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### The Cherokee Debate

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Although the majority consistently opposed land cession and removal, the Cherokees were never unanimous in their opposition. In the early nineteenth century, a group of self-serving chiefs succumbed to the temptations of the federal government and sold land. Their leader, Doublehead, incurred the full wrath of the Cherokees, and other chiefs, including Major Ridge, killed him for his behavior. In 1808–10, the Nation divided over the removal issue, and for a time, the anti-removal forces deposed the principal chief, who favored removal. Ultimately, the Cherokees did cede territory, most who wanted to move west did so, and those who remained strengthened their national government. Again in 1817–19 the Cherokees debated land cession and removal. Under pressure from the federal government, the Cherokees surrendered more land, those who had promoted removal went west, and the remaining people established “articles of government” that clearly defined who had authority to cede land. These early removals had two important results. First of all, they siphoned off the individuals who supported land cession and western migration. The Cherokees who remained, therefore, became even more adamant in their refusal to negotiate removal, and little dissent from the official anti-removal position existed throughout the 1820s. Second, the people who first settled in western Arkansas and then moved in 1828 to northeastern Oklahoma established a distinct Cherokee society that numbered about four thousand by the 1830s. These Cherokees challenged the hegemony of the eastern Cherokees after the larger body of approximately sixteen thousand moved west in 1838–39.

#### WOMEN AND REMOVAL

In the public debates over removal, or indeed any political issue, the voices of Cherokee women were largely absent. Traditionally, men conducted foreign affairs while women attended to domestic ones.

The increasing importance of war and trade in the eighteenth century had magnified this division and shifted political power to men. The adoption of Anglo-American political institutions, in which women did not participate, further excluded them from the political arena. Nevertheless, in the removal crisis of 1817–19, Cherokee women made themselves heard on two occasions. In 1817 and 1818, women's councils presented petitions to the National Council, which was composed solely of men. Nancy Ward seems to have inspired and led these women's councils. Ward was a War Woman, a title traditionally awarded to women who distinguished themselves while accompanying war parties to cook food, carry water, and perform other gender-specific tasks. Ward had rallied the warriors after her husband's death in battle in 1755. She subsequently aided the patriot cause during the American Revolution and addressed the Hopewell treaty conference in 1785. Now the elderly Ward and other women turned their attention to land cession and removal. The impact of their petitions is difficult to determine. The Cherokees ceded land in 1817 and 1819, but they did not accept individual allotments, which the women had opposed, and after 1819 they ceded no more land until 1835.

How did the women refer to themselves in their petitions to the National Council? Do you think that a tradition of matrilineal kinship may have led the women to describe themselves in such terms? How did women feel about ceding land and moving west of the Mississippi? What reasons did they give for their position? How did they envision the Cherokee future? What did they think motivated the men who supported land cession and removal? Can you find an argument for Cherokee sovereignty in the first petition that supporters of the Cherokee cause later used?

In the second petition, the women also addressed the issue of allotment, that is, dividing Cherokee land into separate tracts and assigning (or allotting) those tracts to individuals. This would have been a dramatic departure from the Cherokee practice of holding land in common, which permitted any citizen to use unoccupied land but prevented an individual from selling the land he or she held. The federal government saw the allotment of land as a means to bypass Indian governments and enable either the United States or its citizens to purchase land from individual owners. Allotment became a feature of treaties with the Chickasaws, Choctaws, and Creeks and generally proved to be a disaster. Did the women support allotment? Can you think of any personal reasons that might have prompted them to oppose allotment?

The first petition can be found in the Presidential Papers Microfilm:

Andrew Jackson (Washington, 1961, series 1, reel 22). The second petition was enclosed in a letter from American Board missionaries to their headquarters in Boston. It is part of the Papers of the American Board of Commissioners for Foreign Missions, Houghton Library, Harvard University. The editors have altered punctuation to make the letters more readable.

The third petition printed here is almost certainly from 1831 rather than 1821, the date attached to it. The letter was written in October and published in the *Cherokee Phoenix* on November 12, 1831. A typographical error easily could have turned what should have been "1831" into "1821." In 1821, the Cherokees were not under any particular pressure from Georgia or the "general government" to remove; by 1831, they were indeed in a "deplorable situation." In any event, the third petition is quite different from the other two. How can you explain the differences? What did the petitioners believe was the proper role of women? How does their justification for petitioning the council compare with the reasoning of the women who wrote the earlier petitions? Do you see any similarities in the petitions?

For more information about Cherokee women, see Theda Perdue, *Cherokee Women: Gender and Culture Change, 1700-1835* (Lincoln: University of Nebraska Press, 1998).

## CHEROKEE WOMEN

### *Petition*

May 2, 1817

The Cherokee ladys now being present at the meeting of the chiefs and warriors in council have thought it their duty as mothers to address their beloved chiefs and warriors now assembled.

Our beloved children and head men of the Cherokee Nation, we address you warriors in council. We have raised all of you on the land which we now have, which God gave us to inhabit and raise provisions. We know that our country has once been extensive, but by repeated sales has become circumscribed to a small track, and [we] never have thought it our duty to interfere in the disposition of it till now. If a father or mother was to sell all their lands which they had to depend on, which their children had to raise their living on, which

would be indeed bad & to be removed to another country. We do not wish to go to an unknown country [to] which we have understood some of our children wish to go over the Mississippi, but this act of our children would be like destroying your mothers.

Your mothers, your sisters ask and beg of you not to part with any more of our land. We say ours. You are our descendants; take pity on our request. But keep it for our growing children, for it was the good will of our creator to place us here, and you know our father, the good president,<sup>1</sup> will not allow his white children to take our country away. Only keep your hands off of paper talks for its our own country. For [if] it was not, they would not ask you to put your hands to paper, for it would be impossible to remove us all. For as soon as one child is raised, we have others in our arms, for such is our situation & will consider our circumstance.

