



JOHN RIDGE,
A CHEROKEE.

PUBLISHED BY W. W. HAYDEN, PHILADELPHIA.
From a portrait collected at St. Louis, Missouri, by George Catlin, and by J. H. Mather, St. Louis, Missouri, in the year 1844. It is now in the possession of the Hon. J. H. Mather, St. Louis, Missouri.

John Ridge had a distinguished career as a Cherokee statesman, but he signed the removal treaty of 1835 and in 1839 paid for that act with his life. From Thomas L. McKenney and James Hall, History of the Indian Tribes of North America (Philadelphia: F. W. Greenough, 1838-44); copy in the Rare Book Collections, Wilson Library, University of North Carolina, Chapel Hill.

THE TREATY OF NEW ECHOTA



"IF ONE HUNDRED PERSONS are ignorant of their true situation, and are so completely blinded as not to see the destruction that awaits them," Elias Boudinot wrote in 1837, "we can see strong reasons to justify the action of a minority of fifty persons to do what the majority *would do* if they understood their condition—to save a *nation* from political thralldom and moral degradation."¹ Boudinot and his associates, members of the so-called "treaty party," repeated this explanation many times to justify their actions in concluding the Treaty of New Echota, which provided for removal, in late December 1835. Their love of their nation, they cried, made their deed right and would, they hoped, exonerate them in the end. What the fate of the Cherokees might have been had there been no negotiation at New Echota is impossible to tell, of course, but to Boudinot, his uncle Major Ridge, his

cousin John Ridge, his brother Stand Watie, and a handful of others, it would have been a fate worse than removal.²

The Removal Act of 1830 left many things unspecified, including the means by which the removal of the eastern Indian nations to the country set aside for them west of the Mississippi would be arranged. The reason for this apparent vagueness, however, is clear. Every Trade and Intercourse Act passed by Congress, from the first in 1790 to the last in 1834, stipulated that all sales of land by tribes to the United States must be accomplished by treaty. The treaty system, well established by the 1830s, rested on the supposition that the treaties were contracts between sovereigns equally empowered to agree or disagree with the proposals on the table. Through negotiation they reached a mutually satisfactory arrangement, and by signing and ratifying the document, they obligated themselves to fulfill its terms. Voluntarism was the guiding principle of treaty making. Unless it was a peace treaty at the end of a war, neither side could force the other to negotiate. The government of Andrew Jackson could demand that the Cherokee Nation discuss the terms of a removal treaty, but if the Nation's leaders refused to talk or, after talking, refused to agree, there was nothing legal the president could do. That is why the actions of Georgia are so important to the history of the removal of the Cherokees. That state, with the connivance of the president, intended to make life for the Cherokees so miserable they would decide that emigration was salvation and eagerly sign any treaty presented to them just to get away. The Cherokee Nation also

reached into Alabama, Tennessee, and North Carolina. Alabama extended its jurisdiction the year after Georgia, and Tennessee did so in 1835. Because they were public land states and title reverted to the federal not the state government, Alabama and Tennessee did not gain immediate control of land sold by the tribe as Georgia did. As a result, their policies were much less aggressive than Georgia's.

Georgia's legislation could not have pleased President Andrew Jackson more if he had written the laws himself. The Cherokees, however, knew that influential people disagreed with Jackson and supported the claims to sovereignty by the Cherokee Nation. Men from the religious establishment like Jeremiah Evarts and Theodore Frelinghuysen, the "Christian Senator," had based their opposition to the removal act on their belief in the sovereignty of the Cherokee Nation. Their arguments, along with partisan opponents of Jackson and the Democratic Party, had nearly defeated the act in the House of Representatives. Following its passage, Chief Ross worked tirelessly to cultivate these men. They advised him on a legal strategy and helped him identify William Wirt to present the Cherokee case before the Supreme Court. Furthermore, Evarts's American Board conspired with its missionaries in the Cherokee Nation to defy Georgia law by refusing to take the prescribed oath of allegiance to the state, thereby sacrificing themselves in order to make a test case that the Supreme Court would accept. John Ridge and Elias Boudinot were in the Boston office of the American Board when they received news of the Court's

decision in the *Worcester* case. The two Cherokees and their ministerial hosts jumped to their feet, hugged one another, and danced a jig around Evarts's desk in jubilation. These were the kinds of friends that the Cherokees could count on, it seemed.

