

DIVIDED WE FALL:
CHEROKEE SOVEREIGNTY AND THE COST OF FACTIONALISM, 1827-1906

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Abstract

As a tribe, the Cherokees interacted with Europeans early in American history. From initial contact, tribal sovereignty became an issue during trade and land negotiations. The tribe began with full autonomy that required European nations to parlay treaties as they would with other countries. As the United States became an independent force, Cherokee sovereignty faced its biggest threat as the federal government demanded land, political power, and submission. Disagreements and factions within the tribe further enabled the U.S. to capitalize on the situation and reduce self determination until its dissolution in 1906.

The thesis covers the Cherokee struggle for sovereignty and the effect of internal factionalism, beginning with removal in the 1830s and ending with the termination of federal recognition of their tribal government in 1906. In each era, internal fissures enabled the U.S. government to capitalize on the lack of a united front to gain greater ground in reducing Indian autonomy.

The thesis begins with Indian removal and the important Supreme Court cases, *The Cherokee Nation v. Georgia* and *Worcester v. Georgia*, ending with the Trail of Tears. The next chapter portrays the experience in Indian Territory, with the explosion of political violence and resulting federal intervention. The section also chronicles the Civil War, which reopened factional lines and enabled the harsh Treaty of 1866. Lastly, the thesis closes with the allotment period, 1880-1906, which divided tribal land, attacked traditional culture, and ended the Cherokee government and sovereignty.

The thesis does not focus on whether these events remained inevitable. Instead, it analyzes the effect of internal fighting and the consequences of division. Ultimately, factionalism enabled the U.S. reduce and eventually end Cherokee sovereignty.

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“Divided We Fall: Cherokee Sovereignty and the Cost of Factionalism, 1827-1906”

Table of Contents

Introduction.....1

Chapter One. Literature Review.....4

Chapter Two. In the Name of Civilization: The Cherokee Republic, Sovereignty,
Removal, and Tribal Structure, 1827-38.....25

Chapter Three. Rebuilding an Indian Nation Twice, 1839-44 and 1866.....48

Chapter Four. They Lack Selfishness, and Thus, Civilization: The End of Cherokee
Sovereignty
and Allotment, 1870-1906.....67

Conclusion.....92

Appendices
 List of Relevant Cherokee Chiefs and Affiliation

Bibliography

Introduction

American Indian sovereignty remains a popular and difficult subject in modern times, but the issues began long before the twenty first century. With the beginning of European contact, tribal autonomy became attacked with each negotiation and land cession. Along with conferring with Europeans, Indians often disagreed amongst themselves on the best choices for their people. Often, these disputes led to factions within the tribe, which enabled the Euro-Americans to capitalize on the dissension and lessen tribal land and rights. This thesis specifically analyzes the struggle for sovereignty of the Cherokee Nation from the creation of its government in 1827 to its end in 1906, with emphasis on tribal factionalism and its effect.

One of the larger American Indian tribes today, the Cherokees possess an entangled and complicated history. Due to early European contact, the Indians adopted several lifestyles of the immigrants. Some eagerly adopted the dress and work of the visitors, while others strove to keep to the traditional ways. A mixed blood class emerged from the wealthy elite who farmed and intermarried with Americans. Factionalism began with resentment from the traditionalists towards the new class and their abandonment of culture. Later, the factionalism evolved as conditions changed but always remained a constant issue amongst the people. The resulting conflict haunted the tribe and hindered it in the struggle for sovereignty, allowing the U.S. government to capitalize on the Cherokees' dissent to ultimately end their autonomy in 1906.

The first chapter serves as a literature review of the secondary sources utilized. While several primary sources are included, secondary sources often still show the bias of the factions within the tribe. Historians have studied Cherokees for decades, especially

since the people developed writing early, but often focus on the same events such as the Trail of Tears, the Civil War, and allotment.

The second chapter gives a background of the creation of a Cherokee government in 1827, American contact, and ends with the Trail of Tears. Factionalism plays a large role in removal, which resulted from the signing the Treaty of New Echota by those unauthorized by the chief. Importantly, the chapter covers two main Supreme Court cases: *Cherokee Nation v. Georgia* and *Worcester v. Georgia*. The first Indian cases to be heard in the Supreme Court, they marked the beginning of an era of federal intervention and the tribe's use of the American legal system.

Next, chapter three covers a little discussed time period in Cherokee history from 1839-44 and after the Civil War in 1866. During this time, the rifts between mixed blood assimilationists who supported removal and the traditionalists who suffered the most during the journey exploded into political violence. Assassinations became common and the tribal government barely functioned. The intensity of the factionalism caused the federal government to intervene once again with President John Polk deciding to split the Cherokees into two governments. With neither side wishing to separate the people, faction leaders compromised and agreed to unify. However, soon after the accord, the Civil War erupted, with Indians fighting on both sides and violence erupted once more between the dissenters. After the war, the U.S. once again capitalized on the separation and signed the punishing Treaty of 1866.

Lastly, the fourth chapter discusses the American push for homesteads and an end to the "Indian problem," also known as the allotment period, 1870-1914. As the Cherokees sought to rebuild its nation after the end of the war, the U.S. government and

“friends of the Indian” believe assimilation the key to the survival of the American Indian and also as a way to satisfy the white clamor for land. In 1887, Congress passed the General Allotment Act, which divided Indian land of all but the Five Civilized Tribes. After the Dawes Commission and negotiations, allotment reached the Cherokees with the Curtis Act of 1898, which ended all tribal governments. During this time, factionalism shifted from the mold of the previous forty years. Tribal policy remained against allotment, but many believed it inevitable and that the people should negotiate early for a better deal. As a result, an extreme traditionalist group, the Nighthawk Keetoowahs, emerged to resist the U.S., but eventually they too succumbed to the pressure.

Cherokee sovereignty officially ended in 1906, but the government continued in limited form to redistribute the land until 1914. The U.S. appointed “chiefs for a day” for tribal signatures on official documents, choosing only those men amiable towards the federal government’s demands. The thesis ends in a low point for sovereignty, with the combined pressure of the U.S. government and internal factionalism taking a toll on tribal autonomy.

Introduction

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Chapter One: Literature Review

As a tribe, the Cherokees interacted with Europeans early in American history. From initial contact, tribal sovereignty became an issue during trade and land negotiations. The tribe began with full autonomy that required European nations to parlay treaties as they would with other countries. As the United States became an independent force, Cherokee sovereignty faced its biggest threat as the federal government demanded land, political power, and submission. Disagreements and factions within the tribe further enabled the U.S. to capitalize on the situation and reduce self determination until its dissolution in 1906.

The U.S. first passed legislation that violated tribal rights in 1830 with the Indian Removal Act. The Cherokees stubbornly resisted removal, with Chief John Ross travelling to Washington, DC with a delegation to appeal to the president. Meanwhile, a dissenting faction led by Major John Ridge, signed the Treaty of New Echota in 1835, agreeing to removal. Despite Ridge's lack of authority within the tribe to negotiate, the president enforced the treaty with the Trail of Tears.

Meanwhile, the state of Georgia also sought to violate tribal rights to encourage Cherokees to move west by passing anti-Indian legislation. For the first time, an Indian tribe pursued the matter to the Supreme Court, resulting in two major cases. The first, *The Cherokee Nation v. Georgia* in 1831 established the tribe as a "domestic dependent nation," and as wards of the U.S. The case served as a defeat of self determination. Next, *Worcester v. Georgia* in 1832 proved a victory to the Cherokees as it stated the people existed as a separate community with self government independent of the laws of

Georgia. However, despite the victory, President Andrew Jackson refused to enforce the ruling and forcefully moved the tribe west to Indian Territory.

Once in Indian Territory, tribal factionalism exploded as the immigrants, led by Ross, resented the signers of the Treaty of New Echota, eventually assassinating most of the leaders. Ross also faced the difficult task of uniting the nation with Western Cherokees, who had moved west much earlier. As conflict escalated, political assassinations and violence became common, causing the federal government to intervene. As President James Polk prepared to officially split the Cherokees into two separate nations in 1846, the faction leaders compromised to keep their people together.

After a short renaissance period, the Cherokee Nation once again split among factional lines with the outbreak of the Civil War. American Indians fought on both sides and against each other. After the war, pro-Southern and pro-Northern groups worked against each other in negotiating with the U.S., with both struggling for federal recognition as the Cherokee Nation. The American government capitalized on the dissension and achieved the Treaty of 1866, which featured harsher terms than that applied to the Confederacy.

The Cherokees rebuilt their nation again after the war. At this time, with the closing of the frontier, white homesteaders clamored for more land. "Friends of the Indian" groups proposed assimilation as the only means of survival for American Indians. In searching for a solution to finding homesteads and ending the "Indian problem," the U.S. government passed the General Allotment Act in 1887, which would divide Indian land and sell the surplus to Americans. As the original act did not apply to the Five Civilized Tribes, Congress later appointed the Dawes Commission to negotiate with the

remaining Indians. Despite the varying views of the Cherokees regarding the policy, they finally signed an agreement, which passed in 1900.

With the agreement for allotment, the Cherokee Nation ended as a federally recognized sovereign government in 1906, continuing unofficially to implement land division until 1914. After 1914, the U.S. appointed “chiefs for a day” when a document needed signing, choosing only those men amiable towards America. Sovereignty had officially ended for the tribe, with U.S. pressure and the lack of a united front proving too much at that time.

With hundreds of historical works focusing on the Cherokee tribe or the broader context of the Five Civilized Tribes, few focus specifically on sovereignty as a whole during the time period of 1830, with the period of relocation, to 1906, when tribal autonomy legally ended. The literature review serves to portray the most important secondary sources utilized in the writing of the thesis concerning the complexity of Cherokee sovereignty politically and within the intrigues of the tribe.

Many secondary sources frame the Cherokee tribe and Indian sovereignty as a general topic or focus on a certain time period, like removal in the 1830s, or allotment in the 1890s. Other works portray the experience of different groups within the tribe, such as Afro-Cherokees, women, and those of different blood quantum.

The first work, *And Still the Waters Run* (1940) by Angie Debo, still exists as the primary text on American Indians and sets the standard for historical research concerning federal-Indian relations. Although Debo specifically focuses on events during the allotment period, the work remains applicable to the majority of federal Indian policy

throughout America's history. *And Still the Waters Run* serves as a must for any study concerning sovereignty.

The author studied under Edward Everett Dale, a student of Frederick Jackson Turner, at the University of Oklahoma. Splitting from her mentor, Debo refuted the Frontier Thesis and instead focused her career on writing for the American Indians works such as *The Rise and Fall of the Choctaw Republic*, but remained well known for *And Still the Waters Run*.¹

Debo states that despite the acculturation of the Five Civilized Tribes to American values, the tribal system of communal land ownership conflicted with the aggressive, individualistic, and competitive ideas of the time. With the founding of the Oklahoma Territorial Government in 1890, Congress abolished the treaty process, destroying tribal government and allotting land at its own will.²

Beginning with a basic background of the Dawes Commission, Debo focuses on the litigation following allotment. She cites examples of land suits, land swindlers posing as relatives supported by oil companies, false claimants, fraudulent marriages and guardianships, kidnapping, and murder. The author describes the eastern philanthropist supporters of allotment as well meaning but naïve in believing that private property remained the only solution to the "Indian problem."³

For archival sources, Debo utilized papers of the Five Civilized Tribes, Commissioner of Indian Affairs, Secretary of the Interior, and the United States District Court in Muscogee, Oklahoma. In government documents, the author examined information from the Board of Indian Commissioners, Attorney General reports, Congressional records, constitutions of the tribes, and treaties. Importantly, she included

published works of benevolent societies, and an exhaustive amount of local newspapers. Lastly, Debo's secondary work consists of authors such as Annie Heloise Abel, Grant Foreman, Francis Leupp, and Laura Cornelius Kellog.⁴

As the first major work written on federal Indian policy allotment, *And Still the Waters Run* exposed influential politicians at the time of its publishing still capitalizing on American Indian misfortune. Instead of beginning the historiography of allotment with a broad or benevolent view of allotment, Debo instead focuses on the corruption of politicians and land swindlers, concluding the policy as a failure and nothing more than another scheme to acquire Indian land and end tribal governments.⁵

Using Debo as a foundation for research, sovereignty studies also requires a knowledge of legal history. Lawrence Kelley's *Federal Indian Policy* (1991) provides a general overview of federal Indian policy from colonial times to 1968. He argues that Indian policy, which determines U.S.-Native American relations, proved detrimental to the people until the Indian Reorganization Act of 1934. Kelley clearly explains the basic of each federal policy and the major shifts. For sources, he utilizes only secondary sources, including authors Vine Deloria, William T. Hagan, and Francis Paul Prucha.

Other useful secondary works that focus on the legal aspect of sovereignty follow its path through the U.S. constitution and courts. K. Tsianina Lomawaima and David E. Wilkins in *Uneven Ground: American Indian Sovereignty and Federal Law* explain and define sovereignty, while arguing for the validity of the separate sovereignty of tribes. The work revolves around the primary sources of the articles of the U.S. constitution, especially focusing on the treaty making process with foreign nations and the economic issues worded in a way that give relevance to independence. Lastly, they focus on

Supreme Court cases, such as *Cherokee Nation v. Georgia* and *Worcester v. Georgia*, as well as modern cases, to support their argument. Especially important, the authors take each statement and ruling of the Chief Justices and explain the detailed rulings and how they affect the issue of sovereignty.⁶

Another legal work, Jill Norgren's *The Cherokee Cases: Two Landmark Federal Decisions in the Fight for Sovereignty*, focuses primarily on the two Supreme Court cases, *Cherokee Nation v. Georgia* and *Worcester v. Georgia*. She begins by giving a brief background of the situation in Cherokee Nation in Georgia a few years before the first case in the 1830s. The author then goes into detail about the Cherokee Nation's decision to use the United States legal system, their selection of an attorney, and the research for the case.

Norgren importantly states that the United States existed as a young country without a defined Indian policy and that Chief Justice John Marshall used the two cases to establish American-Native relations. She argues that Marshall tried to make compromises on both sides, doing what would be good for the country while remaining fair to its first inhabitants. Lastly, the author explains, in detail, each ruling and its significance, especially how the government and courts used Marshall's rulings in any future case concerning sovereignty.⁷

As the thesis focuses on sovereignty specifically within the Cherokees, the work required extensive research on the tribe's general history. William G. McLoughlin's *After the Trail of Tears: the Cherokee's Struggle for Sovereignty, 1839-1880* (1993) serves as the standard text for the people's history during that time period.

McLoughlin covers the social, cultural, and political history of the tribe as it struggled to maintain sovereignty in Indian Territory. The work also begins with an extensive background of the Indians' origins and migrations. The author argues that the struggle for autonomy remained a central theme of their history from 1839 to 1880. He specifically utilizes *After the Trail of Tears* to defend Indian rights and criticize those who did not defend it. For sources, McLoughlin utilizes speeches, reports, letters, and other firsthand accounts. He also uses some secondary sources, but bases his work mostly off primary sources.⁸

John Finger's *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century* (1991) provides an insight of one part of the tribe's history. Instead of the well published Trail of Tears, Finger's work focuses on federal Indian policy towards the people in the twentieth century. He argues that the U.S. government motivated the Cherokees to work harder for self determination.

Finger begins in the late nineteenth century, covering allotment, Progressivism, and the Indian New Deal programs. Lastly, the author closes with the 1990s and what it means to be Cherokee in modern times. The work provided a close look at the tribe within the scope of the thesis as well as in the future modern times. For sources, Finger utilizes archival research, interviews with Cherokees, and some secondary sources.

Andrew Denson's *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (2004) served as an important source to the thesis as the work provided rare insight to the situation from the tribal point of view. The author focused on the U.S. Indian policy of the nineteenth century from the Cherokee

perspective. Denson's thesis states that the Cherokees realized their sovereignty predated the U.S. as a country, but also depended on it.

Denison argues that the Indians sought to retain autonomy while furthering the peace and acculturation goals of the U.S. policymakers. He traces the Cherokees' strategy through post-removal, internal factionalism, the Civil War, and allotment. The author notes that he remains the only historian to pay serious attention to the Native American position on Reconstruction, economics, territorialization, and allotment, attributing a great level of political sophistication to the Cherokee as a people. He places their strategy to maintain autonomy in the context of the era of an industrializing America obsessed with political corruption.

For sources, Denson largely focuses on Cherokee memorials to Congress but also utilizes tribal newspapers and its national records. For secondary sources, the author scoured the *Chronicles of Oklahoma*, and the works of E.E. Dale, Gary Moulton, Theda Perdue, Francis Paul Prucha, and William McLoughlin.

The Cherokee Nation: A History (2005), by Robert J. Conley proves a general but well encompassing work. The author covers the history of the tribe from initial European contact to the late 1990s. The book provided necessary background information as well as tribal history outside the context of sovereignty.

An unbiased work, Conley summarizes U.S.-Indian relations throughout time. He argues that regardless of the occasion, American motivations remained the same in the quest for more land and the dissolution of native nations, governments, culture, and eventually the people. Within the tribe, the author stresses the continued resistance of the traditionalists. For sources, Conley provides treaties and government documents but

mostly relies on secondary works, such as Angie Debo, Grant Foreman, H. Craig Miller, and Theda Perdue.

Several authors focus on the removal era, 1830-40s, which proved important to Indian self-determination as well as internal factionalism. Thurman Wilkins' *Cherokee Tragedy: The Ridge Family and the Decimation of a People* (1970) focuses only on the Cherokee factionalism and violence from 1835-46, resulting from the conflict between the signers of the Treaty of New Echota and John Ross' followers. Wilkins argues that while the Treaty Party did illegally sign the treaty, they did so believing the action would serve the nation best but also acknowledges that the revenge murders of the signers simply carried out Cherokee law.

Wilkins remains mostly unbiased between the factions but at times leans towards the Treaty Party faction but contributes to including detail about the Eastern Cherokees often left out in other general histories. For primary sources, the author uses letters and personal documents of Stand Watie, Elias Boudinot, and John Ridge, along with government and Indian Affairs documents. Wilkins employs a vast amount of secondary sources, mostly biographies and other works on the Ridges, Watie, and Boudinot.

William Anderson's *Cherokee Removal: Before and After* (1991) covers a broad subject but essentially provides a summary and outline, notating the main events important for future research. His main argument states that while the Cherokees struggled to rebuild their nation, the United States passed legislation of its own interests. The book contains six chapters written by different authors, including noted American Indian historian Theda Perdue. The last chapter provides an accurate concise summary of the tribe after removal. The author especially shows the determination of the Cherokees

to maintain tribal unity and autonomy despite internal fighting, the Civil War, allotment, and statehood. Importantly, Anderson includes a short description of legislative acts of the era and its impact. He explains the government motivation behind each proposed and enacted law.

Anderson seemingly explains the story without any obvious bias, which sometimes appears in several other works that side on one of the factions. He stresses the importance of balancing Ross and Treaty Party sources. Anderson ends his work with a bibliographic essay detailing crucial works for different aspects of Cherokee history. For primary sources, Anderson cites Supreme Court cases, missionary writings, and government laws. For secondary works, he cites noted Cherokee historians William G. McLoughlin, Theda Perdue, and Morris L. Wardell.

Clarissa Confer's *The Cherokee Nation in the Civil War* (2007) focuses on the tribe during the Civil War, which also provides an important insight to internal factionalism as the people split during the American conflict. Confer describes the war as a devastating, ruinous event, focusing on social history with the experience of citizens in Indian Territory.

Within the work, the author focuses on the Cherokee Nation, which she states held a unique position in nineteenth century America. As a "domestic dependent nation," Confer maintained that Cherokees entered the Civil War as a sovereign government and maintained the status throughout the conflict. She defines the tribe as autonomous because it retained a large measure of self governance and its own educational, judicial, and law enforcement institutions. During the war, the Cherokees conducted diplomacy,

foreign policy issues, and domestic problems. Confer points out that both the North and South negotiated with the tribe as peers because of the need for support.

Importantly, Confer acknowledges centuries of internal factionalism affected the decisions of the tribe and conduct during the war. *The Cherokee Nation in the Civil War* remained unbiased between the pro-North and pro-South factions in an effort to “interpret the experiences of all participants.”⁹ The author argues that the loss of autonomy served as the greatest casualty of the Civil War. Within four decades of the conflict, Cherokees ceased to exist as a political institution recognized by the federal government.

For sources, the work features vast amounts of federal war records from the National Archives in Washington, DC, as well as personal papers of several Cherokees. In addition, important part of any work on the Civil War remains private letters between soldiers, which Confer also utilizes. For secondary sources, Confer used several *Chronicles of Oklahoma* articles, and published works of E.E. Dale, Gary Moulton, missionary diaries, James Adair, William Anderson, William McLoughlin, Theda Perdue, and Muriel Wright.

Another major topic of study and important to sovereignty issues, allotment served as the final push of the U.S. to end autonomy and assimilate the Indian nations into American society. Soon after the publishing of Angie Debo’s work, Leslie Hewes followed with the article, “Indian Land in the Cherokee Country of Oklahoma,” (1942) which studied the physical layout of allotment. With very little information given on the Dawes Act, Hewes focused on the geography of the Cherokee homelands. The author also concentrates heavily on the blood quantum of Indians assigned parcels of land and their location. Hewes states that Indians of half-blood and over received half the land of

Cherokee country, east of the Grand and Arkansas rivers. Hewes acknowledges most of the territory allotted passed in the hands of the white population within three decades.

Using historical geography, Hewes tracks the rate of loss of Indian land, especially within the Cherokee Nation. Those with restricted land, which meant ineligible for sale, created a class wealthy in land. These Indians, however much land they held remained poor due to the meager quality of their parcels. The author argues those with unrestricted land remain the real victims of allotment and urges for further protection for the Indians. Hewes differs from Debo in that she does not admit the failure of allotment, but that the Indians simply require continued paternal restriction.

