The transfer of Native American lands to Anglo-American possession was a relentless process that began with the arrival of the first European settlers in the 16th century and continued for centuries thereafter. This dissertation describes one episode in this lengthy process – the Treaty of February 27, 1819 between the Cherokee Indians and the United States. The focus of the dissertation is on the prelude to and aftermath of the treaty in western North Carolina, and on conflicts that erupted in the state over individual reservations or allotments taken by some Cherokee under the terms of the treaty.

Around one quarter of all Cherokee lands east of the Mississippi River were ceded to the United States as a result of the Treaty of 1819. This included about 680,000 acres in western North Carolina, as well as land in Georgia, Tennessee, and present day Alabama.

The proximal purpose of the treaty was to provide land for Cherokee who had previously emigrated to Arkansas. Under the terms of the treaty the Arkansas Cherokee were to receive federal lands in proportion to the amount of land surrendered by the Cherokee who remained in the East. A significant aspect of the treaty was that it allowed Cherokee heads of households who lived on the ceded lands the option of taking 640 acre individual reservations in lieu of leaving their homes. The treaty represented one of the first attempts on the part of the federal government to allot collectively held tribal lands to individual tribal members.

Some 75 Cherokees in western North Carolina applied for individual reservations, but state officials surveyed much of the reserved land and sold it to white settlers. This led
to physical conflicts and extensive litigation between the Cherokee reservees and incoming settlers. Government commissions eventually quieted the controversy by purchasing most of the reservation claims. However, the reservations left an important legacy. Although they were not able to remain on their land, some North Carolina reservees elected to remain near their former homes. These people eventually coalesced to form the core of what became the Eastern Band of Cherokee Indians.

INDEX WORDS: CHEROKEE INDIANS - HISTORY, EASTERN BAND OF CHEROKEE - HISTORY, WESTERN NORTH CAROLINA - HISTORY, MACON COUNTY, NORTH CAROLINA - HISTORY, JACKSON COUNTY, NORTH CAROLINA - HISTORY, SWAIN COUNTY, NORTH CAROLINA - HISTORY, TRANSYLVANIA COUNTY, NORTH CAROLINA - HISTORY, TREATY OF 1819, ROBERT LOVE SURVEY
A NEW PLOW IN OLD GROUND:
CHEROKEES, WHITES, AND LAND IN WESTERN NORTH CAROLINA, 1819-1829

by

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Maureen Grasso
Dean of the Graduate School
The University of Georgia
May 2004
DEDICATION

This dissertation is dedicated to my friends and family who stuck by me during the long years when it was being researched and written.
ACKNOWLEDGEMENTS

This has been a long journey, and I have accumulated many debts along the way.
I would like to thank, first and foremost, my dissertation committee. Ted Gragson served as
my committee chair, and also supported me during much of the time that I was writing the
dissertation with research assistantships funded through the Coweeta Long Term Ecological
Research Program. Dr. Gragson also collaborated with me on creating the maps of the Robert
Love Survey that appear in several illustrations herein. I thank him for all these things. Charles
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shared with me both their knowledge of their craft and their expertise in their particular areas of
interest, which dovetailed perfectly with the subject of this study.

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research assistantships through Coweeta during much of my tenure as a student at the University
of Georgia, and this dissertation is an outgrowth of one of my early Coweeta projects. In addition
to employing me, much of this dissertation was written and all of the maps were created using
hardware, software, and lab facilities provided by Coweeta. The Graduate School travel grant
provided funds for a long visit to the National Archives, in Washington D.C., during which
many of the materials upon which this dissertation is based were obtained. I thank both these organizations for their support.

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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACKNOWLEDGEMENTS</td>
<td>v</td>
</tr>
<tr>
<td>LIST OF FIGURES</td>
<td>xi</td>
</tr>
<tr>
<td>ABBREVIATIONS USED IN CHAPTER ENDNOTES</td>
<td>xiv</td>
</tr>
<tr>
<td>CHAPTER</td>
<td></td>
</tr>
<tr>
<td>1 INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>PART ONE: OLD GROUND - THE 1819 TREATY LANDS IN WESTERN NORTH CAROLINA</td>
<td></td>
</tr>
<tr>
<td>2 HISTORICAL BACKGROUND AND CONTEXT</td>
<td>10</td>
</tr>
<tr>
<td>3 THE 1819 TREATY LANDS</td>
<td>25</td>
</tr>
<tr>
<td>4 CHEROKEES ON THE CEDED LANDS</td>
<td>62</td>
</tr>
<tr>
<td>5 OUTSIDERS ON THE CEDED LANDS</td>
<td>80</td>
</tr>
<tr>
<td>PART TWO: A NEW PLOW - THE TREATY OF 1819 AND ITS AFTERMATH IN WESTERN NORTH CAROLINA</td>
<td>107</td>
</tr>
<tr>
<td>6 THE 1819 LAND CESSION</td>
<td>108</td>
</tr>
<tr>
<td>7 THE INDIVIDUAL CHEROKEE RESERVATIONS</td>
<td>143</td>
</tr>
<tr>
<td>8 SETTLERS ON THE CEDED LANDS</td>
<td>164</td>
</tr>
<tr>
<td>9 THE SURVEY AND SALE OF THE CEDED LANDS</td>
<td>180</td>
</tr>
<tr>
<td>10 THE DISSPOSSESSION OF THE CHEROKEE RESERVEES</td>
<td>198</td>
</tr>
<tr>
<td>11 CLAIMS, COMMISSIONS, AND COURTS</td>
<td>214</td>
</tr>
<tr>
<td>12 EPILOGUE</td>
<td>241</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>261</td>
</tr>
<tr>
<td>APPENDICES</td>
<td>293</td>
</tr>
<tr>
<td>A NOTES AND PROVISOS</td>
<td>294</td>
</tr>
</tbody>
</table>
B  NAMES OF SETTLERS RECORDED IN THE SURVEYOR’S NOTES OF THE
    ROBERT LOVE SURVEY OF 1820 ................................................................. 298
C  NAMES OF CHEROKEES RECORDED IN THE SURVEYOR’S NOTES OF THE
    ROBERT LOVE SURVEY OF 1820 ................................................................. 303
## LIST OF FIGURES

<table>
<thead>
<tr>
<th>Figure</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>The 1819 Treaty Lands in western North Carolina</td>
<td>2</td>
</tr>
<tr>
<td>2.1</td>
<td>Eighteenth-Century Cherokee population clusters</td>
<td>12</td>
</tr>
<tr>
<td>2.2</td>
<td>An early view of the mound at the site of the Cherokee town of Nequassee</td>
<td>15</td>
</tr>
<tr>
<td>2.3</td>
<td>Cherokees who accompanied Sir Alexander Cuming to England</td>
<td>16</td>
</tr>
<tr>
<td>3.1</td>
<td>The 1819 Treaty Lands in relation to modern cities and counties</td>
<td>27</td>
</tr>
<tr>
<td>3.2</td>
<td>Major topographic features of the 1819 Treaty Lands</td>
<td>28</td>
</tr>
<tr>
<td>3.3</td>
<td>These major modern roads on the 1819 Treaty Lands follow the routes of Indian trails</td>
<td>29</td>
</tr>
<tr>
<td>3.4</td>
<td>The site of Cowee Town</td>
<td>34</td>
</tr>
<tr>
<td>3.5</td>
<td>A split rail fence on a reconstructed farmstead in the Greaty Smoky Mountains National Park, North Carolina</td>
<td>41</td>
</tr>
<tr>
<td>3.6</td>
<td>Topographic features recorded in the notes of the Robert Love Survey</td>
<td>44</td>
</tr>
<tr>
<td>3.7</td>
<td>The Tuckaseegee River near the site of the old Cherokee town of Kituwah, Swain County, North Carolina</td>
<td>46</td>
</tr>
<tr>
<td>4.1</td>
<td>A census of the Cherokee remaining on the 1819 Treaty Lands taken in 1820</td>
<td>64</td>
</tr>
<tr>
<td>4.2</td>
<td>Transcription of the 1820 census of Cherokee living on the 1819 Treaty Lands</td>
<td>65</td>
</tr>
<tr>
<td>4.3</td>
<td>Notable eighteenth and nineteenth-century Cherokee village sites on the 1819 Treaty Lands</td>
<td>66</td>
</tr>
<tr>
<td>4.4</td>
<td>The mound at the site of the Cherokee town of Kituwah</td>
<td>67</td>
</tr>
<tr>
<td>4.5</td>
<td>A photograph of a Cherokee man taken in the 1850s or 1860s</td>
<td>69</td>
</tr>
<tr>
<td>4.6</td>
<td>A Cherokee ball team, circa 1888</td>
<td>73</td>
</tr>
<tr>
<td>5.1</td>
<td>Approximate locations of pre-1819 settlers and Indian countrymen on the 1819 Treaty Lands</td>
<td>81</td>
</tr>
</tbody>
</table>
Figure 5.2: Mills and stores on the 1819 Treaty Lands, circa 1820.................................83
Figure 6.1: An artist’s rendition of Henderson’s Purchase ...........................................111
Figure 6.2: Approximate area covered by the Upper and Lower Towns.......................113
Figure 6.3: Lands ceded under the terms of the Treaty of 1817 ...............................118
Figure 6.4: Lands ceded under the terms of the Treaty of 1819 .................................129
Figure 6.5: Area reserved to the Arkansas Cherokee as a result of the Treaty of 1819 130
Figure 7.1: Cherokee who took reservations under the terms of the Treaty of 1819 146
Figure 7.2: Reservation applications ........................................................................148
Figure 7.3: A partial list of applicants for reservations based on surviving applications and reservation certificates in the holdings of the National Archives .........................................................149
Figure 7.4: Reservations surveyed on the 1819 Treaty Lands ....................................150
Figure 7.5: The reservation of Big Bear as depicted on the Robert Love Survey Map of 1820.151
Figure 7.6: Location of Reservations in relation to the Cherokee communities of Sugar Town, Cowee, and Kituwa/Tuck wa lu chee...........................................................................................................154
Figure 7.7: Location of reservations in relation to eighteenth and nineteenth-century Cherokee town sites .................................................................................................................................155
Figure 7.8: The outline of the reservation taken by the Indian countryman Gideon F. Morris superimposed over an aerial photograph of the modern town of Franklin ...............................................157
Figure 8.1: Tracts occupied by white settlers at the time of the Robert Love Survey of April-June, 1820...........................................................................................................................................165
Figure 8.2: A reservation certificate from the 1819 Treaty Lands................................171
Figure 9.1: Survey districts of the Robert Love Survey and their position relative to current county boundaries .........................................................................................................................183
Figure 9.2: Surveyor’s notes from the Robert Love Survey ........................................184
Figure 9.3: The area covered by the Robert Love Survey ...........................................185
Figure 9.4: A small section of one of the original copies of the Robert Love Survey Map.186
Figure 9.5: The first page of a reservation survey plat ..............................................189
Figure 9.6: Newspaper notices announcing the first sale of properties on the 1819 Treaty Lands

Figure 9.7: Receipts from the 1820 land sale

Figure 9.8: Properties sold in the 1820 land sale

Figure 10.1: Individual Cherokee reservations on the 1819 Treaty Lands

Figure 10.2: Properties on the 1819 Treaty Lands that were sold between 1820 and 1824

Figure 10.3: Properties laid out during the Robert Love Survey that were inhabited by Cherokees, white settlers, or both Cherokees and white settlers

Figure 11.1: Deed executed between Big Tom and Andrew Welch

Figure 11.2: Receipt for money paid to the Cherokee by Phillip Brittain and David L. Swain

Figure 11.3: An action of Ejectment filed on behalf of a Cherokee Reservee

Figure 12.1: William Holland Thomas

Figure 12.2: Mid-twentieth-century map of the Qualla Boundary

Figure 12.3: Monument at the Junaluska Memorial and Museum

Figure 12.4: Jacob Siler

Figure 12.5: Silas McDowell

Figure 12.6: The reservation of the Eastern Band of Cherokee in relation to the 1819 Treaty Lands

Figure 12.7: Mid-twentieth-century scenes from the Cherokee reservation in Western North Carolina

Figure 12.8: Sunset on the Treaty Lands
**ABBREVIATIONS USED IN CHAPTER ENDNOTES**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Draper Mss.</td>
<td>State Historical Society of Wisconsin, Draper Manuscript Collection, North Carolina Collection</td>
</tr>
<tr>
<td>GASR</td>
<td>General Assembly Session Records</td>
</tr>
<tr>
<td>GLB</td>
<td>Governors Letter Book</td>
</tr>
<tr>
<td>M-15</td>
<td>Microcopy 15. Records of the Office of the Secretary of War, Letters Sent, Indian Affairs, National Archives</td>
</tr>
<tr>
<td>M-208</td>
<td>Microcopy 208. Records of the Cherokee Indian Agency in Tennessee, 1801-1835, National Archives</td>
</tr>
<tr>
<td>M-234</td>
<td>Microcopy 234. Letters Received by the Office of Indian Affairs, 1824-1880, National Archives</td>
</tr>
<tr>
<td>M-221</td>
<td>Microcopy 221. Letters Received by the Secretary of War, Registered Series, 1801-1860, National Archives</td>
</tr>
<tr>
<td>M-271</td>
<td>Microcopy 271. Letters Received by the War Secretary Relating to Indian Affairs, 1800-1823, National Archives</td>
</tr>
<tr>
<td>M-574</td>
<td>Microcopy 574. Special Files of the Office of Indian Affairs, 1807-1904, National Archives</td>
</tr>
<tr>
<td>MR-815</td>
<td>John Ross Papers, Penelope Allen Cherokee Collection, Tennessee State Library and Archives, Nashville, Tennessee, Microfilm Record 815</td>
</tr>
<tr>
<td>MT-494</td>
<td>Microcopy T-494. Documents Related to the Negotiation of Ratified and Unratified Treaties with Various Tribes of Indians, 1801–1865. National Archives</td>
</tr>
<tr>
<td>NAR</td>
<td>United States National Archives, Washington, D.C.</td>
</tr>
<tr>
<td>NCDAH</td>
<td>North Carolina Division of Archives and History, Raleigh</td>
</tr>
<tr>
<td>RFBCC</td>
<td>Records of the Fourth Board of Cherokee Commissioners, Record Group 75, National Archives</td>
</tr>
</tbody>
</table>
RFRBCC  Records of the First Board of Cherokee Commissioners, Record Group 75, National Archives

RG  Record Group

RSTBCC  Records of the Second and Third Boards of Cherokee Commissioners, Record Group 75, National Archives

SSP  Secretary of State Papers, North Carolina Division of Archives and History, Raleigh

TCP  Treasurers and Comptrollers Papers, North Carolina Division of Archives and History, Raleigh
CHAPTER ONE: INTRODUCTION

For James Mebane and Jesse Franklin, it was another problem to be solved; another choice to be made. Franklin and Mebane were employed by the state of North Carolina as commissioners to oversee the survey of lands that had been acquired from the Cherokee Indians under the terms of the Treaty of 1819. But not all of the Cherokee had left those lands. In fact, far from leaving, over 50 Cherokee pressed the commissioners to honor certificates that allotted them 640 acre individual reservations on the ceded lands. This, we are led to believe from Franklin and Mebane’s correspondence, was unexpected. The state law that authorized their survey made no mention of these reservations, and the text of the Treaty of 1819 mentioned the names of but two of the claimants. Vexed, and probably more than a little reluctant to surrender so much prime land to the Indians unless positively compelled to do so, Franklin and Mebane duly surveyed the reservations of the two claimants specifically mentioned in the text of the treaty, but simply ignored the rest.\(^1\) This solved the commissioners’ immediate dilemma, but as the residents of the region and government officials would soon discover, ignoring most of the reservations did not make them go away. In fact, the morass created by Franklin and Mebane’s solution to the reservation problem would take a decade to undo, and would have lasting consequences for western North Carolina and for the Cherokee.

This is a study of the rise and fall of the 1819 Cherokee reservations in western North Carolina. It is also a study of the Cherokee Indians and white settlers who were affected by the reservations, and of the remote mountain landscape that for a brief, volatile period the two groups shared.

Under the terms of the Treaty of February 27\(^{th}\), 1819 the Cherokee Indians ceded to the United States about one quarter of all their lands east of the Mississippi River. This included about 680,000 acres of land in western North Carolina, as well as land in Georgia, Tennessee, and what is today Alabama (Figure 1-1). Upon ratification of the treaty the ceded lands devolved
to the various states to do with as they pleased. North Carolina officials elected to divide the best of the lands under their jurisdiction into small parcels and offer these parcels for sale to individual settlers.

However, the Cherokee did not completely abandon the ceded lands. A significant aspect of the Treaty of 1819 was a provision that allowed Cherokee heads of households who resided on the lands that were passing to the United States to take 640 acre (one square mile) allotments or reservations surrounding their homes and become citizens of the United States. Partly a cynical negotiating ploy and partly a reflection of genuine interest on the part of some government officials in integrating Native Americans into the “great American family,” the practical effect of the reservation provision was that a significant number of Cherokees were thrust into the midst of the white population that quickly streamed in to occupy the newly acquired lands.

It was not an encounter of strangers. Indeed, by the early 19th century the North Carolina Cherokees and the whites who lived on the edges of their country had grown to have much in

Figure 1.1 - The 1819 Treaty Lands in western North Carolina
common with one another. During this time both Cherokees and backcountry whites lived in small log houses and survived by growing corn, peaches, apples and other crops, and by raising livestock, principally hogs, which were allowed to free range in the forests and fatten themselves on chestnuts and other mast.

They were both frontier peoples. The white population of southwestern North Carolina was small, widely dispersed, and far removed from the centers of state and national power. Similarly, the Cherokee settlements in the region, known in the 18th century as the Middle and Out Towns, had faded to backwaters by the early 19th century, as the center of Cherokee population and power had shifted to the south and west.

In a few instances, the Cherokee and white populations had actually blended, as white men had crossed over the Cherokee boundary and taken Cherokee wives and become, “to all intents and purposes, a part of the [Cherokee] Nation.” Although not numerous, these men, and their children, were important figures in the Cherokee community, as their knowledge of the language and culture of both Cherokees and whites equipped them to serve as intermediaries between the two groups.

Nonetheless, familiarity could not overcome contempt, and similarity in economic practices could not altogether mask significant language and cultural differences, or grievances over past conflicts. Thus, most of the white settlers who flooded into the former Cherokee lands were not prepared to be good neighbors with the Cherokee who had chosen to take reservations and remain on those lands. But unwitting neighbors in unhappy circumstances they became. Settlers who moved onto the lands that had been surveyed by Franklin and Mebane often found themselves living in close proximity to Cherokees who had taken reservations, and if they had purchased tracts that conflicted with one the reservations, they found their titles clouded by those prior claims.

In one sense, the reservations represented a novel problem for the settlers. Although individual reservations or allotments had been granted to select Cherokee leaders under the terms of earlier accords between the Cherokee and the United States, the Treaty of 1819 and the earlier
and related Treaty of 1817 were the first treaties in which individual reservations were offered to the general Cherokee population.

But if the reservations represented a novel challenge to settlers moving onto the 1819 Treaty Lands, the problems embodied in the reservations were neither new nor novel, and had been encountered by other settlers in other backcountry areas who had attempted to carve property and create wealth from former Indian lands. One of these problems was the lingering presence of the Indians themselves. Although widespread settlement of backcountry areas often did not occur until after the Indians had retreated or been driven from those areas,\(^5\) early settlers in the hinterlands were still in danger of attack from parties of native warriors; a danger that escalated to crisis levels during periods of unrest such as the French and Indian War and the Revolutionary War.\(^6\) By the end of the second decade of the nineteenth century Native Americans were gone from much of the eastern United States, but in the Southeast a considerable native population remained, and if these people were no longer the painted faces of violence, they nonetheless comprised a stolid barrier to settlers seeking new lands to plant and profit from.

Distant governments and distant land speculators comprised an equally nettlesome obstacle to settlers’ attempts to get and keep property in the backcountry. Land speculators obtained and controlled access to vast quantities of backcountry land, while government officials ensconced in coastal capitals passed laws that favored residents of more settled regions at the expense of the residents of the backcountry.\(^7\)

In the early 19\(^{th}\) century Southeast, the problems posed by distant forces who controlled access to land and the problems posed by Indians coalesced. The remaining Indians occupied lands that were at least tacitly guaranteed to them by government decree, and were protected not by native force of arms but by the occasional, and often half-hearted deployment of United States soldiers. The Indians, in short, became the palpable embodiment of the distant forces preventing backcountry settlers from acquiring property. And if the remaining Indian nations were the embodiment of these distant forces, the individual reservations granted under the terms of the Treaty of 1819 were these forces personified and projected into the very midst of the
white settlements; projected, in some cases, literally on top of land to which white settlers had a counter claim.

On the 1819 Treaty Lands of western North Carolina, the settlers reacted as settlers in other backcountry areas had reacted to threats to their property - they took matters into their own hands. In short order the settlers divested most of the reservees of their claims, either by inducing them to sell out for a trifling sum, or by engaging in acts of petty thuggery in order to drive them from their land.

The reservees retaliated, not in kind, but by filing a string of lawsuits against the settlers who had taken up residence on their reservations. The lawsuits and unrest spurred state officials and later the federal government to send commissions into the mountains to purchase the reservation claims from the Indians. By 1829, this had been accomplished, and for all intents and purposes the reservations passed from the landscape.

But if the reservations were gone, their legacy lived on. After the sale of their homes some of the former reservees elected to remain outside the boundaries of the Cherokee Nation, on and near the old 1819 Treaty Lands. When the majority of Cherokees were forced to remove to what is today Oklahoma in the late 1830s these people were able to successfully argue that as former reservees or the descendants of reservees they were United States citizens, and therefore should be exempted from the move west. These former reservees would comprise the core of what became known as the Eastern Band of Cherokee, who remain in North Carolina to the present day.

The reservations also left another legacy in the form of the depositions, letters, and other legal documents that were created by the government commissions charged with investigating Cherokee claims. These documents, which form the principal basis for this study, comprise a valuable source of information on the world from which the Eastern Band of Cherokee emerged. It is in many respects a shadowy world, for the Cherokee who lived in western North Carolina were a neglected and overlooked people during the late eighteenth and early 19th centuries, when the Cherokee who lived in Georgia, Alabama, and Tennessee received by far the most attention.
from Cherokee and federal leaders alike. Following the Revolutionary War, a cloak of anonymity descended on the old Middle and Out Towns that is lifted only occasionally during the three decades that these places remained in existence. The records associated with the reservation disputes comprise the last record of these communities before they were swept away by the Treaty of 1819.

Just as the reservation records shed light on the last days of the old Middle and Out Towns, and on the first days of the Eastern Band of Cherokee, they also shed light on the white settlers who moved in to occupy the former Cherokee lands. Indeed, these records represent some of the earliest instances in which many of these settlers are mentioned in association with places that their descendants would occupy for generations.

But if these records tell, first and foremost, of particular people in a particular place and time, they also describe a process that was repeated, with different shades of variation, again and again and again across the breadth of the continent – the process by which Native American lands were transformed into lands possessed by Anglo-Americans. Two decades before the Treaty of 1819, surveyors laying out the then eastern boundary of the Cherokee Nation in North Carolina, as decreed by an earlier treaty, found the Cherokee families cut off by the boundary to be “much affected at the Idea of being obliged to leave their little cabins & a few acres of cleared land.” Less than two decades after the Treaty of 1819, the remaining Cherokee lands in western North Carolina were ceded under the terms of the Treaty of 1835, and settlers swept in to occupy those lands, much in the same fashion that they had rushed onto the 1819 Treaty Lands.

The saga of individual reservations or allotments was also doomed to be repeated. No reservations were granted under the terms of the Cherokee Treaty of 1835, but individual reservations or allotments were granted under the terms of treaties with other Southeastern tribes during the early 19th century, with equally dismal results. After the Cherokee and other Southeastern tribes were compelled to emigrate to what is today Oklahoma, they found themselves again facing the specter of allotment. In the late 19th and early 20th centuries the relocated Indian nations of the Southeast were dissolved, and the lands controlled by the various
tribes divided up and assigned to individual tribal members. Again, the allotments were fraught with trouble.¹¹

Even after the passage of centuries, land continues to be a source of contention between Native Americans and Anglo-Americans. The expedients of centuries past have had lasting echoes. For many Native Americans, wounds have not healed; anger has been bequeathed across generations. Often lost in this inheritance, though, is a recollection of the intricacies of individual treaties, or any knowledge of the countless individuals, good and bad, who were caught up in the swirl of events that surrounded these accords.

This study attempts to fill this void by describing the intricacies of one treaty, and the effect this treaty had on one small portion of the vast domain once claimed by Native Americans. Knowledge of these details changes nothing about the present, but it does provide insights into how the present came to be.


Chapter Endnotes

1 James Mebane and Jesse Franklin to John Branch, July 2, 1820, GLB 23.2, pp. 315-318, NCDAH. See also John Branch to James Mebane and Jesse Franklin, October 1820, [no day of month] GLB 23.2, p. 331, NCDAH.

2 For the use of this phrase in negotiations with the Cherokee, see Joseph McMinn to Cherokee Delegation, November 18, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 387-403.


8 For a brief review of the resistance of backcountry residents in various areas to threats to their property see Taylor, Liberty Men and Great Proprietors, 4-9.

9 Return J. Meigs to the Secretary of War [Henry Dearborn], October 20, 1802, M-208, Reel 1.


PART ONE

OLD GROUND:
THE 1819 TREATY LANDS IN WESTERN NORTH CAROLINA
CHAPTER TWO: HISTORICAL BACKGROUND AND CONTEXT

The events that will be described in this study represent one episode in the long history of the Cherokee Indians, and of the relationship between the Cherokee and people of European descent. The purpose of this chapter is to provide a brief overview of Cherokee and western North Carolina history in order to place the Treaty of 1819, the 1819 Cherokee reservations, and the 1819 Treaty Lands in a broader historical context.

Origins

The origin of the people who became known to European explorers and settlers as the Cherokee Indians remains a subject of debate among scholars. However, the present consensus is that the Cherokee evolved out of populations that lived in the Southern Appalachians for hundreds of years prior to European Contact.1 Archaeologically, the Cherokee presence in the Southern Appalachians is equated with what is known as the Qualla Phase.2 The Qualla Phase, in turn, is seen as a manifestation of what is known as the Lamar Culture, which was spread across parts of Alabama, Georgia, Tennessee, and North Carolina between around 1350 and 1800.3

Prehistoric Qualla Phase villages typically consisted of rectangular houses clustered around an earthen mound and central plaza. A town house (meeting house) or the house of a prominent leader was located on the top of the mound. Protective palisades surrounded some of the villages. Prehistoric Qualla Phase people relied on a mixture of hunting, gathering wild plants and nuts, and agriculture for subsistence. Corn was the principal agricultural crop, and deer comprised the bulk of meat in the diet.4

Early Contact

The date that the first Europeans contacted the people who would become known as the Cherokee is unclear. The tribe may have been encountered by the Spanish explorer Hernando de
Soto and his army during their meanderings across the Southeast between 1539 and 1543. Later in the 16th century a second Spanish explorer, Juan Pardo, appears to have contacted the tribe.\(^5\)

Although the evidence for late 16th and early 17th century encounters between Europeans and the Cherokee is sketchy, by the end of the 17th century contact between the tribe and the newly arrived European settlers had been established. In 1673 the traders James Needham and Gabriel Arthur ventured from Virginia to what is believed to have been the Cherokee country to establish trade connections with the tribe.\(^5\) At that time, although the Cherokee had already obtained quantities of European goods, both the Virginians and their horse caused such a sensation that the horse was tethered to a stake in the center of a town and given an “abundance of corn and all manner of pulse with fish, flesh, and bear’s oil” to feed on, and a scaffold was set up on which Needham and Arthur were placed so that the Indians “might stand and gaze at them and not offend them by their throng.”\(^7\)

The novelty of a white presence in the Indian towns quickly wore off, however. In the late 17th or early 18th century traders based in the coastal settlements of the English colonies began to take up residence in the Cherokee towns.\(^8\) These traders exchanged guns, kettles, beads, and similar items with the Cherokee for such items as baskets, ginseng, and most notably deerskins.\(^9\)

*The Cherokee in the Eighteenth Century*

During the early years of the eighteenth century the Cherokee were divided into five separate population clusters. These clusters included the Lower Towns, which were located on the headwaters of the Savannah River in what is today the northwest tip of South Carolina and the northeast corner of Georgia; the Middle Towns, which were located in the Upper Little Tennessee River Valley in the vicinity of what is today Macon County, in western North Carolina; the Out Towns,\(^10\) which were located on the Tuckaseegee and Oconaluftee rivers in what are today Jackson and Swain counties, in western North Carolina; the Valley Towns, which were located along the Hiwassee, Valley, and Nantahala rivers in the extreme Western tip of North Carolina, and the Overhill Towns, which were located on the Upper Tennessee and Lower Little Tennessee rivers, in what is today East Tennessee (Figure 2.1).\(^11\) In addition to these areas,
at various times the Cherokee controlled, claimed, or intermittently occupied lands in Virginia, West Virginia, Kentucky, and Alabama.\textsuperscript{12}

The Cherokee living in the different regions spoke different dialects. Those Cherokee living in the Lower Towns spoke what the 19\textsuperscript{th} century ethnographer James Mooney described as the Eastern Dialect. The residents of the Middle and Out Towns spoke what Mooney termed the Middle Dialect, while the residents of the Valley and Overhill towns spoke what was termed the Western Dialect.\textsuperscript{13}

During this period political power among the Cherokee was vested in the leaders of individual towns, with leaders of the larger towns or particularly dynamic chiefs sometimes gaining regional influence. British and colonial officials recognized some of the more prominent chiefs as “emperors,” but in reality the authority of these leaders to coerce their fellow Cherokees was limited.\textsuperscript{14} During much of 18\textsuperscript{th} century the Overhill towns were the most politically dominant faction of the Cherokee.
Interaction with white traders and other outsiders during the 18th century exposed the Cherokee to European diseases. Although the existing evidence suggests that the tribe was able to escape the devastating effects of afflictions such as measles and smallpox during the initial years of European contact, during the 1700s these diseases ravaged the Cherokee settlements repeatedly. Most notably, a smallpox epidemic that began in 1738 is purported to have resulted in the death of fully half the members of the tribe.

During the middle years of the 18th century the Cherokee found themselves caught up in the struggle between the French and the English for control of North America. Although the tribe was generally allied with the English during this period, this tenuous alliance was shattered when Cherokee warriors who had journeyed north to aid colonial troops were attacked by white settlers in the Virginia backcountry. This led to retaliatory actions by the Cherokee, and to the invasion of the Cherokee country by English and colonial armies in 1760 and 1761.

Peace was restored in 1761, but it was doomed to be short lived. During the next 15 years white settlers crowded onto lands still claimed by the Cherokee, and representatives of the tribe signed a succession of treaties that resulted in the loss of a large amount of tribal territory. Resentment over this, coupled with the general unrest that was attendant to the onset of the Revolutionary War resulted in a second war between the English colonists and the Cherokees in 1776. This war was initiated by a series of Cherokee raids on frontier settlements in Virginia and the Carolinas, and on assaults on the recently established Wautauga and Holston settlements, in what is today northeast Tennessee. In retaliation for these raids the colonies of North Carolina, South Carolina, Virginia and Georgia sent armies into the Cherokee country during the summer and autumn of 1776.

During these campaigns the Cherokee Lower Towns, in South Carolina, were completely decimated, and at least 36 Cherokee communities in the Middle, Valley, and Out Towns were destroyed. The colonial soldiers cut down corn in the fields and rounded up Cherokee livestock, leaving the Indians to face the winter without food or shelter. Those Cherokee that the soldiers did capture were often put to death or were sold into slavery.
Reeling from the invasion of their country, in late 1776 Cherokee leaders sued for peace. Subsequent treaties between the Cherokee and the various colonies ostensibly brought an end to the war the following year, but in fact scattered conflicts between the Cherokees and whites continued for the next twenty years. Many of these conflicts involved a breakaway faction of the Cherokee known as the Chickamaugas. The Chickamaugas were composed of the followers and allies of Dragging Canoe, a radical Overhill Cherokee leader who violently opposed white incursions on Cherokee lands, and who refused to be a party to the treaties that followed the Cherokee War of 1776. Dragging Canoe and his followers moved south after the invasion of the Overhill towns during the war and settled in the vicinity of what is today Chattanooga, Tennessee, where their numbers were augmented by displaced or disaffected Cherokees from other areas. The Chickamaugas engaged in sporadic hostilities against white settlers well into the 1790s, and would form the core of a potent political faction among the Cherokee thereafter.\textsuperscript{21}

\textit{Notable Events on the 1819 Treaty Lands}

During the 18\textsuperscript{th} century a number of notable events occurred on the lands in western North Carolina that are the focus of this study.

In 1730 the Cherokee Middle Town of Nequassee (present day Franklin, North Carolina), was visited by a Scottish Adventurer named Sir Alexander Cuming (Figure 2.2). Cuming’s brashness and bluster gave him considerable influence among the Indians. In a council with the Cherokee held at Nequassee he crowned an Overhill chief named Moytoy as “emperor” of the tribe, induced the Cherokee to recognize the sovereignty of the English king, and arranged for seven chiefs and warriors to accompany him on a trip to England, where they had an audience with King George II, signed articles of agreement with the British Crown, and caused a sensation among the British populace (Figure 2.3).\textsuperscript{22}

Twenty-one years later, in 1751, the Cherokee Out Towns were the scene of a revolt against English traders that foreshadowed the wars between the Cherokees and English colonists that would erupt in the succeeding decades. The revolt was fomented by lingering Cherokee resentment over the corrupt business practices of many of the traders, coupled with false
rumors of an imminent invasion by a Colonial army. These circumstances led the Cherokee Lower Town of Keowee to send out a call to other Cherokee towns to rise up and kill all of the traders living among them. Most of the towns did not respond to this entreaty, but the Out Town of Stecoe responded to the challenge by striking out against the trader who was resident in the town, Bernard Hughes. Hughes was warned by his Cherokee mistress and escaped to a friendlier Cherokee town, but the residents of Stecoe looted his store. In response to this and other depredations traders throughout the Cherokee country fled for the safety of the white settlements and colonial authorities in South Carolina placed a trade embargo on the tribe. The embargo caused a great deal of distress among the Cherokee, who were under constant threat of attack from other Indians and depended on arms and ammunition supplied by the traders to defend themselves. Eventually the trade was restored after a delegation of Cherokee ventured to Charleston and signed a treaty addressing the concerns of colonial officials.23

Both of the principal battles that occurred during the Cherokee War of 1759-1761 were fought on what would become the 1819 Treaty Lands. Both of these battles were fought near the Little Tennessee River just north of the present North Carolina - Georgia border. Following the
first battle, in 1760, the colonial army retreated to South Carolina. However, in the aftermath of
the second battle, in 1761, the invading colonial army marched on into the Middle Towns and
Out Towns, burning houses and destroying crops while most of the Indians fled to the mountains
to escape the white soldiers.²⁴

In his journal, the commander of this expedition, James Grant, coldly assessed the results
of his invasion:

Fifteen towns and all the plantations in the country have been burn’t – above 1,400 acres of
corn, beans, pease, etc., destroyed; about 5000 people including men, women, and children
drove into the woods and mountains to starve. They have nothing left to subsist upon but
a few horses which they contrived to keep out of our way; but we found the remains of
numbers of them, which had been killed by themselves almost in every place we went to.²⁵

During the peaceful years following the Cherokee War of 1759-1761 two notable visitors
journeyed into what would become the 1819 Treaty Lands. The first of these visitors was an
agent of the English pottery maker Josiah Wedgewood named Thomas Griffiths. Griffiths entered
the Cherokee country of western North Carolina in 1767 and procured some five tons of white
clay from a location north of what is today the town of Franklin. The clay was exported to England, where Wedgewood used it to fashion fine ceramics.\textsuperscript{26}

The second notable visitor was the well known naturalist William Bartram, who visited the region in 1775. Bartram’s descriptions of the Cherokee settlements along the Little Tennessee River as they existed on the eve of the American Revolution are among the most vivid of any of the accounts written about the 18\textsuperscript{th} century Cherokee.\textsuperscript{27}

Colonial armies again invaded the lands that are the subject of this study during the Cherokee War of 1776. During this conflict a North Carolina army entered what would become the 1819 Treaty Lands from the east, while an army from South Carolina marched into the region from the south.\textsuperscript{28} Neither army faced strong opposition. The largest battle of the campaign occurred when the South Carolina army was ambushed by the Cherokee in the vicinity of Wayah Gap, about 11 miles west of the present town of Franklin. A contingent of the North Carolina army was also ambushed in the Cherokee town of Sugartown, located at the juncture of the Little Tennessee and Culasaja Rivers in the vicinity of Franklin.\textsuperscript{29} Subsequent to this campaign another small expedition from North Carolina invaded the Cherokee Out Towns, burning the town of Stecoah and destroying an Indian camp or village along the Occonaluftee River.\textsuperscript{30} The Middle Towns were also invaded again in 1781 when the frontier leader John Sevier led 130 men into the area and burned a number of towns.\textsuperscript{31}

\textit{Cherokee History in the Nineteenth Century}

Following the Cherokee War of 1776 the lands that would be ceded under the terms of the Treaty of 1819 are seldom mentioned in historical accounts. During this period there was a general shift in the Cherokee population to the south and east, with northwest Georgia and northeastern Alabama evolving into the wealthiest and most politically important portions of the Cherokee Nation. In general, Cherokee history during the 19\textsuperscript{th} century is characterized by three themes: continued pressure from white authorities to surrender more and more land; an increased adoption of Anglo-American economic practices, and to a lesser extent Anglo-American cultural practices; and increasing attempts among the Cherokee to establish a strong central government.
that would permit them to present a united front against white authorities and protect their remaining lands.\textsuperscript{32}

In 1801, the Moravian Church established a mission among the Cherokee at Springplace, in northwest Georgia. Other missionary establishments followed, including the Brainerd Mission School, established in southeast Tennessee in 1817 by the American Board of Commissioners for Foreign Missions, and a Baptist Mission established in the Valley Towns in the western tip of North Carolina. Although not always successful in converting the Cherokee to Christianity, these missions provided an opportunity for Cherokee children to learn the English language and to learn other skills that would prove useful to them in the increasingly multi-cultural world in which they lived. Many Cherokee who became leaders during subsequent decades were educated at the mission schools.\textsuperscript{33}

In 1808 the first written Cherokee laws were promulgated. Early laws forbade the practice of revenge murder, established a national police force, or light cavalry, established penalties for theft, and established a 13 member Standing Committee to oversee the affairs of the Cherokee Nation as a whole.\textsuperscript{34}

In 1809 a large party of Cherokee emigrated to Arkansas to join a small number of Cherokee who had emigrated west of the Mississippi in previous years. These Cherokee formed the core of what would later be termed the Western or Old Settler Cherokee.\textsuperscript{35}

The decade prior to the Treaty of 1819 was a volatile one in the Cherokee country. Earthquakes rattled the region in 1811 and 1812. These earthquakes, which were a part of or related to the massive New Madrid earthquake, centered in southeastern Missouri, caused relatively little physical damage, but caused a great deal of psychological distress to the inhabitants of the region, both Cherokee and white.\textsuperscript{36}

The earthquakes also fed the flames of a revitalization or nativist movement which arose among the Cherokee at this time. The movement called for its adherents to give up white technologies and customs and return to traditional native ways. It appears to have arisen in part
from the visions and preachings of individual Cherokees and in part because of the influence of a pan-tribal nativist movement spearheaded by the Shawnee prophet Tecumseh.\textsuperscript{37}

The nativist movement led some Cherokee to call for a war against the United States in order to purge their country of white influences, but the tribal leadership was able to steer their people away from this conflict and into an alliance with the United States against a militant faction of the Creek Indians known as the Red Sticks, who, influenced by Tecumseh, had begun to wage war on the frontier settlements of Alabama in 1813.\textsuperscript{38}

During a series of engagements with the hostile Creeks in 1813 and 1814, Cherokee warriors served under the overall command of Andrew Jackson, the future president. Among the most notable of the Cherokee combatants was a resident of western North Carolina named Junaluska, who gained notoriety at the Battle of Horseshoe Bend, in Alabama, by swimming across the Tallapoosa River and capturing canoes that were used to ferry other Cherokees across for an assault on the rear of the Creek position.\textsuperscript{39}

However, the Cherokee received scant reward for their efforts in the Creek War. Indeed, in spite of the aid rendered by the Cherokee, white soldiers returning from the campaigns against the Creeks committed extensive depredations upon Cherokee property, including in some instances the wanton slaughter of Cherokee livestock.\textsuperscript{40}

The end of the Creek War and the War of 1812 with Great Britain heralded a period of fervent economic activity and speculation in the United States. This burst of prosperity was superceded by a severe depression known as the Depression of 1819 or the Panic of 1819.\textsuperscript{41} Contributing to this economic decline was a decade of unusually cold temperatures and climatic perturbations that culminated in the so called “Year Without a Summer,” 1816.\textsuperscript{42} The inclement weather had a negative impact on the financial situation of the Cherokees as well as whites.\textsuperscript{43}

\textit{North Carolina During the Early 19\textsuperscript{th} Century}

North Carolina during the early 19\textsuperscript{th} century was considered something of a backwater in comparison to the rest of the United States. The state was handicapped in particular by poor transportation facilities and a lack of navigable rivers. A dearth of economic opportunity in North
Carolina coupled with the opening up of large amounts of public land in the west following the Louisiana Purchase of 1803 and the conclusion of the Creek War in 1814 led to a significant out-migration from the state during this period.44

During the first two decades of the 19th century western North Carolina was the most rural and backward section of a rural and backward state. Indeed, for many of the state’s residents, the mountainous country that lay to their west, and especially the lands occupied by the Cherokee Indians, were as little known as the dark side of the moon.45
Chapter Endnotes

1 Roy S. Dickens, Jr., “The Origins and Development of Cherokee Culture,” in The Cherokee Indian Nation: A Troubled History, ed. Duane H. King (Knoxville: The University of Tennessee Press, 1979); Christopher B. Rodning, “Reconstructing the Coalescence of Cherokee Communities in Southern Appalachia,” in The Transformation of the Southeastern Indians, 1540-1760, ed. Robbie Ethridge and Charles Hudson (Jackson: University Press of Mississippi, 2002); Ward and Davis, Time before History, 138-93. See also Jefferson Chapman, Tellicco Archaeology: 12,000 Years of Native American History, Rev. ed. ((Norris, Tenn.), Knoxville, Tenn.: Tennessee Valley Authority, Distributed by the University of Tennessee Press, 1994), 99-100. Chapman suggests that the Overhill Cherokee of eastern Tennessee may have emigrated into that area from older parts of the Cherokee Nation following the depopulation and cultural disruptions that accompanied the 16th century visits to the region by Spanish explorers.

2 Archaeological phases are defined based on similarities in pottery types and other material remains that occur in a given area over a given period of time.

3 Ward and Davis, Time before History, 178.

4 Ibid., 183-89.


8 Although the date of 1690 is frequently cited as the date by which traders first took up residence among the Cherokee, at least one author suggests that this date is at least 20 years too early. See Russell Thorton, The Cherokee: A Population History (Lincoln: University of Nebraska Press, 1990), 20.


10 In some accounts the Out Towns and the Middle Towns are grouped together. See Lance K. Greene, The Archaeology and History of the Cherokee Out Towns (Columbia: The South Carolina Institute of Archaeology and Anthropology, The University of South Carolina, 1999), 38.


12 Chapman, Tellicco Archaeology, 99.

13 Mooney, Myths of the Cherokee, 16-17.

Many of the primary documents associated with the Grant Expedition have been published in an issue of the Journal of the Cherokee Historical Society. See also Corkran, *Myths of the Cherokee*, 45-46.

For a general treatment of circumstances surrounding the Cherokee War of 1776 see Ganyard, “Threat from the West.”


David H Corkran, “The Unpleasantness at Steecoee,” *The North Carolina Historical Review* 32, no. 3 (1955); Corkran, *Cherokee Frontier*, 25-37; Greene, *Archaeology and History of the Cherokee Out Towns*, 44-48; Gregory Dowd, “The Panic of 1751: The Significance of Rumors on the South Carolina-Cherokee Frontier,” *William and Mary Quarterly* 53, no. 3 (1996). The trader’s lives could be tenuous at best. The trader John Downing, of Tuckaseegee, another of the Out Towns, was captured by the Cherokee during the Cherokee War of 1759-1761. Downing was taken to the Lower town of Estatoe where the Cherokee cut his feet off and burned him at the stake. See Corkran, *Cherokee Frontier*, 202-03. It is probable that Downing was the progenitor of the “mixed-blood” Downing family, members of whom were occupants of 1819 Treaty Lands at the time of the 1819 land cession. On the Downing family, see for example Deposition of Gideon F. Morris, [no date -- claim filed December 30, 1846], Claim 393, RFBCC, Claim Papers, RG 75, NAR, and Memorial of the Children and Legal Descendants of Celia Downing, [no date – claim filed December 30, 1846], Claim 393, RFBCC, Claim Papers, RG 75, NAR.


James Grant, “Journal of Lieutenant-Colonel James Grant, Commanding an Expedition against the Cherokee Indians, June-July, 1761,” *The Florida Historical Society Quarterly* 12, no. 1 (1933), 35. On Grant’s expedition, see also Corkran, *Cherokee Frontier*, 243-54. Corkran observes that Grant was actually sympathetic to the plight of the Cherokee, and in his destruction of the Cherokee Middle Towns was simply doing his duty as a British officer. Many of the primary documents associated with the Grant Expedition have been published in an issue of the Journal of the Cherokee Historical Society.
29 Roy S. Dickens, Jr., “The Route of Rutherford’s Expedition against the North Carolina Cherokees,” Southern Indian Studies 19 (1967); Mooney, Myths of the Cherokee, 49; Silas McDowell to Leonidas F. Siler, July 3, 1850, typescript copy in the Silas McDowell Papers, Southern Historical Collection, University of North Carolina, Chapel Hill, N.C.; Barnes et al., eds., “Historical Sketch.”
30 Hiram C. Wilburn, “Nununyi, the Kituhwas, or Mountain Indians and the State of North Carolina,” Southern Indian Studies 2, no. 2 (1950); Sondley, History of Buncombe County, 380; Mooney, Myths of the Cherokee, 50-51. Wilburn suggests that the town Nununyi and perhaps other towns in the vicinity were also destroyed by this expedition, commanded by William Moore in October, 1776.
31 Brown, Old Frontiers, 196; Pate, “The Chickamauga,” 116; Mooney, Myths of the Cherokee, 53, 59. Sevier would attempt a second invasion of the Middle Towns in 1788 but was forced to turn back by stiff Cherokee resistance while still in the Valley Towns. See Brown, Old Frontiers, 286-90.
36 A first hand account of these earthquakes as they were experienced in remote western North Carolina was left by the prominent surveyor Andrew Ellicott. On December 16th, 1811, while engaged in ascertaining the correct location of the North Carolina – Georgia boundary, Ellicott “was awakened at 3 AM by an earthquake that was followed by two others at 8 O’clock A.M.” According to Ellicott, the latter of these earthquakes was so strong that his ink stand would have been overturned had he not taken hold of it. After that time, recorded Ellicott, “shocks were felt almost daily in some parts of the southern country particularly in the vicinity of the mountains for more than two months which created considerable alarm in some places, together with a spirit of prophecy, and a few cases of reaching [sic] and vomiting similar to sea-sickness...” Catharine Van Cortlandt Mathews, Andrew Ellicott, His Life and Letters (New York: The Grafton press, 1908), 224. The earthquakes also had a profound effect on Cherokees who had emigrated to Arkansas. See Robert A. Myers, “Cherokee Pioneers in Arkansas: The St. Francis Years, 1785-1813,” The Arkansas Historical Quarterly 56 (1997).
37 Brown, Old Frontiers, 458; Michelene E. Pesantubbee, “When the Earth Shakes: The Cherokee Prophecies of 1811-12,” American Indian Quarterly 17, no. 3 (1993). According to Brown, Tecumseh foretold the occurrence of the New Madrid quake, an incident which greatly enhanced his credibility among the Creek Indians. See also Myers, “Cherokee Pioneers in Arkansas,” 153-57.
Wilkins, *Cherokee Tragedy*, 84, 89, and see for example Claim of Six Killer, July 20, 1816, M-574, Reel 17, File 104, Frame 179.


43 According to Return J. Meigs, the federal agent to the Cherokee at the time, the Cherokee were “much embarrassed in their national finances, which has been caused by bad crops from long droughts and some indolence for several years during the late war and since, particularly the year 1816.” Return J. Meigs to John C. Calhoun, February 25, 1818, M-271, Reel 2, Frames 709-711. See also Return Jonathan Meigs to John C. Calhoun, November 15, 1819, M-271, Reel 2, Frames 1400-1404 and Return J. Meigs to George Graham, May 6, 1817, M-208, Reel 7.


CHAPTER THREE: THE 1819 TREATY LANDS

During the early years of the 19th century the lands in western North Carolina that remained in the possession of the Cherokee Indians were little known to outsiders. A North Carolina official named Archibald Murphy acknowledged this when he complained in 1820 that “although he had sought many opportunities of obtaining information, [he] had but a very imperfect idea” of the “extent or value” of these lands.¹

Murphey was not alone in his lack of knowledge. As the Cherokee agent Return Jonathan Meigs found in 1802, some portions of the Cherokee lands were so remote that even the “best woodsmen or Indians” could not provide him with information about them.²

This is not to say that the Cherokee lands in western North Carolina were never visited or written about, and indeed some very good accounts of the region as it existed in the 18th century survive.³ But during the first two decades of the 19th century visitors to the region either failed to pen detailed descriptions of what they found, or their accounts have been lost. Thus, to speak of the “1819 Treaty Lands” is to speak of a largely unknown quantity.

However, by combining scattered clues found in documents associated with the treaty with descriptions of the treaty lands penned at earlier and later dates, and with descriptions of analogous areas, it is possible to make reasonable inferences about what the treaty lands were like in 1819. This chapter will be devoted to presenting these inferences in the form of descriptions of the major features of the landscape as they likely existed in the early 19th century. In some instances the discussion will be extended to include descriptions of the processes that created these landscape features, or the use to which these features were put by the Cherokee inhabitants of the Treaty Lands.

Put more prosaically, what would a visitor to the Treaty Lands have seen had they journeyed through the region on the eve of the land cession? And what caused the things they saw to be the way they were?
Location, Topography, and Climate

The lands ceded by the Treaty of 1819 in western North Carolina encompassed over 650,000 acres and covered portions of what are today Macon, Jackson, Swain, and Transylvania Counties (Figure 3.1). The Treaty Lands were bounded on the north and south by the borders of Tennessee, Georgia, and South Carolina, respectively. The boundary on the west began at the juncture of the Little Tennessee and Nantahala rivers and followed the ridge that divides these rivers south to the crest of the Blue Ridge, and thence south to the state line. The boundary on the east was an arbitrary line known as the Meigs-Freeman Line, which was surveyed in 1802 in accordance with the stipulations of an earlier treaty, the Treaty of Tellico of 1798. The exact location of this line has been a subject of some debate, but it appears to have run from the summit of Mt. Collins, in the Great Smoky Mountains, to a point just north of Owen’s Gap, in what is today Transylvania County.

The Treaty Lands encompass a mountainous country, with elevations ranging from around 6000 feet on the highest peaks to around 1700 feet in the lower portions of the river valleys (Figure 3.2). The climate is temperate, with present (turn of the 21st century) temperatures in the valleys ranging from average highs of around 85 degrees Fahrenheit in July, the hottest month, to average lows of around 25 degrees in January, the coldest month. Average precipitation amounts in the valleys is around 51 inches per year.

Roads and Paths

During the early 19th century the Treaty Lands were linked to the outside world by a series of trails or rough roads, two of which appear to have been of the greatest importance.

The first of these major routes was a north-south trail that passed along the length of the Little Tennessee River Valley, entering the Treaty Lands from the south in the vicinity of Rabun Gap near the Georgia-North Carolina border and following the Little Tennessee River north through the Cherokee towns of Nequasee and Cowee, near the modern town of Franklin, and beyond. The course of the southern portion of this trail is approximated by Highway 441 between Rabun Gap and Franklin.
The north-south trail was intersected by an east-west route that entered the Treaty Lands near Scott’s Creek, in what is today Jackson County. This path passed over the Tuckaseegee River, crossed the Cowee Mountains into the Little Tennessee River Valley, and then passed over the Nantahala Mountains and out of the Treaty Lands. The east-west route at least as far as the Little Tennessee River Valley is sometimes known as the War Road or Rutherford’s Trace after its use by a colonial army commanded by Griffith Rutherford that invaded the area from the east during the Cherokee War of 1776. It may have been known as “The Great Road” or “The County Road” at the time of the Treaty of 1819, as indicated by references to features of this name in early surveyor’s notes. Highway 23 between Waynesville and Franklin and Highway 64 from Franklin to Cherokee approximate the course of this route (Figure 3.3).

The major paths in the Treaty Lands were likely well worn by the early 19th century. The naturalist William Bartram, who entered the region from the south some 45 years before the Treaty of 1819, found the path along the Little Tennessee River, “spacious and well beaten by travelers.” By 1819, at least some of the paths leading into the region appear to have been
sufficiently good to permit travel by wagon, as a few depositions relating events that occurred during this time make specific reference to these vehicles.10

But such paths were probably the exception. Although Bartram found his road well traveled, he also found it “somewhat intricate to a stranger, from the frequent collateral roads falling into it from villages or towns over the hills.”11 These “collateral roads” crisscrossed the Cherokee country. Writing in the late 1830’s of the Cherokee lands in extreme western North Carolina, W.G. Williams, a military officer, noted that: “Most of the creeks whose banks are not too steep to forbid it, have trails along them, and many trails cross the country in several directions, which as yet have not been explored.”12

Travel on the lesser trails, and on the rougher portions on the main trails, was quite taxing. Williams complained that the Indians “have little notion of grading and always take the shortest course up and down hill.”13 James Grant, who commanded one of the Colonial armies that invaded the Cherokee Middle Towns during the Cherokee War of 1759-1761, described traversing a road “so bad that the men could hardly march in an Indian file and if their feet had slipt they were in danger of falling down a precipice.”14

Figure 3.2 - Major topographic features of the 1819 Treaty Lands.
Buildings

The paths through the Treaty Lands linked Cherokee towns and communities. During the early years of the 19th century these communities usually consisted of a collection of widely dispersed farmsteads and a single public building known as a townhouse. The farmsteads, in turn, usually consisted of several small buildings that provided shelter for nuclear or extended families, served as storage facilities, or were used for special purposes.

Houses

Cherokee dwellings during the early 19th century were usually crude log cabins modeled on those built by traders and frontier whites. Contemporary observers characterized the structures variously as “rude log and pole huts, with large, open-mouthed stick and mud chimneys at one end,” or simply as “small log huts, too insignificant to need a description.” While these descriptions adequately characterize the majority of Cherokee houses, there was some variation, and some houses, particularly those of Cherokees who had adopted Anglo-American lifeways, were much more elaborate.

Figure 3.3 - These major modern roads on the 1819 Treaty Lands follow the routes of Indian trails.
Claims submitted by the Cherokee for houses that they had to abandon on the 1819 Treaty Lands of western North Carolina show something of the range of variation in the cabins that were built there. These claims indicate that the vast majority of houses had simple earthen floors, while a few of the better structures had floors made of split logs, known as puncheons. In the better cabins the logs used to construct the walls were hewed or beveled so that their sides were flat, but in the majority of cases the logs were simply left round. Most of the cabins had stick and clay chimneys and roofs made of boards or clapboards. At least some of the houses had locks installed on the doors, but windows were probably lacking in most of the structures. Values placed on the cabins in the various claims ranged from ten dollars for small simple cabins made of unhewed logs, to forty dollars for larger cabins made of hewed logs.

Typical of the claims for simpler structures, a Cherokee named Cheananna who lived in the vicinity of the present town of Franklin submitted a claim for a “round log house [a house built of unhewed or round logs, not a circular house] about 12 feet square board roof dirt floor stick and clay chimney.” Similarly, Cha-u-lah (also spelled Chi-ula), who lived along the Tuckasegee River, submitted a claim for a “round log cabin about 15 feet square;” Wa-lees-ka, who also lived on the Tuckasegee River, submitted a claim for “One round log cabin about 12 feet square board roof dirt floor stick and clay chimney,” and Kee-nee-tee, who lived on the Little Tennessee River above the town of Franklin, submitted a claim for “One small round log cabin with a slab floor and otherwise comfortable.”

Examples of larger or more elaborate structures include the house of John Welch, a “mixed-blood” Cherokee, which was described as a “hewed log house 16 x 18.” Arseen, who lived along the Little Tennessee River, also submitted a claim for “one hewed log house.” Cho-ga submitted a claim for “One Split Log Cabin about 13 feet square dirt floor board roof stick and clay chimney,” which was located on the Caney Fork of the Tuckasegee River, and Willagiska submitted a claim for a house located on Allijay Creek that was described as “One log cabin round logs 12 feet by 21 feet, two chimneys, clapboard roof, dirt floor.”
In many cases the same individual submitted claims for multiple houses. For instance, a Cherokee named Susana submitted a claim for property abandoned by her mother, who had lived near the present town of Franklin, which consisted of “One house round logs,” “one small house round logs,” and “one house hewed logs puncheon floor.” And Ground Squirrel, who lived on the Tuckasegee River, submitted a claim for “One round log cabin fifteen feet square with slab floor board roof stick and clay chimney” and “One house round logs twelve feet square floor, roof and chimney as the first.” The frequent presence of multiple structures may reflect the presence of extended families living in multiple dwellings in close proximity to one another, but may also be a function of the fact that in the case of log buildings it is easier to build multiple small structures than to expand on existing structures due to the difficulty of manipulating large logs and of joining logs together horizontally.

Hot Houses

In addition to log huts or cabins that were based on the houses built by frontier whites, many Cherokee also built a traditional Cherokee structure known as a hot house or winter house. Hot houses were used as dwellings or sleeping quarters in the cold months. They were also used to store vegetables such as pumpkins, squash, or potatoes. In general, by the 19th century hot houses were associated with more conservative or traditionalist Cherokee.

Hot houses were usually situated in close proximity to the summer houses or cabins. A missionary named J. P. Evans penned this description of hot houses as they were built in the early 19th century:

They are small, low huts, constructed of small logs, mud and clapboards. In forming the roof, generally, a layer of thick puncheons is first laid on, - then a thick coat of mud, - and lastly, clapboards, to prevent the mud being washed off by rain. A small opening is made in the end, capable of admitting a man; to this a shudder is made. Thus all visible avenues through which air can find admittance, are carefully closed. Burning coals & embers are kept in the center, or such fuel as produces little or no smoke kept burning. Were there not hundreds of living witnesses before his eyes, a white man accustomed to pure air, could scarcely believe that a salamander could exist twenty four hours in such a situation. But during the winter months many old men spend the greater part of their time in ‘hot houses’
and employ themselves in roasting potatoes and parching corn. Many young people, destitute of bed clothing, find a good substitute at night in the heated air of a ‘hot house.’

Henry Timberlake, a British soldier who lived for a brief period among the Overhill Cherokee of eastern Tennessee in the mid-18\textsuperscript{th} century, recorded similarly negative feelings regarding the comfort of hot houses:

I retired to Kanagatucko’s hot-house; but was prevented taking any Repose by the smoke, with which I was almost suffocated, and the crowd of Indians that came and set on the bed side, which indeed was not calculated for repose to any but Indians, or those that had passed an apprenticeship to their ways, as I had done: it was composed of a few boards, spread with bear-skins, without any other covering: the house being so hot, that I could not endure the weight of my own blanket.

Other Structures

In addition to cabins and hothouses, various other buildings were sometimes present on 19\textsuperscript{th} century Cherokee farmsteads. The most common of these were corn houses or corn cribs. For example, the claim of the heirs of a Cherokee named Snail, who lived on the Caney Fork of the Tuckaseegee River, included a request for compensation for “One Corn Crib 12 feet long 4 feet wide,” and Ground Squirrel requested compensation for “One corn crib 5 by 7 feet board cover.” The ten dollar value assigned to Ground Squirrel’s crib is typical of the values assigned to these structures, if values are given at all.

As the name implies, corn houses were used to store corn, the principal agricultural crop of the Cherokee. Specialized corn houses were a traditional form of Cherokee architecture. Traditional corn houses were raised on posts several feet above the ground and were plastered over with mud so that rodents could not enter them. By the early 19\textsuperscript{th} century, however, Cherokee corn houses were usually modeled after the corn cribs built by frontier whites and were of horizontal log construction with elevated floors and board roofs.

