would reduce the poverty that persisted when World War II stimulated Oklahoma's recovery from the Depression.<sup>85</sup> This

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<sup>81</sup>“Choctaw Coal Deal Completion Urged”, *The Daily Oklahoman*, March 17, 1946.

<sup>82</sup> Assistant Secretary of the Interior Orme Lewis to Vice President Richard Nixon, January 17, 1955, Folder 14, Box 23, Series 7, (Legislative), Albert Collection, CACCA, OU.

<sup>83</sup>“McAlester Indian Seeks Chief Post”, *The Daily Oklahoman*, May 9, 1948.

<sup>84</sup>“Fight on Chief Splits Indian Unity”, *The Daily Oklahoman*, August 22, 1946. “Indian Group Hits Warpath Rival Factions Set Sessions” *The Daily Oklahoman*, September 1, 1946; “Choctaw Indians To Vote on June 21 On Tribal Chief”, *The Daily Oklahoman*, May 30, 1948.

<sup>85</sup>Kidwell, *The Choctaws in Oklahoma*, 206-208.

allowed Belvin to win the symbolic election, and when Durant unexpectedly died 1948, the Truman administration went ahead and officially appointed Belvin to fill the vacancy.<sup>86</sup>

At the start of Belvin's twenty-seven-year tenure as Principal Chief that federal government purchased the Choctaws and Chickasaw's coal and asphalt assets. The two tribes received a net profit of \$8,000,000.00, and each nation's members accepted payments of \$330.00 between 1949 and 1952.<sup>87</sup> With this sale completed, Belvin turned his attention to liquidating the remaining Choctaw Nation land. One might ask why, given Belvin's determination to bring the Choctaw people into full-assimilation in the late-1940s and early-1950s, Watkins did not jump at the opportunity to terminate the Choctaws.

There were two reasons: First, as Richard Drinnon's acerbic biography of Dillion S. Myer *Keeper of the Concentration Camps* points out, many Collier-era officials within the BIA defiantly opposed Meyer's plans to terminate the relationship that Native communities had with the federal government during his tenure as BIA Commissioner.<sup>88</sup> When Belvin tried to prepare the Choctaw Nation for termination, BIA Superintendent for the Five Civilized Tribes Paul Fickinger slow-walked Belvin's numerous attempts to get Choctaw termination legislation drawn up until he was replaced by Graham E. Holmes in 1962. Belvin sent Albert numerous complaints about Fickinger and his staff in the BIA Muskogee office.<sup>89</sup> But unlike many House and Senate members who received a complaint against the actions of a government agency, Albert chose not to contact Fickinger to settle this dispute. Instead, Albert referred Belvin's complaints to the

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<sup>86</sup>“Death Ends Long Colorful Career”, *The Daily Oklahoman*, August 2, 1948. “Choctaw Chief Wins Approval”, *The Daily Oklahoman*, August 12, 1948. “Harry Belvin Sworn in Chief of the Choctaws”, *The Daily Oklahoman* August 22, 1948.

<sup>87</sup>Kidwell, *The Choctaws in Oklahoma*, 206-208.

<sup>88</sup>Richard Drinnon, *Keeper of the Concentration Camps: Dillion S. Meyer and American Racism* (Berkeley, University of California Press, 1987), 233-248.

<sup>89</sup>Chief Harry J.W. Belvin to Carl Albert, June 30, 1961, Folder 29, Box 51 Series 4 (Legislative), Albert Collection, CACCA, OU. See also Chief Harry J.W. Belvin to Carl Albert, September 20, 1951, Folder 52, Box 11 Series 4, Albert Collection, CACCA, OU.



Commissioner of Indian Affairs, and the record remains silent about what happened after Albert informed the BIA of Belvin's grievances against Fickinger.<sup>90</sup>

Second, the delay in Choctaw termination stems from President Eisenhower's decision to dismiss Dillion S. Meyer as BIA Commissioner in 1953. Many American Indian organizations pushed Eisenhower to appoint Chief Belvin to be the first Native person to serve as Indian Commissioner in the twentieth century.<sup>91</sup> Although Eisenhower favored Glenn Emmons, the process of vetting him as a potential candidate for Commissioner of Indian Affairs proved to be a significant hindrance for Belvin's plans to assimilate the Choctaw Nation into Oklahoma's mainstream society.<sup>92</sup>

Despite statehood, the Choctaw people did not become invisible within Oklahoma or U.S. history. Instead, while statehood meant that the Choctaw national government ceased to function, other institutions, primarily the Presbyterian Church would (still with paternalistic attitudes), stand in place of the Choctaw state as the guardian of the practice of Choctaw culture, language, and kinship ties in the post-statehood era. Although Choctaws no longer had a functioning government, they still had some form of political autonomy left in the post-statehood era through the retention of the office of Principal Chief. However, in 1959 the sun had not risen on their Nation. Their nighttime journey to the sunrise of the Self-Determination was not yet complete.

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<sup>90</sup>Commissioner of Indian Affairs D.S. Meyer to Carl Albert, October 2, 1951, Folder 52, Box 11, Series 4, Albert Collection, CACCA, OU.

<sup>91</sup>Thomas W. Cowger, *The National Congress of American Indians: The Founding Years* (Lincoln, University of Nebraska Press, 2001); 106.

<sup>92</sup> Assistant Secretary of the Interior Orme Lewis to Vice President Richard Nixon, January 17, 1955, Folder 14, Box 23, Series 7 (Legislative), Albert Collection, CACCA, OU.

## CHAPTER TWO

### *The Stillness of the Night*

#### *The Choctaws Are Scheduled for Termination, 1959-1968*

On January 22, 1959, nearly one week after Belvin's letter (what would become the Choctaw Termination Act of 1959) arrived in Carl Albert's Washington D.C. office. Albert had a member of his staff prepare a letter to Representative Wayne N. Aspinall (D-Colorado), chair of the House's committee on Interior and Insular Affairs. Albert informed Aspinall that he had introduced the Choctaw Termination Act as House Resolution 2722 and requested that he do his best to expedite the debate and vote to either approve or reject this legislation.<sup>1</sup> Aspinall's terse response came two days later on January 24<sup>th</sup>, stating that he would assist as soon as he received reports he requested "from the appropriate Departments[,] and [then]copies will be provided to you."<sup>2</sup> After this response was sent to Albert, Aspinall contacted Assistant Secretary of Interior Roger Ernst. The purpose of Aspinall's communications with Ernst was to respond to Aspinall's request that the Department of Interior and the Bureau of Indian Affairs' advise him on the Choctaw termination legislation and to start an inquiry into the status of the Choctaw Nation's remaining properties and assets.<sup>3</sup>

Albert and Aspinall began the groundwork to bring the Choctaw Termination Act to a full debate in the proper committees and subcommittees in the House of Representatives. The primary concern was how Choctaw termination played out in comparison to other American Indian communities. Much like the other pieces of termination legislation, the Choctaw

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<sup>1</sup> Letter and Statement to Chairman of the Committee on Interior and Insular Affairs Wayne N. Aspinall, January 22, 1959, Folder 61, Box 40, Series 7 (Legislative), Albert Collection, CACCA, OU.

<sup>2</sup> Wayne Aspinall to Carl Albert, January 24, 1959, Folder 61, Box 40, Series 7 (Legislative), Albert Collection, CACCA, OU.

<sup>3</sup> Roger Ernst to Wayne Aspinall, April 20, 1959, Folder 61, Box 40, Series 7 (Legislative), Albert Collection, CACCA, OU.

Termination Act would officially sever the recognition that the Choctaws had as a federally recognized tribe, abolish the office of Principal Chief, and make the Choctaws ineligible for BIA benefits.

Yet, the official choices were twofold. The first was incorporation, which many Indian communities such as the Menominees and the mixed-blood Utes took when they were terminated.<sup>4</sup> Under this plan, a state-chartered corporation would take the place of the tribe's sovereign government and all of the assets that were in the trusteeship of the BIA would be transferred to the corporation. Then the tribe's enrolled membership prior to termination as long as they maintained ownership of stocks in the corporation would receive dividends from the annual profits of the corporation and be able to choose the individuals who sat on its board of directors.<sup>5</sup> The second option available for Native communities to handle their assets was complete liquidation where nearly all of the tribe's assets owned either outright or in trust with the federal government were sold at public auction. The net proceeds from this auction were distributed among the tribe's enrolled membership.<sup>6</sup>

Very few American Indian communities chose to liquidate.<sup>7</sup> However, as noted in Chapter One, in the name of assimilation, Belvin chose complete liquidation of the Choctaw Nation's remaining assets.<sup>8</sup> But unlike the Klamaths who decided on complete liquidation,<sup>9</sup>

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<sup>4</sup>Nicholas Peroff, *Menominee Drums: Tribal Termination and Restoration, 1954-1974* (Norman, University of Oklahoma Press, 1982); 118-128. R. Warren Metcalf, *Termination's Legacy: The Discarded Indians of Utah* (Lincoln, University of Nebraska Press).

<sup>5</sup>Ibid.

<sup>6</sup> Donald Fixico, *Termination and Relocation: Federal Indian Policy* (Albuquerque, University of New Mexico Press, 1986).

<sup>7</sup>Roberta Ulrich, *American Indian Nations from Termination to Restoration, 1953-2006* (Lincoln, University of Nebraska Press, 2010); Ibid. For further background on the history of the termination and liquidation of the Klamath tribal assets see Susan Hood's "Termination of the Klamath Indian Tribe of Oregon." *Ethnohistory* 19, no. 4 (1972), 379-92. and Patrick Haynal's "Termination and Tribal Survival: The Klamath Tribes of Oregon." *Oregon Historical Quarterly* 101, no. 3 (2000), 270-301.

<sup>8</sup>Letter and Amendment Proposal from Chief Belvin, January 15, 1959, Folder 61, Box 40, Series 7, Albert Collection, CACCA, OU.

<sup>9</sup>Hood "Termination of the Klamath Indian Tribe of Oregon." *Ethnohistory*, 379-92.

Belvin unexpectedly asked a post-termination era corporation to assume ownership of properties that held significant value within the history and culture of the Choctaw people, such as the Choctaw capitol complex in Tushkoma, Oklahoma. The corporation would also have the authority to continue adjudication of all damages owed to the Choctaw people when the nation was fully terminated. In 1951, Belvin and legal counsel William Semple petitioned the Indian Claims Commission for a formal adjudication of the remaining \$795,000's worth in damages the federal government still owed the Choctaw Nation.<sup>10</sup> However, much to their surprise, the commission denied the request, citing a lack of evidence substantiating a claim of such amount.<sup>11</sup> Therefore, considering the possibility of obtaining stronger evidence for a second claim, Belvin thought that there needed to be an organization that could pursue the claim to its full resolution.

The first step that the legislation took was that Albert formally introduced House Resolution 2722 for its first reading on the floor of the U.S. House of Representatives on January 19<sup>th</sup>, 1959.<sup>12</sup> Following the resolution's first reading, House Speaker Sam Rayburn assigned it to the House Committee on Interior and Insular Affairs. Upon receiving this assignment, the next step was that the committee's chair Wayne Aspinall then referred it to the Subcommittee on Indian Affairs.<sup>13</sup> Once House Resolution 2722 was in the hands of the Indian Affairs subcommittee, it gave the Department of Interior, the Bureau of Indian Affairs, and Chief Belvin around three to four months to send all relevant documentation about the Choctaw Nation.

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<sup>10</sup>Kidwell, *The Choctaw in Oklahoma*, 207-210.

<sup>11</sup> Ibid.

<sup>12</sup>U.S. Congress, House, *Choctaw Termination Act of 1959*.HR 2722. 86<sup>th</sup> Cong., 1<sup>st</sup> session. introduced in House January 19, 1959.

