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JOHN ROSS, CHEROKEE CHIEF

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JOHN ROSS, CHEROKEE CHIEF

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## PREFACE

I first became acquainted with Chief John Ross of the Cherokees as a historical figure in an Oklahoma history class at Northeastern State College at Tahlequah, Oklahoma, the old capital of the Cherokee Nation. Frequently I walked the very grounds over which Ross had strolled more than a century before. Yet no interest in Ross or Cherokee history was sparked in me. Several years later, Ross as a major research topic was suggested in a graduate seminar. I soon discovered that Ross had no adequate biography and, in fact, that a great deal of his life remained a mystery, especially his private and family life and his personal finances. Indeed, even large questions in his political career remained untreated, disputed, or unanswered.

I was extremely fortunate in this undertaking in that I was within less than 100 miles of a vast storehouse of Ross materials. At the Thomas Gilcrease Institute of American History and Art, I discovered Ross's personal papers, plus the kind assistance of Marie Keene. Almost as valuable at Gilcrease Institute was the Lester Hargrett collection of imprints which recently has been catalogued and published under the editorship of G. P. Edwards, who also lent kind assistance. At Oklahoma Historical Society I found, as have so many students of Indian history before me, that Rella Looney was indispensable for tracing the most obscure documentation in the society's excellent Indian Archives Division. David Winkles in the Oklahoma Historical Society

Library was especially helpful in tracking down genealogical sources on Ross through old county histories and Emmett Starr's unpublished Cherokee genealogical notes. At the University of Oklahoma, Jack D. Haley, Assistant Curator of the Western History Collections, showed me a number of courtesies and guided me to important Ross materials. At the John Vaughn Library at Northeastern State College, Helen Wheat cooperated in my search through the library's Cherokee collection.

Ross was a national figure in his day, and many of his letters to leading United States personages are located in collections in other states. Diana Haskell at the Newberry Library traced numerous valuable materials for me in the John Howard Payne Papers, while Nancy G. Boles pointed me to Ross sources in the William Wirt Papers at the Maryland Historical Society.

The historical archives of Georgia and Tennessee maintain Cherokee sources which contain significant Ross correspondence. Ruth Corry at the Georgia Department of Archives and History was helpful, and Jean Waggener of the Tennessee State Library and Archives went out of her way a number of times to do long-distance research and demonstrate that southern hospitality has not declined since Ross's day. To Dr. William McLoughlin of Brown University and Dr. Walter Vernon of Nashville, Tennessee, I owe a special thanks for information and direction on Ross's religious attachments. Dr. Rennard Strickland of the University of Tulsa and Dr. Thurman Wilkins of Queens College kindly loaned me portions of their personal collections of Cherokee material. Elizabeth Tritle of the Quaker Collection at Haverford College pointed me to sources on the Stapler family, while Ernest H. Winter, Jr., of the Alumni Association of Lawrenceville School gave me needed information

on the Ross family members who attended the academy during the mid-nineteenth century. The Alfred and Millicent Aaronson Fund gave much-needed financial support for which I am grateful.

At Oklahoma State University I was blessed with a conscientious, interested library staff. In particular, Heather Lloyd, Dixie Mosier, and Corinne Colpitts deserve thanks for their ready assistance with inter-library loan material, while Josh Stroman and Vickie Withers gave me much-needed support in the use of government documents.

I also would like to thank the members of my graduate committee for their aid during my graduate program, their careful reading of the dissertation manuscript, and their helpful comments: Dr. Theodore L. Agnew, Jr., Dr. H. James Henderson, Professor Harold V. Sare, and Dr. Robert H. Spaulding, Jr. To Dr. Homer L. Knight, former Head of the History Department, I owe gratitude for making it possible for me to pursue my graduate career, while Dr. Odie B. Faulk, current Head of the History Department, has continued with similar aid and encouragement. Dr. J. H. Boggs, Vice President for Academic Affairs, gave me special assistance which made the dissertation project less time-consuming. Especially, I owe a great deal to my graduate adviser, Dr. LeRoy H. Fischer, who with his own particular blend of encouragement and prodding helped me to master a number of difficult problems, and whose unsurpassed editorial skills made several tedious issues less trying.

I am grateful to my parents, Mr. and Mrs. W. V. Moulton, for their continued encouragement and faith in my efforts. My children, Kim, Russell, and Luanne, merit special recognition for tolerating an absentee father and for trying to appear interested in stories about

an ancient Indian chief. Especially, I owe so much to Faye--for her constant concern and encouragement that this work be more than an academic exercise. We shared many hours together working toward literary excellence and editorial consistency, but more than that we shared our lives.



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## CHAPTER I

### ANCESTRY AND IDENTITY

Commissioner of Indian Affairs Dennis N. Cooley moved in closer to be certain that no words or thoughts would be lost in the interchange with Chief John Ross, the old Cherokee patriarch who lay on a bed before him. Present in that Washington, D. C., hotel room besides Cooley were other United States officials, all anxious to bring the Cherokee treaty negotiations to a close. The time was April 3, 1866, and Ross, though hovering on the brink of death, had been able to elude the machinations of these men who had worked to sign a treaty with his foes designed to break the Cherokee unity that he cherished. Commissioner Cooley was the first to speak: "I learn Mr. Ross that you are Seventy five years of age & have served your Nation over fifty."

"Yes Sir," Ross replied:

I am an old man, and have served my people and the Govt of the United States a long time, over fifty years. My people have kept me in the harness, not of my seeking, but of their own choice. I have never deceived them, and now I look back, not one act of my public life rises up to upbraid me. I have done the best I could, and today, upon this bed of sickness, my heart approves all I have done. And still I am, John Ross, the same John Ross of former years, unchanged.<sup>1</sup>

Few men at such a time can speak of a life so well spent. The

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<sup>1</sup>Daniel H. Ross to William P. Ross, April 3, 1866, John Ross Papers, Thomas Gilcrease Institute of American History and Art, Tulsa, Oklahoma.

life that Ross surveyed in those brief moments was incredibly intricate. Out of the checkered background of white and Indian heritage, a conscious thread of consistency wound its way through the years. Dedication to his people and to a principle had led him once again to Washington to reconstruct his nation on the basis of that singular resolve. The one great aim of his life, the political and social cohesion of his people, was now fixed on the Cherokee Reconstruction Treaty of 1866, and after his death on August 1, 1866, the unity he had sought so long would be restored briefly.

Ross's half-century of leadership spanned an era in which the Cherokees reached the pinnacle of their civilization but were also plunged to the depths of human suffering. The ancestry and childhood of Ross seem an unlikely source for leadership among the Cherokees. Only one-eighth Cherokee, he spoke the language haltingly, and he never learned its written characters after Sequoyah's stroke of brilliance. What tapped him for leadership were qualities that touched the Cherokees' faith--a firm attachment to their ancient lands and a desire to keep united a people formed in untraceable antiquity.

The complexity of Ross's lineage begins with a remote Scottish figure, William Shorey, and his full-blooded Cherokee wife, Ghigooie of the Bird Clan. Little is known, and less is certain of Shorey and Ghigooie. He served the British for a time as an interpreter at Fort Loudon and, due to his fluency in the Cherokee language, accompanied Lieutenant Henry Timberlake and a group of Cherokees to England. During the crossing in May of 1762, Shorey was lost to "consumption," and whatever evidence might have made him less obscure went with him.

The fate of Ghigooie is totally unknown.<sup>2</sup>

Shorey left behind at least two children, Anne and William. Anne married a Scottish trader, John McDonald. William married a girl named Peggy, and they had at least one daughter, Elizabeth. The younger Shorey also had two other daughters, but it is not likely that they were the children of Peggy. In the 1790's Shorey carried out several military and liaison tasks for his brother-in-law, McDonald. He also must have gained some influence among the Cherokees for he was a signatory to the Cherokees treaties of 1805 and 1806, occasionally using his Indian name, Eskaculiskee.<sup>3</sup>

The younger William Shorey died in 1809 and left a verbal will that caused a controversy between his sister, Anne, and his oldest daughter, Elizabeth. Shortly after his death, McDonald produced a document purported to be Shorey's will given orally to his grand-nephew, John Ross, McDonald's grandson. In substance Shorey left the larger share of his estate to his sister, Anne. Two Negro slaves, Charles and his wife, Diannah, were left to Anne and were to pass to John Ross at his grandmother's death. Instructions were left for Anne

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<sup>2</sup>Henry Timberlake, Memoirs, 1756-1765, ed. by Samuel Cole Williams (Marietta, Georgia: Continental Book Company, 1948), pp. 128-132, 164; Emmet Starr, History of the Cherokee Indians (Oklahoma City: Warden, 1921), p. 410.

<sup>3</sup>*Ibid.*, pp. 410, 367, 309; Statements of Elizabeth Lowrey, September 22, 1837, January 22, 1841, and March 14, 1845, Ross Papers, Gilcrease Institute; United States Congress, American State Papers, Indian Affairs (2 vols., Washington: Gales and Seaton, 1832-1861), Vol. I, p. 434; John McDonald to Alexander McKee, April 10, 1794, in Philip M. Hamer, "The British in Canada and the Southern Indians, 1790-1794," East Tennessee Historical Society's Publications, No. 2 (1930), p. 127; Charles J. Kappler, comp. and ed., Indian Affairs: Laws and Treaties (5 vols., Washington: Government Printing Office, 1904-1941), Vol. II, pp. 82-83, 90-91.

to care for the two younger daughters, Lydia and Alcy or Alice, to whom Shorey bequeathed other slaves. To his daughter, Elizabeth, who had married a leading figure in Cherokee affairs, John Lowrey, he left some livestock valued at \$300. Ross inherited "a part of an island which is in the first below Tellico B/Tock house say one half." This island was the beginning of the extensive landholdings Ross eventually would acquire in the Tennessee and Georgia areas.<sup>4</sup>

Elizabeth Lowrey was not ready to accept this verbal will. She resisted even to the point of detaining her two sisters who were to be cared for by Anne. Elizabeth insisted that her father had never mentioned anything that was written in the alleged will of Shorey. She thought that Ross probably had obtained the will when her father was drunk, but that he would never have made such promises when he was sober. Moreover, Elizabeth emphasized that Shorey's wife did not accept the will. McDonald felt that she just wanted to keep the girls in order to get more property, and he also noted that the "wife" had left Shorey many years earlier. Settling the matter eventually took orders from Cherokee Chief Pathkiller and the United States agent

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<sup>4</sup>Last Will of William Shorey, April, 1809, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives, Washington, D. C.; Starr, History of the Cherokee Indians, pp. 367, 309; Carolyn Thomas Foreman, "A Cherokee Pioneer: Ella Flora Coodey Robinson," Chronicles of Oklahoma, Vol. VII, No. 4 (December, 1929), pp. 364-365. Anne followed her brother's wishes to care for the girls, and that same year enrolled Alcy at the Springplace Mission School. Adelaide L. Fries and Douglas LeTell Rights, eds., Records of the Moravians in North Carolina (8 vols., Raleigh: State Department of Archives and History, 1922-1954), Vol. VIII, p. 3791; Alice (Alcy) Shorey to Meigs, November 14, 1809, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

to the Cherokees; the decision went largely in favor of Anne McDonald.<sup>5</sup>

John McDonald, Ross's maternal grandfather, was born in the Scottish Highlands at Inverness about 1747. Like many Scotsmen, McDonald was attracted to America by the hope of economic gain rather than the threat of religious persecution. He arrived in America around 1766 and settled for a time in Charleston, South Carolina. He then served in a mercantile house in Georgia before being commissioned for a trading post at Fort Loudon on the Georgia-Tennessee frontier. Doubtless at Fort Loudon McDonald met Anne Shorey, daughter of the interpreter, and in 1769 they married. McDonald's enterprising qualities would not let him be content simply to serve as a clerk for another man's profit, so he joined the next migratory wave of settlers that swept westward. McDonald settled in the region known as Chickamauga among the Lower Cherokees, adjacent to the majestic Lookout Mountain, so reminiscent of his Scottish Highland home. Here, on November 1, 1770, Mollie, the only child of John and Anne, was born.<sup>6</sup>

At the close of the French and Indian War in 1763, the land east of the Mississippi River came into the possession of the British. The ruddy and reliable Captain John Stuart, who had worked among the Cherokees during the French and Indian War, was appointed British

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<sup>5</sup> McDonald to Return J. Meigs, April 20, 1809, Elizabeth Lowrey to Meigs, April 26, 1809, Pathkiller to Meigs, May 27, 1809, Anne McDonald to Timothy Meigs, June 9, 1809, and Elizabeth Lowrey to Return J. Meigs, October 2, 1809, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

<sup>6</sup> Emmet Starr, Unpublished Notes used for the History of the Cherokee Indians, Oklahoma Historical Society, Oklahoma City, Oklahoma City, Oklahoma; Gilbert Eaton Govan and James W. Livingood, The Chattanooga Country, 1540-1951 (New York: E. P. Dutton and Company, 1952), pp. 26-27.

Superintendent of Indian Affairs to tribes south of the Ohio River. To the Cherokees he appointed two able representatives as assistants, John McDonald and Alexander Cameron. McDonald continued to reside among the Lower Cherokees at Chickamauge, while Cameron worked with the Overhill settlements.<sup>7</sup>

McDonald served in the Revolutionary War as an ensign in the British ranks and as commissary agent for the British troops. In this capacity he proved his effectiveness at leading and supplying Indians, qualities that he would cultivate in subsequent merchandising efforts. After the war he settled on the Chickamauga River, carrying on a private trade through Pensacola and among the Cherokees with goods bought at Charleston, in defiance of Indian trading laws established by the fledgling United States. McDonald's influence with the Cherokees increased as he dealt with them honestly and spoke their language skillfully. As the three contending powers--England, Spain, and the United States--converged on the Cherokee Nation, McDonald's assistance was sought by each. One American official wrote: "In case of a war with any foreign power, he may be very serviceable, or very dangerous."<sup>8</sup>

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<sup>7</sup>John P. Brown, Old Frontiers: The Story of the Cherokees from Earliest Times to the date of their Removal to the West, 1838 (Kingsport, Tennessee: Southern Publishers, 1938), pp. 122-123; John P. Brown, "Eastern Cherokee Chiefs," Chronicles of Oklahoma, Vol. XVI, No. 1 (March, 1938), p. 19.

<sup>8</sup>Philip M. Hamer, Tennessee: A History, 1673-1932, (4 vols., New York: American Historical Society, 1933), Vol. 1, p. 93; Brown, "Eastern Cherokee Chiefs," Chronicles of Oklahoma, Vol. XVI, p. 32; Brown, Old Frontiers, p. 247. In regard to McDonald's skill with the Cherokee language, one traveler noted: "Not more than 2 or 3 white men ever learned the Cherokee so as to speak it correctly; one of these was John MacDonal[d] /sic/." Grant Foreman Collection of Notes, Typescripts, Photostats, and United States Government Publications, Gilcrease Institute.

In the late 1780's McDonald became connected with the trading firm of Panton, Leslie, and Company. With the advice and assistance of William Panton, McDonald became the first and only agent of the Spanish government among the Cherokees. By June of 1792 McDonald was working actively for the Spanish among the Lower Cherokees and receiving a pension of \$500 annually. He was instrumental in getting Cherokee Chief Bloody Fellow to ignore treaties with the United States and to carry on clandestine negotiations with Spanish Governor Baron de Carondelet. Yet, McDonald's active association with the Spanish was short-lived. In the early part of 1793 Governor William Blount of Tennessee received reports that McDonald was friendly to Americans and amenable to accepting a commission. Indeed, McDonald may have been playing off all three powers at once. On one occasion he pledged to an American acquaintance: "Believe me Sir I shall never turn Spaniard." He also assured a British official at Detroit as late as 1794 that, though he had been offered a commissary appointment by the Spanish, he had not accepted; yet he continued to draw his \$500 pension until 1798. Nevertheless, by May of 1793 he wrote Governor Blount that he would accept an appointment as United States agent to the Lower Cherokees. Blount enthusiastically informed the Secretary of War about McDonald, for the governor was ignorant of the Tory trader's connection with the Spanish. Blount considered McDonald particularly able and noted that "he has as much or more, influence with the Lower Cherokees, than any other man who resides among them."<sup>9</sup>

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<sup>9</sup>Brown, "Eastern Cherokee Chiefs," Chronicles of Oklahoma, Vol. XVI, p. 32; A. P. Whitaker, "Spain and the Cherokee Indians, 1783-1798," North Carolina Historical Review, Vol. IV, No. 3



McDonald in 1785 had another opportunity to use his bargaining prowess with Bloody Fellow. Daniel Ross, born in Sutherlandshire, Scotland, about 1760, had come to America in his youth and was left an orphan at Baltimore, Maryland, at the end of the Revolutionary War. Like many young men, he turned to the frontier and soon joined with Francis Mayberry of Hawkins County, Tennessee, to trade for furs among the Chickasaws. Making the usual stop at Setico required of flatboats traversing the Tennessee River, Ross and Mayberry were detained by an incensed band of Bloody Fellow's followers. Ignorant of Cherokee animosities, the two white traders had carried on board their craft a chief whom the Cherokees considered a deadly enemy. Until McDonald intervened, the aptly named Bloody Fellow was ready to massacre the lot. After the Cherokees' hostility had diminished, they asked young Ross to open trade with them. As a result Ross established a trading firm at Setico in the Lookout Mountain valley, probably in connection with McDonald, and within a year had married his daughter, Mollie.<sup>10</sup>

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(July, 1927), pp. 257-259, 264-265, 268-269; John McDonald to Joseph Martain /sic/, September 6, 1785, Cherokee Collection, Tennessee State Library and Archives, Nashville, Tennessee; American State Papers, Indian Affairs, Vol. 1, pp. 327-328, 434, 532; McDonald to Alexander McKee, April 10, 1794, in Hamer, "The British in Canada and the Southern Indians, 1790-1794," East Tennessee Historical Society's Publications, No. 2, p. 128. McDonald was slow to relinquish his British sympathies, for he wrote McKee that "in case of a secont /sic/ quarrel between Great Britain & America...the Cherokees, would readily /sic/ espouse the cause of their ancient Fathers." McDonald to McKee, December 26, 1794, ibid., p. 134.

<sup>10</sup>Thomas L. McKenney, History of the Indian Tribes of North America with Biographical Sketches and Anecdotes of the Principal Chiefs (3 vols., Philadelphia: Rice, Rutler and Company, 1870), Vol. II, p. 292; Govan and Livingood, The Chattanooga Country, 1540-1951, p. 39, 39 n. 4; Statement of Daniel Ross, December 10 and 21, 1829, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

The following years were restless ones for the Ross and McDonald families. In 1788 Daniel Ross moved with his father-in-law to Turkey Town on the Coosa River near present-day Center, Alabama, where he continued to trade with the Cherokees. Two years later, on October 3, 1790, Mollie's third child was born and named John after his grandfather. Daniel and Mollie reared a family of nine children; the two girls who preceded John were Jane and Elizabeth; the other children in succession were Lewis, Susannah, Andrew, Annie, Margaret, and Maria. From Turkey Town the families moved to Willstown, one of the largest settlements of the Cherokees, then to Chickamauga, and finally to the northern end of the Lookout Mountain range near present-day Chattanooga. At the base of the mountain near the cool spring of Saint Elmo, Daniel Ross constructed a sturdy two-story log house about 1797, which still stands in reconstructed form at Rossville, Georgia.<sup>11</sup>

John Ross's earliest memories were associated with this home set in the midst of Cherokees, where Ross observed the folkways of the full bloods who traded at his father's store. As a child John was called Tsan Usdi or Little John. According to the Cherokee custom, he acquired a different name at adulthood, Kooweskoowe, after some mythological or rare migratory bird. The name belied Ross's character, for his attachment to the Cherokees' native land must have grown with each succeeding year. As a youth John favored the ancient dress and customs of his people. At the annual Green Corn Festival, he was reluctant to appear

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<sup>11</sup> Ibid.; Starr, History of the Cherokee Indians, pp. 410, 582; McKenney, History of the Indian Tribes of North America, Vol. II, p. 292; Penelope Johnson Allen, "John Ross' Log Mansion," Chattanooga Sunday Times, February 2, 1936, pp. 7, 11.

before his young friends in American clothes and stayed behind until his mother let him change to more familiar Cherokee attire. Some of John's first lessons were learned while seated near one of the fireplaces located at either end of the Ross house. Daniel Ross wanted more for his children than a rudimentary knowledge, so he filled his home with the latest American and English newspapers, an assortment of maps, and a well-stocked library. One traveler visiting the Ross house felt that he might well have been in England or Scotland rather than the Cherokee wilds. But the elder Ross desired more formal training for the children. About 1799 he hired a private tutor for the youngsters, a certain George (or John) Barber Davis, who guided them through the elementary stages of learning before they were sent to private boarding schools. John and his brother, Lewis, studied for a time with the Reverend Gideon Blackburn at his mission near Chickamauga and later attended an academy at South West Point, now Kingston, Tennessee.<sup>12</sup>

As early as 1799 Blackburn had attempted to persuade the local Presbyterian assembly to open schools among the Cherokees. In 1803,

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<sup>12</sup> Ibid.; Samuel A. Worcester to William Shorey Coodey, March 15, 1830, in Missionary Herald, May, 1830, p. 154. For Ross's adult Cherokee name his own adaptation has been used, although other sources give it as Coowescoowe or Kooweskowe. Robert Sparks Walker, Lookout: The Story of a Mountain (Kingsport, Tennessee: Southern Publishers, 1941), pp. 226-229; Moses Fisk to John Wheelock, April 14, 1800, Moses Fisk Papers, Dartmouth College Library, Hanover, New Hampshire; Samuel Cole Williams, "Christian Missions to the Overhill Cherokees," Chronicles of Oklahoma, Vol. XII, No. 1 (March, 1934), p. 68. Evidence on Ross's education is inconclusive. He may also have studied with Daniel Sullivan and the Reverend Isaac Anderson. See Robert Sparks Walker, Torchlights to the Cherokees: The Brainerd Mission (New York: Macmillan, 1931), pp. 21, 177, and Mrs. William P. Ross, ed., The Life and Times of Honorable William P. Ross of the Cherokee Nation (Fort Smith, Arkansas: Weldon and Williams, 1893), pp. 187-188.

as a delegate to the General Assembly of the Presbyterian Church, he introduced the idea of a mission to the tribe. With financial aid from the assembly and the endorsements of President Thomas Jefferson and the Cherokee agent, Colonel Return J. Meigs, Blackburn opened his school in the spring of 1804 on the Hiwassee River twelve miles above the agency office. Within four years he moved to Tellico, as he thought Hiwassee a regular "Sodom." Due to Blackburn's failing health, the school lasted only about six years.<sup>13</sup>

Missionary activity among the Cherokees advanced rapidly in the first decades of the nineteenth century, and the McDonald and Ross families played a part in this civilizing influence. The first significant missionary endeavor came in 1799, when two Moravian ministers accompanied a wealthy mixed blood, James Vann, through the Cherokee Nation in search of a suitable location for their proposed mission. They visited the McDonald place at Chickamauga, but objected to the site since it bore the reputation of being unhealthful. They finally settled on the Vann house at Springplace.<sup>14</sup> In 1816 the Reverend Cyrus Kingsbury visited the Cherokees and took another important step when he gained the support of the American Board of Commissioners for Foreign

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<sup>13</sup> "An Account of the Origin and Progress of the Mission to the Cherokee Indians; in a Series of Letters from Rev. Gideon Blackburn to the Rev. Dr. Morse," Panoplist (Missionary Herald), June, 1807, pp. 39-40; Blackburn to Meigs, February 8, 1808, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Linton M. Collins, "The Activities of Missionaries Among the Cherokees," Georgia Historical Quarterly, Vol. VI, No. 4 (December, 1922), pp. 297-298.

<sup>14</sup> Ibid., pp. 296-298; Walker, Torchlights to the Cherokees: The Brainerd Mission, pp. 25-28; Fries, ed., Records of the Moravians in North Carolina, Vol. VII, pp. 3118-3119.

Missions to establish a mission. With the consent of the Cherokee General Council, Kingsbury bought McDonald's site, which consisted of about 25 acres and his buildings and improvements. The mission was soon christened Brainerd after David Brainerd, a pioneer missionary among the northern Indians. The United States government agreed to pay McDonald \$500 for the location and also to furnish the school with farming equipment and household goods. Brainerd became one of the most successful of the mission stations.<sup>15</sup>

In spite of the Ross family attachment to missionary activity, John Ross was not an early convert to Christianity. His grandmother, Anne Shorey McDonald, frequently attended services at Brainerd, where she became a convert and a mainstay in the congregation, but Ross remained unpersuaded. Ross, like his father and grandfather, was interested in the missionaries and their endeavors, for he understood the advances in education and refinement they would bring to the rustic Cherokees, and in later years he often pleaded their cases for use of tribal lands. As a successful planter, he was always ready to supply the missions with corn, and he also was willing to overlook an occasional debt made by the hard pressed missionaries. Ross eventually was influenced by Nicholas Dalton Scales, husband of his niece, Mary Coodey, and by a dedicated circuit rider, John B. McFerrin of the Methodist

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<sup>15</sup>Collins, "The Activities of Missionaries Among the Cherokees," Georgia Historical Quarterly, Vol. VI, pp. 298-299; Kingsbury to Samuel Worcester, December 25, 1816, in Walker, Torchlights to the Cherokees: The Brainerd Mission, pp. 23-24; Gilbert E. Govan, "Some Sidelights on the History of Chattanooga," Tennessee Historical Quarterly, Vol. VI, No. 2 (June, 1947), p. 149; Kingsbury to John C. Calhoun, May 15, 1818, Letters Received by the Secretary of War, Indian Affairs, National Archives.

Episcopal Church, to accept conversion. Ross probably became what the Methodists of the time termed a "seeker," that is, one in preparation for baptism. Formal entry into the Methodist Church came years later. Although never deeply religious, Ross maintained an interest in spiritual affairs and remained a Methodist from 1829. Ross was not an habitual joiner, and although he became a member of the Masons in 1827, it does not appear that he took an active part in the organization.<sup>16</sup>

During his years at Kingston, Ross also received practical knowledge of merchandising. He boarded for a time with Thomas N. Clark, a personal friend of his father and one of the leading merchants and planters in the area. Clark also was a personal friend and advisor to the Cherokees and had several business connections with the tribe. After completing school young Ross served as a store clerk for William Neilson of the prominent Tennessee trading firm of Neilson, King, and Smith. Although Ross engaged in business enterprises often during his life, he never seemed content in this occupation. Yet in those early days at Kingston he developed managerial skills that would see him through a lifetime, and he learned the art of personal persuasion

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<sup>16</sup>Henry Thomas Malone, Cherokees of the Old South: A People in Transition (Athens: University of Georgia Press, 1956), p. 103; Marion L. Starkey, The Cherokee Nation (New York: Alfred A. Knopf, 1946), pp. 221, 52-53. For the missionaries' attitudes toward Ross, see *ibid.*, pp. 224-225. O. P. Fitzgerald, John B. McFerrin, A Biography (Nashville, Tennessee: Publishing House, Methodist Episcopal Church, South, 1889), pp. 69-70, 442-443; Robert Paine, Life and Times of Bishop McKendree (2 vols., Nashville, Tennessee: Southern Methodist Publishing House, 1869), Vol. II, pp. 119-120; Christian Advocate, November 13, 1829, p. 42; Elizur Butler to David Greene, February 27, 1830, Cherokee Mission Papers, Houghton Library, Harvard University, Cambridge, Massachusetts; Certificate of Ross's Initiation as a Master Mason, April 5, 1827, Ross Papers, Gilcrease Institute.

so vital to his later political career.<sup>17</sup>

Ross's first business venture was with Timothy Meigs, son of the United States agent to the Cherokees, Return J. Meigs. About 1810 they established a store and warehouse which they called Meigs and Ross. The fortunate association with Meigs brought to the firm government contracts which were especially lucrative during the Creek War when blankets, corn, and other supplies were needed for the Cherokee warriors. The younger Meigs wrote back enthusiastically from one business trip to Baltimore that his credit was good for merchandise far beyond their needs. After Timothy Meigs died in 1815, Ross brought his brother, Lewis, into the partnership, and they were able to continue contracts with the government. Ross stressed to Agent Meigs on the eve of a marketing trip to Baltimore that he could furnish goods at a price lower than other local contractors, and that it would be more "satisfactory to the Indians to have such a person as to supply & issue to them as they could confide in."<sup>18</sup>

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<sup>17</sup>McKenney, History of the Indian Tribes of North America, Vol. II, p. 293; Samuel Cole Williams, ed., Early Travels in Tennessee Country, 1540-1800 (Johnson City, Tennessee: Watauga Press, 1928), p. 312; Samuel Cole Williams, ed., "The Executive Journal of Governor John Sevier," East Tennessee Historical Society's Publications, No. 4 (1932), p. 109; Allen, "John Ross' Log Mansion," Chattanooga Sunday Times, February 2, 1936, p. 7; Meigs to Cherokees, February 1, 1801, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Entries, /1804?/ and April 10, 1804, Return J. Meigs, "Memorandum Book of Occurrences in the Cherokee...Country, 1796-1807," Indian Collection, Manuscript Division, Library of Congress; John Ross, Letter from John Ross...in Answer to Inquiries from a Friend Regarding the Cherokee Affairs with the United States (n. p., 1836), p. 10.

<sup>18</sup>McKenney, History of the Indian Tribes of North America, Vol. II, pp. 296-297; Timothy Meigs to Return J. Meigs, November 20, 1813; Return J. Meigs to General Armstrong, June 4, 1814, and Ross to Meigs, April 11, 1817 /two letters of this date/, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National

Ross's warehouse and store became well known among the Cherokees and were sources of supply for the Indians as well as for the United States government. Ross established a landing on the south bank of the Tennessee River and a ferry to service the frequent supply and passenger flatboats; the general area soon was known as Ross's Landing and was a customary stop for travelers on the Federal Road from Nashville to Augusta. The Ross store also was a source of supply for Cherokee emigrants going west. It is difficult to determine how long Ross remained in partnership with his brother, Lewis, but in 1818 the Cherokees and Federal Indian agents were buying goods from "John & Lewis Ross," and they may have continued in business until 1826. It also appears that John Ross was connected for a time with his brother, Andrew, in a merchandising operation at Fort Armstrong, a few miles above Turkey Town on the Coosa River. By the mid-1820's, Ross's increasing activities in Cherokee political affairs and his move to a new home at the head of the Coosa River (now Rome, Georgia) had brought an end to his merchandising efforts.<sup>19</sup>

Colonel Return J. Meigs had accepted appointment as United States agent to the Cherokees in May, 1801, and remained in that position

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Archives; Zella Armstrong, History of Hamilton County, and Chattanooga, Tennessee (Chattanooga: Lookout Mountain Publishing Company, 1931), pp. 126-127.

<sup>19</sup>Big Half Breede et al. to Meigs, April 29, 1817, "Minute of Articles taken from J & L Ross & Co.," March 11, 1818, and Meigs to John Calhoun, August 10, 1818, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Govan, "Some Sidelights on the History of Chattanooga," Tennessee Historical Quarterly, Vol. VI, pp. 150-151; "Journal of the Mission at Brainerd," Panoplist (Missionary Herald), March, 1820, p. 123; Hugh Montgomery to James Barbour, July 15, 1825, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.



until his death in 1823. After distinguished service in the American Revolutionary War and a brief career at surveying with the Ohio Company, Meigs settled at the Cherokee agency at South West Point. Meigs was to receive his instructions from Benjamin Hawkins, the superintending agent for the region, but Hawkins rarely troubled him, and Meigs was left to his own judgment. He practiced a policy of detachment and benign neglect for the first decade in service, until the pressure of surrounding states forced upon him a more active role. He carried out government programs and was zealous in keeping white intruders out of the Cherokee Nation, interfering little as the Cherokees developed new institutions out of the historic context of their own social and political background. In this regard, he became the most respected and loved of all the United States agents to the Cherokees.<sup>20</sup>

During the early years of his service to the Cherokees, Colonel Meigs had become acquainted with the Ross and McDonald families. Although the agent and McDonald had fought on opposite sides during the Revolutionary War, the colonel felt no hatred toward the old Scots Tory and frequently loaned him books and newspapers so inaccessible on the wilderness frontier. After Mollie Ross died in 1808, Mrs. Meigs occasionally would care for the young Ross girls; Elizabeth and Maria became particular favorites of the Meigs family. By 1816 it appeared to Daniel Ross that all the Cherokees would be transported to the West,

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<sup>20</sup>Henry T. Malone, "Cherokee-White Relations on the Southern Frontier in the Early Nineteenth Century," North Carolina Historical Review, Vol. XXXIV, No. 1 (June, 1957), pp. 3-8; Malone, Cherokees of the Old South: A People in Transition, pp. 72-73.

so he appealed to Meigs and reminded him of former promises that his family could remain in their homes, regardless of land exchanges. The business partnership between Timothy Meigs and John Ross probably brought the families even closer together.<sup>21</sup>

After the Louisiana Purchase in 1803, Agent Meigs assumed an extra role as a promoter of removal. The Federal government allotted supplies to small parties of Cherokees for removal to the western border of Arkansas, where nearly 2,000 members of the tribe had settled by 1811. In view of the threatened conflict with Great Britain and a desire to maintain a closer contact with the western Cherokees, as yet without an agent, Meigs in 1812 commissioned John Ross to visit their settlements on the Arkansas River.<sup>22</sup>

Ross may have had an added incentive to visit Arkansas, for he proposed to take charge of a factory on the Arkansas River. The factory system had been established by the Federal government to gain some control over the large numbers of traders who were entering Indian lands. This system would license traders through the local Indian agent and authorize trade to a selected number of reliable merchants. Ross seemed to be proposing some sort of temporary contract in which he would be paid \$1,000 per year and \$1 a day subsistence. Meigs and Washington officials were not ready to grant such a contract until they could learn something more about the disposition of the western

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<sup>21</sup>Daniel Ross to Meigs, November 10, 1808, and December 27, 1816, and Ross to Meigs, March 2, 1814, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

<sup>22</sup>McKenney, History of the Indian Tribes of North America, Vol. II, p. 294.

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Sometime late in 1812, Ross left for the country of his western brothers. He carried with him over \$600 worth of goods, including the favored items of gingham, calico, and buttons, and more useful articles such as saddles, bridles, horse collars, and beaver traps. Ross was accompanied by John Spears, a mixed-blooded Cherokee interpreter, and an old full blood, Kalsatee. Thomas L. McKenney, the first Commissioner of Indian Affairs, felt that the details of the trip "would make a volume of romantic interest," but he neglected to provide these details, and no records of that expedition remain to enliven existing official correspondence. McKenney's brief description of the trip is the only source for the adventure: "the sixty-six days on the rivers; the pursuit by settlers along the banks, who supposed the party to be Indians on some wild adventure; the wrecking of the boat; the land travel of two hundred miles in eight days, often up to the knees in water, with only meat for food; and the arrival home the next April."<sup>24</sup>

While in the West, Ross became acquainted with the Arkansas Cherokee chiefs, Talonteskee and Kannetoo, and served as scribe in their correspondence to Meigs. Ross returned in April of 1813 with favorable descriptions of the country to the west. These reports were

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<sup>23</sup>Ross to Meigs, September 1, 1812, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; William Eustis to Meigs, September 4, 1812, Letters Sent by the Secretary of War, Indian Affairs, National Archives.

<sup>24</sup>"Invoice of merchandise forwarded to Arkansas River Cherokees, December, 1811," /dated March 13, 1813/, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; McKenney, History of the Indian Tribes of North America, Vol. II, p. 295

used by William L. Lovely, assistant to Meigs at Tellico, who was commissioned as agent to the Arkansas Cherokee band within two months of Ross's return. In later years Commissioner McKenney recalled Ross's influence with Talonteskee and asked him to persuade the old chief to advocate education among the western tribe.<sup>25</sup>

Within a few months after Ross's arrival home, the Cherokees were embroiled in a conflict with a hostile faction of the upper Creeks. Shawnee Chief Tecumseh had convinced this band that a confederacy of the Indian nations was possible and that conflict with the whites was inevitable. When war broke out between the United States and Great Britain, these bellicose Creeks, who called themselves "Red Sticks," seized the occasion to make raids on lonely white settlements. Influential agents such as Colonel Meigs and prominent Cherokees like Major Ridge (also known as The Ridge) were able to persuade the lower Creeks and Cherokees to align with the United States against the onslaught of the Red Sticks.<sup>26</sup>

Ross entered military service in October, 1813, as an adjutant in Captain Sekekee's company of mounted Cherokees with the rank of second lieutenant, under the command of Colonel Gideon Morgan, Jr. Morgan's first attempt to carry his troops into battle proved unsuccessful, as

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<sup>25</sup>Talonteskee to Meigs, March 14, 1813, Kannetoo to Meigs, March 14, 1813, and William Lovely to Meigs, April 10, 1813, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; McKenney to Ross, September 14, 1818, in Ora Brooks Peake, A History of the United States Indian Factory System, 1795-1822 (Denver: Sage Books, 1954), p. 172.

<sup>26</sup>James Mooney, "Myths of the Cherokees," Bureau of American Ethnology, Nineteenth Annual Report (2 parts, Washington: Government Printing Office, 1900), Part 2, pp. 87-89.

the engagement they sought at Tallashatchee was completed by advance forces before their arrival. On November 18, 1813, Morgan linked his band of Cherokees with the Tennesseans under Brigadier General James White while they pushed to the Creek town of Hillaby. As the town had just sent a peace envoy to General Andrew Jackson, the Creeks were unprepared for an attack; yet White ordered an assault, and the town was completely devastated, with no losses counted on the American side. There was little glory in this spectacle of violence.<sup>27</sup>

In late January, 1814, General Jackson began to build his forces at his Fort Strother headquarters on the Coosa River below Turkey Town. The Creek Indians, who challenged Jackson in the southern arena of the War of 1812, had massed a force of nearly 1,200 warriors on a bend of the Tallapoosa River called Horseshoe, 50 miles of hard marching from Jackson's troops. Jackson hoped to drive them from their well entrenched position by combining Tennessee militiamen with regulars from the Thirty-ninth Regiment and Cherokee volunteers. The Cherokees were nominally led by Pathkiller, but Colonel Morgan was the active commander of the Cherokee regiment.<sup>28</sup>

In the leisurely fashion of nineteenth century warfare, Lieutenant Ross was enjoying a furlough at his Chickamauga home, when on March 2, 1814, he was plunged back into active service. That evening Ross hastily wrote Colonel Meigs:

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<sup>27</sup>Muster Rolls and Pay Rolls of Colonel Morgan's Regiment of Cherokee Indians, October 7, 1813, to April 11, 1814, Adjutant General's Office, National Archives; Mooney, "Myths of the Cherokees," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, pp. 90-91.

<sup>28</sup>*Ibid.*, pp. 92-96.

I have this moment received by Express a letter from Colo. Morgan dated Ft. Armstrong 1st March intimating that he had just recd. marching orders & would march this morning for Fort Strother. All those who wish to signalize themselves by fighting & taking revenge for the blood of the innocent will now step forward.... my brother & myself will set off on the 4th or 5th.<sup>29</sup>

By mid-March Jackson's forces had reached their maximum strength of nearly 5,000 men. Jackson's strategy was to make an intense frontal attack on the fortified Creeks at Horseshoe Bend, while supporting units would cut off any escape by canoes that the Red Sticks had ready on the shore. Ross was among the mounted troops connected with Major General John Coffee who crossed the Tallapoosa downstream from Horseshoe Bend. Jackson found the Creeks behind a well constructed breastwork that would subject advancing forces to a barbarous crossfire. He decided to bombard the Creeks with relentless artillery fire. After nearly two hours of ineffective cannonade, the restless Cherokees could wait no longer. The Whale and two other anxious warriors plunged into the river and reached the opposite shore, where The Whale was wounded and unable to return. The other two started back with canoes intended for the Creeks' escape. These canoes were quickly filled with Cherokee warriors who engaged the Creeks from the rear, as other comrades returned with more canoes to bring reinforcements. Jackson, realizing the significance of this rear assault, broke through the breastwork and took the Creeks by storm. Jackson later called the result a "carnage," as nearly 800 Creeks lay dead. The Americans had 26 killed with 106 wounded; the Cherokees had 18 killed with 35 wounded. Thus

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<sup>29</sup>Ross to Meigs, March 2, 1814, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

the Creeks' ability to resist was broken at Horseshoe Bend.<sup>30</sup>

It is doubtful that Ross made that daring plunge with The Whale and his companions. On occasions in later life when he had opportunity to mention the Creek War, he never spoke of his personal exploits, but he testified readily to the courage of The Whale. Within two weeks after the close of the Horseshoe Bend engagement, Ross ended his brief military career. Perhaps he contemplated the obvious lesson of this experience: no Indian tribe could withstand the superior military power of the United States, and the result of armed resistance was annihilation.<sup>31</sup>

Ross was not completely absorbed in business activities and military exploits during these years. In 1813, probably between April and October, he married Elizabeth Brown Henley, known more commonly by her Cherokee name, Quatie. Quatie's background remains a mystery. Some sources say she was a full-blooded Cherokee of the Bird Clan, while others contend that she was the daughter of a Scottish trader and the sister of Judge James Brown of the Cherokees, or perhaps the

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<sup>30</sup>Mooney, "Myths of the Cherokees," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, pp. 92-96; Niles' Register, April 30, 1814, pp. 148-149, and April 19, 1817, pp. 121-122; Statement of The Whale, February 18, 1843, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

<sup>31</sup>*Ibid.*; Ross's Report of Killed and Wounded in Morgan's Regiment, John Ross Papers, Newberry Library, Chicago, Illinois; John Rogers to Andrew Jackson, August 7, 1820, and Cyrus Kingsbury to John Calhoun, May 15, 1818, Letters Received by the Secretary of War, Indian Affairs, National Archives. In September, 1856, Ross received a grant of 160 acres of Federal public lands on a military bounty land warrant for his service in the War of 1812. Ross sold the claim for \$132.80 to a certain Lyman B. Holman who located on public lands in Minnesota. Ross's Bounty Land Claim (161737-50) and Bounty Land Warrant (44139-160-55), Records of the General Land Office, National Archives.

daughter of Thomas Brown who owned the ferry at Moccasin Bend on the Tennessee River. The best evidence suggests that she was a full-blooded Cherokee. Quatie was born about 1791 and first married a certain Henley by whom she had one child, Susan, who lived with John and Quatie until 1827, when she married Ross's nephew, William Shorey Coodey.<sup>32</sup>

John and Quatie had six children. One died at birth; the others lived well into adulthood. The boys, James McDonald (1814-1864), Allen (1817-1891), Silas Dinsmore (1829?-1870), and George Washington (1830-1870) were all born in the Cherokee Nation east of the Mississippi River. All of Ross's sons served during the American Civil War; James was a casualty of the conflict. Of all the children, Allen was probably closest to his father. Silas was named after a United States agent to the Cherokees, while George was named after the President most admired by the Cherokees. Jane (1821-1894), the only daughter of John and Quatie to live, was educated at the Moravian Female Academy at Salem, North Carolina.<sup>33</sup>

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<sup>32</sup>McKenney, History of the Indian Tribes of North America, Vol. II, p. 304; John P. Brown, "Chronological History of Chief John Ross," in Chief John Ross: His Life with Historic Notes on the State of Georgia, Walker County (Rossville, Georgia: North Georgia Publishing Company, 1937), p. 11; Penelope Johnson Allen, "Leaves from the Family Tree," Chattanooga Sunday Times, February 9, 1936, pp. 4, 12, 15; Starr, Unpublished Notes used for the History of the Cherokee Indians, Oklahoma Historical Society; John W.H. Underwood, "Reminiscences of the Cherokees Cherokees," Cartersville Courant (Georgia), March 19, 1885, p. 1; Diary of S. A. Worcester, 1824-1830, Alice Robertson Collection, University of Tulsa Library, Tulsa, Oklahoma.

<sup>33</sup>In a petition to Congress in 1836 after his home had been taken from him by the Georgian state military guard, Ross wrote of the "remains of his dear babe" buried on those grounds. "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286 (Washington: Blair and



Quatie likely had little impact on Ross's life. As a rising star in Cherokee political affairs, Ross made yearly treks to Washington as a negotiator. Often these journeys kept him away from his home and family six months of the year; yet no letters to Quatie exist. Numerous letters to other members of the family remain; one may suppose that she did not read English, and certainly Ross did not write Cherokee. Even more surprising, Ross never mentioned her in more than a half-century of active correspondence. The one occasion on which he noted her existence was in his last will when he merely listed her as the mother of his children. She died on February 1, 1839, near Little Rock, Arkansas, while on the Trail of Tears, scarcely mourned and largely forgotten.<sup>34</sup>

The youth and early manhood of Ross do not seem to provide the active ingredients for a life of dedication to a people with whom he had only a remote relationship. Associations around his father's store and his childhood friends probably were more often Cherokee than white; yet Ross's education and superior opportunities were quite unlike the children of that remote area. Ross had to overcome several liabilities to gain acceptance among the tribe. His short Scottish stature was so dissimilar to the typical warrior type that it must have been a handicap, as was his incapacity to cope with the native

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Rives, 1836), p. 6; Starr, Unpublished Notes used for the History of the Cherokee Indians, Oklahoma Historical Society; Edmund Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States (Bethlehem, Pennsylvania: Times Publishing Company, 1923), p. 293.

<sup>34</sup>Last Will of John Ross, July 11, 1866, Ross Papers, Gilcrease Institute; Arkansas Gazette, February 6, 1839, p. 2.

Cherokee tongue. He chose the Cherokee path because he found among this people a ready avenue for personal advancement. More important, he caught the vision of his Cherokee kinsmen and modeled his life after their standards of loyalty to their homelands. Thus persuaded by the Cherokees' concept of unity, Ross affirmed his Cherokee identity.

## CHAPTER II

### POLITICAL APPRENTICESHIP

The successful qualities that Ross displayed in the Creek War, his education and enterprising experience, and his willingness to accept responsibility marked him as a natural choice for leadership. Ross was propelled into the political arena partly by his own inclinations and partly by the needs of the Cherokees as they were pushed into more frequent intercourse with their land-hungry neighbors. The Cherokees did not want another leader who would accommodate the whites and sell away their lands for personal profit. They needed someone who understood the white man's game of treaty-making, yet was committed to their cause. Over the next decade and a half, the Cherokees had numerous opportunities to observe Ross in a variety of political positions, and they found him more than adequate for their emerging needs.

