JOSEPH ABSALOM SCALES

By Carolyn Thomas Porewn

Joseph Absalom Scales was one of the most brilliant and useful men in the Cherokee Nation. He held every high office within the gift of the people except principal chief and he would probably have achieved that honor if he had been more of a politician than of a statesman and judge.

Webbers Falls was the home of several noted Cherokees, but none did more for his fellow citizens than Joab Scales, as he was familiarly known to his friends. He was born at Chattanooga, Tennessee, June 23, 1832. His father, the Reverend Nicholas Dalton Scales was a son of Absalom Scales, a native of North Carolina; his grandfather was John Scales a citizen of England who emigrated to the United States and married a woman of the name of McCrary.

His mother was Mary Coodey, a daughter of Joseph Coodey whose wife was Jane Ross a sister of Chief John Ross; so Scales belonged to the best blood in the nation. His mother was born in 1802 and died in 1837 at Randolph on the Mississippi while on her way to the Indian Territory with a party of seventy Cherokees. The boy whose Indian name was Digadundidi, lived with his grandparents until the death of Mrs. Coodey when he went to live with his uncle William Coodey. When he was eighteen his uncle passed away and he then made his home with his sister Charlotte who had married John Drew a public spirited and able member of the Cherokee Nation.

Scales was educated in the public schools of his nation and in Ozark Institute, Fayetteville, Arkansas. Two years were spent in the Cherokee Male Seminary at Tahlequah. He early became interested in the affairs of his nation and in 1856 he became sheriff of Canadian District and in 1858 he was elected prosecuting attorney and held that office until the beginning of the Civil War.²


²In 1824 three missionaries were appointed among the Cherokees by the Methodist Episcopal Church; Nicholas D. Scales in the Upper, Richard Neely in the Lower and Isaac W. Sullivan in the Middle (Wisconsin Historical Society, Shene Scrap Book, Draper Collection D S M E E B21, 142). N. D. Scales was born in 1800 and died at Chattanooga in 1834.

²Scales was only twenty-seven years old when he was elected senator from Canadian District (Emmett Starr, History of the Cherokee People [Oklahoma City, 1921] p. 270).
From the Creek Agency, January 10, 1853, W. Whitfield had a man of the name of Sadler write as follows to "Mr. Joab A. Scales" who was probably staying in the home of John Drew at that time:

"The urgent demand for salt requires me to send down at this early date. If it is possible you will please be kind enough to send me whatever amt the boy can haul. If wet all you can spare and let me know by him when I can send down again and be certain of getting some. Excuse my pencil. . . . Cold enough to freeze dead snakes—and of course our ink is frozen." John Drew was the operator of salt works which were known by his name.

Joab had evidently returned to the Male Seminary as he wrote to his sister Charlotte Drew from there on January 28, 1853: 3

"I have only one minute to write to you, as Mr. Van Horn is about to start for the mail. . . . as you know I am not very well satisfied with this lonesome dull place I would be glad to leave as soon as possible, but to be brief our session ends the evening of 15th of Feb. so Mr. Van Horn says, please send for [me] on or before that day.

"I still have my cough, went to school yesterday for the first time since I was at home, soon be well, are you coming to our examination? I heard since my return that you were, though I thought you wouldn't or couldn't. . . . Your bro. J. A. Scales."

On April 5, 1853, Joab Scales wrote his sister Charlotte Drew from the Cherokee Male Seminary: 4

"When I wrote you last I promised to go see if Mr. Worcester would board Miss Emma [Drew] and am sorry to inform you that he does not take any boarders, as I came by Foreman's, I found that Nan Harper was staying there and thinking you would have no objection I appalyed there, and Mrs. Foreman says she will take Emma if you will bring or send her up. I think it would be a very good place, as I think Nan would take care of Emma, and there are two or three other little girls boarding there. But you know best, so excuse haste. Good night Joab. ALL WELL! P.S. Has Mr. Drew started yet? and when do you look for him back? J. A. Scales."

When Miss Eliza Holt resigned her school to marry Mr. Joseph McCorkle she was succeeded by Joab Scales who was then a recent graduate of the college at Fayetteville. He taught only one year as he went into the merchantile business with his brother-in-law John Drew at his salt works on "Dirty Creek." 5

In 1861 Scales enlisted in the Second Cherokee Regiment to serve in the Confederate cause; for a year he was in the quartermaster department but upon the reorganization of the First and Second regiments Joab was assigned Company C of the First which was commanded by Colonel John Drew.

