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The Journal of the Civil War Era, Volume 10, Number 2, June 2020, pp. 213-232
(Article)

Published by The University of North Carolina Press



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A Different Forty Acres Land, Kin, and Migration in the Late Nineteenth-Century West

This essay utilizes Dawes Roll testimonies to argue that by using land and migration as categories of analyses, we see how some Black and mixed-race Chickasaw freedpeople (women and men formerly enslaved by Chickasaw Indians) exercised their freedom after the Civil War not by leaving their former spaces of enslavement, but by choosing to remain in these locations. In laying claim to the land of the Five Tribes in Indian Territory (modern-day Oklahoma), people of African descent documented the ways they had come to identify with land and space through shared hardships and Black and Black Indian kinship connections. Thus, for these people, Reconstruction in the West centered more on the attainment of land and belonging than on the realization of formal citizenship rights.

On January 6, 1905, in Muskogee, Indian Territory (modern-day Oklahoma), Josie Jackson stood in front of a tribunal of white men and answered intimate questions about a range of topics, including her parentage, members of her current household, and her whereabouts over the previous four decades. These white men were Dawes commissioners appointed to divide and allot Indian land, and their work on this day was to decide which former slaves and descendants of former slaves of Chickasaw Nation tribal members were eligible to receive land. One requirement for an allotment was the ability to prove one's residence in the Chickasaw Nation Territory through the Civil War and up to the time of enrollment, which began in the 1890s for Chickasaw freedpeople. Because the commissioners knew Josie had lived in Texas, they were suspicious. They asked her: "Haven't you been living in Texas continuously from or about 1898 down to this last year?" Josie responded that no, "I have been here [Indian Territory] just as often as I have been there [Texas]." Josie detailed her decision to move to Dallas to work for a non-Indian family. She described her life as "drifting" between Texas and the Chickasaw Nation, where she had birthed and raised her daughter, Theresa.¹

Josie's connection to the Chickasaw Nation may seem tenuous. Yet, instead of choosing to permanently reside with her daughter in Texas, where she already possessed a job and could find better economic opportunities, she journeyed repeatedly to Ardmore in the Chickasaw Nation, returning to visit her daughter, her mother, and her half-sister, Jennie Davidson.² Today, the trip takes approximately two hours by car. For Josie, it would have meant around forty hours walking, or two days of fourteen-hour stagecoach rides, to cover the 120 miles. During this journey through a desolate landscape, she would have faced bandits, makeshift roads that were impassible in bad weather, and the threat of rape or murder. Yet Josie's routine journeys spanned several decades and reflected her connection to the geographic space of the Chickasaw Nation and to her family. Her perseverance was rewarded when she succeeded in obtaining her land allotment.

I argue that the Dawes Roll testimonies of Josie Jackson and more than fifteen hundred other Chickasaw freedpeople prove that their ideas of belonging focused not on citizenship and state acceptance, which had never been possible for them in the Chickasaw Nation, but on inclusion in their own communities, defined by kinship and land ownership. We generally think of the experience of freedpeople in relation to American citizenship and political rights, since in the absence of land redistribution these were the claims available to them. But the view from Indian Territory is remarkably different. The Chickasaw freedpeople I discuss here were not attracted to the opportunity for citizenship and political rights in the United States. Instead, they used the structure of the Dawes process to voice their connection to Native space. Thus, an analysis of Chickasaw freedpeople's testimonies allows us to glimpse how people of African descent could subversively use a process meant to disempower them.³ From the time of the Civil War to Oklahoma statehood in 1907, Chickasaw freedpeople like Josie sought to maintain community and a connection to their kinship group's shared histories with Chickasaw people on Chickasaw land. Indian Territory's unique history of land allotment and distribution to people of both African and Native descent allows us to consider the difference that land redistribution actually made. Josie's story challenges us to consider how people of African descent formed attachments to the land they shared with the Five Tribes.

Josie's account—her family's past as the slaves of Native American owners and her situation with the Dawes Commission—is not as foreign as it once would have been. Thanks to the work of a cadre of historians including Tiya Miles, Celia Naylor, Faye Yarbrough, Barbara Krauthamer, Claudio Saunt, David Chang, and Daniel Littlefield, the field of Black

Indian history has illuminated the subject of African chattel slavery within the Five Tribes (the Cherokee, Creek, Seminole, Chickasaw, and Choctaw Nations) and the ways people of African descent came to share culture and ancestry with their Indian owners.⁴ Keith Basso, Kent Carter, Frederick Hoxie, and Rose Strelau, among others, have shown how Native people have long established their connection to the lands they occupied, through their origin and morality stories and through medicinal, food, and spiritual traditions that incorporate indigenous plants and animals.⁵ More thoroughly linking Black Indian history to Native studies allows us to grasp the ways people of African descent similarly made the spaces they inhabited their own. If we are to understand all the complexities of the Civil War era, we must think about the connections between people of African descent and place and how these connections affected their postwar inclinations.

To take the experience of Indian Territory's freedpeople seriously is to consider a post-emancipation world in which land redistribution to former slaves was not a dashed hope but a reality. When Reconstruction historiography has focused on land, specifically the African American connection to land, it has most often fixated on its absence, namely, on the momentous loss for Black economic and social processes wrought by African Americans' inability to access land. Often this takes the form of the forty acres that General Sherman set aside in the Sea Islands for the Gullah Geechee people, or a more generalized lamentation about Republicans' inability to grant African Americans free or low-fee purchases of land as a type of reparation.⁶ Using Black people's own arguments that land redistribution might serve as remuneration for their labor, Leslie Schwalm, Steven Hahn, and Anthony E. Kaye have argued that land and place were extremely important to African Americans.⁷ Perhaps if it had been possible for them, African Americans in the United States would have chosen the ability to take ownership of land that held so much emotional and communal value to them over inclusion in the American body politic.