Therefore, children, don't part with any more of our lands but continue on it & enlarge your farms. Cultivate and raise corn & cotton and your mothers and sisters will make clothing for you which our father the president has recommended to us all. We don't charge any body for selling any lands, but we have heard such intentions of our children. But your talks become true at last; it was our desire to forwarn you all not to part with our lands.

Nancy Ward to her children: Warriors to take pity and listen to the talks of your sisters. Although I am very old yet cannot but pity the situation in which you will here of their minds. I have great many grand children which [I] wish them to do well on our land.

## CHEROKEE WOMEN

### *Petition*

*June 30, 1818*

Beloved Children,

We have called a meeting among ourselves to consult on the different points now before the council, relating to our national affairs. We have heard with painful feelings that the bounds of the land we now possess are to be drawn into very narrow limits. The land was given to us

<sup>1</sup>James Monroe.

by the Great Spirit above as our common right, to raise our children upon, & to make support for our rising generations. We therefore humbly petition our beloved children, the head men & warriors, to hold out to the last in support of our common rights, as the Cherokee nation have been the first settlers of this land; we therefore claim the right of the soil.

We well remember that our country was formerly very extensive, but by repeated sales it has become circumscribed to the very narrow limits we have at present. Our Father the President advised us to become farmers, to manufacture our own clothes, & to have our children instructed. To this advice we have attended in every thing as far as we were able. Now the thought of being compelled to remove the other side of the Mississippi is dreadful to us, because it appears to us that we, by this removal, shall be brought to a savage state again, for we have, by the endeavor of our Father the President, become too much enlightened to throw aside the privileges of a civilized life.

We therefore unanimously join in our meeting to hold our country in common as hitherto.

Some of our children have become Christians. We have missionary schools among us. We have had the gospel in our nation. We have become civilized & enlightened, & are in hopes that in a few years our nation will be prepared for instruction in other branches of sciences & arts, which are both useful & necessary in civilized society.

There are some white men among us who have been raised in this country from their youth, are connected with us by marriage, & have considerable families, who are very active in encouraging the emigration of our nation. These ought to be our truest friends but prove our worst enemies. They seem to be only concerned how to increase their riches, but do not care what becomes of our Nation, nor even of their own wives and children.

## CHEROKEE WOMEN

### *Petition*

*October 17, 1821 [1831?]*

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To the Committee and Council,

We the females, residing in Salequoree and Pine Log, believing that the present difficulties and embarrassments under which this nation is placed demands a full expression of the mind of every individual, on the subject of emigrating to Arkansas, would take upon ourselves to address you. Although it is not common for our sex to take part in public measures, we nevertheless feel justified in expressing our sentiments on any subject where our interest is as much at stake as any other part of the community.

We believe the present plan of the General Government to effect our removal West of the Mississippi, and thus obtain our lands for the use of the State of Georgia, to be highly oppressive, cruel and unjust. And we sincerely hope there is no consideration which can induce our citizens to forsake the land of our fathers of which they have been in possession from time immemorial, and thus compel us, against our will, to undergo the toils and difficulties of removing with our helpless families hundreds of miles to unhealthy and unproductive country. We hope therefore the Committee and Council will take into deep consideration our deplorable situation, and do everything in their power to avert such a state of things. And we trust by a prudent course their transactions with the General Government will enlist in our behalf the sympathies of the good people of the United States.

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### **ELIAS BOUDINOT'S EDITORIALS IN THE *CHEROKEE PHOENIX***

The Cherokees' national newspaper, the *Cherokee Phoenix*, was a source of national pride and an important tool in their resistance to removal. In 1826, the National Council appropriated funds for the construction of a printing office in the Nation's capital, New Echota, the purchase of a press, and the casting of types in English and the Cherokee syllabary. The inaugural issue appeared in February 1828 with Elias Boudinot, a Cherokee educated in mission schools, as editor. Subscribers included not only Cherokees but also citizens of the

United States and even Europeans. The newspaper kept its readers informed about national and international events, and it published biblical passages and human interest stories. Laws passed by the Cherokee National Council, advertisements, and notices also appeared in its columns. Most important, the *Cherokee Phoenix* conveyed information to the Nation's citizens about the crisis confronting the Cherokees.

As an official organ of the Cherokee Nation, the *Cherokee Phoenix* presented the Nation's case against removal. The editor printed correspondence from the president and secretary of war, messages from Principal Chief John Ross, and editorials that explained the Cherokee position on removal. As a result, the newspaper became an important factor in uniting the Cherokee people against removal and in promoting sympathy among non-Cherokee readers. When Elias Boudinot began to change his views on removal in 1832, he wanted to open the columns of the *Phoenix* to a debate on the issue. The Council and the principal chief refused to permit open discussion, however, and Boudinot resigned. The paper continued publication under new editorship until 1834, when the federal government refused to pay annuities (annual payments for previously ceded land) into the Cherokee national treasury, and financial problems forced what the Cherokees hoped would be only a temporary suspension of publication. The members of the emerging pro-removal party and the state of Georgia understood the importance of the newspaper in maintaining Cherokee unity: In 1835, the Georgia Guard, accompanied by Boudinot's brother, seized the printing press.

During the years Boudinot served as editor, he wrote a number of impassioned editorials in support of the Cherokee cause. The Cherokees faced pressure from both the United States and the states, particularly Georgia. The Cherokee capital, many mission schools, and most of the large plantations were on lands claimed by Georgia, and John Ridge, Elias Boudinot, John Ross, and other prominent leaders lived there as well. President Jackson and Secretary of War John Eaton made it very clear in letters printed in the June 17, 1829, issue of the *Phoenix* that the states had ultimate title to the land and that if Indians wanted to live on land claimed by the states, they must obey state, rather than Cherokee, law. The editorial from the June 17, 1829, *Phoenix*, reprinted here commented on a memorial by Chief Ross protesting the extension of Georgia law over the Cherokees and on letters from Jackson and Eaton. What irony did Boudinot see in the timing of efforts to remove the Cherokees?

