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Tyler Litke

## Yearning for Normalcy: Marriage and Gender in the Slaveholding Class During the Civil War

On March 18, 1865, Sallie Thurman wrote a letter to her husband much like the many she had written in the three years he had been away in the Confederate Army. In the letter, she reflected extensively on her relationship with him before the war, voiced her fears for the future, and pondered what a stranger might think of her words. “And then I shall be laughed at as a weak, sensitive woman (just what I am) for I was born to look up to, cling to the oak for support,” she mused. “But now my support is temporarily removed and I sink into utter insignificance.”<sup>1</sup>

Sallie’s description of her role as a woman within her marriage fits within the broader social structure that permeated the South in the nineteenth century. Men and women of the planter class were expected to occupy decidedly separate spheres and assume hierarchical roles within the home and in their communities. Women were to be submissive, moral creatures. “This marvelous creation,” Anne Firor Scott has remarked about the ideal of the nineteenth-century southern woman, “was described as a submissive wife

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1 Sallie to John Thurman, March 18, 1865, folder 17, John P. and Sallie Ecklin Thurman papers, Southern Historical Collection, Wilson Library, Chapel Hill, North Carolina.



Sallie and Edgeworth Bird were one of many southern couples whose lives and relationships were disrupted by the Civil War. When confronted with problems created by the breakdown of gender relations during the war, women like Sallie Bird sought paternalistic solutions that would recreate comfortable antebellum norms. (Photo courtesy of University of Georgia Press.)

whose reason for being was to love, honor, obey, and occasionally amuse her husband, to bring up his children and manage his household. Physically weak, and ‘formed for the less laborious occupations,’ she depended upon male protection.”<sup>2</sup> As George Rable has argued, elite southern women lacked both the power and opportunity to challenge social expectations about the proper female role. According to Rable, women generally embraced ideas of female purity and therefore preferred “to serve as guardians of the home and the humane values that supposedly flourished there than to enter an evil world that showed little respect for female virtue.”<sup>3</sup>

Women’s attachment to the stereotype of feminine virtue, combined with their limited access to the masculine public sphere, served to keep women subordinated. Few women even considered challenging these

2 Anne Firor Scott, *The Southern Lady: From Pedestal to Politics, 1830-1930* (Charlottesville: University Press of Virginia, 1970), 4.

3 George C. Rable, *Civil Wars: Women and the Crisis of Southern Nationalism* (Champaign: University of Illinois Press, 1991), 3.

assumptions of femininity, which speaks to the pervasive nature of the South's paternalistic structure.<sup>4</sup> Female submission, however, was not one-sided. Antebellum gender relations involved a reciprocal obligation between the sexes. Women accepted a subordinate role in exchange for male protection. As Drew Gilpin Faust has pointed out, "The 'helpless woman' held an implicit power of requisition within her very assumption of helplessness."<sup>5</sup> If prevailing norms required women to position themselves in way that required protection, they also needed a protector.

In the reciprocal relationship between the sexes, men felt obligated to protect their wives and mothers as well as the domesticity these women symbolized. This sense of obligation in part is why individual men chose to support the Confederacy. Southerners supported the Confederacy to protect slavery, one of the many institutions through which this domesticity was expressed. Though some historians have argued that the South possessed no distinct sense of nationality, the fear of a southern future without slavery or white supremacy served to unite whites of all classes in the 11 states that seceded from the Union.<sup>6</sup> The practice of distancing the Confederate cause from slavery is a post-war phenomenon, led by southerners themselves.<sup>7</sup> From the economy to class to gender relations, the antebellum South relied on the existence of slavery. In this white supremacist, paternalistic social structure, every person's place in society was determined by his or her relationship to white masters and black slaves. Some southern men therefore stressed that they were protecting their legal (and constitutional) right to own slaves when discussing their motivations to join the Confederate Army. Others believed that southerners were God's chosen people, or that the war was a continuation of the American quest for independence from despotic rule. Most often, however, men fought to protect women.<sup>8</sup> The fulfillment of masculine obligations to protect the "weaker" sex was reason enough for many men to enlist.

4 I have opted to use the term paternalism here because it encompasses the broader relationship among white and black men and women in the nineteenth-century South. The term signifies a perceived need for guidance and protection for both women and slaves by white men, who sat at the top of the South's social hierarchy.

5 Drew Gilpin Faust, "Altars of Sacrifice: Confederate Women and the Narratives of War," *Journal of American History* 76, no.4 (March 1990): 1220.

6 Richard E. Beringer, Herman Hattaway, Archer Jones, and William N. Still, Jr., *Why the South Lost the Civil War* (Athens: The University of Georgia Press, 1986), 69.

7 Drew Gilpin Faust, *The Creation of Confederate Nationalism: Ideology and Identity in the Civil War South* (Baton Rouge: Louisiana State University Press, 1988), 59.

8 Faust, *The Creation of Confederate Nationalism*, 59.



When men left for war, their absence upended gender dynamics at home. As Faust puts it, “The very foundations of the South’s paternalistic social order were necessarily imperiled by the departure of the men who served as its organizing principle.”<sup>9</sup> Women were forced to give up the male protection to which they were accustomed in order to support the Confederacy and its aims. Confederate rhetoric that aimed at garnering female support transformed the ideal of female sacrifice from being for men to being *of* men.<sup>10</sup> To women on the home front, male protection took place on distant battlefields while female sacrifice was enacted at home.

This article examines gender relations and the overall structure of paternalism in the nineteenth-century South through the lens of southern couples’ experiences in the Civil War. As Faust has noted, the breakdown in paternalistic social structure during the Civil War forced women to confront their place in society.<sup>11</sup> An analysis of couples’ wartime experiences illuminates the ways in which women thought about and communicated this change to their husbands. With men gone, women stepped into traditionally male roles that felt entirely foreign. The extent of a woman’s wartime responsibility varied considerably across class lines, especially at the beginning of the war. Many women found themselves left largely alone to manage businesses, farms, plantations, and slaves. Indeed, women of the slaveholding class sometimes chose to move in with extended family rather than take up these responsibilities, while others remained at home but hired an overseer or invited relatives to live with them.<sup>12</sup> The women who took on these new responsibilities faced the greatest breakdown in southern paternalism compared to women who sought other ways to replace their traditional protectors. They assumed masculine roles that contradicted the feminine ideals expected of them as elite southern women. At the same time, they also continued to operate within the societal ideals of their own gender. Women faced the insurmountable challenge of balancing new masculine roles with incompatible feminine identities. A gendered analysis of these women’s wartime experiences illuminates the pervasiveness of paternalism in the nineteenth-century South.

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9 Drew Gilpin Faust, *Mothers of Invention: Women of the Slaveholding South in the American Civil War* (Chapel Hill: The University of North Carolina Press, 1996), 35.

10 Faust, “Altars of Sacrifice,” 1209.

11 Faust, *Mothers of Invention*, 6.

12 *Ibid.*, 33.



A nineteenth-century plantation home in Marshall, Texas, where Harriet and Theophilus Perry moved in 1861. Marshall and other towns in Harrison County had a particularly large slave population in the antebellum era. (*Photo courtesy of Wikimedia.*)

Individual couples' experiences during the war reflect critical dynamics within nineteenth-century southern gender relations, especially among the wealthy slaveholders who were best able maintain them. This article analyzes couples who lived in the Confederacy, were married, and had children before the war. In each case, the husband enlisted in the Confederate Army within the first two years of the war and remained in the army until the last year of the war or his death, such that their wives experienced prolonged separation from their promised protectors. Women wrote letters to their husbands on the battlefield, and their husbands wrote back. These letters demonstrate how individuals interpreted their place within their marriages and society. The letters reveal the problems faced by women as well as the ways that they interpreted and communicated those problems to their husbands. In these letters, women often referred to paternalism as the natural relationship between husband and wife.

This article considers four slaveholding couples who belonged to the planter class. Though not representative of southern women as a whole, excluding women of color and white women of lower classes, the women of this study serve as a cross-section of southern women whose financial privilege and family background facilitated their

adherence to contemporary feminine ideals. Sallie and John Thurman owned 18 slaves on their plantation in western Tennessee and had two of their three children before the war.<sup>13</sup> Araminta and William Henry Tripp had five children and lived on a North Carolina farm called Mount Hope that included 17 slaves.<sup>14</sup> Harriet and Theophilus Perry also had ties to North Carolina, the former having been raised on a plantation in Louisburg and the latter having attended the University of North Carolina in Chapel Hill. In 1861, they moved to a plantation in Harrison County, Texas, and soon after had a daughter, Martha. Harrison County contained more slaves than any other county in Texas by 1860.<sup>15</sup> Edgeworth and Sallie Bird had two children and came from planter families in Georgia. The Birds owned Granite Farm in Hancock County as well as 21 slaves.<sup>16</sup> Sallie Thurman, Araminta Tripp, Harriet Perry, Sallie Bird, and their husbands reflect the antebellum South's social structure, and they experienced its disruption during the Civil War. Their written descriptions of their experiences reveal that, when confronted with problems created by the breakdown of gender relations, women sought paternalistic solutions that would recreate comfortable antebellum norms.

William and Araminta Tripp, in Beaufort County, North Carolina, both felt apprehensive about the prospect of Araminta assuming control of their farm and 16 slaves when William volunteered for service in the Confederate Army in the fall of 1861. William sent his anxious wife regular notes of assurance in his early letters, telling her in June of 1862, "You my dear wife must do the best you can without your husband."<sup>17</sup> He acknowledged her fears of failing in a traditionally masculine role, as well as their common concern that she needed him as a patriarch to guide her in that new role. William continued to send his wife detailed instructions on how to manage slaves and crops through the beginning of 1863, but by February of that year he began to refer to them as *her* slaves and *her* crops. He became confident in her ability to run their farm in his absence, even as

13 1860 U.S. census, Fayette County, Tennessee, slave schedule, <http://www.ancestry.com>.

14 1860 U.S. census, Beaufort County, North Carolina, slave schedule, <http://www.ancestry.com>.

15 Handbook of Texas Online, Randolph B. Campbell, "Marshall, TX."

16 1860 U.S. census, Hancock County, Georgia, slave schedule, <http://www.ancestry.com>.

17 William to Araminta Tripp, June 8, 1861, Folder 3, William Henry Tripp and Araminta Guilford Tripp papers, Southern Historical Collection, Wilson Library, Chapel Hill, North Carolina.

her doubts persisted. In a reply to her complaints about her brother-in-laws' insistence on giving her advice, William wrote, "I would far prefer yours and Rhoden's judgment to theirs in the management of my farm stock." If she wished for anyone's advice, he said, she should ask her father because he "is the proper one to advise with and I am perfectly willing for you to take his advice in managing my or rather *your* affairs ... what is at home is yours and you are mine."<sup>18</sup>

Araminta Tripp's experience serves as an example of what women in the Confederacy's slaveholding class experienced in similar situations. Multiple factors affected the types of problems that women faced and the extent to which they experienced them in their husbands' absence. Challenges that a plantation mistress could face during the war varied depending on the number of slaves the family owned, the type of labor they performed, and the relationship women had with their household's slaves. The changes in intra-household dynamics were varied because each woman's antebellum situation was diverse. However, Southern paternalism and its clearly defined gender roles connected the experiences of all the women in this group. Araminta and William's marriage was what marriage historian Stephanie Coontz has described as a "sentimental marriage," founded on love and affection, which had become the ideal only in the eighteenth century.<sup>19</sup> For women like Araminta, the physical absence of husbands often increased the women's perceived dependence on their husbands. Emotional dependence manifested itself in a variety of ways, but most often it was expressed in the importance of letters and in the physical responses to the stresses and anxieties of separation. The ways in which women talked about these manifestations of emotional dependence reveals the extent to which they felt dependent on their husbands in more practical ways, as well as the changes in this perception over time. This article argues that women's frustrations with their emotional need for their husbands prevented them from acknowledging their diminished need for practical male support. In search of a solution, women reached for the

18 William to Araminta Tripp, February 1863. Folder 6, William Henry Tripp and Araminta Guilford Tripp papers. Rhoden was the Tripps' most trusted slave before and during the war, and William regularly urged Araminta to lean on him for advice when William could not be reached in time. The racial and hierarchical dynamics between Araminta and Rhoden in the absence of William will be discussed further in the following section.

19 Stephanie Coontz, *Marriage, a History: From Obedience to Intimacy or How Love Conquered Marriage* (New York: Penguin Publishing Group, 2005), 146.



In the nineteenth century, books and magazines such as *Godey's Lady Book* reinforced assumptions of feminine and masculine roles. (Image courtesy of Wikimedia.)

familiarity of patriarchy in ways as varied as the problems themselves. In analyzing these women's experiences during the war, this article therefore adds to a growing body of scholarship on women in the nineteenth-century South. Although much has been written on racialized relationships among women, an analysis of gendered relationships between spouses reveals the intimate level at which southern patriarchy was reinforced.

## Female Discourse in Letter Writing

For literate, elite women in the nineteenth century, letter writing was an important practice. Women received instruction from many sources throughout their lives, including etiquette manuals, literature, and informal education.<sup>20</sup> Everything from penmanship to content was thought to reveal a woman's character. A woman's image, especially in the antebellum South, was rigidly defined as submissive, something southern women learned from an early age.<sup>21</sup> Letter writing, then, was a way for women to demonstrate that they had mastered the ideals of their gender. Women were taught to suppress emotion, especially anger, in letters, even to close friends and

20 Deirdre M. Mahoney, "More Than an Accomplishment": Advice on Letter Writing for Nineteenth-Century American Women," *Huntington Library Quarterly* 66, no. 3 (2003): 411.

21 Scott, *The Southern Lady*, 7.

family. *Godey's Lady's Book*, published in 1859, advised women that "an angry letter, especially if the writer be well loved, is so much fiercer than an angry speech, so much more unendurable." It was preferable that women who wrote an angry letter should "burn it before breakfast."<sup>22</sup>

During the Civil War, women expressed their thoughts and feelings to their husbands in letters. As historians have noted, while it is tempting to read letters as true representations of their writers' experiences, thoughts, and feelings, even the most intimate, private letters to a spouse must be interpreted in this context of letter-writing traditions. As Regina Kunzel has observed, "At the same time that these letters shed light onto the experience [of the writers], they draw attention to the inextricability of that experience from its representation."<sup>23</sup> The content of letters cannot be disassociated from the fact that they were writing to their husbands. Women's complaints, worries, and other feelings expressed in their letters cannot be taken at face value. Indeed, as letters always reflect the author's audience, the writer's phrasing and subject matter changed depending on the intended recipient. However, as Michele Landis Dauber has noted, this does not necessarily mean that letter writers are untrustworthy narrators of their own lives. Letters, she argues, "certainly do contain empirical statements, most probably true, but not selected and presented in a way likely to produce an unbiased view of reality."<sup>24</sup> What women chose to include and how they wrote about it matters. Though Kunzel's and Dauber's research deals primarily with letters to political groups or public figures, their approach to using letters as a primary source is useful. Keeping in mind the rhetorical strategies wives employed, whether consciously or not, speaks to the level of importance they placed on certain topics. What women chose to share also reveals some of their goals in writing letters. A woman's underlying motives were more likely to be personal rather than political when

22 "Be Careful What You Write," *Godey's Lady's Book* (December 1859), 557, quoted in Mahoney, "More Than an Accomplishment," 421.

23 Regina Kunzel, "Pulp Fictions and Problem Girls: Reading and Rewriting Single Pregnancy in the Postwar United States," *The American Historical Review* 100, no. 5 (December 1995), 1470. Kunzel discusses the use of letters as a primary source in general, though she specifically uses letters written by single mothers to The Children's Bureau in the early twentieth century.

24 Michele Landis Dauber, *The Sympathetic State: Disaster Relief and the Origins of the American Welfare State* (Chicago: The University of Chicago Press, 2012), 192. Like Kunzel, Dauber discusses the theoretical use of letters in historical research, which she applied to her research on women's letters to Eleanor Roosevelt during the Great Depression. Both sources are situated in different centuries than this project, but provide a useful framework for approaching letters as a historical source in general.





Two unidentified women reading letters during the Civil War. Correspondence through letter writing was an invaluable source of connection for married couples during the Civil War. (Photo courtesy of Wikimedia.)

writing to her husband, particularly when compared to letters to generals, governors, and other public officials.

The separation caused by a husband's entry into the war created an opportunity for men and women to reflect on their antebellum relationships in unprecedented ways. This new experience, as described by Faust, "encouraged recognition, acknowledgment, and articulation of emotions that had in peacetime been ignored or taken for granted."<sup>25</sup> Rable has described the value of wartime letters in revealing the nature of family life. "The worries that surfaced in these letters," he argues, "not only reflected the stress created by danger to loved ones but also pointed to subtle changes in the character of Southern family life."<sup>26</sup> As Faust has pointed out, the scarcity and expense of paper during the war likely made letters even more emotionally valuable and therefore separation "seemed to encourage a new frankness, a new emotional accessibility, and a new intensity of feeling between husbands and wives."<sup>27</sup> Although these letters, however frank, cannot be taken as unbiased depictions of reality, they provide insight into how women felt as they faced an unprecedented breakdown in gender relations. By analyzing their descriptions of this breakdown, it is possible to understand the way that women interpreted their roles in their marriages and society, as well as the way that gender norms influenced their approaches to wartime problem-solving. The discussion of female dependence in letters reveals women's attempts to balance societal expectations of their femininity with strong feelings that emerged in response to their experiences during the Civil War.

25 Faust, *Mothers of Invention*, 118.

26 George C. Rable, *Civil Wars: Women and the Crisis of Southern Nationalism* (Champaign: University of Illinois Press, 1991), 55.

27 Faust, *Mothers of Invention*, 118.



## The Practical and Emotional Need for Men

The expected roles of men and women in the southern planter family and household were almost mutually exclusive before the disruption of the Civil War. Women accepted a subordinate role within the family and society in exchange for male protection and support.<sup>28</sup> A husband's role was to provide for and protect the family, while a wife was to contribute moral and emotional care.<sup>29</sup> Each gender was thought to be most naturally suited to its own role, and therefore the exchange of protection for subordination did not seem as imbalanced as it might to modern eyes. Sallie Bird put it succinctly when she described her husband Edgeworth to their daughter as "him who is nominally and really the head of our home, the chief of our house."<sup>30</sup> As the war removed the protection and paternal leadership promised to planter class women by the hierarchical structure of southern society, women began to think more explicitly about the roles of both men and women.

As women experienced increasing difficulties in their wartime roles at home, their perceived need for male guidance similarly increased. Like Araminta Tripp, most women showed remarkable competence in taking limited direction from their husbands and making their own decisions. However, the comfortable structure of male protector over subordinate wife was sorely missed as life at home became increasingly difficult. By early 1863, Harriet Perry had become so frustrated with the dynamics of her household without her husband Theophilus that she made the decision to leave the household entirely and move in with her in-laws. She struggled with the decision, knowing that her husband would prefer she remain at home to manage the slaves, crops, and children herself rather than hire an overseer to do it for her. Toying with the idea, she wrote to Theophilus that she was feeling "tired and afraid to stay here alone" and revealed her

28 Ibid., 242.

29 Coontz, *Marriage, a History*, 146. Stephanie Coontz provides a detailed history of the political and economic developments of the late eighteenth and early nineteenth centuries that led to women turning their backs on early calls for equality and embracing an ideology of separate spheres for the sexes. Contributing factors include the rise of Enlightenment thinking and the rise of the market economy.

30 Sallie to Saida Bird, December 2, 1861, in John Rozier, ed., *The Granite Farm Letters: The Civil War Correspondence of Edgeworth & Sallie Bird* (Athens: The University of Georgia Press, 1988), 50.

frustrations with the slaves' refusal to work for her.<sup>31</sup> She carefully described to him the plan his father had devised in the event that Theophilus consented to the move. "I shall endeavor to manage the best I can," she added, in an effort to placate his worries that she might make a drastic decision.<sup>32</sup>

Despite her tentativeness in asking Theophilus to consent to her move, Harriet took more ownership in the ultimate decision when she later described it to her sister Sallie. "I tried living alone seven months & became so tired & dissatisfied I concluded it would be best to break up," she wrote, without any allusion to the many conversations between her, Theophilus, and his father on the topic. Outside the gendered power dynamics between her and her husband, Harriet felt at liberty to tell Sallie how happy she felt now that she had "nothing to do but act out my part."<sup>33</sup> Her husband's expectations of both her ability and willingness to take over more responsibilities while he fought in the Confederate Army altered the way she talked to him about her desire to give up some of those responsibilities. However, with those dynamics out of the way, she could tell her sister how happy she was in her father-in-law's household, as she had returned to her "part" as a woman in a household with more traditional gender dynamics. Harriet's sister echoed her feelings, telling her that she "was very glad indeed that you had broke up housekeeping. I thought so much about your staying there alone." She told Harriet that by assuming her husband's role, even temporarily, she had "done more than I could ever be made to do."<sup>34</sup>

Not every woman sought or had the ability to temporarily replace her husband with a father-in-law or other patriarch. When they opted to remain at home alone, women worried about their ability to do a man's job. The discrete differences between household gender roles made southerners think that women needed more guidance than men. John Thurman told his wife Sallie of his regret that he would not be able to give her as much guidance as she needed. "No, I can't advise," he told her. "You will have to act from the circumstances that surround you which I am afraid will be very

31 Harriet to Theophilus Perry, February 8, 1863, in M. Jane Johannson, ed., *Widows by the Thousand: The Civil War Letters of Theophilus and Harriet Perry, 1862-1864* (Fayetteville: The University of Arkansas Press, 2000), 95.

32 Ibid., 96.

33 Harriet Perry to Sallie M. Person, February 18, 1863, in Johannson, *Widows by the Thousand*, 99.

34 Sallie M. Person to Harriet Perry, May 17, 1863, in Johannson, *Widows by the Thousand*, 111.



Sallie Bird (seated far right) at a family gathering after the Civil War. She appears with her son, Wilson Edgeworth, her sister Mary Gresham, her daughter Saida and Saida's husband Victor Smith, on either side of Mary, and Mary Gresham's son and daughter, Minnie and Tom at top. During the war, Edgeworth Bird often wrote to Saida praising Sallie's ability to run the family plantation. (Photo courtesy of University of Georgia Press.)

trying.”<sup>35</sup> He had left her in charge of their young children and plantation, a new level of responsibility that was distressing for both of them. “I am trying to do the best I can my dear husband,” Sallie wrote back, “and I wish I knew better what to do.”<sup>36</sup> Though he attempted to fulfill her petitions for

35 John to Sallie Thurman, March 17, 1862, folder 10, John P. and Sallie Ecklin Thurman papers, Southern Historical Collection, Wilson Library, Chapel Hill, North Carolina.

36 Sallie to John Thurman, May 28, 1862, folder 10, Thurman papers.

guidance over the course of the war, John had to either gain confidence in his wife or encourage her to trust herself and the opinions of others. In early 1865 he told her, "I don't feel competent to advise you as I can't see what circumstances may turn up." Instead, he told her, "I must trust you and the advice of your friends."<sup>37</sup> Like John, William Tripp felt that he would not be able to advise his wife as much as she needed. "You must do the best you can dear wife," he told Araminta, "as I have no time to plan for you."<sup>38</sup> William saw this as a good thing, however. "But perhaps it is best," he told her later, "and in fact I know it is for you to have some experience about managing affairs before I am dead as in the natural course of nature you will be left a widow if not by the war." He continued, "The little advice I can give you, situated as I am so far off and not being cognizant of the facts personally, can be of little use to you."<sup>39</sup>

In spite of the difficulty of directing and reassuring from afar, most men still attempted to advise their wives to the best of their ability. Most often, they suggested that their wives consult other men. Theophilus Perry gave thorough directions to his wife about when to plant crops and how to handle various transactions, but he always told her to consult with his father. He never fully trusted in her discretion. When Harriet voiced her opinion on a business decision, however, Theophilus listened and gave his approval willingly. "You have acted right in not buying land," he told her. "I approve your judgment."<sup>40</sup> Despite this affirmation of her decision-making ability, he regularly told her to "consult Papa always."<sup>41</sup> Edgeworth Bird also hoped his wife would consult with nearby men. Though he gave very detailed instructions to Sallie about how to manage prices, organize cotton planting, and divide duties between slaves, he still told her she "must talk with father and others and learn what will be best."<sup>42</sup> Even though his absence made it difficult to give thorough advice, he told Sallie he was still "glad you always tell me of the plantation work," as it enabled him to guide her from a distance.<sup>43</sup> Asking for and giving advice enabled women and men to retain the appearance of antebellum gender dynamics, even though

37 John to Sallie Thurman, February 20, 1865, folder 16, Thurman papers.

38 William to Araminta Tripp, October 9, 1861, folder 2, Tripp papers.

39 William to Araminta Tripp, February 8, 1863, folder 4, Tripp papers.

40 Theophilus to Harriet Perry, March 13, 1864, in Johansson, *Widows by the Thousand*, 226.

41 Theophilus to Harriet Perry, January 12, 1864, in Johansson, *Widows by the Thousand*, 195.

42 Edgeworth to Sallie Bird, September 25, 1861, in Rozier, *The Granite Farm Letters*, 35.

43 Edgeworth to Sallie Bird, February 27, 1863, in Rozier, *The Granite Farm Letters*, 111.

women were performing roles outside their traditional sphere.

Even with advice and reassurance from their husbands, women never expressed full confidence in their ability to do a man's job. Araminta Tripp regularly complained about her problems and told William, "I do so need you to lean on."<sup>44</sup> William, whose confidence in his wife easily surpassed her own by 1864, reassured his wife that she had proven to be a competent farm manager. "Be sure your husband will approve of anything you may do," he told her, "knowing you will always do what you think is best."<sup>45</sup> Harriet Perry told her sister about her problems at home without her husband. "I reckon I am getting on as well as any one under the circumstances," Harriet told her, "but it is poor doings where there is no man."<sup>46</sup> A month later, Harriet was worried about renting her house after she had moved in with her in-laws. "Oh husband. I don't know what to do," she told Theophilus, after describing the situation. "Everything is so unsatisfactory to me without yourself."<sup>47</sup> Women's problems with their new roles were attributed to gender: men were better suited to do traditionally masculine business, and without real support women were unable to do it as effectively as men.

Husbands also expressed this sentiment to their wives, but men were more willing to give their wives credit for their successes than the wives themselves. Husbands often believed that their wives succeeded at doing traditionally masculine jobs despite their gender. Edgeworth Bird told his wife, "Were I only at home, I know we'd have a greater abundance on the plantation, for it has always been a very peculiar business and one that I love and, of course, I could conduct it more successfully." He continued, however, "and then we really do very well" with her in charge.<sup>48</sup> He explained how he understood his wife's ability to his daughter, Saida. "She has many trials and burdens at home," he told Saida. "The care of a plantation is a new onus and not properly belonging to her department, but under necessity she assumes it bravely, and right ably and skillfully does she direct."<sup>49</sup> John Thurman expressed similar sentiments. "I deeply sympathize with you," he told his wife Sallie. "I know it is hard for a woman

44 Araminta to William Tripp, September 4, 1864, folder 7, Tripp papers.

45 William to Araminta Tripp, February 11, 1864, folder 6, Tripp papers.

46 Harriet Perry to Mary Temperance Person, January 6, 1863, in Johansson, *Widows by the Thousand*, 79.

47 Harriet to Theophilus Perry, February 8, 1863, in Johansson, *Widows by the Thousand*, 98.

48 Edgeworth to Sallie Bird, July 17, 1864, in Rozier, *The Granite Farm Letters*, 174.

49 Edgeworth to Saida Bird, August 10, 1864, in Rozier, *The Granite Farm Letters*, 184.



The first general issue stamp of the Confederacy, with a portrait of Jefferson Davis. Though this stamp cost five cents, in some places stamps were a much more serious financial consideration. (Photo courtesy of Wikimedia.)

to meet ... what you will be compelled to until I am free from the duties of a soldier.”<sup>50</sup> William Tripp, in spite of his confidence in Araminta’s ability to step into a male role, admitted that doing so was difficult for her as a woman. “I do wish from my heart I could be with you love to take all the trouble of the outdoor business off of your hands.”<sup>51</sup> In the meantime, however, she “must do the best you can without me for some time.”<sup>52</sup>

Even as men congratulated and encouraged their wives, women continued to ask for advice and express uneasiness at their new roles throughout the war. The decision to write about such feelings in letters to their husbands serves as evidence of women’s belief in their ineptitude. They found their new roles

difficult in contrast to their distinct female duties before the war. Discussion of their problems also reveals women’s efforts to remain loyal to patriarchal expectations. Asking for advice, even after their husbands had assured them that they trusted their opinion, was a way for women to cling to the gender relations to which they were accustomed. Women complained about problems that the war created in a way that did not deviate from gendered expectations of their sex.

Just as women began to consider the extent of their practical need for their husbands during the Civil War, they also contemplated their emotional dependence on men. Choosing a spouse based on love became a social ideal in the United States by the end of the eighteenth century. As men’s and women’s roles in society became decidedly more distinct, home life and marriage became a place of refuge for both sexes.<sup>53</sup> In such sentimental marriages, couples freely discussed the concept of emotional necessity. Edgeworth Bird expressed this idea to his wife when he wrote in 1861, “Precious, I know I am necessary to you. I feel that I form a portion

50 John to Sallie Thurman, June 22, 1864, folder 14, Thurman papers.

51 William to Araminta Tripp, January 21, 1863, folder 5, Tripp papers.

52 William to Araminta Tripp, April 5, 1862, folder 3, Tripp papers.

53 Coontz, *Marriage, a History*, 146.



in you that if taken away could not be replaced. Every letter you send me breathes it in every line and my heart tells me of its truth, you precious darling of my soul.”<sup>54</sup> Wives articulated similar feelings. Though women were aware that they depended on their husbands emotionally before the war, their need for emotional support became more pronounced as the war prolonged separation. As she considered her wartime feelings, Harriet Perry reflected on her antebellum relationship to her husband. “I think I shall be as happy as I desire so you shall have a better wife than you ever had before,” she wrote him, adding that once they were reunited, “I shall know how to appreciate you.”<sup>55</sup> Indeed, Harriet felt more aware of the emotional support Theophilus had given her before the war once it was taken away.

When discussing their emotional need for their husbands, women often spoke about the very letters they were writing. Many women transferred prewar dependence on husbands onto letters from the front, which served as replacements for the absent men. Without the physical presence of their male counterparts, women leaned heavily on letters as a concrete form of news, affection, and emotional reassurance. As the war progressed and the reality of the war’s length became more apparent, women increasingly began to express their reliance on letters and their husbands’ correspondence. As Faust has pointed out, “The emotional lives of Confederate couples separated by war did in fact depend heavily on the mundane inadequacies of the new national postal service.”<sup>56</sup> Without their husbands, women turned to the next best thing: their husbands’ written words.

Many women spent a considerable portion of the limited space of their letters telling their husbands how emotionally important letters were to them. For many women, letters served the simple purpose of cheering them up. “Do my own precious husband write as often as you can,” Araminta wrote William, “for your letters are inexpressibly dear to me. They cheer me for days after receiving one.”<sup>57</sup> Harriet Perry wrote to her husband Theophilus in September of 1862 to tell him: “*do write often*, for all the pleasure I have depends on it—Your letters are almost the only sources of

54 Edgeworth to Sallie Bird, September 25, 1861, in Rozier, *The Granite Farm Letters*, 34.

55 Harriet to Theophilus Perry, September 15, 1862, in Johansson, *Widows by the Thousand*, 31.

56 Faust, *Mothers of Invention*, 115.

57 Araminta to William Tripp, December 5, 1862, folder 3, Tripp papers.



joy & comfort I have.” She continued, “But for them & our little darling, life would be a blank to my poor heart.”<sup>58</sup> Similarly, in describing his letters, Sallie Thurman told her husband, “Next to your dear, sweet self I had rather be visited by one of them than anything else.”<sup>59</sup> Telling their husbands how much they appreciated and enjoyed the letters served as encouragement for men to write home more often. After describing the difficulties of their new roles at home, women told their husbands that the simple act of sending a letter was a way for men to ease their wives’ burdens.

What to include in a letter was an important decision in light of the great expense and difficulty involved in sending them. During the Civil War, post was unreliable and writing supplies became scarce, especially among soldiers. When such supplies were available, soldiers carried paper, pens, and stamps with them and regularly requested such items from home. Stamps were especially prized.<sup>60</sup> According to one account, a single US postage stamp was worth one dollar and 50 cents in the Confederacy, which, David Henkin has proposed, “reflected more than just the depreciation of Southern money.”<sup>61</sup> In addition to scarce supplies, letter writers faced problems with unreliable and infrequent deliveries. Some southerners reported that they did not receive mail for months at a time during the war.<sup>62</sup> The post office confronted practical problems of delivering letters to and from soldiers in camps that were far from home and, often, in contested territory. When letter writers told their correspondents about the obstacles facing mail delivery, they often did so to stress a letter’s value in addition to excusing infrequency.<sup>63</sup>

Husbands and military officials widely discussed the appropriate content of wartime letters. Confederate officials worried that depressing letters from home would affect their soldiers’ morale and lead to desertion. They turned to newspapers in order to tell women, “Don’t Write Gloomy Letters,” in an effort to ensure all news from home was cheerful.<sup>64</sup> Just as

58 Harriet to Theophilus Perry, September 15, 1862, in Johansson, *Widows by the Thousand*, 27. Emphasis in original.

59 Sallie to John Thurman, March 18, 1865, folder 17, Thurman papers.

60 David M. Henkin, *Postal Age: The Emergence of Modern Communications in Nineteenth-Century America* (Chicago: The University of Chicago Press, 2006), 137-146. This book offers a history of the nineteenth-century US postal service and the tradition of American letter writing.