Ridge and Boudinot immediately returned to Washington to join the other members of the Cherokee delegation. When they arrived, the celebration was already over. Ridge wrote his cousin Stand Watie that he felt "greatly revived—a new man" and "independent," but he knew that the "contest is not over. . . . The Chicken Snake General Jackson has time to crawl and hide in the luxuriant grass of his nefarious hypocrisy."³ The word was out that their victory in Court was hollow. Jackson affirmed the rumor in a private audience with Ridge—he would not act to execute the Court's decision in *Worcester*. Fearful of a constitutional crisis, congressional friends and confidants of the Cherokees took members of the delegation aside to recommend that they give up. Justice John McLean, a better friend on the Court than Chief Justice Marshall, advised them that there was nothing more they could do to resist removal. Sell now and get the best deal you can, he urged. He even volunteered to serve as a U.S. commissioner and negotiate the treaty himself. Then, in early May 1832, Ridge got word from the American Board that the missionaries wanted them to emigrate. By the end of the year, Worcester and Butler, serving hard time in the Georgia penitentiary, had asked for and received gubernatorial pardons. Agreeing to leave the state, they gave up all plans to pursue

their cases any further. The South Carolina nullification crisis was afoot, though the issue was the tariff, not Indians. Nevertheless, politicians in both parties feared that Georgia, which actually was engaged in nullifying federal law, might join its neighbor state and exacerbate the threat of disunion if it felt pressured by the Supreme Court. So everybody, friends as well as enemies, sacrificed the Cherokees.

Taking advantage of their anguish, Secretary of War Lewis Cass called the Cherokee delegates to his office in mid-April 1832 and outlined the terms of a treaty. His gall disgusted Ridge. How can we trust "an administration who have trampled our rights under foot to offer new pledges from their rotten hearts," he asked.⁴ But the details differed from the other removal treaties negotiated by the Jackson administration over the previous two years, and in some ways, they were surprisingly generous. The western land the Cherokees would receive in exchange for all their holdings in the East would be surveyed and conveyed to the Nation by patent, which meant that it would be legally theirs and not subject to later charges that they were occupants and users but not owners. The United States would protect the Cherokees from non-Indian intruders and attacks from western Indians, subsist them on their new lands during their first year, and build and support schools, provide blacksmiths and iron, and construct churches, public buildings, and even homes for the most important chiefs. The United States also would guarantee to the Nation its right to self-government and authorize it to send to Washington both an agent (lobbyist) to

look after its affairs and a delegate to Congress. In addition to the exchange of land, the United States would pay into the Cherokee treasury the value of the eastern cession plus all other annuities owed the Nation. To individuals, the government would pay compensation for their personal property and livestock left behind plus supply all sorts of gear, such as rifles, blankets, tools, and implements, calculated to be useful in Indian Territory.

The delegates listened carefully. Some already had lost heart. President Jackson, in describing his conversation with John Ridge, observed that he had "expressed despair," and Amos Kendall, one of Jackson's closest advisers, recalled that "Ridge left the President with the melancholy feeling that he had [heard] the truth."⁵ Elias Boudinot shared his cousin's "despair," and others of the delegation, including John Martin and William Shorey Coodey, were dejected. But they had not been empowered by the General Council of the Nation to travel to Washington to negotiate a treaty, and they informed Cass that they would not carry it back with them. Cass put the terms proposed into the hands of Elisha Chester, one of the attorneys working for the Nation, and together they headed home to report.

