

LIFE IN THE CHEROKEE NATION, 1855-1860

*By Reid A. Holland**

Riding along in a bouncing and dusty Concord stagecoach, the weary passengers were perhaps not aware of their entrance into Indian Territory from Arkansas. Only the rugged redness of the faces of the Indians let the secret be known. Otherwise, the well ordered buildings and public places, the neat patches of corn and wheat, the small herds of cattle, the women at work, the missionaries on the street corner, the children at play in the school yard were like those of any other frontier community in the decade before the Civil War. By the 1850's life among the Indians in Indian Territory was comparable to life in any of the surrounding states. The Cherokee Indians, living in what is now the northeast portion of the state of Oklahoma, were the most culturally advanced among the Creeks, Chickasaws, Choctaws, and Seminoles then occupying the Territory. Progress among the Cherokees was well summed up when, in 1852, William P. Ross, brother of the Cherokee Chief, John Ross, boasted that "the number of adults in the Cherokee Nation not able to read and write may be counted on your fingers."¹ Although his statement may be doubtful as to its exactness, it offers a good yardstick with which to measure the social cultivation of the Nation. Between 1850 and 1860, the Cherokee Indians under the able leadership of Chief John Ross made forward strides in every aspect of society.

By 1855 the head of a Cherokee family could expect to come home from the fields to a comfortable log cabin. These structures were usually furnished with rough hand crafted furniture typical of the West. In addition to this a curious sprinkling of manufactured chairs and utensils from the East was not uncommon to the Cherokee household. Many of the

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¹ M. L. Wardell, *A Political History of the Cherokee Nation, 1828-1907* (Norman: University of Oklahoma, 1938), p. 117.

mixed-bloods, Chief Ross among them, owned elaborate homes patterned after the plantation style of the South. These homes were supplied with good imported furnishings. In vivid contrast with the mixed-bloods, the majority of the full-bloods lived away from the towns and kept to themselves to pursue the old tribal customs. Yet even these dwellings were a far cry from the crude huts the Cherokees built to survive their first winter in the new land.²

Public buildings also became more refined. The church at Park Hill, which was also used as a civic center, was constructed at a cost of \$2,350 in 1854 and was very commodious to the citizens.³ School houses and other tribal structures were often made of brick and appeared modern and fashionable. By the middle of the nineteenth century, the residences and public centers of the Cherokees were easily on a par with the best in the nearby states.

The establishment of such buildings did not come naturally. Upon their arrival in the new land the Indians were immediately faced with the problem of providing for themselves. The economic conditions within the Nation vastly improved from the meager rations of food in 1843 to the stable economy of the late 1850's.⁴

Farming became a way of life among the Cherokees. Labor in the fields was so time consuming that several missionaries complained that the farm work interfered with their mission duties. In 1855 and 1856, farm production steadily increased. Cherokee Indian Agent George Butler believed that production could be driven higher by the implementation of farm mechanization. The Cherokees began to think like farmers. They kept their fields neat and looked ahead to find storage areas for their surpluses. The Indians

² Grant Foreman, ed., "Notes of Missionaries Among the Cherokees," *The Chronicles of Oklahoma*, Vol. XVI (June, 1938), p. 171; Caroline Foreman, *Park Hill* (Muskegee, Oklahoma: Star Printing Company, 1948), p. 96.

³ Foreman, *Park Hill* p. 98.

⁴ Gates to Seaton, January, 1842, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1843), p. 183.

took pride in their work but still production was not at a level consistent with the quality of the land. Elias Rector, Superintendent of Indian Affairs in the Southern Superintendency, felt that the only real problem facing the Cherokee agricultural efforts was the fact that the Indians still held their lands in common. This accounted for the Indians' lack of initiative. Despite this drawback the Cherokees claimed the largest yield of wheat ever harvested in the Nation in 1859. Farming methods also improved near the outbreak of the Civil War. In 1859 machinery was introduced among the Cherokees for the first time; such implements as reapers, mowers, and threshers were put to use.⁵

The vast grasslands within the Cherokee Nation made the raising of cattle more and more important in the economic picture. By 1859 ranching was considered to be the leading money-making occupation.⁶ The Cherokees not only made use of the land within their borders, and after the Civil War, ranching was well established in the eastern edge of the Outlet. The expanding national market gave a great boost to cattle production. Other livestock such as hogs and horses was also raised.

