“Golden Age or Golden Cage? The Cherokee Nation as Carceral Archipelago in the Nineteenth Century”

Misty Peñuelas, Ph. D. Candidate

Department of History, University of Oklahoma

September 20, 2019

Addressing the 1885 Lake Mohonk Conference on the immediately of a general allotment law, *Eminence Gris*, Senator Henry L. Dawes made a most “astounding utterance.”[[1]](#endnote-1) Indian tribes, Dawes assured his audience, only resisted his pet policy of allotment because they were ignorant and financially unsophisticated. One unnamed Chief, Dawes reported, told him that, under their communal property regime,

… there was not a family in that whole Nation that had a not a home of his own. There was not a pauper in that Nation, and the Nation did not owe a dollar. It built its own capitol…and it built its schools and its hospitals.[[2]](#endnote-2)

“Yet,” as the Senator explained to his astounded audience, “the defect of the system was apparent.” Tribes, in their ignorance, did not understand that,

They had… got as far they can go, because they own their land in common….There is no enterprise to make your home any better than that of your neighbors. There is not selfishness, which is at the bottom of civilization. Till this people will consent to give up their lands, and divide them among their citizens so that each can own the land he cultivates, they will not make much more progress.[[3]](#endnote-3)

As D.S. Otis made clear, many people in his audience would have found Dawes’ claims about the magical efficacy of private property to transform Indians into sturdy yeomen farmers “astounding.”[[4]](#endnote-4) Even today, the Senator’s claim is no less astounding. First and foremost, Dawes implied, his paternalistic exasperation notwithstanding, that at least some Indian tribes had complex fiscal and monetary policies—a characterization that contrasts starkly with the ubiquitous assumption of tribal economies as cash-poor, based on subsistence or barter, and completely dependent on the fiduciary responsibility of the US.[[5]](#endnote-5) Furthermore, Dawes revealed a long-standing, necessary and symbiotic nexus between debt and institutions of social welfare.[[6]](#endnote-6)

Nowhere was this the nexus between debt and social welfare more evident than in the Cherokee Nation over the course of the nineteenth century. The long-forgotten records of the Cherokee National Treasurer, apparently untouched since brought in from the barn, positively confirm what Dawes’ speech obliquely implied. Indeed, these records show that the Cherokee Nation implemented a complex fiscal-monetary apparatus to administer major institutions of public welfare, and, despite Dawes’ patently false assertion to the contrary, generated jaw-dropping debt.

The office of the Cherokee National Treasurer constituted the viscera of this sophisticated fiscal-monetary state.[[7]](#endnote-7) Unfortunately, however, the Cherokee Treasury records make it painfully clear that scholars, myself included, have woefully misunderstood the nature and origins the Cherokee welfare state and its *dejure* demise in the 1902 Allotment Act. In contrast to the image of idyllic progress and economic simplicity under ancient and sovereign communal property regimes, ultimately destroyed by the hypocritical unilateralism and bad faith of the US, the renowned Cherokee welfare state, viewed through the lens of fiscal and monetary policy, was neither fully sovereign, nor idyllic.[[8]](#endnote-8)

Based on my work with these Treasury documents, I would suggest that a more accurate model for understanding the Cherokee welfare state would be Michel Foucault’s 1975 book, *Discipline and Punish: The Birth of the Prison*. Cherokee fiscal and monetary policies created what Foucault called a “carceral archipelago.” Thus, well before the US supposedly implemented the final destruction of Cherokee sovereignty through allotment, the Cherokee elite themselves erected the disciplinary space necessary to train, or assimilate, each Cherokee to function as an individual *homo oeconomicus* and facilitate their personal and spatial integration into the revenue generating property regime and economic order of the surrounding United States.

The best way to see how the Cherokee Nation was a carceral archipelago is to compare its history and institutions to the history of the prison. In *Discipline and Punish*, Foucault argues that, in France, over the course of the seventeenth and eighteenth centuries, prisons became the primary form of legal punishment.[[9]](#endnote-9) Originally developed in the military and in the schools, certain techniques of physical and mental discipline, combined and perfected in the institution of the prison, then spread into the very fabric of society, replicating and reproducing itself in the primary public institutions of social reform and intervention—orphanages, poor houses, schools, half-way houses, reformatories, hospitals, and mental institutions (asylums)—thus creating what he termed the carceral archipelago.