The Cherokee capital, New Echota, lay within Georgia's boundaries, but because Georgia law criminalized all governmental activity by Cherokees, the councilors had decided in the summer of 1831 to move their deliberations for that fall to Chatooga, a site across the line in Alabama that had been developed for religious camp meetings. Chatooga was far from

the center of Cherokee population and thus inconvenient, so beginning in 1832 the Council moved to Red Clay in the Tennessee part of the Nation. Two important things happened there when the delegates returned. One was that the Council overruled John Ross and decided to hear from Chester the terms Cass had suggested. In the name of unity and to avoid confusing the people, Ross had tried to prevent public discussion of a treaty. Second, the councilors voted to suspend elections, declaring themselves and Chief Ross legitimate until such time as the Nation's government was not under Georgia's proscription. Ridge and Boudinot opposed Ross's efforts to suppress discussion of the terms of the treaty and applauded the decision of the Council to explore every option. But they did not like the decision to suspend elections. Ridge harbored political ambitions. He already served on the National Committee, but he believed he was better qualified than Ross to sit as principal chief. He had intended to oppose Ross in the fall elections and resented being denied the opportunity to run. It is impossible to say how much this resentment figured into his future actions, but by the middle of 1832, John Ridge was disgusted with the leadership of John Ross and had developed an agenda of his own, the central feature of which was to sell out on the best terms available and get the Cherokee people as far away as possible from Georgia. Boudinot agreed with his cousin, and on their return to the Nation, they discovered that Major Ridge, who recently had made an extensive and shocking tour of the Nation, had reached a similar conclusion. Boudinot's brother,

Stand Watie, and a handful of others, joined them. Together they struggled to present an alternative to the policy of the principal chief.

Ross's strategy was first to encourage the Cherokee people in their universal opposition to removal. In speaking tours and in his annual messages to the General Council every October, Chief Ross reminded the Nation of the justice and righteousness of the cause of the Cherokees and pledged that the goodwill of the American people and the institutions of American government would ultimately join in the affirmation of Cherokee national sovereignty. They had the treaties and the Trade and Intercourse Acts on their side, and since the *Worcester* decision they had the Supreme Court as well. But Ross knew that faith and hope was a fragile message, and he worked to strengthen it by suppressing all contrary opinions. Divergent views simply confused the people, he believed, and potentially led to disunity and weakened resolve. To this end, he opposed Boudinot's wishes to use the *Cherokee Phoenix* as a forum for debating policy alternatives. Bristling at such censorship and charging that Ross was attempting to deny the people the information necessary to make intelligent decisions, Boudinot resigned as editor of the paper in August 1832.

Consistent with his faith in the people and institutions of the United States, Ross's strategy also combined public relations and political manipulation. The large anti-Jackson press eagerly publicized the suffering of the Cherokees at the hands of Georgia and the president. Petitions delivered to the

War Department and the White House by Cherokee delegates and the voluminous correspondence between them and federal officials filled thousands of newspaper pages. Memorials presented to the House and Senate by sympathetic politicians supplemented this material, generated debate in Congress that fed Ross's hopes for legislative relief, and wound up published and disseminated in the many volumes of House and Senate documents. The sameness of the arguments, the logic, the examples, and the citations year after year as one failed petition followed another is remarkable. Partly, Ross was stalling. In the summer of 1832 he hoped Henry Clay and the new Whig Party would defeat Jackson. Then, assuming that Jackson would follow the precedent established by George Washington and retire after two terms, 1836 promised renewed hope. After Jackson, no one could be worse. Partly, though, Ross simply wanted to make certain that the American people could not forget the Cherokees. That, too, kept his hope alive. And, of course, he had almost boundless faith in the moral power of the Cherokee people and their cause. He simply could not give up.