Kitchens or cook houses, stables, and loom houses (structures which housed the looms that were used to make cloth) were also present on some Cherokee farmsteads on the 1819 Treaty Lands of western North Carolina. However, these structures appear to have been of
limited occurrence, and were probably associated only with the wealthier or more acculturated Cherokees.48

Town Houses

Aside from the buildings associated with individual households, most Cherokee towns also had a public building known as a town house or council house.49 Council houses were large circular or polygonal structures in which public activities associated with village life took place. During the 18th century many of the council houses were erected on the top of the prehistoric earthen mounds that were present on many of the old town sites. However, the Cherokee did not build these mounds and professed ignorance as to who did build them.50 During his visit to the region in 1775, William Bartram described the townhouse at Cowee Town, a few miles north of the present day town of Franklin (Figure 3.4):

The council or town-house is a large rotunda, capable of accommodating several hundred people; it stands on the top of an ancient artificial mount of earth, of about twenty feet perpendicular, and the rotunda on the top of it being above thirty feet more, gives the whole fabric an elevation of about sixty feet from the common surface of the ground...The rotunda is constructed after the following manner, they first fix in the ground a circular range of posts or trunks of trees, about six feet high, at equal distances, which are notched at top, to receive into them, from one to another, a range of beams or wall plates; within this is another circular order of very large and strong pillars, above twelve feet high, notched in like manner at top, to receive another range of wall plates, and within this is yet another or third range of stronger and higher pillars, but fewer in number, and standing at a greater distance from each other; and lastly, in the centre stands a very strong pillar, which forms the pinnacle of the building, and to which the rafters centre at top; these rafters are strengthened and bound together by cross beams and laths, which sustain the roof or covering, which is a layer of bark neatly placed, and tight enough to exclude the rain, and sometimes they cast a thin superficies of earth over all. There is but one large door, which serves at the same time to admit light from without and the smoak to escape when a fire is kindled; but as there is but a small fire kept, sufficient to give light at night, and that fed dry small sound wood divested of its bark, there is but little smoak; all around the inside of the building, betwixt the second range of pillars and the wall, is a range of cabins or sophas, consisting of two or three steps, one above or behind the other, in theatrical order, where the assembly sit or lean down; these sophas are covered with mats or carpets, very curiously made of thin splints of Ash or Oak, woven or platted together; near the great pillar in the centre the fire is kindled for light, near which the musicians seat themselves, and round about this the performers exhibit their dances and other shews at public festivals, which happen almost every night throughout the year.51
The townhouses associated with smaller communities and later time periods were probably not as elaborate as the townhouse that was present at Cowee Town in 1775. For instance, a town house in the Valley Town settlements of western North Carolina in the 1830’s was described simply as “…a regular open octagon, built of logs, with a small portal; over this, a temporary roof was thrown upon particular occasions…”

Figure 3.4 - The site of Cowee Town. Source: Courtesy of the N.C. Office of Archives and History.

Agricultural Fields and Agriculture

Cherokee towns and farmsteads were usually situated in the vicinity of or surrounded by agricultural fields. The type of agriculture practiced by the Cherokee during the early 19th century resembled in many respects the type of agriculture practiced elsewhere in the Upland or Non-Plantation south. Both household gardens and larger fields were cultivated. Most of the larger fields were located on the rich alluvial bottom lands adjacent to rivers and streams, but some additional land was cultivated in upland areas or in mountain coves.

Fields were cleared by girdling the larger trees and burning off the brush and ground cover. The soil was not fertilized, but the better lands maintained their fertility for long periods of time, a characteristic noted by several 18th and 19th century visitors to the Cherokee country,
who heaped praise upon the fertility of the Indian’s agricultural lands. William Bartram described
the soil in the vicinity of the Cherokee town of Cowee as: “exceedingly fertile, loose, black, deep
and fat.” John William Gerard de Brahm, a German engineer who traveled to the Cherokee
towns in eastern Tennessee in 1756, stated that: “Their [Cherokee] vallies are of the richest
soil, equal to manure itself, impossible in appearance ever to wear out...” Henry Timberlake
described the Cherokee land as “so remarkably fertile, that the women alone do all the laborious
tasks of agriculture, the soil requiring only a little stirring with a hoe, to produce whatever is
required of it.” And the 19th century military officer W.G. Williams stated that the soil in the
Valley Towns region of western North Carolina “though much worn by long cultivation in the
vallies, [was] still susceptible of bearing excellent crops.”

If the fertility of agricultural fields did decline, they were simply abandoned and new
fields were cleared nearby. As old fields were worn out and were abandoned and new fields were
opened up it was sometimes necessary for households or even entire communities to relocate in
order to be closer to the fresh lands.

Although visitors heaped praise on Cherokee agricultural land, Cherokee agricultural
practices were often looked upon with disdain by outsiders, who saw Cherokee fields as weedy
and unkempt. Writing in 1838, a Georgian stated that usually the Cherokee “were lazy and
late in starting with their crops, working around logs in their fields and letting bushes and briars
grow in the fence corners.” In his 1838 novel Eonaguska, which has its setting in western North
Carolina, North Carolina Senator Robert Strange, who knew the land first hand from his work
as a judge in the region, described Cherokee fields as “presenting the appearance of long use, and
having suffered seriously from improvident culture.”

Nonetheless, Cherokee farmers could produce excellent yields. Ironically, some of
the most lavish praise for the productivity of Cherokee agriculture was applied by those who
were bent on destroying that which the Indians had sown. A veteran of the invasion of the
Overhill towns during the Cherokee War of 1776 recalled that the Cherokees’ corn, “of which
they had immense quantities, was burnt or otherwise destroyed.” “To those who were present”
lamented the soldier, “it was a grievous spectacle to behold so many articles on which human life depended consigned to destruction.” The towns that were destroyed contained “forty to fifty thousand bushels of corn and ten to fifteen thousand bushels of potatoes.” Similarly, soldiers detailed to spread through one of the Cherokee Valley towns “to destroy, cut down, and burn all the vegetables belonging to our heathen enemies,” found this task “no small undertaking, they being so plentifully supplied,” and William Moore found “corn, pompions, beans, peas, and other trifling things…in abundance in every house” in the Cherokee Out Town of Stecoah, which he burned in October, 1776.

Corn was by far the most important agricultural crop grown by the Cherokee, accounting for as much as 90 percent of the cultivated acreage. However, a variety of other crops were also raised by the Cherokee during the 18th and 19th centuries, including some varieties that were native to North America and some that were brought to the New World from other places. Travelers among the Cherokee in Tennessee during the late 18th century reported seeing “fine corn fields…also, beans, pumpkins, white cabbage, and some tobacco.” The Indian Agent Benjamin Hawkins reported that the Cherokee in North Georgia “generally made a plenty of corn and sweet potatoes and pumpkins. They made beans, ground peas, cymblins, gourds, watermelons, musmelons, collards and onions.” White potatoes, squash, and other vegetables were also raised by the Cherokee, and in some locations cotton was grown.

In addition to garden or field crops, the Cherokee grew various kinds of fruit. Writing of the Cherokee country of eastern Tennessee in the late 18th century the Moravian missionary Martin Schnieder noted that: “Near every House is a Circle of pretty large but very wild grown Fruit Trees.” Schnieder’s fellow Moravians Steiner and De Schweinitz “noticed mainly peach and some apples” during their later visit to the Cherokee country of eastern Tennessee. Claims submitted by Cherokees who were compelled to abandon their homes on the 1819 Treaty Lands of western North Carolina indicate that peaches and apples were also the most common types of fruit grown in this area.
In addition to these non-native fruit trees, some indigenous fruit and nut bearing trees may have been semi-domesticated. Although direct evidence for this activity is lacking in the records associated with the 1819 Treaty Lands of western North Carolina, Cherokees elsewhere submitted claims for honey locust, mulberry trees, “bearing tame cherry trees,” plum trees, and “walnut trees planted out.”

Traditionally among the Cherokee all cultivation was done with hoes. Women performed the majority of the agricultural work, while men assisted with the heavy labor of clearing and planting. However, during the late 18th and early 19th century plows were introduced to the Cherokee, and their use among the Indians became something of a bellwether of “civilization.” With increased use of plows came an increased involvement of men in agriculture, although women probably still performed the bulk of the labor. Only 17 ploughs are recorded as being present on what would become the 1819 Treaty lands of western North Carolina at the time of the Cherokee Census of 1809. While overall use of plows by the Cherokee increased during the first third of the 19th century, it is unclear how widespread the use of these implements had became on the Treaty Lands in the decade between the 1809 census and the 1819 land cession. In general, plows were less prevalent in remote mountainous western North Carolina than they were in other parts of the Cherokee country.

**Amount of Land Under Cultivation**

An estimate of the total amount of land that was under cultivation in the 1819 Treaty Lands of western North Carolina at the time of the land cession can be garnered from claims that the Cherokee submitted for lands they were compelled to abandon as a result of the treaty. One Hundred and thirty-six Cherokees submitted claims for a total of 884 improved or cultivated acres on the Treaty lands. However, there is reason to suspect that this figure may be somewhat inaccurate. First, the improvements associated with many of the Cherokees who took individual reservations on the ceded lands as allowed for under the terms of the treaty are not represented on this list, which consists of Cherokees who left the area. The Cherokee reservations tended to be located in areas of high agricultural productivity, and many of the reservees were among the
more prominent members of the community who would likely have had larger improvements. Second, as a federal agent charged with overseeing claims related to the Treaty of 1819 noted, the Cherokee “are not…accustomed to our mode of dividing land by acres and of course can be but poor judges of the quantity of acres in a field.”Finally, not all of the Cherokee who were eligible to do so submitted claims for their improvements.

Another estimate of the total amount of improved or cultivated land in the region at the time of the 1819 land cession can be obtained from the records of the Robert Love Survey of 1820, the first land survey conducted on the ceded lands. One of the nine surveyors employed in this survey, a man named William Moore, recorded estimates of the amount of improved land that was present on the tracts that he laid out. Moore provided this information for 23 of the 656 properties established during the survey, usually expressing the estimate as a range, as in “between 16 and 18 acres are improved.” By multiplying the average size of the improvements tabulated by Moore, 11.5 acres, by the total number of properties listed as having improvements in the Robert Love Survey, 207, an estimate of 2380 improved acres is obtained. Again, this estimate must be regarded as very rough, because it is not certain that the tracts surveyed by Moore are representative of all of the land covered by the survey, nor did the survey cover all of the 1819 Treaty Lands.

Some Cherokee improvements on the 1819 Treaty Lands were small individual fields farmed by single households. In other instances larger fields appear to have been subdivided into smaller units that were tended by individual households, although the heavy work of planting, weeding, and harvesting may have been shared by an entire town or community. This type of collective agriculture had begun to fade out among the Cherokee population as a whole after 1800, but it still appears to have been practiced in at least some parts of the 1819 Treaty Lands up to the time of the land cession. In an 1843 deposition an early settler named Mark Coleman recalled the Cherokee practice of “having many patches under one fence,” and stated that “there was many fields under the same fence along the [Tuckaseegee] river” on the land that he subsequently occupied.
Whether in the form of individual fields or subdivisions of a larger communal fields, the size of individual Cherokee improvements on the Treaty Lands was fairly small. The surveyor Moore recorded improvements ranging in size from 2 to 30 acres with an average size of 11.5 acres, while the average size of the improvements on the Treaty Lands for which claims were submitted by the Cherokee was 6.5 acres. These figures are consistent with figures on Cherokee improvement sizes from elsewhere in the Cherokee nation during the early 19th century. The average size of Cherokee improvements per household in northern Georgia as recorded in a census of the Cherokee taken in 1835 was 11.1 acres. The average size of Cherokee improvements in western North Carolina as recorded in the same census was around 10 acres, while valuations of Cherokee farms in western North Carolina that were made prior to the forced Cherokee removal of 1838 suggest a slightly lower figure of 8.2 improved acres per household.

**Fences**

Most of the agricultural fields on the 1819 Treaty Lands at the time of the land cession appear to have been fenced. The fences built by the Cherokee during the early 19th century were the same as the so called “worm” or “snake” fences that were constructed by white settlers in the region. These fences were constructed by laying rails horizontally one on top of another with the ends of the rails overlapping with the next section of fence at an angle so that the fence as a whole comprised a zig zag pattern. Fences characterized as “good” fences in claims submitted by Cherokee who lived on the 1819 Treaty Lands are typically described as being seven or eight rails high. However, not all of the Cherokee fences were built to this standard, and poor quality fences sometimes led to disputes between the Cherokee who remained on the ceded lands and the early white settlers when the livestock of the latter invaded the fields of the former (Figure 3.5). The presence of fences on the 1819 Treaty Lands at the time of the land cession represents a significant change from Cherokee agricultural practices of the late 18th century. A traveler among the Cherokee in eastern Tennessee in 1784 recorded that the Indians “have no Fences about their Fields, on which account no Cattle are kept except by Traders; for if a
Beast comes into their Fields they are used to shoot it.” According to the 18th century trader James Adair, the Indians during this period scoffed at fences, “because as they say, they can cultivate the best of their land here and there, as it suits their conveniency, without wasting their time in fences and childishly confining their improvements, as if the crop would eat itself.” Descriptions of fences are notably absent from William Bartram’s account of his 1775 visit to what would become the 1819 Treaty Lands.

Livestock

Fences were made necessary by the increasing amount of livestock in the Cherokee country during the 19th century. Among both Cherokees and frontier whites during this period hogs and other livestock were allowed to subsist themselves by free ranging in the forests, meadows, and fallow fields surrounding the houses and towns. Even the most forbidding terrain became suitable pasture in this system, but the practice required that fences be constructed around agricultural fields to prevent the roaming animals from consuming the crops. For instance, when George Shuler, an early settler on the Treaty Lands, asked why the Indians had ceased to cultivate several small fields near the Tuckaseegee River he was told that the “cattle prevented them”

By the early 19th century the Cherokee were raising most of the same animals that frontier whites were raising. Visitors to the Cherokee country during the late 18th and early 19th centuries reported seeing cattle, horses, hogs, chickens, dogs and cats in and around Cherokee towns. Claims submitted for lost property by Cherokees who lived on lands ceded under the terms of the Treaty of 1819 suggest that limited numbers of sheep, ducks, guinea fowls, goats, and bees were also raised by the Indians.

In addition to providing sustenance, by the late 18th century livestock had become an important part of the Cherokee economy. When William Bartram traveled through what would become the 1819 Treaty Lands in 1775, he visited a trader at Cowee town who raised horses near the village. “…more beautiful creatures I never saw,” remarked Bartram, “there were of them of all colors, sizes, and dispositions.” Every year the trader sent “a troop of them down
to Charleston, where they [were] sold to the highest bidder.”

Some twenty years later, the Moravian missionaries Steiner and De Schweinitz recorded that “In the Cherokee country droves of hogs are often bought up and driven out.”

During the early 19th century, the Cherokee who lived on what would become the 1819 Treaty Lands in North Carolina sold some of their livestock to neighboring white settlers. A white man named John Brison [Bryson] stated in an 1828 deposition that he had lived near the Indian boundary since he was a boy, and “was in the habit of coming into this part of the
country [the 1819 Treaty Lands] for the purpose of purchasing cattle of the Indians.” And an early settler on the Treaty Lands named Zachariah Cabe attributed a dispute he had had with an Indian countryman (a white man married to an Indian woman) named Gideon Morris whom he encountered at the house of a Cherokee to the fact that “he had gone to the Indian’s for the purpose of buying hogs and that Morris came for the same purpose.” Cabe believed that Morris was trying to start a quarrel with him “to give him Morris a better chance to get the hogs.”

Wildlife

The free ranging livestock shared habitat with animals that were native to the region. William Bartram was at his most effusive when he rhapsodized about the “flocks of turkeys strolling about...(and)...herds of deer prancing in the meads or bounding over the hills.” The 18th century British soldier Henry Timberlake also extolled the quantity and diversity of the animal population of the Cherokee country:

There are...an incredible number of buffaloes, bears, deer, panthers, wolves, foxes, racoons, and opossums... There are a vast number of lesser sort of game, such as rabbits, squirrels of several sorts, and many other animals, beside turkeys, geese, ducks of several kinds, partridges, pheasants, and an infinity of other birds... There are likewise a great number of reptiles, particularly the copper-snake, whose bite is very difficult to cure, and the rattle-snake, once the terror of Europeans, now no longer apprehended, the bite being so easily cured...

By the early 19th century, animal populations, and particularly the populations of deer, bear, and other fur bearing animals, had become diminished in the Cherokee country because of decades of commercial hunting by the Indians and because of the encroachment of white populations. However, the decline of animal populations was probably less in remote, mountainous western North Carolina than it was in other areas. Thus, with the exception of buffalo, which were gone from the Southeast by the 19th century, Timberlake’s list is probably representative of types of animals that might have been found on the 1819 Treaty Lands during the early 19th century. Significantly, an article that appeared in a Macon County newspaper in the 1880’s notes the presence of many of the same types of animals that were described by Timberlake:
For the sportsman, the country affords such shooting as bear, panther (scarce),\(^\text{121}\) wolf, wildcat, deer, rabbit, wild turkey, pheasant, partridge and duck, and the fisherman will find abundant sport in the mountain streams, teeming with speckled trout, besides various fish in the rivers.\(^\text{122}\)

**Fallow Lands**

The cycle of cultivating and abandoning lands probably resulted in the deforestation of a significant portion of the valleys in the 1819 Treaty Lands. Fires or other processes may also have resulted in some lands being devoid of timber. During his journey through the region in 1775 William Bartram recorded traveling “about five miles through old plantations, now under grass.”\(^\text{123}\) Writing of the Cherokee lands in western North Carolina in the 1830s the army officer Williams noted that “…the vallies having been subjected to cultivation, by the Indians from time immemorial, are almost entirely devoid of timber, and where not actually tilled are partially overgrown with oak, coppice.”\(^\text{124}\) And in eastern Tennessee, the Moravian missionaries Steiner and De Schweinitz reported encountering “amazingly extensive plains…covered with high grass,”\(^\text{125}\) and Benjamin Hawkins described “old fields very extensive…covered with wild onions…”\(^\text{126}\)

Direct evidence for the deforestation of large areas of the 1819 Treaty Lands at the time of the land cession can be found in references in early surveyor’s notes to places such as “the Nucassee (Nequassee) Plains” and “The Big Meadow” (Figure 3.6).\(^\text{127}\) Another measure of the extent to which the valleys in the region were devoid of timber in the early 19th century can be found in a petition submitted to the 1827 – 28 General Assembly by a settler named Thomas Brown, who lived along the Little Tennessee River. Brown, who was petitioning to be permitted to erect gates along the public road which ran through his property until he could complete the building of his fences, complained that the process of fence building was quite slow because of “timber being extremely scarce and having to be hauled at least a mile.”\(^\text{128}\)

These fallow fields and old fields, although not under active cultivation, provided another source of food for the Cherokee, as various types of wild fruit prospered in these areas. The Moravian missionaries Steiner and De Schweinitz found “Plums and mulberries…here and there
scattered over the plain” near a Cherokee town in eastern Tennessee, and Captain Christopher French, an officer with the Grant Expedition that invaded the Cherokee country in 1761, recorded finding “an abundance of wild mulberries, Rasberries, & straw berries” at the Cherokee Middle Town of Ussanah.

Wild strawberries were particularly prevalent on the fallow lands, and they made a strong impression on visitors to the Cherokee country. Writing of a location eastern Tennessee Steiner and De Schweinitz recorded that “Under the grass the earth was covered with strawberry plants. When the strawberries are ripe the region is said to appear as though covered with a red cloth.”

William Bartram referred to strawberry fields repeatedly in his descriptions of the Cherokee country of western North Carolina, writing in one instance: “the swelling bases of the surrounding hills fronting the meadows present, for my acceptance, the fragrant red strawberry, in painted beds of many acres surface, indeed I may safely say hundreds.” In another instance the naturalist recorded passing over: “…verdant swelling knolls, profusely productive of flowers and fragrant strawberries, their rich juice dying my horses feet and ancles [sic].”
Rivers and Streams

Rivers and streams threaded their way through the cultivated and fallow lands in the valleys. The principal portion of the 1819 Treaty Lands is drained by the Little Tennessee and Tuckaseegee Rivers and their tributaries, while the eastern portion of these lands include tributaries of the French Broad and Toxaway Rivers. Although no descriptions of these streams as they existed in the early 19th century survive, visitors to the Cherokee country during this period were generally impressed by the quality of the water that they found. The military officer W.G. Williams, writing of the Cherokee country in the western tip of North Carolina, noted that the water there was “exceedingly plentiful and of the purist quality,” and the trader James Adair remarked that the Cherokee country abounded in “wholesome and pleasant water (Figure 3.7).”

The banks of the streams, especially in the higher elevations, were often bounded by extensive thickets of mountain laurel. These thickets, and the surrounding mountains, served as a place of refuge for the Cherokee in times of danger. James Grant, who commanded the army that decimated the Cherokee Middle Towns during the Cherokee War of 1759-1761 observed that “when these Cherokees get into the mountains none of the other Indians can come near them.”

Three quarters of a century later, Colonel William Foster, who commanded a regiment charged with capturing Cherokee fugitives, feared that the Indians would take refuge in the large patches of laurel and hemlock that were present in the mountains and that as a consequence his troops would not be able to apprehend them.

At lower elevations the rivers and streams were often fringed with river cane, although by the early 19th century the size and number of canebrakes, as patches of cane were called, had been diminished by livestock grazing. Indeed, the trader Adair spoke of canebrakes in the past tense, noting that in the Cherokee country the “level parts of the water-side, between the hills…formerly…abounded with great brakes of winter-canes. - The foliage of which is always green, and hearty food for horses and cattle.” In 1817 the Federal agent to the Cherokee Return J. Meigs observed that the cane was “nearly all gone” in the Cherokee settlements east of the
Mississippi River. Nonetheless, some large canebrakes clearly did survive into the early 19th century, and least one large canebrake, the “Big Cain Brake on Toxaway” was present on the 1819 Treaty Lands of western North Carolina at the time of the land cession.

Fish Traps and Fishing

In some places the flow of the streams was interrupted by a stone structure built by the Cherokee known as a fish trap. Surveyors engaged in laying out tracts on the ceded lands noted the presence of such a feature in the Little Tennessee River south of the present day town of Franklin in 1820, and many more fish traps were probably present in the region.

The British soldier Henry Timberlake left this description of a Cherokee fish trap that he observed among the Overhill Cherokee of Tennessee in the 18th century:

Building two walls obliquely down the river from either shore, just as they are near joining, a passage is left to a deep well or reservoir; the Indians then scaring the fish down the river,
close the mouth of the reservoir with a large bush, or bundle made on purpose, and it is no
difficult matter to take them with baskets, when enclosed within so small a compass.\textsuperscript{146}

George Featherstonhaugh, a British geologist and travel writer, described another type of
fish trap that was used by the Cherokees of western North Carolina in the early 19\textsuperscript{th} century:

The method the Indians adopt of taking fish in this stream is a very destructive one. They
cut a channel parallel to the stream, and damming this last up, turn the water into the new
channel, seizing all the fish that are left in the shallow pools of the old bed\textsuperscript{147}

The Cherokees also used poisons derived from the Buckeye trees or a plant called Devil’s
Shoestring to harvest fish. This method was used in the late summer when water levels in the
streams were low.\textsuperscript{148} Traveling through North Georgia in 1796, Benjamin Hawkins documented
an example of this method of acquiring fish:

\begin{quote}
I was informed that at this place last summer the Indians had dug 3 bushels of the root
of the buckeye, mixed 2 bushels of clay with it, pounded it in a mortar, and put it in
Limestone Creek 4 miles above and that it poisoned the fish for eight miles, and 60 or 80
persons picked up as many as they could carry home.\textsuperscript{149}
\end{quote}

\textit{Forests}

Looming above streams and the valleys and the fields of the ceded lands were the forests
that cloaked the sides of the mountains. Descriptions of the forests of the Cherokee country range
from the euphoric to the mundane. In his 1838 novel Eonaguska, Robert Strange waxed poetic
about the Appalachian sylva:

\begin{quote}
The native freshness of these lands is like that in which this whole continent was beheld
by the first of its transatlantic visitors – trees are seen shooting high up among the clouds
of heaven, while around their massy trunks luxuriant vines climb up and cling for support,
bearing down their branches to the earth by the rich and ponderous clusters of their fruit
– while beneath this covert the long rank grass spreads out its perennial verdure.\textsuperscript{150}
\end{quote}

Writing some fifty years earlier, William Bartram was equally impressed by the mountain
forests. While traveling in the vicinity of present day Macon County, Bartram passed through
“a grand forest of stately trees,” and gushed about “incomparable forests,” “magnificent high
forests,” and for good measure, “sublimely high forests.”\textsuperscript{151}

Other observers were more restrained in their descriptions of the Cherokee forests,
confining comment to an inventory of the types of trees that were present. For instance, writing
of what is today Cherokee County, North Carolina, the military officer W.G. Williams simply observed that:

The varieties of trees are those common to the Alleghanies, among which the many kinds of oak predominate. Hickory, walnut, chestnut and gums are common. The pine and hemlock take possession of the more barren rocky and precipitous [acclivities].

The federal agent to the Cherokee Return Jonathan Meigs was equally down to earth in his descriptions of the Cherokee forests, penned in the wake of the survey of the Meigs-Freeman line in 1802:

I have omitted mentioning the kinds of timber on the different portions of that country - on the great Iron or smoky mountains & on other high mountains there is, particularly on the Western & Northern sides a great deal of the spruce pine, which gives them a cold & dreary appearance - On the smaller mountains & hills & on level ground, are all the different kinds of oak, hickory, poplar, pine, sasafras, dogwood, &c, and frequently all these are mixed on the same tract - and the common pine is not here as at the northward, an indication of poor land - on the Border of the Rivers there is elm, buckeye, poplar, cotton tree, persimmon, & cucumber tree, sugar tree, &c…

A cursory glance at these inventories of trees would suggest that the composition of the forests of the region in 1819 differed little from that of the forests of the turn of the 21st century, but in fact early 19th century Appalachian forests were different in several important respects.

First, because of the Chestnut Blight of the early 20th century, Chestnuts, once a dominant tree type in the Southern Appalachians, are now absent.

Second, it is likely that on average the trees were larger. Indeed, scattered descriptions of the region dating to the late 18th century indicate that in some locations exceptionally large trees were present. For instance, during a land survey in western North Carolina in last decade of the 18th century Robert Love reported encountering “Buck Eyes measuring thirteen feet round the Body & black walnuts near the Same Size” Similarly, Benjamin Hawkins, an Indian agent, recorded a “poplar 22 feet in circumference” in East Tennessee, and at a location in North Georgia, encountered: “some of the largest beech I ever saw, many of them 3 feet over.”

Third, the forests were much more open and devoid of underbrush during the early 19th century. The “long rank grass [spreading] out its perennial verdure” beneath the majestic trees
in Robert Strange’s description, cited above, was echoed by numerous travelers in the Cherokee country.

George Featherstonhaugh characterized the country he traveled through in eastern Tennessee in 1837 as having “a truly Indian character, short trees amidst tall luxuriant wild grass,” and described a nearby area as: “pleasingly wooded, and sufficiently open to admit of the growth of various beautiful flowers.”

Similarly, William Bartram traveled through “grassy open forests” and “spacious high forests and flowery lawns” during his travels through the Cherokee country of western North Carolina in 1775, and in 1799 the Moravian missionaries Abraham Steiner and Frederick C. De Schweinitz remarked on the absence of undergrowth and the “high grass” in many of the forests that they passed through in eastern Tennessee.

Finally, the military officer Williams found the Cherokee forests to be “generally very open, that is the trees are wide apart.” Williams correctly attributed the cause of the open park-like forests to “the fires which the Indians continually make to burn the undergrowth or brush, in order to facilitate hunting…”

**Woods Burning**

Travelers through the Cherokee country during the late 18th and early 19th centuries reported seeing fires set by the Indians, or encountered the aftermath of those fires. During their journey through eastern Tennessee the missionaries Steiner and De Schweinitz “saw traces of forest fire….and passed women and children, who were setting fire to the grass in the woods.” And while camping near a creek in North Georgia, the Indian Agent Benjamin Hawkins complained about the damage he perceived to have been caused by “a recent burning of the woods.”

These fires could be quite extensive. While attempting to ascertain the correct location of the boundary between North Carolina and Georgia in November and December, 1811, Andrew Ellicott complained that his work was “impeded several days by the smoke with which the atmosphere was filled occasioned by the annual custom of burning of the woods.”
by the Indians.”

Observed Ellicott: “Those fires scattered over a vast extent of country made a beautiful and brilliant appearance at night; particularly when ascending the sides of mountains.”

The practice of burning the woods was widespread among Native Americans. Hunting was facilitated by the practice because the low ground fires encouraged grass and to grow among the trees, providing food for deer and other game animals. The hogs and other domestic animals that were being raised in increasing numbers by the Cherokee during the late 18th and early 19th centuries also benefited from the woods pasture created by the fires. In addition, the fires served to lower the risk of catastrophic conflagrations by reducing the buildup of debris on the forest floor, reduced the populations of unwanted pests, and facilitated the gathering of nuts by making them easier to collect from the ground.
Chapter Endnotes

1 Murphey, “Memoir on Internal Improvements,” 118.

2 Return J. Meigs to the Secretary of War [Henry Dearborn], October 20, 1802, M-208, Reel 1.


5 On the location and creation of the Meigs-Freeman line, see H. Tyler Blethen and Curtis W. Wood, “The Pioneer Experience to 1851,” in The History of Jackson County, ed. Max R. Williams (Sylva, N.C.: The Jackson County Historical Association, 1987), 69; Ron Peterson, “Two Early Boundary Lines with the Cherokee Nation,” Journal of Cherokee Studies 6, no. 1 (1981); Arthur, Western North Carolina, 51-53; James S. McKeown, “Return J. Meigs: United States Agent in the Cherokee Nation, 1801-1823” (Ph.D. dissertation, Pennsylvania State University, 1984), 65-66; George H. Smathers, The History of Land Titles in Western North Carolina (New York: Arno Press, 1979), 58-59; Treaties between the United States of America and the Several Indian Tribes, from 1778 to 1837: With a Copious Table of Contents (Millwood, New York: Kraus Reprint Company, 1975), 80; Return J. Meigs to the Secretary of War [Henry Dearborn], October 20, 1802, M-208, Reel 1; Return J. Meigs to the Secretary of War [Henry Dearborn], October 22, 1802, M-208, Reel 1; Freeman’s Journal of the Running of the Meigs-Freeman Line [Untitled Fragment], 1802, M-208, Reel 1, and Return J. Meigs to the Secretary of War [Henry Dearborn], July 13, 1802, M-208, Reel 1. Many of the original documents pertaining to the running of the Meigs-Freeman line were transcribed and included a 1966 article in the Georgia Genealogical Society Quarterly. See James M. Puckett, “Meigs Line - 1802,” Georgia Genealogical Society Quarterly 2, no. 4 (1966).


7 References to “The Great Road” or “The County Road” are found in the surveyor’s notes for four properties located along Watauga Creek northeast of the present town of Franklin. The properties in question are District 10 Tracts 51, 52, and 54 and District 11 Tract 1. Cherokee Survey Books, SSP, NCDAH.

8 There is no single comprehensive source on the Indian trails of western North Carolina. The north-south trail along the Little Tennessee River was described in a letter from Macon County resident Silas McDowell to the historian Lyman Draper written in 1873. See Silas McDowell to Lyman Draper, July 8, 1873, Draper Mss. KK49. The route of Rutherford’s expedition, or Rutherford’s Trace, is reconstructed in Dickens, “Route of Rutherford’s Expedition,” and described in Barnes et al., eds., “Historical Sketch,” 133, and Sondley, History of Buncombe County, 378-79. Both the major east-west and north-south routes are described in W. E. Myer, “Indian Trails of the Southeast,” Bureau of American Ethnology Annual Report 42 (1928): 771-75. A good description of trails in the region is also found in Blethen and Wood, “Pioneer Experience,” 72. See also Hamilton, “Revolutionary Diary of William Lenoir,” 252; Margaret Walker Freel, Our Heritage, the People of Cherokee County, North Carolina, 1540-1955 (Asheville, N.C.: Miller Print. Co., 1956), 18, and Blackmun, Western North Carolina, 402, footnote 11.

10 E.g. Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH, and Deposition of John Moore, July 25, 1828, TCP, Indian Affairs and Lands, NCDAH.
13 Ibid.
14 Grant, “Journal of Lieutenant-Colonel James Grant,” 32-33. For a similar description attributed to one of the early settlers of the 1819 Treaty Lands see Mrs. N. C. Arthur et al., comps, The Siler Family: Being a Compilation of Biographical and Other Historical Sketches Relating to the Descendants of Plikard and Elizabeth Siler and Read at the Jubilee Reunion of the Siler Family Held in Macon County, North Carolina, August 28, 1901; Addition 1926 (Franklin, N.C.: Franklin Press, 1926), 8. It was easy to get lost in the maze of trails. The colonial army under the command of General Griffith Rutherford that invaded the Middle and Valley Towns during the Cherokee War of 1776 missed the trail that crossed the Nantahala Mountains through Wayah Gap and by so doing inadvertently avoided an ambush that had been laid for them by the Cherokees. See Hamilton, “Revolutionary Diary of William Lenoir,” 252.
17 J. P. Evans, “Sketches of Cherokee Characteristics,” Journal of Cherokee Studies 4, no. 1 (1979), 12. Another observer declared that the improvements (houses, outbuildings, fields, etc.) of the poorer class of Cherokee “were not worth fifty dollars each.” Return J. Meigs to Joseph McMinn, January 17, 1817, M-208, Reel 7.
18 Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 121.
19 E.g. Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
20 See Mooney, Myths of the Cherokee, 179.
21 E.g. Claim of Susanna [also spelled Sussanah], [no date – claim filed December 30, 1846], Case 490, RFBCC, Claim Papers, RG 75, NAR.
22 E.g. Deposition of Arseen and Memorial for the Value of an Improvement, August 21, 1843, Claim 179, RFBCC, Claim Papers, RG 75, NAR, and Deposition of John Welch and Memorial for the Value of an Improvement Under the Treaty of 1819, August 21, 1843, Claim 178, RFBCC, Claim Papers, RG 75, NAR.
23 Deposition of Che ye nan a [also spelled Che a nan na], August 8, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR.
24 Deposition of Cha u lah [also spelled Chi-ul-ula], August 8, 1843, Claim 112, RFBCC, Claim Papers, RG 75, NAR.
25 Deposition of Wa-lees-ka, August 8, 1843, Claim 159, RFBCC, Claim Papers, RG 75, NAR.
26 Deposition of Kee-nee-tee [also spelled Ke-ne-te], August 1, 1843, Claim 115, RFBCC, Claim Papers, RG 75, NAR.
27 Deposition of John Welch and Memorial for the Value of an Improvement Under the Treaty of 1819, August 21, 1843, Claim 178, RFBCC, Claim Papers, RG 75, NAR. See also Deposition of John Bryson, August 21, 1843, Claim 178, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Arseen and Axe, August 21, 1843, Claim 178, RFBCC, Claim Papers, RG 75, NAR.
28 Deposition of Cho-ga, August 8, 1843, Claim 157, RFBCC, Claim Papers, RG 75, NAR.
29 Deposition of Willageeska [also spelled Willageeska], August 1, 1843, Claim 162, RFBCC, Claim Papers, RG 75, NAR; see also Willageeska’s [also spelled Willageeska] Account Against the United States for Improvements, [no date, claim filed December 30, 1846], Claim 162, RFBCC, Claim Papers, RG 75, NAR.
30 Claim of Susanna [also spelled Sussanah], [no date – claim filed December 30, 1846], Case 490, RFBCC, Claim Papers, RG 75, NAR.
31 Ground Squirrel, Claim Under Treaty of 1819, August 2, 1843, Claim 114, RFBCC, Claim Papers, RG 75, NAR.

33 E.g. Deposition of Cha u lah [also spelled Chi-ula], August 8, 1843, Claim 112, RFBCC, Claim Papers, RG 75, NAR; Deposition of [Kudlaskudlow?] or Jack and Tammy or Tauny, July 16, 1843, Claim 460, RFBCC, Claim Papers, RG 75, NAR; Valuation Claim of the Heirs of Catahee [also spelled Ca ta te hee], [no date – claim filed December 30, 1846], Claim 420, RFBCC, Claim Papers, RG 75, NAR; and Deposition of Che ye nan a [also spelled Che a nan na], August 8, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR.

34 E.g. Deposition of Cha u lah [also spelled Chi-ula], August 8, 1843, Claim 112, RFBCC, Claim Papers, RG 75, NAR; Deposition of [Kudlaskudlow?] or Jack and Tammy or Tauny, July 16, 1843, Claim 460, RFBCC, Claim Papers, RG 75, NAR; Valuation Claim of the Heirs of Catahee [also spelled Ca ta te hee], [no date – claim filed December 30, 1846], Claim 420, RFBCC, Claim Papers, RG 75, NAR; and Deposition of Che ye nan a [also spelled Che a nan na], August 8, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR.


40 E.g. Deposition of John Bryson, August 21, 1843, Claim 433, RFBCC, Claim Papers, RG 75, NAR; Deposition of Che ye nan a [also spelled Che a nan na], August 8, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR; Deposition of George Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of three undated depositions by George Shuler in this collection); Deposition of Lucy, August 8, 1843, Claim 160, RFBCC, Claim Papers, RG 75, NAR, and Memorial of Aquala, [no date – claim filed December 30, 1846], Claim 459, RFBCC, Claim Papers, RG 75, NAR.

41 Deposition of Nelly, Sally, and Nancy, Heirs of Snail, August 2, 1843, Claim 166, RFBCC, Claim Papers, RG 75, NAR.

42 Ground Squirrel, Claim Under Treaty of 1819, August 2, 1843, Claim 114, RFBCC, Claim Papers, RG 75, NAR.


45 E.g. Deposition of [Kudlaskudlow?] or Jack and Tammy or Tauny, July 16, 1843, Claim 460, RFBCC, Claim Papers, RG 75, NAR; Memorial of Axe, August 18, 1843, Claim 433, RFBCC, Claim Papers, RG 75, NAR; Memorial of Chenenna [Che ye nan a or Che a nan na] for the Value of an Improvement, July 17, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR, and Claim of Susanna [also spelled Sussanah], [no date – claim filed December 30, 1846], Case 490, RFBCC, Claim Papers, RG 75, NAR.

46 E.g. Memorial of George for the Value of an Improvement, August 1843 [no day of month given], Claim 438, RFBCC, Claim Papers, RG 75, NAR, and Ground Squirrel, Claim Under Treaty of 1819, August 2, 1843, Claim 114, RFBCC, Claim Papers, RG 75, NAR.

47 E.g. Memorial of Axe, August 18, 1843, Claim 433, RFBCC, Claim Papers, RG 75, NAR.
Douglas Wilm’s study of Cherokee land use in Georgia during the early 19th century provides a good overview of the types of Euro-American structures that were present on Cherokee farms during this period. Wilm’s study is based on the records of property valuations conducted so that Cherokee forced to leave their homes at the time of the Cherokee removal might be compensated for their improvements. Included among these records were frequent references to stables, kitchens, smoke houses, outhouses, and hen houses. See Douglas C. Wilm’s, “Cherokee Indian Land Use in Georgia, 1800-1838” (Ph.D. Dissertation, University of Georgia, 1973). However, these non-traditional Cherokee structures appear to have been less frequent among the Cherokee of remote western North Carolina at the time of the 1819 land cession. See also Richard Pillsbury, “The Europeanization of the Cherokee Settlement Landscape Prior to Removal: A Georgia Case Study,” Geoscience and Man 23 (1983); Douglas Wilms, “Cherokee Land Use in Georgia before Removal,” in Cherokee Removal: Before and After, ed. William Anderson (Athens: University of Georgia Press, 1991); Douglas C. Wilms, “Cherokee Acculturation and Changing Land Use Practices,” Chronicles of Oklahoma 56 (1978); Douglas C. Wilms, “Cherokee Settlement Patterns in Nineteenth Century Georgia,” Southeastern Geographer 14 (1974).


Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 142, and see for instance Ground Squirrel, Claim Under Treaty of 1819, August 2, 1843, Claim 114, RFBCC, RG 75, NAR; Deposition of Aquat-ta-ga [also spelled Aquotaga], August 2, 1843, Claim 163, RFBCC, RG 75, NAR; Deposition of John Timnegiska, August 1, 1843, Claim 168, RFBCC, RG 75, NAR, and Memorial of Chenenna [Che ye nan a or Che a nan na] for the Value of an Improvement, July 17, 1843, Claim 435, RFBCC, Claim Papers, RG 75, NAR.


Williams, ed., Timberlake’s Memoirs, 68.


Robert Strange (1796-1854) was a lawyer, judge, member of the House of Commons, and United States Senator from North Carolina. His novel, Eoneguski, published anonymously in 1839, is set in western North Carolina during the early years of the 19th century, and is considered the first novel by a North Carolinian with a North Carolina setting. Written in the James Fennimore Cooper tradition, the novel is a fictionalized account of the romance between the “mixed-blood” Cherokee John Welch and Elizabeth or Betty Blythe (See Chapter 5 herein). The novel is unusual both because the real or thinly disguised names of actual people are used as the names of many of the characters in the book (for instance, the character based on John Welch is called John Welch in the novel) and because of its very sympathetic (for the time that it was written) portrayal of the Cherokee. Although fiction, the astute observations and descriptions woven into the novel and the credibility given these descriptions by the fact that Strange served as a superior court judge in western North Carolina make the book a worthwhile source of information on the Cherokee borderlands during the early 19th century. On Robert Strange and his novel, see Richard Walser, “Senator Strange’s Indian Novel,” The North Carolina Historical Review 26, no. 1 (1949). On Eoneguski, see also “North Carolina’s First Novel,” http://www.teresita.com/html/eoneguski.html (cited 4/17/03).

Robert Strange, Eoneguski, or the Cherokee Chief (Charlotte: McNally, 1960), 6 (Book 2). In his travels through the Cherokee country, chiefly in Tennessee, Georgia, and what would become Alabama, Major John Norton averred that women had “made much greater advances in industry than the males,” and conceded that males had “not made proportionate progress in agriculture…” Norton emphasized, however, that the men raised “great herds of cattle, which can be done with little exertion; and the sale of these brings much wealth into the Nation.” Klinck and Talman, eds., Journal of Major John Norton, 59-60.


Ross Journal, in Historical Magazine, October, 1867, Quoted in Mooney, Myths of the Cherokee, 52.

The relationship, if any, between William Moore the soldier and William Moore the surveyor, mentioned above, is unclear.

William Moore to Griffith Rutherford, November 7, 1776, transcribed in Wilburn, “Nununyi, the Kituhwas, or Mountain Indians and the State of North Carolina,” 55-57.


E.g. see Kristen J. Gremlion, “Adoption of Old World Crops and Processes of Cultural Change in the Historic Southeast,” Southeastern Archaeology 12, no. 1 (1993).


“Bro. Martin Schneider’s Report of his Journey to the Upper Cherokee Towns (1783-1784) in Ibid.

E.g. Deposition of John Bryson, July 20, 1843, Claim 420, RFBCC, Claim Papers, RG 75, NAR; Memorial of George for the Value of an Improvement, August 1843 [no day of month given], Claim 438, RFBCC, Claim Papers, RG 75, NAR; Deposition of Arseen and Axe, August 21, 1843, Claim 438, RFBCC, Claim Papers, RG 75, NAR; Deposition of Gideon F. Morris, July 27, 1843, Claim 577, RFBCC, Claim Papers, RG 75, NAR; Ground Squirrel, Claim Under Treaty of 1819, August 2, 1843, Claim 114, RFBCC, Claim Papers, RG 75, NAR; Deposition of Jack Downing and Memorial for the Value of an Improvement, August 21, 1843, Claim 175, RFBCC, Claim Papers, RG 75, NAR; Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 121-24.

Improvement Claim of [Nah dah we?], 1838, MR-815, Frame 1167; Improvement Claim of Ah you que, 1838, MR-815, Frame 1175; Improvement Claim of Onions in the Water, 1838, MR-815, Frame 1175; Improvement Claim of [We hee yo ne to?], 1838, MR-815, Frame 1187; Improvement Claim of [Raged Man of Nancoochey?], 1838, MR-815, Frame 1202.


Improvement Claim of Ah you que, 1838, MR-815, Frame 1175.
Improvement Claim of [Unnucolah or Peaches?], 1838, MR-815, Frame 1210; Improvement Claim of Aley Fields, 1838, MR-815, Frame 1205.

Improvement Claim of [Cos skah taw?], 1838, MR-815, Frame 1200. On the possibility that Native Americans managed the forests to increase the number of food bearing trees, see Julie E. Hammet, “Ethnohistory of Aboriginal Landscapes in the Southeastern United States,” Southern Indian Studies 41 (1992), 36; see also p. 28. See also Hatley, “Cherokee Women Farmers,” 39-40.


Wilms, “Cherokee Indian Land Use in Georgia,” 31, 33. See also Goodwin, Cherokees in Transition, 129.

Perdue, Cherokee Women, 224.

Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 125.


Ibid.

See Cherokee Survey Books, SSP, NCDAH.


Deposition of Mark Coleman, August 9, 1843, Claim 156, RFBC, Claim Papers, RG 75, NAR.

Deposition of Mark Coleman, August 9, 1843, Claim 112, RFBC, Claim Papers, RG 75, NAR. See also Deposition of Cha u lah [also spelled Chi-ul-a], August 8, 1843, Claim 112, RFBC, Claim Papers, RG 75, NAR. According to Gregory Waselkov, communal fields were becoming less common among the Cherokee population as a whole during the early 19th century as towns became more dispersed, making it more difficult to bring together the number of people necessary to perform communal labor. Gregory A. Waselkov, “Changing Strategies of Indian Field Location in the Early Historic Southeast,” in People, Plants, and Landscapes: Studies in Paleoethnobotany, ed. Kristen J. Gremillion (Tuscaloosa: University of Alabama Press, 1997), 187.

Wilm, “Cherokee Indian Land Use in Georgia,” 80-81.

Brett Riggs reported a figure of 11.34 improved acres per household in western North Carolina based on the 1835 census. See Riggs, “Removal Period Cherokee Households in Southwestern North Carolina”, 146. Working with a transcription of the same census, William G. McLoughlin and Walter H. Conser, Jr., arrived at a figure of 9.67 acres in cultivation per farm in western North Carolina. This was the lowest amount of land cultivated per farm of any of the states in which the Cherokee resided. See McLoughlin and Conser, “Cherokees in Transition,” 685.


E.g. Deposition of Aquat-ta-ga [also spelled Aquotaga], August 2, 1843, Claim 163, RFBC, Claim Papers, RG 75, NAR; Deposition of Hun-na-sukeh [also spelled Hun-na-su-kih], August 1, 1843, Claim 165, RFBC, Claim Papers, RG 75, NAR, and Deposition of Little John, August 1, 1843, Claim 161, RFBC, Claim Papers, RG 75, NAR. In 1824 the Cherokee National Committee set a legal standard for fences in the Cherokee nation. According to this standard, fences five feet high were considered lawful. If a horse or other animal broke into a field with a legal fence, the owner of the animal was responsible for any damages the animal caused. Cherokee Advocate Office, Laws of the Cherokee Nation, 41.

E.g. Deposition of Jacob Siler, October 14, 1838, Claim 74, RFBC, Claim Papers, RG 75, NAR, and Deposition of Toocah [also spelled Too-kah], August 8, 1843, Claim 156, RFBC, Claim Papers, RG 75, NAR.
animals “more streaked, firm, and better tasted, than any we meet with in the English settlements.” Williams, ed., Adair’s History of the American Indians, 436.

Archibald Murphey, a prominent North Carolina official who visited western North Carolina in 1819 described the mountains as “an inexhaustible range for cattle.” Murphey, “Memoir on Internal Improvements,” 180. Similarly, the military officer Williams wrote of the Cherokee country in 1838: “…even the steeper mountains afford a good range for cattle…” Williams, “Military Intelligence Report on N.C. Cherokees,” 206. For similar observations about the suitability of the mountains as woods pasture see Thomas Love, Montford Stokes, and John Patton to William Miller, October 1, 1815, GLB 21, pp. 253-55, NCDAH, and Report of the Select Committee to whom was referred “so much of the Message of his Excellency the Governor, as relates to the Cherokee lands,” and also the Message enclosing the report of the Commissioners appointed under an Act of the last General Assembly of this State entitled “an act prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians,” [no date], GASP, 1827-1828, House Committee Reports, NCDAH.

Deposition of George Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of three undated depositions by George Shuler in this collection).


See for example “Report of the Journey of the Brethren Abraham Steiner and Frederick C. De Schweinitz to the Cherokees and the Cumberland Settlements (1799)” in Williams, ed., Early Travels in the Tennessee Country, 479, 90, and “Reports of Colonels Christian and Lewis During The Cherokee Expedition, 1776;” The Virginia Magazine of History and Biography 17, no. 1. Dogs were the only animal domesticated by the Cherokee at the time of European contact. See Arlene Fradkin, Cherokee Folk Zoology (New York: Garland Publishing Company, 1990) 42.

For example, see Deposition of [Kudlaskudlow?] or Jack and Tammy or Tauny, July 16, 1843, Claim 460, RFBC, Claim Papers, RG 75, NAR; Petition of Big Will Otter and Wife Nancy to the U.S. Commissioners Acting Under the Treaty of 1835 & 6, December 1, 1843, Claim 171, RFBC, Claim Papers, RG 75, NAR, and Deposition of Arseen, June 23, 1843, Claim 179, RFBC, Claim Papers, RG 75, NAR.


See for example “Report of the Journey of the Brethren Abraham Steiner and Frederick C. De Schweinitz to the Cherokees and the Cumberland Settlements (1799)” in Williams, ed., Early Travels in the Tennessee Country, 479, 90, and “Reports of Colonels Christian and Lewis During The Cherokee Expedition, 1776;” The Virginia Magazine of History and Biography 17, no. 1. Dogs were the only animal domesticated by the Cherokee at the time of European contact. See Arlene Fradkin, Cherokee Folk Zoology (New York: Garland Publishing Company, 1990) 42.

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Adair’s History of the American Indians, 242. Frederick Olmsted echoed this observation almost a century later, stating that the meat of hogs that had fed on mast was said to be “of superior taste to that made with corn, but lacks firmness.” Olmsted, Journey in the Back Country, 251. See also Klinck and Talman, eds., Journal of Major John Norton, 132.

110 Affidavit of Zachariah Cabe, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.
112 Samuel Cole Williams, ed., Lieut. Henry Timberlake’s Memoirs: 1756-1765 (Marietta, Georgia: Continental Book Company, 1948), 71-72. Arlene Fradkin, the author of a study of Cherokee folk zoology, suggests that elk were also present in the region. Fradkin, Cherokee Folk Zoology, 40.
113 Fradkin, Cherokee Folk Zoology, 44; on commercial hunting see Dunaway, First American Frontier, 23-50.
114 Goodwin, Cherokees in Transition, 132.
115 Buffalo were never present in large quantities in the Southeast and were gone by the early 19th century. The animals do not appear to have moved into the Southeast until the 17th century, after European diseases had depleted Native American populations in the region. See Erhard Rostlund, “The Geographic Range of the Historic Bison in the Southeast,” Annals of the Association of American Geographers 50, no. 4 (1960); H. Trawick Ward, “The Bull in the North Carolina Buffalo,” Southern Indian Studies 39 (1990), and Fradkin, Cherokee Folk Zoology, 44.
116 Although Gary Goodwin (Cherokees in Transition, 132) states that panthers had disappeared from the Cherokee country by the Revolutionary War, it is probable that a few of these animals remained in remote western North Carolina, as the newspaper article suggests.
117 Blue Ridge Enterprise, February 15, 1883. A list of all the vertebra fauna potentially present in the Cherokee country of eastern Tennessee, and by implication on the 1819 Treaty Lands of western North Carolina during the historic period can be found in Arlene Fradkin, “Reconstructing the Folk Zoological World of Past Cultures: The Animal Semantic Domain of the Protohistoric Cherokee” (Ph.D. dissertation, University of Florida, 1988), 665-703. A list of native and introduced animal species that were recorded in primary historical accounts pertaining to the Cherokee dating to the late 18th and early 19th centuries can be found in Fradkin, “Reconstructing the Folk Zoological World of Past Cultures,” 614-64. A list of animals, birds, insects, and fish present in the Cherokee country before European contact can be found in Goodwin, Cherokees in Transition, 165-75. A list of the indigenous flora of the Cherokee country as recorded in early historical accounts can be found in Fradkin, “Reconstructing the Folk Zoological World of Past Cultures,” 34; a similar list consisting of plants and animals mentioned in early travelers’ accounts or whose remnants have been found on late historic or protohistoric archaeological sites in north-central and western North Carolina can be found in Hammet, “Ethnohistory of Aboriginal Landscapes,” 25-27. A list of pre-contact wild and cultivated plants in the Cherokee country can be found in Goodwin, Cherokees in Transition, 157-64.
121 “Benjamin Hawk’s Journal (1797)” in Ibid., 371. The large amount of deforested land in the Cherokee country was not a phenomenon only of the historic period. Paleoenthnobotanical studies of the Little Tennessee River Valley in eastern Tennessee have revealed that extensive amounts of land had been cleared by the Indians hundreds of years prior to European contact. See Paul A. Delcourt et al., “Holocene Ethnobotanical and Paleoenological Record of Human Impact on Vegetation in the Little Tennessee River Valley, Tennessee,” Quaternary Research 25 (1986), and Hazel R. Delcourt and Paul A. Delcourt, “Strawberry Fields, Almost Forever,” Natural History (September, 1989).
122 Cherokee Survey Books, SSP, NCDAH. The Nucassee Plains are referenced in the surveyor’s notes for District 11 Tract 32 and the “Big Meadow” is referenced in the notes for District 8 Tract 11.
123 Petition of Thomas Brown, GASR, 1827-1828, House Committee Reports, NCDAH.
125 French, “Journal of an Expedition to South Carolina,” 286.
128 Ibid., 218.
The fact that these remarkably large trees merited specific mention in these accounts suggests that such majestic
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135 Williams, ed., *Adair’s History of the American Indians*, 241. Italics added to quotation for emphasis.
136 Return J. Meigs to George Graham, October 30, 1817, M-208, Reel 7.
137 For instance, cane is frequently mentioned in the journal of Major John Norton, who traveled through the Cherokee country in 1809. See for example pp. 38 and 45 in Klinck and Talman, eds., *Journal of Major John Norton*.
139 See notes for District 12 Tract 3, Cherokee Survey Books, SSP, NCDAH.
143 Hawkins, *Letters of Benjamin Hawkins*, 23. There was some variation in the way fish were trapped or poisoned. A 19th century observer described a fishing practice among the Cherokee of North Georgia in which a combination of trapping and poisoning was used. In this case the Indians would construct stone enclosures into which the fish would either be driven by groups of people or washed during floods. The Indians would then introduce poison into the water to facilitate the capture of the fish. See Abbott, Curry, and Hoole, *Cherokee Indians in Georgia*, 26.
144 Strange, *Eoneguski*, 91 (vol. 1). The vines Strange referred to were probably pea vines, which were encouraged by the Cherokee practice of periodically burning the woods. See Brad Alan Bays, “The Historical Geography of Cattle Herding among the Cherokee Indians, 1761-1861” (MA thesis, University of Tennessee, 1991), 43.
147 Return J. Meigs to George Graham, [no date], M-208, Reel 1. Published transcription in Puckett, “Meigs Line - 1802,” 188.
149 The uncle of the Robert Love who surveyed the 1819 Treaty Lands. See Chapter Nine herein.
152 Benjamin Hawkins, *Letters of Benjamin Hawkins,1796-1806* (Savannah, Ga: Georgia Historical Society, 1916), 25. The fact that these remarkably large trees merited specific mention in these accounts suggests that such majestic
specimens were exceptional even at the time that the accounts were written. However, it is a reasonable inference that the 19th century forests, which had yet to have been subjected to commercial logging, included trees that were on average larger than those that are present in most locations at the turn of the 21st century.


160 Ibid., 229.


162 “Report of the Journey of the Brethren Abraham Steiner and Frederick C. De Schweinitz to the Cherokees and the Cumberland Settlements (1799),” in Williams, ed., *Early Travels in the Tennessee Country*, 477-78. See also Klink and Talman, eds., *Journal of Major John Norton*. During his travels in the Cherokee country, especially in Tennessee, Alabama, and Georgia, in 1809, Norton recorded numerous places where the forests were open with widely dispersed trees and lacked “underwood,” e.g. pp. 38, 45, 53-54, 113, 144, 154-155.

163 Williams, “Military Intelligence Report on N.C. Cherokees,” 206. See also the account of the 19th century Cherokee of Georgia by Belle Abbot. According to Abbot, the Cherokees burned the woods every autumn, resulting in forests that were free of underbrush and forest floors covered with grass. Abbott, Curry, and Hoole, *Cherokee Indians in Georgia*, 51.


166 Andrew Ellicott’s Report on his Work Identifying the North Carolina/Georgia Boundary, [no date, but around 1812], Andrew Ellicott Papers (Library of Congress Microcopy, Reel 2), Library of Congress, Washington, D.C.


CHAPTER FOUR: CHEROKEES ON THE CEDED LANDS

During the first two decades of the 19th century the Cherokee who lived in the remote mountains of western North Carolina were the most conservative, traditionalist, and racially homogeneous segment of the Cherokee population.¹

The few descriptions of the western North Carolina Cherokee that survive from this period emphasize how “backward” these people were. While engaged in taking a census of the Cherokee in 1808, George Barber Davis expressed surprise about the conditions in the mountains, observing in a letter that he “had not an idea of seeing such Indians as there is over the hills and in the vallies – they are at least twenty years behind [the rest of the Cherokee nation].”² And during a journey through the Cherokee country the following year, Major John Norton observed that the mountain Cherokees were “not so generally advanced in civilization and industry, nor do they possess property equal to those who inhabit the banks of the Tennessee [the Tennessee River in Tennessee and Alabama]; but they are a simple, honest people, living nearly in the same manner as their progenitors, with the addition of some horses, cattle and hogs.”³

In fact, the lives of the mountain Cherokee were not so static. The “horses, cattle, and hogs” mentioned by Norton required the construction of split rail fences to protect agricultural fields, and contributed to a general dispersal of the population that probably altered the dynamics of village life. Other changes were afoot as well. Cherokee leaders assembled in council at the town of Cowee in 1811 penned a letter to the Cherokee agent, Return J. Meigs, asking his opinion about a series of laws that they proposed to enact. These laws included penalties of up to 100 lashes on the bare back for the theft of a horse, and allowed for the seizure of the property of debtors. Such regulations suggest an increased concern for the acquisition and protection of private property, and suggest an increasing influence of outsiders on the Cherokee of the region. Indeed, the increased presence of these outsiders is acknowledged in the same communication,
which includes a proposed law prohibiting white men resident among the Indians from working on Sunday, and voices complaints about white intruders who had settled illegally on Cherokee lands.\textsuperscript{4}

Clearly, if the pace of change was less among the mountain Indians than it was among the Cherokee who lived in less remote regions, change was nonetheless occurring. But these changes passed if not unnoticed, at least unremarked by outside observers, for just as there are no known descriptions of the landscape of the 1819 Treaty Lands as it existed at the time of the land cession, so are there no known descriptions of the people who occupied and shaped that landscape. The purpose of this chapter is to make use of what evidence is available to describe these people: How many of them were they? Who were they? Where did they live? How did they live? The answers to these questions will necessarily be selective and limited, and no attempt will be made to describe all aspects of Cherokee life in the region. Rather, the intent is to provide a broad overview the way people lived, with a particular focus on those aspects of Cherokee life on the Treaty Lands about which specific information has been found.

\textit{Overall Population}

The Cherokee population on the lands in western North Carolina that were ceded under the terms of the Treaty of 1819 probably numbered between 1000 and 1500, but no precise figures exist.\textsuperscript{5} A census of the Cherokee residing on the ceded lands taken in November, 1820 puts the Cherokee population at 497, but this lower figure likely reflects a considerable exodus from the area in the wake of the treaty (Figures 4.1 and 4.2). Assuming that the estimate of 1000 to 1500 people is correct, the Treaty Lands were home to between 10 and 15\% of all Cherokees remaining east of the Mississippi in 1819.\textsuperscript{6}

\textit{Population Clusters}

The Cherokee population on the ceded lands was concentrated in the Little Tennessee and Tuckaseegee river valleys. Based on the figures given in a census of the Cherokee taken in 1809 the towns of Sugar Town, Watoga and Cowee Town, all in the vicinity of the present
Figure 4.1 - A Census of the Cherokee remaining on the 1819 Treaty Lands taken in 1820. The note on the side of the census reads: “A True and Accurate Numeration of the Indians that is living on the purchases. Also the number of reservations that has been surveyed - - - I was at a loss to distinguish the age and sects and have added each family together.” Note that the number of inhabitants listed on the census, 487, is ten less than the total of the figures given for each family. Source: County Records, Haywood County, North Carolina Office of Archives and History.
<table>
<thead>
<tr>
<th>Name</th>
<th>Number in Family</th>
<th>Number of Reservations</th>
<th>Name</th>
<th>Number in Family</th>
<th>Number of Reservations</th>
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</thead>
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<td></td>
<td>Eight Kiler</td>
<td>10 1</td>
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<td>Jim</td>
<td>4 1</td>
<td></td>
<td>Butterfly</td>
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<td>Rabit</td>
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</tr>
<tr>
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<td>6 1</td>
<td></td>
<td>Partridg</td>
<td>7 1</td>
<td>Willnotey</td>
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<td>Gidon Moris</td>
<td>4 1</td>
<td>Jonston</td>
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<td>10 1</td>
<td></td>
<td>Dick Walker</td>
<td>10 1</td>
<td>Culsowey</td>
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<td></td>
<td>Lowin</td>
<td>5 1</td>
<td>Big Buck</td>
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<td></td>
<td>Cob</td>
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<td>Lowin</td>
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<tr>
<td>John Welch</td>
<td>5 1</td>
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<td>Yaler Bird</td>
<td>3 1</td>
<td>Big Tom</td>
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<td></td>
<td>Tom</td>
<td>5 1</td>
<td>Grass?</td>
</tr>
<tr>
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<td></td>
<td>Jack</td>
<td>8 1</td>
<td>Bare at Home</td>
</tr>
<tr>
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<td></td>
<td>Spik Buck</td>
<td>10 1</td>
<td>William Reid</td>
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<td>Joney Quechey</td>
<td>8 1</td>
<td></td>
<td>Pots</td>
<td>10 1</td>
<td>Shoney John</td>
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<td>Oater?</td>
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<td></td>
<td>Big Tom</td>
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<td>Nicky Jack</td>
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<tr>
<td>Twainbelly</td>
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<td>Drowning Bare</td>
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<td>Stekoy</td>
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<td>Santytake</td>
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<td>Standing Wolf</td>
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<td>Nicky Jack</td>
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<td>Whiporwill</td>
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<td>Jacob</td>
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Figure 4.2 - Transcription of the 1820 Census of Cherokee living on the 1819 Treaty Lands.
town of Franklin, were the home to the largest number of people. These towns were all of some antiquity. The town of Cowee was of particular importance during the 18th century, being “the most considerable Town in the middle settlements” during this period. Watoga and Cowee were visited and described by the naturalist William Bartram in his travels through the area in 1775, while Sugar Town was the site of a skirmish during Cherokee War of 1776 (Figure 4.3).

