

FROM SLAVERY TO CITIZENSHIP: RECONSTRUCTION IN INDIAN
TERRITORY

by

Lydia Cates, B.B.A

A thesis submitted to the Graduate Council of
Texas State University in partial fulfillment
of the requirements for the degree of
Masters of Arts
with a Major in History
May 2014

Committee Members:

Dwight Watson, Chair

Rebecca Montgomery

Paul Hart

COPYRIGHT

by

Lydia Cates

2014

FAIR USE AND AUTHOR'S PERMISSION STATEMENT

Fair Use

This work is protected by the Copyright Laws of the United States (Public Law 94-553, section 107). Consistent with fair use as defined in the Copyright Laws, brief quotations from this material are allowed with proper acknowledgment. Use of this material for financial gain without the author's express written permission is not allowed.

Duplication Permission

As the copyright holder of this work I, Lydia Cates, authorize duplication of this work, in whole or in part, for educational or scholarly purposes only.

ACKNOWLEDGEMENTS

This project would not have been possible without the constructive criticisms offered by my history professors at Texas State University and Texas A&M University Corpus Christi. The insights of these generous professors challenged me to think more deeply and write more precisely. I especially appreciate the challenges offered by Dr. Peter Moore in Corpus Christi and Dr. Dwight Watson in San Marcos.

I would also like to thank all of the people who have supported my goal of lifetime learning. This group includes my husband Ronnie, my daughter Emily, my parents Jack and Kathryn, and my sister Julia. I would like to thank each of them for their ongoing encouragement.

TABLE OF CONTENTS

	Page
ACKNOWLEDGEMENTS	iv
CHAPTER	
I. THE FIVE CIVILIZED TRIBES: SLAVERY, RECONSTRUCTION, AND BLACK CITIZENSHIP	1
II. THE CHEROKEE, CHOCTAW, AND CHICKASAW: THE ADOPTION OF RACIAL PRIVILEGE	24
III. THE CREEK AND SEMINOLE: MULTICULTURALISM AND ADOPTION	56
IV. CONCLUSION	91
BIBLIOGRAPHY	98

CHAPTER I

THE FIVE CIVILIZED TRIBES: SLAVERY, RECONSTRUCTION, AND BLACK CITIZENSHIP

Early in the nineteenth century, some members of the Cherokee, Choctaw, Chickasaw, Creek, and Seminole tribes, referred to collectively as the Five Civilized Tribes, began acquiring black slaves that were frequently used as labor on farms and plantations.¹ The actual conditions of slavery varied by tribe, mostly driven by whether or not the land they occupied was suitable for the large-scale agricultural production of cotton. Furthermore, the form of slavery adopted by each tribe was affected by traditional attitudes towards multiculturalism, the ability of different tribes to unite under a centralized government without the loss of their unique cultural attributes.² At the onset of the Civil War, the branches of the Five Tribes living in Indian Territory aligned themselves with the Confederacy through treaties.³ When the war ended, the federal government subjected them to the same expectations of a race-neutral, inclusive form of

¹ Historians now use the term “Five Tribes” in recognition of the negative implications of the term “civilized.” The classic work on this topic is Roy Harvey Pearce, *Savagism and Civilization: A Study of the Indian and the American Mind* (Baltimore, MD: Johns Hopkins Press, 1953).

² In this paper, multiculturalism refers to “the unique cultural heritage of racial and ethnic groups” including different language, lifestyle, heritage and religion. Diane Owen, “American Identity, Citizenship, and Multiculturalism” [paper, German-American Conference, Freiburg, Germany, September 11-16, 2005]. This is different from acculturation and assimilation. These terms refer to the processes by which a culture is modified through contact with other societies and the resulting acceptance of another culture by the minority group. Raymond H.C. Teske, Jr. and Bardin H. Nelson, “Acculturation and Assimilation: A Clarification,” *American Ethnologist* 1, no. 2 (May 1974): 351 and 359. For another example of Native American multiculturalism see Edward P. Dozier, “Resistance to Acculturation and Assimilation in an Indian Pueblo,” *American Anthropologist* 53, no. 1 (January – March 1951): 56-66. The classic work regarding multiculturalism in the United States is Ronald Takaki, *A Different Mirror: A History of Multicultural America* (Boston, MA: Little, Brown, 1993).

³ For information about the Civil War in Indian Territory see Annie Heloise Abel, “The Indians in the Civil War,” *American Historical Review* 15, no. 2 (January 1910): 281-296; Christine Schultz White, *Now the Wolf Has Come: The Creek Nation in the Civil War* (College Station: Texas A&M University Press, 1996); Clarissa W. Confer, *The Cherokee Nation in the Civil War* (Norman: University of Oklahoma Press, 2007); Clint Crowe, “War In the Nations: The Devastation of a Removed People During the American Civil War” (PhD diss., University of Arkansas, 2009); and Troy Smith, “Nations Colliding: The Civil War Comes to Indian Territory,” *Civil War History* 59, no. 3 (September 2014): 279-319.

citizenship that was expected from state governments. The federal government required the Five Tribes to sign treaties that abolished slavery. In addition, these tribes were required to incorporate the Indian Freedpeople into tribal citizenship.⁴ Like Freedpeople across the South, the freed slaves of the Five Tribes were active agents whose pursuit of their civil rights was instrumental in the evolving definition of tribal citizenship. The response of tribal governments to these demands ranged from an easy acceptance of black citizens to a complete rejection of the incorporation of former slaves, demonstrating the importance of local attitudes towards racial inclusion. Although historians have expanded their research on Reconstruction to understand how local conditions affected the implementation of an idealized concept of inclusive citizenship, events in Indian Territory have not been closely examined. This thesis will demonstrate that during Reconstruction the tribes that had a political and social environment favoring multiculturalism were more successful at extending civil and political rights to their former slaves than the tribes without that tradition.

The Reconstruction Amendments to the United States Constitution form the basis for a discussion about citizenship after the Civil War.⁵ The first Reconstruction

⁴ The people of African descent who lived with the Five Tribes are referred to as Indian Freedpeople or black Indians. It is important to note that not all black people who lived with the Five Tribes were enslaved. Ironically, Native Americans were specifically excluded from U.S. citizenship in the Fourteenth Amendment because their political allegiance was to their tribal government. For additional information see R. Alton Lee, "Indian Citizenship and the Fourteenth Amendment," *South Dakota History* 4, no. 2 (Spring, 1974): 208; George Beck, "The Fourteenth Amendment as Related to Tribal Indians: Section I, 'Subject to the Jurisdiction Thereof' and Section II, 'Excluding Indians Not Taxed,'" *American Indian Culture and Research Journal* 28, no. 4 (2004): 56; and Brad Tennant, "'Excluding Indians Not Taxed': Dred Scott, Standing Bear, Elk and the Legal Status of Native Americans in the Latter Half of the Nineteenth Century," *International Social Science Review* 86, no. ½ (January 2011): 24-43.

⁵ U.S. Constitution. The Thirteenth, Fourteenth, and Fifteenth Amendments are collectively referred to as the Reconstruction Amendments. The term citizenship refers to the rights, privileges, and responsibilities conferred on an individual by a government. In the United States, the basic rights of citizenship are defined in the Constitution. Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven, MA: Yale University Press, 1997), 30-31. It is important to recognize that citizenship also symbolically represents an individual's sense of belonging to a community. This concept is discussed at

Amendment, the Thirteenth Amendment, abolished slavery and extended freedom to people formerly held in bondage.⁶ The Fourteenth Amendment was ratified on July 9, 1868, and is important because it created birthright citizenship and extended the equal protection of the law to emancipated slaves and free blacks.⁷ The creation of birthright citizenship was needed because of the disastrous Supreme Court ruling in *Dred Scott v. Sandford*. In this 1857 court case, Supreme Court Justice Roger B. Taney wrote that the United States Constitution did not recognize people of African descent “as a part of the people” who were given rights of citizenship.⁸ The last of the Reconstruction Amendments, the Fifteenth Amendment, extended the right to vote to African Americans.⁹ While the Thirteenth Amendment established freedom, the Fourteenth and Fifteenth Amendments were designed to incorporate blacks into the rights and privileges of citizenship. These Amendments were part of “America’s allegedly steady progress toward fuller realization of its ‘core’ liberal democratic ideals.”¹⁰

As soon as the Civil War ended, Southern states began searching “for legal means of subordinating” blacks.¹¹ States passed Black Codes, laws that attempted to replace

length in Barbara Young Welke, *Law and the Border of Belonging in the Long Nineteenth Century United States* (Cambridge, MA: Cambridge University Press, 2010).

⁶ U.S. Constitution, 13th Amendment, sec. 1.

⁷ U.S. Constitution, 14th Amendment, sec. 1.

⁸ *Dred Scott v. Sandford*, 60 U.S. 393 (1857). For additional interpretations about this famous court case see Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York: Oxford University Press, 2001) and Earl M. Maltz, *Dred Scott and the Politics of Slavery* (Lawrence: University Press of Kansas, 2007).

⁹ U.S. Constitution, 15th Amendment, sec. 1.

¹⁰ Smith, *Civic Ideals*, 87. Liberal citizenship refers to the analysis of the political scientist Louis Hartz who has presented his idea of the American liberal as someone “who believes in individual liberty, equality, and capitalism.” See Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution* (Orlando, FL: A Harvest Book, 1991), loc. 41, Kindle e-book.

¹¹ Eric Foner, *Reconstruction: America’s Unfinished Revolution, 1864-1877* (New York: Perennial Classics, 2002), 198.

slavery with forced labor based on vagrancy and labor contract laws.¹² Blacks were largely barred from law enforcement, and frequently excluded from jury duty.¹³ These exclusions meant that freedpeople could not count on the judicial system for justice.¹⁴ While the Fifteenth Amendment held out hope that suffrage would protect the rights of blacks, local and state politics discouraged participation even in Northern states.¹⁵ Access to education was also a disappointment for many blacks as state governments were willing to shut down public education systems in an attempt to exclude blacks from participation.¹⁶ This allowed state governments to save money while at the same time increasing their control over blacks who were frequently kept in ignorance of legal remedies to their ongoing subjugation. The South's steadfast resistance to black citizenship led to the imposition of Radical Reconstruction.

The scholarship of early twentieth-century historians reflected a backlash against the liberal democratic ideals of the Radical Republicans that would have incorporated blacks into America's social and political fabric.¹⁷ The activism of the freed slaves who sought full access to the rights of citizenship was ignored. Instead, blacks were characterized as incapable of competent participation in those responsibilities. The Dunning School of Reconstruction historiography, named after the Southern historian William A. Dunning of Columbia University, determined that Reconstruction was a

¹² Peter Camejo, *Racism, Revolution, Reaction, 1861-1877: The Rise and Fall of Radical Reconstruction* (New York: Pathfinder, 1976), 65.

¹³ This topic is also covered in Rayford W. Logan, *Betrayal of the Negro: From Rutherford B. Hayes to Woodrow Wilson* (New York: Collier Books, 1965), 114-115.

¹⁴ Foner, *Reconstruction*, 205.

¹⁵ *Ibid.*, 221-224.

¹⁶ *Ibid.*, 207-208.

¹⁷ Radical Reconstruction is considered radical for two reasons. The first reason is that Radical Republicans were able to push legislation and Constitutional Amendments through Congress that provided for suffrage and civil rights for African Americans. In addition, the idea that African Americans should be citizens whose rights were protected by the Constitution was considered to be a radically different concept. For more information see Foner, *Reconstruction*, chap. 6 and Hans L. Trefousse, *The Radical Republicans: Lincoln's Vanguard for Radical Justice* (New York: Alfred A. Knopf, 1969), 310.

failure and emphasized that “emancipation might be recognized as an immutable fact, (but) liberty in all its fulness [*sic*] would not be conceded to the Freedpeople.”¹⁸ Limited rights were justified because blacks were not considered to be “on the same social, moral, and intellectual plane with the whites.”¹⁹ From this perspective, the Black Codes adopted by many states after the Civil War were intended to “bring some degree of order.”²⁰ While states conceded black citizenship, they only allowed ordinary civil rights rather than the full rights granted to white citizens.²¹ The Dunning School ignored the activism of African Americans, and supported the maintenance of a system of tiered citizenship based on “Negro incapacity.”²² However, none of the Dunning historians incorporated events in Indian Territory into their analysis of Reconstruction since their justification of white supremacy meant that Native Americans were also deemed incapable of fully exercising the rights of citizenship.²³

During the early twentieth century a small group of historians contested this stereotypical image of African Americans. The most famous of these historians, W.E.B. DuBois, presented a different version of Reconstruction based on his Marxist

¹⁸ William A. Dunning, *Reconstruction, Political and Economic, 1865-1877* (New York: Harper & Brothers, 1907), 46.

¹⁹ *Ibid.*, 58.

²⁰ *Ibid.*, 55-56. The Black Codes were laws passed by Southern states that were designed to control the labor of blacks through the use of labor contracts, apprenticeship laws, and vagrancy laws. For additional information see Foner, *Reconstruction*, 199-206.

²¹ The term “ordinary civil rights” refers to the protection of the police and the courts, but does not include suffrage, the right to hold political office, or the right to serve on juries.

²² Foner, *Reconstruction*, xx. Some of the defining works from the traditional historiographical period include Walter L. Fleming, *The Sequel of Appomattox* (New Haven, CT: Yale University Press, 1919) and E. Merton Coulter, *The South During Reconstruction, 1865-1877* (Baton Rouge: Louisiana State University Press, 1947). Historians who effectively rebutted the characterizations of Dunning historians include John Hope Franklin, *Reconstruction: After the Civil War* (Chicago, IL: University of Chicago Press, 1961), Kindle e-book and Thomas Holt, *Black Over White: Negro Political Leadership in South Carolina During Reconstruction* (Urbana: University of Illinois Press, 1979).

²³ For a detailed discussion of the omission of the Five Tribes from Reconstruction history, see Claudio Saunt, “The Paradox of Freedom: Tribal Sovereignty and Emancipation During the Reconstruction of Indian Territory,” *Journal of Southern History* 70, no. 1 (February 2004): 63-94.

perspective.²⁴ Inspired by the economic analysis of historians Charles A. Beard and Mary R. Beard, Du Bois contended that the need for cheap labor was responsible for the creation of tiered citizenship.²⁵ The analysis of DuBois celebrated the idealism of the Radical Republicans who had attempted to provide blacks with access to education, the protection of the courts, and political rights.²⁶ While recognizing the ultimate collapse of this utopian vision, DuBois labeled the attempt as a “failure, but a splendid failure.”²⁷ Unfortunately, this important work of DuBois was largely ignored until later in the twentieth century primarily because he was black.²⁸ While DuBois challenged the prevailing attitude that Reconstruction failed because of “Negro incapacity,” he did not recognize the successes and failures of Reconstruction in Indian Territory because he focused on the labor provided by African Americans while Native American historians emphasized the land lost by Indians.

The economic perspective of the Beards also inspired the Progressive School of historical analysis. Progressive historians emphasized that the political changes of Reconstruction were driven by a shift in economic power from the agrarian South to the industrialized North. Influenced by a narrative of American history that supported Imperialism, they were not inspired by racial liberalism. Instead, they believed that white Americans were bound by what John Burgess called the “duty of civilized races to

²⁴ The Marxist economic viewpoint of DuBois may have been influenced by the socialist perspective of European intellectuals that he was exposed to during his time as a student at the University of Berlin. David Levering Lewis, *W.E.B. DuBois, 1868-1919: Biography of a Race* (New York: Holt Paperbacks, 1994), loc. 3343, Kindle e-book.

²⁵ Charles A. Beard and Mary R. Beard, *The Rise of American Civilization* (New York: Macmillan Company, 1927), chap. 28.

²⁶ W.E.B. DuBois, *Black Reconstruction* (New York: Harcourt Brace, 1935), 189.

²⁷ *Ibid.*, 708.

²⁸ Other important historians of this period are Alrutheus A. Taylor, *The Negro in South Carolina During the Reconstruction* (Washington: The Association for the Study of Negro Life and History, 1924) and Francis Butler Simkins, *The South, Old and New* (New York: Alfred Knopf, 1948).

impose their political sovereignty upon uncivilized, or half civilized, or not fully civilized, races anywhere and everywhere in the world.”²⁹ Their racial critique of civic competence encompassed citizens of color living in the territories acquired through late nineteenth-century expansionism. Native Americans were also included in the racialized concept of competency, and most Indians were specifically excluded from citizenship by law and through judicial interpretations.³⁰ Progressives supported the concept that non-whites should possess equality before the law, but also believed that political and social rights associated with full citizenship would have to be postponed.³¹ Restricted citizenship for people of color was presented as the natural result of “Negro incapacity,” a failure of the Progressive Movement.³² Like the Dunning school, Progressive historians ignored the actions of people of color, including Native Americans and Indian Freedpeople, who were denied access to the liberal democratic ideal of full citizenship.

The Civil Rights Movement of the mid-twentieth century focused revisionist historical analysis on the successes of Reconstruction. The historian Eric Foner compared the lives of African Americans during Reconstruction to their circumstances under slavery. Through his analysis, Foner determined that “Reconstruction was a time of extraordinary social and political progress for blacks.”³³ John Hope Franklin pointed out that even Southern conservatives supported black suffrage, although only when it

²⁹ John W. Burgess, *Reconstruction and the Constitution, 1866-1876* (New York: Charles Scribner’s Sons, 1902),]: 217-218.

³⁰ The U.S. Supreme Court decided in 1884 that Native Americans could only become citizens through Congressional action or through the naturalization process used by immigrants. *Elk v. Wilkins*, 112 U.S. 94, 99 (1884). This remained true until the passage of the Indian Citizenship Act in 1924. 43 U.S. Stats. At Large, Ch. 233 (1924).

³¹ *Ibid.*, 69.

³² Foner, *Reconstruction*, xx. For a discussion about characterizations of race that linked people of Asian descent with people of African descent see Helen J. Jun, “Black Orientalism: Nineteenth-Century Narratives of Race and U.S. Citizenship,” *American Quarterly* 58, no. 4 (December 2006): 1047-1066.

³³ Foner, *Reconstruction*, xxii.

benefitted them.³⁴ The revisionist examination of African Americans and Northern reformers in post-Civil War politics has demonstrated that characterizations of “Negro incapacity” and corrupt Northern carpetbaggers were incorrect.³⁵ The most important contribution of revisionists is their recognition that blacks were important participants during slavery and Reconstruction as they sought the benefits of citizenship. Recent studies demonstrate that as early as the 1840s, black abolitionists, including Frederick Douglass, were fighting for the immediate emancipation of slaves. Black abolitionists also sought incorporation into the political, economic, and social fabric of American society before and after the Civil War.³⁶ Evaluating Reconstruction through the eyes of black participants has revealed that access to education was a significant change to the pre-Civil War order.³⁷ Although African American historians centered their analysis on the people who should have benefitted from Reconstruction, their adherence to a black/white binary analysis has led them to ignore the more complicated black/Indian history of race in Indian Territory.

³⁴ Franklin, *Reconstruction*, loc. 1767, Kindle e-book.

³⁵ Important revisionist works include James M. McPherson, *The Struggle for Equality* (Princeton, NJ: Princeton University Press, 1964); Kenneth M. Stampp, *The Era of Reconstruction* (New York: Knopf, 1965); Joel Williamson, *After Slavery* (Chapel Hill: University of North Carolina Press, 1965); and Dwight B. Billings, *Planters and the Making of the “New South”: Class, Politics and Development in North Carolina, 1865-1900* (Chapel Hill: University of North Carolina Press, 1979).

³⁶ For examples of literature dealing with black abolitionists see Leon F. Litwack, *North of Slavery: The Negro in the Free States* (Chicago, IL: University of Chicago Press, 1961); Benjamin Quarles, *Black Abolitionists* (New York: Oxford University Press, 1969); James Oliver Horton and Lois E. Horton, *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1700-1860* (New York: Oxford University Press, 1997); and Stephen Kantrowitz, *More Than Freedom: Fighting for Black Citizenship in a White Republic, 1829-1889* (New York: Penguin Press, 2012).

³⁷ Examples of scholarship focused on black education include Ronald E. Butchart, *Northern Schools, Southern Blacks, and Reconstruction* (Westport, CT: Greenwood Press, 1980); Jacqueline Jones, *Soldiers of Light and Love* (Chapel Hill: University of North Carolina Press, 1980); Robert C. Morris, *Reading, Riting, and Reconstruction* (Chicago, IL: University of Chicago Press, 1981); and Kenneth B. White, “The Alabama Freedpeople’s Bureau and Black Education: The Myth of Opportunity,” *Alabama Review* 34 (April 1981): 107-124.

Post-Revisionist historical analysis during the 1970s and 1980s reflected disappointment that the African-American Civil Rights Movement did not create political, economic, and social equality. Historians began comparing the gains made during Reconstruction to the loss of voting and civil rights during the period of Redemption that began with the election of President Rutherford B. Hayes in 1877.³⁸ Post-Revisionist historians studied the return of power to the Democratic Party and determined that blacks did not achieve any significant political gains.³⁹ Land distribution patterns were evaluated, proving that African Americans were rarely landowners. Instead they were trapped in a perpetual economic system of sharecropping.⁴⁰ Legal historians pointed to the landmark case of *Plessy v. Ferguson* decided in 1896 and emphasized the importance of the Supreme Court's support for Jim Crow segregation and the ongoing subjugation of blacks.⁴¹ Significantly, Post-Revisionist historians have continued the emphasis of

³⁸ For a complete discussion of the compromise between Democrats and Republicans that led to the removal of federal troops from Southern states and the end of Reconstruction see C. Vann Woodward, *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction* (New York: Oxford University Press, 1966) and Foner, *Reconstruction*, 579-582.

³⁹ For more information see Harold M. Hyman, *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution* (New York: Alfred A. Knopf, 1973); Michael L. Benedict, "Preserving the Constitution: The Conservative Basis of Radical Reconstruction," *Journal of American History* 61 (June 1974): 65-90; and William Gillette, *Retreat From Reconstruction, 1866-1879* (Baton Rouge: Louisiana State University Press, 1979).

⁴⁰ For additional information see Claude F. Oubre, *Forty Acres and a Mule: The Freedman's Bureau and Black Land Ownership* (Baton Rouge: Louisiana State University Press, 1978); Eric Foner, *Politics and Ideology in the Age of the Civil War* (New York: Oxford University Press, 1980); and Elizabeth Bethel, *Promiseland: A Century of Life in a Negro Community* (Philadelphia, PA: Temple University Press, 1981).

⁴¹ *Plessy v. Ferguson*, 163 U.S. 537 (1896). For additional information about this court case see Mark Elliott, *Color Blind Justice: Albion Tourgée and the Quest for Racial Equality From the Civil War to Plessy v. Ferguson* (New York: Oxford University Press, 2008) and William James Hull Hoffer, *Plessy v. Ferguson: Race and Inequality in Jim Crow America* (Lawrence: University Press of Kansas, 2012). Examples of legal scholars who subscribe to the hypothesis that the law is the primary instrument used to reinforce white supremacy at the expense of minorities include Mary Francis Berry, *Black Resistance, White Law: A History of Constitutional Racism in America* (New York: Penguin Books, 1995); Kimberlé Crenshaw, Neil Gotanda, Gary Peller, and Kendall Thomas, eds., *Critical Race Theory: The Key Writings That Formed the Movement* (New York: New Press, 1995); Ian Haney López, *White by Law: The Legal Construction of Race* (New York: New York University Press, 2006); and Rachel F. Moran and Devon W. Carbado, eds., *Moran and Carbado's Race Law Stories* (New York: Foundation Press, 2008).

analyzing Reconstruction through the perspective of blacks.⁴² As with earlier historiographical perspectives, Post-revisionist historians continued to ignore the Freedpeople in Indian Territory because the Civil War and its aftermath have focused on relations between black and white people, ignoring the complexity that occurs when one subjugated group oppresses another minority.⁴³

Reconstruction began in Indian Territory when the Five Tribes were required to sign new treaties with the federal government. The Reconstruction Treaties contained the same provisions as the Reconstruction Amendments.⁴⁴ These provisions reflect the attempt to implement the “Tocquevillian” vision of freedom and citizenship that prevailed for a brief time after the Civil War.⁴⁵ A provision abolishing slavery was present in each treaty in language nearly identical to that used in the Thirteenth Amendment.⁴⁶ Only a few tribal members resisted the end of slavery because it was seen

⁴² It is only recently that historians have begun to center their analysis on the influence of nineteenth-century African Americans on the evolving definition of citizenship. For examples see Kantrowitz, *More Than Freedom*; Steven Hahn, *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration* (Cambridge, MA: Belknap Press of Harvard University Press, 2003), Kindle e-book; and Mark S. Weiner, *Black Trials: Citizenship From the Beginnings of Slavery to the End of Caste* (New York: Vintage Books, 2004), chap. 8 and 9.

⁴³ A notable exception to this perspective is found in D. Michael Bottoms, *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890* (Norman: University of Oklahoma Press, 2013). This author demonstrates that the federal government’s Reconstruction policies were hotly contested in California where racial minorities included blacks, Mexican Americans, Native Americans, and Asian Americans.

⁴⁴ The term “Reconstruction Treaties” is found in Annie Heloise Abel, *The American Indian Under Reconstruction* (Cleveland, OH: Arthur H. Clark Company, 1925), loc. 19, Kindle e-book.

⁴⁵ Alexis de Tocqueville contended that Americans loved equality even more than they loved freedom. See Alexis de Tocqueville, *Democracy in America*, trans. Arthur Goldhammer (New York: Library of America, 2004), 581.

⁴⁶ In both the Amendments and the treaties, slavery and involuntary servitude were banned except as punishment for a crime. “Treaty with the Seminole, 1866,” art. 2 in Charles J. Kappler, comp., *Indian Laws and Treaties*, vol. 2 (Washington, D.C., Government Printing Office, 1904), 910-915; “Treaty with the Creeks, 1866,” art. 2 in *Ibid.*, 931-937; “Treaty with the Cherokee, 1866,” art. 9 in *Ibid.*, 942-950; and “Treaty with the Choctaw and Chickasaw 1866,” art. 2 in *Ibid.*, 918-931. The federal government insisted on a joint treaty with the Choctaw and Chickasaw tribes even though the Chickasaw tribe received individual recognition in 1856 because of historical and cultural differences. For additional information see Muriel H. Wright, “Brief Outline of the Choctaw and Chickasaw Nations in Indian Territory, 1820 to 1860,” *Chronicles of Oklahoma* 7, no. 4 (1929): 388-418 and Wendy St. Jean, *Remaining Chickasaw in Indian Territory* (Tuscaloosa: University of Alabama Press, 2010), chap. 1.

as the penalty for siding with the Confederacy. This provision of the treaties became one of the least controversial of the reconstruction requirements. More controversial were the provisions relating to the incorporation of the Indian Freedpeople into all of the rights and privileges of tribal citizenship. Although the specific provisions relating to citizenship varied by tribe, the intent of the federal negotiators was to create birthright citizenship and universal male suffrage within the Five Tribes.

The Reconstruction Treaties demonstrated that federal policy was also designed to eventually extend national citizenship to Native Americans. In each of the Reconstruction Treaties, provisions were made for the creation of a territorial government over all of the Native American tribes living in Indian Territory. Each tribe agreed to the establishment of a general territorial council that would meet once a year. The council would be authorized to legislate on internal matters including crime and public works. This council of Native Americans would have been under the direction of the Superintendent of Indian Affairs, a reflection of the paternalism that permeated Indian policy. The council would include members of each tribe elected in numbers proportional to their population.⁴⁷ According to the Secretary of the Interior, James Harlan, the general council would have the authority to appoint a delegate to the United States Congress, although the powers of that delegate were not spelled out.⁴⁸ As acknowledged by Senator Samuel C. Pomeroy of Kansas during a debate on a bill designed to enact Harlan's recommendations, the purpose of the council was to ensure

⁴⁷ "Treaty with the Seminole, 1866," art. 7 in Kappler, *Indian Laws and Treaties*, 913; "Treaty with the Creeks, 1866," art. 10 in *Ibid.*, 936; "Treaty with the Cherokee, 1866," art. 12 in *Ibid.*, 945; and "Treaty with the Choctaw and Chickasaw 1866," art. 8 in *Ibid.*, 921.

⁴⁸ Able, *The American Indian Under Reconstruction*, 221.

that the Indians would be eventually absorbed into the American polity.⁴⁹ In this way, Native Americans would realize the idealized vision of citizenship even though it was “a gift the Native peoples ... neither wanted nor needed.”⁵⁰

Like the Fourteenth Amendment, the Reconstruction Treaties included punitive provisions. The military and political leaders of the Confederacy were U.S. citizens whose actions were considered treasonous. The punitive section of the Fourteenth Amendment prohibited Civil War leaders from holding political office.⁵¹ Since the leaders of the pro-Confederate Indians were not citizens of the United States, their support of the South did not constitute treason.⁵² The federal government did not attempt to punish the individuals who agreed to the Confederate treaties or who fought in the Confederate Army. Instead, Commissioner Dennis N. Cooley was instructed by Congress to punish the entire tribe, stating that the treaties signed with the Confederacy amounted to a forfeiture of “all annuities and interest in the lands in Indian Territory,” rights that had been established through earlier treaties with the federal government.⁵³ However, the federal government was willing to restore the tribes’ rights to annuities, but not to all of their land. As a penalty for aligning with the Confederacy, the tribes were required to sell some of their land to the federal government. In addition, all of the tribes except the Seminole were required to provide land to the railroad companies for the

⁴⁹ Ibid., 253.

⁵⁰ Saunt, “Paradox of Freedom,” 93. For more information about the intent to incorporate Native Americans into national citizenship see Smith, *Civic Ideals*, 318-320.

⁵¹ U.S. Constitution, 14th Amendment, sec. 3 and Eric Foner, *A Short History of Reconstruction, 1863-1877* (New York: Harper Collins e-books, 2010), 83.

⁵² The continuity debate about Reconstruction begun by C. Vann Woodward is not applicable in Indian Territory because his thesis was premised on a change in political and economic leadership that occurred because of the punitive section of the Fourteenth Amendment. For additional information see C. Vann Woodward, *Origins of the New South, 1877-1913* (Baton Rouge, LA: Louisiana University Press, 1951).

