

PROPHET OF PROGRESS: THE LIFE AND TIMES OF  
ELIAS CORNELIUS BOUDINOT

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## PREFACE

Sometimes the historian-biographer is presented with a perplexing situation. He has discovered an intriguing and significant individual to study but, unfortunately, the requisite information for a full length study is either not available or nonexistent. So it seemed when looking at the life of Elias Cornelius Boudinot. He was an excellent subject. A mixed blood Cherokee from a noted Cherokee family, he had a lively and controversial past. Indeed, his activities placed him beyond the realm of Indian history and into the wider context of American western history. Not often does one find a person involved in so many undertakings. Unfortunately, the few writings on Boudinot indicated that at best only certain parts of his life could be viewed in any depth. Happily, I soon concluded that first impressions were deceiving, and thus I commenced this study.

My initial euphoria over the prospect of producing an in-depth biography of Boudinot would have soon been dampened had it not been for all the excellent and expert aid that I received from so many quarters. The members of my doctoral committee, Drs. H. James Henderson, Richard C. Rohrs, Bernard W. Eissenstat, and Gordon Weaver, have been more than patient and supportive. For that, I thank them. My principal advisor, Dr. Joseph A. Stout, gladly gave of his time and knowledge. Indeed, during some dark days, he provided both encouragement and incentive. To him, I have a debt which I can never repay.

And most recently, Dr. Paul L. Kegel and all of the administrative staff at Marshalltown Community College deserve thanks for their interest in seeing this project completed.

Furthermore, a study such as this one could have never reached fruition without the assistance of many helpful librarians and archivists. Mr. Jack Haley at the Western History Collection at the University of Oklahoma did much to facilitate my early research in his institution's multitude of historical documents. The librarians at the Oklahoma State University Library were equally respondent to my research needs. The librarians and archivists at the Oklahoma Historical Society also willingly gave of their time, as did the staff at the Gilcrease Institute in Tulsa, Oklahoma. In aiding my efforts to find something on Boudinot's youth and early manhood in New England, two individuals in particular merit recognition. Mrs. Mary Pat Johnson at the Vermont Historical Society is one. The other is Mrs. Carol Simms at the Gunn Memorial Library in Washington, Connecticut, whose entertaining letters often brightened up otherwise tedious days. Mention also has to be given to the helpful folks at the Washington County Historical Society in Fayetteville, Arkansas. The Fort Smith Historical Society in Fort Smith, Arkansas, also provided some useful information. Of course, the staffs at the National Archives and the Library of Congress provided valuable reproductions of essential documents, as did the Newberry Library. Then, too, Glenn Shirley and Mr. O. B. Campbell took time to share their knowledge of Oklahoma history. Mr. Jim Hemesath at the Ella McIntire Library at Huron College and Ms. Betty Harrison at the Marshalltown Community College Learning Resource Center also deserve special commendation for

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## CHAPTER I

### INTRODUCTION

On a fall day, early October 1890, in Fort Smith, Arkansas, a large number of people gathered in the Federal Courtroom. Several individuals had addresses to make, and among their number was J. H. Clendening. Finally, his time arrived. Solemnly, he began to speak, and in the midst of his remarks he summarized the life of his friend whom he had come this day to eulogize:

He amassed no fortune, either in the practice of his profession or in the service of his race, but he received the confidence not only of his own people, the members of the bar of which he was an honored member, but became the best and most favorably known Indian in America. He became a man of national repute, one whose name was ever prominent where the Indian question was discussed, and whose name and fame will be remembered long after the language of his race shall have been forgotten.<sup>1</sup>

Clendening was speaking of Elias Cornelius Boudinot. Boudinot had died a month before, and now his friends and colleagues had congregated to memorialize his life and achievements. The platitudes expressed at this meeting, however, did not truly convey the contours of Boudinot's life, nor did Clendening's sanguine appraisal of Boudinot's fame hold true.

Elias Cornelius Boudinot lived a relatively short, often hectic, life. Born into a leading Cherokee family and involved in Cherokee social and political affairs throughout most of his life, he was, nevertheless, the product of two cultures: Cherokee and white. Educated, ambitious, eloquent, talented, intelligent, shrewd, gallant, gregarious,



stubborn--all these words could be used to describe Boudinot. Yet, the essence of the man's life obviously transcended any collection of adjectives. Although each individual is unique, Boudinot's distinctiveness made him an intriguing and fascinating man.

A forceful and often profound person, he possessed some of the best qualities of leadership. However, in the Cherokee Nation he was a prophet denied--at least a contentious Indian leader without much of a following--for economically, politically, and socially, he was a white man. His ideas and activities made most Cherokees distrust and dislike him during a large share of his adult life. He had few devotees among his own people. Indeed, an irony in his life was that he had more influence and powerful friends in white society than he had in the Cherokee tribe.

Controversy and conflict filled Boudinot's life. The assassination of his father, the Civil War, factional discord within the Cherokee tribe, his own political and financial schemes and aspirations--all inexorably intertwined--dictated, in part, his actions and motivations. But an examination of his life brings more factors into focus and with them another view of the man.

Boudinot can also be seen as a "new" type of Indian. While other mixed-blood Indian leaders had tried to harmonize their Indian brethren with white America, Boudinot had desired to make his people part of white society. He was not necessarily a traitor to his race. He was a proponent of change and progress, but he held the white man's concept of progress. Understanding that sooner or later the way of life in the Cherokee Nation and the Indian Territory as a whole would have to give way before the ever advancing encroachment of the white man and his ways, Boudinot sought to facilitate that change. He did so out of honest con-

viction while also never losing sight of the prospect for personal gain.

Because many Cherokees hated and feared Boudinot, he gained a reputation as a corrupt, self-seeking profiteer, a scoundrel who would sacrifice the well-being of the Cherokee people for his own benefit and aggrandizement. Consequently, an unbiased, objective appraisal of Boudinot is rare. His contemporaries as well as historians easily made judgments about him. In turn, falsehoods and half-truths about his life abounded. But however Boudinot can be envisioned, one point is clear: He cannot be ignored when discussing the history of the Cherokee Nation and the Indian Territory.

At the same time, it must be noted that Boudinot spent much of his life outside of the Indian Territory. During most of his youth, he lived in New England. As an adult, he resided primarily in Arkansas while also passing much time in Washington, D. C. A lawyer, editor, Confederate officer, lobbyist, politician, and professional orator, as well as small-time entrepreneur, Boudinot became involved in a number of enterprises not always directly associated with Indian affairs.

Clearly, Boudinot was a man significant to his times and to those around him. In fact, at the time of his death, the Arkansas Gazette declared, "His long and varied career, if properly written, would make one of the most interesting of contributions to the history of life in the Southwest."<sup>2</sup> Yet, as Muriel Wright noted in 1964, "No extended study and definitive biography of Elias Cornelius Boudinot has ever been produced."<sup>3</sup>

It would seem that perhaps historians and biographers failed to undertake an examination of Boudinot's life because of the lack of source materials. However, considerable information relating to Boudinot

does exist, especially in manuscript collections, government documents, and newspapers. Unfortunately, there is an imbalance of data. Even the least enterprising investigator will find that on some topics the availability of material is great. On others, however, evidence is scarce, sometimes questionable and impossible to verify. But despite such hinderances, I commenced this study with the words of Paul Murray Kendall as my dictum: "the biographer's task is to perpetuate a man as he was in the days he lived."<sup>4</sup> At the same time, I never lost sight of the historian's obligation to maintain objectivity and to interpret the past. Consequently, I have given emphasis to the noteworthy triumphs and defeats that Boudinot experienced as a man of public affairs and economic endeavors, and particular attention is focused on the impact of Boudinot's attitudes and actions on the history of the Indian Territory in general and the Cherokee Nation in specific. In all, Elias Cornelius Boudinot was a significant and interesting individual whose life merits a recounting.

## ENDNOTES

<sup>1</sup>John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 53.

<sup>2</sup>Ibid., p. 66.

<sup>3</sup>Muriel H. Wright, "Notes on Colonel Elias C. Boudinot," Chronicles of Oklahoma 41 (Winter, 1963-1964), 386. Wright also stated that no "extended study" on Boudinot had been done. On that point, she was mistaken. In 1929, Dewey W. Hodges did a master's thesis on Boudinot, and in 1951 Lois Elizabeth Forde completed a doctoral dissertation on Boudinot at Columbia University. Neither study, however, presented a complete, in-depth examination of Boudinot's life. Forde, in particular, wrote much, but concentrated on Boudinot's connection with Indian policy, thus generally ignoring other aspects of his life. See Dewey W. Hodges, "Colonel E. C. Boudinot and his Influence on Oklahoma History" (M.A. thesis, University of Oklahoma, 1929) and Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951).

<sup>4</sup>Paul Murray Kendall, The Art of Biography (New York: W. W. Norton & Company, Inc., 1965), p. ix. In searching for guidelines for direction in writing a biography, I also benefited from the ideas expressed in other publications: Oscar Handlin, "The History in Men's Lives," Virginia Quarterly Review 30 (Summer, 1954), 534-541; John A. Garraty, "The Nature of Biography," The Centennial Review 1 (Spring, 1957), 123-131; Frederick B. Tolles, "The Biographer's Craft," The South Atlantic Quarterly 53 (October, 1954), 508-520; and Catherine Drinker Bowen, Biography: The Craft and the Calling (Boston: Little, Brown and Company, 1968).

## CHAPTER II

### A FAMILY AND ITS FATE

Elias Boudinot was undoubtedly both a happy and a distressed man on August 1, 1835. That day, his wife delivered another child, his second son. They named the baby Elias, after his father, and gave him the middle name Cornelius.<sup>1</sup> Although Boudinot had much to be thankful for, his mind was troubled. His people, the Cherokees, were in a terrible situation, and as a noted tribal spokesman he was in the middle of the troubles. Indeed, Boudinot might well have reflected on his own life and the plight that the future might portend for his offspring. What he did not know, nor would ever know, was that his newest issue, Elias Cornelius, would someday also be in a somewhat analogous position: viewed by whites and some Cherokees as a noted spokesman for the tribe but ostracized by many of his people. Moreover, he could not realize that his fate would have a profound impact on the motivations and actions of his newest child.

The senior Boudinot was born in 1803 in the Cherokee Nation, which encompassed part of the state of Georgia. His father, Oo-wa-tie, was a full-blooded Cherokee, and his mother, Susanna Reese, was a half blood. Later, under the influence of Moravian missionaries, Oo-wa-tie took the Christian name David and used Watie as a surname. Buck Watie, as the boy was called, was the oldest of David Watie's eight children.<sup>2</sup>

Buck was a bright lad and, when the chance came for him to receive formal education in New England, he took it. Buck had gained some education at the Moravian mission at Spring Place, Georgia. He had also become a dedicated Christian. Thus, at the age of eighteen he traveled north to Cornwall, Connecticut, to attend the Foreign Mission School. One of his benefactors was Elias Boudinot, who was noted not only for his role in the Revolutionary War but also for his Christian philanthropy and interest in Indians. Consequently, in line with an established Indian trait, Buck took the name Elias Boudinot, in honor of this generous man.

Elias did well at the school, but he longed to return to his home. He left Cornwall in 1822 to attend Andover Theological Seminary, but his departure from the Foreign Mission School did not go unnoticed. Boudinot had been a conspicuous and noteworthy pupil, and his school chums and teachers lamented his leaving. So too did Harriet Ruggles Gold.

Harriet Gold, born in 1805, was the fourteenth and youngest of Benjamin and Eleanor Gold's children. The Golds were an old and prominent family in Cornwall. Descended from Ezekial Gold, a Puritan minister, Benjamin was also strongly religious and closely associated with the Foreign Mission School. He knew Elias Boudinot, but he did not know how well his daughter knew the young Indian. The devout and handsome young man had captured Harriet's heart. Something of a mystic, Harriet was attracted to Boudinot not so much for his looks or social charms as for his deep sense of calling, his devotion to Christianity and to his people, the Cherokees.

After Boudinot left Cornwall, he kept in contact with Harriet. He wanted to marry her. Two years spent apart settled the issue; she likewise wanted a marriage. The resolution of their desire, however, was not to be easy. Although the Golds were kind, charitable people, the idea of intermarriage between an Indian and a white produced angry outcry and condemnation in Cornwall.

Against this backdrop of prejudice and animosity, Harriet announced her decision to marry Elias Boudinot. Her father was shaken, for he was not only concerned about his family's good name but also about the future of the Foreign Mission School. He could not, would not, give his consent. An effort was made to keep the situation secret, but eventually it became known. Harriet, however remained adamant: She would marry Elias. Then, she fell ill. Her parents, convinced that her sickness stemmed from their refusal to sanction the marriage, relented. The reaction to this news was predictably hostile. The Golds even feared that there would be violence. A split developed in the family as well. Harriet's brother Stephen, in particular, refused to accept the impending marriage. Nonetheless, the couple were united in matrimony on March 28, 1826, at the home of Benjamin Gold. Dissent, however, was still rife and Elias and Harriet had to be saddened by the narrow-mindedness and bitterness that had accompanied their union. Nonetheless, they were man and wife, and as such they left Cornwall to make their home in the Cherokee Nation, where Harriet's in-laws received her kindly, and Elias energetically began his missionary work.

In December, 1826, the Boudinots took over the American Board of Commissioners for Foreign Missions post at High Tower, where Elias preached the Gospel and taught school. Here they met Samuel and Ann

Worcester from the Brainerd missionary station. The Worcesters, like Harriet, were from New England, and Samuel, like Elias, had studied at Andover. The friendship between the Boudinots and the Worcesters became fast. Indeed, the lives of Elias and Samuel became closely intertwined.

Samuel Worcester wanted to buy a printing press, so the word of God could be distributed more widely among the Cherokee. But this press would be different from all others; it would use type with Cherokee letters. Unique among Indians, the Cherokees had their own alphabet. Now Worcester, with Boudinot's aid, desired to use this language. Consequently, both men endeavored to procure funds for the enterprise. For this part, Boudinot gave talks in the East, explaining the great "civilized" advances made by the Cherokees, yet emphasizing the need, particularly for funds, to foster and encourage more change. He spoke of the need to educate and Christianize more Cherokees.

Finally, they had the money necessary to buy a press and to make the special type. However, it would not just be for the use of the missionaries. It would also be the organ of the Cherokee Nation. The Cherokee government agreed to let the press be brought in on the condition that a newspaper also be published for the Cherokee people. And on February 21, 1828, the first issue of the Cherokee Phoenix came off the presses. It was printed half in English and half in Cherokee. This paper was the first Native American tabloid ever printed, and Elias Boudinot was its editor.<sup>3</sup>

As the Cherokee Phoenix legally belonged to the Cherokee Nation, its office was located at the Cherokee capital, New Echota (near present day Rome, Georgia). Thus, the Boudinots moved to this place.



Regardless of how backward the place might have seemed to someone not used to frontier conditions, Benjamin Gold, when he and his wife visited the Boudinots in 1829, was taken with the place; "New Echota is on a hansom [sic] spot of ground a little elevated--with a Council House & Court House in the center of two or three Merchants Stores about half a dozen hansom [sic] framed Dwelling Houses in sight which would be called respectable in Litchfield county--& very decently furnished to be in any country & all new built say within 3 or 4 years."<sup>4</sup> The Golds were also impressed with the fine houses and wealth of some of the leading Cherokee families. As for the Boudinots, they were living in "a large and convenient framed house, two stories, . . . well done off and well furnished with the comforts of life."<sup>5</sup> Moreover, by the time the Golds arrived at New Echota, the Boudinots had two children, and during her parents' extended stay, Harriet gave birth to a boy, William Penn.

Certainly the Golds did not fear for the conditions under which Harriet and her young brood lived. Furthermore, they were proud of Elias's achievements. Benjamin Gold, for instance, informed his brother Hezekiah that "Mr. Boudinot has much good company and is as much respected as any man of his age. His paper is respected all over the United States, and is known in Europe."<sup>6</sup> However glowing the appraisal of his affairs, Elias Boudinot was nonetheless a worried man in late 1829. The relations between the Cherokees and the citizens of Georgia were worsening.

The controversy between the Georgians and the Cherokees had a long history. But most significantly, it was rooted in the Georgia Compact of 1802. This agreement between the state of Georgia and the federal government did not include the Indians directly, but it did pertain to

them. The United States government had for years tried to persuade Georgia to give up claims to land outside of the state's boundary. Finally, during the administration of Thomas Jefferson, a compromise was reached in 1802. Georgia agreed to cede the land claims (an area which later became part of the states of Alabama and Mississippi) to the United States on the condition that the federal government remove all Indians from Georgia peacefully as soon as fair terms could be arranged. Over the years, however, nothing happened, much to the chagrin of the Georgians.<sup>7</sup>

Federal officials had irregularly broached the subject of removal to the redmen, who had politely said they were not prepared to accept any offer yet. Most Cherokees had no intention or desire to leave their homelands. Some, however, did migrate to the West when they became upset with living so close to whites. In 1817, a large group accepted a treaty and moved to the West under federal auspices. At first, they settled in what is today part of Arkansas but, as more whites moved into the territory and demanded their removal, the federal government gave these Cherokees land to the west of Arkansas.<sup>8</sup>

Although the Cherokee West (as the removed element of the tribe was called) had been the first group of southern Indians to agree to removal, their brethren did not wish to follow in their steps. To the contrary, they undertook efforts to forestall any further threats to the size of the Cherokee domain and to tribal sovereignty. The establishment of the Cherokee Phoenix, which preached the benefits and growth of civilization both to tribal members and, more importantly, to white readers in the North, was part of their program to ward off white encroachment. But most significantly, they restructured their government. The Cherokees

wrote a constitution modelled on the Constitution of the United States which not only established a two house legislature but also created the office of principal chief. This frame of government went into effect in 1828, and John Ross was elected the first principal chief. In all, the Cherokees tried to convince white America that they were definitely adopting the white man's ways. Portraying themselves as no longer ignorant, heathen savages, they appealed for kind consideration.

The image that the Cherokees hoped to present to the outside world was not totally accurate. Certainly, some like Boudinot were educated and articulate. Others, such as the Ridges, Vanns, and Rosses, kept plantations, held slaves, and exhibited wealth. A large number, on the other hand, did not display the trappings of progress, or white values. And one group of observers who gave no credence to the advances of the Cherokee tribe were the Georgians. They really did not care how civilized the Cherokees were; they wanted the Indians' land! When gold was discovered in Georgia in 1829, the cauldron of frustration turned to hatred and began to boil.

If the United States government would not act to make good its pledges of 1802, the political leaders in the state of Georgia decided to resolve the situation unilaterally. In 1829, the Georgia legislature declared that the Cherokee government no longer had any legal authority. Cherokee laws were void, and the Cherokees were deemed subject to the laws of Georgia. Moreover, a special code delineated the rights of Indians. Furthermore, in 1830 a special armed force of Georgians entered the Cherokee Nation to prevent the Indians from mining gold. That same year, the government of Georgia stipulated that the Cherokee National Council could only meet to cede land. To destroy the influence of the

Cherokees' white friends, it was also decreed that after March 1, 1831, no white man could reside in the Cherokee country without official permission from the governor of Georgia.<sup>9</sup>

In the face of such hostility, the Cherokees turned to their friends in the North. However, those friends were handicapped. Andrew Jackson was the President of the United States. Jackson, a westerner, had little desire to side with the Cherokees and thus alienate his western and southern constituents. Then in 1830, Jackson's supporters in Congress passed the Indian Removal Act; removal thereby became the official policy of the United States government toward not just Cherokees but other eastern and southern tribes as well.

The Cherokees, led by John Ross, still had some place to take their grievances: the Supreme Court of the United States. Their cause, Cherokee Nation v. Georgia, however, did not get a hearing. On the last day of the Court's regular session, March 18, 1831, Chief Justice John Marshall ruled that the Supreme Court did not have any jurisdiction in the matter, for, he reasoned, the Cherokees constituted a "domestic dependent nation."<sup>10</sup>

Boudinot was disheartened by Marshall's action. But closer to home, he had other fears. Samuel Worcester had become a target of the vengeful Georgians. Worcester was arrested and with eleven other missionaries was convicted of violating the law: He did not have a license from the governor. Sentenced to four years at hard labor, Worcester and the others were offered pardons if they agreed to leave Georgia. All but Worcester and another missionary accepted the pardon.

As much as Boudinot may have grieved for his friend, Worcester's plight led to another supreme court case, and once again lawyers

supporting the Cherokee cause drew up briefs and petitioned the court for action. While Boudinot and other Cherokee leaders waited for Marshall's next decision, Harriet bore her fourth child. A few days later, Boudinot's spirits were heightened further. On March 2, 1832, John Marshall read the court's decision on Worcester v. Georgia. A majority of the justices concurred with Marshall that Georgia's laws affecting Indians were unconstitutional and that Worcester should be freed immediately. An elated Boudinot declared the decision "glorious news."<sup>11</sup>

Unfortunately for the Cherokees, the decision was a hollow one. The governor of Georgia refused to accept the ruling, and President Jackson refused to use executive authority to see that it was adhered to.

Samuel Worcester remained behind bars, the Georgians were still oppressing the Cherokees, and the Cherokees had no power to change the situation.<sup>12</sup>

Now, a few of the leading Cherokees began to question the logic in continuing to fight fate. John Ridge, in particular, began to think that removal was the only solution to the Cherokees' problems. In turn, he brought his father, Major Ridge, over to his side. Eventually, Elias Boudinot and his younger brother, Stand Watie, also took the Ridges' position. Ross's activities had irritated these and other likeminded Cherokees. His obstinacy and dictatorial methods, they believed, had hindered rather than helped the Cherokee tribe in finding a resolution to its plight.

A man of integrity, Elias Boudinot decided that he could no longer support Ross or his policies and, because the Cherokee Phoenix was the official voice of the tribe, he could no longer in good faith edit the organ. On August 1, 1832, he resigned as editor. The August 11 issue

of the Phoenix contained his reasons for both resigning and for favoring removal. For the former, he stated the failure of the Supreme Court, scarcity of funds, his health, and his difference of opinion with "national" Cherokee leaders. With regard to removal, he cited the failure of Jackson to accept the Supreme Court's decision, the discouraged views of the Cherokees' friends in Congress, the large amount of Cherokee land which the state of Georgia had already allotted to whites, and the generally vicious attitude of the Georgians toward the Cherokees. His final reason, however, was in a different vein. While the others can be construed as political, his last justification centered on morality and the future of his people. He concluded that it would be unwise for the Cherokees to be in a position in which they would be closely associated with the ilk of whites who were infiltrating their land. These degenerate whites, Boudinot felt, would not serve in any way as uplifting examples for the Cherokees to emulate; rather, they would only bring vice and evil among the steadily advancing but now demoralized Cherokee people.

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In his letter of resignation, Boudinot put himself in opposition to John Ross, who avidly opposed his removal. Moreover, Boudinot did not agree with Ross's view that Boudinot, as editor of the Phoenix, was obligated to concur with the opinion of the Principal Chief. Ross, in accepting Boudinot's departure, issued a letter which Boudinot dutifully printed. The Principal Chief also forcefully stated his attitude on the printing of views differing from his in the paper: "The toleration of diversified views to the columns of such a paper would not fail to create fermentation and confusion among our citizens. . . . The love of our country and people, demands unity of sentiment and action for the

good of all."<sup>14</sup> Boudinot and Ross thus parted paths.

Replaced as editor of the Phoenix by Elizah Hicks, Ross's brother-in-law, Boudinot withdrew from the controversy, at least for the time being.<sup>15</sup> Still, his voice was a well known one, in both Cherokee and white circles, and he continued to argue for the Cherokees to face reality and accept removal. By late 1834, he was again at the forefront of the pro-removal movements. On November 24, 1834, a council was held at Running Waters by the Ridge faction of the tribe. Boudinot was elected chairman of the meeting, out of which a committee was selected to carry the views of the Ridges and their followers to Washington. The delegation included Boudinot, and what they took to the capital of the United States was a memorial signed by Boudinot and fifty-six others, asking for a new, permanent home for the Cherokees in the West. In February, 1835, the federal government decided to deal with the Ridge faction. The splintering of the Cherokee leadership thus became more pronounced than ever before.<sup>16</sup>

Such was Elias Boudinot's situation on the first day of August, 1835, when Elias Cornelius, his second son, came into the world. Already in his own thirty-three years, Elias Boudinot had faced prejudice, injustice, and now the disapproval of his people to whom he had dedicated his life to serve. What indeed could he foresee for his children, including this fragile new babe, in a world that seemed to be growing more harsh and less reasonable?

In October of 1835, when his new son was a little more than two months old, the future seemed somewhat brighter. John Ross wanted to end the split in the tribe. He proposed that a committee composed of members from both factions--pro- and anti-removal--undertake efforts to

propose some acceptable solution to the situation that both the Cherokees and the United States could agree on. This body consisted of Ross and sixteen of his followers and John Ridge, Charles Vann, and Elias Boudinot. These three even reluctantly agreed to reject the government's proposed treaty based on past negotiations with the Ridge party. The situation, however, was hopeless. Neither side could acknowledge the ideas of the other. For although it presented the semblance of unity, the group could not come up with the formula which would create true unanimity. The stalemate, with Ross in control of the tribe, continued. In November, Boudinot resigned; nothing could be resolved in this manner.<sup>17</sup>

The next month, federal negotiators came to New Echota. They had a treaty of removal for the Cherokees to sign. Ross, of course, had earlier refused to sign the treaty, but this time he was not around; Ross was in Washington conducting his own diplomacy. Consequently, the wily federal agents carried out their duties with Major Ridge and his adherents. Boudinot and his cohorts knew the seriousness of the occasion and the possible outcome of their actions. "I know," Boudinot told the council, "I take my life in my hand. . . . We can die, but the great Cherokee Nation will be saved. . . . Oh, what is a man worth who will not dare to die for his people?"<sup>18</sup>

After the treaty was read, a committee of twenty met to go over the terms of the document, and Boudinot sat on this committee. On December 28, the body reported that it concurred with the stipulations in the treaty. The next evening, the committee again met with chief treaty commissioner John F. Schermerhorn in the parlor of Boudinot's home. While his children peacefully slept, Elias Boudinot took a portentous step: He



placed his name on the treaty. And so did the others. They, too, knew the weight of their actions, especially old Major Ridge who declared, "I have signed my death warrant."<sup>19</sup>

Now, the treaty had to be taken to Washington, and the treaty signers thus prepared to follow the document to Washington. There, Boudinot arrived on February 3, 1836, accompanied by Major Ridge and Schermerhorn.<sup>20</sup> Four months later, on May 29, 1836, against the valiant efforts of John Ross and his allies in the United States Senate, the Treaty of New Echota was ratified. Removal was in the offing.<sup>21</sup>

Boudinot, Stand Watie, the Ridges, and the other signers of the treaty had signed away their homeland, and they had done so without the consent of the tribe. Of course, this technicality meant little to the federal government. As far as officials in Washington were concerned, the treaty was legal and removal was soon to be a fait accompli. The brave signatories knew the danger of their boldness, for in 1829 the Cherokee government had revived the law which decreed death for anyone who sold land without the authorization of the tribal government. In fact, John Ridge had written the statute of 1829. Nonetheless, these men had placed their names on the treaty, and at least Boudinot did so with the best interests of his people in mind.

Boudinot returned to his family with one concern: preparing for the trek to the West. Moreover, he worried about his wife. Harriet, pregnant again, had been sick all that fall. Nonetheless, she delivered a healthy baby boy.

During the late summer, however, Harriet became ill once more. She died on August 15, 1839. Elias wrote to her family that "She suffered extreme bodily pain throughout her whole sickness."<sup>22</sup> Yet, on

her deathbed, she did not despair. She accepted death, for it would deliver her to "her Redeemer."<sup>23</sup> Her parting words were, "I am happy."<sup>24</sup>

Harriet had once written that "The place of my birth is dear to me but I love this people the Cherokees and with them I wish to live and die."<sup>25</sup> Her wish was granted. Elias buried his wife in the Cherokee cemetery at New Echota.

Elias and Harriet had been described as "a very intelligent and amiable couple."<sup>26</sup> Together, they had enjoyed much happiness and had faced much hardship. Now, death had parted them. Harriet Boudinot was only thirty-one years old when she passed away. She had been married a little over a decade. With her demise, Elias was left with six small children to raise at a time of turmoil and uncertainty.

Elias sorely missed his wife, and undoubtedly he grieved for her immensely. But he had to go on living, for there was much to do. He had his children to care for and their move to the West to prepare for. Given his sense of loss and the amount of his burdens, it was not surprising that a few months after Harriet's death he remarried. His new wife, Delight Sargent, was a missionary teacher who worked at Brainerd. She, like Harriet, was a New Englander. Thus, Elias had a new helpmate as the family left the old Cherokee Nation.<sup>27</sup>

Elias Cornelius was almost two and a half when the Boudinots headed west in January of 1837.<sup>28</sup> The federal government was to incur the expenses for their travel, according to the treaty. Not until November, however, did the Boudinots reach their destination. There, in the eastern part of the Indian Territory, they had a joyous reunion with the Worcesters. Samuel, after being released from prison in early 1834 on the condition that he leave Georgia, had established a church

and school among the Cherokees already in the West. Elias Boudinot once more joined Worcester in his work.<sup>29</sup>

Worcester had again taken up his great task and ambition: translating the Bible into Cherokee. Now, Boudinot lent his talents to this project. Boudinot, however, was destitute. He had not received any money from the federal government, and Worcester had to plead with his Eastern benefactors to fund his friend.

While Worcester and Boudinot resumed their ministry's work among the Cherokees in the new land, the recalcitrant majority of the tribe began their move to the West. These antitreaty Cherokees had refused to budge from their homes, and the United States Army had rounded them up. They seethed with anger. And, they had scapegoats on whom to blame their trials: the treaty party, the betrayers who had signed the Treaty of New Echota. To make matters worse, their journey westward was hard. Supplies were inadequate and poor in quality; the weather was harsh; disease, especially smallpox and cholera, plagued the travellers. Approximately five thousand Cherokees moved to the West in late 1838. Of their number, almost one-quarter died. Their ordeal became known as the Trail of Tears.<sup>30</sup> The anti-treaty party in turn blamed the treaty party for the deaths of these loved ones.

When the rest of the tribe arrived in the new Cherokee Nation, Boudinot and his family were living with the Worcesters. Worcester had acquired five hundred dollars for Boudinot from the Missions Board, and this money was to finance construction of a house for the Boudinots. Things were looking up for the beleaguered family.

When Ross and the majority of the Cherokees arrived in the West, efforts soon began to establish a new government. The Old Settlers, or

Cherokee West, were asked to meet with the newcomers to accomplish this end. For their part, the Old Settlers were reluctant to give up their government immediately. However, they were willing to incorporate the newcomers into their government and then allow for regularly scheduled elections, which would undoubtedly give power to Ross. Their transplanted fellow tribesmen wanted immediate change. All of this came up in mid-June, 1839, when both groups met to discuss the issue. The day after the council opened, the Ridges, Stand Watie, and Boudinot arrived. They did not stay for long, though. They left the same day, for the hostility against them was great. Moreover, no agreement on unification could be reached. The Old Settlers refused to capitulate to the demands of Ross and his followers. In turn, the Ross faction blamed Boudinot, the Ridges, and the treaty faction for this impasse. The Old Settlers, they believed, had been influenced by these doubly cursed tribal traitors.<sup>31</sup>

When the council broke up with no resolution, many of Ross's followers returned to their homes incensed even more with hatred. Their wrath was great, and Elias Boudinot was one of those on whom their anger focused. Although presenting himself as a man of peace, Boudinot was in their eyes a devious man. He had promoted and signed the infamous treaty. He had even questioned John Ross's loyalty to the Cherokee Nation.<sup>32</sup> Now, it seemed that he continued to work against the interests of the tribe. Boudinot and his fellow betrayers deserved punishment. There would be no peace in this new land until such retribution were made.

On the morning of June 22, 1839, Boudinot was working on his house about a quarter of a mile from Worcester's place. Four Cherokee men

rode up and asked for medicine, for Boudinot had a policy of giving free medical supplies to people in need. The charitable Boudinot quickly agreed to furnish what he could telling them to follow him to Worcester's house. But after Boudinot and these men were some distance away from the construction site where Boudinot had left some workers, the men, clasping his arms behind his back, ferociously assaulted Boudinot.<sup>33</sup> Delight Boudinot and Samuel Worcester heard his scream and raced in his direction. They found him, lying in the grass. Barely alive, he opened his eyes when they spoke his name, then expired. All the while his assailants jubilantly joined several other horsemen, who had been hiding in the woods not far away, and galloped off. Thus, Elias Boudinot died, his demise a result of his "zeal for the preservation of his people."<sup>34</sup>

Elias Boudinot was not the only man to die that day. John Ridge was roused from his bed early that morning. His assassins pulled him out of his house, and there, before his family, viciously murdered him. As for Major Ridge, he was ambushed near the Arkansas border. Only one of the murderous crew's selected victims escaped: Stand Watie. A Choctaw Indian clearing land near Worcester's home had witnessed the killing of Boudinot and, taking Worcester's horse, hurried off and warned Watie. Watie, however, instead of seeking safety made his way to the Boudinots, where he beheld the mutilated body of his brother. Filled with hatred and anger, he offered \$10,000 to anyone in the crowd of on-lookers who could say who murdered his brother. No one spoke, and Watie rode off.<sup>35</sup> He did not need an informant to tell him whom to blame. John Ross was the culprit. Ross, Watie believed, had ordered the senseless slaughter of his peace-loving brother, and he, Watie, would have revenge. And off he rode to gather his forces, the treaty men; they would

repay blood with blood.

Ross, on the other hand, probably did not know the plot. True, he had been frustrated lately by his failure to reunite all the tribe. Neither the Cherokee West nor the treaty faction wished to acknowledge his leadership, although his followers numerically outnumbered both of the other groups combined. On June 21, the Cherokees had gathered for yet another meeting to effect harmony under a single government. And when this effort had fallen short, several of the anti-treaty followers of Ross had congregated in a secret conclave. They decided to invoke the law: death to those who had sold out the tribe. The Ridges, Boudinot, and Watie had caused all the troubles in the East; their actions had brought about the "Trail of Tears;" and now they blocked the path to recreating a unified tribe. They deserved no less than to be mercilessly killed. To carry out their plan, however, they could not let Ross know of their intentions. Once before, he had vetoed such a scheme. Therefore, they drew lots to see who would carry out the grisly tasks and then instructed Allen Ross, John Ross's son and one of their number, to go to his father and to keep him ignorant of their activities. For while John Ross could not be described as a man of total benevolence, he was a practical leader. His main desire was to reunite the Cherokee Nation, and the deaths of his enemies would not foster reconciliation, only more conflict.

36

When John Ross heard of Boudinot's murder, he dispatched his brother-in-law, John G. Ross, and some men to Boudinot's place. He returned, saying that it was true: Boudinot had been murdered. He also had a message for Ross from Delight Boudinot. She warned Ross to flee, for Stand Watie was collecting men and Ross's life was in danger. Ross, in turn, wrote

to General Arbuckle at Fort Gibson requesting that the army intervene.<sup>37</sup>  
The Cherokee Nation was on the verge of civil war.

A blood bath did not occur, but many feared for their lives. Although Stand Watie did not lead his men against Ross, the chief took immediate action. He saw the opportunity to effect a new tribal government and called for a mass meeting on July 1. Of course, Watie and his followers refused to attend. Nonetheless, about two thousand Cherokees met at Camp Illinois. Most of them were Ross's people, with an intermingling of Old Settlers. At this convention, a new constitution was adopted, uniting the eastern and western Cherokee. Moreover, those attending accepted a resolution which condoned the murders of the Ridges and Boudinot, but promised amnesty to members of the treaty faction if they pledged their loyalty to the new government in a few days.<sup>38</sup>

Ross again had almost complete control over the tribe, but Stand Watie and many of the treaty faction condemned Ross's convention as a farce and refused to submit either to Ross's leadership or to his new tribal organization. By this rejection, Watie and others were then declared outlaws. But the treaty faction was more than merely obstinate; they were also active. On August 20, they, too, held a mass meeting. Not only did they give no credence to Ross's convention of early July, but they also concluded that their main recourse to obtain justice lay in getting the federal government on their side. Thus, Stand Watie and John A. Bell were chosen to carry a protest to Washington. The treaty faction demanded that the United States intercede to protect their lives and property and to punish the killers of the Ridges and Boudinot.<sup>39</sup>

All of the treaty faction's endeavors came to naught, however. John Ross remained Principal Chief of the Cherokee tribe, duly recognized by

the United States government. But hatred and violence did not end. It only smoldered as incidents of murder and bloodshed became commonplace for several years to come.

As for the family of Elias Boudinot, they did not remain long in the Cherokee Nation. With the financial aid of Stand Watie, Delight ushered Elias' six orphaned children to New England. She never returned to the land of the Cherokees, and only two of her step-children did: William Penn and Elias Cornelius. Certainly the murder of their father affected both boys, but of the two, Elias Cornelius was clearly the most deeply touched. Only a child not yet four years old when his father died, Elias would revere his memory but, perhaps more telling, he would harbor hatred. He would never forgive Ross and his followers for what they had done to his family. Moreover, even after his battles with Ross ended with the chief's death, he would continue to fight the Ross family and faction. Indeed, somewhat like the Cherokees of old, Elias Cornelius Boudinot's attitudes and motivations stemmed not so much from principle and reason as from blood hatred. His reentry into the affairs of the Cherokee Nation, however, was in the future. In 1839, the small boy had a new life to begin in a region far removed geographically and culturally from the Indian Territory.



## ENDNOTES

<sup>1</sup>Dictionary of American Biography, s.v. "Boudinot, Elias Cornelius." Possibly he was given the name Cornelius after his mother's brother-in-law, Cornelius B. Everest. Lester Hargrett has stated that Boudinot was also given an Indian name, Tsugânũndũñ, which means "one who gets there first, in anything." Lester Hargrett, Oklahoma Imprints 1835-1890 (New York: R. R. Bowker, 1951), p. 80.

<sup>2</sup>Dictionary of American Biography, s.v. "Boudinot, Elias." See also Mary Brinsmade Church, "Elias Boudinot: An Account of his Life Written by his Granddaughter [sic]" (unpublished paper, 1913, copy at Gunn Memorial Library, Washington, Conn.) The standard biography of Elias Boudinot is Ralph Henry Gabriel, Elias Boudinot, Cherokee and his America (Norman: University of Oklahoma Press, 1941), and hereafter all information in this chapter, unless otherwise cited, can be found in Gabriel's work.

<sup>3</sup>For an in-depth account of the founding of the Cherokee Phoenix see Joe Cullen Holland, "The Cherokee Newspapers, 1828-1906: The Tribal Voice of a People in Transition" (Ph.D. diss., University of Minnesota, 1956), pp. 1-56.

<sup>4</sup>Gabriel, p. 118.

<sup>5</sup>Church, p. 18. Indeed, many outside observers were impressed with the wealth and advancement of the Cherokees at this time. For a general picture of the Cherokee Nation, see Henry T. Malone, Cherokees of the Old South: A People in Transition (Athens: University of Georgia Press, 1956), especially pp. 118-152 for an appraisal of Cherokee economic development.

<sup>6</sup>Church, p. 18.

<sup>7</sup>Much has been written on the background to Cherokee removal from the Southeast. For a good, brief account, see Malone, pp. 171-180. For a textbook rendition, see Angie Debo, A History of the Indians of the United States (Norman: University of Oklahoma Press, 1970), pp. 120-124. A more detailed version of the happenings can be found in Grant Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians (Norman: University of Oklahoma Press, 1932), p. 229ff.

<sup>8</sup>Malone, pp. 69-70.

<sup>9</sup>Ibid.; Gabriel, pp. 128-129.

<sup>10</sup>Cherokee Nation v. Georgia, U. S. Supreme Court Reports, 5 Peters 1 (1831).

<sup>11</sup>Elias Boudinot to Stand Watie, 7 March 1832, in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 4-5. Also see Worcester v. State of Georgia, U.S. Supreme Court Reports, 6 Peters 515 (1832).

<sup>12</sup>Malone, pp. 178-179. For an examination of Andrew Jackson and his Indian policy, see Ronald Satz, Indian Policy in the Jacksonian Era (Lincoln: University of Nebraska Press, 1975).

<sup>13</sup>Cherokee Phoenix (New Echota, Cherokee Nation), 11 August 1832.

<sup>14</sup>Ibid.

<sup>15</sup>Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), p. 51.

<sup>16</sup>Thurman Wilkins, Cherokee Tragedy: The Story of the Ridge Family and of the Decimation of a People (New York: The Macmillan Company, 1970), pp. 255-259; Holland, p. 196.

<sup>17</sup>Moulton, p. 68; Wilkins, pp. 270-271.

<sup>18</sup>Wilkins, p. 277.

<sup>19</sup>Ibid., p. 278.

<sup>20</sup>Ibid., p. 279.

<sup>21</sup>Moulton, pp. 72-73.

<sup>22</sup>Gabriel, p. 158.

<sup>23</sup>Ibid.

<sup>24</sup>Ibid.

<sup>25</sup>Ibid., p. 113.

<sup>26</sup>The writer John Howard Payne, who later became a staunch admirer and supporter of John Ross, offered this observation of the Boudinots in the summer of 1835. Wilkins, p. 272.

<sup>27</sup>Dictionary of American Biography, s.v. "Boudinot, Elias."

<sup>28</sup>Marion L. Starkey, The Cherokee Nation (New York: Alfred A. Knopf, 1946), p. 275.

<sup>29</sup>In January, 1832, Governor Lumpkin of Georgia had released Worcester from jail, and in March, 1834, the missionary had moved west. Robert S. Walker, Torchlights to the Cherokees: The Brainerd Mission (New York: The Macmillan Company, 1831), pp. 295-296; Holland, p. 189.

<sup>30</sup>For accounts of the Trail of Tears, see Wilkins, p. 304ff; Foreman, pp. 279-312. For differing opinions on how many died on this trek, also see Holland, p. 201n1 and Arrell Morgan Gibson, The American Indian: Prehistory to the Present (Lexington, Mass.: D. C. Heath and Company, 1980), pp. 320-321.

<sup>31</sup>Wilkins, pp. 318-321.

<sup>32</sup>Holland, p. 197.

<sup>33</sup>Wilkins, p. 323; Gabriel, pp. 176-178; Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), p. 48.

<sup>34</sup>Gabriel, p. 178.

<sup>35</sup>Kenny A. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), pp. 55-56.

<sup>36</sup>Whatever role, if any, that John Ross played in the assassinations has been the subject of much discussion. Of course, the families of the slain men believed that the vindictive Principal Chief organized the attacks, or at least indirectly encouraged them. On the other hand, Ross had earlier cautioned his followers against bloodshed. The use of violence, he believed in 1835, would have only hardened attitudes and split the tribe further. And although removal had not been stopped, he probably did not want to see armed conflict arising in the Indian Territory, regardless of his animosity toward Boudinot and the others. Moreover, his son, Allen Ross, who did take part in the conspiracy, later stated that his father had no knowledge of the plot. See Grant Foreman, "The Murder of Elias Boudinot," Chronicles of Oklahoma 12 (March, 1934), 19-24; Forde, pp. 48-49; Moulton, p. 114; Wilkins, p. 260.

<sup>37</sup>Moulton, p. 113. In his first of several letters informing Arbuckle of the extremely volatile situation in the Cherokee Nation, Ross professed his innocence of any complicity in the murders. He also decried the unwarranted threats against his person, writing, "Why I am to be murdered without guilt of any crime I can not conceive." His rhetoric, however, was far from convincing. Even if he had not partaken in the murder plots, everyone, including himself, knew why he was viewed as the arch conspirator and why Watie and his friends would want to kill Ross in retaliation. Ross's comments to Arbuckle are cited in Grace Steele Woodward, The Cherokees (Norman: University of Oklahoma Press, 1963), p. 226.

<sup>38</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 23-26;

Moulton, pp. 115-116; Franks, p. 59; Holland, p. 204. At the same time that Ross exonerated the murderers of Boudinot and the Ridges, the Commissioner of Indian Affairs was urging Arbuckle to apprehend the killers. In September, 1839, Arbuckle asked that Ross hand over some of the men suspected of involvement in the affair, but Ross refused. The matter had been settled, the Chief said. For Watie and his crowd, however, the matter was far from over. Wilkins, p. 327; Moulton, p. 119.

<sup>39</sup>Franks, p. 60ff.

## CHAPTER III

### YOUTH AND EARLY MANHOOD

When Delight Boudinot returned to New England in 1829, she shouldered a burden. Impoverished, widowed, and the step-mother of six orphaned children, her problems and responsibilities were great. Fortunately, the thirty-eight year old former missionary was not without aid. Her husband's brother, Stand Watie, had helped her and the children leave the Cherokee Nation, and he would do all in his power to represent the financial interests of her late husband, Elias Boudinot, as well as supplementing the welfare of his nieces and nephews. Also, the maternal grandparents of the children were still alive and concerned about their well being. Furthermore, the children did have a male guardian in the East, General Daniel B. Brinsmade, their uncle.<sup>1</sup>

Daniel Brinsmade was the husband of Mary W. Gold, Harriet Boudinot's sister. A wealthy and respected figure in Washington, Connecticut, Brinsmade had been closely connected with the Foreign Mission School. Moreover, he had denounced Harriet's marriage to Elias.<sup>2</sup> His wife, on the other hand, was the only member of the Gold family to support her sister completely.<sup>3</sup> Consequently, Mary and Daniel, who like the rest of the family had wholeheartedly accepted the Boudinot's marriage, assumed responsibility for their unfortunate young relatives.

Although the Brinsmades were the legal guardians of the children, they did not take all of them in. Only Elinor, aged twelve, joined the

Brinsmade household. Four year old Elias and his other siblings stayed with Delight, who took them to Manchester, Vermont. William, she placed in the Burr Seminary, a private school, and when the younger boys were old enough, they, too, were enrolled in the school.<sup>4</sup>

Money, however, was scarce. Maintaining this tragedy-laden family required funds that placed a burden on its benefactors. The Boudinots, however, hoped to gain some funds from the Cherokee Nation. Indeed, Elias Boudinot had never received the money due him by the terms of the Treaty of New Echota. Moreover, his children had a right to orphan's benefits, as decreed by Cherokee law. Unfortunately, the situation was not so simply decided. John Ross and his followers controlled Cherokee affairs, and they had not fulfilled their obligations, as tribal officials, to the members of the treaty faction who remained in the Cherokee Nation. The rights and needs of the families of their deceased enemies were even further from their concern.

Nonetheless, members of the treaty party attempted to receive money that was rightfully theirs. In April of 1844, they memorialized the United States government, asking that federal authorities force Ross to pay them the annuities which were due to them individually. The treaty had stipulated such method of payment, but Ross had not done so. The money from the treaty agreement had been deposited in general tribal funds and, moreover, Ross and his faction denied them any benefits from the operations financed by these monies.<sup>5</sup> Nothing came from this protest.

Following in the wake of the treaty party's efforts, the representatives of the families of Major Ridge, John Ridge, and Elias Boudinot petitioned the federal government for aid for the heirs of these men.

Boudinot's brothers Stand and John Watie spoke for his family. In a jointly sponsored letter, the spokesmen for the families stated that the Ridges and Boudinot "expected no less than martyrdom. . . . But they did not expect . . . that their widows and orphans would be left to the pity of a cold world, and denied the pittance promised them by the treaty, sealed with the blood of their sires."<sup>6</sup> The government had promised them, and all Cherokees, "a per capita sum . . . of at least one hundred and fifty dollars each."<sup>7</sup> They furthermore noted the compounded injustice experienced by the families of the slain men, especially in view of the fact that Ross had given pardons to the murderers of the Ridges and Boudinot, and asked that the "Government of the United States . . . take measures to punish the murderers . . . without respect to persons; that the government pay the families not only for their material losses but also the treaty money due them"; and that they be given funds "for the education of their children equal to what would be the just proportion of the national education and orphan fund provided in the treaty of 1835-'36."<sup>8</sup> Furthermore, they declared that the refugee family members would not return to the Cherokee Nation and endanger their lives.<sup>9</sup>

The commissioners to whom this document was presented concluded, however, "that the subjects therein treated are, for the most part, beyond the competency or range of this Commission," but they would nevertheless "cheerfully" give the letter to the Secretary of War as an "appeal to the President."<sup>10</sup> But while federal officials politely acknowledged the requests of the families of the slain Cherokee leaders, no immediate resolution of their demands was in the offing.

But, as always, life went on. As for Elias Cornelius, he was in

school at the Burr Seminary. At the same time, he had to work to help pay the family's bills. And as Mary Boudinot informed her uncle Stand Watie in July, 1846, "Ma and the boys are as well as usual. Cornelius is working on a farm a few miles from here this vacation."<sup>11</sup> Young Elias, although well cared for, did not experience a life of leisure. Moreover, sometime during his childhood, perhaps while engaged in manual labor, he injured his ankle.<sup>12</sup> Thereafter, he walked with a limp, an infirmity that did not curtail his activities but did become a distinctive physical characteristic for the rest of his life.

In August of 1846, the Boudinots finally received some financial relief. It came from the federal government. This boon, however, came as part of a larger settlement between the Ross and Watie factions of the Cherokee tribe.

Old animosities in the Cherokee Nation had not died, for hatred and violence had persisted since 1839.<sup>13</sup> But the days of 1845 and early 1846 were the worst yet.<sup>14</sup> The killings increased. Once more, a close family member died. A group of Ross's supporters murdered Thomas Waite, Elias Boudinot's brother.<sup>15</sup> Again, the Cherokee Nation verged on civil war.<sup>16</sup>

While the followers of Stand Watie, defying Ross's authority, took up arms and ensconced themselves in a hastily built fortification, Fort Watie, Stand took his grievances to Washington. On the way, he visited shortly with the Boudinot children and then hastily made his way to the capital of the United States. This time, his demands received an acceptable hearing. President Polk decided that the Cherokee Nation should be divided. He also suggested to Congress that a commission be sent to the Cherokee Nation to investigate the problems. Watie heartily



endorsed both ideas.<sup>17</sup>

Once the commission arrived, however, Ross was able to negate the proposal to split the nation. Nonetheless, the commissioners, after examining tribal affairs, did make several recommendations, including compensation for the heirs of the Ridges and Elias Boudinot: \$5,000 to the family of Major Ridge; \$10,000 each to the families of John Ridge and Elias Boudinot.<sup>18</sup>

Ultimately, under the auspices of President Polk, the Cherokees, represented by both factions, signed a new treaty.<sup>19</sup> When the United States Senate ratified the treaty on August 17, 1846, all parties no doubt were relieved and hoped for a better future. The Boudinots, in particular, had to be thankful for Article 6, which not only stated that the United States government would pay the treaty party \$150,000 but also that the heirs of the Ridges and Elias Boudinot would receive payment. Each family was to be given \$5,000.<sup>20</sup> The amount was less than the commission had recommended for the Boudinots, but it would alleviate some of their financial burdens.

Having an appropriation designated was one thing; receiving the money was another. And as with so many hopes of the past years deflated, the Boudinot family probably wondered if they really would see the money. Their apprehensions were thankfully unwarranted. Daniel Brinsmade journeyed to Washington to obtain the Boudinots' allotment and, according to Mary Boudinot, he easily received the long sought funds.<sup>21</sup> Indeed, the staunch old Yankee worked hard in looking after their interests. In fact, he continued to press for more benefits for the Boudinot children. He convinced his congressman, Truman Smith, to help. Smith suggested that Brinsmade "draw up a petition," and the

congressman would attempt to "get each of the children a section of land."<sup>22</sup> Smith thought that Congress would be disposed to appropriate land rather than more money.<sup>23</sup>

Although Brinsmade's efforts came to naught, the government grant of 1846 went a long way toward defraying the costs of the children's educations. Elias and Frank continued to attend the Burr Seminary in Manchester, Vermont. The curriculum at Burr Seminary stressed the liberal arts. Mathematics, history, science, grammar, and the classics were studied. At the same time, students could either conclude with a college preparation program or take "practical exercises in Field Surveying and Civil Engineering."<sup>24</sup> As for living accommodations, they could either pay for room and board at the school or in outside local homes, and apparently Delight Boudinot took in students in addition to her sons.<sup>25</sup>

It was probably at Burr Seminary that Elias became versed in music. Then, too, his training in elocution undoubtedly also began there, as did his familiarity with the classics. This education would benefit him in later life, both socially and professionally. His ability to recite poems and stories, to sing songs, and to play instruments would make a very welcome visitor in many homes. At the same time, his knowledge of Latin would help in his legal training. And perhaps most important, his forensic skills would become a hallmark of his professional life in a courtroom or on the rostrum as a lecturer. Indeed, all of the Boudinots were talented individuals, especially in music, and Elias Cornelius was much heralded by his friends and acquaintances for his musical abilities.

Although the Boudinot children had an agreeable life in New England, they stayed deeply connected to their Cherokee relatives, especially Stand Watie. Their geographical distance from the Indian Territory did not foster forgetfulness. They remembered their dead father, and they remembered John Ross. They could not forget the troubles which had beset the Cherokee Nation. Elinor Boudinot, the eldest with perhaps the most vivid memory, might well have been speaking for her siblings as well as herself when she wrote to Stand Watie in 1847:

How strange it does seem that so many of the Cherokees should have been so blinded and so easily led by John Ross; but I presume it is all for the best. God saw fit to take Pa and others away at that time. . . . yet how many times I thought if only I had a father and mother I would be happier.<sup>26</sup>

However much the children of Elias Boudinot may have reconciled themselves to the happenings of the past, they had not forgiven his murderers. Elias Cornelius, in particular, never would.

In 1848, Stand Watie received an interesting letter from William Boudinot. William, now eighteen years old, had been working in Philadelphia but was "tired of the North."<sup>27</sup> He wanted to return to the Indian Territory. He also noted that his sisters were on the verge of getting married. Furthermore, he reported that Delight Boudinot had "issued a proclamation declaring herself unwilling to take further charge of the boys."<sup>28</sup> Thus, it would be up to their "Connecticut relations . . . to dispose of them."<sup>29</sup> Whatever happened, Elias still resided with his step-mother at Manchester in 1849 and continued to attend Burr Seminary; Frank, however, had taken accommodations at another home.<sup>30</sup> Mary and Elinor soon married.<sup>31</sup> And by 1850, William was living in Arkansas.<sup>32</sup>

With the changes in the family's affairs and his older brother and

sisters establishing their own, independent lives, Elias Cornelius also moved away. In 1850, he probably changed schools. In that year, the Gunnery, a private high school, was established in Washington, Connecticut, by Frederick W. Gunn, the son-in-law of Daniel Brinsmade. Although the records are sketchy, apparently Boudinot and his brother Frank attended this institution, which since its founding to this day has enjoyed a commendable reputation as a preparatory school.<sup>33</sup>

Boudinot did not stay in Washington for long, though. In the fall of 1851, at the age of sixteen, he contracted to teach school at Danby, Vermont, a town not far from Manchester. The ordeal, however, was not to his liking. "I find it [teaching] new," he wrote to his aunt in February of 1852, "and of course inexperienced as I was at the vocation, cannot recommend it as a pleasant and remarkable easy manner of getting a living. I hardly think I should be willing to follow it as a business."<sup>34</sup> As for Danby, he found the town "somewhat degenerate to almost everything, a very immoral place, but some fine people, composed of Quakers."<sup>35</sup> Not happy with his circumstances, he did not know what he would do next but speculated he would "attend school at present."<sup>36</sup> However, he also told this Cherokee aunt that he hoped to see her "before many months."<sup>37</sup> It seems, too, that either he was still residing at Delight's home or she was living with him, for he furthermore wrote, "Ma is here and enjoys not very good health."<sup>38</sup> Soon, though, Boudinot would leave Delight, Danby, and New England and head westward.

He probably did not wait long to make his decision. His friends of later years said that in 1852 Boudinot worked on a railroad in Ohio, no doubt using any training in engineering picked up at the Burr Seminary. His weak ankle, however, could not sustain the rigors of such work.<sup>39</sup>

Thus, his stint on a railroad crew was short, but his interest in railroads never left him.

The young man, only seventeen, continued westward, toward the Cherokee Nation. By 1853, he was again in the Indian Territory.<sup>40</sup> His desire to return possibly stemmed from two factors: his longing to see his relatives again and the success that his brother William had achieved in the Cherokee Nation. In 1853, William had left Arkansas and settled in the Cherokee Nation, where he was elected clerk of the National Council.<sup>41</sup> During the next two years, he had the opportunity to follow in his father's footsteps when he substituted as editor of the Cherokee Advocate, the new national newspaper.<sup>42</sup> William had also married, and on January 2, 1853, his wife, Caroline Fields Boudinot, gave birth to a son. They named the child Elias Cornelius Boudinot, Jr., no doubt in honor of Elias Boudinot, the baby's grandfather, and in kind regard for the new uncle Elias Cornelius Boudinot.<sup>43</sup> For the rest of his life, Elias Cornelius Boudinot would maintain a connection with his young namesake.

Once more in the West, Boudinot had an immediate concern--finding employment. Possibly to his dismay, he again taught school, for in 1854 he was instructing Cherokee youth at Honey Creek. That Christmas, however, he traveled to Fayetteville, Arkansas, to spend the Yuletide holiday with Mrs. John Ridge. In later years, he remembered his impressions of this growing Ozark town and his stay: "I was most cordially received and after a few happy days I turned my face schoolward with regrets but with a determination to return in the Spring and read law in the office of Col. A. M. Wilson--Accordingly the March following--1855--found me in the office of Col. Wilson, studying law."<sup>44</sup>

Thus, Boudinot left the Cherokee Nation. The prospect of future rewards in Fayetteville far overshadowed the dull existence of the Indian Territory. In Arkansas, a greater chance for advancement presented itself. Moreover, regardless of his brother's acceptance by the Cherokees, the lingering animosity was still there. In fact, it was later asserted that the Cherokee government even denied that he was a Cherokee citizen.<sup>45</sup> Boudinot would pursue his fortunes in Arkansas.

#### ENDNOTES

<sup>1</sup>Ralph Henry Gabriel, Elias Boudinot, Cherokee and his America (Norman: University of Oklahoma Press, 1941), p. 178.

<sup>2</sup>Ibid., pp. 75, 81. Edward C. Starr, A History of Cornwall, Connecticut, a Typical New England Town (New Haven, Conn.: Tuttle, Morehouse & Taylor Co., 1926), p. 293.

<sup>3</sup>Mary Brinsmade Church, "Elias Boudinot: An Account of his Life Written by his Grandaughter [sic]" (unpublished paper, 1913, copy at Gunn Memorial Library, Washington, Conn.), p. 20.

<sup>4</sup>Elinor Boudinot to Elizabeth Webber, 9 December 1845, in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 21-24. Mary Brinsmade Church, however, said that the three daughters were left with Mrs. Mary Brinsmade and the three boys accompanied Delight to Vermont. Elinor's letter indicates that Church was probably mistaken. See Church, p. 22.

<sup>5</sup>28th Cong., 1st sess., House Exec Doc 234 (serial 443).

<sup>6</sup>28th Cong., 2d sess., Senate Doc 140 (serial 457), p. 79.

<sup>7</sup>Ibid., p. 80.

<sup>8</sup>Ibid., p. 80-81.

<sup>9</sup>Ibid., p. 81.

<sup>10</sup>Ibid., p. 82.

<sup>11</sup>Mary H. Boudinot to Stand Watie, 31 July 1846, in Dale and Litton, p. 47.

<sup>12</sup>John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 17.

<sup>13</sup>In 1842, for example, Stand Watie killed James Foreman, who had been suspected as one of the murderers of John Ridge. A jury in Arkansas, where he was tried, acquitted Watie of murder. In later years, the story developed that Elias C. Boudinot had defended his uncle. Of course, that would have been impossible. And if Boudinot ever did defend his uncle on a murder charge in the 1850s, there is no record

of Watie again being charged with such a crime. For this story, see W. S. Harmon, Hell on the Border: He Hanged Eighty-eight Men (Fort Smith, Ark.: Phoenix Publishing Company, 1898), p. 56. On Watie and his trial in 1843, see Kenny A. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), pp. 84-88.

<sup>14</sup>Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), p. 149.

<sup>15</sup>Franks, p. 96.

<sup>16</sup>Ibid., pp. 97-100; Moulton, pp. 148-150.

<sup>17</sup>Franks, pp. 100-102.

<sup>18</sup>Ibid., pp. 102-103.

<sup>19</sup>Ibid., pp. 103-105; Moulton, p. 152.

<sup>20</sup>Charles D. Kappler, ed. and comp., Indian Affairs: Laws and Treaties II (Washington, D. C.: Government Printing Office, 1904), 563.

<sup>21</sup>Mary H. Boudinot to Stand Watie, 13 September 1847, Cherokee Papers, Western History Collection, University of Oklahoma (hereafter cited as CP, WHC).

<sup>22</sup>D. B. Brinsmade to Stand Watie, 16 September 1847, in Dale and Litton, p. 59.

<sup>23</sup>Ibid. Legally, Boudinot's family had given up any rights to tribal land by removing to New England. This opinion, no doubt, hindered any efforts to gain any more money for the children. See Dale and Litton, p. 59n7.

<sup>24</sup>Catalogue of the Officers and Students of Burr Seminary, Manchester, Vt. June, 1849 (Troy, N.Y.: J. C. Kneeland and Co.'s Steam Press, 1849), pp. 9-10. A copy of this booklet can be found at the Vermont Historical Society, Montpelier, Vermont.

<sup>25</sup>Ibid., pp. 3-5.

<sup>26</sup>Elinor Boudinot to Stand Watie, 20 September 1847, in Dale and Litton, p. 61.

<sup>27</sup>William P. Boudinot to Stand Watie, 26 April 1848, in Dale and Litton, p. 63.

<sup>28</sup>Ibid.

<sup>29</sup>Ibid.



<sup>30</sup>Catalogue of the Officers and Students of Burr Seminary, Manchester, Vt. June, 1849, p. 5.

<sup>31</sup>Gabriel, p. 178; Church, p. 23.

<sup>32</sup>William P. Boudinot to Stand Watie, 13 March 1850, in Dale and Litton, pp. 72-73.

<sup>33</sup>Church, p. 22; Dictionary of American Biography, s.v. "Gunn, Frederick William."

<sup>34</sup>Elias C. Boudinot to "Dear Aunt," 25 February 1852, CP, WHC.

<sup>35</sup>Ibid.

<sup>36</sup>Ibid.

<sup>37</sup>Ibid.

<sup>38</sup>Ibid.

<sup>39</sup>Adams, p. 17. It was also reported in later years that Boudinot had been educated as a civil engineer at Manchester, which was possible but not verifiable. H. F. O'Berine, The Indian Territory: Its Chiefs, Legislators and Leading Men (St. Louis: C. B. Woodward Company, 1892), p. 116.

<sup>40</sup>Marcus J. Wright, "Colonel Elias C. Boudinot," Southern Bivouac, II, No. 10 (June, 1884), 434.

<sup>41</sup>Dale and Litton, p. 73n36. William P. Boudinot apparently held this position until 1857. See Jack Gregory and Rennard Strickland, eds., Starr's History of the Cherokee Indians (Fayetteville, Ark.: Indian History Association, 1967), p. 273.

<sup>42</sup>Joe Cullen Holland, "The Cherokee Newspapers, 1828-1906: The Tribal Voice of a People in Transition" (Ph.D. diss., University of Minnesota, 1956), p. 398.

<sup>43</sup>Rollo G. Silver, "Bibliographical Notes: A Preliminary Checklist of Nineteenth Century Oklahoma Bookpublishers," Chronicles of Oklahoma 22 (Spring, 1944), 103.

<sup>44</sup>Letter of Elias C. Boudinot to Fayetteville Weekly Democrat, January 2, 1872. Typescript copy of the letter taken from Democrat, January 13, 1872, in Elias C. Boudinot File, Washington County Historical Society, Fayetteville, Arkansas. It has also been reported that in 1856, when Stand Watie became Speaker of the Cherokee National Council, Boudinot was named clerk pro tem for that body. However, there is no evidence of that available. All indications are that Boudinot primarily concerned himself with Cherokee affairs from Arkansas and spent most of his time in his pursuits in that state until

1861. See Lois Elizabeth Forde, "Elias Cornelius Boudinot," (Ph.D. diss., Columbia University, 1951), p. 67.

<sup>45</sup>Arkansian (Fayetteville, Ark.), 6 January 1860. Boudinot claimed that he was not allowed to practice law in the Cherokee Nation because he was not recognized as a Cherokee citizen. Certainly, if this was the case, he could never have had the post of clerk pro tem for the National Council.

## CHAPTER IV

### ARKANSAS AND POLITICS

For a young man on the frontier filled with ambition, Fayetteville, Arkansas, was a good place to sink roots in 1855. Along with the older towns of Fort Smith and Van Buren, Fayetteville was becoming a leading center for northwest Arkansas. Several important men in state and local politics resided in the town, as did others who in later years would also enjoy state and national reputation. Not the least of such men was A. M. Wilson, under whom Elias Cornelius Boudinot chose to study law. Wilson, in 1855, was the United States District Attorney for the Western District of Arkansas.<sup>1</sup>

Boudinot was also the contemporary of T. M. Gunter and R. R. Pettigrew, both young lawyers who would be his close associates in forthcoming years. In Fayetteville, he would also become fast friends with the brilliant and talented William Quesenbury.<sup>2</sup> Furthermore, he had family in Fayetteville. His cousin Andrew Ridge studied law beside him in Wilson's office, while his cousin Aeneas Ridge read medicine in the office of Dr. T. J. Pollard. Along with Aeneas, W. D. Polson, his brother-in-law, also studied medicine. Fayetteville was also the home of J. Woodward Washbourne, the son of missionary Cephas Washburn. The past editor of the Van Buren Intelligencer and now the U.S. agent to the Seminole Nation, Woodward was the husband of Susan C. Ridge.<sup>3</sup> In all, Boudinot was surrounded by a host of relatives and new friends.

Despite his enthusiasm for Fayetteville, by September of 1855 Boudinot's euphoria had drained somewhat. He told Stand Watie that "Everybody and everything is awful dull and stupid, there is no news of interest about here."<sup>4</sup> At the same time, he obviously was concerned about finances. For after telling Watie "Everybody is very much pressed for money," he went on to say that he was perturbed that Mrs. Daniel Brinsmade had "paid no attention" to his "letter demanding a full and thorough account of her guardianship."<sup>5</sup> Monetary questions were again on his mind in December, but this time with regard to the Cherokee Nation. He had written a scathing account of the Cherokee national debt for the Fayetteville Southwest Independent. He had gleaned his information on the topic from discussions with Watie and Washbourne. However, a correspondent with the paper, claiming to reside in Tahlequah, had taken issue with his assertions. Thus, Boudinot again wrote to Watie asking for more facts. In doing so, he also expressed his feelings about John Ross: "I think the villainy and swindling of Ross ought to be exposed and I would rather court than shun a contest when truth is on my side and when I am confident of my ability to sustain it."<sup>6</sup> The young man thus began to exhibit his mettle, and for the rest of his life Boudinot would never lack confidence in his own powers of persuasion or a certitude in the correctness of his actions.

In 1856, Boudinot was admitted to the bar.<sup>7</sup> However, like his father and brother, he possessed an interest in journalism. The power of the press could be great, and a good writer and editor could himself gain influence. A facile and sometimes felicitous writer, Boudinot knew that he could be a success. Moreover, William Quesenbury had shut down his Southwest Independent, and Fayetteville did not have a

newspaper.<sup>8</sup> The bottleneck in Boudinot's entrepreneurial visions in journalism was money. Nonetheless, in the spring of 1856 he approached Quesenbury about the prospect of purchasing his paper. Although little came from the discussion, Quesenbury wrote to Stand Watie in January of 1857 that he was convinced Boudinot would be a successful editor. Boudinot, he said, "has splendid talents with that certain caution indispensable to the success of an editor. He has friends every where among whites and Redmen."<sup>9</sup> For the opportunity to prove himself, however, Boudinot had to wait.

By 1859, however, Boudinot's expectations heightened. That year he was elected to the city council for Fayetteville, a significant step for a politically ambitious young man.<sup>10</sup> But more important, Boudinot and J. R. Pettigrew established the Fayetteville Arkansian. Its first issue appeared on March 5; 250 copies were printed.<sup>11</sup> While the number was modest at best, the future promised better tidings. The Arkansian was strictly a partisan newspaper, and its first issue clearly stated its editors' objectives: "To advance the principle of the Democratic party, and stay the onrushing tides of abolitionism which threatens the South; to advocate the building of a railroad from the Atlantic to the Pacific; and to secure its location on, or near, the thirty-fifth parallel, and to promote the cause of education."<sup>12</sup> Boudinot and Pettigrew would stand for the safeguarding of Arkansas' interests and the advancement of Fayetteville.<sup>13</sup>

Comments on the new organ were generally good. The Warsaw Democrat, for example, stated, "It is a spicy paper--editorially and mechanically. Good taste and good sense is equally displayed in each branch."<sup>14</sup> Their neighbors in Fort Smith also gave favorable reports on the Arkansian.<sup>15</sup>

The editors proudly welcomed such commentary. However, regardless of the paper's stated "principles," Boudinot also saw it as a medium for his own personal feud. He could attack John Ross through the pages of the Arkansian.

Boudinot's first blast at Ross came in April of 1859. Writing from the Cherokee Nation, he reported on forthcoming elections:

John Ross, the present incumbent, will be re-elected; the opposition all unite in anathematizing Ross and his ridiculous policy, but when they attempt to select a man to oppose him, they are at once shattered into fragments. . . . It is estimated by deliberate political calculators, that the opposition to Ross in the whole nation is at least as two is to one, and yet he will walk the course with all the numerical inferiority without a rival. It would be difficult to write the platform of this celebrated and unscrupulous politician.<sup>16</sup>

Thus, Boudinot set the tone for his editorial remarks on John Ross and Cherokee politics.

With regard to candidates for other offices, Boudinot commented that the elections of Stand Watie to the lower house and William P. Adair to the upper would be "moral" victories.<sup>17</sup> At the same time, he referred to the still violent nature of Cherokee politics, and his own smoldering bitterness appeared. "There is a rumor afloat," he noted, that some Cherokees wanted to exterminate "smart men."<sup>18</sup> This attitude, he caustically reasoned, was indicative of a place where "You can hardly find a man. . . who can define his profession. And when he is called upon to sign his name he makes his mark."<sup>19</sup>

Boudinot did offer, however, that there was "one remarkable feature" in one of Ross's addresses: Ross alluded "to the probability of the Cherokee Nation sooner or later becoming a territory of the U.S." and suggested that the Cherokees be "prepared for so important a change."<sup>20</sup>

Boudinot furthermore pointed out that no other leading Cherokee had ever heard of such a prospect; moreover, they abhorred the idea.<sup>21</sup> Why Boudinot found merit in this idea was two-fold. As his later views would show, he perhaps had already come to believe that the best interests of the Cherokees would be served by such an action. At this particular time, however, he no doubt had another reason. Senator Robert Ward Johnson, Arkansas' leading Democrat, had proposed territorial organization for the Indian Territory in 1854. Johnson had done so as a counterbalance to the Kansas-Nebraska Act. The Indian Territory could be made a pro-slavery territory. In turn, Commissioner of Indian Affairs Elias Rector, also an Arkansan, had urged in 1858 that the Indian Territory not only become an official territory of the United States but also that it eventually receive statehood. Rector's program for this change called for the Indians to be made citizens of the United States, hold their lands in fee simple, come under the jurisdiction of federal courts, and send tribal delegates to congress.<sup>22</sup> In all, Boudinot was both falling in line with the Democratic political leaders in Arkansas and also giving vent to his own "progressive" ideas.

Although the young editor may have agreed with Ross, at least in his public statements, on this question, he did not relent in his attacks. On July 16, he made his stand perfectly clear: "Our future course upon this subject can be foreseen by anyone. Our war upon this chief, whose long course of thirty years has been stained with blood and corruption, shall be a war to the knife, and knife to the hilt. We shall write plainly, and never assert what we are unable to substantiate with proof."<sup>23</sup> The next issue of the Arkansian contained another assault on Ross. Boudinot now asserted that he had "documents" showing Ross to be

"a defaulter to the Nation, in an amount sufficient to pay the National debt five times over, leave a permanent school fund, large enough, to double the present number of public schools and restore the \$50,000, orphan fund, which he used, as a bonus for human blood."<sup>24</sup>

Boudinot's derogatory remarks about John Ross did not go unnoticed, especially in the Cherokee Nation. Some Cherokee subscribers cancelled their orders for the paper; others took direct issue with Boudinot.<sup>25</sup> In particular, a man signing his name as "Sofkey" struck viciously at Boudinot. In a letter to the Arkansian, which the editors published, this vitriolic Cherokee wrote to Boudinot:

Your father was assassinated in 1839 for proving himself to be a d\_\_d traitor to his country and others with him, a fate that he and others most richly deserved. . . . we are ready to fight you if that is what you want with knives, six shooters or anything that will cut or burn, as we are not competent to answer you with words and acknowledge that you are our superior--If we were capable of answering you with the pen, we would not waste time and words with no such d\_\_d scoundrel as you are.<sup>26</sup>

To these remarks, Boudinot coolly replied, "Mr. Sofkey may be reasonably considered a very mangy dog of Mr. Ross' who has been hissed on by his master, until he opens upon us the foregoing sickly bark."<sup>27</sup>

Continuing to write about the Cherokee Nation, Boudinot soon began to concentrate on the possible sale of the Cherokee Neutral Lands. Arkansians, he wrote, had over the years mistakenly convinced themselves that they need not have any special concern about affairs in the Cherokee Nation. To the contrary, he argued, Arkansians as good Southerners had to be concerned, for if the Neutral Lands were sold to the United States the border of Arkansas would be cursed with the evils of abolitionism.<sup>28</sup> Denouncing the Cherokees who opposed slavery, he restated his opinion of the future of the Cherokee Nation:



We are now and forever, opposed to extending the laws of the United States over the Cherokee, Creek, and Choctaw country.

And we furthermore declare to every Cherokee, that we are now and forever, in favor of the Cherokee People becoming a free, independent and sovereign member of the American Union as a slave territory, as soon as possible, with all the privileges that belong to such Territory.<sup>29</sup>

As Boudinot's new concern illustrated, the Cherokees were once more being caught up in white America's disputes. Since the founding of the United States, the debate over the existence of slavery had raged. Although abolitionists and the defenders of the "peculiar institution" had clashed many times, the controversy heated up during the 1850s. And Arkansas, a slave state, sided with her more vehemently pro-slavery sister states of the Deep South. More frightening, however, was the fact that the conflict flared in bloodshed close to the borders of Arkansas in "Bleeding Kansas." Thus, the virtues of slavery and states' rights increasingly became the hue and cry of Arkansas politics. To make matters worse, several prominent anti-slavery missionaries lived in the Indian Territory, and if the slave-holding tribesmen were induced to renounce slavery, the abolitionist threat to Arkansas would be definitely increased. In particular, Arkansans, especially those in the northwestern part of the state, feared the abolition of slavery in the neighboring Cherokee Nation. Likewise, they opposed the sale of the Neutral Lands, for if the Cherokees sold their claim to that area, which bordered Arkansas, homesteading abolitionists could more easily aid runaway slaves.<sup>30</sup>

For Boudinot, the issue was clear. Arkansas stood for slavery and, as a rising young editor with political ambitions, his course was also set: support the Southern cause. As for the Cherokees, some were disposed to do away with slavery; many opposed doing so. In 1855, the

Cherokee National Council had passed a resolution reaffirming the Nation's commitment to slave-holding and condemning the efforts of abolitionists within the Nation.<sup>31</sup> John Ross, however, had vetoed the bill, and his veto had been sustained in a close vote.<sup>32</sup> By 1859, the slavery question precipitated a new split in the Cherokee tribe. Most full bloods, who were anti-Southern and against jeopardizing relations with the federal government, formed the anti-slavery faction; many mixed bloods, who owned slaves, sided against abolition. In turn, the full bloods tended to look to Ross for leadership, while the mixed bloods gravitated toward Stand Watie. Again, the Cherokees were taking sides around these two old enemies.<sup>33</sup> Thus, the controversy held a double meaning for Boudinot. In supporting slavery, he not only spoke for the people of his adopted state, but he also aligned with his uncle against Ross and his followers.

The developing national political crisis was not the only issue to color Arkansas politics in 1859. A division over the control of state politics arose. Thomas C. Hindman, a congressman, began to challenge Senator Robert W. Johnson for the leadership of the state Democratic Party. Hindman had been elected to congress in 1858 as a Democrat, but he soon turned against the party leaders, Senator Johnson and Governor Conway. Although he co-edited the States Rights Democrat in Helena, Arkansas, Hindman decided to sponsor a new organ in Little Rock, the state capital.<sup>34</sup>

Boudinot and Pettigrew stood with the regular Democratic machine. Consequently, when Hindman began to attack the "Family," as he dubbed Johnson and his politically placed relatives, the Arkansian condemned his actions as fostering political splintering at a time when Arkansas

Democrats needed solidarity in the face of the impending disruption of the nation. And when Boudinot and Pettigrew received the prospectus for the Old Line Democrat, Hindman's new paper in Little Rock, they remarked that it was created by the Hindman clique, whose "cause . . . is to dis-unite"; the "cause" of the Arkansian, on the other hand, was "to unite," and the attack on the party's leaders was "an insult to the good sense of the democracy of Arkansas."<sup>35</sup>

Hindman, in turn, struck back at Boudinot. In a speech at Fayetteville, the congressman charged that Boudinot, in alleging that Hindman had tried to break up the Democratic district convention at Batesville in 1856 so he could run as an independent candidate for congress, had done him an injustice. Moreover, Boudinot had written in the Arkansian that in 1856 Hindman had no strength in Washington County, where Fayetteville was the county seat. All this, Hindman proclaimed, was duplicity on Boudinot's part, and he had an old letter from Boudinot which proved his assertions. But, he could not make it public without Boudinot's consent. At that point, Boudinot emerged from the crowd, looked at the missive, and gave his permission for Hindman to read part of the document.<sup>36</sup> The letter, dated April 6, 1856, informed Hindman of the devious methods used by his opponents in Fayetteville to secure an endorsement of Albert B. Greenwood for congress. However, Boudinot told Hindman, if Greenwood did not win on the first ballot and if Hindman had a plurality, the delegation would swing to his support.<sup>37</sup>

The Old Line Democrat, when reporting the incident, stated,

The effect produced on the minds of the audience by the reading of this letter was, we are told, absolutely stunning, and the righteous indignation excited against Boudinot and all that miserable clique of demagogues and tricksters who are "compassing Heaven and Earth," and

distracting and dividing the party to break Col. Hindman down, was overwhelming.<sup>38</sup>

Apparently caught in the trap of his own words, Boudinot succinctly defended himself: "In 1856 I fancied Col. Hindman a bold, valiant, eloquent exponent of Democratic principles. I advanced his nomination in good faith and persistently."<sup>39</sup> A few weeks later, Boudinot further stated, "The ambition of Mr. Hindman to be senator is greater than his honesty."<sup>40</sup> Thus, Boudinot emerged in the forefront of the anti-Hindman camp of the Democratic Party.

As the pages of the Arkansian became filled with articles attacking Hindman, the fracas intensified. On October 13, 1859, the Old Line Democrat printed a letter critical of A. M. Wilson and the Arkansian. The writer stated that Wilson, while at a barbeque in Benton County, Hindman's home area, had made unfair remarks about the Democrats who supported Hindman, calling them "d\_\_d fools" and "a set of Whigs, Know Nothings, and Disorganizers."<sup>41</sup> Wilson's utterances, the correspondent continued, were lies which "that young Demosthenes of Fayetteville growth and liquor inspiration" was perpetuating while saying "he had nothing to do with it."<sup>42</sup> The reference to Boudinot was obvious.

On November 3, 1859, Boudinot wrote Thomas C. Peek, the editor of the Old Line Democrat, demanding the name of the letter's author, for it had been signed "One of the 35," referring to the thirty-five men who had invited Wilson to speak in Benton County. Boudinot vowed "to hold the author personally responsible."<sup>43</sup> Peek told Boudinot that A. H. McKisick had written the letter, and Boudinot immediately demanded that McKisick issue a retraction. McKisick replied that he had not written the letter. Peek, in turn, wrote to Boudinot: "As my communication has been so extensive, and having no personal acquaintance with my correspondents, you

will appreciate the difficulties which led me to this unfortunate error."<sup>44</sup> Peek went on that he had "misplaced" the manuscript, but pledged to "use every effort to find it . . . failing in that, will myself give you such satisfaction as the laws of courtesy and honor require or demand."<sup>45</sup>

By this time, however, a war of words was already raging between the Arkansian and the Old Line Democrat. Replying to Boudinot's attacks on Hindman and himself, Peek had written that Boudinot was "incompetent to pass judgment" and that his charges were "entitled to no more than the barking of an inoffensive cur."<sup>46</sup> For his part, Boudinot has described the Old Line Democrat as "an unscrupulous, unmanly piratical newspaper."<sup>47</sup> A personal animosity which ran deeper than political differences was developing between the two editors, and the controversial letter only heightened the conflict.

Peek, however, was not alone in striking at Boudinot. A damning appraisal of Boudinot appeared in a letter in the States Rights Democrat. Boudinot, the author wrote,

is one of the Cherokee tribe of Indians. Some years ago--it matters not how many--he left his country, either for his country's good or to save his own scalp, it is immaterial which. He sought and found shelter and a generous protection in Arkansas. That protection he now abuses, by interfering in our State affairs; he is one of the pets of the Johnson faction, and has the temerity to claim himself, a weightier voice in the public affairs than belongs to us, a free white citizen of the United States, and a life long democrat. Such presumption is disgusting. The People of Arkansas can surely manage their own affairs without being dictated to by this unnaturalized Indian refugee.<sup>48</sup>

The racism contained in this attack was undoubtedly a calculated slur, and the questioning of Boudinot's citizenship raised a new issue, a potentially destructive one in the political arena.

Incensed, Boudinot retorted that the letter, signed Viator, had

been written by Hindman himself. Moreover, he proclaimed, "S. S. Calhoun, Editor of the States Rights Democrat, had been guilty, like a miserable, contemptible dasdardly blackguard, of trying to create an unjust and ungenerous prejudice."<sup>49</sup>

Boudinot had another opportunity to address the question of his civic rights when a writer to the Van Buren Press asked if Boudinot was a citizen or not. Boudinot responded in the Arkansian. He stated unequivocally that he was a citizen of the United States and gave several reasons: (1) United States Supreme Court Justice Taney had ruled that an Indian could be naturalized by Congress if he left his tribe; (2) he had been born in Georgia at the time when the Cherokees were declared citizens of that state; and (3) the Cherokees had denied him the right to practice law in Cherokee courts because he was "not a citizen" of the Nation. Furthermore, he pointed out that not only was he well educated but also he had long functioned in white society.<sup>50</sup> To this argument, Boudinot might have added that he grew up in New England and that his mother was a white woman.<sup>51</sup> While his defense of his citizenship had legal overtones, it was primarily polemical in nature. Nonetheless, the issue bordered on a larger, complex legal question: could Indians be citizens of the United States? Due to the basis of this dispute, no litigation transpired, but the abstract problem remained. It would come up again in later years, not being completely resolved until 1924 when all Indians were declared citizens of the United States.<sup>52</sup>

Boudinot's own interpretation of his citizenship fluctuated. In following years, he would continue his involvement in political affairs in Arkansas, while also emphasizing his citizenship in the Cherokee Nation. Perhaps, if the United States had not been on the verge of

national catastrophe in 1859-1860, the matter may have been taken to the courts. Of course, his detractors' purpose in raising the issue was not to strip Boudinot of his rights but to nullify his influence in party politics.

Boudinot was not the only one to take offense at these attacks. A resident of Fayetteville, calling himself DECENCY, defended his neighbor in a letter to the Little Rock True Democrat. "Mr. Boudinot," he wrote, "is received and regarded as a gentlemen, the community in which he lives, respects and esteems him as such . . . was proud at one time to claim him as a personal and political friend."<sup>53</sup>

Nonetheless, Boudinot's enemies continued to bring up the issue of his Indian blood. It arose most notably in connection with the dispute over the much publicized Viator letter. Dr. C. D. Taliaferro claimed that he was the author of the letter and told Boudinot so. But, he wrote in the Old Line Democrat, "this beardless, pitiful miscreant" said it was a lie; this was the coward's way of justifying his attack on McKisick.<sup>54</sup> Furthermore, Taliaferro maintained that the devious Boudinot had likewise shown his malicious stripe when he attempted to produce people to testify that the handwriting in the letter was Hindman's.<sup>55</sup> More cuttingly, however, Taliaferro asked,

What sentence or clause of my epistle gave such mortal offence? Upon the closest scrutiny I find nothing but that from which may be deduced these distinct propositions:

- 1) Boudinot is not a white man
- 2) is not and can not be made a citizen of our state
- 3) In some of the Northern states, others than whites are enfranchised<sup>56</sup>

Boudinot curtly replied to this insulting piece; he called Taliaferro a "Quack."<sup>57</sup> As for Hindman, he asserted that Mr. M. Woodward with handwriting similar to his own had written the letter. Moreover, Mr. Martin,

also a friend of Hindman, had written letters praising the congressman. Hindman said that he had only edited these communications. To these remarks, the True Democrat, the Johnson newspaper and leading Democratic paper in the state, quickly saw the opportunity to assault Hindman, proclaiming, "He sang his own praises--he wrote his own puffs! Shame!