61 Ibid., 140.

62 Faust, *Mothers of Invention*, 116.

63 Henkin, *Postal Age*, 141.

64 *Huntsville Democrat*, August 21, 1861, quoted in Faust, *Mothers of Invention*, 118.

H. Anderson  
Feb 7<sup>th</sup> 1865

My Dear Wife

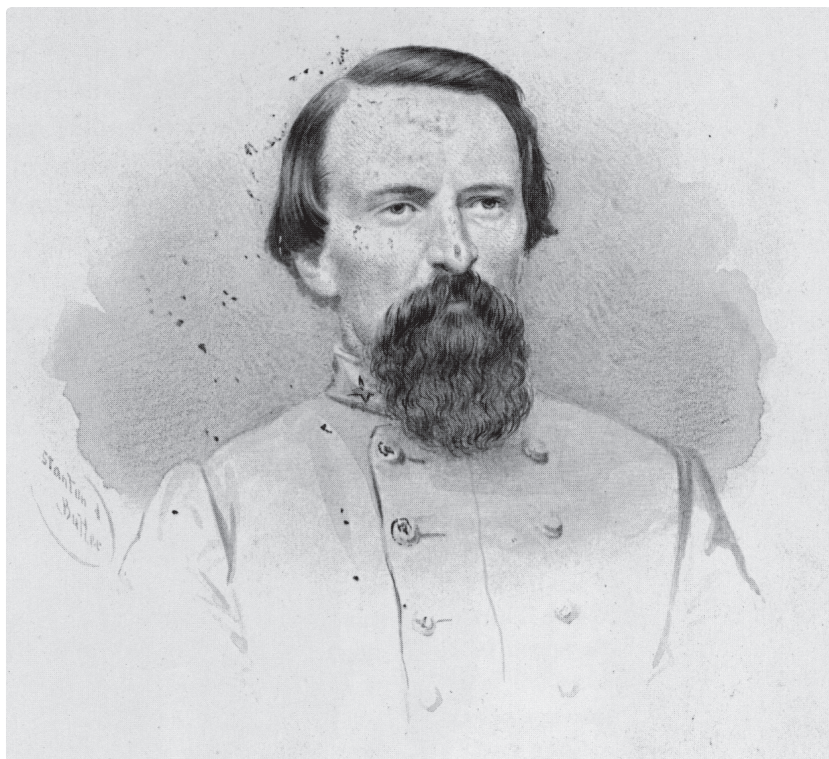
Yours of the 13<sup>th</sup> to the 28<sup>th</sup> of January was received two days ago and I fear would have arrived it before this but the weather was so cold yesterday and I had so much drilling to do I could not write especially as my chance is very bad at the best of times. Today it is raining in torrents and Lieut. William has gone to Lieut. Harrison is at town so there is no one within this little 8 by 10 room but William and myself and both of us are engaged in writing to them we have but I shall have to hurry for as soon as the rain holds off there will be a crowd as this is the post office and William is the post master for our Brigade. I am really sorry that what I wrote at Savannah can you have the I wrote what we all thought to be the truth at the time but by land work and land fighting we kept a narrow way open by which we escaped in the night. We had two light for it all the day before the and had one hour 6 hours later that would have been closed against us. As it was we had a hard time of it for we had to march 17 hours without resting only a few minutes at a time to rest a little. Newman was so close after us that he captured 800 of our men in the City. One of mine was caught there but the evacuation of Savannah was nothing to the evacuation of Bald Head for in the former case it was conducted by order of the Union Army and in the latter case it was conducted by order of the Confederate Army.

In this letter from William Henry Tripp to his wife Araminta Guilford Tripp, dated February 7, 1865, Tripp describes the evacuation of Savannah and Bald Head and the situation at Fort Anderson, which was under attack from Union naval ships. He writes that he has submitted his resignation from the Confederate Army and is waiting for it to be processed. "I am in a big hurry to get away from this place as I fear we are all destined to go up if we stay here long," he notes. Folder 8, in the William Henry Tripp and Araminta Guilford Papers, #4551, Southern Historical Collection, Wilson Library, University of North Carolina at Chapel Hill. (Image courtesy of UNC-Chapel Hill.).

they had before the war, women were encouraged to refrain from including negative emotions in their letters. However, government officials were not the only ones to express opinions on what women should or should not include in their letters. Husbands, too, reprimanded their wives for writing despairing letters. "Sallie you must not be despondent," John Thurman wrote to his wife.<sup>65</sup> Letters were comforting to men as well: they wanted good news from home rather than bad. John later wrote to Sallie, praising a "soul-changing letter" that she had sent.<sup>66</sup>

65 John to Sallie Thurman, May 24, 1862, folder 10, Thurman papers.

66 Ibid.



Major W. Edgeworth Bird often wrote to his wife, Sallie, to offer advice and ease her anxiety. He was severely wounded in the battle of Second Manassas. (Photo courtesy of University of Georgia Press.)

In spite of warnings, however, women scolded their husbands in letters. Most often they expressed dissatisfaction at poorly written or infrequent letters. “I beg you my beloved absent one forgive my sad theme this evening,” Sallie Thurman wrote her husband. “It has been so long since I heard from you, I feel depressed in consequence of it.”<sup>67</sup> Araminta Tripp was more forceful when describing her frustrations with her husband’s letter writing. She told William in 1863, “Not a single word I have heard from you since Rhoden left you at Mr. Winfield’s and though I have longed for a letter from you, with the *most intense longing*, not a line has reached me.”<sup>68</sup> She expressed frustration that she had not received a letter from him in weeks. “But I cannot will not believe that you neglected me,” she informed

<sup>67</sup> Ibid.

<sup>68</sup> Araminta to William Tripp, September 3, 1865, folder 8, Tripp papers. Emphasis in original.

him, “so here ends the subject.”<sup>69</sup> Harriet Perry was equally explicit in her frustrations with her husband’s letter writing, scolding him after he failed to adequately respond to questions in her last letter: “Are you going to do so again? If you do, I shall think Husband is not himself, not like he used to be, that Camp life has made an awful change in him—can’t bear to be treated with indifference & especially by you.”<sup>70</sup> Harriet knew that her husband disliked letters such as this. She wrote them anyway, demanding that her husband “must write regularly & often,” preferably “once a week.” Without regular correspondence, she would have “lost *all* interest in everything.” Anticipating the impact of her letter, she wrote, “Don’t let what I write make you sad.”<sup>71</sup>

Harriet carefully concluded her petition for more frequent letters by assuring her husband that she did not mean to complain or urge him too much. However, several months later, her petitions continued. “You do not do my right Husband by delaying and neglecting to write,” she said. “I know you have little time, but you could write a little.”<sup>72</sup> Theophilus, to his credit, attempted to reassure his wife that he was following her orders. “I write you very often,” he assured his anxious wife. “I fear my letters miscarry. It is said here that letters do not go the other way. They come more faithfully.”<sup>73</sup> Harriet’s willingness to defy her husband’s wishes and chastise him for not writing enough speaks to the importance she placed on his letters. Moreover, she used precious space in letters to do so.

Husbands also chose to focus on how important positive letters were for their morale, rather than reprimanding their wives for despondent letters. They encouraged women to write more often in the same way their wives asked them to do so. William Tripp praised Araminta for a happy letter in January 1863. “You certainly felt cheerful,” he told her, “for it breathes a spirit of cheerfulness through all its lines.”<sup>74</sup> “You can’t form an idea my darling wife of my happiness,” John Thurman told Sallie, “of the morning of the first to have handed me your dear letter.”<sup>75</sup> Edgeworth Bird told his daughter that his wife’s letters “are an inexpressible comfort and pleasure,

69 Ibid.

70 Harriet to Theophilus Perry, January 18, 1863, in Johansson, *Widows by the Thousand*, 85.

71 Harriet to Theophilus Perry, October 26, 1862, in Johansson, *Widows by the Thousand*, 48. Emphasis in original.

72 Harriet to Theophilus Perry, January 18, 1863, in Johansson, *Widows by the Thousand*, 88.

73 Theophilus to Harriet Perry, July 12, 1863, *Widows by the Thousand*, 149.

74 William to Araminta Tripp, January 5, 1863, folder 4, Tripp papers.

75 John to Sallie Thurman, May 5, 1862, folder 10, Thurman papers.

by far the greatest experience in this miserable war life.”<sup>76</sup> To his wife, Edgeworth was effusive on the topic. “Last evening the mail man brought me a letter, and *two* two days before, from my heart’s home,” he wrote Sallie. “Oh! Darling, shall I again say how sweet and consoling, or have you learned the oft-told tale by heart?”<sup>77</sup> Theophilus Perry likewise reminded his wife of how important her letters were to him. “Do not neglect to write,” he told her. “My love, my peace demands it.”<sup>78</sup> For both men and women, letters served as an imperfect substitute for emotional support they had received from their spouse before the war.

Women sometimes expressed their dependence on their husbands through discussions of illness. Women regularly complained of anxiety, nervousness, and headaches. They believed their wartime situation had caused these conditions, and the only cure was a husband’s safe return home. “Though I do not complain to any *one*,” Harriet Perry wrote her husband, “I have had palpitation of the heart nearly every morning since you left & sometimes so severely if I did not sit or lie down I should fall.... I attribute it to my situation.”<sup>79</sup> These physical responses to the anxiety associated with a husband’s absence and the responsibilities that followed appear to have been chronic for these women. Araminta Tripp complained to her husband that her feelings of nervousness and uneasiness increased each time he returned to war after his furloughs. “I was really glad to get a letter from you so soon,” he wrote to Araminta soon after returning from a furlough in July 1864, “but darling I was extremely sorry to find that parting from me affected you so.”<sup>80</sup> Araminta felt physically ill each time her husband left her for war and held little back in telling him so. “I am feeling much better now and hope to be well soon,” she wrote William in 1863. “I am sure that my ill health is caused by anxiety.”<sup>81</sup> William came to the same conclusion, and told her, “I do really believe dear if I could be at home with you for a month or so you would recover in a great measure your health and perhaps your spirits.”<sup>82</sup> Like Araminta, William believed that his presence would alleviate her symptoms. Not only would he be able to

76 Edgeworth to Saida Bird, August 10, 1864, in Rozier, *Granite Farm Letters*, 184.

77 Edgeworth to Sallie Bird, September 22, 1861, in Rozier, *Granite Farm Letters*, 28-29.

78 Theophilus to Harriet Perry, July 9, 1863, in Johansson, *Widows by the Thousand*, 149.

79 Harriet to Theophilus Perry, August 3, 1862, in Johansson, *Widows by the Thousand*, 12.

80 William to Araminta Tripp, July 17, 1864, folder 7, Tripp papers.

81 Araminta to William Tripp, September 10, 1863, folder 5, Tripp papers.

82 William to Araminta Tripp, February 11, 1864, folder 6, Tripp papers.



take over some of her new stressful duties, but his physical presence would also provide better emotional support than his letters could. "I should feel so happy and at rest if you were with me and could stay," Araminta told William. "Now I feel tired all the time, even thinking wearies me."<sup>83</sup> Men and women associated the physical ailments wives experienced when facing new challenges with separation itself.

The relief wives obtained from letters or furloughs served to reinforce their thoughts on the origin of these maladies as well as the intensity of their dependence on their husbands. Receiving a letter from an absent husband not only provided women with emotional support, but it also relieved women of physical symptoms of stress. Letters themselves were proof of a husband's survival. "I breathed freely once more," Sallie Thurman described to her husband John after finally receiving a letter from him.<sup>84</sup> Acknowledging the unreliability of mail service, Edgeworth Bird wrote to his wife, "I trust some of my letters have reached you along, sufficient to keep down a full grown anxiety."<sup>85</sup> Harriet Perry believed her husband's presence, even in the form of a letter, would improve her condition. "Oh Husband I feel as if I should die here all alone," she wrote. "I can't take *any* interest in any thing in the world hardly [except] my baby & I don't think any thing could arouse me but your presence." She continued, "I reckon it is low spirits or hysterics—I am all low & when I get your precious letters, nothing cheers me like them."<sup>86</sup> Her husband's brief return in a furlough or even physical proof of his survival in the form of a letter served to alleviate fears even as it served to reinforce women's ideas of their own emotional dependency. After all, the only cure for a husband's absence was his safe return.

Women expressed their emotional need for their husbands in their letters. They expressed their frustration when men did not write often enough. They told men how much letters meant to them. They told them how much joy, comfort, and peace letters brought. Women wrote to their husbands to tell them that their letters had alleviated physical pain. Doing so served to encourage men to write more frequently. Expressing an

83 Araminta to William Tripp, September 4, 1864, folder 7, Tripp papers.

84 Sallie to John Thurman, March 10, 1865, folder 17, Thurman papers.

85 Edgeworth to Sallie Bird, October 21, 1863, in Rozier, *The Granite Farm Letters*, 156.

86 Harriet to Theophilus Perry, September 24, 1862, in Johansson, *Widows by the Thousand*, 41. Emphasis in original.



This charcoal drawing of 21-year-old Theophilus Perry was published in the 1854 University of North Carolina graduating class book. Perry's brief furlough during the war provided some measure of comfort to his wife, Harriet.  
*(Photo courtesy of the North Carolina Collection, UNC-Chapel Hill.)*

emotional need for a husband reinforced the idea that women depended on men for practical reasons as well: if separation made women sad and physically ill, then they would be even less able to perform male duties. In writing this way, women communicated to their husbands that they felt that they could not survive without them. If a husband's physical presence was impossible, then letters would have to suffice. This rhetoric reveals the extent to which women believed they needed their husbands and the lengths to which they were willing to go in order to convince them of it. Women were able to talk about their frustrations with the war



by emphasizing a traditionally female concern, rather than complaining about the war itself.

## Women and Slaves in the Civil War

The southern household, especially the elite slaveholding one, served as a microcosm of greater southern society. Just as social expectations of femininity informed women's interactions with their husbands, such ideals colored their encounters with slaves. The hierarchical structure of the southern farm or plantation embodied that of southern paternalism as a whole.<sup>87</sup> Men commonly employed the metaphor "our family white and black" to describe their understanding of the complex community of the southern slaveholding household.<sup>88</sup> In spite of this concept of community, Thavolia Glymph has observed that white southerners "measured themselves partly in the distance that separated them from enslaved (and free) black people."<sup>89</sup> It was through the hierarchy of the household, with men placed firmly at the top as fathers and masters, that women understood their place in the larger world. It is important to examine the antebellum expectations of women's relationships with slaves in order to understand how their wartime experiences deviated from the antebellum norm.

Women's and men's roles as mistress and master reflected their gendered roles as spouses. Women's authority as mistresses lay primarily within the domestic sphere. Here, their relationship to slaves was perhaps more complex than men's. Women were primarily in charge of the production and distribution of slave clothing and food, which unavoidably meant assigning specific tasks to slaves.<sup>90</sup> In this way, a woman's role as mistress entailed some measure of mutual dependence between slave and mistress.

A woman's role as mistress before the war was complicated by the fact that she most often oversaw female slaves. The household served as the primary location for the construction of southern white womanhood, which made the relationship between white mistresses and black female

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87 Faust, *Mothers of Invention*, 32.

88 Fox-Genovese, *Within the Plantation Household*, 100.

89 Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge: Cambridge University Press, 2008), 74.

90 *Ibid.*, 88.

slaves even more significant.<sup>91</sup> Mistresses most commonly interacted with the enslaved black women against whom they defined themselves as elite white women. Race and class divisions, argues Elizabeth Fox-Genovese, encouraged mistresses to interpret “any sign of independence as impudence, impertinence, obstinacy.”<sup>92</sup> Slave women resisted their bondage in different ways than male slaves, predominantly in the form of quiet subversion and intentional inefficiency, while men were more likely to rebel or run away.<sup>93</sup> White women, therefore, most often understood their role as mistresses within the larger slaveholding household in terms of their complex relationship to female slaves.

While men held the ultimate authority over a household’s slaves, most preferred not to intervene in the domestic sphere, in keeping with the stark divide of gender roles in the Old South’s social structure. When petitioned for advice on matters regarding household slaves, men were more likely to defer to their wives’ judgment.<sup>94</sup> However, a white woman’s domestic authority was still checked by her husband’s patriarchal sovereignty: even if he did not tend to intervene, he could at any time.<sup>95</sup> Though women managed household activities quite independently, they generally lacked experience in bookkeeping and interacting with predominantly male field hands. The divide between the roles of master and mistress therefore guaranteed that women lacked the necessary tools for the overall management of the slaveholding household.

Many women defended the institution of slavery. Others, like some men of the time, saw it as a necessary evil, while more actively disliked it. The structure of the southern household and society depended on the survival of slavery, and the ideal elite southern woman needed slaves to allow her to be free of the farm chores of a yeoman’s wife. However, tensions between mistresses and household slaves, which were usually born out of their complex relationships, often frustrated white women. It was within this domestic sphere that tensions between women and slaves most often reached a breaking point.<sup>96</sup> When women complained of their household responsibilities, they expressed both frustration with slaves and sympathy

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91 Ibid., 65.

92 Fox-Genovese, *Within the Plantation Household*, 140.

93 Glymph, *Out of the House of Bondage*, 70.

94 Fox-Genovese, *Within the Plantation Household*, 140.

95 Glymph, *Out of the House of Bondage*, 88.

96 Fox-Genovese, *Within the Plantation Household*, 134.

for the enslaved condition. Anne Firor Scott has noted a trend in female rhetoric that compared the experience of being a southern woman with that of a slave.<sup>97</sup> It was likely these sentiments that contributed to unease over slavery among some southern slaveholding women before the war, though such sentiment was not universal and was more likely to be kept private.<sup>98</sup>

Harriet Perry, Sallie Thurman, Araminta Tripp, and Sallie Bird lived on plantations in the antebellum South. They each participated in the institution of slavery and actively fought to preserve it. Each woman's household engaged in an antebellum hierarchical structure that reflected broader southern culture. When Theophilus, John, William, and Edgeworth left for war, that hierarchical structure broke down, inevitably altering their wives' interactions with slaves at home. Each woman assumed total control of her household in her husband's absence. Araminta's husband left her in charge of 16 slaves with the expectation that she could depend on Rhoden, William's most trusted slave, for advice. Neither Sallie Thurman nor Harriet Perry benefitted from such a relationship. All three, however, were expected to manage the production of crops and the activities of slaves. On the Bird plantation, Sallie was expected to coordinate household servants as she had before the war in addition to working with the plantation's overseer.<sup>99</sup> A woman's pre-war situation informed the type and intensity of problems she encountered with slaves during the war, with those who adhered more strictly to the stereotypes of the southern plantation household prior to the war facing more distinct changes.

Araminta Tripp and Sallie Bird experienced relatively little difficulty in assuming authority over slaves. Before the war, Araminta had participated in the domestic activities expected of slaveholding women, sewing clothes for slaves and organizing their household tasks.<sup>100</sup> William trusted his slaves in general, but held one in particularly high regard. Soon after leaving Araminta to her new task, he told her, "You must do the best you can dear wife as I have no time to plan for you. I think you can rely a great deal on Rhoden's judgment at least I do."<sup>101</sup> Throughout his absence, William gave most of his instructions to his wife in the form of "tell Rhoden,"

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97 Scott, *The Southern Lady*, 50.

98 Ibid., 51.

99 Rozier, *The Granite Farm Letters*, xxviii.

100 Diary of Araminta Tripp, April 8, 1857, Tripp papers.

101 William to Araminta Tripp, October 9, 1861, folder 2, Tripp papers.

demonstrating his confidence in Rhoden's abilities and trustworthiness. When Araminta became overwhelmed, William advised her to "let Rhoden do most of the management of the farm and stock" while she focused on the household duties to which she was accustomed.<sup>102</sup> Araminta's ability to cooperate with Rhoden and rely on his help allowed their relationship to remain harmonious throughout the war. As the deliverer of William's orders, Araminta was able to exert authority over Rhoden and the other slaves without fully stepping outside of her sphere. She was only communicating orders, not producing them. By the time William gained confidence in his wife's ability to make decisions without his constant oversight, Araminta and Rhoden had forged a working relationship much like the one William and Rhoden had.

Sallie Bird took control of Granite Farm and their 21 slaves when her husband enlisted. Though she had a male overseer to help maintain some of the gendered hierarchy of her pre-war household situation, Sallie still held new authority over slaves outside the domestic sphere. In order to ease his wife into her new role, Edgeworth advised her to "take pains to gain the affection of the negroes. You can attach them to you and govern them through their hearts better than any overseer can through fear."<sup>103</sup> Sallie took her husband's advice. In letters home to her daughter while visiting Edgeworth in Richmond in March 1862, Sallie wrote greetings to slaves by name, and told her daughter to "give my love to them."<sup>104</sup> In this way, Sallie effectively balanced her new authority with affection that was appropriate to her gendered position. Edgeworth's foresight also provides an understanding of his style of exerting authority over slaves. The precedent of a relatively positive relationship between master and slave likely enabled Sallie to exert new authority with limited backlash. Sallie's ability to do so encouraged Edgeworth to acknowledge to his daughter that in spite of her gender, "right ably and skillfully does she direct."<sup>105</sup> Araminta and Sallie cautiously stepped out of their domestic spheres to exert more authority than most mistresses possessed before the war. However, their husbands' pre-war relationships with slaves eased Araminta's and Sallie's transitions

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102 William to Araminta Tripp, April 7, 1864, folder 6, Tripp papers.

103 Edgeworth to Sallie Bird, November 21, 1861, in Rozier, *The Granite Farm Letters*, 45.

104 Sallie to Sallie (Saida) Bird, March 15, 1862, in Rozier, *The Granite Farm Letters*, 77.

105 Edgeworth to Sallie (Saida) Bird, August 10, 1864, in Rozier, *The Granite Farm Letters*, 184.



Harriet Eliza Person lived at the Person Place in Louisburg, North Carolina, at the time that she agreed to marry Theophilus Perry. During the war, Harriet grew frustrated with her newfound responsibilities and fearful of a potential slave revolt. In response, she hired out the slaves on her property, rented her home to a refugee, and moved in with her father-in-law.

(Photo courtesy of University of Arkansas Press.)

into masculine positions of authority.

Harriet Perry's transition was not quite as straightforward. From nearly the beginning of her husband's absence, Harriet was uncertain that slaves would accept a woman's authority. Unlike Araminta, who developed a good relationship with Rhoden, Harriet did not trust her slaves. Theophilus brought a slave named Norflet to camp with him in August of 1862. Harriet advised Theophilus not to share shoes or clothes with the slave. "Don't give your clothes to Norflet," she told him. "Keep them yourself, he will be running off with the Yankees the first chance he gets & will not thank you."<sup>106</sup> When Norflet did run away from Theophilus' camp and returned to the Perry's home in Texas, Harriet felt vindicated in her distrust. After repeating Norflet's explanation for how he returned home, Harriet told Theophilus, "This is his story—we know not what to believe." She continued, "I knew he would have a good tale made up."<sup>107</sup>

This level of distrust reflects the difficulty Harriet experienced when attempting to exert authority over slaves at home. She viewed her femininity

106 Harriet to Theophilus Perry, February 8, 1863, in Johansson, *Widows by the Thousand*, 94.

107 Harriet to Theophilus Perry, December 18, 1863, in Johansson, *Widows by the Thousand*, 184.

as the source of her problems. “It is the worst thing in the world to live as I do,” Harriet told her sister when describing her interactions with slaves.<sup>108</sup> In the first year of her husband’s absence, Harriet’s relationship with her slaves became increasingly difficult. She worried from the beginning that they would not respect her new authority. “The negroes seem to do as well as when you were here so far,” she told her husband in August, 1862. “I can’t tell how long they will hold out.”<sup>109</sup> Harriet found that the slaves became more disobedient the longer she remained their sole authority figure. After President Lincoln issued his preliminary Emancipation Proclamation in September of 1862, Harriet became fearful of her future with the slaves. “I have not been afraid to stay here till now,” she wrote Theophilus after hearing the news. “I feel very uneasy indeed—write often dearest.”<sup>110</sup> By February of 1863, Harriet became so frustrated with recalcitrant slaves and single motherhood that she decided to hire out the slaves and rent their home to a refugee. She moved with her two young children to her father-in-law’s plantation several miles away. “I cannot have any thing done at all,” she told Theophilus, explaining the reasoning behind her solution.<sup>111</sup> Harriet’s decision to hire out her slaves and rent her house ultimately stemmed from her belief that slaves could not accept the authority of a white mistress. She chose to move to a plantation with even more slaves, though in this case a white master exerted overall power. In this traditional hierarchy, Harriet felt safer than she had alone at home.

Sallie Thurman faced similar problems in exerting authority over slaves. Like Theophilus Perry, Sallie’s husband John waited until the spring of 1862 to enlist. When he finally did, he left his 22-year-old wife in charge of the operations of his entire plantation. Sallie remained more positive toward her new role than Harriet. In May 1862, after two months of John’s absence, Sallie began to experience the first instances of her slaves’ unwillingness to accept her authority. “Some of the negroes are rather refracting,” she wrote John, “but I talked to them yesterday and hope they will do better in future.” Following that conversation, a slave named Jim told her to tell John “that he feels like a house without a top. Says when he saw you walking about the

108 Harriet Perry to Mary Temperance Person, January 6, 1863, in Johansson, *Widows by the Thousand*, 79.

109 Harriet to Theophilus Perry, August 4, 1862, in Johansson, *Widows by the Thousand*, 15.

110 Harriet to Theophilus Perry, October 26, 1862, *Widows by the Thousand*, 50.

111 Harriet to Theophilus Perry, February 8, 1863, in Johansson, *Widows by the Thousand*, 95.

yard he always felt easy but is now lost.”<sup>112</sup> Sallie interpreted this sentiment as an expression of Jim’s faithfulness as a servant. Her optimism for the future, however, did not last. By 1864, she wrote John, “I do not see how I can live without you another year. It seems impossible.” Like Harriet, she interpreted part of her problems as one of gender. “We get along very badly without someone to superintend,” she told him, adding, “and Lincoln’s free labor system is having a very bad effect upon the negroes.”<sup>113</sup>

As Sallie noted, the problems women experienced in attempting to assume authority over slaves during the war did not originate entirely in gendered expectations. Slaves, like all southerners, understood that the war was fought to protect the institution of slavery. Faust highlights the fact that the war encouraged slaves to assert a desire for freedom in unprecedented ways, placing women in charge of increasingly rebellious slaves.<sup>114</sup> Both Sallie Thurman and Harriet Perry noticed that their slaves’ awareness of impending freedom made them more likely to reject authority. Lincoln’s preliminary Emancipation Proclamation in 1862 frightened Harriet. By the time Confederate General John Magruder “called for all the negro men on every plantation except one,” Harriet was terrified. “The farmers say no crops will be made,” she told Theophilus, “for the women will not support themselves and the prediction of the Federals to starve us will be true.”<sup>115</sup> Harriet’s fear of slave insurrection originated not only from an understanding of her limited power as a female master, but from a broader societal awareness of slave rebellion as well.

In the face of the difficulty in exerting authority over slaves outside of the domestic sphere, women had several options. They could, like Harriet Perry, find a male replacement to maintain control of their slaves and household while finding another patriarchal household in which to seek refuge. This was by no means the only option. Sallie Thurman remained at home with her recalcitrant slaves until the end of the war. However, as she became less able to exert power over slaves, her patience faded and she began to petition more forcefully for her husband’s return. “If I could have you with me,” she told him in March of 1865, “I could

112 Sallie to John Thurman, May 18, 1862, folder 10, Thurman papers.

113 Sallie to John Thurman, October 23, 1864, folder 15, Thurman papers.

114 Faust, *Mothers of Invention*, 54.

115 Harriet to Theophilus Perry, January 18, 1864, in Johansson, *Widows by the Thousand*, 195.



bear the calamities and privations of this war in meekness.”<sup>116</sup> Even the women who enjoyed relatively amenable relationships with slaves during the war sought a reprieve from their added responsibilities. Toward the end of the war, Araminta expressed doubt in her ability to run her farm even as her husband conveyed his confidence in her. The solution to her problems was William. “O! how I do want the war to end,” she told him near the war’s close, “and my dear husband restored to me!”<sup>117</sup> She wanted to return to the roles she and her husband had played in the household before war disrupted them.

## Yearning for Patriarchy

Patriarchal paternalism was pervasive in the antebellum South. The hierarchy between master, mistress, and slave touched every aspect of the slaveholding woman’s life. Gender lines dictated how women should act as mothers as well as mistresses. Men’s ultimate authority over their plantation and slaves placed them firmly at the top of southern social structure. Men’s physical removal by the war inevitably shattered that hierarchy in the households they left behind. Women remained to pick up the pieces and configure a new social dynamic while they waited for their husbands to return from war. Women stepped outside of their gendered role when their husbands left and faced unprecedented new challenges. Husbands, especially those who were secure in their relationships with their wives, were more willing to express confidence in their spouses’ ability to assume new roles that were outside of their traditional gendered sphere. This confidence may have stemmed from necessity, both in terms of encouraging their wives to continue and because they may have had no other choice while they performed what they perceived to be their duty to the southern cause. Women successfully demonstrated an ability to perform male roles in their husband’s absence, and their husbands were often more willing to acknowledge that success than the women.

Instead of acknowledging any success, women wrote their husbands letters to tell them how much they needed them. They told their husbands that the best solution to their hardship was for men to return home. In using this language, women retreated to their prescribed gender role in order to

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116 Sallie to John Thurman, March 16, 1865, folder 17, Thurman papers.

117 Araminta to William Tripp, [c.a. 1865 or before], folder 8, Tripp papers.

express frustrations with the war. Doing so enabled them to remain patriotic and continue to support their husbands. At the same time, women were able to articulate what they believed would be a solution to their problems: a return to antebellum gender relations, in which their husbands were safely at home. As they expressed it to their husbands, women's perception of their practical need for men was amplified by the emotional support they desired. To them, the best way to obtain this support was through more letters or the return of their husband to the home front.

Elite women's feelings of deficiency reveal the depth and pervasiveness of paternalistic norms in nineteenth-century gender relations. Women yearned to return to the paternalistic structure that had exacerbated these wartime problems to begin with. They sought new patriarchs in the form of in-laws, overseers, and hirers. They petitioned their husbands to return home and prioritize their families and farms over the war effort. A return to the hierarchical patriarchy would be a return to normalcy in which women clearly understood their place in the household and the world at large.

H. Brent  
McKnight, Jr

## The Cherokee Indian Fair and the Making of a Tourist Economy

The first Cherokee Indian Fair, held in 1914 in Cherokee, North Carolina, was a simple festival. The main exhibit featured agricultural produce and goods made by Cherokees from across the reservation. Regional companies D.K. Collins, R.J. Roane, Sylva Supply Company, Asheville Seed Company, and C.M. McClung Hardware contributed farm equipment and supplies as prizes for the exhibits since the tribe did not have the funds to purchase prizes themselves.<sup>1</sup> Other popular features of the festival included automobiles that were driven around the fair-grounds—an exciting prospect, since cars were rare on the Qualla Boundary at the time—as well as a merry-go-round that provided entertainment to children, and an ice cream stand.<sup>2</sup> Another key attraction was the Cherokee Indian Ball game, played by teams representing each township. An intense sport, Indian Ball drew crowds of spectators at each fair. One journalist described the game as “a combination of football, soccer, wrestling, boxing, and miscellaneous mayhem,” not a sport “recommended for

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1 James Henderson to W.J. Parks, August 23, 1916, Folder 2a-81 thru 2a-90, Correspondence (Series 5), Cherokee Indian Agency, Bureau of Indian Affairs Records, National Archives Building, Atlanta, GA.

2 Mary Ulmer Chiltoskey, *Cherokee Fair and Festival: A History thru 1978* (Asheville, NC: Gilbert Printing Company, 1979), 8. The Qualla Boundary is a land trust created for the Eastern Band of Cherokee Indians.



Visitors overlook the Cherokee Indian Fair, which attracted tourists from across North Carolina after its creation in 1914. (Photo courtesy of the Museum of the Cherokee Indian.)

sissies or even spectators with weak stomachs.”<sup>3</sup>

The fair in 1914 was the start of a more than century-long annual event that would be an economic boon to the Cherokees while simultaneously presenting challenges to the way that Cherokees presented themselves in the public sphere. The fair provided a way for Cherokee leaders and the Bureau of Indian Affairs (BIA) to promote agriculture on the Qualla Boundary, a goal that became especially important after the Cherokee’s agriculture industry had been weakened by the western North Carolina logging boom. The fair also served as a catalyst for the tourist industry on the Qualla Boundary by drawing visitors from around North Carolina and surrounding states. Along with the creation of the Great Smoky Mountains National Park, the fair put the city of Cherokee, North

3 “Cherokee Fair October 7-11 W.N.C. Feature,” *The High Point Enterprise*, Sept 25, 1941, 10.

Carolina on the map as a tourist destination. It also promoted Cherokee culture and provided opportunities for Cherokees to play Indian Ball, compete in archery and blowgun demonstrations, and perform traditional Cherokee dances across the United States. These activities bolstered the Cherokee Nation's reputation and provided yet another source of income for Cherokee performers.

