The current controversy over freedmen citizenship in the Cherokee Nation has led to great misunderstanding and frequent misstatement of historical facts. These misrepresentations come from various sources: citizens who are simply unlearned in Cherokee history, politicians who tend to rewrite Cherokee history to serve their own purposes, and out-and-out racists.

No matter who causes the misunderstanding or makes misstatements, all promote a distortion of the historical facts, which must be clarified if Cherokee citizens are to make informed decisions. It is time for them not only to face the facts but honestly to reevaluate their positions in light of them. Because so much attention focuses on the work of the Dawes Commission and the Dawes rolls, they should consider the background for making Cherokee rolls and what the Dawes Commission did.

The argument that the freedmen never had full citizenship rights in the Cherokee Nation prior to the Dawes period is spurious. In 1866, for the first time, the freedmen gained the first citizenship they had ever held. It was the only citizenship they would have until 1901, when the United States made all of the citizens of the Cherokee Nation citizens of the United States as well. The freedmen's rights in the Cherokee Nation were guaranteed by the Treaty of 1866, which the Cherokee Nation signed and carried out. It did so admirably, considering the racial climate in the adjoining states at the time.

Following the treaty in 1866, the Cherokee National Council amended the constitution to guarantee the freedmen full rights as citizens. The Nation's own citizenship court and Supreme Court subsequently admitted large numbers of additional freedmen applicants to citizenship. These were primarily freedmen who had not returned to the Cherokee Nation within the six-months' limit set by the treaty. A good example was the Supreme Court's action on June 21, 1871, which "admitted to Cherokee Rights and Citizenship" thirty-four Cherokee Freedman households. Without doubt, the Court realized the implications of its action: not only those admitted but their hundreds of descendants would be future citizens of the nation. This was only one of a number of such decisions.

In taking its censuses, the Cherokee Nation listed citizens according to the basis for their rights to citizenship: by blood or by adoption. In the latter category, they listed four groups: Shawnees, Delawares, freedmen, and intermarried whites. No matter what category a person was in, he or she was still a citizen of the Cherokee Nation.

If the Cherokee Nation did not want the freedmen as citizens or did not recognize them, why did it, year after year for decades, guarantee their rights by law; willfully admit more of them to citizenship; and consistently list them as citizens of the nation while at the same time keeping separate lists of intruders or people who had doubtful status as citizens? The Cherokee Nation was, in fact, a multi-racial, multi-cultural constitutional nation, whose citizenship was based not on blood or culture but on either birth or adoption.

The freedmen also participated in the economic, social, and political life of the Cherokee Nation. Like other citizens, they had access to land under the improvement laws that guaranteed Cherokee citizens the right to occupy as much of the public domain as they could improve so long as their improvements were at least one quarter of a mile from the next citizen's. Like other citizens, they had elementary schools and a high school, built and supported by the Cherokee Nation. Like other citizens, they were subject to the courts of the Cherokee Nation. In contrast, those black, white, and Indian

residents in the Nation who were not citizens had none of these rights and privileges and were subject to the United States court at Fort Smith.

When a Senate investigating committee visited the Cherokee Nation in 1878, the senators interviewed freedman Jesse Ross among others. In response to their questions, Ross testified that the freedmen had the same rights as other Cherokee citizens: access to as much land as they needed, schools, right to sit on juries, and the right to vote. Ross's testimony makes clear that freedmen participated in the political process.

In 2003, the press quoted the late Julian Fite as saying that the freedmen had never voted in the Cherokee Nation. Whether Fite made the statement or not, the contrary was true. Like other Cherokee citizens, they voted and ran for political office. Cherokee historian Emmett Starr lists six who were elected and served in the National Council: Joseph Brown, Stick Ross, Ned Irons, Frank Vann, Samuel Stidham, and Jerry Alberty. There were probably more. The historical record shows that numerous others from various districts were nominated and ran for office under the banner of one of the two major political parties. A cursory reading of the *Cherokee Advocate* and other papers from the Nation in the late nineteenth century shows that the freedmen voters were main players in every election. Cherokee political cartoonist Roger Eubanks even made political hay out of those politicians who courted the freedman vote. If the freedmen could not vote, how could they run for political office and be elected?

Contrary to what some people say, in the Dawes period the citizenship of the freedmen in the Cherokee Nation was not questioned. The argument that the Dawes Commission somehow "palmed" the freedmen off on the Cherokee Nation is a distortion of the historical record. So is the idea that blood quantum on the Cherokees by blood roll had some special meaning in determining exclusive membership in the nation.