Over the course of the long nineteenth century, that the Cherokees developed an unadulterated model of the French carceral archipelago is evident in the fiscal and monetary legislation that enacted precisely these institutions. The very first written law of the Cherokees, issued September 11, 1808, established district “regulators” to control horse theft, established each officer’s salary, “to be paid out of the national annuity,” and absolved regulators of blood debt occasioned in the line of duty.[[10]](#endnote-10) With the exception of the monetary provisions, each of these provisions had its counterpart in Foucault’s account of the transition from exemplary punishment, embodied in the king, to a new “economy of the power to punish” that would distribute state power “capable of operating everywhere…down to the finest grain of the social body.”[[11]](#endnote-11) The strategy for imbricating state power into the social body was a process of legal reform rooted in “new forms of capital accumulation, new relations of production and the new legal status of property.” Under this new private property regime, widespread practices of the lower classes, once tolerated because they were necessary for survival, became “illegalities.” These reforms criminalized daily life, thus greatly expanding the reach of the penal apparatus and the number of persons caught in its snare.[[12]](#endnote-12)

The law of September 11, 1808, then, marked the inauguration of the carceral archipelago in Cherokee territory because it expanded the authority of a centralized governing body over daily life (horse theft) and replaced the exemplary punishment of local custom (blood feud) with a generalized “illegality.”[[13]](#endnote-13) Cherokee criminal law and the court system, officially created in the Cherokee Constitution of July 26, 1827, also expanded into a top-heavy, bureaucratic cash-cow, as the proliferation of petty officials and functionaries such as guards, jurors and witnesses, commanded an ever larger share of the fiscal pie.[[14]](#endnote-14) Foucault argued that, in France, the prison came to be not only the preferred method of punishment, but also the predominant landmark of public space, the anchor of the carceral archipelago. By 19th century, the French state had translated “this imprisonment, envisaged by the law, into reality, according to a whole penal, administrative, geographical hierarchy.”[[15]](#endnote-15) Although first enacted in a statute on October 20, 1851, the Cherokee Nation did not complete the building of their National Prison until 1874. Nevertheless, the rapid and widespread expansion of the District and Circuit court system fulfilled the same spatial function. In the absence of the National Prison, the Court system distributed the authority of the Cherokee National government ever deeper into the territory and consciousness of the Cherokee people, ensnaring them within a “penal, administrative, geographical hierarchy” that literally created a new “reality,” the carceral archipelago.[[16]](#endnote-16)

Just as Winston was informed that “it was not enough to obey,” but that he must “love,” Big Brother, the Cherokee people would also be *taught* to “love” their new economic order. In fact, along with the fiscal and monetary policy to administer it, schools, as a primary component of the carceral archipelago, came to the (now) Eastern Cherokees even before they had begun to formulate their written laws.[[17]](#endnote-17) In the Second Treaty of Washington, agreed on February 27, 1819, the US stated, among other things in Article I, that the lands they had just taken from the Cherokee were “ceded…in trust for the Cherokee Nation as a school fund.” In Article IV, the US further initiated the Cherokees into the realms of high finance by stipulating that these ceded lands would be sold on the same terms as the other “public lands” and that the proceeds would be “vested, under the direction of the President of the United States, in the stock of the United States, or such other stock.” The President also controlled how the “interest or dividend of said stock” would be spent to best “diffuse the benefits of education among the Cherokee Nation on this side of the Mississippi.”[[18]](#endnote-18) Although the US formally instituted education policy “among the Cherokee” in order to civilize or assimilate them into the US economic order, this fact should not be construed to imply that the emerging Cherokee ruling elite were merely passive, neo-colonial minions.[[19]](#endnote-19)

On the contrary, the Cherokee ruling elite were deeply committed to literacy and education. In Article VI, Section 10 of the 1827 Constitution, they explained precisely why they were so dedicated to education for the Cherokee masses. “Religion, morality, and knowledge being *necessary to good government*, the preservation of liberty, and the happiness of mankind, schools and the means of education shall forever be encouraged…”[[20]](#endnote-20) The “happiness of mankind” notwithstanding, the Cherokee elite saw education as a way to instill in the communally oriented and kinship bound Cherokee people a new reverence, indeed love, for the Cherokee National government.