With a large gap in time before the next influential work on allotment, H. Craig Miner's *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907* (1976) provides an insight to the conditions leading to allotment and the motivations of different interests. Miner studies the policy through the relationship of corporations and tribes in Indian Territory between the Civil War and statehood.¹⁰

Miner illuminates the pressure on the Five Civilized Tribes due to industrialization in Indian Territory during the Gilded Age. His contribution to the history of the topic remains that his study weighs the range of potential human behavior motivated by self-interest against the political or cultural survival of a minority group seen as inferior. Miner states that the tribal sovereignty faced the greatest difficulty in the late nineteenth century because of the concept of industrial civilization, which meant humankind elevates itself by utilizing more creative ways to transform raw resources into material production for comfort. In this rationalization, corporations and land speculators

pressured Congress for economic dominance, later implemented as allotment.¹¹ For sources, Miner consulted the National Archives in Washington, DC for records from the Office of Indian Affairs, the Oklahoma Historical Society for tribal records and those of the Dawes Commission. The author's secondary sources include the works of W. David Baird, Angie Debo, William T. Hagan, and Morris Wardell.¹²

Following Miner's angle, Leonard A. Carlson's *Indians, Bureaucrats, and Land: The Dawes Act and the Decline of Indian Farming* (1981) analyzes allotment through an economic angle. Carlson declares his purpose to examine the role of the Dawes Act in promoting change among American Indians. The author viewed the Dawes Act as legislation with the stated purpose of improving material possession and economic position among American Indians.

The work features two major topics: analyzing how officials implemented the legislation and how it served as a major land reform that affected the people as farmers. The author acknowledges the two theories of the purpose of allotment. First, that despite a violation of treaties, the Indian Office acted in the best interest of the tribes as a paternal guardian making a decision to improve their condition. The second argument states that officials chose the policy as a way to subdue American demands for Indian land.

Next, Carlson analyzes the consequences of allotment strictly as a land reform measure, concluding the policy makers intended Native Americans to farm less. In theory, government officials meant allotment to cause Indians to devote fewer resources to their own farming and instead purchase market goods by leasing land to whites and working wage labor. The reduction of Indian farming would hinder them working in

common, which would prevent further progress since they needed to learn from Americans.

Carlson concludes that the Five Tribes held a workable system of private property before allotment, and remained willing and able to farm. He notes that previous historians ignore the study of the period through farming and ranching. The author's study further shows the inefficiency of the allotment policy, which destroyed the Indian system, which already contained small scale farmers and ranchers on the way to self sufficiency. The author's primary sources rely on government documents from Congressional hearings, the Department of Agriculture, and the Department of the Interior. In secondary sources, he refers to Angie Debo, Grant Foreman, Dee Brown, and William T. Hagan.¹³

Picking up after Miner's focus on corporation interests leading to allotment, Frederick E. Hoxie's *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (1984) analyzes the political campaign for assimilation. Hoxie gives the most attention to the twentieth century, analyzing the American leaders in government and introducing anthropologists to the debate.

A professor of history at the University of Illinois, Hoxie previously served as a consultant to both American Indian tribes and U.S. government agencies. His research focuses on Indian political activism and its impact on political institutions in America and elsewhere. Hoxie's other works include *Talking Back to Civilization: Indian Voices from the Progressive Era* and *The People: A History of Native America*.¹⁴

Hoxie marks allotment as a shift in the type of assimilation policy. The strategy in the 1880s featured transforming Indians into private landowners to live within American

society. In the twentieth century, Hoxie argues leaders changed policies, intending the Indians to live as whites, but on the periphery of society without interacting as equals. Importantly, Hoxie divides the views of those supporting allotment into three groups. The first, which included Henry Dawes, did not believe Indians inferior but would benefit and live better from the policy. The second, held by politicians, embraced the idea as a way to satisfy the public clamoring for land and solve the persistent “Indian problem.” Lastly, Hoxie introduces the view of the period’s anthropologists. The last group provided the intellectual justification for the policy with the establishment in 1879 of the Smithsonian’s Bureau of Ethnology, which stated all societies pass through cultural stages, with private landownership, American citizenship, and participation in society required for true civilization. Hoxie utilizes government archives and documents, papers of people involved in Indian affairs, legal cases, and newspapers, periodicals, and books from the time. *A Final Promise* serves as a more modern standard text for studying allotment through changes in anthropology, land policy, education, and citizenship.¹⁵

Arrell Morgan Gibson’s 1987 article, “The Centennial Legacy of the General Allotment Act,” provides a thorough summary of the General Allotment Act, the Dawes Commission, and the policy in general. He agrees with Carlson that the “friends of the Indians” supported the policy, believing they would improve the plight of the Indians. Both benevolent societies and federal officials labored to transform American Indians into a yeoman style farmer. Regardless of intent, Gibson states that Indian-white relations always centered on land.

Gibson’s thesis states that allotment exceeded all other federal legislation pertaining to Oklahoma for causing social, economic, and political change. It produced

cultural disruption, opened legal access to native territory, created a Native American proletariat class, and impoverished many people. His work contributes to the field by presenting the complicated views of the Indian themselves, as some saw the movement as inevitable while others resisted and formed their own faction, ending the opportunity for a united opposition front. For sources, Gibson used Angie Debo, legislative history of Roy P Gittinger, D.S. Otis, the Kappler treaties, and William T. Hagan. Gibson's work remains important as an overview of the allotment as it applied to the Five Civilized Tribes and its effect on their culture and lifestyle.¹⁶

In 1991, Janet A. McDonnell's *The Dispossession of the American Indian, 1887-1943*, similar to Angie Debo's 1940 work, tells the story of the unfortunate and swindled Indian. Like Debo, McDonnell provides insight to government motivations and officials, as well as the result of the policy. Unlike Gibson, the author focuses on motivations and consequences instead of the Indians' viewpoint.

McDonnell begins her work agreeing with Gibson by stating long before allotment land remained the primary issue in Indian-white relations and federal policy often aimed at fitting natives into American society. She focuses on the formulation, implementation, and consequences of allotment, analyzing primarily the government's role rather than the Indian response. The author argues that the implementation period of the Dawes Act (1887-1914) featured the massive transfer of Indian land to white settlers and companies. The time also included the creation of a complicated bureaucratic structure within the Indian Office to administer allotment and other new policies, marking the loss of tribal autonomy.

McDonnell supports her argument with personal papers and government documents from the National Archives, including several Congressional hearings and Indian Office publications. For secondary sources, she uses the works of Angie Debo, Francis Leupp, W. David Baird, Edward Everett Dale, and Vine Deloria, Jr. With the Indian land base still shrinking today, *The Dispossession of the American Indian* explains the beginning of multiple land ownership and the alienation of property through leasing and sales, combined with federal Indian policy.¹⁷

In direct relation to the Five Civilized Tribes, Kent Carter's *The Dawes Commission and the Allotment of the Five Civilized Tribes 1893-1914* (1999) serves as an encompassing account of the formation and work of the Dawes Commission. The work revolves around allotment in Indian Territory, giving special attention to the Cherokees, revealing the interworking of the official policymakers.

Carter concentrates on the Dawes Commission to show the difficulty of implementing the vague allotment policy with uncooperative tribal leaders. In detail, the author chronicles the entire existence of the commission, portraying its influence and decisions. Carter describes the dealings with tribal leaders and the creation of Dawes Rolls, explaining the resulting consequence for the tribes. Importantly, the work devotes an entire chapter to the Cherokees, explaining its complex situation regarding citizenship and reluctance to comply.

For sources, Carter utilizes government documents, such as congressional hearings, papers of the Dawes Commission, and various official reports. In secondary works, the author includes Angie Debo, W. David Baird, Loren N. Brown, Daniel F. Littlefield, and Frederick Hoxie. *The Dawes Commission* remains an important work in

providing an inside view to the policymakers that created and implemented the allotment policy, which changed American Indian culture and lives.

Similarly to McDonnell, Brad A. Bays' *Townsite Settlement and Dispossession in the Cherokee Nation, 1866-1907* (1998) also places land in the center of Indian-white relations. Bays utilizes historical geography, which he calls vital to understanding relations. Like Carlson's analysis through farming, the author views allotment through townsites in the Cherokee Nation.

Bays states that federal policy in the nineteenth century revolved around dividing land into private property through any means possible, echoing Debo in his examples of persuasion, coercion, and scandal. He points out several arguments for allotment, such as Lockean ideas on the right of modern society to exploit needed resources and claims that the communalism allowed a few tribal members to exploit large portions of territory. Bays, like Debo, argues that the arguments remained unimportant, as the common motive remained access to Indian land.

Bays frequently cites Debo, as do all other allotment historians. Primary sources include Charles Kappler's *Indian Affairs, Laws, and Treaties*, reports of the House Board of Indian Commissioners, and Cherokee Nation laws. For secondary works, the author cites Edward Everett Dale, John Finger's history of the Eastern Cherokees, Arrell Morgan Gibson, William T. Hagan, Leslie Hewes, and William McLoughlin.¹⁸

In 2003, Alexandra Harmon's article "Land Monopolies in the Gilded Age" presented a new angle on the historiography of allotment, viewing it through the context of the era and concurrent events in the United States. Harmon focuses on the hypocritical accusations of an American public against Indians when they too lived in a society

rampant with corruption. Importantly, she urges historians to look at the similarities between the two cultures rather than the differences.

Henry Dawes stated that since natives did not know selfishness, they remained uncivilized. In a later report, Dawes stated a few tribal members exploited resources for their own benefit, and that dividing land would end that selfishness. Several educated Indians fenced in large portions of land, causing the Dawes Commission and the public to accuse them of monopolies. Politicians used these examples as justification to save the full bloods from the corrupt few by redistributing wealth, a feat they would never accomplish for their own landless poor. Harmon points out the significance that tribal issues against their own speculators paralleled concurrent white problems with land distribution and political economy within the United States.

Harmon's article creates a new school of thought regarding allotment because instead of looking at allotment through a comparative history, she analyzes it through the context of the era where the United States faced its own land speculators and monopolists. The author states that while both Indians and whites have viewed their relations by emphasizing differences, historians would learn more by analyzing the similarities.¹⁹

Lastly, William T. Hagan's *Taking Indian Lands: The Cherokee (Jerome Commission) 1889-1893* (2003) provides an important aspect of allotment regarding the Cherokees. The author traces the actions of the Jerome Commission, which Congress created after the tribe refused to negotiate and agree to allotment, and the harassment that led to the end of Cherokee sovereignty.

Hagan began writing American Indian history in the 1950s, along with Robert Utley and Francis Paul Prucha. The author of several works over four decades, he works as a professor of American Indian studies at the University of Oklahoma.

Hagan describes the commission as a campaign that produced fifteen million acres of land for settlers and speculators and ended tribal governments regardless of previous treaties. The author covers the negotiations with tribal leaders, where officials threatened to leave the Indians to a homesteader invasion or offered small amounts for their land. Hagan's book contributes to the field by providing a view of tribal politics. He points out that most leaders meeting with government officials brought lawyers. They also sought allies in Washington, DC from the critics of President Harrison's administration. For sources, Hagan included Jerome Commission papers, congressional records, Cherokee papers, and secondary works like Angie Debo.²⁰

Lastly, a thorough history of any group includes the experience of all, such as women. Theda Perdue in *Cherokee Women: Gender and Culture Change, 1700-1835* (1999) writes about gender role shifts for both men and women, and how the change of one affected the other. She begins with a historiographical introduction, both praising and criticizing other Cherokee female historians, like William McLoughlin and Angie Debo. She also uses primary sources from archives, such as oral histories and accounts of the roles and events.

Perdue argues that the story of most Cherokee women "is not cultural transformation, as McLoughlin describes it, but remarkable cultural persistence."²¹ She states that some Cherokees did experience great changes, but mostly the elite converted and attended missions while the traditional full bloods continued their lives. Perdue

writes that for the most part, women became more secure in their roles and incorporated aspects of Anglo culture without altering values or restructuring gender. She concludes that men's roles may have changed more because they hunted less and moved to farming, while women continued to farm and raise children.²²

Carolyn Johnston's book, *Cherokee Women in Crisis* (2003), focuses solely on the experience of women during the adoption of a republic and removal. Johnston begins with a historiography section to explain what other works have contributed to the field, but also uses it to explain her own work.

Women in Crisis begins by explaining many early factors that began changing gender roles, such as the deerskin trade and the influence of missionaries. Johnston then illuminates the difference between traditional Cherokee women's roles and the Anglo female role as the "submissive housewife," by explaining the views of both cultures on gender roles.²³ Importantly, the author makes the point that Native women did resist the economic, political, and cultural changes that undermined their power and rights. Johnston concludes that the economic changes began the gender role transformation while the tribe's new legal and religious beliefs justified and codified the changes.²⁴

Johnston cites other historians, like Theda Perdue, that also write of women's history when the subject remained less influence. She also used traditional removal works, such as William McLoughlin's *After the Trail of Tears: The Cherokee's Struggle for Sovereignty 1839-1880*.

African Americans and Afro-Cherokees served as another group that played an important and intertwined role of Cherokee history and sovereignty. Circe Sturm's *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (2002) focuses

on Cherokee identity, arguing its close connection with racial ideology. In explaining racial issues, Sturm also debates that the concept of race affected dealings with the U.S. government. He also points out modern problems with mixed blood v. pure blood and the role of intermarriage. Sturm relates all the identity and racial ideas to how they affect the fight for sovereignty.

For sources, Sturm mostly utilizes secondary sources, including William G. McLoughlin, Theda Perdue, and Vine Deloria. The primary sources include Cherokee statistical records of census, marriage, and economic records, along with court cases and John Ross papers.

Tiya Miles' work, *Ties That Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom* (2005), portrays the family of a Cherokee man, Shoe Boots, and his African American slave wife, Doll. While telling their story, Miles also provides great background information on Cherokee culture before, during, and after removal. She provides insight to the creation of the Cherokee republic and the changes that resulted in their society.

For sources, Miles uses secondary works on both Cherokee and slave culture, as well as many specialized aspects of both societies. In primary sources, she uses various local newspapers, including the *Cherokee Advocate* and *Georgetown Gazette*, and archival sources like missionary and Indian letters and removal papers.

With Cherokee sovereignty and factionalism a complex topic, several secondary sources remain necessary to supplement primary sources in the goal of providing an accurate and detailed account of history. With hundreds of works on the Cherokee tribe,

and some regarding sovereignty, a historian must analyze objectively to create an accurate portrayal of such a complex topic as Cherokee sovereignty.

Chapter Two: In the Name of Civilization: The Cherokee Republic, Sovereignty, Removal, and Tribal Structure, 1828-38

An issue dating back to the early nineteenth century and still holding relevance today, Cherokee sovereignty faced its first struggles after the adoption of a republic in 1820. Tribal autonomy endured attack and change especially during removal, resulting from the 1830 Indian Removal Act. The creation of a government styled after the Anglo centralized model and the Trail of Tears greatly altered tribal structure and traditional roles, leaving women with little or no control over their lives and disenfranchised within their own nation and creating a split within the tribe.

Even the definition of the term sovereignty remains contested to this day. In *Uneven Ground*, K. Tsianina Lomawaima and David E. Wilkins focus on the legality of the issue and define sovereign entity as

“...a nation that defines itself and its citizen, exercises self government and the right to treat with other nations, applies its jurisdiction over the internal legal affairs of its citizens and subparts (such as states), claims political jurisdiction over the lands within its borders, and may define certain rights that inhere in its citizens (or others).”²⁵

Using the definition, Indian tribes had exercised self government long before and after European contact. The Cherokees decided its citizens, elected a government, made treaties with other nations (including the U.S.), and exercised legal and political jurisdiction over its boundaries. However, throughout history, the American government gradually restricted the tribe’s ability to self govern by limiting its activities in regard to these provisions.

Since the beginning of the Cherokees as a people, one could define the tribe as a sovereign nation based on these conditions. Before contact, Indian people did in fact

determine its citizens, boundaries, and utilize a form of self-government. However, by the nineteenth century, the definition of sovereignty became more complex and the Cherokees struggled to define and obtain further autonomy in its status as a political entity.

Long before the arrival of Europeans, the Cherokees lived in the present day states of Tennessee, North and South Carolina, Alabama, Kentucky, and Virginia. They farmed and hunted, and developed the stratified social order of chiefdom.²⁶ By the eighteenth century, the Cherokees lived in about sixty-four towns and villages, with 350-600 people in each, featuring a local chief and council of advisors who remained independent of any higher authority. Issues such as factionalism, difficult communication between the distant towns, and tradition discouraged the Indians from forming a central government.²⁷

Before the late eighteenth century, the Cherokees governed themselves through clan law and town councils. The tribe did not have written language, but instead followed clan laws, a type of cultural tradition passed down through generations. These traditions emphasized mutual defense, discouraged conflict, and bound the people together. They had no national council or central body of government and expected people to follow the traditional rules and govern themselves. The people followed their society's rules and mores without the threat of consequences from an established governing institution. Tradition also dictated individual and collective rights, governed household behavior, and joined the Cherokees into a single people. The tribe already developed conventions that regulated marriage, established who educated children, and determined sanctions for murder. The Cherokees identified members of their tribe not by color but by kinship.

Each person belonged to one of the seven familial groups. Admission to a family came from birth or adoption, both which depended on women. The clan fulfilled all needs of protection, restitution, and retribution, eliminating the need for a police or court system.²⁸

Decisions outside clan authority fell on town governing councils, an assembly with all of the men and women, both of which retained the right to speak. The local councils neither legislated nor judged. Through them, people made formal community decisions through consensus. Persuasive leaders emerged to head the council as the Cherokees based leadership on charisma, not a hereditary line. For important decisions, the tribe would hold large councils for conference, discussion, and agreement in times of crisis and diplomacy. Decisions depended on consensus instead of coercion, allowing anyone who refused to assent to remain unbound by the council's decisions. No central body could declare war, instead only the duty of exacting retribution sent relatives of the killed to war against other tribes.²⁹

Tribal structure in regards to gender also held its own traditions. Men and women, as husbands and wives, existed as part of a single unit and depended on each other. Husbands provided meat while wives provided bread and controlled means of production and children. Labor remained divided by gender, but both men and women would help in the other's work. Women owned the homes, land, and produce, and marriage did not alter their property rights. American Indians saw female physiology not in the Anglo way as a consequence of original sin, but that it gave them power and made them dangerous. An Indian woman's close association with nature, as mothers and producers, served as the basis of their power, not their oppression. The Indians did not believe in the depravity of nature, abhorrent to Anglos, and did not strictly control a woman's body. The women

rarely experienced rape or domestic abuse, and felt free to work to support themselves. The Cherokee's most important religious ritual, the Green Corn Ceremony, placed women in the center of religion, paying them respect and recognizing them as the economic power.³⁰

In traditional culture, the public and private sphere existed as the same and reinforced equality of the sexes. In clans, which also functioned as the arbiter of justice, lineage focused on the matrilineal line. In public affairs, women retained as much right to speak as men, and their contributions held equal weight. Men would listen to women on political issues, ridiculing those who did not listen. Among American Indians, age instead of sex determined moral character. The name of Beloved Woman, or War Woman came with high status and mostly belonged to senior women of the clans who had influence on beginning or ending warfare. Women of each clan selected an elder female to serve on the Women's Council, a very influential body. When meeting with Anglos and feeling shocked to see no females in their group, the tribal leader Attakullakulla said, "since the white man as well as the red was born of the woman, did not the white man admit women to their councils?" Later, the Anglos misconception of women's power and sexual autonomy as threatening provided an excuse for the need to "civilize" the Cherokees, and eventually to remove them.³¹

A unique relationship has always existed between the United States and American Indian tribes, especially concerning sovereignty, which have always been a part of the relations. Federal and state government have acknowledged, ignored, and attacked tribal status throughout history, with the main issues always centering on identity, jurisdiction, and power. Tribal independence fluctuated over time with the U.S. government's

inconsistent Indian policy. The early English and French explorers dealt with natives through the treaty making policy and the United States continued the practice until 1871. At the establishment of the U.S., tribes held political and military power and retained their sovereignty through the treaty making process until the 1800s, when tribal independence waned after weakening through disease, military defeat, and removal.³²

Not long after prolonged European contact, Anglo leaders began speaking of removing the Indians. Increasingly surrounded by the population of the U.S., the Cherokees reacted by changing their economics and politics, developing the institutions of a national government and recreating their tribal structure in response to external threats as well as internal factors. The tribe selectively incorporated non-native ideas and institutions. An emerging mixed blood leadership pursued a blood leadership pursued a balanced policy of national development and acculturation.³³

In the 1750s, the tribe experimented with national councils modeled after their traditional town councils. By the end of the eighteenth century, because of the confusion and problems in negotiating with the colonists, the Cherokees developed the loosely constructed National Council. The Council worked like a town council and included representatives from each town with the purpose of handling issues dealing only with foreign relations. Path Killer became the first chief of the Council, and although a respected advisor, he possessed no power like that of an American governor or president. Around 1810, while Chief Path Killer still maintained respect, a well educated second chief, Charles Hicks and the “aggressive young” John Ross carried on the actual business of the nation.³⁴

By the late 1700s, tribal politics still based on consensus, but steadily the Council gave itself greater authority and began to intervene in not only foreign relations but also inter-tribal affairs, like crime. In addition, because of wealth disparity, many citizens called for a way to protect personal property. It established a written legal code that organized their society including voting, property, and crimes. They passed the first written law in the Brooms Town Meeting on September 11, 1808, establishing a police force, mostly to prevent horse theft.³⁵

After 1808, several laws gradually appeared. Some involved criminal matters, but mostly covered the regulation of property, such as interest rates, contracts, and labor licensing for non-Indians. The tribe abolished clan blood revenge in its second law in 1810 and created new legal norms. The third set of laws strengthened the authority of the national government. In 1817, the National Council enacted articles of government, giving only the National Council the ability to cede lands. In 1820-21, the General Council established local courts and a high court, which removed judicial responsibility from the clans. The National Council began a custom of written laws and from 1810 to 1827, passing ninety-seven laws that undermined traditions and served to push Cherokees towards Christianity and a farming capitalism.³⁶

