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LAND, PROPERTY, AND THE CHICKASAWS:

THE INDIAN TERRITORY EXPERIENCE

THESIS

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PREFACE

At a very early date, it must have been apparent to the Chickasaws that their only hope of survival in the face of a steadily encroaching white man's world would be to imitate and emulate the latter's society, his Constitution, and his laws. Long before Andrew Jackson signed the Removal Act destined to uproot large numbers of peoples and result in some of the greatest mass migrations in the history of the United States, the Chickasaws, largely by a process of trial and error, attempted to sow the seeds for their plan of survival in keeping with their realization of this all-important fact. After arriving in the new land soon to be known as Indian Territory, they continued this process in the hope that their identity as a tribe and a Nation might never be lost.

The Chickasaw experience in Indian Territory became indicative of a culture confronted with possible extermination by a larger and more powerful culture. Their story illustrates an intense struggle on the part of the Chickasaws to utilize and regulate the land on a tribal basis of ownership in the face of a fast encircling world which favored the concept of individual private property. One of the major problems that concerned the Chickasaws during this crucial period was how to absorb some of the white man's institutions and way of life, and still cling to tradition and remain basically Chickasaw.

CHAPTER I

THE CHICKASAWS AND REMOVAL

The Chickasaws were a proud people. At the time Hernando de Soto found them in the mid-sixteenth century, they lived in an area that today encompasses the western parts of the states of Mississippi, Tennessee, and Alabama, with a hunting domain that extended far beyond these frontiers.¹ Their prowess in battle was both feared and respected. As such, the neighboring tribes acknowledged the Chickasaw claim to this vast, forested domain.

The Chickasaws had an inherent love of the land. They had developed to the stage of subsistence agriculture, but also excelled as hunters. The Chickasaw country was held in common by members of the tribe; no concepts or private property existed such as were common to Europeans. Each Indian family used as much land as it needed.

The land was tended religiously. Each phase of the planting and gathering was accompanied by ceremony. Prayers were offered to the Great Spirit. He could cause the sun to shine; He could bring the rain. And it was the Great Spirit that watched over the beloved graves of their ancestors. This was Chickasaw land, and here were buried their cherished relatives, chiefs, friends, and comrades. The Chickasaws believed that the spirits of their ancestors hovered over the land, though these

¹H. B. Cushman, History of the Choctaw, Chickasaw, and Natchez Indians (Greenville, Texas, 1899), p. 421.

departed souls could not be seen or heard. The ghosts of the dead watched the living. The Chickasaw people knew this in their hearts, and they felt close to the land--bound to the land.

After the coming of De Soto, the Chickasaws came into contact with Spanish and French explorers and traders along the Mississippi River for many years. Early accounts tell that the Chickasaws were a handsome people; Chickasaw women were especially attractive.² As a result, a sizeable half-breed population evolved within the tribe. New talents and ideas influenced Chickasaw culture.

By the time other European traders rounded the southern tip of the Appalachians and made contact with these Indians, the Chickasaws were in the process of developing a higher culture. Many wealthy members of the Chickasaw clans, especially the half-breeds, had adopted agricultural methods of the Europeans. They purchased Negro slaves, planted large fields of cotton, and turned to commercial agriculture.

Sometimes the ability of a people to survive depends upon their willingness to change. The world is in a constant state of change; nothing remains the same. Change can be either beneficial to those it touches or it can be non-beneficial, and it will come sometimes regardless of the wishes of a people. For better or for worse, the people must then adjust to it or be cast aside.

The Chickasaws were resistant to change but were not unfamiliar with it. They had adjusted to change in the remote past, but then they had settled down to long years of relative constancy in regard to their

²James H. Malone, The Chickasaw Nation: A Short Sketch of a Noble People (Louisville, Kentucky, 1922), p. 176.

way of life and tribal domain. They clung with eager tenacity to tradition, to a perpetuation and reverence of the old ways. The security of their domain had to be upheld and defended continually. Threat of encroachment by warlike neighbors was a part of life, and the Chickasaws were always prepared to defend their homeland. As long as they could successfully protect their domain, they felt reasonably secure, but in the face of a more powerful adversary, that security was undermined and eventually swept away like vulnerable obstacles before a tidal wave. Once before, in the dawn of pre-history, the Chickasaws had faced extermination and had embarked upon an emigration from an ancient homeland. If one can believe Chickasaw and Choctaw legends, then once before they had "removed" to a promised land.

According to legends verbally passed down through countless generations by the elders of the clans, the Chickasaw and the Choctaw tribes had originally been one unit. No written chronicle records this shadowy past, but both tribes, Chickasaw and Choctaw, have similar traditions with only minor variations, and indeed, both stem from the same linguistic stock, Muskogean.³ Even today their languages are quite similar with only slight differences in pronunciation.⁴ They also share a common dictionary, A Dictionary of the Choctaw Language by Cyrus Byington, a missionary in Indian Territory.⁵

³Angie Debo, The Rise and Fall of the Choctaw Republic (Norman, 1934), p.1.

⁴Henry C. Benson, Life Among the Choctaw Indians, and Sketches of the Southwest (Cincinnati, 1860), p. 25.

⁵Cyrus Byington, "A Dictionary of the Choctaw Language," Bulletin of the Smithsonian Institution, No. 46 (Washington, 1915).

Early in the nineteenth century, the Chickasaws and Choctaws related tales of their history to the missionaries living among them. These legends told of an ancient journey from the far west, perhaps Mexico, to the area east of the great Mississippi River. Being oppressed by a stronger people, these tribes had determined to move. Two brothers, Chahtah and Chikisah, renowned for their courage, commanded the journey.

In the course of their travels, the Indian people believed that a divine spirit guided them to a promised land. The trek continued over exceedingly difficult and unfamiliar terrain. Each night the chiefs placed a fabussa (pole) in the ground; each morning they discovered that the fabussa pointed to the east. Accepting its guidance, the Indians proceeded east, crossing a great river which they named Misha Sipokni [Mississippi?]. When at last the fabussa stood erect, its tip pointing directly upward as though it offered thanks to the Great Spirit, the people knew their travels had come to an end and that they had arrived in the promised land.⁶

The followers of Chahtah and Chikisah remained together for awhile, but eventually a schism developed and they separated. The Chickasaws located to the north of the Choctaws and considered the region their particular domain. All members rallied voluntarily to the defence of their tribal boundaries.

As the Anglo-American westward movement grew and expanded, crossing the mountains and spilling over into the rich black soil bottom-lands of the Mississippi River Valley, the Indian tribes residing there encountered

⁶Cushman, History of the Choctaw, Chickasaw, and Natchez Indians, pp. 63-65, 418.

a threat to their security. Whites soon began to covet these choice acres and to demand that the Indians go. The cotton empire was on the march. Abandoning depleted fields in the east, southern farmers sought virgin land in the west. At first, the whites used means of friendly persuasion in getting the Indians to move, but finally resorted to fraudulent methods to acquire the Indians' lands, including violence. Determined to retain their homelands, the Indians protested. Some tribes resorted to open warfare. The Chickasaws chose another route in their fight for survival. They issued formal protests and appeals to the Great White Father, the President, in Washington, D. C. It must have seemed like the wisest of all possible decisions at the time, this peaceful means of preserving their domain. The Chickasaws could not know that this method, this battle of negotiation, would be as impossible to win as that of armed conflict. By the time they discovered that fact, it would be too late.

Suggestions had been made since the turn of the century for removal of eastern Indians into the vast unknown, and then basically unwanted, American West. Thomas Jefferson had considered such a possibility, and men had echoed these ideas through the years. Immediately after the close of the War of 1812, some initial action had been taken in this respect, but not until the early 1820's did a concerted effort urge Congress to adopt the necessary legislation for such an enormous undertaking. In his message to Congress at the opening session in 1824, President James Monroe instituted plans for removal of Indian tribes then living east of the Mississippi River. At this time, he suggested that the land between the limits of the States and Territories of the United States and the Rocky Mountains and Mexico would be an excellent future location

for these tribes. Applying the usual pressure in such cases, the President said:

My impression is equally strong that it would promote essentially the security and happiness of the tribes within our limits if they could be prevailed on to retire west. . . . Surrounded as they are, and pressed as they will be, on every side by the white population, it will be difficult if not impossible for them, with their kind of government, to sustain order among them.⁷

On December 16, 1824, the House of Representatives passed a resolution instructing the Committee on Indian Affairs to investigate the matter. President Monroe again presented his ideas on this in a special message to the House on January 27, 1825, drawing up a rather formal plan of action accompanied by a report with specific suggestions made by the Secretary of War, John Caldwell Calhoun. Several bills followed which recognized the removal of the Indians, their permanent settlement in the west, and their protection by the United States government. Though the Senate passed these bills, the House of Representatives failed to approve them.⁸ For a time the matter abated, but the attempted legislation stirred the fears of the Indians and prodded them into action.

Threatened with the possibility of losing their ancient homes and hunting grounds, the Choctaws petitioned Congress against such proceedings.⁹

⁷President James Monroe to Senate and House of Representatives of the United States, March 30, 1824, A Compilation of the Messages and Papers of the Presidents, 1789-1908 (hereinafter cited as Messages and Papers), edited by James D. Richardson, 10 vols. (Washington, 1909), II, 235.

⁸Annual Report of the Commissioner of Indian Affairs (Hereinafter cited as O. I. A.), in House Executive Document, 24th Cong., 2d Sess. (Washington, 1836), pp. 367-393.

⁹American State Papers: Documents, Legislative and Executive (hereinafter cited as American State Papers), Vol. II of Indian Affairs, 1st Sess., 14th Cong. to 2d Sess., 19th Cong., 38 vols. (Washington, December 4, 1815 to March 3, 1827), pp. 541, 558.

The Cherokees took similar actions. The Indians did not stand completely alone. Missionaries working among the various tribes protested in their behalf, and some few individuals like Major General Edmund P. Gaines of the United States Army attempted to voice their sympathies to a seemingly deaf nation. In a report of an inspection of the Western Department, Gaines had this to say:

Under these impressions I hold it to be the duty of every citizen of the United States to raise his voice, however feeble, in favor of the instruction and actual civilization of these Indians, and against their being driven from their homes--which, for the most part, possess the charm of being the places of their birth, a charm not less dear to them than to their civilized neighbors. If we put them afloat, and push them into the wide expanse of the western prairie, we thereby assume the responsibility of feeding and protecting them, or of contributing perhaps to their annihilation. . . .¹⁰

Voices such as this were all too few, however, and the situation grew steadily worse. Whites grew more and more insistent and continually encroached on tribal lands. The issue soon sprang to life again in the halls of Congress.

Finally, in response to President Andrew Jackson's message at the opening session of Congress, which contained a report and suggestions by Secretary of War John H. Eaton, Congress passed what became known as the Indian Removal Act on May 28, 1830. Accordingly, the legislation authorized the President to exchange lands with Indian tribes residing east of the Mississippi River for new lands west of the river, lands not included in any state or organized territory. In the course of transaction, the President would solemnly assure these tribes that the United States would forever secure and guarantee to them and their heirs the

¹⁰American State Papers, Vol. IV of Military Affairs, 2d Sess., 20th Cong. to 1st Sess., 22d Cong., p. 129.

new lands to be received. Specific districts in the west would be laid off for the individual tribes, with definite well-described boundaries.¹¹ Tribes within these districts could request that the United States give them a patent or grant to protect their interests. This patent the government could issue provided that such lands would revert to the United States in case the tribe became extinct or abandoned the said tract. The President was further authorized to provide aid and assistance for the removal of the Indians and to give them support and subsistence for the first year after their relocation. The Federal government agreed to protect the displaced persons from future intrusion or disturbance by other tribes or any persons whatever.¹² The United States thus committed itself to a policy of guardian and protector, and to the establishment of military posts within the Indian country and future interference in tribal affairs.

Until 1871, the United States government made formal treaties with Indian tribes or groups of associated tribes, regarding them as separate but subordinate nations. The Senate ratified these treaties in much the same manner as it consented to treaties with foreign nations. After that time, Congress altered and revised the process:

In 1867, the House of Representatives gave notice of its objection to this procedure, which tended to limit its functions in respect to the administration of Indian Affairs, and in 1871 the treaty period ended. Subsequently, legislative action was taken through the ordinary congressional procedure for public bills.¹³

¹¹The lack of an accurate system to record boundaries, accelerated by incomplete knowledge of western geography, led to future problems and more treaties with redefined boundaries based on new information gained through exploration and map-making.

¹²U. S. Statutes at Large (hereinafter cited as Stats.), IV, 411 (1830).

¹³Institute for Government Research, The Problem of Indian Administration (Baltimore, 1928), p. 749.

In the initial removal treaties with Indian tribes, the Indians ceded their lands east of the Mississippi River to the United States government. Usually the government then would have these lands surveyed and prepared for sale. During the time required for a survey, the Indians must hunt for a suitable home in the west to which they might remove. Until they found this new land, their security would be guaranteed from intrusion by whites. Upon completion of the survey and arrangements for a western home, the Indians would leave. Proceeds from the sale of the newly-abandoned lands would belong to the Indian nation involved after deducting the cost of surveying and selling the land.¹⁴ Not all tribes obtained the same conditions, however, and the Chickasaws perhaps fared better than most in this instance.

With the passage of the Removal Act, time-consuming treaties had to be made with all the various tribes. In the meantime, hordes of whites waited on the fringes of the frontier, eager and impatient for the removal of the Indians beyond the Mississippi. Eventually their impatience increased to the point of initiating independent action to oust the Indians from their homes. Finally the situation expanded out of all proportion. The possibility of civil war loomed on the horizon as Georgia brazenly opposed and ignored federal authority in regard to treaties made with the Indians, and instead assumed a state's rights stance to extend state law over Indian lands and take them by force if necessary. Georgia reflected the attitude of those states impatient with the sluggish pace of the federal government in the acquisition of Indian lands. Affairs in Mississippi had followed a similar pattern and that state had extended its

¹⁴Charles J. Kappler, Indian Affairs: Laws and Treaties (hereinafter cited as Indian Affairs), Vol. II of Treaties, 3 vols. (Washington, 1904), pp. 356-357; Stats., VII, 381 (1832).

laws over the Chickasaw lands, nullifying federal laws regulating trade. The most the federal government did was to have the United States marshal post warnings to the whites to evacuate the Chickasaw Nation by a certain date. When the whites failed to comply, no disciplinary action followed.¹⁵ The American people realized the seriousness of defining the exact status of Indians and Indian tribes, a problem which remains unsolved in many respects even in the twentieth century.¹⁶

The Constitution had left the position of the American Indian an indefinite one in American society. Seemingly Indians were outside the realm of constitutional organization, were denied citizenship, and were omitted from the system of taxation (Article I, Section 1). Operating under the treaty-making and war powers in addition to the power to regulate commerce with the Indians (Article I, Section 8), "the federal government from the beginning had dealt with the Indians as autonomous nations and had pursued a policy of removing the Indians from the paths of the white men as the tide of settlement moved westward."¹⁷

The fate of Indian tribes east of the Mississippi was finally put to a test before the Supreme Court of the United States, this case in regard to the Cherokee Nation. Having adopted a written constitution and declared themselves an independent nation, the Cherokees sought to

¹⁵ Grant Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians (Norman, 1953), pp. 200-201.

¹⁶ Institute for Government Research, The Problem of Indian Administration, p. 749.

¹⁷ Alfred H. Kelly and Winfred A. Harbison, The American Constitution, Its Origins and Development, 3rd ed. (New York, 1963), p. 301.

retain their lands in the face of an acquisition threat from the State of Georgia. The Indians asked for an injunction from the Supreme Court. Presiding as Chief Justice, John Marshall issued the decision in Cherokee Nation v. Georgia (1831) that, under the Constitution, Indian tribes were neither states in the Union nor foreign nations and so could not take action in federal courts. He further added that they constituted "domestic dependent nations" under the sovereignty of the United States.

The following year the Supreme Court's opinion in Worcester v. Georgia (1832) held that the Cherokee Nation was a separate political community and that Georgia had no right to extend her laws over it or enter it without permission from the Cherokees or in keeping with the treaties and acts of Congress. Watching the situation apprehensively, the Indians now felt they had achieved some official protection.

President Andrew Jackson soon disrupted the momentary sense of security felt by the Indians when he refused to conform with the ruling of the Court, reputedly saying, "John Marshall has made his decision, now let him enforce it."¹⁸ This attitude on the part of Jackson probably came as no surprise to the Chickasaws as they had witnessed his stubbornness earlier in meetings with the President. The possibility that the situation might have precipitated a national crisis among the American people never arose, for most people and most states favored the removal of the Indians and felt that Indian tribal organization within a state interfered with the police powers of the states.¹⁹ The stage was now set for some of the greatest disruptions of ancient homesteads and forced

¹⁸Ibid., p. 303.

¹⁹Ibid.

mass migrations in the history of the United States.

Of necessity, some provision had to be made for organizing the new Indian region now, no matter how loose-knit and inefficient that organization might turn out to be. Certain treaty agreements with the various tribes removed would have to be met by the United States government, some protection from unscrupulous traders, speculators, and white settlers as well as from the wild nomadic Plains tribes would have to be extended. A certain amount of trade would have to be regulated by United States officials. It was a confusing and delicate situation, for even though these Indian nations were subject to some direction by federal government, they were to be allowed to set up their own governments and function as separate dependent nations. A definition on just how much regulation and control they were subject to by the United States was needed.

On June 30, 1834, Congressional enactment of the Intercourse Act regulated trade in the Indian country. In all lands east and west of the Mississippi River belonging to the United States not encompassed within states or territories, all traders desiring to transact business with Indians had to secure a license from the Superintendent of Indian Affairs, an Indian agent or sub-agent, and had to post bond of not more than \$5,000 as a guarantee that they would abide by all the established rules and regulations. Any violation on the part of the trader would result in a cancellation of the license. All traders had to be United States citizens of good character, and had to agree to trade only at certain designated places. Certain goods could be prohibited from trade with the Indians by the President of the United States if he deemed it necessary.²⁰

²⁰Stats., IV, 729 (1834).

Foreigners entering the Indian country without passports were subject to a fine of \$1,000. This rule also applied in cases where foreigners remained in the region after the expiration of their passports.²¹

The Intercourse Act also set up regulations to control whites and keep them from intruding on Indian lands. Only Indians could hunt and trap within the area, though other persons could kill game for subsistence purposes if necessary. All intruders and squatters would be removed by military force, and any criminals that may have fled into the Indian country to escape the law would be pursued by United States authorities. Also, all Indians accused of committing a crime within any state or territory of the United States were subject to arrest and trial by the proper authorities even though they might have gone back across the border into their own nation or region. The laws of the United States, however, did not extend to crimes committed by one Indian against the person or property of another Indian. In the case of the latter, the Indian would be under the authority of his own nation.²² Thus the formal machinery for the removal program had been set in motion; the problem remained to convince the Indians to move. Some efforts in this direction had already been made.

On August 23, 1830, nearly three months after the passage of the Indian Removal Act, President Andrew Jackson delivered a speech to a delegation of Chickasaw Indians meeting with him at Franklin, Tennessee. The President was accompanied by General John Coffee and Secretary of War John H. Eaton. In an attempt to encourage the Chickasaws to cede their

²¹Ibid.

