

# *Snakes and Scribes*



## *The Dawes Commission and the Enrollment of the Creeks*

*By Kent Carter*

By the late 1870s most Native American tribes had been pushed onto reservations in areas that were generally undesirable and out of the path of settlement, but many friends of the Indian became convinced that efforts to isolate and then civilize them were not working and that assimilating them into the general population would be a better policy <sup>1</sup> It became almost an article of faith with the reformers that private ownership of property was one of the most powerful tools that could be used to bring about assimilation, so they set out to destroy the tribal governments

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and the system of communal ownership and give each Indian his or her own piece of land. Getting the federal government to adopt a policy of allotment of land in severalty was almost an "obsession of the later nineteenth-century Christian reformers" who were convinced that such a policy would force the Indians to become more like the industrious white farmers who were rolling over them like a tidal wave.<sup>2</sup> Powerful economic interests supported the policy because it would open surplus land to non-Indians; allotment "appealed simultaneously to humanitarian instincts and overt self-interest."<sup>3</sup> Congress gave in to a persistent lobbying effort driven by both good intentions and basic greed and passed a General Allotment Act that was signed into law on February 8, 1887.<sup>4</sup>

The Cherokee, Choctaw, Chickasaw, Creek, and Seminole tribes were exempt from the original legislation, primarily because any change in title to their lands raised a tangle of legal questions. They were collectively known almost universally as the Five Civilized Tribes because they had already adopted many of the economic, social, and governmental practices of whites and were widely perceived as so different from other tribes that some would come to question whether they were "real Indians."<sup>5</sup> In the end, however, it did not matter how far those "civilized" tribes had already come on the road to assimilation, because they occupied over 20 million acres of valuable land sitting almost dead center in a nation bent on economic development. The appropriation bill for the Office of Indian Affairs that was passed on March 3, 1893, authorized the president to appoint three commissioners to negotiate with the Five Civilized Tribes to bring about the allotment in severalty of their land. Former United States senator Henry L. Dawes, who had played a major role in getting the 1887 allotment law passed, was named chairman of what became known as the Dawes Commission.<sup>6</sup>

Not every Indian wanted to be allotted land and assimilated. In each tribe, both pro- and anti-allotment factions developed and bitter struggles resulted that sometimes ended in violence. The Four Mothers Society claimed to have 24,000 Cherokee, Choctaw, Chickasaw, and Creek members who were opposed to any changes in the existing treaties. Its leaders visited Mexico to look for a new home where they could escape allotment and maintain communal land ownership. Chitto "Crazy Snake" Harjo became the leader of a band of full-blood Creeks who opposed allotment. His followers became widely known as the Snakes and they would spend more than a decade resisting the Dawes Commission.<sup>7</sup>

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The federal government had to determine who were the members of each tribe before it could even begin to allot land. In the Creek Nation, as in most Indian tribes, "membership" decisions were made by tribal officials based on their "customs and usages."<sup>8</sup> Few tribes had written laws governing citizenship or even written census rolls. In relatively small populations bound together by family or clan relationships, "recognition of citizenship rested more upon family and neighborhood knowledge than upon official registration."<sup>9</sup> All of that, of course, changed drastically when the federal government got involved and millions of dollars worth of land was almost literally up for grabs.

Before it was forced to move to what is now eastern Oklahoma in the late 1830s, the Creek tribe was basically a confederation of bands that lived in separate tribal towns. After removal tribal members attempted to retain those settlement patterns as much as possible and an enumeration made in 1859 showed 13,537 Creeks living in forty-four towns, with the "Upper Creeks" along the Canadian River and the "Lower Creeks" along the Cimarron River.<sup>10</sup> Each town king was supposed to keep track of his citizens, but there appear to have been few written census rolls made, and many of those disappeared. The Creek constitution of 1867 took the power to decide on applications for citizenship away from the town kings and gave it to the tribal courts for Coweta, Muskogee (Arkansas), Eufaula, Wewoka, Deep Fork, and Okmulgee districts. Anyone claiming membership had to submit petitions and supporting affidavits to the court.<sup>11</sup> An act of the Creek National Council on November 29, 1883, transferred citizenship powers from the courts to a permanent committee. G.W. Stidham, a judge on the Creek Supreme Court, served as its chairman and A.P. McKellop as clerk.

What may be the first general census of the Creek Nation made after removal was taken in April, 1882.<sup>12</sup> Eight years later, another enrollment had to be made because Congress authorized a per capita payment from a fund of \$400,000 that had accumulated under the treaty of 1866 that restored relations between the United States government and the Creeks after the Civil War. Tribal officials in each town took the 1890 census to determine who was eligible for the payment, and they certified the results. Officials in Coweta, for example, stated that "this census we took it all right." Town officials then submitted the rolls to a special committee of the National Council established in October, 1890, which had authority to investigate and make corrections.<sup>13</sup> William Robinson served as chairman with Mrs. A.P. McKellop as clerk.

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Agents of the Department of the Interior made the payment, which amounted to twenty-nine dollars per person, at Okmulgee from January 22 to March 4, 1891.<sup>14</sup> Principal Chief Legus C. Perryman had triplicate copies of the census typewritten and certified, and sent one copy to the secretary of the interior "to be taken and accepted as the correct enumeration."<sup>15</sup> A Special Committee under the chief's brother, L.W. Perryman, prepared an "Omitted Roll" that listed persons who did not participate in the payment and any children born after April 3, 1891.<sup>16</sup> Those 1890-1891 rolls contained the names of 13,842 citizens, including 4,203 former slaves who had been reluctantly adopted by the tribe after the Civil War.<sup>17</sup> The 1890 federal population census, taken at roughly the same time, showed about 18,000 people living in the Creek Nation, including 3,000 non-citizen whites.<sup>18</sup>

When the Dawes Commission was established in 1893, its primary mission was to try to negotiate agreements with the Creeks and the other tribal governments, but many Creeks adamantly opposed allotment or any changes in their status under the treaty of 1832 that had forced them to move to Indian Territory. One full blood expressed a common sentiment when he told a Senate investigating committee, "I love my treaty, and I want my old treaty back. I will never stop asking for this treaty, the old treaty that our fathers made with the Government which gave us this land forever as long as the grass grows, water runs, and the sun rises."<sup>19</sup> At a meeting in Okmulgee on April 3, 1894, the commissioners explained at great length to a crowd of nearly 3,000 all the benefits allotment would bring, but the entire group, composed of mostly full bloods, "voted" against the plan.<sup>20</sup> The commission met the same kind of polite but determined opposition from each of the other Five Civilized Tribes.

Shortly after the Dawes Commission arrived in Indian Territory, the Creeks took a census under a November 6, 1893, act of the National Council.<sup>21</sup> In March 1895, the district judges of the Creek courts received instructions to "tell all your light horse men to tell all council members" to take a census of their towns for a per capita payment. Councilors took that census between May 31 and June 6, 1895, and sent it for review by an eighteen-member special committee established by an act of May 15, 1895. The "committee of eighteen," headed by Moses Smith, had instructions to submit lists of contested names to the National Council.<sup>22</sup> It also apparently decided that it had the power to remove names and did so literally with a "knife or scissors." One member later testified that the

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review process became “kind of a trade” where one town representative would “scratch” the name of a person from some other town to get “revenge” if someone from his town had been “scratched off.”<sup>23</sup> In the end, the reviewers “struck off the roll” about 200 people. Persons who remained on the roll received a per capita payment of fourteen dollars and forty cents in October, 1895.<sup>24</sup>

An act of the National Council on May 30, 1895, empowered a Citizenship Commission generally known as the “Colbert Commission” because James Colbert, an ordained minister of the Baptist Church, served as president or chairman to summon witnesses, take testimony, and make final decisions.<sup>25</sup> Sue M. Rogers served as principal clerk and recorded the decisions in the official records which contain numerous doodles and a notation that said “want soda pop for all.”<sup>26</sup>

For two years the Dawes Commission tried in vain to get the tribal governments to begin negotiations. The election of Isparhecher, an illiterate full blood who spoke only Creek, as principal chief in 1895, sent another clear signal that the Creeks wanted no part of allotment.<sup>27</sup> All candidates in the election came out strongly against having any dealings with the Dawes Commission. In 1896 a discouraged Henry Dawes told a congressional committee that after three years of effort virtually nothing had been accomplished. Congress, which was under increasing pressure from supporters of statehood and business groups pushing for economic development, decided to proceed without the tribes’ agreement. Senator Orville Platt introduced an amendment to the Indian Office appropriation bill that authorized the commission to “hear and determine the application of all persons who may apply to them for citizenship” and “determine the right of such applicant to be admitted and enrolled.”<sup>28</sup> The act was signed on June 10, 1896, and marked the beginning of the end of tribal autonomy.