The National Council proved ineffective for day-to-day tasks and on September 27, 1809, the Cherokees created the smaller elite executive group, the National Committee to look after general welfare. In 1817, Major John Ridge, as the speaker of the National Council, passed articles that centralized power and relocated much of their influence the Committee. Together, the Council and Committee made up the General Council. Comparatively efficient, the Committee evolved into a political inner circle to

supervise the affairs of the nation. Most of its members consisted of mixed race people who grew up in bicultural families and had experience in Euro-America. Originally composed of thirteen representative and experienced leaders, the Committee symbolized an important step toward centralized national government. In 1817, a political reform law fixed the number of members at thirteen with two-year terms and required written records in English of its resolutions, as well as requiring the National Council's approval on all Committee Acts.³⁷

The members of the Committee believed the best way to protect their land and people existed in the effort to demonstrate to the American state and federal governments that their people lived as a sovereign, civilized nation with their own rights and government. The tribe argued that treaties required their diplomatic alliance with the U.S. but also guaranteed their right to self-government with their own officials, laws, and customs. To further prove their "civilization" the Committee pushed for the institutionalization of a Cherokee national government modeled after that of the United States.³⁸

By the 1820s, most of the tribe had relocated and settled in Georgia, where they encountered Europeans shortly before the eighteenth century and more frequently thereafter. When settlers arrived, tolerant coexistence occurred with American Indians for as long as the Anglos did not covet the land of the tribe. Recognized early on as a sovereign nation, the Cherokees regulated their own commerce and the visitation of Georgian settlers. In meetings between the two cultures, confusion mounted on both sides. The European colonists used centralized governments who controlled their citizens and they did not understand the tribal system of individual and town autonomy that

required long and complicated negotiations with numerous town councils. The colonists preferred to deal with a central figure and often refused to meet with anyone other than someone they thought a king. The Anglos also took action against all natives for the behaviors and decisions in one town, making all responsible for the actions of a few, a foreign concept to the tribe based on consensus.³⁹

In the late 1820s, a group of elite men, including Ross, Ridge, and Hicks, planned and centralized an official tribal government. The General Council organized a constitutional convention, led by Ross, to draft the laws of a new republic. Elected by free adult males, the twelve draftees of the constitution did not represent the majority of the tribe. These men came from mixed race wealthy families and all but one owned slaves. The delegates represented a shift in governing authority. Women and children as part of decision-making and consensus as the method of political discourse disappeared.⁴⁰

On July 3, 1827, the assembly ratified the Cherokee constitution and declared a new republic. The new Cherokee Republic and its constitution primarily served to proclaim and maintain tribal sovereignty. The first six articles laid out the nation's physical boundaries and declared the Cherokee government retained "sovereignty and jurisdiction" over that land.⁴¹ Article two divided the government into three branches: the legislative branch with two councils, judicial that included a Supreme Court, and the executive, the Principal Chief. The only main difference from the U.S. remained in that the legislature chose the Principal Chief. Article three defines citizenship, or those who can occupy the nation's boundaries, based mostly on race. The tribe shaped their government after that of the U.S. and produced a mass amount of legal statutes, published in English and Cherokee. The nation issued its own newspaper in February 1828, *The*

Cherokee Phoenix, also published in both languages, and made plans to build a capital in New Echota.⁴²

The advent of the constitution raised serious objection from Georgia and surrounding states. They believed if one tribe declared a republic, then every other Indian nation would also declare independence and no longer follow the laws of their state. Many Indians feared the disapproval of the president would lead to federal action against their government. Cherokee leaders met with the U.S. Indian Agent to hear an opinion from the president, then John Quincy Adams, regarding their constitution. Adams replied to the Cherokees through the Indian agent that the U.S. government recognized the Cherokee Nation as long as its articles did not interfere with existing relations. The tribe celebrated, taking his answer as a reflection of support from the federal government of its independence.⁴³

Beginning with the advent of the Committee, the new republic marked a shift in the types of leaders of the nation. Many in the tribe adopted the agriculture and educational system of their white neighbors, creating a different faction of Cherokees. The new influential men, like John Ridge and John Ross, developed their power in the national arena rather than local. Their influence, unlike traditional customs, lay in personal wealth and practice of interacting with whites, a skill greatly needed with increasing Anglo settlers. The former leaders, the conservative town elders, could only attempt to persuade the new mixed leadership. Ross, a mixed heritage ten-year veteran of the tribe's government became Principal Chief in October 1828.⁴⁴

Born in 1790, Ross, an eighth Cherokee, grew up in Tennessee amongst traditional culture. He attended various schools, becoming highly educated. He began his

life of public service at age nineteen by serving as a messenger for the Indian agent to the Western Cherokees. He later fought with General Andrew Jackson in the Creek War of 1813-14. After the war, the U.S. surveyed Creek lands but included a part of Cherokee domain, resulting in Ross' protest. With surveys and talk of removal, he became active in U.S.-Cherokee relations, always laboring against the reduction of tribal autonomy. Ross participated in his government to protect his people against the land-hungry American population.⁴⁵

Ross served in the National Council beginning in 1817. While usually the wealthy mixed blood elite, like Ross, held favor with other assimilationists, the chief throughout his career commanded most of his support from full blood traditionalists due to his dedication to tradition and sovereignty. Ross often found himself pitted against the mixed bloods, who worked for accommodation with the United States. As a result of his mixed heritage, the chief knew not only traditional culture, but also how to communicate with the white man. During his over forty years as popularly elected Principal Chief, Ross saw the Nation through several catastrophes and strove to hold his homeland and people together.⁴⁶

The Cherokees hoped that since their government and constitution represented the U.S. model, they could appear civilized and prevent removal. In 1826, Ridge wrote "Sketch of the Cherokee Nation," which explained the progress of their government: individual property holding, men farming, women wearing American-style clothing, a new government, and a slaveholding society. By 1830, many viewed the Cherokees as the most civilized tribe.⁴⁷

As the new government changed traditional leadership, it also affected the majority of citizens and social structure, especially the roles of women. Female power shifted from the public to the private sphere and began to disappear as the men became involved in centralized power. Article three, section seven of the Cherokee constitution specifically defines suffrage, and omits women. For the first time in tribal history, women held no vote in their lives or communities. Men had realized women's remaining power of the ability to bestow citizenship, even limiting that through marriage laws passed around 1855. Also with the adoption of Anglo roles and society, many women no longer farmed and instead worked in the domestic sphere, deprived of their role as provider.⁴⁸

The new government and changing gender roles caused a split in the tribe between traditionalists and assimilationists. Traditionalists, mostly full bloods, wished to hold on to their culture, with women retaining political and economic power, and many resisted the changes. The assimilationists, mostly mixed bloods living apart from the rest and attending eastern schools, strove to adopt American practices, with women following the cult of domesticity and men farming, accepting the new lives and forming a new wealthy elite class. Many of the privileged believed sovereignty depended on Anglos viewing them as civilized and accepted patriarchal gender roles more readily. By 1835, seventy five percent of all Cherokee full bloods maintained matrilineal traditions, and the majority of the tribe did not adopt Anglo views. This factionalism created fighting within the tribe, mostly along lines of class and ancestry and Cherokees no longer agreed on what it meant to be a woman. Soon, the relations between men and women became part of the debate over Indian policy, which made women major players in the sovereignty issue.⁴⁹

As with nearly every American Indian tribe, the time comes when the U.S. government wishes to dispossess a people for their land, which also challenges their autonomy. Seen as the beginning of the struggle for Cherokee sovereignty, the U.S. first approached the land issue in 1805, when the American people wished for a road run through the Cherokee nation. With the tribe located in Georgia and a swell of Anglo settlers, state and federal government began thinking of removal. In 1828, Congress appropriated extra funds to Indian commissioners for treaty meetings regarding removal with the Cherokees. Officials constantly called for committees with tribal leaders in the hope that their promises would cause the people to willingly move. The Indians grew impatient and tired of constant removal offers and even became insulted at the low quality of promises the government offered for the land of the ancestors.⁵⁰

By the end of the 1820s, U.S. officials realized all of the American Indians would never willingly migrate and resorted to underhanded tactics. In 1829, *The New York Observer* published that many bureaucrats attempted to achieve removal by bribery, fraud, intimidation, threats, and false information. Government agents misrepresented the level of improvement and civilization of the tribe in their reports to persuade their superiors. In a letter during his tour of Cherokee Nation, Colonel McKenney stated that the majority of Indians wished to cooperate but their chiefs deterred them from signing the treaties in order to keep their property and power. On October 21, 1828, Colonel Hugh Montgomery wrote to the Secretary of War, describing violence of Cherokees against those who wished to remove. He even recommended sending troops to persuade and protect those migrating. On December 10, 1829, the Secretary of War

countermanded the order to remove intruders from the Nation. Cherokees denied all of the claims of violence and recognized these actions as an attempt to wear them down.⁵¹

Around the same time as the writing of the Cherokee constitution, with the desire of territory and the discovery of gold on Indian land, the state of Georgia began applying its own pressure. No state acted as aggressively or sent more resolutions to Congress concerning removal than Georgia. The state retaliated against the assertion of tribal independence by attempting to forcefully abolish the Nation and incorporating Indians under its laws.⁵²

Since a treaty in 1802 by which the federal government promised to purchase remaining Indian lands within its territory and incorporate it into the state, Georgia waited impatiently for American Indian land. The treaty stated the government could only remove the natives if they agreed to sell their land. By the mid-1820s, the state created a situation so threatening that the Creeks sold their land and relocated. Politicians focused next on the Cherokees, the last native tribe within their territory. The tribe's movement towards civilization and the adoption of their government worried Anglos. Many believed the tribal declaration of independence would give natives greater strength and enable them to maintain a greater hold on their land. Georgia accused the Cherokee chiefs, since 1818, of devotion to preventing any attempt of the sale of their lands. The state alleged the tribe adopted a constitution as a last resort to prevent the purchase of their lands, as a spiteful action, and that the establishment of a government existed only to defy the state.⁵³

As early as 1825, Georgia began drafting several anti-Indian laws to make life so miserable for the Cherokees they would willingly sign the treaties. In 1826-27, the

Georgia General Assembly passed resolutions asserting its complete sovereign dominion over all land and people within its borders, including native people. In 1828, Governor Forsythe declared that all Indian nations within the territory would be under state jurisdiction and subject to state laws by June 1830 and announced the creation of a tribunal for the trials of Native Americans. The same year, the state declared all “laws and usages of the Nation [to be] null and void,” and outlawed the Nation from meeting and acting.⁵⁴ In 1831, the Anglos required all non-Indians living in Cherokee territory to take an oath of allegiance to the state and to obtain a special permit.⁵⁵

Losing patience with the slow treaty process, Georgia announced that the federal government had no authority from the constitution in dealing with Indians except to regulate commerce. The writers of the U.S. government never intended to define the relationship between the government and tribes. The constitutional foundation for native relations lies on the power of Congress to regulate commerce with the tribes, the necessary and proper clause, and the treaty process. The document did not limit nor did it guarantee tribal governments or even civil rights. However, the first three instances of mentioning Indians served to define the powers of Congress and the limitations on the states. Despite the lack of clarity in the constitution, the U.S. had promised to protect the Indians from force and encroachments by and state through treaties. Georgia denied that the feds held any authority to bind the state by an Indian treaty, and continued to retaliate against the tribe.⁵⁶

Violence increased as the federal government could not obtain a treaty. Through a police force specially created for extending state laws to the Nation, many Cherokees faced kidnap and arrest, facing Georgia state courts. In December 1828, amongst false

cries of Indian violence, bands of armed white invaded the Nation. The vigilantes kidnapped free African Americans, arrested groups of Indians, killed livestock, and robbed several people. Their actions went unpunished by the state, which seemed to encourage these acts of violence.⁵⁷

Georgia sought to pressure Cherokees through anti-Indian laws, illegally seizing land, undermining sovereignty, and even the threat of physical violence from the state militia to persuade them to accept removal. As tensions grew between the state and the Cherokees, tribal leaders began discussing a viable course to take. Ross and the Cherokee Nation decided to use the United State judicial system to fight the state, resulting in the two landmark cases: *Cherokee Nation v. Georgia* and *Worcester v. Georgia*.⁵⁸

In U.S. history, the Supreme Court has settled many vital political questions that remained unclear from the constitution. As a young country, the U.S. did not have a distinct Indian policy, making the Cherokee cases doubly important; they determined the fate of American Indians in the nineteenth century. Chief Justice John Marshall knew his rulings would influence U.S. laws and policies concerning Indians throughout the country's history.⁵⁹

In the Supreme Court cases, the Cherokee Nation hired American lawyers (because of a lack of Cherokees trained in Anglo-American law) to protect the tribe's internationally recognized political rights, including national boundaries and sovereignty, becoming the first American Indian case in the Supreme Court. The Cherokees hoped to prove that according to the U.S. constitution, Georgia acted illegally by violating the tribe's sovereignty, and the laws and treaties of the U.S. Overall, the United States had little basis for its claims. Natives retained ancient possession of North America and

binding international treaties between the federal government recognized native sovereignty and national boundaries as a “nation within a nation.” In addition, previous case laws dictated that tribes reserve the rights they never gave away.⁶⁰

In *Cherokee v. Georgia* in 1831, Georgia arrested a Cherokee within the Nation for murder, trying and convicting him in state courts. The tribe stated that state laws held no validity within their territory and sought an injunction through the Supreme Court. Georgia refused to wait for the new case and executed the convicted Indian. The Cherokees claimed to be a foreign nation within the meaning of the commerce clause of the constitution and sought a ruling that would restrain the state from enforcing any of its laws over their land, people, and government, which federal treaties recognized.⁶¹

In dealing with settlers and government officials, Cherokees learned to use the tactics of Anglo politicians to defend their rights and spent thousands of dollars each year to get the best lawyers. For their first Supreme Court case, the Cherokees obtained William Wirt, former Attorney General under James Monroe and John Quincy Adams, as their lawyer. In March 1831, Wirt became involved in his most touchy cases. Because of his devotion to the cause of American Indians and a dislike of Jackson, the lawyer gladly accepted the Indians’ case. During the trial, Wirt’s eloquence moved moralists and John Marshall, but had no effect on President Andrew Jackson, also known as Old Hickory.⁶²

In the final ruling of *Cherokee v. Georgia*, the Supreme Court decided four to two to deny Cherokee jurisdiction on the grounds that they did not consider them a foreign state according to the constitution’s use of the term. Chief Justice Marshall defined the Cherokees as a “domestic, dependent nation” but not a sovereign country for the purposes of the case, giving the tribe the status of wards of the U.S. government.⁶³ In this ruling,

Marshall stated that the Supreme Court had no jurisdiction to hear a Cherokee request to stop Georgia's laws. Afterwards, the Cherokees focused on the nation aspect of the ruling while Congress focused on the ward portion. Ultimately, a setback for the tribe, a year later in *Worcester v. Georgia* Marshall modified the ward status.⁶⁴

In 1832, *Worcester v. Georgia* resulted from the arrest of several missionaries in the Cherokee Nation as a result of anti-Indian legislation. Georgia had passed a state law requiring all Anglos wishing to live or work in the tribal lands to apply for a permit and swear an oath to the state. The law violated the Cherokee's right as a nation to regulate the immigration of people. In support of the tribe, many missionaries refused, such as Samuel Worcester, and Georgia sentenced them to four years hard labor. The Cherokees appealed the case to the Supreme Court in an attempt to receive a more favorable ruling than that of *Cherokee Nation v. Georgia* from the previous year. Georgia refused to appear before a court that they stated threatened state sovereignty and only sent their records. The case received national attention in the press and nearly sixty members of Congress left their seats to hear the argument before the court.⁶⁵

In the case, again led by Marshall, the ruling deemed the Georgian laws void because they violated federal treaties, contract and commerce clauses of the constitution, and the sovereign authority of the Cherokee Nation. Marshall called the Cherokees a "distinct political society," capable of self-government, and endorsed the right to their land.⁶⁶ The case, a victory for the tribe, dictated that Georgia or any other state could not impose laws on the Nation and ordered the state to release the missionaries. Marshall stated that only Congress retained an overriding power on American Indian affairs and tribes do not lose their sovereign powers by becoming subject to the U.S. government.

Although a legal win for the tribe, the case did not carry much weight as Georgia ignored the ruling and President Andrew Jackson, a fervent believer in removal, refused to enforce the law. Finally, a new governor of Georgia freed the missionaries from prison.⁶⁷

Despite their victory in the Supreme Court, removal remained an issue, especially with President Jackson staunchly against American Indians. He stated that a “nation within a nation” could not exist and that the state maintained its sovereign right over all land and people within its territory and he urged the tribe to move or denationalize. Jackson refused to honor treaties signed with the tribe or stop Georgia’s actions against the Nation. Without the president’s support, the Supreme Court could not enforce its ruling. Georgia continued its anti-Indian tactics, continuing with a land lottery that distributed Cherokee lands to settlers.⁶⁸

As the Supreme Court cases began, the government began debating a removal act, with the leadership of President Jackson. Elected in 1828, Jackson won with almost unanimous support from southern voters, who counted on him to complete the work of his predecessors and expel the American Indians. After the War of 1812, Jackson stated directly taking land the best way to obtain it from natives and called treaty negotiating ridiculous. Like most Anglo Americans, Jackson believed in the inevitability of the extinction of the native race because of their inability to compete with whites. He based his argument for removal in Congress as a benevolent movement to give the people a last chance to assimilate and remove them from the harassment of settlers. In response to the Cherokee’s level of civilization, Jackson stated that the U.S. would not support their establishment of government and urged them directly to immigrate or submit to

Georgia's laws. Jackson and his party argued and strongly urged Congress to pass the Indian Removal Act even before the court cases.⁶⁹

In the winter of 1829-30, Congress debated the Indian Removal Act, which mostly revolved around Cherokee and Georgia relations. Congress agreed with Jackson that American Indians could not maintain a separate sovereignty within Georgia and urged them to move west or submit to state jurisdiction. Supporters of removal wanted legal commitment from the U.S. to move American Indian across the Mississippi River. On April 26, 1830, in a straight party vote, the Removal Act passed the Senate twenty-eight to nineteen. The bill failed to pass the House until amended to provide the natives a year to remove. Jackson pressured the Congress until the original removal legislation passed 102 to 97. Removal became law May 28, 1830.⁷⁰

The Act authorized the president to carry out voluntary removal with "tribes as may choose."⁷¹ It instructed the president to create an Indian Territory on public lands west of the Mississippi River, which the government guaranteed to American Indians as long as they inhabited the area and to be forever without the jurisdiction of any territory or state. The Act also called for arranging and exchanging Indian homelands for tribal land in the east, granting legal title to their new land, negotiating compensation for unmovable property, giving aid necessary to move a year after resettlement, protecting them from hostile tribes, and carrying out removal without violating existing treaties, with the funding of only 500,000 dollars.⁷²

As soon as the treaty meetings regarding removal began, the Cherokees debated the subject amongst themselves. The *Cherokee Phoenix* published accounts of other tribes removing, varying sentiments of Indians across the Nation, as well as coverage

from Anglo newspapers. The *Cherokee Phoenix* stated, “the popular feeling of the Nation [was] decidedly opposed to a removal.”⁷³ Those people, mostly still living traditionally, refused to move west, some even supporting the changes needed to political centralization to prove their civilization, hoping that would prevent removal. Ross urged his Nation to resist removal by every means short of violence.⁷⁴

The Cherokees called themselves “not ignorant” of the fate of other tribes who conducted “fatal intercourse” with the whites and watched as those people dwindled away.⁷⁵ They recognized the disaster removal would bring to their people and future and that it could never benefit them to move. If the tribe ever gave up their status as independent nations, the government would reduce them to second-class citizens. Removal would destroy nations and communities by mixing various Indian nations together, many of which would quarrel and fight. As a result, only individuals would exist as defenseless wards of the government. Without organized nation, no organized body of Indians would exist to petition the U.S. government of its grievances. As far as land, the Cherokees knew the U.S. could never truly guarantee a homeland. If given in a treaty, it would be violated whenever convenient by officials. Treaties did not hold enough strength to guarantee them the land of their ancestors. If appropriated by an act of Congress, the government could appeal it whenever suitable. Regardless of the government, wherever sent the whites would eventually encroach and steal their lands. Many saw refusing removal as a way to test the U.S. and see if it could keep its promises.⁷⁶

However, not all Cherokees opposed removal. Some accepted early U.S. offers and moved west, believing it the only way to live without Anglo interference. The

Cherokees in Arkansas (separate from those in Georgia) signed a removal treaty in Washington, DC on May 6, 1828. Those immigrating received one rifle, blanket, kettle, five pounds of tobacco, compensation for land abandoned, and the cost of immigration. As they moved west, the U.S. encouraged them to persuade their Georgia brethren to move as well.⁷⁷

As removal pressures increased, Indians against removal opposed those who did migrate west and the Nation began passing anti-removal legislation. They ridiculed U.S. offers for removal, claiming the ignorance of moving on government promises. On November 17, 1828, the General Council decreed that any persons who abandoned their homes and agreed to move west forfeited their citizenship. On October 27, 1829, the Cherokee government debated and passed a law making it illegal to sell treaty lands belonging to the state, punishable by the death penalty.⁷⁸

In December 1829, the Cherokee people gathered to send a petition to the U.S. government against removal. The General Council wrote the “Memorial of the Cherokees,” sending it to Congress and circulating it throughout the Nation. The petition held over three thousand signatures, used to dispel the accusations that only chiefs opposed removal. Indians crowded to sign the document, without the presence of any chiefs. The “Memorial of the Cherokees” asked the government to stop Georgia’s actions and the unfair actions of Jackson. They stated that the Cherokees held the land by right of inheritance and had never ceded or forfeited it. The Nation’s efforts fell upon deaf ears.⁷⁹