To the north, along the Tuckaseegee River, a second population concentration was located in the vicinity of the old Cherokee town of Kituwah, which was thought by the Cherokee to be the Mother Town or point of origin of the entire tribe (Figure 4.4). However, while Kituwah apparently remained of some political or symbolic importance, it appears to have been eclipsed in population by the nearby town of Tuckaleach or Tuckaleche. Tuckaleche was either synonymous with or near a town called Bearstown, which was the home of Big Bear, the preeminent Cherokee leader in the region at the time of the 1819 land cession.
Household Size

The households that collectively comprised the towns varied widely in size. The 1820 census of Cherokee remaining on the 1819 Treaty Lands (see above) lists households that included from 1 to 25 members, with an average household size of 6.21.\textsuperscript{12} Similarly, Cherokees who applied for reservations on the ceded lands had households that included anywhere from 3 to 19 individuals, with an average household size of 6.29.\textsuperscript{13} By comparison, the households of North Carolina Cherokees listed in the Cherokee Census of 1835 ranged in size from 1 to 13 members, with an average household size of 5.62 individuals, and the average household size for the Cherokee Nation as a whole has been calculated at 6.28 individuals based on the same census.\textsuperscript{14}

Appearance of the People

What did these people look like? The British geologist and travel writer George Featherstonhaugh penned this description of the mountain Indians that he encountered while attending a Cherokee National Council in 1832:
The pure bloods had red and blue cotton handkerchiefs on their heads in the manner of turbans, and some of these, who were mountaineers from the elevated districts of North Carolina, wore also deerskin leggings and embroidered hunting shirts; whilst their turbans, their listless savage gate, and their swarthy Tarter countenances reminded me of the Arabs from Barbary. Many of these men were athletic and good-looking.15

Although Featherstonaugh’s account implies that by 1832 the clothing of the mountain Cherokee made them distinct from members of the tribe who resided in other areas, their mode of dress had been common among the Cherokee a generation earlier. During his travels through the Cherokee country in 1809, Major John Norton observed that:

The dress of the men consists of moccasins, leggings, generally of deer leather, which reach to the top of the thigh; a quarter of a yard of broad-cloth which passes between the thighs, and is fastened by a belt round the waist, the two extremities falling down behind and before; a shirt, and frock which reaches below the knee, a cap or hat, or a shawl tied round the head. The women wear the European dress with that variety which their circumstances in life may admit.16

Belle K. Abbott, the author of an early account of the Cherokee of Georgia, echoed the descriptions of Featherstonaugh and Norton, adding the detail that the women “generally wore cotton cloth or calico dresses, cut very low at the neck in front, but the waist was always supplemented with a cape, which they seldom left off.” According to Abbot the garments of both men and women were ornamented with beads, and silver and gold rings hung from their ears and noses (Figure 4.5).17

**Social Organization - Towns**

Towns were the fundamental unit of social organization among the Cherokee.18 Significantly, though, Cherokee towns during the late 18th and early 19th centuries were regarded “not as a place, but as a group of people sharing the same ceremonial and council center.”19 A nineteenth century missionary likened Cherokee towns to small colonies, “generally embracing some miles in extent.”20 Another contemporary observer remarked that “it is a custom amongst the Cherokees some time to claim to be townsmen with their chief or headman when they may live in a village of a name different from that of the chief or head man and some distance off.”21
Figure 4.5 – A photograph of a Cherokee man taken in the 1850s or 1860s. Source: Courtesy of the N.C. Office of Archives and History.
Towns were governed by town councils. Town councils technically consisted of all members of the community, but were overseen by a chief and his assistants, and by the elderly men of the village. Councils were not so much legislative bodies as they were forums in which opinions could be aired and issues could be debated until a consensus was reached. The councils did not force their consensus on the community through legislation; rather, dissenters were expected to withdraw or disassociate themselves from the proceedings in order to maintain the harmony of the whole.  

Council proceedings were usually slow and deliberate. “Indians are slow in doing business they like to reflect awhile before they act,” noted a Cherokee leader in 1818. The Cherokee agent Return Jonathan Meigs observed that “The Indians are very slow in their negotiations,” and that “…the chiefs never conclude any very important business before they find the popular sentiments of their people.” The leisurely pace of Cherokee councils sometimes aggravated whites who dealt with them. William Robards and Benjamin Robinson, who negotiated with the Indians on behalf the state of North Carolina in 1824, reported to the state legislature that the Indians agreed to deal with them only “after several meetings, and according to their custom talk after talk.”

The headmen or chiefs who served as community leaders and oversaw the workings of the council had little compulsory authority. They could negotiate consensus and persuade through strength of reasoning and personality but they could not compel or command. Still, clever or charismatic headmen could provide strong leadership. A 19th century military officer complained that the Cherokee regarded their chiefs “as oracles and [obeyed them] with the most implicit confidence.” J.P. Evans, a 19th century missionary, did not ascribe so much power to the chiefs, but conceded that “the influence of the patriarchs in their respective towns was considerable; especially in matters of minor importance.”

Documents dating to the years bracketing the Treaty of 1819 provide glimpses of the workings of the town councils and headmen on the ceded lands of western North Carolina. For example, an early settler on these lands recalled that when whites began to move onto
the Stecoa Old Fields, on the Tuckaseegee River, “the Indians to the number of about 18 had a counsel about driving the whites from the old fields…” Decisions that affected more than one community were made by community leaders meeting in regional councils. For example, the decision of where the prominent Indian countryman Gideon F. Morris would situate the individual reservation that he received under the terms of the Treaty of 1819 (see Chapters 5 & 7 herein) was made by Cherokees participating in such a gathering. As a Cherokee leader named Long Blanket (a. k. a. The Clubb) later recalled, “in talks with the heads of the Indians gathered at Sharp Fellow’s settlement it was concluded to have Morris near the middle to assist them for their business.”

And in 1816 a number of Cherokee leaders from throughout what would become the Treaty Lands gathered in council at the old Cherokee mother town of Kituwah where they addressed a letter to the Cherokee agent complaining about white intruders who were settling illegally on their lands.

Social Organization - Clans

In addition to belonging to a town, each Cherokee was a member of a clan. A person’s clan membership was determined by the clan to which their mother belonged. There were seven separate clans among the Cherokee, and each town usually included members of each clan.

Clan membership served several important functions in Cherokee society, including the regulation of marriage and the maintenance of order. The clans also served to unify the Cherokee as a people by providing common bonds among communities that were otherwise largely autonomous in the years before the advent of a strong Cherokee central government.

Order was maintained by the clans through what was known as the law of blood revenge. This law or custom entailed that if a Cherokee was killed, their clan was responsible for avenging their death by taking the life of the person who caused the death, or, if that person could not be apprehended, then the life of a close family member or another member of the killer’s clan. According to Cherokee beliefs if revenge was not taken the soul of the victim would not be able to pass from the earth. The law of blood revenge, harsh as it may seem, helped maintain peace in Cherokee society by giving all of the members of families or clans a vested interest in regulating
the actions of their kinsmen or fellow clan members, since all members of the family or clan might suffer the consequences of the actions of any individual. The law also served to stay the hands of individuals, since it ensured that even if a person could escape retaliation for their actions their family members would almost assuredly have to pay the price for those actions.33

The Cherokee National Council, the national governing body of the Cherokee during the early 19th century, passed a law in 1810 aimed at curtailing the practice of clan revenge.34 However, the custom, which was deeply ingrained in Cherokee society, appears to have continued on the 1819 Treaty Lands up to the time of the land cession.35

*Ball Plays and Dances*

Other old Cherokee practices also survived on the 1819 Treaty Lands up to the time of the land cession, albeit in forms that likely differed from their early historic and prehistoric counterparts. Among these practices were ball plays and dances.

The Cherokee Ball Play was a game akin to the modern sport of lacrosse. Ball plays frequently pitted teams from one Cherokee town against a team from another town, and were occasions for dancing, wagering, and festivity (Figure 4.6).36

Dances were held both on ceremonial occasions and on random occasions simply for the entertainment of the participants. Traditional Cherokee dances could be quite elaborate, but by the early 19th century some of the ceremonial and artistic elements of the events appear to have diminished. Writing of the Green Corn Dance, a major mid-summer celebration that was held when the corn began to ripen, the missionary J. P. Evans stated that: “The old men on such occasions, & some others, of a similar nature, seem to be seriously engaged as if performing a solemn duty; but the greater part of the youthful train, appear to be influenced by the pleasures of a frolick.”37

These frolics could also turn violent. At a Cherokee dance on the 1819 Treaty lands in 1818 or 1819, William Jones, a “mixed-blood” Cherokee, reportedly severely whipped another Cherokee who was accused of accepting money for trading away Cherokee lands.38
An early settler on the 1819 Treaty Lands, John Moore, encountered trouble while attending a Cherokee Ball Play, but the trouble may have been of his own making. According to an 1828 account, Moore lost his horses while attending the ball play. He accused the Indians of taking them, and offered a reward of four gallons of brandy for their return. When an Indian brought the horses to him, Moore refused to pay the brandy, and “took his gun and drove the Indian off and swore he would drive them all off…”

Alcohol

The consumption of alcohol may have played a part in these incidents. Alcohol was commonly consumed at Cherokee dances and ball plays during the early 19th century, and because of this the events had become an increasing source of trouble and violence. A law passed by the Cherokee National Committee in 1824 aimed at curtailing the sale of alcohol at dances and ball plays acknowledged that “great evil has resulted from the disposition and use of ardent spirits at ball plays, all-night dances and other public gatherings…”
Alcohol consumption among the Cherokees had long been encouraged by Indian traders, for whom it was an ideal trade item, since there was an inexhaustible demand for it. A Cherokee chief named Dick Justice, who lived in Arkansas, blamed alcohol for “the degeneracy of his people.” The missionary Evans asserted that while sober the Cherokee were usually a peaceable people, but “when excited by spirituous liquors, they are turbulent, quarrelsome, and easily offended.” Claims submitted at the time of the Cherokee removal from various parts of the Cherokee nation suggest the deleterious effect that drinking had on Cherokee society during the early 19th century. In one case, a Cherokee woman named Sealy Colston recalled that her brother “got into a drinking party and was killed.” In another case, a Cherokee named The Biter submitted a claim for “property lost in the woods while drunk.” Alcohol abuse seems to have been a fact of life on the 1819 Treaty Lands of western North Carolina. Yonaguska, among the most prominent chiefs on the 1819 Treaty Lands, is said to have been “somewhat addicted to liquor” until, at about 60 years of age, he suffered a severe illness and lapsed into a coma. When he awoke he not only stopped drinking himself but formed a temperance society among his followers, declaring that “God had permitted him to return to earth especially that he might thus warn his people and banish whiskey from among them.”
Chapter Endnotes

1 Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 12; Mooney, *Myths of the Cherokee*, 83, 162; McLoughlin, *Cherokee Renaissance in the New Republic*, 68; Leonard Bloom, “The Acculturation of the Eastern Cherokee: Historical Aspects,” *The North Carolina Historical Review* 19, no. 4 (1942): 349; Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 97-100; John R. Finger, *The Eastern Band of Cherokees, 1819 - 1900* (Knoxville: University of Tennessee Press, 1984), 9; McLoughlin and Conser, “Cherokees in Transition.” Major John Norton, writing generally of the mountain Cherokees, whose country he touched upon in his journey through the Cherokee nation in 1809, noted that: “There is a great body of the Cherokee Nation, that dwell in these vallies; they are said to consist of ten thousand souls - they are not so generally advanced in civilization and industry, nor do they possess property equal to those who inhabit the banks of the Tennessee; but they are a simple, honest people, living nearly in the same manner as their progenitors, with the addition of some horses, cattle and hogs. Many of the females begin to spin and weave; but the manufacturing of cloth is not so general as in the other part of the Nation.” Klinck and Talman, eds., *Journal of Major John Norton*, 146.

2 George Barber Davis to Return J. Meigs, October 17, 1808, M-208, Reel 4.


4 Big Bear and Sharp Fellow to Return J. Meigs, January 18, 1811, M-208, Reel 5.

5 Brett Riggs, who conducted an archaeological study of Cherokee house sites on the 1819 Treaty Lands, estimated that these lands had a population of 1054 a decade before the land cession. This figure was derived from an 1809 census of the Cherokee Nation commonly known as the Meigs Census. See Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 12. At least 131 Cherokee families submitted claims for improvements they were forced to abandon on the 1819 Treaty Lands in western North Carolina. See Statement of Claims for improvements left by the Cherokees on the Ceded Land under the Treaty of 1819 and not paid for, undated, M-221, Reel 98, Frame 2425. Assuming that these families were the same average size as the families who applied for individual reservations under the terms of the Treaty of 1819 (6.29 individuals – see discussion in this chapter), this suggests that at least 824 people left the Treaty Lands in the wake of the treaty. Applications for reservations survive for 73 heads of households in western North Carolina (See Figure 7.3 herein). Forty-seven of these applications list the number of people in the applicant’s family. Added together, these family members totaled 249 people (as noted in footnote 13 below, the assumption made when tabulating family size was that the number of family members listed in the application did not include the applicant themselves. Therefore (1) was added to the number of family members given on each of the applications). An additional 26 applications do not include information on family size, but if it is assumed that the average family size of the applicants for whom this information is not given was the same as the average family size for the applicants for whom the information is given (6.29), then 164 additional people were present on the various reservations. Adding the estimated number of people who remained on reservations (249 + 164 = 413) to the estimated number of people who were members of families who left the ceded lands and submitted claims for improvements, 824, yields a total estimated population on the ceded lands at the time of the treaty of 1237. However, this figure must be regarded as a very loose estimate. Applications do not appear to have survived for all of the Cherokee who applied for reservations, and it is possible that some of the people for whom reservation applications survive also submitted claims for improvements. Conversely, it is likely that many Cherokee who lived on the ceded lands neither submitted claims for improvements nor applied for reservations, and therefore are not included in these tabulations.

6 At the time of the Treaty of 1819 the total Cherokee population numbered around 15,000, with about 10,000 Cherokee living east of the Mississippi River and most of the remainder living in what is today Arkansas. Mooney, *Myths of the Cherokee*, 112. See also Royce, *The Cherokee Nation of Indians*, 98, and Thornton, *The Cherokee: A Population History*, 48-49, for population estimates for 1820. In the East the Cherokee claimed land in North Carolina, eastern Tennessee, northern Georgia, and the northern portion of what is today Alabama. Royce, *The Cherokee Nation of Indians*, 263. A census of the Eastern Cherokee taken in 1825, six years after the 1819 land cession, recorded the total Cherokee population east of the Mississippi as 13,563, augmented by some 220 white

7 Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 246-47.
9 Dickens, “Route of Rutherford’s Expedition”; Mooney, Myths of the Cherokee, 49; Silas McDowell to Leonidas F. Siler, July 3, 1850, typescript copy in the Silas McDowell Papers, Southern Historical Collection, University of North Carolina, Chapel Hill, N.C.; Barnes et al., eds., “Historical Sketch.”
10 Mooney, Myths of the Cherokee, 15. Major John Norton, who visited the Cherokee country in 1809, noted that Kituwah was “formerly the Council Fire place of all the nation.” During his journey Norton encountered a group of Cherokee with roots in Kituwah living in northeast Alabama. Norton stated that these individuals had fled the town after its destruction in the Cherokee War of 1759-1761. Many of these people were in the process of emigrating to Arkansas at the time of Norton’s visit. See Klinck and Talman, eds., Journal of Major John Norton, 62, 149. At least a portion of Kituwah appears to have been rebuilt after the war and to have survived up to the time of the 1819 land cession (See below).
11 Tuckaleche is referenced frequently in applications submitted by Cherokees for reservations under the terms of the Treaty of 1819, while Kituwah is not mentioned in any of these applications. See Applications For Reservations, 1819, RG 75, NAR. The notes of the Robert Love Survey of 1820, the first land survey conducted on the 1819 Treaty Lands, include a reference to a town called [Ghittanoah(?)] or Governor’s Island, located in the vicinity of the site of Kituwah. The relationship between this town and Kituwah is unclear, but it is possible that “Ghittanoah” is a different spelling of Kituwah. See District 1 Tract 9, Cherokee Survey Books, SSP, NCDAH.
12 A True and Accurate Numeration of the Indians that is Living on the Purchase, November 20, 1820, County Records, Haywood County, NCDAH.
13 Applications For Reservations, 1819, RG 75, NAR. Forty-seven of the 73 extant reservation applications include information on family size. In these applications family size is expressed by statements such as “5 in family.” The assumption made when calculating average family size was that the number given in the applications did not include the reservation applicant. Therefore one (1) was added to each number given for family size to account for the applicant. If the figure for family size given in the applications is used without adding one the average family size of the applicants is reduced to 5.29.
14 The figures for the North Carolina Cherokee were obtained from Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 78-79. The figures for the Cherokee Nation as a whole were obtained from McLoughlin and Conser, “Cherokees in Transition,” 701.
15 Quoted in Wilkins, Cherokee Tragedy, 243.
17 Abbott, Curry, and Hoole, Cherokee Indians in Georgia, 27.
21 Deposition of Preston Starritt, February 11, 1843, Claim 1170, RFBCC, Claim Papers, RG 75, NAR. This assertion is also supported by the observation of a Frenchman who was held captive by the Cherokee during the 18th century that the cabins of the towns of Chota and Tellico (in the Overhill Settlements of eastern Tennessee) though of “two different councils” were “mingled together indiscriminately.” See “Journal of Antoine Bonnefay (1741-1742),” in Williams, ed., Early Travels in the Tennessee Country, 152-53. Cherokee towns gradually became more dispersed during the later years of the 18th century and the early years of the 19th century. The dispersal of the Cherokee population away from concentrated towns was encouraged by agents to the Cherokee as part of an overall effort to “civilize” the tribe by encouraging them to engage in agricultural practices that mirrored those


23 Cherokee Talk by Talontusky, March, 1818 [no day of the month], MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 371-374.

24 Return J. Meigs to William H. Crawford, November 8, 1816, M-208, Reel 7. In another letter Meigs would depict the overall Cherokee leadership as more autocratic and less sensitive to the people’s needs, declaring that “The fact is the great mass of their people are not justly represented by those who exercise the power of governing.” Return J. Meigs to Joseph McMinn, August 7, 1818, M-208, Reel 7. See also Return J. Meigs to George Graham, October 30, 1817, M-208, Reel 7 for similar criticisms of the Cherokee leadership by Meigs. Meigs frustration with the Cherokee leaders with whom he had frequent dealings may have skewed his judgment.


29 Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

30 Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

31 Big Bear et. al. to Return J. Meigs, October 17, 1816, M-208, Reel 7.


33 Reid, *Law of Blood*, 35-48, 73-112; McKeown, “Return J. Meigs,” 108-10; Rennard Strickland, *Fire and the Spirits: Cherokee Law from Clan to Court* (Norman: University of Oklahoma Press, 1975), 27-29; Klinck and Talman, eds., *Journal of Major John Norton*, 78. In some instances exceptions to the law were made if a war captive or other person was provided to the victim’s clan to replace the victim. See for example Theda Perdue, “Clan and Court: Another Look at the Early Cherokee Republic,” *American Indian Quarterly* 24, no. 4 (2001). In later years, and particularly in cases where Cherokees were murdered by whites, monetary compensation was sometimes accepted by the victim’s family in lieu of taking revenge; e.g. see Return Jonathan Meigs to John C. Calhoun, November 14, 1819, M-271, Reel 2, Frames 1390-1392. For examples of the law of blood revenge at work among the 19th century Cherokee, see for example McKeown, “Return J. Meigs”, 138-39 and Thomas Nuttall, *A Journal of Travels into the Arkansas Territory During the Year 1819* (Fayetteville: University of Arkansas Press, 1999), 171-72, see also 147-48. In both these cases relatives of the actual culprits were killed by the Cherokee. Nuttall describes an incident in which two white brothers killed a Cherokee man. Subsequently the brother who had not actually
committed the murder was killed, after which, according to Nuttall, the Cherokees “expressed themselves satisfied” even though the actual culprit had not been killed.

34 Cherokee Advocate Office, Laws of the Cherokee Nation, 4.
35 See Chapter Five. That the “law of blood” was still enforced among the Cherokee in 1819 is suggested by a letter from the Indian agent Return J. Meigs to the then secretary of war John C. Calhoun in which Meigs outlines his policy of making presents of cash to the families of Indians who had been murdered by whites in exchange for the promise that the families would “cease all thoughts of taking satisfaction as they call it on the vile principle of retaliation.” Return J. Meigs to John C. Calhoun, November 14, 1819, M-271, Reel 2, Frames 1390-1392.
38 Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection). See also Chapter Five, herein. The name of the Cherokee who was whipped is illegible but appears to be “Ramesuer.” The specific circumstances surrounding the attack are unknown. Nonetheless, the Cherokee could deal harshly with individuals who traded away their lands. In 1807 Cherokee leaders ordered and carried out the execution of a prominent chief named Doublehead after it was discovered that he had entered into a treaty that included a secret provision in which he was awarded a tract of land for his own use. See Wilkins, Cherokee Tragedy, 38-41, and Mooney, Myths of the Cherokee, 85. In 1828 the Cherokee National Council passed a law instituting the death penalty for those who traded away Cherokee lands. See Strickland, Fire and the Spirits, 77-78.
39 Deposition of Samuel R. Woodfin, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH; see also Deposition of John Moore, July 23,1828, TCP, Indian Affairs and Lands, NCDAH. Moore appears to have been a particularly volatile character. As one of the original magnates when Macon County was formed from the 1819 Treaty Lands in 1828, he was fined $5 for being drunk and disorderly in court. Barbara S. McRae, Log Cabin Court: The Business of a Pioneer Court, with Sketches of Principal Players (Franklin: Teresita Press, 2002), 14.
40 Wilkins, Cherokee Tragedy, 35, and e.g. p. 40. See also Abbott, Curry, and Hoole, Cherokee Indians in Georgia, 30. Major John Norton noted the presence of alcohol at a ball play gathering that he attended during his travels through the Cherokee country in 1809, but downplayed the extent of alcohol abuse at the event, stating that “There were few of the Cherokees intoxicated, but many appeared in a merry mood.” Klinck and Talman, eds., Journal of Major John Norton, 64, see also p. 65.
41 Cherokee Advocate Office, Laws of the Cherokee Nation, 36.
42 Markman, “The Arkansas Cherokees,” 126-27; McKewon, “Return J. Meigs,” 159-60. For an extensive treatment of alcohol use among the Cherokee, see Izumi Ishii, “‘Poisoned by the Bad Fruits of the Civilized Tree’: Cherokees and Alcohol, 1700--1907” (Ph.D. dissertation, University of Kentucky, 1999). On alcohol and its effects on early 19th century native societies, see Bernard W. Sheehan, Seeds of Extinction: Jeffersonian Philanthropy and the American Indian (New York: W.W. Norton, 1974), 232-39. Attempts to regulate or prohibit the sale of the alcohol to the Indians began in the 18th century, but were largely ineffectual; e.g. see Corkran, Cherokee Frontier, 33-34, 60.
43 Markman, “The Arkansas Cherokees,”126; see also Nuttall, Journal of Travels into the Arkansas Territory, 135; Strange, Eoneguski, 90-91, 185 (vol. 1), and “Bro. Martin Schneider’s Report of his Journey to the Upper Cherokee Towns (1783-1784),” in Williams, ed., Early Travels in the Tennessee Country, 246, for similar sentiments.
44 Evans, “Sketches of Cherokee Characteristics,” 16. Alcohol abuse was by no means limited to the Cherokees. Frontier whites were also heavy drinkers during this period. George Featherstonhaugh, an English traveler who was sympathetic to the Cherokee, remarked of the “mixed-blood” Cherokees he observed at a Cherokee council that they “differed from (the whites) only in a browner complexion, and in being less vicious and more sober.” Featherstonhaugh, A Canoe Voyage up the Minnay Sotor, 232.
45 Deposition of Sealy Colston, March 25, 1845, Claim 1010, RFBCC, Claim Papers, RG 75, NAR; see also Deposition of Ka tah gee sku [also spelled Ka tah sku], March 25, 1845, Claim 1010, RFBCC, Claim Papers, RG 75, NAR.
Claim of The Biter, [no date; claim dates are 1817-1837], MR-815, Frame 1065. According to the claim the property was taken possession of by a white man after it was lost.

Mooney, *Myths of the Cherokee*, 163; Lanman, “Letters from the Alleghany Mountains,” 417-19. See also William H. Thomas to James Graham, October 15, 1838, printed in John H. Wheeler, *Historical Sketches of North Carolina from 1584 to 1851* (Baltimore: Regional Publishing Co., 1964), 205-06. Yonaguska was apparently influenced by William H. Thomas, his adopted son (see Chapter Twelve, herein) in forming the temperance society. According to a memorial submitted to the United States Senate in 1846, before the founding of the temperance society “the males, as well as the females, were fast sinking into a state of degradation under the influence of dissipation. They would, with few exceptions, get drunk, and engage in scenes of fighting &c., disgraceful to human nature. Now, under the influence of public opinion, changed by the society, capital offences and assaults and batteries have ceased to exist with the causes which produced them. The Cherokees rarely, if ever, have been known to commit assaults and batteries when sober. It is then looked upon as an unmanly and disgraceful practice.” Memorial of the Cherokee Indians Residing in North Carolina, *Sen. Doc. 408*, 29th Cong., 1 Sess., (Serial 477, Washington D.C., 1846), 23. See also Williams, “Military Intelligence Report on N.C. Cherokees,” 207, for a similar observation. Laws passed by the Cherokee National Committee at various times attempted to regulate the sale and use of alcohol, but it is likely that these laws were largely ineffectual. See Cherokee Advocate Office, *Laws of the Cherokee Nation*, 6-7, 26, 36.
CHAPTER FIVE: OUTSIDERS ON THE CEDED LANDS

Although 1819 Treaty Lands were a remote region in the early 19th century, the Cherokee who lived there were by no means isolated from the outside world. Trade, and in some instances marriage linked the Cherokee and white communities, and a few whites and African-Americans crossed the Indian boundary and made their homes among the Cherokee, or on Cherokee land. This chapter will discuss this small population of outsiders and the role they played in Cherokee society during the years prior to the land cession.

Whites on the Ceded Lands

Contemporary accounts suggest that the number of whites who lived on the Treaty Lands prior to the land cession was not very large. William Roane, an attorney who represented many Cherokee claims following the Treaty of 1819, stated that “there were but few white men in the nation but rovers” at the time of the treaty.\(^1\) Similarly, Jacob Siler and Jonathan Phillips, two of the earliest settlers in the region, recalled that when they arrived on the ceded lands in “1819 or 1820” there were not “more than two or three white men present”\(^2\)

In fact, the number of white men who resided on the 1819 Treaty Lands appears to have exceeded two or three, but not by very much. According to a family history, James Buchanan arrived on what would become the Treaty Lands in 1795 and traded with the Indians for the right to occupy a tract near Savannah Creek, in present day Jackson County. Buchanan and his family are said to have been the first white settlers in the area south of the Tuckaseegee River.\(^3\) George Shuler and his family were living along the Tuckaseegee River near Governor’s Island in what is today Swain County by 1810 or 1812;\(^4\) circumstantial evidence suggests that Ebenezer Newton may have been in the region as early as 1811.\(^5\) Michael Wikle was living “on the waters of the Okonolufte River” on or near the edge of the Treaty Lands as early as 1812;\(^6\) Alfred and David Brown may have arrived as early as 1814 or 1815;\(^7\) William Laird seems to have moved into
the region in 1817, and Martin Angel went to live along the Tuckasegee River “about the year 1818.” Jonathan Blythe is recorded as operating a mill on the treaty lands in 1820, and likely was present there for some years prior to the treaty, and Darling Belk appears to have resided in or near the Cherokee town of Bearstown during the years prior to the Treaty. In addition, at least three white men, William Reid, Gideon F. Morris, and Andrew Bryson, are known to have had Cherokee wives and to have taken individual reservations as allowed for under the terms of the Treaty of 1819. Doubtless a few other whites were present whose names never found their way into the historical record (Figure 5.1).

Figure 5.1 - Approximate locations of pre-1819 settlers and Indian countrymen on the 1819 Treaty Lands.

Why Did Whites Take up Residence Among the Cherokee?

There is no record of why any of the white men known to have been living on the 1819 Treaty Lands prior to the treaty chose to take up residence among the Cherokee, but it is probable that many of them first crossed the Indian boundary in search of economic opportunities. Traders had been present among the tribe for fully a century prior to the time of the land cession, and at
the height of the trade in deerskins during the 18th century there were probably traders resident in most of the Cherokee towns in western North Carolina. William Bartram left a very favorable account of the traders that he encountered in what is today Macon County, dining on strawberries and cream prepared by the Cherokee wife of one trader he visited in the vicinity of the present day North Carolina – Georgia border,12 and enjoying the hospitality of the chief trader of Cowee town, a Mr. Galahan, who he described as “an ancient respectable man” who was “esteemed and beloved by the Indians for his humanity, probity, and equitable dealings with them…”13 However, as Bartram was quick to observe, the honorable comportment of Mr. Galahan was rather the exception than the rule among traders, who “in their commerce with the Indians” gave “great and frequent occasions of complaint of their dishonesty and violence.”14

Although in the best of circumstances traders formed a bridge between the Cherokee and white society, the trade, and the traders often had a corrupting influence on the Indians.15 Dependence on such items as ammunition for firearms, and a high demand for substances such as alcohol induced members of the tribe to alter their traditional lifeways to focus on the acquisition of animal skins and other items for the trade.16 The traders themselves were often unsavory characters, and the Indian trade in general was considered a disreputable profession.17 Over the years outside observers, particularly missionaries, used some choice invective in describing the traders among the Cherokee and other tribes, characterizing them, variously, as “villains and horse thieves,”18 “profligate and debauched,”19 “dull and lazy,”20 or simply, “the worst sort of people for morals that breathe the mortal air.”21 Disputes over the trade led to frequent confrontations both between the individual traders and their Cherokee hosts, and between the Cherokees and white authorities.22

The trade with the Indians continued up to the time of the 1819 Land Cession. Several stores or trading posts existed on or near the 1819 Treaty Lands. John Bryson stated that “he was a trader in the Cherokee Nation in 1819.”23 About 1800 a store known as Foster’s Trading Station is said to have been established on Scott’s Creek where it crossed the Meigs-Freeman line; another store was said to have been located at the mouth of Caney Fork where it enters
into the Tuckaseegee River.\textsuperscript{24} John B. Love is said to have established a trading station in the Tuckaseegee Valley about 1810,\textsuperscript{25} and around the time of the 1819 land cession other members of the Love family operated a store in the vicinity of the present town of Franklin.\textsuperscript{26} In addition, Jacob Siler and William Britain established a small store or trading post near Cartoogachaye Creek in what is today Macon County around the time of the Treaty of 1819.\textsuperscript{27}

By 1820 at least three mills were also present on the 1819 Treaty lands. Jonathan Blythe operated a mill near the Cherokee Town of Cowee, George Shuler operated a “tub mill” near the Tuckaseegee River, in the northeast portion of the Treaty Lands, and a “Milsap’s Mill” was located in the same general area (Figure 5.2).\textsuperscript{28}

![Figure 5.2 - Mills and stores on the 1819 Treaty Lands, circa 1820.](image)

While these sorts of enterprises drew many whites to take up residence among the Indians, others ventured into the Cherokee country in search not of economic opportunity but of political freedom or an escape from the vagaries of “civilization.” And some whites simply found the Cherokee lifestyle to be an appealing alternative to life in the white settlements. For example, while still a teenager in eastern Tennessee, Sam Houston, the noted general and first president of the Republic of Texas, fled from a job as a clerk in a store to live among the nearby Cherokee,
explaining later that he “preferred measuring deer tracks to tape,” and preferred “the wild liberty of the Red men” to the “tyranny of his brothers.”

Still other whites fled to the Cherokee country to escape punishment for crimes they had committed in the white settlements, or used the Indian lands as a base of operations from which to commit criminal acts. For instance, the Out Towns on the Tuckaseegee River are said to have been a haven for military deserters and “free lance whites” during the mid-18th century.

And when a delegation of citizens who lived on the northern border of the Cherokee nation in eastern Tennessee wrote the president of the United States in 1816 to complain of “the many Inormaties, thefts, robberies and series deprodations commited on their property and the property of their Borders,” they attributed these crimes to the fact that: “The [Cherokee] nation affords a sanctuary for…vagabonds, refugees from justice who are Inimical to Law, Order, industry and civil government.”

_Intruders_

Some whites settled on Cherokee lands not in an effort to avoid justice but in an effort to obtain the free use of land for their homes or as grazing land for their livestock. Illegal occupancy of Cherokee lands by white squatters or intruders was a constant problem throughout Cherokee history.

Sometimes intrusions were accidental; a consequence of poorly marked boundaries. When the residents of the so called lost county of Walton, a late 18th century settlement near the Georgia/North Carolina border in the vicinity of present day Transylvania County, North Carolina, were told that that they had inadvertently settled on Cherokee land, they sent a representative to the Cherokee chiefs to inquire about the situation and request that that they be allowed to remain where they had settled. According to a petition sent by the settlers to Georgia governor John Milledge, the Cherokee informed them that “we are their people” and that they could remain as long as they agreed to “keep the pease and not hurt us when we Come in to hunt But we Do not want any more to come their.”
But more often the intrusions were deliberate, and the Cherokees were not so tolerant of intruders, nor the intruders so considerate of the Cherokee. Writing in 1824, a delegation of Cherokee leaders complained that: “such are the bad effects under which the Cherokees labor from this lawless class of [United States] citizens, they are not only ravaged of their property, but every species of vice tending to demoralize the character of man are introduced by them.”

Writing five years earlier, the Cherokee agent Return Jonathan Meigs complained that “The intruders almost surround the Cherokee country,” and observed that a number of these men were “oppressive and insulting to the Indians.”

During the early years of the 19th century intruders were a vexation to the Cherokee of western North Carolina, as they were to the Cherokees living in other locations. In January, 1811, a group of Cherokee leaders assembled at Cowee, on the Little Tennessee River, addressed a letter to the Cherokee agent, Return Jonathan Meigs, complaining that they were “very much introoded [sic] on by some white people.” Five years later, in October, 1816, Cherokee leaders assembled at the townhouse at the town of Kituwah, on the Tuckasegee River, addressed a similar letter to agent Meigs, pleading for his assistance in removing whites who had crossed the Indian boundary and settled on Cherokee lands. Unless something was done to remedy the situation, complained the Cherokee, “there will not be a spot for our young men to settle on in a very short time as they (the whites) are making settlements on our lands almost every day…”

The Cherokee leaders proclaimed themselves helpless to prevent the intrusions themselves, however, as “Those who have settled on our lands have their fire arms and threatens death to any of our people who will offer to put a stop to their Intrusions…”

White leaders in the border community claimed to be equally impotent in stopping the intrusions. Big Bear, the preeminent Cherokee leader in the region up to the time of the land cession recalled in a letter to the Indian agent Meigs:

Brother, I was lately at Haywood Superior Court when [sic] Genl Love and other gentlemen in company with myself when the discourse turned on the white people settling over the line. I told them as they were head men the [sic] ought to put a stop to it the [sic] said in reply that the head men of North Carolina wish a stop put to it and that those who
are settled might be removed but they had no right to do anything in the case and we must apply to you.\textsuperscript{42}

The reluctance of the border country leaders to address the problem of intrusion on Cherokee lands was probably due in part to the fact that the practice was widely condoned in the white settlements. The Indian agent Meigs summarized the widespread attitude toward intrusions on Cherokee lands in an 1820 letter to the then secretary of war, John C. Calhoun:

Amongst those intruders there are some men of considerable property, I mean personal property, & whose characters are good except in the acts of intrusion. They cannot be persuaded that there is any moral turpitude in taking possession of unoccupied lands; either of the government or of the Indians.\textsuperscript{43}

Perhaps in an effort to secure the land on which the intruders had settled, in 1816 the North Carolina State legislature petitioned the president to be allowed to negotiate with the Cherokee to obtain such land within the state “as they may be disposed to sell.”\textsuperscript{44} The Cherokee leaders declined to hold the talks, however, fearing that if they agreed to sell land to North Carolina, Georgia and Tennessee would seek similar land cessions.\textsuperscript{45}

\textit{Relationship Between the Outsiders and the Cherokee}

Whatever the motivation of the white men who made their homes on the 1819 Treaty Lands in the decade prior to the land cession, it is clear that some of these men had sufficient interactions with the Cherokee to learn at least some of their language. For instance, David Shuler served as an interpreter during talks between the Cherokee Big Tom and a settler named Andrew Welch (sometimes spelled Welsh) but professed that he “was not a very good one.”\textsuperscript{46} Emanuel Shuler “could talk in the Indian tongue,”\textsuperscript{47} and Alfred Brown could “talk Indian.”\textsuperscript{48}

The kind of familiar relationships that Brown and the Shulers appear to have enjoyed with the Indians were unusual but not unique on the Cherokee borderlands. When a Cherokee named Long Blanket gave testimony to North Carolina officials in 1824, a prominent border resident named Thomas Love and three other whites who were present when the testimony was given asserted that they had “known him for years that he has always supported fair character and is an honest man is as far as they have seen.”\textsuperscript{49} Love and Joseph Welch stated elsewhere
that Long Blanket “is an honest Indian and that he can be trusted as soon as any white man -
that they would believe any statement he would make.” Similarly, Arkalookee (also spelled
Arkalooke), who could speak English, was “well thought of and was in the habit of interpreting
for the whites,” and Little George was described as well liked by the settlers who were moving
onto the ceded lands, “was considered entirely inoffensive,” and is said to have been “well
treated” by the settlers.

Such amicable relationships between the Cherokees and the border whites were probably
the exception rather than the rule, however, as they had to be established against the backdrop of
fear, mistrust, and prejudice that was the natural byproduct of years of intermittent conflict.

While visiting a Cherokee settlement in northwest Georgia in the late 18th century, the
Indian agent Benjamin Hawkins noted in his journal that:

In every hut I have visited I find the children exceedingly alarmed at the sight of white
men, and here a little boy of 8 years old was especially alarmed and could not be kept from
screaming out until he got out of the door, and then he run and hid himself...I inquired
particularly of the mother what could be the reason for this; they said, this town was the
remains of several towns who formerly resided on Tugalo and Koowee [Keowee?] and had
been much harassed by the whites; that the old people remember their former situation and
sufferings and frequently spoke of them. That those tales were listened to by the children,
and made an impression which showed itself in the manner I had observed.

Among some Cherokees such bad experience was probably coupled with a simple
prejudice against whites that if the 18th century trader James Adair is to be believed, was equal
in vehemence to the disregard many frontier whites had toward the Indians. According to Adair,
“All Indians are so strongly attached to, and prejudiced in favour of, their own colour, that they
think as meanly of whites, as we possibly can do of them.” Adair went on to observe that: “All
the nations of Indians...have an inexpressible contempt of the white people, unless we except
those half-savage Europeans, who are become their proselytes.”

Indian Countrymen

Despite such attitudes, in some cases Cherokees and whites not only formed bonds of
friendship, but were joined together through intermarriage. White men and women who took
Cherokee spouses were known as Indian countrymen. These men and women were a small but visible minority among the Cherokee during the early 19th century. Censuses taken between 1809 and 1835 suggest that Indian countrymen accounted for between one and two percent of the total Cherokee population during the early 19th century, with men accounting for about 2/3 of this number, and women about 1/3. In western North Carolina the Cherokee census of 1835 recorded the presence of 22 white men or women married to Cherokee spouses, out of a total population of about 3500.58

At least three white men had taken Cherokee spouses and were living among the Cherokee on the 1819 Treaty Lands prior to the land cession. The most notable of these men was Gideon F. Morris. Morris was described variously as “a keen active Georgian”59 or a native of South Carolina.60 Sometime around the year 1815 he married a full-blooded Cherokee woman named Naka, who was the sister of the prominent Cherokee leader Junaluska.61 Morris lived with his father-in-law, Catahee, until 1820, when he moved to the individual reservation that he took under the terms of the Treaty of 1819.62

The second Indian countryman, William Reid, was described in a contemporary account as a “simple and slothful Scotchman”63 He was a long time resident of the Indian country, having resided among the Cherokee “for many years prior to the making of the treaties of 1817-19.”64 Reid was married to a Cherokee woman named Nancy at the time of the Treaty of 1819, and took an individual reservation under the terms of the treaty adjacent the reservation of his mother-in-law, Old Nanny.65 However, not long after the treaty Reid’s marriage dissolved, with the couple accusing each other of intemperance, and Reid asserting that his wife had been “false to his bed.”66

The third Indian countrymen, Andrew Bryson, was equally unlucky at love. Like Morris and Reid, Bryson applied for an individual reservation under the terms of the Treaty of 1819.67 The reservation was never surveyed, however. In the early summer of 1820 Bryson’s Cherokee wife Sally left him after a dispute with his daughters from a former marriage, at which point,
according to a cynical government official, Bryson, “like another Mark Anthony pursued his Cleopatra into the Cherokee nation where he remained during life.”

At least one woman on the Treaty Lands also crossed racial boundaries and tied the marriage knot with a man of Cherokee blood. Elizabeth Blythe, the daughter of the miller Jonathan Blythe, married a “mixed-blood” Cherokee named John Welch around 1816. Unlike the case with Reid and Bryson, the marriage of Blythe and Welch proved to be a life-long pairing, and the couple achieved some degree of wealth and prominence after moving to what is today Cherokee County, in extreme western North Carolina, subsequent to the Treaty of 1819.

Whites who took up residence among the Indians or took Indian spouses were often looked down upon in white society. Writing in 1803, a Georgian observed that: “There are Numbers of white people in the Nation who have wives among the Natives, Carry on a Trifling Commerce with them and are averse to any further, or better understanding between whites and Indians than now exists. Several of these characters have fled from punishment.” Henry Sutton, who took a Cherokee wife in western North Carolina some years after the Treaty of 1819 complained about the “the slangs and mouthings” that backcountry residents directed at whites who took Cherokee spouses.

In some cases the “slangs and mouthings” were deserved. Many white men had dubious motives in marrying Cherokee women. In his novel Eonaguska, Robert Strange asserted that many such marriages were motivated by the desire of white men to gain access to Indian land: “…no means of possessing [Indian lands] is allowed, but alliance by marriage with the despised race. Many, very many, comply with the desperate condition…” During the early 19th century marriage to a Cherokee woman gave a white man access to all the privileges of citizenship in the Cherokee Nation, including access to Cherokee land, and the right to take reservations under the terms of the Treaty of 1819. Concern that Cherokee women would be taken advantage of by avaricious white men was part of the reason that stipulations were placed in the treaties of 1817 and 1819 preventing most of the reservees from selling their reservations in their lifetime. And in later years the Cherokee passed a law requiring marriages between white men and Cherokee
women to be performed by a minister of the gospel or other official party, so that the pairing would be legally binding in white society. Nonetheless, enough white men of questionable reputation took Cherokee wives that in 1828 an editorialist in the Cherokee Phoenix, the national newspaper of the Cherokee, was moved to call for additional laws to prevent “the thief, the robber, the vagabond and the tippler and adulterer from marrying Cherokee women.”

Still, not everyone saw Indian-White marriages or the Indian countrymen in such a negative light. Indeed, over the years many people saw these interracial relationships as a “civilizing” force among the Indians. Writing in 1709, John Lawson, the Surveyor-General of North Carolina, suggested that bounties in the form of land be offered to poor white citizens who would consent to marry Indians, and that the children of Indians be apprenticed to white tradesmen, so that the Indians “would be drawn to live among us, and become members of the same Ecclesiastical and Civil Government we are under…” The Cherokee agent, Return Jonathan Meigs, applauded Cherokee-white marriages as a means of blending the two races into one; John Jolly, a leader of the Arkansas Cherokee, asserted that “We find by intermarriages with our white brethren we are gradually becoming one people. These connections are already numerous and are increasing.” A surveyor working in the Cherokee country of North Georgia in 1831 reported that: “The whitemen (married to Indian wives) with whom we have met, manifest the greatest willingness to contribute to our comfort and accommodation.” And Albert Pickett, the author of an early (1851) history of Alabama declared that the Indian countrymen he had met in his youth who lived among the Creek Indians “were unquestionably the shrewdest and most interesting men with whom I ever conversed.”

The Indian countrymen who made their homes on the 1819 Treaty Lands of western North Carolina appear to have been well regarded by the Indians, who also found it useful to have white men living among them who could serve as intermediaries with the border whites. Gideon F. Morris had a particularly close relationship with the Indians. Long Blanket asserted that “he was fond of Morris,” and the location that Morris took as a reservation under the terms of the Treaty of 1819 was decided upon by the Indians with their interests in mind. In an 1824
deposition, Long Blanket recalled that “in talks with the heads of the Indians gathered at Sharp Fellow’s settlement it was concluded to have Morris near the middle to assist them for their business…that as he could talk the white people’s language by fixing him on that place he could do their business.”\textsuperscript{84} According to William Reid, it was “understood by the Indians that he (Morris) is considered as one of their tribe and comes under their laws and customs, that he has transacted from about [1816] business for them, and has always been considered as one of their nation in their councils.”\textsuperscript{85}

\textit{“Mixed-Blood” or Métis Cherokee}\textsuperscript{1}

Whether well intended or not, the marriages or liaisons between Cherokees and whites naturally resulted in children of mixed parentage. The bi-cultural and bi-racial heritage of these children, who were termed variously “mixed-bloods” or “métis,” sometimes placed them in an anomalous position within Cherokee society. Conversely, knowledge of the English language and familiarity with white customs equipped some métis to serve as intermediaries between Cherokees and whites, a position that could be a pathway to wealth and political power within the Cherokee Nation.\textsuperscript{86}

Whatever their role in Cherokee society, the métis were certainly seen as a distinct class by white officials, who, imbued with 19th century precepts about race, took pains to segregate the Indians by percentage of white “blood” in censuses such as the Cherokee Census of 1835, and who frequently noted or commented on an individual’s racial pedigree when describing them, often suggesting a higher degree of “civilization” or knowledge on the part of the “mixed-bloods.” Thus, in a letter to the secretary of war regarding claims related to the Treaty of 1819 a federal official noted that the witnesses he examined “were either Indians or of mixed blood, the half breeds are as well informed as most white men.”\textsuperscript{87} And in another case, William Jones, a métis who lived on the 1819 Treaty Lands, was described as “an Indian of character being a half breed.”\textsuperscript{88}

\textsuperscript{1} For a discussion of my use of these terms, please see Appendix A.
The percentage of the Cherokee population that was of mixed Cherokee-white parentage was smaller in the mountain settlements than in the less remote portions of the Cherokee country. According to the 1835 Cherokee census slightly less than 10% of the Cherokee who lived in western North Carolina were of mixed parentage. The percentage of métis in the population of the 1819 Treaty Lands of western North Carolina is not known, but was probably no more and possibly somewhat less than 10%.

Only two individuals, William Jones and John Welch, are specifically identified as being of mixed Cherokee-White parentage in the various documents associated with Cherokee claims from the 1819 Treaty Lands. A third man, Ned or Ed Welch, John Welch’s brother, was probably also of mixed parentage, although he is not specifically identified as such. Doubtless other métis were present as well, but they are not specifically identified in the records associated with the 1819 treaty.

The parentage of Jones and the Welch’s is not clear. Local tradition states that John Welch was the son of a French trader, but a more likely explanation is that he was the son of a member of the Anglo-American Welch family, some of whom were living close to the border of what would become the 1819 Treaty Lands prior to the time of the land cession.

Whatever their origin, William Jones and John and Edward Welch clearly knew each other and associated with each other. [J.] R. Pace, an early settler, recalled seeing Jones at Welch’s house in 1821; Samuel Woodfin saw Ned Welch at John Welch’s house around the time of the first survey of the ceded lands, in the spring of 1820, and understood that Ned Welch lived there at that time, and Jones and Edward Welch journeyed to the Indian agency together to register for reservations under the terms of the Treaty of 1819. The reservation that Jones’ took under the terms of the treaty was never surveyed, but was supposed to have been located adjacent to the reservation taken by John Welch.

In keeping with their mixed parentage, the Welchs and William Jones behaved in ways that suggest an adherence to the customs and practices of both Cherokee and white society.
The three men appear to have interacted with the white settlers a great deal. Settlers such as J. R. Pace and Samuel Woodfin were visitors at John Welch’s house; John Brison [Bryson] knew Jones; and John Moore was “well acquainted” with him. John Welch took a white woman, Betty Blythe, as a spouse. Edward Welch also became involved with a white woman, although the couple apparently never married. Samuel Woodfin reported seeing Edward Welch and a woman named Nancy Ledbetter together at John Welch’s house. He “saw them go to bed together,” and heard from John Welch’s wife that the couple had “taken up together.”

Nancy Ledbetter appears to have been a woman with a checkered past. Sometime before she had become involved with Edward Welch, she had “run off to Georgia with a white man.” The Reverend Stephen White, an old neighbor, reported seeing her at a “preaching” in South Carolina around 1820, where “upon inquiring he understood she had been there about two years…that it was reported she had had a child in consequence of which she had to leave the neighborhood.”

She does not appear to have remained long with Welch. Samuel Woodfin recalled seeing her later “with her sister in the neighborhood of her father,” but never heard of her living with the Indians afterwards.

In addition to taking a white spouse, John Welch also embraced the capitalist ethos of the frontier settlers. He appears to have begun amassing property while still living on the 1819 Treaty Lands, and would amass some wealth in later life.

But for all of this, the orientation of the Welches and Jones was clearly toward the Cherokee, and these men maintained an allegiance to the tribe, and adhered to at least some of its customs. At a Cherokee dance in 1818 or 1819, Jones is reported to have severely whipped a Cherokee who was accused of accepting money for trading away Indian lands. And at the time of the Cherokee removal, in 1838, Welch’s outspoken opposition to the Indian removal policy led to his imprisonment by U.S. officials, a circumstance that Welch later claimed destroyed his health.
The incident which best demonstrates the extent to which Welch and Jones were involved in Cherokee affairs, and adhered to Cherokee customs, is their involvement in an apparent revenge murder.

The details of the incident are sketchy. A government official investigating a compensation claim submitted by Welch in 1824 recorded that “the facts as stated to us of the murder are these - That an Indian had violated the customs and laws of the Indians and was ordered to be killed by Welch and others, about three years ago, the Indian was murdered by Welch and others…”\textsuperscript{110} In an associated deposition, Welch’s mother in law, Ann Blythe, stated that “John Welch…assisted in the killing of an Indian who had forfeited his life according to the custom of the nation.”\textsuperscript{111} Although Welch’s victim is not mentioned in any of these primary documents, popular accounts indicate it was a Cherokee named Ah Leache who lived in the vicinity of Welch, and who also took a reservation under the terms of the Treaty of 1819.\textsuperscript{112}

Interestingly, although Ah Leache was indeed murdered, the documents associated with a claim submitted by his heirs suggest that his killer was in fact William Jones.\textsuperscript{113} There is no ready explanation for the discrepancy between the primary and popular accounts of the murder, but the most plausible scenario is that Welch and Jones were both parties to the slaying. Other possibilities are that Welch took credit for the killings in later years in order to bolster his reputation as “an avenger of blood,” or that Ah Leache’s heirs were simply misinformed as to the identity of their father’s killer. Jones, who seems to have been prone to violence, was killed in the Cherokee nation a few years after the Treaty of 1819.\textsuperscript{114}

Whatever the facts surrounding the killing of Ah Leache, it has entered the mythology of western North Carolina as a clan revenge murder committed by John Welch. In Robert Strange’s novel Eoneguska the murder comprises the central event of the book. Afterwards, according to Strange’s version of the story, Welch is pursued by a character apparently based on the prominent Cherokee leader Yonaguska, presented in the novel as a relative of Ah Leach, who is bent on avenging Ah Leach’s death. After a protracted chase, Yonaguska and Welch arrive at the white settlements on the fringes of the Cherokee country, where Welch’s sweetheart, a character
apparently modeled on Welch’s wife Betty Blythe, confronts Yonaguska and convinces him to take mercy on Welch and allow him to live.\textsuperscript{115} Whether there is any factual basis for Yonaguska’s pursuit of Welch is unclear, but the story is recounted as fact in various regional histories.\textsuperscript{116}

**African-Americans and Slaves**

If Welch demonstrated his allegiance to Cherokee customs by his participation in the ancient Cherokee practice of clan revenge, he demonstrated empathy with southern white society in later years by being one of the few Cherokee in western North Carolina to acquire African-American slaves.\textsuperscript{117}

Among both Cherokees and whites, slave holding was not as widespread in the mountainous areas as it was in the lower south.\textsuperscript{118} At the time of the Cherokee Census of 1835 only 37 African-American slaves were present on Cherokee lands in western North Carolina, while 1592 slaves were held in the Cherokee nation as a whole at this time.\textsuperscript{119} The 1809 census of the Cherokee suggests that only two slaves were present on the 1819 Treaty Lands of western North Carolina a decade before the land cession.\textsuperscript{120}

It is not surprising, then, that slavery receives scant mention in the records associated with the 1819 Treaty Lands of western North Carolina. It is unclear if John Welch had begun his career as a slaveholder by the time of the land cession. The Indian countryman Gideon F. Morris was a slave owner by at least 1821, when he sold a slave named Salley to an early settler named Jessee Siler for $350,\textsuperscript{121} but Morris may not have owned slaves before the land cession. Richard Walker, a highly acculturated English speaking Cherokee, noted in an 1824 deposition that lands claimed by his son and himself were worked by “both of them or their hands,” but it is uncertain if the “hands” referred to were black slaves.\textsuperscript{122} However, Walker did own six slaves at the time of the 1835 Cherokee census, when he was living to the west of the 1819 Treaty Lands.\textsuperscript{123} The prominent Cherokee leader Yonaguska is also reported to have owned at least one slave, but it is not clear if he owned this slave before 1819.\textsuperscript{124}

Not all of the individuals of African-American descent who lived among the Cherokee were slaves, however. Among the residents of the 1819 Treaty Lands prior to the land cession
was a man named Isaac Tucker, who lived about seven or eight miles south of what is now the town of Franklin.\textsuperscript{125} Although identified simply as “an Indian” in the primary documents that mention him, Tucker apparently was the son of a white man and a slave woman named Molly who had been brought into the Cherokee Nation by a trader named Sam Dent sometime before the Revolutionary War. Dent had brought Molly to live among the Cherokee in order to appease the Indians for the loss of his Cherokee wife, who he had killed by “beating and otherwise mistreating of her when in a state of pregnancy.”\textsuperscript{126} Molly was subsequently adopted by the Cherokee, and her children, Edward and Isaac Tucker, grew up among the tribe.\textsuperscript{127}

Although no figures exist, it is probable that few individuals of mixed Cherokee-black or white-black parentage such as Tucker were present on the 1819 Treaty Lands at the time of the land cession. Only 23 African-Cherokees made their homes in western North Carolina at the time of the Cherokee census of 1835, and individuals of Cherokee-Black descent made up only .036 percent of the total Cherokee population at that time.\textsuperscript{128}
Chapter Endnotes

1 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430.
2 Deposition of Jacob Siler and Jonathan Phillips, September 18, 1837, Claim 728, RFBCC, Claim Papers, RG 75, NAR.
3 Lucious W. Allen to the Buchanan Family Reunion, May 2, 1992, Buchanon Family Folder, Lawrence Wood’s Collection, Macon County Historical Museum, Franklin, N.C.
4 Deposition of George Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of three undated depositions by George Shuler in this collection); Deposition of David Shuler, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
5 Deposition of Ebenezer Newton, April 18, 1838, Claim 68, RFBCC, Claim Papers, RG 75, NAR.
6 Deposition of Michael Wikle, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
7 Affidavit of Alfred Brown in the case of Thomas, August 18, 1824, in Memorandum of Robards on Disputed Cherokee Claims and Suits of Ejectment, TCP, Indian Affairs and Lands, NCDAH; Affidavit of Alfred Brown in the case of Cul sow wee, August 18, 1824, in Memorandum of Robards on Disputed Cherokee Claims and Suits of Ejectment, TCP, Indian Affairs and Lands, NCDAH; Ous te ka he tee vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #48, RG 75, NAR.
8 Depositions of William Laird, [No dates, but Probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (Two separate documents).
9 Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
10 Cherokee Survey Books, SSP, NCDAH. Blythe’s Mill is referenced in the notes for District 10 Tract 12.
11 Belk wrote a number of reservation applications for Cherokees in the summer of 1819 and usually listed Bearstown as the place where the application was written. See Applications For Reservations, 1819, RG 75, NAR. Belk also subsequently purchased or attempted to purchase Big Bear’s reservation, apparently the location of Bearstown. See Thomas P. Devereux, William H. Battle, and Walter Clark, North Carolina Reports: Cases at Law Argued and Determined in the Supreme Court of North Carolina, from December Term, 1834, to June Term, 1836, Both Inclusive (E.M. Uzzell & Co., State Printers and Binders, 1905), 77-87, and T. Walter Middleton, Qualla: Home of the Middle Cherokee Settlements (Alexander, N.C.: Worldcomm, 1999), 218. Darling Belk may have been related to a James “Bilk” or Belk who was recorded in the 1809 Cherokee census as occupying a “plantation” on what would become the 1819 Treaty Lands. See Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 246.
13 Ibid., 223.
14 Ibid.
15 For instance, James Adair, himself a trader, stated in the late 18th century that “from the time our traders settled among them [the Indians] they are every year more corrupt in their morals…” Williams, ed., Adair’s History of the American Indians, 17. In a similar vein, the 19th century ethnographer James Mooney quoted an anonymous observer as saying that the morals of the Indians were “perverted and corrupted by the sad example that they daily have of its depraved professors [the traders] residing in their towns.” See Mooney, Myths of the Cherokee, 38.
18 Stuart to Pownall, August 24, 1765, British Colonial Papers, Quoted in Brown, Old Frontiers, 125.

20 Francis Le Jau to John Chamberlayne, Goose Creek, South Carolina, July 14, 1711, in Society for the Propagation of the Gospel in Foreign Parts Manuscripts (Library of Congress Transcripts), A6, No. 104, Quoted in Ibid.: 480.


23 Deposition of John Bryson, July 17, 1843, Claim 419, RFBCC, Claim Papers, RG 75, NAR.


25 Ibid.

26 James R. Love recalled in 1842 that he “went out and occupied the old store house of my cousin R. Love (in the year 1820).” Deposition of James R. Love, November 12, 1842, Claim 439, RFBCC, Claim Papers, RG 75, NAR. In another document Love stated that “In the year 1819 I kept a store near where Franklin now is.” Testimony of James R. Love in the Reservation Claim of the Heirs of Old Mouse, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR. Love’s store is also referenced in Deposition of Jonathan Phillips, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH, and Deposition of Alexander M. Moss, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. A reference to a Dillard Love’s store is found in the correspondence related to the Robert Love Survey of 1820 but it is unclear if this is the same store or a different store. See James Mebane and Jesse Franklin to John Branch, July 2, 1820, GLB 23.2, pp. 315-318, NCDAH. The Love family continued to be involved in the Indian Trade up to the time of the Cherokee removal. See for example Felix Axley to Lewis Cass, March 13, 1835, M-574, Reel 7, File 61, Frames 0018-0021.

27 Different versions of the story of the Siler family’s arrival in what is today Macon County and the establishment of the store by Jacob Siler and William Brittain can be found in Arthur et al., comps, The Siler Family, 7-9, 19-22; Siler, The Siler Family, Roots and Shoots, 2.18 – 2.19; Margaret R. Siler and Barbara A. McRae (ed), Cherokee Indian Lore & Smoky Mountain Stories (Franklin, N.C.: Teresita Press, 1993), 9-15; Leona Cornelia Bryson Porter, The Family of Weimar Siler, 1755-1831 (Franklin, N.C.: Published by the Committee Appointed at the 100th Meeting, 1951), 85-90. The store is described in some of the accounts as a 10 x 12 ft. shack. Cherokees and whites also ventured into each other’s countries to trade. John Brison [Bryson], who grew up on the boundary of what would become the 1819 Treaty Lands stated that “he was in the habit of coming into this part of the country [the Treaty Lands] for the purpose of purchasing cattle of the Indians” Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. Similarly, settlers who lived on the headwaters of the French Broad River in the so called lost county of Walton noted in an 1803 message to the governor of Georgia that the Indians “have been in trading their baskets.” Petition of the Citizens of the Community at the Head of the French Broad River to his Excellency Governor John Milledge, June 30, 1803, Georgia-North Carolina Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, GA.

28 In the records of the Robert Love Survey, Blythe’s Mill was recorded as being located on District 10 Tract 12; Shuler’s Mill was located on District 1 Tract 12, while Milsap’s Mill was located on District 2 Tract 17. See Cherokee Survey Books, SSP, NCDAH. It is not certain if these mills predated the 1819 land cession, but they were present within 18 months of the signing of the treaty.


