Mountain Politics: What Happens if the Wrong Party Wins?

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November 2, 1920 was election day throughout the United States. As war weary Americans went to the polls, anxious to put western Europe's problems behind them, Democratic presidential hopefuls Cox and Roosevelt lost to Republican stalwarts Harding and Coolidge. Under new and untested leadership, the nation prepared to "return to normalcy," prosperity, and blessed isolationism. In North Carolina, however, normalcy meant that Democrats, not Republicans, carried all 11 congressional districts by more than thirty thousand votes—reportedly the greatest majority in state history. But as celebrations kicked off across the Old North State, dark clouds were gathering over the western horizon.

After an evening of gaiety and great expectations, post-election day dawned a bit differently for Democrats in the mountain counties. As local editions hit the streets, partisans discovered that despite widespread support for national and state tickets, the Grand Old Party had swept Jackson County's races for the third time in recent years. Even worse, five more western counties—Macon, Graham, Clay, Swain, and Cherokee—also reported substantial increases in Republican majorities. If Democrats were to regain control in western North Carolina, something would have to be done—and fast!

Before Jackson County Republicans had a chance to savor their victories, Democrats demanded a recount and complete canvass of the election. Partisan leaders knew that once the culprits in each district were identified and "put to the challenge," it would not take long to correct "mistakes" in balloting and declare the "true" winners. Although newspaper reports and court documents are helpful, lost records and the passage of time make it difficult to determine exactly what took place during the Canvass Board hearings. But this much is certain. The election was overturned in favor of local Democrats and because they supported the wrong political party in Jackson County, North Carolina, the Eastern Band of Cherokee Indians was disfranchised for the next twenty-six years on the grounds that they were wards of the federal government and not bona fide state citizens.

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Although Americans often take citizenship and voting rights for granted, historically these were cherished and jealously-guarded privileges. In fact, before the 14th Amendment was ratified in 1868, only native-born whites were considered to be "natural" U.S. citizens with full rights and privileges. Naturalized citizens ran a close second, of course, while recent immigrants and non-whites were barely in the race. The original constitution was vague on the subject of citizenship, leaving the states to set their own standards. Thus it remained for the Supreme Court to define the parameters. This was done in the mid-1850s amid the rising tensions of sectional strife.

When the Supreme Court handed down the Dred Scott decision in March 1857, Chief Justice Roger B. Taney's majority opinion shook the Union. In defining U.S. citizenship, the Chief Justice visualized two categories of eligible persons. First were "native-born whites" or those "descended from persons considered to be citizens of the several states at the time the constitution was adopted," and second, those naturalized after immigration. Although citizens must be native or naturalized, said Taney, all persons born on American soil were not citizens. Children of foreign ambassadors, Indians, and "persons of color in general" were excluded. The Chief Justice based his opinion upon a narrow interpretation of the U.S. Constitution, in tandem with the Declaration of Independence and the Articles of Confederation. These documents had never granted said status to Blacks, thus Negroes could not become citizens [national or state] "by any means whatsoever." 6

Taney's opinion created an interesting paradox. As a southern Federalist-turned-Democrat and staunch advocate of states' rights, the Chief Justice tied the party line. Individuals born in the U.S. derived their civil rights and national citizenship from their status as state citizens. Therefore state citizenship took priority over national! A state might also grant state citizenship to persons born outside the United States (including the territories), but this did not make them American citizens. Aliens had to be naturalized according to uniform national immigration and naturalization laws. In upholding Congressional prerogatives to define those laws, Taney weakened his own position. By implication, if the federal government could undermine a state's authority to regulate citizenship within its borders by excluding Blacks, nothing was truly sacred. Nevertheless, Negro citizenship was declared unconstitutional—period.

Indians, on the other hand, as the nation's "aboriginal inhabitants," were "entirely eligible" for naturalization according to Taney. While they could not arbitrarily declare themselves to be citizens, Native Americans willing to separate from their tribes and owe allegiance to the United States government could become naturalized through acts of Congress, ratified treaties, or formal application. Afterward they were entitled to the same rights and privileges as other "foreign immigrants." Unlike Blacks, Indians could also become state citizens if agreeable to the individual states.

In its primary form the Dred Scott decision was relatively short-lived. Following the Civil War the 13th, 14th, and 15th Amendments granted former slaves their freedom, citizenship, due process and equal protection under the law, and voting rights. In addition to overturning Dred Scott, Congress placed national citizenship above
state definition by establishing *jus soli* (birth on American soil) as the legal basis for U.S. citizenship. *Jus sanguinis* (citizenship of one's parents) had been favored up to that point. The 14th Amendment dealt the states' rights movement another blow by providing means by which an increasingly powerful federal government could reign in traditional powers of the states.

Thus by 1870, blacks were bona fide U.S. citizens possessing the same rights and privileges as whites—theoretically. But what about the masses of unnaturalized Indians? Did the Reconstruction Amendments apply to them as well? Although that seemed to be the case, the answer was no. A few stumbling blocks remained. These were elucidated by the Elks v. Wilkins case of 1884.9

In 1880, an Indian named John Elk was denied the right to vote in Nebraska on the basis of non-citizenship. Elk later filed suit claiming that his civil rights under the 14th and 15th amendments had been violated. The case eventually reached the Supreme Court. Because the issue had been hotly debated in Congressional hearings on the Civil Rights Bill of 1866 and the 14th Amendment, the majority ruled that the framers and supporters of those bills had not intended to grant blanket citizenship to "wild, roaming Indians." Two anti-Indian clauses had been written into the amendment's final draft in order to avoid such confusion.10

The Elk ruling also upheld those portions of Dred Scott which applied to Indians. Birth on American soil did not make them citizens. In the absence of Congressional acts or treaties, Indians born or living within the "tribal condition" who were seeking to become U.S. citizens had to separate from their tribes, settle down, and apply for naturalization. They could not declare themselves to be American citizens by simply taking up residence among whites and paying taxes, as John Elk had done. This ruling was reinforced by United States v. Wong Kim Ark (1890).

Despite such legal complexities and entanglements, there were plenty of citizen Indians to be found. Among these was a small group of Cherokee living along the Oconaluftee River in the mountains of western North Carolina. As was frequently the case, trouble began when these Indians tried to exercise their rights and privileges and discovered they denied. Recalling that before 1868, although Native Americans could become naturalized by a variety of means, the rights associated with citizenship could only be obtained through the states in which they lived, especially the right to vote. National citizenship meant very little locally. Where Indians were accepted as state citizens they had civil rights and where they were not accepted, as in North Carolina, they had none.11 After 1868, although naturalized, non-tribal, tax paying Indians were legally citizens of the U.S. and the states in which they lived, very little changed. Like Blacks, Native Americans remained at the mercy of their states.12

Because they met those criteria, one assumes that the Oconaluftees (of N.C.) became *de facto* citizens in 1868. Unfortunately, this was not the case. As the 14th Amendment neared ratification, hard times forced them to seek the aid and protection of the U.S. government.13 Once recognized as a distinct tribe under the supervisory care of the Commissioner for Indian Affairs, the Eastern Band of Cherokees (formerly the Oconaluftees) were no longer eligible for citizenship. In practice, however, the state granted the Cherokee permanent resident status in 1866 (a reward for serving the Confederacy) and by 1868 North Carolina tacitly, if not officially, accepted the Band as tax-paying, voting citizens.14

For the most part whites seem to have ignored the handful of Indian voters because they did not influence local elections. But as time passed and electoral margins grew slimmer, Democrats recognized that Cherokee votes cast for the GOP might one day stand between them and victory.15 When that day arrived in November 1920, tolerance of Indian voters came to a screeching halt in Jackson County.

Although controversy surrounding Cherokee citizenship boiled over in 1920, it had been simmering for nearly a century. In fact, efforts to prevent tribal participation in state and local politics may have begun as early as 1817. In that year an extensive land cession treaty was negotiated by Major General Andrew Jackson. This treaty divided the Cherokee Nation into two units, East and West. In formally securing land beyond the Mississippi River for the Western Cherokees, Jackson encouraged those wishing to remain in the East to take up personal reservations and become U.S. citizens.16 This was the only way they could be assured of retaining their ancestral homes and improvements. Of course, national citizenship meant virtually nothing without a *quid pro quo* from the states. And North Carolina refused to comply.

So many Eastern Cherokees wished to remain on ceded lands in North Carolina, Tennessee, Georgia, and Alabama, that another treaty was concluded in 1819 by Secretary of War John C. Calhoun.17 Under these agreements federal lands in the West were exchanged in proportion to tribal lands in the East. With less acreage within the old Cherokee Nation open to white settlement, the 1819 cession was required to balance what had been granted in the Arkansas Territory.

Although most of the mountain Cherokees eventually moved west, agent Robert Houston reported that as of late November 1820, forty-nine heads of household had applied for North Carolina reservations under these treaties.18 William Walker and Yona (Big Bear) received their reservations (and citizenship) as signees of the 1819 treaty, bringing the total of North Carolina reserves to fifty-one.19

As ceded territories became available, state officials wasted little time in surveying and selling acreage to whites. Predictably, some federally assured reservations were sold during this bonanza. As historians have indicated, this was probably due to the state's eagerness to obtain new territory and revenue from land sales rather than malicious intents to defraud the Indians.20 It is also possible that although the
Indian lands had been surveyed and brought to the attention of the sales commissioner for this area, these tracts may not have been registered with local officials. This was because Houston intended to ship the plats to Washington en masse after the surveyor completed his work in Alabama. The sales continued as federal and state authorities battled for jurisdiction in this matter.

Hostilities between citizen Indians and white settlers escalated for several years. Although the matter of jurisdiction could not be solved as handily, a landmark decision in *Eu-the-lia v. Welsh* (1824) upheld the Indians' rights to their land. The state was ordered to reimburse the Cherokees for acreage already lost and allow them to settle elsewhere in the area. While a few returned to tribal lands, relinquishing their U.S. citizenship in the process, most remained in the vicinity of the Oconaluftee River where they became known as the Oconaluftees (or Qualla) Citizen Indians. Folk history notwithstanding, this group formed the nucleus of the latter-day Eastern Band of Cherokees.

