

RESIDENCY AND ENROLLMENT: DIASPORA AND THE CATAWBA INDIAN NATION

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IN JANUARY 2000, CYNTHIA ANN WALSH WROTE A HEATED E-MAIL to the editors of the *Rock Hill Herald*. A descendant of Catawba Indians who migrated west in the last decades of the nineteenth century, Walsh could not understand why her family had been excluded from the membership rolls of the Catawba Nation in South Carolina. "The Bureau [of Indian Affairs] simply is unable or unwilling to make up their minds what the criteria [for membership] ought to be," she charged. "I find it an outrage that a federal agency has acted with such willful contempt for the clear language of federal laws entrusted to it to apply and enforce."¹ Walsh and her family blamed their exclusion from the tribe on the mishandling of Catawba membership rolls by federal officials and the Catawba Nation. They demanded clear qualifications for membership so they could make their case for inclusion in the tribe. Defining Catawba tribal membership, however, had never been simple. Before 1943 it was a fluid and evolving process that involved continuous negotiations between tribal members and South Carolina agents. Once fixed in place by the federal government, the membership roll reflected those earlier debates on belonging and served as a baseline for future membership decisions of the tribe. Decades of discussions, debates, and decisions ultimately provided the Catawbas with a means of distinguishing who belonged, and the result was the exclusion of Catawbas whose ancestors had moved away from the homeland.

Tribal membership is a legal identity that incorporates, but does not mirror, ethnicity. Although individuals may have indigenous ancestry or cultural ties to a native community, without official tribal membership, they lack legal standing as Indians. The legal identity of Indians is based on the inherent sovereignty of Indian nations as well as the historical interactions between tribes and state and federal governments. The right to determine tribal membership, which the Supreme Court has upheld, lies at the heart of tribal

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¹ Susan J. Stabley, "Lawyer Wants Inclusion on Tribe's Roll," *Herald* (Rock Hill, S.C.), January 31, 2000, in Judy Canty Martin, *My Father's People: A Complete Genealogy of the Catawba Nation* (Cortez, Colo.: J. Martin, 2002), 157–158.

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promised, would united white southerners and allow them to maintain control over their region and preserve its unique culture.

De Bow defies easy periodization because he transcends historical labels conceived by New South mythmakers and perpetuated by historians. Without knowing the term "New South," De Bow anticipated the development of a different future for the region. He created a sense of forward momentum and progress for southerners eager to profit from changes in the market economy. By the 1850s, the South had entered into a period of intense factory construction, railroad development, and commercial growth, but it failed to match northern progress. De Bow worried about southern dependence on northern factories and merchants and bemoaned the region's lack of manufacturing and cities. Although he spent fourteen years writing to an antebellum audience and only one addressing postwar readers, De Bow's concerns would have been understandable to southerners in the late nineteenth century. He borrowed existing ideas about economic development and, for the first time in southern history, successfully consolidated them into a monthly journal. His reverence for past traditions helped legitimize his feelings about the future transformation of the South. Progress and modernity were to be embraced, and De Bow expected regional support for his plan. Postbellum boosters in the 1870s and 1880s used similar techniques to forge a consensus among southerners. Although their creed seemed to be innovative after the Civil War, New South boosters contributed little original material about southern economic diversification and development.

In the month before his death, De Bow took an extended trip through the North and the South. He visited factories and stores in Louisville, Cincinnati, and New York. He complained about the safety of railroads and called for state governments to ensure the wellbeing of passengers by regulating construction. He noted the level of rebuilding and progress in towns and cities between Washington, D.C., and Charleston. Yet when De Bow arrived in the city of his birth, he was saddened. His final visit to "dear old Charleston" was a stark reminder of the work that still needed to be done in the postwar South. Burned homes, moribund businesses, and grass-filled streets evoked unhappy childhood memories. Instead of dwelling on the past, however, De Bow looked for economic potential amid the rubble. He discerned a new era of commercial greatness in his old hometown. Writing directly to the merchants of Charleston and the rest of his southern readers in his last article, De Bow implored them: "Never say FAIL—brothers in this hour of common disaster, Awake! Awake! There is a future before us, perhaps more brilliant than the past, if we are to be true to that past."³⁴

³⁴J. D. B. De Bow, "Editorial Notes, Etc.," *De Bow's Review* 3 (February 1867): 213–217.

sovereignty.² Without the authority to draw boundaries of citizenship, tribes would be powerless to protect their resources and rights from outsiders. By determining their membership, tribes can police the borders of their political position and ensure that neither their assets nor unique legal status are misappropriated or usurped. Tribes do not use uniform criteria to establish membership; instead, the creation of tribal rolls is a historical act influenced by many considerations. Examining the role of residency in the creation of the Catawba roll provides insight into the tension that sometimes exists between ethnicity and legality. The Catawba example illustrates how one tribe decided who belonged.

Under pressure from the state of South Carolina, white tenants, and non-Indian trespassers, the Catawbas signed the Treaty of Nations Ford in 1840.³ The Indians agreed to give up their land in exchange for five thousand dollars that the state promised to use to purchase a new reservation in North Carolina. South Carolina also consented to pay the Indians the same amount when they left their present homes plus fifteen hundred dollars a year for nine years.⁴ This was meager compensation for the 144,000 acres of rich farmland ceded by the Indians, but the Catawbas had little choice other than to sign. At first, the treaty left the Catawbas without a place in South Carolina. Divided over where to go, some Catawbas traveled northward and joined the Eastern Cherokees in North Carolina. Others considered moving west and settling among the

² In 1978 a U.S. Supreme Court case, *Santa Clara Pueblo v. Martinez*, confirmed the right of Indian tribes to determine their citizenry. In this case, Julia Martinez, a lifelong member and resident of the Santa Clara Pueblo, brought suit against her tribe for refusing to admit her children to its membership rolls. Martinez had married outside the tribe, and according to the tribal enrollment law of Santa Clara, the pueblo only granted membership to the children of male pueblo members. In its landmark decision, the Supreme Court upheld the sovereign right of the Santa Clara Pueblo to define its own membership, even if its criteria for inclusion seemed to violate laws against gender discrimination. Indians consider this case to be an important victory for tribal sovereignty. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). For a brief discussion of the case, see Gary A. Sokolow, *Native Americans and the Law: A Dictionary* (Santa Barbara, Calif.: ABC-CLIO, 2000), 207.

³ During the years leading up to the Indian Removal Act of 1830, the Catawbas had supplemented their incomes by renting much of their territory to white leaseholders. Initially, this arrangement worked well, and Catawba community ties may have strengthened through lease holding. By the 1830s, however, white lessees began to resent this situation. Year after year, these tenants sent petitions to the state legislature demanding that the Indians give up their reservation and transfer title of the lands to whites. In 1832 the state appointed commissioners to negotiate with the Catawbas for the sale of their land. These negotiations resulted in the 1840 Treaty of Nations Ford. See James H. Merrell, *The Indians' New World: Catawbas and Their Neighbors from European Contact through the Era of Removal* (Chapel Hill: Published for the Institute of Early American History and Culture, Williamsburg, Va., by the University of North Carolina Press, 1989), 234, 247.

⁴ Merrell, *Indians' New World*, 250.

Choctaws or Chickasaws in Indian Territory. Still others preferred to stay where they were. For a time, the Catawbas seemed disjointed and dissolved as a people. The one thing that connected them to their traditional home in South Carolina was the annual treaty payout from the state. If they wanted a share of the money, they had to collect it from their agent in South Carolina.⁵

South Carolina eventually abandoned its efforts to remove the Catawbas after the Chickasaw and Choctaw Nations in Indian Territory refused to take them. The state maintained its relationship with the tribe, although the legislature failed to appropriate the entirety of the treaty money or purchase a suitable replacement for the lands the Catawbas ceded in 1840.⁶ Instead, their state-appointed financial agent secured for the Catawbas a small tract on the Catawba River in 1842. The soil was poor, the terrain was hilly, and the land was covered in forest. Nevertheless, this tract, known as the "Old Reservation," became home for the Indians who returned to South Carolina after the unsuccessful removal attempts of the mid nineteenth century. The tribe gradually regrouped around this land and reorganized a political system with Allen Harris as "Chief Man."⁷ Each year their agent received one thousand dollars from the state for supplies.⁸ In addition, in 1849 South Carolina governor Whitemarsh B. Seabrook promised to pay the Catawbas a 6 percent annual interest on their withheld funds. The state of South Carolina made these small yearly payments to the tribe on a per capita basis until the 1940s, except during the Civil War.⁹ The Catawbas survived on this money, combined with what they could produce in their small gardens and cornfields, by hunting and fishing, or through selling their pottery.

Over the years, South Carolina haphazardly appropriated money for the tribe. According to a federal official who made a report on the Catawbas in the 1930s, "Appropriations for the tribe in later years have varied greatly." From 1840 to 1910, state appropriations totaled around \$86,900. From the 1910s through the 1930s, the state paid the tribe around ninety-five hundred dollars annually. Some of the money funded a small school for Catawba children on the reservation.¹⁰ The financial agent paid the reservation's teacher, physi-

⁵ *Ibid.*, 252.

⁶ Douglas Summers Brown, *The Catawba Indians: The People of the River* (Columbia: University of South Carolina Press, 1966), 329.

⁷ *Ibid.*, 320-321.

