

LEASING THE CHEROKEE OUTLET:
AN ANALYSIS OF INDIAN REACTION, 1884-1885

By William W. Savage, Jr.*

The debate in Washington and Indian Territory over the leasing of the Cherokee Outlet by directors of the Cherokee Strip Live Stock Association in July, 1883, led seventeen months later to a series of hearings before the United States Senate's Committee on Indian Affairs. Twenty-two of the Committee's witnesses on the lease question were citizens of the Cherokee Nation. Their testimony reflected a diversity of opinion that scholars have long ignored. As a result, the significance of the Indian as an economic factor in this aspect of the range cattle industry has been obscured.¹

News of Cherokee discontent over the lease reached Washington in August, 1883, when Augustus E. Ivey, Cherokee citizen and sometime journalist residing in Vinita, wrote to Secretary of the Interior Henry M. Teller charging that cattlemen secured rights to the 6,000,000 acre Outlet "through the most corrupt means."² Ivey had been grazing stock west of the Arkansas River, but the lease, which gave the Outlet to the Cherokee Strip Live Stock Association for five years at an annual rental of \$100,000, denied him further access to the range. There were, he claimed, many Cherokees similarly evicted. Branding the lease monopolistic, he protested the cattlemen's robbery of the Cherokee

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¹ Edward Everett Dale, premier historian of the western range cattle industry and certainly the foremost authority on the Cherokee Strip Live Stock Association, has concluded that, with regard to the Outlet lease and the ultimate disposition of the land beyond the Arkansas, the Cherokee "as an economic factor was negligible." He did detect a political division within the Cherokee Nation over other issues but failed to evaluate the lease testimony of 1884-86 before consigning the Indian to economic oblivion. See Dale, *Coxe Country* (New ed., Norman: University of Oklahoma Press, 1935), pp. 196, 211. Other authorities who did not acknowledge differences of opinion among Cherokees over the Outlet lease include Morris L. Wardell, *A Political History of the Cherokee Nation, 1828-1907* (Norman: University of Oklahoma Press, 1938), pp. 340-41, and Grace Steele Woodward, *The Cherokees* (Norman: University of Oklahoma Press, 1933), pp. 314-15. Wardell labored under space limitations but managed to indicate that factionalism existed elsewhere within the Nation. Woodward's attention centered on the tribe's efforts to maintain political cohesion and protect its sovereignty. References to internal strife were, therefore, held to a minimum.

² Augustus E. Ivey to the Secretary of the Interior, August 28, 1883. U. S. Congress, Senate, Executive Document 54, 48th Cong., 1st sess., Vol. IV, p. 160.

Nation. "Could the inside of the scheme be seen through," he wrote, "—and it can—I dare say no more vile a swindle was ever perpetrated upon our people."³

Ivey's letter circulated in Washington but prompted no action for more than a year. Eventually, it drew the attention of Senator George G. Vest of Missouri. On December 2, 1884, Vest told Henry L. Dawes, chairman of the Senate Committee on Indian Affairs, that he could produce "names, amounts, and dates, which show that as widespread a scheme of corruption is today in existence in that Indian Territory as ever obtained in the worst times and under the worst methods known to the states . . . or any other community."⁴ The Senate responded quickly. It passed a resolution within twenty-four hours instructing Dawes' committee to determine the extent to which leases had been made in Indian Territory and the names of the signatories. In addition, the group was to investigate methods employed by cattlemen in securing leases and to decide whether such agreements were "conducive to the welfare of the Indians."⁵ Accordingly, the Committee on Indian Affairs met on December 9 to begin inquiries.⁶

Of the twenty-two Cherokee witnesses appearing in Committee sessions, ten defended the cattlemen's lease and twelve opposed it. In neither camp was there consensus. Among critics and advocates alike there was further fractionalizing of opinion as individuals revealed the interests that shaped their attitudes.