Ross's first political assignment came in late 1815 when problems that had plagued United States-Cherokee relations for a number of years demanded settlement at the Washington capital. Meigs obtained permission from the War Department to accompany the delegation which included, besides Ross, John Lowrey, John Walker, Major Ridge, Richard Taylor, and Cheucunsenee. Of all the delegates, Ross alone used the English language with any degree of fluency; thus he was the key member in written negotiations. The aging Pathkiller instructed delegates on the major issues which centered on five points: settlement of boundary disputes;

relinquishment of a small tract of land in South Carolina; white intrusions on Cherokee lands; claims of Cherokees for property destruction during the Creek War; and establishment of iron works and smith shops in the ore-rich Cherokee Nation. Thus it had become increasingly clear to the Cherokees that they must adopt the white man's ways and learn the use of iron tools and agricultural implements.<sup>1</sup>

After the Creek War General Jackson had negotiated a treaty with the Creeks in which large portions of their lands in Georgia and Alabama were ceded as indemnity for the cost of the war. As the boundaries between neighboring tribes had never been accurately defined, a United States commission arrived in 1815 to survey and mark the Cherokee-Creek border lines, but the task was delayed until the Cherokees could work out a settlement in Washington. Pathkiller had recommended that the land in South Carolina be relinquished to that state, thus ending a source of friction since 1810 when the South Carolina legislature had urged extinguishment of the Cherokee title to those lands. The delegation was authorized to settle any other irritating problems that might arise.<sup>2</sup>

Since Indian delegations were not frequent at the national capital in the early years of the United States, leading members of Washington

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<sup>1</sup>Meigs to Charles Hicks, December 19, 1815, and Pathkiller to the Cherokee Delegation, January 10, 1816, Ross Papers, Gilcrease Institute; Meigs to William Crawford, January 10, 1816, Letters Received by the Secretary of War, Indian Affairs, National Archives.

<sup>2</sup>Thurman Wilkins, Cherokee Tragedy: The Story of the Ridge Family and of the Decimation of a People (New York: Macmillan Company, 1970), pp. 80-81; Charles C. Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report (2 parts, Washington: Government Printing Office, 1887), Part 2, p. 207.

society often feted Indian dignitaries. Newspapers listed the Cherokees as "men of cultivated understanding" and greeted their arrival in early of February of 1816, but the delegates quickly turned to the business of political deliberation. Carefully they brought before President James Madison the recommendations of Chief Pathkiller and the Cherokees. To the problem of white intruders, they received speedy redress through Secretary of War William H. Crawford, who ordered Meigs to remove the offending persons immediately, using military force if necessary. One by one other major issues were taken up. The President responded positively to the request that the Cherokees receive compensation equal to that obtained by white citizens for damages to their property by military forces during the Creek War. Madison considered their request for iron works premature, however, and suggested that they continue to rely on their agent for these supplies.<sup>3</sup>

After the deliberations with the President, Meigs addressed the delegation on the major outstanding issue. He suggested that the boundary dispute might be settled by ceding the disputed lands to the United States. In this way, the Cherokees would have a ready ally in case of war and a buffer between themselves and possible enemies. He encouraged their trust in the President "as I know that he will never do you injustice in any transactions." The delegation remained adamant concerning the boundary, stressing that the Cherokees had never acknowledged the Creeks as mutual claimants to the land, and that those grounds

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<sup>3</sup>Wilkins, Cherokee Tragedy: The Story of the Ridge Family and of the Decimation of a People, p. 88; Niles' Register, March 2, 1816, p. 16; William H. Crawford to Meigs, March 2, 1816, and Substance of a Conversation between Lowrey and Madison, February 22, 1816, Ross Papers, Gilcrease Institute.

could not have been ceded in a treaty with General Jackson. The delegation did consent to sanctioning a public road through Cherokee lands for communication purposes only. To a request that the Cherokees cede additional lands, the delegation promised to take the issue before the tribe.<sup>4</sup>

Toward the end of March, 1816, the major issues had been resolved, and two treaties were signed by the delegation on March 22. The first dealt only with the tract of land which the South Carolinians had desired and which the Cherokees ceded for \$5,000. The second treaty concerned the boundary question and several lesser points. The disputed territory was to be surveyed by a team of United States and Cherokee commissioners. The Cherokees agreed to give the United States the right-of-way to build roads through the Cherokee Nation and the use of rivers through their lands for navigation purposes. Finally, the United States promised to pay for damages done during the Creek War, and allotted \$25,500 for that purpose.<sup>5</sup>

Tennesseans were disturbed that a tract of land which they considered theirs by right of a hard-fought, sanguinary contest was casually given to the Cherokees at Washington. It must have been especially painful to that proud Tennessean, Andrew Jackson, when he

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<sup>4</sup>Meigs to Colonel John Lowrey et al., February 28, 1816, Miscellaneous Manuscripts, Western History Collections, University of Oklahoma, Norman, Oklahoma; John Lowrey et al. to George Graham, March 4, 1816, Ross Papers, Gilcrease Institute; Lowrey et al. to William H. Crawford, March 12, 1816, Letters Received by the Secretary of War, Indian Affairs, National Archives; Lowrey et al. to Graham, March 23, 1816, Ross Papers, Gilcrease Institute.

<sup>5</sup>Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 197-209.

was ordered to serve as one of the commissioners to buy back the land which he thought fairly won by the sword, but he worked out an agreement with his usual dispatch and with the aid of "presents" to the willing signers. In the treaty, concluded on September 14, 1816, the Cherokees ceded well over 1,000,000 acres for an initial sum of \$5,000 with an annuity of \$6,000 over the next decade. This settlement was noticeably boycotted by several leading Cherokees who forcefully protested its ratification on the grounds that it was made with a small clique representing only a minor faction of the tribe.<sup>6</sup>

Ross was not present during these negotiations, for after his return from Washington he occupied himself with personal and business affairs. During April of 1817 he worked out contracts with Meigs to supply the military forces in the Tennessee area and was quickly on his way to Baltimore to purchase goods from Talbot Jones. Although Ross was willing to take an occasional assignment for the Cherokees, he was not yet fully committed to a life of public service. He returned to Cherokee Nation in time to be an observer to one of the grander attempts of United States commissioners to treat away the Cherokee homelands.<sup>7</sup>

The Cherokees had hardly recovered from the earlier land transaction when on June 20, 1817, a new commission gathered at the agency

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<sup>6</sup>Niles' Register, July 20, 1816, p. 352; Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 209-211; R. S. Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal (Norman: University of Oklahoma Press, 1954), pp. 200-201.

<sup>7</sup>Ross to Meigs, April 11, 1817 [two letters], Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

just relocated at Calhoun on the Hiwassee River. Jackson led the commission, accompanied by General David Meriwether of Georgia and Governor Joseph McMinn of Tennessee, and they quickly made their purpose known. The commission sought a cession of land to compensate the United States for the lands occupied by the western Cherokees and the removal of the entire tribe to the West for an equal exchange in Arkansas. The Cherokees were stunned. Yet by this ruse Jackson was able to secure an extraordinary treaty in July, 1817, over the protests of 67 of the most influential chiefs. Again the use of well-placed bribes and circumspect negotiations with a small unauthorized faction had enabled the commissioners to get their way and with such success that no monetary compensation was even included in the treaty provisions.<sup>8</sup>

The Cherokees had hoped to prevent such adverse treaties by creating in May of 1817 a bicameral system with increased powers to manage the nation. Assembled at Fortville, Cherokee Nation, the leading men had created a "Standing Committee" of 13 men to transact all future affairs of the nation, but only with the consent of the whole Cherokee Nation. In time this group became an effective force for Cherokee advancement and security, but the National Committee as it came to be called, hampered Jackson little in the summer of 1817. On September 3 the National Committee convened and passed a resolution bitterly denouncing Jackson's various maneuvers of the year before.

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<sup>8</sup> Niles' Register, June 21, 1817, p. 272, and August 2, 1817, p. 368; Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 212-219. For the official correspondence of the commission, see American State Papers, Indian Affairs, Vol. 11, pp. 140-143.



The chiefs then designated several members of the tribe to visit Washington in the hope of preventing the ratification of the objectionable pact, "but they secured nothing but general expressions of good will and promises of protection in their rights and property."<sup>9</sup>

Under the provision of the Treaty of 1817, the United States had agreed to supervise and aid in the removal to Arkansas of all Cherokee settlers who wished to go. McMinn remained in the Cherokee Nation to oversee the removal and distribute the promised supplies. The summer months of 1818 were busy for McMinn, as he used every means to convince and cajole Cherokees to remove. His final estimates were that over 5,000 had removed, but Cherokees contended the number was closer to 3,500. With his work completed among those willing to remove, McMinn asked that a council of the Cherokee Nation be convened in November, 1818. On the eve of this council, Ross assumed the position of president of the recently created National Committee and was active in the council proceedings. In the course of this meeting, McMinn offered an indemnity of \$100,000 for Cherokee removal, but was refused. He then proposed double that amount which would be paid in installments, but this ploy also was rejected. Ross sent the Cherokees' most vigorous protest to his friend, Calvin Jones, and requested that he get it published in the North Carolina Raleigh Register to expose McMinn's methods and to demonstrate the determination of the Cherokees to remain

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<sup>9</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods (Tahlequah, Cherokee Nation: Cherokee Advocate Office, 1852), pp. 4-5; Resolution of the Cherokee Committee, September 3, 1817, John Howard Payne Papers, Ayer Collection, Newberry Library; "Instructions to a deputation," September 19, 1817, American State Papers, Indian Affairs, Vol. 11, p. 145; Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, p. 219.

on their lands.<sup>10</sup>

The Cherokee leadership decided to renew negotiations at Washington in order to obtain clarification of the recent treaties and to complete the execution of the ambiguous Treaty of 1817. The new delegation also was to inquire about unpaid annuities amounting to some \$14,000. Led by Charles Hicks, the delegation of 12 included John Ross and his brother, Lewis. Before their departure from Knoxville on January 1, 1819, McMinn had succeeded in bribing at least two of the delegation and had reached partial success with two more, but seems not to have tempted Ross.<sup>11</sup>

Most of the negotiations at Washington were carried on by personal interviews with Secretary of War John C. Calhoun, but in one written message Calhoun outlined provisions that the United States wished to have in a treaty. The Cherokees were to transfer a portion of their land (from within the limits of Tennessee and Georgia) in proportion to the estimated number of their nation who had emigrated to Arkansas; another cession was to come from the Alabama area, and the proceeds

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<sup>10</sup>George Graham to McMinn, December 2, 1817, American State Papers, Indian Affairs, Vol. II, p. 478; Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, p. 218 n. 2; McKenney, History of the Indian Tribes of North America, Vol. II, p. 297; McMinn to the King, Chiefs, Headmen, and Warriors of the Cherokee Nation, November 24, 1818, and Cherokee Chiefs to McMinn, November 21, 1818, American State Papers, Indian Affairs, Vol. II, pp. 486-488; Ross to Calvin Jones, December 8, 1818, Cherokee Collection, Tennessee State Library and Archives.

<sup>11</sup>Pathkiller to Meigs, December 12, 1818, and Pathkiller's Instructions to the Delegation, December 14, 1818, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Meigs to Calhoun, December 19, 1818, Letters Received by the Secretary of War, Indian Affairs, National Archives; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, pp. 205-206, 206 n. 40.

from land sales there would be used to set up a trust fund for Cherokee schools. However, the Alabama cession would not be counted as a land contribution for the Cherokees who had already emigrated. Calhoun completely skirted the delegation's most vexing question of whether the lands left them would be guaranteed as a "permanent and lasting home without further cessions." He merely noted that as they increased in white civilization, far less land would be necessary for them. The Cherokee delegates strongly disagreed since they believed that "comfort and convenience...requires us to retain our present limits."<sup>12</sup>

The major provisions of the treaty, signed on February 27, 1819, contained the points expressed by Calhoun together with several clarifying articles. The third article of the 1819 treaty spelled out in some detail what had been only suggested in the 1817 treaty. Due to the advancement made by some of the Cherokees, especially some of the more prosperous mixed bloods, provisions were made so they could receive a reservation of 640 acres with a view to becoming citizens of the United States. Some of these allotments were reservations "for life," which would pass to the children of the reservee in fee simple title; others were given in fee simple title directly. Lewis Ross assumed a fee simple title to land which included his house, store, and

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<sup>12</sup>James Barbour to John Q. Adams, December 29, 1825, and Calhoun to the Cherokee Delegation, February 11, 1819, "Message from the President...on Cherokee Treaty of 1819," United States House of Representatives, 19th Congress, 1st Session, Executive Document 21 (Washington: Gales and Seaton, 1826), pp. 5, 7-8; Charles Hicks to Calhoun, February 12, 17, 19, and March 5, 1819, Letters Received by the Secretary of War, Indian Affairs, National Archives; Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 225-226.

ferry located next to the Cherokee agency on the Hiwassee River. John Ross's reservation was laid off to include "the Big Island, in Tennessee River, being the first below Tellico," which was the land left to him by his great uncle, the younger William Shorey. In later years Ross received severe criticism for this allowance, as many who opposed him contended he was less a Cherokee since he once contemplated removing from the limits of the nation and becoming a United States citizen. Ross always contended that he never actually resided on this land and in truth had no thought of taking citizenship.<sup>13</sup>

While the delegation was in Washington in March, 1819, Ross became involved in a dispute with one of his colleagues, John Walker. Walker had received special consideration in the Treaty of 1819, for he obtained two 640-acre reservations, one for his dwelling-house and ferry and another to include his grist and sawmill. It seems that Walker was attempting to acquire a third reservation. Since he had received a \$500 bribe from McMinn before departing from the Cherokee Nation, heated words had passed between him and Ross. The evening before the delegation left Washington, Ross stayed up unusually late to

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<sup>13</sup> Ibid., pp. 219-228; American State Papers, Indian Affairs, Vol. II, pp. 187-188; Survey of John Ross's Reservation, September 15, 1819, Special File 131, Special Files of the Office of Indian Affairs, National Archives. For Ross's request for his reservation see: Ross to Meigs, June 17, 1819, in Louise Frederick Hays, comp., "Cherokee Indian Letters, Talks, and Treaties, 1786-1838" (Unpublished Typescripts, 3 vols., Atlanta: Georgia Department of Archives and History, n. d.), Vol. I, p. 172. For a list of the reserves, see "Reservations Under the Cherokee Treaty," United States House of Representatives, 20th Congress, 1st Session, Executive Document 104 (Washington: Gales and Seaton, 1828), pp. 6-7. Ross also acquired land in east Tennessee for speculative purposes. In November and December, 1820, he purchased 415 acres, paying one-quarter of the total value, \$725.75. The land varied in price from \$2 per acre to \$28 per acre. Tennessee Land Grants, Hiwassee District, Numbers 423, 424, 878, 888, and 890, Tennessee State Library and Archives.

complete some unfinished correspondence when John Martin stopped in to recount his evening of entertainment. Walker suddenly burst into the room and attacked Ross with a knife, inflicting a slight shoulder wound before Martin could separate the two. The incident was kept from other members of the delegation, and the two men seem not to have spoken of it again.<sup>14</sup>

Ross did not return immediately to the Cherokee Nation, but spent some time in the East visiting Baltimore, where he saw to his personal business affairs. Ross reached home just at the time of President Monroe's visit to Brainerd Mission in the early summer of 1819. Monroe was quite pleased with the results of the missionaries' labors and recommended that public funds be used for construction of a girls' school. Ross mentioned the President's trip in a letter to a friend, but acknowledged that the Cherokees, having so recently pulled themselves onto the lower rungs of white civilization, would not be able to put aside their former habits quickly. He hoped that the small experiments by the missionary societies would awaken Americans to the possibilities of the Indian race. Yet Ross had faith in the capabilities of his people, and he firmly believed that "the seed of education must be sown and replenished by the mists of patience perseverance...when it has taken root & sprouted it would ultimately bear down the old growth

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<sup>14</sup>Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Charles Hicks to Meigs, March 11, 1819, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Rachael Caroline Eaton, John Ross and the Cherokee Indians (Menasha, Wisconsin: George Banta, 1914), pp. 32-33.

of natural Habits & customs and finally root it out."<sup>15</sup>

On the Arkansas border the recently settled Cherokees had been in constant conflict with the neighboring Osages, and the missionaries discovered instances of captured children being sold into slavery. One such child was recovered by the missionaries and named Lydia Carter after her benefactor, but her brother had been taken by some white men into Alabama. The missionaries convinced Agent Meigs to send a party to rescue the boy, and he asked Ross to assume the task. Ross traveled some 300 miles to Mobile in September, 1819, and recovered the child from a certain Yates only shortly before the boy was to be placed on the slave market. The missionaries named the child John Osage Ross, and he was adopted by Ard Hoyt, an American Board missionary, and placed at Brainerd School, where later he was baptized.<sup>16</sup>

Like any young political apprentice, Ross sometimes had to accept menial and unpalatable tasks. One such chore involved taking charge of the Cherokee light horse company to remove intruders from the Cherokee lands. Some of these intruders had been settled long enough to have

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<sup>15</sup>Malone, Cherokees of the Old South: A People in Transition, p. 100; Ross to Calvin Jones, July 3, 1819, Cherokee Collection, Tennessee State Library and Archives.

<sup>16</sup>Elias Cornelius, The Little Osage Captive, an Authentic Narrative: To Which are Added Some Interesting Letters, Written by Indians (York, England: W. Alexander and Son, 1821), pp. 64-74; Cephias Washburn, Reminiscences of the Indians (Richmond: Presbyterian Committee of Publication, 1869), pp. 130-131; Meigs to Calhoun, October 10, 1819, Letters Received by the Secretary of War, Indian Affairs, National Archives; "Journal of the Arkansas Mission by Alfred Finney and Cephias Washburn," Foreman Collection, Gilcrease Institute; Panoplist (Missionary Herald), July 1819, pp. 322-323, February, 1820, pp. 82-83 and March, 1820, p. 123; Pathkiller to Meigs, September 9, 1819, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives.

crops under cultivation. Commander Ross was given the unenviable job of removing these white settlers, then burning their improvements. Cherokees were used initially because General Jackson declared that he had no troops to spare. Perhaps because of Ross's vigorous work, Jackson discovered he had adequate reserves, so Ross by mid-1820 was relieved of the odious task. In connection with his legislative duties, Ross served as clerk to Pathkiller. He carried out various missions for him and Associate Chief Charles Hicks that took him to all parts of Cherokee Nation on financial and political matters.<sup>17</sup>

Because of the various land cessions and the questionable methods by which treaties had been made over the years, the Cherokees attempted in 1820 to strengthen the changes adopted in 1817. The bicameral legislature known as the General Council would now be formally composed of the National Council and the National Committee. A principal chief and an assistant were named. The Cherokee Nation was divided into eight districts with a judge, marshal, and local council assigned to each; from these districts, representatives to the National Council and the National Committee were chosen. Salaries for the national officers were stipulated; Ross as President of the National Committee received \$3.50 a day when the legislature was in session. Within two years

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<sup>17</sup>McKenney, History of the Indian Tribes of North America, Vol. II, p. 299; Jackson to Calhoun, June 15 and July 9, 1820, in John Spencer Bassett, ed., Correspondence of Andrew Jackson (7 vols., Washington: Carnegie Institute of Washington, 1926-1935), Vol. III, pp. 25-26, 29; Hicks to Meigs, September 12, 1820, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; John C. Calhoun to Meigs, April 20, 1820?, Payne Papers, Ayer Collection, Newberry Library.

the Cherokees had the opportunity to test this new system.<sup>18</sup>

The reconstructed Cherokee government met in October, 1822, and with a flush of power and an exaggerated sense of independence, passed a resolution "declaring unanimously...to hold no treaties with any Commissioners of the United States to make any cession of lands, being resolved not to dispose of even one foot of ground." Signed by Ross and 58 other members of the Cherokee legislature, this declaration was forwarded to Meigs who was shocked by the "rash resolution" and thought that it may have been devised by some young radicals. He advised Charles Hicks: "It will not do to commit the government of your highest concerns into the hands of your young men."<sup>19</sup>

In April of 1802 the state of Georgia had signed an agreement with the United States government ceding the immense area of land that she claimed on her western border, and at the same time the United States agreed to work out the extinguishment of Indian title to all lands within the boundaries of the state as early as could be "peaceably obtained, and on reasonable terms." Georgians considered the United States hesitant in carrying out the bargain and, especially after the

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<sup>18</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 11-12, 14-15; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, p. 212.

<sup>19</sup>Resolution of the Cherokee Committee and Council, October 23, 1822, in Annie Heloise Abel, "The Cherokee Negotiations of 1822-1823," Smith College Studies in History, Vol. 1, No. 4 (July, 1916), pp. 203-204; Ross et al. to Calhoun, October 24, 1822, Letters Received by the Secretary of War, Indian Affairs, National Archives; Meigs to Hicks, December 5, 1822, in Abel, "The Cherokee Negotiations of 1822-1823," Smith College Studies in History, Vol. 1, pp. 206-207; McMinn to Calhoun, April 18 and July 4, 1823, Records of the Cherokee Agency in Tennessee, Office of Indian Affairs, National Archives.



Cherokee Treaty of 1819 which provided that the Federal government would grant citizenship and permanent land ownership to selected members of the tribe. Georgians felt compelled to move for their own protection and sent representatives to the Cherokees to hurry the removal process. President Monroe likewise felt the necessity of fulfilling these promises and appointed a commission to meet with the Cherokees.<sup>20</sup>

Duncan G. Campbell and James Meriwether, who were appointed commissioners to the Cherokees in June, 1822, arrived in the Cherokee Nation in the early summer of 1823, anxious to begin negotiations. They suggested meeting in August at Taloney, some distance east of the New Echota capital located at the junction of the Conasauga and Oostanaula rivers; the Cherokees insisted on a September meeting at their new capital. If a meeting were to be held in spite of the Cherokees' reluctance, they at least wanted to decide the time, the place, and the extent of the discussions. The commissioners also were infuriated by Cherokee allusions to international law, as Ross pointed out that he knew "of no instance of Ministers or Commissioners, to a foreign Court, persisting in selecting a spot remote from the Seat of Government to which their embassy was directed." Campbell and Meriwether considered for a time going on with the meeting at Taloney, but McMinn recognized the impropriety of such a move, and the commissioners acquiesced. In January of 1823 Meigs died, and the active, ever-present

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<sup>20</sup>Mooney, "Myths of the Cherokees," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, p. 114; Calhoun to the Commissioners, June 15, 1822, American State Papers, Indian Affairs, Vol. 11, pp. 464-465.

McMinn, following prearranged instructions, took the colonel's place; in the Cherokees' estimation a worse choice could not have been made.<sup>21</sup>

Due to the heavy spring rains, the General Council of 1823 did not convene until the first of October, and it was the middle of the month before substantial discussions got underway since the General Council met first with the commission from Georgia, whose proposals for land cessions they rejected with dispatch. The Cherokee National Council, recalling earlier difficulties, insisted that all negotiations be recorded in writing. The commissioners presented their petition for Cherokee lands in Georgia, which they termed "reasonable" and "peaceable." They offered in exchange lands in the West of equal size and suitable quality, especially since the Cherokees actually had more land than "intended by the Great Father of the Universe." To this the Cherokees replied that they knew of conditions in Arkansas through news of the suffering of their western brothers, but that they were unaware of the intentions of the "Supreme Father in this particular." Campbell and Meriwether became more frustrated as they used what they considered historically sound arguments based on previous treaties but were thwarted at every turn by the canny Cherokees. The basis of the Cherokee arguments centered on the "fixed and unalterable determination ...never again to cede one foot more of land."<sup>22</sup>

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<sup>21</sup>Ross et al. to McMinn, April 25, 1823, Meriwether and Campbell to McMinn, June 16, 1823, and McMinn to Meriwether and Campbell, July 7, 1823, in Abel, "The Cherokee Negotiations of 1822-1823," Smith College Studies in History, Vol. 1, pp. 211-218; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, pp. 215-217.

<sup>22</sup>Hicks and Ross to McMinn, July 22, 1823, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Ross to McMinn, October 8, 1823, Campbell and Meriwether to the

Not content with negotiations on this level, the commissioners stooped to Machiavellian measures so successfully adopted by McMinn. Having had greater success with the Creeks in similar negotiations, the commissioners hired the Creek Chief William McIntosh to bribe the leading men of the Cherokees. Ross had been a principal block to negotiations, and every Cherokee document was sealed with his florid signature. Perhaps because he was a newer member of the Cherokee National Committee, he was thought susceptible to corruption. During the meeting McIntosh passed a confidential note to Ross which read in part: "If the chiefs feel disposed to let the United States to have the land part of it, I want you to let me know. I will make the United States commissioners give you two thousand dollars, A. McCoy clerk of the National Committee the same and Charles Hicks \$3000 for present sic and nobody shall know it." McIntosh had \$12,000 in all to be used by Ross in the most advantageous manner, exclusive of the \$7,000 he had already promised. Ross quickly made his associates aware of this perfidy, and they suggested its exposure. At the next day's council meeting, October 24, 1823, Ross rose and addressed the assembly: "It has now become my painful duty to inform you that a gross contempt is offered to my character as well as to that of the General Council. This letter which I hold in my hand will speak for itself, but

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Cherokee Council, October 16 and 21, 1823, and Cherokee Council to Campbell and Meriwether, October 20, 1823, American State Papers, Indian Affairs, Vol. 11, pp. 466-470; Annie H. Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906 (2 vols., Washington: Government Printing Office, 1908), Vol. 1 pp. 324-325.

fortunately the author if it, has mistaken my character and sense of honor."<sup>23</sup>

McIntosh was dismissed from the meeting in disgrace and within six months was brutally murdered by members of his own tribe. The incident raised the prestige of Ross considerably and, when a decision was made to send a delegation to Washington to settle the matters brought up by Commissioners Campbell and Meriwether, Ross was chosen by an overwhelming majority. Accompanied by Major Ridge, Elijah Hicks, and George Lowry, Ross served as correspondent, interpreter, and principal negotiator.<sup>24</sup>

The delegates arrived in Washington the first week in January of 1824 and presented their credentials to Secretary of War John C. Calhoun before assuming official duties. After a meeting with President Monroe, Calhoun, and Secretary of State John Quincy Adams, in which they passed pleasantries without official pronouncements, the Cherokees retired to the tedious but necessary task of correspondence, which was assumed by the able, articulate Ross. They referred first to the negotiations of the past winter and insisted that it was still their decision to surrender no more land. They requested Congress to clarify the Compact of 1802 with Georgia, so as to end further attempts to acquire Cherokee lands. They also suggested that the United States possessed an extensive territory in the Floridas which could be used to

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<sup>23</sup>McIntosh to Ross, October 21, 1823, in Abel, "The Cherokee Negotiations of 1822-1823," Smith College Studies in History, Vol. 1, p. 220. A description of the entire incident is in Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library.

<sup>24</sup>Ibid.

compensate Georgia. The delegation reminded Calhoun that "the Cherokees are not foreigners, but original inhabitants of America; and that they now inhabit and stand on the soil of their own territory; and that the limits of their territory are defined by the treaties which they have made with the Government of the United States."<sup>25</sup>

To these entreaties, Calhoun could only ask the Cherokees to be sensible; he left them with three choices: "remain...exposed to the discontent of Georgia and the pressure of her citizens," cede their lands for others beyond the Mississippi River, or accept individual ownership of lands with a view to future citizenship. The Cherokee delegates knew that in truth Calhoun offered them only the option to remove, which they would not accept. They declared that even if the United States were to offer "an extent of territory twice as large west of the Mississippi, as the one now occupied by the Cherokees east of that river, or all the money now in the coffers of your treasury," the Cherokees still would refuse.<sup>26</sup>

Calhoun eventually advised the Georgians that conferences with the Cherokees had reached a stalemate. In a heated note to the President, the Georgia congressional delegation accused Monroe of bad faith. With the advice of his cabinet, Monroe drew up a message to Congress in

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<sup>25</sup>John Quincy Adams, Memoirs of John Quincy Adams, ed. by Charles Francis Adams (12 vols., Philadelphia: J. B. Lippincott and Company, 1874-1877), Vol. VI, p. 229; Calhoun to Ross et al., January 5, 1824, Letters Sent by the Secretary of War, Indian Affairs, National Archives; Ross et al. to Monroe, January 19, 1824, Calhoun to Ross et al., January 30, 1824, and Ross et al. to Calhoun, February 11, 1824, American State Papers, Indian Affairs, Vol. II, pp. 473-474.

<sup>26</sup>Calhoun to Ross et al., January 30, 1824, and Ross et al. to Calhoun, February 11, 1824, *ibid.*, pp. 473-474.

which he examined the Compact of 1802 and reiterated the "peaceable" "reasonable" clauses. The President noted the Cherokees' "unqualified refusal" to move beyond the Mississippi River and declared that "the Indian title was not affected in the slightest circumstance by the compact with Georgia." Yet he reasoned that the security of the Cherokees would be promoted if they would retire to the western border. In a final inconclusive statement he left to the decision of Congress what measures, if any, should be taken. Ross also responded to the Georgians' claims in a petition to Congress in which he reviewed the state of negotiations, again insisting the Cherokees would never cede their lands or remove "to the barren waste bordering on the Rocky Mountains."<sup>27</sup>

The Cherokee delegation also attempted to get the thoroughly disliked McMinn removed as Cherokee agent. McMinn, a popular man in Tennessee, had served the constitutional limit of six successive years as governor before taking assignments to the Cherokees; he was somewhat less admired among the Indians. Within a month after their arrival, having made no headway in settling their disputes over the removal question, the Cherokee delegates asked that McMinn be dismissed for "want of confidence." They also sensed a feeling of ingratitude from McMinn who had lived among them as a youth but had forgotten the Cherokees' kindness. Calhoun seemed satisfied with McMinn, and the

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<sup>27</sup>Adams, Memoirs of John Quincy Adams, Vol. VI, pp. 255-256, 268, 271-272; Message of Monroe to the Senate and House of Representatives, March 30, 1824, in James D. Richardson, comp., A Compilation of the Messages and Papers of the Presidents, 1789-1902 (10 vols., New York: Bureau of National Literature and Art, 1897-1904), Vol. II, pp. 234-237; Ross et al. to the Senate of the United States, April 16, 1824, American State Papers, Indian Affairs, Vol. II, p. 502.

governor remained at his post until his death the following year.<sup>28</sup>

The delegation also was incensed that McMinn had introduced white families into the Cherokee Nation in violation of Indian intercourse laws. These white men were living on the grounds of the agency which, the Cherokee delegation insisted, belonged not to the Federal government but to the tribe. When McMinn had taken over the agency for the deceased Meigs, he had requested that the Cherokees cede one square mile of land for the agency. As Colonel Meigs had requested a similar allotment, Ross merely made the same arrangement with McMinn; the agent could cultivate the lands he needed but would not receive a title to them, and no white families were to move there. What infuriated the Cherokees was that McMinn had allowed a white tavern keeper, James Cowan, and the trading establishment of McGhee and McCarty to be located on the agency site. Again, as with Meigs, the Cherokees assented to the agency on Cherokee land but would not cede it to the United States. A year later, after McMinn's death, the new agent, Hugh Montgomery, again broached the subject. He was disturbed that the area was so crowded, for in addition to Lewis Ross, Cowan, McGhee, and McCarty, the subagent, John Williams, also was there. The Cherokees suggested he move to New Echota, but he preferred to move to the Georgia side of the nation. Montgomery also intimated moral reasons-- he was distressed that the people in the vicinity did not keep the

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<sup>28</sup>Ross et al. to Calhoun, February 25, 1824, Records of the Cherokee Indian Agency in Tennessee, Office of Indian Affairs, National Archives; Calhoun to Ross et al., February 6, 1824, Letters Sent by the Secretary of War, Indian Affairs, National Archives. For McMinn's answers see McMinn to Calhoun, June 9, 1824, *ibid.*

Sabbath, and he could not stand drunks.<sup>29</sup>

The delegation also petitioned for the thus far unpaid \$1,000 annuity from the Tellico Treaty of 1804. The surprised Calhoun denied that any such treaty existed, but the Cherokees produced the document, and suggested that John McKee, a representative from Alabama, might be consulted on its validity, since he was a witness to the pact. With a certain amount of chagrin, the secretary found the treaty, and the Senate approved it in May of 1824. The Cherokees also requested compensation of six percent per annum for the use of their lands by the government, but it appears they never received this.<sup>30</sup>

Much of the negotiating in 1824 took place with the newly appointed Commissioner of Indian Affairs, Thomas L. McKenney. McKenney earlier had served as Superintendent of Indian Trade until that office

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<sup>29</sup>Ross et al. to Calhoun, February 25, 1824, and Ross to McMinn, October 6, 1823, *ibid.*; Ross et al. to McKenney, May 7, 1824, and McMinn to Calhoun, June 24, 1824, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Montgomery to McKenney, April 23, 1825, "Intrusions on Cherokee Lands," United States House of Representatives, 21st Congress, 2nd Session, Executive Document 89 (Washington: Duff Green, 1830), p. 2; Montgomery to McKenney, May 10, 1825, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, p. 214.

<sup>30</sup>Ross et al. to Calhoun, February 13, 1824, and Charles Cutts to Calhoun, April 13, 1824, "Message from the President of the United States," United States House of Representatives, 18th Congress, 2nd Session, Executive Document 19 (Washington: Gales and Seaton, 1824), pp. 16-17; Calhoun to Ross et al., February 6, 1824, Letters Sent by the Secretary of War, Indian Affairs, National Archives; Ross et al. to McKenney, May 17, 1824, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Memorial of Ross et al., February 10, 1829, "Memorial of John Ross and Others, in Behalf of the Cherokee Nation," United States House of Representatives, 20th Congress, 2nd Session, Executive Document 124 (Washington: Gales and Seaton, 1829), pp. 1-2; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, pp. 217-219.



was abolished in 1822. Ross probably met him for the first time in 1824, and they became lifelong friends despite their differing views on Cherokee removal.<sup>31</sup>

After a six-month stay at the Federal capital, members of the delegation took up the few remaining points of their mission. Based on opinions of the United States Attorney General and Hugh L. White, a respected Tennessee jurist, the Cherokees assumed the right to tax white traders in their midst. On other matters they were not so successful. They were greatly disturbed that the annuity to be given under the Tellico Treaty of 1804 would be paid on the basis of the 1819 treaty; that is, one-third to the Arkansas Cherokees and two-thirds to the eastern Cherokees. They saw in this a portent for future problems, for if the government could pay money to different sections of the Cherokees, then it might pay it to individuals rather than to the Cherokee Nation. Nor were they paid for their bill at Tannison's Hotel, as the government had not requested their presence.<sup>32</sup>

Ross returned home in late June of 1824 to find the country in a desperate condition due to a prolonged drought and the raging specter of smallpox. After four brief months with his family, he turned again

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<sup>31</sup>Ross et al. to McKenney, March 27, 1824, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

<sup>32</sup>Memorial of Ross et al., February 10, 1829, and Hugh L. White to Ross, April 26, 1824, "Memorial of John Ross and Others, in Behalf of the Cherokee Nation," United States House of Representatives, 20th Congress, 2nd Session, Executive Document 124, pp. 1-15; Ross et al. to McKenney, June 1, 1824, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Adams, Memoirs of John Quincy Adams, Vol. VI, p. 373; Ross et al. to McKenney, May 28, 1824, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

to his duties as President of the National Committee. The General Council held its annual meeting the latter part of October at New Echota, passing a number of laws dealing with the Cherokee light horse companies, miscegenation, and duties of various minor officials. The Cherokees also discussed procedures for a census "of the manner of living and the state of agricultural improvements;" evidently the findings were to be used to illustrate the Cherokees' vast improvements in order to answer demands for removal.<sup>33</sup>

The Cherokee delegation of the preceding year had been a forerunner of the group Ross led to Washington in early 1825. Ross had invited the acting Cherokee agent, James G. Williams, to accompany George Lowrey, Elijah Hicks, and himself. Williams declined, perhaps because he knew that his presence in Washington would not heighten his chances for the agency post. The matter of a new agent was one of the first subjects mentioned by the delegation. Ross and his colleagues pressed for the appointment of Silas Dinsmore who had been agent to the Cherokees for a brief period in the late 1790's. The delegation was disappointed in this request, as Hugh Montgomery was given the post.<sup>34</sup>

The delegation had as little luck on the other objectives of its mission. The Cherokees renewed their request for the interest on the \$20,000 due them from the Tellico Treaty of 1804. Commissioner of

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<sup>33</sup>Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States, pp. 174-175; Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 32-44.

<sup>34</sup>Ross to Williams, December 15, 1824, Ross et al. to Calhoun, February 17, 1825, McKenney to Montgomery, March 18, 1825, and Montgomery to McKenney, April 22, 1825, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

Indian Affairs McKenney was willing to pay this amount once he had deducted the claims of various white traders in the Cherokee Nation, amounting all together to nearly \$1,600; the remainder would be divided between the eastern and western Cherokees. Ross and the eastern band of delegates worked out a compromise with their western brothers in which they asked the United States to hold one-third of the money in trust until a joint meeting of the United States and the Cherokee Nation could be arranged to work out a settlement for the remainder of the funds. The money deducted for the traders was for the tax the Cherokee Nation had levied on such individuals in 1824. Although the tax had the sanction of several leading jurists, McKenney deducted the amount from the annuity payment in order to reimburse the traders.<sup>35</sup>

Another point of contention was the issue of lands reserved under the Treaty of 1819. Several of the reservees had been forced off their lands without compensation, while white settlers made improvements on these lands and enjoyed the benefits. Further, the acting agent, James G. Williams, had added unauthorized names to a list of reservees who had surrendered their claims. Many of the reservees on his list had no thought of releasing their lands. As the delegates also brought reports of further intrusions on their Georgian enclave, they were baffled when McKenney asked if they were willing to surrender those

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<sup>35</sup> McKenney to Ross et al., February 22, 1825, and Memorial of Ross et al., February 10, 1829, "Memorial of John Ross and Others, in Behalf of the Cherokee Nation," United States House of Representatives, 20th Congress, 2nd Session, Executive Document 124, pp. 1-2; Ross et al. to McKenney, March 11, 1825, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

lands. The incredulous Ross referred the commissioner to their communications of the preceding year, and to a question of their competency to negotiate such matters, he replied: "We have full authority in saying that those sentiments remains [sic] the same."<sup>36</sup>

Before departing from Washington, Cherokee delegates sent a complimentary communication to the retiring President. Recalling the message Monroe had sent to Congress the year before in which he confirmed the consistency of the Georgian Compact of 1802 with rights of the Cherokees to retain their domain unmolested, they thanked him "for the many blessings, which they enjoyed...under the auspices of...[his] paternal administration." They also sent congratulations to the incoming President, John Quincy Adams, and gave him a "retrospective view of the History and true causes in the downfall, degradation and extinction of certain Tribes." To assure that their earlier communications had not been lost upon the former Secretary of State, they reminded him that "a removal of the Cherokees can never be effected," and they looked forward to the time when their tribe could merge with the United States. The latter perception fit nicely with the new President's own conclusions.<sup>37</sup>

Ross returned in time for a special council of the Cherokees at New Echota in June of 1825. Thinking the reorganization of the Cherokee government in 1820 would not be sufficient to stave off land-

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<sup>36</sup>Ross et al. to Calhoun, February 17, 1825, and Ross et al. to McKenney, March 14, 1825, *ibid.*

<sup>37</sup>Ross et al. to Monroe, March 2, 1825, and Ross et al. to Adams, March 12, 1825, *ibid.*; Adams, Memoirs of John Quincy Adams, Vol. VII, p. 411.

hungry whites, the General Council passed on June 25 an "Article of Fixed and Irrevocable Principle by which the Cherokee Nation Shall Be Governed." Lands were to be held in common, but improvements were the exclusive property of the citizens. Annuities also were to be public property, stored in the Cherokee National treasury, then at Fortville, Cherokee Nation. Chiefs or citizens of the Cherokee Nation no longer had the right to dispose of common property; only with the consent of the General Council could acts of a public character be authorized. With Ross still in position of President of the National Committee, the regular General Council convened in October of 1825 and met for nearly one month, passing over 30 pieces of legislation. Significant among these was the provision for laying out the recently established capital of New Echota. Divided into 100 town lots of one acre each, the capital would contain a public square and national buildings. Ross appointed three commissioners to lay out the city and superintend public construction.<sup>38</sup>

The demands of political office convinced Ross that he should move to a more central location among his people; this difficult decision was made in 1826. Ross left his property at Rossville to Nicholas Dalton Scales, a Methodist minister and husband of Ross's niece, Mary Coodey. Scales also took over Ross's business enterprises at Rossville in partnership with Pleasant H. Butler. Ross moved his family to the new location which he called the "Head of Coosa," where the Oostanaula and Etowah rivers merge to form the Coosa. There Ross committed

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<sup>38</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 45-66.

himself to the life of a planter and tied his fortunes even more closely to the fate of the Cherokees. Within three miles of Major Ridge's home and business, and only 30 miles from New Echota, Ross was in easy reach of all the leading men of the nation. On these grounds, Ross buried an infant child and his father, Daniel Ross, under one of the post oak or ash trees that dotted the area.<sup>39</sup>

At Coosa, Ross built a comfortable two-storied house 70 by 20 feet. The weather-boarded home included a basement and was topped with an ash shingle roof. A 10-foot high porch ran the length of the front and on either end were tall red brick chimneys. The interior was given a light and open feeling by the 20 glass windows that surrounded the home, while four fireplaces lent warmth. Set a short distance from the house was a kitchen, while farther away other buildings dotted the grounds, including workhouses, smokehouses, slaves' quarters, stables, corn cribs, a smith shop, and a wagon house. One of the outlying cabins also was used for regular and well-attended Methodist church services. Circuit riders made Head of Coosa a frequent stop, and the Reverend Scales occasionally led the Sabbath meetings. Ross worked five fields around his residence, varying in size from 14 to 75 acres and in quality from cleared and fenced land to unimproved acreage. These lands totaled nearly 170 acres, not including five small lots of undetermined measurements. On the grounds were fruit-yielding trees of

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<sup>39</sup>Govan and Livingood, The Chattanooga Country, 1540-1951, pp. 80-81; Allen, "John Ross' Log Mansion," Chattanooga Sunday Times, February 2, 1936, p. 11; Diary of S. A. Worcester, 1824-1830, Alice Robertson Collection, University of Tulsa Library; George M. Batty, Jr., A History of Rome and Floyd County (2 vols., Atlanta: Webb and Vary Company, 1922), Vol. 1, pp. 26, 36-37.

several varieties, and by the mid-1830's, Ross counted 170 peach, 34 apple, 9 pear, 5 quince, and 5 plum trees. Ross also owned a ferry on the Coosa River that yielded an annual income of \$1,000 and was valued at \$10,000. By the 1830's Ross had nearly 20 slaves working these lands and was one of the wealthiest men in Cherokee Nation. Within two years after his move Ross was serving as Federal postmaster for the Coosa area.<sup>40</sup>

Ross's move to Coosa not only showed a deeper attachment to Cherokee affairs but also presaged his rise as a leading figure in the Cherokee Nation. During Ross's early adulthood, two men had gained prominence as chiefs in the Cherokee Nation--Pathkiller and Charles Hicks. Pathkiller remained nominally as chief until 1827, but in many ways was merely a figurehead after the Creek War. Hicks became the real power and was the first transitional figure in Cherokee history. With a sure knowledge of English, he served occasionally as interpreter for Meigs and accumulated a stock of English books. Although his writing was rough and his penmanship atrocious, his correspondence shows a grasp of political parlance. Hicks further embraced the white man's ways when he became the first Moravian convert. During the first decade of the nineteenth century, Ross had served as clerk and confidant to Hicks and Pathkiller. From them he learned the intricate art

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<sup>40</sup> Appraisal of John Ross's Possessions, September 21, 1836, Special File 75, Special Files of the Office of Indian Affairs, National Archives; Anson West, A History of Methodism in Alabama (Nashville, Tennessee: Publishing House, Methodist Episcopal Church, South, 1893), pp. 395-396; Cherokee Phoenix, October 1, 1830, p. 2, and January 15, 1831, p. 3; Ross's Appointment as Postmaster, May 16, 1828, Ross Papers, Gilcrease Institute. Ross had also served as postmaster at Rossville but unofficially, it seems. See Daniel Ross to Calvin Jones, February 4, 1819, Cherokee Collection, Tennessee State Library and Archives.

of the politician's trade. The year that Ross moved to Coosa, Hicks began to tutor him in the oral traditions of the Cherokees; through Hicks, Ross gained greater understanding of the full bloods. Missionary Daniel S. Buttrick noticed the relationship of Ross and Hicks: "Mr. Ross is rising highly in the opinion of the Nation. He is not in point of influence inferior to any except Mr. Hicks. These men walk hand in hand in the Nation's Councils and are the hope of the Nation."<sup>41</sup>

In December, 1826, Hicks and Ross answered several questions that Cherokee Agent Montgomery had brought up for the annual meeting of the Cherokee General Council. Hicks had prevented the state surveyor of Georgia from laying out a canal to connect two rivers on Cherokee lands. Since Governor George M. Troup was prepared to call out the state militia to accomplish this end, President Adams requested Montgomery to negotiate a settlement. However, Ross and Hicks followed the wishes of the National Council and refused the application. Ross was incredulous when Montgomery informed him in the same communication that a sum of money had been given to the western Cherokees. This contradicted the arrangement made with McKenney just nine months earlier in regard to the annuity left unpaid from the 1804 treaty. The money amounted to nearly \$7,000, and the agreement had been for the United States to hold it in trust. Ross felt strongly that the money actually belonged to "the Cherokee nation," as he phrased it, since the western

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<sup>41</sup> Malone, Cherokees of the Old South, A People in Transition, pp. 56, 94, 127; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; McMinn to Calhoun, January 26, 1819, American State Papers, Indian Affairs, Vol. II, pp. 482-483; Starkey, The Cherokee Nation, p. 51; Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States, pp. 180-181.



Cherokees had voluntarily withdrawn from the eastern Cherokees.<sup>42</sup>

In 1817 and in 1820 the Cherokees had reorganized their governmental structure to ensure a wider participation in tribal affairs and a closer supervision of treaties with the United States. In 1825 they had adopted a number of principles upon which the Cherokee Nation would not yield. In 1826 they took the final step toward sovereignty and political independence when they called a national convention to form a constitution. Three individuals were to be elected from each of the eight districts the following May. At the May election Ross was chosen as a representative from the Chickamauga District and named president of the convention. The document produced in July, 1827, was strikingly similar to the United States Constitution.<sup>43</sup>

The first articles of the constitution dealt with the right most sacred to the Cherokees: to hold their lands inviolate against the encroachments of the Federal government and surrounding states. The remaining articles defined the power and responsibilities of the executive, legislative, and judicial branches of the government, and a miscellaneous article included references to individual rights and amendment procedures. A bicameral system was formally established retaining the familiar National Committee with two members from each

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<sup>42</sup>Adams, Memoirs of John Quincy Adams, Vol. VII, p. 136; Montgomery to Hicks et al., September 26, 1826, and Hicks and Ross to Montgomery, December 11, 1826, "Cherokee Council to Col. H. Montgomery," United States House of Representatives, 20th Congress, 2nd Session, Executive Document 6 (Washington: Gales and Seaton, 1828), pp. 12-13, 2-7.

