

HISTORY OF CATTLE RANCHING IN EASTERN OKLAHOMA

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Oklahoma has played a leading role in the development of the ranching industry on the Great Plains of the United States. The broad prairies of Western Oklahoma, because of their central position on the plains and their verdant terrain, became an important cattle raising country. The two chief cattle trails led from Texas to the railroads of Kansas across this region, and therefore any story of the great cattle drives is in a sense a story of ranching in Oklahoma.

In the literature dealing with the ranching industry, however, little attention has been directed to the importance of cattle raising in Eastern Oklahoma, the land of the Five Civilized Tribes. Also this region, because of its rich grasslands and ideal climate, was well suited to the development of a great livestock industry. Indeed, until the Civil War cattle raising remained the chief economic pursuit of the Five Tribes and was exceedingly important until the end of the century.

When the Five Civilized Tribes moved westward during the 1830's, they brought with them an old tradition of pastoral life. These Indians had begun raising livestock with the early infiltration of the Spanish and French into their original homeland. At the time of their migration they had achieved a highly developed pastoral economy with large herds of cattle and hogs.¹ Quite naturally they resumed this culture in the West, particularly along the rich river bottoms of the Arkansas and Canadian rivers, where soon after their arrival large farms could be found well stocked with cattle and hogs.

The unique communal land system of the Five Tribes afforded them limitless opportunity for the grazing industry. The domain of each tribe was owned by its citizens in common, and under no circumstance could an individual obtain title to it. Land was abundant and available to any tribal member. While the grass in the uplands was not luxuriant, the range was extensive. It was a stock raising country, and the mild winters made possible the "roughing through" of stock without grain or fodder. So fertile was the region that when the government in the fall of 1833 called for bids to furnish meat and grain to the immigrant Choctaws, George W. Harkins, a Choctaw, had sufficient corn and stock of his own raising to fill the contract, though he had been in the country less than

¹ See Angie Debo, *Rise and Fall of the Choctaw Republic*, 26, 40.

two years.² Already in 1839 the Cherokee Nation could boast of twenty thousand head of cattle, three thousand horses, and fifteen thousand hogs.³ Unfortunately, the Five Tribes, particularly the Chickasaws, suffered from frequent depredations of the Shawnees, Kickapoos, and other roving bands, who saw in the herds a convenient source of food and draft animals.

Since there was little demand for cattle beyond the needs of the Indians themselves, and no attempt to market the surplus, the herds for almost two decades multiplied rapidly. Then suddenly the great overland migration to California in the early 1850's opened a market for the surplus stock. Travelers poured across Indian Territory, some going from Fort Gibson along the Arkansas to the Cimarron, and thence westward to Santa Fe, others moving along the Arkansas and Canadian rivers as far as the present McLain County, and then in a southwesterly direction along the Marcy route to New Mexico.⁴ Cattle buyers visited the Indians, purchasing their cattle to supply the California market. The tremendous new demand drove up the price of meat, bringing sizeable fortunes to those who had cattle to sell, and distress to others.⁵ The Choctaws especially profited because of their location on the route to California. Travelers had to purchase a supply of corn and beef sufficient to take them at least to San Miguel, New Mexico.⁶

That cattle herds trailing northward crossed Indian Territory during the fifties is demonstrated by the experience of Captain R. B. Marcy. While this famous explorer was traveling through the Choctaw and Chickasaw country in the summer of 1854, he saw at Boggy Creek a drove of one thousand cattle being driven from Texas to Missouri and Illinois. "They were very beautiful to look at, symmetrical in figure, with sinewy limbs, and very long sharp pointed horns." Marcy reported that the drivers were skillful riders who rode a small, but thick-set and powerful horse bred in Mexico.⁷

At the end of the fifties the raising of livestock had become a thriving industry among the Five Civilized Tribes. In 1859 a yoke of oxen brought fifty dollars, cows ten dollars apiece, and horses twenty dollars a head. The little effort and outlay required in stock raising yielded a large margin of profit. Great herds of cattle grazed on the open range in all parts of the country. Cattle raising had become, wrote George Butler, the Cherokee agent, the "leading

² Grant Foreman, *Indian Removal*, 96.

³ Thomas Farnham, *Travels in the Great Western Prairies, the Anahuac and Rocky Mountains, and in the Oregon Country*, in Reuben Gold Thwaites (editor), *Early Western Travels*, XXVIII, 127.