3 Grant Foreman Collection of Drew Papers.
4 Ibid. Mr. Worcester referred to was of course the Reverend Samuel Austin Worcester of Park Hill and Mrs. Foreman was the wife of the Reverend Stephen Foreman of the same village.
5 Authority of Mrs. Ella Coodey Robinson.
When his term expired Scales recruited a company which became included in a battalion commanded by Major Moses Frye. He served as captain until the battalion was incorporated with another into a regiment when the captain was promoted to adjutant general under Brigadier General Stand Watie. At the close of the war Scales accompanied Stand Watie to Washington as a delegate of the southern Cherokees and spent the years from 1866 to 1868 in the national capital.

According to Joseph Albert Scales, grandson of Joseph Absalom Scales, the latter participated in the battle of Fort Wayne on October 22, 1862, and at Fort Davis on December 27, 1862; the confederates were defeated in both engagements and Fort Davis was burned by the Federals.

Webber's Falls, C. N.
April 12, 1863

"Colonel: [Col. W. P. Adair]

"I arrived to-day at this place, and found that the excitement growing out of the approach of the enemy had somewhat subsided. Captains [Alexander] Foreman's and [Charles] Holt's companies are encamped on the river at the Falls and Captains John W. Brown and John Shepherd Vann on the prairie... the river is picketed up to the mouth of Grand River at all times; but the smallness of the forces under Captain Foreman does not give the protection that our people should have... Captain Foreman, who is, as you are aware, president of the convention, desired me this evening to suggest to you the sending up of at least 200 more men... Jack Cookston, a prisoner captured by Captain Holt at White Oak Springs near Tahlequah, says that they (the Pins) intend issuing a circular inviting us back again... it was already prepared and being printed...

"We have been reduced from opulence to penury, driven from our homes, endured cold and hunger, and had our friends murdered by an inhuman and inexorable foe...

"Our troops are forced to defend Fort Smith, a filthy sink of corruption and iniquity, inhabited chiefly by a foul, speculating horde, our enemies at heart, who sell the comforts of life to Confederate soldiers at ten

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6 According to the Confederate records in the Oklahoma Historical Society, compiled from the archives in the War Department in Washington, J. A. Scales enlisted in the First Cherokee Mounted Volunteers on July 12, 1861. He was thirty years old, five feet seven inches in height with a light complexion, blue eyes, light hair. He was a lawyer. His name was on the roll December 4, 1861.

Scales also served in the Second Cherokee Mounted Volunteers (also called Mounted Rifles or Riflemen) formed February 3, 1863 by the addition of five companies, formerly attached to the first Cherokee Regiment Mounted Volunteers, to Bryan's 1st Battalion Cherokee P. R. Scales was adjutant of the Second Regiment; captain of Company A of the Cherokee Battalion; on April 21, 1865 he signed a requisition as major. It is also stated that he enlisted on July 12, 1862 at Fort Davis.

7 The War of the Rebellion... Series I, Vol. 22, Part II, 821-22, Washington, 1888. A notation states: "This letter was written to the colonel of the Second Cherokee Regiment, who remarks, "The letter needs no comment. So far as I have learned, it breathes the sentiments of the great majority of our people."
but we must confess that the Federals treat their perfidious allies better than the Confederate government, through its officers, has treated its most devoted and loyal Indians. I will not enter the convention with that cordial feeling toward the South that I had two years ago. *Quid pro quo* is human nature. Use me well, I love you; abuse me, and I don't.

"With much respect, I remain, your friend,  
J. A. Scales."

Mr. Scales stated that Major Scales was with General Watie when he captured the steamboat *J. R. Williams*, loaded with supplies for the Federal troops at Fort Gibson. The capture was effected at Pheasant Bluff on the Arkansas River at the point where Israel Vore had maintained a store for some fourteen years.  

The Confederates were greatly cheered by the capture of the steamboat *J. B. Williams* on the Arkansas River near the mouth of the Canadian on June 12, 1864. This boat was loaded with one of the largest cargoes ever sent by water into the Indian Territory. McDonald and Fuller of Fort Smith shipped merchandise worth $120,000, under their trader's license, to Fort Gibson for the troops and refugees encamped there. The cargo consisted of one thousand barrels of flour, tons of stripes, prints, yarns, blankets, shoes and boots, bacon, sugar and shawls. Watie planted cannon upon the bank of the river and so disabled the boat that she was easily captured and the Confederate "Indians bore away to their destitute families all they could carry. It was said that the scattering to their homes of the Indians thus loaded with loot almost broke up Stand Watie's command."  

The first Confederate convention held by the Cherokees was in session at Tahlequah for eleven days during August, 1862. The final session took place near the mouth of Coodey's Creek in the Canadian District from May 22 to June 1, 1863. Members of the convention from the Canadian District were J. A. Scales, Walker Carey, and O. H. P. Brewer.  