<sup>43</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 73-76, 118-130; Niles' Register, June 9, 1827, p. 255; Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, pp. 235-236.

district and the National Council composed of 24 representatives. Elections were to be held in August, and the yearly sessions of the General Council--the legislature composed of the National Committee and the National Council--were to be on the second Monday in October. The executive power was vested in a single individual called the principal chief, who had to be a natural citizen and at least 35 years of age. Members of the General Council were to be elected every two years, and that body was to select the principal chief quadrennially. The principal chief also was given veto power over legislation, but his negative could be overridden by a two-thirds majority in the General Council.<sup>44</sup>

Initial opposition to the constitution was internal and was led by a conservative full blood named, curiously enough, White Path, who demanded rejection of the document and a return to Cherokee purity. This hostility quickly subsided when White Path was dismissed from the National Council and his small band of followers was dispersed. Opposition from the Federal government and from Georgians was more vocal and long-lasting.<sup>45</sup>

The Georgia legislature produced a document accusing the United States of having violated the Compact of 1802 by not procuring the lands of the Cherokees; the Georgians went so far as to contend that their state government had the right to "extend her authority and laws

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<sup>44</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 118-130; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library.

<sup>45</sup>Mooney, "Myths of the Cherokees," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, pp. 113-114.

over her whole territory, and to coerce obedience to them from all descriptions of people, be they white, red, or black, who may reside within her limits." They also refused to recognize the Cherokee constitution and demanded that it be disallowed by the Federal government. The Georgia governor and the state's congressional delegation likewise demanded that the constitution be overturned.<sup>46</sup>

Commissioner of Indian Affairs McKenney toured the Indian nations of the Southeast that same year but did not meet with the Cherokees. With only a slight understanding of the Cherokee constitution, he thought that it ought not to be encouraged, for he considered that it might "operate independently of our laws." Other American officials took the same view, warning the Cherokees that the document had raised a clamor in neighboring states and that it would not change the relationship between the United States and the Cherokee Nation. Washington officials viewed it as merely "regulations of a purely municipal character." Ross simply referred them to the document itself and noted that the relations of the two governments had not changed, since treaties between the Cherokee Nation and the United States remained the supreme law of the land.<sup>47</sup>

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<sup>46</sup> Report of a Joint Committee of the Georgia Legislature, December 19, 1827, and John Forsyth to John Quincy Adams, January 26, 1828, "Cherokee Government," United States House of Representatives, 20th Congress, 1st Session, Executive Document 211 (Washington: Gales and Seaton, 1828), pp. 7-18; "Indian Governments," United States House of Representatives, 20th Congress, 1st Session, Report 67 (Washington: Gales and Seaton, 1828), pp. 1-2.

<sup>47</sup> McKenney to James Barbour, November 29, 1827, "Report of the Commissioner of Indian Affairs, 1827," United States House of Representatives, 20th Congress, 1st Session, Executive Document 2 (Washington: Gales and Seaton, 1827), pp. 194-195; Adams, Memoirs of John Quincy Adams, Vol. VII, pp. 411, 426; Barbour to Montgomery,

In January, 1827, the aged Pathkiller died. Two weeks later Ross's close friend and mentor, Charles Hicks, also died. Ross as President of the National Committee and Major Ridge as Speaker of the National Council held the principal offices in the nation. During the interim before new principal and assistant chiefs were chosen, they would guide the tribe. The period of Ross's apprenticeship was closed.<sup>48</sup>

Ross had learned a number of lessons in his first 15 years of political training. On several trips to Washington, he gained the vital experience of personal and written negotiations. He mastered the intricacies of treaty-making and discovered the snares of an ill-chosen word or an unexamined phrase. Ross met the leading men of his day--Monroe, Adams, Calhoun, and Jackson--men who would play a significant role in the coming struggles of the Cherokees. Importantly, he found these men to be fallible human beings, pushed and pulled by personal and political considerations, men who would compromise and bargain. Indeed, Ross recognized that the Cherokees could use the same techniques as white men to secure their just rights. The next decade would prove the worth of these lessons.

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February 23, 1818, "Cherokee Government," United States House of Representatives, 20th Congress, 1st Session, Executive Document 211, p. 19; William Hicks and Ross to Montgomery, April 16, 1828, in Cherokee Phoenix, April 24, 1828, p. 2.

<sup>48</sup> Cotterill, The Southern Indians: The Story of the Civilized Tribes Before Removal, p. 235.

## CHAPTER III

### THE GEORGIAN THRUST

The Cherokees scarcely had recovered from the shock of the death of Chiefs Pathkiller and Charles Hicks, and were still in an uneasy state from White Path's rebellion, when United States commissioners required major political decisions of the Cherokees. John Cocke, the leader of the commissioners, had arrived in New Echota in July of 1827 and witnessed the selection of the constitutional convention delegates and had been received warmly by Major Ridge and Ross as a comrade-in-arms from the Creek War. Cocke found the Cherokees "disorganized and confused," and thought the chances good that a land cession might be obtained. Ross, as President of the National Committee, and Major Ridge, Speaker of the National Council, served as the interim government until the General Council met in October, 1827. The past decade of experience and the solid advice of his old friend and political mentor, Major Ridge, made Ross an even match for this new Federal team.<sup>1</sup>

Cocke joined his fellow commissioners, George L. Davidson and Alexander Gray, at the Cherokee Agency at Calhoun, Tennessee, in mid-

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<sup>1</sup>Journal of the Commission, July 3-7, 1827, and Cocke et al. to James Barbour, undated /1827?, "Negotiations for Cherokee Lands," United States House of Representatives, 20th Congress, 1st Session, Executive Document 106 (Washington: Gales and Seaton, 1828), pp. 8-9, 5.

August, 1827, and they issued a circular notice asking the Cherokee assembly to meet them on the agency grounds on September 18. When the commissioners gathered, they were met by only a dozen Indians, none of any significant rank. They learned that Ross and Ridge considered their invitation undiplomatic, in that the commission had appointed a time and place for the meeting without consulting the Cherokee leadership. Ross, however, invited the three men to meet the General Council at the next session in October at which the hospitality of the Cherokee Nation would be extended to them. The commissioners were surprised, as they felt that Cocke had adequately informed the leading men of their mission in July; they remained at the agency and insisted on negotiations there. Cocke and his associates were somewhat relieved when a large number of Cherokees met with them informally at the agency. The commissioners learned of discontent with Ross; several Cherokees even stated that "John Ross was about to ruin the nation."<sup>2</sup>

Ross and Ridge had a different view of Cocke's July visit. As the three were old acquaintances, the earlier meeting at New Echota was quite amicable, but the statesmen did not recall any time when Cocke had mentioned any official appointment. They further demonstrated that they held the official authority of the nation during the interim before the selection of new principal officers. Again, Ross offered a meeting at New Echota in October and insisted that, as the seat of government, it was the logical and customary place for meeting United States officials. The commissioners accused Ross of using "all his

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<sup>2</sup>Journal of the Commission, August 15 and 22, September 18-22, 1827, Ross and Ridge to Gray, Cocke, and Davidson, September 15, 1827, and Journal of the Commission, September 24, 1827, *ibid.*, pp. 9, 14-16, 18.

influence with the nation to thwart the views of the United States" and of trying to keep the nation uninformed of the purpose of the commissioners.<sup>3</sup>

Accusation and inducements were of little avail, so Cocke, Gray, and Davidson forwarded their requests to the Cherokee General Council. When they proposed to purchase 500,000 acres of Cherokee land in North Carolina and to construct a canal connecting the Hiwassee and Canasauga rivers, Ross reiterated the General Council's unchanged pledge not to "dispose of one foot more of land." Not content with this one attempt at negotiation, the United States also sent Major Francis W. Armstrong into the Cherokee Nation the following summer with identical proposals. His mission was as thoroughly unsuccessful.<sup>4</sup>

In the fall council of 1827, William Hicks, son of the late Chief Charles Hicks, had been elected to fill out the term of the deceased Pathkiller, and Ross had been assigned the post of second principal chief. In a joint message to the General Council the following October, Ross and Hicks pointed to the recent accomplishments of the Cherokees and then attempted to deal with some of the needs of the tribe. They proposed the erection of a national academy which had been anticipated for a number of years, and recommended overseers for public

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<sup>3</sup>Ross and Ridge to Cocke, Gray, and Davidson, September 27, 1827, and Cocke, Gray, and Davidson to Ross and Ridge, October 4, 1827, *ibid.*, pp. 19-26.

<sup>4</sup>Cocke, Davidson, and Gray to Committee and Council of the Cherokee Nation, undated /1827?/, and Ross to Cocke, Davidson, and Gray, October 11, 1827, *ibid.*, pp. 26-29; William Hicks and Ross to Francis W. Armstrong, July 19, 1828, in Cherokee Phoenix, July 30, 1828, p. 2; McKenney to P. R. Porter, November 1, 1828, "Report of the Commissioner of Indian Affairs, 1828," United States Senate, 20th Congress, 2nd Session, Document 1 (Washington: Duff Green, 1828), p. 95.

elections and inspectors to ensure high academic standards for their mission schools. The greater part of the message, however, was taken up in answering the allegations of Georgians who defamed Cherokee constitutional government and made thrusts at Cherokee territory.<sup>5</sup>

The chiefs noted that Georgia based her claims to Cherokee lands on discovery, conquest, and compact. They found this trilogy quite weak, and to the first point they answered: "Our ancestors from time to time immemorial possessed this country, not by a 'charter' from the hand of a mortal king, who had no right to grant it, but by the will of the king of kings." They asserted that the second and third propositions were as lame as the first and reiterated the peaceable and reasonable clauses of the Compact of 1802. During the previous summer in an effort to carry out this compact, the United States had sent James Rogers, a western Cherokee, to gain the favor of the eastern band and to offer inducements for the surrender of their lands. In order that his glowing descriptions of the western lands might not be suspect, Rogers traveled as a confidential agent of the Federal government. The indiscreet agent failed to fool his eastern brothers, and the new chiefs recommended that a petition be sent to the United States government asking that the Compact of 1802 with Georgia be carried out in some manner other than a cession of Cherokee lands.<sup>6</sup>

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<sup>5</sup>Annual Message of Hicks and Ross, October 13, 1828, in Cherokee Phoenix, October 22, 1828, p. 1.

<sup>6</sup>McKenney to Montgomery, May 27, 1828, "Articles of Cession Between the United States and Georgia, and the Treaty with the Cherokee Indians" /Western/, United States House of Representatives, 20th Congress, 2nd Session, Executive Document 95 (Washington: Gales and Seaton, 1829), pp. 2-4.



The message of Ross and Hicks was later carried in both Cherokee and English across the five-column width of the recently created Cherokee national paper, the Cherokee Phoenix. The beginnings of the newspaper can be traced to the untiring efforts of an illiterate Cherokee mixed blood, Sequoyah (George Guess), to create a writing code, eventually perfected about 1821. The approach he used was highly functional--he assigned a written character to each of the 86 Cherokee syllables. Although the missionaries had worked for a number of years to develop some system of writing for the language, the simplicity and adaptability of the Sequoyah method convinced them that this was the way to reach their flocks with the written word. Soon the Cherokee Nation would be reading the scriptures and inspirational tracts in its native tongue, and through a system that could be mastered by an illiterate Cherokee in only a few days.<sup>7</sup>

The next step was to publish public matters in the new written language. As early as 1825, the General Council had provided for the financing of English and Cherokee type, but the funds had not been clearly specified, and the enterprise languished. A tour of the United States by Elias Boudinot (who later became editor of the newspaper) and the philanthropy of the mission societies made the bilingual national press a reality, and the General Council leased land and a building to house the press and office. Samuel Worcester, the principal missionary at Brainerd Mission, went to Boston in 1827 to purchase the press and type faces, and suggested Cherokee Phoenix as the name for the weekly

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<sup>7</sup>Malone, Cherokees of the Old South: A People in Transition, pp. 155-157.

newspaper. Ross took an active hand in these affairs. Worcester consulted with him on the purchase, and the press was to be forwarded to New Echota in Ross's name. The first issue of the Cherokee Phoenix was published on February 21, 1828, and carried a prospectus in which Boudinot promised to print the laws and public documents of the nation, the manners and customs of the Cherokees, and interesting news of the day.<sup>8</sup>

In the chiefs' first annual message, Ross and Hicks also expressed the hope that the public would patronize the newspaper. They suggested no legislation in its regard but warned against the "admission of scurrilous productions of a personal character, and also against cherishing sectarian principles on religious subjects." Because the press was to be public property, it was to be "as free as the breeze that glides upon the surface." However, the Cherokee Phoenix was not blessed with freedom from financial burdens, and from the start was mired in monetary problems. Boudinot felt that his \$300 annual salary was insufficient and was on the verge of resigning as editor in November, 1829, unless he could obtain an assistant and a raise in pay. He may have been discouraged because the printer received a larger salary than he. Ross took the editor's plea before the General Council and pledged that if the assembly would not pay the increase, he would pay it personally rather than see the venture fail. The General Council

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<sup>8</sup>Laws of the Cherokee Nation Adopted by the Council at Various Periods, p. 47; Diary of S. A. Worcester, 1824-1830, Alice Robertson Collection, University of Tulsa Library; Malone, Cherokees of the Old South: A People in Transition, pp. 157-159; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Althea Bass, Cherokee Messenger (Norman: University of Oklahoma Press, 1936), p. 79.

assented to the raise in pay and also to the hiring of an assistant for the newspaper.<sup>9</sup>

According to the provisions of the Constitution of 1827, the principal chief of the Cherokee Nation would be elected for the first time in 1828 by a ballot of the General Council and every four years thereafter in the same manner. Ross and Hicks were nominated for the leading post and, when the vote was taken, Ross was the overwhelming choice by a margin of 34 to 6. George Lowrey was elected assistant principal chief, while Major Ridge was elevated to the post of counsellor. Other General Council business included the selection of a delegation to attend Cherokee affairs in Washington. Ross recommended Richard Taylor, Edward Gunter, and William Shorey Coodey as delegates. The General Council requested that Ross accompany the delegation, and he agreed to do so.<sup>10</sup>

Ross departed for Washington with his associates around the first week in January, 1829, and they settled in Williamson's Hotel on their arrival. One of the first subjects they brought before the Federal government was the Cherokees' displeasure at the conduct of their agent, Hugh Montgomery, whom the delegation wanted replaced by Thomas C. Hindman. They charged that he had allowed white individuals to reside in the Cherokee Nation without legitimate reason, that he took

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<sup>9</sup>Annual Message of Hicks and Ross, October 13, 1828, in Cherokee Phoenix, October 22, 1828, p. 1; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Laws of the Cherokee Nation Adopted by the Council at Various Periods, p. 144.

<sup>10</sup>Cherokee Phoenix, October 22, 1828, p. 2; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Ross to President of the National Committee /Lewis Ross/, November 15, 1828, and Lewis Ross to Ross, November 15, 1828, in Cherokee Phoenix, November 19, 1828, p. 2.

possession of a farm some 100 miles from the agency on Cherokee land in direct contradiction of Cherokee and United States laws, and that he had not fully prosecuted suits against white intruders. Even though the delegation delivered testimony from both McKenney and John Coffee, whose statements were in basic agreement on the point that Montgomery had been deficient in his duties, the appeal for a new agent was denied.<sup>11</sup>

Ross's greatest concern in 1829 was with Georgia's decision to extend her laws over the Cherokees. On December 20, 1828, the Georgia legislature, on the advice of Governor John Forsyth, added a large portion of the Cherokee territory to the state and declared her laws extended to that region--to white individuals immediately and to Indians after June 1, 1830. Ross appealed to the Federal government for relief, but received from Jackson's Secretary of War, John H. Eaton, only an historical recitation on the relations of the Cherokees with the United States. Eaton concluded his essay on a note of little promise to the beleaguered Cherokees: "no remedy can be perceived, except that which frequently, heretofore has been submitted for your consideration, a removal beyond the Mississippi, where, alone can be assured to you protection and peace."<sup>12</sup>

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<sup>11</sup>Ross et al. to P. R. Porter, January 21, 1829, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Ross et al. to Andrew Jackson, March 6, April 6, and June 24, 1829, Ross Papers, Gilcrease Institute; Coffee to John Eaton, January 21, 1830, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

<sup>12</sup>Starkey, The Cherokee Nation, p. 136; Carl Jackson Vipperman, "Wilson Lumpkin and the Cherokee Removal" (Unpublished Master's Thesis, University of Georgia, 1961), p. 47; E. Merton Coulter, A Short History of Georgia (Chapel Hill: University of North Carolina Press, 1933),

Gaining no acceptable response from the executive department, the delegation appealed to the legislative branch. Ross and his colleagues outlined their grievances to Congress and noted the act of the Georgia legislature which would deprive them of their basic rights. Ross emphasized the timeless right of the Cherokees to regulate their own internal affairs and vigorously protested the extension of the Georgia laws. Ross and the delegation departed from Washington in late April of 1829. They must have felt their four months of work especially barren since the short congressional session did not allow time to take up the Cherokees' petition.<sup>13</sup>

Georgia was not alone in her attempts to crowd the Cherokees off their lands. Under President Andrew Jackson, who was elected within a month of Ross's election as principal chief, the Federal government also pursued an energetic policy of Indian removal. In a treaty signed with the western Cherokees on May 6, 1828, Washington officials had included articles which provided that efforts would be made to convince the eastern Cherokees to emigrate. In this regard Montgomery was to step up his efforts at recruiting emigrants and by November of 1829 he had convinced some 500 Cherokees and blacks to move west. Furthermore the Jackson administration, believing a crisis had arrived in Indian affairs, commissioned William Carroll and John Coffee to secure

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p. 232; Eaton to Ross et al., April 18, 1829, in Jeremiah Evarts?, Essays on the Present Crisis in the Condition of the American Indians; First Published in the National Intelligencer under the Signature of William Penn (Boston: Perkins and Marvin, 1829), pp. 102-103.

<sup>13</sup> "Memorial of John Ross and Others, Representatives of the Cherokee Nation of Indians," United States House of Representatives, 20th Congress, 1st Session, Document 145 (Washington: Gales and Seaton, 1829), pp. 1-3.

acceptance of removal. Secretary of War Eaton realized only too well that the old methods of negotiation were useless. He advised the commissioners to do away with the traditional "talk" before an assembly of the natives and to take their propositions to the chiefs and leading men on a personal and intimate level.<sup>14</sup>

Carroll arrived in the Cherokee Nation on the morning of August 13, 1829, and after visiting Agent Montgomery, he met Lewis Ross who lived adjacent to the agency. Although Carroll found Lewis Ross firmly opposed to removal, their meeting was a cordial one. Carroll felt that Lewis Ross might speak well of him to his brother, Chief Ross, and that this might somehow assist Carroll in his negotiations. On the afternoon of August 15 he met Chief Ross and other leading men of the Coosa vicinity. Carroll exhausted every argument at his disposal in a dozen private interviews, but at last resorted to the traditional method of a "talk" before an assembly of the leading men; this, too, proved fruitless. Coffee did not arrive until Carroll had completed his barren bargaining, but in the short time there he discovered what Carroll also was to confirm: the Cherokees were confident that Congress would intervene and prevent the states from extending their powers over them. Carroll found Ross and his political associates considerate and attentive, but noncommittal and intent upon

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<sup>14</sup>Royce, "The Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 229-230; McKenney to Eaton, November 17, 1829, and Eaton to Carroll and Coffee, May 30, 1829, "Report of the Commissioner of Indian Affairs, 1829," United States House of Representatives, 21st Congress, 2nd Session, Executive Document 2 (Washington: Duff Green, 1829), pp. 164-166, 178-180.

remaining in their ancestral lands.<sup>15</sup>

Georgia reached for every pretext to extend her control over more Cherokee lands. Governor Forsyth renewed the controversy over the Creek-Cherokee boundary and found a ready audience at Washington. General Coffee again was detailed to the Cherokee Nation to settle the disputed lands question. Nor did the intrusions into Cherokee lands diminish, for the aggressive attitude of the Georgia legislature merely encouraged her trespassing citizens. Agent Montgomery insisted that it would take a military force to keep intruders out, and this the Jackson government would not permit, viewing such a move as an infringement on states' rights. Ross spoke forcefully against these actions and was especially bitter when Montgomery insisted that he could not remove intruders as he was unsure whether the land actually belonged to the Cherokees. Before the General Council, Ross confessed, "there is no place of security for us, no confidence left that the United States will be more just and faithful towards us in the barren prairies of the west, than when we occupied the soil inherited from the Great Author of our existence."<sup>16</sup>

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<sup>15</sup>Carroll to Eaton, August 15 and September 2, 1829, and Coffee to Eaton, October 14, 1829, *ibid.*, pp. 181-184; Carroll to Ross, August 29, 1829, and Ross to Carroll, August 29, 1829, in Cherokee Phoenix, September 10, 1829, pp. 2-3.

<sup>16</sup>Eaton to Forsyth, October 14, 1829, "Report of the Commissioner of Indian Affairs, 1829," United States House of Representatives, 21st Congress, 2nd Session, Executive Document 2, pp. 186-191; Ross to Coffee, December 13, 1829, Ross Papers, Gilcrease Institute; Ross to Coffee, December 29, 1829, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Ross to Montgomery, September 3, 1829, and Montgomery to Ross, September 3, 1829, "Intrusions on Cherokee Lands," United States House of Representatives, 21st Congress, 1st Session, Executive Document 89, p. 16-17; Ross's Annual Message, October 14, 1829, in Niles' Register, November 14, 1829, pp. 189-190.

The General Council again decided to send representatives to Washington to take up unfinished business regarding Georgia's maneuvers to reduce the Cherokees' rights. Ross gave the delegates instructions for their work and also petitions and documents to aid them in negotiations. Ross instructed them to petition Congress and to remind that body of the unanswered petition of the preceding year. Ross requested an accounting of their expenditures and authorized them to retain legal counsel if they deemed it necessary. They were also to draw on the annuities if extra funds were needed. Ross kept in close contact with the delegation to learn of its progress and to give information of events in the Cherokee Nation which might be useful in negotiations with the Federal government.<sup>17</sup>

One episode in February of 1830 greatly excited the Cherokees and put a new complexion on Georgian incursions. Ross and the leading men of the nation were becoming more upset at the disregard of the United States officials toward intruders on Cherokee lands. Ross, therefore, delegated Major Ridge and a party of about 50 Cherokees to dislodge the greedy pioneers and to burn their possessions. In early February of 1830, Ridge set about his task and, having removed the squatters, dispersed his men to return home. A group of incensed Georgians gathered a band of about 25 men and went in pursuit of Ridge and his party. Four of Ridge's band remained behind and, being drunk, were captured by the whites who brutally beat them and left exposed to die a Cherokee called Cheewoyee. George Lowrey and the Cherokee delegation at Washington

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<sup>17</sup>Ross to George Lowrey et al., November 27, 1829, John Ross Papers, Indian Archives Division, Oklahoma Historical Society.



complained of such barbarous acts, and the Federal government quickly detailed troops from Fort Mitchell, Alabama, "to stay any acts of hostility that may be contemplated on either side." The Cherokees were likely less than elated when these orders made no provisions to remove white intruders who were the source of their troubles.<sup>18</sup>

Ross also informed the delegation of a new kind of intruders on Cherokee lands--gold diggers. In July of 1829 gold had been discovered in northeastern Georgia on Cherokee lands, and the resulting stampede attracted lawless people from throughout the southern frontier region. Ross had contacted Agent Montgomery several times concerning these growing invasions, but he found him apathetic and reluctant to act when Cherokee rights were jeopardized. In truth, Montgomery probably never had the power to remedy these injustices, even if he had had the inclination. Ross believed that the United States should pay for the intrusions of the gold seekers and requested the Cherokee delegation in Washington to petition President Jackson in this regard. As was the case with other petitions to Jackson, the Cherokees had little hope of success. During the summer of 1830, Governor George R. Gilmer of Georgia issued proclamations to prevent Indians as well as whites from digging gold in the Cherokee Nation. But threats and proclamations

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<sup>18</sup> Gilmer to Eaton, February 15, 1830, Montgomery to Eaton, February 18, 1830, Ross to Montgomery, February 19, 1830, Lowrey et al. to Jackson, February 25, 1830, Major General Alexander Macomb to the Commanding Officer at Fort Mitchell, February 25, 1830, and James Williams to Montgomery, March 4, 1830, "Intrusions on Cherokee Lands," United States House of Representatives, 21st Congress, 1st Session, Executive Document 89, pp. 29-37.

hindered white gold seekers little.<sup>19</sup>

The summer of 1830 was a portentous period for the Cherokees for two other reasons. President Jackson openly declared to the Cherokees his intentions not to interfere in the exercise of state sovereignty; henceforth the Cherokees had to prepare themselves to abide by such regulations as the surrounding states would issue. In this regard, the President suspended the method then in use of registering small bands of Cherokees for removal, awaiting the decision of the tribe for a general migration. The Federal government also changed the system of paying annuities to the Cherokees. Up to that time, it had been the Federal policy to pay yearly allowances to the constituted authorities of the tribe. The new method would pay individual Cherokees the annual distributions. Ross opposed both these measures which were intended to withdraw the only source of Cherokee revenue and force removal to the West. He recounted the obligations of the United States to the tribe and noted that "the territory of the Cherokees is not within the jurisdiction of Georgia, but within the sole and exclusive jurisdiction of the Cherokee nation." On the annuity question, Ross understood that when parceled out the money would amount only to about 46 cents per individual, but that the loss of these funds would deprive

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<sup>19</sup>Ross to the Cherokee Delegation, March 3, 1830, *ibid.*, p. 44, Lowrey et al. to Jackson, March 20, 1830, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives, Lowrey et al. to the Senate and House of Representatives, May 3, 1830, "Memorial of a Delegation of the Cherokee Nation of Indians," United States House of Representatives, 21st Congress, 1st Session, Report 397 (Washington: Duff Green, 1830), pp. 1-4; Coulter, A Short History of Georgia, p. 233; Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906, Vol. 1, pp. 396-397.

the Cherokees of the necessary finances to effectively promote their case before the United States government. Furthermore, the withdrawal of the money would dash many of Ross's dreams for Cherokee advancement.<sup>20</sup>

Ross called a special meeting of the Cherokee General Council in July, 1830, to discuss recent developments. He noted that the delegation which had recently returned from Washington reported that its petitions to Congress and had been unsuccessful; therefore, he suggested that the Cherokees turn to the judicial branch of the United States government in order to secure their rights. The General Council authorized Ross to institute legal proceedings in the Supreme Court of the United States and the courts of Georgia in order to determine the question of sovereignty. Ross conveyed his sense of faith to the General Council and concluded that "in the appearance of impossibilities, there is still hope."<sup>21</sup>

Ross probably first became convinced that the Cherokees had to

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<sup>20</sup>McKenney to Montgomery, June 9, 1830, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512 (5 vols., Washington: Duff Green, 1834), Vol. II, pp. 14-15; Randolph to Montgomery, June 18, 1830, "Memorial of the Cherokee Delegation," United States Senate, 24th Congress, 1st Session, Document 340 (Washington: Gales and Seaton, 1836), p. 6; Montgomery to Ross, July 10, 1830, and Ross to Montgomery, July 20, 1830, in Cherokee Phoenix, July 24, 1830, p. 2.

<sup>21</sup>Ross to the General Council, July 17, 1830, Lester Hargrett Collection of Imprints, Gilcrease Institute; Resolution of the General Council, July 16, 1830, and Remonstrance of the Cherokees, July 17, 1830, Ross Papers, Gilcrease Institute. Cherokee cases before the Georgia courts were as unsuccessful as attempts before the Federal judiciary. Of the seven lawyers retained by Ross, only three seem actually to have done effective work: Thomas G. Barron, David Irwin, and Edward Hardin. The remaining four, William H. Underwood, Samuel Rockwell, William Y. Hansell, and Thomas W. Harris, spent most of their time worrying Ross about their stipends. Harris even had a Cherokee arrested for non-

turn from their customary arguments before Congress when that body passed Jackson's Indian removal bill in the summer of 1830. In his first annual message, Jackson had proposed that a portion of land west of the Mississippi be set aside for the Indians. Although he recognized that the choice of removing belonged to the red men, Jackson insisted that those who stayed must submit to state law. The removal bill was one of the most hotly contested issues of the Twenty-first Congress, where sectional and party interests were as much involved as the moral issue of the Cherokee rights. The opponents of the removal bill used as their basic source of ammunition a series of essays printed in the National Intelligencer under the signature of "William Penn," in reality Jeremiah Evarts, a guiding figure of the American board missionaries and a stalwart friend of the Cherokees. In these essays Evarts closely examined the long legal history of Cherokee relations with the United States and found a train of deception and misrepresentation on the part of the Federal government.<sup>22</sup>

The sectional nature of the bill was clearly evident during

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payment of legal fees, and the other three eventually defected to the Ridges. See Ross to the General Council, October 30, 1834, Payne Papers, Ayer Collection, Newberry Library; Hansell to Joel R. Poinsett, March 16, 1837, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120 (Washington: Blair and Rives, 1838), pp. 796-797; Ross to D. Russell, July 13, 1840, Alice Robertson Collection, University of Tulsa Library.

<sup>22</sup>Message of Jackson to the Senate, December 8, 1829, in Richardson, comp., A Compilation of the Messages and Papers of the Presidents, 1789-1902, Vol. II, pp. 456-459; /Evarts?/, Essays on the Present Crisis in the Condition of the American Indians, passim; Joseph C. Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," Stanford Law Review, Vol. XXI, No. 3 (February, 1969), pp. 505-506; Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906, Vol. I, pp. 377-378.

congressional debates. The leading opponents of the bill were northern men, Theodore Frelinghuysen of New Jersey, Peleg Sprague of Maine, and Henry Storrs of New York, while southerners who spoke loudly in its favor included Hugh White of Tennessee and John Forsyth and Wilson Lumpkin, both of Georgia. The debates touched on the whole range of Indian history but centered on the issue of state sovereignty. Southern supporters accused opponents of the bill of hypocrisy, since they had long before driven unwanted Indians from their domain. Southerners further insisted that removal actually would be in the best interests of the Indian. The bill passed the House of Representatives by the narrow margin of five votes in late May, 1830. Not all frontier and southern congressmen voted for the bill, and to one Tennessean who opposed Jackson's policies, Ross remarked: "Cupidity and Avarice by sophistry intrigue and corruption may for a while prevail--but the day of retributive justice must and will come, when integrity and moral worth will predominate and make the shameless monster hide its head." Ross expressed these thoughts to David Crockett and added several comments on Jackson's Indian proposals: "I have known Genl. Jackson from my boyhood--my earliest and warmest friends in Tennessee are generally his advocates--during the late war I held a rank in the Cherokee regiment & fought by his side...but it is with deep regret, I say, that his policy towards the aborigines, in my opinion, has been unrelenting and in effect ruinous."<sup>23</sup>

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<sup>23</sup>Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," Stanford Law Review, Vol. XXI, pp. 506-507; Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906, Vol. I, pp. 378-381; Ross to David Crockett, January 13, 1831, Ross Papers, Newberry Library.

Ross, nevertheless, remained optimistic throughout the difficult year of 1830, and tried to bolster the sagging spirits of the Cherokees on every public occasion. In private conversation he also showed a positive disposition and admitted to his missionary friend, Elizur Butler, that his "hopes of success were never greater."<sup>24</sup> Ross's reasons for hope were scant, as Georgia and the Federal government continued pressure for removal. In a circular letter to the southern Indian agents, Secretary of War Eaton depicted those chiefs who opposed removal as oppressive tyrants who permitted no opinion but their own. He further emphasized Jackson's earlier decree that if the Indians would not accept the offer of the United States to remove, then they simply would come under the jurisdiction of the several states. The first example of this policy was when Cherokees as well as white intruders were dislodged from the gold regions of the Cherokee Nation. Within a short time Federal troops were taken out of the nation altogether--a sure invitation for avid gold hunters. When Ross requested some explanation for these events, Agent Montgomery replied that he could give no reason but that Ross must come to expect the Federal government to withdraw its protection.<sup>24</sup>

John Lowrey, who bore a respected Cherokee name but no Indian

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<sup>24</sup>"Cherokees," Missionary Herald, December, 1830, p. 382; Eaton to Montgomery, July 29, 1830, in Niles' Register, November 13, 1830, p. 198; Ross to David Crockett, January 13, 1831, Ross Papers, Newberry Library; Ross to Montgomery, November 25, 1830, and Montgomery to Ross, November 25, 1830, in Cherokee Phoenix, December 5, 1830, p. 2; "Memorial of a Delegation from the Cherokee Indians," United States House of Representatives, 21st Congress, 2nd Session, Document 57 (Washington: Duff Green, 1831), p. 4; Eaton to Jackson, February 21, 1831, "Message from the President of the United States," United States Senate, 21st Congress, 2nd Session, Document 65 (Washington: Duff Green, 1831), pp. 5-6.

blood, was sent to the Cherokee Nation by the Federal government to negotiate a cession of the lands and removal to the West. He met with the General Council at its regular session in October, 1830, and proposed a compact for removal. He promised a generous allowance of land to the West, a reservation of 200 acres for every widow until she decided to remove, provisions for citizenship for select Indians who had attained a certain level of civilization along with a reservation of land, foodstuffs for one year for the mass of migrating Indians after the arrival in the West, and a liberal school fund. The General Council briefly took up his proposals and brusquely rejected them. Ross reiterated the familiar phrase that the Cherokees would "never again...cede another foot of land." The General Council then commissioned Richard Taylor, John Ridge, and William Shorey Coodey as Cherokee delegates to Washington. Ross instructed them on the major points of their mission: determination of the boundary line between Georgia and the Cherokees, removal of prohibitions against Cherokees working the gold mines, and the distribution of annuities; his final advice to them was to have nothing to do with partisan politics.<sup>25</sup>

The political possibilities of the Indian question were not lost on Jackson's opponents and, under the influence of Jeremiah Evarts, several prominent National Republicans, including Daniel Webster and Ambrose Spencer, suggested that the Cherokees hire eminent legal

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<sup>25</sup>Lowrey to Cherokees, October 20, 1830, Council to Ross, October 21, 1830, and Ross to Lowrey, October 22, 1830, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. II, pp. 179-181; Ross to Taylor, Ridge and Coodey, November 19, 1830, Payne Papers, Ayer Collection, Newberry Library.

counsel for their defense. They hoped to reduce Jackson's power in the North, especially in Pennsylvania where the Quaker vote was crucial, and to impair the South's sacrosanct state sovereignty. The Cherokees turned to ex-Attorney General William Wirt who, though not an avid opponent of Jackson, had several admirable legal traits that made him eminently suitable. Oddly enough, Wirt was a relative of Governor Gilmer, but he made no headway in personal appeals to that Georgian.<sup>26</sup>

Wirt took up the Cherokees' case in June of 1830 and began preparing a brief centering on what he confided to Ross was the vital question, the right of Georgia to extend her laws over the Cherokees. Wirt concluded that the Cherokees composed a sovereign nation and, therefore, their laws and lands could not come under the sway of Georgia. More important, this interpretation allowed original jurisdiction to the highest tribunal of the United States. Ross rushed the opinion to the Cherokee Phoenix printer and distributed it widely among United States officials. Ross and Wirt had hoped to enlist some of the leading figures of the day but were unsuccessful in getting their first choice, Daniel Webster, so Wirt settled on a young, energetic associate, John Sergeant. As the Cherokees were not receiving their annuities, they were severely short of funds; therefore, Ross made frequent promises of the faithfulness of the Cherokees in fulfilling their

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<sup>26</sup>Jeremiah Evarts to Ross, July 20, 1830, Ross Papers, Gilcrease Institute; Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," Stanford Law Review, Vol. XXI, pp. 508-511; George Rockingham Gilmer, Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author (New York: D. Appleton and Company, 1855), p. 354.



pledges as he forwarded small amounts of money to Wirt and Sergeant.<sup>27</sup>

In December of 1830 Ross took the next step in an intricate legal procedure to thwart the ambitious Georgians. With the secret business partner of Major Ridge, George M. Lavender, Ross set out on December 20 to serve officials of the state of Georgia with a notice that the Cherokees would bring suit against them the following March. One week later they reached the state capitol at Milledgeville and handed the document to Governor Gilmer. The message apprised him that the Cherokee counsel would appear before the United States Supreme Court on March 5 to seek the injunction to restrain the state from enforcing its laws in the Cherokee Nation.<sup>28</sup>

The Cherokee case came up for hearing on the appointed day in the famous case entitled the Cherokee Nation versus Georgia (5 Peters 1) Wirt already had attempted to get the opinion of Chief Justice John Marshall on Wirt's interpretations of similar cases, but Marshall had declined. Wirt must have been somewhat cheered when Marshall revealed that his private sympathies were with the Cherokees, and that many of the leading legal thinkers of the day considered the United States

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<sup>27</sup>Wirt to Ross, June 4, 1830, Ross Papers, Gilcrease Institute; William Wirt, An Opinion on the Claims for Improvements by the State of Georgia on the Cherokee Nation Under the Treaties of 1817 and 1828, (New Echota: Office of Cherokee Phoenix and Indians' Advocate, 1830), passim; William Wirt, Opinion on the Right of the State of Georgia to Extend her Laws over the Cherokee Nation (Baltimore: F. Lucas, Jr., 1830), passim; Wirt to Ross, September 22, 1830, and Ross to Wirt, October 30, 1830, Ross Papers, Gilcrease Institute.

<sup>28</sup>Ross to Wirt, January 1, 1831, William Wirt Papers, Maryland Historical Society, Baltimore, Maryland; Ross to Gilmer, December 20, 1830, in Hays, comp., "Cherokee Indian Letters, Talks and Treaties, 1786-1838," Vol. II, p. 262; Gilmer, Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author, p. 378.

Supreme Court the constitutional arbiter. Yet on March 18, the last day of the session, the court refused to consider the case, declaring that it did not have the jurisdiction. Marshall skirted the alternatives offered him by the Cherokees and the state of Georgia: that the Indians were either foreign or subject nations. Rather the chief justice held that the Cherokees were in a special position as "domestic dependent nations" and were wards of the United States. Most important, Marshall left a hint for future actions, even suggesting that by using the issue of property rights the Cherokees could get their case before the court.<sup>29</sup>

In mid-April, 1831, Ross set out to explain to his people the decision of the United States Supreme Court and the general state of Cherokee national affairs. He found among them a "unanimity of sentiment" to remain in their cherished homeland. Agent Montgomery accused Ross of deceiving the Cherokees by telling them that the Supreme Court had decided in their favor. It is more likely that Ross was deceived. The Cherokees continued to receive assurances from leading American political figures--Henry Clay, Daniel Webster, and Theodore Frelinghuysen--that their cause was just and that they could win before the courts. Ross even hoped that Jackson's cabinet changes in 1830 might presage a new era in Cherokee-United States relations. If Ross was guileless in 1831, he assured Wirt that if the issue were

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<sup>29</sup>Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," Stanford Law Review, Vol. XXI, pp. 513-518; Abel, "The History of Events Resulting in Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906, Vol. 1, pp. 386-387; Ross's Annual Message, October 24, 1831, in Cherokee Phoenix, November 19, 1831, pp. 2-3.

decided against them, "it would be extreme folly to believe that the Cherokees could again be duped into Confidence of the good faith of the U. S."<sup>30</sup>

The Cherokees had gained the sympathy of a wide audience of humanitarians, and those most closely associated with them were the most energetic in their defense. In a meeting of Methodist missionaries in the Cherokee Nation in September of 1830, it was unanimously resolved that a removal of the Cherokees to the West would be ruinous. A larger group of missionaries representing several denominations met in December of 1830 and echoed the Methodists' sentiments, declaring that the Indian question was not only a political matter but that it also had serious moral considerations. Their zealous attitude attracted the attention of the Georgians. In the Georgia legislative session of 1830, several measures were passed to deal with such discontents. In addition to suspending the Cherokee General Council and courts, the Georgia legislature set a deadline of March, 1831, for all white residents on Indian lands to be licensed and to swear to support the government of Georgia or suffer four years at hard labor. During the session the legislature also created the Georgia Guard to protect the interests of the state.<sup>31</sup>

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<sup>30</sup>Ross to Wirt, May 10, 1831, Wirt Papers, Maryland Historical Society; Montgomery to Eaton, May 18, 1831, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Henry Clay to John Gunter, June 6, 1831, "Report from the Secretary of War... in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 678-679; Ross to Wirt, November 11, 1831, Wirt Papers, Maryland Historical Society.

<sup>31</sup>Cherokee Phoenix, October 1, 1830, p. 3; "Cherokees," Missionary Herald, March, 1831, pp. 79-84; Vipperman, "Wilson Lumpkin and Cherokee Removal," pp. 51-52, 54; Abel, "The History of Events Resulting in

The Georgia Guard was essentially an anti-Indian military unit, but it was also used in carrying out legislative decrees. Late on Saturday evening, March 12, 1831, the guard descended on the home of Isaac Procter, an American board missionary, and hurried him away to a nearby public house. The next morning the guard arrested Samuel A. Worcester at New Echota and then carried the prisoners 30 miles to Hightower Mission and apprehended the Reverend John Thompson. Upon their claims that they were authorized agents of the Federal government, the missionaries soon were released. President Jackson disallowed these claims, however--even to the point of taking away Worcester's postmastership--and then the group was arrested again. In September a state court convicted 11 captured missionaries of violating state law and prescribed the maximum sentence of four years at hard labor. All but Worcester and Elizur Butler accepted pardons. The released missionaries hurriedly made plans to leave Georgia, and many took up stations among the western Cherokees. The significance of the Georgia court decision was not lost on Ross. He informed Wirt of the decision and asked what effect it would have on the Cherokee case if the missionaries were released. Ross also was concerned about the personal welfare of Worcester, Butler, and their families. He told Mrs. Butler of his great interest in her family's well-being and insisted that she not hesitate to ask for any help that he might render. Ross also contributed to a fund to enable the two wives to

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Indian Consolidation West of the Mississippi," Annual Report of the American Historical Association for the Year 1906, Vol. I, pp. 396-398.

visit their husbands at Milledgeville where they were detained.<sup>32</sup>

The Georgia action toward the missionaries was the very opportunity for which Wirt had been waiting, a question of jurisdiction such as Marshall had suggested the Cherokees might win. Although not clearly a property rights question, Marshall used the case of Worcester versus Georgia (6 Peters 515) as a pretext to examine all Cherokee treaties and, in a wide-ranging interpretation, the chief justice observed that the Cherokees never had yielded their sovereignty. Marshall also reasoned that it was the responsibility of the United States to preserve and protect the tribes in their native lands. The court delivered its opinion on March 3, 1832, demanded the release of Worcester and Butler, and declared all Georgia Indian laws unconstitutional. It is doubtful that the decree could have been enforced for at least another year, even without Jackson's alleged statement that Marshall would have to enforce his own decision. Supreme Court Justice John McLean, who was sympathetic to the Cherokee cause, advised Ross of this situation and further suggested that the Cherokees should work for statehood. However, the argument over execution of the decision became a moot issue when the missionaries accepted pardon under the Georgia law. B. B. Wisner, secretary of the American board, informed Ross that Worcester and Butler would "stay further proceedings," as the board thought it inexpedient to prosecute the case further. It

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<sup>32</sup> ibid., pp. 397-400; "Arrest of the Missionaries of the Board in the Cherokee Nation," Missionary Herald, May, 1831, pp. 165-166; "Arrest of the Missionaries in the Cherokee Nation," ibid., July, 1831, p. 229; Missionary Herald, February, 1832, p. 46; Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality" Stanford Law Review, Vol. XXI, pp. 519-520; Bass, Cherokee Messenger, p. 146; Ross to Wirt, October 7, 1831, Wirt Papers, Maryland Historical Society.

must have been disheartening to Ross when Wisner also suggested that it might be best for the Cherokees to accept the terms of the Federal government and move to the western regions.<sup>33</sup>

Georgians were not satisfied merely with intimidating white men among the Indians but hoped that they could divide the Cherokees, thus making them more vulnerable to removal. Governor Gilmer thought it might be useful to create distrust of the Cherokees in power. He requested that Agent Montgomery inform him of the degree of Cherokee blood in Ross and other leading men of the Cherokee Nation. Not content with this approach, Gilmer sent Colonel John W.A. Sanford among the tribe to ascertain the parentage and education of Ross and to determine the extent of his influence on the full blood majority. Stanford reported that "the native Indian has but little part...in the administration of their government but that its affairs are managed exclusively by those who are so remotely related to the Indian, as gives them but slender claims to be classed among that people." Ross's opposition constantly alleged that he ruled the Cherokee Nation with an iron hand, that he left the average Cherokee little freedom under his despotic regime, and that most Cherokees would gladly remove if out from under his grip. Missionaries closely acquainted with Cherokee affairs denied these allegations, and Worcester once asserted that

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<sup>33</sup>Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," Stanford Law Review, Vol. XXI, pp. 521-531; "Trial of Rev. Samuel A. Worcester, and Doct. Elizur Butler," Missionary Herald, November, 1831, pp. 363-365; "Release of Messrs. Worcester and Butler," ibid., December, 1832, pp. 460-461; B. B. Wisner to Ross, December 27, 1832, Ross Papers, Indian Archives Division, Oklahoma Historical Society; McLean to Ross, May 23, 1832, Ross Papers, Gilcrease Institute; Ross to Wirt, June 8, 1832, Wirt Papers, Maryland Historical Society.

"individuals may be overawed by popular opinion, but not by the chiefs. On the other hand, if there were a chief in favor of removal, he would be overawed by the people." Ross likely followed not only his conscience in this regard but also the will of the people.<sup>34</sup>

A minor crisis was provoked by the Georgia legislative act which suspended the General Council, setting punishment for such meetings at four years of hard labor. As the October General Council for 1831 approached, the legislators were apprehensive, and Elias Boudinot confided to Ross that several members would resign rather than attend the New Echota meeting. Ross was reluctant to change the constituted place of meeting but called for an early gathering at his home to discuss the issue. Against the choice of Ross, who was reluctant to set a precedent in breaking Cherokee constitutional statutes, the combined National Committee and National Council voted to meet outside the limits of Georgia, deciding on a rough clearing near Chatooga within the chartered limits of Alabama.<sup>35</sup> Further, the General Council appointed John Martin, John Ridge, and William Shorey Coodey to go to Washington as delegates in behalf of the Cherokee Nation, and decided

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<sup>34</sup>Gilmer to Montgomery, May 31, 1831, and Gilmer to Sanford, June 15, 1831, in Gilmer, Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author, pp. 400-402; Sanford to Gilmer, August 10, 1831, Cherokees, Eastern Band, Gilcrease Institute; Worcester to William Shorey Coodey, March 15, 1830, in Missionary Herald, May, 1830, p. 155.