This article will examine the economic and cultural dimensions of the fair by offering a brief history of the fair's beginnings before exploring its evolution over time. The fair was originally intended to promote the Cherokee economy through subsistence agriculture and education but was simultaneously marketed as a tourist attraction. Tourists' growing interest in the fair had implications for the presentation of Cherokee culture in arts, crafts, and drama. Agriculture, cultural performance, and tourism were all central to the fair from the beginning in 1914, but each developed and became increasingly significant parts of the fair at different times during its history. As this article will show, fair organizers increasingly emphasized cultural performance as tourism increased in the 1920s and 1930s. Although handicrafts, like the fair itself, changed in style as tourism increased, they also preserved Cherokee modes of craftsmanship. Cultural performance and the economic benefits of tourism went hand in hand.

The relationship between the fair's roles as tourist attraction and stage for cultural performance generally fits two theoretical categories of tourism advanced by historian Richard Starnes: destination tourism and cultural tourism. Destination tourism involves tourists traveling to a particular place to take advantage of attractions and entertainments built by developers and corporate interests. Cultural or heritage tourism is the use of history, culture, and tradition to draw tourists to a place or event.<sup>4</sup> The Cherokee Indian Fair shows that these categories are not mutually exclusive, but can overlap and reinforce each other. The Cherokee Indian Fair began as a cultural tourism event but eventually evolved into a destination tourism event with cultural appeal. Cherokee culture, in other words, made the fair an attractive destination for tourists. The fair itself became a commodity that was marketed as a destination for tourist travel.

Over time, popular elements of the fair became tourist attractions

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4 Richard D. Starnes, "Introduction," *Southern Journeys: Tourism, History, and Culture in the Modern South*, Richard D. Starnes, ed. (Tuscaloosa, AL: The University of Alabama Press, 2003), 2.

in and of themselves apart from the fair. Inadvertently, the fair became a litmus test for the popularity of certain tourist attractions, the most popular of which moved beyond the fair to become independent parts of the tourist economy on the reservation. Indeed, the Cherokee Indian Fair birthed nearly all of the major tourist attractions on the Cherokee reservation. This study of the Cherokee Indian Fair therefore contributes to the study of fairs in general, given the fair's broad, long-term, impact on the local economy even in the period between annual fairs.<sup>5</sup>

## The Birth of the Fair

The Eastern Band of Cherokee Indians in North Carolina was an isolated population in 1900. In the latter part of the nineteenth century, trespassing on Cherokee land, tribal factionalism, and the tribe's unclear legal status under the state and federal governments all presented economic and political challenges for the Band.<sup>6</sup> In 1889, the Eastern Band was legally incorporated, but the legal citizenship status of Cherokee people was contested until the Indian Citizenship Act of 1924.<sup>7</sup> At this time, the Cherokee economy was primarily agrarian, focusing on crops for subsistence rather than cash income. The tribal council sponsored a mining project in the 1880s in an attempt to grow their economy, but operations in the mine never began. Instead, lumber was the Band's main source of income and, beginning in 1881, Chief Nimrod Jarrett Smith sold walnut trees near Big Cove for logging.<sup>8</sup> Large-scale commercial logging began in the 1890s when the Cherokee tribal council sold the rights to the Cathcart tract.<sup>9</sup>

By 1904 four white-owned lumber companies had established outposts near the Qualla Boundary and provided many Cherokees with jobs. Seeing

5 The sources used for this article are primarily from the BIA and from fair brochures and materials that Cherokee fair planners had a hand in making. As such, most of the sources were created by BIA agents. It is possible, however, to read between the lines of printed fair materials to assess Cherokee perspectives on the fair, particularly regarding the preservation and adaptation of handicraft techniques and styles.

6 The Eastern Band of Cherokee refers to the people in the Cherokee nation that stayed in North Carolina after the Great Removal, were later incorporated into a federally recognized tribe under this name, and given the Qualla Boundary in western North Carolina as a land trust to live on.

7 John R. Finger, *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century* (Lincoln, NB: University of Nebraska Press, 1991), 10-11.

8 John. R. Finger, *The Eastern Band of Cherokees: 1819-1900* (Knoxville, TN: The University of Tennessee Press, 1984), 147-149.

9 Finger, *Cherokee Americans*, 10-11.

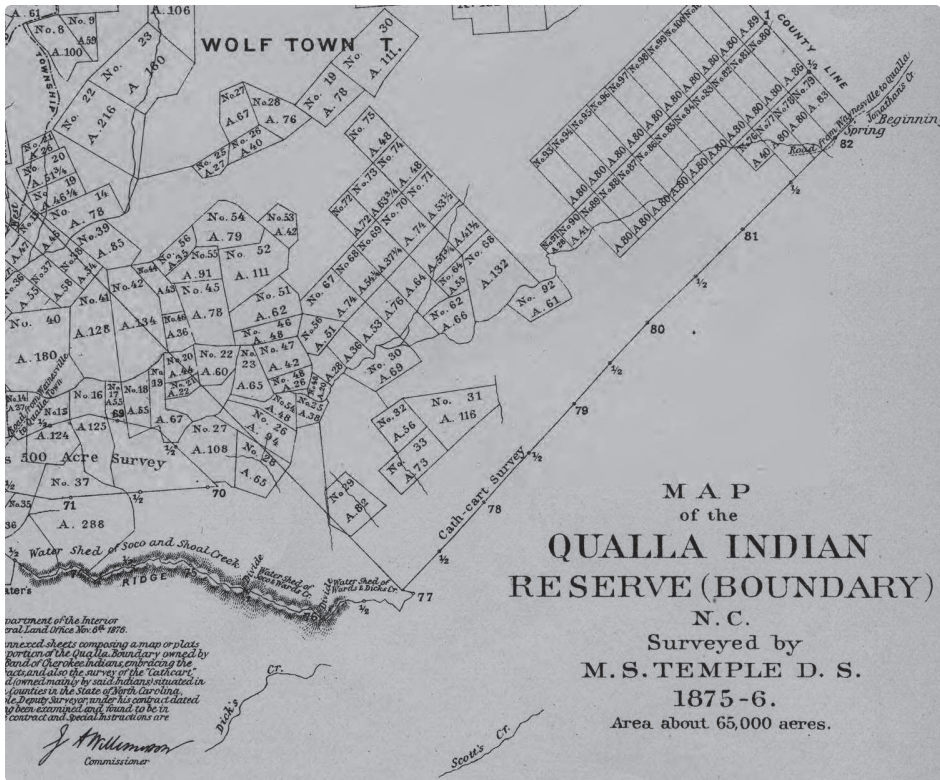




the positive benefits of increased employment for its citizens, the tribal council sold tracts of land to logging companies, hoping to encourage more economic activity in the area. For example, in 1906, the tribal council sold the 33,000-acre Love tract for \$245,000.<sup>10</sup> As an increasing number of Cherokee sought employment in the lumber companies, many neglected their farms, most of which were small subsistence farms with some beans grown as a cash crop. Encouraging logging on the reservation came with other problems as well. For example, tribal leadership had difficulty enforcing contracts so that companies did not take more than was specified, and in preventing independent individuals from logging illegally on fringe areas of the reservation.<sup>11</sup>

10 Ibid., 17-19; Charles J. Weeks, "The Eastern Cherokee and the New Deal," *The North Carolina Historical Review*, Vol. 53, No. 3 (July 1976): 305.

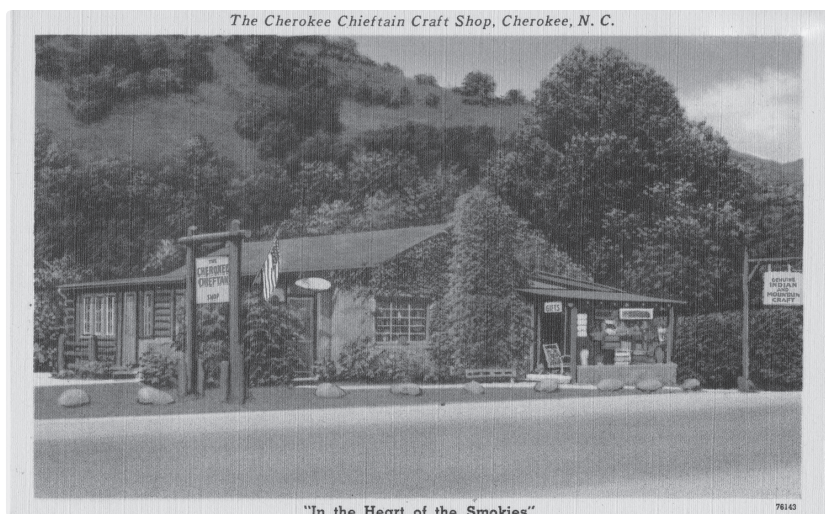
11 Ibid.



A nineteenth-century map hints at the Cherokee people's uncertain legal status and claims to land, which presented them with economic challenges. (Photo courtesy of the National Archive.)

Railroad construction increased alongside the logging boom, facilitating travel to the reservation. Construction on the Appalachian Railroad, which ran a line to Ela, North Carolina, was completed in April, 1909, providing the first railroad access to the reservation. This opened a new way for tourists to travel to the Qualla Boundary. Construction also provided jobs for Cherokee workers. By 1920, several spurs off the main railroad line wound through different parts of Qualla Boundary, easing transportation through the reservation.<sup>12</sup> Over the first several decades of the twentieth century, roads to the reservation were improved as well, in part because plans for the Great Smoky Mountains National Park would require roads between Asheville and the Smoky Mountains. Some of these roads were routed through the reservation, allowing tourists to stop there on their way

12 Finger, *Cherokee Americans*, 17-21.



A postcard advertising the Cherokee Chieftain Craft Shop in Cherokee, from the 1930s. The BIA circulated similar posters in North Carolina, hoping to attract tourists to the Cherokee Indian Fair. (Image courtesy of Wikimedia.)

to the park.<sup>13</sup> These improvements in transportation made it progressively easier for tourists to come to the reservation. The fair provided a reason for them to come.<sup>14</sup>

As these economic developments were taking place in western North Carolina, the BIA was undergoing changes in Washington, DC. The BIA was established in 1849 as part of the US Department of the Interior, purportedly to represent the interests of Native Americans. However, the BIA often functioned as a contested form of government for Native Americans, providing social services such as grant funding, education, and policing. They were also responsible for organizing many of the Native American tribes into reservations.<sup>15</sup>

13 "Cherokee Indians Will Be First To Get Highway Jobs," *The Daily Times* (Burlington, North Carolina), September 12, 1933, 5; John R. Finger, *Cherokee Americans*, 78-79.

14 Betty J. Duggan, "Tourism, Cultural Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience," *Tourism and Culture: An Applied Perspective*, ed. Erve Chambers (Albany, NY: State University of New York Press, 1997), 36.

15 Paul G. Pierpaoli, Jr., "Bureau of Indian Affairs," *The Encyclopedia of North American Indian Wars, 1607-1890: A Political, Social, and Military History*, eds. Spencer Tucker, James Arnold, Roberta Weiner (Santa Barbara, CA: ABC-CLIO, LLC, 2011), 100-101; See also Laurence M. Hauptman, "The American Indian Federation and the Indian New Deal: A Reinterpretation," *Pacific Historical Review*, Vol. 52, No. 4 (November 1983): 378-402; Sherry Smith, "Comments: Native Americans and the Indian Policy in the Progressive Era," *Journal of the Gilded Age and the Progressive Era*, Vol. 9, No. 4 (October, 2010): 503-507.

In the first years of the twentieth century, the BIA was caught up in the tendencies of the Progressive Era, seeking to reform its oft-criticized bureaucracy by streamlining its administrative systems and improving efficiency. The BIA also placed new emphasis on reconsidering its standards of professionalism for employees, leading to the creation of new experimental programs for Native Americans nationwide.<sup>16</sup> In 1912, national BIA Commissioner Cato Sells suggested one such program during a visit to the reservation: a Cherokee fair. BIA Superintendent James Henderson and Farm Agent James Blythe, two BIA leaders on the reservation, agreed to his idea.<sup>17</sup> Cherokee leaders supported the idea and many Cherokees were personally involved in fair planning.<sup>18</sup> Though the idea originated with Sells, the fair was a collective effort.

## Tourism, Subsistence Farming, and Education

Superintendent Henderson's initial idea was to use the fair to promote particular values among the Cherokee. In a 1916 letter to Commissioner Sells, Henderson quoted a Department of Agriculture agent who wrote that "the fair at Cherokee is doing a big work in training the Indians for better living and more enlightened citizenship."<sup>19</sup> Enlightened citizenship, a Progressive Era ideal among social activists, denoted the value of education and individual intelligence to US citizenship. As historian Kevin Mattson has commented, "Not property or virility (or even balanced government) but widespread critical enlightenment was now the most important source of citizenship."<sup>20</sup> The idea was that citizens who were educated—or enlightened—would see themselves and their work in the broader scope of the community, accepting a personal responsibility to make their communities better.<sup>21</sup> By using this phrase, Henderson expressed a hope,

16 Cathleen D. Cahill, *Federal Fathers & Mothers: A Social History of the United States Indian Service, 1869-1933* (Chapel Hill, NC: The University of North Carolina Press, 2011), 211.

17 Chiltoskey, *Cherokee Fair & Festival*, 5.

18 Ibid., 1-10.

19 James Henderson to Cato Sells, October 30, 1916, Folder 2a-34 Cont. thru 2a-48, Box 1, Correspondence (Series 5), Cherokee Indian Agency, Bureau of Indian Affairs Records, National Archives Building, Atlanta, GA. This set of records will henceforth be abbreviated as the "Cherokee Indian Agency."

20 Kevin Mattson, *Creating a Democratic Public: The Struggle for Urban Participatory Democracy During the Progressive Era* (University Park, PA: Pennsylvania State University Press, 1998), 79-80.

21 Ibid.



grounded in Progressive Era ideals, that by educating Cherokees through the events at the fair, Cherokees would become more productive members of both the larger Cherokee community and the state of North Carolina. Henderson wrote to the secretary of the Asheville Chamber of Commerce, saying, "I know that if I make a good citizen of one of the Indians I have done a good work for the state."<sup>22</sup>

The fair was marketed to tourists from its very beginning. In a 1914 letter to Cherokee fair planner Johnson Owl, Henderson wrote, "I find that the white people are very much interested in the fair, and I think that if we properly advertise and get up a good exhibit it will be a success," but "if we fail to put up a fine exhibit the fair will be a rank failure and the visitors will be disgusted and we will not get them to come again."<sup>23</sup> In the letter, Henderson used tourists' approval of the fair as an incentive for his collaborators to put on an exhibit for the first fair. Furthermore, Henderson and Johnson worked together to print posters advertising the fair, and they had 500 tickets printed in anticipation of the fair's visitors.<sup>24</sup>

Henderson tried to use the Cherokee Indian Fair to revive the agricultural economy on the reservation, a common goal for his predecessors as well. The attempt was even more important since the decline in agriculture on the reservation had continued into the 1910s. In 1915 he wrote that "the object of the fair is to awaken the Cherokee Indians to better farming, fruit growing, and cattle raising."<sup>25</sup> In multiple letters, Henderson wrote to companies outside the reservation to ask for donations that could serve as prizes for the fair's agricultural contests. Instead of cash prizes, however, Henderson requested primarily farm instruments, clothing, or other goods that would be beneficial to agricultural work. Prizes that would "aid ... in interesting these people in better farming" were important to Henderson.<sup>26</sup> The solicitation of donations as prizes was

22 James Henderson to N. Buckner, October 28, 1921, Folder 2a-1, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

23 James Henderson to Johnson Owl, September 18, 1914, Folder 2a-61 thru 2a-80, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

24 James Henderson to Johnson Owl, letter, Sept. 8, 1914, Folder 2a-1, Box 1, Correspondence (Series 5), Cherokee Indian Agency; James Henderson to R.L. Sandidge, letter, Oct. 7, 1914, Folder 2a-1, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

25 James Henderson to C.M. McClung and Co., August 20, 1915; James Henderson to Marr Boburn and Company, letter, August 20, 1915; James Henderson to W.H. Duncan, letter, August 20, 1915, Folder 2a-81 thru 2a-90, Correspondence (Series 5), Cherokee Indian Agency.

26 James Henderson to J.L. Morgan, August 23, 1916, Folder 2a-81 thru 2a-90, Correspondence (Series 5), Box 1, Cherokee Indian Agency.

Final Roll of the Eastern Band of Cherokee Indians of North Carolina, under Act of June 4, 1924 (43 Stat., 376)											74
SERIAL REFERENCE	Parent Roll		FAMILY NAME	FIRST NAME	Relationship to head of family	Sex	Age	Date	Date	Date of Death	REMARKS
	No.	No.									
2304	64	1899	Smith	Joseph L.	Husband	M	37	December 23, 1879	5/6		
2305	69		Smith	Ellie	Wife	F	50	August 17, 1876	5/6		
2306	66		Smith	Lawrence	Son	M	19	March 20, 1907	13/16		
2307			Smith	Charles H.	Son	M	10	January 11, 1881	13/16		
2308			Smith	Arthur	Son	M	16	November 30, 1882	13/16		
2309			Smith	Dennis	Daughter	F	10	April 25, 1886	13/16		
2350	109		Smith	James David	Husband	M	40	April 29, 1878	1/2		Wife, white, divorced.
2351			Smith	Theresa	Daughter	F	18	January 25, 1884	1/6		
2352			Smith	John Ross	Son	M	10	April 25, 1886	1/6		
2353	100		Smith	James G. T.	Husband	M	38	March 26, 1878	1/6		Father, John Q. A. Smith, Churchill Roll #289.
2354			Smith	John Ross	Daughter	F	18	November 25, 1884	1/6		
2355			Smith	Gladye	Daughter	F	9	June 16, 1887	1/6		
2356	160		Smith	John Q. A.	Husband	M	58	August 12, 1870	1/6		Wife, white.
2357	189		Smith	Robert A.	Son	M	20	April 2, 1898	1/6		
2358	189		Smith	Ross B.	Son	M	19	December 25, 1897	1/6		
2359	160		Smith	Lizzie	Single	F	28	July 26, 1898	1/6		Churchill Roll #169.
2360			Smith	George G.	Son	M	5	June 21, 1891	1/30		COUSIN. Mother, Salliah T. Smith Bates.
2361	1370	1380	Smith	Elyse H.	Husband	M	53	February 25, 1873	1/6		Wife, white.
2362	1373		Smith	Ruth	Son	M	23	September 5, 1893	1/6		
2363	1375		Smith	John S.	Son	M	20	December 17, 1896	1/6		
2364			Smith	Bert	Daughter	F	17	February 27, 1899	1/6		
2365	144	1503	Smith	Louis H.	Husband	M	28	November 27, 1884	3/6		Died March 5, 1906.
2366	145	1509	Smith	Rancy	Wife	F	75	December 23, 1851	5/6		
2367			Smith	Margaret	Daughter	F	18	February 9, 1882	1/6		Wife, white, 1882.
2368			Smith	Hattie	Son	M	18	May 6, 1885	1/6		COUSIN. Mother, Salliah T. Smith Bates.
2369	164		Smith	Marshall	Single	M	29	September 12, 1897	1/6		Churchill Roll #169.
2370			Smith	May	Wife	F	29	April 30, 1901	1/6		Wife, white, 1901.
2371			Smith	Ella	Daughter	F	6	August 30, 1900	1/30		COUSIN. Mother, Salliah T. Smith Bates.
2372	180	1878	Smith	May Martin	Wife	F	76	June 16, 1859	1/6		Husband, Mark Tiger, deceased.
2373			Smith	Thomas	Orphan	F	5	December 3, 1817	1/6		Churchill Roll #137.
2374	208	1775	Smith	Sam M.	Husband	M	43	March 27, 1853	1/6		Wife, white, 1853. Second wife, Chippewa Indian.

The population of the Qualla Valley increased beginning in 1924, as thousands of people tried to claim membership on the "Baker Roll," a census taken during the process in which tribal lands were placed into a federal trust. (Photo courtesy of the National Archives.)

also crucial to hosting contests and enticing participants, since in its first years the fair lacked financial support from the BIA and the tribal council.<sup>27</sup> The national BIA assistant superintendent told Henderson that it would be better for the Cherokees to exhibit at the North Carolina State Fair, because BIA funds would not be appropriated to provide prizes for a fair in Cherokee.<sup>28</sup> In 1915, the BIA appropriated \$200 for fair expenses, but a large enough Cherokee faction protested the appropriation that Henderson never used the funds.<sup>29</sup>

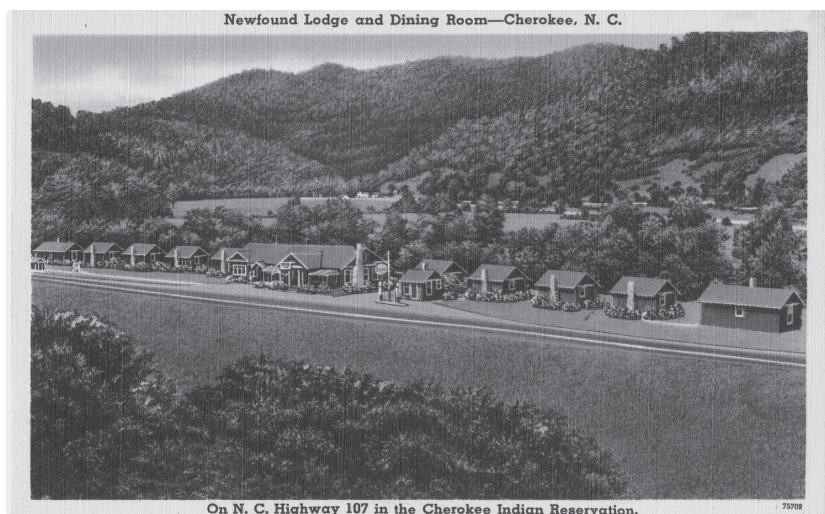
In addition to promoting agriculture in the Cherokee economy through contests, the fair also provided opportunities to learn agricultural skills

27 James Henderson to W.J. Parks, letter, August 23, 1916, Folder 2a-81 thru 2a-90, Correspondence (Series 5), Box 1, Cherokee Indian Agency.

28 E. B. Meritt, Assistant Commissioner, to James Henderson, April 16, 1914, Folder Correspondence (1), Box 9, General Records Correspondence Chronological File 1890-1914, Cherokee Indian Agency.

29 James Henderson to Cato Sells, April 5, 1915, Folder 2a11, Correspondence (Series 5), Box 1, Cherokee Indian Agency.





The Cherokee Reservation, depicted here in another postcard advertisement from the 1930s, was located on steep mountainous terrain. While this certainly attracted tourists, it made large-scale agriculture difficult as the Eastern Band's population grew. (*Image courtesy of Wikimedia.*)

that had been lost when Cherokees gave up farming for logging industry jobs. BIA officials and fair planners used the agricultural exhibits to teach subsistence agriculture and housekeeping. In the 1916 fair, for example, a district agent for the federal Department of Agriculture and several aides gave lectures on agricultural practices in addition to judging the exhibits. The use of lectures and exhibits as educational tools during the early fairs had some measure of success based on improvement from prior years. E.S. Millsaps, district agent for the Department of Agriculture, wrote that the 1916 fair was “far better than the white people had in Buncombe [County] a week ago, and much better than the White Rock Fair in Madison [County] this week.”<sup>30</sup> In his analysis of the fair, he praised the improvements in the corn and cattle exhibits over the previous year and noted the high quality of the fruit and potato exhibits.<sup>31</sup>

The educational endeavors in the fair extended beyond agriculture to health as well. The 1916 fair included a baby contest, in which babies were scored for their looks, wellbeing, and level of health. To enter in a baby contest, each child had to be examined by a physician, whose responsibility

30 James Henderson to Cato Sells, October 30, 1916, Folder 2a-34 Cont. thru 2a-48, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

31 Ibid.

was to talk with the mothers about the care of their children.<sup>32</sup> Since most infant deaths on the reservation occurred after the babies had been weaned, a nurse provided demonstrations on how to prepare more solid food for babies.<sup>33</sup> During the 1917 fair, the North Carolina State Department of Health provided materials for a health exhibit in conjunction with the contest.<sup>34</sup> The health component of the contests dovetailed well with the fair planner's educational goals.<sup>35</sup>

When the logging industry declined in the 1920s, the fair's focus on agriculture became even more economically important for the Cherokee. This decline signaled the loss of jobs for many, leaving Cherokees to return to subsistence agriculture.<sup>36</sup> Making matters more difficult, the population on the Qualla Boundary had grown substantially during this shift. The growth was primarily due to the thousands of people who moved to the area to try to claim membership on the "Baker roll," a census taken in 1924 by the Eastern Cherokee Enrolling Commission to determine membership in the Eastern Band during the process in which tribal lands were placed into a federal trust.<sup>37</sup> Since the Cherokee agricultural industry relied on subsistence farming, families needed arable land to support themselves. However, the increase in population meant that there was not enough arable land to sustain this growth.<sup>38</sup>

Even though the Qualla Boundary was comprised of 63,400 acres at the time, the reservation's topography limited the amount of land suitable for farming, creating scarcity on the reservation. The mountainous region's steep hillsides were often too steep to be tilled or plowed. BIA Superintendent R.L. Spalsbury described this problem in his 1930 Annual Report, noting, "The entire region covered by this reservation is a rough mountainous section of country ... yet it is a fact that tillable land is at such a

32 James Henderson to Cato Sells, October 25, 1915, Folder 2a-34 Cont. thru 2a-48, Box 1, Correspondence (Series 5), Cherokee Indian Agency; Chiltoskey, *Cherokee Fair and Festival*, 8-9.

33 Ibid.

34 James Henderson to Cato Sells, December 17, 1917, Folder 2a-61 thru 2a-80, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

35 For more on baby contests, see Annette K. Vance Dorey, *Better Baby Contests: The Scientific Quest for Perfect Childhood Health In the Early Twentieth Century* (Jefferson, NC: McFarland, 1999).

36 R.L. Spalsbury, *Annual Report 1930: Narrative Section, Section 4*, 1930, 1-2, Box 24, General Records and Correspondence (Series 6), Cherokee Indian Agency.

37 "Baker Role, 1924-1929," *National Archives*, accessed February 13, 2016 via <https://www.archives.gov/research/native-americans/rolls/baker-roll.html>.

38 Charles J. Weeks, "The Eastern Cherokee and the New Deal," 305.

premium that the steep hillsides are often planted in crops.”<sup>39</sup> Most families owned five acres of level or moderately sloping land, although some had managed to acquire as many as 25 or 30 acres. With limited land, families only produced what they needed to survive and did not “raise any crop which can be considered a money crop.”<sup>40</sup> The beans that Cherokees had previously grown as cash crops had been obliterated by pests. Furthermore, land on the steep slopes had to be cultivated using hoes and other hand instruments, since modern agricultural equipment could not yet navigate the slopes’ inclines.<sup>41</sup>

When the Great Depression hit in 1928, dramatic job loss increased the importance of subsistence farming for the Eastern Band.<sup>42</sup> In 1930, Spalsbury wrote that “a majority” of Cherokees had only “a small spot of land” to cultivate, and that most Cherokee families were unable to preserve “enough fruits and vegetables” to last through the winter season.<sup>43</sup> During his tenure as BIA superintendent of the Eastern Band, Spalsbury supported subsistence farming on the reservation. He hoped that farming would “take the place of and surpass the old method of depending upon nearby logging and lumber operations for a livelihood.”<sup>44</sup> This goal, now more important with the decline of the logging industry, was the same as Henderson’s and his predecessors’ goals for the Cherokee.

Without other industries to employ Cherokees or a local market to sell cash crops, the arable land problem notwithstanding, subsistence agriculture and modern agricultural practices were major focuses of the fair in the 1930s. One of the fair’s main exhibits during the 1930s was the Better Home and Farm Contest, first established in 1933. The contest celebrated the agrarian history and economy of the Cherokee and encouraged further agricultural development and education, especially in subsistence farming.<sup>45</sup> In the 1934 fair, the rules of the contest stipulated that it would “improve living conditions among these Indians” and teach subsistence

39 R.L. Spalsbury, *Annual Report 1930: Narrative Section*, 1.

40 Ibid.

41 Ibid., 1-2; Charles J. Weeks, “The Eastern Cherokee and the New Deal,” 305.

42 For health conditions during the 1920s, see Weeks, “The Eastern Cherokee and the New Deal.”

43 R.L. Spalsbury, *Annual Report 1930: Narrative Section*, 2.

44 Ibid., 3.

45 Cherokee Indian Fair Association, *Cherokee Indian Fair 1933* (Cherokee, NC: Cherokee Indian Fair Association), 2, File 047, Box 24, General Records and Correspondence (Series 6), Cherokee Indian Agency.

“farming activities to a point where all the Indian homes shall be practically self-supporting.”<sup>46</sup> The contest allowed members of the Eastern Band to enter food, livestock, and handmade goods into the fair to be judged for monetary prizes. To be eligible participants, Cherokees had to provide sufficient garden produce and field vegetables for their family for an entire year; use improved, modern farming methods; maintain a clean home; and store all agricultural and homemade products in a root cellar, crib, or spring house.<sup>47</sup> As the rules for the exhibit show, the contests were used as incentives to promote agriculture across the reservation, particularly subsistence farming.

The Better Home and Farm Contest also contained educational elements. In 1933, for example, during the inaugural contest, an announcement in the fair brochure noted that “photographs will be taken during the year of the exhibitor and his family, showing improvement, if any, in the home or farm.” These photographs, the organizers stated, would “greatly improve the educational value of the exhibit.”<sup>48</sup> Ostensibly, families whose photographs exhibited the greatest amount of improvement or whose home and produce were of the highest quality provided the best educational examples for those viewing the exhibits.

The Better Home and Farm Contest and other educational programs continued throughout the 1930s. By providing cash and material incentives to the Cherokee and educational opportunities to learn better farming and home care practices at the fair, BIA officials and Cherokee fair planners successfully used the fair to raise standards of living on the reservation. The extent to which the focus on agriculture and the educational programs were successful is best understood from a commemoration of the fair’s twenty-fifth anniversary in 1938, which described the history of the fair as “a quarter century of economic progress” that attracted “the attention and interest of visitors from twenty-eight different states of the United States in 1937.”<sup>49</sup> A 1939 article on the history of the fair echoed the brochure’s sentiment, noting that “homes and living conditions have greatly improved

46 Cherokee Indian Fair Association, *Cherokee Indian Fair 1934* (Cherokee, NC: Cherokee Indian Fair Association, 1934), 4.

47 Ibid.

48 Cherokee Indian Fair Association, *Cherokee Indian Fair 1933*, 2.

49 Cherokee Indian Fair Association, *Cherokee Indian Fair 1938* (Cherokee, NC: Cherokee Indian Fair Association, 1939), File 047, Box 24, General Records and Correspondence (Series 6), Cherokee Indian Agency.

on the reservation since the fair began.” Such “desirable conditions,” the author wrote, was in part due to “the fair and its founders.”<sup>50</sup>

Although the authors of these brochures are unknown, both texts reference the all-Cherokee Board of Directors that managed the fair planning as well as the Cherokee leadership in the fair, which was marked by five members of the board of directors who had been on the board since the fair’s beginning in 1914.<sup>51</sup> The Cherokee’s leadership in the fair’s planning and decades-long memory of the fair’s progress, impact on the reservation, and development as a tourist attraction, lends credibility to this assessment of the fair, to the extent that either the BIA or Cherokee planners contributed to and supported the fair brochures’ claims.

## Tourism and the Handicraft Revival

By 1917, white visitors had begun traveling to the reservation to attend the fair. From Henderson’s perspective, the white visitors were one measure of the fair’s success. Writing to Commissioner Sells about the 1917 fair, Henderson reported that it “was far better this year than ever before” because it had “begun to attract the attention and favorable comment of the best thinking white people in the state.” Indeed, he noted that “large numbers of white persons were in attendance.”<sup>52</sup> Henderson’s focus on the “best-thinking white people” shows that he saw white North Carolinians’ approval of the fair as a better measurement of success than the Cherokee people’s thoughts on it, at least as far as reporting to the commissioner was concerned.

As interest from white visitors increased, access to the reservation became a logistical challenge due to the scarcity of good roads to the reservation. However, the railroad infrastructure first built to serve the logging industry remained even after the industry declined. Before the logging boom had totally disappeared, increasing numbers of tourists were already making use of the railroad infrastructure to travel to western North Carolina and to visit the Cherokee Indian Reservation.<sup>53</sup> In the absence

50 Cherokee Indian Fair Association, *Cherokee Indian Fair 1939* (Cherokee, NC: Cherokee Indian Fair Association, 1939), File 047, Box 24, General Records and Correspondence (Series 6), Cherokee Indian Agency.

51 Ibid.

52 Ibid.

53 Daniel S. Pierce, *The Great Smokies: From Natural Habitat to Natural Park* (Knoxville, TN: The University of Tennessee Press, 2000), 33.



The Yankee Horse Railroad in Buncombe County, North Carolina, pictured here, was one of many logging railroads that were eventually used by tourists in western North Carolina. (Image courtesy of Wikimedia.)

of good roads, railroads provided an important form of transportation to bring tourists to the Qualla Boundary for the fair. In 1921, for instance, the Southern Railway System ran a special train from Asheville to Ela with a connection to Cherokee just for the fair.<sup>54</sup> The specials offered by the trains brought over 1,000 visitors from Asheville to the fair that year.<sup>55</sup>

Although the fair was not primarily intended to be a tourist attraction, it evolved into one over time as the fair grew in popularity and attracted an increasing number of visitors to the reservation each year. Plans for the creation of the Great Smoky Mountains National Park promised to attract even more. The park, which shares a border with the Qualla Boundary, provided new opportunities for tourism to the Cherokee economy. Park planners wanted to build roads to the park that would cut through the town of Cherokee, North Carolina, which would route more tourists to both the

<sup>54</sup> "Southern Railway System," *Asheville Citizen-Times*, September 15, 1921, 28.