That hegemonic power was the root of the Cherokee National government’s deep dedication to education is further evident when viewed in comparison to education among the Western Cherokees, whose first fiscal legislation on education on October 27, 1835 actually *decentralized* the school system and placed schools under local control.[[21]](#endnote-21) However, even before the ink was dry, this vision of local schools, under local control and serving local needs and interests, would be swept away by the tidal wave of emigrating Eastern Cherokees, armed with the Treaty of New Echota, signed December 29, 1835. No doubt, the fiscally conservative Westerner leaders were horrified, once they recovered from their shock, to see the highly-centralized, fiscal and monetary monster that the Treaty of New Echota had created and that would soon be unleashed upon their own governing institutions. Among other staggering sums taken from the proceeds of the land sale, the Treaty of New Echota set aside 50,000.00 for an “Orphan Fund” and 150,000.00 for a “permanent school fund.” Whether or not the Cherokees actually received payment on this transaction, and there is good reason to believe they did not, the existence of this “fund” nevertheless gave the Cherokee ruling elite a very real hegemonic power to erect a carceral state.[[22]](#endnote-22)

With this “fund” in place and Easterners securely controlling the legislative apparatus of the new “united” Cherokee Nation, the Cherokee National Council wrote legislation that both created this branch of the carceral archipelago and revealed the ideology that informed it. In the *anno mirabilis* of 1839, or so it must have seemed to the stunned Westerners who saw more legislation enacted in one year than they had enacted in the whole period of their separation from the Easterners, the newly styled Cherokee Nation intended to enact fiscal legislation for education, “commensurate with [its] importance… and the extent and condition of the public finances.”

Gone, then, were the local schools of the Westerners. As of September 26, 1839, “all schools which may be or are now in operation” would be subject to the control and supervision of the National Council—even missionary schools had to be “designated by law.” This legislation also made evident that education was primarily a tool to reinforce state interests since public schools were to be regulated for their “usefulness and conformity to national rights and interests.” The act created a three-man committee, all nominated by the Principal Chief, “to mature and prepare a general system of education by schools, with such laws…as may be necessary.” (normative judgment) The committee was tasked with visiting all the schools, examining how students were taught, their improvement, and each school’s “utility.”[[23]](#endnote-23) (hierarchical observation) Clearly centralized control over the public schools, in very much the same way as the Courts did, would have served to further distribute state power, “capable of operating everywhere,” and insinuate it “down to the finest grain of the social body.”[[24]](#endnote-24)

Thus these few examples show the early legal thinking that laid the foundations for the Cherokee Welfare State, or as I have tried to suggest rather, a Cherokee carceral archipelago. Indeed the fiscal and monetary foundations of the Cherokee Nation continued to evolve to support an ever more elaborate system of social institutions. In 1841, the Cherokee National Council passed legislation to further increase their control of the public schools and the students who attended them. Along with increased appropriations to feed and cloth the students in “good, comfortable school houses,” “monies” were appropriated for the new board of Directors, who were instructed to “take up all orphan children,” place them in private homes, to be educated and boarded at the expense of the state. The next year, on Dec 19, 1842, the Cherokee National Council wanted to move these “destitute orphans” out of the common public schools into schools based on a “Manual Labor Plan,” conveniently located as near to the town of Tahlequah as possible.[[25]](#endnote-25) In addition, although an Act of November 26, 1846 expressed the intention to build institutions of higher education, the male and female seminaries were not carried into effect until November 12, 1847.[[26]](#endnote-26) Although impressive, these achievements of civilization were really only the beginnings of a model carceral archipelago, since many important efforts were only sporadically enforced or not completed until the 1870s, such as the “manual labor school” and the “national jail.” Indeed, if there was ever a “Cherokee Golden Age” it would have been the 1870’s, when the Cherokee elite proved themselves more adept, and importantly, more free, than the Americans in using Western financial tools to create a Progressive Welfare State.[[27]](#endnote-27)