As thousands of Georgians moved into Cherokee country in the early 1830s, a small faction of Indians who once opposed removal grew hopeless. They began to coalesce around Cherokee political leader John Ridge, a highly respected veteran of the

Creek War, and Major Ridge and Elias Boudinot. These men formed a faction, known as the Treaty Party, and believed their nation had no choice but to move west. Most of the people in the Treaty Party came from the mixed blood wealthy elite. Several faced defeat in the 1830 elections, with John Ridge remaining resentful from his loss to Ross.⁸⁰

Many Cherokees sought to fight the Indian Removal Act by staying in their homelands and refusing to sign any removal treaties. The Nation appointed Chief Ross as the head of the delegation to negotiate with the federal government. Ross planned to sell only a small portion of Cherokee land, believing that then the U.S. government would not force removal upon them. Ridge and Ross sent delegations to Washington, DC to discuss removal in 1835. Both delegations returned to Cherokee Nation and in October 1835 at its annual meeting in Red Clay, Tennessee, the National Council rejected Ridge's treaty.⁸¹

Regardless of lack of support from the Nation, the Treaty Party met with a U.S. treaty commissioner in December 1835 at New Echota, Georgia. This faction, with no official standing, signed the Treaty of New Echota, agreeing to sell Cherokee homelands and move west. The treaty agreed to full cession of all lands, removal by 1828, and appropriated land in Indian Territory, five million dollars, arrangement and transportation to the west, and subsistence aid from the U.S. for one year. Members of the Treaty Party received rewards for their willingness to negotiate. The Georgia governor exempted the Ridges and Boudinot from the land lottery. The government officials finally gained a treaty for Cherokee removal, even though it did not hold any validity with the Nation.⁸²

At the time of the Treaty of New Echota, the Ross delegation continued to negotiate in Washington, DC, later finding out their lands had been sold. The Treaty

Party's betrayal shocked Ross and the majority of Cherokees, who opposed removal and the treaty. The Cherokee government acted quickly in an attempt to silence the group by impeaching the Ridges from the National Council and forcing Boudinot to resign as editor of the *Cherokee Phoenix*. The majority of the Cherokee citizens, led by Ross, protested the treaty and petitioned the U.S. Senate to reject the treaty. Even though only a few of the unofficial tribal members signed the treaty, it committed all of the Cherokees to removal, resulting in the Trail of Tears and the death of many of their people. Despite thousands of petitions signed by Cherokee citizens stating they did not support the decision, the Senate ratified the treaty in 1836 and the government began setting up stockades to imprison the people in anticipation of removal in 1838.⁸³

Removal provided the final nail in the coffin of women's influence in the tribe and greatly hindered the issue of sovereignty. Land taken in the process belonged to women, with land most closely associated with the gender's control of agriculture fields and villages. Removal and later the post-Civil War treaties, and allotment produced a crisis in gender and changed the way Cherokee women defined appropriate behavior and the way they related to men, shaking the foundations of their society. These events destabilized gender relations, leading to future problems.⁸⁴

When the U.S. soldiers arrived in spring 1838 to remove the Indians, few people had prepared for removal. Most believed they had not lost, as Ross continued to work in Washington, DC for the abolition of the treaty. The troops rounded people up into stockades to wait until they could travel west in groups. Heat, poor water, disease, and inadequate provisions killed many. After seeing his people suffer, Ross finally accepted removal and secured permission for the Cherokees to lead their own immigration of 800

miles that Fall. The Trail of Tears began in the winter of 1838 and lasted into 1839. The Indian Removal Act and resulting Treaty of New Echota removed 16,000 Cherokees and killed about 4,000.⁸⁵

Despite their hardships, the Cherokees held their resolve. On August 1, 1838, the day before removal, a council met at Aquohee Camp in eastern Tennessee. The council asserted the injustice of removal and their right to sovereignty and self-government under treaties with the U.S. They stated their determination to receive concessions for the false treaty that cost them their homelands. The people would negotiate with the U.S. until it repudiated the treaty and renegotiated its terms. Importantly, the council decreed that the Cherokee leaders, constitution, and laws remained in full effect and unchanged.⁸⁶

Despite their losses, the Cherokees still considered themselves a sovereign nation, even after they arrived in Indian Territory. They would have to rebuild their nation and community in a strange place. The factionalism divided the tribe between the Ross Party and the Treaty (or Ridge) Party encumbered their struggle for independence and sovereignty. The Nation sought to rebuild despite these internal and external stresses.⁸⁷

Chapter Three: Rebuilding an Indian Nation Twice, 1839-44 and 1866

After the crisis of removal and resettlement in Indian Territory, the Cherokee Nation suffered greater setbacks regarding sovereignty with violent internal factionalism that destroyed their nation from 1839-44 and again in 1866 after the Civil War. While the Cherokees struggled to rebuild their nation twice, the United States government capitalized on its situation to pass legislation further hindering the sovereignty of the tribe.

After the suffering and death of removal and the Trail of Tears, Cherokees prepared themselves to settle in Indian Territory and resume its battle with the United States government for sovereignty. However, upon arrival in the new land, the three separate factions that developed during removal maintained their own claims to independence, which stalled any attempts at self-governance. The tribe first faced reunification on agreeable terms to all into a single Cherokee Nation. The Indian's nationalism remained vital because without unification they could not "speak with one voice" and demand autonomy. Instead, Americans would relegate them to second-class citizens with rights limited like that of the freed slaves.⁸⁸

When John Ross and his people, around 14,000, known as the Eastern Cherokees, arrived in Indian Territory, they found a pre-existing tribal government of Indians who had removed earlier, known as the Old Settlers, or Western Cherokees. In removals beginning in 1794 and in groups in 1810, 1819, and 1828, the Old Settlers moved to the northeastern corner of present-day Oklahoma in 1832. Most moved earlier to avoid any form of assimilation into American society. They developed their own simple system of government and chose chiefs. The Western Cherokees' government featured C chiefs, a

council, few written laws, and no constitution. Their population of about 5,000 sparsely settled throughout their seven million acre territory. They met twice a year at their capital, Tahlontusky, to elect chiefs and national officers of council members, judges, and light horsemen. The Western Cherokees, led by chiefs John Brown, John Looney, and John Rogers, constituted only one-third of the entire Cherokee People. Also arriving in Indian Territory, the Treaty Party, led by John Ridge, lived peacefully amongst the Old Settlers. However, with the signers of the Treaty of New Echota and the Ross faction in the same area, civil war erupted amongst the tribe.⁸⁹

Reunification into a single nation would prove more difficult than any of the factional leaders predicted. The Treaty of New Echota failed to specify how the separate Cherokees should govern themselves, and since the federal government continued to allow the tribe to select its own leaders, the people remained fully responsible for unification. Each faction maintained its own motivations and goals, none of which blended well with the others. At the Aquohee Council, held before removal, Ross and the Eastern Cherokees asserted their government would continue in full force in Indian Territory. Upon arrival, they reinstated their bicameral legislature and judicial system and inaugurated their own public school system to replace that of the missionaries. In 1819, the Eastern Cherokees had legally disowned those who moved west early and refused to recognize them as a separate nation. This caused difficulty with the Old Settlers, who believed their system the true legitimate government of the Cherokees and challenged the newcomers' authority.⁹⁰

The Treaty Party arrived a short time before the Eastern Cherokees and agreed to live under the Western Cherokee government. The Old Settlers had reservations about the

faction, but did not regard them criminals. The two groups officials merged in January 1840, both opposed to the Ross faction. The more prosperous Ridge followers clashed often with the Eastern Cherokees, who remained hostile to the treaty signers because they saw them as traitors and suffered the most from the Trail of Tears. The Treaty Party often retaliated with aggression, and sent unfavorable reports to the area's Indian agent and military, eventually complaining directly to officials in Washington, DC which brought further federal intervention in Cherokee internal affairs.⁹¹

On April 23, 1839, Ross wrote to the three chiefs of the Old Settlers suggesting a joint council regarding uniting a government. The Western Cherokees agreed and arranged a meeting on June 3, 1839, to welcome the immigrants at Takatoka, four miles east of present day Tahlequah. In his opening statement, John Brown, primary chief of the Old Settlers, proclaimed the newcomers could live anywhere within their territory, vote and be elected to any offices, and remained subject to the Western's government and laws. Irritated that Brown implied he admitted the new Indians as a privilege, Ross asked Brown in what terms did his faction accept the Eastern Cherokees. Brown replied no further action remained necessary, as one nation already existed, assuming the immigrants had no country and considered the people already united.⁹²

After several days of mingling, the Old Settlers asked the goals of Ross. On June 10, 1839, Ross explained the Eastern Cherokees would not submit to the western government because it would mean the minority would rule the majority. He called for a meeting between chiefs and councils to decide terms for a permanent union and nation. On June 12, after consulting the National Council, the eastern chief suggested each side appoint three men, who would together appoint three more men, for a council of nine

who would draft a code of laws and decide method of elections for new national officers and council. The next day, the Western Cherokees rejected his offer, calling the tribe already united and that their laws would prevail.⁹³

Ross maintained many reasons to refuse submitting to the western government, besides the idea of the minority ruling the majority. He refused to accept the Treaty of New Echota, and hoped to renegotiate its terms with the U.S. government. The chief feared if he accepted the Old Settlers as the legitimate Nation, then the Western Cherokees would control final negotiations regarding removal and accept treaty, especially since they accepted the Ridge Party. Also, the payments due to those removed from the U.S. would be under the control of western chiefs, whose people did not suffer on the Trail of Tears and already received payments for their homelands, which Ross believed the Old Settler's true motivation for refusing to compromise. The same day Brown refused Ross' plan, the leaders of the Treaty Party arrived at Takatoka and met with the Western Cherokees. Ross assumed the treaty signers talked the Old Settlers out of making any concessions, serving as a roadblock to unification, which caused further resentment of the proclaimed traitors.⁹⁴

Ross replied to the Western Cherokee's refusal by asking them to make an offer for a united government. Brown proposed two separate nations in the same territory, with Ross keeping his faction for negotiation with the United States. Ross refused because the federal government would not confer with his institution, which President Andrew Jackson declared null and void. He advised Brown the importance of remaining "an organized body politic, for the purpose of settling their accounts with the U.S. and securing certain claims for spoliations."⁹⁵ With two separate systems, the federal

government could refuse Ross' validity and negotiate only with the Old Settlers, which Ross believed Brown wanted. The solution would also create civil confusion, allowing the Americans to play one off the other, and hinder the bid for sovereignty.⁹⁶

Because Ross refused the two-government system, Brown believed the Eastern Cherokees wanted to dissolve his nation and create a reunion controlled by them. Brown told Ross the Western Cherokee existed similarly to the immigrant's system and suggested that all Cherokees meet at his nation's October council to revise the laws and rewrite the constitution. The Old Settlers refused any further concessions and Ross declined a further meeting. With nothing accomplished, Brown adjourned the Takatoka Council on June 20, 1839.⁹⁷

When the general attendees of the council learned the Western Cherokees prevented unification, many became angry. Jesse Bushyhead, a Ross follower, and Sequoyah, an Old Settler, gathered the Indians and called for a People's Council, a traditional method of solving contested issues by popular consensus, to unite the nation.⁹⁸ The people agreed and set the date for the new council for July 1, 1839 at Illinois campground. The National Council of the Eastern Cherokees met and agreed they would accept the solution devised by the People's Council, which would prove successful for the faction since it constituted two thirds of the population.⁹⁹

With the failure of the Takatoka Council, about 150 members of the Ross Party secretly met on June 21, 1839. They vowed to exact revenge on the signers of the Treaty of New Echota, believing themselves to be carrying out the laws of the nation. Under a previous Cherokee law (ironically written by some of the Treaty Party), those who sold tribal land without the approval of the National Council faced execution. Without the

knowledge of Ross, the revenge group decided to act the next day, planning to murder Major Ridge, John Ridge, Elias Boudinot, and Stand Watie. Allen Ross, part of the vigilantes, remained close to the chief (his father) to make sure he knew nothing of the plan. Ross had prevented earlier assassination attempts because he knew violence would further prevent renegotiation of the treaty.¹⁰⁰

After reading the land law, the revenge party drew straws to determine the actual executioners. They divided into four groups; with about twenty witnesses, each accompanying them to ensure the actual killers remained anonymous. The men murdered John Ridge and Boudinot brutally in front of their families. One of the groups travelled into Arkansas to kill Major Ridge. Watie escaped death by being away from home on business. After these killings, the revenge groups abandoned their plans to murder the other eight on their list.¹⁰¹

The violence created panic among the remainder of the Treaty Party, who fled to Arkansas and sought safety at Fort Gibson. Upon hearing the news, Watie (the new leader of the Treaty Party) held Ross responsible and offered \$1,000 for the names of the assassins and threatened violence. He then gathered a company of men to exact revenge on the chief. Several hundred anti-treaty people acted quickly and surrounded Ross' home at Park Hill to protect him. Instead of exacting violence, the Treaty Party appealed to the federal government.¹⁰²

That same day, Ross reported the assassinations to General Arbuckle at Fort Gibson, also describing Watie's mob, which threatened to kill him. Arbuckle invited Ross to stay at the fort, but the chief refused, stating he felt safe enough among his supporters. With the Treaty Party appealing for action from the federal government,

citing chaos and violence in the territory, the Commissioner of Indian Affairs put Arbuckle in charge of finding and punishing the murderers. Arbuckle panics and requests a brigade of volunteer troops from the governors of Arkansas and Missouri to protect from an uprising of the Cherokees. The soldiers arrived to find no evidence of further violence and returned to their station at Fort Leavenworth.¹⁰³

The U.S. War Department ordered the arrest and trial of the assassins and charged Arbuckle with apprehending the people. Arbuckle, who never really believed Ross' ignorance of the incident, compiled a list of suspects but appealed to Ross to turn them over. He threatened the use of military force if the chief refused. The military held Ross fully responsible for the deaths, even though the chief had reported the incident and even asked for federal troops to prevent further violence. Ross continued to deny any knowledge or hiding the killers, only stating the men had only been carrying out tribal law and declared the matter resolved within the tribe.¹⁰⁴

In September 1839, Arbuckle informed Ross he failed to adequately punish the revenge party and that military parties would arrest all suspects. Recognizing the illegality of the federal intervention, Ross replied that the U.S. might only arrest those over which it had jurisdiction. As all of the killings had occurred on tribal land (except for Major Ridge), the U.S. maintained no authority to try Cherokee citizens. He declared the threats of Arbuckle as falsehoods to harass Indians and blamed the difficulties on the military. Eventually Arbuckle abandoned his efforts to capture those in the revenge parties, but continued to distrust Ross.¹⁰⁵

Besides illegal federal intervention, the Treaty Party murders caused greater ramifications that would also hinder unification. It destroyed Ross' work for stability and

unity, which further delayed the battle for sovereignty. The pre-existing tribal divisions expanded and began one of the bloodiest eras in Cherokee history, with revenge killings occurring on both sides until 1846.¹⁰⁶

After the violence, Arbuckle suggested Ross and the Old Settler chiefs meet at Fort Gibson on June 25, 1839 to discuss the murders and prevent further aggression. Western chiefs Brown, Looney, and Rogers wrote Ross, urging him to attend the Fort Gibson meeting to discuss unification and cancel the People's Council on July 1st. Arbuckle and Indian agent Montfort Stokes informed the eastern chief they approved the proposal of the Western Cherokees because the nation could not function with two governments. At the same time, Arbuckle warned Ross the Eastern Cherokees should accept the Old Settlers' terms as a basis of union or endure serious difficulties.¹⁰⁷

Ross refused to attend the meeting at Fort Gibson because its organization deprived his delegates of any official standing. The council served only as an opportunity for Eastern Cherokees to agree to Old Settler rule. In this proposal of government, the Ross faction would only have the power to sue for concessions. Ross saw it as another scheme to denationalize his people. He reiterated that his people existed as the proper body of the entire nation and that he and the Western Cherokees should go with the will of the people. Ross stated the People's Council, as a tradition, retained more validity because even members of the Old Settler faction could attend and participate. The chief refused to cancel the council, hoping to achieve unity before the federal government could act further.¹⁰⁸

The People's Council met on July 1, 1839, at Illinois Camp Ground near Tahlequah, about a mile and a half from Park Hill. Around 2,000 people attended,

including many Old Settlers, to begin the decision making process through consensus. Attendance remained lower than expected, perhaps from people fearing further violence. Western Cherokee chiefs did not attend because they realized the Ross majority would outvote them and discouraged their followers from attending. Some Westerns who believed in unity as a priority still attended. On July 5, Sequoyah wrote the Old Settler chiefs at Fort Gibson, inviting them to attend. Brown and Rogers adamantly decline but Looney agreed and joined the gathering.¹⁰⁹

As the first act of business, the council elected Sequoyah and George Lowrey (an Eastern Cherokee) as presiding officers. Next, it determined a “steering committee” of seventeen to twenty seven people, which included Ross. The leaders first sought to clear the air regarding the executions of the Ridges and Boudinot by granting a full pardon to every person accused of murder since the arrival of the Eastern Cherokees. The decree sought to prevent any further violence from either side. However, the council next summoned the Treaty Party members to appear within the next eight days and apologize for their conduct under the threat of outlawry. After their appearance, they would remain ineligible for any office for five years and only so afterwards if the Cherokee Nation approved. Seven members of the Treaty Party did so for safety, but the rest refused, with Watie stating he would rather die than accept such humiliating terms.¹¹⁰

On July 12, 1839, the People’s Council created its most important achievement: the Act of Union. Signed by Sequoyah and Looney for the Old Settlers and Ross for the Eastern Cherokees, the Act formed the two factions into the Cherokee Nation. It called for the creation of a mature government suitable to the tribe’s situation, providing full

rights for all citizens. The People's Council disbanded in late August 1839, while a committee drafted a new constitution for the new nation.¹¹¹

On July 19, 1839, Ross wrote to Arbuckle and Stokes, stating the Act of Union had finally united the Cherokee people. Arbuckle declared the Act void because even though some Western Cherokees signed, they lacked the proper authority to do so. He maintained it would remain void until all Old Settlers agreed and that Looney had no right to depose Brown and Rogers. The Secretary of War Joel Poinsett believed the new government illegally seized power from the Western Cherokees. Ross replied that the Act remained valid because both sides signed. Brown and others could disagree without reducing its legitimacy. Ross and his people declared the Act of Union fair because it allowed both factions equal rights and participation in government. In regards to their declaring members of the Treaty Party outlaws, Arbuckle accused them of depriving them of rights. The U.S. government considered the council to be approving of violence and began threatening to arrest Ross as an accessory to the murders. Arbuckle declared no union occurred and continued to acknowledge Brown as the chief of all Cherokees; Ross remained the leader of his faction only.¹¹²

Concurrently with the People's Council, the Old Settlers held their own meeting at Tahlontusky July 22, 1839. Brown and Rogers presided over the event and the Watie faction attended to show their support. They invited Ross, who refused to leave the People's Council but instead sent a delegation, which left quickly after encountering hostility from Treaty Party members.¹¹³

On August 2, 1839, Brown and Rogers attempted to revive Ross' original plan of government that featured representatives from each side determining the nation. They

deemed that no Old Settler who cooperated with the Ross Party could serve in their government. Many of their attendees rejected their plan. Next, the Western Cherokees adopted a resolution to expel all whites from their territory sympathetic to Ross and increase their police to enforce their laws. The council closed with the members agreeing to meet again in October for elections. In October, the Western Cherokees elected John Rogers as their principal chief, deposing Looney for participating in the People's Council.¹¹⁴

On August 20, 1839, with the People's and Tahlontusky councils in session, the Treaty Party called its own meeting at Price's Prairie. Upset at their classification as outlaws, the council agreed to refuse the Act of Union, which they called "the mobocracy of John Ross."¹¹⁵ They resolved the murders of their leaders deserved punishment and agreed to appeal to the U.S. government for investigation and action. The council voted for John A. Bell and Stand Watie to lead the delegation to meet Secretary of War Poinsett to protect from Ross' rule.¹¹⁶

The Watie faction prepared a letter to Poinsett, in which they stated they feared for their lives and acknowledged their refusal to submit to Ross' tyranny. They appealed for protection and negotiation through their delegates. On the way to Washington, DC, Watie and Bell met with Andrew Jackson in Tennessee, receiving from him a letter to Van Buren urging support. Upon arrival in the capital, President Van Buren and Poinsett sided with the Treaty Party instantly. Poinsett agreed to order troops at Fort Gibson to arrest the murderers and protect Watie's faction.¹¹⁷

Price's Prairie Council proved disastrous to Cherokee sovereignty. In calling for federal protection, the Treaty Party invited illegal U.S. intervention in internal tribal

affairs, on which the government would capitalize on later. While Watie and his followers grudgingly admitted the People's Council government served as the political body, they proved willing to sacrifice their people's autonomy for factionalism.¹¹⁸

The Old Settlers held another council on November 10, 1839, to refute Ross' government. Rogers, who held a personal hatred for the eastern chief, knew many Western Cherokees wished to accept the People's Council government, so he sought to strengthen his situation by establishing a closer alliance with the Treaty Party. His action meant accepting the War Department interfering in Cherokee affairs, an action which few of the people wanted.¹¹⁹

A split in the Western Cherokee faction occurred when Sequoyah, Looney, and other leaders requested their people listen to the accomplishments of the People's Council and support the reunion. About 200 Old Settlers agreed to accept the Act of Union and voted to depose Brown and Rogers for siding with the Treaty Party and refusing unification. Those Western Cherokees who still opposed reunion supported Rogers, John Smith, and Dutch to sustain their government. However, with violence increasing, Rogers fled for Mexico with his family.¹²⁰

On September 6, 1839, the People's Council reconvened at Tahlequah, their new capital. Headed by Ross' nephew, the constitutional committee presented its draft, closely modeled on that of the Eastern Cherokees of 1827. The council adopted the document, which featured a changed the elections of the principal and second principal chief to popular vote. They elected officials (Ross winning principal chief) and began other national business, such as foreign policies for other Indian nations. Under the new election system, the Old Settlers received at least one-third of posts. Some Western

Cherokees, such as Dutch, won office but quickly resigned because they still did not recognize that government.¹²¹

The council then voted to send a delegation led by Ross to Washington, DC to request a renegotiation of the Treaty of New Echota, demand \$800,000 in payments previously withheld, and to explain their side of the Treaty Party murders. Ross' delegation arrived in D.C. in late November to request a meeting with the Secretary of War. Poinsett and other officials heard rumors of Ross' responsibility in the Treaty Party murders, and refused to meet with him. Eventually Poinsett agreed to see the rest of Ross' delegation, who would not meet until they learned of those who spread the rumors about their chief.¹²²

At the same time as the arrival of the Ross delegation, both the Western Cherokees and Treaty Party had sent groups to see Poinsett. They both told the Secretary of War they believed only a political and geographical division would end the tribe's difficulties. Poinsett informed Ross he did not recognize his followers as the legitimate government of the Cherokees. Ross appealed by sending a petition to Congress on February 28, 1840, with little success.¹²³

From November 1839 to the spring of 1841, all three factions repeatedly sent delegations to Washington, DC although the government supported the Western Cherokee government as the legitimate system, officials took no action, perhaps because Ross remained adamant in sending petitions and memorials. The People's government received little concessions as well, except for gaining some of the withheld payments.