As time passed, the Qualla Indians remained aware that despite their legal status as landowners (and soon to be taxpayers), they would never be secure until North Carolina accepted them as permanent residents and citizens. Because they had been "imposed on, cheated, and defrauded" long enough, Chiefs Yonaguaska, Long Blanket, and Wilnota, plus fifty-seven other citizen Indians, appointed John L. Dillard as their attorney and representative in June 1829. The Oconaluftees formally acknowledged their separation from the Cherokee Nation at this time. Dillard was soon replaced by prominent businessman and politician William Holland Thomas, who had been adopted by the tribe as a youth.

Because the Qualla Indians were only marginally associated with the Cherokee Nation, they were not expected to move west when the Treaty of New Echota was signed in 1835. But having learned not to rely on the kindness of strangers, the Oconaluftees took steps to safeguard their future in December 1836. At this time they petitioned the North Carolina legislature for permission to remain in the state as citizens under Article 12 of that treaty. They also requested legislation protecting them against fraud after the Nation moved west. The General Assembly acquiesced in passing the Indian Fraud Act in January 1837, which implied their right to remain in the state since it did not take effect until after removal. But despite Thomas's best efforts, racial and political considerations prompted legislators to withhold the brass ring by their refusal to declare the Cherokees to be full-fledged North Carolina citizens.

This standoff continued for years. Because the (Oconaluftee) Citizen Indians were neither fish nor fowl as far as the state was concerned, they were never secure in their property or civil rights. For this reason, Thomas purchased land for the Cherokees in the mountains of western North Carolina throughout the years when removal seemed to be a possibility. Having been instructed to convey this land "in such a manner as to prevent it from being sold," with few exceptions Thomas kept the titles in his own name until well after the Civil War.

When the War began, W.H. Thomas--now Colonel Thomas--realized the Confederacy would eventually press the Oconaluftees into service. Therefore, in a dual effort to keep the Indians together and improve their overall chances of remaining in the state, the Colonel mustered nearly 400 Indians into a legendary unit known as the Thomas Legion. Among these were full-bloods who spoke virtually no English. After serving "the Cause" with distinction, the Cherokee troops returned to their beloved mountains only to face disease, starvation, and all manner of deprivations. These problems were compounded as their white chief succumbed to debilitating mental illness and financial ruin caused by the war. With Thomas periodically hospitalized and no longer capable of managing his affairs, his vast holdings fell into the hands of creditors. Included were the titles to more than 50,000 acres of Cherokee land.

When poor health forced Colonel Thomas to step down as white chief, he left his adopted people without money, guidance, and the titles to their land. For serving the Confederacy the Cherokees had finally acquired their long sought status as permanent North Carolina residents. But the people were barely surviving. Unable to pay taxes or handle their legal affairs, the Oconaluftees applied to the U.S. government for aid and were placed under the supervisory care of the Commissioner of Indian Affairs—a move which not only made them wards of the federal government, but also placed them on a collision course with the future.

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When Jackson County voters entered the polls on 2 November 1920, they had their civic work cut out for them. On the ballots were eighteen state and federal offices, nine local races, and two constitutional amendments. Although little concerning campaign issues or individual candidates exists, post-election coverage indicates that local Democrats clearly expected to win. When the GOP swept all nine races, that confidence quickly turned to rage and disbelief. Refusing to accept defeat by less than one hundred votes, partisan leaders demanded an immediate recount and complete canvass (meaning a precinct by precinct examination) of the election.

In accordance with North Carolina statutes, canvass proceedings began at the Jackson County Courthouse at 11 a.m. on 4 November, the second day after the election. For the most part compliance with established legal procedures began and ended at this point. As the courtroom filled with spectators, tension steadily mounted as howling Democrats vowed to overturn the election and belligerent Republicans swore to retain victory at all costs. Once the meeting began and Canvass...
Board members H. A. Pell; H. C. Moss (clerk); E. M. Moss; P. N. Price; John Phillips; M. R. Matthews; J. C. Brown; S. T. Bryson; J. J. Cowan; R. W. Green; R. B. Shuler; C. P. Dillard; T. H. Queen; J. J. Mason (chairman); Ramsey Dills; G. H. Moody; and P. A. Brown were sworn in, conditions deteriorated as the crowd realized there were fifteen Democrats and only two Republicans on the panel. Although it would appear that the deck had been deliberately stacked against the GOP, state laws required that precinct judges appoint one of their number to serve on the Board. Since fifteen of seventeen precincts were predominantly Democratic, that party held the majority. As it stood, the outcome was a foregone conclusion—and everyone knew it!

As canvassing got under way, an Asheville attorney representing the Democrats fired the first shot by challenging (meaning to question) a number of votes cast in Barkers Creek township, the county’s heaviest Republican stronghold. Trouble began when attorney J. Walter Haynes proposed throwing out the votes of “one hundred and five illiterate women from Barkers Creek,” whom he claimed should have “come under the grandfather clause [of 1900] just like the Negroes.” Among the spectators a free-for-all erupted as a group of men jumped to their feet and surged forward, belowing that their women had been insulted. Haynes had implied, of course, that these women should have never been allowed to register and vote.

According to Democrats, several hundred “wild mountain men” from Barkers Creek stopped the proceedings by threatening Haynes and the Board, while Republicans contend that seventy-five to one hundred “civilized men” merely voiced their opposition. At any rate, the crowd settled down after local attorney George Sutton (for the Republicans) proposed waiving literacy requirements for white voters in both parties. It was further agreed that legal age, precinct residency, and payment of poll taxes would be accepted as the only grounds upon which votes could be challenged. With order restored the hearings adjourned until 9 a.m. Friday.

As the errant attorney left the building, a crowd followed him down Main Street to the Commercial Hotel. There they continued to jeer at him “in ever increasing numbers.” With tempers flaring and a mob estimated to have numbered between one and three hundred, Board chairman J. J. Mason telegraphed Governor Thomas W. Bickett requesting him to send the state militia to Sylva. Rather than sending in the troops, the Governor urged everyone to calm down and allow the canvassing to continue. However, added Bickett, the Board should remove the precinct boxes to Waynesville or Asheville for counting if the “best citizens” could not force the others to “behave and recognize authority.”

Just when things seemed to be cooling down, several men who reportedly had been drinking and carrying guns gave Haynes fifteen minutes to get out of town—or else! While it is anyone’s guess as to whether the crowd would have become violent, a number of prominent citizens pressed the attorney not to tempt fate by remaining in Sylva. Later that afternoon Republican D. G. Bryson drove Haynes to the depot in Addie Community “in a real fast car,” where he caught the next train to Asheville. Although it is not clear why local Democrats engaged his services in the first place, J. Walter Haynes displayed his legal acumen by not returning to Jackson County.

Despite explicit regulations governing canvassing, the Board acted haphazardly for several weeks. Chairman Mason adjourned the hearings from day to day without apparent reason and conducted the entire process under highly unorthodox circumstances. For example, after several voters contacted the Sheriff and swore that they had registered for one party but had “accidentally” voted for the other, the Board subtracted votes from each side. Another instance involved ballots cast by several soldiers. These votes were challenged because the men failed to pay their poll taxes on time, meaning on or before the first of May each election year. By disqualifying these ballots the Board ignored a state rule exempting military personnel from paying poll taxes while on active duty.

With obvious contempt for the statute prohibiting canvass boards from “going behind the results of an election,” the Board stubbornly refused to certify the election in favor of the Republicans after several days of hearings. Despite extremely close margins (ranging from twenty-eight to eighty-seven ballots), the number of successfully challenged votes was still too low to overturn the election by 13 November. The Asheville Times announced on 15 November that canvassing had ended and the Republicans had won, but this was clearly not the case.

As the hearings dragged on yet another week, the atmosphere in Sylva became volatile once again. Fueling the fire this time were two “stuffed” ballot boxes—one from Sylva and one from Barkers Creek. According to state law, stuffed boxes were to be automatically disqualified. Had this been done not only would hundreds of true ballots have been sacrificed for the sake of a dozen false ones, but there would have undoubtedly been another fracas. Having already decided against disqualifying those precincts, the Board was under intense pressure to pronounce the winners. But since the Democrats refused to concede the election, the canvassing continued as polls relentlessly sought some means to their end.

Fortuitously an opportunity soon presented itself. It seems that when the ballots of Qualla township were first counted, the Board discovered that two Indian women whose registration had been successfully challenged on the basis of illiteracy had cast ballots anyway. Although there was no mention of throwing out the Indian vote at that time, by mid-November the situation had become desperate. While several precincts (including Qualla) were being recounted on 18 November, Clerk H. C. Moss moved to disqualify all Indian voters on the basis of their questionable citizenship. Not surprisingly, the majority of Cherokees voted Republican.

Realizing this tack would spark controversy—and overturn the election—Moss claimed a legal precedent in the Hyatt case of 1900. At that time in dismissing allegations against two registrars charged with refusing to register Indian voters,
Judge James E. Boyd found the Cherokees to be wards of the federal government, and not citizens with voting privileges. After H.A. Pell seconded the motion, Republican H.R. Queen challenged the Board's authority to make such a decision and requested time to research the issue. Chairman Mason decided instead that the ballots cast by duly registered Cherokees would be allowed to stand since no one had challenged their rights to register and vote before the election. But when the canvass had been completed and victory was still not within reach, Moss's suggestion seemed more attractive.

As word quickly spread that the Indians might be disfranchised despite Republican objections, the committee accepted Governor Bickett's suggestion to move the hearings from Sylva to Asheville—another Democratic stronghold. The Board was convened in the Burcombe County Clerk of Court's office on 19 November. Although several precincts remained under scrutiny, the main issue was the fate of the Indian vote. A number of spectators were present as usual, including two Cherokee Indians--former Chief Dave Blythe (1915-1919) and Carl Standingdeer, a graduate of the Indian school at Carlisle, Pennsylvania. The Asheville Times reported that Chief Blythe lent a "particularly impressive air" to the proceedings as he pledged that the votes of his people, the "original Americans," not be thrown out. But the die had already been cast. Democrats had sacrificed Indian interests before and were fully prepared to do so again.