After the painful hiatus of the Civil War, the Cherokees built an increasingly sophisticated monetary apparatus that enabled them to insinuate Cherokee state authority even deeper into the social fabric, by means of the very same institutions that Foucault observed in France, at roughly the same time. On November 25, 1871, the National Council established Cherokee Orphan Asylum to train orphan children in “habits of industry,” while a few days later, on November 29, the Cherokees amended the Act to improve the ability to control the population by collecting aggregate data, including the “number of inmates,” their age, sex, and “progress in education…with all information proper” for judging its “usefulness.”[[28]](#endnote-28) Prior to 1873, the Cherokee enacted pensions or appointed guardians for blind, crippled, or insane persons. Yet, on November 29, 1873, still seeking a permanent location for the Cherokee Orphan Asylum, the Cherokee Council now also provided for “permanently locating…the home for the insane, deaf, dumb, and blind.”[[29]](#endnote-29) While there is not enough time to explore the deeply significant details of how education, as discipline, both creates individuals and weaves them into the power structure, rest assured that a deeper examination of the fiscal and monetary legislation supporting education in the Cherokee Nation would confirm that the Cherokee elite, whether consciously or not, implemented the same disciplinary techniques on their “subjects,” as did the French penal reformers at the turn of the nineteenth century.[[30]](#endnote-30) No where is this more evident than in the birth of the Cherokee National jail.

Originally proposed in the height of the so-called “golden age” in an Act of October 20, 1851, the Cherokee National Jail was intended to be a hallmark to the enlightened rule of the Cherokee Elite, and as such, merits quoting in full:

Whereas the present system of corporeal punishment is contrary to the spirit of civilization; has not diminished crime in our country; is degrading to the spirit of freemen; and has been long since tried and abolished by the most civilized nations…will have a great tendency to deter from crime, and will afford a means to enable us to discriminate by law between the different degrees of man-slaughter, and better to proportion the punishment in all cases to the degree of offense.[[31]](#endnote-31)

Amazingly, the elimination of corporeal punishment is arguably the same shift Foucault saw in France from exemplary punishment to “humane” punishment, and using the very same instrument, the prison. Even more remarkably, the Cherokee legislation repeated, or rather anticipated, almost word for word, what Foucault called the “techno-politics of punishment, to wit: an “’economic’ rationality that must calculate the penalty and prescribe the appropriate techniques.” For Foucault, “humanity” was merely “a respectable name given to this economy and to its meticulous calculations.”[[32]](#endnote-32) The appeal to humanity merely served to regulate the effects of power, in contrast to the power of the king, or the blood feud, which were inefficient and arbitrary.

Although “less severe,” more codified, less arbitrary, and also supported by a “more generally accepted consensus concerning the power to punish,” the new legislation was, nevertheless, “sustained in reality” by the criminalization of daily life, evidenced in the “upheaval in the traditional economy of illegalities,” and ultimately, by the “application of force to maintain their new adjustment.”[[33]](#endnote-33) In reality, equality before the law simply masked the more rigorous and diffuse enforcement of the law on the most vulnerable members of society. The disciplinary regime that underlay the liberal political economy, then, unlike the king’s justice, was a dragnet, sweeping the whole population into its carceral orbit in order to marshal disciplined individuals in aggregate to serve the needs of capital and production.

Continuing to characterize the Cherokee state as a more humane, progressive welfare state when in fact, it uncannily, but quite precisely, mirrors the birth of the prison and its sister welfare institutions in France, is no longer impossible in light of this hitherto unexamined evidence. The social welfare interprets ignores the efforts of the Cherokee state to impose more total control over the social body. “All those rules that…demand ‘leniency,’” along with their humanitarian concern for “desitutite orphans” and criminals, are in fact the sign of a more rigorous, and for that reason less humane, “calculated power to punish.”[[34]](#endnote-34) Furthermore, unsettling the usual narrative of allotment as the end of an authentic communal golden age, these institutions indicate that the Cherokees themselves had already done much to break down communal relations in order to create the desired economic unit, the “individual.” Thus, allotment was not such a radical transformation as once thought. Rather, it was more like an over-haul of middle-management. The disciplinary space created by the 1887 allotment act ultimately was a moot point in the Cherokee golden age since, by means of their well-developed fiscal and monetary policy, the Cherokee elite had already, by 1902, translated their national golden age into golden cage.