<sup>13</sup> Ibid.

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When the subcommittee convened on June 15<sup>th</sup>, only two individuals they had invited, Albert and Lewis Sigler, an attorney with the Department of the Interior, attended. Instead of postponing the hearing, Representative Haley, not wanting to waste any more of Albert's time away from official duties as the Democratic Party's majority whip, decided to go ahead and let the legislation be heard. The hearing started with Albert, as the legislation's main sponsor, being given the opportunity to speak on behalf of the legislation and to advocate for its implementation. Albert claimed his motives were to terminate the federal recognition and trusteeship status of the Choctaw Nation, unlike Arthur V. Watkins, who pushed for the termination of American Indian communities regardless of that community's support. Albert

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<sup>14</sup>U.S. Congress, House, *Choctaw Termination Act of 1959*.HR 2722. 86<sup>th</sup> Cong., 1<sup>st</sup> session. introduced in House January 19, 1959.

<sup>15</sup> Ibid.

<sup>16</sup>*Choctaw Indian Tribal Assets Disposition: Hearing before the Subcommittee on Indian Affairs*, House, 86<sup>th</sup> Congr., 1<sup>st</sup> session., June 15, 1959, 1-52.

informed the subcommittee that the origins of the Choctaw termination legislation was from the Choctaws themselves and had been brought to his attention by the tribe's Principal Chief. Albert then elaborated that in the five decades following Oklahoma becoming a state, the Choctaw people were able to retain most of their culture, language, and kinship networks.<sup>17</sup>

However, as he informed the subcommittee, the reason why the Choctaws wanted recognition and trusteeship status to be terminated was that they did not have a say in their nation's leadership. When Oklahoma became a state, the constitutional Choctaw national government ceased to function, and the office of Principal Chief went from a position that the Choctaw people chose in public elections to one appointed by the President of the United States. In his concluding remarks Albert argued that if the subcommittee's members wanted to give the Choctaw people the ability to conduct their own affairs, they should vote to approve the legislation.<sup>18</sup>

Albert was questioned by the subcommittee as to why the termination legislation also included a plan to liquidate the properties and assets of the Choctaw Nation. His response was, according to provisions in the Atoka Agreement of 1897 and the Curtis Act of 1898, that any land and its attached mineral rights leftover from the allotment of commonly-held Choctaw lands were to be sold on the state's commercial real estate market. Albert then stated that to a great extent this had never happened because the Choctaws and other interested parties had not been able to agree on a purchasing price for these remaining assets. Subcommittee member Representative Haley then called on Lewis Sigler to come forward and present his opinion on the termination legislation. The subcommittee invited Sigler to testify because he was Belvin's contact within the Department of the Interior and the BIA who knew how to draft termination

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<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

legislation. The second reason the subcommittee invited him to testify was due to his knowledge of the nation's remaining properties and assets.<sup>19</sup>

Sigler testified that except for a few historically valuable properties chosen by Belvin to be retained by a post-termination corporation, the Choctaws had chosen to liquidate all of their nation's remaining assets to be sold at public auction. Sigler then went on to say that according to documents provided to the Department in fiscal year 1957/58, the Choctaw Nation had a combined total of 16,341 square acres worth of properties within the nation's historical boundaries in present-day Southeastern Oklahoma. Sigler explained that the status of these federal trusteeship properties fell within two separate categories. The first were properties not allotted under the requirements of the Atoka Agreement and the Curtis Act. Their ownership ranged from being owned by the nation outright or with a patent fee in trusteeship with the federal government.<sup>20</sup> The second were properties that had been allotted and during Collier's tenure as Commissioner of Indian Affairs repurchased by the nation. They were then placed into federal trusteeship under the expectation that their status as Choctaw land would be permanent.

After Sigler finished talking, with no further witnesses, Representative Haley declared that the subcommittee's hearing on the legislation was formally concluded. He then announced it would hear the next item on that day's docket. While this meant that the Choctaw termination legislation had made it past a subcommittee hearing, why was Belvin not present to testify? A possible explanation came the next day when the subcommittee reconvened to vote on sending the legislation, they heard the day before to the Committee on Interior and Insular Affairs. Edward Edmondson (D-Oklahoma) who was a member of the subcommittee requested that a letter from Chief Belvin be submitted into that day's minutes. Belvin wrote that as a member of

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<sup>19</sup>Ibid.

<sup>20</sup>Ibid.

the Oklahoma House of Representatives, his presence would not be possible as long it was still in session.<sup>21</sup> Yet, no member of the subcommittee asked to table the legislation until they had the opportunity to hear from Belvin in person. Instead, when the subcommittee took up House Resolution 2722 on that day, it voted for its approval. Then on June 24, 1959, upon learning that the Indian Affairs subcommittee had approved the legislation with no objections, the House Committee on Interior and Insular Affairs voted to approve the legislation itself.<sup>22</sup>

So, the question that now has to be asked is, why would the Subcommittee on Indian Affairs and its parent committee the Interior and Insular Affairs be willing to rush approval of a piece of legislation despite not having a critical actor like Belvin testify? A likely explanation as to why the Choctaw termination legislation did not encounter any opposition in the U.S. House of Representatives was Albert's prominence in the Democratic Party's majority whip. As he states in his autobiography, the leadership positions he held in the House of Representatives, starting with majority whip and ultimately House Speaker, granted him a significant amount of influence in getting legislation through the chamber.<sup>23</sup>

### **The Uncrowned King of the Senate**

#### *Robert S. Kerr and The Choctaw Termination Act*

On July 6, 1959, House Resolution 2722 once again cleared another significant hurdle when it received a vote of approval following its second reading on the floor of the U.S. House of Representatives.<sup>24</sup> However, unlike other termination bills, when the House gave its approval on the Choctaw termination legislation Albert's involvement in its sponsorship ends. In his

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<sup>21</sup>Ibid.

<sup>22</sup>*Choctaw Indian Tribal Assets Disposition: Hearing before the Committee on the Interior and Insular Affairs*, 86<sup>th</sup> Congress 1<sup>st</sup> session., June 24, 1959, 4

<sup>23</sup>Albert with Goble, *Little Giant*, 202-251.

<sup>24</sup>U.S. Congress, House, Choctaw Termination Act of 1959. HR 2722. 86th Cong., 1st session. Reported in House June 29, 1959.



autobiography, the reason why Albert chose not to continue his support of the legislation is because it would “die in the Senate. Many of Albert’s bills would pass the House, only to go on and die in the Senate because of the political party in control. He assumed that this bill would suffer the same fate.”<sup>25</sup> Therefore, as House Resolution 2722 was introduced for its first reading by Senate Majority Leader Lyndon B. Johnson on July 9, 1959, another legislator would play a crucial role in getting the termination legislation through the Senate’s legislative channels. U. S. Senator, Robert S. Kerr, “The Uncrowned King of the Senate,” was the most qualified of the one-hundred members to push Choctaw termination legislation through.<sup>26</sup>

Born a decade before Oklahoma achieved statehood in a small log cabin farmhouse near Ada, Oklahoma. Kerr’s life was similar to Albert’s. However, unlike Albert who had used his Oxford education and JAG corps officer titles, Kerr chose the oil industry as a power base. In 1929 he and other investors founded a small oil drilling company that would evolve into the Kerr-McGee Corporation.<sup>27</sup> Despite the company being founded at the beginning of the Great Depression, Kerr-McGee was one of the few Oklahoma based oil companies that not only survived but also grew in strength as it absorbed the well production of the companies that did not.<sup>28</sup> At the onset of World War II, out of his concern of a post-war economic downturn, Kerr-McGee began a rapid expansion to diversify the company into other energy markets.<sup>29</sup> When it became apparent that Kerr-McGee would be on solid ground without Kerr’s daily presence, he turned his focus into the realm of politics.<sup>30</sup>

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<sup>25</sup> Albert with Goble, *Little Giant*, 150-202.

<sup>26</sup> Anne Hodges Morgan, *Robert S. Kerr: The Senate Years* (Norman, University of Oklahoma Press, 1977); vii.

<sup>27</sup> Morgan, *Kerr*, 1-30.

<sup>28</sup> Ibid.

<sup>29</sup> Arrell Gibson Morgan, *Oklahoma: A History of Five Centuries*, 2<sup>nd</sup> edition (Norman, University of Oklahoma Press); 230-233. James R. Scales and Danney Goble, *Oklahoma Politics: A History* (Norman, University of Oklahoma Press, 1982); 221-226.

<sup>30</sup> Ibid.

Kerr's first political foray would come during the 1940 presidential election, when he was elected to serve on the Democratic Party's national committee. He broke rank with his fellow Democrats in Oklahoma and campaigned for Franklin D. Roosevelt to be elected to a third term as President.<sup>31</sup> Two years later, Kerr would take the experience and his plain-spoken oratory skills on the road and was elected Governor of Oklahoma in a narrow campaign against his Republican opponent.<sup>32</sup> Then in 1948, Kerr gathered his political allies and started campaigning to succeed the retiring Edward H. Moore as one of Oklahoma's two representatives in the U. S. Senate.<sup>33</sup>

Once the legislation passed the U.S. House of Representatives, the next documented event was its second reading on the Senate floor, receiving the chamber's approval on August 11, 1959.<sup>34</sup> Unlike Albert whose professed termination support came from the Choctaw people, about Kerr's motives one can only speculate in the next few pages.<sup>35</sup> Three months before the Choctaw termination legislation reached Albert for introduction in the House, Kerr sent a telegram from his Oklahoma City office to Roger Ernst inquiring about the possibility of Belvin being reappointed to another four years as Principal Chief when his term expired at the end of the year.<sup>36</sup> Kerr's office had received correspondence from Choctaw constituents stating there were rumors that the Republican Eisenhower administration intended to replace Belvin with a

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<sup>31</sup> Morgan, *Kerr*, 13-14.

<sup>32</sup> Scales and Goble, *Oklahoma Politics*, 221-226.

<sup>33</sup> *Ibid.*

<sup>34</sup> U.S. Congress, House, *Choctaw Termination Act of 1959*. HR 2722. 86<sup>th</sup> Cong., 1<sup>st</sup> session. Reported in Senate August 11, 1959.

<sup>35</sup> Albert with Goble, *Little Giant*, 193-208.

<sup>36</sup> Telegram from Robert S. Kerr and Grady L. Anderson to Assistant Secretary of the Interior Roger Ernst, October 4, 1958, Folder 53, Box 11 (Departmental), Robert S. Kerr Collection, Carl Albert Center Congressional Archives, University of Oklahoma, Norman, OK (hereafter cited as Kerr Collection, CACCA, OU.).

Republican appointee.<sup>37</sup> Kerr wanted to investigate these rumors spreading within the Choctaw Nation and other Oklahoma American Indian communities.

Upon receiving this telegram, Ernst sent a response to Kerr, stating while the President was still considering who he was going to appoint to be the Choctaw Nation's next Principal Chief.<sup>38</sup> He then stated to Kerr that despite the rumors that he was receiving from his Choctaw constituents, the President did not intend to make his appointment just on the basis of party membership.<sup>39</sup> While, on the surface Kerr's request seems to be like any other congressional inquiry to investigate an executive branch decision, it resulted in Belvin's reappointment to another four year-term as Principal Chief,<sup>40</sup> giving him the opportunity to send Albert the termination legislation for its formal introduction in Congress's new session the following January.