⁸ *Ibid.*, 322.

⁹ Louise Pettus, *Leasing Away a Nation: The Legacy of Catawba Indian Land Leases* (Spartanburg, S.C.: Palmetto Conservation Foundation, 2005), 50.

¹⁰ D'Arcy McNickle, memorandum to the commissioner, subject: Catawba Indians, 1937, file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, Record Group 75, National Archives and Records Administration, Washington, D.C. (hereafter cited as RG 75, NARA Washington).

cian, and others who provided services to the tribe.¹¹ Most of the money, however, was "doled out in small per capita payments," ranging from around twenty to forty dollars for each tribal member. State officials believed that these payments fairly compensated the Catawbias for the land they lost in the 1840 treaty.¹² The Catawbias maintained that South Carolina owed them a just settlement for the thousands of acres ceded at Nations Ford, but they took the state payments as temporary compensation for their considerable loss.¹³

To determine which Catawbias were eligible for state payments, the tribe's financial agent kept annually updated lists of tribal members. These lists included the names of individual Indians grouped by family and noted whether each person was married or single. The lists recognized both male and female household heads and indicated how much state money each individual received.¹⁴ Until 1883 the agent published the lists each year in the state's reports and resolutions file. After that date, agents continued to compile lists in order to distribute payments, but they no longer published them.¹⁵ State appropriation payments created an incentive for Catawbias to consider formally what it meant to belong to the tribe, a process that profound social changes made more difficult.

Mormon missionaries, who arrived among the Catawbias in 1883, were a catalyst for some of those changes. Hoping to convert the region's white population, these missionaries redirected their attention after a chance encounter with Catawbias at Rock Hill.¹⁶ They integrated themselves into

¹¹ Charles L. Davis, Special Indian Agent, to Commissioner of Indian Affairs, January 5, 1911, file 8990-1908-052, Central Classified Files, 1907-1939, General Service, 41394-1935-051 to 36201-1908-052, box 193, RG 75, NARA Washington.

¹² D'Arcy McNickle, memorandum to the commissioner, subject: Catawba Indians, 1937, RG 75, NARA Washington.

¹³ B. S. Massey, *Report to the Governor of South Carolina on the Catawba Indians* (Columbia, S.C.: R.W. Gibbes & Co., State Printers, 1854), 5.

¹⁴ U.S. Congress, Senate, *Survey of Conditions of the Indians in the United States: Hearings Before a Subcommittee of the Committee of Indian Affairs*, pt. 16, March, November, December, 1930, 71st Cong. (Washington, D.C.: U.S. Government Printing Office), 7574-7575.

¹⁵ Thomas J. Blumer, "A History behind the Catawba Nation Tribal Roll, 1943-1999," *7th Generation Catawba News*, April 1999, 7, copy available in file: Blumer, Thomas J., "A History behind the Catawba Nation Tribal Roll, 1943-1999," Blumer Collection on the Catawba Nation, Native American Studies Collection, Medford Library, University of South Carolina at Lancaster (hereafter cited as Blumer Collection). *7th Generation Catawba News* was a newsletter edited by Cynthia A. Walsh of Sioux Falls, S.D.

¹⁶ C. A. Callis, "Converted Lamanites," *Liahona, the Elders' Journal*, June 27, 1908, 48-49, copy available in file: Catawba Indians, Mormon Church, Clippings (1855-1997), Blumer Collection. Missionaries also reinforced Catawba attitudes towards African Americans that had begun developing in the eighteenth century. That topic is beyond the purview of this essay, but I discuss it in detail in my recently completed Ph.D. dissertation, "Who Belongs? Becoming Tribal Members in the South" (Univer-

community life, built a church, and set about educating Catawba children.¹⁷ Missionaries also sent tribal members to Salt Lake City and elsewhere in the West to receive further instruction and help advance the Mormon faith.¹⁸ In 1887, for example, five Catawba families headed by James Patterson, John Alonzo Canty, Alexander Timms, Hillary Harris, and Pinkney Head departed with the Latter-Day Saints for southern Colorado.¹⁹ Sometimes Catawbas returned to South Carolina, but often they did not. Instead, those Catawbas who stayed in the West built new lives for themselves, intermarried with whites and Latinos, and spread out across portions of Colorado, Utah, and New Mexico. Although these Catawbas retained a sense of their Indian heritage and kinship ties to the people they left behind, their geographical distance from the core Catawba community in South Carolina called into question their rights as tribal members.

When Catawbas moved out of state, South Carolina faced a dilemma. Should state officials pay appropriations money to non-residents? At first state agents continued dispersing payments to Catawbas who migrated. In 1887 the attorney general of South Carolina advised that Catawbas were "entitled to their pro rata share of such fund . . . so long as they belong to the tribe, and not upon their residence in this state."²⁰ Pinkney Head and his family drew their appropriations for two years after leaving South Carolina, then the payments stopped.²¹ Under pressure from officials who had received complaints from South Carolina Catawbas about dwindling per capita payments, the agents refused to pay any more money to Catawbas outside of the state.²² In 1892 this stance was formalized when the legislature passed a resolution prohibiting payment to those Indians who left South Carolina.²³

sity of North Carolina at Chapel Hill, 2012). Also see James H. Merrell, "The Racial Education of the Catawba Indians," *Journal of Southern History* 50 (August 1984): 363–384.

¹⁷ Charles L. Davis to Commissioner of Indian Affairs, January 5, 1911, RG 75, NARA Washington.

¹⁸ Hazel Lewis Scaife, *History and Condition of the Catawba Indians of South Carolina* (Philadelphia: Office of the Indian Rights Association, 1896), 14.

¹⁹ "Catawba Membership Petition, Applications of Viola Elizabeth (Patterson) Garcia Schneider, Brenda Kaye Schneider, Aric Grant Schneider Bartle (minor), Cynthia Ann Schneider Walsh, and Debra Sue Schneider," 1994, Blumer Collection.

²⁰ "The Catawba Indians," *Rock Hill Herald* (Rock Hill, S.C.), March 31, 1887, 3, copy available in file: Catawba Indians, Legal, Court Cases, South Carolina (1887), Blumer Collection.

²¹ Pinkney H. Head to Secretary of the Interior, January 20, 1909, file 4985-09-211, Central Classified Files, 1907–1939, General Service, 73560-1908-211 to 25139-1910, box 592, RG 75, NARA Washington.

²² Blumer, "History behind the Catawba Nation Tribal Roll," 7, Blumer Collection.

²³ Agent A. E. Smith to Nancy Harris, January 16, 1892, file: Catawba Indians, Administrative, SC, Agents, Smith, A. E. (1883–1897), Blumer Collection.

That year, the financial agent remarked in his report to the comptroller general of South Carolina that "heretofore my instructions have been to pay out equally to Catawba Indians, whether residents of this State or not, so long as they maintained their tribal relation . . . [but] the provisions in the last Act limited appropriation to those living in this State only."²⁴ From then on, the financial agent excluded western Catawbas from the appropriations lists.

Despite numerous complaints and appeals of Catawbas in the West and other parts of the country, South Carolina reaffirmed the ruling against paying out-of-state Catawbas in 1905. According to the new attorney general, only those Indians on the reservation could get a share of the tribe's assets.²⁵ In 1909 the assistant attorney general for the state interpreted the law to mean "permanent residence in the State" and was set to deny appropriations even to those Catawbas who returned to South Carolina after some time away.²⁶ Although not every agent enforced the rule with such rigor, by the early twentieth century South Carolina officials were committed to preserving payments for South Carolina residents only. Special agent Charles L. Davis explained in 1911 that "the State naturally objects to distributing what it terms gratuities to residents of other states."²⁷ This position infuriated western Catawbas, who believed the state was cheating them out of their heritage and inheritance.

In the minds of the descendants of western Catawbas, the families that migrated retained their Catawba identities. They corresponded with and visited the core community in South Carolina, and they had "vivid memories of their parents' and grandparents' teaching of the allotments which the Catawbas were due from the government of South Carolina."²⁸ At various points over the course of the late nineteenth and twentieth centuries, western Catawbas appealed to the state government for recognition of their rights as tribal members. In 1892, for example, Nancy Harris from Gainesville, Texas, wrote to the South Carolina governor to complain that she and her children had been cut out of their "just Rites." Invoking the Catawbas' long history of friendship with the United States, she demanded to know how South Carolina

²⁴ *Report of the Comptroller General of the State of South Carolina to the General Assembly for the Fiscal Year Ending October 31, 1892* (Columbia, S.C.: Charles A. Calvo Jr., State Printer, 1892), 200.

²⁵ "Claims of the Catawba," *Rock Hill Herald*, April 17, 1907, 1, copy available in file: Catawba Indians, Legal, Court Cases, South Carolina (1905), Blumer Collection.

²⁶ M. P. DeBruhl, Assistant Attorney General, to J. D. Lesslie, Agent Catawba Indians, April 9, 1909, cited in *Report of J. Fraser Lyon, Attorney General to the General Assembly of South Carolina for the Fiscal Year, 1909* (Columbia, S.C.: Gonzales and Bryan, State Printers, 1910), 64.

