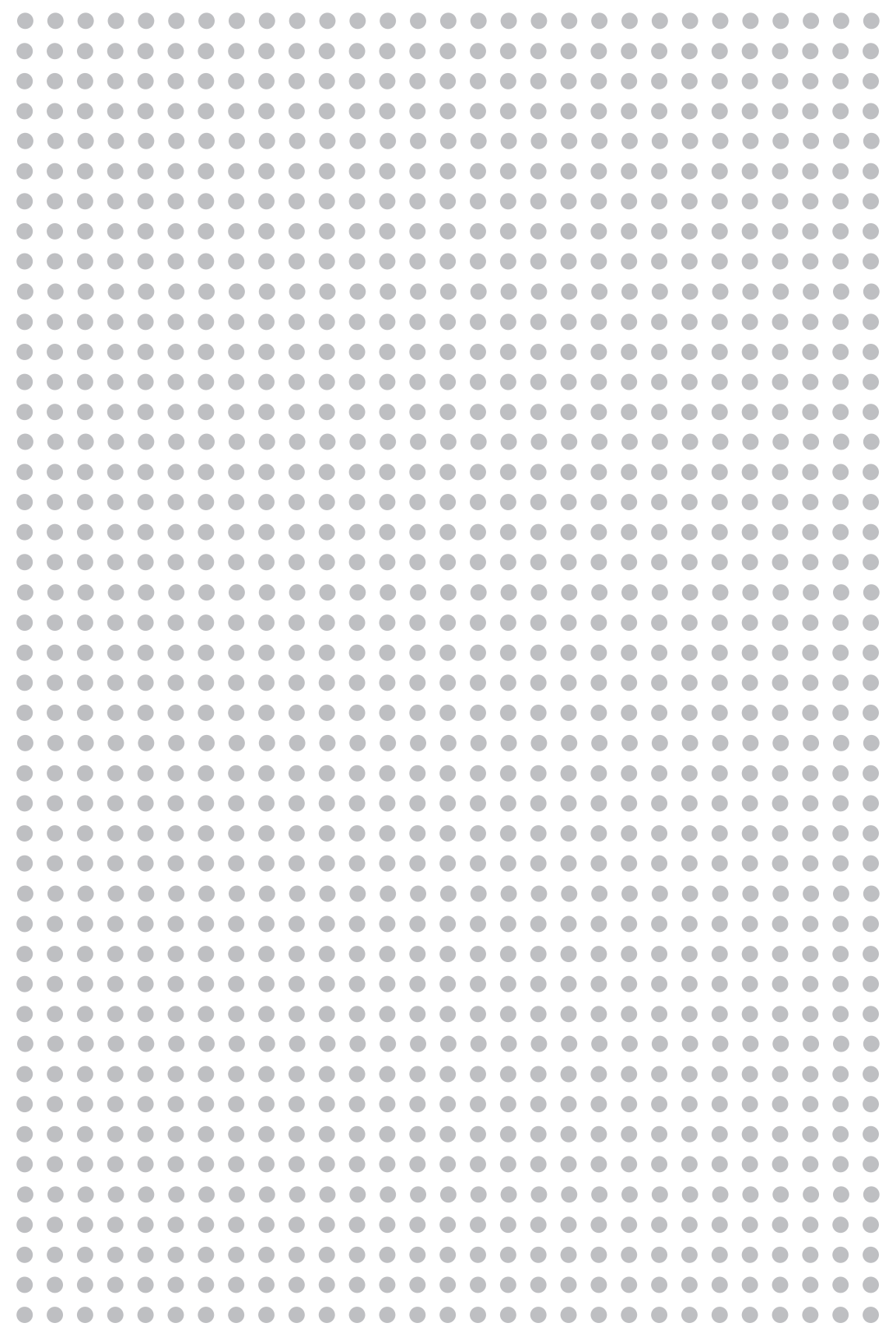


Tribal Economics and the Eastern Band of Cherokee

in the Twentieth Century

CHRISTOPHER ARRIS OAKLEY

NEW SOUTH INDIANS



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● ● ● ● ● **NEW SOUTH INDIANS**

