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Cherokee Indian Removal:  
The Treaty of New Echota and General Winfield Scott

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A thesis  
presented to  
the faculty of the Department of History  
East Tennessee State University

In partial fulfillment  
of the requirements for the degree  
Masters in Arts

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by  
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May 2003

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Keywords: Cherokee Indians, Winfield Scott, Treaty of New Echota, John Ross

## ABSTRACT

The Treaty of New Echota and General Winfield Scott

by

Ovid Andrew McMillion

The Treaty of New Echota was signed by a small group of Cherokee Indians and provided for the removal of the Cherokees from their lands in the southeastern United States. This treaty was secured by dishonest means and, despite the efforts of Chief John Ross to prevent the removal of the Cherokees from their homeland to west of the Mississippi River, the terms of the treaty were executed. In May of 1838, under the command of General Winfield Scott, the removal of the Cherokees commenced. Scott encountered many difficulties including inefficient commissioners and superintendents, drought, disease, and the wavering policy of the Van Buren administration in his quest to fulfill his assignment. He considered the humane treatment of the Cherokees to be his primary concern and did everything in his power to assure that they were not mistreated. These events led to the tragic “trail of tears.”

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## CHAPTER 1

### INTRODUCTION

The focus of this study is an examination of the events that led to the signing of the Treaty of New Echota, which was the treaty that authorized the removal of the Cherokee Indians from the southern states to west of the Mississippi River, and the execution of the terms of this treaty by General Winfield Scott. First, the political and social factors that culminated in this treaty and removal will be included; the opposition to removal by both Cherokees and white men; and the proponents of removal.

Secondly, the command decisions of General Winfield Scott during the removal of the Cherokee Indians in the summer of 1838 will be presented in detail. While many scholarly works have been written concerning the political and legal struggles of the Cherokees to maintain their sovereignty and possession of their lands during the period preceding the removal, very few have concentrated on Scott's role. Biographers of Scott prefer to write of his heroism in the War of 1812 and the Mexican War, but they devote little or no attention to his role in the Cherokee removal. It will be the objective of this paper to ascertain the effectiveness of Scott's planning, organization, and execution of the removal operation, with an emphasis on his humanitarian efforts and concern for the welfare of the Cherokees.

A short history of the early relationship between whites and Cherokees provides a better understanding of the desperate circumstance in which the Cherokees found themselves when the treaty was signed, as well as after the ratification of the treaty and when Scott took command of the removal.

Prior to the arrival of the white man, the Cherokees held a vast territory. Their claims

included most of the present states of Kentucky and Tennessee and parts of West Virginia, Virginia, North Carolina, South Carolina, Georgia, and Alabama.

Fernando Desoto was most likely the first white man to encounter the Cherokees. In May of 1540, Desoto reached an Indian village called Chelaque; the inhabitants were probably the Cherokees. He described Chelaque as “the poorest country of maize that was seen in Florida,” and he noted that its inhabitants were said to “feed upon roots and herbs, which they seek in the fields, and upon wild beasts, which they kill with their bows and arrows, and are a very gentle people. All of them go naked and are very lean.” Desoto also passed through “Xualla,” present day Qualla, North Carolina, and “Canasagua,” present day Canasagua, Georgia.<sup>1</sup> He did not stay long in this area but saw evidence that the hills might contain gold and copper, which prompted future exploration by other Spaniards.<sup>2</sup> His expedition proved that the Cherokees held vast territory in the southeast hundreds of years before the white man would evict them.

Later as the southeast was colonized, social differences between white colonists and Cherokees created a conflict between the two cultures that did not allow peaceful co-existence and led to land boundary disputes. Cherokees were considered uncivilized by the colonists for their religious practices, matrilineal kinship patterns, clan system, tribal land ownership, hunting as a primary occupation, lack of a written language, and blood revenge practice. The Cherokees believed the “Great Spirit” was the creator of all things, owner of all lands, and that this authority gave their land to them.<sup>3</sup> They had a fondness

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<sup>1</sup> Charles C. Royce, *The Cherokee Nation of Indians*, Fifth Annual Report of the Bureau of Ethnology, 1883-1884 (Washington: Government Printing Office, 1887) , 135.

<sup>2</sup> Marion L. Starkey, *The Cherokee Nation* (New York: Alfred A. Knopf, Inc., 1946), 10.

<sup>3</sup> *Ibid*, 9.

for war, and being a warrior was an honored occupation.<sup>4</sup> Polygamy was practiced, and a man would often take a whole family of sisters for his brides. If a husband and wife could not get along, the husband would simply leave his wife, cabin, crops, and children and go elsewhere.<sup>5</sup>

The Cherokee government was based on a town system that made treaty negotiations difficult. The decisions of each town were made by three groups of elders. One group consisted of the priest-chief and his assistants, another group was comprised of the representatives of each of the seven clans, and a last group was the elders. When a governing matter had to be decided, each group presented ideas within the council and also to the whole town. It could take days for an agreement to be reached. If a clan disagreed, they withdrew from the proceeding to preserve the harmony of the town. The clan that withdrew would not be expected to abide by the terms of the agreement that had been reached. The signing of a treaty involving many towns worked in the same way. If some towns did not want to sign the treaty, they were not held to the terms of the treaty. The Europeans would often decide that one chief would represent the wishes of the entire tribe and make agreements with him, expecting the rest of the tribe to honor the treaty terms. Though this led the Cherokees to form a tribal government in the mid-1700s to negotiate treaties with the white man, a town could still choose not to follow the majority ruling.<sup>6</sup>

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<sup>4</sup> Rachel Caroline Eaton, *John Ross and the Cherokee Indians* (Chicago: The University of Chicago Libraries, 1921), 7.

<sup>5</sup> Starkey, 5-6.

<sup>6</sup> Gregory Evans Dowd, *A Spirited Resistance: The North American Indian Struggle for Unity, 1745-1815* (Baltimore: The John Hopkins University Press, 1992), 94, 112, 88. During the American Revolution, the Chickamauga branch of the Cherokees joined the British, to gain arms and ammunition, against the Colonists, and despite the efforts of the

From the establishment of the first English colony at Jamestown, in 1607, cooperative agreements between the whites and the Indians insured the survival of new colonies and provided a market for Indians to sell furs. However, as the population of the colonies grew, so did their demand for more land. Many Indians traded their lands for trinkets and objects of little value, and the practice of plying the Indian with liquor would become common in the years that followed. Virginia passed acts in 1655, and South Carolina much later, in 1739, with the objective of preventing the cheating of the Indians, as well as the retaliation upon the colonists, but violations by both colonists and Cherokees continued.<sup>7</sup>

In 1721, South Carolina governor Francis Nicholson signed a treaty with the Cherokees that established boundaries between whites and Indians to prevent traders from capturing the Indians and selling them into slavery, and also to protect any loss of trade with the Cherokees to the French. He requested that the Cherokees designate a general chief who could speak for their people in a general congress, and so the Cherokees elected their first principal chief, and thus created some sense of nationalism within the tribe. Delegates from thirty-six Cherokee towns accepted, and the peace pipe was smoked, presents exchanged, and land boundaries agreed upon.<sup>8</sup>

Though laws were passed to protect the Indians, they were hard to enforce and the Cherokees continued to be cheated out of their lands by greedy settlers. As part of the settlement of the French and Indian War, all land deals between private individuals and

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tribal council to end hostilities with the Colonists, peace was not made until 1795 with the Treaty of Tellico Blockhouse

<sup>7</sup> June Myers, *Comprehensive Plan - Volume III The Impact of Land Tenure Eastern Band of Cherokee Indians* (Washington D. C.: Department of Housing and Urban Development, 1974),13-17.



Indians were outlawed by the royal proclamation of King George III on October 7, 1763, for all land west of the Allegheny Mountains. King George III issued instructions to the governors of the colonies to maintain peaceful relations with the Indians and prevent fraudulent treaties. All purchases were required to be made for the Crown by the governor or commander-in-chief of the colony at a general council convened for the purpose. This proclamation, however, could not stop the westward trek of colonists, and the trading agreements between white men and Cherokees.

The fur trade provided profits for both the white men and the Indians, and while the Indians were reluctant to accept white ways, they were fascinated by European products. As traders extended them credit, the Cherokees became dependent on the traders for the maintenance of the lifestyles to which they were quickly becoming accustomed, and when they could not pay their bills, their possessions were taken in payment.

Competition between tribes and European countries for control of the fur trade caused many wars and conflicts. England, France and Spain were eager to keep peaceful relations and continue their fur trade with the tribes. The Cherokees traded beaver pelts and deerskins, as well as squirrel, fox, lynx, martin, and otter, for European goods. These goods included iron and steel goods, woolen cloth, clay pipes, glassware, wampum, steel knives, tools, traps, clothing, blankets, muskets, glass beads, and face paint. During the mid-1700s, the Cherokees traded about twenty-five thousand deerskins annually. The resulting depletion of game made the Indians more dependent on the whites for a food supply.<sup>9</sup>

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<sup>8</sup> Starkey, 12.

<sup>9</sup> Anthony F. C. Wallace, *The Long Bitter Trail: Andrew Jackson and the Indians* (New York: Hill and Wang, 1993), 22-24.

The Indians obtained whiskey through trade and this had a devastating affect, for the Indians had no tolerance for alcohol, and the “drunken Indian” became a popular stereotype of Native Americans.<sup>10</sup> The emulation of the white man’s lifestyle and vices combined with the abandonment of their ancient religious practices in favor of Christianity led to the destruction of the traditional Cherokee way of life.<sup>11</sup>

Prior to the Revolutionary War, a few treaties were made between the Cherokees and the colonial governments. However, between 1784 and 1836, the Cherokees signed at least sixteen treaties with the United States, which involved Indian land cessions in return for annual annuity payments. The Cherokees had allied with the British during the Revolution and their defeat at Dewits Corner on May 20, 1777, resulted in the cession of most of their land holdings in Kentucky, Tennessee, South Carolina, North Carolina, and Southwestern Virginia to the newly formed United States.<sup>12</sup>

The Articles of Confederation took the affairs of the Indians out of the hands of the states and placed it with the federal government. In accordance with Article II, one of the few powers that the states were willing to give to the new central government was to regulate the affairs of Indians *not* within state borders: “The United States Congress assembled shall have the sole and exclusive right and power of . . . regulating the trade and managing all affairs with the Indians not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated.”<sup>13</sup> On

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<sup>10</sup> James Adair, *The History of American Indians*, (London: E. and C. Dilly, 1775), 4-5. The trader James Adair found the Indians to be “witty, cunning, deceitful, very faithful to their tribe, but dishonest and mischievous to Europeans and Christians,” and capable of “crafty schemes”; he wrote that liquor transformed them into the “likeness of mad foaming bears.”

<sup>11</sup> Bernard W. Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill: The University of North Carolina Press, 1973), 213-219.

<sup>12</sup> Royce, 22. *The New American State Papers*, Indian Affairs, (Wilmington Delaware: Scholarly Resources Inc., 1970) Vol. I, 431. J.G.M. Ramsey, *The Annals of Tennessee to the End of the Eighteenth Century* (Charleston: J. Russell, 1853), 172.

<sup>13</sup> Meyers, *Comprehensive Plan - Volume III The Impact of Land Tenure Eastern Band of Cherokee Indians*, 19.

September 22, 1783, a proclamation was issued by the Confederation, that prohibited any person:

From making settlements on land inhabited or claimed by Indians without the limits or jurisdiction of any particular State, and from purchasing or receiving any gift or cession of such lands or claims without the express authority and direction of the United States in Congress assembled.<sup>14</sup>

It was not until November 28, 1785, that a peace treaty between the United States and the Cherokees, the Treaty of Hopewell, was signed. The Cherokees signed over their remaining lands in South Carolina and most of North Carolina and Tennessee. Article IX of this treaty gave the United States the power to regulate trade and manage all the affairs of the Cherokees as the government thought proper. The treaty also stated that no whites would settle on Indian lands.

White settlements on Cherokee lands, along the Holston and French Broad rivers of present day East Tennessee, demonstrated the inability of the new United States government to control the frontiersman and protect the Indians. Land speculation became a profitable enterprise, many Congressmen and their friends were speculators, and speculators would pay less than a penny an acre for some Cherokee lands and sell them for a sizable profit. Short staple cotton opened the southern uplands to cotton production, and the greed for Cherokee land increased.<sup>15</sup> Prior to 1784, these lands were still a part of North Carolina, a state that had not yet ratified the Constitution or turned over its western land to the United States. Frontiersmen had little respect for the weak federal government and disregarded the Treaty of Hopewell, arguing that it was invalid because it usurped the rights of a state. The impatient frontiersmen formed the “State of Franklin” and began attacks on the Cherokees. In January 1789, John Sevier led an invasion into Cherokee country and killed one hundred forty-five Indians.<sup>16</sup>

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<sup>14</sup> Ibid, 20.

<sup>15</sup> Grace Steele Woodward, *The Cherokees* (Norman: University of Oklahoma Press, 1963),122.

<sup>16</sup> Francis Paul Prucha, *American Indian Policy in the Formative Years: the Indian Trade*

On March 4, 1789, the first Congress under the newly ratified United States Constitution met. Article I, section 8, gave Congress the power “to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.” Then in Article II, the President “shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senators present concur.”

President George Washington believed that the Indians had forfeited all their land rights but preferred treaties to bloodshed. He urged the Cherokees to become farmers and embrace the white culture. This civilization effort was mostly due to the influence of Henry Knox, Washington’s first Secretary of War, who strongly favored the civilization of the Indians and was a proponent of their rights. In 1792, he told them that he wanted the opportunity to impart to them “all the blessings of civilized life, of teaching you to cultivate the earth, and raise corn, to raise oxen, sheep, and other domestic animals; to build comfortable houses, and to educate your children, so as ever to dwell upon the land.”<sup>17</sup> His policy of viewing Indian tribes as foreign nations and not as subjects of any particular state helped reduce interference by the states in Indian policy. When the Treaty of Hopewell was violated by the whites, who settled on Indians lands, Knox insisted that a new treaty be signed. In the resulting Treaty of Holston, 1791, the government offered to provide plows (to replace the crude sharp stone lashed to a crotched stick), other farm implements, looms, and spinning wheels.<sup>18</sup> The terms of the treaty stated:

That the Cherokee Nation may be led to a greater degree of civilization, and to

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*and Intercourse Acts, 1780-1834*, (Cambridge: Harvard University Press, 1962),147-149.

<sup>17</sup> Reginald Horsman, *The Indian in American History*, ed. Francis Paul Prucha, (New York: Holt, Rinehart, and Winston, 1971), 22.

<sup>18</sup> Alan Michael Demers, “Andrew Jackson, the Courts, and the Cherokee Nation” (thesis, East Stroudsburg State College, 1973), 6. George Dewey Harmon, *Sixty Years of Indian Affairs: 1789-1850* (Chapel Hill: University of North Carolina Press, 1941), 45. The treaty also stated that the Cherokees could punish anyone settling on their land without permission in anyway they wished.

become herdsmen and cultivators, instead of remaining in a state of hunters, the United States will from time to time furnish gratuitously the said nation with useful implements of husbandry.<sup>19</sup>

After the Revolution, a Cherokee agency was established at Rattlesnake Springs on the Hiawassee River to educate the Cherokees in the use of agricultural tools, care of livestock, and spinning wheels. The Cherokees began to leave their communal towns and spread out and establish their own individual farms; however, the land always remained communal property. Fortunately, they had always grown corn and beans, and now some Cherokees began to raise poultry, sheep, hogs, and cattle. They learned to preserve milk in their springhouses and make butter and cheese. No longer warriors or trappers, many Cherokee men considered their work to be done once the crops were planted and would leave the care of the crops to the women and “frolic” the rest of the year. The women and children, however, prospered from the more stable lifestyle. Babies were more likely to live and be healthier in a stable home than in a nomadic hunting camp.<sup>20</sup>

The words of chief Bloody Fellow, who had fought against the Americans during the Revolution, related the Cherokees willingness for change:

The treaty mentions ploughs, hoes, cattle, and other things for a farm; this is what we want; game is going fast away among us. We must plant corn and raise cattle, and we desire you to assist us. . . . We wish you to attend to this point. In former times we bought of the traders goods cheap; we could then clothe our women and children; but now game is scarce and goods dear, we cannot live comfortably. We desire the United States to regulate this matter . . . . We came to Philadelphia with our eyes full of tears. But since we have seen General Washington, and heard him speak through you, our tears are wiped away, and we rejoice in the prospect of our future welfare, under the protection of Congress.<sup>21</sup>

Despite the Cherokee advances in agriculture, the whites and Indians still could not peacefully co-exist. Knox wrote to Tennessee governor William Blount in August 1793

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<sup>19</sup> Woodward,112-13. Charles J. Kappler, *Indian Affairs: Laws and Treaties*, II, (Washington, 1904), 29-31.

<sup>20</sup> Starkey,16-18.

<sup>21</sup> Woodward,117. *The New American State Papers*, Indian Affairs, Vol. IV, Class II, 205f.

expressing his concern regarding violent attacks by the whites upon the Cherokees in violation of the treaties. He explained that treaties would become useless as a means to maintain peace, for if they were consistently disregarded the Indians would wage war against the settlers.<sup>22</sup> The state of Tennessee was established in 1794, before any legal right by treaty had been obtained. In regard to Tennessee squatters, George Washington wrote to the Cherokees that the more than ten thousand white people on these lands could not be removed.<sup>23</sup>

The result was the Treaty of Tellico of 1798 and was the only treaty signed during the presidency of John Adams. This treaty allowed the whites to remain in Tennessee and guaranteed the Cherokees their remaining forty-three thousand square miles of land “forever.” Adams maintained the treaty policies established by Washington.<sup>24</sup> Twenty years later, at age eighty-three, he believed that the whites had treated the Indians fairly and had legally obtained their lands. He wrote, ‘In short, I see not how the Indians could have been treated with more equity or humanity than they have been in general in North America.’<sup>25</sup>

Thomas Jefferson became president on March 4, 1801, and he was the first president to propose Indian removal, and although no immediate effort for their removal was made, this signified a shift from the Federalist policy of civilization to the Republican ideas of removal. The Purchase of Louisiana, in 1803, provided a territory to which the Indians could voluntarily remove. With the Mississippi River to separate the Indians from the white settlers, this territory seemed an ideal solution.

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<sup>22</sup> Prucha, *American Indian Policy in the Formative Years*, 150; Letter, Knox to Washington, Jan. 17, 1792, in *Territorial Papers*, IV, 111-115.

<sup>23</sup> Jeanne Williams, *Trail of Tears* (Dallas: Hendrick-Long Publishing Co., 1992), 149.

<sup>24</sup> Regan A. Lutz, “West of Eden: The Historiography of the Trail of Tears” (Ph.D. diss., University of Toledo, 1995), 10. John Adams to James Lloyd, March 31, 1815, in Charles Francis Adams, *The Works of John Adams* (Boston: Little, Brown & Co., 1856), X, 153.

<sup>25</sup> Lutz, 11. John Adams to William Tudor, September 23, 1818, in Charles Francis Adams, X, 359-360.

During the Jefferson administration, two policies were being pursued. On the one hand, the Cherokees were being civilized in the ways of the whites, while at the same time those Cherokees who did not wish to conform to the white way were encouraged to emigrate west. He saw environment as the main factor in determining a person's behavior; therefore, the Cherokees could be taught to behave as white people. In 1780, Jefferson wrote, "I believe the Indian then to be in body and mind equal to the whiteman."<sup>26</sup> He strongly advocated the intermixing of Cherokees and Americans. He was in favor of their adopting white culture, but not for the preservation of their present society. He believed that once they became farmers, Indians would require less land on which to live and would sell this unneeded land to the expanding whites. Although he was fascinated by Indian culture, his main concern was national security and national expansion.<sup>27</sup>

The removal policy accelerated while the Cherokees were being "civilized" on their ancestral lands. In 1804, an act of Congress approved an appropriation of fifteen thousand to move the Cherokees west.<sup>28</sup> Two treaties were signed that ceded areas of Cherokee lands in Kentucky, Tennessee, and Alabama. The first was signed on October 25, 1805, and the second on January 7, 1806. At this time, a group of Cherokees immigrated to the west and established the Cherokee Nation West in order to preserve their traditional ways of life. The Jefferson administration gave them financial aid and exchanged their lands for lands in Arkansas. These Indians became known as the Cherokees West, and later as the Old Settlers.<sup>29</sup> In 1808, the Cherokee Council seriously considered a national emigration west. A delegation of Cherokees traveled to Arkansas

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<sup>26</sup> Horsman, 22.

<sup>27</sup> Ibid, 22-23.

<sup>28</sup> Mildred E. Whitmore, ed., *Noland's Cherokee Diary: A U.S. soldier's story from inside the Cherokee Nation* (Spartanburg, S.C.: Reprint Co., 1990), 37.

<sup>29</sup> Thomas Jefferson, "Thomas Jefferson's advice to the Cherokees," *The National Intelligencer* (March 10, 1809).

and their report was favorable. The Ridge, a young full-blooded chief, however, persuaded the Cherokee Council to reject this proposal and remain in the land of their ancestors. In December of 1808, Jefferson demonstrated that he had not totally forsaken attempts at civilization when he told a delegation of Indians to encourage their fellow Cherokees to enclose land to farm and leave this land to their children; he told them that “you will unite yourselves with us, and we shall all be Americans. You will mix with us by marriage. Your blood will run in our veins and will spread with us over this great island.”<sup>30</sup>

The War of 1812 brought together the men who would later be involved in the Cherokee removal of 1838. During the war, a Creek faction, called the Red Sticks, sided with the British. The Creeks attacked Fort Mims, in present day Mississippi, savagely killing whites of all ages and sexes. Andrew Jackson, on March 17, 1814, won the battle of Horseshoe Bend, with the help of Cherokee warriors, and the Creeks suffered heavy losses. Also present during this campaign were General John Coffee, Sam Houston, and a young Indian scout from Tennessee named David Crockett. The gentle chief Pathkiller led the Cherokees. The Ridge had recruited eight hundred warriors, and Jackson rewarded him with the rank of major. John Ross, who would later be elected principal chief of the Cherokees, was also given the rank of major. Ross had swum the Tallapoosa to capture the Red Sticks’ canoes and brought them back to Jackson’s side of the river. The Cherokees then used these canoes to cross the river and engage the Creeks in hand-to-hand fighting. The uprising of the Creeks convinced the white population that the Indians, including the Cherokees, would not accept civilization, and removal became the alternative.<sup>31</sup>

When James Monroe became president on March 4, 1817, removal efforts were

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<sup>30</sup> Horsman, 22.

<sup>31</sup> Starkey, 24-25. The Cherokee Junaluska saved Jackson’s life during this battle. Sequoia also served under Jackson, but without notoriety.