<sup>55</sup> "Large Attendance at Cherokee Indian Fair," *Raleigh News and Observer*, October 2, 1921, 8.



park and the reservation.<sup>56</sup> Some of the roads were completed, but others were halted due to conflicts with the Appalachian railroad and disputes between federal and Cherokee officials.<sup>57</sup>

With a new influx of tourism during the 1920s and 1930s, elements of the fair grew or catered to the interests of these tourists. Increased tourism, for example, created new opportunities for fair exhibitors to sell handicrafts and other artisan work. Handicraft exhibits were present since the beginning of the fair in 1914. Writing to the *Asheville Citizen*, Henderson argued that this handicraft exhibit was the finest in the state. However, this was not entirely because of the quality of Cherokee work, but rather because the exhibit was “made much more interesting by exhibits of blankets, pottery, baskets and various other exhibits from a large number of the Indian tribes of the United States.”<sup>58</sup> For the 1914 exhibit, Henderson and the Cherokee fair planners supplemented the Cherokee exhibits with other Native American handiworks from around the country.

In the mid-1920s, the federal Indian office began offering cash prizes for the best handicrafts to encourage the production and sale of such goods.<sup>59</sup> By 1930, Superintendent Spalsbury noted in his 1930 annual report that the Cherokees sold basketry, pottery, bead work, bows and arrows, and more during the fair.<sup>60</sup> Spalsbury’s mention of handicrafts points to a revival in Cherokee arts and crafts after a decline in Cherokee craftsmanship in prior decades.<sup>61</sup> The revival owed its success to several factors, including federal encouragement of arts and crafts, especially in New Deal programs that promoted the teaching of handicrafts in schools, increased tourism on the reservation, and incentives provided by the Cherokee Indian Fair, which promoted the dying arts of pottery, wood carving, and basket weaving.<sup>62</sup>

56 “Cherokee Indians Will Be First To Get Highway Jobs.”

57 Finger, *Cherokee Americans*, 78-79.

58 James Henders to *The Asheville Citizen*, letter, October 12, 1914, Folder 2a-1, Box 1, Correspondence (Series 5), Cherokee Indian Agency.

59 Duggan, “Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience,” 36-37.

60 R.L. Spalsbury, *Annual Report 1930: Narrative Section, Section 4*, 1930, 2, Box 24, General Records and Correspondence (Series 6), Cherokee Indian Agency.

61 C. Brenden Martin, *Tourism in the Mountain South: A Double-Edged Sword* (Knoxville, TN: The University of Tennessee Press, 2007), 162; “Duggan, Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience,” 36; Finger, *Cherokee Americans*, 14.

62 Cherokee Indian Fair Association, *Cherokee Indian Fair 1939*, 4. Duggan, “Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience,” 36-38. For more on Cherokee and the New Deal, see Weeks, “The Eastern Cherokee and the New Deal.”

The fair's contests provided financial incentives for quality workmanship, and the fair as a whole attracted thousands of non-Cherokee tourists, literally bringing the market for Cherokee crafts right onto the reservation.

Though the crafts were not wholly made in traditional Cherokee styles, their authenticity cannot be denied. One scholarly perspective on authenticity defines cultural authenticity as traditions that have not yet been commoditized by market forces or altered to cater to a tourist market. Others argue that authenticity is malleable, changes over time, and is most defined by what is meaningful to a people at a particular time, including times when cultural traditions are used, and even changed, for the purposes of commoditization and economic gain.<sup>63</sup> The evolution of the Cherokee Indian Fair is demonstrative of, and was a catalyst for, changes in Cherokee culture, including the switch from a primarily agrarian economy to a primarily tourist economy. The change in Cherokee arts and crafts, as part of the development of the tourist economy, was a modification of traditional, historical Cherokee designs and styles. These shifts borrowed heavily from the designs of other cultural groups and were largely driven by economic motivations. Basketry and pottery are two examples.

Women were traditionally the weavers in Cherokee society, and they designed most baskets for utilitarian functions. In order to appeal to tourists, women began making designs, like sewing containers, specifically to appeal to tourists. Instead of making baskets out of the traditional river cane or white oak, women started weaving with honeysuckle and light, imported materials that were more delicate and ornamental. These basketry forms included elements from Anglo-American and European styles. In 1934, a honeysuckle basket category was added to the Cherokee Indian Fair, a sign of the wood's growing popularity as a material among Cherokee weavers. In addition, the Cherokee started using commercial dyes in order to make the baskets even more visually appealing.<sup>64</sup>

Cherokee pottery also underwent changes to cater to the tourist market. Traditional Cherokee pottery was a simple gray style, shaped by

63 Laurie Kroshus Medina, "Commoditizing Culture: Tourism and Maya Identity," *Annals of Tourism Research*, Vol. 30, No. 2 (2003), 353-354.

64 Sarah H. Hill, "Marketing Traditions: Cherokee Basketry and Tourist Economics," in *Selling the Indian: Commercializing & Appropriating American Indian Cultures*, Carter Jones Meyer and Diana Royer, eds. (Tucson, AZ: The University of Arizona Press, 2001), 212-224; M. Anna Fariello, *Cherokee Basketry: From the Hands of Our Elders* (Charleston, SC: The History Press, 2009), 33; Duggan, "Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience," 36-38.

hand, and then hardened in ovens where the clay would be turned brown or black by contact with the blazing wood.<sup>65</sup> Like basket weavers, Cherokee potters geared their styles towards domestic and utilitarian uses.<sup>66</sup> As the pottery market among tourists expanded, many Cherokees adopted styles from Catawba Indians and nearby white North Carolinians, many of whom had moved away from utilitarian functionality towards decorative tourist-oriented products. The Cherokee also borrowed the colorful features of the highly popular Southwestern Indian style.<sup>67</sup> Many Catawba potters had moved into or near the Cherokee reservation area after they lost their land in the 1840s and, with Catawba and Cherokee potters living in the same area, the styles became blended. As with basketry, Cherokee potters adopted their style to fit the tourist market.<sup>68</sup>

Cherokees engaged in basketry, weaving, and pottery long before the advent of the fair, but the styles employed in the 1920s and 1930s reflected a unique kind of crafting style with new techniques, designs, and marketability that adapted to economic and cultural developments. In addition, the variety of goods produced was limited in scope. Nevertheless, such a revival in output was necessary for the preservation of craftsmanship on the reservation and for the growth of the handicraft industry.<sup>69</sup>

The new style of the 1920s and 1930s was a complex mingling of economic and cultural preservation. On the one hand, the growth of a tourist market preserved the tradition of Cherokee craftsmanship and some traditional styles. On the other hand, many traditional styles were put aside to cater to the very market that was helping to preserve the craft. With the fair growing as a tourist attraction, the sale of crafts was an important part of the economic value of the fair.<sup>70</sup> In this case, profit was more important

65 Allen H. Eaton, *Handicrafts of the Southern Highlands* (New York, NY: Dover Publications, 1973), 209.

66 M. Anna Fariello, *Cherokee Pottery: From the Hands of our Elders* (Charleston, SC: The History Press, 2011), 37.

67 Finger, *Cherokee Americans*, 99.

68 M. Anna Fariello, *Cherokee Pottery: From the Hands of our Elders* (Charleston, SC: The History Press, 2011), 37, 45-46.

69 Cherokee Indian Fair Association, *Cherokee Indian Fair 1950*, Printed Documents Collection, Hunter Library Digital Collections, Western Carolina University, Cullowhee, North Carolina, 39-43. For more on change in basketry over time, see M. Anna Fariello, *Cherokee Basketry: From the Hands of Our Elders* (Charleston, SC: The History Press, 2009).

70 During the 1920s and 30s, increasing numbers of tourists came to Qualla Boundary during other times of the year as well, which was also a substantial market for the handicraft industry.

than adherence to traditional Cherokee styles. After all, tourists came to the fair seeking the “exotic” and unfamiliar. As long as the styles represented something “Indian” to tourists, they were marketable. The Cherokee therefore chose specific styles and forms that catered to tourists’ interests.<sup>71</sup>

In addition to being driven by the market for goods at the Cherokee Indian Fair, the changes in style and design were also influenced by the early twentieth-century arts-and-crafts revival, which pressured Cherokee craftsmen to tailor the styles and designs of their wares to the tourist industry. In the first part of the twentieth century, seven craft guilds opened within 50 miles of the reservation. Cherokee artisans sold their products to the guild directors, who in turn sold them to tourists. However, the guilds’ control on the market meant that Cherokees had to meet the guilds’ standards for quality and style. Cherokee craftsmen saw the tourist market, especially during the time of the fair, as a way to meet financial needs.<sup>72</sup> Over time, handicrafts became an avenue to supplement a family’s subsistence farming with a cash income.<sup>73</sup>

By drawing in tourists and financially incentivizing craftsmanship, the fair contributed significantly to the revival of Cherokee craftsmanship and growth of the tourist economy. However, in order to cater to the increasing number of tourists, Cherokee artisans imported styles and designs that replaced what had been traditional Cherokee designs. The revival was an important step in building the Cherokee economy, but it was not until after World War II that mass tourism would begin on the reservation.<sup>74</sup>

## Pageantry and Performance at the Fair

In addition to handicrafts and artisanal work, cultural performances were an important part of the Cherokee Indian Fair, one which was not necessarily exclusive of other elements. For instance, fair planners combined handicrafts and cultural performance by introducing model historic Indian villages, one Cherokee and the other Hopi. Both villages displayed Indian arts and crafts and provided a backdrop for performances of traditional dances and tribal ceremonies. Visitors could also see

71 Hill, “Marketing Traditions,” 213.

72 Hill, “Marketing Traditions,” 212-224; Eaton, *Handicrafts of the Southern Highlands*, 176.

73 Duggan, “Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience,” 37.

74 *Ibid.*, 38-39.

Indians, as one newspaper advertised, “garbed in native costumes and engaged at their native crafts of weaving, basket making or demonstrating the ancient Cherokee methods of cooking and the true-to-tradition life of an Indian village.”<sup>75</sup>

Cherokee arts and crafts, model Indian villages, and tribal dances attracted non-Cherokee tourists to the fair. For instance, journalists predicted that “thousands of white spectators will gather at Cherokee to witness the events of the fair,” or that the fair “is expected to attract a large attendance of white visitors and tourists.”<sup>76</sup> More specifically, journalists focused on events at the fair that they believed would be the most attractive to white tourists, usually culturally “exotic” performances, events, or exhibits. “The event, which will feature native traditional sports and crafts,” one journalist wrote of the 1935 fair, “is expected to attract a large attendance of white visitors and tourists.”<sup>77</sup> Another journalist wrote that the 1937 fair, “an event which mixes the primitive with modern Indian customs,” was “expected to attract a large attendance of white spectators this season.”<sup>78</sup> The 1934 fair brochure said that the “tribal dances will give the visitor an insight of the original Cherokee in his native environment and his means of expressing his emotions in rhythmic group action.”<sup>79</sup> The focus of the fair, as advertised to tourists, was on the unfamiliar or “exotic” Cherokee culture presented on the reservation.

A pageant called “The Spirit of the Great Smokies” was another draw for tourists. Largely organized by BIA Superintendent Harold Foght, the pageant was directed by Margaret Speelman from the Haskell Institute, a federally-run school for girls in Lawrence, Kansas, that had previously put on historical pageants designed to educate the public about Native American history and culture.<sup>80</sup> Speelman had directed the school’s 1934 pageant performed as part of the school’s fiftieth anniversary celebrations.<sup>81</sup>

75 “Cherokees of North Carolina Prepare for a Gay Festival,” *The Washington Post*, September 8, 1935, F1.

76 “Cherokees Prepare for Harvest Fair,” *The Washington Post*, September 25, 1938, TT10. “Cherokees of North Carolina Prepare for a Gay Festival.”

77 Ibid.

78 “Cherokees Plan Big Doings: Primitive And Modern Customs Of Red Men Coming in Great Smokies’ Event,” *The Baltimore Sun*, September 12, 1937, T8.

79 Cherokee Indian Fair Association, *Cherokee Indian Fair 1934*, 19.

80 “Haskell Institute Scrapbook: 1935-1936,” *Haskell Institute*, Department of Rare Books and Special Collections, Princeton University Library.

81 “Kansas Historical Notes,” transcribed by Ihn, *Kansas Historical Quarterly*, Vol. 4, No. 1, 108, accessed February 15, 2017 via <http://www.kshs.org/p/kansas-historical-notes-february-1935/12630>.



An elderly woman weaves a basket at the Oconaluftee Indian Village in 1963. The Cherokee Indian Fair not only contributed to the preservation and adaptation of Cherokee basketry techniques, but the Oconaluftee Indian Village started as the model Indian village in the fair before becoming its own tourist attraction. (Photo courtesy of Wikimedia.)

“The Spirit of the Great Smokies” was first performed in 1935 and was popular enough to be repeated in 1937, incorporating more than 350 Cherokees into the production.<sup>82</sup>

The pageant catered to white tourists’ desire to see and experience what they perceived to be “authentic” Cherokee culture. Written mainly by BIA officials working on the reservation, the pageant enacted the famous story of the Trail of Tears and provided the cultural experience that tourists hoped to observe. Even though the historical subtext in the program did not center on the expression of a Cherokee voice, by painting a grim picture of the Great Removal, the writers added a level of historical accuracy unusual for its time. The pageant begins with a medicine man addressing the audience in a long monologue. In part, he intones, “Here in our mountains,

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82 Finger, *Cherokee Americans*, 99-100; Richard D. Starnes, *Creating the Land of the Sky: Tourism and Society in Western North Carolina* (Tuscaloosa, AL: The University of Alabama Press, 2005), 165-167.



**FRIDAY**  
October 4th, 1935

**A. M.**

7:30 Entrance Gate Opens.  
8:00 Agricultural Hall Opens.  
8:30 Arts and Crafts Hall Opens.  
10:00 Indian Dance—in Front of Grandstand.  
10:30 Archery and Blowgun Contests—in Front of Grandstand.  
Awarding of Prizes for High Scores in Archery and Blowgun Contests.

**P. M.**

2:00 Indian Dance—in Front of Grandstand.  
2:30 Indian Ball Game.  
8:00 Finals—Square Dancing Contest—in Front of Grandstand.

**THE CHEROKEE INDIAN FAIR  
—AN AMERICAN INSTITUTION**

This Fair is now in its twenty-second year, and has become renowned over the nation at large for the excellence of its programs and its thrilling Indian games and pageantry. The prospects are that this year's Fair will attract increasingly large crowds for its splendid Indian programs.


*Do Not Miss—*


**THE PAGEANT**

"The Spirit of the Great Smokies," an historic pageant depicting the struggles between the Cherokee and the encroaching whites, will be enacted in a rustic, open-air stadium by five hundred Cherokee Indian players, on Wednesday and Thursday evenings.

The Tuesday evening's dramatic program will be rendered in the stadium by a group of Chillico, Oklahoma Indians, representing twelve distinct tribes.

All Fair guests should plan to remain over the evenings for these remarkable entertainments.





**CHEROKEE  
INDIAN FAIR  
AND  
FOLK FESTIVAL**

**PROGRAM**

Cherokee, North Carolina  
OCTOBER 1, 2, 3, 4, 1935

**CHEROKEE INDIAN FAIR  
ASSOCIATION**

Harold W. Foght, President  
J. L. Walters, Secretary-Treasurer

for we are a mountain people ... we come before you ... in dance, in song, in ancient tribal rites to celebrate the glories of the past."<sup>83</sup> From the very beginning, the pageant connected the Cherokee people with the mountain lands and tied both to Cherokee history and tradition.

Following the introduction of the pageant, the first two scenes depict the effects of the arrival of Europeans and colonial expansion on the Cherokees. In each scene, the pageant focuses on a new group (e.g., the Spanish, French) interacting with the Cherokee people, making treaties and promises, and then breaking them to the detriment of the Cherokee people. This pattern of broken promises in the pageant culminates in the third scene, a depiction of the 1835 Great Removal, the centennial of which the 1935 pageant was meant to commemorate. Rather than focus on the Cherokees who left, the pageant focuses on those who remained, which maintains the pageant's focus on a particular land and a particular people.<sup>84</sup>

The 1935 pageant brochure described the subtext for the Great Removal scene, referring to "the whites looking on with greed," and noting that "the state of Georgia threatened to secede if the President ... did not remove the

83 "The Spirit of the Great Smokies: A Pageant Commemorating the One-Hundredth Anniversary of the Great Removal 1835-1935," *The Cherokee Nation*, North Carolina Collection, Pack Memorial Public Library, Asheville, North Carolina, 5, 12.

84 "The Spirit of the Great Smokies," 6-10.

TUESDAY October 1st, 1935		WEDNESDAY October 2nd, 1935		THURSDAY October 3rd, 1935	
A. M.		A. M.		A. M.	
7:30	Entrance Gate Opens.	7:30	Entrance Gate Opens.	7:30	Entrance Gate Opens.
8:00	Agricultural Hall Opens.	8:00	Agricultural Hall Opens.	8:00	Agricultural Hall Opens.
8:30	Arts and Crafts Hall Opens.	8:30	Arts and Crafts Hall Opens.	8:30	Arts and Crafts Hall Opens.
10:00	Indian Dance—in Front of Grandstand.	10:00	Indian Dance—in Front of Grandstand.	10:00	Indian Dance—in Front of Grandstand.
10:30	Archery and Blowgun Contests—in Front of Grandstand.	10:30	Archery and Blowgun Contests—in Front of Grandstand.	10:30	Archery and Blowgun Contests—in Front of Grandstand.
		11:00	Singing Contest—Auditorium Above Fair Hall.	11:00	Baby Show—Auditorium.
P. M.		P. M.		P. M.	
2:00	Indian Dance—in Front of Grandstand.	2:00	Indian Dance—in Front of Grandstand.	2:00	Indian Dance—in Front of Grandstand.
2:30	Indian Ball Game.	2:30	Indian Ball Game.	2:30	Indian Ball Game.
7:30	American Indian Lore—Chillico Indian School Dramatics Club—in the New Outdoor Stadium.	7:30	Pageant—"The Spirit of the Great Smokies"—to be rendered by 500 Cherokee Indians.	7:30	Pageant—"The Spirit of the Great Smokies."
		9:00	Square Dancing Contest—in Front of Grandstand.	9:00	Square Dancing Contest—in Front of Grandstand.
<b>OTHER ATTRACTIONS - - - EACH DAY</b>					
<b>CHEROKEE &amp; HOPI INDIAN VILLAGES</b>		<b>THE MIDWAY</b>		<b>THE EXHIBITS</b>	
In addition to a Cherokee Indian Village, there will be a Hopi Indian Village on the grounds. In these villages there will be displays of Indian arts and craft, as well as the ancient dances and ceremonies practiced by each tribe centuries ago.		There will be a Midway on the Grounds. The Standard American Shows will be on hand to furnish rides, side show amusements, and other attractions usually enjoyed at large agricultural fairs.		Exhibits of Indian Crafts in great variety, such as Cherokee pottery, basketry, bows, arrows, and blowguns are on display and actually made in the Indian Village and the Arts and Crafts Hall. The agricultural and home making exhibits will be of exceptional quality and number and will demonstrate recent Indian advancement in these fields.	

The 1935 fair, which commemorated the Great Removal of 1835 through "The Spirit of the Great Smokies" historical pageant, focused on those who remained rather than those who left the region. (*Images courtesy of Wikimedia.*)

Indians." The brochure included the horrors of removal, stating that the Cherokees "were driven by the military out of their homes" with "over a third" dying while traveling westward. This event, the brochure authors explained, "is a blot on our national history."<sup>85</sup>

The text was borrowed from white scholars Charles C. Royce and James Mooney's reports to the Smithsonian Institution in the late nineteenth century. Though it is notable that the historical subtext in the pageant's program was not the expression of a Cherokee voice, it nevertheless presented the Trail of Tears in a way that did not whitewash the history for the tourists.<sup>86</sup> The pageant's first two scenes, which span centuries, culminates with a presentation of the Great Removal, the part of Cherokee history probably most familiar to tourists. This focus allowed the BIA pageant writers to present both a somewhat familiar history while giving tourists the "cultural experience" they came to see. According to the pageant's program, the pageant was meant to commemorate the hundredth anniversary of the Great Removal, yet it is unclear if either the Cherokee performers or audience members felt that the pageant was appropriately commemorative or that their viewpoint was accurately represented.

85 Ibid., 11.

86 Ibid., 1.

The final scene of the pageant commemorated the return of the Cherokee to some of their land in North Carolina and focused on the development of schools in Cherokee and the education of the children. A note under the final words of the narrator tells the spectators: "Out of these brave beginnings has developed the Cherokee schools of today, which are fostering all of the arts and crafts and culture that is truly and distinctly Indian, teaching the young folk pride of race and heritage, and leading the older ones to live wholesome, happy lives."<sup>87</sup> This ending brought the pageant full circle, tying the people of the past and the history of the land to Cherokee and the Qualla Boundary that existed at the time of the performances. The hope brought by the Cherokee schools and education demonstrated optimism for the future. At the time that the pageant was written, the future being spoken about was grounded in the emphases on modern techniques of subsistence farming, the handicraft revival, and the expansion of the tourist industry on the reservation—all of which started in the fair, but were taught in the Cherokee schools as well.<sup>88</sup> This voice of optimism is the way the Cherokee tell their story today. The official Cherokee tourism website finishes a brief history of the people by saying, "As the tribe looks out into the 21<sup>st</sup> century, its bright future emanates a light for other tribes to follow."<sup>89</sup>

Cherokees first performed the pageantry in the Progressive Era, during which American historical pageantry was especially popular. The public imagery of historical pageants fostered a connection between a geographic location and a group by telling the story of the people in a particular place, often leaving the spectator with some ideal or otherwise optimistic vision about the future.<sup>90</sup> "The Spirit of the Great Smokies" is a part of this legacy, connecting the Cherokee Indians and the geographical location of the pageant, the reservation itself, with the history of the Trail of Tears. The pageant not only presented a history of the Cherokee, but also presented an optimistic vision of a bright future for the tribe.

The pageant was popular during its debut performances in 1935, but it

87 "The Spirit of the Great Smokies," 12.

88 For information on handicrafts taught in Cherokee schools, see Duggan, "Tourism, Authenticity, and the Native Crafts Cooperative: The Eastern Cherokee Experience," 37-38. Also see Weeks, "The Eastern Cherokee and the New Deal."

89 "Chapter IV: The Renaissance," *Cherokee North Carolina*, accessed February 16, 2017 via <http://visitcherokeenc.com/play/culture/history/>.

90 David Glassberg, *American Historical Pageantry: The Uses of Tradition in the Early Twentieth Century* (Chapel Hill, NC: The University of North Carolina Press, 1990), 290.

was not performed in 1936 in part because of opposition from Cherokees who opposed the BIA's involvement in the fair and the reservation more generally.<sup>91</sup> However, the pageant was performed again in 1937, where it was performed six times during the summer and then again at the fair. "The Spirit of the Great Smokies" was discontinued after 1937, despite its success that year, due to disputes within the tribe over the festival. Pageants were absent in the fair's programs until the first performance of "Unto these Hills" in 1950.<sup>92</sup>

Cultural performance in the fair not only brought tourists to the reservation, but it also gave Eastern Band Cherokees opportunities to travel to perform elsewhere. This was especially true of Cherokee dance and the Indian Ball game, two forms of performance presented during the fair. The exposure gained at the fair afforded the Cherokee opportunities to take their performances beyond the Cherokee Indian Fair to other fairs, festivals, and events around the state and country. In some instances, archers traveled with the ball teams or the dancers to put on a shooting show as well. For example, in 1935, Cherokees were invited to exhibit and perform at a number of events, including the Dogwood Festival at the University of North Carolina in Chapel Hill and the second annual National Folk Festival, held that year in Chattanooga, Tennessee.

The Indian Ball teams were invited to play in the University of North Carolina's football stadium in 1935 as part of the university's annual Dogwood Festival. The Dogwood Festival, which started in 1933, began as an attempt to "inaugurate a movement for the preservation of the natural beauty of the state and particularly of dogwood trees." The festival featured traditional folk music and dances presented in the outdoor Forest Theater and handicraft exhibits on display in Graham Memorial, the university's student union at the time.<sup>93</sup> In 1935, the festival planning committee paid

91 Many of those who complained were so-called "white" Indians, people of mixed racial heritage that generally lived on the fringes of the reservation, but had become an extremely vocal minority voice in tribal politics. For many years, the white Indian faction was led by Fred Bauer, who staunchly opposed any and all federal involvement on the reservation and who generally advocated for more assimilationist policies among the Cherokee.

92 Finger, *Cherokee Americans*, 100; Starnes, *Creating the Land of the Sky*, 165-168.

93 "Initial Dogwood Events to Extol North Carolina," *The Daily Tar Heel*, Mar 26, 1933, 1.



In 1935, North Carolina native and nationally recognized expert in folk music and dance Bascom Lamar Lunsford worked with the Cherokee to ensure that their performances were “authentic.” (*Photo courtesy of Appalachian Consortium Press.*)

for travel expenses, lodging, and pay.<sup>94</sup>

Later in the year, 30 Cherokees danced at the National Folk Festival in Chattanooga, Tennessee. In preparation for the event, Bascom Lamar

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<sup>94</sup> Harold Foght to Felix Grisette, February 27, 1935; Felix Grisette to Harold Foght, letter, Mar 9, 1935; Harold Foght to Felix Grisette, March 13, 1935; Felix Grisette to Harold Foght, letter, Apr 11, 1935, File 072, Box 31, General Records and Correspondence (Series 6), Cherokee Indian Agency, Bureau of Indian Affairs, National Archives Building, Atlanta, GA: “Writer Likens Rough Indian Game to Gangster Riot in Chicago Streets,” *The Daily Tar Heel*, Apr 26, 1935, 3: “Annual Festival Will Open Today with Exhibitions,” *The Daily Tar Heel*, Apr 25, 1935, 1.



Lunsford, a North Carolina local and nationally recognized expert in folk music and dance, worked with the Cherokee to ensure that all parts of their performances were “traditional” and authentic to Cherokee history.<sup>95</sup> In addition to performing at the festival, the Eastern Band obtained permission from the chairman of Loveman’s Department Store to display and sell Cherokee handicrafts. The week before the festival began, Cherokee artisans worked behind the department store windows as a way of advertising their wares inside the store. The act of making the handicrafts themselves was a performance and an advertisement. M.J. Pickering, the executive secretary of the National Folk Festival who helped to arrange for the Cherokee goods to be sold in Loveman’s, thought that Chattanooga would be a great market for Cherokee goods because many locals were visitors to the reservation.<sup>96</sup>

The high number of invitations shows the extent to which the Eastern Band Cherokees had opportunities to make money through performance beyond the reservation. The popularity that garnered so many invitations came largely from the Cherokee Indian Fair, which raised public awareness for Cherokee performance by attracting tourists to the fair. As such, both pageantry and performance during the fairs on the reservation and elsewhere contributed to the popularity of Cherokee performance as a tourist attraction.

## The Lasting Impact of the Fair

Though the Cherokee Indian Fair brought many Cherokees together in celebration, the fair was primarily an economically oriented event. The emphasis on agriculture and subsistence farming in the fair represented a focus on economics on the reservation during a time when the Cherokee lacked other forms of industry. The fair also sparked a revival in Cherokee handicrafts that in turn led to an adaptation of style and design in order to cater to the tourist market. As early as 1914, the fair provided an outlet for Cherokees to present their crafts and handiwork and to win monetary

<sup>95</sup> For more on Bascom Lamar Lunsford, see Loyal Jones, *Minstrel of the Appalachians: the story of Bascom Lamar Lunsford* (Lexington, KY: University Press of Kentucky, 2002).

<sup>96</sup> Harold Foght to John Collier, May 23, 1935; Sarah Knott to Harold Foght, letter, Apr 1, 1935; M.J. Pickering to Harold Foght, April 25, 1935, File 072, Box 31, General Records and Correspondence (Series 6), Cherokee Indian Agency. The Cherokee also performed at the National Folk Festival in following years, this year featured the interesting addition of Cherokee handicrafts being taken down and sold at the department store.



awards for the quality of their work. As the fair grew, it became an industry unto itself, attracting thousands of tourists each year. The admission fees and the opportunity to sell handicrafts made the fair a money-making opportunity while supporting and promoting a tourist economy on the reservation during the rest of year as well.

As the fair became a significant tourist attraction, the expression of culture became more of a performance that catered to tourists' interests. The fair sold tourists on the "exotic" culture of Cherokee life, which could be seen, experienced, and even bought in the dances, pageants, handicrafts, and model Indian villages of the fair. Invitations to perform elsewhere in North Carolina and around the United States were prompted by the quality of performances in the fair.

Today, the Cherokee Indian Fair is still used as a tool to promote different initiatives on the reservation. Although Cherokees can still win prizes for the best food and handicrafts, these contests are no longer used primarily to promote certain industries like handicrafts and subsistence agriculture.<sup>97</sup> However, the idea of using the fair as a tool to promote a specific initiative is still prevalent. For example, in 2011 Cherokee Chief Michell Hicks used the fair as a platform to further his health education programs by inaugurating a running event in the fair, to bring attention to diabetes and the benefits of living an active lifestyle.<sup>98</sup>

In addition to promoting specific initiatives within the Cherokee Nation, the fair continues to attract tourists each year. On one of the Cherokees' tourism websites, they advertise the Indian Ball Game along with "thrilling demonstrations ... authentic Cherokee culture, including archery and blowgun demonstrations, local art, dance, music, and more."<sup>99</sup> Many of the attractions advertised to tourists in newspaper articles during the fair's first decades are the same attractions advertised today. The performance of "authentic Cherokee culture" in the past is, in effect, the same performance being offered now. The difference now is that, in

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97 Tonya Carroll, "Cherokee Indian Fair," *The Digital Heritage Project*, Western Carolina University, 2009, accessed March 25, 2016, via <http://digitalheritage.org/2010/08/cherokee-indian-fair/>.

98 Maria Scandale, "The 99<sup>th</sup> Annual Cherokee Fair Comes to the Cherokee Indian Fairgrounds," *Indian Country Today*, accessed March 25, 2016, via <http://indiancountrytodaymedianetwork.com/2011/10/02/99th-annual-cherokee-fair-comes-cherokee-indian-fairgrounds-54434>.

99 "104<sup>th</sup> Annual Cherokee Indian Fair," *Cherokee North Carolina Website*, accessed Mar 25, 2016, via <http://visitcherokeenc.com/events/detail/cherokee-indian-fair/>.

addition to the fair, the Eastern Band of Cherokee has a host of other tourist attractions that have diversified the tourist industry on the reservation. Visitors can attend the Museum of the Cherokee Indian, walk through the Oconaluftee Indian Village, attend the “Unto These Hills” outdoor drama, or buy Cherokee handicrafts at the Qualla Arts and Crafts Mutual cooperative business that now boasts more than 350 member artisans.<sup>100</sup> These facets of the Cherokee tourist industry in North Carolina descend from programs in the Cherokee Indian Fair that have for a century influenced the tourist industry on the reservation. The fair birthed many important aspects of the Cherokee tourist economy, making a lasting impact on Cherokee life.

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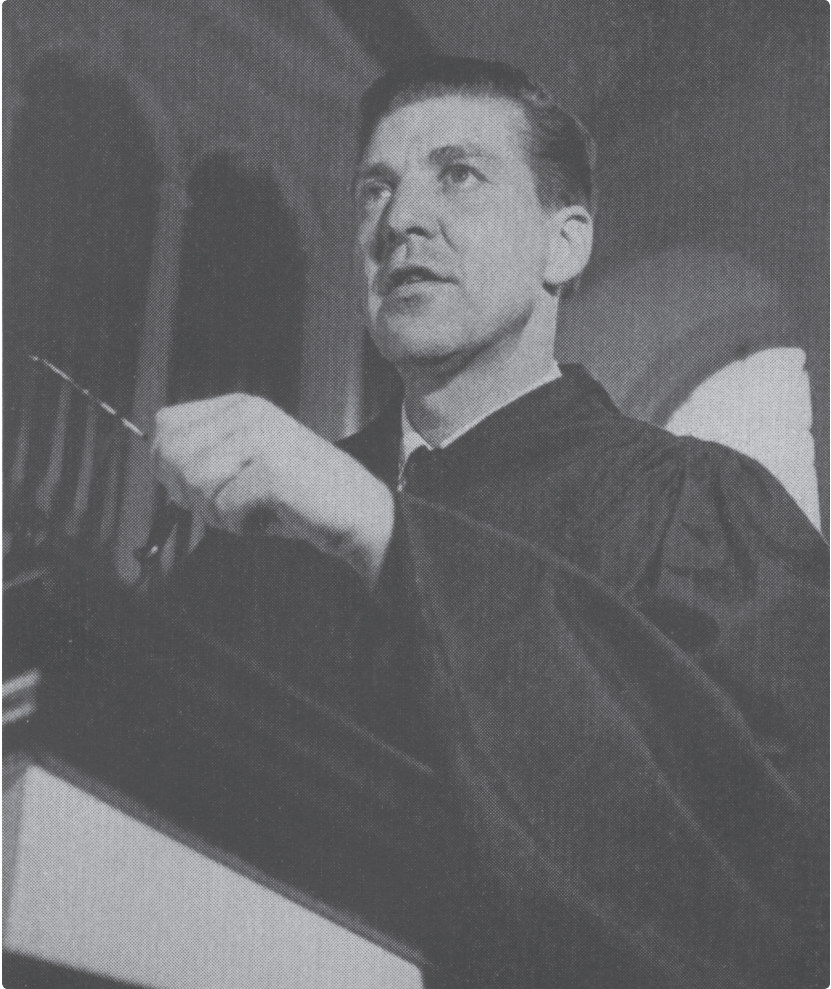
100 “Attractions,” *Cherokee North Carolina Website*, accessed March 25, 2016, via <http://visitcherokeenc.com/play/attractions/>.