Introduction

At 10:00 a.m. on November 13, 1997, Harrah's Cherokee Casino opened in the small town of Cherokee in the mountains of western North Carolina. Traffic snaked backward for miles along the highway leading to the new facility. Would-be gamblers waited in the cold rain outside the front doors for the chance to try their luck at one of the hundreds of new beeping, whistling, brightly flashing video gaming machines. In the early afternoon, Harrah's officials politely asked patrons to leave and return when the casino was less crowded and the wait to get inside would be shorter.¹

The casino, located on the reservation of the Eastern Band of Cherokee Indians, was an immediate success. Harrah's created jobs and pumped money into the local economy. But the Cherokee Tribal Council's decision to legalize gaming was difficult, controversial, and considered. During the 1990s Cherokee officials debated the advantages and disadvantages of tribal gaming, and they had to overcome significant opposition from

government officials and non-Indians in the region. Facing federal budget cuts, poverty, and unemployment, tribal council members ultimately voted to roll the dice and gamble on a large Las Vegas-style establishment. After the initial success of Harrah's, the Eastern Cherokee enlarged the casino, added new games, and built a modern hotel to house guests on extended stays.

Gaming was not the first attempt by elected Cherokee leaders to stimulate economic activity on their lands. They had been pursuing development in western North Carolina since the late 1800s. Sometimes they worked with external actors; sometimes they acted alone. Some ideas worked, and some failed. The opening of Harrah's, however, illustrated the evolution of the tribal government's power. During the first half of the twentieth century, federal policies and the institutional racism of the Jim Crow South limited the Eastern Band's options, and Cherokee leaders did not have the means or ability to pursue large or ambitious projects without assistance. At the same time, the emergence of a new southern economy offered opportunities. Over the course of the twentieth century, Cherokee leaders worked with external people and entities to establish their economic place in the region. As the national and regional context changed, so did their economic strategies. By the late 1990s, the Eastern Cherokees had become influential regional actors and acquired more internal power over the community. Moreover, the tribe had gained external authority to negotiate with outside people and agencies. The tribal council had become an integrated and interconnected regional economic institution. Thus the Eastern Band of Cherokees were not historical relics of the nineteenth-century Old South—they were New South Indians.

The idea for this book, like the Cherokee casino itself, originated in the 1990s. In the fall of 1997 I enrolled as a graduate student at the University of Tennessee to study southern Native American history under John Finger, who had authored a two-volume history of the Eastern Band of Cherokees. A few months after I arrived in Knoxville, Harrah's opened in Cherokee in western North Carolina, about a two-hour drive through the Great Smoky Mountains from the UT campus. The grand opening of Harrah's attracted significant local, regional, and national media attention, as did the larger success of casinos on Indian lands. I became

interested in learning more about reservation gaming and indigenous economic history in the South.

The following year I wrote a paper for a seminar examining the origins of gaming in Cherokee. The seminar was not on Native American history, but rather on twentieth-century southern history. I argued that Eastern Cherokee history was in fact part of southern history, and my professor agreed and approved my paper topic. While researching, I visited the reservation and the casino in the mountains of North Carolina. The paper focused primarily on the principal chief's and other tribal council members' decision to pursue gaming, the broader context in which that discussion was based, and their ability to overcome opposition to the construction of a large casino. The paper evolved into an article, "Indian Gaming and the Eastern Band of Cherokee Indians," published in 2001 in the *North Carolina Historical Review*. The decision to legalize gaming and build casinos was neither, as some have suggested, a threat to Indian culture nor a rebuke to Cherokee traditions. In short, the decision, though made possible by recent changes in federal Indian policy and an expanding southern tourist economy, was the culmination of a historical process. I subsequently turned my attention away from Indian gaming and concentrated on finishing my dissertation, graduating, and finding employment. But my interest in Native American economics in the modern South never disappeared. After accepting a tenure-track position at East Carolina University, I returned to the topic. The result is this book.²