⁴ Joseph B. Thoburn, *A Standard History of Oklahoma*, I, 214.

⁵ Foreman, *The Five Civilized Tribes*, 81.

⁶ Foreman, *A History of Oklahoma*, 73.

⁷ Foreman, *The Five Civilized Tribes*, 141.

occupation with some of the largest farmers."⁸ The number of cattle in the Cherokee Nation, the agent reported, were 240,000 head, while horses and mules numbered 20,000. Cattle were left to roam at will over the range, but sheep, which would have been exposed to the attacks of wolves, and the better saddle horses were herded or corralled.⁹

Yet this prosperity was shortlived. In 1861 the devastation of the Civil War fell upon Indian Territory. Of all the ravages inflicted upon the Five Tribes, none seems more severe and cruel than the despoilation of their fine herds of cattle. The state of utter disorganization of Indian Territory rendered law enforcement impossible, and cattle stealing became after 1862 a wide-spread frontier industry, practiced by civilians and troops alike.¹⁰ Soldiers stationed in the region naturally looked to the Indians for their food supply. Union and Confederate troops began the spoilation, falling first upon the cattle of the Cherokees and Creeks, then also upon the Chickasaw and Choctaw herds. Irresponsible roving Indians were induced to aid in the destruction. When rumors of unnecessary exploitation reached Washington, the federal government took steps to protect the stock of loyal Indians. The Indian agents were instructed to administer the sale of stock to the army at a fair profit to the Indians.¹¹

At the close of the Civil War, the cattle stealing in Indian Territory had become a systematic and even respectable business. "Cattle brokers," the thieves were called. The national government had passed laws imposing heavy penalties for stealing, but the profits of this nefarious business were enormous, and civil authorities and courts connived at the activities of the "brokers." Even the agents were rendered powerless. Cattle thieves, wrote Superintendent Sells, would drive the cattle from the range in Indian Territory to the southern border of Kansas, and sell them at a nominal price to Kansas dealers, who in turn would drive them on to northern markets. Law enforcement was out of the question. The Seminole agent at Neosho Falls, Kansas, George A. Reynolds, in writing to Sells, stated that the people of Kansas were growing so rich on stolen cattle that they would not cooperate with officers of the law. Reynolds reported that threats had been made against his life because of his attempts to check these depredations.¹² Not only were stolen cattle taken to Kansas, but for several years after the war droves of cattle poured out of Indian Territory to

⁸ *Annual Report of the Commissioner of Indian Affairs*, 1859, 172.

⁹ Thoburn, *op. cit.*, 262.

¹⁰ See Annie Heloise Abel, *The American Indian under Reconstruction*, 73-97.

¹¹ *Annual Report of the Commissioner of Indian Affairs*, 1865, 269-270.

¹² Thoburn, *op. cit.*, 342-3.

Fort Smith and Little Rock.¹³ A conservative estimate of the losses sustained by the Five Tribes was placed in October, 1865, at 300,000 cattle, valued at more than four million dollars.¹⁴ Only by the prompt and summary action of United States troops was cattle stealing finally stopped.

Eastern Oklahoma, and especially the country of the Choctaws and Chickasaws, was infested by organized marauders until the nineties. One gang organized during the winter of 1872-1873 became so troublesome that Chief William Bryant of the Choctaws ordered a district chief to destroy it. Forty men were arrested and fifteen were immediately tried and shot. Another gang, said to have had one hundred members, operated in San Bois County in 1884. It committed so many depredations that Chief J. F. McCurtain of the Choctaws called out the militia to aid the civil officers. During the nineties the Carpenter gang organized, with the aid of unsuspected confederates, a system of "thief runs," by which cattle were stolen from the small stockmen along the Red River and its branches, driven through the southern counties to the Washita, and thence on to Kansas or New Mexico.¹⁵

When after the Civil War the Indians of Eastern Oklahoma sought to rebuild their livestock industry, they were affected by the development of the great range cattle industry which spread gradually from the Rio Grande to the plains of Montana. Texas had escaped the destruction of the war. During the early months of the conflict this great ranching country supplied beef for the southern population, but following the Union successes along the Mississippi in 1862 Texas cattle could no longer be sent to the East. The great herds for which there was now no outlet increased in numbers, and at the end of the war Texans returning to their homes found their ranges thickly covered with herds of fine cattle. But while the South offered no market, beef was commanding high prices in the North and East. This situation led inevitably to the northern cattle drives, so distinctive a feature of the range cattle industry of the American plains.