Notes

1. D. S. Otis, *The Dawes Act and the Allotment of Indian Lands*. Francis Paul Prucha, ed. Norman, OK: University of Oklahoma Press; 1973 [1934], p. 10. [↑](#endnote-ref-1)
2. Cited in Otis, 1973 [1934], p. 10. The US had experimented with allotment on a tribe by tribe basis before passage of the 1887 Dawes Act, as happened with the Crows in 1882 and the Umatillas in 1885. Dawes was pushing for “general allotment” to be the official, federal policy for all tribes. As for this unnamed Chief, if he did exist, here he appears to be functioning as a rhetorical device. [↑](#endnote-ref-2)
3. Cited in Otis, *Dawes Act*. pp. 10-11. [↑](#endnote-ref-3)
4. Otis, pp. 11-12 [↑](#endnote-ref-4)
5. Writing about settlers, Hewes and Hightower; writing about Indians, Hoxie, Raibmon, Hossmer; possible exception, Harmon. [↑](#endnote-ref-5)
6. Literature on Indian Debt legion…Debt and dependency a shop-worn US strategy for finagling Indians out of their lands. Standard accounts include White, *Roots of Dependency*; Merrill, *American Woods*; McLaughlin, “Cherokee Nationalism;” Sheehan, *Seeds*, pp. 171-172. [↑](#endnote-ref-6)
7. The notion of a fiscal-monetary state is a play on Max Edling’s concept of the “fiscal-military state,” which he in turn, adapted from John Brewer’s 1989 work, *The Sinews of Power: War, Money, and the English State, 1688-1783* (London: Unwin Hyman; 1989). In his book, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press; 2003), Edling argued that the US Constitution was no “proto-liberal call for minority rights and limited government” (p. 4), but rather that its authors aimed to secure access to unlimited resources for the defense territorial and global commercial interests (pp. 8-9) Thus the US Constitution was primarily intended then, not to limit the government’s exercise of arbitrary power, but rather to enhance it, by masking its source through various forms of taxation (pp. 194, 199, 223-224). Thus, while the Cherokees did not maintain an imperial standing army (although the criminal justice arm of the welfare state may have approximated one), in almost all other respects, the Cherokee fiscal-monetary state, much like Europeans fiscal-military states, operated under an assumption of unlimited resources for the expansion of the Cherokee National Government itself and its carceral archipelago. [↑](#endnote-ref-7)
8. Reed, Julie L. *Serving the Nation: Cherokee Sovereignty and Social Welfare, 1800–1907*. Norman: University of Oklahoma Press; 2016. Frederick Hoxie, *The Final Promise: The Campaign to assimilate the Indians, 1888-1920*. Lincoln, NE: University of Nebraska Press; 2001 [1984]. C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight Over Federal Indian Policy after the Civil War*. Chapel Hill, NC: University of North Carolina Press; 2012. William T. Hagan, “Private Property, the Indian’s Door to Civilization.” *Ethnohistory* 3 (1956) pp. 126-137. William T. Hagan, *Taking* *Indian* *Lands:* *The* *Cherokee* *(Jerome)* *Commission,* *1889-1893*. Norman, OK: University of Oklahoma Press; 2003. Chang, David A. “Enclosures of Land and Sovereignty: The Allotment of American Indian Lands.” *Radical History Review* 109 (2011) pp. 108-119. Angie Debo, *And Still* *The Waters Run: The Betrayal of the Five Civilized Tribes*. Princeton, NJ: Princeton University Press; 1940. Carolyn Ross Johnston, *Cherokee Women in Crisis: Trail of Tears, Civil War, and Allotment, 1838-1907*. Tuscaloosa, AL: University of Alabama Press; 2003. Loring B. Priest, *Uncle Sam’s Stepchildren: The Reformation of United States Indian Policy, 1865-1887*. Lincoln, NE: University of Nebraska Press; 1975 [1942]. Marcia Larson Odell, *Divide and Conquer: Allotment Among the Cherokee*. New York: Arno Press; 1979. Brad A. Bays, *Townsite Settlement and Dispossession in the Cherokee Nation, 1866-1907*. New York: Garland; 1998. Leonard A. Carlson, *Indians, Bureaucrats, and Land: The Dawes Act and the Decline of Indian Farming*. Westport, CT: Greenwood Press; 1981. Exceptions: Rose Stremlau, *Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation*. Chapel Hill, NC: University of North Carolina Press; 2011. Patrick Wolfe, “Land, Labor, and Difference: Elementary Structures of Race.” *American Historical Review* 106 (2001) pp. 866-905. Veracini, Lorenzo. “District 9 and Avatar: Science Fiction and Settler Colonialism.” *Journal of Intercultural Studies* 32 (2011) pp. 355-412. Katherine Ellinghaus, *Blood Will Tell: Native Americans and Assimilation Policy*. Lincoln, NE: University of Nebraska Press; 2017. [↑](#endnote-ref-8)