Georgia Brunner

## The Backlash to Charles M. Jones's Project of Racial Integration

Before the University of North Carolina at Chapel Hill (UNC-CH) opened its doors to black students and before basketball coach Dean Smith famously walked into a segregated restaurant with two black friends, Reverend Charles M. Jones invited African American community members into his Chapel Hill Presbyterian congregation in 1943. The North Carolina Orange Presbytery, after swift and aggressive uproar, eventually put Jones on trial. The trial mentioned Jones's integration project sparingly and generally in charging Jones with a lack of devotion to Presbyterian doctrine. In the trial, clear sides formed between the local congregation who, for the most part, stood by its minister, and the larger county-wide church leadership, who vehemently opposed Jones and his social project.

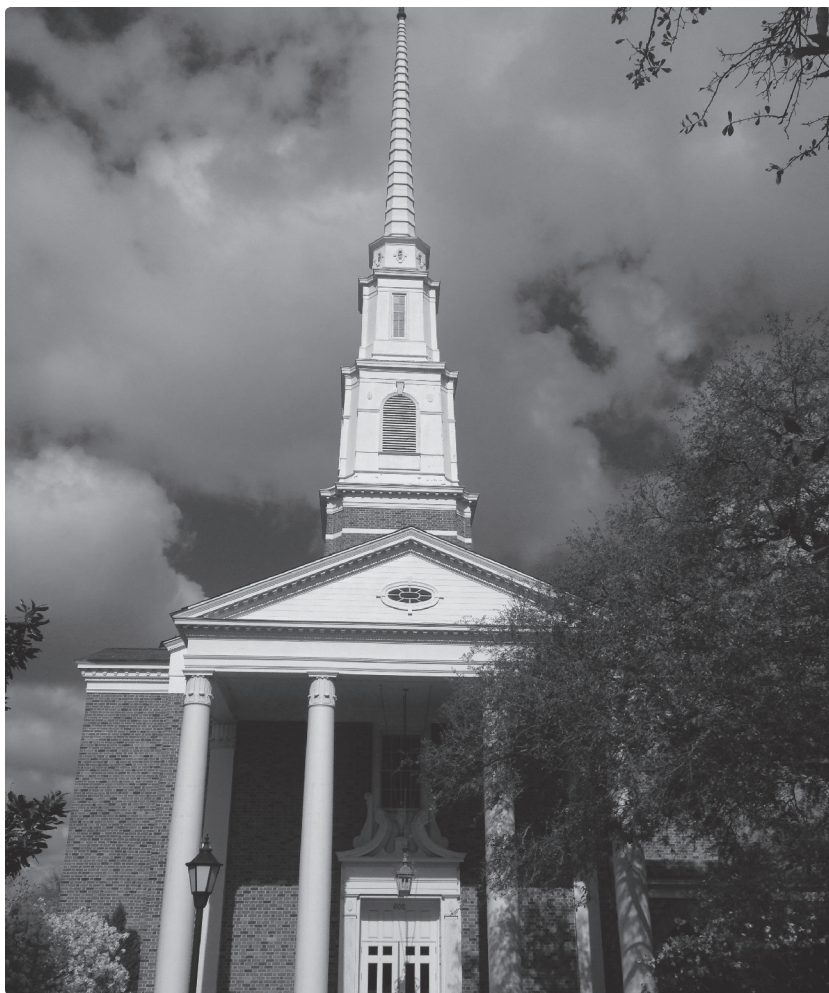
Jones received thousands of letters of support and opposition, which usually invoked questions of race issues and images of good and evil. While no specific language in the trial documents points to integration as the primary concern, these letters clearly highlight integration as the leading cause of the trial. Though Jones's supporters and opponents both drew from the same Christian sources of authority in making their cases, they reached very different conclusions. Supporters drew primarily from Biblical sources, while



The Rev. Charles M. Jones in the pulpit. Jones created an uproar by attempting to integrate his Chapel Hill Presbyterian congregation in 1943. (Photo courtesy of Mark Pryor.)

opponents referred to the strict rules of Presbyterianism to call for the separation of church and social justice.

Letters and other communications with Jones reveal the connection between Jones's case and larger debates between liberal and conservative Presbyterians of the time. Indeed, this split in the community mirrored the reaction to other liberal actions taken in the Presbyterian Church, which were followed by a reactionary backlash. The split between liberals and conservatives within the Church, both in North Carolina and across



First Presbyterian Church, where Jones served starting in 1941. The church is prominently located on Franklin Street, across from the University of North Carolina at Chapel Hill. (*Photo by Garrett W. Wright.*)

the South, manifested itself through different appeals to religion. Using religious language, both liberals and conservatives rallied to political causes that reflected larger national debates. Debates surrounding Jones's trial in Chapel Hill therefore illustrate how liberals and conservatives used the language of the Bible to advance markedly different agendas.



## Jones's Political Beginnings

Charles Jones started his work in the Church haphazardly and without a strong commitment to Presbyterianism itself. After graduating high school in 1923, he worked odd jobs and then went to college on his father's urging.<sup>1</sup> After college, because of his interest in music, Jones took a job as an organist at a church.<sup>2</sup> The reverend at his church suggested that he go to seminary in Texas, but Jones decided to stay closer to home and went to Clarksville, Virginia, to study music education. Once there, Jones found that, provided more freedom to choose, he preferred to study to become a reverend. He met his future wife during his time in Virginia and they were married upon his completion of seminary.<sup>3</sup> Together, they moved to Chapel Hill in 1941.

In North Carolina, Jones preached progressive values such as equality and the social obligations of Christians, demonstrating an early commitment to a political project that culminated in his later integration policies. A report from the congressional committee of his first church in North Carolina asserted that "Mr. Jones has shown himself highly progressive without departing from the basic elements of the religion of Jesus Christ."<sup>4</sup> By 1942, Jones had allowed black students from the North Carolina College for Negroes in Durham to come to his weekly Sunday breakfasts and the worship afterward at his church.<sup>5</sup> In January 1943, he organized one of Chapel Hill's first interracial meetings of different religious leaders throughout the community to promote racial and social justice.<sup>6</sup> The community elected Jones chairman of the newly formed Chapel Hill Interracial Committee.<sup>7</sup> He continued working towards integration despite continued criticism that would eventually divide his church and later determine the outcome of his trial. His friends and allies in the church

1 Charles M. Jones and Dorcas Jones, interviews by John Egerton, Southern Oral History Program Collection, *Documenting the American South* (hereafter cited as SOHPC), Interview A-0335, July 21, 1990, <http://docsouth.unc.edu/sohp/A-0335/menu.html>.

2 Ibid.

3 Ibid.

4 Report of the Congregational Committee, Brevard-Davidson River Presbyterian Church, April 1941, quoted in Mark Pryor, *Faith, Grace and Heresy* (San Jose: Writer's Showcase, 2002), 76.

5 Anon., "A Consideration of the Church and the Racial Problem by the Elders March-June, 1944," July 22, 1944, box 24, folder 3, Charles M. Jones Papers, Southern Historical Collection, University of North Carolina at Chapel Hill (hereafter cited as Charles M. Jones Papers).

6 Mark Pryor, *Faith, Grace, and Heresy: The Biography of Rev. Charles M. Jones* (Bloomington: iUniverse Publishing, 2002), 92.

7 Minutes of meeting of Chapel Hill Interracial Committee, November 27, 1942, box 26, folder 1, Charles M. Jones Papers.



also rallied to help accomplish his project as tensions rose.<sup>8</sup> A majority of the Chapel Hill church elders stood by him, stating, “In his fellowship Jesus transcended the barriers of race, color, creed or social position. The Christian Church, looking to Jesus for its faith and practice, should in like manner transcend these barriers.”<sup>9</sup> Jones received further support from The Session, the local church court in Chapel Hill. Orange Presbytery, composed of the Council of Elders, ministers and representatives from all the churches in the region, became Jones’s main opponents.<sup>10</sup> Even before the official investigation, clear sides formed between the local church and community, which largely accepted Jones, and the larger church structure, where he was often criticized.

Prior to the official investigation of Jones, several different stakeholders objected to Jones’s project, using racialized language. Perhaps the most conspicuous of these voices came from the National War Department, which compiled a report in 1944 titled “Commingleing of Whites and Negroes at Chapel Hill,” in an attempt to understand and question the role of community leaders and police officers in interracial relations. Because the War Department had a vested interest in maintaining the status quo, it was unsympathetic to Jones’s project. The report asserted that the congregation was dwindling and that there would be a crisis unless Jones was replaced.<sup>11</sup> Finally, in the summer of 1945, the more conservative members of Jones’s congregation declared their official stance by presenting a petition to the Council of Presbytery that demanded Jones’s resignation, citing his liberal attitudes on certain “social issues.”<sup>12</sup> Jones entertained the concerns of his critics. He sat in small groups with them several times, but eventually their stated concerns grew beyond integration. They “decided to draw up a bill of particulars (not only on race) as to why the Session should receive my resignation,” Jones said, though he believed that things were “still in good shape.”<sup>13</sup> This proved to be a false hope. The Orange Presbytery took up the calls from his critics and put Jones on trial.

8 Pryor, *Faith, Grace and Heresy*, 104.

9 “A Consideration of the Church and the Racial Problem by the Elders, March-June 1944.” quoted in Pryor, *Faith, Grace and Heresy*, 143.

10 Joel L. Alvis Jr., *Religion and Race: Southern Presbyterians, 1946-1983* (Tuscaloosa, AL: University of Alabama Press, 1994), 2.

11 Department of War, fourth division, 1944, quoted in Timothy B. Tyson et al., *Democracy Betrayed* (Chapel Hill: The University of North Carolina Press, 1998), 257.

12 Pryor, *Faith, Grace and Heresy*, 111.

13 Charles M. Jones to Lee, April 16, 1945, box 1, folder 1, Charles M. Jones Papers.

After the petitioners presented their request, the Orange Presbytery opened an official investigation through an appointed judicial commission. The commission never brought official charges against Jones, but asked for his resignation in 1953.<sup>14</sup> The commission hearing illustrates the official motivations of the trial, primarily concerning a possible violation of Presbyterian doctrine. For example, the commission asked Jones, “Concerning the person of Christ, do you believe that he pre-existed before coming to earth?” Jones responded, “The thing that bothers me about this is this. In what form do you think he pre-existed?”<sup>15</sup> The lead investigator further asked if Jones believed in the virgin birth, which he did not, and the resurrection of Christ, which he acknowledged as a spiritual resurrection.<sup>16</sup> The commission filed a 12-page report of its findings following the investigation. The report listed a number of “problems” in Jones’s congregation, including the reception of unbaptized persons into the church, which “constitutes a serious violation of our denominational policy.”<sup>17</sup> Finally, the commission found fault with several of the church’s elders and deacons who had been neither ordained nor properly installed, an “omission” which the commission took seriously.<sup>18</sup> The commission did not file a formal complaint against Jones, perhaps to avoid accusations of racism, and based its call for his resignation on his divergence from Presbyterian doctrine.

The documents of Jones’s trial rarely mention integration, but the underlying racial problem clearly motivated the investigation. On June 13, 1952, the Orange Presbytery appointed a judicial commission to investigate Jones’s church. By February of the following year the council called for his removal for “the welfare of the church.”<sup>19</sup> In his resignation address in 1953, Jones questioned the phrase “welfare of the church” specifically, as it seemed intentionally vague and included no specific criticisms of his

14 Alvis, *Religion and Race*, 64.

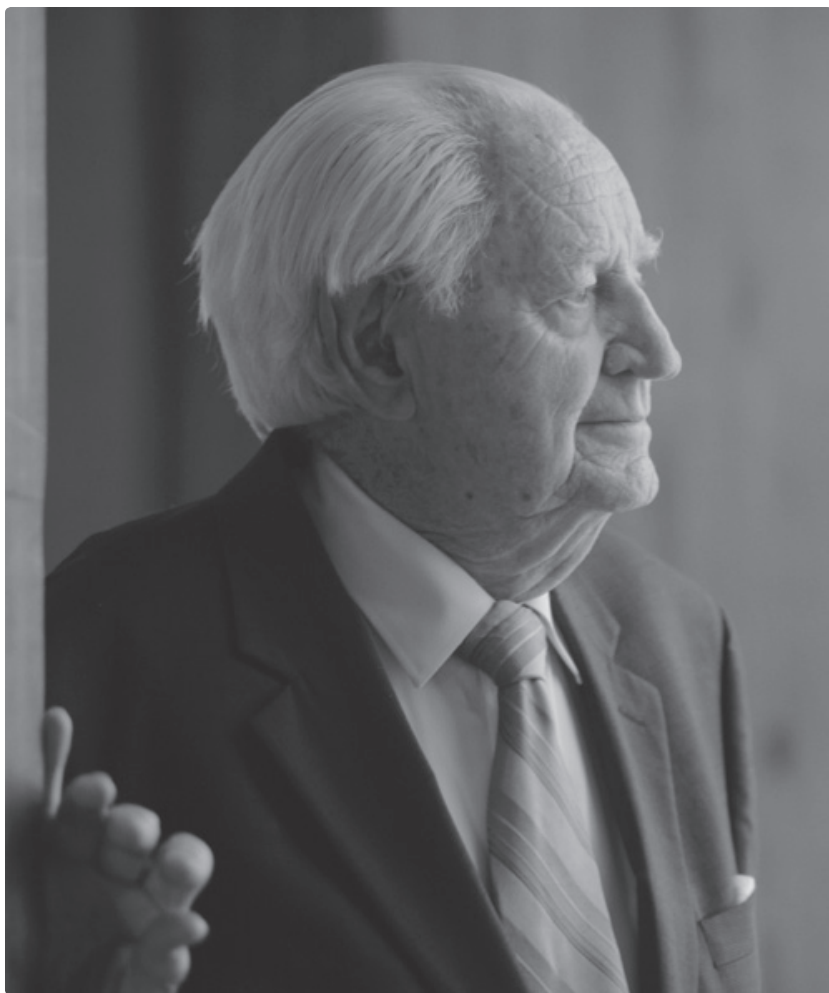
15 Charles M. Jones, interview by John Whitley, October 17, 1952, box 1, folder 25, Charles M. Jones Papers.

16 Ibid.

17 Report of the Judiciary Commission, November 20, 1952, box 1, folder 26, Charles M. Jones Papers.

18 Ibid.

19 Charles M. Jones, “A statement by Charles M. Jones on the occasion of his withdrawing from the Presbyterian ministry: delivered at the summer meeting, Orange Presbytery, Synod of North Carolina, Presbyterian Church of the United States, held at New Hope Presbyterian Church, Chapel Hill, North Carolina, July 6, 1953,” online access, Charles M. Jones Papers.



The Baptist preacher Robert Seymour accepted an invitation to lead UNC-CH's church. Though he never faced a trial, he felt isolated by the local Baptist community. The Southern Baptist Convention accused Seymour of being concerned with nothing but race. (*Photo by Briana Brough.*)

religious practices.<sup>20</sup> Indeed, many of his critics used this sort of appeal to the Church's traditional, theological values as a way to mask more racially motivated concerns.

One of the more obviously racially charged accusations against Jones came from the Council of Presbytery's chairman, Henry T. Patterson. In an unofficial meeting with members of the Council of Presbytery, Patterson

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<sup>20</sup> Ibid.

claimed, falsely, that Jones was the president of the NAACP chapter in Chapel Hill.<sup>21</sup> During the preliminary investigation, the judicial commission sent Jones a questionnaire that posed questions concerning racial integration within his church, including, “Did you invite negro members of the U.S. Navy band at Chapel Hill to a social at your church at which refreshments were served?” and “Do you advocate social equality between negroes and white people?”<sup>22</sup> Though this questionnaire and Patterson’s comments in his unofficial meeting are the only two instances of explicitly racial language used in this inquiry, they illustrate that the investigators had other motives to try Jones besides examining his Presbyterian doctrine.

## Other Perspectives

Outside observers clearly saw the connection between the question of race and Jones’s forced resignation. In a statement in support of Jones against the Synod, a professor at UNC-Chapel Hill claimed, “He has been a fearless champion of the ideal of the brotherhood of man.”<sup>23</sup> Despite the ambiguous language, the message was clear: Jones united all peoples under his congregation, despite the Presbytery’s wishes. *Time Magazine* ran an article on the trial on February 23, 1953, supporting Jones’s integration project and condemning the Orange Presbytery. The article asserted that “a few members of the congregation protested that Pastor Jones was too intent on social reform and racial brotherhood to tell them much about the doctrines of salvation.”<sup>24</sup> Conservative forces in the Church ousted Jones not for his “Unitary” views and practices against Presbyterian religious doctrine, the article declared, but rather because of his social agenda. Finally, in an interview for the Southern Oral History Project, Jones and his wife both agreed that race was the primary reason for the trial and was Chairman Patterson’s original motivation for conducting the investigation.<sup>25</sup> From the perspective of the defendants, the trial had always centered on the issue of race rather than questions of Presbyterian doctrine.

Similarly, conservatives in the church who supported the commission

21 Pryor, *Faith, Grace and Heresy*, 134.

22 Questionnaire, December 13, 1945, box 1, folder 1, Charles M. Jones Papers.

23 Charles M. Jones, “A statement by Charles M. Jones,” 10.

24 “Pastor v Presbytery.” *Time Magazine*, 61, issue 8, 55.

25 Charles M. Jones and Dorcas Jones, interviewed by John Egerton, SOHPC, Interview A-0335,

during the trial cited race as the problem around which the trial was fixed. One former church member believed that “there are some people who are foolish enough as to try and change God’s laws in regard races.” She then stated that she hoped the commission “will use your influence in ridding the Presbyterian Church and our State of these aliens who would destroy us.”<sup>26</sup> Those conservatives eventually prevailed, securing Jones’s resignation. Though the Chapel Hill Presbyterian Church could not stop blacks from joining—the larger Presbyterian Church in the United States (PCUS) was in the process of passing a desegregation policy in 1953—the Church abandoned Jones’s project of active integration.<sup>27</sup>

Such socially motivated actions were not uncommon in southern churches during the twentieth century. Racial conflicts sparked conflicts throughout the South, primarily along liberal and conservative lines. Racial integration of the Presbyterian Church had been a project of many ministers from the time of the Civil War.<sup>28</sup> Judging from the rhetoric of sermons, southern ministers indeed became more liberal in their politics over the course of the century.<sup>29</sup> In fact, Jones fought alongside another minister who also faced criticism and the prospect of dismissal from his parish. Robert Seymour, a Baptist preacher, felt isolated by the rest of the North Carolina Baptist community before accepting an invitation to lead UNC-CH’s church. Though Seymour never faced a trial, the Southern Baptist Convention deemed that he was only concerned with the issue of race, which did not concern the church.<sup>30</sup> While Chapel Hill’s public spaces were still mostly racially segregated, a problem that Seymour and Jones would both later tackle, the university provided Seymour with enough freedom to continue his integration project.

In an instance that more closely parallels the experience of Jones, the Methodist Court of Appeals found Thomas Butts of First Methodist Church

26 D.M. Lucas to Charles M. Jones, April 11, 1952, box 1, folder 2, Charles M. Jones Papers.

27 David L. Chappell, *A Stone of Hope: Prophetic Religion and the Death of Jim Crow* (Chapel Hill, NC: The University of North Carolina Press, 2003), 107-108.

28 Nibs Stroupe and Inez Fleming, *While We Run This Race: Confronting the Power of Racism in a Southern Church* (Maryknoll, NY: Orbis Books 1995), 10.

29 Beverly Zink, “Themes in Southern Presbyterian Preaching, 1920-1983,” in *The Confessional Mosaic: Presbyterians and the Twentieth-Century Theology*, Milton Coalter, John Mulder, and Louis Weeks, eds. (Louisville: Westminster and John Knox Press, 1990), 110.

30 Elaine A. Lechtreck, “Southern White Ministers and the Civil Rights Movement.” (PhD diss., Union Institute and University, 2007), 84.





In debates over integration, many conservative Presbyterians referenced the biblical story of Ham, who was cursed by his father, Noah. This story was used as a justification for slavery and white supremacy well into the twentieth century. (Image by Gustave Doré, courtesy of Wikimedia.)

of Montgomery guilty of undermining the ministry of an associate in 1980.<sup>31</sup> While Butts's case occurred nearly half a century after Jones's, his trial and conviction followed a similar pattern. His trial came only months after Butts admitted the first black member to the church since 1860, to which a former state senator responded, "I'll get you for taking a nigger into this

31 Ibid.



church.”<sup>32</sup> Though he eventually had the decision overturned, Butts was unable to secure another preaching position in Alabama after his trial. Butts’s trial devastated his social project even more than Jones’s, as he never had the same platform from which to preach social equality between races as Jones found in the nondenominational church he would eventually lead.<sup>33</sup> By the early twentieth century, a clear pattern had emerged in which southern ministers would be condemned or even expelled by the national Church structure for fighting for civil rights.

## The Spirituality of the Church

Southern churches created a system that allowed them to ignore social justice projects by refocusing on the so-called “spirituality of churches.” Indeed, according to Reverend Joel L. Alvis Jr., those who advocated for the “so-called Southern Presbyterian Church” believed it should be “an institution concerned only with ‘spiritual’ affairs” and should remain a “separate entity.” This separation of spiritual and social affairs came to be known as “the spirituality of the church.”<sup>34</sup> The spirituality of the church served as a cover to obfuscate practices that worked against social justice projects. For example, one Mississippi minister argued that Jesus himself “did not seek social reform, but salvation of sinners,” a line that, according to historian David L. Chappell, became a “mantra for segregationist Presbyterians.”<sup>35</sup> These Presbyterians, who generally came from white middle-class families, did not necessarily hold segregationist views out of malice, but instead out of a belief that, through state actions like the integration of the army, social justice had already come for all races and full integration was unnecessary.<sup>36</sup> Despite this, racial conflicts sparked the change that shook the American Presbytery Church for years to come.

The PCUS distinguished between those who followed the doctrine of the spirituality of the church, generally conservatives, and those who did not, generally liberals. A sharp divide on integration formed between liberals and conservatives, with both viewpoints using important,

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32 Ibid.

33 Ibid.

34 Alvis, *Religion and Race*, 46.

35 Chappell, *A Stone of Hope*, 122.

36 Robert S. Ellwood, *1950: Crossroads of American Religious Life* (Louisville, KY: Westminster John Knox Press, 2000), 110-111.

far-reaching publications such as the *Presbyterian Outlook* to cite different parts of the Bible in support of their positions. Conservatives latched onto the stories of Ham and the tower of Babel, while liberals cited Isaiah's assertions that all who worship God will be welcomed into eternal peace.<sup>37</sup> Because of this divide within the Church, presbyteries varied widely on their responses to racial integration while still maintaining an appeal to traditions and scripture.

Orange Presbytery pushed Jones out not explicitly based on his views on race, but through coded language based on biblical and doctrinal appeals. Because the PCUS was passing a desegregation policy at the time of Jones's trial, the Orange Presbytery had strong reason to hide their true intentions, lest they be seen to be acting in defiance of the larger Church structure.<sup>38</sup> Such actions were not uncommon amongst presbyteries, as Presbyterians often led the charge in conservative religious movements for segregationist projects as part of larger conservative projects.<sup>39</sup>

The language used in Jones's trial appealed to the spirituality of the Church and Presbyterianism as an institution, claiming that the specific beliefs of the Presbyterian denomination should be more important than broad Christian ideology. The commission found fault with Jones's church because his congregation believed "it is more important to be Christian than to be a Presbyterian" and called for his resignation, as "the interests of religion imperatively demand it."<sup>40</sup> These claims about the welfare of the church contradicted the actual will of the congregation. Though there were some members who left the church for undisclosed—though perhaps implied—reasons, the majority of the church members fully supported Jones.<sup>41</sup> In fact, over the first few years of Jones's tenure for which data is available, membership grew substantially: between 1940 and 1945 the church grew from 171 to 223 members.<sup>42</sup> The welfare of the church as mentioned in the trial must have referred to what the Orange Presbytery perceived to be the best interests of the Church as an institution. Such a judgment, though, would still have been difficult for the commission to

37 Alvis, *Religion and Race*, 47.

38 Ibid., 107-108.

39 David Torbett, "Race and Conservative Protestantism: Princeton Theological Seminary and the Unit of the Human Species," *Fides et Historia* 37, no. 2 (2005): 119.

40 Charles M. Jones, "A statement by Charles M. Jones," 14, 4.

41 A.H. Shepard to Charles M. Jones, April 11, 1945, box 1, folder 2, Charles M. Jones Papers.

42 "Church in Action," March 1945, box 1, folder 1, Charles M. Jones Papers.

fairly evaluate, as no one in the commission ever attended one of Jones's sermons.<sup>43</sup> These conservative judgments passed on Jones derived not from his sermons, but from the commission's perception of Jones's political actions outside the church.

## Conservative Critiques

Jones's critics within the community provide a more direct link between Presbyterian theological conservatism and social conservatism. For example, an anonymous critic explained in a letter to a member of the Orange Presbytery that "this poor little Chapel Hill Church" was "going from bad to worse" because of Jones's desire for "social equality among the races." Jones's supporters, according to this critic, were not "real Presbyterians," since they had not been "brought up" in the Church and had not been raised in the South.<sup>44</sup> The writer appeals to several different common themes in the letters that Jones received during his trial. Like many, this critic first looked upon racial equality as a harm to society. Indeed, while many people in the Chapel Hill community accepted and even embraced his project, as evidenced by the increasing numbers of his congregation, those who did not often explicitly complained in private letters to Jones.

The writer then claimed that Jones's allies were neither "real" Presbyterians nor true Southerners, connecting Presbyterianism with segregation. The call to Presbyterianism shows that the writer believed his denomination to be particularly against the social equality of the races. Such an argument reflects the conservative side of the Presbyterian Church, supported by appeals to the spirituality of the church. Presbyterianism, in the anonymous critic's view, had no business trying to bring about integration and should solely focus on religious affairs. Calls to focus on religion alone often rested on the professed belief that God would fix any social ills on Earth and that people should only focus on the "salvation of the self" rather than saving everyone or making their communities better for all peoples.<sup>45</sup> Finally, the writer expresses concern over losing church

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43 Charles M. Jones, "A statement by Charles M. Jones," 5.

44 Charles G. Rose to E.E. Gillespie, May 26, 1944, box 1, folder 1, Charles M. Jones Papers.

45 Walter H. Conser Jr. and Robert J. Cain, *Presbyterians in North Carolina: Race, Politics, and Religious Identity in Historical Perspective* (Knoxville: University of Tennessee Press, 2012), 195.



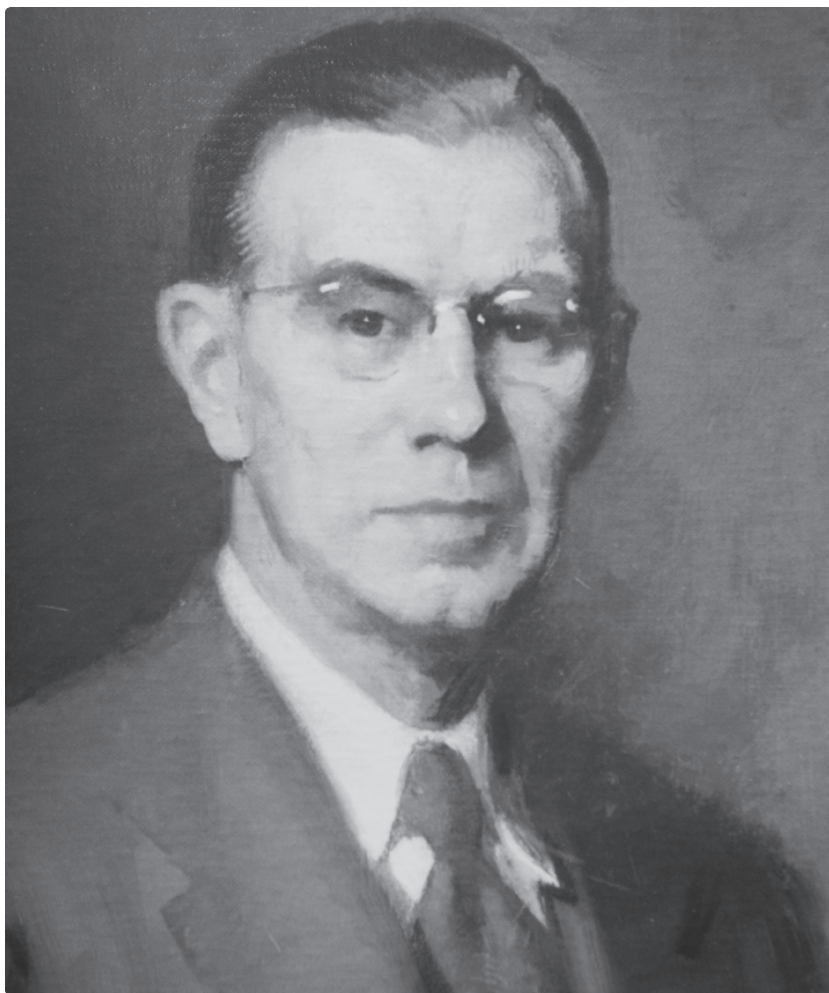
White churchgoers had a variety of different opinions on the appropriate role of the Church in resolving social issues. Here churchgoers gather for Sunday service at the First Presbyterian Church in Chapel Hill in the 1950s. The church's membership grew substantially during Jones's tenure, despite the misgivings of the broader church leadership.

*(Photo courtesy of Mark Pryor.)*

members, even though Jones's position had had little negative effect on the church's overall membership. This concern can be seen as a call for maintaining the current state of the church, an all-white congregation with conservative politics.

Critics appealing to the spirituality of the Church further alleged that Jones misused religion for his own personal gain. In doing so, they constructed a narrow and "idealized" version of Presbyterianism and Christianity as a whole. Church elder Walter Reece Berryhill believed that Jones supported "essentially evil enterprises which are given a false atmosphere of holiness through the unrighteous use of Christian phraseology in an unworthy cause" and attempted a "wide-spread effort to stir up the Negroes."<sup>46</sup> For Berryhill, religion was not meant to interfere with social projects. He deemed Jones's project "evil," indicating that integration was an act against God. In his view, using religion for these unworthy causes was a misuse of Jones's power as a minister. Berryhill evoked images of true and false holiness: if there was a false atmosphere of holiness, there must have been a true one by contrast. This true

46 W.R. Berryhill to Charles M. Jones, September 21, 1944, box 1, folder 1, Charles M. Jones Papers.



Walter Reece Berryhill, MD, was one of many congregants who lambasted Jones's efforts to integrate his church. Berryhill, who denounced Jones's project as an "evil enterprise," served as dean of the UNC-CH School of Medicine from 1941 to 1964. (*Photo courtesy of UNC-Chapel Hill.*)

atmosphere necessarily excluded social equality for blacks due to its alleged "evilness," meaning that it must necessarily exclude blacks from white churches, as they could not participate in this true church. As Berryhill constructed this idea of true uses of religion, he constructed a true religion that separated blacks from whites, forcing blacks into black churches and away from white spaces.

Other conservatives expressed these concerns to a wider audience

in an attempt to garner support against Jones. W.C. George wrote to the *Chapel Hill Weekly* in July, 1944, asserting that “the race problem is not a religious one; it is ... social-biological.” He continued, “The problem being what it is, the essentially evil implications of recent inter-racial goings-on are recognized and deplored by many of our people.”<sup>47</sup> Like Berryhill, George denied the religious nature of the “race problem” while condemning integration as an act against God.

Furthermore, by denying the religious aspect of racial integration and appealing to science, George re-asserted the notion of a hierarchy of races. He claimed that blacks could not interact with whites due to the fact that they are “biologically” inferior. By writing this letter to the community newspaper, George attempted to galvanize the community against Jones, citing the “many” people who already deplored his actions. This public act furthered the ideas that the church was not the venue for considering social questions and that blacks should be excluded from certain churches in the community.

Conservatives who appealed to the spirituality of the church often accused Jones of having a secret agenda for social equality between races. In a letter to Jones on December 20, 1945, David Clark, a resident of Chapel Hill, denounced Jones’s practices. “You tried to influence young people to accept your personal ideas of the question of social equality with Negroes,” Clark declared, “by making a pretense that it was a religious question.” Clark insisted that “the public would take no such view” and did not share Jones’s advocacy for “social equality.” Clark pointedly accused Jones of being “not honest enough to be willing to let the public know your position.”<sup>48</sup>

By portraying the struggle between conservatives and liberals within the Presbyterian Church as a struggle between true Christians interested in religious questions and people using their power within the church to influence others, conservatives like Clark argued that Jones’s actions should be a question of religious or non-religious intent rather than one of wrong or right. By reframing Presbyterian liberals as people who ignored the real questions of the church and influencing “young people,” conservatives thus deplored social progress within a religious context and painted liberals as

47 W.C. George to *Chapel Hill Weekly*, July 25, 1944, box 1, folder 23, Charles M. Jones Papers.

48 David Clark to Charles M. Jones, December 20, 1945, box 1, folder 2, Charles M. Jones Papers.



degenerates, much in the way that conservatives portrayed Communists at the time. Indeed, liberal Christians faced accusations of a political nature as well as the charges of religious corruption that Clark made in this letter.