Chickasaw freedpeople such as Josie were motivated by the fact that they could actually obtain ownership of the land that held significance to them; they could make communities of their own and claim space in the West, and this structured their movements in the Civil War era, encouraging them to maintain connection to Chickasaw land. Indian freedpeople could claim ownership of western land through the Dawes allotment process because white Americans saw Native title to land as temporary and undeserved and advocated for the usurpation of Indian occupancy.⁸ Recognition of the stakes that Native peoples, and the people of African descent they enslaved, had in the Civil War makes it imperative that we include Indian Territory in our scholarship on the Civil War era.

Historians of the Civil War era have already begun to incorporate the West into their analyses in ways that provide context for this study. Ari Kelman's *Misplaced Massacre* and the anthologies *Empire and Liberty* and *Civil War Wests* have demonstrated that the West and the Indian nations who lived within it were inextricably tied to the battles and outcomes of the Civil War.⁹ Essays in *The World the Civil War Made*, in addition to studies by Elliott West, Greg Downs, Heather Cox Richardson, C. Joseph Genetin-Pilawa, Beth Lew-Williams, and Stacey Smith, argue that during (Greater) Reconstruction, the United States used enlarged federal powers to "transform the West" and incorporate groups as diverse as Native people, African Americans, Chinese men, and Latinos, both as citizens and as aliens.¹⁰ Josie's success at obtaining the much-mythologized forty acres resulted both from Indian involvement in the Civil War (on the side of the Confederacy) and from the United States' goal to subsume all of Indigenous peoples' lands, if not Native people themselves, within the growing American empire.¹¹ The war provided the impetus for the United States to increase white settlement on Indian lands, while also becoming the mechanism through which people such as Josie would gain their freedom and their land. In recent decades, historians have increasingly explored Black Americans' rhetoric and actions related to culture, political action, and everyday life in the Civil War era. This article employs a little-used set of data, testimony created during the execution of the Dawes Act, as a window onto Black and mixed-race peoples' connection to land and community within Native spaces from the Civil War, through Reconstruction, and into the early twentieth century.

Indian Territory experienced a prolonged Reconstruction period, one that began in 1866 and did not end until Oklahoma statehood ended tribal jurisdiction over Indian Territory in 1907. Josie Jackson and the other people of African descent held in slavery in Indian Territory were not freed through the Emancipation Proclamation or the Thirteenth Amendment. Instead, the Treaties of 1866, concluded between the United States and each of the Five Tribes, granted Indian freedpeoples' emancipation and enfranchisement. The Treaties of 1866 essentially applied the Thirteenth, Fourteenth, and Fifteenth Amendments to Indian Territory before they were passed and ratified in the United States; they also granted land to the Five Tribes' former slaves. The freedom, rights, and land provided for by the Treaty of 1866 and the Dawes Act allowed Indian freedpeople to enjoy economic and social autonomy under tribal jurisdiction until American purview overtook the Five Tribes in the form of Oklahoma statehood. In these treaties, all of the Five Tribes acknowledged in writing that they had wronged the United States by allying with the Confederacy and that

because of the agreements they had made with the Confederate States during the Civil War, previous treaties made with the United States would no longer be upheld, prompting the need for new treaties and an opportunity for the United States to wrench more land from Native Americans' grasp.¹²

As punishment for their disloyalty, US negotiators extracted a number of concessions from leaders of the Five Tribes; under these terms, members of the Five Tribes were to emancipate their slaves, grant them equal citizenship, and grant them land in some form. The Chickasaws and Choctaws were to provide former slaves 40 acres each, anywhere they chose within each nation; the Cherokees were to provide them 160 acres each, in the Canadian district of the nation; the Seminoles were to "permit" their former slaves to "settle" in the nation; and the Creeks would allow their former slaves "an equal interest in the soil." Whites who had intermarried with Indians were granted rights within the nation. And, in addition to giving up land to the US government and to American railroad companies, as a further concession, the United States would survey communally held land and divide it into individual allotments.¹³ This land allotment was eventually carried out through the passage of the Dawes Act.¹⁴ The stakes in the Dawes process were high: land or per-capita payments were available to those who could prove their residency in the Five Tribes during the period directly after the war and into the 1880s. While this led to a number of false applications, Indian and freedmen assistants to the Dawes Commission largely rooted these out.

In this last phase of a prolonged Reconstruction—the implementation of the Dawes Act of 1887 in Indian Territory—we can hear freedpeople and their descendants articulate the difference that the opportunity to obtain land made to their movements and priorities. The act was designed to break down the traditional communal land-ownership practices of Indian tribes throughout the United States.¹⁵ American legislators accomplished this by dividing formerly commonly held land into land allotments assigned to individual, nuclear families. Many white and Indian politicians and reformers thought land allotment would positively affect Indian tribes and usher them on the road to complete assimilation by converting them into "docile believers in American progress."¹⁶ Land allotment and the focus on individualism destroyed tribal sovereignty, kinship ties, and Indigenous peoples' ideas about wealth and individualism. At the same time, it made possible the maintenance of the communities that Josie, her family, and many other Indian freedpeople had constructed.

A council of three white men, the Dawes Commission determined who belonged on the roll of each tribe and therefore could or could not claim an allotment of land from the tribe's common holdings.¹⁷ Henry L. Dawes,

commission chairman and architect of the Dawes Act, was a politician who served in various positions, from district attorney for the western district of Massachusetts to Massachusetts US senator. The two other original members of the committee, Archibald S. McKennon and Meredith H. Kidd, were both lawyers and former military men.¹⁸ From 1887 to 1905, the Dawes Commission sent out fliers and newspaper advertisements all across the Five Tribes alerting Native women and men and Indian freedpeople that it would set up tents at certain locations within the region and that applicants were to appear there at a certain day and time. These locations were not necessarily chosen for ease of access or convenience; for instance, to testify to her attachment to the Chickasaw Nation, Josie traveled to the town of Muskogee within the Creek Nation. People of all the Five Tribes were to make their way to Muskogee to provide their initial testimony. The commission employed several freedpeople and several Indians of each specific tribe to serve as interlocutors and verifiers of information, kinship relations, and neighborhood dynamics; however, these people did not have a say in the commission's decisions. While an individual Indian nation could dispute specific applications or decisions, the Dawes Commission and the secretary of the Interior were the ultimate arbiters.