On January 8, 1831, Boudinot wrote an editorial complaining about



**Figure 6.** *Elias Boudinot (1803?–1839).*

A nephew of Major Ridge, Elias Boudinot was known as Galagina or Buck Watie until 1818, when he went north to attend school in Connecticut and adopted the name of a distinguished white statesman and benefactor. He served as editor of the *Cherokee Phoenix* from 1828 until 1832. Along with his uncle and his cousin, John Ridge, Elias Boudinot led the Treaty Party and, like them, was killed in 1839 for signing the Treaty of New Echota.

*Source:* Western History Collections, University of Oklahoma Library.

Georgia's disregard of both Cherokee rights and federal judicial proceedings, in reference specifically to *Cherokee Nation v. Georgia*. Because Georgia refused to cooperate with federal court proceedings, Boudinot compared Georgia to South Carolina, which was involved in a controversy with the United States over high tariffs. South Carolina claimed the right to nullify acts of Congress that were detrimental to

the state, and violence seemed likely until a compromise was reached. Is there anything in this editorial, particularly in Boudinot's analysis of the nullification crisis, that strikes you as prophetic?

The Georgia law that required white men to take oaths of allegiance to the state, Boudinot believed, imperiled Cherokee "civilization." What impact did the law have on the *Phoenix* (February 19, 1831, editorial)? Why did Boudinot not merely hire a white man who had taken the oath? The plight of the missionaries was particularly painful to Boudinot. He lived near Samuel Austin Worcester, and they were working together on the translation of the Bible into Cherokee. At the same time, he also was sensitive to charges that Worcester was his ghost writer, and, in editorials not reprinted here, he strongly defended his own ability and the paper's integrity. Georgia viewed the missionaries, particularly Worcester, as interlopers who garnered support for the Cherokees outside the Nation and strengthened their resolve to resist removal. How did Boudinot view them (November 12, 1831, editorial)? What kinds of activities in the Nation were likely to end if the missionaries left?

Boudinot defended the progress of "civilization" in his editorials, and the one he published on November 12, 1831, was particularly eloquent. To whom did he attribute the introduction of "civilization"? How did "the first Chief magistrate of the United States" explain differences between Native peoples and Europeans? How had attitudes toward Indians changed by the 1830s? What evidence did Boudinot cite to contradict the view that "an Indian will still be an Indian"?

Most issues of the *Cherokee Phoenix* have survived and are available on microfilm. For more information on Boudinot as well as a larger selection of his writings, see Theda Perdue, ed., *Cherokee Editor: The Writings of Elias Boudinot* (Knoxville: University of Tennessee Press, 1983). The dated but standard biography is Ralph Henry Gabriel, *Elias Boudinot, Cherokee, and His America* (Norman: University of Oklahoma Press, 1941).

## ELIAS BOUDINOT

### *Editorials in the Cherokee Phoenix*

1829, 1831

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**June 17, 1829**

From the documents which we this day lay before our readers, there is not a doubt of the kind of policy, which the present administration of the General Government intends to pursue relative to the Indians. President Jackson has, as a neighboring editor remarks, "recognized the doctrine contended for by Georgia in its full extent." It is to be regretted that we were not undeceived long ago, while we were hunters and in our savage state. It appears now from the communication of the Secretary of War to the Cherokee Delegation, that the illustrious Washington, Jefferson, Madison and Monroe were only tantalizing us, when they encouraged us in the pursuit of agriculture and Government, and when they afforded us the protection of the United States, by which we have been preserved to this present time as a nation. Why were we not told long ago, that we could not be permitted to establish a government within the limits of any state? Then we could have borne disappointment much easier than now. The pretext for Georgia to extend her jurisdiction over the Cherokees has always existed. The Cherokees have always had a government of their own. Nothing, however, was said when we were governed by savage laws, when the abominable law of retaliation carried death in our midst, when it was a lawful act to shed the blood of a person charged with witchcraft, when a brother could kill a brother with impunity, or an innocent man suffer for an offending relative. At that time it might have been a matter of charity to have extended over us the mantle of Christian laws & regulations. But how happens it now, after being fostered by the U. States, and advised by great and good men to establish a government of regular law; when the aid and protection of the General Government have been pledged to us; when we, as dutiful "children" of the President, have followed his instructions and advice, and have established for ourselves a government of regular law; when everything looks so promising around us, that a storm is raised by the extension of tyrannical and unchristian laws, which threatens to blast all our rising hopes and expectations?

There is, as would naturally be supposed, a great rejoicing in Geor-

gia. It is a time of "important news"—"gratifying intelligence"—"The Cherokee lands are to be obtained speedily." It is even reported that the Cherokees have come to the conclusion to sell, and move off to the west of the Mississippi—not so fast. We are yet at our homes, at our peaceful firesides, (except those contiguous to Sandtown, Carroll, &c.) attending to our farms and useful occupations.

We had concluded to give our readers fully our thoughts on the subject, which we, in the above remarks, have merely introduced, but upon reflection & remembering our promise, that we will be moderate, we have suppressed ourselves, and have withheld what we had intended should occupy our editorial column. We do not wish, by any means, unnecessarily to excite the minds of the Cherokees. To our home readers we submit the subject without any special comment. They will judge for themselves. To our distant readers, who may wish to know how we feel under present circumstances, we recommend the memorial, the leading article in our present number. We believe it justly contains the views of the nation.

### January 8, 1831

The Georgians have again made another warlike irruption into the nation, of which the following particulars may be relied upon as substantially correct.