⁵³ U.S. Department of the Interior, *Annual Report of the Commissioner of Indian Affairs*, 39th Cong., 1st sess. (October 31, 1865), 481.

expansion of the rail system that largely benefitted U.S. citizens. It is this loss of lands that has received the most attention from those historians who have recognized that the end of the Civil War was a significant time for the Five Tribes.

Only two historians have produced scholarly works about the federal enactment of Reconstruction in Indian Territory and both works focus on the loss of tribal land.⁵⁴ Annie Heloise Able's *The American Indian Under Reconstruction* describes in detail the negotiations between the federal government and representatives of the Five Tribes that ultimately produced the Reconstruction treaties. Able's book emphasizes the punitive nature of the treaties that required each tribe to relinquish some of their land.⁵⁵ The characterization of Reconstruction as a land grab was also documented by the second work that discusses this period in Indian Territory. Minnie Thomas Bailey determined that federal policy was motivated by a desire to increase public lands for white settlers.⁵⁶ Although the loss of land is an important theme in Native American history, this one-dimensional portrayal of Reconstruction in Indian Territory has masked the existence of important racial issues that were revealed when the federal government attempted to force the integration of Indians and people of African descent.

Native American historians tend to focus on the erosion of tribal sovereignty and ignore the idealism of the movement towards national citizenship. Historians using post-colonial analysis contend that the Reconstruction treaties are another example of

⁵⁴ An article by Donald A. Grinde, Jr. and Quintard Taylor deals briefly with the end of slavery in Indian Territory. They blame African Americans who immigrated into Indian Territory from neighboring states for racial discord after the Civil War. "Red vs Black: Conflict and Accommodation in the Post Civil War Indian Territory, 1865-1907," *American Indian Quarterly* 8, no. 3 (Summer, 1984): 213, 215, and 220.

⁵⁵ Able, *The American Indian Under Reconstruction*, 23.

⁵⁶ Minnie Thomas Bailey, *Reconstruction in Indian Territory: A Story of Avarice, Discrimination and Opportunism* (Port Washington, NY: Associated Faculty Press, 1972).

American individualism supplanting tribal identity.⁵⁷ Post-colonial analysis focuses on the unequal power between an outside colonizer and indigenous people. The problem of unequal power is especially important in the context of tribal sovereignty. Sovereignty is a complex issue that has remained largely unresolved since the 1831 Supreme Court decision in *Cherokee Nation v. State of Georgia* when it was decided that Indian tribes were not sovereign nations.⁵⁸ Federal interference with a tribe's right to determine its own citizenship is seen by these historians as an additional infringement on tribal sovereignty. Native American historians with a post-colonial perspective generally present the Freedpeople citizenship issue as "another wedge of federal jurisdiction" that reduced the autonomy of the tribes.⁵⁹ This perspective rejects the ideal of national citizenship and marginalizes the importance of citizenship to the Indian Freedpeople.

African Americans and Native Americans were not the only ethnic groups affected by the debate on national citizenship. Throughout the nineteenth century, the meaning of American citizenship was challenged by expansionism and immigration. The complicated period after the Civil War has been described by Rogers M. Smith as "the era of Chinese exclusion, the antitribal Dawes Act, stagnation in the women's suffrage campaign, the rise of Jim Crow segregation and disfranchisement, the emergence of the literacy test and other proposals to curb non-Nordic immigration, resurgent anti-

⁵⁷ For examples of books that rely on a post-colonial perspective see Susan A. Miller, *Coacoochee's Bones: A Seminole Saga* (Lawrence: University Press of Kansas, 2003); Andrew Denson, *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900* (Lincoln: University of Nebraska Press, 2004); Clara Sue Kidwell, *The Choctaws of Oklahoma: From Tribe to Nation, 1855-1970* (Norman: University of Oklahoma Press, 2007); and St. Jean, *Remaining Chickasaw*.

⁵⁸ *Cherokee Nation v. State of Georgia*, 30 U.S. 1 (1831). In this landmark case, the U.S. Supreme Court determined that Indian tribes were "domestic dependent nations" with the right to occupy land, but not the right to own it. For additional information on rulings of the Supreme Court that impacted Native Americans during the early nineteenth century see Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge, MA: Belknap Press of Harvard University Press, 2007) and Lindsay G. Robertson, *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands* (New York: Oxford University Press, 2007).

⁵⁹ Kidwell, *The Choctaws of Oklahoma*, 81.

Catholicism, and finally the racially justified imposition of colonial rule over Latinos and Asians via the Spanish-American War.”⁶⁰ Studies of Mexican Americans demonstrate the racialized nature of citizenship, as rights granted under the Treaty of Guadalupe Hidalgo in 1848 were quickly limited.⁶¹ The ascendancy of anti-Negro thought after Reconstruction led to a commitment to the belief that all non-whites were inferior.⁶² Chinese immigrants were excluded from American citizenship when the Chinese Exclusion Act of 1882 restricted their immigration.⁶³ Native Hawaiians were not granted American citizenship with the annexation of Hawaii in 1898 as a U.S. territory.⁶⁴ The Spanish American War brought more non-whites into the realm of U.S. jurisdiction.⁶⁵ Ultimately, policy makers justified tiered citizenship and white male privilege through

⁶⁰ Smith, *Civic Ideals*, 348.

⁶¹ Examples of historical inquiry about Mexican Americans and rights of citizenship include Martha Menchaca, *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans* (Austin, TX: University of Texas Press, 2001); Benjamin Heber Johnson, *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans Into Americans* (New Haven, CT: Yale University Press, 2005); Natalia Molina, *Fit to Be Citizens?: Public Health and Race in Los Angeles, 1879-1939* (Berkeley: University of California Press, 2006); and Laura Gómez, *Manifest Destinies: The Making of the Mexican American Race* (New York: New York University Press, 2008).

⁶² I.A. Newby, *Jim Crow's Defense: Anti-Negro Thought in America, 1900-1930* (Westport, CT: Greenwood Press, 1965), 15.

⁶³ *Chinese Exclusion Act of 1882*, 22 Stat. 58, 47th Cong., sess. 1 (May 6, 1882). For additional information about the Chinese American quest for inclusion into American citizenship see James W. Loewen, *The Mississippi Chinese: Between Black and White* (Long Grove, IL: Waveland Press Inc., 1988); Phillip S. Foner and Daniel Rosenberg, *Racism, Dissent, and Asian Americans from 1850 to the Present: A Documentary History* (Westport, CT: Greenwood Press, 1993); Ronald Takaki, *Strangers From a Different Shore: A History of Asian Americans* (New York: Little Brown & Co., 1998); Mark Kanazawa, “Immigration, Exclusion, and Taxation: Anti-Chinese Legislation in Gold Rush California,” *Journal of Economic History* 65, no. 3 (September 2005): 779-805; Leti Volpp, “Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage,” *UCLA Law Review* 53 (2005): 405-483; and Jun, “Black Orientalism,” 1047-1066.

⁶⁴ For discussions about American citizenship and native Hawaiians see Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham, NC: Duke University Press, 2004); Lauren L. Basson, “Fit For Annexation But Unfit To Vote?: Debating Hawaiian Suffrage Qualifications at the Turn of the Twentieth Century,” *Social Science History* 29, no. 4 (Winter 2005): 575-598; and J. Kehaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity* (Durham, NC: Duke University Press, 2008).

⁶⁵ For a discussion about American imperialism in the Philippines see Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill, NC: University of North Carolina Press, 2006). For discussions about the role of race in the acquisition of Puerto Rico see Christine Duffy Burnett, *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Durham, NC: Duke University Press, 2001) and Laura Briggs, *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico* (Berkeley: University of California Press, 2002).

scientific racism that became increasingly significant throughout the late nineteenth century.⁶⁶ Increasing ethnic diversity challenged the traditional meaning of American citizenship that had limited full rights to adult white men.

Women in the nineteenth century were also challenging concepts about citizenship. Throughout the nineteenth century, white women in the United States sought the right to express their political will separately from the men in their lives, “viewing the enfranchisement of women as the most important demand of the century.”⁶⁷ Women of color were less concerned with suffrage during the nineteenth century as they grappled with ongoing changes based on their ethnicity. Ethnohistorians generally agree that gender roles in the Five Tribes were impacted by economic and political changes brought about through contact with Europeans that began during the colonial period.⁶⁸ Native American women, especially those who were considered to be a part of the upper class,

⁶⁶ For a discussion of the racial ideology of American imperialism see Reginald Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge, MA: Harvard University Press, 1982); Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917* (Chicago, IL: University of Chicago Press, 1996); and Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997). For additional information about scientific racism see Richard Hofstadter, *Social Darwinism in American Thought* (Philadelphia: University of Pennsylvania Press, 1945); George M. Fredrickson, *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914* (New York: Harper & Row, 1971), chap. 8; Robert Bannister, *Social Darwinism: Science and Myth in Anglo-American Social Thought* (Philadelphia, PA: Temple University Press, 1989); and William H. Tucker, *The Funding of Scientific Racism: Wickliffe Draper and the Pioneer Fund* (Champaign: University of Illinois Press, 2007).

⁶⁷ Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage, eds., *History of Woman Suffrage* (New York: Rochester, 1882), loc. 21, Kindle e-book. For additional information about the women’s movements during this period see Eleanor Flexner and Ellen Fitzpatrick, *Century of Struggle: The Women’s Rights Movement in the United States* (Cambridge, MA: Belknap Press, 1996); Ellen Carol Dubois, *Feminism and Suffrage: The Emergence of An Independent Women’s Movement in America, 1848-1869* (Ithaca, NY: Cornell University Press, 1999); Louise Michele Newman, *White Women’s Rights: The Racial Origins of Feminism in the United States* (New York: Oxford University Press, 1999); and Corrine M. McConaughy, *The Woman Suffrage Movement in America: A Reassessment* (New York: Cambridge University Press, 2013).

⁶⁸ For an in-depth analysis of the impact of European contact on the women of the Five Tribes see Theda Perdue, *Cherokee Women: Gender and Cultural Change, 1700-1835* (Lincoln, NE: Bison Books, 1999); Theda Perdue, *Sifters: Native American Women’s Lives* (New York: Oxford University Press, 2001); Michelene E. Pesantubbee, *Choctaw Women in a Chaotic World: The Clash of Cultures in the Colonial Southeast* (Albuquerque: University of New Mexico Press, 2005); and Steven C. Hahn, *Life and Times of Mary Musgrove* (Gainesville: University Press of Florida, 2012).

were further impacted by expectations that their behavior would conform to that of affluent white women.⁶⁹ Historians have examined African American women's political activities after the Civil War, demonstrating the many ways that black women indirectly exercised their citizenship rights.⁷⁰ The few historians who have explored women who were both black and Indian have focused their analysis on their racial self-identification and economic activities.⁷¹ To date, the political activism of black Indian women during slavery and Reconstruction has not been fully investigated because of a lack of documentation, a problem that persists in this thesis. The activism of women and minorities during the second half of the nineteenth century meant that politicians were forced to clearly define the rights of citizenship and constantly protect eligibility.

It was not until the passage of the Fourteen Amendment that the rights of national citizenship needed to be defined. The Civil Rights Act of 1866 lists the rights that are considered the core rights of American citizens. This act specifies that all citizens have the right "to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed

⁶⁹ For additional information about the women of the Five Tribes after removal to Indian Territory see Amanda J. Cobb-Greetham, *Listening to Our Grandmothers' Stories: The Bloomfield Academy for Chickasaw Females, 1852-1949* (Lincoln, NE: Bison Books, 2000) and Carolyn Ross Johnson, *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907* (Tuscaloosa: University of Alabama Press, 2003).

⁷⁰ A few of the recent books exploring African American women's political activities include Leslie A. Schwalm, *A Hard Fight for We: Women's Transition From Slavery to Freedom in South Carolina* (Champaign: University of Illinois Press, 1997); Rosalyn Terborg-Penn, *African American Women in the Struggle to Vote, 1850-1920* (Bloomington: Indiana University Press, 1998); and Martha S. Jones, *All Bound Up Together: The Woman Question in African American Public Culture, 1830-1900* (Chapel Hill: University of North Carolina Press, 2007).

⁷¹ The literature on Indian Freedwomen is covered by Linda W. Reese, "Cherokee Freedwomen in Indian Territory, 1863-1890," *Western History Quarterly* 33 (Autumn 2002): 273-296; Shirley Boteler Mock, *Dreaming With the Ancestors: Black Seminole Women in Texas and Mexico* (Norman: University of Oklahoma Press, 2010); and Linda W. Reese, *Trail Sisters: Freedwomen in Indian Territory, 1850-1890* (Lubbock: Texas Tech University Press, 2013).

by white citizens, and shall be subject to like punishment, pains, and penalties.”⁷² In general, the Civil Rights Act of 1866 defined two areas of citizenship rights. The first area related to the economic rights to contract and hold property. The Act secondly provided for the right to access the court system to protect these economic rights and to ensure personal safety.⁷³ The passage of the 1866 Civil Rights Act politicized the issue of legislative authority over racial rights that led to the Supreme Court’s “cumulative weakening of resistance to racism” after Reconstruction and the end of the idealized vision of inclusive citizenship.⁷⁴

Although not included in the 1866 Civil Rights Act, the right to publically funded education was widely regarded as a right of citizenship. Immediately after the Civil War, newly freed slaves began seeking access to the education they had been denied under slavery.⁷⁵ Many Freedpeople viewed education to be as important as suffrage and political participation. This quest for literacy was heavily symbolic and directly tied to slavery. Their immediate and active pursuit of education amounted to a rejection of the legal sanctions against teaching slaves to read and write that had been an important component of the institution. The freed slaves understood that literacy was important to their economic success and that it ensured their right to full participation in the public sphere as voters, legislators, and jury members. Therefore, the issue of education was

⁷² *An Act to Protect All Persons in the United States in Their Civil Rights, and Furnish the Means of Their Vindication*, 14 Stat. 27-30 (April 9, 1866).

⁷³ Smith, *Civic Ideals*, 306-307.

⁷⁴ C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford University Press, 2002), 70-71.

⁷⁵ Although educating slaves was illegal, historians have demonstrated that the laws were frequently defied. For additional information see Carter G. Woodson, *The Education of the Negro Prior to 1861* (Washington, D.C.: Associated Publishers, 1919); Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage, 1972); Janet Duitsman Cornelius, *When I Can Read My Title Clear: Literacy, Slavery, and Religion in the Antebellum South* (Columbus: University of South Carolina Press, 1991); and Heather Andrea Williams, *Self-Taught: African American Education in Slavery and Freedom* (Chapel Hill: University of North Carolina Press, 2005), Kindle e-book.

tightly correlated with the concept of citizenship.⁷⁶ Prior to the Civil War, education was solely under the control of state governments. This state monopoly on education was diminished by the equal protection clause in the Fourteenth Amendment. Where the constitution of a state provided for free public education, that state was also required to fund education for black students.⁷⁷ The Indian Freedpeople also valued public education, and repeatedly asserted their right to equal educational opportunities.

Tribal citizens had two additional economic rights. Members had the right to improve as much land as they could develop. One potential improvement was to use the land for a personal residence. Individuals could also use the land for farming or ranching purposes. In addition, tribal citizens could sell their improvements and retain the funds. However, title to the land stayed with the tribe, and tribal citizens could not receive any financial benefit from selling the land. Membership also implied the right to participate in distributions of annuity payments from the U.S. government.⁷⁸ Usually annuity payments were small amounts of cash, but on occasion the distribution was a significant amount of money. For Indian Freedpeople, access to the economic rights of tribal citizenship was critically important.

Although scholars usually discuss the Five Tribes separately, a comparison of the tribes demonstrates that local economic and cultural variations affected the Freedpeople's access to the benefits of tribal citizenship. The historical work on the Freedpeople of the Cherokee tribe chronicles their long quest for citizenship in spite of the legal mechanisms

⁷⁶ Williams, *Self-Taught*, loc. 1105-1111, Kindle e-book.

⁷⁷ For an understanding of the role of the Fourteenth Amendment in increasing African American access to education see Wayne J. Urban and Jennings L. Wagoner, *American Education: A History* (Florence, KY: Routledge, 2008), 187-189 and John C. Eastman, "When Did Education Become a Civil Right? An Assessment of State Constitutional Provisions for Education, 1776-1900," *American Journal of Legal History* 42, no. 1 (January 1998): 30.

⁷⁸ An annuity payment is a periodic payment due from the U.S. government as payment for land that was sold, voluntarily or involuntarily, by Indian tribes.

used by the tribal government to exclude many of them.⁷⁹ The Choctaw and Chickasaw tribes were the most rigid in their exclusion of the Freedpeople from citizenship, even resisting the emancipation of slaves after the Confederacy fell.⁸⁰ The exclusionary policies of the Cherokee, Choctaw, and Chickasaw occurred because plantation owners were able to control tribal politics and enforce their notion that citizenship was a racial privilege. On the other hand, the Creek Indians had a history of multicultural inclusion and represent “one of the unheralded success stories of reconstructing race relations.”⁸¹ Although the rights of Freedpeople were contested, the Creek Indians generally adopted an egalitarian approach during Reconstruction because the few plantation owners were forced to negotiate with a bloc of subsistence farmers that included blacks. While plantation owners were represented in Creek politics, they were not able to dictate policies that excluded the Freedpeople from the rights of tribal citizenship. The Seminole Indians were the most tolerant towards the Freedpeople. The relationship between the Seminole and blacks was heavily influenced by the absence of land suitable for plantations and was based on tribute rather than ownership. The absence of plantations provided a foundation for the incorporation of different cultures within their traditional

⁷⁹ Celia E. Naylor, *African Cherokees in Indian Territory: From Chattel to Citizens* (Chapel Hill: University of North Carolina Press, 2008), 21. For additional information about the Cherokee Freedpeople see Daniel F. Littlefield, Jr., *The Cherokee Freedpeople: From Emancipation to American Citizenship* (Westport, CT: Greenwood Press, 1978); Tiya Miles, *Ties That Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom* (Berkeley: University of California Press, 2005); and Fay A. Yarbrough, *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century* (Philadelphia: University of Pennsylvania Press, 2008).

⁸⁰ *Annual Report of the Commissioner 1865*, 529. For additional information see Barbara Krauthamer, *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South* (Chapel Hill: University of North Carolina Press, 2013).

⁸¹ Gary Zellar, *African Creeks: Estelvste and the Creek Nation* (Norman: University of Oklahoma Press, 2007), 77. The story of a Creek family of mixed-race ancestry is told in Claudio Saunt, *Black, White, and Indian: Race and the Unmaking of an American Family* (Oxford: Oxford University Press, 2005).

social and political fabric, including blacks.⁸² Although the black Indians experienced different conditions in each of the Five Tribes, this comparison highlights that slavery and Reconstruction were impacted by the relative strength of the plantation economy and traditional patterns of multiculturalism.

This study will compare and contrast the responses of the Five Tribes to the federal expectation of a racially inclusive form of Reconstruction in order to highlight the local differences that affected tribal citizenship. The next chapter will discuss the actions of the Cherokee, Choctaw, and Chickasaw tribal governments as they attempted to exclude blacks from citizenship. In these three tribes, the slave owners who controlled the tribal government “differed little from other Southerners in their treatment of slaves and in the practice of the institution of slavery.”⁸³ The adoption of Southern attitudes reflected their dedication to the institutionalization of the racial hierarchy in spite of the fact that Indians were also viewed as racially inferior. After the Civil War, these tribes were united in their strong opposition to incorporating the Freedpeople into the full rights of citizenship. The following discussion will focus on the topics of voting rights, access to tribal courts, the right to improve land and receive annuities, and education. Since these tribes refused to immediately adopt all of the freed slaves into membership, the Freedpeople could not vote and did not have access to courts to protect their property. The Freedpeople faced resistance to their use of land for farms, and were generally excluded from annuity payments. Until the U.S. government intervened in 1882, the

⁸² Kevin Mulroy, *The Seminole Freedpeople: A History* (Norman: University of Oklahoma Press, 2007), 117. For further information on the black Seminole see Daniel F. Littlefield, Jr., *Africans and Seminoles: From Removal to Emancipation* (Jackson: University Press of Mississippi, 1977) and Kenneth Wiggins Porter, *The Black Seminoles: History of a Freedom-Seeking People* (Gainesville: University Press of Florida, 1996).

⁸³ Yarbrough, *Race and the Cherokee Nation*, 116.

Freedpeople of the Choctaw and Chickasaw tribes were completely excluded from education.⁸⁴ Since these tribes were so resistant to the inclusion of black citizens, the Freedpeople frequently engaged the federal government to mediate on their behalf. Reconstruction was not completely successful in these three tribes because of their acceptance of the idea that citizenship was tied to race.

The third chapter will discuss the overall inclusiveness of the Creek and Seminole Indians that resulted from the fact that plantation owners did not control tribal politics. The Creek and Seminole practice of slavery differed from the other three tribes, reflecting tribal traditions that accepted the inclusion of different cultures.⁸⁵ Their multicultural attitude reflects the reality that the large-scale production of cotton and other products for market did not dominate their local economy and create a powerful class of politicians. After the Civil War, the Creek Freedpeople experienced an inclusive participation in the political, economic, and social rights of citizenship. Although the Creek government made some attempts to limit the number of black citizens, Creek Freedpeople consistently voted and held political offices, and their rights were protected in the tribal courts. Although chattel slavery existed in the Creek tribe, the number of slave owners was small and they were unable to dominate tribal politics and enforce a strict racial hierarchy during Reconstruction. The Seminole Freedpeople never felt the need to involve the federal government in the existing political, economic, or social order. Indirect evidence demonstrates that the Seminole Indians and Freedpeople were cooperating in an egalitarian system. From an economic perspective, the Freedpeople of

⁸⁴ Funding for the education of the Choctaw and Chickasaw Freedpeople was appropriated by Congress in the Indian Appropriations Act of 1882 as noted in U.S. Department of the Interior, *Report of the Secretary of the Interior*, 49th Cong., 1st sess., House Executive Document 1, pt. 5 (Washington: Government Printing Office, 1883), 42.

⁸⁵ Zellar, *African Creeks*, 32.

both tribes had the same access to land and annuities as other tribal members.

Freedpeople from both of these tribes were educated in integrated schools funded by the tribal government. Reconstruction was more successful among the Creek and Seminole Indians because of their multicultural perspective on citizenship that reflected the limited power of the plantation economy.

Reconstruction was “a time of unparalleled hope, laden with possibility” for freedpeople across the United States that was created by the Reconstruction Amendments and Civil Rights Act.⁸⁶ Histories of this time period demonstrate that blacks expected political and economic changes with the end of slavery, not just emancipation. Instead, they frequently experienced economic repression and political exclusion. In spite of this, the ongoing activism of blacks ensured that they would not be completely excluded from the rights of citizenship. The experiences of the Freedpeople in Indian Territory mirrored those of blacks across the South. Not all of the tribal governments in Indian Territory were willing to expand citizenship to include the former slaves. In spite of this, the black Indians were diligent in the pursuit of the benefits of citizenship, including access to land and participation in the distribution of annuities. While the Cherokee, Choctaw, and Chickasaw tribes were not able to look beyond race during the challenges of Reconstruction, the Creek and Seminole Indians relied on a tradition of multiculturalism to incorporate people of African descent into their membership.

⁸⁶ Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Vintage Books, 1998), xiii.

CHAPTER II

THE CHEROKEE, CHOCTAW, AND CHICKASAW: THE ADOPTION OF RACIAL PRIVILEGE

Although slavery was not a new concept to the Cherokee, Choctaw, and Chickasaw tribes, contact with Euro-Americans had a significant impact on the form and severity of the practice. One of the most important changes was brought about by the adoption of plantation agriculture, especially cotton, by some tribal members. The move to large-scale agriculture supported by slave labor created an economic and political class who dominated tribal politics resulting in the institutionalization of racial practices. The acceptance of chattel slavery led the Five Tribes to sign treaties with the Confederacy during the American Civil War. When the war ended and Reconstruction began, the Cherokee, Choctaw, and Chickasaw resisted the federal requirement of incorporating the freed slaves into tribal citizenship. Their resistance to a multicultural form of citizenship was a result of attitudes about race and slavery that occurred before the Civil War.

Like many Indian tribes across the Americas, slavery was a part of the traditions of the Five Tribes even before contact with Europeans. Prior to the late eighteenth century, many Native American tribes practiced a form of slavery known as war captive or kinship slavery.⁸⁷ In this form of slavery, captivity was the result of warfare, and slaves or their offspring could be adopted into tribal membership and become kinsmen. Before the American Revolution, some Indians began to accept that people of African

⁸⁷ The most complete discussion of Native American enslavement practices is James F. Brooks, *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands* (Chapel Hill: University of North Carolina Press, 2001). For captivity slavery practices in the Southeastern United States see Christina Snyder, *Slavery in Indian Country: The Changing Face of Captivity in Early America* (Cambridge, MA: Harvard University Press, 2010), 93-94. Typically only women and children were adopted and male captives were killed.

descent were assets that could be exchanged for trade goods such as guns or pots. Indians could collect a bounty for the return of slaves who escaped, and sometimes they even kidnapped slaves in order to acquire products.⁸⁸ Most historians have accepted that the desire for European goods and the end of the deerskin trade encouraged the adoption of commercial agriculture and chattel slavery by some Indians.⁸⁹ In the American Southeast, this led to an increased reliance on slave labor performed by people of African descent.⁹⁰

Slavery may have had a different role in the Five Tribes than in many of the Southern states that were economically dependent on the cultivation of cotton.⁹¹ The overwhelming majority of the members of these tribes did not own any slaves. Others owned too few slaves to allow owners to participate in commercial trade to any significant degree. According to a census taken in 1867, there were 13,566 Cherokee

⁸⁸ Theda Perdue, *Slavery and the Evolution of Cherokee Society, 1540-1866* (Knoxville: University of Tennessee Press, 1979), 37-38.

⁸⁹ Richard White presents the most persuasive argument in *Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos* (Lincoln: University of Nebraska Press, 1988), 131-136.

⁹⁰ Native Americans were also subject to enslavement by Europeans, a topic that is beyond the scope of this paper. For additional information see Almon Wheeler Lauber, *Indian Slavery in Colonial Times Within the Present Limits of the United States* (New York: Columbia University, 1913); J. Leitch Wright, *The Only Land They Knew: The Tragic Story of the American Indians in the Old South* (New York: Free Press, 1981); and Alan Gally, *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670-1717* (New Haven, MA: Yale University Press, 2003). The tri-racial complexity of the early colonial period is covered in Gary B. Nash, *Red, White, and Black: The Peoples of Early North America* (Upper Saddle River, NJ: Prentice-Hall, Inc., 2000).

⁹¹ The historian U.B. Phillips contended that slavery was not economically profitable to Southern planters by the time of the Civil War. It was his contention that slavery would have died out on its own if Northerners had not provoked the Civil War. U.B. Phillips, *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation Régime* (New York: D. Appleton, 1918). However, Kenneth B. Stampp has since demonstrated that slavery was profitable for plantations at the time of the Civil War. Kenneth B. Stampp, *The Peculiar Institution: Slavery in the Antebellum South* (New York: Knopf, 1956). Presumably, this would also hold true for slavery in Indian Territory. For additional information about the important relationship between the cotton revolution and slavery see Stephen Yafa, *Big Cotton: How a Humble Fiber Created Fortunes, Wrecked Civilizations, and Put America on the Map* (New York: Viking, 2005), 121-122; Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, MA: Harvard University Press, 2005); and Gene Dattel, *Cotton and Race in the Making of America: The Human Costs of Economic Power* (Lanham, MD: Ivan R. Dee, 2009).

Indians and between 2,000 and 2,500 Cherokee Freedpeople.⁹² Only 5.26 percent of Choctaw families were slave owners in 1860.⁹³ In 1866 there were 118 slave owners in the Chickasaw nation, but 18 percent of the population was enslaved.⁹⁴ The level of slavery in these tribes is in contrast to the South, where as many as 25 percent of white southern families may have owned slaves.⁹⁵ Instead of owning slaves for the production of surplus agricultural products, some historians believe that slaves were a status symbol, generally acting as personal servants.⁹⁶ However, this belief may be based on the testimony of people who were only enslaved during their childhood. Three people testified that they “didn’t have to work much, and allus [*sic*] had something to eat and wear,” but these informants were emancipated before adulthood.⁹⁷ Historians have not focused on the fact that slaves were also bought and sold as a trade good, and some personal servants might have experienced that outcome when their owner’s economic conditions deteriorated. The trade value of slaves to Indians is a concept that is important because tribal members were not able to invest in land as a long-term asset. The ongoing debate about the importance of slavery within the Five Tribes demonstrates the difficulty

⁹² Russell Thornton, *The Cherokees: A Population History* (Lincoln: University of Nebraska Press, 1990), 94 and 102. It is important to note that the censuses taken in Indian Territory during this time period are not considered totally accurate as discussed on page 94 of Thornton’s book.

⁹³ Saunt, “Paradox of Freedom,” 64 and Jeffrey L. Fortney, Jr., “Slaves and Slaveholders in the Choctaw Nation: 1830-1866” (PhD diss., University of North Texas, 2009), 32.

⁹⁴ Daniel F. Littlefield, Jr., *The Chickasaw Freedpeople: A People Without a Country* (Westport, CT: Greenwood Press, 1980), 18 and Saunt, “Paradox of Freedom,” 65.

⁹⁵ Eric Foner, *Forever Free: The Story of Emancipation and Reconstruction* (New York: Vintage Books, 2006), 12.

⁹⁶ Wyatt F. Jeltz, “The Relations of Negroes and Choctaw and Chickasaw Indians,” *Journal of Negro History* 33, no. 1 (January 1948): 28 and Greg O’Brien, *Choctaws in a Revolutionary Age, 1750-1830* (Lincoln: University of Nebraska Press, 2002), 86-87.