Where is thy blush!"<sup>58</sup> Now the political hornets began to swarm, and Boudinot, whom Hindman said regarded him with a "deathless hatred," was right in the middle.<sup>59</sup> He had become a central subject for the attacks of Hindman and his crowd, and as a commentator from Van Buren could remark, "Against no other man in this state have more slanderous and bitter epithets been hurled."<sup>60</sup>

In February of 1861, the Arkansian contained the announcement that J. R. Pettigrew had left the newspaper. Boudinot had purchased Pettigrew's interest in the newspaper. Reflecting on the paper's growth after a year of operation, editor Boudinot proudly boasted that his paper had "a larger subscription list than any paper out of Little Rock" and at least one-third more subscribers than any newspaper in western Arkansas.<sup>61</sup> Indeed, the Arkansian circulated at the volume of two thousand copies weekly, and it was probably the most influential newspaper not printed in Little Rock.<sup>62</sup> Clearly, Boudinot had made his niche in the state.

1860 was an election year, and as March rolled around the political scene began to heat up more. For Democrats in Washington County, the first major activity was the county convention. At that meeting, Boudinot and the Johnson wing of the party held sway. Of the several resolutions passed by delegates, three were of significance to Boudinot particularly. Washington County Democrats declared that they were opposed



to the sale of the Cherokee Neutral Lands and endorsed all efforts to destroy abolitionism in the Cherokee Nation. Second, they endorsed A. M. Wilson for congress. (He would challenge Hindman for his seat.) Third, they endorsed the views of the Arkansian and the True Democrat. They also chose Boudinot as a delegate to both the State Democratic Convention and the District Congressional Convention.<sup>63</sup>

With the battle lines drawn, Democrats trooped to Little Rock for their convention on April 2. The transaction of business began the next day, and the first test of strength came when Johnson's forces attempted to oust Peek as a proxy delegate from Benton County.<sup>64</sup> In February, Benton County Democrats had held a mass meeting at the courthouse in Bentonville, but they had been unable to formulate an agreement between the Hindman and Johnson forces. That afternoon some of them--Johnson supporters--met again and selected two delegates. The Hindman crowd also called another meeting; they selected three delegates, with the stipulation that "in the event of their non-attendance" at the state convention Peek would "act as their proxy."<sup>65</sup> The delegates did not attend the state convention, and Peek duly submitted his credentials as a proxy. The majority of the credentials committee, however, concurred with a movement from the floor to strip Peek of his delegate status, as Boudinot and others argued for the majority report. When the vote was taken, the majority report prevailed; Peek was rebuffed. The next day, April 4, Richard H. Johnson, the senator's brother and editor of the True Democrat, received the nomination for governor.<sup>66</sup>

On the morning of April 5, the convention drew to a close. As part of the final activities, Boudinot offered a resolution calling for the appointment of "an executive committee . . . whose duty it shall be to

supply any vacancy which may occur in the state Democratic electoral ticket . . . and to fix a day for the holding of the next state conven-

tion.<sup>67</sup> The delegates adopted his proposal, thereby creating the Democracy of Arkansas' first central committee. In turn, the president of the convention named Boudinot chairman of the new committee.<sup>68</sup>

Boudinot's loyalty to the Johnson faction had paid off; not yet twenty-five years old, he had been acknowledged as an influential political figure.

The Hindman crowd, especially Peek, decried Boudinot's appointment, and in response, the Arkansian carried the following comments:

If Mr. Peek's aspirations to this position have been so ruthlessly blighted as to render the appointment "nauseous," we trust he will, if in no other way, find relief in his editorial retchings. His assertions that we are not entitled to the elective franchise, is not the result of ignorance, but the slime of cowardice and false heart, and a servile pen.<sup>69</sup>

The conflict between Peek and Boudinot certainly had not abated. If anything, it was exacerbated. And soon, the two men would be in close proximity to each other, for Boudinot was preparing to become an editor for the True Democrat.

On May 11, 1860, Boudinot announced in the Arkansian that his "editorial duties and responsibilities" were "dissolved."<sup>70</sup> Before he left for Little Rock, however, he had another party function to attend: the Democratic First Congressional District Convention. When he journeyed to Dover, Arkansas, on May 14, the experience promised to be less pleasing than that in Little Rock, for Hindman's forces dominated this gathering.

Boudinot and his fellow delegates from Washington County were pledged to A. M. Wilson as the candidate for Congress. The convention,

however, was stacked for Hindman. Moreover, Hindman's people wanted to discredit and humiliate Boudinot. To begin with, the still angry Hindman supporters from Benton County offered a derogatory resolution:

That the representation made in the late State Convention by the half breed delegate for Washington County, E. C. Boudinot, unnaturalized alien, in relation to our County Convention, viz. that it was held over a whiskey barrel and the vote taken amid the din of tin cups and cans etc. is notoriously false as to the fact, manifestly malicious in intent, and he thereby demonstrated to the world, as he had previously done to us, his unworthiness to receive the most common respect and confidence of White men and gentlemen.<sup>71</sup>

Next, the credentials committee, to which the question of Boudinot's citizenship had been presented, came before the delegates. Noting the seriousness of the issue, a majority of the committee (Hindman supporters) said that since the "allegation" against Boudinot was "not fully proved" they, "in a spirit of fairness and liberality, and from respect to Washington county," recommenced Boudinot "be admitted to a seat" in the convention.<sup>72</sup>

A minority of the committee in turn declared their "entire and absolute disapprobation of the covert insult offered to E. C. Boudinot," whom they deemed "a gentleman in every sense of the word, a sound, good, and true democrat and the peer of any delegate."<sup>73</sup>

After discussion from the floor, the question of Boudinot's status was referred back to the committee.<sup>74</sup>

When the delegates finally turned their attention to the main task at hand--making a nomination--the outcome was never in doubt. Hindman was easily renominated for Congress. But regardless of the strength of the Hindman contingent, Boudinot became the voice of discontent, and his actions at the convention became a point of dispute.<sup>75</sup>

One report was that after a resolution critical of the state convention had been adopted, Boudinot announced that he could no longer "act"

with the convention and asked for permission to present a formal protest against the proceedings.<sup>76</sup> According to the True Democrat, however, Boudinot did not make such a statement. Rather, he claimed that the resolution had been passed while he was not on the floor. When told that it repudiated the actions of the state convention, he then said he could no longer cast a vote for Washington County and asked to inspect the resolution.<sup>77</sup> The True Democrat furthermore declared that Boudinot's remarks were met with cheering and that his "defense" of the state convention and his right to be a delegate "was a masterly effort" which held "the sympathies of nine-tenths of the spectators."<sup>78</sup>

By the time the delegates adjourned on April 15, the credentials committee had reported back to the convention on Boudinot's right to be a delegate. In doing so, the committee lamely recited the Dred Scott Decision: Indians were the same as foreigners and could be naturalized by an act of congress.<sup>79</sup> In all, it did not matter. Hindman had controlled the convention and had seemingly chastised Boudinot. Conversely, Boudinot had again come to the fore as an outspoken and relentless opponent of Hindman and a defender of the Johnson wing of the party.

After the Dover convention, Hindman and his spokesmen initiated a new attack on the Johnsons. The Old Line Democrat had displayed the names of all the nominees from the state convention, including Richard H. Johnson's at the head of the ticket. In late May, however, Johnson's name was dropped. Hindman endorsed Henry M. Rector as an independent Democratic candidate for governor, and Peek dutifully substituted Rector's name for Johnson's.<sup>80</sup> At the same time, the True Democrat halfheartedly endorsed Hindman as the official Democratic nominee for

the First District Congressional seat but indicated that his defeat would not be greatly lamented.<sup>81</sup>

At the same time, Boudinot bid farewell to Fayetteville and headed to Little Rock. Richard Johnson had stepped down as editor of the True Democrat a few days after his gubernatorial nomination and had asked Boudinot to work for the paper.<sup>82</sup> On June 9, 1860, the first issue of the True Democrat under editor Boudinot came out. His editorial stressed the need for the Democratic Party to pull together, both in Arkansas and across the nation, for the "political affairs of this country present a melancholy appearance."<sup>83</sup> Boudinot did not remain as the sole editor for long, however. J. H. Black, the former editor of the Washington, Arkansas, South Arkansas Democrat, would soon take over as senior editor.<sup>84</sup> But as the campaign intensified, Boudinot would shoulder a good share of work, especially in applying his forceful prose to editorials.

With his nemesis in Little Rock, Peek made the most of it. Commenting that Boudinot had derided him for being paid lacky of Hindman and had called Hindman a "coward and a bully," Peek pointed out the irony of the situation: Boudinot, "for monied consideration," had "hired himself to edit a newspaper that advocates" Hindman's reelection to congress.<sup>85</sup> He also declared that Boudinot, more than Black, was a "bitter and unscrupulous agent," a "mongrel Cherokee" who had been the "editor of a low, dirty and scurillous sheet."<sup>86</sup> Now, Peek continued, "he is giving vent to the bitterness of his Indian nature, in language as coarse and brutal and insulting as ever grained upon the ears or shocked the sensibility of decent people."<sup>87</sup> Peek's blatantly racist remarks only further incensed Boudinot. Peek's insults were

definitely malicious and strikingly derogatory. In fact, in the middle of July, rumors abounded that the two men would resolve their differences in a duel following the election.<sup>88</sup>

The two men continued to hurl insults at each other, with Peek casting the more telling blows. After Boudinot called Peek "a little fellow," for example, Peek replied, "The poor lame Indian of the True Democrat. . . . Those who have observed the diminutive form of this individual waddling along our streets will appreciate the laughableness of this charge."<sup>89</sup> And when Boudinot alluded to settling their dispute on the field of honor, Peek, referring to his rival as the "colored editor of the True Democrat, wrote, "What absurdity! We have this to say in reply to Mr. Boudinot, once and for all, that we do not regard him as our equal in any respect--morally, socially or politically; and do not intend to notice any insult he may make upon us, unless it be a personal one."<sup>90</sup>

To all this, Boudinot retorted in kind. He said that when he called himself the "peer of Mr. Peek" he only meant politically equal, for "in all else that goes to make up an honest, a decent, and a high-toned member of society, I never have admitted his equality."<sup>91</sup> With regard to Peek's references to his physical impairments, Boudinot remarked,

He alludes to me as "the poor lame Indian" to my "diminutive form" and "waddling" gait; it is true than an accident in childhood has made me a cripple for life, and my own physical misfortune has long ago taught me to speak kindly of the infirmities of others. If I ever have called Mr. Peek a "little fellow," it was in reference to the pliant editor, and not to the physical man.<sup>92</sup>

As for the issue of equality, Boudinot went on that Peek must consider him his peer or else he would not spend so much effort heaping abuse on

him. In all, Boudinot branded Peek "a liar and a coward."<sup>93</sup>

Others also came to Boudinot's defense. One, for example, declared that Hindman, Peek, Calhoun, and that lot had to disgrace Boudinot "in advance" in order to "destroy the force of his arguments."<sup>94</sup>

Another opined that Boudinot "seems to have been singled out above all others by the partisan Demagogues of the state for their slanderous and low contemptible abuses."<sup>95</sup> As for the Cherokee's inferior status, his detractors were told that he was their "superior in all things pertaining to the Democrat and gentleman, as the well-bred Englishman over the Hottentot, or the majestic king of beasts over the skunk."<sup>96</sup> The verbal barbs and innuendoes emanating from Boudinot and Peek engendered a state-wide dispute.

In some respect, the burgeoning antipathy between Boudinot and Peek attracted as much attention as the conflict between Hindman and the Johnsons. In that larger struggle, however, Hindman had the initiative. He decried the patronage-based power of the Johnson "family" while proclaiming himself the champion of Southern rights. When Arkansans went to the polls on August 6, the success of his efforts became clear. Not only was he returned to congress by an overwhelming vote but, more importantly, Richard H. Johnson was defeated. Rector received 30,577 votes, while Johnson tallied 28,618. Although the gubernatorial contest had been close, the "family" had lost.<sup>97</sup>

The people of Arkansas did not have the luxury of sitting back and reflecting on the political changes in the state, however; a greater contest, one of wider concern, still lay before them: the presidential election.

The contest for the presidency was a four-cornered race. In

Arkansas, as in most Southern and Border states, party lines were blurred, if not nonexistent. Only one presidential hopeful, Abraham Lincoln, the Republican Party's nominee, had no support. His free soil views and abolitionist supporters made him totally unacceptable. On the other hand, the Democratic Party, the traditional force in Arkansas politics, was split. Stephen A. Douglas of Illinois was the candidate of the Northern branch of the party, but his concept of popular sovereignty had alienated Southern Democrats. The Southerners had named John C. Breckinridge of Kentucky as their standard-bearer. To complicate the picture further, the American or "Know Nothing" Party changed its name to the Constitutional Union Party and nominated John Bell of Kentucky for president. While all four men professed the same concern--the preservation of the Union--each had a different approach. In Arkansas, Breckinridge, the candidate of states rights, was clearly the most popular. Bell, however, had several supporters, and even Douglas, a long time Democratic leader, had some followers.<sup>98</sup>

The situation in the country was serious. The prospect of disunion had loomed for several months. Indeed, some Arkansans regarded the positions taken by the True Democrat and the Old Line Democrat as barometers of the attitudes of the state's leaders. And as early as May 9, 1861, James David Walker pessimistically wrote to his uncle David A. Walker, an eminent Fayetteville judge, that the failure of the True Democrat to "take issue" with the "avowed" extremist pro-Southern "doctrines of the Old Line Democrat" was just one of the more recent many "indications" of the "real wish of the leading democrats in this state . . . to dissolve the union and establish a southern republic."<sup>99</sup> Whatever the desires of the party leaders, both the Johnson and Hindman



factions supported Breckinridge. And in a rather backhanded way Boudinot and the True Democrat appealed to the Old Line Democrat for cooperation. "We are heartily sick," read the True Democrat of August 25, "of the claptrap--having been nauseated by the Old Line Democrat with ad captandum stuff during the last canvass"; now, it declared, both papers and all Arkansans needed to stand against national disunion and the Republican Party and to work for Breckinridge's victory.<sup>100</sup>

Boudinot, for his part, continued to do work for the Democratic Party, and in mid-August he became a member of the new central committee for Little Rock.<sup>101</sup> Then, shortly before voters trooped to the polls in November, he returned to Fayetteville to campaign for Breckinridge and found himself in controversy with the supporters of Bell. After W. D. Reagan had spoken on behalf of Breckinridge at the courthouse, R. M. Gunter and another Bell supporter stated their reasons for backing Bell, and Gunter "taunted" the Breckinridge speakers for not having "fair discussions."<sup>102</sup> Boudinot immediately rebuked him, offering to debate the issues, and so they did that night before the election.<sup>103</sup> In the long run, however, the effort was in vain. Breckinridge carried Arkansas and most of the Southern states, but Lincoln won the election.

Although South Carolina threatened secession when the news of Lincoln's election was verified and the United States faced its greatest crisis ever, people in Arkansas continued about their business. They, like so many other Americans, hoped or believed that some compromise would be reached. Boudinot, likewise, did not panic; he, too, functioned normally. In November, he sold his interest in the Arkansian to T. J. Hines.<sup>104</sup> And as Arkansas strove to present a united citizenry in the face of the imposing sectional crisis, even Thomas C. Peek attempted to

make overtures of conciliation to Boudinot. In the December 20 issue of the Old Line Democrat, Peek noted the charge in the True Democrat that he had not supported Breckinridge until after the True Democrat had done so, an assertion which he attributed to Boudinot. However, he continued,

By Mr. Black's repeating the charge we suppose that he is responsible for that and many other dirty things for which Mr. Boudinot had received credit, and of which we now acquit him with an acknowledgement of the wrong we unintentionally did him.<sup>105</sup>

In making this cryptic apology, Peek nevertheless referred to Boudinot as "the Indian editor."<sup>106</sup> However, there is no reason to believe that Boudinot had not led the attack on Peek and the Old Line Democrat. The remarks in the True Democrat had been similar to and no less scathing than those Boudinot printed in the Arkansian. Whether Peek's statement mollified Boudinot's wrath or not, the two men could hardly ever be friendly competitors, and probably neither desired to be.

As for the Hindman and Johnson forces in general, an effort was made to ameliorate their differences. They now had a common cause. Hindman even wanted to merge the Old Line Democrat with the True Democrat, but the Johnsons refused. In January, 1861, the Old Line Democrat folded.<sup>107</sup> Nonetheless, while the aftermath of the recent controversy no doubt left bitterness, the concerns of the moment did overshadow personal animosities. A tremendous crisis faced all Americans.

For Arkansas and Boudinot, December 20 was a day which had more significance than any of Peek's comments or all the controversy generated in the state campaign. On that day, South Carolina seceded from the Union. By February 1, the six other states of the lower South would

join her. The people of Arkansas and other southern states now had to decide if they would follow in the steps of their fellow southerners.

At this crucial time, Boudinot left the True Democrat, returned to Fayetteville, and again undertook the practice of law.<sup>108</sup> Events were underway, however, which precluded his revival of a peaceful life. Both Hindman and Robert Johnson, in Washington with the Congress, urged the state to secede. And on January 15, 1861, Governor Rector signed a bill passed by the state legislature calling for the governor to ask Arkansans to vote for or against the assembling of a secession convention. February 18 was set as the date for the plebiscite. In Fayetteville, Boudinot and others signed the call for a meeting at the courthouse on February 1 in order to select candidates to attend the proposed secession convention.<sup>109</sup>

Yet, while the national mood turned grim and the possibility of war loomed, the optimistic, and opportunistic, Boudinot gave his attention to business ventures. In particular, he was interested in acquiring holdings in the Cherokee Nation. On February 12, he wrote to Stand Watie:

I wish you to assist me in purchasing improvements on Grand River where large farms may be hereafter made. And I also intend to purchase on the Arkansas River. A few hundred dollars together with stock may be expended in this way, and which will in a short time return an immense percentage. My own means will go but a little ways, but a gentleman-- whose name I will tell you when we meet--who has made a fortune already in land speculation stands ready to back me, however extensively I go in. In cooperating with me you may turn your stock to a great advantage. . . . I am firmly of your opinion that "now is the time to strike" and that quickly. There is money in it and we can make it.<sup>110</sup>

Boudinot's visions of wealth, however, were destroyed by the ongoing political events. Arkansans voted for a secession convention, which would be held in early March in Little Rock.<sup>111</sup> Thus, Boudinot

journeyed to the state capital to witness the convention. Although not a delegate, he would nevertheless play a part in the drama.

The secession convention convened on March 4, the day of Lincoln's inauguration. It was dominated by unionists, however. In fact, all five delegates sent from Washington County were unionists. No doubt, Boudinot tentatively sided with his friends, at least at this time.<sup>112</sup> In turn, he was rewarded. When the convention began, the delegates selected him secretary, pro tempore.<sup>113</sup> At the same time, they elected Judge David A. Walker of Fayetteville President of the Convention. Later that day, Boudinot received the position of permanent secretary by acclamation.<sup>114</sup> An interesting sidelight to the event was that Peek also was on hand and had been distributing cards which read "THOMAS C. PEEK, Candidate for Secretary of the Convention."<sup>115</sup> The unfortunate former editor of the now closed Old Line Democrat could not even manage to be nominated. This time, Boudinot had clearly bested him.

The convention lasted until March 21 and, with many unionists among the delegates, the secessionists could not control the proceedings. A compromise, however, was struck. The delegates decided to call for a state-wide referendum on the question of secession on August 5 and then to meet in a second session before August 19. But, if necessary, they could reconvene in an emergency meeting any time before that date.<sup>116</sup>

Boudinot returned to northwest Arkansas and made a series of speeches expressing his regret over the prospect of secession but reasoning that it was a reality. In Bentonville, for example, his eloquence so swayed the audience, especially when he alluded to the American eagle and what it stood for--the greatness of the United States--that a farmer from Elk Horn gave him an eagle which he had

captured. Boudinot returned to Fayetteville with the large bird, and having no place to keep it, he put it in the custody of his friend J. M. Tebbetts. People came from all around to gaze at the caged bird.<sup>117</sup>

Events now moved quickly. In April, Confederate forces in South Carolina fired on Fort Sumter, and Lincoln called for 75,000 volunteers. War was at hand. Immediately, David A. Walker sadly called for the secession convention to reassemble in May. At the time, attitudes hardened. Fence-straddlers could no longer equivocate. Unionists had to reevaluate their positions. Many now reluctantly opted for secession. As a citizen of Fayetteville informed the True Democrat, "We are no longer divided. The people are all together for secession."<sup>118</sup> Undoubtedly, Boudinot was among their number.

Faced with this emergency, the Arkansas secession convention reconvened on May 6. This time the delegates voted for secession from the Union and refused to submit the issue to the people. Arkansas would join the Confederacy.<sup>119</sup> When Tebbetts, an arch unionist, heard the news, he released the eagle, saying "Not for one moment would I keep a United States eagle confined in the air of a traitorous state."<sup>120</sup> His action was symbolic, not only of the sentiments of so many unionists but also of the division to arise between friends. He and Boudinot were now on opposing sides, their friendship temporarily shattered by the tide of disunion and the advent of civil war.

As for Boudinot, he dutifully remained in Little Rock fulfilling his obligations as secretary of the convention. Concurrently, his plans for the future began to crystalize. He had heard Governor Rector advise the convention to send commissioners to treat with the Indians in the Indian Territory.<sup>121</sup> In the Cherokee Nation he could do the most good

for the Confederacy. There, Stand Watie was recognized as the main spokesman for the Confederate cause, and Boudinot could aid his uncle as well as possibly advancing his own fortunes in public life. A new chapter in his life was about to unfold.

ENDNOTES

<sup>1</sup>William S. Campbell, One Hundred Years of Fayetteville 1828-1928 (Fayetteville, Ark.: The Washington County Historical Society, 1977), p. 92.

<sup>2</sup>*Ibid.*, pp. 107-108.

<sup>3</sup>Letter of Elias C. Boudinot to Fayetteville Weekly Democrat, dated January 2, 1872. Typescript copy of the letter taken from Democrat, January 13, 1872, in Elias C. Boudinot File, Washington County Historical Society, Fayetteville, Arkansas. Cephas Washburn had for many years been a missionary to the Cherokees. His son, Woodward, who changed his last name to Washbourne, remained as agent to the Seminoles until 1857. Clipping from Arkansas State Gazette (Little Rock, Ark.), 20 February 1847, in Elias C. Boudinot File, Washington County Historical Society. Also see Thomas Elton Brown, "Seminoles Agents, 1834-1874," Chronicles of Oklahoma 51 (Spring, 1973), 69-72.

<sup>4</sup>Elias Cornelius Boudinot to Stand Watie, 11 Septmeber 1855, in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 84-85.

<sup>5</sup>*Ibid.*

<sup>6</sup>Elias Cornelius Boudinot to Stand Watie, 16 December 1855, CP, WHC.

<sup>7</sup>Fay Hempstead, A Pictorial History of Arkansas from Earliest Times to the Year 1890 (St. Louis, Mo.: N. D. Thompson Publishing Company, 1890), p. 1106.

<sup>8</sup>History of Benton, Washington, Carroll, Madison, Crawford, Franklin and Sebastian Counties, Arkansas (Chicago: Goodspeed Publishing Co., 1889), p. 244.

<sup>9</sup>William Quesenbury to Stand Watie, 27 January 1857, CP, WHC.

<sup>10</sup>Campbell, p. 26.

<sup>11</sup>Arkansian (Fayetteville), 24 February 1860.

<sup>12</sup>Arkansian, 5 March 1859.

<sup>13</sup>Like most "boosters," Boudinot wanted to see railroads come into the West. A line along the thirty-fifth parallel would have cut through the center of Arkansas and the Indian Territory.

<sup>14</sup>Arkansian, 16 April 1859.

<sup>15</sup>Arkansian, 23 April 1859.

<sup>16</sup>Arkansian, 18 June 1859.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid.

<sup>19</sup>Ibid.

<sup>20</sup>Ibid.

<sup>21</sup>Ibid.

<sup>22</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 105-106; Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), pp. 75-76. For more information on Johnson, see Elsie M. Lewis, "Robert Ward Johnson: Militant Spokesman of the old-South-West," Arkansas Historical Quarterly 13 (Spring, 1954), 16-30; Dictionary of American Biography, s.v. "Johnson, Robert Ward."

<sup>23</sup>Arkansian, 16 July 1859.

<sup>24</sup>Arkansian, 23 July 1859.

<sup>25</sup>Arkansian, 30 July 1859.

<sup>26</sup>Ibid.

<sup>27</sup>Ibid.

<sup>28</sup>Arkansian, 30 September 1859.

<sup>29</sup>Arkansian, 7 October 1859.

<sup>30</sup>Arkansian, 23 November 1859.

<sup>31</sup>Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), p. 163; Kenny L. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), pp. 111-112.

<sup>32</sup>Moulton, p. 163.

<sup>33</sup>Franks, p. 114; Wardell, pp. 118-123.



<sup>34</sup>The background to the conflict between Hindman and the Johnsons is somewhat vague. Some believed that Hindman turned against the Johnsons because Robert W. Johnson had not supported Hindman's candidacy for the Senate in 1858. Also, it has been argued that Hindman wanted to control political patronage in the state. For more background, see Harold Truman Smith, "Arkansas Politics, 1850-1861" (M.A. thesis, Memphis State University, 1964); Elsie Mae Lewis, "From Nationalism to Disunion: A Study of the Secession Movement in Arkansas: 1850-1861" (Ph.D. diss., University of Chicago, 1946), pp. 265-360.

<sup>35</sup>Arkansian, 23 July 1859. For more on the "family," see Michael B. Dougan, "A Look at the 'Family' in Arkansas' Politics, 1858-1865," Arkansas Historical Quarterly 29 (Summer, 1970), 99-111. Also see Dougan, Confederate Arkansas: The People and Politics of a Frontier in Wartime (University: University of Alabama Press, 1976), pp. 12-22.

<sup>36</sup>Old Line Democrat (Little Rock, Ark.), 20 October 1859.

<sup>37</sup>Ibid.

<sup>38</sup>Ibid.

<sup>39</sup>Arkansian, 14 October 1859. For more on the dispute over Boudinot's letter, see True Democrat (Little Rock, Ark.), 12 October and 2 November 1859.

<sup>40</sup>Arkansian, 11 November 1859.

<sup>41</sup>Old Line Democrat, 13 October 1859.

<sup>42</sup>Ibid.

<sup>43</sup>Old Line Democrat, 1 December 1859.

<sup>44</sup>Ibid.

<sup>45</sup>Ibid.

<sup>46</sup>Old Line Democrat, 17 November 1859.

<sup>47</sup>Ibid.

<sup>48</sup>Arkansian, 16 December 1859.

<sup>49</sup>Ibid.

<sup>50</sup>Arkansian, 6 January 1860.

<sup>51</sup>This point was made in a letter to the Helena (Arkansas) Note Book and later cited in Arkansian, 3 February 1860.

<sup>52</sup>The question of Indian citizenship was a complicated concern. For two good general articles on the convoluted legal issue, see R.

Alton Lee, "Indian Citizenship and the Fourteenth Amendment," South Dakota History 4 (Spring, 1974), 198-221, and Michael T. Smith, "The History of Indian Citizenship," Great Plains Journal 10 (Fall, 1970), 25-35.

<sup>53</sup>True Democrat, 11 January 1860.

<sup>54</sup>Old Line Democrat, 26 January 1860.

<sup>55</sup>Ibid.

<sup>56</sup>Ibid.

<sup>57</sup>Arkansian, 10 February 1860.

<sup>58</sup>True Democrat, 15 February 1860.

<sup>59</sup>Ibid.

<sup>60</sup>These remarks were made in a letter to Richard H. Johnson, editor of the True Democrat. The writer also said of Boudinot, "I know him to be the soul of honor and truth; that in mind, heart and manner he is a gentleman." True Democrat, 16 June 1860.

<sup>61</sup>Arkansian, 24 February 1860.

<sup>62</sup>Fred W. Allsopp, History of the Arkansas Press for a Hundred Years and More (Little Rock,: Parke-Harper Publishing Company, 1922), p. 463.

<sup>63</sup>Arkansian, 2 March 1860.

<sup>64</sup>Old Line Democrat, 5 April 1860.

<sup>65</sup>Ibid.

<sup>66</sup>Ibid.

<sup>67</sup>Ibid.

<sup>68</sup>Ibid.; also see True Democrat, 7 April 1860.

<sup>69</sup>Arkansian, 4 May 1860.

<sup>70</sup>Arkansian, 11 May 1860.

<sup>71</sup>Arkansian, 25 May 1860.

<sup>72</sup>Arkansian, 16 June 1860.

<sup>73</sup>Ibid.

<sup>74</sup>Old Line Democrat, 22 May 1860.

75Ibid.

76Ibid.

77True Democrat, 9 June 1860.

78True Democrat, 2 June 1860.

79Old Line Democrat, 22 May 1860.

80Old Line Democrat, 24 May 1860.

81Margaret Ross, Arkansas Gazette: The Early Years, 1819-1866 (Little Rock: Arkansas Gazette Foundation, 1969), p. 343.

82Ibid.

83True Democrat, 9 June 1860.

84Both Margaret Ross and Fred Allsopp state that Boudinot was the senior editor, but that was not the case. True Democrat, 16 June 1860. Also see Ross, p. 343; Allsopp, p. 344.

85Old Line Democrat, 21 June 1860.

86Old Line Democrat, 16 July 1860.

87Ibid.

88Ross, p. 346.

89Old Line Democrat, 20 July 1860.

90Ibid.

91True Democrat, 20 July 1860.

92Ibid.

93Ibid.

94True Democrat, 2 June 1860.

95Remarks in Pochohantos, Arkansas, Advisor and Herald, n.d., cited in True Democrat, 13 June 1860.

96Remarks in Advisor and Herald, n.d., cited in Arkansian, 8 June 1860.

97Ross, p. 346.

98See E. L. Harvin, "Arkansas and the Crisis of 1860-1861: (M.A. thesis, University of Texas, 1926) and Jack B. Croggs, "Arkansas in

the Secession Crisis," Arkansas Historical Quarterly 12 (Autumn, 1953), 179-224. Also see appropriate sections of Dougan, Confederate Arkansas and Lewis, "From Nationalism to Disunion."

<sup>99</sup>James David Walker to David A. Walker, 9 May 1860, David Walker Papers, Special Collections, University of Arkansas.

<sup>100</sup>True Democrat, 25 August 1860. Also see Ross, pp. 347-348. The two papers' common support for Breckinridge did not put them on a friendly plane, however. The True Democrat, for instance, still found other points of contention with its rival and began to accuse the Old Line Democrat of "pilfering" articles from the True Democrat. True Democrat, 8 September 1860.

<sup>101</sup>True Democrat, 18 August 1860.

<sup>102</sup>Arkansian, 9 November 1860.

<sup>103</sup>Ibid.

<sup>104</sup>Arkansian, 17 November 1860.

<sup>105</sup>Old Line Democrat, 29 December 1860.

<sup>106</sup>Ibid.

<sup>107</sup>Dougan, Confederate Arkansas, p. 38.

<sup>108</sup>Arkansian, 5 January 1861. Richard H. Johnson had again assumed the editorship of the True Democrat by this time. However, Boudinot was still listed as editor for the True Democrat until late January, 1861.

<sup>109</sup>Arkansian, 1 February 1861.

<sup>110</sup>Elias C. Boudinot to Stand Watie, 12 February 1861, in Dale and Litton, pp. 102-103.

<sup>111</sup>The vote was 27,412 for a convention; 15,826 against. Many who voted, however, were pro-Union. Dougan Confederate Arkansas, p. 45; Scroggs, p. 208; Lewis, "From Nationalism to Disunion," p. 371.

<sup>112</sup>H. F. Thomason to Daniel C. Williams, 7 March 1861, Eno Collection, Arkansas History Commission, Little Rock, Arkansas; Lewis, "From Nationalism to Disunion," p. 395.

<sup>113</sup>Journal of Both Sessions of the Convention of the State of Arkansas (Little Rock, Ark.: Johnson & Yerkes, 1861), p. 7.

<sup>114</sup>Ibid.

<sup>115</sup>Arkansian, 5 March 1861.

<sup>116</sup>For more on the convention, see Scroggs, pp. 209-215. Also see Ralph Wooster, "The Secession Convention," Arkansas Historical Quarterly 13 (Summer, 1954), 175-194.

<sup>117</sup>Sentinel (Fayetteville), 21 August 1888; The Journal of Marian Tebbetts Banes (Fayetteville, Ark.: Washington County Historical Society, 1977), pp. 85-86.

<sup>118</sup>True Democrat, 2 May 1861.

<sup>119</sup>Scroggs, pp. 223-225. Four of the five who voted against secession then changed their votes. Thus, the official final tally was sixty-nine to one for secession. At the same time, the delegates declared that their decision was final and the people could not vote again on the issue.

<sup>120</sup>Journal of Marian Tebbetts Banes, p. 86.

<sup>121</sup>Henry M. Rector to John Ross, 29 January 1861, in War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies, Ser. i, XIII, p. 490 (hereafter cited as ORWR).

## CHAPTER V

### IN UNIFORM

All Americans found 1861 to be a momentous year. The United States had divided, and a war was underway. Choices had to be made, sides taken. Elias C. Boudinot also had to make decisions. He had no doubt about his loyalties: He cast his lot with the newly formed Confederate States of America. Although only twenty-five years old, he already had important political and social ties in Arkansas. Yet, he was part Cherokee, a member of a leading family in the Cherokee Nation. Moreover, his uncle, Stand Watie, was the leader of the pro-Confederate faction of Cherokees. Young Boudinot thus decided to join with Watie in the Cherokee Nation where he would have the opportunity to play a role in the affairs of his father's people who had heretofore made him a virtual outcast.

The impetuous Boudinot no doubt welcomed the impending fortunes of war. He was a willing warrior. And indeed, he cut a fine figure. Eloquent and literate, he was the superior of most in debate. Brown-eyed, rather than yellow in complexion, and sporting long black hair, he exhibited all the features of Indianness while also exuding a personality imbued with gallantry--a striking mixture of the noble savage and the chivalric Southerner.<sup>1</sup> This was an image that he both cherished and cultivated.

While Boudinot concluded his duties as secretary of the Arkansas secession convention and contemplated Cherokee affairs, the Cherokee Nation was in a state of confusion and controversy. Since 1859, the growing conflict over slavery had also found root among the Cherokees. In that year, the secret Keetoowah Society had been re-established. Its members, mostly full bloods, and called "Pins" because of the insignia of crossed pins which they wore, were under the influence of Evan and John Jones, abolitionist missionaries, and John Ross. Although a slaveholder himself, Ross had little sympathy for the Southern cause. At the same time, he was under pressure from Watie and others within the tribe to make an alliance with the Confederacy. The pro-Southern Cherokees, in fact, also had their own organization: the Knights of the Golden Circle. The pro-Southern element of the tribe, numbering over six thousand, constituted a significant minority of the Cherokee people. Moreover, Ross realized that the pro-Southern factions consisted of many from the old Ridge party. Thus, he could see the old threat of disunity again gripping the Cherokee Nation as a conflict emanating from outside the Cherokee Nation threatened to destroy the peace and cohesion of the preceding decade.<sup>2</sup>

Ross and other Cherokee leaders were also under pressure from the Confederate government and the people of Arkansas to align the Cherokees with the Confederacy. Because the Cherokee Nation bordered the state of Arkansas, Arkansans, especially political leaders, had a strong interest in Cherokee affairs.<sup>3</sup> Even before Arkansas seceded from the Union, pro-Confederate Governor Henry M. Rector wrote Ross, urging him to lead the Cherokees into the Confederacy.<sup>4</sup> In turn, Boudinot's election as secretary of the secession convention may have been seen by some as a "friendly

gesture" to the Cherokees.<sup>5</sup>

Then, in April of 1861, federal forces were withdrawn from the Indian Territory.<sup>6</sup> Federal troops also left Arkansas. No support or protection from the Union was available. Concurrently, the Confederate government actively pursued Indian affairs. In March, 1861, the Confederate Congress authorized President Jefferson Davis to appoint a commissioner to make treaties with the tribes in the Indian Territory. David chose Albert Pike of Arkansas, who was known for his closeness with the tribes.<sup>7</sup>

While Pike awaited instructions, other Arkansans cast an anxious eye on their Indian neighbors. The safety of Arkansas would be imperiled if the tribes did not renounce their ties with the Union, for the Indian Territory could possibly become a base for future Union military operations. Yet, many southerners were confident that the Indians would side with the Confederacy. A. M. Wilson of Fayetteville, who had close connection with tribal leaders and who had trained Boudinot in law, held this view and told his sister-in-law on May 7, the day after Arkansas seceded, that "The Indian country west of us are with us in feeling, and when the hour shall come they will answer a good purpose."<sup>8</sup> Two days later, a group of men from northwestern Arkansas drafted a letter to John Ross asking if he intended to side with the North or the South.<sup>9</sup> On May 15, Ross received a similar inquiry from Lieutenant J. R. Kanady of Fort Smith.<sup>10</sup> Three days later, A. M. Wilson and J. Woodward Washbourne likewise penned a missive to Stand Watie. Referring to a letter sent earlier to Watie by the residents of Fayetteville, Wilson and Washbourne reiterated the fears and wishes of Arkansans. They also informed Watie that "a certain number of guns, good guns, have been granted to the



State of Arkansas, for the use of the Cherokees in the defense of their and our frontier."<sup>11</sup> They urged Watie to organize military companies and concluded, "The interests of the Cherokees are identical with ours, we feel them to be so and we will do all in our power to aid and protect them."<sup>12</sup>

Thus encouraged, Watie did begin working to form pro-Confederate Cherokee units. As for Ross, he took a different line. The same day that Wilson and Washbourne composed their letter to Watie, Ross drafted a reply to those residents of northwest Arkansas who had written him on May 9. Ross stated that he desired peace; he hoped that war would not come. And for the time being, he and the Cherokee Nation would hold a position of "strict neutrality."<sup>13</sup>

By this date, the Confederate Congress had finally drawn up a list of particulars for Pike. Receiving his instructions on May 21, the Confederate commissioner thus prepared to deal with the Indians.<sup>14</sup> Prior to counciling with the tribes, however, Pike met with Brigadier General Ben McCulloch of Texas, who was soon to be the Confederate commander in the Indian Territory. Conferring at Fort Smith in late May, the two Southern leaders were joined by Watie and a few of his men; probably Boudinot came with Watie.<sup>15</sup> After this meeting, perhaps even before he arrived at Tahlequah in his mission to ally the Cherokees with the Confederacy, Pike conveyed his impressions of affairs in the Cherokee Nation to Robert Toombs, the Confederate Secretary of State. Pike told Toombs that the old Cherokee feud had heated up again. "The half breed or white Indians (as they call themselves) are to a man with us," he informed Toombs.<sup>16</sup> Ross called for the Cherokees to be neutral, but Pike believed that the old chief could be swayed if he received strong

assurances of Confederate good faith and protection.<sup>17</sup>

When Pike formally met with John Ross in early June, he was disappointed. Ross would not change his policy, and no treaty was signed. Disgusted, Pike left, but he told Ross that he would not make another offer to the Cherokees.<sup>18</sup> If the Cherokee Nation wanted to treat with the Confederacy, Ross would have to request another conference. With that, Pike journeyed on to meet with other tribes. All the while, Watie and his followers were organizing into military units.<sup>19</sup>

After Pike left the Cherokee Nation, Ross soon received a communication from David Hubbard, the Confederate Commissioner of Indian Affairs. Hubbard likewise called on Ross to lead the Cherokees into the Confederate fold.<sup>20</sup> The same day, June 12, General McCulloch also sent a letter to Ross. McCulloch declared that it was not his intention to involve himself in Cherokee governmental affairs unless conditions compelled him to do so. But, he went on, "in the mean time those of your People who are in favor in joining the Confederacy must be allowed to organize into military companies as home guards for the purpose of defending themselves in case of invasion from the North."<sup>21</sup>

Certainly Ross understood the magnitude of the Confederate pressure. Yet, he was still determined not to stray from his policy of neutrality. And on June 27, the Cherokee executive council met and, when it adjourned on July 2, its members declared their endorsement of Ross's policy.<sup>22</sup> That same day, Ross expressed his pleasure with the action of the executive council in a letter to John Drew, another of his supporters:

There is no reason why we should split up & become involved in internal strife and violence on account of political condition of the States. We should really have nothing to do with them, but remain quiet and observe those relations of peace & friendship towards all the People of the States

imposed by our Treaty.<sup>23</sup>

The matter, however, was far from settled, for as the Little Rock True Democrat expressed on July 4 in reference to Ross, "There can be no neutrals in this war."<sup>24</sup> And so it seemed. The Choctaws and Chickasaws had signed a treaty with the Confederacy in June. In July, a faction of the Creeks also made a treaty with the Confederacy.<sup>25</sup> Furthermore, Ross remembered Pike's threat to negotiate with Watie and the mixed-bloods if the Cherokee chief did not come around.<sup>26</sup>

General McCulloch also continued to pursue his interests in organizing Confederate Indian forces drawn from the Cherokees. On July 12, one month after McCulloch wrote to Ross, Watie was commissioned a colonel in the Confederate Army; McCulloch authorized him to gather a force of three hundred men to operate in the Cherokee Neutral Lands in Kansas.<sup>27</sup> Boudinot supposedly had convinced McCulloch to allow Watie to form this regiment.<sup>28</sup> In late July, Watie formally created the First Cherokee Regiment, and Boudinot reportedly was elected a major in the unit.<sup>29</sup>

Ross and the proponents of neutrality must have witnessed all of this with dismay. It would be only a matter of time before these Confederate Cherokee recruits might engage in combat against Union soldiers. In mid-August, some of Watie's men reportedly fought in the Battle of Wilson's Creek in southwestern Missouri.<sup>30</sup> Although Watie was not on the scene of the battle, Boudinot, for one, may have been, for many years later, J. M. Keys, a Confederate soldier, remembered Boudinot at Wilson's Creek, "his long black hair floating on the breeze" as the Confederates "charged to victory."<sup>31</sup> Boudinot's military status, however, was questionable. He may not have been actually commissioned to any rank at the time, or at least so his letter to Stand Watie, dated

October 5, 1861, indicates. In that correspondence, Boudinot expressed his anger over Watie's promise to make Tom Taylor a lieutenant colonel.

Boudinot felt betrayed:

You told me in Tahlequah if I would go with you you would do a good part by me. I am willing and anxious to go with you and as you have it in your power to do a good part by me, and thinking without vanity, that I deserve something from your hands I venture to ask from you either Lt. Col. or the Major's place. I do not wish the post of Adjutant or any other than one of the two I have named. . . .

John Ross and you are rivals, he has appointed his nephew [William Potter Ross] Lt. Col. intent on keeping a foothold in the military organization; perhaps my appointment would give dissatisfaction to some, a great many no doubt want and some expect it, but you can't please all and I hope you will judge as your own feelings dictate. I have been a dray horse for Tom Taylor and others like him ever since I figured in the Nation. I have made sacrifices for them continually while they got all the pay. You have it in your power now to put me in a position where I can do honor to myself and to you.<sup>32</sup>

Perhaps Watie had not been able to secure Boudinot's appointment in July; or perhaps he had not wished to, for as Boudinot noted, some did not relish seeing him elevated to any high post, even though he had been involved in establishing Cherokee-Confederate relations for a considerable time. Whatever the case, Boudinot was a major by December, 1861.<sup>33</sup>

Also in October, John Ross decided to side with the Confederacy. Events in July and August compelled him to change his stand. In July, a large Union force had been routed by a Confederate army at the Battle of Bull Run in the East, dashing any visions of a quick Northern victory. Then in August, Confederates won the Battle of Wilson's Creek. No federal forces would be returning soon to the Indian Territory. Also in August, the Seminoles and most of the plains tribes signed treaties with Pike.<sup>34</sup> The Cherokee Nation was becoming isolated. Thus, on August 21, the Cherokees, under Ross's direction, held a mass meeting

and decided to make a treaty with the Confederacy, delegating all authority in the matter to Ross. Ross informed Pike of the decision and requested a meeting in early October.<sup>35</sup>

Cherokee authorities and Pike planned to meet in Tahlequah, and days before the conference began Cherokees from throughout the nation began to arrive, including Boudinot, who came in with one of Watie's companies.<sup>36</sup> He entered the town on September 25, but he was in Honey Springs by October 5, two days before the treaty was signed.<sup>37</sup>

Regardless of whatever efforts Watie, Boudinot, and others exerted in Tahlequah, John Ross and Albert Pike held the center stage, but before undertaking his negotiations with Ross, Pike concluded treaties with the Osages, Quapaws, Senecas, and Shawnees.<sup>38</sup> Finally, on October 7, 1861, Pike met with Ross. A treaty was signed, the Confederate flag was raised, and Watie and Ross once more displayed reconciliation.<sup>39</sup>

The new treaty did not differ greatly from previous agreements with the United States government. Money and boundaries were, as always, a major concern. The Confederate government agreed to pay annuities and to make good the losses of tribal funds which resulted from severing relations with the United States. Furthermore, the borders of the Cherokee Nation were delineated to be the same as those stipulated in the treaty of 1838. The Confederate government also recognized the Cherokee's right to have their own government and to hold their land in common. Moreover, the treaty stated that no other Indian tribes would be settled within the confines of the Cherokee Nation.<sup>40</sup>

What may be considered innovative in the treaty were agreements on the creation of a Confederate district court in the Cherokee Nation, the right of Cherokees to buy land in Confederate states, and the

entitlement of the Cherokees to have a delegate in the Confederate House of Representatives.<sup>41</sup> However, while the Confederacy offered military protection to the Cherokee Nation, the Cherokees, for their part, agreed to supply troops to the Confederate army. And although Cherokee soldiers would "receive the same pay and allowances as other mounted troops in the service," they would "not be moved beyond the limits of the Indian country west of Arkansas without their consent."<sup>42</sup>

Two days after signing the treaty, Ross addressed the National Council and proclaimed that siding with the Confederacy had been a wise choice. True, he had held out against such action, but times had dictated such a move. The United States no longer existed: It was a divided nation. A war was underway, and the South would win.<sup>43</sup> Three weeks later, Ross called a national meeting and declared the Cherokee Nation's independence from the United States. Citing the Cherokee's identification with the South, both in regional origins and institutions, and Northern "cupidity and fanaticism," Ross concluded that the Cherokees were only exercising their "inalienable right of self-defense" by abrogating their relationship with the United States and by joining with the Confederates.<sup>44</sup>

Despite his public pronouncements, Ross was not very enthusiastic about the treaty with the Confederacy, nor were many of his staunch followers, especially the full bloods.<sup>45</sup> Yet Ross probably believed that he had no choice but to make an alliance with the Confederacy. Confederate officials exerted incessant pressure; Watie and the pro-Southern element of the tribe paid no heed to his policy of neutrality; federal forces had departed from the region; the Republicans in power in Washington gave little indication that they cared for the welfare of the

Indians. All these considerations combined to move Ross to accept the Confederate treaty. And from Ross's perspective, he had acted appropriately. The Cherokee Nation remained intact, and the Principal Chief still wielded the authority of the tribe. Time would tell, however, if he could, as his declaration read, "resolutely abide the consequences" of his decision.<sup>46</sup>

At the moment, it seemed that there could be no turning back. A Cherokee regiment filled with Ross's supporters and under Colonel John Drew was mustered into the Confederate army. Also, Watie's regiment became a regular, not volunteer, Cherokee unit. By December 11, 1861, the Confederate Congress ratified the Cherokee treaty. Moreover, Pike, now a brigadier general, was given the command of Confederate forces in the Indian Territory, which the Confederate Congress had designated as a separate military district in November.<sup>47</sup>

All this was no doubt exciting for Boudinot, an officer in the Confederate army for whom the glories of war awaited. In Watie's command, he also found some old and new friends. In particular, Boudinot grew close to Colonel William P. Adair and Captain James M. Bell, Watie's brother-in-law. Both men and their families had been aligned with the Ridge party in the 1830s and 1840s. Thus, in a sense, all three--Boudinot, Adair, and Bell--had a common bond beyond any allegiance to the Confederacy. No doubt, they also looked forward to action. However, Confederate Cherokee soldiers did not immediately experience the thrill of charging fleeing Yankees. Rather, their task was to stop the withdrawal of Opothleyahola and his pro-Union Creeks from the Indian Territory.

Even after Ross joined the Confederate side and urged his old friend Opothleyahola to do likewise, the aged Creek chief refused. Instead, he gathered his followers and began to trek to the North--to Kansas where he could offer his support to Union forces. Thus, the Confederates moved to stop him and, on November 19, a force under Colonel Douglas Cooper, comprised of Choctaws, Chickasaws, Creeks, Seminoles, and Texas cavalry, fought an indecisive battle with the retreating Creeks. On December 8, the two forces again did battle. This time, Drew's men were in the battle as well. Many of them, however, had little liking for killing the Creeks with whom they sympathized, and some consequently switched sides. The desertion of these Cherokees only made Confederate leaders more determined to defeat Opothleyahola and his followers. It would be a lesson to other Union sympathizers in the Indian Territory.

Later that month, the arrival of Watie's troops bolstered Cooper's forces. But before they arrived, another battle had commenced on December 26.<sup>48</sup> When the engagement began, Cooper linked his forces with those of Colonel James McIntosh. The Creeks were defeated in the ensuing battle. Thus, Watie, who had been ordered to join with McIntosh, arrived on the scene after the main fighting. He nevertheless deployed his troops to renew the attack on the remaining Creek warriors and thereby to complete the rout.

Watie split his command, giving half of his men to Boudinot, whom he ordered to hold the left flank. Soon, they encountered remnants of the Creek force. Boudinot led his men into a ravine in which the Creeks were holed up, driving them from their position. He later reported that after several charges against the demoralized enemy he could account for



at least eleven dead Creeks. McIntosh, however, informed Confederate authorities that Boudinot's men had killed fifteen Creeks and captured many women and children. In a way, Boudinot had distinguished himself as a gallant officer who had proved his mettle in combat. He did, however, note in his official report that Colonel Taylor was with his force and that he had deferred to superior rank and gave no orders unless Taylor agreed with them.<sup>49</sup> Nonetheless, Boudinot had enjoyed a minor triumph on the battlefield.

In early March, Watie and his men were on the move again. This time, contrary to the spirit of their treaty with the Confederacy at least, they were directed to proceed into northern Arkansas to join with other Confederate forces. This was the prelude to a major battle, the most important engagement to be fought in the Southwest: the Battle of Pea Ridge. At the same time, Drew's regiment was also on its way into Arkansas. His men, however, were apparently less anxious than Watie's to fight another battle. As Stephen Foreman observed, "As usual, Col. Drew's men are lagging behind, and appear to be indifferent about going while Col. Watie's seem to be all alive and ready at a moment's warning."<sup>50</sup> Their unwillingness, though, could not be attributed to cowardice; they were just losing their already questionable enthusiasm for the Confederate cause.

The Battle of Pea Ridge began on March 5, 1862 and ended the following day. It was a disastrous defeat for the Confederacy. General McCulloch and General James McIntosh were killed, leaving Pike in command of their forces. As for the Cherokees, they fought valiantly, but they could not hold their own against the fire power of the federals. In the resulting melee, the Confederates retreated.<sup>51</sup>

Again, Boudinot played a commendable role in the fighting. Pike used him as his messenger to General Earl Van Dorn, the senior commander for the Confederates.<sup>52</sup> But no doubt Boudinot also took part in the fierce fighting. Unfortunately, the tenacity and heroism that Boudinot and all the men under Watie displayed during those tumultuous two days did not affect the eventual outcome of the battle. Ultimately, Watie and his Cherokees had the dangerous and disheartening task of covering the Confederate retreat.<sup>53</sup> In the end, the Battle of Pea Ridge became a turning point in the war in the West. Thereafter, the Confederacy no longer held the upper hand in the region.<sup>54</sup>

How the Battle of Pea Ridge affected Boudinot is unknown. Perhaps he understood its importance and implications, but probably not. A supreme optimist, he probably looked forward to the time when the situation would be reversed and the federals routed from the battlefield. At least when Woodward Washbourne encountered him in Van Buren, Arkansas, on March 13, he wrote to his wife, Susan Washbourne, "Boudinot is here. He is safe. . . . Boudinot is in good spirits."<sup>55</sup>

In late April, Watie and his forces were on the march again. Hearing that Union troops were moving toward Elk Mills, Arkansas, he headed off to engage them. Near Neosho, Missouri, he did so. Although the fighting was on a small scale, the federals were forced to retreat, and Watie's men again acquitted themselves in battle.<sup>56</sup> Chances are that Boudinot may have been involved in this engagement, too. He may, however, have been with Pike. Pike still used Boudinot as his envoy, for in June, he sent Boudinot and another man to procure gun powder for his command.<sup>57</sup>

Fearing for the security of Arkansas, Confederate officials were collecting stores for the defense of the state while Pike kept protesting that his Indian troops were being denied supplies and munitions which they needed.<sup>58</sup> Moreover, Pike had a hard decision to make. Confederate forces had withdrawn from northern Arkansas, and the prospect of a Union invasion of the Indian Territory seemed certain. Therefore, he ordered the military evacuation of the Cherokee Nation. He would make his new base of operations in the Choctaw Nation, a better place from where to launch counterattacks. Unquestionably, the Cherokees would not be happy with his decision. But when he advised Major General Thomas C. Hindman, Boudinot's former political enemy and now commander of the Trans-Mississippi Military District, of his plan, he was careful to note that Watie and William P. Ross accepted his move and that Boudinot was "satisfied" with the idea.<sup>59</sup>

Indeed, when Pike penned his letter to Hindman, a battle was underway in the Indian Territory. In June, Colonel William Weer had led a force of Union soldiers toward the Indian Territory, and at Baxter Springs, Kansas, two regiments of Creeks, Seminoles and Cherokees buttressed his numbers.<sup>60</sup> Only Watie's and Drew's men plus a few Missourians opposed Weer's advance when the two armies met on July 3. The five thousand federal troopers had the advantage over their well outnumbered opponents. To add to the precariousness of the Confederates' situation, most of Drew's men deserted to the federal side. Watie's men thus bore the brunt of the fighting. Again Boudinot distinguished himself, leading his detachment to repulse a Union force five times larger than his own. However, as at Pea Ridge, courage and spirit gave way before superior arms, and Watie and Boudinot were forced to cut off the engagement and

to withdraw across the Arkansas River. The Confederates had lost the Battle of Locust Grove, and federal forces moved toward Tahlequah.<sup>61</sup>

The defeat at Locust Grove and the actions of Drew's men did not go unnoticed by John Ross. He knew that many of his followers now thought that supporting the Confederacy was a mistake. In fact since late June, some pro-Southerners such as Stephen Foreman believed that there was a plot underfoot to lead the Cherokees over to the Union side. "I believe," Foreman wrote in his diary on June 27, 1862, "Col. Drew is knowing to the plot, so is Lieut. Col. Wm. P. Ross and other officers in the Regiment [ Drew's ], and so is Chief John Ross--and they are all aiding and winking at the plot."<sup>62</sup> Foreman was probably correct. For instead of fleeing in the face of the federal advance, the Principal Chief remained at Park Hill, and on July 15 Ross and several other Cherokee leaders, including Drew and his officers, met with a small party of federals. These Cherokees were ready to switch sides. After two weeks, Ross made his move. On August 3, Ross, his family, and many of his followers and their followers headed north.<sup>63</sup> Repudiating the treaty of 1861, Ross cast his lot with the Union. He would travel first to Fort Leavenworth, Kansas, and later to the East, arguing his true loyalty to the Union.<sup>64</sup>

With Ross deserting the Confederate cause and federals invading the Cherokee Nation, disorder and violence filled the area. In particular, the Pins sought vengeance against pro-Southerners. Thus, Stephen Foreman could write in his diary on July 17 that the Pins were searching for horses, blacks, and Watie's men and that they reportedly killed a Mr. Uresey, a white man with a Cherokee family--"they cut him up alive."<sup>65</sup> Fortunately for the Southern Cherokees, Ross did not intend to lead his

people out of the nation, and the federal forces were disorganized, fearful of a counterattack. In early August, they, too, retreated back to Kansas.<sup>66</sup>

In the meantime, Watie and his men had not been inactive, but neither had they attempted to engage the federals in any major battle. There had been some skirmishes, however. In one, Tom Taylor was killed.<sup>67</sup> With the death of Taylor, Boudinot was elevated to his rank, lieutenant colonel.<sup>68</sup> Forever afterwards, many would never cease to refer to him as Colonel Boudinot.

Boudinot did not enjoy his colonelcy for long, however. A new role in Cherokee affairs awaited him. On August 21, the Southern Cherokees held a national convention. They met in Tahlequah, now vacated by the federals. Once assembled, they duly declared the office of Principal Chief vacant and elected Watie to the post. At the same time, they re-acknowledged their commitment to the Confederacy. They also elected Boudinot as their delegate to the Confederate House of Representatives, an office which heretofore had not been filled.<sup>69</sup> Indeed, he knew many leading Confederate office holders because of work in Arkansas politics. Moreover, he was at home in the white man's political arena. Adding to his desire for this post was his physical condition, for the ardors of combat had placed a heavy toll on his weak leg. He probably realized that his days as a soldier were numbered.<sup>70</sup> Thus, soon after the national convention adjourned, he left the Cherokee Nation, heading toward Richmond, Virginia, the Confederate capital.

ENDNOTES

<sup>1</sup>Clipping, Elias C. Boudinot File, Fort Smith Historical Society, Fort Smith, Arkansas.

<sup>2</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 121-123; Kenny L. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), pp. 114-115; Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), p. 163.

<sup>3</sup>See Edward E. Dale, "Arkansas and the Cherokees," Arkansas Historical Quarterly 8 (Summer, 1949), 83-91.

<sup>4</sup>ORWR, Ser. i, I, pp. 683-84.

<sup>5</sup>Dale, "Arkansas and the Cherokees," p. 162.

<sup>6</sup>Ohland Morton, "Confederate Government Relations with the Five Civilized Tribes, Pt. 2," Chronicles of Oklahoma 31 (Autumn, 1953), 302.

<sup>7</sup>Dean L. Trickett, "The Civil War in the Indian Territory 1861 (Continued)," Chronicles of Oklahoma 17 (December, 1939), 407.

<sup>8</sup>A. M. Wilson to Josy (Josephine Penson Wilson), 7 May 1861, A. M. Wilson File, Washington County Historical Society, Fayetteville, Arkansas.

<sup>9</sup>Mark Bean, et al. to John Ross, 9 May 1861, John Ross Papers, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma.

<sup>10</sup>Lt. J. R. Kanady to John Ross, 15 May 1861, John Ross Papers, Gilcrease Institute.

<sup>11</sup>A. M. Wilson and J. W. Washbourne to Stand Watie, 18 May 1861, cited in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 196-197.

<sup>12</sup>Ibid.

<sup>13</sup>John Ross to Mark Bean, et al., 18 May 1861, John Ross Papers, Gilcrease Institute.

- <sup>14</sup>James W. Ware, "Indian Territory," Journal of the West 16 (April, 1977), 104.
- <sup>15</sup>Grace Steele Woodward, The Cherokees (Norman: University of Oklahoma Press, 1963), p. 261.
- <sup>16</sup>ORWR, Ser. iv, I, p. 359.
- <sup>17</sup>Ibid.
- <sup>18</sup>Wardell, p. 130.
- <sup>19</sup>Lois Elizabeth Forde, "Elias Cornelius Boudinot," (Ph.D. diss., Columbia University, 1951), p. 83.
- <sup>20</sup>David Hubbard to John Ross, 12 June 1861, John Ross Papers, Gilcrease Institute.
- <sup>21</sup>Brigadier General Ben McCulloch to John Ross, 12 June 1861, John Ross Papers, Gilcrease Institute. Ross replied to both Hubbard and McCulloch on 17 June. Ross was not persuaded by their views. Moulton, p. 169.
- <sup>22</sup>Edward Everett Dale, "The Cherokees in the Confederacy," Journal of Southern History 13 (May, 1947), 164; Moulton, p. 170.
- <sup>23</sup>John Ross to Capt. John Drew, 2 July 1861, Grant Foreman Collection, IAD, OHS.
- <sup>24</sup>True Democrat (Little Rock, Ark.), 4 July 1861.
- <sup>25</sup>Morton, p. 303. In the Creek and Seminole tribes, however, there was opposition to allying with the Confederacy. Principal Chief Opothleyahola of the Creeks refused to sign, as did Seminole Principal Chief Billy Bowlegs. Consequently, these men and their followers eventually sided with the Union.
- <sup>26</sup>Moulton, p. 168; Forde, p. 83.
- <sup>27</sup>Franks, pp. 117-118; Wardell, p. 132.
- <sup>28</sup>Marcus J. Wright, "Colonel Elias C. Boudinot," Southern Bivouac II, No. 10 (June, 1884), 434.
- <sup>29</sup>Mabel Washbourne Anderson, Life of General Stand Watie (Pryor, Okla.: the author, 1915), pp. 14-15; Emmet Starr Manuscripts, Library, OHS.
- <sup>30</sup>Dean L. Trickett, "The Civil War in the Indian Territory (Continued)," Chronicles of Oklahoma 18 (June, 1940), 146.
- <sup>31</sup>Anderson, p. 57.

<sup>32</sup>Elias C. Boudinot to Stand Watie, 5 October 1861, cited in Dale and Litton, pp. 110-111.

<sup>33</sup>Elias C. Boudinot Service Record, National Archives, Adjutant General's Office.

<sup>34</sup>Ware, p. 104; Franks, p. 118; Wardell, p. 131.

<sup>35</sup>Morton, p. 304.

<sup>36</sup>John Stapler to John Ross, 24 September 1861, John Ross Papers, Gilcrease Institute.

<sup>37</sup>Elias C. Boudinot to Stand Watie, 5 October 1866, cited in Dale and Litton pp. 110-111.

<sup>38</sup>Wardell, p. 132. These tribes had come to Park Hill after Pike had requested that Ross invite them to do so. Moulton, p. 170.

<sup>39</sup>Franks, p. 119.

<sup>40</sup>ORWR, Ser. iv, I, pp. 669-687.

<sup>41</sup>Ibid.

<sup>42</sup>Ibid., p. 675.

<sup>43</sup>Address of John Ross to Cherokee National Committee and Council, 9 October 1861, John Ross Papers, Gilcrease Institute.

<sup>44</sup>ORWR, Ser. i, XIII, pp. 503-505.

<sup>45</sup>Dean L. Trickett, "The Civil War in the Indian Territory (Continued)," Chronicles of Oklahoma 17 (December, 1939), 410.

<sup>46</sup>ORWR, Ser. i, XIII, p. 505. For an analysis of the forces and considerations working on Ross, see Moulton, pp. 171-172. Also see Angie Debo, A History of the Indians of the United States (Norman: University of Oklahoma Press, 1970), pp. 147, 168-173.

<sup>47</sup>Morton, p. 307; Franks pp. 119-120; Dale, "The Cherokees in the Confederacy," p. 167.

<sup>48</sup>Debo, pp. 173-175; Franks, pp. 120-121.

<sup>49</sup>ORWR, Ser. i, VIII, PP. 22-25, 32-33; Franks, pp. 122-123.

<sup>50</sup>Diary of Stephen Foreman, cited in Cooleela Faulkner, "The Life and Times of Reverend Stephen Foreman," (M.A. thesis, University of Oklahoma, 1949), p. 74.

<sup>51</sup>Dean L. Trickett, "The Civil War in the Indian Territory (Continued)," Chronicles of Oklahoma 18 (June, 1940), 392-393.



<sup>52</sup>Franks, pp. 124-125.

<sup>53</sup>Forde, p. 93.

<sup>54</sup>Ware, p. 106. Much has been written on the Battle of Pea Ridge (or Elkhorn Tavern), and for an interesting short analysis of the battle and its importance, see Homer R. Kerr, "Battle of Elkhorn: The Gettysburg of the Trans-Mississippi West," in Essays on the Civil War by Frank E. Vandiver, Martin Hardwick Hall, and Homer L. Kerr (Austin: University of Texas Press, 1968), pp. 31-44.

<sup>55</sup>Woodward to "Dearest," 13 March 1862, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>56</sup>Franks, p. 126.

<sup>57</sup>ORWR, Ser. i, XIII, p. 933.

<sup>58</sup>Wardell, pp. 144-145; Ware, p. 106.

<sup>59</sup>ORWR, Ser. i, XIII, p. 956. As early as April 1, however, Pike had informed Watie of his decision to pull back his forces to the Choctaw Nation. See Albert Pike to Stand Watie, 1 April 1862, in Dale and Litton, pp. 115-117.

<sup>60</sup>Ware, pp. 106-107.

<sup>61</sup>ORWR, Ser. i, XIII, p. 40; Forde, pp. 104-105.

<sup>62</sup>Diary of Stephen Foreman, cited in Faulkner, p. 85.

<sup>63</sup>Moulton, pp. 174-175.

<sup>64</sup>Ibid., pp. 175-183.

<sup>65</sup>Diary of Stephen Foreman, cited in Faulkner, p. 101.

<sup>66</sup>Ware, p. 107.

<sup>67</sup>ORWR, Ser. i, XIII, pp. 181-182.

<sup>68</sup>Wright, p. 434.

<sup>69</sup>True Democrat, 10 September 1862; Franks, pp. 130-131; Wardell, p. 160.

<sup>70</sup>Muriel H. Wright, "Notes on Colonel Elias C. Boudinot," Chronicles of Oklahoma 41 (Winter, 1963-1964), 385.

## CHAPTER VI

### IN CONGRESS

The first days of October, 1862, found Cherokee delegate-elect Elias C. Boudinot preparing to present himself before the Confederate House of Representatives. On October 7, he did so. Representative Felix Batson of Arkansas announced Boudinot's presence and moved that the Cherokee be permitted to take a seat as the official delegate from the Cherokee Nation. Congressman Henry S. Foote of Tennessee, however, recommended that Boudinot not be sworn in until the Committee on Indian Affairs ruled on his legitimacy as a delegate and duly reported its conclusion to the congress.<sup>1</sup> Two days later, the committee delivered its findings, concluding that "after a full examination of said Boudinot's credentials . . . he was the duly elected delegate."<sup>2</sup> The committee's report was accepted, and Boudinot advanced to the Speaker's chair, took his oath of office, and officially assumed his seat on the House floor.<sup>3</sup>

Interestingly enough, although the Confederate Congress had ratified the treaties with the Five Civilized Tribes many months before, no measures had been taken to establish procedures for the election and validation of Indian delegates. Moreover, the arrival of Boudinot did not prompt them to take any immediate action. In January of 1863, Robert M. Jones, the Choctaw-Chickasaw delegate, also arrived in Richmond, and still they did not act. Most likely, the precedent for seating delegates from the Indian nations was set with Boudinot's case, and in the face of

more serious concerns connected with the war effort, the congressmen put off taking any direct action until time allowed.<sup>4</sup>

If the Congress perhaps somewhat awed Boudinot, he was not intimidated. No doubt, too, his fellow congressmen were taken aback by the confident, astute young Cherokee, one of the two youngest members of the body--Boudinot and Representative Robert J. Breckinridge of Kentucky were both twenty-seven years old.<sup>5</sup> Apparently, Boudinot made a good, early impression, at least with the Clerk of the House who described him as "an intelligent, shrewd-looking man, youthful in appearance, with features denoting Indian lineage."<sup>6</sup>

Although Boudinot did not have the right to vote on matters before the House and only could speak on issues associated with Indian policy, he intended to take an active role in the Congress. He had a duty to his people which he took seriously. Moreover, he was less of an outsider than some might have imagined. Some of his personal friends were in the Congress, particularly those members from Arkansas, which included Robert W. Johnson in the Senate and Augustus H. Garland in the House.

As a liaison for the Cherokees with the Confederate lawmakers, Boudinot began to address himself to the problems of the Cherokees. In particular, Cherokee soldiers continued to complain that they lacked supplies. Furthermore, they felt discriminated against by their white comrades-in-arms. Thus, Boudinot turned his attention to these problems. Apparently, he made some headway, for on November 25, 1862, Major General Thomas H. Holmes, the Confederate commander over all the Confederate troops in the region, informed General S. Cooper, the Confederate Adjutant and Inspector General, of Boudinot's efforts:

Mr. Boudinot writes to me that our Indian relations will

soon be in satisfactory condition and the Indians satisfied. I have ordered them paid and clothed and hereafter they shall be used only as Home Guards and treated in every respect as to pay and clothing like our own troops.<sup>7</sup>

When Holmes penned this letter, however, Boudinot was no longer in Richmond. He had once more headed for the battlefields in Arkansas. Northern Arkansas was again the site of military activity, and on December 7, 1862, Confederate forces engaged federal troops in the vicinity of Fayetteville. Watie's men took part in the fight, and so did Boudinot.<sup>8</sup> But the Cherokee delegate was not with Watie's command this time. Instead, he acted as a volunteer aide-de-camp for General Hindman.<sup>9</sup> As in previous encounters, the Confederates also lost the Battle of Prairie Grove and, when the fighting subsided, Boudinot had another task to perform. Under a flag of truce, he rode to Fayetteville and arranged with the Union commander for the burial of the Confederate dead, a far from pleasant duty.<sup>10</sup>

Indeed, the war was taking its toll not only in men but also morale. Part of the Cherokee Nation was again open to attack; northern Arkansas was under federal occupation; civilian destitution was a common sight. The situation was serious, and Douglas Cooper, the commander of the Choctaw and Chickasaw Confederate forces soon appraised his superior, Hindman, of the situation:

Some of Watie's men and other Southern Cherokees have gone over [to Colonel William A. Phillip's Union Indian forces]. All complain of destitution and the inadequacy of Confederate protection. My opinion is, unless a large white force, well appointed and furnished for service, be sent into the Indian Territory soon, that upon the advent of the Federals next spring the people will be prepared to submit for the sake of saving land and other property.<sup>11</sup>

President Jefferson Davis, on the other hand, presented a more positive view of the situation when he addressed the Confederate Congress in

mid-January, 1863:

Our relations with the Indians generally continue to be friendly. A portion of the Cherokee people have assumed an attitude hostile to the Confederate Government, but it is gratifying to be able to say that the mass of intelligence and worth in that nation have remained true and loyal to their treaty engagements.<sup>12</sup>

As for Boudinot, he was not in Richmond to hear Davis's remarks.

He delayed his return to the Confederate capital and stayed in Little Rock. He did so, he informed Watie, in order to "know something definite concerning the fate of our army here, upon which rested the only hope of our country. I wished to carry such intelligence of the State of Affairs as would enable me to do more in Richmond than I otherwise could."<sup>13</sup>

Sanguinely, he then related reports of Confederate military successes in the area and the "attitude of Kentucky in regard to the emancipation proclamation."<sup>14</sup> These and "many other matters" relieved his "anxiety for the nation and the fate of the Confederate States," and he concluded that "an early peace . . . is inevitable."<sup>15</sup> With that possibility in mind, he turned to Cherokee concerns:

In the prospect of an early peace it is all important that we should maintain our civil and military organization. I have procured a copy of the Late Treaty and find that such sums as may be due the Cherokees will be paid to any person authorized to receive it by the "Constituted Authorities of the Cherokee Nation." A good deal of money is due us and I suggest that the convention assemble and adopt the accompanying resolution authorizing me to receive such moneys, if they will pass this ordinance I am satisfied I can get the money, and with a full treasury you know what a new life will be infused into our infant government.<sup>16</sup>

Watie apparently took Boudinot's advice, for the Cherokee delegate was later authorized to receive "all moneys due the Cherokee Nation from the Confederate States."<sup>17</sup>

Buoyed in spirits, Boudinot returned to Richmond. Now, his fellow House members could expect more from their young colleague. The

articulate Cherokee did not shrink from exercising his prerogatives, and he sometimes offered a broad interpretation to matters pertaining to Indian affairs. Mostly, however, he directed his attention to Indian problems and concerns, for on that subject he could wax eloquent as an authority. Unfortunately, the debates in the Confederate Congress were not transcribed. Yet, Augustus H. Garland many years later recalled at least one instance of Boudinot's oratory. And Garland's account gives some insight into not only the flare which Boudinot brought to the Congress but also the respect he engendered:

On one occasion, especially, do I remember when he [Boudinot] showed his great advantage, and captivated the House to a man. At his solicitation, I drew up a resolution touching Indian affairs, and indicating what would be a proper course to pursue. . . . Mr. Boudinot desired to be heard on it. He arose with perfect composure, with every eye in the House turned upon him, and delivered one of the most brilliant and entertaining speeches I ever heard, and it was applauded by the listeners most vociferously. At its close, I believe all the members, without exception, gathered around him and gave him most hearty congratulations.<sup>18</sup>

Once back in Richmond in late January or early February of 1863, Boudinot clearly began to undertake an active role in the Confederate Congress. In late February, he drew up a memorial to the Congress, which Representative Thomas B. Hanly of Arkansas introduced for him. It was not read, however, only referred to the Committee on Indian Affairs.<sup>19</sup> On April 1, a bolder Boudinot asked that the rules be suspended so that he could introduce legislation. His request was granted, and he proposed two bills: one provided regulations for the election of delegates from "certain Indian nations"; the other was "supplemental" to the act of February 15, 1862, which provided for the establishment of courts in the Indian Territory. Both were read twice and referred to the Committee on Indian Affairs.<sup>20</sup> If the Confederate Congress was reluctant

to act on Indian affairs, Boudinot would prompt it to action as best he could.

A few days later, Boudinot once more left Richmond and headed back to the Cherokee Nation to attend a tribal convention. On April 22 at Camp Coodey, the General Convention of the Cherokee People opened. There, Boudinot offered "propositions from the Confederate Government."<sup>21</sup> In essence, the proposals were really Boudinot's, for he had been endeavoring to direct Confederate Indian policy, not just to react to it. His most important proposition, however, met with hostility. New regiments needed to be formed, and Boudinot had a plan for finding recruits. He suggested that whites be induced to enlist in Cherokee units in return for being given land. The white volunteers would be granted 160 acres of unused Cherokee land in the western portion of the Cherokee Nation and in the Cherokee Outlet and the Texas Panhandle, the latter two being areas which the Cherokees claimed but not settled. The same option would be also available to new Cherokee recruits as well. The number of volunteers eligible for this grant, however, could not exceed one thousand, and they could not take up the land until the war was over. At that time they would have one year to make their claims. In this way, not only could Cherokee forces be replenished but also a Cherokee would be made a general and another a full colonel. In other words, Waite almost certainly would become the first Indian general in the Confederate army.<sup>22</sup>

These resolutions were not acted upon immediately. Instead, the convention broke up; it would be reconvened in the army camps. Then, in late May, a committee was formed to deal with them. Although most of the committee members, including James M. Bell, reluctantly accepted

the enlistment policy, many Cherokees did not. Therefore, the committee eventually reported the proposals back to Watie with several resolutions for implementing the suggested program. They further requested that before such a policy was initiated that it be submitted to a vote of the people.<sup>23</sup>

Several tribal leaders adamantly opposed Boudinot on this matter, however. Consequently, Samuel M. Taylor, the Acting Assistant Chief, John Spears, a member of the Executive Council, and Alexander Foreman, President of the Cherokee Convention, conveyed their sentiments to Jefferson Davis:

We deeply regret . . . that our delegate . . . proposes for his own interest, and that of his friends, that we . . . pass some law by which the introduction of white citizens from the Confederate States can be effected as to give every citizen and their families an equal share of our lands, privileges, and rights as Cherokee citizens; and all he proposes to give us for the surrender of our nationality, lands, and homes is, that we will be granted one brigadier-general, one more colonel, a few favorite positions in office, and a ruined people.<sup>24</sup>

In the eyes of these disgruntled Cherokees, Boudinot wanted to open the Cherokee Nation to the riffraff of the South who potentially would even outnumber the Cherokees. They informed Davis that they no longer had confidence in Boudinot.<sup>25</sup> Possibly their misgivings about the Cherokee delegate had some foundation, for he was interested in advancing himself, family, and friends. Yet, he also realized that the fate of the Confederate Cherokee had become inexorably tied to the fortunes of the increasingly imperiled Confederacy.

Whatever the case, the Cherokee convention turned down the proposals; two-thirds of those in attendance voted against them.<sup>26</sup> Boudinot, however, refused to accept defeat. He drafted a broadside "To the



Citizens of the Cherokee Nation" and pleaded his arguments. Noting that Watie had been authorized to raise a brigade, Boudinot declared that white troops would have to join Cherokee units for such to happen. The "privilege of residence" in the Cherokee Nation would provide the incentive for whites to do so.<sup>27</sup> The Cherokee Nation would not sell land to these white enlistees; it would only "permit not more than 400 Southern men to cultivate a small part of your land, and enrich your country by their improvements."<sup>28</sup> President Davis, Boudinot continued, was not trying to deprive the Cherokees of their land, and the convention had acted mistakenly in not accepting the resolutions or allowing the people to vote on the issue. However, he offered that if they were opposed to permitting whites to settle on the Outlet or in the Nation proper, why not promise them the right to homestead on the Neutral Lands in Kansas? The Cherokees had been on the verge of selling that land for years.<sup>29</sup> Regardless of his argument, however, the Cherokees were not prepared to endorse Boudinot's program.

While Boudinot's detractors did not accept his proposal for gaining white volunteers, they did generally agree with another of his propositions: organizing the Indian Territory as a separate command under a major general. The man wanted for this new command was Douglas H. Cooper.<sup>30</sup> Although Boudinot had some reservations about Cooper, the Cherokee nonetheless took a leading role in advocating this change. For in conjunction with such a move, Watie would quite probably also be promoted. One person who took a dim view of Boudinot's activities was General William Steele, who held command over the Indian Territory. In late June, 1863, he informed his superior General E. Kirby-Smith of Boudinot's contrivings:

The delegate from the Nation brought a scheme, approved by the President, for a separate and permanent command in the Indian country. The exact nature of his instructions I do not know. . . . Promotion and command for some and money for others will be the mainsprings of action in the changes that may be urged to be made in this country.<sup>31</sup>

Steele could see that Boudinot was plotting against him.

Other factors also worked against Steele, particularly the precarious military situation in the Indian Territory and the deprivation and displacement of the Indian civilian population. To mitigate some of these problems, Boudinot took a hand in procuring supplies. In late June of 1863, for instance, he informed Watie that he was going to Fayetteville to facilitate the delivery of cartridge boxes. Moreover, General Holmes had given him the authority "to purchase any articles necessary" for Watie's forces and "to make contracts" for other needed goods.<sup>32</sup> At the same time, he had some thoughts on acquiring supplies for the destitute Cherokees. He wanted Watie to appoint a Cherokee Commissioner, whose duty it would be to secure materials for the needy with bonds or warrants or directly from the Confederate army.<sup>33</sup> He also voiced his concern about the weakness of the Cherokees' new conscript law. The adopted version of the legislation said that anyone eligible to enlist but who did not do so would suffer arrest and imprisonment. Boudinot thought that this punishment was untenable; all a "skulker" had to do was avoid capture, and Boudinot wanted the original stipulation of the proposal reinserted: the loss of citizenship and property.<sup>34</sup>

The issues to which Boudinot thus addressed himself were those which were prostrating the Cherokee Nation: The Cherokee military forces contained too few men and had too few supplies while the whole countryside suffered in turn from disruption and deprivation. However, if the

tenacity of the Cherokees was tested in late June, it was strained even more in the days to come. In July, the Battle of Honey Springs occurred. The Indian forces were soundly defeated in what was the largest and most important engagement in the Indian Territory during the Civil War.<sup>35</sup> Thereafter, the most that Confederate units in the Indian Territory could do was to mount guerilla raids. And by September, the Confederates had surrendered Fort Smith, much of western Arkansas was under federal control, and a large portion of the Indian Territory had fallen into Union hands.<sup>36</sup>

In the wake of the Union offensive, Cherokee refugees flocked southward into the Choctaw Nation and Texas. Tired, hungry, and cold, they needed relief.<sup>37</sup> Nor were Watie's soldiers any better off. Of the five thousand men encamped at Boggy Depot in the Choctaw Nation, "one thousand are without arms and many have not Clothing to change, without shoes and what any one in their right senses would say was in a deplorable condition looking more like Siberian exiles than Soldiers."<sup>38</sup>

With the Cherokee Nation so stricken, Boudinot attempted to obtain aid from the Confederate government. However, because money was needed immediately, he could not go through regular channels. Consequently, he ran into bureaucratic roadblocks. Both General E. Kirby-Smith and Commissioner of Indian Affairs Sutton S. Scott would have advanced funds for the Cherokees if the other took the responsibility, but neither would do so. Finally, Boudinot informed Watie in November that he had borrowed ten thousand dollars "for the use of our refugees" on his own authority and that in eight weeks he hoped to have procured another forty thousand dollars.<sup>39</sup> The sorely needed funds would be useful, but much more was needed. For that, Boudinot would have to appeal to the

Confederate Congress.

Back in Richmond in December, Boudinot commenced a flurry of activity. On December 10, he introduced a procedural bill for "filling vacancies of Delegates to Congress in certain Indian nations."<sup>40</sup> The same day, Representative Hanley moved that one of the Indian delegates be appointed to attend sessions of the Committee on Indian Affairs. As a corresponding member of that committee, the delegate would enjoy all the privileges of a committee member except the right to vote. The House accepted Hanley's motion.<sup>41</sup> The Speaker, in turn, placed Boudinot on the committee as the Indian representative.<sup>42</sup> A week later, Boudinot offered another piece of legislation. He called for the "appointment of a commissioner of accounts for the States and Territories west of the Mississippi."<sup>43</sup> Indeed, the Cherokees and others in the West had begun to feel like the forgotten, poor stepchildren of the Confederacy, and they wanted an accounting of their due appropriations. Boudinot's bill was read twice and referred to the Committee on Military Affairs.<sup>44</sup> The next day, December 18, Boudinot presented another bill, a most important one. It called for "appropriating one hundred thousand dollars for the use and benefit of the Cherokee Nation."<sup>45</sup>

In support of this measure, Boudinot took the floor. For over three years, he said, interest on government securities due to the Cherokee Nation had not been paid. Now, his people desperately needed aid. Moreover, he reminded the Congress that at the end of the war the Cherokees were supposed to be reimbursed \$100,000 by the Confederate government. Passing this bill, he declared, would be no more than an "act of plain justice."<sup>46</sup> He added that "there was no state in the Confederacy which could show a greater number in the army according

to proportion" of population than the Cherokee Nation.<sup>47</sup> In all, Boudinot's speech was so eloquent and moving that the next day's edition of the Richmond Enquirer carried an account of his remarks.<sup>48</sup> Despite his words, however, his relief bill was passed on to the Committee on Quartermaster's and Commissary Departments; the Congress would not be rushed.<sup>49</sup> All Boudinot could do now was to wait and hope. Certainly, the Confederate government had an obligation to the Cherokees, but the entire Confederacy was strapped for money.

Although Boudinot focused his attention on financial matters, he did not cease his efforts to make the Indian Territory a separate military district and to have Steele removed.<sup>50</sup> Nor was he alone in denigrating the general. Watie also turned on his commander, complaining to Indian Commissioner S. S. Scott that Steele did not understand the temper of the Indians who wanted to drive the Union forces back. In particular, Steele had failed to order an attack on over-extended Union forces. In Watie's opinion, under Steele the Confederate forces in the Indian Territory exhibited a "lack of spirit, inactivity, and apparent cowardice."<sup>51</sup>

Then in December, Steele reported to General S. Cooper that Captain Campbell LaFlore, a Choctaw, had left for Richmond, "without proper authority" as a representative of the Indians, carrying allegations against Steele and a demand that Douglas H. Cooper be made a major general and replace Steele.<sup>52</sup> Steele furthermore confided that charges of "cowardice and even treason" were being leveled against him.<sup>53</sup> Therefore, he voluntarily submitted his resignation. For his undoing, he blamed Boudinot:

The present state of affairs appears to be the result of a scheme originating, I believe, with the Hon. E. C. Boudinot,

delegate for the Cherokees, for raising several Indian brigades for permanent service in the Indian country, the whole to be commanded by a major-general, it is feared that if it should appear that my administration were successful, that I might be selected for command. Hence the necessity of traducing me.<sup>54</sup>

A few days later, Boudinot drafted a message to President Davis. He told Davis that General Thomas L. Holmes said Steele had "sadly disappointed him in his operations in the Indian country."<sup>55</sup> "I am sorry to say," he continued, "that he [Steele] does not possess the confidence of the Indians, and regret that General Smith retains him in command of their country. He has abandoned their country and one-third of his own force."<sup>56</sup> These damning words were of little consequence, however, for Steele had resigned.