30 Corkran, Cherokee Frontier, 63.

31 James Wyley et. al. to the President of the United States [James Madison], February 27, 1816, M-208, Reel 7. For similar references to unsavory whites taking refuge among the Cherokee, see Henry Thompson Malone, “Cherokee-
suggesting that these dwellings had been occupied for some time before the survey. District 18 was located in the
of properties that are listed as occupied and includes references to paths leading between the settlers' houses,
designated District 18 in the Robert Love Survey, the first survey of the ceded lands, includes both a high percentage
of Tellico of 1798 and the running, in 1802, of the Meigs-Freeman line, which comprised the eastern boundary of
according to the historians H. Tyler Blethen and Curtis Wood during the time between the signing of the Treaty
of some of the whites who were living on what would become the 1819 Treaty lands during the years prior to the
remain on their land. See Blethen and Wood, "Pioneer Experience," 69. This circumstance may explain the presence
led the state of North Carolina to allow land entries to be made on Cherokee lands in the Tuckaseegee Valley and
Scott's Creek areas. Although the state subsequently voided some of these claims, some of the settlers were able to
on their land. See Blethen and Wood, "Pioneer Experience," 69. This circumstance may explain the presence
of some of the whites who were living on what would become the 1819 Treaty lands during the years prior to the
land cession. For other examples of accidental intrusion, see Mooney, Myths of the Cherokee, 85; [L?] H. Long to [?]
Smith, January 30, 1818, M-271, Reel 2, Frames 835-841, and Petition of the Citizens of the Community at the
Head of the French Broad River to his Excellency Governor John Middles, June 30, 1803, Georgia-North Carolina
Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, GA. It is likely that
some settlers pled ignorance to excuse their intrusions.
35 Petition of the Citizens of the Community at the Head of the French Broad River to his Excellency Governor
John Middles, June 30, 1803, Georgia-North Carolina Box, Records of the Georgia Surveyor General Department,
Georgia State Archives, Atlanta, GA. On the Walton County settlement, see Cal Carpenter, The Walton War and
Settlement at the Head of the French Broad River or the Bizarre Story of the First Walton County, Georgia,” in
Transylvania Beginnings: A History (Brevard, N.C.: Transylvania County Historic Properties Commission, 1984); 
Boundary Dispute (M. Reidinger, 1981), and Settlers on the Lands Ceded by South Carolina Ask a Retrocession,
American State Papers: Public Lands 1: 92-93, Available Online: http://memory.loc.gov/ (7-24-03). Similarly,
according to the historians H. Tyler Blethen and Curtis Wood during the time between the signing of the Treaty
of Tellico of 1798 and the running, in 1802, of the Meigs-Freeman line, which comprised the eastern boundary of
Cherokee lands as established by that treaty, a misunderstanding over where the line would ultimately be located
led the state of North Carolina to allow land entries to be made on Cherokee lands in the Tuckaseegee Valley and
Scott's Creek areas. Although the state subsequently voided some of these claims, some of the settlers were able to
remain on their land. See Blethen and Wood, “Pioneer Experience,” 69. This circumstance may explain the presence
of some of the whites who were living on what would become the 1819 Treaty lands during the years prior to the
land cession. For other examples of accidental intrusion, see Mooney, Myths of the Cherokee, 85; [L?] H. Long
to [?] Smith, January 30, 1818, M-271, Reel 2, Frames 835-841. For another example of the Cherokees tolerating
intruders, see the story of the Oliver family in Durwood Dunn, Cades Cove: The Life and Death of an Appalachian
36 John Ross, George Lowrey, Major Ridge, and Elijah Hicks to Colonel Thomas L. McKinney, May 24th, 1824,
MR-815, Frames 279-281. According to the Indian agent Return J. Meigs intrusion on Cherokee lands increased
during the War of 1812 when some whites went into the Cherokee Nation to avoid military service. See Return J.
Meigs to Andrew Jackson, June 17, 1816, M-208, Reel 7. See also McKeown, “Return J. Meigs,” 294-97.
37 Return Jonathan Meigs to John C. Calhoun, September 18, 1819, M-271, Reel 2, Frames 1372-1374.
38 See Return J. Meigs to Andrew Jackson, June 17, 1816, M-208, Reel 7; Address to the North Carolina Intruders,
June 17, 1816, M-208, Reel 7, and Yona Equa [Big Bear] to Return J. Meigs, [no date], M-208, Reel 7.
39 Big Bear and Sharp Fellow to Return J. Meigs, January 18, 1811, M-208, Reel 5
40 Big Bear et. al. to Return J. Meigs, October 17, 1816, M-208, Reel 7.
41 Ibid. There is no indication in this letter where the intruders were settling, but the most likely location was along
the eastern edge of what would become the Treaty Lands, adjacent to the white settlements. Significantly, the area
designated District 18 in the Robert Love Survey, the first survey of the ceded lands, includes both a high percentage
of properties that are listed as occupied and includes references to paths leading between the settlers' houses,
suggesting that these dwellings had been occupied for some time before the survey. District 18 was located in the
Southeastern portion of the Treaty Lands. See Cherokee Survey Books, SSP, NCDAH, and The Love Survey Map, NCDAH.

42 Yona Equa [Big Bear] to Return J. Meigs, [no date], M-208, Reel 7. It is probable that Big Bear did not write the letter, but rather that it was written at his request. The letter is signed Yona Equa, which is Big Bear in the Cherokee language. On Big Bear (Yona Equa), see Mooney, *Myths of the Cherokee*, 164; Reservation Claim of the Heirs of Big Bear, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR; Deposition of Um mah chuh nah, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Oostenaka, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR. General Love (Thomas Love) was one of the most prominent members of the border community. On Thomas Love, see Arthur, *Western North Carolina*, 124-129. Haywood Superior Court was held at Waynesville, the county seat of Haywood County, located just to the east of the 1819 Treaty Lands.

43 Return J. Meigs to John C. Calhoun, January 5, 1820, M-271, Reel 3, Frames 466-467. See also Ford, “Analysis of Anglo-American-Cherokee Culture Contact,” 44.

44 J. Graham to Return J. Meigs, December 9, 1816, M-208, Reel 7. See also A Resolution of the House of Commons and of the Senate of North Carolina requiring their Senators & Representatives in Congress to apply to the Congress for permission & authority to purchase certain lands, the title to which is not yet extinguished lying within the Chartered limits of that State, November 22, 1816, M-208, Reel 7.

45 Return J. Meigs to George Graham, February 22, 1817, M-208, Reel 7; Charles Hicks and The Path Killer to Return J. Meigs, February 18, 1817, M-208, Reel 7. It was not uncommon for treaties or land cessions to be preceded by whites occupying Cherokee lands and declining to move. See for example Mooney, *Myths of the Cherokee*, 46, 68.

46 Deposition of David Shuler, July 28, 1828, TCP, Indian Affairs and Lands, NCDAH.

47 Deposition of Emanuel Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

48 Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection). Not surprisingly, few individuals on the treaty lands were able to speak both English and Cherokee. Other white men present in the region at the time of the land cession who could speak some Cherokee and served as translators included men named Falls, (possibly Gilbert Falls, an early settler), Parker, Anguish McDaniel, Jonathan Blythe, and Gideon F. Morris. William Holland Thomas also served as an interpreter on at least one occasion. For evidence that Falls could speak Cherokee, see Deposition of John Tatham, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH; on Parker, see Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH; on Anguish McDaniel, see for example Deposition of [T.] B. Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH; on Jonathan Blythe, see Deposition of John Moore, July 23,1828, TCP, Indian Affairs and Lands, NCDAH; on Morris, see Gideon F. Morris’ claim for services to the Cherokee Nation and Deposition Affirming Claim, October 23, 1838 [claim dated August 14, 1838], RFBCC, Miscellaneous Claim Papers 1836-1839, RG 75, NAR; on Thomas, see Deposition of William H. Thomas, July 7, 1843, Claim 736, RFBCC, Claim Papers, RG 75, NAR. Family tradition also relates that early settlers Absolam and John Hooper could speak Cherokee. See Raxter, “The Orphan Strip Community,” 55. Among the Cherokee, Arkalooke “could talk English…and was in the habit of interpreting for the whites.” See Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. An “Archy Luke,” apparently the same man, served as one of the interpreters for North Carolina commissioners Phillip Brittain and David L. Swain in 1825. See Phillip Brittain and David L. Swain, Commissioners, Account Current with the State of North Carolina, November 11, 1825, TCP, Indian Affairs and Lands, NCDAH. A John [Cohoos?] (last name is partially legible) is also reported to have been able to speak some English. See Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. It is possible that John [Cohoos?] was actually the same person as a Cherokee named John Colston. Colston is not specifically identified as an English speaker, but he is described in a context that suggests that he may have been able to speak some English. See Deposition of Jacob Siler, October 14, 1838, Claim 74, RFBCC, Claim Papers, RG 75, NAR. Finally, Richard Walker served as an interpreter on numerous occasions. See for example Report of the Commissioners [William Robards and Benjamin Robinson] Under the Act of 1823 on Indian Reservations, October 24, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

49 Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. In addition to Thomas Love, Joseph Welch, Jonathan Phillips and Zechariah Cabe were present when this deposition was taken.
Evidence of Cate hee [Catahee], Kah Kullah and Richard Walker, August, 1824 [no day of month], SSP, State Land Office, Cherokee Lands, NCDAH. See also Deposition of Clubb or Long Blanket, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. Arkalooke is described as a reservee in this and other documents, although his reservation does not appear to have been surveyed, nor is his name among the list of applicants for reservations reproduced herein. Based on the verbal description given in this and other documents Arkalooke’s reserve was located on the south side of the Tuckaseegee River at the mouth of what is today Conley’s Creek in Swain County. See also Testimony of Junaluskie in the Reservation Claim of Arkalooke, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR; Testimony of Flying Squirrel in the Reservation Claim of Arkaloole, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR, and Testimony of Flying Squirrel in the Reservation Claim of Dick-Wessa or Cat, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Deposition of Enos Shields, July 2, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Thomas Tatham, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Deposition of Alexander M. Moss, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. Little George was apparently the son of the reservee Wallee. See Indenture Between Little George Heir of Wallee and William Roane, January 3, 1827, TCP, Indian Affairs and Lands, NCDAH, and Deposition of Howell Moss, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.

Hawkins, Letters of Benjamin Hawkins, 23.

Williams, ed., Adair’s History of the American Indians, 1.

Ibid, 34. See also Hatley, Dividing Paths, 60-61. Hatley cites Adair’s story of Cherokee warriors refusing to bury the body of a métis man for fear of pollution from touching such a white corpse as an example of Cherokee racial attitudes.


William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430.

Cherokee Lands Entries and Surveys, 1820-1824, p. 78-79, SSP, NCDAH.

See Valuation Claim of the Heirs of Catahee [also spelled Ca ta te hee], [no date – claim filed December 30, 1846], Claim 420, RFBC, Claim Papers, RG 75, NAR; Deposition of William Reid, [no date, but probably July 20, 1843], Claim 420, RFBC, Claim Papers, RG 75, NAR, and Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

Memoir of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Deposition of Jonathan Phillips, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Memorandum of Robards on Disputed Cherokee Claims and Suits of Ejectment (Gideon F. Morris), 1824 [no month or date], TCP, Indian Affairs and Lands, NCDAH; Affidavit of William Reid, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Evidence of Cate hee [Catahee], Kah Kullah and Richard Walker, August, 1824 [no day of month], SSP, State Land Office, Cherokee Lands, NCDAH, and Cherokee Lands Entries and Surveys, 1820-1824, p. 78-79, SSP, NCDAH. Under the terms of the Treaty of 1819 white men married to Cherokee women were eligible to take reservations in right of their wives. (See Chapter Seven herein) Morris’ reservation was located in the vicinity of the present day town of Franklin.

William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430.

Deposition of William Reid, [no date – claim filed December 30, 1846], Claim 734, RFBCC, Claim Papers, RG 75, NAR; Deposition of William Reid, July 13, 1843, Claim 734, RFBC, Claim Papers, RG 75, NAR. The commissioners Benjamin Robinson and William Robards, charged with adjudicating Cherokee reservation claims in 1824 (see Chapter 11 herein), stated that “William Reid, a Scotchmen, landed in South Carolina settled among the Indians many years ago, married and acknowledged as one of their tribe before the Treaty of 1817. Cherokee Lands Entries and Surveys, 1820-1824, p. 81, SSP, NCDAH.

The relationship between Nancy Reid and Old Nanny is established in Deposition of Arch, December 21, 1844, Claim 713, RFBCC, Claim Papers, RG 75, NAR.
even the most civilized readily fall into, and learn to prefer it.” Strange, country as short as possible: “I have been told, and partly believe it, that the savage life is so natural to man, that character is thought to have been modeled after the Indian countryman Gideon Morris, to make his stay in the Indian of life had attractive qualities that drew some white men to it. One of Strange’s characters warns his son, whose marriages to base motives on the part of white men, he acknowledged in backhanded fashion that the Indian way in fomenting resistance to the Cherokee removal treaty of 1835. Although Strange attributed many interracial Intelligence Report on N.C. Cherokees,” 208, for a similar observation about the role that Indian countrymen played white men” among the Cherokee. See Andrew Jackson to William H. Crawford, June 10, 1816, sentiments when he blamed the unfavorable outcome of treaty negotiations on “designing half-breeds and renegade Meigs,” 96. See for example John A. Powell to John H. Eaton and Edward B. Hubley, Cherokee Commissioners, September 23, 1843, RSTBCC, Claim Papers of the Second and Third Boards, 1843-1845, RG 75, NAR; Action of Ejectment Brought Against the Heirs of John Welch, [No Date], David L. Swain Papers, NCDAH; Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 127, and Barbara Sears McRae, Records of Old Macon County, N.C., 1829-1850 (Baltimore: Clearfield Co., 1991), 49. Gideon Morris and his Cherokee wife Naka also remained together for life. Reference to Morris’ later life can be found in Theda Perdue, “Remembering Removal, 1867,” Journal of Cherokee Studies 7, no. 2 (1982). Dearborn to Meigs, June 25, 1801, Cherokee Files, Indian Affairs Records; Journal of Georgia Commissioners to the Cherokees, January, 1803, in Cherokee Letters Collection, Georgia Department of Archives, Atlanta, quoted in Malone, “Cherokee-White Relations on the Southern Frontier,” 3-4. On undesirable whites living among the Cherokee, see also Ford, “Analysis of Anglo-American-Cherokee Culture Contact,” 39, and McKeown, “Return J. Meigs,” 96.

Henry H. Sutton to J.R. Poinsett, Secretary of War: An Exhibit of Certain facts Concerning the Affairs of Henry H. Sutton as Relates to the Treaty of 1835 with the Cherokees, [no date], M-574, Reel 27, File 138, Frames 1167-1186. This attitude was not limited to the southern backcountry. When John Ridge and Elias Boudinet, both prominent, highly educated Cherokees, married white girls that they had met while attending missionary school in Cornwall, Connecticut, the relationships touched off a storm of protest in New England. See Wilkins, Cherokee Tragedy, 146-53. John Ridge complained bitterly that racial prejudice was “the ruling passion of the age.” Christian Herald, X, (Dec. 20, 1823): 468, Quoted in Wilkins, Cherokee Tragedy, 147. Nor was this attitude limited to white society. There was also considerable opposition to the marriage choices of Ridge and Boudinet among the Cherokee. Major Ridge, John Ridge’s father, attributed this opposition to prejudice against whites among the lower classes of the tribe. See Theda Perdue, “Mixed Blood” Indians: Racial Construction in the Early South, Mercer University Lamar Memorial Lectures; No. 45 (Athens: University of Georgia Press, 2003), 94.

Strange, Eoneguski, 91 (vol. 1). Andrew Jackson, the eventual president of the United States, expressed similar sentiments when he blamed the unfavorable outcome of treaty negotiations on “designing half-breeds and renegade white men” among the Cherokee. See Andrew Jackson to William H. Crawford, June 10, 1816, American State Papers: Indian Affairs II: 110-111, Available Online: http://memory.loc.gov/ (7-24-03). See also Williams, “Military Intelligence Report on N.C. Cherokees,” 208, for a similar observation about the role that Indian countrymen played in fomenting resistance to the Cherokee removal treaty of 1835. Although Strange attributed many interracial marriages to base motives on the part of white men, he acknowledged in backhanded fashion that the Indian way of life had attractive qualities that drew some white men to it. One of Strange’s characters warns his son, whose character is thought to have been modeled after the Indian countryman Gideon Morris, to make his stay in the Indian country as short as possible: “I have been told, and partly believe it, that the savage life is so natural to man, that even the most civilized readily fall into, and learn to prefer it.” Strange, Eoneguski, 170 (vol. 1).
Evidence of Cate hee [Catahee], Kah Kullah and Richard Walker, August, 1824 [no day of month], SSP, State Land Office, Cherokee Lands, NCDAH.


Cherokee Phoenix, March 27, 1828.

Ibid. For a discussion of Cherokee laws that affected Cherokee-white marriages, see McLoughlin, Cherokee Renascence in the New Republic, 331-33.


John Jolly to John C. Calhoun, January 28, 1818, M-271, Reel 2, Frames 618-620. The Cherokee Agent Return J. Meigs made a similar statement in a communication to Cherokee leaders in 1818: “Intermarriages - these are already numerous & on both sides are increasing. We and you are imperceptibly blending our being and existence - We are becoming one great people.” See Return J. Meigs to The Path Killer and Charles Hicks and to All the Cherokee Chiefs, July 4, 1818, M-208, Reel 7.

Edward Lloyd Thomas and Alexander E. McGill to George R. Gilmer, February 28, 1831, Telamon Cuyler Collection, Manuscript Number 1170, Hargrett Rare Book and Manuscript Library, University of Georgia Libraries, Athens, GA.

Albert James Pickett and Thomas McAdory Owen, History of Alabama and Incidentally of Georgia and Mississippi, from the Earliest Period (Birmingham: The Webb Book Company, 1900), 11.

Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. White men were used by the Cherokee as intermediaries on other occasions. When an invading colonial army was nearing the Overhill Cherokee settlements during the Cherokee War of 1776 the Cherokee dispatched a trader named Alexander Harland (Elis Harlan in another account) under a flag of truce with a proposal to enter into peace negotiations. See Williams, “Col. Joseph Williams’ Battalion in Christian’s Campaign,” 108, and Brown, Old Frontiers, 157. In a similar vein, in the 1760’s Cherokee leaders offered large blocks of land to the métis sons of two traders in the hope that by occupying these tracts the trader’s sons would form a friendly buffer between the whites and the Cherokee settlements. See Hatley, Dividing Paths, 207-08 and Brown, Old Frontiers, 128.

Affidavit of William Reid, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. Morris was not unique in this way. At the time of the Cherokee removal W.G. Williams, a military officer, reported that “Many whites who have intermarried with Indians have thus become to all intents and purposes a part of the nation and are considered as such by them.” Williams, “Military Intelligence Report on N.C. Cherokees,” 207.


Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Mooney, Myths of the Cherokee, 83; Woodward, The Cherokees, 120.


On William Jones identified as a “mixed-blood,” see Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. On John Welch identified as “part Cherokee” see Deposition of William Reid, July 12, 1843, Claim 449, RFBC, Claim Papers, RG 75, NAR, and John Welch’s Memorial for [money to be refunded] to him that has been unjustly paid to others that he did not owe and without his knowledge, by John H. Powell, September 23, 1843, RSTBCC, Claim Papers of the Second and Third Boards, 1843-1845, RG 75, NAR. On Edward Welch, see Memorial of Edward Welch, December 30, 1846, Claim 744, RFBC, Claim

Although it may simply be an error, a claim for the value of a Treaty of 1819 reservation filed by Edward Welch in 1846 identifies him as the “son of John Welch.” See Memorial of Edward Welch, December 30, 1846, Claim 744, RFBCC, Claim Papers, RG 75, NAR. The situation is complicated by the fact that the Cherokee John Welch’s oldest son was also named Edward. However, Edward was probably too young to have taken a reservation under the terms of the Treaty of 1819. A John and William Welch are recorded as entering land on Soco Creek, in what is today Jackson County, prior to 1820. See Blethen and Wood, “Pioneer Experience,” 69. However, there is no direct evidence connecting this John and William Welch to the Cherokee John and Edward Welch. For a list of the Cherokee John Welch’s children, see McRae, *Records of Old Macon County*, 49.

Deposition of [J.] R. Pace, July 31, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Samuel R. Woodfin, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Gideon F. Morris to Return J. Meigs [Reservation Application of Ned Welch], August 21, 1819, Applications for Reservations, 1819, RG 75, NAR.

John Welch’s reservation was located “between Cowee and Watago adjoining William Jones.” The exact location of Edward Welch’s reservation is not clear, but it was located on the Cowee [Little Tennessee] River “at a place called Wahtaugeer” (probably the old Cherokee town of Watauga) in what is today Macon County not too far from the reservations of Jones and John Welch. See Applications For Reservations, 1819, RG 75, NAR; Memorial of Edward Welch, December 30, 1846, Claim 744, RFBCC, Claim Papers, RG 75, NAR, and Reservation Claim of Edward Welch, March 28, 1845, Claim 744, RFBCC, Claim Papers, RG 75, NAR.

Deposition of [J.] R. Pace, July 31, 1828, TCP, Indian Affairs and Lands, NCDAH; Deposition of Samuel R. Woodfin, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Heirs of William Jones Dec’d vs. The United States, Claim for the Value of a Reservation taken under the treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #28, RG 75, NAR.

Action of Ejectment Brought Against the Heirs of John Welch, [No Date], David L. Swain Papers, NCDAH; Deposition of Ann Blythe, August 23, 1824, TCP, Indian Affairs and Lands, NCDAH. Elizabeth or Betty Blythe was the daughter of Jonathan Blythe, who, as noted elsewhere in this chapter, operated a mill on the 1819 Treaty lands at least as early as 1820, and probably before. Betty Blythe, like her husband John Welch, became a well known figure after the couple moved to what is today Cherokee county, North Carolina. See Arthur, *Western North Carolina*, 187, 572-574; Freel, *Our Heritage*, 38; John R. Finger, “The Abortive Second Cherokee Removal, 1841-1844,” *The Journal of Southern History* 47, no. 2 (1981): 214.

Deposition of Samuel R. Woodfin, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. Ibid.

Deposition of Stephen White, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Samuel R. Woodfin, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

See for example John A. Powell to John H. Eaton and Edward B. Hubley, September 22, 1843, Claim 178, RFBC, Claim Papers, RG 75, NAR; Deposition of John Welch and Memorial for the Value of an Improvement Under the Treaty of 1819, August 21, 1843, Claim 178, RFBC, Claim Papers, RG 75, NAR; Deposition of John Bryson, August 21, 1843, Claim 178, RFBC, Claim Papers, RG 75, NAR.


Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection).
the traders in the region may have owned slaves. According to an account of the Cherokee War of 1776 the slave
reservations,” 246-247.
whites, see Inscoe, McLoughlin, Red over Black: Black Slavery Among the Cherokee Indians Evolution of Cherokee Society, 1540-1866
recorded as owning eight slaves. See McRae, Cherokee Households in Southwestern North Carolina,” 586.
Welch appears to have gone into hiding not to avoid other Cherokees but to avoid white authorities who threatened
him with prosecution in an apparent attempt to drive him from his reservation (See Chapter Ten herein).
On Toolahnoostah, see Brief – Tom - Only Son of Toolahnoostah – Reservation Claim, [No Date, Claim Filed December 24, 1846], Claim 68, RFBCC, Claim Papers, RG 75, NAR; Deposition of William Newton, April 18, 1838, Claim 68, RFBCC, Claim Papers, RG 75, NAR; Tom, son and only heir of Too le noos tah vs. The United States, Claim for the Value of a Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #39, RG 75, NAR; Deposition of William Newton, April 18, 1838, Claim 68, RFBCC, Claim Papers, RG 75, NAR; Petition for a Rehearing of the Case of Tom, Son of Toolahnoostah, by J.H. Eaton, [No Date, Claim Filed December 24, 1846], Claim 68, RFBCC, Claim Papers, RG 75, NAR.

Heirs of William Jones Dec’d vs. The United States, Claim for the Value of a Reservation taken under the treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #28, RG 75, NAR.
Strange, Eoneguski. A brief synopsis of the novel’s plot and a discussion of the principal characters can be found online at: http://www.teresisita.com/html/eoneguski.html (9-7-03).
E.g. see Arthur, Western North Carolina, 573-574, and Davidson, Reminiscences and Traditions, 8-10. In fact, Welch appears to have gone into hiding not to avoid other Cherokees but to avoid white authorities who threatened him with prosecution in an apparent attempt to drive him from his reservation (See Chapter Ten herein).
In the 1835 census of the Cherokee John Welch listed as the owner of six slaves. See Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 586. In a power of attorney executed in 1838, Welch is recorded as owning eight slaves. See McRae, Records of Old Macon County, 49.
The census is reproduced in Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 246-247.
McRae, Records of Old Macon County, 2.
Deposition of Richard Walker, [no date, but probably August, 1824], TCP, Indian Affairs and Lands, NCDAH.
Lanman, “Letters from the Alleghany Mountains,” 420-21. The slave’s name was Cudjo. In addition, some of the traders in the region may have owned slaves. According to an account of the Cherokee War of 1776 the slave
of a trader named John Scott, who apparently lived on Scotts Creek near the eastern edge of the 1819 Treaty Lands was mistaken for an Indian and shot by a member of Griffith Rutherford’s invading army. See Barnes et al., eds., “Historical Sketch,” 133.

123 Affidavit of Zachariah Cabe, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Affidavit of Joseph Young, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Affidavit of Amos Brown, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

126 Petition on behalf of Molly Chickea, Isaac Tucker, and Edward Tucker, in Cherokee Supreme Court Docket, 1829, MR-815, Frame 984.

127 Ibid; Deposition of Big Half Breed, White Path, John Watts, and Tiger, October 18, 1833, in Cherokee Supreme Court Docket, 1829, MR-815, Frame 985; McLoughlin, Cherokee Renascence in the New Republic, 347; Perdue, “Clan and Court”; Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 83, Strickland, Fire and the Spirits, 54. Isaac Tucker sold his improvement on the 1819 Treaty Lands to white settlers around 1819 and moved elsewhere in the Cherokee Nation. In a case that subsequently reached the Cherokee Supreme Court a white woman attempted to claim ownership of Tucker and his mother as slaves based on the fact that Samuel Dent had sold Molly to her father. The members of the Cherokee clan into which Molly had been adopted protested, claiming that she was one of their people and not subject to purchase or sale, even though neither Molly nor her sons had any Cherokee “blood.” The attempt by the white woman to claim Molly and Isaac was thus thwarted.

128 Riggs, “Removal Period Cherokee Households in Southwestern North Carolina,” 83; McLoughlin and Conser, “Cherokees in Transition,” 694. One version of the story of the arrival of Jacob Siler and William Britain in what is today Macon County (see above) included the detail that the individual who translated between the two men and the Cherokee was of mixed Cherokee-African American descent. See Arthur et al., comps, The Siler Family, 21.
PART TWO

A NEW PLOW:
THE TREATY OF 1819 AND ITS
AFTERMATH IN WESTERN NORTH CAROLINA
CHAPTER SIX: THE 1819 LAND CESSION

On February 27, 1819, representatives of the Cherokee Nation signed a treaty that resulted in the cession of some six thousand square miles of their territory to the United States. The area surrendered by the Cherokee represented about one quarter of all their lands east of the Mississippi River, and included the lands in western North Carolina that are the focus of this study.¹

Although proximally designed to amend a treaty signed just two years earlier, the equally descriptively named Treaty of 1817, the origins of the Treaty of 1819 can be traced to geographic, political, and economic divisions among the Cherokee that occurred during the previous half century.² The treaty was also a byproduct of and in many ways the embodiment of the often contradictory attitudes that 18th and 19th century white Americans had about Indians. This chapter will describe the historical background of the Treaty of 1819.

Civilization and Removal

What was to be done with the Indians? This was a problem that vexed both government officials and frontier citizens alike. The Indians stood squarely in the path of national expansion and personal enrichment. They were sporadically hostile, subject to manipulation by foreign powers, but above all, Native Americans possessed what Anglo-Americans wanted: land.

One solution to the Indian problem was to “civilize” them, or induce them to live more like white Americans. This would serve the dual purpose of enabling them to assimilate better with their frontier neighbors and lessening the amount of land that they required for their survival. The land that the Indians no longer needed could then be sold to white settlers.

To achieve these goals, in the 1790s the United States government initiated a policy of supplying the Cherokees and other native groups with plows, spinning wheels, and other agricultural and manufacturing implements. By providing the Indians with the tools of
civilization, it was hoped that they would gradually become civilized – the men would become farmers instead of hunters; the women would become weavers instead of farmers, and both men and women would be blended into the white society that would filter in to occupy the lands that the civilized Indians no longer needed.³

It was believed that the faster the Indians could be deprived of their excess lands, the better off they would be, for their large land holdings were actually a brake on their progress toward civilization. The Cherokee agent Return Jonathan Meigs explained this line of reasoning in a letter to the secretary of war penned in 1816:

I am one of the last men that would infringe their rights. I would lead them to civilization without injuring an individual, until they gradually and almost imperceptibly become blended with ourselves. And to effect this, they must circumscribe their immense limits; for while they can roam through extensive forests, (where in this mild temperature they can partly subsist themselves on the spontaneous productions,) they will not make use of their physical or mental faculties to raise themselves up. “Poor human nature, alone, revolts at the thought of the labor required and the sacrifices to be made to arrive at a state of civilization.”⁴

Inducing the Indians to take individual holdings in lieu of owning land in common might further speed the process of civilization, it was reasoned, because the Indians, like all people, would exert little effort to improve what they did not own.⁵

The Federal Civilization program was a mixture of benign philanthropy and cynical intent. The philosophical core of the program was the enlightened (by 18th century standards) belief that the “Indian’s problem was not that he was innately inferior, but that he was still a savage.”⁶ The civilization program also represented an idealistic attempt to preserve the remaining Indian societies, albeit in altered form, while simultaneously meeting the needs of the United States for an expanded land base. But try as they might, the government could not induce the Indians to become “civilized,” at least not at a pace that was sufficient to meet the ever increasing demand for Indian land. The Indians, while clearly welcoming some of the trappings of white America, simply did not wish to become white Americans. And to the extent that the civilization program was successful, it exacerbated, rather than alleviated, the demand for Indian land in general, and Cherokee land in particular. Cherokee improvements under the federal
civilization program only made that land more desirable to white settlers. Conversely, as some Cherokees became more educated and assimilated they began to place more value on land as a source of wealth, and became more savvy in deflecting the pressure put on them to surrender that source of wealth.\footnote{7}

The acquisition of a huge tract of western land by the Louisiana Purchase of 1803 afforded a different solution to the Indian problem: removal. If the Cherokees and other eastern tribes could be induced to move onto these newly acquired lands west of the Mississippi River, they could be “civilized” at a more leisurely pace. In the meantime, those Indians who still relied on hunting for their livelihood would find game more plentiful on the sparsely settled western lands; Indians and whites would be insulated from each other and not prone to run-ins and conflicts, and Indian societies would be saved from being ground into extinction by the force of white expansion. The presence of a large number of friendly native warriors on the western lands would also provide some measure of protection to the nation’s borders.\footnote{8}

Removal was a scheme that also accorded well with the desires and beliefs of frontier whites, who did not share the philosophical belief of some government officials regarding the perfectibility of the Indian.\footnote{9} Quite to the contrary, many frontier residents saw the Indians as inherently inferior. As the 19th century ethnographer James Mooney put it, among these people “The Indian was regarded as an encumbrance to be cleared off, like the trees and the wolves, before white men could live in the country.”\footnote{10}

\textit{Historical Antecedents to the Treaty of 1819}

Assimilation or removal represented the twin poles of government Indian policy during the years prior to the Treaty of 1819, and clearly colored the provisions of the treaty. But in tandem with this bifurcated government policy a parallel debate simmered within Cherokee society over whether it was more desirable to remain in the East or emigrate west of the Mississippi.\footnote{11} This internal debate, which played an equally important role in the genesis of the Treaty of 1819, was in turn shaped by a chain of historical events that began at least four decades earlier, among the embers that would be fanned into the flames of the second Cherokee war.
The beginning of this chain of events came in the year 1775, when representatives of the Cherokee sold a vast amount of land, comprising much of what is today Kentucky and Middle Tennessee, to a private land company known as the Transylvania Company (Figure 6.1). This transaction, known as Henderson’s Purchase or the Treaty of 1775, was consummated even though it was technically illegal under the laws of the time and prohibited by previous agreements made between the Cherokee and Great Britain. The treaty was violently opposed by some of the Cherokee, most notably a faction led by a chief named Dragging Canoe. The more militant members of the tribe were also enraged by a large influx of white settlers onto lands claimed by the Cherokee along the Watauga, Holston, and Nolichucky Rivers, in what are today northeast Tennessee. In response to these events the militant Cherokee faction sent war parties against the white border settlements, part of a series of actions that led to devastating invasions by colonial armies in 1776. When an army from Virginia invaded the Overhill Cherokee settlements in 1776, Dragging Canoe’s town, known as Big Island Town, and other Cherokee villages that were allied with Dragging Canoe refused to enter into negotiations with or
surrender to the colonial forces. As a consequence, while the towns of the Cherokee who entered into a peace agreement with the leaders of the colonial forces were spared, the towns affiliated with Dragging Canoe were burned, and Dragging Canoe and his followers retreated south to the area around the present day city of Chattanooga, where they formed a breakaway faction of the Cherokee known as the Chickamaugas. For the next two decades, the Chickamaugas, their numbers augmented by displaced or disaffected Cherokees from other areas, would form a bastion of resistance to white settlers moving into the trans-Appalachian region.

For the next two decades, the Chickamaugas, their numbers augmented by displaced or disaffected Cherokees from other areas, would form a bastion of resistance to white settlers moving into the trans-Appalachian region.

Hostilities between the Chickamaugas and white settlers finally ended in 1794, but the Chickamauga towns would continue to comprise a potent political faction among the Cherokee, during the late 18\textsuperscript{th} and early 19\textsuperscript{th} centuries. During this period these towns were known as the Lower Towns, because of their location at the junction of what are today northeast Alabama, northwest Georgia, and southeast Tennessee, lower down on the Tennessee River than the so-called Upper Towns, which were situated in northern Georgia, eastern Tennessee, and western North Carolina (Figure 6.2).

In 1808 a political rift between the Upper and Lower Cherokee towns led to the Upper Towns sending a delegation to Washington D.C. to present their grievances to the then president Thomas Jefferson. This delegation complained that the Lower Towns were receiving an unfair percentage of government money and support, and that Lower Town leaders had used funds obtained from land cessions to discharge personal debts. They asserted that they were tired of being dominated by the Lower Town chiefs and proposed that a formal division be made between the Upper and Lower Towns. They also proposed that the land encompassed by the Upper Towns should be subdivided into small tracts and assigned as farms to individual Cherokee, who would then become citizens of the United States. Jefferson listened to the grievances of the delegation, but seems to have been skeptical that the Cherokee were ready for individual land ownership and citizenship, suggesting instead that some intermediate stage of governance might first be necessary.
Late in 1808 another delegation consisting of representatives of both the Upper and Lower Towns journeyed to Washington to air their grievances before the president. This delegation was sharply divided, with the representatives of the Lower Towns, perhaps influenced by bribes from federal officials, proposing that they be allowed to exchange their lands in the east for lands west of the Mississippi River.\(^1\) Meanwhile the Upper Town delegates renewed their complaints about the Lower Towns receiving a disproportionate share of federal funds and material aid.\(^2\)

In his response, given early in 1809, Jefferson offered support and advice to both factions of the delegation. He conceded that the erection of a boundary between the Upper and Lower Towns was reasonable, provided it was agreed to by both groups, and stated that he would be willing to recognize the Upper and Lower towns as distinct entities. He advised the representatives of the Upper Towns to consult with the Indian agent, Return Jonathan Meigs, to develop temporary laws that would ease them along the pathway to citizenship, and

\(^1\) [Footnote: This map shows the approximate area covered by the Upper and Lower Towns.]

Figure 6.2 – Approximate area covered by the Upper and Lower Towns.
advised the members of the Lower Town delegation to send an exploring party west of the Mississippi to reconnoiter the upper reaches of the Arkansas and White Rivers, in what is today Arkansas, in order to find a suitable spot to which to relocate. Jefferson assured the Lower Town representatives that once such a location was found the government would provide those Cherokees who wished to emigrate with support for their journey west, and that they would be able to exchange their lands in the East for a like amount of land in their new homes, where they would be able to live without interference from white settlers.23

Arkansas was not an unknown country to the Cherokee. In fact, there had been a Cherokee presence in the region as early as the 1780’s. The area was attractive to some members of the tribe because of its ample hunting and the freedom it offered from the encroachment of white settlers. The area also served as a refuge for members of the tribe who were dissatisfied with the treaties that had deprived the Cherokee in the east of a substantial amount of their holdings; who were fleeing the intermittent conflicts that occurred during the decade following the conclusion of the Revolutionary War, or who had had fallings out with other members of the tribe.24 Although conflicting accounts of the event exist, the most notable emigration of Cherokees to lands west of the Mississippi prior to 1808 is said to have occurred in 1794, when a group of Cherokees from one of the Chickamauga towns were involved in the massacre of a party of white immigrants who were traveling by flatboat down the Tennessee River. The Cherokee, fearing repercussions from the Americans, fled down the Tennessee and Mississippi Rivers and thence up the St. Francis River, in Arkansas, where they formed the nucleus of what became the Western Cherokee. Arkansas at this time was still under the dominion of Spain.25

The events of 1808-1809 did not immediately result in a substantial new emigration to Arkansas.26 The rift between the Upper and Lower Cherokee towns was mended in 1809, and the proposed division between the groups was never created.27 In fact, by agreeing to reunite and be considered as one people, and by appointing a 13 man National Executive Committee with members from all parts of the Cherokee Nation to oversee the affairs of the nation as a whole, the Cherokee actually emerged from the crisis as a stronger and more cohesive group.28
Nonetheless, the controversies of 1808-1809 had a significant impact on subsequent occurrences. The idea of an exchange of Cherokee lands in the east for lands west of the Mississippi did not disappear. Some eight years later Tennessee governor Joseph McMinn revived the notion, suggesting in a letter to Secretary of War William H. Crawford that the proposition first made to the Cherokee during Jefferson’s administration be renewed, with such modifications as might be deemed expedient.\textsuperscript{29} The Cherokee delegations of 1808 are specifically mentioned in the preamble to the Treaty of 1817, and the promise made by Thomas Jefferson to provide land for Cherokee emigrants to Arkansas was used to justify the need for the Treaty.\textsuperscript{30} The competing visions of Cherokee destiny expressed by the delegations were also incorporated into the Treaty of 1817, as well as into the subsequent Treaty of 1819.\textsuperscript{31} Finally, among those Cherokee who did emigrate to the west in the wake of the meetings with Jefferson was a group led by a chief named Tahlonteskee, who subsequently became the principal chief of the Arkansas Cherokee. Tahlonteskee’s requests for defined boundaries for the land his people occupied led in part to the treaties of 1817 and 1819.\textsuperscript{32}

\textit{The Treaty of 1817}

Although emigration to Arkansas did not occur to the extent that was visualized in 1808, by 1817 between two and three thousand Cherokees had crossed the Mississippi and settled in the region.\textsuperscript{33} Many of the emigrants were from the more conservative elements of the tribe for whom hunting constituted a significant portion of their livelihood, and who wished to live free from the encroachment of white settlers.\textsuperscript{34}

The Cherokee who chose to move to Arkansas existed in a legal limbo. The boundaries of the lands they occupied were never fixed, leaving them a people without a country, and engendering territorial disputes with other Indian groups and with white settlers who began to enter the Arkansas territory in increasing numbers. The leader of the Arkansas Cherokee, Tahlonteskee, summed up the situation:
I have for nine years lived on Arkansas, as my father the President wished. After I had lived for some time I became uneasy. I felt that I was as an intruder. I had no land to call my own.\\footnote{35}

The status of the Arkansas Cherokee within the Cherokee tribe was also anomalous. The Cherokee who remained in the East resented the emigrants, whose departure they felt weakened the united front they wished to maintain against the removal schemes of the United States. As such, the Arkansas Cherokee were denied their share of the annuities, or annual payments made to the Cherokee by the government in consideration for previous treaties.\\footnote{36}

To redress these problems, the Arkansas Cherokee petitioned the government to assign defined boundaries to their land, and asked for a share of the annuity. The government’s response was that the establishment of any defined Cherokee lands in Arkansas would have to be matched by a cession of Cherokee lands east of the Mississippi, and that the Eastern Cherokee must approve of any division of the annuity.\\footnote{37}

The situation of the Arkansas Cherokee, coupled with the desire of the United States to acquire more Cherokee land east of the Mississippi led government officials to pressure the Cherokee living in the East to negotiate a land cession. The Eastern Cherokee were reluctant to engage in negotiations that would potentially deprive them of some of their land base, and delayed meeting with government officials, but eventually negotiations for a treaty and land cession were begun at the Cherokee agency in Tennessee.\\footnote{38} Andrew Jackson, the general and future president headed the United States treaty commission. Joseph McMinn, the then governor of Tennessee, and David Merewether, a prominent Georgia politician also served on the commission.\\footnote{39}

The United States commissioners pitched their proposed treaty as something that would be beneficial to all classes of Cherokee. The more conservative Cherokee who derived a significant source of their livelihood from hunting would be afforded the opportunity to:

remove from a country where the products of the chase are daily diminishing, and no longer afford a certain support for their families, to one where game abounds, and where the means of subsistence are easily attainable in that mode which is most congenial to their habits... [while]…Those individuals (and they are understood to be numerous) who have acquired property and wish to remain, and who experience the daily increasing
embarrassments and difficulties arising from the want of proper laws, for the protection and security of that property, will, it is believed, find sufficient inducement for the exchange, in the benefits which they will derive from the enjoyment of the rights and immunities of a citizen of the United States, and in the protection of the laws of the particular state, or territory, in which they respectively reside; and in the assignment of a section of 640 acres of land (and more, if in particular instances in may be deemed necessary) to the head of each family, in which they will have a life estate...  

The treaty, in short, embodied both solutions to the “Indian Problem,” removal and assimilation. Those who wished to retain the old tribal ways could move west, while those who had adopted the habits and economy of white society could remain in the East and they, or their descendants, would be folded into that society.

What is known as the Treaty of 1817 was signed on July 8,1817, at the Cherokee agency in Tennessee. Under the terms of the treaty Cherokee lands in Tennessee, Georgia, and what is today Alabama were to be exchanged for lands between the Arkansas and White rivers, in Arkansas. The treaty also called for a census of both the Eastern and Western Cherokee to be completed in June, 1818. The annuities due the tribe in 1818 were to be split among the Eastern and Western contingents in proportion to their populations as determined by this census. The total amount of land ceded in the East and granted to the Cherokee living in the West was also to be determined by the census. The federal government was charged with surveying a tract for the Cherokee in Arkansas, and white settlers were to be removed from this tract (Figure 6.3).  

The treaty offered inducements to encourage Cherokee who were living in the East to move to Arkansas. The poorer Indians who agreed to move west were to be given “one rifle gun and ammunition, one blanket, and one brass kettle, or in lieu of the brass kettle, a beaver trap...” These items were to be given as compensation for the improvements (houses, cleared fields, fences, etc.) that these Cherokee left in the East. Wealthier Cherokees whose improvements “added real value to the land” were to have their improvements appraised, and to be compensated accordingly. Transportation and provisions were to be provided for the move west.

Those Cherokee who chose to relocate because they lived on the lands in the East that were ceded to the United States were to be compensated for the improvements that they abandoned, or given improvements of equal value on the unceded Cherokee lands in the East.
that had been left by Cherokee who had elected to move to Arkansas. Improvements left on the unceded lands that were not exchanged for those on the ceded lands were to be rented to other Indians for the benefit of the “poor and decrepit” of the Eastern Cherokee.

Finally, each head of a Cherokee family who elected to remain on the lands ceded by the treaty was to be given an individual reservation of 640 acres as a life estate, meaning that they could occupy the land, but could not sell it. If the reservee left the reservation, ownership of the land reverted to the United States. However, if the reservee remained on the land through his life, then their children would inherit the land in fee simple, meaning that they could sell the land if they wished. The total amount of land assigned as reservations was to be deducted from the land that would be allotted to the Arkansas Cherokee.

Aftermath of the Treaty of 1817

The Treaty of 1817 was strongly opposed by a great number of the Eastern Cherokees. It was not signed by many of the most prominent Cherokee leaders, and some of the chiefs who did sign the treaty were induced to do so by bribes.

Angry that a treaty had been signed that did not have the support of many of their people, in the fall of 1817 the Cherokee National Council sent a delegation to Washington to protest the way the negotiations had been handled. The delegation was also authorized to sign another treaty to supplant the Treaty of 1817, but nothing came of their efforts.

Despite this strong opposition, between 3000 and 6000 Cherokee moved to Arkansas under the terms of the Treaty of 1817. The exact number of emigrants is not clear, because the figures accepted by the Eastern Cherokee were significantly lower than figures stated by government officials. Emigration under the terms of the treaty was expedited by gifts, incentives, and bribes provided by government officials, but was curtailed by the failure of the government to produce all the money and supplies needed to fulfill the terms of the treaty. Emigration was also curtailed by the actions of the Cherokee who were opposed to the treaty, who in some instances seized the property of the emigrants, or otherwise threatened or intimidated them.
In March, 1818, the leader of the Arkansas Cherokee, Tahlonteskee, expressed optimism that a significant portion of the Cherokee who remained in the East would eventually move west. There are three clans or families now ready to move and they will be the greatest part of the nation. But the people over the mountains are ignorant and do not know what you [the government] are willing to do for them or they would also go… Many have gone from this part of the nation, and many remain, but they may find themselves lonesome and follow us.  

Although a large number of Cherokee moved west as a result of the Treaty of 1817, the federal government and the leaders of the Eastern and Arkansas Cherokees were slow to fulfill all of the provisions of the treaty. In particular, the census of the Cherokee East and West was not taken by the deadline established in the treaty. Because the census returns were to be used to determine the distribution of land and federal money between the divisions of the tribe, there was incentive for the Western Cherokee and the government to delay the census until more Cherokee had emigrated to the West, or indicated their intention to do so, and incentive for the Cherokee who remained in the East to have the census done as quickly as possible, before too many of their people had moved west of the Mississippi. Meanwhile, pending the outcome of the census, federal annuities were withheld from both branches of the tribe, which caused consternation among both groups.  

Against this backdrop, government officials pressed unsuccessfully for all of the Cherokee to move west of the Mississippi. Addressing a delegation of Arkansas Cherokee, President James Monroe remarked that:

It is better for you and for us that all of the Cherokees should go to the Arkansaw. We should then be kept more apart, and bad people would not have the power to excite quarrels between us.  

By Monroe’s direction this delegation was given large cash sums, and “all of their wishes” were gratified. John C. Calhoun, the secretary of war, was optimistic this generous treatment would: “be found calculated to have a most favorable effect on the great object which the government has in view, that of moving the Cherokee nation to the West of the Mississippi...”
However, many of the Cherokee were not swayed by the rhetoric of the government or by the pecuniary incentives it offered to those who were willing to leave their homeland. In the summer of 1818 the Cherokee leader Path Killer wrote to Joseph McMinn, the Tennessee governor and temporary federal agent:

…it appears to me that you want to dispossess us of our habitation and make my people lose what they have learned but I will hold my country fast. I never wished to follow them that runaway with stolen property from their country. I love my country where I was raised. I never will find such another country if you was to dispossess us of our boundary. Surely you are a man of conscience who ought never to take any property from their brother nor threaten to whip him because he likes to keep his property.

I say again that I love my country where I was raised. I never can find so good country and water to what I am used to. I hope you have conscience to let me raise my children in my own country.”

Those Cherokee who wished to remain in the East complained of the inconsistency of government policies that on the one hand encouraged them to adopt white habits and become farmers and herdsmen, but on the other hand encouraged them to emigrate to a new country who’s principal advantage was represented to be the ample game that would allow them to return to the “hunter’s life” of their forefathers.

The Council of November, 1818

In November, 1818, a council was held at the Cherokee agency in Tennessee in an attempt to resolve some of the lingering issues left over from the Treaty of 1817. Governor McMinn, a staunch advocate of Cherokee removal who had been charged with carrying the Treaty of 1817 into effect represented the United States in these negotiations.

McMinn pressed the Cherokee to move west of the Mississippi. He warned the Cherokee representatives that a significant number of the tribe, including many influential leaders, were getting ready to move to Arkansas, and extolled the benefits of the move west. In addition to “the immense extent and fertility of the soil, and the great advantages which will result from the game and range of the Arkansaw Country,” there would be financial rewards for the tribe. McMinn assured the Cherokee delegation that he understood: “how Natural it is for you to desire to be
appraised of the consideration to be given in money,” and promised that any compensation would be “in full accordance with the former generosity of the government toward your nation.”

The Cherokee representatives were unimpressed with McMinn’s bluster. Assisting the United States during the Creek War ought to have allowed them to keep their lands, they asserted. They expressed puzzlement as to why the census called for in the Treaty of 1817 had never been taken, and requested that McMinn set a date by which the treaty would finally be settled.

McMinn replied by asserting that the Cherokee themselves were partially responsible for the fact that census had not been initiated. He also heaped more praise on the Arkansas country:

I have now my brothers as I conceive given you the most ample proof that all who choose to remove west of the Mississippi will find their interest promoted beyond any calculation which I am able to make even those who choose to follow agricultural pursuits must acknowledge that great part of the country is at least one hundred percent superior to this, nay its more than that in relation to commercial advantages, for in these its not surpassed by any section of the United States nor is its advantages less in respect to raising stock, and let me ask the question is there any chief or other citizen of this nation who will say that the advantages to those who choose to follow the gun and the chase are not equal to those enjoyed by their fathers in the land where we now are, even at the most ancient period.

Moreover, as good citizens of the United States, McMinn asserted, the Cherokees were duty bound to surrender their lands, as it was in the best interest of the United States to have the country west of the Appalachians compactly settled for defensive purposes.

Those who were averse to moving to the west might remain in the East and take reservations:

Brothers to pursue the plow and tread in the path of civilized life is worthy of the best Christians, and rest assured that your proposition to do so was one of God like character, and the Government of the United States as tho to promote your laudable views now invites you to take reservations…

McMinn assured the Cherokee that the Great Spirit would smile both on those who took reservations and those who chose to emigrate to the West. For those who took reservations, the Great Spirit “would bless all your honest endeavors to become not only members of the great American family, but much more for your religious exertions in forming a part of his great society of saints.”

122
"Here then my Brothers is your true situation...," exclaimed McMinn:

...this immense newly discovered Country will form sufficient inducements to all who wish to follow the hunters life to remove thither, where they will have schools established for the education of their youth whilst you who have seen the folly and felt the toils of the gun and the chase can stay with us here entirely undisturbed by the bad examples which seems to accompany the hunters life, as well with white as red people, here you will enjoy the advantage of equal and just laws here you will find morality and religion respected and vice punished to the full extent.65

Again, the Cherokee were unimpressed. How, they asked, could they be expected to be rewarded by a supreme being if they were:

…to compel a whole nation of people contrary to their free will and choice to leave the lands of their nativity which mouldered the bones of their fore fathers and so much esteemed and reverenced by them, and at the same time withdraw from them the means of comfort and support which all the solemnity of a treaty and ratified by the highest authority of the Government of the United States had provided by accepting of a pittance [for their lands].66

They questioned McMinn’s interpretation of the Treaty of 1817:

Brother, the idea which you seem to convey respecting the late treaty appears that you are of the opinion that the Cherokees of this country are bound to take reservations or emigrate to the west of the Mississippi River and no other alternative for their continuance here in common as usual.67

But what, replied McMinn, could the Cherokee accomplish if they remained in the East with half their population? If some of the Cherokee remained in the East, sharing common lands, wouldn’t this just keep them “in their present savage state?” And wouldn’t this be counter to the “great design” of the Cherokee becoming a part of the “American family?”68

And still another objection existed against the Cherokee plan, McMinn told the Cherokee:

You oppose the principle, or policy or perhaps both of taking reservations, which forms the only certain road to your becoming a religious, moral and industrious people, but so long as a population of about 5000 souls inhabits a district of country containing upwards of 5 millions of acres, there remains no hope that they ever will prosper as a select society, and this remark will apply equally as well to the White as a Red population. Your people as well as all others must become industrious from necessity, for none ever will be so from choice…69

McMinn then put his money, or the government’s money, where his mouth was. He offered the Cherokee 200,000 dollars to surrender their land in the East, twice the amount he had
previously offered them.\textsuperscript{70} When his offers and entreaties for a total removal were rebuffed,\textsuperscript{71} McMinn offered to initiate the long delayed census called for in the Treaty of 1817, provided that the Cherokee promised not to interfere with any of their number who wished to emigrate west or take reservations under the terms of the treaty.\textsuperscript{72} He expressed a righteous indignation to the Cherokee representatives regarding their stubborn refusal to consider emigrating west. “I cannot resist expressing my astonishment at your determined opposition to the proposed measure,” McMinn wrote to the Cherokees on November 26, near the close of the council.\textsuperscript{73} In turn, the Cherokee expressed puzzlement over McMinn’s assertion that Arkansas emigrants and reservkees had been intimidated, asserting that no organized actions of this sort had ever occurred.\textsuperscript{74} Despite the exchange of barbs, the council ended amicably. McMinn expressed his “entire satisfaction of the peace and harmony”\textsuperscript{75} that had prevailed during the proceedings, and he asked the Cherokee delegation to attend at the firing of a cannon for the purpose of ceremonially closing the negations, as they had “been conducted in peace and friendship.”\textsuperscript{76}

\textit{The Aftermath of the November Council}

The council adjourned on the 28\textsuperscript{th} of November, 1818. The following day, McMinn wrote a long letter to the secretary of war, John C. Calhoun, giving the details of his negotiation strategy, and summarizing his accomplishments of the past year in effecting the removal of the Cherokee west of the Mississippi:

I have the pleasure to state that 718 families have been enrolled for emigration since December 20, 1817, and astonishing as it may appear 289 of that number has been enrolled since the 20th last month, these with 146 families who have made reservations make an aggregate of eight hundred and sixty-four families who have relinquished their claim to land east of the Mississippi. When we add these to the population settled on the Arkansas previous to the date of the Treaty I believe we may safely conclude that we have one-half the Cherokee population on our side.\textsuperscript{77}

Governor McMinn’s enthusiasm for his work was undiminished:

Myself I feel very anxious to see the Cherokee title extinguished, and should not in the present case feel otherwise than honored by being continued, and in that event, I believe I would resign my executive office, or at least decline a reelection, and devote my self entirely to the duties which would attach to this business.\textsuperscript{78}
Calhoun was pleased with the outcome of the council, as related to him by Governor McMinn. In his reply to the governor, the secretary of war observed that:

The tone of the nation has greatly altered. That high spirit of independence which they assumed some months since has subsided to an acknowledgement of their dependence on the government of the United States, and whatever may have been their former opposition to the fair execution of the treaty they appear now disposed to act correctly.79

Calhoun was pleased enough with what he perceived to be the change of heart among the Cherokee that he authorized McMinn to have the long delayed census taken. Calhoun saw bright prospects for the eventual attainment of the government’s objectives. “The numbers of the Cherokees on the Arkansas will be annually increasing by emigration,” he observed to McMinn, “and those who remain behind will be compelled from circumstances to take reservations and become citizens.”80

Return Jonathan Meigs, the federal agent to the Cherokee, was only slightly less sanguine about the prospects for a Cherokee removal. “The conference held here by Governor McMinn with the Cherokees ended on the 29th Ult. without coming to a satisfactory conclusion to either of the parties,” Meigs wrote to Calhoun, but:

…notwithstanding this result so much has been gained by the governor as to remove all violent opposition and I believe convince all that a general exchange of land cannot long be delayed. I say general exchange because a strong party yet cherish the idea of continuing here in their ancient savage state.81

In the same letter, Meigs informed Calhoun that the Eastern Cherokee were taking measures that might obviate the need for the census. “…being anxious to bring the subject of exchange to a satisfactory conclusion” the Cherokee had appointed a 12 member delegation to journey to Washington DC “and request their father the President to have that business decided more immediately under his direction.”82

According to Joseph McMinn, news of this delegation gave “great alarm” to the “lower class of the Cherokees,” who, he asserted, were frightened that their leaders would thwart their emigration to Arkansas:

Say they, we want to enroll and secure pay for our improvements before our father gives all his money to our head man who never will aid us in going to the Arkansas, we know they
have always kept the annuities altogether in their own hands and they are now very poor for money and will keep all our father gives them.\footnote{83}

Although McMinn’s bias makes him a poor source for assessing the mood of and inferring class conflict among the Cherokee, it is likely that a lack of money served as an impetus for the Cherokee leaders to seek a final resolution to the Treaty of 1817 as quickly as possible. According to the agent Meigs, at this time the Cherokee were “much embarrassed in their national finances, which has been caused by bad crops from long droughts and some indolence for several years during the late war and since, particularly the year 1816.”\footnote{84}

And the Cherokee rank and file had legitimate cause to be concerned about the integrity of their leaders, for several of them had been bribed by McMinn during the November council, or, as the governor put it, their friendship had been purchased. McMinn explained in a letter to Calhoun that he had bribed the Cherokee leaders with some reluctance:

I viewed the assembly then collected as more numerous and dignified than any proceeding one… Under these views I deemed it my duty to employ all the ordinary motives in negotiation before I had recourse for any others which may have been sanctioned by a long course of practice with Savage Nations.\footnote{85}

The individuals who had accepted bribes from McMinn included three members of the delegation then enroute to Washington, although he complained that two of these men had not fulfilled the promises they had made to him “with entire good faith.”\footnote{86}

As the Cherokee delegation made their way to Washington, the ever ebullient McMinn, who was unable to make the journey himself,\footnote{87} dispatched optimistic reports to Secretary of War Calhoun. He reported the departure of a Cherokee party bound for Arkansas which “hoisted the American flag,” and “moved off under martial music in good spirits and perfectly pleased with the government.”\footnote{88} and asserted that those Cherokee who had “hitherto been inimical to the views of government, say, our friends are gone and to retain our present standing as to wealth and power we must follow.”\footnote{89}

The Indian agent Meigs sounded a more somber note in a letter to the secretary of war at the time that the delegation was in the city, but the import of his message was similar to that of the messages sent by McMinn. However, rather than a contented and voluntary move west on the
part of the Cherokee, Meigs depicted a Cherokee emigration simply as a practical inevitability. “Every thing short of a general movement [west of the Mississippi] will be ineffectual,” wrote Meigs. “It will be only temporizing to gain time.” “If it is desirable to perpetuate their national existence & Name...they must take new ground where the pressure of white population will not be great for many years to come.”

The Eastern Cherokee, however, did not share this view. Even if they moved to the West, would the white settlers not eventually displace them there too?

*The Treaty of 1819*

The Cherokee delegation arrived in Washington in February, 1819. On February 5th they sent a letter to the secretary of war announcing their desire to treat with him regarding the unresolved issues in the Treaty of 1817.

In the ensuing negotiations, the Cherokee indicated their wish to continue to hold lands in common in the East.

"It is true we cannot live much longer by hunting, and that we must work for our subsistence - this we have been aware of for some time, and find that domestic pursuits are much more agreeable than the pursuit of the chase... - but the present condition of our people cannot permit us to possess separate property in our lands with success, policy and prudence require that the changes should be gradually adopted as the situation of the people will admit but we flatter ourselves that the time is not far distant when the Cherokee people will be in a situation to adopt the habits, customs, and laws of our white brethren of the United States."

The delegation found fault with the estimate of the total number of emigrants enrolled for Arkansas provided by McMinn. They suggested that in fact almost 2000 fewer Cherokees had gone or intended to go west.

The delegation agreed to cede a substantial amount of land to the United States in exchange for the land that the Arkansas Cherokee had taken up west of the Mississippi, but they haggled with Calhoun over the location and amount of land that they would cede. Calhoun requested that the cession be made in the states of Georgia and Tennessee; that the cession in Georgia be made as close to the existing white settlements as possible, and that a part of
the cession be made on the southern edge of the Cherokee nation, where the Cherokee lands bounded the lands of the Creek Indians. However, the Cherokee preferred to cede land in mountainous western North Carolina in lieu of some of the land in the other states, asserting that: “The removal of our citizens on the frontier of North Carolina to the interior of our country we conceive would ultimately be the cause of promoting their advancement towards civilization.”

Wherever the cessions were made, Calhoun emphasized that if the Cherokees wished to have any assurances that more cessions would not be required of them they would need to cede a very large amount of land, retaining only the minimum amount necessary “for their wants and convenience.” Otherwise, Calhoun warned the delegation, “you will feel inclined to sell and the United States to purchase.” In any case, according to Calhoun, as they ceased to live by hunting and began to live more by agricultural pursuits, less land would be required by the Cherokee:

In your new condition far less land is necessary for you. Your great object ought to be to hold your land separate among yourselves as your white neighbors and to live and bring up your children in the same way as they do, and gradually to adopt their laws and manners. It is thus only that you can be prosperous and happy. Without this you will find you will have to emigrate or become extinct as a people. You see that the Great Spirit has made our form of society stronger than yours and you must submit to adopt ours if you wish to be happy by pleasing him.

There was also disagreement over whether individuals who were granted reservations under the terms of the proposed treaty would be required to occupy them, with the Cherokee asserting that it was their understanding that the reservees should have the right to move elsewhere and lease the land they had taken as a reservation if they chose to do so.

Eventually, though, the two sides came to an agreement, and the resulting treaty, known as the Treaty of 1819, was signed in Washington on February 27, 1819. The treaty included many of the same stipulations as the Treaty of 1817, and the two treaties are often referred to together in legal documents dating to the early 19th century.