Seven of the ten Cherokees favoring the Outlet lease either held office in Tahlequah or had previous government connections. Of the three others, two were small farmers and stock raisers, and one was a white man, a Cherokee by adoption.

Principal Chief Dennis W. Bushyhead best explained the official position of the Cherokee Nation. In his sixth year in office, Bushyhead had followed closely the activities of Outlet ranchers. He had conceived the idea of taxing cattlemen beyond the Arkansas and had observed earlier efforts by white men to

³ *Ibid.*

⁴ U. S., *Congressional Record*, 49th Cong., 2d sess., 1885, XVI, Part 1, p. 11.

⁵ U. S. Congress, Senate, Report 1278, 49th Cong., 1st sess., VIII, Part 1, p. 1. Hereafter cited as S. R. 1278.

⁶ In addition to considering the question of Indian leases, the Committee had instructions contained in an earlier resolution to conduct investigations into the status of freedmen in Indian Territory, the relations of the various tribes to the federal government, possible changes in boundaries between reservations, the condition of the tribes, and the need for new federal legislation affecting Indian policy. *Ibid.*, pp. 1, 3.

lease Cherokee land. In addition, he had worked with Department of Interior officials on matters concerning the cattlemen's occupation of the Outlet.⁷

Bushyhead testified that tax collection on the Outlet was costly and time-consuming. The peripatetic tax collector could scarcely cover 6,000,000 acres of pasture without overlooking a substantial number of cattle. Threats of eviction by federal troops caused some delinquent taxpayers to reach for their pocketbooks, but others continued to evade Cherokee agents. The lease increased revenue fivefold. When the agreement was made, Bushyhead said, he considered \$100,000 to be a fair rental for the Outlet.⁸

Because Tahlequah had a policy of distributing rent monies to citizens on a per capita basis, Dawes questioned the effect of the lease on Cherokee incentive. "Let me inquire," he asked Bushyhead, "whether it would be servicable for you to lead your citizens into that [cattle] business; whether it would be better for you to do that than lease the land to somebody else and take the money—I mean in the long run."⁹

The Chief replied that the lease was made in the belief that the Cherokee Nation would have no need of Outlet pasture. Despite increasing interest among Cherokees in the range cattle industry, they could not finance a 6,000,000-acre enterprise without outside capital.¹⁰ In fact, a Cherokee company had competed with the Cherokee Strip Live Stock Association for the Outlet lease. P. N. Blackstone, who sat in the Cherokee National Council when the lease was approved, testified that he had opposed the Cherokee company, believing its members could not raise enough money for rent payments. The Association, on the other hand, had proved its ability to pay under the taxation scheme. Furthermore, he testified, the Association should have received special consideration, based on its members' prior occupancy of the Outlet. Blackstone said the rental was a fair one, but he believed that if the lease were renewed, Cherokees should receive a larger sum.¹¹

Richard M. Wolfe, Tahlequah lawyer and member of the Cherokee delegation to Congress, discredited rumors that Association representatives had bribed Cherokee officials to obtain

⁷ Testimony of Dennis W. Bushyhead, May 21, 1885. S.R. 1278, Part 2, pp. 44, 60-61. Bushyhead led the progressive National party, which was opposed by the more conservative Union party. In most cases, it has not been possible to determine the political affiliations of witnesses. They may have split evenly along party lines with one or two obvious exceptions.

⁸ *Ibid.*, p. 61.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Testimony of P. N. Blackstone, May 24, 1885. *Ibid.*, pp. 127-29, 134.

the lease. Although he had favored leasing grazing land on the basis of competitive bidding, he defended the Council's preference for the Association since its members had paid taxes for several years.¹² The core of Wolfe's testimony, however, concerned not the lease but rather the federal government's interest in the Outlet. Citing Article V of the Treaty of 1866, which granted the Cherokees the "right . . . to control all their local affairs,"¹³ he said:¹⁴

. . . we protest against the resolution which authorizes this investigation, believing that it is for the purpose of obtaining Congressional action in reference to our disposition of certain lands. We presume that the result of this investigation would be to change the lease we have made or modify it in some way, and put restrictions upon it, which we claim the right to do ourselves as a nation.