Historians are inevitably influenced by their environments and contemporary events, and the opening of Harrah's sparked this project twenty years ago. The Eastern Band was one of numerous indigenous nations to legalize gaming in the 1990s. By the turn of the twenty-first century, more than two hundred tribes were operating more than three hundred gaming facilities on reservations across the country, and by 2004 Native American casinos in the United States were grossing \$19 billion per year. The profits, however, were not evenly distributed among those with casinos. Some, like the Pequots of Connecticut and the Seminoles of Florida, did very well, while many others were less fortunate. Proximity to population centers unsurprisingly was a vital factor in the profitability of tribal gaming operations.³

The explosion in tribal gaming sparked new interest in indigenous economics. Previously, scholars researching Native Americans in the twentieth century focused on tribal politics, the pursuit of sovereignty, and cultural preservation. But in the late twentieth and early twenty-first centuries, historians, economists, political scientists, anthropologists, and other scholars began asking new questions regarding tribal economic development on reservations. The result was a plethora of new scholarship. Some of it focused specifically on gaming, but other analyses looked more generally at Native Americans and economic growth in the twentieth century. Many of these new studies were broad and theoretical. Authors often referred to Native Americans generally, even while criticizing others for not recognizing indigenous diversity, and there were few examinations of specific Indian peoples. Moreover, scholars drew their data and examples mostly from Native Americans in the West, Midwest, or Northeast, ignoring the South.

Likewise, scholars of the modern South overlooked the region's Native presence, especially when examining the twentieth century. The major interpretive syntheses of the New South treated Indians as insignificant, isolated survivors of the Old South, and far too often the Trail of Tears marked the end of the indigenous presence in the southern narrative. Removal expelled the largest tribal nations in the region, but it did not eliminate southern Indians. In the twentieth century, Native Americans reshaped political institutions, formed new tribal governments, and integrated into the contemporary South. In recent years a growing body of scholarship has sought to restore Indian people to a prominent position in the history of the twentieth-century South. The founding of a scholarly journal, *Native South*, offered a venue for scholars seeking to publish new work. Mikaëla M. Adams, Denise E. Bates, Jessica R. Cattelino, Andrew K. Frank, Sarah H. Hill, Malinda Maynor Lowery, Katherine M. B. Osburn, Daniel H. Usner, and others have authored important books and articles on contemporary southern Indians. This exciting work has informed and influenced this project in numerous ways.

This study, therefore, is at the intersection of three paths of historical inquiry. First, it is an examination of twentieth-century indigenous economics, though one done on a smaller scale than most. Second, it is an

attempt to incorporate Native Americans, in this case the Cherokees, into the history of the contemporary American South. Finally, it is a new look at the Eastern Band of Cherokee Indians in the twentieth century that is designed to augment, not replace, previous studies. At the intersection of these paths was a question: What role did the Cherokee Tribal Council play in economic development from the incorporation of the Eastern Band in the 1880s until the opening of the new casino in the 1990s? In order to try to answer this question, a variety of primary and secondary sources was analyzed. The minutes of the tribal council meetings, the records from the federal agency in Cherokee, and the *Cherokee One Feather*, the official tribal newspaper, proved to be the most valuable primary sources. Oral histories, non-Indian newspapers, and other government sources were also useful. Among secondary sources, John R. Finger's two-volume history of the Eastern Band remains the starting point for scholars looking at post-removal Cherokee history in North Carolina. Most recently, Mikäëla Adams has examined how the Eastern Cherokees and several other southern tribal nations defined citizenship in the twentieth century. The work of Heidi Altman, Christina Taylor Beard-Moose, Ben Bridgers, George Frizzell, and Theda Perdue also contributed significantly to this project.⁴

The book begins with the incorporation of the Eastern Band in the 1880s and ends with the opening of Harrah's in the 1990s. In between, I argue that over the course of the twentieth century, the elected members of the Cherokee Tribal Council negotiated and constructed interdependent relationships with public and private entities to protect their land, control their resources, promote the economic common good, and create jobs for the core community of Eastern Cherokees in the mountains of western North Carolina. The nature of these relationships depended on the broader regional and national political and economic contexts. As those contexts changed, so did the actions and power of council members. Cherokee leaders pursued tribal interests, but they did so within the constraints of federal policies and Jim Crow segregation.