²²Ibid.

lands to the United States and move to new lands west of the Mississippi River, Jackson warned them what would happen if they refused to go. The speech was well calculated and planned, with just the sort of propaganda needed to convince them to remove. Under the guise of expressing only the utmost concern for their welfare, Jackson asked them if they were willing and prepared to submit to the laws of the State of Mississippi which would be extended over them if they remained. Furthermore, the white man's home fires were already surrounding them and soon the possibilities of the chase would be limited. The President continued, telling them:

Your great father has not the authority to prevent this state of things. . . . His earnest desire is, that you may be perpetuated and preserved as a nation; and this he believes can only be done and secured by your consent to remove to a country beyond the Mississippi²³

Before leaving Franklin, President Jackson met socially with the Chickasaws at the Masonic Hall. There the President achieved the goal of his mission when one of the chiefs handed a paper to Secretary Eaton stating that "after sleeping upon the talk," the chiefs had decided to sign a treaty for removal. As Jackson prepared to make his departure, one of the principal chiefs grasped both the President's hands saying, "God bless you, my great father." Recording the event, reporters quickly emphasized that the decision of the Chickasaws had been strictly of a voluntary nature, with nothing of compulsion or force to cause them to move.²⁴

²³Niles Register, XXXIX-XL (1830-1831), 68.

²⁴Ibid., p. 67.

In his first annual message to Congress, Jackson had stressed the idea that a state could not be restricted in the exercise of her constitutional power.²⁵ Pursuing the matter further in his second annual message in 1830, Jackson rebuked the philanthropists that had been championing the Indian cause. He emphasized how much progress had been made with the movement of civilization westward across the nation, and declared that it would be inconceivable for anyone to want the United States to revert to a land of forests and wild savages such as it was when the white men first arrived. He went on to say that the Indians could not possibly have a stronger attachment to their homes and the graves of their ancestors than settled, civilized Christians, and so should not mind leaving them and removing to the west. After stressing this wonderful opportunity for the Indians, he announced that whites would be glad and overjoyed for such an opportunity. "Rightly considered, the policy of the General Government toward the red man is not only liberal, but generousThe General Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement."²⁶ He failed to mention that the cost of removal and settlement would be deducted from the sale of the Indian lands east of the Mississippi, a reduction of the proceeds to invest for the future benefit of the Indians. The government would indeed pay the expenses of removal--with the Indians' money.

By the time of his message to Congress in 1831, Jackson cited precedents dating back to the days of the Articles of Confederation in

²⁵Richardson, Messages and Papers, II, 458.

²⁶Ibid., 522.

defense of his case supporting the states in their actions against the Indians. He brought to light an old Congressional Resolution of 1782 in which the states retained the decision to give Indians assurance of protection from intrusion on their lands within particular state boundaries.

He continued with a discussion on whether the present Constitution had enlarged the powers of the federal government in regard to Indians, and concluded by interpreting the clause on regulation of commerce with Indian tribes to mean those Indians not residing within the limits of any particular state. Here he cited as examples certain instances in which the national government had not interfered with the jurisdiction of New York and New England.²⁷ The Chickasaws could well believe that Jackson had no intentions of preventing the State of Mississippi from assuming authority over the Indian lands within her boundaries.

Few Chickasaws spoke English and fewer still had any conception of the laws of white men, but the red men faced a stronger force if they did not negotiate. After much consideration and discussion, the Chickasaws arranged a council to meet President Jackson's representative, General John Coffee. On October 20, 1832, the Chickasaws signed the Treaty of Pontotoc with the United States, in which they ceded all their lands east of the Mississippi River. Their eastern lands would be surveyed by the United States government and eventually sold at public auction, with the proceeds of the sale going to the Chickasaws after all costs of surveying and selling had been deducted. Chickasaw families that had made improvements upon their land would be reimbursed after an evaluation

²⁷Ibid., 529.

had been made by an individual appointed by the President. This money, too, was to be paid out of the proceeds of eastern land sales. This money could then be used to make provision for their families on the road west. The Chickasaws intended to invest the remaining proceeds in stocks to create a perpetual fund, and use the interest for all national purposes, with the principal left untouched. The President of the United States would choose the stocks by and with the consent of the Senate, in order that safe stocks might be secured. Their Indian agent was authorized to remain with them whenever removal took place and was to journey with them to their new home.²⁸

The Chickasaws specifically requested that non-Chickasaws, those not associated with the tribe by blood or by marriage, be forbidden to settle in their country prior to the land sale. The federal government agreed. In the meantime, authorities permitted the Chickasaws to search for a permanent home west of the Mississippi, and remain on their present land until such a home had been located. This promise would prove difficult and frequently impossible to keep in the years to come, as eager whites sought to pre-empt the best lands before the sale even took place.

In the autumn of 1833, an exploring party of some twenty-one chiefs set out to locate a new home in the west for their people. They intended to proceed to the Choctaw Nation which had been organized in Indian Territory after the Choctaws had ceded their lands east of the Mississippi River to the United States. Possessing a vast area of land that today would include all of the southern part of the present State of Oklahoma

²⁸ Kappler, Indian Affairs, Vol. II of Treaties, pp. 356-362.

from the Canadian River on the north to the Red River on the south, the Choctaws might be convinced to permit their ancient brothers, the Chickasaws, to settle among them. This hope filled Chickasaw chieftans as they met with Choctaw chiefs at Fort Towson. Unhappily, no agreement could be reached. Two more expeditions to the Choctaw country followed and finally the two tribes managed to come to terms.²⁹

By the Treaty of Doaksville, January 17, 1837, the Choctaws permitted settlement within their boundaries and extended the right to form a district to be called "The Chickasaw District of the Choctaw Nation." This area fringed the western part of the main Choctaw settlements.

The Chickasaw district shall be bounded as follows, viz: beginning on the north bank of Red River, at the mouth of Island Bayou, about eight or ten miles below the mouth of False Wachitta [Washita]; thence running north along the main channel of said bayou to its source; thence along the dividing ridge between the Wachitta and Low Blue Rivers to the road leading from Fort Gibson to Fort Wachitta; thence along said road to the line dividing Musha-la-tubbee and Push-meta-haw districts; thence eastwardly along said district line to the source of Brushy Creek; thence down said creek to where it flows into the Canadian River to its source, if in the limits of the United States, or to those limits; and thence due south to Red River, and down Red River to the beginning.³⁰

Lacking accurate geographical information as to the source of the Canadian River, the negotiators mistakenly granted the Indians an area in Mexican territory in what is now the State of New Mexico. Furthermore, any line due south of the source of the Canadian River would never touch the Red River. The Americans did not have this information at the time of the drawing up of the Treaty of Doak's Stand with the Choctaws

²⁹Foreman, Indian Removal, pp. 199-203.

³⁰Kappler, Indian Affairs, Vol. II of Treaties, pp. 486-488.

back in 1820, though the great Choctaw chief, Apushmataha, who had hunted the region extensively in his younger days, warned that such might be the case.³¹ Since the Americans had chosen to ignore Apushmataha's advice in the matter, and had included the area in the original Choctaw grant, the Choctaws now undoubtedly felt that they should include it here in this treaty. Apushmataha had long since died, and, of course, he could have been wrong.

Inhabited by nomadic Plains Indians, the Chickasaw District encompassed the western region of the Choctaw Nation. The Chickasaws had always been a courageous, sometimes warlike people, unlike the peaceful Choctaws, and the latter probably thought to place the Chickasaws in this region as a buffer to the wild Plains tribes. If the Chickasaws could be convinced to locate there, they would provide a line of frontier settlements that would offer considerable protection to the Choctaw settlements further east. Realizing that the Chickasaws might be reluctant to do so at first, however, the treaty agreement declared that members of either tribe could settle wherever they wished within the Choctaw Nation, could hold any office, and vote on the same terms in whatever district they determined to settle.³² The Choctaws hoped, though, that the newcomers would settle in their own district eventually.

Chickasaws were to have equal representation in the Choctaw Council, and were entitled to all equal rights and privileges of Choctaws, except

³¹Cushman, History of the Choctaw, Chickasaw, and Natchez Indians, pp. 124-125.

³²Kappler, Indian Affairs, Vol. II of Treaties, pp. 486-488.

participation in Choctaw annuities. They were subject to the same laws, but were to retain the right of controlling their own tribal funds. In return for these privileges, the Chickasaws were to pay the Choctaws the sum of \$530,000.³³ The Chickasaws now dissolved their own governmental organizations and officially became a part of the Choctaw Nation.

Now that a home in the west had been secured for the Chickasaws, removal remained the problem. Earlier Indian emigrations had approached disaster, with many of the people dying from sickness, exhaustion, bad food, and the general hardships of the trail. The Indian leaders hoped that something had been learned from the mistakes of the past and that the Chickasaw emigration might prove orderly and efficient. Government contractors would send food supplies to certain convenient places along the route of travel, and the federal government would provide escorts, to direct the trek, aid those in need, and prod those who might lag behind or attempt to stall the march. A. M. M. Upshaw of Pulaski, Tennessee, was appointed by the President to superintend the removal of the Chickasaws.³⁴

On July 13, 1837, approximately three hundred Indians met at the appointed place of departure. Using a motley assortment of conveyances ranging from wagons to carts, the people began their sad journey to another land, clinging to their most prized possessions with dogged determination. Some rode ponies; others walked. As they moved along, others joined the procession. Once again they crossed the great Mississippi River, but this time they headed westward.

³³Ibid.

³⁴Foreman, Indian Removal, p. 204.

Swamps near the Mississippi River posed a considerable problem, and there the Chickasaws lost many of their animals, hopelessly bogged down in the mire and finally left to die. With favorable conditions, they sometimes traveled as many as fifteen miles a day; on the other hand, delay and difficulty held them to only five to eight miles. It took two entire days just to get over the White River, and as they proceeded westward, they sometimes traveled at night to avoid the heat of day. By the time the official party reached the Arkansas River at Little Rock, approximately 516 emigrant Indians, 551 ponies, 13 wagons, and 30 other Indians who had not been enrolled by the escort composed the group.³⁵

At Little Rock, trouble developed. Neighboring whites stole many of the Indians' horses under cover of darkness. Then a group of whites secretly sold whiskey to the Indians who became too intoxicated to move on for several days. In addition to these problems, some of the Indian men insisted they go by another route, one of their own choosing. This group went overland by way of the Red River to Fort Towson, while their women and children took steamboats up the Arkansas River to Fort Coffee. On the journey by water, fever broke out; some died. Then the Chickasaws discovered that part of their food supply had been left in the sun and had spoiled. The emigration of a later group was complicated by an outbreak of smallpox, and this disease was inevitably carried on into Indian Territory, resulting in loss of life among Choctaw Indians already living there. In spite of all these difficulties, the Chickasaw emigrations were much better organized and less disastrous than any of the preceding Indian

³⁵Ibid., pp. 204-208.

"trails of tears" had been.³⁶ Many graves marked the route of emigration, however. The Chickasaws had lost much of their stock, a good share of their possessions and some lives, but most had reached the new land safely. By September, 1839, the Office of Indian Affairs reported that 5,947 Chickasaws resided in the west, with approximately 396 yet to arrive in the 1840's.³⁷ They had come to the end of a long and heart-breaking journey, but their troubles persisted. They now faced the tasks of deciding where they should settle, rebuilding their homes, clearing new land, and learning all the things necessary for survival in this new land. The prospects appeared sobering indeed.

³⁶Ibid., pp. 209-217.

³⁷Armstrong to Crawford, September 9, 1839, Office of Indian Affairs, A 522, as cited in Foreman, Indian Removal, p. 225.

CHAPTER II

THE CHICKASAWS IN THE CHOCTAW NATION

When first confronted with the vast prairie lands of the central United States, early day pioneers illustrated a reluctance to move out onto the seemingly endless grassy expanses. Having descended from a forest culture, first in Europe, then in the eastern part of the United States, these settlers thought grass soils less fertile than forest soils. They also feared such immense open spaces and the violent storms that frequently swept over the prairies. Many drawbacks existed to living in such a land. The scarcity of wood for housing, fences, and fires complicated settlement, and the tough soils presented an enormous challenge to farmers. As one moved westward, streams became intermittent, and the costly process of drilling wells discouraged many pioneers. In addition to these difficulties, the wild Plains tribes forcefully resisted all intrusions upon their domains, and they created a universal terror among frontiersmen.

Just as white pioneers felt a hesitancy about moving onto the plains, the Chickasaws and other members of the Five Civilized Tribes had similar misgivings. Some members of their tribes had hunted there from time to time, but they had never actually considered it as a place to live in those early years. Later, when the Chickasaws investigated the region as a possible future home, Levi Colbert, a Chickasaw Indian, had said:

The land which the Choctaws might perhaps let us have is most of it big prairies, mighty little wood, water or good land; it will be mighty hard for my people to live there. . .you can see the strong and marked difference of our condition here and in the wild distant regions of the west, surrounded by none but. . .warlike tribes thrown together.¹

Life in Indian Territory created problems quite different from those back east. The Chickasaws found the change considerable. The relatively arid climate of the west differed from their former homeland; soils varied, too. Adjustments had to be made to the new conditions, new techniques had to be developed to cope with immediate problems, and attitudes toward the land itself had to change. The Chickasaw people faced the absolute necessity of developing some understanding of the white man's concept of land and regulation of land by authority. This governmental control of the land became a perplexing question to a people who had always held their lands in common under the tribe with no thought of private ownership or legal regulation. Chickasaw possession of the land had always been strictly by occupancy.²

After coming to Indian Territory, the Chickasaws still held the land in common, but developed legislation to control its use. Though the Indians still clung to tradition, they lived in a rapidly changing world which continually threatened the old ways. They had witnessed the effect of that world when they had lost their ancient homeland east of the Mississippi to the white man. Now they had been granted a specific domain, its

¹Grant Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians (Norman, 1932), p. 196.

²Henry C. Benson, Life Among the Choctaw Indians, and Sketches of the Southwest (Cincinnati, 1860), p. 33.

boundaries defined on paper. Somehow the protection of that domain must be secured. What had happened before might happen again. Never before had the Chickasaw and Choctaw people experienced such an urgent need for an organized form of government and the regulation of land. Now confronted by changing conditions, the Chickasaw people had to alter the old ways in order to survive. Life in Indian Territory revolved around the land: its settlement, its use, and its regulation by law.

Location of settlements became the primary concern when the Chickasaws first arrived in Indian Territory. According to treaty agreement, they could settle anywhere within the Choctaw Nation, even though they had been granted a specific district of their own. The Chickasaws would have liked to locate in their district. They felt an intense need to maintain their tribal identity despite the fact that they had become a part of the Choctaw Nation. Occupying an area much further west than the main concentration of Choctaw settlements, the Chickasaw District represented a wild, empty frontier which had been the scene of constant unrest. Here roamed some of the most feared tribes of all time: Commanches, Kiowas, Wichitas, Wolf Pawnee, Delaware, Shawnee, Osage, Kickapoo, Caddo, vagrant bands of wild Cherokees, and cannibalistic Tonkawas.³ Heavily armed hunting expeditions might venture there, but the Chickasaws hesitated to settle there with women and children.

³That the Choctaw and Chickasaw had good reason to fear those unsettled aborigines is evidenced by a report that Tonkawas had feasted on human beings some sixty to seventy miles above Fort Washita, well within the Chickasaw District, as late as 1851. ("Letter from Puckshunnubbee, Choctaw Nation," Fort Smith Herald, 1851, p. 2, col. 5, as cited in Grant Foreman, Advancing the Frontier, p. 254.)

As a people, the Chickasaws had always been more aggressive and unsettled than the Choctaws. Renowned for their courage and fighting ability when the occasion demanded it, they still remained basically a peace-loving people. They dreaded the fierce Plains tribes and had no desire to meet them in combat. As a result, only a few hardy Chickasaw families ventured into the western district at first. During the intervening years, Choctaw settlements had moved slowly westward so that by the time the Chickasaws arrived, considerable numbers of Choctaws had settled on the Blue and Boggy rivers and some of their tributary streams.⁴ The Chickasaws tended to locate near the Choctaw settlements, and also to locate reasonably close to the depots where rations would be issued by the federal government during the first year, in keeping with the treaty agreement.

The first areas of concentrated settlement surrounded Boggy Depot and Fort Towson. A few courageous souls settled along Red River. This early western frontier line extended to where the Washita River empties into the Red. The remainder of the Chickasaws scattered throughout the Choctaw Nation. In 1839, the Choctaw agent estimated that the Choctaw Nation extended in length for some 400 to 500 miles, with not more than 200 of this actually occupied.⁵

The lack of trails and roads in the area over which the emigrants must pass to reach their destination increased the difficulties. An emigrant group waited at Fort Coffee while a force of men under Captain William Armstrong, Acting Superintendent for the Western Territory, cut

⁴Report of William Armstrong, Office of Indian Affairs (hereinafter cited as O. I. A.), 1837-1838, p. 46.

⁵Ibid., 1839-1840, pp. 468, 470.

a new road through the cane and forest from that post to the station on Boggy River. Complications arose when the time arrived to move the wagons, heavily laden with all the household effects and worldly possessions of the Chickasaws. Many horses and oxen had been lost on the long trek from Mississippi; the remaining animals would be used in shifts to move the wagons. By the time all had been successfully transported over the new road, approximately 500 emigrants had settled along the Boggy River region and its surrounding environs.⁶

Boggy Depot soon became a center for the issuance of supplies, and as population increased nearby, several licensed trading houses located there. Usually these trading houses took into partnership at least one member of the Chickasaws; the membership of others consisted entirely of Chickasaws or half-breeds. Two firms in particular chose Boggy Depot as a base of operations: Saffarans and Lewis, and Berthelet and Heald.⁷ The immediate area around the Boggy and Blue rivers and that to the west ideally suited the raising of such crops as corn, oats, pumpkins, beans, melons, and potatoes,⁸ and the possibilities for raising stock represented some of the best to be found anywhere:

As a grazing country, likewise, it is unsurpassed. The extensive prairies, clothed with luxuriant grass, are capable of sustaining innumerable flocks and herds throughout the whole year. This is to become a source of great profit to the Chickasaws. The demand for cattle, even now, is considerable

⁶O. I. A., 1838; Foreman, Indian Removal, p. 221.

⁷Diary of John Hobart Heald, written in 1840, as cited in Mary Evelyn Frost, "The History of Carter County," unpublished master's thesis, Department of History, University of Oklahoma, 1942, p. 13.

⁸O. I. A., 1839-1840, p. 469.

from the States. Their resources might further be greatly added to by raising a larger breed of horses and mules; and it would undoubtedly be a fine country for sheep. . .⁹

As early as 1840, Colonel David Folsom, a half-breed, manufactured salt along Boggy Creek,¹⁰ and a few years later, a saw and grist mill operated by water power had been established on that stream.¹¹ From this center of activity, settlements gradually radiated outward and pushed toward the west. As usual, the stockmen became the first to locate on the outermost fringes of the frontier, paving the way for others to follow in later years. Emigrants of the 1840 removals from Mississippi tended to settle in these outlying districts which fell mainly in the eastern part of the Chickasaw District.¹² During those years, Chickasaws from the older Choctaw settlements in the east began to move into their own district. Population in the Chickasaw District of the Choctaw Nation had increased enough by 1841 for the Chickasaws to send their first representatives to the Choctaw General Council.¹³ Their agent, A. M. M. Upshaw, reported in 1843 that the district had begun to fill up and that the Chickasaws could better receive the benefits of schools for their children. By that time, they had all quit the chase for support and had

⁹Report of Kenton Harper, O. I. A., 1851.