In Jones's defenses against his critics, he often claimed that he did not have any political motivations. Jones shared a lengthy exchange with a resident of Chapel Hill, C.R. Davant, who strongly opposed Jones's integration project. A self-described "conservative Presbyterian" and "southerner," Davant wrote Jones in an initial letter, "God knows I hate to see it and I know that it is not right in the sight of God, I have always been taught and firmly believe that no white person is the peer of a black, unless he or she admits that equality."<sup>49</sup> While Davant is rather general in his criticisms of Jones's project, he alludes to racial equality as being against God's wishes, an opinion likely justified through the idea of Ham's curse on the Tower of Babel.<sup>50</sup> Jones responded in two ways. He first declared that he was "not a Communist, Socialist or New Dealer."<sup>51</sup> Though Davant did not indicate that he believed Jones to have ulterior political motivations, Jones responded with a political defense. Jones may have offered this preemptive defense against questions of his political motivation because he needed to seem less liberal in the eyes of Davant and other conservatives to gain any sort of credibility. By declaring that he was not a leftist, Jones attempted to distance himself from politics, thus playing into the same doctrine of spirituality of the church to which conservatives clung so fiercely.

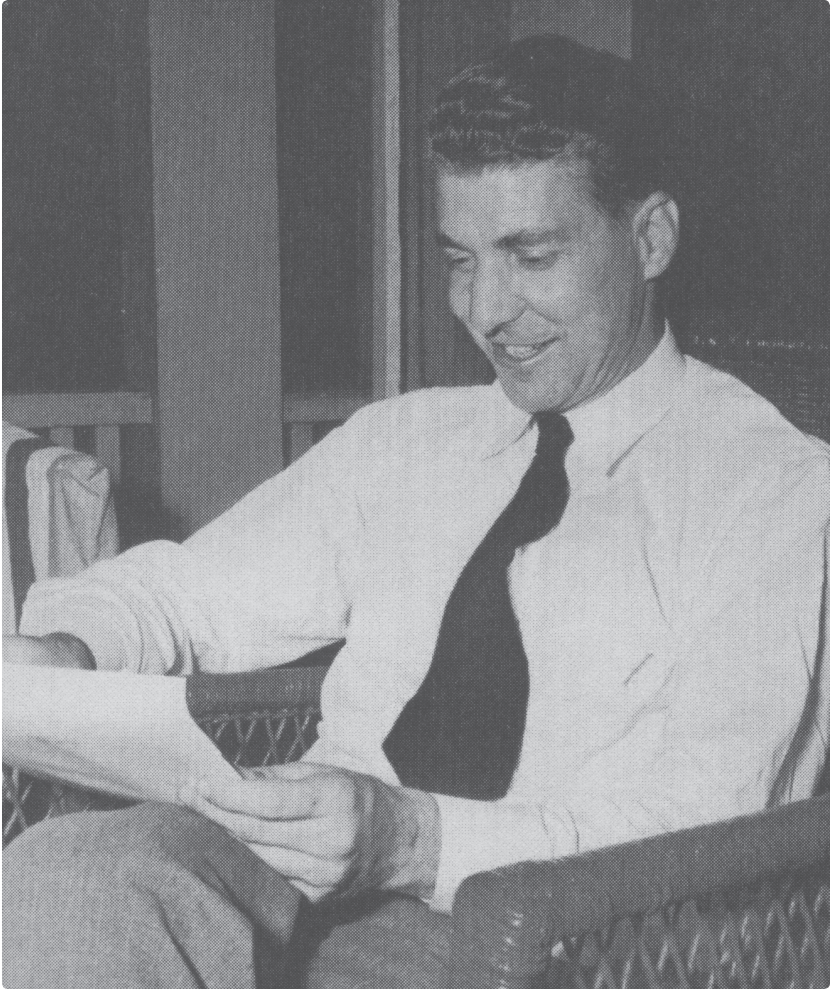
Jones claimed in his letter to Davant that racial equality *was* a religious issue, indeed, one that God clearly would support. He asserted that Jesus "proclaimed God as the Father of all mankind, and men as brothers; when he refused to recognize circumstances of birth, as barriers to fellowship and friendship; when and even their enemies; when He called His disciples to walk as he walked, then feel it laid upon me to do so."<sup>52</sup> Because the Bible declared that all men ought to be equal, Jones felt this proved that racial equality was inherent in Christian religious doctrine. These appeals echo the larger appeals that liberal Presbyterians made in supporting

49 C.R. Davant to Charles M. Jones, January 23, 1943, box 1, folder 2, Charles M. Jones Papers.

50 Conser Jr. and Cain, *Presbyterians in North Carolina*, 197.

51 Charles M. Jones to C.R. Davant, February 3, 1943, box 1, folder 2, Charles M. Jones Papers.

52 Charles M. Jones to C.R. Davant, February 20, 1943, box 1, folder 2, Charles M. Jones Papers.



Rev. Charles M. Jones insisted that the basic principles of Christianity should take precedent over institutional authority. (*Photo courtesy of Mark Pryor.*)

desegregation: instead of focusing on specific stories, liberals cited the Bible's broader principles. While it seems from Davant's subsequent letters that Jones never could persuade him of a religious and nonpolitical duty to promote racial equality, Jones's supporters during the trial and, indeed, liberal Presbyterians everywhere, often used these arguments.

## The Liberal Response

While conservatives focused on limiting the scope of Church activism through the doctrine of the spirituality of the church, liberal Presbyterians often focused on the Social Gospel, citing the Bible as a source of social progress. Liberals were reformers who sought to combine social ills, such as race relations and poverty, with religious questions, creating a theological and political project known as the Social Gospel.<sup>53</sup> Indeed, for liberals, “the ‘spirituality of the church’ was irrelevant at best, a heresy at worst. They instead pursued the sanctification of politics, envisioning religious ideas as central to achieving a more just order for ordinary southerners, white and black.”<sup>54</sup> As Jones did in his letter to Davant, liberals often cited verses of the Bible that spoke to equality rather than the Old Testament stories that conservatives tended to cite. These discrepancies made the letters of support that Jones received, usually liberal in nature, much different in tone and religious imagery than letters from conservatives.

In contrast to conservatives who seem to have been divided on either demanding the separation between church and social issues or citing the Bible as a source for white supremacy, liberals generally united around claiming Christian duty above Presbyterian doctrine and promoting the Social Gospel. In fact, Jones looked to other Christian leaders for sources of inspiration on preaching the Social Gospel. In a letter to J.M. Waggett, a minister who led the Adult Bible Class of South Carolina, Jones noted, “The Presbyterian of the South for May 10th carried an announcement of the action of the Adult Bible Class condemning the ‘white supremacy’ legislation session of the legislators of South Carolina. I am sure such action would not have been possible without pastoral leadership and preaching of a high Christian order.” He continued, “I wish more of us were able to instill in our people the mind and spirit of Christ.”<sup>55</sup> By conflating Christ’s message and the condemnation of white supremacy, Jones indicated that Christianity had an important place in projects promoting social justice. Indeed, he believed that the only way forward in the fight for racial justice was through religious leadership and institutions.

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53 Glenda E. Gilmore, *Defying Dixie: The Radical Roots of Civil Rights, 1919-1960* (New York: W.W. Norton, 2008), 87.

54 Paul Harvey, *Freedom’s Coming: Religious Culture and the Shaping of the South from the Civil War Through the Civil Rights Era* (Chapel Hill: University of North Carolina at Chapel Hill Press, 2005), 47.

55 Charles M. Jones to J.M. Waggett, May 17, 1944, box 1, folder 2, Charles M. Jones Papers.

Jones's supporters toed the line between political and religious movements, often citing a religious basis for political actions. Such arguments stood in sharp contrast to most. A letter from Kenneth Walter Cameron on October 3, 1944, spoke to the loose distinction for liberals between political and religious contexts. Cameron began his letter by addressing the political implications of racial justice, asserting, "A rumor came to me recently about some difficulty prevailing in your little parish about your views on pacifism and war. I went straightway to Ed King to learn the truth of the matter, and discovered that the smoke and flame concerns the Christian attitude towards our brothers who differ from us only in the trivial matter of pigmentation."<sup>56</sup> While the commission investigating Jones never mentioned his pacifism or stances on war within the trial, conservatives, including the chair of the commission, clearly believed that Jones was too liberal for the Presbyterian Church. Any arguments against Jones's theology, Cameron argued, were just a smokescreen to hide a reactionary effort to maintain the status quo. Indeed, Cameron argued, like many other liberal supporters of Jones, that the "Christian attitude" required looking past race.

Cameron's letter illustrates how Jones's actions outside of the Church may have angered conservatives further. During his trial, Jones worked only every other Sunday in Chapel Hill. He started working for the Save the Children Foundation at this time, in eastern Tennessee where he lived and worked, to improve the educational conditions in small rural schools.<sup>57</sup> Orange Presbytery thought his leave was poorly timed but granted him the absence. Jones's supporters, however, believed wholly in his mission to improve education in predominantly black communities. Cameron argued in his letter to Jones that education for blacks was of the utmost importance: "I know, as you so well do, the tremendous problems facing this fair and fruitful segment of giving the remainder of my life to Negro education. Always, however, after such a thought comes the inevitable revelation that the education is chiefly needed by us whites."<sup>58</sup> Again, Cameron bolstered his belief in racial equality with religious language, declaring that whites were the problem and needed a "revelation" to treat blacks better. He

56 Kenneth Walter Cameron to Charles M. Jones, October 3, 1944, box 1, folder 2, Charles M. Jones Papers.

57 Pryor, *Faith, Grace and Heresy*, 148.

58 Kenneth Walter Cameron to Charles M. Jones.





In 2009, the Town of Chapel Hill dedicated the Peace and Justice Plaza to local advocates for civil justice, including Rev. Jones. (Photo by Maximilian Conley.)

further used religious imagery in his declaration of “fruitful giving,” showing that education for blacks is not only justified but also mandated by Christian doctrine. Despite critics citing Jones’s education project as another reason he was not devoted enough to the Church, his supporters saw his actions as paramount to a Christian way of life.

Cameron’s letter further illustrates the different ways that liberals invoked religious imagery. He noted “that the Christian road is a hard one and that the South is going to crucify many of its heroes and saviors before justice is done.” He continued, “What you have been able to do already in Chapel Hill will outlive the town itself and become a veritable phoenix that will rise again from its own ashes.... You will be needed in the Kingdom more and more in the difficult post-war years.”<sup>59</sup> Instead of clinging to specific Presbyterian doctrine, liberals, including Cameron, referred to general Christian symbols, such as the crucifixion, resurrection, and the Kingdom of Heaven. All three images also refer to sources of good within Christianity as opposed to evil. The crucifixion represents the ultimate charitable act, the resurrection illustrates the potential for salvation, and the Kingdom represents the perfect reward for living as a good Christian. These stand in sharp contrast to conservatives’ use of language, describing

59 Ibid.

the evil committed by Ham and the separation caused by the Tower of Babel. Furthermore, unlike many of the conservative arguments for segregation, these themes run throughout the Bible in both the Old and New Testaments, while the conservative arguments tended to focus around stories from the Old Testament. Indeed, this divide represents the larger ideologies of both groups: conservatives sought to look at strict readings of particular sources of religious doctrine, and liberals pulled from more general Biblical principles that had a more universal appeal.

Most of Jones's supporters rested their arguments on the idea that Christianity was more important than Presbyterianism. For example, Mrs. W.T. Haywood wrote to Jones that she hoped that students "will not think that it's useless to try to be an understanding tolerant Christian, seeing how you have been treated.... I have prayed about this and that a victory would point to Christianity not Presbyterianism. I can't see how it can help out demonization."<sup>60</sup> Haywood pointed to Christianity first as the provider of answers to these questions of social equality. She believed that "tolerant Christians" like Jones would provide the future direction for the church. She also disagreed with the demonization of Jones and other liberals.

Bill Wells, a minister from a nearby church, also supported Jones's alliances. He wrote, "I must say that I think you are completely guilty of putting Christianity above Presbyterianism. You mean a great deal to others of us who are trying to live as Christians."<sup>61</sup> Though Wells also operated under the Church structure, he too followed the liberal doctrine of putting Christianity above Presbyterianism. The solidarity Wells expressed shows that, despite the larger conservative Presbytery, other ministers were uncomfortable with the direction in which the Presbytery was moving. His support indicates that the seemingly unified front that Orange Presbytery presented against Jones did not represent all members of the Presbytery. In fact, others were just as liberal and just as likely to look past specific Presbyterian doctrine. Haywood and Wells, along with other liberals of the time, clearly believed that the Presbyterian doctrine that the Orange Presbytery pushed was not a true Christian doctrine.

60 W.T. Haywood to Charles M. Jones, February 26, 1952, box 1, folder 2, Charles M. Jones Papers.

61 Bill Wells to Charles M. Jones, December 5, 1952, box 1, folder 2, Charles M. Jones Papers.



## Jones's Response

In one of the few examples of Jones speaking on his own behalf, he asserted that Christianity as a whole was more important than specific Presbyterian doctrine, just as many of his supporters had done. Jones rarely spoke about his trial in his letters. He did so even less so during the trial because he was generally in the countryside working with the Save the Children Foundation. For this reason, there is a gap in his letters and writings from the period of his trial. While it is difficult to determine if he chose to speak about his trial infrequently or if the information available is simply incomplete, one of the few existing sources of Jones's feelings about the trial is his statement declaring his withdrawal from the Church. In the last section of his resignation, Jones stated, "I believe a Christian's prime loyalty is to God as we know Him through Jesus Christ and not to any institution as such. But insofar as a Christian has ties of loyalty to institutions, I believe his first loyalty is not to his denomination but to the Church Universal, the ongoing movement of followers of Jesus Christ."<sup>62</sup> Just like his supporters, Jones latched onto the conception of Jesus as a moral agent as opposed to the stricter, more conservative Biblical stories. Jones's words clarify this position strongly, arguing that Christians ought to consider their devotion to God first and foremost. He appeals to the idea of the apostles, or "followers," who had no loyalty but to Jesus. In Jones's Christian theology, following an institution before the teachings of Jesus counters the teachings of Jesus and his followers. This argument follows many liberals' appeals to Paul's vision of "the body of Christ, with many members."<sup>63</sup> Jones's words thus reflected the rest of the liberal movement in the Presbyterian Church, despite his claims to be politically moderate.

Even more than his supporters, Jones's resignation speech argued that Orange Presbytery overstepped Christianity as a whole. He asserted that "the fundamental truths of the Christian faith are held by most denominations. There is no distinctive Presbyterian doctrine." Instead, he insisted that "Presbyterians have a distinctive historical emphasis.... It is more important to be Christian than Presbyterian, for denominations are means and not ends."<sup>64</sup> Jones went beyond most liberals by arguing that

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62 Charles M. Jones, "A statement by Charles M. Jones," 14.

63 1 Corinthians 12:12-27

64 Charles M. Jones, "A statement by Charles M. Jones," 14.



A one-room school in the countryside that Jones visited while working with the Save the Children Foundation in 1953. Jones's supporters believed wholly in his mission to improve education in predominantly black communities. *(Photo courtesy of Mark Pryor.)*

there is no specific denominational doctrine and that all Christians were fundamentally the same. It follows, then, that Jones believed the presbytery was acting outside the authority of Christianity as a whole by appealing to Presbyterians specifically. His accusation of the “historical emphasis” may indeed be an argument for the inherent conservatism of Presbyterianism, as the conservative religious arguments of the time primarily used a historical lens to adhere to the way the religion had “always” been practiced. Jones then argued that denominationalism split Christianity as a whole, as each denomination claimed to be the true church. Just as many other liberals of the time argued, Jones believed that such splintering hurt all Christians and was not what Jesus and his followers preached. The “ends” to which Jones

referred are the united Christian movement that liberals envisioned, both between different denominations and between whites and blacks. These arguments represent the most liberal arguments made during Jones's trial, posed by Jones himself.

## **The Church's Ideological Divide**

Charles Jones's trial provides a unique lens into the practical implications of Presbyterian doctrine in the South before and during the civil rights movement. Because PCUS constricted presbyteries by banning segregation, Orange Presbytery could not officially act against Jones because of his integrationist projects. Instead, they needed to punish and critique him in code, though most people involved saw through the appeals to Presbyterian doctrine. Indeed, this represents a larger movement in southern churches. As larger church organizations, whether it be Presbytery, Baptist, or Methodist, moved toward integration policies, ministers who followed these rules and integrated their churches were often forced out. Jones's case demonstrates how such a removal could happen and the response from the public when it did.

The public response to Jones's trial showed the sharp divide within the Presbyterian Church between liberals and conservatives. Both sides used the Bible to advance their agendas, but conservatives clung to ideas of the spirituality of the Church while liberals attempted to advance Social Gospels. The appeals that both parties made followed distinct patterns. Conservatives tended to appeal to the "evil" of integration, invoking Old Testament stories. They also appealed to strict doctrinal readings that precluded the Church from investing in social projects. Liberals, in contrast, sought to further social justice because they believed that God dictated the Social Gospel. They appealed to images of good and promise, particularly in Jesus's teachings, and believed that Christianity held more importance than Presbyterianism. Indeed, even today, religious language is a powerful tool in social justice movements and fights for racial equality. Though Jones began his project early in the civil rights movement, these uses of the Bible and denominational doctrine continued to serve liberals and conservatives throughout the twentieth century. Jones's trial provides a glimpse into the language of good and evil in the fight for racial equality in religious contexts.

Tyra Pearson

## “Unnatural Mother”: Race, Gender, and Infanticide in the Nineteenth-Century South

On September 21, 1849, a slave named Mary left her quarters alone and in secret, found a place out of her master's sight, and gave birth to a male child. After she had delivered her son, whom the coroner later characterized as having been born alive, healthy, and “in the peace of God and the state,” Mary assaulted her infant, killing him instantly. Later, after the child was discovered, Mary was arrested and indicted for infanticide. The indictment charged that she, the slave of Jesse Rankin, had “bestowed mortal wounds” onto her child by kicking and beating it with “both her hands and feet.” She continued to inflict harm by casting and throwing the newborn “against the ground” and repeatedly injuring his “head, temples, throat, wind pipe, stomach and back.” The indictment read that Mary did “kill and murder against the peace and dignity of the state.”<sup>1</sup>

Despite the evidence presented against Mary, the North Carolina Superior Court found her “not guilty,” freeing her of all charges and permitting her to return to her master's farm. The court's decision in this case mirrored the experience of many women who were

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1 *State v Mary (a slave)*, Fall 1849, Davidson County Criminal Action Concerning Slaves 1840, 1843, 1844, North Carolina, CR.032.928.9, North Carolina Department of Archives and History (NCDAH).

charged with infanticide in the nineteenth-century American South. Even when the prosecution provided sufficient evidence to secure a guilty verdict, courts repeatedly found women not guilty of infanticide.

Nineteenth-century conceptions of gender, race, and condition of servitude pervaded the legal system and shaped court rulings. Infanticide cases are revelatory sources for understanding race and gender in the antebellum era. Infanticide was legally defined as a crime that could only be perpetrated by women. Nineteenth-century infanticide cases therefore highlight the roles that women were expected to perform and provide rare instances of women transcending race and legal status in the South. This article argues that infanticide cases in the South allowed women to transcend societal limitations even as they reinforced gendered expectations of southern women. Such cases illuminate contradictions within southern patriarchy and the institution of slavery.

Infanticide cases in North Carolina illuminate the intersection of race, gender, slavery, patriarchy, and the law. Historians have studied infanticide in the South, but primarily in the eighteenth century. One of the earliest works on this subject was Peter Hoffer and N.E. Hull's study of infanticide in New England between 1558 and 1803, in which the authors analyzed data in order to understand the dynamics that caused women to murder their own children. In searching for those influences, Hoffer and Hull strove to understand why courts acquitted more women in the eighteenth century than they had in earlier periods. The authors believed that intricacies of the law could explain these changes and did not pay much attention to the women themselves.<sup>2</sup> An analysis of nineteenth-century cases in the South shows that the pattern of acquittal outlined by Hoffer and Hull continued into the nineteenth century and was not confined to northern states.

More recent scholarship has situated infanticide within the broad development of social constructs. In *Narrating Infanticide: Constructing the Modern Gendered State in Nineteenth-Century America*, Felicity Turner argues that infanticide narratives were critical to the formation of ideas

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2 See Peter Hoffer and N.E.H. Hull, *Murdering Mothers: Infanticide in England and New England 1558-1803* (New York: New York University Press, 1984).



*The Modern Medea*, a wood engraving of an enslaved woman who killed two of her four children to prevent them from living through the horrors of slavery. This was a common motivation for enslaved women who committed infanticide in the nineteenth century. (Image courtesy of the Library of Congress.)

regarding gender in the nineteenth century.<sup>3</sup> A detailed examination of southern infanticide cases, however, shows that infanticide narratives, in conjunction with courts' decisions, did not help form *new* ideas about race and gender, but reinforced existing notions. In the nineteenth century, southerners had already formed strong opinions about race and gender, as many historians have shown. Indeed, as early as the late seventeenth century, supporters of slavery had used conceptions of race to support and justify bondage. By the same token, the definition and responsibilities of motherhood and womanhood had been firmly established in the South before the turn of the nineteenth century.

By the nineteenth century, the “peculiar institution” of slavery was deeply embedded in the South’s way of life. Many scholars have discussed the experiences and distinct vulnerability of enslaved women in the South, who were subjected to the most inhumane treatments, including sexual exploitation, psychological abuse, and physical mistreatment. Furthermore, these women’s legal status limited their social mobility,

3 Felicity Turner, *Narrating Infanticide: Constructing the Modern Gendered State in Nineteenth-Century America* (North Carolina: Duke University Press, 2010). For more recent scholarship on gender and race in the nineteenth-century American South, see Wilma King, “Mad’ Enough to Kill: Enslaved Women, Murder, and Southern Courts” In *The Journal of African American History* 92, no. 1 (Winter, 2007): 37-56.



the customs they adopted, and the ways in which they interacted with one another.<sup>4</sup> Analysis of infanticide cases, in which enslaved women served as defendants, can demonstrate how these women drew upon their experiences to help them make choices in order to survive the depredations of “the peculiar institution.”

Infanticide cases also shed light on white women’s experiences in the nineteenth-century South. Many historians have discussed white women’s limited political and social power in the antebellum South, demonstrating that their rights and capabilities were solidified through marriage and their husband’s political and social power.<sup>5</sup> White women’s experiences can be further understood through the analysis of infanticide narratives formulated through witness testimonies, infanticide court documents, newspaper articles, and writings by nineteenth-century intellectuals. These findings complicate modern ideas about women’s associations to slavery. Whereas some scholars have drawn a firm line between the daily lives of black and white women in the antebellum South, an examination of infanticide cases blurs that line due to similarities in the treatment of black and white women in North Carolina’s superior courts. Whether white or black, southern women were held to high standards of motherhood, making infanticide a highly gendered act that could transcend racial lines.

Court officials were reluctant to convict women for infanticide even when there was often satisfactory evidence to convict. The regularity of “not guilty” verdicts in these cases shows that factors outside the law influenced the court’s decisions to acquit women. In analyzing such verdicts, this article reveals that southern courts were pressured to make decisions that upheld entrenched southern social norms, the system of slavery, the patriarchal system, and conservative ideas of womanhood and motherhood. These findings expand on previous scholarship of women’s

4 For research on the experiences of enslaved people in the antebellum South, see Walter Johnson, *Soul by Soul: Life inside the Antebellum Slave Market* (Cambridge, Mass.: Harvard University Press, 1999), 34-42; Eugene Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage Books, 1976); and John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South* (Oxford: Oxford University Press, 1979). For experiences of enslaved women on the plantation, see Deborah White *Ar’n’t I a Woman?: Female Slaves in the Plantation South* (New York: Norton, 1999) and Marie Jenkins Schwarz, *Birthing a Slave: Motherhood and Medicine in the Antebellum South* (Cambridge Mass.: Harvard Press, 2009).

5 See Laura Edwards, *People and their Peace*; Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 1998); Clara Lyons, *Sex among the Rabble: An Intimate History of Gender and Power in the Age of Revolution, Pennsylvania 1730-1830* (Chapel Hill: University of North Carolina Press, 2006).

experiences in the nineteenth century and show how ideas surrounding slavery and patriarchy were woven into the South's social, political, and legal fabric, shaping women's choices and experiences in the nineteenth century.

## Understanding Women's Motives

In the nineteenth century, certain groups saw infanticide as a crime that could be shaped to serve their own political interests. Abolitionists and supporters of slavery alike understood that infanticide was an ideological issue that could be framed to reinforce their positions on the institution of slavery. In the North, they believed that women were motivated to commit infanticide by outside social and personal conditions. Therefore, the women's social circumstances often determined whether or not they garnered the sympathy of the court. For example, Northern abolitionists sympathized with enslaved women who committed infanticide in the South because they believed that the institution of slavery had forced these women into a position in which infanticide was the only option, thus demonstrating the extreme conditions of enslaved peoples. In the South, on the other hand, the press often used instances of infanticide as proof of black moral and psychological inferiority, using the cases to justify slavery instead of rejecting it.

Reports on infanticide in the antebellum South also reinforced the definition of motherhood and womanhood—namely, the idea that it was women's responsibility to care for children. Sociologist Marci Littlefield claims that the years 1820 to 1860 represent the “cult of the womanhood,” a distinct period in which motherhood was the supreme moral role for women. Therefore, when an infant was found dead, southerners concluded without much evidence that the mother was responsible for killing the child, regardless of intent, because it was her responsibility to take care for it.<sup>6</sup> Men were rarely indicted for infanticide. Even when men were indicted, newspapers shaped the narrative in a way that justified the man's actions or suggested male innocence in some way. Infanticide was viewed not only as a racial crime but also a gendered one. Infanticide was deemed a rejection of one's womanly duty and, therefore, an “unnatural” act.<sup>7</sup>

6 Marci Bounds Littlefield, “Black Women, Mothering, and Protest in the 19<sup>th</sup> century American Society,” *The Journal of Pan-African Studies* 2, no. 1 (November 2007): 53-61.

7 Edward Pessen, “How Different from Each Other were the North and the South?” *American Historical Review* 85, no. 5 (1980): 1123; Turner, *Narrating Infanticide*, 104.

These diverse social and political perceptions of infanticide point to the specific social positions of enslaved and white women in the antebellum South. North Carolina infanticide cases show that the patriarchal system and the southern definition of womanhood forced black and white women into similar situations in which infanticide seemed necessary or appropriate. The women who appeared in North Carolina courts for this crime understood the limits of their power under the systems of patriarchy and slavery. These restrictions are one explanation for infanticide: women did not want their children to be subjected to the cruel and inhumane experiences that they had been forced to endure. These women did not want to raise a child who would be equally powerless and unable to change their position in society. They felt infanticide was their only choice.

During the nineteenth century, the Southern understanding of womanhood did not apply to enslaved women. In southern states, many whites defined a true woman as one who was virtuous and moral, but in a way that was identified with whiteness. Southern whites viewed enslaved women as property, making them doubly vulnerable and disadvantaged in courts. Free women of color who appeared in the courts for infanticide were similarly limited in their mobility and political power.

Although white women had more social mobility and freedom than enslaved women, white defendants in these cases in North Carolina were usually poor, which similarly limited their social power. Like enslaved women and free women of color, these white women were socially and politically handicapped, restricted as they were by their economic circumstances. Yet, unlike black defendants, traditional visions of womanhood applied more readily to the white women and thus posed distinct challenges to these notions of proper femininity.

In the nineteenth century, pregnancy presented a host of problems for single women in the South. All women, despite their social standing and race, were responsible for taking care of their children during this era. However, vital differences based on race, and legal and social status existed, affecting women's motivations for committing infanticide. Free women charged with infanticide were generally young, single servants

who concealed their pregnancies throughout the entire term.<sup>8</sup> For enslaved women, child-bearing and pregnancy had a unique implication: exposing their children to slavery and its associated physical and psychological abuse. Many enslaved women felt that it was their obligation to protect their children from these traumas. Free women of color were similarly economically handicapped, discriminated against, and subjected to harsh treatments due to their racial status, which resulted in similar motivations for infanticide despite these women's legal status.<sup>9</sup>

While most white women charged with infanticide lacked this motivation, their lack of social and political mobility in southern society could pose other problems. In her discussion of sex in antebellum America, Nancy Isenberg argues that white women were "aliens" in the antebellum South because their citizenship was defined by their husbands'. According to Isenberg, white women in the South did not have the ability to control and secure their child's health, disclose their opinions on the raising of the child, or control their own lives—even in terms of childbearing. Women who became pregnant out of wedlock exacerbated these gendered concerns. For Elizabeth Beaver, Sally Paul, Patience Rye, Nancy Trimble, all poor white single women indicted for infanticide in antebellum North Carolina, a bastard child presented a series of issues for them. An illegitimate child could tarnish the woman's reputation, due to a general scorn for bastardy, and become an additional financial burden for poor white women.<sup>10</sup>

Openly giving birth to and raising a child was simply not an option for many enslaved women, freed women of color, or white women in the nineteenth-century South. Despite differences in legal status and race, most southern women had similar motivations for committing infanticide. Enslaved women were motivated to kill their children because of their experiences in slavery. Freed women of color similarly were pushed to kill their children for reasons of racial discrimination. White women did so in an attempt to conform to the idea of a true southern woman and to

8 *King v Allerton*, 1761, New Jersey Supreme Court Case, number 20303, New Jersey State Archives (NJDSA); *State v Elizabeth Beaver*, May 1811, Caswell County Criminal Action Papers 1810-1811, NCDAH; *State v Rianna Day*, March Term 1849, Orange County Criminal Action papers 1848-1849 CR 073.326.48, folder labeled: 1849, NCDAH. This was an inquest initiated by William New and David Anderson.

9 Felicity Turner, *Narrating Infanticide: Constructing the Modern Gendered State in Nineteenth-Century America* (Durham, NC: Duke University Press, 2010), 82.

10 Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 1998), 147-148.



Five generations of slaves in Beaufort, South Carolina. Since slavery was an inherited status in the nineteenth-century South, many enslaved women committed infanticide so that their children would not have to endure the horrors of slavery. (Photo courtesy of the Library of Congress.)

rid themselves of a financial burden. Infanticide therefore linked the most oppressed persons under slavery and patriarchy in the nineteenth century. But despite the pervasiveness of slavery and patriarchy, black and white women were consistently found “not guilty” for infanticide despite overwhelming evidence that appeared to prove their guilt. In the legal arena, these women were uniquely able to transcend widespread limitations that affected women across the South.

## Understanding Infanticide Through the Law

Infanticide cases were unique among murder trials in the nineteenth century. Prosecutors had to prove three conditions before the jury could issue a guilty verdict: that the defendant was the mother of the child, that the child was born alive, and that the mother committed the crime. Whereas homicide defendants only received the death penalty in certain cases, the punishment for infanticide in North Carolina was death by hanging.

Identifying the mother was generally not a difficult task. Women sometimes confessed to bearing the child, as was the case with Charity, a slave from Orange County.<sup>11</sup> In other cases, jurors and the courts identified the mother through the help of other witnesses, usually other women who had daily interactions with the defendant. These women would examine the suspected mothers, usually by squeezing their breast to produce milk, which demonstrated that the woman had borne a child. The defense counsel rarely made arguments against such claims.<sup>12</sup> In contrast, determining whether or not the baby was born alive and if the defendant committed the crime was much harder to prove given the defendants' tendency to conceal their pregnancy and give birth in secret.

Legal definitions of infanticide in the United States originated in the early British legal tradition. In the seventeenth century, British courts categorized infanticide as murder, defining it as a crime in which a person of a sound mind "and discretion, unlawfully killeth any reasonable creature in being and under the King's Peace with malice aforethought." However, infanticide had one additional characteristic that set it apart from other

11 *State v Charity (a slave)*, September 2, 1830, Orange County Slave Records no date, 1783-1865 broken series, folder labeled: 1825-1841, CR 073.928.8, Orange County Miscellaneous Records, NCDAH. For infanticide cases where an enslaved woman admitted to being the mother, see *State v Hannah*, evidence of Thomas Barnett, March term 1836, Criminal Actions Concerning Slaves and Free Person of Color 1820-1837, folder: *State v. Hannah (a slave of Col. John G Hart)* 1836, CR 044 928.16, NCDAH; and *State v Sarah (a slave)* December 1819, Criminal Action Papers 1820-1821 Orange County, North Carolina NCDAH. For a case where a white woman admitted to being the mother, see *State v Hannah Walker*, testimony of Peggy, November 25, 1821 Orange County Criminal Action Papers 1820-1821, CR 073 326.20, folder labeled: 1821, NCDAH; and *State v Jefferies and Betsy Combs*, November 1818, Criminal Action Papers, Caswell County (NCDAH).