Although the success of farming in the Cherokee Nation did help the people to become economically independent,

⁵ Foreman, ed., "Notes of Missionaries Among the Cherokees," *The Chronicles of Oklahoma*, Vol. XVI, p. 171; Butler to Dean, September 10, 1856, Senate Executive Document 46, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1856), p. 889; Butler to Rector, September 8, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1857), p. 499; Rector to Greenwood, October 25, 1859, Senate Executive Document 46, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 527; Butler to Rector, September 8, 1859, Senate Executive Document 49, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 540.

⁶ *Ibid.*

this alone did not account for their over-all stability. The Federal Government paid the Nation regular annuities and interest rates on bonds, of invested funds arising from former sale of eastern lands. These payments were often the root of social decay within the tribe. This attitude was prevalent because government officials generally agreed that the payments of annuities per capita made the Indians lazy and shiftless.⁷

In spite of government money and a growing agricultural economy, there were several factors that held back economic growth. First, there was a lack of transportation into and out of the Cherokee Nation. This made it difficult for the Nation to sell its surplus grains or its livestock. The growing railroad system of the United States had not yet reached the Cherokee Nation or any other part of Indian Territory. Secondly, white traders tended to interfere with free trade among the Indians. These men would often cheat the Cherokees and they were generally a bad influence upon the tribe.

In general, the Cherokee society was well ordered and tranquil, except for those involved in the feud that had arisen over the Removal from Georgia. There were several major problems, one of which was public health. In the year 1857 there was a tremendous increase in diseases and deaths especially among children. The rough winter of 1856-1857 had cut down on the usual maple sugar, wild berries, and fish which supplemented the staple grains, beef, and vegetables. Up to 1857 there had been a workable ratio between the doctors and the patients so that illness had been kept to a minimum. Many Cherokee youths were in the process of

⁷ Rector to Greenwood, October 25, 1859, Senate Executive Document 46, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 530.

⁸ Butler to Rector, September 8, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 499; Butler to Rector, September 8, 1859, Senate Executive Document 49, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 540.

training as doctors in hopes of lessening the strain. By 1859, public health was considerably better due mainly to improved eating habits and livable sanitation conditions.⁹

The population of the Cherokee Nation increased. In 1859 the census indicated 21,000 Cherokees and non-citizens within the Cherokee borders. Of this number, 4,000 were registered voters, 1,000 were whites, and 9,000 were Negroes, mostly slaves.¹⁰

In the political arena, the elections to the National Council were held regularly with zestful participation. In an obvious sense of fairness, Chief Ross urges in 1857 that special elections be held to quell any complaints. This move suggests that the Nation was politically mature. Tribal factions arose between the full-bloods led by Chief Ross and the mixed-bloods led by Stand Watie. These antagonistic groups were not new because they dated from the time of the removal treaty. The full-bloods generally (referred to as Pin Indians) were anti-slavery; while Watie's group, the Knights of the Golden Circle, were pro-slavery. Much unrest within the Nation prior to the Civil War was attributed to this division in connection with the bloody feud. News stories pictured bloody murders as every day occurrences.¹⁰

Despite Rector's comment on September 20, 1860, that there had been no improvement in "conditions or prospects of the Cherokees," it is evident that progress in some areas had been made. One of the major reasons for this

⁹ Butler to Rector, September 8, 1859, Senate Executive Document 49, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 541.