⁹⁷ Francis Banks at Boggy Depot, OK, in 1938, 28; Polly Colbert at Colbert, OK, on September 14, 1937, 88; Kiziah Love at Colbert, OK, in 1937, 258; and Matilda Poe at McAlester, OK, in 1937, 326 in *The WPA Oklahoma Slave Narratives*, eds. T. Lindsay Baker and Julie P. Baker (Norman: University of Oklahoma Press, 1996). The quote is from Matilda Poe’s interview. The editors of this book warn readers that the materials must be used with caution. In part, the informants were elderly at the time of the interviews in the 1930s, and may not have clear memories of events. In addition, informants may have carefully worded their responses because they “dared not offend local white people” during a time of Jim Crow ascendancy and violence against noncompliant blacks. *Ibid.*, 4.

of evaluating a racialized practice in a multiethnic environment that included Indians, whites, and blacks.

It is clear that for a small number of Indian families, slaves were economic assets who cleared land, engaged in agricultural production, and produced goods for market.⁹⁸ The Choctaw slave, Jefferson L. Cole, indicated that slaves were used to grow corn, cotton, rye, oats, wheat, and barley. His description of the work done to grow cotton indicates that there was very little mechanization, and that slaves did the planting and ginning manually.⁹⁹ Eliza Whitmire and Chaney McNair, Cherokee Freedpeople, stated that male slaves were responsible for raising sheep while female slaves were responsible for spinning and weaving wool and cotton.¹⁰⁰ The gendered division of labor that conformed to white Americans' values demonstrates the connection between slave ownership and the owners' level of acculturation. Slaves owned by Louis Ross were used in the production of salt outside of the Cherokee town of Saline.¹⁰¹ In addition, slaves were assets that could be sold to raise cash, and there are examples of slaves being hired out to provide income to their owners.¹⁰² The most realistic assessment of the benefits of slavery in the Five Tribes combines the economic benefits of market production with recognition that slavery shifted power towards an affluent governing class.¹⁰³ While slave ownership was not widespread, typically it was the affluent slave

⁹⁸ St. Jean, *Remaining Chickasaw*, 35 and Kidwell, *The Choctaws of Oklahoma*, 32.

⁹⁹ Jefferson L. Cole, Hartshorne, OK, in March 1938 in *Black Indian Slave Narratives*, ed. Patrick Minges (Winston-Salem, NC: John F. Blair, 2004), 166.

¹⁰⁰ Eliza Whitmire at Estella, OK, in February 1938 in *Ibid.*, 37 and Chaney McNair at Vinita, OK, in June 1939 in *Ibid.*, 41.

¹⁰¹ Moses Lonian at Vinita, OK, in July 1937 in *Ibid.*, 56.

¹⁰² Fortney, "Slaves and Slaveholders," 40.

¹⁰³ This conclusion has been put forth by Jesse Turner Schreier in "Different Shades of Freedom: Indians, African Americans, and Race in the Choctaw Nation, 1800-1907" (PhD diss., University of California Los Angeles, 2008), 38-40.

owners who had adopted Euro-American values of acquiring material goods that were able to dominate the Cherokee, Choctaw, and Chickasaw tribal governments.¹⁰⁴

The adoption of plantation slavery did not, by itself, lead to the acceptance of a belief that tribal citizenship was tied to race. The Cherokee Council associated tribal citizenship with the location of residency after some members voluntarily relocated to Arkansas in 1814.¹⁰⁵ Many scholars contend that tribal citizenship was based on behavioral attributes or matrilineal descent rather than race.¹⁰⁶ This interpretation is especially relevant during the forced removal of the tribes from the Southeast to Indian Territory between 1810 and the 1840s.¹⁰⁷ The “Removal Crisis” of President Andrew Jackson’s administration led to the forced relocation of Indians from Southern states to Indian Territory. The justification for removal was overtly racial and focused on protecting “uncivilized” Indians from the negative influences of white settlers. The apparent “civilized” behavior of tribal leaders was attributed to their mixed blood status, a term that applied only to individuals with white and Indian ancestry. In addition, the

¹⁰⁴ Mary Lindsay discussed the relationship between slave ownership and tribal leadership at Tulsa, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 247. For information about the introduction of racialized slavery by the offspring of white traders see Michael F. Doran, “Negro Slaves of the Five Civilized Tribes,” *Annals of the Association of American Geographers* 68, no. 3 (September 1978): 349; Derrick D. McKisick, “A Separate Peace: Emancipation and Citizenship in the Choctaw Nation” (PhD diss., University of Arkansas, 2007), 24; Littlefield, *The Chickasaw Freedpeople*, 5; St. Jean, *Remaining Chickasaw*, 45; and Schreier, “Different Shades of Freedom,” 32.

¹⁰⁵ Cherokee Council, Act of 1814, art. 3d in Emmet Starr, *History of the Cherokee* (Cherokee, NC: Cherokee Publications, 1921), 43.

¹⁰⁶ Donna Akers, *Living in the Land of Death: The Choctaw Nation, 1830-1860* (East Lansing: Michigan State University Press, 2004), 140-141 and Theda Perdue, “Race and Culture: Writing the Ethnohistory of the Early South,” *Ethnohistory* 51, no. 4 (Fall 2004): 702.

¹⁰⁷ For more information see Lewis Cass, “Considerations of the Present State of the Indians and Their Removal to the West of the Mississippi,” *North American Review* 30 (January 1830); Grant Foreman, *Indian Removal: The Emigration of the Five Civilized Tribes of Indians* (Norman: University of Oklahoma Press, 1932); Ronald N. Satz, *American Indian Policy in the Jacksonian Era* (Norman: University of Oklahoma Press, 1975); Michael D. Green, *The Politics of Indian Removal: Creek Government and Society in Crisis* (Lincoln: University of Nebraska Press, 1985); Michael Paul Rogin, *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian* (New Brunswick, NJ: Transaction Publishers, 2000); Theda Perdue and Michael D. Green, *The Cherokee Nation and the Trail of Tears* (New York: Penguin Books, 2007); and Perdue, “Race and Culture,” 718.

removal of the Five Tribes to Indian Territory has contributed to historians' tendency to remove Indians from Southern history even when their tribal policies were similar to the legal actions enacted by state governments across the South. Although race was not the only criteria for tribal membership, by the time of the Civil War, the Cherokee, Choctaw, and Chickasaw were committed to a racial hierarchy that excluded most blacks from the rights of citizenship.

When historians incorporate people of African descent into their analysis of tribal citizenship, they have concluded that by the early nineteenth century some Native Americans understood and used race as a critical component in "the construction of authority."¹⁰⁸ The ownership of slaves was associated with a class division that separated those "who were familiar and comfortable with the market economy, coercive power, and race slavery" from Native Americans who remained relatively isolated from Euro-American influences.¹⁰⁹ Therefore, an understanding of the adoption of a racial hierarchy is complicated by class differences within tribes that were frequently expressed in racial terms. Lemon Butler testified before a Congressional investigation that "the full-bloods do not make much distinction between us and themselves; but the half-breeds and the quarter-breeds...hold themselves off."¹¹⁰ His comment reveals the persistent association of race and class where Indians with a white ancestor were viewed as an acculturated upper class invested in maintaining a color line that separated them from blacks and full-

¹⁰⁸ Claudio Saunt, et al., "Rethinking Race and Culture in the Early South," *Ethnohistory* 53, no. 2 (Spring 2006): 401. For information about the early adoption of the racial hierarchy see William G. McLoughlin, "Red Indians, Black Slavery and White Racism: America's Slaveholding Indians," *American Quarterly* 26, no. 4 (October 1974): 378.

¹⁰⁹ Claudio Saunt, *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733-1816* (New York: Cambridge University Press, 1999), 2.

¹¹⁰ Lemon Butler at Boggy Depot, Indian Territory, on July 4, 1872, in House Committee on Indian Affairs, *Investigation of Indian Frauds*, 42nd Cong., 3rd sess., March 3, 1873, 465.

blood Indians. The acceptance of the racial hierarchy by the ruling plantation owners in the Five Tribes was detrimental to Indians as well as to blacks.

Elite slave owners who dominated the tribal governments codified the racial hierarchy in order to control access to tribal citizenship.¹¹¹ Shoe Boots, a Cherokee warrior, requested that the Council recognize his children by his slave Dolly as tribal citizens. His request was made in order to ensure they would not live in slavery after his death.¹¹² In response, the Cherokee National Committee passed an anti-miscegenation law in 1824.¹¹³ At the same time, a law was passed that recognized the offspring of Cherokee men and white women as tribal citizens. This law overturned the matrilineal tradition that only recognized the inclusion of the offspring of Cherokee women, an indication of the important link between race, gender, and citizenship.¹¹⁴ The Committee passed other laws that banned blacks from voting or holding public office.¹¹⁵ The

¹¹¹ The acquisition of personal property, including slaves, was part of the reason the Five Tribes implemented constitutional governments modeled on state governments. Saunt points out that another contributing factor that led to the centralization of government was the need to eliminate the sale of communally owned tribal land to the federal government by individual Indians acting on their own behalf. For a complete discussion see Saunt, *A New Order of Things*, 175-180.

¹¹² The complete story of Shoe Boots and his family is presented in Miles, *Ties That Bind*. The petition of Shoe Boots is available in *Ibid.*, 115.

¹¹³ Starr, *History of the Cherokee Indians*, 47. The passage of anti-miscegenation laws by the Cherokee has been attributed to their attempts to emulate other Southern states. For examples see McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton, NJ: Princeton University Press, 1986), 248 and Yarbrough, *Race and the Cherokee Nation*, 41. However, Georgia and Alabama did not pass laws regulating interracial marriage until 1852. Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009), 335, 18n. Historians have yet to explore the possibility of connections between the Cherokee prohibition of marriage to blacks with investigations in northeastern states that determined many of the Native American tribes, including the Mashpee, Narragansett, Mohegan, Pequot, Montauk, and Shinnecock, “had experienced several generations of intermarriage with African Americans.” Tiffany M. McKinney, “Race and Federal Recognition in Native New England,” in *Crossing Waters, Crossing Worlds: The African Diaspora in Indian Country*, edited by Tiya Miles and Sharon P. Holland (Durham, NC: Duke University Press, 2006), 58. Since at least two Cherokee men, John Ridge and Elias Boudinot, were educated at a Connecticut university during this time, Cherokee leaders would surely have been aware of this conflation of Indians with people of African descent. Theda Perdue, *“Mixed Blood” Indians: Racial Construction in the Early South* (Athens: University of Georgia Press, 2003), 85.

¹¹⁴ Miles, *Ties That Bind*, 19.

¹¹⁵ Constitution of the Cherokee Nation, July 1827, art. III, sec. 4 states that “no person who is of negro or mulatto parentage, either by the father or mother side, shall be eligible to hold any office of profit, honor, or

Choctaw and Chickasaw were equally diligent in legislating a racial hierarchy. The Choctaw enacted legislation in 1838 that prohibited the teaching of slaves, and living with a slave was also forbidden.¹¹⁶ The Choctaw Constitution of 1842 excluded blacks from citizenship, even through adoption or marriage.¹¹⁷ The 1850 Choctaw Constitution prohibited any “person who is in any part Negro” from holding public office, an act that was replicated by the Chickasaw in 1857.¹¹⁸ Following the Dred Scott decision in 1857, the Chickasaw legislature enacted an 1858 law that was more restrictive than the Choctaw laws, stating that blacks would not enjoy “any of the rights, privileges and immunities of citizens.”¹¹⁹ The actions of the tribal governments were designed to limit the independence and rights of blacks, whether they were slaves or free.

The actions of the tribal governments were a reflection of the codification of the racial hierarchy across the United States. Laws enforcing restrictions on the rights of African Americans, known as Black Codes, existed in many states in both the North and South. In 1821, the state of New York began limiting the ability of free blacks to vote, and black suffrage was eliminated in Pennsylvania, North Carolina, and Tennessee during the 1830s.¹²⁰ The Nat Turner slave revolt occurred in southern Virginia in 1831 and the fear of a similar rebellion led to legislation designed to keep free blacks out of

trust under this Government.” This section also excludes anyone who is of the African race from citizenship. Starr, *History of the Cherokee Indians*, 56. Later Constitutions continued to contain these provisions. For additional information see Miles, *Ties That Bind*, 108-110.

¹¹⁶ Littlefield, *The Chickasaw Freedpeople*, 13.

¹¹⁷ Choctaw Nation, *Constitution of the Choctaw Nation*, November 10, 1842, art. VI, Sec. 13, <http://www.choctawnation.com/history/post-removal-government-treaties/> (accessed March 29, 2013). The term “adoption” was used synonymously with naturalization during the nineteenth century.

¹¹⁸ Choctaw Nation, *Constitution of the Choctaw Nation*, October 14, 1850, art. VI, Sec. 16, <http://www.choctawnation.com/history/post-removal-government-treaties/> (accessed March 29, 2013) and Chickasaw Nation, *An Act Prohibiting Negroes from Voting, etc.*, in House Committee of Indian Affairs, *Citizenship in the Choctaw and Chickasaw Nations* (Washington: Government Printing Office, 1908), 77.

¹¹⁹ *Citizenship in the Choctaw and Chickasaw Nations*, 78. This law was passed the year after the U.S. Supreme Court *Dred Scott* ruling.

¹²⁰ Kantrowitz, *More than Freedom*, 24.

Georgia by levying a tax on them.¹²¹ Shortly after it was admitted as a state, Texas passed an 1840 law that prohibited free blacks from entering the state.¹²² Massachusetts had a law prohibiting interracial marriage that was not repealed until 1843.¹²³ Since most states had laws that prevented free blacks from voting, there were not any laws passed that addressed their right to hold office.¹²⁴ The codification of the racial hierarchy was an important component of the processes used to uphold slavery.

In common with other slaveholding areas, violence and intimidation was employed in Indian Territory to ensure the control of slaves. Slave patrols, sometimes mandated by state law, were a typical tool used by governments to discourage flight and catch runaways.¹²⁵ Matilda Poe, a slave in Indian Territory, said that Patrollers were “low white trash what jest wanted a excuse to shoot niggers.”¹²⁶ Morris Sheppard, a Cherokee slave, remembered that the Patrollers would stop blacks when they were off plantations to make sure they had a pass from their owners. If they didn’t, the Patrollers “wore him out good, and made him go home.”¹²⁷ The Choctaw Indian Buck Colbert, who claimed to be a Patroller, would beat blacks even if they had a pass from their owners. Former slave Polly Colbert described the Patrollers as policeman, indicating they may have had formal sanction from the tribal government. However, if their role was official, Polly Colbert’s owner did not allow the Patrollers to whip his slaves.¹²⁸ Although very little violence against slaves was reported occurring in Indian Territory,

¹²¹ Ibid., 38.

¹²² Randolph B. Campbell, “The Law of Slavery in Texas” in *The Laws of Slavery in Texas*, ed. Randolph B. Campbell (Austin: University of Texas Press, 2010), 66.

¹²³ Kantrowitz, *More than Freedom*, 63.

¹²⁴ Smith, *Civic Ideals*, 254.

¹²⁵ Genovese, *Roll, Jordan, Roll*, 617.

¹²⁶ Matilda Poe at McAlester, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 325.

¹²⁷ Morris Sheppard at Fort Gibson, OK, in 1937 in Minges, *Black Indian Slave Narratives*, 66.

¹²⁸ Polly Colbert at Colbert, OK, on September 14, 1937, in Baker, *The WPA Oklahoma Slave Narratives*, 89.

Buck Colbert was reputed to have killed a slave woman who was acting as his baby's nurse when she did not quiet the baby quickly enough.¹²⁹ The intimidation of slaves in Indian Territory through the use of a patrol system was similar to other states, including Texas where a formal system of slave Patrols was established in 1846.¹³⁰ Like white Southerners, Cherokee, Choctaw, and Chickasaw slave owners employed coercion to support the involuntary nature of chattel slavery.

In spite of legal and physical coercion, it appears that some slaves were able to negotiate a somewhat flexible form of slavery. In an 1872 Congressional hearing, Butler testified that a slave was able to "go off and stay as long as he pleased, and come back and give his master \$4 or \$5, and the master was satisfied."¹³¹ Married slaves who had different owners were sometimes allowed to spend the night together.¹³² Kiziah Love's testimony in a Works Progress Administration (WPA) interview in the 1930s indicated that she and her husband built a house "about half-way from Master Frank's house and Master Sam Love's house." From their shared home, the couple would go to work every day, Love to Master Frank's house and her husband to Master Love's place.¹³³ In at least some situations, enslavement in the Five Tribes exhibited the same flexibility that was found in various locations across the South.¹³⁴

The Civil War brought the issue of slavery to the forefront in Indian Territory.¹³⁵

Within the Cherokee tribe, slavery had long been a symbol of a division between a

¹²⁹ Kiziah Love at Colbert, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 259.

¹³⁰ Campbell, "The Law of Slavery," 66.

¹³¹ Lemon Butler at Boggy Depot, Indian Territory, on July 4, 1872, in *Investigation of Indian Frauds*, 466. Butler was the former slave of a Choctaw Indian.

¹³² Littlefield, *The Chickasaw Freedpeople*, 15.

¹³³ Kiziah Love at Colbert, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 260.

¹³⁴ Hahn, *A Nation Under Our Feet*, loc. 254-312, Kindle e-book.

¹³⁵ Slavery was not the only reason the Five Tribes aligned with the Confederacy. Other reasons that have been cited include the Confederacy's early military victories, pressure from Texas and Arkansas, the

faction that retained traditional communal values and another group who had adopted the market economy and slavery. This division had manifested in deep political divisions that began in the 1810s with the debate about Cherokee removal to Indian Territory.¹³⁶ Although Chief John Ross originally supported neutrality during the Civil War, he eventually signed a treaty with the Confederacy.¹³⁷ The Cherokee tribe split, with thousands of Indians and slaves fleeing to Kansas to escape the ravages of the pro-Confederate Cherokees.¹³⁸ While in Kansas, the pro-Union Cherokee leaders formed a government and deposed from office any individual allied with the Confederacy. The pro-Union tribal government also passed a law emancipating all slaves, a law not recognized by the Cherokee whose allegiance to the Confederacy remained steadfast.¹³⁹ Since the Southern Cherokee owned most of the slaves, the law did not have any real effect. During the war, Cherokee soldiers on both sides ravaged the land, burned houses, and stole food and slaves, ultimately leaving citizens on both sides destitute.¹⁴⁰ The American Civil War was as devastating to the Cherokee people as it was to many Americans.

superior treaty terms offered by the Confederacy, the Union's abandonment of forts in Indian Territory, President Abraham Lincoln's refusal to remit annuities during the war, and an attempt by tribal leaders to implement their own nationalistic vision. For more information see William G. McLoughlin, *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1839-1880* (Chapel Hill: University of North Carolina Press, 1993), 181-182; Robert J. Conley, *The Cherokee Nation: A History* (Albuquerque: University of New Mexico Press, 2005), 174-175; Denson, *Demanding the Cherokee Nation*, 57-59; St. Jean, *Remaining Chickasaw*, 38; Kidwell, *The Choctaws of Oklahoma*, 57-58; and Smith, "Nations Colliding," 279.

¹³⁶ The internal divisions within the Cherokee tribe are very complex. For additional information about the history and political ramifications of the divisions see McLoughlin, *After the Trail of Tears*, chap. 6; McLoughlin, *Cherokee Renaissance in the New Republic*, chap. 15; and Gerard Reed, "Postremoval Factionalism in the Cherokee Nation," in *The Cherokee Indian Nation: A Troubled History*, ed. Duane H. King (Knoxville: University of Tennessee Press, 1979), 148-163.

¹³⁷ The northern Cherokee abrogated this treaty after they fled to Kansas and established their own government. For more information see McLoughlin, *After the Trail of Tears*, 208.

¹³⁸ *Ibid.*, 206.

¹³⁹ The Cherokee slaves were emancipated on June 25, 1863. Littlefield, *The Cherokee Freedpeople*, 16.

¹⁴⁰ McLoughlin, *After the Trail of Tears*, 209-213.

The Choctaw and Chickasaw Indians did not experience the same divisions and devastation as the Cherokee. Once treaties were signed with the Confederacy, only 212 Choctaw and Chickasaw moved to Kansas in support of the Union.¹⁴¹ This unity does not necessarily mean that all of the Indians supported the adoption of race-based slavery and the material inequalities it created, but it does demonstrate that the racial hierarchy had become an accepted cultural value.¹⁴² Their bias that people of African descent were inherently inferior and available for exploitation was even expressed towards the few free blacks who lived among the Choctaw and Chickasaw. In 1852, a missionary, Reverend Copeland, rescued a former slave named Phillis when the Choctaw Loring Folsom began beating her for “impudent language.”¹⁴³ When the Chickasaw council decided to join the Confederacy, their resolution “affirmed the ‘feelings and sympathies’ that joined the Chickasaw Nation to the Confederacy.” In addition, the resolution stated their belief that federal efforts at emancipation would ultimately result in Haitian-style insurrections.¹⁴⁴ The Choctaw and Chickasaw tribes were able to survive the American Civil War with most of their lands undamaged and their ideas about the racial hierarchy intact because non-slave owning members did not contest the political dominance of the plantation owners.

The end of the Civil War meant the Five Tribes needed to reestablish their relationship with the federal government. In the fall of 1865, the federal government called for a meeting with delegates from each tribe that had aligned with the Confederacy

¹⁴¹ *Annual Report of the Commissioner 1865*, 208.

¹⁴² Krauthamer, *Black Slaves, Indian Masters*, 4.

¹⁴³ *Ibid.*, 83-84.

¹⁴⁴ *Ibid.*, 99.

at Fort Smith, Arkansas.¹⁴⁵ The emancipation of slaves was one of the primary conditions for the renewal of treaty relations.¹⁴⁶ Cherokee representatives from both factions attended the meeting. The pro-Confederacy Cherokee were willing to accept emancipation, but objected to the federal requirement of tribal citizenship for the Freedpeople.¹⁴⁷ Choctaw and Chickasaw representatives were not even willing to recognize emancipation. After hearing complaints about the treatment of the Freedpeople by the Choctaw and Chickasaw tribes, Congress sent General John B. Sanborn to Indian Territory to investigate matters. He reported in December 1865 that many of the Choctaw Indians continued enslaving blacks, and “their action and treatment toward them is much the same” as it had been before emancipation. The Chickasaw were also reported to be “still holding most of their negroes in slavery.”¹⁴⁸ The negotiations at Fort Smith did not produce treaties that the tribes and federal government were willing to ratify.¹⁴⁹

In the meantime, tribal governments needed to deal with the presence of former slaves in their territories. According to Sanborn, some Cherokee believed the federal government should “move the negroes from this country, as it has freed them.” However, principal Chief Lewis Downing indicated that he expected the tribal government to grant

¹⁴⁵ The Five Tribes were not the only Indian tribes to sign treaties with the Confederacy. The other tribes were the Shawnee, Delaware, Wichita, Comanche, Great Osage, Seneca, and the Quapaw. *Annual Report of the Commissioner 1865*, 482.

¹⁴⁶ So much time was spent on the topic of emancipation and adoption that Isaac Warrior, the Seneca chief, felt he needed to clarify that “we haven’t any negroes in our nation.” *Ibid.*, 506.

¹⁴⁷ Littlefield, *The Cherokee Freedpeople*, 18.

¹⁴⁸ Brevet Major General John B. Sanborn to James Harland, U.S. Secretary of the Interior in “Report of the Secretary of the Interior,” *Executive Documents Printed by Order of The House of Representatives During the Second Session of the Thirty-Ninth Congress, 1866-’67* (Washington: Government Printing Office, 1867), 284.

¹⁴⁹ The Treaty of Fort Smith was incorporated into the laws of the Choctaw Nation, but was not signed by tribal delegates or ratified by Congress. In this treaty, the Choctaw only agreed to “properly provide” for the emancipated slaves. A.R. Durant, compl., *Constitution and Laws of the Choctaw Nation* (Dallas, TX: John F. Worley, 1894), 410-411.

full civil rights to the Freedpeople.¹⁵⁰ In fact, once the Treaty of 1866 was signed the Cherokee council amended their Constitution to include all of the provisions that related to the Freedpeople.¹⁵¹ The Choctaw national council passed a law that ended slavery, including a provision that freed slaves could negotiate a labor contract with their former owners subject to the approval of a local judge. Former owners were responsible for housing, medical care, and clothing, but were also required to compensate the workers with either wages or a share of the crops.¹⁵² Winchester Colbert, Governor of the Chickasaw Indians, issued a proclamation urging slave owners to make “such arrangements with their slaves as will be conducive [*sic*] to the benefit both of owners and slave” hoping slave owners would voluntarily emancipate their slaves.¹⁵³ In order to deal with the restructuring of labor relationships, he recommended that young blacks be apprenticed to their former masters until they were twenty-one years old.¹⁵⁴ The labor laws passed by the Choctaw and Chickasaw tribes were much like labor laws that were passed in Southern states as they attempted “to stabilize the black work force and limit its economic options.”¹⁵⁵ While the Cherokee initially accepted Freedpeople into citizenship, the Choctaw and Chickasaw immediately began trying to reestablish labor relationships that were similar to slavery.

The Cherokee, Choctaw, and Chickasaw tribes negotiated treaties with the federal government that gave them legal methods of excluding blacks from the benefits of citizenship. The terms of the Treaty of 1866 allowed the Cherokee to exclude any

¹⁵⁰ Sanborn to Harland, “Report of the Secretary of the Interior,” 284.

¹⁵¹ “Constitution, September 6, 1829” in *Compiled Laws of the Cherokee Nation* (Tahlequah, Indian Territory: National Advocate Printers, 1881), 28-33 and Littlefield, *The Cherokee Freedpeople*, 26-27.

¹⁵² Littlefield, *The Chickasaw Freedpeople*, 31.

¹⁵³ Winchester Colbert to Peter P. Pitchlynn, October 12, 1865, Chickasaw Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Box 4, Folder 41.

¹⁵⁴ Littlefield, *The Chickasaw Freedpeople*, 23-24.

¹⁵⁵ Foner, *Reconstruction*, 199.

Freedman if they returned to Cherokee land more than six months from the treaty date of August 11, 1866.¹⁵⁶ The Cherokee Treaty also set aside land intended for the voluntary settlement of the Freedpeople. This segregated district would have been self-governing and had a representative on the National Council.¹⁵⁷ However, the Cherokee attempts at black colonization failed when the Freedpeople did not move there as anticipated. The Choctaw and Chickasaw treaty allowed the tribes to legally exclude the Freedpeople from citizenship, but at a cost. The Treaty required the Choctaw and Chickasaw governments to pass laws adopting the freed slaves into citizenship within two years from the date of the ratification of the treaty. If the Choctaw and Chickasaw failed to pass satisfactory legislation, the federal government would withhold \$300,000 owed for the purchase of the Leased District, and use that money to relocate the Freedpeople.¹⁵⁸ Alternatively, Congress could withhold \$100 per person for Freedpeople who moved outside of Choctaw and Chickasaw lands.¹⁵⁹ These treaties, finalized during President Andrew Johnson's attempt at Reconstruction, reflected the limited efforts at Reconstruction proposed by this President.¹⁶⁰

¹⁵⁶ "Treaty with the Cherokee, 1866," art. 9 in Kappler, *Indian Laws and Treaties*, 944.

¹⁵⁷ *Ibid.*, art. 4-6, 943-944.

¹⁵⁸ The Leased District was land west of the ninety-eighth longitudes that was ceded through treaty in 1855. The land was to be used to settle other Indian tribes. "Treaty with the Choctaw and Chickasaw, 1855," art. 9-12 in *Ibid.*, 708-709.

¹⁵⁹ *Ibid.*, art. 3, 919.

¹⁶⁰ Foner, *Reconstruction*, 176-184. Since the Civil Rights movement of the 1960s, Andrew Johnson's presidency and impeachment have received renewed interest from historians who have generally focused on determining if he was a racist. This debate can be found in Milton Lomask, *Andrew Johnson: President on Trial* (New York: Farrar, Straus, 1960); Hans L. Trefousse, *Impeachment of a President: Andrew Johnson, the Blacks, and Reconstruction* (Knoxville: University of Tennessee Press, 1975); Albert Castel, *The Presidency of Andrew Johnson* (Lawrence: University Press of Kansas, 1979); Eric L. McKittrick, *Andrew Johnson and Reconstruction* (New York: Oxford University Press, 1988); William E. Hardy, "Reconstructing Andrew Johnson: The Influence of Laissez-Faire Constitutionalism on President Johnson's Restoration Policy," *Tennessee Historical Quarterly* 65, no. 1 (March 2006): 70-92; and Paul H. Bergeron, *Andrew Johnson's Civil War and Reconstruction* (Knoxville: University of Tennessee Press, 2011). None of these historians have examined Johnson's Reconstruction policy in Indian Territory.

The Cherokee council initially incorporated at least some of the freed slaves into the rights of citizenship, but eventually eliminated many through the legal opportunities provided in the Treaty of 1866. Although Cherokee Chief Lewis Downing supported the adoption of the Freedpeople, a number of them were given notice to leave the territory in February of 1873.¹⁶¹ In 1885, black Cherokees complained about their citizenship status during a Senate investigation. Peter Meigs, formerly a Cherokee slave, testified that he was able to vote four times, but was denied the vote on his fifth attempt. Meigs indicated that the Freedpeople that fled to Kansas in support of the Union were more likely to be classified as doubtful than blacks that remained with their owners during the Civil War.¹⁶² Another informant, Reverend Thomas Mayfield, testified that he had been allowed to vote once, but only because the black vote was needed to elect a slate of officers.¹⁶³ That perception was repeated during the testimony of Maryland Beck, a former Cherokee slave who had resided in Kansas during the Civil War.¹⁶⁴ Each of these Freedpeople insisted they had returned before the expiration of the six-month period and had been previously recognized as a Cherokee citizen. Over time, the Cherokee council enacted strategies that removed Freedpeople from the citizenship rolls, reducing the number of Freedpeople that were eligible to utilize the land and receive annuity payments.

The Cherokee government accomplished the removal of many Freedpeople from citizenship through the use of the census and tribal courts. The census of 1870 originated when the Cherokee government authorized a program designed to identify intruders that

¹⁶¹ Littlefield, *Cherokee Freedpeople*, 78-79.