12 *State v Esther (a slave)*, fall term 1833, Records concerning slaves and free persons of color, NDAH. For two infanticide cases where enslaved women did not admit to having their child, see *State v Sarah (a slave)* December 1819, criminal action papers, Orange county, folder labeled: 1820, (NCDAH). In the sources for this article, most enslaved women and free white women of color initially denied being the mother, but later folded under questioning.



forms of murder: the act of concealing the death of a bastard child was considered conclusive evidence that the child was born alive and that the mother was guilty as charged of killing the infant. The British Parliament made the act of concealing a (lifeless or living) child illegal and punishable by death in 1624, when it passed a statute known as the Jacobian law, which stated that a dead child was evidence of a woman's engagement in premarital sex, an act that was punishable by law.<sup>13</sup>

Though much of the American legislation on infanticide was taken from the British tradition, in nineteenth-century North Carolina the prosecution *did* have to prove that the mother intentionally committed murder and had not simply concealed a stillbirth. First, for the crime to be considered infanticide, the court had to provide evidence that the mother had a sound mind when she committed this act, by proving her ability to discern between "good" and "evil." Furthermore, the killing had to be considered "unlawful," meaning that the mother killed the child without "warrant or excuses." Therefore, it was imperative to discern whether the child was born alive or dead, especially after states did away with the Jacobian Law. In 1818, North Carolina deviated from the Jacobian Law, determining that the concealment of a deceased child would no longer serve as conclusive evidence to convict a mother of infanticide. The court ruled that the act of concealing a stillbirth would thereafter only be considered a misdemeanor.<sup>14</sup>

In the nineteenth century, infant mortality by natural causes was common, making infanticide even more difficult to prove. Infant death was assumed to be from natural causes, for example from exposure or injury during childbirth, until evidence was brought to a court suggesting otherwise. Therefore, in cases of infanticide, the proof of the child's livebirth fell entirely on the prosecution. Proving that the child was born alive was the hardest task because of the secrecy surrounding most relevant births. In rare cases, such as *State v Charity*, the prosecution skipped over this step. David Craig, Charity's master, explained to the court that the

13 William Blackstone, *Blackstone's Commentaries: with notes of reference, to the constitution and laws, of the federal government of the United States; and of the commonwealth of Virginia. In five volumes. With an appendix to each volume, containing short tracts upon such subjects as appeared necessary to form a connected view of the laws of Virginia, as a member of the federal union* (Philadelphia: Robert Carr printer, 1803), 198; *State v Joiner* 11 N.C. 250 (N.C. 1826) Supreme Court of North Carolina.

14 Ibid.

child was still alive and crying when he found it in the woods. Therefore, the child was shown to have been born alive and the prosecution only had to prove that Charity inflicted harm on her daughter by abandoning her, resulting in her death that night.<sup>15</sup> Similarly, in *State v Hannah Walker*, evidence gathered from a midwife's testimony established that the child was born alive.<sup>16</sup> However, in most instances, proving the child's live birth was a difficult step. If the prosecution failed to meet this standard, they would no longer have a case and the mother would be acquitted.<sup>17</sup>

When undertaking this vital step in infanticide cases, the prosecution had to prove that the child was born alive by demonstrating its capacity to "maintain a separate existence" from his mother.<sup>18</sup> This was done by using medical evidence collected at the jury of inquests.<sup>19</sup> The jurors and coroners usually did not collect medical evidence themselves, relying on women in the community, typically midwives and friends of the defendants, to do so. These women often appeared in court to prove that the child was born alive, making women crucial to the legal processes surrounding infanticide.

For example, in *State v Jefferies*, the prosecution used four women's testimonies to prove this point. Sarah Jefferies, like most women who appeared in the court for this crime, had concealed her pregnancy and had allegedly killed her child in secret.<sup>20</sup> A woman, Montgomery, stated that Mrs. Foller, a friend of hers, had requested that she accompany Mrs. Foller to Fanny Jefferies's house. When she arrived at the house, she saw "sufficient signs" that a child had recently been born there. Montgomery did not relay to the jury of inquest what those signs were, and the court did not

15 *State v Charity (a slave)*, September 2, 1830, Orange County Miscellaneous Records, NCDAH.

16 *State v Hannah Walker*, November 25, 1821 Orange County Criminal Action Papers 1820-1821, CR 073 326.20, folder labeled: 1821, NCDAH, testimony of Peggy Perry, the midwife.

17 Alfred Swaine Taylor, *The Principles and Practice of Medical Jurisprudence*, 3rd ed. (Philadelphia: H.C. Lea's Son and company, 1883), 317.

18 Ibid.,

19 In all infanticide cases, a jury of inquest, comprised of 12 men, went to the domicile where the mother resided to examine the child after the coroner had been informed that a person had died under unusual circumstances. However, because the coroner had to be informed of the incident, the inquest sometimes did not examine the child until many days after the discovery of the body. This procedural issue could present a host of problems for the prosecution. For example, in *State v Charity*, the coroner was not informed and did not summon a jury of inquest to examine the infant until after it had already been buried. Therefore, the coroner had to exhume the remains to conduct an examination, which potentially altered the result of the coroner's examination.

20 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, testimony of Mrs. Horton.

ask her to elaborate.<sup>21</sup> The courts valued women's voices in infanticide cases to the point that their opinions were submitted as irrefutable evidence. This was true for both the defense and the prosecution. The defense did not cross-examine Montgomery to ask her what those signs were to test her expertise on the subject. That the prosecution and the defense counsel chose not to question the women on their medical knowledge demonstrates the centrality of women in this field of knowledge. Though women often occupied the political margins of southern society in the nineteenth century and rarely testified in court cases, infanticide cases represented one place in which they could take center stage.<sup>22</sup>

Beyond the condition of the child, the period of gestation and age of the child when it died was an additional factor considered in infanticide cases. In *State v Jeffries*, Montgomery said that she went back a few days later to see Sarah's child. Reports had circulated that Sarah had recently given birth, even though on numerous occasions Sarah had dismissed this discussion as mere gossip. Montgomery stated that when she finally saw the child it had hair on its head and nails "so well grown as to project toward the ends of fingers."<sup>23</sup> In the nineteenth century, it was generally understood that once a child reached a certain age in the womb (generally six or seven months) it was fully capable of living outside of the womb because it had already developed the necessary organs to do so.<sup>24</sup> Demonstrating this knowledge and working to prove that the child was old enough to survive outside its mother's womb, Montgomery claimed that it was about seven months old and not younger than six months. She further claimed that she had seen "several children live and grow up not more advanced than this."<sup>25</sup> The prosecution used this testimony to show that the child was indeed viable and had the capacity to maintain a separate existence out of the mother's womb.

Even if the prosecution proved that the child was "viable" and had the capacity to live outside the womb, they still had to show that the child

21 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, the testimony of Mrs. Montgomery.

22 Felicity Turner, *Narrating Infanticide: Constructing the Modern Gendered State in Nineteenth-Century America* (North Carolina: Duke University 2010), 21-22.

23 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, testimony of Mrs. Montgomery.

24 Taylor, *The Principles and Practice of Medical Jurisprudence*, 312.

25 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, testimony of Mrs. Montgomery.

was not stillborn, something that most women indicted for infanticide, including Sarah Jeffries, claimed. Considering the importance of proving the child's viability and life when securing a guilty verdict, women tended to say that their child was stillborn. Jefferies was no anomaly: like most women, she denied that the child was born alive.<sup>26</sup>

In Jefferies's case, the state could establish that the child had developed enough to function on its own. Once it had achieved this, the prosecution used the rest of Montgomery's testimony to argue that the child was indeed born alive. While Jeffries had told Montgomery that the child was born dead, the witness asserted that it could not have been born dead by exclaiming, "No, it must have cried or the tongue could not have been [hanging] out [of its mouth]." This testimony was the lynchpin of the prosecution's argument. The court accepted that if the child had cried, then it must have been born alive, thus providing the "strongest evidence of the child being born alive" by the most current standards of medical science of that time.<sup>27</sup> Once the prosecution proved that the child had been born alive, the defense counsel had to call additional women to the stand to support Jefferies's claim that the child had been stillborn.

One of these women, Patsy Barrot, stated that she had gone to Fanny Jefferies's house three months prior to the child's death, to visit Sarah, who "was not pregnant" at the time. Furthermore, Barrot stated that Jefferies "fell down with a pail of water and was badly bruised" the night before the prisoner had supposedly given birth, to argue that the child had been stillborn due to injury. The defense used this evidence to claim that the child was not old enough to be considered viable and was instead born prematurely due to an injury.<sup>28</sup> Another witness, Franky Stephens,

26 For additional cases where the defendants claimed that the infant was not born alive, see "Report of the trial of Susanna a colored woman," June 1810, Schenectady New York, in Paul Finkelman, *Free Blacks, Slaves, and Slaveowners in Civil and Criminal Courts* (New York: Garland Publishing 1988), 211-260; *State v Rianna Day*, testimony of Rachel and Lucy March 1849, Orange County Criminal Action papers, NCDAH; and *State v Elizabeth Crabtree* September term 1821, Orange County criminal action papers, NCDAH; *State v Sooky Bishop*, March 1843, Orange County Criminal Action Papers 1843-1844, NCDAH.

27 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, testimony of Mrs. Montgomery. Also see *State v Sarah Jefferies*, inquest of Mrs. Montgomery, November 1819, Caswell Country Criminal Action Papers 1818-1820, folder labeled: 1818, North Carolina, NCDAH; Dean Amos, *Principles of Medical Jurisprudence: designed for the profession of law and medicine* (Albany: Gould, Banks and Gould, 1850), 112.

28 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, the testimony of Mrs. Patsy Barrot.

supported Barrot's testimony. Both Barrot and Stephens helped the defense prove that the child was underdeveloped. Like the state's witnesses, the defense only called women to the stand in order to discuss the condition of the child and the prosecution did not cross-examine the female witnesses or question their knowledge of children and child birth. As witnesses, women were vital in every stage of the legal process.

Prosecutors proved in a variety of ways that infants were born alive. Sometimes, the prosecution would examine the color of the lungs. If the lungs were of a lighter color, it was believed that the child had breathed before dying. Doctors would sometimes weigh the lungs, often using the popular hydrostatic test, which required that the doctors submerge the lungs in water. If the lungs floated, then the child was assumed to have breathed and therefore had been born alive. However, tests like these were eventually abandoned when it was discovered that an infant's lungs could sink even when it was known to have lived.<sup>29</sup> Lack of advanced medical knowledge made it difficult to prove livebirth definitely, which may be why women's own experiences with childbirth were given such credence.

In some cases, when viability could not be proven through witness testimony or an examination of the development of a child's body, other indications could be helpful in securing a verdict. Visible wounds could suggest that the mother inflicted harm, which in turn proved the child's viability. In *State v Jefferies*, Mrs. Horton testified that she was the first witness to see the child because she was the one that retrieved it. She told the court that when she saw the child, the "skull was mashed in and broken." She added that the "ankle of one of the legs appeared to be broken." It was in the wrong position and was "bruised, black and discolored." The prosecution used this evidence to argue that some type of violence had been inflicted on the child, resulting in these injuries.<sup>30</sup> The prosecution provided similar evidence in *State v Charity*, during which a coroner cut open a child's head to find that the skull was "much fractured." In such cases, courts saw wounds as proof that the mother had injured the child in a

29 Taylor, *The Principles and Practice of Medical Jurisprudence*, 323-385, 526.

30 *State v Sarah Jefferies*, May 1819, Caswell Country Minute Superior Docket, NCDAH, testimony of Mrs. Horton.

way that had caused its death.<sup>31</sup>

Sometimes the defense responded to such evidence by insisting that a child's wounds came from birth itself. In the nineteenth century, childbirth was dangerous for both mothers and children. Infant mortality ran high, especially among enslaved people who had less access to medical care or supplies. Furthermore, the harsh treatments endured by enslaved women led to increased child mortality rates and poorer health overall. Enslaved women at times continued to work until their pregnancy no longer permitted them to do so, and they did not receive the necessary nutrients to ensure that they would give birth to a healthy child.<sup>32</sup> Bruising, broken bones, or general poor appearance were thus often blamed on the conditions of childbirth. Therefore, the defense argued that many infants died from natural occurrences outside their mothers' control.

When marks of violence were not as visible, the prosecution would ask witnesses to speak on the mother's character and behavior in an attempt to demonstrate the potential for such violence.<sup>33</sup> In Sarah Jefferies's case, a witness by the name of Elizabeth Foller was called to testify on behalf of the state. She stated that Jefferies had come to her house a few days before the child was discovered. Jefferies told Foller and her husband that she knew that there were rumors alleging that she was pregnant. She further stated that those people were wrong, that she "would disappoint them," and that if she did have another child, "nobody should ever know it." The prosecution used this evidence to prove intent rather than physical conditions.<sup>34</sup> Similarly, the prosecution argued that the defendants' contradictory answers proved her guilt. Jefferies at first denied having a child, only to later admit that it was "useless to deny it." Montgomery noted that Jeffries had given different answers about the age of her child and had left the house in tears. The prosecutors used this portion of Montgomery's testimony to argue that Sarah Jefferies was guilty of murdering her child. Her deceitful

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31 *State v Charity*, September 2, 1830., Orange County Slave Records no date, 1783-1865 broken series, CR 073.928.8, folder labeled: 1825-1841 (Broken series), Orange County Miscellaneous Records, NCDH, testimony of Thomas Haddis. Haddis was the North Carolina state coroner from x to y.

32 Schwartz, *Birthing A Slave*, 135, 153, 207.

33 Finkelman, "Report of the trial of Susanna a colored woman," 221 (page 11 of the report), district attorney's address to the court, 217 (page 7 of the report) the indictment.

34 *State v Jefferies*, May 1819, Caswell County Minute Superior Docket, NCDH, testimony of Elizabeth Foller.



nature, they insisted, was proof that she had tried to cover up her crime.<sup>35</sup>

In bringing character witnesses, examining physical wounds, and accusing women of deceit, prosecutors tried to convince juries that defendants fell short of their motherly responsibilities. According to Mrs. Horton's testimony, Jefferies's dead infant had a "very dirty look as if it had been buried," with clay on its back and hips, and ants "running over it." Sarah's actions ran contrary to southern expectations of women as caretakers. The prosecution insisted that the defendant's supposed lack of morality and unpleasant personality indicated that she had killed her child. In *State v Charity*, the prosecution similarly used the inhumane and unusual burial site as evidence that the mother had killed her child. This argument was used by many prosecutors in nineteenth-century North Carolina. If the court decided that an infant had been inhumanely disposed of, it was indicative of the inhumanity of the mother and that she was capable of murder.<sup>36</sup>

When no dead body was discovered, the prosecution focused solely on the mother's behavior to prove that the mother killed the child. In *State v Patience Rye*, the defendant—a single white woman from Richmond County, North Carolina—was indicted for infanticide even though the court was never provided with the child's body. During the trial, the prosecution first established through testimonies that Rye had a child, then listed the "circumstances to prove" that Rye was the murderer, most of which focused on her abnormal behavior. As proof of guilt, the prosecution stated that Rye "refused the company of her daughter" when she gave birth to her child, gave "contradictory answers," and knew she was about to give birth. Even when the prosecution could not prove that the child was born alive by actually examining the child or through eyewitness accounts, the state attempted to establish guilt through the mother's actions and moral character.<sup>37</sup> The defense often responded to the prosecution's accusations by showing that a woman's concealment of her dead infant was justifiable. Sarah Jefferies admitted that she had given birth to a child. When someone

35 *State v Jefferies*, May 1819, Caswell County Minute Superior Docket, NCDAH, testimony of Mrs. Montgomery.

36 *State v Jefferies*, May 1819, Caswell County Minute Superior Docket, NCDAH, testimony of Mrs. Horton; *State v Charity*, September 1830, Orange County Superior Court Minute Docket, September 1830, NCDAH.

37 *State v Patience Rye*, September 1808, Criminal Action Papers 1806-1809 Richmond County, North Carolina CR 082.326.4, folder labeled: 1808, NCDAH.



Even when pregnant, enslaved women were forced to work on plantations in the South, which contributed to the high infant mortality rates among enslaved populations in the antebellum era. (Image courtesy of the Library of Congress).

asked why she did not let her “circumstance be made known” to everyone else, she stated that she was afraid because her mother had “made some threats about having another child.”<sup>38</sup>

Why were jurors so reluctant to convict women when the evidence was so compelling? Two infanticide cases, in which the defendants were initially found guilty but were pardoned or retried and later found not guilty, can help explain this paradox. The two cases demonstrate that jurors were influenced by factors beyond legal guidelines in making their decision to acquit women, focusing instead on factors pertaining to gender, race, and slavery.

## The Public Weighs In

Even when women were found guilty of infanticide, the courts sometimes spared their lives due to pressure from the public. For example, the defense counsel in *State v Charity* failed to meet the standard of justifiable concealment and the court found her guilty of infanticide, a felony punishable by death.<sup>39</sup> The court ordered that on October 15, 1830, the county’s sheriff was to transport Charity to the place of execution, where

38 *State v Jefferies*, May 1819, Caswell County Minute Docket Superior Court, NCDAH.

39 *State v Charity*, September 1830, Orange County Minute Superior Docket, NCDAH, 110.

she was “to be hanged by the neck until she be dead.”<sup>40</sup> David Craig, Charity’s master, was present at the proceeding and requested an appeal in the North Carolina Supreme Court upon hearing that his slave had been condemned to death.

Before the verdict had been issued and before the court hearing was concluded, the presiding judge had denied Craig the opportunity to testify in court. According to the judge, with the prosecution concurring, the master of the slave had a “direct interest” in the slave and the court decision. The master was likely to mold his statement to ensure his slave’s liberation. Therefore, since the defense counsel was not permitted to present Craig as a witness, they objected to the use of Craig for the prosecution, declaring that the “master was unwilling and could not be compelled to give testimony.”<sup>41</sup>

Upon receiving Craig’s petition, however, the North Carolina Supreme Court issued a writ that overruled the lower court. Judge Ruffin of the Supreme Court stated that since the rights of the slave and the master are woven and interconnected it was impossible to “restore him his property, without yielding her another trial for her life.” The court ultimately decided to comply with the master’s wishes and grant Charity a new trial “because of the improper admission of the evidence of the master being over ruled.” Craig was then examined as a witness for the new trial. On Thursday, March 17, 1831, the Superior Court returned a new verdict and found Charity “not guilty.”<sup>42</sup>

Charity was originally found guilty of infanticide. However, after David Craig gave his testimony, the jurors changed their minds. Craig’s testimony was the only difference between the two trials: the other witnesses’ testimonies remained the same. Furthermore, Craig did not offer any new evidence. The women who testified had established that the child was born alive and believed that the child “appeared that it might live.” What was it about Craig’s testimony that influenced the jurors to change their mind? The most likely answer is that the jurors wanted to please Craig, the master. The only new evidence presented to the jurors in the new trial was the master’s displeasure with the original verdict.<sup>43</sup>

40 Ibid.

41 *State v Charity*, September 1830, Orange County Superior Court Minute Docket, NCDAH.

42 *State v Charity* 13. N.C. 543 (N.C. 1830)

43 *State v Charity* (a slave), September 02, 1830, Orange County Slave Records no date, 1783-1865, CR 073.928.8, folder labeled: 1825-1841 (Broken series), Orange County Miscellaneous Records, NCDAH, testimony of Polly Chuck.

These courts' juries consisted of only men, who might have sympathized with Craig's situation, especially since Charity was his only slave. The jury also might have changed its verdict in order to support the foundation of the slave system. In *State v Mann*, a case that was argued in North Carolina's Supreme Court a year before Charity's case, the judge ruled that North Carolina courts were "compelled to express an opinion upon the extent of the dominion of the master over the slave in North Carolina." Judge Ruffin continued by stating that "the end is the profit of the master" and that "this dominion is essential to the value of slaves as property; to the security of the master, and the public tranquility, greatly dependent upon their subordination."<sup>44</sup> The Supreme Court essentially ruled that a master's desires and security should be the court's priority. Charity's new trial's decision is evidence of the impact of that ruling.

*State v Jefferies* also resulted in a pardon following an initial guilty verdict. The defense counsel moved for a new trial because "the evidence proved, if the child had been killed by the mother, the manner of the death was different from that charged in the indictment, and was produced by blows, and not by choaking and strangling." The North Carolina Supreme Court overruled the defense's reasoning and upheld the superior court's decision. Jefferies was placed in jail to await her execution date.<sup>45</sup>

In March 1820, individuals in the community petitioned the governor to pardon Sarah Jefferies. Much like the treatment of Charity's case, the people's reasoning had nothing to do with the infanticide law or legal burdens of proof, but instead focused on the mother's character. The jurors who had convicted Jefferies formed an initial petition to the governor. They stated "that the child of the said Sarah was *not born alive*, that if it had been, she was too affectionate of a mother to have offered violence for it herself." Another petition, which was signed by 37 additional North Carolinians, claimed that the "verdict was contrary to evidence." The prisoner had given birth to many children before and "they have no death." They further stated that their confidence was strengthened by the "dying declaration of the prisoner, made since her trial and at a time, when in sickness," she believed that she was going to die.<sup>46</sup> The individuals in these petitions did

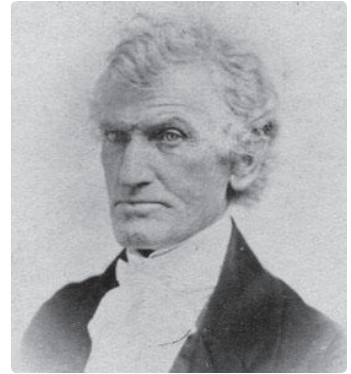
<sup>44</sup> *State v Mann* 13 N.C. 263 (N.C. 1829).

<sup>45</sup> *State v Jefferies* 7 N.C. 480 (N.C. 1819).

<sup>46</sup> Governor's Papers, volume 49.3, John Branch, February 8–November 28, petitions on page 500-501, 513-514, NCDAH.

not attempt to obtain a pardon for Sarah Jefferies by showing that the prosecution failed to meet the three standards needed to convict the mother of infanticide. Instead, they pressured the governor to pardon Jefferies because they believed that she was an affectionate and nurturing mother who could not have killed her child. Because the southern public believed that infanticide was only practiced by unfit mothers, evidence of a mother being nurturing and caring could result in public support through such petitions for pardons, which sought to preserve the southern definition of a true woman and mother.

In another petition, a man by the name of A.D. Murphey suggested “that there was no satisfactory proof that the child was born alive.” He argued that the jury formed its decision based on the “opinions” of some women, which were “matter[s] of presumption and the contrary presumption appeared to me to be the strongest.” Murphey continued by stating that Sarah Jefferies “has literally become a subject of pity” who had “suffered in prison” with “waning” health. Murphey and the other jurors claimed that by keeping Jeffries imprisoned, the governor was denying her the time she could be spending with her family, all of whom were “dependent upon her labor for support.”<sup>47</sup> Yet again, gendered societal expectations of women and mothers influenced public responses to infanticide verdicts. These petitions pressured Governor John Branch to pardon the women, not because the community believed she was innocent, but because they wanted the governor to uphold southern values and customs. Jefferies’s advocates believed that if a woman conformed to gendered expectations by embodying her maternal role and being an affectionate mother, she should not be punished.<sup>48</sup> On May 19, 1820, John Branch stated that “for satisfactory reasons” he pardoned Sarah Jefferies, and he commanded Caswell County



Thomas Ruffin served as the chief justice of the North Carolina Supreme Court from 1833 to 1852. Ruffin issued North Carolina Supreme Court rulings that allowed masters to testify on the behalf of their slave, because “the end is the profit of the master.”  
(Photo courtesy of the North Carolina Museum of History.)

47 Governor’s Papers, volume 49.3, John Branch, February 8–November 28, petitions on pages 356–357, NCDAH.

48 Ibid.

to notice this pardon and act accordingly.<sup>49</sup>

While the burden of proof for so many infanticide cases lay heavily on the prosecution, the role of female witnesses and the lack of strong medical knowledge of childbirth permitted many prosecutions to “prove” that the accused women were guilty. Paradoxically, this proof relied both on society’s acceptance of women’s incontrovertible knowledge in the realm of childbirth and also on social perceptions of female immorality, often compounded by racial and economic perceptions. However, by relying on this very perception, other southern community members were able to overcome initial court decisions in order to save the lives of accused mothers.

## Restoring Order

Nineteenth-century North Carolina courts had to meet certain standards to prove that a mother was guilty of infanticide. However, even when the prosecution met prescribed legal standards, jurors remained reluctant to convict mothers. Factors outside of the law pressured jurors to acquit women for this crime. In *The People and Their Peace*, Laura Edwards argues that the southern courts’ “point was to restore order” and not necessarily to protect individual rights.<sup>50</sup> As demonstrated by Charity’s and Sarah Jefferies’s cases, the court maintained order by reinforcing the slave system, the patriarchal system, and the southern idea of motherhood and womanhood.

Southern courts vindicated women in order to support their regional beliefs and customs. In the nineteenth century, abolitionists, pro-slavery activists, and politicians from across the nation reported infanticide cases in a way that promoted their principles, whether that was slavery, patriarchy, or the definition of a true southern woman. In this way, the courts’ decisions supported American culture. In the cases examined here, North Carolina courts upheld southern culture. Infanticide cases were used to reinforce southern notions of gender, race, and slavery. Cases of infanticide shed light on how these systems and social constructs were so deeply embedded in the South that they influenced law during the mid-nineteenth century.

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49 John Branch, Governor’s Letter Book 1817-1820, volume 23.2 (May 19, 1820), 301 NCDAH.

50 Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: The University of North Carolina Press, 2009), 102-103.



Dana Landress

## The Nomenclature Precedent: Mapping Origins and Scientific Standards Creation in the Human Genome Project

Science cannot be contained. In the age of mass information, news of scientific innovation is rapidly translated from laboratories to academic publications to newspapers, especially when scientific breakthroughs offer new information about diseases and improved quality of life. Perhaps the most publicized scientific endeavor of the past 50 years has been the Human Genome Project (HGP), a national effort to locate and map every gene in the human body. For more than 50 years, the HGP was discussed and worked on in laboratories throughout the United States. The project was not a strictly scientific endeavor, however, but was integrated into congressional legislation, city council meetings, courtrooms, and pharmaceutical board meetings, where non-scientific communities responded to the HGP in disparate ways. As a result, the innovations and implementations of genetic research in the project were articulated and managed by people both inside and outside of the laboratory.

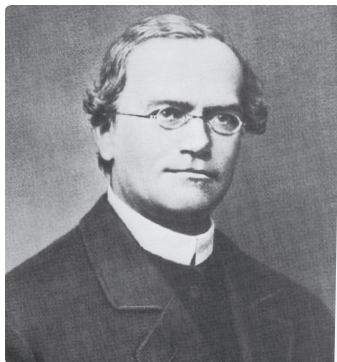
The HGP created a dynamic network of collaborations that involved not just scientists, but ethicists, community members, activists, and computer

scientists.<sup>1</sup> While the mid-century intellectual origins of the project revealed language to be an important organizational tool for gene mapping, the gene nomenclature system was as much imposed by demands from communities and courtrooms as it was implemented by scientists. Although the history of the HGP has often been told as a set of events and discoveries, it can also be articulated as a narrative about people. When the history of the HGP is re-imagined in this way, it becomes clear that the project had informal mid-century origins long before its formal establishment in 1990. Beginning with a set of lectures given by Erwin Schrödinger in 1943, the first section of this paper examines the importance of language as a periodization tool to explain the longer intellectual history of the HGP. The second section then traces the importance of language when non-scientific professionals and community members engaged with the large-scale implications of the HGP. The following is a story about language and about people—academics and ordinary citizens, geneticists and jurors—who influenced the organizational underpinnings of a deeply humanistic and scientific endeavor: a genetic map of the human body.

The HGP formally began in 1990, when the US Congress jointly funded the Department of Energy (DOE) and the National Institutes of Health (NIH) to map out the human genetic sequence. These institutions had different goals in mind when designing the HGP. While the DOE was interested in the project as an opportunity to study the long-term genetic effects of nuclear radiation, the NIH wanted to maintain its reputation as a leader of American scientific research. The HGP generated excitement within the scientific community. Indeed, it was completed in only 11 years when project architects anticipated a 15-year period to completion. The fact that the human genome was mapped nearly four years before its intended completion date is indicative of the large-scale intellectual, financial, technological, and cultural resources afforded the HGP. By 2001, the DOE and the NIH alone had

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1 Also known as the material semiotic method, sociologist Bruno Latour's Actor Network Theory is a useful way to conceptualize the relationship between material objects and conceptual ideas in the Human Genome Project. The idea of a human gene map had many abstract qualities, including representing human disease cartographically and storing this information in a cyber database. There were also concerns over patients rights and consent. In response to these concerns, individual and institutional actors cooperated in networks to map the human genome. For further information on Actor Network Theory see Bruno Latour, *Reassembling the Social: An Introduction to Actor-Network-Theory* (Oxford: Oxford University Press, 2005).



Literature on the history of genetics often begins with Gregor Mendel's (pictured) pea plants or with the formal discovery of DNA's helical structure by either Rosalind Franklin or James Watson and Francis Crick in the 1950s. (Photo courtesy of Wikimedia.)

invested approximately 2.7 billion dollars in the project.<sup>2</sup>

A considerable amount of funding had been allocated to the development of new sequencing and database technologies to increase mapping efficiency and to reduce the cost of research. Still, scientists were inundated with a copious amount of information. Mass data yielded from the project raised questions about the storage, access, and ownership of genetic research. To address these concerns, scientists began to contemplate a coherent system of classification for the mapped genomic regions, which also incorporated standardized molecular nomenclature. Such a system was thought

to benefit the HGP in several ways: communication standards could facilitate information exchange between laboratories, increase project efficiency and organization, and offer a solution for sharing the project's findings to non-scientific communities. The story of the nomenclature system is, in fact, a story of how scientists and non-scientists responded to both organizational and ethical questions raised throughout the course of the HGP.

Historians disagree about both the formal and informal origins of the Human Genome Project. Literature on the history of genetics often begins with one of two origin points: in the nineteenth century with Gregor Mendel's pea plants or with the formal discovery of DNA's helical structure by either Rosalind Franklin or James Watson and Francis Crick in the 1950s. Still, other scholarship charts the project's formal commencement later, when institutional sponsorship and early HGP mapping efforts began in the late 1970s. Historiography on the HGP tends to periodize its progress around major events and findings, such as the preliminary mapping meetings held at Cold Spring Harbor Laboratory in the late 1970s. However, a study of the project's intellectual momentum suggests that

2 "International Consortium Completes Human Genome Project," National Human Genome Research Institute, April 14, 2003, News Release Archives, National Institutes of Health.

scholars had an established vision of a human gene map several decades prior to the institutional coalescence of the HGP in 1990. As intellectual momentum gave way to project implementation, the organizers of the HGP realized that different laboratories utilized different organizational systems for mapping genes. The confusion created by these discrepancies led the proponents of the HGP to advocate for a standardized language system that would facilitate communication and consistency among dozens of laboratories.<sup>3</sup> In addition to the project's chronological or event-based history, the HGP's intellectual history can be traced through individual proponents of a language system for gene mapping. In order to understand the lengthy process of standardized language creation in the HGP, it is necessary to first turn to the intellectual origins of the project.

## The Scientific Community and HGP Origins

At the end of the nineteenth century, Austrian abbot Gregor Mendel pioneered the study of genetics in plants. By the mid-twentieth century, the field of molecular biology was increasingly concerned with human, rather than plant, genes. The study of human genetics interested biologists because genes revealed information about the inheritance of human traits. The medical community was especially interested in creating a gene map as a means to better understand human propensity for disease. Collaboration between scientific and medical research communities promised new insights into gene expression and the likelihood of inheriting diseases such as cancer, cystic fibrosis, sickle cell anemia, and Huntington's disease. In order to standardize either scientific or medical understandings of the human gene, however, some sort of unified vision of what was being discussed would be required.

One of the earliest descriptions of a human gene map was set forth by Austrian physicist Erwin Schrödinger in a series of published lectures

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3 Prior to the development of a single nomenclature system, geneticists had several options for naming genes. Gene names could be based on primary function, location on the chromosome, numerical assignment, sequence tag site (STS), known genetic trait, disease associated with the gene, enzyme associated with the gene, etc. For further reading, see M.D. Zorn and C.R. Cantor, "Nomenclature Issues in the Human Genome Project," in *The Terminology of Biotechnology: A Multidisciplinary Problem* (University of California, Berkeley, 1990).

at Trinity College Dublin in 1943.<sup>4</sup> According to Schrödinger, the human cell, like other biological mechanisms, required order. Order, he stated, was governed by physical laws that possessed a high degree of accuracy. Interactions between separate but related mechanisms were brought into harmony through order, from the microscopic order of cellular processes to the larger whole being governed by the human body. Whether microscopic or systemic, physical interactions of the body depended upon a distinct order with identifiable patterns, Schrödinger posited.

Schrödinger was particularly concerned with the patterns that governed genetic structures. He understood that even the nearly invisible interactions of the quanta (the smallest amount of energy required for a physical interaction) informed and even defined visible biological interactions. Speaking specifically about the visibility of cellular material, Schrödinger noted, “Within every group [of genes] a linear map can be drawn up which accounts quantitatively for the degree of linkages between any two of that group, so that there is little doubt that they actually are located, and located along a line, as the rod-like shape of the chromosome suggests.”<sup>5</sup> He was certain that it was possible to construct a linear map to organize and catalog a genetic “code-script,” and he aimed to study the relationships of these microscopic life-giving entities. For this, Schrödinger also had a solution: mapping.

Schrödinger did not live to see the human gene map to completion, but he was convinced that understanding genetic order was critical to its materialization. Although applied physics dominated early twentieth-century research, Schrödinger believed that “the second half of the century will belong to molecular biology and genetics.” Schrödinger insisted that scientists had “reached a point of dramatic change in our views of life and ourselves,” and that “great discoveries [are] imminent.” He concluded by writing that the implications of genetic research “will change our culture.”<sup>6</sup> Schrödinger’s vision not only advanced intellectual discourse regarding

4 Erwin Schrödinger, *What Is Life: The Physical Aspect of the Living Cell; with, Mind and Matter; & Autobiographical Sketches* (Cambridge; New York: Cambridge University Press, 2012).