A Congressional investigation, he told the Committee, could only be justified if it were held to determine whether the Cherokee Nation had placed the Outlet in "such a condition as to be in conflict with the stipulations of the treaty of 1866."¹⁵

National Councilman George W. Crittendon and William Wilson, a former Council member, agreed that Cherokees preferred leasing their lands to eking out a living by their own labor.¹⁶ Although he believed the Association lease was beneficial for the moment, Wilson told the Committee that eventually Cherokees should occupy the Outlet. Some day, the range west of the Arkansas would be exhausted. When cattlemen departed, he said, Cherokees should be prepared to settle the land and make it productive.¹⁷

William P. Ross, a former principal chief and many times a member of the National Council, considered \$100,000 per year too small a price for Outlet grass. But he accepted the Association lease because it was more remunerative than taxation had been. Like farmer-politician Hiram T. Landrum, Ross believed the majority of Cherokees was content with the lease.¹⁸

Supporters of the lease without influence in Tahlequah included William W. Wheeler and William C. Corderay, small

¹² Testimony of Richard M. Wolfe, January 10, 1886. *Ibid.*, Part 1, p. 123.

¹³ *Treaty Between the United States and the Cherokee Nation of Indians, Concluded July 19, 1866*. Article V. Bound copy in Cherokee Nation Papers, Western History Collections, University of Oklahoma Library, Norman.

¹⁴ Testimony of Richard M. Wolfe, January 10, 1885. *Op. cit.*, p. 119.

¹⁵ *Ibid.*, p. 122.

¹⁶ Testimony of George W. Crittendon, January 12, 1885. *Ibid.*, pp. 132, 134; Testimony of William Wilson, May [no date] 1885. *Ibid.*, Part 2, pp. 11-12.

¹⁷ *Ibid.*, p. 12.

¹⁸ Testimony of William P. Ross, May 23, 1885. *Ibid.*, pp. 103, 106; Testimony of Hiram T. Landrum, January 10, 1885. *Ibid.*, Part 1, pp. 120-21.

stock raisers who, despite their espousal of the Association's cause, thought its rental fee should be doubled.¹⁹ Corderay was more skeptical than other advocates, however. Repeating hearsay evidence of bribery, he testified that the Association lease passed only because Cherokees believed cattlemen would be unable to meet payments. Yet he admitted that despite increased Cherokee interest in the cattle business, the tribe did not have enough beesves to stock the Outlet. Therefore, Corderay could not oppose leasing the range to white cattlemen.²⁰

Benjamin H. Stone and William F. Rasmus were white men, Cherokees by adoption who took widely divergent stands on the lease question. Stone approached impartiality. He repeated remarks made to him by the late Sam Downing, clerk of the National Council. Downing said he had received money from cattlemen for supporting their lease. Stone did not believe the story.²¹ Rasmus, on the other hand, one of the twelve opposition witnesses and an outspoken critic of the lease and its effects on the Cherokee Nation, was convinced bribery had occurred.²² Without the cattlemen's corruptive influence, Tahlequah would have leased the Outlet to Cherokee citizens. White tenancy, said Rasmus, would lead eventually to white control. And per capita distribution of Association rental fees made Indians complacent and too willing to avoid work. These circumstances were responsible for "a good deal of drinking" among Cherokees.²³

Elias C. Boudinot, a lawyer reportedly in the pay of railroads that favored opening Indian Territory to white settlement, vehemently opposed the Association lease. Although he could recite at length rumors of bribery by cattlemen, he offered no firsthand knowledge of the lease. He held no office in Cherokee government but claimed to know the opinions of "some of the most intelligent people of the nation."²⁴ Leases to outsiders, he said, were "in violation of the constitution of the

¹⁹ Testimony of William W. Wheeler, June 3, 1885. *Ibid.*, Part 2, p. 275; Testimony of William C. Corderay, January 23, 1885. *Ibid.*, Part 1, p. 27.