9. Michel Foucault, *Discipline and Punish: The Birth of the Prison*. Alan Sheridan, trans. (New York, 1995 [1975]). [↑](#endnote-ref-9)
10. *LCNvar*, pp. 3-4. [↑](#endnote-ref-10)
11. Foucault, p. 80. [↑](#endnote-ref-11)
12. Foucault, pp. 85-87. [↑](#endnote-ref-12)
13. For yet another example of the same process in the Creek Nation, see Claudio Saunt, *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733-1816*. New York: Cambridge University Press; 1999. Here Saunt traces the criminalization of daily life as a function of private property through, for example, the increasing use of locks to secure property. [↑](#endnote-ref-13)
14. *Fifth Annual Report of D. W. Bushyhead, Treasurer Cherokee Nation*. Sep 30, 1876. OHSIA bv 396. By 1876, the bloated expenses of the Cherokee court system got so out of hand that the situation threatened to collapse the Cherokee fiat economy—the various warrants, certificates, tickets and vouchers that constituted the Nation’s “outstanding paper,” but more importantly, that circulated as a fiat currency within Cherokee territory, paying the expenses of the top heavy Cherokee national bureaucracy, supporting its institutions of social welfare, fueling economic expansion, and enabling quotidian commercial transactions. Concerned about reducing the Nation’s “outstanding paper,” Bushyhead identified four main causes for the depreciation of “our paper”: the “high rates of compensation” for guards, jurors, witnesses, etc.,; the practice of granting perpetual continuances in criminal trials; the perpetual and costly Cherokee delegations to Washington; and finally, like a fly in the punchbowl, “The inadequacy of the General Fund to meet these expenses, thus incurred.” Bushyhead was not exaggerating when he reported the National Council, that to continue these policies would be “ruinous.” It was “a fact patent to all,” Bushyhead tried to explain, that the 100 percent increase in the salaries of these functionaries had precipitated a 50-60 drop in the redemption value of “National Tickets,” from 1 dollar tickets redeemable at 75-90 percent of their face value, to 2 dollar tickets only being redeemable at 25-30 percent of their face value. The problem was, the Nation had to pay the tickets at face value, regardless of the market value. Not only would a further drop in value obligate the Nation to give away any hard currency they might have in exchange for worthless paper, but more importantly, if the value of Cherokee “scrip” were to drop to zero, meaning no one was willing to buy or accept it as payment for services, the whole Nation would have ground to an abrupt halt. [↑](#endnote-ref-14)
15. Foucault, p. 115. [↑](#endnote-ref-15)
16. Foucault, p. 194. As will be discussed later in this essay, hegemonic state power does not merely “mask” reality, rather, hegemonic power “***produces reality***” [my emphasis] by manipulating “domains of objects and rituals of truth.” [↑](#endnote-ref-16)
17. In the Cherokee Agency Treaty of July 8, 1817, the Cherokee Nation was divided between those Cherokees willing to cede their Eastern lands and remove to Arkansas, and those Cherokees who adamantly refused to do so (*TA5CT*, pp. 23-24). Thus after 1817, the US treated with the “Western Cherokees” as a separate nation. After forced removal of the remaining Eastern Cherokees in 1832, Western Cherokees were then known as the “Old Settlers.” In theory, these geographic distinctions were erased in the Act of Union on July 12, 1838, which was also, incidentally, the legislation in which the Cherokees took the official “style and title” of the Cherokee Nation (*CLCN*, pp. 5-7; *LCNvar*, pp. 3-4np). [↑](#endnote-ref-17)
18. *TA5CT*, p. 28. Here again is an example of tight nexus between debt/finance and social institutions. The fact of the institution and its funding cannot be separated. [↑](#endnote-ref-18)