<sup>35</sup>Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Ross's Annual Message, October 24, 1831, in Cherokee Phoenix, November 19, 1831, pp. 2-3; Martin, Ridge, and Coodey to the Senate and House of Representatives, "Memorial of a Delegation of the Cherokee Tribe of Indians," United States House of Representatives, 22nd Congress, 1st Session, Document 45 (Washington: Duff Green, 1832), p. 3.

that future meetings would be held at Red Clay in the Tennessee portion of Cherokee lands. Ross advised the delegation to remind the President that the Cherokees would never willingly move west of the Mississippi River. The delegation also was to call for payment of the delinquent annuities in the traditional manner and to keep Ross informed of its progress.<sup>36</sup>

As Georgians became impatient for Cherokee lands, there were repeated instances of indiscriminate violence. Ross himself came close to losing his life, possibly because the land-hungry intruders knew that he was their chief obstacle to success. On the evening of November 30, 1831, Ross was visiting in the home of Major Ridge with his brother, Andrew, when someone shouted for him to come out. Ross described the caller as "a tall gaunt figure," a certain white man named Harris who was trying to capture a horse thief who may have used Ross's ferry the preceding evening. Since Ross knew nothing of this episode, Harris departed. Ross then decided to consult with his nephew, William Shorey Coodey, before Coodey left for Washington the next day. Andrew Ross and Chief Ross conversed freely as they rode horseback along the path toward Coodey's place and were unaware that Harris had slowly drifted behind them. Suddenly Harris shouted, "Ross I have been for a long time wanting to kill you." Without looking back, Ross quickly wheeled his horse and galloped off as shots rang out; fortunately none hit the mark.<sup>37</sup>

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<sup>36</sup> *ibid.*, Ross to Ridge, Martin, and Coodey, December 1, 1831, *ibid.*; Ross's Annual Message, October 24, 1831, in Cherokee Phoenix November 19, 1831, pp. 2-3.

<sup>37</sup> Cherokee Phoenix, January 21, 1832, p. 1-2. This is Ross's own account.



The Cherokee delegation of the winter of 1831-32 was as unsuccessful as earlier delegations, and its pessimistic report called for much soul searching among the Cherokees. Ross set aside July 19, 1832, as a day of prayer and fasting because of heightening crises in the Cherokee Nation. Also, a special meeting was called later that month by Ross to obtain the full report of the Washington delegation's work and to hear of the success of Ridge and Boudinot in their tour of the East in search of funds to bolster the diminished treasury. At the meeting, in addition, the critical matter of the coming election in August was discussed. Inasmuch as Georgia law prohibited such elections and the Georgia Guard stood ready to enforce these decrees, the General Council decided to set up a provisional government which would continue with the same chiefs, legislative members, and executive council until peaceful elections could be resumed. The General Council also had to deal with new propositions from the Federal government delivered by a special agent of Secretary of War Lewis Cass.<sup>38</sup>

Elisha W. Chester had received his commission as a special agent to the Cherokees in May, 1832, and arrived in the Cherokee Nation the first week in June. Ross called Chester's appearance "rather uncouth," for he earlier had espoused the Cherokee cause and even was legal adviser to Worcester and Butler. Even after meeting with Ross and others of the tribe and noting their opposition to removal, Chester still thought he had a good chance to negotiate for a removal treaty.

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<sup>38</sup>Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; John Ridge to Ross, January 12 and April 3, 1832, Ross Papers, Gilcrease Institute; Starkey, The Cherokee Nation, pp. 168-169; Proclamation of Ross, July 3, 1832, in Cherokee Phoenix, July 14, 1832, p. 2.

He unwittingly advised Cass that there was a good prospect of success and asked how long it would take commissioners to get to the Cherokee Nation to sign a treaty. Success may have seemed imminent to Chester because he carried from Cass a 17-point proposal for negotiating a removal treaty; the provisions of the proposed treaty seemed especially inviting. The lands in the West to be given the Cherokees would be guaranteed them "forever without the boundaries of any State or Territory." The Cherokees would have complete self-government and the right to appoint an agent to reside at Washington to oversee their rights. The United States would pay the expenses of the removal which could be accomplished under their own supervision, would provide subsistence for one year after removal, and would establish an adequate annuity for the relinquished lands and improvements. The remaining items gave the Cherokees adequate recompense for their losses and even provided for a selected few to remain if they would accept citizenship and take up reservations. To similar propositions Ross had once remarked: "Were the President to send his Agents into the frontier countries of Georgia with similar instructions to enroll Georgians, instead of Cherokees, I have no doubt they would be more successful." Chester was no more successful than earlier proponents of removal. Initially, Ross delayed the commissioner's address by demanding his credentials, but ultimately the General Council decided to have no direct communication with him at all and addressed its answer to Secretary of War Cass through Cherokee Agent Montgomery. The reply was that the "true sentiments of the Cherokee people remains the same."<sup>39</sup>

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<sup>39</sup>Cass to the Cherokees, April 17, 1832, "Correspondence on the

At the October, 1832, General Council, Chester again pressed his claims, but Ross gave him no chance for success, as he advised the commissioner that a delegation had been appointed to attend to the business of the Cherokee Nation in Washington. The Cherokees still looked naively for the Supreme Court of the United States to sustain them and even hoped that Henry Clay might win the election of 1832 and reinstate their former rights. In his annual message to the General Council, Ross suggested that the Cherokee Nation might lose its national character by removal and that former treaties with the United States would be dissolved, a serious jeopardy to Cherokee independence. Ross also noted that surveyors had described the Arkansas area as an "extensive prairie badly watered" with only "corpses of wood." That winter Ross headed a delegation to Washington staunchly opposed to removal.<sup>40</sup>

Ross and his companions arrived in Washington the first week in January, 1833, and settled at the Indian Queen Hotel but, perhaps knowing that the Federal government would not pay their expenses, they soon

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Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. 11, pp. 816-817; Chester to Cass, June 9, 1832, Chester to Ross, July 20, 31 /two letters/, August 3, 1832, Ross to Chester, July 31, August 3 /two letters/, 1832, Cherokee Council to Cass, August 6, 1832, and Chester to Cass, August 11, 1832, *ibid.*, Vol. 111, pp. 372-373; 418-419, 421-427; Ross to Wirt, November 11, 1831, and June 8, 1832, Wirt Papers, Maryland Historical Society; Starkey, The Cherokee Nation, pp. 143, 181.

<sup>40</sup>Chester to Ross, October 16 and 30, 1832, Ross to Chester, October 30, 1832 /two letters/, Chester to Cass, October 27, 1832, Ross to Montgomery, October 30, 1832, and Montgomery to Cass, October 31, 1832, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. 111, pp. 520-522, 510-511, 513-514; Ross's Annual Message, October 10, 1832, in Cherokee Phoenix, October 27, 1832, pp. 2-3.

transferred to the less luxurious Brown's Hotel. After an interview with reelected President Jackson and Secretary of War Cass, Ross put the Cherokee case in writing. After recounting Chester's visit, Ross explained that, in spite of the dilemma which the Cherokees faced before the "array of oppressive power," they were "unshaken in their objections to a removal west of the river Mississippi." Cass found the Cherokee position "an embarrassing one" and after a lengthy recitation, discovered only one hope for the harrassed Cherokees--removal. Discussions might well have ended with that stalemate, but Ross had other points to press. Ross asked if actual ownership of the lands in the West would still be vested in the United States, for he feared future removals on similar pretexts. Ross also brought up the question of annuities. For the past three years, the Cherokees had not received their annuities which had been placed at a United States branch bank at Nashville, Tennessee, until the Cherokees would accept them individually. Cass's final reply was terse and to the point--the President's views remained unchanged. The delegates had one more brief meeting with President Jackson before they departed, but all communication was devoid of any progress.<sup>41</sup>

During 1832 and 1833 the Cherokee Nation began to face dissension in its own ranks. John Walker, Jr., a Ross opponent, had been

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<sup>41</sup>Ross to Cass, January 8, 1833, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. IV, p. 13; Ross et al. to Cass, January 28, February 14, and March 8, 1833, Cass to Ross et al., February 2 and 20, 1833, and Elbert Herring to Ross et al., February 14 and March 14, 1833, "Memorial of John Ross, and Others," United States Senate, 23rd Congress, 1st Session, Document 386 (Washington: Duff Green, 1834), pp. 7-17; Andrew J. Donelson to Ross, March 1, 1833, in Cherokee Phoenix, August 17, 1833, p. 2.

displeased with the results of the General Council in 1832 and had intimated to Cherokee Agent Montgomery that if the United States would guarantee his expenses, he would get up a delegation that would treat on the subject of removal. Walker approached some of the leading men of the Cherokee Nation with the idea. He was refused by most of them, but he did convince a small number of Cherokees to follow him to Washington where his actions were vigorously protested by the legitimate delegation. Walker's failure was not a true gauge of Cherokee sentiments toward removal, and the few men he approached probably were opposed more to Walker than to his ideas.<sup>42</sup>

Sometime in 1832 the intelligent and influential John Ridge began to have doubts about the efficacy of the Cherokees' unrelenting decision to remain in their native lands and, bit by bit, he influenced Major Ridge, his father, and Elias Boudinot, his cousin, toward his persuasion. Boudinot, the erudite editor of the Cherokee Phoenix, expressed his distaste for what he considered Ross's arbitrary methods by resigning his post. Boudinot gave as his reasons the decision of the United States Supreme Court, the want of funds, the conflict of views between himself and the "authorities of the nation," and reasons of health. Boudinot did not share the general elation of the Cherokees

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<sup>42</sup> John Walker, Jr., to Montgomery, November 12, 1832, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Ross et al. to Cass, February 26, 1833, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. IV, p. 119. Ross assured a number of concerned Cherokee citizens not to worry about Walker's conduct. Ross noted that the conflict was no longer between the Cherokees and the United States, but since the decision in Worcester versus Georgia, it would be between Georgia and the Federal government. Ross to Thomas Foreman et al., April 18, 1832, *ibid.*, Vol. III, pp. 314-316.

in the Worcester decision, for he knew too well the power of President Jackson. What persuaded Boudinot to quit the enterprise was Ross's belief that "the toleration of diversified views" in the paper would create "fermentation and confusion" and in the end prove disastrous to the nation. Ross insisted on "unity of sentiment and action for the good of all," even to the extent of muzzling the press. Undoubtedly, Ross felt the critical times called for drastic measures, and his desire for unity overcame his better judgement. The General Council appointed Ross's brother-in-law, Elijah Hicks, as editor, and Boudinot's opinions were effectively suppressed.<sup>43</sup>

The Ridge faction, as these dissidents came to be called, believed sincerely that the only salvation for their people lay in moving beyond the sphere of white influence. They hoped, however, that their views could be expressed through regularly constituted channels, and they had not entirely abandoned their faith in Ross. John Ridge contacted Ross at Washington in 1833 to explain how the Cherokees were "robbed & whipped by the whites almost every day," and then implored:

I have the right to address you as the chief of the whole Cherokee Nation, upon whom rests, under Heaven the highest responsibility-- and well being of the whole people; and I do trust that you will return as I know you are capable of acting the Part of a statesman in this trying Crisis of our affairs...we all know...that we can't be a Nation here, I hope we shall attempt to establish it somewhere else! Where, the wisdom of the nation must try to find.<sup>44</sup>

On his return from Washington, Ross called an extra session of the

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<sup>43</sup>"Documents in Relation to the Validity of the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 121 (Washington: Blair and Rives, 1838), pp. 3-11.

<sup>44</sup>John Ridge to Ross, February 2, 1833, Ross Papers, Gilcrease Institute.

General Council to report the delegation's work. At the rain-soaked Red Clay Council Ground, Ross reported to the assembly that President Jackson had offered the Cherokees a treaty with a \$2,500,000 allowance for their lands, which he raised to \$3,000,000, provided the Cherokees supervised their own removal. Ross counter-proposed to Jackson that the Federal government buy out those who invaded Cherokee lands and let them emigrate westward. Ross also intimated that the delegation members had been offered a bribe of \$80,000 to induce them to sign a treaty. Furthermore, Ross noted that Elbert Herring, the Commissioner of Indian Affairs, had promised to remove intruders from "the assailed parts of your country." Ross may have read too much into this statement, for he thought he detected a change of heart in Herring. Ross's opponents were not deceived; rather they thought it a plot of Ross to bluff the full bloods. During the summer of 1833, the cold reality of Jacksonian policy was revealed anew when Ross received word that the President would entertain no Indian audience in the coming year. Herring belatedly explained that the "assailed parts" were Cherokee lands in Tennessee and North Carolina--states which had not extended their jurisdiction over the Cherokees.<sup>45</sup>

By mid-1833 Ross sensed the growing power of his opposition and

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<sup>45</sup>Ross to the General Council, May 13, 1833, in Niles' Register, October 19, 1833, p. 121; Benjamin Currey to Elbert Herring, May 3 and 23, 1833, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Herring to Ross et al., March 14, 1833, and John Robb to Ross, June 20, 1833, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 1st Session, Document 386, pp. 17, 19; John Ridge et al. to Cass, April 5, 1833, "Correspondence on the Subject of the Emigration of the Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. IV, pp. 169-170; Herring to Ridge et al., May 1, 1833, in Niles' Register, June 1, 1833, p. 231.

sent letters to his friends in several districts to bolster loyalty to himself and to his cause. He assured his people that "I shall never deceive you and that so far as my feeble talent and ability will permit it shall be exerted solely with the view of promoting the welfare and happiness of the whole people." Lest the appeal of the Ridges be too strong, he warned: "A man who will forsake his country...in time of adversity and will co-operate with those who oppress his own Kindred is no more than a traitor and should be viewed--and shunned as such."<sup>46</sup>

The regular General Council met in October, 1833, and commissioned Ross and four other Cherokees to go to Washington. The General Council called upon the Federal government to pay over to the Cherokee national treasurer \$3,500 out of the annuities in order to meet the expenses of the delegates. Just prior to their departure, Cherokee Agent Montgomery informed Ross that their expenses would be met only if they had the authority and determination to form a treaty upon President Jackson's principles. Therefore, Ross left for the capital city with little hope of getting the tribe's annuities. Perhaps he also realized that the changes were equally slight that Cherokee injustices would be rectified.<sup>47</sup>

Ross had become chief of the Cherokee Nation during an era of diverse and momentous alteration of the traditional way of life. His election to the office demonstrated the shift in Cherokee customs as

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<sup>46</sup>Ross to "My Friends," August 9, 1833, in Hays, comp., "Cherokee Indian Letters, Talks and Treaties, 1786-1838," Vol. II, p. 443.

<sup>47</sup>Act of the General Council, October 31, 1833, General Council to Montgomery, October 31, 1833, and Montgomery to Ross, December 21, 1833, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 1st Session, Document 386, pp. 20-22.



the tribe now looked to leaders who possessed the white man's skills. Internal modification had pushed aside the clan system in favor of familial relations; the code of personal vengeance had been replaced by an intricate legal apparatus, while literacy and Christianity had broadened the vision of the primitive full bloods. Yet the partial adoption of the white civilization did not diminish the reverence of the Cherokees for their land and, despite their numerous advancements, they had to face the increasing threat of loss of their homeland. Ross had mastered the necessary political techniques and possessed genuine qualities of leadership but, more important, he had adopted the Cherokees' instinctive love for their land. Ross's legal maneuvering and personal prowess had diverted the Georgian thrust temporarily, but internal dissension and external pressure had weakened his effectiveness. In the end Cherokee factionalism, state sovereignty, and Federal executive power eroded the once solid Cherokee foundation.

## CHAPTER IV

### CHEROKEE IMPASSE

Factionalism, dating generally from 1832, increased more rapidly over the next two years. The cleavage widened as the Ridge faction became more convinced that Cherokee salvation lay only in removal, while the Ross party was just as firmly set on remaining in the homeland. Internal disruptions were inflamed by the assistance of Federal agents who used the Cherokee rift to further Federal aims. As Ross traveled to Washington, he had only vague notions of the consequences of Cherokee difficulties; neither had he contemplated what extraordinary proposals for settlement he would have to make in coming months.

Ross and the delegation took quarters at the familiar Brown's Hotel in Washington. A brief meeting with President Jackson on February 5, 1834, confirmed their apprehensions that his attitude was still securely set on Indian removal. The next day, Ross presented Secretary of War Cass with a written statement of the delegation's mission. The statement included references to Ross's concern over the reports of Benjamin F. Currey. Currey had been appointed as emigration agent to the Cherokees after impatient Georgians had insisted that Jackson renew the removal process which the President had rescinded earlier awaiting a mass migration of the tribe. Currey also served as a discreet intermediary to the Ridge faction and an alert and often

uninvited guest at all Cherokee gatherings. His reports of the May, 1833, meeting of the Cherokees had been especially derogatory of Ross, and he had praised the pro-treaty faction. He even accused Ross of pilfering and attempting to conceal several documents that the Ridge faction reasoned should be public record. Actually, Ross had not concealed the documents but published them in a petition to Congress in 1834, in which the wording essentially agreed with the allegedly stolen material as reported by Currey. Ross may have been correct in believing that the administration had decided not to correspond with his followers on Currey's advice. Ross declared that his motives were not to deceive the Cherokees, but to safeguard the welfare of the whole Cherokee Nation.<sup>1</sup>

The written statement of the delegation also reminded Cass that the decision of the Federal judiciary had never been adequately enforced in regard to the property rights of the Cherokees. Cass's terse reply brought a note from the Cherokee representatives offering further concessions; the delegates suggested that a portion of the Cherokee land be ceded for the use of Georgia, with the understanding that the United States would then effectively protect the Cherokees on the remainder. Although this plea was directed to Jackson, the delegation received only brusque replies from Cass, who noted that the

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<sup>1</sup>Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Ross et al. to Cass, February 6, 1834, "Memorial of John Ross, and Others," United States Senate, 23rd Congress, 1st Session, Document 386, pp. 22-23; Currey to Herring, May 23, 1833, "Correspondence on the Subject of the Emigration of Indians," United States Senate, 23rd Congress, 1st Session, Document 512, Vol. IV, pp. 411-415; Grant Foreman, Indian Removal; The Emigration of the Five Civilized Tribes of Indians (Norman: University of Oklahoma Press, 1932), pp. 235-236.

questions raised were "beyond the reach of the President."<sup>2</sup>

At this point, Ross felt compelled to propose extraordinary measures which would radically alter the Cherokee way of life. The chief and his anti-removal band recounted Cherokee friendship with the United States and depicted again Cherokee suffering and loyalty at Horseshoe Bend. They conceded that the Cherokee Nation was just emerging from a "natural state of man" and could not soon hope to be amalgamated into a more civilized community; nonetheless, they proposed to cede a portion of their territory to satisfy Georgia and then to "enter into an arrangement, on the basis of the Cherokees' becoming prospectively citizens of the United States." The crucial point for Ross was whether the Cherokees could maintain a separate identity of some sort, and he promised that "the Cherokee people will never consent to sell their freedom, nor dispose of their heritage in the soil which moulders the bones of their ancestors." Feeling they had given their ultimate concessions, the Cherokee delegates were astonished, after a month-long wait, to receive from an administration underling a curt reply which contained no hope of remedy. Ross turned to Congress with a petition on Cherokee grievances, but it lay unread in the Senate Committee on Indian Affairs, which was dominated by southerners.<sup>3</sup>

Other vexing problems were taken before the Jackson administration

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<sup>2</sup>Cass to Ross et al., February 13, 1834, Ross et al. to Jackson, March 12, 1834, and Cass to Ross et al., March 13, 1834, "Memorial of John Ross, and Others," United States Senate, 23rd Congress, 1st Session, Document 386, pp. 23-26.

<sup>3</sup>Ross et al. to Jackson, March 28, 1834, Herring to Ross et al., May 1, 1834, and Ross et al. to the Senate and House of Representatives, May 17, 1834, *ibid.*, pp. 26-28, 31, 1-3.

with as little success. In late 1819 the state of Tennessee had begun to survey the Cherokee portions of her chartered limits with no regard to the lands given as permanent possession in fee simple title to selected members of the tribe. Ross complained of this action and noted that when suits were brought up against the whites who took over the reservees' lands, Federal agents were derelict in prosecuting them. By the 1830's Tennessee had excluded all Indians from taking their cases before the local courts. Cass merely replied that, in view of the time that had elapsed, President Jackson did not consider it within his control.<sup>4</sup>

Occasionally Ross met other Indian delegates in Washington and discussed with them their common hopes and problems. In the winter of 1834 Ross addressed a Seneca delegation in haunting terms expressing Indian sorrow:

We have been made to drink of the bitter cup of humiliation; treated like dogs; our lives, our liberties, the sport of whitemen; our country and the graves of our Fathers torn from us, in cruel succession: until driven from river to river, from forest to forest, and thro a period of upwards of two hundred years, rolled back nation upon nation, we find ourselves fugitives, vagrants and strangers in our own country, and look forward to the period when our descendants will perhaps be totally extinguished by wars, driven at the point of the bayonet into the Western Ocean, or reduced to...the condition of slaves.<sup>5</sup>

Ross's work was hampered by a rival delegation of Cherokees in Washington in 1834, and its presence probably drove him to concede more

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<sup>4</sup>Ross et al. to Jackson, March 17, 1834, and Cass to Ross et al., March 19, 1834, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 120 (Washington: Duff Green, 1835), pp. 4, 6.

<sup>5</sup>Ross et al. to the Seneca Delegation, April 14, 1834, Ross Papers, Gilcrease Institute.

in bargaining than he felt the Cherokee Nation would accept. A disgruntled portion of the tribe had gathered at the Cherokee agency shortly after Ross's departure, elected William Hicks as chief, and commissioned a group to secure a treaty for removal. Upon Jackson's demand for more substantial members of the tribe, this pro-treaty delegation was altered to include: Andrew Ross, T. J. Pack, James Starr, and John West (the original appointees), and Major Ridge, David Vann, and Elias Boudinot (added members). Thus Ross was opposed by two relatives--Andrew, his brother, and Pack, a distant cousin. The pro-treaty faction was not without its own internal dissensions; Andrew wanted to sign a treaty under any circumstances, while Ridge and Boudinot could not accept what they considered the extremes of either of the Rosses, so they withdrew from further discussions.<sup>6</sup>

The regularly authorized Cherokee delegation presented to Secretary of War Cass a protest against the presence of an unauthorized delegation, hurriedly drawn up and purportedly signed by 13,000 Cherokees. The protest was turned over to the Department of War and then was examined by Andrew Ross and his delegation. They found many duplicate names plus signatures of white men, Creeks, women, children, emigrants, and even those who favored emigration. Ross conceded certain errors but said they were made by oversight and not by intent. Ross further stated that 'we have perceived an inclination on the part of (at least some of them) the officers of the Government to discredit

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<sup>6</sup>Ross et al. to Cass, May 14, 1834, and Lewis Ross to Ross et al., April 28, 1834, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 71 (Washington: Duff Green, 1835), pp. 3-4; Wilkins, Cherokee Tragedy; The Story of the Ridge Family and of the Decimation of a People, pp. 251-253.

our every statement." Certainly, the Federal government could not deny that a majority of the tribe was opposed to this self-made delegation. Chief Ross was astonished when John Eaton next informed him that he had been appointed as President Jackson's commissioner to treat with the Cherokees and that "a treaty was in progress."<sup>7</sup>

Andrew Ross and his colleagues, claiming to represent some 1,800 Cherokees, signed a treaty with Eaton on June 19, 1834. The treaty ceded all the Cherokee lands east of the Mississippi for an annuity of \$25,000 for 24 years, various other sums for Cherokee improvements and education and, in addition to the western lands, an expanse of some 800,000 acres later to be called the "Neutral Lands." Supplemental articles contained two interesting points: Andrew Ross was to receive \$1,000 for a "turnpike road," and "ardent spirits" were to be allowed into Cherokee Nation when carried by a Cherokee. The treaty died in the Senate for want of the necessary two-thirds majority.<sup>8</sup>

Ross returned to the Head of Coosa about the first week in August of 1834 and found that his home and fields were advertised in local Georgia newspapers to be offered at public sale, a common occurrence among the Cherokees. As early as 1831 Georgia had ordered that the

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<sup>7</sup>Protest of the Cherokees, 1834, Cass to Ross et al., June 12, 1834, Andrew Ross et al. to Herring, June 2, 1834, Ross et al. to Cass, June 16, 1834, Eaton to Ross, May 26, 1834, and Ross to Eaton, May 29, 1834, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 71, pp. 4-8.

<sup>8</sup>Andrew Ross et al. to the Senate, June 25, 1834, "Memorial of a Delegation from the Cherokees," United States Senate, 23rd Congress, 1st Session, Document 486 (Washington: Duff Green, 1834), pp. 1-2; Articles of Agreement between Eaton and the Cherokee Delegation /Andrew Ross et al./, June 19, 1834, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 133-140.

Cherokee domain be surveyed, and the next year she laid out the area in ten counties. In 1833 the state granted all Cherokee lands within her claimed jurisdiction to local citizens in a grand lottery. Some independent jurists did not fall neatly into step with legislative decrees and one, Judge John W. Hooper of the Cherokee circuit, issued orders restraining new claimants. Ross was able to remove one eager squatter when he took his case, John Ross and Others versus Clyatt and Others, before the Floyd County court. Doubtless Ross realized that these greedy claimants could be delayed only temporarily. This fact was clearly evident when Governor Gilmer, although failing to get the recalcitrant Hooper impeached, easily sidestepped the judge's decisions.<sup>9</sup>

The Red Clay Council Grounds again reverberated in August of 1834 with the sounds of tramping Cherokees coming to hear of their chief's success or failure. John Ridge, present during the meeting was incredulous as he listened to Ross explain the terms the delegation had offered at Washington. Ridge believed that Ross attempted to falsify several concessions that the delegation had proposed to President Jackson, especially the provision for eventual amalgamation with the Union. During the General Council session, Tom Foreman made a heated speech in which he accused John Ridge's father, Major Ridge, of

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<sup>9</sup>Ross to Underwood, August 12, 1834, and Edward Harden to Ross et al., April 7, 1834, Ross Papers, Gilcrease Institute; Coulter, A Short History of Georgia, p. 235; Vipperman, "Wilson Lumpkin and the Cherokee Removal," pp. 74-75, 80-81, 88-89, 91-92, 96; Lumpkin to James M. Wayne, February 1, 1834, in Wilson Lumpkin, The Removal of the Cherokee Indians from Georgia...1827-1841 (2 vols., New York: Dodd, Mead and Company, 1907), Vol. 1, pp. 238-239; Charges Against the Hon. John W. Hooper, Judge of the Superior Courts of the Cherokee Circuit (Milledgeville: Office of the Federal Union, 1835), p. 69, passim.



hypocrisy, saying that the older Ridge had gone around the country telling the people to love their land and then had gone to Washington to give their lands away. Foreman's rhetoric caught the emotion of the crowd, and at one time an excited Cherokee whispered, "Let's kill him." A petition also was presented for impeachment of Major Ridge, John Ridge, and David Vann for declaring sentiments in favor of removal. The impeachment charge was laid aside to be decided at the October General Council meeting.<sup>10</sup>

Foreman's outrage at Major Ridge's position was indicative of the excited condition of Cherokee factionalism. Andrew Ross had been home only a couple of weeks when he discovered plans for his murder and for the murder of T. J. Pack. The meeting in August was further roused by the sensational news that John Walker, Jr., a pro-treaty advocate at Washington the year before, had been shot and killed. His father, Major Walker, accused Ross and his followers of instigating the murder and threatened Ross's life. The elder Walker may have wished he had succeeded in killing Ross while they were in Washington in 1819. So real did threats and rumors seem that friends guarded Ross that night, and he returned home at the end of the General Council under escort. Members of the Ridge family also considered themselves in danger and took precautions for their lives. When news of this threatened violence reached President Jackson at the Hermitage near Nashville, Tennessee, he was so infuriated that he instructed Agent Montgomery to notify Ross that he would be held personally responsible "for every

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<sup>10</sup>Currey to Cass, September 15, 1834, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

Murder committed by his people on the emigrants." President Jackson also directed Montgomery to apprehend any persons who made threats against the emigrants. Chief Ross could not believe that Jackson would assume such powers over the Cherokees, since treaties bound the United States to protect "the whole Cherokee Nation," not any particular branch or faction. Furthermore, Ross declared himself a peaceful man, responsible only for his own acts and not "the private Conduct of Others."<sup>11</sup>

Ross expressed to the Ridges his concern over the growing violence in the nation. Chief Ross met Major Ridge in September to discuss their mutual concern over rumors that Ross was to be assassinated by Ridge adherents. Major Ridge also wanted confirmation of reports that a certain Thomas Woodward was designated by Ross to carry out threats on the Ridges' lives. Ross, of course, denied these allegations and emphasized that it was "high time all such mischievous tales should be silenced." Ross was slow to listen to such evil rumors, as he still believed in the honesty and justice of Major Ridge who had been his friend for so many years. The chief emphasized to John Ridge his sincere wish that "partyism, should be discarded. Our country and

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<sup>11</sup> Ibid.; Currey to Herring, August 25, 1834, and Andrew Ross to Currey, August 17, 1834, *ibid.*; Jackson to Currey and Montgomery, September 3, 1834, and Ross to Jackson, September 15, 1834, in Andrew Jackson, Correspondence of Andrew Jackson, ed. by John Spenser Bassett (7 vols., Washington: Carnegie Institute of Washington, 1926-1935), Vol. V, pp. 288, 292-293. Tom Foreman and his half-brother, A. Springton, were later arrested for the murder of Walker but, since the Tennessee courts where they were tried did not have jurisdiction over Indians, they soon were released. Currey to Jackson, November 10, 1834, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

our people--should be our motto."<sup>12</sup>

The problem of Cherokee annuities never had been adequately settled since the Federal government withdrew the funds in June of 1830 on the pretext that they had to be paid to individual Cherokees. An arrangement was made by Federal officials in March of 1834 that allowed the Cherokees to determine the method by which they wanted the money distributed. An election was set for October 1, 1834. Agent Montgomery prescribed that the election should be conducted at the Cherokee agency with emigration agent, Benjamin Currey, as supervisor. Currey hoped that the site would enable the Indians to be "unawed by any of the pretended Chiefs or their spies." Ross desired to have a clerk and interpreter from Cherokee ranks, but Currey objected, thinking that Ross would make a "Black list" or use a spy "to awe the Indians into compliance." Currey turned his wrath to a personal diatribe against Ross, alleging that he betrayed the interests of the Cherokees in order to line his own pockets. These remarks had little effect on Ross or on the election, for the final tally of votes stood at 388 in favor of paying the annuity funds to Ross, with but one opposed. Currey was convinced that the true sentiments of the Cherokees had not been heard, contending that those opposed to paying the money to the chief and principal officers had not voted, knowing a fraud had been perpetrated. Currey suggested to the Office of Indian Affairs that the annuities still not be paid, saying that the election was a hoax and that the Cherokee national treasurer was not a legitimate

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<sup>12</sup>Ross to John Ridge, September 12, 1834, Ross Papers, Gilcrease Institute.

authority since no elections had been held since 1830.<sup>13</sup>

After the election at the Cherokee agency, Ross returned home to the Head of Coosa to prepare his annual message for the General Council to be held at Red Clay within two weeks. Ross indicated his pleasure at the people's decision on the annuity question and his hope "that the day of retribution will...come, when reparation for wrongs done... will be made...to our suffering people." In recounting the events of the past year, he determined that "no alternative was left the nation...but to persevere in the peaceable course of asserting & maintaining our clearly acknowledged rights." Ross had two great fears concerning the course being pursued by the Federal government: the frustrations and sufferings of the Cherokees in a removal to the West and the probable change of the relations between the Cherokees and the United States which might lessen even more their abused rights. The chief desired that the Cherokees press their case further on the Federal government.<sup>14</sup>

At the meeting of the Cherokee General Council in October, 1834, Currey tried to implement the removal treaty signed in June by Andrew Ross and his band. Chief Ross was incredulous that Currey should even display the treaty, but Currey said to President Jackson that he merely replied to "John Ross and others, purporting to be principal men...of your own fallen Government," that better terms could not be expected.

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<sup>13</sup>Currey to Herring, October 2, 1834, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Ross to William H. Underwood, October 9, 1834, Ross Papers, Gilcrease Institute; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library.

<sup>14</sup>Ross's Annual Message, October 13, 1834, Payne Papers, Ayer Collection, Newberry Library.

The General Council resolved never to assent to it and appointed Chief Ross and four other anti-treaty men as delegates to Washington. Currey noted that the Cherokees at the Red Clay General Council meeting had been keenly aware of the United States congressional elections in 1834 and that the success of the Jacksonians at the polls had had a telling effect. Currey thought Ross's object was to try to outlive the Jackson administration. Ross certainly was getting advice in that direction, for one of the lawyers employed by the Cherokees suggested that when Indians were turned out of their homes, they should stir up excitement which might cause Vice President Van Buren concern over his chances in Ohio, New York, and Pennsylvania for election to the Presidency. But the Cherokees in fact were driven from their homes without violence or commotion. At the close of the General Council, "the friends of free discussion," as Boudinot termed them, met and resolved that "although we love the land of our fathers...we consider the lot of the exile immeasurably more to be preferred than a submission to the laws of the States." This pro-treaty faction may have been somewhat chagrined when the impeachment charges against the Ridges were neither prosecuted nor withdrawn but were simply disregarded.<sup>15</sup>

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<sup>15</sup>Ross et al. to Currey, October 23, 1834, and Currey to Ross et al., October 24, 1834, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 71, pp. 14-16; Ross to the General Council, October 28, 1834, Payne Papers, Ayer Collection, Newberry Library; Resolutions of the Cherokees, November 3, 1834, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 71, pp. 2-3, 16-17; Currey to Jackson, November 10, 1834, and John Ridge to Currey, November, 1834, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Edward Harden to Ross et al., December 17, 1834, Ross Papers, Gilcrease Institute; Resolutions of the Treaty Party, November, 1834, "Documents in Relation to the Validity of the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 121, pp. 11-13.

The Cherokee delegation at Washington in the winter of 1834-1835 appealed to President Jackson on a number of points. Ross sent Jackson a copy of the Georgia law passed in late 1834 which allowed her citizens to occupy the sites which they had won in the land lottery. Adept mixed bloods like Ross had been able to stay the greedy Georgian hand for a time by the use of injunctions, but primitive full bloods had been readily turned out. These peasant farmers were driven from their homes for no reason other than being Cherokee and opposed to removal. Ross appealed to Jackson's humanity in behalf of his suffering people but failed to move the President. As the Cherokees had determined the mode of payment of their annuities, the delegation expected to receive necessary funds while in Washington. When Ross asked if the expenses of the delegation would be paid, Secretary of War Cass reportedly replied, "If you make a Treaty on the terms proposed, yes--not otherwise." Ross retorted that the delegates were "prepared to pay their expenses but not to sell their consciences." Another question of money was discussed when the delegation discovered a deficiency of \$3,500 and demanded reimbursement. As was the custom in the Jackson administration when United States financial irregularities were alleged by Indians, the problem was explained away by a government excuse. Cass explained that the difference was due to paying for the removal of emigrant Cherokees. Ross, feeling the matter was useless to argue, dropped the issue and the Cherokee delegation then turned to other issues.<sup>16</sup>

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<sup>16</sup>Ross et al. to Cass, January 14, 1835, "Memorial of John Ross and Others," United States Senate, 23rd Congress, 2nd Session, Document 71, pp. 17-18; Ross et al. to Cass, February 18, 1835, Herring

Ultimately Ross proposed what he must have considered the most extreme concession his people would accept. On behalf of the Cherokee Nation, the delegation proposed to grant the United States an extensive portion of Cherokee territory. From their once vast domain, the Cherokees would retain only a remnant along the borders of Tennessee, Georgia, and Alabama, plus a small tract in North Carolina. They expected the United States to guarantee their lands without restriction of ownership and to protect them from intruders, and they contemplated United States citizenship as freemen. Ross felt it only just that the original inhabitants of these lands be granted the same privileges that European immigrants had obtained. To this address, Secretary Cass replied by noting the "melancholy result" if the United States were to grant these wishes and recommended that "nothing short of an entire removal...would terminate this difficulty." Cass explained that President Jackson's earlier reticence was due to the repetitious nature of Cherokee proposals.<sup>17</sup>

Ross and his colleagues now felt driven by necessity to suggest concessions which had little chance of passage if sent before the Cherokee Nation. This situation arose because a rival delegation led by John Ridge and Elias Boudinot was also present in Washington preparing treaty terms. Fearing that the United States Senate might be

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to Cass, February 20, 1835, and Cass to Ross et al., February 21, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 352-353, 96.

<sup>17</sup>Ross et al. to Cass, February 14, 1835, and Cass to Ross et al., February 16, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 129-133.

more amenable to Ridge's terms than that body had been toward Andrew Ross's proposed removal treaty the year before, Ross moved desperately with exaggerated propositions. Ross suggested that the United States pay the Cherokees \$20,000,000 for all their lands east of the Mississippi River and protect the tribe from incursions for five years by which time the Cherokees would resettle. Also, the Federal government would reimburse the tribe for all losses sustained in violation of former treaties and would pay an indemnity for claims under the Cherokee treaties of 1817 and 1819. Ross reiterated, nevertheless, that no amount of money could induce the Cherokees to leave if they felt that they could be adequately protected by the Federal government in their homelands.<sup>18</sup>

On the morning of February 18, 1835, members of the Ross faction seated themselves around the office of Secretary of War Cass, hoping to work out verbally what written communications would not yield. Although Jackson had considered Ross's terms extravagant, Cass had reopened negotiations when Ross reminded him that the President often had remarked that "he would grant us as liberal terms as the Senate... would be willing to allow." Cass asked the delegation to put its terms in writing, and he stepped out of the room as the group discussed the issue. When Cass returned, Ross gave him the decision "to abide by the award of the...Senate...and to recommend the same for the final determination of our nation." Cass agreed and assured them that the President would "go as far as the Senate." Cass also agreed to make available minutes of the Senate proceedings. Ross and his associates

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<sup>18</sup>Ross et al. to Cass, February 25, 1835, *ibid.*, pp. 126-129.



retired, confident that the Senate would justify their trust.<sup>19</sup>

But the Senate did not accept Ross's propositions. In spite of petitions and entreaties to old friends in the Senate, that body would not set the sum for removal beyond \$5,000,000. President Jackson, triumphant, was then ready to treat with Ross on the basis of his pledge, at least as he and Cass interpreted the pledge. Opinions then and now differ on Ross's promise. Ross was a strict constructionist on the Cherokee constitution which would not allow anyone to make treaties independently without the Cherokee Nation's consent. Ross desired to see the whole record of the proceedings of the Senate as Cass had promised in their meeting on February 28, but the Secretary of War now refused and cut off further written communications. At another private meeting Cass intimated that Jackson might even enter into a treaty with the Ridge faction, but he promised that the President would move with "a just regard...for individual rights." Ross pledged to take the treaty to the Cherokee Nation and to comply with every promise that had been made. Perhaps on this latter point Ross proved unfaithful for it seems he did not "abide the award...and recommend the same" as he had stated.<sup>20</sup>

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<sup>19</sup>Cass to Ross et al., February 27, 1835, and "Memorandum B, for Mr. Ross and his party," February 28, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 96-97; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Ross et al. to Cass, February 27 and 28, 1835, and Memorial of the Cherokee Delegation, March 3, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 129, 141, 124-125.

<sup>20</sup>Memorial of the Cherokee Delegation, March 3, 1835, Ross to Theodore Frelinghuysen, March 3, 1835, Cass to Ross et al., March 6 and 7, 1835, and Ross et al. to Cass, March 6 and 9, 1835, *ibid.*, pp. 124-126, 142-146.

Ross's defeat was bitter, and he reached out blindly in other directions. He asked a friend, Baron Roenne, Chargé d'Affaires of Prussia, to give him a letter of introduction to the Mexican Chargé d'Affaires in Philadelphia, Señor J. M. de Castillo y Lanzas. Ross recounted to Roenne the "unparalleled oppression which have been heaped upon the Cherokee people" and thought it "desirable to explore some of the provinces of Mexico...for settling a Colony within its sovereign Jurisdiction." In mid-March of 1835 Ross met Lanzas in Philadelphia and presented him with the Cherokee constitution and other documents to illustrate the tribe's state of advancement. Ross spoke of the "caprice and whim of power" which necessitated a Cherokee removal, and of possible arrangements for migration to Mexico, provided the Cherokees could obtain full rights of citizenship. Ross insisted that if some plan could be worked out, the Cherokees must not be settled in the midst of colonists from the United States. Ross's propositions developed out of anguish and despair and, whether answered or not, were never acted upon.<sup>21</sup>

Ross's return to the Cherokee Nation in the spring of 1835 was a melancholy affair, for creeping Georgian incursions finally had reached his home. Colonel William N. Bishop, head of the Georgia Guard, attempted to contact Ross in Washington to inform him that he had put the legal claimant to his property in full possession of his home, fields, ferry, and improvements. Ross did not receive this message

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<sup>21</sup>Ross to Baron Roenne, March 5, 1835, Ross Papers, Indian Archives Division, Oklahoma Historical Society; Roenne to Lanzas, March 6, 1835, and Ross to Lanzas, March 22, 1835, Ross Papers, Gilcrease Institute.

while in Washington and traveled home unaware of his family's plight. Arriving about ten o'clock one evening, Ross dismounted and ordered his horse put up. To his astonishment he found himself a stranger in his own home and his family turned out. He paid the arrogant occupant for the care of his horse in that brief stay and departed in search of his family. Ross eventually moved across the Tennessee border near the Red Clay Council Grounds. There, a half mile south of Flint Springs, Ross established Red Hill as his residence until 1838. In a rough-hewed log house of barely two rooms, the chief shared the common sufferings of his people.<sup>22</sup>

Individuals who were more amenable than Ross to the idea of removal often were given special consideration. Governor Lumpkin informed Elias Boudinot that he would ask Colonel Bishop to delay the grant for his lands and improvements. Likewise, the seizure of Major Ridge's house and ferry was held up while he was in Washington "doing all in his power to effect a negotiation." Emigration Agent Currey was ready even to use the military to protect Major Ridge's property, and the Georgia legislature ruled his ferry immune from seizure. Conversely, intimidation and bribery were used toward recalcitrant Cherokees. Currey, after saying that he had not the "slightest wish to

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<sup>22</sup>Bishop to Ross, March 17, 1835, John Drew Papers, Gilcrease Institute; James F. Smith, The Cherokee Land Lottery (New York: Harper and Brothers, 1838), p. 40; John Morgan Wooten, A History of Bradley County (Nashville, Tennessee: Tennessee Historical Commission, 1949), p. 71; Ross et al. to the Senate and House of Representatives, June 21, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 5-6. Ross's lot, number 244, district 23, section 3, was drawn by Stephen Carter of Fayette County; it is now the site of Rome, Georgia. Official Records of the Georgia Surveyor General Department, Office of the Secretary of State, Atlanta, Georgia.

awe any one into the acceptance of these terms by threats or menaces," informed Lewis Ross that his property on the agency grounds would be seized if he used his influence to prevent acceptance of the treaty. Governor Lumpkin offered John Martin, another anti-treaty Cherokee, the continued use of his extensive lands and home if he would use his influence in the Georgian cause. Both Lewis Ross and Martin were eventually deprived of their homes when they refused these terms.<sup>23</sup>

According to the usual custom, the returned delegation called a meeting of the General Council and all other Cherokees for the second Monday in May to explain the proceedings in Washington. Ross was somewhat surprised then to learn that Emigration Agent Currey had sent out notices to call a meeting of all Cherokees the first Monday of the month at Major Ridge's farm home, Running Water. Ross protested any meeting called by private arrangement, and he feared that the intent of the meeting was to reopen the question of the method of paying annuities. Ross, of course, felt that the question had been settled the year before when the tribe had voiced its approval of allowing tribal authorities to handle the funds. Nevertheless, Currey went ahead with his meeting at Major Ridge's, which lasted but two days due to incessant rains and a paucity of attendants. Currey felt that Ross's runners had convinced the mass of Cherokees not to attend

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<sup>23</sup>Lumpkin to Boudinot, August 6, 1835, in Lumpkin, The Removal of the Cherokee Indians from Georgia...1827-1841, Vol. 1, pp. 362-363; Currey to Herring, January 15, 1835, and Currey to Lewis Ross, April 14, 1835, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives; Vipperman, "Wilson Lumpkin and the Cherokee Removal," p. 103; Wilkins, Cherokee Tragedy; The Story of the Ridge Family and the Decimation of a People, p. 241.

and decided on a July gathering to determine the annuity question.<sup>24</sup>

Ross assembled the Cherokees at the Red Clay Council Grounds on May 11, 1835. Nearly 1,000 were present, and the constituted members put 517 signatures to a protest against Currey's actions. Currey lingered near the council ground and reported the proceedings to his superiors in Washington. Ross addressed the special meeting on May 18 and explained the Washington negotiations in order that "the propositions which were submitted...to the President & rejected by him, should be clearly understood." Ross emphasized that the delegation's actions were not binding and required approval by the whole Cherokee Nation. The phrasing of this speech touched but lightly on the actual promises made by Ross in Washington. Currey accused the chief of negligence and deceit and added that Ross had omitted significant portions of the Ridges' treaty proposals, and loyal interpreters had deleted others. Ross dwelt on his familiar themes of "unanimity of sentiment & action" and used strongly worded phrases about the Ridges' collusion with the Jackson government. John Ridge felt that Ross had duped the ignorant Cherokee masses and that few understood the measures the treaty party had worked out. Actually, most of the Cherokees had long since put their faith in Ross who had convinced them that he could save them from dispersion or at least could obtain the best

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<sup>24</sup>Currey's Notice, April 16, 1835, and Ross to Currey, April 26, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 44-45; Currey to Herring, May 6, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, p. 368.

possible treaty.<sup>25</sup>

Ross hoped to circumvent the annuity problem and avoid the imposition of another special meeting that Currey had set for July 20, 1835, at Running Water, the farm home of Major Ridge. On June 2 Ross had requested Lieutenant M. W. Bateman, a regional disbursing agent who held the Cherokee funds, to pay the annual requisition to John Martin, the Cherokee Nation's treasurer. Bateman decided that the money would be paid as directed by the people at the conference in July. During the summer of 1835 a new figure strolled across the Cherokee stage, the Reverend John F. Schermerhorn. Imbued with a sense of missionary zeal, the "devil's horn" as the anti-treaty Cherokees denoted him, was appointed as commissioner with Governor William Carroll of Tennessee to make final treaty arrangements for removal. Ross appealed both to Schermerhorn and Currey to alter the place of meeting either to Red Clay or the Cherokee agency grounds, but both refused to order a change. Therefore, Ross sent out runners, and within ten days over 2,500 Cherokees had gathered at Running Water.<sup>26</sup>

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<sup>25</sup> Cherokee Resolution, May 12, 1835, "Memorial of the Cherokee Delegation," United States Senate, 24th Congress, 1st Session, Document 340, p. 6; Ross to the General Council, May 18, 1835, Payne Papers, Ayer Collection, Newberry Library; Currey to Herring, May 23, 1835, and Underwood and Ridge to Cass, May 13, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 368-371.

<sup>26</sup> Ross to Bateman, June 2, 1835, *ibid.*, p. 377; Ross to Schermerhorn and Currey, July 7, 1835, Schermerhorn to Ross, July 7 and 9, 1835, and Currey to Ross, July 9, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 46-48; R. J. Meigs, the younger, "Journal Kept While Serving as Secretary of John F. Schermerhorn," Unpublished Typescript, Southern Historical Collections, University of North Carolina, Chapel Hill, North Carolina.

