

# **THE NORTH CAROLINA CHEROKEES, 1838-1866: TRADITIONALISM, PROGRESSIVISM, AND THE AFFIRMATION OF STATE CITIZENSHIP**

**John R. Finger**

**University of Tennessee, Knoxville**

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The Cherokees who remained in North Carolina after the enforced removal of most of their tribe in 1838 present a paradox. While those who migrated West emphasized their national tribal citizenship as a way of preserving Cherokee identity, the North Carolina Indians decided that state citizenship offered the best means of achieving the same end. As citizens, they would have an undoubted right to stay in North Carolina and would perhaps be able to preserve a society which in many respects remained traditional and, from the white perspective, non-progressive. But therein lay a second paradox. In order to persuade state authorities to acknowledge their citizenship, they found it desirable to emphasize their acculturation and progress rather than traditionalism. For more than a quarter century they followed this carefully calculated design, until, in 1866, they at least achieved one major objective: recognition of their right to remain in the state permanently.

Approximately eleven hundred North Carolina Cherokees avoided removal by hiding out in the mountains or taking advantage of a treaty provision allowing certain Indians to stay in their home states if they wished to become citizens.<sup>1</sup> Mostly full-bloods, they resided in several scattered settlements in the western part of the state — on land owned by friendly whites, on unsurveyed state lands, and, in a few cases, on their own property. Some seven hundred lived around Quallatown, near present-day Cherokee, with smaller concentrations along the Cheoah, Valley, and Hiwassee rivers. An additional three hundred or so Cherokees lived in nearby areas of Georgia, Tennessee, and Alabama, including a number of mixed-bloods and whites who were Cherokees only by marriage. In general they were more acculturated than their North Carolina brethren, often owning their own land and sometimes a few slaves.<sup>2</sup>

The man responsible for formulating the strategy of state citizenship for the North Carolina Cherokees was William Holland Thomas, a white merchant who was their chief legal advisor during the entire period under consideration. An adopted member of the Quallatown band, he was recognized by those Indians after 1839 as their chief. He owned several stores, and a large portion of his business consisted of credit transactions with the Cherokees. Over a period of years he also bought some 50,000 acres of generally poor, mountainous land in scattered tracts and provided this as a kind of restored homeland for his clients. Title remained in his name but would revert to the Indians when they paid for it. Thomas hoped to obtain the money from various treaty claims the Cherokees held against the United States, and he consequently spent almost as much time in Washington as in North Carolina.<sup>3</sup>



Figure 1. Cherokee Boarding School, late nineteenth century (Museum Archives).



Figure 2. Will Thomas.

Thomas claimed that under the treaties of 1817 and 1819 a few of the North Carolina Indians had acquired citizenship when they settled on their own land outside the Cherokee Nation.<sup>4</sup> Others had been living within the Nation at the time of the Treaty of New Echota in December, 1835. This infamous document required tribal removal within two years of its ratification, but the first part of Article 12 provided a loophole for those who wished to remain:

Those individuals and families of the Cherokee Nation that are averse to removal to the Cherokee country west of the Mississippi and are desirous to become citizens of the States where they reside and such as are qualified to take care of themselves and their property shall be entitled to receive their due portion of all the personal benefits accruing under this treaty . . .<sup>5</sup>

Some Indians, ignorant of Article 12, simply refused to go West and became fugitives when the U.S. Army arrived to enforce removal.<sup>6</sup>

As early as 1836 the Quallatown Cherokees had petitioned the state for permission to remain, and in January 1837, the General Assembly gave tacit approval by passing a law partially protecting them; this was to go into effect *after* the expected removal of most of the tribe. For its part, the economy-minded War Department concluded early in 1839 that it was not worth the trouble and expense to try to remove the Indians remaining in North Carolina. (Perhaps the appalling costs of attempting to remove the Seminoles from Florida served as an object lesson.) If North Carolina did not object, the Cherokees could stay, subject to its laws.<sup>7</sup>

The western part of North Carolina was a frontier backwater with less desirable land than many other areas, and, except for an occasional letter or petition to the governor, its citizens expressed little strong sentiment for evicting the remaining Indians. Congressman James Graham, who represented the region, favored their emigration but was content during the early 1840's to inquire periodically as to what the federal government planned to do about them. The Commissioner of Indian Affairs, T. Hartley Crawford, replied that the Cherokees had a right under Article 12 to remain in the Southeast if they chose.<sup>8</sup> But in the face of North Carolina's refusal formally to recognize their rights, William Thomas deemed it necessary to convince state officials that his clients were intelligent, industrious, law-abiding, and generally progressive citizens.