¹⁰ Butler to Rector, September 8, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 500; Chief Ross to Grand Council, October 5, 1857, Senate Document 90, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C. Government Printing Office, 1857), p. 511; Annie H. Abel, *The American Indian as Slaveholder and Secessionists*, (Cleveland: The Arthur C. Clark Company, 1915), p. 86; Edward Everett Dale and Gaston Litton, *Cherokee Cavaliers*, (Norman: University of Oklahoma, 1939), p. 58.

advancement was the influence of religion upon the Cherokee Nation. The missionaries throughout the United States looked upon Indian Territory and the Cherokee Nation as a potentially rewarding area. As the Indian Tribes settled the new land, the missionaries came west and took up the work that they had begun in the East. The Cherokees not only accepted these men, but were very close to them. As early as 1839 the Cherokee constitution recognized "religion, morality, and knowledge" as essential to good government. The problems of the missionaries centered around drinking, gambling, slavery, and general disregard for the law. The mission stations were also concerned with education.¹¹

The Reverend Samuel A. Worcester was one of the best liked and most respected missionaries living among the Cherokees. In 1855 approximately 200 Cherokee citizens proudly claimed membership in Worcester's church congregations. Although this was but a limited success it was nonetheless a sound beginning. The churches and preaching places were scattered throughout the Nation where they were most needed. The over-all structure was wholly unorganized and could have been even more influential if directed by some central authority.¹²

The task facing the missionaries was not an easy one. The job became even more difficult when Fort Gibson, the only outpost of United States law enforcement within Cherokee country, was abandoned in 1857. In the past the soldiers at Fort Gibson had controlled the freewheeling liquor traffic between the Creeks and the Cherokees. Despite the valiant efforts of the religious leaders in Cherokee territory, vice ran rampant throughout the country. In an attempt to combat drinking among the Cherokees, especially the younger men,

¹¹ Rector to Greenwood, September 24, 1860, Senate Executive Document 46, 36th Congress, 2nd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Cleveland, Tennessee: Church of God Publishing House, 1928), p. 192.

¹² Worcester to Butler, July 27, 1855, Senate Executive Document 49, 34th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington, D. C.: Government Printing Office, 1855), p. 448.

temperance societies were formed in every district. The pious and dedicated leader of one such society, D. D. Hitchcock, enlisted 153 children in his Cold Water Army in a move aimed at impressing the parents of the children with the evils of "John Barley Corn." These youngsters paraded in the streets with signs condemning the use of liquor.¹³

The Methodist Episcopal Church and the Baptist Church operated the largest congregations within the Nation. The Methodist Episcopal Church managed six missions and seventy-six preaching places around the country. All the missions of this church were restricted to a budget of \$4,200 plus an average annual collection of \$300. The Methodists claimed a large membership which included 140 blacks. The Baptist Mission was headed by the well known Reverend Evan Jones and Reverend John B. Jones. The Baptists directed six churches, all built by the Cherokees themselves. The membership in the Baptist Church grew rapidly, and in 1859 sixty-three Cherokees were baptized.¹⁴

Religion produced many welcome changes in the Cherokee Nation. The established missions were an aid to education in providing teachers, facilities, and monetary support. More abstractly the coming of the gospel created an awareness of a moral code within the Cherokee mind. The missionaries pushed the Cherokees to work diligently and

¹³ Butler to Rector, September 8, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 482; Rector to Greenwood, October 25, 1859, Senate Executive Document 46, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 527; Butler to Rector, September 8, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 500.

¹⁴ Harrell to Butler, August 10, 1859, Senate Executive Document 52, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 543; Jones to Butler, August 7, 1859, Senate Executive Document 51, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 544.

even worked in the fields beside the Indians. The total effect of religion upon the Cherokee Nation was obviously desirable despite the fact that many missions were closed in 1859 and 1860 due to economic strain and tribal frictions.¹⁵

Any Cherokee citizen was probably prouder of his Nation's accomplishments in the field of education than in any other area. Education in the Cherokee Nation was a success because the whites and the Cherokees realized that the average Cherokee could attain a high degree of learning and not be bound to the traditional role of a second class citizen.¹⁶ This faith in the need and usefulness of education for the Cherokees soon led to many well deserved achievements.