The first drives in 1866 followed the East and West Shawnee trails across the Chickasaw, Creek, and Cherokee Nations, some herds even crossing the lands of the Choctaws. The drovers, however, met determined resistance at the Kansas boundary below Baxter Springs. Because the cattle of Kansas and Missouri had contracted Texas fever from the southern range stock, farmers in these states had banded together to prevent their entry. Unable to cross the border, some drovers sold their herds and returned to Texas, while others turned back into the Cherokee country to await

¹³ Debo, *op. cit.*, 92-3.

¹⁴ *Annual Report of the Commissioner of Indian Affairs*, 1865, 286.

¹⁵ Debo, *op. cit.*, 192-3.

the winter. A solution to the problem was found in the next year when the great drives, numbering eventually over a third of a million cattle a year, chose the more westerly trails to the railroads of Kansas, thereby avoiding the Kansas settlements.¹⁶

Although the long drives by-passed also the domain of the Five Civilized Tribes, Texas cattle continued to invade eastern Oklahoma in large numbers. There could be found vast lands capable of sustaining large herds. Cattle could be driven leisurely from range to range, pasturing for weeks on the lush grasses of the Indians. These delaying tactics were dictated by the harsh quarantine laws of Kansas and Missouri which permitted the entry of Texas cattle only during the winter months.¹⁷ The principal chief of the Cherokees declared not long after the war: "Large herds will often move but from three to five miles per day, and zigzag all over the country, so that they take in their course the finest grazing; so that, while only claiming to pass through, they actually spend the greater portion of the summer and autumn in grazing over the Indian country."¹⁸ By moving slowly across the grazing lands of the Indians, the drovers would not reach the Kansas border until their herds would be permitted to cross. Moreover, they could fatten their cattle on the way. As a result, tens of thousands of Texas cattle crossed Indian Territory and grazed on Cherokee lands, consuming the pasturage of the Indians and exposing their cattle to Texas fever.

The tribal governments soon made an effort to stop this practice. The Cherokee in December, 1867, levied a tax of ten cents per head on all animals driven through their Nation; other tribes followed with similar laws. But when the Cherokee tax was increased in 1869, petitions appeared before Congress claiming that the tax violated the laws of the United States. The Indians based their defense on an act of June 30, 1834, designed to "regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontier," which stated that if any person should drive or maintain, without permission, horses, mules, or cattle on land belonging to an Indian or Indian tribe, such person "shall forfeit the sum of one dollar for each animal of such stock."¹⁹ Many Indians actually considered their laws a concession to the cattlemen. The Senate committee which investigated the petitions upheld the action of the Indians. The Choctaws then in 1870 imposed a tax of fifty cents per head on all cattle, horses, and mules passing

¹⁶ For an excellent discussion of this controversy see Edward Everett Dale, "Those Kansas Jayhawkers, a Study in Sectionalism," *Agricultural History Journal*, II (October 1928), No. 4; see Dale, *Cow Country*, 19-39.

¹⁷ *Senate Report, No. 225*, 41 Cong., 2 Sess., 1.

¹⁸ *Ibid.*, 2.

¹⁹ *Ibid.*, 1.

through their country.²⁰ They realized little from the tax, however, as the main cattle trails passed farther to the west.

In a later controversy between the Creeks and the cattlemen over a transit tax, the Secretary of the Interior sustained the claims of the Indians. But Judge I. C. Parker of the United States court in the west district of Arkansas held that this tax of the Creek Nation interfered with the rights of Congress to regulate interstate commerce.²¹ To no avail delegates of the Five Tribes in Washington pointed out the leniency of their laws when compared to those of Kansas and Missouri.²² For years the Creeks, Choctaws, and Chickasaws were powerless to defend themselves against cattle drovers, while cowmen found it far cheaper to winter their herds in the Cherokee Nation in spite of transit and grazing taxes than to graze their cattle on the northern plains.²³ Consequently the herds from Texas continued to increase.