Despite Republican claims that the North Carolina Supreme Court had already recognized the Cherokees as state citizens, the following Tuesday, J. Mason called the roll on H. C. Moss's motion to throw out the Indian votes. With thirteen of seventeen members present the motion easily passed by a margin of nine-to-two. Mason and C. H. Moody abstained from voting. Shortly thereafter, as Dave Blythe identified the voters, registrar Gilbert Moody and precinct Judge K. Howell stated their party affiliations and removed the names of eighty-three Indians from the Qualifying Precinct book. There were seventy-nine Republicans and four Democrats. Among Republicans, forty-two were women and thirty-seven men. By disqualifying all Cherokee voters the Board subtracted a total of one hundred and eighteen ballots from Republican candidates while removing only twenty-seven from the Democrats. No actions were taken regarding the stuffed boxes.

With their task "properly" completed, the Board adjourned to Sylva. On Wednesday, 24 November, Chairman Mason stood at the front door of the Jackson County Courthouse and announced that with two exceptions the Democratic candidates had won the election. After being sworn in by Clerk of Court W. L. Henson they would begin serving their two-year terms on Monday, 6 December. With that declaration, the election of 1920 was officially over—at least for the day.

As expected after such an emotional and prolonged ordeal, this matter was not easily laid to rest. The day J. Mason called the roll on the Cherokee vote, H. R. Queen announced that the Republicans would seek legal action if the election was overturned. Attorney General James S. Manning authorized the ousted candidates to initiate quo warranto proceedings on 3 December 1920. Although the authenticity of Manning's letter was later questioned by Democratic attorneys, the Republicans began filing against their competitors on 16 December. For the sake of expediency the individual suits were later consolidated into Z. V. Watson, et al. v. E. L. Wilson, et al.

When these cases appeared on the Superior Court docket in February 1921, despite numerous allegations of wrongdoing on both sides, there was only one question to be settled: Were the relators (Republicans) duly elected to office on 2 November 1920? When Republican attorneys J. B. Britt and the firm of Smathers and Ward, Setton and Stillwell, produced the original election returns as proof, Democratic attorneys L. M. Bourne, G. Lyle Jones, Felix Alley, Walter E. Moore, Theo F. Davidson, W. R. Sherrell, C. C. Buchanan, and J. J. Hooker, called for a judgment of non-suit based on the lack of prima facie evidence. Judge B. F. Long, a newly-elected Democrat, concurred. J. B. Britt then requested a jury trial. In countering the Republicans, L. M. Bourne suggested that the judge appoint a referee to hear each case rather than subject the court to a lengthy trial requiring "hundreds and possibly thousands of witnesses." Upon consideration Judge Long agreed to appoint attorney J. E. Mallonee of Murphy (another prominent Democrat) as referee on the condition that each candidate post a bond of $1,500 and agree to divide evenly any additional court costs.

The attorneys began arguing their cases before Mallonee in March 1921. Despite numerous questions involving the legality of the Canvass Board's actions, Mallonee upheld the judgment of non-suit on 21 April. On 28 April Republican attorneys filed responses with the Clerk of Court indicating their clients' refusal to accept the referee's decision and their intentions to seek another trial. They would take their grievances all the way to the Supreme Court if necessary.

Apparently the relators fared no better the second time around. Not only were the cases bound over to another referee, attorney E. B. Breeze of Brevard, but his ruling was never recorded. Since these suits were under consideration well into 1922, it is possible that approaching elections simply rendered Breeze's opinion moot. Yet after nearly two years of bitter controversy, it is curious that court records do not indicate the final disposition of these suits or the thousands of dollars in secured bonds posted by the litigants. While it is probably safe to assume that the defendants received their money, there is no official documentation.

It is also interesting that this episode did not adversely affect the defendants' political careers. Of the original seven, five were reelected in 1922 despite the elec-
As noted, the Republicans began filing suit in December 1920. When I discovered these records in the basement of the Jackson County Courthouse, each packet was found to contain numerous documents. Among these were the relators' complaints and defendants' responses; all bonds and court bills of cost; copies of Attorney General Manning's letter granting permission to begin quo warranto hearings, and J. D. Mallonee's decision in the 1920-21 suits. Folders from the second round of suits (which began in October 1921) contain the same items, minus the judgment and final disposition of the cases and bonds.

The documents within these folders make interesting, not to mention entertaining, reading. They also provide a unique glimpse into Jackson County's political history. Many charges were leveled against the Democrats, including the Board of Canvassers. Among these were illegal canvassing procedures; unfair challenging practices; allowing some who did not pay a poll tax to vote; vote buying; ballot box stuffing; dragging drunks to the polls; misuse of absentee ballots; intentional replacement of impartial precinct judges and registrars with friends of the Democratic candidates; and refusing to register GOP voters, the majority of whom were women. The two most serious accusations were conspiring to disfranchise the Cherokee Indians and "going behind the results of a fairly won election." 48

In response, the Democrats charged Republicans with intentionally disrupting the hearings; pooling money to pay the poll taxes of illegally registered Indians; and otherwise influencing them to vote their ticket. The "influences" included cash, liquor, food, and political promises. Additional allegations mirror those leveled against the Democrats. In each case the names the of "illegally registered" and "injured" (wronged) parties within each precinct are listed as proof.

From these allegations it is apparent that despite warnings from Governor Bickett, local Democrats may have underestimated Republican polling power among the two groups targeted by the GOP—women and Cherokee Indians. In August 1920, while lamenting the effects female voting would have on race relations within the state, the Governor urged ratification of the suffrage amendment. Waving sentimental, Bickett declared that if many women voted, the white government for which North Carolinians had fought "with their backs against the wall," would be destroyed. 47 State Democrats obviously believed that most women willing to "barter their precious birthright" of political non-participation for the "very sorry mess of potage" called suffrage were either Black or Indian.

Although it has been suggested that Democrats were simply "caught off guard" by the unusually large Cherokee turnout, the local newspaper reports something more. In June 1920, around primary time, the Jackson County Journal ran several articles of interest to political strategists. Featuring Commissioner of Indian Affairs C.C. Sells, the first article states the federal government's intention to revoke wardship status and grant citizenship to individual Indians as soon as they were found capable of handling their own affairs. 43 Since the Eastern Cherokees were well acculturated, having been both taxpayers and voters (in small numbers) since 1868, this article could have been an open invitation to register new voters within the tribe.

Another article paid homage to women's suffrage by highlighting voter training courses at Chapel Hill. There more than eight-hundred coeds were "learning how to register and vote, pay poll taxes, and successfully challenge illegal voters." 40 Although women's suffrage never gained momentum in Jackson County, there were coeds in Cullowhee attending what would later become Western Carolina University. And where there were students, there was hope. It seems that the local movement received a serious blow when a national suffrage speaker attacked the Bible for "holding women back" during a Sylva address in December 1912. 44 After that regrettable faux pas, Democrats closed the coffin of what was believed to have been a dead issue.

Completing this threesome was a warning from the GOP that unless Southern Republicans recruited more voters, this region would be penalized by a reduction of representatives in future national conventions. 45 When this information is coupled with the subsequent voter turnout, a pattern of successful recruiting emerges.

Sadly, few precinct records from that era have been preserved. This makes it difficult to tell how many women voted in this election, much less to which party they flocked in the greatest numbers. But one may safely assume that most adhered to local (and national) customs by supporting their "family" party. Because the electoral margins between candidates were so slight, female voters played a crucial role in this election despite lingering hostilities towards women's suffrage. Information gleaned from legal documents and precinct records (primarily from Barkers Creek) indicate that women of all ages turned out to register and vote in 1920, as they did for every election thereafter. 46 Court records also reveal that the majority of Cherokee voters were women.

Granting that Republican registrars probably did crucially Qualla area looking for voters, making some promises along the way, there is no proof that the Party pooled money to pay the Indians' poll taxes as alleged by the Democrats. At that time the tax could not exceed two dollars per voter and had to be paid in person. Despite claims that the Cherokees had not been assessed poll taxes for "a great number of years" and their names did not appear in the Sheriffs receipt book, Qualla records indicate that at least nineteen Indians paid poll taxes in 1909. 48 Since ten of those nineteen are known to have voted Republican in 1920 and at least one more
probably voted Democratic (Sibbald Smith), it is possible that some of them had been paying poll taxes all along. This cannot be proven one way or another if the sheriff's records have apparently been destroyed and efforts to locate a privately held receipt for 1919-1920 have not proven successful.

The possibility that Cherokees were poll tax-paying voters is also heightened by the fact that several Indians placed their names in Jackson County's Permanent Registration book between 1902 and 1908.64 Mandated by section 4, article 6 of the North Carolina constitution, this roll waived literacy requirements for all males eligible to vote on 1 January 1867 or their direct lineal descendants.65 Registrants received certificates from the Secretary of State prohibiting precinct judges from questioning their ability to read or write thereafter. Taken together this evidence not only proves that some Indians paid poll taxes after 1900, but elucidates the Cherokee's belief in and claims to state citizenship, despite their tribal standing.

Aside from partisan efforts to recruit Cherokee voters in 1920, history was also on the side of the GOP. The Indians had been reluctant to identify with either political party during the 1840s and 50s for fear of offending the wrong group at the wrong time. Nevertheless, they favored the Democrats until after the Civil War, because of W. H. Thomas's activities. After the tribe came under federal protection in 1868, however, Republican influences began to take hold.66 Although historians debate the reasons for this political about-face, the fact remains that by the mid-1880s most Cherokees voted Republican. Local Democrats blamed this misfortune upon the arrival of Quaker school superintendent Henry W. Spray and his wife, Anna. Mrs. Spray is said to have been an enthusiastic suffragette.