Instead of a Clay victory, the summer of 1832 brought a horde of surveyors working under state law to lay out Cherokee Georgia into lots, each with a number that would go into the lottery wheel in the fall. By November, "fortunate drawers" had begun to swarm into the Nation to claim their winnings. This was theft authorized by state law, but theft nonetheless, of millions of acres of land. The General Assembly included in its legislation a provision that protected

the right of Cherokee families to occupy the lots that held their farms, but Georgia authorities were not enthusiastic about evicting Georgians who ignored the law and drove Cherokees out of their homes. One Georgia newspaper guessed that despite the guarantee promised by the legislature, by the end of 1835 about two-thirds of the Cherokees in the state were homeless. If the state could steal the undeveloped land of the Cherokees, why should the lottery winners not steal their homes?

Ross, of course, was helpless. Neither he nor the Cherokee government had authority in that part of the Nation claimed by Georgia. The Council hired attorneys periodically and managed to prosecute some of the worst offenders in the Georgia courts, but there were too many, and in any event, the Nation was broke and could not pay the legal fees. Since its first cession of land to the United States in 1791 the Cherokee Nation had received every year a stipend from Congress. Called annuities, the money was partial payment for the land. The Council established a treasury, the treasurer collected the money, and the Nation had cash to fund its activities. Beginning in 1830, about the time Ross hired William Wirt to represent the Nation in the Supreme Court, Jackson ordered that henceforth the annuity payment must be divided and paid per capita to each individual Cherokee. Jackson's rule was designed to deny the Cherokee Nation the funds needed to defend its rights, although he explained it by claiming that the leaders used the money for themselves and cheated the people of their fair share. Divided per capita,

their fair share was forty-three cents, and they had to travel to the U.S. agency, for many a trip of one hundred miles or more, to get it. Almost none bothered, and for four years the annuity went into an escrow account that none of the Cherokee leaders could touch. On more than one occasion, Ross had to pass his hat to collect money to pay the lawyers.

To some, Ross's policy of presenting petitions, sending memorials and letters, and hoping for good news was useless. Perhaps it was worse than useless, because he refused to try a new policy. Ridge and his father, Boudinot and his brother, and a small but growing number of others became increasingly convinced that Ross's policy of faith and hope, public relations and petitioning, was leading nowhere. Ridge managed to gain the floor at the October 1832 meeting of the General Council and delivered an impassioned speech urging that the delegation about to leave for Washington be instructed to discuss treaty terms, but he failed to sway the Council. He refused, however, to abandon his efforts to convince Ross and the people to change their minds. In early February 1833 Ridge wrote Ross to warn him that a group of men were on their way to Washington to undercut the official delegation and talk about a removal treaty. Ridge did not approve of either the men or their decision to act without authority, but he reminded Ross that "other Gentlemen with myself [have] despaired of the existence of our dear nation upon its present Location" and urged him to listen to the advice of the Nation's friends in Washington. Our people are being "robbed & whipped by the whites almost every day," and Ross had to do

something. "I know you are capable of acting the part of a statesman," Ridge wrote, and "we all know, upon consultation in Council, that we can't be a Nation here, I hope we shall attempt to establish it somewhere else!"⁶ Jackson offered Ross \$3 million for the lands of the Cherokees in the East and promised federal protection of the Nation's rights in the West. The chief refused. The sum was too small and, Ross snapped, why should we believe your promises of protection now?

Without federal protection from Georgia, the situation in the Cherokee Nation got progressively worse, and relations between Ridge and Ross worsened as well. Ross reacted to Ridge's critiques with charges of treason, and the atmosphere at the October 1833 meeting of the General Council was especially tense. In his annual message, however, Ross broached the question of removal for the first time and, in the process, hinted at an emergent frustration with the people and institutions of the United States. If it became necessary to emigrate, he announced, it should be "beyond the limits of the United States."⁷ Some had suggested that the mouth of the Columbia River might be a good place. Ross may not have been serious but the idea remained in his mind.