With Steele out of the picture, Boudinot offered Jefferson Davis his plan for reorganizing the military framework in the Indian Territory:

First. Place Major-General Price in command of the Indian Territory and Missouri. Second. Give him, in addition to the forces now in the field in such Territory, the Missouri regiments of infantry in Arkansas, and such other forces as may be raised in the Indian country and Missouri. Third. The organization of the Indian forces into three brigades, to be organized whenever the minimum number of regiments mentioned in Army Regulations as constituting a brigade is presented from any of the nations. Fourth. The appointment of Stand Watie as brigadier-general. Fifth. The appointment of a superintendent of Indian Affairs. Sixth. Establish a military court in the Indian Territory.<sup>57</sup>

Soon, Boudinot visited with Davis about his recommendations. Davis said that he did not know for certain whom he would designate as District Commander, but Boudinot was satisfied that General Samuel B. Maxey, the man who had replaced Steele, would be named to that post. Indeed, Boudinot reportedly told Davis that Maxey was "the man his people wanted."<sup>58</sup> Douglas H. Cooper, who wanted the post, reluctantly indicated that he would resign his commission and become the new Superintendent of Indian

affairs if he could not be made the District Commander. Boudinot also opposed this appointment for Cooper.<sup>59</sup> In telling Watie of this meeting with Davis, however, Boudinot did not fully indicate his efforts against Cooper and only stated that while he "did not think Cooper the best General we could select for command of our Dept. we infinitely preferred him to Steele."<sup>60</sup>

After reviewing Boudinot's proposals and talking with the Cherokee delegate, Davis forwarded them to J. A. Seddon, the Confederate Secretary of War. Seddon replied that he would "not advise" the transfer of General Sterling Price without "his willingness to accept such service," for although Boudinot had "the impression such service would be acceptable" to Price, Seddon did not believe so.<sup>61</sup> With regard to appointing an Indian general, he had no objection if enough troops could be raised to merit the command. He concurred that Watie would make an excellent general but cautioned that special legislation would have to be enacted so that Indians would not be placed in command of whites. As for a Superintendent of Indian Affairs, he agreed that either one should be named or the Commissioner of Indian Affairs should reside west of the Mississippi River. A military court, he thought, "might be advisable" if "it could be constituted of Indians as well as whites."<sup>62</sup> Davis, in turn, approved the formation of new Indian brigades. He concluded that Douglas Cooper could command the first, and Watie would lead a second. Davis also decided that "a superintendent is desirable" and that the Indian Territory could "advantageously constitute a military district."<sup>63</sup> But nothing would change immediately. And when it did, Maxey remained as District Commander.

While Davis and Seddon mulled over Boudinot's recommendations for

the military, his relief bill finally returned to the floor of the House. On January 2, Representative Malcolm D. Graham of Texas reported the bill back from Ways and Means Committee, where it had ended up, and recommended its passage. However, since heretofore Congress had not passed any law authorizing such an appropriation, Graham noted that a proper method for handling this bill had to be established; then, the Secretary of the Treasury needed to estimate the amount actually needed for the appropriation. Only at that point could the appropriation legally be made.<sup>64</sup>

Five days later, Congressman William B. Wright, another member from Texas, urged that the bill be passed. It was; only one vote was cast against it.<sup>65</sup> A few days later, President Davis sent the House an estimate from the Secretary of the Treasury on the amount to be appropriated and urged that the House make the appropriation.<sup>66</sup>

Later that month, Boudinot wrote to Watie and told about what had been happening in Richmond. Foremost, he discussed money. He noted that his relief bill had passed the House but that the President had just lately officially approved it. To this fact he added, "No one unacquainted with legislative delays will appreciate the embarrassment under which I have labored."<sup>67</sup> He now had possession of the money, but cautioned Watie to use it wisely, for it was really a loan, an advance on the funds which the Confederate government was to pay the Cherokees after the war and which although paper currency was "the representation of \$100,000 gold."<sup>68</sup>

What Boudinot was cryptically alluding to was the fact that inflation gripped the Confederacy. Paper script was not worth its supposed value in gold. Moreover, the high prices left Boudinot personally in despair. "Everything is extravagantly high here," he wrote. "My board



costs me \$300 per month, while I get \$230 pay, so you see I am not making a pile being a congressman."<sup>69</sup>

Boudinot also spoke of something politically personal:

Judge Dick Fields is here; he has not told me his business, perhaps he has a delicacy in telling me he is the bearer of dispatches from a secret caucus which affected to represent the Cherokee people, recommending Cooper for Major Genl. and declaring I have lost the confidence of the Cherokee people, which they would testify to by electing another delegate.<sup>70</sup>

To this skullduggery, Boudinot cavalierly remarked, "Bah! I can laugh at such plots."<sup>71</sup> Certainly, Boudinot should have felt secure in his position. Perhaps he had angered some Cherokees, but he still had the full support of Watie. Moreover, he had been an effective representative. His enemies were not powerful enough to remove him from office.

The next day, Boudinot drafted a letter to J. L. Martin, the man whom the Cherokee National Council had appointed to handle relief funds.<sup>72</sup> Boudinot told Martin that Commissioner of Indian Affairs Scott would be bringing the \$100,000 to the Cherokees, and he had some advice for Martin:

I think however you had better draw on Scott for only such amounts as you may be able to use immediately, for the subject of currency is now under consideration by the Senate--the House has passed a bill in secret session which I cannot explain at present. It is sufficient for you to know that when the bill passes, Confederate money may be a quarter discount than now--I mean the present issue if you do not draw all the \$100,000, you will have a right to demand the best money the govt has--and I advise you to wait until you can know what the currency will be before you draw all.<sup>73</sup>

Perhaps Boudinot was violating his trust with the Congress, but he also had his trust with the Cherokees. He did not want them to lose any purchasing power with this precious loan he had secured. Moreover, his advice was sound, for soon Confederate money was revalued.

Also in January, Boudinot proposed more legislation to benefit the

Confederate Cherokees. He introduced a bill to pay claims for deceased soldiers from the Indian Territory, as well as one for the relief of his friend William P. Adair.<sup>74</sup> Nor did he let the military reorganization issue rest. On February 11, he informed President Davis that "Indians as expressed by their late grand council" accepted his plan except they wanted Cooper "made a major general and placed in unrestricted command of the department."<sup>75</sup> Two days later, again active on the floor of the House, he succeeded in amending a bill "to facilitate the settlement of claims of deceased officers and soldiers" by making it apply to those from the Indian Territory as well as other parts of the Confederacy.<sup>76</sup>

Money, of course, remained one of his paramount concerns. He desired to get more for the Cherokees, and to do that he was negotiating to secure a loan of \$13,500 from the state of Virginia, all the while keeping a watchful eye on the \$100,000.<sup>77</sup> Finally in late February, S. S. Scott set out to deposit that money with the Cherokees, but he traveled only as far as Selma, Alabama. As he informed Cooper, he thought that "it would not be proper to pay the Indians money due to them by the Confederate States which they would be well to find, or pay taxes upon."<sup>78</sup> Thus, he decided to wait until after April 1, when new currency would be issued, to hand over the money.<sup>79</sup>

Boudinot, however, regretted Scott's action. More aid was definitely needed for the indigent Cherokees, and once more Boudinot submitted a bill for their relief.<sup>80</sup> And on May 7, a few days after his bill had been referred to the Committee on Indian Affairs, Boudinot informed Watie that "Mr. Scott will soon be in the Indian country with money for you" and added, "I will have \$50,000 more by next January I think without fail."<sup>81</sup> At the same time, he had more good news: Watie

had finally been commissioned a brigadier general.<sup>82</sup>

Unquestionably, Boudinot was a serious and hard-working member of the Confederate Congress. However, his life did have a more personal, private side. Although little of it at that time is known, some indication of it can be seen in a long letter to his brother William on June 2, 1864. After recounting recent military events, he informed William that speculations about him getting married were false. Also, he said that he had a letter from their brother Frank, who was an officer in the Union army and lamented that the two could not meet again as Frank had wished.<sup>83</sup> (Elias and Frank would never meet again, for Frank was later killed in a battle near Richmond.)<sup>84</sup> At the same time, he could not restrain from discussing his financial impoverishment:

I pay \$450. for board per month--my washing and contingencies run the figure over 500 a month without indulgence in whiskey. Board at the hotel is 30 dollars per day for regular boarders, single meals \$15. I collected for Wm. Alberty by hard work a claim of \$18000. I charged him 10 per cent--this enables me to squeeze through without selling my watch.<sup>85</sup>

Yet while inflation depressed him, he did have some achievements about which to brag. He had recently had some journalistic success: the Richmond Enquirer had published his editorial on Indian affairs, and the London Herald had asked him for "a long article . . . on Indian matters."<sup>86</sup> His recognition as an expert on Indian policy somewhat offset his despair over his poverty.

In July, Boudinot headed west. As before, money for the Cherokees dominated his thoughts. On July 11, Watie had informed the Cherokee National Committee and Council that their relief commissioner had received \$45,000 of the \$100,000 and that he was then "making purchases" for the needy Cherokees.<sup>87</sup> Two days later, Boudinot, who had just

arrived in Washington, Arkansas, wrote his uncle. The Cherokee delegate was ebullient. Grant and Sherman, he said, had both suffered defeats, the price of gold had gone up, and "an early peace is universally predicted."<sup>88</sup> He also noted that "Scott left Richmond with 100,000 for our Nation last January, I overtook him about the 20th of June at Meridian Miss."<sup>89</sup> On July 25, Boudinot wrote to Watie again, informing him that Scott had finally arrived in the Indian country.<sup>90</sup> Two days later, Scott communicated to Watie that he could be available on August 8 to "turn over the residue of the money appropriated by Congress."<sup>91</sup>

While the Cherokees welcomed these funds, Boudinot and others had reason to be vexed. Scott had held the money for almost eight months while the Cherokees starved. He had dallied about instead of hastening to the Cherokees. Furthermore, some confusion seemed to exist over how much money Scott brought. Either the \$45,000 Watie referred to had come out of the \$100,000 appropriation and Scott carried the remainder of that amount with him, or Watie was mixed up and the \$45,000 was that which Boudinot had borrowed of his own accord. Whatever the case, the Cherokees did have new funds.

Money, however, did not bring the Cherokees relief from a larger problem: The fortunes of war had definitely turned against them. Confederate forces in the Indian Territory were reeling from defeats. They were for most purposes cut off from the Confederacy. All they could do was to make raids and to try to control what ground they could. And, Stand Watie, already well known for his guerilla exploits, continued to shine in the field, but his daring triumphs constituted small victories.<sup>92</sup> Confederate forces could not push the federal troops back, and more Cherokee families were forced to flee everyday. Many fled to Texas,

including Watie's wife and children. Consequently, Boudinot decided to visit the refugee camps in late September of 1864.

Even amid the distraught displaced Cherokees, Boudinot's energy and positive attitude did not desert him. Their plight, however, did prompt him to seek new means for alleviating their destitution. Thus he wrote to Maxey to get the general's opinion on changing the method of funding Indian refugees. He asked if Maxey would agree with a new plan under which the Confederate government would contract aid for the refugees rather than funding them directly. He furthermore noted that, although he had helped to establish the existing system, it was a failure.<sup>93</sup> Boudinot argued that "the government as a matter of justice and humanity, to say nothing of generosity should assume the entire responsibility and expense of feeding the destitute wives and children of their faithful allies in the field."<sup>94</sup> "God knows," he concluded, "I have the good of my people at heart, and am anxious to aid them: but I have not forgotten my father slain for being their friend and that their enemies have been idolized. And I do not expect my motives and efforts will be appreciated by many."<sup>95</sup>

Boudinot also drafted a letter to Watie and suggested another way for the Cherokees to procure needed cloth and medicine. He wanted the National Council to send a purchasing agent across the Mississippi River with ten or fifteen thousand dollars appropriated by November or December. And as in his missive to Maxey, Boudinot also interjected his anger toward his opponents in the Cherokee Nation. In particular, William Alberty had told Maxey that Boudinot would not be re-elected as the Cherokee delegate to the Confederate Congress. To that, Boudinot responded, "I have done all and will yet do all I can for the Cherokees,

if they give me no credit at all with it."<sup>96</sup> Indeed, there was some basis for Boudinot being piqued. He had done much for the Cherokees, and he could rightfully ask, what more did they expect from their delegate?

That same day, he sent yet another letter to Watie, informing the Principal Chief that he had obtained a modification of the rules regarding the securing of soldiers' claims. He had personally written the changes. All Watie had to do, he wrote, was to establish his own method for handling the requests. Moreover, Boudinot submitted his personal claim. Therefore, to give this claim "validity," Watie needed only to draw up a certificate stipulating that any formula he had developed was "so far applicable" and did not "contravene the laws of Congress."<sup>97</sup>

Boudinot also stated that he would contact General E. Kirby-Smith to find out if a Sub-Auditor to whom the claims would be forwarded had yet been appointed.<sup>98</sup> Boudinot obviously hoped to replenish his own depleted resources. Nonetheless, these rule changes were the fruit of his activity in Congress and would benefit other Cherokees as well as himself.

Two days later he again wrote to Watie. Money was again his topic. Some Cherokees held the old currency printed before the new issue of 1864. It was worth only two-thirds the value of the new. That is, three dollars of the old script could be exchanged for two of the new. Boudinot therefore said that he would try to help those holders of the old currency get the full purchasing power for this money in an exchange for the new. He advised that those who possessed the old currency get receipts when they traded in their script at discount. These would provide him with "some kind of data" to refer to in attempting to obtain reimbursements for the lost value.<sup>99</sup> He doubted that his efforts would

succeed but, nonetheless, he would try.<sup>100</sup>

It seemed that the longer Boudinot stayed with the refugees, the more his optimism dropped. Not only the Cherokees' depressed conditions but also the flagging war effort affected him. By October 9, Sarah Watie informed her husband that Boudinot planned to depart for Richmond in a few days because "He says Lincoln has commissioners at Richmond now and he wants to get back as soon as he can so as to receive our interest there."<sup>101</sup> Now, Boudinot came close to realizing that the days of the Confederacy were numbered. He wanted to protect the Confederate Cherokees in the event of the South capitulating but, perhaps more important, he desired to secure additional aid for the Cherokees before the Confederacy entered its final death throes.

However, Boudinot did not immediately hasten to the Confederate capital. Instead, he went to Arkansas, telling Watie that by staying in Arkansas until mid-November he could "be instrumental in effecting more good for the Indians."<sup>102</sup> He also sadly noted that Senator Charles B. Mitchel of Arkansas, "one of my best friends and one of the truest friends the Indians had," had passed away and that Senator Robert W. Johnson was in ill health and would not return to the Senate--the Cherokees had lost their "two most influential and zealous friends."<sup>103</sup> At the same time, the condition of the refugees haunted his thoughts. He emphatically urged Watie, "Don't fail to call the council and recommend the measures I have before suggested--for God's sake and the sake of the naked refugees let some person go across the river and buy cotton cards--let them do it quick, it will soon be too late."<sup>104</sup> Apparently, however, Watie had already taken heed of Boudinot's idea, for a few weeks earlier he had charged two of his men to cross the Mississippi and purchase goods

for the refugees.<sup>105</sup>

The fall of 1864 was indeed a terrible time for the Cherokees. Poverty, destruction, and war struck at the heart of the nation. Violence became commonplace, especially as the Confederates weakened and the pro-Union Cherokees came back into the territory with federal forces. Many set out to reap their revenge on their enemies. The Pins were especially zealous in seeking out the Southern sympathizers, and pillaging and killing became widespread. Perhaps Susan Washbourne best expressed the despair and fear of the hapless, vulnerable Southern Cherokee people when she wrote to her husband: "The 'pins' are committing awful outrages upon the people. Women & children have to run to southern troops for protection--oh this civil war when will it cease!"<sup>106</sup> Nor was the situation any better for many of the returning Northern Cherokees. As J. Harlan, the Union Cherokee agent reported in late 1864, "The Cherokees went home and have been robbed, a little by enemies and much by pretended friends and are now destitute. Their condition is pitiable."<sup>107</sup>

While the Cherokees suffered and the North tightened its noose around the throat of the Confederacy, Boudinot reappeared in Richmond. The Confederate Congress would continue to function to the end. In the hearts of some, the flicker of hope still burned. The great and talented Robert E. Lee still had his army in the field. Perhaps all was not yet lost. But it was. Even if Lee could hold off Grant's superior forces, other Confederate commands lay in shambles. General William T. Sherman soon split the South in half. Confederate General J. B. Hood verged on suffering a disastrous defeat in Tennessee. Everywhere, the Confederacy teetered on exhaustion.

Despite the bleak condition of the Confederacy and the even



gloomier days and months ahead, Boudinot did not desist from taking the cause of the Southern Cherokees before the Confederate Congress. In late December, he introduced a bill "amending the act to regulate trade and intercourse with the Indians."<sup>108</sup> At the same time, he presented two other bills. One called for measures for more effectively carrying out the treaty with the Cherokees; the other was another relief bill.<sup>109</sup>

On January 13, Boudinot received some good news. That day Representative Thomas J. Foster of Alabama reported back one of the bills from the Committee on Indian Affairs. It called for the interest due the Cherokee Nation on certain state bonds which it had purchased to be paid in cotton.<sup>110</sup> Two weeks later, the bill became law. The interest on the \$760,000 which the Cherokees had invested would be paid in cotton. They could receive the cotton in Brownsville, Texas.<sup>111</sup>

Boudinot no doubt was jubilant. And he was not finished with his efforts. On February 18, the House debated a bill for the "redemption of the old issue Treasury notes held by certain Indian tribes."<sup>112</sup> Although Boudinot had not introduced this legislation, he clearly was the man behind it, for he had promised Stand Watie to act on this problem. During the floor debate, Boudinot boldly offered an amendment to increase the amount to be repaid from \$300,000 to \$600,000. His amendment passed, and so did the bill by a vote of fifty-eight to zero.<sup>113</sup> Surprisingly, Boudinot had succeeded in one effort about which he had little hope for success.

When Boudinot pushed the Confederate Congress for more aid, William Quesenbury informed Stand Watie that Boudinot had asked him if he wanted the post of Confederate Cherokee agent.<sup>114</sup> Apparently, Boudinot wanted to help his friend who had fled to Texas with the refugees. However,

Quesenbury was not the only person Boudinot tried to advance. Earlier, he had attempted to find a position for his brother William in the Judge Advocate's office for the Confederate military courts which delegate Boudinot had sought to have established.<sup>115</sup> Then in March, Boudinot nominated Saladin Watie, an officer in his father's forces, for an appointment to the Confederate Military Academy.<sup>116</sup> But all such endeavors came to naught, for the Confederacy had only a few months to survive.

Ironically, during the last days of the Confederacy, the changes which so many had desired in the military structure in the Indian Territory finally came. In February, Douglas Cooper was named Superintendent of Indian Affairs in the District of the Indian Territory. In accepting this position, he relinquished his command of the Indian division to Stand Watie.<sup>117</sup> A few days later, however, Maxey asked to be relieved of his command because of conflicts with Cooper.<sup>118</sup> In turn, Cooper was given Maxey's post as military commander of the District of the Indian Territory.<sup>119</sup> Many of Cooper's supporters were no doubt happy, while Boudinot, who had opposed Cooper's ambitions, probably shrugged his shoulders. The command meant little now. The war was almost over.

Boudinot left Richmond on March 18, 1865. About a month later, federal forces entered the city.<sup>120</sup> Lee surrendered to Grant on April 9, and the war was at an end--the Confederacy was dead. All that remained was for the other Confederate generals to order their troops to lay down their arms. E. Kirby-Smith, however, was determined to hold out as long as possible. Thus, Boudinot traveled to his headquarters in Louisiana. From there, he wrote to Watie on May 11:

I got a bill through Congress requiring Genl. Smith to turn over to the Cherokee . . . cotton. . . . Another was also passed making the same provisions for the other nations to the extent of their annuities. . . .

It is important that we secure this cotton and export it if possible before the general crash on this side of the river, which, between you and I, will take place this summer. I have nothing to do and am willing to devote my time and energies to this business if you can call your Executive Council together and give me requisite authority. . . . The war will chose in some shape by the 1st of August, . . . Our policy should be to remain still and watch the current of events.<sup>121</sup>

In a postscript he added, "I had a bill passed also redeeming all the old issue, but that is of but little moment now."<sup>122</sup>

As Boudinot had overestimated the strength of the Confederacy in 1861, so did he misjudge Kirby-Smith's ability to ward off the inevitable. Kirby-Smith surrendered his command on May 26, 1865.<sup>123</sup> That same day, Boudinot accompanied Augustus H. Garland under a flag of truce to the headquarters of Union General J. J. Reynolds in Little Rock. In a letter to Reynolds and Military Governor Issac Murphy, Boudinot stated that he had "voluntarily accompanied Mr. Garland" in order to confer on "the speediest and best means of securing peaceable relations" with the Indians allied with the Confederacy.<sup>124</sup> Reynolds, however, turned them away because they presented themselves as representatives of the "secession gov't" of Arkansas.<sup>125</sup>

Moreover, when Reynolds rebuffed Boudinot, peace still eluded the Cherokees, for Watie kept his forces under arms. Finally, on June 23, 1865, the Cherokee general surrendered, the last Confederate general to do so.<sup>126</sup> For some, it had to be a sad day; others, however, probably breathed weary sighs of relief. Nonetheless, the steadfast Confederate Cherokees could not be ashamed of themselves. They had not flinched in battle; they had been faithful to their allegiance to the ill-fated Confederacy. And perhaps their most fitting tribute came from Colonel Charles D. Morse in the Clarksville, Texas, Standard: "Huzza for the

Red Man! They have been true to the last."<sup>127</sup>

Like all Americans of his generation, the Civil War deeply affected Boudinot. He had fought and he had lost friends. His people and his nation had been decimated and destroyed. Likewise, the proud South, to which he had so fervently attached himself, and Arkansas, his adopted state, had suffered a similar fate. Yet, throughout the past four years of glory and triumph, defeat and despair, Boudinot had played a conspicuous role. On the battlefield, he had performed competently and gallantly. In the Confederate Congress, he had attempted to do more than either the Cherokees or certainly his congressional colleagues ever envisioned from an Indian delegate. And while in the Congress, he polished those skills--speaking, lobbying, and scheming--which he would draw upon for the rest of his life and which both enhanced and detracted from his reputation.

In May of 1865, however, Boudinot had little time to dwell upon his achievements and misfortunes. Although the Civil War may have ended for many white Americans, it had not truly ended for the Cherokees. On the contrary, a new fight was about to engulf them. A new peace had to be arranged with the victorious government in Washington while Northern and Southern Cherokees remained armed and at odds in the Cherokee Nation. The future of the Cherokee Nation would rest on the outcome of the confrontation between the Southern Cherokees, Northern Cherokees, and federal authorities. In this embroglio, Boudinot would pit his talents and cunning against the wily and politically seasoned John Ross.

ENDNOTES

<sup>1</sup>58th Cong., 2d sess., Senate Doc 234, "Journal of the Congress of the Confederate States of America 1861-1865" (hereafter cited as Doc 234), Vol. V, (serial 4614), p. 502.

<sup>2</sup>Ibid., p. 513.

<sup>3</sup>Ibid., p. 514.

<sup>4</sup>T. Paul Wilson, "Delegates of the Five Civilized Tribes to the Confederate Congress," Chronicles of Oklahoma 53 (Fall, 1975), 354-355.

<sup>5</sup>Thomas B. Alexander and Richard E. Beringer, The Anatomy of the Confederate Congress: A Study of the Influences of Member Characteristics on Legislative Voting Behavior, 1861-1865 (Nashville, Tenn.: Vanderbilt University Press, 1972), p. 29.

<sup>6</sup>Southern Historical Society Papers (Richmond, Va.: published by the Society, 1897), New Series IX, Vol. 47, p. 69 (hereafter cited as SHS).

<sup>7</sup>Major General Thomas H. Holmes to General S. Cooper, 25 November, 1862, cited in ORWR, Ser. i, XIII, p. 928.

<sup>8</sup>Kenny L. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), p. 133.

<sup>9</sup>ORWR, Ser. i, XXII, p. 143.

<sup>10</sup>Remarks of Benjamin T. Duval, cited in John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 42.

<sup>11</sup>Brigadier General Douglas H. Cooper to Major General T. C. Hindman, 8 January 1863, cited in ORWR, Ser. i, XXII, pt. 2, p. 770.

<sup>12</sup>Jefferson Davis to Confederate Senate and House of Representatives, 12 January 1863, cited in James C. Richardson, ed., A Compilation of the Messages and Papers of the Confederacy, I (Nashville, Tenn.: United States Publishing Company, 1905), p. 295.

<sup>13</sup>Elias C. Boudinot to Stand Watie, 23 January 1863, cited in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 119-120.

- <sup>14</sup>Ibid.
- <sup>15</sup>Ibid.
- <sup>16</sup>Ibid.
- <sup>17</sup>Document, dated 1863, Box 53, CP, WHC.
- <sup>18</sup>Remarks of Augustus H. Garland, 8 November 1890, cited in Adams, p. 64.
- <sup>19</sup>Doc 234, Vol. VI, (serial 4615), p. 125.
- <sup>20</sup>Ibid., p. 276.
- <sup>21</sup>"Minutes of the General Convention of the Cherokee People at Camp Coodey, April 22, 1863," pp. 2,4, CNP, IAD, OHS.
- <sup>22</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 162-163; James M. Bell to Mrs. Caroline Bell, 16 May 1863, cited in Dale and Litton, pp. 122-124; James M. Bell to Caroline Bell, 29 May 1863, cited in Dale and Litton, pp. 126-127.
- <sup>23</sup>James M. Bell to Caroline Bell, 29 May 1863, cited in Dale and Litton, pp. 126-127; Wardell, p. 163.
- <sup>24</sup>Samuel L. Taylor, John Spears, and Alexander Foreman to Jefferson Davis, 21 June 1863, cited in ORWR, Ser. i, XXII, pt. 2, pp. 1120-1122.
- <sup>25</sup>Ibid.
- <sup>26</sup>Elias C. Boudinot, "To the Citizens of the Cherokee Nation" (broadside), copy in Cherokee File, Gilcrease Institute.
- <sup>27</sup>Ibid.
- <sup>28</sup>Ibid.
- <sup>29</sup>Ibid.
- <sup>30</sup>For more on Cooper and his role in Confederate affairs in the Indian Territory, see Muriel H. Wright, "General Douglas H. Cooper, C.S.A.," Chronicles of Oklahoma 32 (Summer, 1954), 142-184.
- <sup>31</sup>Brigadier General William Steele to Lieutenant General E. Kirby-Smith, 24 June 1863, cited in ORWR, Ser. i, XXII, pt. 2, pp. 883-884.
- <sup>32</sup>Elias C. Boudinot to Stand Watie, 27 June 1863, cited in Dale and Litton, pp. 129-130.
- <sup>33</sup>Ibid.

<sup>34</sup>Ibid.

<sup>35</sup>Franks, p. 141.

<sup>36</sup>James W. Ware, "Indian Territory," Journal of the West 16 (April, 1977), 107-108.

<sup>37</sup>For more on the Cherokee refugees, see Angie Debo, "Southern Refugees of the Cherokee Nation," Southwestern Historical Quarterly 35 (April, 1932), 255-266.

<sup>38</sup>James M. Bell to Caroline Bell, 2 September 1863, cited in Dale and Litton, pp. 136-140.

<sup>39</sup>Elias C. Boudinot to Stand Watie, 4 November 1863, cited in Dale and Litton, pp. 143-144.

<sup>40</sup>Doc 234, Vol. VI, (serial 4615), p. 520.

<sup>41</sup>Ibid.

<sup>42</sup>Ibid., p. 529.

<sup>43</sup>Ibid., p. 542.

<sup>44</sup>Ibid.

<sup>45</sup>Ibid., p. 543.

<sup>46</sup>SHS, Vol. 50, pp. 77-78.

<sup>47</sup>Ibid.

<sup>48</sup>E. Merton Coulter, The Confederate States of America 1861-1865 (Baton Rouge: Louisiana State University Press, 1950), p. 51n31.

<sup>49</sup>SHS, Vol. 50, pp. 77-78.

<sup>50</sup>Elias C. Boudinot to Stand Watie, 24 January 1864, cited in Dale and Litton, pp. 150-152.

<sup>51</sup>Stand Watie to S. S. Scott, 8 August 1863, cited in Franks, p. 143.

<sup>52</sup>Brigadier General William Steele to General S. Cooper, 19 December 1863, cited in ORWR, Ser. i, XXII, pt. 2, pp. 1100-1101.

<sup>53</sup>Ibid.

<sup>54</sup>Ibid.

<sup>55</sup>Elias C. Boudinot to Jefferson Davis, 21 December 1863, cited in ORWR, Ser. i, XXII, pt. 2, p. 1103.

<sup>56</sup>Ibid.

<sup>57</sup>Elias C. Boudinot to Jefferson Davis, 4 January 1864, cited in ORWR, Ser. i, LIII, Supplement, pp. 920-921.

<sup>58</sup>E. E. Portlock, Jr. to Samuel B. Maxey, 13 January 1864, S. B. Maxey Papers, Gilcrease Institute.

<sup>59</sup>Ibid.

<sup>60</sup>Elias C. Boudinot to Stand Watie, 24 January 1864, cited in Dale and Litton, pp. 150-152.

<sup>61</sup>J. A. Seddon to Jefferson Davis, 9 January 1864, cited in ORWR, Ser. i, LIII, Supplement, p. 921.

<sup>62</sup>Ibid.

<sup>63</sup>Jefferson Davis to Secretary of War, n.d., cited in ORWR, Ser. i, LIII, Supplement, pp. 921-922.

<sup>64</sup>SHS, Vol. 50, p. 168.

<sup>65</sup>Ibid., p. 201; Elias C. Boudinot to Stand Watie, 24 January 1864, cited in Dale and Litton, pp. 150-152.

<sup>66</sup>SHS, Vol. 50, p. 210.

<sup>67</sup>Elias C. Boudinot to Stand Watie, 24 January 1864, cited in Dale and Litton, pp. 150-152.

<sup>68</sup>Ibid.

<sup>69</sup>Ibid.

<sup>70</sup>Ibid.

<sup>71</sup>Ibid.

<sup>72</sup>Franks, p. 145.

<sup>73</sup>Elias C. Boudinot to J. L. Martin, 27 January 1864, CP, WHC.

<sup>74</sup>Doc 234, Vol. VI (serial 4615), p. 602, 692.

<sup>75</sup>Elias C. Boudinot to Jefferson Davis, 11 February 1864, cited in ORWR, Ser. i, LIII, p. 968.

<sup>76</sup>Doc 234, Vol. VI, (serial 4615), p. 811.

<sup>77</sup>Elias C. Boudinot to Stand Watie, 24 January 1864, cited in Dale and Litton, pp. 150-154.



<sup>78</sup>S. S. Scott to Brigadier General D. H. Cooper, 29 February 1864, CP, WHC.

<sup>79</sup>Ibid.

<sup>80</sup>Doc 234, Vol. VII, (serial 4616), p. 19.

<sup>81</sup>Elias C. Boudinot to Stand Watie, 7 May 1864, cited in Dale and Litton, pp. 157-159.

<sup>82</sup>Ibid.

<sup>83</sup>Elias C. Boudinot to William P. Boudinot, 2 June 1864, cited in Dale and Litton, pp. 166-171.

<sup>84</sup>Edward C. Starr, A History of Cornwall, Connecticut, a Typical New England Town (New Haven, Conn.: Tuttle, Morehouse & Taylor Co., 1926), p. 294.

<sup>85</sup>Elias C. Boudinot to William P. Boudinot, 2 June 1864, cited in Dale and Litton, pp. 166-171.

<sup>86</sup>Ibid.

<sup>87</sup>Address of Stand Watie to National Committee and Council of the Cherokee Nation, 11 July 1864, cited in ORWR, Ser. i, XLI, pt. 2, pp. 1046-1048.

<sup>88</sup>Elias C. Boudinot to Stand Watie, 13 July 1864, cited in Dale and Litton, p. 181.

<sup>89</sup>Ibid.

<sup>90</sup>Elias C. Boudinot to Stand Watie, 24 July 1864, cited in Dale and Litton, pp. 181-182.

<sup>91</sup>S. S. Scott to Stand Watie, 27 July 1864, cited in Dale and Litton, pp. 182.

<sup>92</sup>Elias C. Boudinot to Stand Watie, 11 September 1864, cited in Dale and Litton, pp. 189-190; Franks, pp. 154-176.

<sup>93</sup>Elias C. Boudinot to Samuel B. Maxey, 30 September 1864, S. B. Maxey Papers, Gilcrease Institute.

<sup>94</sup>Ibid.

<sup>95</sup>Ibid.

<sup>96</sup>Ibid.

<sup>97</sup>Elias C. Boudinot to Stand Watie, 1 October 1864, CP, WHC.

<sup>98</sup>Ibid.

<sup>99</sup>Elias C. Boudinot to Stand Watie, 3 October 1864, cited in Dale and Litton, pp. 195-196.

<sup>100</sup>Ibid.

<sup>101</sup>Sarah C. Watie to Stand Watie, 9 October 1864, cited in Dale and Litton, pp. 200-201.

<sup>102</sup>Elias C. Boudinot to Stand Watie, 31 October 1864, cited in Dale and Litton, pp. 201-202.

<sup>103</sup>Ibid.

<sup>104</sup>Ibid.

<sup>105</sup>E. L. Compere to Stand Watie, 3 October 1864, cited in Dale and Litton, pp. 196-197.

<sup>106</sup>Susan to Woodward, 4 October 1864, Washburn (Washbourne) Collection, Section X, IAD, OHS. For more on the suffering and travail of the Southern Cherokees during the war, see Linda Finley, "Notes from the Diary of Susan E. Foreman," Chronicles of Oklahoma 47 (Winter, 1969-70), 388-397, and "The Diary of Hannah Hicks," American Scene 13 (1972), 1-24.

<sup>107</sup>J. Harlan to Colonel Coffin, 29 December 1864, National Archives, Record Group 75, Letters Received-Office of Indian Affairs, Microfilm 234, Reel 836 (hereafter cited as NA, RG, LR-OIA, M, R).

<sup>108</sup>SHS, Vol. 52, p. 64.

<sup>109</sup>Ibid.

<sup>110</sup>Ibid., pp. 141-142.

<sup>111</sup>Laws and Joint Resolutions of the Last Session of the Confederate Congress (Durham, N. C.: Duke University Press, 1941), pp. 24-26.

<sup>112</sup>Doc 234, Vol. VII, (serial 4616), p. 601.

<sup>113</sup>Ibid.

<sup>114</sup>William Quesenbury to Stand Watie, 23 February 1864, CP, WHC.

<sup>115</sup>Elias C. Boudinot to Samuel B. Maxey, 30 September 1864; Scott to Truman, 6 October 1864, S. B. Maxey Papers, Gilcrease Institute.

<sup>116</sup>Franks, p. 178.

<sup>117</sup>Ibid., p. 177.

118 Samuel B. Maxey to Colonel C. G. Schulz, 17 February 1864, S. B. Maxey Papers, Gilcrease Institute.

119 Special Orders No. 45, S. B. Maxey Papers, Gilcrease Institute.

120 Dale and Litton, p. 221n46.

121 Elias C. Boudinot to Stand Watie, 11 May 1865, cited in Dale and Litton, pp. 222-223.

122 Ibid., p. 223.

123 Stand Watie to Sarah Watie, 23 June 1865, cited in Dale and Litton, p. 228.

124 Elias C. Boudinot to General J. J. Reynolds and Governor Isaac Murphy, 26 May 1865, cited in ORWR, Ser. i, XLVIII, pt. 2, p. 631.

125 J. J. Reynolds to A. H. Garland and Elias C. Boudinot, 26 May 1865, cited in ORWR, Ser. i, XLVIII, pt. 2, p. 630.

126 Franks, p. 180.

127 The Standard (Clarksville, Tex.), 14 June 1865, cited in Ohland Morton, "Confederate Government Relations with the Five Civilized Tribes, Pt. 2," Chronicles of Oklahoma 31 (Autumn, 1953), 319.

## CHAPTER VII

### MAKING PEACE

Fighting between Yankees and Rebels officially ended in May of 1865, but conditions were far from safe in the Indian Territory. Not only was much of the region devastated by war, but violence and retribution haunted the place. The Cherokees, especially, maintained hard attitudes. Although the supporters of the North--the Ross faction--had been on the winning side, they had been refugees from the Cherokee Nation for most of the war. They returned to find their property destroyed and their means of livelihood gone. The Confederate Cherokees, on the other hand, were in worse shape. They were now refugees who feared to return to their homes, or what was left of them. Nonetheless, the leaders of the Southern Cherokees--Watie, Boudinot, and their cohorts--were determined to separate themselves and their followers from their enemies, the Northern Cherokees.

During the war, the split in the tribe had become a reality. Stand Watie had been elected the Principal Chief of the Confederate Cherokees after Chief John Ross had fled to the North. Consequently, the Southern Cherokees believed that their branch of the tribe was totally independent from the pre-war government in the Nation, and they were determined to keep from reuniting with their northern brethren. In the impending struggle over this issue, Elias C. Boudinot played an important role.

At a Grand Council in June, Watie had appointed six commissioners to investigate ways of "establishing thorough harmony among all Indian tribes."<sup>1</sup> Watie also appointed another delegation. Word had been received that federal peace commissioners would meet with all the Confederate Indians at Armstrong Academy, Choctaw Nation, on September 1, 1865.<sup>2</sup> Thus, Watie named an official party to represent the Cherokees at this upcoming conference. Boudinot was among their number.<sup>3</sup>

While the Southern Cherokees made their arrangements and plotted their strategy, so did the Northern Cherokees. Under the auspices of Lewis Downing, the Acting Principal Chief (Ross was still in the East), the pro-Union Cherokees held their own council at Tahlequah on July 13. Claiming that Ross and Downing were the legal, rightful leaders of the tribe, they passed an act for reuniting the tribe. Pardon and amnesty would be proclaimed, and any Cherokee who took an oath to their government could regain his citizenship. Five days later, Downing and other Northern Cherokee leaders met with Southern Cherokee representatives, but no agreement was reached.<sup>4</sup> The Southern Cherokees would not recognize any government but their own, and they would treat with the federal government on that basis.

For their part, federal officials now seemed to lack direction. Secretary of Interior James Harlan called off the meeting at Armstrong Academy. Finally, he declared that Fort Smith, Arkansas, would be the site of the conference. The date of the meeting remained September 1.<sup>5</sup> Harlan's indecision, however, did not stem from any questioning of his terms for peace. He wanted the Indians to accept the plan which he had earlier proposed in the Senate. The so-called Harlan Bill, which then Senator Harlan of Iowa had introduced, called for the creation of the

Indian Territory as a territory of the United States. This measure would have not only destroyed the tribal governments but also opened the region to white settlers. At the time, John Ross protested against it; in turn, Harlan and Senator James Lane of Kansas argued that Ross was no longer the Principal Chief of the Cherokees. The Harlan Bill passed the Senate but went no further. Now, however, Harlan hoped to see his plan implemented through treaties.<sup>6</sup>

Although Harlan was unable to lead the government's delegation, his friend Commissioner of Indian Affairs Dennis N. Cooley, a fellow Iowan, would head the commission. Also among the commissioners was Elijah Sells, the Superintendent of the Southern Superintendency, another Iowan and a close associate with Harlan. They would steadfastly uphold the Secretary's instructions.<sup>7</sup> Yet, Cooley apparently needed last minute directions, for after treating with plains tribes in Kansas in late August, he telegraphed Harlan for instructions. Harlan replied: "You will be guided by circumstances. You may commence by saying the President is willing to grant them peace, but wants land for other Indians and a civil government for the whole territory."<sup>8</sup> With Harlan's reply in hand, Cooley and his fellow commissioners journeyed to Fort Smith.

At the same time, the Confederate Indians congregated at Armstrong Academy. Because Harlan's decision not to send commissioners to that place had been made after all the tribes, particularly the plains tribes, had been notified of the meeting at Armstrong Academy, the leaders of the Five Civilized Tribes decided to hold a meeting there before sending delegations to Fort Smith. At the gathering, Boudinot addressed the assemblage. He told the former soldiers to return to their farms

and the "wild Indians" to go peacefully back to their reservations.<sup>9</sup> He and Woodward Washbourne then left for Fort Smith. A few days later, the council ended, and the other delegates--Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles--began their sojourn to Fort Smith.<sup>10</sup>

On September 8, the Fort Smith conference officially began. At this time, Cooley informed those present of the wishes of the United States government. The President, he said, desired (1) that each of the tribes make a new treaty; (2) that they help keep the plains tribes at peace; (3) that slavery be abolished in the tribes and freedmen be incorporated into the respective tribes in which they had been in bondage; (4) that involuntary servitude did not exist in the tribes except as a punishment for criminals; (5) that the tribes agree to relinquish land for "friendly tribes in Kansas" to be settled on; (6) that the tribes unite under a consolidated government in the Indian Territory; (7) that no white men, except those either sanctioned by the federal government or adopted citizens of the nations, be allowed to live in the Indian Territory.<sup>11</sup>

On September 11, Cooley continued his endeavors. In particular, he noted that the federal government had been displeased with John Ross's actions in 1861 and 1863.<sup>12</sup> Ross, however, was not on hand nor, for that matter, were any of the delegates from the Confederate tribes except Boudinot.<sup>13</sup> Three days later, Ross finally arrived. The commissioners, however, refused to recognize him as the Principal Chief of the Cherokees, declaring that he was "still at heart an enemy of the United States, and disposed to breed discord among his people, and that he does not represent the will and wishes of the loyal Cherokees."<sup>14</sup>

Cooley then "announced that the commissioners were ready to hear

any remarks the members of the delegations might wish to offer."<sup>15</sup> His offer was directed to the recently arrived delegates from Armstrong Academy, but John Ross requested to speak. Permission was granted, and Ross undertook to defend himself. He had been loyal, he said. His acceptance of a treaty with the Confederacy had been made under duress. Moreover, he pointed out that he had renounced that alliance and had led his faithful followers to the Union side. In fact, three of his sons, three of his nephews, and three of his grandsons had joined the Union forces.<sup>16</sup>

When Ross finished, Boudinot asked to be heard. He said that the delegates from the Armstrong Academy council did not want to do business unless all of their number were present but, he added, he did have something to say about Ross. As far as the allegations against Ross were concerned, he said,

I do not propose that any member of the delegation from the South has had anything to do with it. But, Sir, there are serious charges which I will make against him, & I here announce my willingness & intention to make such charges, to state such facts & to prove them too, as will prove his duplicity. The fact is the Cherokee Nation has long been rent in twain by dissensions & I here charge these upon this same John Ross. . . . the treaty made with the Confederate States was made at his instigation.<sup>17</sup>

Cooley finally interrupted Boudinot. "The object of this council," he said, "is not to stir up old feelings," and the commissioners hoped that Ross could "fully explain his actions so that we can shake hands too with him in peace and amity."<sup>18</sup> To this Boudinot replied, "It was not my intention to stir up bad blood between our brothers, or between any other section or sections of the Indian Country, but to let you know I propose to give a view of our feelings & actions for the last four years."<sup>19</sup> On that note, Cooley adjourned the session.<sup>20</sup>



In this afternoon "colloquy," none of the parties had been sincere. Ross had never been the deeply loyal Unionist that he purported to be; Boudinot had no qualms about stirring up old hatred, possibly because for him and many others it had never really subsided; and Cooley did not desire Ross to disprove his charges against the old chief. In fact, he soon telegraphed Harlan that the commissioners "refuse to recognize John Ross as Chief of the Loyal Cherokees. He has been in our way."<sup>21</sup>

On September 16, Boudinot again spoke. This time he presented the credentials of the Southern Cherokee delegates. He told the commissioners that, although the Southern Cherokees wanted to sign the treaty, they had some misgivings about its contents. Then, he submitted a statement from the delegates expressing their disapproval if incorporating freedmen into the tribes and consolidating all of the tribes in the Indian Territory under one government. Nonetheless, they did declare, "We are willing and ready again to proffer the olive branch; but we respectfully represent that after all the blood that has been shed, and the intense bitterness that seems to fill the bosoms of our brethren, we should not be expected to live in an undivided country."<sup>22</sup> After reading these remarks, Boudinot again attacked the actions of the Northern Cherokees.<sup>23</sup>

Once more, Cooley rose to interrupt Boudinot. In an apparent rebuke, he informed Boudinot that if the Cherokees could not settle their own problems the government of the United States would do so for them.<sup>24</sup> But what Cooley actually meant was probably no less than what Boudinot and his colleagues desired: the separation of the Cherokee Nation. Immediately, the verbal battle intensified as Boudinot exchanged words with John Ross and his nephew William Potter Ross. And again Cooley

interceded, declaring "that the council would listen to one speech or statement on Monday [September 18] from any one portion of the Cherokee nation, in order that the commissioners might ascertain the facts of both parties to the controversy."<sup>25</sup>

By this time, everyone at the conference recognized that Boudinot was leading the fight against Ross. The young tyro had to show that the Southern Cherokees had no desire to reunite with their old enemies. Concurrently, Cooley harbored little liking for Ross and his views. And on September 17, Secretary Harlan informed Cooley that President Johnson agreed with the commissioner's position on Ross. Harlan also told Cooley that "should those who have been in rebellion against the Government of the United States refuse to harmonize with the loyal portion of the Nation, you will recongize as the organ of each party such persons as seem to you to be the true representatives of their sentiments and wishes respectively."<sup>26</sup> In other words, Boudinot and the Southern Cherokee delegates could be officially recognized as spokesmen for part of the tribe. President Johnson issued similar instructions to Cooley, saying that if the Cherokees would not "re-establish their former harmonious relations as members of the same organization . . . you will authorize a division, on equitable terms, of its funds and annuities, and the settlement of each party on separate portions of their reservation."<sup>27</sup>

The fate of Ross and his supporters was not yet sealed, however. On September 16, they had signed a treaty drawn up on September 13. But merely a treaty of peace, it did not address the issues which separated the two tribal factions. When the conference reconvened on September 18, the Southern Cherokees, led by Boudinot also affixed their

signatures to the document.<sup>28</sup> Of course, signing this peace agreement did not resolve any of the issues either between the two contesting elements in the Cherokee tribe or between Harlan and Cooley and the Indian spokesmen. A final settlement had yet to be reached.

Vibrant and headstrong as usual, cunning and eloquent as he could be, Boudinot resisted all efforts to link the Southern Cherokees with Ross and the Northern Cherokees. Certainly, Boudinot's fellow delegates must have beamed with assent when he attacked Ross. At least Woodward Washbourne did, for he wrote his wife, "Boudinot has given Ross a terrible scoring."<sup>29</sup> Indeed, Boudinot was scathing at times and his antics had the flair of high drama. For example, sometime during the council Boudinot supposedly began to tell of a cowardly individual, a Cherokee, who after the engagement at Pea Ridge returned to the battlefield at night and scalped both dead and wounded soldiers. Then, Boudinot thrust his finger at a member of the Northern Cherokee delegation and said, "Thou art the man!"<sup>30</sup> Whether this ever took place or not, the picture conjured up by the story vividly portrays the spirit and intensity of Boudinot's efforts to discredit his opponents. Although histrionics and rhetoric were not enough to ensure the success of the mission of the Southern Cherokees, his spirited repartee no doubt left a strong impression on all those who witnessed him in action.

When the conference was called to order on September 19, a rather subdued and pensive Boudinot appeared. He had another question on his mind: the suffering of his people in the Indian Territory. He wished to present a memorial on the subject to the commissioners. Cooley, however, was in Washington, and Sells, who had assumed the role of acting chairman of the commission, told Boudinot that this issue was not the

"legitimate business of the commission" but promised to bring the matter to Cooley's attention.<sup>31</sup>

At this time Boudinot also undertook new responsibilities. The Creeks and Seminoles hired Boudinot and R. B. Van Valkenburgh of Washington as their legal counsels. The Choctaws and Chickasaws named Sampson Folsom as their attorney, but on September 23 he engaged Boudinot and John King of Fort Smith as attorneys under him. The Southern Cherokees also gave Boudinot new authority. On September 22, they gave him power of attorney to represent them in an effort to get possession of \$43,000 worth of cotton which the Confederate government had appropriated to the Cherokees but which had never reached their hands.<sup>32</sup> Obviously, as the Fort Smith council drew to a close with nothing actually solved, the Southern Indians realized that legal maneuvers as well as future negotiations would be necessary if they were to safeguard tribal interests.

The council ended on September 21, 1865. Cooley thanked the delegates for attending. Then some "prominent members of the various delegations" made "congratulatory remarks."<sup>33</sup> And as might have been expected, Boudinot, for one, had much to say. He was ready to play up to the commissioners and, by implication, Secretary Harlan:

I had become thoroughly acquainted with the wishes and purposes of the United States commissioner, . . . I knew it would be expected of the southern Indians . . . to act promptly, and I therefore drew up the response to the stipulations which it was understood would be required in the forthcoming treaty. . . . Since the response had been submitted, however, I have read the Senate bill [the Harlan Bill] referred to in the 6th stipulation, which provides for the consolidation of all the Indian nations into one territorial government, and do not hesitate to say that . . . it is one of the grandest and noblest schemes ever devised for the red man.<sup>34</sup>

Thus Boudinot changed his tactics. If the Southern Indians were to get their ways, they would have to appease Harlan.

No doubt Cooley welcomed Boudinot's words, for the commissioner had little else to be thankful for. The treaty made at the council was almost valueless. It merely stated that the Indians were again subservient to the victorious Union government--a recognized fact before the meeting ever began. Much was left to do. Agreements with specific stipulations had yet to be made; Secretary Harlan's goals remained unfulfilled. Therefore, following Boudinot's speech, Cooley adjourned the council, noting that the commissioners and the Indian delegates would meet again "at the call of the Secretary of the Interior."<sup>35</sup> Boudinot would have another chance to sway Cooley and Harlan to his side.

Although the results of the peace conference were nebulous at best, Boudinot, for his part, had been conspicuous and impressive at the proceedings. Nonetheless, some Southern Cherokees apparently wished to remove him from his leadership position. At least C. N. Vann informed John Ross that, since federal authorities had refused to recognize Ross as the Principal Chief, the Southern Cherokees had decided to "discard one of their principle [sic] men.--They agree to discard Boudinot."<sup>36</sup> Such, however, was far from true. Perhaps a few did want to cast the outspoken and dominating Boudinot aside. But, rather than losing influence after conference, Boudinot gained even more, for by late October he could inform Cooley that he had been given the power of attorney by the Southern Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws and that he had been chosen as a delegate for the Southern Cherokees for the forthcoming negotiations in Washington.<sup>37</sup>

Now, Boudinot endeavored once more to ingratiate himself with

Harlan and Cooley. Harlan wanted new treaties which would grant railroads rights-of-way through the Indian Territory. Thus, when Boudinot arrived in Washington in late October, he carried a letter of introduction to Harlan from S. M. Coleman, who was promoting the creation of the St. Louis and Galveston Railway Company. As the name indicated, this potential railroad line would lay tracks from St. Louis to Galveston, Texas, and to do so it would have to traverse the Indian Territory. In Boudinot, Coleman believed that he had found a supporter for this project. "You will find the Major," he wrote to Harlan, "a gentleman of intelligence and well posted in the affairs of his people. . . . The Major is very anxious to have this Road built and will render all the assistance possible to enable the Company now being organized to procure a grant of land."<sup>38</sup> Since the 1850s, Boudinot had wanted to see railroads built in the West. His enthusiasm on the matter was not contrived but real, and the same might also be said of his views on territorial government.

Having determined his stand on these issues, Boudinot began to seek support from other delegates. In November, he informed Cooley that Peter Pitchlyn of the Choctaws agreed with "Harlan's bill for consolidating the Indian nations into one territory."<sup>39</sup> However, he noted that Pitchlyn "says that his people generally are opposed to it! I hope the govt. will not despair. . . . Each of the treaties should contain an article recognizing the right of the govt. to organize such territory whenever in the judgment of congress it seems expedient."<sup>40</sup> He further reported, "I am confident that the Southern Cherokee delegation will cheerfully accede to such a stipulation; and I believe if properly explained all other parties in the territory will go for it."<sup>41</sup>

Cooley, in turn, apparently appreciated Boudinot's aid, for he charged the Southern Cherokee delegate with the task of looking into the condition of the Cherokee refugees and ascertaining their needs. Thus in early November, Boudinot left Washington and headed for Texas and the Indian Territory.<sup>42</sup>

By December 8, 1865, Boudinot was at Boggy Depot in the Choctaw Nation, where, he informed Stand Watie, he was getting information for the Commissioner of Indian Affairs on letting contracts for "funding all the destitute Indians."<sup>43</sup> The Office of Indian Affairs, he further explained, intended to establish depots from which to distribute needed supplies to the Indians. He also stated that he was doing all he could for the Southern Cherokees--he had spent six hundred dollars of his own money in the effort.<sup>44</sup> Four days later, he telegraphed Cooley from Fort Smith. Quoting prices, he relayed to the Commissioner that corn was selling at seventy-five cents per bushel; flour at \$4.50 per pound; and salt at \$2.50 per pound. These prices, he added, were in gold: A 50 percent mark-up was made if payment was in paper money.<sup>45</sup> Indeed, the cost of food was extremely high for a people who had little or no money.

On January 11, 1866, Boudinot again corresponded with Cooley. He had just returned from visiting the refugees, and they were in an "improved" state.<sup>46</sup> He recommended that agricultural implements, seeds, and roots be furnished by the federal government to the indigent tribes and included his own estimation of the amount of such articles needed. At the same time, he reiterated that "a division of territory is indispensably requisite" for the Cherokees.<sup>47</sup>

While Boudinot jaunted about the Indian Territory in late 1865, he

met with General John B. Sanborn. Sanborn had been given the task of accommodating the freedmen in the Indian Territory. He agreed with Harlan and Cooley that the government should treat the former slaves as members of the tribes in which they had been held in bondage. The freedmen, he believed, should be accorded the same rights, interests, and annuities as their former masters. After talking with Boudinot, Sanborn soon reported to Cooley that Boudinot believed "the Indians would submit to whatever the Government felt best for them."<sup>48</sup> What Boudinot had told Sanborn obviously contradicted his statement at the Fort Smith council. Possibly, circumstances led him to change his mind, but more probably he was again attempting to ingratiate himself further with Harlan and Cooley, as well as Sanborn. He seemed more than willing to acquiesce on many things, if he could gain federal approval for splitting the Cherokee Nation.

By December, 1865, the Indian delegations again prepared to treat with the federal government. This time, they would gather in Washington, and the commissioners would deal with each tribe independently. As much as ever, the Southern Cherokees hoped that they might extricate themselves from connection with John Ross and the Northern Cherokees. Certainly, Boudinot, who seemed to have a good rapport with Cooley, had been doing much to further their position in the upcoming negotiations. Moreover, Albert Pike confided to Woodward Washbourne that Secretary of War Edwin Stanton was "kindly disposed" towards the Indians.<sup>49</sup> Perhaps they could beat Ross and gain their independence.

And what of the old chief? Ross undoubtedly was miffed and angered by the actions of the commissioners. So were his followers, who, in late October protested to President Johnson about Ross's treatment at



Fort Smith.<sup>50</sup> A few days later, the Cherokee National Council appointed Ross to work with the Northern Cherokee delegation at Washington.<sup>51</sup>

With the talks soon to begin, Boudinot returned to Washington and lost no time in continuing efforts to discredit Ross. On January 12, 1866, Boudinot and William P. Adair wrote to Cooley, declaring that not only had Ross accepted \$250,000 from the Confederate government in 1861-1862 but also that "it is generally certain that none of the 'disloyal' Cherokees were beneficiaries."<sup>52</sup> Ross, in other words, had been far from loyal to the Union; moreover, he had cheated his own people. The implication was clear: Who could trust this man?

Although Boudinot spent much of his time preparing for the impending conference, he also endeavored to gain influential acquaintances. His charm and manner soon endeared him to many Washington notables. One person, however, on whom his efforts were romantically, not pragmatically, pressed was Vinnie Ream. The young sculptress, soon to be famous for her bust of Lincoln and other works, had known Boudinot for several years, having met the young Cherokee lawyer before the war in Fort Smith. Then, Boudinot had become enchanted with the pretty teenager.<sup>53</sup> Boudinot no doubt felt that it was more than fortuitous that Vinnie was in Washington in late 1865 for, he had remained enamoured of the lovely Vinnie. Woodward Washbourne was likewise taken by the young lady, whom he described as "a woman of genius, spirit and power."<sup>54</sup> Unfortunately for Boudinot, Vinnie was engaged to R. B. Van Valkenburgh. However, Washbourne informed his wife that Boudinot went to Vinnie's studio every day and that Van Valkenburgh was "very jealous of Boudinot."<sup>55</sup> Washbourne could only lament, "I wish Boudinot could marry Miss Vinnie."<sup>56</sup> Fate, however, did not will such a marriage.

But, Vinnie did not marry Van Valkenburgh either, and she and Boudinot remained friends until the latter's death.

Regardless of his social and romantic concerns, Boudinot never lost sight of the needs of the destitute Cherokees. And on January 18, 1866, Boudinot and Adair drafted a petition to Cooley, asking for \$150,000 to be divided pro rata to all destitute Indians in the Indian Territory. With the formal memorial, Boudinot had attached his personal remarks: \$150,000 would not be enough to provide supplies for the Cherokees and Seminoles, let alone the Creeks who were suffering more than any of the other tribes.<sup>57</sup> The government needed to do more for these Indians. On that point he was adamant. If Boudinot did not truly wield influence, he acted as if he did.

Woodward Washbourne, for one, praised and admired his young friend. He believed that Boudinot would be successful in fending off Ross at the treaty talks and in mid-January confidently wrote his wife that "Boudinot is to-day far stronger with the Government than he [Ross] is, or ever was, and is, practically, the Cherokee Nation. The Department of Interior and he agree in the main, and he is consulted on the affairs of it daily, and his counsels obtain."<sup>58</sup>

Washbourne also wrote that John Rollin Ridge, his wife's brother, had decided to move from California to Arkansas. In the late 1840s, Ridge had killed one of Ross's followers and thus had fled to California. There, he had made a name for himself as a newspaper man and writer. If he returned to Arkansas, however, Washbourne believed that the son of John Ridge could be elected to the United States Senate, for he would "have all of Boudinot's influence, and it is great, all of mine, all of Tebbetts" behind him.<sup>59</sup> Ridge did not go to

Arkansas, but he did become interested in the treaty negotiations. Eventually, he, too, would take part in the talks.

Boudinot and the Southern Cherokees would need Ridge's aid. For regardless of Washbourne's optimism, the Northern Cherokee delegates were far from defeated. On January 24, 1866, they began in earnest to press their case by issuing a pamphlet addressed to President Johnson, the Senate, and the House of Representatives. In this document, they claimed that their loyalty to the Union had never wavered, nor had Ross's.<sup>60</sup> This was just the beginning of their published statements. By January 31, they had another pamphlet ready for printing.

On January 30, Boudinot and Adair irately confided to Cooley that they had "informally" come into possession of the first pamphlet, signed by John Ross.<sup>61</sup> It was filled, they said, with "misconceptions and falsehoods, and duplicity from beginning to end."<sup>62</sup> Indignantly, they asserted, "we do not feel that it is incumbent upon us as a duty to answer it."<sup>63</sup> John Ross, they declared was no longer the Principal Chief of the Cherokee Nation: Cooley, himself, had settled that issue at Fort Smith. Nonetheless, despite their bombast, they did finally note that they were "preparing an answer."<sup>64</sup> Obviously, their bravado could not conceal their misgivings over the extent of the Northern Cherokees' influence in Washington. Yet, they could rightly assess that, at the moment, Commissioner Cooley, if not totally on their side, did not agree with the views of the Northern Cherokees, and he did not want to recognize John Ross as Principal Chief.

A few days later, the Northern Cherokee pamphlet of January 31 reached the public. It also contained a defense of John Ross. Its authors, including Ross, stated that Ross had no choice but to make an

alliance with the Confederacy. If he had not, Albert Pike would have negotiated with Watie and Boudinot.<sup>65</sup> Moreover, they presented a scathing portrayal of Watie and Boudinot:

That for several years before the outbreak of war, there was in our midst an element inimical to our institutions; harmless, indeed, within itself, but susceptible of becoming exceedingly dangerous when fondled and nursed by such spirits as Albert Pike and Jefferson Davis, and backed by a powerful army of Gen. Ben McCulloch. This element was headed by Stand Watie, a disaffected Cherokee, trained and stimulated by such sheets as the Arkansian, published at Fayetteville, Arkansas, under the auspices of his nephew, E. C. Boudinot, a Cherokee by birth, but reared and educated under the good old Puritan system of New England—a man who without cause has spent the vigor of his life in fault-finding with the Cherokee Nation, of which he has never been a citizen.<sup>66</sup>

All the misfortunes of the Cherokee Nation during the preceding four years were thus attributed to Watie and Boudinot.

While the Southern and Northern Cherokee delegations squared off against each other, Harlan and Cooley lost no time in raising support for their ideas, and they had an ally in Sanborn, who reported that the best interests of all parties in the territory would be served by creating a territorial government and by sectionalizing Indian lands. The freedmen, he further offered, should have their own reservation, and a large tract of land not taken up in allotment by the Indians should be held in reserve for tribes not already located in the Indian Territory. Some of the land, he added, should be granted to railroad companies, but the government should retain possession of every other section and sell it for \$2.50 an acre. The remainder of the land should then be opened to white homesteaders.<sup>67</sup>

Then on March 5, 1866, the Southern Cherokee delegates expressed their approval of Harlan's territorial bill. They did, however, have some concerns. One was the sale of lands in the Indian Territory to

tribes in Kansas which would be removed to the territory. They accepted the plan but, along with their Seminole and Creek counterparts, begged that the government give the selling tribes a fair price for the land.<sup>68</sup>

The Northern Cherokee delegates failed to be so accommodating. On March 15, they submitted a treaty for Cooley to look at.<sup>69</sup> But as before, Ross and his delegates made their own proposals, refusing to bow before the wishes of James Harlan and Dennis Cooley.

At the same time, Cooley was collecting information to use against John Ross and the Northern Cherokees. Albert Pike, for instance, wrote to Cooley in February, stating how helpful Ross had been to the Confederacy in 1861.<sup>70</sup> More telling, perhaps, was a letter Cooley received from J. Harlan, the Cherokee agent. Agent Harlan believed that the Northern and Southern Cherokees could not peacefully co-exist under one tribal government and needed to be separated.<sup>71</sup> J. J. Tebbetts likewise opined that the Cherokee Nation should be divided into two domains. Tebbetts also voiced his endorsement of the idea that all of the Indian Territory should be under a central territorial government and the lands be distributed in severalty.<sup>72</sup> The views of these men reputedly knowledgeable on affairs of the Indian Territory, especially in the Cherokee Nation, strongly buttressed the position of the Southern Cherokee delegates.

By early spring, 1866, it seemed that Boudinot and his fellow delegates verged on victory, and Washbourne ecstatically told his wife, "The Cherokee country will be divided. We are triumphant, the Ross party is powerless. . . . Old Ross is about to die."<sup>73</sup> At the time, his words had the ring of truth in them. Ross was on his deathbed, and Cooley seemed more predisposed than ever to accept the views of the

### Southern Cherokees.

By this time also, the contesting Cherokee delegations had hired white lawyers to represent their interests in meetings with the federal negotiators. The Northern Cherokees had engaged the prominent Thomas Ewing, Jr., while the Southern Cherokees had contracted Daniel Voorhees and Perry Fuller to handle their affairs. Fuller was the wealthy and politically influential brother-in-law of Vinnie Ream. Voorhees was an aspiring young politician who would later become a noted and powerful senator from Indiana. Both men became fast friends with Boudinot.<sup>74</sup>

With the aid of Voorhees and Fuller, not to mention Cooley, the Southern Cherokees had reason to feel confident. And on April 23, the Southern Cherokee delegates reported to their people that a "satisfactory treaty" would "be made by the first of June."<sup>75</sup> The Northern Cherokees, they pointed out, had accused them of offering the United States government concessions which the Ross faction said were detrimental to the Cherokee people. But, the delegates reminded their readers, they had been "spurned" by the Northern Cherokees at Fort Gibson in July, 1865, when some sort of reconciliation had been sought, and the same was true at the Fort Smith council.<sup>76</sup> Therefore, they had only justifiably proposed their own solution to the problem of irreconcilability: separation of the Cherokee tribe. To that end, they had presented Commissioner Cooley with the particulars of their plan, which would not only divide Cherokee lands proportionately between the two factions but also Cherokee monies. "On the principle that half a loaf is better than no bread," they concluded, "we are confident that every true southern Cherokee will heartily approve our action."<sup>77</sup> A little later, this statement was published in slightly altered and enlarged form and distributed among

the Southern Cherokees.<sup>78</sup>

Four days after drafting their message to the Southern Cherokees, the Southern Cherokee delegates explained to Cooley why they would not accept the proposals made by the Northern Cherokees. Admitting that the Northern Cherokees claimed to be offering concessions, they declared, "Such concessions in reality amount to nothing, but, if accepted and enforced by the Government will bind us hand and foot and place us at the mercy of our enemies and life-long oppressors."<sup>79</sup> And what were these conciliatory measures? The Northern Cherokees would designate the Canadian District as the area for Southern Cherokee settlement, but to this proposal the Southern Cherokee delegates averred that they had always been a majority in that part of the Nation and could easily elect local officials, regardless of the national government. Also, the Northern Cherokees had pledged that the laws would bear equally on all. To this point, the Southern Cherokee delegates argued that the laws were not in question, rather "the open and flagrant violation of them by the Ross party."<sup>80</sup> Finally, they scoffed at the assertion that they would be admitted to the national council of the Northern Cherokees, remonstrating, "We do not wish representation in their council."<sup>81</sup> In all, they viewed the Northern Cherokee delegation's treaty proposal as a half-hearted sham.

Throughout all of this activity, Boudinot placed himself in the thick of the fray. Possibly the most outspoken Southern Cherokee delegate, he also probably hated Ross and his supporters more than the others did. At the same time, he had become a popular figure in Washington with important friends. Indeed, his achievements impressed Stand Watie, who told his son, Saladin Watie, also a member of the Southern

Cherokee delegation, "Cornelius has gained a name which will hold good all his days."<sup>82</sup>

Shortly, though, Boudinot was humbled when John Rollin Ridge joined the Southern Cherokee delegation. Watie had appointed Ridge to the body in February, but he did not reach Washington until May. But no sooner did he arrive, than he was elected chief of the delegation.<sup>83</sup> Although Boudinot undoubtedly admired his kinsman, Ridge's instant elevation to chief spokesman for the delegation must have made Boudinot twinge, even if ever so slightly, with resentment. In a sense, Ridge had usurped Boudinot's position, at least officially. Nonetheless, Ridge added a new respectability to the delegation: He had not been a Confederate, and no charge of disloyalty could be leveled against him.<sup>84</sup>

Having both Boudinot and Ridge with the delegation made that group more formidable than ever. Both were eloquent, forceful, ambitious men. And after Ridge's arrival, events seemed to favor the Southern Cherokees even more. As Washbourne wrote to J. A. Scales on June 1, Ross was sick and expected to die very soon, and Commissioner Cooley had dismissed the Northern Cherokee delegates because they had failed to agree on a division of the Cherokee Nation. Moreover, he reported that Ridge, Boudinot, and the others had met with President Johnson, who had "ordered that a treaty be made with us for our pro rata share of the Nation."<sup>85</sup> As for Ross, he would try to use his influence with the Senate to fight the treaty but, Washbourne predicted, "He will be beaten there."<sup>86</sup>

The deathly ill Ross never did give up the fight, although in mid-May the Northern Cherokee delegates appeared to be cornered by



Cooley. On May 11, the Commissioner of Indian Affairs presented them with treaty demands. If the delegation refused to meet these demands, Cooley threatened to treat with the Southern Cherokee delegation. Replying to Cooley the next day, Ross and the other Northern Cherokee delegates declared that four of Cooley's nine propositions were unacceptable. In particular, they would not agree to granting railroads large amounts of land--only minimal grants for depots and the like would be considered; they were for a territorial council with representatives from all of the tribes in the Indian Territory taking part but not for a territorial government; they opposed selling any land west of 95 $\frac{1}{2}$ <sup>o</sup>; and, of course, they steadfastly rejected any plan to split the Cherokee Nation. They did, however, again state their willingness to set aside the Canadian District for the Southern Cherokees.<sup>87</sup> At the same time, they once more attacked the Southern Cherokee leaders, saying, "it is not peace, security, and fraternity, these lately disloyal leaders want--it is political power."<sup>88</sup>

Ross then undertook a new line of defense. After presenting Cooley with his delegation's reaction to the Commissioner's demands, the wily old chief decided to take the controversey before the public. He began to write a series of articles for the New York Tribune, Horace Greeley's arch-Republican newspaper. In turn, Ridge personally asked Greeley for permission to write rebuttals.<sup>89</sup> Thus, the conflict poured into the press.<sup>90</sup>

Ross's activities, however, did not dampen the spirits of the Southern Cherokees in Washington. Washbourne, in particular, had supreme faith and confidence in the abilities of Ridge and Boudinot. Yet, he was also leary of being too complacent, for in his letter of

June 1 to Scales, he implored Scales to have Watie organize a Southern Cherokee government in the Canadian District as soon as possible. The existence of a functioning Southern Cherokee government in that region would give more credence to their claims for a government wholly separated from that of the Northern Cherokees and John Ross.<sup>91</sup>

While Washbourne anxiously waited for Watie to act, the Southern Cherokee delegates continued to present themselves at the Office of Indian Affairs. They were always ready to express their thoughts, and one action which elicited their response was the federal government's dealings with the plains tribes in the Indian Territory. They desired to protect the interests of the Cherokee Nation, particularly its lands. Thus in June they officially protested the recent treaty with the Kiowas and Comanches. The Senate had ratified a new agreement with these tribes, and according to Boudinot and his cohorts it gave away Cherokee land "illegally."<sup>92</sup> They also addressed the Commissioner on the situation in the Cherokee Nation. The Northern and Southern Cherokees seemed, at least in their eyes, once more to be at each other's throats. Therefore, they asked that the federal government provide military protection for the Southern Cherokees in the Canadian District. "This is the only way, in our opinion," they stated, "that bloodshed can be avoided."<sup>93</sup> Whether or not the situation was really that desperate is debatable. However, their assertion, if Cooley believed them, only added strength to their demand that the United States government sanction a separation of the tribe.

Overall, the Southern Cherokee delegates exuded confidence during the early days of June, 1866. All their efforts seemed about to be rewarded. Not least of all among the ebullient crew was Boudinot, who

crowed to William Quesenbury, "I shall beat old Ross to a certainty."<sup>94</sup> Indeed the energetic Cherokee had poured much effort into that endeavor. Now it appeared that all the labor had been worthwhile. A treaty between the United States and the Southern Cherokees was in the final steps of completion. On June 13, the Southern Cherokee delegation and Commissioner Cooley signed the document.<sup>95</sup>

Of the several articles in the new treaty, a few were significant. The Southern Cherokees would establish an independent government in the Canadian District. The size of this domain would be equal to 160 acres for every man, woman and child who wished to reside there. Furthermore, they would get a proportional share of the tribe's annuities. Also, the odious confiscation law of the Ross government was voided; a general amnesty was declared; and a United States federal court was to be established in the Indian Territory to settle disputes between the Northern and Southern Cherokees. Moreover, the federal government agreed to supply the Southern Cherokees \$25,000 immediately in order for them to meet their debts and to establish themselves on their new lands as quickly as possible.<sup>96</sup>

On the other hand, the Southern Cherokees had to make some concessions to the federal government--concessions which the Southern Cherokee delegation had agreed to months before. They consented to cede their interest in the Neutral Land in Kansas. However, the United States would pay for the land: The President would set the price, but it would not be less than \$500,000. Furthermore, any Cherokees then living on the Neutral Land would have the right of preemption at a minimum price. The Southern Cherokees would receive a share, pro rata, from the sale of this land. But more important to Harlan and Cooley, the Southern

Cherokees agreed to the organization of the Indian Territory under a central government as stipulated in Senate Bill 459 of the Thirty-ninth Congress--the Harlan Bill. Furthermore, they agreed to grant rights-of-way to railroads with the added condition that further grants could be made by the new government's Council at a later date if a majority of the Southern Cherokees would support such an action. The treaty also called for the new Southern Cherokee government to buy stocks in these railroad companies.<sup>97</sup>

The Southern Cherokees and the Interior Department were satisfied with this treaty, but the Northern Cherokees and their supporters understandably were not. In fact, the day after the paper had been signed, William Addison Phillips, a former Union officer who had commanded a regiment of Northern Cherokees, and a Republican politician in Kansas, protested against the agreement to Secretary of State William H. Seward. Phillips blamed Cooley for the bad treaty. Cooley, Phillips said, had "signed a treaty with some irresponsible persons, just from the rebel army. . . fugitives from their country, who, before returning to the same, and expressing their voice under its written constitution, assure to dispose of Cherokee rights and property. . . . Such a treaty can have no force in law."<sup>98</sup>

Phillips was certainly not the only person to condemn this treaty. The Northern Cherokee delegates assumed the posture of sorely wronged individuals; their powerful friends rallied to their cause. And as Cooley felt the heat of increasing criticism, the scrappy Commissioner of Indian Affairs replied in kind. On June 16, he submitted to the President a booklet which he had put together. This tract, The Cherokee Question, focused on characterizing John Ross as a traitor and with a

collection of documents and letters justified Cooley's decision to deal with the Southern Cherokees.<sup>99</sup>

The Southern Cherokee delegates were no doubt jubilant. Not only had they secured the treaty that they wanted, it also seemed that Cooley and the power of the Interior Department were fully behind them. Woodward Washbourne, of course, was one of the more ecstatic. Still, he was upset by Watie's slowness in organizing a government in the Canadian District.<sup>100</sup> Nor could he forget about John Ross, who, he told J. A. Scales, was "appealing, lamely, I admit, but still appealing to the sympathizers of the Radicals and the ignorant."<sup>101</sup> That was the potential weak link in the Southern Cherokee's armor. They had been on the side of the Confederacy, and dealing with them had to seem wrong in the eyes of some of the more vehement Republicans.

Undoubtedly, those who felt compassion for Ross and the Northern Cherokees exerted their influence on behalf of that element of the Cherokee tribe, and President Johnson changed his mind on the treaty. Thus, Boudinot confided to his brother William on July 2, 1866 that his earlier hopes for a "speedy ratification" of the treaty were dashed.<sup>102</sup> "Since then," he lamented, "things have taken a change--under the mistaken apprehension that a compromise can be made. The President directs that another treaty shall be made. . . . I have an idea that the best thing to be done is . . . to secure a few titles to all our improvements and the restoration of all our property sold under confiscation."<sup>103</sup>

Events then began to move quickly. The Northern Cherokee delegates returned a signed treaty to Cooley.<sup>104</sup> The following day, July 10, Harlan ordered Cooley to recognize John Ross as Principal Chief of the

Cherokee Nation.<sup>105</sup> By July 24, Saladin Watie could write his father that "The Ross Delegation have made a treaty and it has been approved by the President, at least it was sent up to the Senate by him for ratification, and yesterday we had an interview with the Senate Committee and I inferred from their remarks that it would be ratified."<sup>106</sup>

The next day, Boudinot also penned a letter to the elder Watie:

We have been beaten; that is to say we have not been successful in securing an absolute separation. I am in doubt as to the proper course to pursue. Adair and the others wish to defeat the treaty the Rosses have signed, but I incline to the opinion that the better the policy would be to accept . . . their treaty as it does not commit us to anything, and gives us a good chance to renew the demand for a division at a more favorable opportunity.<sup>107</sup>

Boudinot did not see the situation as hopeless, but he did prefer to acquiesce at the moment. As he informed Watie, "the treaty grants a general amnesty, declares confiscation laws void, and gives the Ross party no jurisdiction over us in civil and criminal cases before the courts."<sup>108</sup> The stipulations in this treaty did not spell a total defeat for the Southern Cherokees, only a setback, or so the optimistic Boudinot chose to think.

The President signed the treaty on July 19 and sent it to the Senate, which ratified it with amendments eight days later. The Northern Cherokee delegates accepted the amendments on July 31.<sup>109</sup> A conclusion to the matter was finally at hand. Nonetheless, the Southern Cherokee delegates continued to agitate for some input. They, too, wanted some amendments added. Thus, they informed the Commissioner of Indian Affairs that they would also sign the treaty if their additions were accepted.<sup>110</sup> All this was to no avail. The Southern Cherokees had been shunted aside—they would have no say on this treaty.

John Ross had again influenced the destiny of the Cherokee people.

The victory, however, was the last for the old chief. He died on August 6, 1866.<sup>111</sup> Five days after his demise, the treaty was proclaimed.<sup>112</sup>

How much gratification Boudinot felt when Ross passed from the scene is uncertain. Clearly, he hated Ross, and he would continue to fight against Ross's followers, especially William Potter Ross, the heir apparent to his uncle's political power. However, if Boudinot did construe John Ross's death as a victory of sorts, it was a hollow one. Ross and his delegation still held control over the Cherokee national government; they had made the final treaty.

What did the treaty entail? How much of a compromise was it? In most respects, it contained the wants of the Northern Cherokees. General amnesty was proclaimed, and the confiscation laws were repealed. The Southern Cherokees were given the right to settle in the Canadian District where they could control local affairs. And if Cherokee national laws discriminated against Southern Cherokees, the President of the United States had the right to suspend such legislation. To adjudicate disputes between the two tribal factions, a U. S. federal court was to be established in the Indian Territory. Until this court came into being, however, the nearest federal court--in Arkansas--would fulfill the function.<sup>113</sup> On paper, at least, the rights of the Southern Cherokees were generally protected.

In all, the Northern Cherokee delegation had driven a hard bargain. The treaty did give Congress the power to grant rights-of-way in the Cherokee Nation to railroads, but only two could be permitted: one north-south, one east-west. Moreover, instead of the railroad grantees receiving large sections of land, they would only get two hundred yards

on each side of their tracks--hardly an appealing inducement for any railway firm.<sup>114</sup> (Nevertheless, charters were issued to railroad companies proposing to lay track through the Indian Territory immediately after Johnson signed the treaty and before the Senate finally approved it.)<sup>115</sup> As for territorial government, the Cherokees agreed, as did the other tribes in the Indian Territory, to the creation of a general council for the Indian Territory. This body, however, would not legislate for the tribes nor would the Indian Territory be an official territory of the United States in any respect.<sup>116</sup>

With regard to land cessions, the Cherokees agreed to cede the Neutral Lands in Kansas to the United States. Both delegations had accepted that request during the negotiations. Also, the Cherokees consented to the federal government settling "any civilized Indians friendly with the Cherokees and adjacent tribes on unoccupied lands east of 96° and "friendly Indians" on Cherokee land west of 96°.<sup>117</sup> However, the Cherokee Nation would "retain the right of possession of and jurisdiction over all of said country west of 96° longitude until thus sold and occupied."<sup>118</sup>

The Office of Indian Affairs described the treaty essentially as a compromise, "not entirely satisfactory to any party," but "the best possible settlement of the matter attainable."<sup>119</sup> Some Southern Cherokee delegates, however, did not view the treaty as the product of compromise. Thus, William P. Adair would declare to James M. Bell in late August, "We refused to accede to the Ross treaty and fought it from 'he-l to breakfast . . . Tell our friends not to despair--the President is on our side."<sup>120</sup> But if Andrew Johnson truly did favor the Southern Cherokees, he had done little to show his inclination. Furthermore, the



increasingly beleaguered Chief Executive had more pressing matters to fill his days than the misfortunes of the Southern Cherokees. Adair, however, did not give up. In early September, he again confided in Bell, saying that the treaty was "the worst ever entered into with the Govt. and is not binding upon the Southern Cherokees as we refused to sign it and fought it to the last and still fighting it."<sup>121</sup>

Perhaps Adair did not consider the treaty binding, but the United States government did. For the following several months, Adair and others of his ilk would oppose the Ross faction in the Cherokee Nation. Eventually, though, they would rejoin the mainstream of Cherokee life and politics. Adair would even attain a high position in the Cherokee government, and the issues which so deeply divided the Cherokees in the 1860s would become dead letters for most Cherokees.

Boudinot was less vocal than Adair during those waning days of summer in 1866. He accepted the treaty, if reluctantly. Moreover, he did not need to think that he had betrayed or failed the Southern Cherokees. He could take pride in his efforts on their behalf, for no one had done more than he in pleading their cause. Unlike Adair, however, Boudinot would never truly be accepted again in the Cherokee Nation, at least through much of the remainder of his life. He would never lose his hostility to the Ross crowd. Moreover, he would continue to advocate territorial government, railroad construction, and so forth. But after 1866, he was one of the few who wanted such changes. Although he would endeavor to play a significant part in Cherokee affairs, he would become an outcast, a gadfly, a leader without many followers. But at the moment, all that was in the future. A man who had a thirst for wealth, fame, and influence, Boudinot now prepared to begin anew his

quest to make his way in the world. America was shaking off the effects of the Civil War; industry and commerce were again expanding; and Elias C. Boudinot was ready to join the movement toward new progress and development.

## ENDNOTES

<sup>1</sup>Watie's instruction to delegation cited in Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), p. 180.

<sup>2</sup>Johnson Fineman to President of the National Convention, 28 June 1865, NA, RG75, LR-OIA, M234, R100.

<sup>3</sup>Ibid. The other members of the delegation included William Penn Adair, Capt. Smallwood, C. N. Vann, J. T. Davis, and Richard Fields.

<sup>4</sup>Wardell, p. 181.

<sup>5</sup>James Harlan to Major General J. J. Reynolds, 29 July 1865 and telegram from James Harlan, 18 August 1865, NA, RG75, LR-OIA, M234, R836.

<sup>6</sup>Wardell, p. 183; U. S. Congress, Senate, 38th Cong., 2d sess., Congressional Globe, 20 February, 2 March 1865, pp. 995-1310.

<sup>7</sup>Wardell, pp. 184-185. There was also speculation that Cooley and Harlan were working together on a scheme to get Cherokee lands. On the other hand, perhaps he did not believe that Ross had ever been loyal to the Union at all. See Gary E. Moulton, "Chief John Ross During the Civil War," Civil War History 19 (December, 1973), 33.

<sup>8</sup>D. N. Cooley to James Harlan (telegram), 24 August 1865, James Harlan to D. N. Cooley (telegram), 24 August 1865, NA, RG75, LR-OIA, M234, R836.

<sup>9</sup>H. F. and E. S. O'Beirne, The Indian Territory: Its Chiefs, Legislators and Leading Men (St. Louis: C. B. Woodward Company, 1892), p. 342.

<sup>10</sup>Wardell, p. 182.

<sup>11</sup>39th Cong., 1st sess., House Exec Doc 1, Vol 2, Report of Commissioner of Indian Affairs 1865-1866 (serial 1248), pp. 482-483.

<sup>12</sup>Ibid., pp. 483-484.

<sup>13</sup>Boudinot and Washbourne probably arrived on September 13, although he claimed later that he had been at council from its opening. Annie Heloise Abel, The American Indian under Reconstruction (Cleveland: The Arthur H. Clark Company, 1925), pp. 196-197.

<sup>14</sup>Report of Commissioner of Indian Affairs 1865-1866, pp. 488-489.