¹⁰O. I. A., 1839-1840, p. 469.

¹¹Grant Foreman, The Five Civilized Tribes (Norman, 1934), p. 106.

¹²O. I. A., 1844-1845, p. 167.

¹³Muriel H. Wright, "Brief Outline of the Choctaw and Chickasaw Nations in the Indian Territory, 1820 to 1860," Chronicles of Oklahoma (hereinafter cited as Chronicles), VII (December, 1929), 400; Arrell Morgan Gibson, Oklahoma, A History of Five Centuries (Norman, 1965), p. 127.

turned to agriculture and stock raising, usually taking an annual pleasure trip for the purpose of hunting buffalo and other game.¹⁴ Ten years later, approximately two-thirds of the Chickasaw total population, estimated by Agent Harper to be around 3,134, had located in the Chickasaw District.¹⁵

Besides Boggy Depot, two other favored locations for the earliest Chickasaw settlements centered around Fort Towson and the rich bottom lands along Red River. Of the first emigrants, some 400 Chickasaws selected sites near Fort Towson.¹⁶ Choctaws already established there principally raised corn to sell to the garrison at the fort,¹⁷ and cotton to be sent down river by steamboat for sale in the United States. These Choctaw settlements consisted of some large plantations and some small-scale operations. Most employed Negro slaves to work their fields. Several cotton gins had also been built along the Red by the time of the Chickasaw emigration,¹⁸ and the Choctaw agent, C.A. Harris, estimated that approximately 500 bales of cotton would be sent down river from the Choctaw planters that year.¹⁹ The Disbursing Agent for the Western Territory reported that Choctaw farms closely resembled new frontier white settlements. The Choctaws constructed their cabins well, fenced their fields,

¹⁴Report of A. M. M. Upshaw, O. I. A., 1843, pp. 417-418.

¹⁵Report of Kenton Harper, O. I. A., 1851, p. 398; Foreman, The Five Civilized Tribes, p. 124.

¹⁶Foreman, Indian Removal, p. 101.

¹⁷Report of William Armstrong, O. I. A., 1842-1843, p. 71.

¹⁸O. I. A., 1839-1840, p. 469.

¹⁹Report of C. A. Harris, O. I. A., 1836-1837, p. 377.

and planted gardens and fruit trees around the houses. Most homes in the area possessed such luxuries as coffee, tea, and sugar.²⁰

The wealthier Chickasaws and half-breeds, impressed by what they saw, felt tempted to locate nearby. Having raised cotton with the help of Negro slave labor back in Mississippi, they merely shifted their base of operations and immediately set to work clearing the land and planting that important staple crop. Precedents already established by the Choctaws lessened the initial problems of the Chickasaws. Surplus cotton was sent down Red River for sale in the United States. The Indians usually brought all their necessary supplies and a few luxuries on credit in New Orleans.²¹ Busy Indian women wove cotton into cloth for home use, turning the excess cotton into a cash crop. Many operations proved so successful that one Colonel George Colbert, a well-to-do Chickasaw, prepared to plant 300 to 500 acres in cotton the first year after arriving in Indian Territory. To accomplish this feat, he worked 150 slaves in his fields. By 1843, these cotton gins had been built by Chickasaws, and a horse-mill for grinding corn had been established by a Chickasaw woman.²² Agent Armstrong proudly reported that farms on Red River could compare with any in the United States.²³

²⁰Report of the Principal Disbursing Agent for the Western Territory, O. I. A., 1837-1838, p. 24; Niles Register, LI-LIII (1837), 410.

²¹Ibid.

²²Foreman, The Five Civilized Tribes, pp. 101, 106.

²³Report of William Armstrong, O. I. A., 1842-1843, p. 71.

During the latter part of the 1830's and early 1840's, clearance of the Great Raft of the Red River made steamboat passage farther up the Red possible. The Great Raft had been a natural barrier to river traffic. Created after many centuries of accumulated debris swept down river and caught in snags, the Great Raft had forced travelers to detour around it. It had proved an obstacle during the Choctaw emigrations of the early 1830's, and had continued to be a detriment to trade and commerce for all areas farther up Red River. With the opening of a passage through the Raft, many more cotton plantations appeared in the Choctaw Nation, especially in the region around Island Bayou and along the southern stretches of the Washita River.²⁴ Soon the Indians exported cotton, corn, furs, pecans, and lumber by river to Shreveport.²⁵ Though the mouth of the Washita River usually represented the farthest shipping point on the upper reaches of the Red during this era, steamboats did venture up the Washita at least twice for the purpose of delivering corn to Fort Washita, established in 1842. At that time, the steamboats stopped less than one mile below the fort.²⁶

The Chickasaws faced other difficulties in regard to settlement. Throughout the open prairies to the west wild Plains tribes roamed, chasing their mainstay of life, the buffalo, and plundering outlying

²⁴Muriel H. Wright, "Early Navigation and Commerce Along the Arkansas and Red Rivers in Oklahoma," Chronicles, VIII (March, 1830), 81-83.

²⁵Ibid.; Report of C. A. Harris, O. I. A., 1836-1837, p. 377.

²⁶Grant Foreman, Advancing the Frontier, 1830-1860 (Norman, 1933), pp. 104-105; Wright, "Early Navigation and Commerce Along the Arkansas and Red Rivers in Oklahoma," Chronicles, VIII, 81-83.

ranches and farms whenever the occasion presented itself. They ranged far over the land, extending into Texas, stealing cattle and especially horses, and transporting them back across the border to Indian Territory. In the course of their wanderings, they did not distinguish between the white colonizers of Texas and members of the Five Civilized Tribes. They especially prized beautiful horses, and as they passed through the Chickasaw District on their numerous raids into Texas, they stole Chickasaw horses as well.²⁷ Their way of life, centuries old, did not conform to the standards of the "civilized world;" they would be subject to nothing but their own code. What did bits of paper with signatures mean to them? They had held this domain by virtue of power itself; they felt it would always be so. They bitterly resented any intrusion upon their hunting domain.

According to the provisions of the Removal Act, the federal government guaranteed all Indian nations under its authority security and protection from future intrusion by any other tribes or whites.²⁸ Across the international boundary of the Red River lay the Republic of Texas. Theoretically Texas had won her independence from Mexico in 1836, but the trouble had not come to an end by any means. Conspiracies continued, even within the Indian Territory. Obviously the Mexicans still entertained hopes of regaining their lost territory sometime in the future. This threat from the Mexicans as well as the treaty obligations of the United States finally induced the federal government to take positive action.

²⁷O. I. A., 1847, p. 885.

²⁸U. S. Statutes at Large (hereinafter cited as Stats.), IV, 412 (1830).

In 1841-1842, the government established Fort Washita in the Chickasaw District of the Choctaw Nation, one of the few forts ever erected for the protection of Indians against Indians. A man later destined to become the twelfth president of the United States, General Zachary Taylor, selected the beautiful site for construction of the fort. Situated on a high hill, the fort could command a full view of the surrounding low valleys and countryside. Builders utilized stone which outcropped nearby in the construction of Fort Washita, giving this strong outpost on the frontier a permanence it would have lacked otherwise. In case of war with Mexico, it could prove a good base of operations. A. M. M. Upshaw, the Chickasaw agent, included a note about Fort Washita in his annual report, expressing his feelings of its importance to the Chickasaws:

The military post recently established on the False Washita, has been so far of great advantage. The Chickasaws are now satisfied that the Government is determined to give them that protection which it agreed to do. Before this post was established the Chickasaws were more exposed than any other nation of Indians under the protection of the Government, and their losses by the depredations of these roving bands have been very great. Since the post has been established a large number of the nation have removed into the district, who, previous to the troops going there, were afraid to venture, on account of losing their property; a great many individuals are making arrangements to move to the upper district, and among them some of the largest planters.²⁹

In the same year, Agent Upshaw reported the presence of approximately 5,000 roving, nomadic bands of Indians along the southwestern boundary of the Chickasaw District, a formidable threat to the security of the Chickasaws. Fort Washita became highly instrumental then in lending confidence

²⁹ Report of A. M. M. Upshaw, O. I. A., 1842-1843, p. 86.

to the Chickasaws. The wild Indians had already committed repeated depredations upon the Chickasaws, running off their best horses, killing stock, and even stealing their Negro slaves. They also harbored many runaway Negroes,³⁰ and the Chickasaws frequently paid the Plains Indians a reward for the return of their slaves. The establishment of Fort Washita decidedly affected the pattern of Chickasaw settlement. Of the estimated 5,000 Chickasaws residing in the Choctaw Nation by 1842, many of these had begun to move into their own district at last.³¹ Many represented the more wealthy members of the Chickasaw tribe, for by 1845 Overton Love had settled an area southeast of present-day Marietta, Oklahoma, and had some 4,000 acres of land in cultivation. A large number of Negro slaves worked his fields, and the area soon became known as Love's Valley.³² Choctaws, having equal privileges, also occasionally settled in the Chickasaw District.³³

This prevailing sense of security after the erection of Fort Washita proved short-lived. The storm of raids on the frontier lessened but did not cease. Chickasaw families continued to be harassed. Wichita Indians and other tribes paid little attention to the fort and stole horses from the Chickasaws living in the region.³⁴ The coming of the Mexican War during the latter part of the 1840's led to a reduction of the command

³⁰Ibid.

³¹Report of William Armstrong, O. I. A., 1842-1843, p. 74.

³²Biography of Ruby Love Draughon, Indian-Pioneer Papers, MS., Indian Archives, Oklahoma Historical Society, Oklahoma City, III, 262.

³³Report of Kenton Harper, O. I. A., 1851, p. 398.

³⁴Foreman, Advancing the Frontier, 1830-1860, p. 240.

at Fort Washita, leaving only a part of one company of infantry. Activity of roving bands of Plains Indians increased once more. Kickapoos and other tribes traveled back and forth to Texas on hunting and raiding expeditions, and as they crossed the Chickasaw country, they stole horses and killed stock.³⁵ Concerned for the welfare of their people, the Chickasaws decided to plead their cause in Washington.

In September of 1850, the Chickasaw Council met and resolved to inform Colonel G. W. Long, the United States agent, of the depredations from other tribes. They listed a number of tribes as being guilty of thefts and destruction, as well as living and hunting on the Chickasaw domain: Boluxies, Caddoes, Anadarcoes, Iron Eyes, Cherokees, Shawnees, Delewares, Quapaws, Kickapoos, and Tonkawas. They also resolved to send a memorial to the President of the United States, now Zachary Taylor, to request that the size of forces at the fort not be diminished because the safety of the Chickasaw people depended upon the men stationed there. They advised the President that mounted men or dragoons would provide them much better protection than infantry. They then reminded him of the treaty obligation that bound the United States government to give the Chickasaws protection, and expressed their hope that this obligation would be fulfilled before the Chickasaws themselves took to the warpath against these intruders and completely disrupted the frontier in the process. Independent action seemed absolutely necessary if the United States government failed to provide adequate protection.³⁶

³⁵O. I. A., 1847, p. 885.

³⁶Acts of the Chickasaw Nation, MS, Indian Archives, Oklahoma Historical Society, Oklahoma City, LXIV, 25-28.

In 1851, the federal government established Fort Arbuckle, locating the post on a site further west than Fort Washita. Strategically located on a crossing of the Washita River along the northern edge of the Arbuckle Mountains, the fort commanded a sweeping view of the countryside. Not only did the Chickasaws require aid and protection, but California gold-seekers traveling along the route on the south side of the Canadian River through Indian Territory needed protection.³⁷ For a time, Fort Arbuckle supplanted both Fort Towson and Fort Washita in military importance,³⁸ and it became exceedingly important in furthering more settlement within the vast area of the Chickasaw District.

Since both Choctaws and Chickasaws could settle anywhere in the Nation as long as the land was not occupied by someone else, the Choctaw Council adopted a series of land regulations to protect those who had settled specific plots and made improvements upon them. No one "owned" a particular piece of land; citizens of the Choctaw Nation held the entire tribal domain in common. Individuals owned their improvements, however, and could pass these on to their heirs after death. The Council ruled that property rights must be respected by others and protected by law whenever necessary. Individuals could occupy and utilize as much land as they wished. In the ensuing legislation, the Choctaw Nation made gallant efforts to imitate the white man's regulation of land and protection of property.

³⁷This route had been surveyed by Lieutenant J. H. Simpson under orders from the United States government, as a route to California from Fort Smith, Arkansas, along the valley of the Canadian. Some 5,000 people followed this trail, including many members of the Five Civilized Tribes overcome by the gold-rush fever. Several hundred Indians journeyed to California to seek their fortunes. (Gibson, Oklahoma, p. 182.)

³⁸Foreman, Advancing the Frontier, 1830-1860, p. 253.

In order to protect industrious individuals, the Council initiated regulations for settling on improved lands. An act passed October 11, 1839, required those settling on improved lands to locate at least 440 yards on a direct line from the settler that had improved the land, provided that such settlements did not take place within an acknowledged town or village. With permission, however, they might settle closer. Violators of this law became liable for damages and to removal out of limits by the Choctaw light-horsemen,³⁹ which had been established as a law enforcement group as early as 1818 back in Mississippi.⁴⁰

The building and maintenance of fences assumed a new importance and significance to the Choctaw and Chickasaw people. Homestead, gardens, and fruit trees needed protection from stock. Legislation passed in 1834 controlled the height of fences and specified materials for proper fence construction. Individuals failing to meet these requirements would not be allowed compensation for damages inflicted by wandering stock. Other acts followed in 1836 and 1839, further defining what constituted a lawful fence, and making provisions for fines to be imposed when stock damaged such property or where individuals tore down and destroyed fences belonging to others.⁴¹

³⁹Joseph P. Folsom, ed., Constitution and Laws of the Choctaw Nation, Together with the Treaties of 1855, 1865, and 1866 (New York, 1869), p. 74.

⁴⁰Carolyn Thomas Foreman, "The Light-Horse in the Indian Territory," Chronicles, XXXIV (Spring, 1956), 17-43.

⁴¹Folsom, Choctaw Laws, pp. 70-73.

One of the most important phases of legislation in regard to land and property concerned the regulation of stock. Quick to recognize the vast potentials of their rich grazing lands, the Indians immediately built up their herds of horses, cattle, hogs, and some flocks of sheep. The enterprising Choctaws, of course, had already undertaken this on a considerable scale before the arrival of the Chickasaws. Choctaws had increased their profits by supplying excess stock to Creek contractors living to the north of the Choctaw Nation, and by furnishing the newly arrived Chickasaws with stock, especially cattle.⁴²

The abundance of stock in the Nation and the fear that envious white men south of Red River might bring their stock into Indian Territory to graze caused the Choctaws to pass stock regulations through their General Council.

In 1843, the Choctaw legislature passed several acts to control strays. Henceforth, individuals could not ride or drive strays out of the Nation, and anyone caught killing or injuring strays could be fined. If a man discovered stray cattle or horses on his property, however, he could round them up and then give public notice that he had found such animals. If the owner failed to appear within three months, the man would take the strays before the district judge, who then would have the animals appraised with proper public notice made. If the owner still failed to appear within a new twelve-month period, his unclaimed livestock would be sold at public auction to the highest bidder. The person who had taken up the stray would receive half the proceeds, and the district

⁴²Report of William Armstrong, O. I. A., 1837-1838, p. 20.

the other half. If the owner later appeared and could prove ownership before the judge, he could get his property returned by agreeing to make payment to both the district clerk and to the man who had rounded up the strays.⁴³

In 1846, another act forbade individuals from driving stock out of their range upon penalty of a fine. This act, however, did not prevent a man from separating stock which did not belong to him. If a man found stock belonging to someone else mixed in with his own herd, he could separate them and drive the foreign stock to the nearest pen or other convenient place.⁴⁴

By 1849, when white ranchers drove their stock in to feed on the lush pastures of the Choctaw Nation, the Indian legislature prohibited all white men who had not married a native of the Nation from raising any stock within the limits of the Nation.⁴⁵ A year later, the Indians decided to mark their cattle. An October, 1850, act stated that all unmarked cattle two years of age or older would be posted as strays if they roamed on the range.⁴⁶

After 1840, legislation enabled the light-horsemen to seize and hold in custody all property that might be disputed between citizens of the Nation. When court convened, it settled the rights of the property. Only in cases where the defendant could give good security in the presence of

⁴³Folsom, Choctaw Laws, pp. 83, 85.

⁴⁴Ibid., p. 91.

⁴⁵Ibid., p. 103.

⁴⁶Ibid., p. 108.

one or more light-horsemen was he or she permitted to hold the property until court convened.⁴⁷

Any person convicted of burning another person's house or destroying the property of another citizen was subject to a fine equal to the value of the property destroyed and to receiving such corporal punishment as the court determined. Usually the offender received not more than thirty-nine lashes on the bare back, unless he could not pay the fine, in which case he would receive as many as one hundred lashes. This law was passed in 1840.⁴⁸ After 1854, light-horsemen, when authorized by the judge, could seize property of the offenders and sell it to pay the fines imposed by the court. In circumstances such as this, they could seize everything except the house, furniture, and farming utensils.⁴⁹

Even before their removal from Mississippi, the Choctaws and Chickasaws had intermarried. Many also had intermarried with whites. Spanish explorers had penetrated the region early along the Mississippi River and the southeastern part of North America since the time of Hernando de Soto. French explorers, trappers, and traders were familiar with the region as well. Later, many other traders of varying nationalities, including English and Scotch-Irish, made their way around the southern tip of the Appalachians or through the passes to the mountains to make contact with tribes further in the interior. With the passage of time, the tribes had an ever increasing mixed-blood element in the population.

⁴⁷Ibid., p. 75.

⁴⁸Ibid., p. 77.

⁴⁹Ibid., p. 136.

Some intermarried whites, such as Charles N. Johnson,⁵⁰ remained with the tribe and journeyed over the "Trail of Tears" with the Indian people to their new home in the west. Others, however, eventually deserted their erstwhile Indian wives and moved on to take up life somewhere else, leaving behind their children of mixed-blood parentage.

Confronted with the problems presented by intermarriage, the Indians enacted laws for protection of citizens in regard to property rights. An act was passed in October of 1840 providing that white men could not marry in the Nation unless they had been citizens of the same for a period of two years. Further, no white man married to a Choctaw (or Chickasaw) woman was to have the disposal of her property without her consent. In cases of separation, any white man who parted from his wife without just provocation was to forfeit any pay over to his wife which might be adjudged to her by the district court for the breach of the marriage contract. In such an instance, he was also to be deprived of citizenship.⁵¹

A later law which applied to the property of married persons was passed in October of 1848. According to this act, married persons were to retain the right of their own property, any that they might bring into the marriage at the time of marriage, and neither party was to have the right to dispose of the other's property without his or her consent. In case of violation, action could be taken in court. Wills in which one party attempted to convey the property of the other without consent were invalid. However, all property accumulated by the joint endeavors of man

⁵⁰Neil R. Johnson, The Chickasaw Rancher (Oklahoma, 1961), p. 10.

⁵¹Folsom, Choctaw Laws, p. 76.

and wife after marriage was to be held in common. This joint property was subject to the disposal of the husband for the benefit of the family.⁵²

Inadvertently, the groundwork was laid for penetration of the region by whites, for intermarriage was permitted when individuals met certain obligations. Designed to protect the Indians from corrupt and ill-intentioned whites, these laws nevertheless had many loopholes. Children born of such marriages would still retain citizenship and be entitled to their position and rights in the tribe, and the white parent could still exercise much control and power through the child.