²⁷ Charles L. Davis to Commissioner of Indian Affairs, January 5, 1911, RG 75, NARA Washington

²⁸ "Catawba Membership Petition, Applications of Viola Elizabeth (Patterson) Garcia Schneider . . . and Debra Sue Schneider," 1994, Blumer Collection.

dared to deny her family their share of the tribe's payments. She exclaimed to the governor, "If you was to move over in Georgia or north C would the members of the legetlater [sic] have a rite to take your home from you?"²⁹

Some western Catawbias made direct pleas to the federal government for recognition of their rights as Indians. In 1895 a group calling themselves the "Catawba Indian Association" in Fort Smith, Arkansas, held a convention and sent a petition to Washington asking for land allotments.³⁰ This association represented 257 Catawbias and their descendants from the Indian Territory, Oklahoma Territory, Arkansas, and Texas who had migrated west during some of the mid-nineteenth-century attempts to remove the tribe. The petitioners stated that they had "left their lands and homes in the Carolinas and journeyed at their own expense to the country west of the Mississippi River, hoping and expecting to be there furnished with and located and subsisted for one year upon new homes."³¹ The Interior Department failed to provide them with these anticipated benefits, leaving the Catawbias without land or subsistence.³² They beseeched the federal government to investigate their circumstances and "secure the Catawba Indians equal rights to share in the Public Domain the same as other Indians."³³ The association wanted to know if, as non-reservation Indians, they had rights to land or property in South Carolina and also whether they could benefit from homesteading laws in their states and territories of residence.³⁴ The commissioner of Indian Affairs replied that he saw no reason why these Indians should not "take up lands in severalty" in the West, but he remained silent on their rights to South Carolina Catawba assets.³⁵ It is unclear whether these Indians ever received homesteads.

In some cases, in lieu of requesting rights as South Carolina Catawbias, individuals who migrated west asked the federal government to grant them

²⁹ Nancy Harris to Governor Tillman, February 10, 1892, file: Catawba Indians, Administrative, SC, Agents, Smith, A. E. (1883-1897), Blumer Collection.

³⁰ *Petition and Memorial in the Matter of Claims and Demands of the Catawba Indian Association to the United States* (Fort Smith, Ark.: Thomas A. Higgins, Printers, 1895), copy available in file: Catawba Indians, Administrative, US-BIA, Correspondence, 18 MSS., April 10, 1857-April 15, 1895, Blumer Collection.

³¹ Senate Committee on Indian Affairs, *The Catawba Tribe of Indians*, Richard Franklin Pettigrew, S. Doc. 144, 54th Cong., 2nd sess., February 1, 1897.

³² *Ibid.*

³³ *Petition and Memorial in the Matter of Claims and Demands of the Catawba Indian Association*, Blumer Collection.

³⁴ James Bain, President of the Catawba Indian Association, to Commissioner of Indian Affairs, March 4, 1896, file: Catawba Indians, Administrative, US-BIA, Correspondence, 14 MSS., December 18, 1895-April 17, 1905, Blumer Collection.

³⁵ D. M. Browning, Commissioner of Indian Affairs, to R. V. Belt, March 28, 1896, file: Catawba Indians, Administrative, US-BIA, Correspondence, 14 MSS., December 18, 1895-April 17, 1905, Blumer Collection.

rights as members of western tribes. In 1896 the commissioner of Indian Affairs received a petition from Pinkney Head and twenty-five other Catawbans in Sanford, Colorado, "who claim to have once resided in South Carolina but are no longer 'recognized' by said State." The petitioners asked to join the Ute Indian tribe on the Uintah Reservation and receive federal benefits as tribal members.³⁶ This petition did not reflect a relinquishment of Catawba identity on the part of Head and his relatives, but simply showed that these Catawbans were looking for alternate ways to acquire land and recognition of their Indian identity in their new western homes. With South Carolina's refusal to grant them shares of the state's appropriation payments, union with the Utes seemed a viable alternative. Unfortunately for the petitioners, their letter arrived in Washington at a low moment for federal-tribal relationships. The General Allotment Act had gone into effect a decade earlier, and as the commissioner explained, "It is the policy of the Government to abolish the tribal relations of the Indians as fast as possible, and to settle each Indian upon a separate tract of land that he can call his own."³⁷ Head and his relatives may have hoped to receive allotments as Utes, but the federal government had no intention of adding to the rolls of western tribes. Officials denied their request. The unintended consequence of this petition was to make both state officials and South Carolina Catawbans feel that Pinkney Head's group had given up their rights in the Catawba Nation.

South Carolina officials did not want to pay appropriations to Indians outside of the state, and South Carolina Catawbans supported this decision. In part, their motivations were financial. Desperately poor with few opportunities for employment, late nineteenth- and early-twentieth-century Catawbans often depended on state money for survival. As one Catawba woman remembered, "After we drew money my parents would immediately go to the store and buy several hundred pounds of flour."³⁸ When supplies ran out, the Catawbans frequently bought goods on credit and promised to pay back storekeepers once their next appropriations came in. In this way, merchants advanced them both "money and supplies" that were critical for their daily needs even when they could not find jobs.³⁹ Catawbans took pride in keeping "their good name in matter of credit," yet the small amount of cash they

³⁶ Senate Committee, *Catawba Tribe of Indians* (1897).

³⁷ *Ibid.*

³⁸ Interview with Jessie Harris and Nola Campbell, by Frances Wade, November 4, 1974, Proctor Oral History Program, Oral History Collections, Smathers Libraries, University of Florida Digital Collections, Gainesville (hereafter cited as Proctor Oral History Program).

³⁹ J. D. Lesslie, Catawba Agent, to Governor Martin F. Ansel, July 5, 1907, file: Catawba Indians, Administrative, SC, Agents, Lesslie, J. D., (1906-1911), Blumer Collection.

received barely covered living expenses.⁴⁰ One white woman married to a Catawba recalled that reservation families usually spent the meager appropriations "three or four times over before the year rolled around . . . so it was real bad for them."⁴¹ The Catawbas realized that if appropriations money went out of state, they would be left with even less credit, making it all the more difficult to feed their families.

South Carolina Catawbas formalized their desire to keep appropriations money in the state by passing tribal resolutions that reinforced the state's decision to pay only those Indians in South Carolina. Chief James Harris explained to reporters in 1907 that he had no objection to old tribal members returning to South Carolina and being reincorporated as full participants in the fund, but he objected to Catawbas coming back for money and departing again as soon "as they are paid off."⁴² For this reason, according to the agent, "the Indians have made a rule that if one of their number does not live on the reservation or in the State six months before they are paid off they will not be entitled to a share."⁴³ The state alone did not restrict the rights of western Catawbas; the South Carolina Catawbas also approved and promoted their exclusion.

Financial needs prompted the decision to restrict payments to tribal members living in the state of South Carolina, but the exclusion of the westerners revealed the Catawbas' cultural and political ideas about belonging as well. To be a Catawba, an individual had to be part of the Indian community and that community was centered on the reservation lands in South Carolina. For the Catawbas, a physical connection to that land correlated with belonging to the tribe. As one Catawba man later described it, "Reservation life when I grew up was a caring, sharing extended family."⁴⁴ Indians who lived on or near the reservation learned how to be Catawba. There, South Carolina Catawbas told traditional stories, performed Catawba dances, spoke the Catawba language (until the 1950s), and built exquisite pots from clay they dug from their native ground. Catawbas outside of the state were not able to participate in the events and traditions that shaped Catawba identity. Nor could they contribute to the political life of the tribe. They might preserve kinship ties to the core Catawba community and eventually return and reintegrate into community life, but as long as they lived apart from the

⁴⁰ Charles L. Davis to Commissioner of Indian Affairs, January 5, 1911, RG 75, NARA Washington.

⁴¹ Interview with Mae Bodiford Blue, by L. Whitesell, December 30, 1971, Proctor Oral History Program.

⁴² "Claims of the Catawba," Blumer Collection.

⁴³ J. D. Lesslie, Catawba Agent, to Governor Martin F. Ansel, July 5, 1907, Blumer Collection.

⁴⁴ Fred Sanders biography in *7th Generation Catawba Newsletter*, April 1999, quoted in Martin, *My Father's People*, 84.

reservation, they held a different status in the eyes of those Catawbas who remained in South Carolina. Western Catawbas who had migrated away generations earlier and lost their political connection to the tribe, in particular, seemed undeserving of an equal share in the tribe's assets.

Reservation life was important to Catawba identity, though barriers between South Carolina and western Catawbas were not impermeable. If individuals rejoined the community in South Carolina, the core Catawbas on the reservation accepted them and granted them equal rights to tribal assets. A powerful example of this flexibility is the case of Thomas Morrison. Morrison moved with his parents from South Carolina to Arkansas as a child in 1853.⁴⁵ A smallpox epidemic raged in South Carolina at the time, and Morrison's parents perhaps fled in hopes of escaping the virus.⁴⁶ In the 1880s, he returned to his home state as a grown man. Anthropologist Frank G. Speck, who worked with the tribe in the early twentieth century, wrote that the Catawbas respected Morrison as a "medicine doctor" for his considerable knowledge of traditional Catawba curing techniques, and they welcomed his reintegration into community life. Morrison ingratiated himself by refusing to charge Indians for his services, although he did collect payments from whites whom he treated. He passed on much of his knowledge to upcoming Catawba leader Sam Blue, and he even served as an interim chief of the tribe in 1886. Morrison stayed a number of years in South Carolina, and during this time, he drew a share of the tribal funds from the state. He returned to Arkansas around 1900, but while he lived in South Carolina, he was a full and active member of the tribe.⁴⁷ Morrison's story illustrates that South Carolina Catawbas did not deny the Catawba identities of those who moved west or reject the possibility of them rejoining the tribe; they simply thought that these individuals should return to the community before they received payments as tribal members.