- <sup>15</sup>Ibid., p. 489.
- <sup>16</sup>Abel, p. 203n431.
- <sup>17</sup>Ibid., p. 205n431.
- <sup>18</sup>Ibid.
- <sup>19</sup>Ibid.
- <sup>20</sup>Ibid.; Report of Commissioner of Indian Affairs 1865-1866, pp. 489, 520.
- <sup>21</sup>D. N. Cooley to James Harlan (telegram), September 1865, NA, RG75, LR-OIA, M234, R836.
- <sup>22</sup>Report of Commissioner of Indian Affairs 1865-1866, p. 491.
- <sup>23</sup>Ibid.
- <sup>24</sup>Ibid., p. 524.
- <sup>25</sup>Ibid., pp. 491, 524.
- <sup>26</sup>James Harlan to D. N. Cooley (telegram), 17 September 1865, NA, RG75, LR-OIA, M234, R100.
- <sup>27</sup>Joseph Thoburn, ed., "The Cherokee Question," Chronicles of Oklahoma 2 (June, 1924), 162.
- <sup>28</sup>Report of Commissioner of Indian Affairs 1865-1866, pp. 330-331, 490-491, 496, 525. Gary E. Moulton, John Ross, Cherokee Chief (Athens: University of Georgia Press, 1978), p. 187.
- <sup>29</sup>Woodward Washbourne to "Dearest," 18 September 1865, Washburn (Washbourne) Collection, Section X, IAD, OHS.
- <sup>30</sup>Marcus J. Wright, "Colonel Elias C. Boudinot," Southern Bivouac II, No. 10 (June, 1884), p. 437.
- <sup>31</sup>Report of Commissioner of Indian Affairs 1865-1866, p. 493.
- <sup>32</sup>Elias C. Boudinot to D. N. Cooley, 26 October 1865, NA, RG75, LR-OIA, M234, R836. The documents accompanying this letter stipulated Boudinot's appointments, including his credentials as a Southern Cherokee delegate.
- <sup>33</sup>Report of Commissioner of Indian Affairs 1865-1866, p. 495.
- <sup>34</sup>Ibid., pp. 495-496.
- <sup>35</sup>Ibid., p. 537.

<sup>36</sup>C. N. Vann to John Ross, 3 October 1865, John Ross Papers, Gilcrease Institute. Vann had been a Southern Cherokee delegate at the Armstrong Academy council.

<sup>37</sup>Elias C. Boudinot to D. N. Cooley, 26 October 1865, NA, RG75, LR-OIA, M234, R836.

<sup>38</sup>S. M. Coleman to James Harlan, 20 October 1865, NA, RG48, Indian Division-LR, Misc.

<sup>39</sup>Elias C. Boudinot to D. N. Cooley, 22 November 1865, NA, RG75, LR-OIA, M234, R836.

<sup>40</sup>Ibid.

<sup>41</sup>Ibid.

<sup>42</sup>D. N. Cooley to Major General J. J. Reynolds, 6 November 1865, NA, RG75, OIA-Letterbook 78, p. 401; Elias C. Boudinot to D. N. Cooley, 14 November 1865, NA, RG75, LR-OIA, M234, R836.

<sup>43</sup>Elias C. Boudinot to Stand Watie, 8 December 1864, cited in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 239-240.

<sup>44</sup>Ibid.

<sup>45</sup>Elias C. Boudinot to D. N. Cooley (telegram), 12 December 1865, NA, RG75, LR-OIA, M234, R836.

<sup>46</sup>Elias C. Boudinot to D. N. Cooley, 11 January 1866, NA, RG75, LR-OIA, M234, R837.

<sup>47</sup>Ibid.

<sup>48</sup>General John B. Sanborn to D. N. Cooley, 25 December 1865, NA, RG75, LR-OIA, M234, R837.

<sup>49</sup>Woodward to "Dearest," 27 December 1865, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>50</sup>"Protest to Andrew Johnson," 31 October 1865, John Ross Papers, Gilcrease Institute.

<sup>51</sup>Act of Cherokee National Council, 7 November 1865, copy in John Ross Papers, Gilcrease Institute.

<sup>52</sup>W. P. Adair and Elias C. Boudinot to D. N. Cooley, 12 January 1866, NA, RG75, LR-OIA, M234, R100.

<sup>53</sup>Gordon Langley Hall, Vinnie Ream: The Story of the Girl Who Sculpted Lincoln (New York: Holt, Rinehart and Winston, 1963), pp. 11-12, 16.

<sup>54</sup>Woodward to "Dearest," 16 January 1866, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>55</sup>Woodward to "Dearest," 20 January 1866, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>56</sup>Ibid.

<sup>57</sup>J. W. Washbourne and Elias C. Boudinot to D. N. Cooley, 19 January 1866, NA, RG75, LR-OIA, M234, R837.

<sup>58</sup>Woodward to "Dearest," 29 January 1866, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>59</sup>Ibid. For more on John Rollin Ridge, see Edward Everett Dale, "John Rollin Ridge," Chronicles of Oklahoma 4 (December, 1926), 312-21.

<sup>60</sup>Moulton, p. 189.

<sup>61</sup>Elias C. Boudinot and W. P. Adair to D. N. Cooley, 31 January 1866.

<sup>62</sup>Ibid.

<sup>63</sup>Ibid.

<sup>64</sup>Ibid.

<sup>65</sup>Communication of the Delegation of the Cherokee Nation to the President of the United States and the Senate and House of Representatives in Congress (Washington, D. C.: Gibson Brothers, Printers, 1866), p. 7.

<sup>66</sup>Ibid., p. 5.

<sup>67</sup>Major General John B. Sanborn to James Harlan, 27 January 1866, cited in Report of the Commissioner of Indian Affairs for the Year 1866 (Washington, D. C.: Government Printing Office, 1866), p. 286.

<sup>68</sup>Wardell, p. 200; Statement of Stand Watie, Cherokee, Creek, and Seminole Delegates, 10 March 1866, NA, RG75, LR-OIA, M234, R837.

<sup>69</sup>Paul F. Lambert, "The Cherokee Reconstruction Treaty of 1866," in The Civil War Era in Indian Territory, ed. LeRoy Fischer (Los Angeles: Lorrin L. Morrison, 1974), p. 146.

<sup>70</sup>Albert Pike to Commissioner of Indian Affairs, 17 February 1866, cited in Thoburn, ed., "The Cherokee Question," pp. 172-180.

<sup>71</sup>J. Harlan to Commissioner of Indian Affairs, 17 February 1866, cited in Thoburn, ed., "The Cherokee Question," pp. 206-207.

<sup>72</sup>J. J. Tebbetts to Commissioner of Indian Affairs, 30 March 1866, cited in Thoburn, ed., "The Cherokee Question," pp. 207-212.

<sup>73</sup>Woodward to "Dearest," 4 April 1866, Washburn (Washbourne) Collection, Section X, IAD, OHS.

<sup>74</sup>Document: Agreement between Elias C. Boudinot, W. P. Adair, Joseph A. Scales, Stand Watie, Richard Fields, and Saladin Watie and Perry Fuller, April 1866, CP, WHC. Fuller was to receive one third of any future monetary settlement between Southern and Northern Cherokees, Voorhees also was employed for a "conditional fee," W. P. Adair, Elias C. Boudinot, Richard Fields and Joseph A. Scales to the Southern Cherokees, 23 April 1866, CP, WHC. For Northern Cherokees, see Moulton, p. 193.

<sup>75</sup>W. P. Adair, Elias C. Boudinot, Richard Fields and Joseph A. Scales to the Southern Cherokees, 23 April 1866, CP, WHC.

<sup>76</sup>Ibid.

<sup>77</sup>Ibid.

<sup>78</sup>"To the Southern Cherokees" (broadside), copy in CP, WHC.

<sup>79</sup>Southern Cherokee Delegation to D. N. Cooley, 27 April 1866, NA, RG75, Special Files of the Office of Indian Affairs, Special Case 125, M574, R24.

<sup>80</sup>Ibid.

<sup>81</sup>Ibid.

<sup>82</sup>Stand Watie to Saladin Watie, 12 May 1866, cited in Dale and Litton, p. 243.

<sup>83</sup>Document: Appointment of John Rollin Ridge to Southern Cherokee Delegation, signed by Stand Watie, 21 February 1866, NA, RG75, LR-OIA, M234, R100; J. W. Washbourne to J. A. Scales, 1 June 1866, CP, WHC.

<sup>84</sup>For his part, Ridge had ideas on the future of the Indian Territory. He wanted to have the Cherokee Nation and the Choctaw Nations enter the Union as states. Moreover, he had earlier applied to President Johnson to be named governor of the Cherokee Nation, Lois Elizabeth Forde, "Elias Cornelius Boudinot," (Ph.D. diss., Columbia University, 1951), p. 123.

<sup>85</sup>J. W. Washbourne to J. A. Scales, 1 June 1866, CP, WHC.

<sup>86</sup>Ibid.

<sup>87</sup>Reply of the Delegates of the Cherokee Nation to the Demands of the Commissioner of Indian Affairs (Washington, D. C.: Gibson Brothers, Printers, 1866), dated 12 May 1866 and addressed to D. N. Cooley.

<sup>88</sup>Ibid., p. 13.

<sup>89</sup>J. W. Washbourne to J. A. Scales, 1 June 1866, CP, WHC.

<sup>90</sup>Moulton, p. 194.

<sup>91</sup>J. W. Washbourne to J. A. Scales, 1 June 1866, CP, WHC. It may be noted that at the time Washbourne wrote this letter he was in Little Rock, Arkansas, having returned to his home state for a visit.

<sup>92</sup>Southern Cherokee Delegation to D. N. Cooley, 7 June 1866, NA, RG75, LR-OIA, M234, R100.

<sup>93</sup>John R. Ridge, Elias C. Boudinot, et al. to D. N. Cooley, NA, RG75, Special Files of the Office of Indian Affairs, Special Case 125, M574, R24.

<sup>94</sup>William Quesenbury to Stand Watie, 4 July 18(66), CP, WHC.

<sup>95</sup>Lambert, p. 151.

<sup>96</sup>Articles of Agreement with Southern Cherokees, 13 June 1866, NA, RG75, Special Files of the Office of Indian Affairs, Special Case 125, M574, R24.

<sup>97</sup>Ibid.

<sup>98</sup>William A. Phillips to William H. Seward, 14 June 1866, NA, RG75, LR-OIA, M234, R100.

<sup>99</sup>Wardell, p. 202; Thoburn, ed., "The Cherokee Question," pp. 146-242.

<sup>100</sup>J. W. Washbourne to J. A. Scales 29 June 1866, cited in Dale and Litton, p. 245.

<sup>101</sup>Ibid.

<sup>102</sup>Elias C. Boudinot to William P. Boudinot, 2 July 1866, cited in Dale and Litton, p. 246.

<sup>103</sup>Ibid.

<sup>104</sup>Delegation Cherokee Nation to D. N. Cooley, 9 July 1866, NA, RG75, LR-OIA, M234, R100.

<sup>105</sup>James Harlan to D. N. Cooley, 9 July 1866, NA, RG75, LR-OIA, M234, R100.

<sup>106</sup>Saladin Watie to Stand Watie, 24 July 1866, cited in Dale and Litton, p. 247.



<sup>107</sup>Elias C. Boudinot to Stand Watie, 24 July 1866, cited in Dale and Litton, p. 247.

<sup>108</sup>Ibid.

<sup>109</sup>Wardell, p. 203.

<sup>110</sup>Statement of Southern Cherokee Delegates, 1 August 1866, NA, RG75, LR-OIA, M234, R100.

<sup>111</sup>Moulton, p. 195.

<sup>112</sup>Charles D. Kappler, ed. and comp., Indian Affairs: Laws and Treaties, II (Washington, D. C.: Government Printing Office, 1904), p. 942. The reasons for Andrew Johnson reversing his position and instructing the Interior Department to negotiate a treaty with the Northern Cherokees are clouded. In fact, Gary E. Moulton, the most authoritative biographer of John Ross could only speculate on the matter: "No doubt the barrage of correspondence and unrelenting spirit of Ross did much to persuade the President." Gary E. Moulton, "Chief John Ross During the Civil War," 332. For more on the treaty negotiations, see all of Lambert and Vera Lane Johns, "The Cherokees and the Treaty of 1866," (M.A. thesis, University of Oklahoma, 1932).

<sup>113</sup>Kappler, pp. 942-950.

<sup>114</sup>Ibid.

<sup>115</sup>Wardell, p. 204.

<sup>116</sup>Kappler, pp. 942-950.

<sup>117</sup>Ibid.

<sup>118</sup>Ibid., pp. 946-951.

<sup>119</sup>Report of the Commissioner of Indian Affairs for the Year 1866, pp. 11-12.

<sup>120</sup>W. P. Adair to James M. Bell, 21 August 1866, cited in Wardell, p. 205.

<sup>121</sup>W. P. Adair to James M. Bell, 4 September 1866, CP, WHC.

## CHAPTER VIII

### STARTING OVER

Post-Civil War America was a place of economic growth juxtaposed with slow and arduous rebuilding, as the North began to prosper from industrialization and the South tried to remold itself in the wake of destruction. In the Cherokee Nation, the people initially just struggled to survive. Although the new treaty was in effect, fear still permeated the region, for old hatreds did not die.<sup>1</sup> Yet, an optimist like Elias C. Boudinot welcomed change and the new forces which were reshaping the United States. At the same time, he envisioned a new way of life for the Cherokees, indeed all the Indians in the Indian Territory. He was ready to put himself in the forefront as the leading spokesman for the commercialization of the Indian Territory.

To commence his journey to success, however, Boudinot needed funds. Throughout his years in Arkansas before the war, he accumulated only meager resources. In 1860, according to the census, his assets were valued at only \$400.<sup>2</sup> Then during the war, he actually lost money while in the service of the Confederacy. He did, however, hold out one hope: the United States government had agreed to pay the Southern Indian delegates who had attended the peace conferences. Consequently, he continually submitted requests for money.<sup>3</sup> The response apparently was slow, for when he prepared to leave Washington in early September of 1866, he again had to ask for funds. He wrote to Commissioner Cooley:

"I have paid my own bills while here: which have amounted to more than \$2.00 per day, but I only ask you to reimburse me that amount as you have allowed other delegates. . . . This will allow me enough to get home on, and I shall leave the settlement of our accounts in the hands of the other delegates."<sup>4</sup>

Trusting his friends to look after his interests and looking forward to collecting a goodly amount from the government, Boudinot left the nation's capital. The reason for his hasty departure related to politics, not in the Cherokee Nation, but in Arkansas. As he informed Cooley, "I wish to attend the Arkansas legislature and secure two U. S. Senators friendly to Indian interests," concluding with determined bravado, "I can do it! I shall do it!"<sup>5</sup>

As before the war, not only did Boudinot have close ties with the Democratic Party in Arkansas, but he also still believed that the Indians needed good relations with the political forces in Arkansas. Even before leaving Washington, Boudinot had been involved in affairs in Arkansas. He drafted letters to Democratic leaders in northwestern Arkansas (his old power base) urging them to support Jonas Tebbetts for one of the Senate seats.<sup>6</sup> Tebbetts was just the man Boudinot would want in the Senate: Not only was he a personal friend who had supported the Southern Cherokees during the treaty talks in Washington, but he also was not tainted with a Rebel past, having been a staunch Union man during the war. Moreover, he could be acceptable to all but the most extreme Arkansans, for he had helped get pardons for Confederate leaders in the state and was deeply concerned about bringing Arkansas back into the Union as smoothly as possible.<sup>7</sup>

Unfortunately, Tebbetts did not have enough support in the

Arkansas state legislature. On November 28, he withdrew his name from consideration.<sup>8</sup> Eventually, John T. Jones and Andrew Hunter were selected for the Senate seats. Hunter, however, refused the office, and on February 19, 1867, A. H. Garland was elected in Hunter's stead.<sup>9</sup> Nonetheless, Boudinot must have been satisfied, for Garland, too, was one of his friends and confidants. It all came to naught, however. The Congress, now embroiled in a vicious fight with President Johnson, refused to recognize the new representatives and senators chosen in the South and began to assess the governments established under Presidential Reconstruction. Finding them unsatisfactory, Congress took control of Reconstruction in 1867. And in June 1867, Arkansas became the first state readmitted to the Union under the congressional program. As for Garland, he eventually did become a United States Senator, but not until 1877.<sup>10</sup>

While Boudinot lobbied in Arkansas, events in the Cherokee Nation transpired which unquestionably upset him. The Cherokee government had a new Principal Chief: The National Council selected William Potter Ross to complete his uncle's unexpired term.<sup>11</sup> To Boudinot's mind, this must have been a travesty. Whereas he hated the elder Ross, he despised and disdained William P. Ross.

In the midst of all this political activity, Boudinot encountered another taxing frustration: The money for the Southern Cherokee delegates was not forthcoming. The Senate had agreed to pay them a lump sum of \$25,000, which would come out of Cherokee funds, but later the House reduced the amount by \$15,000. In turn, Boudinot contacted Senator James R. Dolittle of Wisconsin. Dolittle answered that the House did not understand the situation nor did it care about the Southern

Cherokees. But, he had a plan. The Congress would amend the twenty-ninth article of the treaty--"reasonable expenses" of the delegates would be paid out of the sale of the Cherokee Neutral Lands. In late September of 1866, however, the Southern Cherokees complained to the Office of Indian Affairs that the money was in the hands of the Cherokee government--the Northern Cherokees--and demanded their fair share. They would have none of the \$10,000; they wanted a proper distribution of the funds according to the amended treaty article.<sup>12</sup>

When monies were to be distributed, Boudinot was away from Washington, and he soon began to worry about his fellow delegates looking after his interests. Thus, he told Commissioner Cooley that, if Adair had not yet collected his money for him, he should give it to William Byers.<sup>13</sup> Byers was one of Arkansas' non-recognized Congressmen. By November 5, after learning that Byers still had not been given the money, Boudinot changed his mind. Writing to Lewis V. Bogy, the New Commissioner of Indian Affairs, he said, "I now prefer that nothing should be done with my part of the expense account, and respectfully request that you hold my interests. . . . Nobody is now authorized to act for me."<sup>14</sup>

His primary concern was the money, and he would have it, or else. Consequently, Perry Fuller, as Boudinot's attorney, submitted the Cherokee's request for payment due--\$3,815--on November 14.<sup>15</sup> The next day, Boudinot addressed an angry letter to Orville H. Browning, the Secretary of the Interior. "I have been grossly swindled," he raged, "by my brother delegates under a misrepresentation of Mr. Ridge."<sup>16</sup> The Southern Cherokees had been allotted \$28,000, of which \$10,000 had already been paid. Boudinot, however had not received any of the

money. Therefore, he demanded that none of the remaining \$18,000 be paid until he was granted his share of the total.<sup>17</sup> He likewise declared to the Commissioner of Indian Affairs that he had been cheated.<sup>18</sup> W. P. Adair and Saladin Watie also told Browning that Boudinot had received none of the funds and that he would produce evidence to prove he had not obtained any of the money.<sup>19</sup> Adair and Stand Watie then informed Browning that no one had the authority to act in Boudinot's interest without his consent.<sup>20</sup>

Having made his protest, Boudinot turned his wrath on John Rollin Ridge:

I have been informed--through Watie and Fields of the malicious and dishonest part you played in my absence to injure my reputation and steal my money. I have written to your wife, brother and sisters, that all friendly relations between you and me have ceased forever, and that you have proved yourself a faithless and ungrateful friend, a slanderer and a liar, a thief and a coward. . . . I have had many enemies, but not even the bitterest have ever accused me of dishonesty or of unfaithfulness to my friends; but you, after an acquaintance of a few weeks, discovered that I was a traitor to the cause. . . . You proceeded in poisoning the minds of Adair, Watie and Fields against me; you told them I sold myself, had made \$1,500, off them . . . Adair--the poor weak man--said to me at Little Rock that you were to blame for it all. . . . What motive under Heaven could have moved you to this insane and futile attempt to malign and injure me? . . . It is high time you were done with your favorite theme of "blood and high berth;" were it possible I would let out of my veins every drop of Ridge blood that courses through them.<sup>21</sup>

Bitterly, Boudinot also expressed his feelings to Stand Watie. "Ridge," he blared, "is a scoundrel! there is no denying it; with him and Adair I shall have nothing to do henceforth; Adair's conduct in this matter has been beyond all comparison mean, dishonest, and contemptible."<sup>22</sup> Indeed, he felt angry and betrayed and, seemingly disgusted, he concluded, "I have friends who will assist and back me; my prospects for making money are good; I am going to turn my attention

especially to that business here after."<sup>23</sup>

Next, he asked Dennis Cooley to answer in writing if he had ever said, "Boudinot ought not to complain, for he has already received \$1,500, out of the six thousand dollars already paid to Perry Fuller."<sup>24</sup> Cooley replied, "I have not thought, intimated, or said anything that could be tortured, into such a statement."<sup>25</sup> Boudinot also informed Commissioner Bogy that, besides himself, Watie and J. A. Scales were not yet unpaid: Ridge, Adair, Richard Fields, and Saladin Watie had split the \$10,000.<sup>26</sup> He further certified to Bogy that the government owed him \$4,569.56.<sup>27</sup> He had figured his account down to the last cent! Then in mid-January, 1867, he told Bogy not to let Fields receive any of the money for the delegation, although he had earlier been designated as the delegation's agent. Fields, he declared, "is a dishonest man and you might as well throw our money in the river as pay it to him."<sup>28</sup> In this manner, Boudinot continued to press his claim in the following months.<sup>29</sup>

Finally, in April of 1867, the dispute was settled. A. H. Garland arbitrated the issue. Boudinot received \$3,600; the remainder was paid to Fields as agent for the delegation. The new Commissioner of Indian Affairs, N. G. Taylor, had wanted "the unpleasant question . . . disposed of in this manner."<sup>30</sup> Boudinot had his money, but had alienated many of his erstwhile friends.

While Boudinot spent his energies contesting for the disputed funds, most Southern Cherokees concentrated on watching the actions of their enemies closely. Under the guidance of William P. Ross, the Cherokees amended their constitution to conform to stipulations in the new treaty and appointed a delegation to Washington. Wary, however, of

the Ross faction and its officials, the Southern Cherokees held a convention on December 31, 1866, and selected their own delegation-- Adair, Fields, and Scales.<sup>31</sup>

Boudinot, probably in Arkansas when the Southern Cherokee Delegation arrived in Washington, must have had mixed emotions when in January of 1867 the Commissioner of Indian Affairs recognized the delegation as an official body, thus strengthening their position at the capital.<sup>32</sup> The decision of the Commissioner benefited the Southern Cherokees, but it also aided these men who possibly had cheated and had denigrated Boudinot.

Of course, Boudinot was not inactive. Thirty-one years old and thirsting for fame and fortune, Boudinot remained involved in Arkansas politics. Thus, in early February of 1867, he wrote a plaintive letter to his old patron Robert Johnson, who was now in a law practice with Albert Pike in Washington. Boudinot spoke of the efforts of Valentine Dell, the editor of the Fort Smith New Era, to stir up a movement for the impeachment of Andrew Johnson. Loyal to the Democratic Party and the interests of Arkansas Democrats, he urged Johnson to inform the President of Dell and his crowd; he wanted President Johnson to intercede in Arkansas affairs. "For God sake," he pleaded, "do what you can in the matter."<sup>33</sup> Apparently, Johnson passed Boudinot's correspondence to the President, but he probably did little. The Radical Republicans were assaulting him from all sides. His own battle far transcended the local one which Boudinot was fighting.

Boudinot had other concerns, too. For his livelihood, he fell back on the law. His sights were high, and on April 2, 1867, he was admitted to the bar of the United States Supreme Court.<sup>34</sup> He was also conscious



of his family, particularly his namesake nephew, Elias Cornelius Boudinot, Jr. Wanting to give the boy, now eleven, a good education, Boudinot took William's son to Washington, Connecticut, where he was enrolled in The Gunnery. Here, the younger Boudinot could get the same quality of eastern education that his father and uncles had.

Unfortunately, Boudinot could not afford to pay the tuition and expenses for his nephew, and after three years at The Gunnery, the boy returned to the Cherokee Nation. Yet, the schooling no doubt helped him, for in later years, he, as his father before him, would be editor of the Cherokee Advocate and a notable citizen of the Cherokee Nation.<sup>35</sup>

If Boudinot had any success as a lawyer, it did not provide him the income and advancement that he sought. However, he had plans for a new venture: re-opening Watie's mill in the Cherokee Nation. In June of 1867, he asked Watie if he would sell his old sawmill. He said that he would be aided in this business by Dr. D. W. Polson, who had married Flora Ridge, John's sister. Boudinot noted, though, "Neither he nor I have any money," except for a few hundred dollars which would be needed for making repairs on the mill.<sup>36</sup> Boudinot's vision of entrepreneurship with the mill did not come to pass, however. Watie did sell a share of the place to Polson, who managed the operation, but Boudinot apparently did not become involved in the enterprise.<sup>37</sup>

While Boudinot sought financial reward, Cherokee politics began to change. Principal Chief William P. Ross's leadership distressed Evan Jones and his son, John B. Jones. These Baptist missionaries who had been so close to John Ross wanted to bring harmony, as much as possible, back to the Cherokee Nation, and in their eyes Ross was too hardened against the Southern Cherokees. As for the Southern Cherokees, especial-

ly those of Boudinot's stripe, they could not accept Ross as the head of the tribe. Consequently, the Joneses initiated a movement to replace Ross with Lewis Downing in the forthcoming elections. Downing, almost a full blood and a lay Baptist minister, had long held positions of authority in the Cherokee Nation. A colonel in the Northern Cherokee forces and then Assistant Principal Chief, he had assumed the post of Principal Chief when the elder Ross died. Furthermore, he was known for his conciliatory attitude toward the Southern Cherokees. The faction which formed around Downing became known as the Downing Party; Ross's followers made up the National Party.

The success of Downing and the Joneses pivoted on the support of the Southern Cherokees, and the election contest promised to be toughly fought and portended violence. As for the Southern Cherokees, they were not strong enough to field their own candidates, but as William P. Boudinot related to Stand Watie, "The offices are worth little now and with Jones and Ross in the foreground the intrigue, backbite and blarney, the race is expected with some interest by Southern Cherokees."<sup>38</sup> A month and a half later, June 20, W. P. Adair confided to Watie that "our prospects in Washington are much better than they have been, provided we can beat Bill Ross for Chief which I feel can be done with proper management."<sup>39</sup>

The election, held on August 7, signalled a triumph for Downing, the Joneses, and the Southern Cherokees. Downing was elected Principal Chief. The polling, however, was not without incidents. Downing and Ross followers, men and women, accosted each other. The battling subsided after the election, though. Ross peacefully transferred his office to Downing, although it was rumored that Downing's life might be in danger.<sup>40</sup>

Once in office, Downing moved to end the disunity in the Nation by appointing Adair and Scales to the Cherokee Delegation to Washington.<sup>46</sup> And when John Bremer, one of the other delegates, resigned, the Chief offered the post to Boudinot. Downing issued Boudinot his credentials on January 12, 1868.<sup>42</sup> Fourteen days later, Boudinot presented himself to the Commissioner of Indian Affairs.<sup>43</sup>

When Boudinot joined the delegation in Washington, tension must have been high. Boudinot had always been outspoken in his views about his enemies, and now he was among those whom he had vilified--not only the followers of Ross but also Adair. However, the animosity apparently passed--at least submerged--for in late January Adair told Saladin Waite, "Boudinot [sic], Judge Fields, Scales, and myself have all made friends."<sup>44</sup> Young Watie and his father must have been heartened to hear this news. However, the elder Watie was soon saddened again. Saladin died after a short illness on February 13.<sup>45</sup> Boudinot, too, must have felt the pangs of despair over the passing of his gallant cousin and friend. Stand Watie was not spared more heartache, however, for his other son, Watica, died in April of 1869.<sup>46</sup> Thus, in a way, he probably came to look upon Boudinot as his protege and surrogate son.

Although Boudinot served the Cherokee Nation, that did not mean he had forsaken his interest in Arkansas affairs. He continued to be active in the Democratic Party there. Consequently, when the Democrats held their state convention in late January, 1868, they designated Boudinot as a delegate-at-large to the forthcoming National Democratic Convention.<sup>47</sup> Whatever the Cherokee delegates thought of Boudinot's selection by the Arkansans is unknown, but they possibly questioned the propriety of the matter. Moreover, during the period that he remained

with the delegation, they must have also not appreciated his various activities which drew him away from the task at hand--representing the Cherokee Nation.

The major issue before the Cherokee Delegation was the sale of the Neutral Lands in Kansas. In the Treaty of 1866, the Cherokees agreed to have these lands surveyed and appraised. Then, the Secretary of the Interior was to sell the land to the highest bidder. However, Secretary Harlan circumvented the spirit of the agreement. He did find a buyer for the land: the American Emigrant Company, a firm with which several of his friends in Iowa were connected. The company agreed to pay the Cherokees one dollar per acre, much less than the land was worth. The whole transaction appeared to be shady. Consequently, when Browning succeeded Harlan as head of the Interior Department, he voided the contract. Browning, in turn, gave a contract on the land to James F. Joy, a wheeling-and-dealing railroad operator in Detroit who was related to Browning. Joy wanted to build a railroad from Kansas to the Gulf of Mexico. In order to carry out the deal and to avoid possible law suits from other interested parties, it was decided to amend the Treaty of 1866. Therefore, under Browning's guidance, the Cherokee delegation was confronted with a new, supplementary article to the treaty. By this agreement, Joy assumed the contract of the American Emigrant Company. However, there were some modifications. Joy would deliver to the Secretary of the Interior, as trustee for the Cherokee Nation, \$75,000 down and the remainder, with interest, at specified intervals. The document was signed on April 27, 1868. The Senate ratified it on June 6; Joy relinquished his original contract on June 8; and the treaty amendment was proclaimed on June 10. At last, the Cherokees had sold the

Neutral Lands, and Boudinot had participated in this significant undertaking.<sup>48</sup>

While the Cherokee delegation worked out the agreement with Joy, a more important series of negotiations began. The Downing government, basking in the relative calm and harmony which had developed among the Cherokees, had asked for a new treaty. In early March, the President and the Secretary of the Interior acquiesced. Eventually, a new treaty was written. The first article abolished the distinctions between the Northern and Southern Cherokees; the Nation, by law, would be one again. Many of the other stipulations dealt with money matters. The Cherokees were to receive \$3,500,000 for land given to "friendly Indians" by the government, \$500,000 refund plus 5 percent interest from the government for purchase of Neutral Land in 1835, and an undetermined amount for land in Arkansas and east of the Mississippi River which the Cherokees had not been compensated for. Particularly alluring to Boudinot had to be Article 17; it called for the delegates to be paid \$50,000 for negotiating the treaty. On July 9, the Commissioner of Indian Affairs accepted the agreement.<sup>49</sup> But any celebration was premature, for the treaty was never ratified.<sup>50</sup>

When Commissioner N. G. Taylor acceded to the new treaty, Boudinot was in New York City, where the Democratic National Convention had been called to order on July 4. Boudinot served on the credentials committee at that hectic gathering. Indeed, the delegates experienced a torturous time at the convention. The Republicans had already nominated General Ulysses S. Grant, and the Democrats searched for a candidate and a platform which could match Grant's popularity and the strength of the Republican Party. George Pendleton of Ohio had the early lead in the

balloting, although Andrew Johnson had significant support from the Southerners. However, as Pendleton came close to gaining a majority of the votes, but lacking the support to give him the nomination, other candidates began to sap his strength. Going into the twentieth roll call, the Arkansas delegation voted as a block for Thomas Hendricks of Indiana. A few delegates at the convention, however, had begun to support Horatio Seymour of New York, and after Seymour addressed the convention, calling for unity, he was quickly nominated on the twenty-second ballot. It is uncertain which candidate had been Boudinot's first choice. Obviously, though, he switched to Hendricks, and with the tide of enthusiasm, he and the other Arkansas delegates gave an endorsement to Seymour.<sup>51</sup> In the long run, however, it mattered little. Grant handily defeated Seymour in November; the soldier-turned-politician carried Radical-controlled Arkansas and the other Southern states which had regained their place in the Union.<sup>52</sup> Still, the thrills of the convention and mingling with the powerful leaders of the Democratic Party must have animated the ambitious Boudinot.

Possibly the only other significant activity in which Boudinot engaged while with the Cherokee delegation concerned the Osages. In 1868, William T. Sturges, the president of the Leavenworth, Lawrence, and Galveston Railway Company, a line which James Joy controlled, made a contract with some of the Osage chiefs for the tribe's land in Kansas. Other tribal leaders concluded that their people had been cheated. Hoping to have Congress reject the agreement, they sought aid from Boudinot, Adair, and C. N. Vann, whom they regarded as "great men, having almost unlimited power at Washington."<sup>53</sup> In fact, Sturges had earlier sought out Boudinot, asking for the support of the Cherokee

delegation in getting his deal affirmed by the government. He wanted Boudinot to convince the delegation to sign a petition in favor of his contract. Boudinot, however, after reading the document, refused. Not only did he think the Osages would be paid merely a quarter of the value of their eight million acres, but the agreement also called for the Osages to purchase Cherokee land "west of 96<sup>0</sup>" for \$.25 an acre.

Boudinot, moreover, told Sturges that he would fight the treaty, and the Cherokee delegation concurred with his opinion. The Cherokee Nation did not want to lose its land to the Osages for the paltry sum cited in the treaty, nor did its representatives like seeing the Osages swindled.

Thus, Boudinot drafted a protest of the matter to Congress, and on his suggestion the Osage chiefs met with Adair, Vann, Stand Watie, and himself at Tahlequah. At that meeting, Boudinot drew up a contract with the Osage leaders.<sup>54</sup> It was agreed that if Adair, Vann, and Boudinot could convince the Senate to reject Sturges' treaty, they could, as agents for the Osages, sell the land, receiving "one half of the excess over the R. R. price."<sup>55</sup> The Senate did reject the agreement with Sturges, but the Cherokees had nothing directly to do with this decision. In turn, the three Cherokees did not ask for any payment.<sup>56</sup>

A few years later, however, Adair and Vann had the contract renewed. They asked for \$230,000, telling the Osages that they had paid "large sums to leading men at Washington" in order to get the agreement with Sturges stopped.<sup>57</sup> Again, some of the pliant Osage chiefs signed a contract, this time with Adair and Vann, and other Osages protested. The Osage agent also complained, saying that the two Cherokees had even threatened him. Finally, a settlement was reached. Adair and Vann received \$50,000.<sup>58</sup> Boudinot, however, had no part in these dealings

and never asked for compensation from the Osages.

Although Boudinot remained with the delegation at least through 1869, his time was often taken with other concerns, especially a new interest: establishing a tobacco factory in the Cherokee Nation. Strapped for funds as usual, he made a deal with the owners of a tobacco factory in Missouri. They would move their operation to a point in the Cherokee Nation not far from the Arkansas border, near the town of Maysville, Arkansas. The Missourians would receive \$5,000 for their machinery and expenses. However, because Boudinot could not pay in cash, they would take two-thirds of the profit. To carry out this plan, Boudinot enlisted Stand Watie. Lumber for the buildings would come from Watie's nearby sawmill, which Polson was operating. The site of the factory even merited a name: Boudyville.<sup>59</sup>

Boudinot rightly envisioned significant potential profits from this enterprise. Tobacco could be purchased in Missouri, and farmers in Arkansas and the Cherokee Nation could be encouraged to grow the leafy plant.<sup>60</sup> Furthermore, he could undersell his competitors, for Article 10 of the Treaty of 1866 gave a Cherokee citizen the right to ship his produce to the United States without paying taxes on the goods.<sup>61</sup> On the other hand, he had to be careful. The tobacco manufacturers in St. Louis enjoyed a virtual monopoly in the region and, once threatened by Boudinot's operation, they might use political clout to disrupt his business.

Boudinot, however, was versed in the art of politicking himself. On May 8, 1868, he informed John R. Risley, the Deputy Commissioner of Internal Revenue, that he had opened a tobacco factory in the Cherokee Nation and wanted Risley's opinion on the legality of selling his



tobacco outside of the Indian country. Risley answered, "under existing laws, no tax can be legally assessed and collected upon tobacco manufactured at such a factory, whether it be sold in the Cherokee country or elsewhere in any of the United States."<sup>62</sup> But he added that he did not feel able to remark upon how a new revenue bill under congressional consideration would effect the situation.<sup>63</sup> In late July, the bill became law, and Section 107 of the legislation affected Boudinot's enterprise--it provided for collecting taxes on liquor and tobacco produced within the "exterior boundaries of the United States."<sup>64</sup> Boudinot believed, however, that the Cherokee Treaty exempted his goods from coming under the purview of this statute.

Thus in late November, a confident Boudinot informed Watie of the factory's progress:

As soon as the expenses of removing the new machinery to this point and putting it up are paid under the present management, and the expenses of constructing the buildings and arrears I have yet to pay, you will receive an equal share of the profits with myself. A part of the machinery, 4 loads, arrived yesterday and is now unloading; the balance, some 10 loads, will be here early next month and be up for business; the cost of transportation will be something like \$1,000. The cost of the new buildings with the arrears yet to be paid by me will amount to about \$3,500 . . . by the middle of February these expenses will be paid . . . the firm is known as and all manufactured tobacco, bills &c will be marked and branded &c--"Boudinot & Watie."<sup>65</sup>

Boudinot also told Watie that they would "need a great many hands" and should not be "embarrassed" by Cherokee laws on white workers, who had to have a permit from the Cherokee Nation in order to work there.<sup>66</sup>

Clearly Boudinot, who had invested heavily in time and money to set up his factory, envisioned great success from the endeavor, for both himself and Watie.

What Boudinot did not tell Watie, though, was that he had some

of 1868, A. H. Garland wrote Boudinot, who was then in Washington, that "We are in a dreadful condition here . . . and I greatly fear open war will be the result in a very short time if matters are not arrested."<sup>71</sup> Garland enclosed a letter to President Johnson which he wished for Boudinot to deliver. And apparently hoping to rely on Boudinot's various connections among Republicans as well as Democrats at the capital, he asked if some influence could not be brought to bear on President-elect Grant to speak out on the problems in Arkansas.<sup>72</sup> Boudinot conveyed Garland's message to Johnson, but there was probably little else either of them could do to alleviate the problems in Arkansas.

While conditions in Arkansas caused him concern, Boudinot still had his tobacco factory to liven his spirits, and with unbridled optimism he reported to Watie in early January, 1869, "I believe we will be able to make a handsome thing of it this year, and so better and better every year. I calculate all expenses will be paid in the spring and then we will have clear sailing."<sup>73</sup> Now, however, he had even bigger plans. He suggested that they build a "steam flour mill" beside the factory and said he would do so with the money from the "treaty matter"--his share of the proposed \$50,000 for the Cherokee delegates.<sup>74</sup>

Boudinot also again became caught up with railroad building. The Treaty of 1866 had granted that two railroad lines--one east-west and the other north-south--could be constructed through the Cherokee Nation, indeed through the Indian Territory. In accordance with the Treaty of 1866, the Cherokee Nation had even entered into a contract with the Union Pacific Southern Branch in October, 1866. In that deal, the Cherokees were to purchase \$500,000 worth of stock in the corporation. This money would be derived from the sale of Cherokee lands

concern over the new revenue law. In fact, the day before he corresponded with Watie, he composed a letter to James Marr, the Supervisor of Internal Revenue for the region. He informed Marr that he was a Cherokee by birth and the owner of a tobacco factory in the Cherokee Nation and that tobacco sold in the Cherokee Nation was exempt from taxation if produced there. However, he did sell some outside of the Indian country and did pay taxes on it, but the tax was collected when the goods were sold, not before. He asked Marr to be allowed to continue this practice.<sup>67</sup>

On December 3, 1868, Marr referred Boudinot's request to the Office of Internal Revenue, saying, "I believe Major Boudinot desires to pay the tax on all tobacco sold in the states, and I would recommend that the assessors . . . be instructed to assess and collect this tax upon requiring Major Boudinot to report all tobacco to them that he intends offering for sale in this State [Missouri]."<sup>68</sup> Thomas Harland, the Acting Commissioner of Internal Revenue, replied that, although Boudinot did not have to pay on tobacco sold in the Cherokee Nation, he had to affix revenue stamps before selling it in the states. However, he could do so by purchasing stamps at the nearest collection point before selling his product.<sup>69</sup> Consequently, Marr informed E. A. Rollins, the Commissioner of Internal Revenue, on January 4, 1869, that "Under the instructions of the Commissioner . . . Mr. Boudinot can go on with his business without molestation."<sup>70</sup> Boudinot must have been relieved. The tobacco business was safe and his financial future seemed secure.

At the same time, other things occupied his mind. There was the work on the delegation. Then, too, trouble existed in Arkansas. Reconstruction politics vexed life in the state, and in early December

west of 96<sup>o</sup>. In return, the Cherokees were to have two seats on the company's board of directors. In 1867, however, the Cherokee National Council cancelled the contract.<sup>75</sup> Now, Boudinot had a new plan for creating a railroad in the Indian Territory. Thus he wrote Watie, "I have drawn up and had introduced an important railroad bill. It is my own invention. . . . The bill incorporated the Central R. R. Co."<sup>76</sup> The tribes would own this company. "They have got the land and money to do it," he stated, "and it will be their own fault if they don't."<sup>77</sup>

Certainly Boudinot's plan was ambitious, but in some respects it avoided some of the concerns of Indian leaders over allowing railroad companies to enter the Indian Territory. Although tribal funds would be used for the tribes' own business not as a financial well for white corporations--and no land grants would be given to white corporations--it would open the Indian Territory to modernization. Such development would inevitably draw whites to the region. Then, too, the construction would have to be undertaken by whites. Many of Boudinot's colleagues must have looked askance at his idea, nor could they have been happy at seeing who supported Boudinot in the scheme.

Boudinot's bill had been introduced in Congress, on January 5 by Senator Benjamin Rice of Arkansas.<sup>78</sup> Six days later, Representative Sidney Clarke of Kansas introduced a similar bill in the House.<sup>79</sup> Both bills were referred to committees. Rice tried again on March 5. This time the bill was read twice and laid on the table.<sup>80</sup> It was never going to pass. Perhaps, the railroad interests worked against it: they did not want this sort of competition. Possibly, Boudinot's fellow delegates lobbied against the bill, for certainly they may have suspected Boudinot's motives if Clarke favored the scheme. Clarke was a

proponent for opening the Indian Territory to white settlers and for removing Indians in Kansas to the Indian Territory.<sup>81</sup>

Obviously, too, Boudinot was quite aware of his comrades' feelings toward him, for he told Watie, "I am hard pushed for means for the delegation has not provided for me. Sometimes I get in excessive bad humor, when I think that notwithstanding all the hard work I have done, and am doing, for the Cherokees, they wish to throw me over-board."<sup>82</sup> True, Boudinot was a busy man, but no doubt the other delegates probably wondered if he were spending his time acting on the tribe's behalf or his own.

While Boudinot dreamed of expanding his business activities, he still fretted about the internal revenue laws. Thus, on February 20, 1869, he communicated with the Commissioner of Internal Revenue E. A. Rollins. Reminding the Commissioner of Article 10 in the Cherokee treaty and noting that there was not much of a market for tobacco in the Cherokee Nation, he informed Rollins of his desire to make sales outside of the nation in the United States. "No one manufacturing tobacco in the nation," he wrote, "can pay taxes on the same until he gets it into a market where he can anticipate the proceeds on the sale of the same."<sup>83</sup> In fact, to pay such taxes while his tobacco was still in the Cherokee Nation at the factory, as the law stipulated, would violate the treaty. He asked to be allowed to put the tobacco which he intended to sell outside of the Indian Territory in the custody of revenue collectors until he had a buyer; then he would pay the tax.<sup>84</sup> Rollins agreed that the treaty held precedence over statute law, but Boudinot nevertheless should pay taxes on his tobacco sold outside of the Territory.

"To this end," Rollins informed Boudinot,

you will be permitted to ship your manufactured tobacco to the places indicated, to-wit, Baxter Springs and Fort Scott in Kansas; Fort Smith, Fayetteville, and Bentonville in Arkansas, and to Kansas City, Carthage, and Neosho in Missouri, provided that the packages indicate by sufficient marks the place of manufacture, the name of the manufacturer, and shipped to the care of the collector of the district in which the place of destination is situated.<sup>85</sup>

Boudinot would have to inform the collector where and when the tobacco would be sold and to pay the tax before removing it from the collector's control.<sup>86</sup>

Although Boudinot again felt secure in his operations, profits were not developing as quickly as he hoped. In mid-August, he confided to Watie that at the factory he "found things in a properous condition. Owing, however, to the unprecedented rains in the winter and spring and the amount of my liabilities exclusive of the machinery and buildings, I find that I shall not get out of debt as soon as I expected."<sup>87</sup> When he returned to the Cherokee Nation, he intended to take over personal supervision of the factory.

Furthermore, he had another idea for making money. He suggested that he and Watie secure "claims in the nation along the lines of the railroad which will be built."<sup>88</sup> The Union Pacific Southern Branch, soon to become the Missouri, Kansas & Texas Railway Company, was pushing toward the border of the Cherokee Nation. The M. K. & T., or Katy as it was called, was in a race with the Missouri River, Fort Scott, and Gulf Railway Company, known as the Border Tier Road, to the border of the Indian Territory. Under the existing government regulations, the first road to reach that point would be given the right to build the north-south line through the Indian Territory.<sup>89</sup> Hoping to capitalize on

farming and ranching operations close to the future line through the Cherokee Nation, Boudinot threw in his lot with the Katy.

At the same time, other concerns caused him anguish. The delegation had "treated" him "very badly"; he had been dropped from their ranks.<sup>90</sup> Once again he was on the outs with the leaders of the Cherokee Nation. Moreover, he was probably becoming fearful for his tobacco business. In March of 1869, Columbus Delano replaced Rollins as Commissioner of Internal Revenue, and Delano did not promise to be as accommodating as Rollins.

Perhaps sensing a change in the air, Boudinot wrote to Ely S. Parker, the Commissioner of Indian Affairs; he intended to trade in tobacco and dry goods in the Indian Territory and sought Parker's permission in order "to guard against technical interference, on the part of officials in the Indian Country."<sup>91</sup> Possibly Boudinot had become concerned over competition from within the Indian Territory, where three other tobacco factories had been opened.<sup>92</sup>

These operations, including Boudinot's, attracted the attention of federal officials. In fact, on August 13, the day after Boudinot wrote to Parker, J. W. Douglass, the Acting Commissioner of Internal Revenue, penned an order to the Collector of Internal Revenue at Dardanelle, Arkansas. "It is my purpose," he stated, "if possible, to break up this illegal manufacture and sale of tobacco."<sup>93</sup> Collector Wishard was directed to seize all the tobacco not stamped.<sup>94</sup> By implication, that included Boudinot's.

Faced with the impoundment of his goods, Boudinot turned to his old friends Pike and Johnson in Washington, engaging them to represent

him before the Bureau of Internal Revenue. They contacted Delano, who replied that the government did not intend to impose taxes on goods in Cherokee Nation, only articles shipped from there into the United States.<sup>95</sup> Delano was equivocating, but at least Boudinot could continue his operation within the Cherokee Nation while pressuring Delano to honor Rollins's agreement.

On December 20, 1869, Boudinot confronted the precariousness of his situation. That day John McDonald and John A. Royce, revenue officials, entered the Cherokee Nation, siezed Boudinot's factory, and arrested him as a criminal.<sup>96</sup> On January 1, 1870 Boudinot, in a signed statement, confirmed that he had purchased thousands of pounds of leaf tobacco from Missouri and Arkansas and that he had sold thousands of pounds of processed tobacco in the Cherokee Nation and the Indian Territory, paying taxes only to the Cherokee Nation. He added that he had affixed tax stamps only to two hundred pounds which he sent to James E. Trott in Fayetteville, and "with that exception I have not sold any tobacco outside of the Indian country."<sup>97</sup> He also stated that he was the sole owner of the factory and admitted that he had not complied with the revenue act of July 20, 1868.<sup>98</sup>

The verity of his statement was questionable. He probably had sold much more than two hundred pounds of tobacco outside of the Indian Territory. Likewise, although Boudinot did shoulder most of the burden for the factory, Watie probably maintained an interest in the firm, and in the ensuing legal proceedings he was named as Boudinot's partner. Probably, Boudinot did not want to involve Watie in the affair and thus did not designate his uncle as a part-owner.

Soon after Boudinot's arrest, Pike and Johnson again went to



Delano, demanding that their client's property be returned. Gaining no response, they informed Delano that the arrest was illegal: it violated Article 10 of the Cherokee Treaty.<sup>99</sup> As for Boudinot, he had been released, but refused to pay bond, stating that his arrest had been illegal. And in the Van Buren Press, he addressed an open letter "To the Cherokee People," and related how he had shown McDonald Delano's letter to Pike and Johnson, saying that McDonald had no authority in the Cherokee Nation. McDonald, he wrote, said that he did not recognize the Cherokee Nation as a legal entity. Moreover, McDonald said that he had seen the letter in Washington; Delano had written it just to keep Pike and Johnson pacified. Before the authorities in Van Buren, however, McDonald denied ever seeing the document until Boudinot showed it to him. "This ignoramous McDonald," Boudinot railed, "who claims to be the custodian of the honor and best interests of the government stands before the public a self-convicted liar, as well as a stupid ass."<sup>100</sup> McDonald was in the pay of the Missouri tobacco manufacturers, Boudinot claimed. In a word of warning, Boudinot added, "If an ignorant official like McDonald can with impunity order the seizure and destruction of my property, he can go into the homes of all Cherokees and confiscate all their property for non-compliance with his construction of the law."<sup>101</sup>

For his part in the affair, McDonald, many years later, asserted that before he left Washington to take his post in St. Louis he had received instructions "to investigate gigantic frauds which it was reported were being perpetrated by tobacco manufacturers in the Indian Territory."<sup>102</sup> He claimed that he talked to President Grant about the possible complications, and Grant replied, "Proceed without fear and be

assured you shall have the last hearing."<sup>103</sup> Eventually, McDonald confiscated four factories, including Boudinot's. Delano, he remembered, did send several telegrams ordering him to release the property, but he refused, believing that he had a good case against the offenders.<sup>104</sup>

In turn, Boudinot next tried to bring the Attorney General of the United States into the conflict. The Attorney General declined to intervene. Thus Boudinot initiated a new tactic. He announced in Washington, where he had gone, that he was an escaped prisoner from Arkansas. (He had not given bail.) He wanted to be arrested in that city so he might test the case under habeas corpus law. The Treasury Department, however, refused to call for his arrest. On January 26, 1870, he offered to compromise with Delano, but to no avail.<sup>105</sup> That same day, he penned a letter to Secretary of the Treasury Boutwell, asking for his official opinion on the matter. He accused McDonald and Delano of acting in the interests of tobacco manufacturers in St. Louis.<sup>106</sup>

Treasury officials were working against Boudinot, however. The day before Boudinot met with Delano, the Commissioner appointed tax collectors to go into the Indian Territory and enforce revenue regulations. McDonald's isolated actions now became sanctioned by Department policy and directive.<sup>107</sup> Three days later, Boutwell informed Boudinot that "the action taken by Mr. Delano in the matter [confiscating his factory] was after consultation with me, and . . . I fully concur in the opinion which has given."<sup>108</sup> In desperation, through Senator Alexander McDonald of Arkansas, Boudinot begged Delano to allow him to continue his business, saying he would follow the law explicitly in

selling his goods outside of the Cherokee Nation and would pay taxes on goods sold inside the Indian Territory after the courts ruled on the legality of that issue. Delano turned down this request on February 19.<sup>109</sup>

Boudinot now faced an expensive court battle, and he had very little money. As he wrote to Stand Watie on March 3, 1870, "I am in a death struggle; I have pawned my watch and rings . . . all my business affairs are broken up of course . . . I have just \$10 left; have borrowed \$200 . . . for Gods sake help me out! I am crushed to the Earth."<sup>110</sup> He closed bitterly: "The delegation look on with delight. By God I will be avenged."<sup>111</sup> His animosity and discouragement were heightening.

In May, Boudinot came to trial in the United States District Court for the Western District of Arkansas. He had been held on a bail of \$2,500, finally. Judge Henry C. Caldwell, who presided over the court, decided against Boudinot. Although Caldwell believed Boudinot had acted in good faith, he concluded that the revenue law of 1868 abrogated Article 10 of the Cherokee Treaty. The actions and policy of the Treasury Department were justified and legal. Boudinot's factory and tobacco were declared forfeited, and his only recourse was to appeal the ruling to the United States Supreme Court.<sup>112</sup>

At the same time, Boudinot became more involved with the Katy. As Robert Stevens, the road's General Manager, remarked earlier in 1870, "Elias Boudinot has been our very good friend and has brought his great influence to bear on his people."<sup>113</sup> Now Boudinot had another service to render. On May 14, Boudinot and Watie met with Stevens to tell him that the Border Tier crews were close to the Cherokee line. In fact,

when they reached Baxter Springs, they had thought they were on the border. Consequently, Boudinot and Watie convinced Robert Greenwell, a Katy troubleshooter and spy, to sponsor a big celebration, which he did on May 12, with Katy money, of course. The upshot of the ploy was that the hang-over ridden Border Tier workers slowed down their work, thinking they had won the race anyway. Boudinot told Stevens he could still win the race, but he must push his crews and/or hire gandydancers away from the Border Tier.<sup>114</sup> Spurred on by Boudinot's information, the Katy crews did reach the Cherokee Nation first.

On June 6, 1870, a celebration was held on the Cherokee border. Robert Stevens drove the last spike on the Kansas side of the tracks. Boudinot drove the first spike on the Cherokee side. Then, he made a short speech. "I stand in no fear or dread of the railroad," he reportedly said.<sup>115</sup> According to a local newspaper story, he also declared that the railroad "would send the blood of enterprise tingling through the veins of every Cherokee," while noting that he "had suffered in reputation for his advocacy of railroads."<sup>116</sup> Certainly Boudinot looked forward to the profitability of his connection with the Katy.

At the same time, Boudinot began to establish himself on his ranch in the Cherokee Nation near Chetopa. And in late July, Perry Fuller brought his family from Washington to a house on Russell Creek to engage with Boudinot "in some business enterprise in the Indian Territory."<sup>119</sup> Once close to Andrew Johnson, Fuller had been accused of corruption while Customs Collector for New Orleans. Still, he had been the attorney for the Southern Cherokees in 1866, and he was Vinnie Ream's brother-in-law: he was Boudinot's friend. The prevailing speculation was exemplified by a quip from the editor of the Southern Kansas

Advance in Chetopa: "We have heard it intimated that Col. Boudinot was about to be prosecuted for violation of the non-intercourse laws. We wait for Fuller particulars."<sup>120</sup> Whatever Boudinot's business with Fuller, the resolution of his tobacco case still haunted his days. In particular, Boudinot worried about the criminal charges still pending against him. He confided to Watie in early October, that unless he could get a continuance of his criminal case until after a Supreme Court decision on the legality of the government's action, he feared conviction. With some hope, however, he added, "Clem Vann [one of the Cherokee delegates to the Grand Council of the Indian Territory] is now willing to help. The Council should pass a resolution setting out the importance to the nation of the case and close with a request to the U. S. Court that the criminal side of the case not be tried until the law is decided by the Supreme Court."<sup>121</sup>

Boudinot remained nonetheless irrepressible despite his problems, and in early December a new development spurred his interest. James Harlan, again a senator from Iowa, introduced a bill in the Senate on December 6 to authorize the Indian Territory to send a delegate to Congress. He brought it up again on December 8, saying that the Commissioner of Indian Affairs was already in the Indian Territory for the opening of the first Grand Council and, if the Congress acted quickly, a delegate could be chosen immediately. That same day, the Committee on Indian Affairs in the Senate reported the bill back to the floor.<sup>122</sup> The Senate could act as soon as it wanted on the bill. Consequently, the ambitious Boudinot informed Watie of the Senate's action. He was sure the measure would pass, but he had written to friends in the Senate to have it held back until after the holidays. He wanted to be the

future delegate and, as Watie was a Cherokee representative to the Grand Council, Boudinot suggested that he try to have a special session called. "With the help of Maj. Geo. Reynolds and friends of ours among the Creeks and Seminoles," he wrote, "I think I could get a majority of their votes . . . let us be stripped for the fight for now is the time when our family, so long under the ban, may assert its just position of honor among our people."<sup>123</sup> Both dreaming of being a delegate to Congress and pondering his upcoming case before the Supreme Court, Boudinot hastened off to Washington.

That December he did get some badly needed support. The members of the Cherokee National Council voted to authorize the Cherokee Delegation to employ lawyers to defend Boudinot in the tobacco case. They justified their decision on the grounds that Boudinot was a Cherokee citizen, but more importantly that "the case necessarily involves great principles of international law and rights of foreign nationality vital to the interests and security of the Cherokee Nation and people."<sup>124</sup> The Cherokee delegation then employed Pike and Johnson, Boudinot's own attorneys.<sup>125</sup>

Soon after Boudinot arrived in Washington, tragedy struck. Perry Fuller, who was at his home in Washington, died on January 12, 1871.<sup>126</sup> Fuller and Senator McDonald of Arkansas had been promoting a new bill to organize the Indian Territory as an official United States territory. Sidney Clarke, Chairman of the House Committee on Indian Affairs, was also a proponent of such a bill. More confirmed to the idea, however, was Congressman Robert T. Van Horn of Missouri. He was shepherding this particular bill through the House Committee on Indian Affairs when Fuller passed away.

When the bill was finally presented before the House in early January of 1871, it was the first in the House to call for the organization

of the territory of Oklahoma. Later, Van Horn credited Boudinot with this title. Allen Wright, the Choctaw leader, had suggested that name for the proposed territory-wide government called for in the Choctaw Treaty of 1866. In the Choctaw language, Oklahoma means "home of the red man." Thus Boudinot, familiar with the Choctaw treaty, gave Van Horn the word.<sup>127</sup> Ironically, while the Cherokee government was subsidizing Boudinot's legal battle, he was working against its stated policy--opposition to territorialization.

Indeed, the territorial bills kept the Cherokee delegates busy, and they could not help but know that Boudinot was working with the sponsors of the bills. Indicative of their activity, Adair informed James M. Bell in early April, 1871, "Thus far we have strangled 4 territorial Bills for our Country, before their respective Committees in Congress. . . . Keep our people firmly united against this measure and we may hope for success until our lands shall have been divided among ourselves."<sup>128</sup> At the same time, Adair's letter implied that he and Boudinot had had another falling out, for referring to Watie and his wife, Sarah, he wrote, "They have been good to me--not withstanding the attempts of others to misrepresent and slander me before the Genl--you know whom I mean. I am as good a friend to Genl Watie, although but a cousin, as any nephew he has."<sup>129</sup>

In April, 1871, the Supreme Court listened to the arguments in the tobacco case. The lawyers for Boudinot included himself, A. H. Garland, Albert Pike, Robert Johnson, and Benjamin F. Butler. Butler, the former Radical Republican, presented the case for the plaintiff. Amos Akerman, the Attorney General, presented the government's side. Essentially, Boudinot's case was based on Article 10 of the Cherokee treaty. The

government, on the other hand, argued that the United States and the Cherokee Nation were not equals and that the federal government had the power to levy and collect taxes in the Indian Territory under proper legislation.<sup>130</sup>

The six presiding justices voted four to two against Boudinot. Justice Swayne, delivering the majority decision, said that the language of the law in question was quite clear, and if the legislation caused an injustice, it was a political matter. Congress, not the court, would have to resolve that conflict. Judge Bradley, in dissent, maintained that it was clear Congress had not intended for the law to affect the Indian Territory. Furthermore, he noted that the case reflected on the honor of the government to maintain the integrity of Indian treaties.<sup>131</sup> Bradley's reasoning, although sound, must have been cold solace for Boudinot, indeed for all Indians. The Supreme Court had destroyed the supposed binding power of a treaty.

As soon as the justices delivered their decision, Boudinot hastily wrote to Watie. The ruling, he declared "is the Death Knell of the Nations."<sup>132</sup> Moreover, he continued, "I am totally ruined if you don't run for the Council [Cherokee National Council]; for Gods sake do not delay . . . the retaining fees \$1500 to Pike & Johnson--\$2,500 to Key, \$500 to Jones & Wilcot and \$500 for printing ought to be paid by the Nation."<sup>133</sup> Apparently, the Cherokee authorities had yet to provide the promised funds. Also, despite Boudinot's wishes, Watie did not present himself as a candidate for the National Council. Boudinot ended his note by pointing out that he had to get to Van Buren quickly if he were to be tried on criminal charges.<sup>134</sup>

J. H. Huckleberry, the United States Attorney in Fayetteville, did



not want to prosecute Boudinot for criminal offense, for the other tobacco manufacturers in the Indian Territory had had those charges against them dropped. Huckleberry expressed his sentiments to Attorney General Akerman. Akerman, however, refused to agree totally with Huckleberry, telling him to hold the case over until the fall term of the court.<sup>135</sup> When the Grand Council met in June, the body did what Boudinot hoped it would do. A resolution was passed requesting "that all further proceedings in the case be stayed, and all penalties and forfeitures be remitted."<sup>136</sup> But although nothing was done, the charges were not soon dropped. Huckleberry thought that John McDonald, still angered by Boudinot's remarks, used his influence to keep the charges alive.<sup>137</sup>

Over the following years, Boudinot continually memorialized Congress to have his compensation for his losses. Eventually, congressional legislation dismissed civil proceedings against Boudinot, and upon the request of the House Committee of the Judiciary, the Attorney General rescinded the criminal counts.<sup>138</sup> Finally, in the early 1880s, through the urging of Daniel Voorhees, by that time a Senator from Indiana, Congress allowed Boudinot to sue in the Court of Claims for damages against the United States government.<sup>139</sup>

After the court ruling, Boudinot addressed a memorial on his tobacco case to Congress. In a sanctimonious tone, he stated that he was the

only Indian on record who has ever been known to embark in the business of manufacturing; that he flattered himself he would demonstrate to the world that Indian civilization was not a failure; but that, under benign and fostering care of this great country, he would present to his red brethren a notable example of the benefits of industry, enterprise, and energy. That your memorialist was ambitious not alone to amass wealth, but to rank first of his race who had

ever rivaled the enterprise and success of the white man.

\* \* \*

Your memorialist, as a Cherokee Indian, feels grateful to the President of the United States and to the Secretary of the Interior for the recommendation to Congress to establish a territorial government over the Indian country, feeling confident that by such a wise and just course he and all his Indian brethren will be invested with all the rights and privileges of citizens of this great republic, they are already subjected to the responsibilities of such.<sup>140</sup>

The whole episode only made Boudinot more certain of his future course of thought and activity, at least in regard to Indian policy and Cherokee politics. He became an arch-proponent of territorial government for the Indian Territory, concluding that the Indian, especially an enterprising one such as himself, needed legal protection--citizenship--and personal ownership of his real property. Many of his ensuing endeavors would be predicated on these premises.

## ENDNOTES

<sup>1</sup>For Reconstruction in Cherokee Nation, see Hannah R. Warren, "Reconstruction in the Cherokee Nation," Chronicles of Oklahoma 45 (Summer, 1967), 180-189. Also see M. Thomas Bailey, Reconstruction in Indian Territory: A Story of Avarice, Discrimination, and Opportunism (Port Washington, N.Y.: Kennikat Press, 1972).

<sup>2</sup>Thomas B. Alexander and Richard E. Beringer, The Anatomy of the Confederate Congress: A Study of the Influences of Member Characteristics on Legislative Voting Behavior, 1861-1865 (Nashville, Tenn.: Vanderbilt University Press, 1972), p. 356.

<sup>3</sup>Elias C. Boudinot to D. N. Cooley, 30 January 1866; Boudinot to Cooley, 1 August 1866, NA, RG75, LR-OIA, M234, R100.

<sup>4</sup>Elias C. Boudinot to D. N. Cooley, 3 September 1866, NA, RG75, LR-OIA, M234, R100.

<sup>5</sup>Ibid.

<sup>6</sup>The Journal of Marian Tebbetts Banes (Fayetteville, Ark.: Washington County Historical Society, 1977), p. 130.

<sup>7</sup>Ibid. pp. 126, 128.

<sup>8</sup>Arkansas Gazette, 28 November 1866.

<sup>9</sup>Dallas T. Herndon, ed., Annals of Arkansas, I (Little Rock: The Historical Record Assoc., 1947), 178-179.

<sup>10</sup>For life of Garland, see Farrar Newberry, A Life of Mr. Garland of Arkansas (N.p.: the author, 1908). Also see Dictionary of American Biography, s.v. "Garland, Augustus H."

<sup>11</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), p. 206.

<sup>12</sup>Elias C. Boudinot, Richard Fields, and others to Colonel Crawford, 22 September 1866, NA, RG75, LR-OIA, M234, R100.

<sup>13</sup>Elias C. Boudinot to D. N. Cooley, 12 October 1866, NA, RG75, LR-OIA, M234, R100.

<sup>14</sup>Elias C. Boudinot to L. V. Bogy, 5 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>15</sup>Perry Miller to L. V. Bogy, 14 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>16</sup>Elias C. Boudinot to O. H. Browning, 15 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>17</sup>Ibid.

<sup>18</sup>Elias C. Boudinot to Commissioner of Indian Affairs, 15 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>19</sup>W. P. Adair and Saladin Watie to O. H. Browning, 15 November 1866, NA, RG75, LR-OIA, M234, R100. That same day, a governmental official reported to the Office of the Commissioner of Indian Affairs that on October 7, 1855, a check for \$793.50 on the National Bank of the Metropolis in Washington had been issued to Boudinot. It was sent to Boudinot and endorsed by Boudinot, John Ridge, Richard Fields, and H. M. Watterson. Lewis S. Hayden to Charles E. Mix, 15 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>20</sup>Stand Watie and W. P. Adair to Secretary of the Interior, 16 November 1866, NA, RG75, LR-OIA, M234, R100.

<sup>21</sup>Elias C. Boudinot to John Rollin Ridge, 29 November 1866, CP, WHC.

<sup>22</sup>Elias C. Boudinot to Stand Watie, 2 December 1866, CP, WHC.

<sup>23</sup>Ibid.

<sup>24</sup>Elias C. Boudinot to Dennis N. Cooley, 1 December 1866, CP, WHC.

<sup>25</sup>D. N. Cooley to Elias C. Boudinot, 4 December 1866, CP, WHC.

<sup>26</sup>Elias C. Boudinot to Lewis V. Bogy, 3 December 1866, NA, RG75, LR-OIA, M234, R100.

<sup>27</sup>Elias C. Boudinot to Commissioner of Indian Affairs, 22 December 1866, NA, RG75, LR-OIA, M234, R100.

<sup>28</sup>Elias C. Boudinot to Lewis V. Bogy, 13 January 1867, NA, RG75, LR-OIA, M234, R100.

<sup>29</sup>Elias C. Boudinot to N. G. Taylor, 8 March 1867; Boudinot to O. H. Browning, 25 March 1867; Boudinot to Taylor, 5 April 1867, NA, RG75, LR-OIA, M234, R100.

<sup>30</sup>A. H. Garland to N. G. Taylor, 8 April 1867, NA, RG75, LR-OIA, M234, R100.

<sup>31</sup>Wardell, pp. 206-209.

<sup>32</sup>Wardell, p. 209.

<sup>33</sup>Elias C. Boudinot to Robert Johnson, 4 February 1867, Andrew Johnson Papers, Library of Congress, Microfilm Roll 26.

<sup>34</sup>S. W. Harmon, Hell on the Border: He Hanged Eighty-eight Men (Fort Smith, Ark.: Phoenix Publishing Company, 1898), p. 147. Boudinot was supposedly the first Indian to practice before the Supreme Court. Marcus J. Wright, "Colonel Elias C. Boudinot," Southern Bivouac II, No. 10 (June, 1884), 440.

<sup>35</sup>H. F. and E. S. O'Beirne, The Indian Territory: Its Chiefs, Legislators and Leading Men (St. Louis, Mo.: C. B. Woodward Company, 1892), p. 463; Joe Cullen Holland, "The Cherokee Indian Newspapers, 1828-1906: The Tribal Voice of a People in Transition" (Ph.D. diss., University of Minnesota, 1956), p. 433

<sup>36</sup>Elias C. Boudinot to Stand Watie, 9 June 1867, in Edward Everett Dale and Gaston Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family (Norman: University of Oklahoma Press, 1939), pp. 251-252.

<sup>37</sup>Kenny L. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), p. 196.

<sup>38</sup>W. P. Boudinot to Stand Watie, 9 April 1867, in Dale and Litton, p. 249.

<sup>39</sup>W. P. Adair to Stand Watie, 29 June 1867, in Dale and Litton, p. 252.

<sup>40</sup>For Cherokee politics at this time, see H. F. and E. S. O'Beirne, p. 78; Grace Steele Woodward, The Cherokees (Norman: University of Oklahoma Press, 1963), p. 309; Wardell, pp. 209-212; Joseph B. Thoburn and Muriel H. Wright, Oklahoma: A History of the State and Its People I (New York: Lewis Historical Publishing Company, Inc., 1929), 184; Bailey, p. 174.

<sup>41</sup>Wardell, p. 212.

<sup>42</sup>Document, signed by Lewis Downing, 12 January 1868, NA, RG75, LR-OIA, M234, R101.

<sup>43</sup>Elias C. Boudinot to N. G. Taylor, 28 January 1868, NA, RG75, LR-OIA, M234, R101.

<sup>44</sup>Dale and Litton, p. 26.

<sup>45</sup>Franks, p. 196.

<sup>46</sup>Ibid., p. 200.

<sup>47</sup>Arkansas Gazette, 30 January 1868.

<sup>48</sup>Wardell, p. 24; Bailey, p. 162; Report of the Cherokee Delegation of their Mission to Washington in 1868 and 1869 (N.p.: N.p., N.d.), pp. viii-xi; Charles D. Kappler, ed. and comp., Indian Affairs: Laws and Treaties, II (Washington, D. C.: Government Printing Office, 1904), 996-997; Charles C. Royce, The Cherokee Nation of Indians (Chicago: Aldine Publishing Company, 1975), p. 228. The matter did not end here, however. Legal and political battles over who had the right to the land ensued. For more on the sale of the Neutral Lands and the aftermath, see Paul Wallace Gates, Fifty Million Acres: Conflicts over Kansas Land Policy, 1854-1890 (Ithaca, N.Y.: Cornell University Press, 1954), pp. 153ff.

<sup>49</sup>Royce, pp. 220-231; Wardell, p. 215.

<sup>50</sup>Ibid.

<sup>51</sup>Official Proceedings of the National Democratic Convention (Boston: Rockwell & Collins, Printers, 1868), pp. 14, 31; J. G. Randall and David Donald, The Civil War and Reconstruction (Lexington, Mass.: D. C. Heath, 1969), pp. 638-639.

<sup>52</sup>Randall and Donald, p. 640.

<sup>53</sup>Governor, Chiefs, and Headmen of Osage Tribe to U. S. Grant, ca. February 1873, NA, RG75, LR-OIA, M234, R536.

<sup>54</sup>Sentinel (Fayetteville, Ark.), 26 March 1884.

<sup>55</sup>Governor, Chiefs, and Headmen of Osage Tribe to U. S. Grant, ca. February 1873, NA, RG75, LR-OIA, M234, R536.

<sup>56</sup>Sentinel, 26 March 1884; John Joseph Mathews, The Osages: Children of the Middle Waters (Norman: University of Oklahoma Press, 1961), pp. 667ff.

<sup>57</sup>Governor, Chiefs, and Headman of Osage Tribe to U. S. Grant, ca. February 1874, NA, RG75, LR-OIA, M234, R536.

<sup>58</sup>Sentinel, 26 March 1884; Mathews, p. 718.

<sup>59</sup>Grant Foreman, A History of Oklahoma (Norman: University of Oklahoma Press, 1942), pp. 186-187.

<sup>60</sup>Robert K. Heimann, "The Cherokee Tobacco Case," Chronicles of Oklahoma 41 (Autumn, 1963), 300.

<sup>61</sup>Kappler, p. 945; Heimann, p. 313.

<sup>62</sup>John F. Risley to Elias C. Boudinot, 14 July 1868, cited in 41st Cong., 2d sess., House Rept 52 (serial 1437), p. 3.

<sup>63</sup>Ibid.

<sup>64</sup>42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 1.

<sup>65</sup>Elias C. Boudinot to Stand Watie, 21 November 1868, in Dale and Litton, p. 271-272.

<sup>66</sup>Ibid.

<sup>67</sup>Elias C. Boudinot to Major James Marr, 20 November 1868, cited in U. S., Congress, Senate, Senator Daniel W. Voorhees speaking on Boudinot tobacco case, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2632.

<sup>68</sup>Major James Marr to Office Supervisor Internal Revenue, 3 December 1868, cited in 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2632.

<sup>69</sup>Thomas Harland to Major James Marr, 26 December 1868, cited in 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2632.

<sup>70</sup>James Marr to E. A. Rollins, 4 January 1869, cited in 46th Cong., 2d sess., House Rept 120 (serial 1934), p. 3.

<sup>71</sup>A. H. Garland to Elias C. Boudinot, 7 December 1868, Andrew Johnson Papers, Library of Congress, Microfilm Roll 35.

<sup>72</sup>Ibid.

<sup>73</sup>Elias C. Boudinot to Stand Watie, 9 January 1869, in Dale and Litton, pp. 259-260.

<sup>74</sup>Ibid.

<sup>75</sup>Report of Cherokee Delegation . . . 1868 and 1869, p. 3, Appendix pp. cxliii-cxlvii.

<sup>76</sup>Elias C. Boudinot to Stand Watie, 9 January 1869, in Dale and Litton, pp. 259-260.

<sup>77</sup>Ibid.

<sup>78</sup>U. S., Congress, Senate, 40th Cong., 3d sess., 5 January 1869, Congressional Globe.

<sup>79</sup>U. S., Congress, House, 40th Cong., 3d sess., 11 January 1869, Congressional Globe, 282.

<sup>80</sup>U. S., Congress, Senate, 41st Cong., 1st sess., 5 March 1869, Congressional Globe, 8.

<sup>81</sup>For more on Clarke, see George L. McCoy, "The Congressional Career of Sidney Clarke" (M.A. thesis, Oklahoma State University, 1962).

<sup>82</sup>Elias C. Boudinot to Stand Watie, 9 January 1869, in Dale and Litton, pp. 259-260.

<sup>83</sup>Elias C. Boudinot to Commissioner of Internal Revenue, 20 February 1869, cited in U. S., Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2632.

<sup>84</sup>Ibid.

<sup>85</sup>Commissioner of Internal Revenue to Elias C. Boudinot, 23 February 1869, cited in U. S., Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2632-2633.

<sup>86</sup>Ibid.

<sup>87</sup>Elias C. Boudinot to Stand Watie, 15 August 1869, in Dale and Litton, pp. 285-286.

<sup>88</sup>Ibid.

<sup>89</sup>V. V. Masterson, The Katy Railroad and the Last Frontier (Norman: University of Oklahoma Press, 1952), pp. 28-30.

<sup>90</sup>Elias C. Boudinot to Stand Watie, 15 August 1869, in Dale and Litton, pp. 285-286.

<sup>91</sup>Elias C. Boudinot to E. S. Parker, 12 August 1869, NA, RG75, LR-OIA, M234, R102.

<sup>92</sup>Charles E. Mix to E. S. Parker, 30 March 1870, NA, RG75, LR-OIA, M234, R838; Grant Foreman, A History of Oklahoma, p. 87.

<sup>93</sup>J. W. Douglass to R. W. Wishard, 13 August 1869, cited in U. S., Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2633.

<sup>94</sup>Ibid.

<sup>95</sup>Senator Daniel W. Voorhees speaking on Boudinot tobacco case, U. S. Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2633.

<sup>96</sup>Ibid.

<sup>97</sup>Memorial of Elias C. Boudinot, dated 1 January 1870, cited in 42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 3.

<sup>98</sup>Ibid.

<sup>99</sup>Letter cited in U.S., Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2634.

<sup>100</sup>Arkansas Gazette, 16 January 1870.



- 101 Ibid.
- 102 John McDonald, Secrets of the Great Whiskey Ring and Eighteen Months in the Penitentiary (St. Louis, Mo.: W. S. Bryan, 1880), pp. 27-28.
- 103 Ibid.
- 104 Ibid.
- 105 41st Cong., 2d sess., House Rept 52 (serial 1437), p. 6.
- 106 Elias C. Boudinot to George S. Boutwell, 26 January 1870, cited in U. S., Congress, Senate, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2634-2636.
- 107 41st Cong., 2d sess., House Rept 52 (serial 1437), pp. 4-5.
- 108 George S. Boutwell to Senator Alexander McDonald, 28 January 1870, cited in 41st Cong., 2d sess., House Rept 52, (serial 1437), p. 5.
- 109 Senator Daniel W. Voorhees speaking on Boudinot tobacco case, 46th Cong., 2d sess., 22 April 1880, Congressional Record, X, 2636.
- 110 Elias C. Boudinot to Stand Watie, 3 March 1870, in Dale and Litton, p. 288.
- 111 Ibid.
- 112 42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 3.
- 113 Masterson, p. 44.
- 114 Ibid., pp. 57-60.
- 115 Ibid., p. 72.
- 116 Southern Kansas Advance, 8 June 1870.
- 117 Ibid.
- 118 Masterson, p. 79.
- 119 Southern Kansas Advance, 27 July 1870.
- 120 Southern Kansas Advance, 31 August 1870.
- 121 Elias C. Boudinot to Stand Watie, 3 October 1870, in Dale and Litton, p. 289.
- 122 U. S., Congress, Senate, 41st Cong., 3d sess., 6, 8 December 1870, Congressional Globe, pt. 1, pp. 18, 39, and 49.

<sup>123</sup>Elias C. Boudinot to Stand Watie, 11 December 1870, in Dale and Litton, pp. 289-290.

<sup>124</sup>Cherokee Nation Papers (hereafter CNP), Vol. 258, p. 86, IAD, OHS (microfilm CHN 9).

<sup>125</sup>Grant Foreman, A History of Oklahoma, p. 188.

<sup>126</sup>Southern Kansas Advance, 18 January 1871.

<sup>127</sup>Luther B. Hill, A History of the State of Oklahoma, I (Chicago: The Lewis Publishing Company, 1910), pp. 130-131; Roy Gittinger, The Formation of the State of Oklahoma (Norman: University of Oklahoma Press, 1939), Appendix E.

<sup>128</sup>William P. Adair to James M. Bell, 8 April 1870, CP, WHC.

<sup>129</sup>Ibid.

<sup>130</sup>Southern Kansas Advance, 5 April 1871; Elias C. Boudinot et al. v. United States, 11 Wallace 616 (1870), pp. 227-230.

<sup>131</sup>11 Wallace 616 (1870), pp. 227-230.

<sup>132</sup>Elias C. Boudinot to Stand Watie, 10 May 1871, in Dale and Litton, p. 295.

<sup>133</sup>Ibid.

<sup>134</sup>Ibid.

<sup>135</sup>A. T. Akerman to J. H. Huckleberry, 22 May 1871, cited in 42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 7; Heimann, p. 317.

<sup>136</sup>42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 8.

<sup>137</sup>Heimann, p. 317.

<sup>138</sup>46th Cong., 2d sess., House Rept 120 (serial 1934), p. 6.

<sup>139</sup>On June 4, 1880, Congress granted Boudinot to sue in the Court of Claims. Sentinel (Fayetteville, Ark.), 3 August 1881.

<sup>140</sup>42d Cong., 2d sess., House Misc Doc 9 (serial 1524), p. 8.

## CHAPTER IX

### PROMOTING AND PROSELYTIZING

The early months of 1871 had been a devastating time for Boudinot. He had lost his tobacco case. He had rekindled the animosity between himself and other Cherokee leaders. Now his enemies included not only the old Ross faction but also the Downing party, which included most of his former allies. Moreover, Boudinot had definitely wed himself to the cause of progress--"progress" as defined by white America. Thus, Elias C. Boudinot, former Confederate Cherokee and nascent entrepreneur, became the public prophet of Indian progress, a spokesman for assimilation.

Boudinot wasted no time in presenting his views before the Cherokees. By invitation, he addressed a large gathering of Indians at Big Cabin, the terminal town for the Katy. The next day, the New York Times, carrying an account of the meeting under the caption "A Warning Voice--Common Sense at Last," reported that Boudinot criticized the Cherokee delegation in Washington for "not giving a full account of the actual condition of the country," for "a crisis was upon" the Cherokees and "a great change in their condition would soon come."<sup>1</sup> Consequently, Boudinot "advised them to . . . have their lands sectioned and sell the balance, which would yield a million dollars, besides leaving 600 acres to each family, which in ten years would be worth \$15,000, making them the richest community in the world."<sup>2</sup>

The speech at Big Cabin was in conjunction with the celebration of the Katy reaching that burg, and no doubt what he said pleased the railroad crews.<sup>3</sup> If the Cherokees did sectionalize their land, the railroad could then receive land grants. The agreement between the Cherokee Nation and the Katy stipulated such. Certainly, Boudinot's utterances only further agitated the Cherokee leaders, for after previously lending his aid in drafting a territorial bill, he was now assaulting not only the sovereignty of the Cherokee people but also their most precious possession--land.

The tenacious Boudinot, however, continued on his path, giving another speech on June 28. His words, in turn, elicited the commendation of the editor of the Chetopa Southern Kansas Advance. "The Col.," he wrote,

is the only leading Cherokee we know who has the courage to stand before his people and boldly speak his sentiments; for while from all their prominent men we have heard the utterance of like opinions when away from home, among their own people they hold to the most conservative and time-serving views.<sup>4</sup>

This assertion may have been true. Some Cherokee spokesmen possibly did welcome the prospect of economic advance which the railroads and the division of land might bring, or they may have said so only to mollify their white neighbors in Kansas. Then, too, perhaps the editor of the Advance was making a fallacious assertion. Whatever the verity of his statement, two things were true. Most of the Cherokees were against Boudinot's ideas, and Boudinot was almost alone in his public stand.

That the editor of the Advance would praise Boudinot was not surprising. They were friends, and Boudinot was closely connected with the town of Chetopa. In fact, in mid-August when notables from Kansas City--the mayor, councilmen, and delegates of the Kansas City Board of

Trade--paid an official visit to Chetopa, Boudinot was on hand. These visitors even travelled to Boudinot's residence on Russell Creek inside the Cherokee Nation. An ambitious "booster," Boudinot desired to make new acquaintances among this influential group. And indeed, they must have had a good time at Boudinot's place, where "they were met by a Commissary wagon abundantly supplied with luxuries adapted to the season and climate, and suited to bolster up the inner man."<sup>5</sup>

While Boudinot must have been pleased with his effort to entertain the dignitaries from Kansas City, that did not detract him from continuing to express his views on the future course of action for the Cherokees. To the contrary, his ideas began to crystalize, and in a letter to the Van Buren Press he elaborated his thoughts more. "The proper policy to pursue," he wrote, contained six points. Every Cherokee man, woman, and child should be allotted 160 acres. The remainder of the nation's land should be sold to white settlers. The \$1,000,000 which would be received from such a sale should be used for educating Cherokee youths, supporting orphans, and the like. The remainder of the money should be invested with the United States government, with the interest from it being divided per capita each year. United States courts should be established in the Indian Territory to hear both civil and criminal cases--in this way Indians could sit on juries in judgment of other Indians. Finally, an Indian delegate to Congress should be elected--this would save the Cherokee Nation at least \$15,000: the cost of keeping a delegation in Washington. All of these measures, Boudinot concluded, would be in line with the Treaty of 1866. In fact, as Boudinot understood the treaty, Congress had the right to authorize these changes anyway.<sup>6</sup>

As Boudinot continued to speak out on these issues, he became

even more estranged from the majority of Cherokees. Then in September of 1871, fate handed him yet another saddening blow. Stand Watie passed away on September 10.<sup>7</sup> In many respects, Watie had been closer to Boudinot than any other man. Boudinot must have been sorely grieved, for he lost a friend, an ally, and a relative. On one point, however, they had differed: agitating for territorial government. While Watie had never publicly opposed Boudinot's efforts, he had questioned the value of his nephew's activities. According to his wife, Sarah, Watie was in favor of

comingling the races, knowing this to be the only means by which the Indians could make any progress. He always contended that a change in our political standing to the United States was but a question of time, and used to tell his nephew Col. E. C. Boudinot, that it was unnecessary to agitate the question, that he was endangering his life for nothing, as the question in due time would solve itself.<sup>8</sup>

But regardless of his uncle's misgivings, Boudinot neither ceased nor restrained his public pronouncements on the issues.

About the same time as Watie's demise, Boudinot undertook a new project: building a town. With his connections with the railroad corporations, Boudinot knew where the Katy and A. & P. would intersect. Therefore, at this point, where the Old Military Road diverged from the Texas Road, Boudinot and a few cohorts--James M. Bell, Johnson Thompson, and Dr. Polson--fenced off about two square miles of land. Selling the remains of his tobacco factory, Boudinot purchased lumber from Polson's sawmill and constructed a hotel on the site. The rest of the land he staked off for purchase. Soon a scattering of tents and makeshift buildings began to appear in the infant town which Boudinot named Vinita, in honor of Vinnie Ream.<sup>9</sup>

As might be expected, controversy developed. For one, he had

violated Cherokee law. In December, 1870, the Cherokee government, fearful of railroad land speculation, had decreed that all land within one square mile of any railroad station was under the direct control of the Cherokee Nation. No one could make improvements on it without approval of Cherokee authorities. This land was to be surveyed into lots and then granted to Cherokee citizens only.<sup>10</sup> Boudinot, therefore, had no legal basis for his activity.