The Dawes allotment process was adversarial, based on the assumption that the fewer people who were identified as legitimate Indians or former slaves of Indians, the larger the amount of land that remained for white settlement. Committee members challenged the claims of freedpeople and Indians alike, calling into question their locations during the war and the veracity of their identities. When they doubted applicants' evidence of marriage, birth, or death, commissioners requested more information or demanded the corroboration of midwives, ministers, friends, or neighbors. When there were doubts, applicants were called to testify in front of the commission. Freedpeople were at a distinct disadvantage in this contentious process for a number of reasons. Most of them were illiterate (although many Indians were also unable to read, write, or fluently speak English); they often had little documentation of their births, marriages, and other milestones; and they were unaccustomed to noting exact dates of events or travel. Dawes commissioners sorted applicants based on their own ideas of the Blackness and Indigeneity. In Indian nations—where kinship through marriage, adoption, or shared history shaped tribal membership—commissioners measured Native ancestry and tribal citizenship by physical features and languages spoken.¹⁹ The Dawes Commission could compel the presence of witnesses who might dispute or support an applicant's claim. The applicant, however, could only request, rather than compel, a witness appear to support their claim; each witness had either

a personal or familial connection that fueled their desire to help support a loved one's claim. Because the process often required applicants and their witnesses to appear more than once—making long and costly trips to and from the commission—a limited number of applicants were able to complete their enrollments.

Another factor that limited enrollment under the Dawes Act was a provision that set a restriction on freedpeople's movements during and after the war. Although many people of African descent, and indeed many Indians, were itinerant during the war, only the 1866 treaties with the Cherokee and Creek tribes officially acknowledged and accounted for this wartime itineracy, allowing Black people who were not present in Indian Territory when the treaty was signed to make their way back to their respective nations.²⁰ The Cherokee Treaty specified that all free Black people or former slaves "who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees."²¹ The Creek Treaty stipulated that "persons of African descent . . . who have been thus residing in said country, and may return within one year from the ratification of this treaty, and their descendants and such others of the same race . . . shall have and enjoy all the rights and privileges of native citizens."²² The Seminole treaty and the joint Choctaw-Chickasaw treaty included no such provisions. The Choctaw and Chickasaw's Treaty provided for "all persons of African descent, resident in the said nation at the date of the treaty of Fort Smith, and their descendants" forsaking claims of all freedpeople who had for any reason left during the war and not returned by April 1866.²³ In practice, the Dawes Commission allowed for some movement during the 1870s, 1880s, and 1890s, but this treaty language permitted the Chickasaw, Choctaw, and Seminole Nations to disavow the claims of anyone they could prove had not resided continually in their nations.

Dawes sources, a mixture of letters and transcripts of verbal testimony, allow us to see Indian freedpeoples' economic motivations *and* their ideological and emotional connections to land. The Dawes sources are similar in some ways to the Federal Writers' Project Slave Narratives. Historians have used the Federal Writers' Project interviews to discuss the creation of African American culture and the aftereffects of slavery. The Dawes Commission sought to extract specific facts from each application, so the resulting testimonies are not as varied and extended as the Federal Writers' Project interviews. And, of course, commissioners were not interested in cultural preservation. Dawes testimonies cannot serve the same function, then, as these interviews. The Dawes records *can* be used to create

a portrait of patterns of movement, neighborhood politics, and interpersonal relationships.

Josie's testimony about her movement demonstrates the importance of both land and kin and suggests that Chickasaw freedpeople found these more important to their enjoyment of freedom than the rights of citizenship. Josie did not attempt to move her family members from Indian Territory to Texas, where they would have enjoyed the benefits of Reconstruction-era amendments, civil rights acts, and a federally protected American citizenship. Instead, she chose to maintain her connection to her family and to the land that constituted the Chickasaw Nation—a nation that did not offer her the opportunity for citizenship. Subjected to a number of humiliating laws and rejected by much of the Chickasaw community, people of African descent created their own kinship networks, made up of friends, neighbors, and extended family members.

While some freedpeople in the United States achieved political and social success in the Reconstruction era, many more found their hopes for equal citizenship dashed by violence and poverty. Similarly, freedpeople of Indian nations experienced a spectrum of inclusion. Reflecting the ways these Black and Black Indian women and men had been treated during the Antebellum era, the Five Tribes incorporated free people of African descent into their societies to varying degrees in the postbellum period. For example, before the war, the Creeks allowed African-descended people to assemble household goods, carpentry tools, spinning wheels, and the like and to cultivate their own corn, rice, and peaches.²⁴ After the war, they allowed former slaves “all the rights and privileges of native citizens” and were the only nation to give people of African descent “an equal interest in the soil and national funds,” which granted them a share of the annuity payments Creeks would receive from the lands ceded in the Treaty of 1866.²⁵ By contrast, before the war Chickasaws stringently policed interracial unions between tribal members and people of African descent, and the government imposed strict Black codes that banned enslaved people from assembly and movement without passes from their owners.²⁶ The Chickasaw legislature also made it illegal to manumit an enslaved person without financial compensation. Most importantly, the Chickasaw Nation denied all persons of African descent “any of the rights, privileges, and immunities of citizens of [the] nation,” which included the right to vote, hold office, or to ever obtain tribal citizenship.²⁷ In the Chickasaw Nation, it was illegal to hire a free Black person; the Chickasaw legal structure left free Blacks with few options to support themselves.²⁸

After the war, as in many parts of the defeated Confederacy, many Chickasaw freedpeople were left without food or clothing. “Everybody

wanted clothes or something to wear,” Charles Cohee reported; hence, Isaac Kemp and Henry Clay made postwar journeys to Fort Gibson (in the Cherokee Nation), the nearest marketplace, to work and purchase resources, before returning to the Chickasaw Nation.²⁹ To make matters worse, Chickasaw antipathy toward people of African descent intensified after the war. Chickasaw slave owners freed their slaves and gave them a choice: live within the boundaries of the Chickasaw Nation without the protections or privileges of citizenship or migrate to the United States. As non-tribal members, they could not serve on juries or vote. They were vulnerable to racial violence and poverty; their children would never be educated in schools funded by the nation and were liable to be forced into apprenticeships.³⁰ In the Chickasaw Nation, freedpeople were no more protected than under the Black codes in the former Confederacy.