5 Erwin Schrödinger, “What Is Life? The Physical Aspect of the Living Cell,” *The American Naturalist*, University of Chicago Press for The American Society of Naturalists 79, no. 785 (1945): 554.

6 Johann Götschl, *Erwin Schrödinger’s World View: The Dynamics of Knowledge and Reality*, Theory and Decision Library, vol. 16, Dordrecht (Boston: Kluwer Academic, 1992).



Vannevar Bush, who predicted the shift from wartime applied science to postwar basic research. Bush was an early advocate for genetics research in the second half of the twentieth century. (Photo courtesy of Wikimedia.)

the nature and structure of genes, it also brought the concept of organized genomic mapping out of the realm of individual imagination to that of legitimate scientific possibility.

Despite Schrödinger's prescience, the advancement of scientific understandings of genetic structure, function, and even location was modest during the 1940s. Scientific instrumentation remained insufficient for genetic visibility, and funding for the biological sciences was significantly diminished during wartime. However, this changed following World War II, when American scientific communities at large transitioned from a focus on applied science (science developed to enhance specific wartime projects, such as weapons manufacturing) to an emphasis on basic research (research that focused on creating or advancing new scientific knowledge). In July 1945, Vannevar Bush, Director of the United States Office of Scientific Research and Development, paved the way for this with his publication of *Science: The Endless Frontier*, a manifesto about the future of science written at the request of President Roosevelt. Bush insisted that basic research would be the "new frontier" of the scientific community.<sup>7</sup> In the report, Bush suggested that science should support new

7 Vannevar Bush, *Science—the Endless Frontier: A Report to the President on a Program for Postwar Scientific Research* (Washington, D.C.: National Science Foundation, reprint, 1980), Section 1. Especially relevant to basic scientific research is a set of norms introduced in 1973 by sociologist Robert K. Merton in his work *The Sociology of Science: Theoretical and Empirical Investigations*. This landmark publication outlined ethical principles to guide modern scientific research.



efforts to understand human disease and infection, "yet we find that the traditional sources of support for medical research... are diminishing and there is no immediate prospect of a change in this trend."<sup>12</sup> Bush called for a move to support basic research, but he understood that most academic institutions could not independently support the large-scale research he had in mind. The genetics community benefitted from Bush's proposed basic research funding because the field of genetics coalesced medicine and biology around disease prevention, a topic that Bush believed was crucial to the future of American scientific research. Indeed, Bush's letter to Franklin D. Roosevelt did much to sway federal support in favor of the enterprise of biological research.

Though basic science was gaining prominence, it would still take time before the vision of a genomic map would have any concrete reality. Prior to gene mapping, geneticists focused on mapping the structure of chromosomes, which bound together smaller units of genetic information. Twelve years after Bush's report, Albert Levan and Joe Hin Tjio, geneticists at the University of Lund, identified and published the 46 human chromosomal structures. The findings of Levan and Tjio directly contradicted the prevailing belief that there were 48 human chromosomes. Prior to their publication, chromosomal research had been widely suspended, as chromosome number and structure were an essential basis for continued research. Whereas Schrödinger's writings described the *mapping* of genomic structures as a viable scientific pursuit, Levan and Tjio defined chromosomes—the building blocks of human genetics—as entities that were open to further investigation. The process of peering into chromosomal structures that contained genetic material enhanced the depth and scale of microbiology, providing the possibility to discern the nature, structure, and functions of genetic material contained within each chromosome. Once the number of chromosomes had been accurately determined, the boundaries of genetic study could be defined both spatially

and visually, turning Schrodinger's vision into reality.<sup>8</sup>

When Tjio and Levan discovered the structure and number of human chromosomes, their findings confirmed the viability of genetic mapping. During this revelatory moment, the scientific community turned to the question of language and nomenclature, which would be used to discuss a potential map of human chromosomes. By the mid-twentieth century, better microscopic lens resolution had led to more precise chromosome photographs, and geneticists speculated that genes on the chromosome might soon be studied in greater detail. If images of the chromosomes were to be translated into a map of chromosomes, the information had to be intelligible and navigable by scientists in different labs across the United States and around the world. Simply being able to see the same image was not enough.

Although Levan and Tjio's discovery made a common nomenclature necessary, American scientists had already discussed the possibility of a standardized nomenclature system. In 1953, three years prior to Levan and Tjio's publication, the NIH received a copy of a 76-page report titled, "A Proposal for Uniform Nomenclature in Bacterial Genetics."<sup>9</sup> A team of international geneticists had developed the proposal from a paper published at Brookhaven National Laboratory and sponsored by the US Atomic Energy Commission. It recommended a basic system for naming, referencing, and cataloging genetic information, thereby defending the importance of a nomenclature system from a number of perspectives.<sup>10</sup> First, it suggested that such a system was convenient and pragmatic since individual research groups would not need to devise their own classification system. Second, the proposal argued that a standardized nomenclature system would

8 H. Tjio and A. Levan, "The Chromosomes of Man," *Hereditas* (1956), 42. For a detailed account, see: M.A. Hulten, "Numbers, Bands and Recombination of Human Chromosomes: Historical Anecdotes from a Swedish Student," *Cytogenetic and Genome Research* 96, no. 1-4 (2002): 14-19; In their *Hereditas* publication, Tjio and Levan mention a study of chromosomes in embryonic liver mitosis conducted by Dr. Eva Hansen, who halted her research because her team was only able to locate forty-six of the presumed forty-eight human chromosomes. For further information, see: Daniel L. Hartl, *Essential Genetics: A Genomics Perspective*. (Burlington, MA: Jones & Bartlett Publishers, 2009); Albert Levan, "Chromosome Studies on Some Human Tumors and Tissues of Normal Origin, Grown in Vivo and in Vitro at the Sloan-Kettering Institute." *Cancer* 9 (1956): 648-663; Andrew J. Hogan, "The 'Morbid Anatomy' of the Human Genome: Tracing the Observational and Representational Approaches of Postwar Genetics and Biomedicine. The William Bynum Prize Essay," *Medical History* 58, no. 3 (2014).

9 M. Demerec, E.A. Adelberg, A.J. Clark, and Philip E. Hartman, "A Proposal for Uniform Nomenclature in Bacterial Genetics," *Cytogenetics and Cell Genetics* 54 (1966): 61-76.

10 Ibid.



A low resolution karyotype of forty-six human chromosomes discovered by Tijo and Levan in 1956. At that time, chromosome bands were not visible and a lack of organization made a nomenclature classification system difficult. (Image reprinted with permission from BioMed Central, acquisitioned from Hereditas.)

facilitate understanding and communication among scientists. Finally, it argued that the proposed nomenclature was beneficial because it was malleable enough to incorporate new genetic information. The authors affirmed that their “aims” were “uniformity, a unique designation for each strain, convenience for typing, editing, printing, record-keeping, and information retrieval.” Furthermore, they argued that a standardized nomenclature system would provide “adaptability, simplicity, and clarity” as well as “comprehension by workers in all areas of biology.” All of this would lead to “adaptability to new developments in the foreseeable future.”<sup>11</sup> The report concluded with an example of the system, a list of proposed standard

symbols based on known gene function. Despite this well-organized proposal, seven years passed before the nomenclature question was again discussed in mapping meetings.<sup>12</sup>

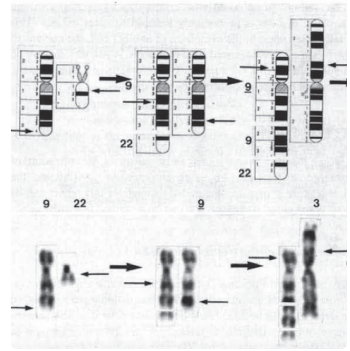
Even so, the 1960s were a decade defined by advancements in the field of genetics, when much of the groundwork was laid for the creation of a genetic mapping project. A number of discoveries in microbiology further expanded opportunities for new research about the structure, function, and utilities of Deoxyribonucleic Acid (DNA). In 1960, just seven years after Rosalind Franklin, James Watson, and Francis Crick discovered the binary helical structure of DNA, Sydney Brenner, Francis Crick, François Jacob, and Jacques Monod solved a problem that had eluded geneticists for nearly a decade. Their research team, sponsored by the California Institute of Technology, had discovered Messenger Ribosomal nucleic Acid (mRNA), a set of molecules that are responsible for transferring genetic information

<sup>11</sup> Ibid.

<sup>12</sup> There is no clear answer as to why so much time would pass before any action was taken. One suggestion is that no single sponsoring institution or committee was assigned to undertake this project until 1974, when efforts to produce a human gene map were already well underway.

to the cytoplasm, where genetic information is expressed.<sup>13</sup> The next year, 34-year-old Marshall Nirenberg discovered that the genetic code was comprised of chemical units of DNA that specify how protein molecules are constructed. By 1966, Dr. Nirenberg had identified the first 63 sequences of human DNA.<sup>14</sup> Two years later, in 1968, Nirenberg and his colleagues were awarded the Nobel Prize in Physiology and Medicine for “their interpretation of the genetic code and its function in protein synthesis.”<sup>15</sup> Collectively, the discoveries of the 1960s prompted new opportunities for discovering and assembling a map of the human genome. As individual research groups, laboratories, universities, and private institutions independently sponsored continued genetic research, the issues of intelligibility and nomenclature norms were still part of an unfinished discussion among geneticists.

In 1960, four years after Tjio and Levan’s discovery prompted a discussion of a genetic nomenclature, British cytogeneticist Charles E. Ford convened a meeting on chromosomal nomenclature—a related, though not identical, subfield of microbiology. Later referred to as the Denver Conference for its location, the meeting was attended by 14 lead scientific investigators, all of whom had previously published human karyotypes (chromosome images). The group decided to number the chromosomes they had been researching and pair corresponding sets, to demarcate the sex chromosomes with “X” or “Y,” and to further categorize all chromosomes by size groups.<sup>16</sup> The nomenclature system developed at the Denver Conference remained in use for decades following its



A higher-resolution photograph of chromosomes 3, 9, and 22, published by the Standing Committee on Cytogenetic Nomenclature in Stockholm in 1978. Note the visible difference in organization in contrast to the original 1956 karyotype on the previous page. (Image reprinted with permissions from S. Karger AG, Medical and Scientific Publishers.)

13 F.H. Crick, L. Barnett, S. Brenner, R.J. Watts-Tobin, “General nature of the genetic code for proteins,” *Nature* 192, no. 4809 (1961): 1227–32.

14 Nicholas Wade, “Marshall Nirenberg, Biologist Who Untangles Genetic Code, Dies at 82,” *New York Times*, January 21, 2010.

15 Franklin H. Portugal, *The Least Likely Man: Marshall Nirenberg and the Discovery of the Genetic Code* (Cambridge, Massachusetts: The MIT Press, 2015).

16 For further reading on the X and Y chromosomes, see Sarah Richardson, *Sex Itself: The Search for Male and Female in the Human Genome* (Chicago: University of Chicago Press, 2013).

establishment, having emerged in response to rapid breakthroughs in genetic research that created a need for a common scientific and medical vocabulary to further communication and organization in cytogenetics.<sup>17</sup>

The methodology devised at the Denver Conference for mapping chromosomes was highly intelligible, as reported in *The Lancet*:

“In designating a particular band, four items [were] required: (1) the chromosome number, (2) the arm symbol (i.e., the short or long arm of the chromosome), (3) the region number, and (4) the band number within that region. These items [were] given in order without spacing or punctuation. For example, 1p33 indicated chromosome 1, short arm, region 3, band 3.”<sup>18</sup>

Cytogenetic chromosome maps became progressively more detailed with higher resolution photographic images and added their discoveries onto this framework. Initial depictions of chromosomes evolved into regions and bands, which served as landmarks for genetic diseases. Increased photographic resolution and visibility led to more complex mapping spaces, but the standardized nomenclature established at the Denver Conference facilitated chromosome mapping as a precursor to gene mapping. With a clear vocabulary and a consistent methodology for identifying and categorizing new information, human chromosome research prospered. Following the Denver Conference’s success in establishing a standardized nomenclature for chromosome mapping, geneticists later advocated for a similar organizational system for gene mapping.

Held in Rotterdam, the 1974 Human Gene Mapping Conference was the first formally recognized collective call for a nomenclature system for genes. Although participants established no formal guidelines at the meeting, a committee was formed to discuss the possibility of standardized terminology, as had been devised for chromosome mapping at the Denver Conference. The advantages were clear: increased organization in mapping, intelligibility and access to information for all scientists, and a decreased

17 Standing Committee on Human Cytogenetic Nomenclature, *An International System for Human Cytogenetic Nomenclature: Report of the Standing Committee on Human Cytogenetic Nomenclature*, Hässelby Castle, Stockholm, Sweden, September 4-9, 1977.

18 J. Lejeune, et al., The Denver Conference Proceedings, “A Proposed Standard System of Nomenclature of Human Mitotic Chromosomes,” *The Lancet*, vol. 275, no. 7133 (1978): 1063-1065.



*The Tower of Babel* by Dutch painter Pieter Bruegel the Elder (1563). Scientists often referenced this myth, which claims that language variation was a divine intervention to thwart humanity's hubris. (Image courtesy of Wikimedia.)

likelihood that geneticists in different labs would replicate research. The committee in charge of creating a nomenclature system consisted of Dr. Harry Harris from the University of Pennsylvania School of Medicine, Dr. Meera Khan of the Netherlands Department of Human Genetics, Tom Shows, microbiologist and editor of *Cytogenetics and Cell Genetics*, and Dr. Victor McKusick of Johns Hopkins School of Medicine. Deemed the Committee on Terminology, the group determined that “guidelines need[ed] to be established for naming the human genetic markers, including the terms to be used for loci, genes, phenotypes, and polypeptide chains.”<sup>19</sup> The Committee met again the following year, 1975, to discuss further the possibility of a nomenclature system, although a draft was not presented until the Human Gene Mapping Conference in Edinburgh in 1979.

Concerns about nomenclature in the Human Genome Project represented larger intellectual quandaries about the utility and limitations of language structures as an organizational system for processing scientific phenomena. Debates over gene nomenclature often referenced the biblical tower of Babel, highlighting the importance of devising a singular language

<sup>19</sup> “Report of the Committee on the Genetic Constitution of the X Chromosome,” from the International Workshop on Human Gene Mapping, *Cytogenetics and Cell Genetics* vol. 14, no. 3 (Rotterdam, Netherlands, 1974): 190-195.



system when dozens of gene mapping languages were already in use. The question of which institution or lab had the authority to impose one language system over another loomed large. However, unlike the Denver Conference, where a common language system for chromosome mapping was devised within the scientific community, the standards for gene mapping were imposed from the outside, and not by scientists alone. In the five years that passed between 1974 and 1979, several events had already shaped the future prospects of the project, revealing the complexity of mapping without a single system of nomenclature and underscoring the centrality of public engagement in scientific standards creation in the early years of the HGP.

## Public Influence on Nomenclature Standards

The year of 1977 was critical in advancing the prospect of a Human Genome Project. The previous June, researchers at Harvard and the Massachusetts Institute of Technology had developed a technique known as gene splicing. An early predecessor to recombinant DNA techniques, gene splicing allowed geneticists to insert a gene sequence into a pre-existing sequence and then replicate this new segment widely.<sup>20</sup>

This new technique did not stay in the laboratory long. By 1977, gene splicing caused controversy in both the media and scientific circles. *The New York Times* reported that Boston residents feared “that new, particularly durable viruses could escape from a laboratory.” Bostonians also expressed “commercial concerns” because the private universities were “not subject to the Government regulations that control gene splicing research at federally financed universities or hospitals.”<sup>21</sup> In response to what later became known as the “Cambridge Gene Scare,” the Cambridge Public Health Department and Cambridge Town Council issued a set of ordinances regulating activities related to human genetic research. In the months prior to this regulation, the town council had threatened a moratorium on gene splicing research within the city.<sup>22</sup> The moratorium was implemented after a Harvard newspaper published an article on genetic research titled,

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20 One of the earliest applications of gene splicing technology was a method to replicate human insulin.

21 “Gene-Splicing Concern in Boston,” *The New York Times*, May 31, 1981.

22 Nicholas Wade, “Gene-splicing: Cambridge Citizens OK Research but Want More Safety,” *Science* vol. 195, no. 4275 (1977): 268–69.

“Gene Splicing Controversy: Visions of Great Benefits and Grave Perils.”<sup>23</sup> Prior to this publication, which was highly circulated among the public, citizens were unaware of Harvard’s effort to study gene splicing and thus were ill-informed about the real or imagined dangers of such work. Since little was known about gene splicing and recombinant DNA efforts, the article produced legitimate concerns that “disease-producing bacteria like *streptococci* could, as a result of genetic engineering, accidentally be made immune to antibiotics and other drugs used to treat them,” or that “a bacterium that now inhabits the human body without doing harm might receive a genetic transplant that would cause it to begin manufacturing a deadly toxin.”<sup>24</sup> As concerns circulated among the public, elected officials threatened a two-year moratorium on all genetic research in Cambridge. The prospect of discontinued research in the midst of exciting genetic breakthroughs further encouraged geneticists to establish laboratory research standards.

The February 1977 issue of *Science* outlined the various local protocols developed in response to growing concerns over gene splicing technology. In a matter of months, Massachusetts, New York, California, Michigan, New Jersey, and Wisconsin had each issued protocols for gene splicing practices in regional laboratories. The New York attorney general’s environmental health bureau proposed a bill stipulating that all scientists engaged in gene splicing research had to be certified, trained, and monitored by the state health commissioner.<sup>25</sup> Just one month earlier, in January of 1977, the NIH had revised their guidelines for recombinant DNA research.<sup>26</sup> The updated guidelines, later given federal authority as national legislation, included regulations on genetic splicing and replication.<sup>27</sup>

After the public outcry, the NIH authorized cohesive standards for gene splicing, which solved the temporary concerns over recombinant DNA

23 Sandra Stencel, “Controversy over Gene Splicing: Visions of Great Benefits and Great Perils,” *Genetic Research*, (Cambridge: Cambridge University Press, 1977).

24 Ibid.

25 Nicholas Wade, “Gene-splicing: At Grass-roots Level a Hundred Flowers Bloom,” *Science* 195, no. 4278 (1977): 558–60.

26 Office of the Director, NIH, “National Institutes of Health Environmental Impact Statement on NIH Guidelines for Research Involving Recombinant DNA Molecules, Part One and Part Two” (Bethesda: NIH Press, 1977), 147–438.

27 For a comprehensive history of Recombinant DNA Guidelines issued by the NIH, see D.S. Fredrickson, “A History of the Recombinant DNA Guidelines in the United States,” Department of Health in Collaboration with the National Institutes of Health, (Bethesda: NIH Press, 2005).

research, but did not address the larger question of nomenclature for gene identification and mapping, which had now gained broad public attention. The gene splicing ordinances issued by the NIH involved the consolidation of many local practices for gene splicing. The Cambridge Gene Scare also roused the attention of several national organizations, including the Occupational Safety and Health Administration, the Environmental Protection Agency, and the Food and Drug Administration. The creation of a single standardized system of uniform guidelines about gene splicing safety occurred only after public concern prompted changes in scientific regulation of genetic research, despite the fact that scientists had been discussing the practicality of creating some sort of guidelines for this research for years. Following the Cambridge Gene Scare, the benefits of standardization were increasingly evident: standardized research protocols would allow geneticists from various labs to clearly articulate their research findings, and standardized nomenclature would help scientists explain these findings in order to promote greater public understanding. Moreover, a standard nomenclature would prevent uninvited public distrust about new genetic research.

## **Nomenclature and Mass Information Management**

Influenced by public debate and discussion within the scientific community, the nomenclature question also was tied to a number of practical concerns about information management related to the HGP. Many prominent institutions—including the NIH, the Department of Energy, and the National Science Foundation—considered sponsoring the standardization project, yet it was unclear which institution would be given primary responsibility for creating an intelligible nomenclature system. The continued use of multiple language systems in genetics threatened both clear communication among research sites and mapping efficiency, slowing down research and diluting its potential impact.

One way the HGP increased efficiency was through multi-site research, whereby each lab was assigned a specific portion of the human genome to map and catalog. Inter-institutional collaboration became especially crucial as continued discoveries of genetic regions in the 1980s produced massive amounts of information about the location of nucleotide sequences within genes. While new computer database technologies were implemented

to catalogue and map genetic data, the challenges of mass information management remained unresolved. The sheer quantity of information that had to be classified and named made this research challenging. Whereas the Denver naming system classified 46 chromosomes, each marked with bands and subregions, gene mapping produced much greater quantities of information: approximately 3.2 billion base pairs needed to be mapped.<sup>28</sup> As Vannevar Bush had so aptly anticipated, genetics appeared to be an endless frontier of new information. Debates ensued over how to best organize genetic data. Many believed that the search for information should be localized and comprehensive rather than general and expansive.<sup>29</sup> However, the approach most common to those who worked on the HGP was to first collect as many sequences as possible and presume that functional information about disease, inheritance, and mutation of these sequences would be added at a later date. This method prioritized information collection and was aligned with the HGP's larger goals of mapping efficiency and timely project completion.

In 1980, approximately a decade before the formal commencement of the HGP, American advocates of the project began to voice their concerns about nomenclature and data organization, adding to debates previously held about genetic nomenclature more broadly. Proponents of a standardized nomenclature system, such as Dr. Donald Lindberg, director of the US National Library of Medicine, argued that a nomenclature system would significantly reduce the time and resources required to complete the human gene map.<sup>30</sup> In 1984, Yale Professor and HGP architect Frank Ruddle insisted that gene mapping could not progress efficiently without a standardized mapping nomenclature.<sup>31</sup> In a 1989 article, key HGP advocates argued that a consistent and comprehensive language system for genome mapping needed to replace the multitude of different mapping linguistics

28 "Inside Life Science: Genetics by the Numbers," *NIH News in Health* (Bethesda: NIH Press, 1977).

29 H. Wain, J. White, and S. Povey, "The Changing Challenges of Nomenclature," *Cytogenetics and Cell Genetics* vol. 86, no. 2 (1999): 162-164.

30 Donald Lindberg, *The Growth of Medical Information Systems in the United States* (Lexington: Lexington Books Press, 1979), 194.

31 R.L. Miller, C. Partridge, W. Kidd, F. H. Ruddle, "The Yale Human Gene Mapping Library," *Cytogenetic Genome* vol. 37, no. 4 (1984): 394-397. The first genome-related methodology patent was granted in 1980 to Stanley Norman Cohen and Herbert Boyer for cloning the gene that codes for insulin. The licensing royalties for this patent exceeded 300 million dollars. See Gerald Karp, *Cell and Molecular Biology: Concepts and Experiments* (Wiley, 2009), 976-977.

already in place at partner research sites. Concerned with the lack of a common language system, central HGP architects admonished: “Lest we replay the failed effort to build the tower of Babel, it would be wise to move decisively toward adoption.”<sup>32</sup> In the absence of a standardized language system, geneticists had devised nomenclature systems specific to each research site, which often conformed to the organizational practices of each individual laboratory instead of adhering to a set of standards established to maintain consistency among the HGP’s varied research sites.

Furthermore, concerns over efficiency were also related to the diversion of significant funding toward the genome project during an “unprecedented” scientific funding crisis.<sup>33</sup> The HGP was in its planning stages during the global economic recession of the 1970s and 1980s. Efficient research offered the potential for economic stimulation in the fields of science, technology, and healthcare. However, the adoption of an organizational nomenclature system, though advocated by prominent geneticists, appeared secondary to concerns over funding. While a pre-determined nomenclature system might have increased the time to HGP completion, such a system might also have circumvented the role of courts in genetic standards creation.

## Legal Interpretations of Nomenclature

Prescient debates over the establishment of genetic nomenclature foreshadowed one of the most contentious ethical dilemmas of human genome research: the possibility that human DNA was patent-eligible. While the human body had long been central to debates about a gene map, the potential for profitable pharmaceutical and biomedical applications of genes invited entirely new questions about the commercialization of scientific research. As genetic nomenclature debates continued to materialize in the late 1970s, the Supreme Court heard a landmark case related to a patent application for a gene that produced insulin. Courtroom intervention demonstrated continued public and federal interest in

32 C. Cantor, D. Bostien, L. Hood, M. Olson, “A Common Language for Physical Mapping of the Human Genome,” *Science* vol. 245, no. 4925 (September 29, 1989), 1434-1435.

33 National Center for Human Genome Research, Complaints and Criticisms File, Box BCD7, Human Genome Archives National Reference Center for Bioethics at Georgetown. For further information, see M.A. Fortun, *Mapping and Making Genes and Histories: The Genomics Project in the United States, 1980-1990*, Ph.D. Thesis, Harvard University, (Cambridge: Harvard University Press, 1993).

scientific research on human genetics and contributed to the discussion of systematization that had been taking place since the 1950s. The Supreme Court's decision in this case revolved around the unanswered question of nomenclature.

On July 22, 1997, the US Federal Court of Appeals convened to review a suit brought against major pharmaceutical player Eli Lilly by the University of California. The lawsuit, later hallmarked as *Lilly*, concerned two patent applications filed by the respective litigants for licensing rights to a recombinant DNA method used to produce human insulin. John Shine, an Australian geneticist working at the University of California, was the first to file for a methods patent in May of 1977. After review from the US Patent and Trademark Office, Shine and his team of geneticists were encouraged to re-submit the application with the addition of a clear written description of the recombinant method they had developed to produce "vertebrae or mammalian" insulin.<sup>34</sup> Since the adoption of the original United States Patent Act of 1793, written description had served as a required patent mechanism to ensure that an inventor could not extend the claims or benefits of the invention beyond its actual scope. It was also a standardized proof to ensure that those seeking a patent could intelligibly explain the method for arriving at the end product. According to the US Patent and Trademark Office, the written description clause for patent applications required that an applicant "show possession of the claimed invention" through a description of "the invention with all of its limitations." Such applications were to be written in "clear, concise, and exact terms as to enable any person skilled in the art ... to make and use the same invention."<sup>35</sup> While geneticists at the University of California revised their patent application for recombinant insulin, the scientist's inability to provide a sufficient written description of the structure and function of insulin evidenced a lack of common genetic language standards, such that the recombinant method could not be articulated and replicated by other geneticists. The nomenclature question, now intricately linked to concerns about scientific standards and patent applications, had suddenly unraveled.

34 Janice M. Mueller, "The Evolving Application of the Written Description Requirement to Biotechnological Inventions," *Berkeley Technology Law Journal* vol. 13, no. 2 (1998): 629.

35 Christopher M. Homan, "Is Lilly Written Description a Paper Tiger? A Comprehensive Assessment of the Impact of Eli Lilly and its Progeny in the Courts and PTO," *Albany Law Journal of Science and Technology*, vol. 17 (2007). See also *Regents University of California v. Eli Lilly Company*, 35 USC. 112. 2000



In the meantime, Eli Lilly and Co. had produced a highly profitable drug, Humulin, based on the recombinant techniques licensed by the University of California. From 1977 to 1980, Eli Lilly invested over 60 million dollars on manufacturing facilities that were equipped to produce and distribute Humulin on a rapid and systematic scale.<sup>36</sup> The company projected that, once Humulin reached the market, worldwide pharmaceutical sales would peak at 1.1 billion dollars. The patent request filed by Lilly for synthetic insulin was the catalyst intended to propel the pharmaceutical industry into a new economic frontier.<sup>37</sup>

On October 24, 1997, the Court ruled that Eli Lilly and Co. had not infringed upon either of the two patents held by the University of California for the recombinant plasmids utilized in the production of human insulin. Although geneticists at the university had filed multiple patent applications to license their technique, the Court rejected the validity of the patents based upon “a lack of adequate written description.”<sup>38</sup> Furthermore, the Court ruled that the DNA patent for human insulin required “a precise definition, such as by structure, formula, or physical properties,” and that “an adequate written description of DNA require[d] more than a mere statement that it [was] part of the invention.” What was required, the Court ruled, “was a description of the DNA itself.”<sup>39</sup>

The ruling had both immediate and long-term consequences. In the short term, bioengineering patent applications were held to a more rigorous standard, which required a demonstration of the invention, the method, the product, and an intelligible nomenclature system to present these components. The *Lilly* decision also indicated the sober reality of scientific

36 Gary L. Nelson, *Pharmaceutical Company Histories* (Bismarck: Woodbine Publishers, 1983). See also: E.J. Khan Jr. *All in a Century, The First 100 Years of Eli Lilly and Company* (Indianapolis: Eli Lilly and Company, 1976).

37 In the 1980 landmark case, *Diamond v Chakrabarty*, the Supreme Court adjudicated the question of whether genetically modified organisms, in this instance synthetic bacteria created to decompose crude oil sediments, were patent eligible. The court agreed to hear the case because the bacteria was deemed “an improvement on the constitution of matter” hearkening back to Locke’s argument that products of nature could be converted into property through a process of laborious improvement. The 5-4 ruling famously declared that anything “under the sun that is made, or perhaps improved upon, by man” was patent eligible. In 1980, the same year of *Diamond v Chakrabarty*, Bayh-Dole legislation permitted federally funded research to qualify as patent eligible. An important implication of the Bayh-Dole legislation was that revenue could be collected by the recipients (i.e., a company, university, or private R&D firm) rather than returned to the federal government.

38 *The Regents of the University of California v. Eli Lilly and Company*, 119 US 43 (1997).

39 Ibid.



The first printout of the human genome, presented as a series of books. (Photo courtesy of Wikimedia.)

commercialization—that inventors were not always the beneficiaries of their work. Whereas some legal scholars admonished *Lilly* as “an unmitigated disaster ... with the potential for causing untold havoc in the biotechnology field,” others viewed the interpretation of written description as “a new challenge to validity” and a mechanism to ensure “sufficient disclosure of an invention.”<sup>40</sup> Now often referenced in biotechnology and legal studies, the modified Lilly Written Description (LWD) doctrine set forth a highly contested and technically formidable standard for subsequent biomedical innovations. The decision highlighted the importance of using an intelligible nomenclature system that could be understood and verified by different scientists.

Some of the earliest questions posed by Human Genome map architects about the creation of a system of organizational nomenclature were paralleled by the US Federal Court as jurors considered the relevance of written description. A description of scientists’ method for retrieving recombinant insulin was insufficient without the DNA sequence description. The description needed to substantiate both genetic

40 Christopher M. Homan, “Is Lilly Written Description a Paper Tiger? A Comprehensive Assessment of the Impact of Eli Lilly and its Progeny in the Courts and PTO,” *Albany Law Journal of Science and Technology*, vol. 17 (2007).

structure and function, with sequence-level precision, which Eli Lilly had successfully authored, despite the University of California having submitted a patent application several years prior to Lilly's appropriation of the technique. The Court's decision was not merely a vote for Eli Lilly and Co., it was also a vote for standardization and nomenclature. Excellent scientific research meant little if it could not be translated, interpreted, and applied consistently.<sup>41</sup>

## The Nomenclature Debate's Long-Term Effects

Tracing a history of the development of the HGP from 1945 to 1977 reveals that language catalyzed early intellectual momentum among the scientists and policy advisors who first envisioned a human gene map. As technological advances yielded new scientific discoveries about the structure and function of genes, talk of institutional sponsorship and information storage translated into practical concerns about the feasibility of one of the largest scientific undertakings of the twentieth century. Amidst this flurry and excitement, geneticists proposed the establishment of a nomenclature system, much like the one that had been successfully implemented to map human chromosomes at the Denver Conference in 1960. However, between the 1974 Rotterdam HGP Meeting and the 1979 Edinburgh HGP Meeting, where geneticists first devised a standardized system of nomenclature for the project, several events significantly altered the course of the HGP and its relationship to technology, society, and law. The Cambridge Gene Scare proved the need for a standardized nomenclature system by revealing how poor communication standards between scientists and laypersons created public distrust, and how the desperate need for clear communication about genetic research had allowed the public to intervene in scientific standards creation. Once realized, the need for nomenclature produced a number of organizational questions related to the description, classification, storage, and efficiency of newly discovered genes. When the nomenclature question remained unresolved in 1977, the year Shine and his team of geneticists at

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41 The following is a brief, but not comprehensive, list of cases that relied upon the new standards of Lilly Written Description: *University of Rochester v. G.D. Searle & Co.*, 358 US 916 (2004); *Enzo Biochem Inc. v. Gen Probe Inc.*, 323 US 956 (2002); *Tronzo v. Biomet, Inc.*, 156 US 1154 (1998); *Gentry Gallery Inc. v. Berkline Corp.*, 134 US 1473 (1998); *Festo Corp v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 US 722 (2002); *J.E.M. Ag. Supply Inc. v. Pioneer Hi-Bred Intl.*, 534 US (2001).

the University of California filed for patent applications on human insulin, the imprecise presentation of their findings failed to pass the legal written description requirement, thereby allowing a federal court to determine the scientific standards necessary to obtain a patent.

The nomenclature question reveals a set of structural inconsistencies between the scientific community, the legal sphere, and the private sector. Legal scholars have suggested that the debates over intellectual property in the Human Genome Project transcended the structural legal framework in place to respond to emerging debates over biological property and ownership. The alteration of written description, from a method description to a comprehensive product description, set a precedent for future cases involving genetic research and ultimately reconfigured the boundaries and limitations of scientific discovery at the outset of the project. By understanding long-term debates over the use of nomenclature related to research on human genetics, historians can trace the development of the Human Genome Project over the course of almost 50 years after the end of the Second World War. Moreover, the involvement of lawyers, journalists, scientists, policy advisors, and community activists in the creation of a particular form of genetic nomenclature demonstrates the complex processes involved in scientific research in the twentieth century—a complexity that is unlikely to lessen in the years to come.