The Treaty of 1819 called for the Cherokee to cede some six thousand square miles of their territory, including areas in Georgia, Tennessee, North Carolina, and what is today Alabama, as compensation for the land given to the Arkansas Cherokees (Figures 6.4 and 6.5). The total amount of land included in the 1819 land cession represented about one quarter of all
Figure 6.5 – Area reserved to the Arakansas Cherokee as a result of the Treaty of 1819 (Highlighted in Green). Source: This is a section of a larger map entitled Map Showing the Territory Originally Assigned to the Cherokee “Nation of” Indians West of the Mississippi. Also The Boundaries of the Territory Now Occupied or Owned by Them, in Charles C. Royce, The Cherokee Nation of Indians, Fifth Annual Report of the Bureau of American Ethnology (1884), Plate IX. Available Online: http://hdl.loc.gov/loc.gmd/g3861e.np000156 (8-8-03).
Cherokee holdings east of the Mississippi at that time. Sidestepping the issue of the census called for in the Treaty of 1817, the preamble to the Treaty of 1819 simply states that the land that was to be ceded was “at least as extensive” as the amount of land that the Cherokee would have been required to cede had the census been taken. Similarly, the annuity was divided without reference to precise population figures, with 2/3 of the total going to the Cherokees remaining in the East, and 1/3 of the total going to the Arkansas Cherokee. As in the Treaty of 1817, those Cherokee who lived on lands that were ceded to the United States were to be compensated for their improvements, and the head of any Cherokee family that resided on the ceded lands was allowed to take an individual 640 acre reservation, provided that they agreed to become a citizen of the United States. These reservations were to be given as life estates, with possession devolving to the United States if the reservee left the land during their lifetime. Certain prominent Cherokees were also specifically mentioned in the treaty as recipients of reservations in fee simple. These reservations were made under the condition that the recipient indicated that they intended to reside permanently on the reserve, although the fact that the reservations were granted in fee simple would technically allow the recipient to sell the land. Two Cherokees residing on the 1819 Treaty Lands in western North Carolina, Yonah or Big Bear and Richard Walker, are mentioned in the treaty as recipients of fee simple reservations.

*Aftermath of the 1819 Treaty Negotiations*

As the Cherokee delegation that negotiated the Treaty of 1819 prepared to leave Washington, they sent a hopeful message to the President, James Monroe, imploring the government not to ask them for any more land cessions:

We have now surrendered to the United States a large portion of our country for the benefit of those of our countrymen who have emigrated to the Arkansas and we hope that the government will now strictly protect us from the intrusions of her bad citizens -- and not solicit us for more land -- as we positively believe that the comfort and convenience of our nation requires us to retain our present limits.

The treaty did bring Cherokee momentary relief from the pressure that was being brought to bear on them to move west. Upon the ratification of the treaty, the program of encouraging
Cherokee emigration to Arkansas was suspended, and Governor McMinn was instructed to conclude the business initiated by the Treaty of 1817 as quickly as possible.\textsuperscript{106}

Still, although there was some optimism among the Cherokee that the treaty would secure their right to remain in the East,\textsuperscript{107} none of the parties affected by the treaty were entirely happy with it.

The Cherokee who remained in the East would later claim that the enrollment of the Arkansas emigrants had been handled improperly, and that as a consequence they had had to surrender too much land.\textsuperscript{108} Many of the emigrants who had enrolled to move to Arkansas but had not yet moved at the time of the Treaty of 1819 apparently did have second thoughts and declined to emigrate. Other potential emigrants were stranded in the East when the government abruptly halted its emigration program and refused to pay for the transportation of any more emigrants. Those Cherokee who had indicated an intention to leave but did not were left in an anomalous position, as the members of the tribe who had elected to remain in the East refused to allow the would be emigrants the full privileges of Cherokee citizenship.\textsuperscript{109}

The Arkansas Cherokees, who were not included in the treaty negotiations,\textsuperscript{110} were incensed that they had not been allowed a say in a treaty that had such a great affect on them. In the summer of 1819 representatives of the Arkansas Cherokee wrote bitterly to President James Monroe:

\begin{quote}
We do not consider that a deputation from that part of the Cherokee nation have any right to enter into any treaty with United States, either for or against us without our consent… Our father, we are dissatisfied with the treaty entered into at the City of Washington on 27th of February 1819. We never can be satisfied with some parts of it.\textsuperscript{111}
\end{quote}

The Cherokee living in rural western North Carolina were equally opposed to the treaty. When an Indian countryman named Nathaniel Peak, who was a long time resident of the Indian Country, tried to establish a reservation under the terms of the treaties of 1817 and 1819 on unceded lands in western North Carolina, he was “deprived of his possession…because he entered for a reservation, which at that time and yet is displeasing to those mountain Indians - they were opposed to the Treaty of 1817 & 1819...”\textsuperscript{112}
Some of the Cherokee who lived on lands that were ceded by the treaty were so outraged that they “refused to have their improvements valued or receive pay for them,” as allowed for under the terms of the Treaty, “declaring that they would not give up their lands.”

Many federal and state officials were dissatisfied with the treaty as well, because it did not call for the total removal of the Cherokee from the East. “It would have been a source of great satisfaction to me, if the Cherokee nation had assented to remove to the Arkansaw. I believe our interest and their own would have been greatly promoted by it” wrote John C. Calhoun to Joseph McMinn in May, 1819. “The Cherokees had better have made a complete exchange of all their land,” echoed the Indian agent Return Jonathan Meigs, “for their collisions with the frontier settlers will not cease while their jurisdiction remains over that large tract of country: illiberal sentiments on one side and long founded prejudices on both sides are fruitful source for quarrels and injuries”

In the wake of the treaty, the Cherokees who remained in the East took measures to discourage any more of their people from moving west, passing a law in 1821 establishing a fine of $150 dollars for any emigrant who sold their improvements in the East, and levying a fine of the same amount on any individual who purchased these improvements.

Nonetheless, the emigrations that followed the Treaty of 1817, coupled with previous emigrations, had left their mark. By 1820 as much as a third of the entire Cherokee population resided west of the Mississippi River.

Ironically, the Treaty of 1817, as it was originally interpreted, would have resulted in the cession of all Cherokee lands in North Carolina. On August 1, 1817, the then secretary of war, George Graham, wrote the governor of North Carolina to inform him “that the commissioners appointed to treat with the Cherokees have signed a Treaty by which that nation have relinquished their claim to a Tract of Country including the whole of the lands claimed by them within the limits of the state of North Carolina.” However, as Graham qualified in a subsequent communication, this interpretation of the treaty was based on the location of the Chattahoochee River as it was depicted on a contemporary map, a location that proved to be incorrect.
Had the title to all the Cherokee lands in western North Carolina been extinquished by the Treaty of 1817, the subsequent history of the region would have been very different. As it was, the Cherokee were able to retain their lands in the Western tip of North Carolina until the Cherokee removal of the late 1830s, and as an indirect result of the reservation clause of the Treaty of 1819 some Cherokee were able to remain in the state permanently.
Chapter Endnotes


2 The Treaty of 1817 is sometimes referred to as Jackson’s Treaty, after Andrew Jackson, the future president, who headed the United States delegation. Similarly, the Treaty of 1819 is sometimes referred to as Calhoun’s Treaty, after John C. Calhoun, the secretary of war, who represented the United States in these negotiations.


10 Mooney, *Myths of the Cherokee*, 98.


15 Williams, “Col. Joseph Williams’ Battalion in Christian’s Campaign,” 110. The group was named after the initial location of their towns on Chickamauga Creek. In addition to being further removed from encroaching settlers, the choice of the Chickamauga’s settlement location was probably influenced by the proximity of the area to British trading interests located in Pensacola, Florida. See Perdue, “An Historian’s Perspective,” 156. On Dragging Canoe and the rise of the Chickamaugas, see Brown, *Old Frontiers*, especially pp. 137–257.

16 For an extensive treatment of the Chickamaugas, see Pate, “The Chickamauga”.

135
The Lower Towns of the 19th century are not to be confused with the 18th century Lower Towns of South Carolina, which were destroyed during the Cherokee War of 1776. Much of the land on which 18th century Lower Towns were located was ceded as part of the treaty that ended that war.

18 William G. McLoughlin, “Thomas Jefferson and the Beginning of Cherokee Nationalism, 1806 to 1809,” William and Mary Quarterly 32, no. 4 (1975): 551, 554-55; Letter of the Commissioner of Indian Affairs to the Hon. Secretary of the Interior, December 10, 1875, Relative to the Claims of the North Carolina Cherokees, Washington, Government Printing Office, 1875; copy in M-574, Reel 27, File 138, Frames 1460-1467; Markman, “The Arkansas Cherokees,” 4-10; Mooney, Myths of the Cherokee, 54; Royce, The Cherokee Nation of Indians, 22-23. According to McLoughlin, the Upper Towns in turn were separated into two general divisions, the Lower Division of the Upper Towns, located generally in northern Georgia, and the Upper Division of the Upper Towns, which comprised the Middle and Valley Towns of western North Carolina, as well as the Cherokee settlements in eastern Tennessee.

19 McLoughlin, “Thomas Jefferson and the Beginning of Cherokee Nationalism”; McKeown, “Return J. Meigs”, 114-16, 259-61; Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), 44; Wilkins, Cherokee Tragedy, 44-45; Markman, “The Arkansas Cherokees,” 22-23. During this time a significant number of Cherokee leaders came from the Lower Towns. These leaders received federal monies earmarked for the Cherokee, and according to the representatives of the Upper Towns, distributed this money to their friends and allies rather than distributing the money equably to the entire Cherokee populace. Among the Upper Town delegation’s other requests were that the government provide them with additional plows and other implements and construct a grist mill in their area.


21 According to one account, during a Cherokee council in 1808 a private meeting of the Lower Town chiefs was called in the woods some distance from the council house and a vote was held on whether to emigrate west of the Mississippi. The majority of the participants voted to remain in the East but some of the Lower Town chiefs said they would “go to the City of Washington to exchange the country...” Cherokee Delegation to Joseph McMin, June 30,1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 360-365.

22 McLoughlin, “Thomas Jefferson and the Beginning of Cherokee Nationalism.” McLoughlin’s article is the best published treatment of the events of 1808-1809, but see also among others Wilkins, Cherokee Tragedy, 45; Mooney, Myths of the Cherokee, 101-02; Royce, The Cherokee Nation of Indians, 75-76, and Markman, “The Arkansas Cherokees,”11.

23 Thomas Jefferson, “Thomas Jefferson’s Advice to the Cherokees,” Journal of Cherokee Studies 4, no. 2 (1979); Thomas Jefferson to Deputies of the Cherokees of the Upper and Lower Towns, January 9, 1809, American State Papers: Indian Affairs 2: 125, Available Online: http://memory.loc.gov/ (7/26/03); McLoughlin, “Thomas Jefferson and the Beginning of Cherokee Nationalism”; Mooney, Myths of the Cherokee, 101-02, 113; Wilkins, Cherokee Tragedy, 46-51; Treaties Between the United States of America and the Several Indian Tribes, 209-210; Royce, The Cherokee Nation of Indians, 75-76.


25 Markman, “The Arkansas Cherokees,” 7-9; Myers, “Cherokee Pioneers in Arkansas”; Brown, Old Frontiers, 403-04; Mooney, Myths of the Cherokee, 77, 100-01; Everett, Texas Cherokees, 127-28 (footnote 23). A similar story, included in the communication of a Cherokee delegation to Tennessee governor and Indian Agent Joseph McMin in 1818 recounted that: “...in the year 1795 or 96 Wm. Dinsmore then agent of this nation demanded some property which was in the hands of Cherokees of the lower towns, which they had taken from their elder brothers on the Tennessee River previous to Mr. Dinsmore coming here. The party who had the property in possession went on the west side of the Mississippi River and settled there upon which this was made known to our agent and believed it was communicated to our former father the president. Some however went there from the mouth of the Ohio of their own free will to follow hunting.” Cherokee Delegation to Joseph McMin, June 30,1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 360-365. On the assertion that Arkansas was familiar to the Cherokee before 1808, see also Return J. Meigs to George Graham, October 30, 1817, M-208, Reel 7. On the Arkansas Cherokee, see also Hester A. Davis, “The Cherokee in Arkansas: An Invisible Archaeological Resource,”

26 Major John Norton, who visited the Cherokee nation in 1809, placed the initial number of immigrants to the Arkansas country at 300. See Klinck and Talman, eds., Journal of Major John Norton, 150. Other estimates place the number of early emigrants at about 1100. See Markman, “The Arkansas Cherokees”, 25. Support for the move west may have been stronger among a few powerful chiefs than among the general Cherokee populace, although from Major Norton’s account it is clear that emigration was the subject of much discussion. Government funds for supporting the move west were also lacking. See Markman, “The Arkansas Cherokees,” 25-27; Mooney, Myths of the Cherokee, 102, and Wilkins, Cherokee Tragedy, 45-46, 50-51.

27 McKeown, “Return J. Meigs,” 265-67. Although the rift between the Upper and Lower Towns was repaired in 1809, it is clear that jealousy between the regions remained up to the time of the 1819 land cession. In a letter written to the Cherokee agent Return J. Meigs in 1816 a group of Cherokee meeting in council in North Carolina complained that the Lower Settlements occupied all of the agent’s time. Big Bear et. al. to Return J. Meigs, October 17, 1816, M-208, Reel 7. In that same year another group of North Carolina Cherokees voiced a concern “that the lower towns wishes to sell all our land Away and we might not know nothing About it.” Message from Valley Cherokee Towns by Sickatowee, Received December 18, 1816, M-208, Reel 7; see also Verbal Message from the Valley Cherokee Towns, December 18, 1816, M-208, Reel 7. The concern of the Upper Townsmen may have been heightened at this time by the signing a few months earlier by a delegation of Lower Town chiefs of a Treaty ceding a large amount of Cherokee land south of the Tennessee River to the United States. See Royce, The Cherokee Nation of Indians, 81-83, and e.g. Stendel, “ Federal Civilization Policy,” 74, and Instructions to a Delegation of our Warriors…, September 19, 1817, American State Papers: Indian Affairs 2: 145, Available Online: http://memory.loc.gov/ (7/26/03).


30 E.g. George Graham to Andrew Jackson, Joseph McMinn, and David Meriwether, August 1, 1817, M-15, Reel 4, Volume D, pp. 64-65, and McKeown, “Return J. Meigs,” 360-61. Opponents of the treaty argued that the events of 1808 did not give the government any rights to Cherokee land.

31 Treaties Between the United States of America and the Several Indian Tribes, 209-211; Statement of Andrew Jackson, Joseph McMinn, and David Meriwether to the Cherokee Council, July 4, 1817, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frame 368; Cherokee Delegation to Joseph McMinn, June 30,1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 360-365; George Graham to Andrew Jackson, May 16, 1817, MT-494, Reel 1, Ratified Treaty No. 89 (Treaty of July 8, 1817), Frames 300-303.

32 Wilkins, Cherokee Tragedy, 50-51, 94-96; Mooney, Myths of the Cherokee, 136; Markman, “The Arkansas Cherokees,”11-12, 103-05. Tahlonteskee’s decision to emigrate may have been influenced by self-preservation, as he had accepted bribes for ceding away Cherokee land. A relative of Tahlonteskee’s (apparently his brother), a prominent chief named Doublehead, had been assassinated because of similar abuses of power. See Wilkins, Cherokee Tragedy, 38-41, 50; Mooney, Myths of the Cherokee, 85; Royce, The Cherokee Nation of Indians, 64-65; Markman, “The Arkansas Cherokees,” 12-13; McKeown, “Return J. Meigs,” 220-21; Brown, Old Frontiers, 453, and Klinck and Talman, eds., Journal of Major John Norton, 81-82.

33 Mooney, Myths of the Cherokee, 102. The naturalist Thomas Nuttall, who traveled through the Cherokee settlements in the Arkansas territory in 1819 estimated the Cherokee population in the region at 1500 at the time of his visit Nuttall, Journal of Travels into the Arkansas Territory, 138..


35 Cherokee Talk by Talontusky, March, 1818 [no day of the month], MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 371-374. The situation of the Western Cherokee became more tenuous in 1813 when the territory of Missouri placed them under their jurisdiction. See McKeown, “Return J. Meigs,” 314.

36 Markman, “The Arkansas Cherokees,” 30-38, 59-64; Wilkins, Cherokee Tragedy, 94-95; Mooney, Myths of the Cherokee, 102; Pathkiller, Charles Hicks, and John Ross to James Monroe, November 2, 1819, M-574, Reel 25, File 131, Frames 1284-1288; The Boot, Daniel Griffin, Rising Fawn, Soo we cul lah, Tahleyeskee, and Ossookee to John C. Calhoun, July 23, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 356-360.

37 William H. Crawford to William Clark, Ninian Edwards, and Auguste Chouteau, September 17, 1816, American State Papers: Indian Affairs 2: 98-99, Available Online: http://memory.loc.gov/ (7-26-03); William H. Crawford to


39 George Graham to Andrew Jackson, May 16, 1817, MT-494, Reel 1, Ratified Treaty No. 89 (Treaty of July 8, 1817), Frames 300-303.

40 Ibid.


42 *Treaties Between the United States of America and the Several Indian Tribes*, 212. In a December 1817 letter to Joseph McMinn, who was charged with representing the United States in matters relating to the Treaty of 1817, the then secretary of war George Graham stated that Cherokee women could be given “such kind of goods as they may select instead of Rifles…” George Graham to Joseph McMinn, December 29, 1817, M-15, Reel 4, Volume D, p. 111.

43 Some reservations were also taken on lands that were not ceded to the United States under the terms of the Treaty, but the legal status of these reservations was ambiguous. See James Iredell and Walter Clark, *North Carolina Reports: Cases at Law Argued and Determined in the Supreme Court of North Carolina, December Term, 1842, June Term, 1843* (Edwards and Broughton Printing Co., State Printers and Binders, 1915), 52-60.


45 Markman, “The Arkansas Cherokees,” 86, 100; Moulton, *John Ross*, 19; Wilkins, *Cherokee Tragedy*, 95-96; Mooney, *Myths of the Cherokee*, 102-04; George Graham to Andrew Jackson, Joseph McMinn, and David Meriwether, August 1, 1817, M-15, Reel 4, Volume D, pp. 64-65; The Boot, Daniel Griffin, Rising Fawn, Soo we cul lah, Tahleyeskee, and Ossookee to John C. Calhoun, July 23, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 356-360; see also Return J. Meigs to George Graham, October 30, 1817, M-208, Reel 7 for the assertion that not enough Cherokee chiefs signed the Treaty of 1817. Although no North Carolina lands changed hands as a result of the Treaty of 1817, some of the Cherokees who lived on the 1819 Treaty Lands of western North Carolina may have signed the treaty. The signees believed to be from the 1819 Treaty Lands include Roman Nose, who took a reservation in 1819, and who was a leader in the region, and Katchee of Cowee, who is tied to the 1819 Treaty lands by the reference to the Cherokee town of Cowee, but about whom no other information could be found. The name of a third Cherokee who took a reservation on the ceded lands, Beaver Carrier, (a.k.a. Beaver Toter) is also on the treaty, but there appears to have been more than one Beaver Carrier in the Cherokee Nation, so it is unclear if the 1819 reservee and the Beaver Carrier who signed the Treaty of 1817 are the same. The Indian countryman Gideon F. Morris attended the treaty negotiations “acting as one of the Indians,” but did not sign the treaty. See Cherokee Lands Entries and Surveys, 1820-1824, pp. 78-79, SSP, NCDAH; see also Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. For a list of all the Cherokee who signed the Treaty of 1817, see *Treaties Between the United States of America and the Several Indian Tribes*, 214-215.


47 Mooney, *Myths of the Cherokee*, 106; Royce, *The Cherokee Nation of Indians*, 90, 98. In a letter to President James Monroe written after the Treaty of 1819 Cherokee officials claimed that some emigrant families were listed as having twelve or thirteen members when in fact they were comprised of only seven or eight members. See Pathkiller, Charles Hicks, and John Ross to James Monroe, November 2, 1819, M-574, Reel 25, File 131, Frames 1284-1288.


50 Cherokee Talk by Talontusky, March, 1818 [no day of the month], MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 371-374. By “the people over the mountains,” Talontusky was apparently referring to the residents of the mountain settlements of western North Carolina.


52 Royce, *The Cherokee Nation of Indians*, 96; John C. Calhoun to Return J. Meigs, March 26, 1818, M-15, Reel 4, Volume D, pp. 131-132; John C. Calhoun to Joseph McMinn, July 29, 1818, M-15, Reel 4, Volume D, pp. 191-194. The loss of the annuities may have been particularly keenly felt by tribal leaders, and especially by tribal leaders who were friendly to the United States government, who appear to have received a disproportionate share of the funds. See Cotterill, “Federal Indian Management,” 351.


54 James Monroe to General Tolontusky, Chiefs and Warriors of the Cherokee Nation of the Arkansaw country, [no date], M-15, Reel 4, Volume D, pp. 124-125.


56 Path Killer to Joseph McMinn and Return J. Meigs, July 12, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 365-366. A copy of this letter can also be found in M-208, Reel 7.

57 Path Killer, Charles Hicks, and Thomas Wilson to the Secretary of War, October 28, 1817, *American State Papers: Indian Affairs* 2: 145-146, Available Online: [http://memory.loc.gov/](http://memory.loc.gov/) (7/26/03); McKeown, “Return J. Meigs,” 269-70; Sheehan, *Seeds of Extinction*, 273; Greene, “When Two Worlds Collide,” 114; Klinck and Talman, eds., *Journal of Major John Norton*, 75-76, 123-24. Ironically, the “hunter’s life” that is referred to so nostalgically in the rhetoric of the time may in fact have been a creation of European contact. Cherokee involvement in the fur trade probably led to an increase in the importance of, and time spent on, hunting. So instead of returning to a “native” lifestyle, the return to hunting envisioned a return to a lifestyle that was a product of non-native influences. See for example the comments of Major John Norton, who visited the Cherokee nation in 1809. Klinck and Talman, eds., *Journal of Major John Norton*, 130-31.

58 On McMinn’s role in the Treaty of 1817 and his efforts to induce the Cherokee to move west, see for example Royce, *The Cherokee Nation of Indians*, 95-97; George Graham to Joseph McMinn, November 29, 1817, M-15, Reel 4, Volume D, pp. 101-102, and George Graham to Joseph McMinn, November 29, 1817, M-15, Reel 4, Volume D, p. 103.

59 Joseph McMinn to the Path King, King of the Cherokee Nation, Read in Open Council November 15, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 376-381.

60 Path Killer to “Friend and Brother” [Joseph McMinn], MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 382-386.

61 Joseph McMinn to Cherokee Delegation, November 18, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 387-403.

62 Ibid.

63 Ibid.

64 Ibid.

65 Ibid.

66 Cherokee Delegation to Joseph McMinn, Read in Open Council November 21, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 404-411.

67 Ibid.

68 Joseph McMinn to the King and Chiefs of the Cherokee Nation, Read in Open Council November 23, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 412-415.

69 Ibid.

70 Joseph McMinn to the King and Chiefs, Headmen and Warriors of the Cherokee Nation, Read in Open Council November 24, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 416-418.
Cherokee Delegation to Joseph McMinn, Read in Open Council November 25, 1818, M-208, Reel 7.
Joseph McMinn to the Kings, Chiefs, Head Men, and Warriors of the Cherokee Nation, Read in Open Council November 25, 1818, M-208, Reel 7.
Joseph McMinn to the King and Chiefs, Headmen and Warriors of the Cherokee Nation, Read in Open Council November 26, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 419-422.
Cherokee Delegation to Joseph McMinn, Read in Open Council November 27, 1818, M-208, Reel 7.
Joseph McMinn to the King and Chiefs, Headmen and Warriors of the Cherokee Nation, Read in Open Council November 26, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 419-422.
Joseph McMinn to the King and Chiefs, Headmen and Warriors of the Cherokee Nation, Read in Open Council November 26, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 423-424.
Joseph McMinn to John C. Calhoun, November 29, 1818, M-271, Reel 2, Frames 1296-1303.

Deeds of Extinction, 171-74. For examples see Andrew Jackson, David Meriwether, and Jesse Franklin to William H. Crawford, September 20, 1816, American State Papers: Indian Affairs 2: 104-105, Available Online: http://memory.loc.gov/ (7-28-03); Brown, Old Frontiers, 449, and see numerous examples in McKeown, “Return J. Meigs.”

Joseph McMinn to John C. Calhoun, January 24, 1819, M-271, Reel 2, Frames 1313-1316. Word of the bribes and McMinn’s other activities may not have reached the secretary of war in time to affect the negotiations that resulted in the Treaty of 1819. In a letter to McMinn announcing that the treaty had been agreed upon, the Secretary informed McMinn that “Your communications which were intended to be here before the delegation did not reach the Dept. until after the engagement was made but it is believed that it has been made on the best terms that could be affected.” John C. Calhoun to Joseph McMinn, March 6, 1819, M15, Reel 4, Volume D, pp. 255-256.

Joseph McMinn to John C. Calhoun, January 12, 1819, M-271, Reel 2, Frames 1308-1309.
Joseph McMinn to John C. Calhoun, January 21, 1819, M-271, Reel 2, Frames 1310-1311.

Communication of Cherokee Deputation to the Secretary of War [John C. Calhoun], February 5, 1819, M-271, Reel 2, Frames 575-579. The members of the delegation were Charles Hicks, John Ross, Lewis Ross, John Martin, James Brown, George Lowrey, Gideon Morgan Jr., Cabbin Smith, Sleeping Rabbit, Small Wood, John Walker, and Currahee Dick. See McLoughlin, *Cherokee Renascence*, 254, and Names of the Cherokee Delegation now in the City, February, 1819 [no day of month], M-208, Reel 8.

Charles Hicks in behalf of the Cherokee Delegation to John C. Calhoun, February 12, 1819, M-271, Reel 2, Frames 1106-1109.

Charles Hicks in behalf of the Cherokee Delegation and Return J. Meigs to John C. Calhoun, February 17, 1819, M-271, Reel 2, Frames 1110-1113.


Charles Hicks in behalf of the Cherokee Delegation to John C. Calhoun, February 19, 1819, M-271, Reel 2, Frames 1114-1117.


Ibid.

Charles Hicks in behalf of the Cherokee Delegation to John C. Calhoun, February 22, 1819, M-271, Reel 2, Frames 1118-1121.

It is probable that the end of negotiations was hastened so that the treaty could be sent to the United States Senate for ratification before Congress adjourned. See John C. Calhoun to the Cherokee Delegation, February 23, 1819, M15, Reel 4, Volume D, pp. 251-252.

E.g. Deposition of John Bryson, December 6, 1838, Claim 63, RFBCC, Claim Papers, RG 75, NAR; Deposition of William Reid, [no date – claim filed December 30, 1846], Claim 734, RFBCC, Claim Papers, RG 75, NAR, and Memorial of Old Bushyhead or Watteyowhy [also spelled Wat te yoh hy] for the Value of an Improvement, July 16, 1843, Claim 842, RFBCC, Claim Papers, RG 75, NAR [for mention of the treaties of 1817 and 1819 see notation on the second page of the document].


*Treaties Between the United States of America and the Several Indian Tribes*, 265; Royce, *The Cherokee Nation of Indians*, 98-99.

*Treaties Between the United States of America and the Several Indian Tribes*, 265-269; Royce, *The Cherokee Nation of Indians*, 91-100; Mooney, *Myths of the Cherokee*, 106.

Cherokee Delegation to James Monroe, March 5, 1819, M-271, Reel 2, Frames 1123-1125.


Return Jonathan Meigs to John C. Calhoun, November 15, 1819, M-271, Reel 2, Frames 1400-1404; Pathkiller, Charles Hicks, and John Ross to James Monroe, November 2, 1819, M-574, Reel 25, File 131, Frames 1284-1288.


11 Arkansas Chiefs to the President of the United States [James Monroe], August 3, 1819, M-271, Reel 2, Frames 1205-1208. See also W. Lovely, Cherokee Agent at Arkansas, to John C. Calhoun, August 15, 1819, M-271, Reel 2, Frames 1201-1204.

12 Brief in the Case of Peak for Spoliation, by [G.W.?] Churchwell, [No Date, Claim Filed December 24, 1846], Claim 66, RFBCC, Claim Papers, RG 75, NAR; see also Case of Nat Peak a Life Estate Reserve Under the Treaty of 1817, January 11, 1839, Claim 66, RFBCC, Claim Papers, RG 75, NAR.


15 Return Jonathan Meigs to John C. Calhoun, September 18, 1819, M-271, Reel 2, Frames 1372-1374.

16 Cherokee Advocate Office, *Laws of the Cherokee Nation*, 19. For the suggestion that the Eastern Cherokee were attempting to discourage any further emigration, see also Arkansas Chiefs to the President of the United States [James Monroe], August 3, 1819, M-271, Reel 2, Frames 1205-1208.


18 George Graham to William Miller, August 1, 1817, GLB 22, p. 359, NCDAH. Copy in M-15, Reel 4, Volume D, p. 67.

CHAPTER SEVEN: THE INDIVIDUAL CHEROKEE RESERVATIONS

The second article of the Treaty of 1819 between the Cherokee Indians and the United States stipulated that “the United States do agree to allow a reservation of 640 acres to each head of any Indian family residing within the ceded territory, those enrolled for the Arkansaw excepted, who choose to become citizens of the United States…”1 The reservation clause of the Treaty of 1819 extended a similar provision in the Treaty of 1817 that allowed Cherokees living on lands ceded under the terms of that treaty to take individual 640 acre reservations in lieu of leaving their lands.2 This Chapter will discuss the reservation provision of the Treaty of 1819 and the manner in which it was applied on the ceded lands of western North Carolina.

History of the Reservation Clause

The treaties of 1817 and 1819 were not the first treaties to grant personal reservations to individual Cherokees.3 Most notably, under the terms of a treaty signed in 1805 provisions were made for reservations to be granted to the Cherokee leaders Doublehead and Tahlonteskee as a reward for their assistance in securing the pact.4

Federal officials saw individual reservations as a necessary component of treaties with the Cherokee that involved land cessions during the early 19th century. The Cherokee agent Return Jonathan Meigs espoused the view as early as 1808 that if the Cherokees were moved to the West some of the more educated or financially successful Cherokees would require reservations in the East.5 During the years prior to the treaties of 1817 and 1819 Tennessee governor and federal agent Joseph McMinn proposed a removal treaty in which Cherokee who emigrated to the West would be given a rifle and a supply of powder and shot, while those Cherokee who chose to remain in the east would receive allotments of between 640 and 1000 acres and would be given the status of free colored citizens. Under McMinn’s scheme, those Cherokee who wished to do so would be allowed to sell their reservations, but only to United States citizens, and only in the
form of five to ten year leases, after which the land would revert to the United States or to the individual state in which the reserve was located.\textsuperscript{6}

Cherokee leaders approved or requested the granting of individual reservations under some circumstances as well. In a treaty by which the last of the Cherokee lands in South Carolina were ceded to the United States a few years prior to the Treaty of 1819, five private reservations of 640 acres each were requested for the Cherokee residents of those lands. In a letter to the secretary of war, the Cherokee National Council explained why in their view it was necessary to withhold these tracts from the general cession:

The nature of holding our lands is such, that we hold our lands in common right; the chiefs, therefore, have no right to dispossess any Cherokee whatever of his improvement without his consent, which causes us to make the above reserves…\textsuperscript{7}

But although there was a precedent for granting individual reservations in earlier treaties, the exact form that the reservation clause of the treaties of 1817 and 1819 would take was the subject of some debate and disagreement between the Cherokee and government officials at the time that these treaties were negotiated.

One of the disagreements concerned whether reservations would be allowed on lands that were not ceded by the treaties. The Cherokee opposed such reservations, since they would have had the effect of fragmenting their territory.\textsuperscript{8} Conversely, Joseph McMinn asserted that reservations should be allowed on unceded lands. In a letter addressed to a Cherokee council in 1818, McMinn asserted that:

Your objections to the free right of your people taking reservations except within the ceded territory is in direct opposition to the whole spirit and meaning of the Treaty (of 1817), and against which decision of this council I enter my solemn protest without comment.\textsuperscript{9}

There was also disagreement over whether the reservees should be required to physically occupy their reservations. The Cherokee delegation that negotiated the Treaty of 1819 wrote Secretary of War John C. Calhoun that “…our distinct understanding on the subject of reservations…was that the reservee might either live on such estate or move elsewhere and lease it for his benefit as he should think proper.”\textsuperscript{10}
The reservation provision of the Treaty of 1819, as it was eventually settled on, established two classes of reservees. The majority of reservations were given as life estates. This meant that the reservee could not sell the land in his lifetime, and if they failed to reside on the land they would lose title to it. However, the reservee’s children would inherit the land in fee simple, and could dispose of the land as they saw fit. The purpose of assigning reservations as life estates was to protect those Cherokee who were ignorant of the legalities of land ownership, did not speak English, or were otherwise unprepared to function as land holders in white society by making them, in essence, wards of the government. Another reason given for granting the majority of reserves as life estates was to protect Cherokee women. Without the life estate clause, it was feared that “during the time allowed to register for those reservations worthless white men might come in and marry Cherokee women take reservations and then sell and leave their family and so deprive the persons intended to be benefited by the reservation of the same.”

The remainder of the reservations were given in fee simple, which meant that the owner was free to do with the land as they pleased during their lifetime. Fee simple reservations were awarded to those individuals, according to the language of the treaty, who were “believed to be persons of industry, and capable of managing their property with discretion.” The text of the treaty listed the names of those individuals entitled to fee simple reservations, many of whom were prominent métis or white men married to Indian women, although neither of the fee simple reservees in western North Carolina fit this description (Figure 7.1).

All of the reservations, both fee simple and life estates, were to be laid out in a square, with the reservee’s improvements located as close to the center of the square as possible. This stipulation served the practical purpose of preventing a reservee from manipulating the boundaries of their reservation so as to encompass the maximum amount of arable land, but the stipulation caused some confusion, since “improvements” could be construed to mean either houses or agricultural fields. In the end, either out of necessity or in an attempt to skirt the dictates of the law many reservations were surveyed with irregular boundaries.
List of persons entitled to reservations under the treaty with the Cherokee of February 29, 1819, according to the treaty, and the returns of the commissioners appointed to superintend the surveying and laying off said reservations to the War Department, showing those entitled to reservations for life and those entitled to reservations in fee-simple.

FOR LIFE.

3. Allen G. Greer. 39 She-kwe.
4. Oo-loo-er-ek-le. 40 Oo-waaw-too-take.
5. Tall-o-uch-kee. 41 Oo-o-uch-eh.
7. Patik Kiler. 43 Truck.
8. Bold Hunter. 44 Little Deer.
9. Willie Tooten. 45 Whap-per-will.
12. Jacob. 48 John Welsh.
13. Chay-nough-ty. 49 The Cat.
15. Big Tom. 51 The Chubb.
16. Bag, or Squakkee. 52 Sidon C. Morris.
17. Johnston. 53 Hane-lah.
18. Oo-lah-oot-te. 54 Sharp Fellow.
20. The heirs of Too-loo-nee-tah. 56 William Rade.
24. Parch-corn Flower. 60 Wa-a-sah, or Grass grown.
25. Panthier. 61 Bell Rattle.
27. Yellow Bear. 63 Site-a-wakke.
29. The Bear going in the hole. 65 John Bliderbrand.
32. Beaver-tober. 67 William Jones.
33. John Rochez. 68 Denny Jones.
34. Too-wa-and-ah. 69 James Jones.
35. The Fenoe. 70 Daniel Thorn.
33. The Old Moose. 71 Peter Johnstone.
36. Amee-choo. 72 Captain John Wood.

Pee-chee.

1. Fox Taylor. 14 George Lowry.
2. James Brown. 15 Robert Mclendon.
3. Richard Timberlake. 16 Sausannah Lowry.
4. The Old Bank of Chota. 17 James Lowry.
5. James Starr. 18 John Bingo.

RECAPITULATION.

107 life reservations, 39 fee-simple reservations.

Note.—All those marked * are within the limits of the State of Georgia, being eighteen life-estate reservations and five fee-simple reservations; and all, or nearly all of them, have been purchased for the State of Georgia, under a provision made by Congress for that purpose.

T. L. McKENNEY.

Figure 7.1 - Cherokee who took reservations under the terms of the Treaty of 1819. Source: American State Papers: Public Lands 5:397. Available online: http://memory.loc.gov/ (8-15-03).
To apply for a reservation, those Cherokee who were authorized to take fee simple reservations were required to notify the Cherokee agent in writing that it was their intention to “continue to reside permanently on the land reserved.” Cherokee who wished to take life estate reserves either journeyed to the Cherokee Agency in eastern Tennessee in person or sent written notice by another individual, often a relative, that they wished to take a reservation. On the 1819 Treaty lands of western North Carolina white men who were living among the Indians wrote out many of the reservation applications (Figure 7.2).

Something of the process of applying for a reservation, and the confusion that sometimes attended this process can be glimpsed in a brief note penned by the Indian countryman Gideon F. Morris concerning the application of Ned or Edward Welch for a reservation:

August 21, 1819

Sir Ned Welch a native of the Cherokee nation wishes to enter for a reservation as he now lives on the Seded lands of North Carolina at a place called Wattaugeer Sir when William Jones was hier he was with him and thault that he had done his bisness and Welches but was mistaken Sir when Jones was hier you had rote one for Jones and was called off to your dinner and in your absence thir was some white man present that pickt up Jonsis paper and told them that Jonsis paper was suficient for them all and as he cant come him self he wants you to send his paper by his uncle only him and his wife in family.

A total of 342 Cherokee took reservations under the terms of the treaties of 1817 and 1819. Of these, 311 were life estates, while 31 were fee simple reservations. Between 75 and 100 Cherokee in western North Carolina applied for reservations, but only 51 of these reservations were surveyed, of which all but two were given as life estates (Figures 7.3-7.4).

The North Carolina Reservees

The two Cherokee who received fee simple reservations in western North Carolina, Big Bear and Richard Walker, were both prominent figures at the time of the 1819 land cession.

Big Bear, or Yona Equa, took a reservation along the Tuckasegee River in what is today Swain County. According to the 19th century ethnographer James Mooney, Big Bear was probably “of considerable local prominence in his time,” but by the late 1800’s had been all but forgotten among the Eastern Cherokee. Although there is no evidence that he was involved
Figure 7.2 - Reservation applications. Source: Applications For Reservations, 1819, Record Group 75, Records of the Bureau of Indian Affairs, Cherokee Removal Records, United States National Archives.
Figure 7.3 - A partial list of applicants for reservations based on surviving applications and reservation certificates in the holdings of the National Archives. Source: Applications for Reservations, 1819, Record Group 75, Records of the Bureau of Indian Affairs, Cherokee Removal Records, United States National Archives.
in the negotiations that resulted in the treaties of 1817 and 1819, Big Bear’s name appears on earlier treaties between the United States and the Cherokee signed in 1798 and 1805. In 1802 he represented the Cherokee during the running of the Meigs-Freeman line, the Indian boundary that would comprise the eastern border of the 1819 Treaty lands, but “went off in disgust” when the homes of several Indian families were left on the North Carolina side of the boundary. Correspondence with the Cherokee agent, Return J. Meigs, in 1816 suggests that Big Bear remained an important leader at that time, and was also a familiar figure in the white settlements (Figure 7.5).

Richard Walker, also known as Dick Walker or Indian Dick, took a reservation along the Tuckaseegee River in the vicinity of the present town of Dillsboro, in Jackson County. The Cherokee scholar Brett Riggs suggests that Walker was adopted as a child and raised by a white man named Felix Walker, who operated a trading post in the vicinity of where Walker...
subsequently took his reservation. Walker was bilingual, and served as a translator for the two commissions sent into the region in the 1820’s to settle Cherokee reservation claims, as well as on other occasions. He also achieved some status within the Cherokee Nation, serving as a justice of the Cherokee Supreme Court, and appears to have been something of an entrepreneur or businessman. He is recorded as a slave owner in the Cherokee Census of 1835, and may have owned slaves by the time of the 1819 Land Cession.

Figure 7.5 – The reservation of Big Bear as depicted on the Robert Love Survey Map of 1820.

Many of the Cherokee who took life estate reservations on the 1819 Treaty Lands of western North Carolina were also prominent figures in the Cherokee community. Among the most notable of the life reservees was a chief named Euchella, who became known in later years for filing a lawsuit over his reservation that reached all the way to the North Carolina Supreme Court, and was the leader of a band that successfully evaded capture by the military at the time of the Cherokee removal. Another life reservee, Yonaguska, became known in later years as the first leader of the Eastern Band of Cherokee, and succeeded Big Bear as the most prominent Cherokee chief in the region. Roman Nose (also known as Big George), also appears to have been a community leader, as was John (also known as Nantahalee John), Ca te te hee
(probably also spelled Catehee or Catahee),\textsuperscript{35} and Sharp Fellow.\textsuperscript{36} Circumstantial evidence also suggests that Big Tom was a chief or regional leader.\textsuperscript{37}

Two Indian countrymen were also among the reservees. William Reid took a reservation near the Tuckaseegee River, on the eastern edge of the 1819 Treaty lands, while Gideon F. Morris took a reservation along the Little Tennessee River in the vicinity of the present town of Franklin. A third Indian countryman, Andrew Bryson, applied for a reservation, but it was never surveyed, probably because Bryson’s Cherokee wife left him and moved west into the Cherokee Nation. Bryson followed her there, where he subsequently died.\textsuperscript{38}

At least two, and probably three \textit{métis} also applied for reservations, but only one of these reservations, that given to John Welch, was surveyed. Edward Welch, John Welch’s brother, also applied for a reservation, as did William Jones, but neither of these reserves appears to have been laid out. Both men may have been forced off their reservations by white settlers before their claims could be surveyed.\textsuperscript{39}

The high percentage of Indian countrymen or \textit{métis} applying for or receiving reservations on the 1819 Treaty Lands is in keeping with what occurred on the lands that were ceded under the terms of the Treaty of 1819 in other states,\textsuperscript{40} and can probably be attributed to the fact that as a class these men would have been more comfortable with white laws and customs, and many of them would not have had to contend with the language barrier that would have made life among the white community difficult for many “fullblooded” Cherokee. In addition, such men would have been more likely to have been oriented toward the acquisition of property and more sensitive to the advantages that the possession of a large block of land would offer them. And as noted above, some white men who applied for reservations were simply opportunists.

However, the acquisition of reservations may not have entirely been a function of individual choice. The Indian countryman William Reid asserted in an 1843 deposition that “after the ratification of the Treaty of 1819 [he] was authorized by Charles Hicks the then principal chief of the Cherokee Nation to recommend persons as qualified to take reservations.”\textsuperscript{41} This implies that there may have been some central control among the Cherokee over who took
a reservation, and also that Cherokee leaders may actually have encouraged some individuals to take reservations in order to retain as much of the ceded lands in Cherokee hands as possible.

Location of the Reservations

In addition to having some say in who took reservations, Cherokee leaders appear to have had some say on where reservations were to be located. Prior to the Treaty of 1819 the Indian countryman Gideon F. Morris lived with his father-in-law, Catahee, on Burningtown Creek in what is today Macon County. However, around the time of the treaty Morris relocated to land that was then being cultivated by a Cherokee named Long Blanket (a.k.a. The Clubb). Morris’ choice of settlement location was strongly influenced by the Cherokee who were living in the vicinity. According to Long Blanket:

…in talks with the heads of the Indians gathered at Sharp Fellow’s settlement it was concluded to have Morris near the middle to assist them for their business…. That Morris was considered one of the nation, having taken a wife among them ….that as he could talk the white people’s language by fixing him on that place he could do their business.

Reservations may also have been positioned in such a way as to preserve existing communities (Figure 7.6). Many of the reservations taken by Cherokee leaders on the Treaty Lands were situated at the locations of contemporary or former Cherokee towns. Big Bear’s reserve was located “at the town of Tuck wa lu chee” (also spelled Tuck wa lu chu, or Tuckleach, probably synonymous with Bearstown); Richard Walker’s reservation was probably located at the site of a settlement recorded in the 1809 Cherokee census as “Dick’s Village;” Euchella’s reservation encompassed much of the important town of Cowee; the reservation of Roman Nose was situated at “at Catowe Town,” and Yonaguska’s reservation, along with the neighboring reservation occupied by Big Tom encompassed the location of Kituwa (Figure 7.7).

In some instances these reservations may have been located on town sites because the chief’s improvements happened to be located there. Reservations may also have been situated so as to encompass the best agricultural land, which was often located in the vicinity of towns.
However, the practical effect of taking the town sites as reservations is that at least some of the residents of the towns might have been able to remain in their homes.

At least some of the reservations probably did continue to function as communal holdings, even though legal ownership of the land had passed into the hands of individual reservees.\textsuperscript{50} For instance, Te sah ta skee, the son of the reservee Nantahalee John, noted that while maintaining improvements on their own reservation, his family often lived on Big Bear’s reservation, about 10 miles away.\textsuperscript{51} Nantahalee John is described as “a chief of that settlement.”\textsuperscript{52}

Cherokees in other areas used the reservations to retain existing neighborhoods. Pikefish, who lived on the lands ceded by the Treaty of 1819 in Tennessee, entered a reservation “from a desire to remain on my place with my old neighbors who were about registering and entering reservations as I then thought we would be permitted peaceably to remain on them in my lifetime.”\textsuperscript{53} According to Pikefish, his neighbors “all went together [to the Indian agency] and also entered reservations together.”\textsuperscript{54}
Reservations as Speculative Ventures

Although retaining their homes and preserving their communities motivated some Cherokee to apply for reservations, other Cherokee probably took reservations simply with a view toward personal profit. Indeed, some government officials believed that the profit motive was a driving force among the reservees. In a letter to the secretary of war John C. Calhoun, Joseph McMinn observed that: “…although you may hear much about reservations, yet I feel authorized in saying, their object for the greater part is to secure them for purposes of speculation, as few if any will remain east of the Mississippi.” At least some Cherokee agreed with McMinn. The Indian agent Meigs recorded the observation of a Cherokee leader who had committed to emigrating to Arkansas that the intention of those who wished to take reserves “was not to stay here longer than they could have it in their power to speculate on their lands and then they would follow the rest.” “…speculation,” observed Meigs in another letter, “seems
to be an endemical disorder of the moral faculty in our country extending even amongst the aborigines, as well as others.”

On the 1819 Treaty Lands of western North Carolina, the failure of some of the reservees to reside on the lands that they claimed as reservations suggests a speculative intent in claiming them. The Cherokee leader Euchella did not live on the land he claimed as a reservation, “nor within a mile and a half or two miles of it” but did maintain a small improvement on the land. Similarly, as noted above, the reservee Nantahalee John maintained a field and improvements on his own reservation, but “frequently lived a while on Big Bear’s reservation,” about ten miles away, “as he was a “chief of that settlement.”

In another case, Richard Walker, a fee simple reservee, and his son John, who took a reservation as a life estate, attempted to collaborate in claiming their reservations so that Richard Walker could take his fee simple reservation not on the land on which he lived, but on the land on which his son lived:

Richard Walker swears that he and his son John worked two places…that both of them or their hands worked the two places - that they had two improvements - one at each place, the one at the mouth of Scott’s Creek where he Richard Walker lived, and that John often staid [sic] with him - but worked at the War Ford, that John had a place at the War Ford, also at the mouth of Scott’s Creek that when John was about to take a reservation they Dick and his son John agreed that Dick should take his fee simple title at the War Ford that John entered his claim for a reservation at the mouth of Scotts Creek…

Unfortunately for the Walkers, when the reservations were surveyed the switch was not allowed, and Richard Walker’s fee simple reservation was laid off on the land on which he lived on Scott’s Creek.

Finally, the fact that a number of the reservations were not in a square, as called for in the treaty, suggests an attempt on the part of some of the reservees to maximize the amount of arable land on their reservations (Figure 7.8).

Cherokees in other areas clearly saw reservations as a form of monetary award, rather than simply as a way to protect their homes. In 1818 a Cherokee named Richard Brown, who lived in what is today Alabama, wrote to the War Department to request fee simple reservations for his two sons and himself in consideration for his efforts in advocating the removal of
the Cherokee west of the Mississippi. “Your petitioner hopes,” wrote Brown, “that from his
invariable devotion to [the] interest of the United States, and services he hopes he has rendered
that the government will not hesitate to comply with his request…”63

Similarly, Gideon Morgan, a prominent Indian countryman who was a member of the
Cherokee delegation that negotiated the Treaty of 1819 wrote to the secretary of war requesting
that a reservation be granted to another man who supported the government’s position:

I take the liberty of laying before you the claims of George Harland for a reservation on
the lands ceded -- although not absolutely living on the same -- he has from advocating the
views of Governor McMinn become objectionable to many of the influential chiefs -- he
has rec’d promises from the Gov. and under a belief that they would be complyed [sic]
with… I do not feel disposed to swell the list of reservations but I consciously believe he
ought to have one in fact I know the Gov. has made him large promises…64
While the exact nature of the “large promises” that were made to Harland are not clear, McMinn did use the promise of enlarged reservations, or reservations granted in fee simple, to gain the support of a number of Cherokee or Indian countrymen, including Gideon Morgan, during his negotiations with them prior to the Treaty of 1819.65

But if some individual Cherokees or Indian countrymen approached the reservation provision of the treaties of 1817 and 1819 with the aim of manipulating the system for personal gain, their cynicism was matched by the cynicism with which the reservation clause was regarded by some of the government officials who were charged with actualizing it. In a letter to the secretary of war John C. Calhoun penned in September, 1819, the Cherokee agent Meigs remarked that:

The mountain Cherokees have taken a great number of reservations…I do not think however that they will remain on the land long when the jurisdiction of the adjoining states shall be extended to embrace them…much the greatest part [of the reservations] will eventually revert to the government…66

Many Cherokee also had a dim view of the prospects for the reservees to succeed, believing that they would not be able to live among the sort of white men who would first settle around them.67 Indeed, in the opinion of the prominent historian William McLaughlin, some Cherokee leaders may have even hoped that the reservees would not be able to retain their lands. According to McLaughlin, the failure of those Cherokee who elected to leave the fledgling Cherokee Nation and make their homes surrounded by frontier whites would have served as an object lesson to other Cherokee and catalyzed support for Cherokee nationalism and the need to present a united front against the whites.68
Chapter Endnotes

1 *Treaties Between the United States of America and the Several Indian Tribes*, 266.
2 Ibid., 213.
4 Mooney, *Myths of the Cherokee*, 85; Royce, *The Cherokee Nation of Indians*, 61-65; *Treaties Between the United States of America and the Several Indian Tribes*, 121-123; Wilkins, *Cherokee Tragedy*, 38; McKeown, “Return J. Meigs”, 207-08.
8 See Cherokee Delegation to Joseph McMinn, June 30,1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 360-365. The reservation clause of the Treaty of 1817 stipulated that “every head of any Indian family residing on the east side of the Mississippi River, on the lands that are now, or may hereafter be, surrendered to the United States,” was eligible to take a 640 acre reservation. See *Treaties Between the United States of America and the Several Indian Tribes*, 213. A few reservations were taken on the unceded lands in western North Carolina, perhaps in anticipation of these lands being ceded. See for instance: Elijah Sutton vs. The United States: Petition For the Value of a Reservation, [No Date], Claim 61, RFBCC, Claim Papers, RG 75, NAR. However, these reservations were resented by many of the Cherokee and were legally ambiguous. The North Carolina Supreme Court eventually ruled that the Treaty of 1817 did not entitle individuals to take reservations on unceded lands. See Iredell and Clark, *North Carolina Reports*, 52-60.
9 Extract of a letter from Joseph McMinn to the Cherokee Chiefs in Council, July 1, 1818, MT-494, Reel 1, Ratified Treaty No. 106 (Treaty of February 27, 1819), Frames 368-370.
10 Charles Hicks in behalf of the Cherokee Delegation to John C. Calhoun, February 22, 1819, M-271, Reel 2, Frames 1118-1121.
12 Preston Starritt’s Affidavit Respecting the Conclusion of the Cherokee Treaty of 1817, October 12, 1846, Claim 5, RFBCC, Claim Papers, RG 75, NAR. See also David Keith Hampton, *Cherokee Reservees* (Oklahoma City, OK: Baker Publishing Company, 1979), i. See McLoughlin, “Experiment in Cherokee Citizenship,” 166, for an indication that some reservations were taken by opportunistic white men with the aim of personal enrichment; for a specific example see Willis Stephens vs. The United States, Claim for a Reservation taken under the Treaty of 1817, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #20, RG 75, NAR.
13 *Treaties Between the United States of America and the Several Indian Tribes*, 266.
14 Ibid., 268-269; McLoughlin, “Experiment in Cherokee Citizenship,” 158. Some 20% of the individuals who took reservations under the terms of the earlier Treaty of 1817 were white men. See Perdue, *“Mixed Blood” Indians*, 30.
15 *Treaties Between the United States of America and the Several Indian Tribes*, 213.
16 See for instance J.R. Siler to David L. Swain, June 12, 1838, David L. Swain Papers, NCDAH.
17 *Treaties Between the United States of America and the Several Indian Tribes*, 266.
18 See Applications For Reservations, 1819, RG 75, NAR.
19 Gideon F. Morris to Return J. Meigs [Reservation Application of Ned Welch], August 21, 1819, Applications for Reservations, 1819, RG 75, NAR. This was not the only case in which mistakes were made in the process of applying for a reservation. A Cherokee named Pikefish who lived on the lands ceded by the Treaty of 1819 in Tennessee claimed that he sent his son to apply for a reservation for him only to discover later that the reservation had been entered in his son’s name, not his own. Because Pikefish could not read English it was some while before
the error was discovered. See Deposition of Ah chah to ye or Pike Fish, March 27, 1845, Claim 1191, RFBCC, Claim Papers, RG 75, NAR.

20 Hampton, *Cherokee Reservees*, i, McLoughlin, “Experiment in Cherokee Citizenship,” 158. According to Hampton, 156 life estate reservations were taken under the terms of the Treaty of 1817 and 155 estate reservations were taken under terms of the Treaty of 1819. All 31 fee simple reservations were taken under the terms of the Treaty of 1819, as the Treaty of 1817 did not provide for fee simple reserves.

21 A committee of the North Carolina General Assembly charged with making recommendations about the Cherokee reservations put the number of reserves that were applied for at “about 100.” Report of the Committee on the Governor’s Message Dealing with Life Reservations and Cherokee Land Suits, November 28th, 1823 [copy dated July 14, 1824], TCP, Indian Affairs and Lands, NCDAH. Brett Riggs placed the total number of reservation applicants from western North Carolina at 91. Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 25. Seventy-three 1819 reservation applications or certificates referencing North Carolina locations are preserved in the holdings of the National Archives, but not all of the applications appear to have survived. See Applications For Reservations, 1819, RG 75, NAR. The reason that some of the reservations that were applied for in western North Carolina were not surveyed is not clear. In some cases the applicant may have died, moved away, or sold their improvements to a white settler between the time they applied for their reservation and the time that the reservation surveys were undertaken. See for instance Deposition of William Reid and Richard Walker, August 22, 1824, TCP, Indian Affairs and Lands, NCDAH. In other instances the applicants may not have been able to convince the surveyor that their claim was legitimate. The surveyor who laid out the individual Cherokee reservations in western North Carolina was instructed to: “be well satisfied that the claimant by himself or some other person for him did occupy and reside and continues his residence upon the land so entered at date of the ratification of the said treaties.” Otherwise the survey was not to be made. See Robert Houston to Robert Armstrong, July 10, 1820, Register of Cherokee Who Wished to Remain in the East, General Information, RG 75, NAR, and Joseph McMinn to John C. Calhoun, September 6, 1820, M-271, Reel 3, Frames 441-444. In addition, some reservation claims may have been disallowed because they were taken too long after the ratification of the treaty. The exact time period after the time of the ratification of the treaty in which reservation entries could be made was a matter of some debate. See: Robert Houston to Robert Armstrong, July 10, 1820, Register of Cherokee Who Wished to Remain in the East, General Information, RG 75, NAR; Robert Houston to John C. Calhoun, July 10, 1820, M-271, Reel 3, Frames 350-352; William Wirt to John C. Calhoun, August 12, 1820, M-271, Reel 3, Frames 774 -777. Nevertheless, the number of reservations eventually surveyed on the 1819 Treaty Lands in western North Carolina, 51, is in accord with the number of claims that the commissioners charged with overseeing the survey of the Cherokee lands for the state of North Carolina reported were presented to them. See James Mebane and Jesse Franklin to John Branch, July 2, 1820, GLB 23.2, pp. 315-318, NCDAH. Since the North Carolina survey occurred some weeks prior to the time when most of the reservation surveys were undertaken, this suggests that the United States surveyor charged with making the reservation surveys honored all requests, and that whatever occurred that resulted in some applicants not pressing their claims for reservations happened prior to the time the reservation surveys were made. As noted above, some reservations were claimed on Cherokee lands in the state that were not ceded to the United States until 1835. Some of these reserves may have been claimed prior to 1819 in anticipation of a cession of all Cherokee lands. See McLoughlin, “Experiment in Cherokee Citizenship,” 159.

22 Mooney, *Myths of the Cherokee*, 164. One reason that Big Bear may have been forgotten so quickly is that he died around 1829, apparently without offspring. See Reservation Claim of the Heirs of Big Bear, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR; Deposition of Um mah chuh nah, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR; Deposition of Oostenaka, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR.

23 Mooney, *Myths of the Cherokee*, 164; *Treaties Between the United States of America and the Several Indian Tribes*, 82, 123.

24 Freeman’s Journal of the Running of the Meigs-Freeman Line [Untitled Fragment], 1802, M-208, Reel 1 (Published transcription in Puckett, “Meigs Line - 1802”); Receipt of Big Bear for His Service as a Commissioner on the Meigs-Freeman Survey of 1802, [no date], M-208, Reel 1; Return J. Meigs to the Secretary of War [Henry Dearborn], October 20, 1802, M-208, Reel 1; Return J. Meigs to the Secretary of War [Henry Dearborn], October 22, 1802, M-208, Reel 1.

25 See Big Bear et. al. to Return J. Meigs, October 17, 1816, M-208, Reel 7; Yona Equa [Big Bear] to Return J. Meigs, [no date], M-208, Reel 7, and Message from Valley Cherokee Towns by Sickatowee, Received December 18, 1816, M-208, Reel 7.
That Sharp Fellow was a chief or community leader is suggested by an 1811 letter addressed to the Cherokee agent Return Jonathan Meigs that was attributed to “Big Ber the Sharp Felow and All the other Chiefs in Council.” See Big Bear and Sharp Fellow to Return J. Meigs, February 18, 1811, M-208, Reel 7. “Sharp Fellow’s settlement” is also referenced in a contemporary document. See Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; also quoted in the body of this chapter.

Big Tom’s name appears along with the names of several known Cherokee leaders on a letter sent to the Cherokee agent in 1816 protesting the presence of white squatters on Cherokee lands. Big Bear et. al. to Return J. Meigs, October 17, 1816, M-208, Reel 7.

That Sharp Fellow was a chief or community leader is suggested by an 1811 letter addressed to the Cherokee agent Return Jonathan Meigs that was attributed to “Big Ber the Sharp Felow and All the other Chiefs in Council.” See Big Bear and Sharp Fellow to Return J. Meigs, January 18, 1811, M-208, Reel 5. “Sharp Fellow’s settlement” is also referenced in a contemporary document. See Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; also quoted in the body of this chapter.

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See McLoughlin, “Experiment in Cherokee Citizenship.”

40 Deposition of William Reid, July 13, 1843, Claim 734, RFBC, Claim Papers, RG 75, NAR. See also Deposition of William Reid, [no date – claim filed December 30, 1846], Claim 734, RFBC, Claim Papers, RG 75, NAR, and Deposition of William Reid, [no date – claim rejected July 20, 1847], Claim 1201, RFBC, Claim Papers, RG 75, NAR.

41 Deposition of Jonathan Phillips, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Affidavit of William Reid, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH; Evidence of Cate hee [Catahee], Kah Kullah and Richard Walker, August, 1824 [no day of month], SSP, State Land Office, Cherokee Lands, NCDAH.

42 Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguiseter or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. See also: Deposition of Jonathan Phillips, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH, and Chapter 5 herein.

43 Memorandum of Evidence Given by the Clubb or Long Blanket Before Us Through and By Richard Walker as Linguister or Interpreter, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. See also: Deposition of Jonathan Phillips, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH, and Chapter 5 herein.

44 See Brett Rigg’s observation that the large clusters of reservations on the Little Tennessee and Tuckaseegee Rivers were probably associated with the Cowee and Kituwa communities, respectively. Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 89-92. I am indebted to Dr. Riggs for first suggesting to me that the Cherokee may have positioned their reservations in such a way as to preserve existing communities.

45 Deposition of Um mah chuh nah, March 25, 1845, Claim 1192, RFBC, Claim Papers, RG 75, NAR; Deposition of Oostenaka, March 25, 1845, Claim 1192, RFBC, Claim Papers, RG 75, NAR; Reservation Claim of the Heirs of Big Bear, March 25, 1845, Claim 1192, RFBC, Claim Papers, RG 75, NAR. See also Devereux, Battle, and Clark, North Carolina Reports, 77-87.

46 Greene, Archaeology and History of the Cherokee Out Towns, 68.


48 Testimony of Flying Squirrel in the Reservation Claim of Big George or Calsutae or Roman Nose, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR. It is also possible that “Catowe” is another way of spelling Kituwah.

49 Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 90. On the association of Yonaguska with Kituwah [spelled Kittewoo in these documents], see also Memorial of Yonaguska’s Heirs for the Value of a Reservation, June 16, 1843, Claim 704, RFBC, Claim Papers, RG 75, NAR, and Deposition of George W. Hayes, June 16, 1843, Claim 704, RFBC, Claim Papers, RG 75, NAR. The town of Kituwah held special significance among the Cherokee, who saw it as the location from which they originated. According to the 19th century ethnographer James Mooney, on ceremonial occasions the Cherokee often referred to themselves as the “people of Kituwah.” See Mooney, Myths of the Cherokee, 15. It is likely no coincidence that the town site should have been taken as a reservation by the Cherokee leader Yonaguska.

50 See Greene, Archaeology and History of the Cherokee Out Towns, 68-71.

51 Statement and Affidavit of Te sah ta skee, March 24, 1845, Claim 721, RFBC, Claim Papers, RG 75, NAR. However, an argument against the theory that Big Bear’s reservation was intended to preserve an existing community is that Big Bear apparently tried to sell the land to two different white settlers between 1819 and 1824. See Devereux, Battle, and Clark, North Carolina Reports, 77-87.