A company of twenty five armed men from Carrol County, under the command of one Major Bogus, came into the neighborhood of Hightower, about two weeks since, for the purpose of arresting a number of Cherokees. On their way to Beanstick's they came across two lads, utterly unknown to them. On seeing such an armed force making towards them, the lads fled towards the river, and plunged into the water. Some of the Company pursued them to the bank of the river, and fired at them as they were swimming, and, it is said, came very near shooting one of them. They then went to Beanstick's and arrested his son Joseph. Here they wheeled about, and after parading about the neighborhood with characteristic bravery, marched towards Georgia. They soon discovered that they had mistaken their prisoner Joseph, for one Moses Beanstick, for whom it seems they had a warrant. But it made not a cent's difference with them, for they took him on into Carrol. He had not returned on last monday.

Our feelings are not in a proper state to allow us to make comments upon such proceedings. Will the Congress of the United States permit its citizens to invade us in a warlike manner in time of peace?

EDITED BY ELIAS BOUNDNOTT.  
PRINTED WEEKLY BY  
**ISAACH. HARRIS,**  
FOR THE CHEROKEE NATION.

At \$9 50 if paid in advance, \$8 in six months, or \$9 50 if paid at the end of the year.

To subscribers who can read only the Cherokee language the price will be \$5 00 in advance, or \$5 50 if paid within the year.

Every subscription will be considered as continued unless subscribers give notice to the contrary before the commencement of a new year.

The Phoenix will be printed on a Superior sheet, with type entirely new procured for the purpose. Any person procuring six subscribers, and becoming responsible for the payment, shall receive a seventh gratis.

Advertisements will be inserted at seven-fifths cents per square for the first insertion, an' thirty-seven and a half cents for each continuance; longer ones in proportion.

All letters addressed to the Editor, post paid, will receive due attention.

GWY TCAVC-A AD H J E C O T I  
TVAZVAZ TAAZ VAZ JHRAZ H-A-A-I  
TAAE JNCHIAZY KTA DIZ GAZIZ  
TVAZ, TCAZ TAZOZ DZAZH-A-I  
TVAZ VAZ TAAZ TA DZAZH-A-I, KTA  
DZAZH-A-I, TCAZ DIZ TCAZ TAAZ  
GZIZ HOC JNCHIAZY, VAZ DIZ  
DZIZ HOC TAAZ, TCAZ TAZOZ DZAZH-A-I  
TVAZ TAAZ.

A GOOD CONSCIENCE.

CONSTITUTION OF THE CHEROKEE NATION,  
Formed by a Convention of Delegates from the several Districts, at New Gchota, July 1827.

WE, THE REPRESENTATIVES of the people of the CHEROKEE NATION in Convention assembled, in order to establish justice, ensure tranquility, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty; acknowledging with humility and gratitude the goodness of the sovereign Ruler of the Universe, in offering us an opportunity so favorable to the design, and imploring his aid and direction in its accomplishment, do ordain and establish this Constitution for the Government of the Cherokee Nation.

ARTICLE I.

Sec. 1. THE BOUNDARIES of this nation, embracing the lands solemnly guaranteed and reserved forever to the Cherokee Nation by the Treaties concluded with the United States, are as follows; and shall forever hereafter remain unalterably the same—to wit—Beginning on the upper part of the Chickasaw old fields; thence along the main channel of said river, including all the islands therein, to the mouth of the Hiwassee river, thence up the main channel of said river, including islands, to the first bill which closes in on said river, about two miles above Hiwassee old Town; thence

readmission. Moreover, the Legislature shall have power to adopt such laws and regulations, as its wisdom may deem expedient and proper, to prevent the citizens from monopolizing improvements with the view of speculation.

ARTICLE II.

Sec. 1. THE POWER of this Government shall be divided into three distinct departments,—the Legislative, the Executive, and the Judicial.

Sec. 2. No person or persons, belonging to one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE III.

Sec. 1. THE LEGISLATIVE POWER shall be vested in two distinct branches; a Committee, and a Council; each to have a negative on the other, and both to be styled, the General Council of the Cherokee Nation: and the style of their acts and laws shall be,  
"Resolved by the Committee and Council in General Council convened."

Sec. 2. The Cherokee Nation, as laid out into eight Districts, shall remain.

Sec. 3. The Committee shall consist of two members from each District, and the Council shall consist of three members from each District, to be chosen by the qualified electors of their respective Districts.



JOURNAL

PHOENIX.

### [January 8, 1831 — Second Editorial]

During last summer, a Cherokee, by the name of George Tassel, was arrested within the limits of this nation by the Sheriff of Hall County, for murder committed upon the body of another Cherokee, likewise within the limits of the nation. Tassel was taken over the line, and committed to jail. At the last term of Superior Court of Hall County, he was brought out for trial, but the Judge postponed the trial until a convention of Judges at Milledgeville should pronounce upon the constitutionality of the act extending the jurisdiction of the State over the Cherokees. As was to be expected, the convention decided in favor of the jurisdiction of the State. Judge Clayton therefore called a court for the purpose of trying Tassel, who was accordingly tried on the 22d of November, and found *guilty*. It appears that Judge Clayton refused to grant an appeal by a writ of error, to the Supreme Court of the United States, and even refused to certify that Tassel was tried. Tassel was therefore sentenced to be hung on the 24th of last month, on which day he was executed, in defiance of a writ of error sanctioned by the Chief Justice of the United States, and served upon Governor Gilmer, on the 22d, two days previous to the execution. We invite the readers' attention to the following interesting information which we copy from the Milledgeville Recorder. The conduct of the Georgia Legislature is indeed surprising—one day they discountenance the proceedings of the nullifiers of South Carolina—at another, they even out-do the people of South Carolina, and authorize their Governor to hoist the flag of rebellion against the United States! If such proceedings are sanctioned by the majority of the people of the U. States, the Union is but a tottering fabric, which will soon fall and crumble into atoms.