Before 1838, however, the North Carolina Cherokees were viewed by whites as among the most "traditional" and "backward" of their tribe. While others of their people had made significant advances in agriculture, the mechanical arts, education, and the white man's religion, the North Carolina Indians were less affected by these changes. A recent analysis of the tribal census of 1835 concludes that they had less interracial marriage, less wealth, fewer white skills, and were less likely than other Cherokees to be able to read and write their own language.<sup>9</sup>

But these Indians were "traditional" or "non-progressive" only in comparison with the more acculturated members of their tribe. Compared to most other Indians, or their own ancestors, they reflected considerable white influence. By the 1830's, many were residing as nuclear families in log homes not unlike those of their poor white neighbors; almost all, like their white counterparts, practiced a primitive agriculture, supplemented by hunting, fishing, and gathering. The traditional matriarchal aspects of their society were gradually giving way to male dominance; the men, for example, were doing more of the farming while wives were concentrating on household chores. In addition, the Baptist and Methodist missionaries who worked among them prior to removal had converted some to Christianity.<sup>10</sup>



One of Thomas's tactics was to get white citizens to attest to the improving status of his clients. In 1842, apparently at his instigation, a number of petitioners from Haywood and Macon counties claimed that the Quallatown Indians were a temperate and industrious people following the road to civilization. Reiterating this view in a memorial to the legislature, the Indians also insisted that they were patriotic citizens of the state, willing to assume all the burdens of citizenship while asking for few of the benefits. On this and other occasions the Cherokees made it clear that they primarily wanted assurance they could remain in their homeland.<sup>11</sup>

We have considerable information about the Indians living around Quallatown because they were the ones most directly under the influence of Thomas, an inveterate gatherer of data concerning them. Not surprisingly, he consistently portrayed them as a progressive people much like their white neighbors in terms of civilization. In 1845, for example, he claimed that they enjoyed generally good health and had increased in population to 781. Almost all depended on agriculture, but a surprising number were skilled in the mechanical and domestic arts as well; artisans made such things as barrels, ploughs, and gunstocks for whites and Indians alike. About one-fifth of the population could read and write Cherokee.<sup>12</sup>

If we are to believe Thomas, the Quallatown Indians were also making progress in adopting Christianity, for he said that 103 of them qualified as "Sabbath school teachers and scholars." The merchant imported a number of Cherokee bibles and hymnals from the tribe in the West and consistently encouraged his people to be God-fearing and pious. White Baptist and Methodist preachers paid periodic visits, and by the Civil War there were several native preachers and a local Methodist church. The Cherokees also had occasional camp meetings — or revivals — at which, according to one observer, they were "absolutely fiends" in their shouting and wild gesticulations. (Such emotional outbursts were common as well among whites at camp meetings in the Upper South.)<sup>13</sup>

Defenders of the North Carolina Cherokees also emphasized that they represented a remarkable contrast to the usual sorry tale of liquor and its effects on Indians. About 1830 Chief Yonaguska, a frequent tippler, had undergone a nearly miraculous transformation and committed the Quallatown people to the cause of temperance. By 1845, Thomas declared, there was not a single drunkard and not more than eight who ever used alcohol of any kind — the main reason why, he averred, there had not been a murder or even a case of assault and battery among these Indians in the preceding few years.<sup>14</sup>

During the late 1840's, several outsiders commented on the progress the Cherokees were making. One was John C. Mullan, a federal agent who visited in 1848 and submitted a favorable report to the Commissioner of Indian Affairs. His objectivity is in question, however, for he struck up a friendship of convenience with Thomas. The latter had mentioned that he was related to Zachary Taylor, and in the event of Taylor's election and the expected Whig house-cleaning, might be able to protect Mullan's job in the Indian Office. Mullan was duly appreciative.<sup>15</sup> Another visitor was Charles Lanman, a prominent journalist, who was hospitably received by Thomas. Perhaps reflecting the shrewd influence of his host, Lanman depicted Quallatown as an idyllic and progressive community — indeed, a Jeffersonian Arcadia. One suspects, however, that it may have been a Thomsonian Potemkin Village.<sup>16</sup>

The 1850 and 1860 federal censuses provide additional information on the Quallatown Indians, who were included only because Thomas insisted they were

citizens. In both years census takers listed the males as heads of household, an accurate reflection of one change in Cherokee society. The 1860 figures show 1,063 Indians living in 256 separate dwellings, an average of a little more than four members per household. Only eleven males listed occupations other than farming; five were blacksmiths, four ministers, one a mechanic, and one a school teacher. The rest tended small farms on a large tract Thomas had acquired for them, but most of their acreage was still unimproved. Besides corn, their principal crop, they produced potatoes, wheat, peas, and orchard fruits. They owned some 1,500 head of livestock, more than half of which were swine. The census shows just nine Cherokees owning real estate, indicating that most had not yet paid Thomas; a few also claimed small personal estates.<sup>17</sup>

Among those skeptics who regarded Cherokee progress as illusory were the federal officials who from time to time after 1838 encouraged their removal. On such occasions Thomas argued that the Indians should not be coerced into moving. The War Department concurred in this view and between 1841 and 1844 organized a campaign to convince them that they could be happy only by moving to the West and rejoining the Cherokee Nation. Several factors helped to frustrate this effort: the opposition of Thomas and a few other whites, the ineptitude of the Tyler administration, and the stubborn refusal of most Indians to budge. A less serious attempt in the 1850's had similar results.<sup>18</sup>