Mr. Scales and Rose Talley also a Cherokee, were married and became the parents of a daughter Nancy, who was born in 1859 and died at the age of sixteen, while a student at the Cherokee Female Seminary at Park Hill. Peter J. their son was born in July 1862, and died October 28, 1896. Mrs. Scales died on November 30, 1882 and he subsequently married Mrs. Amanda Morgan Fowler who was...
a daughter of Gideon and Margaret Sevier Morgan. By that marriage a son who bore the name of Colbert died at the age of four years.11

Major Scales wrote to Colonel William Penn Adair on April 12, 1863, “a circular inviting us back again” was being printed by the Pin Indians and that doubtless it would cause disaffection in the Confederate forces, not to say desertions when it was realized that the men might remain at home, with their families, well fed, well clothed instead of nakedness and starvation and probably walking to the Red River. “The simple truth is, we have been very badly treated by officers of the Confederate States. . . . to say nothing of the utter failure of the Confederate States to give protection promised in the treaty, and that at a time when their military pantomime, General Pike, had force enough to defend us. . . .”12

Scales wrote his niece Emma Drew from Headquarters First Cherokee Battalion, May 25, 1864, that he had just received her note and was glad that the babies were well:13

“I have just returned from a Scout upon Ark. [Kansas] River. Saw Fort Gibson but the river was too high to cross—I was not about the Falls [Webbers Falls]—We will start back tomorrow, to be gone I know not how long, or where we are going to. You can write me, & send to ‘Hd. Qrs. 1st. Ind. Brig. In the Field.’ & I will get your letters—Don’t be so lazy, & write more.

“We had a hard scout of fifteen days, eight days without bread, & raining nearly all the time—I do not know how I can ever get home again—since I have taken command of the Battalion—I came down to see Col. Walls, but found he had gone up on Ark—There [were] only a few pins at Gibson, the impression is that they have abandoned Ft. Smith—Col. Bell is on scout down there & will be back in a few days. . . .

“I suppose you have heard of the Arrest of Vann & Willie Coody—They did not kill Willie until the next day [paper torn] wounded & was crawling to the River for water, and the Picket saw him, & came over and killed him & threw his body in the River. . . .

“Your Uncle Joe.”

Five days after Stand Watie surrendered on June 23, 1865, he appointed a delegation made up of J. A. Scales, John Spears, Joseph Vann, J. P. Davis, William Chambers, and Too-nah-na-lah Foster to secure information that would “forward the great work of establishing thorough harmony among all Indian tribes. . . .”14

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11 D. C. Gideon, Indian Territory (New York and Chicago, 1901), 592-93. Much of the same material is to be found in an interview with Joseph Albert Scales, a son of Peter J. and Sophia Vore Scales. The latter was a daughter of Major Israel G. Vore, a prominent citizen of the Indian Territory and a resident of Webber’s Falls. Oklahoma Historical Society, Indian-Pioneer History, Foreman Collection, Vol. 43, 382-417.
12 Morris L. Wardell, A Political History of the Cherokee Nation, (Norman, 1938), 164-65. J. A. Scales was secretary of the council which met at Armstrong Academy in August, 1863.
13 Grant Foreman Collection, Drew Papers.
14 Wardell, op. cit., 180.
"An Act in regard to Scales and others\textsuperscript{15}

"Whereas a communication, dated at Fort Gibson July 7th, 1865, has been presented to the National Council from J. A. Scales, Delegate of the Grand Council &c addressed to Lewis Downing, Asst. and Acting Principal Chief of the Cherokee Nation, submitting the communication therein referred to and requesting a conference on behalf of himself and associate delegates, with the authorities of the Cherokee Nation, Therefore

"Be it enacted by the National Council That the Principal Chief Wm. P. Ross, Smith Christie, Budd Grittis, Thomas Pegg, James McDaniel, White Catcher, James Vann and Houston Benge be and they are hereby directed to grant and hold said conference with Messrs. John Spears, J. A. Scales, J. P. Davis, Joseph Vann, Wm. P. Chambers and Too nah na lah Foster, as Cherokees and late citizens of this Nation, to assure them of the amicable feelings of the People and authorities of the Cherokee Nation towards those Cherokees who have been involved in the late war on the side of the Rebellion, of their desire for peace and of their willingness to receive and readmit to citizenship as such Cherokee individuals, in the manner and upon the conditions embraced in the Act of the National Council Approved July 13th 1865, with a copy of which they will be furnished, But the Cherokee Nation is not to be understood by their present action, as recognizing the said Cherokees in any other capacity than private persons, nor as representing any Government association or Political community of Cherokees independent of, or in opposition to the Government of the Cherokee Nation. Nor as committing them in any way, to the terms of any agreement entered into by said Cherokees and other parties without the knowledge or sanction of the authorities of the Cherokee Nation nor of their willingness to submit the adjudication of any questions pertaining to their domestic affairs to any Council, Tribunal or Authority than that presented by the Constitution and Laws of the Cherokee Nation.