Since the Indians could not keep Texas cattle off their domain, attempts were made to speed the herds on their way. Bills to achieve this object were introduced in the Cherokee National Council in 1874, and drovers were warned not to cut hay for feed or allow their cattle to mingle with the native stock.²⁴ Yet in that year alone ten thousand alien cattle for which no tax had been paid were grazing on Cherokee lands.²⁵ A Chickasaw law required all herds to move at least eight miles per day or be subject to a fine of one dollar a head, although drovers were permitted, upon the payment of a fifteen cent fee, to pasture their stock over an area of one mile on each side of the trail.²⁶ When the Choctaws decreased their transit tax to ten cents per head in 1882, they added an additional charge for wintering stock or loitering on the trail, an exemption being made for migrating families crossing the Nation with less than twenty head.²⁷

Even more serious than the drovers were those cattlemen who attempted through some guise of legality to maintain permanently large herds of cattle on the public lands. Numerous laws were passed by the Choctaws, Chickasaws, Creeks, and Cherokees to prevent such intrusion. The Choctaws in 1870 prohibited a citizen from leasing any portion of the public domain to a non-citizen for

²⁰ Act of October 27, 1870, cited in Debo, *op. cit.*, 143.

²¹ *Annual Report of the Commissioner of Indian Affairs*, 1884, 31.

²² *House Misc. Docs.*, No. 110, 42 Cong., 3 Sess., 1.

²³ *Senate Report*, No. 225, 41 Cong., 2 Sess., 1.

²⁴ Cherokee National Council *Proceedings for 1874*, *Litton Cherokee Papers*, 1874-1889 (Oklahoma Historical Society, *Indian Archives*), 2-5.

²⁵ John F. Lyons to Hon. Dennis Bushyhead, September 1, 1874. D. W. Bushyhead Correspondence, 1871-1874, *Cherokee National Files*, XXIV, No. 6, Frank Phillips Collection, University of Oklahoma.

²⁶ *Constitution and Laws of the Chickasaw Nation*, 1899, 180.

²⁷ Act of November 2, 1882, cited in Debo, *op. cit.*, 143-4.

grazing purposes. After 1880 non-citizens residing in the Nation were allowed to maintain stock for home consumption only, while any citizen who harbored intruder cattle by a false claim of ownership was to be punished by fine and whipping. Every sale of stock by a non-citizen to a citizen involving more than fifty dollars had to be recorded by county officials. An act of 1888 prohibited the renting of pastures for grazing purposes, and every citizen was forbidden to admit Texas cattle into the Nation except in November and December; however, this act was repealed the following year.²⁸ All of these laws failed to keep intruder cattle out of the Choctaw Nation.

Chickasaw laws, similar to those of the Choctaws, were equally ineffectual. When huge pastures were established, the tribal government restricted the size to one square mile, hoping thereby to discourage Texas cattlemen; but this restriction, too, failed of enforcement. Acting in accordance with the treaty of June 22, 1855, designed to protect the Indians from intruders, federal authorities tried to evict the cattlemen. In 1886 an effort was made to eject 150,000 cattle belonging to intruders in the Chickasaw Nation, but over 100,000 were removed before the Indian agent and his assistants arrived. During further delays occasioned by federal demands upon the agent, the intruders were able to arrange spurious sales of about 25,000 head to Indian citizens in spite of Chickasaw laws prohibiting such sales.²⁹

The Creeks also hoped to exclude foreign cattle by limiting the size of a pasture to one square mile, though they permitted the leasing of additional land. A further law of 1892, however, restricted the large pastures to a region within ten miles of the Nation's borders, and required stockmen to obtain the consent of settlers residing within one half mile of the proposed enclosure. For every acre enclosed there was a charge of five cents. Cattle could be brought into the Nation only between January and March of each year, and only upon the payment of two dollars per head.³⁰ This law was so liberal that the cattlemen continued to flock to the Creek Nation. In 1894 sixty-one individuals and partnerships had enclosed more than one third of the three million acre reserve.³¹

The Cherokees never adopted an acreage tax, but relied for many years upon the prohibition of pastures exceeding fifty acres, and upon the drovers' tax to maintain their public domain. Yet intruders drove their herds upon the public domain and kept them

²⁸ Various act of the Choctaw Nation, cited in *Ibid.*,

²⁹ *Annual Report of the Commissioner of Indian Affairs*, 1886, 157.

³⁰ *Constitution and Laws of the Muskogee Nation*, 1893, 116-119.