In 1871 Congress had made a major change in the relationship between the federal government and the tribes when it stopped the practice of making treaties and asserted its authority to deal with them solely by legislation. The act of 1896 marked another significant change because for the first time the tribal governments were forced to share the power to determine citizenship. Indian agents had always made census and payment rolls, but they acted only in a clerical capacity for the tribes and did not decide who belonged and who did not. The loss of control over citizenship was a serious blow to the power of the tribal governments that made it almost

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impossible to defend themselves against the government's determined efforts to abolish them.

Congress gave the Dawes Commission power over citizenship in response to years of allegations of corrupt tribal enrollment practices. Critics had repeatedly charged that the "tribal rolls were loosely kept and members of government took them home or loaned them to neighbors."<sup>29</sup> Many names were supposedly on the rolls as a result of fraud or bribes to tribal officials who added or removed people to influence the outcome of elections or to avoid the jurisdiction of federal courts. Given all of the criticism of the rolls, it appears rather illogical that Congress stipulated that "the rolls of citizenship of the several tribes, as now existing, are hereby confirmed" and only authorized the Dawes Commission to add names to the existing rolls. It had to produce a "complete roll within six months that could be used as the basis for allotment."<sup>30</sup>

The practical realities the Dawes Commission faced dictated that it use the tribal rolls as a starting point, no matter how inaccurate they were. There were more than a half-million people living in Indian Territory and countless numbers in surrounding states who might try to get on a roll that would ultimately entitle them to an allotment of valuable land. Throwing out the rolls that had already been taken and starting from scratch would have posed a monumental problem that could take years to resolve and would certainly delay statehood. Just adding names for six months would be hard enough, and the commission acknowledged the difficulties it faced in a statement to the House Committee on Indian Affairs that noted, "[I]t is well understood that the rolls of the Creeks are very incorrect, and constant complaint is made that persons are placed on such rolls without any authority whatever by persons who made such rolls, and, in many instances, corruptly so."<sup>31</sup>

The Dawes Commission issued written notices on July 8, 1896, that it would accept applications for citizenship until September 10, and would visit Wetumka, Okmulgee, Wellington, and Muskogee to receive them. An application had to include a signed and sworn statement containing all the facts supporting the claim, and the applicant had to prove that a copy had been furnished to the tribal chief, who then had thirty days to respond. Congress totally underestimated the amount of work required and the ninety-day deadline it set proved to be impossibly short. It also provided an opportunity for complicated and protracted legal battles by allow-

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ing any of the parties to appeal the commission's decision to the recently established United States courts in Indian Territory

On the same day the enrollment notices went out, the Dawes Commission wrote to Chief Isparhecher requesting copies of all tribal rolls and any laws relating to citizenship because those records would constitute the basis for determining an applicant's right to enrollment. Isparhecher "respectfully forwarded" the commission's request to Roley McIntosh, who chaired the tribal legislature's Committee on Foreign Relations.<sup>32</sup> The Creek tribal government was "astonished" Congress had given the Dawes Commission authority to make rolls of its citizens and complained it "was a grave violation of the numerous treaty pledges made each of the five nations in oft-time repeated treaties."<sup>33</sup> It was clear, however, that allotment was inevitable, and the Creeks appointed a five-member special commission under Pleasant Porter to "meet and treat with the Dawes Commission." James H. Lynch, Rolin Brown, George Tiger, and Conchartee Mico served with Porter. The tribe also hired "Colonel" Ben T. Duval, a prominent attorney in Fort Smith, Arkansas, to represent it before both the Dawes Commission and the United States court.

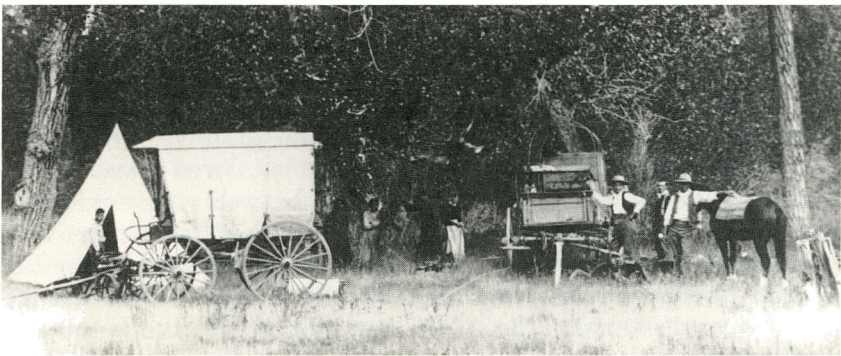
There was deep and bitter disagreement in each of the Five Civilized Tribes over how to respond to the threat posed by the Dawes Commission's new powers. Pleasant Porter, an influential Creek leader, believed that the allotment battle was lost and advised negotiating, but Isparhecher and the full bloods wanted to resist and insisted the government honor the "old treaties." An intertribal council met at Eufaula in July, 1896, and recommended negotiations, but a special session of the Creek National Council voted in August to refuse any proposals from the Dawes Commission.<sup>34</sup>

On October 16, 1896, the Dawes Commission wrote to Isparhecher, reminding him that the law required him to respond to enrollment applications within thirty days and that the time was up. The commission had not received responses to either the applications or its request for rolls and warned that if the Creeks did not reply by October 21 it would "proceed to consider cases" without the tribe's input. Isparhecher immediately forwarded the letter to the National Council with the warning that "the Dawes Commission will not wait on us any longer." He noted Duval had prepared the required answers to the applications, but they could not be forwarded to the Dawes Commission until the National Council appropriated money to pay the attorney for his work. Isparhecher warned the legislators that more than 1,300 people were claiming

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citizenship, and those cases would be decided by December 10 (the expiration of the ninety days allowed by Congress) with or without the tribe's participation. He urged the council to "dispose of this question today"<sup>35</sup> The faction that apparently believed ignoring the commission would make it go away reluctantly gave in and appropriated \$900 to pay Duval, who then signed an agreement on November 10, 1896, to continue representing the tribe. Creek officials, however, still did not make available copies of the citizenship rolls.

Representatives of the Five Civilized Tribes met at South McAlester in the Choctaw Nation on November 11 and 12, 1896, and although there was still intense opposition to change, they passed a resolution that acknowledged that "the time has arrived when the repeated demands of the United States makes it imperative on the Five Civilized Nations to treat with the United States Commission."<sup>36</sup> In December the special Creek commission under Pleasant Porter offered a draft allotment agreement, but the Dawes Commission rejected it. Congress continued its assault on tribal authority with an amendment to the Indian Office appropriation bill that put the Five Civilized Tribes under the jurisdiction of the federal courts and required that all tribal legislation passed after January 1, 1898, had to be approved by the president of the United States before it could take effect. Thus Congress effectively abolished the power of both the tribal courts and legislatures and made resistance to allotment virtually impossible. The National Council responded in August, 1897, with an informal vote that was almost



*Workers for the Dawes Commission spent weeks in the field interviewing applicants for Creek citizenship and allotment (above and p. 384) (All photos courtesy Oklahoma Historical Society).*



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unanimously against further negotiations. However, in a formal vote taken at a special session on August 24, the council reversed its position and then overrode a veto by the principal chief.<sup>37</sup>

Even as the Dawes Commission was hard at work adding names to the tribal rolls under the act of 1896, James Colbert's Creek citizenship commission continued to hear applications. Before it was abolished on September 30, 1896, the commission admitted 79 blacks and 156 by-bloods and rejected 202 blacks and 99 by-bloods. Colbert also served as head of a special committee of the National Council that approved a new census roll on November 4 and 5, 1896.<sup>38</sup> It appears the new roll was taken in October in hopes of refuting the roll being prepared by the federal government.