The Sprays' alleged influence over Indian voters may have extended into 1920. In explaining the healthy turnout of young voters it has been suggested that in addition to teaching young Cherokee girls to read and write, Anna Spray may have encouraged their belief in women's suffrage.67 When questioned during the canvass hearings why more Indian women had voted than men, C. W. Standingdeer replied that more women than men could read and write English, thus they were able to pass the literacy tests designed in 1900 to block minority voters.68 This factor, coupled with the effects of increased acculturation and interaction with whites; available media sources; and military and civilian participation in World War I, increases the probability that it was Anna Spray's former students and their daughters who made history by becoming the first Cherokee women to vote in Jackson County. They were also the voters whose ballots pushed the Republicans across the finish line.69

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Despite passage of the General Citizenship Act of 1924 conferring U.S. citizenship on all American Indians, the Eastern Band of Cherokees remained disfranchised in Jackson County until 1946. Did they accept this situation passively? Despite a flurry of activity in 1920, the answer appears to have been yes. Granting that silence does not always imply consent and can in fact be deceiving, especially within "traditional" societies, there is no evidence that the tribe took formal actions on its behalf until 1946. However, there were a few individuals who were determined to regain the franchise. Among these were Sibbald Smith and Henry Owl.

Between 1924 and 1928, Sibbald Smith wrote to Democratic Congressman Nathan B. C. Pemberton several times begging for help in this matter.70 As Congressman from western North Carolina, Weaver served on the Indian Affairs Committee and helped draft the Allotment Act of 1924. Smith, related to former Principal Chief Nimrod J. Smith, was a Democrat. He was also permanently registered in Jackson County under the grandfather clause to the constitutional amendment of 1900. Weaver said he had been unable to look into Smith's problem in time for him to register for the 1928 election because he had been out of town. It seems more likely that despite his connections and interest in the Eastern Band, the congressman feared angering his white constituents by aiding "unpredictable" Cherokee voters. Had they not voted the wrong ticket before? In remarks published in the Asheville Times, Indian agent Ralph Starnes later accused Weaver of political cowardice in his failure to fight for Cherokee voting rights.

Sylva businessman and political leader E. Lyndon McKeever also wrote to Weaver in October 1928 requesting clarification of the Cherokee's citizenship status.71 On the heels of the General Citizenship Act had come the Allotment Act 1924, drafted in part by Congressman Weaver. While the former conferred the full rights of citizenship upon all Native Americans, the latter implied that these rights would not be forthcoming until the land held in common by the Eastern Band had been allotted to individual Cherokees. Despite interest in private ownership by some members of the tribe, there was no real movement in that direction. According to McKeever, by 1928 Democratic registrars were under intense pressure to register Indian voters (for either party) and needed advice. If the Cherokees were not legally U.S. citizens, then registration was pointless. But if they were citizens, then perhaps stiffer educational requirements could be instituted to discourage them at the polls. Because of his candidacy and potential conflicts of interest, Weaver dodged the bullet by advising McKeever to seek advice elsewhere.

Also noteworthy were the efforts of Henry Owl, a graduate of Lenoir-Rhyne College and the University of North Carolina at Chapel Hill. Owl testified before the Senate Committee on Indian Affairs on 26 May 1930 that he had repeatedly been denied voter registration in Swain County despite the Citizenship Acts of 1924 and 1929. The latter had been intended to quell confusion arising from the acts of 1924. Owl insisted that he met all legal requirements and could pass any literacy tests produced. The registrar at Ravensford precinct (in Swain County) had nevertheless refused to examine him because he was an Indian and not a citizen. Attorney W. G.
Hall witnessed this incident and testified that other Cherokees had been similarly denied registration in his presence. In conjunction with Owl's testimony was an opinion issued by state Attorney General Dennis Brummett. In a letter to the Jackson County Board of Elections dated 9 May 1930, Brummett stated that he believed the Indians "are probably within their rights to vote under the Act of 25 June 1929," but it would most likely take a court case to determine that right "without a doubt." He recommended that they be allowed to register in the meantime if otherwise qualified.

Accepting that more Cherokees were concerned with surviving the Great Depression than participating in county elections, one wonders why the Band failed to press its advantage at this time. After all, there were those who clearly wished to hasten assimilation and "Americanization" processes on the reservation. Yet, instead of pursuing their complaints against Jackson and Swain counties, the Cherokees allowed this issue to drift throughout the 1930s. But times were changing. In 1946 more than 300 honorably discharged veterans once again found their paths to the polls blocked by intransigent registrars. Having fought totalitarianism abroad, these veterans made it clear that they would no longer be treated like second-class citizens at home. It was time for action.

The Steve Youngdeer American Legion Post in Cherokee formed a six-man franchise committee, headed by post commander Jack Jackson. Allied with lodges throughout western North Carolina, this group lobbied the local election boards in earnest. When talk failed to produce action by the May deadline for primary registration, the committee hired Asheville attorney Frank Parker to represent them. (One assumes the Band's chances of retaining unbiased legal counsel locally to have not been good.) Again the veterans got nowhere. Finally, the Youngdeer Post informed U.S. Attorney General Tom Clark of their grievances. By June 1946, federal wheels began to turn.

It is hardly surprising that in facing the prospects of a federal lawsuit, Jackson County registrars began registering Cherokee voters. By October 1946 the names of seventy-nine Indians had been placed on the books. Although many of these registrants were in their early twenties and mid-to-late thirties, and, unlike 1920, men outnumbered women nearly two-to-one, the majority were middle-aged or elderly. Among these were several whose names had been stricken from the rolls in 1920. That these folks reregistered at the first opportunity underscores their desire to participate in the democratic process and their determination to be recognized as American citizens. It also indicates that the Band may not have accepted disfranchisement as passively as has been believed.

Because voter qualifications are stated in the front of most precinct books, it is amazing that the Cherokees had to fight so hard to register. Of course, hindsight is always 20/20. As of 1 January 1940 the requirements were

1. Citizenship, native or naturalized.
2. Age 21 by time of the election.
3. Residence of one year in the state and 4 months in the precinct where casting ballot.
4. Educational ability, unless permanently registered under the grandfather clause, to read or write any section of the state constitution in the English language to the satisfaction of the registrar.

** There are no requirements as to sex, county residence, or payment of poll tax or any other tax.

The addendum regarding taxation deserves particular attention, because from 1924-46 local officials prohibited Cherokees from voting in Jackson County because the federal government had removed their lands from county tax rolls in 1924 in preparation for general allotment. Allotment never came and the Qualla Reservation remained federal and therefore nontaxable by state or local authorities. Since those qualifications were taken directly from the North Carolina constitution and election laws of 1939-40, neither of which had been changed since 1921, the time-honored tradition of denying qualified Cherokees their right to vote on the basis of their tax-exempt status was patently illegal.

***

Jackson County Democrats needlessly feared the resumption of Cherokee voting. As precinct records and election results clearly indicate, the GOP never regained its influence on the Reservation. Then, as now, the Democrats held a comfortable majority. Political insiders have indicated that although the Band takes little interest in county affairs, when the Cherokees vote in local elections they usually vote Democratic. In state and national elections they tend to vote Republican. This is an interesting twist in light of what happened in 1920. Although it has been seventy-two years since the Cherokees were disfranchised and a lot of water has passed under the bridge, this also indicates that the Band may have adopted the number one rule of mountain politics: In order to get along, go along.

That this election was overturned by discarding the Indian votes offends modern sensibilities, but it was neither illegal nor unconstitutional. There were sound traditional and legal precedents on both sides. As is typical of matters involving Native Americans, this situation remains open to personal interpretation. Some would argue, for instance, that Cherokees descending from the original [Oconaluftee] Citizen Indians were already citizens and their constitutional rights were violated. If those Indians became U.S. citizens between 1817 and 1821 and were never forced to relinquish that status, that would appear to be true. But if Band members lost
their citizenship by resuming tribal relations in 1868, then according to subsequent court rulings they were wards of the federal government and not bona fide citizens possessing full rights and privileges. This argument is reinforced by the fact that although it could have easily done so in 1866 (or earlier or later for that matter) the North Carolina General Assembly refused to accept the Cherokees as state citizens.

Thus, it would have been perfectly legal (and proper) for the Board of Elections to have thrown out the Indian votes on 4 November 1920. But the decision was not made until almost three weeks later when it was obvious that the election could not be otherwise overturned. This reticence stemmed from a number of reasons. First, precinct registrars and judges were solely responsible for examining and registering persons within their districts. Once a voter’s name was placed on the books, he or she was duly registered unless successfully challenged and disqualified.

Second, good ward bosses always knew how their constituents intended to vote, for promises were made well in advance of each election. This was why persons were identified by party affiliation and eliminated during the canvassing shenanigans. Because Republican registrars had been replaced in plenty of time to locate and register stragglers in most districts, Democratic strategists found themselves in an unenviable position. Angry pols had to admit that their men in Qualla had (1) allowed an unusually large number of Cherokees to register; (2) failed to challenge their registration; and above all else, (3) not recognized or taken seriously their intentions to support the GOP.

As an interesting aside, challenging was an affair for which everyone in the precinct turned out. It was pure entertainment. The registration books were open by law from 9 a.m.-3 p.m. the Saturday before each election at the usual polling places. Anyone could (and did) question anyone else’s qualifications to vote in that ward. If the challenges were met, then all was well. If not, the individual was stricken from the books. According to court records, the Qualla books were open for inspection and a few voters were challenged on the basis of illiteracy and so forth. But there were no general protests against Indian voters. Since everyone knew the Cherokees intended to vote the GOP, it is clear that the Democrats did not feel particularly threatened by their participation—that is, until the wrong party won.

Finally, it is possible that the local machine did not wish to alienate the tribe by blatantly disqualifying their ballots. After all, if the Indians really were on the fast-track to allotment and full citizenship as Indian Commissioner Cato Sells had intim-itated, there would have been several hundred potential voters for the Democrats to woo and win. But progress towards general citizenship was stalled at the federal level, perhaps indefinitely. This left the Democratically-controlled Canvass Board in the awkward position of having to choose between saving the Cherokee votes and losing the election or throwing them out and claiming victory for their party.