Angry Cherokees definitely wanted to stifle his enterprise. A legal battle, however, might be too drawn out. They needed some other means to stop Boudinot and his speculating friends. Therefore, they conspired to create their own village, which would siphon off Boudinot's settlers. To do this, they needed the aid of the railroads, at least the A. & P., and they got it. The A. & P. changed its plans. In July, that line resurveyed its route and made its point of intersection with the Katy three miles north of Vinita. Here a new town, Downingville, would be established. Cherokee authorities, probably including Chief Lewis Downing after whom the new town was named, cooperated in the establishment of Downingville. Soon Vinita was almost deserted, but Boudinot was not foiled. He switched sides, made a deal with the A. & P., and moved his hotel to Downingville. In the bargain, the name of the town was to become Vinita.<sup>11</sup>

Now Boudinot was at odds with the Katy. The A. & P. had begun the construction of a station on the Katy's right-of-way. Bob Stevens would not let the A. & P. usurp the Katy's rightful holdings. Thus in October of 1871, just a few weeks after the hamlet had come into being, it was the site of a small war. The rival railroad crews battled for the crossing point. When the free-for-all ended, the Katy's brawlers

commanded the crossing, having destroyed all that the A. & P. had built.<sup>12</sup> This melee, in turn attracted the attention of the Department of the Interior which wanted some questions answered.

Katy officials responded by noting the duplicity of the A. & P. in changing its survey. Furthermore, they claimed that Boudinot was in cahoots with the A. & P. "Common report," stated one of the Katy's spokesmen, "says that Boudinot borrowed the money in St. Louis of or through the agency of the Atlantic and Pacific to fence this land with and that they are to have a large share with him when the title is secured."<sup>13</sup> Boudinot, however, was probably being made a scapegoat. He no doubt had nothing to do with staking out land at Downingville, but he was indeed a fickle friend to the Katy. He had cooperated with the A. & P. Moreover, he supposedly informed the Katy that it could purchase some of his share in the enterprise. However, when Bob Stevens sent a representative to investigate the situation, Boudinot remonstrated that he was truly a friend of the Katy but that he intended to have some reward for his undertaking. Inflamed by the circumstances, he said, "My life is threatened, but my temper is up and I am determined to see the thing through. Much good will result therefrom, though some Indian blood may flow."<sup>14</sup>

In the end, Boudinot retained his hotel, eventually with the permission of the Katy to keep it on its property. Boudinot's enemies failed to thwart totally his economic adventure, and, during the early years of Vinita, his hotel was one of the focal points in the town. For some, however, the building was akin to a festering sore, a remnant of Boudinot's presence and perfidity.

While his nemeses glowered at his "comeupmanship," Boudinot



did not hesitate to take them to task. As Vinita (Downingville) excelled in population as a terminus town, Boudinot, assuming a posture of righteous indignation, protested against the ongoing sale of lots. A white man, a citizen of the United States, enjoyed in the parceling of lots, and Boudinot argue that this was illegal, posting several public notices to that effect. Whether Boudinot truly believed that the Cherokees were being cheated or whether he was upset because he could not capitalize on the market is debatable. Whatever the case, the fears of the Cherokee government had been realized. Land speculation came to this new town spawned by the railroads. As one observer reported, "The poor Indians say they can get no showing the way things are going now no person but moneyed men will be able or are able to get a lot."<sup>16</sup> After a while, however, the furor of lot buying died down; the inflated prices for the land declined; and the Katy began to lay its tracks southward. Vinita was no longer a boom town. Some residual animosity remained, however. The A. & P., which did not venture farther west until 1882, continued to try to undercut the Katy, which retaliated in like manner. And Boudinot, who had done much to establish Vinita, had many enemies in the town.

Although coupled with affairs at Vinita, Boudinot also continued to press for change in the Cherokee Nation, and the recently founded town made an excellent site at which to expound his views. On September 21, he did so. He said that his ideas were unpopular because they were not understood and the Cherokee people "frowned down all attempts to reason upon them."<sup>16</sup> "What are these views of mine," he continued, "for the mere entertaining of which some say murder would be justifiable?"<sup>17</sup> He wanted congress to pass a territorial bill for the Indian

Territory, that was all. Such an act would give each person, regardless of sex or age, 160 acres, which would be inalienable for twenty years. The remaining land would be sold for an average of \$1.25 per acre. Three million dollars would be set aside for schools and an orphan fund. The remainder of the money derived from the sale of surplus land would be invested with the interest on it being distributed per capita per year. A United States court would be created in the territory, and each Indian would be recognized as a citizen of the United States. Finally, one delegate for the whole territory would be chosen as a representative to Congress, thereby eliminating the costly delegations.<sup>18</sup>

He also turned his ire on the Cherokee delegation. He pointed out that the tribe's annuity was one-third larger than it had been before the Civil War, yet no additional funding had been given to the important educational programs. All went to keeping the delegation in Washington. "Until this farce of 'an empire within an empire' is ended," he declared, this money would continually be squandered on the useless delegations.<sup>19</sup> "Had I my way," he proclaimed, "I would invest every dollar to be derived from the sale of Indian lands to the purpose of Indian education, even though the amount should reach \$50,000,000. The Indian must be civilized, and learn to live by the sweat of his brow, or he will be exterminated."<sup>20</sup>

The real opponents of the territorial bill, Boudinot charged, were white men in the Cherokee Nation "who enjoy immunity from competition."<sup>21</sup> They had led the Indians astray for selfish reasons. Furthermore, he predicted that the territorial bill would pass during the next session of Congress. Thus he urged the Cherokees to take the initiative in the matter, for eventually whites would dominate the Indian Territory:

I do not care how much you dislike me, if I can find the road to your favor only through your prejudices. I care nothing for that popularity which must be purchased at the expense of my convictions. . . . You should remember that in three or four years, with or without legislation by Congress, the Indians for this territory will be in the minority; that the numbers and power of this country will be in the hands of white men.

Good policy would teach us to make friends with those whose power will soon overshadow us in our homes, lest in the day of our weakness they should "laugh at our calamity and mock when our fear cometh."<sup>22</sup>

Here was Boudinot at his best: firey and eloquent, exhorting his red brothers to follow in his steps. Obviously pleased with this oration, Boudinot wanted to publish the speech, probably intending it for consumption by white readers as much as by Indians.

By mid-November, Boudinot prepared to head for Washington in order to be on hand for the debates over the territorial bills. There, he would get the Vinita speech printed and distributed, no doubt to any governmental official who would accept it. But before he departed for the capital, he confided his hopes to Vinnie Ream. In particular, he must have pondered on the prospect of land speculation when the Indian lands were sectionalized and allotted, for he told Vinnie, "When the territorial bill passes and my road to wealth is open I'll order some marble work at great cost to decorate my villas."<sup>23</sup>

At the same time, Boudinot also chided Vinnie for having other close male friends. He said that he knew she had written to a certain young man. "You are not," he wrote, "so much unlike other pretty young ladies as I used to think."<sup>24</sup> Indeed, Vinnie could hurt "Boudie," as she called him, for she was very special to him. Supposedly while in Washington in 1871, he continually asked her to marry him, but she would never consent.<sup>25</sup> Perhaps she looked upon him as more of a brother and confidant than lover. Then, too, he was older than she. In all, he

he could not win her hand. Still, they did remain friends until his death, and reportedly he remained romantically attached to her until she did marry.

Wooing Vinnie, however, was not Boudinot's sole objective in late 1871 and early 1872; he was also courting Congress. Thus when William Potter Ross, now a member of the Cherokee delegation, appeared before the House Committee on Territories in opposition to the territorial bill, Boudinot could not pass up the opportunity to reply to his old enemy's remarks. On February 7, he confronted the committee. Admitting that he did not speak for most of the Cherokees, Boudinot told the committee that he did, nonetheless, speak for an element within the tribe. That issue, however, he said was irrelevant. The question was whether Congress had the power to legislate territorial status for the Indian Territory. The answer, he proclaimed, was yes! Citing Supreme Court decisions, especially his tobacco case, and treaty stipulations, Boudinot argued that the federal government could on its own initiative make the Indian Territory into a territory of the United States. In particular, he stated that his tobacco case "dispells all those dreams of Indian self-government and Indian nationality."<sup>26</sup> He further asserted that "for two long and dreary years I did my best to uphold the supremacy of Indian treaties."<sup>27</sup> But where then was the voice of William Potter Ross? Ross had said nothing until after the Supreme Court decided in favor of the government. At that point, the issue was settled. The treaties were not inviolate.

He went on to criticize the delegation for its attempt to secure compensation for Cherokee lands west of 96°. For that eight million acres, the government in 1871 offered the Cherokee Nation two million

dollars; the delegation sought a settlement of three million dollars, or thirty-eight cents per acre. The territorial bill, however, would pay the nation \$1.25 for all of its surplus lands after allotment. Which, he asked, would benefit the Cherokees more?<sup>28</sup>

"I am not here as the advocate of railroads in our country," he continued, "but they are inevitable; they are the great civilizers of the world."<sup>29</sup> Improvement for the Indian transpired "just in proportion as he has come in close contact with civilization."<sup>30</sup> The Indian could not "arrest the rushing tide of civilization, of commerce, and trade" which was "pouring" in on him.<sup>31</sup> "The world is moving," he emphasized. "We must move with it or be crushed."<sup>30</sup> With cold passion, Boudinot thus spoke for Gilded Age America, not for the Cherokee people. If they would not see the necessity of change and willingly accept it, they must be forced to adapt to it, for they could not escape it.

In closing, he pleaded for making the Indian citizens of the United States, as the bill would do. Waxing eloquent once more, he declared,

You struck the shackles from the limbs of four million slaves, and, while still dazzled by the full blaze of liberty, you girded them with the armor of American citizenship, and bade them protect their new-born rights. You transformed the ignorant slave into an American citizen, without waiting for him to graduate in that school of guild which my Indian friends imagine to be necessary. Do as much for the Indian.<sup>33</sup>

The redman needed the "powers and privileges" of American citizenship and individual title to his own land, and then he would have "no dark forebodings of the future."<sup>34</sup>

Boudinot's rhetoric may have helped to sway the committee, but the Congress as a whole was not convinced. The committee recommended passage of the bill; Boudinot's remarks were published in pamphlet form and widely distributed; but the bill was not acted upon.

If Congress had not appreciated the thrust of Boudinot's activity,

the Cherokees took an even much dimmer view of his actions. In fact, Chief Lewis Downing asked John B. Jones, now the agent for the Cherokee tribe, to join the delegation in Washington. The delegates needed Jones's help because Boudinot was

appearing before the Departments and the Committees of Congress urging with all his power that a Bill be passed to organize our country into a Territory of the United States, and to rob us of our land. . . . This man is employed in the interest of Railroads and particularly devoted to the Atlantic and Pacific Railroad Co. With vast schemes, for self-aggrandizement by private speculations in the land which is the common heritage of the Cherokee people, he uses the name of Cherokee for the purpose of robbing and crushing the Cherokee people. He prostitutes his Indian blood to these base purposes for the sake of money.<sup>35</sup>

Boudinot thus had an impact on the Cherokee leaders, who clearly considered him a formidable foe, a "betrayers of his people and his race."<sup>36</sup> Later, William P. Adair read Downing's denunciation of Boudinot before the Cherokee National Council.<sup>37</sup>

Nonetheless, Boudinot was not disheartened. As resilient as ever, he plunged forward into the national political fray of 1872. American voters were again to elect a President, and "non-citizen" Boudinot once more lent his support to the Democratic Party. Of course, some of his friends in Washington were Republicans. He even applauded the Indian policy of President Grant. In his first State of the Union message, Grant had called for making the Indian Territory an official United States Territory. In turn, the Secretary of the Interior and the Commissioner of Indian Affairs endorsed this policy.<sup>38</sup> On the other hand, Grant's minions had prosecuted the Tobacco Case. In fact, Delano was now the Secretary of the Interior. On that score, Boudinot had no love for the Republican administration. More importantly, though, Boudinot had close connections with the Democrats, especially

those in the West, and particularly in Arkansas,

Boudinot's relationship with the Democracy was strong. He would not desert his old party, but the circumstances surrounding the election of 1872 must have given him pause, as it did many Democrats. Burdened with the memory of the war and chastised by Republicans waving the "bloody shirt," the Democratic Party, desperate for votes, merged with a group of dissident Republicans, who in reaction to the corruption in Grant's administration had formed the Liberal Republican Party. Consequently, the Democratic-Liberal Republican presidential candidate was Horace Greely, heretofore an arch-Radical Republican. Greely's running mate, however, was Gratz Brown, the Republican governor of Missouri. Perhaps a western Democrat such as Boudinot took some solace in Brown's being on the ticket. Whatever his sentiments, Boudinot, as other staunch former Confederates, took to the stump supporting Greely's candidacy.<sup>39</sup> In the end, Grant overwhelmed Greely at the polls, and it would not have been surprising if Boudinot had breathed a sigh of relief. He had done his duty, but had not severed his relations with either political camp in Washington.

Following the election, Boudinot returned to Washington and began lobbying for a territorial bill. Thus to no one's surprise, when Representative John C. Conner of Texas rose to speak in favor of an Oklahoma bill on January 15, 1873, he presented the House with a memorial prepared by Boudinot. It called for the Congress to come to the protection of life and property in the Cherokee Nation. Lawlessness, Boudinot submitted, was rampant in the Indian Territory. Conner also read from letters which certain Cherokees had sent to Boudinot protesting the Cherokee Nation's law requiring licenses for white laborers.

In all, Boudinot had supplied the "ammunition for discrediting the Cherokee government."<sup>40</sup>

The following day, Congressman George C. McKee from Mississippi gained the floor. He spoke in defense of the Cherokee government, but in specifics, he attacked Boudinot. McKee said that Boudinot had run for the Cherokee "Senate" as a Pin candidate, but Adair had beaten him! Furthermore, when Boudinot criticized the Cherokee delegation for squandering the Nation's funds, the only year the delegation did not submit a financial report was the year during which Boudinot served as a member. This failure came about because Boudinot, too engaged in personal affairs, shirked his responsibilities as a delegate.<sup>41</sup>

Sitting in the gallery, Boudinot reacted quickly, sending a note to Conner, which the congressman then read to the body. Referring to Civil War days, Boudinot said, "I was never a candidate for any office in the Cherokee nation but twice in my life, and then I was elected by an overwhelming majority."<sup>42</sup> As for running for a seat on the National Council, some of his friends had voted for him, but he had not been a declared candidate. The seven votes which he had received were cast as protest votes by his friends.<sup>43</sup> McKee was wrong in everything he said. Indeed, Boudinot must have chaffed when McKee stated that he was a Pin--that added insult to injury.

By February, Boudinot was hard at work promoting an Oklahoma Bill. He had another of his speeches published; ordering two thousand copies, he considered putting them in all the "border newspapers."<sup>44</sup> And gleefully he informed James M. Bell, "The Senate Indian Committee have agreed to my report on Oklahoma," adding, "Ross and Adair are in a stew again."<sup>45</sup> A week later, on February 22, he provided Bell with more good



news: "Yesterday Senator Harland by order of the Indian Committee reported my Oklahoma bill."<sup>46</sup> However, he did not expect to get it passed during the present session; rather, he only wanted "to show Adair & Co. how easily I could get the thing done."<sup>47</sup> He also gloated over the fact that Adair had talked to Senator Benjamin F. Rice of Arkansas and "after his usual soft talk returned to his friends and said 'it is all fixed'; the next night Rice sent for me and requested me to write his report for the Committee."<sup>48</sup> Basking in confidence, Boudinot told Bell, "if I have the charge of the Campaign [to pass the bill] next winter, I will put through the bill in spite of all the Delegates and lawyers and money that the other side may raise."<sup>49</sup> He also declared that he would deliver some of his lectures on the Indian question either in the spring or the fall, "if I live."<sup>50</sup> Apparently, he would put nothing past his enemies.

Boudinot's paranoia was perhaps justified. He only had to remember the fate of his father. Moreover, reports from the Cherokee Nation fueled his fears. In particular, he worried about the safety of Bell, his friend and closest confidant and supporter. Two days after telling Bell of his success with the Congress, he wrote again. William Boudinot had just written saying Bell was in danger, for not only was Bell in a conflict with Adair over possession of a farm, but also he was circulating a petition for territorial government.<sup>51</sup> A couple weeks later there was talk of the Cherokee government arresting Bell for treason. Boudinot advised him not to submit to arrest but to "Feel about and see how many good men and true we can depend upon."<sup>52</sup>

While Bell and others bore the brunt of hatred and anger in the nation, Boudinot reaped the praise of whites who wanted the Indian Territory made into a United States territory. The Times, in St. Louis

where Boudinot had good rapport with political and business leaders, for example, remarked highly on the effort to get an Oklahoma bill:

This advance movement, for such it is, and at the same time a very bold one, is no doubt owing in great measure to the intelligent and vigorous efforts of Col. Boudinot, whose influence has been felt even where his presence is not tolerated, and who has accomplished more than any other man of his age in bringing about a general change of opinion, not only at Washington, but abroad through the land, relative to the proposed change in the civil status and property relations of the tribes occupying the domain in question.<sup>53</sup>

At long last, Boudinot was receiving laudatory recognition, but not from the Cherokees or hardly any other residents in the Indian Territory.

Wishing to assert his position in a favorable light, Boudinot penned a letter to the editor of the Atoka Vindicator in the Choctaw Nation. "My energies," he wrote, "are exerted to benefit my people, and to secure their lands and property to them in their own INDIVIDUAL right."<sup>54</sup> He furthermore proclaimed that he was not working for the railroads. However, he did state, "I am the author of the last bill introduced in the Senate by Mr. Rice, to organize the Territory of Oklahoma," hastening to add, "I drew the bill from the 8th article of the Choctaw Treaty of 1866."<sup>55</sup>

The Vindicator followed Boudinot's letter with the caustic comment: "The truth of the matter is, we fear, that the Colonel's 'progressive policy' is for the aggrandizement of Boudinot, at the expense of the Indian people."<sup>56</sup> Most Indians in the territory shared this view and, as Boudinot would find, few were swayed to his position.

Nor were Indians the only ones to take a dim view of Boudinot's activities. So did some members of Congress, most notably John P. C. Shanks on Indiana, Chairman of the House Committee on Indian Affairs. On March 3, 1873, Shanks's committee presented the House with a mammoth

report on Indian frauds. One section was devoted to Boudinot.

"Boudinot," the report read, "is not acting in good faith with his own people."<sup>57</sup> In particular, it noted one of the territorial bills favored by Boudinot which stipulated that once the land was divided anyone who had made improvements on it had one year to purchase that real estate at minimum prices, after he received his allotted quarter section. This provision, the committee declared, "was evidently intended to cover Boudinot's claims. . . . his personal greed seems to overleap his love of his own people who have educated and defended him. . . . A selfish patriot is a very poor patriot, and needs watching."<sup>58</sup> Certainly, the Committee's assessment of his credibility appalled Boudinot. In particular, he developed a strong dislike for Shanks, who from his standpoint was a man who "needs watching."

Boudinot also had other worries: His financial problems were acute as ever.<sup>59</sup> His friends in congress had succeeded in having passed a bill to compensate him for his loss on the tobacco factory. However, in early March, Grant vetoed it, perhaps due to Shanks's report.<sup>60</sup> Thus, while back West in August, he decided to go on the lecture circuit in order to replenish his funds. Earlier in the year, he had declared his intentions to do so, but had done nothing in that direction. At this point, however, he felt compelled to. He was an excellent, experienced orator; he had a growing reputation as an expert on Indians and Indian policy; and perhaps most important, he had influential friends who would give him good recommendations. Indeed, his good friend Voorhees had looked at two of his lecture drafts in March and assured him they would be "a great success."<sup>61</sup>

Boudinot started cautiously, however, on familiar ground--Parsons,

Kansas--speaking at a local church.<sup>62</sup> A week later, he informed Bell that he was making arrangements with a man in Sedalia, Missouri, for a lecture tour. He was determined to speak in Lawrence, Topeka, Atcheson, St. Joseph, Leavenworth, and Kansas City, commenting, "if I have to try it alone: I shall light out next week and will run through those places in as many days; this will be a pretty good test as to what I can do."<sup>63</sup> A little less than a month later he reported back to Bell: "I returned yesterday: I failed to realize anything on my lecture at Kansas City and am entirely without money. I borrowed \$10, yesterday which must run me till the 1st of October."<sup>64</sup>

Regardless of his disappointment, Boudinot persevered in his lecturing. However, by December he was back in the East, hoping to be more successful there than in the West. A Mr. Von Lenlif, the head of the YMCA in New York City, was arranging a lecture for him. Also, as he told Vinnie Ream, Rooker, a reporter for the New York Tribune, gave him a "handsome notice."<sup>65</sup> Furthermore, he crowed to Vinnie, "My lecture before the Geographical Society was a success. I have made many strong and influential friends. . . . I think the time I have staid [sic] here has been well spent."<sup>66</sup> However, he also remarked that because he was "dressed so shabbily" he refrained from making certain social calls.<sup>67</sup>

A few days later, he was again in Washington. The Oklahoma business had to be attended to, and things were not going as well as he wanted. As he informed Bell, "the railroads bid fair to defeat my territorial Scheme."<sup>68</sup> Boudinot wanted to submit his plan for the territory to Indian voters. It would be written into the bill that they would have to give their consent. The railraod interests, on the other hand, were pushing for Congress to abolish tribal governments immediately. "I told them today [January 4, 1874]," he wrote, "they

would defeat the thing. . . . They claim to have a majority of the Committees in both houses in their favor. We shall see."<sup>62</sup> Boudinot was right. The measure supported by the railroads could not win congressional approval. Nonetheless, he once more took the stand for the bill and pitted himself against the Cherokee delegates.<sup>70</sup>

At the same time, he continued to travel the lecture circuit. He had become a recognized authority on Indians, at least among many whites. On February 10, he gave his lecture at the New York YMCA. Even W. C. Gould, the Secretary of the American Indian Aid Association, who did not accept Boudinot's views, was impressed. Gould reported that Boudinot "found a large audience, who received the versatile orator with the warmest tokens of welcome, while the easy and graceful style in which he delivered himself elicited general approbation."<sup>71</sup>

Although Boudinot probably varied his lectures to some extent, a copy of one, perhaps the only remaining one, gives a good indication of his message. Entitled "The Manners, Customs, Traditions, and Present Condition of the Civilized Indians in the Indian Territory," this piece included an abbreviated history of the Five Civilized Tribes, including a long digression on the ill-fated Natchez Indians of which the surviving few were taken into the Cherokee tribe. It also included excerpts from speeches by noted chiefs, which Boudinot no doubt masterfully and dramatically recited. Then focusing on the tribes individually, Boudinot discussed their cultures and contemporary circumstances. His conclusion, however, was polemical: the Indians needed to be made citizens of the United States so that they could have political rights, own their own land, and safeguard and perpetuate the fruits of their progress. The Indian, he emphasized at the end of his

discourse, should be able to exclaim . . . 'I too am an American Citizen.'"<sup>72</sup>

From most accounts, Boudinot's talks--performances--were constructed to be both informative and entertaining, as well as persuasive. Sometimes, he would sing songs and recite poetry. No doubt his listeners were often treated to a mixture of all these elements: history and histrionics; statistics and polemics; verses and ballads.<sup>73</sup>

After giving his lecture in New York City, Boudinot undertook a lecture tour in New England before returning to Washington, where he also gave a lecture.<sup>74</sup> It was a great success, which was attested to by the St. Louis Time's Washington correspondent:

The lecturer of the season was the distinguished Cherokee, Col. E.C. Boudinot, who discussed the Indian question last week. . . . No other lecturer has drawn together so varied an assemblage from the miscellany of Washington. I was struck particularly by the character of the audience, the greater number of whom are known by repute, being distinguished members of both houses of Congress. General Sherman was there with his family. The rotund figure of Judge Davis, of the Supreme Court, filled one of the most desirable seats. Artists and poets, editors and musicians were scattered about over the hall.<sup>75</sup>

To cap his efforts, his lecture to the Geographical Society on the Indian Territory was published in the June issue of The Geographical Magazine.<sup>76</sup>

Success on the lecture circuit did not greatly enhance his finances however. But he still had interests in the Cherokee Nation--his farm and his hotel--where the Cherokee labor permit still galled him. After getting Congressman Conner to make the point about the law, which the Cherokee Council had passed in November of 1872, Boudinot, along with bell and Sut Beck, had protested to the Commissioner of Indian Affairs. Under the former system, the Cherokee agent could issue permits to white laborers. Now, the Cherokee government

had the sole power to do so, and the hiring party had to pay a fee. If a Cherokee hired a white without a permit, he was liable for a criminal offense and the white would be removed from the nation. They wanted the agents to be given the authority to issue permits again. "Our larger farms," they told the Commissioner, "cannot be carried on without" such employment.<sup>77</sup> This legislation, in their eyes, was nothing more than the entrenched Cherokee leadership trying to impede progress--more correctly, to hinder the operations of someone like Boudinot, who relied on white workers to maintain his property. Therefore, following the submission of their letter to the Commissioner, Boudinot urged Bell to get up a protest of the law among the Cherokees. He also had a new ploy: establishing a United States Court in the Indian Territory. In fact, he had drawn up just such a bill.<sup>78</sup>

Despite his professed influence, Boudinot's political machinations in Washington came to little success in early 1874. Only his lectures garnered any reward. But, as he wrote to Bell in mid-May, "I am working hard, but have no money; I manage to squeeze along though; made \$800, lecturing; that's all the money I have had."<sup>79</sup> Consequently, lecturing would have to be his mainstay.

In April of 1874, Boudinot prepared to go on the road again. This time, however, he wanted to add a new dimension to his presentations: He desired to take some Modocs with him. At the time, Captain Jack's band of Modocs were still engaged in a desperate, futile fight with the U. S. Army. The bloody little war had captured national headlines. Therefore, Boudinot hoped to capitalize on the situation. Some of the Modocs had already been moved to the Indian Territory; he wanted to take a few of these "pacified" Indians on tour with him. Commissioner of Indian Affairs Edward P. Smith saw nothing wrong with the request,

telling H. W. Jones, the agent over the Modocs, that "Mr Boudinot's lectures are well received and his views in the main are considered correct respecting the civilization of the Indians."<sup>80</sup>

Jones, however, had severe reservations about the idea, arguing that it would "demoralize these Indians . . . to take them out over the country on exhibition."<sup>81</sup> By the time Jones's position was conveyed to Boudinot, he apparently misunderstood the agent's meaning. For in May, he wrote an acid letter to Jones:

I now learn that you object upon the ground of morality. Certain charges have been preferred against you here [Washington] and a second investigation has been ordered: these charges serious affect your morality: your objection is hypocritical and made I surely believe to blackmail me.

My lectures have been listened to and commended by the first men in the country. 50 members and Senators joined in a public request for me to deliver it here, which I did to one of the largest audiences ever assembled here at a lecture: yet you, who are charged with swindling your wards object to a few of the Modocs going with me lest their morals might be corrupted: bah!<sup>82</sup>

Boudinot's bullying did little good. Enoch Hoag, Jones's superior as Supervisor of the Central Superintendency, also opposed letting any Modocs travel with Boudinot.<sup>83</sup> As Jones told Hoag, they could not let the "sordid desires of a few" destroy all the success they had had with the Modocs.<sup>84</sup> Obviously, not everyone in the government agreed with or trusted Boudinot. Boudinot, likewise, seemed sensitive about his own reputation. He would have to lecture without any Modocs.

If Boudinot had been thwarted in the Modocs incident, he had other interests to take his mind off the subject. Paramount, of course, was a territorial bill, and with his reputation on Indian affairs, his words attracted attention. Newspapers like the St. Louis Republican now sought interviews with him, and their reports would later be carried in major eastern papers. Thus, Boudinot could inform an inter-



viewer that in a private meeting with the President, Grant had expressed views similar to those he had promoted.<sup>85</sup> The Cherokee [sic] refugee," as the St. Louis Republican referred to him, exuded the aura of a man of influence and prominence.<sup>86</sup>

Now, Boudinot again decided to take his message to the Cherokee Nation. On August 21, 1874, he asked Bell to have him invited to speak at Vinita. "My speech, or liberal extracts from it," he wrote, "will be telegraphed to and published in all the principal papers in the United States. Several of the leading northern papers will have correspondents there."<sup>87</sup> Boudinot was riding on the crest of notoriety, and he would make the most of it.

On September 29, 1874, Boudinot spoke at Vinita. He began by saying that three years ago he had made a similar speech at Vinita and, although his life had been threatened at the time, his views remained unchanged. "I believed in my heart then," he said, "that I was right, and to-day I come before you by invitation to advocate the same principles and to vindicate my course."<sup>88</sup> Then claiming that his ideas were "steadily gaining ground among all classes of the Indian people," he went on to make his already well known arguments.<sup>89</sup>

He called for the division of land in severalty, saying that the only reason he had wanted allotments of 160 acres was due to the quality of the land was mixed--some was not suited for cultivation. But, he trumpeted, "Divide all the lands equally if you prefer it!"<sup>90</sup> What the Indians needed was for the Indian Territory to become a territory of the United States with federal courts and a delegate in congress. He also answered some of his critics by declaring that he was not involved with the railroads.<sup>91</sup> At the same time, he heaped scorn

on John P. C. Shanks, the "loudvoiced champion of the Indian," and W. A. Phillips, now a congressman from Kansas, whom the Cherokees had hired as an attorney for the Nation.<sup>92</sup> In closing, he spoke of his interview with President Grant and declared,

If his kindly intentions respecting our people are endorsed by Congress, and I believe they will be, the Indians of this country will soon be elevated from the degrading position of dependent wards and tax-paying subjects, to full grown stature of American manhood and American citizenship.<sup>93</sup>

Boudinot thus ended his address and hoped for the best.

A few days later, W. P. Ross journeyed to Vinita to answer Boudinot's remarks, and by October 1 Boudinot prepared to react to Ross's rejoinder. He wanted to publish his speech in a pamphlet which would contain his critique of Ross's speech, but money, as usual, was a problem. However, he confided to Bell that if enough people in Vinita--twenty or thirty--would sign a request for its publication, he could find some people in St. Louis who would advance him the funds. "Have the letter to me signed by anybody & everybody who will sign it," he urged.<sup>94</sup> Apparently Bell succeeded in getting some signatures, for the pamphlet was printed later that year in St. Louis.

As the fall of 1874 rolled around, Boudinot again turned his attention to lecturing. He was more optimistic about the rewards than when he first took to the circuit. Moreover, he had backers who would put up the money for his tour. Writing to Vinnie Ream in late October, he said that he was about to commence on "an experimental lecturing tour": "I can best the thing by the middle of November and hope I shall be able to report a moderate success. Two men furnished most of the money. I putting in about \$100. All I can raise now."<sup>95</sup> He also noted that his benefactors had put together an advertising brochure for his

lectures, but he was not pleased with it. "If the pamphlet proves a paying advertisement," he told Vinnie, "they will have 10,000 more printed next month, when I shall see that they are arranged right."<sup>96</sup> Boudinot was as cocksure of himself as ever before.

On a more personal note, he defended his decision not to try to help her get the commission from the Cherokee Nation for her bust of Sequoyah. "I could not," he wrote, "have added to your fame in the country by doing so . . . the only way possible either of us supposed . . . I would be of service was to direct attention of the Cherokees to the bust. . . had I done so every Ross man and Adair man and Jones man would have gone against it out of pure spite."<sup>97</sup> However, if the Cherokees did not appreciate his views or talents, white America did.

In November, after completing his lecture tour, Boudinot found events in Washington had taken a turn on which he could capitalize. The Board of Indian Commissioners, a civilian body of unpaid overseers of Indian policy, had resigned en masse. Heretofore, the Board had been sympathetic with those who did not want to change the status of the Indians: They wanted to protect the redmen from the evils of white society. With the turnover in the Board, however, Grant appointed some men who accepted his views on the future course of Indian policy, and they decided to look into affairs in the Indian Territory, agreeing to go there in December.<sup>98</sup> Thus on December 7, Boudinot sent a letter to Bell, urging him and others to be in Muskogee, where the Board would convene, by December 10 or 11. "Be sure," he emphasized, "& have your original petition for an allotment of land, with genuine names on hand with you, for we can claim at least to represent them."<sup>99</sup> The next day he wrote again. He had secured three railroad passes for Bell and two

others. But, he cautioned, "Keep dark about it, and give only to three of our friends who can be depended on to stand up for our views. . . . I wish you and our friends would insist on my presence."<sup>100</sup>

All went according to plan. The Board met at Muskogee and called on Boudinot to express his views. He had three aims: (1) establishing United States Courts in the Indian Territory; (2) investing the Grand Council with the power to enact legislation for the territory; and (3) sending a delegate from the Indian Territory to Congress. What he asked for was less than before, but his requests conformed to the stipulations of the Choctaw Treaty of 1866.<sup>101</sup>

Two days later, on December 14, the Board met again, this time in St. Louis. Once more Boudinot requested to make his appeal.<sup>102</sup> His remarks received an encouraging response. Immediately after the meeting, he wrote to Bell: "It's all right I really believe: the Commissioners are determined to recommend quite as much as we proposed: perhaps more: and what they recommend is almost surely to pass."<sup>103</sup> Five days later he could report, "The Commissioners have made their report . . . and recommended just what we proposed. . . . I will make many a turn & twist to go on to Washington . . . for it is all important, that we may not lose the results of our labor, that I should be there."<sup>104</sup>

In fact, the Board went further than Boudinot had initially asked. They not only recommended authorizing a court and a delegate but also called for a territorial government, not just an enlarging of the powers of the Grand Council.<sup>105</sup> Moreover, Boudinot gleefully reported that, "Ross & Co are squirming terribly."<sup>106</sup> Ross attacked Boudinot and his crowd in the St. Louis Republican, to which Boudinot responded in kind. Ross's action, however, did not upset him. To the contrary, it merely

showed that Ross, Adair, and the others knew they had been bested and were only striking out in desperation. "I tell you, Jim," he jubilantly wrote to Bell, "we've got 'em."<sup>107</sup> His elation, however, was premature.

Back in Washington in Mid-January, the Board of Indian Commissioners met yet another time. They did so in conjunction with representatives of the Missionary Board. The subject was the same. The two groups heard from the delegations from the Five Civilized Tribes and George W. Ingalls, the Union Agent, who all argued against territorial government for the Indian Territory. Of course, they also listened to Boudinot, who restated his views.<sup>108</sup> Soon thereafter, the Creeks memorialized Congress in protest against the Commissioners' findings and recommendations. The memorial stated that only among the Cherokees did any sentiment for territorial government exist, and there the number was few and included no "representative men."<sup>109</sup> Moreover, "Their champion, Colonel Boudinot, does not live in the Territory, and although he is of Cherokee blood, he expressed the views and opinions of the white man, and not of the Indian."<sup>110</sup> Such arguments were telling. Boudinot could not be seen as a true spokesman for Indian sentiments. Furthermore, his optimism about the strength of the Board's report was unfounded. Congress was disinclined to pass a territorial bill, especially with all the protests coming from the Indian delegations. Nonetheless, Boudinot continued to confront these hostile delegates, even if the momentum of his efforts had been slowed.<sup>111</sup>

If tempers were strained in Washington, conditions in the Cherokee Nation were even more heated. Violence had erupted again. As the Kansas City Times reported in late April,

There is a frightful state of demoralization in the Indian Territory. The old feuds have broken out afresh. Lawless-

ness reigns supreme. . . . Recent occurrences cannot fail to precipitate a general conflict between two contending parties, the progressives and the reactionaries, or to divide on persons, the Boudinot and Ross parties.<sup>112</sup>

In particular, two of Boudinot's strongest supporters, rather shady characters, James Barker and his son Andrew, were engaged in a shooting feud.

The younger Barker supposedly killed Jim Duncan, a Ross supporter, in an ambush. Later, the elder Barker and Bell killed Billy Cox. Not too long thereafter, several of Duncan's and Cox's friends came after Andrew Barker. A vicious gun battle ensued. Jim Barker rode to his son's defense, and they held off their assailants. When the fight was over, Andrew Barker showed several wounds, while several of his attackers had been shot. Consequently, when the Barkers rode into Vinita on April 21, tensions ran high. The town prepared for a raging battle. Hearing of the situation, Boudinot, apparently nearby, hurried to Vinita. And while those seeking vengeance on the Barkers watched for them at the Katy station, Boudinot hustled Bell and the Barkers onto the A. & P.'s night train to Springfield, Missouri.<sup>113</sup>

Boudinot's clever heroics may have saved his friends in Vinita, but the situation had yet to be resolved. A United States marshall had a warrant for the Barkers' arrest. Thus, another of Bell's friends wrote to him at Springfield, informing him that the lawman was on the way and advising him to return to his home, for he was certain no harm would come to him. The Barkers, however, would not be safe if they returned to the Cherokee Nation. Therefore, he urged Bell to convince the Barkers to turn themselves in at Fort Smith. There, they could be tried before Judge Issac C. Parker. Although Parker was known as the "hanging judge," he was also "a Personal Friend of Col. Boudinots [sic] and he

would clear them if B. said so."<sup>114</sup> Apparently, the Barkers did give themselves up at Fort Smith. They lost their case, however, by not returning for the trial after securing bail.<sup>115</sup> Two of Boudinot's steadfast supporters were now outlaws. Eventually, though, the issue must have been resolved in the Barkers' favor, for they were later operating as free men in the Cherokee Nation.

The incidents involving the Barkers were not the only incidents of violence. Several others were killed in this conflict which did not revolve solely around Boudinot and his friends; it engulfed the two major factions in the Nation: the Downing Party and the National Party. In particular, Downing forces blamed W. P. Ross for the violence. They made this point directly to the former chief in no uncertain terms. Forty of them, armed, rode to Ross's home and told him that if one more member of the Downing Party were killed they would hold him personally responsible.<sup>116</sup> Thereafter, whether Ross was behind any of the violence or not, it began to subside. For Boudinot, of course, it only added fuel to his arguments that the Indian Territory was in fact a lawless place which had to have federal control.

In early August, Boudinot decided to make another major speech in the Indian Territory. Instead of addressing Cherokees, he spoke at Caddo, in the Choctaw Nation. "His speech," a correspondent for the New York Times reported, "was one of the most impressive and eloquent he ever made."<sup>117</sup> Following his address, those in attendance adopted a series of resolutions drawn from his remarks. The so-called "Caddo Resolutions" numbered six. They called for making the Indian Territory a territory of the United States, recognizing the Grand Council as the legislative body for the territory, sending a delegate from the territory

to Congress. The resolutions also condemned any efforts to turn full bloods against other tribal members, requested a settlement of all claims which the tribes had against the United States, and protested the settlement of any new tribes in the Indian Territory.<sup>118</sup>

In turn, Boudinot was invited to make the same speech at Atoka, and he enthusiastically promised not only to appear at Atoka but also to deliver his speech throughout the entire territory.<sup>119</sup>

At last, Boudinot had made some major inroads with certain spokesmen in the Indian Territory. The editor of the Vindicator, for example, praised the speech, writing that it was "profound and logical,--clothed in our language and imagery--animated with lofty patriotism and full of the glow of a true genius."<sup>120</sup> These were kind words from a man who not too long before had characterized Boudinot as a self-seeking opportunist.

A little over two weeks later, Boudinot had another occasion at which to speak. The opportunity came at the ceremonies for laying the cornerstone for the new Union Agency building in Muskogee. It was a gala affair. People from all over the Indian Territory and adjacent states attended. Ross was scheduled as the principal speaker and, supposedly before he spoke, his daughter was heard to say, "Now pap when you speak today just give Boudinot fits."<sup>121</sup> And attack Boudinot he did, saying that Boudinot was "bringing his Nation and people into disrepute."<sup>122</sup> This Boudinot considered as a "dirty attack" made even more galling coming from a Ross.<sup>123</sup> Unkown to Ross, however, Boudinot had been elected by the Grand Lodge of Masons as their orator for the day. Thus, when Boudinot appeared on the speaker's platform, he leveled his comments on Ross, closing dramatically by pointing his



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editor of the Vindicator, withdrew his support of Boudinot. Because of an interview Boudinot supposedly gave to a reporter for the St. Louis Republican in which Boudinot again said Congress should decide the fate of the Indian Territory, Moore accused Boudinot of either duplicity or stupidity.<sup>135</sup>

An irate Boudinot replied to Moore immediately. "It is hard enough to bear with unruffled temper," he wrote, "the slanders of the demagogue Shanks, and the lies of the shyster lickspittle M. P. Roberts, but to be misunderstood in the house of a friend is still harder."<sup>136</sup> Boudinot claimed that he had not made the assertions credited to him in the Republican; in fact, he stated that he had not communicated with that paper in over a year. For the Vindicator to assume that he misunderstood the meaning of the Caddo Resolutions--letting the Indians decide their own political future--was to designate him as "the stupidest ass in the territory."<sup>137</sup> But despite his indignant bombast, Boudinot did not bring Moore back into his camp. His recent popularity was dwindling.

Boudinot still had his newspaper to create, however; that would rekindle his strength in the territory. Here, too, problems existed. Creek authorities were not happy with his organ's being in Muskogee. Therefore, Dr. E. Poe Harris, Boudinot's partner in the enterprise, a white man married to a Cherokee, undertook to smooth the situation over. He met with Creek chief Sam Checote and came away from the meeting apparently satisfied that everything had been taken care of.<sup>138</sup> A prospectus for the Indian Progress was printed and distributed. The paper, according to the announcement, would be an all-Indian affair, printed in Cherokee, Creek and Choctaw, as well as English, and based politically on the Caddo Resolutions.<sup>139</sup>

On October 16, before the first issue of the Indian Progress had come off the presses, the Creek National Council passed a resolution refusing to allow the paper to exist in the Creek Nation. The body gave four reasons for its decision. First, Harris, they decided, was not a Cherokee citizen. Second, Boudinot and Harris had erected their newspaper office without permission. Third, they had not ceased construction after being told to do so. And fourth, the newspaper intended "to advocate the views embodied in certain resolutions . . . and the General Council of the Indian Territory did on the 9th day of September 1875 unanimously condemn the spirit and policy of said resolutions."<sup>140</sup> Boudinot and Harris were given ten days to remove the building or the Creek government would confiscate it.<sup>141</sup>

At that same meeting, the Creek Council also passed an act incorporating the International Printing Company. This organization would establish its own newspaper, the Indian Journal. Myron P. Roberts would head the enterprise, and W. P. Ross would be an editor. This paper would be the national organ of the Creek Nation. At the past meeting of the Grand Council, the Creek delegates had proposed that a newspaper, supported by the Council, be established, but the plan was not accepted. Thus, the Creeks decided to create their own national newspaper.<sup>142</sup> Obviously, they did not want either to compete with the Indian Progress or to have it located in their nation or probably both.

Quite understandably, the action of the Creek government did not set well with Boudinot and his few supporters. George McPherson, the white editor of the Caddo Oklahoma Star, lashed out at the events. "Special Shanks, Inter-Ocean Roberts, and Chief Ross," he asserted worked together to stir the Creeks up against Boudinot.<sup>143</sup> Col. Boudinot," he went on, "is too noble and generous to throw any obstacles

in the way of another newspaper there, and those who would interfere with him are sadly deficient in the courtesy which distinguishes a gentleman from an ill-bred cur."<sup>144</sup> McPherson, however, was in the Choctaw Nation, not the Creek, and his words fell mostly on deaf ears.

As for Boudinot and Harris, they disregarded the directive of the Creek Council. On October 22, 1875, the first issue of the Indian Progress appeared, claiming an immediate circulation of fifteen hundred. It contained a statement of Boudinot's position on Indian policy, as well as a disclaimer to the charges that the paper was a tool of the railroads. Also conspicuous was an article on John McDonald's indictment for his part in the infamous Whiskey Ring.<sup>145</sup>

Regardless of his brash flaunting of Creek authority, Boudinot knew that he was in a tight predicament, for on October 24 he informed Bell that he would appeal to United States officials for protection. If that did not work, he would move the paper to Vinita.<sup>146</sup> Two days later, he put his case before Union Agent George W. Ingalls. He informed Ingalls that on October 12 he had written to Checote and explained the situation. A year before Bell, Harris, and others had proposed that Boudinot set up a newspaper in the Cherokee Nation, but after some consultation they decided that Muskogee would be a better place--it was centrally located with railroad and telegraph service. In August, he sold his tobacco equipment and, with that money plus investment by his Cherokee friends, arranged for the paper to be established. "The railroads," he declared, "do not own a single dollar of the paper."<sup>147</sup> Furthermore, he was not an attorney for the railroads. "My business," he had informed Checote, "is in the United States Courts at Washington and my private affairs at home, will prevent me if I wished even so much, from taking charge of

the paper."<sup>148</sup> Harris would edit the organ. "I will not believe," he continued, "that the brave soldiers who followed my uncle in the thickest of the fight will strike down his nephew to gratify the spleen and malice of two or three white men who think I am in the way of their selfish schemes."<sup>149</sup> He pointed out, moreover, that according to the compact of July 3, 1843, a Cherokee could reside in and do business in the Creek Nation, and vice versa. Equally crucial, he and his partners would lose thousands of dollars if they had to remove the newspaper. Where, he finally asked, is freedom of speech?<sup>150</sup>

Boudinot also told Ingalls that Harris had never applied to the Creek Council for permission to establish the paper and to erect the building because they did so as Cherokee citizens. Boudinot furthermore said that after Harris had his conference with Checote, the latter "withdrew the letter objecting to the erection of the building."<sup>151</sup>

Ingalls, in turn, informed Indian Commissioner Edward P. Smith of the situation. Before the newspaper commenced operation, Ingalls wrote, Checote told him that Harris was putting up a building for a drug store and newspaper and asked him to stop the construction until after the Creek Council met. Ingalls replied that since Boudinot and Harris were Cherokee citizens he had no power to do so, only the Creek government did. Nonetheless, he informed Boudinot and Harris of Checote's letter of protest and suggested that they contact the chief. Harris had then left for Okmulgee the next day and returned saying that Checote had agreed to take back his objections. Soon thereafter, the Creek Council ordered the removal of the building. According to Ingall's perception of the affair, there was prejudice against Boudinot for his views on the Indian question, which was being incensed by Roberts, who

had organized a stock company for his prospective paper--the stockholders included W. P. Ross and Sam Checote.<sup>152</sup>

The agent's appraisal brought forth the criticism of Shanks. Writing to Commissioner Smith in late October, Shanks stated that "The Indians know that Boudinot, his employees and their accomplices are their enemies and seeking the seizure of their lands."<sup>153</sup> Furthermore, Shanks asserted that Ingalls mismanaged the agency, noting that Boudinot's building was located only about twelve feet from the agency office.<sup>154</sup> The implication was clear: Ingalls was in league with Boudinot and Harris.

Thus, the convoluted affair was laid out. Perhaps to escape the turmoil, Boudinot headed off for an "excursion" to Niagara Falls.<sup>155</sup> But that solved nothing. He could not win this battle. After about eight issues of the Indian Progress had been published in Muskogee, Creek authorities acted. Members of the Creek Lighthorse ordered Boudinot and Harris to remove the newspaper and the building. Consequently, the paper was re-established in Vinita.<sup>156</sup>

There was some outcry, but very little from the Indian Territory. Geroge Reynolds, who was also involved with the Indian Progress, reported that "everybody in Washington characterizes the actions of the Creek authorities as a high-handed outrage upon free speech and a free press."<sup>157</sup> The prattle of Boudinot's friends at the nation's capital, however, had little effect on the Creeks. They had ousted the interloping Cherokee and his undesirable friends. Moreover, editor Moore, who had disagreed with the decision of the Creek Council, did not relent in his revived opposition to Boudinot.<sup>158</sup> Regardless of Boudinot's continued professed adherence to the Caddo Resolutions, Moore concluded

that the wily Cherokee had not abandoned his "old policy," saying in reference to Boudinot, "Your 'high civilization' and self styled championism has run you a muck."<sup>159</sup>

To make matters worse, Bell and the Barkers had gotten into more trouble. Since 1870, Boudinot had leased 300 acres of land in the Cherokee Nation to Augustus C. Larkin, a white rancher. Initially, this lease was undertaken under the assumption that the Parker Bill on Oklahoma (introduced by Representative Isaac C. Parker, who by 1875 was the Judge of the United States Court for the Western District of Arkansas) would soon pass and that they could claim the land for fee simple title. When the bill failed to become law, Boudinot continued to lease the property to Larkin. On October 1, 1874, Andrew Barker had "arrested" Larkin for not paying his taxes to the Cherokee Nation. Barker demanded \$444. They arbitrated the amount, however, and Larkin paid Barker \$92.50. Then, because Larkin was grazing well over 100 head of cattle, Barker demanded \$3,300 for a grazing tax; he settled for \$500. Soon thereafter, Sut Beck called on Larkin, saying that Barker was not an agent of the Cherokee government and demanding \$50 in taxes. Next, Joe Lynch, Deputy Sheriff for the Delaware District, arrived at Larkin's place. He said Beck's receipt was no good because Beck represented Cooweescooee District and Larkin was in Delaware District. Therefore, Lynch demanded \$100 in tax money, which Larkin paid. But, while Larkin and Lynch talked, the Barkers with Bell and a "posse" rounded up Larkin's cattle, to sell them for taxes.<sup>160</sup>

Larkin complained to Chief W. P. Ross that 106 head of cattle and 2 horses, valued at a total of \$4,000, had been stolen from him, and he blamed Bell and the Barkers.<sup>161</sup> The Cherokee government investigated,



finding that there was no claim against Larkin's animals, except by Boudinot who supposedly owned one-third of the cattle.<sup>162</sup> Larkin had also complained to Boudinot, who in turned appealed to Bell:

I hope you can arrange to fix up the Larkin matter without involving me. I authorized him at first to make improvements, he to credit me with certain amounts he had furnished me, such as oats, etc.--I don't want to be worried with the matter at all; if I was disposed to fight for the property, perhaps as a matter of law I would have the best of the show, but I have no disposition to do so.<sup>163</sup>

But nothing was done, for by late August of 1875, Boudinot informed Bell, "Larkin and his wife threaten me and tell all sorts of lies about you. We should have arbitration soon."<sup>164</sup> Apparently, Larkin held Boudinot liable for his troubles. When no settlement was reached, Larkin, in September, presented his claim to the Office of Indian Affairs, which ordered the Union agent to prompt Cherokee authorities to act. They failed to respond, however, and the issue dragged out for years, with the Larkins continually asking for compensation and blaming their woes on Boudinot.<sup>165</sup>

The matter did not end with haggling over money. Criminal charges were filed against Bell and the Barkers. Boudinot told Bell that he did his "best to get the Grand Jury not to return the indictments. . . . You must be prepared to make a conclusive fight on this matter."<sup>166</sup> He further said, "I will give my services as long as I can stay here, but you know I must be in Washington by the 1st of Dec."<sup>167</sup> Bell was acquitted, but with Boudinot's connivance. Bell swore that the cattle he had sold were Boudinot's and his friend did not dispute the statement.<sup>168</sup> The Barkers were not so lucky. Although James Barker was acquitted on some of the charges, he and his son were convicted on the others. Each was sentenced to one year in prison.<sup>169</sup> The final

verdicts were not reached until late in 1876, at which time Boudinot felt confident that he could secure pardons for the felonious father and son. In particular, Boudinot believed that pardons would be issued if Samuel J. Tilden, the Democratic candidate for president in the famous disputed election of 1876 became president.<sup>170</sup> A special commission, however, declared Rutherford B. Hayes, the Republican standard-bearer, the winner. Nonetheless, Boudinot continued to press for the pardons.<sup>171</sup> By July, 1877, he reported that a pardon for James Barker was already signed and that soon he would have one for Andrew.<sup>172</sup> Unfortunately, a few days later Boudinot was informed that the younger Barker had died from dysentery while in prison.<sup>173</sup> As for the elder Barker, a stint in prison did not change his ways. Eventually, he was killed by a Cherokee lawman while rustling cattle--before he died, he confessed to several murders.<sup>174</sup>

Many probably looked askance at Boudinot for his connection with the Barkers. Indeed, they were men of violence, outlaws. At the same time, their violent lives reflected the climate of hatred and turmoil in the Cherokee Nation. And in late 1875, the plight of Bell and the Barkers occupied Boudinot's mind. But he also had other concerns. His newspaper had to be operated. Then, too, he had his business to conduct in Washington. As usual, he was a busy and harried man. The succeeding years would prove no different.

ENDNOTES

- <sup>1</sup>New York Times, 23 June 1871.
- <sup>2</sup>Ibid.
- <sup>3</sup>Parsons Sun (Kansas), 1 July 1871.
- <sup>4</sup>Southern Kansas Advance (Chetopa, Kan.), 5 July 1871.
- <sup>5</sup>Ibid., 16 August 1871.
- <sup>6</sup>New York Times, 6 September 1871.
- <sup>7</sup>Kenny L. Franks, Stand Watie and the Agony of the Cherokee Nation (Memphis, Tenn.: Memphis State University Press, 1979), p. 208.
- <sup>8</sup>Sentinel (Fayetteville, Ark.), 26 April 1877.
- <sup>9</sup>Grant Foreman, ed., "Indian Pioneer Papers," Vol. 2, p. 270, IAD, OHS; John D. Benedict, Muskogee and Northeastern Oklahoma, I (Chicago: S. J. Clarke Publishing Company, 1922), pp. 661-662; O. B. Campbell, Vinita, I. T.: The Story of a Frontier Town of the Cherokee Nation 1871-1901 (Oklahoma City, Okla.: N.p., 1969), p. 2.
- <sup>10</sup>Grant Foreman, A History of Oklahoma (Norman: University of Oklahoma Press, 1942), pp. 180-181.
- <sup>11</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), p. 259; V. V. Masterson, The Katy Railroad and the Last Frontier (Norman: University of Oklahoma Press, 1952), p. 104; O. B. Campbell, Vinita, p. 32. The Cherokee government never recognized the name Vinita. In 1873, the village was incorporated as Downingville, but most people called it Vinita. Not until 1898 was the name officially changed to Vinita.
- <sup>12</sup>Masterson, pp. 128-230.
- <sup>13</sup>Statement of O. B. Gunn, cited in Frank Bond to George Dennison, 5 January 1872, NA, RG48, Office of the Secretary of the Interior, Land and Railroad Division, Railroad Package 133.
- <sup>14</sup>Masterson, pp. 126-127.
- <sup>15</sup>Jo Buffington to James M. Bell, 12 November 1871, CP, WHC.

<sup>16</sup>Elias C. Boudinot, Speech of Elias C. Boudinot, a Cherokee Indian, on the Indian Question, Delivered at Vinita . . . September 21, 1871 (Washington, D.C.: M'Gill & Witherow, 1872), p. 1.

<sup>17</sup>Ibid.

<sup>18</sup>Ibid., pp. 1-2.

<sup>19</sup>Ibid., p. 9.

<sup>20</sup>Ibid., p. 12.

<sup>21</sup>Ibid., p. 14.

<sup>22</sup>Ibid., pp. 17-18.

<sup>23</sup>Elias C. Boudinot to Vinnie Ream, 15 November 1871, Vinnie Ream Hoxie Collection, Library of Congress.

<sup>24</sup>Ibid.

<sup>25</sup>Gordon Langley Hall, Vinnie Ream: The Story of the Girl Who Sculpted Lincoln (New York: Holt, Rinehart and Winston, 1963), p. 102.

<sup>26</sup>Elias C. Boudinot, Speech of Elias C. Boudinot, a Cherokee Indian, delivered before the House Committee on Territories, February 7, 1872 . . . (Washington, D.C.: McGill & Witherow, 1872), p. 10.

<sup>27</sup>Ibid., p. 11.

<sup>28</sup>Ibid., pp. 22-23.

<sup>29</sup>Ibid., p. 23.

<sup>30</sup>Ibid.

<sup>31</sup>Ibid., p. 25.

<sup>32</sup>Ibid.

<sup>33</sup>Ibid., p. 29.

<sup>34</sup>Ibid., p. 30.

<sup>35</sup>Lewis Downing to Rev. John B. Jones, 12 February 1873, NA, RG75, LR-OIA, M235, R105.

<sup>36</sup>Ibid.

<sup>37</sup>Grant Foreman, A History of Oklahoma, p. 185.

<sup>38</sup>James D. Richardson, ed., A Compilation of the Messages and Papers of the President, IX (New York: Bureau of National Literature, Inc., 1897), 3993.

- <sup>39</sup>Southern Kansas Advance, 31 July 1872.
- <sup>40</sup>U. S., Congress, House, 42d Cong., 3d sess., Congressional Globe, pt. 1, 15 January 1873, p. 618.
- <sup>41</sup>U. S., Congress, House, 42d Cong., 3d sess., Congressional Globe, pt. 1, 16 January 1873, p. 649.
- <sup>42</sup>*Ibid.*, p. 652.
- <sup>43</sup>*Ibid.*
- <sup>44</sup>Elias C. Boudinot to James M. Bell, 13 February 1873, CP, WHC.
- <sup>45</sup>*Ibid.*
- <sup>46</sup>Elias C. Boudinot to James M. Bell, 22 February 1873, CP, WHC.
- <sup>47</sup>*Ibid.*
- <sup>48</sup>*Ibid.*
- <sup>49</sup>*Ibid.*
- <sup>50</sup>*Ibid.*
- <sup>51</sup>Elias C. Boudinot to James M. Bell, 24 February 1873, CP, WHC.
- <sup>52</sup>Elias C. Boudinot to James M. Bell, 8 March 1873, CP, WHC.
- <sup>53</sup>St. Louis Times, 4 June 1873, cited in Vindicator (Atoka, Choctaw Nation, 14 June 1873).
- <sup>54</sup>Vindicator, 28 June 1873.
- <sup>55</sup>*Ibid.*
- <sup>56</sup>*Ibid.*
- <sup>57</sup>42d Cong., 3d sess., House Rept 98 (serial 1578), p. 183.
- <sup>58</sup>*Ibid.*, p. 184.
- <sup>59</sup>Elias C. Boudinot to James M. Bell, 22 July 1873, CP, WHC.
- <sup>60</sup>Elias C. Boudinot to James M. Bell, 8 March 1873, CP, WHC.
- <sup>61</sup>Elias C. Boudinot to James M. Bell, 8 March 1873, CP, WHC.
- <sup>62</sup>Elias C. Boudinot to James M. Bell, 11 August 1873, CP, WHC.
- <sup>63</sup>Elias C. Boudinot to James M. Bell, 19 August 1873, CP, WHC.

<sup>64</sup>Elias C. Boudinot to James M. Bell, 15 September 1873, CP, WHC.

<sup>65</sup>Elias C. Boudinot to Vinnie Ream, 26 December 1873, Vinnie Ream Hoxie Papers, Library of Congress.

<sup>66</sup>Ibid.

<sup>67</sup>Ibid.

<sup>68</sup>Elias C. Boudinot to James M. Bell, 4 January 1874, CP, WHC.

<sup>69</sup>Ibid.

<sup>70</sup>Parsons Sun, 7 February 1874. As might have been expected, Boudinot's old enemy William Potter Ross led the delegation's attack on the bill. For Ross's speech on February 7, 1874, and some of his other addresses, see Mrs. William P. Ross, ed., The Life and Times of Hon. William P. Ross of the Cherokee Nation (Fort Smith, Ark.: Weldon and Williams Printers, 1893).

<sup>71</sup>Cherokee Advocate (Tahlequah), 24 February 1874.

<sup>72</sup>"The Manners, Customs, Traditions, and Present Condition of the Civilized Indians of the Indian Territory" (N.p.: n.p., [1872]), copy in Hargrett Indian Pamphlet Collection, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma. This paper is unsigned, but Lester Hargrett noted on the front page that written in longhand is a statement crediting Boudinot as the author. Also according to Hargrett, this copy is the only known existing one. Lester Hargrett, comp., The Gilcrease Hargrett Catalogue of Imprints (Norman: University of Oklahoma Press, 1972), p. 213.

<sup>73</sup>For reviews of Boudinot's lectures, see "E. C. Boudinot, the Indian Orator and Lecturer" (N.p.: n.p., [1874]), only known copy in Hargrett Collection, Gilcrease Institute.

<sup>74</sup>Elias C. Boudinot to James M. Bell, 19 February 1874, CP, WHC.

<sup>75</sup>St. Louis Times, 29 March 1874, cited in "E. C. Boudinot, the Indian Orator and Lecturer," p. 12.

<sup>76</sup>Elias C. Boudinot, "The Indian Territory and Its Inhabitants," Geographical Magazine (June, 1874), pp. 92-95.

<sup>77</sup>Elias C. Boudinot, James M. Bell, and Sut Beck to Commissioner of Indian Affairs, 4 February 1873, NA, RG75, LR-OIA, M234, R106.

<sup>78</sup>Elias C. Boudinot to James M. Bell, 19 February 1874, CP, WHC.

<sup>79</sup>Elias C. Boudinot to James M. Bell, 17 May 1874, CP, WHC.

<sup>80</sup>Edward P. Smith to H. W. Jones, 10 April 1874, Quapaw-Modoc file, IAD, OHS.

- <sup>81</sup>H. W. Jones to Enoch Hoag, 1 May 1874, Quapaw-Modoc file, IAD, OHS.
- <sup>82</sup>Elias C. Boudinot to H. W. Jones, 19 May 1874, Quapaw-Modoc file, IAD, OHS.
- <sup>83</sup>Enoch Hoag to H. W. Jones, 11 May 1874, Quapaw-Modoc file, IAD, OHS.
- <sup>84</sup>H. W. Jones to Enoch Hoag, 25 May 1874, Quapaw-Modoc file, IAD, OHS.
- <sup>85</sup>St. Louis Republican, n.d., cited in New York Times, 13 August 1874.
- <sup>86</sup>Ibid.
- <sup>87</sup>Elias C. Boudinot to James M. Bell, 21 August 1874, CP, WHC.
- <sup>88</sup>Elias C. Boudinot, Speech of Elias C. Boudinot, of the Cherokee Nation, Delivered at Vinita, Indian Territory, August 29th 1874 (St. Louis: Barns & Beynon, Printers and Binders, 1874), p. 3.
- <sup>89</sup>Ibid., p. 4.
- <sup>90</sup>Ibid., p. 11.
- <sup>91</sup>Ibid., p. 13.
- <sup>92</sup>Ibid., pp. 8, 12-13, 26.
- <sup>93</sup>Ibid., p. 33.
- <sup>94</sup>Elias C. Boudinot to James M. Bell, 1 October 1874, CP, WHC.
- <sup>95</sup>Elias C. Boudinot to Vinnie Ream, 21 October 1874, Vinnie Ream Hoxie Papers, Library of Congress.
- <sup>96</sup>Ibid.
- <sup>97</sup>Ibid.
- <sup>98</sup>Francis Paul Prucha, "The Board of Indian Commissioners and the Delegates of the Five Tribes," Chronicles of Oklahoma 56 (Fall, 1978), 254-255; "Minutes of Board of Indian Commissioners," copy in Newberry Library, Chicago, Ill., pp. 101.
- <sup>99</sup>Elias C. Boudinot to James M. Bell, 7 December 1874, CP, WHC.
- <sup>100</sup>Elias C. Boudinot to James M. Bell, 8 December 1874, CP, WHC.
- <sup>101</sup>Chicago Times, n.d., Report of meeting at Muskogee on 12 December 1874, cited in Parsons Sun, 20 February 1875.

- 102 Report of the Board of Indian Commissioners, 1874 (Washington: Government Printing Office, 1875), pp. 89-99.
- 103 Elias C. Boudinot to James M. Bell, 14 December 1874, CP, WHC.
- 104 Elias C. Boudinot to James M. Bell, 19 December 1874, CP, WHC.
- 105 Report of the Board of Indian Commissioners, 1874, p. 100.
- 106 Elias C. Boudinot to James M. Bell, 22 December 1874, CP, WHC.
- 107 Ibid.
- 108 Report of the Board of Indian Commissioners, 1874, p. 122.
- 109 Memorial of Creek Nation against Establishment of Territorial Government, 26 January 1875, 43d Cong., 2d sess., Senate Misc Doc 71 (serial 1630), p. 2.
- 110 Ibid.
- 111 Vindicator, 22 March 1875.
- 112 Kansas City Times, dateline 22 April 1875, cited in Parsons Sun, 1 May 1875.
- 113 Ibid.
- 114 "G" to James M. Bell, 24 April 1875, CP, WHC.
- 115 Will W. Wheeler to James M. Bell, 24 June 1875, CP, WHC.
- 116 Mrs. Sarah C. Watie to James M. Bell, 4 July 1875, CP, WHC.
- 117 New York Times, 5 August 1875.
- 118 Ibid.
- 119 Ibid. Perhaps many at Caddo were white "boosters." See Ira G. Clark, Jr., "The Railroads and the Tribal Lands: Indian Territory, 1838-1890" (Ph.D. diss., University of California, 1947).
- 120 Vindicator, 7 August 1875.
- 121 Elias C. Boudinot to James M. Bell, 19 August 1875, CP, WHC.
- 122 Oklahoma Star (Caddo, Choctaw Nation), 27 August 1875.
- 123 Elias C. Boudinot to James M. Bell, 19 August 1875, CP, WHC.
- 124 Oklahoma Star, 27 August 1875.
- 125 Elias C. Boudinot to James M. Bell, 3 April 1875, CP, WHC.



- 126"Elias C. Boudinot, the Indian Orator and Lecturer," p. 1.
- 127Elias C. Boudinot to James M. Bell, 30 July 1875, CP, WHC.
- 128Elias C. Boudinot to James M. Bell, 30 July 1875, CP, WHC.
- 129Elias C. Boudinot to James M. Bell, 30 August 1875, CP, WHC.
- 130Parsons Sun, 18 September 1875.
- 131Carolyn Thomas Foreman, Oklahoma Imprints 1835-1907: A History of Printing in Oklahoma Before Statehood (Norman: University of Oklahoma Press, 1936), p. 195; W. David Baird, The Quapaw Indians: A History of the Downstream People (Norman: University of Oklahoma Press, 1980), p. 114.
- 132Carolyn Thomas Foreman, p. 191.
- 133Oklahoma Star, 17 September 1875.
- 134Vindicator, 25 September 1875.
- 135Vindicator, 18 September 1875.
- 136Vindicator, 25 September 1875.
- 137Ibid.
- 138Elias C. Boudinot and Poe Harris to Geroge Ingalls, 25 October 1875, NA, RG75, LR-OIA, M234, R235.
- 139Patterson Committee Report, 45th Cong., 3d sess., Senate Rept. 744 (serial 1839), p. 181.
- 140Decision of Creek Council on October 16, 1875, NA, RG75, LR-OIA, M234, R235.
- 141Ibid.
- 142Grant Foreman, Muskogee: The Biography of an Oklahoma Town (Norman: University of Oklahoma Press, 1943), pp. 42-43; Angie Debo, The Road to Disappearance (Norman: University of Oklahoma Press, 1941), p. 210.
- 143Oklahoma Star, 19 October 1875.
- 144Ibid.
- 145Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), pp. 184-186. An unreadable microfilm copy of this edition can be found in the newspaper room at the Oklahoma Historical Society.

- 146 Elias C. Boudinot to James M. Bell, 24 October 1875, CP, WHC.
- 147 Elias C. Boudinot and E. Poe Harris to G. W. Ingalls, 25 October 1875, NA, RG75, LR-OIA, M234, R235.
- 148 Ibid.
- 149 Elias C. Boudinot and E. Poe Harris to G. W. Ingalls, 25 October 1875, NA, RG75, LR-OIA, M234, R235.
- 150 Ibid.
- 151 Ibid.
- 152 G. W. Ingalls to E. P. Smith, 27 October 1875, NA, RG75, LR-OIA, M234, R235.
- 153 John P. C. Shanks to E. P. Smith, 30 October 1875, NA, RG75, LR-OIA, M234, R235.
- 154 Ibid.
- 155 Oklahoma Star, 26 October 1875.
- 156 Grant Foreman, A History of Oklahoma, pp. 42-43.
- 157 Oklahoma Star, 21 December 1875.
- 158 Vindicator, 27 October 1875.
- 159 Vindicator, 15 December 1875.
- 160 Southern Kansas Advance, 29 March 1877; W. W. Clayton to Charles Thompson, 23 September 1879, Cherokee Documents, WHC.
- 161 A. L. Larkin to William P. Ross, 12 November 1874, CNP (Tahlequah Acquisition), Cattle and Pastures, IAD, OHS (Microfilm CHN 69).
- 162 W. P. Boudinot and Rufus O. Ross to William P. Ross, 12 December 1874, CNP (Tahlequah Acquisition), Cattle and Pastures, IAD, OHS (Microfilm CHN 69).
- 163 Elias C. Boudinot to James M. Bell, 2 December 1874, CP, WHC.
- 164 Elias C. Boudinot to James M. Bell, 21 August 1875, CP, WHC.
- 165 47th Cong., 1st sess., Senate Rept 733 (serial 2007); Mrs. Mary Larkin to Carl Schurz, 20 March 1879, NA, RG75, LR-OIA, M234, R871; R. S. Davis to Commissioner of Indian Affairs, 6 January 1880, NA, RG75, LR-OIA, M234, R873.
- 166 Elias C. Boudinot to James M. Bell, 20 November 1875, CP, WHC.

167Ibid.

168Elias C. Boudinot to James M. Bell, 7 March 1889, CP, WHC.

169Southern Kansas Advance, 27 March 1877; 47th Cong., 1st sess.,  
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170Elias C. Boudinot to James M. Bell, 7 December 1876, CP, WHC.

171Elias C. Boudinot to James M. Bell, 1 May 1877, CP, WHC.

172Elias C. Boudinot to James M. Bell, 25 July 1877, CP, WHC.

173W. L. Bridges, Superintendent West Virginia Penitentiary, to  
Elias C. Boudinot, 23 July 1877, CP, WHC.

174Chetopa Advance (Kansas), 20 October 1879.

## CHAPTER X

### CARRYING ON

When Boudinot returned to Washington in early 1876, he prepared to engage in a new round of lobbying for a territorial bill and other legislation which affected the Indian Territory. As usual, his finances were no doubt slim. However, he probably was not as destitute as he made out to be. Over the years, he had always seemed to find some money somehow, probably by borrowing from friends. Then, too, he had investments. For instance, he held stocks in the Oklahoma Milling and Manufacturing Company, an outfit owned by his friend Jeff J. Hibbetts in Chetopa--he received these shares for locating a zinc mine for Hibbetts.<sup>1</sup> He also had his hotel in Vinita as well as his ranch near Chetopa on which he was running several hundred sheep.<sup>2</sup> And since 1874, he had held a paying position in Washington. Thomas M. Gunter, an old acquaintance from Fayetteville, now a congressman from Arkansas, had made Boudinot his private secretary.<sup>3</sup> But the salary must have been rather meager for, as one friend from Arkansas remembered, he and Boudinot spent several months of "poverty and self-denial" in Washington in 1874 and 1875.<sup>4</sup>

Yet, Boudinot's "hopeful nature never flagged."<sup>5</sup> Moreover, he still maintained a wide circle of wealthy and influential friends. He was close to both Senator John Sherman of Ohio and his brother General William T. Sherman.<sup>6</sup> In fact, according to Gunter, Boudinot "was the guest of Senator Sherman at least one night in every week by special

request, and in every social circle his versatility in conversation, music, and song, made him a guest eagerly sought for."<sup>7</sup> And with the ladies, "his society was enjoyed . . . as much as that of any other man in the city."<sup>8</sup> Thus, Marie Le Baron wrote about Boudinot in her column on "Washington Notables" for the Baltimore Sun. Boudinot, she stated,

is a grand fellow, above average height, stalwart, well formed. He is slightly lame, having been crippled in childhood, but the halt in his walk does not interfere with his dignity of bearing. . . . His features are strong, expressive, holding that look of patience which is the facial seal to some fixed, unalterable purpose. His eyes burn and darken with the smile that quickly follows.<sup>9</sup>

If anything slightly detracting might be said of Boudinot's appearance and demeanor, it came from another observer who noted that Boudinot never tied his shoes.<sup>10</sup> A minor eccentricity, perhaps, for a person so well liked in Washington.

Socializing, however, far from occupied Boudinot's time. There were always battles to be fought. One which came in January of 1876 revolved around Union Agent George W. Ingalls. In mid-January it was announced that S. W. Marston would replace Ingalls.<sup>11</sup> Certain charges of misconduct apparently had been leveled against Ingalls, and Boudinot rallied to Ingall's side, especially as the instigator of the accusations was John P. C. Shanks. Thus Boudinot and Harris stated in a letter to the Secretary of the Interior, "We regard agent Ingalls as an honest faithful and efficient officer and the victim of a base and cowardly conspiracy."<sup>12</sup> Shanks, in other words, was the wrong-doer, not Ingalls, whose forthrightness they had commended in the Indian Progress.<sup>13</sup>

That same day, Ingalls reciprocated. In a letter to Commissioner of Indian Affairs John Q. Smith, Ingalls defended George Reynolds for helping the Seminoles, Reynolds' former charges, in procuring \$40,000

during the previous year, noting furthermore that Boudinot had also helped by representing the Seminoles' claim to numerous congressmen. Boudinot, he hastened to point out, "made no claim for money" for his services.<sup>14</sup> Boudinot no doubt also buttonholed congressmen on Ingalls's behalf, for the agent was not removed--the charges against him could not be proved.<sup>15</sup>

While Boudinot had leaped to the aid of Ingalls, his critics in the Indian Territory, notably editor Moore, continued to decry his actions and policies. Never hesitant to defend himself, Boudinot commented on Moore's attitude in the Caddo Oklahoma Star. He accused Moore of being the "tool for an ass like Shanks," saying that Moore "in his zeal to serve his new masters, has published some very unkind and unjust reflections upon my course."<sup>16</sup> Moore replied, "Most assuredly Col., I have defended your course in this country when it was not considered very pleasant or safe to be called a friend of BOUDINOT."<sup>17</sup> However, Boudinot had now repudiated his Caddo and Atoka speeches, and Moore could not accept his views.<sup>18</sup> In Moore's opinion, if Congress created a territory based on Boudinot's "open up" policy, forty thousand Indians would be "homeless and penniless" in less than a year.<sup>19</sup> "Can you cite a case," he wrote, "where a Territorial Bill has been introduced into congress for the last ten years of which the Col. has not claimed to be that father, or if not the father, its prime supporter? Will you show us an instance where the Indian rights have been assailed in Congress or in any way put in jeopardy, except by him?"<sup>21</sup> In all, Moore claimed that he had a "high regard" for Boudinot, but could not condone his policies.<sup>21</sup>

Compared with the attitudes of others in the Indian Territory,

Moore's feelings about Boudinot was indeed kind. Conversely, Boudinot was not nearly as cordial about some of his critics. In particular, her continued to nurse an abiding dislike for William P. Ross, John P. C. Shanks, and Myron P. Roberts. He lamented the loss of Moore's support; he fumed when he thought of those three, against whom he again vented his spleen in late January. In a letter to the Indian Progress he wished aloud that "The disgusted spectacle of a coarse, ranting, cursing, ignorant Kangaroo like j. p. c. shanks, followed by deadbeats like m. p. r. and the long-eared monitor man, will never again be witnessed in the fair plains of Oklahoma."<sup>22</sup> As for their proposed newspaper in Muskogee, the Indian Herald, he noted that Roberts had indicated Ross would be the editor. "To what base uses has Billy come at last!" he snidely exclaimed, "the lofty aspirations to be a great Sachem of the Cherokee Nation, have dwindled down to ambition to play second fiddle to an ignorant adventurer from some Northern state."<sup>23</sup>

Unswerving in attacking his foes, Boudinot remained equally determined in his efforts to secure the passage of a territorial bill. By late January, he was again appearing before congressional committees, sparring with the delegates from the tribes.<sup>24</sup> William P. Adair was still one of them. Adair, however, seemed more conciliatory towards Boudinot than others. He told the House Committee on Territories that he thought Boudinot was "honest in his views with regard to the establishment of a Territorial Government."<sup>25</sup> But, Boudinot disappointed him:

He is my relation by blood, and of course I esteem him; but I cannot see why he should deprecate the idea of our Nations sending Delegates here. . . when he, himself, has served as a Delegate from my Nation several terms. . . . Our Nation has been kind to him, and . . . in his tobacco case . . . spent eight or ten thousand dollars in cash. I am only sorry

that he does not lend us the aid of his strong talent and ability to carry out the views and rights of his people-- instead of censuring his Nation for sending help here to defend its rights.<sup>26</sup>

Along with his other arguments, Adair had now, in a tone of remorse more than hostility, accused Boudinot of ingratitude.

Perhaps Boudinot was an ingrate. Certainly, he had separated himself from the majority of Cherokees. They did not want to adopt his view of the future, and to many he probably appeared to be spiteful rather than sincere in his actions. But Adair's rebuke did not deter Boudinot. A few days later, he once more came before the committee.

His arguments were similar to those he had presented before. The Grand Council, he asserted, was not an end in itself, but just a prelude to a territorial legislature. The treaties of 1866 had said so. Adair had said the Indians had nothing against establishing a federal court in the territory. Good! Boudinot agreed. That would be the first step toward a territorial government, for federal officials would have to be appointed to work in the Indian Territory: United States law, not Indian, would be enforced.<sup>27</sup>

In his earlier statements, Boudinot had decried the lawlessness and violence in the territory, and Adair had disputed his claims. Boudinot asserted that he, as a practicing lawyer in Arkansas, knew more than Adair. "Red-handed murder," he proclaimed, "stalks with defiant and insolent steps through the length and breadth of this fair Territory."<sup>28</sup> To support his point, he cited statistics.<sup>29</sup>

As for Adair's assertion that freedom of speech existed in the Indian Territory, Boudinot pointed out that the Creeks' closing his newspaper down was not a manifestation of free speech.<sup>30</sup> Moreover, the situation in the Cherokee Nation was perhaps worse. "No! Col. Adair,"



Boudinot emphatically declared, "never since the brutal and cowardly assassinations of your relatives and mine--Elias Boudinot, John Ridge, and Major Ridge--and the attempted murder of your father, has there been freedom of speech in the Cherokee nation."<sup>31</sup> The old fires of hatred had not abated in Boudinot but, for Adair and most others, the trials of the past were, if not forgotten, submerged in the name of the welfare of the Cherokee tribe.

Boudinot also went on to remind his listeners that in 1866 Peter Pitchlyn of the Choctaws and Winchester Colbert of the Chikasaws, the respective Governors of their tribes, had supported allotment in severalty of Indian lands. Furthermore, Allen Wright, the present Governor of the Choctaws, had advised his people to apply for statehood for the Choctaw Nation. Were these men traitors or in the pay of the railroads? Such were the "base charges" laid against Boudinot by "corrupt Indian officials like Shanks."<sup>32</sup>

In closing, Boudinot pointed out that he favored transferring the Indian Bureau back to the War Department, if for no other reason than to save the government \$250,000 a year in salaries to Bureau officials and to "weed the official garden of such obnoxious, corrupt, and disgusting plants as J. P. C. Shanks."<sup>33</sup>

None of Boudinot's rhetorical ability nor his ardor for his views had diminished. Nor had his hatred and disdain for his enemies and detractors slackened. Indeed, he became incensed when about the same time he found out that William P. Ross was being considered as the replacement for Ingalls as the Union Agent. The spectre of Ross in such a position infuriated Boudinot, and he was quick to act.

In early February, he drafted a letter to Senator William Boyd

Allison of Iowa, the Chairman of the Senate Committee on Indian Affairs, protesting Ross's nomination. He listed five objections. First, he said that Ross was a partisan member of the Cherokee tribe, and more than half of the Cherokees opposed his nomination. Second, Ross was believed to be the instigator of more than twenty murders in the Cherokee Nation in 1875. Third, Ross had stolen money from the government. Fourth, he was not a citizen of the United States. The fifth reason, however, was subjective and derogatory: "of all men in the world there could not be found any one more obnoxious to the poor people of the Indian Territory than W. P. Ross."<sup>34</sup>

Boudinot did not limit his opposition to protesting to Allison. He took his cause to the newspapers. Neither the majority of Cherokees nor the "best class of people in the Indian Territory," he said, wanted Ross as the Union Agent--from these elements, not the railroads, did the opposition to Ross stem.<sup>35</sup> Nonetheless, it appeared that Ross would receive the post. In fact, the Fort Smith New Era, which did not welcome Ross's appointment but had little good will toward Boudinot, reported on February 9, 1876, that Ross had officially been given the agent's position. "This," the editor commented, "is quite a triumph over E. C. Boudinot and his side. . . . We should advise him in his published correspondence with Indian Progress and other papers favoring his side, to use less vulgar and vituperative language in regard to his enemies."<sup>36</sup>

The New Era was in error, however; Ross still did not have the position, and Boudinot continued his assault. Writing in the Indian Progress, Boudinot declared that Ross lacked both physical and moral courage, and hastened to add that "Our gallant chief" Charles Thompson,

who had defeated Ross in the last Cherokee election, had been one of the first to protest against Ross's impending appointment.<sup>37</sup> In all, Boudinot concluded that an old cliché applied: "you can't make a silk purse out of a sow's ear."<sup>38</sup>

Others also joined in the chorus against Ross. The Kansas legislature adopted a resolution denouncing Ross's proposed appointment. Boudinot's friend Milton Reynolds, editor of the Parsons Sun and the brother of George Reynolds, took the lead in this action. At the same time, Boudinot undertook a new line of attack. He informed his contacts in Congress that Ross had been involved in an illegal scheme with one J. W. Wright to defraud Cherokee veterans of the Union army of their bounty money and back pay. Congress, in turn, directed the Secretary of the Interior to report on the matters. He did so.<sup>39</sup> Consequently, Ross did not receive the appointment. The Kansas City Times in analyzing the decision concluded that three factors destroyed Ross's nomination: (1) he was not a citizen of the United States; (2) he was a partisan leader in the Cherokee Nation; and (3) he had allegedly cheated Cherokee soldiers out of \$280,000 of bounty money and back pay.<sup>40</sup> This battle, at least Boudinot had won.

Ross's defeat, however, did little to endear Boudinot to most Cherokees. Lucien "Hooley" Bell, in particular, used the occasion to lash out at Boudinot. Hooley was the nephew of James M. Bell, and during the Civil War he and Boudinot had been friendly. But even at that time, some of Boudinot's brash actions offended Hooley.<sup>41</sup> After the war, he had fallen in line with the other Southern Cherokees. Thus, while he favored the Downing Party, he did not agree with Boudinot. In turn, during the controversy over appointing Ross as Union Agent,

Boudinot had described Hooley and his friends as a "shakey and uncertain" politicians because they had expressed approval of Ross's appointment.<sup>42</sup> To this accusation, Hooley replied, "I cannot believe that Mr. Ross, or any capable Cherokee--Elias C. Boudinot excepted--would be a better friend to us than an alien who has no interest or sympathy with us."<sup>43</sup>

But Bell had harsher words to follow. He told Boudinot to attack him when he thought that he was wrong. "But please don't--please don't bring me so near the devil, as to call me your friend."<sup>44</sup> The Indian Progress, he said, was "bought, paid for, and kept running by two railroad companies" who wanted to destroy the Cherokee government.<sup>45</sup> Thus against Boudinot he charged,

you call this a yearning love for our country! Judas Iscariot had some similar hallucinations when for thirty pieces of silver, he sold the Son of God! and later Benedict Arnold was seized with the "true inwardness" of patriotism, when, for a consideration of dollars and cents, he proposed to deliver West Point to the British! And you, history will find a place for.<sup>46</sup>

Many Cherokees probably wholeheartedly agreed with his characterization of Boudinot.

While Boudinot faced the growing hostility of Hooley Bell and his crowd as well as those of the Ross faction, he also had to contend with the opposition of his brother, William. As the editor of the Cherokee Advocate, William Boudinot could hardly endorse his brother's views or actions. Nonetheless, he had, over the years, cautiously sided with Elias on some things. He had welcomed the Katy railroad as a benefit to the Cherokees. Also, he had called for a division of land in severalty.<sup>47</sup> On one issue, however, he refused to give approval: territorial government. To make matters worse, William in 1876 had just been reappointed editor of the Advocate, having lost the editor-

ship in 1873. Thus, commenting on William's return to the Advocate, the Indian Progress had asserted that perhaps now the official organ of the Cherokee Nation would lead public opinion, rather than "cravenly" follow it.<sup>48</sup>

William, who served as editor of the Advocate by the good graces of the Cherokee government, did not take kindly to that assertion, and he quickly replied. The Indian Progress, he wrote, "may intend to beat us, and it may indeed beat us; but we are not at all afraid it will beat us in good manners."<sup>49</sup> He also criticized his brother. Elias, he wrote, was "a gentleman of education and culture and of far more than ordinary ability," but that did not mitigate the incorrectness of his views.<sup>50</sup> In particular, William declared that even though Elias was not corruptly interested in a territorial bill the Advocate opposed him and any such bill. Why? The majority of Indians were against it; territorial government was not necessary at the present time; and it was in the interest of "a lot of foreign railroad bondholders."<sup>51</sup>

This last point was particularly telling. Indeed, many like William Boudinot, who had envisioned great, beneficial changes arriving with the railroads, had altered their views. True, the railroads were still seen as the vehicles of progress, but they were also threats. In order to get needed funds, the Katy and A & P had sold bonds in Europe, where investors were in essence speculating that the conditional land grants in the limes' agreements with the Indians would be enacted. This activity, for good reason, made the Indians suspicious of the railroads and their friends, most especially Elias C. Boudinot. Boudinot's relationship with the railroads was, in their eyes, a very treacherous alliance.<sup>52</sup> No longer could William Boudinot lend his support to the

railroads, or to his brother.