The Cherokee Nation's agreement with the Dawes Commission was ratified by the Cherokee electorate--including the freedmen--on August 7, 1902. Regarding the making of rolls it said, "The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes." It did not say "citizens by blood" or "citizens and freedmen" or "citizens and others." The roll that the Dawes Commission made was a roll of Cherokee citizens according to the means by which they acquired citizenship: by blood or by adoption.

The Dawes Commission had actually begun enrolling Cherokee citizens in 1896, at which time and thereafter the Cherokee Nation insisted that the Commission use the Cherokee Nation's own authenticated roll of 1880 as the base roll for enrollment. The 1880 authenticated roll listed five categories of citizens according to the means by which they acquired citizenship: Cherokees by blood, adopted Shawnees, adopted Delawares, adopted Colored, and adopted Whites. The Dawes Commission simply followed the Cherokee Nation's directions in making what became the final roll of citizens. Thus as of September 1, 1902, the freedmen were citizens of the Cherokee Nation, according to the Cherokee Nation and the Dawes Commission. In the last elections held in the Nation before 1906, the Cherokee Freedmen, like other citizens of the Nation, voted for the offices of chief and national council, just as they had done in decades past. The form the Dawes roll took made no change in their status.

Much is made of the blood quantum--or lack of it--listed on the Dawes rolls. Blood quantum was a method devised by Indian policy makers, such as the Dawes Commission, to lay the groundwork for separating the citizens of Indian nations from their assets. It was rooted in the virulent racism of the late nineteenth century, which said that the whiter one was, the more civilized he was. By the time of Cherokee enrollment, the theory was commonly accepted. It laid the basis for restrictions on the sale, or alienation, of homestead allotments. The idea was that those who were more than half Cherokee were incompetent to manage their own affairs and would therefore become wards of the Department of the Interior.

In recent years, full blood has held a premium value. Cherokee family stories commonly tell how an ancestor on the Dawes roll is listed as half blood when he or she was really full. Most of those stories are probably true. Knowing that they would likely be labeled incompetent, many Cherokees probably chose voluntarily to lower their blood quantum.

Subsequent historical events suggest that the Dawes Commission could also have had a motive to do so. Congress's primary purpose in creating the Commission was to guarantee the transfer of land from the common Cherokee National title to individual ownership. That was a preliminary step to the ultimate goal: to transfer the land from Cherokee hands to the hands of "real" American settlers, as whites were generally called by the politicians of the day.

The blood quantum designation had no useful purpose in determining who was a Cherokee citizen or who received an allotment. It was simply a device to determine which Cherokee citizens would become the first marks for American land buyers and which citizens would become wards of the Interior Department, which would manage whatever resources might be on or below the surface of their allotments. By the time the Cherokee Nation-Dawes agreement was drawn up, there was a public clamor for removal of restrictions on the sale of allotments in Indian Territory. In 1904, only two years after the agreement, restrictions were removed from the allotments of Freedmen and Intermarried Whites. The next land to go in the Cherokee Nation was allotments of Cherokees listed as half blood or less, from whose allotments the restrictions were soon removed.

Removal of restrictions did not affect the citizenship of the allottee. When the Five Tribes Act was passed in 1906, it applied as much to the Cherokee Freedmen as it did to the Adopted Shawnees, Adopted Delawares, Intermarried Whites, and Cherokees by blood. If the "full force and effect" clause of the Act has validity for Cherokee descendants today, it has validity for descendants of the four other classes of Cherokee citizens in 1906. If the Cherokee Nation rejects the descendants of the Cherokee Freedmen without simultaneously rejecting the descendants of the Adopted Shawnees, Adopted Delawares, and Intermarried Whites, it will be guilty of attempting to legalize racism, for all were equal participants in the Cherokee Nation according to the Dawes rolls of citizens.

It is only through a knowledge and understanding of Cherokee history that a resolution of the impasse now facing the Cherokee Nation can be bridged. Nothing is to be gained from a repudiation of that history without giving it a hearing. Could all of the Cherokee leaders who averred the freedmen's right to citizenship from 1866 to 1906 have been wrong? Both sides must become as informed as possible and must raise public

awareness and understanding of the subject. Sadly, court decisions are rarely about morality or right or justice. They are about what words mean. As the Freedmen mark the one hundred and fortieth year of their citizenship in the Cherokee Nation, it behooves everyone to seriously consider the words of the historical records.