The Dawes Commission docketed 168 applications for Creek citizenship under the 1896 act and met at Vinita on November 24 and 25, 1896, for what it called a "trial of the cases." The commission approved applications that included 255 persons, in spite of the vigorous objections of S.B. Callahan, Bunny McIntosh, and Ben Duval who represented the Creeks and promptly appealed each decision. Judge William A. Springer began hearing the appeals in January, 1897, in the United States Court for the Northern District of Indian Territory sitting at Muskogee. Springer had served for twenty years in the United States House of Representatives as a Democrat from Illinois and supported statehood for Indian Territory. He was placed on the bench after being defeated for re-election in 1894. The judge appointed two masters in chancery to investigate the cases and they heard numerous charges of corruption in citizenship matters which they included in their reports on each case. In order to discredit applicants, Duval often attacked the honesty of tribal officials, including the "impeached and disgraced ex-Chief Legus C. Perryman," and he contended that members of the Colbert Commission had been offered bribes by applicants on many occasions. He introduced an affidavit by Colbert stating that "Gabriel Jamison who is King of a colored town was in the habit of enrolling any person upon his roll who would pay him for it. [H]e was looked upon as a swindler."<sup>39</sup> The court also heard testimony about the terrible physical condition of tribal records. Coweta district judge Napoleon B. Childers admitted that when he took custody of the official record book "about one-third of the book is torn out."<sup>40</sup> Duval insisted many of the applicants had no valid claim to citizenship and concluded one argument with a request for dismissal because "this case was conceived in sin and brought forth in iniquity." The ever-helpful Duval even offered to

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loan Judge Springer his personal copy of *Perryman's Digest of the Creek Laws of 1890* so that he could decide the issue. Duval's rhetoric was apparently not convincing, because Springer eventually affirmed all Dawes Commission decisions that admitted applicants and also reversed the rejections of seventy persons.<sup>41</sup>

The appropriation act of June 7, 1897, that virtually destroyed the tribal courts and weakened the legislatures tried unsuccessfully to clarify what the 1896 act meant by "tribal rolls." It defined them as the "last authenticated rolls" approved by the council of each nation (the Creek National Council had still not authenticated any roll) plus the names of any descendants plus any names added by the tribal councils (228 for the Creeks), the Dawes Commission (255 Creeks), or the United States courts (70 Creeks). Any other names that might be found on rolls that were not "authenticated" were "open to investigation" by the Dawes Commission for a period of six months. If the commission decided that a name was on the roll as a result of fraud, it had the authority to strike that name after giving the person ten-days' advance notice. Anyone stricken from the rolls had the right of appeal to the United States court in Indian Territory. The act was virtually meaningless because the Dawes Commission did not have any Creek rolls to examine.

On June 20, 1897, the commission sent a request to each tribe for a copy of its "last authenticated roll" and copies of any laws relating to citizenship. Tams Bixby, who was acting chairman during Dawes's frequent absences, wrote to Isparhecher on September 30, 1897, that the commission would begin taking a census on October 11 and expected to complete it by October 27. Bixby once again requested copies of the "complete rolls of citizenship," because the commission planned to send one field party to Coweta and Muskogee districts and a second party to Eufaula, Wewoka, Deep Fork, and Okmulgee districts and they needed the rolls to do their work.<sup>42</sup> It had been more than a year since the commission's first request for the tribal rolls, and it still had not received them.

Isparhecher forwarded Bixby's letter to the National Council and noted that the Colbert census roll had been prepared and submitted to the last session. He suggested it be corrected and then authenticated by the legislature as "final." The chief noted he could not see "any necessity for aiding the Dawes Commission to take a new census at this time."<sup>43</sup> On October 11 he informed the council that two members of the Dawes Commission were in Okmulgee to "take a final census roll" and stated, "I do not feel authorized to submit your rolls to the Commission until you direct

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me to do so. Asking your immediate action."<sup>44</sup> Once again, the council ignored the chief's plea.

On October 12, 1897, Commissioner A.S. McKennon, who supervised the field parties, wrote directly to G.A. Alexander, president of the House of Kings, and William A. Sapulpa, speaker of the House of Warriors. He reminded them copies of the rolls had been requested twice but "no response has ever been received," and he repeated the request.<sup>45</sup> Three days later, the chairman of the Committee on Foreign Relations of the Creek National Council issued a report that it was "not necessary that we should take any steps relative to taking the census."<sup>46</sup> The council continued to ignore the Dawes Commission. While the Creeks stalled on access to the rolls, they continued to try to negotiate an agreement on allotment. However, the National Council promptly rejected a draft the Creek special commission presented on September 27, 1897, that has been called "the worst agreement negotiated with any of the tribes."<sup>47</sup>

There was widespread speculation throughout Indian Territory about what legislation Congress would pass if the tribes continued to resist allotment. Tams Bixby, who was in Washington in February, 1898, told local newspapers "matters among the Indian tribes were in chaos" and the Dawes Commission was no nearer a settlement with the various tribes than when it began work.<sup>48</sup> Charles Curtis, a Republican member of the House of Representatives from Topeka, Kansas, introduced "An Act for the Protection of the People of Indian Territory," that was signed into law on June 28, 1898. It was generally referred to as the Curtis Act after its sponsor who was part Kaw and would go on to become vice-president of the United States.<sup>49</sup> The act authorized the Dawes Commission to proceed with allotment even without tribal consent and to "adopt any other means by them deemed necessary" to carry out the allotment policy.<sup>50</sup> The Curtis Act also included an amended version of the Creek agreement, but that was rejected by the tribe on November 1, 1898.

On the day the Curtis Act was signed, the secretary of the Dawes Commission, Allison L. Aylesworth, asked Isparhecher for the names of all members of the National Council and reminded him the 1896 and 1897 acts of Congress gave the commission access to all "rolls and records." Aylesworth warned, "[T]he Commission intends to take every step necessary to effectually discharge the duty which has been assigned to it." He said the United States court would find the Creeks in contempt if they did not cooperate.<sup>51</sup> On July 7, 1898, Isparhecher informed all tribal dis-

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strict court judges that the Dawes Commission had sent out notices it was taking a census under the act of June 7, 1897, "in spite of our wishes and against our will and giving threats of enforcement."<sup>52</sup> The chief called for a convention of council members at Okmulgee on July 18, 1898, to consider the matter. That convention passed a resolution on July 20 authorizing the principal chief to furnish the Dawes Commission any "rolls and records as may be in his office."

On August 4, 1898, Aylesworth gave Isparhecher a signed receipt for twenty-five 1896 town census rolls. The ninety days the Dawes Commission had been given to decide applications under the 1896 act had, of course, long since elapsed. Commissioner Bixby was not satisfied with just the 1896 roll and reminded Isparhecher on August 9 that for more than two years he "earnestly yet courteously solicited your aid in the work of making a correct roll of Creek citizenship, which you have steadfastly ignored and refused to extend. Having wearied in our efforts to obtain the rolls, an application was made to the United States Court for the remedy which the law affords."<sup>53</sup>

Realizing the Dawes Commission had both the power and the will to act unilaterally, Isparhecher sent Commissioner McKennon a resolution of the National Council inviting him to Okmulgee to begin enrollment and to negotiate amendments to the Curtis Act with a seven-member commission chaired by Roley McIntosh. On March 31, 1899, Isparhecher appointed Wesley Smith, Hotulke Marthla, and James Gregory to negotiate with the Dawes Commission and five days later appointed a National Council committee consisting of Samuel J Haynes, James R. Gregory, Napoleon B. Moore, and Wallace McNac to "aid the Dawes Commission in the identification and enrollment of citizens and to defend the rights of the Creek people."<sup>54</sup>

The commission opened a land office at Muskogee on April 1, 1899, that became a "mecca of every phase of humanity which the broad domain of Indian Territory nourishes and supports."<sup>55</sup> Philip B. Hopkins was appointed enrolling clerk and the commission's stenographer, D.W. Yancey, recorded information given under oath by applicants on cards that became the official record and were considered the final word on any dispute.<sup>56</sup> The key step in the application process was an examination of the "authenticated" rolls of 1890 and 1895 and the various "omitted" and supplemental rolls the Dawes Commission eventually acquired. If the applicant's name could be found on the rolls, he or she was issued a citizenship certificate and sent to another office to select an allotment of 160

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acres of land. On May 6, 1899, Abe Kernals was appointed a "prosecuting witness" for the Creeks and he challenged many of the applicants' claims. The Dawes Commission insisted on using the 1895 roll as the basis for its decisions, even though Isparhecher wrote them on October 31, 1899, that it was "not an authenticated one" and the commission would not be "wisely guided by the census roll of 1895."<sup>57</sup>

The Dawes Commission adopted a very narrow interpretation of its enrollment powers, claiming that the Curtis Act limited eligibility to those people who were on an authenticated roll or had been added by either the commission or the United States court under the 1896 act. Thus, even if individuals could make a strong case that they should have been on existing tribal rolls, the commission refused to add their names. It noted in its annual reports on several occasions that applicants had the "erroneous idea" that "blood alone constituted a valid claim to citizenship regardless of other qualifications required by treaties and the constitution, laws, and usages of the several nations."<sup>58</sup> Some applicants who probably had "Indian blood" were rejected because the commission was determined to be guided by the letter of the law and not the merits of the case. That position frustrated applicants and their lawyers at the time and drives present-day genealogists to tears.