The scheduled assembly of all Cherokees opened on July 20 with a prayer by the native preacher, John Huss, and the singing of a hymn in Cherokee, accompanied by the somber notes of fife and drum of the Georgia Guard stationed nearby. Currey made some introductory remarks, hinting that Ross was deluding the people. Ross rose and stated, "I am not a party man...in what I have done, I have been actuated by a desire to promote the best interests of my people. I have no enmity to Mr. Ridge." John Ridge then took the stand and remarked, "It is long since I have been accustomed to hear such language from him Ross." Ridge acknowledged his differences with Ross and stressed that he, too, had been moved by a sense of duty to his people. Commissioner Schermerhorn then made a short speech calling for a reconciliation between Ross and Ridge and asked permission to present a plan the next day to help effect that object. With these speeches finished, Archilla Smith, a pro-treaty man, made a motion that the annuities be paid to individual Cherokees; the motion was seconded by John Ridge, and Ridge used the occasion to justify the position of the treaty faction. Edward Gunter, a close friend of Chief Ross, then moved that the annuities be paid to the Cherokee national treasurer in the traditional manner. Due to the lateness of the hour, the vote on the annuity question barely got underway, and the remaining business was postponed until the next day. Ross reminded Schermerhorn that the people had come prepared for only one day, so Schermerhorn requisitioned additional rations.<sup>27</sup>

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<sup>27</sup> Ibid.; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Schermerhorn to Herring, August 3, 1835, and Currey to Herring, July 27 and 30, 1835, "Report from the Secretary of War...in

At nine o'clock the next morning, Commissioner Schermerhorn approached the pulpit-like stand he had instructed workmen to build during the preceding evening, but Ross deterred his step and suggested that the voting be completed first. Schermerhorn saw this as a ploy to finish the vote and then have the Cherokees drift away during his talk. Perhaps he already realized the outcome of the vote. Nonetheless, Ross yielded, and Schermerhorn commenced his address. Schermerhorn's secretary considered the commissioner's talk "excellent" and took notes on five or six sheets of paper while the Indians listened "with great gravity and serious attention." Another observer noted that anxious Cherokees idled about during the three and one-half hour speech. The substance of the speech sought to prove President Jackson's sincerity and to outline the liberal articles of the projected treaty which had been worked out with Ridge and Boudinot. Again, the voting could not be completed. On the third day, July 22, the issue was settled when 2,225 voted against Smith's motion, and only 114 supported it. Major Ridge immediately proposed an amendment to Gunter's resolution to the effect that none of the money would be used to pay legal fees. Again, the Ridge faction used this as a pretext to gain sympathy for their cause by a number of speeches, but the amendment was withdrawn, and Gunter's motion was quickly passed by acclamation. Lieutenant Bateman, the regional disbursing agent, then

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Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 450-451, 390-391, 395-397.



turned over the annuity funds to Martin, the Cherokee treasurer.<sup>28</sup>

On reporting these events, Schermerhorn declared that Ross had an "uncontrolled sway over the Indians," and that the Cherokees were dictatorially "drilled equal to a Swiss guard, to do only what they were bidden." Nevertheless, the commissioner was not adverse to arranging treaty settlements with this alleged tyrant. Near the close of the meeting, he inquired if Ross had appointed a committee to meet with him and Governor Carroll, and when Ross replied in the negative, Schermerhorn requested that members of the two factions join him at the Cherokee agency on July 29. Ross declined, citing general fatigue of the people occasioned by the harsh weather and privations during the council. Ross also pointed out that the consensus of the leading men of the Cherokees was to meet the commissioners at the General Council in October.<sup>29</sup>

Discouraged by the discord that had attended the meeting, Ross hoped to work out some accord with the Ridge faction without the interference of designing whites. Thus, he asked Major Ridge and his son, John, to attend a special meeting in order to restore "brotherly confidence and harmony," a conference which was to be "purely Cherokee, and

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<sup>28</sup>Meigs, "Journal Kept While Serving as Secretary of John F. Schermerhorn," Southern Historical Collections, University of North Carolina; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Schermerhorn to Herring, August 3, 1835, and Currey to Herring, July 27 and 30, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 451-461, 391-392, 397-398, 448.

<sup>29</sup>Schermerhorn to Herring, August 3, 1835, *ibid.*, p. 461; Ross to Schermerhorn, July 24, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, p. 55.

composed of a chosen few." On the morning of July 31, after receiving Ross's invitation, the two Ridges with 20 of their followers reined their horses at the chief's gate. Ross rose from his breakfast table to welcome the guests and asked as many as could get in to share his morning meal. They passed the day in pleasant conversation, but nothing was said of the difficulties. In fact, nothing came of this closed meeting; distrust and disharmony actually grew more intense. Many Cherokees questioned Ross's motives for meeting with the Ridges and feared rumors that Ross had joined the treaty faction.<sup>30</sup>

The breach between Ross and the Ridge faction widened when the Cherokee national press was seized in August of 1835. Stand Watie, sometime editor of the Cherokee Phoenix and younger brother of Elias Boudinot, descended with the notorious Georgia Guard on Elijah Hicks's house during his absence and confiscated the press, types, books, and paper. The seizure occurred only hours before wagons sent by Ross arrived to remove the press to the Red Clay area for its protection. Ostensibly, the Ridge faction intended to reinvigorate the moribund paper with the idea of making it an open forum for all Cherokee views. When Ross complained to Currey of this outrage, the enrolling agent attacked the chief on counts of nepotism and deceit, and informed him that the press would remain in the hands of Boudinot and Watie. Currey even had suggested that the press belonged to Boudinot, since he had financed its continuation through a fund-raising tour in the East. Ross contended that the press belonged to the Cherokee people and was

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<sup>30</sup>Ross to Major Ridge and John Ridge, July 30, 1835, and Major Ridge and John Ridge to Ross, July 31, 1835, *ibid.*, pp. 60-61; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library.

to be administered through their constituted authorities. Even when the factions reached a short-lived reconciliation in October and both parties signed a request to have the press returned, Currey would not accede, and the press was never returned.<sup>31</sup>

John Howard Payne, essayist, poet, playwright, and composer, probably best known for his sentimental "Home, Sweet Home," drifted into Cherokee affairs at this time somewhat by accident. On a tour of the United States to promote subscription to a projected literary magazine, Payne passed through Georgia and heard that Ross possessed manuscripts by Charles Hicks that described the Cherokee oral traditions. Further, he had heard numerous and contradictory comments on Ross and wanted to form his own opinion. "I found Mr. Ross a different man, in every respect, from what I had heard him represented to be," Payne wrote some unknown correspondent, and further described Ross as

of the middle size, rather under than over...he is mild, intelligent, and entirely unaffected. I told him my object. He received me with cordiality. He said he regretted that he had only a log cabin, of but one room to invite me to, but he would make no apologies....From a visitor, I afterwards learned how the principal chief of so many thousands happened to live in such discomfort. The story contains the story at this moment of the whole nation.... It was...hard conduct which had driven the principal chief to one of the humblest dwellings in his nation.<sup>32</sup>

Ross convinced Payne to stay for the October General Council where

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<sup>31</sup>Ross to Schermerhorn and Currey, August 22, 1835, Currey to Ross, September 9 and October 27, 1835, and Ross to Currey, October 27 and 28, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 61-63, 82-83; Ross et al. to Cass, April 22, 1836, Cherokee Agency East Letters Received, Office of Indian Affairs, National Archives.

<sup>32</sup>Payne to /?/?, October 11, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, p. 574.

he could learn firsthand from some of the ancient members of the tribe the long and melancholy history of the Cherokees. Payne awoke the day before the meeting to view the streaming spectacle of Cherokees approaching Ross's home enroute to the nearby Red Clay Council Grounds:

The woods echoed with the trampling of many feet: a long and orderly procession emerged from among the trees, the gorgeous autumnal tints of whose departing foliage seemed in sad harmony with the noble spirit now beaming in this departing race. Most of the train was on foot. There were a few aged men, and some few women, on horseback. The train halted at the humble gate of the principal chief: he stood ready to receive them. Everything was noiseless. The party, entering, loosened the blankets which were loosely rolled and flung over their backs, and hung them, with their tin cups and other paraphernalia attached, upon the fence. The chief approached them. They formed diagonally in two lines, and each, in silence, drew near to give his hand.<sup>33</sup>

On the first day of the General Council, October 12, 1835, Ross delivered his annual message. The chief reiterated many of the points he had made in the May special meeting on the negotiations of the delegation at Washington the preceding winter, but this time in terms more explicit and better thought-out than his stumbling oration in May. Ross was quite specific in regard to the United States Senate's action on the amount to be given for Cherokee lands, and two points in particular he considered especially telling. First, President Jackson had not formally submitted the propositions to the Senate but had merely requested the Senate Committee on Indian Affairs to bring up the question. Jackson had led the Senate to believe that he actually had nothing to submit and that when a treaty was effected, he would then call on the Senate to ratify it. Under these circumstances, Ross believed that the action of the Senate was "nothing more than a mere

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<sup>33</sup> Ibid., p. 578.

expression of opinion, which cannot be obligatory on the President." Second, since the resolution of the Senate was merely an opinion and not an award, Ross felt that there was "no committal on the part of the delegation," nor was the "nation in any degree entrammelled" by the Senate's action. As the Cherokees had vigorously shown their disapproval of the Senate's resolution, Ross thought it expedient to appoint another Cherokee delegation to go to Washington to settle these difficulties. Ross closed the address with his characteristic challenge: "Let us be united...and leave a character on the page of history that will never dishonor the name of the Cherokee nation."<sup>34</sup>

The remainder of the council was spent in taking up various propositions offered by Commissioner Schermerhorn. William Carroll, Schermerhorn's associate commissioner, had been in the Cherokee Nation only at the late July meeting, which Ross did not attend, and confessed that his rheumatism was so painful that he could not participate in future negotiations. Nevertheless, his ailments did not hamper his work with the Tennessee legislature, for he secured acts to extend the laws of Tennessee over the Cherokees and to prevent the tribe from settling on the state's domain. The General Council rebuffed Schermerhorn's petitions for a hearing, so the indignant commissioner produced a self-made document which discredited Ross and the mixed blood Cherokee leadership. The drift of his arguments was that Ross and his supporters had somehow renounced their claim to Cherokee

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<sup>34</sup>Ross's Annual Message, October 12, 1835, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098 (Washington: no imprint, 1842), pp. 41-43.

citizenship when they accepted the terms of the Cherokee treaties of 1817 and 1819. Ross would in later times find it necessary to answer these recurrent charges, but Schermerhorn's address he simply considered "irrelevant and ungracious." The General Council resolved not to treat with Schermerhorn and hardly recognized his presence. As a further slap at Schermerhorn's commission, a delegation was appointed to attend to deliberations in Washington.<sup>35</sup>

During the October meeting, Ross asked for a meeting of the two factions to work out the accord he had earlier sought in July. Five men of the Ross faction met with a like number from the Ridges' group hoping to minimize their differences. These men agreed to "bury in oblivion all unfriendly feelings, and act unitedly in any treaty arrangement with the United States." This apparent harmony resulted in a resolution to appoint 20 men to work out the difficulties between the United States and the Cherokee Nation, either there on the Red Clay Council Grounds or at Washington. Of the 20, Ross and 16 others were from the anti-treaty faction, while John Ridge, Elias Boudinot, and Charles Vann represented the treaty party; the numerical proportion within the committee was supposed to be roughly equivalent to the strength of their adherents.<sup>36</sup>

Commissioner Schermerhorn saw an opportunity for success and

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<sup>35</sup>Carroll to Schermerhorn, October 13, 1835, Schermerhorn to the Cherokee Nation, October 17, 1835, Ross to the General Council, October 22, 1835, and Resolution of the General Council, October 23, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 89, 65-79.

<sup>36</sup>Ross to Major Ridge and John Ridge, October 19, 1835, Major Ridge and John Ridge to Ross, October 19, 1835, and Agreement of the Two Parties, October 24, 1835, *ibid.*, pp. 81-82.

arranged to meet with the ad hoc committee on the afternoon of October 27, 1835, at Red Clay. He presented an elaborate set of proposals carefully worded with occasional blank spaces for negotiating monetary claims, but this bargaining piece contained only slight modifications from the earlier one with the Ridges and still retained the standard sum of \$5,000,000. The committee questioned Schermerhorn on several points in relation to his activities and his proposed treaty. Members of the committee were willing to overlook the inadequacy of his credentials which came from the secretary of war rather than the President; they would waive the objection that he represented only half of the commission appointed, and they even were willing to disregard the fact that his credentials allowed him simply to negotiate a treaty and not to sign one. In fact, all these objections could be relaxed, and they would even forget Schermerhorn's remarks about the unsuitability of Ross and other mixed-blooded council members. But the articles of this treaty, they asserted, had "no real variation from those against which the Cherokee Nation have already openly and formally protested." Schermerhorn's treaty lay unsigned, but the resilient commissioner advised Ross that he would proceed with the prearranged council at New Echota in December. "If the Cherokee people refuse the terms of a treaty," he warned, "on their own heads must rest the consequences." He further predicted that no Cherokee delegation would be received in Washington.<sup>37</sup>

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<sup>37</sup>Ross et al. to Schermerhorn, October 27 and 28, 1835, Schermerhorn to Ross et al., October 27 and 30, 1835, and Schermerhorn's Proposed Treaty, October 28, 1835, *ibid.*, pp. 87-88, 93-99, 90-91.

On Saturday evening, November 7, between the hours of eleven and midnight, Ross and John Howard Payne were engaged in writing when suddenly a band of about 25 armed Georgia Guards burst into the Red Hill cabin and arrested the two men. The interlopers hastily gathered up what public papers they could find and, when the leader, a certain Sergeant Young, began to rifle through Payne's personal belongings, the poet stoutly protested. "Hold your damned tongue," Young sneered and struck him across the face. The Georgia Guards then carried their prisoners through the night in a torrent of rain some 24 miles to the Old Moravian mission at Springplace within the chartered limits of Georgia. Payne must have thought it ironic that as they rode along, one guard hummed the tune of "Home, Sweet Home." During the days ahead Ross and Payne began to gather clues as to the cause of their arrest. Payne was believed to be an abolitionist, perhaps a French spy, and Ross was accused of impeding the census of the Cherokees; often the names of Colonel Bishop and Major Currey were heard in the background.<sup>38</sup>

After a brief meeting with Bishop and a longer interview with John Ridge, who had discovered their plight, Ross was released on November 16. Ross may partially have bought his freedom when he wrote Governor Gilmer of Georgia. He intimated that nothing could really be settled until a delegation with sufficient powers reached Washington, and Ross as the leader of the delegation promised "no exertion shall be

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<sup>38</sup> John Howard Payne, "The Captivity of John Howard Payne," North American Quarterly Magazine, Vol. VII, No. 33 (January, 1836), pp. 107-124; Claim of John Ross /undated/, Ross Papers, Indian Archives Division, Oklahoma Historical Society. Ross claimed an indemnity of \$100,000 for this indignity, but it is unlikely that he ever received it. Ibid.



wanting on my part to favor its adjustment." Payne was released four days after Ross. Payne and Ross wrote and met on several occasions after their imprisonment, and both were convinced that Currey and Schermerhorn were the instigators of the plot. It is doubtful that Currey and Schermerhorn would have made such a ridiculous mistake, and it seems more reasonable to assume that the Georgia Guard possessed an exaggerated sense of power.<sup>39</sup>

The accord which had bloomed in October began to fade in November. Boudinot resigned his appointment as a member of the bipartisan delegation; perhaps he knew the Washington negotiations with Ross as leader would fare no better than the interviews with Schermerhorn, or perhaps he had more definite plans. Boudinot later alleged that Ross had made unauthorized additions to the two-party compact which would negate the usefulness of the delegation. He further insinuated that Ross had added another member to the delegation in disregard of the compact which called for only 19 delegates. Actually, Ross appointed another member upon the insistence of some Cherokee citizens who felt themselves under-represented and only after the approval of the General Council. John Ridge became incensed when publications appeared in the Knoxville Register over the signature of Payne. Payne recounted his imprisonment but then continued with a plea entitled "The Cherokee Nation to the People of the U. States." In this polemic Payne embraced entirely the sentiments of the Ross faction to the extent that Ridge

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<sup>39</sup>Ross to Gilmer, November 13, 1835, and Payne to Ross, /November 20, 1835?/, Ross Papers, Gilcrease Institute; Payne to Ross, January 4 and 15, 1836, and Ross to Payne, January 7, 1836, Payne Papers, Gilcrease Institute.

thought it had been prepared at Ross's suggestion. Ridge found the impact of the tract "diametrically opposite" his views and, not wishing to wage a political war, asked that his name be withdrawn as a member of the delegation. Ross countered that his views were not set on any fixed course and that Payne had written the account based on his own impressions. Ridge must have accepted these explanations, for he remained a part of the delegation and journeyed on to Washington.<sup>40</sup>

Shortly before his departure, Ross received a note from Currey, the emigration agent. Hoping to daunt Ross's resolve to make the Washington trek, Currey enclosed correspondence from Secretary of War Cass and Commissioner of Indian Affairs Herring. Cass wrote that it would be "utterly useless...for the proposed delegation to come here, under any expectation of holding communications with this Department." Cass also had informed Schermerhorn that President Jackson was "decidedly opposed" to the commissioner's suggestion to negotiate for removal with a small portion of the tribe if he could not effect a settlement with the majority. In unambiguous terms Cass continued: "It is out of the question to attempt to make an arrangement with a part of the nation. You will therefore relinquish any such expectation." Both Ross and Schermerhorn paid little heed to these instruc-

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<sup>40</sup>Boudinot to /7/, May 16, 1836, "Documents in Relation to the Validity of the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 121, pp. 15-17; Ross to the General Council, October 24, 1835, Resolution of the General Council, October 24, 1835, Boudinot to Ross, November 25, 1835, John Ridge to Ross, December, 1835, and Ross to John Ridge, December 4, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 83-84, 101-102; John Howard Payne, John Howard Payne to His Countrymen, ed. by Clemens de Baillou (Athens: University of Georgia Press, 1961), pp. 49-61.

tions; Ross with a number of other delegates departed for Washington on December 2, 1835, while Schermerhorn prepared for the meeting at New Echota to be held on December 21.<sup>41</sup>

Ross sought in his propositions to the Federal government in 1834 and 1835 some alternative to a general Cherokee removal. Always acknowledging the backward condition of his people, he nevertheless made the extraordinary proposal of United States citizenship for the tribe, a step admittedly ahead of its time. In more moderate offers, Ross followed the will and direction of the Cherokees as well as his conscience. He seriously considered the dissipated and disruptive situation the Cherokees would have faced had he gone with Andrew Ross's scheme in 1834 or the Ridges' plan in early 1835. Leaderless but still resisting removal, the Cherokee Nation would have fallen an easy prey to every whim of Georgia or the Federal government. Surely, Ross's resistance to removal was not motivated by a desire for personal gain. After having been driven from his home, deprived of his fields and ferry, unable to secure the Cherokee Nation's annuities, threatened by his own people, intimidated by Federal officials, and even imprisoned by the Georgia Guard, Ross must have felt that his course of action promised no immediate personal wealth. Perhaps dedicated service was his motivation. Yet, he was challenged by members of his own faction when he sought harmony with the treaty proponents at the same time that

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<sup>41</sup>Currey to Ross et al., November 30, 1835, and Ross et al. to Currey, December 2, 1835, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, p. 103; Cass to Schermerhorn, September 26, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," 25th Congress, 2nd Session, Document 120, p. 124.

he was blamed for acts of violence by resisters to removal. Within the next few weeks, Ross's opponents sealed the fate of the Cherokee Nation by signing a document which became the dividing wedge so passionately dreaded by the chief.

## CHAPTER V

### THE TREATY OF NEW ECHOTA

The Reverend John F. Schermerhorn, turned Federal commissioner, had a preacher's penchant for proselyting, but during his six-month sojourn in the Cherokee Nation, he could barely count one new soul solidly converted to removal. He was further distressed that he was recalled at the very moment when he felt he could achieve glory by completing a removal treaty. The commissioner already had sent out a notice to the "Cherokee nation of Indians" to meet with him and his co-commissioner at New Echota on the first day of winter in 1835. With Ross in Washington, the commissioner saw a chance to effect a treaty, despite general Cherokee opposition and official orders to the contrary. The ever-ailing Tennessee governor again failed to arrive, but neither this nor anything else deterred Schermerhorn.<sup>1</sup>

Major Ridge and his close-knit supporters arrived at New Echota December 19, and the bulk of pro-treaty troops had gathered three days later. The meeting convened on December 22; John Gunter was appointed presiding officer and Alexander McCoy as secretary. In the following two days Schermerhorn addressed the assembled Cherokees "in his usual

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<sup>1</sup>Notice of Carroll and Schermerhorn, November 3, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, p. 518; Royce, "Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, p. 281.

style, only a little more so," as one Ross adherent put it. Currey, the Federal emigration agent, was reading the proposed treaty when the roof of the house caught fire, and the gathering quickly scattered. One pro-Ross bystander thought the fire "emblematical of the indignation of Heaven at the unlawful proceedings within." Nevertheless, the reading of the treaty was completed, and Currey suggested appointing a committee to discuss its terms. A committee of 20 was designated, which included Ross's principal opponents, Major Ridge, Elias Boudinot, John Gunter, Archilla Smith, and the chief's brother, Andrew. On December 28 the assembled Cherokees were not surprised to learn that the committee had concurred with the suggested treaty, and these same men were elected by the assembly to close the settlement. Also, a committee of 13 was delegated to carry the completed document to Washington. On the evening of December 29 the committee reconvened, and according to a Ross supporter "about midnight, the fatal act was committed."<sup>2</sup>

On the day the New Echota group assembled, Chief Ross enroute to Washington, had stopped at Salem, North Carolina, to visit his daughter, Jane, who had recently enrolled as a student at the Moravian Female Academy. Ross and his friends arrived in Washington and rented rooms at Mrs. Arguelles' boarding house, where they were met by John Ridge and Stand Watie who probably had arrived on December 17. On

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<sup>2</sup>Schermerhorn to Herring, December 19 and 31, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 494-497; James J. Trott to Cherokee Delegation, January 6, 1836, and Minutes and Resolutions of the New Echota Council, December 22, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 120-121, 112-114.

January 2 the Ross delegates presented their credentials and requested an interview with Secretary of War Cass and President Jackson. At a private interview with Cass four days later, they learned the points on which the President would be unyielding. He would not increase the offer of \$5,000,000, no individual reservations would be allowed, and all financial stipulations would be paid to individual Cherokees and not to the authorities of the Cherokee Nation. Unaware of transactions in the Cherokee Nation, the secretary noted that Schermerhorn had contemplated bringing a Cherokee delegation to the city but had been instructed not to do so. The next day at 11:00 a.m. the anti-treaty Ross contingent met with Jackson. The President implied that the group could present propositions to the government which would be considered and acted upon. In a few days what had seemed an amicable beginning would sour.<sup>3</sup>

About January 12 or 13 Ross received word of Schermerhorn's "Christmas trick." As his delegation members were unaware of both the signers and the significance of this treaty, they issued only a mild protest to Secretary Cass. Schermerhorn and the treaty delegation did not appear with the New Echota document until February 3, so Cass passed over this protest. A day and half later, the removal delegates wrote Ross informing him of the New Echota proceedings and enclosing a copy of the treaty. Declaring that "there was no other alternative

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<sup>3</sup>Fries and Rights, eds., Records of the Moravians in North Carolina, Vol. VIII, p. 4177; Ross to John Howard Payne, January 7, 1836, Payne Papers, Gilcrease Institute; Ross et al. to Cass, January 2, 1836, and Ross et al. to the Senate, March 8, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 104-105, 27.

left," they expressed the hope that they could work out an agreement with Ross as they had been instructed by the Federal negotiators, and appealed to him to assist in its ratification. The tone of the correspondence was moderate and sincere, but the treaty faction was firm in its resolve to go ahead with the New Echota bargain. Ross never answered this appeal, feeling that to answer Ridge's letter would, in a sense, be formal recognition of the treaty party and an indirect sanction for its acts.<sup>4</sup>

Ross quickly realized the full import of the document and, when a Cherokee messenger brought a protest against the New Echota treaty signed by some 3,000 Cherokees, there was no question on the subsequent course of the delegation. Ross forwarded this protest to Secretary of War Cass and, surprisingly, the signatures of both John Ridge and Stand Watie were attached to the accompanying letter. Shortly these two treaty advocates showed their true sentiments by joining their relatives and signing their names to the alleged treaty. To purge themselves further, Ridge and Watie attacked Ross for what they claimed was a self-perpetuating and dictatorial hold on the Cherokees by the chief. Ross called the younger Ridge's action "his fourth entire revolution in politics with in as many months: varying as often as the moon, without the excuse of lunacy for his changes." The warm reception earlier displayed to Ross's delegation quickly cooled. Commissioner of Indian Affairs Herring wrote that "you are laboring under extreme misapprehension in believing that you have been recognized by the Department as

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<sup>4</sup>Ross et al. to Cass, January 14, 1836, Major Ridge et al. to Ross et al., February 6, 1836, and Ross et al. to the Senate, March 8, 1836, *ibid.*, pp. 106-107, 111-112, 28-29.



the duly constituted representatives of the Cherokee Nation." Herring believed their misunderstanding arose from the courtesy of Cass and Jackson. Ross probably felt that it was not a lack of understanding on his part, but an absence of knowledge on the part of Jackson of the bargain Schermerhorn had made.<sup>5</sup>

Ross sent word to George Lowrey, assistant principal chief, to call the Cherokees together to protest the Schermerhorn treaty. Currey the Federal emigration agent, thought the Indians fairly well satisfied with the treaty, and he advised Commissioner Herring that he could "date their [the Cherokees'] late dissatisfaction with the receipt of letters from that stubborn & perverse Chief Ross & his coadjutors." Whether Ross had this kind of power or not, the National Committee and National Council convened at Red Clay in the bitter cold weather of February of 1836 and passed a resolution protesting the work of the unauthorized New Echota gathering. Rushed to Ross by loyal followers who had canvassed the Cherokee Nation and obtained over 14,000 signatures, the document was presented to Secretary of War Cass in late February. Ross also exhibited several letters of persons acquainted with the New Echota proceedings. Schermerhorn had estimated the assembly at from 300 to 500 persons, but the tally on the only vote taken on the treaty had been 79 for and 7 against. Most Cherokees had

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<sup>5</sup>Ross et al. to Cass, February 9, 1836, and Herring to Ross et al., February 13, 1836, *ibid.*, pp. 107-110; Ridge and Watie to Schermerhorn, February 26, 1836, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 528-531; Ross, Letter from John Ross... in Answer to Inquiries from a Friend Regarding the Cherokee Affairs with the United States, p. 13.

not attended, since the leading men had admonished them to stay away.<sup>6</sup>

The treaty that Schermerhorn concluded at New Echota was similar to the one which had been rejected by the Cherokees in May and October of 1835. The principal provision, including the supplemental articles demanded by Jackson, was that the Cherokees would receive \$5,000,000 for their lands east of the Mississippi in exchange for the lands guaranteed the western Cherokees in 1828 and 1833. From that amount, \$500,000 was deducted for an additional tract of land of 800,000 acres, the so-called Neutral Lands. The United States agreed that the lands as listed in the treaty would never be included within the jurisdiction of the United States without Cherokee consent. Two articles were struck from the document at Jackson's demand. These clauses allowed Ross to designate selected Cherokees for preemption rights and provided payment for the claims of the reservees under the treaties of 1817 and 1819; these provisions would be separate from the normal evaluations of Cherokee property. Perhaps John Ridge and other treaty supporters had hoped to gain Ross's acquiescence with these provisions, but Jackson desired a total removal of the Indians, and the offending passages were deleted. In the place of preemptions and reservations,

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<sup>6</sup>Currey to Herring, January 27 and February 5, 1836, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Cherokee Resolution and Protest, February 3, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, pp. 114-115. The figure 14,000 is based on the count of the secretary of the Senate; the Cherokees estimated 12,000 signatures. *Ibid.* Ross et al. to Cass [and accompanying documents], February 29, 1836, *ibid.*, pp. 115-120; Schermerhorn to Herring, December 31, 1835, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 496-497.

\$600,000 was allotted to pay for Cherokee treaty claims.<sup>7</sup>

Ross and his fellow delegates worked vigorously against these terms. Several drafts of objections in Ross's handwriting illustrate the development of his thought. At one point he contemplated a description of the long train of Cherokee-United States negotiations dating from the first treaties. In another draft he listed several general objections and then took the treaty apart article by article to demonstrate its weaknesses and inadequacies. What he finally presented to the United States Senate the day after debates began on March 7, 1836, was one of the most elaborate protests ever sent to Congress by the Cherokees. The document contained over 80 pieces of correspondence from 1835 and 1836. This material detailed the events which had led to the signing of the New Echota treaty and was organized in a manner to demonstrate the malfeasance of Schermerhorn and Currey. The documents were introduced by a narrative which tied them together and further illustrated the long train of injustices toward the Cherokees. The documents declared emphatically that the Senate should not ratify "a treaty made without their [the Cherokees]<sup>7</sup> authority, false upon its face, and against the known wishes of the nation." The anti-treaty delegates closed their remarks "resting upon the sacred rights of the Cherokee nation, so often recognized and solemnly guaranteed on the faith of treaties, the delegation now appeal to the sympathies, the honor, good faith, and magnanimity of the United States...the destiny

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<sup>7</sup>Royce, "Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 253-258.

of the Cherokee people /is/ in the hands of the American Senate."<sup>8</sup>

The Cherokee delegation was not alone in questioning the validity of the Schermerhorn treaty. Major William M. Davis had been appointed as an enrolling agent for emigrating Cherokees in 1831 and had observed Schermerhorn's tactics through 1835 and 1836. Davis declared himself impartial, since he was a friend of both Cherokee parties as well as an associate of President Jackson's supporters; he also had served Jackson in Kentucky and fought beside him at New Orleans in the War of 1812. Davis considered Schermerhorn's appointment "a most unfortunate selection" and his policy a "series of blunders first to last," and commented further:

That paper, called a treaty, is no treaty at all, because /it was/ not sanctioned by the great body of the Cherokee people, and made without their consent or participation in it, pro or con; and I here solemnly declare...that, upon a reference of this treaty to the Cherokee people, it would be instantly rejected by more than nine-tenths of them: in fact, I incline to the belief that nineteen-twentieths would rise up against it.<sup>9</sup>

Davis thought he had discovered Schermerhorn's designs when he noted that the commissioner had provided a "snug office for himself." Davis further believed that the delegation which had come with Schermerhorn "had no more authority to make a treaty for the whole nation than any other dozen Cherokees accidentally /sic/ picked up for that purpose," and that Schermerhorn was unworthy of the confidence that had been vested in him. Secretary of War Cass passed the Davis charges on to

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<sup>8</sup>"Memo of Documents for reference," undated and "Objections to the instrument negotiated by John F. Schermerhorn," undated, Ross Papers, Gilcrease Institute; Ross et al. to the Senate, March 8, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, p. 31, passim.

<sup>9</sup>Davis to Cass, March 5, 1836, ibid., pp. 148-154.

Schermerhorn, and Schermerhorn replied with explanations of his conduct as well as counter charges aimed at Davis. He felt Davis was trying to carry out a personal vendetta because Schermerhorn had not allowed several expenditures that Davis had charged to the commissioner. Eventually both men produced letters in reference to their character and conduct. The conclusion seems to be that neither man was entirely honest. Davis was not as unpartisan as he suggested, for he had boarded at Lewis Ross's home and had come under the sway of the Ross faction. Furthermore, Davis may have been seeking some office for himself. Members of the treaty party had insisted that the position for Schermerhorn be inserted, pointing out that he was "fully acquainted with all their affairs." Yet, two charges made by Davis stand out as never having been adequately refuted. Schermerhorn's meeting at New Echota was carried out without the confidence, advice, or consent of the regularly constituted authorities of the Cherokee Nation, and had he had even double his estimate of 500 persons, it would have been an illegal body carrying out an unauthorized act. Schermerhorn also took his treaty to the valley towns in North Carolina and, although he prepared a barbecue feast in the midst of those hungry hill people, only two came, and they out of curiosity. More important, Davis's well-made charge that Schermerhorn had used his influence to drive a wedge between the factions and had aided Currey in fomenting discontent between Ross and his opponents was singularly correct.<sup>10</sup>

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<sup>10</sup> Ibid.; Schermerhorn to Cass, March 29, 1836, William Rogers et al. to Schermerhorn, March 25, 1836, Currey to Schermerhorn, April 9, 1836, Joel Yancy to Schermerhorn, April 11, 1836, Andrew Ross to Schermerhorn, April 2 and 11, 1836, M. W. Bateman to Davis, December 30, 1835, John L. Hooper to Davis, February 5, 1836, and George Lowrey to Ross, February 11, 1836, *ibid.*, pp. 154-157, 159-167, 118-119.

One supplemental article had been added to the treaty on the request of William H. Underwood, a one-time attorney for the anti-treaty Cherokees, but subsequently an adviser to the Ridges, who gave their consent to the insertion. This article, which eventually was deleted by the United States Senate, guaranteed "the payment of all unpaid just claims upon the Indians." Specifically, this referred to the Galphin Claim. This claim dated to 1773 when George Galphin, a trader among the Cherokee and Creek Indians, had worked out a settlement of his claims against the Cherokees in a treaty between Great Britain and the tribe concluded just prior to the American Revolution. As the war erased this agreement, Galphin had never regained his losses from the Cherokees. Georgia had acquired the lands the Cherokees had relinquished to Great Britain as payment, but Galphin could not obtain a settlement from the state either. A select committee in Congress eventually was appointed to investigate the claim and called on Ross to testify. The matter had come to Ross's attention in Washington sometime in 1833 when certain unnamed individuals offered him \$50,000 if he would insert the claim in any treaty negotiated with the Federal government. Ross refused, but a year or so later he was approached by Underwood, at that time retained as a legal counsel in Georgia by the Cherokees, who made similar propositions but without any monetary attachment. Bribery often had been an essential ingredient in negotiations with the Indians, but whether the Ridges were to receive some reward for this insertion remains unclear, and Ross only vaguely implied it in his customarily circuitous answers.<sup>11</sup>

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<sup>11</sup>Royce, "Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, pp. 256-257; Trott to Cherokee

The anti-treaty delegates also were diligently attempting to secure the annuity payment for the tribe while in Washington, partially because the payment would give them recognition as the constituted representatives of the Cherokees when the treaty inevitably came before the Senate. More important, the delegation was hard pressed for funds, and even its sympathetic creditors were demanding payment. The treaty faction did not face such embarrassments, for each member of the delegation received about \$1,200 to meet his Washington expenses, except John Ridge and Watie who, having arrived earlier, were allocated about \$1,400 each. Two appeals finally brought an answer from the Office of Indian Affairs. Commissioner Herring reminded Ross and his colleagues that their presence in Washington was in defiance of the President's "express prohibition." Herring stated further that the annuity distribution had not been determined by the Cherokee Nation in a vote for that year's payment, and that this stipulation would have to be met before the money could be paid. Ross protested this "useless and temporizing course," but numerous appeals brought no answer. A petition to Congress ultimately gained a response from Herring, who acknowledged that about \$1,000 was due the eastern Cherokees from an improper payment to the western band, but even this amount was not paid at the time, and he insisted that the regular annuity would have to be brought up for another election by the tribe. One significant outgrowth of the petition was that Congress appropriated the 20 years' interest which

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Delegation, January 6, 1836, "Memorial and Protest of the Cherokee Nation," United States House of Representatives, 24th Congress, 1st Session, Document 286, p. 121; Ross to Henry A. Wise, February 25, 1837, Ross Papers, Gilcrease Institute; Untitled, United States Senate, 29th Congress, 1st Session, Document 420 (Washington: Ritchie and Heiss, 1846), passim.

had accrued from the Cherokee Treaty of 1804 which had not been ratified until 1824.<sup>12</sup>

When the New Echota treaty finally came before the Senate, it did not engender the kind of debate which the Indian Removal Bill had produced. Henry Clay of Kentucky at one point introduced a resolution which would have negated the treaty, but his amendment was rejected. The narrowness of the vote convinced the pro-treaty Senate faction to marshal its forces for the final poll. The final vote on the treaty was taken on May 18, 1836, and, with two senators absent, the tally stood at 31 for approval and 15 opposed--only one vote more than the necessary two-thirds majority to bind the pact. The sectional nature of the vote took a different turn from the congressional debates on the Removal Bill of 1830. Senator Thomas Hart Benton of Missouri declared that the free state votes actually secured for the South a treaty which would convert "Indian soil to slave soil." Since 14 free state votes "precisely balanced and neutralized the slave state negatives," Cherokee considerations again were caught in the morass of sectional and slavery issues. Ross still held out hope that the House of Representatives would reject the "fraudulent treaty" by refusing to

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<sup>12</sup>Ross et al. to Cass, February 24, March 5 and 24, and April 18, 1836, Herring to Ross et al., March 9, 1836, and Ross et al. to the Senate and House of Representatives, April 28, 1836, "Memorial of the Cherokee Delegation," United States House of Representatives, 24th Congress, 1st Session, Document 340, pp. 7-12, 1-5; Herring to Cass, May 9, 1836, Untitled, United States Senate, 24th Congress, 1st Session, Document 371 (Washington: Gales and Seaton, 1836), pp. 2-3; Report of J. A. Slade and J. T. Bender, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182 (Washington: Government Printing Office, 1895), pp. 2-3; "Estimate of expenses.../for treaty delegation/," undated /1836?/, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.



appropriate the money, but this did not happen. Ross may have been unduly encouraged by some members of Congress to expect that the treaty would not be sanctioned. There were even hints that he had received money from some members to sustain the delegation during its stay in Washington. William Shorey Coodey, a western Cherokee and Ross's nephew, had observed the events leading to the ratification of the treaty and answered such inquiries: "How far Mr. Ross may have been influenced in his course by the advise of members I cannot say, but my long and intimate acquaintance forbids me the belief that he has at any time been actuated by improper motives." The treaty was signed by President Jackson and proclaimed on May 23, 1836. The Cherokees had two years to remove to their new western homes.<sup>13</sup>

The majority of the delegation returned to the Cherokee Nation after the Senate vote, but Ross remained to observe the action of the House of Representatives and to work out a full statement of his objections to the New Echota treaty to be published in pamphlet form and distributed in the East. Written in the form of a letter to an unnamed, curious friend who had inquired why Ross's name was not attached to the treaty, Ross spoke to an audience of easterners who he felt were unaware of the impact of the treaty. Ross insisted that the treaty did not possess the advantages unwary easterners might imagine. In fact, Ross emphasized that because of the loose terminology

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<sup>13</sup>Robert A. Rutland, "Political Background of the Cherokee Treaty of New Echota," Chronicles of Oklahoma, Vol. XXVII, No. 4 (Winter, 1949-1950), pp. 405-406; Thomas Hart Benton, Thirty Years' View ( 2 vols., New York: D. Appleton and Company, 1893), Vol. 1, pp. 624-626; Currey to Coodey, July 7, 1836, and Coodey to Currey, July 8, 1836, Ross Papers, Gilcrease Institute.

in the treaty the Cherokees might well find themselves in a similar predicament only to be moved again at some later time. Of course, the treaty did not guarantee the Cherokees permanent rights to the lands, but what further frightened Ross was the use of the phrase "such land shall revert to the United States." Ross saw in this a sinister maneuver to eventually take the Cherokee lands in the West. The unidentified inquirer also asked why Ross's name was included as the head of a committee to evaluate Cherokee claims against the United States in relation to removal. Ross's name was added to Schermerhorn's treaty without the chief's knowledge. Ross, of course, never sanctioned this and was never a party in evaluating the claims. When the committee was formed, not only Ross but all the anti-treaty men who were named in the New Echota document refused to serve, so their places were filled by members of the Ridge faction.<sup>14</sup>

In the address Ross took up in some detail the recurring charge that he actually had no rights as a Cherokee because he had once accepted a reservation with a view to becoming a United States citizen. Ross insisted that the reservation was "special" and "untrammelled by conditions." It seems that the reserver was to give notice to the agent that he intended to reside on his reservation. Ross's notice to Meigs in 1819 was that he intended to "occupy and enjoy permanently" his reservation, thus making a distinction between "occupy" and

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<sup>14</sup>Ross to Lowrey, May 26, 1836, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 679-680; Ross, Letter from John Ross...in Answer to Inquiries from a Friend Regarding the Cherokee Affairs with the United States, pp. 4-6; Wilkins, Cherokee Tragedy; The Story of the Ridge Family and of the Decimation of a People, p. 284.

"reside" and, in truth, he never resided on the land and never left the Cherokee Nation. This was in accordance with the discussions in Washington on 1819 when the delegation of that year informed Secretary of War John B. Calhoun: "Our distinct understanding on the subject of reservations...was that the reservee might either live on such estate, or move elsewhere and leave it for his benefit as he should think proper." Ross also had to face charges that the reservation was not his alone but belonged partially to John Watts, who, along with other members of the treaty party, accused Ross of depriving him of his property. Watts, however, had been one of the early emigrants under the Treaty of 1817 and, according to the provisions of that treaty, had relinquished all rights to lands east of the Mississippi. In the Treaty of 1819, Ross was given exclusive rights to his reservation.<sup>15</sup>

Ross returned to the Cherokee Nation and Red Hill by way of Salem, North Carolina, for another visit with Jane. Sometime after his arrival home, he called for a General Council of the Cherokee Nation on September 15, 1836, at the Red Clay Council Ground and invited the Ridges and members of their faction to the meeting. That date was chosen in order to compete with the meeting the Ridges had earlier called and set for September 12. Knowing that they would have no

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<sup>15</sup>Ross, Letter from John Ross...in Answer to Inquiries from a Friend Regarding the Cherokee Affairs with the United States, pp. 10-11; Ross to Meigs, June 17, 1819, in Hays, comp., "Cherokee Indian Letters, Talks, and Treaties, 1789-1838," Vol. 1, p. 172; Hicks to Calhoun, February 22, 1819, Letters Received by the Secretary of War, Indian Affairs, National Archives; Miscellaneous Notes, Payne Papers, Ayer Collection, Newberry Library; Statement of John Watts, March 9, 1838, Ross Papers, Gilcrease Institute; Boudinot to Ross, November 25, 1836, "Documents in Relation to the Validity of the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 121, pp. 32-33.

chance of any sizable gathering in competition with Ross, the Ridges postponed their meeting. Ross also invited Brigadier General John E. Wool, who had been placed in command of United States troops in the Cherokee Nation. Wool's principal task was to prevent hostilities that might arise in reaction to the treaty, but he found that duty far from pleasant. Wool hoped that the Cherokees soon would be moved beyond the reach of white men "who, like vultures, are watching, ready to...strip them of every thing they have or expect from the Government of the United States."<sup>16</sup>

Laboring under ambiguous orders, Wool met Ross about August 20, 1836, at Athens, Tennessee, and acquiesced in the chief's request for a Cherokee General Council, although Wool was careful to warn Ross of the President's disfavor. Wool's belief that "no good will result from it" was overruled by his knowledge that Ross "whenever he pleases, can unite the whole nation, at least a large majority, in a war against the United States." In fact, Wool had become so convinced of Ross's pacific nature that he discharged volunteer troops on the eve of the General Council. Wool seems to have been partially swayed by the captivating personality of Ross and later was censured for permitting the General Council. He eventually requested transfer from the Cherokee post. The ever-circulating emigration agent, Currey, missed the

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<sup>16</sup>Fries and Rights, eds., Records of the Moravians in North Carolina, Vol. VIII, p. 4218; /Ross?/ to Wool, September 2, 1836, and Major Ridge et al. to Ross, August 17, 1836, Ross Papers, Gilcrease Institute; Wilkins, Cherokee Tragedy; The Story of the Ridge Family and of the Decimation of a People, p. 285; Wool to Cass, September 10, 1836, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 29-30.

gathering but expressed disapproval of Wool's actions, maintaining that "had I...been present & had contrroll of the troops Mr. Ross & his pretended authorities...would now be in confinement." Nevertheless, Wool received the gratitude of the Cherokees for his "honorable course... and...gentlemanly deportment."<sup>17</sup>

At the General Council resolutions were passed, declaring in the best southern tradition the New Echota pact "null and void" and unenforceable. Ross and several comrades also were dispatched again to Washington but were instructed first to proceed to the Cherokees west of the Mississippi so that in concert the two groups might overturn the treaty. The delegates were to receive \$2 a day for their work and an expense account of \$5,000. These amounts, of course, were to be drawn from the annuities owed the Cherokee Nation, and such was the depleted condition of the treasury that the office of Cherokee national treasurer was abolished and a committee appointed to oversee the funds. This was done also in anticipation of Treasurer John Martin's removal to the West. Just prior to the delegation's departure, Brigadier General Wool delivered an order on direction from the War Department that no delegation would be received at Washington with a view to modifying the

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<sup>17</sup>Wool to Butler, November 6, 1836, "Message on the Case of General Wool," United States House of Representatives, 25th Congress, 1st Session, Executive Document 46 (Washington: Thomas Allen, 1837), p. 62 and passim; Wool to General R. Jones, September 12, 1836, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, p. 31; Currey to C. A. Harris, September 30, 1836, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives; Ross et al. to Wool, September 30, 1836, "Message on the Case of General Wool," United States House of Representatives, 25th Congress, 1st Session, Executive Document 46, pp. 74-75.

treaty of 1835.<sup>18</sup>

Under provisions of the New Echota treaty, a committee was to evaluate Cherokee property in order for the Federal government to pay claims to emigrating Indians. Although Ross was included in the treaty as a member of this committee, he never served, and the group was composed generally of treaty party men. The United States must have seemed a better employer, for their agents received double what the Cherokee Nation provided its representatives. Governor Wilson Lumpkin was called out of retirement from his home in Athens, Georgia, and reluctantly accepted appointment with Governor Carroll of Tennessee as United States commissioners to settle the Cherokee claims. Carrolls' absence due to his recurring ailments hampered Lumpkin in a way that had never disturbed Schermerhorn when he had served with the rheumatic Tennessean. Lumpkin had to suspend operations for a time and did not actually begin his work until December of 1836 when a replacement for Carroll arrived. During the interim, the appraising went ahead, and Ross's property was one of the early claims evaluated. Ross probably had not intended that his properties at Red Hill and Head of Coosa be appraised. One of the chief's anxious overseers, however, permitted the valuation. Ross's opponents saw this as a subtle acceptance by the chief of the inevitable execution of the treaty. Boudinot charged that by this act the chief fully assented to the treaty. Ross probably had

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<sup>18</sup>Resolution of the Cherokee Council, September 28, 1836, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 797-799; Resolutions of the General Council, September 29 and 30, 1836, Ross Papers, Gilcrease Institute; Wool's General Order Number 74, Payne Papers, Ayer Collection, Newberry Library.

come to believe that the treaty eventually would be enforced but now was working for some type of modification of its provisions, changes which may not have been determined even in his own mind at this point. Ross's property valuations at Red Hill and Head of Coosa came to \$23,665.75, making him one of the five wealthiest men in the Cherokee Nation, a distinction he shared with his brother, Lewis, and his old friend, Major Ridge.<sup>19</sup>

Before Ross and his fellow delegates left for the West, letters had gone out to the western superintendent, William Armstrong, to arrest Ross if he tried to "incite opposition to the treaty." C. A. Harris, the Commissioner of Indian Affairs, also instructed Armstrong to have the western Cherokee agent keep a close watch on his charges and even recommended the use of nearby troops to carry out those orders. Armstrong never met Ross and only learned of his movements

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<sup>19</sup>C. A. Harris to Currey, July 25, 1836, "Report from the Secretary of War," United States Senate, 25th Congress, 3rd Session, Document 277 (Washington: Blair and Rives, 1839), pp. 88-90; Viperman, "Wilson Lumpkin and the Cherokee Removal," pp. 118-122; Harris to B. F. Butler, December 1, 1836, "Report of the Commissioner of Indian Affairs, 1836," United States House of Representatives, 24th Congress, 2nd Session, Executive Document 2 (Washington: Blair and Rives, 1836), pp. 384-386; Entry of Heinrich Gottlieb and Elisabeth Clauder, August 29, 1836, in Adelaide Fries, trans., Extracts from "The Diary of the Moravian Missions Among the Cherokee Indians, 1833-1838," Unpublished Typescript, Oklahoma Historical Society, p. 26; Ross to Crawford, July 10, 1840, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Boudinot to Ross, November 25, 1836, "Documents in Relation to the Validity of the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 121, pp. 40-41; Valuations of Ross's Properties, September 21, 1836, Special File 75, Special Files of the Office of Indian Affairs, National Archives; Various Cherokee Valuations, undated, "Report from the Secretary of War," United States Senate, 25th Congress, 3rd Session, Document 277, passim. This latter document shows Ross's claims as \$17,965.75; the difference of \$5,700 probably derives from the disputed claim over Ross's ferry. The larger amount was the finally settled claim. *Ibid.*

from the Cherokee agent and from one of the western Cherokee chiefs who was not particularly fond of Ross. Having explained to Harris in regard to Ross, "I know with whom I have to do," Armstrong did not really decide what to do with Ross and conveniently found himself busy with affairs at nearby Fort Gibson where, he insisted, adequate troops were not available to do anything anyway. He further excused his dalliance by noting a decision in Arkansas which released Cherokees for want of jurisdiction.<sup>20</sup>

Ross and the eastern delegation arrived about November 20, and a meeting of the western Cherokee legislature was called for December 8. Ross was apprised of the order for his arrest but paid it little heed and continued visiting friends while awaiting the time of the meeting. The western Cherokee legislature met and passed resolutions opposing the "instrument purporting to be a treaty" and, since its provisions were "calculated to affect injuriously the interests and happiness of both parts of the Cherokee family," the legislature appointed a delegation to accompany Ross to Washington to work for a "final adjustment of the Cherokee difficulties."<sup>21</sup>

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<sup>20</sup> Harris to Armstrong, October 12, 1836, and Armstrong to Harris, February 3, 1837, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 184, 774-775; Armstrong to Harris, November 17, 1836, Foreman Collection, Gilcrease Institute.