Chickasaw freedpeople pressed back. They lobbied the Chickasaw Nation to enfranchise them, and they pushed the United States to take action against the Chickasaw Nation. As late as September 1887, a group of Chickasaw freedmen from a community named Robertsville, including Dick Roberts and Mack Stephenson, traveled to Washington, DC, to demand “school privileges” and to proclaim their desire to become Chickasaw citizens.³¹ Yet when Chickasaw citizenship and all its protections and privileges failed to materialize, many freedpeople, like Josie, did not pack up and move. They remained in or consistently returned to the Chickasaw Nation, signaling the importance of land over citizenship.

With no voter registration rolls in the United States at this time, Chickasaw freedpeople who traveled to and stayed within the United States could have voted alongside African Americans; they also could have settled in the rural or urban United States, obtained employment, and lived out their lives. Although Indians were left out of the Fourteenth Amendment’s citizenship protections, the amendment did not establish a system for monitoring citizenship. And, unlike other immigrants, who might be more easily identified as “foreign,” Chickasaw freedpeople easily blended in with the African American population. They were not readily identified as Indian freedpeople.

Chickasaw freedpeople’s Dawes testimonies reveal that they prioritized maintaining their connections to Chickasaw land over starting over in the United States. Of the 1,523 Chickasaw freedpeople who testified before the commissioners, only 73 freedwomen and freedmen reported having temporarily left the Chickasaw Nation.³² Aware of the need to prove that they had remained in the nation, applicants conveyed their adherence to these requirements and their connection to the Chickasaw Nation as their ancestral home. Solomon McGilvary testified that he had “never been

out of the Chickasaw Nation but have lived here all my life since I was born." Amelia Clark insisted that "when [she] was freed [in the Chickasaw Nation, she] went back to where [she] was raised," thus indicating the personal importance of particular spaces even *within* the Chickasaw Nation.³³ Wash Brown testified he had "lived here [in the Chickasaw Nation] all the while," and Dan Yocubby was even more specific when he explained that he "did not go out of the country during or after the war."³⁴ Solomon, Amelia, Wash, and Dan were successful in their land allotment claims. Chickasaw freedpeople used the maxim "all the while" again and again when describing their residence in the Chickasaw Nation or even on the plots of land they currently inhabited. In fact, "all the while"—or variations on the phrase, such as "lived here all my life" or "never been out of the country"—was used seventy-six times in the course of the Chickasaw freedpeople's Dawes testimonies.

Emphasizing their long-held connections to the Chickasaw Nation communicated both a practical desire to be counted among those who would be allotted land and an intangible connection to the Chickasaw Nation represented by their shared histories. Some Chickasaw freedpeople traced their connections to the nation all the way back to the 1830s, noting that they had endured Removal with the Chickasaws. When the commissioners asked Jake Colbert where his father was currently living, he could not resist providing them with further details, explaining, "He's been [here] all his life, ever since he come to this country." Commissioners asked a follow-up question, prodding Jake to tell them "when did he first come to this country?" He responded, "When this country was taken up; when the Indians first came to this country from Mississippi." Having established his father's past within the nation, Jake likely believed he had improved his father's chances of enrollment and his own.³⁵ Indeed, they were both successful. Beyond the allotment, though, Jake established his father's original claim to the land in Indian Territory he had settled and that Jake's generation of freedmen deserved to have as their own. Practical considerations likely shaped his desire to enroll, but Chickasaw freedpeople like Jake Colbert were bound up with the space of the Chickasaw Nation; their ties spanned decades and generations.

Alice Bennett used narrative to illustrate her connection to the Chickasaw Nation. She described traveling to Texas as a young teenager to attend school and then, as an adult, to find a job. On one of these trips Alice met her husband, married, and had children. Despite having spent a significant amount of time in Texas, for Alice and her mother, Lizzie Douglas, the Chickasaw Nation was home. When asked if she had gone to Texas to

“make it [her] home,” Alice replied, “No sir.” While she admitted that her daughter had been “out of the nation,” Lizzie emphasized that Alice “had never made her home outside.”³⁶ Alice and her mother were successful in their applications for enrollment.

Chickasaw freedpeople were careful to distinguish between traveling temporarily outside the nation and renouncing their homes within it. They viewed the nation as their permanent place of residence, where their community helped them weather difficulties such as widowhood, violence, and poverty. Freedpeople who viewed the Chickasaw Nation as important to their identity were willing to go through great inconvenience to retain their connection to it and to help others do so. As Alice’s story of traveling to Texas to attend school illustrates, Chickasaw freedpeople used their meager resources to send their children to schools in the United States. Yet, instead of moving to the United States to facilitate access to education, these families maintained residence in the Chickasaw Nation, while their children traveled back and forth, sustaining an itinerant lifestyle.