Many of the full bloods could not speak English, and the commission's interpreter, Sam Checote, had to try to translate. The job of the enrolling clerks was further complicated because "surnames were practically unknown" in the Creek tribe, and many people were well known by several names which made it extremely difficult to match applicants to a particular family group.<sup>59</sup> The commissioners complained that "surnames are changed overnight. [I]n some cases two or more children are given identically the same name. Information as to the age of both minors and adults is often unreliable, if not absolutely lacking."<sup>60</sup> There were no drivers' licenses or social security numbers that could be used to distinguish one individual from another, so the clerks had to record a person's age, sex, parents' names, and degree of blood to meet the Curtis Act's requirement that the rolls be "descriptive." The process must have been a nightmare for bureaucrats because it made a shambles of their best efforts to keep an orderly set of books.<sup>61</sup>

The members of the Creek committee appointed to represent the interests of the tribe tried to help with identification. They also were allowed to question applicants and often produced witnesses to refute their claims in an effort to discredit the numerous people

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they believed were trying to swindle the tribe. When they submitted a bill to the National Council for fifty dollars each for their services, Tams Bixby endorsed the request by noting their "help [was] of great value."<sup>62</sup>

The commission reported to the secretary of the interior on April 15 that "the full bloods of the Creek Nation have been very slow to accede to the policy of the Government and the work of enrolling has been materially retarded by a clear determination on their part to ignore the requirements of the Commission."<sup>63</sup> Bixby and his colleagues complained that Creek officials who opposed enrollment told the town kings "to carry home with them the rolls of their respective towns."<sup>64</sup> Because of the summer heat, the Dawes Commission then agreed to adjourn in July and meet again in August after issuing subpoenas for people who had refused to appear

When the commission reconvened, it decided to go to the full bloods if the full bloods would not come to them. Hopkins and his enrolling clerks loaded their wagons and traveled around the Creek Nation looking for potential applicants. They left Okmulgee on November 8 and set up two tents in Tuskegee after their wagon broke down. Hopkins reported to Bixby on November 24, 1899, that 75 percent of the people "are absolutely opposed to enrollment and allotment," and the rest were "indifferent."<sup>65</sup> He complained that enrollment was difficult because settlements were scattered, travel was hindered by high water, and instructions were held up by "belated mails." To make matters worse, he had to use a mule with a bad leg and a buggy that he considered a "discarded relic."<sup>66</sup>

While Hopkins struggled with transportation, the Creeks made another effort to preempt the commission's enrollment work. On November 21, 1899, D.M. Hodge informed Bixby the National Council was preparing to take a census and asked for copies of the blank forms used by the commission. Bixby responded the next day that "any census or citizenship roll or list which might be prepared by the tribal authorities of the Creek Nation, would not be recognized by the Government of the United States."<sup>67</sup> He certainly did not want a lot of official blank forms floating around the Creek Nation and his opposition apparently convinced tribal officials to drop the project. The commission's enrollment clerks moved their wagons and tents to Moran on December 1 and then to Bristow before returning to Okmulgee on December 14. On January 29, 1900, they were called back to Muskogee "in order to reduce expenses," because the commission's funds were almost exhausted

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and Congress had not acted on a supplemental request. A tired and frustrated Hopkins resigned his \$150-a-month job on February 16.

The commission appointed by the Creeks to assist with enrollment went almost everywhere the Dawes Commission went. James Gregory was probably the most active member, and he frequently corresponded with Isparhecher, who was apparently a political ally. On July 7, 1899, Gregory wrote that the Creeks had been "betrayed" by "bad politicians" and that the "very men who had paraded as patriots had been selling citizenship certificates to non-citizens." He told Isparhecher it was "too bad" he was not going to run for chief again because the "corrupt politicians" were "robbing the nation" and the "white boomers" were "using negroes to break Indian land title."<sup>68</sup> Gregory sent Isparhecher another long report on his activities on September 27, 1899, in which he noted the Dawes Commission "has uniformly extended to us every courtesy and afforded us every opportunity to guard the rights of the Nation."<sup>69</sup> The Creek representatives had objected to about 250 applicants and saved the nation "thousands of acres of land." Gregory warned that it was the "last opportunity our government will have to correct the Creek rolls" and recommended the 1890 payroll be confirmed and used as the basis for determining eligibility rather than the 1895 roll. Having spent \$140 of his own money, he repeated his constant plea for the National Council to appropriate funds for expenses and to pay witnesses who could refute fraudulent claimants.

While the Dawes Commission traveled around the Creek Nation trying to enroll people under the Curtis Act, attorney Ben Duval continued to fight against the people who had been enrolled under the 1896 act. Many people had appealed Judge Springer's denial of their applications all the way to the United States Supreme Court, and Duval proudly reported to Isparhecher on May 25, 1899, that the "Creek Nation gained all cases appealed."<sup>70</sup> Four months later, however, he had to give the chief the bad news that the highest federal court had ruled the hated Curtis Act was constitutional and had sustained the validity of all acts that gave citizenship powers to the Dawes Commission. He correctly warned that the ruling brought the Five Civilized Tribes "face to face to the extinction of the tribal governments."<sup>71</sup> Duval suggested that although the "Indian of the past disappears in the romance of the past," everything would turn out for the best because the "Indian [now] becomes a U.S. citizen possessed of his land in fee and armed with the ballot."<sup>72</sup> It is not clear if Duval, who eventually moved to Okmulgee

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and went into the real estate and investment business, actually believed his optimistic prediction, but it is certain Isparhecher and his fellow full bloods did not.

Pleasant Porter was elected principal chief on September 5, 1899, on a platform that called for compromise with the federal government. His efforts to negotiate an agreement to modify the terms of the Curtis Act were opposed by Wilson Jones and Hotulke Yahola who led a delegation to Washington to "get the old treaties back."<sup>73</sup> Porter wrote the commissioner of Indian affairs on October 16 that Jones's group had no authority and should be ordered to return home. In addition to dealing with internal tribal dissention over the agreement, Porter also had to try to resolve the controversial question of the rights of the freedmen. On December 13, 1899, he sent the Dawes Commission a copy of a law that limited citizenship to those who had been adopted prior to November 29, 1883, unless their names had been added to the rolls by "fraud, forgery, or unlawful use of money or influence."<sup>74</sup> The law also authorized a census to be taken between January 15 and March 1, 1900. He followed with a letter on December 26 in which he noted, "[W]hile there has never been in the Creek Nation a statute law upon this subject [citizenship], there have obtained from time immemorial well established rules and customs by which citizenship was deter-



*Although initially resistant to including former slaves on citizenship rolls, Chief Pleasant Porter and the Creeks abided by a U.S. Supreme Court ruling and the freedmen received allotments.*



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mined." He pointed out that the United States government had approved and made payments based on tribal rolls since 1790 in clear recognition of the tribe's right to determine citizenship, but promised the Creeks "will not object to citizenship being determined by such Commission as the Government may authorize to do so."<sup>75</sup> Although Porter had a strong argument, his point became moot after the United States Supreme Court ruled the laws giving the Dawes Commission the power to determine citizenship were constitutional.

Some Creeks had owned slaves prior to 1865, and the tribe was required to adopt them as freedmen by the treaty that restored United States-Creek relations after the Civil War. Although intermarriage and social acceptance was much more common among the Creeks than other tribes, there was widespread opposition to giving the former slaves citizenship rights and a share of the tribal land. The federal government's insistence that the freedmen be enrolled was a constant source of contention between tribal officials and the Dawes Commission and among the Creeks themselves. The identity of the slaves was a major point of disagreement. In 1867 J W Dunn, the Creeks' agent at Fort Gibson, prepared a roll of 1,774 people he believed were entitled to citizenship as freedmen. Tribal officials argued that many of those people had returned to the Creek Nation after the deadline set in the treaty and that others were "state negroes" who came with them to take advantage of economic opportunities. Most of the freedmen lived in three "colored towns" and many full bloods charged that town officials always tried to include the names of ineligible people on their town rolls to bolster their political power.