In 1848, the Choctaw Nation also passed legislation concerning situations in which an individual had died leaving no will to determine the legal heirs. In cases such as this, the property of the deceased was to descend to his legal wife, or husband, and their children. Where no persons fit this classification, the property descended to the grandchildren. If no grandchildren existed, then the estate would go to the father or mother of the deceased. Further provisions established conditions on various situations.⁵³

Property, of course, consisted of the improvements made upon the land, such as houses, barns, outbuildings, fences, the furnishings of the house and equipment, and prior to the Civil War, Negro slaves. In that era, wills listed slaves according to their evaluation, ranging from \$200 to \$700 for men, depending on physical capabilities. Minor Negro children were valued with their mother, ranging from \$450 to \$550 for a mother and

⁵²Ibid., p. 100.

⁵³Ibid., p. 99.

one child.⁵⁴ Slaves were divided up among the legal heirs. For example, if a woman slave had been nurse or companion to a particular child of the deceased, she was usually willed to that child as a part of the property in the estate.

The status of orphans concerned the Choctaw and Chickasaw people, and they made every effort to see to their welfare. In 1847, an act provided that guardians could be appointed for orphaned minors by the court. All property belonging to the minor was listed by two qualified persons appointed by the Judge of the County Court, and this record was placed in the office of the District Secretary. A court-appointed guardian submitted an annual statement of the condition of all property belonging to the minor in his charge so that the judge could be certain the trustee did not misappropriate the property. The guardian received 3 per cent out of the estimate of the property thus placed in his charge in compensation for his services. At the age of twenty, male orphans became of age and took charge of their own estates. The only exception to this practice was if the male orphan married before the age of twenty, he would be allowed to take over his own property. Female orphans were considered to be qualified in this respect at the age of sixteen.⁵⁵ Before this coming of age, however, the guardian assumed responsibility for the care, protection, lodging, raising, schooling, and support of his ward or wards. The court directed these requirements, the Probate Judge signed them,⁵⁶

⁵⁴ Probate Court Records, Wichetaw County, Choctaw Nation, Indian Archives, Oklahoma Historical Society, Oklahoma City, LIV, 2, 9.

⁵⁵ Ibid., p. 94.

⁵⁶ Probate Court Records, Wichetaw County, Choctaw Nation, MS, Indian Archives, Oklahoma Historical Society, Oklahoma City, LIV, 5, 15, 23, 29.

all of which usually resulted from the wish of the deceased parent who had expressed his desires in the will itself. Sometimes proceeds from the sale of the farm, that is, the improvements made upon the land, plus the proceeds arising from the labor of the Negro slaves were used to help educate and clothe the children. An act in 1848 established that guardians could get a court order to sell such property for the benefit of the minor.⁵⁷ In most instances, the stock of hogs, horses, cattle and sheep were divided equally among the children when they came of age.⁵⁸ The light-horsemen took custody of all property, including slaves, prior to the settlement of an estate.⁵⁹ In October, 1849, the Choctaws enacted a requirement to appoint guardians to oversee idiots and their property.⁶⁰ Occasionally, an individual might lodge a complaint with the court against a guardian for his management and misuse of the estate of a minor orphan.⁶¹ In general, orphaned children fared well when taken into the family of the guardian and raised as one of his own children. The Chickasaws and Choctaws loved children.

In regard to the national domain, the Choctaws and Chickasaws remembered vividly the bitter experiences of the past, and in consequence passed a law in 1839 which made it treason to sell any portion or the whole of the Choctaw Nation. This measure applied to a citizen, chief or otherwise,

⁵⁷Folsom, Choctaw Laws. p. 101.

⁵⁸Probate Court Records, Wicketaw County, Choctaw Nation, Indian Archives, Oklahoma Historical Society, Oklahoma City, LIV, 32-33.

⁵⁹Ibid., pp. 38-39.

⁶⁰Folsom, Choctaw Laws, p. 103.

⁶¹Probate Court Records, Wicketaw County, Choctaw Nation, Indian Archives, Oklahoma Historical Society, Oklahoma City, LIV, 34-38.

with death as punishment. Also any white man who encouraged a citizen of the Nation to perform such an act would henceforth be considered a bad person and an enemy of the Choctaw people and would be removed beyond the boundaries of the Nation.⁶² The Indians obviously hoped by such sternness to eliminate any conspiracies that clever white men might devise.

By treaty agreement with the United States, the Choctaws were entitled to request a patent to their national domain. Ever suspicious of the ways of the white man and realizing that their original land grant from the United States had already been reduced,⁶³ they finally received this patent on March 23, 1842, which embraced their western lands as described in the Choctaw treaty with the United States in 1830.⁶⁴ The 1842-1843 report of Acting Superintendent William Armstrong mentioned this patent, stating that in granting it to the Choctaw people, his wards received new confidence and hope that their present homes would be permanent. Armstrong believed that this patent would inspire them to further efforts in the regulation of land and the adoption of all necessary laws. He felt that it was a step forward for a people "in the incipient stage of civilization."⁶⁵ In 1845, the General Council of the Choctaw Nation resolved

⁶²Folsom, Choctaw Laws, p. 75.

⁶³Thier first grant had included a part of western Arkansas, and this area was later excluded from the Choctaw domain when it was discovered that white squatters were already occupying much of the land.

⁶⁴U.S. Court of Claims, Cong. No. 17641, "Choctaw and Chickasaw Nations vs. United States of America, petition filed July 8, 1931, Senate Documents, 71st Cong., 2d Sess., p. 4.

⁶⁵Report of William Armstrong, O. I. A., 1842-1843, p. 71.

that the patent from the United States government for the Choctaw country would be placed in the care of Colonel Thomas Leflore for safekeeping.⁶⁶

At the time, the Choctaws believed that this patent would mean a guaranteed security for them to their national domain, and one that would hold substance in any future court. They were going about things according to the white man's legal procedures. Though they undoubtedly felt they had at last found the secret of dealing with the whites, the Indians by no means had solved the problem. Later, government attorneys argued in United States courts that the patent did not convey a higher title to the Choctaws, and gave no additional distinction to the title they already possessed. White Americans declared that the document did not constitute a fee simple title, but a right of perpetual occupancy, without the power of alienation or disposition, and one that would revert to the United States upon extinction of or abandonment by the Choctaws. The argument held that the "power of alienation" was a necessary part of any fee simple title, and had not been included as a part of the patent granted to the Choctaws in 1842.⁶⁷

In 1836, an act made it possible for white men who wished to work in the Nation to obtain a written permit from the Chief or the agent. Though intended to control the number of whites coming into the Indian Territory, the legislation actually led to a considerable influx through the years. The emigration increased in later years when Choctaw and...

⁶⁶Folsom, Choctaw Laws, p. 89.

⁶⁷U. S. Court of Claims, No. 12742, "The Choctaw Nation of Indians v. The United States," Vol. II, p. 1353-1354.

Chickasaw families became in need of laborers upon the demise of the South's peculiar institution of slavery. Any citizen of the Nation who hired a white man without such a permit was liable for any depredation that the white man might commit.⁶⁸ Occasionally an act would be passed permitting certain whites to remain within the Nation during good behavior, as was the case when a law was enacted in 1841 to permit a Mrs. Ward and family and a John William Cooper to stay under such terms.⁶⁹

In this new land, a great need developed for better communications. Chickasaw and Choctaw agriculturalists and stockmen required some means of getting their products to market. Few roads existed in the early years, and farmers relied on the waterways whenever possible, but in this land of little rainfall during certain times of the year, river travel could not always be depended upon. Military roads connected the various forts, and the Texas Road over which white emigrants journeyed on their way to the land south of the Red River provided another avenue of approach. But more links connecting outlying areas with the few main arteries in the Nation were absolutely essential.

At first the Indians used mere trails, with farm wagons beating down a path across the land. Individual farmers sometimes made some improvements on these stretches of track for their own personal benefit. Persons crossed rivers at fords when this was possible. Sometimes an enterprising individual would establish a ferry across a river or stream too deep to ford.

⁶⁸Folsom, Choctaw Laws, p. 72.

⁶⁹Ibid., p. 78.

By 1836 a few public roads stretched like ribbons across the land, and the Indians found it necessary to enact some legislation to protect them from destruction. In that year they prohibited the obstructing or shutting up of public roads. Individuals could no longer throw trees over these roads or make fields over them without breaking the law and being subject to a fine, except in a case where that individual might make another road around the obstruction. If he took the trouble to build a substitute road then he might escape the penalty of the law.⁷⁰

By 1854, the Choctaws and Chickasaws began to control, by legislation, the establishment of toll-bridges and ferries along important trails and waterways. These acts protected individuals already established in such activities from undue competition by another person who might set up a rival bridge or ferry immediately nearby; they defined the specific area where an individual might build his bridge or locate his ferry. He could choose his site anywhere along that stretch of water only so long as his choice did not interfere with any rights of other citizens of the Nation who had established similar constructions on the stream. This privilege was granted by law for a period of twenty years, but it would be renewed by the General Council. The latter also retained the right to regulate and establish the rate of toll by law, and in case of low water, all citizens were to be allowed to cross free of charge.⁷¹

The year 1854 also brought some other changes in regard to road construction. By now it became apparent to the Indians that they needed

⁷⁰Ibid., p. 71.

⁷¹Ibid., pp. 132, 140.

a more organized system of road-building. Merely relying upon independent farmers to build their own roads had led to an exceedingly haphazard network of communications. In November, 1854, a law was enacted which required all free males over the age of eighteen and under fifty to work on the building of roads in their respective counties for at least six days in each year. It was the responsibility of the county judges to see that everyone did his part, and people were to be notified by the light-horsemen at least five days in advance for working on the roads. People were required to bring their own tools such as axes and hoes. Anyone refusing to contribute his share of labor to the building of roads was subject to a fine of not less than fifty cents per day. Those persons unable to work had to show just cause before their county judges to be excused. Furthermore, all whites working in the Nation, such as mechanics, merchants and laborers, who resided there with a permit were also subject to the provisions of this act. The one exception was in the case of school teachers, who were exempt from such duty. For the purpose of having a more uniform network of roads, the law provided that county judges appoint two men to mark out the way for any new road under consideration.⁷²

By 1842, the Choctaws and Chickasaws had developed some concept of conservation. That year they passed a law prohibiting the cutting down of both hickory and pecan trees for the nuts. Anyone guilty of such an act was subject to a fine of \$2.00 a tree.⁷³ Another act described the destruction of timber within half a mile of any salt works in the Nation as a punishable violation. The light-horsemen were authorized to remove

⁷²Ibid., p. 137.

⁷³Ibid., p. 83.

any such person from the district if guilty.⁷⁴

The Chickasaws and Choctaws considered education as the best insurance for survival in a world of encroaching white men. In order to decide the exact location of the school, the Indians appointed a committee in 1841 to stake the site and begin construction. Schools for both sexes were authorized in the over-all plan, with separate buildings for each. Each district of the Nation was considered in the plan. The Choctaw General Council provided for periodic allotments of money for schools, and each institution was to have the use of as much land as it might require for cultivation, pasturage, and other purposes. The school also was given the right to take any timber, rock, stone, coal, or other materials necessary from the public domain. Lodging was furnished to superintendents and teachers and their families.⁷⁵ The next year an act was passed which declared that no trading house or store was to be established within three miles of any of the schools.⁷⁶

While this new little Nation of the Choctaws (and Chickasaws) struggled to cope with the bewildering and complex problems of government "white man's fashion," and to solve all these difficulties of the domestic scene, the Nation simultaneously faced situations in regard to foreign affairs for which it had no precedents to follow or guide it in the making of crucial decisions. The poorly defined Intercourse Act of 1834 was

⁷⁴Ibid., p. 74.

⁷⁵Ibid., p. 78.

⁷⁶Ibid., p. 82.

certainly not the solution. Under the circumstances, it could hardly have been expected that the Choctaw Nation would find a suitable answer.

In 1836, Texas became a Republic, independent of Mexico. For long years afterward, Mexico seethed with bitter resentment and nourished the hope that someday she would recover the lost territory that had once been hers for so many centuries. During the decade following the Battle of San Jacinto, Texas became a hotbed of intrigue, restlessness, and sometimes lawlessness. Mexico and the Lone Star Republic embarked upon an era of "cold war," in which the enmity of the past germinated and then grew, like seeds within the ground, eventually blossoming into another full-scale war, the Mexican War. These intervening years witnessed the gallant struggles of the new republic to maintain law and order in a period of ever-increasing corruption and confusion, and the eventual admittance of Texas to the Union as a state in 1845.

The international boundary line between the Choctaw Nation and the Republic of Texas was the scene of constant turmoil and unrest. Marauding Plains tribes crossed the Red and raided settlements of white colonists in Texas, then escaped back across the river again and disappeared over the vast prairie lands with startling speed. They knew this great empty land well, and sought safety from reprisal in the many canyons and valleys of the Arbuckle Mountains and the Wichita Mountains. They moved swiftly down on little Texas communities, taking what they wanted and killing anyone who got in their way. As they traveled back through the Choctaw Nation, primarily the Chickasaw District, they plundered outlying settlements of these members of the Five Civilized Tribes,

stealing horses and Negro slaves and killing stock. Their raids were extremely swift. They had to move on; the Texans might be close behind. Indeed, they usually were. In retaliation, Texans pursued the raiders across the boundary of the Red, ignoring the authority of the United States government and moving into Indian Territory, trespassing upon the domain of the Choctaw Nation. These expeditions were usually well-armed, sometimes with sixty to eighty men as during the reprisal of 1841,⁷⁷ and they frequently attacked Chickasaws and Choctaws without distinguishing between those peaceful tribes and the actual Plains Indian raiders. These Chickasaw and Choctaw settlements, caught between both groups, suffered considerable depredations from the wild Indians and the Texans as well. In their desperation, they appealed to Washington for help. Upshaw reported, "The situation of the Chickasaw country is such, that it will be impossible for them to live in peace and safety without they have protection from the United States."⁷⁸ It would be hazardous for the Choctaw Nation to take matters into its own hands and embark upon all-out war; it would be almost equally as hazardous if they did not, unless the United States took some action itself. They waited; other problems demanded attention. At the moment, renegade whites along the southern banks of the Red River openly violated provisions of the Intercourse Act. Surely the United States government would put a stop to it, and in the course of such action, solve the other problem as well.

The Intercourse Act of 1834 had provisions guarding against the introduction of liquor into the Indian country. The United States government

⁷⁷A. M. M. Upshaw, O. I. A., pp. 340-341.

⁷⁸Ibid.

hoped that the Indians themselves would restrain their own people by law from using strong drink of any kind or from participating in games of chance. In 1849 the Choctaw Nation responded with direct legislation to prohibit gambling,⁷⁹ and to control the use of liquor. The light-horsemen took confiscatory action whenever they discovered whiskey being introduced into the Nation. Wagons loaded with hidden liquor were destroyed when discovered. The traffic, however, was so prevalent that it became almost impossible for the light-horsemen to control it without assistance. In 1849, the Choctaw General Council authorized pay for any citizen of the Nation who assisted the light-horsemen in destroying liquors.⁸⁰

In 1837-1838, the Acting Superintendent of the Western Territory, William Armstrong, reported that the south side of the Red River below Fort Towson was largely settled by white men who earned their livelihood by vending spirits to the Indians. Armstrong considered the situation so desperate that he requested two companies of dragoons to be ordered to the fort for the purpose of protecting the Chickasaw emigrants who were in the process of being removed from Mississippi.⁸¹ Besides whiskey-runners, many unscrupulous persons frequented the Indian country with games of chance, hoping to cheat the Indians out of their property.⁸² A. M. M.

⁷⁹Folsom, Choctaw Laws, p. 106.

⁸⁰Ibid.

⁸¹Report of William Armstrong, O. I. A., 1837-1838, pp. 21-22.

⁸²Niles Register, LIV-LVI (1839), 283.

Upshaw reported in 1842, "There have been lately some professed characters of that description travelling through the nation, on their way to Texas"⁸³

Although most Indian citizens obeyed their laws, a number yielded to temptation. The relative ease in crossing the Red River at certain points led to an increase in whiskey business in Texas. Whiskey shops and distilleries dotted the southern banks of the Red, and moved steadily westward as settlement itself moved to the west. Agent Upshaw estimated in 1843 that two-thirds of the whiskey brought into the Nation came in from Texas. The beverage was not always transported across the border by citizens of Texas; some Indians crossed the Red themselves, entered the taverns on the Texas side, gave their guns and horses for two or three gallons of whiskey and then carried it back into Indian Territory.⁸⁴

By 1844-1845, this whiskey traffic had increased, with much more being brought into the Indian country than usual. Wagons hauling goods to the merchants in Indian Territory and supplies to Fort Washita frequently smuggled in whiskey amid the crates of bacon and flour. Most white smugglers traveled at night, not risking their precious cargoes in daylight. Some of the Indians increased their consumption, too, and brought in an estimated ten to twenty gallons at a time, a considerable increase over their previous attempts.⁸⁵ Their desire for firewater became so great that they grew more careless as time went on. Although the light-horsemen made some

⁸³Report of A. M. M. Upshaw, O. I. A., 1842, pp. 85-86.

⁸⁴Ibid.; Report of A. M. M. Upshaw, O. I. A., 1843, p. 418.

⁸⁵Report of A. M. M. Upshaw, O. I. A., 1844-1845, p. 169.

progress in seeking out smugglers and destroying whiskey wherever they found it, they actually waged a losing battle.

By 1849, grocery stores on the Texas side openly sold liquor to the Indians and did a flourishing business. The volume of business grew to such an extent that they could even afford to reduce their prices. Agent Upshaw reported that two steamboats plied the Red River whenever the water level was high enough, and though they were trading boats with all manner of merchandize, they trafficked largely in the sale of liquors. The business had now approached a boldness almost unknown in past years. Indians could not obtain a quart of firewater for one bushel of corn. The steamboats were attempting to undersell the local establishments on shore.⁸⁶

In 1850, the light-horsemen attacked a wagon traveling on the road from Preston, Texas, to Fort Washita. They discovered that the wagon was full of brandy and whiskey, and they proceeded to destroy it. Some repercussions occurred over this. Beguine and Company, owners of the freight wagon, contended that they were transporting cargo that was actually a part of the military stores of Fort Arbuckle. The Indian legislature was indeed upset about this incident. If Berguine and Company proved to be right, they would expect to be reimbursed for the loss. If not, the light-horsemen were entirely within their rights in destroying the liquor.⁸⁷

⁸⁶Report of A. M. M. Upshaw, O. I. A., 1849, pp. 1129-1130.

⁸⁷Acts of the Chickasaw Nation, MS., Indian Archives, Oklahoma Historical Society, Oklahoma City, LXIV, 28-29.

This uneasy situation continued in ante-bellum Indian Territory. Circumstances such as this encounter made even more difficult the control of whiskey traffic. By 1853, the Choctaw's Agent reported that certain tribes of Indians, Kickapoos, Caddoes, Creeks, and Seminoles, were beginning to enter the business of smuggling ardent spirits. They purchased their supply of liquor in the little towns of Texas along the Red River and then brazenly carried it into Indian Territory to sell to all eager customers.⁸⁸ It seemed as though the United States government was totally unable to cope with the situation, or perhaps not really making an effort. Dissatisfaction began to grow among honest and trustworthy Indians.