Whatever may be said about the progress of the Cherokees, it is apparent that they retained a solidly traditional core. Most important, they recognized themselves as Cherokees, had a tenacious attachment to their homeland, and continued to live within such well-defined ethnic communities as Quallatown, Cheoah, Stekoa, and Valley River. Not more than a handful could read or write English, and only a minority were literate in Cherokee. Despite the young Indian who listed his occupation as teacher, there was no school regularly available. Food consisted primarily of traditional corn and bean dishes prepared in the old ways. While the Indians increasingly wore white-style attire, most still preferred moccasins. Even as the number of nominal Christians increased, the conjurers and shamans remained influential. For the full-bloods, at least, marriage continued to conform to clan strictures, and a wedding "in the white fashion" was unusual enough for Thomas to mention in his diary. Eventually the Quallatown Indians attempted to regularize and record their marriages, but even after the Civil War visitors found them indifferent to white notions of marital propriety.<sup>19</sup>

The various Cherokee communities had their own council houses where matters of importance to the tribe were discussed openly. Chiefs — or "headmen" — exercised considerable influence but, as in earlier days, wielded almost no coercive powers. The Indians usually decided among themselves how they were to divide and use the lands available to them, and the traditional ethic of harmony and consensus seemed to prevail. The kind of bitter factionalism that divided the Cherokee Nation in the West was absent among the North Carolina Cherokees during these years.<sup>20</sup>

In regard to land ownership, the full-bloods preferred a traditional communal arrangement. In 1845 Thomas helped the Quallatown Cherokees organize a corporation, ostensibly to cultivate and manufacture silk and sugar; but the original preamble and bylaws make it clear that the real purpose was to protect the Indians by conveying to the company the land Thomas had purchased in their behalf. Individuals would be able to acquire their own property within this tract but could not sell it without approval of the tribal corporation. Although Thomas was forced to modify

the bylaws, he later alleged that the organization did in fact control the lands occupied by the Quallatown Indians. In any case, his actions reflect a desire to provide a unified, unalienable land base for his people. Other Cherokees in North Carolina also sought blocks of land which they could hold in common.<sup>21</sup>

This corporation resembled in certain respects the *gadugi*, a Cherokee institution which has been defined as "a group of men who join together to form a company, with rules and officers, for continued economic and social reciprocity." The origins of the *gadugi* may be seen in such early communal activities as constructing public buildings and tilling community fields. Thomas's original bylaws describe a kind of cooperative endeavor that seems to fit within such a context, although it is uncertain whether he was consciously seeking to meet contemporary Cherokee needs with a traditional institution.<sup>22</sup>

It is certain, however, that some traditional ceremonies and social activities remained intact. From time to time Thomas's correspondence refers to hotly contested ball games among his clients, and, indeed, whites often came to observe them. On occasion the play was held in conjunction with a political speech or rally, for Thomas was a prominent Democrat who served a number of terms in the state senate. The Cherokees also continued to celebrate the green corn ceremonies and dances which had been an essential element of tribal life. Dances often provided an emotional as well as a religious outlet, and John Mullay, the federal agent, described some of them as "wild & grotesque."<sup>23</sup>

The Quallatown people appeared to be more stable and prosperous than the Cherokees elsewhere in North Carolina, in part because of Thomas's influence. In contrast, the Valley River Cherokees were a particular source of concern to their white supporters. Thomas's early influence among them waned during the 1840's, and they received conflicting and sometimes bad advice from their other friends. When, in 1848, Mullay took a census of the North Carolina Cherokees in order that the federal government might pay some of their claims, the Valley River Indians refused to cooperate because they had been misled into believing that it was part of a plot either to remove or defraud them. That one event demonstrates how profound was their distrust of the government. A more pressing problem was their proximity to unsavory white influences in and around the town of Murphy. One sympathetic observer believed that the only thing which could prevent their complete destruction was to consolidate with the Cherokees at Quallatown or Cheoah — or perhaps to emigrate west.<sup>24</sup>

There remains, of course, the complicated question of the Cherokees' actual status. Were they citizens of North Carolina? Although some scholars have replied in the affirmative, the Indians in fact were not. The state tacitly conceded their right to remain and hold land but never their citizenship, despite the efforts of Thomas. And in 1855 Governor Thomas Bragg, after noting a few possible exceptions, denied that the Cherokees could be citizens unless the General Assembly acknowledged them as such — a point of view further implied by the fact that on occasion the legislature had granted citizenship to individual Indians.<sup>25</sup>

The state of North Carolina was not unsympathetic. In fact, the General Assembly passed some legislation and resolutions that were quite favorable to the Cherokees. But the legislators still refused to recognize them as citizens or even to confirm, formally and forthrightly, their right of permanent residency. It was all very frustrating to Thomas, who continued to insist that the Indians were entitled to both privileges. He once suggested that a prominent Whig opponent refused to sup-

port Cherokee citizenship because he was afraid the Indians would follow Thomas's lead and vote Democratic.<sup>26</sup>

Even the federal government objected to North Carolina's indecisiveness regarding the Cherokees. In 1855, when Congress passed an act to pay each Indian the money set aside for his or her eventual transportation to the West, legislators insisted that the state first explicitly affirm the Cherokees' right to remain permanently. Recognition of their citizenship was not required. Still North Carolina equivocated, refusing to pass such an ordinance but correctly noting that previous legislative action implied a right of residence for the Indians. A possible reason for this hedging is the strong Southern adherence during the tense 1850's to constitutional and political principles. As one Carolinian expressed it, why should his state, which had not been a party to the treaty between the Cherokees and the federal government, be required to make a commitment before the Indians received what was rightfully theirs under the treaty? Whatever the correct explanation, the matter was unresolved by the time of the Civil War.<sup>27</sup>