While Kerr represented Oklahoma in the U.S. Senate, he also remained chairman of Kerr-McGee's board of directors.<sup>41</sup> Yet, it was not until after the Watergate scandal in the 1970s that members of Congress paid much attention to such conflicts of interest.<sup>42</sup> As the presiding officer of Kerr-McGee, Kerr was aware of the post-World War II concerns about exhausting U.S. coal and oil supplies.<sup>43</sup> Daniel Yergin points out in *The Prize* that Kerr-McGee did not have the market presence of the seven oil companies that had dominated the American oil industry in the

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<sup>37</sup> Oliver La Farge to Secretary of Interior Frank A. Seaton, October 21, 1958, Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU. Juanita Brown Perkins to Robert S. Kerr, November 17, 1958; Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU.

<sup>38</sup> Assistant Secretary of the Interior Roger Ernst to Robert S. Kerr, October 16, 1958; Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU.

<sup>39</sup> Ibid.

<sup>40</sup> Assistant Secretary of the Interior Roger Ernst to Robert S. Kerr, December 23, 1958; Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU. See also Robert S. Kerr to Harry J.W. Belvin, December 11, 1959, Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU. and Robert S. Kerr to Juanita Brown Perkins, December 31, 1958; Folder 53, Box 11 (Departmental), Kerr Collection, CACCA, OU.

<sup>41</sup> John Samuel Ezell, *Innovations in Energy: The Kerr-McGee Story* (Norman, University of Oklahoma Press, 1979).

<sup>42</sup> Ibid.

<sup>43</sup> Daniel Yergin, *The Prize: The Epic Quest for Oil, Money and Power* (New York, Free Press, 1991); 411.

early-to-mid twentieth century.<sup>44</sup> By the late-1950s, these companies had begun to view Kerr's company as an emerging threat to their share of the market because of their successful explorations for oil and natural gas off the coast of Texas and Louisiana and their plans to enter the exploration for oil and natural gas reserves in Alaska. Associated with Kerr-McGee's scramble for new sources of oil,<sup>45</sup> Kerr was likely aware of Orme Lewis' memorandum about the remaining coal and oil reserves the Choctaw Nation still owned but were unable to develop because of the federal trusteeship status that forbade their extraction and consumption.<sup>46</sup> Thus, Kerr's sponsorship of the Choctaw termination legislation may not have been to break the Choctaw people from the heavy-handed paternalism of the BIA, but to allow for the selling of the remaining coal and oil assets.

### **The Night Grows Even Darker**

#### *The Countdown to Termination Begins, 1959-1968*

There are no records about how Kerr was able to navigate the Choctaw termination legislation through the Senate's legislative channels. We do know that once it received the Senate's approval, it was referred to a joint committee of House and Senate members to synchronize any changes made by either house before being submitted to President Eisenhower.<sup>47</sup> On August 25, 1959 the President signed the legislation in the Oval Office with only one staff member present.<sup>48</sup>

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Assistant Secretary of the Interior Orme Lewis to Vice President Richard Nixon, January 17, 1955, Folder 14, Box 23, Series 7, (Legislative), Albert Collection, CACCA, OU.

<sup>47</sup> U.S. Congress, House, Choctaw Termination Act of 1959. HR 2722. 86th Cong., 1st session. Reported in Senate August 11, 1959.

<sup>48</sup> Kidwell, *The Choctaw in Oklahoma*, 208-209.

As mentioned, several times, many Choctaws thought in 1959 that termination unleash them from the BIA and restore their pre-statehood era national government.<sup>49</sup> It was not until August 25, 1962, the same day Belvin's appointment as Principal Chief was to expire, that termination was set to begin. However, much to Belvin's dismay, the process of terminating and liquidating the Choctaw Nation's remaining assets encountered a significant road block. In response to an April 24, 1959 article published in *The Daily Oklahoman* about termination and liquidation several Indian and non-Indian landowners filed lawsuits in federal court to prevent the Choctaw Nation from selling of its remaining assets.<sup>50</sup> The first rationale behind the litigation was that a landowner questioned the legal standing that the Choctaw Nation had in its ownership of a certain property or sub-surface mineral rights on land they owned outright.<sup>51</sup> The second reason was that the landowner disputed the official surveyed property lines between their properties and those owned by the nation and requested that the court order another property survey.<sup>52</sup> As soon as these lawsuits were filed, it became clear that getting the Choctaw Nation ready to be terminated within the three-year timeline would not be feasible because the Federal District Court for Eastern Oklahoma had a significant docket of criminal and civil cases it had to hear along with these land cases.<sup>53</sup>

Due to legal predicaments Belvin informed Albert and Edmondson that it would be necessary for them to introduce legislation to postpone the official date of termination.<sup>54</sup> On June 28, 1962 both Albert and Edmondson proposed the first of three amendments that postponed the

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<sup>49</sup>Ibid.

<sup>50</sup> "Choctaw Land Bill Is Backed" *The Daily Oklahoman*, April 24, 1959.

<sup>51</sup> Press Release on Choctaw Termination Act, June 7, 1965; Folder 36, Box 52, Series 4 (Departmental), Albert Collection, CACCA, OU.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup>Ibid.

official date.<sup>55</sup> The first amendment delayed the nation from being terminated to August 25, 1965, under the assumption that this extension would allow for the formal adjudication of all of disputed properties.<sup>56</sup> By now a familiar story, the extension brought more problems. For example, in 1965 Semple informed the BIA that his declining health made him unable to continue as legal counsel for the Choctaw Nation.<sup>57</sup> Upon Semple's withdrawal, Belvin, with the approval of the BIA, appointed Lon Kile to serve as the Nation's attorney.<sup>58</sup> However, because Kile needed additional time to familiarize himself with the cases termination was postponed to 1968 and again to 1970.<sup>59</sup>

As the 1960s progressed, Belvin's emphasis on termination became increasingly at odds with the emerging consensus about federal termination policy. Thomas Cowger pointed out in *The National Congress of American Indians* that with the ascension of John F. Kennedy to the presidency in 1961, the federal government began to distance itself from termination.<sup>60</sup> Kennedy held a vehement opposition towards termination as did his appointees to the Department of the Interior and the BIA.<sup>61</sup> There also existed growing pushback from the emerging American Indian civil rights movement. Termination became both an unpopular and unfeasible policy position.

At the same time that Kennedy was undoing the policy of termination, Kerr died of a heart attack on January 1, 1963.<sup>62</sup> Then Governor Edmondson resigned. George Nigh was his

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<sup>55</sup>U.S. Congress, House, *Amendment to Choctaw Termination Act of 1959*.HR 12355. 87<sup>th</sup> Cong., 2<sup>nd</sup> session. introduced in House June 28, 1962.

<sup>56</sup>Ibid.

<sup>57</sup>Press Release on Choctaw Termination Act, June 7, 1965, Folder 36, Box 52, Series 4 (Departmental), Albert Collection, CACCA, OU. See also Harry R. Anderson to Chief Harry J.W. Belvin, August 23, 1968, folder 38, box 82, series 4 (Departmental), Albert Collection, CACCA, OU.

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup>Thomas Cowger, *The National Congress of American Indians: The Founding Years* (Lincoln, University of Nebraska Press, 2001); 121-150.

<sup>61</sup>Ibid.

<sup>62</sup>Scales and Goble, *Oklahoma Politics*, 244-260.

successor and appointed Edmondson to replace Kerr.<sup>63</sup> Unlike Kerr, Edmondson had no ties with any of the major oil companies and was, in fact, indifferent.<sup>64</sup> Moreover, McGee became Kerr-McGee's chief executive and began focusing on the company's oil and natural gas discoveries in the Gulf of Mexico and Alaska.<sup>65</sup> The unexpected termination postponements and new opposition advocated caused significant consternation among many officials within both within the Department of the Interior and BIA. For example, Harry R. Anderson, the Assistant Secretary of the Interior under President Lyndon B. Johnson's Assistant Secretary of the Interior, sent a letter to Chief Belvin. Anderson complained to Belvin that Congress was thwarting the BIA's termination efforts. He sarcastically remarked that legislation should be implemented giving Belvin the authority to postpone the termination of the Choctaw Nation indefinitely.<sup>66</sup> Yes, according to Belvin, the Choctaw termination plan should be implemented despite the expense it was incurring the federal government.

With Belvin turning a deaf ear, many individuals from within and outside the Choctaw Nation, as early as 1968, began to call for the repeal of the Choctaw Termination Act. The most prominent voice of these demands was the individual that Oklahoma voters chose in 1964 to be Kerr's long-term successor: Fred R. Harris,<sup>67</sup> although the official narrative of Oklahoma history has largely relegated Harris' tenure as a U.S. Senator to that of a minor footnote.<sup>68</sup> Within the context of the Choctaw termination era, Harris openly opposed termination. An example of Harris expressing his opposition would come when the Senate Subcommittee on Indian Affairs

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<sup>63</sup> Ibid.

<sup>64</sup> Daniel Yergin, *The Prize: The Epic Quest for Oil, Money and Power* (New York, Free Press, 1991); 411.

<sup>65</sup> Ibid.

<sup>66</sup> Harry R. Anderson to Chief Harry J.W. Belvin, August 23, 1968, Box 82, Folder 38, Series 4 (Departmental), Albert Collection, CACCA, OU.

<sup>67</sup> Scales and Goble, *Oklahoma Politics*, 326-328.

<sup>68</sup> Amy L. Scott, "National Liberal, Hometown Radical, and New Populist Politician: The Life of Fred Harris, *The Chronicles of Oklahoma*, Volume 83, No. 1 (Spring, 2005); 4-33.

held a hearing on the legislation postponing the official date of termination from 1968 to 1970. In a speech he gave during this hearing, Harris stated that “many Oklahomans are concerned over the possible termination of the Choctaw Nation. If termination occurs there are those who interpret the 1959 act as complete elimination of the rights of the individuals of the Choctaw Nation to health, education, and other benefits provided to all non-terminated tribes.”<sup>69</sup> Then he made a promise that if the Senate considered legislation to repeal the Choctaw Termination Act, he would do his best to see it received its approval.<sup>70</sup>

In contrast to the initial indifference and then outright hostility that Edmondson and Harris played towards Belvin’s plans to implement termination, Belvin held fast to Albert, his remaining political supporter. Although Albert introduced the Choctaw Termination Act as the Democratic Party’s majority whip, House Speaker Sam Rayburn’s death in 1962 created a significant power vacuum among House Democrats and elevated him to the position of House majority leader.<sup>71</sup> Albert’s record regarding decisions both within and outside of Oklahoma was held up to further scrutiny by both the press and the general public, so he pushed for the repeal of the Choctaw termination legislation in 1970.

As the Federal District Court for Eastern Oklahoma issued its decision in the final case involving the ownership of the Choctaw Nation’s remaining properties and assets in the fall of 1968, Choctaw termination did not fully occur. Belvin, Albert, and to a lesser extent Kerr allowed the lawsuits against the Nation to be adjudicated in federal court, in a sense abetting evolving federal support for termination in the 1960s. Chapter Three details that A significant

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<sup>69</sup> Statement of Senator Fred R. Harris Before the Subcommittee on Indian Affairs of the Interior and Insular Affairs Committee, 1968, folder 38, box 82, series 4 (Departmental), Albert Collection, CACCA, OU.

<sup>70</sup>Ibid.