Still, Boudinot was a person to be reckoned with. Many of those who feared and hated him, however, must have been relieved and elated in late March when the Indian Progress folded. Boudinot's journalistic experiment had failed, but he did not blame himself for the paper's demise. George Reynolds had been in charge of the business end of the newspaper and, according to Boudinot, Reynolds had neglected his responsibilities. Boudinot had been informed that when the organ went under "there were over 700 paying subscribers and six or seven columns of paid up advertisement," and he could only surmise, "if this is so somebody has got the money."<sup>53</sup> Apparently, Boudinot momentarily lost his trust in Reynolds, who by this time owned half of the business.<sup>54</sup> It should be added that Reynolds' connection with the Indian Progress had inspired the speculation about the railroads' involvement in the enterprise, for Reynolds had close ties with the Katy.<sup>55</sup>

To make the situation even more galling, a little over a month later, the Indian Journal in Muskogee put out its first edition. Roberts and Ross had their newspaper; Boudinot had lost his.<sup>56</sup> However, Boudinot still had his press. He decided to put it to good use: He would combine his equipment and material with those of Granville McPherson. In that way, he would have an interest in the Oklahoma Star.<sup>57</sup> At first, there was talk that the two papers would consolidate as the Star and Progress and be published in Vinita, with McPherson and Boudinot as joint owners and editors.<sup>58</sup> Instead, Boudinot and Reynolds eventually allowed McPherson to use their press and other materials, as long as he supported Boudinot's views.<sup>59</sup>

Boudinot's troubles with the Indian Progress were not over yet, though. One of the Duncans attempted to get possession of the paper

by claiming that Boudinot owed him \$150 for a horse purchased during the war. Again, Boudinot was livid in anger. It was merely another plot to harass and hurt him. He hastily contacted James M. Bell to act in his behalf and stop "that one eyed ass" Duncan.<sup>60</sup> Moreover, he requested that Bell appear as his attorney "in this and all other troubles which the good people of Vinita or vicinity" should put upon him.<sup>61</sup> "Tim will make all things even," he told Bell, and these people "will learn after a while, I'm worth a regiment of dead men yet."<sup>62</sup> If anyone wanted a fight, Boudinot was ready.

Meanwhile in Washington, Boudinot became involved in the movement to give control of Indian affairs back to the War Department. Since 1873 and the Modoc War, efforts had been undertaken to return the Indian Bureau to the army.<sup>63</sup> Even before that time, there had been talk about such a change in direction. Ironically, in December of 1868, while Boudinot served as a Cherokee delegate, the Creek, Choctaw, and Cherokee delegations had protested such a move, and Boudinot had been one of the signers of their joint memorial.<sup>64</sup> Now, however, Boudinot had changed his views, probably because he rightly recognized that the Indian delegations had more influence with the Interior Department than he did. Then, too, he still fumed over the actions and statements of Shanks and other officials in the Indian Office. He no doubt saw an opportunity to strike back. In fact, Representative David Browning Culberson of Texas even quoted from Boudinot's argument of February 3 before the House Committee on Territories when he made a speech on the House floor favoring transfer of the Indian Bureau.<sup>65</sup> Although Boudinot continued to support such a move, the Indian Bureau was not returned to the army, but the debate continued for several more years.<sup>66</sup>

Paramount in Boudinot's mind was not the transfer issue but the territorial issue. Securing that legislation overrode all other considerations. In May of 1876, he once more carried his arguments before House committees, and again he felt confident that he had carried the day. Writing to the Oklahoma Star on May 8, he asserted, "I have the satisfaction to know that my views have been sustained by the committees of the House, before which all the eloquence of Adair and the hypocritical whine of W. P. Ross, the office seeker and office dead beat, was poured out in lavish streams."<sup>67</sup> Perhaps his words did sway committees, but any bills they reported on a territorial government for the Indian Territory did not pass the House.

In May, he also began a new attack--this time against the Grand Council of the Indian Territory. For years, he had maintained that the Grand Council would be, and was supposed to be, the prototype of a territorial legislature for the Indian Territory. But such was not the case as far as the delegates to the Council were concerned. To the contrary, when the Grand Council had tried to draw up a constitution for the Indian Territory, the tribes failed to approve it. Most significantly, the Cherokees had voted against its ratification, even though William P. Ross had been its principal author. Moreover, the Grand Council had rejected the Caddo Resolutions, while denouncing Boudinot. Boudinot, in turn, was determined to have the Grand Council done away with. Thus, on May 14, he penned a letter to Representative Erastus Wells of Missouri, expressing his view that the Grand Council was a "farce."<sup>68</sup> Until it was given the powers intended for it by the treaties of 1866 and until executive and judicial offices were created for the Indian Territory, the Grand Council did not deserve federal



funding.<sup>69</sup> Wells presented Boudinot's letter in the House debate over such an appropriation. On this matter, the Congress concurred with Boudinot: the appropriation of \$5,000 was denied. That decision spelled the end of the Grand Council. Many, including Chief Charles Thompson, lamented the decision to cut off the funds. Suffering from this lack of support, the Grand Council continued until 1878; then, it passed away.<sup>70</sup> The residents of the Indian Territory could thank Boudinot, in part, for the death of the Grand Council. But Boudinot probably felt no regrets. From his perspective, the Grand Council had truly been "entirely nugatory."<sup>71</sup>

Another matter relating to Indian affairs also captured Boudinot's attention in 1876. The federal government wanted to remove the Sioux to the Indian Territory. In June of 1876, Sioux warriors had wiped out Colonel George A. Custer and his troopers at the Battle of Little Big Horn. Public outcry was great, and the government decided to take such actions that would forestall any future atrocities by the Sioux, not just those who had fought Custer, but all the bands. In August, the President created a peace commission to deal with the Sioux. The Interior Department informed the Commissioners that the administration wanted the Sioux to settle in the Indian Territory and learn how to support themselves.<sup>72</sup>

This idea was not new. President Grant had urged the Sioux to do so in 1872 and 1875.<sup>73</sup> Now the situation seemed to demand such an action. Not everyone agreed, of course. Army leaders opposed the idea.<sup>74</sup> However, Congress had stipulated in its last Indian appropriations act that no money would be expended on the Indians until there was a plan for making them self-sufficient. In the Indian Territory,

Grant and others reasoned, these nomadic warriors could learn from the more sedate, pacified tribes which were being encouraged in agricultural pursuits.<sup>75</sup> When the commissioners met with Sioux leaders, they expressed the President's wishes. However, they did concede that before any Sioux would be removed some of their warriors could travel to the Indian Territory and decide if they liked the land. A delegation of ninety from the Spotted Tail and Red Cloud reservations, accompanied by two of the commissioners, did just that. They were not impressed.<sup>76</sup>

Boudinot, however, did not care whether the Sioux liked the looks of the Indian Territory or not. He did not want them to be settled there, taking away even more land from the Cherokees or the other tribes in the territory. If the Sioux were removed to the Indian Territory, he argued, that would place forty thousand Sioux beside thirty thousand civilized Indians and twenty-five thousand wild Indians already there. Where would they be settled? On ceded Creek land next to the Pawnee, their traditional enemies? In the southwestern part of the territory, the poorest land available? Leave them in the Dakotas, he concluded. Even if they gave up the five million acres around the Black Hills, they would still have twenty million acres to live on. Moreover, the Texans were against having the Sioux in the region, and their attitudes and wishes deserved consideration.<sup>77</sup> Boudinot even suggested that if the Sioux had to be removed from the Dakotas, Alaska would be a more suitable place for them than the Indian Territory.<sup>78</sup>

Finally, in February of 1877, Congress decided the issue. The Sioux would not be removed to the Indian Territory. Representative Roger Q. Mills of Texas led the fight for an amendment to the Indian

Appropriations Act which stated that the Sioux could not be relocated in the Indian Territory without an act of Congress.<sup>79</sup> Boudinot, however, still had to have his say and, in an interview with the St. Louis Globe Democrat, he stated that the idea of removing the Sioux to the Indian Territory, as a matter of policy, "was the most stupid that could be adopted."<sup>80</sup> He went so far as to question the so-called "Peace Policy" of the Grant Administration: "I have never yet been able to understand what is meant by the 'peace policy.' If it means war on the hostile and peace and preying on the friendly Indians, I don't see how it differs from the ordinary custom of the government toward the Indian."<sup>81</sup> He could say this now, for Grant, whom he had previously praised was out of office.

Another concern also occupied Boudinot's time. He was pushing hard for the establishment of a United States Court in the Indian Territory. Of course, he had done so before but, in early 1877, he began to believe that such a court might be created. In late April, he wrote to Sarah Watie that he could succeed in securing the needed legislation by winter. Then, he said, he could consider himself "independent," for he would take his "chances at the bar with any of them," meaning any Cherokee lawyers.<sup>82</sup> A few days later, he informed James M. Bell, "there are nine chances out of ten that I will get a U. S. Ct. established in the territory next winter. Then we will be safe."<sup>83</sup> If he had estimated the odds correctly, the only conclusion to be reached was that his luck was worse than ever. No court was established that winter of the next.

In the midst of all this activity, a new problem arose, one which would cause Boudinot considerable concern for the next few years. The

ownership of his hotel in Vinita was disputed. The controversy had its origins in the summer of 1875. At the time, Boudinot made a deal with J. K. Skinner, a white man. Boudinot as always needed money, and Skinner wanted a share in the hotel. The two agreed that Skinner would be given half-ownership of the hotel in return for \$1,000, plus agreeing to fence off 400 acres claimed by Boudinot and to keep some purebred boars and sows. The two were to share equally in the profits from these enterprises.<sup>84</sup>

By the summer of 1876, however, Skinner wanted out of the deal, and the feeling was mutual. Boudinot was angry because Skinner had not fenced the land or kept the pigs. Therefore, Boudinot agreed to pay back the \$1,000. He paid several hundred dollars immediately to Skinner. Soon, the matter became much more complicated.

In early February of 1877, Skinner demanded the rest of his money.<sup>85</sup> Boudinot, however, claimed that he paid Skinner \$300 in May, which left him owing \$200. Moreover, in December of 1876, Boudinot had contracted two white men, Daniel Ross and one Babbitt, to operate the hotel, which Skinner's father-in-law had been keeping. Ross and Babbitt agreed to pay Boudinot \$100 a month in rent. But, because a certain Mr. Jackson who had run the hotel earlier still owned the furniture in it, Ross and Babbitt had to buy that from him, as well as commence operating the hotel. They needed \$400. Therefore, Boudinot agreed to let them run the hotel for four months rent free. After March 1, 1877, they were furthermore allowed to pay only \$80 a month in rent--until November. By May, though, Ross had not paid Boudinot, and Boudinot claimed that Ross owed him \$240. At this point, Boudinot concocted a compromise, which he hoped would take care of the

whole, convoluted mess. He told Ross to pay Skinner \$200 by June 1, and pay him \$200 by July 1. If he did so, Boudinot would acknowledge that Ross could operate the hotel, rent free, from March 1 to November 1, 1877. According to Boudinot, Skinner agreed to the arrangement.<sup>84</sup>

Apparently, either Ross failed to pay Skinner or Skinner refused to take payment from Ross, for Skinner began to complain to Boudinot. Boudinot, however, did not intend to make any concession to Skinner. To the contrary, he informed Skinner, "You justly owe me several thousand dollars for your failure to perform written contracts. You must let my affairs alone, or I shall be compelled to have you removed from the nation and close up your store."<sup>87</sup> Skinner was a licensed trader in the Cherokee Nation, and he knew that Boudinot did not make idle threats. Nonetheless, he must have felt confident that he was in the right, or at least that Cherokee authorities would protect him in a conflict with Boudinot.

Boudinot wasted no time in acting. He wrote Commissioner of Indian Affairs John Q. Smith that Skinner was trading in the Cherokee Nation without the consent of the Cherokee National Council, which was in violation of the Cherokee Treaty of 1866. Smith ordered Union Agent Marston to investigate.<sup>88</sup> Skinner, however, continued to pressure Boudinot, claiming that he owned the hotel. Moreover, Ross apparently was paying his rent to Skinner. Boudinot fumed even more--he would have them both removed from the nation.<sup>89</sup>

On August 15, 1877, an angry Skinner wrote to Agent W. S. Marston, Skinner had just learned that his trading license had been revoked; he would lose \$3,000. "Boudinot," he said, "I believe is the sole cause of my trouble. I only feel bad to know that a U. S. official

would take such strong steps against us [Skinner and his brothers were in partnership in the store] without an investigation. I don't like being robbed by E. C. Boudinot."<sup>90</sup> The matter, however, was far from finished.

While Boudinot worried about his property in Vinita--which included land and two houses besides the hotel--he also had much to occupy his time in Washington.<sup>91</sup> Other than serving as Gunter's private secretary, he had been appointed as clerk of the House Committee on Private Law Claims and of the Committee on Public Expenditures. He hoped that he could work for the Committee on Indian Affairs as well.<sup>92</sup>

Boudinot was indeed a busy man, but not everyone appreciated his endeavors or trusted his actions. Of course, the Cherokees did not believe Boudinot when he talked of his sincerity. More damaging, however, some of his supposed friends in Kansas became critical of his professed support for opening the territory. In particular, J. M. Caveness, the editor of the Chetopa Southern Kansas Advance, took Boudinot to task in late 1877. Caveness printed excerpts from some of Boudinot's letters used in a court case between J. A. Lockhard and Boudinot in Arkansas. In one, Boudinot supposedly wrote, "Between you and me and the gate post we don't want the territory opened for three years yet."<sup>93</sup> In another, "I am not anxious to have the Indian Territory come in for settlement; it is better for us as it is, provided we can have good courts for protection."<sup>94</sup> For this sort of double-dealing, Caveness declared, Boudinot received free railway passes:

Every year, just prior to the opening of Congress this noble half brother of the sons of the forest may be seen flying up the M. K. & T., with his long greasy locks flying several yards in the rear, with an annual pass in his pocket, going

to the National capital, ostensibly on business of great importance for the M. K. & T., yet secretly to work against them and spend the winter drinking high-toned liquors and engaging in other sordid engagements which are too low a nature for particularization in the columns of this paper.<sup>95</sup>

Caveness had hit Boudinot hard. His attack was vicious and derogatory.

Boudinot did not tarry in replying to Caveness in kind. He asked if this was the same man who had given his vote to Senator Crichton of Kansas for a postmastership and five hundred dollars, and then went back on the payment. "Men of corrupt mind," Boudinot asserted, "who obtain official positions think others obtain such positions by similar methods."<sup>96</sup> Granville McPherson also came to Boudinot's defenses in the Star-Vindicator:

Boudinot's record and character are too well known all over the country to suffer from the sneers of the postmaster of Chetopa. . . . We don't know that Boudinot is in the employ of the M. K. & T., and we know of no one who could serve them with more efficiency at Washington. . . . Col. Boudinot is a welcome guest in the first families of our country, and numbers among his intimate friends the first men of the land. The editor of the Advance with all his short hair would knock in vain to be admitted to the society that Col. Boudinot moves in.<sup>97</sup>

Caveness was thus answered. His attack probably did little to hurt Boudinot in his relationship with the railroad companies, but many in the Indian Territory must have chortled when they read Caveness's remarks. At least one white man in Kansas understood Boudinot in the same way that they did.

Regardless of Caveness's innuendoes, Boudinot did not forsake his efforts to secure a territorial bill. In late November of 1877, Congressman Franklin of Missouri had introduced yet another Oklahoma Bill, and Boudinot began preparing to speak for its passage. He was scheduled to appear before the House Committee on Territories on January 29, 1878. The day before, he expressed his optimism in a letter

to Sarah Watie. "I feel confident," he wrote, "I can sweep away the flimsy logic of Adair & all their attorneys. . . . I shall give them some facts and statistics which will startle them."<sup>98</sup> He also decided that the speech would be published, as had several of his others.<sup>99</sup>

The next day, he went before the committee. Once more he expounded on his well known arguments, buttressed with a wealth of statistics. As before, he referred to the treaties of 1866, recounted the remarks of Pitchlyn and Colbert, and attacked the Cherokee delegates.<sup>100</sup> This time, however, he added a new twist: he proposed an amendment to the Franklin Bill. Let the tribes vote on the bill, he suggested.<sup>101</sup> "I throw down the glove!" he exclaimed, "will these champions pick it up? With a fair understanding of the generous provisions of this bill, a large majority would endorse it, and these delegates know it, and dare not accept the challenge."<sup>102</sup> Boudinot had been persuasive; but then, Boudinot had always been successful before committees. More often than not, they had given favorable reports to legislation he supported.<sup>103</sup> On the other hand, the House as a body had failed to pass any of these bills, and the Franklin Bill would be no different.

A few residents of the Indian Territory, as usual, voiced their endorsement of Boudinot and his ideas. One John Johnson, for example, stated his support for Boudinot in a letter to the McAlester Star-Vindicator. The "majority of intelligent citizens," he opined, desired the establishment of a territorial government.<sup>104</sup> He wholeheartedly agreed with Boudinot's proposition that the tribes vote on establishing a territorial government, but he sadly conceded that the result would be "consistent with the fact that the great majority of Indians are still uneducated and ignorant."<sup>105</sup> In other words,



Boudinot had the right idea, but unfortunately people in the territory were not ready to accept it. Nonetheless, Johnson believed that Boudinot had "the following of the most respectable, patriotic and intelligent class of his countrymen."<sup>106</sup> But whatever the strength of the support for Boudinot, it was far from enough.

Indeed, Boudinot did have enemies in the Cherokee Nation. Not least of all was Skinner. Boudinot rightly feared that the hotel matter was not yet resolved. Thus, he took another action on February 1; he made Sarah Watie half owner of the establishment.<sup>107</sup> Furthermore, he informed Bell that Daniel Ross had written that some Cherokees were erecting buildings around his hotel. He asked Bell to put a stop to it--the railroads or the Union Agent could do so. Also, he had learned that Skinner was trying to sell his supposed interest in the hotel to one Goodycontz. However, Boudinot doubted if Goodycontz was "d--n fool enough to take any such chances or make such an issue with me; if he does, I freely take issue with him & shall never ask or give quarter."<sup>108</sup> Next, because Ross was not paying his rent and seemed inclined to deal with Skinner, Boudinot asked Sarah Watie to take possession of the hotel. That would guarantee possession for Boudinot.<sup>109</sup>

In all, mid-February of 1878 found Boudinot worried and exhausted. He was still lobbying for legislation, working for the committees and Gunter, and not least of all fretting over his hotel. As he wrote to Bell on February 13, "between two committees my own and Gunter's correspondence my time is full & I am in a whirl. Then I have to watch and meet these delegates at every point."<sup>110</sup> He added, "if you let Skinner & fellow scoundrels steal my property it will keep me in trouble indefinitely" financially.<sup>111</sup>

The next day, however, Boudinot's spirits must have been heightened some. Senator Stephen W. Dorsey of Arkansas introduced his bill for the organization of the Indian Territory as a United States territory. Moreover, Senator Voorhees, Boudinot's close friend, proposed a resolution for the Senate to investigate the sale of bonds by railroad companies with lines in the Indian Territory.<sup>112</sup> Four days later, Dorsey added an amendment to the Voorhees resolution: the Senate should investigate how the tribes funded their delegations to Washington and ascertain if the money was taken from their school funds. Furthermore, Dorsey requested that a committee chosen to examine these issues also be directed to report on whether a civil government could be organized over the Indian Territory. The Senate agreed to all these proposals.<sup>113</sup> It would not be hard to imagine the hidden hand of Boudinot behind the efforts of Dorsey and Voorhees.

Now, Boudinot's depression dissipated. His speech of January 29 was about to be printed, and he envisioned it as "a textbook on the Indian question."<sup>114</sup> Moreover, he was gearing up to take on the tribal delegates before the newly formed Patterson Committee (Senator John J. Patterson was chairman), which was charged with fulfilling the directives of Dorsey's and Voorhees' resolutions. In fact, he informed the Washington Post of his certainty that the committee would find the Cherokees had spent over \$150,000 during the previous two years to maintain their delegation. Over the past five years, he asserted, one-third of the school fund had been diverted to paying for the delegations. He also wanted to get the conditional land grant issue out of the way. He did not support giving lands to the railroads, nor did hardly anyone else. If that dispute were settled, once and for all, serious consideration

could be given to territorializing the Indian Territory, and the Franklin Bill could be passed. In conclusion, he added,

I have the kindest feelings for the Indian delegates who are now here opposing Franklin's Territorial bill; they are all gentlemen of ability, and most of them personal friends of mine, but as a true friend to the Indian people, I feel compelled to drive them to the wall, if I can, in their investigation under the resolution under Senator Voorhees.<sup>115</sup>

The delegates must have blanched when Boudinot referred to them as "personal friends."

On March 22, 1878, the Patterson Committee began holding hearings, and Boudinot was on hand.<sup>116</sup> Moreover, he was allowed to examine witnesses. When asked by Colonel Grafton, a legal agent for the Choctaws and Chickasaws, whom he represented, Boudinot answered, "I appear for myself. I am a Cherokee, and I think it is important for the interest of my people that an investigation should be made. I appear for myself and those who think like me."<sup>117</sup> While not that many in the Indian Territory may have agreed with Boudinot's positions, his opponents had to accept the fact that he did have influence with the committee. By April 1, Boudinot confidently assured James M. Bell, "I shall beat the delegates in the investigation before the Senate committee."<sup>118</sup>

Everything did not go as smoothly as Boudinot hoped, however. Interestingly enough, he believed that Gus Ivey would be a witness favorable to his views, especially because Boudinot and Bell, Ivey's uncle, were close politically as well as personally. Ivey, however, took positions opposite to those of Boudinot. He said that not more than twenty-five people in the Cherokee Nation wanted federal courts, division of land in severalty, or a delegate in Congress. As for Boudinot's contention that crime abounded in the territory, Ivey stated

that there was less violent crime in the Cherokee Nation than in Kansas, Missouri, or Arkansas.<sup>119</sup> Boudinot was chagrined. Ivey, he informed Bell, had sided with Adair, saying "everything was lovely in the nation."<sup>120</sup> For Bell's sake, Boudinot "spared" Ivey "the mortification of admitting that he came to St. Louis" with Bell, wishing to help Bell start a newspaper to advocate Boudinot's views.<sup>121</sup> "Where," he asked, "does the boy get his cur blood?"<sup>122</sup>

Boudinot also received a rebuke from Peter Pitchlyn. In a formal letter to the committee, Pitchlyn took issue with Boudinot's continual reference to his statements in the late 1860s. Pitchlyn informed the committee that he had changed his position in 1870:

Colonel Boudinot knew that I had changed my opinion on the subject, for I so informed him in reply to a question he asked me in the presence of the House Committee on Territories some three years before. He is also aware that I have uniformly, for the last eight years, opposed to the best of my ability every measure proposing either a Territorial government or a division of lands.<sup>123</sup>

Likewise, Governor B. F. Overton of the Chickasaw Nation was hostile to Boudinot. He objected to Boudinot asking him any questions; indeed, he disputed the authority of the committee itself to be investigating the tribal governments. As for Boudinot, Overton accused him of "supporting the various bills--not only one bill but every bill that is calculated to destroy the tribal organizations of our country."<sup>124</sup>

Boudinot retorted that Overton was mistaken and doing him an injustice. "Far from being in favor of destroying the tribal organizations of your country," he asserted, "I have never written a line or made a speech but that I have stated that the tribal organization should remain intact, but that I was not in favor of any government that would disturb your tribal organizations."<sup>125</sup> The two men definitely

had differing conceptions of what "tribal organizations" meant. For Overton, it was tribal sovereignty; for Boudinot, something less.

Before and during the Patterson Committee's hearing, Boudinot also acted on his hotel controversy. He asked that Skinner be removed from the Cherokee Nation. And per instructions from the Indian Office, Agent Marston told Skinner in March "to remove beyond the limits of the Indian Territory, as soon as practicable, peaceably."<sup>126</sup> But Skinner intended to get something out of his investment: He sold the hotel to Henry Eiffert, a Cherokee and no friend of Boudinot.

When Boudinot discovered what Skinner had done, he was furious. This was just what he feared. Skinner had no protection under Cherokee law, but Eiffert did. "How is it possible that you allowed the God damned scoundrels to get possession of my Hotel?" he asked Bell.<sup>127</sup> On the other hand, Eiffert's forcible commandeering of the hotel added credibility to Boudinot's contention that illegal activities permeated the Cherokee Nation. Gunter, who although a friend of Boudinot had not supported the territorial bills, told Adair that Eiffert's action "would drive him and others into the most extreme measures to organize a government where such things are done."<sup>128</sup> Reportedly, Adair concurred that Eiffert had acted wrongly, saying he would try to have the property restored to Boudinot.<sup>129</sup> For his part, Boudinot boasted, "in the end, I shall beat them, and make it cost them dearly, whereas, they are making a record which I can use with terrible effect."<sup>130</sup>

On May 20, 1878, Boudinot asked Secretary of the Interior Carl Schurz "as the representative of the guardian of the Indians" to intervene into the dispute over the hotel in order "to see that justice is done the humblest person."<sup>131</sup> The Cherokee Courts, Boudinot told

Schurz, would take no action in the case.<sup>132</sup> A little over a week later, Boudinot also asked Secretary of War George W. McCrary to investigate Skinner. Skinner, he pointed out, had recently bought the suttlership at Fort Gibson; thus contrary to Agent Marston's orders to leave the territory, he stayed because he had permission from the army. He said that Skinner was conspiring with Eiffert to steal his property and, as the hotel was on land belonging to the Katy, the Cherokee courts had no jurisdiction. The War Department, however, did at least over Skinner.<sup>133</sup>

In the midst of his argumentation before the Patterson Committee and his embroglio over the hotel, Boudinot experienced another shock. Vinnie Ream married. On May 28, 1878, she took Richard L. Hoxie, a lieutenant in the army, as her husband. Supposedly, Boudinot was so crushed that he refused to attend the wedding.<sup>134</sup> The extent of his sense of loss and rejection is debatable, however. Vinnie had spurned his matrimonial desire earlier. Moreover, they had been close friends for many years and, with or without romantic notions, they enjoyed each other's company, singing, playing music, and conversing.<sup>135</sup> Then, too, Boudinot was close to Mary Fuller, Vinnie's sister, and Robert Ream, her brother. In fact, Robert Ream, who was married to a mixed-blood Chickasaw and lived in the Chickasaw Nation, named one of his sons Boudinot Ream.<sup>136</sup> The ties were too tight for Boudinot ever to sever his connection with Vinnie or her family.

Possibly, Boudinot did not have the time to attend Vinnie's nuptials. He was hard pressed combating Skinner and Eiffert. On May 30, he wrote to Eiffert, ordering him to pay Bell \$100 in rent on the hotel. "You are an intruder," he remonstrated, "an interloper, but must pay your rent just as if you were rightfully in possession of the

property."<sup>137</sup> A week later, he demanded that Bell and William Boudinot hasten to Fort Gibson and ask Captain Rodney C. Layton, the commanding officer, to investigate the hotel issue.<sup>138</sup> There was no need for Bell and William Boudinot to travel to Fort Gibson, however. The same day that Boudinot wrote to them, the Adjutant General's Officer referred the matter to Captain Layton.<sup>139</sup>

In June, Spencer S. Stephens, and one of Boudinot's allies in the Cherokee Nation, informed Boudinot that Skinner and Eiffert claimed Boudinot had not built the hotel. That was a lie, Boudinot told Bell and Sarah Watie. He said that he had sold his tobacco machinery, worth \$4,500, to Polson for \$1,500 worth of lumber, although he had declared to Secretary McCrary that the hotel cost him \$6,000.<sup>140</sup> The whole affair was becoming a tangled mess, and the truth would be hard to fathom.

On July 6, Boudinot had to be at Fort Gibson, when Layton was beginning his formal inquiry into the hotel controversy. Layton called all the contesting parties, their attorneys, and witnesses together that day. Numerous letters and documents were submitted as evidence. Each told his story and was cross-examined.

Skinner's version, as expected, differed from Boudinot's. According to Skinner, he paid Boudinot \$1,000 for an interest in the hotel, and, when Charles Beach, who was then operating the business, refused to give up his lease unless his furniture was purchased, Skinner paid Beach \$565. For doing so, he was to have the controlling interest in the hotel. Skinner admitted that he had promised to keep hogs and to fence some land for Boudinot. However, the hogs died of cholera, and Boudinot leased the land to William Trott. Also, Boudinot and Skinner had a man named Edmundson running the hotel for them, but Boudinot

wanted him out. Thus, Skinner's father-in-law took over the hotel; Boudinot raised objections about him, too. Then Babbitt and Ross came in. They were to pay Skinner \$500; Boudinot was to pay him \$1,000. Boudinot still owed him \$564. As for the \$565 for the furniture, he had only received a partial payment of \$300. Ross had tendered him nothing. Therefore, on the basis of his agreement with Boudinot that if the debt were not paid in a specified length of time ownership of the hotel would revert to him, Skinner had sold the hotel to Henry Eiffert.<sup>141</sup>

A direct assault was made on Boudinot's integrity by Hooley Bell, Skinner's attorney. In his statement, Boudinot claimed that there was a conspiracy against him in the Cherokee Nation, while Bell averred that the only conspiracy was of Boudinot's making. Boudinot, Bell said, claimed that half of the hotel belonged to Mrs. Watie, but then he sold a half interest in it to Skinner. Babbitt and Ross were also supposed to have a half interest in the establishment. Moreover, the A. & P. railroad claimed half ownership, saying company funds were used to build it. Furthermore, Boudinot claimed the place was worth \$6,000, while four honest citizens in Vinita had given sworn affidavits that it should be valued at no more than \$1,200. Bell then asserted that "a few facts concerning this man Boudinot's history may serve to throw some light upon the question":

In 1867 Elias C. Boudinot was selected by his nation as one of several to represent their interest at Washington. He betrayed his trust and deserted his people and in turn was discarded by them. He became a self exiled renegade taking up his residence wherever free lunches and dead head passes could be had. Foiled in his treachery to his countrymen he became their worst enemy. In secret he plotted [sic] treason against their government and in public he raised his voice in malicious and slanderous accusations. He became a spendiory [sic] of the Rail Road companies running their



lines through the territory and his chief business was to spread abroad lying reports of lawlessness and anarchy throughout this country, which work he faithfully and zealously pushed, and today under the pretense of a complaint against a man who he shamelessly confesses to have robbed, he attempts to blast the good name of his country and ruin the fortunes of his countrymen.<sup>142</sup>

Layton would not decide in his favor. For five days after the hearing, Boudinot again applied to Secretary Schurz for aid.<sup>143</sup> In late July, Layton made his report. The documentation was great, and Layton admitted that considerable confusion existed. Still, he had a compromise solution. If Boudinot would pay Skinner \$265, with interest, Skinner would be ordered to put Boudinot back in possession of the hotel.<sup>144</sup> Here was an equitable resolution of the dispute, but neither side was prepared to accept it.

Now Boudinot employed a new tactic. His friend T. C. Sears, an attorney for the Katy, complained to Schurz, saying that Eiffert had obtained Boudinot's hotel by fraud and, because the establishment set on the Katy's right-of-way, he wanted Eiffert ejected from the hotel.<sup>145</sup> Soon thereafter, Cherokee Chief Charles Thompson also entered the fracas. He could not find any evidence that Boudinot had been denied a hearing in a Cherokee court, and he insisted that since Boudinot and Eiffert were both legal Cherokee citizens only Cherokee courts had any jurisdiction in the case.<sup>146</sup>

So the matter stood in mid-August 1878. In some respects, the increasingly absurd affair gave credence to Boudinot's arguments about legal uncertainty in Indian nations. The situation was classic: Indian citizens versing each other; an Indian in legal disputation with a citizen of the United States doing business in the Indian Territory; the question of which authorities have jurisdiction over railroad

holdings in the middle of an Indian nation; and a triangular contest between Indian authorities, the War Department, and the Interior Department over the power to settle the issue.

By November of 1878, the Patterson Committee was back at work; this time in the Indian Territory. The examining and cross-examining of witnesses continued, and two of those who gave testimony in the Cherokee Nation were William Boudinot and Sarah Waite. The older Boudinot brother stated that he had supported allotment in severalty, and still did, but when the Cherokee National Council reappointed him editor of the Cherokee Advocate in 1876, he was directed not to write on the subject.<sup>147</sup> Sarah Watie also declared her desire for allotment in severalty. Furthermore, she brought up the hotel issue as an example of injustice under Cherokee law. Eiffert, she said, had taken possession of the hotel while she was at her farm. Therefore, she went to the district clerk for a writ of removal; the clerk denied her one. Nonetheless, she eventually took possession of the hotel, but Eiffert had her evicted with a writ of his own. She further stated that Stand Watie and Boudinot had built the hotel as partners.<sup>148</sup> Regardless of the verity of Sarah Watie's testimony, it was clear that Boudinot had again lost control over the hotel. At the same time, the committee received the impression that coercion and repression existed in the Cherokee Nation.

On November 20, 1878, when the Patterson Committee was in Muskogee, Boudinot received permission to make a major statement before the committee. He argued for the Franklin Bill. It would, he said, give legal protection to the Indians. Furthermore, allotment in severalty would force the Indians to be more industrious, to be more economically productive and self-sufficient. For that reason, he declared,

the railroads wanted a division of lands. They did not want the provisional land grants--that issue was a dead letter--but they did want an increase in the volume of trade originating from the Indian Territory.<sup>149</sup>

By January of 1879, the committee and Boudinot were back in Washington. The workings of the government were again underway. Once more, Boudinot felt burdened and overworked: "I have the business of two committees to do. Keep track of the delegates in the Senate & House, and before the committee, and the whole entire fight before the Senate."<sup>150</sup> He also had one more address to present before the Patterson Committee. His points were essentially the same as those he had made previously on so many occasions.<sup>151</sup> William P. Ross and others also addressed the committee. Ross, however, was pessimistic about the final committee report. On January 19, he wrote to his brother Roberts, "Patterson in my opinion is against us," adding,

Boudinot stated before the committee that he had affidavits stating that several of the persons who appeared before the committee had been abused and threatened and that some of them had disappeared. Patterson said that he had also received a half dozen letters from persons who appeared before his committee to the effect that they had been threatened in consequence. Of course, I don't believe a word of it so far as threats and violence are concerned but it answers a purpose.<sup>152</sup>

In all, Boudinot was proud of his performance. He drafted a letter to James M. Bell on January 22, proclaiming that his speech would be out in pamphlet form the next day: "It is the best I ever made."<sup>153</sup> The printed version also contained an appendix which included copies of the letters purporting of threats to witnesses.<sup>154</sup> His jubilation, however, was short-lived. The pressures of work quickly caught up with him again, for soon thereafter he told Sarah Watie, "I work often till 3 o'clock in the morning & am up at 6 in the morning. I am worn out and half sick."<sup>155</sup> He also noted that Adair was now working with Eiffert

and Hooley Bell in the hotel conflict.<sup>156</sup>

By early February the hotel was once more his abiding concern, and he again wrote to Secretary Schurz. Stating that his hotel was worth \$8,000, he complained that Eiffert had put a white man, W. R. Greaves, in possession of the hotel. He asked that Schurz have the person removed as an intruder in the Cherokee Nation.<sup>157</sup> Later that month, he corresponded with Secretary McCrary, explaining why he would not accept Layton's settlement proposal. He asserted that the \$1,000 was only part of his deal with Skinner. The hotel had cost him \$7,000 to build, he now said. He would give Skinner the \$265, but Skinner had held the property for ten months without paying any rent, which at merely \$50 a month exceeded the debt of \$265.<sup>158</sup> Boudinot would not part with any of his money.

Also in February, the Patterson Committee made its official report. The committee's recommendations were almost exactly what Boudinot hoped for. The committee members suggested that (1) a federal court with civil and criminal jurisdiction be established in the Indian Territory; (2) the territory have a representative delegate in Congress; (3) Indians be made citizens of the United States; (4) conditional land grants to railroads be repealed; and (5) Congress pay the expenses of the congressional delegate as well as those of the Grand Council.<sup>159</sup> These proposals roughly paralleled some of the Caddo resolutions. However, the committee did not call for the allotment of the Indian land in severalty nor did it directly propose making the Indian Territory an official United States territory similar to others. Still, Boudinot must have welcomed the report. It clearly indicated that he had bested his critics, at least before the Patterson Committee. As for the

Cherokee Delegates William P. Adair and William P. Ross, they were far less satisfied with the report. They told the Cherokee people that, under the influence of railroad interests, the senators had, for all practical purposes, called for territorialization of the Indian Territory.<sup>160</sup>

Unfortunately for Boudinot and those who dreamed of seeing the condition of the Indian Territory change, the recommendations of the Patterson Committee elicited little serious response. In fact, in early March the House Committee on Territories recommended against any alteration of the political status of the Indian Territory.<sup>161</sup> This had to have been a blow to Boudinot. The fact was that too many members of Congress, such as his friend T. M. Gunter, were not prepared to have the Indian Territory organized in any manner different than it already was.<sup>162</sup>

Boudinot, however, was far from beaten, neither on the territorial issue nor the hotel debacle. He would continue to lobby and buttonhole recalcitrant legislators and officials. With unflagging resolve, ingenuity, and energy during the forthcoming months and years, he would exhibit his dogged determinism to win the battles he had entered, and some new ones as well.

ENDNOTES

- <sup>1</sup>Jeff J. Hibbetts to James M. Bell, 23 July 1874, CP, WHC.
- <sup>2</sup>Elias C. Boudinot to James M. Bell, 9 August, CP, WHC.
- <sup>3</sup>Undated clipping, E. C. Boudinot file (newspaper clippings), Fort Smith Historical Society, Fort Smith, Arkansas.
- <sup>4</sup>Remarks of Colonel Benjamin T. DuVal, cited in John D. Adams, Elias Cornelius Boudinot (New York: Rand McNally & Co., 1890), p. 45.
- <sup>5</sup>Ibid.
- <sup>6</sup>Ibid.
- <sup>7</sup>Undated clipping, E. C. Boudinot file (newspaper clippings), Fort Smith Historical Society, Fort Smith, Arkansas.
- <sup>8</sup>Ibid.
- <sup>9</sup>Marie Le Baron, "Washington Notables" in Baltimore Weekly Sun, n.d., cited in Oklahoma Star (Caddo, Choctaw Nation), 11 January 1876.
- <sup>10</sup>Grant Foreman, ed., "Indian Pioneer Papers" Vol. 81, p. 22, IAD, OHS.
- <sup>11</sup>Vindicator (Atoka, Choctaw Nation), 12 January 1876.
- <sup>12</sup>Elias C. Boudinot and E. Poe Harris to Secretary of Interior, 12 January 1876, NA, RG75, LR-OIA, M234, R865.
- <sup>13</sup>Ibid.
- <sup>14</sup>G. W. Ingalls to J. Q. Smith, 12 January 1876, cited in Indian Progress (Vinita), 4 February 1876.
- <sup>15</sup>New Era (Fort Smith, Ark.), 19 January 1876.
- <sup>16</sup>Letter in Oklahoma Star, cited in Vindicator, 12 January 1876.
- <sup>17</sup>Ibid.
- <sup>18</sup>Ibid.
- <sup>19</sup>Vindicator, 19 January 1876.

<sup>20</sup>Vindicator, 2 February 1876.

<sup>21</sup>Ibid.

<sup>22</sup>Indian Progress, 28 January 1876.

<sup>23</sup>Ibid.

<sup>24</sup>Indian Progress, 4 February 1876.

<sup>25</sup>"Remarks of W. P. Adair . . . in Relation to the Expediency and Legality of Organizing the Indian Country into a Territory of the United States, January 31, 1876," in Indian Document, I, Oklahoma Historical Society Library.

<sup>26</sup>Ibid.

<sup>27</sup>Elias C. Boudinot, Oklahoma, an Argument by E. C. Boudinot, of the Cherokee Nation, Delivered before the House Committee on Territories February 3, 1876 (Washington: M'Gill & Witherow, Printers and Stenotypers, 1876), pp. 1-7.

<sup>28</sup>Ibid., p. 11

<sup>29</sup>Ibid., pp. 10-11.

<sup>30</sup>Ibid., p. 12.

<sup>31</sup>Ibid.

<sup>32</sup>Ibid., pp. 12-14.

<sup>33</sup>Ibid., p. 19.

<sup>34</sup>Elias C. Boudinot to Senator William B. Allison, 3 February 1876, cited in Indian Progress, 11 February 1876.

<sup>35</sup>Elias C. Boudinot to National Republican, 9 February 1876, cited in Oklahoma Star, 15 February 1876.

<sup>36</sup>New Era, 9 February 1876.

<sup>37</sup>Indian Progress, 25 February 1876. Boudinot may have praised Thompson on this issue, but otherwise he had little liking for the chief. Thompson was a conservative who strongly opposed Boudinot's actions and ideas.

<sup>38</sup>Ibid.

<sup>39</sup>Parsons Sun (Kansas), 26 February 1876; Indian Progress, 18 February 1876; Sentinel (Fayetteville, Ark.), 23 January 1884; 44th Cong., 1st sess., House Exec Doc 132 (serial 1990); 44th Cong., 1st sess., House Exec Doc 134 (serial 1990).

- <sup>40</sup>Kansas City Times, n.d., cited in Indian Progress, 3 March 1876.
- <sup>41</sup>See L. B. Bell to James M. Bell, 14 April, 1864, CP, WHC.
- <sup>42</sup>L. B. Bell to Elias C. Boudinot, 6 March 1876, in Indian Progress, 16 March 1876, cited in Vindicator, 22 March 1876.
- <sup>43</sup>Ibid.
- <sup>44</sup>Ibid.
- <sup>45</sup>Ibid.
- <sup>46</sup>Ibid.
- <sup>47</sup>Joe Cullen Holland, "The Cherokee Indian Newspapers, 1828-1906: The Tribal Voice of a People in Transition" (Ph.D. diss., University of Minnesota, 1956), pp. 428-429; J. H. Beadle, The Underdeveloped West; or, Five Years in the Territories (Philadelphia: National Publishing Company, 1873), p. 408.
- <sup>48</sup>Indian Progress, 28 January 1876, cited in Cherokee Advocate, 1 March 1876.
- <sup>49</sup>Cherokee Advocate, 1 March 1876.
- <sup>50</sup>Cherokee Advocate, 8 April 1876.
- <sup>51</sup>Ibid.
- <sup>52</sup>Ira G. Clark, Then Came the Railroads: The Century from Steam to Diesel in the Southwest (Norman: University of Oklahoma Press, 1958), pp. 119-120.
- <sup>53</sup>Elias C. Boudinot to Charlie Watie, 8 May 1876, CP, WHC.
- <sup>54</sup>Ibid.
- <sup>55</sup>V. V. Masterson, The Katy Railroad and the Last Frontier (Norman: University of Oklahoma Press, 1952), p. 167ff.
- <sup>56</sup>Grace Ernestine Ray, Early Oklahoma Newspapers (Norman: University of Oklahoma Press, 1928), pp. 55-56.
- <sup>57</sup>Elias C. Boudinot to Charlie Watie, 8 May 1876, CP, WHC.
- <sup>58</sup>Parsons Sun, 8 April 1876; Southern Kansas Advance (Chetopa), 13 April 1876.
- <sup>59</sup>Elias C. Boudinot to James M. Bell, 22 July 1877, CP, WHC.
- <sup>60</sup>Elias C. Boudinot to James M. Bell, ? April 1876, CP, WHC.



<sup>61</sup>Ibid.

<sup>62</sup>Ibid.

<sup>63</sup>Henry G. Waltmann, "The Interior Department, War Department, and Indian Policy, 1865-1887" (Ph.D. diss., University of Nebraska, 1962), p. 270ff.

<sup>64</sup>40th Cong., 3d sess., Senate Misc Doc 24 (serial 1361), 28 December 1868.

<sup>65</sup>U. S., Congress, House, David Browning Culberson speaking on bill to transfer Office of Indian Affairs to War Department, 44th Cong., 1st sess., 18 April 1876, Congressional Record, VI, pt. 3, 2750.

<sup>66</sup>Oklahoma Star, 9 May 1876; letter of 8 May 1876 from Elias C. Boudinot, Oklahoma Star, 16 May 1876. For more on this topic, see Donald J. D'Elia, "The Argument over Civilian or Military Control, 1865-1880," The Historian 24 (February, 1962), 207-225; Francis Paul Prucha, American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900 (Norman: University of Oklahoma Press, 1976), pp. 72-102; Henry G. Waltmann, "The Interior Department, War Department, and Indian Policy, 1865-1887."

<sup>67</sup>Oklahoma Star, 16 May 1876.

<sup>68</sup>Elias C. Boudinot to Rep. Wells of Missouri, 14 May 1876, cited in U. S., Congress, House, 44th Cong., 1st sess., 3 June 1876, Congressional Record, IV, pt 4, 3557.

<sup>69</sup>Ibid.

<sup>70</sup>For more on Grand Council, see Allen G. Applen, "An Attempted Indian State Government: The Okmulgee Constitution in Indian Territory, 1870-1876," Kansas Quarterly 3 (Fall, 1971), 89-99, and Curtis L. Nolen, "The Okmulgee Constitution: A Step Towards Indian Self-Determination," Chronicles of Oklahoma 58 (Fall, 1980), 264-281.

<sup>71</sup>U. S., Congress, House, 44th Cong., 1st sess., 3 June 1876, Congressional Record, IV, pt 4, 3557.

<sup>72</sup>Mary Jane Bowler, "The Sioux Indians and the United States Government, 1862-1878" (M.A. thesis, Washington University, St. Louis, Missouri, 1944), pp. 188-194.

<sup>73</sup>James C. Olson, Red Cloud and the Sioux Problem (Lincoln: University of Nebraska Press, 1965), pp. 225-226.

<sup>74</sup>Bowler, "The Sioux Indians," p. 195.

<sup>75</sup>New York Times, 10 September 1876.

<sup>76</sup>Bowler, "The Sioux Indians," p. 194.

- <sup>77</sup>Parsons Sun, 23 September 1876.
- <sup>78</sup>Sentinel, 15 October 1876.
- <sup>79</sup>Bowler, p. 195; Hannah R. Warren, "Reconstruction on the Cherokee Nation," Chronicles of Oklahoma 45 (Summer, 1967), 186.
- <sup>80</sup>Interview with Elias C. Boudinot in St. Louis Globe Democrat, cited in Sentinel, 3 May 1877.
- <sup>81</sup>Ibid.
- <sup>82</sup>Elias C. Boudinot to Mrs. Sarah C. Watie, 23 April 1877, CP, WHC.
- <sup>83</sup>Elias C. Boudinot to James M. Bell, 1 May 1877, CP, WHC.
- <sup>84</sup>Testimony of Elias C. Boudinot at Fort Gibson on 6 July 1878, NA, RG94, Letters Received, Adjutant General's Office (hereafter LR-AGO), M666, R414.
- <sup>85</sup>J. K. Skinner to Elias C. Boudinot, 2 February 1877, CP, WHC.
- <sup>86</sup>Testimony of Elias C. Boudinot at Fort Gibson on 6 July 1878 in Report of Capt. C. Rodney Layton, NA, RG94, LR-AGO, M666, R414.
- <sup>87</sup>Elias C. Boudinot to J. K. Skinner, 21 July 1877, NA, RG94, LR-AGO, M666, R414.
- <sup>88</sup>Elias C. Boudinot to James M. Bell, 23 July 1877; J. Q. Smith to Elias C. Boudinot, 28 July 1877, CP, WHC.
- <sup>89</sup>Elias C. Boudinot to James M. Bell, 30 July 1877, CP, WHC.
- <sup>90</sup>J. K. Skinner and Bros. to W. S. Marston, Agent, 15 August 1877, NA, RG75, LR-OIA, M234, R868.
- <sup>91</sup>Elias C. Boudinot to James M. Bell, 14 October 1877 and 20 October 1877, CP, WHC.
- <sup>92</sup>Elias C. Boudinot to James M. Bell, 2 November 1877, CP, WHC.
- <sup>93</sup>Southern Kansas Advance, 13 December 1877.
- <sup>94</sup>Ibid.
- <sup>95</sup>Ibid.
- <sup>96</sup>Southern Kansas Advance, 3 January 1878.
- <sup>97</sup>Star Vindicator (McAlester), 12 January 1878.
- <sup>98</sup>Elias C. Boudinot to Sarah C. Watie, 28 January 1878, CP, WHC.

<sup>99</sup>Ibid.

<sup>100</sup>Elias C. Boudinot, Oklahoma Argument of Col. E. C. Boudinot Before the Committee on Territories, January 29, 1878 (Alexandria, Va.: G. H. Ramey & Son, 1878), pp. 1ff.

<sup>101</sup>Ibid., p. 33.

<sup>102</sup>Ibid.

<sup>103</sup>Elias C. Boudinot to Sarah C. Watie, 28 January 1878, CP, WHC.

<sup>104</sup>Star Vindicator, 9 February 1878.

<sup>105</sup>Ibid.

<sup>106</sup>Ibid.

<sup>107</sup>Document dated 1 February 1878, CP, WHC.

<sup>108</sup>Elias C. Boudinot to James M. Bell, 3 February 1878, CP, WHC.

<sup>109</sup>Elias C. Boudinot to Mrs. Sarah Watie, 9 February 1878; Elias C. Boudinot to James M. Bell, 12 February 1878, CP, WHC.

<sup>110</sup>Elias C. Boudinot to James M. Bell, 13 February 1878, CP, WHC.

<sup>111</sup>Ibid.

<sup>112</sup>U. S., Congress, Senate, 45th Cong., 2d sess., 14 February 1878, Congressional Record, VII, pt 2, 1050-1051.

<sup>113</sup>U. S., Congress, Senate, 45th Cong., 2d sess., 18 February 1878, Congressional Record, VII, pt. 2, 1131-1132.

<sup>114</sup>Elias C. Boudinot to James M. Bell, 15 March 1878, CP, WHC.

<sup>115</sup>Washington Post, n.d., cited in Star Vindicator, 16 March 1878.

<sup>116</sup>Patterson Committee Report, 45th Cong., 3d sess., Senate Rept. 744 (serial 1839), p. 1.

<sup>117</sup>Ibid., p. 59.

<sup>118</sup>Elias C. Boudinot to James M. Bell, 13 April 1878, CP, WHC.

<sup>119</sup>Patterson Report, p. 103.

<sup>120</sup>Elias C. Boudinot to James M. Bell, 13 April 1878, CP, WHC.

<sup>121</sup>Ibid.

<sup>122</sup>Ibid.

<sup>123</sup>Patterson Report, p. 321.

<sup>124</sup>Ibid., pp. 434-436.

<sup>125</sup>Ibid., p. 436.

<sup>126</sup>W. S. Marston to Elias C. Boudinot, 12 March 1878, NA, RG94, LR-AGO, M666, R414.

<sup>127</sup>Elias C. Boudinot to James M. Bell, 5 May 1878, CP, WHC.

<sup>128</sup>Elias C. Boudinot to Mrs. Sarah C. Watie, 7 May 1878, CP, WHC.

<sup>129</sup>Ibid.

<sup>130</sup>Ibid. At this time, Adair was also trying to make good his claim on the Osages for his services in 1872-1873. Therefore, it was to his advantage to keep Gunter on his side not only on the territorial issue but also for pressing his claim against the Osages. Boudinot also believed that Hooley Bell was also interested in the Osage claims. Thus, he asked Mrs. Watie to tell Bell that he could defeat Bell's and Adair's plans to get money from the Osages. In making this threat, he declared, Bell "has engineered Eiffert into my property, he has the power to engineer him out."

<sup>131</sup>Elias C. Boudinot to Carl Schurz, 29 May 1878, NA, RG75, Special Case 51, Boudinot Hotel Case (hereafter SC 51).

<sup>132</sup>Ibid.

<sup>133</sup>Elias C. Boudinot to George W. McCrary, 29 May 1878, NA, RG94, LR-AGO, M666, R414.

<sup>134</sup>Gordon Langley Hall, Vinnie Ream: The Story of the Girl Who Sculpted Lincoln (New York: Holt, Rinehart and Winston, 1963), p. 120.

<sup>135</sup>O. B. Campbell, The Story of Vinnie Ream (Vinita, Okla.: Eastern Trails Historical Society, n.d.), p. 121.

<sup>136</sup>O. B. Campbell, Vinnie Ream, p. 25.

<sup>137</sup>Elias C. Boudinot to Henry Eiffert, 30 May 1878, CP, WHC.

<sup>138</sup>Elias C. Boudinot to James M. Bell, 6 June 1878, CP, WHC.

<sup>139</sup>Memo on Action on 3930 in Layton Report, NA, RG94, LR-AGO, M666, R414.

<sup>140</sup>Elias C. Boudinot to James M. Bell, 17 June 1878; Elias C. Boudinot to Mrs. Sarah Watie, 18 June 1878, CP, WHC; Elias C. Boudinot to Secretary of War, G. W. McCrary, 29 May 1878, NA, RG94, LR-AGO, M666, R414.

- 141 Testimony of J. K. Skinner at Fort Gibson on July 1878 in Layton Report, NA, RG94, LR-AGO, M666, R414.
- 142 Argument of L. B. Bell on 6 July 1878 in Layton Report, NA, RG94, LR-AGO, M666, R414.
- 143 Elias C. Boudinot to Carl Schurz, 11 July 1878, NA, RG75, SC51.
- 144 Layton Report, NA, RG94, LR-AGO, M666, R414.
- 145 T. C. Sears to Carl Schurz, 5 August 1878, NA, RG75, SC51.
- 146 Charles Thompson to G. W. McCrary, 15 August 1878, NA, RG94, LR-AGO, M666, R414; Charles Thompson to C. C. Lipe, 15 August 1878, CP, WHC.
- 147 Patterson Report, p. 603.
- 148 Ibid., p. 52.
- 149 Ibid., pp. 609-641.
- 150 Elias C. Boudinot to James M. Bell, 11 January 1879, CP, WHC.
- 151 Patterson Report, pp. 260-285.
- 152 William P. Ross to Robert Ross, J. I. Hargett Collection, Microfilm Box 3, WHC.
- 153 Elias C. Boudinot to James M. Bell, 22 January 1879, CP, WHC.
- 154 Elias C. Boudinot, Argument of Elias C. Boudinot, Submitted to the Senate Committee on Territories, January 17, 1879 (Washington, D. C.: Thomas McGill & Co., 1879), pp. 68-73.
- 155 Elias C. Boudinot to Mrs. Sarah C. Watie, 29 January 1879, CP, WHC.
- 156 Ibid.
- 157 Elias C. Boudinot to Carl Schurz, 5 February 1879, NA, RG75, SC51.
- 158 Elias C. Boudinot to G. W. McCrary, 24 February 1879, NA, RG94, LR-AGO, M666, R414.
- 159 Patterson Report, p. v.
- 160 Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), p. 204.
- 161 Roy Gittinger, The Formation of the State of Oklahoma 1804-1906 (Norman: University of Oklahoma Press, 1939), pp. 116-117.
- 162 Sentinel, 4 June 1879.

## CHAPTER XI

### OLD BATTLES AND NEW

By March of 1879, Boudinot had reason to hope that Congress would enact an Indian bill to his liking. Nothing, however, had been settled yet, but there was room for hope--which Boudinot never seemed to lack. Indeed, George Reynolds was sanguine. He informed the editor of the Parsons Sun that Congress would pass such legislation in the forthcoming session. It would grant citizenship to Indians, provide for an Indian delegate to Congress, and repeal the conditional land grants to railroads. As a result, he said, the Indians could be "made the wealthiest people in all the land," an end toward which Boudinot had "worked with untiring energy, ability and industry."<sup>1</sup> But despite Reynolds' optimism, the fight was far from won.

As before, Boudinot worked for this desired legislation, but at the same time he still had his hotel to worry about. On that matter, he concocted a new ploy by which to get control of the place. He would induce W. R. Graves to pay him, not Eiffert, rent. On March 2, Boudinot sent Graves a letter and a document signed by T. C. Sears, designating Graves as an assistant attorney for the M. K. & T. Boudinot told Graves, "this will make you perfectly secure in possession of my Hotel as long as you & I agree. Eiffert [Hooley] Bell & co may gnash their teeth in vain: they cannot have you removed."<sup>2</sup> Besides, he added, soon both the War and Interior Departments would

issue orders giving him possession of the building. If Graves cooperated, he could continue to be proprietor of the hotel. Moreover, Boudinot would try to get Graves an appointment as a Deputy United States Marshal. Then, too, he would charge Graves less rent than Eiffert did. He cautioned Graves, however, not to tell anyone of this deal, not even James M. Bell.<sup>3</sup>

Whether Graves accepted Boudinot's offer is unclear. Boudinot later produced a letter supposedly written and signed by Graves accepting the Katy's position, but Graves swore that it was a forgery.<sup>4</sup> Indeed, the handwriting in the document closely resembled that of Boudinot.<sup>5</sup> Whatever the truth, Boudinot soon turned against Graves. On June 19, he once more complained to Secretary Schurz about Graves. He said that since March 7 he had rented his hotel to Graves, but Graves had not paid any rent. Therefore, he again requested that Graves's permit to work in the Cherokee Nation be revoked.<sup>6</sup> Eiffert, however, claimed that the whole affair was part of a conspiracy by Boudinot and Sears to dispossess him. In January of 1879 he had leased the hotel to J. T. Cunningham, a Cherokee, and Graves merely operated the business for Cunningham: Graves never had possession of the hotel. In fact, Eiffert pointed out, at the time Boudinot addressed his complaint to Schurz, he was living in the hotel.<sup>7</sup>

About the same time, the Army began to shy away from involvement in the controversy. Since Captain Layton's compromise had not been accepted, he now informed the Adjutant General that, although Boudinot had been "wrongfully and fraudulently" deprived of his property, the settlement of the dispute was not within the purview of the War Department.<sup>8</sup> He furthermore opined that the Cherokee courts should handle

the case and that Skinner was not implicated in any plot and should not be removed as the Post Trader at Fort Gibson.<sup>9</sup> The War Department was extracting itself from the matter.

While Boudinot fretted about his hotel, his fertile brain produced a new idea, one which could prove profitable for himself and others in the Cherokee Nation. Why not establish settlements on the unoccupied lands in the Indian Territory? In early February, he broached the possibility to Bell: "I am for establishing a colony west of 98. We can do this without authority of the U. S. or any body else."<sup>10</sup> The region Boudinot had in mind was the Cherokee Outlet and the lands which the tribes had ceded to the federal government in the treaties of 1866.

The land, he reasoned, belonged to the Indians in the first place. Some had been ceded for resettling other Indians and freedmen after the Civil War, but only a few tribes had been placed on the land, and no freedmen had been relocated there. In particular, the Cherokee Outlet still belonged to the Cherokee people, who had fee simple title to it. Therefore, if the United States government had not yet settled any other Indians on it, Cherokees had a perfect right to use the land. As for the other areas, the United States government owned the land by treaty-- it was public property.

With this interpretation of the situation in mind, Boudinot composed a letter to the Chicago Times stating that millions of acres in the Indian Territory were in fact public domain, not Indian land. His declaration started a flood of inquiry. Would-be white homesteaders wanted more information. If the land were truly part of the public domain, then it was legally subject to homesteading. Boudinot was



barraged with inquiries after several other newspapers reprinted his letter.<sup>11</sup>

Publicly responding to inquiries from Augustus Albert, Boudinot elaborated on his understanding of the situation. He also extolled the quality of the land. "The soil," he informed Albert, "is well adapted for the production of corn, wheat, and other cereals. It is unsurpassed for grazing, and is well watered and timbered."<sup>12</sup> Furthermore, he declared that the United States had "absolute and unembarrassed title to every acre of these 14,000,000 acres," except perhaps for 1,054,544 acres occupied by the Sac and Fox and Pottawatomie. And in response to Albert's request for accurate maps, Boudinot prepared one. In all, Boudinot presumed that almost all the ceded Indian lands, Kiowa, Comanche, Apache reservations, and the area with Cheyennes and Arapahoes on it were part of the public domain.<sup>13</sup>

For Boudinot to assert that the Cherokee Outlet or the ceded lands were unoccupied or unused was not quite true. Officially, no settlements existed on those lands, but stockmen grazed their animals on them. Moreover, the Cherokees attempted to collect taxes from the grazers--Hooley Bell was the tax collector and Eiffert aided him. Rather than deterring Boudinot, though, the fact that whites had interest in the land only enhanced his vision of a colony. He told James M. Bell to recruit twenty or thirty Cherokees for the enterprise and then to have them get work permits for four or five white men each. The whites should be cattlemen. Furthermore, they should refuse to pay any taxes to the Cherokee government; the white ranchers would technically be grazing Cherokee cattle, not their own. "If Hooley and Eiffert should

take a single head," he averred, "they could be indicted as the Barkers were."<sup>14</sup>

Boudinot also suggested that once the colony was established the members should opt for allotment of land, and they should not let anyone, except federal officials, interfere with their operations. "Your members," he enthusiastically predicted, "would grow rapidly; hundreds would come in from Kansas and rent from you."<sup>15</sup> However, the organization would have to be secret at first. But no matter, he would "work away on programmes for the colony."<sup>16</sup> By April 1, his enthusiasm was heightened even more, especially by the map of the region which he was making for publication. "I tell you," he crowed to Bell, "it will be a rush; they will pour into the Creek & Seminole ceded lands, and we will be their neighbors on our own soil; we will stick together and all Hell cannot prevail against us."<sup>17</sup>

Bell, however, was slow to act. Thus, about two weeks later Boudinot urged him to move and to do so forthwith: "You go on and take care of this, and I will be with you just as soon as I can. We have struck the Key note . . . but don't wait for me, go ahead! & quickly."<sup>18</sup> Boudinot promised that he would "contribute liberally for seeds & grain."<sup>19</sup> Bell should not tarry, for this was the chance for a new beginning. "Let everyone oppressed by the infamous laws of our Nation fix up his affairs & go West. We can be independent of the thieves, & hold our own, too, in the Nation."<sup>20</sup> The spirit of entrepreneurial boosterism filled Boudinot.

While Boudinot planned for his colony, his assumption that whites would follow his lead proved correct. From everywhere Boudinot and T. C. Sears received inquiries for more information. Sears confidently

predicted that Congress would have no choice but to open the public land in the Indian Territory to white settlers.<sup>21</sup> Least happy about Boudinot's revelations were the Indians. They did not want any whites moving into the Indian Territory, certainly not uncontrolled homesteaders. The Cherokee delegation thus protested to E. A. Hayt, the Commissioner of Indian Affairs. They declared that Boudinot and Sears were acting in collusion with the railroads; they strongly denounced any effort to take "forcible possession" of Indian land.<sup>22</sup>

The Cherokees had good reason for concern. C. C. Carpenter, a somewhat nefarious individual who earlier had tried to force the opening of the Black Hills, arrived in Kansas in April, promoting mass immigration into the Indian Territory. A stiff warning from the Army detracted Carpenter from his activities, but the damage had been done. Farmers and frontiersmen looking for a new start flocked to southern Kansas and prepared to stake claims in the Indian Territory. In turn, the merchants in nearby Kansas towns encouraged these homeseekers, for they wanted to outfit these land-hungry souls.<sup>23</sup>

The ground swell of white homesteaders and Carpenter's antics caught Boudinot by surprise. He had imagined such happening, but not so quickly.<sup>24</sup> Now it became imperative that Bell get their colony scheme underway immediately. He suggested that Bell make his headquarters in Caldwell, Kansas. Furthermore, he wanted Bell to find a trustworthy person to distribute his maps throughout the Cherokee Nation, especially among certain whites and blacks in the Nation whom the Cherokee government wanted to remove as intruders.<sup>25</sup>

To the dismay of the white homeseekers but not to Boudinot, the federal government acted to stop the exodus of whites from Kansas into

the Indian Territory. With prompting from the Indian delegations supported by Secretary Schurz, President Hayes proclaimed on April 26, 1879, that no one could settle in the Indian Territory without the permission of the United States government. Those who did so without authorization would be removed.<sup>26</sup> Hayes's proclamation, Boudinot thankfully told Bell, would "check the movements of Carpenter just about long enough for us to get settled."<sup>27</sup>

By early May, cavalry troopers were escorting illegal white settlers out of the Indian Territory, and a harsh warning from John McNeil, an inspector for the Bureau of Indian Affairs, sent Carpenter scurrying into hiding. Privately, Boudinot had to be pleased, but publicly he asserted that the use of soldiers to stop the invaders was "bosh and buncombe. They dare not do it; they cannot do it."<sup>28</sup> And when asked what other Indians the government was holding the land in trust for, the colorful and quotable Boudinot responded, "Damfino."<sup>29</sup>

Despite his bombast, Boudinot was concerned about the situation, particularly the possibility of a military response to his and Bell's projected settlement. He concluded, however, that the troopers would have no authority over them, for their enterprise would be on the Cherokee Outlet, which legally still belonged to the Cherokee Nation. Neither the United States government nor the Cherokee government could stop Cherokee citizens from making improvements on Cherokee land. The law was on their side. Nonetheless, he knew how the Cherokee authorities would undoubtedly react: negatively. Still, he was riding high, bolstered by the apparent impact of his letters, interviews, and most particularly his maps. "My maps," he gloated to Sarah Watie, "have been of the greatest service; I regard them as the greatest work of my

life and you will live to see the power and influence they possess."<sup>30</sup>

Indeed, Boudinot had fostered an imposing new movement. Settlers continued to flood into the Indian Territory, despite the roving cavalry detachments looking for them.<sup>31</sup> For Boudinot, the problem was Bell: He could not delay any longer. Thus, in late April, Bell left Vinita, reportedly with sixty-five Cherokee families intent on settling on the Cherokee Outlet.<sup>32</sup> By late May, they had established a camp on the Chikaskie River, when, on May 28, Sergeant J. M. Warren of the Fourth Cavalry and his patrol arrived at Bell's encampment. Warren did not find sixty-five families. He counted Bell and six other Cherokee mixed bloods plus eight whites. That, however, was enough for the sergeant. He arrested Bell for trespassing. In fact, Bell looked so much like a white that Warren refused to believe he was a Cherokee. Bell and his followers were escorted to Arkansas City, Kansas.<sup>33</sup>

Boudinot had anticipated something like this happening. Apparently, Inspector McNeil had the same idea, and Boudinot knew of McNeil's activity. The day before Bell's arrest, Boudinot wrote to his friend saying that McNeil had no right to remove him from Cherokee land and, if he were removed, he should go back, immediately. Moreover, Boudinot intended to write his friend General Sherman, "requesting that he order that no citizens of the Cherokee Nation be molested by the military."<sup>34</sup> He was also preparing a memorial to Congress on the subject and asking for legislation to protect Cherokee citizens.<sup>35</sup>

Soon after Bell's arrest, Boudinot hastily wrote a resolution calling for an investigation of the matter--one of his friends in the Senate would introduce it. At the same time, he had not given up on the colony. Bell should go back. But again the two men disagreed. Bell wanted

Boudinot to procure the work permits for his white cohorts. Boudinot, however, refused. Bell must do that; he should order them from Chetopa, which had become the headquarters for Bell's organization, The Indian Territory Colonization Society. "Don't you know," Boudinot angrily wrote, "the Indian office is dead against me."<sup>36</sup> The officials in the Indian Bureau should have been disgusted with and antagonistic to Boudinot; he had once more complicated their affairs.

On June 4, Senator Voorhees introduced the resolution Boudinot had prepared. It called for the War Department to apprise the Senate of the circumstances of Bell's arrest and removal from the Cherokee Outlet. In support of the resolution, Voorhees read letters from both Bell and Boudinot. Boudinot's remarks were pointed and caustic:

I believe the arrest of Colonel Bell and his companions and the threatened destruction of their property is to be ascribed to the ignorance of the officer in command [Lieutenant W. W. Barrett]. Like necessity, an officer on the frontier is not supposed to know the law, yet the injury and outrage to Bell and others is none the less. It would be interesting to know what the policy of this great Government really is in respect to the arrest of Indians by United States troops. One day we see Ponca Indians arrested by soldiers, to be dragged into the Indian Territory, and the next we see Cherokee Indians arrested by the soldiers and dragged out of it.<sup>37</sup>

This reference to the plight of the Poncas should have made at least a few of the solons fidget in their seats. Not long before, when a few Poncas had attempted peaceably to return to their old homes in Nebraska, soldiers had forced them back to their reservation. To many sympathetic white Americans, the severity of the military's action was an outrage. Public support rested with the pitiful Poncas, and Boudinot cleverly, and sarcastically, reminded the Senate of that situation. The Ponca case and the Bell case were completely different, however, and everyone, including Boudinot, knew that.

Voorhees made his speech in the morning, and that afternoon Boudinot drafted a letter to Bell, urging him to "Keep cool; I think all will be well soon."<sup>38</sup> The next day he wrote again, suggesting that Bell bring a lawsuit against Lt. Barrett for false arrest. Boudinot would bear part of the expense. "I know all about this fellow Barrett," he wrote, "and will ventilate him in the Kansas City Times."<sup>39</sup> In the meantime, he would appeal to General Sherman to have the property of Bell and the others returned. Again, he urged Bell to get permits for his white followers, but this time Bell should apply to the Commissioner's office from the Cherokee Nation. He also referred to a report that he might be in danger, legally. Boudinot with his characteristic verve dismissed the rumor: "The talk about arresting me is the silliest twaddle. Should they do so, I would get \$10,000 damages. I wish they would try."<sup>40</sup>

Regardless of Boudinot's bravado, the Cherokee delegation welcomed Bell's arrest. On June 8, Adair informed Chief Thompson of the affair, saying that the War Department "has information, that Bell has conspired with white-people, citizens of the United States to take possession of our country west of the Arks river."<sup>41</sup> A few days later, Adair and another Cherokee delegate declared to Secretary of War McCrary that settlement on the Outlet, even by Cherokees, was illegal and that the Cherokee government did not support the "lawless enterprises" of Bell and Boudinot.<sup>42</sup>

As for Boudinot and Bell, they were still scheming. Boudinot decided that Bell could not look to the Interior Department for help. However, if Bell could get labor permits from that department, he could again settle in the Outlet and thereby have a decision on the question

of the right of a Cherokee to reside in the Outlet.<sup>43</sup> Boudinot suggested that Bell personally ask the Secretary of the Interior to allow him to return to his home and property. Bell, he continued, should assure the Secretary that he and his fellow Cherokee homesteaders were not trespassers and that they had "no connection whatever with any scheme to settle on the so-called ceded lands."<sup>44</sup> Boudinot further emphasized, "We dont ask the U. S. to protect us; only let it keep its hands off, & we can protect ourselves."<sup>45</sup>

All did not go well for Boudinot, however. He had to defend Bell's actions before the Interior Department, where he was at a disadvantage, for the Cherokee delegates had condoned Bell's arrest. As he told Bell, "they have the advantage of me in the Dep't. because they have money & officially represent the Nation. I have employed an Atty. & have been obliged to deliver lectures to get money."<sup>46</sup> As always, Boudinot's finances were strained and the odds were against him. Eventually, Commissioner of Indian Affairs Hayt pronounced that Cherokees could not settle in the Outlet without the permission of tribal authorities.<sup>47</sup>

Regardless of Hayt's decision, Boudinot and Bell were not restrained. Bell would return to the Outlet. At the same time, the efforts of whites to stake claims in the Indian Territory had not abated. Individually or in small groups, they continued to trek into the region, from all sides. For example, G. W. Stidham in the Creek Nation informed Creek chief Ward Coachman in July that some men from Arkansas were then in the Creek Nation: "come here on their way to Oklahoma, the land where even the air is sweet as the breezes from spice Island. They had seen Col. Boudinot;--star appears in the west--and have come to worship him."<sup>48</sup> Indeed, the Cherokees were not the only Indians upset



by Boudinot, and there was still talk that the Cherokees would arrest Boudinot.<sup>49</sup> Likewise, speculation abounded that his life might be threatened.<sup>50</sup> Despite such conjecture, Boudinot remained optimistic, and he was especially heartened in October when Dennis Bushyhead was elected Principal Chief of the Cherokees. Unlike Thompson who spoke no English and represented, at least to Boudinot, the backward element of the tribe, Bushyhead was a literate and competent man. In fact, like William P. Ross, Bushyhead had attended Princeton University, but unlike Ross, Bushyhead seemed more attuned to the progressive members of the tribe. Bushyhead's elevation to Principal Chief spelled the end of Ross's influence and curtailed Adair's power, or so Boudinot thought, obviously hoping that Bushyhead would be attuned to his program for change.<sup>51</sup>

At the same time, Boudinot rivetted his attention on the unoccupied lands in the Indian Territory, especially the Cherokee Outlet. The Indian Bureau was talking of placing the Utes somewhere in the Territory, and Boudinot was determined to stop that. He would engineer the placing of a clause in the next Indian Appropriations Act which would stop the settlement of any more Indian tribes in the Territory. Moreover, he adamantly opposed selling any more Cherokee land to the federal government--that land would be the source of his future wealth. Indeed, all his holdings, as well as those of Bell and Sarah Watie, were destined to accrue in value in value as the railroads moved westward.<sup>52</sup> Now was not the time to give up. Above all, he demanded that the Outlet remain in Cherokee hands.<sup>53</sup> However, he also began to think that perhaps even more could be gained. The Army had stopped white intruders from squatting on the ceded lands, but would they also

deter Indians from doing so? Thus, in December, 1879, he encouraged Bell and his group to move onto that region; he would be the brains behind organizing this new colony.<sup>54</sup>

Bell probably did not act on this advice. He was too busy just trying to survive on the Outlet. Things were not going well for him. By late March of 1880, he was desperate and broke. He told his sister Sarah Watie, "I have got down to the last dollar I brought out with me."<sup>55</sup> Moreover, he bitterly remarked that he had "not received a scratch" from Boudinot.<sup>56</sup> As usual, Boudinot's plans and promises proved bigger than his pocketbook. On the other hand, Boudinot had used much of his money in Washington trying to defend the operation in the face of insurmountable opposition. In the end, the colony was a bust.

While Bell no doubt suffered from the cold of the long winter in the Outlet, Boudinot faced the heat in Washington. He was under fire again, and tempers were short. He particularly had hard feelings about the delegation. They had dogged his every move with disapproval, not just on Bell's colony but also on his hotel claim. In early January, the pent up tension and frustration broke out. Boudinot and Adair physically fought each other outside of the office of the Commissioner of Indian Affairs. As Boudinot reported to Bell, Adair had "grossly insulted" him; therefore, "as soon as we got out of the presence of ladies," he struck Adair with his walking stick.<sup>57</sup> "He is badly marked," Boudinot commented; "I got off without a scratch."<sup>58</sup> A newspaper account of the incident presented a slightly different picture. The two men reportedly were contesting some property ownership, and Adair's language had offended Boudinot. The

Cherokee delegation, William A. Phillips, and some congressmen were on hand. When the group left the Commissioner's office, Boudinot and Adair exchanged more words, "which resulted in an interchange of blows and the parties clinching fell on the floor."<sup>59</sup> The startled onlookers separated the two. Boudinot, by this account, had "a little abrasion on his left ear, and Col. Adair has a somewhat delapidated frontpiece."<sup>60</sup>

This altercation received considerable press coverage. It made a juicy story. But some of the accounts differed on the cause of the fracas. One purported that Adair had become hostile toward Boudinot because of his articles and speeches promoting the opening of the Indian Territory to white settlers. In particular, Adair reportedly accused Boudinot of inspiring the actions of David Payne.<sup>61</sup>

David Payne had taken up where Carpenter left off. Payne was a man of questionable reputation. In the eyes of some, he was a hero; in others', ne'er-do-well frontiersman and border ruffian. Following an unstable career in Kansas politics, Payne had held a few minor posts as an employee of the House of Representatives. During that time, he came to know Boudinot, and apparently the two men quickly became friends. They came from the same region of the country, but more significantly, on the issue of "Oklahoma" they thought alike. Then when Carpenter's ill-fated endeavors ceased, Payne decided to put himself in the forefront of the movement to open the unoccupied lands. By early August of 1879, he had returned to Kansas and prepared to establish his own organization of settlers. Boudinot's assertions were gospel to Payne; he continually quoted the Cherokee. Thus, as he prepared his plans, he began making speeches, declaring his intention of storming the Indian Territory with white settlers. He would do so, he said, by

engaging fifty Indians and fifty freedmen who would secure "work permits" for his white followers. This idea was just like Boudinot's for Bell's colony. That, supposedly, was what rubbed Adair so badly.<sup>62</sup>

Also in January of 1880, Boudinot again pressed his hotel claim. Given the confusion and discrepancies in the case, not to mention the question of jurisdiction, the Office of Indian Affairs acted hesitantly, but act it did. Agent Tufts sent a member of the Indian Police, by order of the Commissioner of Indian Affairs, to reside in the hotel in order to make sure that the building did not change hands again.<sup>63</sup> Eiffert, fuming with anger, asked Adair to do something.<sup>64</sup> The same day that Eiffert penned a letter to Adair, Boudinot also took his pen in hand. Once more he appealed to the Commissioner of Indian Affairs, recounting his woeful tale: Chief Thompson had refused to let him sue Eiffert in the Cherokee courts because the hotel was on railroad land. Although Thompson's order was later rescinded, by that time Eiffert had placed Graves in the hotel. However, the clever Graves had also entered into a contract with Boudinot but then refused to pay any rent to Boudinot. But because Graves was a white man, Boudinot could not sue him in Cherokee courts; and as the conflict was a civil problem, not criminal, the federal court in Fort Smith had no jurisdiction. Therefore, Boudinot begged the Commissioner to intercede.<sup>65</sup>

Again the Cherokee delegation in conjunction with attorney William A. Phillips told Commissioner Hayt that only the Cherokee courts had the right settle the issue.<sup>66</sup> At this point, J. T. Cunningham asserted his position. He wrote Adair that Eiffert had leased the hotel to him. However, if Boudinot would pay the debts that he owed on the hotel to Cunningham, Boudinot could have the place.<sup>67</sup> Apparently, Cunningham was

either fed up with the whole affair or fearful that this time Boudinot would win, which he did. On January 17, 1880, Boudinot informed Bell that the Interior Department had decided the case in his favor. His sense of triumph was clouded by some bitterness toward his brother William, who, he wrote, "may reflect with satisfaction that he never lifted his finger to help his own brother when it was in his power to do so he was afraid of the power of that Idiot Adair."<sup>68</sup>

By this time, however, another white man, William Kellerman, operated the hotel. Therefore, Secretary Schurz instructed Agent Tufts to evict Kellerman and to put Boudinot in possession of the place.<sup>69</sup> Boudinot, in turn, warned Schurz that Eiffert would resist Tufts by "force of arms."<sup>70</sup> In fact, Cherokee delegate John L. Adair attributed Schurz's directive to Tufts as a result of Boudinot's allegation that Eiffert was prepared to use violence to keep the hotel.<sup>71</sup>

Boudinot gained control of the hotel in April, and the new Secretary of the Interior, Samuel J. Kirkwood, advised Boudinot to be more careful in choosing a tenant.<sup>72</sup> Boudinot, however, rented the hotel to Kellerman! Apparently, like Graves, Kellerman had no aversions to striking a deal with Boudinot; he would just pay his rent to Boudinot instead of Eiffert or Cunningham.<sup>73</sup> But Boudinot was not finished yet. He still wanted retribution from Skinner, and thus his attorney filed suit against Skinner for \$1,800--two years rent.<sup>74</sup> Skinner had caused the whole problem, so Boudinot wanted to have his vengeance on the double-dealing merchant.

The matter did not end here, however. Eiffert secured an order from the Clerk of the Cooweescooee District Court authorizing "any lawful officer" to eject Kellerman and place the hotel back into

Eiffert's hands.<sup>75</sup> Concurrently, Bushyhead took up where Thompson left off on the issue, arguing that only the Cherokee courts could rightfully adjudicate the matter. Moreover, he resented Boudinot's claim that the Cherokee courts refused to hear the case, and in May, he forwarded to Hooley Bell depositions from each of the seven clerks of the Cherokee district courts stating that Boudinot had not only never been denied a hearing but also that he had never asked for one.<sup>76</sup> Boudinot, who had publicly impugned the integrity of the Cherokee Nation, would be shown to be a liar and the proper authority of the Cherokee government maintained.

In November, this authority was exerted. The Sheriff of the Delaware District evicted Kellerman from the hotel and once more placed Eiffert in possession.<sup>77</sup> The process would begin again--charge and counter-charge, protests and appeals. The vexing contest could not be ended.

Nor could other disputes be easily dispelled. The relationship between Boudinot and Payne caused the Cherokee even more problems. For one, Commissioner Hayt held Boudinot partially culpable for Payne's activities. Payne talked of recruiting thousands of families to invade the Indian Territory and made several speeches in southern Kansas drumming up support for his organization. Hayt, in turn, referred to Payne's plans as "Boudinot's unlawful scheme."<sup>78</sup> On the defensive, Boudinot informed the Commissioner that he had "never assumed that those lands [the ceded lands] were open for settlement under the Homestead or preemption laws, or any other laws; on the contrary, I have advised all who have applied to me for information that no legal settlement of these lands could be made at present."<sup>79</sup> But he had no apologies for

his maps or his letters, which he considered legally and factually accurate. Moreover, he declared that he "would immeasurably prefer to see those lands cultivated by white farmers, than to have them dedicated to the unsubstantial and unprofitable use of savages."<sup>80</sup> At the same time, he expressed his approval of Hayt's and the Secretary of the Interior's recommendation that the Indians be able to hold their lands in severalty.<sup>81</sup>

Boudinot told Hayt a half-truth. Perhaps he had never directly told people they could legally settle on the land, but he had not discouraged them from doing so either. Furthermore, he supported Payne. In fact, a few weeks later, in early March, 1880, he traveled to Kansas City to address a Boomer rally arranged by the Kansas City Board of Trade. William W. Bloss, a member of the staff of the Kansas City Times, had set up the meeting, asking Boudinot, Congressman Franklin, and others to speak.<sup>82</sup> Boudinot accepted the invitation in order to promote an Oklahoma bill which his friend Senator George Vest of Missouri had recently introduced in the Senate, to "explain the bill so every one of common sense could understand it."<sup>83</sup>

At the gathering, Boudinot told the audience that settlers could not legally occupy any land in the Indian Territory, but they should pressure Congress to pass a law allowing them that right. He also called for a territorial government for the Indian Territory. When the speeches were over, the attendants selected a committee to compose a memorial to Congress, requesting that a territorial government be established in the Indian Territory, land be allotted to the Indians in severalty, the Indians be made citizens of the United States, and whites

be allowed to settle in the territory. The memorial thus parroted Boudinot's words.

The cheering for Boudinot had hardly died when he read the newspaper accounts of his speech and the meeting. These reports distressed him. He had been misrepresented, and that could have ill effects in Washington. In particular, he worried about how General Sherman, the commander of the Army and his good friend, would react. Therefore, he swiftly wrote Sherman, explaining his remarks. Most importantly, he assured the general that he had not encouraged any illegal actions. He did not consider the ceded lands open for homesteading; he only urged that they be opened in a "legal and proper way."<sup>85</sup> Sherman responded a few days later. He had been glad to receive Boudinot's missive because the newspapers had reported Boudinot "as favoring violent invasion into the Indian Territory."<sup>86</sup> And with regard to the question, Sherman stated his own view: "When the Cherokees and Arapahoes see the fine improvements on the Kansas side of the line . . . they will surely imitate these farmers and grazers, or consent to take land in severalty and sell the balance for their own benefit."<sup>87</sup> Sherman's concepts were as wrong as Boudinot's. Most Indians did not want to "progress" as Boudinot always stated, nor would they readily emulate their white neighbors as Sherman believed. Still, Boudinot must have been relieved that Sherman was not angry with him, for as he had written, with sincerity, "I do not wish to be understood by one, who with all of his family, has ever treated me with such uniform kindness."<sup>88</sup> Boudinot had no wish to alienate such a powerful figure as Sherman.