¹⁶² Peter Meigs at Muskogee, Indian Territory, on May 20, 1885, in Senate Committee on Indian Affairs, *Condition of the Indians in the Indian Territory and Other Reservations, etc.* (Washington: Government Printing Office, 1886), 9. The term “doubtful” was used to denote a person who had made a claim to citizenship that probably would not be successful.

¹⁶³ Reverend Thomas Mayfield at Muskogee, Indian Territory, on May 20, 1885, in *Ibid.*, 16.

¹⁶⁴ Maryland Beck at Fort Gibson, Indian Territory, on May 20, 1885, in *Ibid.*, 25.

should be removed.¹⁶⁵ The census-takers were told to record the names of individuals they believed had not returned within the six-month time limit, and any disputes could be brought before the Cherokee Supreme Court.¹⁶⁶ Freedpeople discovered they had been classified as doubtful only when they attempted to vote or draw annuity payments. Some protested their change of status with the federal government. The Interior Department decided that the Cherokees did not have the right to determine eligibility without the oversight of the Indian Agent.¹⁶⁷ In an attempt to control citizenship independently from federal interference, the Cherokee government authorized a special citizenship court in 1879. However, citizenship continued to be a problem because there was no documentation available to prove their date of residency, and Freedpeople had to depend on the testimony of friends and relatives. Another attempt was made to create a census of the Freedpeople in 1896 when the U.S. Court of Claims judgment determined that they should participate in payments for the sale of the Cherokee Outlet.¹⁶⁸ Attorneys for the Cherokee Nation obstructed the preparation of the roll, requiring the Freedpeople to provide unreasonable levels of detail to prove they were eligible.¹⁶⁹ The Cherokee Nation contested the validity of the roll, claiming that Freedpeople had paid witnesses to

¹⁶⁵ The term “intruder” was used in official documents to designate an individual living on Indian lands without the permission of the tribe or the federal government. This definition is provided in U.S. Department of the Interior, *Report of the Secretary of the Interior* (Washington: Government Printing Office, 1888), 132.

¹⁶⁶ William P. Boudinot at Tahlequah, Indian Territory, in May 1885 in *Condition of the Indians*, 75.

¹⁶⁷ Dennis W. Bushyhead, Cherokee Principal Chief at Tahlequah, Indian Territory, on May 21, 1885, in *Ibid.*, 54.

¹⁶⁸ Moses Whitmire, Trustee for the Freedpeople of the Cherokee Nation v. the Cherokee Nation and the United States, 30 Ct. Cl. 138 (1895). This census became known as the Kern-Clifton Roll, and was named for Commissioners Robert H. Kern and William Clifton who represented the Department of the Interior. The Cherokee Outlet was a strip of land along the border of Kansas and present day Oklahoma deeded to the Cherokee in 1835 and sold back to the federal government in the Treaty of 1866. *Treaty with the Cherokee, 1835*, art. 2 in Kappler, *Indian Laws and Treaties*, 441 and *Treaty with the Cherokee, 1866*, art. 15 in *Ibid.*, 947.

¹⁶⁹ Littlefield, *The Cherokee Freedpeople*, 182.

testify they were eligible when they were not.¹⁷⁰ In the end, many Freedpeople who had been recognized as Cherokee citizens immediately after the Civil War were removed from the rolls.

The Choctaw and Chickasaw tribes initially refused to accept the freed slaves into tribal citizenship. The Choctaw government did not take any immediate legislative action about naturalizing the freed slaves, preferring to wait for the expiration of the two-year waiting period. On the other hand, the Chickasaw passed legislation on November 9, 1866, that included an official request to the federal government for the immediate removal of the Freedpeople.¹⁷¹ One week later, Governor Cyrus Harris, the Chickasaw Governor, ordered the expulsion of all intruders living in the Chickasaw nation. This action included the removal of all of the freed Chickasaw slaves.¹⁷² The federal government refused to remove the Freedpeople and in 1868 the Chickasaw legislature again petitioned the federal government for action.¹⁷³ Even though the tribal governments rejected the Freedpeople, most of the black Choctaw and Chickasaw remained in the nations because of their close cultural and familial ties to the tribes.¹⁷⁴

There were political, legal, and economic reasons the Cherokee, Choctaw, and Chickasaw tribes refused to accept blacks as citizens. Some tribal leaders were concerned that blacks would influence elections if voting privileges were granted to black members. This was especially true in the Chickasaw tribe where Freedpeople

¹⁷⁰ Ibid., 200-201.

¹⁷¹ United States v. Choctaw Nation and Chickasaw Nation, 193 U.S. 115, 24 S. Ct. 411, 48 L. Ed. 640 (February 23, 1904).

¹⁷² House, *Petition of Freedpeople of Choctaw and Chickasaw Nations With Other Papers on the Same Subject*, 42nd Cong., 2nd sess., January 23, 1872, 8.

¹⁷³ United States v. Choctaw Nation and Chickasaw Nation.

¹⁷⁴ Littlefield, *The Chickasaw Freedpeople*, 46.

represented 18 percent of the voting population.¹⁷⁵ Tribal resistance to federal control over membership was also an attempt to exert their right to political sovereignty. Federal supervision over tribal citizenship was established in *United States v. Rogers* in 1846 when an adopted white man was charged with murder.¹⁷⁶ The U.S. Supreme Court determined that as a white man, William S. Rogers, could not be an Indian, and therefore could not be tried in tribal courts.¹⁷⁷ This ruling that equated race and tribal citizenship meant that court jurisdiction over adopted blacks was unclear. In addition, tribal membership meant that the Freedpeople would have the right to participate in monetary distributions of annuities and would be eligible to utilize land for their own purposes. Both of these economic benefits resulted in less money and land available to other citizens. Tribal leaders were motivated to exclude blacks from citizenship in order to retain political and economic power.

Excluding the Freedpeople from citizenship meant tribal police and court systems did not protect them. Early reports from Indian Territory indicated that some Choctaw and Chickasaw Freedpeople had been murdered. In his 1868 report, the Indian Agent for the Choctaw and Chickasaw, Martin W. Collar (or Chollar), stressed the importance of moving the Freedpeople quickly because “quite a number of them had been killed.”¹⁷⁸ In a petition dated January 15, 1870, the Freedpeople appealed for Congressional assistance because Indians had killed some blacks.¹⁷⁹ Valentine Dell, a Senator in the Arkansas Legislature, claimed that Freedpeople had been murdered and persecuted by the

¹⁷⁵ Saunt, “Paradox of Freedom,” 64.

¹⁷⁶ *United States v. Rogers*, 45 U.S. (4 How.) 568 (1846).

¹⁷⁷ *United States v. Rogers*. For more information see David E. Wilkins, *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice* (Austin: University of Texas Press, 1997), 38-49.

¹⁷⁸ *Petition of Freedpeople of Choctaw and Chickasaw Nations*, 10.

¹⁷⁹ Senate, *Memorial of a Committee on Behalf of the Colored People of the Choctaw and Chickasaw Tribes of Indians*, 41st Cong., 2nd sess., March 15, 1870, 1.

Indians.¹⁸⁰ Since the Freedpeople were not citizens of the tribes, the tribal police were not authorized to investigate these instances. Federal authorities were not involved in investigations of these claims, leaving the Freedpeople without protection of their personal safety.

Part of the reason the crimes were not investigated was because it was unclear who had jurisdictional responsibility. Immediately after the Chickasaw legislature ratified the Treaty of 1866, Governor Harris sent a letter to Agent Collar requesting advice on “the right of the nation to try under their laws ... any Indian accused of the murder of a negro.”¹⁸¹ On July 20, 1868, Holmes Colbert of the Chickasaw legislature sent a letter to the Secretary of the Interior again requesting clarification about jurisdiction in a case where a Freedperson was a party in a criminal case.¹⁸² Even the federal government was unsure which courts had jurisdiction over the black Chickasaw. The Choctaws initially attempted to include the Freedpeople, but were instructed in 1877 by the Bureau of Indian Affairs (B.I.A.) that U.S. courts had jurisdiction. Then in 1880, the B.I.A. reversed itself and determined that Choctaw courts had jurisdiction.¹⁸³ In spite of the confusion about jurisdiction, it appears the Freedpeople were sometimes subject to tribal law. In an interview with the WPA, Paul Garnett Roebuck remember seeing both Indians and blacks whipped in Goodland, Indian Territory, after being sentenced by

¹⁸⁰ “The Colored People of the Choctaw Nation,” *Daily Arkansas Gazette*, April 14, 1870.

¹⁸¹ *Petition of Freedpeople of Choctaw and Chickasaw Nations*, 8.

¹⁸² *Ibid.*, 9.

¹⁸³ Angie Debo, *The Rise and Fall of the Choctaw Republic* (Norman: University of Oklahoma Press, 1934), 102.

Choctaw Judge John P. Turnbull.¹⁸⁴ If the Freedpeople had been recognized as citizens, the tribal government would have had clear jurisdictional responsibility.¹⁸⁵

The Freedpeople of the Choctaw and Chickasaw tribes organized in an attempt to acquire their rights of tribal citizenship. The first meeting of the Freedpeople occurred on December 8, 1866. After this meeting, they requested that Agent Collar arrange to move them outside of Indian lands “because of unfriendly and bitter feelings toward them.”¹⁸⁶ The next meeting was held at Boggy Depot in the Choctaw Nation on June 10, 1868, eighteen days before the expiration of the two-year adoption requirement in the treaty. At this meeting, the Freedpeople passed a resolution requesting that the federal government pay for their removal from Indian lands because they had not been granted citizenship or the right of suffrage.¹⁸⁷ In April of 1869 the Freedpeople sent a delegation to Washington, D.C., in the hope they could encourage Congress to act on their behalf.¹⁸⁸ The next year, on September 25, 1869, they met in Scullyville in the Choctaw nation, and drafted another petition. In this resolution, the Freedpeople requested tribal citizenship, a change from their previous position. However, in another petition signed by 162 Freedpeople heads of households on December 5, 1870, the black Choctaw and Chickasaw requested U.S. citizenship because they lacked “the protection of life or property” and “the privilege of educating” their children.¹⁸⁹ The Choctaw and Chickasaw

¹⁸⁴ Paul Garnett Roebuck at Hugo, OK, in March 1938 in Minges, *Black Indian Slave Narratives*, 185-186.

¹⁸⁵ This would only be true until 1896 when the U.S. Supreme Court ruled that blacks who were members of a tribe were not Indians subject to tribal courts in criminal cases. The Indian Freedpeople continued to be subject to the jurisdiction of tribal courts in civil matters. *Alberty v. United States*, 162 U.S. 499 (April 20, 1896).

¹⁸⁶ Littlefield, *The Chickasaw Freedpeople*, 52.

¹⁸⁷ Senate Committee on Indian Affairs, *Letter of the Secretary of the Interior*, 40th Cong., 2nd sess., July 24, 1868, 4.

¹⁸⁸ *Petition of the Freedpeople of Choctaw and Chickasaw Nations*, 11.

¹⁸⁹ *Ibid.*, 1.

Freedpeople's quest for citizenship was based on their desire for political participation, personal safety, and education.

The activism of the Choctaw and Chickasaw Freedpeople aggravated the tense racial environment in Indian Territory.¹⁹⁰ They were harassed and threatened with violence when they attempted to conduct a meeting at Armstrong Academy in Choctaw territory. Indians destroyed the posters that announced a meeting to be held on December 16, 1869. Some Freedpeople reported they were threatened with violence if they attended the meeting. A U.S. Marshall whose viewpoint was sympathetic towards the Indians arrested two Freedpeople, Richard Brashears and an unnamed black companion, while they were on their way to the meeting. The two were charged with disturbing the peace, but later released because the charges were without merit.¹⁹¹ The charge was based on a letter they sent announcing that a meeting was being convened for the purpose of obtaining the "rights of men and citizens of the nations."¹⁹² Although the U.S. Commissioner, James O. Churchill, released the men, the Choctaw and Chickasaw black Indians did not attempt another meeting at Armstrong Academy. Similar situations occurred throughout the South, where violence against blacks and white Republicans effectively changed the political landscape. For example, violence in Camilla, Georgia, led by the local sheriff was part of a campaign of terror aimed at stopping the political participation of blacks that ultimately led Georgia Republicans to abandon their

¹⁹⁰ The connection between black activism and violence by whites has been explored in Paul Ortiz, *Emancipation Betrayed: The Hidden History of Black Organizing and White Violence in Florida From Reconstruction to the Bloody Election of 1920* (Berkeley: University of California Press, 2005), chap. 3. Reconstruction era violence by white people against African Americans was interpreted as a continuation of the Civil War by Kenneth W. Howell, ed., *Still the Arena of Civil War: Violence and Turmoil in Reconstruction Texas, 1865-1874* (Denton: University of North Texas Press, 2012).

¹⁹¹ Littlefield, *The Chickasaw Freedpeople*, 57-58.

¹⁹² *Memorial of a Committee On Behalf of the Colored People*, 5.

Presidential campaign efforts in 1868.¹⁹³ The fact that law enforcement officials were involved in the violence against blacks in Indian Territory and Georgia demonstrates the importance of local attitudes towards the acceptance of black citizenship.

Protection of property was another issue that should have been safeguarded by a court system. The former slaves of the Cherokee Indians who were classified as doubtful no longer had the right to communal land. In at least two situations, Freedpeople were required to purchase land from an individual Cherokee. Reverend Mayfield paid a Cherokee woman \$150 for his farm. After the farm had been developed, a different Cherokee Indian dispossessed him.¹⁹⁴ John Bean also said he paid money to a Cherokee individual for the land he farmed.¹⁹⁵ Jack Davis claimed the Cherokee government attempted to sell the land he had improved.¹⁹⁶ In each of these cases, the Freedpeople were not able to access the tribal courts for justice because a non-citizen could not bring suit in a Cherokee court.

The fact that these tribes limited black citizenship created a situation where the Freedpeople were not protected by courts. This was especially important in cases where the Indians threatened the physical safety of blacks. The value of the court system was equally important when the economic independence of the black Indians was threatened. As a further restriction of their rights, Cherokee Freedpeople were not allowed to sit on juries. The exclusion of blacks from juries was similar to the situation in Mississippi where people of African descent were not deemed capable of exercising this right of

¹⁹³ Foner, *Reconstruction*, 342.

¹⁹⁴ Reverend Thomas Mayfield at Muskogee, Indian Territory, on May 20, 1885, in *Condition of the Indians*, 17.

¹⁹⁵ John Bean at Muskogee, Indian Territory, on May 20, 1885, in *Ibid.*, 23.

¹⁹⁶ Jack Davis at Muskogee, Indian Territory, on May 20, 1885, in *Ibid.*, 20.

citizenship.¹⁹⁷ There was also a complaint that the testimony of the Indian Freedpeople was not given the same weight as the testimony of an Indian.¹⁹⁸ This was so common across the South that DuBois concluded that it was “impossible to convict a white man of any crime on the testimony of a black.”¹⁹⁹ By refusing to recognize the Freedpeople as citizens with the full protection of the courts, the tribal governments exposed blacks to ongoing abuse.

The Freedpeople’s right to annuity distributions was another contested area of tribal citizenship. One of the most contentious issues resulted from a decision by the Cherokee Council on May 19, 1883, to distribute a \$300,000 annuity only to individuals who were Cherokee by blood.²⁰⁰ This action of the Cherokee Council excluded the Freedpeople, and it also eliminated the participation of Delaware and Shawnee Indians who had been adopted into tribal membership at the end of the Civil War.²⁰¹ These two tribes were specifically entitled to “the same participation in the national funds as native Cherokee.” The Cherokee Council justified their action by contending that the Treaty of 1866 was only intended to confer civil rights, and not the right to participate in annuity distributions.²⁰² According to anthropologist Circe Sturm, the refusal of the Council to include the Freedpeople, Delaware, and Shawnee in this distribution demonstrated that the Cherokee government was resisting the increase in cultural and racial diversity that

¹⁹⁷ DuBois, *Black Reconstruction*, 439.

¹⁹⁸ Albert Burgess at St. Louis, MO on May 18, 1885, *Condition of the Indians*, 3 and Russell Vann at Fort Gibson, Indian Territory, on May 20, 1885, in *Ibid.*, 29.

¹⁹⁹ DuBois, *Black Reconstruction*, 557.

²⁰⁰ U.S. Department of the Interior, *A Communication From the Secretary of the Interior Relative to Legislation in Behalf of Certain Cherokee Indians*, 49th Cong., 1st sess., March 3, 1886, 1. Usually, the designation of Cherokee by blood included individuals with some white ancestry but not those who were both Indian and African.

²⁰¹ “Treaty with the Cherokee, 1866,” art. 15 and 16 in Kappler, *Indian Laws and Treaties*, 946-947. The number of Delaware adopted was about 985 and the number of Shawnee was 770. Littlefield, *The Cherokee Freedpeople*, 45.

²⁰² *A Communication From the Secretary of the Interior*, 3 and *United States Ex Rel., Lowe v. Fisher*, Secretary of the Interior, 223 U.S. 95 (1912).

occurred after the Civil War. Pointing out this increasing diversity highlights the homogeneous composition of the tribe before Reconstruction. By the 1880s, Cherokee citizens included Freedpeople, Delaware, Shawnee, Natchez, and some Creek Indians as well as intermarried whites.²⁰³ The response of the Cherokee Council when challenged by a multiethnic citizenship for the first time was to remain adamant and only distribute annuity money to people who were Cherokee by blood.

Congress disagreed with the interpretation offered by the Cherokee Council, and decided to appropriate money from future annuities to distribute to the Freedpeople. Congress passed a law on October 19, 1888, allocating \$75,000 of future Cherokee annuities to be distributed to the Freedpeople.²⁰⁴ Their attorney, J. Milton Turner, inspired Congressional action when he testified before a Senate committee in March of 1886. Turner's testimony emphasized the injustice of the exclusion of the Freedpeople from this fundamental right of tribal citizenship. He also pointed out that the terms of the Cherokee Treaty of 1866 did not give the tribal government "the right to say who was to receive the money," a position supported by J.D.C. Atkins, Commissioner of Indian Affairs.²⁰⁵ Application of the law was more difficult, and significant problems were encountered when the Department of the Interior attempted to develop a census of the eligible Freedpeople and their descendants. Special Agent H. Heth of the Interior Department was appointed to create the census in late 1888. In an attempt to thwart the efforts of the federal government, the Cherokee Council adjourned without appointing a

²⁰³ Circe Sturm, *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley: University of California Press, 2002), 75-76.

²⁰⁴ Senate, *Papers Relative to an Appropriation for the Benefit of the Cherokee Freedpeople*, 50th Cong., 2nd sess., January 23, 1889, 1.

²⁰⁵ Littlefield, *The Cherokee Freedmen*, 134-135.

representative as required by the procedures of the Department of the Interior.²⁰⁶ Another attempt was made in the summer of 1890, when Special Commissioner John W. Wallace tried to create a roll, but he was also “antagonized by the Cherokees” who again refused to cooperate.²⁰⁷ The Cherokee government rejected the roll finally prepared by Wallace, calling it inaccurate and corrupt. Their position may have been because he certified 3,216 Freedpeople, while the Cherokee census only included 2,052 names.²⁰⁸ The maneuverings of the Cherokee government as they attempted to reduced the number of Freedpeople they were required to recognize demonstrates their commitment to an ideology that linked race with access to the benefits of citizenship.

The economic opportunities of the Choctaw and Chickasaw Freedpeople were blocked after emancipation when many of the Indians retained their commitment to racial privilege. Mary Lindsay’s mistress refused to pay wages to the freed slaves, and expected them to continue working in exchange for food and housing. Lindsay eventually left her mistress, walking ten miles at night to Bonham, Texas, in search of a paying job.²⁰⁹ Even though the Freedpeople did not have a right to farm on Indian land because they were not tribal citizens, many of the freed slaves continued to work on the land of their former masters. While Lemon Butler reported that the Freedpeople who chose to stay in the territory did not have to pay rent, other Freedpeople had different experiences.²¹⁰ In some cases, the freed slaves stayed with their former masters and

²⁰⁶ *Papers Relative to an Appropriation for the Benefit of the Cherokee Freedpeople*, 3.

²⁰⁷ House, *The Estimates ... to Carry into Effect the Provisions of the Act of March 2, 1889, for the Enrollment of the Cherokee Freedpeople, Delawares, and Shawnees*, 52st Cong., 1st sess., August 9, 1890, 2.

²⁰⁸ Littlefield, *The Cherokee Freedpeople*, 155-156 and 171.

²⁰⁹ Mary Lindsay at Tulsa, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 251.

²¹⁰ *Investigation of Indian Frauds*, 463.

rented land from them.²¹¹ In other situations, the Freedpeople were allowed to cultivate land as long as an Indian did not have a claim to the area. Some black Indians were so successful as independent farmers that several of them were cultivating more than one hundred acres by 1885.²¹² The relative independence of the Freedpeople was largely due to the perception that the federal government would intervene on their behalf. A former slave owner among the Choctaw testified, “It is understood that the negro is under the protection of the United States, and hence the Indians very seldom molest them.”²¹³ To some extent, the threat of federal intervention into tribal affairs provided the Freedpeople with an improved level of opportunity at economic independence.

Some tribal members objected to the Freedpeople developing farms in the Choctaw and Chickasaw nations. There were a number of Freedpeople who complained to federal representatives that individual members of the Choctaw and Chickasaw tribes took their farms. A. Parsons complained that, “if we improve land or make a home, they assert some old claim upon that land, and thereby we are ordered off and have to start a new home.”²¹⁴ John Wilson also complained that he was threatened with the loss of the farm he purchased from an individual Choctaw Indian.²¹⁵ In each of these situations, it was not the tribal governments that threatened the livelihood of the Freedpeople; it was individual Indians who objected to the economic activities of the freed slaves. Through their actions, Choctaw and Chickasaw Indians attempted to maintain segregation by preventing Freedpeople from settling in areas where Indians lived.

²¹¹ Polly Colbert at Colbert, OK, on September 14, 1937, in Baker, *The WPA Oklahoma Slave Narratives*, 89.

²¹² Roland Butler at Caddo, Indian Territory, on May 27, 1885, in *Condition of the Indians*, 299.

²¹³ R.M. Jones at Boggy Depot, Indian Territory, on July 4, 1872, in *Investigation of Indian Frauds*, 462.

²¹⁴ A. Parsons to E.P. Smith on March 6, 1874, quoted in Saunt, “Paradox of Freedom,” 85.

²¹⁵ John Wilson to the Commissioner of Indian Affairs on August 16, 1880, quoted in Saunt, “Paradox of Freedom,” 86.

The Cherokee Freedpeople who were recognized as citizens were provided with education in segregated schools. This was an improvement over slavery, when the prohibition against teaching slaves to read and write was strictly enforced. The former Cherokee slave Sarah Wilson indicated that picking up a book, “even to look at the pictures,” was forbidden before emancipation.²¹⁶ However, the Cherokee Freedpeople complained that the only schools provided for them were primary schools, and they were not admitted into segregated high schools.²¹⁷ Children with both a Freedman and an Indian parent were sent to black schools, a situation thought unfair by many who considered their children to be Cherokee.²¹⁸ Since there were so few schools for blacks in Indian Territory, Freedpeople children frequently had to travel long distances past Indian schools to take advantage of education.²¹⁹ For example, of the nine Districts in the Cherokee nation, only three of those Districts had schools for black students. The Cherokee were so effective at limiting Freedpeople access to education that by 1888 only 4 percent of the students educated by the nation were black.²²⁰ This problem was highlighted in the WPA interview of Patsy Perryman who did not learn to read or write until she was an adult even though she was about three years old at the beginning of the Civil War.²²¹ Like many of the Southern states, the Cherokee tribe minimized their funding of education for black students.²²²

²¹⁶ Sarah Wilson at Fort Gibson, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 495. Morris Sheppard at Fort Gibson, OK, repeated this sentiment in 1937 in *Ibid.*, 381.

²¹⁷ Joseph Brown at Tahlequah, Indian Territory, on May 21, 1885, in *Condition of the Indians*, 83.

²¹⁸ Londre Manly at Fort Gibson, Indian Territory, on May 20, 1885, in *Ibid.*, 31.

²¹⁹ Joseph Brown at Tahlequah, Indian Territory, on May 21, 1885, in *Condition of the Indians*, 83.

²²⁰ *Report of the Secretary of the Interior 1888*, 118-119. According to this report, the Cherokee nation supported 4,634 students. Of this total, 187 were being educated at primary schools designated as “colored.” Claudio Saunt has estimated that Freedpeople constituted at least fifteen percent of the Cherokee population at the end of the Civil War. Saunt, “Paradox of Freedom,” 65.

²²¹ Patsy Perryman at Muskogee, OK, in 1938 in Baker, *The WPA Oklahoma Slave Narratives*, 314-315.

²²² Foner, *Reconstruction*, 554.

The Choctaw and Chickasaw Freedpeople were successful in garnering federal attention when they pointed out that they were being completely deprived of education. T.D. Griffith, the agent for the Choctaw and Chickasaw Indians, reported in 1871 that the Freedpeople had approached him because they wanted to build schools, but were concerned they would be shut down.²²³ One hundred sixty-two Freedpeople signed a petition on December 5, 1870, requesting United States citizenship because they were “not being allowed the privilege of educating” their children.²²⁴ The former chief of the Chickasaw, Winchester Colbert testified in 1873 “the Chickasaws are ‘mightily opposed’ to devoting any of their funds to the education of the colored people among them.”²²⁵ At the same hearing, Lemon Butler indicated that the Freedpeople had “a great desire for schools.”²²⁶ Since the Choctaw and Chickasaw tribes were not expending tribal funds for the education of black children, Freedpeople would hire a teacher whenever they could raise the funds. Allen Wright, former chief of the Choctaw tribe, testified that the Freedpeople, although poor, were attempting to raise funds for a teacher at a Fourth of July celebration.²²⁷ In spite of the Freedpeople’s efforts at acquiring education, D.C. Finn, an attorney, testified that the Freedpeople living near Rocky Comfort were not allowed to establish a school even with their own funds.²²⁸ The activism of the Freedpeople as they sought education for their children served to ensure continued federal attention.²²⁹

²²³ *Petition of the Freedpeople of Choctaw and Chickasaw Nations*, 1872, 13.

²²⁴ *Petition of the Freedpeople of Choctaw and Chickasaw Nations*, 1872, 1.

²²⁵ *Investigation of Indian Frauds*, 461.

²²⁶ *Ibid.*

²²⁷ *Ibid.*, 564-565.

²²⁸ *Ibid.*, 467.

²²⁹ For information about the limited efforts of church mission groups to provide teachers for the Freedpeople see Littlefield, *Chickasaw Freedpeople*, chap. 5.

It was the issue of education that finally forced the Choctaw tribe to adopt the Freedpeople. In a desperate attempt to force the tribes to adopt the Freedpeople, Congress appropriated \$10,000 out of the annuities of the Choctaw and Chickasaw in 1882. The appropriation included an opportunity for the tribes to retain the money if they adopted the Freedpeople before any of the money was spent.²³⁰ Immediately thereafter, the Choctaw Council passed an act adopting the Freedpeople and their descendants, agreeing to provide for the education of their children. However, the Chickasaw Council once again refused to incorporate the Freedpeople, a stance they would never reverse.²³¹

While the federal government appeared to support the citizenship claims of the Freedpeople, Congress rarely forced meaningful change. The seeming ineptitude of the federal government in this area of Indian policy is reflective of the gradual retreat from Reconstruction and the ideals of equal rights that faded between the end of Radical Reconstruction and the 1896 *Plessy v. Ferguson* decision.²³² While some members of Congress continued to emphasize equality, either for idealistic or political purposes, it became increasingly difficult for them to enforce an inclusionary vision of citizenship. In addition, the inaction of Congress was driven by their ultimate desire to allot tribal land to individual Indians as a prelude to incorporating Indian Territory as a state. Once land was allotted and a territorial government was formed, everyone living there would become a U.S. citizen, eliminating tribal citizenship. The allotment of Indian Territory would also provide white settlers with additional land. Ultimately, the Freedpeople's rights of citizenship were less important to Congress than the acquisition of land for

²³⁰ Indian Appropriation Act of May 17, 1882, 22 Stats. 68.

²³¹ *Report of the Secretary of the Interior*, 1883, 42.

²³² For additional discussion about the gradual loss of rights for African Americans after 1877 see Woodward, *The Strange Career*, chap. 2; Gillette, *Retreat From Reconstruction*; and Foner, *Reconstruction*, 524-534.

white settlement through the allotment process that finally began in 1896 with the passage of the Curtis Act.²³³

In spite of the indifference of the federal government, the Freedpeople actively sought the benefits of tribal citizenship. Like blacks across the country, the Indian Freedpeople created organizations that allowed them to present their grievances to the federal government in a coordinated fashion. Although there were attempts to restrict their access to communal land, the Freedpeople developed farms and became self-sufficient. When the tribal governments attempted to limit education, the Freedpeople hired their own teachers and fought for access to higher education. The willingness of Freedpeople to testify before Congressional investigations demonstrated their dedication to acquiring the rights of citizenship. It also demonstrated their identification with the tribes where they had spent their lives. It is probable that the Cherokee, Choctaw, and Chickasaw slave owners experienced the cultural fusion described by Joel Williamson where African influences changed Indian traditions, but it is beyond doubt that the Indian Freedpeople considered themselves to be Indian as well as African American.²³⁴ As Joseph Rogers, a black Cherokee who was not recognized as a citizen because he had returned after the six-month limitation, said in a speech, “Born and raised among these people, I don’t want to know any other.”²³⁵ Rogers’ statement makes it clear that the Freedpeople saw themselves as an ethnic component of their tribes.

²³³ Act of June 28, 1898, 30 Stat. L. 495. This act provided for the allotment of the tribal lands of the Five Tribes. However, Indians receiving land would not be eligible for citizenship for twenty-five years when they would receive title to their land. For additional information see Kent Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893-1914* (Orem, Utah: Ancestry.com, 1999), chap. 9.