Around the year 1845 and immediately thereafter, emigrants began to stream across Indian Territory along the Texas Road into the new State of Texas. This road cut through a large part of the Choctaw Nation and a section of the Chickasaw District. It was also used by hunters, trappers, traders, and military detachments. Industrious Indian farmers found a ready market for their surplus corn in these white emigrants, and for a time, did a thriving business.⁸⁹ Though the Indians were pleased with this extra business, it was only a limited market and one which probably would not last any great length of time, and it did not really make up for the heavy competition they had already felt from Texas farmers in regard to markets. With the establishment of Fort Washita, the Indians had tried to sell their corn to the garrison posted there. They sold some grain, but soon met considerable competition from Texans selling across

⁸⁸Report of A. J. Smith, O. I. A., 1853, p. 402.

⁸⁹Foreman, The Five Civilized Tribes, p. 111.

the border. In the meantime, Texas imposed an import tariff of twenty cents on each bushel of corn sold in Texas, which further limited the available markets for the Chickasaws and Choctaws. The Indians begged that the United States government enforce the Intercourse Act.⁹⁰ Relations with Texas were strained almost to the breaking point most of the time. Disgusted with the inactivity of the United States government and thoroughly irritated with the Texans, the Chickasaws and Choctaws found solace from another source.

The Mexicans never fully accepted the idea of defeat at the hands of the Texans. Following his capture at the Battle of San Jacinto in 1836, Santa Anna secured his freedom by pledging to grant Texas her independence, but upon his return to Mexico he chose not to honor the agreement signed in a state of duress. During the era of "cold war" between Texas and Mexico prior to the outbreak of the Mexican War, much intrigue took place in the Indian Territory and Mexican emissaries secretly entered the lands of the Five Civilized Tribes and conspired with them to join with Mexico in ousting the Texans. In return for their participation, the Mexicans offered the Indians a share of the country, money and supplies. It was a tempting prospect indeed, and some members of these tribes actually joined the Mexicans, including some Choctaws. They soon became equally disillusioned with the Mexicans, however, and eventually returned to their homes.⁹¹ These were troubled times. The Choctaws were having enough problems on the domestic scene to keep them busy without bothering too much with the Mexicans.

⁹⁰Foreman, Advancing the Frontier, p. 104.

⁹¹Ibid., pp. 154-156.

CHAPTER III

THE INDEPENDENCE MOVEMENT AND SEPARATION

The ante-bellem era in the United States was a restless period; it was equally so in the Choctaw Nation. Problems increased immensely with the coming of the Chickasaws. Theoretically the two Nations became one. The Chickasaws dissolved their old system and accepted the right to participate in Choctaw government. This action had a demoralizing effect upon the Chickasaw people, as it would upon any people who had long been independent, proud, and imbued with a strong nationalistic spirit. The Chickasaws were limited, too, in their participation in Choctaw affairs:

The anomalous connexion first formed between these two tribes, each having distinct interests in regard to all their money affairs, was of itself calculated to perpetuate and keep alive their national distinctions.¹

Other difficulties existed as well. An 1836-1837 chart listed the number of Chickasaws to remove west at 5,400. The same chart listed the number of Choctaws who already emigrated west at 15,000.² Though most of the Choctaws had left Mississippi by that date, some remained to cross to the west in later years. This variance indicated a considerable difference in population between the two tribes. The situation was bound to create dissention eventually. By 1843, the government reported the

¹Report of Kenton Harper, Office of Indian Affairs, 1851 (hereinafter cited as O. I. A.), p. 398.

²Report of C. A. Harris, O. I. A., 1836-1837, p. 402.

Chickasaw population to be a little over 5,000, an inaccurate figure.³ The Chickasaws had established regulations concerning census taking of their population which failed to list certain members of their society:

The rule that the Chickasaw have adopted is to leave out a great number that lived with them in the old nation, and all those who have married amongst them, whose mother is not a Chickasaw. For instance, an Indian may be half Choctaw and half Chickasaw; but if his mother was not a Chickasaw, he is not to be taken in the census, nor is he to draw an annuity. I expect it will be several weeks before the census is completed; and I have my doubts whether then it will be correct⁴

In the early years of settlement, the Chickasaws settled widely in the Choctaw districts.⁵ This pattern of settlement kept them from concentrating their numbers effectively for purposes of representation in government; it also complicated efficient use of their monetary funds for the schooling of Chickasaw boys and girls. Many Chickasaws soon grew restless and discontented with this unhappy state of affairs. They had come west to find a new home for the tribe, but soon they began to regret having become a part of the Choctaw Nation. Their intense feelings of national pride spurred the Chickasaws into action. Within a short time this discontent manifested itself in a full-fledged movement for independence. This drive for eventual secession took place even though the Choctaws heatedly opposed it and made every effort to change their structure of government to better include the Chickasaws.

With the arrival of the Chickasaws in Indian Territory, the governmental structure of the Choctaw Nation changed somewhat in order to

³Report of A. M. M. Upshaw, O. I. A. 1843, p. 417.

⁴Ibid., pp. 419-420.

⁵Report of Kenton Harper, O. I. A., 1851, p. 397.

incorporate the newcomers. Governed by written laws and a constitution since they had emigrated from Mississippi early in the 1830's, the Indians revised the Choctaw constitution, and formed four major districts within the Nation instead of the original three they had had prior to the coming of the Chickasaws. The four new political divisions were Mosholatubbe District, Pushamataha District, Apukshunnubbee District, and the Chickasaw District of the Choctaw Nation.⁶ Each district had its own chief elected by the citizens of that district. The chiefs held office for a period of four years and were eligible for two terms. They received a salary of \$250 each a year from the United States government, in accordance with treaty stipulations. Each chief delivered a message in person to the General Council of the Choctaw Nation, stressing his own ideas concerning the basic needs of his people, and recommending such laws as he deemed conducive to meeting those needs. Once the General Council passed a law, it submitted the measure to the chiefs, who possessed the veto power.⁷

The legislative branch of the Choctaw Nation consisted of the General Council of forty members, elected annually by the people, according to the population in each district. Prior to Chickasaw arrival, the Choctaw General Council had consisted of twenty-seven members. That body now increased its membership to better include the Chickasaws, but the action

⁶Muriel H. Wright, "Brief Outline of the Choctaw and Chickasaw Nations in the Indian Territory, 1820 to 1860," Chronicles of Oklahoma, VII (December, 1929), 388-418.

⁷Report of William Armstrong, O. I. A., 1839-1840, p. 468; Ibid., 1842-1843, p. 73.

proved unsatisfactory. Apuckshunnubbee District had the largest population and tended to dominate the legislature as a result.⁸ Naturally, this led to numerous complaints from the members of the other districts who felt their needs were not being properly considered. Especially this situation was true of the vastly outnumbered Chickasaws who considered their interests threatened.

On the first Monday in October the General Council convened to elect a speaker and a clerk. After the district chiefs made recommendations for new laws, the Council deliberated on the issues. The General Council then submitted all bills passed to the chiefs for their approval. If approved, they became law. In the event of a veto, the leaders returned bills to the General Council for another vote. If such bills were passed a second time by a two-thirds vote, they overrode the vetoes of the chiefs and became law.⁹

District chiefs nominated judges of the respective districts who received a small compensation for their services. Trial by jury was guaranteed for all capital offenses. Council presented defense before the judges.¹⁰ Most acts of crime were punishable by fines and also lashes were applied to the bare back. The court set the number of lashes suffered by the offender according to the seriousness of the crime. Rape, for

⁸Wright, "Brief Outline of the Choctaw and Chickasaw Nations in the Indian Territory, 1820 to 1860," Chronicles, VII (December, 1929), 388-418.

⁹Ibid., Report of William Armstrong, O. I. A., 1842-1843, p. 73.

¹⁰Report of William Armstrong, O. I. A., 1839-1840, p. 468; Ibid., 1842-1843, p. 73.

instance, was punishable by one hundred lashes on the bare back, with death as the penalty for a second offense. Witnesses frequently found the journey to court to be long and costly. To alleviate their problem, the Council passed an act to provide compensation for them. All witnesses received two cents a mile going and returning from court, and fifty cents a day while attending court. This money came from funds collected by the light-horsemen from the person losing the suit, except in cases of murder, in which the district paid the witnesses on behalf of the prosecuting party.¹¹

The effectiveness of the Choctaw laws and system of punishments in the ante-bellum days of Indian Territory is evidenced by a report of William Armstrong in 1842:

Their laws are generally respected and when violated, punishment is inflicted. It is very rare that acts of violence take place between themselves; every individual feels safe in his own property. Travellers pass through the nation with as much safety as they do in any country.¹²

Through the years, the Chickasaws continued to be dissatisfied with the Choctaw government. This typical pattern carried throughout the coming decade, with changes instituted time and again to meet the demands and attempt to solve the problems facing the Nation. It was almost like groping in the dark in the efforts of these Indians to imitate the white man's governmental structure and concepts of land regulation.

¹¹Joseph P. Folsom, ed., Constitution and Laws of the Choctaw Nation, Together with the Treaties of 1855, 1865, and 1866 (New York, 1869), p. 90.

¹²Report of William Armstrong, O. I. A., 1842-1843.

In 1843, the Choctaw legislature changed the constitution once again, this time adopting a bicameral system, and dividing the General Council into two branches, a Senate and a House of Representatives. Joint concurrence was necessary to the passage of laws. William Armstrong, Indian agent, wrote in 1843, "Thus it will be seen they are adopting, generally, the form of our State Governments as they exist...."¹³ Each district was to have an equal number of senators, and members in the lower house were to be elected annually with one representative for every one thousand inhabitants.¹⁴

Shortly after the Choctaw government instituted these changes, the Chickasaws, still dissatisfied, took independent action in an effort to revive their old tribal identity. In 1846, the Chickasaws met in council near Fort Washita in the Chickasaw District. This meeting became known as the First Boiling Springs Conference. Even though not more than one-third of their population lived in the district at the time, the Chickasaws drafted an initial constitution, establishing a government within a government. Supposedly, the new constitution proposed to better regulate the money affairs of the Chickasaw people, but it actually turned out to be a complete constitution setting up the machinery for government. This Chickasaw government was rather unique in that it was to function separately from the Choctaws, yet the Chickasaws still intended to continue their

¹³Report of William Armstrong, O. I. A., 1843, p. 416.

¹⁴Folsom, Choctaw Laws, pp. 113-115; Wright, "Brief Outline of the Choctaw and Chickasaw Nations in the Indian Territory, 1820 to 1860," Chronicles, VII (December, 1929), 388-418.

political association within the Choctaw government simultaneously.¹⁵ Such a situation was bound to create further confusion and discontent.

The Constitution of 1846 did not prove satisfactory, and the Chickasaws met again at Boiling Springs on October 13, 1848, to repeal the former instrument and establish a new one. The Constitution of 1848 provided for an executive to be called Chief of the Chickasaws. The Chickasaw Council appointed the Chief who held office for two years. This procedure was changed a year later by the Council when a law was passed providing for the election of the Chief by the Chickasaw people. The legislative body consisted of a Council of thirty members elected by the people. Only members of the tribe could be elected to the legislature with two-year terms of office. The Council met once every twelve months. At the time, the convention ruled that all Choctaws and white women married to Chickasaws since 1834 were to be excluded from participation in Chickasaw annuities.¹⁶ This extra-legal body established by the Chickasaws continued to function in a variety of ways until that tribe separated from the Choctaws in 1855.

In 1850, the Choctaws instituted more changes in their constitution, primarily within the judicial system, with a supreme court and county courts.¹⁷ Under the new system, one circuit judge was appointed for the

¹⁵Grant Foreman, The Five Civilized Tribes (Norman, 1934), p. 121; Arrell Morgan Gibson, Oklahoma, A History of Five Centuries (Norman, 1965), p. 128.

¹⁶Acts of the Chickasaw Nation, MS., Indian Archives, Oklahoma Historical Society, Oklahoma City, LXIV, 1-17.

¹⁷Wright, "Brief Outline of the Choctaw and Chickasaw Nations in the Indian Territory, 1820 to 1860," Chronicles, VII (December, 1929), 388-418.

entire Nation, instead of a local judge for each district. The circuit judge held court in each of the four districts once in every three months. The four major districts of the country were now divided into counties, each having a judge and an inferior court for handling minor offenses; that is, all cases in which the amount involved did not exceed \$50. These lower courts also held the responsibility of reviewing and committing for trial all those guilty of capital offenses. Cases tried in the county courts could be appealed to circuit courts, and in turn, those tried in circuit courts could be appealed to the supreme court. This supreme or national court convened once every six months.¹⁸

The Nation was now divided into nineteen counties, each presided over by an elected judge. After the division, Pushmataha District contained the counties of Kiamichi, Tiger Spring, Sack's Fork, and Shappaway. Moshalatubbee District became Skullyville, Sugar Loaf, Sans Bois, and Gaines counties. Apuckshunnubbee District divided into Wade, Nashoba, Eagle, Red River, Towson, Cedar and Boktuklo counties.¹⁹ The Chickasaw District consisted of Cotton, Wichita, Caddo, and Perry counties.²⁰

Disputes continued over the eastern boundary of the Chickasaw District, with a final settlement at the Second Treaty of Doaksville, November 4, 1854. With this agreement, the Chickasaw boundary began twenty-six miles below the mouth of the Washita River, whereas the Chickasaws,

¹⁸Report of William Wilson, Choctaw Agent, O. I. A., 1851, p. 367.

¹⁹Folsom, Choctaw Laws, pp. 109-111.

²⁰Muriel H. Wright, "Organization of Counties in the Choctaw and Chickasaw Nations," Chronicles of Oklahoma, VIII (September, 1930), 315-334.

in turn, gave up their claims to the northeastern corner of the District with the eastern boundary line between the Chickasaw District and the Choctaw Districts being drawn due north of the eastern prong of Island Bayou to the Canadian River.²¹

The Choctaws attempted to adjust with the times, but rumblings of discontent persisted in the land. The Chickasaws had wanted to come to the Choctaw Nation; it had taken several expeditions and much talk to finally arrive at such an agreement. But once there, the Chickasaws felt outnumbered, outvoted, and like a people without a country of their own. Boundary alterations, and constitutional failed to still their discontent. They were a minority clamoring to be heard and recognized.

Five years before the first southern state seceded from the Union, the Chickasaws seceded from the Choctaw Nation. This action resulted by virtue of the Treaty of June 22, 1855, between the United States and the Choctaws and Chickasaws. The Chickasaws ratified this treaty on October 3, 1855,²² and the Choctaws on November 19, 1855.²³ This mutual acceptance signaled the beginning of the Chickasaw Nation, and from that date on, the Chickasaws attempted to go their separate ways. In actuality, they followed the examples set by their Choctaw brothers on numerous occasions and remained closely associated with them always. An investigation of the Treaty of 1855 reveals, too, that not all their ties were completely broken.

²¹ Ibid.

²² Davis A. Homer, ed., Constitution and Laws of the Chickasaw Nation, Together with the Treaties of 1832, 1833, 1834, 1837, 1852 and 1866. (Kansas, 1899), pp. 491-492; Charles J. Kappler, Indian Affairs: Laws and Treaties, Vol. II of Treaties (Washington, 1904), pp. 711-712.

²³ Folsom, Choctaw Laws, p. 144; Kappler, Indian Affairs, Vol. II of Treaties, pp. 713-714.

These few connecting links between the two tribes left a confusing state of affairs for the future.

The limits of the new Chickasaw Nation were defined as:

Beginning on the north bank of Red river, at the mouth of Island bayou, where it empties into the Red river, about twenty-six miles on a straight line below the mouth of False Wachitta [Washita]; thence running a northwesterly course along the main channel of said bayou nearest the dividing ridge between Wachitta [Washita] and Low Blue rivers, as laid down on Capt. R. L. Hunter's map; thence northerly along the eastern prong of said Island Bayou to its source; thence due north to the Canadian river; thence west along the main Canadian to the ninety-eighth degree of west longitude; thence south to Red river, and thence down Red river to the beginning. . .²⁴

The Choctaws were paid \$150,000 out of the Chickasaw funds held in trust by the United States. The rest of the country, held in common by the Choctaws and Chickasaws east of the Chickasaw Nation, was to constitute the Choctaw District. Members of either tribe were to be allowed to settle in either district, and to be entitled to all rights and privileges.²⁵

The total extent of the Choctaw and Chickasaw country included the area within a boundary beginning at a point on the Arkansas River near Fort Smith. From there due south along the western border of the State of Arkansas to the Red River, then up the Red River to one hundred degrees west longitude and north along that meridian to the main Canadian River, and down the Canadian to its junction with the Arkansas River and on to the original point. Members of either tribe were to have an equal, undivided interest in the whole, and no part was to be sold without the consent of both tribes. If the Indians abandoned the region, or if they

²⁴Kappler, Indian Affairs, Vol. II of Treaties, pp. 706-711; Homer, Chickasaw Laws, p. 3.

²⁵Ibid.

became extinct, the land would revert to the United States.²⁶

The Choctaw-Chickasaw country west of the ninety-eighth degree of west longitude extending to the one hundredth degree of west longitude was now to be leased by the United States government for locating other Indian tribes permanently. The United States agreed to pay the Choctaws the sum of \$60,000 and the Chickasaws \$200,000. This leased territory, however, was to remain open to settlement by Choctaws and Chickasaws.²⁷

The vast region claimed by the Choctaws west of the one hundredth meridian as a result of the Treaty of 1830 was not to be relinquished by the Choctaws and to revert to the United States. This territory had not actually been a part of the United States at the time that nation granted it to the Choctaws.²⁸ The Choctaws agreed to permit the United States or an incorporated company to have the right of way for railroads or telegraph lines through the Choctaw and Chickasaw country. Choctaw laws were to remain in force within the Chickasaw Nation until the latter was able to adopt a constitution and enact all necessary laws for the preservation of order.³⁰

The Chickasaws met in 1856 and drafted a constitution and a set of initial laws for governing their nation. At that time, the laws provided for a Great Seal of the Chickasaw Nation.³¹ The original manuscript for

²⁶Ibid.

²⁹Ibid.

²⁷Ibid.

³⁰Ibid.

²⁸Ibid.

³¹Muriel H. Wright, ed., "The Great Seal of the Chickasaw Nation," Chronicles, XXXIV, (Winter, 1956-1957), 388-391. "The Great Seal of the Chickasaw Nation was provided by law in a constitution adopted by the

these documents was sent to Texas to be printed. The naive Indians had failed to make copies of these drafts, and they soon discovered that the young Chickasaw chosen to carry out the mission had mysteriously disappeared, taking the laws with him.³² Douglas H. Cooper, the Choctaw and Chickasaw agent, reported in 1857, ". . . the laws were lost or misplaced, so that no one could know what laws were in force. Under this strange state of affairs, it is not surprising that great disorder should prevail, and murders and other high crimes be committed."³³

Once again, the Chickasaws met for the purpose of adopting another constitution. The Constitution of the Chickasaw Nation consisted of a Bill of Rights, providing for such things as government founded from the people and instituted for their benefit, with the accompanying right to alter or even abolish government as they saw fit, freedom of worship in religion, freedom of speech and the press. It also included the right to be secure in their own homes and property, right to trial by jury, no excessive bail or fines, no cruel punishments, no imprisonment for debts, and no polygamy or concubinage. The people were given the right of peaceful assembly as well. All free males of nineteen years of age and over, who were members by birth or adoption of the Chickasaw tribe, and who had

Chickasaws in 1856. . . . It was lost on the way, necessitating the adoption of another draft of the documents. The law providing an official seal and its use is found in the constitution adopted in 'Convention at Camp Harris,' August 16, 1867. . . .