In the end the real issue was not whether the Cherokees were state citizens or federal wards or why they had suddenly registered and voted. The problem was that too many Indians had been allowed to register and they had not voted democracy, the wrong party won—again. There can be no doubt that had the shoe been on the other foot those eighty-three ballots would have never been seriously challenged. Recalling that it was their erstwhile friend Andrew Jackson who en-rolled the Oconaluftee Citizen Indians to remain in western North Carolina after 1817, it seems fair to conclude that their descendants not forsaken the Party of Jackson in the County of Jackson, the Eastern Band of Cherokee Indians would have never been disfranchised for helping the wrong party to win.
Appendix I Cherokee Reservations in North Carolina, 1820

On 21 November 1820, in a letter to Secretary of War John C. Calhoun, Indian agent Robert Houston reported the names of 49 Cherokee heads of families who had applied for personal reservations in North Carolina and 17 who wished to remain in Tennessee. The North Carolina reserves are listed below. In addition to these 49, Yona and William Walker received their reservations as signees of the Treaty of 1819, bringing the total to 51. Special Files of the Office of Indian Affairs, 1807-1904, National Archives, 25/1303-1305, Special File 31. See also William G. McLoughlin, The Cherokee Ghost Dance, Essays on the Southeastern Indians, 1789-1861, (Mercer University Press, 1984), 181-191, Table 1.

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<tr>
<td>Con-naughty</td>
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<tr>
<td>Big Tom</td>
<td></td>
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<tr>
<td>Johnston (or Johnson)</td>
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<tr>
<td>Back Water</td>
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<tr>
<td>The Fence</td>
<td></td>
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<tr>
<td>The Old Mouse</td>
<td></td>
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<tr>
<td>Am-ma-cher</td>
<td></td>
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<tr>
<td>Eu-chu-lah (Euchella)</td>
<td></td>
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<tr>
<td>The Wolf</td>
<td></td>
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<tr>
<td>Coo-lee-chee</td>
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<tr>
<td>The Trout</td>
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<tr>
<td>Little Deer</td>
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<tr>
<td>The Whippetwill</td>
<td></td>
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<tr>
<td>The Six Killer</td>
<td></td>
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<tr>
<td>Ah-leach</td>
<td></td>
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<tr>
<td>Ool-lah-nottee</td>
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<tr>
<td>Too-le-noos-tah</td>
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<td>Parch Corn Flower</td>
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<tr>
<td>Ca-te-hee</td>
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<tr>
<td>Suaga</td>
<td></td>
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<tr>
<td>William Reed, for wife</td>
<td></td>
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<tr>
<td>Yoon-ne-giskah</td>
<td></td>
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<tr>
<td>Toonangh-heale</td>
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<tr>
<td>Gideon F. Morris, for wife</td>
<td></td>
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<tr>
<td>Jack</td>
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<tr>
<td>John Welsh</td>
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<tr>
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<tr>
<td>The Cat</td>
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<tr>
<td>Big Tom</td>
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<td>Wallee</td>
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<tr>
<td>Johnston (or Johnson)</td>
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<td>The Club</td>
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<td>Back Water</td>
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<tr>
<td>Jacob</td>
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<tr>
<td>Thomas</td>
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<td>The Old Mouse</td>
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<td>Panther</td>
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<td>Eu-chu-lah (Euchella)</td>
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<td>Yellow Bear</td>
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<tr>
<td>The Wolf</td>
<td></td>
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<tr>
<td>Jenny (a widow)</td>
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<tr>
<td>Coo-lee-chee</td>
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<tr>
<td>The Bear going in the Hole</td>
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<tr>
<td>The Trout</td>
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<td>John</td>
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<td>Little Deer</td>
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<td>Beaver Toter</td>
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<td>The Whippetwill</td>
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<td>He-ne-lah</td>
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<tr>
<td>The Six Killer</td>
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<tr>
<td>John Bean</td>
<td></td>
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<tr>
<td>Ah-leach</td>
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<tr>
<td>Wha-ya-kah or Grass Grow</td>
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<tr>
<td>Ool-lah-nottee</td>
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<td>Ske-ken</td>
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<td>Too-le-noos-tah</td>
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<td>Bag or Sap Sucker</td>
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<td>Parch Corn Flower</td>
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<td>John Quichey</td>
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<td>Ca-te-hee</td>
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<td>Eunoach or Trout</td>
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<tr>
<td>Suaga</td>
<td></td>
</tr>
<tr>
<td>Old Nancy (or Old Nancy Widow)</td>
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<tr>
<td>William Reed, for wife</td>
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<tr>
<td>Oo-santerake</td>
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</tr>
<tr>
<td>Yoon-ne-giskah</td>
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<tr>
<td>Tegentasey</td>
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<td>Toonangh-heale</td>
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<tr>
<td>Sharp Fellow</td>
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</table>

Appendix II Quallatown Indians Adverse to Removal, December 1836

The Quallatown Indians listed below petitioned the North Carolina legislature for permission to remain in the state as permanent residents and citizens in December 1836. Numbers in () represent family members. Senate Document 408 (29-1), Serial 477, 17-19.

<table>
<thead>
<tr>
<th>Name</th>
<th>Number</th>
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<tbody>
<tr>
<td>Yonaguska</td>
<td>(9)</td>
</tr>
<tr>
<td>Long Blanket</td>
<td>(3)</td>
</tr>
<tr>
<td>Wil-nota</td>
<td>(7)</td>
</tr>
<tr>
<td>John Sonih</td>
<td>(6)</td>
</tr>
<tr>
<td>Tom Canough</td>
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<tr>
<td>Tiyahah</td>
<td>(4)</td>
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<td>Siula or Weaver</td>
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<td>Tutlesta</td>
<td>(4)</td>
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<tr>
<td>Flying Squirrel</td>
<td>(5)</td>
</tr>
<tr>
<td>Ooh-sowih</td>
<td>(4)</td>
</tr>
<tr>
<td>Cotutta</td>
<td>(8)</td>
</tr>
<tr>
<td>Aroneach</td>
<td>(6)</td>
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<tr>
<td>Tarapin or Culasowah</td>
<td>(5)</td>
</tr>
<tr>
<td>Nicko-jack</td>
<td>(9)</td>
</tr>
<tr>
<td>Ooh Sowih</td>
<td>(6)</td>
</tr>
<tr>
<td>Chuheluh or Fox</td>
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<td>Tetonneeska</td>
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<tr>
<td>Che-ye-nana</td>
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<td>Little Jake</td>
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<td>Ula-nah-hih</td>
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<td>Co-ult</td>
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<td>Wallis</td>
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<td>Chigasutta</td>
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<td>(4)</td>
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<tr>
<td>John Davidson</td>
<td>(2)</td>
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<tr>
<td>Chugotoih</td>
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<tr>
<td>Total</td>
<td></td>
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<td>333</td>
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Appendix III Republican Cherokees, 1920

Because these names were taken directly from court records, misspellings are "original." Of these 79 voters, 42 were women, 37 were men. Of 42 women, 32 were married. In 1946, of 79 registrants, 27 were women, 52 were men. Names and ages in () are from 1946 records. Z.V. Watson v. E.L. Wilson.

*Areenech, Jeff (Arneach, 72)
Arenchech, Mrs. Sarah
*Bigmeat, Mrs. Charlotte (59)
Bigmeat, Isaiah (Isaiah)
*Bigmeat, Robert (45)
Bigmeat, Mrs. Sarah
*Bigwitch, Joseph (75)
Bigwitch, Mrs. Sally
Backfox, Charlie
Blythe, David
*Blythe, Jarrett
Blythe, Mrs. Mary
Blythe, Mrs. Nannie
*Bradley, Henry (63)
Bradley, Joe
Bradley, Miss Nancy
Calonaheskee, Miss Alice
Crowe, Mrs. Annie
*Crowe, J.W. (Crow, 63)
Crowe, Joseph
Crowe, Mrs. Margaret
Cucumber, Miss Annie
Cucumber, Arch
Cucumber, Miss Gena
Cucumber, Mrs. Katie
Cucumber, Mrs. Lizzie
Driver, Mrs. Carolina
Driver, Ned
Featherhead, Wilson
George, Dawson
George, Elijah
*George, Shorn (75)
Georgie, Mrs. Rosie
Goings, Bird
Hips, Mrs. Nannie
Hornbuckle, Mrs. Alice
Hornbuckle, Miss Maggie
Hornbuckle, William
*Hornbuckle, Miss Doris
Hornbuckle, Mrs. Eliza (Konott)
Kanot, Mrs. Cora
Lambert, John
Lambert, S.C.
Lambert, Mrs. Virdie
Littlejohn, Mrs. Levi
Littlejohn, Wiggins
Long, Mrs. Mary
*Long, Mrs. Katie
Sanders, Mrs. Polly
Sannook, Mrs. Molinda (Saunooke)
Smith, Duffy
*Smith, Elwood (60)
Smith, J.D.
*Smith, Jacob Owl (65)
Smith, Mrs. Nan
Smith, Mrs. Olive
*Smith, Oliver (49)
*Smith, T.J.
*Sneed, Cam (Camble, 57)
*Sneed, Mrs. Mindie (57)
*Stampfer, Mrs. Nell (74)
*Stampfer, Mrs. Sallie (72)
*Standingdeer, C.W. (64)
Stillwell, Miss Aminita Song
*Tarquitt, Mrs. Annie (Tahquette)
Taylor, Julius
Taylor, Miss Stacey
Tiger, Mrs. Rachel
*Tolneta, Mrs. Martha (53)
Tolley, Mrs. Lizzie
Welch, Mrs. Lottie
*Welch, Mrs. Maude (52)
Youngbird, Yona