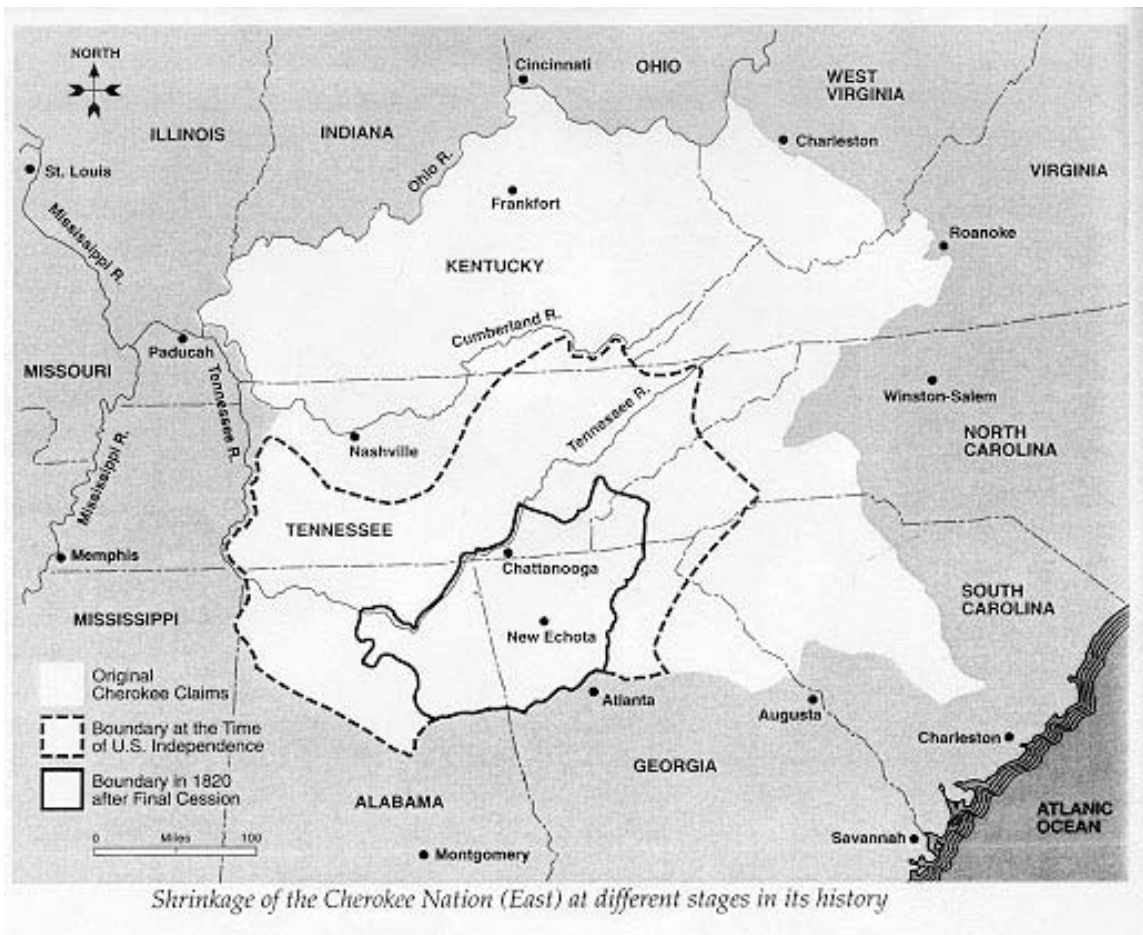
revived. On this same day, Jackson wrote a letter to Monroe expressing his opinion that it was a farce to make treaties with the Indians, when the land could simply be taken by law.<sup>32</sup> Under Secretary of War John C. Calhoun, a treaty was signed on July 18, 1817, for the removal west of a large group of Lower Cherokees. General Andrew Jackson and Governor McMinn of Tennessee were the commissioners who secured this treaty. Those Cherokees wishing to remain could register for individual six hundred forty acre land reserves and become United States citizens. Georgia officials and citizens, however, effectively harassed Cherokees who accepted the land reserves to force their removal. Georgia Governor George Troupe believed that the Cherokee was in a social status between that of the Negro and the white man, but that he was without the possibility of ever attaining the elevation of a white man, and thus he would sink into degradation.<sup>33</sup>

By 1820, the territory of the Cherokees had been greatly reduced. The Nation was bounded on the north by East Tennessee and North Carolina, east by Georgia, south by the Creek Nation and the state of Alabama, and west by Tennessee.

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<sup>32</sup> John Spencer Bassett, ed., *Correspondence of Andrew Jackson*, II (Washington, D.C.:Carnegie Institution of Washington, 1927), 277-282.

<sup>33</sup> Sharon P. Flanagan, "The Georgia Cherokees Who Remained: Race, Status, and Property in the Chattahoochee Community," *The Georgia Historical Quarterly*, Vol. LXXIII, No. 3, (Fall 1989), 594.



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Figure 1. Cherokee Land Shrinkage

About ten million acres remained. The Cherokees grew wheat, rye, oats, Irish and sweet potatoes, and Indian corn, which was the staple crop. Saw and gristmills existed within the Nation, and with the boom in cotton in 1800, most Cherokee families became skilled in the use of spinning wheels and cards, with the exception of some mountain families. Weaving and knitting became part of the female role, while farming became the male role. Most families cultivated between ten and forty acres. Hogs, cattle, and some sheep were raised, and horses were used for ploughing and to pull wagons. Slaves were almost exclusively owned by mixed-bloods, who owned large plantations and led lives very

<sup>34</sup> David K. Fremon, *The Trail of Tears* (New York: New Discovery books, 1994), 28.

similar to the wealthy white southern farmers, while the full-blooded Indian planted crops for only his family to eat and clung to traditional religious beliefs and way of life.<sup>35</sup>

Schools established by missionary organizations served to further the gap between the mixed-blooded wealthy Cherokees and the full-blooded Cherokees. John Ridge, the son of Major Ridge, and Elias Boudinot, the nephew of Major Ridge, received excellent educations at the Spring Place mission school, established in 1801. The Brainard School was founded in 1817 on Chickamauga Creek and consisted of a dwelling house, dining room, kitchen, lumber house, meat house, a framed house for the girls, five cabins for the boys, a log stable, a grist-mill, a saw mill, and smiths and carpenters' shops. The students were the elite mixed-bloods. Many students, as well as other Cherokees, were converted to Christianity. In 1821, Sequoyah, a mixed-blooded Cherokee, invented the Cherokee system of writing. It allowed the Cherokees to write and communicate in their language, and it was quickly learned by many Cherokees.

In 1820, Major Stephen H. Long, a U.S. topographical engineer, toured the lands west of the Mississippi. His official report portrayed the Great Plains area as "almost wholly unfit for cultivation, and, of course, uninhabitable by a people depending upon agriculture for their subsistence."<sup>36</sup> He called the area "the Great American Desert." However, the Indian Territory, which included the present day states of Oklahoma and Arkansas, was not as far west as the Great Plains and was fertile and well-watered. In 1828, President John Quincy Adams referred to the Indian Territory as "remarkable for salubrity of climate, fertility of soil, and profusion of game."<sup>37</sup> Cherokee delegations

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<sup>35</sup> William C. Sturtevant, "John Ridge on Cherokee Civilization in 1826," *Journal of Cherokee Studies* (Fall 1981), 61-70. Many Cherokees quickly acquired the bad habits of the frontier white men that surrounded their Nation. Drunkenness continued to be one of the most detrimental of these vices.

<sup>36</sup> Ronald N. Satz, "The Cherokee Trail of Tears: A Sequential Perspective," *The Georgia Historical Quarterly*, Vol. LXXIII, No. 3, (Fall 1989), 447.

<sup>37</sup> John William Ward, *Andrew Jackson, Symbol for an Age* (New York: Galaxy Books, 1962), 43.

visited the area to consider possible mass emigration and their findings collaborated Adams' view.

President James Monroe entertained no ideas of forcibly removing the Cherokees; however, he was the first president to present a removal plan to Congress, on January 27, 1825, which called for an entire removal of all Indians east of the Mississippi, but on a voluntary basis. He also proposed that a government be established for them in the west.<sup>38</sup> He wrote, "The Indian title was not affected in the slightest by the compact with Georgia, and there is no obligation on the United States to remove the Indians by force."<sup>39</sup>

About 1820, Georgia began to demand that the government fulfill its obligation in accordance with the Compact of 1802 and remove the Cherokees from within the state's borders. The Compact of 1802 between the federal government and Georgia stated that in return for the cession of western Georgia and a payment to Georgia of one million two hundred fifty thousand dollars, the United States government would extinguish "for the use of Georgia, as early as the same can be *peaceably* obtained upon *reasonable* terms, the Indian title to the lands lying within the limits of that state."<sup>40</sup> Georgia entered this agreement because in 1789 the state had sold its western land to land speculators for about a penny an acre in the Yazoo land deal, but because the state had not extinguished the Indian titles to this land first, many claims against the state were filed.<sup>41</sup> Georgia used this compact to demand that the President secure a treaty to remove of the Cherokees.

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<sup>38</sup> Lutz, 26. Arrell Morgan Gibson, *American Indian: Prehistory to the Present*, (Lexington, Massachusetts: D.C. Heath and Company, 1980), 290-291.

<sup>39</sup> Peter Collier, *When Shall They Rest?* (New York: Holt, Rinehart and Winston, 1973), 56.

<sup>40</sup> *Message from the President of the United States, transmitting certain Papers Relating to the Compact between The U. States and the State of Georgia, of 1802, &c.* 18th Congress, 1st Session, Senate Document 63, April 2, 1824, (Washington, 1824), 6.

<sup>41</sup> Demers, 10. Spencer B. King, *Georgia's Voices* (Athens: University of Georgia Press, 1966), 72. It is important to note that the Cherokee Nation existed with the boundaries of the states of Georgia, Alabama, Tennessee, and North Carolina.

John Quincy Adams became president on March 4, 1825, and although Secretary of War John C. Calhoun and President Adams attempted to secure a treaty, the Cherokees had resolved not to sell one more foot of land.<sup>42</sup> Georgia's Governor George Gilmer had said, "Treaties were expedients by which ignorant, intractable and savage people were induced without bloodshed to yield up what civilized peoples had a right to possess."<sup>43</sup> It became apparent to government officials that removal was the only alternative to the extinction of the Indians, for the Indians stood in the way of progress. When Georgia had attempted to build a canal through the Cherokee Nation in 1826, the Cherokee National Council refused to permit it, and passed a law that no state would be allowed to make internal improvements within the Cherokee Nation. Although Adams did not believe removal to be the best way to civilize the Indians, he saw that it had become the only logical choice.<sup>44</sup> Despite this, Adams upheld the Cherokees' right to refuse to sign a treaty. In his last message to Congress, Adams said, "We have unexpectedly found. . . [the Cherokees] forming in the midst of ourselves communities claiming to be independent of ours and rivals of sovereignty within the territories of the members of our Union . . . this state of things requires that a remedy should be provided - a remedy which, while it shall do justice to those unfortunate children of nature, may secure to the members of our confederation their rights of sovereignty and of soil."<sup>45</sup>

The Bureau of Indian Affairs was created under the War Department in 1824, and Thomas L. McKimney was appointed as its first administrator. In his 1826 official government report, he wrote that the education of the Indians was the best way to secure the borders from foreign invasion and procure their loyalty. He believed that Indians and

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<sup>42</sup> Lutz, 28. Lynn Hudson Parsons. " 'A Perpetual Harrow Upon My Feelings:' John Quincy Adams and the American Indian," *New England Quarterly* 46 (September 1973), 352.

<sup>43</sup> Collier, 52.

<sup>44</sup> Wallace, 40-41.

<sup>45</sup> Satz, 444.

whites would live peacefully as neighbors. However, by late 1828, he had come to view removal as the only alternative to the extinction of the Indians. This change came after his tour of the southern tribes in 1827. He found the tribes to be drunk and starving and led by greedy mixed-blooded leaders. He wrote that the majority of the Cherokees lived in hopeless poverty. Heavy rains in the spring of 1828 destroyed crops and created a food shortage among the Cherokees. Many Cherokees were also demoralized by the harassment of Georgia intruders, who often stole their livestock.<sup>46</sup> In his 1829 report, he wrote that the Cherokee chiefs were preventing those who wished to emigrate by threatening their lives.<sup>47</sup>

Andrew Jackson was elected President in 1828 and efforts to secure a Cherokee treaty were vigorously pursued. He was not the Indian hater that some historians have depicted him; however, Jackson supported states' rights and promoted national security. While he pushed for removal, he envisioned the Indians in the west becoming educated enough to govern themselves and then eventually join the Union as a state.<sup>48</sup> Due to their help during the Creek War, the Cherokees had reason to hope that he might befriend them. In his inaugural address, March 4, 1829, Jackson said, "It will be my sincere and constant desire, to observe towards the Indian tribes within our limits, a just and liberal policy; and to give that humane and considerate attention to their wants, which are consistent with the habits of our government, and the feelings of our people."<sup>49</sup> Jackson believed that the only way to save the Cherokees from destruction was to remove them from the

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<sup>46</sup> Letters Received by the Office of Indian Affairs, 1824-1880, Record Group 393, Microfilm Roll M234, reel 72, Hugh Montgomery to Thomas Stuart, April 14, 1828, 406.

<sup>47</sup> Wilcomb E. Washburn, *The American Indian and the United States A Documentary History - Volume I* (New York: Random House, 1973), 5-10.

<sup>48</sup> Francis Paul Prucha, "Andrew Jackson's Indian Policy: A Reassessment," *Journal of American History*, Vol. 56, No. 3, (Dec. 1969), 527-39; Jackson to Coffee, Nov. 6, 1832; Jackson to John D. Terrill, July 29, 1826, Bassett, *Correspondence of Andrew Jackson*, IV, 406, III, 308-09.

<sup>49</sup> Williams, 152.

influence of corrupt and greedy white men. The Cherokee lands were located so that they were an obstacle to roads, railroads, and canals, which could connect the United States and provide national security from foreign invasion, as well as safety for white settlers. He knew the Cherokees did not want to be assimilated into white society, and in the west they could be a sovereign state.<sup>50</sup> Therefore, Jackson allowed Georgia a free hand in its attempts to force the Cherokees to remove.

In 1828, John Ross was elected principal chief of the Cherokees and led the fight to remain in their homeland. He was respected by the full-blooded, as well as most of the mixed-blooded Cherokees. He was a Scot, and only one-eighth Cherokee. His father was Scottish, and his mother was one-fourth Cherokee. Born in 1790, he became a member of the Cherokee Council in 1817. He spoke Cherokee so poorly that he had to have an interpreter to address the council. He had a full-blooded wife named Quatie, he was quite wealthy, and he owned a fine house and several black slaves. He also virtually controlled the annuity money paid by the United States for land treaties. Jackson saw Ross as the leader of a mixed-blooded elite, whose goals were his own economic self-interest, and he thought that Ross had duped the full-blooded Cherokees into believing that he held their interest at heart. However, despite his feeling toward Ross, he always treated him with respect and did not lose his temper.<sup>51</sup>

The year 1828 was a disastrous one for the Cherokees as gold was discovered late in the year on the northwestern part of the Nation, on Ward's Creek, near Dahlonega, about fifty miles from New Echota. By the summer of 1829, a full-scale gold rush was in progress. Thousands of prospectors poured into the eastern part of the Nation, many were a very undesirable element. These unscrupulous miners usually threw off Indians

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<sup>50</sup> Prucha, *American Indian Policy in the Formative Years*, 238.

<sup>51</sup> Robert Remini, *Andrew Jackson and the Course of American Democracy* (Harper & Row, 1984; reprint, Baltimore: John Hopkins University Press, 1998), 295. Page citations are from the reprint edition.

who tried to mine gold on their own land. When the Cherokee complaints reached Jackson, he ordered federal troops into the area, but after a few months, he abided by Georgia's wish to handle the situation with its own militia troops. Georgia created a sixty-man "Georgia Guard," which it sent to maintain order in the mining areas. This Guard would soon have jurisdiction in the entire Nation.<sup>52</sup>

Secretary of War Eaton addressed the Cherokee delegation on April 18, 1829, and clearly stated that Jackson would never interfere with the sovereignty of a state. In the Treaty of Hopewell, following the American Revolution, the United States had given peace to the Indians and taken them under her protection. While this treaty had outlined the remaining hunting grounds, Eaton stressed that the Cherokees were only allowed the use of this land, and that the sovereignty resided with the respective states. Jackson always contended that the Indians had lost their rights to the lands during the Revolution and that treaties were only a way to keep peace between the settlers and the Indians while the new government gained strength.<sup>53</sup>

In response to the pressure from Georgia, the Cherokees formed a government more capable of dealing with both their internal affairs and with the United States government concerning land treaties. In 1808, the Cherokee Council adopted the Nation's first set of written laws based upon the United States Constitution and authored by Charles Hicks, a leading Cherokee. In 1810, the Council outlawed the ancient practice of blood revenge. It also established the "Lighthorse Guard," a kind of police force, and a system of courts. This was the first major step in creating an organized national government.<sup>54</sup>

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<sup>52</sup> H. B.C. Nitze, *Twentieth Annual Report United States Geological Survey, Part 6-Mineral Resources* (Washington, 1899), 112.

<sup>53</sup> Prucha, *American Indian Policy in the Formative Years*, 234-236. Eaton to Cherokee Delegation, April 18, 1829.

<sup>54</sup> E. Raymond Evans, ed. "Jedediah Morse's Report to the Secretary of War on Cherokee Indian Affairs in 1822." *Journal of Cherokee Studies*, (Fall 1981), 61. In 1809, the Cherokee Nation population was 12,395; there were also 583 slaves, and 341 whites, for a total of 13,319.



By 1815, about three thousand Cherokees had moved west and by the terms of the treaty of 1817, about four thousand more traded their lands for lands in Arkansas. However, the tribal death law prohibited the sell or trade of tribal lands, and Major Ridge killed Chief Doublehead, of the Chickamauga branch of Cherokees, for signing this treaty. To prevent further land treaties, the Cherokees established a government modeled after the United States system, with an upper house and lower house in 1817. An executive, the Principal Chief, was also created.<sup>55</sup>

The Cherokees further improved their government in order to more effectively resist removal.<sup>56</sup> In 1822, a Cherokee National Superior Court was established. Also, beginning in 1823, the National Committee had to approve the decisions of the National Council. The General Council was the combination of the National Committee and the National Council. Laws passed in 1825 stated that only the General Council could sell or trade public lands by treaty. This same year, 1825, the Indians decided to build a government capital at New Echota.<sup>57</sup>

On July 4, 1826, a Cherokee constitutional convention was held and a constitution was adopted on July 26. This constitution established a separate government within the boundaries of the United States and was not legal under the United States Constitution. As the Cherokee nation could not legally be recognized, there was never any thought of maintaining its sovereignty with federal troops. This nation within a state threatened the legal boundaries of Georgia. Governor Troupe protested this violation of federal law and demanded the execution of the terms of the Compact of 1802, meaning the removal of the

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<sup>55</sup>Henry Thomas Malone, *A Social History of the Eastern Cherokee Indians from the Revolution to Removal* (Ph.D. diss., Emory University, 1952), 164-165.

<sup>56</sup>Lutz, 24. John Ehle, *Trail of Tears: The Rise and Fall of the Cherokee Nation* (New York: Anchor Books, 1988), 155-156. In spite of the Cherokee laws to sign no further treaties, the eastern Cherokees traded lands in the east for lands west of the Mississippi, in the Treaty of 1819. The western land was to be used by the western Cherokees, who were being threatened by other western tribes, and the United States agreed to cease their efforts to remove the remaining eastern Cherokees, and guarantee them their land rights.

<sup>57</sup>Woodward, 151.

Cherokees from the state.<sup>58</sup>

A sense of nationalism and a desire to expand the western frontier, as well as securing the nations borders, changed the United States government policy from one of “civilization” of the Cherokees to one of removal. The Cherokee land holdings had been greatly reduced. Realizing their predicament, the Cherokee had created a new stronger governmental system with which to prevent further treaty concessions. Georgia, however, would not tolerate the existence of the new Cherokee Nation within her borders and was determined that all of the Cherokees would be removed west.

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<sup>58</sup> John P. Brown, *Old Frontiers* (Kingsport, Tennessee: Southern Publishers, Inc., 1938), 489.

## CHAPTER 2

### GEORGIA LAWS AND THE TREATY OF NEW ECHOTA

On December 20, 1828, Georgia passed laws extending its authority over the Cherokees that violated several federal treaties. Georgia claimed perfect title to all Cherokee lands within her borders and considered the Indians to be merely tenants who were only allowed to remain by the grace of Georgia. The Cherokees were to be subjected to the same laws that governed the white people in Georgia, but as they were not citizens of the state they did not have certain rights. These laws were written to take effect on June 1, 1830. On December 19, 1829, laws were passed that declared Cherokee law to be null and void and all tribal functions illegal. They made a contract between a white man and an Indian invalid, unless witnessed by two white men, making it impossible for an Indian to contest an injustice in court against a white man. These laws also provided for the surveying and distributing of Cherokee lands by lottery, and made it illegal for Cherokees to mine gold on their own land. Alabama followed the Georgia example early in 1829 by passing laws to annex all Indian lands within its borders. Mississippi followed suit in February 1829 by passing similar laws. Mississippi also passed laws in March of 1830 that allowed the fine and imprisonment of any chiefs still exercising tribal functions.<sup>59</sup>

The enactment of the Georgia laws encouraged many whites to squat on Cherokee lands and begin farming. This was especially true of a disputed area of land that had been Creek and was claimed by Georgia. General John Coffee was sent to take testimony

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<sup>59</sup> Walter Hart Blumenthal, *American Indians Dispossessed* (New York: Arno Press, 1975), 69.

from both sides of the dispute. He reported back to Secretary of War Eaton, “I cannot see any reasonable or plausible evidence on which [Georgia] rests her claim.” When Major Ridge complained to Coffee that the Cherokee agent, Colonel Hugh Montgomery, was doing nothing to stop these invasions, Coffee advised him that it should be the duty of the Principal Chief to remove these intruders. Ross, therefore, appointed Ridge to raid the settlers and remove them. On January 4, 1830, Ridge and his warriors removed the white families and burned down their houses. Georgia citizens were enraged.<sup>60</sup>

Eaton made an attempt to bribe the Cherokee chiefs during the summer of 1829 by ordering General William Carroll of Tennessee to secretly give presents, with a value not to exceed two thousand dollars, to the poorer Indians and chiefs to show the benevolence of the administration and encourage removal without allowing them to suspect the goal of his mission. Carroll reported to the War Department that the Indians suspected his motives and were not deceived.<sup>61</sup>

The Cherokees passed laws to deter emigration. On Oct 31, 1829, the National Council made it illegal for any Cherokee to enroll for emigration. To do so forfeited their rights of citizenship in the tribe; they were fined one thousand dollars and received one hundred lashes on the back.<sup>62</sup> The penalty for selling tribal land was death.<sup>63</sup>

The Cherokees began publishing their own newspaper, the *Cherokee Phoenix*, on February 21, 1828. Stories were printed in both English and Cherokee. This newspaper

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<sup>60</sup> Thurman Wilkins, *Cherokee Tragedy*, (Macmillan Publishing Company, 1970; reprint, Norman, University of Oklahoma Press, 1986), 211-212. Page citations are from the reprint edition.

<sup>61</sup> Eaton, 50.

<sup>62</sup> Brown, 491.