### February 19, 1831

This week we present to our readers but half a sheet—the reason is, one of our printers has left us; and we expect another (who is a white man) to quit us very soon, either to be dragged to the Georgia penitentiary for a term not less than four years, or for his personal safety,

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#### Figure 7. *The Cherokee Phoenix (Opposite).*

In 1828, the Cherokee Nation began publishing a newspaper, the *Cherokee Phoenix*, with columns in English and in the Cherokee syllabary invented by Sequoyah.

Source: Georgia Department of Natural Resources, New Echota State Historic Site.

to leave the nation, and us to shift for ourselves as well as we can. And, our friends will please to remember, we cannot invite another white printer to our assistance without subjecting him to the same punishment; and to have in our employ one who has taken the oath to support the laws of Georgia which now oppress the Cherokees, is utterly out of the question. Thus is the liberty of the press guaranteed by the Constitution of Georgia.

But we will not give up the ship while it is afloat. We have intelligent youths in the nation, and we hope before long to make up our loss. In the mean time our patrons will bear with us & have patience—let them bear in mind that we are in the woods, and, as it is said by some, in a savage country, where printers are not plenty, and a substitute not easily obtained when one of our hands leave us or become indisposed—our paper is therefore easily deranged. Our readers will please not expect to receive the Phoenix very regularly for a while. We shall do the best we can.

We have already noticed the late law of Georgia, making a high misdemeanor, punishable with four years imprisonment at hard labour in the penitentiary, for any white man to reside, after the 1st of March, *within the limits of the Cherokee nation*, (so the copy of the laws we received reads—let the people of Alabama, Tennessee and North Carolina look out—the Georgia legislature is carrying its sovereignty too far,) unless he takes the oath of allegiance, and obtains from the Governor's agent a permit to continue his residence *until further orders*. We cannot help alluding again to that law as being extremely unjust, without saying any thing of its oppressive tendency, both to the whites and Cherokees. It is certainly oppressive on the whites, even admitting that the state of Georgia has an undoubted jurisdiction over the Cherokee territory. Why is it that it is required of *them* to take the oath, when by the extension of that jurisdiction, they were admitted as citizens of the state? Is such requirement made of other citizens? Do the constitution and the laws recognize such a distinction? But what becomes of the liberty of conscience in this case?—Here a white man cannot enjoy that liberty without going to the penitentiary.

What are the effects of this law on the Cherokees? Disastrous. Just such effects as were intended the law should produce. The design appears to be to bring them back to their old station—carry them back twenty years hence. Deprive them of all their means of improvement, and remove all the whites, and it is thought by some, the great obstacle is taken out of the way, and there will be no difficulty to bring

the Cherokees to terms. If this is not the *design* it may possibly be the *tendency* of the law. Now let the reader just consider. If we introduce a minister of the Gospel to preach to us the way of life and salvation, here is a law of Georgia, a Christian law too it is said, ready to seize him and send him to the Penitentiary, in violation of the constitution of the state itself. [See Constitution of Georgia, Art. 4—Sec. 10.] If we bring in a white man to teach our children, he is also arrested and suffers a similar punishment. If we wish a decent house built, and invite a carpenter into the nation to do the work, here is a law which forces him from our employ and soon numbers him with culprits. If we introduce a Blacksmith, or any other mechanic, it is the same. Is it not natural to suppose that the tendency of such a law on the Cherokees would be disastrous? It forces from them the very means of their improvement in religion and morals, and in the arts of civilized life.

### November 12, 1831

It has been customary to charge the failure of attempts heretofore made to civilize and christianize the aborigines to the Indians themselves. Whence originated the common saying, "An Indian will still be an Indian."—Do what you will, he cannot be civilized—you cannot reclaim him from his wild habits—you may as well expect to change the spots of the Leopard as to effect any substantial renovation in his character—he is as the wild Turkey, which at "night-fall seeks the tallest forest tree for his roosting place." Such assertions, although inconsistent with the general course of providence and the history of nations, have nevertheless been believed and acted upon by many well meaning persons. Such persons do not sufficiently consider that causes, altogether different from those they have been in the habit of assigning, may have operated to frustrate the benevolent efforts made to reclaim the Indian. They do not, perhaps, think that as God has, of one blood, created all the nations of the earth, their circumstances, in a state of nature, must be somewhat the same, and therefore, in the history of mankind, we have no example upon which we can build the assertion, that it is impossible to civilize and christianize the Indian. On the contrary we have instances of nations, originally as ignorant and barbarous as the American natives, having risen from their degraded state to a high pitch of refinement—from the worst kind of paganism to the knowledge of the true God.

We have on more than one occasion remarked upon the difficulties which lie in the way of civilizing the Indians. Those difficulties have

been fully developed in the history of the Cherokees within the last two years. They are such as no one can now mistake—their nature is fully revealed and the source from whence they rise can no longer be a matter of doubt. They are not to be found in the “nature” of the Indians, which a man in high authority once said was as difficult to change as the Leopard his spots. It is not because they are, of all others, the most degraded and ignorant that they have not been brought to enjoy the blessings of a civilized life.—But it is because they have to contend with obstacles as numerous as they are peculiar.

With a commendable zeal the first Chief magistrate of the United States undertook to bring the Cherokees into the pale of civilization, by establishing friendly relations with them by treaties, and introducing the mechanic arts among them. He was indeed a “father” to them—They regarded him as such—They placed confidence in what he said, and well they might, for he was true to his promises. Of course the foundation for the improvement which the Cherokees have since made was laid under the patronage of that illustrious man. His successors followed his example and treated their “red children” as human beings, capable of improvement, and possessing rights derived from the source of all good, and guaranteed by compacts as solemn as a great Republic could make. The attempts of those good men were attended with success, because they believed those attempts were feasible and acted accordingly.