²³⁴ Joel Williamson, *Rage for Order: Black-White Relations in the American South Since Emancipation* (New York: Oxford University Press, 1986), 33.

²³⁵ *Cherokee Advocate*, September 9, 1876. Also see Celia E. Naylor-Ojurongbe, “‘Born and Raised Among These People, I Don’t Want to Know Any Other’: Slaves’ Acculturation in Nineteenth-Century

In contrast, the Cherokee, Choctaw, and Chickasaw tribal governments, dominated by former plantation owners, sought to define citizenship in terms of race, denying the bi-ethnic identity of the Freedpeople. The inability of the Cherokee to define themselves without reference to race was demonstrated in their refusal to recognize the rights of the adopted Delaware and Shawnee Indians as well as their resistance to the inclusion of the Freedpeople. The racial exclusiveness of the Choctaw and Chickasaw was never challenged. The small number of Indians who sided with the Union against the slave owners indicates that there was a strong ideological association of race and citizenship long before the Civil War. Since these tribes did not have a tradition of multiculturalism, they were unable to accept black citizenship. The primary strategy to enforce their racialized concepts was to refuse to recognize the Freedpeople as citizens. Without this recognition, Freedpeople were denied the right to political participation, access to courts, the benefit of annuities, and had only limited access to education. Although the Cherokee, Choctaw, and Chickasaw rejection of the Freedpeople was influenced by Euro-American racial ideology, their lack of traditional multiculturalism created a Reconstruction experience that was significantly different than the one that occurred in the Creek and Seminole tribes.

Indian Territory,” in *Confounding the Color Line: The Indian-Black Experience in North America*, ed. James F. Brooks (Lincoln: University of Nebraska Press, 2002), 161-191.

CHAPTER III

THE CREEK AND SEMINOLE: MULTICULTURALISM AND ADOPTION

Although the Creek and Seminole Indians experienced contact with Europeans in ways similar to the Cherokee, Choctaw, and Chickasaw tribes, the changes did not result in the same political and economic outcome. In large part, this was because the land occupied by the Upper Creek, a major division within that tribe, and the Seminole Indians was not well suited for the production of cotton crops. This enabled the practice of slavery to retain its impermanent characteristic that allowed for the potential inclusion of slaves into tribal citizenship. In addition, the Creek and Seminole were confederations of different tribes that were incorporated into the national polity through township representation without a requirement of assimilation. Although the Creek and Seminole tribal governments also aligned with the Confederacy during the Civil War, this did not represent the position of the majority of the tribe. The Reconstruction requirement of incorporating blacks into tribal citizenship was not as onerous for the Creek and Seminole as it was for the other Five Tribes because they were able to rely on traditions that allowed for multiethnic membership.

Prior to the arrival of Europeans, Creek and Seminole Indians participated in war captive and kinship slavery practices similar to the Cherokee, Choctaw, and Chickasaw.²³⁶ Captivity was usually the result of warfare, and slaves or their offspring could be adopted into tribal membership. In the Creek and Seminole Tribes, adoption practices meant that some slaves could become family members through marriage or

²³⁶ Zellar, *African Creeks*, 4-5.

adoption. In addition, the children of slaves did not inherit their parent's status as a slave.²³⁷ During the early eighteenth century, slave hunting became a source for captives that could be exchanged for trade goods.²³⁸ The British offered £2 per head for the return of runaways before the Revolution. By 1774, the return of one runaway slave to the British had the same value as fifty pounds of deer hides.²³⁹ During the early nineteenth century, Creek Indian Agent Benjamin Hawkins paid a \$12.50 reward for the return of runaways.²⁴⁰ The Creek national government passed a law in 1824 that prohibited the enslavement of prisoners of war, demonstrating the ongoing importance of captivity slavery within Creek traditions.²⁴¹ The Cherokee, Choctaw, and Chickasaw tribes did not have an equivalent law during the early nineteenth century, an indication that captivity slavery was no longer a significant part of their behavior. As will be discussed throughout this chapter, Creek and Seminole slavery retained some traditional characteristics long after the Cherokee, Choctaw, and Chickasaw Indians had transitioned to chattel slavery.²⁴²

Although a few Creek Indians established plantations and acquired chattel slaves around the time of the American Revolution, most Creeks continued to practice a form of

²³⁷ Saunt, *Black, White, and Indian*, 16.

²³⁸ Zellar, *African Creeks*, 16.

²³⁹ Martha Condray Searcy, "The Introduction of African Slavery into the Creek Indian Nation," *Georgia Historical Quarterly* 66, no. 1 (Spring 1982): 24.

²⁴⁰ Robbie Ethridge, *Creek Country: The Creek Indians and Their World* (Chapel Hill: University of North Carolina Press, 2003), loc. 3655, Kindle e-book. Hawkins' official title was "Principal Agent for Indian Affairs South of the Ohio River" and an important part of his mission was to prepare the Southeastern Indians for assimilation into white society. Most of his valuable observations focused on the Creek tribe since he lived with them for about thirty years. For additional information see Thomas H. Foster, II, ed., *The Collected Works of Benjamin Hawkins, 1796-1810* (Tuscaloosa: University of Alabama Press, 2003), vii-xxiv.

²⁴¹ Antonio L. Waring, ed., *Laws of the Creek Nation* (Athens: University of Georgia Press, 1960), 21.

²⁴² Between 1810 and the 1830s, the Creek, Cherokee, Choctaw, and Chickasaw tribes began forming centralized governments and documenting laws. One of the purposes of centralized government was to convince the federal government that they were civilized and should be allowed to stay in the southeastern states. The most comprehensive discussion about this topic is in Saunt, *A New Order*, chap. 7.

slavery known as patron-client slavery.²⁴³ Within the patron-client system, Creek Indians and their slaves worked side-by-side in subsistence agriculture.²⁴⁴ As Indian Agent tasked with acculturation, Hawkins expressed great frustration that Creek Indians were not using their slaves to produce agricultural surpluses that could be used for trade.²⁴⁵ The resistance of some of the Creek Indians to large farms or plantations producing market surpluses led him to note that a Creek Indian named Mrs. Durant lived in poverty because her fourteen slaves were not working.²⁴⁶ Mrs. Durant's relative poverty demonstrates that the shift to a market economy supported by coercive slavery was not uniformly accepted among the Creek Indians. Hawkins' observation is also important because it recognized that Creek women traditionally owned property in their own name rather than conforming to the Euro-American laws that limited most property ownership to men.²⁴⁷ The close working conditions created social bonds between Indians and blacks. In 1845, the Creek Indian Agent James Logan observed that Creek Indians and black Creeks went to church together.²⁴⁸ Within the patron-client system, Creek Indians and blacks could share kinship ties, and it was very uncommon for a Creek slave to be sold.²⁴⁹ This continued to be true after the Creek Indians were moved to Indian Territory. Ned Thompson, a former Creek slave, stated, "Most of the Indians wouldn't sell their

²⁴³ The patron-client form of slavery lacked some of the coercive aspects of plantation slavery and instead relied on "shared work duties, dinner tables, hearths, and kinship." Zellar, *African Creeks*, 15-16. The term "patron-client" was originally used to describe ancient Roman relationships between patricians and plebeians that relied on mutually beneficial reciprocity rather than force. Gordon Marshall, *A Dictionary of Sociology*, 1998, <http://www.encyclopedia.com/doc/1O88-patronclientrelationship.html> (accessed January 7, 2014).

²⁴⁴ Zellar, *African Creeks*, 15-16.

²⁴⁵ Ibid., 17 and Foster, *The Collected Works of Benjamin Hawkins*, 30s-31s.

²⁴⁶ Foster, *The Collected Works of Benjamin Hawkins*, 40s.

²⁴⁷ For additional information about the impact of slavery on the lives of Creek women see Saunt, *A New Order*, chap. 6.

²⁴⁸ Zellar, *African Creeks*, 30.

²⁴⁹ Ibid., 16.

Negroes, so they had a great many."²⁵⁰ Creek slaves owned their own property, including guns, farm equipment, and livestock.²⁵¹ The relative independence of Creek slaves encouraged blacks to remain with the tribe. The contrast between plantation slaveholders and patron-client owners became an issue that deeply divided the Creek Indians even after the Civil War.

The Seminole Indians never replaced their system of tribute slavery with the system of chattel slavery.²⁵² Seminole slavery, a variation within the patron-client system, has been described as most closely resembling tenant farming. Seminole blacks were only responsible for a tribute of corn produced through subsistence agricultural activities that was delivered to the chief annually, retaining the bulk of their production for their own use.²⁵³ During the American Revolution, the British gave black slaves to some of the Seminole chiefs to secure their loyalty, and a few Seminole purchased slaves from traders in Florida.²⁵⁴ In addition, slaves were sometimes captured during raids on white plantations.²⁵⁵ Within the Seminole culture, the clan or tribe owned the slaves, but ultimate control was attributed to a chief, or Miccosukee.²⁵⁶ Most of the blacks who were

²⁵⁰ Ned Thompson at Henryetta, OK, in August 1937 in Minges, *Black Indian Slave Narratives*, 136.

²⁵¹ Claudio Saunt, "Taking Account of Property: Stratification Among the Creek Indians in the Early Nineteenth Century," *The William and Mary Quarterly* 57, no. 4 (October 2000): 756.

²⁵² Searcy, "The Introduction of African Slavery," 28.

²⁵³ George Klos, "Blacks and the Seminole Removal Debate, 1821-1835," *Florida Historical Quarterly* 68, no. 1 (July 1989): 58; Mulroy, *The Seminole Freedpeople*, 13-14; and Kevin Kokomoor, "A Re-assessment of Seminoles, Africans, and Slavery on the Florida Frontier," *Florida Historical Quarterly* 88, no. 2 (Fall 2009): 213.

²⁵⁴ Porter, *The Black Seminoles*, 4-5.

²⁵⁵ Kevin Mulroy, "Ethnogenesis and Ethnohistory of the Seminole Maroons," *Journal of World History* 4, no. 2 (Fall 1993): 293 and Miller, *Coacoochee's Bones*, 63.

²⁵⁶ Saunt, *A New Order*, 134; "Address at Statehood Day Banquet, Tulsa, The Seminoles," C. Guy Cutlip Papers, Seminole Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Box 1, Folder 3; and Susan A. Miller, "Seminoles and Africans under Seminole Law: Sources and Discourses of Tribal Sovereignty and "Black Indian" Entitlement," *Wicazo Sa Review* 20, no. 1 (Spring 2005): 33. However, there is evidence that some of the Seminole Indians who were not chiefs believed the slaves were their personal property. In the 1850s, Mahkahtistchee protested when thirty-four of her slaves

considered slaves lived with free maroons who had established self-governing towns.²⁵⁷

In addition, during times of war, all of the capable black male slaves were expected to fight.²⁵⁸ Like the Creek, Seminole slaves owned guns, farm implements, and livestock.²⁵⁹

One of the reasons the Seminole retained their traditional view of slavery was “the mostly marginal land they occupied in the pine barrens of southern Georgia and northern Florida discouraged the development of plantation slavery.”²⁶⁰ Although the Seminole Indians adopted the idea that only blacks could be slaves, the tribute system provided slaves with considerable independence.

Creek Indians were willing to incorporate runaway slaves owned by Europeans and Americans into their lands and society. By the 1760s, runaway slaves were known to live among the Creeks, although there is no indication that they were a part of the Creek social or political structures of the time.²⁶¹ There was at least one black town within the Creek Confederacy, known as Chiaja, when the tribe experienced the upheavals of removal to Indian Territory in 1834.²⁶² In fact, many people of African descent associated with the Creek Indians were moved to Indian Territory with the tribe whether they were considered to be an Indian’s property or a free black.²⁶³ An Indian Agent, B.S.

were taken by the Seminole leader Micco Mucasa to pay a national debt. Mulroy, *The Seminole Freedpeople*, 108.

²⁵⁷ Mulroy, “Ethnogenesis and Ethnohistory,” 293 and Richard Allen Sattler, “Seminole Italwa: Socio-Political Change Among the Oklahoma Seminoles Between Removal and Allotment, 1836-1905” (PhD diss., University of Oklahoma, 1987), 117-118.

²⁵⁸ Littlefield, *Africans and Seminoles*, 7.

²⁵⁹ Claudio Saunt, “Taking Account of Property,” 756.

²⁶⁰ Claudio Saunt, “The English Has Now a Mind to Make Slaves of Them All”: Creeks, Seminoles, and the Problem of Slavery,” *American Indian Quarterly* 22, no. 1 / 2 (Winter-Spring 1998): 167.

²⁶¹ Searcy, “The Introduction of African Slavery,” 23.

²⁶² David A. Chang, “An Equal Interest in the Soil’: Creek Small-Scale Farming and the Work of Nationhood, 1866-1889,” *The American Indian Quarterly* 33, no. 1 (Winter 2009): 23.

²⁶³ Henry Reed at Muskogee, Indian Territory, on November 21, 1878, in Senate, *In the Senate of the United States*, 45th Cong., 3rd sess., February 11, 1879, 691. However, some of the black individuals who had been living among the Creek as free people were returned to their white owners during the removal process. See Littlefield, *Africans and Creeks*, 110-113.

Parsons, noted the close identity of the free blacks with the Creek people in 1832 when he stated the black Creek “seem to be in every way identified with these people...the only difference is the color.”²⁶⁴ Once in Indian Territory, the black Creek established three towns known as Canadian Colored, Arkansas Colored, and North Fork Colored.²⁶⁵ Free blacks were an established component of the Creek way of life before chattel slavery was introduced and continued to be a part of free society after plantations were developed.

Runaway slaves from Georgia and other colonies began establishing settlements in Florida and eventually became associated with the Seminole Indians. Fugitive slaves chose Florida because Spanish officials offered freedom to escaped slaves during the seventeenth century.²⁶⁶ At least some of the maroon communities were very successful. In 1813, a maroon community was reported to have 380 houses, 300 horses, and 400 cattle. In many cases, these maroon communities established trade and military relationships with the Seminole Indian communities.²⁶⁷ Runaway slaves controlled the maroon communities, but the Seminole Indians accepted them as free people.

It is a matter of historical debate whether the Seminole maroons were considered a part of the Seminole confederacy. Historians Kevin Mulroy and Susan Miller contend that maroons were not fully incorporated into Seminole society since they were not included in Indian clans or towns. In addition, they point to the fact that there was very

²⁶⁴ Zellar, *African Creeks*, 25.

²⁶⁵ David A. Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929* (Chapel Hill: University of North Carolina Press, 2010), 55.

²⁶⁶ Zellar, *African Creeks*, 8 and Mulroy, “Ethnogenesis and Ethnohistory,” 292. Once the Spanish quit offering freedom to runaway slaves in July of 1790, the fugitives were more likely to flee to Creek lands, increasing the number of blacks considered to be free under Creek customs. Saunt, *A New Order*, 125.

²⁶⁷ Mulroy, “Ethnogenesis and Ethnohistory,” 293-294. For additional information about maroon societies in the Americas see Richard Price, ed., *Maroon Societies: Rebel Slave Communities in the Americas* (Baltimore: John Hopkins University Press, 1979), 1-30; Alvin O. Thompson, *African Runaways and Maroons in the Americas* (Kingston, Jamaica: University of West Indies Press, 2006); Rebecca B. Bateman, “Africans and Indians: A Comparative Study of the Black Carib and Black Seminole,” *Ethnohistory* 37 (1990): 1-24; and Timothy J. Lockley, *Maroon Communities in South Carolina: A Documentary Record* (Columbia: University of South Carolina Press, 2008).

little intermarriage between maroons and Indians.²⁶⁸ The African American historian, Kenneth W. Porter, took the opposite view. He determined that black Seminole were leaders within the Seminole tribe based on the importance of black warriors and interpreters during the Red Stick War of 1813-1814 and the First Seminole War during 1817 and 1818.²⁶⁹ None of these historians fully evaluates the relationship between the Seminole Indians and blacks through an established Creek tradition of including diverse ethnic groups within the concept of a multicultural confederacy.²⁷⁰ There is no reason to believe that the Seminole's ability to accept different cultures within their society differed from the Creek Indian's inclusive system. For the Seminole, it was not necessary for different groups to assimilate to be accepted as members of their confederacy.

The retention of the patron-client and tribute form of slavery fit blacks into a multiethnic tapestry that formed the Creek and Seminole organizations. Both the Creek and Seminole Indians were confederations of different tribes with distinct variations in language and customs.²⁷¹ Tribes included in the Creek confederacy who were related linguistically through the Muskogee dialect were the Alabama, Kosati, Tuskegee, and Hitchiti. Non-Muskogee tribes were also incorporated, and included the Yuchi, Natchez, and Shawnee.²⁷² The earliest people to be identified with the Seminole were Hitchiti speakers, but other tribes that joined the confederation included the Talahassee, Mekukeys, Oconee, Yamasee, Alabama, and Creek.²⁷³ Generally, tribes that were

²⁶⁸ Mulroy, "Ethnogenesis and Ethnohistory," 298-299 and Miller, "Seminole and Africans," 30.

²⁶⁹ Porter, *The Black Seminoles*, 27. Littlefield observed that the Seminole viewed "the blacks in many instances as allies, if not as equals." Littlefield, *Africans and Seminoles*, 9.

²⁷⁰ This point is made more fully by Kokomoor in "A Re-assessment of Seminoles," 209-236.

²⁷¹ Zellar, *African Creeks*, 32.

²⁷² Zellar, *African Creeks*, 7 and Foster, *The Collected Works of Benjamin Hawkins*, 14s.

²⁷³ Miller, *Coacoochee's Bones*, 7-9 and William C. Sturtevant and Jessica R. Cattelino, "Florida Seminole and Miccosukee," in *Handbook of North American Indians (Southeast)*, ed. by William C. Sturtevant and Raymond D. Fogelson (Washington, D.C.: Smithsonian Institution: 2004), 431.

incorporated into the confederation settled into separate towns that retained their original language and culture.²⁷⁴ In fact, white travelers of the time commonly referred to towns within the Creek confederacy as separate tribes.²⁷⁵ Although each town owed allegiance to a centralized council, towns exercised considerable independence.²⁷⁶ Incorporating people of African descent through separate towns did not differ significantly from the inclusion of multiple ethnic groups of Indian people.

The formation of a confederation did not create a unified Creek tribe. The Creek towns were divided between the Upper Creek and Lower Creek, and each group had their own Principal Chief.²⁷⁷ A town was designated as either upper or lower depending on its location on different trading paths. Until around 1750, the Upper and Lower Creek were completely independent from each other, and continued to meet in separate councils until 1840.²⁷⁸ In 1798, Alexander McGillivray signed the Treaty of New York on behalf of “all the individuals, towns and tribes of the Upper, Middle and Lower Creeks and Semanories [*sic*] composing the Creek nation of Indians.”²⁷⁹ This detail in the treaty

²⁷⁴ As late as 1878, the terms “town” and “tribe” were sometimes used interchangeably. John Randolph Moore at Muskogee, Indian Territory, on November 21, 1878, in *In the Senate*, 698.

²⁷⁵ Ethridge, *Creek Country*, loc. 1729, Kindle e-book. Ethridge also discusses the cultural diversity of the Creek tribe in *Ibid.*, loc. 621-646, Kindle e-book.

²⁷⁶ Andrew K. Frank, “Taking the State Out: Seminoles and Creeks in Late Eighteenth-Century Florida,” *Florida Historical Quarterly* 84, no. 1 (Summer 2005): 11 and Mrs. W.M. Bryson, “History of Creek Indians,” *Okmulgee Republican*, April 27, 1911 found in Creek Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Folder 54.

²⁷⁷ There were forty-nine upper towns and twenty-eight lower towns in 1798. Bryson, “History of Creek Indians,” 2.

²⁷⁸ Zellar, *African Creeks*, 6 and Chang, *The Color of the Land*, 26.

²⁷⁹ “Treaty with the Creeks, 1790,” art. 1 in Kappler, *Indian Laws and Treaties*, 25. One of the more important articles in this treaty was a requirement that the Creek Indians return fugitive slaves. *Ibid.*, art. 3, 26. For a detailed discussion of the land dispute between Georgian settlers and the Creek Indians see Angie Debo, *The Road to Disappearance: A History of the Creek Indians* (Norman: University of Oklahoma Press), 37-54.

demonstrates the important governmental role of towns and the relative independence of the Upper Creek, Lower Creek, and Seminole groups.²⁸⁰

Most of the Creek plantation owners were associated with the Lower Creek who adopted the Euro-American racial hierarchy. The first plantations were established by the offspring of white traders who had married Creek women, the same circumstance that brought plantation slavery to the Cherokee, Choctaw, and Chickasaw Tribes. These plantations grew cotton and corn, and also raised cattle that would be sold to white Americans. In 1832, a census of the Lower Creek revealed 457 slaves were included in the total Creek population of 8,552. However, plantation slavery was confined to a small group who might own sixty to a hundred slaves.²⁸¹ Even though very few of the Lower Creek established plantations and acquired slaves, their proximity to white settlements meant they were more accepting of American ideas about race and slavery.²⁸² After the Creek Indians were moved to Indian Territory, the Upper Creek reestablished towns and plantations in the Arkansas District.²⁸³ The Lower Creek plantation owners challenged the traditional Creek system of kinship slavery and adhered to a restrictive racial hierarchy.²⁸⁴

The Upper Creek did not adopt plantation slavery, and continued to rely on the patron-client system that facilitated the inclusion of blacks into a multiethnic polity during Reconstruction. Their resistance to the plantation system and chattel slavery was demonstrated when the Upper Creek passed a law in 1772 prohibiting the establishment

²⁸⁰ Ethridge discusses the early development of Creek towns and concluded “one of the deepest and most abiding affiliations and loyalties for a Creek lay with one’s township.” Ethridge, *Creek Country*, loc. 1729, Kindle e-book.

²⁸¹ Debo, *The Road to Disappearance*, 99 and 110.

²⁸² Green, *The Politics of Indian Removal*, 72.

²⁸³ Chang, *The Color of the Land*, 26.

²⁸⁴ Saunt, *New Order*, 118.

of plantations by white intermarried traders.²⁸⁵ The ownership of slaves was not as widespread among the Upper Creek, and in 1832 there were only 445 slaves among 14,142 Upper Creek.²⁸⁶ The Upper Creek rarely produced excess cotton, corn, or livestock intended for sale to outside markets.²⁸⁷ Black slaves owned by the Upper Creek within the patron-client system experienced slavery as “more benign than that of the Lower Creek slaves” who toiled on plantations.²⁸⁸ After removal to Indian Territory, the Upper Creek established towns in the Canadian district and continued to engage in subsistence farming that was supplemented with labor provided by black slaves.²⁸⁹ The continuing commitment to the patron-client form of slavery allowed the Upper Creek to easily incorporate blacks as tribal members.

The Seminole Tribe was an offshoot of the Creek Indians who lived in present day Florida. The earliest recognition of Seminoles separately from the Creek Indians occurred in the 1760s when Spanish officials made note of their permanent settlements.²⁹⁰ Spanish officials encouraged the immigration of Creek Indians into Florida during the eighteenth century as trading partners to replace the original Indian tribes that had largely died out by then.²⁹¹ By the 1780s, Europeans and Americans considered all of the Creek Indians living in Florida to be Seminole Indians.²⁹² Early Seminole culture and customs were basically identical to the Creek Indians because of

²⁸⁵ Zellar, *African Creeks*, 12.

²⁸⁶ Debo, *The Road to Disappearance*, 99.

²⁸⁷ Zellar, *African Creeks*, 44.

²⁸⁸ *Ibid.*, 25.

²⁸⁹ Chang, *The Color of the Land*, 26.

²⁹⁰ Philip C. Hawkins, “Creek Schism: Seminole Genesis Revisited” (Masters Thesis, University of South Florida, 2009), 2-3.

²⁹¹ Sturtevant, “Florida Seminole and Miccosukee,” 429 and J. Leitch Wright, *Creeks and Seminoles: The Destruction and Regeneration of the Muscogulge People* (Lincoln: University of Nebraska Press, 1986), 5-6.

²⁹² Sattler, “Seminole Italwa,” 21.

the numerical predominance of Muskogee speakers.²⁹³ This was especially true after the Red Stick War in 1817 and 1818 when many Upper Creek joined the Seminole Indians after they failed to convince the majority of Creek Indians to resist land encroachments and attacks on traditional values posed by white settlers.²⁹⁴ Lower Creek attacks on the Seminole Indians during the Red Stick War and the Seminole Wars led to a rupture, and during this period the Seminole completely separated from the Creek confederacy.²⁹⁵

The blacks associated with the Seminole provided the U.S. government with justification for the first two Seminole Wars. The invasion of Florida in 1818 during the First Seminole War was justified because the area was “the asylum of traitors and outlaws, as well as our runaway negroes.”²⁹⁶ Georgia planters encouraged federal involvement because they feared that the existence of free blacks and unproductive slaves would lead to a Haitian style slave revolt.²⁹⁷ For their part, Seminole Indians and their black allies were fighting for freedom from encroaching plantations.²⁹⁸ The transfer of Florida to the United States in 1821 led to more opportunities for the expansion of plantations and enforcement of harsh restrictions on slaves. At the same time, Americans had begun the process of moving the Southeastern Indians away from white settlements. Since the Seminole refused to move to Indian Territory and combine with the Creek, a

²⁹³ Sattler, “Seminole Italwa,” 15.

²⁹⁴ The reasons for the pan-Indian movement that led to the Red Stick War are very complex and include traditional rivalries, political intrigues during the War of 1812, wealth inequality, and resistance to materialism. For additional information see Wright, *Creeks and Seminoles*, chap. 6; Saunt, *A New Order*, chap. 11; and Kathryn E. Holland Braund, “The Creek Indians, Blacks, and Slavery,” *The Journal of Southern History* 57, no. 4 (November 1991): 631.

²⁹⁵ Sturtevant, “Florida Seminole and Miccosukee,” 429 and 432.

²⁹⁶ John Overton, *A Vindication of the Measures of the President and His Commanding Generals in the Commencement and Termination of the Seminole War* (Washington: Gales & Seaton, 1819), 20.

²⁹⁷ Saunt, *A New Order*, 245 and Mulroy, *Seminole Freedpeople*, 15. This explanation minimizes the fact that white Americans also wanted the land the Seminole Indians were living on, but the fear of a slave revolt expressed by Georgians was also important.

²⁹⁸ Wright, *Creeks and Seminoles*, 185.

reservation was established for them in central Florida.²⁹⁹ The Second Seminole War began in 1835 after the passage of the Indian Removal Act on May 28, 1830, when Seminole Indians again refused to move to Indian Territory or to surrender black Seminoles to whites and Creeks who claimed ownership.³⁰⁰ The Seminole were resisting their removal to Indian Territory because the federal government had decided they would be incorporated into the Creek tribe, an action that would reduce the power of the Seminole leaders.³⁰¹ General Thomas S. Jessup, commander of the American troops, became convinced that the war would not end until the black Seminole believed they would be allowed to retain their freedom.³⁰² Jessup achieved this with a promise, known as “Jessup’s Proclamation,” that any blacks who surrendered would be moved to Indian Territory and declared free.³⁰³ In spite of his promise, Jessup listed less than twenty of the blacks who surrendered as free, and the rest were registered as belonging to various Seminole Indians.³⁰⁴ Throughout the first two Seminole Wars, Americans persisted in evaluating the relationship of Indians and people of African descent through their perspective of chattel slavery.

²⁹⁹ The Treaty Of Moultrie Creek established the reservation in Florida. “Treaty with the Florida Tribes of Indians, 1823” in Kappler, *Indian Laws and Treaties*, 203-207.

³⁰⁰ Littlefield, *Africans and Seminoles*, 9-11. The Creeks claimed about eighty-five Seminole blacks in 1838. *Ibid.*, 39. For additional information see McLaughlin, “Red Indians, Black Slavery,” 369 and Zellar, *African Creeks*. 39.

³⁰¹ L. Susan Work, *The Seminole Nation of Oklahoma: A Legal History* (Norman: University of Oklahoma Press, 2010), 9.

³⁰² Miller, “Seminoles and Africans,” 36. For additional information about the Second Seminole War see John Mahon, *History of the Second Seminole War, 1835-1842* (Gainesville: University Press of Florida, 2010) and Thom Hatch, *Osceola and the Great Seminole War: A Struggle for Justice and Freedom* (New York: St. Martins Press, 2012).

³⁰³ Details about Jessup’s Proclamation can be found in Attorney General’s Office, “Restoration of Certain Negroes to the Seminoles,” June 28, 1848, in *House Documents, Otherwise Published As Executive Documents, 13th Congress, 2nd Session to 49th Congress, 1st Session* (Washington: House of Representatives, 1872), 1944-1950.

³⁰⁴ Littlefield, *Africans and Seminoles*, Appendix Lists A-K.

Whether they were a free maroon or Seminole slave, between 1838 and 1843 about five hundred blacks were moved to Indian Territory with around thirty-nine hundred Seminole Indians.³⁰⁵ As soon as they arrived in Indian Territory, Creek slave hunters began kidnapping black Seminole, either because they believed that had a claim to them or so they could sell them to white plantation owners.³⁰⁶ The constant harassment of the Seminole blacks prompted a group to flee to Piedras Negras, Mexico, in 1849 under the Indian leadership of Wild Cat, or Coacoochee, and the black leader Gopher John.³⁰⁷ After some black Seminole were kidnapped by a group of Creek, Cherokee, and white slave hunters on June 24, 1850, another group of about two hundred blacks fled under the leadership of the black Seminole Jim Bowlegs.³⁰⁸ During the attack by the slave hunters, Seminole Indians surrounded the black town in order to prevent further kidnappings.³⁰⁹ Placing further stress on the situation, the attorney William J. DuVal claimed one-third of the Seminole slaves as compensation for his work representing the tribal government as it sought legal title to the black Seminole.³¹⁰ Since slaves were one of the few assets that the Seminole could sell to raise cash, it was important for them to assert their title during the economic uncertainties caused by

³⁰⁵ Littlefield, *Africans and Seminoles*, 12 and Sturtevant, "Florida Seminole and Miccosukee," 434.

³⁰⁶ Mulroy, *The Seminole Freedpeople*, 59.