<sup>63</sup> Demers, 34. Fred Austin Ogg, *The Reign of Andrew Jackson* (New Haven: Yale University Press, 1921), 210.

was used to voice their opposition to removal and to the intrusion of whites into the Cherokee Nation. It also promoted Cherokee nationalism and education.<sup>64</sup>

The American Board of Foreign Missionaries, with Jeremiah Evarts as the treasurer, supported the Cherokees. Evarts wrote the William Penn essays, defending the Cherokees' right to their land, and appealed to the morality of the American public.<sup>65</sup> Without the help of the missionaries to aid the Cherokees in their legal battles, their resistance to removal would not have materialized. A Georgia law was passed on March 1, 1830, and took effect March 1, 1831, requiring all whites in the Cherokee Nation to carry a card that proved they had taken an oath to uphold the laws of Georgia. This law was designed to drive out the missionaries who were aiding the Cherokees in their legal battles; it was very effective.<sup>66</sup>

President Jackson did not interfere with Georgia and strongly encouraged the Cherokees to remove by refusing to make an annuity payment of six thousand dollars to the eastern Cherokee national treasury. This total annuity payment amounted to ten thousand dollars a year; two-thirds went to the eastern Cherokees and one-third to the western faction. This money was used to fund schools and the national newspaper. Instead, Jackson required all Cherokees to receive their annuity payments individually. This amounted to about forty-two cents for each Indian, often less than it cost to make the trip to a place where the money was issued.<sup>67</sup>

The Indian Removal bill became law on May 28, 1830, and authorized money for the

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<sup>64</sup> Malone, 238-239.

<sup>65</sup> Jeremiah Evarts, *Essays on the Present Crisis in the Condition of the American Indians* (Philadelphia: Thomas Kite, 1830).

<sup>66</sup> Lutz, 44, Eaton, 52.

<sup>67</sup> Collier, 59. The un-issued money accumulated for five years in a Nashville bank, and

negotiation of treaties, which would exchange Indian lands for lands in the west.<sup>68</sup>

Jackson had a pro-removal cabinet and appointed Thomas McKenney as the Superintendent of the Indian Office. McKenney worked hard to promote Indian removal, but he was removed from office in August of 1830 when he disagreed with the harassment tactics employed by Jackson to persuade the Indians to voluntarily remove.

John Eaton was the Secretary of War until 1831 when he was involved in a domestic scandal and was replaced by Lewis Cass. Cass was a removal supporter who believed that the west would enable the Cherokees to make a transition to agriculture while continuing to hunt. This would also separate them from the whites, whose vices they acquired more quickly than the virtues of civilized life.<sup>69</sup> Cass said of the Indians, “Reckless of consequences, he is the child of impulse. Unrestrained by moral considerations, whatever his passions prompt he does.”<sup>70</sup> He observed that only the mixed-blooded Cherokees had made any advances in civilization and that the full bloods had made no real progress.<sup>71</sup>

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was paid to the Cherokees upon their signing of the Treaty of New Echota.

<sup>68</sup> Theodore Frelinghuysen, *Speeches on the Passage of the Bill for the Removal of the Indians, Delivered in the Congress of the United States, April and May, 1830*, (Boston: Perkins and Marvin, New York: Johnathan Leavitt, 1830), 1. Senator Theodore Frelinghuysen, of New Jersey, began a speech to the Senate on April 7, 1830. He proposed and secured the addition of amendments to the Indian Removal bill that would protect the Indians in their present possessions and guarantee that valid treaties would be secured before any exchanges of land were executed.

<sup>69</sup> Walter H. Conser, Jr., “John Ross and the Cherokee Resistance Campaign, 1833-1838,” *The Journal of Southern History*, Vol. XLIV, No.2, (May 1978), 200-201. “Report of the Secretary of War,” November 30, 1835, *Senate Documents*, 24 Cong., 1 sess., No. 1: *Message from the President of the United States*. . . Serial 279, (Washington, 1835), 51-52.

<sup>70</sup> Lutz, 67. Thomas Valentine Parker, *The Cherokee Indians: With Special Reference to Their Relations with the United States Government* (New York: The Grafton Press, 1907), v.

<sup>71</sup> Lutz, 47.

The historian James Parton wrote of Jackson's Indian policy as necessary:

It is painful to contemplate the sad remnant of tribes that had been the original proprietors of the soil, leaving the narrow residue of their heritage, and taking up a long and weary march for strange and distant hunting-grounds. More painful it would have been to see those unfortunate tribes hemmed in on every side by hostile settlers, preyed upon by the white man's cupidity, the white man's vices, and the white man's diseases, until they perished from the face of the earth.<sup>72</sup>

He wrote that they would have suffered greatly if they had remained within the states of Georgia, Alabama, and Mississippi. With the exception of the Quakers, other religious groups, and many Whigs, the American public approved of Indian removal.<sup>73</sup>

Many prominent whites, however, supported the Cherokee fight to keep their lands. Among these men were Daniel Webster and Edward Everett of Massachusetts; Theodore Frelinghuysen of New Jersey; Peleg Sprague of Maine; Henry R. Storrs of New York; John Quincy Adams; Sam Houston, who was an adopted Cherokee; and Davy Crockett, the Tennessee frontiersman. Crockett said that the treatment of the Cherokees had been "unjust, dishonest, cruel, and short sighted in the extreme." He stated:

I have been threatened that if I do not support the policy of removal, my career will be summarily cut off, but while I am perhaps as desirous of pleasing my constituents and of coinciding with my colleagues as any man in Congress, I cannot permit myself to do so at the expense of my honor and my conscience in the support of such a measure.<sup>74</sup>

Jackson's influence ended Crockett's career, and he left for Texas and the Alamo. Sam Houston had been elected Governor of Tennessee in 1827 but had resigned in 1829 due to marital troubles and went to live with the Cherokees at Fort Gibson, present-day

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<sup>72</sup> James Parton, *Life of Andrew Jackson*, 3 volumes (New York: Mason Brothers, 1860), 279.

<sup>73</sup> Lutz, 77. John Spencer Bassett, *The Life of Andrew Jackson*, Two Volumes in One (1911; reprint, Archon Books, 1967), 700. Page reference is to reprint edition.

Oklahoma. In 1830, he arrived in Washington in Indian attire and protested to Jackson the treatment of the Cherokees.<sup>75</sup>

Mixed-bloods John Ridge and Elias Boudinot made speeches in many northern cities to secure money to pay the legal expenses incurred from their resistance movement. Their appearance, dress, and education were contrary to the typical view of an Indian. While they may have impressed their audiences with their respect for the law, both Indian and White culture had more respect for the military hero than for the pacifist. The whites did not share the Cherokees desire to preserve their culture. Preservation of the Cherokees represented stagnation, and the desire of the times was one of expansionism.<sup>76</sup>

Much of the support given the Cherokees by certain politicians must be attributed to the desire of the Whig Party to defeat Jackson. Most notable of these men were Henry Clay and Daniel Webster. The Cherokees became a political pawn in this battle. While he publicly attacked Jackson's callous attitude toward the Indians, Clay himself, in an 1825 cabinet meeting with President John Quincy Adams, said that "it was impossible to civilize Indians; that there never was a full-blooded Indian who took to civilization. It was not in their nature."<sup>77</sup> He believed that they would become extinct in the presence of the superior whites and saw their extinction as no great loss to the world.<sup>78</sup> Northerners,

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<sup>74</sup> Brown, 502.

<sup>75</sup> Blumenthal, 66.

<sup>76</sup> Royce, 290. Speech in reply to Mr. Halsey, of Georgia, January 2, 1838. Congressman Henry A. Wise, of Virginia, stated that the Cherokees were more advanced in civilization than their surrounding Georgia neighbors. He asserted that in a comparison between Mr. John Forsyth, a Georgia statesman, and John Ross, that "the gentleman from Georgia will not gain greatly from the comparison, either in civilization or morals."

<sup>76</sup> Horsman, 25.

<sup>77</sup> Charles Francis Adams, ed., *Memoirs of John Quincy Adams comprising portions of his diary from 1795 to 1848* (12 vols.; Philadelphia: J. B. Lippincott and Company, 1874-1877), 7: 89-90.



who were so sympathetic to the plight of the Cherokees, had long since had the Indians in close proximity to them removed and had no personal knowledge of the difficulties of living with these neighbors. Some individuals and states opposed removal because its cost left fewer funds for internal improvements (canals, roads, and other forms of transportation), while others opposed removal for legal or moral reasons.<sup>79</sup>

With Jackson's support, Georgia had gained ground in its quest to remove the Cherokees. Other southern states were joining Georgia in the enactment of laws to leave the Cherokees with no legal recourse within the boundaries of these states. Despite the oppositions of some prominent whites, the battle to remain in their homeland would be a difficult one. The Cherokees would have to fight their legal battle on a federal level.

The Cherokees retained William Wirt of Philadelphia as their legal consul and waited for an incident that they could take to the United States Supreme Court. The first incident came in 1830, when a Cherokee named Corn Tassel was condemned to death by the Hall County Superior Court for killing another Cherokee. The Cherokees took the case to the Supreme Court to challenge Georgia jurisdiction over the Cherokee Nation, and the Court ordered the State of Georgia to appear on December 12 and explain why the case should not be overturned. Georgia ignored the order and quickly executed Corn Tassel.<sup>80</sup>

Soon after the Tassel case, the case of the *Cherokee Nation v. Georgia* came before the Court. Wirt asked the Court to uphold the jurisdiction of the United States as stated by treaties and the United States Constitution, which had been usurped by Georgia, and

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<sup>79</sup> Lutz, 78. Bassett, *The Life of Andrew Jackson*, 690.

<sup>80</sup> Robert V. Remini, *The Legacy of Andrew Jackson* (Baton Rouge: Louisiana State University Press, 1988), 68. Jackson saw Wirt as a wicked advisor, who would only lead

furthermore, Wirt hoped to get an injunction that would declare Georgia's laws pertaining to the Cherokees null and void.<sup>81</sup> On March 5, 1831, the Court ruled that the Cherokee Nation was a state, but not a foreign sovereign state, as defined by the Constitution, and, therefore, the Supreme Court had no jurisdiction. Chief Justice John Marshall and Justice Joseph Story dissented from the opinion of the Majority.<sup>82</sup>

The next case involved the missionaries within the Cherokee Nation who resented the requirement to take an oath to Georgia, which became law on March 1, 1831. When the missionary Samuel A. Worcester refused, he was arrested.<sup>83</sup> He was at first released because he held the post of United States Postmaster at New Echota, but Governor Gilmer of Georgia relieved him of this office and ordered him to leave Georgia. Worcester did not leave and was arrested a second time on July 7, 1831. Also arrested for the same crime were John Proctor, Rev. James Trott, and Dr. Elizur Butler. All were treated brutally, chained together, tied to the back of a wagon, and forced to walk twenty-two miles to the jail at Lawrenceville, Georgia. Their trial was held on September 18, 1831, and they were sentenced to four years of hard labor. However, if they would take the oath, they would be pardoned. Proctor and Trott took the oath, but Worcester and

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the Indians to destruction.

<sup>81</sup> Gary E. Moulton, *John Ross Cherokee Chief* (Athens: The University of Georgia Press, 1978), 54. The Cherokees also tried to persuade the Court to prevent the appointment of Benjamin Currey as Superintendent of Cherokee Removal. However, due to Georgia's insistence to Jackson that the removal efforts be resumed, Currey's appointment was confirmed.

<sup>82</sup> Malone, 348-350. The Court ruled that the Cherokees were not a foreign state, but rather a "domestic dependent nation," a "ward" of the United States, and could not bring suit before the Supreme Court.

<sup>83</sup> *Ibid*, 152. The Presbyterians were the most outspoken against removal, while the Baptist generally supported removal as the most humane solution, and the Methodists were divided on the issue.

Butler did not.<sup>84</sup>

*Worcester vs. Georgia* was the case that finally procured a favorable ruling for the Cherokees. With John Marshall presiding, February 23, 1832, the Court overturned Georgia's judgment and declared that only the federal government had jurisdiction over the Cherokees, and that the laws Georgia passed in regard to the Cherokees were null and void. Marshall ruled, "The Cherokee Nation is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the consent of the Cherokees themselves, or in conformity with treaties, and with the Acts of Congress."<sup>85</sup>

The newspaper editor Horace Greely reported that Jackson had stated, "John Marshall has made his decision; let him enforce it now if he can." Although the Supreme Court had gained strength during Marshall's tenure, no precedence had occurred to require Jackson to uphold the decision of the court. Furthermore, because the court had adjourned without summoning Georgia officials before the court for contempt, or issuing a writ of habeas corpus for the release of the missionaries, Jackson had no power to act. Jackson believed that Congress and the states established the laws and that the Supreme Court had no right to interfere in their enforcement. Jackson was also careful not to incite Georgia to join South Carolina in challenging federal authority during the Nullification Crisis. A Cherokee delegation asked Jackson if he blamed them for trying to use the courts to maintain their rights. Jackson answered:

I don't blame you for that. I only blame you for suffering the lawyers to fleece you. I am a friend of the Cherokees, they fought with me in the war and freely shed their blood with the blood of my soldiers in defending the United States and how

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<sup>84</sup> Brown, 492.

<sup>85</sup> Blumenthal, 69-70.

could I be otherwise than their friend?<sup>86</sup>

Georgia, however, simply did not abide by the ruling, and so did not release the missionaries from prison.<sup>87</sup> Governor Wilson Lumpkin offered to pardon them if they would withdraw their suit, take the oath, and leave Cherokee Georgia as soon as possible. The missionaries agreed and were released in January of 1833.<sup>88</sup> The refusal of Jackson to enforce Marshall's ruling was the deciding factor in the defeat of the Cherokee resistance, for it demonstrated the futility of the struggle against removal, and a faction of the tribe moved toward the acceptance of a treaty. Jackson told John Ridge, Major Ridge's son, to advise his people that their only hope was to move west.<sup>89</sup>

As it became apparent that the Cherokees could not resist the combination of the tactics of Georgia and the indifference of the United States government to their plight, a few prominent Cherokees began to support removal. The leaders of this Treaty Party were Major Ridge, his son, John Ridge, and his nephews, Elias Boudinot and Stand Watie; a large majority of its members were mixed-bloods. John Ross and most of the full-blooded Indians were still opposed to any removal treaty. Ross and his supporters were known as the Ross Party, or National Party.

Major Ridge came to the conclusion that it was time to negotiate a treaty, as the common Indian would "be perpetually made drunk by the whites, cheated, oppressed,

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<sup>86</sup> Wilkins, 223.

<sup>87</sup> At the same time that Georgia was defying the Court, South Carolina had declared the Tariff Acts of 1828 and 1832 to be null and void. Jackson claimed state's rights as a valid reason for Georgia's non-compliance, but saw South Carolina's actions as unacceptable.

<sup>88</sup> *Niles Weekly Register*, XLIII, 382-83.; Malone, 359.

<sup>89</sup> Lutz, 52. House Document 185, 29th Congress, 1st session, (Serial 485), 50. Ross hoped that Henry Clay would be able to defeat Jackson for the Presidency in 1832, but Jackson prevailed.

reduced to beggary, become miserable outcasts, and as a body dwindle to nothing.”<sup>90</sup>

The Treaty Party believed that Ross was offering false hope to the Cherokees of remaining in the East.<sup>91</sup>

By February of 1834, Ross realized that he was losing the fight against removal. Therefore, Ross and the Cherokee delegation suggested to Jackson that the Cherokees might cede a portion of their land to Georgia for the assurance of the United States that the Cherokees would be protected on the remainder. Ross was even open to the idea of the Cherokees becoming citizens of the United States, though he still insisted that the Cherokees be able to maintain a separate identity. Jackson flatly rejected this offer.<sup>92</sup>

Shortly after Ross had departed for Washington, a portion of the tribe elected William Hicks as chief and formed its own delegation to negotiate a removal treaty in Washington. The original delegation consisted of Andrew Ross (John Ross’s brother), T. J. Pack, James Starr, and John West. But Jackson would not discuss a treaty with them until they added more prominent Cherokees to the delegation. Added were Major Ridge, David Vann, and Elias Boudinot. Major Ridge and Boudinot, however, later withdrew because Andrew Ross was willing to agree to any treaty offered. Jackson appointed his former Secretary of War, John H. Eaton, to negotiate the treaty. Eaton invited Ross to participate, but Ross refused and produced a petition signed by thirteen thousand

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<sup>90</sup> Wilkins, 261.

<sup>91</sup> Brown, 490. James Mooney, *Myths of the Cherokees*, Bureau of American Ethnology 19th Annual Report, (Washington: Government Printing Office, 1900; reprint, Asheville, North Carolina: Bright Mountain Books, Inc., 1992), 117. Page citations are to the reprint edition. Georgia began to distribute Cherokee lands to Georgia citizens by lottery in 1833. Cherokee land was mapped into lots of 160 acres each, and 40 acre gold lots. This was done in accordance with the laws passed in 1829.

<sup>92</sup> Royce, 274.

Cherokees protesting this unauthorized delegation.<sup>93</sup>

On June 19, 1834, Andrew Ross and the delegation signed a treaty with Eaton. The treaty ceded all eastern Cherokee lands for western lands and an annuity of twenty-five thousand dollars for twenty-four years, as well as other funds for education and improvements. Andrew Ross was to receive a thousand dollars to build a turnpike road, and whiskey was to be allowed into the Cherokee Nation if brought in by a Cherokee. The Senate did not approve the treaty.<sup>94</sup>

Upon returning to the Cherokee Nation, Andrew Ross discovered plans for the murder of himself and T. J. Pack. At a Cherokee Council meeting in August, it was announced that John Walker, Jr., a pro-treaty advocate, had been murdered. His father accused John Ross and his followers and threatened to kill Ross. The Ridge family worried that they would be murdered next, and indeed many pro-treaty Indians were murdered by Ross supporters. When Jackson heard the news, he told Currey to notify Ross that he would be held personally responsible for the murder of any Cherokee who favored removal. Ross avoided questions from Council members about his offers to Jackson to give away land to Georgia and have Cherokees become citizens.<sup>95</sup>

In March, the Cherokees were allowed to vote on how the federal annuity was to be paid. They voted to have it paid again as one lump sum, and the Council voted to have the Ross administration control the money, despite Currey's allegations that Ross had betrayed their interests and would use their money for his own profit, and also that the

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<sup>93</sup> Moulton, *John Ross Cherokee Chief*, 55-56. Kendall to Marcy, November, 1845.

<sup>94</sup> *Ibid.*, 56.

<sup>95</sup> *Ibid.*, 57.

treasurer had not been elected, because no elections had been allowed since 1830.<sup>96</sup>

Elias Boudinot's resignation from the editorship of the Cherokee Phoenix was printed in the August 11, 1832, issue. John Ross was angered that Boudinot had published articles for, as well as against removal, and he forced his resignation. On September 8, 1832, Ross appointed his brother-in-law, Elijah Hicks, as editor. Hicks was not the talented editor that Boudinot had been, and the newspaper could not withstand the attacks of the new postmaster, William J. Tarvin, who had replaced Worchester. The newspaper published its last edition on May 31, 1834, and the Cherokees lost a valuable means of communication in their fight to keep their land.<sup>97</sup>

The Treaty Party signed a "draft treaty" with John F. Schermerhorn in Washington on March 14, 1835, by which they agreed to relinquish all title to the lands of the Nation for five million dollars and seven million acres in the west, plus eight hundred thousand acres that adjoined the Osage Indian land.<sup>98</sup> Also included were subsistence payments for one year, claims and spoliations, blankets, kettles, rifles, and travel expenses. The United States was to have the right to build military forts to protect the Indians. John Ridge wrote to his father, on March 11, of the treaty:

It is very liberal in its terms - an equal measure is given to all. The poor Indian enjoys the same rights as the rich - there is no distinction. We are allowed to enjoy our own laws in the west. Subsistence for one, \$25 for each soul for transportation, fair valuation, fair ferries & Improvements, \$150 for each individual, more than forty thousand dollars perpetual annuity in the west, & a large sum of money to pay the losses of the Cherokees against the white people. In fact - we get four millions & a half in money to meet all expenses & a large addition in land to that already possessed by our brethren in the west.<sup>99</sup>

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<sup>96</sup> Ibid., 58-59.

<sup>97</sup> Malone, 336-339.

<sup>98</sup> Blumenthal, 78. Lands to be ceded in Georgia were 4,609,280 acres. Alabama - 1,611,520, Tennessee - 949,760, and North Carolina - 711,680 acres.

<sup>99</sup> Wilkins, 268. John Ridge respected Jackson so much that he named his new son

The approval of the Cherokee Council was required for the treaty to be valid.

Schermerhorn returned with the Treaty Party and spent several months trying to get the Cherokees to agree to the treaty. When he wrote to Secretary of War Cass suggesting that the chiefs might be bribed, Cass wrote back that under no circumstances was he to use underhanded methods to secure the treaty.<sup>100</sup>

Ross began to propose substantial concessions. He offered all Cherokee land except a small tract along the borders of Tennessee, Georgia, and Alabama, and a small area in North Carolina, in return for protection and citizenship for the Cherokees.<sup>101</sup> When this proposal was denied, Ross offered to make a treaty for twenty million dollars. Jackson replied that Congress had authorized five million dollars with which to conclude a treaty. Ross protested that he wanted Congress to consider the proposal and that he would accept whatever price Congress approved. Jackson agreed. Ross was counting on Jackson's enemies in the Senate to vote for the revised amount, but the Senate voted that the five million was sufficient. Ross did not honor his agreement with Jackson and would not sign a treaty.<sup>102</sup>

Ross considered other options. He even approached Mexican officials, in March 1835, about establishing a Cherokee Nation in Mexico. Although some of the Creeks and Seminoles had immigrated to Mexico, Ross apparently did not pursue the idea. Ross again proposed a cession of certain Cherokee lands in Georgia, if in return the United States would grant citizenship to the Cherokee Nation as a whole for a certain time period, in which the Cherokees would continue to move toward the ways of white civilization. After this period, they would be individual citizens of their respective states.

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Andrew Jackson Ridge.

<sup>100</sup> Wallace, 91.

<sup>101</sup> Moulton, *John Ross Cherokee Chief*, 60.

<sup>102</sup> Remini, *Andrew Jackson and the Course of American Democracy*, 295. Woodward, 178-179. Ross et al. to Cass, February 14, 25, 27, 28, 1835, Cass to Ross et al., February



Jackson quickly dismissed any consideration of this proposal.<sup>103</sup>

When Ross returned from Washington in the spring of 1835, his house on the Coosa River had been given away by lottery. He found his feeble wife restricted to one room and Georgians in possession of the rest of his belongings. Ross left to live in a cabin at Red Clay, just across the Tennessee state line. The mansion of Joseph Vann was also taken, March 2, 1835, after a battle between two claimants. Colonel Bishop, of the Georgia Guard, finally succeeded in securing it for his brother.<sup>104</sup> Georgia, however, protected the homes of the Treaty Party while they attempted to secure a treaty.<sup>105</sup>

In May of 1835, the Ridges collaborated with Currey, who agreed to dispense the annual Cherokee annuity payment at a meeting to gain support for the treaty. But even with this incentive, the Cherokees boycotted the meeting and fewer than one hundred attended. In July 1835, the Treaty Party organized another meeting, and this time the National Party came and voted down all proposals of the Treaty Party.<sup>106</sup>

Schermerhorn again tried to get approval for his treaty at the fall meeting of the Cherokee Council in October of 1835. With Ross leading the opposition, the Cherokee Council unanimously rejected the treaty, and Ross even persuaded the Treaty Party to vote against it.<sup>107</sup> On October 19, the two opposing factions reached an agreement that a

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16, 27, 1835, in House Document 286, 23rd Congress, 2d Session.