Tahlequah C. N.
'July 14th 1865

"Approved
"Lewis Downing Asst. and
Acting Prin. Chief"

Lewis Downing, in the absence of John Ross, called his adherents to a council in Tahlequah to decide whether the Cherokee delegation should be given a hearing. The amnesty was proclaimed on July 14, 1865.\textsuperscript{16}

"At the same time, Scales, who seemed to have been the leader and spokesman of the delegation, was informed of a willingness to confer and of the basis upon which the truant members of the tribe, with certain exceptions, would be taken back. They were to subscribe to an oath of allegiance and surrender all claims to individual property rights. Reconciliation seemed farther off than ever. Colonel Garrett\textsuperscript{17} was nonplussed and tried to persuade Scales that the best thing for him and his people to do was to go quietly and peaceably to their homes and there abide until such time in September as the Grand Council should reconvene."

At Armstrong Academy September 6, 1865, J. A. Scales, was Secretary of the Grand Council which was made up of Clermont,

\textsuperscript{15} Oklahoma Historical Society, Indian Archives Division, Cherokee Vol. 251, 36.
\textsuperscript{16} Annie Héloïse Abel, The American Indian under Reconstruction, (Cleveland, 1925) 157-9, 160-61.
\textsuperscript{17} Colonel John A. Garrett, Fortieth Iowa Infantry, commandant of Fort Gibson.
Chief Osages; Co-not-sa-sonne; Comanche Chief; George Washington, Chief Caddoes; Luck-a-o-tse, Chief Arrapahoes; John Jumper, Chief Seminoles; Winchester Colbert, Governor Chickasaw Nation; Stand Watie, Principal Chief Cherokee Nation; Samuel Checote, Principal Chief Creek Nation; P. P. Pitchlynn, Principal Chief Choctaw Nation.18

The commission appointed to go to Washington in 1866 was made up of Elias Cornelius Boudinot, Stand Watie, and his son Saladin Watie, William Penn Adair, Richard Fields, Joseph Absalom Scales and John Rollin Ridge who served as chairman. This was the only time that John Rollin Ridge ever took part in the affairs of his nation. He had been obliged to flee from his home after he shot and killed David Kell. He had a distinguished career as a poet and editor in California where he made his home until his death at Grass Valley, October 5, 1867.19

Chief John Ross was ill in Washington in 1866, but he directed the northern delegates from his sick bed. Stand Watie was greatly needed among his followers in the nation and he took Scales with him and returned home.

On June 20, 1866, J. Woodward Washbourne wrote to Scales from the steamboat America urging him to have the Southern Cherokee government organize immediately. Of course Chief Ross and his delegation were not willing to have the nation divided.20

Major J. Woodward Washbourne was a son of Dr. Cephas Washbourne and at the beginning of the Civil War he was Seminole agent and editor of The Arkansas, of Fayetteville, Arkansas. He enlisted at the commencement of the war and served throughout that conflict, first with Arkansas troops and later with Stand Watie. He married a daughter of John Ridge.21

A convention of southern Cherokees was held at Briartown school house in Canadian District on December 31, 1866, to hear the reports of the delegates recently returned from Washington. The meeting lasted at least two days and William P. Adair, J. A. Scales, and Richard Fields were chosen to represent the southern branch of the Cherokees. The men departed for Washington as soon as possible, while W. P. Boudinot and Stand Watie stood guard at home.

Chief Downing thought that affairs in the nation would be more amicable if there was only one delegation so he appointed Adair and

18 Able, op. cit., 187 note 400.
21 Mabel Washbourne Anderson, The Life of General Stand Watie and Contemporary Cherokee History, (Pryor, Oklahoma), 1931, 73.
Scales among other southern sympathizers on a large delegation thus uniting the factions.

The first members of the Cherokee Citizenship Court were John Chambers president, Scales (who succeeded David L. Nicholson who died), O. H. P. Brewer, and George Downing.22

It appears that the southern faction maintained a delegation in Washington long after the treaty of 1866 was signed. Adair wrote to Watie from Webber's Falls June 20, 1867 that he was expecting Scales within a week. "When he comes we will call the people together and report to them. At this time I think our prospects in Washington are much better than they have been, provided we can beat Bill Ross for Chief which I feel assured can be done with proper management." He was correct in his surmise as Lewis Downing defeated Ross the following August.

Scales was still in the national capital in November, 1867 when Saladin Watie wrote to him from Webber's Falls on the fourth of that month:23

". . . . I . . . . saw Col Adair a short time ago and he told me that he expected you back in a few days; I since herd from you throug Sulaton who said you did not speak of coming home until Christmas. Every body is very anxious to see you, more especially the girls who are very afraid you will bring home that yankie wife, and if you do you need not expect to have any friends here a bouts. . . . ."