Meanwhile, within nation, chaos and civil war erupted. The question of how to fully unite all factions led to seven years of internal guerilla warfare. Obtaining any

progress towards sovereignty remained impossible in a nation where survival became priority of most leaders. Several political killings occurred on both sides, with many people fleeing to Arkansas. The Cherokees then argued amongst themselves whether the violence occurred because of the original betrayal of the Treaty Party or the murders of the Ridges and Boudinot. Arson and assassination remained common, with murders occurring almost weekly. Lawlessness abounded with robbery and gang crime. The fighting destroyed agriculture and livestock, causing the deaths of many from disease and malnutrition. The anti-Ross factions adopted more desperate measures achieve their goals. They furthered war within the nation in an effort to get the U.S. military involved, who would depose Ross. The majority of citizens supported Ross, who won several re-elections as principal chief.¹²⁴

The Secretary of War continued to interfere in internal tribal affairs, which also prevented a government of the majority. Congress finally noticed and the House Committee on Indian Affairs conducted an investigation. Ross discovered the committee and submitted a memorial to it on April 20, 1840. The committee found the actions of the War Department instigated and worsened the controversy and unrest. The House refused to permit filing of the report because of its negative portrayal of government officials. A member of the committee, who prepared the investigation's report, John Bell, gave it to the press on July 27, 1840, which published it as "Bell's Suppressed Report."¹²⁵

The report showed the U.S. government acted unconstitutionally, withholding the \$800,000 due to the Eastern Cherokees for establishment in the west in order to force them to dissolve their government of the majority. The U.S. maintained no right to choose the Western Cherokee government as the legitimate institution. It especially

criticized Poinsett in aiding minority rule and supported Ross' government while censuring the War Department for unnecessary involvement. Importantly, Bell's Committee found that the entire executive branch of the U.S. government maintained prejudice towards Ross, resulting in unfair treatment towards the majority of Cherokees. Although no direct gains resulted from the report as the Democrat majority in the House stated its use only for political gains, the report acknowledged unlawful interference in Cherokee affairs.¹²⁶

After years of internal warfare, the federal government fully intervened. William Medill, the Commissioner of Indian Affairs, met with all three factions. He told President Polk that no way existed to reconcile the three parties and advised the division into two separate nations, which would ultimately reduce Cherokee sovereignty. Polk accepted Medill's advice and on April 13, 1846, asked Congress to create a bill separating the Cherokee government. Now Indian agent to the tribe, Arbuckle also supported two nations. On June 2, the House Committee on Indian Affairs reported it supported the president's recommendation and introduced a bill of division.¹²⁷

To prevent two governments and losing everything he had worked for in the past seven years, Ross offered to negotiate a new agreement with the other two factions. Before Polk would rescind his plan for division, Ross had to agree to several other concessions with a commissions appointed by the president. In the summer of 1846, the federal government met with the Cherokees and began negotiating a "compulsory agreement."¹²⁸

Signed in August, the Treaty of 1846 united the Cherokees into a single nation, with sacrifices made on both sides. Ross had to accept the Treaty of New Echota, but

maintained the Act of Union, constitution, and a patent to their seven million acres in Indian Territory. The Western Cherokees surrendered their autonomy and conceded to Ross' leadership but gained a portion of the removal funds. The treaty granted amnesty to all past crimes and provided money for the heirs of the Ridges and Boudinot. The U.S. government once again recognized Ross as principal chief of the Cherokees. After all parties signed the treaty, Ross and Watie shook hands, symbolizing reconciliation and unity.¹²⁹

From 1846-60, the Cherokees focused on political autonomy and economic prosperity. After the Treaty of 1846, their status as a sovereign nation remained in question. The Nation survived, but only with the interference and permission of the U.S. As a result, the federal government held that it maintained the right to divide or dissolve the tribe if it chose. The Cherokees soon adopted different strategies in the fight for autonomy.

In convincing the U.S. the importance of Cherokee sovereignty, the tribe wrote often to Congress, describing their great civilization and stating if their political status recedes, so will their process. The tribe called themselves the "eldest brothers" of all Indians and as missionaries to the others, they could exist as an example of civilization. The Cherokees also maintained that after the agonies of removal, the U.S. owed the tribe political autonomy. They continued to use the strategy of magnifying the connection between rights and civilization until the Civil War.¹³⁰

By the 1950s, the Cherokees had once again achieved a thriving republic. They adopted the practice of keeping a delegation in Washington, DC to watch federal authorities. The tribe studied, developing important lobbying and personal relations

skills. They hired lawyers, addressed government officials, re-established a newspaper in 1844, *The Cherokee Advocate*, and solicited support from “friends of the Indians.” Known as the “Golden Age of the Cherokee,” 1849-60 featured rise in autonomy, infrastructure, and economics.¹³¹

In the beginning of the 1860s, the American sectional crisis over slavery and state’s rights and the dissolution of the Union shattered the decade of prosperity and autonomy of the Cherokees. When the Civil War erupted in 1861, the Cherokee Nation divided once again, costing them further sovereignty.¹³²

At the beginning of the war, Ross sought to remain neutral and issued a proclamation withdrawing the nation from any role in the American war. Most Cherokees supported the North, which made no effort to keep their alliances or protect them. Socially, the tribe maintained greater connections with the South. Indian agents usually came from the southern states and with the creation of the Confederacy, the entire bureaucracy in Indian Territory resigned and joined the conflict. The Cherokees lived like southerners, many living on plantations and holding slaves (including Ross).¹³³

Despite most Cherokees’ wish for neutrality, old factions emerged once again. The Treaty Party, mostly wealthy slave owners, supported the south, with Watie openly stating they supported secession and planned to work with the Confederacy, even after Ross’ declaration. The Treaty Party (now known as the Southern Party) sent a delegation to negotiate a treaty with the Confederacy without authorization from Ross. July 1861, General Ben McCullough made Watie a colonel and issued arms to a company of his 300 followers.¹³⁴

Neutrality began to waver after Watie's alliance and the Nation threatened to divide between pro North and South factions. Ross feared his rivals would use Confederate support to seize control of his government and that Cherokees would eventually have to fight one another. In August 1861, Ross called for a general council, open to all people, and announced he believed it necessary to form an alliance with the South to keep the nation together. Several months later, the Cherokees signed an official treaty with the Confederacy. Preventing a Watie coup d'état, Ross and his allies created their own Southern regiment for battle.¹³⁵

Despite Ross following Watie into the war to ensure national unity, a split still occurred along the same lines. Watie's company of soldiers formed their own group, "Knights of the Golden Circle," also known as the "Southern Rights Party." The Ross soldiers, led by Reverend Evan Jones, formed the "Keetoowahs," also known as "Pin Indians," who support traditionalism and full bloods, later becoming abolitionists.¹³⁶

Throughout the war, the Cherokees ended up having to fight each other. In June 1862, 10,000 Union troops entered Indian Territory from Kansas and defeated the Watie and Ross southern forces. Many Ross supporters deserted and joined the northern troops, forming a federal regiment while Watie's men fled south. Ross used the defection of several of his people to change course. When federal troops arrived at the Ross home in Park Hill, they arrested the chief (much to his relief), now seventy years old, and transported him to Union territory in Kansas. He received parole and spent the remainder of the war in the east, lobbying for the Cherokees in the capital.¹³⁷

Once Ross left, civil war within the nation erupted once again between his supporters and Watie. The Confederate Cherokees took Tahlequah and declared a new

government, with Watie as chief and his allies constituting the National Council. The Northern Cherokees returned a few months later and declared their own government, reinstating Ross as chief. Violence and raids ran rampant throughout their territory, creating a situation worse than the guerilla warfare of the 1840s.¹³⁸

On April 9, 1865, Robert E. Lee surrendered and the Confederacy lost the war. Watie did not follow until June 23, the last southern general to do so. After the war, the Cherokee Nation lay in ruins, burned and desolate. The post war Reconstruction era would serve as one of the largest violation of the tribe's sovereignty. Despite the 2,200 Cherokees serving in the Union army, the U.S. maintained a hostile policy towards the entire tribe. The federal government capitalized on post war treaties to gain a great portion of the fee-title property acquired at the time of removal and reduced political rights and autonomy.¹³⁹

In September 1865, five federal commissioners met at Fort Gibson to negotiate the post-war treaties with the Five Civilized Tribes. Chairman of the commissioners Dennis N. Cooley officially deposed Ross as principal chief. Ross fought to maintain their rights guaranteed by earlier treaties but the division between the northern and southern Cherokees cost the tribe any united front needed to maintain their rights. In the spring and summer of 1866, the two factions sent separate delegations to fight for official recognition. The U.S. treated the tribe as traitors, with harsher penalties than any imposed on a southern state.¹⁴⁰

The Treaty of 1866 featured several controversial stipulations. Slavery abolished and the tribe must accept freedmen as full citizens. They must sell a portion of the nation along the Kansas border, allow to future sale of the Cherokee Outlet for the resettlement

of other tribes, railroads gained right of way. The federal government would establish a new district court in the nation for all cases involving American and Indian citizens. Most controversially, the Cherokees would aid in creating a general council for Indian Territory. This multi-tribal legislature served as a step towards bringing the territory under ordinary law, a gross violation of autonomy. The U.S. maintained the right to establish one or more military posts within the nation.¹⁴¹

The post-war treaties magnified the power of the federal government. The ending of slavery suggested the government served as a positive factor in American life and progress. In this sentiment, Cooley sought to bring discipline and punishment to Indian Territory. He achieved “order” by undermining the Cherokees’ ability to act outside federal authority. The end of the war also brought an immense shift in U.S. Indian policy. The treaties deemed Congress would no longer use the treaty process in its relations with Indians. In 1871, operation of Indians Affairs moved from the Senate (who under the constitution approved treaties) to both House and Senate joint passage required for Indian legislation. After 1871, the Cherokees had to shift from fighting for sovereignty within treaties to the halls of Congress and legislation.¹⁴²

With over 4,000 Cherokees dying in service, thousands of widows and orphans lived in poverty and faced starvation. Land, property, and livestock destroyed and the territory in ruins, the Cherokees once again faced reunifying their nation. This time, they faced reunification while dealing with railroad right of way, a territorial government, and the increasing intervention of U.S. courts in Indian Territory. Chief John Ross died in August 1866, leaving Lewis Downing to rebuild a nation and continue the struggle for sovereignty during what became known as the allotment period.¹⁴³

Chapter Four

Because They Lack Selfishness: The End of Cherokee Sovereignty and Allotment, 1870-1914

After the Civil War and the harsh Treaty of 1866, the Cherokees faced the daunting task of rebuilding their nation. Chief John Ross, who had been in control for over forty years, died in 1866, leaving a power vacuum between the different factions. The struggle for control continued between the traditional John Ross party and the mixed Stand Watie group.¹⁴⁴ Lewis Downing, a non-English speaking full blood, served as second Principal Chief and applied to finish Ross's term.¹⁴⁵ In August 1866, the National Council met to choose a new chief, and instead of confirming Downing, selected William P. Ross, the nephew of the late chief, to finish the term. Although committed to his uncle's policies, the full bloods resented Ross, who lived as a mixed blood elite. Neither faction supported the appointment, as the traditionalists believed they had lost power and the Southerners faced resentment from the new chief.¹⁴⁶

Ross, installed as chief in October 1866, led the nation through the complicated Reconstruction process. The tribal government faced several difficulties during this period, such as the pressure for the sale of the Cherokee Outlet, railroad right of way, and the growing number of illegal white squatters. In dealing with these issues, the Southern party continued to send separate delegations to Washington, DC and oppose the Loyals by agitating for money and power. Ross, lacking his uncle's charisma, stubbornly excluded the Watie group from any political influence. However, the majority of Indians labored to rebuild their homes and lives.¹⁴⁷

With the Cherokees rebuilding their nation and the closing of the frontier at the end of the nineteenth century and white settlers clamoring for land, the U.S. government

searched for a solution that would both create homesteads and eliminate the “Indian problem.” Concurrently, eastern reformers and self-proclaimed “friends of the Indian” believed assimilation the key to improving American Indian life. In 1887, Congress passed the General Allotment Act, which provided for dividing tribal land of all except the Five Civilized Tribes. In 1893, the federal government created the Dawes Commission to apply the policy to those exempt, ending communal land ownership. Consequently, the pressure from reformers, settlers, and the government combined with factionalism, the Cherokee Nation faced the greatest challenge to its sovereignty with the allotment policy and the Curtis Act of 1898, which ended all tribal governments.

During the election in August 1867, several people wished to form a compromise government between the two factions. While working towards a unified people, another party formed. John B. Jones, an adopted Cherokee citizen created the Downing Party in opposition to Ross. Downing seemed the best candidate for a compromise, since he had made the first overtures to the Southerners, who agreed to support him. As the new candidate ran against Ross, a conflict occurred regarding citizenship, which generated support of the opposing Downing Party. Downing won the 1867 election, supported by several of the Watie and full bloods, and took office in November. Appointing several government officials from various factions, the Downing Party began the movement towards national reconciliation.¹⁴⁸

Re-elected in 1871, Downing utilized great political skill to hold the opposing groups together. By the 1870s, the nation had mostly overcome the bitter internal factionalism. Through the 1870s and 80s, the tribe worked together during Reconstruction. However, as internal issues disappear, external forces pressured the

Indians. During the period leading up to allotment, the Cherokees worked against greedy homesteaders, cattle ranchers, and railroad companies to preserve their nation.

Eventually, the loss of treaty negotiations, jurisdiction, and allotment proved too harsh to survive.¹⁴⁹

In the 1870s to the beginning of the twentieth century, U.S. sought to solve the “Indian problem” through assimilation of natives into American citizens, which changed its relations with the tribes. In 1870, Congress abolished the treaty process, by which the Cherokees had based their argument of sovereignty upon. Legislators argued that while the Supreme Court described tribes a “domestic, dependent nations,” Congress maintained plenary power to protect its wards regardless of treaties.¹⁵⁰

In 1870, the Cherokee Tobacco Case affected all Indians and redefined their place within the U.S. by raising the question of the power of Congress to supersede treaty stipulations. With no excise tax required for Indian manufacturers according to the 1866 treaty, tobacco served as an industry with the possibility of high profits. In 1868, E.C. Boudinot and his uncle, Stand Watie formed Watie and Boudinot Tobacco Company a few feet inside Cherokee Nation at Wet Prairie, near Maysville, Arkansas. Due to lack of taxes, Boudinot undersold his competitors by charging thirty two cents for a pound of tobacco, while the white companies had to charge seventy five cents per pound. American tobacco companies complained and pressured the Commissioner of Internal Revenue, who decided a July 1868 revenue bill regarding liquor and tobacco did apply to Indians.¹⁵¹

On December 20, 1869, a U.S. Marshal seized Boudinot’s company for unpaid taxes. Boudinot himself faced arrest and serious criminal and civil charges. The Cherokee

recognized the case as an opportunity to argue for sovereign rights and spent \$1,500 to hire lawyers to defend tribal rights. Unpopular due to his support of the railroads, Boudinot received no personal or financial support from the Cherokees. The tribal lawyers argued the 1866 treaty exempted Indians from excise taxes, and that treaties remained the supreme law of the land. Congress had previously abolished the treaty process but did not invalidate previous agreements. During the trial, Congress voted in January 1871, that “No Indian nation or tribe...shall be recognized as an independent nation, tribe, or power with whom the U.S. may contract by treaty.”¹⁵²

Decided May 1, 1871, judges ruled, “An act of Congress may supersede a prior treaty.”¹⁵³ The trial served as a major loss for all Indian nations as they lost one of the few ways they could prosper economically. By abolishing treaty rights, Congress held that it could legislate whatever they deemed best. After the decision, many Cherokees, such as William P. Boudinot (E.C. Boudinot’s brother) believed Congress could take away land held in common and began the early pushing for private ownership of land, which they knew meant the end of tribal government. Some Americans interpreted the ruling as defining Indian Territory within the boundaries of the U.S. and flooded into the area, exacerbating the intruder and jurisdiction problems.¹⁵⁴

The federal government also labored to edge out tribal governments by applying its criminal jurisdiction over Indian Territory. After the Civil War, the Western District of Arkansas court moved from Van Buren to Fort Smith and gained authority over crimes committed in Indian Territory except for those between two natives. Since Indians could no longer administer justice to whites in their territory, lawlessness abounded. The U.S.

used the situation, as well as events such as the Goingsnake Affair, as an argument that tribes could not maintain order, so the government must rule for them.¹⁵⁵

The Goingsnake Affair occurred April 25, 1872, when a gunfight ensued during the trial of a Cherokee for the murder of another citizen. Zeke Proctor, a Cherokee citizen, angry with a white man for abandoning his wife (Proctor's sister), traveled to the man's mill. During the argument, Proctor shot and wounded the man. At the exact time he fired, the man's current wife (also a Cherokee citizen) stepped between the men, dying instantly. Proctor admitted to shooting and killing the woman, and turned himself into tribal authorities. The white man, technically a Cherokee citizen by marriage, went to Fort Smith and gained a warrant for Proctor's arrest by U.S. authorities. At the time, Cherokee courts held jurisdiction over crimes between two Indians and technically held authority since the white man counted as a tribal citizen from his marriage. However, the man feared an Indian court would acquit Proctor, and invoked his U.S. citizenship at Fort Smith, causing the U.S. to illegally intervene.¹⁵⁶

Fort Smith sent two deputy marshals, Jacob Owens and Joseph Peavy, with a warrant for Proctor's arrest, with instructions to hold him only if the Cherokee court failed to reach a conviction. Owens and Peavy organized a posse of ten men, even deputizing some of the dead woman's family, and traveled to the courthouse. The posse arrived at the full courthouse just as the trial began. Owens commanded the group not to enter the building, but Surry Eaton Beck, a relative of the woman, gained control of the mob and forced their way into the room. Beck fired, wounding Proctor and killing another. Chaos erupted as people fired wildly, killing many, including the defense attorney, judge, and two U.S. marshals.¹⁵⁷

The Goingsnake Affair escalated friction between Cherokees and the U.S. government regarding jurisdiction. The tribe issued warrants for Beck, but the chief suspended his trial to keep the peace. The U.S. arrested some of the jurors and Proctor, but agreed to dismiss their charges if the Cherokees did not prosecute any of the posse members. A tribal court later acquitted Proctor and the U.S. accepted the ruling since Indian courts technically still held jurisdiction. However, the event led to the pushing of complete U.S. authority over crimes committed in Indian Territory, which occurred with the 1885 Major Crimes Act. In 1889, a federal court opened in the territory, ending tribal control.¹⁵⁸

With undermining tribal jurisdiction, the government continued to labor for the further assimilation of Indian people in mainstream American society and the abolishment of Indian governments. The government, as well as reformers and white settlers, promoted allotment as the solution to the “Indian problem,” and also as a way to clear the way for converting Indian Territory into a state. Allotment, defined as the federal policy of dividing tribal lands held communally into individually owned private property, would also mean all formal barriers dividing American Indians from the American population ended. Several early land cession treaties with the Cherokees, including that of 1866, contained allotment clauses to be enacted when the tribe deemed themselves ready. In the 1880s to the early twentieth century, the government itself deemed the Indians ready.¹⁵⁹

Although legislators argued for allotment for a few decades, the Five Civilized Tribes fought the policy by keeping delegates in Washington, DC to seek support against it. The true push for private ownership came with its adoption by reformers who called

themselves “friends of the Indian,” including Senator Henry Dawes. During a speech at the 1885 Lake Mohonk Conference, Dawes stated that while the Cherokee Nation lacked poverty and homelessness, the tribe could advance no further because “There [was] no selfishness, which is at the bottom of civilization.”¹⁶⁰

In contradictory statements, reformers also endorsed private property, the foundation of American society, to prevent poverty and keep the Indians from relying on the U.S. for subsistence, and free them from the mixed race aristocrats and tribal government. They believed allotment would lift up the Indians from savagery, and give them incentive to work. Dawes saw communal land as causing unscrupulous intruders to enter Indian Territory, outside of the law, and commit atrocities. The Indian Rights Association supported opening surplus lands to white settlement because it provided for the necessary absorption of Indians into American society. Others wanted to grant U.S. citizenship to natives and provide schools to separate children from their culture. Ultimately, reformers justified their actions with the argument that allotment served as the only way to spare Indians from inevitable extinction. At the same time, these people did not mind destroying what they saw as an inferior culture to “save” the natives.¹⁶¹

U.S. government officials also stated private property moved the Indian toward civilization as a yeoman farmer, but also saw it as a way to end tribal nations. The policy found almost unanimous support by anyone involved in Indian affairs. Legislators characterized Indian land as property of the federal government and that tribes occupied the area at the president’s consent. Despite the binding treaties regarding land ownership, officials maintained that since both parties broke the agreements, they became void.¹⁶²