<sup>103</sup> Conser, 201-202.

<sup>104</sup> Wilson Lumpkin, *The Removal of the Cherokee Indians from Georgia, 1827-1841*, (reprint, New York: A. M. Kelley, 1971), I, 313-317; *Niles Weekly Register*, XLIX, 138.

<sup>105</sup> Moulton, *John Ross Cherokee Chief*, 62.

<sup>106</sup> Conser, 205.

<sup>107</sup> Moulton, *John Ross Cherokee Chief*, 65. In August of 1835, Elias Boudinot and his younger brother Stand Watie, along with the Georgia Guard, confiscated the printing press that had been used to produce the *Cherokee Phoenix*. The press was taken only hours before wagons sent by Ross arrived to move it to Red Clay. Both parties had intentions of reviving the newspaper to aid them in their fight.

delegation of twenty Cherokees would travel to Washington to negotiate a treaty with better terms. Ross was to lead the delegation.<sup>108</sup> By John Ridge's account, when the common Cherokees were asked if they wanted to sell their lands for five million dollars, they did not understand the difference between five million dollars or five thousand dollars and believed that the delegation's intention was to reject any treaty, not to secure one.<sup>109</sup>

To prevent Ross from leaving for Washington to negotiate a new treaty, on November 7, 1835, Ross was arrested by the Georgia Guard at his cabin, along with his house guest, John Howard Payne (the author of the song "Home Sweet Home"), who claimed that he had come to the Cherokee Nation to write a history of the Cherokees.<sup>110</sup> They were taken to Spring Place and held in an outbuilding at the former home of Chief Joseph Vann; the decaying corpse of a Cherokee, who had been hanged days earlier, was suspended above them from the rafters.<sup>111</sup> There were weak accusations that Payne was an abolitionist, and maybe a French spy, and that Ross had obstructed the Cherokee census of 1835. John Ridge used his influence to effect their release. Ross was released on November 16, and Payne four days later. On December 2, Ross, John Ridge, and a delegation left for Washington to attempt a negotiation for better treaty terms with Jackson.<sup>112</sup>

Schermerhorn declared that a new treaty vote would be held on December 21 at New

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<sup>108</sup> Royce, 280. Senate Document 120, 25th Congress, 2d Session, p. 124.

<sup>109</sup> Wilkins, 280.

<sup>110</sup> Royce, 281. National Intelligencer, May 22, 1838. Mooney, 122-123.

<sup>111</sup> Collier, 67. Vann had a fine brick house that cost him ten thousand dollars. Two Georgians had appeared, heavily armed, at the same time, to claim the house. Spencer Riley took control of the upper floor, and Colonel W. N. Bishop, of the Georgia Guard, the lower. The Vann family had been driven out into the snow, and found their way to a cabin in Tennessee. (Brown, 501)

<sup>112</sup> Moulton, *John Ross Cherokee Chief*, 69.

Echota, and any Cherokees not attending would, in their absence, be counted as a vote for the treaty. He promised a free blanket to any Cherokee in attendance.<sup>113</sup> Cass had written Ross to tell him there was no need to come to Washington. He also wrote to Schermerhorn that he was under no circumstances to reach an agreement with only a portion of the tribe. Neither man heeded his instructions.<sup>114</sup>

On December 29, 1835, the Treaty of New Echota was signed. It was basically a revised version of the ‘draft treaty’ that had been voted down only weeks earlier. Most Cherokees boycotted the meeting. Only about three hundred Cherokees attended.<sup>115</sup> Ross and the delegation traveled to Washington and were there when Jackson received word that the treaty had been signed. Schermerhorn wrote to the secretary of war, “I have the extreme pleasure to announce to you that yesterday I concluded a treaty. Ross, after this treaty, is prostrate. The power of the Nation is taken from him as well as the money, and the treaty will give general satisfaction.”<sup>116</sup> The Cherokees had approved the treaty by a vote of seventy-nine to seven. Major Ridge knew that he would be killed, in accordance with the blood law, for signing the treaty. In fact, all four of the leaders, John Ridge, Major Ridge, Elias Boudinot, and Stand Watie, of the Treaty Party were later killed in the West by Ross supporters.<sup>117</sup>

The removal delegates attempted to gain Ross’s support to ratify the treaty in Congress, but Ross would not recognize the delegation and petitioned Congress not to

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<sup>113</sup> Blumenthal, 77.

<sup>114</sup> Moulton, *John Ross Cherokee Chief*, 70.

<sup>115</sup> Blumenthal, 105. Schermerhorn had secured a Seminole treaty in December of 1832 by also signing the Treaty of Payne’s Landing with a small unauthorized group of Seminoles. Jackson upheld this treaty and it was ratified by the Senate.

<sup>116</sup> Starkey, 268.

<sup>117</sup> Remini, *Andrew Jackson and the Course of American Democracy*, 300.

accept the treaty. He stayed in Washington through the winter, trying to find enough support in the Senate to vote down the treaty. Jackson refused to recognize Ross as the Principal Chief of the Cherokees, for their constitution had called for an election in 1832, but no election was held, and if a Council member died, resigned, was expelled or removed west, Ross appointed one of his friends as a replacement.<sup>118</sup>

Major William M. Davis, property appraiser for the Cherokee Nation, whose task it was to enroll Cherokees for emigration, wrote Secretary of War Lewis Cass on April 12, 1836, that the treaty was a fraud. Davis wrote:

Sir that paper called a treaty is no treaty at all, because not sanctioned by the great body of Cherokees and made without their participation or assent. I solemnly declare to you that upon its reference to the Cherokee people it would be instantly rejected by nine-tenths of them and I believe by nineteen-twentieths of them. . . . The delegates taken to Washington by Schermerhorn had no more authority to make a treaty than any other dozen Cherokees accidentally picked up for the purpose. I now warn you and the president that if the paper of Schermerhorn's called a treaty is sent to the Senate and ratified you will bring trouble on the government and eventually destroy this Nation. The Cherokees are a peaceable, harmless people, but you may drive them to desperation, and this treaty cannot be carried into effect except by the strong arm of force.<sup>119</sup>

The treaty was ratified by only one vote above the Senate two-thirds majority required, thirty-one to fifteen, after two months of discussion and debate. Jackson signed it into law on May 23, 1836. The treaty originally contained a provision whereby those Indians wishing to remain would be given one hundred sixty acres each, but Jackson had this provision removed, and provided instead six hundred thousand dollars to pay improvement claims.<sup>120</sup> The treaty gave the Cherokees two years from this date to remove to the West. On May 25, Jackson signed into law an act authorizing ten thousand troops for service in the Cherokee Nation; these troops were to come from the states

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<sup>118</sup> Ibid., 300.

<sup>119</sup> Royce, 285. Senate confidential document, April 12, 1836, p. 200.

<sup>120</sup> Mooney, 123.

involved.<sup>121</sup>

All Cherokees had to enroll for removal and appraisal of their property with the Superintendent of Removal for the Cherokees, Benjamin Currey, of McMinnville, Tennessee, who had been appointed in 1831, before the May 1838 deadline specified in the treaty. His duties included enrolling the Indians, appraising their property (the treaty provided them payment for their improvements), providing transportation to the West, and providing subsistence for the first year after removal. Currey reported to the Superintendent of Indian Affairs in the War Department.

The attitude of the states involved was reflected by the opinions of Georgia officials. Governor Wilson Lumpkin, elected governor of Georgia in 1836, reassured Jackson that there was no dissention over the treaty among the majority of the tribe. He wrote, “The statements of Ross and others that the treaty was made contrary to the will of the people is entitled to no respect or consideration whatever. Nineteen-twentieths of the Cherokees are too ignorant and depraved to entitle their opinions to any weight or consideration in such matters.”<sup>122</sup>

Ross expressed his thoughts on the ratification of the treaty in a letter to his friend George Lowry on May 26, 1836, in which he wrote of the power of non-cooperation:

All that has been done would be nothing if the Cherokees would all be firm in their minds, and consider it the same as if there was no treaty made and ratified, and be strong in this resolution, and not accept of the provisions of the fraudulent treaty made by unauthorized individuals. If they would do this, and remain still and quiet, the Government would then give up the idea of treating with them, and we would gain a great deal . . . .”<sup>123</sup>

Despite that Ross desired peace, there was much unrest between the whites and Indians.

During June 1836, a panic spread among the whites in areas close to the Cherokee

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<sup>121</sup> Carl J. Vipperman, “The Bungled Treaty of New Echota: The Failure of Cherokee Removal, 1836-1838,” *The Georgia Historical Quarterly* Vol. LXXIII, No. 3, Fall 1989, 541.

<sup>122</sup> Collier, 68.

<sup>123</sup> Conser, 203. Ross to Lowry, May 26, 1836, Senate Document 120, 680.

Nation that the Indians would rise up and attack in response to the passage of the Treaty of New Echota. An anonymous letter warned whites near the Cherokee Nation that an uprising was imminent. The Creek uprising from May to June of 1836, which ended in the removal of the entire Creek tribe and the execution of many of its leaders, heightened this panic. Ross took this as a lesson of the futility of armed resistance.<sup>124</sup>

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<sup>124</sup> Conser, 210.

## CHAPTER 3

### WOOL AND THE COMMISSIONERS

On June 20, 1836, Brigadier-General John E. Wool was appointed commander of all federal troops in the Cherokee Nation. His orders were to keep peace between the whites and Indians, to protect both white and Indian rights and property, to assist the removal commissioners, and to distribute seventy-two thousand dollars worth of provisions and supplies to destitute Cherokees. He was to use force only if necessary to maintain peace.

Wool arrived in Knoxville, Tennessee, on June 29, 1836, and began to arrange the ordering of supplies. He arrived on July 4 at Fort Cass, which was within a mile of the Cherokee Agency and close to Athens, Tennessee. The number of East Tennessee volunteers, under Brigadier-General R. G. Dunlap, exceeded expectations. However, Wool needed infantry troops, and the volunteers were almost all mounted. He had orders from Secretary of War Cass, who realized that the panic concerning violence to whites was unfounded, to accept only twelve hundred of the twenty-four hundred East Tennessee volunteers, along with his federal troops. He was short of rations for the volunteer troops and forage for the horses. However, at the urging of Tennessee Governor Newton Cannon, he accepted all the volunteers but placed half of them on inactive duty, without pay, to return home and await further orders. On July 10, he ordered Dunlap to select, from his brigade, two regiments of ten companies each for active service. He would have accepted others as infantry, but they would not consent, insisting on being mounted. Unfortunately, Wool had only three army officers and twenty-four regular soldiers to assist him.<sup>125</sup> He discovered that it was difficult to protect the Cherokees from unscrupulous whites.

Mounted vigilantes referred to as “Pony Clubs” attempted to drive Cherokees from

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<sup>125</sup> General Order No. 2, July 10, 1836, Senate Document 120,12. Gen. John E. Wool to Cass, June 30, 1836, “Report of the Secretary of War,” 5.

their lands by killing livestock, setting fires, and sometimes murdering Cherokees.<sup>126</sup> In a letter to Jackson on June 30, 1836, Major Ridge complained of the outrages committed against his fellow Cherokees. He wrote:

Notwithstanding the cries of our people, and protestations of our peace and innocence, the lowest classes of the whites are flogging the Cherokees with cowhides, hickories, and clubs. We are not safe in our homes. Our people are assailed day and night by the rabble. Even Justices of the peace and constables are concerned in this business. This barbarous treatment is not confined to the men, but the women are stripped also, and whipped without law or mercy.

Send regular troops to protect us from these lawless assaults, and to protect our people as they depart for the West. If it is not done, we shall carry off nothing but the scars of the lash on our backs, and our oppressors will get all our money, and we shall be compelled to leave our country as beggars and in want. We speak plainly, as chiefs having property and life in danger, and we appeal to you for protection.<sup>127</sup>

Despite Jackson's desire to protect the Indians, especially the Treaty Party, until their removal deadline, it proved a daunting task.

Wool did his best to assure that the Cherokees were not treated unfairly. He ordered the East Tennessee troops to determine the condition of the Cherokees, and if they would accept it, to provide them with subsistence, as well as, to convince them that they should avoid the fate of the Creeks and remove peacefully. He cautioned them not to offend or insult the Cherokees and to exclude all liquor from the soldier camp and from the Indians as far as the law would allow.<sup>128</sup> Rations issued to the Indians were one pound of fresh beef, or three-fourths pound of bacon, and three-fourths of a quart of cornmeal, or one pound of flour, to each grown person, and four quarts of salt per one hundred grown persons over the age of fourteen. The ration for a child was one-half that of an adult.

Wool also ordered the purchase of seven thousand blankets, four thousand pairs of shoes,

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<sup>126</sup> Collier, 58.

<sup>127</sup> Mooney, 127-128. Letter of June 30, 1836, to President Jackson, in Everett speech in the House of Representatives, May 31, 1838.



and four thousand yards of assorted cloth goods from New York to distribute among the needy Indians, as the suppliers close at hand were charging up to double the normal price. The War Department, however, refused to honor his order, claiming that the purchase should have been made under the direction of the Secretary of War, so despite his good intentions the Cherokees did not receive this shipment of supplies.<sup>129</sup> Also, discovering that a detachment of Georgia militia was holding Cherokee prisoners, Wool sent the Tennessee Volunteer troops to demand their release if they were not hostile. Any soldier who insulted an Indian or committed a depredation upon his property was to be dismissed from the service immediately without pay or allowances.<sup>130</sup>

In hope of promoting removal, Wool exceeded his authority. He was told that the Indians of North Carolina were the most opposed to the treaty, so he had a road built to facilitate communication. In late July 1836, he traveled to the Valley River country in North Carolina. The Indians refused the rations of bacon and flour he had brought, living instead on roots, berries, and tree sap. He gave the Cherokees an ultimatum, that they must choose either peace or war, that they should fight or leave. He also ordered them to surrender all their guns, which they did, and held their chiefs as prisoners until they agreed to accept the treaty. Wool was reprimanded by his superiors for overstepping the bounds of his orders. He was not to force removal upon the Indians, who had two years during which to remove themselves. Wool was only to act if the Cherokees became hostile. The government was already fighting two Indian wars, with the Seminoles in

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<sup>128</sup> Wool to Col. Joseph Byrd, July 12, 1836, Senate Document 120, 18.

<sup>129</sup> Wool to East Tennessee troops, August 29, 1836, Senate Document 120, 27.

Nathaniel C. Browder, *The Cherokees and Those Who Came After*. (Hayesville, N.C.: Nathaniel C. Browder, 1973), 44.

<sup>130</sup> Wool to Captain Vernon, July 23, 1836, Senate Document 120, 19.

Florida and the Creeks in Alabama, and certainly did not need another one.<sup>131</sup>

Wool continued to encounter problems with his superiors and the commissioners. Neither Cass nor Cannon was satisfied with Wool's solution to the over supply of volunteers. Wool discharged Dunlap and his staff on September 4, 1836, stating that, while their conduct had been exemplary, he did not require such a high ranking officer for the small force of Tennessee volunteers that remained. Dunlap was angry over his discharge, for he had hoped to be sent to fight in Florida when the Cherokee removal was completed. He claimed to have conducted his own tour to investigate the situation of the Cherokees after he received his orders for discharge. He concluded that it was the Cherokees who needed protection from the Georgians and not the other way around. He addressed his troops, "I would never dishonor the Tennessee arms in a servile service by aiding to carry into execution at the point of a bayonet a treaty made by a lean minority against the will and authority of the Cherokee people."<sup>132</sup> He also sent a letter of protest to President Jackson and Cass. Wool was censured for his handling of the situation; this was his first blight on his twenty-four year military record.<sup>133</sup>

By the middle of September, Superintendent Currey had divided the Nation into four divisions, one for each state involved, for the purpose of appraising Indian properties. Georgia was further divided into four districts and Tennessee into two. Two appraisers and an interpreter were sent to each district. He had Wool station the troops at key points, and at each point, he provided a depot for the distribution of troop rations, along

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<sup>131</sup> Wool to Brig. Gen. R. Jones, August 8, 1836, Senate Document 120, 25.

<sup>132</sup> Wool to Dunlap, September 4, 1836, Senate Document 120, 28. Dunlap to the East Tennessee Volunteers, September 14, 1836, Senate Document 120, 40. Royce, 286.

<sup>133</sup> Gen. John E. Wool to Dunlap, Sept. 4, 1836, "Report of the Secretary of War," 28.

with ten thousand rations for the Cherokees.<sup>134</sup>

The incompetence of the removal commissioners caused delays in preparing the Cherokees to remove. Commissioners Wilson Lumpkin of Georgia and William Carroll of Tennessee were appointed on July 7, 1836, to handle Cherokee property claims. Carroll never showed, due to illness, and he resigned in October. John Kennedy of Jonesborough, Tennessee, replaced Carroll but did not arrive until early December. Despite that hundreds of Cherokees filed claims, because regulations required the signature of both commissioners, no claims could be settled. The appraisals of Cherokee property were completed by the summer of 1836, and thousands of Indians who came for removal could have been moved west if the payment process had been well organized. Many camped at New Echota awaiting their money. Kennedy argued over small details and this slowed the process of enrollment. Another factor was that the position of the Secretary of War was filled by four different men from May of 1836 to the removal. The financial Panic of 1837 also greatly hindered their progress as no Cherokee would accept anything but specie for the payment of claims, and white contractors would accept only specie for payment.<sup>135</sup>

In August, John Ross asked Wool for permission to hold the fall Council of the Cherokees, where he intended to discuss the treaty. Currey and Lumpkin opposed the meeting. Wool received orders from Cass to inform the Cherokees that no changes to the treaty would be considered, and no repudiation of the treaty would be tolerated, but his

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<sup>134</sup> Wool to Col. Joseph Byrd, July 23, 1836, "Report of the Secretary of War," 17-19. The Census of 1835 had found 8,496 Cherokees in Georgia, 3,644 in North Carolina, 2,528 in Tennessee, and 1,424 in Alabama

<sup>135</sup> Carl J. Vipperman, "*The 'Particular Mission' of Wilson Lumpkin,*" *Georgia Historical Quarterly*, Vol. LXVI, No. 3, Fall 1982.; Lumpkin to Commissioner of Indian

orders did not prohibit the Council meeting; he was only ordered to stop the meeting if resistance to the treaty was discussed. Therefore, Wool did not issue orders to stop the Council from meeting, and the meeting began on September 15, 1836. At the meeting, however, the chiefs signed a memorial protesting the Treaty of New Echota, and two thousand two hundred forty-five adult male Cherokees also signed a similar memorial; before Wool could stop them, they voted that the treaty was a fraud. Currey did not attend but was outraged that Wool had given Ross permission to hold the Council. Wool forwarded to Washington a petition written during Cherokee Council meeting that denounced the methods used to secure the treaty and declared it null and void.

Jackson was enraged by Wool's action and replied to Wool that petitions from the Cherokees served no purpose and would not be considered.<sup>136</sup> Jackson had ceased to recognize any government of the Eastern Cherokees, and he would not receive Ross in Washington. Jackson would entertain no changes or further negotiation of the treaty. Cass informed Wool that the administration could no longer trust his judgment and that he would have to have the commissioners approve any decision he made. Wool complained daily to Cass of troubles with Georgia officials. Wool also did not like being given orders by Currey or Commissioners Lumpkin and Carroll. In November 1836, an anonymous attack on Currey and his personnel appeared in the *Athens Republican*, and Currey claimed that the author was an officer in Wool's staff. Wool had become tired of

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Affairs C. A. Harris, 20 October 1836 in Lumpkin, II, 57-59.

<sup>136</sup> Royce, 283-284. Letter to Wool from the Secretary of War, October 12, 1838. In this letter, Wool was ordered to inform Ross that any further actions in opposition to the treaty would not be tolerated. The Council appointed a delegation to go to the Cherokees in the West and gain their support. Ross went on this mission in the last three months of 1836, and he secured the support of the Western Cherokees.

these battles and disliked his duties and so he asked Cass to reassign him.<sup>137</sup>

When the Cherokee Delegation learned that Wool had asked to be reassigned, they sent a letter to the new Secretary of War Benjamin F. Butler defending Wool and expressing their desire that he continue in command of the Cherokee country, for except for his unacceptable actions in the Valley River country of North Carolina he had done his best to protect the Cherokees. Wool was not granted reassignment.<sup>138</sup>

On November 3, 1836, Wool issued General Order no. 74 ordering federal troops to continue to protect the Cherokees. Further negotiations and delegations concerning revision of the treaty were of no use and troops were ordered to report any signs of opposition to the treaty.<sup>139</sup>

Currey died on December 16, 1836, and a new superintendent had to be found. The Cherokees had come to fear and despise Currey, and many were relieved by his death. Wool believed that if Currey had not died, the Cherokees would have eventually killed him.<sup>140</sup> Lumpkin was temporarily appointed to take his place. Then, on January 3, 1837, Nathaniel Smith of Athens, Tennessee, was appointed as the new Superintendent of Removal for the Cherokees. Smith had neither the experience nor training necessary for the post. It is significant that the superintendent was appointed by the Executive branch, and the military had no authority over his actions. This meant that the general in charge of the removal had no authority over the superintendent.

In January 1837, about six hundred pro-treaty Cherokees traveled west. They were

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<sup>137</sup> Wool to B. F. Butler, November 15, 1836, Senate Document 120, 61.

<sup>138</sup> Cherokee Delegation to Bulter, November 15, 1836, Senate Document 120, 62.

<sup>139</sup> Records of U.S. Army Continental Commands, 1821-1920, Record Group 393, Microfilm Roll M1475. General Order No. 74.

<sup>140</sup> Eaton, 77.

wealthy and intelligent Cherokees, who removed themselves under the provisions of the treaty. Major Ridge stayed longer in the Cherokee Nation and witnessed outrages against the Cherokees. According to Worcester, who was not an admirer of Ross, Ross kept his followers from killing the treaty party before they left for the West.<sup>141</sup>

On February 22, a Cherokee delegation, which included Western Cherokees, presented a petition to Congress protesting the Treaty of New Echota. The memorial played to the emotions of white society:

In truth our cause is your own. It is the cause of liberty and justice. We have learned your religion also. We have read your sacred books. Hundreds of our people have embraced their doctrines . . . We are indeed an afflicted people! . . . Spare our people! Spare the wreck of our prosperity.”<sup>142</sup>

When they asked to meet with the President, Secretary of War Butler told them that the President did not recognize them as representatives of the Cherokees.

Ross attacked the character of the members of the Treaty Party. Elias Boudinot wrote a pamphlet to the American citizens in 1837, which stated the reasons for his signing of the treaty. It was written as a response to allegations by Ross that he sold out his people for personal gain and power:

Can it be possible that you consider the mere pains and privations of the body, and the loss of a paltry sum of money, of a paramount importance to the depression of the mind, and the degradation and pollution of the soul? . . . But look at the mass - look at the entire population as it now is, and say, can you see any indication of a progressing improvement? . . . I say their condition is wretched. Look . . . around you and see the progress that vice and immortality have already made! See the spread of intemperence and the wretchedness and misery it has already occasioned . . . We are making a rapid tendency to a general immortality and debasement.<sup>143</sup>

Ross continued to encourage the Indians to believe that the removal would never happen.