Upon the same principle have acted those benevolent associations who have taken such a deep interest in the welfare of the Indians, and who may have expended so much time and money in extending the benign influence of religion. Those associations went hand in hand with the Government—it was a work of co-operation. God blessed their efforts. The Cherokees have been reclaimed from their wild habits—Instead of hunters they have become the cultivators of the soil—Instead of wild and ferocious savages, thirsting for blood, they have become the mild “citizens,” the friends and brothers of the white man—Instead of the superstitious heathens, many of them have become the worshippers of the true God. Well would it have been if the cheering fruits of those labors had been fostered and encouraged by an enlightened community! But alas! no sooner was it made manifest that the Cherokees were becoming strongly attached to the ways and usages of civilized life, than was aroused the opposition of those from whom better things ought to have been expected. No sooner was it known that they had learned the proper use of the earth, and that they were now less likely to dispose of their lands for a mess of pot-

tage, than they came in conflict with the cupidity and self-interest of those who ought to have been their benefactors—Then commenced a series of obstacles hard to overcome, and difficulties intended as a stumbling block, and unthought of before. The “Great Father” of the “red man” has lent his influence to encourage those difficulties. The *guardian* has deprived his *wards* of their rights—The sacred obligations of treaties and laws have been disregarded—The promises of Washington and Jefferson have not been fulfilled. The policy of the United States on Indian affairs has taken a different direction, for no other reason than that the Cherokees have so far become civilized as to appreciate a regular form of Government. They are now deprived of rights they once enjoyed—A neighboring power is now permitted to extend its withering hand over them—Their own laws, intended to regulate their society, to encourage virtue and to suppress vice, must now be abolished, and civilized acts, passed for the purpose of expelling them, must be substituted.—Their intelligent citizens who have been instructed through the means employed by former administrations, and through the efforts of benevolent societies, must be abused and insulted, represented as avaricious, feeding upon the poverty of the common Indians—the hostility of all those who want the Indian lands must be directed against them. That the Cherokees may be kept in ignorance, teachers who had settled among them by the approbation of the Government, for the best of all purposes, have been compelled to leave them by reason of laws unbecoming any civilized nation—Ministers of the Gospel, who might have, at this day of trial, administered to them the consolations of Religion, have been arrested, chained, dragged away before their eyes, tried as felons, and finally immured in prison with thieves and robbers.

Is not here an array of *difficulties*?—The truth is, while a portion of the community have been, in the most laudable manner, engaged in using efforts to civilize and christianize the Indian, another portion of the same community have been busy in counteracting those efforts. Cupidity and self-interest are at the bottom of all these difficulties—A desire to *possess* the Indian land is paramount to a desire to see him *established* on the soil as a *civilized* man.

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## THE TREATY OF NEW ECHOTA

When the Supreme Court ordered the release of the imprisoned missionaries, the Cherokees were jubilant. Soon, however, their joy turned to dismay. State officials simply ignored the Supreme Court ruling, and

President Jackson declined to force the state to comply. At this point, Elias Boudinot and John Ridge along with several other Cherokee leaders began to doubt whether the Cherokees would ever receive justice. Invaded by Georgians, powerless to resist, and pressured by both federal and state authorities, the Cherokees seemed to have no alternative to negotiating removal. Those who despaired of remaining in the East and advocated negotiation became known as the Treaty Party. They attracted relatively few followers since the vast majority of Cherokees continued to place their faith in John Ross's leadership and their own sense of righteousness.

The breach between those who favored negotiation and those who refused to even consider removal widened. In June 1834, Treaty Party members, led by Ross's own brother Andrew, signed a removal treaty, but the Senate refused to ratify the clearly fraudulent document. Each side sent delegations to Washington, but the Treaty Party, now led by Ridge and Boudinot, found the warmer reception. Forced into negotiating, Ross agreed to take a proposed treaty to the annual Council meeting in October 1835, but he made only vague references to a financial settlement offered by the United States Senate. The Council rejected the Senate's offer and then appointed a delegation of treaty and antitreaty men to go to Washington and work out a mutually acceptable agreement. Elias Boudinot soon resigned from the delegation, but Ridge went to Washington with Ross.

In the meantime, United States treaty commissioner John F. Schermerhorn called for a conference at New Echota in December 1835. John Ross and the Cherokee Council did not attend. Out of a total population of approximately sixteen thousand, just over two hundred Cherokees met there and ratified a removal treaty by a vote of seventy-five to seven. Although Ridge was not in attendance, he later attached his signature to the document his father, Major Ridge, and cousin, Elias Boudinot, had already signed. Despite Cherokee protests, the United States Senate ratified the Treaty of New Echota in the spring of 1836, and the government prepared to enforce its provisions.

What did the Cherokees receive in exchange for their territory? What guarantees were made to them? How long did they have to prepare for the journey west? What responsibility did the United States have for their move? Has Congress acted on Article 7? Compare the description of the Cherokees in Article 7 to the descriptions of Cass and Jackson.

An excerpt of the Treaty of New Echota is printed here. If you would like to read the entire text, you can find it in Charles J. Kappler,

ed., *Indian Affairs: Laws and Treaties*, 5 vols. (Washington, D.C.: Government Printing Office, 1904-1941), which often is kept in the government documents department of university libraries.

## *Treaty with the Cherokees*

1835

Whereas the Cherokees are anxious to make some arrangements with the Government of the United States whereby the difficulties they have experienced by a residence within the settled parts of the United States under the jurisdiction and laws of the State Governments may be terminated and adjusted; and with a view to reuniting their people in one body and securing a permanent home for themselves and their posterity in the country selected by their forefathers without the territorial limits of the State sovereignties, and where they can establish and enjoy a government of their choice and perpetuate such a state of society as may be most consonant with their views, habits and condition; and as may tend to their individual comfort and their advancement in civilization. . . .