³⁰⁷ This story is the subject of Miller, *Coacoochee's Bones* and Kevin Mulroy, *Freedom on the Border: The Seminole Maroons in Florida, the Indian Territory, Coahuila, and Texas* (Lubbock: Texas Tech University Press, 1993). Major parts of the story are captured in *Indians-Creek and Seminole*, 33rd Cong., 2nd sess., December 18, 1854, 17-18. Other cases of harassment by Creeks are documented in Sattler, "Seminole Italwa," 185; Mulroy, *Seminole Freedpeople*, 59; and Littlefield, *Seminole and Africans*, 39 and 108. In addition, the problem was reported in the *St. Louis Globe-Democrat*, September 4, 1875.

³⁰⁸ Littlefield, *Africans and Seminoles*, 153.

³⁰⁹ *Indians-Creek and Seminole*, 17-18.

³¹⁰ William J. DuVal was the brother of the Seminole Indian Agent Marcellus DuVal. Marcellus DuVal was accused of spending significant amounts of time while he served as Indian Agent attempting to acquire the blacks on behalf of his brother. The actual number of slaves promised to William DuVal was not specific, but was probably between seventy-five and one hundred. For additional information see Littlefield, *Africans and Seminoles*, 143-146.

removal. By 1853, Seminole Indians asserted ownership over all blacks, free or slave, in order to prevent further claims by Americans and Creek Indians.³¹¹

The Creek council, heavily influenced by plantation owners who dominated the early tribal government, began gradually passing laws to govern slaves and slavery. In 1824, the first slave code discouraged intermarriage with blacks by prohibiting the inheritance of property by any offspring, an act that was considered mild by the standards of the time.³¹² Although the impact of this law was mild compared to anti-miscegenation laws passed by state governments, it was disproportionately punitive towards Creek women who married black men. The gendered penalty disrupted the matrilineal inheritance traditionally practiced by the tribe where property was passed to children from their mother's family.³¹³ During a time when the institution of slavery was under attack by abolitionists, the Creek adopted the first written Constitution, either in 1858 or 1859, that included a provision prohibiting people of black or mulatto background from holding any political office.³¹⁴ A law passed in the 1820s that allowed unrestricted manumission was changed in the 1850s, and freed slaves were required to pay an annual tax if they stayed in Creek territory.³¹⁵ Some time later, the law on manumission was further tightened, and owners were required to remove free blacks from the nation.³¹⁶

Interestingly, miscegenation was never prohibited, but was discouraged by subjecting a

³¹¹ Littlefield, *Africans and Seminoles*, 162.

³¹² Waring, *Laws of the Creek Nation*, 20-21 and Zellar, *African Creeks*, 21-22.

³¹³ For additional information about matrilineal traditions and the disruptions brought about through Euro-American contact prior to removal see Saunt, *A New Order*, 168-171.

³¹⁴ "Record Book of Chief Samuel Checote in Early Sixties," Samuel Checote Collection, Creek Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Box 1, Folder 11 and Debo, *The Road to Disappearance*, 124. The law also prohibited white citizens from holding office, but did not exclude the offspring of whites and Creeks from holding office.

³¹⁵ Waring, *Laws of the Creek Nation*, 21 and "Record Book of Chief Samuel Checote in Early Sixties."

³¹⁶ The laws are not dated, but reflect the actions of the national council between 1858 and the beginning of the Civil War in 1861. This law is similar to a Texas Supreme Court ruling in 1854 that determined "manumission could occur legally only when the slave in question was 'sent without the limits of the state.'" Campbell, *The Laws of Slavery*, 67.

black convicted of marrying or having intercourse with a Creek to one hundred lashes.³¹⁷

The early Creek slave code was designed to discourage, rather than prohibit, the incorporation of blacks into Creek society, an indication that the plantation owners were not able to monopolize tribal politics.

As the Civil War approached, the Creek nation passed additional laws that mimicked the Black or Slave Codes being instituted across the South.³¹⁸ For example, the Creek prohibited slaves from owning property, including horses, cattle, and guns. The Creek national government attempted to reduce the mobility of blacks by requiring that all slaves carry a pass from their owners. In 1861, just before the Civil War, the national council passed a law that required free blacks to choose a Creek owner. This allowed black families to stay together and align themselves with someone they knew. This law also stated that the new owner could not sell the slaves who had voluntarily chosen them.³¹⁹ It appears that these laws were rarely enforced, in part because “of the indifference of most Creeks towards slavery.”³²⁰

The Seminole Indians were the only one of the Five Tribes that did not adopt some form of Slave or Black Codes in the years leading up to the Civil War. In fact, the Seminole Indians did not have a written Constitution until 1871, and laws were not published for the public until 1903.³²¹ Although most people of African descent associated with Seminole were nominally the property of an Indian and could be sold, there were not any national laws that differentiated them from other Seminole. In part,

³¹⁷ “Record Book of Chief Samuel Checote in Early Sixties.”

³¹⁸ For more information on laws designed to control the actions of slaves and slave owners see Stamp, *Peculiar Institution*, chap. 6.

³¹⁹ “Record Book of Chief Samuel Checote in Early Sixties.” A law requiring free blacks to choose an owner was passed in Texas in 1858. Campbell, *The Laws of Slavery*, 68.

³²⁰ Debo, *The Road to Disappearance*, 127 and Saunt, *Black, White, and Indian*, 89.

³²¹ Smith, “Nations Colliding,” 301 and Mulroy, *The Seminole Freedpeople*, 93.

this was because the Seminole occupied land that was of low quality that did not lend itself to plantation agriculture. Black Seminole continued to own property and move about Indian Territory without passes. The fact that the Seminole tribe never passed laws to control slaves or free blacks demonstrates the ongoing multicultural attitude of the central council.

Some historians have determined that the relative freedom of the black Seminole was a problem for other tribal governments in Indian Territory. Some believe that it was the reason the Cherokee, Choctaw, Chickasaw, and Creek governments increased the severity of their Black Codes in the 1850s. Their fears about the relative independence of the black Seminole is especially important because the tribes were required to coexist within a limited geographic area where they shared a border with at least two other tribes. Littlefield has pointed out that Cherokee Black Codes targeted free blacks “not of Cherokee blood” and determined that the laws were aimed at controlling black Seminole who had settled on Cherokee lands north of Fort Gibson in order to avoid Creek control.³²² Likewise, Mulroy evaluated the Black Codes passed by the Creek during the 1850s and concluded the laws “were a direct response to the independence slaves enjoyed in the Seminole country” where the two tribes shared a border.³²³ The opinions of Littlefield and Mulroy were put forth to contest the position of McLoughlin who believed the Cherokee laws demonstrated that “the Cherokee gradually adopted all the worst features of Southern black slave codes.”³²⁴ McLoughlin then attributed the Cherokee slave revolts that occurred in 1841, 1842, and 1850 to the increasingly stringent Black

³²² Daniel F. Littlefield, Jr. and Lonnie E. Underhill, “Slave ‘Revolt’ in the Cherokee Nation, 1842,” *American Indian Quarterly* 3, no. 2 (Summer 1977): 126.

³²³ Mulroy, *The Seminole Freedpeople*, 129.

³²⁴ McLoughlin, “Red Indians, Black Slavery,” 381.

Codes. Unfortunately, Littlefield, Mulroy, and McLoughlin drew their conclusions without incorporating the slave laws and revolts into the broader study of American slavery. For example, none of these historians has determined if slaves that participated in the revolts were born and raised in Indian tribes or were purchased as adults. Slave resistance in Indian Territory has never been studied in depth to determine if overseers were a part of the problem.³²⁵ The freedom enjoyed by the black Seminole has never been compared to the experiences of free blacks in states that bordered the South. In spite of historians' increased awareness of the harshness of American slavery and the agency exercised by slaves that made them "a troublesome property," historians have not synthesized Southern history, Native American history, and African Indian history to properly analyze the situation.³²⁶

In spite of the slave laws, most former slaves reported that their lives among the Creek and Seminole Indians retained characteristics of patronage. According to Mary Grayson, "Each Negro family looked after a part of the fields and worked the crops like they belonged to us."³²⁷ Grayson also commented that slaves "had plenty of clothes and lots to eat."³²⁸ In the opinion of Nellie Johnson, Creek slaves were treated like hired hands.³²⁹ In some cases, slaves were used to raise cattle rather than growing cotton. The Creek Indian Jack Kinnard had forty slaves and twelve to fifteen hundred head of

³²⁵ Slave revolts as a form of resistance to overseers is discussed in John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York: Oxford University Press, 1999), loc. 374, Kindle e-book. For additional information see Herbert Aptheker, *American Negro Slave Revolts* (New York: Columbia University Press, 1943).

³²⁶ Stampp, *A Peculiar Institution*, 91.

³²⁷ Mary Grayson at Tulsa, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 173. Nellie Johnson at Tulsa, OK, repeated this perspective in 1937 in *Ibid.*, 226.

³²⁸ Mary Grayson at Tulsa, OK, in 1937 in *Ibid.*, 172-173.

³²⁹ Nellie Johnson at Tulsa, OK, in 1937 in *Ibid.*, 226.

cattle.³³⁰ Part of the reason that Creek and Seminole slavery was not as demanding was that the portions of Indian Territory they occupied were not as adaptable to cotton crops as the areas occupied by the Cherokee, Choctaw, and Chickasaw. In addition, some of the Creek slaves did not have overseers, and most lived in black towns away from their owner's farm or plantation.³³¹ Slaves were allowed to accumulate property and purchase their freedom. A black Creek named Governor Nero was able to buy his own freedom as well as the freedom of all of his children by the 1850s.³³² Creek slaves retained considerable independence and autonomy in spite of their status.

While slavery was generally mild among the Creek and Seminole, there were some reports of cruelty. The Creek Indian Jack Kinnard mentioned above was reported to "shoots his negroes when he pleases."³³³ Rina Henderson reported that her parent's Seminole master would "tie the thumbs together and have them stand on their toes and then whip them."³³⁴ However, it appears that many Indians did not tolerate this type of violence. Mr. Epps, a Creek slave owner, was forced to move away by the community because of his cruelty to his slaves.³³⁵ While a few individual Indians were cruel to their slaves, there is no indication that Patrollers were employed to intimidate blacks.

While Seminole slaves may have been required to provide some labor for their owners, the black Seminole lived and worked independently from the Indians. Seminole slaves lived in separate towns that were largely expected to enforce their own laws and

³³⁰ Braund, "The Creek Indians, Blacks, and Slavery," 628.

³³¹ Nellie Johnson at Tulsa, OK, in 1937 in Baker, *The WPA Oklahoma Slave Narratives*, 225-226.

³³² Debo, *The Road to Disappearance*, 115.

³³³ Saunt, "The English Has Now a Mind," 168.

³³⁴ Rina Henderson on April 9, 1937, in Indian Pioneer Papers Collection, Western History Collection, University of Oklahoma, Norman, Oklahoma, Vol. 41, 122 (hereinafter referred to as IPPC).

³³⁵ Felix L. Lindsey at Wichita Falls, TX, in October 1937 in Mingos, *Black Indian Slave Narratives*, 146. Genovese has also noted that community interventions occurred in Southern states when slave owners were excessively cruel. Genovese, *Roll, Jordan, Roll*, 41.

rules similar to towns comprised of Seminole Indians. The black Seminole also formed bands like those formed by the Seminole Indians. During the nineteenth century, black Seminole bands included Dosar Burkas band, Joe Scipio band, Pompey Payne band, Ben Bruner band, and William Noble band.³³⁶ The black Seminole supported themselves with farming, but were also allowed to hire themselves out. The diary of the wife of a Presbyterian minister, Mrs. John B. Lilley, indicated that they hired a black Seminole who belonged to the chief Jumper to act as cook.³³⁷ Even when black Seminoles were claimed as property, their lives continued with as much independence as possible in a patron-client system of slavery.

As it had with the Cherokee, Choctaw, and Chickasaw, the Civil War exacerbated existing divisions between plantation owners and patron-client slave owners in the Creek tribe. The Creeks were the first of the Five Tribes to sign a treaty with the Confederacy.³³⁸ However, this was accomplished because the leaders of the pro-Union faction, generally the Upper Creeks, were sent to negotiate a treaty with some of the Plains Indians. While they were gone, the Confederate General Albert Pike met with pro-Confederate Creek leaders and secured a treaty.³³⁹ Four months later, pro-Union Creek Indians, about half of the tribe, fled to Kansas under the leadership of Opothleyahola (Old Gouge). The group included many Seminole and Cherokee Indians who also objected to

³³⁶ Mulroy, *The Seminole Freedpeople*, 138, 209, and 269. For information about the changes that occurred to Freedpeople bands after the Civil War, see *Ibid.*, 269-271.

³³⁷ Mrs. John B. Lilley, "A typescript of a diary (1842-1857) kept by the wife of John B. Lilley, A Presbyterian missionary to the Seminole Nation," Mrs. John B. Lilley Collection, Seminole Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma.

³³⁸ Smith, "Nations Colliding," 297.

³³⁹ *Ibid.*, 296 and *Annual Report of the Commissioner 1865*, 512. According to Debo, 75 percent of the Upper Creek supported the Union but only 22 percent of the Lower Creek had the same allegiance. Debo, *The Road to Disappearance*, 149.

their tribe's policy of aligning with the Confederacy.³⁴⁰ During their flight, many Indians and blacks were killed by winter storms or in one of three skirmishes with pro-Confederate Indian troops.³⁴¹ Several former Creek slaves remembered the flight to Kansas in the WPA narratives documented in the 1930s. Phoebe Banks remembered that her family followed Old Gouge north, but that the Southern faction killed many of the loyal Indians and blacks.³⁴² In some cases, pro-Confederate Creek Indians provided provisions for their slaves and sent them to Kansas for the duration of the war.³⁴³ The Civil War divisions in the Creek tribe reflected the split between plantation owners and patronage slave owners that began with the adoption of chattel slavery in the early nineteenth century.

Like the Creek treaty, the Seminole treaty with the Confederacy reflected the actions of only a portion of the Seminole council. The principal chief, John Jumper, and twelve minor miccos signed the treaty with the Confederacy after a meeting that was held in secret.³⁴⁴ These signatures did not represent the wishes of the majority of the tribe, and even Jumper admitted that 50 to 75 percent of the Seminole opposed aligning with the Confederacy.³⁴⁵ In large part, opposition to the Confederacy came from Seminole Indians who continued to value the traditional patron-client relationship with the black Seminole. It is possible that many Indians with traditional values objected to slavery

³⁴⁰ At the beginning of the Civil War there were around five hundred black Creek and Seminole and about five thousand Creek, Seminole, and Cherokee Indians. The number of loyal Indians at the end of the Civil War is estimated to be between seven and ten thousand because many Indians left the pro-Confederate troops for a variety of reasons. Zellar, *African Creeks*, 45; Smith, "Nations Colliding," 307; and Mulroy, *The Seminole Freedpeople*, 165-166.

³⁴¹ There are not any estimates on the number of people who died, but survivors talked about the large number of bodies that were left behind. For a complete description of the flight of the loyal Indians to Kansas see Zellar, *African Creeks*, 41-54 and Debo, *The Road to Disappearance*, 150-152.

³⁴² Phoebe Banks at Muskogee, OK, in 1937-1938 in Baker, *The WPA Oklahoma Slave Narratives*, 31. Nellie Johnson told a similar story at Tulsa, OK, in 1937 in *Ibid.*, 225.

³⁴³ Zellar, *African Creeks*, 45.

³⁴⁴ Mulroy, *The Seminole Freedpeople*, 163.

³⁴⁵ Smith, "Nations Colliding," 301.

because it was a symbol of the encroachment of market forces that created class differences within the tribe. The Seminole members who supported the Confederacy were more engaged with the market economy through agriculture, ranching, or trading.³⁴⁶ Although most tribal members may have objected to the treaty with the Confederacy, only about 25 percent of the Seminole fled to Kansas with the Creek Indians.³⁴⁷ In spite of this show of tribal unity, the numerical strength of Seminole Indians that did not support the Confederate position on slavery ensured that blacks would be incorporated into citizenship during Reconstruction.

The treaty negotiations conducted at Fort Smith, Arkansas, at the end of the Civil War highlight the important role blacks played in the Creek and Seminole tribes. Like the Cherokee, Choctaw, and Chickasaw, pro-Confederate delegates resisted the emancipation of slaves and their incorporation into tribal citizenship. However, the pro-Union Creek delegation included five black Creek. Ketch Barnett, Tobe McIntosh, Scipio Barnett, Jack Brown, and Cow Tom participated in the treaty negotiations at Fort Smith, giving a voice to the concerns of blacks as they sought recognition as full members of the Creek tribe.³⁴⁸ Black Seminoles were also represented through the work of Robert Johnson, a prominent black Seminole, who acted as interpreter for the Seminole Indians. The inclusion of representation for the black Creek and Seminole set the stage for the incorporation of blacks into tribal citizenship during Reconstruction.

Treaty negotiations after the Civil War were as contentious for the Creek and Seminole Indians as for the Cherokee, Choctaw, and Chickasaw tribes. The loyal Creeks were willing to incorporate blacks into tribal citizenship, and viewed this issue as “a

³⁴⁶ Mulroy, *The Seminole Freedpeople*, 159.

³⁴⁷ *Annual Report of the Commissioner 1865*, 466.

³⁴⁸ Zellar, *African Creeks*, 78.

sacred Pledge.”³⁴⁹ However, the Southern delegates D.N. McIntosh and R.G. Smith wanted to be compensated by the federal government for their slaves.³⁵⁰ Eventually, the pro-Confederate Creek delegates agreed to the final Treaty of 1866 only because the federal government threatened to exclude them from negotiations.³⁵¹ The loyal Seminole Indians immediately agreed to the treaty offered by the federal government, but backed out after the arrival of the Southern faction.³⁵² Even though pro-Union Seminole were willing to accept the emancipation and incorporation of blacks, the pro-Confederate Seminole continued to enslave blacks even after the end of the war. In at least one case, Southern Seminole Indians took crops grown by their former slaves.³⁵³ The end of the Civil War did not reconcile the pro-Union and pro-Confederate understanding about slavery and the role of race in the tribes. The treaty negotiations presented delegates with difficult choices that strained tribal unity.

The final Creek treaty allowed for the exclusion of blacks who returned after twelve months from the date of the treaty, but the Seminole treaty provided for black citizenship without qualification. The Creek Treaty of 1866 included a provision that all people of African descent who had been living legally in the nation before the war and were able to return to Creek lands within twelve months would “have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national funds.”³⁵⁴ The Seminole Treaty of 1866, the first of the treaties to be negotiated and signed, did not contain any restrictions on the adoption of black members. In this treaty,

³⁴⁹ *Annual Report of the Commissioner 1865*, 525 and Chang, *The Color of the Land*, 42.

³⁵⁰ Zellar, *African Creeks*, 79.

³⁵¹ Saunt, *Black, White, and Indian*, 116. The Southern delegation may have also agreed to sign the treaty because two of them, D.N. McIntosh and J.M.C. Smith, received a kickback from the attorney representing the Creek tribe in the amount of \$4,215 each. *Investigation of Indian Frauds*, 147.

³⁵² *Annual Report of the Commissioner 1865*, 487 and 511.

³⁵³ Littlefield, *Africans and Creeks*, 189.

³⁵⁴ “Treaty with the Creeks, 1866,” art. 2 in Kappler, *Indian Laws and Treaties*, 932.

the Seminole agreed that the “many persons of African descent and blood, who have no interest or property in the soil, and no recognized civil rights” would “have and enjoy all the rights of native citizens, and the laws of said nation shall be equally binding upon all persons of whatever race or color, who may be adopted as citizens.”³⁵⁵ The final Creek and Seminole treaties negotiated at the end of the Civil War were in many ways, like the ones signed by the Cherokee, Choctaw, and Chickasaw.

Following the ratification of the Treaty of 1866, the Creek council adopted a new Constitution recognizing black Creeks as tribal citizens.³⁵⁶ The Constitution continued the bicameral system in place before the Civil War, retaining the use of town representatives.³⁵⁷ The black Creek were recognized as belonging to one of the three towns established after removal. Each town was entitled to one representative to the House of Kings, the upper house. In addition, each town had one representative to the lower house, or the House of Warriors, plus additional representatives for every two hundred people.³⁵⁸ In 1878, the black towns were represented by sixteen delegates in the House of Warriors out of a total of ninety-seven seats, over 16 percent of the representatives.³⁵⁹ Individuals voted in their town for Principal Chief, and a town’s vote was cast for the candidate that won a majority of votes.³⁶⁰ In this way, blacks were represented in the Creek congress, and also played a significant role in the election of the Principal Chief. The pro-Confederate Creek Indian G.W. Stidham noted the power of the

³⁵⁵ “Treaty with the Seminoles, 1866,” art. 2 in *Ibid.*, 911.

³⁵⁶ *Constitution and Laws of the Muskogee Nation* (St. Louis, MO: Creek Nation, 1880), 57.

³⁵⁷ Chang, *The Color of the Land*, 64.

³⁵⁸ Zellar, *African Creeks*, 97-98. An individual was not required to live in the town to be considered a member of the town. Instead, it meant that a member of that person’s family had allegiance to that town at the time of removal in the 1830s. G.W. Stidham at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 159.

³⁵⁹ Chang, *The Color of the Land*, 110.

³⁶⁰ Debo, *The Road to Disappearance*, 192.

black vote in 1885 when he said that black Creeks “almost hold the balance of power, on one side or the other.”³⁶¹

The importance of the black vote was demonstrated in many of the elections for Principal Chief between 1867 and 1883. Throughout this period, black Creeks supported the candidate connected with the conservative Upper Creek tradition that had not adopted racial attitudes associated with plantation slavery. The conservative party, also known as the Loyal Party because of their position during the Civil War, complained after the 1867 election for Principal Chief that black Creeks had been subjected to voter obstruction. In fact, the votes of all of the Loyal Party had been eliminated because they refused to use the written ballot system implemented by the Checote government, a new system that replaced the traditional vote by voice.³⁶² The traditional alliance between conservatives and blacks was continued in 1871, when the Loyal Party candidate for Principal Chief won the election. This victory was largely attributable to the fact that the black Creek represented about 15 percent of the nation’s voters. In spite of the victory, the Creek Indian Agent, F.S. Lyons, declared the Constitutionalist Party, the official name of the Checote party, as the winner because they were more accepting of acculturation.³⁶³ The persistence of the coalition between blacks and the Loyal Creek Indians paid off in 1875 when the Loyal Party candidate, Lochar Harjo, was elected. The alliance continued into the 1880s, and even though they were not always victorious, the Loyal Party platform continued to state their support for “exact and equal justice to all citizens, without regard

³⁶¹ G.W. Stidham at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 151.

³⁶² Zellar, *African Creeks*, 101.

³⁶³ *Ibid.*, 105-106. This election is described in *Investigation of Indian Frauds*, 353.

to color or previous condition.”³⁶⁴ Although leaders who did not honor the tradition of multiculturalism frequently held the position of Principal Chief, the coalition prevented the exclusion of blacks from the rights of citizenship.

Historians have attributed the success of the black Creek during Reconstruction solely to their coalition with conservatives. The historian Angie Debo pointed out that the “the negro - full blood alliance was an important factor in Creek politics” in her book on the Creek nation.³⁶⁵ Littlefield has attributed this alliance to the low levels of acculturation by the Loyal Creek who had not adopted white racial attitudes.³⁶⁶ However, this explanation marginalizes the shared history and traditions of blacks and Creek Indians, and threatens to reduce the long-standing relationship to a political alliance that emerged after the Civil War. This explanation is similar to the historical inquiry into biracial politics in the South during Reconstruction. DuBois examined the issue from the perspective of labor, highlighting situations where politicians feared “a union of poor whites and Negroes.”³⁶⁷ More recently, Stephen Kantrowitz’s book on Ben Tillman demonstrated that Southern politicians of both parties worried that poor white workers would unite with black laborers and threaten the ruling elites.³⁶⁸ The historian David A. Chang has recognized the importance of this historic relationship between Creek Indians and blacks by noting, “For this alliance, the Creek Nation was composite,

³⁶⁴ “Platform of the National Party of the Muskogee Nation, *Indian Journal*, July 31, 1879 in Creek Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Folder 16 and “Our Brothers-The Creeks,” *Cherokee Advocate*, August 31, 1883.

³⁶⁵ Debo, *The Road to Disappearance*, 192.

³⁶⁶ Littlefield, *Africans and Creeks*, 258.

³⁶⁷ DuBois’ comment related to events in South Carolina. *Black Reconstruction*, 412. Alabama is discussed at *Ibid.*, 494 and events in Georgia are described at *Ibid.*, 500.

³⁶⁸ Stephen Kantrowitz, *Ben Tillman and the Reconstruction of White Supremacy* (Chapel Hill: University of North Carolina Press, 2000), 50.

made up of different kinds of people with different racial and cultural backgrounds.”³⁶⁹

The Loyal Creek’s inclusion of blacks into tribal citizenship during Reconstruction is directly related to their traditional understanding of multiculturalism.

Although the Treaty of 1866 ratified by the Creek nation included a provision that allowed them to exclude any Freedpeople who returned after twelve months, there are several examples of their willingness to waive this requirement. In 1876, the Creek Council passed a law that recognized the citizenship of about one hundred Freedpeople, most of whom had been slaves of prominent families.³⁷⁰ In his address to the combined House of Kings and House of Warriors in 1877, Principal Chief Ward Coachman of the Conservative Party recommended that the former slaves of the McGillivray family be recognized as citizens because the Council knew the blacks had “belonged to our own people.”³⁷¹ In 1878, sixty-eight blacks were adopted, including those who had belonged to the McGillivray family.³⁷² Even pro-Confederate Creek Indians supported the incorporation of many of the blacks who had been held in slavery.

However, not all of the blacks seeking Creek citizenship were adopted. In 1879 Principal Chief Checote vetoed a bill that would have adopted all of the Creek blacks who had returned after the expiration of the twelve-month period.³⁷³ At least one citizenship claim was rejected because they did not return in time.³⁷⁴ In addition, slaves

³⁶⁹ Chang, *The Color of the Land*, 40.

³⁷⁰ Debo, *The Disappearance of the Creek*, 221.

³⁷¹ Message of Ward Coachman to the Houses of Warriors and Kings of the Muskoke Nation—Annual Message to the National Council (October 1, 1877), Coachman, Ward Collection, Creek Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Folder 1.

³⁷² Debo, *The Disappearance of the Creek*, 237 and 248. A complete list of the names of those adopted can be found in *Constitution and Laws of the Muskogee Nation*, art. II, Sec. 1, 56-57.

³⁷³ Debo, *The Disappearance of the Creek*, 248.

³⁷⁴ “Fragment of a Letter Concerning the Rights of a Citizen,” n.d., Grayson Family Papers Collection, Creek Nation Papers, Western History Collection, University of Oklahoma, Norman, Oklahoma, Box 6, Folder 22.

born in the Creek nation, but sold to a non-Creek before emancipation, were not considered eligible for citizenship.³⁷⁵ There were enough issues with citizenship claims that the Creek established a citizenship court in 1883. Many of the claims heard by this court involved the citizenship of black immigrants from the Cherokee and Choctaw tribes or from neighboring states. Immigrant blacks could be incorporated into black towns as local citizens, but lack recognition as citizens of the tribe.³⁷⁶ The Department of Indian Affairs viewed the judgments of the Creek citizenship courts as largely fair. In 1887, the Commissioner of Indian Affairs discussed problems with the courts established by the Cherokee and Choctaw tribes, but did not mention similar problems with the Creek court.³⁷⁷ Although the citizenship claims of some blacks were denied, there were many with established relationships to the Creek tribe that were included.

The black Creek who were incorporated into tribal citizenship were eligible to vote, and many held important offices within the tribe. Monday Marshall testified that the only blacks not allowed to vote in elections were those who had returned after the twelve-month deadline. He also insisted that blacks were allowed to vote their own opinions even though Senate investigators seemed to want him to complain about voter intimidation.³⁷⁸ As mentioned before, blacks constituted sixteen of the ninety-seven representatives in the House of Warriors and were able to form a voting bloc that was instrumental in influencing tribal politics to ensure their interest were protected.³⁷⁹ Jess

³⁷⁵ Monday Marshall at Muskogee, Indian Territory, on November 19, 1878, in *In the Senate*, 679.

³⁷⁶ G.W. Stidham at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 151.

³⁷⁷ Department of Interior, *Report of the Commissioner of Indian Affairs for the Year 1887* (Washington: Government Printing Office, 1887), 196-196.

³⁷⁸ Monday Marshall at Muskogee, Indian Territory, on November 19, 1878, in *In the Senate*, 678-679.

³⁷⁹ Chang, *The Color of the Land*, 110. This was still true in 1885. For more information see the testimony of G.W. Stidham at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 159.

Franklin was born into slavery, but later became one of the Supreme Court judges.³⁸⁰ Monday Durant was a local judge, and Sugar George was a prosecuting attorney, a position appointed by the Principal Chief.³⁸¹ John Harrison remembered Judge Reed, “a colored man,” held court in a cabin at Lee Post in the early 1880s.³⁸² Black citizens served in the Light Horsemen, as the sheriff’s department was known.³⁸³ In addition, the black Creek were included as jurors even when the parties were not black.³⁸⁴ The Creek’s inclusion of black jurors is similar to the situation in Tennessee, where the law recognized blacks and Indians as competent witnesses.³⁸⁵ According to one newspaper, the prosperity of Butler Town, one of the black towns in the Creek nation, was a symbol for the ability of blacks throughout the United States to self-govern.³⁸⁶ The inclusion of the black Creek in politics and the judicial system meant their rights were protected, a sharp contrast to the experiences of the Cherokee, Choctaw, and Chickasaw Freedpeople.³⁸⁷

The black Seminole were also incorporated into the tribal political system based on their traditional system of multiculturalism. The Seminole political organization was based on bands that functioned much like the Creek towns. Each band sent three representatives to the national council, and these delegates were elected by those eligible

³⁸⁰ Jesse Franklin at Muskogee, Indian Territory, on Nov. 21, 1878, in *In the Senate*, 687.