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<sup>141</sup> Starkey, 284.

<sup>142</sup> Ralph Henry Gabriel, *Elias Boudinot Cherokee & His America* (Norman: University of Oklahoma Press, 1941), 159.

<sup>143</sup> *Ibid.*, 160-163.

The mass of Cherokees awaited in despair the instructions of Ross.

Ross told the Cherokees to do nothing that might be interpreted as an acceptance of the treaty terms. Wool reported to the War Department on February 18:

So determined is their opposition that they will receive neither rations nor clothing, however poor or destitute, lest they might compromise themselves in regard to the treaty. During the summer just past thousands of them preferred living upon roots and the sap of trees rather than receive provisions from the United States; and, as I have been informed, had no other food for weeks.

The whole scene since I have been in this country has been nothing but a heart-rending one, such as I would be glad to be rid of as soon as circumstances will permit. If I could, - and I could not do them a greater kindness, - I would remove every Indian tomorrow beyond the reach of the white men, who, like vultures, are watching, ready to pounce upon their prey and strip them of everything they have or expect to have from the Government of the United States. Nineteen-twentieths, if not ninety-nine out of every hundred, will go penniless to the West.<sup>144</sup>

On March 3, Major Ridge and a few of his family joined four hundred sixty-six Cherokees, who were voluntarily emigrating, in the first trip organized by the government after the treaty had been signed. They were transported by steamboats and then by railroad. Though there was sickness during the trip, and at times the Indians were wet and cold, no deaths occurred. However, Indians obtained whiskey when the boats would dock, and this caused much drunkenness and disorder.<sup>145</sup>

On March 22, Wool issued an address to the Cherokees warning them that the removal deadline was about one year away and urged them to begin to move west. He continued to do everything he could to protect the Cherokees from attacks upon themselves or their property. Wool also had discipline problems with volunteer troops, and he was busy rounding up about one thousand fugitive Creeks, who had hidden in the Nation to avoid removal. His warning to quickly remove was not heeded.

Though very few Cherokees had yet removed, in Jackson's farewell address, in 1837,

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<sup>144</sup> Wool to Lewis Cass, September 10, 1836, Senate Document 120, 29. Royce, 286.

<sup>145</sup> Grant Foreman, *Indian Removal*, (Norman: University of Oklahoma Press, 1932; reprint, Norman: University of Oklahoma Press, 1972), 273-278. Page citations are from the reprint edition.

he spoke of his Indian policy:

The States which had so long been retarded in their improvement by the Indian tribes residing in the midst of them are at length relieved from the evil, and this unhappy race - the original dwellers in our land - are now placed in a situation where we may well hope that they will share in the blessings of civilization and be saved from that degradation and destruction to which they were rapidly hastening while they remained in the States.<sup>146</sup>

Martin Van Buren became President in March of 1837 and followed much the same course as Jackson in regard to the Cherokees, although with less decisiveness. He stated, "No state can achieve proper culture, civilization, and progress in safety as long as Indians are permitted to remain."<sup>147</sup>

Due to the tensions between Wool and the commissioners, Wool was relieved of his command, and he officially relinquished command in his Order no. 39 on July 1, 1837. Colonel William Lindsay, who had been serving under Wool, took over his duties.<sup>148</sup> Superintendent Nathaniel Smith and many of the Ridge faction protested the removal of Wool, for Wool had shown his sympathy for the Cherokees and treated them fairly, as well as protecting their rights by removing intruding whites in Alabama. When the governor of Alabama charged Wool with usurping the power of the civil tribunals on July 3, Jackson ordered a court martial. The military court of inquiry, presided over by General Winfield Scott, was held at Knoxville in September, and Wool was acquitted. At the time Wool left the Cherokee Nation the Indians were still not removing, but rather believing that Ross would obtain approval for them to stay.<sup>149</sup>

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<sup>146</sup> Malone, 155.

<sup>147</sup> Williams, 158.

<sup>148</sup> Microfilm Roll M1475. Order No. 39.

<sup>149</sup> Foreman, 280.



## CHAPTER 4

### ROSS AND TREATY OPPOSITION

John Ross continued to promise his people that the terms of the Treaty of New Echota would not be executed but rather the Cherokees would be allowed to remain in their homeland. At a Cherokee Council meeting at Red Clay in August 1837, Ross related his unfavorable impression of his trip to the West, finding it unsuitable for habitation by the Cherokees. Three to four thousand Indians attended; attendance would have been greater, except for dysentery, which had spread through the Nation. The Council meeting was allowed by the army so that government special agent John Mason, Jr. could speak to the Council and impress upon them that the terms of the treaty were final. On August 7, 1837, Mason delivered his speech. Although he was supposed to be there to promote removal, he found that his sentiments were with the Indians. Mason wrote to the new Secretary of War Joel R. Poinsett on September 25, 1837:

The opposition to the treaty is unanimous and irreconcilable. They say it cannot bind them because they did not make it . . . . The influence of this chief is unbounded and unquestioned . . . . It is evident that Ross and his party are in fact the Cherokee Nation . . . . Yet though unwavering in his opposition to the treaty, Ross's influence has constantly been to preserve the peace of the country . . . He alone stands between the whites and bloodshed. The opposition to the treaty on the part of the Indians is unanimous and sincere, and it is not a mere political game played by Ross for the maintenance of his ascendancy in the tribe.

. . . They understood their condition perfectly and appear resolved, be the consequences what they may, not to emigrate under the existing treaty, or to do any act which can be construed into giving assent to it.<sup>150</sup>

Mason also wrote that the Cherokees would not remove “until they see the Federal bayonet,” and Ross advised “that in the event of force being used to expel the Cherokees

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<sup>150</sup> Royce, 286-287. Mason to Poinsett, September 25, 1837, Senate Document 120, 984-985.

from their country, they will advise them, as the weaker party, to make no resistance.”<sup>151</sup>

The Council at Red Clay voted down the Treaty of New Echota and decided to send another petition to Washington protesting the removal. The chiefs and 2,085 men signed the resolution. It was also resolved that John Ross would remain as principal chief and continue to represent the Cherokees before the United States government.<sup>152</sup>

Commissioners Lumpkin and Kennedy wrote to Mason that Ross opposed the treaty only because it was concluded without his consent and it provided for all of the Cherokees, no matter their social status, giving Ross no special control over the treaty funds.<sup>153</sup>

Following the Council meeting, emigration all but stopped, and the commissioners left the Cherokee Nation. Lumpkin resigned as a commissioner in October to take his seat in the Senate. From this post, Lumpkin vehemently opposed Ross’s efforts to extend the deadline. As 1837 came to an end, the commissioners issued a warning to the Cherokees that they had only five months left to prepare for removal and that they were being misled by Ross.<sup>154</sup> By the beginning of 1838, about fourteen thousand claims remained unsettled.<sup>155</sup>

A Cherokee delegation spoke to Poinsett in October of 1837. Poinsett would not agree to alter the terms of the treaty. Dissatisfied, Ross wrote to John Mason Jr. and proposed that the Cherokee give up all their lands in Georgia, and in return, be allowed to

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<sup>151</sup> Mason to Poinsett, September 25, 1837, Senate Document 120, 984-985. Conser, 206.

<sup>152</sup> Ross to Poinsett, August 8, 1837, Senate Document 82, 25th Congress, 2d Session, 9.

<sup>153</sup> Commissioners to Mason, September 9, 1837, Senate Document 82,10. With the Indians suspicious of the motives of anyone in power, Ross did not like to be seen talking to whites, 2-3.

<sup>154</sup> Eaton, 78.

<sup>155</sup> Viperman, “The Bungled Treaty of New Echota: The Failure of Cherokee Removal, 1836-1838,” 555. Colonel Lindsay expressed his opinion in a letter to Poinsett, July 7, 1837, that due to the slow progress of the commissioners in settling claims; the deadline

remain on reduced lands in Tennessee, Alabama, and North Carolina. When Mason wrote Ross that the treaty terms could not be changed, Ross wrote to Poinsett with the same proposal, but he gave the same answer as Mason. The federal annuity was paid to the delegation in hopes that it would help to gain their cooperation. Instead, the delegation posed the question to Poinsett of what would happen if the Cherokees did not remove by the deadline.<sup>156</sup>

During the fall of 1837, Superintendent Smith removed only three hundred sixty-five voluntary emigrants, while another three hundred twenty-five removed themselves. The group under government control left on October 14 and traveled overland through Kentucky, Illinois, and Missouri. They stopped at the Hermitage, the Nashville home of Jackson, to wash clothes, repair wagons, and shoe horses, and to visit their friend Andrew Jackson. They reached their destination in December, with fifteen dead, eleven of whom were children. The remaining Indians heard stories of the misery suffered on the journeys. Also, in his letters to friends at home, Ross would proclaim that he was close to reaching a new agreement, and this kept emigration numbers low.<sup>157</sup>

In November, Ross accepted a proposal which was authorized and sanctioned by Poinsett to form a delegation of Cherokees to travel to St. Augustine, Florida, and negotiate for peace with the Seminoles and convince them to emigrate west. General Jesup, who was then in charge of the army in Florida, had violated a flag of truce and captured Osceola and held him prisoner. Ross and the delegation talked to Osceola and arranged a meeting with Mikanopy, the principal chief of the Seminoles, but when they

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for removal should be extended, but he received no immediate response.

<sup>156</sup> Moulton, *John Ross Cherokee Chief*, 82.

<sup>157</sup> Foreman, 280-283.

persuaded him to come to a peace talk he too was captured and taken prisoner. Ross's motive in accepting this assignment must have been a combination of money, prestige, and a hope that he might gain a political advantage that would promote his efforts to renegotiate the terms of the Treaty of New Echota. Ross had also been excluded from Washington, and this might have appeared to be a way to gain influence. The mission, however, was a failure and only served to stain the reputation of Ross. Seminole aggression reflected negatively on Indians as a whole and did not help the Cherokee cause.<sup>158</sup>

On December 28, Superintendent Nathaniel Smith and the Cherokee Commissioners sent a letter to the Cherokee Nation, that stated in no uncertain terms that the treaty would be executed and that they had squandered valuable time that they should have used in preparation for removal. They warned the Cherokees that they were being deceived by Ross and his delegation in false expectations, that the removal would happen, and that the government would not be able to protect them against the citizens of Georgia.<sup>159</sup>

On January 15, 1838, the Cherokee delegation presented a lengthy petition to Congress protesting the impending removal. Ross also introduced a petition allegedly signed by fifteen thousand six hundred sixty-five Cherokees on February 22. It eloquently asked for compassion and mercy for the Cherokees and for a stop to the enforcement of the treaty. However, the number of names on the petition was not believable, and Worcester, years later, admitted that some of the names were those of

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<sup>158</sup> Jacqueline Fiorato, "The Cherokee Mediation in Florida," *Journal of Cherokee Studies* (Spring 1978), 111-117.

<sup>159</sup> House Document 316, 25th Congress, 2d Session, April 9, 1838, 4-7. Letter from John Kennedy, Th. W. Wilson (U.S. Commissioners), and Nat Smith (Sup't. Cherokee Removal), to the Cherokee chiefs, and Cherokee Nation. December 28, 1837.

babies. He considered this the one totally dishonorable act committed to his knowledge by John Ross.<sup>160</sup> Reassured by Whig friends in Congress, Ross still held out to his people hope that the fraudulent treaty would be overturned and no removal would occur. He wrote, “If they shall refuse to allow us the right to retain a portion of our Territory, they cannot and will not, in my opinion, refuse to grant us a compact for a removal upon such terms as will be more satisfactory and just to the Cherokee people . . . And none of them will in the end prefer to drive us off by military force.”<sup>161</sup> It was this hope that prevented the Cherokees from realizing that the removal was an imminent reality and thus preparing themselves.<sup>162</sup>

In a letter to John Ross on March 5, his brother Lewis Ross related the restlessness that the whole Cherokee nation felt as planting season approached and there was no word from John about whether the deadline would be extended. Cherokees were being cheated out of their claims money by swindlers, and all were anxious to hear the final word as to their fate.<sup>163</sup> In March, John Ross wrote to Georgia Governor Gilmer:

It is my wish to settle all difficulties by amicable treaty, and on perfectly reasonable terms. I sincerely hope that my earnest efforts to that end may ultimately prosper, as one word of the Executive is now enough to save the expense and inevitable danger which must result from the employment of an uncalled-for army. Should blood be spilt, therefore, which I trust can never be the case, the blame can never rest on us.<sup>164</sup>

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<sup>160</sup> House Document 316, “Memorial of the Cherokee Delegation,” (March 12, 1838). According to Boudinot, John Howard Payne was the author. The federal Census of 1835 listed a total of 16,542 Cherokees east of the Mississippi.

<sup>161</sup> Gary Moulton, *The Papers of Chief John Ross* (Norman: University of Oklahoma Press, 1985), 585.

<sup>162</sup> Moulton, *The Papers of Chief John Ross*, 604-605. News of the deaths of 6,000 Creeks during removal, mostly from starvation due to poor management by the government commissioners, reached Ross.

<sup>163</sup> *Ibid.*, 604-605.

<sup>164</sup> Gabriel, *Elias Boudinot Cherokee & His America*, 167.

On April 5, in a letter to his brother, Lewis, John Ross stated, “Finding it impossible to get justice extended to our Nation, so as to ensure a quiet, permanent, and happy Continuance upon the land of our Fathers - the Delegation are now satisfied that the only alternative left us, in the last resort for an adjustment of the affairs is to negotiate a Treaty on the basis of a Removal.”<sup>165</sup>

Thus, Ross came to the realization that removal was eminent and that the only course of action left to him was to attempt to secure a revision to the current treaty, one that would provide for a delay in the departure deadline. Meanwhile, his Cherokee people were not preparing for removal and the consequences would be in the form of hardship.

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<sup>165</sup> Conser, 211. Moulton, *The Papers of Chief John Ross*, Ross to Lewis Ross, March 28, April 5, 1838, 616-617, 622-623.

## CHAPTER 5

### SCOTT TAKES COMMAND

As the deadline for removal approached, President Van Buren and the war department realized that they must place a capable military officer in charge of the Cherokee country and the most capable man in Van Buren's opinion was General Winfield Scott. Scott's life and career had prepared him for such an assignment.

Winfield Scott was born June 13, 1786, near Petersburg, Virginia. Winfield's father, William, a former Revolutionary War captain, had inherited a fine farm from his father. When Winfield was five years old, his father died. His older brother inherited the farm, and Winfield, having no desire to help on the farm, pursued his education, entering a small boarding school near Williamsburg at age twelve. From his Quaker teacher, he learned much about humanitarian ideals and the necessity of discipline and control of his temper.<sup>166</sup> His mother, who died when he was seventeen, instilled in him the religious values of a gentleman. Late in his life, Scott said, "And if, in my now protracted career, I have achieved anything that my countrymen are likely to honor in the next century, it is from the lessons of that admirable parent that I derived the inspiration."<sup>167</sup>

Young Scott went to the college of William and Mary to study law in 1805. He stayed only one year at college, leaving to work at a law office in Richmond with Judge David Robinson. It was here that he witnessed the trial of Aaron Burr in 1807. The trial made a huge impression on young Scott. He met men from all places, cities and frontiers, and it formed in his mind what it was to be an American and inspired his desire to be a soldier, not a lawyer.<sup>168</sup>

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<sup>166</sup> Marcus Joseph Wright, *General Scott* (New York: D. Appleton and Company, 1893), 4. At the age of about nineteen, Scott fought a bully, who was beating Hargrave. This was Scott's first realization that he could fight well.

<sup>167</sup> *Ibid.*, 2.

<sup>168</sup> *Ibid.*, 30,

Scott became a hero during the War of 1812. At the start of the war, he was promoted to the rank of Colonel. He was captured at the Battle of Queenstown Heights in October of 1812, but through a prisoner exchange, he was freed and went on to lead a victorious attack on Fort George in May of 1813. He won a victory at the Battle of Chippewa on July 5, 1814, which raised the spirit of all Americans, as this was the first decisive victory of the war. Also at the Battle of Lundy's Lane, his brigade led the fighting, and Scott was severely wounded. Due to his heroism he was promoted to brevetted major general in March of 1814 by President Madison, at the age of twenty-seven. Madison offered him the position of Secretary of State, but Scott declined on the grounds that he was too young for the post.<sup>169</sup>

The young general had always been a leader in new army procedures that demanded discipline from his troops. Though Scott enjoyed liquor with his meals, he could not tolerate drunkenness, which he saw as a source of disease and insubordination and did his best to prevent it. He also enforced strict camp sanitation rules, which reduced the sick rate to less than ten percent. A manual Scott wrote containing military procedures and conduct set forth rules of discipline and sanitation that are the basis for the modern United States army procedures.<sup>170</sup>

Being six foot four inches tall and about two hundred thirty pounds, Scott was an awesome presence. His speech was precise, to the point, and with a sense of infallibility. He was devoutly religious, well read, proud of his military record, proud to be Virginian and an American. And, although sometimes irritable, arrogant, pompous, and egotistical, he would do anything for his soldiers and his friends. He was physically hardy and could withstand the hardships of a journey much better than his younger subordinates.<sup>171</sup>

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<sup>169</sup> Ibid., 40.

<sup>170</sup> Ibid., 40.

<sup>171</sup> Erasmus D. Keyes, *Fifty Years Observation of Men and Events* (New York: Charles Scribner's Sons, 1884), 8-11.



In 1832, Scott took command of the army against the Sac and Fox Indians who were led by the noted war-chief Black Hawk. He was to punish them for violent outrages on the frontier. An outbreak of Cholera delayed the arrival of his troops, and he did not arrive at Fort Armstrong before the fighting was completed. Cholera was present here as well, and he warned the Indians coming for the treaty negotiations, to stay away until it was safe. He organized the troops, outlawed drunkenness, and enforced sanitary camp procedures. Three Sacs were prisoners at the fort, arrested for murdering a party of Menominees. Scott released them, giving them guns and ammunition to hunt and food, warning them that they must return after the epidemic was over, which they did. The epidemic at an end, he concluded a treaty with the Winnebago Indians of Illinois on September 15 and a treaty with the Sac and Fox Indians on September 21.<sup>172</sup> Governor Reynolds, of Illinois, wrote of Scott's actions, "I will observe that General Scott . . . was a very efficient Commissioner, and, it may be added, that mercy for the unfortunate Indians is conspicuous in all his actions."<sup>173</sup> Scott was involved in several Indian wars. In 1836 and 1837, he fought the Seminoles in Florida and then the hostile Creeks in Alabama in the Second Creek War.<sup>174</sup>

On January 8, 1838, Poinsett reported that about fourteen thousand Cherokees were believed to still reside in the Cherokee Nation and that two thousand one hundred three had removed in compliance with the treaty, of whom one thousand two hundred eighty-two had been allowed to remove themselves. He had no reason to believe that the

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<sup>172</sup> Washburn, 25. Scott had his headquarters in New York, and when Jackson ordered him to the frontier in July, he and his troops had to travel by steamer ship. Scott took with him medicine for an epidemic of Asiatic cholera, which was rampant that summer. Nevertheless, his troops became sick rapidly, the doctor also, and Scott was left to nurse them. Out of one thousand men, only four hundred survived. He stopped in Detroit to disembark the sick.

<sup>173</sup> Arthur D. Howden Smith, *Old Fuss and Feathers* (New York: The Greystone Press, 1937), 181.

<sup>174</sup> Winfield Scott, *Memoirs of Lieut-General Scott, LL.D.* (New York: Books for Libraries Press, 1864), 303-304.

Indians would become hostile but did foresee difficulties in removing those remaining. To this end, he recommended that the law giving the President authority to employ volunteers to suppress Indian troubles be employed so that a large militia could be maintained for the enforcement of the treaty. There were at this time seven hundred ninety-four United States soldiers and militia in the Cherokee Nation, and Colonel Lindsay recommended that at least five thousand be used to execute the treaty.<sup>175</sup>

During a dinner party given by President Van Buren, the news that blood had been shed by a number of Canadian radicals, who had been joined by Americans on the northern border of the United States, reached Washington. Van Buren had a great respect for Scott, who was present at the party, and immediately dispatched him to the Niagara frontier. All of the regular troops were engaged in Florida and the Western frontiers. But due to the respect Scott commanded as a soldier, combined with his diplomatic overtures, he quickly dispelled the rebellion. He had spent this winter traveling in the ten to twenty degrees below freezing nights to points all along the Northern frontier, where he gave speeches to his fellow countryman, and thus convinced them not to join the Canadian rebellion. Even though he was suffering with kidney stones, he did not let it deter him from his task.<sup>176</sup> It was only a month after the completion of this mission that the War Department, realizing that the Cherokees were making no preparations to remove, ordered Scott to the Southeast to take command of the Cherokee removal.<sup>177</sup> His friends in New York tried to convince him to not accept the command, as it might do harm to his military record and public popularity, but the fifty-two year old Scott responded, "I like difficulties."<sup>178</sup>

Scott spent ten days with his aide, Erasmus Keyes, getting organized. On April 6,

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<sup>175</sup> House Document 82, January 9, 1838, 1-2.

<sup>176</sup> Keyes, 122-133.

<sup>177</sup> Scott, 307.

<sup>178</sup> John Eisenhower, *Agent of Destiny* (New York: The Free Press, 1997), 185.

1838, Scott met with Ross in Washington and tried to convince him to advise his people to prepare to remove, but Ross was optimistic that he would gain enough support in the Senate to stop the removal. He told Ross that his objective was to avoid bloodshed, but that if blood were spilt, he (Scott) would weep.<sup>179</sup> Meanwhile, the Cherokees were busy planting corn in April and had no desire to remove west. Some were erecting new cabins, while others were seen carrying corn into the mountains to subsist them, if hiding became necessary. In De Kalb County, Georgia, about sixty Cherokees were working on the new Western and Atlantic railroad. Some citizens asked Governor Gilmer to request that federal troops build forts for the whites to protect them from the more savage Cherokees who lived in the mountains. Commissioner of Indian Affairs C. A. Harris wrote to Ross on March 27 to encourage him to be honest with his people and inform them that removal was imminent.<sup>180</sup>

Scott also received advice from Georgia Senator Lumpkin, who believed Scott should not recognize Ross as anything but another Cherokee; no policy change should be made after Scott departed for his post; the treaty should be carried out quickly; an overwhelming number of soldiers should be employed; the Cherokees should not be allowed to hold Council meetings for hostile purposes; the collection should begin in Georgia and proceed northward; and the Cherokees should be held along the Tennessee River to promote their transport and that of supplies.<sup>181</sup>

Scott was to use his own discretion, having himself written detailed instructions as to how the collection and removal of the tribe would be accomplished, and Van Buren simply signed these instructions.<sup>182</sup> In April, Poinsett became seriously ill with

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<sup>179</sup> Moulton, *The Papers of Chief John Ross*, 623.

<sup>180</sup> Woodward, 199-200.

<sup>181</sup> Viperman, "The Bungled Treaty of New Echota: The Failure of Cherokee Removal, 1836-1838," 556. Lumpkin, II, 226-29.