The Cherokee Nation established its own public schools. In 1855 there were 21 public schools in the Nation with an enrollment of 1,100 pupils. The curriculum included spelling, reading, grammar, history, arithmetic, geography, penmanship, rhetoric, and philosophy. The educational standards continually rose. H. D. Reese, the new superintendent of Cherokee public schools in 1859, commented that the situation constituted a "change for the better since 1855." On the eve of the Civil War the number of public schools had risen to thirty with a corresponding jump in enrollment of 1,500 students.¹⁷

¹⁵ Duncan to Butler, August 2, 1859, Senate Executive Document 52, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 544.

¹⁶ Duncan to Butler, September 16, 1857, Senate Document 89, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1857), p. 504.

¹⁷ Reese to Butler, September 18, 1858, Senate Document 44, 36th Congress, 2nd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1858), p. 494; Reese to Butler, September 21, 1859, Senate Executive Document 53, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 545.

Nearly every neighborhood wanted its own school. Many petitions for new schools were brought before the National Council. It was unfortunate that more schools were out of the question because of the existing money situation. In any event, the extra revenue that was collected was applied to teacher salaries in order to obtain better talent. The annual appropriations for the schools amounted to \$10,000, derived from interest paid to the Cherokees on their investments in government bonds. Chief Ross urged that the citizens be responsible for a greater part of the burden of education in order to use some of the interest money to pay off the Cherokee national debt. Chief Ross thought that tuition could be paid by the Nation while the individual would secure his own books and supplies. Other than the disbursement of interest funds, the United States Government exercised no control over the Cherokee educational system. Before 1856 there had been a special educational fund in addition to the interest payments. However, the Cherokees quickly used up this fund in building and supplying their schools. This lack of money became a real problem, which eventually led to the closing of several schools. In an attempt to find useable funds the Cherokees wished to sell their claim to the neutral lands in what is now the state of Kansas. Besides the controversy over the land itself, the tribe was divided as to how to spend the money. The most sensible view was that of paying the debts of the Nation, then reinvesting the remainder for the purpose of educational and technological advance.¹⁸

¹⁸ Butler to Dean, September 10, 1856, Senate Executive Document 46, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1856), p. 691; Reese to Butler, September 21, 1856, Senate Executive Document 53, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 546; Chief Ross to Grand Council, October 5, 1857, Senate Document 90, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1857), p. 608; A. E. Knepler, "Education in the Cherokee Nation," *The Chronicles of Oklahoma*, Vol. XXI (December, 1943), p. 378; Butler to Dean, September 10, 1856, Senate Executive Document 46, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 689;

In addition to financial troubles there were other difficulties facing the Cherokee educational structure. The language barrier was one formidable difficulty which necessitated the instructors having knowledge of both English and the native tongue. For this reason most of the teachers were natives. Division of labor within the Nation also became a real concern. It was soon recognized that formal education was not the answer for everyone; people were still needed as farmers and laborers. Obtaining competent teachers was also a difficult task. In the early schools the academic stature of the instructors was doubtful, and in 1859 the Nation began to screen prospective teachers with an examining board. Assignment of books was a problem because there were not enough for every pupil, and there was not money enough to purchase more. However, in June of 1856, new books were received and a better ratio of books to students was established.¹⁹

The high point in the Cherokee educational scheme came on May 6 and 7, 1851. On these dates respectively the Female Seminary and Male Seminary opened their doors to students for higher education. Pauline Avery was appointed director of the Cherokee Female Seminary. By 1855, the average daily attendance was 55 students out of an enrollment of 60. In February, 1855, the first graduating class, a group of 12 students, left the seminary. Many of these and later graduates returned to the seminary or to the

Duncan to Butler, September 18, 1857, Senate Document 89, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 503; Butler to Dean, September 10, 1856, Senate Executive Document 46, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 689.