After North Carolina voted in 1861 to join the Confederacy, Thomas, an ardent secessionist, resigned from the state Senate and organized his own fighting force in western North Carolina. Known as the Thomas Legion, it consisted primarily of infantry units and numbered some 2,800 men. Perhaps as many as four hundred Cherokees, representing most of the able-bodied men of the tribe, served in the Legion. As they prepared to participate in the first tribal warfare since the Creek campaigns of 1813-14, they once again invoked traditional rituals. According to the eminent ethnologist, James Mooney, the war

brought out all the latent Indian in their nature. Before starting to the front every man consulted an oracle stone to learn whether or not he might hope to return in safety. The start was celebrated with a grand old-time war dance at the townhouse . . . and the same dance was repeated at frequent intervals thereafter, the Indians being "painted and feathered in good old style."<sup>28</sup>

The Cherokees served mostly as guards and scouts in eastern Tennessee and western North Carolina. While they were stationed near Knoxville in 1862, a local newspaper portrayed them favorably but as a somewhat exotic species. When the Cherokees performed Christian services in their own language in the First Baptist Church, white worshippers and spectators filled every available pew to witness the strange spectacle.<sup>29</sup>

An officer who knew the Indians well claimed that they generally behaved better than white troops. On one occasion, however, the Cherokees, infuriated by the death of their Indian lieutenant, scalped a few of the wounded enemy despite the protests of Thomas. Whatever their conduct in combat, they did not give the war their undivided attention. They continued to enjoy their traditional ball play, and on one occasion a Cherokee detachment, assigned to guard a bridge, became so engrossed in a game that it barely escaped capture by a Union force which suddenly appeared.<sup>30</sup>

William Thomas proudly pointed to the service of his Indian troops as evidence that they were true, patriotic citizens of the Confederacy who had endured great hardships for their fidelity. On the other hand, their participation simply reinforced in the minds of Unionists the unfortunate stereotype of the implacable, savage Indian — a creature indifferent to the amenities of "civilized" warfare. One called them the "wretched, ignorant, half-civilized offscouring of humanity" and "long-haired, greasy-looking savages who could not even speak a word of English, or



Figure 3. Cherokee Boarding School, 1893 (Museum Archives).

understand a plea for mercy."<sup>31</sup> And Andrew Johnson, in a lengthy speech before the Union League in New York City, dramatized the supposed horrors besetting Southern Unionists: "Women now are insulted, children murdered, fathers and sons chased and hunted in the woods by red Indians, who cut off their ears and show them as trophies." (Johnson was perhaps unaware that as many as thirty North Carolina Cherokees served with Union forces.)<sup>32</sup>

The immediate aftermath of the war proved to be almost as disruptive for the Cherokees as the conflict itself. An Indian who had deserted to the Union side came home with a case of smallpox and died. Others quickly became infected, and although Thomas rushed in a doctor with vaccine, it was ineffective. The Cherokees became so disillusioned with white medicine that some resorted to more traditional remedies, including plunge baths in the icy rivers and the "cold-water douche." These practices almost always proved fatal for those infected. Before the epidemic ended, it had killed more than one hundred Cherokees throughout western North Carolina. Most of those who survived were destitute.<sup>33</sup>

Following the war, North Carolina finally responded to the long-standing offer of the federal government to pay the Cherokees if the state would acknowledge their right of permanent residency. In February 1866 the General Assembly passed the appropriate ordinance, and Governor Jonathan Worth signed it into law. The Cherokees had thus achieved one of their major objectives. Otherwise their status remained as before — anomalous. The Judiciary Committee of the state senate reiterated that they were not citizens and were therefore without legal recourse in either state or federal courts. On the other hand, Reconstruction officials apparently ignored this non-citizenship when they allowed the Indians to vote, a privilege that continued long after Reconstruction ended. But when a federal court in 1897 emphatically denied Cherokee citizenship, local officials soon took steps to deny Indians the franchise (at the same time that Southern states were disfranchising blacks). Not until many years later did the North Carolina Cherokees gain undisputed citizenship and voting rights.<sup>34</sup>

In the meantime, William Thomas's long prominence in Cherokee matters came to an end. He suffered from periodic mental illness, and his financial affairs fell into hopeless disarray. In 1868 the federal government agreed to recognize the North Carolina Cherokees as a distinct tribe and to assume responsibility for them. During the next decade, through a series of complicated maneuverings, the government acquired in their behalf much of the land that Thomas had held for them, as well as other scattered tracts. The tribe organized its own government and in 1889 incorporated as the Eastern Band of Cherokee Indians. Today the Cherokees occupy the Qualla Boundary Reservation and depend to a great extent on the seasonal hordes of tourists who visit the Great Smoky Mountains National Park. The current economic and energy crises, of course, pose a major threat to their tribal well-being. Yet, despite the vagaries of their existence, they "retain a strong hold on their ethnic identity" even as they continue a selective acculturation.<sup>35</sup>