The impress of the Great Seal is seen on official papers out of Governor Cyrus Harris' office in 1872, showing the Indian warrior with the arrows in his right hand and a bow in his left, but there is no copy of a law of the Chickasaw Nation available at this writing which describes this design."

³²Report of Douglas H. Cooper, O. I. A., 1857, p. 231.

³³Ibid.

resided in the Chickasaw Nation for six months prior to an election, were to be considered qualified electors.³⁴

Government was divided into three departments: Legislative, Executive, and Judicial. The Executive power rested in the "Governor of the Chickasaw Nation," who was to hold office for two years, and was not eligible for more than four years in any term of six years. The Governor was an elected official, and in case of a tie, the decisions was to be made in the legislature by joint vote of both Houses.³⁵ The use of the word "Governor" as the chief executive was rather unusual for Indian tribes. "This was a departure from the constitutions and laws of the other Indian governments in the Indian Territory, in which the chief executives were styled 'Principal Chief.'"³⁶

The Legislative division consisted of a Senate and a House of Representatives, with a term of two years for Senators and one year for members of the House of Representatives.³⁷ Section 7 of Article IV of the Chickasaw Constitution provided that:

The legislature shall divide the Chickasaw Nation into four senatorial districts; Provided, however, until said division, the counties of Panola, Pickens, Tishomingo and Pontotoc shall each respectively constitute a senatorial district. And each senatorial district shall be entitled to elect three Senators.³⁸

The counties of Pickens and Tishomingo elected four representatives each,

³⁴Homer, Chickasaw Laws, pp. 4-6.

³⁵Ibid., p. 11.

³⁶Muriel H. Wright, "The Great Seal of the Chickasaw Nation," Chronicles of Oklahoma, XXXIV (Winter, 1956-1957), 388-391.

³⁷Homer, Chickasaw Laws, p. 8.

³⁸Ibid., p. 8.

but this provision was later changed by an act of the Legislature to five; the counties of Panola and Pontotoc elected five each.³⁹ The Judicial powers were vested in a Supreme Court, District Courts, and County Courts, which were to be established by the Legislature.⁴⁰

The new government was established at a most unfortunate time--on the eve of the Civil War, and the Chickasaws had little opportunity to set things in motion before they became irrevocably involved in that conflict. The Chickasaws found that the Treaty of 1855 had solved some of their problems, but had created others. Elias Rector, Superintendent of Indian Affairs for the Southern Superintendency in 1858, declared, "It is indeed an anomalous condition of things for two nations, with separate governments, to own all their lands in common, and I do not believe that it and peace can long exist together."⁴¹

Problems existed in regard to the "Leased District" as well. The lease to the United States was perpetual, and many United States senators began treating it as a cession instead of a lease. The Choctaws and Chickasaws were understandably irritated by such an interpretation. Further complications appeared:

In that country [the leased district], also, the Choctaw and Chickasaw are at liberty to live, and it remains a part of their territory, and so under the laws of the one or the other of them, of which it might be difficult to determine. How far the Wichitas are subject to their laws, and what rights they and the other Indians there settled may have, political and otherwise, are questions that must some day be debated.⁴²

³⁹Ibid.

⁴⁰Ibid., p. 15.

⁴¹Report of Elias Rector, O. I. A., 1858, p. 131.

⁴²Ibid.

The Chickasaws and Choctaws began to sense an increasing pressure from the white man again. White settlements were nearby, almost encircling Indian Territory. Even the Great West was steadily being penetrated by Anglo-Americans. In their efforts to get there, white men sometimes crossed Indian lands. The intruders learned more and more about the prairie lands as they passed through on the road west.

From 1848 until the Civil War, people poured into California by every known trail across the country. This leap across the continent had changed the process of settlement. In the past, the frontier had bordered along the settled areas, and this enabled pioneers to receive supplies and news from established sections. The situation had altered now, for a vast empty wilderness lay between California and the east. Gold seekers became hungry for news of happenings back home, clamoring for some sort of dependable mail service to link the two isolated regions together. This began a period of government subsidies for the development of transportation lines, and contracts were let for establishing semi-monthly mail service to California. This did not prove satisfactory to the Californians. In 1857, the Post Office Appropriation Act authorized the Postmaster General, Aaron V. Brown, to call for bids on a weekly mail service from the western terminus of the railroad at Tipton, Missouri, to San Francisco. Brown selected a southern route; one that crossed much of the Choctaw Nation and the southeastern tip of the Chickasaw Nation. It crossed the Red River at Colvert's Ferry. Over this trail, the Butterfield Overland Mail coaches raced after 1858, pausing only to change horses at way-stations and to feed the passengers on board. The white man had made another inroad on the Indian Nations; but before the Indian could become too concerned, he was swept up in the tidal wave of the white man's Civil War.

CHAPTER IV

THE CHICKASAWS AND THE CIVIL WAR

The rumblings of discontent within the United States after the election of Abraham Lincoln to the presidency finally led to the drafting of an ordinance of secession by South Carolina on December 20, 1860. Shortly after the first of the year, five other Southern states followed the examples set by South Carolina. Then Texas seceded from the Union on February 1, 1861, joining with the other secessionists in planning some form of organization. Thus, Texas became the seventh state to secede before the inauguration of Abraham Lincoln in March and the subsequent start of the Civil War in April. Before war actually erupted, activity occurred across the border of the Red River, with discussions taking place between Texans and Chickasaws and Choctaws.¹ The Indians hardly needed encouragement. Both tribes were slave-owners, and many of the wealthier members had carried on a way-of-life and a form of commercial agriculture that closely resembled that of the prominent Southern planter. Some Chickasaws and Choctaws had established large plantations along the Red River region during the 1840's;² they carried on a social life of warm hospitality in large white-pillared southern mansions. By tradition

¹Neil R. Johnson, The Chickasaw Rancher (Stillwater, Oklahoma, 1961), p. 18.

²Muriel H. Wright, "Organization of Counties in the Choctaw and Chickasaw Nations," Chronicles of Oklahoma, VIII (September, 1930), 325.

then, economic and social, they were closely aligned with Southern culture.

Besides, the Chickasaws were very dissatisfied and disappointed with the United States government, as were other members of the Five Civilized Tribes. Long delays in receiving annuities had caused ill feelings toward the federal government. A. M. M. Upshaw, the Chickasaw agent, reported in 1845 that the Chickasaws had not been paid an annuity since their emigration from Mississippi.³ Then the federal government had failed to keep order in the Indian country. The government had made some relatively feeble efforts in this direction, with the establishment of Forts Washita and Arbuckle, and the occasional sending in of additional troops when it seemed indispensable to do so. But the government had also failed to follow through on these initial endeavors, withdrawing most of the troops and leaving just a token command that could do nothing more than make a show of force when something more, much more, was needed.

In his annual report of 1855, the Chickasaw agent Douglas H. Cooper pleaded that Congress do something to enable the officers and agents of the Indian Department to execute the laws within the Indian country. At the time, he pointed out that military posts were being constantly removed farther to the west, leaving an expanse of country behind those outposts on the distant frontier that was open to lawlessness and liquor traffic. Cooper had suggested that an Indian force be organized to maintain order, that this type of unit would be fully adequate to meet the needs of the region and that such an organization could be set up and

³Report of A. M. M. Upshaw, Office of Indian Affairs (hereinafter cited as O. I. A.), 1844-1845, p. 167.

maintained cheaper than any other the United States government might consider.⁴ A few years later, Comanches committed widespread depredations against the Chickasaw and white families living near Fort Arbuckle. United States troops had been inadequate to cope with the situation, and Cooper took it upon himself to organize Chickasaw units until a company of United States troopers and some Choctaw infantry arrived. Fear was so prevalent along the Texas frontier and in the Choctaw and Chickasaw country that a reconnaissance expedition set out for the west journeying as far as the Wichita Mountains. The expedition lasted approximately twenty days, and consisted of a mounted force of seventy-two men, most of whom were Chickasaws. Once again, Cooper requested the right to organize a strong native police among the Choctaw and Chickasaw tribes, one that would be paid by the United States government and subject to the orders of their agent. He also stressed the need for a depot of arms with rifles and Colt's pistols and ammunition enough for a force of mounted men, since these Indians were poorly armed after having revised their way of life and given up the chase.⁵

Complications had arisen in the Indian Territory as a result of the inadequacy of the Intercourse Act of 1834. Cooper soon recommended that new legislation be adopted to fill the various interests and needs within the Indian country; he openly suggested that Congress revise the old Intercourse Act. Cooper insisted that the extent of the authority of Indian agents had never been properly or fully defined; that no existing law, as of 1855, provided civil process in cases between citizens of the United

⁴Report of Douglas H. Cooper, O. I. A., 1855, p. 153.

⁵Report of Douglas H. Cooper, O. I. A., 1858, p. 157.

States who were residing in Indian Territory, or between them and citizens of the States and Territories of the United States. He continued by saying that a former Attorney General unnamed had maintained the opinion that civil process from United States courts did not include the Indian Territory, basing this decision on the absence of a specific statute to that effect. As a result of this attitude, the Indian Territory had become the favorite retreat for debtors absconding from the law.⁶

This state of affairs distressed the Chickasaws as well as Agent Cooper, and it seemed to them as though the United States government had been overly negligent in its responsibilities. Not only this, but what could they believe of a government that kept going back on its word, that kept reducing their over-all domain and still asked for more?

It should not have been surprising then that the Choctaws adopted a Resolution on February 7, 1861, even before the firing on Fort Sumter. In the Resolution the Choctaws clearly expressed their belief that this political disagreement between the North and the South would completely disturb and upset all the previous treaties that had been made with the Indians. They also hoped that the troubles between the two major sections of the country could be peacefully resolved, but in the event of a permanent dissolution of the Union, the Choctaws resolved to bind themselves to the Confederacy. They assured their neighbors in Arkansas and Texas of their intent to continue amicable relations with a mutual respect of rights. The Principal Chief of the Choctaws was requested by the Choctaw legislature to send copies of these resolutions to the governors of the

⁶Report of Douglas H. Cooper, O. I. A., 1855, p. 153.

Southern States in the hopes that these copies would be laid before the State convention of each State or else published in the newspapers of the state.⁷ The Chickasaws watched these proceedings with great interest wondering if they should follow this example set by their brothers. They decided to wait awhile.

With the outbreak of hostilities between the North and the South, and the subsequent withdrawal of Union troops from Forts Washita, Arbuckle, and Cobb,⁸ the Indians began to have misgivings about the ability of the North to win a war against the South. In fact, these posts had been evacuated so hurriedly that a considerable amount of supplies and property was left behind.⁹ The Indians interpreted this withdrawal as a sign of weakness, and they immediately felt abandoned by the North and exposed to invasion.¹⁰ Indeed, in evacuating the posts, the United States violated its pledge to protect the Indians. Considerable differences existed within each tribe, often with divided opinions. Factions soon developed within the Indian nations, one side expressing its desire to join the Confederacy, and the other recommending neutrality. This discontent fractured harmony in particular within Cherokee ranks where a fear of Northern failure to rectify the debt caused delay in alignment with the Confederacy.

⁷U. S. War Department, War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies (hereinafter referred to as O. R.), 130 vols. (Washington, 1880), Series I, Volume I, p. 682.

⁸O. R., Series I, Vol. I, pp. 637, 652.

⁹Ibid., p. 653.

¹⁰Wiley Britton, The Union Indian Brigade in the Civil War (Kansas City, Missouri, 1922), p. 22.

The lack of success on the part of the Union forces in the initial campaigns of the war further convinced the Indians that the Confederates were the stronger of the two. The resignation of Elias Rector, head of the Southern Superintendency for the Union, influenced other Indian agents to follow his example; his actions set the scene for events soon to follow. Rector and many of the agents then gave their allegiance to the South. Their actions, in turn, affected the attitudes of the Indians. Watching the Indians' mood carefully, Confederate leaders waited for the proper moment to approach the Indians for alliances.¹¹ A decision would have to be made soon as to which side they would support, and the gullible Indian tribes would certainly want to join the antagonist most likely to win. They had already suffered and lost much at the hands of the white man; the last thing they would want to do now would be to align themselves with a loser. Having little foresight into white men's relationships, the Indians would obviously be influenced by the outward sign of things. In this instance, the Confederacy would have a head start and distinct advantage over the North.

The Confederates felt their position would be strengthened if they made alliances with the Indian tribes in the West as soon as possible, before the Union forces had an opportunity to do so. This region known as Indian Territory could act as a buffer zone for Texas on the north and out of this area could possibly come valuable food supplies as a last resort from the Five Civilized Tribes in case of a blockade by the North of the coastal shores along the Atlantic.

¹¹Robert Lipscomb Duncan, Reluctant General: The Life and Times of Albert Pike (New York, 1961), p. 171.

This urgency on the part of the Confederacy to form alliances with the Indians brought about a curious turn of events. Robert Toombs, now Secretary of State in the Confederate Cabinet, had formerly been one of the chief opponents on Indian appropriations bills in the United States Senate. A new importance was now attached to the Indians, and Toombs was forced to consider them in a new light. He proposed a resolution which would authorize President Jefferson Davis to send a special agent to visit the tribes in the west to make treaties with them. The resolution received approval of the Cabinet and President Davis named Albert Pike to the new position.¹²

A noted writer and lawyer in Arkansas, and a linguist with a marvelous command of classical, romance, and Indian tongues, Pike qualified admirably for the appointment.¹³ He had represented the Choctaws in Washington in 1859, and had hunted throughout Indian Territory with various Indian friends, especially those of the mixed-blood plantation type. He was admired and respected among his Indian acquaintances. The Confederacy could not have picked a better man.

On March 15, 1861, the Bureau of Indian Affairs was created by law, upon recommendation by President Davis, and was to be considered a part of the War Department.¹⁴ By this commission, then, Pike would be a civil

¹²Duncan, Reluctant General, p. 171.

¹³Frank Cunningham, General Stand Watie's Confederate Indians (San Antonio, 1959), p. 53.

¹⁴Annie Heloise Abel, The American Indian As Slaveholder and Secessionist: An Omitted Chapter in the Diplomatic History of the Southern Confederacy, Vol. I of The Slaveholding Indians, 3 vols. (Cleveland, 1915), p. 128.

administrator with plenary powers in which he could promise the Indians anything they desired, subject only to approval by the Confederate Congress.¹⁵ The Confederates calculated the appointment wisely, because Pike best understood the attitude and feeling of the Indians, and knew how to cultivate their support.

Pike anticipated trouble with the Cherokees, Creeks, and Seminoles, since various factions in these tribes quarreled. He initially planned to surround the neutral elements with groups loyal to the Confederacy and put enough pressure upon them to cause them to side with the South ultimately. Pike knew of the strong Union sentiment in these tribes and realized he might have some difficulty in forming alliances. Success in these areas would call for clever strategy, and Pike knew just how to go about it, but he would need the help of the Choctaws who had already announced their intention of joining the Confederacy, and possibly the Chickasaws who would undoubtedly follow the lead of their Choctaw brothers.

Pike left soon for Fort Smith, Arkansas, to meet with Benjamin McCulloch, commander of military operations in Indian Territory, to plan for a journey into the Indian country for the purpose of negotiating treaties with the tribes. Even before Pike arrived, a plan of operation had been sent out to Douglas H. Cooper, agent to the Chickasaws and Choctaws, in a letter of May 13, 1861, from the Confederate Secretary of War, Leroy P. Walker. The letter stressed the great importance of cultivating friendly relations and forming treaties of alliance with the Choctaw Nation and all other Indian tribes located west of Arkansas and south of Kansas, and solicited the aid of Cooper in using his enormous influence with the Indians

¹⁵Duncan, Reluctant General, p. 169.

in order to bring successful negotiations. The letter continued with information and instructions for Cooper:

. . .we have commissioned Gen. Ben. McCulloch, with three regiments under his command, from the States of Arkansas, Texas, and Louisiana, to take charge of the military district embracing the Indian country, and I now empower you to raise among the Choctaws and Chickasaws a mounted regiment, to be commanded by yourself, in cooperation with General McCulloch.¹⁶

The Chickasaw legislature assembled on May 25, 1861, and passed a set of resolutions in which that body stated its position and desire to join the Confederacy. Close inspection of the set of resolutions reveals more than just a hint that the Indians felt the dissention between the North and South had left the door open to the opportunity for the tribes to take over full control of their own areas, and gain ends long wished for but never acquired. Obviously, the Indians felt the effort worth a try; they proceeded to outline a plan of action, a plan well calculated to insure their own survival. They expressed their wishes and intentions so that the Confederates would know what to expect when the actual negotiations took place. Their Resolution represented a subtle attempt to inform the Confederates of their wishes prior to negotiations, when it stated:

5th. Resolved, That while the Chickasaw people entertain the most sincere friendship for the people of the neighboring States of Texas and Arkansas, and are deeply grateful for the prompt offer from them of assistance in all measures of defence necessary for the protection of our country against the hostile invasion, we are desirous to hold undisputed possession of our lands and all forts and other places lately occupied by the Federal troops and other officers and persons acting under

¹⁶O. R., Series I, Vol. III, pp. 585-587.

the authority of the United States, and that the governor of the Chickasaw Nation be, and he is hereby, instructed to take immediate steps to obtain possession of all such forts and places within the Choctaw and Chickasaw country, and have the same garrisoned, if possible, by Chickasaw troops, or else by troops acting expressly under and by virtue of the authority of the Chickasaw and Choctaw nations, until such time as said forts, Indian agencies, etc., may be transferred by treaty to the Confederate States.¹⁷

The threat of external occupation by Texans and other whites alarmed the Chickasaws who realized full well the difficulties involved later in ousting the intruders once they had a foothold. The Chickasaws justified the adoption of this Resolution by referring to the then apparent dissolution of the Union and the resulting abrogation of all treaties. They further rationalized that the present government in Washington under Abraham Lincoln merely held the position of "pretender."¹⁸

In passing this Resolution, the Chickasaw people broke a promise to the United States government. In accordance with the Treaty of 1834, the Chickasaws had pledged themselves not to wage war upon any Indian people, or upon the whites, unless they were so authorized by the United States government. By terms of that agreement, however, they were permitted to defend themselves against attack until the United States extended them the necessary assistance.¹⁹ Of course, at that time they could not possibly have foreseen the present turn of events. Indeed, they had waited watchfully for nearly three and one-half months since the passage

¹⁷O. R., Series I, Vol. III, p. 586.

¹⁸Ibid., p. 585.

¹⁹Charles J. Kappler, Indian Affairs: Laws & Treaties, Vol. II, Treaties, 2 vols. (Washington, 1904), p. 410.

of the Choctaw Resolution to commit themselves to a definite course of action. Now it appeared as though their region would be occupied by Confederates for a long time, no matter who won the war in the final analysis. It was a difficult decision to make under any circumstances. If they threw their strength behind the Confederates, they might achieve better conditions and terms than they had ever been able to get from the federal government. It was a gamble they were almost forced to take because of the conditions of the moment. The die was cast.