On August 4, 1896, the National Council was asked to establish a Special Census Commission to make a census of the "colored citizens."<sup>76</sup> The next day Chief Justice T.J. Adams of the Creek Supreme Court issued a ruling that the National Council could *recognize* any person entitled to citizenship but had no power to *grant* citizenship because that might vest a person with property rights at the expense of existing citizens. The ruling would have struck almost 3,000 freedmen from the rolls, but they were too numerous and well organized to be denied and tribal officials took no action to revise the rolls. The commissioner of Indian affairs sent the Dawes Commission a copy of the Dunn Roll on May 2, 1899, which it used as the basis for determining eligibility. On November 25, 1900, the "colored members" of the National Council suggested that P

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Bruner, G. Jimmerson, and Robert Grayson be appointed as attorneys to represent them before the Dawes Commission.<sup>77</sup>

Porter's continuing efforts to negotiate changes to the Curtis Act finally succeeded with the signing of an agreement in Washington on March 8, 1900. However, the tribal faction that opposed any changes to "the old treaties" denounced the agreement, and Chitto "Crazy Snake" Harjo of Hickory Ground became widely recognized as its leader.<sup>78</sup> Beginning in May, 1900, he traveled around the Creek Nation armed with a copy of the treaty of 1832 and spoke at traditional stomp dances and other gatherings. He urged his listeners not to allow themselves to be enrolled. A convention held at Brush Hill appointed Harjo, Hotulke Fixico, Lahtah Micco, and two others to go to Washington to protect the old treaty. The delegation had the misfortune of being exposed to smallpox and a lawyer named Lorenzo A. Bailey who convinced them he could help them organize a separate government. On June 29, 1900, Porter wrote to J. Blair Schoenfelt, head of the Bureau of Indian Affairs Union Agency at Muskogee, that Hotulke Fixico and his associates were "deluded with the hope" the government would agree to keep the old treaty and the "ignorant class have been induced to believe" it. The chief reported Harjo had returned to the Creek Nation and was telling everyone that he had "killed" the new agreement and stopped allotment. Porter feared there would be "open insurrection attended with many casualties" unless Hotulke could be kept in Washington until the "furor died down," but he also assured Schoenfelt the "retrogression sentiment" was not widespread and most Creeks were "anxious for allotment."<sup>79</sup>

On August 8, 1900, Porter sent the commissioner of Indian affairs a letter to give to Hotulke Fixico notifying him his trip to Washington was against the will of the Creek Council and he could not use any tribal funds for the expenses of his group. In his letter Porter tried to convince his fellow tribesman of the futility of opposition because the federal government "will never consent to the old treaties." He urged Fixico to return and "tell your people the truth."<sup>80</sup> The Creek Council passed an act on November 2 that authorized an *official* delegation to Washington to counter the Fixico group, but it did not appoint the members until December 16.<sup>81</sup> In the meantime, tensions continued to increase until November 30 when the United States marshal at Muskogee, Leo E. Bennett, issued a statement that claimed "a number of citizens living in Deep Fork neighborhoods and other portions of the Northern District, have riotously [*sic*] unlawfully, and tumultuously as-

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sembled and counselled together for the purpose of setting aside the laws of the United States conspiring together to injure, oppress [sic], threaten and intimidate citizens." He commanded "all persons so banded or assembled together to immediately disperse and peaceably depart to their habitations or lawful business under pains and penalties pronounced by law"<sup>82</sup>

In January, 1901, the Fixico delegation was released from its smallpox quarantine in Washington and returned to Indian Territory where it addressed a meeting at Hickory Ground that voted to form a separate government. The Snake leaders met with groups of Cherokees, Choctaws, and Chickasaws who also opposed allotment, and Dawes Commission members began to worry the opposi-



*Chitto Harjo led the so-called "Crazy Snake" rebellion from his camp at Hickory Ground.*

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tion movement might grow<sup>83</sup> Their concerns were aggravated by rumors the Snakes planned to assassinate both Bixby and Porter The Snake Light Horse, which acted as a police force for the opposition government, beat or threatened some Creek citizens who supported allotment and a few whites. An almost hysterical fear of the Snakes grew and reached nearly epidemic proportions after one federal officer was killed in a gun battle on January 24 when United States Deputy Marshal Paden Tolbert attempted to arrest some Snake leaders. Bennett called on the United States Army for help and Troop A of the Eighth Cavalry under Lieutenant H.B. Dixon arrived from Fort Reno. Chitto Harjo and ninety-six of his followers were arrested without incident on January 27, 1901, on charges of conspiracy under Section 5440 of the United States Revised Code. Newspapers all over the country sensationalized the whole incident and portrayed Harjo as another Geronimo.<sup>84</sup> The

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Snakes were put in the Muskogee jail and tried in the federal court there on March 4. Judge John R. Thomas accepted a plea bargain that resulted in a two-year suspended sentence at Fort Leavenworth, Kansas.<sup>85</sup>

Two days after the arrests, Porter issued a notice to “all citizens of the Muskogee Nation” in which he expressed regret that “some discontent has arisen among our people, and that the public peace has been threatened.” He stressed the federal government did not recognize “those who claim to have authority to put in force the old laws and treaties” and warned “forcible resistance to lawful authority will only bring disaster to those who resort to such methods.” Porter urged the tribe to “accept the inevitable.”<sup>86</sup> Bixby informed Dawes on January 30, 1901, “[T]he alleged Indian uprising is about subsided. Marshall Bennet [*sic*] is now in the western part of the Creek Nation and recently captured Chitto Harjo, or Snake, and has him now in custody in Henrietta.”<sup>87</sup> He also told Dawes that Porter had suggested adding an amendment to the pending agreement that would require the commission to submit the rolls it was making to the tribe for revision. He warned such an arrangement would give “tricksters and the Creek Council an opportunity to inaugurate another carnival of corruption.”<sup>88</sup>

Congress ratified the agreement Porter negotiated in the Indian Office appropriation bill that was passed on March 1, 1901.<sup>89</sup> One week later, Porter wrote to William Springer, the former federal judge who had ruled against the Creeks on the 1896 application appeals but was later hired to represent the tribe in Washington. The letter, marked “purely personal,” noted the Creeks were “weary of this chaotic condition of affairs” and would ratify the agreement to avoid the “uncertainties and evils of the Curtis Bill.” The Snakes continued to oppose enrollment by harassing the government’s survey parties and refusing to appear for enrollment, but the fear they would resort to violence decreased. The Dawes Commission’s work could not be halted and Porter, who recognized the inevitability of allotment, sent every member of the National Council copies of an order of the United States Court at Muskogee that required anyone “who has not presented himself for enrollment” to appear at Muskogee between May 7 and 15. The Snakes resented the mixed-bloods who helped the commission and viewed them as traitors. One Creek full blood complained to a congressional committee, “[The commissioners] would send the half breeds around—the half-breed Indians—they would go out and hunt for the names of the full-blood Indians without their consent, and they

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would take the names down and go present them before the Dawes Commission."<sup>90</sup>

Porter's prediction about the fate of the agreement proved to be accurate. The National Council ratified it on May 25, 1901, but also appointed a committee to begin immediate negotiations for a supplemental agreement to "cure" the "errors" in it. Section Twenty-eight of the agreement dealt with enrollment and provided that no person could be added to the citizenship rolls after the date of ratification, but it set no date for closing them. The Dawes Commission could only enroll persons who were alive on April 1, 1899, and if anyone died after that date but before he actually received the allotment, the land would be distributed to the heirs according to Creek law. Any children born to citizens up to and including July 1, 1900, would be placed on the rolls and receive an allotment. Thus April 1, 1899, and July 1, 1900, became critical dates for determining eligibility, but the commission often found it difficult to obtain accurate information about dates of birth and death because "in most instances no records have been kept, and the dates material to the cases have to be established solely from memory. [M]any persons who appear before the Commission are entirely ignorant as to dates, and in some cases it is impossible, from the testimony submitted, to arrive at all the facts."<sup>91</sup> Regardless of the difficulties, the commissioners had to reach a decision on each application before allotment could proceed.