In conclusion, the most important task for the North Carolina Cherokees between 1838 and 1866 was to obtain recognition of their citizenship and right of permanent residency. Perhaps in deference to the racial paranoia of the antebellum South, they never requested some of the rights that usually accompany citizenship, like voting or sitting on juries in cases involving whites. It appears that they were seeking a comfortable "half-way house" between the status of white citizens and free blacks, from whom they always dissociated themselves. They were interested in citizenship



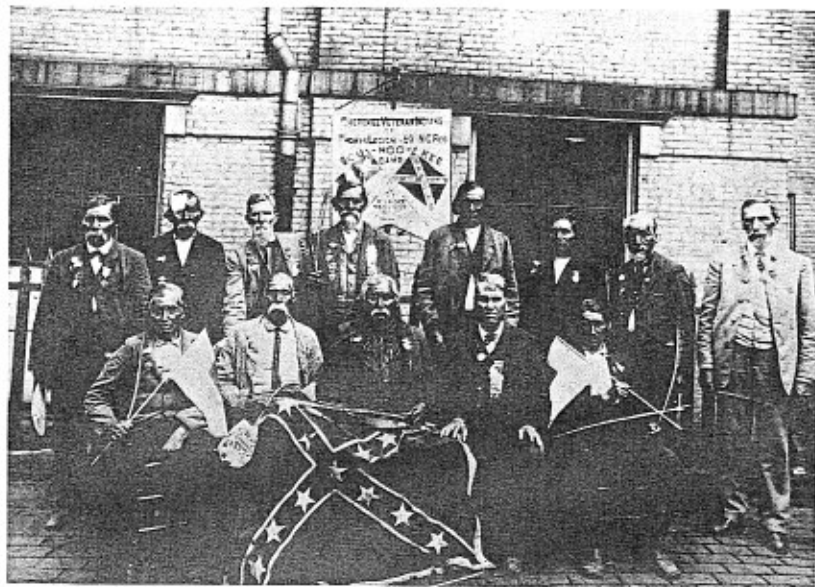


Figure 4. Last photograph of remaining members of the famous Thomas Legion, composed of Cherokee Indians in the Confederate Army. Taken at the New Orleans Reunion of Confederate Veterans. Inscription of Banner reads: "Cherokee Veteran Indians of Thomas Legion, 69 N.C. Regiment, Suo-Noo-Kee Camp U.C.V. 4th Brigade N.C. Division." Front row, left to right: 1. Usai, 2. Kimson Saunooke, 3. Jesse Ross, 4. Jesse Reed, 5. Sevier Skitty. Back row: 1. Bird Saconita, 2. Dave Owl, 3. Col. W. W. Springfield, 4. Suyeta Owle, 5. Jim Cag, 6. Wesley Crowe, 7. Jessan, 8. Lt. Calvin Cagle. All are now deceased. Lieut. Col. Springfield and Lieut. Cagle were white officers. Names were furnished by the late James R. Thomas, son of Will Thomas. This band of Indians built the first road across the Great Smokey Mountains.

primarily as a foolproof safeguard for their continued residency, and a tenacious attachment to their homeland was their most salient characteristic. William Holland Thomas was the person who devised the strategy to which the Indians willingly subscribed: to convince state authorities they were *bona fide*, progressive citizens; if successful, they could stay in their homeland and maintain a society that, paradoxically, contained significant traditional and non-progressive elements. Indeed, when they at last received permission to remain in North Carolina, their society was in many respects little different from that of 1838.