<sup>182</sup> Charles Winslow Elliott, *Winfield Scott The Soldier and the Man*, (New York: The MacMillan Company, 1937), 346.

inflammation of the lungs, and his friends did not believe he would live. He did, however, recover by summer. Too ill to be involved in the creation of the orders, Poinsett expressed his confidence that Scott would proceed with regard to the dictates of humanity.<sup>183</sup>

Scott received his official orders, dated April 6, from General Alex Macomb, to take command of the troops in the Cherokee country, and he immediately departed for the Cherokee Agency, near Athens, Tennessee, on the Hiwassee River, arriving on May 8. He was given letters to present to the governors of the states concerned to request up to four thousand militia troops (changed to three thousand on May 3). He was told to expect the 4th regiment of artillery, the 4th regiment of infantry, and six companies of the 2d dragoons, who were in Florida, to report as soon as possible to his command.<sup>184</sup> With an estimated fourteen to fifteen thousand Cherokees still residing in the Nation, Scott would need all the competent officers he could obtain. Colonel Lindsay, who had been in command until Scott's arrival, was an old friend of the General, and Scott had also secured Colonel William Worth, who had served him well on the Canadian border, as his chief of staff. Scott divided the Cherokee Nation into three operational districts of command: western, middle, and eastern, these were to be commanded by Col. William Lindsay, Brigadier-General Walker Keith Armistead, and Brigadier-General Abraham Eustis, respectively.<sup>185</sup> He ordered that a number of large collection posts be established with shade, water, and security. The Indians would be collected at these posts and then transferred in large groups to embarkation points along the Tennessee River. These posts numbered twenty-three and typically had sixteen-foot walls, with pickets made from split

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<sup>183</sup> Herbert Everett Putnam, *Joel Roberts Poinsett* (Washington D.C.: Mimeoform Press, 1935), 183.

<sup>184</sup> House Document 453, 25th Congress, 2d session, 1-2. Microfilm Roll M1475, Major General Alex Macomb to Scott, April 6, 1838.

<sup>185</sup> House Document 453, 9. Armistead, who was sent to muster troops in New Orleans, and did not return until after the roundup in his district had already been completed under the leadership of General Charles Floyd of the Georgia Militia.

logs set into the ground. There were also log enclosures with roofs, which measured sixteen by sixteen, to house the Cherokees. The work that Lindsay did, before Scott's arrival, to establish these posts was invaluable.<sup>186</sup>

Scott was immediately busy with the task of organizing the militia troops. Lindsay had twice as many troops as Scott had been informed of before leaving Washington. Troops from North Carolina, Georgia, and Tennessee assembled, but despite repeated request by Scott, and a written request by the War Department, dated April 9, to cooperate and assist Scott, Alabama officials totally ignored Scott's request for troops. Scott believed that he had too many militia troops on May 18 and planned to reduce their number after the regulars arrived. However, he soon realized that the regulars were not going to arrive from Florida before the operation was to commence, and by May 30, he wrote that he did not have too many militia in the field.<sup>187</sup>

Scott found the mixed-blooded Cherokees to be educated and possessing of ability, but he perceived that the full-blooded Indians of the mountains were still wild men. He discovered that the citizens of North Carolina and Tennessee were kindly disposed toward the Indians, while Alabamians were much less so, and the Georgians were the most difficult. While inspecting the Georgia troops, he realized that a mutual hatred between Georgians and Cherokees existed. Many Georgia troops vowed to kill a Cherokee before the removal was complete. Scott found this most disturbing, the more remarkable because seven out of ten Georgia soldiers were Christians, and yet they talked so callously of other human beings.<sup>188</sup> Colonel Stewart of the Georgia militia reported to Governor Gilmer that, while some of the Georgia Cherokees were cheerful and visited the whites, the majority were drinking, were very stubborn, were threatening white

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<sup>186</sup> Eisenhower, 186.

<sup>187</sup> House Document 453, 7, 14.

<sup>188</sup> Scott, 318-319.

citizens, and did not intend to leave the country.<sup>189</sup>

Three embarkation points were established along the Tennessee River, one at the federal agency at Calhoun, Tennessee; one at Ross's Landing, near present-day Chattanooga; and one at Gunter's Landing, near Guntersville, Alabama. Steamboats were hired to travel down the Tennessee to the Ohio, down the Ohio to the Mississippi, down the Mississippi to the Arkansas, to Fort Gibson, in present-day northeastern Oklahoma. The steamboats pulled keelboats, which were 130 feet in length, with a house one hundred feet long, twenty feet wide, two stories high, and banistered around the top. They were made with partitions on each floor, making four rooms, each fifty by twenty feet with windows. They had stoves inside and five hearths on top of each boat for cooking.<sup>190</sup>

On May 10, Scott addressed sixty Cherokee chiefs and headmen assembled at the Agency and begged that the Cherokees come in voluntarily:

Cherokees! The President of the United States has sent me with a powerful army, to cause you, in obedience to the treaty of 1835, to join that part of your people who are already established in prosperity on the other side of the Mississippi. Unhappily, the two years which were allowed for the purpose, you have suffered to pass away without following, and without making any preparation to follow; and now, or by the time that this solemn *address* shall reach your distant settlements, the emigration must be commenced in haste, but I hope without disorder. I have no power, by granting a farther delay, to correct the error that you have committed. The full moon of May is already on the wane; and before another shall have passed away, every Cherokee man, woman, and child, in those States, must be in motion to join their brethren in the far West.

My friends! This is no sudden determination on the part of the President, whom you and I must now obey. By the treaty, the emigration was to have been completed on or before the 23d of this month; and the President has constantly kept you warned, during the two years allowed, through all his officers and agents in this country, that the treaty would be enforced.

I am come to carry out that determination. My troops already occupy many positions in the country that you are to abandon, and thousands and thousands are approaching from every quarter, to render resistance and escape alike hopeless. All

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<sup>189</sup> Microfilm Roll M1475, Col. Stewart to Governor Gilmer, April 22, 1838.

<sup>190</sup> Foreman, 284.

those troops, regular and militia, are you friends. Receive them and confide in them as such. Obey them when they tell you that you can remain no longer in this country. Soldiers are as kind-hearted as brave, and the desire of every one of us is to execute our painful duty in mercy. We are commanded by the President to act towards you in that spirit, and such is also the wish of the whole people of America.

Chiefs, head-men, and warriors! Will you then, by resistance, compel us to resort to arms? God forbid! Or will you, by flight, seek to hide yourselves mountains and forests, and this oblige us to hunt you down? Remember that, in pursuit, it may be impossible to avoid conflicts. The blood of the white man or the red man may be spilt, however, accidentally, it may be impossible for the discreet and humane among you, or among us, to prevent a general war and carnage. Think of this, my Cherokee brethren! I am an old warrior, and have been present at many a scene of slaughter; but spare me, I beseech you, the horror of witnessing the destruction of the Cherokees.

Do not, I invite you, even wait for the close approach of the troops; but make such preparations for emigration as you can, and hasten to this place, to Ross's landing, or to Gunter's landing, where you all will be received in kindness by officers selected for the purpose. You will find food for all, and clothing for the destitute at either of those places, and thence at your ease and comfort, be transported to your new homes, according to the terms of the treaty.

This is the address of a warrior to warriors. May his entreaties be kindly received, and may the God of both prosper the Americans and Cherokees, and preserve them long in peace and friendship with each other!

Scott's Order 25 to all soldiers, issued May 17, left no uncertainty as to the humane manner in which he expected the Cherokees to be treated:

The Cherokees, by the advances which they have made in christianity and civilization, are by far the most interesting of the Indians in the territorial limits of the United States. Of the 15,000 of those people who are now to be removed - (and the time within which a voluntary emigration was stipulated, will expire on the 23rd instant -) it is understood that about four fifths are opposed, or have become averse to a distant emigration; and altho' none are in actual hostilities with the United States, or threaten a resistance by arms, yet the troops will probably be obliged to cover the whole country they inhabit, in order to make prisoners, by families either to this place, to Ross's Landing or Gunter's Landing, where they are to be finally delivered over to the Superintendent of Cherokee Emigration.

Considering the number and temper of the mass to be removed, together with the extent and fastnesses of the country occupied, it will readily occur that simple indiscretions, acts of harshness, and cruelty on the part of our troops, may lead, step by step, to delays, to impatience, and exasperation, and in the end, to a general war and carnage; a result, in the case of these particular Indians, utterly abhorrent to the generous sympathies of the whole American people. Every possible kindness, compatible with the necessity of removal, must, therefore, be shown by the troops; and if, in the ranks, a despicable individual should be found, capable of inflicting a wanton injury or insult on any Cherokee man, woman, or child, it is hereby made the special duty of the nearest good officer or man instantly to interpose, and to seize and consign

the guilty wretch to the severest penalty of the laws. The major general is fully persuaded that this injunction will not be neglected by the brave men under his command, who cannot be otherwise than jealous of their own honor and that of their country.

By early and persevering acts of kindness and humanity, it is impossible to doubt that the Indians may soon be induced to confide in the army, and, instead of fleeing to mountains and forests, flock to us for food and clothing. If, however, through false apprehensions, individuals, or a party here and there, should seek to hide themselves, they must be pursued and invited to surrender, but not fired upon, unless they should make a stand to resist. Even in such cases, mild remedies may sometimes better succeed than violence; and it cannot be doubted, if we get possession of the women and children first, or first capture the men, that, in either case, the outstanding members of the same families will readily come in on the assurance of forgiveness and kind treatment.

Every captured man, as well as all who surrender themselves, must be disarmed, with the assurance that their weapons will be carefully preserved and restored at, or beyond, the Mississippi. In either case, the men will be guarded and escorted, except it may be where their women and children are safely secured as hostages; but, in general, families in our possession will not be separated, unless it be to send men, as runners, to invite others to come in.

It may happen that Indians will be found too sick, in the opinion of the nearest surgeon, to be removed to one of the depots indicated above. In every such case, one or more of the family or the friends of the sick person will be left in attendance, with ample subsistence and remedies, and the remainder of the family removed by the troops. Infants, superannuated persons, lunatics, and women in a helpless condition, will all, in the removal, require peculiar attention, which the brave and humane will seek to adapt to the necessities of the several cases.

All strong men, women, boys, and girls, will be made to march under proper escorts. For the feeble, Indian horses and ponies will furnish a ready resource, as well as for bedding and light cooking utensils; all of which, as intimated in the treaty, will be necessary to the emigrants both in going to, and after arrival at, their new homes. Such, and all other light articles of property, the Indians will be allowed to collect and take with them, as also their slaves, who will be treated in a like manner with the Indians themselves.

If the horses and ponies be not adequate to the above purposes, wagons must be supplied.

Corn, oats, fodder, and other forage, also beef cattle belonging to the Indians to be removed, will be taken possession of by the proper departments of the staff, as wanted, for the regular consumption of the army, and certificates given to the owners, specifying, in every case, the amount of forage and the weight of beef so taken, in order that the owners may be paid for the same on their arrival at one of the depots mentioned above.

All other moveable or personal property left or abandoned by the Indians, will be collected by agents appointed for the purpose, by the superintendent of Cherokee emigration, under a system of accountability, for the benefit of the Indian owners, which he will devise. The army will give to those agents, in their operations, all



reasonable countenance, aid, and support.

White men and widows, citizens of the United States, who are or have been intermarried with Indians, and thence commonly termed *Indian countrymen*; also such Indians as have been made denizens of particular States by special legislation, together with the families and property of all such persons, will not be molested or removed by the troops until a decision, on the principles involved, can be obtained from the War Department.

A like indulgence, but only for a limited time, and until further orders, is extended to the families and property of certain chiefs and headmen of the two great Indian parties, (on the subject of emigration,) now understood to be absent in the direction of Washington on the business of their respective parties.

This order will be carefully read at the head of every company in the army.<sup>191</sup>

The chiefs listened with resignation and sadness. The printed address and the order were issued to both soldiers and Indians. Following the address, several families enrolled for removal. However, due to letters arriving in the Nation from the Cherokee Delegation, led by Ross, promising that an extension to the removal deadline would be approved any day, Cherokee enrollment stopped.<sup>192</sup>

In response to the Ross delegation's request for alteration of the treaty terms, Poinsett wrote to the delegation on May 18 and assured them that their request for a two-year extension of the removal deadline would be granted if the states involved would agree. They had also requested permission for their own agents to take charge of the removal operation. Poinsett wrote that this would be approved and that the commanding general in charge of the removal would be instructed to enter into arrangements with them to that effect. In addition to the six hundred thousand dollars that had been allotted by Congress for the payment of property and improvements, he promised that the President would

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<sup>191</sup> Microfilm Roll M1475, Orders of Scott, May 17, 1838.

<sup>192</sup> *Journal of the Senate of the United States of America, 1789-1873*, May 11, 1838. The Cherokees still retained much support in the North. In the Senate, on May 11, memorials were presented by many northern cities, praying that the Treaty of New Echota would not be executed. These cities were in the states of New Hampshire, Ohio, Massachusetts, New York, New Jersey, and Connecticut.

recommend that Congress give the Cherokees additional funds for travel expenses involved in executing the removal themselves. He also promised them the necessary escort and protection during the removal of their persons and property, and to encourage the States from pressing their rights in anyway which would oppress or inconvenience them.<sup>193</sup>

In May 1838, President Van Buren submitted a compromise to Congress allowing the Cherokees to remain for two additional years, subject to the final approval of the governors of the states concerned. Governor Gilmer, of Georgia, responded:

I can give it no sanction whatever. The proposals to Ross could not be carried into execution but in violation of the rights of the State . . . It is necessary that I should know whether the President intends that the Indians shall be maintained in their occupancy by armed force in opposition to the rights of the owners of the soil. If such is the intention of the President, a direct collision between the authorities of the State and the General Government must ensue. My duty will require that I shall prevent any interference whatever by the troops with the rights of the State and its citizens. I shall not fail to perform it.<sup>194</sup>

Jackson wrote from the Hermitage June 4 that “prolonging their stay within the states, when the Government is incurring the daily expence of such a large army in the field . . . shews that the secretary of war is half an age behind the times in our Indian Affairs.” He also wrote that the popularity of the administration was at stake, and furthermore, that any delay would leave the Indians open to speculators and swindlers.<sup>195</sup> Due to the opposition of the states involved, the deadline extension was denied.

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<sup>193</sup> House Document 376, 25th Congress, 2d Session, May 22, 1838, 2. Letter from Poinsett to John Ross and the Cherokee Delegation, May 18, 1838. Moulton, *The Papers of Chief John Ross*, 640-641.

<sup>194</sup> House Document 421, 25th Congress, 2d Session, June 6, 1838, 2. Letter from George R. Gilmer to President Van Buren, May 28, 1838.

<sup>195</sup> Bassett, *Correspondence of Andrew Jackson*, V, 553. Letter from Jackson to Francis P. Blair.

On May 18, while Scott was writing a report to Poinsett, six days before the removal deadline, a letter was handed to him. The letter dated May 7 was from the Cherokee delegation to a Cherokee in the Nation stating that an agreement to extend the deadline for voluntary removal by two years had been reached. Scott wrote Poinsett that he gave no credence to the letter but added a postscript: "If an amicable settlement of all the difficulties connected with the emigration of the Cherokees has been made at Washington, I hope I may soon be permitted to charge some officer with the minor details, and return myself to the usual headquarters of the division."<sup>196</sup> He continued, "I cannot suppose that the Department would, without reference to me, as soon take the whole subject out of my hands." The inconsistent policy of the Van Buren administration weakened Scott's influence over the Cherokees. Scott believed that his address of May 10 to the Cherokees was having the desired effect upon the Indians, but this effect had been destroyed by the hope of the removal being delayed.<sup>197</sup>

Scott informed Superintendent Nathaniel Smith that the Georgia Indians would be sent to him for deportation by the end of June, and from the other states by the end of July.<sup>198</sup> By the May 23 deadline there were only two hundred fifty Indians prepared for removal at the agency.<sup>199</sup> Poinsett wrote Scott, May 23, that Scott was,

. . . authorized to enter into an agreement with the agent of the nation for the removal of their people. The expenses attending the emigration are now fully ascertained by past experience; and it is presumed you will find no difficulty in making such an arrangement as, while it will secure their comfortable removal in the

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<sup>196</sup> Carl J. Vipperman, "The Bungled Treaty of New Echota: The Failure of Cherokee Removal, 1836-1831," 557. Scott to Poinsett, May 18, 1838, House Document 453, 7-8.

<sup>197</sup> Scott to Poinsett, May 22, 1838, House Document 453. Elliott, 351.

<sup>198</sup> Edward D. Mansfield, *Life and Services of General Winfield Scott* (New York: A. S. Barnes & Co., 1858), 308.

<sup>199</sup> Wallace, 93. By the end of June about 3,000, of the 15,000, Cherokees had been transported west.

manner most agreeable to their chiefs and head-men, will effectively protect the interests of the United States, and prevent all unnecessary delay or useless expenditures. Whether the removal of this people is to be continued by the military force under your command, or to be conducted by their own agents, care must be taken that it be carried on continuously, and as speedily as may be consistent with their health and comfort.<sup>200</sup>

When it became apparent that the regular troops that had been promised Scott would not arrive before the removal commenced, Scott became concerned that the militia troops might not carry out their orders as humanely as his orders specified.<sup>201</sup>

The Georgians began their collection of the Cherokees on May 26. The date had been kept secret, so that the Cherokees would not flee and hide in the mountains. Scott had remained with the Georgia troops to continue to impress upon them the importance of extending kindness to the Indians at all times. Constant reference was to be made to his general order number 25. Scott still worried whether the Georgia troops would conduct the collection humanely, and he later admitted feeling a “painful anxiety.” He traveled from place to place to see as much of the roundup as he could. An abundance of food for the Cherokees had been supplied to the depots, and wagons of rations accompanied every detachment of troops.<sup>202</sup> Scott described the Cherokees arriving at the depot that first day:

Poor creatures! They had obstinately refused to prepare for removal. Many arrived half-starved, but refused the food that was pressed upon them. At length, the children, with less pride, gave way, and next their parents. The Georgians were the waiters on the occasion - many of them with flowing tears. . . I had never witnessed a scene of deeper pathos. . . Some cheerfulness, after awhile, began to show itself, when, counting noses, one family found that a child, another an aged aunt, etc., had been left behind. Instantly dozens of the volunteers asked for wagons, or saddle horses,

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<sup>200</sup>Microfilm Roll M1475, Poinsett to Scott, May 23, 1838. House Document 453, 2-3.

<sup>201</sup>Eisenhower, 189.

<sup>202</sup>Microfilm M1475, Copy of Bill H.R.676, 25th Congress, 2d Session, June 1, 1838, .

with guides, to bring in the missing.”<sup>203</sup>

In a letter dated May 27, Armistead, in command of the middle district, informed Scott that his troops strictly followed the instructions of order number 25 with regard to the Cherokees. In a June 2 letter to Scott, he wrote that the Cherokees were continuing to come in peacefully and appeared sensible of the necessity of immediate removal. He had allowed one hundred thirty-nine Cherokees who came in voluntarily to travel without military guard to the Cherokee Agency. A bailiff, who had beaten and half hanged an Indian near Fort Gilmer, had been arrested and placed in custody.<sup>204</sup> On June 6, Armistead wrote to Scott that an unarmed soldier had been attacked with a rock without provocation, and that the Cherokee was immediately seized and chained in the blockhouse at Fort Wool. He also noted that he had in custody a sheriff and two constables for seizing Indian prisoners and property without authorization.<sup>205</sup>

In the eastern district, a soldier was charged with treating a Cherokee woman with cruelty. He had knocked her down after she had struck him with a large stick while attempting escape. A captain had reported him to General Eustis immediately but wanted it known that the soldier had not intentionally committed the act. The captain reported that he had treated the Indians with respect and kindness and that they seemed satisfied and willing to come in without trouble. One of his soldiers had mistakenly brought in Chief White Path and his family, but apologies were given, and they returned to their home until their presence was required for removal.<sup>206</sup>

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<sup>203</sup> Scott, 326-327.

<sup>204</sup> Microfilm Roll M1475, Armistead to Scott, May 27, 1838, June 2, 1838.

<sup>205</sup> Ibid., Armistead to Scott, June 6, 1838.

<sup>206</sup> Ibid., Captain Derrick to General Eustis, June 4, 1838. Meanwhile, the whites were much alarmed and had fortified themselves.

While most soldiers followed orders, there were reports that some did not. According to Daniel S. Butrick, a missionary, some Georgians wanted permission to give public whippings to sixteen Cherokees they had seized in New Echota to make examples of them. Scott quickly made it clear that not only would this not happen, but that they were to treat the Cherokees with respect. Butrick also wrote to John Howard Payne that a deaf mute had been shot when soldiers ordered him to go left and he had gone right and that a Cherokee had struck a soldier for prodding his wife with a bayonet and had received one hundred lashes.<sup>207</sup> There were other accounts that Scott's orders had been disregarded. One report stated:

The captors sometimes drove the people with whooping and bellowing, like cattle, through rivers, allowing them no time to take off their shoes and stockings. Many, when arrested, were not so much as permitted to gather up their clothes. The scenes of distress exhibited at Ross's Landing defy all description . . . The Agent endeavored to induce the people to go into the boats voluntarily; but none would agree to go . . . the soldiers rushed in and drove the devoted victims into the boats regardless of the cries and agonies of the poor helpless sufferers. In this cruel work the most painful separations of families occurred. Children were sent off and parents left.<sup>208</sup>

Mooney, who interviewed the descendants of those who were removed, fifty years after the fact, described the scene:

Families at dinner were startled by the sudden gleam of bayonets in the doorway and rose up to be driven with blows and oaths along the weary miles of trail that led to the stockade. Men were seized in their fields or going along the road, women were taken from their wheels and children from their play. In many cases, on turning for one last look as they crossed the ridge, they saw their homes in flames, fired by the lawless rabble that followed on the heels of the soldiers to loot and pillage. So keen were these outlaws on the scent, that in some instances they were driving off the cattle and other stock of the Indians almost before the soldiers had fairly started their owner in the other direction. Systematic hunts were made by the same men for Indian graves, to rob them of the silver pendants and other valuables deposited with the dead.

A Georgia volunteer, years later, said, "I fought through the civil war and have seen men

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<sup>207</sup> Wilkins, 321. Letter, Butrick to Payne, June 6, 1839.

shot to pieces and slaughtered by thousands, but the Cherokee removal was the cruelest work I ever knew.”<sup>209</sup>

Rebecca Neugin was only three years old when the soldiers arrived at her house. Her mother had told her of the experience. Rebecca related:

When the soldiers came to our house my father wanted to fight, but my mother told him that the soldiers would kill him if he did and we surrendered without a fight. After they took us away, my mother begged them to let her go back and get some bedding. So they let her go back and she brought what bedding and a few cooking utensils she could carry and had to leave behind all of our other household possessions.<sup>210</sup>

Scott’s order 34 specified how the Indians would be transferred to the departure depots. It also specified that each Indian, regardless of age or sex, would be issued a daily ration consisting of one pound of flour (in order no. 35, he specified that a pint of corn could be substituted) and half a pound of bacon. He had set June 5 as the date for the states, except for Georgia, to begin their collection efforts, but he changed this date to June 12. In the hope that the Indians of the other states would prepare themselves for removal, Scott sent Indian runners to tell the Cherokees that the Georgian Indians had been treated well. He had hoped to encourage voluntary emigration, and also to prevent the accumulation of emigrants faster than Smith could arrange their transport. He had about 6,000 emigrants in the camps at this time.<sup>211</sup>

By June 4, Scott had received word of only one death during the Georgia roundup. A Georgia volunteer had shot a Cherokee when the Indian had seized a stone and was attempting escape. The incident prompted Brigadier-General Charles R. Floyd, in charge

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<sup>208</sup> Elliott, 351. Letter in *Niles Weekly Register*, LIV, 385.