That Pike had foreseen the possibility of the Indians seizing unlimited and undisputed control over their own domains, is illustrated in a letter from Pike to Judah P. Benjamin, Secretary of War. On November 27, 1861, in which he emphasized the importance of having Confederate troops with the Indian troops so that the Indians would not assume the idea that they were fighting strictly for themselves.²⁰ He continued to stress this policy and issued numerous complaints later when it was not properly carried out by the Confederacy.

Pike and McCulloch organized a plan of action for recruiting the Indian tribes during the latter part of May and planned to journey together into the Indian country. They were most anxious to raise Indian regiments as soon as possible, before Union attentions might be directed toward the area. For the moment, Union activities were centered elsewhere, and the Confederates determined to take advantage of the situation which would, at best, be only a temporary state of affairs. Dissenting factions within the tribes would have to be reconciled, if possible, before Union propaganda had an opportunity to be spread.

²⁰O. R., Series I, Vol. VIII, p. 697.

The day before Pike and McCulloch left for the Indian country, Pike wrote a rather lengthy letter to Robert Toombs, in which he listed their future plans of operation. He reported that they would leave first for the Cherokee Nation to see the principal chief, Governor John Ross, whose dedication to the Confederacy he questioned. Pike knew that Ross would be a difficult man to handle. He stated, however, that if Ross would comply, the Confederates would occupy his country anyway and then make treaties with the leaders of the mixed-bloods who promoted the Confederates and raised troops on their own initiative. At any rate, Pike planned to see the mixed-bloods of the Cherokees the following week at the Creek Agency. After all, they represented the other faction within the Cherokee tribe and should be recognized. After meeting with the Creeks, he planned to meet the Choctaws at Fort Washita, and then move on into the Chickasaw country. In his over-all plan, he counted upon the support of the members of the Five Civilized Tribes in winning over the wild Plains tribes. He had already sent word to their agent to have them meet him later at Fort Washita, along with the Wichitas, Caddoes, Iowas, Tonkawas, Delawares, Kickapoos, and Reserve Comanches.²¹ Good fighters all, they differed in tactical combat from the orthodox military techniques of the white man.

Pike felt that the greatest problem for the Confederacy would be arming and equipping the Indians for service. To Secretary of State Toombs he emphasized the need for sending supplies by steamboat before the water level of the river dropped and made it impossible to move the boats

²¹Pike to Robert Toombs, May 29, 1861, O. R., Series IV, Vol. I, pp. 359-360.

up river. Writing further, he stated, "To embody the Indians and, collecting them together, keep them long without arms would disgust them, and they would scatter over the country like partridges and never be got together again."²² Apparently Pike fully realized the Indians' plight. Already disillusioned with the policies of the United States government, the Indians must not be further disenchanted for fear the Confederacy would lose their support.

Pike then complained, with considerable justification, that he had not been issued any funds to pay for expenses of holding council with the Indians, nor had he been given the power to procure funds. As a result, he had been forced to resort to borrowing funds, giving the loaner a draft on the Commissioner of Indian Affairs. This borrowed money would be used to pay for feeding the Indians while attending the council, since they expected such hospitality.²³

Upon their arrival at Park Hill, Pike and McCulloch soon met with disappointment. John Ross, Principal Chief of the Cherokees, hedged; assuming a noncommittal attitude, he encouraged other tribes to do the same. Since the majority faction supported Ross, the Confederates decided not to occupy Cherokee country immediately for fear of offending them and driving them into open support of the Union.²⁴ The most they could hope for now would be that Ross would change his mind after seeing the

²²Ibid.

²³Ibid.

²⁴McCulloch to Leroy P. Walker, June 12, 1861, O. R., Series I, Vol. III, pp. 590-591.

success the Confederates had with other tribes. In the meantime, Pike wrote to Ross after each successful treaty to apply pressure on the old chief. Once these dissenting factions in the various tribes began to feel encircled, they would come over to the Confederacy.

Pike moved on to council with the Creeks and discovered that a delegation of Choctaws and Chickasaws had come north to meet him in advance of his scheduled visit to their own territory. On July 12, 1861, he made a treaty with the Choctaw and Chickasaw nations. By fall of that year, Pike had made treaties with all of the Five Civilized Tribes except the Cherokee. In the meantime, Stand Watie, leader of the rival faction among the Cherokees, brought pressure to bear and organized the First Cherokee Rifles under his independent command on behalf of the Confederacy. After negotiating treaties at North Fork Village with the Creeks, Pike continued on in the attempt to win over the Plains Indians. The next treaties enacted during Pike's mission were made at the Wichita Agency with the Wichitas and the Comanches.²⁵ Then he bargained with the Osage on October 2nd,²⁶ followed by treaties with the Seneca and Shawnee,²⁷ and the Quapaw on October 4th.²⁸ This impressive list coupled with the discouraging news of Union failures in battle, finally won over John Ross to the Confederacy, and Pike made a compact at Park Hill with the Cherokee on October 7th, 1861.²⁹

²⁵O. R., Series IV, Vol. I, pp. 542-554.

²⁶Ibid., pp. 636-646.

²⁷Ibid., pp. 647-658.

²⁸Ibid., pp. 659-666.

²⁹Ibid., pp. 669-687,

The treaties which Pike drew up with the Five Civilized Tribes differed considerably from those which he signed with the Plains Tribes. Rather than immediate security and eventual statehood that the more culturally advanced Indians desired, the wild tribes appreciated only gifts and trade goods. If the gifts ever stopped, they would immediately side with the North. Their treaties resulted more from bribes than from a philosophical argument for future benefits.

The Five Civilized Tribes required more diplomacy and more recognition than that. Discontented without concrete promises in regard to protection of their rights, they desired security first and foremost. They wanted a lasting commitment, not just a few trinkets of fleeting value. With security of government and national domain, they could buy their own trinkets.

By the Act of the Provisional Congress of the Confederate States passed on May 21, 1861, the Confederacy offered and accepted the protectorate of the Indian tribes west of Arkansas and Missouri. However, only the Five Civilized Tribes received terms in which this protectorate was formally offered and accepted. These treaties contained clauses recognizing their national status, and their territorial and political integrity. They received the right to have representation in the Confederate Congress by delegates, with the prospect of ultimate statehood. Pike felt he should promise them even more:

. . . he also promised the Indians that the Confederacy would see to it that their trust funds, secured by southern bonds, should be rendered safe and negotiable. Over and above all this, the government of the Confederate States made itself

responsible for claims for damages of various sorts that the different tribes had brought or were to bring against the United States.³⁰

The Confederate government would establish a postal system throughout the Indian country, with the same rates as those of the Confederate States.³¹ In practically all of the treaties Pike drafted, he recognized slavery as an important factor.³² In addition, he guaranteed protection to the Five Civilized Tribes against invasion by other Indians or white persons not subject to the laws of the Nations.³³ The negotiator also guaranteed the right of Indians being considered competent witnesses in courts of law of the Confederacy, unless rendered incompetent for some other reason than Indian blood. They received the right to take, hold, and possess by purchase of descent, any lands in Confederate States, an enormous advantage after having given up their eastern holdings beyond the Mississippi. Provisions included a guarantee that no state or territory would ever pass laws for their governments, and that no portion of their land areas would ever be annexed by any territory or province.³⁴

The Chickasaws had hoped to acquire rights such as the Confederacy granted them for a long time. If the South won the war and kept its word, the Chickasaws would gain much by offering their allegiance to the Confederacy. It was a temptation too great to cast aside and ignore.

³⁰Abel, The American Indian As Slaveholder and Secessionist, I, 159-164.

³¹O. R., Series IV, Vol. I, p. 679.

³²Ibid., pp. 456-457.

³³Ibid., p. 451.

³⁴Ibid., pp. 448-456.

They had faith in Pike; here was a man to be trusted.

These expectations did not last long. The Confederacy began violating its treaty agreements with the Indians almost as soon as the ink dried on the documents. Hardpressed to raise funds and supplies for their armies in the east, the Confederates neglected Indian Territory. The Indians soon had to furnish their own supplies and ammunition, as well as clothing. Pike complained, insisting that the Confederates keep their word.³⁵ Signs of discontent became apparent in Indian Territory; allegiance to the Confederacy began to waver.

The Confederates violated the agreements further by sending the Chickasaws and other tribes out of Indian Territory for active service,³⁶ most notably at the Battle of Pea Ridge in Arkansas.³⁷

Pike, still a loyal friend to the Indian and conscious of his promise to them, continued to protest to the Confederate government. He was a man who refused to sacrifice his personal integrity for the expediency of the moment. He finally became so disgusted and disillusioned that he submitted his resignation in July of 1862. At the time, he also wrote to the members of the Five Civilized Tribes, urging them to remain loyal to the South. He also issued a warning to these tribes; the warning assumed all the characteristics of an ominous prediction for the future:

They the federal government will use fair words now, but as soon as they have the power they will declare that you have

³⁵O. R., Series I, Vol. XIII, p. 960; Ibid., Series I., Vol. VIII pp. 719-722.

³⁶Pike to Hindman, O. R., Series I, Vol. XIII, p. 960.

³⁷O. R., Series I, Vol. VIII, pp. 26, 206-208.

forfeited your lands and the moneys due you by them by making these treaties, and will take your lands, divide them out among their soldiers, declare the debts they owe you confiscated, and put an end to your national existence.³⁸

After an exceedingly slow start, the Union finally became aware of the importance of the Indian Territory. Formerly reluctant to employ Indians in the war against the South, President Lincoln issued orders on January 3, 1862, for organizing such a force.³⁹ Union Troops spear-headed attacks in Indian Territory, laying waste much of the northern half of the region. Desperate men on both sides began scouring the Chickasaw and Choctaw country for food, timber, and anything else they could find. Chickasaw women, left at home to fend for themselves while their men were gone to war, drove their cattle into the mountains and turned them loose, rather than give them up to the foragers.⁴⁰

After long years of struggle and hardship, the war ended. With hearts weighed heavy with sorrow and anticipation, the Chickasaws waited to see what the triumphant North would do. New treaties would be enacted with the United States government. Chickasaw bargaining power was at an all-time low; they could only hope that the Great Father in Washington would show them mercy. The Chickasaws had worked so hard to carve new homes for themselves in this wilderness. They had come to understand this western land of theirs and to love it. They had lost so much; perhaps now they would lose more. The Chickasaws did not want to move again.

³⁸Pike to the Chiefs and People of the Five Civilized Tribes, July 31, 1862, O. R., Series I, Vol. XIII p. 871.

³⁹O. R., Series I, Vol. VIII p. 482.

⁴⁰Johnson, The Chickasaw Rancher, p. 22.

As early as 1862, a plan for reconstruction of the Indian Territory had been submitted to Congress by Senators James Lane and Samuel Pomeroy of Kansas. In 1863, the nation's lawmakers passed an over-all plan for dealing with the Indian country after the end of the war. The plan included the suspension of all treaties with the Five Civilized Tribes, and the cession of much of their lands to the United States. Tribes still residing within the boundaries of Kansas would be removed to Indian Territory and located on these lands.⁴¹ In a sense, the federal government had already sealed the fate of the Five Civilized Tribes even though many of these Indians had sided with the Union at the beginning of the war and others would follow their example in later years.

The Treaty of 1866 proved to be a minor tragedy for the Chickasaw and Choctaw people when they, under duress, surrendered another chunk of their public domain to the United States government. The South lost the war, yet the southern states suffered no territorial loss. The story differed for the Indians. Once again whites coveted their lands, and the Indians lost part of their domain.

The Treaty of 1866, drafted in Washington between the United States government and the Choctaw and Chickasaw Nations,⁴² had varied terms. The Chickasaws pledged to help the Plains Indians adopt a more peaceful way of life. Only authorized white persons could enter the regions of

⁴¹Arrell Morgan Gibson, Oklahoma, A History of Five Centuries (Norman, 1965), pp. 210-211.

⁴²Evidently the two tribes were still being considered as a unit, even though they had separated in 1855 to become two independent nations.

either nation, Choctaw or Chickasaw. Exceptions to this restriction included officers, agents, and employees of the United States government, members of internal improvement companies, persons traveling through the areas, and white teachers, mechanics, and agriculturalists working in the Nations temporarily. All non-Indian traders had to be licensed, and extradition measures were provided so that fugitives from justice would have to be surrendered. All white persons married to Indians and residing in the Nation, or those who had been adopted by the tribe, received membership in the Nation with the extension of regular rights and duties. The United States agreed to establish post offices at convenient places with rates of postage equal to those elsewhere in the country.⁴³

The Treaty called for a commission to investigate damages done to Indians loyal to the Union during the war, with a provision to reimburse them for property losses. The plan called for a census of each tribe, and the establishment of a central governmental council for Indian Territory. This proposed annual council would consist of one member from each tribe whose population exceeded five hundred, with an additional member for each one thousand Indians, native or adopted. Another proposal put forth in this treaty included a survey of Choctaw and Chickasaw domains and the division of lands in severalty. This central government would be accomplished if the Choctaw and Chickasaw people, through their respective legislative councils, agreed to such a plan based on the United States' concept of land and property holdings.⁴⁴

⁴³Kappler, Indian Affairs: Laws and Treaties, Vol. II of Treaties, pp. 918-931; U. S. Statutes at Large, XIV, 769 (1866).

⁴⁴Ibid.

According to agreement, courts could be established in the Territory with such jurisdiction as Congress prescribed. This jurisdiction was not to interfere with the local judiciary of the Chickasaw and Choctaw Nations, however. The Superintendent of Indian Affairs received authority to appoint a marshal for the Territory who in turn could select deputies. In cases of equal qualifications, preference for these positions was to be given to competent members of the Indian Nations.⁴⁵

The Choctaws and Chickasaws agreed that ten thousand or less Kansas Indians, tribes living north of Indian Territory, would be permitted to move into their respective Nations east of the ninety-eighth degree of west longitude. Three-fourths of the Kansas Indians would be located in the Choctaw Nation, and one-fourth in the Chickasaw Nation. These Indians would become fellow-citizens, governed by the same laws, and entitled to the same privileges, with the exception of the right to participate in Choctaw and Chickasaw annuities.⁴⁶

The Choctaw-Chickasaw domain west of the ninety-eighth meridian, known as the "leased district" since 1855, was ceded to the United States for \$300,000. The sum became an investment with an interest of not less than 5 per cent, held in trust for the Indians by the United States. This trust would be retained until the Chickasaws and Choctaws complied with the regulations stipulated in regard to the freedmen, and would be withdrawn if the Indians failed to enact the necessary legislation for the freedmen. The United States would then use the money to pay the moving expenses of the freedmen in their relocation.⁴⁷

⁴⁵Ibid.

⁴⁶Ibid.

⁴⁷Ibid.

The freedmen created a tremendous problem for the Chickasaws and the Choctaws. The Indians had invested much money in slaves; they considered slaves as a part of their property. By virtue of the Treaty of 1866, neither slavery nor involuntary servitude would exist in the Choctaw and Chickasaw Nations. All previous investment in slaves would now be a loss for the owners. It was difficult for the Indians to accept this command, but this was not the end of the matter. Terms also required that the Indian give their freedmen forty acres of land within their respective domains, and to provide for full rights of citizenship and privileges in the tribe, with the exception of annuities and public domain rights. According to the treaty, the United States agreed to move out the freedmen after a period of two years if the Indians failed to make regulations providing for such terms. The thought of incorporating the freedmen into their nations as full citizens seemed like a final blow to the Chickasaws and Choctaws.

The war was over; the Indians had suffered a dreadful loss of their national domain and prestige by the Treaty of 1866. Once, years ago, they had carefully weighed the possibilities as to which section might be the victor. The Chickasaw people had gambled and lost; they had chosen the wrong side. Completely demoralized, they returned to their homes now to rebuild the land from the ruins of war, to round up their cattle, unbranded and half-wild from running loose in the mountains, to revitalize their governmental structure, and to salvage what they could of the proud glory that had once been theirs.

CHAPTER V

THE AFTERMATH OF THE CIVIL WAR

Great changes took place over the land at the close of the Civil War. The world of the Chickasaw Nation seemed to move at a faster pace than it had at any time in the past. The growth of villages and towns replaced the quiet country scene of years gone by. Neighboring white settlements expanded and exerted their influence more and more upon the Chickasaw society and culture. The range cattle industry began on a large scale with the round-up of wild Texas Longhorns and other stray cattle that had been abandoned during the war, and developed into early forms of specialized stock breeding. By 1880, the southern herd of buffalo had almost been exterminated; the shaggy, cumbersome beast that was the mainstay of life for the Plains Indians had virtually disappeared from Indian Territory. The railroads came, bringing better communications and closer links with other parts of the country. United States marshals and their deputies came, too, following on the heels of train robbers, bank robbers, and horse thieves seeking safety from the law in Indian Territory. It was an era that seemed a "life and death" matter to the members of the Five Civilized Tribes as they fought the coming of allotment and eventual dissolution of their Indian nations.

Much of the Chickasaw Nation had virtually become a wasteland during the war. Wild Indian depredations increased when Union Troops withdrew from Indian Territory, and white raiders and foragers roamed the countryside in search of food, clothing, ammunition, and other booty. Former

Negro slaves, hungry and bewildered by their sudden emancipation, rifled chicken houses, gardens, and orchards, and stole cattle pasturing on the open range and hogs feeding on acorns in the woods. Chickasaw food resources had been further depleted by the provisioning of Confederate soldiers, white and Indian, engaged in combat near the Kansas, Missouri, and Arkansas borders of Indian Territory.

Farms had grown up in brush, and Chickasaw women and children had been unable to clear the land adequately without the aid of their men. Even Chickasaw schools had fallen into ruin and become unfit for the renewal of learning activities. Soldiers seeking shelter and a base of operations had occupied the empty school buildings, using and damaging the facilities with complete indifference, and eventually abandoning them in a state of utter disrepair. In 1871, the Choctaw-Chickasaw agent, T. D. Griffith, stated that the Indians were "without means to repair and almost without heart to reopen them."¹ Exhausted, disillusioned, battle-weary Indian men returned to their homes to begin life anew. At least they still had their lives, their families, and the land itself. The Great Spirit would smile on them again.

An abundance of Longhorn cattle, descended from strays of former Spanish herds, grazed extensively over the southwest. Early colonizers of Texas realized the potential wealth that could be gained from rounding-up and selling these wild, hardy animals, but they encountered the problem of getting them to market. A few enterprising men in the ante-bellem era of the 1840's and 1850's attempted what seemed an impossible feat and began "long drives" to such places as New Orleans, Shreveport, St. Louis,

¹Report of T. D. Griffith, Office of Indian Affairs, 1871 (hereinafter cited as O. I. A.), p. 569.

Chicago, and even California. These attempts resulted in so many hazards that they proved discouraging to most Texans. Chickasaw and Choctaw ranchers discovered similar problems. Chickasaw cattlemen built up their herds and bided their time. The day had not yet arrived for the full-scale development of the range-cattle industry; other conditions had to develop in the continental United States before such activity became feasible. In the meantime, the Longhorns grazed and reproduced, increasing their numbers and spreading out over the vast isolated ranges of pre-war and war-time Texas.

A large urban population relatively nearby is generally considered essential to a successful cattle industry. City dwellers are the market for ranchers. If the urban population is too far distant from the source of its meat supply, better transportation networks become cardinal. The "long drives" of pre-Civil War days had not been practicable; even the sturdy Longhorns lost valuable weight on the trail and the ranchers in turn lost money. The railroad boom that followed the close of hostilities brought changed conditions for the cattlemen and for the Chickasaws.