¹⁹ Duncan to Butler, September 25, 1856, Senate Executive Document 48, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1856), p. 693; Harrell to Butler, August 10, 1859, Senate Executive Document 52, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 546; Duncan to Butler, September 26, 1856, Senate Executive Document 48, 34th Congress, 3rd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 684.

public schools as teachers. Because of the influence of the seminaries, most of the common school graduates went on to take advantage of the higher education facilities. O.S. Woodford was named head of the Cherokee Male Seminary in 1856, with a student body of only 46. Five pupils made up the first graduating class in February 1856. Some of the early teachers were from the eastern states and were college graduates. The course of study at the Male Seminary included Latin, rhetoric, philosophy, physiology, bookkeeping, and English.²⁶

By the time of the Civil War, almost every Cherokee child had some formal education. The results were far reaching in the future. Some were immediately evident. Most important was the emergence of increased opportunity for more promising careers for the youth of the Nation.

Along with the development of education there was evidence of a maturing legal structure within the Cherokee Nation. Upon settling the new land the Cherokees brought with them many of their old tribal laws and customs. These old tribal rules inflicted cruel punishments. A petty thief was sure to receive at least a hundred lashes from the "black snake," and the horse thief's only reward was the typically western hangman's noose. Hanging was also the specified punishment for arson. Many of these older laws were inconsistent with the laws of today; for example, a rapist would be whipped one hundred times instead of drawing life imprisonment or the death sentence. Fines were also incorporated as punishments, especially in cases involving possession of liquor. During the decade before the Civil War,

²⁶ Hugh T. Cunningham, "A History of the Cherokee Indians," *The Chronicles of Oklahoma*, Vol. VIII (December and September, 1930), pp. 291, 407; Every to Butler, August 2, 1856, Senate Executive Document 63, 34th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1856), p. 461; Woodford to Butler, August 11, 1856, Senate Executive Document 66, 34th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1856), p. 462.

floggings stopped and in general the punishments became milder.²¹

The Cherokee Nation by treaty had the right to pass its own laws and govern its own people. Actually, the Federal Government imposed the same code of laws upon the Cherokees as was imposed on the District of Columbia. This, by no means, allowed the Cherokees true autonomy. What was needed for the whole of Indian Territory was one clear and simple law code which would still allow the various tribes to run their own affairs.²²

Rector was a new Indian superintendent in 1857, but his report of that year suggested many needed legal reforms. Emphasis was placed on the need to reopen Fort Gibson in order to cut down whiskey trading between the Creeks and the Cherokees. A proposition was made that Indian agents be given more power in dealing with white people living in the Nation. This was desirable so that the property of these non-citizens could be protected. One of the more urgent reforms of this period concerned legal counsel. Many Indians were tried without the aid of a lawyer, either because they were not aware that they needed one or because they could not afford one. The Federal Government began to offer such services when the Cherokees could not secure them.²³

One of the trickiest questions confronting the Cherokee Nation was that of legal jurisdiction. The United States District Court at Van Buren, Arkansas, assumed control over the Nation. Yet, according to the Treaty of 1835, Article V, the Cherokees were given the powers to pass and enforce laws binding on all persons within their borders. The court at Van

²¹James W. Duncan, "Interesting Ante-Bellum Laws of the Cherokees, Now Oklahoma History," *The Chronicles of Oklahoma*, Vol. VI (June 1928), p. 178-180.

²²Rector to Denver, September 24, 1857, Senate Executive Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C. Government Printing Office, 1867), p. 487.

²³*Ibid.*, pp. 483-484.

Buren took all cases involving whites and Negroes. Those cases would naturally involve Indians as well. The result was that a slave could testify against the master. In no other Federal Court at that time could this happen. Butler strenuously objected to this because he, like most Indian agents, was ardently pro-slavery. The Cherokees in general became hostile towards the very existence of the court at Van Buren. Indians were often captured inside Indian Territory and were taken off to Van Buren without the recognition of any right of habeas corpus whatsoever. The Cherokee Council felt that Indian criminals should be tracked down by the tribe in cooperation with the Indian agents. Trial would then be held somewhere in Indian Territory to avoid confusion. Even whites were subject to an Indian court, except those working for the Federal Government. Another possible solution centered around moving the court from Van Buren into Indian Territory and forming it into three branches, one each in the Cherokee, Creek, and Choctaw countries. Unfortunately nothing was done. Even John Ross, a conservative, denounced the court at Van Buren as an encroachment upon the rights of the Cherokee Nation.²⁴