52 Deposition of Ah mah chun nah, March 24, 1845, Claim 721, RFBC, Claim Papers, RG 75, NAR. However, see also: Deposition of Ah chah to ye or Pike Fish, March 27, 1845, Claim 1191, RFBC, Claim Papers, RG 75, NAR; see also Deposition of Oo way yoo sku, March 28, 1845, Claim 1191, RFBC, Claim Papers, RG 75, NAR. When Pikefish and his neighbors were dispossessed by white settlers, they left the area together and again settled as neighbors in the Cherokee Nation. See Deposition of Kus kah lee sku, March 27, 1845, Claim 1191, RFBC, Claim Papers, RG 75, NAR.

53 Joseph McMinn to John C. Calhoun, January 21, 1819, M-271, Reel 2, Frames 1310-1311. See also Joseph McMinn to John C. Calhoun, September 6, 1820, M-271, Reel 3, Frames 441-444. McMinn believed that many of the reservations were improperly or fraudulently taken.

54 Toochalar’s Observation to Colonel Meigs at the Cherokee Agency on 9th Jan. 1817 Respecting going to the Arkansas, January 9, 1817, M-208, Reel 7.

Hawks, ed., *North Carolina Reports*, 157. Alternatively, as suggested above, Euchella could have taken this land as a reservation in order to preserve the community that resided upon it.

Statement and Affidavit of Te sah ta skee, March 24, 1845, Claim 721, RFBCC, Claim Papers, RG 75, NAR.

Deposition of Ah mah chun nah, March 24, 1845, Claim 721, RFBCC, Claim Papers, RG 75, NAR.

Deposition of Richard Walker, [no date, but probably August, 1824], TCP, Indian Affairs and Lands, NCDAH.

Ibid. See also Deposition of William Reid, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH; Deposition of Richard Walker, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH, and Deposition of Humphrey Posey, August 20, 1824, TCP, Indian Affairs and Lands, NCDAH.

Richard Brown to the War Department, January 4, 1818, M-271, Reel 2, Frames 523-526.

Gideon Morgan to John C. Calhoun, February 23, 1818, M-271, Reel 2, Frame 1528.

Joseph McMinn to John C. Calhoun, January 24, 1819, M-271, Reel 2, Frames 1313-1316.

Return J. Meigs to John C. Calhoun, September 6, 1819, M-574, Reel 25, File 131, Frames 1277-1278. Another copy of this letter can be found in M-208, Reel 8.


McLoughlin, “Experiment in Cherokee Citizenship.”
CHAPTER EIGHT: SETTLERS ON THE CEDED LANDS

Within a few months of the signing of the Treaty of 1819, white settlers began entering the lands ceded by the treaty in western North Carolina. Although the Treaty contained a provision that prohibited settlers from moving onto the ceded lands before the first of January, 1820,\(^1\) this provision was frequently ignored.\(^2\) Among others, Jacob Siler was in the region by the summer of 1819;\(^3\) Zachariah Cabe and William Foster had arrived by sometime that same year;\(^4\) John Moore entered the Treaty Lands in October or November 1819;\(^5\) Nathan and Samuel Smith arrived in October, 1819;\(^6\) and John Johnson and his sons came to live on the ceded lands around Christmas 1819.\(^7\)

In the early months of 1820 the influx continued, so that by the time of the first land survey of the region, the Robert Love Survey of April to June, 1820, over 150 settlers had crossed the old Indian boundary into the newly ceded lands (Figure 8.1).\(^8\) Contemporary observers remarked upon the dramatic transformation that the Treaty Lands underwent. Jacob Siler and Jonathan Phillips stated that when they arrived on the ceded lands in “1819 or 1820” there were not “more than two or three white men present,” but that “there was a general rush into the Indian Country,” and “in the course of the year and the year following the white population crowded down” on the newly acquired lands.\(^9\) Other documents describe white settlers as “flooding” into the region in 1819 and 1820.\(^10\) This chapter will describe this first wave of settlement on the 1819 Treaty Lands.

The First Settlers

Most of the first settlers on the 1819 Treaty Lands appear to have come from nearby locations.\(^11\) North Carolina officials described the early settlers as “men dependent on their honest industry for the support of themselves and families” who were prompted to relocate to the newly acquired territory by a “spirit of enterprise” and the “desire of change and hope of
acquiring better land." In their willingness to leave their established homes in order to move to new country, these men were following a pattern that was common in the Southeast during the 18th and 19th centuries. Writing in 1786, a South Carolinian remarked on the readiness of the backcountry residents to seek better lands: “It is nothing uncommon in this country for men settled on land of their own, and sufficiently cleared, enclosed, and tilled…on hearing of a better place of range [to sell or leave even without selling].” Agricultural practices that depleted the soil, changing family size, and other factors dictated some of these moves, but settlers in the backcountry could also make money by being the first to enter newly opened areas, developing or securing farms, and then selling them to later arrivals at a considerable profit.

Thus, for backcountry residents the Indian lands were a coveted prize. Charles Royce, the author of a 19th century study of the Cherokees, remarked that:

…the idea was all prevalent…that…however attractive may be the surrounding districts…the prohibited domain of a neighboring Indian reservation must of necessity surpass it, and no application of the principles of reason, philosophy or justice will serve to lessen the desire for its possession.
In his novel Eoneguski, set in western North Carolina, North Carolina Senator Robert Strange stated that the whites looked upon the Indian lands “as the Israelitish leader did from the top of Pisgah upon the rich valleys where dwelt the children of Edom – with a longing glance.” According to Strange, the white people sat “like the vulture, watching the moment when some relaxation of the law shall invite them to the spoil…”

In some cases, land speculators did not even wait for a relaxation of the law before laying claim to Cherokee land. Over 80,000 acres including parts of what became the 1819 Treaty Lands were granted to a speculator named William Cathcart in 1796, while the land was still legally Cherokee territory. Cathcart did not retain title to the tract, but the episode is representative of the cavalier attitude toward the Indian lands in general. The reasoning of the time is neatly summed up in the remarks of James Monroe, the president of the United States at the time that the Treaty of 1819 was signed, who declared that:

…the earth was given to mankind to support the greatest number of which it is capable, and no tribe or people have a right to withhold from the wants of others more than is necessary for their own support and comfort

This high-minded attitude trickled down to the citizens of the border country. Writing of whites who had settled illegally on Indian land, the Cherokee agent Return Jonathan Meigs observed that “They cannot be persuaded that there is any moral turpitude in taking possession of unoccupied lands; either of the government or of the Indians.”

And if laws must be violated or treaties bent in order to obtain this greater good, so be it. As a frontier judge remarked, “Has not all America extended its back settlements in opposition to laws and proclamations?” Laws, in any case, were often disregarded by the border dwellers. Writing again of white intruders on Cherokee lands, the Cherokee agent Meigs remarked that “they fear no law that is not tangible.”

*Settler’s Attitudes Toward the Indians*

Among the residents of the regions bordering the Indian country, the thirst for Indian land was often abetted by a disdain for the Indians themselves. Robert Strange wrote that:
...among the whites generally, that those whose minds have not been liberalized by
education, or whose natural dispositions are not uncommonly noble, previous to much
knowledge of Indian character, the prevalent feeling is one of apprehensive dislike, if not
of shuddering horror – the result doubtless of the stories which almost all have heard from
their infancy, of their ferocious cruelty and subtle vindictiveness.  

Indeed, the residents of the border regions probably had many opportunities to hear such
stories. The majority of the white populace perched on the border of the Cherokee country at
the time of the treaty of 1819 were descended from Scotch-Irish, English, or German families
who had made a multi-generational migration south from Pennsylvania, through the Shenandoah
Valley of Virginia, and thence into North Carolina, always moving in search of better land and
better opportunities. Members of these families likely grew up listening to fireside tales of
the severe Indian raids on Augusta County, Virginia, in the Shenandoah Valley, in 1745; the
Cherokee raids on the western North Carolina piedmont in 1759 that left 15 or more settlers
dead, or the Cherokee raid on the Long Cane Settlement, in South Carolina, in 1760, in which
over 20 settlers, including many women and children, were killed. The older members of the
border community may have remembered the Cherokee attack on the Watauga and Holston
settlements in what is today East Tennessee, in 1776, during which a boy named Moore was
captured and burned at the stake and the bodies of other victims were said to have been scalped,
mutilated, and dismembered; the attack on settlers on the headwaters of the Catawba River in
western North Carolina during that same year that are said to have left 37 people dead, or the
Cherokee attack on Gillespie’s Station, near Knoxville, Tennessee, in 1788, in which 28 men,
women, and children were killed. 

Scattered conflicts between Cherokees and border whites continued through the late 18th
and early 19th century.

The Cherokees are said to have been “very troublesome” to the early settlers of what
became Buncombe County, to the east of the 1819 Treaty Lands, stealing their provisions and
vandalizing or burning their possessions, and occasionally committing a murder. To protect
themselves, the settlers were compelled to erect block houses and keep sentinels posted.
Within two decades of the Treaty of 1819, in 1804, a border resident named Andrew Bryson would write the Cherokee agent, Return Jonathan Meigs, to warn of trouble between Cherokees and whites in North Carolina:

Sir I take the liberty of informing you that James Wood that is Blaimed for wounding the Yalow Bere and Ciling his childe hase been taken in South Carolina and been commited to Burk jail and his frends of the name of Welshes his baild him out and he is in the settlement that the murder was don in and the Welshes have tolde their frends that lives on the fronteres if Wood is Charged or shot for them to move in for the are under oath to kill sum of the Cherikkees…

And within a decade of the Treaty of 1819, on the eve of the War of 1812, Thomas Love, a member of the prominent Love family of western North Carolina, expressed his fear of an Indian uprising in a letter to the then governor of North Carolina, William Hawkins:

I fear from the present aspect of things that if a war with England should take place…that we shall have a general Indian war…I believe the prevailing opinion in [western North Carolina] and also the state of Tennessee is that the [Creek Indians] are to be hostile to the whites, and there is but little doubt with me that should opportunity serve, [the Cherokee] will engage also in mischief.

At this same time “frightening stories about Indians” are said to have been circulating in the region.

In the minds of the residents of the backcountry, the mixture of history, mythology, and fear that together colored their attitudes toward the Cherokee was appended to widely held 19th century attitudes about race. John Ridge, the highly educated son of the important Cherokee leader Major Ridge complained bitterly that racial prejudice was “the ruling passion of the age.” In the racial pantheon of the 19th century, Indians were widely regarded as somewhat better than blacks, but still inferior to whites. At best the Indians were curiosities. At worst they “were heathens, and had no business in a Christian land.”

Familiarity with the Indians did not necessarily dispel these prejudices. According to Robert Strange:

Those who, by familiar intercourse with them, have enjoyed opportunities of better knowledge, instead of that kindness, which is the ordinary effect of familiar intercourse between any two of the creatures of God, suffer a contemptuous hatred to spring up.
Strange attributed this contempt to the character of the whites who lived on the periphery of the Indian settlements, whom he termed “borderers:”

We strongly suspect that it is only to be accounted for by the fact, that such persons usually…are borderers, who make use of the advantages with which Providence has blessed them, not to improve the condition of their less favored brethren of the red skin… but to cheat and defraud them of the little they have – and that they may fall easier prey to their cupidity, so far from removing from their eyes the bandage of ignorance, they rather strive continually to thicken its folds…Obedient to a law of nature, which prescribes more bitter hatred from the inflictor of wrong towards him who suffers, than even that from the sufferer towards him who inflicts, they habitually hate whom they habitually wrong, and contempt is added for the stupidity which sees not, or the tame humility which suffers the wrong.39

If the settlers were not openly hostile to the Indians, they were simply indifferent to them. Silas McDowell, who purchased two tracts on the 1819 Treaty Lands in 1820,40 recalled in his later years that at the time he bought his land he “cared but little for Cherokee statistics…” Rather, all his thoughts were directed toward acquiring his chosen property. “….if I could but secure it,” McDowell wrote, “the Indians might go to -- heaven, for what I cared.”41

**Buying and Selling “Improvements”**

Choosing and securing land was the principal quest of the settlers who flocked onto the 1819 Treaty Lands during the months after the treaty.42 John Moore entered the 1819 Treaty Lands in October or November 1819 “with a view of getting a place to remove to.”43 And according to an early 19th century family history of the Siler family, during a scouting trip into the Treaty Lands around 1819 Jacob Siler and Benjamin Brittain “stayed all night” with a Cherokee chief called Balltown George, and in the morning “bought him out.”44

Siler and Brittain did not buy land from Balltown George, but rather, they purchased his “improvements.” Improvements, in the parlance of the 19th century, were houses, cleared fields, fences, or similar man made features that added value to a piece of land. Many of the first settlers on the 1819 Treaty lands appear to have purchased improvements from the Indians who remained there.
Buying and selling improvements apart from the land on which the improvements were located was a common practice among white settlers in frontier areas. A 19th century resident of the Ozark Mountains of Missouri and Arkansas described the buying and selling of improvements in that region:

When the country commenced settling, there was no attention paid to congressional lines. As they settled on the streams, they would make conditional lines - blaze across the bottom until they would strike the table-lands; and the next men who might come in and settle would blaze his conditional line across, and for years there was but little land entered. Men only sold their improvements, and there was a fixed law, or custom, that prevailed among them - that no man should enter the land and take another man’s improvements without paying for them. A few such instances occurred to my knowledge. The man was at once waited upon, and informed of the rules and customs of the country; and besides the rules and customs, it was not right nor honest to take a man’s labor without paying him for it; and that it was the intention and purpose of the people to see that justice was done every man…If the improvements, which were always reasonable, were paid for, the party would move off, blaze out another claim, and go to work to improve it; but if he didn’t receive pay for his improvements, he remained on the land and the other fellow’s whereabouts would soon be unknown; and when the land was sold for taxes, the man owning the improvements would buy it by paying the amount of taxes and costs without an opposing bid.

Placing value on improvements apart from the land may have had its antecedents in customs imported by the Scotch-Irish settlers from Northern Ireland, where they engaged in a system known as “tenant right” by which tenant farmers were compensated by their landlords for improvements they had made to the landlord’s property when they chose to move to another location. The buying and selling of improvements also accorded with Cherokee custom regarding land, by which all land was regarded as the common property of the Cherokee people, but the ownership of improvements to the land were vested in the individuals who made those improvements. This custom was codified in a Cherokee law passed in 1825 that stated that the lands within the limits of the Cherokee Nation were the common property of the Nation, but that “the improvements made thereon and in the possession of the citizens of the Nation, are the exclusive and indefeasible property of the citizens respectively who made, or may rightfully be in possession of them.”
Purchasing an Indian improvement on the 1819 Treaty Lands does not appear to have given a settler any legal right to purchase the land on which the improvement was located when the land was offered for sale, and, in fact, the law that authorized the survey and sale of the Treaty Lands included a clause specifically authorizing the purchasers of those lands to bring actions of ejectment (eviction) in the name of the State of North Carolina against any settler found living on lands claimed by the purchaser.\(^{51}\) However, owning an improvement does appear to have given the occupant some de-facto rights that were enforced by the community, much as in the example from the Ozarks quoted above. According to a history of the Siler family, family members and neighbors who purchased improvements from the Cherokee agreed not to bid against one another when the land on which their improvements were located was offered for sale by the state of North Carolina. On the one occasion when an outsider purchased land that was earmarked for one of the members of the compact the purchaser was boycotted by others in the neighborhood, who refused to sell him food for his family or his livestock.\(^{52}\)

Possessing an Indian improvement appears to have conferred enough of an advantage to the owner that a “shadow market” in Cherokee improvements developed on the 1819 Treaty Lands during the first wave of white settlement. A man named Anguish McDaniel was particularly active in this business. According to a contemporary account, “McDaniel was in the habit of purchasing improvements of the Indians and selling to the whites.”\(^{53}\) John Moore, one of the earliest settlers in the region, would later recall that when he “removed to the Creek called Catugajay [Cartoogecheye],” in what is today Macon County, “being a stranger he got this Anguish McDaniel to [get] him possession of an Indian’s improvement by the name of Oonewastah.”\(^{54}\) McDaniel also served as interpreter when another member of the Moore family, T. B. Moore, “purchased the improvements of an Indian called Catteegeeskee [probably Cate tegeske].”\(^{55}\)

Jonathan Blythe also served as a liaison between the early settlers and the Indians.\(^{56}\) John Moore recalled in an 1828 deposition:

…that in passing along where Luke Barnard now lives with one Jonathan Blythe, that he requested Blythe to know if the Indian would sell the improvements -- that he called him
out and after talking with him Blythe who was an interpreter said that the Indian asked $40 for his improvements -- that the Indian went back in his hut and brought out his certificate -- he offered the Indian his gun -- the Indian refused to take it at the time -- Blythe told him to leave the gun and he thought he could trade with the Indian -- that he did so and on his returning in December he saw Blythe on the way who told him that McDaniel had purchased the improvements for him (Figure 8.2). 

The Indians sometimes complained that they had been cheated in these transactions. The heirs of Oonewastah would later complain about the “improper conduct” of Anguish McDaniel in purchasing their ancestor’s improvement. Another Indian complained that McDaniel had purchased an improvement from him but had not paid him for it. And Jonathan Blythe was sued by an Indian in the Cherokee courts over a property transaction, and lost the case. 

Once improvements or “rights” to land were purchased from a Cherokee, the improvements might change hands several times before the land was purchased from the state and the ownership passed into the public record. When a setter named Enos Shields arrived on the ceded lands in March, 1820, “he met with a man by the name of Bell who told him he had

Figure 8.2 – A reservation certificate from the 1819 Treaty Lands. A similar certificate is probably referred to in the quoted deposition. Source: Applications For Reservations, 1819, RG 75, NAR.
purchased an Indian’s place called The Cat’s and fifty bushels of corn from T. B. Moore.” Bell let
Shields have the contract to the land, and Shields subsequently paid Moore the $50 that Bell had
contracted to give him. Shields then moved into a cabin that a man named Young had constructed
on the Cat’s reservation.\textsuperscript{61} In another case, after Anguish McDaniel purchased the improvements
of an Indian John Brison [Bryson] “bought of McDaniel and afterwards purchased of the state.”\textsuperscript{62}

The rush onto the 1819 Treaty Lands of western North Carolina was dramatic, but not
unique. “Experience has proved the extreme difficulty of preventing persons from making
settlements upon the most remote points of every cession before the land is offered for sale...,”
wrote the then secretary of war, William Crawford, in 1816.\textsuperscript{63} When the best of the 1819 Treaty
Lands were surveyed by the State of North Carolina in the spring and early summer of 1820 a
legal and official means of purchasing property in the newly acquired country was provided. And
with the survey of the Individual Cherokee reservations later that same year, Cherokee claims
that had previously been abstractions became concrete entities. However, because the reservation
claims often overlapped with tracts that were laid out by the state, rather than bringing order to
the land acquisition process, the surveys only made it more chaotic.
Chapter Endnotes

1 *Treaties Between the United States of America and the Several Indian Tribes*, 268.

2 This stipulation was ignored not just in western North Carolina, but elsewhere. A memorial submitted to the United States Congress by delegates of the Cherokee in 1835 stated that “…many reservations were taken in the ceded territory, but, unfortunately for the reserves, the seventh article of the treaty was disregarded, and many white people became resident upon the ceded territory before the first day of January, eighteen hundred and twenty, and not of that class disposed to regard or respect Indian rights.” Memorial of John Ross and Others, Delegates of the Cherokee Indians, *Sen. Doc. 120*, 23rd Cong., 2 Sess., (Serial 268, Washington, D.C., 1834), 3.

3 See Deposition of Jacob Siler, October 14, 1838, Claim 74, RFBCC, Claim Papers, RG 75, NAR. Siler may have been present as early as 1817, the year that a published family history puts him in the area. See Arthur et. al., comps, *The Siler Family*, 8. However, circumstantial evidence suggests that the date of his arrival was sometime in 1819.

4 Affidavit of Zachariah Cabe, August 23, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

5 Deposition of John Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

6 Deposition of Nathan Smith, July 28, 1828, TCP, Indian Affairs and Lands, NCDAH; Deposition of Samuel Smith, July 27, 1828, TCP, Indian Affairs and Lands, NCDAH.

7 Deposition of Daniel Johnson and [W.] Johnson, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

8 See Cherokee Survey Books, SSP, NCDAH. A list of the settlers and Cherokees whose names were recorded in the surveyor’s notes of the Robert Love Survey can also be found online at: [http://www.teresita.com/html/settlers.html](http://www.teresita.com/html/settlers.html) (6/20/03).

9 Deposition of Jacob Siler and Jonathan Phillips, September 18, 1837, Claim 728, RFBCB, Claim Papers, RG 75, NAR.

10 Petition of June lus key for Compensation for a Reservation in Macon Co., N. C., [No Date, Claim Filed December 24, 1846], Claim 63, RFBCC, Claim Papers, RG 75, NAR; Deposition of Gideon F. Morris, March 1, 1841, Claim 63, RFBCC, Claim Papers, RG 75, NAR; Junaluskey vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #76, RG 75, NAR.

11 For instance, see Raxter, “The Orphan Strip Community,” 54. A newspaper account of the first auction in which portions of the 1819 Treaty Lands were offered for sale to white settlers noted that: “The purchasers were principally settlers and inhabitants of the neighborhood; but few strangers being present” *Western Carolinian*, December 5, 1820. See also Chapter Nine herein. Twenty-six of the settler’s names recorded in the surveyor’s notes of the Robert Love Survey of 1820, the first land survey of the 1819 Treaty Lands, are also found in the 1810 Federal Population Census of Haywood County, the nearest county to the east of the 1819 Treaty Lands. Thirty-seven of the last names of the settlers recorded in Love Survey surveyor’s notes are also found in the 1810 Haywood County Census. Because of the ten year gap between the date of the census and the date of the survey these figures probably underestimate the number of early settlers who had ties to the region. Other settlers appear to have come from other nearby counties. A transcribed version of the 1810 Federal Population Census was used to make this comparison. This census is available online at: ftp://ftp.rootsweb.com/pub/usgenweb/nc/haywood/census/1810/1810cens.txt (July 8, 2003).

12 Report of the Commissioners [William Robards and Benjamin Robinson] Under the Act of 1823 on Indian Reservations, October 24, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. This description differs markedly from many 18th and 19th depictions of backcountry residents, who are frequently characterized as debauched, licentious, country bumpkins. For example, see Rachel N. Klein, “Ordering the Backcountry: The South Carolina Regulation,” *William and Mary Quarterly* 38, no. 4 (1981), and D. Huger Bacot, “The South Carolina Up Country at the End of the Eighteenth Century,” *The American Historical Review* 28, no. 4 (1923). However, it does appear that the earliest settlers on the Treaty Lands included members of some of the more prosperous families in the border community. William Roane, an attorney who represented many of the Cherokee, complained in an 1827 letter to the secretary of war that in fighting for the rights of the reserves the Indian countryman Gideon F. Morris had to “withstand the wealth and power of the most powerful men in Haywood…” William Roane to James Barbour, July
speculative objections to their title to their lands, on the ground that they are mere savages, roving over the surface

"They have understood that some of their white brethren, citizens of the United States, have sometimes indulged in speculative objections to their title to their lands, on the ground that they are mere savages, roving over the surface..."
of the earth in search of game, having never appropriated the soil to themselves by incorporating their own labour with it, and turning it to the purpose for which the God of nature intended it, of supporting the greatest practicable amount of human life. Even if this hypothesis of fact were true, how such an objection could stand with those solemn treaties by which their boundaries had been designated and their land within those boundaries guaranteed to them by the United States, they find themselves utterly unable to comprehend. Nor have they yet been informed how their white brethren have ascertained that this earth was designed only for the purpose of agriculture, and that no title could be acquired to any portion of it in any other manner than by actually digging into its bowels; nor how digging into one part of it, can give a title to hundreds and thousands of miles at a distance from the part thus dug.” Memorial to the Honorable Chief Justice, and the Associate Justices of the Supreme Court of the United States, sitting in Chancery, [Printed Memorial, No Date], MR-815 Frames 884-893; quote on Frame 887.

20 Return J. Meigs to John C. Calhoun, January 5, 1820, M-271, Reel 3, Frames 466-467.
22 Return Jonathan Meigs to John C. Calhoun, September 6, 1819, M-271, Reel 2, Frames 1368-1370. While the attitudes of these intruders can partly be attributed to their location on the periphery of society, in general power during this time was vested at the local level, and laws passed at the national or state level were sometimes simply ignored. See Wilkins, Cherokee Tragedy, 216, 236. On the limited role of the federal government in the lives of most citizens, see also Counihan, “North Carolina 1815-1836.”

23 Strange, Eoneguski, 90 (vol. 1). An Indian countryman named Henry Sutton echoed Strange’s words in describing how the stories he had heard while growing up in the Georgia backcountry had affected his perception of the Indians: “Having been raised in a frontier county of the State of Georgia it was my lot to become acquainted with the Cherokees and having heard so many accounts of their adventures and singular daring I naturally became curious to find out more about it. In doing this I became acquainted with facts and persons very contrary to what I had expected and instead of the Indians doing continual cruelty to the whites, it is the whites who act amiss toward them…” Henry H. Sutton to J.R. Poinsett, Secretary of War: An Exhibit of Certain facts Concerning the Affairs of Henry H. Sutton as Relates to the Treaty of 1835 with the Cherokees, [no date], M-574, Reel 27, File 138, Frames 1167-1186.

24 The term Scotch-Irish refers individuals descended from Scotsmen who settled on the Ulster Plantation of Northern Ireland after it was established by King James VI in 1610. The “plantation,” which covered several counties in Northern Ireland, was intended to pacify and “civilize” the Irish by establishing a Protestant enclave in Catholic Ireland. A variety of factors, including a shortage of land and consequent increase in land rents; opposition by the English government to the Presbyterian religion practiced by most of the Ulster Scots, and trade restrictions imposed on Ireland by England, induced a sizable number of Scotch-Irish to emigrate to the American Colonies beginning in the late 17th century. Many Scotch-Irish first settled in Pennsylvania, which was an attractive destination because of its rich land and policy of religious tolerance. However, as lands in Pennsylvania became more scarce, Scotch-Irish families, along with the families of immigrants from other countries, began to move south into the Valley of Virginia. Many of these families in turn moved on to western North Carolina, often settling for a time in the piedmont section of North Carolina before moving west into the mountains. See Blethen et al., From Ulster to Carolina, and Kenneth W. Keller, “What Is Distinctive About the Scotch-Irish?,” in Appalachian Frontiers: Settlement, Society & Development in the Preindustrial Era, ed. Robert D. Mitchell (Lexington, Ky.: University Press of Kentucky, 1991). This basic migration pattern was followed by many of the families with a notable presence on the 1819 Treaty Lands, such as the Catheys and the Pattons. See Blethen et al., From Ulster to Carolina, 34-37.
25 Blethen et al., From Ulster to Carolina, 40-42.
26 Corkran, Cherokee Frontier, 168.
27 Hatley, Dividing Paths, 172; Corkran, Cherokee Frontier, 193.
28 Mooney, Myths of the Cherokee, 48; Ganyard, “Threat from the West,” 49.
29 Sondley, History of Buncombe County, 378.
30 Mooney, Myths of the Cherokee, 65-66.
31 Sondley, History of Buncombe County, 399-400.
32 Andrew Bryson to Mr. J. Meggs at the Southwest Point [Return J. Meigs], July 25, 1804, M-208, Reel 2. From the context of this letter it appears likely that the writer, Andrew Bryson, was the same Andrew Bryson who would later take a Cherokee wife (see Chapter Five, herein), but there is no direct evidence of this. Similarly, there is no positive
link between the Welchs mentioned in the letter and the métis John Welch. For more on the James Wood incident, see McKeown, “Return J. Meigs,” 139-42.

33 Thomas Love to William Hawkins, June 15, 1812, GLB 18, pp. 229-30, NCDAH.

34 Lemmon, *Frustrated Patriots*, 9; see also pp. 109-11. Lemmon emphasizes though that not all of the residents of the region feared that an Indian attack was imminent. Residents of the Cherokee borderlands again feared an Indian uprising at the time of the Cherokee removal, in 1838. According to a correspondent from Macon County, the region was “…somewhat alive with warlike preparations and rumours of war…” in June, 1838, as the forced eviction of the Indians got underway. See J.R. Siler to David L. Swain, June 12, 1838, David L. Swain Papers, NCDAH.


37 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430. See also Walser, “Senator Strange’s Indian Novel,” 6. Walser states that at the time of the Cherokee removal, in 1838, “There was little feeling of kindness for the Indians among the people North Carolina. The local presses were crammed with accounts of Indian massacres and stories of horror and murder. Fear of the Indians was indeed still prevalent among those who were settling the mountain areas.” Similarly, Evan Jones, who oversaw the Baptist Mission in what is today Cherokee County, North Carolina, before the Cherokee removal, stated that “The white people are constantly opposing every great effort to instruct the poor benighted Indians. The great objection urged by most people in these parts is the enmity of the old wars, in which some of their friends have been killed by them…”. Evan Jones, “Extracts from Mr. Jones’ Journal, Addressed to the Corresponding Secretary,” *The American Baptist Magazine* Vol. 7, No. 10 (1827), 28. For a similar explanation of the border resident’s feelings toward the Indians, see also Brown, *Old Frontiers*, 208, 467. According to Brown (pg. 208), as a consequence of years of violent struggle with the Indians “There developed on the frontier a blind, unreasoning hatred of the red men.”

38 Strange, *Eoneguski*, 90 (vol. 1).

39 Ibid., 90-91. However, Strange recognized and acknowledged the subtlety of Indian-white relations. In his description of a character in his novel named Robert Aymor, thought to be based on the real life figures Robert or Thomas Love, Strange suggests a kind of bipolar view of the Indians. Of Aymor, Strange wrote: “the red people, in aggregate, he detested, however much he might esteem and regard particular individuals.” Strange, *Eoneguski*, 192 (vol. 2). On the relationship between frontier dwellers and Indians, see also Sheehan, *Seeds of Extinction*, 265-70.

40 Sales Book of Cherokee Land, 1820-1823, TCP, Indian Affairs and Lands, NCDAH. McDowell purchased his land in 1820, but did not move there for a decade. During the intervening time his land was managed by “a faithful slave.” Silas McDowell to Lyman Draper, September 3, 1873, Draper Mss. KK62; see also Silas McDowell to Lyman Draper, October 8, 1873, Draper Mss. KK68 and Silas McDowell to Lyman Draper, February 20, 1874, Draper Mss. KK79.

41 Silas McDowell to Lyman Draper, February 20, 1874, Draper Mss. KK79. Silas McDowell (1795-1879) was among the most notable residents of 19th century Macon County, North Carolina. In addition to serving as clerk of court for the new county, McDowell distinguished himself as a plant breeder, scientific observer, and writer. He is best known for pioneering the concept of thermal belts, or frost free and dew free zones on the sides of mountains that were caused by temperature inversions that occurred under certain conditions. He was acquainted with or corresponded with a number of men who were prominent in their day, including the botanist Moses Ashley Curtis and the historian Lyman Draper, and is said to have been the source for many of the stories that were incorporated into the novel *Eoneguski*, by Robert Strange, discussed elsewhere in this study. In his later years McDowell would become quite sympathetic to the Cherokee. In a letter to Lyman Draper written in 1873, McDowell observed that “I don’t suppose that many men sympathize with me in a real sentiment of pity for our frontier Indians who are forced from their homes against all the preferences of their heart. The Cherokee [was badly treated] and forced from his home against his will at the point of eight thousand bayonets commanded by General Scott.” Silas McDowell to Lyman Draper, July 13, 1873, Draper Mss. KK59. On McDowell, see Davidson, *Reminiscences and Traditions*, 19-20; Gary S. Dunbar, “Silas McDowell and the Early Botanical Exploration of Western North Carolina,” *The North Carolina Historical Review* (1964): 425; and Walser, “Senator Strange’s Indian Novel,” 17-18. On thermal belts, see Martha Elizabeth Norburn, “The Influence of the Physiographic Features of Western North Carolina on the Settlement and Development of the Region,” (Ph.D. dissertation, University of North Carolina, 1932), 51-57.

42 In his *A Brief History of Macon County, North Carolina*, penned about 1890, the Reverend C.D. Smith noted that “During the summer and fall of 1819 a few whites came amongst the Indians with a view to purchasing when the

43 Deposition of John Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.


45 E.g. Everett Dick, *The Dixie Frontier: A Social History of the Southern frontier from the First Transmontane Beginnings to the Civil War.* (Norman: University of Oklahoma Press, 1993), 66-67. For example, the Reverend Humphrey Posey recalled that when he was in the process of establishing a missionary complex in the Cherokee Nation to the west of the 1819 Treaty Lands, “having a call for more land to cultivate than was found unoccupied,” he gave an Indian countryman named William Hanson $200 for his improvement, which was located on land that Hanson claimed as an individual reservation. Significantly, Posey stated that: “In all the conversations and contracts between myself and Hanson it was never understood as Hanson selling his reservation but the reservation was still claimed by him; the right to establish a missionary post there was all that was acquired by the purchase from Hanson.” Deposition of Humphrey Posey, August 4, 1843, Claim 76, RFBCC, Claim Papers, RG 75, NAR.

46 “Enter” in this context means to have purchased or formally claimed the land from the government


49 Reid, *Law of Blood*, 130-41; Strickland, *Fire and the Spirits*, 95. See also Pathkiller, Charles Hicks, and John Ross to James Monroe, November 2, 1819, M-574, Reel 25, File 131, Frames 1284-1288.


52 Porter, *Family of Weimar Siler*, 89. In this family history it is stated that “under the provisions of the treaty an Indian having a considerable improvement was allowed to sell the improvement and that gave the purchaser an option on the place at 25 cents an acre” Porter, *Family of Weimar Siler*, 87. However, neither the text of the Treaty of 1819 nor the law that authorized the survey and sale of the 1819 Treaty lands by the State of North Carolina contains such a provision. To the contrary, a law passed in 1820 specifically authorized the purchaser of Cherokee lands to institute an action of ejectment against any persons residing on the land, although another provision of the law entitled occupants “to the benefit of the crops they have planted previous to the [land] sale. “Dortch, Manning, and Henderson, *Code of North Carolina*, 70-71. Just as was the case with the 1819 Treaty lands, when the remaining Cherokee lands in western North Carolina were ceded to the United States under the terms of the Treaty of 1835 a few white settlers entered the area early to secure choice properties. W. G. Williams, a military officer who made a survey of these lands for the army prior to the Cherokee removal of 1838 recorded encountering a few white families who had purchased the improvements of Indians who had emigrated to other places. See Williams, “Military Intelligence Report on N.C. Cherokee,” 206-07.

53 Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

54 Chula or Dead Works, Heir of Oo ne was tah vs. The United States, Claim for the Value of a Reservation taken on the 19th Sept., 1819 on Catugajay [Cartoogachaye] Creek, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #22, RG 75, NAR.

55 Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

56 Deposition of [T.] B. Moore, July 23,1828, TCP, Indian Affairs and Lands, NCDAH. Cate te geske applied for a reservation under the terms of the Treaty of 1819 but the reservation was never surveyed.

57 Jonathan Blythe was the father of Elizabeth or Betty Blythe, who married the “mixed-blood” Cherokee John Welch. Jonathan Blythe is recorded as operating a mill on the 1819 Treaty Lands at the time of the first survey of these lands in 1820. See Chapter Five herein.

58 Deposition of John Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

59 Chula or Dead Works, Heir of Oo ne was tah vs. The United States, Claim for the Value of a Reservation taken on the 19th Sept., 1819 on Catugajay [Cartoogachaye] Creek, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #22, RG 75, NAR.

60 Ibid.

61 Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
62 Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
CHAPTER NINE: THE SURVEY AND SALE OF THE CEDED LANDS

In the spring and early summer of 1820 surveyors in the employ of the state of North Carolina criss-crossed the 1819 Treaty Lands laying out individual tracts for eventual sale to white settlers. In the spring and fall of the same year surveyors in the employ of the federal government weaved their way across the same country laying out individual Cherokee reservations. The conflicting claims created by these often contradictory surveys, and the failure to resolve these conflicts before the disputed lands were offered for sale, prefigured much of the turmoil that would occur on the Treaty Lands in the following years. This chapter will describe the 1820 federal and state surveys, and subsequent October, 1820 land sale.

The Robert Love Survey

The lands acquired from the Cherokee Indians under the terms of the Treaty of 1819 passed to the individual states to dispose of as they saw fit. To the citizens and government officials of North Carolina the new lands were a welcome addition.

During the years preceding the Treaty the state had suffered from out-migration as many of its most enterprising citizens fled the depleted farm lands and stagnant economic opportunities of the long settled regions for fresh lands west of the Appalachians. Poor transportation facilities were the particular bane of early 19th century North Carolina, which lacked good roads, had poor natural ports, and few navigable rivers. The answer to North Carolina’s woes, some state leaders believed, would be an extensive program of internal improvements – canals, better roads, and improved port facilities. These internal improvements would allow North Carolina farmers and merchants to connect with outside markets, and would encourage more of the state’s citizens to remain in the land of their nativity.¹

The 1819 Treaty Lands fit well into this scheme. Funds from the sale of the newly acquired lands were earmarked for use in internal improvement projects.² The availability of
fresh lands might also encourage would be emigrants to establish new homes and farms within the borders of the state instead of moving to the west.³

State officials wasted no time in taking measures to bring the former Cherokee lands on to the market. In 1819 the General Assembly passed a law that dictated the means by which the lands would be surveyed and sold. The law stipulated that the best portions of the newly acquired territory would be divided into tracts of between 50 and 300 acres each, with each tract including if possible some agricultural land and some woodland or mountainous land.⁴ The tracts were to be graded according to their perceived quality and offered for sale at auction, and no land was to be surveyed that in the judgment of the surveyors would bring less than 50 cents per acre.⁵

The law dictated that the governor appoint two commissioners to oversee the survey and sale of the Treaty Lands. The men that the governor appointed, Jesse Franklin and James Mebane, were both prominent residents of the state and seasoned veterans of the North Carolina political scene.

Jesse Franklin, from Surry County, in northwestern North Carolina, was a Revolutionary War veteran, who, according to legend, escaped hanging by British sympathizers when the reins of his horse, which were being used as a noose, snapped. Subsequent to the war, Franklin served in the North Carolina General Assembly, the United States House of Representatives, and the United States Senate. He also served as a commissioner, along with Andrew Jackson, in treaty negotiations with the Cherokee in 1816, and would serve as governor of North Carolina during the early 1820s.⁶

James Mebane, from Orange County, in central North Carolina, was also a member of the North Carolina General Assembly at various times during the years before and after the survey, and would serve as the speaker of the House of Commons from 1820-1821.⁷

The Governor was also authorized to appoint a chief surveyor for the survey. Robert Love, a member of the prominent Love family of Haywood County, just to the east of the 1819 Treaty Lands, was given this position, and was authorized to appoint as many deputy surveyors as he deemed necessary to complete the work in a timely fashion.⁸ Surveying was something of
a family business among the Loves. Love’s father, Thomas, and uncle, also named Robert, were both land surveyors of some import.  

Franklin, Mebane and Love had previous experiencing overseeing government surveys in the region. All three had been involved in a survey that was conducted in the autumn of 1819 to mark the boundary between North Carolina and Georgia on the newly acquired Cherokee lands. The choice of these men to oversee the laying out of properties on the 1819 Treaty Lands was probably due in part to their familiarity with the area from their work on the boundary line survey. 

The survey of the 1819 Treaty lands, commonly called the Love Survey or Robert Love Survey, after the principal surveyor, was begun on April 29th, 1820. There was pressure to complete the survey quickly. John Branch, who was the governor of North Carolina at the time, wrote to the principal surveyor Robert Love expressing, as Love described it, “a great desire to have the surveying of the Cherokee lands completed at a period as early as possible so that those lands may be brought into market prior to the meeting of the ensuing legislature.”

The lands to be surveyed were divided into 18 separate districts, with different districts assigned to different survey crews (Figure 9.1). A total of nine separate survey crews were employed during the survey. Each crew consisted of a surveyor; a “marker,” whose job it was to blaze the trees used to denote the corners of properties, and two chain carriers, whose job was to carry the fixed-length chain, commonly known as “Gunter’s Chain,” that was used by surveyors to measure distances during this period. As in most surveys of the time, distances in the Love Survey were recorded using a unit of measure known as a pole. One pole equaled 16.5 feet, and 320 poles equaled one mile. 

The surveyors were required to record the names of any individuals that they found living on the properties they laid out, as well as information about the natural features of the property, such as the presence of springs and mill seats (potential mill locations). However, an examination of the notes compiled by the surveyors reveals that there was some inconsistency in the information that was actually recorded (Figure 9.2).
The surveyors were also charged with establishing the location of a town that would serve as a seat of government for the newly acquired lands. This choice apparently caused a considerable controversy among the surveyors, with different factions favoring different locations. The matter is said to have been settled when the commissioners, who were not from the region and had no vested interest in where the town would be located, had the entire survey crew vote on their preference and made the outcome binding. The town site that the surveyors eventually decided upon became the town of Franklin, in what is today Macon County.¹⁶

A total of 656 individual tracts were laid out during the Love Survey, covering a total of approximately 70,000 acres, or around one tenth of the area of the Treaty Lands (Figure 9.3).¹⁷ All of the survey work was completed by mid-June 1820, and by June 22 the last of the surveyors had returned to their base of operations in Waynesville, just to the east of the Treaty Lands in Haywood County, where they completed their survey notes and prepared three copies of a plat map showing the locations of the properties that they had laid out (Figure 9.4).¹⁸
Figure 9.2 – Surveyor’s notes from the Robert Love Survey. Source: Cherokee Survey Books, SSP, NCDAH.
they departed from Waynesville, the commissioners Franklin and Mebane dispatched a report on the survey to the governor of North Carolina. In this report, they commented on the Cherokee reservation claims:

The commissioners believe it proper to state to your Excellency that in the progress of the survey there were presented to them claims (some in the names of white men as well as Indians) to the amount of fifty one in number for reservations of six hundred and forty acres of land each. Of the whole number presented two only appear to be especially recognized by the Treaty of 1819. The remaining forty nine appear to be certificates from the office of the Cherokee agency that applications under the Treaty’s [sic] of 1817 and 1819 had been made for reservations. The law under which the commissioners acted having taken no notice whatever of any reservations they paid no regard to any except the two especially made by the Treaty of 1819. Those two were made, one to Richard Walker, or Indian Dick the other to Yonah or the big bear both for six hundred and forty acres each both lying upon the Tuckaseegee and were left out of the General Survey as may be seen by reference to the general plat.19
Figure 9.4 – A small section of one of the original copies of the Robert Love Survey Map. Three copies of the map were made, but only two are known to survive, both in the holdings of the North Carolina Division of Archives and History. The original maps measured approximately 8.5 x 11 feet.
It remains an open question whether the commissioner’s choice to ignore all of the reservations except those granted in fee simple, which were specifically mentioned in the text of the Treaty of 1819, was motivated by a desire to stay strictly within the boundaries of the law as they saw it, or was a result of a prejudice against the rights of the Indians and a desire to make as much land as possible available to white settlers. Whatever their motive, the commissioner’s decision would have profound consequences.\textsuperscript{20}

\textit{The Cherokee Reservation Surveys}

While the state surveyors were engaged in laying out properties that overlapped many of the Cherokee reservation claims, representatives of the federal government were engaged in the slow process of implementing those claims. In the spring of 1819 Robert Houston, of Tennessee, was appointed by the president to survey the new Cherokee boundary in North Carolina and Tennessee that was established under the terms of the Treaty of 1819, and also to lay out the reservations that had been claimed in Tennessee, North Carolina, and what is today Alabama.\textsuperscript{21} Houston was authorized by the secretary of war to hire an additional surveyor to assist him in this work. Robert Armstrong, another Tennessean, was employed in this capacity.\textsuperscript{22}

The initiation of the reservation surveys was deliberately delayed until six months had elapsed after the ratification of the Treaty of 1819 so that all of the applications for reservations could be collected and the surveyor would not have to return to the same area repeatedly in order to lay out new reserves as the applications came in. The commencement of the reservation surveys was further delayed because of the scarcity of forage and provisions in the Cherokee country during the late summer, and because, as Houston put it, “the rattlesnakes are very dangerous.”\textsuperscript{23} Armstrong finally set out to begin the surveys of the reservations granted in fee simple on October 18, 1819, but he had only completed a few of the surveys when he received word of “the very ill health of his family.”\textsuperscript{24} In short order three of Armstrong’s children died in
what was presumably an epidemic, and Armstrong’s wife also became gravely afflicted. Despite this terrible loss, Armstrong eventually returned to his duties.

Armstrong resurveyed the two fee simple reservations in North Carolina, those granted to Big Bear and Richard Walker, in mid-May, 1820. These duplicate surveys caused consternation to both the reservees and subsequent white settlers. According to a letter composed in 1838 by an early settler named J. R. Siler, who purchased land in the vicinity of the Big Bear’s reservation:

Fergus, the state surveyor desirous to survey the country surrounding the Big Bear proceeded to survey his reservation as he thought agreeable to the treaty making the center of his field the center of his reservation and so run out other tracts adjoining…after which another surveyor called the United States Surveyor came along and run out the Bear’s reservation making his house the center of his reservation…

Thus, Big Bear’s reservation was given two sets of boundaries by the state and federal surveyors based on two different interpretations of the intent of the Treaty of 1819, a discrepancy that settlers who purchased land near the reservation had to contend with.

Conversely, Richard Walker, the other fee simple reservee, would later complain that:

…when the N. Carolina surveyors came…they surveyed his Richard Walker’s place off at Scott’s Creek without his consent, that [then] the United States surveyor came round and would not survey any place for him Dick but the one that had been laid off to him at the mouth of Scott’s Creek…

Walker was angry at the actions of the surveyors because he had intended to take his fee simple reservation at another location where his son had his principal residence.

On July 20th, 1820, the chief surveyor Houston instructed Armstrong to apply to the Cherokee agent Meigs for a list of the life estate reservations granted under the terms of the Treaty of 1819 and to commence these surveys. Armstrong surveyed the life estate reservations in western North Carolina in September and October of 1820, some three months after the state surveyors had completed their work, and just a few weeks prior to the time that the state put much of the land encompassed by the reservations up for sale (Figure 9.5).

Many of the reservation surveys were incomplete. According to a report compiled by a committee of the North Carolina General Assembly several years later:
Figure 9.5 - The first page of a reservation survey plat. Source: Register of Cherokee who wished to remain in the East, Plats, Record Group 75, Records of the Bureau of Indian Affairs, United States National Archives.
The reservations allotted to such Indians who elected to become citizens of the United States, according to the Treaties of 1817 and 1819, had in many instances, but one corner and part of two sides marked, and the reservations platted from that data alone. Nearly all these it became necessary to run out and mark sometimes on all sides, particularly when surrounded by vacant land.\footnote{31}

Presumably the failure to mark the complete boundaries of the reservations was a time saving measure, and may explain the speed with which these large surveys were accomplished.

Armstrong’s conduct of the North Carolina reservations surveys drew additional criticism from state officials in subsequent years. Although the treaties of 1817 and 1819 called for the Cherokee reservations to be made in a square surrounding the reservee’s improvements, several of the reservations laid out by Armstrong in western North Carolina were rectangular or irregularly shaped, or were not positioned so as to place the reservee’s improvements in the center, a fact which, it was asserted, made the reservations more valuable than they would have been had they been surveyed as called for in the treaties.\footnote{32}

*Indecision Regarding the Reservation Claims*

The reservations, of whatever shape, were a source of continued vexation to the North Carolina commissioners appointed to oversee the survey and sale of the Cherokee lands. Whatever their motivation for initially ignoring most of the reservations, some doubt must have existed in their minds concerning the proper course of action to take, as they requested guidance on the reservation question from the governor, John Branch. The governor’s reply was equivocal:

> It is with some difficulty that I have been able to form an opinion as to the proper construction of the two Treaties made with the Cherokee Indians of the 8th of July 1816 [sic] and the 27th of February 1819 so far as relates to the extent of the respective reservations to the Indians and I must acknowledge that doubts still rest upon the subject. But my impressions are that each head of any Indian Family who resided within the Ceded Territory on the eighth of July 1816 [sic] those enrolled for the Arkansaw excepted who [were] elected to become citizens of the United States in the manner stipulated in the said treaty are entitled Viz: All those whose names are filed in the office of the Cherokee agent as directed by that Treaty. It will be recollected that they are to be heads of families, not young men, who may be mere intruders for the purpose of defrauding the just pretensions of the United States.

> Upon a full view of all the circumstances you will be better able to arrive at a correct result than myself and I must therefore confide very much to your better judgment.\footnote{33}
The October Land Sale

Perhaps fortified by the governor’s failure to take a firm stance on the issue, the commissioners proceeded to offer the land encumbered by the reservations for sale to the general public at the first land sale held to dispose of the newly surveyed lands (Figure 9.6).

The land sale was opened at Waynesville on October 16, 1820, and lasted for three weeks. During the sale each of the tracts that had been laid out during the Robert Love Survey were offered for sale to the highest bidder, with minimum prices for each tract based on the quality of the land as assessed by the surveyors. Lands judged as first quality were sold for a minimum of four dollars an acre; second quality lands were sold for a minimum of three dollars an acre, and third quality lands were sold for a minimum of two dollars an acre (Figure 9.7). Less than a third of the acreage that had been surveyed was sold during the land sale (Figure 9.8).

The sale merited passing mention in a contemporary newspaper, the Western Carolinian, of Salisbury:

The sales of the lands lately ceded by the Cherokees to this state, have taken place, under the superintendence of Major Jesse Franklin and James Mebane, Esq. They sold, we learn, nearly 19,000 acres, out of 66,000 acres surveyed, for about 66,650 dollars. The price varied according to the quality, from two to nine dollars, though but little was sold at the latter price. Most of the land disposed of was of the first and second quality, though there is a considerable quantity of good land yet to be sold. Upon the whole, considering the scarcity of money, and the large quantity of new lands in market, the sales may be considered good. The purchasers were principally settlers and inhabitants of the neighborhood; but few strangers being present.

A published family history of the Siler family, members of whom included some of the first settlers in the region, provides slightly more detail on the conduct of the sale. According to this account, properties were offered for sale in sequence and a list of the properties that were to be sold was posted in advance so that potential buyers with an interest in particular tracts would know when to attend the auction. As mentioned in the previous chapter, there also appear to have been agreements among some of the potential purchasers not to bid against one another, although not everyone at the sale honored these agreements. In the particular incident recounted
The Star and North Carolina Gazette, Raleigh, N.C., September 8, 1820.

CAROLINIAN.

SALISBURY, (N. C.) TUESDAY, AUGUST 29, 1820.

CHEROKEE LANDS.

Gov. Branch has given notice, by proclamation, that the Cherokee lands will be offered at public sale at Waynesville, in the county of Haywood, on the 16th of October next, under the superintendence of commissioners appointed for that purpose. The terms of sale are, one-eighth part of the purchase money at the time of sale, one-eighth at the expiration of twelve months, one fourth at the end of two years, one fourth at the end of three years, and the remaining fourth at the expiration of four years. Bond and security will be required for the payment of the instalments at the respective periods when they become due.

Western Carolinian, Salisbury, N.C., August 29, 1820.

Figure 9.6 - Newspaper notices announcing the first sale of properties on the 1819 Treaty Lands.
Figure 9.7 – Receipts from the 1820 land sale. Humphrey Posey, who purchased the property referenced in the second receipt, was a Baptist preacher who established a mission among the Cherokee in what is today Cherokee County, North Carolina. Source: Certificates and Plats of Purchases, TCP, NCDAH.
in the Siler family history a purchaser named Barnard used chicanery to have the order in which the properties were sold changed so that he would not have to bid against a man named Moore, who wished to purchase the same tracts that Barnard wished to purchase. Although Barnard was successful, he was subsequently boycotted by his new neighbors, who had been in collusion with Moore.\textsuperscript{38}

Prospective land purchasers were not the only ones who attended the land sale. Representatives of the Cherokee were also present. Many years later Silas McDowell, who purchased land at the sale, recalled that: “nearly all the Indian chiefs” were there “to know why it was that N.C. had surveyed and were selling their reservations.”\textsuperscript{39}

The chiefs’ protests fell on deaf ears, however, and many of the Cherokee who had taken reservations soon found themselves at odds with the white settlers who had purchased land that overlapped with their reserves.
Chapter Endnotes


2 Blackmun, Western North Carolina, 202; Counihan, “North Carolina 1815-1836,” 98.

3 E.g. see Report of the Select Committee on the Division of Haywood County, November 28, 1828, GASR, 1828-1829, Senate Committee Reports, NCDAH, and Romulus M. Saunders to James Iredell, November 1, 1828, GLB 27, pp. 145-148, NCDAH.

4 While not explicitly stated in the law that authorized the survey, the minimum and maximum tract sizes were significant. In North Carolina in the early 19th century an individual was required to own at least 50 acres of land in order to vote for state senators. Ownership of at least 100 acres of land was required to run for a seat in the House of Commons, and ownership of at least 300 acres was required in order to run for a seat in the State Senate. See Macon, “Fiscal History of North Carolina,” 34-35; Blackmun, Western North Carolina, 201, and Counihan, “North Carolina 1815-1836,” 2-3.


8 Dortch, Manning, and Henderson, Code of North Carolina, 67.

9 See Clyde N. Jr. Freeman, Robert Love: A Biographical Sketch (Escondido, California: Clyde N. Freeman, Jr., 1980), and William Hawkins to Thomas Love, December 24, 1811, GLB 18, p. 6, NCDAH. On Thomas and Robert Love see also Arthur, Western North Carolina, 124-129.

10 The involvement of Mebane, Franklin, and Love in the boundary line survey is referenced in Letter to the Governors of Georgia and North Carolina From the Commissioners of Both States Surveying the Georgia – North Carolina Boundary in 1819, October 15, 1819, typescript copy in the Georgia-North Carolina Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, Ga. See also Allen Daniel to William Rabun, September 15, 1819, Georgia-North Carolina Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, Ga.

12 Robert Love to John Branch, April 6, 1820, GLB 23.2, pp. 292-293, NCAH.
13 James Mebane and Jesse Franklin to John Branch, July 2, 1820, GLB 23.2, pp. 315-318, NCAH.


17 This total was derived by tabulating the surveyors’ notes. The survey commissioners listed the total number of tracts as 644 and estimated the total surveyed acreage at 71,527. See Jesse Franklin and James Mebane to John Branch, November 2, 1820, GASR, 1820-1821, Misc. Correspondence and Accounts, NCAH. See also Gabriel Holmes to John C. Calhoun, April 5, 1824, M-574, Reel 25, File 131, Frame 1322.

18 James Mebane and Jesse Franklin to John Branch, July 2, 1820, GLB 23.2, pp. 315-318, NCAH.

19 Ibid.

20 North Carolina was not the only state to ignore or selectively allow Cherokee reservation claims. See for example Hampton, *Cherokee Reserves*, ii, and McLoughlin, “Experiment in Cherokee Citizenship.”

21 John C. Calhoun to Robert Houston, March 12, 1819, M15, Reel 4, Volume D, pp. 265-266; Robert Houston to John C. Calhoun, April 3, 1819, M-271, Reel 2, Frames 1145-1147.


23 Robert Houston to John C. Calhoun, August 30, 1819, M-271, Reel 2, Frames 1167-1169.

24 Robert Houston to John C. Calhoun, November 15, 1819, M-271, Reel 2, Frames 1174-1176; see also Robert Houston to John C. Calhoun, October 19, 1819, M-271, Reel 2, Frames 1170-1172, and Robert Houston to Robert Armstrong, October 18, 1819, M-271, Reel 2, Frames 1177-1178.

25 Robert Houston to John C. Calhoun, November 15, 1819, M-271, Reel 2, Frames 1174-1176.

26 Reproductions of these and other reservations certificates can be found in Douthat, *Robert Armstrong’s Survey Book*.

27 J.R. Siler to David L. Swain, June 12, 1838, David L. Swain Papers, NCAH.

28 Deposition of Richard Walker, [no date, but probably August, 1824], TCP, Indian Affairs and Lands, NCAH.

29 Ibid. See also Deposition of William Reid, August 21, 1824, TCP, Indian Affairs and Lands, NCAH; Deposition of Richard Walker, August 21, 1824, TCP, Indian Affairs and Lands, NCAH, and Deposition of Humphrey Posey, August 20, 1824, TCP, Indian Affairs and Lands, NCAH.


31 Report of the Select Committee to whom was referred “so much of the Message of his Excellency the Governor, as relates to the Cherokee lands,” and also the Message enclosing the report of the Commissioners appointed under an Act of the last General Assembly of this State entitled “an act prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians,” [no date], GASR, 1827-1828, House Committee Reports, NCAH.


33 John Branch to James Mebane and Jesse Franklin, October, 1820, [no day of month] GLB 23.2, p. 331, NCAH.
Proclamation of John Branch Announcing the Sale of the Cherokee Lands, August 8, 1820, GLB 23.2, p. 322, NCDAH; Jesse Franklin and James Mebane to John Branch, November 27, 1820, GASR, 1820-1821, Misc. Correspondence and Accounts, NCDAH; Silas McDowell to Lyman Draper, October 8, 1873, Draper Mss. KK68.

35 The minimum prices were lowered to three dollars, two dollars, and one dollar and fifty cents an acre for first, second, and third quality lands, respectively, in 1821, and three dollars, two dollars, and one dollar an acre in 1822. Dortch, Manning, and Henderson, *Code of North Carolina*, 72-73.

Jesse Franklin and James Mebane to John Branch, November 27, 1820, GASR, 1820-1821, Misc. Correspondence and Accounts, NCDAH. The commissioners reported that a total of 18,907 acres were sold, leaving a balance unsold of 50,628 acres. It is likely that these figures are somewhat in error.

37 *Western Carolinian*, December 5, 1820.

38 Porter, *Family of Weimar Siler*, 89.

39 Silas McDowell to Lyman Draper, February 20, 1874, Draper Mss. KK79; Silas McDowell to Lyman Draper, October 8, 1873, Draper Mss. KK68. The Cherokee appear to have been the subject of rumor and gossip. According to McDowell one of the chiefs was supposed to have had a sword that was a trophy of the Cherokee War of 1776, as well as a string of white men’s scalps.
CHAPTER TEN: THE DISPOSSESSION OF THE CHEROKEE RESERVEES

In a September, 1819 letter to the secretary of war, John C. Calhoun, the Cherokee agent Return Jonathan Meigs remarked on the reaction of border whites to the reservation provision of the Treaty of 1819:

I presume that there will be found not less than three hundred and fifty…reservations taken up. The probable amount in acres may be 220,000. The white citizens seem to think much of this, although it is but a drop compared to the whole cession.¹

What Meigs failed to take into account was that while the reserves covered only a small part of the total cession, they were often situated on, and encompassed, some of the very best lands. This was particularly true in the mountainous areas, where good arable lands were of limited extent (Figure 10.1). Nor could Meigs have predicted that in western North Carolina state authorities would survey and sell land that had been earmarked for reservations, often resulting in Cherokees and whites having competing claims to the same tracts (Figure 10.2). But these things did happen, with disastrous consequences for many of the reservees. This chapter will describe how the Cherokees who had taken reservations on the 1819 Treaty Lands of western North Carolina were driven from their homes.

A Tenuous Coexistence

For a brief, volatile period after the Treaty of 1819, Cherokees and white settlers lived side by side on the ceded lands of western North Carolina, each, often, with a legitimate claim to the same piece of land (Figure 10.3). Samuel R. Woodfin, who moved to the area around Cartoogehchaye Creek in 1819 or 1820, “was a good deal amongst the Indians as he was taking care of stock”² After John Moore procured an Indian improvement for a settler named Johnson, “another Indian came afterwards who was in the Nation at the time”…and…“remained with his [Johnson’s] family in what they called the hot house on the premises until some time in the Spring.”³ Although Johnson was said to have been “friendly terms” with the Indian, this was not
always the case. Another early settler, William B. Woody, stated that his brother had told him that “there were several Indians living on his place,” and that “he was afraid of them.”

For the whites who purchased property on the ceded lands, only to find that an Indian had a competing claim, the cloud cast over their titles and aspirations was a bitter blow. Sympathetic government officials later described the plight of these settlers in a report to the North Carolina General Assembly:

The citizens were notified that the government claimed title to the land in question & by authorized agents publicly sold the greater part of the reservations -- The purchaser with every assurance that a fair and honest [purchase could be made] made the contract and on his part has fulfilled it -- with a conviction that his government acting through and by authorized agents selected for their integrity probity and skill were the best judges and did know that the land offered for sale was clear and free from all encumbrances made the purchase, expecting peacefully to enjoy the section they had purchased. With this assurance, they leave their friends, brave the fatigue and difficulties of removal through a wilderness and Indian country -- shortly after they have somewhat recovered from the difficulties they had undergone, joy and happiness expressed in the countenances of their families, prospects brightening, their little farms improving, the fertility of the soil returning a full reward for their labor, they are notified that the lands they have selected as their residence is not theirs, but the property of an Indian.
Many of the settlers did not think that the Cherokee reservation claims were legitimate. According to Jacob Siler and Jonathan Phillips, “the great body of the whites honestly believed that the reservees had no rights.” According to David Shuler, “the general talk through the neighborhood was that the Indians had no right and ought to be driven off.” Joseph Welch would later recall that “the general opinion amongst the whites at that time was that the Indian title was not good,” and John Woody doubtless spoke for many of the settlers when he complained to his brother that he “had bought [his] land of the state and [the Indians] should go off.”