Chickasaw freedpeople who chose to stay in the nation had to continuously fight for their claim to Native space. Allotment allowed Chickasaw freedpeople the relative stability of having their own land, which they could improve by creating farms, houses, barns, and community buildings (churches, general stores, some schools, et cetera), but without citizenship they continued to inhabit a precarious position.³⁷ Their inability to serve on juries or bring suits against people made them vulnerable from the 1880s onward, as white settlement in the region increased. Although land theft was common throughout the West, in Indian Territory, African Americans had the rare circumstance of actually owning title to their land and having already improved their plots, which made them likely marks for thieves. Chickasaw freedpeople like Gabe James wrote to the Dawes Commission about this issue. James complained that a non-citizen [a white man] was illegally “hold[ing] possession of [his] place.” He asked the commissioners to instruct him on “how to git possession” of his land once more.³⁸ Once land was taken from them, Chickasaw freedpeople could do little to reclaim their allotments, as they could not sue in Chickasaw courts.

Chickasaw freedpeople withstood land theft and even illness to maintain a connection to the Chickasaw Nation. Dona Douglas had lived as a slave in the Chickasaw Nation during the war and was “freed in Pickens [County] Chickasaw Nation.” Charles Cohee testified that she had been “a resident of the Chickasaw Nation from the close of the war up to and including Sept 25 [1902]. She traveled a great deal back and forth to Texas during the last few years but she had a permanent home near Fort

Arbuckle [in the Chickasaw Nation] to my own knowledge.” What was the reason for Dona’s mobile lifestyle? Apparently “she was stricken with consumption and went to Texas for her health & returned frequently to the Chickasaw Nation.”³⁹ Despite the hardship of traveling while ill, Dona kept her permanent home in the Chickasaw Nation. Unlike others mentioned here, though, she died before she could officially enroll.

Not all Chickasaw freedpeople were willing to live a migratory life to find services and support denied them in the Chickasaw Nation. Dona’s sons exhibited no interest in establishing their claims to Chickasaw identity and land. According to a friend, Dona’s son Fred became “a minstrel and now is with a troupe in England.” Fred had left the Chickasaw Nation at eighteen and never returned. Dona’s son Charley was “a teacher and taught school in Africa a few years.”⁴⁰ Dona’s sons clearly valued economic freedom and travel experiences more than the opportunity to acquire land in the Chickasaw Nation.⁴¹ The pull of reconnecting with their kin did not sufficiently motivate Fred and Charley to stay in or return to the Chickasaw Nation, and they were not alone. Yet even such decisions could be provisional, as Charley later attempted to apply for citizenship and allotment. He was denied, as he had waited too long and could not demonstrate that he had been present in the Chickasaw Nation during the requisite period.

Other Chickasaw freedpeople were determined to obtain citizenship in another of the Five Tribes. Freedpeople’s kinship networks encompassed all of the Five Tribes, creating chains of Black community that ran through various Indian nations. Those who had wed spouses from other nations during or after their enslavement were able to access land and citizenship *outside* the Chickasaw Nation. As many as 158 Chickasaw applicants for allotments made references to spouses or family members who had been slaves of Creek, Seminole, Choctaw, or Cherokee Indians. These relationships did not disqualify them from claiming Chickasaw allotments, but they did have to choose which nation they enrolled in. Aleck Johnson said that he “went out of the Territory after the war closed . . . in August 1866,” clarifying that he “had not been out before that time” and that he left to go to “the Creek Agency and to Fort Gibson.” Although Aleck’s father was a Chickasaw freedman, his mother was a Creek freedwoman, and he identified his family as Creeks.” This familial connection explains why he enrolled in the Creek Nation.⁴² Although his father was a Chickasaw freedman, Henry Williams applied for enrollment as a Creek freedman because his mother was a Creek freedwoman. Henry had “lived most all of [his] life in the Creek Nation,” but he was born in the Chickasaw Nation, and after he “married a Chickasaw girl, [he] stayed in the nation” until he went to jail for larceny. Though he initially applied as a Chickasaw freedman,

Henry later requested to be removed from the roll, so he could enroll as a Creek freedman.⁴³ Henry's case demonstrates especially well the highly personal nature of decisions about national affiliation and the varied connections freedpeople wove in Indian Territory. While many Chickasaw freedpeople only had familial connections to the Chickasaw Nation, others had kin in other Indian nations and, thus, felt drawn to these places where they may have spent more time or to which they felt closer for some other reason. Enrollment in these other Indian nations also allowed them the tribal citizenship they were denied in the Chickasaw Nation. After the war, freedpeople strengthened and expanded transnational networks of communication and kinship that had existed before the war, by marrying and moving across the nations in ways that allowed them to find additional resources and build transnational communities. Of the 158 instances of Chickasaw freedpeople who had a spouse or parent of another tribe (this number includes second, third, and fourth spouses), 40 people attempted to enroll themselves or their children first as Creek, Seminole, Choctaw, or Cherokee freedpeople (as mentioned in their Chickasaw testimonies). If they were unsuccessful, they then enrolled as Chickasaw freedpeople.

While land, rather than citizenship in the United States, remained a priority for many Chickasaw freedpeople, some freedpeople were unable to journey back to the Chickasaw Nation; the Dawes Commission rejected numerous people due to their absences. Randolph Love and his family were denied enrollment because they had left the Chickasaw Nation two or three years after the close of the Civil War and had lived "in Texas ever since."⁴⁴ Riley Kemp had lived in the Chickasaw Nation through the war and until 1881, after which he moved around, going to Dennison, Texas, then St. Louis. His job as a "railroad man" likely facilitated his mobility. His enrollment was denied because "since about the year 1881 [he] had not been a resident of Indian Territory up to and including September 25, 1902."⁴⁵ Solomon Abram was absent from the Chickasaw Nation while he served in the US Army, returning in 1874.⁴⁶ Although he did not provide further details about his extended absence, he was successful in his enrollment.

