

DUNCAN, D. W. CR.

CHIEF OF JUSTICE

7521

(Duncan)

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CHEROKEE JUSTICES

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Carselowey, James R.
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CHEROKEE JUSTICES WERE MEN OF MERIT
From an article written by
D. W. C. Duncan, Deceased

During recent times, it has become the custom of some writers, altogether unfamiliar with the history of the Cherokee people, to refer with ridicule, to the courts of the Cherokee Nation. While, of course, there were instances where unlearned and almost illiterate men were placed in important judicial positions, through political manipulations, there were many judges in the Cherokee Nation who were of no ordinary ability. In looking over the long list of those men who at various times held the position of Chief Justice of the Supreme Court of the Cherokee Nation, we find many names of prominence.

Upon the re-organization of the Cherokee Government in the West, following the removal from the old Nation, east of the Mississippi, the judicial machinery of the Nation was set in operation soon after the adoption of the Constitution of 1839, and the first man to receive the appointment of Chief Justice was John Martin. He was a son of Joseph Martin, one of the commissioners on the part of the Government, who negotiated the treaty of Hopewell in 1785. Not only was Chief

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Justice Martin an able and honorable man, but he was also a veteran soldier, having served with distinction in the war of 1812. He held the office of Judge until 1841, when he died. His tombstone may be seen in "Old Town", Fort Gibson.

Judge Martin was succeeded on the Supreme bench by the Reverend Mr. Jesse Bushyhead, father of J. J. Bushyhead, who

was Principal Chief of the Cherokee Nation for eight years,

and noted as one of the really able men who held that office.

Judge Bushyhead died in 1844.

Another prominent citizen, who was named as Chief Justice, by Principal Chief John Ross, was David Carter. He held the position from 1851 to 1855. Judge Carter was a pioneer citizen, who settled a few miles south of Tahlequah, and was the grandfather of Congressman Charles Carter, whose

father removed to the Chickasaw Nation a number of years before the Civil War, and who saw himself, a Justice of the Supreme Court of the Chickasaw Nation for a number of years.

Among other men of prominence who held the high judicial office of Chief Justice of the Supreme Court, in the Cherokee Nation, were Riley Keys, who was three times appointed; John T. Adair, who held the position for two terms, Joseph A. Scales and R. W. Walker.

provided, that if any citizen of the United States, or any other person, shall settle on any of the Cherokee lands, such person shall forfeit the protection of the United States, and the Cherokee may punish him or not as they please.

The districts, or as we may call them, county courts, of the Cherokee were not always far from securing men of ability to preside over them. The office was an elective one, and every two years, in each of the nine districts which made up the Cherokee nation, the district judges were nominated and voted for at an election, which was held on the first Monday in August.