Despite support from reformers and the government, allotment revolved around settlers and railroads clamor for land. Many Americans stated since the Indians did not use all of their land, it should be sold for the use of others. Once the Cherokees made it clear they would not sell their land, these interest groups switched to achieving the destruction of the nation. Railroad companies had long interfered in tribal politics and lobbied for excess land. Congress even promised the companies land grants in Indian Territory once they ended native titles. Many merchants also viewed the area as a barrier blocking trade between eastern and western U.S. Homesteaders consisted of the greatest pressure for allotment as thousands sought land unavailable elsewhere. They knew once Indians held titles individually, they could easily be persuaded to sell. Despite the claims of the reformers for saving the Indian, and the government for assimilation, the true motivation for allotment remained the theft of tribal land.¹⁶³

During the allotment era, factionalism reemerged despite an official stance of the Cherokee government against the policy. These divisions served as the fatal flaw in the defense against private ownership as Indians argued over how to respond the proposals of the U.S. While factionalism of this period did not always follow blood quantum, most of the time full bloods opposed allotment while the mixed bloods favored assimilation. Despite different political maneuvering, the Cherokee government maintained a stance against negotiating, with one official stating if allotment occurred, the people would become like the American poor who did “not own a foot of the earth’s surface in which they could be buried.”¹⁶⁴

Generally, full bloods opposed allotment because they did not believe in private ownership. Many knew that the U.S. government wanted to destroy the Cherokee Nation,

along with their culture and eventually the people themselves. They usually rejected any assimilation and strove to preserve the traditional ways, believing the tribe's difficulties resulted from turning away from their heritage. For full bloods, communal land also represented security and remained more important than economic opportunity. Importantly, many remained incapable of unrestricted interaction with white Americans as many did not speak English or understand markets and trade.¹⁶⁵

Cherokee officials used the full bloods and their associated image as “weak and unenlightened” to argue against a change in U.S. policy, which became a debate over the best action for the traditionalists.¹⁶⁶ In previous arguments, the tribe stated their progressive achievements gave them the right to be left alone. However, they changed their strategy to pointing out that due to the uncivilized state of most of the people, they needed to prepare and help those people first before any federal interaction. Tribal officials stated the full bloods (who supported the argument for them) remained the most vulnerable to allotment and needed paternal care, with the Cherokee system protecting them better than any humanitarian ideas. The Indians stated that until the traditionalists became ready for economic competition, the communal land system should remain.¹⁶⁷

At the same time, most mixed bloods, even some tribal officials, embraced allotment and assimilation. Many of these people had intermarried with whites and already settled large farms, industries, business, and maintained commercial interests. With mixed bloods making up most of the wealthy elite of the tribe, the social differences intensified with allotment as the traditionalists lived in poverty. A few well known citizens, such as Elias C. Boudinot, favored the sale of land because they sought to profit through affiliation with railroads and businesses. Many had urged the tribe to voluntarily switch

to private ownership long before the federal government. Other groups joined the mixed bloods in supporting the policy, such as freedmen, who would receive their own land. Between the two defined factions, however, most Cherokees saw allotment as inevitable.¹⁶⁸

During the 1870s elections, Cherokee politics portrayed the dissension over U.S.-Indian policy and factionalism. In 1873, Chief Downing dies and William P. Ross received election to Principal Chief. During this time, parties shifted, becoming based on blood ideas and economic interest and class. A form of populism emerged, with the full bloods dominating the Downing Party and working for class interests.¹⁶⁹

Along with class loyalties, the factionalism from removal and the Civil War continued. Stand Waite died in 1871, with James M. Bell taking leadership of the Waite group, which became known as the Bell-Boudinot faction. These people, mostly related by family ties and Civil War alliances, opposed Ross, as well as the Downing Party. Bell-Boudinots remained an alienated group throughout the 1870s and lobbied for the opening of Indian Territory, but never formed an opposition political party.¹⁷⁰

By the tribal campaign of 1875, Cherokee politics shifted, with the full bloods gaining the majority of power. By elections, Ross had alienated the mixed bloods by limiting annuity payments to those “of blood” and the full bloods by not living in the traditional ways. Hard economic times also worked against the chief, with the populists opposing him. Later in 1879, Dennis Bushyhead and Rabbit Bunch formed the National Independent Party to work against both the Downing Party and Ross.¹⁷¹

The election of 1875 proved as bitter and bloody as the divisions of the 1840s. The Downing Party selected Charles Thompson, a full bloods spokesperson, as its

candidate. The National Party worked with Ross as their candidate. Beginning in the previous year, relations between the two parties escalated to violence. Political killings occurred on both sides during 1875, with Ross appealing to Fort Gibson for troops. He did not receive the assistance and only further alienated the Cherokees by requesting outside interference. At the end of the election, both parties claimed a victory and several hundred armed men gathered in Tahlequah. In the first few weeks of November, the National Council examined the ballot and found that Thompson won by eleven votes.¹⁷²

During his time as chief from 1875-79, Thompson called for full blood domination. He served as the second and last full blood chief elected after 1827. He labored to restore traditional ways to the tribe and opposed any outside interference. Supporting the new leadership, the Keetoowah society reorganized as a political power, joining with the Downing Party, to oppose mixed blood corruption. During the 1870s, Congress reviewed several territorial bills, which would include the Cherokee Nation, and Thompson sent delegates to Washington, DC to oppose them. At the same time, Elias C. Boudinot and James Bell worked with railroads and businesses, sending their own delegates to support territorialization as a way to line their own pockets. Despite Thompson's fervent action and the defeat of the bills, factionalism prevented any real progress.¹⁷³

The next Cherokee elections, held in 1879, featured the same divisions but without as much violence. Due to poor health, Thompson declined to run again. The National Independent Party selected Dennis Bushyhead while the Downing Party ran David Rowe. Without significant conflict, Bushyhead won the election and served as

principal chief until 1887. During his two terms, he dealt with issues including railroad rights-of-way, education, white intruders, and the pressing allotment issue.¹⁷⁴

The next elections in 1887 featured Joel B. Mayes on the Downing ticket and Rabbit Bunch on the National Party. In August, Mayes received the office of principle chief, but with controversy. Bunch's followers refused to allow Mayes to take his position and armed members of both sides arrived at Tahlequah. In January 1888, armed Downing Party members invaded the executive offices and installed Mayes as chief. Bushyhead willingly retired, preventing bloodshed. An eighth Cherokee, Mayes served from 1887-91 and identified with the people. The new principal chief dealt with allotment as the events unfolded and pressure increased from the federal government.¹⁷⁵

With lobbying for allotment beginning much earlier in the nineteenth century, Congress did not legislate the policy until the 1887 General Allotment Act, also known as the Dawes Act. The act gave the federal government the authority to assess and divide tribal lands and replace Indian governments with that of state and local jurisdiction. Directly, the president oversaw the surveying of territory, preparation of tribal rolls, and the assignment of lots. The law stated tribal land would be divided into one hundred sixty acres per head of household, eighty acres to single people over eighteen and orphans, and forty acres to remaining single people under eighteen. The land would be held in trust for twenty five years, ineligible for sell or lease without permission of the government. The land remained exempt from taxes for the twenty five years to enable the owner to raise a successful farm. Indians could choose their own land within four years, but if they refused, officials would assign it for them. Along with land, upon acceptance of private property, the native received U.S. citizenship and became subject to territorial laws.

Surplus land remaining belonged in U.S. public domain and opened for settlement.

Although the Five Civilized Tribes remained exempt from the act, allotment became an unavoidable topic.¹⁷⁶

As the pressure for negotiations and private ownership increased, Chief Mayes died in 1891. The National Council selected C.J. Harris to serve the rest of the term until 1895. Harris spent his term dealing with the application of allotment to the Five Civilized Tribes. Harris negotiated the sale of the Cherokee Outlet, dealing with the Jerome Commission, along with the Dawes Commission.¹⁷⁷

During the allotment of the rest of the tribes, the U.S. created the Jerome Commission as politicians and settlers coveting the six million acre Cherokee Outlet and wanted to persuade the Cherokees to sell. Consisting of David H. Jerome, Alfred M. Wilson, and Warren G. Sayre, the commission began negotiations in 1889, also working to persuade the Cherokees to accept allotment. Like the Dawes Commission, the tribe remained uninterested in negotiations for the loss of their lands.¹⁷⁸

The Cherokees especially opposed the sale of the Outlet, especially since it served as the nation's primary source of income. In 1883, the tribe had leased the land to the Cherokee Livestock Association, a group of Kansas cattlemen, for \$100,000 a year. In 1889, they received \$200,000 for a renewed lease. The cattlemen themselves opposed allotment and the sale of the lands because they knew they received a better deal for the land from the tribe than they would the U.S government.¹⁷⁹

In 1889, to force the Cherokees to sell the Outlet to the U.S., the government utilized several strategies. President Harrison announced no livestock could graze in the area, ending the lease with the Cherokee Livestock Association, depriving the nation of a

large part of its operating budget. Congress also announced the tribe should sell because the government would support illegal settlement of the Boomers rather than respect treaty obligations. The feds then argued that a portion of the 1866 treaty gave the U.S. the right to the title of the Outlet if the tribe did not currently use the land, and deemed leasing did not constitute active use. They also called the Outlet lease illegal, since by treaty the U.S. could purchase the land.¹⁸⁰

With the loss of income from the Outlet, the Cherokees began negotiations for the sale. They engaged the service of two law firms to stall legislation calling for forced acquirement of the Outlet. Chief Mayes believed that the nation, as the seller, should stall bargaining so the land's property value would increase. The Jerome Commission offered \$1.25 per acre, but the tribe refused because they had previously received an offer of \$3 per acre. Both sides haggled over value of the Outlet, delaying an agreement until 1892.¹⁸¹

Jerome Commission and Cherokee delegates jockeyed for the upper hand position in meetings. The officials recognized the Indians as intelligent and skilled politicians, and therefore refrained from the usual implied threats and half truths utilized against less educated leaders. At the time of the ending of the negotiations, the Cherokees endured a hard year, which lowered their bargaining position. After both sides realized the deadlock over price, in December 1892, the Cherokees stated they made their final offer. The Jerome Commission promised an additional \$80,000 for the land, which the Indians refused but stated they would accept \$8,595,736.12. The commission agreed, and submitted the agreement by which the U.S. purchased the 6,022,754 acres. The Cherokee

National Council quickly ratified with a majority of voters approving it January 4, 1892, and each citizen received a payment of \$265.65.¹⁸²

During the negotiations between Jerome and the Cherokees, the settlers in Indian Territory called for their own government. On May 2, 1890, the Organic Act created Oklahoma Territory. The act also provided rules for its governance, and originally applied to the unassigned lands, opened to settlement in 1889 but eventually combined the Oklahoma District and Cherokee Outlet. Territorialization, besides the violation of numerous treaties, meant the continuance of assimilation and eventual dissolution of tribal government.¹⁸³

Due to previous lobbying and negotiating, the Five Tribes remained exempt from the Dawes Act, mostly because Congress needed to deal with the legal issues raised by changing title to their lands discussed in previous treaties. In order to enforce allotment, the federal government had to negotiate and achieve an agreement from each of the Five Tribes. Despite the exclusion of the five tribes, the intent of the government remained clear. In 1893, Congress passed an amendment to the act that included the five tribes. The U.S. created the Dawes Commission, headed by the reforming senator, to bring allotment to the Five Civilized Tribes.¹⁸⁴

Initially consisting of Henry L. Dawes, Meredith Helm Kidd, and Archibald S. McKennon, the Dawes Commission traveled throughout Indian Territory in an attempt to secure agreements for allotment from 1894-6. The members spent the initial time trying just to obtain responses from Indian leaders and attending tribal council meetings to describe the advantages of private property. When writing chiefs upon arrival in the area in January 1894, only the Creeks and Cherokees responded. In the beginning, the

commission's approach assured the natives they maintained a say in their future while threatening them politely. They found tribal governments no longer useful and warned if they did not negotiate, the U.S. could not protect them from assaults of squatters, businessmen, and Congress.¹⁸⁵

In May 1894, Kidd wrote to Chief Harris requesting a meeting to discuss allotment. In the letter, Kidd informed Harris that the U.S. would impose the policy and take charge of their government regardless. Upon the first meeting, Harris told the U.S. officials he did not have legitimate authorization to negotiate. He stressed that the tribe "opposed any kind of change," especially allotment. After recent pressure to sell the Outlet, Harris and other Cherokee leaders knew the threat the Dawes Commission posed.

186

The commission sent the tribe an official written proposal on July 25, 1894, when visiting the nominating conventions of the Downing and National parties. The offer provided that the Cherokees would divide their lands, not including town sites and minerals for sale under special agreements. Each citizen would receive land to remain inalienable for twenty five years. While sending stipulations to the Cherokees, the commission failed to mention how much they would pay for surplus land, an important issue when the valuable tribal land averaged ten dollars per acre. Harris stated he could not meet due to the end of his term as chief but promised to submit the proposal for negotiations to his successor.¹⁸⁷

In an uneventful election, the Cherokees chose Samuel Houston Mayes, brother of Joel B. Mayes, as principal chief. He served from 1895-99, during the most difficult period of allotment. Mayes dealt with the Dawes Commission as they worked to allot

land to individual Cherokees, still in opposition. Several times he refused to meet with Dawes officials, stating the nation remained forever opposed to any change. Even worse, Mayes faced the legislation that officially marked the end of tribal governments.¹⁸⁸

When the Dawes Commission failed to find any tribal leaders willing to negotiate, they traveled throughout Indian Territory to speak with all citizens. Most full bloods opposed allotment, so the officials would find those who supported the policy to promote the U.S. agenda. Due to factionalism and personal slights, several natives remained critical of their governments. They told stories of corruption from the mixed and white elite. These discontented citizens provided the commission and Congress with all the evidence needed to attack tribal government. With this useful information, the Dawes Commission returned to Washington, DC in late 1894.¹⁸⁹

The Indian Appropriation Bill of 1893 required the commissioners to report their progress to the Secretary of the Interior. The commissions filed its first report on November 20, 1894, explaining they had not achieved any progress because the tribes refused to accept allotment. The report also described the bad conditions in Indian Territory, describing the land as overrun by white squatters, who with tribal elites exploited land. Many Americans had married to Indian women and took over large portions of territory. The commission stated the resistance they encountered came from the crooked, who wanted to keep their property and power.¹⁹⁰

Also in the report, the commissioners launched an attack against tribal government by describing them as run by the corrupt mixed blood elites and whites at the expense of the full bloods. Due to the supposed incompetent governments and courts, robbery, violence, and murder went unpunished. In the negligence of order, the officials

stated the natives violated treaties, in which they held land in trust from the U.S. Dawes recommended the U.S. revoke the Indians' autonomy and either enforce treaty stipulations or "discharge the trustees."¹⁹¹ The commission adopted the stance that Congress should ignore treaties and proceed with allotment and break up tribal relations.¹⁹²

The first report of the Dawes Commission caused controversy from various sources. Critics in Washington, DC stated the officials misrepresented information to Congress to open land for settlers. Once printed and widely distributed, the report caused further reaction and uproar amongst the Indians. Each of the five tribes sent delegations to Washington, DC to counter the resulting sentiment against tribal government. Cherokee Chief Mayes called the allegations "all a lie, false as hell."¹⁹³ The National Council sent a six page reply to Washington, DC on December 8, 1894.¹⁹⁴

Returning to Indian Territory, the Dawes Commission established headquarters in Muskogee, expanded to five members with Alexander Brooks Montgomery and Thomas Banks Cabanis in 1895, and began surveying Cherokee lands. Major General Frank C. Armstrong, a Choctaw and seen as a "friend of the Indian," replaced the irritable and blunt Kidd. As in the previous year, tribes avoided meeting with the officials, always stating the lack of authority to negotiate until their legislatures granted it, which refused to take any action.¹⁹⁵

With the same failure of that in the first year, the commission returned to Washington, DC to give its second report on November 18, 1895. The officials repeated most of the original information, stating that conditions of affairs had not improved since 1894. Importantly, the report emphasized the belief that Indians remained incapable of

self government. Dawes stated he felt it impossible to accomplish his goals through negotiation and recommended Congress take control of the area and establish a territorial government.¹⁹⁶

The second report caused the same controversy as the first, causing similar reactions. Chief Mayes sent a twenty seven page letter to Congress on January 15, 1896, in reply. He stated the commission misrepresented conditions and denied allegations of lawlessness and corruption. Mayes said Cherokees remained “contented with their condition,” citing examples of Supreme Court cases to prove the federal government had “no authority to legislate away their treaty rights.”¹⁹⁷

Frustrated by the Dawes Commission’s lack of results, Congress passed the first in a series of acts that increased its powers with the ability to impose allotment, hindering tribal sovereignty. In February 1896, the Committee on Indian Affairs gave the commission the authority to determine the citizenship of each tribe, creating rolls the government would utilize for enrollment for allotment. Many other legislators opposed harsher bills to organize Indian Territory, but President Cleveland continually favored negotiation in dealing with natives.¹⁹⁸

In May 1896, the commission returned to Indian Territory for the third time, establishing its headquarters in Vinita, Cherokee Nation. The officials began processing applications for citizenship, as well as continuing to negotiate allotment agreements. Dawes decided to use existing tribal rolls and add names left off due to corruption and political reasons. After issuing a circular on July 8, 1896, Dawes began receiving letters from people all over the U.S., inquiring how they could “get on the rolls so they could get Indian land.”¹⁹⁹

The process of determining citizenship proved difficult with only three clerks, disorganization, and a limited time period. Congress required the officials to decide on an application, which required a signed and sworn statement supporting the claim, within ninety days of receiving it and authorized any people denied to appeal in the federal courts of Indian Territory. Each application also had to be sent to the tribal chief, who had to answer within thirty days. Tribes themselves hired lawyers to prevent the commission from adding thousands of people, many considered intruders, to the rolls who never held rights to the nations. The bureaucrats use blood quantum to exclude some natives who could not prove they held at least one-half Indian blood. Controversy abounded over whom to include on rolls, which determined shares of tribal land and property worth hundreds of millions of dollars.²⁰⁰

The Cherokees vehemently opposed the officials. Some delayed the policy by giving enrolling officers the names of all the dogs and horses in the village for the assignment of a lot. Others refused to put their names on the rolls or answer questions, with many retreating and settling deep into the hills. Mixed bloods mostly cooperated while the full bloods tried to avoid enrollment. Even more controversial, several Cherokee leaders opposed the allocation of land for freedmen, who Dawes included in his rolls with all the rights of citizenship.²⁰¹

The Dawes Commission accepted citizenship applications until September 10, 1896, and afterwards sought to enroll tribal citizens. After the commission finished, the federal court reviewed appealed cases. In the end, the officials denied two-thirds of the 300,000 people who applied for enrollment. Under the law of Congress, the Dawes Rolls

remained the final authority on tribal membership. The commission continued survey work from 1896 to 1907 when the rolls finally closed.²⁰²

After the rolls, the Dawes Commission sought to enroll each tribe for allotment. Tired of fighting with tribal governments, especially the Cherokees who refused to negotiate, Congress debated various legislation. In 1897, the change of administration increased the likelihood of allotment. President Cleveland had always favored negotiation, while his successor, William McKinley, remained willing to use the power of the government. Groups eager for economic gain pushed for these bills and statehood while the leaders of the Five Tribes faced weakening by internal dissension. Out of these interests came the Curtis Act in 1898, which officially ended federal recognition of tribal sovereignty. The act terminated tribal governments and instituted a civil administration for the territory, officially requiring citizens to submit to allotment, which paved the way for statehood of the territory. Any legislation passed by Indian councils after 1898 required the approval of the president, further undermining authority. The federal government, no longer recognizing tribal nations, assumed authority over civil and criminal issues in Indian Territory, ending native jurisdiction. The act allowed the tribal governments to continue in limited form until the process of allotment finished in 1906. After ending the complete independence of tribes, the Curtis Act authorized the Dawes Commission to begin allotment as soon as they completed the citizenship rolls, with or without consent of the natives.²⁰³

By 1898, the Dawes Commission had signed agreements with all of the Five Civilized Tribes, except for the Cherokees. The Curtis Act seemed to specifically counter the opposition of the full bloods, who refused to talk with the commission, even

specifically demanding to make rolls of the freedmen. After the legislation, the officials gained the authority to enroll all citizens and punish anyone hindering their work. The Cherokees attempted to fight the act in court because it violated treaties but eventually had no choice but to negotiate allotment.²⁰⁴

Despite the Curtis Act, the Cherokees held an election in 1899. Wolf Coon ran for the National Party and Thomas Buffington represented the Downing Party. Despite making no active campaign, Buffington won by a majority of about four hundred votes. During his term 1899-1903, Buffington served during the final arrangements of allotment and the dissolution of tribal government. As a supporter of the government's policy, he spent most of his time attempting to reconcile his people to an acceptance of their new status as many full bloods rebelled.²⁰⁵

The Dawes Commission did not begin the enrollment of the Cherokees until eighteen months after the passage of the Curtis Act. The officials waited because as the largest of the Five Tribes, they had the potential to cause issues and they had previously refused to meet. Allotment remained complicated for the tribe because they had adopted Delaware Indians on April 8, 1867, and the ambiguity of the signed document led to a disagreement over property rights. Similar conflicts occurred over the adopted Shawnees of June 7, 1869. Nevertheless, the commission continued enrollment and detailing tribal rolls.²⁰⁶

After forced negotiations, on January 7, 1899, the Cherokee delegates agreed to submit to a vote of the people an agreement on allotment of land and dissolution of their tribal government. On January 31, a majority of citizens voted for the agreement. Many realized holding out against the policy had actually cost them more favorable terms and

now viewed private ownership as inevitable. For an unknown reason, Congress refused to ratify the agreement, but passed a different negotiation that took effect in April 1900. Each citizen received an equal share of tribal lands in the form of eighty acres and an equalization payment from the proceeds of excess lands. The property would remain in trust for twenty five years, ineligible for sale, lease, or taxation. At the end of the term, the Indian would receive a title and full rights to the land. The Dawes Commission began their work amongst the Cherokees in the spring of 1902, the same year the tribe signed their official allotment contract. Dismantling of the Cherokee government began in 1903²⁰⁷

While the majority of the tribe resigned themselves to private ownership, a few full bloods continued to rebel. The Keetoowah Society actively opposed allotment, beginning in the 1890s. As the implementation began, they harassed government officials until their leaders faced jail time. The group softened its anti-allotment stance around 1900 but many full bloods did not wish to surrender the fight. Redbird Smith, a National Council member, formed a more traditional Nighthawk Keetoowah Society, a party that soon had 5, 500 members.²⁰⁸

Smith kept the opposition going, vowing to return the tribe to traditional ways. The Nighthawks called for the Americans to honor the old treaties and leave the Cherokees alone. Smith sent a petition to Washington, DC on November 1890, which stated the Nighthawks did not “recognize the right or authority of the officers of the U.S.” to make a roll of the Cherokees. They gave notice that “Keetoowah or full blood, Cherokees will not be enrolled...except under protest.”²⁰⁹

As resistance grew, the federal government became more aggressive in the enrollment of Indians, sending out U.S. Marshals to force people to enroll. Smith and his people faced jail and fines as they hid from the U.S. officials in the eastern hills. In February 1902, the U.S. Court at Muskogee ordered Smith and eleven other Cherokees to appear at its office on March 15, 1902 to be enrolled. Smith appeared but refused to enroll and the court ordered the group “be confined in the U.S. jail until they do enroll.”²¹⁰ After a night in jail, the Nighthawk leader appeared before the Dawes Commission, which enrolled him as three-fourths Cherokee and his children. Many of the others finally registered, but some adamantly refused. The Dawes officials enrolled the remaining rebels without their consent.²¹¹

In the 1903 Cherokee elections, Buffington failed to gain renomination and instead William C. Rogers ran for the Downing Party against E.L. Cookson for the National Party. Rogers won and served as the last elected chief until 1905. Since the Cherokee government only existed to finish allotment, Rogers’ role remained mostly honorary, as the U.S. had assumed all major functions of the nation.²¹²

As the Cherokee people still opposed allotment, they began to view Rogers as too cooperative with the U.S. government. When the chief refused to call the usual biennial election of the National Council, the council members held their own elections. In November 1905, the Council impeached Rogers and chose Frank J. Boudinot, a Keetoowah, as a replacement. Rogers took the matter to Washington, DC, where he met personally with the Secretary of the Interior. The U.S. government reinstated Rogers, who served until 1914.²¹³

elect Frank J. Boudinot to the position. This gesture was influenced largely by an element in the tribe who were dissatisfied with the entire allotment policy. Chief Rogers carried the entire matter to Washington, in person, and received the approval of the Secretary of the Interior.