"Articles of agreement made and entered into, this sixth day of August, A.D. 1868, between the Cherokee Nation of Indians represented by the following duly authorized delegates and representatives, viz., Lewis Downing, Principal Chief, H. D. Reese, Chairman, Wm. P. Adair, J. P. Davis, E. C. Boudinot, Arch Scraper, Samuel Smith, and J. A. Scales, and the Munsee or Christians of Kansas, represented by their duly authorized councilmen, Ignatius Caleb and Moses Kilbuck."

The document goes on to say that the Cherokees, actuated by motives of humanity and a sincere desire to do good to all civilized Indians, agreed to accept the Munsee or Christian Indians into the Cherokee Nation and to confer upon them all the rights and privileges of Cherokee citizens; the Munsees agreed to abide by, conform to and obey the constitution and laws of the Cherokee Nation.

In consideration for such privileges the Christian Indians agreed to pay the Cherokees four thousand dollars to become part of the National fund. This money was to be paid within sixty days after the treaty concluded between the United States and the Munsee Indians on June 1, 1868, shall have been ratified by the Senate of the United States.

22 Wardell, op. cit., 206, 212, 228-29 Note 17.
This document was signed in Washington by J. A. Scales and the other Cherokee delegates on August 6, 1868.\textsuperscript{24}

At the international council held in Okmulgee in September, 1870 the Cherokee delegates were W. P. Ross, Riley Keys, Allan Ross, S. H. Benge, O. H. P. Brewer, J. A. Scales, S. M. Taylor, Stealer, Moses Alberty, Ezekial Proctor, Joseph Vann, Clement N. Vann, Stand Watie and John Sarcoxie (Delaware).

At Okmulgee, Muskogee Nation, on Tuesday, December 6, 1870, the General Council of the Indian Territory assembled with Enoch Hoag, superintendent of Indian Affairs, presiding. I. G. Vore was the secretary and the Cherokee Nation was represented by O. H. P. Brewer, S. M. Taylor, J. A. Scales, Stealer and Joseph Vann. On December 8 Moses Alberty and Ezekial Proctor took their seats. The following day Scales was put upon the committee on judiciary, in place of Clement N. Vann who resigned. Henry Chambers replaced Vann on the delegation.

On December 15, Allen Ross, chairman of the committee on international relations, submitted the report of his committee in the form of a resolution tendering to the wild tribes of the Plains the hand of friendship, and recommending to them the prudence of refraining from acts of hostility among themselves, as well as against the citizens of the United States. On the motion of Scales the report was unanimously adopted.\textsuperscript{25}

Scales was nominated for member at large to the General Council from the Cherokee Nation on November 13, 1871. He was a delegate to the International Council in September and December, 1870, June, 1872 and May, 1873. He also attended the General Indian Council at Wichita Agency in April, 1871 as a delegate of his nation.

One of the most tragic occurrences in Cherokee history took place at Goingsnake Courthouse in April, 1872, in which eight United States marshals and three Indians were killed. "Major Joab Scales, a prominent lawyer in the Cherokee Nation, is in town. He was present at the Indian fight and was one of the attorneys prosecuting Ezekial Proctor for murder."\textsuperscript{26}

The Fourth International Council composed of delegates from the Indian tribes legally resident in the Indian Territory, assembled at Okmulgee from the fifth to the tenth of May, 1873.

J. A. Scales was one of the eleven delegates from the Cherokee Nation and at the meeting on May 7 he moved that the rules for the

\textsuperscript{24} This agreement is to be found in \textit{Laws of the Cherokee Nation}, 1868 (Tab-le-Quah, 1870), 28.


\textsuperscript{26} \textit{Fort Smith Herald}, April 20, 1872, 3, col. 4; April 18, 1872, 2, col. 3.
deliberation of the previous session of the Council be adopted for the present session. During the afternoon session on May 9 Scales moved that the committee on International Relations be instructed to take into consideration the best method of inducing the Cheyennes to confederate with the nations and tribes.

On May 10 Scales was appointed chairman of the committee on credentials and on his motion the chair added Mr. John McKinney, Choctaw, to the committee on International Relations.

When the report of the credentials committee in the case of the Miami delegate was read Mr. Scales interposed some objection to the phraseology, saying "some words occurred in it which he thought were unnecessarily pointed." Joseph P. Folsom, of the Choctaw Nation, spoke in support of the spirit of the report and showed the reasons for the use of the objectionable words.27

When J. P. Folsom submitted a memorial to the Council to be presented to the President of the United States praying for a liberation of the Kiowa chiefs Satanta and Big Tree, Scales requested that a few verbal alterations be made. The following day he submitted a substitute because the original was couched in bad English.