South Carolina Catawbas agreed with the state's restrictions on paying appropriations to western Catawbas, but they objected when South Carolina denied funds to Catawba children who left the state to attend boarding schools.⁴⁸ Beginning in the 1890s, a steady stream of Catawba youth attended the Cherokee boarding school in North Carolina and the Carlisle Indian

⁴⁵ Brown, *Catawba Indians*, 335.

⁴⁶ Frank G. Speck, "Catawba Herbals and Curative Practices," *Journal of American Folklore* 57 (January-March 1944): 37-50.

⁴⁷ *Ibid.*

⁴⁸ According to the superintendent of the Cherokee Agency, Catawba parents would have "more freely" sent their children to boarding schools "if it were not for a fear on the part of the Indians that they would not receive the per capita shares from the State for the absent children." See Frank Kyselka, Superintendent, to Commissioner of Indian Affairs, March 25, 1910, file 8990-1908-052, Central Classified Files,

Industrial School in Pennsylvania after South Carolina segregation laws barred them from local white schools.⁴⁹ Catawba students had mixed feelings about the boarding schools. Some relished the opportunity to achieve higher education, while others missed their home and community so much that they ran away.⁵⁰ Catawba parents had ambivalent opinions about the boarding schools as well. Although parents wanted their children to have new opportunities, they worried about their wellbeing, especially when students like Rosa Harris returned from Carlisle in poor health.⁵¹ The death of Wade Ayers at Carlisle in 1903 from a smallpox vaccination was a severe blow to the tribe.⁵² Parents wondered if it was worth sending their children away. They also worried about the effect of their children's absence on family finances and community dynamics.

When Catawba children left South Carolina to attend boarding school, the state cut off their annual appropriation payments. This situation put Catawba parents in a bind. Although graduates of Carlisle returned "to their people masters of a trade, industrious and thrifty," parents in the meantime were distressed by their reduced income.⁵³ When students lost their payments, the whole family suffered. As a result, many parents kept their children out of school.⁵⁴ Another concern for Indian parents was that once their children received educations, they sometimes declined to return to the reservation. The Catawbas were particularly fearful of losing female tribal members who married elsewhere or found jobs in other states because they defined kinship matrilineally. In the words of Special Agent Charles L. Davis, "As the tribe stands in danger of becoming extinct through decrease of Indian mothers, they naturally oppose any thing that would increase this danger."⁵⁵

Advocates for Indian education could not resolve concerns over where young people settled after completing school, but they tried to fix the matter of non-payment of student appropriations. Mrs. R. E. Dunlap, a teacher at the Catawba Indian School on the reservation, wrote the governor of South

1907-1939, General Service, 41394-1935-051 to 36201-1908-052, box 193, RG 75, NARA Washington.

⁴⁹ Interview with Moroni James Joseph George, by Emma Echols, September 1, 1976, Proctor Oral History Program.

⁵⁰ "Carlisle Indian Industrial School—Catawba Chronology (1893-1911), compiled by TJB," file: Catawba Indians, Education, Carlisle Industrial School (1893-1911), Blumer Collection.

⁵¹ Ibid.

⁵² William M. Goins, ed., *South Carolina Indians Today: An Educational Resource Guide* (Columbia, S.C.: Phoenix, 1998), 19.

⁵³ "Strange Conditions of the Indian School," *State* (Columbia, S.C.), January 20, 1904.

⁵⁴ Ibid.

⁵⁵ Charles L. Davis to Commissioner of Indian Affairs, January 5, 1911, RG 75, NARA Washington.

Carolina and pleaded the children's case.⁵⁶ Through her efforts, the issue reached the level of a scandal, and for a time, out-of-state students received their pensions. Gradually, however, the dispersing agents for the state began denying pupils their payments once again.⁵⁷ Special Agent Davis explained the situation to the commissioner of Indian Affairs: "the official roll includes no Catawbas living in other states . . . This rule has been enforced as against pupils in Carlisle school, as well as real nonresidents."⁵⁸ The superintendent of the Cherokee boarding school summarized the ongoing problem in 1910: "If the per capita was paid just the same whether the children were on the reservation or elsewhere, no doubt the attitude of the parents regarding sending their children away to be educated would undergo a change."⁵⁹ Despite the appeals of federal agents to the commissioner of Indian Affairs, the Catawbas, as a state-recognized tribe, had to deal with state officials rather than the federal government. The issue of state appropriations and boarding-school students continued to fester without clear resolution.

The rights of individuals to appear on South Carolina's appropriations lists for the Catawbas evolved over the course of the late nineteenth and early twentieth centuries as tribal members and state officials negotiated the terms of inclusion. These lists determined which Indians were entitled to a share of the tribe's assets, and the appearance of individuals on the lists became an important marker of community belonging. Ethnicity and residency both played a role in making these determinations. Yet the appropriations lists were not official tribal rolls, and consequently, they entitled those whose names appeared to nothing more than the stipend for that year. State officials did not set names permanently, but rather responded to the changing tribe. When Catawbas returned from out of state, they reentered the tribe and received full benefits. However, the fluidity of the state appropriations lists was not to last. When the tribe sought the resolution of ongoing land claims in South Carolina and the state could no longer ignore the Indians' poverty in the 1930s, the federal government got involved. Ultimately, the Interior Department replaced state appropriations lists with an official tribal roll that fixed Catawba membership. Once in place, this roll became the basis for all future Catawba membership rolls.

The Catawbas' dire economic straits provided the context for the development of a federally sanctioned tribal roll. Over the years, the condition of extreme poverty on the Catawba reservation had attracted the attention of state

⁵⁶ "Strange Conditions of the Indian School."

⁵⁷ Thomas J. Blumer, "The Development of the Current Catawba Nation Tribal Roll," March 1997, 2-3, Blumer Collection.

⁵⁸ Charles L. Davis to Commissioner of Indian Affairs, January 5, 1911, RG 75, NARA Washington.

⁵⁹ Frank Kyselka to Commissioner of Indian Affairs, March 25, 1910, RG 75, NARA Washington.

officials. Since the Treaty of Nations Ford, the Catawba had suffered economically on their reduced lands. In 1894 one journalist described their existence as "wretched indeed."⁶⁰ The Great Depression hit the rural Catawbans hard and deprived them of whatever small opportunities they had for work outside of the reservation.⁶¹ Chief Sam Blue despaired that his people were in a "starving condition" because their land was "so poor and rough" they could not earn a living on it. Only seven members of the tribe held jobs in 1934, and despite their yearly appropriations payments, the Indians could not afford to pay their bills.⁶² Year after year, individual Catawbans racked up debt as they struggled to make ends meet. In 1936 the state Auditing Department's accounting showed that as a whole, the tribe owed more than \$9,200 to its creditors.⁶³ By that time, the Catawbans had defaulted on so many bills that their agent reported the impending loss of medical care. He explained that "the local doctors are reluctant, in fact most of them are declining to render medical aid on account of the non-payment of the accumulated bills."⁶⁴ Hoping to take advantage of President Franklin D. Roosevelt's plans to combat the Depression as well as the appointment of a new commissioner of Indian Affairs, John Collier, who was sympathetic to the plight of the country's Native Americans, both the Catawba financial agent and the chief wrote Washington and begged for relief.⁶⁵

After receiving numerous pleas from state officials and the Catawbans to ameliorate their poverty, the federal Indian Office finally sent an agent to South Carolina to investigate the situation. D'Arcy McNickle, an enrolled Salish Kootenai and a long-time Indian activist, visited the reservation and advised

⁶⁰ W. B. Ardrey, "The Catawba Indians," *American Antiquarian and Oriental Journal* 16 (September 1894): 266.

⁶¹ Their financial agent at the time declared that they were in a "pitiful condition," living in "one-room shacks." Some, he said, were "dependent entirely upon charity." See T. O. Flowers, Financial Agent of Catawba Indians, to John Collier, Commissioner of Indian Affairs, August 15, 1933, file: Catawba Indians, Administrative, US-BIA, Correspondence, 45 MSS., June 12, 1933-April 2, 1935, Blumer Collection.

⁶² Chief Sam Blue to President Franklin D. Roosevelt, February 13, 1934, file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

⁶³ State Auditing Department, Audit of State Institutions, Report on Indebtedness of Catawba Indians, September 7, 1936, file 55, Catawba Indian Agent, 1936, Governor Johnston, General Subject Files, 1935-1939, series S540007, RG 540000, box 1, South Carolina Department of Archives and History, Columbia (hereafter cited as SCDAH).

⁶⁴ T. O. Flowers, Financial Agent of Catawba Indians, to Governor Olin D. Johnston, July 22, 1936, file 54, Catawba Indian Agent, 1936, Governor Johnston, General Subject Files, 1935-1939, series S540007, RG 540000, box 1, SCDAH.