Dawes wrote Bixby on May 30, 1901, to congratulate him for finally reaching an agreement with the Creeks. The senator, who was confined to his home in Pittsfield, Massachusetts, because of chronic illness, "had been watching for the action of the Creeks on the agreement with a good deal of anxiety. I think that your presence there at the time was the saving grace."<sup>92</sup> Porter wrote each member of the National Council urging them to "co-operate in seeing to it that all Creek citizens who have not enrolled come to Muskogee and enroll." He did not want to see any citizen "even by reason of his own act, deprived of his proportionate share in the common estate of the Creek people."<sup>93</sup>

On July 22, 1901, Commissioner Thomas Needles informed Porter that a field party would be at Eufaula on August 1 to accept applications for enrollment. He asked that town officers be instructed to be present with their rolls.<sup>94</sup> On August 1 Porter provided the commission with a list of members of Tulladega Town who had refused to enroll. In September Commissioner Clifton Breckenridge met with a Creek delegation in Muskogee to draft a

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supplemental agreement that was approved by the Creek National Council on December 4, 1901. The next day, Porter sent Bixby a resolution passed by the National Council on December 2 that requested the Dawes Commission to withhold sending the rolls to the secretary of the interior for approval until Creek attorneys had the opportunity to review the documents for fraud.<sup>95</sup> President Theodore Roosevelt used his power over tribal legislation to disapprove the resolution on February 14, 1902.

The secretary of the interior refused to send the supplemental agreement to the House and Senate Committees on Indian Affairs until March 26, 1902. While it was being considered, Congress used the Indian Office appropriation bill that was passed on May 27, 1902, to authorize the enrollment of all children born as of May 25, 1901, if their parents had already been enrolled. In effect, that denied enrollment to the children of the many applicants whose claims were still pending, but the situation was corrected when Congress finally approved the supplemental agreement on July 30, 1902. It authorized the enrollment of children born to "citizens who are entitled to enrollment" or children born to citizens whose names were on the authenticated rolls of 1890 or 1895.

Although it had been approved by Congress, the fate of the supplemental agreement was very much in doubt because of strong opposition by the Snakes and some whites who saw it as a threat to their economic interests. Most non-Indians supported allotment because they believed it would open tribal land for purchase, but a number of cattlemen built fortunes on the use of huge areas of Creek land rented to them by tribal officials who shared in the profits. Commissioner Needles had warned Washington in March, 1899, about the power of the "cattle men" and "industrial and commercial interests" who were determined to block allotment. Bixby reported to the secretary of the interior on July 18 that the "cattle interests were pouring liberal amounts of money into an effort to prevent ratification," and he had "no doubt" many members of the Creek Council could be bribed. He called on Henry C. Dickey, a Secret Service agent from Memphis, to help with the "circumvention of these plots."<sup>96</sup>

Bixby and Dickey went to Okmulgee on July 19 and learned.

[W]hiskey was being freely sold throughout the town in utter defiance of the law [G]ambling in various forms was being conducted in several well know resorts. Numerous members of the Council were drinking heavily and staggered about the streets. The leading merchants and many other citizens were either covertly or openly oppos-

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ing ratification and public sentiment generally throughout the town was decidedly adverse to favorable action by the Council upon the pending measure.<sup>97</sup>

Bixby called on Marshal Bennett and United States Attorney Melette who began a "vigorous onslaught upon the liquor sellers and gamblers" and also made sure word spread that a Secret Service agent was in town looking for law breakers. As a result of that highly visible crackdown on crime, the "hirelings of the cattle men and the land companies took on a dejected air and talked in lowered tones or stood quietly about in groups to themselves," while the supporters of the agreement "acquired good heart and renewed courage."<sup>98</sup> The council voted for ratification on July 26.

Ben Duval, who apparently became Bixby's personal friend, congratulated him for saving the agreement in a personal letter on August 19, but warned "certain interests representing large capital" would still try to prevent allotment and would be "backed by political influences which will insure success."<sup>99</sup> While the Creeks' former lawyer and the head of the Dawes Commission speculated about the future, the work of enrolling the Creeks continued. The commission opened an office at Okmulgee in July, 1902, to provide Bixby an excuse for being there during the debate on ratification, and it remained in business for several months to gather information needed to reach decisions on numerous pending enrollment applications. The commission was directed on August 5, 1903, to determine the status of more than 3,500 people whose names appeared on either the 1890 or 1895 rolls but who had not made an application. The Okmulgee office reopened from November to December, 1903, to search for those "Lost Creeks," most of whom had died prior to the start of enrollment or had enrolled under another name.

At the beginning of 1904 more than 1,000 cases were still pending because the commission had been unable to establish the facts necessary to make a decision or because they were being reviewed in Washington. Every decision had to be approved by Secretary of the Interior Ethan Allen Hitchcock before it became final and many cases were sent back and forth for rehearing. On June 13, 1904, Hitchcock ordered that the Creek rolls would be closed on September 1, 1904. Another party went out to look for "Lost Creeks," and most local newspapers published notices on June 24 in both Creek and English that the rolls were closing. The commission received applications for 17,710 people by the deadline.<sup>100</sup>

Having tried for years to get copies of the Creek rolls and laws, the Dawes Commission had some measure of revenge when Com-

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missioner Needles wrote Porter on October 13, 1904, denying his request for copies of the "Dawes Rolls," because they were still incomplete and the commission might be subject to "some embarrassment" if it sent out an incomplete roll.<sup>101</sup> Needles assured Porter that he could have "free access to the rolls at all times" but not a copy. The Creeks tried again with a resolution passed on November 1, 1906, but the Department of Interior advised Bixby "no good reason exists why the Principal Chief should be furnished with a copy of the approved roll" and instructed him to repeat the offer of free access in the Commission's office.<sup>102</sup>

The Indian Office appropriation bill that passed on March 3, 1905, reopened the "closed" rolls and directed the commission to enroll children "born to duly enrolled citizens and Freedmen" subsequent to May 25, 1901, and prior to March 4, 1905. Commissioner Needles took his field party back out on the road from March 13 to May 2, which was the deadline set by Congress for receiving applications. The Snakes refused to bring their children in for enrollment and a special party had to be sent to "settlements of full-bloods" to gather information. One newspaper reported that Needles complained the commission was "almost swamped" with applicants who brought their children with them. He was quoted as saying, "[T]here were 100 babies in the hall at one time and all of them were crying at once. The noise almost drove the land office force to distraction." Needles suggested "a prize be hung up every day and a baby show started as a matter of diversion."<sup>103</sup> The real prize in the enrollment process was a land allotment, and the office received applications for 2,410 children whose parents were determined they share in the Creek property.<sup>104</sup>

Congress reopened the rolls for a second time to allow enrollment of minor children who were living on March 4, 1906. Applications were accepted from April 26 to July 25, 1906, and parents of 157 Creek citizens and 123 Creek freedmen took advantage of the law.<sup>105</sup> Pressure to end enrollment and get on with allotment continued to grow, and Congress directed the rolls be closed on March 4, 1907. The deadline imposed a tremendous workload on the commission's staff, which had to process enrollment applications while also heavily involved with other duties including making allotments to people already enrolled and answering questions about the sale or leasing of those allotments. The commission reported "the entire force worked day and night in order that all the work might be completed and that no person entitled to enrollment might be omitted. The necessity for the employment of inex-



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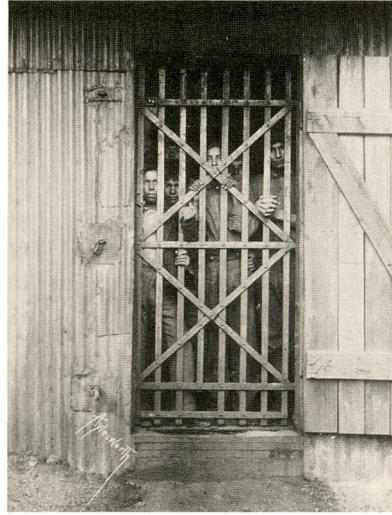
perienced clerks and the limited time for the completion of the work added to the burden."<sup>106</sup>

From January to March, 1907, field parties once again went through the Creek Nation to resolve pending applications. They sent their decisions to the commissioner of Indian affairs and then on to the secretary of the interior for approval. Many applications came back for "reconsideration" because of legal opinions issued either by the assistant attorney general of the Department of the Interior or the attorney general of the United States. In an era long before copiers, fax machines and overnight delivery, clerks made multiple carbon copies of typewritten transcripts of testimony and transcribed handwritten documents submitted as evidence. The mechanics of sending the paper records back and forth between Washington and Muskogee or an enrollment party in a tent somewhere in the field was tremendously costly and time consuming, and there was always the danger that documents would be lost in transit. The flow of paper between Muskogee and Washington became a torrent as more than 2,500 cases were transmitted back and forth in the last three months before the deadline. The staff had to measure the incomplete and often conflicting statements in thousands of claims against a complex set of eligibility criteria based on legal opinions and court rulings that were often confusing and constantly changing. The whole process was carried out under constant pressure from both Congress and the "boomers" who wanted the enrollment work finished because it was delaying the ultimate goal of statehood.