19. Adams, *Tortured People*. [↑](#endnote-ref-19)
20. *LCN*var, p. 129. My italics. [↑](#endnote-ref-20)
21. The Third Treaty of Washington, May 6, 1828. *TA5CT*, pp. 32-33. This was a removal treaty with the Western Cherokees forcing them out of the Arkansas lands received in the Treaty of 1817 in exchange for their eastern lands. To compensate for this “inconvenience….[and] the reduced value” of the lands they were going to occupy further west, the US granted the Western Cherokee a special annuity of two thousand dollar per year for ten years. Also under the control of the President, the annuity was intended to assist the Westerners “in the education of their children, in their own country, in letters and the mechanic arts.” By October 27, 1835, as the Eastern Cherokees were having their Nation sold out from under them, the Western Cherokees enacted their first fiscal education policy. Unlike their Eastern compatriots, the Westerners “equally proportioned [the funds] among the four districts” and gave each district “entire management of their respective portion.” *LCNvar*, p. 177. This model did not allow for centralized “control.” Even more tellingly, in the context of fiscal and monetary policy, this model does not generate a large public debt, nor does it require the existence of an expensive, parasitic bureaucracy to administer it. [↑](#endnote-ref-21)
22. On October 12, 1839, a year remarkable for the avalanche of Legislation enacted, we see the first of a long series of petitions haranguing the US government to pay the Cherokees the amounts due for their land cessions. Then, again in 1841, 1842, 1845, 1846, 1849, 1851, 1865 1873 etc.,. See *Claremore Progress*, Nov 17, 1900; *FJBmc* Box B-39, FF 17, *Wagoner Record*, Nov 22, 1900; *FJBmc* Box B-39, FF 6, and *The Vinita Leader*, Jan 29, 1903; *FJBmc* Box B-39, FF 7. Even in the wake of *US v Cherokee Nation* in 1906, Cherokees were still, even as late as 1907, trying to extract the interest due them on the last sale of their lands in 1893. [↑](#endnote-ref-22)
23. *LCNvar*, pp. 30-31np. [↑](#endnote-ref-23)
24. Foucault, p. 80. [↑](#endnote-ref-24)
25. *LCNvar*, p. 75np. Although floated again on Nov 17, 1847 (*LCNvar*, pp. 163-164np) and Nov 3, 1848, this plan never materialized as a dedicated manual labor school for Orphans because th National Council could not find any religious organization to take responsibility for the schools. However, its intent was fulfilled on Nov 25, 1871 when the Cherokees established the Cherokee Orphan Asylum (*CLCN*, pp. 258-261), and again on Nov 24, 1873, when “destitute children” were appropriated into to the Seminaries under a new “primary departments.” (*CLCN*, pp. 267-269). [↑](#endnote-ref-25)
26. *LCNvar*, pp. 146-147np; *LCNvar*, pp. 157-162np. [↑](#endnote-ref-26)
27. Scholars typically locate the Cherokee Golden Age between 1849 and 1860, when the Cherokees, having recovered from removal and their own civil war, revived their newspaper and published numerous texts in the Cherokee Syllabary. This so-called Renaissance is greatly attributed to the expansion of education in the Male and Female seminaries, university level education, and a widespread economic prosperity. See Rennard Strickland, “Cherokee (tribe),” *The Encyclopedia of Oklahoma History and Culture*, <https://www.okhistory.org>. However, as noted here, much of this Nation building actually went on in the 1870s, when most scholars see the Cherokee Nation as under siege by outside forces of tribal dissolution and allotment. That the Cherokees held these forces off until 1902 is a testament to their strength, not their weakness. Cherokees in the 1870s and 1880s were not beleaguered, but were rather at the height of their financial power and sovereignty. [↑](#endnote-ref-27)
28. *CLCN*, pp. 261-262. [↑](#endnote-ref-28)
29. *CLCN*, pp. 263-264. [↑](#endnote-ref-29)
30. Foucault, pp. 170, 177, 184-191, 193-194. [↑](#endnote-ref-30)
31. *LCNvar*, pp. 221-222np. [↑](#endnote-ref-31)
32. Foucault, p. 92. [↑](#endnote-ref-32)
33. Foucault, p. 89. [↑](#endnote-ref-33)
34. Foucault, p. 101. [↑](#endnote-ref-34)