* Denotes voters who re-registered in 1946.
Notes

3. *Asheville Times* 6 November 1920. The Asheville Times, owned by Jackson County entrepreneur C.J. Harris, was the GOP's regional organ. According to this article Republicans were growing so rapidly throughout western North Carolina that Democrats feared they would lose control if measures were not undertaken to "stem the tide." Although there was no mention of Cherokee voting in those counties, Indian populations were present in some (if not all) of them. The article further states that much of the Party's success, GOP majorities had averaged 300 in this election whereas in previous years the margins of victory typically ranged between 10 and 20 votes.
4. *Asheville Citizen* 3 November-21 December 1920; *Asheville Times* 5 November-24 November, 1920; Charlotte News and Observer, 6 November 1920; Jackson County Journal, 5 November-31 December 1920, 18 February 1921, 4 March-1 April 1921, 29 July 1921, 4 November 1921, 24 February-31 March 1922, 9, 26 May 1922, 13, 20, October 1922, 1 November 1922; Raleigh News and Observer 7,11,20,21,23,24 November 1920; Jackson County Superior Court, Sylva; Cross Reference to Court Papers: Jackson County Superior Court, Sylva; Minute Docket 11, 13, 26; Jackson County Superior Court, Sylva; Judgment Book M, p. 218-221 (individual cases filed collectively as Zeb. V. Watson, et al. v. Ernest L. Wilson, et al., hereinafter cited as Watson v. Wilson). Although documents generated by *quo warranto* hearings in 1921 and 1922 are available, the Sheriff's poll tax receipt book, Barker's Creek and Qualia township's 1920 precinct registers, and the canvass board's official minutes were apparently destroyed during the 1960s, if not earlier. No copies were made.
5. *Dred Scott v. Sanford*, 60 U.S. 393 (1857), hereinafter cited as *Dred Scott*. In this classic state's rights ruling Taney firmly upheld Congress's constitutional right to set uniform naturalization laws for the country. In doing so the Chief Justice qualified that prerogative by ruling that Congress could not declare Blacks to be U.S. citizens "by any means whatsoever" and neither could the individual states. This creates an interesting paradox in which Taney not only contradicted himself (regarding Congress), but also the state's rights position which declared such matters to be within the realm of the individual states. According to the dissenting opinion there were numerous cases where states had already accepted Blacks as citizens with voting rights. Taney ruled this to be unconstitutional because it had not been the original intent of the Declaration of Independence, Articles of Confederation, or the U.S. Constitution to grant said status to Negroes. The Chief Justice cites numerous states and precedents. Indians, on the other hand, because they were the nation's "aboriginal inhabitants," were "entirely eligible" for naturalization, but could not declare themselves to be citizens. The process had to be conducted according to rules set forth by Congress. Furthermore, the individual states could recognize Indians (unlike Blacks) as *bona fide* state citizens if they chose to do so, although without Congressional approval those Indians could not become U.S. citizens. Because Taney placed state citizenship anterior to national, which meant that one's civil rights were obtained through the state, in which one lived, state citizens were decidedly better off than those possessing national citizenship alone.
6. Ibid.
8. *Dred Scott*
9. *Elk v. Wilkins*, 112 U.S. 94 (1884), hereinafter cited as Elk. In April 1880, John Elk, an American Indian voluntarily separated from an unknown tribe, presented himself to Charles Wilkins, a precinct registrar in Omaha, Nebraska, for voter registration. Although Elk apparently met state requirements for registration, Wilkins turned him away because he was not a *bona fide* U.S. citizen. Elk later filed suit claiming that his constitutional rights under the 14th and 15th Amendments had been violated. The Court ruled against Elk in 1884 on the basis that although he had voluntarily separated from his tribe and had been living among whites for some time, he had not filed for naturalization with government immigration officials. Although it had been overturned by the 14th Amendment, the majority upheld those portions of the *Dred Scott* decision which applied to Indians. In doing so the Court ruled that Elk had no more right to arbitrarily declare himself to be a U.S. citizen than any other "foreign immigrant."

In their dissenting opinion, Justices Harlan and Wood eloquently argued that John Elk... "Born, therefore, in the territory, under the dominion and within the jurisdictional limits of the United States, the plaintiff has acquired, as was his undoubtedly right, a residence in one of the States", with her consent, and is subject to taxation and to all other burdens imposed by her upon residents of every race. If he did not acquire national citizenship by abandoning his Tribe and becoming subject by residence in one of the States to the complete jurisdiction of the United States, then the 14th Amendment has wholly failed to accomplish, in respect to the Indian race, what we think was intended by it; and there is still in this country a despised and rejected class of persons, with no nationality whatever; who, born in our territory, owing no allegiance to any foreign power, and living as residents of the States, to all the burdens of government, are yet not members of any political community nor entitled to any of the rights, privileges or immunities of citizens of the United States." See also Indian citizenship in *United States v. Wong Kim Ark*, 169 U.S. 649 (1898), hereinafter cited as *Wong Kim Ark*. 
Mountain Politics: What Happens if the Wrong Party Wins?

Linda Parramore Culpepper

Cherokee actually voted because Jackson County registers were not preserved. Based upon twentieth-century figures, one assumes their numbers were few. In Williams, 50, Frizzell also suggests that as state Democrats began their political renaissance in the early 1970s, local partisans may have garnered boundary lines between Jackson and newly created Swain County in order to destroy a potentially Republican voting bloc. By the time a federal court ruled that members of the Eastern Band were in fact wards and not U.S. or N.C. citizens, they were already basically cast as the wards for the GOP. See United States v. D. Boyd, 83 F.3d (4th Circuit, 1997), quoted in Commissioner of Indian Affairs v. U.S. in Congress, House, Fifteenth Congress, Second Session, (Washington, D.C.: Government Printing Office, 1897), Document No. 5, 579-84; Frizzell, 213.

1. Cgmt. H. R. 110, Ch. 117, in Charles J. Kappler, Indian Affairs: Laws and Treaties, 5 Vols. (Washington, D.C., 1904-1914), II, 140-44, hereinafter cited as Kappler. See also Papers of Andrew Jackson, vol. 45, 20 June 1817-22 October 1817, series 1, Reel 23, Microfilm 316, Western Carolina University. Under this treaty lands within North Carolina, Tennessee, Georgia, and Alabama were ceded to the U.S. in exchange for equal amounts in the West. See the provisions of the Treaty of 1817 by Major General Joseph McMinn (among government officials) and “the chiefs, head men, and warriors” of the Cherokee Nation east and west of the Mississippi River. The treaty was ratified on 26 December 1817. In terms of latter-day consequences, the most controversial features of this treaty are found in Article 8 as follows: “And to each and every head of an Indian family or otherwise now, or on the east side of the Mississippi River, or previously hereafter surrendered to the United States, who may wish to become citizens of the United States, the United States do agree to give a reservation of five hundred and forty acres of land, in a square, to include their improvements, which are to be as near the centre thereof as practicable, in which they will have a life estate, with a reversion in fee simple to their children, residing to the widow her dowry, the register of whose names is to be filed in the office of the Cherokee agent, which shall be kept open until the census is taken as stipulated in the third article of this treaty. Provided, that if any of the heads of families, for whom reservations may be made, should remove thereafter, then, in that case, the right to revert to the United States. And provided further, that the land which may be reserved under this article, be deducted from the amount which has been ceded under the first and second articles of this treaty.” This last clause accounts for the treaty of 1819.

This article raises some interesting questions about the nature of Indian citizenship. For example, according to the Chief Justice Taylor in Ex parte U. Wash., 10 N.C. Reports 155, 74-87 (1844), although “treaties and legislative acts are to be construed in good faith according to the ends of the act, and the purposes for which they were made,” and Jackson is assumed to have negotiated in good faith, it is not clear whether those receiving reservations actually became U.S. citizens. The treaty was ratified, therefore, if the phrase “who may wish to become U.S. citizens” was not meant to be interpreted as if the treaty-makers thought they were giving up the authority to grant citizenship; or, in short, whether the Indians ceded to them were already incorporated into the legal structure of the United States. Because the Indians acknowledged themselves to be under the protection of the U.S. government by virtue of the 1793 Treaty of Greenville (according to Chief Justice Taylor), in reality they may have been federal wards or at least quasi-citizens all along.

Regarding citizenship, the treaty of 1819 comes a little closer to stating it but once again falls short. Under Article 2 “…the United States do agree…to allow a reservation of six hundred and forty acres to each head of any Indian family residing within the ceded territory…who choose to become citizens of the United States, in the manner stipulated in said treaty” [of 1817]. One wonders if the Cherokees were required to take a loyalty oath or otherwise surrender their membership in the Cherokee Nation upon signing the roll. If so, their rights to land and citizenship (should not have been tied to their reservations. Supposing an Indian family wanted to sell their tract and move elsewhere? American citizens could live wherever they chose. If the head of the household was not a member of the tribe, giving up his (or her) several widows received land) U.S. citizenship in the process, were his children all the more entitled to remain on their reservation if their parents had ceded to the U.S. land sanguinis? If they were wards, the answer most likely would have been no. However, if they were in fact naturalized citizens, how could they have been refused? This policy seems to follow the assumption that tribal kinship and hierarchy would continue among the citizen Indians despite efforts to acculturate, civilize, and ultimately integrate them into white society. Another explanation lies within the fact that the government wished to extinguish Indian titles to abandoned properties, making such land available for r-sale.

With the Cherokee, 1819, Article 1, Kappler, 177-80.

In a letter to Secretary Calhoun, 21 November 1820, agent Houston listed the names of forty-nine Cherokee requesting reservations in North Carolina. Houston also stated that the reservations had been surveyed “agreeably to the treaties and opinion of the U.S. Attorney General” and that the commissioner appointed to “superintend the land sales at this place” was furnished with a list of all of the reserves taken subsequent to July 1818. Houston wanted the commissioner “to notice these claims at the time the lands were proposed for sale.” These lists and certificates are now on file at the U.S. Land Office in Washington as soon as possible. This list may be found in the Special Files of the Office of Indian Affairs, 1807-1904, National Archives, 25/1303, 1305, Specail File 31. For a list of Cherokee reservations granted under the 1817 treaty, alphabetized but not listed by add., see Journal and Account Book, 1801-1817, Records of the Cherokee Agency in Tennessee, 1801-1835, 13. Also Finger, Eastern Band, 10. See Appendix 1: North Carolina Reserves.