When the rolls finally closed after more than eleven years of work, the commission enrolled 18,702 Creeks, including 6,807 freedmen.<sup>107</sup> Eventually everyone enrolled received either an allotment of land or a cash payment equal in value to the land they would have gotten if there had been enough to go around. Non-Indians who hoped to buy "surplus" Creek land were initially disappointed, but Congress quickly passed legislation that allowed them to buy or lease land from the Indian allottee. In one of the great ironies of the whole allotment fiasco, many of the full-blood Snakes who refused to select allotments were arbitrarily allotted poor farming land by the Dawes Commission that happened to be on top of the Cushing Oil Pool. The royalties they received from oil pumped out of land they did not want made some of them rich.

One study of the "Crazy Snake Movement" of 1900-1901 concluded that it resulted from a "clash of cultural values over land" that still has not been resolved.<sup>108</sup> Its leader, Chitto Harjo, never

got rich from oil royalties, but in 1905 he met President Roosevelt who explained to him the old treaties had been changed because the government was trying to do what was best for the Creeks. Harjo told a Senate Investigating Committee in 1906 all he remembered of the meeting was that “we shook hands and that was all.” Harjo made a long and rambling plea for honoring old agreements and pointed out, “I was here first, and Columbus first discovered me.”<sup>109</sup> Translator David Hodge may not have understood everything Harjo was trying to say, but he recognized one of the basic causes of the allotment debacle when he told the senators “the system of communication between these full-bloods and



*One of the most enduring images of the enrollment process remains these Creeks jailed in Muskogee for their role in the Crazy Snake uprising.*

whites has led very largely to the present condition of misunderstanding on both sides, for you as utterly fail to understand them as they fail to understand you.”<sup>110</sup> Everyone involved in that sad story spoke at length, and sometimes they even spoke eloquently, but often totally failed to communicate.

Congress and the president adopted the allotment policy in an effort to assimilate the Indians and gave the Dawes Commission the unenviable job of implementing it. The enrollment process became a complicated and often bitter struggle for both recognition and riches. It involved numerous parties that often had multiple motives and perhaps hidden agendas behind their public statements. For a researcher seeking truth, the commission’s voluminous enrollment records are open for inspection. Each case, particularly those for rejected applicants, presents a mystery that almost defies solution, because witnesses often gave vague or even conflicting versions of basic things such as names, ages, locations, relationships, and sequence of events. The Creeks presented a particularly difficult challenge because of frequent name changes, inability to speak or read English, and official records that were a shambles. In view of Hodge’s observation on the problem of com-

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munication, it is hard to determine whether anyone was telling the truth or if everyone was telling the truth as they perceived or remembered it.

The story of the Dawes Commission's struggle to identify and enroll the Creeks provides many insights into the workings of a bureaucracy faced with an almost impossible task. It also illustrates a fundamental clash of cultures exacerbated by tribal factionalism and basic human resistance to change. Perhaps it also is a warning that even good intentions can have unintended consequences and produce a legacy of distrust and controversy

### ENDNOTES

\* Kent Carter is director of the National Archives-Southwest Region, Fort Worth, Texas. A slightly different version of this article appeared in *Prologue: Quarterly of the National Archives and Records Administration*, 29 (Spring, 1997), and is reprinted here by permission.

<sup>1</sup> There are a number of studies of Indian policy. Perhaps the most readable is William T. Hagan, *American Indians* (Chicago: University of Chicago Press, 1961). Two excellent works on the post-Civil War reform movement are Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920* (Lincoln: University of Nebraska Press, 1984), and Francis Paul Prucha, *Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900* (Norman: University of Oklahoma Press, 1976).

<sup>2</sup> Prucha, *Indian Policy in Crisis*, 232.

<sup>3</sup> Brian W. Dippie, *The Vanishing American: White Attitudes and U.S. Indian Policy* (Middletown, Connecticut: Wesleyan University Press, 1982; Lawrence: University Press of Kansas, 1991), 163.

<sup>4</sup> See D.W. Otis, *The Dawes Act and the Allotment of Indian Lands* (Norman: University of Oklahoma Press, 1973), 141, which notes "individual land ownership was supposed to have some magic in it to transform an Indian hunter into a busy farmer."

<sup>5</sup> W. David Baird, "Are the Five Civilized Tribes of Oklahoma 'Real' Indians?" *The Western Historical Quarterly*, 21 (February, 1990): 5-18.

<sup>6</sup> Section 16, *Statutes at Large* 27 (1887): 645. Although the 1887 law is often referred to as the Dawes Act, it really had nothing to do with the establishment of what became known as the Dawes Commission.

<sup>7</sup> Harjo was also known as Eufaula Harjo or Wilson Jones.

<sup>8</sup> Testimony of Pleasant Porter, Creek Enrollment Case 2, entry 53A, Record Group 75, Records of the Bureau of Indian Affairs, Records of the Five Civilized Tribes Agency, National Archives-Southwest Region, Fort Worth, Texas (hereafter cited as FCTA).

<sup>9</sup> Angie Debo, *And Still The Waters Run. The Betrayal of the Five Civilized Tribes* (Princeton, New Jersey: Princeton University Press, 1940), 37

<sup>10</sup> See Angie Debo, *The Road to Disappearance: A History of the Creek Indians* (Norman: University of Oklahoma Press, 1941, 1979), 103. A copy of the 1859 roll is in entry 54, FCTA, and has been microfilmed as 7RA23.

<sup>11</sup> Some records of the Creek courts are in the custody of the Oklahoma Historical Society (OHS) and have been reproduced on microfilm as CRN, rolls 1 to 20.

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- <sup>12</sup> See entry 54, FCTA.
- <sup>13</sup> Entry 54, FCTA, 7RA12.
- <sup>14</sup> Entry 54, FCTA, 7RA46.
- <sup>15</sup> Act of National Council, October 29, 1890, CRN, roll 5, OHS.
- <sup>16</sup> Entry 54, FCTA, 7RA207
- <sup>17</sup> Debo, *Road to Disappearance*, 333.
- <sup>18</sup> Jeffrey Burton, *Indian Territory and the United States, 1866–1906: Courts, Government, and the Movement for Oklahoma Statehood* (Norman: University of Oklahoma Press, 1995), 7
- <sup>19</sup> Statement of Eufaula Harjo to Select Committee to Investigate Matters Connected with Affairs in the Indian Territory, 59th Cong., 2d sess., S. Rprt. 5013, 89, 93.
- <sup>20</sup> Debo, *Road to Disappearance*, 346.
- <sup>21</sup> Entry 54, FCTA, contains an incomplete version of this census.
- <sup>22</sup> Entry 54, FCTA, 7RA12. There also is a supplemental roll of omitted persons.
- <sup>23</sup> See testimony of Ellis Childers in case 1, entry 60A, FCTA.
- <sup>24</sup> Entry 54, FCTA, 7RA12 and 7RA45.
- <sup>25</sup> Debo, *Road to Disappearance*, 358. See entry 115 and 116, FCTA, which includes some of the dockets and record books of the commission.
- <sup>26</sup> CRN, roll 3, OHS.
- <sup>27</sup> Debo, *The Road to Disappearance*, 361.
- <sup>28</sup> *Statutes at Large* 29 (1896): 321.
- <sup>29</sup> S. Rprt. 1530, 345.
- <sup>30</sup> *Ibid.*
- <sup>31</sup> Entry 281, FCTA. The statement is an enclosure to a letter from Special Disbursing Agent H.V. Smith to William B. Allison, Chairman of the Senate Committee on Appropriations, January 7, 1898.
- <sup>32</sup> A.P. McKellop to J.H. Lynch, CRN, roll 4, OHS.
- <sup>33</sup> See the commission's annual report for 1896. A copy is in entry 37, FCTA, 153.
- <sup>34</sup> CRN, roll 4, OHS.
- <sup>35</sup> *Ibid.*
- <sup>36</sup> Annual report of the commission for 1896, entry 37, FCTA, 158.
- <sup>37</sup> Debo, *Road to Disappearance*, 333.
- <sup>38</sup> Entry 54, FCTA, 7RA69. The term "by-blood" refers to any citizen whether full or mixed-blood. Former slaves were always admitted as freedmen even if they had "Indian blood" resulting from an interracial marriage. The Creeks refused to confer any citizenship rights on whites who intermarried with Creeks.
- <sup>39</sup> Entry 60A, FCTA, case 1.
- <sup>40</sup> *Ibid.*
- <sup>41</sup> See entry 60AA, FCTA, for a docket and index of the cases, entry 60A for the case files, and entry 69 for the decisions. The affidavits and briefs in the case files provide a wealth of information about tribal politics and operations of the various citizenship commissions.
- <sup>42</sup> CRN, roll 4, OHS.
- <sup>43</sup> *Ibid.*, October 7, 1897
- <sup>44</sup> *Ibid.*
- <sup>45</sup> *Ibid.*
- <sup>46</sup> *Ibid.*
- <sup>47</sup> Debo, *Road to Disappearance*, 372.
- <sup>48</sup> Entry 32, FCTA.
- <sup>49</sup> *Statutes at Large* 30 (1898):495.