#### NOTES

1. The figures of William Holland Thomas indicate there were at least 1,088 North Carolina Cherokees in 1840. "Census of the North Carolina Cherokees, 1840," in William Holland Thomas Papers, Duke University (hereinafter cited as Thomas Papers, Duke); and "Present state of civilization among the Cherokee Indians of Qualla Town," accompanying the letter of Thomas to Secretary of War William Wilkins, March 3, 1845, Letters Received by the Office of Indian Affairs, 1824-81, Records of the Bureau of Indian Affairs, Record Group 75 (National Archives, Washington), Microfilm Publication M-234, Roll 89, frames 542-43 (hereinafter cited as RG 75, M-234).
2. *Ibid.*, Many letters in RG 75, M-234 for the years under consideration attest to the presence of relatively acculturated Cherokees in Georgia, Tennessee, and Alabama. The misconception still persists that the North Carolina Indians could not own land prior to the Civil War. See for example Charlotte Neely, "Acculturation and Persistence Among North Carolina's Eastern Band of Cherokee Indians," in Walter L. Williams, ed., *Southeastern Indians Since the Removal Era* (Athens, Ga., 1979), 158, 161. County records, however, reveal that some Cherokees owned land, and legal opinion clearly sustained such ownership. See for example William Eaton, Jr., Attorney General of North Carolina, to Governor David S. Reid, August 28, 1851, Governors Papers 127, North Carolina Division of Archives and History (hereinafter cited as NCDAH); Governor Thomas Bragg to Secretary of Interior R. McClelland, September 26, 1855, Governors Letter Book 43, pp. 276-78, NCDAH; and Doe ex dem A. N. Colvard v. Monroe, 63 *North Carolina Reports*, (1869), 288.
3. The only complete account of Thomas's career is Mattie Russell, "William Holland Thomas, White Chief of the North Carolina Cherokees," (Ph.D. dissertation, Duke University, 1956). See also her "Devil in the Smokies: The White Man's Nature and the Indian's Fate," *South Atlantic Quarterly*, 73 (Winter 1974), 53-69; and Richard W. Iobst, "William Holland Thomas and the Cherokee Claims," in Duane H. King, ed., *The Cherokee Indian Nation: A Troubled History* (Knoxville, 1979), 181-201; Thomas to Commissioner of Indian Affairs T. Hartley Crawford, July 30, 1842, RG 75, M-234, 86:713-14.
4. Charles J. Kappler, ed., *Indian Affairs: Laws and Treaties* (5 vols., Washington, 1904-41), Article 8 of 1817 treaty and Article 2 of 1819 treaty, II, 143, 178. Thomas offered a detailed analysis of the Cherokee status under various treaties in his *Argument in Support of the Claims of the Cherokee Indians* . . . (Washington, 1839), on microfilm roll 2 of W. H. Thomas Papers, Newspapers and Microforms Department, Duke.
5. Kappler, ed., *Indian Affairs*, II, 444-45. This article also allowed such Cherokees certain pre-emption and reservation rights, a privilege withdrawn in Supplementary Article 1, *ibid.*, II, 448. Some students of Cherokee history have mistakenly assumed that Supplementary Article 1 nullified all of Article 12, leaving the Cherokees with no treaty right to remain. See for example James Mooney, "Myths of the Cherokee," *Nineteenth Annual Report of the Bureau of American Ethnology* (Washington, 1900), No. 539, Part 1, pp. 227-28 (note 49); and Duane H. King, "The Origin of the Eastern Cherokees as a Social and Political Entity," in King, ed., *The Cherokee Indian Nation*, 177. Commissioner of Indian Affairs T. Hartley Crawford, however, readily acknowledged Indian rights to remain under Article 12.
6. A persistent and romantic myth is that Tsali, a fugitive Cherokee, surrendered himself to the United States Army to face certain execution in return for a promise that his people would be allowed to remain. The most complete analysis of this myth is my article, "The Saga of Tsali: Legend Versus Reality," *North Carolina Historical Review*, LVI (Winter 1979), 1-18.
7. Thomas, *Argument in Support*, 13-14: "An act to prevent frauds on Cherokee Indians, residing in this state," January 21, 1837, *Laws of the State of North Carolina, 1836-37* (Raleigh, 1837), 30; T. Hartley Crawford to John Kennedy et al., February 11, 1839, Governors Papers 88, p. 2179, NCDAH; Crawford to Secretary of War Joel R. Poinsett, February 7, 1840, Report Book of the Office of Indian Affairs, 1838-1885, Records of the Bureau of Indian Affairs, Record Group 75 (National Archives, Washington), Microfilm Publication M-348, Roll 1, pp. 411-12 (hereinafter cited as RG 75, M-348, Record Book page numbers will be cited rather than frame numbers); and Crawford to Poinsett, May 28, 1840, *ibid.*, 2:106-07.
8. In January, 1839, Graham introduced a resolution asking how many Cherokees remained and why they had not been removed. *Congressional Globe*, 25 Cong., 3 Sess. (Washington, 1839), 136-37. See also Graham to President Van Buren, April 29, 1840, RG 75, M-234, 84:365-68; Graham to Secretary of War John Bell, July 6, 1841, *ibid.*, 85:165-67; *House Executive Documents*, 25 Cong., 3 Sess., No. 224: *Cherokee Indians in North Carolina* (Serial 348, Washington, 1839), 1-2; "Report of the Commissioner of Indian Affairs," November 25, 1839, *House Executive Documents*, 26 Cong., 1 Sess., No. 2: *Message from the President of the United States* . . . (Serial 363, Washington, 1839), 333; T. Hartley Crawford to Secretary of War Joel R. Poinsett, February 7, 1840, RG 75, M-348, 1:411-12; and Crawford to Poinsett, May 28, 1840, *ibid.*, 2:106-07.
9. William G. McLoughlin and Walter H. Conser, Jr., "The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835," *Journal of American History*, LXIV (December 1977), 686, 689; see also Mooney, "Myths of the Cherokee," 12, 157; and Russell, "William Holland Thomas," 32-33, 67.