Ross led the delegation to Washington later that fall. While he was away, in December 1833, the Georgia legislature gave the screw one more turn with a law that authorized "fortunate drawers" to occupy the improved property of those Cherokees who hired whites. It also declared that all contracts between an Indian and a white man were void unless witnessed by two "respectable" (non-Indian) witnesses. The Georgians claimed

that the wealthy leaders of the Cherokee Nation were blocking the "common" Indians in their desire to remove because they did not want to surrender their plantations and businesses. Many of the big planters and entrepreneurs in the Nation, including Ross and his brothers, employed white men. Designed to impoverish the economic elite, the law convinced Ross's brother Andrew that the time had come to treat. At the head of a delegation that included Elias Boudinot and Major Ridge, Andrew Ross arrived in Washington so eager to settle things that he refused to negotiate and signed a humiliating deal. Appalled by the paltry terms, Boudinot and Ridge disassociated themselves, but fear of brother Andrew's arrangement drove Chief Ross to make the government an offer. He would sell most of the land in Georgia if the president would promise to protect the rights of the Nation to the rest of its territory for a specified period of years, at which time the Cherokees would become equal citizens of the states and abide by state law. The Cherokee Nation would cease to exist, and the Cherokee people would embrace their inevitable future of "amalgamation."⁸ Major Ridge and Boudinot found Ross's idea that the future for the Cherokees was to become Americans equally appalling. To them, "amalgamation" was neither inevitable nor acceptable. To surrender the Cherokee people to Georgia racism would destroy them. Jackson rejected the chief's proposal and submitted Andrew Ross's treaty to the Senate for ratification. But the senators were also appalled and withheld their approval, citing the obvious fact that it had been negotiated with an unofficial delegation.⁹

When the national delegation returned home in the spring of 1834 to report on its activities in Washington, Ross did not disclose to the Council his offer to Jackson about citizenship and amalgamation. Instead, he played up Andrew's duplicitous actions and linked them to the arguments of the Ridges. People began to mutter threats against them, and Elijah Hicks, now editor of the *Cherokee Phoenix*, presented a petition of impeachment against John Ridge and David Vann, members of the National Committee, and Major Ridge, national councilor. Ross let the petition lie on the table in order to deny them a public forum, but he could not keep them entirely quiet. The Ridge party walked out of the Council grounds and called a rump council at John Ridge's plantation where they hammered out a position between the two proposals of John and Andrew Ross. They probably believed that time had run out. At the end of May, Georgia governor Wilson Lumpkin had written an open letter to Senator John Forsyth in which he predicted that "before the close of the year it may become necessary to remove every Cherokee from the limits of Georgia, peaceably if we can, forcibly if we must."¹⁰ Forsyth publicized the letter and no doubt the Cherokees knew about it. The Ridge council appointed a delegation, including John Ridge and Boudinot, to challenge the delegates led to Washington by Ross.

At the same time, Lumpkin arranged with the state's authorities in Cherokee Georgia to make sure that no "fortunate drawers" laid claim to the homes of Ridge, Boudinot, or any of their friends. Eager to give them all the encourage-

ment he could, he no doubt also wanted it known in the Nation that Cherokees who joined their movement would be safe from dispossession by Georgians. Cherokees of property who opposed a treaty could expect the opposite. A "fortunate drawer" had already laid claim to Ross's home, but the chief hired an attorney and got him evicted. The next time it happened, early in 1835 while Ross was in Washington, he lost. Having been gone for several months, the chief rode up to his house to find a strange Georgia family sitting at his dinner table. It was too late to press on so he rented a room for the night, and the next morning he found his wife and family in a two-room cabin across the line in Tennessee.