The era immediately following the Civil War saw the great day of the cattleman and the mushrooming of the range cattle industry. Cattle drovers crossed Indian lands on their way to the railheads in Kansas, trespassing upon the Chickasaw domain and taking advantage of the lush pastures there. Three great cattle highways crossed all or part of the Chickasaw Nation: the East Shawnee Trail, the West Shawnee Trail, and the Chisholm Trail.² Other trails crisscrossed over Chickasaw land as

²A few old trail herders knew this trail as the Chisum Trail, after the Texas cattleman, John Chisum. Though Chisum's cattle journeyed up the trail, reputedly John Chisum never did. Others claimed the trail was named after Jesse Chisholm who operated a store at Camp Arbuckle. (Neil R. Johnson, The Chickasaw Rancher, Stillwater, 1961, pp. 118-119.)

the major highways became overgrazed and crowded. Alarm over the steady intrusions of white ranchers and their stock caused the Chickasaws to cast about for means of coping with the trespassers. It was impossible to keep the cattlemen out entirely. Open warfare would result if the Indians tried to keep cattle drovers from reaching the railroads in Kansas. The Indians reasoned that if they could not keep them out, they could at least control the traffic and capitalize on it themselves. This situation necessitated an entirely new set of laws for the Chickasaw Nation.

The Indians shortly adopted the idea of taxing trail herds, a logical solution to the problem. In 1884, the Chickasaw legislature passed a law regulating the driving of stock through the Nation and taxing all stock driven through by non-citizens.³ In 1886, the Chickasaws initiated legislation to control the number of days that herders took in crossing the Chickasaw Nation. This ruling attempted to prevent trail herders from taking further advantage of Indian pastures by driving their cattle slowly on the trail north and lingering on the way. The act provided that non-citizens who drove stock through the Chickasaw Nation had to travel at least eight miles a day over certain established trails, or be subject to a fine of one dollar per head. If cattle grazed en route, compensation must be made to the Chickasaws at fifteen cents per head, and then the herd could only graze to a distance of one mile on each side of the specified trail. Accepted cattle highways included the road from Old Warren to Silver City, known as the Carriage Point and Cherokee Town

³Chickasaw Nation, Tribal Officers, Governor, Doc.12940, Indian Archives, Oklahoma Historical Society, Oklahoma City.

Trail; the road leading from Gainesville to White Bead Hill, known as the Courtney Trail; and the road known as the "Chism" [Chisholm] Trail.⁴

As white herders traveled through the Chickasaw Nation, they sometimes mixed Chickasaw cattle in with their own, intentionally and unintentionally. Renegade cattlemen also preyed upon herds of cattle going up the trail to Kansas and stole Chickasaw cattle as well. In 1877, Cyrus Harris, a former Governor of the Chickasaw Nation, lost eleven head of steers to vandals who apparently slaughtered the animals for their hides, not touching the meat.⁵ Other Indian citizens had similar misfortunes. A law followed in 1887 which prohibited the skinning of cattle on the range and the disposal of the hides without consent of the owner.⁶

In 1886, Chickasaw agent, Robert L. Owen, reported that approximately 150,000 cattle belonging to non-citizens had grazed on Chickasaw land two years previously. Most of those cattle had been driven beyond the boundaries of the Nation, but about 40,000 head still remained by September, 1886.⁷ In October of that year, the Chickasaw legislature passed an act to prohibit stock from unlawfully grazing in the Nation. Through this interesting legislation, the Chickasaws took initial steps toward an organized system of stock associations. Provision was made for the election of County Stock Superintendents by a joint vote of both houses of

⁴Davis A. Homer, ed., Constitution and Laws of the Chickasaw Nation, Together with the Treaties of 1832, 1833, 1834, 1837, 1852, and 1866 (Parsons, Kansas, 1899), p. 194.

⁵The Star-Vindicator (McAlester, Indian Territory), March 10, 1877, in Chickasaw Papers, 1870-1933, Indian Archives, Oklahoma Historical Society, Oklahoma City.

⁶Homer, Chickasaw Laws, p. 194.

⁷Report of Robert L. Owen, O. I. A., 1886.

the legislature. Members of this newly created office held their posts for two years, and functioned as enforcement officers for the new range law. After this date county clerks made certified lists of all marks and brands of citizens recorded in their counties, and submitted these lists to the Superintendents. Henceforth, all stock belonging to non-citizens without a permit would be collected by the Superintendent and sold at public auction if the owner failed to appear and pay a fine within thirty days.⁸

Indian depredations on Chickasaw cattle and property continued throughout the Civil War, and though they slowed somewhat after the cessation of hostilities, depredations occurred on into the 1870's. By treaty, Plains Indians had reserved the right to hunt south of the Arkansas as buffalo ranged over the land in sufficient numbers to justify the chase.⁹ This agreement, of course, gave the Indians a perfect right to roam beyond their agencies, and to plunder outlying settlements under the excuse of hunting buffalo. The Kiowas and Comanches really took advantage of the situation, even ranging on into Texas to raid white settlements and ranches.¹⁰

Through their agent, the Chickasaws issued formal complaints to the Secretary of the Interior, submitting detailed lists of property

⁸Homer, Chickasaw Laws, pp. 185-188.

⁹Office of Kiowa and Comanche Agency to the Superintendent of Indian Affairs, February 11, 1870, Kiowa Depredations File, Indian Archives, Oklahoma Historical Society, Oklahoma City.

¹⁰I. P. Vollintine of Weatherford, Texas, to Secretary of Interior, January 1, 1871, Kiowa Depredations File, Indian Archives, Oklahoma Historical Society, Oklahoma City.

stolen or destroyed with recorded evaluations.¹¹ The Office of Indian Affairs requested all agents to watch for a sudden increase of stock and property in the various Plains Indian agencies. If such property could be discovered, it would be considered as evidence of guilt.¹²

The Chickasaws had little hope for compensation of losses. Though such tribes as the Kiowas and Comanches occasionally admitted that they had stolen a few horses, they would never acknowledge guilt for such long lists of claims. Some Chickasaw ranchers attempted to solve the depredation problem by fortifying their ranches, and arming their line riders. A few Chickasaw cattlemen employed Mexican vaqueros.

The freedmen posed problems for the Chickasaws. The Indians refused to make citizens of their former slaves, and the Federal government failed to keep its promise to move the freedmen out of the Chickasaw Nation if the Indians did not give them citizenship. Little communities of freedmen dotted the land here and there, and former slaves from outside Indian Territory began to join them, becoming squatters on the Indian domain. The Chickasaws resented their intrusion. Bitterness filled the hearts of both Indian and Negro.

The Chickasaws took no official action toward them at first, after the Treaty of 1866, and instead waited for the federal government to do something. For several years, the freedmen remained almost without status of any kind, living on Chickasaw land but not included in affairs of the

¹¹Kiowa, Indian Archives, Oklahoma Historical Society, Oklahoma City, I, 156-159.

¹²Kiowa Depredations File, Indian Archives, Oklahoma Historical Society, Oklahoma City.

Nation. Busy expanding its school facilities for citizens, the Chickasaw government ignored children of the freedmen. Gradually, a limited amount of outside aid eased the situation for the freedmen. In 1882, Agent John Q. Tufts discussed some of the problems involved concerning the freedmen:

The United States has nothing to do with any of the schools except those for the freedmen in the Choctaw and Chickasaw Nations. A small sum, \$3,500, is paid the American Home Mission Society and the African Methodist Church for the maintenance of thirteen schools among these people. These freedmen, who were the former slaves of Choctaws and Chickasaws, have never been adopted by them, hence they are United States citizens, and have no right to the benefit of the schools belonging to the Indians. The societies having the control of these schools spend much more in maintaining them than is paid by the government, and are doing a good work for the freedmen.¹³

In 1885, the Chickasaws deemed it necessary to make a legal statement about the freedmen so that the United States government would know their intentions. That year the Chickasaw legislature passed an act which formally rejected the adoption of the freedmen by the Chickasaw Nation. All possibility of giving freedmen citizenship in the Nation ended with this act. The former Negro slaves would now be legally classified as intruders. The Chickasaws took further action by sending two men to Washington, D. C., for the purpose of requesting that the federal government remove the freedmen. Closing statements of the act declared that the Chickasaws could not see why they should be required to do more for their freedmen than the whites of slave-holding states had done for their former slaves.¹⁴ There the matter rested until the coming of allotment once again brought the problem to the fore.

¹³Report of John Q. Tufts, O. I. A., 1882.

¹⁴Homer, Chickasaw Laws, pp. 171-173.

The coming of the railroads enabled Indian farmers and stockmen to get their products to markets, but the railroads brought problems, too. With the iron horses came a lawless breed of men. Desperadoes lingered around the railroad construction crews, and gamblers and prostitutes did a thriving business. The Chickasaws could not possibly escape these corruptive influences. The old moral code of the past was fading.

Indian Courts could no longer depend upon accused lawbreakers to give themselves up for trial as in the past. Once, long ago, the accused Indian was allowed to harvest his crop so that his family might not go hungry before he turned himself over to the authorities. Proudly the convicted murderer stood alone before the firing squad and accepted his fate with calm, stoic dignity. No one hunted him down and brought him in to face trial and punishment. It was considered shameful to run away; no self-respecting Chickasaw would have done such a thing. Now all this had changed. Light-horsemen and their deputies kept busy hunting down the lawless, and courts filled to overflowing with cases trying horse thieves, murderers, and persons living together out of wedlock. The Chickasaws had always cherished little children. Now courts tried cases of criminal assault on children, especially young girls. It was a decadent era.

By the Treaty of 1866, future railroads received a right of way through the Chickasaw country. Railroad companies would be required to make compensation for property damages to all injured parties. By 1872, the Missouri, Kansas and Texas Railroad had been built through the Choctaw and Chickasaw nations, extending to within a few miles of Red

River. It followed the route of the old Texas Road, and eventually crossed Red River near Colbert's Ferry.¹⁵ Only members of the railroad company and the construction crews had authorization to enter the Indian country, but so many notorious intruders followed along that conditions became critical. A detachment of soldiers under Lieutenant De Hart Quinby of the Second Infantry finally arrived on the scene to remove the trouble-makers from the Territory.¹⁶

Even though many Chickasaws protested the building of railroads through the Nation, another line had been constructed by 1887: the Gulf, Colorado and Santa Fe. This railroad extended from the Texas border through a little dusty village in the Chickasaw Nation called Ardmore, and then north to the town of Purcell, where it joined the Atchison, Topeka and Santa Fe.¹⁷ In 1893, the Congress of the United States passed an act granting right of way through the Indian Territory to the Chicago, Rock Island, Pacific Railway Company. This act also extended permission to build and operate telegraph and telephone lines along this route. This railroad company had to pay fifteen dollars per year for each mile of railway constructed. The Secretary of Interior received this sum and apportioned it among the Indian nations through which the line passed.¹⁸

Progress in the form of improved transportation could not be kept from the Indian country, and with that progress came thousands of whites,

¹⁵Report of T. D. Griffith, O. I. A., 1872; Arrell Morgan Gibson Oklahoma, A History of Five Centuries (Norman, 1965), p. 261.

¹⁶Report of T. D. Griffith, O. I. A., 1872.

¹⁷Report of Robert L. Owen, O. I. A., 1887; Report of Leo F. Bennett, O. I. A., 1889.

¹⁸U. S. Statutes at Large, XXVII, 492 (1893).

desirable and undesirable. History was repeating itself again.

Actually the Indians themselves had paved the way for this tremendous influx of whites, bypassing permit laws. In 1876, an act provided that non-citizens desiring to rent land or to be employed in the Nation had to make a contract with a Chickasaw and pay him a fee. The Indian then filed a contract with a county permit collector and paid that official five dollars for a male non-citizen over eighteen years of age. The law required all non-citizens licensed merchants, traders, and physicians to pay a five-dollar permit fee to perform their services in the Nation, but these tenants sometimes failed to comply with such regulations.¹⁹

In 1877, the Chickasaw legislature increased the cost of permit fee to twenty-five dollars.²⁰ These permit fees lasted for a twelve month period and could be renewed.²¹

Hordes of whites crossed into the Chickasaw Nation and took advantage of this opportunity. By 1886, Agent Robert L. Owen reported:

The area of farming lands has probably doubled in five years, and is increasing in geometric ratio. The Washita Valley, in the Chickasaw Nation, is almost a solid farm for 50 miles. It is cultivated by white labor largely, with Chickasaw landlords. (I saw one farm there said to contain 8,000 acres, another 4,000 acres, and many other very large and handsome places.)²²

As non-citizen merchants, hotel-keepers, lawyers, physicians, peddlers, and farmers moved into the Chickasaw Nation, many settled in

¹⁹Homer, Chickasaw Laws, pp. 229-231.

²⁰The Star Vindicator, (McAlester, Indian Territory), January 13, 1877, in Chickasaw Papers, 1870-1933, Indian Archives, Oklahoma Historical Society, Oklahoma City.

²¹Homer, Chickasaw Laws, pp. 229-231.

²²Report of Robert L. Owen, O. I. A., 1886.

the little villages that sprang to life after the coming of the railroads. These individuals frequently constructed their own business buildings and houses, paying the annual taxes to the Chickasaw Nation in order to remain. Although they enjoyed the advantages of living and prospering in Indian Territory, they resented the slight tax paid to the Nation, a tax that contributed to the support of Indian schools and Indian government. Soon they began to clamor for the right to own their property and the improvements they had made on the land. Unsympathetic Indian agents pleaded the white man's cause in their annual reports, saying that such lands could be set apart and "scarcely missed."²³

The wheels began to turn in the direction of individual allotment, and the complete breakdown of the structure of the Chickasaw Nation. In 1893, Agent Dew M. Wisdom reported that the non-citizen population would amount to 150,000,²⁴ vastly outnumbering the Chickasaw people.²⁵ The problem had increased so immeasurably that Agent Wisdom wrote:

He [Jonas Wolf, Chickasaw Governor] . . . said one county (Pickens) of his Nation was so dominated by the intruders that it had passed practically beyond his control, that the Chickasaw laws were defied, that his officers were obstructed in the discharge of their duties, his mandates treated with contempt, and that said county, better known as the "free state of Pickens," was in a revolutionary attitude to his authority. He appealed to the agency for protection.²⁶

In addition to permit laws, whites had other means available to penetrate the Chickasaw Nation. Intermarriage became the answer for many.

²³Report of Lee E. Bennett, O. I. A., 1892, p. 250.

²⁴Report of Dew M. Wisdom, O. I. A., 1893, pp. 144-145.

²⁵Homer, Chickasaw Laws, pp. 262-263.

²⁶Report of Dew M. Wisdom, O. I. A., 1893, pp. 144-145.

non-citizens. According to the constitution, the legislature had the right to admit or adopt persons as citizens of the Nation, if it found them acceptable.

In 1876, the Chickasaw made intermarriage a little more difficult by requiring all non-citizens to remain in one county of the Nation for two years before being permitted to marry a Chickasaw. Such individuals also had to be of good moral character and be recommended by five responsible citizens in the county where they resided. The act further stated that if the white individual later married another citizen of the United States, he could not confer citizenship in the Chickasaw Nation on that person. In cases of voluntary separation or abandonment, the white person would forfeit all rights acquired through intermarriage and be liable to removal from the limits of the Indian nation.²⁷

As a result of the situation created by this act, problems became intensified as the years passed. "White" citizens began to dominate the politics of the Nation and to take over the best lands. Out of this turn of events, two major political parties developed: the Progressive Party, advocating full participation of "white" Indians in tribal government, and the Full-blood or Pullback Party, which favored disfranchisement of these white citizens and their exclusion from government offices.²⁸

The full-bloods became increasingly apprehensive over the white dominance in politics. By 1890, a law had been enacted which disfranchised

²⁷Homer, Chickasaw Laws, pp. 224-225.

²⁸John B. Meserve, "Governor William Leander Byrd," Chronicles of Oklahoma, XII (December, 1934), 437-440.

the white citizens and excluded them from office. The white element also lost the right of sale or interest in the vested funds belonging to the Chickasaws. Former citizens of the United States who had become Chickasaw citizens by intermarriage could retain the rights of citizenship after having been left widows or widowers, but in case of marriage to a United States citizen later, they forfeited their Chickasaw citizenship.²⁹

Although the intermarried white could be controlled somewhat through these pieces of legislation, intermarriage itself brought about further problems. An ever-increasing population of half-breeds struggled for power with the full-bloods. The intermarried white, usually better educated than the Indian, gave advice and training to his or her half-breed offspring. These children had an enormous advantage over the full-blood. Gradually the mixed-bloods pushed the full-bloods further into the poorer back lands of the Chickasaw Nation, and also wrested power from them in the legislature.

Into the midst of this confusion, a new threat to the security of the Chickasaw Nation appeared: the threat of allotment. Whites eager for the dissolution of the Indian nations and the division of lands into individual allotments, pressed their cause fervently and spread propaganda among the Chickasaws. Less ambitious Indians, who had occupied small, undesirable plots of land, listened to these pleas and began to wonder if allotment might be better for them. Others fought the idea.

As early as the 1870's, the Chickasaws had feared allotment. They held meetings to discuss what should be done, and sent delegates to Washington, D. C., to protest such action. They illustrated how well they

²⁹Homer, Chickasaw Laws, pp. 270-271.

were beginning to understand the white man's technique in the following article:

In this country of public opinion, printing presses and newspapers are necessities. It is through these means and these only, if we except what is called stump-speaking, that the public understanding is addressed and public opinion moulded. . . The press is an instrument of aggression in the hands of our opponents. The same powerful weapon is at our disposal for defense.³⁰

Indian protests failed. Quietly the white man went about undermining the Indian resistance, playing one faction against the other in the already divided Chickasaw Nation. With the establishment of the Dawes Commission, the machinery of allotment was set in motion. In 1895, following the initiation of a survey of Indian lands by the United States government, Agent Dew M. Wisdom reported the Indians' reaction:

The Indians are aware of a survey being made and know what it means and what the intentions of the United States government are in connection with this, but so far have not interfered with the survey.³¹

Whites residing in the Nation, legally or illegally, watched the activities of the federal government with intense satisfaction. They began to ignore and evade Indian law; they knew it was only a matter of time before the Chickasaw Nation was dissolved. Other whites moved into the Territory, hoping to pre-empt the best lands. Now they could look forward to the day Indian Territory would become a state of the United States.

³⁰Cherokee Advocate (Tahlequah, Indian Territory), November 5, 1870, in Chickasaw Papers, 1870-1933, Indian Archives, Oklahoma Historical Society, Oklahoma City.

³¹Report of Dew M. Wisdom, O. I. A., 1895.

Change was in the wind. The Chickasaws stood on the threshold of a new day--a new way of life. The ancient Indian concept of holding all tribal lands in common would soon be dispelled. The proud days of yesterday faded like last summer's grasses. In the hearts of the very old came a whisper of memory, recalling a day when President Andrew Jackson had stood before their fathers and said:

Old men! Arouse to energy and lead your children to a land of promise and of peace before the Great Spirit shall call you to die. Young chiefs! Forget the prejudices you feel for the soil of your birth, and go to a land where you can preserve your people as a nation. Peace invites you there--annoyance will be left behind--within your limits no state or territorial authority will be permitted.³²

These pious phrases and consequent actions had resulted in a traumatic experience of hope, dejection, and unrealized anticipation for the Chickasaws.

³²Niles Register, XXXIX-XL (1830-1831), 68.

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