<sup>209</sup> Mooney, 130.

<sup>210</sup> Rebecca Neugin, “Memories of the Trail,” *Journal of Cherokee Studies*,” (Summer, 1978), 176.

of the middle district, to issue order no. 16, reminding troops not to fire upon the Indians unless the Indians assaulted them. Scott wrote that the death was deeply regretted by the Georgia troops, and that he hoped the volunteer could “justify himself.”<sup>212</sup>

Also by this time, he had realized that Smith might not be performing his duties efficiently. He wrote to Adjutant-General Roger Jones that he would travel to Fort Butler, North Carolina, but would arrive at Ross’s Landing on June 15, and that the business of emigrating the Indians from the principal depots may require his presence, if not interference.<sup>213</sup> Scott wrote to Smith:

Sir: Under the advice given in my printed *address*, and stimulated by the application of force in Georgia, and the arrangements for its application everywhere, after the 11th instant, many Indians are coming in, and thousands may be expected in the course of the next eight days. Captures by the troops will commence and rapidly proceed after this day in North Carolina, Tennessee, and Alabama; and, by that time, but few will remain to be collected in Georgia.

I give you this information in order that you may make corresponding arrangements for receiving and transporting the emigrants by land and water. Humanity will require that there be no delays at the emigrating depots or on other routes.

The Tennessee River, I learn, is again rising, and the Arkansas may be expected to be found navigable, perhaps, throughout this month. I have, however, great doubts as to the number and goodness of your steamboats, I will, therefore, urge you to supply any deficiency in your means of water transportation as speedily as possible; adding that, in my opinion, it will be too late in the season, in respect to health, to start parties of emigrants up the Arkansas after the 20th instant, even in the best steamboats. The same objection applies to either of the lower land routes. After that date, it appears to me that you can have your choice of but two other lines: 1. By water and land to Florence or Tuscumbia; thence, in steamboats, to Cape Girardeau on the Mississippi, or Boonville on the Missouri, and thence by land, to the Cherokee country west. 2. By land, crossing the Ohio at Golconda, and the Mississippi at Cape Girardeau; thence, by the ridge which divides the waters of the White river from those which fall into the Mississippi above and into the Missouri. In my judgement that latter route ought to be preferred after an early day in July.

I have no wish to interfere with your duties except in the way of advice, or on your own solicitation. Should it however become necessary, I will, to aid you, send, after

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<sup>211</sup> House Document 453, 16, 21.

<sup>212</sup> Microfilm Roll M1475, Order No. 16, June 1, 1838.

<sup>213</sup> House Document 453, 16.



their arrival, three or four officers of the regular army, to purchase provisions on account of the Indian department, and to establish depots at convenient distances all along the second route indicated above. That number of officers I may be able to detach upon the arrival of the remainder of the troops expected from Florida, but I recommend that you do not wait for them.

Hoping soon to learn that your means of transporting and subsisting the emigrants, in comfort, to their new country in the West are fully adequate.<sup>214</sup>

Again in a letter dated June 6, Scott wrote Smith that he was “very anxious” to learn of his progress in transporting the emigrants and offered the services of two officers to aid him in his work. Scott asked him to contact him, and stated, “My orders from Washington require that the collection of the Indians for emigration shall go on; and it shall.”<sup>215</sup> Scott wrote to Poinsett on June 7 of his fear that the un-preparedness of Smith to remove by either water or land could lead to great Indian mortality due to the long stay in the depots.<sup>216</sup> He wrote, “I rejoice that forcible emigration to a great, and voluntary emigration to some extent, have gone on without interference on the part of our citizens, and with all practical kindness and mercy on the part of the troops. The decree of fate, in my opinion, yet more than the paper called a treaty, requires that it should be completed without delay.” Scott planned to resume collection of the Indians on June 12 if he received no orders to the contrary.<sup>217</sup>

When Scott learned that, indeed, negotiations were still continuing in Washington with Ross, allowing the Cherokees to remove themselves at their convenience, he

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<sup>214</sup> House Document 453, 16-18.

<sup>215</sup> House Document 453, 21-22.

<sup>216</sup> Microfilm Roll M1475, Smith to Scott, June 6, 1838. Smith wrote back to Scott that he had started transporting Indians that day, about 800, and planned to send more on the 12th and 18th. He wrote that many Indians had been hurried from their homes so quickly that they did not have time to bring enough clothes and bedding, and families had been separated. He also suggested leaving a soldier at each house until the appraising agents could arrive, to protect the Cherokee homes from plunder.

<sup>217</sup> House Document 453, 20.

expressed his concern to Poinsett in a letter dated June 7:

Should the proposals be accepted by the delegation, and receive the sanction asked from Congress, many serious practical and legal difficulties, I think, [cannot] fail to arise, particularly in regard to *time*.” Each grantee to Georgia land had the right to their property on May 24. “Hence, and to prevent the grantees from taking the forcible removal of the Indians into their own hands, which would necessarily have led to violence on their part, and, by sympathy, to a general war on the side of all the Indians in the four States, I hastened to commence the removal of the Indians from Georgia on the 26th ultimo. The grantees and other citizens, seeing our zeal and promptness, have according to my entreaties, remained peaceful and contented spectators.” He also noted that the army would not have the power to protect the Indians from injustices. Furthermore, he expressed his concern that Smith had not begun to transport the emigrants west: “His arrangements are already far behind the numbers collected; and if the Indians are detained long at the depots, great mortality must ensue. I have no power over him, yet I shall continue to stimulate and aid him all I can.” He wrote, “I should be extremely delighted if something more could be done to soothe the feelings of the Cherokees, and to compensate them in money, at least, in part discharge of that great debt of justice due from the United States . . . should that delegation or rather Mr. John Ross (whom all obey,) ever present himself to me, I do not see that I should have, under the proposals, power to do more than to take the business of emigrating the Indians out of the hands of the present superintendent and to put it into his.”<sup>218</sup>

Colonel Bynum of the North Carolina volunteers issued Order No. 2, which ordered that enough soldiers would be sent with each detachment to assist with the care of the Indian property. He followed Scott’s order number 25 closely and demonstrated a great concern that the Cherokees not be cheated out of any of their possessions. When livestock was taken from the Cherokees, a receipt for reimbursement was given. Also, discovering that many children were sick with whooping cough, Bynum ordered that the females were to be allowed to remain at home with them and their Indian physician to care for them.<sup>219</sup>

With his aide Keyes, Scott traveled to Fort Butler in North Carolina. Here Eustis had begun the collection of the Indians on June 12. Keyes wrote his impressions of the Indians: “They never showed their grief in noisy demonstrations, nor in tears, but it could

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<sup>218</sup> House Document 453, 19-20.

<sup>219</sup> Browder, 58, 60, 61.

be seen with chilling effect in the line of sadness which despair had engraven on the faces of nearly all of them.”<sup>220</sup>

Captain L. B. Webster, Company C, First Artillery, was the sole officer given the task of transporting eight hundred Cherokees from Fort Butler in North Carolina to the central collection point at Calhoun, Tennessee. They started on June 19 and Webster wrote to his wife:

I experienced no difficulty in getting them along, other than what arose from fatigue, and this toughness of the roads over the mountains; which are the worst I ever saw. I arrived with about one hundred more than what I started with. Many having joined me on the march. We were eight days in making the journey (80 miles), and it was pitiful to behold the women & children, who suffered exceedingly - as they were obliged to walk, with the exception of the sick.<sup>221</sup>

Brigadier-General Charles R. Floyd of the Georgia militia had been placed in charge of the Georgia troops, General Armistead having been sent to Baton Rouge to superintend the movement of regular troops coming by way of New Orleans. By late June, Floyd had rounded up about seven thousand Cherokees and departed the Cherokee Nation on July 7. He wrote to Scott that there were no signs of any Indian within the middle district.<sup>222</sup>

With the arrival of the regular troops by the middle of June, Scott did not require the services of the militia troops. He said of the volunteers that they leave with “the thanks of the United States for the promptitude, zeal and humanity they have almost universally displayed in the discharge of their duties.” Before July 15, Scott had mustered out all the volunteers, a benefit to the treasury, except the company of the Tennessee volunteers, who remained as a police force, to keep order in the camps. These Tennesseans kept the camps clean of gamblers and other swindlers, who came to the camps in swarms in an

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<sup>220</sup> Elliott, 353. Keyes, 133.

<sup>221</sup> Capt. L. B. Webster, “Letters From A Lonely Soldier,” *Journal of Cherokee Studies*, (Summer 1978), 154.

<sup>222</sup> Flanagan, 584.

attempt to cheat the Cherokees out of the vast sums of money they had just received for their property and improvements. Scott believed the Tennesseans handled this duty better than it would have been handled by regular troops.<sup>223</sup>

Smith wrote Scott on June 7 that he had acquired good steamboats, suitable towboats, and 300 fine horse wagons. He agreed with Scott that the land route should be implemented as soon as supplies could be provided along the route.<sup>224</sup> The first groups of Cherokees, numbering twenty-eight hundred, were loaded onto boats on June 6, 13, and 17, and sent west. One group of about one thousand traveled overland under military escort, a trip of eight hundred miles. Reverend Evan Jones, a Baptist missionary, wrote, on June 16, of two groups, one of nine hundred and another of seven hundred, being “driven into the boats like culprits to the place of execution.” They feared the journey during the “sickly season” of the year and hoped that the emigration would be stopped until a more healthy time.<sup>225</sup>

Scott was still concerned over the inactivity of Smith. He wrote Poinsett on June 15:

I have had no report within a week from the superintendent of Cherokee Emigration. . . As was from the first expected by Colonel Lindsay, one of the two steamers he had contracted with to take the Indians emigrants to the head of the Muscle shoals, has been thrown out of service, and it is feared that the other is of little value. I have the same authority for apprehending that the boats below the Muscle shoals, engaged for the emigrants, will be found equally indifferent; and, before the 20th instant, it is understood that the superintendent will not begin to enroll wagons - his plan being to use steamboats wholly before, and principally after, that date. Now, besides the universal repugnance of the Indians to steamboats, the subsistence of the waters in the Tennessee, above the Muscle shoals, and in the Arkansas, must soon make those waters too low for steam navigation. . . But regarding the preference of the Indians to land routes as something, and their safety as every thing, I am for

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<sup>223</sup> *Niles Weekly Register*, LIV, 324 (July 21, 1838). Elliott, 353.

<sup>224</sup> Smith to Scott, June 7, 1838, Microfilm Roll 1475.

<sup>225</sup> McLoughlin, *Champions of the Cherokees: Evans and John B. Jones* (Princeton, NJ: Princeton University Press, 1990), 175.

transporting all now at the agency, and all that may arrive there, together, say seven or eight thousand, by land wagons, through Nashville, Golconda, and Cape Girardeau. And if, to-morrow, I shall not learn by letter or by his presence, that the superintendent can in the next two weeks execute this movement, I shall immediately charge the necessary number of military officers with its execution. Considerations of humanity will in that event leave me no alternative.<sup>226</sup>

Scott demonstrated his concern that transportation of the Cherokees begin soon to prevent further sickness and hardship for the Indians caused by confinement in the camps.

Reverend Jones also wrote of the conditions at Camp Hetzel, near Cleveland,

Tennessee:

The Cherokees are nearly all prisoners. They have been dragged from their houses and encamped at the forts and military posts, all over the nation. In Georgia, especially, multitudes were allowed no time to take anything with them except the clothes they had on. Well-furnished houses were left a prey to plunderers, who like hungry wolves, follow in the train of the captors. These wretches rifle the houses, and strip the helpless, unoffending owners of all they have on earth. Females, who have been habituated to comforts and comparative affluence, are driven on foot before the bayonets of brutal men. Their feelings are mortified by vulgar and profane vociferations. It is a painful sight. These things are done at the instant of arrest and consternation, the soldiers standing by with their arms in hand, impatient to do their work, could give little time to transact business. The poor captive, in a state of distressing agitation, his weeping wife almost frantic with terror, surrounded by a group of crying, terrified children, is in a poor condition to make a good disposition of his property, and is in most cases stripped of the whole, at one blow. Some, who have been allowed to return home, under passport, to inquire after their property, have found their cattle, horses, swine, farming tools, and house furniture all gone. . . . It is due to justice to say, that at this station, the officer in command treats his prisoners with great respect and indulgence.<sup>227</sup>

Following these departures, the worst drought in years started about the middle of June and lasted until October and made the rivers un-navigable. A land route was also made impossible, for drinking water for men and horses was not to be found along the emigration route for ten, and more likely thirty, mile intervals. What water could be found carried the serious risk of epidemics. Diseases like cholera, smallpox, malaria, and dysentery were common.<sup>228</sup>

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<sup>226</sup> House Document 453, 23.

<sup>227</sup> Foreman, Journal entry of June 16, 1838, 288-289.

<sup>228</sup> Scott, 327.

A Cherokee Delegation, led by George Lowrey, in Ross's absence, requested that the emigration be suspended until the end of the sickly season. Lowrey wrote Scott:

Sir, as bad as our condition is, we cannot but rejoice that we have fallen into the hands of a Commander, who can appreciate our feelings, as lovers of our country and lovers of right . . . We respect the humanity which reaches through your orders, the care for our comfort, which they evince, and the deprecation of the destruction of the Cherokees, which they express.<sup>229</sup>

Scott, acting upon the request of the Cherokee delegation, as well as his own sense of humanity, agreed, on July 19, to stop the emigration until September, when it was hoped the drought situation would improve and the cooler and healthier season of the year commence. Ross praised Scott for his kindness in this matter, referring to him as gallant and generous.<sup>230</sup> Washington later approved his decision.<sup>231</sup> Smith agreed with Scott's suspension of the emigration, based on the fact that many of the Cherokees who had emigrated thus far became ill and died after reaching Arkansas and all the physicians he consulted were in favor of the delay. Also, wagon teams could not be procured during this sickly time, for the teamsters were fearful for their health. He also had received a letter from sixty citizens around Athens, who were concerned for the health of the Cherokees, asking that the removal be postponed.<sup>232</sup> There were one thousand forty emigrants ready for departure before the delay was granted. This group believed that they would be allowed to stay until September, but Smith, though they petitioned him, insisted that they depart as scheduled.<sup>233</sup>

Scott called all the Cherokee chiefs to headquarters and spoke of the drought, the inconvenience to himself if the removal continued until the fall of the year, for his wife was ill, and his concern that the Indians would break from the camps while the removal

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<sup>229</sup> Microfilm Roll M1475, George Lowrey to Scott, June 9, 1838.

<sup>230</sup> Moulton, *The Papers of Chief John Ross*, Letter from Ross to the Cherokees, July 21, 1838. 649.

<sup>231</sup> House Document 453, 26. Mansfield, 310.

<sup>232</sup> Microfilm Roll M1475, Smith to Scott, June 18, 1838.

<sup>233</sup> McLoughlin, *Champions of the Cherokees*, 177.

was suspended, if not guarded by posts and sentinels constantly. All of the chiefs signed a solemn pledge that they would convince their people to stay in the camps, and they even sent runners to encourage those who continued to evade the collection to join them. This pledge secured, Scott immediately sent three regiments of regulars to the Canadian and Florida frontiers. Two regiments remained, more to aid and protect the Indians than to guard them.<sup>234</sup>

Poinsett wrote to Scott on June 25 to express his satisfaction with his actions thus far and concern for the health of the Indians:

The manner, in which you have, so far, executed the duties assigned to you, is very satisfactory to the Department; and the humane conduct of the troops in collecting and removing the Indians entitles them to my thanks . . . As you seem to apprehend some delay in sending forward the emigrants, from the arrangements being already far behind the numbers collected, and that sickness may result from the Indians being collected in great numbers at the depots, the Department desires that you will assume the direction and control of the removal of the Cherokees, as well as of their collection at the depots; and the superintendent of emigration in that country will be instructed by the Commissioner of Indian Affairs to receive and obey your instructions. I beg that you will inform yourself with regard to the healthy season of the region west of the Mississippi to which these people are destined. My impression is, that it will be advisable the mass of the Cherokees should not reach their new homes until the commencement of October.<sup>235</sup>

Until this time, Scott's only duty had been the collection of the Cherokees into the holding camps, but now their transport west was also his concern. On June 27, Poinsett sent Scott proposals from the emigrating company that had been engaged in removing the Creeks west and told him that these were submitted only as suggestions, and that Scott was to use his own judgment in all matters. He wrote that Scott, if he believed it would not retard the operation, could enter an agreement to allow the Cherokees to remove themselves, as had been discussed in May. Poinsett asked him to bear in mind the wishes

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<sup>234</sup> Mansfield, 311.

of the states involved, as well as the health and comfort of the Indians.<sup>236</sup>

The Cherokees were held in convenient camps, guarded by regular troops, around the two great emigrating depots. Scott described the holding camp at the Cherokee Agency as twelve miles by four miles, well shaded, with water from perennial springs, and flanked by the Hiawassee River and the other camps were also well shaded and watered. These locations were excellent considering the severe drought.<sup>237</sup> Indian superiors were appointed to visit every family daily and report their wants and needs to Scott's headquarters.<sup>238</sup>

Contrary to Scott's description of the camps, Butrick described the camps as clumsily contrived and inadequate. At temporary camps Indians were forced to sleep on bare ground with no overhead shelter. He claimed that at the larger camps, near the river landings, which were designed to accommodate thousands while waiting for the keelboats there were tents or sheds, but no provision for sanitation and an inadequate and questionable water supply. Scott was the father of the modern army methods of sanitation and camp procedures; therefore, it is difficult to imagine his neglect in this matter. However, it is true that these structures were meant to house the Cherokees for weeks, not months. According to Butrick, the soldiers also lured the better-bred Cherokee girls who had been to the mission schools and knew English into drink and sex.<sup>239</sup>

While the Cherokees awaited removal in the camps, the physicians reported that they

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<sup>235</sup> House Document 453, 5. Microfilm Roll M1475, Poinsett to Scott, June 25, 1838.

<sup>236</sup> House Document 453, 6. Microfilm Roll M1475, Poinsett to Scott, June 27, 1838.

<sup>237</sup> Scott, 327.

<sup>238</sup> Mansfield, 311.

<sup>239</sup> Starkey, 293-294. Strangely, he attributes this behavior of the Cherokee girls to an



suffered from epidemics. Whooping cough, dysentery, and measles were leading causes of death and most prevalent among the children.<sup>240</sup> The principal problem encountered was the unwillingness of the Indians to accept advice and prescription. The Cherokee treatment of small pox or fever was to immerse patients in cold water and then lay them down uncovered; they called this “going to water.” This treatment usually killed the patients, but they were suspicious of white medicine. The Cherokees believed that as white doctors went from patient to patient, they carried the disease with them. The Indian doctors allowed no one to visit their patients unless necessary to care for them.<sup>241</sup>

As early as June, Scott demanded the appointment of twenty to thirty additional physicians to accompany emigrants from the places of primary assemblage to the camps and also to care for them in the camps. He also envisioned the physicians accompanying the emigrants on the journey west.<sup>242</sup> All necessary supplies were in abundance, including medicine. One Lieutenant expressed his concern that contact between his camp, Camp Ross, which was suffering with these epidemics, and the other camps not be allowed until these outbreaks subsided, so as to spare the other Cherokee lives.<sup>243</sup>

Scott made sure that the sick were attended to by the physicians and that Cherokees received vaccination shots. First he gained the trust of the chiefs and then he managed to convince them to encourage their people to be vaccinated for their own sake. This was invaluable in avoiding the desolation of the Cherokee tribe. Scott himself rode through the principal camp almost daily, even though this increased his risk of contracting a

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unknown fatal illness, which began with dysentery.

<sup>240</sup> Microfilm Roll M1475, Pleasant J. R. Edward, Physician to Emigrating Cherokees, to J. W. Lide, Directing Physician, July 1838.

<sup>241</sup> Starkey, 10.

<sup>242</sup> Nathaniel Smith to C.A. Harris, June 20, 1838, Microfilm Roll 1475.

serious illness. He allowed Cherokee women outside of the camps during the days to collect fruit, greens, and other wild plants. The shelters were improved using bark, poles, blankets, or scraps of clothing to provide more shelter. An orderly system of cooking and distributing food was established.<sup>244</sup>

Scott wrote to the adjutant general on July 23,

It is, I learn, reported throughout this country, that the Indians collected in camps for emigration are sickly and dying in great numbers. I mention this report to contradict it. The Indians are, very generally, in excellent health, and so are the troops.”<sup>245</sup> He wrote, “The distress caused the emigrants by their want of bedding, cooking utensils, clothes and ponies, I much regret, as also the loss of their property consequent upon the hurry of capture . . . All of this I am sorry for, and much of it, I am persuaded was unavoidable, as far as the troops were concerned.”<sup>246</sup>

He pointed out to General Smith that the blame lay chiefly with the Indians themselves for believing the promises of John Ross. Had Ross told them the truth about their fate earlier, he reasoned, they could have put their affairs in order and sold their cattle, hogs, sheep, and growing corn.<sup>247</sup>

Scott ordered the dram-shops placed under the guard of the troops to prevent the shops from selling liquor. Whiskey dealers were all over the Cherokee country, including Ross’s Landing, and without a mounted force to patrol in all directions, they were impossible to intercept. Scott’s troops were vigilant and effective in this endeavor.<sup>248</sup> Keeping whiskey out of the camps was important for Indians drank for the sole purpose of becoming drunk and would drink large quantities whenever they could obtain it. They

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<sup>243</sup> Microfilm Roll M1475, Lieutenant Coneley to Major Wilson, August 31, 1838.

<sup>244</sup> Sheehan, 228. Harriss, ed., *Lawson’s History of North Carolina*, 5-6.

<sup>245</sup> *Niles Weekly Register*, Letter of Scott to adjutant general of the army, August 11, 1838.

<sup>246</sup> House Document 453, Scott to Poinsett, dated June 8, 1838, 25. Elliott, 352.

<sup>247</sup> *Ibid.*, 25.