Although Cherokee officials disagreed and argued over particular strategies and approaches, they made difficult decisions to preserve the Eastern Cherokees' economic viability as a distinctive indigenous nation. Moreover, they fought to ensure the collective economic well-being of the

community. Initially, Cherokee leaders wielded little influence and depended partially on federal agents and non-Indians. However, Cherokee officials increased their regional influence over the course of the twentieth century, acquiring enough power to pursue their own economic agenda when national and regional changes presented new opportunities. Their actions ultimately embedded the Cherokee tribal government within the twentieth-century southern economy. It was not an easy process, but by the turn of the new millennium, the tribal council had solidified itself as a regional economic institution. The Eastern Cherokees appeared safer as a southern Native people than at any point since the removal era.

The book follows a mostly chronological approach, with chapters divided into thematic periods based on significant events or changes. Chapter 1 addresses incorporation of the Eastern Band under North Carolina law and examines how Cherokee officials initially tried to protect tribal resources during a period when federal representatives were assimilating Native Americans. At the same time, southern officials were transforming the regional economy, segregating the population, and denying non-whites equality. Chapter 2 describes how the New Deal and the Indian Reorganization Act of the 1930s strengthened the Cherokee Tribal Council, developed local infrastructure, and established a regional tourist economy, albeit one under the restrictions of Jim Crow.

Chapter 3 examines how Cherokee officials partnered with external groups in the post-World War II era to expand the tourist economy. These efforts led to the creation of three key cultural attractions: an outdoor drama, a museum, and a living-history reconstruction of an eighteenth-century Cherokee village. Once again, however, Cherokees acted under a hostile federal government, as Washington officials sought to terminate Native American tribal nations in the middle of the century. The growing economic significance of tourism in the New South, however, helped the Eastern Band solidify an economic place in the region.

The postwar civil rights movement started to change racial attitudes and undermine traditional stereotypes, and in the 1970s self-determination replaced termination as official federal Indian policy. Chapter 4 describes how Cherokee officials acted under this new policy and used Lyndon B. Johnson's Great Society programs to diversify economically by recruiting

manufacturing operations, a strategy inspired by the rise of the industrial Sun Belt. The final chapter focuses on the tribal council's decision to pursue high-stakes bingo and casino gaming. A Supreme Court ruling, a new federal law regarding Indian gaming, and changing racial policies in the South offered the Cherokee Tribal Council more bargaining power and opportunities. For most of the twentieth century, Cherokee leaders had cooperated with local whites, a necessity in a region defined by white supremacy, to develop economic strategies to benefit the region. But in this case tribal officials mostly worked alone and overcame resistance to the legalization of gaming. Although the study concludes with the opening of the casino, the pursuit of economic development on the Cherokee reservation remains an ongoing process.

When writing about American Indians, vocabulary is problematic, and the use of a few terms may trouble some readers. American Indian, Indian, and Native American are used interchangeably throughout the text, mostly to avoid repetition. None of these terms is ideal, and it is always preferable to use specific designations, such as Cherokee or Seminole, but general terms are sometimes necessary. Likewise, tribe, tribal nation, indigenous peoples, and Native peoples are also used. Tribe is particularly troublesome. The term is largely a European construct that masks the political complexity of American Indian polities and is inextricably linked with colonialism. But many Native Americans, including the Cherokees, co-opted these terms and employed them to their advantage—hence my decision to use them here.