In 1906, Congress further clarified the American Indian's place within society with the Burke Act. The legislation withheld U.S. citizenship until the end of the twenty five year trust period or until the allottee received a fee patent from the Secretary of the Interior, who received the authority to lift the trust restrictions on individuals deemed competent. He also determined the legal heirs of a deceased allottee and if the land should be sold. The Indians who lived apart from their tribes and adopted American life became citizens automatically, entitled to all rights and privileges. Lastly, the act stated natives would remain under the jurisdiction of the new Bureau of Indian Affairs. The Burke Act supposedly served a paternalistic manner in that some believed if the Indian received citizenship early, they would be cheated out of their property. Ironically, with the Secretary of the Interior giving title to allottees ignorant in the ways of sale and leasing, many lost their lands to those same immoral people.²¹⁴

With the surplus lands sold during allotment, the incoming people of Oklahoma Territory called for statehood, which would include Indian Territory. Statehood served as a further violation of tribal sovereignty. Cherokees believed it would lead to the dismantling of their nation and open their land for further white settlement. In a final attempt to retain some form of independence, the Five Civilized gathered in Muskogee in August 1905 to draft a constitution for their own state. Calling the new state Sequoyah,

the Indians submitted their petition and constitution to Congress in 1906. The U.S. government refused to consider the idea and continued with the idea of a joint state.²¹⁵

Edging closer to statehood, Congress passed the Enabling Act on June 16, 1906, which combined Indian and Oklahoma territories and gave the federal government the authority to oversee the last duties of the Five Tribes as sovereign nations. Finally, on November 16, 1907, President Theodore Roosevelt declared the combined territories the state of Oklahoma, which made the Cherokees citizens of the new state. Roosevelt commented, “The Cherokees are a bright and intelligent race, better fitted to follow the white man’s road than any other Indians.”²¹⁶ The Cherokee Nation officially no longer existed as a sovereign government.

During the remaining enforcement of allotment, tribal councils continued in a limited form to help settle business. The U.S. officially declared the Cherokee government terminated on March 3, 1906. The rolls and dealings of the Cherokees ended in 1907. Even with the end of the nation, the government still needed a central figurehead for negotiations. The Act to Provide for the Final Disposition of the Five Civilized Tribes gave the Department of the Interior control over Indian schools, government buildings, and tribal funds. After the passing of Chief Rogers in 1917, the president appointed a succession of Cherokee men to serve as “chief for a day” whenever a legal document needed signing. If a chief refused to sign, he could be removed or the document approved by the Secretary of the Interior. However, with land transfers of allotment so complex, the Cherokee government continued in limited form until June 30, 1914. Sovereignty had ended.²¹⁷

Allotment officially ended in 1914, with private ownership the forced life of the Five Civilized Tribes, with the surplus lands of 3,174,988 acres sold to settlers. Congress abolished the Dawes Commission on August 1, 1914. The government transferred the commission's unfinished business to the Five Civilized Tribes Agency in Muskogee, Oklahoma. The U.S. considered the Indian problem solved.²¹⁸

The allotment era dramatically changed Cherokee life and defeated their struggle for sovereignty, marking the end of Indian independence for over fifty years. At the time, tribal lands and governments believed to be inseparable sources of power to control resources and live under Cherokee laws. When natives became U.S. citizens, tribal governments lost legal control over them and with private property, the Cherokee officials lost the land base of their authority. During the resistance to the Dawes Commission, instead of a united front, the Cherokees (as well as every other person involved) acted in their own self-interest and followed factional loyalties, which undermined any opposition. With these distractions, the U.S. government capitalized on internal fissures, ending not only communal landownership and Indian identity, but also any vestige of tribal sovereignty.²¹⁹

Conclusion

After the Cherokee government officially ended in 1906, it functioned in limited form to divide land until 1914. After allotment ended, the U.S. appointed “chiefs for a day” to sign documents, always choosing men favorable towards the government. The early twentieth century served as a low point for Indian sovereignty, with changing policies that did not become favorable until the 1970s.

In the 1930s, the U.S. passed legislation such as the Indian Reorganization Act, the Indian Welfare Act, and officially made Native Americans citizens of the U.S. In the 1950s, the U.S. adopted a termination policy, in which it sought to end all special privileges and negotiations with natives. The 1960s saw a rise in American Indian activism, with the creation of the American Indian Movement and other similar groups.

In the 1970s, policies of self determination enacted by presidents Lyndon B. Johnson and Richard Nixon enabled the rebirth of the Cherokee Nation. In 1971, the people elected the first Principal Chief since 1902. The tribe enacted a new constitution in June 26, 1978, to replace that of 1839, modernizing and adding provisions. The new constitution differed from the 1839 document as it redefined Cherokee citizenship, originally not mentioned. It stated that members of the nation must prove their citizenship by showing their ancestry from the Dawes Rolls.

Citizenship became an important issue for the Cherokees. In the 1970s to today, citizenship has become a controversial issue, especially relating to the exclusion of freedmen descendents. With several court cases and federal intervention, the freedmen rolls have continued the tribe’s struggle for sovereignty today.

On July 7, 1983, the Cherokees denied freedmen descendants Reverend Roger H. Nero and five others from voting in an election, who sent a complaint to the civil rights division of the Department of Justice. On June 18, 1984, the descendants filed a lawsuit against Principal Chief Ross Swimmer, the U.S., and the Bureau of Indian Affairs. The freedmen lost the case because of jurisdictional issues but marked the beginning of a legal battle for the sovereign right of determination of citizenship.

In 2001, another freedmen descendant, Bernice Riggs, sued the tribal registrar for citizenship in *Riggs v. Ummerteskee* in the Cherokee Supreme Court. Riggs lost the case because her ancestors were only on the freedmen rolls and the Cherokees maintained that only those on the Cherokee, Shawnee, and Delaware rolls maintained membership. In 2003, the Cherokees amended the constitution to include the latter clause.

In 2004, the next freedmen case featured Lucy Allen, who challenged the Riggs decision based on the fact that the 1975 constitution did not specifically exclude freedmen and that the 2003 amendment remained illegal. The Supreme Court ruled two to one for Allen. Shortly after, the Tribal Council voted thirteen to two to amend the constitution to require Indian blood for Cherokee citizenship.

The freedmen descendants protested over the illegal action of the council, since such a ruling required a special election of the entire tribe. An election on March 3, 2007, resulted in the eviction of freedmen descendants from Cherokee rolls by a seventy seven percent margin.

During these internal conflicts, the federal government intervened after repeated petitions from freedmen descendants. On May 22, 2007, the B.I.A. declared the amendments to the 1975 constitution illegal because the tribe had not requested federal

approval. On May 15, 2007, a Cherokee District Court Judge reinstated freedmen citizenship temporarily while appeals went through the tribal court system.

Marilyn Vann, of the Descendants Of Freedmen Of the Five Civilized Tribes, filed a case with the U.S. Federal Court over the disenfranchisement of the descendants. On December 19, 2006, Federal Judge Henry Kennedy ruled the freedmen maintained the right to sue, despite Cherokee claims of sovereign immunity. On July 29, 2008, the Washington, DC Circuit Court of Appeals ruled the Cherokee Nation remained protected by sovereign immunity, but its officials did not.

On June 21, 2007, U.S. Representative Diane Watson from California introduced House Resolution 2824, which sought to end Cherokee Nation's federal recognition, funding, and gaming operations if the tribe did not recognize freedmen. On September 26, 2008, Congress cleared the housing bill 2786, which stated the U.S. would withhold federal housing benefits if the freedmen remained excluded.

Today, the issue still circulates through the courts. The ability to determine the citizens of a nation remains a vital right of a sovereign nation. Any limitation by the U.S. again limits the autonomy of the Cherokees. As the federal government intervenes once again, the Cherokees remain divided.²²⁰

Conclusion

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Cherokee Phoenix, April 24, 1828, Microfilm Roll 30,820, Newspaper Collection, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, xii-xiii, 1.

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⁶¹ *Cherokee Nation v. Georgia*, 30 U.S. 1 (U.S. Supreme Court, 1831); *Worcester v. Georgia*, 31 U.S. 515 (U.S. Supreme Court, 1832); Levy and Karst, eds. *Encyclopedia of the American Constitution*, 344; Perdue and Green, eds. *Cherokee Removal*, 68.

⁶² *Cherokee Nation v. Georgia*, 30 U.S. 1 (U.S. Supreme Court, 1831); Perdue and Green, eds. *Cherokee Removal*, 68; "Biographical Sketch of William Wirt," Box 18, Folder 1, Collection Number 2006.20, Gary Moulton Papers, 1807-66, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, xiv.

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⁶⁵ Worcester v. Georgia, 31 U.S. 515 (U.S. Supreme Court, 1832); Minnesota Indian Affairs Council, “American Indian Tribal Sovereignty Primer,” Minnesota Indian Affairs Council, American Indian Research and Policy Institute, University of Minnesota, Minnesota Extension Service, Center for Regional and Urban Studies, <http://www.airpi.org/pubs/indinsov.html>, (accessed October 27, 2009); Norgren, *The Cherokee Cases*, viii, 1-2; Worcester v. Georgia, 31 U.S. 515 (U.S. Supreme Court, 1832); Levy and Karst, eds. *Encyclopedia of the American Constitution*, 344; Perdue and Green, eds. *Cherokee Removal*, 19, 69.

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⁷¹ Congress. *Indian Removal Act of 1830*. 21st Cong., 1st sess. Library of Congress, <http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsl004.db&recNum=458> (accessed October 27, 2009); Norgren, *The Cherokee Cases*, 85.

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⁷⁴ Congress. *Indian Removal Act of 1830*. 21st Cong., 1st sess. Library of Congress, <http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsl004.db&recNum=458> (accessed October 27, 2009); Norgren, *The Cherokee Cases*, 48, 51-2, 85-6; *The Cherokee Phoenix*, June 11, 1828, Microfilm Roll 30,820, Newspaper Collection, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 2.

⁷⁵ *The Cherokee Phoenix*, April 24, 1828, Microfilm Roll 30,820, Newspaper Collection, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma.

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⁷⁹ *The Cherokee Phoenix*, December 30, 1829, Microfilm Roll 30,820, Newspaper Collection, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma; *The Cherokee Phoenix*, January 20, 1830, Microfilm Roll 30,820, Newspaper Collection, Research and Archives Division, Oklahoma History Center, Oklahoma City, Oklahoma; "Memorial and Protest of the Cherokee Nation." Folder 5. Box 3. Collection Number 2006.20. Gary Moulton Papers. Research and Archives Division. Oklahoma History Center. Oklahoma City. Oklahoma.

⁸⁰ Perdue and Green, eds. *Cherokee Removal*, 19.

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- ⁹² Wilkins, *Cherokee Tragedy*, 318-19; McLoughlin, *After the Trail of Tears*, 10; Rogers, *Ani-Yun-Wiya*, 201; Clark, *Cherokee Chief*, 82.
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- ⁹⁴ "Resolution of the National Council of the Eastern Cherokees, June 19, 1839." Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 10-13; Wilkins, *Cherokee Tragedy*, 319.
- ⁹⁵ Wilkins, *Cherokee Tragedy*, 319-20; McLoughlin, *After the Trail of Tears*, 11; Rogers, *Ani-Yun-Wiya*, 201.
- ⁹⁶ McLoughlin, *After the Trail of Tears*, 11-12.
- ⁹⁷ "Letter from John Ross to General Arbuckle, August 7, 1839." Folder One, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Papers. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 201; Wilkins, *Cherokee Tragedy*, 320; McLoughlin, *After the Trail of Tears*, 12.

⁹⁸ Sequoyah was also known as George Guess. He had lived in the Western Cherokee Nation since 1824, but believed in unity over factionalism.

⁹⁹ “Resolution of the Combined Council. Signed by Guess and Bushyhead.” June 20, 1839. Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 13-14; Rogers, *Ani-Yun-Wiya*, 201.

¹⁰⁰ Cherokee Constitution, 1827, New Echota, Document: tl217, Tennessee Documentary History, 1796-1850, A University of Tennessee Digital Library Database, Collections University of Tennessee, Knoxville, Tennessee;

McLoughlin, *After the Trail of Tears*, 15-16; Wilkins, *Cherokee Tragedy*, 321; Anderson, ed. *Cherokee Removal*, 113; Sturm, *Blood Politics*, 64.

¹⁰¹ “Letter from General Arbuckle to John Ross, 1839.” Folder One, Box Five. Wilkins, *Cherokee Tragedy*, 321; McLoughlin, *After the Trail of Tears*, 16. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 201; Wilkins, *Cherokee Tragedy*, 322; Nicole Claro, *The Cherokee Indians* (New York: Chelsea House Publishers, 1992), 60; Sturm, *Blood Politics*, 64; Clark, *Cherokee Chief*, 82-3; Conley, *The Cherokee Nation*, 160.

¹⁰² John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Wilkins, *Cherokee Tragedy*, 325; McLoughlin, *After the Trail of Tears*, 16-7; Claro, *The Cherokee Indians*, 60; Rogers, *Ani-Yun-Wiya*, 202.

¹⁰³ “Letter from Ross to Arbuckle, June 23, 1839.” Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Arbuckle to Ross, June 23, 1839.” Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Wilkins, *Cherokee Tragedy*, 325; Rogers, *Ani-Yun-Wiya*, 201-07; McLoughlin, *After the Trail of Tears*, 17.

¹⁰⁴ “Letter from Arbuckle and Armstrong to Ross, September 28, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Sturm, *Blood Politics*, 64; McLoughlin, *After the Trail of Tears*, 17; “Letter from Arbuckle to Ross, June 24, 1839.” Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 201, 204.

¹⁰⁵ “Letter from Ross to Arbuckle, November 4, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Ross to Arbuckle and Armstrong, September 30, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Arbuckle to Ross, September 14, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Arbuckle to Ross, November 2, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 201, 204; Wilkins, *Cherokee Tragedy*, 327; McLoughlin, *After the Trail of Tears*, 25.

¹⁰⁶ Sturm, *Blood Politics*, 64; McLoughlin, *After the Trail of Tears*, 16-17.

¹⁰⁷ Rogers, *Ani-Yun-Wiya*, 202; McLoughlin, *After the Trail of Tears*, 18.

¹⁰⁸ McLoughlin, *After the Trail of Tears*, 17-18; Rogers, *Ani-Yun-Wiya*, 202.

¹⁰⁹ “Letter from Ross to Arbuckle, 1839.” Folder One, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society.

Oklahoma City, Oklahoma; Wilkins, *Cherokee Tragedy*, 325-6; Rogers, *Ani-Yun-Wiya*, 202; McLoughlin, *After the Trail of Tears*, 17-8.

¹¹⁰ “Letter from Arbuckle to Ross, July 14, 1839.” Folder One, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Amnesty Decree.” July 10, 1839. Folder One, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “National Convention.” July 12, 1839. Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 203; McLoughlin, *After the Trail of Tears*, 18-9; Anderson, ed. *Cherokee Removal*, 113; Claro, *The Cherokee Indians*, 60; Wilkins, *Cherokee Tragedy*, 326; Conley, *The Cherokee Nation*, 160.

¹¹¹ “Act of Union.” July 12, 1839. Folder One Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Ross to National Council, September 23, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Ross to Arbuckle, September 5, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 202-3; McLoughlin, *After the Trail of Tears*, 19-20; Wilkins, *Cherokee Tragedy*, 326.

¹¹² “Letter from Arbuckle to Ross, September 14, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Arbuckle to Ross, September 28, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; “Letter from Ross to Arbuckle, September 30, 1839.” Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 20, 23; Rogers, *Ani-Yun-Wiya*, 204.

¹¹³ “Letter from Ross to Arbuckle, July 24, 1839.” Folder One, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 23; Rogers, *Ani-Yun-Wiya*, 203.

¹¹⁴ Rogers, *Ani-Yun-Wiya*, 203-04.

¹¹⁵ McLoughlin, *After the Trail of Tears*, 20; Rogers, *Ani-Yun-Wiya*, 203.

¹¹⁶ “Statement by Joel Poinsett.” 1839. Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 20; Wilkins, *Cherokee Tragedy*, 327.

¹¹⁷ Wilkins, *Cherokee Tragedy*, 326; McLoughlin, *After the Trail of Tears*, 20; Rogers, *Ani-Yun-Wiya*, 203.

¹¹⁸ Wilkins, *Cherokee Tragedy*, 327.

¹¹⁹ McLoughlin, *After the Trail of Tears*, 23-4.

¹²⁰ Wilkins, *Cherokee Tragedy*, 327; McLoughlin, *After the Trail of Tears*, 20-3.

¹²¹ For clarity, the government established by the People’s Council will be known as the People’s Government. Cherokee Nation. *The Constitution and Laws of the Cherokee Nation, Passed at Tah-Le-Quah, Cherokee Nation, 1839* (Wilmington: Scholarly Resources Incorporated, 1975); “Ross’ Address to National Council.” September 12, 1839. Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Conley, *The Cherokee Nation*, 161; Rogers, *Ani-Yun-Wiya*, 203-04, 208; McLoughlin, *After the Trail of Tears*, 21; Sturm, *Blood Politics*, 65.

¹²² Rogers, *Ani-Yun-Wiya*, 205; McLoughlin, *After the Trail of Tears*, 27; “Ross Delegation to Poinsett.” December 31, 1839. Folder Five, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton

Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; "Letter from Ross to Poinsett, January 1, 1840." Folder Six, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Rogers, *Ani-Yun-Wiya*, 204.

¹²³ "Letter from William Armstrong to Ross, September 9, 1839." Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; McLoughlin, *After the Trail of Tears*, 27-28; Rogers, *Ani-Yun-Wiya*, 206.

¹²⁴ "Letter from Arbuckle and Stokes to Ross, June 29, 1839." Folder Four, Box Five. John Ross Papers. Collection Number 2006.20. Gary Moulton Collection. Research and Archives Division. Oklahoma Historical Society. Oklahoma City, Oklahoma; Anderson, ed. *Cherokee Removal*, 113; Sturm, *Blood Politics*, 64-5; McLoughlin, *After the Trail of Tears*, xiii, 5, 33-4; Claro, *The Cherokee Indians*, 61; Wilkins, *Cherokee Tragedy*, 326; Rogers, *Ani-Yun-Wiya*, 221; Clark, *Cherokee Chief*, 85; Andrew Denison, *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (Lincoln: University of Nebraska Press, 2004), 49, 61-2.

¹²⁵ Rogers, *Ani-Yun-Wiya*, 207; McLoughlin, *After the Trail of Tears*, 28.

¹²⁶ McLoughlin, *After the Trail of Tears*, 28.

¹²⁷ McLoughlin, *After the Trail of Tears*, 49, 54-6; Wilkins, *Cherokee Tragedy*, 326; Denison, *Demanding the Cherokee Nation*, 49; Anderson, ed. *Cherokee Removal*, 114.

¹²⁸ "Treaty with the Cherokees, 1846." In *Indian Affairs: Laws and Treaties, Vol. II Treaties*, edited by Charles J. Kappler (Washington: Government Printing Office, 1904); Denison, *Demanding the Cherokee Nation*, 49; McLoughlin, *After the Trail of Tears*, 56-7; Wilkins, *Cherokee Tragedy*, 327-28; Conley, *The Cherokee Nation*, 163.