And whereas the Cherokee people, at their last October council at Red Clay, fully authorized and empowered a delegation or committee of twenty persons of their nation to enter into and conclude a treaty with the United States commissioner then present, *at that place or elsewhere* and as the people had good reason to believe that a treaty would then and there be made or at a subsequent council at New Echota which the commissioners it was well known and understood, were authorized and instructed to convene for said purpose; and since the said delegation have gone on to Washington city, with a view to close negotiations there, as stated by them notwithstanding they were officially informed by the United States commissioner that they would not be received by the President of the United States; and that the Government would transact no business of this nature with them, and that if a treaty was made it must be done here in the nation, where the delegation at Washington last winter *urged that it should be done for the purpose of promoting peace and harmony among the people*; and since these facts have also been corroborated to us by a communication recently received by the commissioner from the Government of the

United States and read and explained to the people in open council and therefore believing said delegation can effect nothing and since our difficulties are daily increasing and our situation is rendered more and more precarious uncertain and insecure in consequence of the legislation of the States; and seeing no effectual way of relief, but in accepting the liberal overtures of the United States. . . .

And whereas the said commissioners did appoint and notify a general council of the nation to convene at New Echota on the 21st day of December 1835; and informed them that the commissioners would be prepared to make a treaty with the Cherokee people who should assemble there and those who did not come they should conclude at their assent and sanction to whatever should be transacted at this council and the people having met in council according to said notice.

Therefore the following articles of a treaty are agreed upon and concluded between William Carroll and John F. Schermerhorn commissioners on the part of the United States and the chiefs and head men and people of the Cherokee nation in general council assembled this 29th day of Decr 1835.

### Article 1

The Cherokee nation hereby cede relinquish and convey to the United States all the lands owned claimed or possessed by them east of the Mississippi river, and hereby release all their claims upon the United States for spoliations of every kind for and in consideration of the sum of five millions of dollars to be expended paid and invested in the manner stipulated and agreed upon in the following articles. But as a question has arisen between the commissioners and the Cherokees whether the Senate in their resolution by which they advised "that a sum not exceeding five millions of dollars be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river" have included and made any allowance or consideration for claims for spoliations it is therefore agreed on the part of the United States that this question shall be again submitted to the Senate for their consideration and decision and if no allowance was made for spoliations that then an additional sum of three hundred thousand dollars be allowed for the same. . . .

### Article 5

The United States hereby covenant and agree that the lands ceded to the Cherokee nation in the forgoing article shall, in no future time

without their consent, be included within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them: provided always that they shall not be inconsistent with the constitution of the United States and such acts of Congress as have been or may be passed regulating trade and intercourse with the Indians; and also, that they shall not be considered as extending to such citizens and army of the United States as may travel or reside in the Indian country by permission according to the laws and regulations established by the Government of the same. . . .

#### Article 7

The Cherokee nation having already made great progress in civilization and deeming it important that every proper and laudable inducement should be offered to their people to improve their condition as well as to guard and secure in the most effectual manner the rights guaranteed to them in this treaty, and with a view to illustrate the liberal and enlarged policy of the Government of the United States towards the Indians in their removal beyond the territorial limits of the States, it is stipulated that they shall be entitled to a delegate in the House of Representatives of the United States whenever Congress shall make provision for the same.

#### Article 8

The United States also agree and stipulate to remove the Cherokees to their new homes and to subsist them one year after their arrival there and that a sufficient number of steamboats and baggage-wagons shall be furnished to remove them comfortably, and so as not to endanger their health, and that a physician well supplied with medicines shall accompany each detachment of emigrants removed by the Government. Such persons and families as in the opinion of the emigrating agent are capable of subsisting and removing themselves shall be permitted to do so; and they shall be allowed in full for all claims for the same twenty dollars for each member of their family; and in lieu of their one year's rations they shall be paid the sum of thirty-three dollars and thirty-three cents if they prefer it.

Such Cherokees also as reside at present out of the nation and shall

remove with them in two years west of the Mississippi shall be entitled to allowance for removal and subsistence as above provided.

### Article 9

The United States agree to appoint suitable agents who shall make a just and fair valuation of all such improvements now in the possession of the Cherokees as add any value to the lands; and also of the ferries owned by them, according to their net income; and such improvements and ferries from which they have been dispossessed in a lawless manner or under any existing laws of the State where the same may be situated.

The just debts of the Indians shall be paid out of any monies due them for their improvements and claims; and they shall also be furnished at the discretion of the President of the United States with a sufficient sum to enable them to obtain the necessary means to remove themselves to their new homes, and the balance of their dues shall be paid them at the Cherokee agency west of the Mississippi. The missionary establishments shall also be valued and appraised in a like manner and the amount of them paid over by the United States to the treasurers of the respective missionary societies by whom they have been established and improved in order to enable them to erect such buildings and make such improvements among the Cherokees west of the Mississippi as they may deem necessary for their benefit. Such teachers at present among the Cherokees as this council shall select and designate shall be removed west of the Mississippi with the Cherokee nation and on the same terms allowed to them.

### Article 10

The President of the United States shall invest in some safe and most productive public stocks of the country for the benefit of the whole Cherokee nation who have removed or shall remove to the lands assigned by this treaty to the Cherokee nation west of the Mississippi the following sums as a permanent fund for the purposes hereinafter specified and pay over the net income of the same annually to such person or persons as shall be authorized or appointed by the Cherokee nation to receive the same and their receipt shall be a full discharge for the amount paid to them viz: the sum of two hundred thousand dollars in addition to the present annuities of the nation to constitute a general fund the interest of which shall be applied annu-

ally by the council of the nation to such purposes as they may deem best for the general interest of their people. The sum of fifty thousand dollars to constitute an orphans' fund the annual income of which shall be expended towards the support and education of such orphan children as are destitute of the means of subsistence. The sum of one hundred and fifty thousand dollars in addition to the present school fund of the nation shall constitute a permanent school fund, the interest of which shall be applied annually by the council of the nation for the support of common schools and such a literary institution of a higher order as may be established in the Indian country. And in order to secure as far as possible the true and beneficial application of the orphans' and school fund the council of the Cherokee nation when required by the President of the United States shall make a report of the application of those funds and he shall at all times have the right if the funds have been misapplied to correct any abuses of them and direct the manner of their application for the purposes for which they were intended. The council of the nation may by giving two years' notice of their intention withdraw their funds by and with the consent of the President and Senate of the United States, and invest them in such manner as they may deem most proper for their interest. The United States also agree and stipulate to pay the just debts and claims against the Cherokee nation held by the citizens of the same and also the just claims of citizens of the United States for services rendered to the nation and the sum of sixty thousand dollars is appropriated for this purpose but no claims against individual persons of the nation shall be allowed and paid by the nation. The sum of three hundred thousand dollars is hereby set apart to pay and liquidate the just claims of the Cherokees upon the United States for spoliations of every kind, that have not been already satisfied under former treaties. . . .