According to the Treaty of 1835, the Cherokees were to be allowed delegates to the United States House of Representatives. Congress took no action in the matter, and the delegates sent by the Cherokees were not seated. In fact ever since 1835, the tribe had paid lobbyists to protect their interests in Washington. Many times the Indian agents and superintendents called on Congress to remedy the situation, but no action was taken.

The constitution of the Cherokees was the epitomy of their legal maturity. The document compared favorably to

²⁴Butler to Dean, August 11, 1855, Senate Executive Document 48, 34th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1965), p. 445; Rector to Denver, September 24, 1857, Senate Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1857), pp. 485-494.

any of the bordering states in both theory and practice. The constitution plainly called for the separation of the different powers of government. It set up a separate system of courts, and the legislature was empowered to pass written laws. Specific laws setting up a school structure were also included within the constitution.²⁵

Even with a liberal constitution, a refined code of laws, and the desire for more equal rights, the Cherokees faced a serious problem concerning their civil rights. It was made very clear that as long as the Indian, especially the Cherokee, was not a United States citizen he would not be given the rights of a United States citizen.²⁶

The neutral lands controversy was closely associated with the legal questions confronting the Cherokee Nation. This dispute involved not only the land but also the traders and settlers living on the land. The Cherokees owned approximately 800,000 acres in what is now the eastern part of the state of Kansas. This area had been received by the Cherokees from the United States, in lieu of a \$500,000 debt. This "neutral land" area was not in use except for grazing purposes, and consequently the Cherokees were criticized for merely holding the land and not paying taxes on it. White settlers could see no reason for passing up this fertile land when no one was using it. These settlers were drawn to the region in increasing numbers; some came because of reports of minerals. The crux of the matter developed around the question of who should handle the situation, the Cherokees or the Federal Government. Naturally, the Cherokees felt the whole matter should be left up to them to decide. Some citizens even suggested that the tribe be given the power to lay and collect ad valorem taxes

²⁵ Butler to Rector, September 8, 1857, Senate Executive Document 86, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 486.

²⁶ Rector to Denver, September 24, 1857, Senate Executive Document 85, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 489.

on the trader's goods. The state of Kansas went so far as to say they had the right to sell the land themselves because the Cherokees held no real claim to it. Chief Ross bitterly opposed this view.²⁷

The controversy had two main results. It induced a move to sell the land because the Cherokees needed the money, and in the meantime the Federal Government concentrated on removal of the intruders (white people). On June 12, 1858, the United States Congress passed a law requiring the Commissioner of Indian Affairs to remove all unwarranted persons from the Cherokee tribal lands. This law was actually included in the third section of the 1858 appropriations bill. Commissioner A. B. Greenwood instructed Butler to remove all of the settlers. This order pertained even to those people who had permission from the Cherokees to settle the land. Action was to be taken immediately after April 1, 1860, and no further settlements were to be tolerated. Greenwood charged Charles W. Blair, the commander at Fort Scott, Kansas, with the duty of removing these people in compliance with the new law. This procedure was looked upon as the only answer since no treaty to purchase the land was foreseeable in the future.²⁸

The desire to sell the neutral lands involved even more difficulties. In the first place the Cherokees did not have the right to sell the land to anyone but the Federal Government.

²⁷ Reitor to Mix, October 12, 1858, Senate Executive Document 39, 35th Congress, 2nd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 530; Reitor to Greenwood, September 23, 1859, Senate Executive Document 46, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 530; Chief Ross to Grand Council, October 5, 1857, Senate Document 90, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, pp. 509-11.