<sup>71</sup>Clark “Carl Albert: Little Giant of Native America.”: 296-299.



opposition movement under the leadership formed in opposition to the Choctaw termination plan. They lead the movement to end local termination sentiment for good

## CHAPTER THREE

### *In Their Darkest Hour*

#### *The Opposition Against Termination and The Successful Repeal of the Choctaw Termination Act, 1969-1970*

On July 5, 1969, a crowd of nearly 1,500 enrolled citizens of the Choctaw Nation gathered at the Israel Folsom campgrounds for what would become one of the largest meetings hosted by the McCurtain County Council of Choctaws.<sup>1</sup> Featuring Belvin, this meeting intended to inform and update concerned Choctaws of the progress fulfilling the termination plan and give them a preliminary timeline to when they would receive their per-capita payments from liquidating the Nation's remaining assets. However, the opposite was true. Instead, they cheered Claude Gilbert,<sup>2</sup> a respected enrolled citizen of the Nation living in Idabel, Oklahoma who had publicly opposed termination for years.<sup>3</sup> Although Gilbert recognized Belvin's desire to use termination as a break from the BIA, when addressing the audience, he asked that after the 1959 legislation, "if the current political authority was abolished, did the federal government have the duty to recognize the Choctaw people as a sovereign indigenous community?" Gilbert continued, "although we are promised that these benefits will continue after the nation is terminated, there is still a possibility that this promise will not be kept."<sup>4</sup>

Belvin was stupefied to encounter such opposition in the midst of preparing to liquidate the Nation's remaining assets. Thus, his address to the audience was a direct hit on Gilbert.

Belvin claimed the primary goal of the 1959 Choctaw termination was to liquidate the Nation's

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<sup>1</sup>"Local Indians Combat Choctaw Termination Act", McCurtain County Weekly Gazette, Idabel, Oklahoma, July 10, 1969, Folder 61, Box 76 (Departmental), Albert Collection, CACCA, OU.

<sup>2</sup> Ibid.

<sup>3</sup>Clara Sue Kidwell, *The Choctaws in Oklahoma: From Tribe to Nation, 1855-1970* (Norman, University of Oklahoma Press, 2007); 215.

<sup>4</sup>"Local Indians Combat Choctaw Termination Act", McCurtain County Weekly Gazette, Idabel, Oklahoma, July 10, 1969, Folder 61, Box 76 (Departmental), Albert Collection, CACCA, OU.

remaining properties and assets. He asserted its origins with the Atoka Agreement of 1897 and the Curtis Act of 1898 which, as noted more than once, mandated that all surplus lands from the allotment of Choctaw land to be sold at auction. Belvin stated that although the termination legislation did call for the abrogation of the office of Principal Chief and the councils, enrolled citizens of the defunct Choctaw Nation had a period of time to form a corporation that would continue the role of carrying out the inherent sovereignty the Choctaw people, per the treaties.<sup>5</sup> If Belvin expected that his speech would sway members of the audience towards supporting his termination goal, he was mistaken. While Belvin was giving his speech, Gilbert, with the help of several supporters, discretely went from person to person asking them if they had their voter registration cards. If they did, they asked them to sign a petition.<sup>6</sup> This petition stated that as enrolled citizens of the Choctaw Nation and as registered voters in the state of Oklahoma they opposed termination.<sup>7</sup> Then as Belvin prepared to adjourn the meeting, Gilbert announced that over three-fourths of the individuals who had come to this meeting had agreed to sign this petition.<sup>8</sup> This day was the beginning of the end of termination.<sup>9</sup>

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<sup>5</sup> Ibid.

<sup>6</sup> Dean J. Kotlowski (2002) "Limited Vision: Carl Albert, the Choctaws, and Native American Self-Determination" *American Indian Culture and Research Journal*: 2002, Vol. 26, No. 2, pp. 17-43.

<sup>7</sup> Ibid.

<sup>8</sup> "Local Indians Combat Choctaw Termination Act", McCurtain County Weekly Gazette, Idabel, Oklahoma, July 10, 1969, Folder 61, Box 76 (Departmental), Albert Collection, CACCA, OU.

<sup>9</sup> Dean J. Kotlowski (2002) "Limited Vision: Carl Albert, the Choctaws, and Native American Self-Determination" *American Indian Culture and Research Journal*: 2002, Vol. 26, No. 2, pp. 17-43.

## An Urban Phenomenon

### *The Oklahoma City Council of Choctaws and The Opening Catalyst of the Campaign Against Termination*

Grassroots movements are one of the common methods' American Indian communities such as the Paiute and Ute tribes organized against termination.<sup>10</sup> However, what makes the narrative of the Choctaw Termination Era different is that the movement against its implementation originated from a place that would not be expected. Because while many readers would expect that if the Choctaws organized a campaign against termination. It would have originated within the Nation's legal boundaries in Southeastern Oklahoma. However, many readers would be surprised to learn that this movement came from one of the first organizations created to represent Choctaw citizens who were living outside the Nation's boundaries: The Oklahoma City Council of Choctaws.<sup>11</sup> A process, historian Lambert contends, came out of these individuals desire to be included in the decision-making process as to what type of a future that the Nation should have despite not being domiciled within the Nation's recognized boundaries.<sup>12</sup>

Although the Oklahoma City Council of Choctaws was officially founded in 1966, its origins can be traced back to the end of World War II. That was when Charles Brown, an enrolled Choctaw citizen and his wife Edna, relocated their family to Oklahoma City after he accepted a job at Tinker Air Force Base. Early on during his time at Tinker, Charles developed a friendship with Victor Jefferson. As a result of this newly established friendship, Jefferson introduced Charles Brown to Dan Crossley and A.J. Bond. A.J Bond then introduced him to

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<sup>10</sup>Ronald L. Holt, *Beneath These Red Cliffs: An Ethnohistory of the Utah Paiutes* (Logan, Utah State University Press, 1991); R. Warren Metcalf, *Termination's Legacy: The Discarded Indians of Utah* (Lincoln, University of Nebraska Press, 2002).

<sup>11</sup> Kotlowski, "Limited Vision," 17-43.

<sup>12</sup> Lambert, *Choctaw Nation*, 61-70.

Robert and his brother Floyd Anderson. Who in turn introduced Brown to their cousin Carrie Preston, who in turn introduced him to Vivian Postoak.<sup>13</sup> This group of people began informally, and grew to evolve into a more formal group to form the inner circle of the Oklahoma City Council of Choctaws.

To help facilitate a broader sense of community among this group of expatriate Choctaw citizens, Charles Brown persuaded the aforementioned individuals that were in this group to take turns hosting a potluck dinner each month in their homes and invite other enrolled Choctaw citizens to the monthly festivities. A decision to meet as an informal gathering would limit the influence of Brown's gatherings to that of friends and family members of the seven earlier mentioned individuals. However, as Clara Sue Kidwell has noted that due to the combination of the BIA's Indian Relocation program and individual Choctaws making the decision to relocate to the urban area in their personal pursuit of employment or education; the size of Oklahoma City's Choctaw community steadily increased in numbers over the course of the post-war 1940s and 1950s.<sup>14</sup>

As a result of this increase in the number of Choctaws living within the Oklahoma City metropolitan area, it became difficult for these seven individuals to organize and host these monthly gatherings in their homes. When someone made an announcement within the community that there was going to a potluck at someone's house, the individual who was hosting the meeting would be inundated with large crowds of people. In addition, while the gatherings that Brown initially proposed at the end of World War II started out as several working-class Choctaw families coming together for a potluck, by the mid-1960s, Oklahoma City's Choctaw community had become dominated by a group of physicians, lawyers, and civil servants who

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<sup>13</sup> Carol Gardner interview by David W. Clark, Ada, Oklahoma, April 10, 2014, recording, East Central University.

<sup>14</sup> Kidwell, *The Choctaw*, 206-219.

emphasized the creation of an organization that would act as a voice for Choctaws who were not living within Southeastern Oklahoma.<sup>15</sup> In order to resolve this issue, Brown and the aforementioned inner circle of Choctaw citizens. collected money to retain the L.V. Watkins, a prominent Oklahoma City attorney, to draw up the papers required under Oklahoma law to form a non-profit organization.<sup>16</sup>

The formation of the Oklahoma City Council of Choctaws began a significant movement within an urban American Indian community, creating a place to continue their own cultural practices.<sup>17</sup> Despite its importance in the successful campaign against termination, the Oklahoma City Council of Choctaws has remained hidden within the history of the urban Indian movement. An example of this lack of coverage starts with Douglas Miller's *Indians On The Move* is one of leading pieces of scholarship that frequently mentions Oklahoma City's American Indian community and its relationship with all of Oklahoma's thirty-six federally recognized tribes. He does not provide coverage of the OKC Council of Choctaws' mobilized campaign against termination as the 1960s drew to a close. Meanwhile other pieces of scholarship such as James B. LaGrand's *Indian Metropolis* covers the continuation of culture, language and kinship ties among American Indian communities in post-World War II Chicago,<sup>18</sup> while Nicholas Rosenthal's *Reimagining Indian Country* and Renya K. Ramirez's *Native Hubs* join in within the context of the Los Angeles and San Francisco metropolitan area respectively.<sup>19</sup> In addition, it took some time for the Council to shift toward its anti-termination stance,

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<sup>15</sup> Lambert, *Choctaw Nation*, 61-70.

<sup>16</sup> Carol Gardner interview by David W. Clark, Ada, Oklahoma, April 10, 2014, recording, East Central University.

<sup>17</sup>Renya K. Ramirez, *Native Hubs: Culture, Community, and Belonging in Silicon Valley and Beyond* (Durham, Duke University Press, 2007).

<sup>18</sup>James B. LaGrand, *Indian Metropolis: Native Americans in Chicago, 1945-75* (Champaign, University of Illinois Press, 2005).

<sup>19</sup> Nicholas G. Rosenthal, *Reimagining Indian Country: Native American Migration and Identity in Twentieth-Century Los Angeles* (Chapel Hill, University of North Carolina Press, 2014).

occurring nearly eighteen months following the Council's formal incorporation in 1966. Will T. Nelson began to attend meetings as a non-Indian associate.<sup>20</sup> After Nelson became acquainted with the Council's leadership, he informed them that the Choctaw Nation was scheduled to be terminated, and that if they did not want termination to be implemented, they should organize a campaign against it.<sup>21</sup>

Nelson was an advocate for American Indian Oklahoma people to stand as equal U. S. citizens. Originally trained as a newspaper journalist in his hometown of Smithville, Oklahoma, Nelson relocated to Oklahoma City after he took a position with the city's largest circulating newspaper, *The Daily Oklahoman*. However, when Nelson was called up for military service during World War II, he quit his journalism career. After the war, he accepted a job supervising an aircraft maintenance crew at Tinker Air Force Base where he witnessed the discrimination many American Indian service members and civilian employees faced on a daily basis. The discrimination of Native service members and civilian employees infuriated Nelson. Tinker was an efficient military institution and he felt it was necessary to act. Much to Nelson's surprise, this decision earned him the Council's trust. Members invited him to help establish the private-sector programs needed to help American Indians relocating to Oklahoma City. At the same time Nelson began his work as an American Indian civil rights activist, he returned to journalism, editing or contributing to the city's emerging Native newspapers.<sup>22</sup> Even so, instead of leading

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<sup>20</sup> Gardner Interview.

<sup>21</sup> Will T. Nelson Collection, Oklahoma Historical Society Research Division, Oklahoma City, OK (hereafter cited as Nelson Collection).