³¹ Thirteenth Lake Mohonk Indian Conference *Proceedings, Annual Report of the Board of Indian Commissioners*, 1895, 73.

there for months and even years without any effort to conceal their identity. In 1884 stockmen of the Illinois District wintered their cattle in Indian Territory, even refusing to pay the drovers' tax until a new growth of grass appeared in the spring.³² Prejudice against intruding cattlemen was heightened by the tactics of men like C. M. McClellan, who first claimed Cherokee citizenship, and, when deprived of their cattle by Indian officials, changed their claim to United States citizenship and appealed to the United States Indian agent for protection against Cherokee laws.³³

In 1892 a drastic change in the law placed a tax of one dollar per head (reduced in 1895 to fifty cents) upon all cattle driven through or allowed to remain in the Cherokee Nation. Cattle could be introduced only from December to March, while people employed in the Nation were, with few exceptions, to pay a monthly tax of one dollar per head on all cattle grazing on the public domain.³⁴ The leasing of the Outlet west of the 96th meridian to the Cherokee Strip Livestock Association during the eighties further complicated Cherokee cattle laws.³⁵ Although the Outlet was a separate region, it was part of the Cherokee domain. This region, however, is beyond the scope of this treatise, as the Outlet lay largely in Western Oklahoma and its story belongs to the history of the Great Plains.

In spite of the difficulties accruing from the intrusion of foreign cattle after the Civil War, there was in progress simultaneously a successful effort on the part of the Five Tribes to rebuild their own livestock industry. Not all of their herds had been destroyed by the war, and the intrusion of Texas cattlemen brought large numbers of Texas cattle. These were supplemented by Devon, Durham, and other improved breeds, resulting in herds of higher quality than the wild steers of Texas.³⁶

Severe winters and scorching droughts often caused havoc among the herds. In the extreme cold and deep snows of the winter of 1874-1875, for example, the Indian livestock suffered piteously.³⁷ When prolonged drought a decade later dried up many of the small creeks, all efforts of the Indians to dig wells could not prevent

³² John L. Martin to Principal Chief Dennis W. Bushyhead, July 17, 1884. D. W. Bushyhead Correspondence, *Cherokee National Files*, XXIV, No. 78, Frank Phillips Collection.

³³ Special message of J. B. Mayes, June 7, 1888, in *Cherokee Advocate*, XIII, No. 3. *Litton Cherokee Papers*, 1874-1889.

³⁴ *Constitution and Laws of the Cherokee Nation*, 1893, 292-4.

³⁵ For a discussion of the leasing of the Cherokee Outlet, see Edward Everett Dale, "Cherokee Strip Live Stock Association," *Chronicles of Oklahoma*, V (March, 1927), 58-78.

³⁶ General Council of Indian Territory *Proceedings for 1875* (Oklahoma Historical Society, *Indian Archives*), 64.

³⁷ *Ibid.*, 99.

the loss of hundreds of cattle.³⁸ This frightful summer was followed by an exceptionally severe winter. Even the Red River froze bank to bank, depriving cattle of both water and feed. Over fifteen per cent of Indian livestock died from exposure.³⁹ The following two years, so destructive to the cattle industry of the Great Plains, saw further deprivations to Indian stockmen, the recurring droughts and terrible winters often prompting an owner to sell his herds. Yet even these setbacks did not prevent the steady growth of the livestock industry.

In the decade following the Civil War the herds of Indian Territory citizens began to mount in number, soon far exceeding the number of intruder cattle. The country of the Chickasaws and Choctaws offered perfect grazing land. According to J. F. McCurtain, Principal Chief of the Choctaws, the number of cattle in his Nation increased from 15,500 in 1870 to 65,000 in 1880, thus passing the high pre-war figure of 1860.⁴⁰ Other nations enjoyed similar increases of livestock. While estimates varied greatly, Indian Territory in 1884 was credited by the Indian agents with having over 700,000 cattle. Of these, the Cherokees claimed a quarter million, followed by the Choctaws and Creeks with 170,000 and 150,000 respectively.⁴¹

Dew M. Wisdom, an agent in Indian Territory, wrote in the later nineties to Secretary of the Interior W. A. Jones of the importance of the abundant pasture lands to the livestock industry of the region. His report, in part, follows:

The pastures, magnificent in area and luxuriant in grass, stocked to repletion with long-horned bovines transported from the alkaline plains of Texas, present an animated pastoral scene of picture worthy of the pencil of that grand old Roman who wrote the Georgics. The owners of these pastures are practically assured that if "all flesh is grass" the converse is true also that "all grass is flesh," and the result is that our great prairies waving with native hay, are transmitted into fat cows and steers, which in turn are converted into golden nuggets that a Klondike miner might envy, and he could safely cast aside his pick and shovel in the northern glaciers and sigh to return to sweat and bleed for gold in the savannas of the West.⁴²

Until the introduction of barbed wire during the seventies, the fencing of the great public domain presented a difficult problem. The use of the public lands demanded restrictions to safeguard the rights of the individual. Each nation compelled the stock raisers to build fences to prevent livestock from destroying crops. Early

³⁸ "Interview with Andy Addington, April 2, 1937." *W. P. A. Indian-Pioneer Project for Oklahoma*, Frank Phillips Collection.

³⁹ *Annual Report of the Commissioner of Indian Affairs*, 1884, 100.

⁴⁰ *Report on the Productions of Agriculture as Returned at the Tenth Census* (June 1, 1880), 41.

⁴¹ *Annual Report of the Commissioner of Indian Affairs*, 1884, 308-9.

⁴² *Annual Report of the Commissioner of Indian Affairs*, 1897, 146.

legal provisions demanded that a fence be ten rails high, and the laws tended to become more stringent. For the Cherokees during the 'seventies a fence of posts four and one half feet high, and not more than eight feet apart, set two feet into the ground, and properly boarded with sawed planks or split railing, easily met the regulations. In addition, five foot picket fences, four and one half foot worm fences,⁴³ or stone fences with a three and one half foot base were all acceptable. Even ditches with perpendicular walls, and live hedges less than three years old with no large gaps would also fulfill the requirements. The laws prescribed the minutest details. The nails and fencing had to be of a designated size, the allowable width of openings in hedges varied with their distance from the ground, and ditches serving as fences had to be kept free from grass lest the animals be enticed to cross over.⁴⁴

The coming of barbed wire and the enclosing of huge pastures, often the result of taking undue advantage of grazing privileges, presented new problems and necessitated further restrictions. The Cherokees in 1882 forbade all wire fences unless they were of seven strands, securely fastened to posts set within sixteen feet of one another. Slats not more than five feet apart had to be added later.⁴⁵ J. B. Mayes, Cherokee Principal Chief, admitted that this stringent law was a "very peculiar one" intended to prevent the establishment of large grazing areas. Although the law made it the duty of the sheriff to cut all wire fences not conforming to law, it was tacitly understood that he was to damage no pastures of less than fifty acres.⁴⁶ The Chickasaw attempted to prevent the exploitation of the public lands entirely by forbidding all fencing on the public domain,⁴⁷ while the Choctaws hoped to accomplish the same result by demanding a corridor of twenty-five feet between all enclosures to prevent the merging of several pastures into one.⁴⁸

In spite of the many fences and fencing regulations, Indian Territory continued to have the aspects of an open range. With large numbers of livestock freely roaming about, branding became imperative. Every Cherokee citizen who held over fifty head of cattle was compelled to register his brand in the clerk's office. All cattle roaming on the public domain without a brand were re-

⁴³ Often worm fences needed rebuilding every year since instead of using rails, the Indians used brush which deteriorated very rapidly. See "Interview with Zeke Acorn, October 4, 1937." *W. P. A. Indian-Pioneer Project for Oklahoma*, Frank Phillips Collection.

⁴⁴ *Constitution and Laws of the Cherokee Nation*, 1875, 232-3.

⁴⁵ *Constitution and Laws of the Cherokee Nation*, 1893, 350.

⁴⁶ J. B. Mayes, Principal Chief, to H. Balentine, Vinita, I. T., August 2, 1890. *Cherokee Letter Press Books*, XIV, No. 241, Frank Phillips Collection.

⁴⁷ *Constitution and Laws of the Chickasaw Nation*, 1899, 243.

⁴⁸ *Constitution and Laws of the Choctaw Nation*, 1894, 271.

garded as strays, and were sold by the sheriff after due notice.⁴⁹ Every effort was first made to find the owners of cattle. The Creeks required notice of stray stock to be posted for six months,⁵⁰ while at least one entire page of every issue of the *Cherokee Advocate* was devoted to the description of lost animals.