⁶⁵ Chief Sam Blue to President Franklin D. Roosevelt, February 13, 1934, file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

the commissioner of Indian Affairs to make an agreement with the state for the care of the tribe.⁶⁶ Congress presented a bill for the relief of the Catawba Indians in 1937. This bill authorized the secretary of the interior to enter into a contract with the state of South Carolina "for the agricultural assistance, industrial advancement, and social welfare, including relief, of the Catawba Indians."⁶⁷ In 1941 Congress finally appropriated funds to enable the Office of Indian Affairs to work out an arrangement with the state of South Carolina.⁶⁸ The entry of the United States into the Second World War delayed these efforts, but in 1943 the Interior Department, the state of South Carolina, and the Catawba tribe at last reached an agreement.

In the agreement, which was known as the "Memorandum of Understanding," the state of South Carolina promised to purchase lands for the federal government to take in trust for the Catawbas and provide a state fund for "rehabilitating" the tribe. In addition, the state agreed to protect the rights of Catawbas as full citizens of South Carolina "without discrimination," including their right to attend white public schools and state institutions of higher learning. For its part, the Catawba tribe agreed "to organize on the basis of recommendations of the Office of Indian Affairs for the effective transaction of community business" and "carry on the program of rehabilitation" as prescribed by federal and state officials. Finally, the Office of Indian Affairs pledged to contribute annually to the welfare of the Catawbas, aid in the development of arts and crafts programs on the reservation, create educational programs for the Catawbas, provide medical services to the Indians, and offer Catawbas loans and grants for economic development.⁶⁹ In effect, this act granted federal acknowledgment to the Catawbas, shifting their status from a state-recognized to a federally recognized tribe.

As part of this agreement, the federal government required the compilation of an official tribal membership roll. The Bureau of Indian Affairs was aware of the dangers inherent in creating a roll, and in 1940 McNickle

⁶⁶ D'Arcy McNickle, memorandum to the commissioner, subject: Catawba Indians, 1937, RG 75, NARA Washington.

⁶⁷ "A Bill to Provide for the Relief of the Catawba Indians in South Carolina," 75th Cong., 1st sess., H.R. 5938, March 25, 1937, file 12491-1930-(001), Central Classified Files, 1907-1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

⁶⁸ Memorandum for Secretary Ickes by E. K. Burlew, January 8, 1938, file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington; William Zimmerman Jr. to J. M. Smith, State Auditor, August 28, 1941, file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 12492-1930-011 to 13123-1939-011, pt. 2, box 7, RG 75, NARA Washington.

⁶⁹ "Memorandum of Understanding between the State of South Carolina, the Catawba Indian Tribe, and the Office of Indian Affairs of the United States Depart-

predicted that once the federal government started providing services to the Catawbas, "individuals will begin drifting in from North Carolina and elsewhere" demanding rights.⁷⁰ A roll would establish a concrete basis for tribal membership to ensure that federal resources went to the right people. Federal officials knew from their experiences with other tribes that failure to compile a roll swiftly produced confusion over membership and indefinite postponement of aid. Delay was not an option for the desperately needy Catawba Indians.

To expedite the enrollment process, federal agents turned to the appropriations lists held by the tribe's financial agent.⁷¹ These lists had long identified Catawbas for the distribution of state annuities, and it seemed natural that they would serve a similar purpose for the federal government. Federal agents did not consult the Catawba chief, councilmen, or tribal elders on the question of membership, but instead relied exclusively on state records to make the 1943 roll.⁷² For the most part, this process did not seem to trouble South Carolina Catawbas. When they noticed in the following year that officials had omitted a few of their number, they simply sent a letter to their new federal agent and requested "that their names be added to the Catawba Tribal Roll and the per-capita payment of \$18 be made to each of them."⁷³ The government complied with this request, and the final roll included 306 names.⁷⁴ This roll, however, upset the Catawbas in the West.

ment of the Interior," 1943, file: Catawba Indians—Standard Application for Tribal Lands, 130, 1943–1949, Cherokee Indian Agency, General Records, Correspondence, Indian Field Service Filing System, 1926–1952, box 44, RG 75, National Archives and Records Administration, Atlanta (hereafter cited as RG 75, NARA Atlanta).

⁷⁰ Memorandum for Mr. Armstrong from D'Arcy McNickle, August 14, 1940, file 12492-1930-(011), Central Classified Files, 1907–1939, General Service, 12492-1930-011 to 13123-1939-011, pt. 2, box 7, RG 75, NARA Washington.

⁷¹ Personal communication with Thomas J. Blumer, May 3, 2011. Also see 1952 document from Minneapolis Area Office of the Bureau of Indian Affairs describing the condition of the Catawba tribe, which states that "the Federal Government accepted the roll recognized by the State when the Federal Government assumed responsibility." File: Catawba Reservation—Withdrawal, 130, 1944–1959, Cherokee Indian Agency, General Records, Correspondence, Indian Field Service Filing System, 1926–1952, box 44, RG 75, NARA Atlanta.

⁷² Blumer, "History behind the Catawba Nation Tribal Roll," 7, Blumer Collection.

⁷³ Chief Douglas Harris to Superintendent C. M. Blair, January 18, 1945, file 063.0 Rolls, Tribal—Catawba, Office of the Commissioner, Cherokee Agency, Records Relating to the Catawba Indian Tribe, 1940–1962, 061-065, box 2, RG 75, NARA Washington.

⁷⁴ "Membership and Family Roll of the Catawba Tribe of South Carolina, and Other Related Information Pertaining to Tribal Members as of October 17, 1958," file 063.0 Rolls, Tribal—Catawba, Office of the Commissioner, Cherokee Agency, Records Relating to the Catawba Indian Tribe, 1940–1962, 061-065, box 2, RG 75, NARA Washington.

Like the state appropriations lists, the 1943 roll excluded Catawbas outside of South Carolina. This omission perhaps occurred simply as a matter of course as agents transferred names from the appropriations list to the tribal roll, but it possibly represented an intentional decision of South Carolina legislators. Federal officials worried about the status of western Catawbas and directed the Eastern Cherokee Agency in North Carolina to investigate the "rights of absentee members to participate in benefits of the \$100,000 state fund" and see if denying these Indians rights could "lead to subsequent claims against [the] Government."⁷⁵ South Carolina officials, on the other hand, objected to directing their funds to people living in other states. Their position prevailed, and western Catawbas did not appear on the new tribal roll. South Carolina Catawbas did not protest this decision.

Although the roll of 1943 excluded western Catawbas from tribal membership, it included recent arrivals. Two brothers, Ben E. Rich Garcia and Edward Guy Garcia, had returned to the reservation in South Carolina in the late 1930s and married Catawba women. The Garcia brothers descended from western Catawba grandparents who had left South Carolina with Mormon missionaries in the 1880s.⁷⁶ Despite the family's long absence from the core Catawba community, the tribe welcomed the brothers back into the fold and granted them rights on the reservation.⁷⁷ These men did not initially appear on the financial agent's appropriations list, but the tribal council voted to include them. As stated by Helen Canty Beck, tribal chief Sam Blue called upon the council to "vote them in to put them on the roll."⁷⁸ This decision was reminiscent of earlier moments in Catawba history when the tribe reincorporated returning people like Thomas Morrison even after extended absences. As long as such individuals proved that they were ready and willing to rejoin the community and act as kin, the South Carolina Catawbas had no objection to their full inclusion.

Perhaps the Garcia brothers acted strategically in their decision to return to South Carolina when they did. For years western Catawbas had monitored the situation in South Carolina, periodically inquiring about their rights as Indians and asserting their Catawba identity. For example, in 1921 Wilford M. Canty of Sanford, Colorado, wrote the Office of Indian Affairs: "I would like to know if I can get my share of Indian land here in Colorado . . . I belong to the

⁷⁵ "Catawba Problems in Order of Solution," file 12492-1930-(011), Central Classified Files, 1907-1939, General Service, 12492-1930-011 to 13123-1939-011, pt. 2, box 7, RG 75, NARA Washington.

⁷⁶ "Catawba Membership Petition, Applications of Viola Elizabeth (Patterson) Garcia Schneider . . . and Debra Sue Schneider," 1994, Blumer Collection.

⁷⁷ Blumer, "History behind the Catawba Nation Tribal Roll," 7, Blumer Collection.

⁷⁸ *Ibid.*

Catawba Tribe.⁷⁹ The Indian Office continually denied such requests, yet western Catawbas remained vigilant of developments. As rumors spread about a possible settlement between the state, the federal government, and the Catawba tribe in South Carolina, western Catawba letters flowed into Washington with increasing regularity. In 1935 Pinkney Head wrote the president of the United States requesting that western Catawbas also receive a final settlement that placed them under federal jurisdiction. The commissioner of Indian Affairs responded that neither the state's proposal for the tribe nor the congressional bill under consideration made any provision for Catawbas in the West.⁸⁰ The Garcia family conducted their own inquiries and asked their state senator in Colorado to write a letter on their behalf. Senator Edwin C. Johnson told the Indian Office that this family was "interested in securing their share in the deal and are anxious to learn whether it will be necessary for them to return to South Carolina in order to claim their portion."⁸¹

When the commissioner of Indian Affairs informed western Catawbas that the plan for the tribe included the purchase of new lands in South Carolina and that "the members of the Catawba Tribe residing elsewhere could only share in the benefits by returning to South Carolina," members of the Garcia family confronted a difficult choice. As the commissioner pointed out, they had to consider "whether these benefits are likely to be sufficient to warrant them leaving their present locality and surrendering or losing whatever property, opportunities, etc. which they may have acquired."⁸² The Garcias recalled that they had left South Carolina in the first place because "the land that was given us or left to us was land that is no good." They fretted about going back to a place where people had to make "pots to sell that they may have enough to keep themselves alive."⁸³ Yet certain family members decided to try their luck and moved back east. When Ben E. Rich Garcia and Edward Guy Garcia met and married Irene Minerva Beck and Juanita Betty Blue, respec-

⁷⁹ Wilford M. Canty to Office of Indian Affairs, July 11, 1921, file: Catawba Indians, Administrative, US-BIA, Correspondence, 32 MSS., September 21, 1911–June 5, 1933, Blumer Collection.