<sup>22</sup>Obituary of Will T. Nelson, *The Daily Oklahoman*, January 22, 1985. Of the newspapers that Will T. Nelson edited during his journalistic career after World War II, the most prominent was the *Oklahoma City Indian News* which at its peak in the early-1970s was one of the largest circulating American Indian newspapers in the state of Oklahoma. In addition to his duties as a newspaper editor, Nelson also played a crucial role in the organization of the Oklahoma All-Indian Softball Tournament, the Oklahoma City All Indian Prayer Group, and a shelter that served Oklahoma City's homeless American Indian community. However, when his personal papers were donated to the Oklahoma Historical Society following his death in 1985. His family for one reason or another chose to only

the campaign themselves Brown and Nelson deferred to Belvin's successor to lead the campaign and serve as Principal Chief, disqualifying Nelson who lacked the legal requirement of being an enrolled Choctaw citizen. Brown believed the campaign should be led by someone who was younger than himself. C. David Gardner was the choice. He had a similar education to that of Belvin and a similar talent for public speaking. The campaign to end termination began in January of 1969.<sup>23</sup>

Life for Gardner began thirty-three years after statehood in the small community of Boswell, Oklahoma. Unlike Belvin whose assimilationist father forbade him from participating in Choctaw traditions, Gardner was an active participant in these customs through his paternal grandmother who knew many of the customs and was fluent in both Choctaw and English. Another source of influence was the bilingual services that his father, the Reverend Critten Alexander Gardner officiated as a circuit riding Presbyterian minister. After graduating from Sulphur High School in 1958, Gardner attended his freshman year at Murray State Agricultural College in Tishomingo. Then he enlisted for a four-year stint in the U.S. Navy to support himself and his new wife Carol. After a service-related injury lead to a discharged in 1963, he enrolled in East Central State College as an education major. Upon graduating from East Central he worked as a high school social studies teacher and administrator during the final year that Woodland Public Schools was in operation and then as a visiting coordinator with the Oklahoma State Department of Education's Office of Indian Education.<sup>24</sup>

During the summer of 1968, Gardner went to Northern Arizona University to take a course that was required for his job at the OSDE. Over the course of this period, he met Ada

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donate that document his involvement in the Choctaw anti-termination movement and C. David Gardner's 1971 and 1975 campaigns for Principal Chief.

<sup>23</sup> Gardner interview.

<sup>24</sup> Ibid.



Deer, a well-known anti-termination activist who was working to restore the Menominee Tribe's federal recognition. She witnessed the horrifying consequences that termination brought to the community, including the loss of needed benefits such as healthcare, education, and government support, and jobs relating to these sectors that many Menominees depended on for survival.<sup>25</sup> When David and Carol heard the Choctaw Nation was scheduled for terminated they took a stand against it.<sup>26</sup>

Beginning early in the spring of 1969, David, Carol, and other members of the Oklahoma City Council of Choctaws launched their campaign by organizing their first meeting to educate the enrolled Choctaw citizens. There are three components of how the campaign against termination took place. First, Brown and Nelson organized town halls, and public forums within Southeastern Oklahoma where Gardner spoke and answered questions about plans to terminate the Choctaw Nation.<sup>27</sup> Gardner and other Council members such as Claude Gilbert went “door-to-door” among the enrolled citizens of the Choctaw Nation.<sup>28</sup> Although these campaigns originally started within Southeastern Oklahoma, over the course of time they spread. Eventually, the council organized Choctaw communities surrounding Lawton and Tulsa, Oklahoma and the Dallas/Fort Worth, Texas metropolitan area.<sup>29</sup>

In speeches and elsewhere Gardner warned people of the consequences of Belvin's termination plans.<sup>30</sup> This included the loss of welfare benefits that helped many impoverished Choctaws make ends meet. He explained to them that they would not be able to use the healthcare benefits provided by the BIA hospital at Talihina. He also stated that if termination

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<sup>25</sup>Nicholas Peroff, *Menominee Drums: Tribal Termination and Restoration, 1954–1974* (Norman, University of Oklahoma Press, 1982), 193, 233.

<sup>26</sup>Gardner interview.

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

<sup>29</sup>Gardner-Hardin, “Hello Choctaw.”

<sup>30</sup>Lambert, Choctaw Nation, 69-87.

was implemented, Choctaw children would be ineligible to enroll as students at the elementary and secondary boarding and day schools that had been attended by prior generations of Choctaws.<sup>31</sup> Nelson joined the effort by writing in and editing the important publication *Hello Choctaw!*.<sup>32</sup> Although many of the topics that Nelson printed read like a verbatim quote from Gardner<sup>33</sup> a few articles made statements like, “Only you can think about it and decide for yourself . . . we have nothing to say, this is for YOU to decide.”<sup>34</sup>

For David, Carol and their four children, until the Choctaw termination legislation was repealed on August 24, 1970, life would be a demanding time for the family. Almost every weekend and every day that school was not in session, David and Carol loaded the children into the car for a long drive to a series of pre-selected Choctaw communities in Southeastern Oklahoma. David's eloquent speeches and thorough answers to questions given in English and interpreted into Choctaw won him the trust and confidence of everyday Choctaws living in the region. This led to invitations to dinner and, due to the lack of motels, the opportunity to stay overnight with individuals who became supporters.<sup>35</sup> At the same time that David started to gain support for the movement against termination, Gardner argued that the Nation had an opportunity to reconstruct its government within the framework of the post-statehood era. Belvin still stood firm. The differing opinions made the eighteen months prior to termination a period of turmoil for the tribe.

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<sup>31</sup>Gardner interview.

<sup>32</sup> Ibid.

<sup>33</sup> Obituary of Will T. Nelson, Nelson Collection. In addition to the *Hello Choctaw!* newsletter, in 1970 Nelson published a Choctaw language primer to try and re-introduce the Choctaw language among Choctaws whose had been unable or had been discouraged from learning the language at earlier points in their life. At the same time that Nelson published this primer, he also published a pamphlet containing the Choctaw language hymns used by the Presbyterian church when they conducted their services in Choctaw.

<sup>34</sup>*Hello Choctaw!* newsletter, November 30, 1971, C. David Gardner and Harvey York Collection, Chahta Foundation, Durant, OK, (hereafter cited as Gardner and York Collection, Chahta Foundation).

<sup>35</sup> Gardner interview.

Expressing his annoyance towards Gardner and the Oklahoma City Council, Belvin, and his wife attended a meeting being hosted in Bennington, Oklahoma. It began like any other, starting with a brief introductory statement, an invocation, and the singing of a traditional Choctaw hymn, ending with a speech by Gardner. Belvin became angry when Brown interpreted what Gardner was saying into the Choctaw language. Since Belvin was not fluent in the Choctaw language, he was concerned about the content of the information that was being shared with the elders. At the time many tribal elders had little or no fluency in the English language, and out of respect to them, Gardner included a bilingual approach.<sup>36</sup>

### **Turning of The Tide**

#### *The Successful Repeal of the Choctaw Termination Act*

Ignoring Belvin, the Council continued to oppose termination.<sup>37</sup> Their supporters inundated federal officials, in particular Albert, with letters opposing termination. Although most of these missives came from enrolled Choctaws citizens, many others came from enrolled members of other American Indian communities and non-Indian citizens who were concerned what termination would mean for the Choctaw people.<sup>38</sup> Albert, Belvin, Sigler and other federal officials continued to advocate for termination. Assistant Secretary of the Interior Harry L. Anderson sent a letter to Belvin stating that despite the significant expense the federal government incurred over the ten-year period, the Nation was still scheduled to be terminated. Both he and Sigler had not wavered from their determination in seeing the plan implemented.<sup>39</sup> Then Albert reversed his stand. As earlier mentioned, Gilbert generated a petition that he

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<sup>36</sup> Ibid.

<sup>37</sup> Dean J. Kotlowski (2002) "Limited Vision: Carl Albert, the Choctaws, and Native American Self-Determination" *American Indian Culture and Research Journal*: 2002, 26, No. 2, 17-43.

<sup>38</sup> David W. Clark "Carl Albert: Little Giant of Native America." *Chronicles of Oklahoma*, Vol 93, Series 3, Fall 2015: 301-303.

<sup>39</sup> Harry R. Anderson to Chief Harry J.W. Belvin, August 23, 1968, Box 82, Folder 38, series 4, Departmental, Albert Collection, CACCA, OU.

intended to send to Carl Albert's Washington D.C. office. However, when word of Gilbert's petition reached Virgil Harrington, he promptly sent to Albert a short letter containing a newspaper article covering the July 5<sup>th</sup> meeting of the McCurtain County Council of Choctaws.<sup>40</sup> Albert's response to Harrington stated that he had read the letter "with interest" and that he would "get right on this."<sup>41</sup>

What must Albert have thought? The first and more optimistic scenario was that Belvin was mistaken about having the support of the Nation's enrolled citizens.<sup>42</sup> In the beginning there was a consensus supporting termination.<sup>43</sup> Albert may also have sensed that termination was for him a career breaker. As stated earlier, this legislation would follow him from being the Democratic Party's House majority whip to its major leader, a position that made him the most senior Democrat to succeed John McCormack who was contemplating stepping down as House Speaker.<sup>44</sup> Due to the pressure that federal officials were receiving from both established and emerging American Indian civil rights organizations,<sup>45</sup> Albert knew that his termination support now appeared incompatible with Native sentiment. In addition, Albert soon received another letter from Ernest Tate, a prominent Oklahoma attorney and enrolled citizen of the Chickasaw Nation. Tate wrote that after attending a recent meeting of the Oklahoma City Council of Choctaws, he had done some research in regards to the Choctaw Nation's remaining properties and assets. In this research, he discovered an issue involving the nation's joint ownership of the

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<sup>40</sup>Virgil Harrington to Carl Albert, July 15, 1969, Box 76, Folder 61, Departmental, Albert Collection, CACCA, OU.

<sup>41</sup>Carl Albert to Virgil Harrington, July 18, 1969, Box 76, Folder 61, Departmental, Albert Collection, CACCA, OU.

<sup>42</sup> Carl Albert's Statement Re: H.R. 2722, 1959, folder 60, box 40, series 7, Legislative, Albert Collection, CACCA, OU.

<sup>43</sup>Ibid.

<sup>44</sup>Clark "Carl Albert: Little Giant of Native America.": 296-299.

<sup>45</sup> Ibid.

Arkansas Riverbed with the Cherokee and Chickasaw Nation. Both tribes believed that they owned the riverbed, and the Cherokees took the matter to court.<sup>46</sup>

Tate did state that termination legislation allowed for the Cherokees and Chickasaws to continue to own their shares of the riverbed when the Choctaws liquidated their portion of the claim.<sup>47</sup> But he told Albert that unless the federal government had the consent of the chief executive officers of both the Cherokee and Chickasaw Nations to sell the shares owned by the Choctaw Nation, the Cherokee and Chickasaw Nations would have grounds to challenge the legality of the law in federal court. In his response, Albert agreed about the issues involving the ownership of the Arkansas Riverbed. He stated that this was one of several reasons why the 1959 termination legislation should be repealed.<sup>48</sup>

Thus, the process began. In February of 1970, six months before the Choctaws were to be officially terminated, Belvin informed Albert that he had changed his mind about terminating the Nation. Albert drew up a piece of legislation that was only one paragraph long repealing the Choctaw Termination Act of 1959 and introduced it as House Resolution 15866 on February 16, 1970.<sup>49</sup> Many were surprised. During Belvin's tenure as Principal Chief he viewed termination as the means to bring the Choctaw people into mainstream society. When it became apparent that most Choctaws were against the plans to terminate their Nation, Belvin could have viewed repealing the 1959 legislation as a means of self-preservation. In testimony Belvin made during a Senate's Subcommittee on Indian Affairs to consider repeal of the legislation, he stated while he took part in crafting the 1959 legislation authorizing the Choctaw termination plan, his support

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<sup>46</sup> Ernest and Juanita Tate to Carl Albert, July 17, 1970, Box 82, Folder 39, Series 4(Departmental), Albert Collection, CACCA, OU.

<sup>47</sup>Ibid.

<sup>48</sup> Carl Albert to Ernest and Juanita Tate, July 21, 1970, Box 82, Folder 39, Series 4(Departmental), Albert Collection, CACCA, OU.