A project initiated twenty years ago necessarily required the help and support of numerous friends, colleagues, and strangers. Scholars in Native American and southern history have provided invaluable support, input, and advice over the years at panels, conferences, dinners, and informal gatherings. I would like to especially thank John Finger, David LaVere, Theda Perdue, Malinda Maynor Lowery, Jeff Norrell, Lorri Glover, Katherine Osburn, Christina Snyder, Rose Stremmlau, Julie Reed, Andrew Denson, Mikaëla Adams, Jamie Carson, Greg O'Brien, Denise Bates, and Clara Sue Kidwell. My fellow faculty members, students, colleagues, and friends at East Carolina University have been very helpful, and I am lucky to work in such a supportive environment. I would like

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Good friends outside of academia lured me away from working too much on weekends, and I am thankful for their distractions. Special thanks to Rob Stover, Josh Aaron, and Brian Colligan. Much of the writing was done in coffee shops on Saturday and Sunday mornings. Thanks to the staff at Coffee Shack and Coastal Fog for supplying coffee and food in inspiring atmospheres. As noted above, this book originated as an article published in the *North Carolina Historical Review*. Thanks to Anne Miller and everyone at the *NCHR* for their assistance and support over the years. The research was done at a variety of locations, and I would like to thank the staff at the following archives and libraries: the Museum of the Cherokee Indian, the Southern Historical Collection and North Carolina Collection at Wilson Library in Chapel Hill, Hunter Library at Western Carolina University, the State Library and the North Carolina State Archives in Raleigh, the North Carolina Collection at Joyner Library in Greenville, Hodges Library at the University of Tennessee in Knoxville, and the Southeastern Branch of the National Archives in Morrow, Georgia. The staff at the North Carolina Department of Natural and Cultural Resources helped locate and provide some of the photographs, and I appreciate their enthusiastic assistance. I would also like to thank the following institutions and organizations for their financial support of this project: the Thomas Harriot College of Arts and Sciences at East Carolina University (College Research Award), the ECU Department of History (Brewster Scholar Award), the North Caroliniana Society (Archie K. Davis Fellowship), and the American Philosophical Society (Phillips Grant for Native American Research). The staff at the University of Tennessee Press has been a pleasure to work with. Reviewer comments and suggestions improved the manuscript. Special thanks to Thomas Wells for keeping me focused and on task. Twenty years ago this project originated in Knoxville; publication with UT Press completes the circle. And most importantly I would like to thank my family for their love and support: Alton Oakley, Loretta Oakley, Ronald Hall, Jennifer Hall, Callie Hall, Jake Hall, and Suzy Oakley, to whom this book is dedicated.

● Incorporation

In the spring of 1889 Chief Nimrod Jarrett Smith applied to incorporate the Eastern Band of Cherokee Indians under North Carolina law. In March members of the state general assembly approved incorporation, declaring “that the North Carolina or Eastern Cherokee Indians, resident and domiciled in the counties of Jackson, Swain, Graham and Cherokee, be and the same are hereby created and constituted a body politic and corporate under the name, style and title of ‘The Eastern Band of Cherokee Indians,’ with all the rights, franchises, privileges and powers incident and belonging to corporations under the laws of the state of North Carolina.”¹ Later that year tribal council members voted to accept the articles and bylaws of the corporate charter. Henceforth, the newly incorporated Eastern Cherokees could collectively own property, manage assets, enter contracts, and file lawsuits. The charter, amended in 1895 to outline the election and powers of officers, became the governing document for the more than 1,500 members of the

Eastern Band. With incorporation, the Cherokees of western North Carolina established themselves in the late 1800s as a defined legal entity with protected powers under state law.²

Incorporation marked a new beginning for the Eastern Cherokees. Since the 1830s they had eked out a self-sufficient existence in western North Carolina, living on scattered, isolated, and unwanted lands. Most had little interaction with the relocated Cherokee Nation in the West. Moreover, the Eastern Cherokees lacked political or economic unity. They had maintained their indigenous identity and social cohesion, but they had survived largely as interrelated communities bound by culture and kinship. In the American South, this way of life was common for Native Americans who avoided forced relocation, both the remnants of removed tribes and the other indigenous communities across the region. Starting in the post-Civil War era, however, the Eastern Cherokees, hoping to stake a permanent claim in western North Carolina, constructed a new unified status. The need for an economic strategy, the day-to-day means of staking that claim, would become a part of that construction. From the 1880s to the 1920s, the Cherokee Tribal Council acted under its new corporate status to protect Cherokee lands, provide for the community, and seek new economic options during an era when federal officials tried to assimilate all Native Americans and state officials tried to ensure white supremacy.