During the war, owners forcibly moved a number of Chickasaw freedpeople, and some were ruled ineligible on this basis. Chickasaw slave owners who wanted to remove themselves from the turmoil of Indian Territory chose to move into the neighboring United States. William Perry related that he and his mother were freed by their owner, Susan Burks, "on the other side of Red River in Texas."⁴⁷ William's mother, Adeline Falless, confirmed this in her own testimony, stating, "Mrs. Burks set us free on the Texas side of Red River and we remained there not more than a month."⁴⁸ Clearly,

Mrs. Burks had left the nation sometime during the war and deigned to help her former slaves return. Nellie Ligon's owner also took her into Texas during the war.⁴⁹ However, while Nellie and William could return to the Chickasaw Nation in time to successfully enroll, in some instances, slave owners' decisions to move during the war affected their former slaves' postwar opportunities. Molly Wiley's and Spencer Wilson's enrollments were refused because their owners had taken them to Texas, and subsequently all their children had grown up there. When Molly, Spencer, and their respective children eventually made their ways back to the Chickasaw Nation, ten to fifteen years after the war, they were considered too disconnected from the Chickasaw Nation to warrant land parcels.⁵⁰

Chickasaw freedpeople continued to press their claims to land into the early 1900s. When Oklahoma became a state in 1907, tribal governments' jurisdiction over Indian Territory ended, and Indian freedpeople in the Cherokee, Creek, Seminole, and Choctaw Nations lost the few rights tribal governments had granted them, though they kept their land allotments. The extended period of Reconstruction that Indian freedpeople had navigated as they sought kinship, land, and belonging in Indian Territory or citizenship in the United States now ended. Chickasaw freedpeople were the only Indian freedpeople who benefitted from this change in jurisdiction. While the territorial government (Oklahoma Territory) had begun to pass Jim Crow laws in the 1890s, these did not affect Indian freedpeople in the Cherokee, Creek, Seminole, and Choctaw Nations, who still fell under the jurisdiction of their respective nations, and these segregation laws were later defeated. Yet, in 1910 the "Grandfather Clause" effectively closed voting to Blacks, as it required voters to have had grandparents who could vote, and as the descendants of enslaved people, most people of African descent did not fit this criteria. Still, although Chickasaw freedpeople could not always access their new rights as US citizens, the presence of constitutional legislation that considered them citizens equal to their former owners and to whites represented new ground. Among other things, their children could now attend school relatively easily. They were used to segregation, having experienced it in the Chickasaw Nation. In the United States, however, there was at least a legal basis for citizenship and equality that could be won back. Because Chickasaw freedpeople had the least to lose, they gained the most from statehood.

The Dawes testimonies offer a window onto the diversity of Chickasaw freedpeople's experiences in the Civil War era, especially their abiding connection to land in the Chickasaw Nation. Whether or not they were present, freedpeople maintained links to the Chickasaw Nation through

kinship ties, letters to family and friends, and oral histories told and passed from one generation to the next. During slavery, many Chickasaw freedpeople developed connections to the space of the Chickasaw Nation, and these connections directed their movements into and out of that space after emancipation.⁵¹ This movement seemed to *feed*, rather than weaken, freedpeople's sense of belonging to the Chickasaw Nation. Their migrations to the United States often brought new experiences, resources, and family members (children, spouses) back into their nations, changing the face of their tribal home while maintaining their sense of connection to the land.⁵² Other Chickasaw freedpeople moved to find new communities and careers and, ultimately, homes outside of the Chickasaw Nation; these women and men sought to cast their lots among Americans, who, while refusing to respect their claims or desires to property, delivered to them a nominal—and ephemeral—equality in other ways.

This social history of emancipation provides an explanation for why Chickasaw freedpeople such as Josie decided to stay in the Chickasaw Nation, despite the hardships they faced. In their movement and in the testimony in which they described it, freedpeople registered their preferences for access to land and community over political rights. By shifting our focus from rights to land and migration, we can better understand how these freedpeople defined their own freedom. Combined with sources such as the Federal Writers' Project former slave narratives, Dawes testimonies can get us closer to understanding the long road freedpeople traveled to be free. Chickasaw freedpeople's narratives center on land and kinship and can bridge the experiences of Native Americans and of people of African descent. This testimony provides language and context with which to deepen our understanding of the complicated and extended process of emancipation.

Once we know her reasons, my great, great grandmother Josie's decision to return regularly to the Chickasaw Nation may seem unsurprising, but we must remember that she chose this journey over the realization of citizenship in the United States. Despite her drifting, Josie's decision to travel repeatedly to the Chickasaw Nation and, after allotment, to permanently reside there demonstrates her connection to the space and community that she had made for herself in the nation. Replacing our attention to rights with land aspiration gives voice to the hopes and goals of freedpeople in a way that focusing primarily on advocating for political change does not. Through their actions and words, Chickasaw freedpeople registered their desire to remain on the land where they had labored and where their relatives, friends, and extensive communities lived. Our acknowledgment of

the complexity of their decisions allows us to recognize Black humanity and diversity of choice.

NOTES

The author thanks C. Joseph Genetin-Pilawa and Steve Kantrowitz for their generous assistance in revising this essay.

1. Theresa Gatewood, 1904, Applications for Enrollment of the Commission to the Five Civilized Tribes, 1898–1914, Application 392, p. 3, Record Group 75, M1301, National Archives and Records Administration (hereafter cited as NARA).

2. Gatewood application.

3. Here I am inspired by Marisa J. Fuentes's contention that historians can use traditional archival sources to question archival bias and to read against the grain (or, as she puts it, "along the bias grain"), in seeking the experiences of the disenfranchised. Marisa J. Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (Philadelphia: University of Pennsylvania Press, 2016).