The two delegations competed for attention in Washington. Both submitted memorials to Congress. The Ridge delegation blasted the administration for refusing to respect the sovereignty of the Cherokee Nation and permitting Georgia to rob them of their land, thus forcing them to the treaty table. The national delegation renewed Ross's amalgamation plan. The Cherokee Nation would cede all of their land in Georgia except for a tiny strip, so worthless that no "fortunate drawers" would want it, to connect their lands in Alabama, Tennessee, and North Carolina. The Cherokees would receive fee simple title for this country, the United States would purchase the claims of Georgia lottery winners, the states would organize the region into counties, and the people would become fully equal citizens of the states. More extreme than his proposal of the year before, in a later period this plan would be called allotment and termination. The

Ridge party rejected it because it would obliterate the Cherokee Nation and subject the people to the racist discrimination of the states. The president rejected it because he would accept nothing short of removal to the West. And Georgia governor Lumpkin became apoplectic when he learned of the proposal. Jackson then turned to the Ridge party and appointed John F. Schermerhorn, a retired Dutch Reformed minister from New York, to negotiate terms. In the midst of those talks, Ross came back with a final offer. For \$20 million he would sell everything and sever all ties with the United States. The payment would cover the land, the private improvements and possessions of the people, and the cost of emigration. In addition, the United States would pay compensation for damages caused by the illegal actions of the neighboring states and their citizens and fulfill earlier treaty obligations to provide school funds and pay annuities. The United States would also have to protect the personal and property rights of the Cherokees for five years or until they had moved out. Ross said nothing about where the Cherokees would go, but in secret he opened correspondence with Mexican authorities about the possibility of creating an Indian state in Mexico. Jackson ridiculed the figure, claiming the Senate would never ratify such an arrangement, so Ross agreed to let the Senate name a number. It came back with \$5 million, the sum the Ridges and Schermerhorn had tentatively agreed on, which Ross argued was far too low. In light of over \$6 million worth of coins ultimately minted from Cherokee gold, the United States stood to make a tidy profit on the deal.¹¹

Back in the Cherokee Nation, early in the summer of 1835, Ross reported no headway in Washington and urged the General Council to reject the draft prepared by the Ridge delegation and Schermerhorn. But a cloud of fear hung over the Nation. Governor Lumpkin had broadcast his opinion that the Cherokees should be treated like orphan children incapable of making decisions, and instead of continuing to fool around negotiating a removal agreement, the government, either his or Jackson's, should simply legislate their expulsion.¹² The Ridges called a series of open meetings to explain the terms they had negotiated. While at first few people attended, at successive gatherings the numbers grew into the thousands. Fearful of losing control, Ross suggested that a group of men from his camp meet in private with a group from Ridge's camp and together perhaps they could reach an agreement that would reunify the Nation. The Ridges, always hopeful that Ross would embrace their thinking, agreed. The two groups argued in private for five days and emerged with expressions of goodwill and national harmony and a resolution to Congress that both sides could sign. The plan was to send another delegation to Washington, but Jackson wanted the treaty, if there was to be one, signed in the Cherokee Nation. He did not want another delegation visiting him. The Cherokees sent a delegation anyway, one that included John Ridge and others of his party. Schermerhorn, who had been in the Nation politicking for a treaty since spring, obeyed his orders and called for a meeting at New Echota in December.

The delegation to Washington got off to an inauspicious start. Elias Boudinot resigned his appointment before it left, and shortly thereafter, at Athens, Tennessee, John Ridge threatened to quit and return home. He had read a piece by John Howard Payne, a poet and the author of "Home, Sweet Home" who had come into the Nation some months before to gather information for a series of articles, that said that the Cherokees would prefer to remain in the East as citizens of the states rather than to remove to the West. Assuming that this remained Ross's position, Ridge interpreted Payne's article as a violation of the agreement the two parties had made in November. No doubt remembering his experience at Cornwall, Ridge wrote that because he and his friends "will never consent to be citizens of the United States," he could no longer cooperate with the chief.¹³ Only after Ross claimed that that was not his current position and pleaded with him to remain a member of the delegation did Ridge consent to proceed.