<sup>21</sup> John Ross, Letter from John Ross, the Principal Chief of the Cherokee Nation, to a Gentleman of Philadelphia (n. p., 1837), pp. 14-15; Ross's Annual Message, August 3, 1837, Miscellaneous Manuscripts, Western History Collections, University of Oklahoma; Resolutions of the Western Cherokees, December 8, 1836, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99 (Washington: Thomas Allen, 1838), pp. 14-15.



The joint delegation traveled by way of the eastern Cherokee Nation, as some of the western members wanted to see their old homes again. Ross had looked forward to a few days of relaxation at Red Hill. However, after only a night and parts of two days with his family, Ross received an excited note from his brother, Lewis, saying, "there is nothing more certain than you will be arrested if you remain a day at home." The Cherokees marked the movements of the surrounding troops, so Lewis knew that Brigadier General Wool would pass by Red Hill the next day; thus he advised his older brother "to put out from home tomorrow morning, and cross the Highwassee [sic] at Pattons ferry...and get to Athens without delay." The prospect of arrest was not exaggerated, as Lewis well knew, for he had been released from confinement only recently. As one of the Cherokee committee that was to take charge of Cherokee finances, Lewis had gathered with the other members at John Martin's home in order to settle the treasurer's accounts preparatory to Martin's departure for the West. Late that night, just as Lewis and his friends were about to leave, several of Wool's troops surrounded Martin's home, arrested those inside, and seized all the public papers in their possession. Wool soon released the Cherokees but kept the papers for a longer time, insisting that ex-Governor Lumpkin and the Cherokee claims evaluation committee needed them.<sup>22</sup>

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<sup>22</sup>"Extract from Governor Stokes's letter," undated [1837?] "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, p. 775; Lewis Ross to Ross, January 13, 1837, Ross Papers, Gilcrease Institute; Elizur Butler to John Howard Payne, January 25, 1837, Payne Papers, Ayer Collection, Newberry Library; Ross to Joel R. Poinsett, May 4, 1837, "Memorial of a Delegation of the Cherokee Nation," United

From Red Hill Ross traveled to Knoxville, Tennessee, where the delegates purchased horses, as bad roads made travel by stage impossible. They rode horseback from Knoxville to Salem, North Carolina, where Ross visited Jane and where they were warmly received by the sympathetic Moravian missionaries. Improved roads allowed them to travel the remainder of the way by stage, and they arrived in Washington about February 9. At the capital the delegation discovered that a joint endeavor was no more productive than earlier meetings in altering the New Echota pact. Several notes passed between the Cherokees and the executive department, but no recognition or audience was obtained.<sup>23</sup>

In March of 1837 Martin Van Buren, the "Red Fox" of Kinderhook, political protege and personal choice of Jackson, was inaugurated as President. Ross and all his associates sent a petition to the new President through his Secretary of War, Joel R. Poinsett. They presented essentially two propositions--that new negotiations be initiated to settle United States-Cherokee relations and that the New Echota treaty be submitted to the whole Cherokee Nation in legislative

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States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 24-25.

<sup>23</sup>Ross's Annual Message, August 3, 1837, Miscellaneous Manuscripts, Western History Collections, University of Oklahoma; H. G. Clauder to John Howard Payne, February 8, 1837, Payne Papers, Ayer Collection, Newberry Library; Fries and Rights, eds., Records of the Moravians in North Carolina, Vol. VIII, p. 4263; Ross et al. to B. F. Butler, February 13, 1837, and Butler to Ross et al., February 24, 1837, in Ross, Letter from John Ross, the Principal Chief of the Cherokee Nation, to a Gentleman of Philadelphia, pp. 27,31; Ross et al. to Butler, February 22 and 28, 1837, and Butler to Ross et al., March 11, 1837, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 785-787, 249-250.

session. Poinsett rejected their propositions but consented to a personal meeting with them. At this conference the Cherokees placed a disturbing question before Poinsett: What would be the action of the government if the Cherokees did not remove at the expiration of the two-year limit? Poinsett was not prepared to say, but the prospect must have been provoking. The delegation found the new administration amenable on past disputed issues. For the first time in several years the Cherokees were able to receive their annuities without the necessity of elections and entreaties. Realizing the influence of the delegates, Commissioner of Indian Affairs Harris renewed the annuity payment, hoping to conciliate them and to "forego their opposition to the execution of the treaty."<sup>24</sup>

During April, 1837, Ross made a tour of the East, specifically to Philadelphia and New York. Ross probably visited Payne on this excursion, for the chief was working on another manuscript and, as Payne had assisted him with earlier addresses, he may have sought the poet's literary advice again. Payne may have introduced Ross to Job R. Tyson, the "Gentleman of Philadelphia" to whom the pamphlet was addressed. In the pamphlet Ross questioned the authority of the Federal government to negotiate with a minor faction of the tribe but, more important, he

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<sup>24</sup>Ross et al. to Poinsett, March 16, 1837, Ross et al. to the President, March 16, 1837, and Poinsett to Ross et al., March 24, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 17-24; Ross's Annual Message, August 3, 1837, Miscellaneous Manuscripts, Western History Collections, University of Oklahoma; Ross to Poinsett, March 25, 1837, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Harris to Poinsett, March 29, 1837, "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 254-255.

noted precedents for negating Indian treaties that had been unfairly made. Such reversals had not only the sanction of precedent but also the endorsement of the former Commissioner of Indian Affairs, Thomas L. McKenney. When McKenney suggested this approach to Poinsett two years later in 1839, Poinsett replied: "Colonel McKenney, Mr. Van Buren will never consent to undo anything that General Jackson has done." Ross was delayed longer on the trip than he had anticipated but finally reached Washington again toward the end of April. Shortly before departing from Washington, Ross brought up several unsettled points with Secretary Poinsett. These had to do with the unreturned Cherokee printing press, Cherokee guns seized by Brigadier General Wool in the valley towns of North Carolina as insurance against hostilities, and the confiscated papers of the Cherokee treasurer. Poinsett promised Ross that he would investigate these matters.<sup>25</sup>

During December, 1836, Benjamin F. Currey had died, and Brigadier General Nathaniel Smith had taken his place as superintendent of emigration. Even during Ross's absence, Smith became aware of the chief's influence as emigration increased or declined according to the tone of Ross's letters. Friends spread the news of his activities at

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<sup>25</sup>J. R. Tyson to Ross, December 12, 1837, and Ross to Tyson, January 19, 1838, Ross Papers, Gilcrease Institute; Ross to Claudia Arguelles, April 15, 1837, Ross Papers, Indian Archives Division, Oklahoma Historical Society; Ross, Letter from John Ross, the Principal Chief of the Cherokee Nation, to a Gentleman of Philadelphia, pp. 18-20; Thomas L. McKenney, Memoirs, Official and Personal (New York: Paine and Burgess, 1846), pp. 267-268; Testimony of John H. Payne, August 6, 1842, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, p. 39; Ross to Poinsett, May 4, 1837, and Poinsett to Ross, May 6, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 24-27.

Washington, and even nominal successes brought emigration registration to a standstill. As Ross returned home, he again stopped off at the Moravian Female Academy and spent a few days in order to observe the final examinations for the term. He was back at Red Hill by the end of May and quickly sent out circulars calling a General Council for July 31 at the Red Clay Council Grounds.<sup>26</sup>

Most Federal officials in the Cherokee Nation at that time were positive that Ross would use the General Council to protest and vilify the New Echota pact. Wilson Lumpkin, still serving as the Cherokee claims evaluating commissioner, observed Ross's moves and found him a "very reserved, obscure and wary politician," the "Master Spirit" of opposition to the treaty; but Lumpkin was unable to discover any overt act that might legally incriminate the chief. As soon as the circulars became widely known, emigration enrollment dwindled appreciably, but Brigadier General Smith was as unsure as Lumpkin of the cause and could not discover whether it was due to what Ross said or merely to his presence. Actually, there was some question whether Ross even could hold the General Council meeting, since Wool's General Order Number 74 had expressly forbidden further councils. The order was explicit that "even at the hazard of actual hostilities...they will be promptly repressed." Wool, however, had found his duties so distasteful that he had requested and received transfer, and Colonel William Lindsay was

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<sup>26</sup>Nathaniel Smith to Harris, April 20 and 24, May 10, and June 24, 1837, Special File 31, Special Files of the Office of Indian Affairs, National Archives; Fries and Rights, eds., Records of the Moravians in North Carolina, Vol. VIII, p. 4264.

appointed to replace him in May, 1837.<sup>27</sup>

Ross met Lindsay on June 22 at the Cherokee Agency, and the Colonel informed the chief that he felt compelled to follow Wool's earlier prescription; thus he interdicted the proposed General Council. Ross assured Lindsay that the purpose of the meeting was to report the work of the delegation recently returned from Washington. Ross seemed prepared to proceed in spite of Lindsay's orders, but a week before the scheduled meeting the colonel received a directive to allow the Cherokee assembly. Federal leniency was prompted partly by a desire to place another spokesman before the Cherokees to advocate acceptance of the treaty.<sup>28</sup>

Ross spoke to the General Council on August 3 and gave a detailed account of his mission to Arkansas and to Washington. The tone of the message showed distinct opposition to the treaty, contrary to what he had conveyed to Lindsay, and he drifted into a description of the country to the West, which he considered "impossible for the whole nation to settle down in...permanently, with any reasonable hope of

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<sup>27</sup>Lumpkin and John Kennedy to Harris, June 5, 1837, in Lumpkin, The Removal of the Cherokee Indians from Georgia...1827-1841, Vol. II, pp. 111-113; Smith to Harris, June 24 and July 1, 1837, Special File 31, Special Files of the Office of Indian Affairs, National Archives; Wool's General Order Number 74, Payne Papers, Ayer Collection, Newberry Library; Royce, "Cherokee Nation of Indians," Bureau of American Ethnology, Fifth Annual Report, Part 2, p. 289.

<sup>28</sup>Lindsay to Poinsett, June 26, 1837, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ross to Poinsett, June 22, 1837, Lindsay to Ross, July 24 and 25, 1837, and Ross to Lindsay, July 25 and 26, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 26-29; Poinsett to Lindsay, July 12, 1837, and Harris to Smith, July 12, 1837, Letters Sent, Office of Indian Affairs, National Archives.

enjoying prosperity and happiness." The next day John Mason, Jr., arrived in the Cherokee Nation as a special emissary of the Federal government and requested permission to speak to the General Council on August 7. Mason's instructions were to use mild and persuasive terms in his "talk" to the Cherokees, but to express firmly the intention of the Federal government to carry out the terms of the pact.<sup>29</sup>

Mason traveled with George W. Featherstonhaugh, an English naturalist whom he had met near Spring Place, North Carolina, and invited to the General Council. On the stagecoach ride from Spring Place to Red Clay, the Englishman observed "fine fat deer bounding across the narrow wood road with their magnificent antlers. The quail, too, were numerous, and the young birds large. The soil being derived from the lower Silurian limestone is very fertile, and certainly I never saw heavier Indian corn than in two or three settlements we passed." At the council grounds they met Brigadier General Smith and, after a refreshing cup of tea, they walked around the Red Clay region. Featherstonhaugh took in everything and left a descriptive narrative of his observations:

There was a copious limestone spring on the bank of the stream, which gave out a delicious cool water in sufficient quantities for this great multitude. What contributed to make the situation extremely picturesque, was the great number of beautiful trees growing in every direction....Nothing more Arcadian could be conceived than the picture which was presented; but the most impressive feature, and that which imparted life to the whole, was

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<sup>29</sup>Ross's Annual Message, August 3, 1837, Miscellaneous Manuscripts, Western History Collections, University of Oklahoma; Lindsay to Ross, August 4, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 30-31; Poinsett to Mason, July 15, 1837 [two letters], "Report from the Secretary of War...in Relation to the Cherokee Treaty of 1835," United States Senate, 25th Congress, 2nd Session, Document 120, pp. 289-293.

an unceasing current of Cherokee Indians...moving about in every direction, and in the greatest order...their turbans, their dark coarse, lank hair, their listless savage gait, and their swarthy Tartar countenances, reminded me of the Arabs from Barbary.

Featherstonhaugh also heard stories of the amorous adventures of Commissioner Schermerhorn. The Englishman found that he merely had to mention the Cherokee term for devil's horn to set the Cherokee women to giggling.<sup>30</sup>

Featherstonhaugh was especially impressed by the arrangements for feeding this multitude. Upwards of 15 head of cattle were slaughtered every day, and 24 families were engaged in cooking the provisions for the crowd of nearly 3,000. At the center was Ross, the "sole director," who paid about \$300 a day to furnish the necessities. Ross invited the Englishman to dine at Red Hill on August 6, where at noon the several guests were

taken to a room, upon the table of which a very plentiful dinner, singularly ill-cooked was placed. Neither our host nor his wife sat down to eat with us, the dinner, according to Cherokee custom, being considered to be provided for the guests....I was helped to some meat, but could not tell what it was, or whether it passed for roast or boiled. It was afterwards explained to me that it was pork, first boiled in a pot with some beef, and then baked by itself afterwards.<sup>31</sup>

Mason delivered his address on August 7, horns and public criers announcing its inception. Mason stood under a stand near the General Council house while the hapless Cherokees listened gravely in the pouring rain. Although the Indians were attentive, the address seemed to make little impression on them; Ross called the speech a "Compound of

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<sup>30</sup> G. W. Featherstonhaugh, A Canoe Voyage up the Minnay Sotor with an Account of...the Cherokee Country (2 vols., London: Richard Bentley, 1847), Vol. II, pp. 228-232, 240-241.

<sup>31</sup> *Ibid.*, 236-238.



the sweet and tartish."<sup>11</sup> The next month Mason was back in Washington and reported his impressions on Cherokee attitudes which he found decidedly opposed to removal "till they see the Federal bayonet on the fatal 23rd of May next levelled against the breast of the Cherokee."<sup>12</sup>

Mason was somewhat awed by Ross's power but clearly recognized that

with all his power, Ross cannot if he would change the course he has heretofore pursued, and to which he is held by the fixed determination of the people....Were he, as matters now stand, to advise the Indians to acknowledge the treaty, he would at once forfeit their confidence, and probably his life. Yet, though unwavering in his opposition to the treaty, Ross's influence has constantly been exerted to preserve the peace of the country... opposition to the treaty on the part of the Indians is unanimous and sincere...it is not a mere political game played by Ross for the maintenance of his ascendancy in the tribe.<sup>32</sup>

The remainder of the Red Clay General Council was taken up in resolutions in opposition to the New Echota treaty and the appointment of another delegation to attend the coming session of Congress at the capital city. At Washington Ross later would find Mason an overly optimistic ally and the delegation's work unrewarding. As the October General Council had been dispensed with, the Ross deputation set out for Washington on September 12 on horseback and, after a short visit at the Moravian Academy at Salem, North Carolina, they traveled to the capital.<sup>33</sup>

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<sup>32</sup> *Ibid.*, 242-243; Mason's Address, August 7, 1837, and Mason to Poinsett, September 25, 1837, "Cherokee Indians," United States House of Representatives, 25th Congress, 2nd Session, Document 82 (Washington: Thomas Allen, 1838), pp. 2-7.

<sup>33</sup> Resolution of the General Council, August 8, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 15-17; Resolution of the General Council, August 12, 1837, Ross Papers, Gilcrease Institute; /Ross?/ to the Western Cherokees, August 15, 1837, Ross Papers, Cherokee Collection, Tennessee State Library and Archives.

The New Echota pact must have been especially difficult for Ross to accept, for he arrived in Washington in early 1836 probably prepared to negotiate some sort of removal arrangement. With John Ridge and Stand Watie as members of the delegation, Ross would have been compelled to make concessions, if only to maintain unity at Washington and at home. Certainly the discrepancy between the \$5,000,000 allotment set by the Senate the year before and Ross's oversized bid for \$20,000,000 could have been adjusted. Ross was no unbending arbiter, but a practical politician who was long accustomed to compromise. However, faced with a ready-made document which was signed by a small coterie of his opposition and was directed by Federal officials who had repeatedly assailed him, Ross set himself rigidly against removal. The Jackson administration, weary of Ross's yearly delaying tactics, welcomed the treaty, tainted as it was by a questionable legality, while Congress, caught in sectional controversies, narrowly assented to the pact. Ross discovered more amiable associates among the Van Buren administration; however, he announced no new plan and merely maintained his intransigent course. The next year would call for extreme concessions as Ross exerted his energies to undo the treaty's harsh conditions.

## CHAPTER VI

### YEAR OF DECISION

Members of the Ross delegation appointed for the 1837-1838 congressional term at Washington prepared desperately for a final stand against the New Echota pact. They faced an ominous deadline of May 23, 1838, the time set for completion of Cherokee removal. Ross's efforts would prove more momentous to the Cherokees than any previous work of his career.

The delegates arrived in Washington in early October, 1837, and took rooms at Mrs. Arguelles's boarding house. On Saturday, October 7, they presented their credentials to Secretary of War Poinsett, who invited them for an interview the following Monday. A few days later they met with President Van Buren but, perhaps because of the presence of former Governor John Forsyth of Georgia, now a congressman from that state, no important business was discussed. At another meeting Poinsett solicited the aid of Chief Ross in bringing the Seminole War in Florida to an end. The war was caused by attempts of the Federal government to carry out a removal treaty signed in 1832, which had been repudiated by the majority of the Seminoles. Although no pacifist, Ross certainly had recognized the folly of making war on the United States. Federal officials knew of his views and hoped the chief could use his influence among the Seminoles as he had among his

people in quelling armed disturbances.<sup>1</sup>

Ross had been approached confidentially on the Seminole affair as early as July, 1837, by Colonel John H. Sherburne, a private emissary from Poinsett. The colonel had led Ross to believe that if he would use his influence to quiet the Seminole firebrand Osceola, the Federal government would consider this a favor and would repay the Cherokees at an appropriate time. Sherburne also indicated that he and his superiors were so eager to see the Seminole disturbances quieted that "money will be no object to the Government." Ross was dubious of confidential and unofficial promises, and it was not until he arrived at Washington that he consented to help. Nevertheless, he promised Sherburne that if the War Department requested his assistance, he would write a letter to the leading insurgents which could appropriately be delivered as an address by a special deputation of the Cherokees. Ross had carefully questioned Sherburne on his authority and intentions. One probing query stands out: "Are you authorized by the President of the U States to guarantee safety and protection to the lives of Oseola [sic] and such others of the Chiefs as may compose the Seminole delegation?"<sup>2</sup>

With assurances from Poinsett as to the authenticity of

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<sup>1</sup>Ross et al. to Poinsett, October 7, 1837, and Poinsett to Ross et al., October 7, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, p. 39; Ross to Lewis Ross, October 12, 1837, Ross Papers, Gilcrease Institute. Besides Ross, the delegation included Edward Gunter, Richard Taylor, James Brown, Samuel Gunter, Elijah Hicks, Sitawakee, and White Path.

<sup>2</sup>Sherburne to Ross, July 8 and August 10, 1837, *ibid*; Ross to Sherburne, September 18, 1837, Ross Papers, Indian Archives Division, Oklahoma Historical Society.

Sherburne's mission, four trusted Cherokees were commissioned to go to Florida, carrying with them Ross's address. Ross addressed the Seminole chiefs as a stranger, but also as a brother and one who well understood the torment and anguish of division and removal. He wrote: "I know that a brave people when driven to a state of desperation, would sooner die under the strong arm of power, than to shrink and die the death of the coward. But I will speak to you as a friend, and with the voice of reason advise you, as a small but brave people, to act the part of a noble race, and at once throw yourselves upon the magnanimity and justice of the American people." Ross guaranteed the justice and sincerity of the United States and conveyed the assurances from Poinsett that a liberal treaty would be made.<sup>3</sup>

Ross's address and the mediation of the Cherokee delegation convinced some of the Seminole leaders to accompany their Indian brothers to Fort Mellon, headquarters of Major General Thomas S. Jesup, the area commander. The solemn entourage entered the fort "with the white scarf of peace rippling over our heads," but the wary Jesup gave the group a cool reception. Regrettably, a recalcitrant band of Seminoles who had not come in remained unpersuaded, and their menaces alarmed Jesup who arrested the chiefs and warriors at Fort Mellon and shipped them to more secure quarters at Saint Augustine where Osceola was being held. Feeling that the Seminoles would hold them responsible for this unchivalrous act, the Cherokees pursued the captive band. At Saint

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<sup>3</sup>Ross to Hair Conrad et al., October 20, 1837, and Ross to the Chiefs, Headmen, and Warriors of the Seminoles, October 18, 1837, "Seminole and Cherokee Indians," United States House of Representatives, 25th Congress, 2nd Session, Document 285, (Washington: Thomas Allen, 1838), pp. 4-9.

Augustine they convinced the Seminole chiefs that the act was committed without their knowledge or sanction. Colonel Sherburne was present and suggested that the Cherokees accompany him to Washington where a settlement might be arranged to quiet the Florida difficulties. The swamps of the Florida Everglades would now be exchanged for the morass of Washington politics.<sup>4</sup>

They arrived in Washington on December 30, 1837, and within two days Ross sent off an angry letter to Secretary of War Poinsett vigorously protesting the arrest of the Seminole chiefs while they were negotiating for peace under a flag of truce. Further correspondence also revealed the unwillingness of the Federal government to honor the total expenses of the delegation to the Seminoles. In regard to Jesup's conduct, it might have been too much to expect a soldier to play a statesman, but certainly Poinsett should have fulfilled that role. With Colonel Sherburne's promises of Federal obligations and limitless funds still fresh in his mind, Ross was disgusted that Poinsett would agree to pay less than a tenth of the amount requested by the travel-weary Cherokees.<sup>5</sup>

Other Washington negotiations, at the outset more shadowy, proved equally dim. John Mason, Jr., had returned to Washington prior to

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<sup>4</sup>Grant Foreman, ed., "Report of the Cherokee Deputation into Florida," Chronicles of Oklahoma, Vol. IX, No. 4 (December, 1931), pp. 428, 431, passim; Edwin C. McReynolds, The Seminoles (Norman: University of Oklahoma Press, 1957), pp. 197-200; Ross to Poinsett, March 5 and 8, 1838, "Seminole and Cherokee Indians," United States House of Representatives, 25th Congress, 2nd Session, Document 285, pp. 14-19.

<sup>5</sup>Ross to Poinsett, January 2, 1838, and Poinsett to Ross, March 2, 7, and 17, 1838, ibid., pp. 11-15, 20; McReynolds, The Seminoles, p. 200.

Ross's arrival and was commissioned by Poinsett to carry on unofficial negotiations with the Cherokee delegation. The Cherokees agreed that Ross and Edward Gunter, a prominent Cherokee and a relative of Chief Ross, should participate in these private discussions. In conversations with Mason, Ross posed alternatives to the New Echota treaty similar to those which had been attempted with the Jackson administration before the pact was consummated. Hoping that the Van Buren regime might be more conciliatory, Ross suggested a large cession of Cherokee lands. Ross seemed confident from these early talks that Mason would prove more amenable to Cherokee demands than former government agents had been. In reporting prospects to friends in the Cherokee Nation, Ross may have been too optimistic, but he also wrote on several occasions of the serious and far-reaching adjustments the Cherokees faced. Ross realized that along with the forfeiture of Cherokee national lands the tribe would have to relinquish part of its national rights. Quickly Ross and Gunter discovered that Mason was officially bound, if not personally disposed, to adhere to the Treaty of New Echota. Mason stated at one time "that if you were...to enter a compact precisely similar in every respect, your people would conform to its provisions without a murmur." Ross and Gunter explained that they held the confidence of the Cherokees because they had not abused it and, should they accede to United States demands, they would quickly lose that respect. They insisted that the Cherokees would no more readily accept the recommendation of the delegation to embrace the treaty, than Congress would follow "without a murmur" a suggestion from President Van Buren to discard the treaty. Nonetheless, Mason had the concurrence of the President, and Poinsett maintained that

removal would proceed as planned.<sup>6</sup>

Ross had hoped that the western Cherokees also would return to aid their eastern brothers. But his nephew, William Shorey Coodey, informed him that the chiefs had not submitted a proposal to the tribe for sending a delegation to the capital city; Ross was surprised at their apathy. The western Cherokees probably realized that the Federal government would not pay their expenses, and they were reluctant to use their paltry reserves for unlikely returns. Ross confided to Coodey that "the present administration is doubtless afraid of the missiles from the Old Hickory stubble, and is seeking a shelter behind the Senate." The congressional chambers proved a suitable shelter. With little headway being made in the Federal executive branch, the Cherokees turned to the legislative branch with a petition. After some delay the Senate printed the petition but took no action concerning Cherokee grievances. The House of Representatives debated the referral of the petition to its committee on Indian affairs and, with Georgia representatives giving dire warnings of a "Cherokee War," eventually decided to table the document by a decisive vote of 123 to 80. Nevertheless, Ross maintained his confidence that Congress eventually would advise the President to negotiate a new arrangement with the tribe. Ross assured Assistant Principal Chief George Lowrey that the delegation had "not yet abandoned our past," and he urged

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<sup>6</sup>Ross to Lewis Ross, October 30 and November 11, 1837, and Ross to James C. Martin, November 5, 1837, Ross Papers, Gilcrease Institute; Ross and Gunter to Mason, November 14 and December 6, 1837, Mason to Ross and Gunter, November 24, 1837, and Poinsett to Ross et al., December 27, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 40-49.



firmness and pacifism during the crisis.<sup>7</sup>

Ross's letters from Washington to his friends in the Cherokee Nation had a marked effect on the program of emigration and enrollment. Brigadier General Smith, the emigration superintendent, noted that not one in 500 was preparing to move, and he wrote his superiors that one group of emigrants, after traveling 30 miles along the removal route, stopped and returned home upon hearing that Ross might gain a new treaty. The commissioner of Indian affairs was so upset at these reports that he sent Smith a full report of negotiations between Mason and Ross, contending that it demonstrated that the Cherokees had been misled. Ross was shocked to discover that his correspondence was being sent to the Cherokee Nation to be used against him. Perhaps he would have been even more upset had he known that Polinsett was sending the same documents to Governor George Gilmer of Georgia. Actually, Ross was honest in his appraisals of Cherokee prospects; his supporters in the Cherokee Nation probably were not. Brigadier General Smith used the material in a widely publicized address to the Cherokees, hoping to show them that they must now accept the inevitable and being removing. These maneuvers had little effect, for even several weeks after Smith's address the Cherokees showed little inclination to move. Indeed, the document had the reverse effect for, upon hearing of the address,

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<sup>7</sup>Ross to Coodey, December, 1837, and Ross to Lowrey, January 27, 1838, Ross Papers, Gilcrease Institute; Harris to Armstrong, January 3, 1838, Letters Sent, Office of Indian Affairs, National Archives; Ross et al. to the Senate and House of Representatives, December 15, 1837, "Memorial of a Delegation of the Cherokee Nation," United States House of Representatives, 25th Congress, 2nd Session, Document 99, pp. 1-3; C. E. Haynes to Harris, January 29, 1838, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Adams, Memoirs of John Quincy Adams, Vol. IX, pp. 473-474.

Cherokee runners went throughout the country to get signatures on a document protesting removal. Smith believed that no general enrollment would begin until Ross stated decisively that there was no other choice and, as long as he was absent, the Indians held out hope that something would be done.<sup>8</sup>

On one occasion Ross wrote of his weariness of these constant accusations:

When obeying the will of my people, I have been grossly charged by others with controlling that will--When I advised the observance of patience and forbearance under the reliance of the faith of treaties, with the hope that the U. States would in the end be just--I have been unblushingly accused with holding out false hopes to the Cherokee people and a betrayal of their confidence!

The unbending pressure of the Federal government may have worked to break Ross's resolve, or perhaps the reality of removal was finally becoming apparent. During the first months of 1838, Ross evolved another program for the Cherokees. With the growing certainty of removal facing him, he conceived a plan by which the Cherokees could direct and manage their own emigration. Ross wrote of this plan to Payne but, feeling unsure of his own sentiments at this point and fearing that the Cherokees were not yet ready to accept removal, asked that

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<sup>8</sup>Smith to Harris, December 4 and 20, 1837, and February 1 and 19, 1838, Special File 31, Special Files of the Office of Indian Affairs, National Archives; Harris to Smith, December 13, 1837, and Ross to Poinsett, January 16, 1837, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Harris to Ross, January 18, 1838, Letters Sent, Office of Indian Affairs, National Archives; Poinsett to Gilmer, December 16, 1837, in Gilmer, Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author, p. 537; Smith et al. to the Cherokees, December 28, 1837, "Memorial of the Cherokee Delegation," United States House of Representatives, 25th Congress, 2nd Session, Document 316 (Washington: Thomas Allen, 1838), pp. 4-7; Ross et al. to Van Buren, April 13, 1838, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

his thoughts be kept confidential.<sup>9</sup>

Perhaps Ross was able to forget his despair momentarily as he read lighthearted letters from his young relatives who were attending private academies at Lawrenceville, New Jersey. Araminta Ross, the daughter of Lewis Ross, wrote cheerful notes that were decidedly partisan for her uncle's cause. She protested the course of President Van Buren, advised her uncle to "cut his head off," and wrote of her wish to be a man so she could better demonstrate Cherokee courage. Araminta must have been engaged in some craft activity, for in one letter she asked for Ross's shoe length in order to make him a pair of slippers. The absentminded teenager wrote again in a few weeks for the width of his foot. Araminta's brothers, John McDonald Ross and Robert Daniel Ross, also wrote to Ross to tell him of their studies at Lawrenceville Classical and Commercial High School. John was in his senior year and achieved the honor of valedictorian of the class of 1838. As a member of the debating team, Robert puzzled over the question, "Is superstition more pernicious to Society than Ambition?" and he wanted the chief to send him some supportive arguments for his team's stance. The young boy also boasted that he had not received a whipping that term. William Potter Ross, the eldest son of Elizabeth Ross, received his uncle's financial support while in school, so he often forwarded information of the various costs, which he considered much too high. Ambitious and politically astute, the young man asked for copies of Ross's political tracts and once told of a visit to

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<sup>9</sup>Ross to John Howard Payne, January 27, 1838, Ross Papers, Gilcrease Institute; Ross to Payne, February 10, 1838, Payne Papers, Gilcrease Institute.

Princeton College which he hoped to enter the next year. Ross answered this delightful correspondence as often as time would allow.<sup>10</sup>

In spite of their despondency, the Cherokees held firmly to their decision to remain on their ancestral lands. Brigadier General Smith reported that the Cherokees had discovered that Ross and Gunter had informed their overseers to begin planting crops, and this caused even greater reluctance to enroll for removal. Lewis Ross often served his brother as a pulse to the Cherokee heartbeat when the chief was in Washington. At one point, "tired to death," he wrote Ross in Washington that it might be best, unless something could be accomplished soon, to tell the Cherokees that nothing else could be done and that they must accept removal.<sup>11</sup>

Governor Gilmer suggested to Secretary of War Poinsett that the only way to get the Cherokees on the move was to induce Ross to return and urge removal. Gilmer seemed more perceptive than many other officials, for he noted Cherokee suspicions and believed that even Ross might lose his power if he attempted to make a contract with the government. He thought personal persuasion might bridge the gap of misunderstanding and, in a complimentary letter to Ross, Gilmer emphasized the "law of necessity." He contrasted the dire prospect of using military force to remove the Cherokees, with the liberal compensation

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<sup>10</sup>Araminta Ross to Ross, January 19 and February 7, 1838, Robert Ross to Ross, March 16, 1838, John McDonald Ross to Ross, February 2, 1838, and William P. Ross to Ross, January 20 and March 2, 1838, Ross Papers, Gilcrease Institute; R. J. Mulford Unpublished Notes, John Dixon Library, Lawrenceville School, Lawrenceville, New Jersey.

<sup>11</sup>Lewis Ross to Ross, March 5 and 22, 1838, Ross Papers, Gilcrease Institute; Smith to Harris, March 22, 1838, Special File 31, Special Files of the Office of Indian Affairs, National Archives.

that could be furnished them to carry out their own removal. Gilmer wrote of the happiness he had received on an occasion when he saved the lives of two Indians, and he indicated his belief that Ross could receive an even greater happiness by saving his whole tribe with a peaceable removal. Ross wrote to the Governor that he had read with "unfeigned delight" Gilmer's recollections of saving Indian lives, but this touching story did not change his views on removal.<sup>12</sup>

Early on the morning of March 10, 1838, Lewis Hildebrand delivered to Ross a protest from the Cherokee Nation containing more than 15,000 signatures. Certainly a great many of these signatures were invalid, for the total number of the tribe scarcely exceeded 15,000 persons; yet the document demonstrated again the Cherokees' firm commitment to remaining in their homelands and, no doubt, strengthened Ross in his position. He immediately presented the document with a short petition to Congress, but the Sub-Treasury Bill had so engrossed the two chambers that the petition lay unnoticed. On March 26 it was presented in the Senate, but it was tabled by a vote of 36 to 10. Ross was present when the vote was taken, and the Senate's action must have pushed the chief back into a state of despair, but still he refused to recognize Federal intransigence. He wrote his brother, Lewis, that "the Delegation are now satisfied that the only alternative left us, in the last resort for an adjustment of the affairs is to negotiate a Treaty on the basis of removal." On April 5 Ross and Gunter met with Major S.

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<sup>12</sup>Gilmer to Poinsett, March 3, 1838, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Gilmer to Ross, March 9, 1838, in Gilmer, Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author, pp. 534-536; Ross to Gilmer, April 6, 1838, Ross Papers, Gilcrease Institute.

Cooper, the acting secretary of war during Poinsett's illness, to open negotiations in that regard. Cooper insisted that Ross tell the Cherokees to quit planting crops and to begin making preparation for removal before he would listen to any new proposals from the delegation.<sup>13</sup>

Thus stalemated, Ross addressed the President directly and declared that the delegation was ready to enter into a treaty for the cession of the entire Cherokee Nation. To this the delegation received a perfunctory reply from Cooper referring them to Mason's last communication which stated that President Van Buren would not alter the Treaty of New Echota. Ross made a final plea, hoping to gain the President's recognition of the new proposition but received merely another curt reply. In that communication Ross predicted with amazing accuracy the final reality of the removal cost. He surmised that the United States would need much less to form a new treaty and let the Cherokees remove themselves than to maintain an army and forcibly remove the tribe.<sup>14</sup>

The Cherokees had many supporters in the eastern United States,

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<sup>13</sup>Hildebrand to Ross, March 10, 1838, and Ross et al. to the Senate and House of Representatives, March 12, 1838, "Memorial of the Cherokee Delegation," United States House of Representatives, 25th Congress, 2nd Session, Document 316, pp. 1-4, 7; Ross to Lewis Ross, March 15 and 28 and April 5, 1838, and Harris to John Kennedy et al., March 27, 1838, Ross Papers, Gilcrease Institute.

<sup>14</sup>Ross et al. to Van Buren, April 13, 1838, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Cooper to Ross et al., April 14, 1838, Special File 158, Special Files of the Office of Indian Affairs, National Archives; Ross to Cooper, April 16, 1838, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Cooper to Ross et al., April 17, 1838, Ross Papers, Gilcrease Institute.

especially among the religious and philanthropic societies. During the months of April and May of 1838, numerous petitions poured into the congressional chambers from citizens of the northeastern states protesting the execution of the New Echota treaty. The Quakers particularly had a long tradition of concern for Indians, and they asked Ross to speak before an assembly at the newly opened Philadelphia Hall in Pennsylvania. Curiously, they requested his appearance on May 23, 1838, the very day the Treaty of New Echota was to go into effect. Ross declined the invitation; he still held out hope that some last-minute change might occur, and he was reluctant to leave Washington. In place of a personal address to the Cherokees, Ross forwarded a lengthy letter explaining Cherokee difficulties and the reasons for their resistance to the New Echota pact. Ross also was contacted by O. S. Fowler of Philadelphia, who termed himself a "practical phrenologist." He seemed to have made studies of Ross and others members of the delegation in 1836. He now wished to make plaster casts of the present Cherokee delegates' heads to prove that the red man was neither intellectually nor morally inferior to the white man.<sup>15</sup>

In mid-May the Cherokee deputation sent Secretary of War Poinsett a projected treaty to replace the distasteful Treaty of New Echota. It called for the relinquishment of all Cherokee lands east of the

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<sup>15</sup>Ross to Samuel Webb and John M. Truman, May 3 and 14, 1838, *ibid.* John Ridge was in the East during May visiting his wife's relatives and he "found that the religious community were entirely bewildered by John Ross." Despite Ridge's explanations, the religious groups continued to support the anti-removal cause. Ridge to Lumpkin, May 7, 1838, in Lumpkin, The Removal of the Cherokee Indians from Georgia...1827-1841, pp. 201-205. O. S. Fowler to Ross, March 28, 1838, Ross Papers, Gilcrease Institute.

Mississippi River and a self-executed removal of the tribe within two years. The United States was to agree to "perfect the title of the Cherokee Nation" to the western lands and to allow the acknowledged chiefs to have complete control and distribution of the anticipated funds. The Federal government also would pay arrears from former treaties and would make additional payments for claims and damages above the \$600,000 allocated in the 1835 treaty. The proposed monetary increases were merely blank spaces in the proposed pact, since any such demands would necessitate considerable negotiations. Poinsett gave a point-by-point reply to this proposal. He envisioned an important concession with regard to the first article, for he assured the delegation that an additional two years for removal could be obtained. This assurance, however, was predicated on the approval of the states surrounding the Cherokees. Poinsett opposed any supplemental funds for removal but promised that the government would be liberal in providing money owed the Cherokees, whether from past due or newly filed claims. In essence, he conceded modifications to the 1835 treaty but permitted no new pact. Ross and Gunter met privately with Poinsett two days after his reply. Although they were dissatisfied because the payment would not be increased, Ross and Gunter seemed amenable to other terms Poinsett had suggested.<sup>16</sup>

The Senate, upon hearing of these negotiations, demanded an

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<sup>16</sup>Poinsett to Ross et al., May 18, 1838, "Cherokee Indians," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 376 (Washington: Thomas Allen, 1838), pp. 2-4; Poinsett to R. M. Johnson, May 25, 1838, "Report from the Secretary of War," United States Senate, 25th Congress, 2nd Session, Document 461 (Washington: Blair and Rives, 1838), unpagged only one page.



account of any discussions which would modify the Treaty of New Echota. Since the delegation had left the monetary propositions blank, Poinsett reported the private interview of May 20 with Ross and Gunter but could furnish no specific amounts. Ross was willing to furnish the Senate with such amounts. In a detailed memorandum to the Senate Committee on Indian Affairs, Ross made rough estimates of the costs of public lands, private improvements, removal, and subsistence for one year in the West which totaled altogether more than \$13,000,000. The committee refused even to view these proposals as they were not presented by the executive branch or requested by order of the Senate. At this point Poinsett responded with a statement of additional allowances for the Cherokee removal. This amounted to \$1,047,067 plus an additional \$100,000 for contingencies and \$33,333.30 for annuities. These sums were appropriated in part by Congress in June, raising the total amount allowed for removal to \$6,647,067. For some unknown reason, the delegation received only \$32,000 of the amount appropriated to pay arrears on the annuities, and \$7,000 of that amount was specified for expenses incurred by the delegation.<sup>17</sup>

Since Poinsett had insisted that any extension of removal would

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<sup>17</sup> Ibid.; Ross to Hugh L. White, May 28, 1838, Hugh L. White to Ross, May 28, 1838, and "Memorandum of Estimates regarding the Removal of the Cherokee Nation," undated [May, 1838?], Samuel L. Southard Papers, Princeton University Library, Princeton, New Jersey; Poinsett to James K. Polk, May 25, 1838, "Removal of Cherokees," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 401 (Washington: Thomas Allen, 1838), unpagged [only one page/]; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, pp. 9-10, 17; Statement of Moneys Paid the Cherokees, August 18, 1842, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, p. 69.

have to be made with the approval of the states involved, the Senate requested evidence to determine the attitudes of those states. Governor Gilmer of Georgia had already issued a vigorous statement on such ideas. He would give no sanction to extending the time for removal, and he aggressively asserted that if "Ross and his friends shall remain two years longer, the State will be obliged to get rid of the evils...by exercising its own right of jurisdiction, and remove them by the most efficient means which it can command." The Senate rejected any extension. The delegates, feeling they had accomplished as much as possible in remodeling the Treaty of New Echota, prepared to leave Washington in mid-June. Furthermore, news of military movements in the Cherokee Nation heightened the urgency to return home.<sup>18</sup>

Major General Winfield Scott was ordered to take charge of the United States troops in the Cherokee Nation in April, 1838, and was supplied with additional forces which included a regiment of artillery, a regiment of infantry, and six companies of dragoons. Scott also was authorized to call up 3,000 volunteers from the surrounding states. Ross had met the general shortly before he received his new command, and they had two long conversations concerning Cherokee removal. Scott assured the chief that more than anything else he hoped to prevent bloodshed. The general arrived in Athens, Tennessee, on May 8, and two days later issued a widely distributed address to the Cherokees in

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<sup>18</sup> Gilmer to Poinsett, May 28, 1838, "Cherokee Treaty of 1835," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 421 (Washington: Thomas Allen, 1838), p. 2; Report of the Committee on Indian Affairs, June 5, 1838, Untitled, United States Senate, 25th Congress, 2nd Session, Document 466 (Washington: Blair and Rives, 1838), pp. 1-2.

which he notified them that the two years to prepare for removal had elapsed and that emigration must now begin in haste. Scott in General Order Number 25 a week later admonished his troops to use kindness, indulgence, and civility toward the Cherokees. At first Scott felt his address to the Cherokees had results, for soon 60 Indians presented themselves for emigration. But letters from some of the members of the delegation at Washington assuring their friends that the prospects were good for a two-year extension of the treaty, dried up further enrollment. Cherokee sluggishness could not daunt a soldier who knew his duty, however, and Scott emphatically declared: "My orders from Washington require that the collection of the Indians for emigration shall go on; and it shall."<sup>19</sup>

Secretary of War Poinsett forwarded a report of the proceedings at Washington between Ross and the executive department as a guideline for Scott's activities. Mail took nearly two weeks to reach the frontier, and by the time the general had received Poinsett's suggestions to turn removal over to the tribe, nearly all the Cherokees had been gathered at emigration depots about the Cherokee Nation and were preparing for transfer. The absence of so many of the Cherokee leaders made it difficult for the tribe to take over the arrangements. Further misunderstandings were rife. Poinsett observed that it would

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<sup>19</sup>Alexander Macomb to Scott, April 6 and May 3, 1838, "Removal of the Cherokees," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 453 (Washington: Thomas Allen, 1838), pp. 1-2; Ross to Lewis Ross, April 5, 1838, Ross Papers, Gilcrease Institute; Scott to Poinsett, May 18, 1838, Scott's Address to the Cherokees, May 10, 1838, Scott's Order Number 25, May 17, 1838, Scott to R. Jones, May 22, 1838, and Scott to Smith, June 6, 1838, "Removal of the Cherokees," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 453, pp. 7-13, 21-22.

be best to collect the Indians only shortly before their removal, and he projected the optimum time of arrival in the West as the month of October. The Cherokees had been rounded up well before Poinsett's recommendation was even written, and his ideas on the timing of removal necessitated a delay of sixty days before departure. Scott's frustration was readily apparent. Not only confused directives from Washington but also white squatter zeal and Cherokee lethargy made removal an agonizing process. Furthermore, the benevolent General Order Number 25 went awry. Participants in the panoramic sweep, both Indian and white, recalled the summer a half-century later to an attentive ethnologist:

The history of this Cherokee removal of 1838, as gleaned by the author from the lips of actors in the tragedy, may well exceed in weight of grief and pathos any other passage in American history .... Under Scott's orders the troops were disposed at various points throughout the Cherokee country, where stockade forts were erected for gathering in and holding the Indians preparatory to removal. From these, squads of troops were sent to search out with rifle and bayonet every small cabin hidden away in the coves or by the sides of mountain streams, to seize and bring in as prisoners all the occupants, however or wherever they might be found. Families at dinners were startled by the sudden gleam of bayonets in the doorway and rose up to be driven with blows and oaths along the weary miles of trail that led to the stockade. Men were seized in their fields or going along the road, women were taken from their wheels and children from their play. In many cases, on turning for one last look as they crossed the ridge, they saw their homes in flames, fired by the lawless rabble that followed on the heels of the soldiers to loot and pillage. So keen were these outlaws on the scent that in some instances they were driving off the cattle and other stock of the Indians almost before the soldiers had fairly started their owners in the other direction. Systematic hunts were made by the same men for Indian graves, to rob them of the silver pendants and other valuables deposited with the dead. A Georgia volunteer, afterward a colonel in the Confederate service, said: 'I fought through the civil war and have seen men shot to pieces and slaughtered by thousands, but the Cherokee removal was the cruelest work I ever knew.'