²⁰ *Ibid.*, pp. 256-58.

²¹ Testimony of Benjamin H. Stone, May 23, 1885. *Ibid.*, Part 2, pp. 122-23.

²² When the Association lease passed, Rasmus worked as a storekeeper in Tahlequah. He based his charges of bribery on the fact that after passage, he saw more money in circulation. Testimony of William F. Rasmus, January 10, 1885. *Ibid.*, Part 1, p. 188.

²³ *Ibid.*, pp. 190-92.

²⁴ Testimony of Elias C. Boudinot, January 9 and 10, 1885. *Ibid.*, p. 102.

Cherokee Nation, and in violation of the statutes of the United States."²⁵ The Association agreement gave too few too much, and Boudinot was angered by what he considered rampant monopolism. If leases were to be signed, they should be given to individual Cherokees.²⁶

Boudinot's antagonism toward the lease was largely the result of his having been excluded from the Outlet by its passage. He and James Madison Bell had been partners in a stock grazing venture beyond the Arkansas prior to the formation of the Cherokee Strip Live Stock Association. Bell had begun ranching on the Outlet in 1879, and accordingly, the United States Army removed him as an intruder. A year or two later, he returned to the Outlet with Boudinot, who had encouraged several Cherokees to graze cattle there. The venture ended when Tablequah entrenched white stockmen on the range.²⁷

Bell was less hostile toward the Association than his former partner. He discounted reports of bribery but told the Committee that Cherokees blamed their officials for not obtaining a greater sum from cattlemen. He did not believe whites should occupy the Outlet and testified that, in the final analysis, Cherokees would rather sell the land outright than lease it.²⁸

Bell criticized the "demoralizing effect" of the lease on the Cherokee Nation, the result of receiving money without having to work for it.²⁹ Bushyhead, he said, shared this view. Then, contradicting his earlier statement, Bell suggested that the Principal Chief must have been bribed, since the terms of the lease were so contrary to his philosophy. Under ordinary circumstances, he said, Bushyhead could never have made such an error.³⁰

Augustus E. Ivey, the man primarily responsible for the hearings, saw the Association agreement as a violation of the Cherokee constitution. All Cherokees, he testified, would oppose the lease if Congress were not investigating it. In view of Washington's interest, however, many Indians supported the document as a manifestation of Cherokee sovereignty. Ivey, despite his earlier claims, had no firsthand knowledge of the lease or of events surrounding its passage.³¹

²⁵ *Ibid.*, pp. 89-100.

²⁶ *Ibid.*, pp. 100-102.

²⁷ *Ibid.*, pp. 100-101; Testimony of James Madison Bell, January 28, 1885. *Ibid.*, p. 205.

²⁸ *Ibid.*, pp. 203, 205.

²⁹ *Ibid.*, p. 204.

³⁰ *Ibid.*

³¹ Testimony of A. E. Ivey, January 10, 1885. *Ibid.*, pp. 107, 108, 111, 115, 117.

Two lease critics were members of the Cherokee company which had attempted to reserve the Outlet for Indian use. William T. Adair, a Tahlequah physician, had been president of the concern, and his was an obvious bias. Adair testified that Andrew Drumm, an Association director, once told him that gentlemen had distributed money to secure passage of the lease.¹² Johnson Thompson, also of Tahlequah, told the Committee that official Cherokee policy appeared to sanction giving away sections of the Nation to outsiders.¹³

Robert Ross and John Sanders were members of the National Council during consideration of the lease, and both had favored leasing to the highest bidder.¹⁴ Sanders, the only full-blood Cherokee to testify, voted against the Association agreement and told the Committee that Sam Downing attempted to influence his vote. Sanders believed the Outlet should have been rented to Cherokees.¹⁵