Treaty with the Cherokee, 1819, Kappler, 177-80. A number of Cherokee traveled to Washington to conclude this treaty with Secretary of War Calhoun in February 1819. The treaty was ratified on 10 March 1819.
See Calhoun's letters to Tennessee Governor Joseph McMinn, who served as Cherokee agent for this region from February 1823 on until his death in November 1824. The Secretary authorized McMinn to draw up to two thousand dollars "on this department" [for] defraying expenses and dispense the "goods," which included one rifle and ammunition, one blanket, and one brass cooking kettle or one beaver trap to each departing Cherokee warrior, as he had done in 1817. Although Calhoun stressed that these Indians accepting reservations were no longer "independent" and had to come under the laws of the United States, he never referred to them as citizens. See Calhoun's letter to Joseph McMinn, 29 December 1817 and 11 March 1818, in the McMinn Papers, Records of the Cherokee Indian Agency, 14; also Abstracts of All Letters Received, Secretary of War Regarding Indian Affairs, 22.

10 Finger, Eastern Band, 10-11.

11 Hunter to Calhoun, 21 November 1820.

12 Although the citizen Indians received reservations on federal lands, those lands were subsequently turned over to the state of North Carolina. This placed them in the awkward position of being U.S. but not state citizens, living on federal lands which had been more difficult if (as North Carolina) they did not. As North Carolina's sovereignty, the federal government assured its right to control and protect the Indian population by virtue of its treaty-making powers. Although one can understand why the government would intervene on behalf of the unaculturated, non-English speaking Cherokees, these actions call into question the status of the Indians again once. It appears that many of these Indians had not been federal wards. See Finger, Eastern Band, 10-11; also Ex-chella v. Welch, 10 North Carolina Reports 155, 74-87 (1824).


14 King, 166-7; Finger, 166. 11. This implies that government officials had not required the N.C. citizen Indians to formally renounce tribal membership upon becoming U.S. citizens. The Cherokee Nation, on the other hand, quickly severed relations with the Oconaluftee upon acceptance of the treaties of 1817 and 1819.

15 King, ibid, 168-78; Finger, ibid, 14-42.

16 Unfortunately this article, which bears a strong resemblance to Article 8 in the 1817 treaty, appeared in the treaty signed by representatives of the Cherokee Nation but was stricken from the copy ratified by the U.S. Senate. Since the North Carolina Cherokees were never parties to the treaty it appeared that without legislative recognition of their failure to remain in the state, the North Carolina and Cherokee claims were denied any claim to their Nation's allotment. Article 12 is as follows: "Thos 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 as such are qualified to take care of themselves and their property shall remain here to receive the benefits of all the personal benefits accruing under this treaty for their claims, improvements, and per capita improvements; as soon as an appropriation is made for this treaty. Such heads of Cherokee families as are desirous to reside within the States of North Carolina, Tennessee, and Alabama, subject to the laws of the same; and who are qualified or calculated to become useful citizens shall be entitled, on the certificate of the commissioners to a preemption right to one hundred and sixty acres of land or one quarter section at the minimum Congress price..." President Jackson allegedly removed this clause so that Cherokees wishing to remain would have to "acquire their own land and fend for themselves." W.H. Thomas went to Washington in an attempt to clarify the Oconaluftee's status regarding tribal allotments and rights to remain on their reservations. Although Thomas failed to get an iron-cad guarantee against removal, he was assured that the N.C. Indians were entitled to benefits under the treaty even though they had relinquished their membership in the Cherokee Nation. While trying to secure their state citizenship, Thomas purchased vast tracts of land throughout the western North Carolina mountains for the Cherokees as "insurance against future removal. See Finger, Eastern Band, 17. Also Treaty of New Echota, in Kappler, 439-49.

17 The Indian Fraud Act of January 1837 is as follows: "All contracts and agreements of every description made after 18 May 1838, with any Cherokee Indian or any person of Cherokee blood, within two years from the second degree, for an amount equal to or exceeding the value of the property therein to be made in writing, and signed by such Indian or person of Indian blood, or some other person by him authorized, in the presence of two witnesses, who shall also subscribe the same." Although some would argue that enactment of this protective legislation implied acceptance of the Cherokees as permanent residents and citizens of North Carolina, as another member of the tribe reissued in 1855, the Cherokees were not state citizens until the General Assembly passed an act declaring their citizenship. Act of 21 January 1837, Laws of North Carolina, 1836-1837, 30. Also see Finger, Eastern Band, 18. See Appendix II for a listing of Quallaung Cherokees who were "averse to removal" and wished to continue as "citizens of and subject to the laws of the State of North Carolina." Senate Document 408 (28-1), Serial 477, 17-19.

18 John R. Finger, "The Impact of Removal on the North Carolina Cherokees," in William L. Anderson, ed., Cherokee Removal: Before and After (Athens: The University of Georgia Press, 1991), 99, hereinafter cited as Finger in Anderson. Despite popular misconceptions that the Cherokees as permanent residents and citizens of North Carolina, as another member of the tribe reissued in 1855, the Cherokees were not state citizens until the General Assembly passed an act declaring their citizenship. Act of 21 January 1837, Laws of North Carolina, 1836-1837, 30. Also see Finger, Eastern Band, 18. See Appendix II for a listing of Quallaung Cherokees who were "averse to removal" and wished to continue as "citizens of and subject to the laws of the State of North Carolina." Senate Document 408 (28-1), Serial 477, 17-19.

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20 Watson v. North Carolina, supra; warrants proceedings in the Superior Court of Jackson County, North Carolina, Termination of tenure, 1821, case 1, file 1.

21 Consolidated States, not. 5994, "County Board of Canvassers," 394.

22 See consolidated States Board of the Canvass board hearings in the Asheville Citizen 3 November-21 December 1920, Asheville Times 5 November-24 November 1920, Charlotte News and Observer, 6 November 1920; Jackson County Journal, 5 November-31 December 1920, 18 February 1921, 4 March-1 April 1921, 27 July 1921, 4 November 1921, 24 February-13 March 1922, 1 November 1922, 19.26 May 1922, 12.20 July 1922, 1923, 71, 11,20,21,23,24 November 1920; Jackson County Superior Court, Sylva, Cross Reference to Court Pa-

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there had been no mention of throwing out Cherokee votes other than those who failed to meet state requirements in literacy, age, or residence. See Watson v. Wilson.

N.C. Statute 5983, Consolidated Statutes, 393. During the first count more ballots than registered voters were discovered in the Barkers Creek and Sylva boxes. Sylva was the largest Democratic precinct; Barkers Creek the largest Republican. Since disqualified either box would have generated controversy, the Board opted to have court records and newspapers previously cited all contain accounts of and references to the "riot" in Sylva, the more sensational and entertaining reports may be found in the Charlotte News and Observer and the Raleigh News and Observer.

In Watson v. Wilson, the relators claimed (and the defendants admitted) that the Canvass Board met on Thursday, November 12 and adjourned after declaring the disputed county until 9:00. On Friday, another incident disrupted the proceedings and prevented them from completing the canvass. They adjourned until Saturday the 6th at 9:00. The other stops and starts were as follows: after 6 November the board met on Tuesday the 9th at 2:30, adjourned until Wednesday the 10th at 2:30; met on Wednesday the 16th at 2:30; met adjourned until Wednesday the 17th at 9:00; met again until Thursday the 18th at 9:00, when they "refused to declare the election;" adjourned and "secretly" decided to move the proceedings to Asheville on Friday 19 November at 2:30 pm, in spite of laws (Statutes 5985 and 5986) stating that canvassing must remain open until Monday the 22nd at 8:00. The board then completed the canvass without delay and declared the winners. When these actions were discovered the Board adjourned until Saturday 20 November at 9:00 am, at which time counsel for the Republicans was denied; adjourned until Tuesday 23 November at 9:00 am, at which time 118 votes for the GOP candidates were thrown out. The Board then adjourned to meet in Sylva on Wednesday 24 November at 10:00 am, at which time they "pretendingly" completed the count and canvass and publicly announced the Democratic winners.

Asheville Citizen 12 November 1920; Jackson County Journal 12 November 1920; Raleigh News and Observer 20 November 1920, Watson, et al. v. Wilson, et al. Interestingly, the Canvass Board members, precinct judges, and spectators who attended these sessions all knew how each person in this large county voted, so the challenge was not based on the large number of challenged votes. Although it has been suggested that there may have been a system of colored ballots in use to identify each party, N.C. election laws were quite specific about the color (white) of paper used, its size, and the exact procedure for casting ballots. Since no eyewitnesses have surfaced with specific information on balloting procedures in individual precincts, there is no way of knowing how carefully the letter of the law was followed. According to the N.C. Election Board, there had to have been a measure of consistency or the state would not have certified the elections. Sources have related how good precinct judges always knew how their precincts voted because they had promised to give support to candidates well in advance of each election. Vote buying was common and was actually encouraged in those days and both parties participated in this practice openly.

As for challenging procedures, according to the 1919 N.C. Election Laws, challenges to voter qualifications were to be made on the Saturday before each election when each precinct judge was to keep the registration books open from 9:00 until 3:00 at the usual polling place. At this time anyone could review the list of voters and challenge—which means to question—the qualifications of any registered voter. Once challenged, the precinct judge was required to inform the registrant and resolve the issue. For example, if residency was questioned, the voter must prove he had lived in the state for two years, the country for six months, and 4 months in the precinct or ward in which he registered. If he was challenged for not paying the poll tax of up to $2.00—which had to be paid in person—he must produce his receipt, and the poll tax payment book maintained by the Sheriff had to be examined. If his age was questioned, he had to produce evidence of being twenty-one years old. His literacy was questioned, he must prove his eligibility by reading any section of the state constitution required by the precinct judge. If the voter successfully answered the challenge, then he was considered to be duly registered. If not, his name was stricken from the rolls. In every case the precinct judge was the one responsible for making the final decision of qualification. Although the Canvass Board heard challenges day after day during its proceedings—challenges which were not made in advance of the elections—the names of numerous voters eliminated prior to the election are found within Watson v. Wilson. See N.C. Statutes, nos. 5959-40 and 5971-82, 380-93.