ORIGINS OF THE EASTERN BAND

On December 29, 1835, a small group of Cherokees met with US officials and signed the Treaty of New Echota. According to the terms, the Cherokees would give up their claim to all of their lands in the South for lands in Indian Territory west of the Mississippi River plus financial considerations. Upon hearing of this treaty, John Ross, the principal chief of the Cherokee Nation, complained that those who signed the agreement, who became known as the Treaty Party, did not have the authority to negotiate with the United States. Despite opposition from Ross and the majority of the Cherokees, the US Congress narrowly ratified the Treaty

of New Echota the following year. Members of the treaty party relocated to Indian Territory, but most Cherokees viewed the treaty as fraudulent and refused to leave. Consequently, in 1838 President Van Buren ordered Gen. Winfield Scott to relocate the remaining Cherokees. The result was the expulsion of sixteen thousand Cherokees from their homes. Approximately one-fourth died along the Trail of Tears.³

More than one thousand Cherokees managed to avoid removal to the West. About sixty Cherokee families living in North Carolina had severed political ties with the Cherokee Nation prior to the 1830s. Chief Yonaguska (Drowning Bear) was an influential leader of these Cherokees. Such families maintained social and cultural connections to the Cherokee Nation but were no longer members of it. Rather, they were individual Cherokees living in North Carolina, and thus not subject to the terms of the Treaty of New Echota. During removal, a few dozen members of the Cherokee Nation fled to the mountains in western North Carolina, where they hoped to evade the troops and settle among the Yonaguska Cherokees. But the majority of Cherokees in North Carolina had separated politically from the tribal nation well before removal. Therefore, the popular narrative that the Eastern Band of Cherokees consisted primarily of those who fled removal is, according to scholar Duane King, “a distortion and oversimplification of a very complex episode in Cherokee history.”⁴

According to Gregory D. Smithers, forced relocation was part of a much broader Cherokee diaspora. Starting in the eighteenth century, European colonization and the subsequent expansion of the United States caused the Cherokees to become more mobile and migratory. Sometimes this change occurred by choice, such as when some resettled in western North Carolina, and sometimes it transpired by force, such as during the Trail of Tears. The Cherokees consequently spread across the United States during the nineteenth century and across oceans during the twentieth century. Thus some were forced to reconsider how Cherokee identity was connected to place. As Julie Reed has illustrated, the Cherokees who were forced westward established new institutions in Indian Territory, which later became Oklahoma. Organizations such as orphanages provided

services previously carried out by clans and towns. For the Cherokee Nation, Oklahoma became the political homeland while North Carolina was the ancestral homeland. For the Eastern Cherokees, however, identity remained rooted in the mountains of western North Carolina.⁵

For the Cherokees who remained in the South, the mountains of western North Carolina provided isolation and protection from white encroachment in the nineteenth century. The average elevation of the Great Smoky Mountains was 5,500 feet, and there were forty peaks of more than 6,000 feet. The elevation of Cherokee lands ranged from 2,000 to 5,600 feet, with the highest point being Soco Bald. In the 1800s the forests were rich in hardwood trees, including poplars, spruce, and pine, and they provided plentiful foraging and wildlife. The growing season began in early April and ended in late October, and the area averaged 160 frost-free days per year. The average temperature in January was about forty degrees, and the average in July was seventy. The Oconaluftee River meandered through Cherokee lands before eventually emptying into the Tennessee River. Along the fertile bottomlands, the Eastern Cherokees grew corn, beans, potatoes, and other crops. The forests of western North Carolina were full of wild game, especially deer, rabbits, and squirrels, and the streams running through the mountains were well stocked with fish.⁶