To prevent escape the soldiers had been ordered to approach and surround each house, so far as possible, so as to come upon the

occupants without warning. One old patriarch, when thus surprised, calmly called his children and grandchildren around him, and, kneeling down, bid them pray with him in their own language, while the astonished soldiers looked on in silence. Then rising he led the way into exile. A woman, on finding the house surrounded, went to the door and called up the chickens to be fed for the last time, after which, taking her infant on her back and her two other children by the hand, she followed her husband with the soldiers.<sup>20</sup>

Scott sent off two parties in the first half of June, 1838, but by the middle of the month he had decided to suspend further emigration until September. On June 19 he informed the anxious Cherokee leaders of his decision and relayed to them several conditions which when met would assure a successful removal. A third detachment had left Ross's Landing just two days prior to Scott's announcement, but when members learned of the temporary reprieve they began to desert the detachment in droves. Nearly 300 of the 1,000 members of the party escaped, and one reluctant traveler told Brigadier General Smith, who had joined them at Waterloo, Alabama, that he "would go back Home the next morning and Shoot for Jno. Ross that he had plenty of money and he would fight for him."<sup>21</sup>

Ross traveled to the Cherokee Nation by way of Salem to meet Jane, who withdrew from school and returned home with her father. They

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<sup>20</sup> Poinsett to Scott, May 23, and June 1, 3, 25, and 27, 1838, Scott to Poinsett, June 7, 15, and 18, 1838, and Scott to Smith, June 8, 1838, *ibid.*, pp. 2-6, 18-23, 25-26; Mooney, "Myths of the Cherokee," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, pp. 130-131.

<sup>21</sup> Scott to Poinsett, June 18, 1838, "Removal of the Cherokees," United States House of Representatives, 25th Congress, 2nd Session, Executive Document 453, p. 26; Scott to Lowrey et al., June 19, 1838, "Memorial--Indians--Cherokee Delegation," United State House of Representatives, 26th Congress, 1st Session, Document 129, (Washington: Blair and Rives, 1840), p. 33; Smith to Harris, June 21 and July 3, 1838, Special File 31, Special Files of the Office of Indian Affairs, National Archives.

stopped by the Cherokee Agency at Calhoun, Tennessee, on July 13, 1838, where one missionary noted "thousands pressed around him to greet him with a handshake." There also he delivered to Scott letters from Poinsett that he had carried from Washington. Ross visited with his family for the next few days, during which time he sent runners throughout the Cherokee Nation to convince uncaptured stragglers to come in for removal. Even the persuasive call of their revered chief left many of the North Carolina hill folk unswayed, and they remained as a small band who escaped the forced removal. Ross also called a meeting of the General Council at Red Clay, and on July 21 a resolution was passed asking "that the whole business of the emigration of our people shall be undertaken by the nation." The returned Washington delegation became an ad hoc committee to oversee emigration, and Ross took responsibility as superintendent of the removal process. Scott was still committed to his September 1 deadline but finally permitted an extension beyond that date with the provision that all removal would be completed by October 20.<sup>22</sup>

Ross, as superintendent, made his first estimate of expenses at the end of July. Measuring the distance of travel at 800 miles and

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<sup>22</sup>Ross to John Howard Payne, July 5 and 9, 1838, Payne Papers, Gilcrease Institute; Fries, trans., Extracts from "The Diary of the Moravian Missions Among the Cherokee Indians, 1833-1838," Unpublished Typescript, Oklahoma Historical Society; Scott to Poinsett, July 13, 1838, and Scott to Jones, July 17, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives; Resolution of the General Council, July 21, 1838, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, p. 34; Scott to Ross et al., July 28, 1838, "Report of the Commissioner of Indian Affairs, 1838," United States Senate, 25th Congress, 3rd Session, Document 1 (Washington: Blair and Rives, 1839), pp. 462-463.

contemplating 80 days for the journey, Ross asked \$65.88 per person to cover the cost of teams, wagons, rations, conductors, physicians, and necessary purchases overland. Scott thought the estimate "an extravagant one" and asked that several of the expenses be reconsidered. Upon reconsideration Ross and the committee found that instead of lowering the sum, they actually needed to raise the amount, as they had neglected to add certain incidental costs. Scott reluctantly accepted these calculations. Before Ross took control of the general emigration of the Cherokees, the \$600,000 set aside in the New Echota treaty had been exhausted. Now the monies used for the balance of the removal would be taken from the additional allowance of \$1,047,067 made by Congress in June, 1838.<sup>23</sup>

To manage the complex financial arrangements for such an undertaking, the removal committee appointed Lewis Ross, the brother of the chief, and gave him specific instructions pertaining to prices for removal commodities. The whole arrangement infuriated Brigadier General Smith whose office as superintendent had slipped into the hands of Ross. Even more upset was the swarm of officeholders and contract-seekers whose anticipated profits had vanished. Indeed, several disgruntled whites who had supplied the Cherokees up to that time offered Lewis Ross \$40,000 to let them have the contract to supply the Cherokee removal. The contract with the chief's brother was made

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<sup>23</sup>Ross et al. to Scott, July 31 and August 2, 1838, and Scott to Ross et al., August 1 and 2, 1838, *ibid.*, pp. 463-466; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, p. 9; Scott to Ross et al., August 31, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives.

without the knowledge of Major General Scott, but he quickly learned of the transaction from members of the treaty faction who still remained in the Cherokee Nation in the East. They insisted that Lewis Ross would make an enormous profit of nearly \$180,000. They desired, and Scott hesitantly agreed with their recommendations, that the contract be let to the lowest bidder among several available contractors stationed nearby. Scott had thought the earlier estimates only rough calculations, and he actually anticipated lower costs.<sup>24</sup>

The committee members replied to these charges in the most assertive terms. No public notice was given for the contracts, as they saw no advantage in such a method for the Cherokees. They considered the "health and comfort" of the tribe more important than saving a few dollars, and the committee stressed to Scott that the estimates had been made by experienced men from the best data available. Ross and other members of the committee felt that most of the protests came from disappointed white men who sought lucrative contracts or from Cherokees who were not concerned with saving money but were anxious to embarrass the anti-removal faction. The contract remained in the hands of Lewis

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<sup>24</sup>Agreement between Removal Committee and Lewis Ross, August 10, 1838, and Smith to Harris, August 16, 1838, Special File 31, Special Files of the Office of Indian Affairs, National Archives. Smith was assured that his functions were not superseded by Ross, and he maintained his position until removal was completed. See: Harris to Smith, September 8, 1838, *ibid.*, and T. Hartley Crawford to Smith, January 17, 1839, Letters Sent, Office of Indian Affairs, National Archives. N. A. Bryan et al. to Lewis Ross and John McGhee, August 18, 1838, and Lewis Ross to N. A. Bryan et al., August 18, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives; Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, p. 299. John A. Bell et al. to Scott, August 20, 1838, and Scott to Ross et al., August 22, 1838, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, pp. 31-38.



Ross. The remaining treaty party members asked to leave independent of the mass migration under Ross. Numbering between 650 and 700, they departed October 11, directed by John A. Bell and accompanied by a young army lieutenant, Edward Deas, who relayed interesting accounts of their journey to his Washington superiors.<sup>25</sup>

Scott's September 1 deadline passed and, as all had realized, it had been hopelessly unrealistic; obviously the Cherokees could not complete removal by the appointed October 20. Scott had suspended further emigration in June because of the drought that parched the Southwest and continued well into October. There had been some talk of using the water routes for the remaining Cherokees, but the Tennessee River was so low as to be nearly impassable, and it was still falling in September. Reports that the Arkansas River was in nearly as unfavorable a condition convinced Scott that further parties must take to the land routes. But even this was not feasible until cooler weather and rains appeared, for there was everywhere a scarcity of good drinking water. Not only was removal delayed, but the dragging days had a debilitating effect on the Cherokees interned in camps set up by Major General Scott. He called the camps "healthful and convenient," but the Cherokees must have envisioned them as strict stockades in light of their involuntary presence. Scott also felt that a daily march of 12 to 15 miles would be beneficial exercise to many of the tribe.<sup>26</sup>

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<sup>25</sup>Ross et al. to Scott, August 25, 1838, and Deas to Harris, October 27, November 24, and December 3, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives.

<sup>26</sup>Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, p. 300, 300 n. 14; Remarks of General Scott, June 17, 1841, "Removal of the Cherokees West of the Mississippi," United

In the last days before departing, Ross organized the tribe into 13 detachments of approximately 1,000 persons each. A conductor and an assistant were over each group which also counted a physician, an interpreter, a wagon master, and a commissary agent. At least two parties started out in September but traveled only as far as Blythe's Ferry on the Tennessee River, where they waited for the rains to raise the river. Joined by another detachment, three parties were underway by the first week in October, led by John Benge, Elijah Hicks, and Jesse Bushyhead. The remainder of the month saw five more groups depart for the West from Ross's Landing, present-day Chattanooga. These were directed by Daniel Colston, Sitawakee with Evan Jones, Captain Oldfield with Stephen Foreman, Moses Daniel, and Chooalooka with James D. Wafford. Four groups left during the first week in November under Richard Taylor, James Brown, Peter Hilderbrand, and George Hicks.<sup>27</sup>

Ross remained behind to direct the movements and to make final arrangements for each detachment. He took up residence at the Cherokee agency at Calhoun, Tennessee, where he received reports from the first detachments on what later groups could expect. One of the larger

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States House of Representatives, 27th Congress, 2nd Session, Report 1098, pp. 27-28; Scott to Ross, August 1, 1838, "Report of the Commissioner of Indian Affairs, 1838," United States Senate, 25th Congress, 3rd Session, Document 1, pp. 464-465.

<sup>27</sup>Ross's Certificates of Detachment Expenses, May 18, 1840?, "Removal of the Cherokees," United States House of Representatives, 27th Congress, 3rd Session, Report 288 (Washington: no imprint, 1843), pp. 57-70; Captain John Page to Harris, September 4, October 6 and 22, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives; Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, pp. 302-312.

detachments had a number of the North Carolina Cherokees traveling with it. These hill folk had sternly resisted removal, and some were never captured or removed. It seems that 25 to 50 of them led by some persuasive renegade escaped their party and began a trek back to their Smoky Mountain homes. Scott had decided not to use troops among the Cherokee ranks, so the expeditions were essentially Cherokee controlled. When Scott learned of the escape, he must have regretted his decision. He reported back that he "lectured Mr. Ross, rather sharply" and sent his troops in search of the deserters. Ross followed, hoping to reconvert the scattered fugitives.<sup>28</sup>

The route established for this phase of Cherokee removal, known as the "Trail of Tears," was faithfully followed by each successive wave as men, women, and children thrust their meager belongings aboard the wagons and lumbered laboriously off from Ross's Landing. They crossed the Tennessee River at Blythe's Ferry where the Hiwassee River flowed into that stream, then journeyed to Pikesville, McMinnville, and Nashville. At Nashville the parties were met by Lewis Ross who issued rations and supplies which--as the winter was quickly setting in--included cloaks, bearskins, blankets, overcoats, thick boots, and heavy socks. From Nashville the detachments crossed the Cumberland River and continued northwesterly toward Hopkinsville, Kentucky. There one party buried the redoubtable White Path, who had resisted Anglo-Saxon ways so strongly in 1827 and now had not even the dignity of being buried on

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<sup>28</sup>Lucy Butler to John Howard Payne, January 26, 1839, Payne Papers, Ayer Collection, Newberry Library; Scott to Poinsett, November 13, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives.

his native land. The route pointed the Cherokees to Marion, Kentucky, where they turned sharply west to cross the Ohio River at Golconda, Illinois, and across southern Illinois where they crossed the Mississippi River at Cape Girardeau, Missouri. At both the Ohio and Mississippi rivers the detachments were detained, as ice and insufficient supplies halted their progress. A northern sweep took the later parties through Farmington, Rolla, and Lebanon in Missouri, as earlier parties had cleared the direct route of game. When they entered Arkansas, they turned due west near Fayetteville, and journeyed on into their new country.<sup>29</sup>

No accurate figures exist for the number who died as a result of this tragic trek, and present generations have but a slight sense of the suffering involved. Some put the death toll at 1,600; when added to the number who fell victim to the harsh encampments before removal and the many who succumbed to the debilitating circumstances after arrival, nearly 4,000 Cherokees, or a quarter of the tribe, were lost in the process.<sup>30</sup>

Ross organized a special small party under John Drew numbering about 230 old, sick, and lame. This group got underway December 4, 1838, and chose the water route for the convenience of the invalids. Ross spent his last days at Red Hill helping his family prepare to

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<sup>29</sup>Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, pp. 302-312; Reminiscence of Captain H. B. Henegar /October 25, 1897?/, in Wooten, A History of Bradley County, pp. 58-59; Mooney, "Myths of the Cherokee," Bureau of American Ethnology, Nineteenth Annual Report, Part 2, pp. 132-133.

<sup>30</sup>Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, pp. 310-312.

move. Ross took great care in packing the precious Cherokee Nation papers which dated from the earliest contacts with the United States and which set the unalterable course that led to removal. All the while local white citizens milled about, prepared to bargain for his livestock or to take possession of his abandoned cabin. A half-century later an army private from North Carolina who had accompanied the removal remembered one evening of unselfish heroism displayed by Quatie Ross: "This noble hearted woman died a martyr to childhood. Giving her only Blanket for the protection of a sick child she rode thinly clad through a blinding sleet and snow storm developed Pneumonia and died in the still Hours of a bleak winter night." This story, probably apocryphal, at least gives another glimpse at the largely unknown first wife of Chief Ross. She was buried at Little Rock, Arkansas, after the steamboat Victoria churned up to the landing about February 1, 1839. The remaining passengers completed the last part of the journey and arrived in Cherokee lands in mid-March.<sup>31</sup>

Disputes over the cost of removal elicited at least as much controversy as the heavily debated Treaty of New Echota. The fund of \$1,047,067 established by Congress in June of 1838 had been based on moving the tribe at \$30 per head. This figure had proved entirely unrealistic, as those members of the treaty party who moved west shortly before the mass migration under Ross had required about \$61.70

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<sup>31</sup>Page to Crawford, November 24 and December 4, 1838, Cherokee Emigration Letters Received, Office of Indian Affairs, National Archives; Lucy Butler to John Howard Payne, January 26, 1839, Payne Papers, Ayer Collection, Newberry Library; Story of John G. Burnett, December 11, 1890, Cherokee Papers, Museum of the Cherokee Indian, Cherokee, North Carolina; Arkansas Gazette, February 6, 1839, p. 2, c. 1.

per individual. Furthermore, the actual cost under Ross was even greater than the \$65.88 he had initially estimated, for rather than 80 days the trip took on the average of 125 days, and the cost was slightly over \$103.25 per person.<sup>32</sup>

Ross initiated the controversy when he presented Washington officials his claims in May of 1840. Ross stated that expenses for the 13 detachments were \$1,263,338.48½, to which he added two other claims, one for a requisition on Scott which had not been honored and the other an omitted item in that requisition which brought the total claim to \$1,357,745.86½. A portion of this amount had been received by Ross prior to his departure for the West, so that the balance due the Cherokee Nation came to \$581,346.88½.<sup>33</sup>

These claims were not readily accepted by the Van Buren administration. T. Hartley Crawford, the new commissioner of Indian affairs, presented Secretary of War Poinsett with an elaborate document that stripped the claims of alleged excesses. At the outset Crawford disallowed the unpaid requisition and the smaller omitted item which amounted to \$94,407.38. The actual claimant for the omitted item was Lewis Ross, as he had supplied the Cherokees before they began their

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<sup>32</sup>Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, pp. 9-10. The 125 days as given for the average time of emigration by the 13 parties was not based on actual movement but from the date a party was organized with its conductor and other leaders until the detachment reached the Cherokee Nation in the West. The actual time on the road is undetermined.

<sup>33</sup>Ross to Scott, November 9, 1838, Ross Papers, Gilcrease Institute; Ross's Certificates of Detachment Expenses /May 18, 1840?/, "Removal of the Cherokees," United States House of Representatives, 27th Congress, 3rd Session, Report 288, p. 56.

march. Crawford simply stated "with him General Scott had nothing to do, nor have the United States now...whatever rations, Mr. L. Ross issued, they were delivered without authority." Chief Ross contended that it was not the fault of the Cherokees that the long drought had caused delays of more than 30 days before the march began. Crawford reasoned that the question of payment for those items hinged on whether Lewis Ross had received a fair return for his services. The commissioner was generally satisfied that Lewis Ross already had made lucrative gains and noted that of the 16 cents per day allowed for rations, only  $7\frac{1}{2}$  to 9 cents were actually used. Likewise, the horse ration of 40 cents had cost only about  $25\frac{1}{2}$  cents. In short, he rejected these claims. The controversy revolved around the remaining claim of \$486,939.50.<sup>34</sup>

Crawford discovered a number of objectionable features in this application, the most obvious being discrepancies in the number of Cherokees in each party. There were three counts for each of the 13 detachments. Ross submitted one count, the disbursing agent another, and the receiving agent in the West a third. In only one case was Ross's number lower than the disbursing agent, and in every case his was higher than that of the receiving agent, which can only partly be accounted for by deaths and defections. Crawford discounted the minor variances due to death or desertion and merely recorded the differences between Ross's figures and the receiving agent's count, a difference which varied from 52 to 455 persons per detachment for a total difference of 1,633 persons. According to Crawford's estimate, this

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<sup>34</sup>Crawford to Poinsett, August 8, 1840, *ibid.*, pp. 12-17.

discrepancy in the number actually removed, converted into funds, amounted to \$107,571.94 which the commissioner believed should not be paid. By using these same figures, Crawford also cut the number of wagons and the amount dispensed on horse rations; this overcharge he computed at \$96,705.04. Since the wagons were never returned, he lopped off another \$180,600 for a total reduction of \$384,876.98. The commissioner surmised that given the time and necessary vouchers he could find additional reductions. He recommended rejection of the entire claim, \$486,939.50.<sup>35</sup>

Ross appealed to Secretary Poinsett, who supported Crawford's decision. The case was then brought before President Van Buren. Van Buren was willing to have the lesser amount owed Lewis Ross examined and, if Major General Scott would certify that the delays grew out of his orders, the President would consider payment. On the larger sum of nearly \$500,000 the President felt differently. He considered the agreement between Scott and the Cherokees a contract for a specific sum, i.e. emigration at \$65.88 per person and, since that sum had been paid, no further money should be allotted. At this point the Cherokee Nation employed Matthew St. Clair Clark, sometime clerk for the House of Representatives, as its legal counsel to adjudicate its claims against the United States. Taking Van Buren's suggestions, he gathered testimony from General Scott in reference to the lesser claim. The general conceded that several detachments were delayed with his approval, as it was impossible to find sufficient water on the road. Yet he also noted that after sufficient water was available, the

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<sup>35</sup> Ibid., pp. 17-24.



the parties were dilatory in their movements. In a self-justifying statement, Scott later declared "but for the drought, I would have quashed the contract with Lewis Ross as extravagant, and the renewed movement, beginning with September, would have escaped ice, snow, and bad roads, and been ended in eighty days, by each detachment." A further appeal to the President brought identical results: disapproval of the larger claim and indecision on the lesser.<sup>36</sup>

Martin Van Buren lost the bid for the Presidency in 1840, and the new Whig administration which took office in 1841 was much more conciliatory to Cherokee demands. In the spring of 1841, shortly after his elevation to the Presidency, John Tyler ordered Secretary of War John Bell to reexamine the Cherokee case. Further testimony was taken from General Scott, who felt that a portion of the sum for Lewis Ross was justly due, but also believed that a number of issues were charged to "swell the profits" of Lewis Ross. "Indeed," the skeptical general stated, "the more I look back upon the correspondence, and all the circumstances of the time, the more suspicions gains sic upon me." Yet he felt that Lewis Ross was entitled to some refunds since all the wagon teams and emigrants had to be fed for several weeks before the commencement of removal on October 1. As to the larger amount of money requested by Ross, Scott attributed the delays partially to the Cherokees who, he said, "are proverbially dilatory in their migrations, even when entirely voluntary." Nevertheless, he ascribed delays to the

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<sup>36</sup> Van Buren's Statement, September 2, 1840, Clarke to Scott, November 3, 1840 / Scott's answers accompany the questions asked by Clarke in this letter /, Statement of Scott, June 17, 1841, Clarke to Van Buren, January 7, 1841, *ibid.*, pp. 24-26, 32-35, 37.

cold weather, snow, ice, and the resulting bad roads rather than to "any connivance on the part of John or Lewis Ross." Consequently, he suggested that the sums be paid in whole, or at least what seemed just to Lewis Ross, with the remainder being referred to a board of commissioners.<sup>37</sup>

Secretary of War Bell's reassessment virtually assured the Cherokees of their requests, and in August and September of 1841 the entire claim of \$581,346.88 was paid to Ross and the Cherokee delegates in Washington at that time. Referring to the payment, two impartial Federal investigators observed more than a half-century later: "If the emigration had been undertaken under the conduct of the United States Army it would not only have involved a very great expense for military escort, but the emigrants would necessarily have to be kept under very strict guard to avoid desertion. Even under the voluntary emigration the desertions ranged from 1 to 18 per cent." After a lengthy investigation, they concluded, "It cannot reasonably be claimed that the expense of removal was seriously exaggerated...removal was accomplished with...much less expense to the United States than if it had been involuntary, under the direction of Gen. Scott."<sup>38</sup>

Ross, as superintendent for removal, used the \$486,939.50 received

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<sup>37</sup>Report of the Committee on Indian Affairs, March 2, 1843, Tyler to Ross et al., September 20, 1841, Statement of Scott, June 17, 1841, *ibid.*, pp. 2, 36-40, 49-50.

<sup>38</sup>Decision of Secretary Bell, September 6, 1841, *ibid.*, pp. 27-31; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, p. 11; Statement of the Second Auditor, August 18, 1842, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, p. 70.

from the Tyler administration, exclusive of \$94,407.38 paid Lewis Ross, to pay debts owed for emigration purposes. Ross distributed the money during the period between his return from Washington in December, 1841, and his departure for the capital city again the following April, but it was not sufficient time to complete all the necessary transactions. The Cherokees began to grow apprehensive about the money promised them by the United States for a per capita distribution. Understanding that Ross had made this settlement, one group demanded an accounting of Cherokee funds which Ross possessed in December of 1842. Ross had only just returned to the Cherokee Nation, and disbursements on the money claims were still unfinished. The following year, in his annual message, Ross promised a full account of the money. Thus in the extended National Council meeting of 1843, Ross turned over to the nation \$125,000 saved from the employment of wagons and teams. These savings had grown out of provisions in the agreement between Scott and Ross which allowed sums to be paid for the return of wagons and teams. Since a good many of these items belonged to Cherokees or were bought outright, there was no need to return many of them, and the consequent savings Ross used to employ extra physicians and otherwise provide for Cherokee comforts. Purchased wagons had been sold to the highest bidder, and the proceeds Ross had placed in Cherokee funds, but it seems that this transaction counted for little or nothing, since the wagons bought a poor price in the West.<sup>39</sup>

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<sup>39</sup>Testimony of Samuel C. Stambaugh /1842?, and Ross's Annual Message, October /28?, 1840, *ibid.*, pp. 53, 46; Testimonies of Gideon Morgan, January 1, 1841, R. E. Clements, August 6, 1842, Gideon F. Morris /1842?, Gary Hinant /1842? and J. K. Rodgers, February 24, 1843, "Removal of the Cherokees," United States House of Representa-

A source of irritation among the Cherokees, particularly opponents of Ross, was the action of the Federal government in subtracting the \$581,346.88½ payment from the "five million fund." The \$5,000,000 originally had been established in the Treaty of New Echota to cover the cost of removal and subsistence of the tribe for one year thereafter; to pay for improvements, ferries, and damages; and to settle additional debts and claims upon the Cherokee Nation. But Congress appropriated additional sums to cover all these costs with the exception of removal and subsistence. The reason for Cherokee bitterness was the provision that all money left after those payments was to be distributed on a per capita basis. The tremendous cost of removal, greatly augmented by the settlement with Ross, had cut deeply into the five million fund.<sup>40</sup>

Certainly profit was made in the Cherokee removal, but by whom and how much is largely indeterminable. Ross and the committee who had

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tives, 27th Congress, 3rd Session, Report 288, pp. 40-49, 70; Parks vs. Ross (11 Howard 362); Ross's Annual Message, October 3, 1843, Ross Papers, Gilcrease Institute; Ross to the Committee and Council, December 20, 1842, "Cherokee Disturbances," United States House of Representatives, 29th Congress, 1st Session, Document 185 (Washington: Wendell and Van Benthuyzen, 1848), pp. 106-108; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51 (Tahlequah, Cherokee Nation: Cherokee Advocate Office, 1852), pp. 75-76, 106. Ross overpaid \$24,427.98 in the \$125,000 settlement, all but \$1,500 of which he claimed personally. Ross requested that the amount be returned after a final settlement was determined. It seems that Ross never was repaid this amount. See "The Cherokee Nation in account with John Ross Superintending Agent of Cher. Removal," 1845?, and Affidavit of James Brown, November 2, 1858, Ross Papers, Gilcrease Institute; Ross to the National Council, October 25, 1861, Ross Papers, Indian Archives Division, Oklahoma Historical Society.

<sup>40</sup> Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, pp. 7, 9-10, 19-20.

charge of the entire removal process saw no reason for Cherokee money to pass into the hands of white contractors whose primary concern was making a profit. Turning to Lewis Ross, they felt the major consideration would be Cherokee health and comfort. From the outset Lewis Ross was accused of using his office for personal aggrandizement. Commissioner Crawford estimated that he realized a clear profit of from \$105,000 to \$150,000 from the contract. Lewis's brother-in-law, Thomas C. Hindman, served as a quartermaster and supposedly told one individual who was intimate with removal costs that he would receive \$44,000 for his interest in the contract. Yet a good deal of the alleged profit was literally eaten up by the emigrants as they crossed the drought-ridden Trail of Tears. Each detachment discovered scarcer provisions and dearer prices, while necessary delays served to drive the cost of removal higher. Nor were the provisions particularly palatable or healthful, a fact which often added to sickness and death.<sup>41</sup>

Evidence of greed was apparent throughout the trip. One quartermaster reported to Chief Ross that the merchants at Nashville were charging exorbitant prices for goods and that they set the exchange rate for Federal currency far below its actual value. Ferry owners and toll road keepers frequently raised their prices. Evan Jones complained: "On the Cumberland mountains they fleeced us, 73 cents a wagon and 12½ cents a horse without the least abatement or thanks."

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<sup>41</sup> Crawford to Poinsett, August 8, 1840, and Statement of Gideon F. Morris /1842?/, "Removal of the Cherokees," United States House of Representatives, 27th Congress, 3rd Session, Report 288, pp. 16, 44; Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, pp. 295, 299, 302.

Thus a portion of the supposed profits vanished into the hands of whites along the way. Nevertheless, Lewis Ross undoubtedly realized a substantial profit from the contract, but how much may never be known. Chief Ross may have shared in Lewis's gain, but he received no salary for his work as superintendent. Indeed Ross did not even accept his salary as chief throughout the 1830's. If Ross profited from the removal contracts, even his most vigorous detractors could never trace the funds to his pockets.<sup>42</sup>

Ross probably could not have greatly altered the forced removal, even if his inclinations had turned in that direction. Had he remained in the Cherokee Nation in 1838 and counseled such a course, he probably would have been repudiated by a majority of the tribe, thus losing any effectiveness in easing military removal. As it was, even after he returned and acknowledged the inevitable, lethargy and desertion continued. Ross probably accepted the finality of the Cherokees' fate sometime in April or May of 1838. Blocked by an uncompromising Congress and a vacillating Secretary of War, Ross must have realized that all he could obtain was the additional sums appropriated. Indeed, Ross may have been led to believe that some new agreement could be attained. Friends from within and without the Federal government prompted his confidence that the Cherokees would not have to abandon their homes. As late as mid-May Poinsett held out hopes that a two-year extension

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<sup>42</sup>Thomas N. Clark, Jr., to Ross, November 15, 1838, Foreman Collection, Gilcrease Institute; Foreman, Indian Removal: The Emigration of the Five Civilized Tribes of Indians, p. 304; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Executive Document 182, p. 11; Statement of Thomas C. Hindman, undated /1840?/, Ross Papers, Gilcrease Institute.

could be arranged. Moreover, as news from the Cherokee Nation was received two weeks to a month after events had transpired, Ross was not aware of Scott's actions until the eve of his departure. Dismal and deadly as removal became, it was certainly less harsh than if it had been executed under the heavy hand of martial law.

Over the next decade and nearly into the next century, the question at issue between the United States and the Cherokee Nation was whether the expense of removal was properly chargeable to the five million fund. Moreover, the reduction of the per capita payment lay at the heart of the bitter Cherokee feuds that ensued in the coming years. The Cherokee Treaty of 1846 would settle this question only partially, and the final determination would not come until long after Ross's time.

## CHAPTER VII

### INTERREGNUM

The years after removal to Indian Territory were both personally lonely and politically eventful for Ross. Doubtless, the fervency with which he threw himself into Cherokee affairs was partially due to decreasing demands from his family. He found some relief from loneliness and political strife in correspondence with his younger sons and his niece and nephews. His youngest sons, George W. and Silas D., attended the Lawrenceville Classical and Commercial High School, at Lawrenceville, New Jersey, and wrote of their progress and their interests. Silas was the older and took a superior attitude toward his brother, commenting on George's success and failures. George was not a scholar, and repeated references were made to his improvement, as if to excuse his limited abilities. Silas participated in the school chorus and confided to his father that he thought he would like to draw.<sup>1</sup>

Ross also continued to correspond with his two nephews, Daniel H. and William P. Ross. In fatherly tones, Ross was quick to admonish the boys on the importance of punctuality and perseverance: "Making up for lost lessons by over-studying will not remove the objectionable features in the irregularity of habit...economy & well spent time are the surest

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<sup>1</sup>Silas Ross to Ross, June 13, 1840, George and Silas to Ross, May 6, 1842, and Eliza Jane Ross to Ross, June 8, 1844, Ross Papers, Gilcrease Institute.



guarantees." These admonitions did not turn the boys away, as they continued to write of family and personal matters. Ross was concerned primarily that their conduct might reflect poorly on the character of the Indian race. He desired high honors for the boys "to show to the civilized world that the faculty of the North American Indian is not inferior to the white European." William proved a particularly able young man and, besides supporting him at Lawrenceville, Ross paid his expenses at Princeton College, now Princeton University. Ross must have found it especially satisfying when in later years William aided him in political negotiations in Washington. William gained a great deal from these associations with his uncle, and when he succeeded Ross as chief of the Cherokees, he drew widely on the knowledge gleaned in those early years. Ross seemed eager to advise his niece, Araminta, who contemplated quitting school, that "by extending your association in the respectable circle of Society, an opportunity for 'improving your manners' would be afforded."<sup>2</sup>

But this cheerful correspondence served only as a pleasant diversion from the somber aspects of the post-removal period. The devastating effects of the long march were not entirely relieved at the end of the journey. The firm of Glasgow and Harrison had been commissioned by the Federal government to handle the portion of the Treaty of New Echota which provided for subsistence of the Cherokees for one year after their arrival in the West. From the first arrivals came

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<sup>2</sup>Daniel H. Ross to Ross, June 17, 1840, Ross to Daniel and William, August 19, 1841, William to Ross, July 16, 1842, and Ross to Araminta, May 8, 1841, *ibid.* Ross received notices of William's progress from the academy at Lawrenceville, and he always received the highest marks. H. and S. M. Hamill to Ross, June 20, 1839, *ibid.*

complaints of the poor quality and scant quantity of the rations. Only a few days after Ross reached the new homelands, he received a protest from two Cherokee friends. They cited numerous grievances, especially that the Cherokees were offered poor grades of beef which were unfit for consumption, and that methods for weighing the corn given them were unfair. One Cherokee reasoned, "From the promises made to us in the Nation East we did not Expect such Treatment." Ross announced these inadequacies to Cherokee Agent Montfort Stokes on April 5, 1839. Stokes's unresponsiveness elicited from Ross a documented complaint a couple of weeks later to the area army commander, Brigadier General Matthew Arbuckle. To ease their difficulties, the Cherokees requested that they be allowed to take over their own subsistence. Arbuckle merely packed Ross's papers off to the Indian superintendent for the western territory, William Armstrong, who forwarded them to Washington.<sup>3</sup>

The Cherokees were placed in a very difficult situation. If they would not accept the provisions, their only alternative was to accept money. As the money being given the Cherokees for the beef ration amounted only to one dollar a month, they could not nearly afford necessary provisions at the exorbitant prices charged on the frontier. Ross requested corrections for these injustices also. The monetary exchange for the foodstuffs was supposed to be much higher than one dollar, but this injustice was entirely overlooked at the time. Significantly,

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<sup>3</sup>George Hicks and Collins McDonald to Ross, March 15, 1839, and Ross to Stokes, April 5, 1839, Ross Papers, Gilcrease Institute; Ross to Arbuckle, April 19, 1839, and Armstrong to Crawford, April 25, 1839, "Frauds upon Indians--Rights of the President to Withhold Papers," United States House of Representatives, 27th Congress, 3rd Session, Report 271 (Washington: no imprint, 1843), pp. 147-150.

Arbuckle had shown Ross's protest to the contractors, who forwarded their justification simultaneous to Armstrong's letter to the commissioner of Indian affairs. Glasgow and Harrison, the contracting firm, noted that other tribes which they had supplied had given them no difficulty over the provisions, and they remarked that it was widely known "that the Cherokees are a complaining people." An independent investigator later disclosed that the Creeks also had suffered under the same contractors. Commissioner Crawford returned a lifeless letter in June, 1839, to his agent in the West and called the provisions adequate in quantity, but cautioned that the quality at all times should be "good."<sup>4</sup>

On other issues, Brigadier General Arbuckle was more responsive. An impressionable army lieutenant dashed off an anxious note to the general, stating in a hurried tone "this is no false alarm." He had just learned that Sitawakee was heading a band of Cherokees for an attack on the soldiers. The lieutenant wanted two or three companies or "all the dragoons" at Fort Gibson by the next afternoon. Arbuckle, less excited yet partially taken in, asked Ross to put a check on his disorderly people. Ross found it somewhat comical when 200 dragoons were dispatched to an imaginary battlefield, while Sitawakee, "the dreaded Chieftain, in the mean time was quietly engaged in business" at Ross's home. An infantry captain was detailed to investigate the rumors and discovered the Cherokees "generally employed in building

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<sup>4</sup>Ross to Arbuckle, April 23, 1839, Glasgow and Harrison to Crawford, April 25, 1839, Crawford to Armstrong, June 12, 1839, and E. A. Hitchcock to J. C. Spencer, August 3, 1842, *ibid.*, pp. 151-155, 166-167, 145-147; Grant Foreman, The Five Civilized Tribes (Norman: University of Oklahoma Press, 1934), pp. 285-288.

houses, clearing and fencing land, and planting.<sup>5</sup>

Significant political problems faced the reunited Cherokees, for the the government of the western Cherokees had not taken the direction of their eastern brothers and had remained a loosely structured, less active institution. Ross's old friend, John Jolly, who had welcomed him when he visited the band in 1836, had died in December of that year. An interim government was established much like the one of Major Ridge and Ross after the death of Chief Hicks and Chief Pathkiller in 1827. John Brown was elected principal chief at a meeting of a small faction of the western Cherokee council, while John Rogers and John Looney served as assistants until a regular election was held in October of 1839. Although the government of the Old Settlers (the western Cherokees) was not so intricate as the eastern model, the chiefs were not willing simply to yield their offices and power to the new arrivals. The treaty party which had removed in 1837 and 1838, separate from the general removal under Ross, had blended with the Old Settlers, and the principal protagonists, Major and John Ridge, Stand Watie, and Elias Boudinot, seemed uninterested in politics. The Ross faction held the balance of power, for the 13,000 persons who had followed their chief outnumbered by more than two to one the remainder of the tribe.<sup>6</sup>

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<sup>5</sup>M.C.M. Hammond to Arbuckle, April 25, 1839, Arbuckle to Ross, April 26, 1839, and George A. McCall to Arbuckle, May 3, 1839, "Memo-rial--Indians--Cherokee Delegation," United States House of Represen-tatives, 26th Congress, 1st Session, Document 129, pp. 39-43; Ross to W. P. Rowles, April 27, 1839, Ross Papers, Gilcrease Institute.

<sup>6</sup>Foreman, The Five Civilized Tribes, p. 291; Morris L. Wardell, A Political History of the Cherokee Nation, 1838-1907 (Norman: University of Oklahoma Press, 1938), pp. 13-14; Evan Jones to John Howard Payne, July 24, 1839, Payne Papers, Ayer Collection, Newberry Library.

The initial confrontation came in an atmosphere of amiability on June 3, 1839, when the two groups called a meeting of the Cherokee Nation to meet at Takatoka (Double Springs) about four miles northwest of present-day Tahlequah, Oklahoma. By June 10 the assembly numbered between 6,000 and 7,000 Cherokees, and they listened with their usual attention and good order to Ross's address. Ross recounted the "mysterious dispensations of Providence" that had worked to bring the Cherokee Nation together again into the "household of the Cherokee family, and of one blood." Ross's ambition was to arrange a quick and permanent reunion for the welfare of the entire Cherokee Nation, and he ended his address on that note: "Let us never forget this self-evident truth--that a house divided against itself, cannot stand."<sup>7</sup>

The leery Old Settler leadership wanted a fuller explanation and a clearer understanding of the Ross faction's intentions. Principal Chief Ross and Assistant Chief Lowrey replied that reunification was their sole desire, and they forwarded a resolution of the eastern Cherokees requesting that a select committee be formed with a view to revising and drafting a code of laws for the Cherokee Nation. The projected committee would include Ross, Lowrey, and Edward Gunter of the eastern band, and Brown, Looney, and Rogers of the western group, with three others to be selected by those six. The three Old Settler chiefs would not so readily relinquish their power. They refused the Ross proposition declaring that the Cherokee Nation already was reunited.

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<sup>7</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 14-15; Ross to the General Council, June 10, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 48-49.

Their answer was given on June 14, 1839, the same day which had seen the arrival on the council grounds of the Ridges, Boudinot, and Stand Watie. Several observers, notably Evan Jones, a Baptist missionary from the old Cherokee Nation who had followed the Cherokees over the Trail of Tears, thought that Major Ridge and his friends had influenced the Old Settler chiefs not to come to any agreement with the Ross party. When Arbuckle questioned the propriety of this action, Brown boasted: "I am a man of few words, when I have made up my mind I Stand to it." Perhaps the treaty party members already sensed that their presence was not appreciated by the anti-treaty Cherokees in attendance, and they departed the same day.<sup>8</sup>

The western chiefs had been upset partially because the eastern Cherokee resolution stipulated that two sets of laws would remain in effect until a new constitution was adopted. Of course, they desired that their institutions would dominate. At this apparent impasse, the Old Settlers closed their portion of the council meeting, stating that nothing could be done which would not infringe on the rights of the Cherokee people. Ross reminded the eastern Cherokees of their action in August, 1838, before removal when the General Council had resolved that the constitution and laws of the Cherokee Nation would remain in full force subject only to needed modifications. Nor was the eastern band ready to lay down its self-acknowledged rights. The upshot of

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<sup>8</sup> Brown, Looney, and Rogers to Ross and Lowrey, June 11, 1839, Ross and Lowrey to Brown, Looney, and Rogers, June 13, 1839, Resolution of the Eastern Cherokee Council, June 13, 1839, and Brown, Looney, and Rogers to Ross and Lowrey, June 14, 1839, *ibid.*, pp. 49-52; Evan Jones to John Howard Payne, July 22, 1839, Payne Papers, Ayer Collection, Newberry Library; Statement of Thomas C. Hindman, undated [1840?], Ross Papers, Gilcrease Institute.

this situation was the meeting of an ad hoc group of eastern and western Cherokees led by Sequoyah (George Guess) and Jesse Bushyhead calling for a meeting of the Cherokee Nation at the Illinois Camp Ground on July 1, 1839.<sup>9</sup>

What broke up these rather customary Cherokee political debates was the shocking news of the brutal murders of the principal signers of the 1835 Treaty of New Echota. On June 22, 1839, a party of about 20 or 25 men surrounded the home of John Ridge at Honey Springs and dragged him from the bed amid the screams of his wife and children, stabbing him repeatedly until he fell dead. Major Ridge had left his home to visit some of his Negro slaves in Arkansas and had spent the night at the home of a friend. The next morning, on June 22, as he was returning, a group of Cherokees ambushed him, putting five rifle balls through his head and body. Elias Boudinot, the same day, was working at his home when four Cherokees asked him for some medicine; as he turned to acknowledge their request, they assailed him with knives and tomahawks and continued their blows even after they had downed him, breaking his skull in several places and entirely mutilating his body. The whole incident had been carefully planned and coordinated. A group of anti-treaty men had met secretly one night and drew for X-marked slips of paper which designated the executioners. Ross's son, Allen,

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<sup>9</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 15; Ross and Lowrey to the General Council of the Eastern Cherokees, June 15, 1839, Resolution of the General Council, August 1, 1838, and Resolution of Eastern and Western Cherokees, June 20, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 52, 53, 37. This document erroneously sets the date for the Illinois Camp Ground conference as July 31.

one of the plotters, recalled the clandestine affair many years later; he was to stay with his father and keep any knowledge of the plot from him. Others of the treaty party escaped the well-laid plan, and Stand Watie, John A. Bell, and George W. Adair quickly turned to Brigadier General Arbuckle at Fort Gibson for protection.<sup>10</sup>

As soon as Ross received news of the murders, he sent his brother-in-law, John G. Ross, and other friends to the Boudinot house to determine the validity of the rumors. They soon returned and reported the incident, carrying a note from Mrs. Boudinot that Ross should flee for safety, as Watie was raising a company of men to kill him. Ross then turned to a clerk and asked him to write out a report of the incident to General Arbuckle and to ask for protection. The clerk was too shaken to write, so the chief composed the note himself and handed it to a young white soldier who had accompanied the removal expedition and had volunteered to deliver the message. The soldier wore out two mules that day in his fevered rush. Arbuckle's reply was to advise Ross to enter Fort Gibson for protection. The general also hoped to arrange a meeting of Ross and the Old Settlers at Fort Gibson. Ross's friends advised him against any travel and in a short time they had more than 200 guards stationed around his home.<sup>11</sup>

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<sup>10</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 16-17; John A. Bell and Stand Watie to the Editor, July 8, 1839, in Arkansas Gazette, August 21, 1839, p. 2, c. 4; Grant Foreman, ed., "The Murder of Elias Boudinot," Chronicles of Oklahoma, Vol. XII, No. 1 (March, 1934), pp. 19-24; Jones to Payne, July 22, 1839, Payne Papers, Ayer Collection, Newberry Library.

<sup>11</sup>Ross to Arbuckle, June 22, 23, and 24, 1839, and Arbuckle to Ross, June 23 and 24, 1839, "Memorials--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 54-57; Statement of Thomas C. Hindman, undated /1840?/, Ross Papers, Gilcrease Institute.



The murders grew out of more than just the feuds over the sale of the Cherokee lands and the removal; they had roots in older personal feuds and ancestral traditions. Indeed, one of the accused murderers of Major Ridge may have revenged Ridge's assassination of his father for an action similar to the New Echota treaty. Many of the treaty party men had noticed the Ridges and Boudinot at the June meeting and probably suspected that they had something to do with the failure of reunification. But finally, the deaths had origins in the ancient "Blood Law," which established the death penalty for any person who disposed of the public lands without the consent of the nation. Although the law had been passed down from antiquity, it was not committed to writing until 1829, ironically drawn up by John Ridge. The younger John Ridge well knew the penalty for his action and confided to Commissioner Schermerhorn a few months before his death: "I may yet some day die by the hand of some poor infatuated Indian, deluded by the counsel of Ross and his minions." Yet no conclusive evidence exists to tie Ross to the murders. The agent to the Cherokees, Montfort Stokes, believed Ross innocent and declared: "He is a man of too much good sense to embroil his nation at this critical time; and, besides, his character, since I have known him, which is now twenty-five years, has been pacific." Ross's guilt lies more in the laxity he demonstrated in prosecuting those responsible for the deed, but here again old Cherokee law gave approval to such an act, and Ross may have feared the anger of his followers who considered such murders just, if not heroic.<sup>12</sup>

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<sup>12</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907,

The murders probably strengthened the resolve of the Old Settlers not to integrate with their more numerous eastern brothers. Arbuckle, worried about further outbreaks of violence, hoped that in the meeting called for July 1, 1839, a reunion could be worked out. In this regard, he invited western chiefs, Brown, Looney, and Rogers, to his headquarters, but they simply proposed to Ross that a convention be held at Fort Gibson on July 25 and refused to attend the Illinois Camp Ground meeting. Brigadier General Arbuckle and Agent Stokes both pressed Ross to accept the Old Settlers' proposal. Ross rejected any such proposition, feeling that the eastern Cherokees had in no way trampled the rights of the western group or attempted to take any undue advantage because of their superior numbers. On the contrary, Ross insisted that the eastern faction had given the western group every chance for merger on equal grounds, but the recent emigrants had received only contempt. Ross by this time had enough of the Old Settlers on his side to claim that his group actually better represented the entire nation.<sup>13</sup>

Ross invited not only the western chiefs, Brown, Looney, and

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pp. 17-18; Laws of the Cherokee Nation Adopted by the Council at Various Periods, pp. 136-137; Statement of Captain H. B. Henegar /October 25, 1897?/, in Wooten, A History of Bradley County, pp. 59-60; Schermerhorn to the Editor of the Utica Observer, July 17, 1839, in Niles' Register, September 14, 1839, p. 42, c. 3; Stokes to Poinsett, June 24, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1 (Washington: Blair and Rives, 1839), pp. 354-355.

<sup>13</sup>Arbuckle to General R. Jones, June 26, 1839, Brown, Looney, and Rogers to Ross et al., June 28, 1839, Arbuckle and Stokes to Ross et al., June 29, 1839, Ross et al. to Arbuckle and Stokes, June 30, 1839, and George A. McCall to Arbuckle, July 3, 1839, *ibid.*, pp. 358, 364-370.