10. McLoughlin and Conser, "The Cherokees in Transition," Tables 4-5, p. 685; Tables 7-8, p. 688; p. 701; Charles Lanman, *Letters from the Alleghany Mountains* (New York, 1849), 95; Robert Fleming, *Sketch of the Life of Elder Humphrey Posey* (Philadelphia, 1852), 54-66; William Gammell, *A History of American Baptist Missions* . . . (Boston, 1849), 323-27. For example of the kinds of property some North Carolina Cherokees possessed, see the claim of "Ginna," August 8, 1843, Thomas Papers, Duke.
11. Petition in *Senate Documents*, 29 Cong., 1 Sess., No. 408: *Memorial of the Cherokee Indians Residing in North Carolina* . . . (Serial 477, Washington, 1846), 21-22; memorial "To the Chiefs of the State of North Carolina," in Senate, January 13, 1843, Legislative Papers 583, NCDAH.
12. "Present state of civilization," RG 75, M-234, 89:543.
13. *Ibid.*; Thomas to Commissioner of Indian Affairs William Medill, June 26, 1850, Thomas Collection, WCU; William W. Stringfield, handwritten historical account, 105, William W. Stringfield Papers, NCDAH; Anna G. and Jack F. Kilpatrick, "Chronicles of Wolfstown: Social Documents of the North Carolina Cherokees, 1850-1862," Bureau of American Ethnology, *Bulletin* 196 (Washington, D.C., 1966), 33-47; 107-09.
14. "Present state of civilization," RG 75, M-234, 89:543; Lanman, *Letters from the Alleghany Mountains*, 107-08.
15. "Mullay to William Medill, December 14, 1848, RG 75, M-234, 92:280-81; Mullay to Thomas, November 14, December 4, 1848, Thomas Papers, Duke. Mullay's relationship with Thomas was compromising enough that he asked the merchant to burn the first letter.
16. Lanman, *Letters from the Alleghany Mountains*, 85-114; a favorable report on the Quallatown Indians in the *Friends' Weekly Intelligencer*, 6 (Philadelphia), March 31, 1849, pp. 2-3, relied heavily in Lanman and Thomas's "Present state of civilization."
17. Seventh U.S. Census, 1850, Haywood County, N.C., Population Schedule, 46-53, NCDAH; Thomas, *Explanations of the Rights and Claims of the Cherokee Indians* (Washington, 1851: facsimile reprint, Asheville, N.C., 1947), 14-15, Thomas Collection, WCU; Eighth U.S. Census, 1860, Jackson County, N.C., Population schedule, National Archives Microfilm Publication M-653, Roll 903, pp. 104-30; Schedule 4, 1860, "Productions of Agriculture," Jackson County, 33-38, NCDAH. Having succeeded in getting the Quallatown Indians included in the census, the wily Thomas then used their presence on the rolls as further "proof" of their citizenship. See for example Thomas to Secretary of Interior Jacob Thompson, March 1, 1858, RG 75, M-234, 98:896-97.
18. See for example Office of Indian Affairs to Thomas C. Hindman, September 29, 1841, Letters Sent by the Office of Indian Affairs, 1824-81, Records of the Bureau of Indian Affairs, Record Group 75 (National Archives, Washington), Microfilm Publication FM-21, Roll 31, pp. 148-51. I discuss in detail this attempt at persuading the Indians to emigrate in "The Abortive Second Cherokee Removal, 1841-1844," accepted for publication in the *Journal of Southern History*. At various times during the 1850's the subject of removal was again discussed. See for example the materials for 1857 in RG 75, M-234, Roll 98, *passim*, and the William Hoke Papers, Southern Historical Collection, University of North Carolina (Chapel Hill). Cherokee memorials include Council of Valley River Cherokees, January 4, 1844, RG 75, M-234, 88:273-78; and memorial to President Polk (undated, [1848]), *ibid.*, 92:114-22.
19. Thomas Diary, September 23, 1848, Thomas Collection, WCU; Russell, "William Holland Thomas," 136; Lanman, *Letters from the Alleghany Mountains*, 94; Kilpatrick, "Chronicles of Wolfstown," 58-60; George Bushyhead to Commissioner of Indian Affairs D. N. Cooley, March 19, 1866, RG 75, M-234, 100:234; Rebecca Harding Davis, "Qualla," *Lippincott's Magazine* (November 1875), 582-84; David Shenck, "The Cherokees in North Carolina," *At Home and Abroad*, II (February 1882), 325-26; Wilbur G. Zeigler and Ben S. Grosscup, *The Heart of the Alleghenies, or Western North Carolina* (Raleigh, 1883), 36-37.
20. Thomas divided the Quallatown Indians into five districts or "towns," three of which were named for Cherokee clans and all of which had their own minor officials. Mooney, "Myths of the Cherokee," 161; Kilpatrick, "Chronicles of Wolfstown," *passim*. For comment on the harmony in Quallatown, see Felix Axly to Thomas, April 29, 1845, Thomas Collection, WCU. Recent studies of factionalism among the Cherokee Nation include Gary M. Moulton, *John Ross: Cherokee Chief* (Athens, Ga., 1978); Kenny A. Franks, *Stand Watie and the Agony of the Cherokee Nation* (Memphis, 1979); and Gerard Reed, "Postremoval Factionalism in the Cherokee Nation," in King, ed., *The Cherokee Indian Nation*, 148-63.