The Cherokees living and farming in western North Carolina did not, according to the state government, own their lands. In the 1840s William Holland Thomas, a white businessman and close friend of Yonaguska, bought and held land with Indian money left over from previous federal treaties for the Cherokees. He eventually acquired a patchwork of more than fifty thousand acres. The largest section, known as the Qualla Boundary, became the core of the Eastern Cherokee “reservation,” which is really a collection of tracts in several counties. With Thomas holding title to lands on which they lived, the Eastern Cherokees eked out a basic but stable living in the mid-1800s on self-sufficient farms in western North Carolina, hunting and gathering to supplement their diet.⁷

The American Civil War shattered this stability. Physically and financially devastated by the war, Thomas fell into debt, most notably to an Asheville businessman, and creditors sued him to recover losses. A few

Cherokees owned real estate outright. However, many still resided on lands technically owned by Thomas, and they feared losing their lands because of his financial problems. Moreover, the Cherokees struggled to pay taxes on the lands that they did own. North Carolina officials had been somewhat negligent in enforcing their control and sovereignty over western lands in the antebellum era, but that was changing, and hard currency was a rarity among the Cherokee families. As North Carolina and other southern states began rebuilding the regional economy, the Eastern Cherokees labored to support themselves solely through a self-sustaining internal economy. Their population had grown since the 1840s, placing increasing pressure on what was already a limited supply of farmable land. According to one estimate, by the 1870s approximately 1,500 Cherokees lived in the region, and only about 10 percent of their land was farmable. Moreover, soil exhaustion, erosion, and pests damaged yearly yields.⁸

In 1868 the US Congress officially recognized the Eastern Cherokees as a separate and distinct tribal nation, not merely a remnant group of Native Americans related to the removed Cherokee Nation in the West. Although some kinship ties remained, it had been thirty years since removal, and the North Carolina Cherokees had little interaction with the Cherokee Nation. The Interior Department sent an agent and established a supervisory relationship. Hoping that federal aid and protection would accompany this acknowledgment, a group of influential Cherokees met in Cheoah in December 1868 to discuss the formation of a new governing body to deal with federal officials. The group chose to have each of five townships (Wolf Town, Yellow Hill, Paint Town, Bird Town, and Big Cove) select delegates to represent them at a council. The members of that council would select a principal chief. When the new Eastern Cherokee government was formally inaugurated in 1870, it generated controversy among the Cherokee communities. Given their autonomous recent history and lack of centralized governing institutions, this development was unsurprising. Consequently, the 1870s witnessed civic competition for political power, and some questioned the legitimacy of tribal governments.⁹

In the years after the Civil War, protection of the land base was the biggest immediate issue facing the Eastern Cherokees. The land was central

to them socially, politically, and economically. Their lands also became increasingly attractive to regional businesses. With Thomas ailing fiscally and physically, the Eastern Cherokees reluctantly filed suit against their friend and longtime advocate in an effort to protect land that he was holding for them. Their legal standing in the state, however, presented a problem. Whether or not the Cherokees could sue Thomas in a state or federal court was unclear. To address this uncertainty, federal authorities, who now had oversight, stepped in and filed suits on behalf of the Eastern Cherokees. In 1874 arbitrators settled with Thomas's creditors and secured the titles to Cherokee lands. In this case federal acknowledgment had helped the Cherokees protect resources.¹⁰

In the late 1870s federal officials also helped the Cherokees acquire other lands using funds from previous treaties. Land titles were held in trust by the federal government and were inalienable without the permission of the Cherokees and the Department of the Interior. The protected area totaled about ninety thousand noncontiguous acres along the Oconaluftee River and Soco Creek. This territory was not "reserved" or given to the Cherokees, a significant distinction that tribal members were quick to note to outsiders. Technically, then, these lands were not an Indian reservation, though many, including Cherokees, informally refer to their lands that way. The willingness of federal authorities to help Cherokees protect their land base in the post-Civil War years was invaluable.¹¹

Official federal recognition had other consequences. One of the most important was the creation of formal membership rolls. Traditionally, Cherokee identity in the South was based on kinship, language, culture, and physical connection to the community. But under federal recognition, inclusion on an official roster determined tribal membership. Federal officials wielded significant power in the creation of these rolls, but Cherokee leaders fought to maintain some control over tribal citizenship. The decision to include or exclude individuals would prove to be a complicated and problematic endeavor over the next few decades. Mikaëla M. Adams argues that Cherokee leaders tried to limit citizenship to their core community in the mountains of western North Carolina to prevent non-