⁸⁰ F. H. Daiker, Assistant to the Commissioner, to P. H. Head, April 3, 1935, file: Catawba Indians, Administrative, United States, BIA Correspondence, 30 MSS., April 3, 1935–August 10, 1937, Blumer Collection.

⁸¹ Senator Edwin C. Johnson of Colorado to J. M. Stewart, Director of Land Division, Office of Indian Affairs, November 23, 1937, file 12492-1930-(001), Central Classified Files, 1907–1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

⁸² William Zimmerman Jr. to Senator Edwin C. Johnson of Colorado, December 7, 1937, file 12492-1930-(001), Central Classified Files, 1907–1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

⁸³ Elbert Garcia to Senator Edwin C. Johnson of Colorado, December 20, 1937, file 12492-1930-(001), Central Classified Files, 1907–1939, General Service, 81591-1923-011 to 12492-1930-001, pt. 2, box 6, RG 75, NARA Washington.

tively, on the South Carolina reservation, they decided to stay. This decision guaranteed their place on the 1943 roll.

While the Garcia brothers made it on the Catawba tribal roll, their siblings in the West did not.⁸⁴ Such omissions created an unusual circumstance whereby full siblings held different political statuses, based exclusively on their geographical location. Some western Catawbas felt frustrated by their exclusion. Among them was the Garcias' sister Viola Elizabeth Garcia Schneider, who had remained in Colorado when her brothers relocated to South Carolina. Viola's daughter Cynthia Ann Walsh later explained in her family's membership petition in the 1990s that both her mother and her aunt attended the Haskell Institute, a Bureau of Indian Affairs boarding school in Lawrence, Kansas, and graduated as Catawba Indians. She insisted that the tribe and their agent even granted her mother an official "Certificate Degree of Indian Blood" in 1937.⁸⁵ Despite this recognition of the family's ethnic identity as Catawba, the 1943 roll omitted these individuals, thereby denying them membership in the tribe.

In spite of the problems associated with the 1943 Catawba roll, the tribe accepted it and made it the basis of citizenship in their new tribal constitution, which was written as part of the Memorandum of Understanding. The second article of the constitution defined membership as "all persons of Indian blood whose names appear on the tribal roll of July 1, 1943, as recognized by the State of South Carolina" and "all children born to any member of the Catawba Tribe, who is a resident of the State of South Carolina at the time of the birth of said children."⁸⁶ The tribe also reserved the right to pass ordinances, subject to the approval of the secretary of the interior, covering future membership decisions.⁸⁷ With this document, the tribe emphasized Catawba ancestry by "blood" and South Carolina residency as key markers for belonging. They likewise codified the 1943 roll as the basis for future membership in the tribe. On May 20, 1944, the Catawbas held an election to ratify this constitution in accordance with an order signed by the Interior Department. Only 30 percent of the tribe voted, but all of the votes favored the proposed constitution and so it passed.⁸⁸

⁸⁴ "Catawba Membership Petition, Applications of Viola Elizabeth (Patterson) Garcia Schneider . . . and Debra Sue Schneider," 1994, Blumer Collection.

⁸⁵ Cynthia Ann Walsh to Thomas J. Blumer, April 15, 1995, file: Catawba Indians, Genealogy, Marsh/Mush, Patterson, White, Garcia (Western Band), Blumer Collection.

⁸⁶ U.S. Department of the Interior, Office of Indian Affairs, *Constitution and By-Laws of the Catawba Indian Tribe of South Carolina, Approved June 30, 1944* (Washington, D.C.: U.S. Government Printing Office, 1946).

⁸⁷ *Ibid.*

⁸⁸ Oscar L. Chapman, Assistant Secretary, Department of the Interior, to Superintendent C. B. Blair, June 30, 1944, quoted in Minutes of Meeting of the

Voting members of the tribe approved the new constitution's exclusion of western Catawbas, but in the years after they finalized the new roll, other residency problems arose. Just as the state appropriations lists had once left off Catawba children attending out-of-state boarding schools, the new roll failed to include South Carolina Catawbas who were serving in the armed forces and stationed somewhere else at the time of its completion. This omission was a major problem for the tribe because most male members of fighting age had enlisted during the Second World War.⁸⁹ The South Carolina appropriations lists had counted out these Catawba men while they were away in Europe or on training bases scattered across the United States, and this exclusion inadvertently carried over onto the 1943 roll. At first tribal members did not notice the mistake. Only when the threat of the government's new termination policy promised to divide the tribe's federal land and resources and distribute them among tribal members did veterans realize their position.

Beginning in the 1950s, the United States took a different direction in its dealings with Indian tribes. Known as "termination," this policy sought to end the federal relationship with tribal nations. Similar to the nineteenth-century allotment policy, termination called for the detribalization of reservation land and the division of tribal assets among members. Intended to modernize American Indians and bring them into mainstream American life, the policy sought ultimately to end the government's treaty obligations, including services to tribes. The Catawbas looked like perfect candidates for termination, and officials pressed the tribe to accept termination legislation. In 1959 the Committee on Interior and Insular Affairs in the House of Representatives proposed passage of H.R. 6128, which provided for the division of the Catawba's tribal assets.⁹⁰

Some Catawbas supported the idea of termination. Federal recognition had promised much, but failed to deliver. In 1956 Sam Blue complained that "we Catawba Indians are dissatisfied with the way we are treated by the Government Agent and his employees when the State of S.C. turned us over to the Federal Government." Although the agreement had called for an economic rehabilitation program for the Indians, Catawbas insisted that "nothing has been done about it so far to help the Catawbas." Federal oversight limited tribal self-determination and tied Catawba hands. The

Catawba Indian Council, Rock Hill, S.C., July 1, 1944, file: Catawba Indians, Administrative, Catawba Indians, Tribal Council Minutes, July 1, 1944, Blumer Collection.

⁸⁹ "Catawba Indian Tribe Declares War on Axis," *Sun* (Baltimore), February 17, 1942, 13.

⁹⁰ House Committee on Interior and Insular Affairs, *Providing for the Division of the Tribal Assets of the Catawba Indian Tribe of South Carolina among the Members of the Tribe*, James Andrew Haley, H. Rep. 910, Cong. 86th, 1st sess. (1959); H.R. 6128, Cong. 86th, 1st sess. (1959); Public Law 86-322, 73 Stat. 592 (1959).

Indians had "no voice in the use of [their] lands" and could not offer them as collateral to receive loans.⁹¹ Destitute despite the promises made, many Catawbas were convinced they would be better off with fee-simple title to their lands. The termination act approved approximately fifteen hundred dollars for each Catawba family out of the tribes' assets, which consisted primarily of land valued at \$254,000.⁹²

Termination reopened the question of tribal membership. On the advice of their congressman, the tribal council passed a resolution in 1960 to amend the membership provision of the tribal constitution and bylaws to add military personnel, veterans, and their children born outside of South Carolina to the roll.⁹³ With this resolution, the Catawbas asserted their sovereign right to define tribal membership. Interestingly, although the Catawbas included these veterans, they did not pass a similar resolution to include western Catawbas on the roll. As with the early-twentieth-century boarding school controversy, South Carolina Catawbas decided that members of their core community deserved rights—whether home or away—but Catawbas who had left the reservation years before did not.

Satisfied that the core community would receive shares of tribal land and resources under the termination act, the tribal council finally agreed to accept H.R. 6128. As part of the act, the federal government required a new roll for the Catawbas that recorded each Indian born on or before July 2, 1960.⁹⁴ According to government officials, the termination roll closed Catawba membership, and "no child born thereafter shall be eligible for enrollment." Each member whose name appeared on the final roll received a nearly equal share of the tribe's assets.⁹⁵ Government officials compiled the new roll based on the 1943 roll, but included veterans. This roll, finalized in early 1961, listed 631 individuals.⁹⁶ Most of these Catawbas resided in South Carolina, but a few lived in other states such as Missouri, North Carolina, New Mexico, Colorado,

⁹¹ Sam T. Blue, "Letter to the Editor," *Evening Herald* (Rock Hill, S.C.), May 9, 1956, copy available in file: Catawba Indians, Administrative, Catawba Indians, Tribal Council Minutes, July 1, 1944, Blumer Collection.

⁹² House Committee, *Providing for the Division of the Tribal Assets of the Catawba Indian Tribe of South Carolina* (1959).

⁹³ Catawba Tribal Resolution, May 21, 1960, file: Catawba Indians, Administrative, Catawba Indians, Tribal Council Minutes, July 1, 1944, Blumer Collection.