<sup>49</sup> To Repeal the Act of August 25, 1959, with Respect to the Final Disposition of the Affairs of the Choctaw Tribe, 91<sup>st</sup> Congr., 1<sup>st</sup> session., May 14, 1970, 1-15.

only came because BIA officials such as Sigler told him that it was a self-rule plan not a full termination bill.”<sup>50</sup> Belvin further elaborated that while he was willing to come to Washington to give his opinion and any possible objections he had to the legislation, neither the House or Senate committees nor subcommittees complied.<sup>51</sup>

Albert also made statements for repeal of the Choctaw Termination Act.<sup>52</sup> Unlike Belvin, who worked to preserve what was left of his reputation as Principal Chief, Albert’s testimony emphasized that he wanted the repeal because:

many of the Choctaws are, in fact, a disadvantaged and deprived people. A major problem with the 1959 act is when it comes into effect, Choctaws are afraid that they would lose their BIA benefits. It is also very clear and apparent that both the Choctaw leadership and average members want the Choctaw Termination Act repealed.<sup>53</sup>

Albert undoubtedly knew that this had been the very outcome of the Menominee, Klamath, and Ute termination process. U.S. Senator Fred Harris concurred. However, as House Resolution 15866 went through the slow legislative process of debating and voting in both houses of Congress the leadership of the Oklahoma City Council of Choctaws grew concerned that their efforts opposing termination would be in vain because the Nation would be eradicated before the repeal legislation was enacted. While the House of Representatives voted to approve the repeal legislation on June 14, 1970, there was no guarantee that it would receive the Senate and the President’s approval before the August 25<sup>th</sup> deadline.<sup>54</sup> However, on August 18, 1970, the Senate voted to approve House Resolution 15866 and submitted it to President Nixon. Then

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<sup>50</sup>Statement of Principal Chief of the Choctaw Nation Harry J. W. Belvin, on H.R.15866, Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, 1970, Box 40, Folder 39 (Legislative), Albert Collection, CACCA, OU.

<sup>51</sup>Ibid.

<sup>52</sup>Statement of Representative Carl Albert Before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, May 14, 1970, Box 82, Folder 37, series4 (Departmental), Albert Collection, CACCA, OU.

<sup>53</sup>Ibid.

<sup>54</sup>*Hello Choctaw!* newsletter, June 21, 1970, Gardner and York Collection, Chahta Foundation.

on August 24, 1970 one day before termination was to go into effect, Nixon signed the legislation in to law.<sup>55</sup> Over the last eighteen months, the Choctaw Nation had beaten the odds.

When Gardner and the leadership of the Council learned that House Resolution 15866 repeal legislation had been signed, they drew a collective sigh of relief. However, this did not mean that the Choctaw Nation's nighttime journey to the sunrise of a self-determination era was complete. During the next five years, the Council shifted its goals to prepare the next Principal Chief to work for self-determination.

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<sup>55</sup>91 H.R. 15866 Reported in Senate, 91<sup>st</sup> Congr., 1<sup>st</sup> session., August 18, 1970

## CHAPTER FOUR

### *The Final Journey to Sunrise*

#### *C. David Gardner and The Campaign for Self Determination, 1970-1975*

On August 10, 1971 Governor David Hall invited 200 individuals to Oklahoma City's Will Rogers Park for a barbeque for Secretary of the Interior Rogers C.B. Morton. Morton's visit was to inform state and tribal officials about the Nixon administration's objectives for American Indian communities' self-determination. Although the dinner started out normally, when it came time for Secretary Morton to speak someone noticed other gatherings of individuals entering the park from all directions. The crowds held picket signs and chanted "Cheated Not Defeated" "Ask Choctaws Not Chief Belvin." The Oklahoma City Council of Choctaws organized this protest because of a decision made by the Bureau of Indian Affairs on the eligibility requirements for the 1971 election for Principal Chief of the Choctaw Nation.<sup>1</sup>

The decision made by the BIA was that candidates for the 1971 election had to be at least thirty-five years old to qualify for Principal Chief, a ruling that disqualified the Council's candidate, C. David Gardner, who was only thirty-one. When Secretary Morton learned the protest was about Gardner's ineligibility for the 1971 election, he invited Gardner to meet with him privately, thinking it would silence the protesters.<sup>2</sup> In this meeting Gardner revealed that the BIA's decision to enact the age thirty-five rule differed from the Choctaw national constitution of 1860. Had the BIA followed the constitution, the age for a candidate would be thirty years-old, making Gardner eligible to run.<sup>3</sup> Although Secretary Morton listened to Gardner with attentiveness, his response was disappointing. Morton stated that while the BIA had the authority

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<sup>1</sup>"Morton Listens to Indians" *The Daily Oklahoman*, August 11, 1971.

<sup>2</sup> Ibid.

<sup>3</sup> Carol Gardner interview by David W. Clark, Ada, Oklahoma, April 10, 2014, recording, East Central University.



to impose the age thirty-five requirement,<sup>4</sup> he would have the Department of the Interior's legal staff look into Gardner's claims. The Oklahoma City Council of Choctaws was also chagrined.<sup>5</sup> In a speech by Gardner to his supporters he stated that while the decision about his candidacy was not in his favor, they had come too far to give up now. He told them that he intended to run again in four years and asked for their continued support.<sup>6</sup>

Within the literature of American Indian communities selected for termination, a common expectation among scholars and readers is if a Native community was successful in opposing terminated their story was over.<sup>7</sup> For the Choctaws it is difficult to assess the political legacy that termination would have once the legislation was repealed in 1970, because as stated in Chapter Three when the Oklahoma City Council selected Gardner to lead its campaign, they chose him under the assumption he would be Belvin's successor, preferably by popular election or if need be through presidential appointment.<sup>8</sup>

*"We Have Lost Our Faith and Confidence in Him"*

*The Attempt to Oust Harry J.W. Belvin Via Presidential Dismissal*

When Gardner and the leadership of the Oklahoma City Council learned that the Choctaw Termination Act had been successfully repealed, they drew a collective sigh of relief. While they had achieved their primary goal in preventing the Choctaw Nation from extinction, this did not mean that their campaign was over. Within days the Council turned its focus on its

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<sup>4</sup>"Morton Listens to Indians" *The Daily Oklahoman*, August 11, 1971.

<sup>5</sup> Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln, University of Nebraska Press, 2007); 67-72.

<sup>6</sup> Gardner interview.

<sup>7</sup>Clara Sue Kidwell, *The Choctaws In Oklahoma: From Tribe to Nation, 1855-1970* (Norman, University of Oklahoma Press, 2006); 200.

<sup>8</sup> Lambert, *Choctaw Nation*, 67-72.

second goal for the campaign, calling for Belvin's replacement as the Choctaw Nation's Principal Chief.<sup>9</sup>

The first attempt to oust Belvin came when Will T. Nelson published an article in the *Hello Choctaw* newsletter shortly after President Nixon signed House Resolution 15866 into law.<sup>10</sup> Nelson noted that Belvin's appointment as Principal Chief was set to expire within the next thirty-days, and that the President would have to decide on whom he wanted to appoint.<sup>11</sup> As a result of Nelson's article, many Choctaws wrote to Representative Albert asking if he could get the President not to reappoint Belvin as Principal Chief. As Willie Neal, an enrolled Choctaw citizen, stated in his letter to Albert, Belvin's involvement in the termination plan had caused many Choctaws to lose "their faith and trust in him," and that they wanted a change in their Nation's leadership.<sup>12</sup>

However, much to the surprise of individual letter writers, President Nixon had already decided to reappoint Belvin to a one-year term as Principal Chief. The rationale of Nixon's decision was that in the same time frame he signed House Resolution 15866, he also signed legislation, Senate Resolution 3116, requiring that the chief executive officers of the Five Tribes be chosen by the Nation's enrolled citizens via public election and secret ballots.<sup>13</sup> In order to provide stability in the leadership of the Choctaw Nation until the election could be held on August 14, 1971, President Nixon decided to keep Belvin in office.<sup>14</sup> After Belvin's reappointment, the Council decided to focus its energy on Gardner for Principal Chief.

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<sup>9</sup>Gardner interview.

<sup>10</sup>*Hello Choctaw!* newsletter, August 21, 1970, Gardner and York Collection, Chahta Foundation.

<sup>11</sup>*Ibid.*

<sup>12</sup>Carl Albert to Willie Neal, September 1, 1970, Box 82, Folder 35, folder 35, series 4 (Departmental), Albert Collection, CACCA, OU.

<sup>13</sup> Carl Albert to John Parker IV, September 3, 1970, Folder 35, Box 82, Series 4 (Departmental), Albert Collection, OU.

<sup>14</sup>*Ibid.*

## The 1971 Election

### *A Failed Attempt to Usher in The Self Determination Era*

As Gardner and the Council prepared for the 1971 election, they were not anticipating that they would become a part of the most controversial election in the history of the Choctaw Nation.<sup>15</sup> It started out when Nelson and other concerned journalists began publishing exposes involving the financial affairs of the Choctaw Nation. These revealing articles included the dismissal of employees of the Nation's housing authority program for embezzlement.<sup>16</sup> That was then followed by news of a prominent enrolled Choctaw citizen's request for a copy of the Nation's financial report being denied because the BIA considered those records "classified."<sup>17</sup>

These articles also covered Belvin's questionable role in liquidating the Choctaw Nation's properties and assets throughout his twenty-three-year year tenure as Principal Chief.<sup>18</sup> While he provided impoverished Choctaw citizens a much needed per-capita payment of around \$300 to \$500 in 1948 it came at the expense of the tribal assets which resulted in an eight million dollar profit. Although grateful, they were furious at having been deceived about the origins of the payment.<sup>19</sup> A campaign to sell the entirety of the Nation's properties and assets at public auction in 1959 would have constituted fraud. Nelson's revelations provided Gardner, and the Council ammunition for their election campaign 1971 for Principal Chief. In May of 1971, just before the official window to file as a candidate for the election opened, the leaders of the Five Tribes petitioned the BIA for a rule requiring all candidates for tribal executive officials to be at

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<sup>15</sup>Valerie Lambert, *Choctaw Nation*, 77-82.

<sup>16</sup>*Hello Choctaw!* newsletter, May 1, 1972, Gardner and York Collection, Chahta Foundation

<sup>17</sup> Gardner-Hardin, "Hello Choctaw!."

<sup>18</sup>*Ibid.*

<sup>19</sup>Randi Gardner-Hardin, "Hello Choctaw! Termination, Self-Determination, and Choctaw Tribal Governance, M.A. thesis, University of Oklahoma, Norman, OK, 44.

least thirty-five years old.<sup>20</sup> They stated that they wanted the requirements to mirror those of U. S. Presidential candidates.<sup>21</sup> This action disqualified Gardner because he was only thirty-one at the time.

Gardner learned of the new rule when he received an official denial and a refund of his twenty-five-dollar deposit by the BIA officials supervising the election.<sup>22</sup> Gardner hired attorney Robert C. Walker to file a lawsuit in the Federal District Court for Eastern Oklahoma,<sup>23</sup> requesting that the court invalidate this rule under the assertion that the BIA should have followed the rules set by the national constitution of 1860. The court rejected Gardner's challenge stating that while the constitution of 1860 could have been used as a starting point in determining the eligibility requirements for the election, the BIA was not required to follow it because Oklahoma statehood had invalidated its authority as a legal document.<sup>24</sup>

This legal decision by the court allowed for the election to take place on August 14, 1971 with the thirty-five-year-old age requirement intact. However, this did not mean that the Council had wasted its efforts on a candidate who ended up not being qualified. Because once the BIA announced that the window to file as a candidate was open, Belvin received a number of challenges for the election. One of the most promising candidates that the Council supported was Fritz Clayton Neill. At the time Neill was the mayor of McAlester, Oklahoma and a Belvin critic.<sup>25</sup>

However, despite the prominence of Neill in the Choctaw Nation, Gardner's disqualification as a candidate deterred many Choctaws from going to the polls. Therefore, once

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<sup>20</sup> "Age Limit for Chief Asked" *The Daily Oklahoman*, May 18, 1971.