North Carolina Statute 5986 grants..."the Board of Canvassers authority to judicially pass upon all facts bearing on the question of the qualifications of the electors in their authority and power to send for papers or persons. However... although the return of the Board of Canvassers in prima facie correct, their judgments or decisions are not so conclusive as to exclude collateral attack in a civil action in the nature of quo warranto." Furthermore, by Code 1883, Section 2694, "...the quasi-judicial functions of the Board of Canvassers are of an inquiry into an issue into an inquiry into the authenticity, the accuracy of the returns themselves (Petees v. Commissioners). The power conferred on boards is limited to canvassing the election and is confined to an examination and determination of regularity and authenticity and does not extend to inquiries into any facts by which it may be claimed that the election was fraud and invalid." See Consolidated Statutes, no. 5986, 385.

Asheville Times 15, 18 November 1920. On 18 November the paper announced that because the Democrats refused to canvass in Sylva was continuing and majorities were still being lowered. Up to this point

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In 1922, Raymond Nicholson was re-elected Register of Deeds. J.W. Davis, Treasurer; T.F. Buchanan, Surveyor; T.A. Dillard and G.C. Turpin, County Commissioners. The re-election of many of the county officials was a sign of the political stability of the area. According to the Jackson County Journal, 15 August 1922, "there has been no change of administration in our county, and the people are content with the existing government." The re-election of the incumbents was seen as an expression of the voter's approval of the work being done by the current officials.

Although the political landscape remained stable, there were still issues that needed to be addressed. One of the most pressing was the issue of women's suffrage. In 1920, women were granted the right to vote, and the effort to ensure their participation in the political process continued. The struggle for women's rights was a significant part of the broader movement for civil rights and social justice that took place during this time period.

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citizenship of the United States and of the State of North Carolina, in violation of the Fourteenth Amendment to the Constitution of the United States."

This argument, based upon the mistaken belief that Indians obtained their citizenship and voting rights under the 14th and 15th Amendments, harkens back to the earlier discussion of Indian citizenship. Further commentary on the potential impact of the court's decision on the status of Cherokee citizenship and the implications for the Cherokee Nation is discussed later in the article. In the meantime, the Cherokee Nation continued to work towards full recognition and equality for its members, both within the United States and internationally.
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J. Gordon B. McKinley in Williams, 237. The issue of women's suffrage never attracted much attention in Jackson County, however. Women's suffrage repeatedly attacked. The stake for holding women back during a Sylvan address in December 1912, the fledgling movement was dealt a serious blow locally.

Jackson County Journal 23 July 1920.

In accordance with state regulations requiring that voter registration lists be updated periodically, on 26 January 1950, the Arkansas County Register J. T. Jones completed transferring names from an old register into the "new register book" for this precinct. With his signature he certified that "this 418 names on the new book will be good until 1970." Among the names transferred were sixty-five women listed as having registered to vote in 1920. Three years later, in 1923, fifty-five of these names (at the time of registration) from 21 to 60, with a majority having been 21. This number represents less than half of the "105 illiterate women from Barren Creek Field," attorney W. J. Haynes would have wanted to disqualify at that election.

Of the 79 Republican Cherokee voters, 42 were women and 37 were men. Of those 42 women, 32 were named in Appendix III as names of Cherokee vote.

The Charles A. Bird Collection, Special Collections, Western Carolina University, hereinafter cited as the Bird Collection, contains a list of individuals from Quallatown precinct who paid their poll taxes in 1909. Of 192 names on the list, only 15 names, alphabetized separately at the end, are apparently Cherokee. A couple of poll tax receipts (not from Indians) are included in this file. See Frizzell, 217; also the Bird Collection at Western Carolina University. These 19 Cherokee are listed in Appendix V.

Among the Cherokee listed under Quallatown precinct in the Jackson County Permanent Registration Book, maintained in the Register of Deeds office, are James Blythe, age 45, and his wife, age 30. These men signed the roll on 24 October 1918.

Under Statute 5939, Registration of Voters (and section 4, article 5 of the N.C. Constitution), those individuals who were eligible to vote in N.C. on 1 January 1867 (presumably after the 1866 Civil Rights Act took effect) or their direct line descendants, were exempt from the educational (literacy) requirements imposed by a constitutional amendment in 1900 to restrict Black voting. Thereafter, upon presentation of a certificate issued by the Secretary of State, no precinct judge or registrar could require whether such an individual was an American Indian. In order to qualify for exemption under this grandfather clause, registrants had to present themselves between 1 October 1902 and 1 December 1908.

Although historians have proposed several explanations for this turn-about, the Cherokee, like Blacks, may have simply opted to follow political self-interest. During the War the Democratic South brought them nothing but suffering, yet afterwards the Republican federal government came to their aid. See Frizzell, 209; Frizzell in Williams, 53; and Finger, Eastern Band, 150-153.

Frizzell in Williams, 53.

Since the margins of victory ranged between 28 and 87 votes, had the Cherokee women voted, not 3 of 7 races would have gone to the Democrats. Regarding Indian participation in WWI and WWII, both as solders and civilians on the home front, see John R. Finger, "Conscription, Citizenship, and Civilization: WWI and the Eastern Band of Cherokee," North Carolina Historical Review, 3 (July 1980): 283-308; Finger, Cherokee Americans, 34-45; 97-143; and William J. Wood, "War and the Eastern Cherokee," Southern Indian Studies, 2 (1950): 47-53. Despite questionable legality and propriety in conscripting non-citizen (and often non-English speaking) Indians in the U.S. military; a number of Eastern Cherokee joined or were drafted into the armed services during WWI and in the "make the world safe for democracy." Wood suggests that many of these soldiers (particularly after WWII) were favorably impressed with the outside world and the opportunities offered by military life, such as education, training, travel, and economic security. They found themselves better able to mingle with civilians and to take pride in their "ancient warrior status." Along with their desire for material gain and that taking aggressive action against problems, whether alone or as a group, was more rewarding than disassociation or passive acceptance.

Although there may have been a general lack of interest in voting within the tribe, it is possible that area whites and their local political leaders actively discouraged Cherokee voting. In addition, the Cherokee were not evenly divided in their views regarding participation in federal elections. Frederick Jackson Turner, for example, wrote that the Cherokee "are not interested in the political life of the United States, and take no active part in political matters." The Cherokee did not share such sentiments, as the Cherokee were active in political matters for well over a century. The Cherokee, however, were also content to allow the whites to dominate the political life of the state.

In preparation for the general allotment which never came, the federal government took the Cherokee lands into trust and removed the Qualla Boundary from county tax rolls in 1924. The local newspaper estimated that in Jackson County alone the loss of tax revenue would exceed one million dollars. When the land was withdrawn from the tax rolls, the Cherokee were faced with the problem of paying for the building of schools, roads, and other public facilities. The Cherokee Nation was also faced with the problem of providing for the education of their children. The allotment of the Cherokee lands was a major setback for the Cherokee, as it removed their traditional source of income and provided little in the way of compensation.

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In 1926, the Cherokee Nation filed suit in the Supreme Court of the United States to have the allotment removed. The Cherokee Nation argued that the allotment violated the treaty rights of the Cherokee Nation and that the allotment was unconstitutional. The Supreme Court agreed with the Cherokee Nation and ordered the allotment removed. The removal of the allotment was a major victory for the Cherokee Nation, as it allowed the Cherokee to continue to live on their lands and to maintain their traditional way of life.
ored" column. It is also possible that some white Cherokees with anglicized names registered as "whites."

*See Appendix III, disfranchised Cherokees. Those with an * re-registered in 1946. In 1946, 27 Cherokee
women and 52 men registered to vote in Jackson County.

*Some of the old precinct books have these qualifications inside the front cover, along with sample ballots
from the 1930s. See also the Constitution of the State of North Carolina and North Carolina Election Laws, State
of North Carolina Public Laws and Resolutions Passed by the General Assembly at its Session of 1921 (Raleigh: Mitchell
Printing Company, 1921): 22-23; also Public Laws, 1939-40. See also Statute 5937, Voter Qualifications, Consoli-
dated N.C. Statutes, II, 380. Footnote 71 explains the local controversy over the tax-exempt status of Cherokee
lands. The legal basis for the federal government's action stems from McCulloch v. Maryland (1819), in which
Chief Justice John Marshall ruled that because "the power to tax was the power to destroy," states could not tax
federal lands or facilities. When the government took the tribe's land in trust, it became "federal" and hence-
forth non-taxable by the State of North Carolina and Jackson County.

*Despite Republican victories in 1926, the GOP never regained its strength in Jackson County. On 1 No-


November 1922 and 7,14 November 1946, the Jackson County Journal (later the Sylva Herald) proudly proclaimed
Democratic victories in the precincts "straight across," with the notable exception of Barkers Creek, due to the
"influences of the right type of people." Although the Sylva Herald reported that in November, 1946 the GOP
received its heaviest vote in recent years throughout western North Carolina, the greatest gains were made in
Haywood County rather than traditionally Republican Swain.

Beginning in January 1950, precinct registrars were required to indicate party affiliation beside each regis-
tered voter's name. Those who refused to declare themselves were not allowed to vote in the primaries. Ac-
cordingly, the number of Cherokees registering Republican between 1950 and the mid-1960s was low and con-
 fined to certain families. As of October, 1990 there were 679 Cherokees registered in Jackson County. In the
Qualla precinct, which includes 1,116 whites, 642 Indians, 3 blacks, and 3 "others," there are 934 Democrats, 712
Republicans, and 118 unaffiliated voters. See Qualla precinct book, 1950-1973, Registrars' Office, Jackson County
Courthouse, and Jackson County Statistical (breakdown of precincts), 10/08/90, obtained from the Supervisor
of Elections.