If Boudinot had smoothed his personal relations with Sherman, the general and the rest of the Army soon had reason to harbor hostility,



for Payne had entered the Indian Territory with a body of homesteaders. In early May, troopers arrested him and ushered the Boomers out of the Territory. In July, the redoubtable Payne led another invasion into the Indian Territory. Again the Army incarcerated him and shepherded the would-be settlers away. Payne then demanded his day in court. He wanted to have a trial before Judge Parker at Fort Smith. Boudinot lent his support to Payne, saying that Payne's acquittal would open the territory. He declared that Payne would be acquitted, for the Boomer had broken no laws.<sup>89</sup> The Army, particularly General Pope who commanded the military district which included the Indian Territory, opposed bringing Payne to trial. President Hayes, however, took a different view. He decided that the government would bring charges against Payne for violation of the Indian Intercourse Act of 1834.<sup>90</sup> For awhile, Boudinot was one of Payne's attorneys.<sup>91</sup>

Certainly Payne had broken the law, which Boudinot steadfastly maintained he never condoned or encouraged. Yet, he was quick to side with his adventurous friend, for he now saw a legal way to open the territory without battling with restive congressmen. Perhaps, too, he believed that his other friend, Isaac Parker, might be swayed, if not by the law, by the popularity of Payne's cause on the frontier. Not everyone, however, accepted or admired the glib-tongued Cherokee or the brash Payne, and at least one Kansas editor expressed this sentiment when he wrote, "Payne, Boudinot, Carpenter and the whole outfit are a set of plotting hirelings of the railroad companies. . . . They ought to be whaled out of the country."<sup>92</sup>

By the middle of January, 1881, Boudinot was again hard at work in Washington. Although Payne's case and his hotel case were certainly

on his mind, his tobacco case once more occupied his time. With the aid of Voorhees and others, Boudinot was pressuring Congress to pass a bill allowing him to sue the government for damages in the Court of Claims. Of course, he still battled against the Cherokee delegation. Moreover, he had lost his respect for Bushyhead. The Principal Chief, whom Boudinot had once praised, had proved to be as antagonistic as William P. Ross or Charles Thompson.<sup>93</sup> Thus, when James M. Bell spoke critically of Bushyhead, Boudinot replied: "Your statement concerning the imbecility and failure of Bushys Administration coincides with what I have heard from various sources. I always knew Bushy had more stomach than brains."<sup>94</sup>

As before, he had only contempt for the Cherokee delegation. He gingerly told Bell that although the delegates thought he was energetically fighting them, he was so absorbed in the tobacco case there was "time for little else."<sup>95</sup> But he added with his usual self-assurance, "I can make this little trio feel my hand when I please."<sup>96</sup> Furthermore, Gunter, "whom they rely on as their strongest friend," had informed Bushyhead that Boudinot had better get his hotel back as soon as possible, for the case had done the Cherokee government great harm.<sup>97</sup>

In March, Boudinot left his other activities aside and journeyed to Fort Smith. Judge Parker was ready to hear Payne's case. Although no longer one of Payne's lawyers, Boudinot gave the Kansan moral support. Following the arguments, however, Parker deferred his decision until May. When the portentous day arrived, Parker decided against Payne. Parker ruled that although the ceded lands did belong to the United States they had never been subject to homesteading. And by treaty, the United States government guaranteed the Indians against white intrusion

into the Indian Territory. Payne was fined \$1,000, which he would not pay--he had no money.<sup>98</sup>

Of somewhat equal significance was Parker's interpretation of the 1866 treaties with regard to the clauses on settling freedmen on Indian ceded lands. According to Parker's ruling, "freedmen" did not mean any former slaves, just those who had been in bondage in the Indian Territory.<sup>99</sup> This was a blow to yet another group who had been stimulated by Boudinot's views: black migrants from the South. In particular, James Milton Turner, a black Republican leader in St. Louis and the former American consul to Liberia, became a motivator in the movement. Turner wanted to have blacks settle on the ceded (or Oklahoma) Indian lands in the Indian Territory. By April of 1881, Turner was President of the Freedman's Oklahoma Association. His goal was to place about 125 former slaves in the Choctaw Nation, but soon his horizons widened. Consequently, his organization distributed a circular "promising 160 acres of land to every freedman who will go and occupy the public lands of Oklahoma."<sup>100</sup> The document included a letter by Boudinot justifying the right of the freedmen to make claims on this land.<sup>101</sup> The United States government, of course, had rejected that understanding of the land's status. Parker's decision, in turn, put legal approval and precedent on that position. Like Payne, Turner also was thwarted by the government, and in the cases of both men, Boudinot could be seen as responsible for inspiring their actions.<sup>102</sup>

Obviously, Boudinot had many concerns, public and personal causes. Of the latter, his hotel case came to a head in 1881. As before, Boudinot petitioned officials in Washington to place the establishment in his possession, arguing that Eiffert and Cherokee authorities had

violated the law: They refused to acknowledge the decision of the Secretary of the Interior. In February, Senators Voorhees and Garland directly put their political weight behind Boudinot's request.<sup>103</sup> Again, Secretary of the Interior Kirkwood ordered the Commissioner of Indian Affairs to put Boudinot back in possession of the hotel.<sup>104</sup>

Kirkwood again counseled Boudinot to be careful in selecting a tenant for the place, and Boudinot thought that he had just the man, a Mr. Johnson from Fayetteville. Faced with Eiffert's belligerency, however, Johnson decided not to take over the hotel. Boudinot then prepared to sell the place to George H. Pettigrew, also from Fayetteville. Pettigrew, sometimes a deputy United States Marshal, was the nephew of J. R. Pettigrew, Boudinot's former partner in the Arkansian and long-time friend. Although Boudinot believed that the whole business, not just the building, was worth twelve thousand dollars, he sold it all to Pettigrew for five thousand dollars on June 11, 1881.<sup>105</sup>

Problems still existed, however. Under instructions from Indian Commissioner Hiram Price, Agent Tufts had informed Eiffert that Boudinot would be given control of the hotel, but until Boudinot would show up to take possession, Tufts declined to take action.<sup>106</sup> Thus while Tufts waited and Boudinot sought for someone to assume residence in the hotel, Eiffert plotted. On June 22, Eiffert with the assistance of some helpers, including John Whalen, a carpenter in Vinita, dismantled the hotel building.<sup>107</sup>

When Boudinot heard of his hotel's fate, he became livid with anger. As he told David Payne of his misfortune, "I was in great hopes that after two years hard work got my hotel property at Vinita in such shape that I could realize on it. I started down with a man to take possession

when the devils pulled it down and carried off the lumber. I have sworn out a warrant for them and will put them in the penitentiary."<sup>108</sup> And Boudinot did succeed in having Eiffert and Whalen arrested. They were charged with destroying Pettigrew's property and jailed in Arkansas. Boudinot was determined to have them convicted, regardless of any threats which might be made against him. As he told Vinnie Ream Hoxie in late July, Eiffert and Whalen "are now reflecting in jail" at Fayetteville "upon their folly. I intend they shall do some service for the government before I have done with them; they and their friends say I shall be killed and perhaps they may succeed."<sup>109</sup> He went on to say that he had taken out a one thousand dollar life insurance policy and that Mrs. Perry Fuller was the beneficiary. However, Vinnie was to be the only person to know about it. If anything did happen to him, she could find the policy in his trunk at his residence at Fayetteville.<sup>110</sup> Perhaps over-dramatically, Boudinot had prepared for the worst.

A few days later, Boudinot informed James M. Bell that once Eiffert was in Arkansas, an old murder charge had also been placed against him. Eiffert "whines like a puppy," he disdainfully remarked.<sup>111</sup> In early August, Eiffert was indicted for larceny, as was Whalen. Moreover, the charge of murdering James Tippard at Fort Gibson several years before still hung over his head. Boudinot and Pettigrew had to have been pleased. Pettigrew had had the privilege of arresting the two, and now he and Boudinot had witnessed the fruition of the maneuver.<sup>112</sup> All that remained was the trial.

Almost a year later, Judge Parker heard the case. Boudinot gave testimony for the prosecution. Parker informed the jury in a one hour discourse that the two were guilty of larceny if the prosecution had

proved they had taken the lumber from M. K. & T. land. Boudinot, he said, had the right to transfer that property to a white man since it was located on railroad land. Eiffert and Whalen were convicted and given twelve month sentences. On the murder charge, however, Eiffert was exonerated.<sup>113</sup>

Regardless of the satisfaction arising from the court's decision, Boudinot nonetheless had lost the hotel. No monetary compensation was offered or ordered. Pettigrew, however, applied to the Interior Department for redress against the Cherokee Nation. In turn, Bushyhead, supported by Agent Tufts, said that Pettigrew--or any white man--had no right to own property in the Cherokee Nation. Secondly, he pointed out that Cherokee funds in Washington could not be diverted for payment of any such claim.<sup>114</sup> The Secretary of the Interior decided in favor of Pettigrew's claim, however.<sup>115</sup>

Pettigrew's attempt to make the Cherokee Nation liable for the hotel did not set well with Bushyhead and Cherokee leaders. But the question had larger ramifications than merely a question of money. Bushyhead and his predecessor had both seen the hotel controversy as constituting a threat to Cherokee sovereignty. By presenting the matter before the federal government, Boudinot had brought renewed focus on the question of ultimate authority in the Cherokee Nation. Did it reside in the Cherokee government and judiciary or that of the United States? Likewise, the nature of this particular dispute added fuel to Boudinot's demand for United States courts in the Indian Territory which could handle all litigation, civil and criminal.

Some outside of the Cherokee Nation did construe Eiffert's conviction as another wedge driven into Indian autonomy, hastening the day when

federal officials would direct the affairs of the Indian Territory and the region would be opened to white settlers.<sup>116</sup> Bushyhead reportedly toyed with the idea of appealing the case to the U. S. Supreme Court. An overturning of Eiffert's conviction by that august body would not only reaffirm Cherokee jurisdictional rights but also damage Boudinot and his views. On hearing this report, Boudinot, in an article for the Fayetteville Sentinel, cast barbs at Bushyhead:

then it is true that our "weak and amiable chief" has less sense than we give him credit for. Dennis is not a very wise man. . . . The less Dennis has to do with Eiffert and his brother thieves the better it will be for him. Eiffert can learn a nice little trade in the penitentiary, and when he comes out he will be a wiser if not a better man.<sup>117</sup>

The case was never heard before the Supreme Court, and some Cherokee leaders such as Daniel Ross, the brother of William P. Ross and a member of the Cherokee delegation, publicly attempted to play down Eiffert's case as of no real consequence.<sup>118</sup> Still, whatever the impact of the hotel controversy, damage had been done to all sides-- Boudinot, Eiffert and Skinner, and the Cherokee Nation.

Not all of Boudinot's activities in the summer of 1881 were demanding and controversial as the hotel case. He spent a great deal of time in Fayetteville, where as in previous years he received a warm welcome, and in June he partook in the celebration on the opening of railroad service to the growing little Ozark city. The festivities began on the morning of June 8, as a crowd of ten thousand mingled in Fayetteville. That evening at a banquet, T. M. Gunter opened the ceremonies. J. D. Walker was also slated to offer a few words on the occasion, but he had to be in St. Louis, so Boudinot took his place. And as the Sentinel reported, "the enthusiastic applause that greeted Col. B. evinced that an old time favorite had not been forgotten."<sup>119</sup>

Indeed, Boudinot must have been happy, despite all the burdens on his mind. Many years before he had been one of the leaders in promoting for a railroad line to Fayetteville. Now, he had witnessed that dream fulfilled. It was in part fitting that he capped the gala affair in the wee hours of the morn by singing, at the request of several ladies, "Fine Arkansas Gentleman Close to the Choctaw Line." On that note, the tired but joyful celebrants dispersed to their homes. For them, at least, Boudinot was, as the Sentinel asserted, "the gentlest savage, the ablest and most accomplished red man of all the tribes."<sup>120</sup>

Fayetteville was indeed a place of refuge for Boudinot. Many people there were his close friends; they gave him the respect that the Cherokees would never give him. But as always in his busy, conflict laden life, Boudinot found little time for repose. He now also threw himself into pursuing his claim on his tobacco factory.

Although in June of 1880 Congress had passed legislation permitting Boudinot to sue the government for damages in the U. S. Court of Claims, other concerns apparently claimed his immediate attention. He did, however, ask Sarah Watie to state that he, not her husband, owned most of the factory.<sup>121</sup> The suit would be his, and his alone. Finally, in the summer of 1881 he set off to search for witnesses. One was in Nevada. Thus, in August he headed for the Far West, sending a couple articles about his experiences to the Sentinel.<sup>122</sup> J. R. Pettigrew ran the paper, and probably for their mutual benefit published the material-- he needed interesting articles and Boudinot always needed money. On his return to Arkansas, Boudinot immediately contracted to give some lectures in Bentonville and Siloam Springs.<sup>123</sup> Money was tight, as he related to his confidant, James M. Bell: "The expenses of the trip



cleaned me out; & I have to go to Chicago to see if I cant make a raise to prosecute my case to conclusion."<sup>124</sup> But, he added, "I shall certainly get something it is only a question now of the amount."<sup>125</sup>

While Boudinot was occupied with securing funds and depositions, some Cherokees decided to frighten Boudinot and his followers out of the Cherokee Nation. Calling themselves the "Committee of Safety," they began to issue threatening letters. They told Ezekial Miller, for example, that he had sixty days to vacate the Cherokee Nation, for he was "known to be in sympathy with the Boudinot and Bell policy of sectionalizing and allotting our country."<sup>126</sup> They added, "If you do not obey this order remember your life will be the penalty."<sup>127</sup> Bell received a similar letter:

you have given aid and comfort to E. C. Boudinot . . . and have more recently encouraged and aided him in arresting and prosecuting citizens of this country at Fort Smith and in all Secret and underhanded ways you are laboring against our Government our people and our interest and in favor of Rail Road Corporations Land Grabbers and Such arch Traitors as Cornelius Boudinot.<sup>128</sup>

He, too, was ordered to leave the nation in sixty days, with the admonition "remember the fate of the Ridge family."<sup>129</sup> In a letter dated September 14, 1881, Boudinot likewise received his warning. His actions, the writers said, had forfeited his Cherokee citizenship. He should "keep out of this country" and "remain away from it as we do not intend that you shall enjoy one farthing of Benefit from a country and Friend that you have done so much to despoil."<sup>130</sup> If he ever again entered the nation to advocate his "Hellish Policy," he would be taking his life into his own hands.<sup>131</sup>

Who constituted the Committee of Safety is uncertain. Possibly they were no more than a group of disgruntled Cherokees who hoped to intimidate

Boudinot and his followers. Perhaps, too, Eiffert and his friends were behind the letters. Such fulminations had little effect, however. Neither Boudinot nor Bell desisted from espousing their views. If anything, the letters provided Boudinot with evidence to support his claims about the lawlessness of his enemies in the Cherokee Nations.

As the winter rolled around, Boudinot probably gave little thought to idle threats from anonymous foes. His time was filled delivering lectures. He had a busy schedule and could devote his energies to little else, except perhaps contemplating Eiffert's impending court conviction.<sup>132</sup> Soon, too, the Congressional session would demand his attention. Indeed, many things had happened over the previous months, and yet nothing had really changed, other than the loss of his hotel. He could only press on, driven by his unflagging optimism that ultimately success and fortune awaited him in the future.

ENDNOTES

- <sup>1</sup>Parsons Sun (Kansas), 15 March 1879.
- <sup>2</sup>Elias C. Boudinot to W. R. Graves, 2 March 1879, NA, RG75, SC51.
- <sup>3</sup>*Ibid.* Apparently either Sears appointed Graves as an assistant attorney for the Katy or at least drew up a document to that effect. See document of March 1, 1879, signed by T. C. Sears, NA, RG75, SC51.
- <sup>4</sup>W. R. Graves to T. C. Sears, March 1879; Deposition of W. R. Graves before J. L. McSpadden, Mayor of Vinita, 5 January 1880, NA, RG75, SC51.
- <sup>5</sup>W. A. Phillips, as agent for the Cherokee Nation, pointed the handwriting out to Commissioner of Indian Affairs E. A. Hayt. W. A. Phillips to E. A. Hayt, 13 January 1880, NA, RG75, SC51. An examination of the questionable letter substantiates Phillips' observation.
- <sup>6</sup>Elias C. Boudinot to Carl Schurz, 19 June 1879, NA, RG75, SC51.
- <sup>7</sup>Document: contract between Henry Eiffert and J. H. Cunningham, 18 January 1879; Henry Eiffert to D. W. Bushyhead, 3 March 1880, NA, RG75, SC51.
- <sup>8</sup>Capt. Rodney Layton to Adjutant General, 26 March 1879, NA, RG94, LR-AGO, M666, R414.
- <sup>9</sup>*Ibid.*
- <sup>10</sup>Elias C. Boudinot to James M. Bell, 3 February 1879. Also see Elias C. Boudinot to James M. Bell, February 1879, CP, WHC.
- <sup>11</sup>Roy Gittinger, The Formation of the State of Oklahoma 1803-1906 (Norman: University of Oklahoma Press, 1939), pp. 118-119.
- <sup>12</sup>Elias C. Boudinot to Augustus Albert, 25 March 1879, cited in 46th Cong., 1st sess., Senate Exec Doc 20 (serial 1869), pp. 7-8.
- <sup>13</sup>*Ibid.*; for Boudinot's map of the area, see 48th Cong., 2d sess., Exec Doc 50 (serial 2263). Also see Gittinger, pp. 118-119.
- <sup>14</sup>Elias C. Boudinot to James M. Bell, 30 March 1879, CP, WHC.
- <sup>15</sup>*Ibid.*
- <sup>16</sup>*Ibid.*

- <sup>17</sup>Elias C. Boudinot to James M. Bell, 1 April 1879, CP, WHC.
- <sup>18</sup>Elias C. Boudinot to James M. Bell, 13 April 1879, CP, WHC.
- <sup>19</sup>Ibid.
- <sup>20</sup>Ibid.
- <sup>21</sup>Interview with T. C. Sears in Parsons Sun, 19 April 1879.
- <sup>22</sup>Cherokee Delegates to E. A. Hayt, 19 April 1879, NA, RG75, SC111.
- <sup>23</sup>Stan Hoig, David L. Payne: The Oklahoma Boomer (Oklahoma City: Western Heritage Books, 1980), pp. 52-54. Also see 48th Cong., 2d sess., Exec Doc 50 (serial 2263).
- <sup>24</sup>Elias C. Boudinot to Mrs. Sarah Watie, 23 April 1879, CP, WHC.
- <sup>25</sup>Ibid.; Elias C. Boudinot to James M. Bell, 3 March 1879, CP, WHC.
- <sup>26</sup>46th Cong., 1st sess., Senate Exec Doc 20 (serial 1869), pp. 12-15.
- <sup>27</sup>Elias C. Boudinot to James M. Bell, 30 April 1879, CP, WHC.
- <sup>28</sup>Kansas City Times, 7 May 1879.
- <sup>29</sup>Ibid.
- <sup>30</sup>Elias C. Boudinot to Mrs. Sarah Watie, 21 May 1879, CP, WHC.
- <sup>31</sup>Parsons Sun, 17, 24, 31 May 1879.
- <sup>32</sup>Kansas City Times, 2 May 1879.
- <sup>33</sup>46th Cong., 2d sess., Senate Exec Doc 6 (serial 1882); Parsons Sun, 7 June 1879.
- <sup>34</sup>Elias C. Boudinot to James M. Bell, 27 May 1879, CP, WHC.
- <sup>35</sup>Ibid.
- <sup>36</sup>Elias C. Boudinot to James M. Bell, 2 June 1879, CP, WHC.
- <sup>37</sup>Elias C. Boudinot to Daniel W. Voorhees, 3 June 1879, cited in U.S., Congress, Senate, 46th Cong., 1st sess., 4 June 1879, Congressional Record, IX, pt. 2, 1758.
- <sup>38</sup>Elias C. Boudinot to James M. Bell, 4 June 1879, CP, WHC.
- <sup>39</sup>Elias C. Boudinot to James M. Bell, 5 June 1879, CP, WHC.
- <sup>40</sup>Ibid.

<sup>41</sup>W. P. Adair to Charles Thompson, 8 June 1879, CNP, Intruders file (Tahlequah acquisition), IAD, OHS, (Microfilm CHN 83).

<sup>42</sup>W. P. Adair and Daniel H. Ross to George W. McCrary, 19 June 1879, cited in 46th Cong., 2d sess., Senate Exec Doc 6 (serial 1882), p. 6.

<sup>43</sup>Elias C. Boudinot to James M. Bell, 13 June 1879, CP, WHC.

<sup>44</sup>Elias C. Boudinot to James M. Bell, 24 June 1879, CP, WHC.

<sup>45</sup>Ibid.

<sup>46</sup>Elias C. Boudinot to James M. Bell, 18 July 1879, CP, WHC.

<sup>47</sup>B. B. Chapman, "How the Cherokees Acquired and Disposed of the Outlet, Part Four:--The Cherokee Title and Cattlemen," Chronicles of Oklahoma 16 (March, 1938), 46.

<sup>48</sup>G. W. Stidham to Ward Coachman, 15 July 1879, Creek Federal Relations file, IAD, OHS.

<sup>49</sup>Mrs. McFarlin to Mrs. Sarah Watie, 27 July 1879, CP, WHC.

<sup>50</sup>Aaron Bradshen to G. W. Stidham, 8 November 1879, Creek Federal Relations file, IAD, OHS.

<sup>51</sup>Elias C. Boudinot to Mrs. Sarah Watie, 12 October 1879, CP, WHC. For background on Bushyhead, see H. Craig Miner, "Dennis Bushyhead," in American Indian Leaders: Studies in Diversity, ed. by David Edmunds (Lincoln: University of Nebraska Press, 1980), pp. 192-205; John Bartlett Meserve, "Chief Dennis Wolfe Bushyhead," Chronicles of Oklahoma 14 (September, 1938), 349-359; and Mauricia Dale Crooks, "Dennis Wolfe Bushyhead and his Influence on Oklahoma History" (M.A. thesis, University of Oklahoma, 1937). For background on Thompson, see John Bartlett Meserve, "Chief Lewis Downing and Chief Charles Thompson (Oochalata)," Chronicles of Oklahoma 14 (September, 1938), 322-325.

<sup>52</sup>Elias C. Boudinot to Mrs. Sarah Watie, 12 October 1879, CP, WHC.

<sup>53</sup>Mrs. Sarah Watie to James M. Bell, 20 November 1879; J. M. Duncan to James M. Bell, 23 November 1879, CP, WHC.

<sup>54</sup>Elias C. Boudinot to George W. Fox (telegram), 3 December 1879, Elias C. Boudinot file, Washington County Historical Society, Fayetteville, Arkansas.

<sup>55</sup>James M. Bell to Mrs. Sarah C. Watie, 29 March 1880, CP, WHC.

<sup>56</sup>Ibid.

<sup>57</sup>Elias C. Boudinot to James M. Bell, 4 January 1880, CP, WHC.

<sup>58</sup>Ibid.

<sup>59</sup>Washington Star, 3 January 1880, cited in Sentinel (Fayetteville, Ark.), 14 January 1880.

<sup>60</sup>Ibid.

<sup>61</sup>Hoig, pp. 64-65.

<sup>62</sup>Wichita Daily Eagle, 18 June 1903. For the story of Payne and the Boomers, see Hoig, David L. Payne and Carl Coke Rister, Land Hunger: David L. Payne and the Oklahoma Boomers (Norman: University of Oklahoma Press, 1942).

<sup>63</sup>John Q. Tufts to W. R. Graves, 7 January 1880, NA, RG75, SC51.

<sup>64</sup>Henry Eiffert to W. P. Adair, 8 January 1880, NA, RG75, SC51.

<sup>65</sup>Elias C. Boudinot to Commissioner of Indian Affairs, 8 January 1880, NA, RG75, SC51.

<sup>66</sup>W. A. Phillips to E. A. Hayt, 13 January 1880, NA, RG75, SC51.

<sup>67</sup>J. T. Cunningham to W. P. Adair, 15 January 1880, NA, RG75, SC51.

<sup>68</sup>Elias C. Boudinot to James M. Bell, 17 January 1880, CP, WHC.

<sup>69</sup>Carl Schurz to Commissioner of Indian Affairs, 7 February 1880, NA, RG75, SC51.

<sup>70</sup>Elias C. Boudinot to Carl Schurz, 25 February 1880, NA, RG75, SC51.

<sup>71</sup>John L. Adair to D. W. Bushyhead, 12 March 1880, CNP, Cherokee Federal Relations file (Tahlequah acquisition), IAD, OHS (Microfilm CHN 74). Adair also noted that William A. Phillips was the attorney for Eiffert.

<sup>72</sup>Elias C. Boudinot to Van H. Manning, 10 February 1883, NA, RG75, SC51.

<sup>73</sup>Elias C. Boudinot to Carl Schurz, 20 November 1880, NA, RG75, SC51.

<sup>74</sup>Elias C. Boudinot to Mrs. Sarah C. Watie, 5 April 1880, CP, WHC.

<sup>75</sup>Document dated 15 April 1880, NA, RG75, SC51.

<sup>76</sup>D. W. Bushyhead to L. B. Bell, 13 May 1880, NA, RG75, SC51.

<sup>77</sup>Statement of William Kellerman, dated 24 November 1881, NA, RG75, SC51.

<sup>78</sup>Elias C. Boudinot to E. A. Hayt, 26 January 1880, NA, RG75, LR-OIA, M234, R873.

<sup>79</sup>Elias C. Boudinot to E. A. Hayt, 26 January 1880, NA, RG75, LR-OIA, M234, R873.

- <sup>80</sup>Ibid.
- <sup>81</sup>Ibid.
- <sup>82</sup>Hoig, pp. 64-65; Rister, pp. 54-55.
- <sup>83</sup>Elias C. Boudinot to James M. Bell, 1 March 1880, CP, WHC.
- <sup>84</sup>Weekly Pioneer (Kansas City, Mo.), 13 March 1880, CP, WHC.
- <sup>85</sup>Elias C. Boudinot to William T. Sherman, 6 March 1880, William T. Sherman Papers, Vol. 52, Microfilm Reel 27, Library of Congress.
- <sup>86</sup>William T. Sherman to Elias C. Boudinot, 11 March 1880, Letter-book, William T. Sherman, Library of Congress.
- <sup>87</sup>Ibid.
- <sup>88</sup>Elias C. Boudinot to William T. Sherman, 6 March 1880, William T. Sherman Papers, Vol. 52, Microfilm Reel 27, Library of Congress.
- <sup>89</sup>Sentinel, 18 August 1880.
- <sup>90</sup>Hoig, pp. 75-85.
- <sup>91</sup>Document: Abstract of U.S. v. David L. Payne, D. L. Payne Collection, WHC.
- <sup>92</sup>Sumner County Press (Kansas ), 30 December 1880, cited in Ira G. Clark, "The Railroads and the Tribal Lands: Indian Territory, 1838-1890" (Ph.D. diss., University of California, Berkeley, 1947), p. 249.
- <sup>93</sup>See Elias C. Boudinot, Speech of Elias C. Boudinot, of the Cherokee Nation, Delivered at Vinita, Indian Territory, August 29th, 1874 (St. Louis: Barns & Beynon, Printers and Binders, 1874), p. 8. In 1876, in fact, Boudinot said that Bushyhead was "a splendid fellow, a true friend, and one of the best officers the Cherokee Nation ever had." Indian Progress (Vinita), 25 February 1876.
- <sup>94</sup>Elias C. Boudinot to James M. Bell, 13 January 1881, CP, WHC.
- <sup>95</sup>Ibid.
- <sup>96</sup>Ibid.
- <sup>97</sup>Ibid. Also by this time, William P. Adair, probably the most influential of the Cherokee delegates and Boudinot's formidable opponent, had died. Sentinel, 27 October 1880.
- <sup>98</sup>Hoig, p. 110; U.S. v. Payne, 8 Federal Reporter 883.
- <sup>99</sup>U.S. v. Payne; also see Berlin B. Chapman, "Freedmen and the Oklahoma Lands," Southwestern Social Science Quarterly 29 (September, 1948), 157.

<sup>100</sup>C. N. Holcomb to Samuel J. Kirkwood, 25 April 1881, cited in 47th Cong., 1st sess., Senate Exec Doc 111 (serial 1990), p. 2. Also see Lawrence O. Christensen, "J. Milton Turner: An Appraisal," Missouri Historical Review 70 (October, 1975), 9, and Gary R. Kermer, "For Justice and a Fee: James Milton Turner and the Cherokee Freedmen," Chronicles of Oklahoma 58 (Winter, 1980-1981), 377.

<sup>101</sup>47th Cong., 1st sess., Senate Exec Doc 111 (serial 1990), p. 2.

<sup>102</sup>46th Cong., 1st sess., Senate Exec Doc 20 (serial 1869), p. 12.

<sup>103</sup>Elias C. Boudinot to W. M. Marble, 14 February 1881, NA, RG75, SC51.

<sup>104</sup>S. J. Kirkwood to Commissioner of Indian Affairs, 29 April 1881.

<sup>105</sup>Elias C. Boudinot to Van H. Manning, 19 February 1883, NA, RG75, SC51.

<sup>106</sup>J. W. Tufts to Hiram Price, 11 July 1881, NA, RG75, SC51.

<sup>107</sup>Petition of George H. Pettigrew to J. W. Tufts, NA, RG75, SC51.

<sup>108</sup>Elias C. Boudinot to David L. Payne, 7 July 1881, D. L. Payne Collection, WHC.

<sup>109</sup>Elias C. Boudinot to Vinnie Ream, 23 July 1881, Vinnie Ream Papers, Library of Congress.

<sup>110</sup>Ibid.

<sup>111</sup>Elias C. Boudinot to James M. Bell, 29 July 1881, CP, WHC.

<sup>112</sup>Sentinel, 3, 10 August 1881.

<sup>113</sup>Sentinel, 9, 23 August, 6 September 1882; Spencer S. Stephens to James M. Bell, 25 August 1882, CP, WHC. Much material pertaining to Eiffert's case and his appeal for a new trial can be found in Special Case 51, NA, RG75.

<sup>114</sup>D. W. Bushyhead to Hiram Price, 25 August 1882, NA, RG75, SC51.

<sup>115</sup>Sentinel, 14 February 1883. Materials relating to Pettigrew's case can be found in Special Case 51, NA, RG75. Some documents on the case can also be found in CNP, Townsite File (Tahlequah acquisition), Microfilm CHP 107, IAD, OHS.

<sup>116</sup>Sentinel, 6 September 1882.

<sup>117</sup>Sentinel, 11 October 1882.

<sup>118</sup>Sentinel, 20 December 1882.



- 119 Sentinel, 15 June 1881.
- 120 Sentinel, 8 June 1881. Also see William S. Campbell, One Hundred Years of Fayetteville 1828-1928 (Fayetteville, Ark.: Washington County Historical Society, 1977), p. 22.
- 121 James M. Bell to Mrs. Sarah C. Watie, 19 January 1881, CP, WHC.
- 122 Sentinel, 3, 24, 31 August 1881.
- 123 Sentinel, 7 September 1881.
- 124 Elias C. Boudinot to James M. Bell, 7 September 1881, CP, WHC.
- 125 Ibid.
- 126 Committee of Safety to Ezekial Miller, 12 September 1881, CP, WHC.
- 127 Ibid.
- 128 Committee of Safety to James M. Bell, 12 September 1881, CP, WHC.
- 129 Ibid.
- 130 Committee of Safety to Elias C. Boduinot, 14 September 1881, cited in Marcus J. Wright, "Colonel Elias C. Boudinot," Southern Bivouac II, No. 10 (June, 1884), 438.
- 131 Ibid.
- 132 Elias C. Boudinot to Mrs. Sarah Watie, 17 November 1881, CP, WHC; Sentinel, 7 December 1881.

## CHAPTER XII

### TRIALS AND TRIBULATION

Throughout the winter of 1881-1882, Boudinot no doubt continued to pursue his duties in Congress as well as his personal business. Sadness again came into his life in February, 1882, when his beloved aunt, Sarah Watie, passed away.<sup>1</sup> Her husband and all of her children had preceded her in death, and during the last years of her life, Boudinot and her brother, James Bell, had been the people closest to her. Indeed, Boudinot had included her in his plans, no doubt wanting to aid her financially, as he had never been able to do for Stand Watie, despite his profusion of promises and desires.

The passing of Sarah Watie did not detract Boudinot from his dreams, however. By spring he was once more envisioning new fortune and prosperity. Returning to Fayetteville from Washington in April, he confided his ideas to Bell. In a year or less, he would receive compensation for his tobacco factory, and then he wanted to channel that money into improving the land that he and Bell held. At the moment, though, he was again short on funds. He had to pay for taking testimony on the tobacco case, and most of the five hundred dollars he had been forced to borrow was gone.<sup>2</sup>

Therefore, he turned to his long-standing means of making money: lecturing. In late April, with engagements already lined up in Arkansas, he wrote to Payne, asking if the Boomer leader could arrange for him to

speaking at Wichita, where he "would take up the Oklahoma question from the beginning and ventilate it thoroughly."<sup>3</sup> Although Payne had intended to launch yet another invasion of the Indian Territory immediately, he delayed his departure in deference to Boudinot. A lecture was slated at the Wichita Opera Hall, and Boudinot discussed the "Indian Problem"; unfortunately, few came to hear his talk.<sup>4</sup> Perhaps too many were already thoroughly familiar with his views to listen to him any more.

In May, he had another occasion to display his oratorical skills--this time commemorating the Confederate war dead buried in Fayetteville. Soon, other requests for Boudinot's service began to arrive. He gave a major address on the history of Fayetteville.<sup>5</sup> Then, the residents of Pierce City, Missouri, asked Boudinot to speak at their Fourth of July celebration, noting that "Colonel Boudinot is the best native American orator in the world."<sup>6</sup> Even more glowing praise came from the Bentonville Advance in October, after Boudinot spoke there:

To say that he entertained his audience does not express it. At the close of each piece he was most enthusiastically applauded, and at times would bring down the house with roars of laughter, while again tears would be visible in nearly every eye at his pathetic renderings of human misfortune. While the Colonel is thoroughly original and comprehensive in his views, he is possessed of a most eloquent voice, a perfect articulation and a memory which readily retains that literature and music congenial to his taste.<sup>7</sup>

While Boudinot revelled in his popularity, he never lost sight of the purpose of his lecturing: obtaining funds. His suit before the Court of Claims was proving to be an expensive venture. On the other hand, he hoped to reap an abundant return; reportedly, he was suing for \$98,050.<sup>8</sup> With that in mind, he continued to take depositions between lecturing and conducting other affairs.<sup>9</sup> He also agreed to be the "traveling editor" for the Sentinel. Thus on a more or less regular

basis he would have a guaranteed outlet for his articles, as well as another, albeit probably meager, source of income.<sup>10</sup>

Although Boudinot accomplished little of substance in promoting territorial government for the Indian Territory in 1882, his lectures nonetheless kept his views before the public, and he never lost faith in seeing his ideas realized. As he told Spencer S. Stephens, a leading educator in the Cherokee Nation and one of his devotees, he foresaw a "radical change in the affairs of the territory within 18 months."<sup>11</sup> The St. Louis and San Francisco Railway Company (or Frisco) which had absorbed the A. & P. was extending its lines through the Choctaw Nation to Texas. Soon, with governmental permission, it would be building through the Oklahoma lands. There, the railroad would be given alternate sections in land grants. That land would be sold to settlers and quickly filled with people. A federal court would be established, probably at Muskogee, and "the power & consequence of the miserable Indian rings will be destroyed."<sup>12</sup>

Boudinot was obviously still infatuated with the growth of railroads. So much so, in fact, that he had become involved with the Pacific & Great Eastern. M. La Rue Harrison controlled that "paper" company, and he had a grand plan for shortening the distance, by rail, from Norfolk, Virginia to the Pacific Ocean. Harrison wanted to consolidate lines running from Tennessee, through Missouri and northern Arkansas, including Fayetteville, and those in the Cherokee Nation. Boudinot saw this scheme as a potentially tremendous boon for the Indian Territory and the Cherokees. It would stimulate trade. It would help to open the territory. In the fall of 1882, Boudinot publicly expressed his endorsement of the endeavor, and he continued to do so in succeeding years.<sup>13</sup>

Boudinot's promotion of the creation of the Pacific and Great Eastern line brought him criticism, however. In particular, the Chicago Inter-Ocean expressed hostility, stating that the "whole scheme is chimerical and is put forward with little tact or judgement."<sup>14</sup> This powerful Republican paper also took issue with Boudinot's interpretation of the ownership of lands in the Indian Territory. Boudinot was also rebuked for his relationship with David Payne. For his part, Boudinot, when interviewed by the Inter-Ocean, did not flinch in his support of Payne:

"Captain Payne is a man of more sense than the press generally gives him credit for; he is generally regarded as a reckless dare-devil who persists in intruding upon an Indian reservation; this is a mistake; he is a typical frontiersman, about 40 years of age and as fine a specimen of physical manhood as there is in the country. He has examined the status of the lands he has tried to settle and has satisfied himself that though they are within that tract of country called the Indian Territory, they are absolute property of the United States, and compose no part of an Indian reservation. In this view of the matter I concur; there is no doubt in my mind but he is right."<sup>15</sup>

While Boudinot unabashedly declared that Payne was correct in his understanding of the land's true legal status, Payne continued to agitate for the opening of the ceded lands. Several times during 1882 Payne entered the "forbidden land," only to be caught and removed.<sup>16</sup> And in early January of 1883, Payne was planning yet another invasion. At the same time, another organization, Walden's Oklahoma Colony, also intended to attempt to settle in the disputed lands. In early February, both groups headed into the Indian Territory, and newspaper accounts gave both parties credit for preparing to establish a new town--Boudinot City--in the territory. Given the conflicting public opinion about the Boomers, this was a dubious distinction for Boudinot. But as before, the Army

intercepted both expeditions and escorted them out of the region.<sup>17</sup>

Payne, however, soon had other problems, and Boudinot was supposedly involved. E. H. Nugent, a former member of Payne's organization, accused Payne of duplicity. Payne, he said, had not only squandered all the money that his followers had invested in the colony but he had also accepted an offer of \$200,000 to betray the organization. That accounted for why Payne's invasions had never been successful: Payne did not want them to be. Another of Payne's former cohorts, H. F. Hagerty, publicly agreed with Nugent.<sup>18</sup>

Faced with this challenge to his leadership, Payne reacted quickly. In a letter to the Wichita Eagle in April, 1883, the Boomer standard-bearer accused Nugent of treachery. Nugent, according to Payne, wanted to be named as the governor of the Territory of Oklahoma, once it came into being. To that end, he had sent petitions to the colonists for their support. He also had the backing of many officials in Kansas and the editor of the Eagle. Furthermore, these petitions were sent to Boudinot in Washington, where the fickle Cherokee would solicit the signatures of congressmen. Then, Boudinot was to give them to Congressman Thomas Ryan, who would secure Nugent's appointment. Such was the scenario Payne painted.<sup>19</sup> A new breach had opened between Payne and Boudinot, and the latter began to retreat from his bold support for the boomers.

The estrangement between Boudinot and Payne would not deter either man from continuing his efforts to open the region, and both still had common enemies. In 1883, Boudinot turned his attention to one group in particular: cattlemen. For several years cattlemen had been grazing their cattle on Indian land. The Cherokees, however, had enacted a

a grazing tax--the same law under which Larkin had had his troubles. Some paid the tax, but did not like the idea of others also using the land after they had spent their money for that privilege. Thus in 1882, a powerful group of these ranchers asked the Cherokee government for the right to fence off land in the Cherokee Outlet; that would guarantee them enough land and no competition. They did erect their fences, only to have Henry M. Teller, the Secretary of the Interior, order their removal. At that point, the cattlemen formed an organization, the Cherokee Strip Live Stock Association; the Association would legally rent the Outlet. On July 5, after much debate, the Cherokee National Council approved the lease, and on July 5, Chief Bushyhead and Charles Eldred, the attorney for the Association, signed the lease.<sup>20</sup>

Boudinot, of course, did not welcome this lease. He still harbored dreams of exploiting the Outlet himself. Like Payne, he imagined the cattlemen as unprincipled opponents of opening the Indian Territory to white settlement. For if homesteaders could settle on the unused lands, the ranchers would lose excellent grazing ground.

Two days after Bushyhead affixed his name to the lease, Boudinot informed Bell that the Secretary of the Interior would probably not approve of the deal. And as usual, he was critical of the Cherokee government. However, with another Cherokee election approaching, he begrudgingly noted that he preferred Bushyhead over Charles Thompson. "Bushy," he wrote, "is a stupid stick, but . . . Thompson. . . represents the ignorance of the Nation; the platform of his party is the damnest mess of stick-shin folly & ignorance I ever read. It is hard to choose between dishonest ignorance controlled by such a thief as Wm. A. Phillips & honest ignorance."<sup>21</sup>

The emergence of two new parties--the National Party and the Union Party--distinguished the Cherokee election of 1883. Both appealed to the fullbloods and were prejudiced against the black members of the Cherokee Nation. Of the two, the National Party, Bushyhead's party, was the most forward looking.<sup>22</sup> In a way, the development of these new alignments signified the passing of an era. No longer was the nation divided between the Ross and Downing forces. For Boudinot, though, that subtlety changed nothing. Neither group was ready to accept his views or leadership. Nor had his old enemies disappeared; William P. Ross was still very active in the Nation, although not as powerful as in the past. Still, Ross vexed Boudinot as much as ever, and Boudinot had not changed his opinion of Ross, who, he told one friend, was "capable of any meanness or crime contemptible."<sup>23</sup> Boudinot relished the thought of catching Ross in doing something illegal and sending him to jail "where he ought to have been long ago."<sup>24</sup> The old fires of hatred still blazed in Boudinot.

As for the impending election, Boudinot openly professed his endorsement of Bushyhead, who, although "a weak and trimming politician," was "a man of some education."<sup>25</sup> Thompson, on the other hand, he described as a leader of the "Pullbacks," a man who neither wrote nor spoke English.<sup>26</sup> He might have added that Thompson was also an old man, nearly blind--hardly an ideal choice for chief.<sup>27</sup>

In expressing his qualified support for Bushyhead, Boudinot told an interviewer that he still was far from pleased with the political situation in the Cherokee Nation. As far as he was concerned, there was little difference between the contesting parties. Neither took stands on the important issues: establishing federal courts, allotting land,



protecting labor, developing resources, and dismissing William A. Phillips. At the same time, he also used the opportunity again to call for the transferral of the Indian Office to the War Department. He had not changed his stand on that issue either. But with careful discretion, he hastened to point out that he was not casting criticism on the present Commissioner of Indian Affairs or the Secretary of the Interior, two "honest and upright men."<sup>28</sup> Rather, he asserted that the Indian problem had its "origins in the incompetency and dishonesty of Indian agents."<sup>29</sup> He might just as easily said the same of the leaders in the Cherokee Nation, for that was unquestionably what he thought.

While Boudinot followed Cherokee politics and watched the maneuvers of the cattlemen, another issue developed. On March 3, 1883, the Congress of the United States agreed to pay the Cherokee Nation \$300,000 for certain lands west of 96<sup>o</sup>. It was an attempt to substantiate the federal government's claim to unoccupied Cherokee lands. Of course, this endeavor would eventually lead to the U.S. government owning the land outright and although that would hinder Boudinot's plans for claiming Cherokee land, it would nonetheless destroy the cattlemen's lease and possibly bring about the opening of the territory to white settlers. Two things about the deal did bother him, however. For one, William A. Phillips had engineered the proposal. Secondly, when the Cherokee government accepted the money, the National Council decided to distribute the money to only those tribal members of Cherokee blood, thereby excluding the Shawnees, Delawares, and blacks.<sup>30</sup> These were two good points of contention, and Boudinot soon acted to take advantage of the situation.

The Cherokee Nation Council passed legislation on dispensing the funds, over the veto of Bushyhead, on May 18. The next day, Boudinot addressed a large gathering of freedmen, Shawnees, and Delawares at Vinita. He would be their champion against the villainous Cherokee government. They responded by making him their attorney. However, he would have to pay his own expenses; his fee would be paid only if he was successful in forcing the Cherokee government to give them part of the money. To accomplish that task, Boudinot prepared to lobby in Congress on their behalf.<sup>31</sup>

No doubt Boudinot welcomed this boon. Not only could he thwart the Cherokee leadership, but he also could get some money. For again, money was scarce. Gunter's last day in Congress had been on March 3; Boudinot no longer would work as his secretary. More distressing, however, was the outcome of his suit in the Court of Claims. The court granted him only \$3,275--a far cry from \$98,000. As would be expected, he again prepared to appeal to Congress for a better settlement, but that would be to no avail.<sup>32</sup>

Undaunted, he resolved to press on in his battles against his foes in the Cherokee Nation, and more than the appropriation of the \$300,000 held his attention. He decided to destroy the lease of the Outlet and prove that Phillips had used corrupt means in securing the gratuitous appropriation.<sup>33</sup>

In trying to make headway on these matters, Boudinot found that he had some support from within the Cherokee Nation. Obviously, all those who had been denied shares of the recently appropriated money endorsed his efforts, as no doubt did those who like himself were considered "progressives." At the same time, not everyone agreed with leasing the

Outlet. Some believed that the deal had been fraught with underhanded activity; in their eyes, the wealthy cattlemen had bribed Cherokee officials to get the lease--a charge which Gus Ivey helped to further when in August he sent documents to the federal government indicating that the lease had been obtained by fraud and bribery.<sup>34</sup> Furthermore, other Cherokees, such as Robert L. Owen, wanted the Outlet to be open for Cherokee grazers, not monopolized by the Cherokee Strip Live Stock Association.<sup>35</sup> As for Phillips, he represented a special case. To some, he was a true friend of the Cherokees; others, however, questioned his loyalty to Cherokee interests. They, like Boudinot, viewed him as a parasite who lived off the Cherokee Nation. But for Boudinot, his dislike of Phillips was deep-seated and had been nurtured for many years. Phillips had had his fingers in Cherokee affairs since the Civil War. No matter which party controlled the Cherokee government, Phillips had been there, offering assistance. Boudinot wanted to destroy his connection with the tribe, and if he could see Phillips landed in prison, all the better.

Reveling in these new undertakings, Boudinot lost no time in pressing the issues. No doubt from prompting by Boudinot, Representative Samuel W. Peel of Arkansas contacted Secretary Teller in October, 1883, and asked if the Interior Department had authorized Phillips to draw \$22,500 from the \$300,000. Boudinot believed that Phillips's request for this amount was not for necessary expenses, but merely a kick-back. Second, Peel wanted to know if the Secretary had approved the lease of the Outlet. Hiram Price, the Commissioner of Indian Affairs, answered Peel's inquiry: The Department had no record of any such contract giving Phillips \$22,500, and the Secretary had not yet approved the lease.<sup>36</sup>

This was what Boudinot wanted to hear. He now definitely planned to initiate law suits, cases that would "attract attention from Maine to California."<sup>37</sup>

In attacking Phillips, Boudinot drew upon the report that Phillips had told members of the Cherokee National Council he needed the money to pay off certain parties who had helped to secure the \$300,000 appropriation, implying Secretary Teller and Senator Henry Dawes were those influential individuals. Boudinot publicly stated that he did not believe a word of the insinuation, but he hoped Teller and Dawes would demand an investigation of the whole matter. If they did not, he would get the subject before Congress.<sup>38</sup>

Nor had he forgotten about the Outlet. In early November, he discussed his plans with David Payne, apparently on a little better terms again with the testy Boomer. "I am preparing to make a raid on the Cattle Kings on the Cherokee Strip," he wrote Payne.<sup>39</sup> "I intend to bring suit against every one of them for they have violated the law ten times as much as you; in fact you have violated no law, while they have."<sup>40</sup> Here was a peace offering. But there was a motive behind it: Boudinot needed money and he asked Payne to find "some person or persons who would chip in a small amount to pay the necessary expenses," adding "but I will bear them all if necessary."<sup>41</sup> He also noted that he had heard of a young woman who had killed a man in the Indian Territory and who was to be tried in Wichita. The Wichita court, he said, had no jurisdiction in the case; if she would pay \$1,500, he would take the case. If Payne would intercede in the matter with the girl and get the case for Boudinot, he would split the money with Payne.<sup>42</sup> As always, Boudinot was long on plans and short on funds.

With or without adequate financing, Boudinot continued his efforts. In November, he issued a circular letter to the Cherokee people. In it he discussed the granting of money to Phillips and the lease, "two matters directly affecting the interest of every Cherokee citizen, red, white or black."<sup>43</sup> He declared that he had initiated a law suit against Phillips and had asked the Attorney General of the United States to do likewise on criminal charges. As for the lease, he described it as a travesty. A few white men had been given control of six million acres for less than two cents an acre. "If the subject was to make money," he asserted, "much more, yes, three times as much, could be made by allowing Cherokee citizens the exclusive control for ten years of tracts in the outlet of not more than 150,000 acres in a body."<sup>44</sup> He vowed to take the matter before Congress and to call for an investigation.<sup>45</sup> Probably many Cherokees sympathized with Boudinot's course, even if they harbored reservations about his character and purposes. His white supporters, of course, applauded his stand, the editor of the Fayetteville Sentinel describing the contest as "Money and influence versus law and brains."<sup>46</sup>

Indeed, Boudinot had taken on formidable foes. The cattlemen's Association were not moved by Boudinot's threats. Nonetheless, Jonathan F. Lyons, a legal counsel for the Association, kept a close eye on the proceedings of the National Council that fall. He thankfully informed Charles Eldred, the head of the Association, that "There has been nothing done in reference to the lease but rumors of action to be had. Boudinot, the lecturer, says he has been appointed to prosecute the association."<sup>47</sup> That was all. Lyons did offer, however, that he believed the Council was "going to slaughter"<sup>48</sup> Phillips.

Now Boudinot pursued Phillips with a vengeance. Phillips, he told an interviewer, had not openly declared before the Council that Dawes and Teller had received the \$22,500 for services. Rather, the oily-tongued Kansan, in response to a question on the need for the money, had remarked, "well, if it had not been for Senator Dawes and Secretary Teller the appropriation would not have been made."<sup>49</sup> A few days later, Boudinot claimed Phillips had told him that he had paid Dawes and Teller. Phillips immediately denied ever making any such comment. In fact, he noted that he had not spoken to Boudinot in over eleven years. Boudinot then changed his story. He never meant that Phillips had talked with him. Rather, he had heard that Phillips had uttered such to members of the National Council. To further complicate the problem, Commissioner Price declared that he knew of no deficiency in the Cherokee funds.<sup>50</sup> The whole affair was becoming clouded in confusion, all of which lent support to Boudinot's contention of underhanded dealings.

By mid-December, Boudinot had instigated two lawsuits: one against Phillips and one against R. D. Hunter and two other members of the Cherokee Strip Live Stock Association. Boudinot had directed his battle with the cattlemen against Hunter, although his name did not even appear on the lease, because for several years Hunter had been active in securing leases on Indian lands for cattlemen. Boudinot thus concluded that Hunter had been the original instigator of the scheme.<sup>51</sup> If his case against Hunter were successful, he would initiate other suits. Still, a perennial problem haunted his efforts: a lack of funds. And since the cases would be heard in different courts--the Phillips case in Washington and the Hunter case in St. Louis--Boudinot had to engage several lawyers, plus guarantee court costs, as well as secure witnesses. He was using up

all his money.<sup>52</sup>

However, Boudinot did have his connection with the freedmen, Shawnees, and Delawares. In particular, his association with the freedmen promised to bring in some money. In December, he was again in the Cherokee Nation suggesting how they should approach getting their share of the \$300,000. He directed them to have a mass meeting and sign a memorial that he had written. Then, he would once more take their case before the Congress. While in the Indian Territory, he also happened to meet James Milton Turner. At the time, he viewed the occasion as fortuitous, for he drew Turner into the matter. Boudinot recommended that Turner present himself to the assembled freedmen and apply to be their attorney. Boudinot even gave him a letter of recommendation. Turner went to the meeting, the freedmen did give him a contract and, as Boudinot advised, the freedmen agreed to pay for Turner's expenses. In return for this aid, Turner supposedly would share equally with Boudinot any amount of the final settlement they might be allotted as agents for the freedmen. The two would work in tandem, but now Boudinot would be able to devote his energy to other projects more easily.<sup>53</sup>

With Turner now engaged in the freedman claim controversy, Boudinot turned his attention back to Phillips. Senator Dawes was irate over Boudinot's statements. He resented having his name associated with the issue and said that the root of the problem was the long-standing animosity between Boudinot and Phillips. This elicited an angry reply from Boudinot, who told Dawes, "your offensive insinuation as to me is unwarranted."<sup>54</sup> He would prove his charges against Phillips and, with regard to any quarrel with Phillips, he had had none. But, he added, "I have always regarded him as a dishonest man, and at last have it in my

power to prove him such."<sup>55</sup>

Actually, Boudinot was hard pressed to find definitive proof against Phillips. However, he began to envision Phillips as a violator of federal law for making a contract for the Cherokees without the consent of the federal government. But the matter was not easy to resolve, and Boudinot became worn out and sick. Thus, on Christmas Day, 1883, instead of gaily partaking in his usual social rounds, Boudinot, ill and irritated, drafted a letter to Bell. Bell had missed the point in the controversy. "I don't care a damn, who heard Philips [sic] say he had to pay the \$22,500 to," he wrote, "that is not the issue at all; what I want to prove, is 1st. who was the contract made with by the delegation for payment of the \$22,500. 2nd. Who was the \$22,500 paid to?"<sup>56</sup> What he needed was evidence, not hearsay! To make matters bleaker, he needed money badly. He already had taken out a loan to continue his legal maneuvers, and he begged Bell to send the sixty dollars which the latter owed him.<sup>57</sup> That Christmas day was not a time of joy for Boudinot.

The new year brought new high spirits, however. Boudinot had some information on Bushyhead's part in the affair, telling Bell,

Bushy has put himself in a hell of a fix; the contract was made by D. H. Ross & R. M. Wolfe, a Cherokee delegate with Philips [sic] in 1882; in 1883 the \$300,000 was paid over to Lipe [Cherokee Treasurer]. Bushy draws a warrant on himself for \$22,500 and then turns it over to R. D. Ross and R. M. Wolfe--delegates. I learn that Bushy pretends to know nothing more about it. Whether he does or not he should be impeached. A pretty spectacle indeed; a chief drawing a warrant to himself and receiving money without knowing what was going to be done with it. I have no doubt Bushy knew.<sup>58</sup>

By this time, too, he had received his money from Bell.<sup>59</sup> Things were looking up.



Also by the first of the new year, he had formally brought suit against Hunter. However, he had not been able to do so in a civil case because United States courts had no authority in such Indian matters. Therefore, he prompted the federal government to bring Hunter and his friends to court for violating the federal statute which made it illegal for private parties to negotiate any treaty or agreement with Indians for use of their land. If he won, the defendants would be fined one thousand dollars, and he would receive half of the amount for bringing the issue to the attention of the government. But more important, if Hunter lost, that decision would likewise make the lease illegal and void.<sup>60</sup>

To alleviate his financial distress, Boudinot also acquired another position in Washington. His friend J. D. Walker from Fayetteville had recently been elected to the Senate, and Walker made Boudinot his private secretary.<sup>61</sup> While working for Walker, he also had occasion to meet Senator Dawes, and the two somewhat smoothed over their difficulties. Dawes disclaimed making any remarks which reflected badly on Boudinot. However, Dawes was still angry over any suggestion that he had been involved in illicit activity. "I am after the man who started this lie, and when I find him I propose to make him smart," Dawes reportedly told Boudinot.<sup>62</sup> To which the Cherokee replied, "I am with you there. I will go with you heart and hand, to get the truth of this Phillips story."<sup>63</sup>

Many reputations were on the line, and one person who smarted under the exchange of accusations was Dennis Bushyhead. Taking the offensive, the Cherokee chief told a reporter from the New York Herald that he had never heard the story which Boudinot told about Phillips's remarks at

the meeting of the National Council. In a letter to the Washington Post, Boudinot called Bushyhead a liar. He also fumed at Bushyhead's appraisal of his position in the Cherokee Nation. "I care nothing for your statement that I have 'no following in the nation,'" he wrote, "there are those less stupid than yourself who know that but for my exertions you would have been defeated in the election last August."<sup>64</sup> In his estimation, Bushyhead was a weak and ungrateful person who was clearly in league with Phillips.<sup>65</sup>

In March, Boudinot had his chance at the Principal Chief when Bushyhead had to testify in the case. Once on the stand, Bushyhead admitted that he did not know to whom the \$22,500 would be paid and that Phillips was with the delegation in the National Hotel in Washington when he handed over the money. Moreover, he stated that no contract had ever been made for anyone to receive the \$22,500. He did not even have a receipt for the sum.<sup>66</sup> The next day, March 27, Boudinot jubilantly wrote to Bell, "Yesterday I had Bushyhead on the stand all day long, I tell you he sweated 'powerful.'"<sup>67</sup> However, he still needed money to carry on the case, and he believed that Phillips was relying on that factor. So again he asked Bell to solicit funds from their supporters in the Cherokee Nation.<sup>68</sup> Soon, however, Boudinot's vision of sending Phillips to prison soon began to fade. The two Cherokee delegates, Ross and Wolfe, not Phillips, had become the most guilty-looking parties. In their testimonies, they said that the money had gone to three men in Washington, but Phillips was not one of them. Still, Phillips was not exonerated. A few days later Campbell Taylor, the former clerk of the Cherokee Senate, testified that when he had asked to see a contract Phillips refused, saying, "It will never do to show the contract for it would ruin the

delegation and hurt our friends in Washington."<sup>69</sup> According to Taylor, Phillips even declared that he would rather lose the claim than exhibit the contract.<sup>70</sup>

Overall, Boudinot was pleased with the testimonies, especially with the shadow they cast on Bushyhead. Even if Phillips might escape conviction, Bushyhead had been made vulnerable. Gleeefully, Boudinot told Bell that, if Bushyhead had not lied, then the chief was "the biggest fool that ever occupied a responsible position in the Cherokee Nation, and should be impeached for imbecility; if it is not true, he ought to be impeached for being the most corrupt man that has ever occupied the executive chair."<sup>71</sup> Boudinot also accused Bushyhead of chicanery in the matter of distributing the \$300,000. Bushyhead had vetoed the bill which excluded the Delawares, Shawnees, and black and white tribal members from receiving a share of the money and, in turn, had received their votes in the last tribal election. Since then, however, he had done nothing to help them. Thus, Boudinot caustically concluded, "The trouble with Bushy is that he is both fool and knave."<sup>72</sup>

Not long after writing to Bell, Boudinot published a pamphlet-- The Philips Steal!-- which contained portions of the trial testimony; two thousand copies printed for dissemination in the Cherokee Nation.<sup>73</sup> "Let the Cherokee people read the shameful record," he wrote.<sup>74</sup> He would stir the Cherokees to action, for he needed their support. Although Bushyhead and Phillips might be considered culpable in the affair, there was not enough proof against either man. The only consolation was that the district attorney did confide to Boudinot that he would have to indict Ross and Wolfe.<sup>75</sup> However, they were small game. Boudinot wanted to destroy the Principal Chief and his main advisor.

Following the taking of testimonies at Fort Smith, the trial opened in Washington. The first round went to Boudinot and the government. Judge Haynes, the presiding judge for the Circuit Court for the District of Columbia, decided that Phillips had to stand trial, despite the demurrer of his lawyers. Haynes ruled that Phillips had no right to make a contract for the Cherokees without the approval of the Secretary of the Interior.<sup>76</sup> This was the opening Boudinot had hoped for. His strategy was clear: get Phillips on the witness stand and force him to admit to making such an agreement. Then, Phillips could be prosecuted for breaking federal law.<sup>77</sup> Unfortunately, the action of the courts would not be swift. While Haynes's decision pleased Boudinot, the case would not be heard for many months. And as usual, Boudinot was short on funds. These legal battles were draining his purse, and all he could do was to plead for Bell to raise some funds.<sup>78</sup> But by the end of May, Boudinot was no better off financially, and he felt compelled to express his habitual complaint: "I have spent every dollar I had in the world and \$150 besides that I borrowed. . . . the damned thieves are able to fight us with the money they stole from us."<sup>79</sup>

His mood quickly changed, however. At the end of May, the House passed a resolution, written by Boudinot, which called for an investigation of the \$300,000 appropriation and the Outlet lease, an action which Boudinot considered a "great victory."<sup>80</sup> Heartened by this turn of events, Boudinot was soon asking Bell for more money. He wanted to print a few thousand copies of the Report of the House Committee on Indian Affairs, with the resolution plus some comments of his own, and to have them distributed throughout the Cherokee Nation. "We have them on the run; let us keep them on the run," he happily wrote.<sup>81</sup>

By the middle of June, Boudinot was still optimistic. The United States District Attorney had told Boudinot that he was convinced that Phillips was guilty, but he could not yet sustain an indictment. At the same time, the Cherokee government has ordered that all fences enclosing over fifty acres of pasture in the Cherokee Nation be torn down. This order affected Boudinot, for he had fenced off twelve hundred acres. His anger at this directive was more than mitigated by the political use he could make of it, however. How unfair it looked, he thought, that Cherokee citizens could have only fifty acres while the Cherokee Strip Live Stock Association could hold millions of acres for less than two cents an acre. He would make political capital of the situation.<sup>82</sup> Still, knocking down the fences would further deplete his already strained finances. By the end of July, he again begged Bell to raise some money for him--he had already spent over six hundred dollars of his own money just in fighting Phillips.<sup>83</sup> Nonetheless, he was determined to fight Phillips, the cattlemen, and the Cherokee leaders until the bitter end.

During the early days of August, Boudinot prepared to make an address to the Cherokee people. Of course, he wanted to publish it as a pamphlet; but as usual he needed funds.<sup>84</sup> With or without such funds, however, he was not dissuaded from giving his speech. It was slated to be delivered at Corey's Ferry on August 25, and he urged Bell to have as many of his supporters as possible there, especially as many blacks as Bell could inform.<sup>85</sup>

Whatever the impact of Boudinot's remarks, Bell became upset by certain statements Boudinot made, either in his speech or in the newspapers. In particular, Bell thought that it had been unwise for

Boudinot to say he was a Democrat. Boudinot, for his part, was miffed at Bell's attitude. "The Jackson business," he told Bell, "is all bosh-- and has nothing to do with the politics of today."<sup>86</sup> Perhaps many Cherokees harbored ill-feelings toward Andrew Jackson and the Democrats of the 1830s, but times had changed. The Republican Party could not be called the friends of the Cherokees. A Republican administration and Congress had abrogated Article 10 of the Treaty of 1866, and a Republican dominated Supreme Court had sustained their actions. No, Boudinot would not desert the Democratic Party. To the contrary, he would return to Vinita and defend his party against all criticisms.<sup>87</sup> And as Boudinot prepared to make several talks in the Cherokee Nation that fall, he also took to the stump for the Democrats in Arkansas.<sup>88</sup>

In 1884, the Democrats had a strong candidate for President in Grover Cleveland. Indeed, Boudinot longed for a Democrat in the White House, for not only did he believe that a Democratic administration would be more favorable to his views on Indian policy than the previous Republican ones, but also he obviously had more personal influence in the Democratic Party than in the Republican. It was clearly to his benefit to be outspoken in his Democratic sympathies.

While Boudinot lent his oratorical talents to Democratic politics and continued his attacks on Phillips and the cattlemen, he undertook a new economic venture: constructing a telephone line. The telephone was a relatively new invention, and Boudinot quickly saw profits in the business. In Washington, he had become acquainted with J. Harris, who had invented a new model telephone. The operation costs of Roger's device was half that of Alexander Graham Bell's. Thus, when Rogers created his company, the Pan Electric Company, Boudinot along with

A. H. Garland and other Washington notables became stockholders. Boudinot also became an agent for the company and set his entrepreneurial sights on northwestern Arkansas. In September, he completed a line from Rogers, Arkansas, to Bentonville. The line was only six miles, but it was a beginning. By the first of October, he had linked Fayetteville with Farmington, Arkansas. By 1885 he was the president of the Rogers and Bentonville Telephone Company, and the organization showed very good returns.<sup>89</sup> This enterprise was definitely the kind that intrigued Boudinot: modern and new. Like the railroad, the telephone was a product of progress and an exponent of change. How much his own bank account benefitted from this work is uncertain, but he must have enjoyed his part in the grand undertaking.

At the same time that Boudinot engaged in these demanding activities, his old ally Payne made another incursion into the Indian Territory. Again, Payne was dragged out by the Army, and once more Boudinot had an observation to make. While not fully condoning the actions of the Boomers, Boudinot told an interviewer,

If Payne and his crowd are on Cherokee lands, they have no business there; but they have just as much right there as the cattle men who have leased the territory. It would be an outrage to remove Payne and his followers who want to plant corn and wheat on those lands and yet leave the "Cattle Kings."<sup>90</sup>

As for the Oklahoma lands, he maintained, as did Payne, that they belonged to the United States government, but noted that as an Indian it was not his place to make any comment.<sup>91</sup>

Clearly, Payne could not expect any more than limited help from Boudinot, but the cattlemen in the Outlet could be assured that Boudinot would continue to hound them. On September 16, however, Boudinot's efforts suffered a setback. Judge J. Brewer decided the case against

Robert D. Hunter in favor of the defendant. Brewer ruled that the validity of the lease was not in question. Rather, Hunter had been charged with violating section 2116 of the Revised United States Statutes, that is, assuming to act in securing title to Indian lands as a private citizen of the United States. Hunter and the other cattlemen, Brewer concluded, had not done so. They had only obtained a lease on the land and, as the tribes owned the land, they had a right to rent it.<sup>92</sup> Boudinot had to be deflated. Brewer had circumvented the Cherokee's legal ploy--he had refused to question the nature of the lease. On the other hand, he had declared that the Outlet did belong to the Cherokees, an issue clouded by the Treaty of 1866 and the recent appropriation of \$300,000 for lands west of the Arkansas River. If Brewer's decision could stand, at least the Cherokees would be more secure in their control of the Outlet. That fact, however, did not encourage Boudinot; the cattlemen now had legal sanction to lease the Outlet. Still, one judge's decision could be overturned, and Congress could intervene, if it so desired. Boudinot was only hindered by the ruling, not stopped.

Because of his efforts against Phillips and the cattlemen, Boudinot's reputation in the Cherokee Nation improved. If he was not universally admired and supported, he was at least bolstered in his efforts by an increasing number of Cherokees who were of the same mind on these issues. He became a more welcome visitor, particularly in Vinita, where Indian Chieftain echoed his attacks on Phillips and the lease of the Outlet.<sup>93</sup> Thus when Vinita prepared for its annual fair in October, Boudinot was invited to deliver the opening address. When the editor of the Chieftain reported this news, he expressed local sentiment:



"While there are many who do not share the Colonel's views, still they are anxious to hear him speak."<sup>94</sup> Boudinot did not disappoint them. Some, however, were surprised, so the Chieftain incredulously reported, that he talked so much on politics.<sup>95</sup> If they had expected Boudinot to dwell on any other subject, they must have been naive. Boudinot would never let such an opportunity pass without lashing out at his enemies. Nonetheless, his invitation to the fair showed that he had regained some of his old stature within the Cherokee Nation.

The fall of 1884 brought Boudinot both hope and dismay. In early November, he had reason to cheer when Grover Cleveland defeated James G. Blaine for the Presidency. For the first time since 1856, a Democrat had been elected as Chief Executive. Boudinot could now look for a change in Indian policy. On the other hand, he had to be disgusted when on November 26 the Cherokee government decided to retain Phillips as a special agent.<sup>96</sup> The next day, in Wellington, Kansas, David A. Payne died of a heart attack.<sup>97</sup> Thus, Boudinot saw his long time enemy apparently vindicated, at least for the moment, and his erstwhile friend pass from the scene.

Boudinot, however, did not have time to bemoan Phillip's reappointment or Payne's demise. He had battles yet to fight. He would encourage Congress to look into the leasing of the Outlet. On December 3, 1884, Boudinot's friend Senator George Vest, no doubt with Boudinot's approval and probably with his urging, introduced a resolution in the Senate calling for an investigation of Indian leases to cattlemen in the Indian Territory. The Senate easily accepted Vest's proposal, and the hearings commenced almost immediately. The first witnesses were called on December 9, and Boudinot was among their number.<sup>98</sup>

Boudinot came to the meeting prepared. He had a scrapbook filled with documents; he also supplied the committee with names of individuals who had knowledge of how the lease was made. The next day, he was recalled to furnish supplemental papers. He also used the occasion to make a formal statement of his position on the matter:

It has been generally supposed that I was instrumental in having this matter investigated, and am opposed to leases. I am opposed to leases, because they are in violation of the constitution of the Cherokee Nation, and in violation of the statutes of the United States. While I am not opposed to utilizing the land so that the Indians can get the greatest amount of benefit out of it, I do not believe it could be done legally in the way it has been done; and then on the ground that it was putting into the hands of a few men too much land. I think Congress should make some provision so that the lands could be utilized legally, but not in such large tracts.<sup>99</sup>

Boudinot stated his belief that the Outlet should be rented to individuals in smaller parcels for a higher price. In that way, Cherokees could use the land by securing leases. He furthermore stated that he and Bell had had improvements on a piece of land in the Outlet but had lost them because of the lease. He considered it very unfair that they had not received any compensation for their losses.<sup>100</sup> What he did not mention, however, was that he had only recently gained title to part of Bell's ranch. But devious as ever, he instructed Bell to date the document August 1, 1880, before the lease had been written.<sup>101</sup>

To support his stand, Boudinot even cited an editorial by William P. Ross, who when with the Indian Chieftain had opposed the leasing of the Outlet as a step which would inevitably bring forth congressional action. Here indeed was an ironic twist! Boudinot seemingly siding with Ross. Of course, the two approached the problem from differing perspectives. Ross saw the action as a potential threat to Cherokee sovereignty; Boudinot considered it detrimental to his own ambitions.

Far from Ross's point of view, Boudinot went on to say that he believed a majority of Cherokees would willingly let the Outlet be sold to the United States if the price were right.<sup>102</sup>

When asked about corrupt dealing on the part of the cattlemen to secure the lease, Boudinot declared that he had no personal knowledge of such goings on. However, he intimated what he had heard: Money supposedly had been paid to members of the National Council, particularly Clem Rogers who had authored the bill for leasing the Outlet. But when asked to say who supplied him with this information, Boudinot begged off, not wishing to place those informants in jeopardy.<sup>103</sup>

In a careful, yet convincing way, Boudinot headed the committee in the direction which he desired. Many other witnesses would be called before the hearings ended, but Boudinot's testimony was over. All he could do now was to sit back, watch, and wait, undoubtedly keeping in close personal contact with the committee members.

Regardless of the growing opposition to the lease in the Cherokee Nation, Bushyhead and his fellow tribal leaders remained steadfast in defending the lease and instructed the delegation to voice that sentiment in Washington. Bushyhead strongly denied that any significant disapproval existed, telling one correspondent, "I have never heard any complaint against the lease from any citizen of the nation except E. C. Boudinot, who is nothing more than a private citizen."<sup>104</sup> This was a falsehood, but he could not very well admit otherwise. His actions and reputation were at stake, and Boudinot made a good foil. Who could believe or trust the statements or motives of the infamous Boudinot?

The committee continued its work until early February. No direct action against the lease resulted from its report, but the whole matter

had come under public scrutiny. The soon to be empowered Democratic administration would look askance at the leases. Boudinot and others could hopefully anticipate a change in the offing.

As the Senate committee carried on its proceedings, Boudinot returned to other issues. He now modified his opinion on the Oklahoma or Unassigned Lands, suggesting that the government give the land back to the Creeks and Seminoles if it were not to be opened to white settlers. He also again called for Indians to be made citizens of the United States--then the Indian Territory would soon become "a great State."<sup>105</sup> Pleasant Porter of the Creeks and other Indian leaders concurred on this view, he said, but they believed that more time was needed before conferring citizenship on the Indians. Perhaps they were right, but with respect to his own tribe, Boudinot was unswerving: "I believe now is the time to take in the Cherokees."<sup>106</sup> At the same time, he proclaimed that he had new evidence that Phillips had lied to the Cherokees. In 1883, Phillips had asked for the \$22,500 on the grounds that he had gained a new appraisal of Cherokee lands. The government had agreed that they were worth \$1.25 an acre rather than \$.47. But, the Commissioner of Indian Affairs stated in early 1885 that no new appraisal had been issued.<sup>107</sup> For Boudinot, this revelation surely proved that Phillips had been hoodwinking the Cherokees all along. By taking such positions, Boudinot must have put many Cherokees in a quandry. While many endorsed Boudinot's efforts against the cattlemen and likewise had no love for Phillips, they could not accept his other views. Citizenship and statehood were anathema to most Cherokees.

White Americans, however, placed a strong stock in Boudinot's remarks. For them, he was not only a noted Indian spokesman but also a

leading authority on Indian policy. That reputation made Boudinot a man to be taken seriously and to be respected for his views, especially in Washington where he enjoyed a good reputation and acknowledged influence. In fact, many of his political friends began to support Boudinot as a candidate for Commissioner of Indian Affairs in the new Cleveland administration. His close friend Daniel Voorhees began to push for his appointment. Of course, political leaders in Arkansas also endorsed his candidacy. There, the governor, the justices of the state supreme court, and the members of the state assembly all expressed their support. Congressmen in the Arkansas, Missouri, Illinois, Indiana, and Kentucky delegations added their approval. Both Samuel J. Tilden and Horatio Seymour, former presidential candidates and political leaders in New York, the home state of the President-elect, offered their endorsements. Senator L. Q. C. Lamar of Mississippi also supposedly offered his aid, and Cleveland soon selected Lamar as his Secretary of the Interior. Thus, the speculation abounded that as Lamar was Boudinot's "warm personal friend," the Cherokee's appointment seemed almost certain.<sup>108</sup>

Certainly Boudinot had marshalled a strong array of political support. However, he was not the only candidate for the post. His strongest competition came from John D. C. Atkins, a former congressman from Tennessee, who also had connections in Washington.<sup>109</sup> Other possible candidates included George W. Manypenny, a former Commissioner of Indian Affairs, and Robert Stevens, the former General Manager of the Katy and Boudinot's old cohort.<sup>110</sup>

Opposition to Boudinot came from the Cherokee delegation, of course. In fact, Bushyhead supposedly even hurried to Washington with the sole

purpose of defeating any efforts to make Boudinot the new Commissioner. Some Cherokees, however, welcomed the prospect of Boudinot sitting in the Commissioner's office.<sup>111</sup> James M. Bell and three of his friends who were in Washington on other business, made a special point to convey to Lamar the vileness of Bushyhead's effort. In a formal letter to the Secretary, they stated that any charges against the integrity of Boudinot were false, especially any coming from Bushyhead and the infamous "ring" which controlled the Cherokee Nation, aided by Phillips, "a bitter, radical republican politician."<sup>112</sup> At the same time, Voorhees attempted to use his personal influence with Lamar on Boudinot's behalf.<sup>113</sup> As for Bushyhead, he told the press that he did not support Boudinot and that Boudinot's record spoke for itself: Boudinot was his own worst enemy.<sup>114</sup> Lamar, in turn, informed Bell and the others that, to his knowledge, Bushyhead had "placed nothing on file in this Department reflecting upon the high and honorable character of Col. Boudinot."<sup>115</sup>

Despite Lamar's assumed high regard for Boudinot, the dissident Cherokee did not become the Commissioner of Indian Affairs. The position went to Atkins. A combination of factors probably doomed Boudinot's candidacy, not least of all the machinations of Democratic Party politics. Atkins had more support from the Southern wing of the party. Although an old Confederate, Boudinot was more the choice of Southwestern Democrats than Southern Democrats. Then, too, controversy surrounded Boudinot. While many viewed Boudinot as an adroit spokesman on Indian policy, many others saw him as an enemy of the Indians, a man with many ideas but few sympathies for the wishes of his red brethren.

After being passed over for Atkins, Boudinot may have taken time to reflect upon his life. He was forty-nine years old and without much to show for his work. He enjoyed a certain enviable reputation and had many powerful friends, but he had little else. Most of his financial ventures had ended in failure, or at least had failed to produce the wealth he had envisioned. He was still at odds with many of his fellow Cherokees. Moreover, he had no home or family. Vinnie Ream, his first love, had long since married another. At the same time, Boudinot's hectic life left much to be desired. He was always on the move, splitting his time between Washington, Fayetteville, and the Cherokee Nation, not to mention the numerous trips he took to other parts of the country. Nonetheless, that was the routine he had made for himself.

To his friends, Boudinot appeared to be a confirmed bachelor, wedded to his work and reconciled to his way of life. Boudinot, however, surprised many of them in mid-April. On April 16, he married Clara C. Minear. Clara, only twenty-five years old, had resided in Washington for only a year. Before then, her family had lived in San Francisco. During her brief time in the nation's capital, she had met Boudinot, and the two fell in love. Despite the differences in their ages, Clara no doubt became enthralled with the dynamic, but aging Cherokee. He was still a very striking and impressive man. They kept their relationship almost secret, however. And when they did exchange vows, only a few friends and family were on hand. Senator John T. Morgan of Alabama gave the bride away, and among those attending the ceremony were Vinnie Ream's mother and her sister, Mrs. Perry Fuller. It was a small, quiet affair.

Now, Boudinot prepared to bring more order to his life. He would not give up some of his battles, but then neither would he continue his capricious life-style. Instead of dashing about the country and living on the margin, he would turn his attention to establishing a more sedate existence. With that in mind, he took his bride to Fayetteville. For the time being, they would make their home in that comfortable little city where Boudinot had so many friends. He would build up his law practice and thereby accrue financial security. Nonetheless, the future still held some challenges for Boudinot. He was not a man to let issues and events pass unnoticed and unquestioned, but now his energies would be tempered by his new responsibilities. He wanted to make a home for his pretty young wife, and that infused him with a greater touch of discretion. Only time would tell if he would be successful in reshaping his life as new dreams and goals filled his mind.



ENDNOTES

- <sup>1</sup>Cherokee Papers (bound volume of copies of newspaper articles), pp. 360-261, IAD, OHS.
- <sup>2</sup>Elias C. Boudinot to James M. Bell, 8 April 1882, CP, WHC.
- <sup>3</sup>Elias C. Boudinot to David L. Payne, 27 April 1882, D. L. Payne Collection, WHC.
- <sup>4</sup>Stan Hoig, David L. Payne: The Oklahoma Boomer (Oklahoma City, Okla.: Western Heritage Books, 1980), p. 118.
- <sup>5</sup>Sentinel (Fayetteville, Ark.), 14 June 1882.
- <sup>6</sup>Sentinel, 28 June 1882.
- <sup>7</sup>Sentinel, 11 October 1882.
- <sup>8</sup>Grant Foreman, A History of Oklahoma (Norman: University of Oklahoma Press, 1942), p. 189.
- <sup>9</sup>Sentinel, 28 June 1882.
- <sup>10</sup>Sentinel, 9 August 1882.
- <sup>11</sup>Elias C. Boudinot to Spencer S. Stephens, 1 June 1882, CP, WHC.
- <sup>12</sup>Ibid.
- <sup>13</sup>Sentinel, 18 October 1882; 23 April, 7 May 1885.
- <sup>14</sup>Sentinel, 18 October 1882.
- <sup>15</sup>Chicago Inter-Ocean, 30 September 1882, cited in Sentinel, 7 May 1885.
- <sup>16</sup>Hoig, pp. 107-138. Also see appropriate section of Carl Coke Rister, Land Hunger: David L. Payne and the Oklahoma Boomers (Norman: University of Oklahoma Press, 1942).
- <sup>17</sup>Sentinel, 7 February 1883; Hoig, p. 151.
- <sup>18</sup>Wichita City Eagle (Kansas), 29 March, 12 April 1883.
- <sup>19</sup>Wichita City Eagle, 19 April 1883. Also see Hoig, pp. 153-155.

<sup>20</sup>William W. Savage, Jr., The Cherokee Strip Live Stock Association: Federal Regulation and the Cattlemen's Last Frontier (Columbia: University of Missouri Press, 1973), pp. 33-36.

<sup>21</sup>Elias C. Boudinot to James M. Bell, 7 July 1883, CP, WHC.

<sup>22</sup>Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), p. 342.

<sup>23</sup>Elias C. Boudinot to Spencer S. Stephens, 2 March 1883, CP, WHC.

<sup>24</sup>Ibid.

<sup>25</sup>Herald (Dallas, Tex.), n.d., cited in Sentinel, 25 July 1883.

<sup>26</sup>Ibid.

<sup>27</sup>Wardell, p. 342.

<sup>28</sup>Herald (Dallas, Tex.), n.d., cited in Sentinel, 25 July 1883.

<sup>29</sup>Ibid.

<sup>30</sup>Wardell, pp. 233-234.

<sup>31</sup>Elias C. Boudinot to Secretary of the Interior, 6 July 1889, NA, RG75, Special File 298 (hereafter SF), M574.

<sup>32</sup>Sentinel, 27 June, 4 July 1883.

<sup>33</sup>Elias C. Boudinot to James M. Bell, 30 September 1883, CP, WHC.

<sup>34</sup>H. Craig Miner, The Corporation and the Indian: Tribal Sovereignty and the Industrial Civilization in Indian Territory, 1865-1907 (Columbia: University of Missouri Press, 1976), p. 131.

<sup>35</sup>Ibid., p. 130.

<sup>36</sup>48th Cong., 1st sess., Senate Exec Doc 54 (serial 2165), p. 160.

<sup>37</sup>Elias C. Boudinot to James M. Bell, 9 October 1883, CP, WHC.

<sup>38</sup>St. Louis Republican, n.d., cited in Sentinel, 24 October 1883.

<sup>39</sup>"B" to "Dear Cap," 3 November 1883, D. L. Payne Collection, WHC.

<sup>40</sup>Ibid.

<sup>41</sup>Ibid.

<sup>42</sup>Ibid.

<sup>43</sup>"Circular Letter" to the Cherokee People, signed by Elias C. Boudinot, dated 14 November 1883, CP, WHC.

<sup>44</sup>Ibid.

<sup>45</sup>Ibid.

<sup>46</sup>Sentinel, 21 November 1883.

<sup>47</sup>Jno. F. Lyons to Chas. H. Eldred, 23 November 1883, Cherokee Strip Live Stock Association Papers, Section X, IAD, OHS.

<sup>48</sup>Ibid.

<sup>49</sup>Washington Star, 7 December 1883, cited in Sentinel, 19 December 1883.

<sup>50</sup>Sentinel, 12 December 1883.

<sup>51</sup>Sentinel, 24 September 1884.

<sup>52</sup>Elias C. Boudinot to James M. Bell, 16 December 1883, CP, WHC.

<sup>53</sup>Elias C. Boudinot to Secretary of Interior, 6 July 1889, NA, RG75, SF298, M574.

<sup>54</sup>Elias C. Boudinot to Henry M. Dawes, 3 December 1883, cited in Sentinel, 19 December 1883.

<sup>55</sup>Ibid.

<sup>56</sup>Elias C. Boudinot to James M. Bell, 25 December 1883, CP, WHC.

<sup>57</sup>Ibid.

<sup>58</sup>Elias C. Boudinot to James M. Bell, 2 January 1884, CP, WHC.

<sup>59</sup>Ibid.

<sup>60</sup>Globe Democrat (St. Louis), n.d., cited in Sentinel, 2 January 1884.

<sup>61</sup>Sentinel, 30 January 1884.

<sup>62</sup>Sentinel, 2 January 1884.

<sup>63</sup>Ibid.

<sup>64</sup>Washington Post, n.d., cited in Sentinel, 30 January 1884.

<sup>65</sup>Ibid.

<sup>66</sup>The Philips Steal!, pamphlet signed by Elias C. Boudinot (Boudinot often misspelled Phillips), dated 17 April 1884, pp. 3-5. Copy in CP, WHC.

<sup>67</sup>Elias C. Boudinot to James M. Bell, 27 March 1884, CP, WHC.