The land system of Indian Territory, while it facilitated the development of a cattle industry, also led to the rise of cattle barons. Enterprising citizens either by using the lenient pasture laws to the best advantage or by evading them entirely, were able to accumulate huge ranges on which they pastured their own herds, or leased portions to owners of Texas cattle for large sums. Thus were laid the bases of many Indian fortunes. Wilson N. Jones, a mixed blood Choctaw, held the title of cattle king in Indian Territory.⁵¹ Others, however, as the Cherokees, Nathaniel Skinner, Sam Houston Mayes, and John Campbell, were close competitors, as was also George Perryman of the Creeks who reputedly held a tract of 100,000 acres.⁵²

The Dawes Commission, appointed in 1893 to induce the Indians to give up tribal ownership of land, in its report before the Senate Committee on Indian Affairs in 1896, directed attention to the large tracts of public lands fenced and held by individuals of the Five Tribes, or leased by them to cattlemen. In the Creek Nation, whose rich upland prairie was deemed "unsurpassed by any in the United States," it was shown that twenty-three individuals were holding 174,000 acres of pasture land, the pastures ranging from two thousand to twenty thousand acres. Similar conditions existed in the Cherokee Nation. Much of this land had been leased to Texas cattlemen.⁵³ It was such evidence, in part, that led Congress in that year to continue the work of the Dawes Commission.

A typical scheme employed to lease a large tract of Creek land is illustrated by the lawsuit of one Clarence Turner, filed in the United States Court of Claims to recover damages for the destruction of his pasture fence by members of the Creek tribe. Blackstone and Turner, two mixed blood Cherokees, organized a company of one hundred Creeks residing in the Deep Fork District. The organization assumed the name of Pussy, Tiger and Company, Pussy and Tiger being two prominent Creek Indians. These one hundred men were to receive \$100 a year from Blackstone and Turner after

⁴⁹ *Constitution and Laws of the Cherokee Nation*, 1893, 185.

⁵⁰ *Constitution and Laws of the Muskogee Nation*, 1893, 112.

⁵¹ John Bartlett Meserve, "Chief Wilson Nathaniel Jones," *Chronicles of Oklahoma*, XIV (December, 1936), 420-422.

⁵² H. F. and E. S. O'Beirne, *Indian Territory; Its Chiefs, Legislators, and Leading Men*, 38.

⁵³ Foreman, *History of Oklahoma*, 290.

the pasture was established, a total of \$10,000. Turner agreed to furnish the capital necessary to fence the pasture. In accordance with the Creek laws, the judge of the district called for a vote on the question of the proposed pasture of 100,000 acres. The influence of the hundred members of the organization was enough to insure a majority.

A lease was accordingly granted on October 6, 1889, to Pussy, Tiger and Company, who agreed to build a barbed wire fence around the land described. Blackstone and Turner then contracted with Daniel Wagoner and Son, Texas cattlemen, for a lease to the new pasture, in consideration of \$27,500 to be paid annually to Blackstone and Turner. Of this amount, \$10,000 was to be paid in advance to erect a fence. The building of the fence began in 1891, but when sixty miles had been built, a number of other Indians learned of the scheme and destroyed the fence. Turner returned to Wagoner and Son the money advanced to build the fence, and sought to recover it from the Creek Nation. Failing in that, he brought suit in the United States Court of Claims.⁵⁴

With the turn of the century the livestock industry of eastern Oklahoma assumed a more modern aspect. Cattle no longer moved along the trails from the plains of Texas across Indian Territory. As early as 1895 the third session of the legislature of Oklahoma Territory declared that Oklahoma had ceased to be an open range grazing country, and that stock must be confined to pastures.⁵⁵ Range conditions continued for a while in the eastern part of the state, but as the Dawes Commission continued its work of allotting the lands of the Five Civilized Tribes, the open range began to disappear. White settlers rapidly filled the unoccupied lands. Soon came the transition to enclosed pastures of smaller area, and with it the introduction of stocky, well-bred cattle to meet the demands of more intensive grazing. Thus a great range livestock industry, unique in its development under the communal land holding system of five small Indian nations, gradually became lost in a checkerboard of grain fields and livestock farms.

⁵⁴ Incident cited in *Ibid.*, 290-1.

⁵⁵ *Ibid.*, 263-4.