The remaining opposition witnesses, John L. McCoy, William P. Boudinot, J. A. Thompson, and Benjamin King, had little to add to arguments against the lease. McCoy opposed leasing Cherokee land to anyone, white or Indian.¹⁶ Boudinot, executive secretary of the Nation, said Cherokee use of the Outlet "would increase the enterprise, the spirit, and wealth of the nation."¹⁷ Thompson and King repeated tales of bribery.¹⁸

The Committee on Indian Affairs completed its inquiries and published a report of the proceedings on June 4, 1886. The hearings were inconclusive since bribery charges were never substantiated.¹⁹ But they partially defined the larger motives of those involved in the lease question. In sanctioning the investigation, the Senate revealed its determination to supervise Cherokee affairs. At other times, Congress may have "persisted in thinking of the West as potential farmland,"²⁰ but in this in-

¹² Testimony of W. T. Adair, January 19, 1885, *Ibid.*, pp. 226-32.

¹³ Testimony of Johnson Thompson, May 23, 1885, *Ibid.*, Part 2, p. 119.

¹⁴ Testimony of Robert Ross, May 22, 1885, *Ibid.*, pp. 98, 101; Testimony of John Sanders, February 2, 1885, *Ibid.*, Part 1, p. 207.

¹⁵ *Ibid.*, p. 268.

¹⁶ Testimony of John L. McCoy, January 24, 1885, *Ibid.*, p. 252.

¹⁷ Testimony of William P. Boudinot, May [no date] 1885, *Ibid.*, Part 2, p. 78.

¹⁸ Testimony of J. A. Thompson, May 23, 1885, *Ibid.*, pp. 124-25; Testimony of Benjamin King, May 23, 1885, *Ibid.*, pp. 126-27.

¹⁹ Edward Everett Dale has written, "There is ample reason to believe that the Senate investigating committee did not arrive at the whole truth and that a large sum was really expended in bribing members of the Cherokee National Council to vote for the lease," but he cites no supporting evidence. See Dale, *The Range Cattle Industry: Ranching on the Great Plains from 1805 to 1925* (New ed., Norman: University of Oklahoma Press, 1900), p. 146n.

²⁰ Phillip O. Foss, *Politics and Grass: The Administration of Grazing on the Public Domain* (Seattle: University of Washington Press, 1900), p. 31.

stance, its primary concern was the action of the National Council at Tahlequah. As Cherokees, regardless of their individual attitude toward the Outlet lease, witnessed Washington solicitude over their well-being, they had good reason to believe their sovereignty threatened. They could learn the value of their land if only by counting the number of white men set on acquiring it.

Washington may have had little regard for the Cherokee as an economic factor, but surely that view was not shared by the Cherokee Strip Live Stock Association. Senators might question the arrangement which established ranchers on the Outlet, but as long as Tahlequah supported the Association, congressional investigations were at worst a minor irritant. The threat was not the probing bureaucrat but the Cherokee malcontent whose testimony might endanger the future of Outlet cattlemen. In that sense, the Cherokee was a potent economic factor, one to be reckoned with by any—except the federal government—who would gain access to the grass beyond the Arkansas.

The intervention of the Committee on Indian Affairs did not mark the end of the lease controversy. Within a year, Association agents sought to obtain an extension of the agreement, and debate began anew. For cattlemen and Indians alike, subsequent events were equally unpleasant. Ranchers were deserted by Cherokee politicians who sought greater income from their domain. Washington extended support to homesteaders who camped along the Kansas border and cast hungry eyes upon the Outlet. And federal officials, determined to extend their authority to its limits, brought about the economic ruin of both ranchers and Cherokees by splitting 8,000,000 acres of the West's finest grazing land into quarter-sections. These things were perhaps foreshadowed by the attitudes revealed in the hearings of 1884-85.