³⁸¹ Zellar, *African Creeks*, 99 and Jeffrey Burton, *Indian Territory and the United States, 1866-1906: Courts, Government, and the Movement for Oklahoma Statehood* (Norman: University of Oklahoma Press, 1995), 79.

³⁸² John Harrison at Haskell, OK, on n.d. in Minges, *Black Indian Slave Narratives*, 96.

³⁸³ Joseph Howard at Muskogee, Indian Territory, on November 21, 1878, in *In the Senate*, 697.

³⁸⁴ George Dann at Eufaula, Indian Territory, on November 21, 1878, in *Ibid.*, 722.

³⁸⁵ DuBois, *Black Reconstruction*, 573.

³⁸⁶ *Galveston Daily News*, October 15, 1879.

³⁸⁷ There are many examples of African Americans who served in public office during Reconstruction. For details see DuBois, *Black Reconstruction*, 417-418, 441, 470, 500, 513, 531, and 561.

to vote.³⁸⁸ The Seminole did not adopt a Constitution until the very end of the nineteenth century, and the tribal government did not determine eligibility.³⁸⁹ Instead, eligibility was a local decision made by the leaders of the band or in the towns where band members lived. There was not any problem with the inclusion of Don Marshall, a Seminole slave who had been sold to a new owner in Texas, when he returned to the tribe in 1878.³⁹⁰ In 1885, there were two bands of black Seminole who “had the same rights that the Seminoles have in every way.”³⁹¹ The Seminole Council, including representatives of the Freedpeople bands, met every three months, and acted as the national court in addition to creating laws.³⁹² Although the political processes of the Seminole Indians were informal, blacks were incorporated into national politics in a similar system of inclusiveness practiced by the Creeks.

According to the Creek’s Treaty of 1866, black citizens would have access to communal land, or “an equal interest in the soil,” a sentiment reflected in the Seminole treaty.³⁹³ After the Civil War, most of the blacks associated with these tribes remained on the same land they had independently worked before the war. In the case of the black Seminole, their commitment to family land persisted throughout the nineteenth century,

³⁸⁸ Hulputter (Alligator) at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 162. Hulputter was the Second Principal Chief of the Seminole at the time of this hearing. This is the only time anyone from the Seminole Tribe testified at any of the Congressional investigations held in Indian Territory. The interpreter for Hulputter made it clear to the Congressional committee that Hulputter was in Eufaula on business and had not come prepared to testify. *Ibid.*, 165.

³⁸⁹ Department of Interior, *Letter from the Secretary of the Interior*, 55th Cong., 2nd sess., January 31, 1898 and Hulputter (Alligator) at Eufaula, Indian Territory on May 25, 1885 in *Condition of the Indians*, 162.

³⁹⁰ Carrie Marshall Pitman at Wewoka, OK, on April 12, 1938, in IPPC, Vol. 71, 502.

³⁹¹ Hulputter (Alligator) at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 163-164.

³⁹² Dave McIntosh at n.p. on October 10, 1967, in American Indian Oral History, Western History Collection, University of Oklahoma, Norman, Oklahoma, Vol. 45, T210-5, (hereinafter referred to as AIOH) and Hulputter (Alligator) at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 162.

³⁹³ “Treaty of 1866, Creeks,” art. 2 in Kappler, *Indian Laws and Treaties*, 932 and “Treaty of 1866, Seminoles,” art. 2 in *Ibid.*, 911.

and many received title to this same parcel of land during the allotment period around 1900.³⁹⁴ In the Creek nation, plantation owners reacted to the loss of slave labor by switching from plantations to cattle ranching because it was less labor intensive.³⁹⁵ While traditional ranching methods let cattle roam free, former plantation owners began to fence large tracts of land.³⁹⁶ Since many of the black Creek had settled on the fertile lands of the plantations, the cattle rancher's fencing activities forced some of them off the land they had chosen.³⁹⁷ However, there were many reports of black Creeks who were not disturbed as they established farms and ranches, and Henry Reed proudly boasted of his eighty-acre farm to a Senate committee.³⁹⁸ Monday Marshall reported that black Creeks were allowed to farm or ranch even if they were not allowed to vote.³⁹⁹ Another black Creek, D. Robinson, testified that intermarried blacks could farm as much land as they wanted even though they could not vote or hold office.⁴⁰⁰ While large cattle operations restricted the ability of the black Creek to choose the land they wanted, there are no indications that Creek and Seminole blacks faced any significant economic restrictions.

There is only one example of the Creek or Seminole tribal councils attempting to exclude Freedpeople from participation in annuity payments. In 1867, the Creek Indian Agent J.W. Dunn prepared a roll of all Creek Indians including blacks recognized as

³⁹⁴ Dave McIntosh at n.p. on October 10, 1967 in AIOH, Vol. 45, T210-26.

³⁹⁵ Chang, *The Color of the Land*, 57.

³⁹⁶ In 1887 one Creek rancher had fenced in one thousand acres. This activity increased over the next ten years, and by 1896 it was reported that John Brown, the principal chief of the Seminole, had 40,000 acres of Creek land fenced in for pasturage purposes. *Report of the Commissioner of Indian Affairs for the Year 1887*, 10 and Senate, *An Argument Made by Judge M'Kennon Before the Committee on Indian Affairs*, 54th Cong., 1st sess., March 24, 1896, 31.

³⁹⁷ Chang, *The Color of the Land*, 60 and Saunt, *Black White and Indian*, 142.

³⁹⁸ Henry Reed at Muskogee, Indian Territory, on November 21, 1878, in *In the Senate*, 691.

³⁹⁹ Monday Marshall at Muskogee, Indian Territory, on November 19, 1878, in *In the Senate*, 681 and Simon Brown at Muskogee, Indian Territory, on November 21, 1878, in *Ibid.*, 695.

⁴⁰⁰ D. Robinson at Fort Smith, AR, on June 3, 1885, in *Condition of the Indians*, 353.

tribal citizens in preparation for the distribution of an annuity payment. He included the black Creek because Article 2 of the Creek Treaty of 1866 specifically stated that they would participate in the distribution of national funds. However, the pro-Confederate Principal Chief Checote contacted the Commissioner of Indian Affairs Lewis V. Bogy and provided him with a legal justification for excluding the Freedpeople.⁴⁰¹ Agent Dunn was instructed to exclude the black Creek from the \$17.34 per person distribution. The black Creek sent Harry Island, Cow Tom, and Ketch Barnett to Washington to protest their exclusion, once again demonstrating the agency of black tribal members. In response, the Senate Subcommittee on Indian Affairs included a provision in the 1868 Indian Appropriation bill that withheld future Creek annuity payments unless the Freedpeople were included. The Creek council approved a distribution to the black Creek, and there were no additional complaints made by Creek Freedpeople.⁴⁰² In the Seminole tribe, “Freedmen shared in the Government payments the same as the full-blood Indians” in amounts ranging from \$15 to \$60 each year.⁴⁰³ The multicultural perspective of the Creek and Seminole Indians allowed them to include the black Indians in annuity distributions without the legal maneuvers of the Cherokee, Choctaw, and Chickasaw tribal governments.

Immediately after the Civil War, the Creek Freedpeople established common schools using their own funds to counteract the restrictions on learning that existed with chattel slavery.⁴⁰⁴ Like other slave holding societies, the Creek tribe had proscribed the

⁴⁰¹ The legal reason presented to the Commissioner of Indian Affairs was not described.

⁴⁰² Zellar, *African Creeks*, 100-101 and *Letter of the Secretary of the Interior*, 40th Cong., 2nd sess., June 10, 1868.

⁴⁰³ Ben F. Bruner at Holdenville, OK, on January 24, 1936, in IPPC, Vol. 12, 307 and Dave McIntosh at n.p. on October 10, 1967, in AIOH, Vol. 45, T210-25.

⁴⁰⁴ *Report of the Secretary of the Interior 1888*, 121. The Creek council did not have the funds to immediately establish schools after the destruction caused by the Civil War.

education of slaves before the Civil War. The proscription was not a part of the written laws of the nation, but represented a social convention adopted by plantation owners who were attempting to retain economic control over slaves. In 1828, Reverend Mr. Compere was told not to teach the slaves to read or write when he established a school that was attended by acculturated Creek Indians.⁴⁰⁵ During the WPA interviews in the 1930s, Felix L. Lindsey said the education of blacks was rare and indicated that some slaves were punished for learning.⁴⁰⁶ However, Phoebe Banks' mother was taught to read and write by the affluent Perryman family in defiance of this convention.⁴⁰⁷ The fact that the prohibition of education was a matter of custom rather than law is an indication that Creek slavery did not always mimic Southern slavery.

The inclusion of blacks on the Creek council insured they had equal access to public education after the reestablishment of the national government in 1866. Ned Robbins, a former Creek slave and a representative in the House of Warriors, was also a member of the Committee on Education.⁴⁰⁸ The funding of community schools was based on population, and black schools received one-sixth of the total school budget.⁴⁰⁹ Teachers at black schools, who were frequently black U.S. citizens, received the same salaries as teachers at the Indian schools.⁴¹⁰ The only issue of contention about education was the establishment of a black high school. This issue was resolved during the time when the Loyal Party candidate, Lochar Harjo, was Principal Chief in 1876, and was one

⁴⁰⁵ McLaughlin, "Red Indians, Black Slavery," 376.

⁴⁰⁶ Felix L. Lindsey at Wichita Falls, TX, in October 1937 in Mingos, *Black Indian Slave Narratives*, 147.

⁴⁰⁷ Phoebe Banks at Muskogee, Indian Territory, in 1937 or 1938 in Baker, *The WPA Oklahoma Slave Narratives*, 31.

⁴⁰⁸ Ned Robbins at Muskogee, Indian Territory, on November 21, 1878, in *In the Senate*, 684.

⁴⁰⁹ Jesse Franklin at Muskogee, Indian Territory, on November 21, 1878, in *In the Senate*, 688 and G.W. Stidham at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 152.

⁴¹⁰ J.H. Harris at Eufaula, Indian Territory, on May 25, 1885, in *Ibid.*, 197.

of his priorities during his time in office.⁴¹¹ Since many black Creek continued to live in separate towns after the Civil War, neighborhood schools were frequently segregated. Strict segregation was not enforced, and was not included as a national law. In 1887, all five of the boarding schools representing the majority of secondary education funded by the Creek nation were integrated.⁴¹² The Creek Nation also supported two or three black students, out of a total of twenty-two students, who were receiving advanced education at schools outside of Indian Territory.⁴¹³ Although this number does not proportionally represent the number of black Creek, it does indicate that the Creek tribe did not follow the trend in the South where some states were willing to completely eliminate public schools rather than fund the education of black students.⁴¹⁴ In education, as in other civil rights, the Creek tribe was able to rely on traditional concepts of a multicultural national identity that supported the inclusion of black members.⁴¹⁵

The inclusiveness of the Creek and Seminole tribes did not happen because of pressure from the federal government. In fact, the federal government rarely intervened in the racial policies of these tribal governments. While Freedpeople from the Cherokee, Choctaw, and Chickasaw tribes made numerous appeals for federal intervention, the Creek Freedpeople only had one occasion to seek help from Washington. As discussed earlier, the federal government forced the inclusion of the Creek Freedpeople in one annuity distribution by threatening to withhold future annuities. This strategy was effective at forcing the Creek government to comply with the spirit of equal rights of

⁴¹¹ “Indian Journal—December 7, 1876: “Message of Lochar Harjo” to the Houses of Warriors and Kings.” Harjo, Lochar Collection, Creek Nation Papers, Western History Collections, University of Oklahoma, Norman, Oklahoma, Folder 2.

⁴¹² *Report of the Commissioner of Indian Affairs for the Year 1887*, 190.

⁴¹³ G.W. Grayson at Eufaula, Indian Territory, on May 25, 1885, in *Condition of the Indians*, 1886, 184.

⁴¹⁴ Foner, *Reconstruction*, 588-589.

⁴¹⁵ There is very little information about Seminole education, but it appears that schools were not strictly segregated and funding was equitable. Mulroy, *The Seminole Freedpeople*, 281-284.

citizenship, but was never effective against the Cherokee, Choctaw, and Chickasaw tribes. In spite of Congressional investigations in Creek territory in 1866, 1867, 1873, and 1886, federal officials did not uncover any abuses of the Creek Freedpeople's civil rights. The Seminole Freedpeople never appealed to the federal government because they were never excluded from participation as full citizens of the tribe. Federal intervention was useless as a tool to force the inclusion of blacks into citizenship in the Cherokee, Choctaw, and Chickasaw tribes, and it was not needed in the Creek and Seminole tribes.

The Creek and Seminole Freedpeople were able to protect their rights by working within the tribal governmental systems. While Cherokee, Choctaw, and Chickasaw Freedpeople were creating organizations dedicated to promoting their right of inclusion as tribal members, Creek and Seminole Freedpeople were participating in tribal councils. The inclusion of Freedpeople meant they were able to influence tribal policy on matters of land use, annuity distributions, and education. In many ways, segregated towns gave the Freedpeople a stronger voice. Locally, it ensured that individual rights were not abridged based on race. Black towns meant Freedpeople represented 16 percent of the votes in the House of Warriors. This strong representation in tribal government meant that opposing political parties had to acknowledge the concerns of the Freedpeople. The Seminole Freedpeople were also organized into towns and served on the national council. While the Seminole did not have a bicameral system that included increased representation based on population, Freedpeople were incorporated into the rights of tribal citizenship at a local and national level. The Creek and Seminole Freedpeople did

not need to involve the federal government in tribal policies because they were exercising agency within the tribal system.

A few leaders in the Creek and Seminole tribes attempted to impose racial restrictions on tribal membership immediately after the Civil War. However, the majority of those tribes continued to rely on patron-client relationships that prevailed in areas that were not suited to the production of cotton crops. In addition, the Creek and Seminole tribes were confederations of different tribes that had been included in the national polity over time. Indians with different languages and cultures settled in separate towns that were represented in the national council in the same way that black towns were represented. Since most tribal members did not adopt the belief that race was a factor in determining citizenship, the American concept of a racial hierarchy did not dominate national politics. Instead, the Creek and Seminole tribal governments recognized and honored the bi-ethnic identity of Freedpeople who were both African and Native American.

CHAPTER IV

CONCLUSION

The purpose of this thesis was to demonstrate that the success or failure of Reconstruction in Indian Territory depended on tribal attitudes towards multiculturalism that was related to the adoption of a plantation economy supported by racialized slavery. While recent studies of Reconstruction have focused on the important impact of emancipation, this paper has emphasized the incorporation of blacks into the rights of citizenship that were promised by the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments as well as the Civil Rights Act of 1866. Since some members of the Five Tribes adopted chattel slavery and supported the Confederacy during the Civil War, those tribal governments were expected to adhere to the concept that emancipation would be followed by citizenship for people of African descent. In spite of federal attempts to force the tribes to accept blacks as citizens, each tribal government responded in ways that were consistent with their attitudes about race and slavery. The response of the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Indians to the federal ideal of inclusive citizenship after the Civil War was related to tribal attitudes about multiculturalism that began much earlier.

The Cherokee, Choctaw, and Chickasaw tribal response to Reconstruction was grounded in their historical relationship to slavery. The adoption of chattel slavery by some members of these tribes, primarily the offspring of white intermarried traders, provided them with greater access to material wealth and gave them the status to monopolize tribal politics. By controlling tribal politics, the leaders of the Cherokee, Choctaw, and Chickasaw Indians created Black Codes and instituted a form of slavery

that did not differ significantly from slavery in the Southern states. When the federal government attempted to force the inclusion of freed slaves into tribal citizenship during Reconstruction, the tribal governments attempted to devise legal methods for excluding blacks from the benefits of citizenship. The Cherokee Indians proposed a separate district in order to segregate blacks and limit the importance of their votes. When that failed, they began a long process of barring Freedpeople from the benefits of citizenship by excluding them from membership rolls, limiting economic opportunities, and minimizing funding of black education. The Choctaw and Chickasaw were willing to forfeit \$300,000 rather than include blacks as citizens. The exclusion of the Freedpeople meant that the economic and political benefits of citizenship were reserved for fewer people. It also replicated the racial hierarchy being implemented across the South. The tribal governments of the Cherokee, Choctaw, and Chickasaw tribes were dedicated to the exclusion of blacks from citizenship because there was not a tradition of multicultural inclusion that created a cooperative effort between blacks and non-slave owning Indians.

The response of the Creek and Seminole tribal governments to Reconstruction era expectations of inclusive citizenship was a contrast to the reactions of the Cherokee, Choctaw, and Chickasaw tribes. While a few Creeks had developed plantations and acquired chattel slaves, the majority of Creek and Seminole slave owners continued to practice traditional patron-client slavery that resulted in familial and community bonds between owners and slaves. The continued reliance on patronage slavery was grounded in their history of incorporating different tribes of Indians without requiring assimilation into Creek or Seminole culture. The multicultural perspective was retained through a system of representation that relied on towns that were based on ethnicity. The Black

Codes adopted by the Creek tribe did not prohibit the inclusion of blacks through adoption or marriage, but were designed to only discourage amalgamation. The Seminole tribe was able to incorporate blacks into citizenship without qualification, and the Creek requirement that blacks return within twelve months was frequently waived. The multicultural perspective of the Creek and Seminole resulted in black representation in politics, economics, and education. The coalition of black Creeks and their former patrons prevented the implementation of policies designed to marginalize black citizens. The alliance between traditionalist and black Creeks was “a sacred pledge” formed through relationships forged before the Civil War.⁴¹⁶

Like blacks across the United States, the Indian Freedpeople exercised agency whenever they believed the tribal governments were abridging their citizenship rights. The most excluded, the Choctaw and Chickasaw Freedpeople, created organizations to present their grievances to the federal government in hopes of gaining tribal citizenship. The Cherokee Freedpeople repeatedly testified before Congressional committees about their loss of voting privileges and lack of access to equal education. The Creek Freedpeople sent representatives to Washington to argue for participation in an annuity distribution. Black Creeks and Seminoles were successful in ensuring equal access to education through their participation on the national council and education committees. Through their actions, Indian Freedpeople demonstrated an understanding that the rights of citizenship transcended racial categories.

Reconstruction did not end in Indian Territory with the Compromise of 1877. While military troops were withdrawn from Southern states, the federal government maintained a significant presence among the Five Tribes. Congressional investigations in

⁴¹⁶ *Annual Report of the Commissioner 1865*, 525.

1865, 1873, and 1886 dealt with a variety of issues, but the topic of race and equal rights was always a significant part of the inquiry. Indian agents provided another avenue for federal intervention into tribal affairs that frequently focused on race. Although many federal officials stressed the ideological incorporation of Freedpeople into tribal citizenship, their motivation was to justify the complete elimination of Indian tribal governments. The beginning of this process was the General Allotment Act of 1887 that distributed tribal lands to individual Indians with the intent of increasing public land available for white settlers.⁴¹⁷ Although the Five Tribes were exempt from this act, it was clear that the allotment of their lands was inevitable.⁴¹⁸ In many ways, Reconstruction did not end in Indian Territory until Oklahoma became a state.

Historians usually study each of the Five Tribes separately. That approach provides an opportunity for an in-depth study of the different cultural responses to internal and external events. The approach for this paper was to compare the responses of the tribes to the requirement of universal citizenship during Reconstruction. While this method does not provide as much detail, it does reveal the fact that historical differences were behind the reception to black citizenship. It would be equally interesting to compare the Creek and Seminole inclusiveness to tri-racial tribes like the Pamunkey in Virginia and Lumbee of North Carolina. These tribes, along with others, identified themselves as Indian although they had a long history of intermarriage with people of African and European descent.⁴¹⁹ When these tribes identified themselves as Indian prior

⁴¹⁷ General Allotment Act, Feb. 8, 1887 (24 Stat. L. 388).

⁴¹⁸ The law that accomplished the allotment of the lands of the Five Tribes was the Act of June 28, 1898 (30 Stat. L. 495).

⁴¹⁹ For more information about the legal problems faced by tri-racial tribes see Ariela J. Gross, *What Blood Won't Tell: A History of Race on Trial in America* (Cambridge, MA: Harvard University Press, 2008), 111-139.

to the Civil War, it provided members who might have had a black ancestor protection from racialized enslavement.⁴²⁰ After the Civil War, multiracial tribes would emphasize their Indian heritage to escape the ravages of racism and Jim Crow. This was true even when state laws disadvantaged all non-whites, indicating the intangible importance attached to the fact that Indians were commonly viewed as a higher racial category than blacks.⁴²¹ The challenge for historians is to compare the actions and responses of the different tribes while still respecting traditional differences.

Historians have begun the process of investigating the complicated relations between Indians and blacks. The fact that some tribal members were descended from both African and Native American ancestors has generally been studied only in conjunction with the allotment of land around 1900 and has not been fully evaluated in terms of citizenship during Reconstruction. In addition, the picture of the multiethnic challenges of the Five Tribes is incomplete without incorporating the simultaneous inclusion or exclusion of whites as tribal members. Further complicating definitions of citizenship was the inclusion or exclusion of Indians who voluntarily switched tribes. It is easy to forget that the benefits of citizenship were tribal specific and even for Indians there were advantages to changing tribes. A better understanding of citizenship in the Five Tribes during the second half of the nineteenth century will highlight some of the ways that individuals and governments manipulated definitions of race and identity.

Not all of the people of African descent in the United States thought of themselves as African Americans after the Civil War. As this thesis demonstrates, some African descendants believed they were Native Americans, a distinct and different

⁴²⁰ McKinney, "Race and Federal Recognition," 58.

⁴²¹ Gross, *What Blood Won't Tell*, 112-115.

minority with unique struggles. The multicultural nature of the relationship between the Five Tribes and the Indian Freedpeople demonstrates the complex nature of the study of race in the United States. Historians have begun investigating the processes that occurred that enabled late nineteenth-century immigrants to become viewed as white, literature that is known as “whiteness studies.” Other historians have focused on various racial and ethnic minorities who have struggled to acquire the full benefits of citizenship. As Ronald Takaki, the renowned scholar of ethnic studies at the University of California, Berkeley, noted, “Multicultural scholarship ... has usually focused on just one minority.”⁴²² Historians are just beginning to combine the various studies of minority groups into a larger understanding of the history of race. It is important that the story of black Indians, who fought for inclusion as tribal citizens, be incorporated into an integrated study of race and ethnicity in the United States.

The period of Reconstruction was an era when the federal government was expanding its power and incorporating people of African descent into the social, economic, and political fabric of American society. It was “a time of unparalleled hope, laden with possibility” for African Americans and Indian Freedpeople as they sought the benefits of citizenship.⁴²³ However, it was also a time when western expansion brought on a series of Indian outbreaks, highlighting the fact that Native Americans remained outside of American society.⁴²⁴ In fact, the Reconstruction Amendments were written so that most Native Americans were specifically excluded from birthright citizenship.⁴²⁵ In

⁴²² Takaki, *A Different Mirror*, 6.

⁴²³ Litwack, *Trouble in Mind*, xiii.

⁴²⁴ Brian W. Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Lawrence: University Press of Kansas, 1982), 148.

⁴²⁵ “The Status of Indians Not Affected by the Fourteenth Amendment,” *Chicago Tribune*, December 15, 1870.

spite of their exclusion, the federal government's Indian policies during Reconstruction were being guided by the concept that Native Americans would become U.S. citizens once the tribal governments were eliminated.⁴²⁶ While the history of Reconstruction has been focused on the utopian vision of citizenship for black Americans, incorporating Indians and Indian Freedpeople into the analysis highlights that national citizenship was affected by local attitudes.

⁴²⁶ Dippie, *The Vanishing American*, 146.

BIBLIOGRAPHY

Primary Sources:

Baker, T. Lindsay and Julie P. Baker, eds. *The WPA Oklahoma Slave Narratives*. Norman: University of Oklahoma Press, 1996.

Cass, Lewis. "Considerations of the Present State of the Indians and Their Removal to the West of the Mississippi." *North American Review* 30 (January 1830).

Choctaw Nation. *Constitution of the Choctaw Nation*, November 10, 1842. <http://www.choctawnation.com/history/post-removal-government-treaties/> (accessed March 29, 2013).

Choctaw Nation. *Constitution of the Choctaw Nation*, October 14, 1850. <http://www.choctawnation.com/history/post-removal-government-treaties/> (accessed March 29, 2013).

Compiled Laws of the Cherokee Nation. Tahlequah, Indian Territory: National Advocate Printers, 1881.

Constitution and Laws of the Muskogee Nation. St. Louis, MO: Creek Nation, 1880.

Durant, A.R., compl., *Constitution and Laws of the Choctaw Nation*. Dallas, TX: John F. Worley, 1894.

Foster, H. Thomas, II, ed. *The Collected Works of Benjamin Hawkins, 1796-1810*. Tuscaloosa: University of Alabama Press, 2003.

Kappler, Charles J., comp. *Indian Affairs: Laws and Treaties*. Vol. 2. Washington, D.C.: Government Printing Office, 1904.

Minges, Patrick, ed. *Black Indian Slave Narratives*. Winston-Salem, NC: John F. Blair, 2004.

Overton, John. *A Vindication of the Measures of the President and His Commanding Generals in the Commencement and Termination of the Seminole War*. Washington: Gales & Seaton, 1819.

Starr, Emmet. *History of the Cherokee*. Cherokee, NC: Cherokee Publications, 1921.

Waring, Antonio L., ed. *Laws of the Creek Nation*. Athens: University of Georgia Press, 1960.

Western History Collection. University of Oklahoma, Norman, Oklahoma.
Native American Manuscripts.
American Indian Oral History Project.
Indian-Pioneer Papers Collection.

Newspapers:

Cherokee Advocate.

Chicago Tribune.

Daily Arkansas Gazette.

Galveston Daily News.

Indian Journal.

Okmulgee Republican.

St. Louis Globe-Democrat.

Primary Federal Documents:

U.S. Congress. House. *Indians-Creek and Seminole*. 33rd Cong, 2nd sess., December 18, 1854.

U.S. Department of the Interior. *Annual Report of the Commissioner of Indian Affairs*. 39th Cong., 1st sess., October 31, 1865.

U.S. Department of the Interior. "Report of the Secretary of the Interior." In *Executive Documents Printed by Order of The House of Representatives During the Second Session of the Thirty-Ninth Congress, 1866-'67*. Washington: Government Printing Office, 1867.

U.S. Congress. Senate. Committee on Indian Affairs. *Letter of the Secretary of the Interior*. 40th Cong., 2nd sess., July 24, 1868.

U.S. Congress. Senate. *Memorial of a Committee On Behalf of the Colored People of the Choctaw and Chickasaw Tribes of Indians*. 41st Cong., 2nd sess., March 16, 1870.

U.S. Congress. House. *Petition of Freedpeople of Choctaw and Chickasaw Nations, With Other Papers on the Same Subject*. 42nd Cong., 2nd sess., January 23, 1872.

- Attorney General's Office. "Restoration of Certain Negroes to the Seminoles," June 28, 1848. In *House Documents, Otherwise Published As Executive Documents, 13th Congress, 2nd Session to 49th Congress, 1st Session*. Washington: House of Representatives, 1872.
- U.S. Congress. House. Committee on Indian Affairs. *Investigation of Indian Frauds*. 42nd Cong., 3rd sess., March 3, 1873.
- U.S. Congress. Senate. *In the Senate of the United States*. 45th Cong., 3rd sess., February 11, 1879.
- U.S. Department of the Interior. *Report of the Secretary of the Interior*. 49th Cong., 1st sess., House Executive Document 1, Part 5. Washington: Government Printing Office, 1883.
- U.S. Department of the Interior. *A Communication From the Secretary of the Interior Relative to Legislation in Behalf of Certain Cherokee Indians*. 49th Cong., 1st sess., March 3, 1886.
- U.S. Congress. Senate. Committee on Indian Affairs. *Condition of the Indians in the Indian Territory, and Other Reservations, etc.* Washington: Government Printing Office, 1886.
- U.S. Congress. Senate. Committee on Indian Affairs. *A Communication From the Secretary of the Interior Relative to Legislation in Behalf of Certain Cherokee Indians*. 49th Cong., 1st sess., March 3, 1886.
- U.S. Department of the Interior. Commissioner of Indian Affairs. *Report of the Commissioner of Indian Affairs for the Year 1887*. Washington: Government Printing Office, 1887.
- U.S. Department of the Interior. *Report of the Secretary of the Interior*. Washington: Government Printing Office, 1888.
- U.S. Congress. Senate. Committee on Indian Affairs. *Papers Relative to an Appropriation for the Benefit of the Cherokee Freedpeople*. 50th Cong., 2nd sess., January 23, 1889.
- U.S. Congress. House. Committee on Appropriations. *The Estimates ... to Carry into Effect the Provisions of the Act of March 2, 1889, for the Enrollment of the Cherokee Freedpeople, Delawares, and Shawnees*. 51st Cong., 1st sess., August 9, 1890.
- Senate. *An Argument Made by Judge M'Kennon Before the Committee on Indian Affairs*. 54th Cong., 1st sess., March 24, 1896.

Department of the Interior. Secretary of the Interior. *Letter from the Secretary of the Interior*. 55th Cong., 2nd sess., January 31, 1898.

U.S. Congress. House. Committee on Indian Affairs. *Citizenship in the Choctaw and Chickasaw Nations*. Washington: Government Printing Office, 1908.

Secondary Sources:

Able, Annie Heloise. "The Indians in the Civil War." *American Historical Review* 15, no. 2 (January 1910): 281-296.

-----. *The American Indian Under Reconstruction*. Cleveland, OH: Arthur H. Clark Company, 1925. Kindle e-book.

Akers, Donna. *Living in the Land of Death: The Choctaw Nation, 1830-1960*. East Lansing: Michigan States University Press, 2004.

Aptheker, Herbert. *American Negro Slave Revolts*. New York: Columbia University Press, 1943.

Bailey, Minnie Thomas. *Reconstruction in Indian Territory: A Story of Avarice, Discrimination and Opportunism*. Port Washington, NY: Associated Faculty Press, 1972.

Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. Cambridge, MA: Belknap Press of Harvard University Press, 2007.