<sup>21</sup> Ibid.

<sup>22</sup> Gardner interview.

<sup>23</sup> "Tribal Election Gets Challenged" *The Daily Oklahoman*, July 30, 1971.

<sup>24</sup> *Hello Choctaw!* newsletter, August 2, 1971, Gardner and York Collection, Chahta Foundation.

<sup>25</sup> Lambert, *Choctaw Nation*, 77-85.

the BIA counted all of the ballots that had been casted during the election, Belvin won with more than 761 votes over Neill and allowed him to continue his tenure as Principal Chief for another four-year term.<sup>26</sup> In the meantime, David and Carol Gardner took advantage of the pause from the failed 1971 campaign to complete their educational degrees. In 1972, they both graduated from Southwestern State College, he with a master's and she with a bachelor's degree in education.<sup>27</sup>

The Gardeners did not stay in Weatherford for very long after graduation. During the summer of 1972, they once again moved their family. Gardner had accepted the position of Upward Bound program director at the University of Oklahoma and enrolled into the doctoral program for the university's College of Education. Meanwhile Carol pursued a master's degree in educational psychology and accepted a position as an elementary counselor with Moore Public Schools. One year later, after accepting an appointment to the Ozark Regional Commission, Gardner and his family relocated to Muskogee.<sup>28</sup>

Originally created as a part of President Lyndon Johnson's Great Society program, the Ozark Regional Commission was a federal agency that had two specific goals in mind—to develop the economy and alleviate poverty within northeastern Oklahoma, southwest Missouri, and northwest Arkansas. First, it coordinated local, state, and federal monies to improve the region's infrastructure and make it viable for new industries. Second, it organized a plan to manage the region's water rights in order to handle the growth caused by the new development. Gardner had aspirations to run for the U.S. Senate one day and viewed the appointment as an opportunity to make political connections among the American Indian communities in

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<sup>26</sup>“Belvin and Keeler Keep Tribal Posts” *The Daily Oklahoman*, August 15, 1971.

<sup>27</sup> Gardner interview.

<sup>28</sup> Ibid.

northeastern Oklahoma. Along the way Gardner learned about the numerous grants and opportunities that he could later use to benefit his Nation.<sup>29</sup>

At the same time that his family was moving from place to place, Gardner maintained an active presence within the Council. He needed it to support a second campaign against Belvin in 1975.<sup>30</sup> However, because Belvin had been elected to the office when the Choctaw Nation had its first post-statehood era election, the Council did not sit idle until the next BIA-supervised election would occur.<sup>31</sup> During the four-year period that Belvin had served as the first democratically elected Principal Chief of the Choctaw Nation, many of Oklahoma's American Indian communities began to take advantage of the opportunities of the Self-Determination policy. From its origins during the Nixon presidency to its formal codification with the Self Determination Act of 1975, tribes were granted much more freedom in handling both local and immediate issues with less constant supervision from the BIA. In addition, Native communities were given the authority to elect their own executive leaders rather than their leaders receiving their post via presidential appointment.<sup>32</sup>

As the Choctaw people took notice of their fellow American Indian communities taking advantage of the federal government's relaxation of its sovereignty restrictions, Belvin continued the status quo in regard to the political autonomy of the Nation. A case in point would come nearly a month after the 1971 election. Eastman Amos, another prominent enrolled Choctaw citizen, sent Belvin a letter asking if the BIA would allow the Choctaw Nation to reassert the political authority of the 1860 national constitution.<sup>33</sup> Amos forwarded Belvin's response to Will

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<sup>29</sup> Ibid.

<sup>30</sup> Lambert, Choctaw Nation, 75-85.

<sup>31</sup> Randi Gardner-Hardin, "Hello Choctaw! Termination, Self-Determination, and Choctaw Tribal Governance", M.A. thesis, University of Oklahoma, Norman, OK.

<sup>32</sup> Govtrack.us, "Text of the Indian Self-Determination and Education Reform Act, Govtrack.us", accessed September 2, 2015, [www.govtrack.us/congress/bills/93/s1017/text](http://www.govtrack.us/congress/bills/93/s1017/text)

<sup>33</sup> Harry J.W. Belvin to Eastman Amos, September 21, 1971, Gardner and York Collection, Chahta Foundation.

T. Nelson for publication in *Hello Choctaw!*. The Principal Chief stated that reconstituting the pre-statehood era constitution could not be achieved since provisions in the Atoka Agreement, the Curtis Act, and the Oklahoma Enabling Act abolished its authority as a legal document.<sup>34</sup>

Belvin's assertion that Oklahoma statehood had invalidated the legal authority of the 1860 Choctaw national constitution did not come as a surprise. Many Choctaws were infuriated that Belvin did not take the steps required by both the BIA and the Department of the Interior to call for a constitutional convention to write a new national constitution that would fit the parameters of the post-statehood Choctaw Nation. As a result of Belvin's inaction, the Oklahoma City Council of Choctaws and other organizations began sending petitions to Carl Albert and Henry Bellmon calling for Belvin to be removed from office.<sup>35</sup> The first petition, signed by 2,000 Choctaws, was organized by the Oklahoma City Council of Choctaws two months after the 1971 election at a meeting held at the Choctaw Capitol building in Tushkoma. The petition contended that Belvin refused to allow enrolled Choctaw citizens access to records about the Nation's finances and how its properties and assets were being managed.<sup>36</sup> The second was that Belvin had been rude to enrolled Choctaw citizens when they made inquiries about the Nation's affairs.<sup>37</sup>

The Council's petition resulted in Belvin making significant changes in how he conducted the affairs of the Choctaw Nation, such as publishing monthly reports about the Nation's finances.<sup>38</sup> Yet, as an assimilationist, Belvin did not follow contemporary chiefs such as W.W. Keeler who believed that the Cherokees needed to approach modernization like a willow:

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<sup>34</sup> Nelson Collection.

<sup>35</sup> "Choctaw Constitutional Convention Demands", *The Daily Oklahoman*, July 24, 1972. Resolution of the Choctaw/Chickasaw Alliance for Tribal Elections and Accounting of Land Resource Management, 1973, Gardner and York Collection, Chahta Foundation.

<sup>36</sup> Oklahoma City Indian News, September 24, 1971, Gardner and York Collection, Chahta Foundation.

<sup>37</sup> Gardner-Hardin, "Hello Choctaw!."

<sup>38</sup> Ibid.

“Let’s bend with it, but don’t break.” In other words, he thought it was possible to extract the positive aspects of white society and employ them within an Indian framework.<sup>39</sup> As a result, Belvin would be subject to at a minimum of three petitions calling for his removal from office throughout his four-year term.<sup>40</sup> The most interesting was one sent to Albert, requesting that he have his legal staff look into the possibility of Congress instituting impeachment proceedings against Belvin.<sup>41</sup>

### **The First Rays of Sunrise of Self-Determination**

#### *C. David Gardner and the 1975 Election for Principal Chief*

On May 9, 1975, BIA Superintendent for the Five Civilized Tribes Thomas Ellison issued a press release announcing that there would be a BIA supervised election for the office of Principal Chief of the Choctaw Nation.<sup>42</sup> Unlike the process where the BIA made the rules for the election in a fairly arbitrary manner, Ellison personally met with all of the parties interested in running for the election and requested suggestions for election.<sup>43</sup> As a result, the requirements for the 1975 election for Principal Chief mirrored that of the 1860 national constitution.<sup>44</sup> As Gardner and his supporters prepared for a second electoral campaign, they knew that they were going to have a significant battle challenging Belvin for the office.

Therefore, Gardner and his supporters would receive a major surprise when Belvin unexpectedly announced that he would not run for reelection in 1975. In his widely published

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<sup>39</sup> Margaret Huettl, “Product of Chaos: W. W. Keeler, Community Organization, Identity and Cherokee Revitalization, 1961-1976” M.A. thesis, University of Oklahoma, 2010.

<sup>40</sup>Resolution of the Choctaw/Chickasaw Alliance for Tribal Elections and Accounting of Land Resource Management, 1973, Gardner and York Collection, Chahta Foundation. Petition to Either Remove or Impeach Harry J.W. Belvin, 1973, Gardner and York Collection, Chahta Foundation. Petition to Remove Harry J.W. Belvin as Principal Chief and Set Election Date Earlier Than August 25, 1975, December 6, 1974, Gardner and York Collection, Chahta Foundation.

<sup>41</sup> Petition to Either Remove or Impeach Harry J.W. Belvin, 1973, Gardner and York Collection, Chahta Foundation.

<sup>42</sup> Election Regulations for 1971 and 1975 elections, 1975, Gardner and York Collection, Chahta Foundation.

<sup>43</sup>Ibid.

<sup>44</sup>Ibid.



announcement, he stated that while he was proud of the accomplishments made during his tenure as Principal Chief, he thought the time had come for him to step down.<sup>45</sup> However, Belvin's departure would come in the aftermath of another scandal involving the Choctaw Nation's housing authority. It began in March of 1975 when the FBI launched an investigation against the housing authority's officials, after it received complaints that they were accepting bribes from construction companies.<sup>46</sup>

For Gardner, the transformation of the 1975 campaign from running against a long-time incumbent to an open seat would make his campaign easier.<sup>47</sup> But Gardner's name recognition and his ideas for a more prosperous future for the Choctaw Nation would not guarantee that he would win. Calvin Beams, a career schoolteacher and the newly appointed director of the Choctaw Nation's housing authority, announced his candidacy.<sup>48</sup> Gardner hit the campaign trail again.<sup>49</sup> In addition to the familiar arguments Gardner had already made about the future of the Choctaw Nation, he and Will T. Nelson prepared campaign flyers asserting that "Belvin's supporters are heading out the door" and that a vote for him would allow the Choctaw people to move forward into the future.<sup>50</sup> Positioning himself as a leader who would bring the Choctaw people into the future, he defeated Beams in a heated election.<sup>51</sup> Throughout the campaign, Beams tried his best to distance himself from Belvin and supported many of the ideas that Gardner wanted to implement. However, when Belvin endorsed Beams, many Choctaws decided to vote for Gardner.<sup>52</sup>

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<sup>45</sup>"As Choctaw Chief...Belvin Giving Up Post" *The Durant Daily Democrat*, June 3, 1975.

<sup>46</sup>"FBI To Probe Tribal Kickback Allegations" *The Daily Oklahoman*, March 14, 1975.

<sup>47</sup>"Choctaw Chief Will Not Run" *The Daily Oklahoman*, June 3, 1975.

<sup>48</sup>"First State Indian named Area Director of Indian Health Services Calvin Beams Announces He's Running for Principal Chief" *The Daily Oklahoman*, July 19, 1975.

<sup>49</sup> Gardner interview.

<sup>50</sup>1975 Campaign flyer for C. David Gardner for Principal Chief, Gardner and York Collection, Chahta Foundation.

<sup>51</sup> Gardner interview.

<sup>52</sup> "Easily Defeats Beams...Gardner Wins Choctaw Chief Post" *The Durant Daily Democrat*, August 25, 1975.