21. *Laws of the State of North Carolina, 1844-45* (Raleigh, 1845), 71-72; Indenture for Cherokee corporation, December 4, 1846; and Governor William A. Graham to Thomas, March 24, 1847, both in Thomas Papers, Duke; Thomas Diary, May 19, 1847, Thomas Collection, WCU; Thomas to Graham, March 8, 1847, Governors Papers 117; Indenture of May 19, 1847, Governors Papers 118; Thomas to Graham, June 2, 1847, *ibid.*; Proclamation of June 22, 1847, Governors Letter Book 37, pp. 358-60, all in NCDAH; Lanman, *Letters from the Alleghany Mountains*, 94; Thomas, *Explanations of the Rights and Claims of the Cherokee Indians*, 7; *Journal of the House of Commons* (Raleigh, 1849), 554; Valley River Cherokees to President Polk, June 16, 1848, RG 75, M-234, 92:291.
22. Raymond D. Fogelson and Paul Kutsche, "Cherokee Economic Cooperatives: The Gadugi," in William N. Fenton and John Gulick, eds., "Symposium on Cherokee and Iroquois Culture," Bureau of American Ethnology, *Bulletin* 180 (Washington, D.C., 1961), 87, 96-97; Kilpatrick, "Chronicles of Wolfstown," 13, 15.
23. Mullay to William Medill, December 14, 1848, RG 75, M-234, 92:281; Thomas Diary, September 27, 1849; June 1, 1850; August 3, 20, 1850, Thomas Collection, WCU; Russell, "William Holland Thomas," 314; Thomas Lenoir to brother, July 24, 1860, Thomas Lenoir Papers, Duke; Mooney, "Myths of the Cherokee," 236.
24. Felix Axly to Thomas, April 29, 1845; August 10, 1846, Thomas Collection, WCU; Mullay to William Medill, December 14, 1848, RG 75, M-234, 92:279-80; Valley River Cherokees to Secretary of War William March, November 20, 1848, *ibid.*, 92:137-42; Axly to Commissioner of Indian Affairs, February 25, 1850, *ibid.*, 94:8.
25. Bragg to Secretary of Interior R. McClelland, September 26, 1855, Governors Letter Book 43, pp. 276-78, NCDAH. Bragg's view was later affirmed by a federal court. *U.S. v. Boyd et al.*, 83 *Federal Reporter*, (1897), 547, 553. For recognition of the rights of certain individual Indians see *Laws of North Carolina, 1836-37* (Raleigh, 1837), 333; and *Laws of North Carolina, 1846-47* (Raleigh, 1847), 128. Among those claiming citizenship for the Cherokees are Mooney, "Myths of the Cherokee," 180; and Neely, "Acculturation and Persistence," 157-58. Despite the claim of the *Friends' Weekly Intelligencer*, March 31, 1849, twelve consecutive months of residence did not make the Indians citizens.
26. Thomas, *Explanations of the Rights and Claims*, 6-7; Thomas to William Wilkins, January 5, 1845, RG 75, M-234, 89:535.
27. Act of March 3, 1855, *10 United States Statutes*, 700; Governor Bragg to R. McClelland, September 26, 1855, Governors Letter Book 43, p. 277, NCDAH; James Taylor to R. McClelland, June 25, 1856, RG 75, M-234, 98:302-03.
28. Mooney, "Myths of the Cherokee," quoted on p. 170; see also p. 169.
29. Russell, "William Holland Thomas," 358-61.
30. James W. Terrell, Reminiscence, 7, James Terrell Papers, WCU; Stringfield, historical account, 106-107; Mooney, "Myths of the Cherokee," 170; Russell, "William Holland Thomas," 394.
31. Samuel W. Scott and Samuel P. Angel, *History of the Thirtieth Regiment Tennessee Volunteer Cavalry, U.S.A.* (Philadelphia, 1903; reprinted Blountville, Tn., 1973), 321. William W. Stringfield, an officer in the Thomas Legion, took particular exception to this account of the Indians' participation. Stringfield, historical account, 73-74.
32. *New York Times*, March 15, 1863, p. 8; see also Russell, "William Holland Thomas," 393-94; Mooney, "Myths of the Cherokee," 171; J. B. Jones to Commissioner of Indian Affairs D. N. Cooley, March 16, 1866, RG 75, M-234, 100:513; and Blackston McDannel to Andrew Johnson, July 7, 1864, Andrew Johnson Papers, Library of Congress.
33. Mooney, "Myths of the Cherokee," 171-72; Russell, "William Holland Thomas," 398, 401-02; Y. J. Morris to Thomas, November 25, 1865, Thomas Papers, Duke; George W. Bushyhead to D. N. Cooley, March 19, 1866, RG 75, M-234, 100:233. The Quallatown Cherokees said in a memorial to the Commissioner of Indian Affairs that "several hundred" Cherokees had died from smallpox, including many of the chiefs. RG, M-234, 100:893.
34. Governor Worth to General Assembly, February 5, 1866, Governors Letter Book 53, p. 47, NCDAH; Act of February 19, 1866, *Laws of North Carolina, Session of 1866* (Raleigh, 1866), 120 (also in RG 75, M-234, 100:229-30); Report of Senate Judiciary Committee (July 27) in 1868, James Taylor Papers, Duke; Stringfield, historical account, 107-08; C.C. Painter, *The Eastern Cherokees, A Report* (Philadelphia, 1888), 10-13; *U.S. v. Boyd et al.*, 83 *Federal Reporter*, (1897), 547, 551, 553; Mooney, "Myths of the Cherokee," 180 (note 1). Lanman, *Letters from the Alleghany Mountains*, 95, said a state law allowed the Indians to vote before the Civil War, but that the Cherokees seldom exercised the right because they did not want to be identified with any political party. This writer, however, found no such law nor any evidence of the Indians participating with whites in elections prior to the war. If so, Thomas's many political opponents would certainly have objected.
35. Act of July 27, 1868, *15 United States Statutes*, 228; *Laws of North Carolina, Session of 1889* (Raleigh, 1889), 889; Neely, "Acculturation and Persistence," 168-71.