4. Daniel F. Littlefield Jr., *The Cherokee Freedmen: From Emancipation to American Citizenship* (Westport, CT: Praeger, 1978); Daniel F. Littlefield Jr., *The Chickasaw Freedmen: A People without a Country* (Westport, CT: Praeger, 1980); Barbara Krauthamer, *Black Slaves, Indian Masters: Slavery, Emancipation, and Citizenship in the Native American South* (Chapel Hill: University of North Carolina Press, 2013); Tiya Miles, *Ties That Bind: An Afro-Cherokee Family in Slavery and Freedom* (Berkeley: University of California Press, 2005); Kevin Mulroy, *The Seminole Freedmen: A History* (Norman: University of Oklahoma Press, 2007); Faye Yarbrough, *Race and the Cherokee Nation: Sovereignty in the Nineteenth Century* (Philadelphia: University of Pennsylvania Press, 2008); Celia Naylor, *African Cherokees in Indian Territory: From Chattel to Citizens* (Chapel Hill: University of North Carolina Press, 2008); Claudio Saunt, *Black, White, and Indian: Race and the Unmaking of an American Family* (New York: Oxford University Press, 2006); David A. Chang, *The Color of the Land: Race, Nation, and the Politics of Landownership in Oklahoma, 1832–1929* (Chapel Hill: University of North Carolina Press, 2010).

5. Rose Stremmlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: University of North Carolina Press, 2011); Kent Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893–1914* (Orem, UT: Ancestry Publishing, 1999); Frederick E. Hoxie, *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920* (Lincoln: University of Nebraska Press, 2001); Keith H. Basso, *Wisdom Sits in Places: Landscape and Language among the Western Apache* (Albuquerque: University of New Mexico Press, 1996). Miles, Naylor, Yarbrough, Krauthamer, Chang, Saunt, and Littlefield also assert the prominence of land to Indigenous identity formation and political sovereignty, showing how white Americans' awareness of the centrality of land to Indian societies led them to understand that separating Native peoples from their lands of origin, through various treaty agreements and ultimately the Dawes and Curtis Acts, would drastically change the makeup of Native family groups and kinship and ideas of personal wealth.

6. Leslie A. Schwalm, *A Hard Fight for We: Women's Transition from Slavery to Freedom in South Carolina* (Urbana: University of Illinois Press, 1997), 5–6, 151–52, 154–60. Akiko Ochiai, “The Port Royal Experiment Revisited: Northern Visions of Reconstruction and the Land Question,” *New England Quarterly* 74, no. 1 (2001): 94–117.; LaWanda Cox, “The Promise of Land for the Freedmen,” *Mississippi Valley Historical Review* 45, no. 3 (1958): 413–40. Gullah Geechee scholarship primarily focuses on the people's retention of African culture, rather than their connection to land. However, Julie Dash's *Daughters of the Dust* paints a vivid portrayal of the importance of land to Gullah Geechee life. Julie Dash, *Daughters of the Dust* (Geechee Girls: 1991), DVD, 110 minutes.

7. Steven Hahn, *A Nation without Borders: The United States and Its World in an Age of Civil Wars, 1830–1910* (New York: Viking, 2016), 304–9; Anthony E. Kaye, *Joining Places: Slave Neighborhoods in the Old South* (Chapel Hill: University of North Carolina Press, 2009).

8. I use the term *Indian freedpeople* to generally refer to any person of African descent enslaved by a member of any of the Five Tribes; *Chickasaw freedpeople* refers to people specifically enslaved by Chickasaw Indians and/or their spouses.

9. Ari Kelman, *Misplaced Massacre: Struggling over the Memory of Sand Creek* (Cambridge: Harvard University Press, 2013); Virginia Scharff, *Empire and Liberty: The Civil War and the West* (Oakland: University of California Press, 2015); Adam Arenson and Andrew R. Graybill, eds., *Civil War Wests: Testing the Limits of the United States* (Oakland: University of California Press, 2015).

10. Gregory P. Downs and Kate Masur, “Echoes of War: Rethinking Post–Civil War Governance and Politics,” in *The World the Civil War Made*, ed. Gregory P. Downs and Kate Masur (Chapel Hill: University of North Carolina Press, 2015), 8; Elliott West, “The Future of Reconstruction Studies: Reconstruction in the West,” *Journal of the Civil War Era* 7, no. 1 (2017): 14; Elliott West, “Reconstructing Race,” *Western Historical Quarterly* 34 (Spring 2003): 6–26; Heather Cox Richardson, *West from Appomattox: The Reconstruction of America after the Civil War* (New Haven: Yale University Press, 2007); Gregory P. Downs, *Declarations of Dependence: The Long Reconstruction of Popular Politics in the South, 1861–1908* (Cambridge, MA: Harvard University Press, 2014); C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight over Federal Indian Policy after the Civil War* (Chapel Hill: University of North Carolina Press, 2012); Beth Lew-Williams, *The Chinese Must Go: Violence, Exclusion, and the Making of the Alien in America* (Cambridge, MA: Harvard University Press, 2018).

11. All of the Five Tribes were divided on whether to ally with the Confederacy or the Union, so a portion of each tribe fought on both sides. The United States still considered this to be betrayal.

12. Littlefield, *Chickasaw Freedmen*, 21; The Choctaws' and Chickasaws' treaty is the only one of the Five Tribes' that does not unequivocally deem former treaties between themselves and the United States to be “insufficient.” Rather, in vague language, the Choctaws and Chickasaws agreed to a “general amnesty” between themselves and the United States. Treaty with the Choctaw and Chickasaw, 1866,” in *Indian Affairs Laws*

and *Treaties*: vol. 2, comp. and ed., Charles J. Kappler, (Washington, DC: GPO, 1904), 918–31, available online at Oklahoma State University Digital Collections, <https://dc.library.okstate.edu/digital/collection/kapplers/id/26759>.

13. “Treaty with the Choctaw and Chickasaw, 1866”; Clara Sue Kidwell, *The Choctaws in Oklahoma: From Tribe to Nation, 1855–1920* (Norman: University of Oklahoma Press, 2007), 19. The Treaty of 1855 between the United States and the Choctaw Nation had provided a precursor for allowing railroads through the nation as well as for the settlement of Wichita Indians and related nations.

14. As the Five Tribes were exempted from the Dawes Act, the Curtis Act applied the Dawes Act to Indian Territory. Nonetheless, the origin of this process was the Dawes Act.