Mr. R. E. Blackstone of the Cherokee delegation, excused the committee by saying that it was made up of Indians, who thought in Indian, and hence the irregularities of their English; Scales advised not to write in English when they were thinking in Indian. Mr. Folsom replied that the committee was competent to write and transact its business much better in Indian, but that he feared Scales could not well manage business coming up in that shape.

Folsom actively opposed the Dawes Commission in 1895. He was president of the Senate at that time and during the session of the Council he introduced a bill "providing that any citizen who should attempt to overthrow the Choctaw government of system of landholding or to convey any Choctaw lands to non-citizens 'or attempt to betray said land and Choctaw country into the hands of a foreign power' should be guilty of treason and subject to a jail

27 Joseph Pitchlynn Folsom, born in 1823, was educated at the Choctaw Academy in Kentucky and at Dartmouth College. He was a three-quarter Indian, and attorney of note in his nation. His wife was a Seneca Indian. He attended the General Council in 1870 and took an active part in the Council of 1873 when he was a member of the Committee on Education, a member of the Special Committee and chairman of the Committee on Relations with the United States (Journal of the Fourth Annual Session of the General Council of the Indian Territory at Okmulgee, Indian Territory. . . Lawrence, Kansas, 1873). In 1875 Folsom was one of the organizers of the International Printing Company which issued the Indian Journal at Muskogee.

Folsom compiled an official digest of all the Choctaw legislation enacted before 1869. He opposed the charter granted to the St. Louis and San Francisco Railroad and he was defeated as chief by Jackson McCurtain in 1884.
sentence and fine for the first offense and death for the second.’’ This bill passed the Senate but failed to pass the House.28

‘‘ . . . . . On the 19th of November, 1874, the national council of the Cherokee nation passed an act authorizing the principal chief, William P. Ross, to appoint three commissioners to revise, amend and codify the existing laws and prepare new laws as the conditions of the nation demanded. The commissioners appointed were Messrs. William P. Boudinot, D. H. Ross, and Joseph A. Scales.’’29

The delegation to Washington in 1874-75, composed of D. H. Ross, Adair, and Scales was charged to ‘‘give all the aid in their power . . . . to the ‘Old Settler’ Cherokees in the prosecution of their interests, yet due them, of the percapita funds, set apart to the Cherokees by the treaties of 1835-36 and 1846.’’

The Cherokee Advocate on August 8, 1877, published the news that Hon. Solicitor General, Maj. J. A. Scales of Webbers Falls had been prostrated by a severe stroke of paralysis and that Dr. William Campbell, his physician, gave no hope of a permanent recovery.30

However, in August, 1878 Major Scales went to Hot Springs, Arkansas to spend two or three months for the benefit of his health. In November he was appointed clerk of the citizenship commission and the Advocate declared: ‘‘A better selection could not have been made—in fact we look upon Scales as being one of the best men in our Nation.’’31

The Cherokee National Council granted J. Scales a lease on the saline known as Drew’s Saline, Canadian District and the act was approved December 9, 1881. His lease was to run for ‘‘five years, free of tax, with the privilege of leasing the same thereafter in accordance with the provisions of the existing law in relation to ‘minerals.’ ’’ Scales was also granted the free and unmolested use of all of the timber within one-half mile from the salt well for the purpose of operating it—provided that it did not interfere with the improvements of any citizen within that area.

It was further provided that no claim on account of any improvement made by Scales, should arise against the Nation, ‘‘but all such improvements, excepting kettles and movable machinery,
shall revert to the Cherokee Nation, whenever the said Joseph A. Scales ceases to operate said saline. . . . "\[32]

That Judge Scales had a gift for language is demonstrated by letter from him which appeared in the Vinita Indian Chieftain March 10, 1887.

J. H. Akin, an attorney at Vinita, had sent a letter to the Chieftain which was printed on January 13, in which he indulged in severe criticism of the Supreme court. He signed his communication "Subscriber" and Scales obtained his name from the editor so as to answer him directly. He wrote:

"I . . . was curious to know which of the attorneys before the supreme court was so wanting in decency as to write such an article. I inferred from the internal evidence that it was the product of some disappointed pettifogger who desired to attain notoriety by attempting to cast odium upon the court and its officers. But singularly protected by your utter insignificance your name did not occur to me, and I did like to go skunk hunting in the dark.