## THE CHRONICLES OF OKLAHOMA

<sup>50</sup> *Ibid.*

<sup>51</sup> CRN, roll 1, OHS.

<sup>52</sup> CRN, roll 4, OHS.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.* Abe Kernals was appointed to the committee on June 8, 1899, as a replacement for McNac, and Sue M. Rogers replaced Moore on August 9, 1899.

<sup>55</sup> Report to the Secretary of Interior, April 15, 1899, microfilmed as Dawes Commission (DC), roll 4, OHS.

<sup>56</sup> See entry 52, FCTA. The cards have been microfilmed as National Archives Microfilm Publication M1186. There is an earlier set of Creek Cards (entry 124) arranged by town. There are no "application jackets" that match each enrollment card for the "Creeks By-Blood" or "Freedmen" as there are for the other tribes, but there are 1,213 "enrollment cases" that relate primarily to freedmen or to some of the persons who were rejected. There are application jackets for person enrolled as "Newborns" or "Minors" that have been microfilmed as M1301. A database of all the names appearing on the census cards is available at the National Archives-Southwest Region, Fort Worth, Texas.

<sup>57</sup> DC, roll 66, OHS.

<sup>58</sup> Annual report for 1898, 4, Entry 37 FCTA.

<sup>59</sup> Annual report for 1899, 13, serial set 3916.

<sup>60</sup> Annual report for 1905, 9, Entry 37 FCTA.

<sup>61</sup> See Dippie, *Vanishing American*, 180, for a later government "renaming project" that was supposed to end the problem.

<sup>62</sup> CRN, roll 4, OHS. The Creek National Council initially refused to pay, but eventually reimbursed the members.

<sup>63</sup> DC, roll 4, OHS.

<sup>64</sup> DC, roll 11, 29: 391, OHS.

<sup>65</sup> DC, roll 66, OHS.

<sup>66</sup> *Ibid.*

<sup>67</sup> Bixby to Hodge, Entry 32, FCTA.

<sup>68</sup> CRN, roll 4, OHS.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*, Mary Escoe case, Sarah E. Baker case, etc., cases 454, 456, 537, and 461. The Escoe case was the most famous. She and fifty others had been admitted by an act of the National Council on October 26, 1879, but then stricken by the Creek Citizenship Commission in July, 1896.

<sup>71</sup> CRN, roll 4, OHS. This is the Stephens case decided May 15, 1899. See 174 *United States Reports*, 445.

<sup>72</sup> *Ibid.*

<sup>73</sup> Entry 42, FCTA, includes several letters sent by Chief Porter.

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.* The law was disapproved by the president of the United States on April 18, 1900, because the Dawes Commission was already taking a census.

<sup>76</sup> CRN, roll 1, OHS. See also Daniel F Littlefield, *Africans and Creeks: From Removal to Emancipation* (Westport, Connecticut: Greenwood Press, 1978), for a detailed study of the freedmen.

<sup>77</sup> CRN, roll 4, OHS.

<sup>78</sup> See Kenneth McIntosh, "Chitto Harjo, the Crazy Snakes, and the Birth of Indian Political Activism in the Twentieth Century," (Ph.D. diss., Texas Christian University, 1993).

## CREEK ENROLLMENT

<sup>79</sup> Porter's letter is reproduced on CRN, roll 22, OHS.

<sup>80</sup> This letter also is on CRN, roll 22, OHS.

<sup>81</sup> The group included Amos McIntosh, John R. Goat, Thomas W Perryman, D.M. Hodge, A.P. McKellop, G.A. Alexander, and Cub McIntosh. An act of December 6, 1901, that was approved by President Theodore Roosevelt on February 14, 1902, modified the delegation to include Thomas W Perryman, Roley McIntosh, D.M. Hodge, and Amos McIntosh.

<sup>82</sup> CRN, roll 22, OHS.

<sup>83</sup> McIntosh, "Chitto Harjo."

<sup>84</sup> *Ibid.*, 60. Entry 41, FCTA, item 112 contains a list of nine Snakes who were captured.

<sup>85</sup> See Record Group 21, United States Court at Muskogee, *United States v. Chitto Harjo, Crazy Snake*, criminal cases 5581-84. Entry 32, FCTA, includes an August 14, 1902, letter to President Roosevelt asking that Lewis Yarkedea, who was arrested as a Snake, be pardoned because he merely owned the land on which they met. Judge Thomas ordered Harjo's re-arrest on April 16, 1901, because he was still opposing allotment. Harjo was a fugitive for ten months, but was caught on February 22, 1902, and sent to Leavenworth. He was released on November 4, 1902.

<sup>86</sup> CRN, roll 22, OHS.

<sup>87</sup> DC, roll 99, OHS. See *United States v. Chitto Harjo, Crazy Snake*.

<sup>88</sup> DC, roll 7, vol. 20, OHS.

<sup>89</sup> *Statutes at Large* 31 (1902): 1073. A copy also is in entry 41, FCTA, item 126.

<sup>90</sup> Eufaula Harjo statement, S. Rprt. 5013, 91.

<sup>91</sup> Annual report for 1904, 20, entry 37, FCTA

<sup>92</sup> Entry 32, FCTA.

<sup>93</sup> CRN, roll 4, OHS.

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*, letter D3557-902.

<sup>96</sup> See entry 41, FCTA, item 120 for correspondence about this rather bizarre episode that sounds like a plot from an old television series called *The Wild Wild West*.

<sup>97</sup> *Ibid.*

<sup>98</sup> *Ibid.*

<sup>99</sup> Entry 32, FCTA.

<sup>100</sup> Annual report for 1904, 21, entry 37, FCTA. A list of all the "Lost Creeks" that was published in newspapers is in entry 41, FCTA, item 111.

<sup>101</sup> CRN, roll 4, OHS.

<sup>102</sup> Letter, December 18, 1906 (ITD 25282-1906), entry 43, FCTA.

<sup>103</sup> Entry 41, FCTA, item 909 includes a March 24, 1905, article from the (Guthrie, Oklahoma Territory) *Daily State Capital*.

<sup>104</sup> Entry 53A, FCTA, contains the applications for these "Newborns" which have been reproduced as M1301. There are 1,171 Creek Newborn jackets and 748 Creek Freeman Newborn jackets.

<sup>105</sup> *Statutes at Large* 33 (1904): 1048; Act of April 26, 1906, *Statutes at Large* 34 (1906): 137

<sup>106</sup> Annual report for 1907, 44, entry 37 FCTA.

<sup>107</sup> Another sixty-two names were eventually added by an act of Congress on August 1, 1914.

<sup>108</sup> McIntosh, "Chitto Harjo," 40.

<sup>109</sup> S. Rprt. 5013, 1248.

<sup>110</sup> *Ibid.*, 1253.