The Dispossession of the Reservees

Armed with a belief that they were in the right, and in many cases with little regard for the rights of Indians in general, the settlers set about separating the reservees from their lands. Jacob Siler and Jonathan Phillips later recalled that:

…the whites made use of threats and sometimes violence to get possession of the Indian Reservee’s field sometimes giving them a very trifling consideration to sell them the whites in possession and then after obtaining possession driving them entirely off.
According to the terms of the Treaty of 1819 if the life estate reservees left their land they would lose their claims to their reservations. The settlers appear to have understood this. According to John Brison [Bryson] “the prevailing opinion was amongst those of his acquaintance as of white men -- that on getting the improvements of the Indians and driving them off -- they could hold the place.” Therefore the settlers made every effort to drive the Indians off.

In some cases they simply tried to persuade the Indians to leave. After Mark Coleman purchased the land that was included in the reservation of the prominent Cherokee leader Yonaguska, he paid a visit to the Yonaguska’s home. According to a later account:

Yonaguskee was sitting there…Coleman told him he had bought that land, he never gave him any answer, Coleman came there again. Coleman told Yonaguska he must leave the place. Coleman was in good humor.

Coleman did not offer Yonaguska anything for his property, but in many other instances the reservees were offered small amounts of money or trade goods in exchange for their
improvements and possessions. T.B. Moore, purchased the improvements, hogs, and corn of a reservee named The Cat for six dollars and five blankets.\textsuperscript{13} The Cat would later return and demand more money from the man that Moore subsequently sold the improvements to.\textsuperscript{14} Similarly, Thomas Poindexter purchased the land of the reservee Parch Corn Flour for “$10 in silver and two cows and calves.” However, Parch Corn Flour remained on the reservation afterwards, claiming that he only rented the land to Poindexter.\textsuperscript{15} Communication problems likely complicated these and other transactions. When the reservee Big Tom was negotiating with a settler named Andrew Welch for his land, David Shuler, a long time resident of the Indian country, acted as interpreter, “but was not a very good one,” he confessed later, as he did not know if the Indian understood what he was being told or not.\textsuperscript{16}

There was a certain formality to some of the transactions. Thomas Poindexter had two witnesses to the conveyance he signed with Parched Corn Flour.\textsuperscript{17} Similarly, when Thomas Tatham purchased that portion of a Cherokee reservation that overlapped with land that he had purchased from the state, he “executed a writing to that effect,”\textsuperscript{18} and when John Woody purchased Hanalah’s claim, “he had his contract in black and white.”\textsuperscript{19}

Other contracts were not executed with such attention to legal niceties. When John Moore arrived at a Cherokee cabin that the interpreter Anguish McDaniel had purchased for him, “he saw the [Indian’s reservation] certificate sticking in the crack of the house, which McDaniel told him the Indian had left for him.” Moore destroyed the certificate.\textsuperscript{20} Similarly, T.B. Moore claimed that after he had purchased the holdings of The Cat, The Cat offered him his certificate, but he declined taking it.\textsuperscript{21}

Coercion was sometimes used by the early settlers to induce the Indians to sell their claims. When Alfred Brown tried to purchase the improvements of the reservee Six Killer, “he used every means to get him off” the land. Brown offered Six Killer “$10 in silver and tried to persuade and threatened him that he could not remain with the whites and hold his land.” However, Six Killer told Brown that “the Big Man had [allowed] it to him & that he would stay.”\textsuperscript{22}
John Moore used bluster and intimidation to compel the Cherokee to sell their improvements to him. Moore “was reputed amongst the Indians what they called a [Shigusha?] a big man.” According to Moore’s son, Joab Moore, “the Indians had been induced to believe his father was a man of influence and they were to obey anything he might order.”

In one case Moore and a settler named Johnson “drove their wagon into [an] Indians yard and told them they were big men and must have possession.” According to Moore’s own recounting of the incident, after Johnson came to his house:

…he put his horses in Johnson’s wagon the next morning and drove to an Indian hut…that he told the Indians they must move their things [to] another hut -- he then asked who owned the place -- that McDaniel who acted as interpreter put the question -- and an Indian replied he did -- he was then asked what he would take for it -- he replied four gallons of brandy -- He Moore told Johnson to give him five -- which was done.

Moore was later reputed to have said that “if the whites had generally managed as he had the Indians would all have left the country”

Some settlers simply took possession of the Indian’s houses and fields. Big Tom complained that Andrew Welsh [also spelled Welch] “had moved in upon him;” that “…Welsh and his son-in-law had moved there and told him that he must go away.”

Similarly, the reservee Edward Welch claimed to have lived on his reservation for two years until the:

...white citizens of the United States being moved and instigated by the most unholy motives moved upon his reservation and forcibly took possession of his fields, houses, etc., and drove [him] from the premises and then refused to pay or compensate [him] in any manner whatever for the reservation or the trespasses so committed.

The heirs of Celia Downing claimed that the whites took possession of their mother’s house and fields, and they had to flee, and Jack “had to fly from his reservation a white man being in his house...” A Cherokee named Dick complained that he “continued to reside on his reservation till the latter part of the year 1819, when a family of whites…moved into an out house of his and shortly thereafter another family took possession of a second, and not long thereafter of a third and fourth house, in the last of which he lived, and from which...he was expelled by force.” And John Walker stated that he resided on his reservation for about five
years “during which citizens of the United States settled themselves on different parts of it and took forcible possession of all his farm enclosing his fields and fences with fences built by themselves.”

In other cases, the Cherokee were forced to contend with white laws and customs. A man by the name of William Murray threatened to indict The Cat for breaking the Sabbath. And Jacob Siler described this encounter with a reservee named John Colston in an 1838 deposition provided to a board of inquiry that was charged with reviewing Cherokee compensation claims:

...in the fall of...[1819]...John Colston came to him and complained that the said Siler’s hogs had destroyed some of his corn, after which said Siler went to the field and found as represented the corn destroyed but told Colston that he could not require of him to pay him the said Colston damages, he asked me why I asked him if he had not taken a reservation his reply was that he had. Said Siler then told him as he had or was about to become a citizen subject to the laws of [North Carolina] his fence was not as the law required that he would be required to have but one wife; cease to work on Sunday work roads muster and etc. ...Colston seemed to be distressed but at length replyed [sic] that if it was the case that his liberty was thus to the circumscribed he would burn his paper meaning as I supposed his reservation claim...a short time afterwards I purchased his reservation for one fit rifle gun worth not more than 12 dollars.

In another instance, in the summer of 1821 two Cherokee women who lived with an old Cherokee woman named Wallee who had taken a reservation near the present town of Franklin were accused of stealing corn from a settler named Shields. The women were apprehended and brought to Robert Love’s store, but they were only there a short time before they were told that they should make their escape and were given an opportunity to run away. The guard gave chase, but apparently the pursuit was half hearted, for it was believed that if the guard had wished to catch the two women they could have. Witnesses at the time asserted that the women were not arrested in an attempt to intimidate the Indians. However, a short time later Wallee and her son Little George left and moved off into the Cherokee Nation, although one or both may have subsequently returned.

Still other Cherokee became embroiled in disputes with individual settlers. Some of the disputes were probably over real offences, but others were likely over imagined or exaggerated offences designed to provide the settlers with an excuse to force the Indians from their land.
Two early settlers, Connally and Gibbs, clashed with the Cherokee over the treatment of their livestock. After the hogs of one of the men got into a field cultivated by some of the Indians, the Indians killed some of the animals. Gibbs was later heard to say that “none of the Indians should stay there if they did not let his stock alone.”

Joseph Young is said to “have had a fight with the Indians.” And the reservee Hanalah complained that a white man named John Woody “was quarreling with him.” Woody acknowledged that he had had disputes with the Indians, but claimed that he had made up with them and bought them out.

The property of the Cherokees also came under assault by the white settlers. White people broke open Wallee’s door, knocking out the “punchings of her house.” John Woody allegedly pulled down the house of the reservee Hanalah. Samuel R. Woodfin reported seeing Hanalah and his family camped near the road, and the family told him that Woody had driven them off. Similarly, two early settlers named James Cantrel and Jack Rubel were charged with burning down the house of a Cherokee named Spike Buck or Thigh. When asked whether they were responsible for the fire, Cantrel and Rubel “did not deny or admit it.” Spike Buck was probably not the only reservee whose house was burned down. A lawyer representing another reservee stated that on many occasions: “The torch was applied” to the reservees’ houses, “and the reservees removed with their families from their reservations by the light of the flames.”

The settlers also took aim on the reservees’ livestock. David Brown, a white man who appears to have been resident in the Indian country for several years prior to the Treaty of 1819, stated that he knew “by common report that the reservees stayed till the whites had killed nearly all of their stock.” White men who lived near the Indian countryman William Reid’s house killed his livestock “in broad daylight.”

Even the livestock of Indians who had not taken reservations was vulnerable. A Cherokee named The Weaver claimed that his horse was killed by a white man “placing a sharp stick in the ground on the inside of a fence over which the horse leaped and force[d] the sharp stick into
his breast and killed him,” and a Cherokee named Charley claimed that his horse was shot by a white man by the name of Pickelsimer.

In some cases the Cherokees themselves were attacked. According to an attorney who represented many of the reservees, some of the Indians “were dragged by bands of ruffians from their houses, tied to trees -- kept tied there during the night -- while [their] wife and children fled to the dark abodes of the forest to protect them from their supposed pursuers.” A contemporary witness asserted that the white men “used to whip and abuse” the reservees “whenever and wherever they could catch them.” A settler named Connally stated that he had whipped an Indian called Sherka, and William B. Woody testified that he saw his brother John beat the Indian called The Cat very severely.

The Situation in Other States

As bad as it was, the treatment of the Cherokee who took reservations or otherwise remained on the 1819 Treaty Lands in western North Carolina was no different from the treatment of Cherokee who remained on lands in other states that were ceded at the same time.

Teyolt-la, who lived in Georgia, told of being assaulted by a band of the white men in that state:

…the Georgians in order to force him to abandon his improvement and property put out his hogs eyes first they came to his house a considerable number of armed men drove off his cattle he went to them to claim his property when one of them asked him for his butcher knife which he immediately gave to him. On getting the knife he told him to leave there and commenced beating him with a stick, some of the whites interfered and procured his release.

In Tennessee, James Bigby recalled that “a great number of intruders came into the country immediately after the Treaty and greatly annoyed the Cherokee by killing and stealing their stock and in many cases abusing their persons and turning them out of their houses.”

In Cades Cove, also in Tennessee, a Cherokee named The Bird stated that:

…the he had on [his] place the crop of corn of the preceding year, which [a] white man commenced using and he asked to be permitted to stay until he could use or dispose of his corn - or that if the man persisted in using it that he should pay him for it. Upon which the
white man cut a club with which he attempted to strike him but was prevented by persons present.  

At Little Tellico, in Tennessee, Pikefish described how he lost his home:

I lived two years on the reservation after the Treaty of 1819 -- when I was dispossessed by the whites -- the circumstances of my being dispossessed was this: a family of whites came to my house with horses packed with beds and bedclothes, and entered my house without asking leave of me, and threw my own beds on the floor and placed theirs on the bed steds and told me I had to leave. I told them that I could not leave, that I owned the reservation which was of a measured mile square, given to me by the Treaty of 1819 -- and we remained together in the house with the whites for a week or upwards and the white people insisting on me daily to leave and go to my own country -- but I still persisted on staying and remaining on my reservation until eight white man came there with their guns whom I supposed to be the friends and relatives of the man who was trying to dispossess me and after the men came with their guns he insisted the more and the men kept walking about without laying down their arms and I felt apprehensive that they wished to commit violence on my person and on my family. I then gave up the house and left it taking with me only clothes and bed clothes, of things we could pack, and left some of my pots -- and all the corn we had and many other things, which I never after recovered.

And also in Tennessee a reservee named Alexander Drumgold was “bruised, cut, and most wretchedly abused by evil displaced white persons who were endeavoring to expel him from his reservation.” According to a sympathetic witness, as a result of the attack Drumgold “had a gash cut on the side of his head and on the face, and was so cruelly beaten that he was scarcely able to walk.”

The Frontier Land Game

Although it would be easy to attribute the cruel treatment of the reservees to prejudice alone, racial hatred is only part of the story. The Indians were assaulted not just because they were different, but because they occupied the same land that the white settlers claimed, or wished to lay claim to.

In fact, land disputes between contingents of white settlers also erupted into violence in the backcountry. At the time of the so-called Walton County War, a dispute over land located on the North Carolina - Georgia border just to the east of the 1819 Treaty Lands that erupted during the first decade of the 19th century, there were:
great dissensions between the people resident in the neighboring counties of Buncombe and Walton the said dissentions having produced many riots, routs, affrays, assaults, batteries, trespasses, woundings, and imprisonments, as well on the one side as on the other.\textsuperscript{61}

And in Cades Cove, in Tennessee, a contemporary observer recalled that “as soon as the Indians were driven off the white people disputed about the land and had liked to kill the one or two whites”\textsuperscript{62}

\textit{Cherokee Collusion}

Nor were white settlers the only ones applying pressure on the Cherokee reservees to leave their reservations. Finding herself surrounded by “a white population whose language she did not understand, of whose laws she was ignorant...,” Nancy Reid “was induced by her relations to remove from her reservation across the line on land yet owned by the nation.”\textsuperscript{63} Similarly, Ous te ka he tee complained that the whites seeking to divest the Cherokee of their reservations were “aided by some of the Cherokees, who were acting falsely with the people and who backed the whites by holding out the great danger they were in if they did not surrender to the whites.”\textsuperscript{64}

\textit{Reservees WhoWere Able To Remain}

Despite the pressure with which they were confronted, not all of the reservees were dispossessed. In an 1828 deposition, Joseph Welsh stated that the reservees Ca te hee, Jenny, Cul sow wee, Cu le chee, Sally Little Dear, Old Mouse, Six Killer, Yellow Bear, Panther, Wallee, and Parched Corn Flower had remained on their reservations, though he added that at the time of the deposition Old Mouse and Yellow Bear had died.\textsuperscript{65}

Big Bear, one of two Cherokees who were awarded reservations in fee simple, lived on his reservation for some 6 years until “a white citizen of the United States came and forcibly took possession of his houses and fields,” at which point Big Bear moved to another part of his reservation where he resided until his death.\textsuperscript{66} And Nantahala John (John Anteehale) was able
to remain on his reservation for some 18 years after the Treaty of 1819. Nantahala John’s son, Te sah ta skee, would later recall that:

When he [Nantahala John] settled the place on which the reservation was granted to him we continued to live on this place from the time of my recollection to the time we were ordered off the place by the whites telling us that the land did not belong to us, and who settled on the place which was about a year or little over a year before the Cherokees were captured by the troops in 1838 as it was sometime after the Treaty of 1835.67

A few other reservees left their reservations but were able to retain rights to them. In an 1828 deposition Gideon Morris stated that Suaga, Whipporwill, and a third reservee68 had gone to live in the Cherokee nation, “but the whites in possession pay them rent as tenants.”69 And after purchasing part of Wha kah or Grass Grows’ reservation from the state and being sued by the reservee, John Bryson Senior gave up possession and rented the land from the Indian.70

However, the Cherokee who were able to remain on or retain rights to their reservations were an exception, and within a few years of the Treaty of 1819 the majority of the reservees had been driven from the ceded lands.71
Chapter Endnotes

1 Return J. Meigs to John C. Calhoun, September 6, 1819, M-574, Reel 25, File 131, Frames 1277-1278.
2 Deposition of Samuel R. Woodfin, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
3 Deposition of John Moore, July 25, 1828, TCP, Indian Affairs and Lands, NCDAH; see also Deposition of Daniel Johnson and [W.] Johnson, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
4 Deposition of William B. Woody, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
5 Report of the Commissioners [William Robards and Benjamin Robinson] Under the Act of 1823 on Indian Reservations, October 24, 1824, SSP, State Land Office, Cherokee Lands, NCDAH. In fact the situation may not have been as straight forward. The commissioners acknowledged the possibility that “the purchasers made their contracts with a knowledge of the defect of title,” were able to obtain the land more cheaply because of the conflicting reservation claims, and that thus the purchases were “a matter of speculation.” However, they ultimately rejected this possibility and asserted that the settlers acted in good faith and with confidence that the titles to the land they purchased were good.
6 Deposition of Jacob Siler and Jonathan Phillips, September 18, 1837, Claim 728, RFBCC, Claim Papers, RG 75, NAR.
7 Deposition of David Shuler, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
8 Deposition of Joseph Welch, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
9 Deposition of William B. Woody, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. For similar sentiments see: Ous te ka he tee vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #48, RG 75, NAR; Deposition of Nickajack, October 10, 1838, Claim 74, RFBCC, Claim Papers, RG 75, NAR; Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH; Deposition of David Brown, March 4, 1838, Claim 1172, RFBCC, Claim Papers, RG 75, NAR; Heirs of William Jones Dec’d vs. The United States, Claim for the Value of a Reservation taken under the Treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #28, RG 75, NAR, and Petition of Oos te ca ho tee for the Value of a Reservation, March 2, 1838, Claim 1172, RFBCC, Claim Papers, RG 75, NAR.
10 Deposition of Jacob Siler and Jonathan Phillips, September 18, 1837, Claim 728, RFBCC, Claim Papers, RG 75, NAR.
11 Deposition of John Brison [Bryson], [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
12 Testimony of Flying Squirrel in the Reservation Claim of the Heirs of Yonaguskee, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.
13 Deposition of [T.] B. Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
14 Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
15 Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection). Poindexter executed another deed with Parch Corn Flower, apparently at a later date, in which $300 “in hand paid” was given for the reservation. See Indenture Between Parch Corn Flower and Thomas W. P. Poindexter, February 13, 1826, TCP, Indian Affairs and Lands, NCDAH.
16 Deposition of David Shuler, July 28, 1828, TCP, Indian Affairs and Lands, NCDAH.
17 Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection).
18 Deposition of Thomas Tatham, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.
19 Deposition of William McConnell, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.
20 Deposition of John Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. Another deposition alleges that Moore burnt the certificate of an Indian who had given it to him merely to look at. It is not clear if this second deposition represents another version of the incident related here or a completely separate incident. See Deposition of Joseph Welch, July 23,1828, TCP, Indian Affairs and Lands, NCDAH.
21 Deposition of [T] B. Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection). Although Brown was not successful in convincing Six Killer to sell out, Jonathan Blythe was subsequently able to consummate the transaction. According to Brown “he understood Blythe got him [Six Killer] off during the summer -- that he was gone on his return in the fall.” Ibid. However, Six Killer may have returned, as he was reported to be living on his reservation in 1828. See Depositions of Joseph Welch, Gideon Morris, and Joel McGray, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. If Six Killer did return, it was probably after 1824, as he was reported as not living on his reservation at that time. See Memorandum of Robards on Disputed Cherokee Claims and Suits of Ejectment (Six Killer), 1824 [no month or date], TCP, Indian Affairs and Lands, NCDAH.

Deposition of Joseph Welch, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Joab Moore, July 22, 1828, TCP, Indian Affairs and Lands, NCDAH. Another early settler, Samuel Woodfin, stated that “he understood from the Indians it was a prevailing opinion amongst them that Moore was a man of influence and hostile to them.” Deposition of Samuel R. Woodfin, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of John Moore, July 25, 1828, TCP, Indian Affairs and Lands, NCDAH.

In keeping with the often contradictory relationships between the early settlers and the Indians, at other times the Moores appear to have been on friendly terms with the Cherokee. According to the author of a mid-twentieth century county history, when members of the Moore family relocated to what is today Clay County, located to the west of the 1819 Treaty Lands, they “made friends with the Indians and taught them the English language.” Freil, Our Heritage, 319. John Moore also later testified on behalf of Peggy Jones, the widow of the reservee William Jones, and asserted that he was “well acquainted” with Jones and his family. See Heirs of William Jones Dec’d vs. The United States, Claim for the Value of a Reservation taken under the Treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #28, RG 75, NAR.

Deposition of Emanuel Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

Resettlement of Edward Welch, March 28, 1845, Claim 744, RFBCC, Claim Papers, RG 75, NAR.

Heirs of Celia Downing vs. The United States, Claim for the Value of a Reservation taken under the Treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #31, RG 75, NAR; Petition of the Heirs of Celia Downing for the Value of a Reservation, March 12, 1838, Claim 1213, RFBCC, Claim Papers, RG 75, NAR.

Jack’s Petition for a Reservation, March 12, 1838, Claim 728, RFBCC, Claim Papers, RG 75, NAR.

Dick, an Old Cherokee vs. The United States, Claim for the Value of a Reservation taken under the treaties of 1817 and 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #23, RG 75, NAR.

Deposition of Oo la yo hi, March 25, 1845, Claim 1212, RFBCC, Claim Papers, RG 75, NAR. For similar examples see Ste sta chih (or Mouse) Reservation Claim, RSTBCC, Decisions of the Second and Third Boards, 1842 - 1844, RG 75, NAR; Memorial of Oos te ca ho teh, Tucah, Che cuih, and Salih For the Value of a Reservation, Claim 749, RFBCC, Claim Papers, RG 75, NAR; Petition of Axe for the Value of a Reservation, [no date – claim filed December 30, 1846], Claim 734, RFBCC, Claim Papers, RG 75, NAR; Memorial of Nancy Reid and her Children for the Value of a Reservation…. September 9, 1846, Claim 5, RFBCC, Claim Papers, RG 75, NAR; Petition of Arsena for the Value of a Reservation, [no date – claim rejected July 20, 1847], Claim 1201, RFBCC, Claim Papers, RG 75, NAR, and Memorial of the Wife and Children of a Cherokee by the name of Dick or Dickawessa, December 3, 1844, Claim 6, RFBCC, Claim Papers, RG 75, NAR.

Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Jacob Siler, October 14, 1838, Claim 74, RBFCC, Claim Papers, RG 75, NAR. See also a slightly different version in: Heirs of John Colston vs. The United States, Claim for the Value of a Reservation taken on the 6th Sept. 1819 and located on Catugajay [Cartoogachaye] Creek, in what is now Macon County, North Carolina, which sd’ Reservation was taken under the Treaty of 1819. RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #75, RG 75, NAR. All fit male citizens were required to serve in the militia (muster) and help maintain the public roads. Work on Sunday was also prohibited. The issue of citizen Cherokees working on the public roads would be brought up again in relation to the Cherokee who were able to remain in the East after the general Cherokee removal of 1838. See Finger, “Abortive Second Cherokee Removal.” On militia musters, see Arthur,
Western North Carolina, 284. On work on the roads by citizens, see for example Smith, A Brief History of Macon County, North Carolina, 7-8.

37 Deposition of Howell Moss, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH. On Wallee’s age, see also Deposition of Clubb or Long Blanket, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH. Another account of the theft states that the corn was stolen from a man named Jeremiah Kirby. See Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

38 Robert Love’s store was probably located in the vicinity of the present town of Franklin, in Macon County. See Deposition of James R. Love, November 12, 1842, Claim 439, RFBCC, Claim Papers, RG 75, NAR.

39 Deposition of Jonathan Phillips, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH; Deposition of Howell Moss, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH; Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. Wallee’s house was also broken into (see chapter text). Nonetheless, she may have returned once things settled down, as an 1828 deposition describes her as living on her reservation. See Depositions of Joseph Welch, Gideon Morris, and Joel McGray, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. Conversely, a memorandum on disputed Cherokee claims penned in 1824 suggests that Wallee was dead. See Memorandum of Robards on Disputed Cherokee Claims and Suits of Ejectment (John Welch), 1824 [no month or date], TCP, Indian Affairs and Lands, NCDAH.

40 Deposition of [B.] Sawyers, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH. Additional details on this incident can be found in: Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH, and Deposition of George Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of three undated depositions by George Shuler in this collection).

41 Deposition of Clubb or Long Blanket, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.

42 Ibid.

43 Deposition of William B. Woody, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH; see also Deposition of [T.] B. Moore, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.

44 Deposition of Clubb or Long Blanket, August 21, 1824, TCP, Indian Affairs and Lands, NCDAH.

45 Deposition of Samuel R. Woodfin, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

46 Deposition of William Laird, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Laird in this collection); see also Deposition of Jacob Couch, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.

47 Memorial of Nancy Reid wife of William Reid deceased for the value of a reservation..., October 15, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR. The property of Cherokees who had moved away from the Treaty Lands and later returned to collect the remainder of their possessions was also in jeopardy. When Willageeska returned to the Treaty Lands to collect his hogs, he was unable to locate them, but “heard it spoken of and reported among the Indians as truth that some white men who resided at that time near” his former improvement had taken the hogs “and made use of them as their own property.” Deposition of Oosowih, August 21, 1843, Claim 208, RFBCC, Claim Papers, RG 75, NAR. Similarly, a Cherokee named Little Betty who had been compelled to leave her home complained in an 1845 deposition: “That herself and others had went back to her place to take away her corn and other plunder she had left. She was threatened by the whites who had taken possession of her place that they would kill her and her company if they did not leave so the whites run her off and took and made use of all her property.” Deposition of Little Betty, March 26, 1845, Claim 1053, RFBCC, Claim Papers, RG 75, NAR; see also Deposition of Susannah, March 26, 1845, Claim 1053, RFBCC, Claim Papers, RG 75, NAR.

48 Deposition of David Brown, March 4, 1838, Claim 1172, RFBCC, Claim Papers, RG 75, NAR.

49 Petition of Ann Hyatt to the Fourth Board of Cherokee Commissioners, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR; see also Deposition of Susannah, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Too yi ah dug uh nah okee, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR.

50 Deposition of The Weaver, August 31, 1843, Claim 192, RFBCC, Claim Papers, RG 75, NAR.

51 Statement of William H. Thomas in the case of Charley vs. the United States, Spoliation Claim, [no date – claim filed December 30, 1846], Claim 189, RFBCC, Claim Papers, RG 75, NAR. For a description of a similar incident see Statement of William H. Thomas in the case of Johnson vs. The United States, Spoliation Claim, [no date – claim filed December 30, 1846], Claim 185, RFBCC, Claim Papers, RG 75, NAR.

52 Memorial of Nancy Reid wife of William Reid deceased for the value of a reservation..., October 15, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR.

53 Ous te ka he tee vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #48, RG 75, NAR.
Deposition of George Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of three undated depositions by George Shuler in this collection).

Deposition of William B. Woody, July 23,1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Teyolt-la July 23, 1841, Claim 631, RFBCC, Claim Papers, RG 75, NAR.

Deposition of James Bigby, March 24, 1845, Claim 1205, RFBCC, Claim Papers, RG 75, NAR.

Deposition of The Bird, February 26, 1845, Claim 1202, RFBCC, Claim Papers, RG 75, NAR.

Deposition of Ah chah to ye or Pike Fish, March 27, 1845, Claim 1191, RFBCC, Claim Papers, RG 75, NAR. See also Deposition of Kuskahlee sku, March 27, 1845, Claim 1191, RFBCC, Claim Papers, RG 75, NAR; Deposition of Oo way yoo sku, March 28, 1845, Claim 1191, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Tee lahsakee, March 28, 1845, Claim 1191, RFBCC, Claim Papers, RG 75, NAR.

Deposition of William Gardenhire, December 12, 1837, Claim 76, RFBCC, Claim Papers, RG 75, NAR.


Articles of Agreement between the Commissioners on the Part of the State of Georgia and the State of North Carolina, June 18, 1807, Georgia-North Carolina Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, Ga. See also [J. Hall?] to “Gentlemen,” August 11, 1806, Georgia-North Carolina Box, Records of the Georgia Surveyor General Department, Georgia State Archives, Atlanta, Ga; Daniel Sturgis to Governor John Milledge, [no date], Andrew Ellicott Papers (Library of Congress Microcopy, Reel 2), Library of Congress, Washington, D.C., and John Davis, Jonas Dawson, Reuben Allen, William Allen, and John Nicholson to Jared Irwin, February 21, 1809, Telamon Cuyler Collection, Manuscript Number 1170, Hargrett Rare Book and Manuscript Library, University of Georgia Libraries, Athens, Ga. Examinations of the so called Orphan Strip community and the Walton War include Davis, “Settlement at the Head of the French Broad River,” Raxter, “The Orphan Strip Community,” Reindinger, Walton War, and Carpenter, Walton War.

Deposition of Josiah Childress, February 1, 1839, Claim 1170, RFBCC, Claim Papers, RG 75, NAR; see also Deposition of James Williams, January 30, 1839, Claim 1170, RFBCC, Claim Papers, RG 75, NAR; Nicholas [Peak?]’s Argument in Favor of Quata [also spelled Quaty], George, and the Widow and heirs of Washington, [no date, claim rejected July 16, 1847], Claim 1170, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Robert Ware, January 19, 1843, Claim 1170, RFBCC, Claim Papers, RG 75, NAR, and see Johnson, “Social Characteristics of Ante-Bellum North Carolina,” 140-43. Johnson depicts ante-bellum North Carolina society as contentious, impatient with the judicial process, and prone to settling disputes with violence.

Memorial of Nancy Reid wife of William Reid Deceased for the Value of a Reservation…, October 15, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR. According to this document by the time Nancy Reid left her reservation her husband, the Indian countryman William Reid, had “abandoned himself to dissipation” and left his family.

Ous te ka he tee vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #48, RG 75, NAR.

Depositions of Joseph Welch, Gideon Morris, and Joel McGray, July 23,1828, TCP, Indian Affairs and Lands, NCDAH. Wallee may have left and moved into the Cherokee Nation and then returned, but the evidence is contradictory concerning this (see note 39 above). Six Killer also may have left and returned (see note 22 above).

Reservation Claim of the Heirs of Big Bear, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR. See also Deposition of Oostenaka, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR, and Deposition of Um mah chuuh nah, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR.

Statement and Affidavit of Te sah ta skee, March 24, 1845, Claim 721, RFBCC, Claim Papers, RG 75, NAR.

The name of the third reservee is not legible, but appears to be “Ramausan.”

Depositions of Joseph Welch, Gideon Morris, and Joel McGray, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.
CHAPTER ELEVEN: CLAIMS, COMMISSIONS, AND COURTS

Pressured by the encroaching whites, and in some instances encouraged by their own relatives to leave, the majority of Cherokee quickly moved away from their homes on the 1819 Treaty Lands. Oonewastah “wanted pay for his improvement, but failing in that he abandoned the claim and went off to the Nation.”1 After Dick was expelled from his reservation, he “removed into the Cherokee nation and joined his own people.”2 Another reservee, Big Tom, asked a white man named Emanuel Shuler what he should do about his reservation, which had been occupied by the man who had purchased part of the land from the state. Shuler told Big Tom that “the whites would treat the Indians badly and [damage] their property…that…he had better go off.” According to Shuler, “the Indian expressed his wish to stay, but finally went off.”3 A Cherokee named Nickajack later recalled that “all the Indians were driven away and out of possession of their reservations by fear…”4 But although the reservees left, most of them neither forgot nor completely abandoned their reservation claims. This chapter will describe the efforts of the dispossessed reservees to regain or gain compensation for their lost property on the ceded lands.

Active Resistance

The Cherokee made few attempts at active resistance to the encroachment on their lands. When settlers began to move onto the Stecoa Old Fields, on the Tuckaseegee River, “the Indians to the number of about 18 had a counsel about driving the whites from the old fields…”5 In another instance, a settler named Enos Shields6 purchased an Indian improvement from a man named Bell, who had purchased the improvement from T.B. Moore, who in turn had purchased the improvement from a Cherokee named The Cat. According to Shields, several weeks after he moved to the improvement:

...several Indians came to his house -- one of which was the Cat and John [Cohoos?] who could talk some English - that [Cohoos?] said the Cat demanded that he should give up
the place or pay him $8 -- that he replyed [sic] he wanted no dispute and sent after Moore and Parker who could interpret -- that they came and after talking with the Indians the Cat seemed to be satisfied…that he bought some of his plunder -- that the Cat went off as he understood to the nation…

The benign response by the Cherokees to the incursions on their lands is in contrast to their actions at other times and in other places. At a dance in 1818 or 1819 some Cherokees threatened to kill an Indian who they accused of taking money to trade away their lands. The Indian was “severely whipped” by William Jones, the métis who was later accused of killing the reservee Ah Leach. And when an Indian countryman named Elijah Sutton tried to take a reservation on unceded lands in western North Carolina under the terms of the Treaty of 1817:

…when he went to his reserved land he was there met by a party of Cherokees who forbid his entry on (or making any improvement) on his reserved land - that they marked a boundary around a body of land which included his reservation and by threats of force prevented him from entering on or improving it and drove him off threatening at the same time that if ever he attempted to settle within the limits they had marked out that they would take his life...

But more often than offering active resistance, Cherokees who had been driven from reservations or lost property on the Treaty Lands reacted stoically to their losses. In a conversation with the trader John Bryson, a reservee named The Old Mouse expressed a sense of resignation about leaving his reservation. As Bryson recalled many years later, “He said they were treating him ill and used him bad and wanted to get him off. I said he had better move away, he [said] he had better do so, for they would only chase [him] off any how.” Big Tom expressed similar sentiments, reasoning that “he did not suppose he could contend against the state of North Carolina that he was poor and had nothing to give people to aid him…” And in a conversation with a Cherokee named Flying Squirrel Yonaguska echoed Big Tom’s dismay. As Flying Squirrel later recalled the conversation: “Said how did you come out with the land. He said this man Coleman bought the land, he said what are you going to do, they sold my land and I won’t go out west with them.”
Resistance Through the Courts

However, the resignation of the reservees did not spell their defeat. They simply engaged in a different form of resistance. As William Roane, an attorney who represented many of the Cherokee claims would later write: “the natives of the soil were not so easily satisfied, although poor, naked and homeless they by the advice of the Indian agent R.J. Meigs brought suits.”

According to Roane, by 1823 some fourteen actions of ejectment had been brought by the Cherokees against the settlers who had occupied their reservations. John Moore recalled that “in almost every instance in that section of the country, where the Indian was able to keep possession until he could get to see a lawyer he contended for his reservation.” There were also instances when the situation was reversed and white settlers brought suits against the reservees.

Contemporary accounts differ as to how accessible the courts were to the reservees. The members of various government commissions later asserted that the Cherokee were not only welcomed in the courts, but in fact received special treatment. In order to engage in a lawsuit during this time it was necessary to post a bond to indemnify the defendant if the suit did not go in the plaintiff’s favor. However, the courts of North Carolina, the various commissions claimed, “always permitted Indians to prosecute such suits without giving security for costs, a privilege equal to that allowed to the most favored citizens of that state...” Thus, it was asserted, the reservees were placed “in a far better condition than the white citizens.”

However, some representatives of the Cherokee asserted that the Indians did not receive this special treatment, and the attorney Roane painted a much bleaker picture of treatment of the Cherokees who sought relief through the courts. Because the state of North Carolina had surveyed and sold the lands that were under dispute, it was obligated to defend purchasers’ titles. Thus, according to Roane: “when an Indian sues the person in possession under the state, no matter how poor and worthless the defendant, the Sovereign Power of the state is to back the defendant.”

Moreover, Roane added:

…on examining our statute book we see so many impediments thrown in the way that the Indians can scarcely obtain justice, not the least of these impediments is that an Indian cannot prove by his Indian neighbors that he lived at his own house on his own reservation
which he has taken under the treaty. Of course if he had no white neighbors he is in a bad
way; and as there are but few white men in the nation but rovers and they now almost all of
them moved off and out of the limits of the state, their depositions have to be taken, if their
evidence is used at all, so that without money the Indian cannot either by himself or agent
go hundreds of miles to take depositions.21

In short, according to Roane, the Cherokee were not allowed to appear as sworn
witnesses in court proceedings.22 But the Indian countryman Gideon F. Morris depicted a
situation that was even worse than that which Roane described. In an 1828 deposition, Morris
swore that in Haywood County, which had jurisdiction over the Cherokee suits:

…a general and violent prejudice [exists] against the rights of the…Indian Reservees and
their representatives, that such prejudice has existed for a long time and that the defendants
have not only kept up such prejudice by themselves and through their friends as he is
informed and believes but that they have enflamed such prejudice and still are exerting
every means in their power still more to excite the public prejudice against [the] plaintiffs.
That many of the defendants are men of great influence and that such influence is exerted
in behalf of each other mutually, so that the plaintiffs can by no means have a fair trial in
this county.23

The rural mountain courts of the early 19th century could be rough and tumble places.
Robert Strange, the North Carolina senator and author who served as a judge in western North
Carolina during the 1830s lampooned the backcountry legal system in his 1838 novel Eoneguski:

“Of all the political phenomenon which the United States of America presents,” wrote Strange,
“there is none more remarkable than what is commonly known as the county court system.”24
In Strange’s fictive courtroom, the judges, or justices of the peace, were incompetent, the juries
unschooled, and the lawyers crude and often alcoholic.25 In his novel Strange described the
courthouse at Waynesville, in Haywood County, just to the east of the 1819 Treaty Lands, as
“a course building, consisting of unplaned boards loosely put together, and scarcely serving to
defend either priests or worshipers from sun, wind, rain, or snow.” According to Strange, “a
kind of shed attached to the main body of the building, formed a bar room, to which the thirsty
mountaineers might repair for refreshment.”26 The shed must have received frequent visitors,
for, Strange asserted, the “Worshipful Magistracy, and even some of the gentlemen of the long
robe found the business of the court rather dry, and frequently betook themselves to the oblivious
streams…”27
However, most of the reservees avoided the vicissitudes of the Haywood County court. According to William Roane, because of the power of the parties in Haywood who were opposed to the Indian claims, and because of the “prejudice of the county,” all the Indian suits had to be moved elsewhere for a fair trial. Many of the suits were tried in nearby Buncombe County.

The Role of Indian Countrymen in the Reservation Suits

The reservees were significantly aided in their legal struggles by the Indian countrymen Gideon F. Morris and William Reid. Morris and Reid, who had a vested interest in the outcome of the suits because they were themselves reservees, would later describe their efforts on behalf of the Cherokee, and the cost of those efforts:

Reid claimed that:

…some 20 or more suits was bought to reject the reservees off of their…reservations. And that he and…G. F. Morris who had also married a native Cherokee woman had to attend on the collection of all the testimony in said suits so brought by the purchasers under the state of North Carolina against the Reservees claiming reservations and that in the prosecution of said suits he expended all the money which had been awarded him for his said reservation besides leaving him vastly in debt…that he spent the greater part of seven or eight years in attending on the reservation suits and expended a considerable amount of money as expenses attending on said suits besides some of the suits was sent to the Supreme Court of the state of North Carolina he by the unanimous request of the Reservees went on to Raleigh to employ counsel in said suits at a very heavy expense and has never been paid one dollar for time or expenses attending on said suits he got it is true $1800 for his reservation but he had expended all that and far more in prosecuting of said suits.

Morris similarly asserted that he:

…from the time that the white people of the state of North Carolina rushed down upon what had been the Indian territory…had to be in the service of the Indians…that he and one or two others only were lettered men who were connected with the Cherokees that they the Cherokees being illiterate and not understanding their rights or laws of the state almost universally called on him when within their reach for council assistance and etc., not only to give council but to act as interpreter and for other assistance such as security for their appearance when prosecuted and to give bond for the prosecution of their suits when they had to sue which they had to do in a great variety of cases…at the same time that he had to act as agent and interpreter and seek and find out all that was necessary to [establish] their claim…and [he] always had to search for prepare and have summoned to court and get up into the presence of council the witnesses and other testimony for the examination of council; had for years to leave the limits of the state at various times to seek testimony and take depositions. That the greatest part of his time was devoted to the Cherokees and their
interests and that he had not time then in the prime of life to attend to his own individual interests that he was compelled to spend all he had in their service to incur the displeasure of the whole white population so far as he was able to judge (with but few exceptions) that he was in personal danger and often risked his person even so far as to endanger his life: that he was forced into many personal combats and in fact and in truth harassed in body and mind by fatigue and exposure to a greater extent then he now would be willing (after so much experience even if able to do so) to undergo for any pay he could get on earth. All this time his own wife and children and private affairs were neglected so that his property was not only gone at the termination of that period but he involved 3000 or 4000 dollars in debt from which he has only by the greatest exertions since that period been able to extricate himself...

Although, as a sympathetic observer conceded, Morris “had to stand up…against almost all the influential men of the surrounding country and that without or almost without money or friends,” his actions were not completely selfless, as he represented the reservees with the understanding that he would receive a percentage of any compensation they recovered for their reservations. Morris would later claim to have received little in the way of compensation for his efforts, however.

Like many of the other reservees, Morris and Reid came under considerable pressure from the white settlers, who in fact may have especially targeted the two men because of the pivotal role they played in the legal struggle over the reservations.

According to a deposition filed some years later by Reid’s daughter, Ann Hyatt, during the time that Reid and his family resided on their reservation: “the whites perpetrated many outrages by shooting down in their presence and in broad daylight their cattle and in other respects.” Reid’s wife, Nancy, allegedly saw “her house surrounded by whites in the dead hours of the night whom she supposed planning and determining on her destruction, unless she surrendered the possession of her lands.” Finally, according to Ann Hyatt, “at length about the expiration of…three years three white men citizens of the United States came to the house of the said William Reid armed with guns, entered it, and threatened to shoot him upon the spot if he did not forthwith leave with his family the house and reservation…”

In Gideon Morris’ case, part of his reservation:

…was purchased by one Robert Love a white man. Whereupon…Love commenced a series of attacks…for the purpose of getting possession of the…land and improvement
after this had continued for a considerable time [he, Morris] was compelled to leave home for a short time leaving his wife and children on the...place. Immediately after he left, his house was attacked by the said Robert Love and other persons with him, was torn down and burnt and his family turned adrift in cold weather the whole of his bedding provisions and clothing being destroyed in the fire.\textsuperscript{39}

\textit{Results of the Reservation Lawsuits}

But despite the travails suffered by the reservees and their supporters, they were largely successful in their suits against the settlers who had purchased their lands. William Roane stated that by 1827 14 reservation suits that had been tried, and all of these suits had been decided in favor of the Indians. Gideon Morris affirmed that: “between the year 1820 and 1829 that there was never an instance of a suit in court between the state and a Cherokee of the Cherokee being convicted or when the Cherokee was the plaintiff of his losing his claim -- except in one little suit…”\textsuperscript{40}

Still, success in the lower courts did not necessarily mean that a reservee would recover their property. In some cases a lengthily appeals process followed the initial verdict, and in at least two instances during the decade following the land cession suits involving Cherokee reservations were carried all the way to the North Carolina Supreme Court.\textsuperscript{41}

The most important of these suits was that of Eu-che-la (Euchella) vs. Welch. In this case Euchella, a prominent Cherokee leader, filed suit against a white man named Joseph Welch, who had purchased part of the land claimed by Euchella as a reservation. A lower court found in favor of Euchella, but Welch requested a new trial, and, failing to be granted one, appealed, contending, among other things, that the United States did not have authority to grant reservations; that Euchella’s reservation was not laid out in a square with his improvements in the center as called for by the treaties of 1817 and 1819, and that the surveyor who performed the Cherokee reservation surveys, Robert Armstrong, did not have proper authority to do so. In a lengthy decision rendered in June, 1824, the Supreme Court declined to accept Welch’s objections and refused to grant a new trial.\textsuperscript{42}
While Euchella vs. Welch was a victory for the reservees, the point regarding the questionable legitimacy of the surveyor Armstrong’s commission appears to have been seized on by attorneys for the settlers in later reservation cases. William Roane complained in 1827 that because of the objections raised in Euchella vs. Welch the plats drawn by Armstrong were not considered admissible as evidence of where the boundaries of the Cherokee reservations were located. Thus, a reservee could only win an action of ejectment by showing that land that they had cleared and improved had been intruded upon.\textsuperscript{33}

And despite successes such as Euchella vs. Welch, the lengthy appeals process could prove exhausting, and ultimately defeating to some reservees. Attorneys representing Gideon F. Morris stated that after part of his reservation was purchased by Robert Love, Morris initiated a lawsuit against Love, but that:

\textquote{...Love was a man of wealth and influence, and for a long time he was enabled to prevent a trial of the case. That [Morris] was poor and by this act was rendered poorer and was illy able to contend with him yet notwithstanding on the trial of the case a verdict was rendered in [his] favor... Whereupon...Love appealed and the case was carried up to the Supreme Court of N. Carolina. [Morris] being by these delays completely worn out and his means exhausted had not the means of prosecuting his claim before said court and he was forced to abandon his suit...\textsuperscript{44}}

Similarly, the Cherokee chief Yonaguska, whose case reached the North Carolina Supreme Court before being sent back for a new trial based on a technicality:\textsuperscript{45}

\textquote{...being poor and destitute of the means necessary to commence and carry on another suit and already having been deprived of the possession of the greater part of his reservation and having lost all hopes of regaining it was thereby induced to part with his life estate in [the] reservation and [move away].\textsuperscript{46}}

But successful or not, the lawsuits lodged by the Indians had a dampening affect on the sale of land by the state. The commissioners in charge of the second land sale of Cherokee lands, held in the fall of 1821, complained in a letter to the then Governor Jesse Franklin\textsuperscript{47} that a few days previous to the date of the sale:

\textquote{...most of the persons who had purchased at the first sales reservations were ejected by those Indians who had taken ... reserves agreeable to the treaty made with their tribe... which gave rise to many unfavorable conjectures by those who wished to buy.\textsuperscript{48}}
Reservation Laws

To address the situation the state passed a series of laws designed to protect the reservations and prevent any additional conflicting claims. A law passed in 1820 made it illegal for any white man to “buy, rent, lease, or cultivate any of the lands reserved to the Cherokee Indians by the [treaties of 1817 and 1819]…,” while a law passed the following year amended the earlier law by allowing individuals who had purchased lands from the state that were part of a reservation to purchase that land from the reservee, and rescinded the penalty for renting or leasing such land from the reservee.

Some of the reservees do appear to have entered into rental agreements with the settlers as allowed for under the 1821 law, and at least two of the reservees, Big Tom and John Welch, sold their claims under the terms the law, though neither was an entirely willing party to their transactions. Big Tom was visited repeatedly by the man who had purchased a part of his reservation, Andrew Welch, who told Big Tom “that he had purchased the title of the state and that [Big Tom] had no means of regaining possession of the land, that he and his family had better remove to the nation where they had plenty of land;” and that “the whites were moving in upon them and he had as well sell and get something…” (Figure 11.1).

The experience of the métis reservee John Welch was more dramatic. Welch’s reservation overlapped with land purchased by a settler named Benjamin Brittain. After Welch was involved in the murder of another Indian, a murder that was committed by one account “according to the custom of the [Cherokee] nation,” Brittain or his allies contrived to have Welch threatened with prosecution in the white courts for the killing.

As Ann Blythe, Welch’s mother-in-law, recounted in an 1824 deposition, because of the threats against him, Welch:

…could not stay safely on his reservation, that he would be killed or be carried to jail - that the only way to avoid the prosecution and save his life was to leave his reservation and go to the nation -- that John Welch was much alarmed and avoided the sheriff -- that it is her opinion that if he had not committed to come to the terms proposed by Brittain that he would have been killed -- that after some time, to avoid doing mischief he was forced to make the trade with Brittain -- that she thinks the writ was put in the hands of the sheriff.
with a design to scare said Welch off -- that she was told by John Early that he heard the plot laid to drive him away.\textsuperscript{56}

Under this duress Welch agreed to sell his reservation to Brittain for two horses and $111. The reservation would later be valued at $1500 dollars.\textsuperscript{57}

![Image of a deed]

Figure 11.1 – Deed executed between Big Tom and Andrew Welch. Source: 1823 – 1827 Deeds Between Cherokees and Settlers, TCP, Indian Affairs and Lands, NCDAH.

In 1821 another law was passed that directed the commissioner who was appointed to oversee the second sale of the 1819 Treaty Lands to determine which properties were in dispute between the Cherokees and settlers who had purchased land from the state and to convey this information to the state treasurer so that the purchaser would not be required to make payments on the land until the disputes were settled. In addition, this law stipulated that settlers who had
been ejected (forced off by court order) from the lands that they had purchased from the state would have the money that they had paid for the land refunded to them with interest.\textsuperscript{58}

In 1823 a committee of the General Assembly charged with making recommendations about the reservations rather grudgingly proposed a bill that would authorize the purchase of the disputed lands by the state. In their report on the issue, the committee did not disguise their skepticism about the legitimacy of the reservations:

\ldots notwithstanding your Committee are of opinion that many of the Indians who thus claim under the provisions of said treaties have no fair claim to the reservations laid off for and claimed by them; yet doubtless some of them have and although they have no wish or intention to separate themselves from their nation and become citizens of the United States, yet instigated by certain white persons resident among them (who no doubt expect to profit by the success of the Indians) do prosecute their suits, and thereby harass and perplex the purchasers from the state.

Your committee are therefore of opinion that it would be right and proper for the Legislature to provide some means to buy out or extinguish the Indian title to those reservations\ldots \textsuperscript{59}

The disdain expressed by the committee for the legitimacy of the reservations and the motives of the reservees and the Indian countrymen who assisted them may be due in part to the fact that the chair of the committee was James Mebane, one of the two commissioners who oversaw the survey and first sale of the 1819 Treaty Lands, during which the majority of the reservations were ignored. The other commissioner, Jesse Franklin, had succeeded James Branch as governor of North Carolina by this time.

Nevertheless, the governor was subsequently directed by the General Assembly to appoint two commissioners to journey to the 1819 Treaty Lands and contract to purchase those reservations for which they believed the Indians had a valid claim. The commissioners were also charged with ascertaining cases where the reservees had sold their title to white settlers, and to report their findings to the General Assembly. Any contracts that the commissioners might enter into were required to be ratified by the General Assembly.\textsuperscript{60}
The Robinson and Robards Commission

The two men appointed to serve as commissioners, Benjamin Robinson and William Robards, arrived in the ceded lands in early August, 1824. On August 12th they held a council with the Indians where they explained their authority and expressed their determination to examine all of the Cherokee claims as soon as the Indians were willing to lay the claims before them. According to Robinson and Robards, at first the reservees were reluctant to negotiate with them, and the prospect of reaching an agreement “was forlorn.” To induce the Cherokee to bargain with them, the commissioners were advised to enlist the aid of the Reverend Humphrey Posey. Posey, a Baptist minister, was well known to the Indians, having established a mission on the Hiawassee River to the west of the 1819 Treaty Lands a few years previously. Posey “readily consented” to assist the commissioners, and was “constantly engaged” throughout the negotiations. The commissioners also engaged the fee simple reservee Richard Walker to serve as interpreter.

The presence of Posey must have helped. According to Robinson and Robards “After several meetings, and according to their custom talk after talk,” the Cherokees agreed to negotiate for the sale of their reservations, and presented the commissioners with the survey plats and certificates associated with their reserves. The commissioners then set about determining which of the reservation claims were valid, and what these claims were worth. They worked quickly, and on August 20th entered into a contract with 38 of the reservees whose claims they judged to be valid. Under the terms of the contract the commissioners arranged to pay a total of 26,740 dollars to the reservees for a total of 24,320 acres of land, 9,269.75 acres of which had been sold to white settlers at one of the land sales, and was therefore under dispute. The amount paid out to each reservee varied according to the value that the commissioners placed on their lands. Under the terms of the original agreement, subject to ratification by the General Assembly, the claimants were to be paid off in Franklin on the May 1, 1825. They were to receive their money in the current banknotes of North Carolina, or in silver at a 6% discount. It was agreed that all legal actions involving the reservations should be suspended pending
ratification of the agreement by the General Assembly, and that both the reservees and the settlers
who had purchased parts of some of the reservations from the state would be allowed to remain
on their respective lands pending that decision.66

The commissioners duly submitted the contract they had entered into with the reservees
to the General Assembly for ratification, but that body only consented to purchase 27 of the
38 reservations.67 A total of 19,940 dollars was set aside for carrying the contracts that were
approved into effect, and new commissioners were appointed to deliver the money to the Indians
(Figure 11.2).68

![Figure 11.2 – Receipt for money paid to the Cherokee by Phillip Brittain and David L. Swain. Source: Accounts of Brittain and Swain..., TCP, Indian Affairs and Lands, NCDAH.](image)

Phillip Brittain and David L. Swain served as commissioners to pay off the reservees
whose contracts had been ratified. On May 8th, 1825, they wrote to the then Governor of North
Carolina, Hutchins G. Burton, that they had completed their duties a few days previously, but
complained that: “A greater length of time was consumed in the transaction of this business, than
was desirable on our parts, owing to the peculiarities of the Indian character.”69

It is unclear why the General Assembly declined to ratify all of the contracts, but it is
probable that they considered the price paid to some of the reservees to be too high. In other
cases they may have declined to pay for reservations that were not under dispute, or for which
they believed that the reservees had a faulty claim, contrary to the opinion of the commissioners.
Aftermath of the Robinson and Robards Commission

Whatever the reason that the General Assembly failed to ratify all of the contracts, the unfinished business of the Robinson and Robards commission continued to vex the residents of the 1819 Treaty Lands. William Roane stated in 1827 that in the three years since the commission the Indians had initiated nine new lawsuits, and expressed the belief that five additional suits would have to be instituted (Figure 11.3).  

However, the Indians who pressed forward with their suits did so with less assistance. The Indian countryman William Reid’s reservation was among those that were purchased in 1824. With Reid’s departure from the scene, Gideon Morris, whose contract the General Assembly had refused to ratify, came under increasing pressure from white settlers. According to William Roane, Morris was left “to fight the battle out as well as he could.” “…the Indian has no friend but poor Gideon F. Morris…,” wrote Roane, “The whites (for so they are called) therefore have been trying every means to break up and drive off Morris; and then the Indians of course must go.”

In 1826 the General Assembly passed a law authorizing a second land survey on the 1819 Treaty Lands. Mindful of the chaos caused by the failure to account for the reservations in the first survey, the legislators included a clause in the law that specifically stipulated that “no reservation secured by treaty to any Indian shall be surveyed or sold.”

The state also sought to recover the money it paid out for the reservations by petitioning United States Congress for reimbursement. A report on the issue penned by a member of the Congressional Committee on Indian Affairs was sympathetic to the plight of the state and understanding of the actions of the survey commissioners and other state officials, who had acted, according to the report, out of ignorance and in good faith when they surveyed and sold the lands claimed as reservations by the Indians. Then, in the aftermath of the flawed survey, many settlers had “sold their homes in the old settled parts of the State and removed to the newly acquired territory.” When the Indians filed suit to evict these settlers from their lands, “Disagreeable results were likely to ensue. Necessity compelled North Carolina to take
Figure 11.3 – An Action of Ejectment filed on behalf of a Cherokee reservee. Source: Samples of Papers in Suits of Ejectment Brought by Cherokees, TCP, Indian Affairs and Lands, NCDAH.
prompt and decisive measures for the relief of those citizens who were likely to suffer. Time would not permit her to apply to the general government to extinguish the Indian title to those reservations."

Finally, in 1826 the General Assembly passed an act authorizing the governor to appointment another commissioner to journey to the mountains to treat with the remaining reservees for their claims. The commissioner was authorized to enter into contracts with those reservees whose title he deemed valid, and was required to submit those contracts to the General Assembly to be ratified or declined, as in the case of the Robinson and Robards commission.75

Romulus Saunders' Commission

James Iredell, the then governor, appointed Romulus M. Saunders to serve in the capacity of commissioner under the terms of this legislative act. Iredell advised Saunders of the desirability of purchasing all of the remaining reservations, even those for which the Cherokee claim was doubtful, with the price offered to the reservees in cases where their titles were questionable to be in keeping with the strength of their claim. Iredell also suggested that Saunders seek the assistance of the Baptist preacher Posey, whose intercession with the Indians had facilitated the success of the Robinson and Robards commission, but it is unclear whether Saunders solicited Posey’s aid during his first venture into the mountains.76

Saunders arrived in the Treaty Lands around the first of July, 1828, and immediately had an interview with Gideon F. Morris, who, according to Saunders, was “deeply interested himself and generally the agent of the Indians.” Morris indicated his own willingness and the willingness of the reservees he represented to negotiate with Saunders for their claims, but expressed a reluctance to enter into contracts with the commissioner because of the failure of the General Assembly to ratify many of the contracts entered into by the Robinson and Robards commission, including the contract that Morris himself had entered into. Saunders assured Morris that he would treat the Cherokee fairly and give them a fair price for their claims, whereupon Morris requested a delay in negotiations so that he would have time to go into the Cherokee Nation to secure testimony about the claims and to notify the individual claimants to
assemble in the town of Franklin. Morris and Saunders fixed on the 22\textsuperscript{nd} of July as the date of the meeting. Saunders also engaged another, unidentified white man, probably William Reid, to assist in assembling the reservees for the council. In a letter to Governor Iredell reporting on his preliminary actions, Saunders expressed optimism that he would be able to make deals with the reservees, though he believed that the prices that were being asked were too high.\textsuperscript{78}

On August 8\textsuperscript{th}, 1828, Saunders wrote Governor Iredell again to inform him of his return home “after a somewhat tedious trip,” and of the successful completion of his commission. He informed Iredell that he had examined 40 cases and positively contracted with 26 of the reservees, and expected contract with one more. These included all the reservees who had initiated lawsuits against the settlers who had purchased parts of their lands. For other reservees he had entered into conditional contracts by which the reservee agreed not to pursue lawsuits against the settlers, and was given until the following spring to collect evidence bolstering their claims, on the basis of which they would paid an amount not to exceed $300. He considered the prices he had given to be very reasonable, except in the case of Gideon Morris’ reservation, for which he had to match the offer that had been made by Robinson and Robards. If the legislature affirmed the contracts all would be settled, reported Saunders, but if not the situation would only be worsened as the reservees would demand more money at a later date in proportion to the success they had in their lawsuits against the settlers.\textsuperscript{79}

Governor Iredell agreed that an advantageous deal had been made. In a message conveyed to the General Assembly upon the opening of the 1828-1829 legislative session Iredell assured the lawmakers that the claims that would be extinguished by Saunders were “intrinsically worth a much larger sum” than the $15,000 that Saunders had contracted to pay for them.\textsuperscript{80}

Iredell also informed the General Assembly that he had “received from the proper officers of the Treasury Department of the United States, the sum of Twenty-two thousand dollars,” which the United States Congress had appropriated to reimburse the state for the money that had been expended by the earlier Robinson and Robards commission. Thus, the federal government stepped in to assume responsibility for the settlement of the reservation claims.\textsuperscript{81}
Saunders official report was duly submitted to the North Carolina General Assembly, who forwarded the report to the United States Congress. Congress, in turn, appropriated twenty thousand dollars for the purpose of purchasing the remaining reservations. As a result of this act Saunders and Humphrey Posey were appointed United States commissioners to purchase the remaining Cherokee claims.

The Saunders and Posey Commission

Saunders received his appointment as United States commissioner on June 26, 1829, and immediately began preparations to return to the mountains. He requested of the new governor, John Owen, the papers he had compiled during his previous negotiations with the reservees. Owen cheerfully complied with Saund’rs request, and bid Saunders good tidings: “I wish you, what you will probably have, a pleasant time,” wrote Owen, who continued: “I feel assured however, it would be so to me; for I have a great wish to visit the red men of the mountains, and would willingly incur almost any risk for the gratification.”

Apparently the vexation of wading once again through the reservation cases subsumed any of the giddy feelings Saunders might have felt about the novelty of visiting with the “red men of the mountains,” but he set about his work in a business-like manner and was able to report to the governor on July 14, 1829 that: “We have instituted a thorough examination into the business and flatter ourselves to be able to elicit the facts in every case, so as to put an end if possible to this troublesome business.”

To assist them in their negotiations with the Indians Saunders and Posey again engaged Richard Walker to serve as interpreter. According to a later account by Posey, in the course of the negotiations the claimants were allowed to bring in any evidence that they thought proper. All evidence was verbal; as Posey recalled it, no record of the examinations were kept. The commissioners settled first with the reservees whose claims they felt had merit. Claimants whose claims appeared doubtful were then given one hundred dollars, and the remainder of the claimants were given fifty dollars each, “that they might be satisfied.”
But although the Saunders and Posey commission purchased all of the reservations, a
total of 43, that had not been purchased by the earlier commission,⁸⁹ not all of the Cherokees
were satisfied. Some of the Indians who presented claims to the commission would later
allege that they had been defrauded, and in particular that the interpreter, Richard Walker, had
misrepresented the terms of the commissioners’ offers in order to dupe the reservees into signing
away their land for an inadequate compensation.

According to the prominent Cherokee Junaluska,⁹⁰ the claimants:

…being all seated in a row, the commissioner, Genl Saunders, enquired what they thought
would be right for them to be paid for their reservations. When Old Shell answered that
$50 apiece would do, and all replied “very well:” when it came to his, Junaluska’s, turn, he
said he must have $5000 for his reservation -- when Commissioner Saunders answered that
the money was all out; but that he would give him a paper, and he would have to look to
the United States to pay him, but that he never got the paper. The interpreter on paying him
the $50 remarked that it was merely intended for a present, as he had been in the Creek
War, and not in payment for his reservation.⁹¹

Other claimants told similar stories. Elizabeth Welch recalled that when Peggy Jones, the
widow of the reservee William Jones, was told by the interpreter Walker that the commissioners
would give her fifty dollars:

…she answered that she would not take that for the land for that it was Bill Jones childrens
land he was dead and they would say she fooled it away. Walker [then explained] that
the fifty dollars was not for the land but that they would give her the money as she was a
widow woman.⁹²

Walker was also accused of inducing a Cherokee woman named Jenny to impersonate a
reservee named Betsy, so that Jenny would receive compensation for Betsy’s reservation from
the commissioners.⁹³

The commissioner Posey would later deny all these charges. Posey stated that he was
“sure it could not have been stated that the money was out, because the fact was otherwise,”
and defended Richard Walker as “an honest man and true interpreter,”⁹⁴ who had a reputation
“as a reliable and correct man.”⁹⁵ In fact, according to Posey, all was carefully explained
and interpreted to the Indians, who, with the exception of Junaluska, were content with their
compensation,⁹⁶ and “on being paid, appeared to be entirely satisfied -- there was no murmuring

232
or complaining amongst them.” Some of the reservation claims had been considered of doubtful validity by the commissioners, or had “little value as to title,” and in such cases small sums were offered “merely to quiet old debts,” according to Posey, who asserted that this was explained to the claimants at the time. The small sum paid to Junalsuka was a consequence of the fact that they believed that he had not occupied the place that he claimed as his reservation.