"It is not my intention to defend the decisions of the court. They need none, and besides I am not responsible for them. I may however be allowed to say that the court has been able to discriminate between a constitutional requirement and a provision of the statute in relation to "formal" defects, and it has also been able to judge whether some of the literary curiosities called "bonds" were really such, and some times it has thought they were not. In this it is different with the fools who thought otherwise, but of course the court would think it beneath its dignity to enter into a newspaper controversy with every lying scribbler who might wish to avail this method through spleen or malevolence, to ventilate his imaginary grievances." The remainder of the letter is couched in the bitterest sarcasm which was calculated to remove the hide from any animal with a thinner skin than a rhinoceros and it closed with "you have been abundantly blessed with ignorance and self conceit and had not the good Lord benevolently made you an ass, you would have been a scoundrel."

The Cherokee Advocate of January 22, 1890, contained an article regarding the tragic death of Judge Lynch. Particulars of the accident were sent to the editor, R. F. Wiley, by Judge Scales so that an account could be given to the readers of the paper. Judge Lynch died on January 14th. He had driven to Briartown and on the return trip, near the home of Mrs. Vore, he drove his buggy on a stump and broke the double tree. He placed the broken pieces in the buggy, followed his horses a short distance, mounted one of them and rode away. About a mile distant he was found at dark, and taken to his home where he died shortly afterward. From appearances, it was thought that one of the horses had fallen on him. " . . . He was one of the most respected men in this nation. He has often represented his district in the National Council, filled the position of circuit judge, and at the time of his death, a chief justice of a special supreme bench."

[Laws and Joint Resolutions of the Cherokee Nation, enacted during the Regular and Special Sessions of the Years 1881-2-3 (Tahlequah, 1884), 39.]
Scales was among the Downing men considered as a candidate for principal chief at the election in 1891 when C. J. Harris was elected. He filled a really important position when he was selected to serve on the committee to dispose of the Cherokee Outlet; his fellow committee men were Elias Cornelius Boudinot, the Reverend Joseph Smallwood, Roach Young, George Downing, Thomas Smith, and William Triplett.

Judge Scales expressed his opinion on a number of national questions in a letter published in the Vinita Chieftain, March 20, 1890. Regarding the disposition of the western portion of the Cherokee Nation he declared:

"... I favor the sale of the lands lying west of the Arkansas river, because they must be, in the near future, abandoned by the cattlemen; be left, unproductive, upon our hands, be open to inroads by the greedy and lawless hordes of Kansas and adjacent states.

"I believe, however, when we are offered a fair price, it will be wise to sell—especially, if in the arrangement we can strengthen our rights—not of soil, but political—east of the ninety-sixth degree. It ought not to be considered a party question—all should desire the fairest price possible, and endeavor to get it."

He advised that the funds be invested so that the interest might be used for schools where the Cherokee children would learn English and white pupils Cherokee:

"[Thus] the next generation of adults would be brought nearer together in sympathy, language and interest. . . .

"Judging from my personal acquaintance, I think the number of white men intermarried who claim an interest in our soil other than that of their wives and children—insignificant. And while I think we made a very poor bargain with the Shawnees, I do not question their right to share with us. The same may be said of the children born of the Delawares since their incorporation. There may be a question as to the rights of the older ones.

"I do not believe the negro entitled to a cent of our money, or to a foot of land. In 1866, after the war of the rebellion had ended, and the Indians that had been involved in it, were readjusting their relations with

33 Wardell, op. cit., 345.
34 Elias Cornelius Boudinot was editor of the Cherokee Advocate in 1879 and in 1885; The Reverend Joseph Smallwood was solicitor of Going Snake District in 1883, delegate to Washington in 1895 and judge of Going Snake District in 1897; Roach Young served as senator from Illinois District in 1893 and 1895. Earlier in life he was chairman of the Citizen Court in 1879 and in 1885 he was associate judge of the Supreme Court.

George Downing was elected sheriff of Saline District in 1867; executive councilor in 1877 and councilor for Tahlequah District in 1885. Thomas Smith had been an executive councilor in 1899. William Triplett was councilor of Tahlequah District in 1877, senator from Tahlequah District in 1889 and judge of that district in 1895 (Starr, op. cit., 285, 289, 296, 270, 293, 298, 290, 295, 257, 269, 277, 285).

35 In June, 1869, an agreement was reached with the Shawnees whereby 770 members of that tribe removed to the Cherokee Nation. On April 8, 1867, agreement had been arrived at with the Delawares who purchased 160 acres of land for each member of the tribe at $1.00 an acre (Wardell, op. cit., 219, 217).
the United States, the Creeks being the least intelligently represented, on
the so-called loyal side, and being more than any of the civilized tribes
dominated by negro influence, the government took advantage of their
weakness, and negotiated the first treaty with them, the second article
of which is as follows:

"The Creeks hereby covenant and agree, that henceforth, neither
slavery nor involuntary servitude, otherwise than the punishment of
crimes, whereof the parties have been duly convicted . . . . shall exist in
sae nation, and in as much as there are among the Creeks many persons
of African descent, who have no interest in the soil, it is stipulated that
hereafter these persons, lawfully residing in the Creek country, under
their laws, usages, or who have been thus residing in said country, and
may return within one year from the ratification of this treaty and such
others of the same race as may be permitted by the laws of said nation
to settle within the limits of the jurisdiction of the Creek Nation as citizens
(thereof) shall have and enjoy all the rights and privileges of native
citizens, including an equal interest in the soil and national funds, and
the laws of said nation, shall be equally binding upon, and give equal pro-
tection to all such persons, and of all others of whatsoever race or color
who may be adopted as citizens or members of said nation.