<sup>248</sup> Microfilm Roll M1475, Lt. B. Poole to Lt. John Mackey, August 4, 1838.

lost control of their actions when they drank, and they would trade their valuable goods for a fraction of their worth.<sup>249</sup> McKenney stated in his memoirs:

No one who has not witnessed it, can conceive the sacrifices an Indian will make for whiskey; how far he will travel, laden with the returns of his winter's hunts; how little he foresees, or regards the consequences to himself, or anybody else, of his indulgence in this final poison. The awakening from his delirious dream, and finding his furs and peltries gone, and in their places a few worthless articles, unsuited in quality or quantity to screen himself and his family from the winter's cold, may distress him, and kindle his revenge for the time being, but it is forgotten whenever a new occasion happens in which he can indulge the same excess!<sup>250</sup>

Sam Houston had remarked, "We cannot measure the desolating effects of intoxicating liquors among the Indians by any analogy drawn from civilized life."<sup>251</sup>

Upon returning from Washington, Ross wrote to the Cherokees on July 21, explaining what the delegation had accomplished. Congress had passed an act on June 12, that appropriated an additional one million forty-seven thousand and sixty-seven dollars, as well as, one hundred forty thousand dollars for arrearages of annuities and for clothing for the poor, blankets, medicines, medical aid, etc. Ross received an annuity payment of twenty five thousand dollars on June 25 and seven thousand dollars of travel expense money on June 26. He wrote,

It is especially gratifying to me to be informed verbally by the Commanding Genl. who is charged with the painful duty of removing us from the land of our Nativity, that, he has found you faithful and honorable in the fulfillment of every promise or engagement which you have made with him, and that in no instance have you ever told him a lie. This distinguished officer has been pleased further to assure me, that, so far as it may be within his power to grant our request in reference to our comfortable removal, that the interests and wishes of the Nation shall be consulted and adopted.<sup>252</sup>

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<sup>249</sup> Sheehan, 233.

<sup>250</sup> Ibid., 237.

<sup>251</sup> Browder, 227.

<sup>252</sup> Moulton, *The Papers of Chief John Ross*, 647-650.

The War Department praised Scott for his successful and harmonious execution of his orders.<sup>253</sup>

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<sup>253</sup> Adjutant General's Office to Scott, July 18, 1838, Microfilm Roll 1475.

## CHAPTER 6

### AGREEMENT WITH ROSS

Ross had obtained authorization from Poinsett for the Cherokees to remove themselves unarmed and unescorted by United States troops, but this was conditional upon Scott's acceptance. Scott had also received the authority to relinquish the control of the emigration to the Cherokee leaders. Aware that Scott might be upset at being left out of the negotiation, Poinsett assured him that they were conducted in Washington only because Ross and the delegation were there:

Whatever arrangements you may deem it expedient to make with them, (and the whole subject is left to your judgment and direction), the Department desires that you bear in mind the wishes of the States concerned in the execution of the treaty, that the emigration should be conducted as rapidly as it can be consistently with the health and comfort of the Indians. . . the Department desires this be done only if you are convinced that it will not retard the operation, otherwise you will merely avail yourself of their aid, to promote a peaceful removal.<sup>254</sup>

The delegation submitted the proposal to the Cherokee Nation, and it was quickly accepted. They sent Scott a letter on July 23 requesting full control of the emigration. The delegation wrote that "the whole business of the emigration of our people, shall be undertaken by the Nation . . . That the per capita expense of removal be based on the calculation of one wagon & team & six riding horses being required for fifteen persons." Ross figured ten miles per day, and so the eight hundred-mile trip would take eighty days. The funds for removal would come from the six hundred thousand dollars specified in the Treaty of New Echota, plus the additional amounts approved by the congressional act of June 12.

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<sup>254</sup> House Document 453, 6.

Scott was required to negotiate and approve the sum of money per emigrant to be given to Ross for the required supplies for the emigration. Scott thought the amount of sixty-five dollars and eighty-eight cents per emigrant proposed by Ross to be high, and to protect the Cherokees' interest, he suggested a lower amount. He pointed out that the sick would be left behind to be transported by steamboat, and that all heavy articles of property could be shipped this way. The delegation protested:

After the necessary bedding, cooking utensils & other indispensable articles of 20 persons (say 4 or 5 families) are placed in a waggon with subsistence for at least two days, the weight already will be enough to exclude, in our opinion, more than a few persons being hauled. The great distance to be traveled, liability to sickness on the way of grown persons, and the desire of performing the trip in as short of time as possible induce us still to think our estimate of that item not extravagant.<sup>255</sup>

Although Scott still thought the estimate to be extravagant, the money belonged to the Cherokees, and for the sake of their comfort, he agreed. The delays that would occur due to the drought were the major reason for his negotiation of an agreement with Ross, for order had to be maintained in the camps until their departure. He stipulated that the emigration should recommence on September 1 and the last detachment started no later than October 20. It was determined that approximately twelve thousand five hundred Cherokees remained.<sup>256</sup> Other estimates were submitted for transportation, clothing, livestock, wagon masters, physicians, and the costs of ferry and turnpike tolls.<sup>257</sup>

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<sup>255</sup> Moulton, *The Papers of Chief John Ross*, 654.

<sup>256</sup> Browder, 63. Captain John Pope, Indian Agency, to Scott, July 13, 1838, he estimated that 11,953 Cherokees were present in the camps.

<sup>257</sup> Emmet Starr, *History of the Cherokee Indians and their Legends and Folk Lore* (Oklahoma City: The Warden Company, 1921; reprint, Millwood, N.Y.: Kraus Reprint Co., 1977), 99-104. Page citations are to the reprint edition. Moulton, *The Papers of Chief John Ross*, 650-654. The addition of soap, coffee and sugar raised this amount to \$66.24 per head, but Scott did not argue the increase. Ross claimed and received an additional \$486,939.50 in 1841 to bring the total to \$1,263,338.38. By November 13, 1838, the government had paid Ross 776,393.93 dollars

The Cherokee estimate, per thousand (\$65.88 per head), dated July 31, 1838, was as follows:

Table 1. Estimated Cost of Removal

Fifty wagons and teams at a daily expense of \$350.00 including forage	28,000
Returning, seven dollars for each twenty miles	14,000
250 extra horses, at 40 cents each per day	8,000
Ferriages, etc.	1,000
80,000 rations at 16 cents each	12,800
Conductor, at five dollars per day	400
Assistant Conductor at three dollars per day	240
Physician at five dollars per day	400
Returning \$15 for every hundred miles	120
Commissary at \$2.50 per day	200
Assistant commissary at \$2.00 per day	160
Wagon master, at \$2.50 per day	200
Assistant wagon master, at \$2.00 per day	160
Interpreter, at \$2.50 per day	200
Total	65,880

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The Cherokee Council appointed a purveyor of supplies for the route, delegates to organize the Indians into manageable parties for the trip, a conductor, a sub-conductor, and a physician. Wagons, horses, and all the necessary supplies were to be obtained so that as soon as the drought broke, they could commence their journey.<sup>259</sup>

Though the Cherokees and the soldiers happily accepted the agreement, the white contractors, steamboat owners, and those who would have profited from selling supplies to the government for the removal were outraged and attacked Scott in the newspapers. Scott, however, did not allow these attacks to distract him from the task at hand and a

<sup>258</sup> Starr, 100.

<sup>259</sup> Mansfield, 312.

course he knew to be the best for both the Indians and the soldiers. He observed the much-improved morale of the Cherokees under their own leadership; and despite that the agreement with Ross would result in an increase in the cost of the removal, he believed the welfare of the Indians to be his primary concern. Among those who attacked Scott was Andrew Jackson. From his home at the Hermitage on August 23, he wrote to Felix Grundy, United States attorney general:

The contract with Ross must be arrested, or you may rely upon it, the expense and other evils will shake the popularity of the Administration to its center. What madness and folly to have anything to do with Ross when the agent was proceeding well with the removal on the principles of economy that would have saved at least 100 per cent from what the contract with Ross will cost . . . . The contract with Ross must be arrested and General [Nathaniel] Smith be left to superintend the removal.<sup>260</sup>

In response to a request from Scott, Smith cited the cost per Cherokee who had been removed so far by the government. The first party, of February 1837, had been at a cost of twenty-seven dollars per head, the second at twenty-six dollars, the third at eighteen dollars, and the fourth at thirty dollars a head.<sup>261</sup>

Smith wrote to Scott on August 7, having just returned from accompanying those Cherokees, who had left on June 12, on the water route, and described the journey. Seven hundred twenty-eight arrived at Little Rock on July 6; eleven died along the way. Many Indians escaped during the trip and many who fled were three hundred miles from their old homes.<sup>262</sup> Another party, which also left in June, was said to have suffered twenty-two deaths on the land portion of their route, and five deaths on the boats, out of

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<sup>260</sup> Bassett, *Correspondence of Andrew Jackson*, VI, 351.

<sup>261</sup> Microfilm Roll M1475, Smith to Scott, September 21, 1838.

<sup>262</sup> Foreman, 298.



the eight hundred emigrants.<sup>263</sup> On August 15, Smith wrote to Van Buren of his astonishment at the compact between Scott and Ross. He noted the financial injury that would be incurred by citizens who had invested in the purchase of steamboats, wagons, and supplies, with the sole purpose to fulfill these contracts, and that these contracts would now go to Lewis Ross, at an enormous sum per head. Smith believed forty dollars a head by land, and twenty-two dollars a head by water, should have been the maximum.<sup>264</sup>

Van Buren was content to allow Scott to turn over the removal to the Cherokee leaders. He already had to deal with a bloody Seminole war in Florida, with rumors of speculation in Indian land allotments, and other allegations against his Indian Commissioner, Carey Allen Harris.<sup>265</sup> Harris wrote to Poinsett August 25 to express his surprise at the amount per head agreed upon, as well as the lack of supervision of Ross, considering that so much money was to pass through his hands with no committee to hold Ross accountable for its proper execution. He also doubted that Ross possessed the capacity to manage such an undertaking prudently and economically.<sup>266</sup>

Ross kept his agreement with Scott to cease opposition to the removal and help keep order in the camps. He encouraged all Cherokees to enter the camps in order that their sick and aged could be fed and receive medical treatment and that their horses could be foraged. He wrote that the sick, aged, and crippled would be transported by water and

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<sup>263</sup> Microfilm Roll M1475, Smith to Scott, August 7, 1838.

<sup>264</sup> Ibid., Smith to Van Buren, August 15, 1838.

<sup>265</sup> Satz, 458.

<sup>266</sup> Microfilm Roll M1475, Harris to Poinsett, August 25, 1838. On August 1, a great Council met at Aquohee Camp, in Eastern Tennessee. Here they proclaimed the injustice of the removal and restated their sovereignty and self-government that they had been guaranteed by past treaties with the United States.

continued:

The US Commissioners profess to be administering impartial justice to all in their official acts - and we are fully persuaded that Genl. Scott will not for a moment countenance any other principle to be practiced towards the Cherokees . . . Order and good conduct must be maintained among ourselves in camps, and our regulations enforced for that purpose against all who are subject to our laws and shall wantonly violate them.<sup>267</sup>

Ross submitted his request for funds for each detachment of one thousand emigrants to Scott and would then receive the money for each detachment. John Ross and his brother Lewis were in charge of organizing the detachments of emigrants and securing supplies. An agreement between Lewis Ross and the Cherokees, signed on August 10, specified the type of rations Lewis would supply. The rations were to be of good and merchantable quality and to consist of, for each emigrant, one pound of fresh beef or pork, or three quarters of a pound of salt pork or bacon; three half pints of corn meal, or one pound of wheat flour (or if neither could be obtained, three pints of corn would be substituted); and four pounds of coffee, eight pounds of brown sugar, and four quarts of salt, to every one hundred rations. The Ross brothers were also to furnish forage for the horses and three pounds of soap for every hundred rations.<sup>268</sup> John Ross wrote to Scott on August 15 that “the Cherokees doubt not they have your generous sympathies in their unfortunate condition, and the past has assured them, so far as you have the power their claims will be speedily settled, and they permitted to depart satisfied to the home

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<sup>267</sup> Moulton, *The Papers of Chief John Ross*, 671. Ross to Situwakee and Peter, Sept. 18, 1838.

<sup>268</sup> Moulton, *The Papers of Chief John Ross*, 658. They received a letter from the Cherokee conductors at Wills Valley, which related a need for clothing, blankets, shoes, and tents. For the one thousand and ninety people in their party, they had only eighty-three tents.

assigned them.”<sup>269</sup>

While the Ross brothers made preparations, Scott received a protest from the Cherokee committee in session at New Echota. The protest contained many allegations against Ross: 1. That the supply contract was given to Lewis Ross without any competition being allowed. 2. That Lewis Ross would be able to make a profit for himself of more than one hundred eighty thousand dollars. 3. That there were contractors who could save the Cherokees one hundred thousand dollars on the removal of the remaining twelve thousand five hundred Indians. Scott wrote to Ross on August 22 that he could not imagine that men of such tried integrity and intelligence as Ross and the Cherokee delegation would throw away one hundred eighty thousand dollars of their nation’s money; nevertheless, he considered that the allegations might have some foundation. He knew that the contracts had not been advertised for bids, and though Scott had sent Ross and the delegates the names of contractors who had expressed an interest in the removal, they had showed no interest in them. He asked Ross to reply to the allegations. Ross denied that they were true in a letter dated August 25, claiming the allegations to be those of dissatisfied and disappointed men. He stated that the health and comfort of his people were paramount to the saving of a few dollars. In the same letter he thanked Scott:

The repeated instances of magnanimity and humanity, which has characterized your intercourse with our people, in the course of the painful military operations under your direction, had not only gained the confidence of the Delegation, and the leading persons of our Nation, but that of our people generally, and we have felt great satisfaction, in the hope that our people, had so conducted themselves, as to secure to them, the benefits of your friendship.<sup>270</sup>

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<sup>269</sup> Microfilm Roll M1475, Ross to Scott, August 15, 1838. Moulton, *The Papers of Chief John Ross*, 658.

<sup>270</sup> Microfilm Roll M1475, Ross to Scott, August 25, 1838. Moulton, *The Papers of*

The Cherokees were ordered by Scott to travel without arms, and they promised to turn over any Indian guilty of outrages against citizens during the journey to civil authorities for punishment. In a letter to Governor Cannon of Tennessee, Scott wrote of the first two detachments,

No military guard will accompany either of the detachments, as it is not doubted that the emigrants will so conduct themselves as to win the esteem of our citizens on the routes; and it gives me great pleasure to be able to say that, in all my transactions with their chiefs and head men, I have not had cause to suspect a single case of bad faith.”<sup>271</sup>

In a circular sent to the Cherokee detachment conductors, Scott wrote:

We are equally of the opinion that sympathy and kind offices will be very generally shown to the emigrants by the citizens, throughout the movement, and the Indians are desirous to exhibit in return, the orderly habits, which their acquired civilization has conferred . . . I have full confidence in their promises and capacity to do all that they are ready to undertake.<sup>272</sup>

The deadline of September 1 had to be extended until the drought broke. Two days before the deadline, twenty-five hundred emigrants in two parties attempted to start the journey. They traveled only twenty miles before they realized that all the creeks were dry, and they had to return. Rain began to fall late in September, ending the long drought. By October 1, the rivers were navigable again and water was plentiful along the land route.<sup>273</sup>

With the drought over, Scott inquired of Ross why the detachments had not been set in motion. He knew that the detachment under a Cherokee named Bushyhead was anxious

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*Chief John Ross*, 661-663. Microfilm Roll M1475, To Lewis Ross's credit, he refused an offer by one contractor to pay him forty thousand dollars to award them the contract, letter of August 18, 1838.

<sup>271</sup> *Niles Weekly Register*, Letter from Scott to Cannon, dated October 8, 1838, October 21, 1838.

<sup>272</sup> Elliott, 354. Scott to the conductors of the emigration detachments, Oct. 4, 1838, quoting from his letter to Poinsett of Aug. 3, 1838. *National Whig*, Oct. 15, 1838.

to march. Scott noted that the money had been long advanced to Ross for these detachments and that the extra time for preparation during the drought should have found these detachments in a state of readiness. He asked, "Can it be that the defect lies in the want of sufficient moral influence & official authority to enforce the execution of orders & arrangements? If so, I ought to have been advised of the fact, that I might have applied a supplemental remedy in time." By taking a count of the detachments that had started but returned on account of the drought, Scott discovered that the detachments did not have one thousand emigrants each, but sometimes far less. One had only five hundred fifty-nine, yet the money had been paid to Ross based on one thousand persons. Ross replied that he thought the one thousand person per detachment was only to be a rough estimate.<sup>274</sup>

Finally, the detachments began to depart and Scott wrote, "Power had said: 'There lies your way, due West.' And a whole people now responded: 'Then Westward - ho!' They took their way, if not rejoicing, at least in comfort. Some natural tears they dropt, but wiped them soon."<sup>275</sup> Scott, however, would be vigilant to be informed of the travelers' progress and well-being.

Scott ordered a detachment of regular army officers to regularly report on the condition of the emigrant detachments. The first group was followed for eighty miles. This group, conducted by a Cherokee named W. E. Hicks, consisted of eight hundred thirty Cherokees and possessed forty-six wagons and seven carry alls. It was found that they were orderly and had arrived safely at McMinville, Tennessee. The second group

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<sup>273</sup> Foreman, 300.

<sup>274</sup> Microfilm Roll M1475, Scott to Ross, October 3, 1838. Moulton, *The Papers of Chief John Ross*, 676-679.

was also found to be orderly, consisting of seven hundred persons, forty wagons, and ten carry alls. Both parties reportedly displayed the greatest harmony and cheerfulness, with the exception of the deaths of four children. Cherokee police guards were armed and kept good order.<sup>276</sup>

A group of Treaty faction Cherokees, who did not wish to remove with the Ross Party Cherokees, departed by water with Lieutenant Edward Deas on October 11, and arrived at Little Rock in the middle of December, and at their new homes on January 7, 1839. They arrived in good health.<sup>277</sup>

Scott wrote to Poinsett on October 23 of his desire to complete his assignment and join his wife Maria, who was ill. Doctors had advised her to visit the European spas for treatment. Scott wrote:

God knows I have never been more over-worked than in this service. I would have turned over the command to Gen'l. Armistead but for three reasons: 1. My wife & family probably had sailed for Europe (on the 8th instant) instead of waiting for me & sailing for New Orleans - the physicians objecting to the latter.<sup>278</sup> 2. The service here was nearly over, & 3. If I had left this place, an hundred affidavits would have been sent on showing the necessity of fresh troops and keeping Smith in commission two years longer, on the ground that two thirds (or more) of the Indians remain to be collected . . . No country was ever before so thoroughly swept of its red population - at one operation."<sup>279</sup>

Scott accompanied one of the last detachments, which departed in November, as far as the junction of the Ohio and Mississippi River, only as an observer; he had intended to proceed farther, but a dispatch with orders from Washington to report immediately for

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<sup>275</sup> Scott, 329.

<sup>276</sup> Microfilm Roll M1475, Lt. Scott to General Scott, October 5, 1838.

<sup>277</sup> Wilkins, 324.

<sup>278</sup> Timothy D. Johnson, *Winfield Scott, The Quest for Military Glory*, (Lawrence, Kansas: University Press of Kansas, 1998), 134. His wife, Maria, traveled to France with her daughters, she was suffering from a chronic throat irritation.

<sup>279</sup> Elliott, 355. Scott to Poinsett, Oct 23, 1838. Poinsett Papers, Pennsylvania Historical Society.

duty were delivered to him. The patriots on the Canadian border were preparing to invade Canada, thus; he wished the Cherokees well, and he departed to the North to maintain peace and order.<sup>280</sup>

Every detachment of Cherokees traveled a slightly different route to Arkansas. The Indians Scott traveled with passed through Murfreesboro, Tennessee; Nashville, Tennessee; Hopkinsville, Kentucky; across the Mississippi River; then to Jackson, Springfield, and Cape Girardeau, Missouri and they ended their journey in Batesville, Arkansas. The last group of Indians, the sick and John Ross and family, left on November 16, by steamboat. All detachments arrived between January 4 and March 23, 1839.

Approximately twelve thousand five hundred Cherokees began the journey west. According to John Ross, four hundred twenty four of these died while enroute. One of these was Ross's wife, Quatie, who died of pneumonia.<sup>281</sup> It is estimated that hundreds died while in the camps awaiting departure. Hundreds or thousands more died after reaching the West, due to exposure to the weather, as they did not have homes built.<sup>282</sup> While some citizens opened their meeting houses or invited them into their homes, others did not, and charged them exorbitant prices for supplies or ferry tolls.<sup>283</sup>

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<sup>280</sup> Mansfield, 313.

<sup>281</sup> Wilkins, 325. Ross and his family traveled with the last detachment, which left in November.

<sup>282</sup> Eisenhower, 194. Starkey, 295. McLoughlin, *Champions of the Cherokees*, 173.

<sup>283</sup> Starkey, 298.

## CHAPTER 7

### CONCLUSION

Contact with white men led to the destruction of traditional Cherokee society. As the white demand for land increased, the Cherokees were continually cheated out of their land by fraudulent treaties. Treaties were consistently violated by settlers and promises to guarantee the Cherokees their land rights were disregarded.

After the American Revolution efforts to “civilize” the Cherokees were soon abandoned and the idea of removal beyond the Mississippi became the preferred solution. As Georgia demanded the Cherokees removal from their state borders, President Jackson did not interfere with its efforts. Though the Cherokees strengthened their government in an attempt to resist removal efforts, these measures proved ineffective.

The Treaty of New Echota was secured by dishonest means, and the Cherokees found themselves powerless to fight the validity of this treaty. John Ross kept the hope of overturning this treaty alive with his people for too long. Due to this hope, the Cherokees did not prepare for removal and this created a great hardship for them at the time of removal.

General Scott accepted the difficult task of enforcing the terms of the treaty regarding the deadline for removal. His orders to the troops demonstrated his intentions that the removal be carried out with the welfare of the Cherokees being of utmost importance.

The roundup was, by the nature of it, emotionally and physically devastating for the Cherokees. It can be assumed that some soldiers acted harshly toward their captives. However, if there had been acts of gross cruelty, Ross would surely have informed Scott immediately of this outright disobedience of his orders, yet no such correspondence has



been uncovered. On the contrary, Ross praises Scott for his kindness and compassion.

Scott received praise not only from Ross, but also from the War Department.

Commissioner of Indian Affairs T. Hartley Crawford wrote on November 25, 1838, that General Scott had “performed a delicate and difficult duty, embarrassed by circumstances over which there is no human control, with great judgment and humanity.”<sup>284</sup> Niles Register reported, on September 27, 1838, that “the manner in which this gallant officer [Scott] has acquitted himself within the last year upon the Canadian frontier, and lately among the Cherokees, has excited the universal admiration and gratitude of the whole nation . . . And by his masterly skill and energy among the Cherokees, united to his noble generosity and humanity, he has not only effected what everybody supposed could not be done without the heart-rending scenes of butchery and bloodshed, but he has effected it by obtaining the esteem and confidence of the poor Cherokees themselves. They look upon him as a friend and benefactor, and one who has saved them from entire destruction.”<sup>285</sup>

While Scott, no doubt, wished to conclude the removal operation as quickly as possible, he considered the health, comfort, and safety of the Cherokees his primary concern. Every decision he made was arrived at with their welfare at heart. He regretted that they suffered so much, despite his efforts to alleviate their pain. The drought, the inefficiency of the Superintendent of Removal, the wavering policy of the Van Buren administration, and the swindlers and whiskey dealers all caused great difficulties in the completion of his task. Scott ignored the attacks on his character that resulted from his agreement with Ross to let the Cherokees remove themselves. He believed allowing the

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<sup>284</sup> Washburn, 32.

Cherokees to control the removal was in the best interest of the Cherokees. Had a less compassionate man been in charge of the removal operation, much more suffering would have occurred and possibly bloodshed.

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<sup>285</sup> Wright, 137-138.

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