### Article 16

It is hereby stipulated and agreed by the Cherokees that they shall remove to their new homes within two years from the ratification of this treaty and that during such time the United States shall protect and defend them in their possessions and property and free use and occupation of the same and such persons as have been dispossessed of their improvements and houses; and for which no grant has actually issued previously to the enactment of the law of the State of Georgia, of December 1835 to regulate Indian occupancy shall be again put in possession and placed in the same situation and condition, in reference to

the laws of the State of Georgia, as the Indians that have not been dispossessed; and if this is not done, and the people are left unprotected, then the United States shall pay the several Cherokees for their losses and damages sustained by them in consequence thereof. And it is also stipulated and agreed that the public buildings and improvements on which they are situated at New Echota for which no grant has been actually made previous to the passage of the above recited act if not occupied by the Cherokee people shall be reserved for the public and free use of the United States and the Cherokee Indians for the purpose of settling and closing all the Indian business arising under this treaty between the commissioners of claims and the Indians.

The United States, and the several States interested in the Cherokee lands, shall immediately proceed to survey the lands ceded by this treaty; but it is expressly agreed and understood between the parties that the agency buildings and that tract of land surveyed and laid off for the use of Colonel R. J. Meigs Indian agent or heretofore enjoyed and occupied by his successors in office shall continue subject to the use and occupancy of the United States, or such agent as may be engaged specially superintending the removal of the tribe. . . .

### Article 19

This treaty after the same shall be ratified by the President and Senate of the United States shall be obligatory on the contracting parties. . . .

In testimony whereof, the commissioners and the chiefs, head men, and people whose names are hereunto annexed, being duly authorized by the people in general council assembled, have affixed their hands and seals for themselves, and in behalf of the Cherokee nation.

I have examined the foregoing treaty, and although not present when it was made, I approve its provisions generally, and therefore sign it.

Wm. Carroll,  
J. F. Schermerhorn

Major Ridge, his x mark,	[L.S.]	Te-gah-e-ske, his x mark,	[L.S.]
James Foster, his x mark,	[L.S.]	Robert Rogers,	[L.S.]
Tesa-ta-esky, his x mark,	[L.S.]	John Gunter,	[L.S.]
Charles Moore, his x mark,	[L.S.]	John A. Bell,	[L.S.]
George Chambers, his x mark,	[L.S.]	Charles F. Foreman,	[L.S.]
Tah-yeske, his x mark,	[L.S.]	William Rogers,	[L.S.]
Archilla Smith, his x mark,	[L.S.]	George W. Adair,	[L.S.]
Andrew Ross,	[L.S.]	Elias Boudinot,	[L.S.]
William Lassley,	[L.S.]	James Starr, his x mark,	[L.S.]
Cae-te-hee, his x mark,	[L.S.]	Jesse Half-breed, his x mark,	[L.S.]

Signed and sealed in presence of—

Western B. Thomas, secretary.  
 Ben. F. Currey, special agent.  
 M. Wolfe Batman, first lieutenant, sixth  
 U.S. Infantry, disbursing agent.  
 Jon. L. Hooper, lieutenant,  
 fourth Infantry.

C. M. Hitchcock, M.D., assistant  
 surgeon, U. S. A.  
 G. W. Currey,  
 Wm. H. Underwood,  
 Cornelius D. Terhune,  
 John W. H. Underwood.

## THE OPPOSITION CONTINUES

The signing of a removal treaty in December 1835 and its ratification by the Senate in the spring of 1836 did not end opposition to removal. John Ross continued his efforts to have the treaty abrogated. Simultaneously and in apparent contradiction to his resistance to removal, he lobbied to have the payment for lands in the East increased and the title to a western territory guaranteed. He suggested alternatives to removal including the extension of United States citizenship to Cherokees remaining in the East and their acceptance of fair state laws. Such a measure would have ended the Cherokee Nation and his own political career. He even explored the possibility of emigration to Mexico, where the Cherokees would at last be beyond the reach of the United States. Ross worried that removal under the Treaty of New Echota would not be the Cherokees' last. Indeed, in 1828 Cherokees who had earlier moved west had to give up their land in what became Arkansas and move even farther west.

Most Cherokees continued to support Ross even when his position was not clear. The public statements of the vast majority of Cherokees left little doubt where they stood. Councils rejected negotiation, and fifteen thousand Cherokees protested the Treaty of New Echota in petitions to the United States Senate. Ross insisted that he merely represented their views. The Treaty Party, according to Ross, had behaved unethically, illegally, and undemocratically. They had subverted, Ross believed, the incontrovertible will of the people.

Because the president and the Congress recognized the Treaty Party and the Treaty of New Echota as legitimate, Ross felt compelled to go on the offensive. Ross relied on the pen of his friend John Howard Payne, a journalist who had been arrested along with the chief by the Georgia Guard, and sympathetic newspapers. With Payne's advice, in 1836 he published a pamphlet, *Letter from John Ross . . . in Answer to Inquiries from a Friend Regarding the Cherokee Affairs with the United States*. Excerpts from his pamphlet appeared, with supporting