It is only necessary to compare the Cherokee and Creek articles,
in relation to the Negro to see that striking difference between them and
that they do not mean the same thing. The Cherokee treaty is as follows:

"Article 9th. The Cherokee nation hereby voluntarily in February
1863, by an act of their national council, forever abolished slavery, hereby
covent and agree that never hereafter shall slavery or involuntary servitude exist in their nation, otherwise than for punishment of crime. . . . . They further agree that all freedmen who have been liberated by voluntary acts of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are
now resident therein, or who may return within six months, and their
descendants, shall have all the rights of native Cherokees, provided, that
owners of slaves so emancipated in the Cherokee nation, shall never
receive any compensation or pay for the slaves as emancipated.' You do
not here find any mention of lands, or soil, or national funds . . . . .

If the 9th article of the Cherokee treaty conveys any rights of
property to the Negro, it is the first recorded instance of the kind where
property was conveyed without naming it, since the 'earth was divided'
in the days of Peleg. . . . ."38

The Cherokees had made an agreement with the Jerome Com-
mion at Tahlequah on December 19, 1891 and it was followed by
articles of agreement made and concluded between the United States
and the Cherokee Nation in Washington on May 17, 1893.37

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38 Peleg, son of Eber, and fourth in descent from Shem. His name Peh-leg, means division or separation, and is said to have been given him because in his
days the earth was divided (Samuel Fallows (ed.) Bible Encyclopaedia (Chicago,
37 The Cherokee Advocate, Tahlequah, Indian Territory, June 24, 1893, 1,
col. 8.
At the International Council held in Checotah on February 19, 1894, the Cherokees were represented by J. A. Scales, L. B. Bell, and S. M. Mayes as provided by an act of the National Council. 

The election of Scales as an associate justice of the Supreme Court was a tribute to his standing as an attorney. His first term in 1881 was followed by a second on October 6, 1882. The following month he was elected Chief Justice. John Wright Albery succeeded to the high office in 1883 and Jackson Christy on March 2, 1885. James McDaniel Keys was the next Chief Justice and he was succeeded by Joseph Absalom Scales.

In the Indian-Pioneer History project of the Oklahoma Historical Society an interview was had with Watt Gott of Hulbert, Oklahoma, in which he related:

"A speech was made by Joab Scales, a confirmed Confederate, and what he said about the Dawes Commission was: 'There is not a baker's dozen of you in this crowd who do not know that the Dawes Commission are going to give to your old slaves as much land as you will get.' Well it just about so happened, and the Cherokees did not approve of the Freedman Act at all, but they knew they were whipped."

Judge Scales died on Friday, October 18, 1901 and his remains were laid to rest in the family burying ground near Webbers Falls. His widow Mrs. Amanda Scales continued to occupy the Scales home.

38 ibid., February 14, 1894, 2, col. 7. Lucian Burr Bell, better known as "Hooley" Bell, was a native of Habersham County, Georgia. He was born February 13, 1838; his parents were John A. Bell and Jane Martin, a daughter of Chief Justice John Martin. He was educated in Arkansas and served in the Confederate Army under Stand Watie. After the war he became clerk in the senate and held that office from 1873 to 1877. In 1881 he was a member of the townsite commission. Mr. Bell was appointed by Treasurer Bushyhead to take charge of the revenue from the Strip, "... the first man who proved the possibility of deriving revenue from that source." He attended several of the International Councils, was a member of the Cherokee senate, and a delegate to Washington on several occasions (H. F. & E. S. O'Beirne, The Indian Territory [Saint Louis, 1892], 314-16.

Samuel Houston Mayes, a son of Samuel and Nancy Adair Mayes, was born in Flint District, Cherokee Nation, on May 11, 1845. After the war he was educated in Rusk County, Texas. He began his public career in 1881 when elected sheriff of Cooweechoowee District for two years. In 1885 he was chosen as senator from his district and was reelected in 1891. Mayes reached the highest office among his people when he was elected principal chief in 1895 (Gideon, op. cit., 280-81).

39 Starr, op. cit., 293.

40 Oklahoma Historical Society, Indian-Pioneer History, Vol. 84, 259.