Officials charged with adjudicating Cherokee claims following the Cherokee removal treaty of 1835 were not impressed by the assertions of some of the Cherokees that Richard Walker had misrepresented the truth in inducing them to sell their reservations. A note scrawled on the cover of a claim submitted by a Cherokee named The Axe, who alleged a similar fraud on the part of the Saunders and Posey commission, asserts that “this man sold his reservation to the state of North Carolina and I cannot consent to allow the claim. I do not believe nor do I think it is proved that the sale was made under misrepresentations and I would reject it…”

_The Aftermath of the Saunders and Posey Commission_

Government officials rejected many claims such as that submitted by The Axe in the decades following Treaty of 1819. The noted historian William McLaughlin summed up the grim aftermath of the treaty in this way:

The papers of the Cherokee Agency and the Secretary of War’s office for the years 1819 to 1829 are crammed with documents regarding questions of reimbursement for the improvements of emigrants and of persons who were forced off ceded land. Neither the government nor the eastern or western part of Cherokee Nation was ever able to resolve all these claims….Fraud and confusion abounded on both sides; collecting claims from the government became a major occupation of the Cherokees and of all other tribes from this time forward. It turned them all into lawyers (or the clients of lawyers), creating a vast bureaucracy for record keeping that overwhelms the archives on Indian affairs to this day.

Although the reservations would live on as legal abstractions for many years following the Saunders and Posey Commission, they did not survive long as physical places. A state law passed in 1836 included a provision authorizing the survey and sale of all the reservations that remained “undisposed of” in what had become the county of Macon. But if the reservations passed from the landscape, the Cherokee did not, and the reservation provision of the Treaty
of 1819, though a profound failure, would play a significant role in ensuring that the Cherokee would remain a presence on the old 1819 Treaty Lands.
Chapter Endnotes

1 Chula or Dead Works, Heir of Oone was tah vs. The United States, Claim for the Value of a Reservation taken on the 19th Sept., 1819 on Catugajay [Cartoogachaye] Creek, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #22, RG 75, NAR.
2 Dick, an Old Cherokee vs. The United States, Claim for the Value of a Reservation taken under the treaties of 1817 and 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #23, RG 75, NAR.
3 Deposition of Emanuel Shuler, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
4 Deposition of Nickajack, October 10, 1838, Claim 74, RFBCC, Claim Papers, RG 75, NAR.
5 Deposition of Martin Angel, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH.
6 Also referred to as Col. Shields.
7 Deposition of Enos Shields, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH. According to this deposition The Cat returned and lived nearby for a while longer before leaving again in the fall or winter of 1820. Family histories of the Siler family, members of whom were among the first to settle on the ceded lands, include a somewhat embellished version of a similar story. In this story Jacob Siler and Benjamin Brittain, who established a small store or trading post on the ceded lands around 1819 (see Chapter Five herein) were confronted by an old chief who they had never seen before. “Leave at once, you cannot stay another day,” the chief told them. “You must go now, you must not stay another day. Indian heap kill.” Siler and Brittain diffused the situation by offering to return to the white settlements and get a copy of the Treaty of 1819 to prove that the land had been ceded by the Cherokee. They agreed to meet with the chief again in a month “to hold more pow wow,” but the chief never returned. Porter, *Family of Weimar Siler*, 87-88.
8 Deposition of Alfred Brown, [no date, but probably July, 1828], TCP, Indian Affairs and Lands, NCDAH (One of two undated depositions by Alfred Brown in this collection). The name of the Cherokee who was whipped is illegible but appears to be “Ramesuer.”
9 Elijah Sutton vs. The United States: Petition For the Value of a Reservation, [No Date], Claim 61, RFBCC, Claim Papers, RG 75, NAR. See also Deposition of Nathanial Peak, February 20, 1838, Claim 61, RFBCC, Claim Papers, RG 75, NAR. In examining Sutton’s case many years later, the North Carolina Supreme Court declared that the Treaty of 1817 did not entitle individuals to take reservations on unceded lands. See Iredell and Clark, *North Carolina Reports*, 52-60.
10 Testimony of John Bryson in the Reservation Claim of the Heirs of Old Mouse, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.
11 Deposition of William H. Thomas, July 7, 1843, Claim 736, RFBCC, Claim Papers, RG 75, NAR.
12 Testimony of Flying Squirrel in the Reservation Claim of the Heirs of Yonaguskee, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.
13 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430. Roane appears to have been employed by the federal government to defend the reservation suits. He corresponded with the secretary of war concerning the reservations on at least one other occasion. See John C. Calhoun to William Roane, February 19, 1823, M15, Reel 5, Volume E, p. 391.
14 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430. Actions of ejectment were actions to evict illegal occupants or trespassers. According to a list dating to 1825, among the reservees who initiated lawsuits against the white settlers who had purchased portions of their lands were Backwater, Oo-la-notee (Ool la not tee), Johnson, Jack, The Bear Going in the Hole, Whay-a-kah [Whayakah], Connaught, Tegentossee, Euchelah [Euchella], Yona-gus-kee [Yonaguska], John, and The Bag or Sapsucker. See Phillip Brittain and David L. Swain, Commissioners, Statement of Costs Accrued in Suits Between Cherokee Indians and White Men Purchased Under the State, October 13, 1825, TCP, Indian Affairs and Lands, NCDAH.
15 Chula or Dead Works, Heir of Oone was tah vs. The United States, Claim for the Value of a Reservation taken on the 19th Sept., 1819 on Catugajay [Cartoogachaye] Creek, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #22, RG 75, NAR.
16 Petition of William Reed [Reid] to the Honorable Commissioners of the United States, No Date [Claim Filed December 30, 1846], Claim 180, RFBCC, Claim Papers, RG 75, NAR.
17 Chula or Dead Works, Heir of Oo ne was tah vs. The United States, Claim for the Value of a Reservation taken on the 19th Sept., 1819 on Catugajay [Cartoogachaye] Creek, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #22, RG 75, NAR; see also Jack, a Life Reservee vs. The United States, Claim for the Value of a Reservation taken under the treaties of 1817 and 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #26, RG 75, NAR; Heirs of William Jones Dec’d vs. The United States, Claim for the Value of a Reservation taken under the Treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #28, RG 75, NAR; Too chas tas tah vs. The United States, Claim for the Value of a Reservation taken under the Treaty of 1819, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #29, RG 75, NAR.

18 Ous te ka he tee vs. The United States, Claim for the Value of a Life Estate Reservation, RFRBCC, Decisions on Reservation Claims, 1837-1839, Case #48, RG 75, NAR.

19 See for instance Memorial of Tom and Waka, [no date – claim filed December 30, 1846], Claim 742, RFBCC, Claim Papers, RG 75, NAR.

20 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430. See for instance North Carolina, *Acts Passed by the General Assembly of the State of North Carolina at the Session of 1827-28* (Raleigh: Lawrence & Lemay, 1828), 26-27. Under this act, if the governor should have reason to believe that the title of an Indian reservation was not valid and some or all of the land encompassed by the reservation had been sold under the authority of the state it was his duty to employ council to defend the purchaser(s) if they were sued by the reservee.

21 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430.

22 In most places Cherokees were not allowed to testify under oath in legal proceedings. See for example McKeown, “Return J. Meigs,”147.

23 Affidavit of Gideon F. Morris, April 5, 1828, County Records, Haywood County, NCDAH.

24 Strange, *Eoneguski*, 198 (vol. 1).

25 Ibid., 197-209 (vol. 1).

26 Ibid., 197 (vol 1).

27 Ibid., 197-98 (vol 1). For a much more sympathetic view of the courts of western North Carolina in the 19th century, see Davidson, *Reminiscences and Traditions*, 18-19.

28 William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430.

29 Ibid.

30 Petition of William Reed [Reid] to the Honorable Commissioners of the United States, No Date [Claim Filed December 30, 1846], Claim 180, RFBCC, Claim Papers, RG 75, NAR.

31 Gideon F. Morris’ claim for services to the Cherokee Nation and Deposition Affirming Claim, October 23, 1838 [claim dated August 14, 1838], RFRBCC, Miscellaneous Claim Papers 1836-1839, RG 75, NAR.

32 Deposition of James R. Love, November 12, 1842, Claim 439, RFBCC, Claim Papers, RG 75, NAR.

33 Decision of the Committee in the case of Gideon F. Morris’ claim against the Cherokee Nation, October 25, 1838, RFRBCC, Miscellaneous Claim Papers 1836-1839, RG 75, NAR.

34 Gideon F. Morris’ claim for services to the Cherokee Nation and Deposition Affirming Claim, October 23, 1838 [claim dated August 14, 1838], RFRBCC, Miscellaneous Claim Papers 1836-1839, RG 75, NAR.

35 Petition of Ann Hyatt to the Fourth Board of Cherokee Commissioners, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR.

36 Memorial of Nancy Reid wife of William Reid Deceased for the Value of a Reservation…, October 15, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR.

37 Decision of the Committee in the case of Gideon F. Morris’ claim against the Cherokee Nation, October 25, 1838, RFRBCC, Miscellaneous Claim Papers 1836-1839, RG 75, NAR.

38 Apparently the same Robert Love who directed the survey of the 1819 Treaty Lands. The Love family was among the wealthiest and most powerful families in western North Carolina during this period. See for example Arthur, *Western North Carolina*, 124-129.

39 Memorial of Gideon F. Morris, [no date – claim filed December 30, 1846], Claim 391, RFBCC, Claim Papers, RG 75, NAR.
Cases involving Cherokee reservations taken under the terms of the treaties of 1817 and 1819 that reached the North Carolina Supreme Court during the decade following the treaties include Euchela vs. Welch (see Hawks, ed., *North Carolina Reports*, 155-74), and Yonaguskee vs. Coleman (see Hawks, ed., *North Carolina Reports*, 174-75). Cases that reached the Supreme Court in later years include Sutton and Wife vs. John C. Moore and Others (see Iredell and Clark, *North Carolina Reports*, 52-60), Edward Welch et. al. vs. William Trotter (see Hamilton C. Jones and Walter Clark, eds., *North Carolina Reports, Vol. 53, Cases at Law Argued and Determined in the Supreme Court of North Carolina, December Term, 1860 to June Term, 1862 Inclusive* (Raleigh: Edwards and Broughton Printing Co., 1916), 151-56), and Belk vs. Love (see Devereux, Battle, and Clark, *North Carolina Reports*, 77-87). Brief summaries of these cases can be found in Ben Oshel Bridgers, “A Legal Digest of North Carolina Cherokees,” *Journal of Cherokee Studies* 4, no. 1 (1979). A case between Gideon F. Morris and Robert Love also reached the Supreme Court but was never brought to trial. Morris’ case is referred to in Romulus M. Saunders to James Iredell, July 8th, 1828, GLB 27, pp. 94-95, NCDAH; Romulus M. Saunders to James Iredell, August 8th, 1828, GLB 27, p. 109, NCDAH; Romulus M. Saunders to John Owen, June 26, 1829, GLB 28, pp. 72-73, NCDAH, and Romulus M. Saunders to John Owen, July 14, 1829, GLB 28, p. 78, NCDAH.


William Roane to James Barbour, July 8, 1827, M-234, Reel 72, Frames 0425-0430. For another objection to Armstrong’s survey, see Report of the Commissioners [William Robards and Benjamin Robinson] Under the Act of 1823 on Indian Reservations, October 24, 1824, SSP, State Land Office, Cherokee Lands, NCDAH.

Memorial of Gideon F. Morris, [no date – claim filed December 30, 1846], Claim 439, RFBCC, Claim Papers, RG 75, NAR.


Memorial of Yonaguska’s Heirs for the Value of a Reservation, June 16, 1843, Claim 704, RFBCC, Claim Papers, RG 75, NAR; see also Deposition of George W. Hayes, June 16, 1843, Claim 704, RFBCC, Claim Papers, RG 75, NAR. Qualla Town was the small Cherokee community near the present town of Cherokee that was the precursor to the Qualla Boundary (Eastern Cherokee) reservation. See Chapter Twelve herein.

Jesse Franklin, one of the commissioners for the 1820 survey and sale of the 1819 Treaty Lands, succeeded John Branch as governor of North Carolina.

Willborn and [Taliferno?] to Jesse Franklin, November 14, 1821, GASR, 1821-1822, Misc. Records, NCDAH.


Depositions of Joseph Welch, Gideon Morris, and Joel McGray, July 23, 1828, TCP, Indian Affairs and Lands, NCDAH.


Deposition of William H. Thomas, July 7, 1843, Claim 736, RFBCC, Claim Papers, RG 75, NAR.

Deposition of David Shuler, July 28, 1828, TCP, Indian Affairs and Lands, NCDAH. Welch appears to have purchased Big Tom’s claim for 20 dollars shortly after the 1820 land sale, and then executed a formal agreement with the him later under the terms of the 1821 law. See Deposition of Andrew Welch, July 22, 1828, TCP, Indian Affairs and Lands, NCDAH. Nonetheless, commissioners appointed by the state to investigate Cherokee reservation claims would later suggest that Welch had obtained Big Tom’s reservation “under circumstances which would seem very strongly to indicate an improper advantage.” Welch subsequently agreed to relinquish his claim in exchange for having the 40 dollars he had paid to Big Tom returned to him. See Statements of R. M. Saunders on Three Indian Claims Not Settled By Him, 1828, TCP, Indian Affairs and Lands, NCDAH.

Deposition of Ann Blythe, August 23, 1824, TCP, Indian Affairs and Lands, NCDAH. The fact that the murder was committed according to the “custom of the nation” implies that it was a clan revenge murder. See also Chapters Four and Five herein.

Ibid.

Declarations of Robards on Disputed Cherokee Claims and Suits of Ejectment, 1824 [no month or date], TCP, Indian Affairs and Lands, NCDAH; Action of Ejectment Brought Against the Heirs of John Welch, [No Date], David L. Swain Papers, NCDAH.


Report of the Committee on the Governor’s Message Dealing with Life Reservations and Cherokee Land Suits, Nov. 28th, 1823, TCP, Indian Affairs and Lands, NCDAH.


Although there is no evidence that it affected his actions, Posey also had a personal interest in the resolution of the reservation controversy, as he had purchased two tracts on the 1819 Treaty Lands in the 1820 land sale and an additional tract in the 1822 land sale. See Sales Book of Cherokee Land, 1820-1823, TCP, Indian Affairs and Lands, NCDAH.

Other factors may also have been involved in setting the price, such as how much the reservee was willing to accept to quit their claim and how anxious the commissioners were to silence a dissenting voice among the reservees by purchasing their land.

Cherokee Lands Entries and Surveys, 1820-1824, pp. 13-14, SSP, NCDAH. A printed version of the contract between Robinson and Robards and the various reservees can be found in North Carolina, Acts Passed by the General Assembly of the State of North Carolina at Its Session, Commencing on the 15th of November, 1824 (Raleigh: J. Gales & Son - State Printers, 1825).

Dortch, Manning, and Henderson, Code of North Carolina, 75.

Phillip Brittain and David L. Swain to Hutchins G. Burton, May 8, 1825, GLB 26, p. 21, NCDAH. See also Phillip Brittain and David L. Swain, Commissioners, Account Current with the State of North Carolina, November 11, 1825, TCP, Indian Affairs and Lands, NCDAH.


North Carolina, Acts Passed by the General Assembly of the State of North Carolina at its Session, Commencing on the 25th of December, 1826 (Raleigh: Lawrence & Lemay, 1827), 10-12; Dortch, Manning, and Henderson, Code of North Carolina, 77. On this second survey of Cherokee lands, see Report of the Select Committee to whom was referred “so much of the Message of his Excellency the Governor, as relates to the Cherokee lands,” and also the Message enclosing the report of the Commissioners appointed under an Act of the last General Assembly of this State entitled “an act prescribing the mode of surveying and selling the lands lately acquired from the Cherokee Indians,” [no date], GASR, 1827-1828, House Committee Reports, NCDAH. The survey resulted in 858 additional tracts being laid out on the 1819 Treaty Lands.


James Iredell to Romulus M. Saunders, June 19th, 1828, GLB 27, pp. 90-92, NCDAH.

Romulus M. Saunders to James Iredell, July 8th, 1828, GLB 27, pp. 94-95, NCDAH.

Ibid.
Ibid. The money was included as part of a congressional act making appropriations for the Indian Department for the year 1828. See Act of May 9, 1828, ch. 47, 1 Stat., in Richard Peters, ed., *The Public Statutes at Large of the United States of America*, vol. IV (Boston: Charles C. Little and James Brown, 1846), 267-68; quote on p. 268.

Romulus M. Saunders to James Iredell, November 1, 1828, GLB 27, pp. 145-148, NCDAH.


Romulus M. Saunders to John Owen, June 26, 1829, GLB 28, pp. 72-73, NCDAH.

John Owen to Romulus M. Saunders, July 1, 1829, GLB 28, p. 73, NCDAH. Underlining in original.

Romulus M. Saunders to John Owen, July 14, 1829, GLB 28, p. 78, NCDAH.

E.g. Petition of Arsena for the Value of a Reservation, [no date – claim rejected July 20, 1847], Claim 1201, RFBC, Claim Papers, RG 75, NAR.

Evidence of Rev. Mr. Posey before the Commissioners [Eaton and Hubley], August 4, 1843, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Action of Ejectment Brought Against the Heirs of John Welch, [No Date], David L. Swain Papers, NCDAH. Transcriptions of the entries in the first Macon County deed book that detail the settlements made between Saunders and Posey and the various reservees can be found in McRae, *Records of Old Macon County*, 2-3.

Junaluska was among the most notable of the Cherokee residents of the 1819 Treaty Lands. He is best known for his heroism at the Battle of Horseshoe Bend, in Alabama, the pivotal battle in the Creek War of 1813-1814. During the first half of the 19th century Junaluska was a well known figure, and stories about him, some doubtless fanciful, have found their way into a number of publications; see for example Barnes et al., eds., “Junaluskee”; Arthur, *Western North Carolina*, 292-293; Freil, *Our Heritage*, 33-35; Blackmun, *Western North Carolina*, 244-45, 258-59; Alice D. White, ed., *The Heritage of Cherokee County North Carolina*, Vol. 2 (Roswell, Georgia: Cherokee County Historical Museum in cooperation with W. H. Wolfe Associates, Inc., 1990), 9-10, and George Frizzell, “Remarks of Mr. Thomas, of Jackson,” *Journal of Cherokee Studies* 7, no. 2 (1982).

Yo na gees ka’s Heirs, Reservation Claim, RSTBCC, Decisions of the Second and Third Boards, 1842 -1844, RG 75, NAR. See also Testimony of Junaluskey in the Claim of the Heirs of Yonaguskee for the Value of a Reservation, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR, and Deposition of Nathaniel Peak, October 31, 1838, Claim 68, RFBC, Claim Papers, RG 75, NAR.

Deposition of Elizabeth Welch, July 13, 1843, Claim 1201, RFBC, Claim Papers, RG 75, NAR. See also Deposition of Elizabeth Welch, July 13, 1843, Claim 734, RFBC, Claim Papers, RG 75, NAR, and for similar complaints see Petition of Axe for the Value of a Reservation, [no date – claim filed December 30, 1846], Claim 734, RFBC, Claim Papers, RG 75, NAR; Memorial of Tom and Waka, [no date – claim filed December 30, 1846], Claim 742, RFBC, Claim Papers, RG 75, NAR, and Petition of Arsena for the Value of a Reservation, [no date – claim rejected July 20, 1847], Claim 1201, RFBC, Claim Papers, RG 75, NAR.

Deposition of William Read [Reid], January 28, 1839, Claim 719, RFBC, Claim Papers, RG 75, NAR. See also Heirs of John Cahoose, Reservation Claim, RSTBCC, Decisions of the Second and Third Boards, 1842 -1844, RG 75, NAR, and Testimony of Oucheleah [probably Euchella] in the Reservation Claim of Co leach yeh or Betsey, Heard July 15th, 1843, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Evidence of Rev. Mr. Posey before the Commissioners [Eaton and Hubley], August 4, 1843, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Yo na gees ka’s Heirs, Reservation Claim, RSTBCC, Decisions of the Second and Third Boards, 1842 -1844, RG 75, NAR.

101 McLoughlin, *Cherokee Renascence in the New Republic*, 263. For evidence that the reservations granted under the treaties of 1817 and 1819 remained a subject of legal contention long after the government buyouts, see A Bill to execute the treaties of eighteen hundred and seventeen eighteen hundred and nineteen with the Cherokees, S. 201, 35th Cong.(1858); Available Online: [http://memory.loc.gov/](http://memory.loc.gov/) (8/02/03). See also: Cherokee Reservations, *House Report 204*, 34th Cong., 3 Sess., (Serial 914, Washington, D.C., 1857).

CHAPTER TWELVE: EPILOGUE

Three decades after the Treaty of 1819, a contributor to the North Carolina University Magazine who dubbed himself simply “Alexis” paid a visit to a small Cherokee community known as Sand Town, which was located on the banks of Cartoogechaye creek in what had become Macon County, near the center of the old Treaty Lands.  

Accompanied by “four young ladies, fair specimens of mountain grace and beauty, whose loveliness of course enhanced the pleasure of the trip,” Alexis wandered through the small settlement, taking the liberty to enter all of the houses that he came to. These houses were decidedly unsubstantial; “log cabins, with no windows, and a door just large enough to enter,” but Alexis remarked that the “air of neatness” of one of the houses that he visited, that of a Cherokee named Long Bear, “would put to shame the residences of many of the whites.”

The cups, saucers, plates, knives, forks and other things, were of a peculiar whiteness, and were all carefully placed away in the rough cupboard, which Long Bear had fastened to the wall; his blow-gun…occupying a place on the joists above, and his bow and arrows, whose twang and unerring aim had brought many a squirrel, bird and rabbit to his table.

After resting a while at Long Bear’s house, Alexis and his comely companions proceeded to the community townhouse, which was “not large, of a polygon shape, covered with old boards and brush, and…scarcely high enough at the outside for a man to stand upright.”

From the town house, the party journeyed on to the home of an elderly Cherokee named So-to-wee, but finding him not at home, they debated whether they should venture a peak at So-to-wee’s father, the venerable Hog-Bite, who was said to have been around 100 years old at this time. A regard for Hog-Bite’s “denuded condition” initially kept the young ladies from entering his home, but at length one of the ladies offered to walk with Alexis to the front of Hog-Bite’s door and “examine a sunflower growing there” while Alexis “surveyed the interior of the old man’s dwelling.”
Alexis found Hog-Bite “sitting down in the dirt ashes, apparently gazing at the vacant walls of his hut,” but when the old man noticed his visitor he turned upon him an “unearthly, inhuman, and ghastly” countenance. “He was bent double, or rather in the shape of a circle… His hair was white, beard was grey, teeth nearly all gone, cheeks sunken, eyes of a horrible savage expression, skin of a scaly roughness, though well covered with filth, and thin bony hands…”

Alexis “told the ladies they might see what they never had seen, and never would see again perhaps.” Thus spurred on, the young women gazed at Hog-Bite, and according to Alexis, the remembrance of the old Indian’s appearance would “only be forgotten in the stillness of the grave.”

Clearly the allure of the “red men of the mountains” that had so titillated Governor Owen remained undiminished.

But that the Cherokee who lived on the 1819 Treaty Lands in the middle of the 19th century should have been the subject of such lurid prose is less remarkable than that any Cherokee remained on the 1819 Treaty Lands at all, for their presence there was a victory over an overwhelming historical tide. In a letter to the secretary of war written in 1819, the Indian agent Return Jonathan Meigs foretold the Cherokees’ doom:

Cast your eyes on the line of coast from Nova Scotia to South Carolina a line of 500 leagues. Once covered by perhaps by 50 tribes the Indians. Where are they? The same cause may be expected to produce the same effects.

Were the Cherokee to survive as a people, asserted Meigs, it must be done in the wild country west of the Mississippi River. Otherwise, the Cherokee would follow the path to extinction traveled by so many of the eastern tribes.

Meigs’ dire prediction about the ability of the tribe to remain in their traditional eastern homeland proved prophetic. Even after the substantial land cession of 1819 the pressure on the Cherokee to cede the remainder of their lands and emigrate to the west did not relent, and within two decades the majority of the tribe were forced to move to what is today Oklahoma as a result of the Treaty of New Echota of 1835. In Oklahoma, the Eastern Cherokee were reunited, often
unhappily, with their brethren who had elected to move to Arkansas during the years prior to the Treaty of 1819. As white settlement west of the Mississippi had increased, the Arkansas contingent of the tribe had begun to encounter the same hostility from white settlers that they had experienced in the East, and as early as 1820 Arkansas officials had begun to complain to the federal government about the use of the territory as a reserve for displaced Indians. Finally, in 1828, the leaders of the Arkansas Cherokee had been pressured into signing a treaty in which their lands in Arkansas were exchanged for lands in what is today Oklahoma – lands that with some adjustment also became the home of the emigrant Eastern Cherokee. The contentious relationship between the Arkansas or Old Settler Cherokee and the Cherokee that had been forced to move to the West under the terms of the 1835 treaty would continue for many years in Oklahoma

No reservation clause was permitted in the Treaty of 1835. The treaty did include a provision allowing Cherokees who were deemed qualified to take 160 acre preemptions, or land parcels, but this provision of the treaty was abrogated by a subsequent treaty.

Nonetheless the Cherokee removal from the East was not complete. Some Cherokee were able to gain legal exemption from the move west; others were simply able to avoid being rounded up by hiding in the mountains or by seeking the protection of sympathetic whites. In the wake of the removal these Cherokee settled in small, scattered communities, such as Sand Town, and existed on the fringes of white society. Eventually the residents of most of these communities passed away, were absorbed into the white community, or moved elsewhere. This was the case with Sand Town, which dissolved in the late 19th century.

But some of these remnant Cherokee communities, most notably the so called Quallatown community, survived to form what is today known as the Eastern Band of Cherokee. The origin of the Eastern Band of Cherokee is directly related to the Treaty of 1819, and indeed the existence of the Eastern Band may be the most profound legacy of the treaty.

After the majority of the 1819 reservees were forced from their reservations, many of them, as well as many of those who had not taken reservations, moved onto the lands in western
North Carolina that remained a part of the Cherokee Nation. However, others elected to remain in the vicinity of their former homes or returned to the vicinity of these homes and either moved onto vacant lands or purchased land from white settlers. In 1835 a census taker recorded the presence of these scattered Cherokee families on the old 1819 Treaty Lands:

I found in Macon and Haywood counties the balance of those families consisting of 233 souls who have left their country and settled among the whites near where they were raised. Those families do not appear to be progressing in the art of Civilization as much as those in the heart of the Nation to their credit and their white neighbors. I found but one half breed that lived there and he was over 16 years of age.

The most of those families purchased land from the whites but failed to make payments and have lost it and moved out on the mountains on the States land.

Many of these families coalesced at Quallatown, which was located near the juncture of the Occonaluftee River and Soco Creek near the northeast edge of the 1819 Treaty Lands. The Quallatown community was led by Yonaguska, the former reservee who had been so adamant about refusing to move west after his reservation had been claimed by a settler. By the time of Yonaguska’s death in 1838 a white man named William Holland Thomas had also become active in representing the interests of the Qualla Indians. Thomas had established close ties with Yonaguska while working at a border trading post as a young man and was a fluent Cherokee speaker and adopted member of the tribe (Figure 12.1).

Thomas was instrumental in securing permission for the Qualla Cherokee to remain in the East at the time of the Cherokee removal. Among the principal arguments that he employed to sway government officials was that many of the Qualla people had taken reservations under the terms of the Treaty of 1819 and had thus legally separated themselves from the Cherokee Nation and become citizens of the United States.

Although his role in the affair is murky, Thomas may also have been instrumental in brokering a deal that resulted in the members of a Cherokee contingent led by another 1819 reservee, Euchella, being allowed to join the Quallatown Cherokees. At the time of the Cherokee removal Euchella and his followers had hidden in the mountains in order to avoid being captured by the United States soldiers who had been sent into the area to enforce compliance with the Treaty of 1835. When another party of Cherokee led by a former townsman of Euchella’s...
named Tsali was captured, but escaped after killing two soldiers and injuring a third, word was conveyed to Euchella that he and his band would be allowed to remain in the East if they would assist the military in apprehending the fugitive Indians. Euchella consented to this, and after Tsali and the other Cherokee who had participated in the attack were captured and executed Euchella and his band were allowed to settle at Quallatown.  

In time, other Cherokee who had evaded removal would move to Quallatown or take up residence on what became known as the Qualla Boundary, land in the vicinity of Quallatown that was acquired by William Holland Thomas for the Cherokee to live on (Figure 12.2).  

But although the Qualla Cherokee were able to remain on or near the old 1819 Treaty Lands, most of their former homes and reservations on those lands survived only in memory. In
time the memories themselves faded away as the reservees passed on. The reservee Bear Going in the Hole died around 1824;\(^{27}\) The Bag around 1827;\(^{28}\) Old Mouse died on the Treaty Lands about 1825;\(^{29}\) the reservee Thomas died at Quallatown around the same time.\(^{30}\) Oosanertake died “on the Nantihalee mountain in Macon County,” North Carolina around 1834.\(^{31}\) The prominent leader Big Bear died on his reservation around 1829.\(^{32}\) Big Bear’s successor, Yonaguska, died at Quallatown about a decade later.\(^{33}\) Before his death, Yonaguska is said to have called his people around him and admonished them to never abandon their homes in the East.\(^{34}\) After he died, the Indians petitioned a man named Samuel Sherrill “for plank to make his coffin.”\(^{35}\) The reservee John Ben also died around 1838,\(^{36}\) as did the Cat,\(^{37}\) and Old Nanny.\(^{38}\)

Some of the 1819 reservees died far from the land of their birth. Hanalah went west,\(^{39}\) as did Arkalukee;\(^{40}\) Grass Grow died “on the way west;”\(^{41}\) John Walker died in 1839, apparently in Oklahoma;\(^{42}\) Nantahalee John also went west, and died in Oklahoma “at a very old age” around 1844.\(^{43}\) Big Tom and a part of his family immigrated to the West; by 1843 Big Tom was dead;
his sons who remained in the East received a letter from a brother who had emigrated informing them that their father was dead.\textsuperscript{44}  

Junaluska went west at the time of the Cherokee removal but returned to North Carolina about four years later, where he was allowed to remain and granted citizenship and a tract of land by a special act of the North Carolina General Assembly.\textsuperscript{45}  In later life he was a well known figure among the whites who lived in the region. “We all knew and loved Junaluskee..., wrote the Macon County historian and raconteur Silas McDowell.\textsuperscript{46}  Lake Junaluska, an artificial impoundment in Haywood County, is named after the him (Figure 12.3).\textsuperscript{47}

![Figure 12.3 – This monument at the Junaluska Memorial and Museum in Robbinsville, N.C. commemorates Junaluska’s experience as a reservee under the terms of the Treaty of 1819.](image)

John Welch remained in what is today Cherokee County, in western North Carolina, after the Cherokee removal. He died in 1852, leaving an estate valued at $9000.\textsuperscript{48}  His widow, Elizabeth Welch (Betty Blythe) was a well known figure in the area in the years after.\textsuperscript{49}  Gideon Morris also chose not to emigrate west at the time of the Cherokee removal; Welch and Morris were central figures in a small Cherokee community located near the Valley River that persisted in Cherokee County for many years after most of the Indians had been sent west. Morris would
become a founding member of the Valley River Baptist Church, in Cherokee County, and also served as a Baptist minister. He remained in Cherokee County until 1867, when many members of the Valley River Cherokee community emigrated to the Indian territory of Oklahoma, apparently as a result of economic problems in the wake of the Civil War or because of a worsened political climate. William Reid, the other Indian countryman who was instrumental in supporting Cherokee reservation claims, did not fare as well as Morris. Reid “fell victim to intemperance” and died in the August, 1843, in Murphy, North Carolina, while serving as a witness before one of the Boards of Commissioners appointed under the terms of the Treaty of 1835. Nancy Reid, his estranged Cherokee wife, died a short time afterwards.

As the Indians passed away, so did the remnants of their presence. The houses that the Indians built were often the first homes of the white settlers, but in time these simple structures tumbled down, or were incorporated into the settlers new homes, so that their identity was obliterated. The graves of the Indians were prized apart by settlers in search of the items that were sometimes buried with the dead; the stones that marked the graves were incorporated into settler’s chimneys.

The settlers were numerous. Following his 1828 visit to the mountains to treat with the Indians the commissioner Romulus Saunders was moved to write a description of the fine new country from which he had just returned:

The lands in cultivation yield fine crops of corn and the adjoining hills and mountains afford abundant grass for stock and cattle. Indeed the country is particularly favorable to persons of small capital, who have to cultivate the soil and who by raising stock both sheep and cattle, horses and mules, may do very well. It has not only settled rapidly, but with an industrious, hardy and enterprising population. I attended several places of public collections and found the people in their appearance healthy and well behaved. There is but few sections in the interior of the state in which will be found more public pride and public spirit - the people not only look well but live well.

By the time of Saunder’s visit, a road had been opened from Waynesville to Franklin, and thence to the Georgia line. Another road was under construction from Franklin to the Tennessee border, where the road would be continued by the inhabitants of Tennessee to join one of the main roads in that state. Saunders found “three or four” schools in operation, and reported that
they were well supported, with one school, “under the direction of a decent young man,” having about 40 scholars. Two or three stores had already opened in Franklin, the site chosen for the eventual county seat.57

Saunders also reported that the residents of the treaty lands were “extremely solicitous for the establishment of a new county,” in order to spare them the lengthy trip over difficult country to the Haywood County courthouse in Waynesville.58 The people would soon get their wish. That same year, the new county of Macon was formed from the old 1819 Treaty Lands.59

Yet despite the rapid influx of settlers the 1819 Treaty lands never proved to be the financial boon that North Carolina officials had hoped for. As the best tracts were taken up, prices were lowered on the remaining lands until eventually marginal lands could be purchased for as little as five cents an acre.60

With the Treaty of 1835 and the opening up of the remaining Cherokee lands the eyes of the more ambitious whites turned again toward the west, and some of the first settlers on the Little Tennessee and Tuckaseegee Rivers, or their children, also became among the first settlers in the Hiawassee and Valley river valleys, on the 1835 Treaty Lands.61 The first sale of these lands was held in the now established community of Franklin, in the heart of the old 1819 Treaty Lands, in 1838. A carnival atmosphere seems to have prevailed during the sales.62

But for many of the first white settlers the 1819 Treaty Lands were their final frontier. Families such as the Shulers, the Silers, and the Brysons put down deep roots in the new lands, and these names and many others that are listed in the surveyor’s notes from the first survey of the Treaty Lands remain common in the region (Figure 12.4).63

Those that stayed did not dwell on the time when they first arrived in the new country and on the Indians that were there when they arrived. When the Reverend C. D. Smith set about writing a history of Macon County near the close of the 19th century, he found “an unaccountable indifference in particular communities in regard to their local history,” and was chagrinned to discover that although the country had been settled just 70 years before, “he found it very
difficult to get together the leading facts of history of so short a period.”

Silas McDowell, another 19th century local historian, was equally vexed by the lack of memories of days gone by. “It is to me a most singular fact,” wrote McDowell in 1873, “that fifty years ago [the Cherokee leader Yonaguska] stood forth so prominently before public recognition, known then by all the citizens, should suddenly have given recognition the slip and now, as yet, I have met with no man who knows when or where he died.”

By the latter years of the 19th century McDowell’s own memories of the Indians he had encountered in his youth had drifted to the romantic. Recalling his meeting, some fifty years
earlier, with a Cherokee who he mistakenly believed to have been Yonaguska, McDowell recounted seeing the man:

…standing on the top of a hill or knoll with his right arm extended as if pointing to different slopes of the Blue Ridge that ran down into the valley…I was in the road below and had the gigantic old warrior in bold relief with the blue sky in the back ground of the picture when then and there was photographed on the tablet of Memory a picture that can only fade out with time itself (Figure 12.5).\textsuperscript{666}

![Silas McDowell](Image)

\textbf{Figure 12.5} – Silas McDowell. Source: Courtesy, Macon County, N.C., Historical Museum.

But if the memories of the old Indians faded away with time, the descendants of those Indians did not. They weathered renewed efforts to induce them to move west in the early 1840s,\textsuperscript{67} and hung on in North Carolina with merely the tacit approval of the state until 1866, when the General Assembly finally granted them formal permission to remain in their homes. Two years later the United States Congress recognized the Eastern Band of Cherokee as a distinct tribe (Figure 12.6).\textsuperscript{68}
During the 20th century, the Cherokee would turn the romanticized image of Indians that many whites had adopted to their advantage. As the century unfolded and the automobile made the remote region more accessible, the tribe began beckoning tourists to their reservation by peddling an image of themselves that had less to do with reality than with what the visitors expected Indians to be like based on B-Grade Hollywood films (Figure 12.7).

The arcane details of long ago treaties have no place in such displays. But beneath this imaginary past of beads and feathers, other pasts have always lingered. The Treaty of 1819 is one of these other pasts, and it is a past with a presence. If it is not remembered, neither is it forgotten; if it is not expressed, it is certainly implied. It has become absorbed into identity; melded into definition, justification, and explanation.

At the date of this writing (2003), the Eastern Band of Cherokee were engaged in the negotiation of another land exchange with the federal government. By the standards of the 19th century, the amount of land involved is miniscule, less than two hundred acres, but it is a controversial measure nonetheless because it would involve taking land from the Great Smoky
Figure 12.7 – Mid-twentieth-century scenes from the Cherokee reservation in western North Carolina. Source: Courtesy of the N. C. Office of Archives and History.
Mountains National Park. The Cherokees wish to use the land to construct new schools, and declare that it is the only suitable location. They also wish to link two parts of their reservation by acquiring this tract, known as the Ravensford Tract. However, opponents of the land exchange aver that there is very little bottom land such as the Ravensford Tract in the National Park, and thus that developing the tract would endanger rare species that are found in few other places. They also argue that it is a dangerous precedent to take land away from a protected park, and question the Cherokees’ motives in pursuing the land exchange. Indeed, the tribe earlier sought the land as the location for a golf course.  

When articulating why they wish to acquire the land, Cherokees look to the future. “The only way we’re going to survive is by educating our leaders,” explained the present Principal Chief of the Eastern Band of Cherokee, Leon Jones, at a public meeting on the land exchange. “We are educating future leaders who will be vital to preservation of our unique culture,” he added in an article published in an Asheville, North Carolina newspaper. Countering the argument that development of the tract will harm endangered species, Jones asserted at another public meeting that: “Our people are an endangered species if we don’t educate our children…”

But inevitably the past trickles in. Added Jones in his newspaper article in support of the land exchange: “Between 1721 and 1806, our people were forced to give up over 97,000 square miles, not including the final “land exchange” that led to the Trail of Tears. The Ravensford Tract is only about one-quarter of a square mile…” At public meetings, other Cherokees echoed Jones’ sentiment: “That was our land before it was your land,” declared a member of the Eastern Band at a meeting in Tennessee. “The federal government entered into 400 treaties with American Indians, and 400 treaties have been broken,” said another member of the band at the same meeting. “Why should the Cherokees have to swap land for what is rightfully theirs anyway?” queried a third Cherokee speaker.

Harkening back to long past grievances did not sit well with an opponent of the land exchange at the Tennessee meeting, who questioned whether “correcting past transgressions of the white man” should be a consideration in deciding the fate of the Ravensford Tract.
Perhaps this is so, but the past casts a long shadow. And for Cherokees who engage in such debates, honestly or cynically, with the noblest of intentions or the basest of motives, past treaties and past transgressions are bound to be their sword and their shield, and the times long ago when Cherokees and whites contended over land are bound to be their justification (Figure 12.8).

Figure 12.8 – Sunset on the Treaty Lands.
Chapter Endnotes

1 At the time of “Alexis”’ visit Sand Town was a community of around 113 people, based on the 1850 United States census. See Siler and McRae, Cherokee Indian Lore, 108. The Siler Roll, a census of the Cherokee taken in 1851, records 56 individuals living in 17 separate households at Sand Town. See David W. Siler and United States Bureau of Indian Affairs, The Eastern Cherokees; a Census of the Cherokee Nation in North Carolina, Tennessee, Alabama, and Georgia in 1851 (Cottonport, LA: Polyanthos, 1972), 62-64. The reason for the discrepancy in these figures is not clear. While the identity of “Alexis” is not given, both Albert Siler, the son of William Siler, who sponsored the Sand Town community, and Albert’s cousin, Thaddeus Siler, attended the University of North Carolina around the time that the article was written. See Lucy Slagle, The Family of Albert Siler, 1829-1904 and Joanna Chapman Siler, 1832-1884 (Franklin, N.C.: Ideal Pub., 1987), 24. An L.F. Siler is listed as among the editors of the edition of The North Carolina University Magazine in which the article about Sand Town appears. Besides the article by “Alexis” little has been written about Sand Town, which faded from existence by the end of the 19th century. The community receives its most extensive mention in Siler and McRae, Cherokee Indian Lore, 13-22, 108-10, and brief mention in Slagle, The Family of Albert Siler, 23. Brief biographies of William Siler, who supported the community, can be found in Arthur et al., comps, The Siler Family, 5-6, and Siler, The Siler Family, Roots and Shoots, 2.9 to 2.11. Sand Town was not the only example of white settlers assisting or protecting Cherokees who remained in the East. See for example Raxter, “The Orphan Strip Community,” 73, 77.


3 Ibid., 116-117
4 Ibid., 117
5 Ibid., 117
6 According to “Alexis”’ account, as a young man Hog-Bite fought against the invading colonial army during Cherokee War of 1776. He was also a principal in one of the more notable events of the Cherokee removal of 1838. Already an old man at the time, he is said to have threatened removal agents with a gun when they came to his door. Believing that he was too old to make the trip and would die soon anyway, the officials did not press the matter. See Lanman, “Letters from the Alleghany Mountains,” 395. However, Hog-Bite remained alive for many years after the Cherokee removal. The Mullay Roll, a census of the Cherokee who remained in the East taken in 1848, includes a notation by Hog-Bite’s name stating that it was believed that he was “upwards of 100” at the time of the census. See Rolls of the Eastern Cherokee, 1848-1852, Microfilm Publication 7RA6, Federal Archives and Records Center, Fort Worth, Texas. A slightly later Cherokee census, the Siler Roll of 1851, lists Hog-Bite as 110 years old. See Siler and United States Bureau of Indian Affairs, The Eastern Cherokees, 63.

7 Alexis, [pseud.], “Visit to the Cartoogechaye Indians,” 117.
8 Ibid.
9 Ibid., 117-118
10 Return Jonathan Meigs to John C. Calhoun, February 10, 1819, M-271, Reel 2, Frames 1350-1352. For a similar assessment by Meigs of the fate of the Cherokees, see Return J. Meigs to Joseph McMinn, August 7, 1818, M-208, Reel 7. For a similar statement by the then secretary of war, John C. Calhoun, see John C. Calhoun to Joseph McMinn, July 29, 1818, M15, Reel 4, Volume D, pp. 194 -195.
13 Treaties Between the United States of America and the Several Indian Tribes, 633-648. However, various sorts of reservation provisions cropped up in treaties executed with other tribes in the Southeast during the fifteen years prior to the Treaty of 1835, with chaos often the consequence. See Young, Redskins, Ruffleshirts and Rednecks.
The remoteness of the land occupied by the North Carolina Cherokee coupled with the fact that it was less desirable as agricultural land were contributing factors to the Cherokees of this area being able to evade removal. For example, see George D. Harmon, “The North Carolina Cherokees and the New Echota Treaty of 1835,” The North Carolina Historical Review 6, no. 3 (1929): 238-39, and John R. Finger, “The Impact of Removal on the North Carolina Cherokees,” in Cherokee Removal: Before and After, ed. William Anderson (Athens: University of Georgia Press, 1991), 108.


Also sometimes spelled Quala Town

For the suggestion that this was the case see for example Sickatowa and John to Return J. Meigs, June 14, 1820, M-208, Reel 8; for a specific example see Benjamin Nicholson to Return J. Meigs, June 14, 1820, M-208, Reel 8.


Census Roll of the Cherokee Indians East of the Mississippi and Index to the Roll, 1835. Microcopy T-496, RG 75, NAR.

Finger, Eastern Band of Cherokees, 11.

On Thomas, see Godbold and Russell, Confederate Colonel and Cherokee Chief; Mattie U. Russell, “Devil in the Smokies: The White Man’s Nature and the Indian’s Fate,” The South Atlantic Quarterly 73, (Winter 1974); Finger, Eastern Band of Cherokees, and Davidson, Reminiscences and Traditions, 21-22. Of Thomas, Davidson remarked: “He was an attractive personality, a strong debater, and possessed to an unusual degree the power of attracting and controlling the people.” (p. 22).


See Finger, Eastern Band of Cherokees, 44.

Deposition of Jack, December 21, 1844, Claim 717, RFJCC, Claim Papers, RG 75, NAR.
Testimony of Ticaneskee in the Reservation Claim of Sap Sucker, Takulteah, or Bag, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR. According to this reference, The Bag died “about two years after they were paid off.” The Bag was among those reservees whose claim was purchased by the 1824 Robinson and Robards commission. These reservees were “paid off” in 1825. However, it is also possible that the payment referred to was that which resulted from the 1829 Saunders and Posey commission. If this was the case then The Bag’s death would have been around 1831.

Reservation Claim of Old Mouse, Testimony of Ouchella [Euchella], RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Deposition of Elekib, December 21, 1844, Claim 736, RFBCC, Claim Papers, RG 75, NAR.
Deposition of Takah [also spelled Takih], December 25, 1844, Claim 718, RFBCC, Claim Papers, RG 75, NAR.
Deposition of Um mah chuh nah, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR; Reservation Claim of the Heirs of Big Bear, March 25, 1845, Claim 1192, RFBCC, Claim Papers, RG 75, NAR.
Deposition of George W. Hayes, June 16, 1843, Claim 704, RFBCC, Claim Papers, RG 75, NAR. This deposition places Yonaguska’s death in December, 1838. James Mooney places the death of the chief in April, 1839. See Mooney, Myths of the Cherokee, 163.

Deposition of George W. Hayes, June 16, 1843, Claim 704, RFBCC, Claim Papers, RG 75, NAR.

Deposition of Culasowih, August 31, 1843, Claim 401, RFBCC, Claim Papers, RG 75, NAR.
Deposition of Jinny Cat or Cintha Cat, December 24, 1844, Claim 746, RFBCC, Claim Papers, RG 75, NAR.
Deposition of Arch, December 21, 1844, Claim 713, RFBCC, Claim Papers, RG 75, NAR.

Testimony of [Tiweweekee?] in the Reservation Claim of Han na lah or [Tan tae hey?], Testimony of [Tiweweekee?]. Proceedings of the Second Board, July – August 1843, RG 75, NAR.
Testimony of Junaluskee in the Reservation Claim of Arkalukee, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.
Testimony of [Cha cunney?] in the Reservation Claim of [Oo yae keth?] or Grass Grow, Proceedings of the Second Board, July – August 1843, RG 75, NAR.
Deposition of Sickey ow ee, March 25, 1845, Claim 1212, RFBCC, Claim Papers, RG 75, NAR.
Statement and Affidavit of Te sah ta skee, March 24, 1845, Claim 721, RFBCC, Claim Papers, RG 75, NAR.
Deposition of William H. Thomas, July 7, 1843, Claim 736, RFBCC, Claim Papers, RG 75, NAR.

See also Testimony of Flying Squirrel in the Reservation Claim of Big Tom, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Frizzell, “Remarks of Mr. Thomas, of Jackson”; Barnes et al., eds., “Junaluskee”; Testimony of Junaluskee in the Reservation Claim of Jugatooque or Jake, Heard July 14, 1843, RSTBCC, Proceedings of the Second Board, July – August 1843, RG 75, NAR.

Silas McDowell to Lyman Draper, September 3, 1873, Draper Mss. KK62.

Action of Ejectment Brought Against the Heirs of John Welch, [No Date], David L. Swain Papers, NCDAH.
E.g. see Arthur, Western North Carolina, 187, 572, 573-74, and Davidson, Reminiscences and Traditions, 9.
Freel, Our Heritage, 133, 53, 322-23.
Perdue, “Remembering Removal.”
Memorial of Nancy Reid wife of William Reid Deceased for the Value of a Reservation…, October 15, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR; [Col. Gardiner’s?] Certificate of the Death of William Reed [Reid], [no date - claim filed September 9, 1846], Claim 5, RFBCC, Claim Papers, RG 75, NAR; Deposition of Nancy Reid, December 24, 1844, Claim 5, RFBCC, Claim Papers, RG 75, NAR; Petition of Ann Hyatt to the Fourth Board of Cherokee Commissioners, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR.
Evidence in Support of the Claim of the Heirs of William Read [Reid] for a Reservation, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR; Deposition of Ann Hyatt, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR; Petition of Ann Hyatt to the Fourth Board of Cherokee Commissioners, April 2, 1845, Claim 5, RFBCC, Claim Papers, RG 75, NAR.
On Cherokee homes being taken possession of by the early settlers, see for instance Deposition of Jonathan Woody, August 22, 1824, TCP, Indian Affairs and Lands, NCDAH. It is said that the home built by Jesse Siler,
a member of the prominent Siler family and an early purchaser of land in what is today the town of Franklin, in Macon County, incorporates within its walls the Indian cabin purchased by Siler when he arrived in the region in 1821. The house is still standing, but it is unknown if other examples of this sort survive. See Siler, *The Siler Family, Roots and Shoots*, 2.15.

55 There seems to have been some variation in Cherokee burial customs. In some cases graves were excavated near or adjacent to the homes of the deceased, and were unmarked. See Chapman, *Tellico Archaeology*, 118. In other cases piles of stones were raised up to mark graves, and, as monuments to the dead. This custom seems to have prevailed in western North Carolina in the early 19th century. A memorial submitted by leaders of the North Carolina Cherokee in 1845 makes reference to this practice: “Our children, fathers, and mothers, who have passed to the land of the spirits, were buried here; their bones lie beneath the large heaps of stones raised by their friends to mark the places where they lie, and as a token of their respect for the dead.” Memorial of the Cherokee Indians who have Become Citizens of the State of North Carolina, Sen. Doc. 90, 28th Cong., 2 Sess., (Serial 451, Washington, D.C., 1845). For other mentions of this practice, see Pickett and Owen, *History of Alabama*, 142-43, and Abbott, Curry, and Hoole, *Cherokee Indians in Georgia*, 24, 32-33. The possessions of the deceased were often buried with them. See for example Pickett and Owen, *History of Alabama*, 142-43, and Nuttall, *Journal of Travels into the Arkansas Territory*, 146. When white settlers moved into an area such as the 1819 Treaty Lands the Cherokee graves were a visible reminder of the Indian’s former presence, and were frequently remarked upon. For instance, see Alexis, [pseud.], “Visit to the Cartoogechaye Indians,” 116, and Sondley, *History of Buncombe County*, 404. The graves often became a target of looters searching for valuable items that may have been interred with the deceased. See for example Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 63; Siler and McRae, *Cherokee Indian Lore*, 23-24; Wilkins, *Cherokee Tragedy*, 321, and Silas McDowell to Lyman Draper, July 8, 1873, Draper Mss. KK49. In other cases, the graves were simply plowed over and destroyed. See for instance Abbott, Curry, and Hoole, *Cherokee Indians in Georgia*, 32-33.

56 Romulus M. Saunders to James Iredell, November 1, 1828, GLB 27, pp. 145-148, NCDAH.

57 Ibid.

58 Ibid.

59 North Carolina, *Acts Passed by the General Assembly of the State of North Carolina at the Session of 1828-1829* (Raleigh: Lawrence and Lemay, 1829), 29-30; David Leroy Corbitt, *The Formation of the North Carolina Counties*, 1663-1943 (Raleigh: State Department of Archives and History, 1950), 140-42. On the early organization of Macon County, see Smith, *A Brief History of Macon County, North Carolina*. As the population grew over the course of the succeeding decades the county was gradually subdivided and new counties arose that included parts of the old 1819 Treaty Lands. Jackson County was formed in 1851 from Macon and Haywood Counties; Transylvania County was formed in 1861 from Jackson and Henderson counties, and Swain County was formed in 1871 from Jackson and Macon Counties. See Corbitt, *Formation of North Carolina Counties*.

60 Macon, “Fiscal History of North Carolina”, 183. See also Report of the Committee on the subject of the Cherokee Lands, [no date], GASR, 1826-1827, Senate Committee Reports, NCDAH. The 1819 Treaty lands were treated separately from other public lands for the first three decades after they were obtained from the Cherokee. In 1852 the remaining unsurveyed lands were opened to general entry. To claim a tract under this system an individual simply had to mark the boundaries of their desired land, make an improvement to the land, and then wait twelve months to ensure that there was no counter claim to the property. Properties under this system sold for as little as 5$ per 100 acres. See Sutton, ed., *Heritage of Macon County*, 12, and for laws related to the sale of Cherokee lands, see Dortch, Manning, and Henderson, *Code of North Carolina*, 62-109. It is likely that most of the land claimed at the rate of 5$ per 100 acres was marginal mountainous land.


62 J.R. Siler to David L. Swain, October 1, 1838, David L. Swain Papers, NCDAH.

63 Of course, not everyone with these names is a direct descendant of one of the first settlers, but many people in the region do have roots dating back to these settlers.

64 Smith, *A Brief History of Macon County, North Carolina*, 3.

65 Silas McDowell to Lyman Draper, Sept. 20, 1873, Draper Mss. KK65. There are exceptions to the collective lack of memory of the early settlement of the region. For instance, the Siler family have incorporated the recollections of
family members who were among the first settlers on the Treaty Lands into some very informative family histories, such as Arthur et al., comps, The Siler Family, and Porter, Family of Weimar Siler. During his archaeological reconnaissance of home sites of the 1819 reservees during the 1980’s Brett Riggs recorded several fragmentary accounts of the early settlement of the region. For instance, one local resident recounted a story that his father had passed on to him that the first settler to arrive in his community had spent his first night in an abandoned Indian cabin that contained two dead hogs. Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 62. Not surprisingly, in the almost 170 years between the Treaty of 1819 and the time of Riggs’ fieldwork myth and misinformation about the early settlement of the region had become intermixed with fact. For example, the name of a small community known as Six Killer, located in the vicinity of Six Killer’s reservation, was attributed not to the reservee but to a legend that six horse thieves had been hung from a tree in the area. See Riggs, “Historical and Archaeological Reconnaissance of Citizen Cherokee Reservations,” 50.

66 Silas McDowell to Lyman Draper, March 17, 1874, Draper Mss. KK80.


68 Finger, Eastern Band of Cherokees, esp. pp. 41-59, 102, 105.


74 The forced removal of the Cherokee to Oklahoma as a result of the Treaty of 1835 is commonly known as the Trail of Tears.


77 Ibid.


79 Ibid.
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1820-1821
1821-1822
1826-1827
1827-1828
1828-1829

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GLB 21 – William Miller
GLB 22 – William Miller
GLB 23.2 – John Branch
GLB 26 - Hutchins Burton
GLB 27 - James Iredell
GLB 28 – John Owen

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State of North Carolina

State of North Carolina

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Cooper, Patricia Irvin

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DeVivo, Michael S.

Dickens, Roy S.

Dickens, Roy S., Jr.
Dickens, Roy S., Jr.  

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Dunaway, Wilma A.  

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Riggs, Brett H.

Riggs, Brett H.

Roberts, David L.

National Park Service

Stendel, Janice D.

Wilms, Douglas C.
Internet Resources


APPENDICES
APPENDIX A
Notes and Provisos

This dissertation is primarily based on depositions, letters, and other documents dating to the early 19th century. Some of these documents are associated with the government commissions that were sent to western North Carolina in the 1820s to settle Cherokee reservation claims. Others date to the 1830s or 40s and were included among the claims submitted to one of the four boards of commissioners that were established under the terms of the Treaty of 1835 (the Cherokee removal treaty, also known as the Treaty of New Echota) to hear Cherokee appeals for compensation for losses they had suffered prior to or at the time that they were sent to the West. The majority of these documents are housed in the United States National Archives in Washington, D.C., or the North Carolina State Archives in Raleigh, North Carolina. Official correspondence of government officials charged with negotiating or implementing the Treaty of 1819 or earlier treaties was also utilized extensively. Most of this correspondence has been microfilmed by the National Archives.

Many of the documents utilized in this study have faded over time, and the handwriting on even the best preserved documents was often difficult to read. Deciphering names was a particular problem - a problem that was compounded by the fact that the same name was sometimes spelled in different ways in different documents. Also, in the case of the Cherokee the same individual was sometimes referred to by different names in different documents. Every effort was made to transcribe names and quoted passages correctly. Nonetheless, errors in transcription may still have occurred, and the reader should be aware of this.

The maps of the Robert Love Survey and the individual Cherokee reservations that appear in a number of the illustrations in this study were created from original survey records. The surveyor’s calls (legal property descriptions) were transcribed and entered into a computer program that created maps of the individual properties or reservations. These maps
were then scaled to match standard USGS topographic maps and positioned on those maps in proper relation to streams or other features that both appeared on the topographic maps and were referenced in the surveyor’s calls. Once the property or reservation maps were properly positioned on the topographic maps, “real world” coordinates for the property corners were taken from the these maps, allowing the properties to be positioned in correct relation to one another using a GIS (Geographical Information Systems) program. While this process generally resulted in an accurate placement of the various tracts, errors in the original surveyor’s records or a dearth of clues as to the exact location of a property meant that in a few instances it was not possible to position properties or reservations exactly. Again, the reader should be aware of this.

Unless otherwise noted, all of the maps and illustrations included in this dissertation were created by the author, with the exception of the reconstruction of the Robert Love Survey Map, which was created by the author in collaboration with Ted Gragson.

Finally, in parts of this study I make use of the terms “mixed-blood,” or “metis” to describe children of mixed Cherokee-White parentage. I use these terms advisedly. The dichotomization of the native peoples of the Southeast based on whether they possessed or did not possess European “blood” (in modern terms, whether they had a European ancestor or ancestors) – has recently come under sharp criticism. To describe people as “mixed-bloods,” it is argued, is to endorse, at least implicitly, 19th century racist views which rigidly segregated people on the basis of skin color and other phenotypic characteristics, and which ranked people as superior or inferior based on the degree to which they differed from people of European descent. The Southeastern Indians themselves, it is argued, did not distinguish between “mixed-blooods” and “fullblooods” (natives without a European ancestor), and therefore to describe native peoples in this way is to read into their culture distinctions that 19th century whites saw or wished to see, but which did not actually exist.1 These arguments are well taken, but the issue is a difficult one. While the Cherokee do seem to have been largely unconcerned with racial gradations, ethnographic accounts suggest that in some instances “mixed-blooods” may have been regarded as different from other members of the tribe, or have regarded themselves as different.2 And
statistical analysis’ of the Cherokee Census of 1835 suggest that “mixed-blood” Cherokees as a class were more likely to own slaves, speak English, marry whites or other people of mixed-parentage, and behave in other ways that made them distinct from “fullbloods.” This does not suggest that all “mixed-bloods” were different from “fullbloods,” nor does it suggest that all “mixed-bloods” regarded themselves as fundamentally different from other Cherokees, or were seen as fundamentally different by other Cherokees. Above all, it does not suggest that “mixed-bloods” were biologically or culturally superior to “fullbloods.” But it does suggest that for scholars attempting to understand the 19th century Cherokee, if not for the 19th century Cherokee themselves, “mixed-blood” is a meaningful classification in so far as it designates a group of people who were more likely to act in certain ways or possess certain skills than people who were outside the group. A final concern is that in studies of culture contact, such as this one, it is important to understand not just how people saw themselves, but how others saw them. If 19th century whites saw distinctions among the Cherokee that did not actually exist, they nonetheless acted on those distinctions. Whether someone was a “mixed-blood” or a “fullblood” may not have affected how they interacted with other Cherokees, but it very likely affected the way they interacted with whites, or more particularly, how whites acted toward them.

Suffice to say, the issue of people of mixed parentage and their role in Cherokee society is a complex one, and cannot be resolved herein. Certainly a better vocabulary is needed to describe such people, but lacking that, I have resorted to the use of terms which, if arcane and in some ways misleading, are at least commonly understood. The reader should understand that by designating people as “mixed-bloods,” or “metis” I do not imply that they were members a rigidly fixed class of people, nor do I imply that differences between “metis” or “mixed-bloods” and “fullbloods,” if any, were the consequence of anything more than differences in parental influence.
Appendix A Endnotes

2 See for instance Hatley, Dividing Paths, 60-62.
4 For similar treatments of this issue, see Saunt, A New Order of Things, 2-3, and Hoig, The Cherokees and Their Chiefs, xii.
APPENDIX B
Names of Settlers Recorded in the Surveyor’s Notes of the Robert Love Survey of 1820

Note: In cases where an individual is listed as occupying more than one tract their name is listed more than once. Source: Cherokee Survey Books, SSP, NCDAH.

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<th>First Name</th>
<th>District</th>
<th>Tract</th>
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<td>Price</td>
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<tr>
<td>Addington</td>
<td>Henry</td>
<td>15</td>
<td>54</td>
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<td>Akens</td>
<td>Ezekiel</td>
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<td>25</td>
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<td>James</td>
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<td>Martin</td>
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<td>Edmond</td>
<td>2</td>
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<td>Darling</td>
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<td>Age</td>
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<td>Frederick</td>
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APPENDIX C
Names of Cherokees Recorded in the Surveyor’s Notes of the Robert Love Survey of 1820

Note that Gideon Morris, an Indian countryman who was deeply involved in Cherokee affairs at this time is included among the names of the Indians. The surveyors probably did not record the names of all the Cherokees that they found living on the 1819 Treaty Lands. Source: Cherokee Survey Books, SSP, NCDAH.

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<td>Ugly Man</td>
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<tr>
<td>Whayaka (Grass Grows)</td>
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