If anything, things were worse in the Cherokee Nation. Governor Lumpkin's term ended in November, and he was depressed that there would be no removal treaty with the Cherokee Nation before his retirement. He so believed that getting rid of the Cherokees was his mission in life that he entitled his autobiography, written some twenty years later, *The Removal of the Cherokees from Georgia*. He was proud that he had come so close, however, and decided that with his valedictory act he could fulfill his dream. In letters calculated to be widely discussed in the Cherokee Nation, he mused that

a treaty really was not necessary. The General Assembly had already accomplished more in four years than the United States had achieved in thirty, and all it would take was one more piece of legislation. He would be out of office before it was enacted, but he could recommend it in his last annual message, and he did.¹⁴ On December 21, 1835, about the time the delegation set out for Washington and the day before the council called by Schermerhorn met at New Echota, the Georgia Assembly did his bidding and legislated the Cherokees out of the state with a law that authorized all "fortunate drawers" of lots occupied by Cherokees to take possession of their winnings on November 25, 1836. Cherokees who had managed to hang on until then could expect some Georgian to come along and throw them out of their houses, and there would be nothing at all that they could do about it. Once homeless, Lumpkin assumed, the Cherokees would have to leave.

No one, Indian or American, was in doubt about the purposes of this legislation. The obvious and stated intent of the General Assembly of Georgia was to put its citizens into possession of the land owned by the Cherokee Nation. A purpose equally obvious, if not stated, was to drive the Cherokees to the treaty table and out of the state. In a long preamble to the short act, they repeated the old saw that Indians were "savages" who, when brought into "contact with civilized man . . . rapidly sink into a corresponding state of degradation." In order to protect them from such a fate, "the past policy of the State, in relation to this tribe of Indians,

should be carried out, to wit, securing to these aborigines a distant establishment." This would require the repeal of previous legislation that denied "fortunate drawers" possession of lots on which Cherokees lived. If "the right of occupancy of the lands in their possession should be withdrawn, . . . it would be a strong inducement to them to treat with the general government and consent to a removal to the west." The legislature originally gave the Cherokees eleven months to get ready, but following the ratification of the Treaty of New Echota, the General Assembly extended the date of dispossession to May 25, 1838.¹⁵

Half the Cherokees did not live in Georgia and did not face this menace, but half did. Understandably, most of the Cherokees who followed the Ridges and Boudinot lived in that part of the Nation claimed by Georgia. The hard-line opposition of the General Council and Ross's policy of passive resistance and stalling did not meet the needs of the half that lived with the Georgians. Schermerhorn was smart to call his council to meet at New Echota. Located in the Georgia part of the Nation, it had not functioned as the national capital since 1830 and had ceased to be the logical place for such a meeting of all Cherokees. But Schermerhorn wanted a treaty, and he knew that the Cherokees most likely to show up would be those nearby who were hurting the most. He advertised the council widely with handbills printed in Cherokee, but he betrayed his expectation that few would attend by announcing that those who stayed away would be counted as favoring whatever transpired.

Including the women and children who accompanied their husbands and fathers, maybe five hundred people turned out to hear what Schermerhorn had to say. The number of men who voted was eighty-six. Schermerhorn, nicknamed the Devil's Horn by the Cherokees because he was a notorious womanizer, described the terms for the removal treaty he had discussed with the Ridge delegation the previous winter. While he was talking, the roof of the building caught fire, suggesting the "indignation of Heaven" to one antitreaty observer. Following his presentation, the Cherokees appointed a committee of twenty to consider the terms. After a few days of haggling, the council reconvened, and the committee reported that they had drafted a good treaty. On December 29, 1835, those present voted, and the twenty members of the negotiating committee signed their names to the document. Seventy-nine approved, seven opposed. The council then appointed a delegation to carry the document to Washington. Headed by Major Ridge and Boudinot, their first task was to sell it to Ross. They were not happy with what they had done. Their goal had always been to convert Ross to their point of view. They knew that the Cherokees did not want to remove; they did not want to move either. But they believed Ross could have persuaded the people of the necessity of removal if he had tried. This was what frustrated them. And while they hoped to convince him, they knew he would not join them now. Thus their secondary plan was to give the treaty to Jackson and follow his lead.