⁹⁴ Office of the Secretary, Catawba Indian Tribe of South Carolina, Notice of Final Membership Roll, February 7, 1961, file: Catawba Indians, Administrative, Catawba Indians, Tribal Rolls, 1960, Blumer Collection.

⁹⁵ "A Bill (HR 6128)," 1959, file: Catawba Reservation—Withdrawal, 130, 1944–1959, Cherokee Indian Agency, General Records, Correspondence, Indian Field Service Filing System, 1926–1952, box 44, RG 75, NARA Atlanta.

⁹⁶ Office of the Secretary, Catawba Indian Tribe of South Carolina, Notice of Final Membership Roll, February 7, 1961, file: Catawba Indians, Administrative, Catawba Indians, Tribal Rolls, 1960, Blumer Collection.

Utah, New York, Virginia, California, Ohio, Illinois, and Florida.⁹⁷ These individuals had moved away from the reservation in the two decades after 1943. Although they lived out of state, they belonged to the tribe because their names were included on the 1943 roll.

Termination left the Catawbas "a loose knit people" without a federal relationship or an official tribal government. However, the Indians did not let go of their sense of tribal identity or the value they placed on their state reservation as a symbol of that identity. With most of their federal lands gone, Catawbas rallied around the state reservation, determined to protect it. When local whites began moving "dangerously close to the reservation line" and illegally cutting Catawba timber, tribal members reorganized politically.⁹⁸ In 1973 the tribe reestablished tribal and executive councils.⁹⁹ Two years later, the tribe was chartered under the laws of South Carolina as a non-profit corporation. This move gave the Catawbas a legal structure despite their lack of federal status. It also allowed them to take advantage of some federal assistance programs designed for Indian tribes.¹⁰⁰ Although terminated, the tribe was not finished.

In their efforts to reorganize in the years after termination, tribal members drew up a new constitution. The 1975 constitution built upon the 1944 one, but made a few changes in the wording of its membership clause. It stated that membership in the Catawba Nation consisted of "all persons of Indian blood whose names appear on the tribal roll of July 1, 1943, as recognized by the State of South Carolina, and all whose names appear on the February 7, 196[1] final roll as recognized by the Bureau of Indian Affairs and the U.S. Department of Interior." Additionally, "all children of blood descended born to any enrolled member of the Catawba Nation" were entitled to enrollment.¹⁰¹ Unlike the 1944 document, the 1975 constitution omitted the provision that future enrollees be born in South Carolina. By this time, a number of enrolled members had left the state to make their livings elsewhere. With the 1943 and

⁹⁷ Catawba Indian Nation, 1961 Tribal Rolls, file: Catawba Indians, Administrative, Catawba Indians, Tribal Rolls, 1961, Blumer Collection.

⁹⁸ Charles C. Moore, "An Interview with the Chief of the Catawba Indians: Billy Gilbert Blue," *The Lance: The Literary Magazine of the University of South Carolina, Lancaster, S.C.*, Fall 1973, 24, copy available in Blumer Collection.

⁹⁹ Catawba Regional Planning Council, *Catawba Nation: Overall Economic Development Program* (Rock Hill, S.C.: Catawba Regional Planning Council, 1977), 6.

¹⁰⁰ Prepared testimony of Gilbert Blue, chief, Catawba Tribe of Indians of South Carolina, on H.R. 3274, Before the Committee on Interior and Insular Affairs, U.S. House of Representatives, June 12, 1979, file: Catawba Indians, Richard W. Riley Administration, Catawba Indian Claim, 1977-1983, series S554019, RG 554000, box 7, SCDAH.

¹⁰¹ Constitution and By-Laws of the Catawba Nation of South Carolina, 1975, file: Catawba Indians, Administrative, Catawba Indians, Constitutions (1975), Blumer Collection.

1961 rolls as a wall to separate these recent migrants from the western Catawbas who had left the state in the nineteenth century, geographical boundaries to membership no longer seemed essential. The constitution freed enrolled members to move out of state at will and still retain their political rights in the tribe.¹⁰²

With a new constitution in hand, tribal leaders turned their sights to the Catawbas' long-standing land claim. The Catawba claim rested on two central issues. First, the state had failed to purchase a new reservation for the Catawbas as provided under the terms of the Treaty of Nations Ford; instead, South Carolina officials gave the Indians a measly 630-acre tract out of their formerly vast holdings.¹⁰³ The second point made by the tribe was that even if the terms of the 1840 treaty had been carried out correctly, the treaty itself was illegal. According to the Trade and Intercourse Act of 1790, all treaties with Indian nations had to be conducted under congressional authorization. South Carolina made the 1840 treaty without congressional approval or federal oversight. According to federal law, the Indians insisted, the Treaty of Nations Ford was null and void.¹⁰⁴ The Native American Rights Fund helped the Catawbas bring their case before state and federal officials. Nearly two decades of legal battles ensued.¹⁰⁵

The fight over the land claim internally divided the Catawbas. The Executive Committee, led by Gilbert Blue, wanted a settlement that would "benefit the Tribe, as a Tribe."¹⁰⁶ Tribal members who supported this position hoped that a settlement would bring more land and resources to the reservation community and allow Catawbas to remain a unified people in South Carolina. Like South Carolina Catawbas of the previous generation, these individuals did not want to see tribal resources divided and dispersed outside of the core reservation community. Instead, they wanted to establish a "viable and permanent reservation homeland" and create a development fund to help the core Catawba community rebuild itself on sound financial ground.¹⁰⁷

On the other end of the spectrum, a large faction of Catawbas wanted the settlement to result in per capita payments. By 1977, 22 percent of tribal members lived outside of the state.¹⁰⁸ These Indians knew that a settlement

¹⁰² Tribal member Fred Sanders commented on one such enrolled Catawba named Scott Canty, who currently works as chief legal counsel for the Hopi Indian Reservation. Both Canty and his children are enrolled Catawba tribal members, but they have lived away from South Carolina for over thirty years. Personal communication with Fred Sanders, May 4, 2011.

¹⁰³ Prepared testimony of Gilbert Blue, June 12, 1979, SCDAH.

¹⁰⁴ Goins, *South Carolina Indians Today*, 19.

¹⁰⁵ Prepared testimony of Gilbert Blue, June 12, 1979, SCDAH.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ Wilbur Smith and Associates, "A Preliminary Socio-Economic Profile and Needs Assessment Plan, The Catawba Nation, Prepared for the Native American

including only land and reservation services in South Carolina would not benefit their families. As their leader, David A. Harris, explained, they "want a cash settlement . . . they do not want the benefits offered."¹⁰⁹ Unlike the western Catawbas before them, though, these individuals had tribal membership because their names appeared on the 1943 and 1961 rolls. There was no easy way for members of the core tribal community to combat their arguments. Gilbert Blue and the Executive Committee suggested one option: they asked Congress "to provide those members with an opportunity to elect to withdraw from the Tribe and participate in the settlement on an individual basis."¹¹⁰ Nothing came of this idea, however, and political fights over the settlement claims case continued.

Battles concerning the legality of the 1840 Treaty of Nations Ford persisted into the 1990s. The case jumped from court to court as judges variously ruled that the tribe had a right to sue the state or that the statute of limitations was up and the Indians stood no chance of either reclaiming their land or receiving compensation.¹¹¹ Finally, in 1992 the tribe had had enough. Tired of the endless wrangling that seemed to go nowhere, Chief Gilbert Blue announced that the tribe's lawyers were preparing to serve complaints on the individual 62,500 landowners in the claim area.¹¹² Although Blue assured property owners that the tribe was not out to take their land, the threat of thousands of lawsuits woke up the state. Lawmakers worried about the effects of the Catawba claims on the economic development of the area, and local leaders began advocating for a settlement. After tense negotiations, the competing parties finally reached an agreement. In October 1993, President Bill Clinton signed the Catawba Indian Tribe of South Carolina Land Claims Settlement Act into law.¹¹³

The Settlement Act set forth to pay the Catawbas \$50 million over five years from federal and state governments, local taxpayers, and title-insurance companies. The federal government contributed \$32 million, the state \$12.5 million, and York and Lancaster Counties nearly \$2.6 million. Local insurance companies and other private donors made up the difference. These settlement payments were placed in five trust funds for the purpose of land

Rights Fund," September 19, 1979, file: Correspondence, 1979, Catawba Indian Case, Richard W. Riley Administration, Catawba Indian Claim, 1977-1983, series S554019, RG 554000, box 7, SCDAH.

¹⁰⁹ "Cash: Dissidents Will Sue for It, Leader Says," *Evening Herald*, January 10, 1978, copy available in Catawba Indians, Indians of South Carolina Vertical Files Collection, South Caroliniana Library, University of South Carolina, Columbia.

¹¹⁰ Prepared testimony of Gilbert Blue, June 12, 1979, SCDAH.

¹¹¹ Pettus, *Leasing Away a Nation*, 59.

¹¹² *Ibid.*, 60.

¹¹³ *Ibid.*, 62.

acquisition, economic development, education, assistance to the elderly, and per capita payments to tribal members. The act also authorized the tribe to buy three thousand acres of tax-exempt land to expand its reservation, and it restored the tribe's powers of self-government and its relationship with the federal government.¹¹⁴ Once again, the Catawbas were a federally recognized tribe. In terms of the per capita payments, the act provided that 15 percent of the settlement funds be divided among enrolled tribal members.¹¹⁵ This stipulation once again opened up the question of who was entitled to a share of Catawba resources.