¹²⁹ "Treaty with the Cherokees, 1846." In *Indian Affairs: Laws and Treaties, Vol. II Treaties*, edited by Charles J. Kappler (Washington: Government Printing Office, 1904); Denison, *Demanding the Cherokee Nation*, 49; McLoughlin, *After the Trail of Tears*, 55-9; Sturm, *Blood Politics*, 66-7; Rogers, *Ani-Yun-Wiya*, 220-22; Clark, *Cherokee Chief*, 87; Claro, *The Cherokee Indians*, 61; Anderson, ed. *Cherokee Removal*, 114; Conley, *The Cherokee Nation*, 164-65.

¹³⁰ Denison, *Demanding the Cherokee Nation*, 45-6; McLoughlin, *After the Trail of Tears*, xiii, 58.

¹³¹ Denison, *Demanding the Cherokee Nation*, 15; Claro, *The Cherokee Indians*, 61; Anderson, ed. *Cherokee Removal*, 114-15.

¹³² Anderson, ed. *Cherokee Removal*, 116; Denison, *Demanding the Cherokee Nation*, 56.

¹³³ Anderson, ed. *Cherokee Removal*, 116; Clark, *Cherokee Chief*, 100.

¹³⁴ Denison, *Demanding the Cherokee Nation*, 58; Anderson, ed. *Cherokee Removal*, 116; Dale, Edward Everett. "The Cherokees in the Confederacy." *The Journal of Southern History* 13 (May 1947): 159-853.

¹³⁵ "Treaty with the Cherokees, 1861. October 7, 1861." Denison, *Demanding the Cherokee Nation*, 59; James Anderson Slover, *Minister to the Cherokees: A Civil War Autobiography* (Lincoln: University of Nebraska Press, 2001), ix; Wilkins, *Cherokee Tragedy*, 328-9; Clark, *Cherokee Chief*, 100; Conley, *The Cherokee Nation*, 175; McLoughlin, *After the Trail of Tears*, 120, 125, 168.

¹³⁶ Conley, *The Cherokee Nation*, 173-74; Clark, *Cherokee Chief*, 98; Wilkins, *Cherokee Tragedy*, 328.

¹³⁷ Anderson, ed. *Cherokee Removal*, 116; Clark, *Cherokee Chief*, 105; Denison, *Demanding the Cherokee Nation*, 60-1; Clark, *Cherokee Chief*, 107-11; Conley, *The Cherokee Nation*, 176.

¹³⁸ Denison, *Demanding the Cherokee Nation*, 54; Conley, *The Cherokee Nation*, 177; Anderson, ed. *Cherokee Removal*, 116.

¹³⁹ "Treaty with the Cherokees, 1861. October 7, 1861." In *Indian Affairs: Laws and Treaties. Vol. II Treaties*, edited by Charles J. Kappler. Washington: Government Printing Office, 1904; "Treaty with the Cherokees, 1866. July 19, 1866." (Reconstruction Treaty) Conley, *The Cherokee Nation*, 177; Anderson, ed. *Cherokee Removal*, 116.

¹⁴⁰ “Treaty with the Cherokees, 1861. October 7, 1861.” In *Indian Affairs: Laws and Treaties. Vol. II Treaties*, edited by Charles J. Kappler. Washington: Government Printing Office, 1904; Denison, *Demanding the Cherokee Nation*, 62; Wilkins, *Cherokee Tragedy*, 329; Anderson, ed. *Cherokee Removal*, 117; “Treaty with the Cherokees, 1866. July 19, 1866.” (Reconstruction Treaty).

¹⁴¹ “Treaty with the Cherokees, 1861. October 7, 1861.” In *Indian Affairs: Laws and Treaties. Vol. II Treaties*, edited by Charles J. Kappler. Washington: Government Printing Office, 1904; “Treaty with the Cherokees, 1866. July 19, 1866.” (Reconstruction Treaty); Conley, *The Cherokee Nation*, 180-1; Denison, *Demanding the Cherokee Nation*, 83-4; Claro, *The Cherokee Indians*, 64.

¹⁴² “Treaty with the Cherokees, 1861. October 7, 1861.” In *Indian Affairs: Laws and Treaties. Vol. II Treaties*, edited by Charles J. Kappler. Washington: Government Printing Office, 1904; Anderson, ed. *Cherokee Removal*, 117; Denison, *Demanding the Cherokee Nation*, 71; “Treaty with the Cherokees, 1866. July 19, 1866.” (Reconstruction Treaty).

¹⁴³ Wilkins, *Cherokee Tragedy*, 329; Conley, *The Cherokee Nation*, 183; Anderson, ed. *Cherokee Removal*, 117; Denison, *Demanding the Cherokee Nation*, 53, 62.

¹⁴⁴ By this time the Ross party was also known as the Loyals and included the Pin Indians, which were also known as the Keetoowahs. Watie’s group was also called the Ridge-Boudinot-Bell party (from the names of the families involved) and the Southerns. During the allotment period, these groups became more like political parties within the Cherokee government instead of the previous blood feud vigilantes.

¹⁴⁵ A devout Baptist preacher, Downing helped found the Keetoowah Society and had always supported John Ross; William G. McLoughlin, *After the Trail of Tears: The Cherokees’ Struggle for Sovereignty, 1839-1880* (Chapel Hill: University of North Carolina Press, 1993), 228.

¹⁴⁶ Ross hereafter means William P. Ross instead of John Ross; McLoughlin, *After the Trail of Tears*, 228-30.

¹⁴⁷ McLoughlin, *After the Trail of Tears*, 228-246; Robert J. Conley, *The Cherokee Nation: A History* (Albuquerque: University of New Mexico Press, 2005), 183-5.

¹⁴⁸ Downing was reelected in 1871. McLoughlin, *After the Trail of Tears*, 246-7; Andrew Denison, *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (Lincoln: University of Nebraska Press, 2004), 179.

¹⁴⁹ McLoughlin, *After the Trail of Tears*, 255-6.

¹⁵⁰ Kent Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893-1914* (Orem: Ancestry.com Incorporated, 1999), 7, 12; Orville H. Platt, “Problems in the Indian Territory,” *The North American Review* 160 (February 1895), 195; William T. Hagan, *Taking Indian Lands: The Jerome (Cherokee) Commission, 1889-1893* (Norman: University of Oklahoma Press, 2003), 17; Cherokee Nation v. Georgia, 30 U.S. 1 (U.S. Supreme Court, 1831).

¹⁵¹ Cherokee Tobacco Case, 78 U.S. 616 (U.S. Supreme Court, 1870); “Treaty with the Cherokees, 1866. July 19, 1866.” In *Indian Affairs: Laws and Treaties, Vol. II Treaties*, edited by Charles J. Kappler (Washington: Government Printing Office, 1904); McLoughlin, *After the Trail of Tears*, 264-5.

¹⁵² McLoughlin, *After the Trail of Tears*, 266-7; Cherokee Tobacco Case, 78 U.S. 616 (U.S. Supreme Court, 1870);

¹⁵³ *Ibid.*, 267; Cherokee Tobacco Case, 78 U.S. 616 (U.S. Supreme Court, 1870);

¹⁵⁴ *Ibid.*, 267, 299.

¹⁵⁵ Conley, *The Cherokee Nation*, 181, 185-6.

¹⁵⁶ U.S. Marshals Service. “History-Line of Duty Deaths Prevalent in the Old West.”

<http://www.usmarshals.gov/history/line-of-duty-old-west.htm> (accessed April 2010); Access Genealogy.

“The Trial and Goingsnake Massacre.” <http://www.accessgenealogy.com/native/proctor/trial-massacre.htm> (accessed April 2010); Dr. Kenny Brown, “The Goingsnake Massacre.” March 2010. University of Central Oklahoma. Edmond, Oklahoma; McLoughlin, *After the Trail of Tears*, 299.

¹⁵⁷ Terrel Shields, “Zeke Proctor and the Goingsnake Massacre.” Rootsweb.

http://www.rootsweb.ancestry.com/~okdelawa/bios/proctor_zeke.htm (accessed April 2010); Dr. Brown;

U.S. Marshals Service. "History-Line of Duty Deaths Prevalent in the Old West." <http://www.usmarshals.gov/history/line-of-duty-old-west.htm> (accessed April 2010); Access Genealogy. "The Trial and Goingsnake Massacre." <http://www.accessgenealogy.com/native/proctor/trial-massacre.htm> (accessed April 2010).

¹⁵⁸ Terrel Shields, "Zeke Proctor and the Goingsnake Massacre." Rootsweb. http://www.rootsweb.ancestry.com/~okdelawa/bios/proctor_zeke.htm (accessed April 2010); U.S. Marshals Service. "History-Line of Duty Deaths Prevalent in the Old West." <http://www.usmarshals.gov/history/line-of-duty-old-west.htm> (accessed April 2010); Kelly Agnew, "The Goingsnake Tragedy: Conflict and Compromise, Cherokee Style," *Organization of American Historians* 2 (Spring 1987): 33; McLoughlin, *After the Trail of Tears*, 299-301; Lawrence C. Kelley, *Federal Indian Policy* (New York: Chelsea House Publishers, 1990), 72; U.S. Congress. *The Major Crimes Act. United States Attorney's Manual* (Washington, D.C.: U.S. Department of Justice, 1997); Katherine Mae Rolison, "The Cherokee Nation From Indian Territory to Statehood and the Impact of Allotment: One Family's Story" (Ph.D diss., Arizona State University, 2004), 68; "Treaty with the Cherokees, 1866. July 19, 1866." In *Indian Affairs: Laws and Treaties, Vol. II Treaties*, edited by Charles J. Kappler. Washington: Government Printing Office, 1904; Thomas J. Morgan, "Statement on Indian Policy.." 51st Congress, 1st sess. House Executive Document 1, pt. 5, Vol II, Serial 725. Washington, D.C., pg. 3-4.

¹⁵⁹ "Treaty with the Cherokees, 1866. July Denison, *Demanding the Cherokee Nation*, 202, 213; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, ix.

¹⁶⁰ Conley, *The Cherokee Nation*, 193; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 3; Orville H. Platt, "Problems in the Indian Territory," *The North American Review* 160 (February 1895), 195; Alexandra Harmon, "American Indians and Land Monopolies in the Gilded Age." *The Journal of American History* 90 (June 2003): 106, 109; Hiram Price, "Allotment of Land in Severalty and a Permanent Land Title." 47th Congress, 2nd sess., House Executive Document 1, pt. 5, Serial 2100. Washington, D.C., October 24, 1881; Henry L. Dawes, "Solving the Indian Problem."

¹⁶¹ Henry L. Dawes, "Solving the Indian Problem"; Orville H. Platt, "Problems in the Indian Territory," *The North American Review* 160 (February 1895), 195; Denison, *Demanding the Cherokee Nation*, 201, 208, 210-11, 217, 225; Hagan, *Taking Indian Lands*, 5, 10; Harmon, "American Indians and Land Monopolies in the Gilded Age." 106, 122; Francis Paul Prucha. ed. *Americanizing the American Indians: Writings by 'Friends of the Indian,' 1800-1900* (Lincoln: University of Nebraska Press, 1978), 6; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 49, 65; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 1.

¹⁶² Rolison, "The Cherokee Nation from Indian Territory to Statehood," 47, 65; Hagan, *Taking Indian Lands*, 6; Andrew Denison, *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (Lincoln: University of Nebraska Press, 2004), 181, 206, 215;

¹⁶³ Robert J. Conley, *The Cherokee Nation: A History* (Albuquerque: University of New Mexico Press, 2005), 194; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 47; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 1-2; Denison, *Demanding the Cherokee Nation*, 178, 180, 206; Harmon, "American Indians and Land Monopolies in the Gilded Age," 115; Hagan, *Taking Indian Lands*, 5.

¹⁶⁴ Denison, *Demanding the Cherokee Nation*, 226; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 65, 76; Conley, *The Cherokee Nation*, 196; Harmon, "American Indians and Land Monopolies in the Gilded Age," 126; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 10, 17.

¹⁶⁵ Harmon, "American Indians and Land Monopolies in the Gilded Age," 125; Denison, *Demanding the Cherokee Nation*, 216; Conley, *The Cherokee Nation*, 196, 198; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 65.

¹⁶⁶ Denison, *Demanding the Cherokee Nation*, 217.

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- ¹⁶⁷ Ibid., 217.
- ¹⁶⁸ Harmon, "American Indians and Land Monopolies in the Gilded Age," 113, 117, 125; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 1, 7, 10; Denison, *Demanding the Cherokee Nation*, 186, 214, 230; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 48, 65, 100-1.
- ¹⁶⁹ McLoughlin, *After the Trail of Tears*, 315; Denison, *Demanding the Cherokee Nation*, 185; Conley, *The Cherokee Nation*, 185.
- ¹⁷⁰ McLoughlin, *After the Trail of Tears*, 307, 312-3; 316.
- ¹⁷¹ Ibid., 313, 316, 365.
- ¹⁷² Charles Thompson was also known as Oochalata. McLoughlin, *After the Trail of Tears*, 316, 326, 335-7; Harmon, "American Indians and Land Monopolies in the Gilded Age," 119; Denison, *Demanding the Cherokee Nation*, 185.
- ¹⁷³ McLoughlin, *After the Trail of Tears*, 316, 335, 363-6, 352.
- ¹⁷⁴ Cole Delashaw, "Dennis Wolfe Bushyhead," *Encyclopedia of Oklahoma History and Culture*. <http://digital.library.okstate.edu/encyclopedia/entries/B/BU015.html> (accessed May 4, 2010); McLoughlin, *After the Trail of Tears*, 365.
- ¹⁷⁵ John Bartlett Meserve, "The Mayes," *Chronicles of Oklahoma* 15 (March 1937): 56-65; Hagan, *Taking Indian Lands*, 12; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 64, 69, 76-7
- ¹⁷⁶ Prucha, *Americanizing the American Indian*, 6; McLoughlin, *After the Trail of Tears*, 96, 368; Denison, *Demanding the Cherokee Nation*, 213-4; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 1; Kelley, *Federal Indian Policy*, 71-5; Conley, *The Cherokee Nation*, 193-5; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 50, 65-6.
- ¹⁷⁷ Gaston L. Litton, "The Principal Chiefs of the Cherokee Nation," *Chronicles of Oklahoma* 15 (September 1937): 253-70.
- ¹⁷⁸ Conley, *The Cherokee Nation*, 189.
- ¹⁷⁹ Conley, *The Cherokee Nation*, 187-9; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 69-70; 74.
- ¹⁸⁰ Rolison, "The Cherokee Nation from Indian Territory to Statehood," 70-3; Conley, *The Cherokee Nation*, 189; Hagan, *Taking Indian Lands*, 85; Denison, *Demanding the Cherokee Nation*, 222.
- ¹⁸¹ Hagan, *Taking Indian Lands*, 14-5, 88.
- ¹⁸² Hagan, *Taking Indian Lands*, 87, 96, 144, 152-3, 155-60, 163-4; Conley, *The Cherokee Nation*, 189; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 71-5.
- ¹⁸³ McLoughlin, *After the Trail of Tears*, 96-7; Conley, *The Cherokee Nation*, 188; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 78.
- ¹⁸⁴ Harmon, "American Indians and Land Monopolies in the Gilded Age," 107; CG 11/29/1894; Denison, *Demanding the Cherokee Nation*, 216; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 66; Kelley, *Federal Indian Policy*, 76; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, ix, 1, 3; Conley, *The Cherokee Nation*, 194.
- ¹⁸⁵ Orville H. Platt, "Problems in the Indian Territory," *The North American Review* 160 (February 1895), 195; Denison, *Demanding the Cherokee Nation*, 233; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 9.
- ¹⁸⁶ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 4, 5.
- ¹⁸⁷ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 5; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 9-10.
- ¹⁸⁸ Larry O'Dell, "Samuel Houston Mayes," *Encyclopedia of Oklahoma History and Culture*. <http://digital.library.okstate.edu/encyclopedia/entries/M/MA045.html> (accessed May 4, 2010).
- ¹⁸⁹ Hagan, *Taking Indian Lands*, 164-5; Harmon, "American Indians and Land Monopolies in the Gilded Age," 127; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 6-8, 13.

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- ¹⁹⁰ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 8.
- ¹⁹¹ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 8; Denison, *Demanding the Cherokee Nation*, 234.
- ¹⁹² Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 8.
- ¹⁹³ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 8.
- ¹⁹⁴ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 8.
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- ¹⁹⁶ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 10.
- ¹⁹⁷ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 10.
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- ¹⁹⁹ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 12, 15.
- ²⁰⁰ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 16.
- ²⁰¹ Rolison, "The Cherokee Nation from Indian Territory to Statehood," 79; Conley, *The Cherokee Nation*, 198.
- ²⁰² Hagan, *Taking Indian Lands*, 165; Denison, *Demanding the Cherokee Nation*, 218; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, ix, 16, 19.
- ²⁰³ McLoughlin, *After the Trail of Tears*, 376; Harmon, "American Indians and Land Monopolies in the Gilded Age," 107; Conley, *The Cherokee Nation*, 196-7; Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 23, 33-4, 36, 38; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 80; U.S. Congress. *The Curtis Act, June 28, 1898*. 55th Congress, 2nd sess., 1898.
- ²⁰⁴ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 33, 37-8; Conley, *The Cherokee Nation*, 197; U.S. Congress. *The Curtis Act, June 28, 1898*. 55th Congress, 2nd sess., 1898.
- ²⁰⁵ John Bartlett Meserve, "Chief Thomas Mitchell Buffington and Chief William Rogers," *Chronicles of Oklahoma* 17 (June 1939): 135-46; U.S. Congress. *The Curtis Act, June 28, 1898*. 55th Congress, 2nd sess., 1898.
- ²⁰⁶ Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 105.
- ²⁰⁷ Henry Dawes died in 1903 and was replaced by Tams Bixby, but the commission retained the founder's name. The 1900 agreement also called for the sale of *The Cherokee Advocate*. Conley, *The Cherokee Nation*, 197-8; Rolison, "The Cherokee Nation from Indian Territory to Statehood," 94.
- ²⁰⁸ Denison, *Demanding the Cherokee Nation*, 218.
- ²⁰⁹ Kent Carter, "Dawes Commission." *Encyclopedia of Oklahoma History and Culture*. <http://digital.library.okstate.edu/encyclopedia/entries/D/DA018.html> (accessed March 4, 2010), 196-8; C.MW; Conley, *The Cherokee Nation*, 198.
- ²¹⁰ Carter, "Dawes Commission," 196.
- ²¹¹ Conley, *The Cherokee Nation*, 196-8; Carter, "Dawes Commission," 197-9.
- ²¹² John Bartlett Meserve, "Chief Thomas Mitchell Buffington and Chief William Rogers," *Chronicles of Oklahoma* 17 (June 1939): 135-46; Conley, *The Cherokee Nation*, 198.
- ²¹³ John Bartlett Meserve, "Chief Thomas Mitchell Buffington and Chief William Rogers," *Chronicles of Oklahoma* 17 (June 1939): 135-46; Conley, *The Cherokee Nation*, 198.
- ²¹⁴ Kelley, *Federal Indian Policy*, 77; Richard Mize, "The Sequoyah Convention." *Encyclopedia of Oklahoma History and Culture*. <http://digital.library.okstate.edu/encyclopedia/entries/S/SE021.html> (accessed May 4, 2010).
- ²¹⁵ Denison, *Demanding the Cherokee Nation*, 2; Richard Mize, "The Sequoyah Convention." *Encyclopedia of Oklahoma History and Culture*. <http://digital.library.okstate.edu/encyclopedia/entries/S/SE021.html> (accessed May 4, 2010).
- ²¹⁶ Rolison, "The Cherokee Nation from Indian Territory to Statehood," 81.

²¹⁷ Rolison, "The Cherokee Nation from Indian Territory to Statehood," 81-2; Denison, *Demanding the Cherokee Nation*, 213; Conley, *The Cherokee Nation*, 198-9, 201-3.

²¹⁸ ; Denison, *Demanding the Cherokee Nation*, 213.

²¹⁹ Harmon, "American Indians and Land Monopolies in the Gilded Age," 125, 368; Prucha, *Americanizing the American Indian*, 6; Kelley, *Federal Indian Policy*, 72.

²²⁰ Russell Thornton, C. Matthew Snipp, and Nancy Breen, *The Cherokees: A Population History* (University of Nebraska Press, 1990); Will Chavez, "Freedmen Citizenship Timeline Goes Back to 1866," *The Cherokee News Line*, November 1, 2006; "Citizenship Status of Non-Indians," Cherokee Nation. <http://freedmen.cherokee.org/> (accessed June 13, 2010).

²²¹ Russell Thornton, C. Matthew Snipp, and Nancy Breen, *The Cherokees: A Population History* (University of Nebraska Press, 1990); Will Chavez, "Freedmen Citizenship Timeline Goes Back to 1866," *The Cherokee News Line*, November 1, 2006; "Citizenship Status of Non-Indians," Cherokee Nation. <http://freedmen.cherokee.org/> (accessed June 13, 2010).

Cherokee Chiefs, 1828-1914

<u>Name</u>	<u>Party/Faction</u>
John Ross, 1828-66.....	Ross Faction
William P. Ross, 1866-.....	National Party
Lewis Downing, 1867-72.....	Downing Party
William P. Ross, 1872-75.....	National Party
Charles Thompson (Ooachalata), 1875-79.....	Downing Party
Dennis Bushyhead, 1879-87.....	(Independent) National Party
Joel B. Mayes, 1887-91.....	Downing Party
C.J. Harris, 1891-95.....	Not Available
Samuel Houston Mayes, 1895-99.....	Downing Party
Thomas Buffington, 1899-1903.....	Downing Party
William Rogers, 1903-05.....	Downing Party
Frank J. Boudinot, 1905-06.....	Keetoowah
William Rogers, 1906-14.....	Downing Party

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