The official delegation had been in Washington for

many days when news arrived about the treaty. The delegates had met with Jackson and had been surprised by his apparent good humor, considering that they had come to the capital against his orders. But they had had no substantive talks, and the War Department refused to recognize the delegation as legitimate. The New Echota group arrived early in February, but Ross would have nothing to do with them. Instead he wrote home to ask Assistant Chief George Lowrey to organize a petition against the treaty. Lowrey sent over fourteen thousand names. At the same time, John Ridge and Stand Watie, members of the national delegation, moved over to the treaty group and added their names to the document.

The treaty signed at New Echota obligated the Cherokees to surrender all their lands in the East and remove to the country set aside for them in the West by previous treaties. The United States agreed to pay \$5 million, cover the cost of various claims levied by and against the Cherokees, appraise and compensate for the value of all improvements left behind, set aside money for schools, orphans, and a national fund, and pay the cost of removal to and subsistence in the West during the first year. The Cherokees had two years from the date of ratification to prepare for the migration, during which time the United States promised to protect them in the use of their farms, homes, and businesses. The United States also agreed to add an eight-hundred-thousand-acre tract to the seven million acres of western territory already assigned and provide a patent to the Nation in fee simple ownership for the whole. The Cherokee Nation received assurances that

the United States would respect its right to self-government in the West, that the Nation could never be included into any state or territory without its consent, and that the United States would protect its borders, remove unwanted American intruders, and defend the Cherokees from hostile neighbors. And in order to "secure . . . the rights guarantied to them in this treaty, . . . they shall be entitled to a delegate in the House of Representatives of the United States whenever Congress shall make provision for the same."¹⁶ After some last-minute adjustments, the president submitted the treaty to the Senate for ratification. Having already defeated one treaty concluded with an unauthorized group of Cherokees, Ross had reason to hope that this one could be scuttled as well. Despite his best efforts and the petition containing the names of thousands of angry Cherokees, he failed. With one vote more than the necessary two-thirds majority, the Senate approved the Treaty of New Echota in May 1836. President Jackson proclaimed it ratified on May 23, thereby setting the date for removal at May 23, 1838.

Following the proclamation of the treaty, Ross worked to overturn it. In the summer of 1836, he wrote a pamphlet for circulation in the East that criticized the treaty and the illegal gathering of men who had negotiated it. In the fall the General Council declared the treaty null and void and appointed Ross to head a delegation to the western Cherokees, who had already removed, to enlist their help in fighting it. At the head of a delegation representing the two groups of Cherokees, Ross reached Washington in February 1837,

shortly before the Jackson government left office. The outgoing officials would have nothing to do with him, but once Martin Van Buren took office, his secretary of war, Joel Poinsett, contacted Ross to enlist his aid in negotiating an end to the Second Seminole War. Expecting a favorable reward from the new government, Ross acquiesced with a letter to the Seminoles urging them to stop fighting. Carried by four Cherokee emissaries, the effort was a fiasco. Poinsett, however, did listen to Ross's ideas about the treaty. Van Buren refused to consider negotiating a new one, despite Ross's unceasing efforts to do so, but Poinsett agreed to increase some of the payments. In early 1838, just weeks before removal was scheduled to commence, he accepted Ross's request to permit the Cherokees to manage removal themselves.

No one could look at the history of the Treaty of New Echota and conclude that it was honestly and fairly made by the United States with the Cherokee Nation. Even Georgia governor William Schley, successor to Wilson Lumpkin and a close political ally, admitted that it was "not made with the sanction of their leaders."¹⁷ Both John and Major Ridge were later quoted as announcing as they signed the document that they were signing their death warrants for having violated the Cherokee law against the sale of the land by unauthorized persons. But Georgia wanted the Cherokees out of the state, Jackson wanted them out of the country east of the Mississippi, and Ridge and his supporters in the "treaty party" believed that they knew better than the Cherokee government

how best to end the suffering of the Cherokee people. In one unholy fit of collusion, neither law nor morality could be allowed to hinder the removal of the Cherokees. This was neither the first nor the last time that good men did bad things in the name of their love for the people.