Although Gardner emerged victorious in 1975, an administrative oversight proved problematic. Originally, Gardner was to be sworn in during an elaborate ceremony during the Choctaw Nation's annual Labor Day festivities at the Choctaw Capitol building in Tushkoma. However, on August 25, 1975, Gardner and other prominent individuals in the Nation discovered that Belvin's term of office was to expire that night, and if Gardner did not take the oath of office before the end of Belvin's term, the BIA could appoint another person and overturn the 1975 election for Principal Chief.<sup>53</sup>

Gardner began calling the offices of all the members of Oklahoma's congressional delegation and federal judges, to find someone willing to swear him in as Principal Chief. Then he phoned his wife, Carol, at her place of work in McAlester and told her to get their four children Gary, David, Michael, and Patricia out of school and to meet him in Durant. He also called friends and family members who lived near Durant and told them to meet him so they could serve as witnesses to this swearing-in ceremony. Carol and their children arrived at Southeastern State from McAlester and were greeted by a crowd of approximately 50 individuals who gathered in an air-conditioned lecture hall in the university's student union to escape the late summer heat and humidity.<sup>54</sup> Among the last individuals to arrive was U.S. Senator Henry Bellmon who swore in Gardner as Principal Chief of the Choctaw Nation. After the ceremony, those present drew a collective sigh of relief. With Gardner sworn in as Principal Chief, the Choctaw people had a voice in who represented them in their sovereign government.<sup>55</sup>

Many scholars mark the beginning of Choctaw Self-Determination with President Richard Nixon's official renunciation of termination in 1970. However, this perspective is not

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<sup>53</sup>Gardner interview.

<sup>54</sup>Ibid.

<sup>55</sup>"Gardner Gets Choctaw Reins", *The Daily Oklahoman*, August 27, 1975.

shared among many Choctaws who are familiar with the history of their Nation. Because Choctaws view Belvin's continued presence within the office of the Principal Chief as a continuation of the termination era even though the passage of House Resolution 15866 officially canceled those plans. Instead, C. David Gardner's election to the office of Principal Chief marks the point where the darkest hour night of the Choctaw termination era gave way to the sunrise of the Nation's self-determination era.

## EPILOGUE

When C. David Gardner assumed the role of Principal Chief during that hurried inaugural ceremony on August 25, 1975,<sup>1</sup> he would set in motion the goals that many Choctaws in the present-day consider as a part of the Nation's Self-Determination era.<sup>2</sup> The first major task that Chief Gardner sought to accomplish during his time in office was put the Choctaw Nation on a path to become a fully functioning American Indian nation, a process that would be made extremely difficult due to the legal opinion that the constitution of 1860 had legally been invalidated when Oklahoma became a state. As a way to get around this barrier Gardner, Mike Charleston and the team of legal advisors hired by the Choctaw Nation decided that a constitutional convention should be called and that a new constitution should be written in order to fit both the legal and political dynamics of the post-statehood era.<sup>3</sup>

In addition to the establishment of a functioning national government, Gardner sought to end the longstanding secrecy about the financial affairs of the Choctaw Nation. As mentioned earlier in this thesis, the secrecy of the Nation's finances often resulted in criminal investigations and scandals that caused many Choctaws to distrust their government. For that reason, when Gardner took office in 1975, he had Will T. Nelson regularly publish all of the Nation's financial reports in the *Hello Choctaw!* newsletter. As a result of these publications, the Choctaw people would be informed about the Nation's current finances and its net worth increasing from around \$1 million dollars to \$10 million dollars during fiscal year 1977/78.<sup>4</sup>

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<sup>1</sup>Clara Sue Kidwell, *The Choctaws in Oklahoma: From Tribe to Nation, 1855-1970* (Norman, University of Oklahoma Press, 2008), 215-220.

<sup>2</sup>Lambert, *Choctaw Nation*, 77-90.

<sup>3</sup>"Choctaws Form Advisory Council", *Hello Choctaw!* newsletter, March 1, 1976, Oklahoma Historical Society, Oklahoma City, OK.

<sup>4</sup>For a detailed coverage of the financial reports of the Choctaw Nation during C. David Gardner's tenure as Principal Chief of the Choctaw Nation, see *Hello Choctaw! Biskinik Newsletter Collection 1975-1981*, Oklahoma Historical Society, Oklahoma City, OK.

Even as the Choctaws began to associate Gardner's tenure as Principal Chief as the starting point of their Nation's Self-Determination era, it would become a bittersweet experience within their Nation's history. On January 13, 1978, Gardner passed away at the age of thirty-seven after a year-long battle against metastatic lung cancer.<sup>5</sup> Although Gardner's death led to questions among the Choctaw people about the direction of the Nation's future and who would be Gardner's successor, scholars such as Valerie Lambert note that the political infrastructure that the Oklahoma City Council of Choctaws and their allies in Southeastern Oklahoma had set up in the late-1960s and early-1970s made sure that Gardner's vision did not die with him.<sup>6</sup>

These changes ensured that that the Nation was never again subjected to termination if it was resurrected at any point in the future and made the Nation itself a vital link within Southeastern Oklahoma's economy.<sup>7</sup> During Gardner's tenure it started out with the Choctaw Manpower program which connected unemployed Choctaw citizens with businesses that were willing to employ them on a trial basis as a means to transition them into full-time employment.<sup>8</sup>

Under Gardner's successors, the economic plans expanded into other enterprises currently owned and or managed by the Choctaw Nation. The two most notable of these businesses are the Nation's network of casinos, hotels, and travel plazas along the heavily traveled highways that run through Southeastern Oklahoma. A decision resulted in the net-worth of the Choctaw Nation to increase from around \$10 million dollars when Chief Gardner died to around \$3.5 billion dollars when Gary Batton took office in 2014.<sup>9</sup>

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<sup>5</sup>"Chief Gardner Passed Away" *Hello Choctaw!* newsletter, February 1, 1978, Oklahoma Historical Society, Oklahoma City, OK.

<sup>6</sup>Lambert, *Choctaw Nation*, 68-77.

<sup>7</sup>James C. Milligan, *The Choctaw of Oklahoma*, 250.

<sup>8</sup>*Ibid.*

<sup>9</sup>"The Choctaw Nation of Oklahoma Schedule of Net Assets" *Biskinik*, October 1, 2018.

As a result of economic success, the new constitutional tribal government began to take on more tasks that very few individuals in the Oklahoma City Council of Choctaws in the 1970s envisioned, taking advantage of established laws in regard to American Indian communities to create welfare and education programs. For example, the Choctaw Nation established its own Women's Infants and Children (WIC) program, a Head-Start and universal Pre-K program. In 1998, the Choctaw Nation became the first American Indian community to open a hospital that was completely independent of the BIA.

The transition from the Termination to Self-Determination era caused a significant change in how Choctaw officials viewed the natural resources it still owned as a Nation. Instead of viewing it as a surplus commodity that needed to be liquidated at auction the Choctaw Nation viewed these assets as a finite resource that could be used to benefit its citizens as a whole. Starting with Gardner, instead of selling remaining coal and oil assets, the Nation decided that it would agree to lease these rights to oil companies interested in drilling on Choctaw land. In turn, the monies from these leases and any profits would be used to benefit the Choctaw people as a whole.<sup>10</sup>

Although this transition originally began with the Nation's remaining coal and oil deposits in the mid-to-late-1970s, as the twenty-first century began the Choctaw Nation shifted its focus towards another resource—water rights. In 2001 the Choctaw Nation brought suit against the state of Oklahoma and the U.S. Army Corps of Engineers over their decision to sell the right of access to the water in the Sardis Lake reservoir to the city of Dallas, Texas.<sup>11</sup> The rationale was that under the Reconstruction treaty the Choctaw Nation signed in 1866, the nation

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<sup>10</sup> For a more detailed account of the transition from trying to sell the Choctaw Nation's remaining coal and oil assets to leasing them out see Sandra Famian-Silva's *Choctaws at the Crossroads: The Political Economy of Class and Culture in the Oklahoma Timber Region* (Lincoln, University of Nebraska Press, 1999).

<sup>11</sup>Lambert, *Choctaw Nation*, 207-250.

itself held riparian rights to the water that flowed into Sardis Lake, thereby making this sale illegal. As a result of the nation's determination and its financial ability to retain the best legal staff, this case worked its way up through the federal court system, and the Choctaw Nation won a full victory before the U.S. Supreme Court in 2013.<sup>12</sup>

Their successful resistance against termination and the goals that C. David Gardner and other concerned enrolled citizens of the Choctaw Nation wanted to achieve signaled that they were able to beat the odds that had been given to them and to successfully conclude this seventy-year period of night within their nation's history. On June 26, 2018, a crowd of around three thousand individuals consisting of enrolled citizens and officials of the Choctaw Nation, members of the local, regional, and state-wide press and distinguished guests assembled in Durant, Oklahoma. Unlike the crowds that had gathered at the close of the 1960s and into the mid-1970s, these people gathered not to protest a certain action that either the incumbent Principal Chief or the Bureau of Indian Affairs had made in regard to their Nation. Instead they had been invited by the Choctaw Nation to attend the official dedication ceremonies of the Nation's recently completed government headquarters.<sup>13</sup>

Many people who were present were mesmerized by the Choctaw Nation's ability to blend two separate worlds all into one facility. Several members of the press noted that while the Nation had commissioned an architect and a construction company to build an impressive office complex they also made it a priority that highly prized symbols in Choctaw culture, art, and traditions were incorporated into the facility.<sup>14</sup> In addition to the incorporation symbols of

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<sup>12</sup>“State and Tribes Still Wrestling Over Water Rights in Oklahoma” available online at <https://stateimpact.npr.org/oklahoma/2013/07/08/state-and-tribes-still-wrestling-over-water-rights-in-oklahoma/>

<sup>13</sup>“Two-Year Journey Ends with Headquarters Grand Opening”, *Biskinik*, August 1, 2018.

<sup>14</sup>“New Choctaw Nation Headquarters Opens for Business” KWTN News 9, June 27, 2018. Available online at [https://www.news9.com/story/38519084/caffey-choctaw-nation-opens-new-headquarters-in-durant/](https://www.news9.com/story/38519084/caffey-choctaw-nation-opens-new-headquarters-in-durant), *KFOR*, June 26, 2018. Available online at <https://kfor.com/2018/06/26/choctaw-nation-opens-new-headquarters-in-durant/>.

Choctaw culture into the building's architecture, the dedication ceremony of the new headquarters also incorporated many symbols of Choctaw culture itself. This included the wearing of traditional Choctaw clothing, speaking of Choctaw language, and stomp dancing.<sup>15</sup>

At the same time that the Choctaws dedicated what incumbent Principal Chief Gary Batton in his opening remarks referred to as "The People's House,"<sup>16</sup> one could sense that there was a generational difference in how many enrolled Choctaw citizens viewed the new facility. Among the younger generation of Choctaws who lacked the knowledge of their Nation's termination era this ceremony was perceived as the fulfillment of a two-year plan by the Choctaw Nation to construct a five-hundred thousand square foot office complex to consolidate all of its government agencies into one facility.<sup>17</sup> This immediate project was needed so Choctaws could access basic services from the Nation, instead of making several trips across Durant, to different offices.<sup>18</sup>

However, in the hearts, minds, and eyes of many Choctaw elders who either witnessed or participated in the campaign against termination at the close of the 1960s, this ceremony signified the progress the Choctaw Nation had made in fifty-years. They had lived the darkest hour that had given way to the sunrise of their Nation's Self-Determination era—a long journey ahead for their Nation as it began the process of reasserting itself as a fully-functioning American Indian nation within the context of the post-statehood era of Oklahoma history.<sup>19</sup>

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<sup>15</sup> "New Choctaw Nation Headquarters Opens for Business" KWTW News 9, June 27, 2018. Available online at <https://www.news9.com/story/38519084/caffey>.

<sup>16</sup> "Two-Year Journey Ends with Headquarters Grand Opening", *Biskinik*, August 1, 2018.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

<sup>19</sup> Valerie Lambert, *Choctaw Nation: A Story of American Indian Resurgence* (Lincoln, University of Nebraska Press, 2007), 68-77.



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