²⁸ U. S. Congress, *U. S. Statutes at Large* 70 Vols., (Boston: Little, Brown, and Company, 1845-1967), Vol. 11, p. 332; Greenwood to Butler, n. d., Senate Executive Document 91, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1859), p. 444.

The Cherokee National Council was asking the price of the original debt plus interest. Washington was willing to pay the principle but would not pay the interest that had collected over the years. Some people, John W. Denver, the Commissioner of Indian Affairs, among them, believed that the Cherokees deserved the full price. The alternative to this dilemma would have been to give the Cherokees the power to sell their land to the individual settlers wanting to live there. However, to accomplish this the members of the tribe (Cherokee citizens) would have to be given United States citizenship. This important question was never settled before the advent of the Civil War.²⁹

It was, perhaps, fitting that in the Cherokee Nation before the Civil War, one of the most perplexing problems was slavery. Slavery in the Cherokee Nation had a long history. Negro servitude to Indians had its beginning in the East through British influence. As early as 1811, there were 583 Negro slaves within the Cherokee Nation, which at that time numbered 12,395. A law passed by the Cherokee Council in 1824 stated that all free Negroes coming into the Cherokee lands were looked upon as intruders, and these Negroes were prohibited from owning property according to the same law. In 1825, the number of slaves in the Nation was over twice the number in 1811. The census of 1825 revealed 1,222 slaves. Negroes were not citizens of the Cherokee Nation, and they were thus prohibited from intermarriage, from voting, and from holding public office. In 1841 laws were passed by the Council making it a crime for any Negro to carry a weapon. Negroes were forbidden to attend school because the Cherokees feared that education

²⁹Denver to Thompson, November 30, 1857, Senate Executive Document 42, 35th Congress, 2nd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1857), p. 246; Rector to Greenwood, September 23, 1859, Senate Executive Document 45, 36th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 531; Rector to Mix, October 12, 1868, Senate Executive Document 39, 35th Congress, 2nd Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs* (Washington D. C.: Government Printing Office, 1858), p. 531.

might lead to civil violence. The missionaries ignored this law and forced the Council to take more drastic steps. On October 24, 1848, the Cherokee Council passed a law declaring that any non-citizen guilty of teaching a Negro to read or write would be asked to leave the Nation.³⁰

The Cherokees, by 1855, had grown dependent on slavery for much of their labor. This was so evident that in 1859 Butler revealed that he was "clearly of the opinion that the rapid advancement of the Cherokees is owing in part to the fact of their being slaveholders." The prevailing attitude was that every Indian would become more industrious by having his own slave.³¹ The Cherokees believed that slavery was their most important and cherished institution.

The only problem seemed to be the anti-slavery missionaries. Butler stresses the point that these missionaries should abide by the Cherokee traditions.³² The missionaries were repeatedly advised to mind their own business. Dissention continued to rise but the question of slavery, like the controversy over the neutral lands, was not settled until after the Civil War.

The story of life in the Cherokee Nation from 1855 to 1860 is one of growth and advancement in spite of the difficulties in the areas of education, morals, and politics. The tragedy of this development is that it had to be interrupted by the Civil War. The Cherokee Nation was a victim of its time. As the culture of the Cherokees grew, ingrained hatred in the rest of the United States took deeper root. The sectional clash came at a time when the good life

³⁰ J. B. Davis, "Slavery in the Cherokee Nation," *The Chronicles of Oklahoma*, Vol. XI (June, 1933), pp. 1062-65.

³¹ Butler to Rector, September 8, 1859, Senate Executive Document 49, 35th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 540.

³² Butler to Dean, August 11, 1855, Senate Executive Document 48, 34th Congress, 1st Session, U. S. Department of the Interior, *Annual Reports of the Commissioner of Indian Affairs*, p. 444.

was near at hand for the Cherokees. The importance of this development is the fact that gains were made by the Cherokees after a transition had been made from the "Trail of Tears" journey west to the new land. These people desired an education, they desired to increase their productivity, and they desired to run their own political lives. More important than the desire for a better life was the fact that the Cherokees earned a better life.