Indians from exploiting tribal resources. In order to limit the infiltration of outsiders with only remote connections to this population, tribal leaders adopted and used racial identity as one criterion for citizenship. All members were required to be at least one-sixteenth Cherokee. According to Adams, Cherokee leaders “used the language of blood to make their Indianness intelligible to United States officials and to create boundaries between legitimate tribal citizens and false claimants.”¹²

The 1880s was a pivotal decade for the Eastern Cherokees. In 1882 the Supreme Court reaffirmed the status of the Eastern Band as a separate tribal entity from the Cherokee Nation of the West. Some Eastern Cherokees had applied to become members of the Cherokee Nation, but leaders in Oklahoma argued that they were no longer eligible for citizenship. Moreover, the Eastern Cherokees were involved in a dispute with the Cherokee Nation over proceeds from land cessions prior to removal. All Cherokee descendants were potentially beneficiaries. In order to prepare for the dispersal of proceeds, federal officials hired Joseph Hester to create a new tribal roll. Hester inflated the new roll, which included about three thousand names. He did so despite the objections of tribal leaders and in order to maximize the payout to Eastern Cherokees.¹³

In the same decade the Yellow Hill community, which would soon become known as the town of Cherokee, emerged as the political and economic center of the Eastern Band. The agency was there, the tribal council would meet there each October, and roads connected it to the communities of Bird Town, Big Cove, Paint Town, and Wolf Town, thus making it a hub. Cherokee (Yellow Hill) became the capital of the Eastern Cherokee tribal nation and the center of education for the Eastern Band. In 1884 the Quakers established a boarding school near the agency, the first formal educational institution for Cherokees in North Carolina. Students would spend half the day learning the classic *Rs* of western education (reading, writing, and arithmetic) in English. Boys spent the other half of the day learning industrial arts to prepare them for assimilation into the modern American workforce, while girls concentrated on the domestic skills of sewing, cooking, and cleaning. Formal education became part of the broader plan to assimilate Native Americans into civilized society.

The Quakers operated the school until the 1890s, when the federal government assumed control of educational operations.¹⁴

While the Eastern Cherokees were consolidating and establishing a political center at Cherokee, the US Supreme Court confused matters in 1886 with an odd decision. The case in question concerned whether Cherokees in North Carolina had claim to any of the revenues from Cherokee Nation land sales in the West. In a seemingly straightforward decision, the court ruled that the Eastern Band had severed ties with the Cherokee Nation, and therefore had no right to shares of these funds. But the Supreme Court also argued that the Eastern Cherokees were a group of North Carolina residents, not a recognized tribe. This decision contradicted both the previous one and congressional recognition of the Cherokees in 1868.¹⁵

The Supreme Court's reversal put the Eastern Cherokees in an awkward position. The Cherokees claimed a semisovereign status with their own government, but they did not occupy or govern a defined geographical place, such as a municipality or county. Nor did they now, according to the Supreme Court, constitute a tribal entity. The Cherokees wanted to own land collectively, and while this was a sound strategy to protect against speculators and specious land claims, it lacked standing in the North Carolina political and legal system. Chief Nimrod Jarrett Smith, who had served with William Holland Thomas in the Civil War, devised a creative solution to this problem, applying successfully in 1889 for a corporate charter from the General Assembly of North Carolina. Incorporation offered the Eastern Cherokees vital protection in an age when the power and rights of corporations were expanded and protected under state and federal laws and court rulings.¹⁶

In 1895 the Eastern Cherokees amended their charter to clarify the role of the tribal government. Although the charter was officially an act of incorporation under North Carolina law, the amendments read like a constitution. The officers would consist of a principal chief and vice-chief elected every four years and a council of representatives chosen from the communities every two years. The federal Indian agent would serve as an *ex officio* member of the council. All male enrolled members at least eigh-