- <sup>68</sup>Ibid.
- <sup>69</sup>St. Louis Republican, n.d., cited in Sentinel, 9 April 1884;
- <sup>70</sup>The Philips Steal!, p. 6.
- <sup>71</sup>Elias C. Boudinot to James M. Bell, 11 April 1884, CP, WHC.
- <sup>72</sup>Ibid.
- <sup>73</sup>Elias C. Boudinot to James M. Bell, 25 April 1884, CP, WHC.
- <sup>74</sup>The Philips Steal!, p. 1.
- <sup>75</sup>Elias C. Boudinot to James M. Bell, 25 April 1884, CP, WHC.
- <sup>76</sup>St. Louis Republican, 3 May 1884, cited in Sentinel, 7 May 1884.
- <sup>77</sup>Elias C. Boudinot to James M. Bell, 12 May 1884, CP, WHC.
- <sup>78</sup>Elias C. Boudinot to James M. Bell, 2 May and 13 May 1884, CP, WHC.
- <sup>79</sup>Elias C. Boudinot to James M. Bell, 27 May 1884, CP, WHC.
- <sup>80</sup>Elias C. Boudinot to James M. Bell, 31 May 1884, CP, WHC.
- <sup>81</sup>Elias C. Boudinot to James M. Bell, 7 June 1884, CP, WHC.
- <sup>82</sup>Elias C. Boudinot to James M. Bell, 14 June 1884, CP, WHC.
- <sup>83</sup>Elias C. Boudinot to James M. Bell, 31 July 1884, CP, WHC.
- <sup>84</sup>Elias C. Boudinot to James M. Bell, 9 August 1884, CP, WHC. At this time, Boudinot said that he was sick with "cholera morbus," but even illness would not deter him from this fight.
- <sup>85</sup>Elias C. Boudinot to James M. Bell, 17 August 1884, CP, WHC. Boudinot gave the speech as scheduled and talked on the "Philips Steal" and the leases on the Outlet. Sentinel, 3 September 1884.
- <sup>86</sup>Elias C. Boudinot to James M. Bell, 3 September 1884, CP, WHC.
- <sup>87</sup>Ibid.
- <sup>88</sup>Sentinel, 13 August, 4 October 1884.
- <sup>89</sup>Elias C. Boudinot to James M. Bell, 24 September 1884, CP, WHC; Sentinel, 1 October 1884, 23 April, 17 June 1885.
- <sup>90</sup>Missouri Republican (St. Louis), n.d., cited in Sentinel, 13 August 1884.
- <sup>91</sup>Ibid.

<sup>92</sup>U. S. v. Hunter, 21 Federal Reporter 615; Globe Democrat, n.d., cited in Sentinel, 24 September 1884; Indian Chieftain (Vinita), 25 September 1884.

<sup>93</sup>Miner, The Corportation and the Indian, p. 133.

<sup>94</sup>Indian Chieftain, 16 October 1884.

<sup>95</sup>Indian Chieftain, 23 October 1884.

<sup>96</sup>Cherokee Senate Bill, 26 November 1884, William Phillips Papers, Gilcrease Institute.

<sup>97</sup>Hoig, p. 214.

<sup>98</sup>49th Cong., 1st sess., Senate Report 1278, pt. 1 (serial 2362), pp. 3-270. Also see William W. Savage, Jr., "Leasing the Cherokee Outlet: An Analysis of Indian Reaction, 1884-1885," Chronicles of Oklahoma 46 (Autumn, 1968), 285-292.

<sup>99</sup>49th Cong., 1st sess., Senate Report 1278, pt. 1 (serial 2362), p. 100.

<sup>100</sup>Ibid., pp. 100-101.

<sup>101</sup>Elias C. Boudinot to James M. Bell, 21 May 1884, CP, WHC.

<sup>102</sup>49th Cong., 1st sess., Senate Report 1278, pt. 1 (serial 2362), pp. 101-102.

<sup>103</sup>Ibid., p. 106.

<sup>104</sup>D. W. Bushyhead to Col. S. S. Smoot, 31 December 1884, CNP, Vol. 715-G, IAD, OHS.

<sup>105</sup>Letter of Elias C. Boudinot to Sentinel, 28 December 1884, in Sentinel, 7 January 1885.

<sup>106</sup>Ibid.

<sup>107</sup>Sentinel, 14 January 1885.

<sup>108</sup>Sentinel, 4 March 1885; 7 January 1885; Globe Democrat (St. Louis), 15 February 1885, cited in Sentinel, 18 February 1885; The Statesman (Austin, Tex.), n.d., cited in Sentinel, 25 February 1885.

<sup>109</sup>See Gregory C. Thompson, "John D. C. Atkins, 1885-88," in The Commissioners of Indian Affairs 1824-1977, ed. by Robert Kvensnicka and Herman J. Viola (Lincoln: University of Nebraska Press, 1979), pp. 181-88.

<sup>110</sup>Sentinel, 18 February, 11 March 1885.

<sup>111</sup>James E. Harlin to James M. Bell, 8 March 1885, CP, WHC.

<sup>112</sup>James Taylor, John L. McCoy, James M. Bell, and C. H. Taylor to L. Q. C. Lamar, 8 March 1885, CP, WHC.

<sup>113</sup>Globe Democrat (St. Louis), 8 March 1885, cited in Sentinel, 11 March 1885.

<sup>114</sup>Sentinel, 18 March 1885.

<sup>115</sup>L. Q. C. Lamar to Jas. Taylor, Jno. L. McCoy, Jas. M. Bell and C. H. Taylor, 25 March 1885, CP, WHC.

<sup>116</sup>Sentinel, 15 April 1885; Washington Post, n.d., cited in Sentinel, 23 April 1885; Starr Manuscripts, Vertical File, OHS Library.

## CHAPTER XIII

### A CHANGE OF PACE

Boudinot and his wife arrived in Fayetteville in late April and established a temporary residence in the Quarles House.<sup>1</sup> Again among his old friends, he must have proudly introduced his new wife, "a lady of splendid connections and excellent accomplishments."<sup>2</sup> Many years had passed since he first resided in Fayetteville. Then, he had been an ambitious young man with little means of support. Since that time, his life had been filled with ups and downs. Without a doubt, he had made a reputation in the world. Yet, he had little to show for himself. Failed business ventures and slight financial security off-set his personal notoriety. Moreover, long-running political battles in the Cherokee Nation remained unresolved. Now, however, he would redirect his efforts. He would make a home for Clara; he would re-establish a local law practice and enhance his economic well being.

Boudinot may have taken on a new resolve in life, but that did not mean he had forsaken his rambling life completely. He would still practice law in Washington with Robert W. Johnson, his old friend and former political benefactor.<sup>3</sup> Of course, he would also spend time in the Cherokee Nation, especially on his ranch.<sup>4</sup> Nor would he fail to take part in Cherokee affairs.

No sooner had Boudinot returned to Fayetteville than he again became active in civic affairs. He became a leader in the effort to erect a permanent monument for Fayetteville's Confederate Cemetery.<sup>5</sup>

Then when U. S. Grant passed away a few weeks later, Boudinot proposed that the city select a committee to compose a statement of commemoration of the former President. A committee was formed with Boudinot as a member.<sup>6</sup> Boudinot would never refrain from public life, especially in Fayetteville where the people held him in high regard.

While Boudinot again offered his time to local civic activities, he did not lose sight of his financial and professional needs and responsibilities. Nor did he give up any idea of exploiting opportunities in the Cherokee Nation, for in July, 1885, he and Clara obtained a license from the Cherokee government to produce "stove coal" in the Cooweescooe District.<sup>7</sup> All the while, he worked to build up a legal practice. Many days found him in Fort Smith before Judge Parker's court representing clients accused of crimes in the Indian Territory.<sup>8</sup>

Although Boudinot devoted more time to practicing law than he had in the past, he also continued to make known his views on Indian affairs, and Indian land remained a major focus of his attention. The Unassigned Lands, in particular, held his interest. In fact, in April of 1885, he contradicted the opinion of Judge Parker in the Payne case in which Parker had handed down an interpretation of the meaning of "freedmen" in the treaties of 1866. Parker had decided that "freedmen" referred to recently emancipated slaves of Creeks and Seminoles. According to Boudinot, "freedmen" meant any former slave from anywhere in the United States. Boudinot expressed these views to a reporter for the St. Louis Republican and, as always, Boudinot's remarks made good copy. He also stated that the federal government should have paid the Creeks and Seminoles more for their lands than was given--he suggested one dollar per acre as a fairer price. Furthermore, with regard to



Cherokee lands, he said that settling Pawnees, Nez Perces, and other tribes on Cherokee land would be a violation of the treaty of 1866, unless the Cherokees gave their consent. However, the Cherokee government had already accepted sixty thousand dollars from the United States government as a down payment on the land in the Outlet through an agreement fostered by the advice of W. A. Phillips. Therefore, the United States had a "lien" on land rented to cattlemen.<sup>9</sup> Boudinot did not have to assert that the whole affair was a plot to take the Outlet away from the Cherokees--the implication was clear; nor did he have to condemn Phillips--his views on the Kansas politician were well known.

Indeed, the issues were far from dead. The question of W. A. Phillips' misuse of tribal moneys was still fermenting. In fact, in May of 1885, Senator Dawes headed a Senate committee which came to the Cherokee Nation to investigate the matter further. No sooner did the senators reach the nation, than Boudinot hurried from Fayetteville to meet with them.<sup>10</sup> Nor was Boudinot the only party closely watching the doings of the committee. The editor of the Indian Chieftain did likewise, and he hit hard at Bushyhead, Phillips, and Wolfe, pointing out that a Senate document reported that \$334,595.73 had been paid to the Cherokees for unoccupied lands west of the Arkansas River. However, Bushyhead and Phillips maintained that the document was in error. They told the Cherokees that no money had been received. Therefore, the Chieftain challenged them to prove their statements: "You have told the people that Col. Boudinot got up this spurious executive document and that it is a forgery, and that ex-Secretary Teller and Senator Dawes told you so. . . . we call upon you to prove your assertions, or stand confessed as base falsifiers and slanderers."<sup>11</sup>

A couple months later, Boudinot graced the Chieftain with a letter restating his views and opinions. To start with, Boudinot wrote that he believed a majority of the Cherokees were "opposed to selling any acre" of the Outlet.<sup>12</sup> As for the deal made with the United States government, he attacked the Cherokee Advocate for maintaining that the reported \$334,000 had never been paid. In his words, the Advocate was a "venal political prostitute" which made false statements with "brazen effrontery . . . in the face of official declarations of two secretaries of the interior and two Indian commissioners."<sup>13</sup> What the Cherokee Nation should do, he said, would be to pay back the money with interest. That would be the only way the "Cherokees can relieve themselves from the embarrassment in which a dishonest attorney, and a stupid delegation and chief have placed them."<sup>14</sup> And with regard to the Unassigned Lands, he urged the Creeks and Seminoles to get as much for them as they could and then "prepare in common with the other nations for the radical changes which will inevitably result."<sup>15</sup> Furthermore, he warned that if they refused to negotiate an agreement, "the irresponsible conflict between the boomers and cattlemen and army will go on, to end at last in the triumph of the boomers and the settlement of the lands without the Indians having any voice in their valuation."<sup>16</sup>

Obviously, Boudinot pondered the fate of the Outlet. He had envisioned gaining access to that land for himself and other Cherokees and fought leasing it to the Cherokee Strip Live Stock Association. Then, in August, President Cleveland raised Boudinot's spirits, and those of many others in the Indian Territory. Attorney General A. H. Garland, Boudinot's close friend, voided all the leases for Indian

lands, and the President instructed the military to start removing the stockmen. Cleveland, in turn, was flooded with a multitude of letters from persons who welcomed his action.<sup>17</sup> One came from Boudinot. "The country is to be congratulated in having a President who is not afraid of 'Twenty five millions of dollars,'" he wrote, concluding poetically, "Ill fares the land, to hast'ning ills a prey, where wealth accumulates, and men decay."<sup>18</sup> Boudinot should not have been too overjoyed, however. Many Cherokees had wanted to see the lease on the Outlet destroyed not in order to open the land for Cherokee users but to make a more profitable lease with other interested white parties.<sup>19</sup>

About the same time, the federal government had to choose a new agent for the Union Agency, and Boudinot was pleased with the choice: Robert L. Owen. Indeed, in many respects the two men, both mixed-bloods, had much in common. An educator and a lawyer, Owen had taught at the Cherokee Orphan Asylum, served on the Board of Education for the Cherokee Nation, and edited and published the Vinita Indian Chieftain.<sup>20</sup> He had also opposed the Outlet lease. And when asked how he could endorse Owen, an Indian as agent but could not accept William P. Ross in 1875, Boudinot replied that in 1885 the issues were different. He said that he had not opposed Ross because he was an Indian but because he was "morally unfit" for the position.<sup>21</sup> This answer was not entirely truthful, for one of the more notable objections to Ross's appointment was that he was a Cherokee and the leader of a tribal faction. Then, too, Boudinot believed that Owen was a more honorable and reputable person than Ross and thus saw no contradiction in his sentiments.

Sometime in late 1885, Elias and Clara moved to Fort Smith.

Perhaps Fort Smith offered more amenities than the smaller city of Fayetteville, but probably Boudinot's law practice fostered the change. Much of his time was spent in Fort Smith trying cases; living there must have proved to be much more convenient than commuting from Fayetteville. Whatever the reasons, the Boudinots left Fayetteville and, for the rest of their years together, Fort Smith would be their home.

Well established in Fort Smith by the spring of 1886, Boudinot again looked to renewing his conflict with W. A. Phillips. In March, a grand jury in the District of Columbia dismissed the civil suit against Phillips, but Attorney General Garland continued to prepare for following up criminal charges against Phillips, D. H. Ross, and R. M. Wolfe. Garland even engaged Boudinot to aid the prosecution, which prompted the Indian Chieftain to remark, "Look out for fun."<sup>22</sup> Indeed, Boudinot must have reveled in this role.

On April 9, 1886, Phillips, Ross, and Wolfe were indicted for making contracts with Indians in violation of Section 2105 of the Revised United States Statutes. Twelve days later, they were also indicted for conspiring to commit an offense against the United States government. Both indictments were made in the District of Columbia and, as one of the government's attorneys, Boudinot definitely had his hand in gaining these indictments.<sup>23</sup> Ross and Wolfe, however, tried to avoid prosecution. Appearing before Judge Parker in Fort Smith, the two cherokees and their attorneys argued that since the two tribal delegates had acted under the authority of the Cherokee Nation, they could not be tried in Washington for this alleged transgression. Parker rejected their argument, much to Boudinot's delight.<sup>24</sup>

Probably equally heartening to Boudinot was the obviously growing sentiment against Phillips in the Cherokee Nation. In late April,

Cherokee lawmakers passed an act instructing the Cherokee delegation not to hire any agent or legal counsel who had previously been employed by the nation.<sup>25</sup> Clearly, Phillips was the target of this legislation. Unfortunately for the anti-Phillips faction, Bushyhead retained Phillips as an agent for the Cherokee Nation, doing so under executive authority granted to the Principal Chief under an 1884 act.<sup>26</sup> No doubt in Boudinot's eyes, Bushyhead's action just confirmed the nefarious alliance between the two men.

Soon, Boudinot's hopes of destroying Phillips completely were dashed. The congressional investigation of Phillips, which had been going on since 1884, terminated in June of 1886. No proof of any wrongdoing on Phillips' part was found. That same month, Justice McArthur of the Supreme Court of the District of Columbia dismissed the indictments against Phillips, Ross, and Wolfe, ruling that the charges were vaguely worded and dealt with offences against the Cherokee Nation, not the United States.<sup>27</sup>

Boudinot remained optimistic, however. He told Mrs. Perry Fuller that the decision was "by no means of the consequence that Philips [sic] through his manipulations of the press tries to show. The chances are we will compel them to come to trial."<sup>28</sup> And to a friend in Vinita, he calmly pointed out that McArthur had merely taken a different opinion on the matter than had Judge Parker. If an appeal were allowed, he was confident that McArthur's decision would be overruled. Moreover, even if the three did not stand trial, their reputations had been damaged and their true characters exposed:

After all, what is the victory worth to the ring of thieves if they do escape the penitentiary? They can only boast that they escaped trial before a jury for their infamous crimes, and a certain conviction and wearing of the stripes

for a term of years in the penitentiary of their conviction, which was as sure as fate, whenever put before a jury.<sup>29</sup>

Boudinot believed that, no matter what else transpired in the case, he had won a victory. Phillips and the others had not been fully and openly exonerated of the charges against them; they had only evaded standing trial because of a judicial opinion.

The busy Boudinot did not spend all of his efforts on the Phillips case, however. He also continued to work for securing a share of the \$300,000 given to the Cherokee Nation by the United States government for certain lands west of 96° for the freedmen, Shawnees, and Delawares. In this effort, though, he did not act alone. Milton J. Turner also lobbied in Washington on behalf of the freedmen, along with Henry E. Cuney, whom Turner engaged to help in the process. Consequently, in March 1886, Senator Dawes introduced a bill in the Senate which called for compensation for the freedmen. In late April, the Senate Committee on Indian Affairs favorably reported the bill back to the Senate. Apparently, however, Boudinot preferred court action to congressional directive. Therefore, while Cuney promoted Dawes' bill, Boudinot induced his friends in the Senate to introduce different legislation. Senator John T. Morgan of Alabama, one of Boudinot's personal friends and a member of the Senate Committee on Indian Affairs, offered a substitute bill that would have had the United States Court in the District of Columbia handle the issue. The Senate, however, passed Dawes's bill. At this point, Senator John J. Ingalls of Kansas, another member of the Committee on Indian Affairs with whom Boudinot had talked, asked that the Dawes bill be recalled and amended. Ingalls would have had the matter given to the United States District Court of the Western District of Arkansas. Senator James K. Jones of Arkansas introduced a

bill to that effect, and once more the Committee on Indian affairs took up the question. In early July, Ingalls reported for the committee, which now proposed an amendment to Dawes's bill which was similar to Jones's proposal. The Senate approved the amendment, and the bill went to the House. The bill died there, for the Congress adjourned before the House could take up the proposal.<sup>30</sup>

While Boudinot and Cuney were at cross purposes with each other, Turner had taken another approach. He appealed to President Cleveland to use executive authority to force restitution for the freedmen, Shawnees, and Delawares. Cleveland declined. He thought that the matter should be resolved by Congress, but he did order the Secretary of the Interior to draw up a bill for Congress to consider.<sup>31</sup> Turner's maneuvering angered Boudinot, and the perturbed Cherokee did not hesitate to convey his attitude to his friends in the Cherokee Nation. On July 15, 1886, the Indian Chieftain reported that Boudinot had informed a resident of Vinita that the Senate had passed a bill which granted the freedmen, Shawnees, and Delawares \$75,000 out of the \$300,000. According to Boudinot, however, Turner did not like it. If the bill would pass the House, Boudinot further stated, the deserving parties would have their money by May 1. But, if Turner used his influence to prevent its adoption, no bill on the subject would be enacted during the current session of Congress. Furthermore, Boudinot opined, if that happened, no one concerned would receive any money for at least two more years.<sup>32</sup>

Clearly, Boudinot's assertions do not wholly conform to what had been happening. His "pet" bills had called for letting the courts settle the matter. Yet, he apparently was trying to take credit for

the section of the bill which Cuney had pressed for and which he supposedly opposed. Perhaps he had changed his view, but more probably he wanted a share of the \$75,000 in payment for his services, which was also probably the reason that he had wanted to turn the question over to the courts. Who would have been better able to serve the claimants in legal proceedings than himself? If he could do so, that would certainly give him rights to some of the money. As for the charge that Turner might work against the bill, it might have had some truth in it. On the other hand, both Turner and Cuney could rightfully argue that Boudinot, not they, was obstructing efforts to procure the funds. The mercenary tendencies of all three men hindered the settlement of the issue.

Another consideration which Boudinot must have had in assuming credit for any congressional action on the question of distributing Cherokee rands related to his desire to align the dissident elements of the Cherokee tribe behind his policies. With the aid of the votes of feedmen, Shawnees, Delawares, and mixed-blood progressives, he hoped to oust his enemies and opponents from power, especially Bushyhead. In some respects, the possibility of deposing the Principal Chief and his party seemed to have improved. For one thing, Bushyhead had been hurt by his ineptitude in handling the problems surrounding Phillips and the delegates. In fact, in late December of 1886, the National Council even refused to appropriate any funds for Bushyhead to go with the delegation to Washington.<sup>33</sup> Boudinot must have taken that decision as a good sign.

At the same time, Boudinot continued to use his influence in Washington against the Cherokee government. He would have federal officials recognize the corruption which he saw in the Cherokee Nation.



Of course, he also strove to have the Cherokee people see that corruption, too. Indeed, one who had weathered the brunt of Boudinot's vindictiveness, W. A. Phillips, could write to a friend in frustration in late March of 1887: "The reckless and unscrupulous lying of Boudinot, McCoy, James Bell, and the two Taylors, ought to be transparent to every Cherokee of sense."<sup>34</sup> Boudinot's assault had taken its toll on the Kansan, and in the summer of 1887 he resigned as an agent for the Cherokee Nation.<sup>35</sup> Boudinot had not succeeded in putting Phillips behind bars, but he must have taken Phillips' resignation as something of a personal triumph. But others remained to be fought, especially Bushyhead.

Bushyhead, moreover, was not in a powerful position. Under Cherokee law, he could not run for another term as Principal Chief. Therefore, his party, the National Party, selected Rabbit Bunch, who had been Assistant Chief under Bushyhead, as a candidate for Principal Chief. Bunch was the antithesis of everything Boudinot respected. He was a conservative full-blood who spoke no English. In opposition to Bunch, the reorganized Downing Party nominated Joel Mayes, a mixed-blood who supposedly held "progressive" views.<sup>36</sup> Obviously, Boudinot supported Mayes.

The ensuing campaign turned out to be one of the most bitter in Cherokee history. The controversy over the \$22,500 and W. A. Phillips were issues, as they had been in 1883 when Bushyhead ran for reelection. Also, the question of leasing the Outlet provided a source of contention. Likewise, the basic difference between the conservatives and progressives as always entered into the contest. But above all, personalities dominated the campaign. Bunch was not as popular or acceptable as Bushyhead had been for so many Cherokees.<sup>37</sup>

The Indian Chieftain took the lead in promoting Mayes's candidacy and harshly criticized Bunch and his party.<sup>38</sup> Interestingly enough, J. Milton Turner, with whom Boudinot had already had a parting of the ways, attempted to use his influence with the freedmen to support the National Party. Once again, he and Boudinot were odds, each trying to influence the votes of black Cherokees. Turner did so in the belief that Bunch and his party would be more willing to allot the freedmen their share of the \$300,000 and to grant freedmen uncontested citizenship and rights than Mayes and his followers. His efforts, however, only alienated many Cherokees, for Turner, a non-Cherokee, had no right to interfere in their politics. Some, in fact, even demanded that he be removed from the Indian Territory by federal officials.<sup>37</sup> His activities certainly did not strengthen his position with the Cherokee government nor did it benefit his freedmen clients. But he did, no doubt, further antagonize his erstwhile cohort Boudinot.

When the Cherokees voted on August 1, 1887, no one could be sure of what the outcome would be. Once the ballots had been collected, though, Elias C. Boudinot, Jr., the editor of the Cherokee Advocate announced that Mayes had won. The National Party, however, retained control of the Cherokee National Council.<sup>40</sup> As might be expected, the elder Boudinot was jubilant over Mayes's victory. In particular, Boudinot claimed that the central issue in the election was the employment of Phillips as a counsel for the Cherokee government. Mayes's election, Boudinot contended, vindicated the legal maneuvering against Phillips and showed that the Cherokees agreed with Boudinot. Happily, Boudinot declared that Phillips would never again have influence in the Cherokee Nation or its affairs.<sup>41</sup>

Boudinot's jubilation did not last for long, for Mayes could not assume the office. Cherokee law required that the President of the Cherokee Senate present the returns of the election of Principal Chief before the National Council. Until that time, Bushyhead would remain as chief executive of the Cherokee government. This necessary procedure was delayed. Bushyhead had control of the ballots, and according to his son, Jesse Bushyhead, he hid them in his office.<sup>42</sup> The Cherokee Advocate, on the other hand, blamed the problem on the Downing Party. According to the Advocate, members of the Downing Party in the Senate refused to attend, and therefore no quorum existed and no business could be transacted. They reportedly feared that the National Party majority in the body would cheat the Downing Party of its electoral victory. Consequently, a constitutional impasse developed. Tempers rose, the prospect of bloodshed grew, and an impassioned Boudinot sided with Mayes and his party.<sup>43</sup> The Downing Party, he told James M. Bell, should not "submit to be swindled out of their victory. I say emphatically No! If necessary to take any personal risk or responsibility in the matter, I am willing to take my chances."<sup>44</sup>

About the same time, late October, something other than politics caused Boudinot significantly more distress. His nephew, Elias C. Boudinot, Jr., murdered a rival newspaper editor in Tahlequah. In June, B. H. Stone, a white man residing in the Cherokee capital had started a new newspaper, the Tahlequah Telephone. Heretofore, he and the younger Boudinot had apparently been on good terms. However, Stone soon became a critic of Boudinot and his direction of the Cherokee Advocate. In particular, he questioned Boudinot's management of the Advocate's finances and, by implication, his honesty. Finally, on

October 21, 1887, editor Boudinot had had enough. That day's edition of the Telephone contained yet another article severely attacking young Boudinot, and Boudinot decided to confront Stone and to reply personally to his remarks.

Exactly what happened next no one except editor Boudinot could truly say. For his part, Boudinot said that he had only gone to collect Stone's bill for his subscription to the Advocate. But, knowing how much Stone seemed to hate him, he shot Stone when he thought that the latter was about to draw a pistol. Boudinot's bullet pierced Stone's neck, and while the man breathed his last, Boudinot calmly left the office.<sup>45</sup>

Others, however, had a different story to tell. They reported that Stone had designs on the editorship of the Advocate. Therefore, he had attacked not only Boudinot but also the National Party. As the Advocate was the official newspaper of the Cherokee Nation, Stone supposedly hoped that once Mayes was in office the new Principal Chief would replace Boudinot, who had discernibly but subtly aided the National Party in the pages of the purportedly nonpartisan Advocate. Thus, on the day Stone died, Boudinot angrily entered the editor's office and demanded that Stone retract his printed statements about the National Party, Chief Bushyhead, and himself. To make his point, Boudinot drew his .45. Stone, however, supposedly remained unmoved, refusing to back down. At which point, young Boudinot callously shot him and then coldly left him to die, which he did a few hours later.<sup>46</sup>

The tragic event shocked everyone but, surprisingly, Boudinot remained free until a few days later, when he was arrested for murder. Of course, some said that if he had been a member of the National Party,

he would have been taken in earlier. Moreover, he did not try elude capture and went about his business as usual. Apparently, he had determined that he had acted in self-defense.

Once arrested, Boudinot turned to his family for aid. His brother Frank travelled to Fort Smith to arrange for bond, and his father, William, sought out the young man's uncle, Elias C. Boudinot. With his namesake in such trouble, the elder Boudinot readily agreed to be his counsel. Indeed, the whole affair had a powerful effect on Boudinot, and he informed James M. Bell, a week after the incident, that after William and Frank had divulged the story to him he had been "greatly" distressed and had "slept but little."<sup>47</sup> Ironically, Boudinot found that in this instance he and Bushyhead were on the same side. The chief called the happening a tragedy and apparently consulted in Boudinot's defense.<sup>48</sup>

The younger Boudinot needed all the help he could get. Regardless of his seemingly cavalier attitude, his plight was serious. He had killed an unarmed man. Moreover, the still heated political embroglio in the Cherokee Nation only added more passion to the whole affair. What lawyer Boudinot needed were witnesses to detract from the accounts that his nephew willfully and calculatingly murdered Stone. For assistance, he once more turned to his close friend Bell, asking him to do some investigating. In particular, he wanted Bell to interview John T. Adair. Two men, Frank and Russell, had said that they were watching through a window when Stone was shot, and Boudinot wanted Adair to swear that they were not. He also sought witnesses who would swear that Stone had a book in his hand when he was shot.<sup>49</sup> Perhaps if Stone had reached for a book with the same motion with

which he would have grabbed for a revolver, then some credence might be lent to the younger Boudinot's claim of self-defense. What service Bell rendered is questionable, for Boudinot later asserted that Bell tried his "best" to have Elias C. Boudinot, Jr., convicted.<sup>50</sup> If Boudinot could take any solace in the events connected with this trying situation, it was that in December his nephew was released on \$15,000 bail.<sup>51</sup> They would have to wait until the following November before Judge Parker would hear the case.

Although Bushyhead offered support for his nephew, that did not sway Boudinot from his stance on the situation in the nation. In the midst of the Stone affair, he again told Bell to convey to Mayes that the Chief-elect's position was the correct one. Mayes had won the election, and under the Cherokee constitution he had to be admitted to the post. Even if the Senate suspected that some of the returns were incorrect, it could not legally prevent Mayes from taking office. Cherokee laws provided for a procedure for contesting disputed votes. Such was Mayes's contention, and Boudinot wholeheartedly agreed with him.<sup>52</sup>

Legal and constitutional speculation and bantering had not solved the problem, however. Bushyhead remained ensconced in the office of Principal Chief, and consequently Mayes's followers decided to evict him forcibly. On December 7, at about four o'clock in the afternoon, they acted. About one hundred of them marched on the capitol building, kicked in the door, and ordered Bushyhead to leave. He did so and, fearing for his life, fled to Fort Gibson that night. Thus, Mayes, who had unofficially taken the oath of office a few days before, assumed the office of Principal Chief.<sup>53</sup>

Of course, the issue had not been completely resolved. The National

Party did not recognize Mayes as chief, and the Downing members of the Senate and National Council still refused to meet. Now more than ever, they probably believed that the National Party would try to steal the election away from them by disallowing ballots when the returns would be counted. Agent Owens and General Armstrong, as representatives of the United States government, were called into the dispute. They arranged a method of settling the conflict. Each party would pick one representative to count the ballots, which the Downing people had retrieved from Bushyhead. Both sides agreed. Spencer S. Stephens, a long-time friend of Boudinot, was chosen by the Downing Party as its vote-counter; Elias C. Boudinot, Jr., just out on bond, was the selectee from the National Party. In early January, Stephens and Boudinot reported to the Cherokee Senate: Mayes did have the most votes. Five months after the election, Mayes was finally, legally, and officially declared Principal Chief of the Cherokee Nation.<sup>54</sup>

Boudinot and the other supporters of Mayes must have been happy and satisfied. Nonetheless, Boudinot might have wondered how well he could get along with Mayes. He had backed other candidates for chief--Downing, Thompson, Bushyhead--only later to find himself in opposition to them. One thing was certain, though: Boudinot generally did what fit his purposes.

On one issue, however, Boudinot now changed his views. He reversed his stand on the Cherokee Outlet. Earlier, he had opposed leasing the Outlet to the Cherokee Strip Live Stock Association. He had wanted to get a lease on part of the Outlet for a company of his own. At that time, he furthermore argued that the federal government had claims on the Outlet. Therefore, the Cherokee government had no right to grant

outside interests rights to its use, or to sell it--even if offered twenty dollars per acre.<sup>55</sup> The issue remained important, even more so after the Cleveland administration declared all leases on Indian lands void. In the election of 1887, Mayes and his followers never said that they were adverse to leasing the Outlet. But, Mayes's policy was to have competitive bidding for the Outlet, whereas Bushyhead and the National Party had struck a deal with the Cherokee Strip Live Stock Association.<sup>56</sup> As for the Association, it wanted to renegotiate a lease for the Outlet, and it engaged W. A. Phillips to use his influence with the National Party to secure a new lease.<sup>57</sup> No doubt many Cherokees envisioned this as a situation which would prompt Boudinot again to voice his opposition. But that was not the case. Siding with Mayes, Boudinot favored leasing the Outlet as a unit to the highest bidder.

Once Mayes had been securely installed as Principal Chief, the controversy over the Outlet became a commanding concern in the Cherokee Nation. Some, of course, desired to re-lease the region to the Cherokee Strip Livestock Association. Some agreed with Mayes. Others, however, most notably Agent Robert L. Owen, who had earlier wanted the Outlet opened to Cherokee ranchers, called for the Outlet to be leased in set parcels of pastures, not as a unit.

With the disposition of the Outlet holding so much attention, a debate over the issues was held on February 1, 1888. Owen was there to express his plan, and so was Boudinot. After Owen stated his position, Boudinot and Jesse Cochran argued against Owen's ideas. Boudinot stated not only that he had changed his mind over the years, but also that Owen had actually deserted the fight against the lease back in 1883. True, Owen had been vocal in opposing the lease but, when



Boudinot took the matter before the courts, Owen failed to support him, saying that he would not contest the decision of the National Council.<sup>58</sup>

Ridge Paschal, a young cousin to Boudinot, then took the speaker's platform and defended Owen. He also chastised Boudinot, declaring that only four days before Boudinot had urged him to oppose the leasing measure which Boudinot now advocated.<sup>58</sup> Paschal's remarks only spurred a spirited rebuttal from Boudinot:

I believe he [Paschal] and I are some kin, some blood kin, we are both alike perhaps in thinking we know a little more than anyone else does. I kicked up a devil of a mess and very foolishly spent a good deal of my own money in the Courts. It was a long time before I could force it into my brain that I did not know what was best. . . . I believe it is in the best interests of the people to take what they can get.<sup>60</sup>

Several of the listeners may have been amazed. Seldom, if ever, before had Boudinot admitted that he had been misguided in his actions.

Perhaps Boudinot had concluded that he had made a mistake in his past actions. Then, too, he had grown older and less headstrong. However, there was another consideration in his reasoning. Sooner or later, he believed, the Cherokees would lose ownership of the Outlet to the United States. Therefore, they should receive as much rent on the Outlet as they could before losing control of the land completely. With this prospect in mind, Mayes's policy was the most expedient.

Thus, Boudinot had his say, but the question of the Outlet was far from resolved. The Cherokee government would have to make the final decision. Finally, ten months later, in December, the Outlet was again leased to the Cherokee Strip Live Stock Association. In this agreement, the Association pledged to pay the Cherokee Nation \$200,000 per year. However, as Boudinot undoubtedly reasoned, the United States government refused to recognize the lease. The Secretary of Interior was already

in the process of negotiating for the purchase of the Outlet by the United States.<sup>61</sup> It was only a matter of time before the Cherokees would have to give up ownership of the region.

In April, Boudinot was off in Washington again. Apparently, his legal practice was demanding, if not booming. On this occasion, at least one of his purposes for journeying to the nation's capital was to save the life of a condemned murderer.<sup>62</sup> Of course, he also took careful note of the workings of Congress, especially on issues effecting the Indian Territory, and in a letter to the Indian Chieftain he gave his predictions on forthcoming legislation. He forecast the passage and Presidential approval of bills creating an United States court at Muskogee; granting of \$75,000 to the freedmen, Shawnees, and Delawares; organizing the Territory of Oklahoma; and giving rights-of-way through the Indian Territory to railroad companies--all bills opposed by the tribal delegations.<sup>63</sup> In a little more than two years, his predictions would be fulfilled.

The new railroad bill particularly interested Boudinot. And when the new right-of-way law was passed in May, 1888, he not only welcomed it but also hoped to take advantage of it. Boudinot, E. Poe Harris, J. J. McAlester, and others formed their own company, the Fort Smith and El Paso Railway Company. On May 18, 1888, Congress approved the charter for this railroad which would lay tracks from Fort Smith to the southwestern part of the Indian Territory, to the Choctaw Nation where McAlester had interests. For whatever reasons, though, nothing ever came of the project. Like so many railway schemes of the day, the Fort Smith and El Paso Railway Company, of which Boudinot was president, never materialized beyond the planning stage.<sup>64</sup> Perhaps Boudinot and

his partners only wanted this company in order to sell its rights to another. But perhaps, the old Boudinot, the dreamer and entrepreneur, had once more desired to make his mark in the business world while bringing yet one more vestige of "progress" to the Indian Territory. As in the past, nothing came of his endeavor.

Nevertheless, Boudinot did have some wealth, certainly more than he had had a few years before. He held land in the Cherokee Nation. His law practice kept him busy. Then, too, he and Clara owned two ferries in the Cherokee Nation. One, Watts Ferry, operated near Fort Smith on the Arkansas River.<sup>65</sup> The other, a cable ferry, was located a few miles east of Tahlequah on the Illinois River.<sup>66</sup> Certainly, such holdings did not make Boudinot a man of great financial means, but they gave him assets which generally surpassed those of many other men on the frontier.

In all, at this point in his life Boudinot appeared to be a contented man. He had friends and respect. Even many Cherokees now treated him with deference. Also, he was happily married, and that must have added to his sense of well-being and satisfaction. At the same time, as he passed through middle age, he no doubt recalled many memories from his tumultuous young manhood. In some respects, his sentiments were reflected in a letter which he sent to Vinnie Ream Hoxie in September of 1888. He talked of his "pretty little House" with its porche "all covered with vines and abalze with morning glories" and of kissing his "handsome wee little wife" goodbye before heading to his office.<sup>67</sup> It all reminded him of Vinnie and her artistic achievements. But such thoughts also brought to mind sad tidings. Recently, Vinnie had written that their friends General

Van Valkenburgh and Major Rollins had passed away. To that news, he wrote, "my heart is sad."<sup>68</sup> Then, he added that a few days ago William Quesenbury had also expired. "He always kept in his parlor the bust you made of me, 20 years ago," he added, "just think of it 20 years ago."<sup>69</sup> Concluding, he wrote that Clara sends "lots of love" and signed it "Boudie."<sup>70</sup> But obviously, he knew that he was not the "Boudie" of years ago. This graying, fifty-three year old with a slight paunch of a stomach was not the dashing, lean, fiery Cherokee of earlier times. Still, he had his wife, a home, and an active life to lead.

The fall of 1888 promised to be a busy time for Boudinot. Several court cases would demand his attention, including the defense of his nephew. But another legal question also interested him: the Cherokees' title to the Outlet. With this concern in mind, he drafted a letter to Chief Mayes. First of all noting that he would be one of the lawyers in the McCellen cattle case, which put him in opposition to the Cherokee Nation, he quickly turned to his purpose in writing:

There is another question of far greater importance to us Cherokees & that is, a question to be determined between Brewer's opinion & Parker's, with relation to the title to the strip--Judge Parker decided that our title is absolute--Judge Brewer decided that it is not.

Now there is a case--U.S. vs Taylor in which an appeal can be taken from the Wichita court to the U.S. Supreme Court, which will decide the question to our title. Judge Parker thinks, and I tell you that there is no doubt about it, that here is the opportunity to get from the Supreme Court a final settlement of our title to the lands west of 96°. I suggest that you recommend to the council to make an appropriation of a sufficient sum to get the question properly presented before the Supreme Court.

You can do, in my judgement, nothing which will be of greater service to our people.<sup>71</sup>

If Mayes followed Boudinot's advice, apparently little came from it. Possibly Mayes did not agree with Boudinot, or perhaps the National Council failed to concur. Although the wily Boudinot may have hoped to

be engaged as the attorney for the Cherokees in such an undertaking, his sincerity on the issue no doubt was genuine. Even if the United States government would eventually take control of the Outlet, the Cherokees could demand a good price for the land if the courts ruled that the tribe had undisputed ownership of the land. Indeed, the point definitely had important ramifications.

As October gave way to November, Boudinot channelled his energy into preparing for the trial of Elias C. Boudinot, Jr. Finally, on November 21, Judge Parker heard the case. In defending young Boudinot, however, his uncle had help. Former District Attorney W. H. H. Clayton was also a counsel for the defendant, but his most impressive lawyer was Senator Voorhees. The "tall sycamore of the Wabash" had come to Fort Smith to help the younger Boudinot out of friendship with his uncle. For five days the trial went on. The prosecutor summoned seventeen witnesses; the defense brought forth twenty-five. Six hours of closing arguments were heard, with Voorhees, well known for his courtroom eloquence and acumen, having the last three. At five o'clock on November 26, the members of the jury retired to deliberate. Three hours later, they delivered their verdict: not guilty. Since only one shot had been fired, they concluded that Boudinot had acted in self-defense, even though he was reputed to be an excellent marksman. The Boudinots were overjoyed. So too was Voorhees, who had donated his time and effort without fee. Judge Parker, notoriously referred to as the "Hanging Judge," reportedly also welcomed the verdict. Not only was Parker a long-time friend of the elder Boudinot, but also he had known the younger Boudinot since his uncle had had the youth with him in Washington in the late 1860s.<sup>72</sup>

Boudinot's acquittal did not elicit endorsement in every quarter. Many in the Cherokee Nation strongly believed that he had murdered Stone. Perhaps James M. Bell was among their number. Maybe justice had not been served, but Boudinot had been lucky enough to escape any punishment. In time, the Cherokees let the matter subside, and Elias C. Boudinot, Jr., continued to play an active and influential role in the Cherokee Nation.<sup>73</sup>

While Boudinot continued to occupy himself with his myriad legal and personal activities, events in Congress in early 1889 transpired which would have an impact on the Indian Territory. On March 1, during the waning days of Cleveland's administration, the President signed a bill creating a United States Court for the Indian Territory, and thus another of Boudinot's predictions came to pass. Two days later, Cleveland signed the Indian Appropriations Act in which an amendment opened the Unassigned Lands to white settlers. A few weeks before, the Creeks and Seminoles had agreed to a monetary settlement for their claims on the land. Boudinot had worked for this measure for years. Now, finally, Congress had acted. Perhaps Boudinot mused on how regrettable it was that Payne had not lived to see that day. Conspicuously absent from the legislation, however, was any mention of establishing the Territory of Oklahoma. That would come later. Over the past couple of years, too, Congress had been moving toward forcing the Indians to assume ownership of their lands in severalty. In 1887, the Dawes Act had given the President the power to designate certain reservations on which the tribes had to accept allotment and severalty. The delegations of the Five Civilized Tribes had made sure that their nations were excluded from the act, but in the not too distant future

the Cherokees and their sister tribes would also be effected.<sup>74</sup>

Boudinot must have felt self-satisfied and vindicated. He may, however, have wondered about just how much influence he had had on the passage of these measures, for of late others had taken the helm. But no one could deny that Boudinot had played a conspicuous part in advocating such measures.

April of 1889 became an important month in the history of the Indian Territory. On April 1, the first federal court in the Indian Territory opened in Muskogee. Several lawyers appeared that day to be admitted to practice before that Court. Boudinot was one of them.<sup>75</sup> Twenty-one days later, the Unassigned or Oklahoma Lands were opened to settlers. At noon on that day, bugles blared, cannons and rifles fired, and thousands of would-be homesteaders raced on the region to stake out claims. Hereafter, the Indian Territory would never be the same.

The allowing of white homesteaders on the Oklahoma Lands did not legally affect the Indian nations. Nonetheless, the floodgate had been opened. Boudinot and his fellow Cherokees could only watch and see what the effect of this change would mean. At the same time, affairs of the Cherokee Nation had to be dealt with, where politics were as important as a concern as ever. The Downing Party wanted to gain more power in the government and, with that in mind, Spencer S. Stephens suggested that Boudinot run for the Cherokee Senate as a candidate in the Delaware District.<sup>76</sup> Boudinot may have been flattered that Stephens thought he could win a place in the Senate. An element within the tribe might have accepted, even welcomed, his candidacy. He possibly could have even won. However, by this time he no longer wished to become so deeply involved with the duties and machinations of Cherokee politics. He would let

someone else fight for a seat in the Senate. Other concerns required his time.

One of those concerns was the effort to get \$75,000 for the freedmen, Shawnees, and Delawares. As Boudinot had forecast, Congress finally acted on the matter and on October 19, 1888, enacted a bill giving the claimants \$75,000 of the \$300,000. This legislation, however, did not settle the problem, for confusion existed on the number of persons qualified to receive the money. Therefore, in early March of 1889, Congress appropriated an additional \$5,000 for conducting a census of the freedmen and other non-Cherokee members of the tribe, and appointed John W. Wallace to carry out that task. This legislation also ear-marked \$15,000 as compensation for the claimants' agents. The Secretary of the Interior was given the responsibility of deciding who qualified for any of this money.<sup>77</sup>

Although Turner had the strongest claim on the \$15,000, Boudinot refused to stand aside. He contended that Turner's allotment was rightfully his, and he conveyed his attitude to the Secretary of the Interior in late June, 1889. But apparently sensing that the Secretary was not responding to his request, he drafted a long letter on July 6, giving a detailed account of his activities on behalf of the freedmen. He told the Secretary that they had always looked to himself, not Turner, "as their chief representative and attorney in all matters relating to their interests."<sup>78</sup> Moreover, he added that he had not expected Congress to compensate either Turner or himself, "but as an appropriation has been made, I can look along to it as it would be manifestly futile and unjust for me to attempt to collect my fee from my clients."<sup>79</sup> He asked for sixty days in which to gather and submit



affidavits supporting his claim.<sup>80</sup> Three weeks later, T. J. Morgan, the Commissioner of Indian Affairs, replied to Boudinot. Morgan said that on July 23 the Secretary of the Interior decided to withhold a "sum sufficient to meet the just demands" of anyone besides Turner.<sup>81</sup> Instead of sixty days, though, counter claims had to be filed within thirty days.<sup>82</sup> That same day, July 27, Turner received one-half of the \$15,000 Congress was prepared to give him.<sup>83</sup>

Obviously, Boudinot was at a disadvantage. He therefore decided to take the issue before the freedmen. In September, he distributed a circular to the freedmen in which he stated his work for them and his right to the \$15,000. He pointed out that he had drawn up several petitions and memorials in support of the freedmen's claims, not to mention all of the lobbying and arguing he had done with congressmen.<sup>84</sup> Then in October, the Indian Chieftain printed a letter from Boudinot in which he again stated his case. "Mr Turner, Art Williams, and George Vann, of your race," he informed the freedmen, had acted under his "instructions and directions" and they deserved "thanks and consideration."<sup>85</sup> But Boudinot deserved the credit and compensation. Furthermore, he stated that he had convinced Congress to change its interpretation of the Treaty of 1866, which stipulated which freedmen were Cherokee citizens. That is, the treaty gave Cherokee freedmen six months to return to the Cherokee Nation after the war in order to qualify as Cherokee citizens. Many had not been able to do so, and consequently the Cherokee government refused to recognize them as tribal members, although many came back and remained in the nation. The racist hostility of the Cherokees coupled with this fact had been the biggest points of contention between the freedmen and Cherokees for years, and the recent money controversy had only augmented that

dispute. Boudinot now declared that he had resolved the conflict in favor of the freedmen. He had convinced Congress that the six month clause only referred to those who had been freedmen before the war. Therefore, Boudinot argued, he, not Turner, had done tremendous services for the black Cherokees.<sup>86</sup> For his part, Turner also submitted an open letter to the Indian Chieftain and, more than justifying his right to compensation, he declared that actually he deserved \$28,000. He had paid out \$13,000 of his own money over the years. The fifteen thousand dollars was merely a fee for his services; he also needed to be reimbursed for his expenses. At the same time, William Brown, who also demanded part of the \$15,000, engaged a lawyer to press his claim.<sup>87</sup> Indeed, Congress's action and the decisions of the Interior Department had not settled the problem. The controversy had only been compounded.

Even while his attention focused on Turner and the freedmen, Boudinot also continued to express his sentiments on the fate of the Outlet. Although the Cherokee Strip Live Stock Association had a lease on the land, Boudinot believed that the federal government would soon force the Cherokees to sell the Outlet. Indeed, the Treaty of 1866 had given the United States rights to that land, and there was a question about whether the Cherokees truly owned the Outlet at all. Moreover, Congress had authorized the Secretary of the Interior to create a commission to negotiate for the purchase of the Outlet. That, too, had been part of the Indian Appropriations Act of 1889. In fact, Boudinot became involved in the undertaking to the extent that he endorsed the appointment of his old friend A. M. Wilson to the commission. With Arkansas Democratic leaders, as well as Voorhees and Judge Isaac Parker, supporting Wilson for the position, Boudinot likewise

offered his aid. "I think I am authorized to say in behalf of the Cherokees," he wrote, "that the appointment of Alfred M. Wilson would be eminently satisfactory to all the Cherokee people."<sup>88</sup> Whether Boudinot truly spoke for all the Cherokees was questionable, but President Harrison appointed Wilson to the Commission.<sup>89</sup>

As the commissioners initiated their talks with Cherokee officials, Boudinot again took to the hustings. He was all for selling the Outlet. At a barbeque in the Cherokee Nation in mid-July, he made his argument. The Outlet, he declared, was useless to the Cherokees. They could not occupy it; their title to the land was questioned; and the powerful federal government now wanted legal ownership of the region. The Cherokee Nation would eventually lose it. But, as in the previous year, the pragmatic Boudinot urged that the Cherokees get all they could for it. Rather than opposing any sale, they should agree to sell--at a good price. He suggested that they ask \$10,000,000 for the 6,000,000 acres. That would bring the Cherokees over \$1.65 per acre. This money, he said, should then be divided equally per capita. According to a reporter on the scene, "His remarks were loudly applauded and met with great favor from most of the Cherokees who heard them."<sup>90</sup> Nor did Boudinot only try to use his influence with the Cherokees; he also tried to have an input with the commissioners, whom he stayed close to.<sup>91</sup>

The matter was not easily resolved, however. The United States government offered only \$1.25 per acre for the Outlet. The Cherokees could get more from a private corporation which had offered \$3.00 per acre--over \$10,000,000 more than the United States government was prepared to give. In turn, Secretary of the Interior John W. Noble began to lose patience with the Cherokees. Noble asserted that the

Cherokees' right of ownership of the Outlet had always been nebulous since the end of the Civil War. The United States government could, if it so deemed, take direct possession of the lands, Noble argued. By late October, 1889, he informed commission chairman Lucius Fairchild that if the United States did prove to have legal title to the Outlet it would, if desired, take control of the land, without regard to Cherokee claims. Fairchild, Noble concluded, could use this information however he wanted to.<sup>92</sup>

Apparently, Fairchild spread the Secretary's words, and Boudinot, for once, became convinced that the Cherokees should accept the federal government's terms. His fellow Cherokees, however, were not ready to give in, at least those in power. Thus, Boudinot wrote to Noble:

I will stake my life on the truth of the assertion that a majority of the legal voters of the Cherokee Nation are in favor of accepting the proposition of the United States in regard to its [Outlet] sale. Every proposition in Council to refer the matter to a vote of the people was voted down.<sup>93</sup>

In Boudinot's eyes, Cherokee politicians were the perpetuators of the impasse. Noble, on the other hand, saw the Cherokees Strip Live Stock Association as the cause of the problem.

Noble thus prepared to get the cattlemen off the Outlet. The Attorney General aided him by declaring that the lease on the Outlet was illegal. In turn, President Harrison ordered that the grazers remove their stock from the Outlet by October 1, 1890.<sup>94</sup> Chief Mayes protested Harrison's action, but Boudinot concurred with the President's decision. On March 1, 1890, he conveyed his views to Harrison. In particular, he refuted Mayes's contention that revenue from the lease went to financing Cherokees schools and the Cherokee government. "This is not so," Boudinot wrote, "not a dollar of such revenue has ever been

devoted to school purposes except a sum to rebuild the female seminary which was destroyed by fire."<sup>95</sup> The money had really been distributed to the people. Thus, Mayes was in error, according to Boudinot, who closed by saying, "I believe your proclamation is heartily endorsed by the people."<sup>96</sup> Eventually, other Cherokees moved closer to Boudinot's position. The Outlet had to be sold. Not until late 1891, however, was a bargain finally struck, when the Cherokees relinquished ownership of the Outlet for about \$9,000,000.<sup>97</sup>

Early in 1890, the conflict and confusion connected with the freedmen and their money increased. John W. Wallace, who had been commissioned to conduct a census of freedmen in the Cherokee Nation, became the center of controversy. For one thing, he received very little cooperation from an antagonistic Cherokee government. For another, he and Boudinot conspired to work against Turner.

Wallace had been sent to the Cherokee Nation because the number of legitimate freedmen members of the Cherokee tribe was in doubt. Therefore, Wallace drew up two census rolls: one for "Admitted Claimants," the other for "Contested Claimants."<sup>98</sup> Still, given this division, the number of bonafide freedmen tribal members appeared to be much larger than expected; at least so Boudinot informed Secretary Noble in mid-February. Boudinot estimated that instead of approximately seventeen hundred freedmen belonging to the Cherokee tribe, Wallace's figures would show about seven thousand. Therefore, Boudinot submitted that more money would have to be appropriated--an additional \$75,000 to be exact.<sup>99</sup> With so many claimants, however, the government would probably not do so. Again, the freedmen would need an attorney. This time, though, Wallace, not Boudinot, wanted to replace

Turner in that capacity.<sup>100</sup> Wallace, in turn, would support Boudinot's claim to Turner's previous fee.

In late February, 1890, Ridge Paschal let Turner know what was happening. He said that Luster Foreman, one of Wallace's aides, had already tried "to whoop things up" for Boudinot by asserting that the Cherokee deserved compensation for his work for the freedmen.<sup>101</sup> Paschal was even more critical of Wallace and suggested that Secretary Noble give Commissioner Wallace "the grand bounce."<sup>102</sup> Paschal told Turner that he did not "want any job put up on" Turner, the freedmen, Noble, or the Republican administration.<sup>103</sup> He might have been sincere in that assertion or he may have wanted Turner to hurt Wallace in order to cast doubt on his extensive list of black Cherokee citizens. Chief Mayes and Bushyhead also voiced complaints about Wallace. Secretary Noble, in turn, requested that Indian Commissioner Morgan keep an eye on Wallace's activities.<sup>104</sup>

Some of the freedmen, however, supported Boudinot and Wallace, and they held a mass meeting at Fort Gibson in early March and expressed their appreciation of both men. Out of this meeting came a memorial to the President, the Secretary of the Interior, and the Congress. The freedmen asked for a larger appropriation so that each freedmen would receive as much as individual Cherokees had. This echoed what Boudinot had recommended to Noble a few weeks before. Moreover, they asked for a proportionate share of the \$300,000 which the Cherokees had gained from the first lease of the Outlet. At the same time, they asserted that they favored selling the Outlet. As for Boudinot, they described him as a "bold, unselfish and true friend of the freedmen, as well as of all the Cherokee Nation."<sup>105</sup> This endorsement, however, had little

effect. That spring, Turner was granted the remainder of the \$15,000.<sup>106</sup> Secretary Noble made sure of that. Noble was a Republican leader from St. Louis, where Turner in previous years had also been powerful in Republican circles. The Judge Advocate for the Interior Department was George H. Shields, who was also from St. Louis. Both officials knew Turner quite well and, according to Turner, they made sure that he was awarded the money.<sup>107</sup> Wallace fared no better than Boudinot. He did not replace Turner as the attorney for the freedmen, and on October 14, 1890, his work as a special agent for the Interior Department ended. His rolls were completed.<sup>108</sup> Wallace's and Boudinot's machinations had been for naught.

As Boudinot's role in the freedmen controversy came to an end, so did his friendship with James M. Bell. For almost thirty years, Boudinot and Bell had been close. During the later part of the 1880s, their relationship became strained, especially when Bell had hindered the defense of Elias C. Boudinot, Jr. The final break between the two former comrades came in early 1890, however, when Bell apparently wanted to gain control over some improvements on land in Vinita which were in Clara's name.

When Boudinot ascertained what Bell had in mind, he was both sad and angry. The property had been rented to Jesse Elliott and, in the name of a certain Mr. Jordan, Bell prepared to sue for possession. "Don't make a damn fool of yourself," Boudinot wrote to Bell. "You will get the worst of it! of that you can be assured. I would be glad to be your friend. . . . but I'll damned if I will be if you force me to be your enemy. . . . I think it is to your interest & mine that we should be friends."<sup>109</sup> A few days later, he warned Jordan, not to

pursue the lawsuit. "In case you should be so foolish as to make an issue of the matter," he wrote, "you will find yourself in the Muskogee Court. If you can afford litigation there, I & my wife can most certainly do so. That is my life."<sup>110</sup> He also told Jordan to express to Bell that he "would much rather be a friend than a foe."<sup>111</sup>

Bell, however, continued to press the issue. Thus, on March 27, 1890, Boudinot severed connections with Bell. He gave in on the property question and sadly acknowledged that their friendship was over:

If you persist in making a damn fool of yourself, I can't help it. You can be of no possible service to me, but I can be of much service to you. However you can sail your boat as you please. As to the property at Vinita which belonged to me, until I made it over to my wife, recently, you can take such course as you please. It does not belong to you, in any manner, shape or form, but you can practice your Cherokee law profession on it as you please. I hope it will afford you pleasure if not profit.

By the way Jim--don't you think you are making a pretty damn fool of yourself? I am sure you will think so when you reflect, if you are ever given to reflection. You tried to convict my nephew of murder, and now you are made at me because you failed. I saved you from the Pen.--and you never paid me a cent, you sold & got the money for \$400 worth of cattle which you swore belonged to me, now you want to gobble a little piece of land at Vinita to show your gratitude. Go on Jim--do what you please.<sup>112</sup>

On this melancholy note, Boudinot parted company with Bell. Times were indeed changing, but what Boudinot did not know was that his life was near its end.



ENDNOTES

- <sup>1</sup>Sentinel (Fayetteville, Ark.), 23 April 1885.
- <sup>2</sup>Remarks of A. H. Garland, cited in John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 12.
- <sup>3</sup>W. J. Lemke, ed., The Walker Family Papers (Fayetteville, Ark.: Washington County Historical Society, 1956), fn 106, n.p.
- <sup>4</sup>Sentinel, 14 May 1885.
- <sup>5</sup>Ibid.
- <sup>6</sup>Sentinel, 23 July 1885.
- <sup>7</sup>Register of Mineral Licenses, CNP, Vol. 336, IAD, OHS.
- <sup>8</sup>Sentinel, 9, 23 July, 1, 15 October, 26 November 1885.
- <sup>9</sup>St. Louis Republican, n.d., cited in Sentinel, 23 April 1885.
- <sup>10</sup>Sentinel, 23 May 1885.
- <sup>11</sup>Indian Chieftain (Vinita), 21 May 1885.
- <sup>12</sup>Sentinel, 30 July 1885.
- <sup>13</sup>Ibid.
- <sup>14</sup>Ibid.
- <sup>15</sup>Ibid.
- <sup>16</sup>Ibid.
- <sup>17</sup>H. Craig Miner, The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907 (Columbia: University of Missouri Press, 1976), p. 135.
- <sup>18</sup>Elias C. Boudinot to Grover Cleveland, 5 August 1885, Grover Cleveland Papers, Microfilm Reel 18, Library of Congress.
- <sup>19</sup>Miner, The Corporation and the Indian, p. 135.
- <sup>20</sup>For more on Robert L. Owen, see Dictionary of American Biography, s.v. "Owen, Robert Latham."

- <sup>21</sup>Sentinel, 17 September 1885.
- <sup>22</sup>Indian Chieftain (Vinita), 18 March 1886.
- <sup>23</sup>Cherokee Courts, CNP, Microfilm CHN 72, IAD, OHS.
- <sup>24</sup>Ibid.; Indian Chieftain, 20 May 1886.
- <sup>25</sup>Copy of Cherokee Act of 18 December 1886, William A. Phillips Papers, Gilcrease Institute.
- <sup>26</sup>Statement of Dennis W. Bushyhead, 20 July 1887, Washington, D.C., William A. Phillips Papers, Gilcrease Institute.
- <sup>27</sup>Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), p. 241.
- <sup>28</sup>Elias C. Boudinot to Mrs. Fuller, 25 June 1886, Vinnie Ream Hoxie Papers, Library of Congress.
- <sup>29</sup>Letter of Elias C. Boudinot, 21 June 1886, cited in Indian Chieftain, 1 July 1886.
- <sup>30</sup>Elias C. Boudinot to Secretary of the Interior, 6 July 1889; Henry E. Cuney to John W. Noble, 16 August 1889, NA, RG75, SF298, M574.
- <sup>31</sup>Elias C. Boudinot to Secretary of Interior, 6 July 1889, NA, RG75, SF298, M574.
- <sup>32</sup>Indian Chieftain, 15 July 1886.
- <sup>33</sup>D. W. Bushyhead to William A. Phillips, 27 December 1886, William A. Phillips Papers, Gilcrease Institute.
- <sup>34</sup>William A. Phillips to Robert Ross, 30 March 1887, J. I. Hargett Collection, Microfilm Box 3, WHC.
- <sup>35</sup>Statement of Dennis W. Bushyhead, 20 July 1887, William A. Phillips Papers, Gilcrease Institute.
- <sup>36</sup>Mayes was the Chief Justice of the Cherokee Supreme Court. Also, he had been a Confederate soldier under Watie. That fact might have also encouraged Boudinot to support Mayes. See Dictionary of American Biography, s.v. "Mayes, Joel."
- <sup>37</sup>For campaign of 1887, see Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 343-344; Joe Cullen Holland, "The Cherokee Indian Newspapers, 1828-1906: The Tribal Voice of a People in Transition" (Ph.D. diss., University of Minnesota, 1956), pp. 450-455; H. Craig Miner, "Dennis Bushyhead," in American Indian Leaders: Studies in Diversity, ed. by R. David Edmunds (Lincoln: University of Nebraska Press, 1980), p. 202.

- <sup>38</sup>Miner, "Dennis Bushyhead," p. 202.
- <sup>39</sup>Gary R. Kremer, "For Justice and a Fee: James Milton Turner and the Cherokee Freedmen," Chronicles of Oklahoma 58 (Winter, 1980-81), 385.
- <sup>40</sup>Holland, p. 452.
- <sup>41</sup>Fort Smith Tribune, n.d., cited in Sentinel, 23 August 1887.
- <sup>42</sup>Mauricia Dale Crooks, "Dennis Wolfe Bushyhead and his Influence on Oklahoma History" (M.A. thesis, University of Oklahoma, 1937), p. 111.
- <sup>43</sup>Holland, p. 453; Wardell, p. 344.
- <sup>44</sup>Elias C. Boudinot to James M. Bell, 28 October 1887, CP, WHC.
- <sup>45</sup>Holland, pp. 449-450; Indian Chieftain, 27 October 1887.
- <sup>46</sup>Sentinel, 1 November 1887; Grace Ernestine Ray, Early Oklahoma Newspapers (University of Oklahoma Bulletin, 15 June 1928), pp. 102-105.
- <sup>47</sup>Elias C. Boudinot to James M. Bell, 28 October 1887, CP, WHC.
- <sup>48</sup>Ray, p. 105; Sentinel, 1 November 1887.
- <sup>49</sup>Elias C. Boudinot to James M. Bell, 10 November 1887, CP, WHC.
- <sup>50</sup>Elias C. Boudinot to James M. Bell, 27 March 1889, CP, WHC.
- <sup>51</sup>Indian Chieftain, 15 December 1887.
- <sup>52</sup>Elias C. Boduinot to James M. Bell, 10 November 1887, CP, WHC.
- <sup>53</sup>Crooks, pp. 111-112; Indian Chieftain, 8 December 1887.
- <sup>54</sup>Holland, pp. 454-455.
- <sup>55</sup>Miner, The Corporation and the Indian, p. 136.
- <sup>56</sup>Ibid., pp. 138-139.
- <sup>57</sup>Ibid., p. 138.
- <sup>58</sup>Cherokee Advocate (Tahlequah), 7 March 1888.
- <sup>59</sup>Ibid.
- <sup>60</sup>Ibid.
- <sup>61</sup>Miner, The Corporation and the Indian, p. 139.
- <sup>62</sup>Indian Chieftain, 19 April 1888.
- <sup>63</sup>Indian Chieftain, n.d., cited in Sentinel, 1 May 1888.

<sup>64</sup>Ira G. Clark, "The Railroads and the Tribal Lands: Indian Territory, 1838-1890" (Ph.D. diss., University of California, Berkeley, 1947), pp. 222-223; U.S., Statutes at Large, Vol. XXV (1887-1889), "Act Granting Fort Smith and El Paso Railway Company Right of Way Through Indian Territory," 30 May 1888, Ch. 337, pp. 162-165. The company was given the right to construct railroad, telegraph, and telephone lines. And after reaching the Choctaw Nation, it had the right to head for the southwestern corner of the Indian Territory.

<sup>65</sup>Cherokee License Record, 1887-99, Vol. 335, CNP, IAD, OHS.

<sup>66</sup>Grant Foreman, ed., "Indian Pioneer Papers," Vol. 7, p. 251; Vol. 39, p. 399; Vol. 52, p. 21, IAD, OHS.

<sup>67</sup>Elias C. Boudinot to Vinnie Ream Hoxie, 14 September 1888, Vinnie Ream Hoxie Papers, Library of Congress.

<sup>68</sup>Ibid.

<sup>69</sup>Ibid.

<sup>70</sup>Ibid.

<sup>71</sup>Elias C. Boudinot to Joel Mayes, 12 October 1888, Cherokee Strip File (Tahlequah acquisition), Microfilm CHN 104, CNP, IAD, OHS. The cases to which Boudinot referred were U.S. v. Rogers (1885) and U.S. v. Soule and others (1887). In the former, Judge Parker concluded that the Cherokees did "occupy" the Outlet (that is, have physical control over it), and therefore they owned it. In the latter decision, Judge David J. Brewer of the U.S. District Court, Kansas, reasoned, contrary to Parker, that the Outlet was not "occupied" by the Cherokees. See U.S. v. Rogers, 23 Federal Reporter 658 and U.S. v. Soule and others, 30 Federal Reporter 918.

<sup>72</sup>Fort Smith Elevator, 23 November 1888; Sentinel, 27 November 1888; Cherokee Advocate, 5 December 1888; Clipping, Elias C. Boudinot File, Fort Smith Historical Society, Fort Smith, Arkansas.

<sup>73</sup>For more on Elias C. Boudinot, Jr., see H. F. and E. S. O'Beirne, The Indian Territory: Its Chiefs, Legislators and Leading Men (St. Louis: C. B. Woodward Company, 1892), pp. 462-463. Elias C. Boudinot, Jr., was also a member of the Cherokee delegation which negotiated for the sale of the Outlet to the United States government in the early 1890s.

<sup>74</sup>Wardell, pp. 311-334; Angie Debo, A History of the Indians of the United States (Norman: University of Oklahoma Press, 1970), pp. 306-312.

<sup>75</sup>Grant Foreman, "Oklahoma's First Court," Chronicles of Oklahoma 13 (December, 1935), 459.

<sup>76</sup>Spencer C. Stephens to Elias C. Boudinot, 7 June 1889, CP, WHC.

<sup>77</sup>Wardell, pp. 235-236; Lawrence O. Christensen, "J. Milton Turner: An Appraisal," Missouri Historical Review 70 (October, 1975), 15.

<sup>78</sup>Elias C. Boudinot to Secretary of Interior, 6 July 1889, NA, RG75, SF298, M574.

<sup>79</sup>Ibid.

<sup>80</sup>Ibid.

<sup>81</sup>T. J. Morgan to Elias C. Boudinot, 27 July 1889, NA, RG75, Letters Sent-OIA, Finance, Vol. 146: 397 A.

<sup>82</sup>Ibid.

<sup>83</sup>Daniel F. Littlefield, Jr., The Cherokee Freedmen from Emancipation to American Citizenship (Westport, Conn: Greenwood Press, 1978), pp. 162-164.

<sup>84</sup>Indian Chieftain, 24 October 1889.

<sup>85</sup>Ibid.

<sup>86</sup>Ibid.

<sup>87</sup>Littlefield, p. 163.

<sup>88</sup>Berlin B. Chapman, "The Cherokee Commission, 1889-1893," Indiana Magazine of History 42 (June, 1946), 179.

<sup>89</sup>Ibid.

<sup>90</sup>Sentinel, 23 July 1889.

<sup>91</sup>Ibid.

<sup>92</sup>Edward Everett Dale, The Range Cattle Industry: Ranching on the Great Plains from 1865 to 1925 (Norman: University of Oklahoma Press, 1930), pp. 142-143.

<sup>93</sup>Elias C. Boudinot to John W. Noble, 10 February 1890, NA, RG75, LR-OIA.

<sup>94</sup>Dale, The Range Cattle Industry, p. 144.

<sup>95</sup>Elias C. Boudinot to Benjamin Harrison, 1 March 1890, Benjamin Harrison Papers, Library of Congress.

<sup>96</sup>Ibid.

<sup>97</sup>Dale, The Range Cattle Industry, pp. 144-145. This agreement was not accepted by Congress until March, 1893.

<sup>98</sup>Wardell, p. 236.

<sup>99</sup>Elias C. Boudinot to John W. Noble, 10 February 1890, NA, RG 75, LR-OIA.

<sup>100</sup>Littlefield, p. 155.

<sup>101</sup>Ridge Paschal to J. Milton Turner, 27 February 1890, NA, RG75, LR-OIA.

<sup>102</sup>Ibid.

<sup>103</sup>Ibid.

<sup>104</sup>Littlefield, pp. 151-152.

<sup>105</sup>Ibid.

<sup>106</sup>Ibid., p. 164.

<sup>107</sup>Christensen, p. 16.

<sup>108</sup>Littlefield, p. 155.

<sup>109</sup>Elias C. Boudinot to James M. Bell, 1 March 1890, CP, WHC.

<sup>110</sup>Elias C. Boudinot to Mr. Jordan, 11 March 1890, CP, WHC.

<sup>111</sup>Ibid.

<sup>112</sup>Elias C. Boudinot to James M. Bell, 27 March 1890, CP, WHC.

## CHAPTER XIV

### A LIFE ENDS

Elias C. Boudinot found himself in a very distressing situation in September of 1890. One of his cousins from New England, George Gold, had become ill while staying on one of Boudinot's farms. Gold had gone insane.<sup>1</sup> He had to be taken back East, and Boudinot believed that it was his responsibility to get the man there.

By the time Boudinot reached St. Louis, however, he too was ill. In fact, he had been sick for several days. But now, he realized that he could not continue on. Securing care for Gold, Boudinot headed back to Fort Smith. By the time he arrived home on September 16, the severity of his illness--dysentery--had grown worse.<sup>2</sup> His doctor sadly predicted that he would not live. Boudinot's friends were dumbfounded. The seemingly always energetic Cherokee had appeared "the very picture of health and in the most buoyant spirits" only a few days before.<sup>3</sup> Then, the patient rallied. Boudinot still had fight in him, and his friends welcomed the report that he was "much better."<sup>4</sup>

Such optimism was unwarranted. His condition again grew worse. For two days he was delirious. Then he lapsed into unconsciousness. Surrounded by his wife and a few friends, he died at 8:50 a.m. on September 27, 1890.<sup>5</sup> Only a month before, he had turned fifty-five. But while his life had not been overly long, he had lived it to the fullest.

The next day, September 28, Boudinot was buried. His funeral was

held at the home of W. W. Wheeler. Following those services, his body was removed to Oak Grove Cemetery in Fort Smith. There, a local Masonic lodge conducted graveside services. Boudinot was a thirty-second degree Mason. J. J. Van Hoose, Past Grand Master of the State of Arkansas, spoke over the open grave. Van Hoose, like so many others in attendance, had travelled from Fayetteville to Fort Smith for the sad occasion. But of the more than a thousand persons who attended the funeral, the most touched were Clara, William, and Elias, Jr. Indeed, the young widow presented a touching sight as she stood, flanked by her brother-in-law and nephew, sobbing before the grave of her husband. Finally, Reverend R. L. Lotz of the Christian Church closed the services with a prayer and the mourners departed. The grave was covered. Elias C. Boudinot had commanded his last audience.<sup>6</sup>

When the news of Boudinot's passing spread, many kind words were expressed and so was much praise. The Atoka Indian Citizen declared that "A hero has passed away."<sup>7</sup> The Cherokee Advocate was much less laudatory but nonetheless polite, announcing "with sincere regret" the report of Boudinot's death.<sup>8</sup> The Arkansas newspapers were filled with praise for Boudinot. The Little Rock Arkansas Gazette stated that Boudinot "was the soul of honor; brave and chivalric."<sup>9</sup> The Fort Smith Call declared that not only was Boudinot a "brilliant" member of the bar but he was also "one of the most noted Indians of America."<sup>10</sup>

He was far ahead of his people in ideas and works, but he lived to see the day when thousands of his tribe have accepted the same views for which he was exiled from his country in his early manhood, and to live down his wrongs, and find himself once more an honored and respected citizen of his native land. The last years of his life he spent in this city, practicing his profession and winning laurels at the bar of the land, and working out the dream of his life, which was building



for himself a home in his own land and ending his days peacefully there among his own people.<sup>11</sup>

To this commentary, the Fort Smith Elevator added, "Colonel Boudinot was an extraordinary man, and will occupy a marked place in history. Taken in all phases of character, he was, perhaps, the best representative of the Indian race that ever existed."<sup>12</sup> Equally panegyric was the New York Times. When first reporting Boudinot's demise, the Times stated that "He was the most noted of the Cherokees."<sup>13</sup> In a fuller account on Boudinot later, the Times declared that "for thirty years he has been the most intelligent Indian in North America."<sup>14</sup> In death, Boudinot received powerful praise, which during his controversy-filled life was too often denied.

Next, his fellow attorneys moved to honor his memory. On October 9, the members of the Fort Smith Bar held a commemorative service for Boudinot in the federal courtroom at Fort Smith. Clara was there, escorted by Judge and Mrs. Parker. Many spoke, including Thomas H. Barnes, one of Boudinot's law partners, and Judge Parker, who offered the longest tribute.<sup>15</sup> In December, the Bar of the Indian Territory held a memorial for Boudinot. Once more, praise for the departed Cherokee lawyer was heard. Then, the bodydrafted and endorsed resolutions commending the memory of their fallen colleague. The second one, in particular, would have warmed Boudinot's heart:

The just and impartial spirit of the man, his anxiety for the welfare of the Cherokees, his statesmanship, knowledge and forecast of events, led him to the advocacy of advanced positions among his own people, which for a season estranged them from him, but time vindicated and is still vindicating his wisdom and foresight, and at the period of his sad taking off in the prime of vigorous manhood, ostracism had been transformed into popularity and he was welcomed around all the fires of the Cherokees.<sup>16</sup>

Indeed, those at the service must have noted the irony in the fact that so much which Boudinot had promoted and sacrificed for in the 1870s and 1880s was finally coming to pass and that death had cheated him of witnessing the fruits of those changes.<sup>17</sup>

To friends and foes alike, Boudinot left a personal legacy. While later generations tended either to forget or condemn his activities and attitudes, his contemporaries remembered him. In fact, J. A. Bozeman of Fort Smith proposed in 1892 that a monument be erected to Boudinot. Citizens of Arkansas and the Cherokee Nation, he said, should jointly share in the cost. The Cherokees in particular, he declared, should partake in such an undertaking and they should recognize that Boudinot was "the greatest man their nation has ever produced, and with pride say to their youths, walk in his footsteps and become an orator, a statesman and an honor to his country."<sup>18</sup> Nothing, however, resulted from Bozeman's exhortation and the memory of Elias C. Boudinot slipped into history and diminished more with each passing year.

What of Clara Boudinot? What did Elias leave to her besides memories? No doubt they had lived fairly well. But his legal work had provided some of that income. Also, he had remained connected with the telephone business and at the time of his death was the vice president of the Arkansas Telephone Company in Fort Smith.<sup>19</sup> In real estate, he left his 250 acre farm near Russell Creek, as well as a half interest on 215 acres under cultivation on the Arkansas River. Also, he had a small five acre improvement in the Delaware District in the Cherokee Nation, and he continued to claim an interest on all the land on which Vinita was located.<sup>20</sup>

Of course, no one could overlook the appraisal of Boudinot's

Choctaw friend Campbell LaFlore. Boudinot, LaFlore commented, "drifted through life on the bare edge of prosperity, always in sight of it but always just out of reach of it."<sup>21</sup> Apparently, that held true until his end. Boudinot may have accumulated several assets, but he also left many debts. Perhaps his constant quest for sudden riches through grand financial adventures had claimed his modest fortunes. Clara was left to handle his indebtedness. As one commentator recalled, this "frail little woman . . . spent the remainder of her life seeking out and paying the army of small debts her impractical husband had left behind him."<sup>22</sup> Before she died, she could proudly say that her husband's "name is clear"--she had paid ever creditor up to "the last dollar."<sup>23</sup>

Here, too, was an unfortunate irony. For most of his adult life, Boudinot had worked, schemed, and conspired to attain wealth. In the end, it still eluded him and his untimely death forced his widow to struggle to repay his debts. But if Boudinot had been unwise in business, he had been lucky in love. Clara Boudinot made sure that his financial obligations were met. His "word" had been made good. Clara could go to her grave knowing that her husband's reputation would not be tarnished by a trail of bad debts. As for his legacy in other affairs, that would be for history to decide.

ENDNOTES

<sup>1</sup>Indian Citizen (Atoka, Choctaw Nation), 4 October 1890; Lois Elizabeth Forde, "Elias Cornelius Boudinot" (Ph.D. diss., Columbia University, 1951), p. 253.

<sup>2</sup>Muskogee Phoenix (Creek Nation), 2 October 1890.

<sup>3</sup>Remarks of Judge Isaac Parker, cited in John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 56.

<sup>4</sup>Sentinel (Fayetteville, Ark.), 23 September 1890.

<sup>5</sup>Indian Citizen, 4 October 1890; Fort Smith Times, 28 September 1890, cited in Adams, pp. 68-69.

<sup>6</sup>Clipping, Elias C. Boudinot File, Fort Smith Historical Society, Fort Smith, Arkansas. Boudinot had become a Mason in 1861 in Arkansas. In 1886, Albert Pike, then the national leader of the Masons, conferred the rank of thirty-second on Boudinot. "Notes and Documents: Historic Masonic Miscellanea--Oklahoma," Chronicles of Oklahoma 22 (Summer, 1944), 213. Also see Cherokee Advocate (Tahlequah), 16 April 1904. However, Boudinot may have become a thirty-second degree Mason in the 1860s. See Memphis Daily Appeal (Tennessee), 4 April 1867.

<sup>7</sup>Indian Citizen, 4 October 1890.

<sup>8</sup>Cherokee Advocate, 1 October 1890.

<sup>9</sup>Arkansas Gazette (Little Rock, Ark.), n.d., cited in Adams, p. 66.

<sup>10</sup>Fort Smith Call, n.d., cited in Adams, p. 67.

<sup>11</sup>Ibid., pp. 67-68.

<sup>12</sup>Fort Smith Elevator, n.d., cited in Adams, p. 68.

<sup>13</sup>New York Times, 28 September 1890.

<sup>14</sup>New York Times, 5 October 1890.

<sup>15</sup>Adams, pp. 36-60.

<sup>16</sup>Indian Chieftain (Vinita), 11 December 1890.

<sup>17</sup>Cherokee Telephone (Tahlequah), 18 December 1890.

<sup>18</sup>Fort Smith Call, n.d., cited in Cherokee Advocate, 23 March 1892.

<sup>19</sup>Sentinel, 7 January 1890.

<sup>20</sup>Sequoyah District Records, Vol. 186, CNP, Microfilm CHN 46, IAD,  
OHS.

<sup>21</sup>Phoenix (Muskogee), 20 October 1890.

<sup>22</sup>Clipping, Elias C. Bodinot File, Fort Smith Historical Society,  
Fort Smith, Arkansas.

<sup>23</sup>Ibid.

## CHAPTER XV

### ELIAS CORNELIUS BOUDINOT IN RETROSPECT

When Elias Cornelius Boudinot died in 1890, he left a controversial reputation. For some, such as Sidney Clarke, who along with Boudinot worked to open the Indian Territory to white settlers, Boudinot was "devoted alike to the welfare of his race and to the progress of white civilization in the southwest."<sup>1</sup> Others, however, saw Boudinot in a different light, such as the noted historian Grant Foreman who considered the Cherokee "a fascinating personality. . . . Actuated by acquisitiveness. . . . A self-seeking politician, who had not the least concern for the interests of his nation."<sup>2</sup>

In some ways, both statements are valid, and they point to the crux of understanding Boudinot. As a mixed-blood Indian, he functioned in two cultures, white and Cherokee. He had been brought up in white America, but he never severed his connection with the Cherokee Nation. He took pride in his Cherokee heritage, but at the same time he maintained a commitment to the values of white society. In doing so, he became an outstanding representative of a "type" of Indian: the mixed blood who refused to forsake his Indianness but adhered to the ways of white Americans.

During his lifetime, Boudinot experienced tragedy, excitement, conflict, and frustration. He endured the assassination of his father. He suffered through the Civil War, backing the "Lost Cause" of the

Confederacy. He witnessed the failures of most of his dreams and schemes for financial success. He did, however, distinguish himself as a spokesman on Indian policy, but only to have most of his views rejected and condemned by his red brethren. At the same time, he had a host of powerful friends, especially in Washington where his views were seriously considered if not wholly accepted. Indeed, he became a recognizable figure not just in the Indian Territory or Arkansas but throughout the nation.

In the eyes of many Indians, however, Boudinot was a traitor to his Indian blood, the tool of avaricious and unscrupulous whites who wanted Indian land. Indeed, his advocacy of such unpopular ideas as making Indians American citizens, allotting Indian land in severalty, organizing the Indian Territory as a territory of the United States angered many.

Consequently, the question arises, how can Boudinot's attitudes and actions be assessed? In that regard, several points deserve mention. For one, he was motivated in some instances by his loathing for John Ross and his faction of the Cherokee tribe. Even after the old chief's demise, Boudinot habitually opposed those who had been aligned with Ross, especially William P. Ross. Second, Boudinot was driven by ambition. He always longed for both influence and wealth. Yet a third consideration is that he was imbued with the boosterism so characteristic on the western frontier. He wanted to see industry, commerce, and modernity come to the Southwest and the Indian Territory.

None of these factors, however, exonerate Boudinot from charges of duplicity and intrigue. Certainly, he was not above either. Indeed, there was probably some credence to the allegations that he received

financial aid from railroad corporations, or at least individuals who worked for those companies, but no hard evidence exists to prove such contentions. Moreover, the alliance between Boudinot and the Katy or any railway firms probably stemmed from a mutual interest: bringing transportation to the Indian Territory and thereby aiding the economy of the whole region.

Of course, the railroads also had another interest in the Indian Territory. They wanted to secure title to Indian lands, grants to defray the cost of building their lines through the territory. This land they could then sell to white homesteaders. Here, too, Boudinot apparently was their ally. But his concern went beyond aiding the railroads. When his proposals for territorializing the Indian Territory made no headway, he provided the impetus for the Boomer movement by publicly stating that part of the Indian Territory belonged to the United States government and therefore was legally open to homesteaders. In doing so, he hoped to force Congress to enact the legislation which he promoted.

Other activities, of course, also occupied his time, but these in particular engendered the wrath of his red brethren. Indeed, Boudinot seemed to be working against their best interests, certainly against their wishes. From his perspective, however, Boudinot believed that he was much more far-sighted than his detractors. He operated in white society, he understood the white man's world, and he realized that sooner or later the Indian nations would fall before the advance of willful white settlers. Thus, he concluded that Indians could only compete with whites when they held their land as private owners. He hoped to secure the place of the red man in the Indian Territory before the



region succumbed to white domination. Moreover, he did not necessarily see association between whites and Indians as a detriment. Industrious whites would add to the wealth of the territory as well as setting examples for Indians to follow. In all, Boudinot wanted to bring progress, albeit the white man's concept of progress, to his fellow Indians.

Perhaps Judge Isaac Parker, not only a friend to Boudinot but also a noted defender of Indian rights, best expressed Boudinot's motivations and the misconceptions about him:

I think he was very much misunderstood by some of his people. They had a belief that he was not true to their interest, and that he was willing to barter away their rights. This was a great mistake. He was jealous of the rights of the Indian as any of them, and I believe he was ever ready to defend their rights of life, liberty, and property. He was just a little ahead of his people. He wanted them to fall into the ranks of the great column of civilization and progress, as it goes marching grandly on to that higher, greater, and nobler goal of the nation.<sup>3</sup>

Possibly Parker's words provide the key to understanding Boudinot. Regardless of all those human frailties--egotism, hatred, greed--which Boudinot sometimes exhibited, he also acted on honest ideals and aspirations. Undoubtedly, he wanted to have the Indian Territory boom with prosperity and to share in that bounty, but at the same time he desired to forge a bond of unity and common purpose between the Indians in the Indian Territory, indeed ultimately all Indians, and the larger white society of the United States. In the end, Boudinot did not live to see all that he had predicted and worked for come to pass. But when the tribes lost their sovereignty and whites moved onto formerly Indian land, those who opposed such changes saw Boudinot as one who had done much to bring about their misfortune. Nonetheless, for good or ill, Boudinot had an effect on the course of history.<sup>4</sup>

ENDNOTES

<sup>1</sup>Statement of Sidney Clarke in Luther B. Hill, A History of the State of Oklahoma I (Chicago: Lewis Publishing Company, 1910), p. 173.

<sup>2</sup>Grant Foreman, A History of Oklahoma (Norman: University of Oklahoma Press, 1942), p. 139. For similar appraisals, see H. Craig Miner, The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865-1907 (Columbia: University of Missouri Press, 1976), pp. 45-46; and Angie Debo, A History of the Indians of the United States (Norman: University of Oklahoma Press, 1970), p. 296.

<sup>3</sup>Remarks of Judge Isaac Parker, cited in John D. Adams, Elias Cornelius Boudinot (Chicago: Rand, McNally & Co., 1890), p. 59.

<sup>4</sup>On this point, Grant Foreman would agree, for he also wrote that from 1865 Boudinot "in some fundamental aspects was destined to influence Indian Territory history perhaps more than any other man." Foreman, p. 136.

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