15. The Dawes Act is also known as the General Allotment Act, or the Dawes Severalty Act of 1887. The Dawes Act began the process of nationwide allotment, but this did not affect the Five Tribes, because they did not live on reservations, instead holding their land in fee simple. To remedy this, on June 28, 1898, Congress issued “An Act for the Protection of the People of the Indian Territory, and Other Purposes,” or the Curtis Act, which terminated tribal title to all lands of the Five Tribes without their consent, and this placed questions regarding citizenship, property, and rights under the jurisdiction of the federal courts. See Hoxie, *Final Promise*, xviii.

16. Hoxie, *Final Promise*, xviii; Genetin-Pilawa, *Crooked Paths to Allotment*, 89; William E. Unrau, *Mixed-Bloods and Tribal Dissolution: Charles Curtis and the Quest for Indian Identity* (Lawrence: University Press of Kansas, 1989).

17. Most Indians and freedpeople sought to claim land they already lived on and had improved.

18. Applications for Enrollment of the Commission to the Five Civilized Tribes, 1898–1914, RG 75, M1301, NARA.

19. This change in thinking about race and citizenship forever transformed tribal membership and the idea of Native identity. There has been extensive research done on this subject. See Littlefield, *Chickasaw Freedmen*; Krauthamer, *Black Slavers, Indian Masters*; Miles, *Ties That Bind*; Faye Yarbrough, *Race and the Cherokee Nation*; and Naylor, *African Cherokees in Indian Territory*.

20. During the war, many Native people who lived in Indian Territory went to Kansas, other Indian nations, or other US states to find protection from battles or to maintain the enslavement of people of African descent. See the Census of the Southern Refugee Indians in Kansas and the Cherokee Nation, 1863, Letters Received by the Office of Indian Affairs, M234, Roll 835, NARA.

21. “Treaty with the Cherokee, 1866,” in Kappler, *Indian Affairs Laws and Treaties*, 942, <https://dc.library.okstate.edu/digital/collection/kapplers/id/26783>.

22. “Treaty with the Creeks, 1866,” in Kappler, *Indian Affairs Laws and Treaties*, 931, <https://dc.library.okstate.edu/digital/collection/kapplers/id/26772>.

23. The Choctaw and Chickasaw Nations were forced to treat together because of their history as related tribes. Their origin stories tell of two brothers who founded the two nations.

24. Gary Zellar, *African Creeks: Estelovste and the Creek Nation* (Norman: University of Oklahoma Press, 2007), 22.
25. "Treaty with the Creeks, 1866," 931, <https://dc.library.okstate.edu/digital/collection/kapplers/id/26772>.
26. Krauthamer, *Black Slaves, Indian Masters*, 83.
27. Wendy St. Jean, *Remaining Chickasaw in Indian Territory, 1830s-1907* (Tuscaloosa: University of Alabama Press, 2011), 45-46.
28. Krauthamer, *Black Slaves, Indian Masters*, 71.
29. Isaac Kemp, 1905, Applications for Enrollment, Application 34, p. 5.
30. Annie Heloise Abel, *The American Indian under Reconstruction* (Cleveland: Arthur H. Clark, 1919), 288-89.
31. Letter from the Commissioner of Indian Affairs to the Secretary of the Interior, May 8, 1888, DC Roll 051, Oklahoma Historical Society, Oklahoma City.
32. I am only able to reference people who returned to speak with the Dawes Commission. The number of those who permanently left the Chickasaw Nation is likely higher, but it is impossible to ascertain.
33. Solomon McGilvary, September 1, 1898, Applications for Enrollment, Application 2, p. 2; Amelia Clark, September 27, 1898, Application 853, p. 2.
34. Wash Brown, October 10, 1898, Applications for Enrollment, Application 907, p. 2; Dan Yocubby, September 2, 1898, Applications for Enrollment, Application 105, p. 2.
35. Jerry Colbert, 1903, Applications for Enrollment, Application 923, p. 9.
36. Alice Bennett, 1902, Applications for Enrollment, Application 385, pp. 4-6.
37. Littlefield, *Chickasaw Freedmen*.
38. Gabe James, January 14, 1899, Letters Sent and Received and Other Documents Chickasaw, undated and January 15-April 28, 1899, DC Roll 051, Oklahoma Historical Society.
39. Dona Douglass, 1906, Applications for Enrollment, Application 207, p. 8.
40. Douglass application.
41. Many freedpeople in the United States were also on the move during this time, vying for land and better racial relations; traveling into the west, whether to Kansas, Indian Territory, or California, on a search for a racial paradise. See Nell Painter, *Exodusters: Black Migration to Kansas after Reconstruction* (New York: Norton, 1992).
42. Aleck Johnson, 1898, Applications for Enrollment, Application 154, p. 2.
43. Henry Williams, 1903, Applications for Enrollment, Application 407, pp. 2-3, 16.
44. Randolph Love, 1904, Applications for Enrollment, Application 1010, p. 4.
45. Riley Kemp, 1905, Applications for Enrollment, Application 1016, pp. 5-6.
46. Solomon Abram, 1904, Applications for Enrollment, Application 843, p. 3.
47. William Perry, 1898, Applications for Enrollment, Application 262, p. 2.
48. Rose Williams, 1898, Applications for Enrollment, Application 257, p. 2.
49. Nellie Ligon, 1904, Applications for Enrollment, Application 827, p. 7.

50. Mollie Wiley, 1906, Applications for Enrollment, Application 1007, p. 9; Spencer Wilson, 1904, Applications for Enrollment, Application 673, p. 4.

51. Norman L. Crockett, *The Black Towns* (Lawrence: Regents Press of Kansas, 1979).

52. Jorge Duany's concept of circular migration as it relates to identity in Puerto Rican women and men has inspired my recognition of the importance of migration in Indian Territory to identity, cultural retention, and kinship connection. Jorge Duany, *The Puerto Rican Nation on the Move: Identities on the Island and in the United States* (Chapel Hill: University of North Carolina Press, 2002).