The Settlement Act of 1993 called for the creation of a new tribal roll in order to determine which Indians were entitled to benefit from the act's provisions, including per capita payments. The terms of the Settlement Act stipulated that enrolled members receive equal shares of \$7.5 million placed in the tribal account. Those under twenty-one years old had their money kept in an interest-bearing trust until they came of age.¹¹⁶ To ensure that the new roll, which was based on the 1943 and 1961 tribal rolls, left no one off, the federal government mandated that the Catawba Nation publish the roll several times in local newspapers and allow for appeals.¹¹⁷ The Catawbas complied with this ruling, and the United States published the roll in the federal registrar in November 1994. After three years of appeals, the federal government added 113 additional names to this roll. Most of these names belonged to infants born to enrolled tribal members; none were western Catawbas.¹¹⁸

Western Catawbas continued to appeal their exclusion from the tribal rolls. For these individuals, tribal membership was not solely about the money they might receive, but recognition of their Catawba heritage and family histories. One western Catawba even offered "to sign away all claims to a share of \$50 million in settlement money if the tribe in South Carolina will add his and his family's name to its membership roll." In a statement to the *Rock Hill Herald*, Wayne Head insisted that he was not interested in money.

¹¹⁴ *Ibid.*, 63.

¹¹⁵ *Ibid.*

¹¹⁶ "Money Matters: Answers to Your Questions about the Settlement," *News of the Nation: The Official Newsletter of the Catawba Indian Nation*, February 10, 1994, 1, 3, copy available in file: Catawba Indians, Publications, "News of the Nation," Blumer Collection.

¹¹⁷ Catawba Indians, Administrative, Catawba Indians, Tribal Rolls, November 22, 1994, Blumer Collection.

¹¹⁸ Fred Sanders to Roderick Beck, Chair Person of the Committee for the Petitioners of the Catawba General Council, April 3, 1997, file: Catawba Indians, Administrative, Catawba Indians, Constitutions (1975), Blumer Collection.

Members of his family “just want the right to be on the roll and reestablish our ties with our heritage.”¹¹⁹

South Carolina Catawbas had mixed feelings about granting membership to western Catawbas. Some, like Chief Gilbert Blue, felt that the western Catawbas should wait until after the distribution of the 1993 settlement’s cash payments to renew their appeal. At that point, Blue suggested, the tribe would not object to the western Catawbas’ inclusion, as long as they could prove their claims.¹²⁰ Other tribal members, however, were less certain about the rights of western Catawbas. As an article in the Catawba Nation’s official newspaper pointed out, “While the effect of Catawba culture may be boundless, there are limits to the legal recognition of membership in the Catawba tribe.”¹²¹ By 2000 even Chief Gilbert Blue had changed his stance on the western Catawbas, insisting that recognition as a tribal member came from both heritage and social connection with the tribe. “Even though someone might be of Catawba blood, if they weren’t on an earlier roll, they can’t be included,” he stated.¹²² The western Catawbas made another appeal for inclusion in 2000, but the Bureau of Indian Affairs denied their request because they could not prove direct lineal descent to people on the 1943 and 1961 rolls.¹²³

Published in 2000, the new roll served as a basis for the per capita distributions made to tribal members. The Settlement Act entitled each Catawba born before October 27, 1993, to a share of the payment. Although the roll included most South Carolina Catawbas, it left off a few people because they either did not appeal in a timely manner or failed to turn in appropriate paperwork (like long-form birth certificates) to prove their descent from previously enrolled Catawbas. Those Catawbas excluded still had the opportunity to have their names added to the tribe’s membership list after the roll was finalized, but they did not receive per capita payments.¹²⁴ Today, the tribe relies on the 1943, 1961, and 2000 rolls to define its membership, though the Catawba tribal council also holds a working roll for members that counts South Carolina Catawbas mistakenly left off the 2000 per capita roll. The rolls provide the framework for determining which Catawbas are entitled to tribal

¹¹⁹ Cal Harrison, “Catawba Wants Name on Tribal List,” *Herald*, February 14, 1994, copy available in file: Catawba Indians, Western Band, Clippings, Blumer Collection.

¹²⁰ *Ibid.*

¹²¹ “Roll Call: The Settlement Means Asking Once Again ‘Who Is a Catawba?’ ” *News of the Nation: The Official Newsletter of the Catawba Indian Nation*, September 24, 1993, copy available in file: Catawba Indians, Publications, “News of the Nation,” Blumer Collection.

¹²² Stabley, “Lawyer Wants Inclusion on Tribe’s Roll,” in Martin, *My Father’s People*, 157–158.

¹²³ Personal communication with Donna Curtis, May 4, 2011.

¹²⁴ *Ibid.*

services and federal benefits. There are approximately twenty-six hundred enrolled tribal members. Over half of these live away from the South Carolina reservation.

Tribal membership in the Catawba Nation of South Carolina has a complicated history based on the tribe's complex relationships with both state and federal officials. Membership rulings on state appropriations were a negotiated process that took into account Catawba ideas about belonging rather than simply imposing outside membership criteria upon the tribe. The involvement of federal officials in Catawba affairs in the 1940s changed the meaning of tribal membership. Instead of allowing a fluid list that the Indians could alter from year to year, federal officials demanded an official and permanent tribal roll. The appropriations lists served as a basis for the roll of 1943 and in this way bear out the tribe's concerns at that particular point in time. The roll also created a new legal and political status for tribal members. Officially, the Catawbas still have the power to make changes to the roll as an inherent right of their tribal sovereignty. Yet both officials and enrolled tribal members have come to see the 1943 roll as the primary standard for belonging to the Catawba Nation. Indeed, the tribe has used the roll as a legal tool to refuse membership to those it deemed unacceptable. The Catawbas of South Carolina had long denied rights to western Catawbas who departed the reservation in the late nineteenth century; the 1943 roll gave this denial an official legal basis.

The Catawba identity and Indian ancestry of individuals like Cynthia Ann Walsh do not entitle them to enrollment. The Catawba Nation drew up the roll that omitted Walsh's ancestors at the behest of the federal government, but the tribe itself determined who belonged based on precedent. The tribe demurred several times at altering the principles on which the initial roll was constructed, thereby exercising its sovereign right to distinguish membership from ethnicity. Distinctions between citizens and non-citizens are a necessary defense for any sovereign entity, particularly one with limited land and resources. By setting strict, legal boundaries to membership in the tribe, the roll protected the Catawba Nation from the claims of individuals who no longer retained close connections with the core Catawba community. Tribes like the Catawbas develop ideas of belonging in a historical context and make decisions on membership for reasons specific to their tribe. These decisions are not arbitrary or driven by malice, but reflect tribes' exercise of their sovereign powers in response to their changing circumstances over time.

"THOUGH HE HAD A WHITE FACE, HE WAS A NEGRO
IN HEART": EXAMINING THE WHITE MEN CONVICTED
OF SUPPORTING THE 1822 DENMARK VESEY SLAVE
INSURRECTION CONSPIRACY

PHILIP F. RUBIO*

PUBLISHED IN CHARLESTON IN 1822, *AN OFFICIAL REPORT OF THE Trials of Sundry Negroes, Charged with an Attempt to Raise an Insurrection in the State of South Carolina* is one of the principal sources of original information about the Denmark Vesey slave insurrection conspiracy available to historians. Despite extensive scrutiny of the report, its enigmatic appendix has been neglected. The nine-page addendum, which concerns Judge Elihu Bay's cases against four white men convicted on October 7, 1822, of "a Misdemeanor in inciting Slaves to insurrection," seems anticlimactic following the dramatic 182-page *Official Report* of the slave conspiracy trials.¹ The massive plot, planned for mid July, had been foiled weeks ahead of time. After choosing five freeholders to sit with them at the proceedings, magistrates Lionel H. Kennedy and Thomas Parker convened the trials of the conspirators on June 19. Subsequent arrests, trials, and executions lasted until late August. The body of Kennedy and Parker's *Official Report* notes with satisfaction that 131 black people were arrested, with thirty-five executed, thirty-two exiled, and the remainder discharged or acquitted.² By contrast, the appendix concludes

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¹ Original copies of Lionel H. Kennedy and Thomas Parker, *Official Report of the Trials of Sundry Negroes, Charged with an Attempt to Raise an Insurrection in the State of South Carolina: Preceded by an Introduction and Narrative, and in an Appendix, a Report of the Trials of Four White Persons, on Indictments for Attempting to Excite the Slaves to Insurrection* (Charleston, S.C.: Printed by James R. Schenck, 1822) are now rare. One is available at the South Carolina Department of Archives and History, Columbia (hereafter cited as SCDAH). Another can be accessed at the Rare Books, Manuscripts, and Special Collections Library, Duke University, Durham, N.C. See also John Oliver Killens, ed., *The Trial Record of Denmark Vesey* (Boston: Beacon Press, 1970). Because Killens's version is not considered reliable due to heavy editing, I refer exclusively to the *Official Report*. In addition, the *Official Report* can be found in the American Memory section of the Library of Congress website, <http://memory.loc.gov> (accessed March 19, 2010).

² Kennedy and Parker, *Official Report*, 47 and appendix. The freeholders were William Drayton, Nathan Heyward, James R. Pringle, James Legare, and Robert J.