Bannister, Robert. *Social Darwinism in American Thought*. Philadelphia, PA: Temple University Press, 1989.

Basson, Lauren L. "Fit For Annexation But Unfit To Vote?: Debating Hawaiian Suffrage Qualifications At the Turn of the Twentieth Century." *Social Science History* 29, no. 4 (Winter 2005): 575-598.

Bateman, Rebecca B. "Africans and Indians: A Comparative Study of the Black Carib and Black Seminole." *Ethnohistory* 37 (1990): 1-24.

Beard, Charles A. and Mary R. Beard. *The Rise of American Civilization*. New York: Macmillan Company, 1927.

Beck, George. "The Fourteenth Amendment as Related to Tribal Indians: Section I, 'Subject to the Jurisdiction Thereof' and Section II, 'Excluding Indians Not Taxed.'" *American Indian Culture and Research Journal* 28, no. 4 (2004): 37-68.

- Bederman, Gail. *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880-1917*. Chicago, IL: University of Chicago Press, 1996.
- Benedict, Michael L. "Preserving the Constitution: The Conservative Basis of Radical Reconstruction." *Journal of American History* 61 (June 1974): 65-90.
- Bergeron, Paul H. *Andrew Johnson's Civil War and Reconstruction*. Knoxville: University of Tennessee Press, 2011.
- Berry, Mary Francis. *Black Resistance, White Law: A History of Constitutional Racism in America*. New York: Penguin Books, 1995.
- Bethel, Elizabeth. *Promiseland: A Century of Life in a Negro Community*. Philadelphia, PA: Temple University Press, 1981.
- Billings, Dwight B. *Planters and the Making of the "New South": Class, Politics and Development in North Carolina, 1865-1900*. Chapel Hill: University of North Carolina Press, 1979.
- Bottoms, D. Michael. *An Aristocracy of Color: Race and Reconstruction in California and the West, 1850-1890*. Norman: University of Oklahoma Press, 2013.
- Braund, Kathryn E. Holland. "The Creek Indians, Blacks, and Slavery." *The Journal of Southern History* 57, no. 4 (November 1991): 601-636.
- Briggs, Laura. *Reproducing Empire: Race, Sex, Science, and U.S. Imperialism in Puerto Rico*. Berkeley: University of California Press, 2002.
- Brooks, James F. *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands*. Chapel Hill: University of North Carolina Press, 2001.
- Burgess, John W. *Reconstruction and the Constitution, 1866-1876*. New York: Charles Scribner's Sons, 1902.
- Burnett, Christine Duffy. *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution*. Durham, NC: Duke University Press, 2001.
- Burton, Jeffrey. *Indian Territory and the United States, 1866-1906: Courts, Government, and the Movement for Oklahoma Statehood*. Norman: University of Oklahoma Press, 1995.
- Butchart, Ronald E. *Northern Schools, Southern Blacks, and Reconstruction*. Westport, CT: Greenwood Press, 1980.
- Camejo, Peter. *Racism, Revolution, Reaction, 1861-1877: The Rise and Fall of Radical Reconstruction*. New York: Pathfinder, 1976.

- Campbell, Randolph B. "The Law of Slavery in Texas." In *The Laws of Slavery in Texas*, edited by Randolph B. Campbell, 56-69. Austin: University of Texas Press, 2010.
- Carter, Kent. *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893-1914*. Orem, Utah: Ancestry.com, 1999.
- Castel, Albert. *The Presidency of Andrew Johnson*. Lawrence: University Press of Kansas, 1979.
- Chang, David A. *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832-1929*. Chapel Hill: University of North Carolina Press, 2010.
- "An Equal Interest in the Soil': Creek Small-Scale Farming and the Work of Nationhood, 1866-1889." *The American Indian Quarterly* 33, no. 1 (Winter 2009): 98-130.
- Cobb-Greetham, Amanda J. *Listening to Our Grandmothers' Stories: The Bloomfield Academy for Chickasaw Females, 1852-1949*. Lincoln, NE: Bison Books, 2000.
- Confer, Clarissa W. *The Cherokee Nation in the Civil War*. Norman: University of Oklahoma Press, 2007.
- Conley, Robert J. *The Cherokee Nation: A History*. Albuquerque: University of New Mexico Press, 2005.
- Cornelius, Janet Duitsman. *When I Can Read My Title Clear: Literacy, Slavery, and Religion in the Antebellum South*. Columbus: University of South Carolina Press, 1991.
- Coulter, E. Merton. *The South During Reconstruction, 1865-1877*. Baton Rouge: Louisiana State University Press, 1947.
- Crenshaw, Kimberlé, Neil Gotanda, Gary Peller, and Kendall Thomas, eds. *Critical Race Theory: The Key Writings That Formed the Movement*. New York: New Press, 1995.
- Crowe, Clint. "War in the Nations: The Devastation of a Removed People During the American Civil War." PhD diss., University of Arkansas, 2009.
- Dattel, Gene. *Cotton and Race in the Making of America: The Human Costs of Economic Power*. Lanham, MD: Ivan R. Dee, 2009.

- Debo, Angie. *The Rise and Fall of the Choctaw Republic*. Norman: University of Oklahoma Press, 1934.
- , *The Road To Disappearance: A History of the Creek Indians*. Norman: University of Oklahoma Press, 1941.
- Denson, Andrew. *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830-1900*. Lincoln: University of Nebraska Press, 2004.
- De Tocqueville, Alexis. *Democracy in America*. Translated by Arthur Goldhammer. New York: Library of America, 2004. Kindle e-book.
- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Lawrence: University Press of Kansas, 1982.
- Doran, Michael F. "Negro Slaves of the Five Civilized Tribes." *Annals of the Association of American Geographers* 68, no. 3 (September 1978): 335-350.
- Dozier, Edward P. "Resistance to Acculturation and Assimilation in an Indian Pueblo." *American Anthropologist* 53, no. 1 (January – March 1951): 56-66.
- Dubois, Ellen Carol. *Feminism and Suffrage: The Emergence of An Independent Women's Movement in America, 1848-1869*. Ithaca, NY: Cornell University Press, 1999.
- DuBois, W.E.B. *Black Reconstruction in America: 1860-1880*. New York: The Free Press, 1935.
- Dunning, William A. *Reconstruction, Political and Economic, 1865-1877*. New York: Harper & Brothers, 1907.
- Eastman, John C. "When Did Education Become a Civil Right? An Assessment of State Constitutional Provisions for Education, 1776-1900." *American Journal of Legal History* 42, no. 1 (January 1998): 1-34.
- Elliott, Mark. *Color Blind Justice: Albion Tourgée and the Quest for Racial Equality From the Civil War to Plessy v. Ferguson*. New York: Oxford University Press, 2008.
- Ethridge, Robbie. *Creek Country: The Creek Indians and Their World*. Chapel Hill: University of North Carolina Press, 2003. Kindle e-book.
- Fehrenbacher, Don E. *The Dred Scott Case: Its Significance in American Law and Politics*. New York: Oxford University Press, 2001.

- Fleming, Walter L. *The Sequel of Appomattox*. New Haven, CT: Yale University Press, 1919.
- Flexner, Eleanor and Ellen Fitzpatrick. *Century of Struggle: The Women's Rights Movement in the United States*. Cambridge, MA: Belknap Press, 1996.
- Foner, Eric. *Politics and Ideology in the Age of the Civil War*. New York: Oxford University Press, 1980.
- *Reconstruction: America's Unfinished Revolution, 1864-1877*. New York: Perennial Classics, 2002.
- *Forever Free: The Story of Emancipation and Reconstruction*. New York: Vintage Books, 2006.
- *A Short History of Reconstruction, 1863-1877*. New York: Harper Collins e-books, 2010.
- Foner, Phillip S. and Daniel Rosenberg. *Racism, Dissent, and Asian Americans from 1850 to the Present: A Documentary History*. Westport, CT: Greenwood Press, 1993.
- Foreman, Grant. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press, 1932.
- Fortney, Jeffrey L., Jr. "Slaves and Slaveholders in the Choctaw Nation: 1830-1866." PhD diss., University of North Texas, 2009.
- Frank, Andrew K. "Taking the State Out: Seminoles and Creeks in Late Eighteenth-Century Florida." *Florida Historical Quarterly* 84, no. 1 (Summer 2005): 10-27.
- Franklin, John Hope. *Reconstruction: After the Civil War*. Chicago, IL: University of Chicago Press, 2012. Kindle e-book.
- Franklin, John Hope and Loren Schweninger. *Runaway Slaves: Rebels on the Plantation*. New York: Oxford University Press, 1999. Kindle e-book.
- Fredrickson, George M. *The Black Image in the White Mind: The Debate on Afro-American Character and Destiny, 1817-1914*. New York: Harper & Row, 1971.
- Gallay, Alan. *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670-1717*. New Haven, MA: Yale University Press, 2003.
- Genovese, Eugene D. *Roll, Jordan, Roll: The World the Slaves Made*. New York: Vintage, 1972.

- Gillette, William. *Retreat From Reconstruction, 1866-1879*. Baton Rouge: Louisiana State University Press, 1979.
- Gómez, Laura. *Manifest Destinies: The Making of the Mexican American Race*. New York: New York University Press, 2008.
- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1985.
- Grinde, Donald A., Jr. and Quintard Taylor. "Red vs Black: Conflict and Accommodation in the Post Civil War Indian Territory, 1865-1907." *American Indian Quarterly* 8, no. 3 (Summer 1984): 211-229.
- Gross, Ariela J. *What Blood Won't Tell: A History of Race on Trial in America*. Cambridge, MA: Harvard University Press, 2008.
- Hahn, Stephen. *A Nation Under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration*. Cambridge, MA: Belknap Press of Harvard University Press, 2003. Kindle e-book.
- . *Life and Times of Mary Musgrove*. Gainesville: University Press of Florida, 2012.
- Hardy, William E. "Reconstructing Andrew Johnson: The Influence of Laissez-Faire Constitutionalism on President Johnson's Restoration Policy." *Tennessee Historical Quarterly* 65, no. 1 (March 2006): 70-92.
- Hartz, Louis. *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution*. Orlando, FL: A Harvest Book, 1991. Kindle e-book.
- Hatch, Thom. *Osceola and the Great Seminole War: A Struggle for Justice and Freedom*. New York: St. Martins Press, 2012.
- Hawkins, Philip C. "Creek Schism: Seminole Genesis Revisited." Masters Thesis, University of South Florida, 2009.
- Hoffer, Williamjames Hull. *Plessy v. Ferguson: Race and Inequality in Jim Crow America*. Lawrence: University Press of Kansas, 2012.
- Hofstadter, Richard. *Social Darwinism in American Thought*. Philadelphia: University of Pennsylvania Press, 1945.
- Holt, Thomas. *Black Over White: Negro Political Leadership in South Carolina During Reconstruction*. Urbana: University of Illinois Press, 1979.

- Horsman, Reginald. *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism*. Cambridge, MA: Harvard University Press, 1982.
- Horton, James Oliver and Lois E. Horton. *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1700-1860*. New York: Oxford University Press, 1997.
- Howell, Kenneth W., ed. *Still the Arena of Civil War: Violence and Turmoil in Reconstruction Texas, 1865-1874*. Denton: University of North Texas Press, 2012.
- Hyman, Harold M. *A More Perfect Union: The Impact of the Civil War and Reconstruction on the Constitution*. New York: Alfred A. Knopf, 1973.
- Jeltz, Wyatt F. "The Relations of Negroes and Choctaw and Chickasaw Indians." *Journal of Negro History* 33, no. 1 (January 1948): 24-37.
- Johnson, Benjamin Heber. *Revolution in Texas: How a Forgotten Rebellion and Its Bloody Suppression Turned Mexicans Into Americans*. New Haven, CT: Yale University Press, 2005.
- Johnson, Carolyn Ross. *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907*. Tuscaloosa: University of Alabama Press, 2003.
- Jones, Jacqueline. *Soldiers of Light and Love*. Chapel Hill: University of North Carolina Press, 1980.
- Jones, Martha S. *All Bound Up Together: The Woman Question in African American Public Culture, 1830-1900*. Chapel Hill: University of North Carolina Press, 2007.
- Jun, Helen J. "Black Orientalism: Nineteenth-Century Narratives of Race and U.S. Citizenship." *American Quarterly* 58, no. 4 (December 2006): 1047-1066.
- Kanazawa, Mark. "Immigration, Exclusion, and Taxation: Anti-Chinese Legislation in Gold Rush California." *Journal of Economic History* 65, no. 3 (September 2005): 779-805.
- Kantrowitz, Stephen. *Ben Tillman and the Reconstruction of White Supremacy*. Chapel Hill: University of North Carolina Press, 2000.
- *More Than Freedom: Fighting for Black Citizenship in a White Republic, 1829-1889*. New York: Penguin Press, 2012.
- Kauanui, J. Kehaulani. *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*. Durham, NC: Duke University Press, 2008.

- Kidwell, Clara Sue. *The Choctaws of Oklahoma: From Tribe to Nation, 1855-1970*. Norman: University of Oklahoma Press, 2007.
- Klos, George. "Blacks and the Seminole Removal Debate, 1821-1835." *Florida Historical Quarterly* 68, no. 1 (July 1989): 55-78.
- Kramer, Paul A. *The Blood of Government: Race, Empire, the United States, and the Philippines*. Chapel Hill: University of North Carolina Press, 2006.
- Krauthamer, Barbara. *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South*. Chapel Hill: University of North Carolina Press, 2013.
- Kokomoor, Kevin. "A Re-assessment of Seminoles, Africans, and Slavery on the Florida Frontier." *Florida Historical Quarterly* 88, no. 2 (Fall 2009): 209-236.
- Lauber, Almon Wheeler. *Indian Slavery in Colonial Times Within the Present Limits of the United States*. New York: Columbia University, 1913.
- Lee, R. Alton. "Indian Citizenship and the Fourteenth Amendment." *South Dakota History* 4, no. 2 (Spring 1974): 198-221.
- Lewis, David Levering. *W.E.B. DuBois, 1868-1919: Biography of a Race*. New York: Holt Paperbacks, 1994. Kindle e-book.
- Littlefield, Daniel F., Jr. *Africans and Seminoles: From Removal to Emancipation*. Jackson: University Press of Mississippi, 1977.
- *The Cherokee Freedpeople: From Emancipation to American Citizenship*. Westport, CT: Greenwood Press, 1978.
- *The Chickasaw Freedpeople: A People Without a Country*. Westport, CT: Greenwood Press, 1980.
- Littlefield, Daniel F., Jr. and Lonnie E. Underhill. "Slave 'Revolt' in the Cherokee Nation, 1842." *American Indian Quarterly* 3, no. 2 (Summer 1977): 121-131.
- Litwack, Leon F. *North of Slavery: The Negro in the Free States*. Chicago: University of Chicago Press, 1961.
- *Trouble in Mind: Black Southerners in the Age of Jim Crow*. New York: Vintage Books, 1998.
- Lockley, Timothy J. *Maroon Communities in South Carolina: A Documentary Record*. Columbia: University of South Carolina Press, 2008.

- Loewen, James W. *The Mississippi Chinese: Between Black and White*. Long Grove, IL: Waveland Press Inc., 1988.
- Logan, Rayford W. *Betrayal of the Negro: From Rutherford B. Hayes to Woodrow Wilson*. New York: Collier Books, 1965.
- Lomask, Milton Lomask. *Andrew Johnson: President on Trial*. New York: Farrar, Straus, 1960.
- López, Ian Haney. *White by Law: The Legal Construction of Race*. New York: New York University Press, 2006.
- Mahon, John. *History of the Second Seminole War, 1835-1842*. Gainesville: University Press of Florida, 2010.
- Maltz, Earl M. *Dred Scott and the Politics of Slavery*. Lawrence: University Press of Kansas, 2007.
- McConaughy, Corrine M. *The Woman Suffrage Movement in America: A Reassessment*. New York: Cambridge University Press, 2013.
- McKinney, Tiffany M. "Race and Federal Recognition in Native New England." In *Crossing Waters, Crossing Worlds: The African Diaspora in Indian Country*, edited by Tiya Miles and Sharon P. Holland, 57-79. Durham, NC: Duke University Press, 2006.
- McKisick, Derrick D. "A Separate Peace: Emancipation and Citizenship in the Choctaw Nation." PhD diss., University of Arkansas, 2007.
- McKittrick, Eric L. *Andrew Johnson and Reconstruction*. New York: Oxford University Press, 1988.
- McLoughlin, William G. "Red Indians, Black Slavery and White Racism: America's Slaveholding Indians." *American Quarterly* 26, no. 4 (October 1974): 367-385.
- *Cherokee Renascence in the New Republic*. Princeton, NJ: Princeton University Press, 1986.
- *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1839-1880*. Chapel Hill: University of North Carolina Press, 1993.
- McPherson, James M. *The Struggle for Equality*. Princeton, NJ: Princeton University Press, 1964.

- Menchaca, Martha. *Recovering History, Constructing Race: The Indian, Black, and White Roots of Mexican Americans*. Austin: University of Texas Press, 2001.
- Miles, Tiya. *Ties That Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom*. Berkeley: University of California Press, 2005.
- Miller, Susan A. *Coacoochee's Bones: A Seminole Saga*. Lawrence: University Press of Kansas, 2003.
- "Seminoles and Africans under Seminole Law: Sources and Discourses of Tribal Sovereignty and 'Black Indian' Entitlement." *Wicazo Sa Review* 20, no. 1 (Spring 2005): 23-47.
- Mills, Charles W. *The Racial Contract*. Ithaca, NY: Cornell University Press, 1997.
- Mock, Shirley Boteler. *Dreaming With the Ancestors: Black Seminole Women in Texas and Mexico*. Norman: University of Oklahoma Press, 2010.
- Molina, Natalia. *Fit to Be Citizens?: Public Health and Race in Los Angeles, 1879-1939*. Berkeley: University of California Press, 2006.
- Moran, Rachel F. and Devon W. Carbado, eds. *Moran and Carbado's Race Law Stories*. New York: Foundation Press, 2008.
- Morris, Robert C. *Reading, 'Riting, and Reconstruction*. Chicago, IL: University of Chicago Press, 1981.
- Mulroy, Kevin. *Freedom on the Border: The Seminole Maroons in Florida, the Indian Territory, Coahuila, and Texas*. Lubbock: Texas Tech University Press, 1993.
- "Ethnogenesis and Ethnohistory of the Seminole Maroons." *Journal of World History* 4, no. 2 (Fall 1993): 287-305.
- *The Seminole Freedpeople: A History*. Norman: University of Oklahoma Press, 2007.
- Nash, Gary B. *Red, White, and Black: The Peoples of Early North America*. Upper Saddle River, NJ: Prentice-Hall, Inc., 2000.
- Naylor, Celia E. *African Cherokees in Indian Territory: From Chattel to Citizens*. Chapel Hill: University of North Carolina Press, 2008.

- Naylor-Ojurongbe, Celia E. "‘Born and Raised Among These People, I Don’t Want to Know Any Other’: Slaves’ Acculturation in Nineteenth-Century Indian Territory." In *Confounding the Color Line: The Indian-Black Experience in North America*, edited by James F. Brooks, 161-191. Lincoln: University of Nebraska Press, 2002.
- Newby, I.A. *Jim Crow’s Defense: Anti-Negro Thought in America, 1900-1930*. Westport, CT: Greenwood Press, 1965.
- Newman, Louise Michele. *White Women’s Rights: The Racial Origins of Feminism in the United States*. New York: Oxford University Press, 1999.
- O’Brien, Greg. *Choctaws in a Revolutionary Age, 1750-1830*. Lincoln: University of Nebraska Press, 2002.
- Ortiz, Paul. *Emancipation Betrayed: The Hidden History of Black Organizing and White Violence in Florida From Reconstruction to the Bloody Election of 1920*. Berkeley: University of California Press, 2005.
- Oubre, Claude F. *Forty Acres and a Mule: The Freedman’s Bureau and Black Land Ownership*. Baton Rouge: Louisiana State University Press, 1978.
- Owen, Diane. "American Identity, Citizenship, and Multiculturalism." Paper, German-American Conference, Freiburg, Germany, September 11-16, 2005.
- Pascoe, Peggy. *What Comes Naturally: Miscegenation Law and the Making of Race in America*. New York: Oxford University Press, 2009.
- Pearce, Roy Harvey. *Savagism and Civilization: A Study of the Indian and the American Mind*. Baltimore, MD: John Hopkins Press, 1953.
- Perdue, Theda. *Slavery and the Evolution of Cherokee Society, 1540-1866*. Knoxville: University of Tennessee Press, 1979.
- *Cherokee Women: Gender and Cultural Change, 1700-1835*. Lincoln, NE: Bison Books, 1999.
- *Sifters: Native American Women’s Lives*. New York: Oxford University Press, 2001.
- "Mixed Blood" Indians: *Racial Construction in the Early South*. Athens: University of Georgia Press, 2003.
- "Race and Culture: Writing the Ethnohistory of the Early South." *Ethnohistory* 51, no. 4 (Fall 2004): 702-723.

- Perdue, Theda and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Penguin Books, 2007.
- Pesantubbee, Michelene E. *Choctaw Women in a Chaotic World: The Clash of Cultures in the Colonial Southeast*. Albuquerque: University of New Mexico Press, 2005.
- Phillips, U. B. *American Negro Slavery; A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation Régime*. New York: D. Appleton, 1918.
- Porter, Kenneth Wiggins. *The Black Seminoles: History of a Freedom-Seeking People*. Gainesville: University Press of Florida, 1996.
- Price, Richard, ed. *Maroon Societies: Rebel Slave Communities in the Americas*. Baltimore: John Hopkins University Press, 1979.
- Quarles, Benjamin. *Black Abolitionists*. New York: Oxford University Press, 1969.
- Reed, Gerard. "Postremoval Factionalism in the Cherokee Nation." In *The Cherokee Indian Nation: A Troubled History*, edited by Duane H. King, 148-163. Knoxville: University of Tennessee Press, 1979.
- Reese, Linda W. "Cherokee Freedwomen in Indian Territory, 1863-1890." *Western History Quarterly* 33 (Autumn 2002): 273-296.
- , *Trail Sisters: Freedwomen in Indian Territory, 1850-1890*. Lubbock: Texas Tech University Press, 2013.
- Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2007.
- Rogin, Michael Paul. *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian*. New Brunswick, NJ: Transaction Publishers, 2000.
- Rothman, Adam. *Slave Country: American Expansion and the Origins of the Deep South*. Cambridge, MA: Harvard University Press, 2005.
- Sattler, Richard Allen. "Seminole Italwa: Socio-Political Change Among the Oklahoma Seminoles Between Removal and Allotment, 1836-1905." PhD diss., University of Oklahoma, 1987.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 1975.

- Saunt, Claudio. "The English Has Now a Mind to Make Slaves of Them All": Creeks, Seminoles, and the Problem of Slavery." *American Indian Quarterly* 22, no. 1 / 2 (Winter-Spring 1998): 157-180.
- . *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733-1816*. New York: Cambridge University Press, 1999.
- . "Taking Account of Property: Stratification Among the Creek Indians in the Early Nineteenth Century." *The William and Mary Quarterly* 57, no. 4 (October 2000): 733-760.
- . "The Paradox of Freedom: Tribal Sovereignty and Emancipation During the Reconstruction of Indian Territory." *Journal of Southern History* 70, no. 1 (February 2004): 63-94.
- . *Black, White, and Indian: Race and the Unmaking of an American Family*. Oxford: Oxford University Press, 2005.
- Saunt, Claudio, Barbara Krauthamer, Tiya Miles, Celia E. Naylor, and Circe Sturm. "Rethinking Race and Culture in the Early South." *Ethnohistory* 53, no. 2 (Spring 2006): 399-405.
- Schreier, Jesse Turner. "Different Shades of Freedom: Indians, African Americans, and Race in the Choctaw Nation, 1800-1907." PhD diss., University of California, 2008.
- Schwalm, Leslie A. *A Hard Fight for We: Women's Transition From Slavery to Freedom in South Carolina*. Champaign: University of Illinois Press, 1997.
- Searcy, Martha Condray. "The Introduction of African Slavery into the Creek Indian Nation." *Georgia Historical Quarterly* 66, no. 1 (Spring 1982): 21-32.
- Silva, Noenoe K. *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*. Durham, NC: Duke University Press, 2004.
- Simkins, Francis Butler. *The South, Old and New*. New York: Alfred Knopf, 1948.
- Smith, Rogers M. *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven, MA: Yale University Press, 1997.
- Smith, Troy. "Nations Colliding: The Civil War Comes to Indian Territory." *Civil War History* 59, no. 3 (September 2014): 279-319.
- Snyder, Christina. *Slavery in Indian Country: The Changing Face of Captivity in Early America*. Cambridge, MA: Harvard University Press, 2010.

- St. Jean, Wendy. *Remaining Chickasaw in Indian Territory*. Tuscaloosa: University of Alabama Press, 2011.
- Stampf, Kenneth M. *The Peculiar Institution: Slavery in the Ante-bellum South*. New York: Knopf, 1956.
- . *The Era of Reconstruction*. New York: Knopf, 1965.
- Stanton, Elizabeth Cady, Susan B. Anthony, and Matilda Joslyn Gage, eds. *History of Woman Suffrage*. New York: Rochester, 1882. Kindle e-book.
- Sturm, Circe. *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley: University of California Press, 2002.
- Sturtevant, William C. and Jessica R. Cattelino. "Florida Seminole and Miccosukee." In *Handbook of North American Indians (Southeast)*, edited by William C. Sturtevant and Raymond D. Fogelson, 429-449. Washington, D.C.: Smithsonian Institution: 2004.
- Takaki, Ronald. *A Different Mirror: A History of Multicultural America*. Boston, MA: Little, Brown, 1993.
- . *Strangers From a Different Shore: A History of Asian Americans*. New York: Little Brown & Co., 1998.
- Taylor, Alrutheus A. *The Negro in South Carolina During the Reconstruction*. Washington: The Association for the Study of Negro Life and History, 1924.
- Tennant, Brad. "'Excluding Indians Not Taxed': Dred Scott, Standing Bear, Elk and the Legal Status of Native Americans in the Latter Half of the Nineteenth Century." *International Social Science Review* 86, no. 1 / 2 (January 2011): 24-43.
- Terborg-Penn, Rosalyn. *African American Women in the Struggle to Vote, 1850-1920*. Bloomington: Indiana University Press, 1998.
- Teske, Raymond H.C., Jr. and Bardin H. Nelson. "Acculturation and Assimilation: A Clarification." *American Ethnologist* 1, no. 2 (May 1974): 351-367.
- Thompson, Alvin O. *African Runaways and Maroons in the Americas*. Kingston, Jamaica: University of West Indies Press, 2006.
- Thornton, Russell. *The Cherokees: A Population History*. Lincoln: University of Nebraska Press, 1990.
- Trefousse, Hans L. *The Radical Republicans: Lincoln's Vanguard for Radical Justice*. New York: Alfred A. Knopf, 1969.

- . *Impeachment of a President: Andrew Johnson, the Blacks, and Reconstruction*. Knoxville: University of Tennessee Press, 1975.
- Tucker, William H. *The Funding of Scientific Racism: Wickliffe Draper and the Pioneer Fund*. Champaign: University of Illinois Press, 2007.
- Urban, Wayne J. and Jennings L. Wagoner. *American Education: A History*. Florence, KY: Routledge, 2008.
- Volpp, Leti. "Divesting Citizenship: On Asian American History and the Loss of Citizenship Through Marriage." *UCLA Law Review* 53 (2005): 405-483.
- Weiner, Mark S. *Black Trials: Citizenship From the Beginnings of Slavery to the End of Caste*. New York: Vintage Books, 2004.
- Welke, Barbara Young. *Law and the Border of Belonging in the Long Nineteenth Century United States*. Cambridge, MA: Cambridge University Press, 2010.
- White, Christine Schultz. *Now the Wolf Has Come: The Creek Nation in the Civil War*. College Station: Texas A&M University Press, 1996.
- White, Kenneth B. "The Alabama Freedpeople's Bureau and Black Education: The Myth of Opportunity." *Alabama Review* 34 (April 1981): 107-124.
- White, Richard. *Roots of Dependency: Subsistence, Environment, and Social Change Among the Choctaws, Pawnees, and Navajos*. Lincoln: University of Nebraska Press, 1988.
- Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- Williams, Heather Andrea. *Self-Taught: African American Education in Slavery and Freedom*. Chapel Hill: University of North Carolina, 2005.
- Williamson, Joel. *After Slavery*. Chapel Hill: University of North Carolina Press, 1965.
- . *A Rage for Order: Black-White Relations in the American South Since Emancipation*. New York: Oxford University Press, 1986.
- Woodson, C. G. *The Education of the Negro Prior to 1861*. Washington, D.C., Associated Publishers, 1919.
- Woodward, C. Vann. *Origins of the New South, 1877-1913*. Baton Rouge, LA: Louisiana University Press, 1951.

- . *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction*. New York: Oxford University Press, 1966.
- . *The Strange Career of Jim Crow*. New York: Oxford University Press, 2002.
- Work, L. Susan. *The Seminole Nation of Oklahoma: A Legal History*. Norman: University of Oklahoma Press, 2010.
- Wright, J. Leitch. *The Only Land They Knew: The Tragic Story of the American Indians in the Old South*. New York: Free Press, 1981.
- . *Creeks and Seminoles: The Destruction and Regeneration of the Muscogulge People*. Lincoln: University of Nebraska Press, 1986.
- Wright, Muriel H. "Brief Outline of the Choctaw and Chickasaw Nations in Indian Territory, 1820 to 1860." *Chronicles of Oklahoma* 7, no. 4 (1929): 388-418.
- Yafa, Stephen. *Big Cotton: How a Humble Fiber Created Fortunes, Wrecked Civilizations, and Put America on the Map*. New York: Viking, 2005.
- Yarbrough, Fay A. *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century*. Philadelphia: University of Pennsylvania Press, 2008.
- Zellar, Gary. *African Creeks: Estelvyte and the Creek Nation*. Norman: University of Oklahoma Press, 2007.