Rogers, to the Illinois Camp Ground but also Brigadier General Arbuckle, Agent Stokes, and Indian Superintendent Armstrong. The western leaders refused to attend, even upon the entreaties of several of the respected Old Settlers who had gone over to Ross. Furthermore, they called a meeting of their own for July 22, 1839. Arbuckle became impatient with the continued bickering, and he was greatly upset by reports that citizens of Arkansas were abandoning their homes for fear of Indian uprisings. The general insisted that Ross restore quiet to the frontier. When Ross replied that frontier folk had no reason for alarm, Arbuckle, in his exasperation, washed his hands of the Cherokee mess and declared that he would not concern himself with "what measures the Cherokee people may take to form a new government." Subsequent actions of the general proved that declaration false.<sup>14</sup>

Anxious frontier citizens were not content to abandon their border homes. Believing the Cherokees were in a state of internal war and fearing violence in their own neighborhood, one Arkansas settlement organized a vigilance committee known as the Cane Hill Independent Regulators, who intended to mete out western justice from their base in Washington County. They had captured several suspects involved in a brutal murder of a local resident and, after a quasi-legal hearing, had summarily executed three men. One of the accused men had

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<sup>14</sup>Ross et al. to the Chiefs of the Western Cherokees, June 30, 1839, Ross to Armstrong, June 30, 1839, George Guess to Brown, Looney, and Rogers, July 2, 1839, Ross to Brown, Looney, and Rogers, July 5, 1839, and Brown, Looney, and Rogers to Ross, July 6, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 62-67; Arbuckle to Ross et al., July 8, 1839, and Ross et al. to Arbuckle, July 9, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 371-373.

implicated a Cherokee, John R. Nicholson, and in the latter part of July the regulators demanded that Ross turn him over to them. Ross and the leading men of the Cherokee Nation quickly apprised Agent Stokes of this affair, asserting the innocence of Nicholson, and protesting the illegal authority assumed by the regulators. Stokes, of course, would not sanction the conduct of the regulators and helped to gain testimony supporting Nicholson's innocence. Nicholson was later arrested and held for \$1,000 bail; this action heightened Cherokee unrest.<sup>15</sup>

Nearly 2,000 Cherokees attended Ross's meeting at the Illinois Camp Ground on July 1, 1839, and they declared themselves a general convention of the Cherokee Nation. The members soon drafted documents to establish a stable constitutional government. One of the first acts offered amnesty, on humiliating terms, to members of the treaty party who had exposed themselves to penalties "by their acts... of outlawry." Stripping them of eligibility for national office for five years, the convention further gave them only eight days to appear and retract their former threats of revenge for the Ridge-Boudinot murders. The "eight-day" provision was extended indefinitely the next week, but not until the next year was it revoked entirely. Fewer than a dozen Cherokees came in under this decree, and militants like Stand Watie declared that they would sooner "fall by the hand of the midnight

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<sup>15</sup> John R. Nicholson to /Ross?/, May 13, 1839, Ross Papers, Gilcrease Institute; Andrew Buckhanan and Mark Bean to Ross, July 30, 1839, Ross et al. to Stokes, August 7, 1839, Stokes to Lowrey et al., August 9, 1839, and Testimonies of Daniel McCoy, William Williams, Looney Price, Joseph Coodey, Eleanor Bevert, and Larkin Bevert, August 9, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 95-98; Statement of Thomas C. Hindman, undated /1840?/, Ross Papers, Gilcrease Institute.

assassin," than sign that "infamous oath." In order to carry out this decree, the convention authorized the organization of eight "auxiliary police companies" to suppress disturbances. Watie stationed his own military force in Fort Wayne on Beattie's Prairie in the northeastern part of the Cherokee Nation. From this vantage point, Watie felt safe from aggressions of the eastern faction. Perhaps even more galling to treaty party members was the convention's act absolving everyone connected with the Ridge-Boudinot murders--and without the degrading terms set for Watie and his followers. These acts reflected the tragedy of removal, even as had the bloody vendettas carried out a few weeks before. Both actions were the work of men who sought vengeance for the suffering of the Trail of Tears caused, they believed, by a few designing treaty makers. Ross set his hand to these decrees, but how energetically he had sought them is unclear. Certainly, his influence was felt on every decision of the convention. Perhaps he later regretted these harsh terms as they had much to do with the civil strife that haunted the Cherokee Nation for the next half-dozen years.<sup>16</sup>

The Illinois Camp Ground convention also passed an Act of Union on July 12, 1839. Significantly, some important Old Settlers had linked themselves to this meeting, and John Looney attached his name to the act as "Acting Principal Chief Western Cherokees." That the eastern Cherokees dominated the convention was reflected in a provision that all unsettled business with Major General Scott should remain in the

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<sup>16</sup>Wardell, A Political History of the Cherokees, 1838-1907, p. 53; Armstrong to Crawford, July 12, 1839, and Cherokee Decree, July 7/13, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 363-364, 390-391.

hands of the delegation already in office. During the convention, Ross kept Brigadier General Arbuckle informed of events. What stirred Arbuckle's interest most was the amnesty decree, and he asked repeatedly for copies. In an effort to create better understanding of their respective positions, Ross suggested a meeting between Arbuckle and convention leaders on July 16. At this meeting Arbuckle's expectation of conciliation was dashed when he found Ross and his deputation firmly attached to the amnesty decree, and the general seriously believed that a civil war was imminent in the Cherokee Nation. He also was disturbed by news that some of the Ross party intended to prevent an assembly of the Old Settlers on July 22. Ross seemed to have no apprehension of civil conflict; his intention, he informed Arbuckle, was to wage a "war of reason" on the unaffiliated western Cherokees. Actually, Ross proposed to send a delegation as observers to the western Cherokee meeting, and Arbuckle, still vacillating, seemed willing enough to acknowledge that "the people of the eastern and western Cherokees were justly represented at your convention."<sup>17</sup>

Ross appointed eight men to attend the western Cherokee meeting on July 22, which was held at Tahlonteeskee near the mouth of the Illinois River. Strangely, John Looney rejoined that assembly and styled himself, along with Brown and Rogers, as one of the "Chiefs, Cherokee Nation." He even went so far as to appeal to Indian Superintendent

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<sup>17</sup>Cherokee Act of Union, July 12, 1839, Ross et al. to Arbuckle, July 12, 13, 15, 19, and 20, 1839, and Arbuckle to Ross et al., July 14, 17, 18, and 22, 1839, *ibid.*, pp. 389-390, 394-401, 403-404; John Rogers to Arbuckle, July 17, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, p. 78.

Armstrong and Brigadier General Arbuckle about the course of Ross who, he declared, would not submit to "our western government and laws." Looney's trifling with the Old Settlers may have been a pretense; if not, he certainly redeemed himself later when he signed a paper that would depose Brown and Rogers. The Ross delegates had little impact on the assembly, for a visit by some of the treaty party startled them, and fearing for their lives, most of them hastily left the meeting. The Old Settler gathering must have caused a change of heart in Arbuckle, for shortly after it got underway he accused Ross of producing the difficulties in the Cherokee Nation and demanded that the government established by Ross be terminated. To alleviate Cherokee problems, he offered to both groups the use of the facilities at Fort Gibson for a joint convention. The western Cherokees appointed 15 men to meet a like number from the eastern band at Fort Gibson, but Ross refused. He felt the western Cherokees had given no consideration to his earlier proposals or to his committee of eight men who had visited them, and it seemed to him that any discussions could take place at the Illinois Camp Ground where the people were already assembled.<sup>18</sup>

Other reasons also existed for Ross's refusal to meet the Old Settlers. Many of the Ross faction were afraid to travel to Fort Gibson as they feared reprisals for the deaths of the Ridges and

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<sup>18</sup> Ross et al. to George Guess et al., July 23, 1839, and Ross et al. to John Martin et al., July 27, 1839, Ross Papers, Gilcrease Institute; Ross et al. to Arbuckle, July 24, 1839, Arbuckle to Ross et al., July 29 and August 4, 1839, Brown, Looney, and Rogers to Ross et al., August 2, 1839, and Ross et al. to Brown, Looney, and Rogers, August 6, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 376-382; Wardell, A Political History of the Cherokees, 1838-1907, pp. 29-30.

Boudinot. Further, Fort Gibson could not really be considered neutral ground as Ross surveyed "the great depth of Policy to which that distinguished Statesman and Scientific military chieftain in command has been winding his course, in reference to Cherokee matters." Nor was Ross willing to accept Arbuckle's censure for difficulties that Ross traced to the imprudence of the western chiefs at Takatoka.<sup>19</sup>

At this apparent impasse a group of Old Settlers, favorable to Ross's leadership, gathered as an ad hoc group at the Illinois Camp Ground on August 23, 1839. With the blessing of some of the leading Old Settlers--John Looney, Sequoyah, Tobacco Will, John Drew, and William Shorey Coodey--this group reviewed the actions of the Old Settlers under Brown and Rogers who, they contended, had opposed the reunion of the parties and had further alienated themselves by identifying with the treaty party. In consequence, they deposed Brown and Rogers and disqualified the two from future office. While these Ross adherents estimated their number at nearly 200, Arbuckle called them a small minority who acted under Ross's directions, and the Old Settlers led by Brown and Rogers ignored the meeting and the ouster of their chiefs.<sup>20</sup>

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<sup>19</sup>Ross to William S. and Daniel R. Coodey, August 9, 1839, Ross Papers, Gilcrease Institute; Ross et al. to Arbuckle, August 7, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 382-383.

<sup>20</sup>Old Settlers /Ross adherents/ to John Drew and William Shorey Coodey, August 16, 1839, "Indians--Cherokees," United States House of Representatives, 26th Congress, 1st Session, Document 222 (Washington: Blair and Rives, 1840), pp. 21-22; Old Settlers Resolutions /Ross adherents/, August 23, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 386-388; Arbuckle to Ross, October 14, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 114-115.



The treaty party faction convened at Price's Prairie on August 20, 1839, with George W. Adair in charge. They blamed Ross for the Ridge-Boudinot murders and believed themselves in danger of assassination. They may have been justified in their apprehensions, for a number of the Ross party, having heard that their chief had been assassinated, had gathered and were preparing to take revenge on Bell and Watie. Ross learned of the plot and immediately intervened to quiet such rash actions. The treaty party members decided to send Bell and Watie to Washington to present their case to Secretary of War Joel R. Poinsett. A committee drafted a plea to Poinsett which traced Cherokee political difficulties since the removal of the Ross party, and blamed Ross for all the murder, violence, and hatred. Declaring that they valued Cherokee lives too much to engage in the "horrors of civil war," they also stressed that they would never acknowledge the "mobocracy of John Ross." While still in session, the treaty adherents received word that the time for signing the amnesty pledge had been extended to September 4, 1839, as set by the Ross meeting on August 28. This merely served to harden their resolve and to alienate them further from any sort of union.<sup>21</sup>

Brigadier General Arbuckle and Indian Superintendent Armstrong were working largely without directions from Washington. The Cherokee agent, Montfort Stokes, was ill during most of the troubled summer

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<sup>21</sup>Resolutions of the Treaty Party, August 20, 1839, Treaty Party Committee to Poinsett, August 20, 1839, George W. Adair and J. A. Bell to Arbuckle, August 30, 1839, and Eastern Cherokee Resolution, August 28, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 405-411; Statement of Thomas C. Hindman, undated 1840?, Ross Papers, Gilcrease Institute.

months and did little to ease factionalism. What little part Stokes played was always as a neutral, as he declared, but his letters to Washington show an inclination to favor Ross. He pointed out that his opinion on the Ridge-Boudinot murders remained unchanged; he still firmly believed that Ross was not an accessory to the crimes. Commissioner of Indian Affairs Crawford wrote Armstrong in late August, 1839, but Armstrong probably did not receive the notice until after Ross had perfected the new Cherokee government. He directed Armstrong and Arbuckle to use their most energetic efforts to "discover, arrest, and bring to condign punishment the murderers of the Ridges and Boudinot." This would prove an impossible task.<sup>22</sup>

The Illinois Camp Ground convention ended about September 4, and two days later a constitutional convention, appointed from among the convention body, met to draft a new governing ordinance. The constitution adopted was virtually a carbon copy of the 1827 model, with one exception which would touch Ross. The 1827 constitution provided that the chief executive be elected by the National Council and National Committee meeting in General Council, while under the new document the document the principal chief and other officers would be chosen by the people directly. Henceforth the combined National Council and National Committee would be termed the National Council. An assembly at Tahlequah where the constitution was formed elected the entire range of national officers who would serve as if chosen for a regular term

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<sup>22</sup>Stokes to Poinsett, August 28, 1839, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Crawford to Armstrong, August 20, 1839, and S. Cooper to Arbuckle, August 20, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 413-414.

beginning the first Monday in October. Ross became principal chief, ending at least partially the charge that no elections had been held since 1830, and that he was not a duly authorized spokesman for the tribe. The other leading officers were all Old Settlers. Joseph Vann took the position of second principal chief, while William Shorey Coodey and Young Wolf were placed as heads of the National Committee and National Council.<sup>23</sup>

The Cherokee National Council began about September 12, 1839. Ross opened the session with an address, suggesting much of the legislation to be taken up in the coming term. In the following weeks, the legislature established a national judiciary, prohibited "ardent spirits," and discussed the formation of a school system. As Cherokee finances were still in a state of flux, provisions for education had to be in the hands of missionaries. During the course of the legislative session, several missionaries applied for authority to continue or to resume their work among the tribe. Ross took the occasion to congratulate the missionaries on their work and to recommend to the legislature a favorable report on the applications. One application posed some problems for the Cherokees. Evan Jones, a Baptist missionary and an assistant conductor for one of the emigrating parties, had fallen into disfavor with the Federal government, mostly due to his repeated advice to the North Carolina Cherokees against accepting a forced removal.

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<sup>23</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 33-34; Constitution of the Cherokee Nation, adopted September 6, 1839, in The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 5-15; Ross et al. to John Bell, April 20, 1840, "Indians--Cherokees," United States House of Representatives, 26th Congress, 1st Session, Document 222, p. 2.

Commissioner of Indian Affairs Crawford, learning that Jones anticipated renewing his labors in the West, instructed Indian Superintendent Armstrong to take "necessary measures for his expulsion" if he remained beyond October 1. Nevertheless, the National Council passed an act approving Jones's efforts in the Cherokee Nation's behalf and permitting the resumption of his work. The Cherokee National Council closed on October 12. One of the last acts declared the union of the Cherokees consummated and appointed a delegation of nine men, headed by Ross, to attend to important Cherokee affairs in Washington.<sup>24</sup>

Near the end of September, Brigadier General Arbuckle and Indian Superintendent Armstrong called upon Ross to deliver those individuals responsible for the Ridge-Boudinot murders. They assured the chief that if this was not done, they would employ military force in carrying out their orders. They also noted their regret that no union had taken place between the eastern Cherokees and the Old Settlers under Chief Brown. Ross, of course, would not hand over anyone to Federal authorities, for he knew that Indians were not answerable in United States courts. Ross insisted that he knew of no one charged with the crimes, and that the Cherokees had already disposed of the matter. Ross also pointed out that a legitimate union of the two parties had taken place.

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<sup>24</sup>Ross to the National Council, September 12 and 28, 1839, Daniel Butrick to Ross, September 20, 1839, Ross Papers, Gilcrease Institute; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 17-39; Ross to the National Council, September 27, 1839, "Miscellaneous Letters and Manuscripts Relating to Cherokee History," Unpublished Typescripts, John Vaughn Library, North-eastern State College, Tahlequah, Oklahoma; Crawford to Armstrong, May 16, 1839, Ross to Stokes, October 8, 1839, Cherokee Resolution, October 2, 1839, and Stokes to Ross, October 8, 1839, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, pp. 110-113.

Lewis Ross delivered his brother's message and privately intimated to the general that Federal troops would be opposed if used in the Cherokee Nation to capture the Ridge-Boudinot murderers. The general also discovered that several of the implicated assassins had promised to sell their lives dearly if any attempt was made to take them. Moreover, Arbuckle and Armstrong faced ambivalence on the part of Washington officials. Crawford, after instructing them to apprehend the accused murderers, forwarded subsequent instructions with a short lesson on politics, reminding Armstrong of the ancient axiom "that the majority shall rule." Crawford observed that a minority "must eventually yield to the great mass, whether they arrange their difficulties in a pacific temper, or a resort be had to violence." The commissioner's directions were glaringly inconsistent for, indeed, a Cherokee majority did rule and had absolved the accused murderers. Secretary of War Poinsett sent Arbuckle a similar note but stressed that he should allow no tyranny by the majority.<sup>25</sup>

Arbuckle was ready to show force in order to quell any disturbances. He contacted the governors of Arkansas and Missouri so their militias might be prepared, and he even requested the Creeks to organize for combat. These preparations grew out of Arbuckle's conviction that border warfare was likely, and rumors had convinced him that Ross was making overtures to surrounding tribes. Ross and other leaders at

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<sup>25</sup>Arbuckle and Armstrong to Ross, September 28, 1839, and Ross to Arbuckle and Armstrong, September 30, 1839, *ibid.*, pp. 107-108; Arbuckle to Jones, October 2 and 8, 1839, Crawford to Armstrong, October 8, 1839, and Poinsett to Arbuckle, October 12, 1839, "Report of the Commissioner of Indian Affairs, 1839," United States Senate, 26th Congress, 1st Session, Document 1, pp. 422-424, 414-417.

the Illinois Camp Ground convention actually contacted the chiefs of several of the nearby tribes, but principally to apprise them of Cherokee work, to invite them to the convention, and to assure them of their good will and friendship. It also seems that Arbuckle intended to use some Cherokees to aid his troops in searching for the alleged Ridge-Boudinot murderers but found that few were willing to participate for fear of violence from fellow tribesmen. He sent a curt note to Ross censuring such behavior. Ross protested the general's interference in Cherokee political affairs and again pointed out that the Federal government's jurisdiction did not extend to the Cherokee Nation.<sup>26</sup>

During early November, 1839, the western Cherokees had met at Takatoka, regrouped, and organized their government under a newly elected leadership. John Rogers became the principal chief while John Smith and Dutch assisted him. Former Old Settler Chief John Looney was firmly in the Ross camp by this time, and Chief John Brown had taken refuge with a small band of devoted followers in the Texas province of Mexico. Rogers had personal reasons for opposing the Ross government, as he possessed the Grand Saline, a valuable salt works which should have been common property of the Cherokees; perhaps he feared that a

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<sup>26</sup> Arbuckle to Jones, October 8, 1839, and Armstrong to Crawford, October 10, 1839, *ibid.*, pp. 422-424; Ross et al. to the Chiefs of the Creek Nation, July 1, 1839, and Ross et al. to the Chiefs of the Senecas, Shawnees, Delawares, and Quapaws, July 29, 1839, "Indians--Cherokees," United States House of Representatives, 26th Congress, 1st Session, Document 222, pp. 15-16; R. A. Callaway to Arbuckle, October 15, 1839, Arbuckle to Ross, November 2, 1839, and Ross to Arbuckle, November 4, 1839, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188 (Washington: Blair and Rives, 1840), pp. 21, 14-17.

change of government might cause the loss of this lucrative enterprise. His fears were justified in 1843 when the Cherokee National Council passed an act dispossessing all owners of salines and leasing them to the highest bidder. Probably it was particularly distasteful to him to learn that he had to yield his business to the new tenant and high bidder, Lewis Ross. In light of the deposition of Brown and Rogers by Old Settlers affiliated with Ross, the western Cherokee meeting declared the proceedings of the Tahlequah meeting unlawful and unworthy of their consideration. They appealed to Arbuckle to help them in bringing about a union of the two factions. Arbuckle was only too ready to agree that Ross's government was unauthorized, and he acknowledged the legitimacy of the Old Settler government. The general even declared that he was prepared to arrest and confine Ross had the chief not been on his way to Washington for important business. Anxious to maintain their government and knowing that Ross was out of the way, Old Settlers renewed their invitation to the emigrant band to meet and form one nation. They also considered having a delegation to represent them in Washington, but the plan was rejected, since they were assured that John Bell and Stand Watie, already at the capital, would look after their interests.<sup>27</sup>

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<sup>27</sup>Stokes to the Western Cherokees, November 11, 1839, Resolution of the Western Cherokees, November 5, 1839, Rogers et al. to Arbuckle, November 7, 1839, Arbuckle to Rogers et al., November 10, 1839, Arbuckle to Jones, November 24, 1839, Rogers et al. to Stokes, November 22, 1839, and Crawford to Armstrong, January 2, 1840, *ibid.*, pp. 17-21, 23-26; Grant Foreman, "Salt Works in Early Oklahoma," Chronicles of Oklahoma, Vol. X, No. 4 (December, 1932), pp. 492-493; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 58-59, 84-86, 154-155. On the worth and dispossession of Rogers' saline, see "Report of the Secretary of War," United States Senate, 28th Congress, 2nd Session, Document 140 (Washington: Gales and Seaton, 1845), pp. 102-113.

Receiving belated instructions from Washington, Arbuckle asked Joseph Vann, assistant principal chief of the eastern Cherokees, to call a meeting of his group to gain the consent of the dissident Old Settlers for reuniting the tribe. The general found Vann as skilled in stalling tactics as Ross and every bit as reluctant to take action regarding the Ridge-Boudinot murders. Nevertheless, Vann called a meeting of the Cherokees but, much to Arbuckle's chagrin, the group only briefly considered his request and went on to other matters. Cherokee Agent Stokes had revived sufficiently to attend the meeting and there worked out an agreement with Vann for a general assembly of the Cherokee Nation on January 15, 1840, at Tahlequah. Although Rogers and the western faction protested, the meeting went ahead as scheduled. Two significant acts came out of that convention. Nearly 2,000 Cherokees assembled and voted to revoke the earlier amnesty decree which the treaty party had found so odious; they also ratified the Act of Union and the Cherokee Constitution, both drawn up in 1839. Agent Stokes certified that 115 Old Settlers were present, while the unaffiliated Old Settlers counted only 35 in attendance. Arbuckle felt that Stokes had been "overreached by Ross friends," and was ready to stop the meeting but reconsidered, thinking that he might put it to his own use by getting the Cherokees to depose Ross.<sup>28</sup>

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<sup>28</sup>Arbuckle to Vann, December 5, 14, and 24, 1839, Vann to Arbuckle, December 6 and 24, 1839, Agreement between Stokes and the Eastern Cherokees, December 20, 1839, Call for Cherokee Assembly, December 20, 1839, Rogers et al. to Arbuckle and Stokes, December 27, 1839, Revocation of the Amnesty Decree and Ratification of the Constitution, January 16, 1840, Arbuckle to Poinsett, January 22 and 28, 1840, and Armstrong to Crawford, January 22, 1840, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188, pp. 28-29, 31-37, 43-45, 53, 56.



William Shorey Coodey, who had remained behind when the Cherokee delegation left for Washington in November of 1839, had kept Ross informed of activities in the Cherokee Nation. He noted in one communication, "Stokes will carry out our argument he told me." Such was the case, for as Arbuckle relayed dire warnings of civil disaster, Stokes calmly related to Secretary of War Poinsett: "I think that the present state of affairs is as favorable as could be expected." Indian Superintendent Armstrong also was determined to recognize the new government and irascible Brigadier General Arbuckle reluctantly informed the western Cherokees that their government had ceased.<sup>29</sup>

Still not content, Arbuckle consented to a meeting of Old Settlers at Fort Gibson the first week in February, 1840. One Ross advocate commented: "Those little damn'd Councils at the Fort will lead to mischief." Not surprisingly, when the Old Settlers met, they called Ross a usurper and claimed theirs the only legal government. Arbuckle insisted that if he had his own way, he would dissolve the two governments and reorganize them, giving each party proportional representation in a new establishment. Stirred by Arbuckle's reports, Poinsett gave him sufficient power to direct a reorganization of the Cherokee government. Suspending Stokes, Poinsett gave complete authority in the area to the military commander. He instructed Arbuckle to call another meeting and frame a constitution in harmony with United States

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<sup>29</sup>William Shorey Coodey to Ross, January 2, 1840, Ross Papers, Gilcrease Institute; Stokes to Poinsett, January 22, 1840, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188, pp. 50-51.

ideals.<sup>30</sup>

Arbuckle acted quickly. Ross was in Washington, and if anything was to be accomplished it had to be done before his return, for Arbuckle observed a "blind attachment" to Ross by the eastern faction. The general requested Vann of the eastern band and Rogers of the Old Settlers to appoint 15 or 20 men each to meet with him at Fort Gibson on April 20, 1840. Anticipating Arbuckle's actions, the delegation at Washington sent Looney Price back to the Cherokee Nation with news of its work. From Price the eastern Cherokees learned that the Federal government had been unwilling to recognize the legitimacy of their union or to accept Ross as principal chief. Arbuckle addressed the assembly on April 21 and, hoping to mollify the eastern faction, he passed quickly over Poinsett's action toward Ross and implied that it would not be permanent. The eastern faction responded to Arbuckle the next day, stating that all obstacles to the recognition of the union had been taken care of in January, and that they would not accept Ross's deposition, even temporarily. The western Cherokees left the post within a few days, so little came of Arbuckle's work. Nevertheless, the general had succeeded in obtaining a promise that Vann would call another assembly of the eastern Cherokees. The general found Vann as procrastinating as ever, and the meeting at Fort Gibson, originally scheduled for April 20, did not get underway until May 25,

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<sup>30</sup>William Shorey Coodey to Ross, January 2, 1840, Ross Papers, Gilcrease Institute; Arbuckle to Poinsett, February 8 and 10, 1840, Report of the Select Committee of Western Cherokees, February 7, 1840, Crawford to Stokes, March 7, 1840, Poinsett to Arbuckle, March 7, 1840, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188, pp. 56-59, 64.

but the Cherokees were uncompromising when they learned that an essential element of Arbuckle's plan for a new government was that Ross have no part in the organization.<sup>31</sup>

Again Arbuckle called a meeting of the two factions at Fort Gibson for June 10, 1840. After ten days of rigorous negotiations, Arbuckle realized that he could not get the eastern faction to compromise on the Cherokee Act of Union or the Constitution, so he turned his attention to the Old Settlers and convinced them to accept the documents without admitting the legality of either. Agreements eventually were worked out whereby the Constitution was accepted in its original form and the Act of Union with only slight modifications. These additions to the Act of Union would entitle the Old Settlers to part of the per capita payments and to certain offices in the new government from its initiation, after which the officers would stand for election before the whole nation.<sup>32</sup>

Ross and the delegation had left the Cherokee Nation about November 15, 1839. Ross traveled to Lawrenceville, New Jersey, to place his son, Silas, in the Lawrenceville Classical and Commercial High School there before proceeding on to Washington, where he joined

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<sup>31</sup>Arbuckle to Poinsett, April 13, May 6 and 27, 1840, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Delegation to Vann, March 22, 1840, Ross Papers, Gilcrease Institute; Arbuckle's Address, April 21, 1840, Eastern Cherokee Response, April 22, 1840, Old Settler Response, April 25, 1840, Vann to Arbuckle, April 24, 1840, and Arbuckle to Vann, May 11 and 24, 1840, "Report of the Commissioner of Indian Affairs, 1840," United States Senate, 26th Congress, 2nd Session, Document 1 (Washington: Blair and Rives, 1841), pp. 262-269.

<sup>32</sup>Arbuckle to Poinsett, June 9 and 28, 1840, Arbuckle to Vann, June 2, 1840, Vann et al. to Arbuckle, June 3, 1840, and Act of Union, June 26, 1840, *ibid.*, pp. 269-272.

the other delegates at Fuller's Hotel. The group sent a note to Secretary of War Poinsett on December 31, requesting an interview at a time convenient to him and to President Van Buren. Poinsett replied that they were welcome as representatives of "their portion" of the Cherokees, but that no communication would be held with Ross until a full investigation of the murders of the Ridges and Boudinot was accomplished, as Ross was suspected of being the "instigator and abettor of the foul murders." The delegation declined any audience without their chief, and Ross wrote a personal note asking for the names of those who implicated him in the murders. Poinsett merely replied that evidence would be supplied in the course of the investigation. Lewis Ross had traveled East with his brother to settle some personal business and to place his children at the Lawrenceville academy. Hearing of his brother's problems, Lewis arranged a personal interview with Poinsett, and learned that although Poinsett did not believe that Ross personally had ordered the murders, he felt his innocence was questionable because of his refusal to produce the accused assassins. The secretary concluded that "the Government would not acknowledge John Ross as chief of the Cherokee nation, or treat with him at all, as such."<sup>33</sup>

Two rival delegations were also present in the capital city. John Bell, Stand Watie, and William Rogers represented the treaty faction,

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<sup>33</sup>Lewis Ross to Ross, January 3, 1840, and Ross to Elijah Parker, January 23, 1840, Ross Papers, Gilcrease Institute; Ross et al. to Poinsett, December 31, 1839, Poinsett to Lynch et al., January 2 and 4, 1840, Lynch et al. to Poinsett, January 3, 1840, Ross to Poinsett, January 3, 1840, and Crawford to Poinsett, March 30, 1840, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188, pp. 38-40.

while the Old Settlers had sent a group of eight men who agreed to pay their own expenses in Washington. Bell and Watie seemed not to face such embarrassments. Each sported the latest in Washington apparel, and the bill for this and for the hotel accommodations was submitted to the War Department. Eventually the Old Settlers received money as well, which probably was used for expenses of the delegation. The two groups worked in tandem in an effort to offset Ross's effectiveness. Considering themselves a "distinct community," they sought a way to alleviate "the late bloody proceedings of the Ross Party," which they felt possible only by dividing the Cherokee Nation. They appealed to Poinsett to separate the Cherokee Nation with the treaty party and the Old Settlers thrown together independent of the Ross faction, and with division of the annuities proportionate to their numbers. Poinsett would not consent to this plan to accept them as a "separate independent community."<sup>34</sup>

Ross looked for assistance to his friends in the East. Several men loaned the delegation money to meet Washington expenses, and Ross garnered the literary talents of John Howard Payne for work on several Cherokee petitions. Payne possessed copies of many of the Cherokee documents which he planned to use in a projected history of the tribe. Ross asked that he bring his notes along and told him of his present status: "The bar of the Executive door which has been bolted against

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<sup>34</sup>Arbuckle to Poinsett, February 10, 1840, Rogers et al. to Poinsett, January 22, 1840, and Crawford to Poinsett, March 27, 1840, *ibid.*, pp. 64, 42-43, 62; Memorial of Dutch et al., undated /March, 1840?/, "Indians--Cherokee Nation," United States House of Representatives, 26th Congress, 1st Session, Document 162 (Washington: Blair and Rives, 1840), pp. 1-15; Foreman, The Five Civilized Tribes, p. 304 n. 14.

my admission into the presence of His transitory Highness of the White House, is still closed--but I do not despair of yet finding entrance thro the Legislative Hall." Directing their appeal to Congress after Poinsett had closed the executive entrance, the Ross delegation laid out a mass of correspondence, dating from removal negotiations with General Scott in 1838, up to the time they left Park Hill. Only touching on the forced removal, they detailed the events which had left their country in a state of disunity and near anarchy. Deploring the intransigence of the Old Settlers and the nonrecognition of their chief by Poinsett, they declared themselves the legitimate authority of the tribe. The House Committee on Indian Affairs took up the petition and produced a report which censured the Department of War. However, the House of Representatives refused to publish the committee's findings, and the report became public only after a member, John Bell of Tennessee, leaked it to the press.<sup>35</sup>

William Shorey Coodey, an Old Settler who aligned with his uncle, Chief Ross, arrived in Washington in March to join the delegation, bringing additional documents to lend support to the eastern Cherokee case. He also brought hope that difficulties may have been settled at the January meeting called by Agent Stokes. Coodey met with Secretary Poinsett to discuss Ross's proscription and the Ridge-Boudinot murders.

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<sup>35</sup>Ross to the National Council, October 1787, 1840, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, p. 45; Ross to Payne, January 22, 1840, Ross Papers, Gilcrease Institute; Foreman, The Five Civilized Tribes, p. 311, 311 n. 2; Ross et al. to the Senate and House of Representatives, February 28, 1840, "Memorial--Indians--Cherokee Delegation," United States House of Representatives, 26th Congress, 1st Session, Document 129, passim.

Somewhat overzealous, he made the statement that the Cherokees looked upon the Ridges and Boudinot as traitors and that tribal laws demanded that they be punished. Coodey's statements grew out of Poinsett's characterization of the dominant faction as a "murderous majority." Nonetheless, Coodey's outburst embittered the secretary, and he refused to have any further dealing with the Cherokees and placed Coodey on the same footing as Ross.<sup>36</sup>

The Ross delegation applied for tribal annuities while in Washington but, as with other matters, were unsuccessful, discovering that no money would be paid until their internal difficulties ceased. Such action appeared to the delegation to be an attempt to starve the Cherokees into submission by forcing them to recognize the New Echota treaty. What particularly upset the Ross group was the knowledge that the western delegation had been paid over \$3,000 in annuities at the time Ross and his party were told they could receive no money. Actually, this payment grew out of earlier money owed the western Cherokees, but the timing of the payment gave the appearance of favoritism. Ross also made a personal request for the money owed him for his improvements taken under the Treaty of New Echota. He was careful that his request not be construed as a final settlement for his claim or as an indemnity for removal damages. Further, Ross insisted that this payment should in no way be viewed as a recognition of the Treaty

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<sup>36</sup>Coodey to Ross, March 5, 1840, *ibid.*, pp. 10-11; Crawford to Poinsett, March 30, 1840, "Cherokee Indians," United States House of Representatives, 26th Congress, 1st Session, Document 188, p. 11; William Shorey Coodey to the Committee on Indian Affairs, April 22, 1840, "Indians--Cherokees," United States House of Representatives, 26th Congress, 1st Session, Document 222, pp. 17-21.

of New Echota. When Ross applied to the United States Treasury for payment, he was surprised that the claim had been reduced by \$342.56½ because of some undetermined debts of which he knew nothing. He was even more surprised when he learned that Commissioner of Indian Affairs Crawford perceived his request a "protest" and "objectionable in tone," as the commissioner termed it, and had withdrawn the requisition. Ross had wanted to make certain that by accepting some payment at that time he would not damage his rights to a future claim, as he thought his property in the old Cherokee Nation worth more than double the award. Ross needed the money and withdrew the "protest." The money was paid, but the reduction remained, and he received \$23,323.18½, which he used in part to pay the expenses of the delegation in Washington.<sup>37</sup>

In the latter part of August, 1840, Ross left Washington for Indian Territory. Accompanied by John Howard Payne, the delegation went overland by way of New Orleans, then up the Arkansas River to Van Buren. Bad roads and low water so slowed the trip that several Cherokees became apprehensive for their chief and sent a party after him. They met Ross at Van Buren and escorted the delegation into Tahlequah. Soon after Ross arrived, runners were sent throughout the

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<sup>37</sup> Delegation to Vann, March 22, 1840, Ross Papers, Gilcrease Institute; Crawford to the Delegation, July 21, 1840, Letters Sent, Office of Indian Affairs, National Archives; Ross et al. to Crawford, July 27, 1840, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; E. Hicks to Poinsett, August 21, 1840, and Crawford to Poinsett, August 22, 1840, "Report of the Commissioner of Indian Affairs, 1840," United States Senate, 26th Congress, 2nd Session, Document 1, pp. 272-275; Ross to Crawford, July 10, 13, and 16, 1840, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Crawford to Ross, July 15 and 17, 1840, Letters Sent, Office of Indian Affairs, National Archives; Ross to the National Council, October 7/28?/, 1840, "Removal of the Cherokee West of the Mississippi," United States House of Representatives, 27th Congress, 1nd Session, Report 1098, p. 45.



Cherokee Nation to call the National Council into session. Ross addressed the assembly on October 28, and he regretfully announced the "entire failure to gain any of the objects of their mission." Ross laid before the legislature the petitions and papers presented at Washington and the reports of the United States executive department on Cherokee questions. Ross explained that the part of the delay by Congress was due to the approaching Presidential election that had absorbed the Washington community's attention. Ross then turned the meeting to legislative action with the hope that their "labors for the public good merit the smile of Heaven."<sup>38</sup>

Brigadier General Arbuckle at Fort Gibson was still under orders not to recognize the validity of Ross's leadership, and his correspondence with the Cherokee National Council was in this vein. The orders fit nicely with his personal feelings, for he believed that Ross hampered a return to peace among the Cherokees. The National Council took up the general's points regarding military activities in the region but were adamant that "no external authority exists for displacing or appointing Chiefs or officers of any Indian Nation." National Council members also informed Arbuckle that they believed Secretary of War Poinsett would soon remove Ross's proscription and recognize him as chief. This actually happened in November of 1840, when Poinsett lifted the ban on payments of money due the tribe. Indian Superintendent Armstrong received the news in early January, 1841, and passed word to Ross that he was ready to pay over any sums due the Cherokees.

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<sup>38</sup> *ibid.*, pp. 44-47; Grant Foreman, Advancing the Frontier, 1830-1860 (Norman: University of Oklahoma Press, 1933), p. 319.

The superintendent also considered all objections to the Cherokee government removed and, for his own part, wished to see the Cherokees under their own authority. Bell's so-called suppressed report made Arbuckle appear a principal cause of Cherokee problems, and his continued presence must have been an embarrassment to the War Department, for he soon was transferred to a new command in New Orleans and replaced by General Zachary Taylor. Montfort Stokes who had been temporarily removed from his office, also was returned to his position as Cherokee agent. The National Council appointed Ross, David Vann, and John Benge as delegates to Washington, and they departed from the Cherokee Nation about February 1, 1841.<sup>39</sup>

In many ways the immediate post-removal era proved more disruptive than the tormented years preceding the forced migration. In the old Cherokee Nation, tribal divisions had centered largely on ideological differences, while the new factionalism grew out of struggles for power, both political and economic. Ross clearly had the numerical edge and the political adroitness to settle the struggle. Had the Cherokees been left to their own devices, they may well have decided the contest without any more bloodshed than actually occurred, and probably with much less. This, of course, does not excuse vendettas

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<sup>39</sup>Arbuckle to the General Council, October 24, 1840, Armstrong to Crawford, October 25, 1840, Arbuckle to R. Jones, October 27, 1840, William Shorey Coodey et al. to Arbuckle, November 6, 1840, and Poinsett to Crawford, November 11, 1840, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; H. B. Gaither to Ross, January 6, 1841, Resolutions of the National Council, November 13 and 14, 1840, and Crawford to Stokes, October 21, 1840, Ross Papers, Gilcrease Institute; Arbuckle to Tyler, May 26, 1841, Foreman Collection, Gilcrease Institute; Foreman, The Five Civilized Tribes, p. 318.

carried out by hot-headed Ross adherents against the treaty party, apparently without the sanction or knowledge of Chief Ross. The repeated interference of Brigadier General Arbuckle only prolonged a natural political reordering. Indeed, his actions can be explained only by assuming that he had a personal dislike of Ross. Had Federal officials listened to the steadier counsel of Indian Superintendent Armstrong or Agent Stokes, reunion might have been achieved more quickly and under less anguished circumstances. However, violence persisted over the next half-dozen years, and unity was only a facade for deep-seated hatreds.

## CHAPTER VIII

### SEMBLANCE OF UNITY

Ross arrived in Washington in February, 1841, with great expectations and renewed hope that the Cherokees could obtain a final settlement of their differences with the Federal government. With the accession of a Whig administration under President William Henry Harrison and Vice President John Tyler, and with a friend of the Cherokees, John Bell, as secretary of war, Ross's confidence must have swelled as he entered the capital city. Indeed, the financial arrangements worked out that year went a long way to revise the sagging trust of the Cherokees in the magnanimity of the United States government.

The Cherokee delegation members had a meeting with Harrison and Bell on March 23 and were greatly encouraged by their reception. That same week they wrote Bell in regard to their purpose and set forth the essential problems which they felt most hampered the relations between the two governments. The question of Cherokee claims for damages due to the removal effort was a pressing matter, for a great many of the Ross adherents had not registered their demands in 1838, thinking that their chief could stop removal. The delegates also requested a clearer definition of the relationship between the United States and the Cherokee Nation, feeling that the Treaty of New Echota had altered their traditional roles. Believing as they did that the treaty was unjust and illegal, they also desired negotiations for a new treaty.

Ross's hopes faltered in this period, for the new administration was hesitating in its approach to the Indian problem. The death of President Harrison in April and the accession of John Tyler caused further apprehension among the Cherokees, and indeed the transition caused further delay in the settlement of Cherokee grievances.<sup>1</sup>

Several months elapsed before the delegation again approached Secretary of War Bell. On this occasion the Cherokees placed an extended statement before the secretary, encompassing a sketch of Cherokee-United States relations. Depicting the Treaty of New Echota as "one of the most monstrous political frauds which ever stained the page of history," they called for a clear title to their lands in order to guarantee that they would never be driven from their homes again. While these matters were left unanswered for a time, the Tyler administration paid David Vann, the Cherokee national treasurer and a delegate at the time, over \$100,000 due the Cherokees from interest on investments by the Federal government as stipulated in the New Echota pact.<sup>2</sup>

During the sweltering summer months, many Washingtonians visited the fashionable resorts on the Atlantic coast. Ross also frequented these spots when the press of Cherokee business was not too confining. At Cape May in New Jersey, Saratoga Springs in New York, and Brandywine

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<sup>1</sup>Bell to Ross, March 22, 1841, Letters Sent, Office of Indian Affairs, National Archives; Ross et al. to Bell, March 27, 1841, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

<sup>2</sup>Ross to Bell, May 15, 1841, *ibid.*; Statement of Moneys Paid to the Cherokee Nation, August 18, 1842, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, p. 70.

Springs in Delaware, Ross relaxed and met friends like the essayist, John Howard Payne, or former commissioner of Indian affairs, Thomas L. McKenney. Ross also toured the great cities of that day--Boston, New York, and Philadelphia. At Philadelphia Ross had a brief romantic interlude with Elizabeth Milligan. He had known Elizabeth as early as 1838, but their relationship did not warm until 1841 when her mother, Anne, requested that Ross find some clerical work to relieve the listless spirits of her daughter. Ross, the perfect suitor, was ready to cheer Elizabeth by occasional walks in the countryside and in quaint nineteenth century prose confided that "nothing would afford me more pleasure than to wait upon her at any time."<sup>3</sup>

The relationship culminated in a long letter to Elizabeth in which Ross wrote fatalistically of the mysterious future laid before them. The loss of Quatie and the great sorrows of his people doubtless were before him as he viewed man's transitory nature. He recounted the tragedies of his life and pointed out that only the "interposition of an all wise Being" enabled him to surmount them. With justifiable pride, he recorded the advancement of the Cherokees in the arts of civilization and projected their eventual union with the United States. Ross candidly reminded Elizabeth of his responsibilities as chief and of his duties to his people. These words, no doubt, were to serve as a warning to accompany the proposal he made, for if Elizabeth were to accept, it must be with the full knowledge of his divided loyalties to

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<sup>3</sup>Ross to E. Milligan, April 10, 1838, Anne Milligan to Ross, May 27, 1841, and Ross to Anne Milligan, May 27, 1841, J. Lester Hargett Collection, Western History Collections, University of Oklahoma; Thomas L. Hindman to Ross, April 14, 1841, Ross Papers, Indian Archives Division Oklahoma Historical Society.

to home and nation. Having given these cautionary words, Ross continued: "To say, that my long cherished friendship for you, has so ardently seized the affections of my heart, as to make my silent thoughts doat /dote/ upon you as a lover, would be nothing more than an avowal of the solemn truth."<sup>4</sup>

From these affectionate terms, Ross, the politician and diplomat, moved to expressions less romantic, "presenting a petition craving your reply on the subject of my fervent desire for negotiating a treaty with you for the purpose of uniting our hearts in the bonds of matrimony!" Fearful that she might consider him too old, Ross stressed the soundness of his health and promised frank replies to any inquiries about himself. Whether Elizabeth declined or Ross reconsidered may never be known. One year later he wrote her in less affectionate tones as he departed for Indian Territory and left her as a token of their friendship the mundane sculptured bust of Red Jacket, a Seneca Indian chief. Perhaps Ross realized that loneliness and mutual regard were insufficient ingredients for a successful marriage.<sup>5</sup>

William Shorey Coodey joined the delegation in July, 1841, to replace John Benge whose health was failing. Coodey kept Ross informed

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<sup>4</sup>Ross to Elizabeth, September 5, 1841, and September 19, 1842, Hargett Collection, Western History Collections, University of Oklahoma.

<sup>5</sup>Ibid. The proposal letter went through a number of revisions, many more than Ross usually made, thus creating the belief that the decision was not firmly set. Another encounter was with a certain Mary Connelly of Bethlehem, Pennsylvania. A friend of Ross's niece, Miss Connelly wrote Eliza Jane Ross of "the first and only that I could ever love." Ross did not reciprocate her love. Eliza Jane to Ross, June 8, 1844, Ross Papers, Gilcrease Institute. See also Mary Connelly to Ross, May 30, 1844, and Ross to Mary Connelly, September 12, 1841, *ibid.*

of Washington developments while the chief toured the East during the summer. Viewing the debates on Cherokee finances with a fresh outlook, Coodey commented to Ross that he felt the chances were good for the Cherokees to collect their money, but that the "Whig Party are about to mire down the Executive Treas." The Whig administration had not made a clean sweep of the executive offices, and some of the retained officials were distasteful to the Cherokees, especially Commissioner of Indian Affairs Crawford who hampered their financial settlements. The Whigs may have offered the job to another man, but Coodey observed that "Crawford sticks like a counterfeit dollar." Other offices were filled by Cherokee friends. Bell's old position as chairman of the House Committee on Indian Affairs was offered to ex-President John Quincy Adams, and upon hearing of this Ross dashed off a premature note, congratulating him on the appointment. Recalling Adams' stand against Jackson's removal policy and his "extended views of philanthropy & justice," Ross asked for an audience to discuss Cherokee problems. Adams, however, refused the appointment, saying he would have a "total impotence to render any useful service" from that position. He believed that the whole area of Indian affairs was stained beyond cleansing and so turned from that "sickening mass of putrefaction." Nevertheless, he promised Ross that he would speak personally to Bell about the neglect and delays. Actually, Ross felt no need to appeal to Congress over President Tyler and, for the first time in several years, he placed no memorial before the legislative branch.<sup>6</sup>

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<sup>6</sup>Ross to Bell, July 8, 1841, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; William Shorey Coodey to Ross, July 19, 1841, Ross Papers, Gilcrease Institute; Ross to John



In the latter days of August, 1841, Ross appealed to Secretary of War Bell again. He stressed that in spite of the fact that the Cherokee delegates had been in Washington since February, they could report no definite results for their long stay and, as the time for the annual National Council was approaching, they would have to leave no later than mid-September. "To say to them," Ross said, "after so long an absence, that nothing has been concluded upon, may induce a distrust of us, or a loss of that fraternal regard, for the government of the United States." Again Ross asked for a new treaty and requested that Bell himself negotiate it because of his intimate knowledge of the Cherokee situation. In those final days Bell acted in a decisive and positive manner. The Cherokees secured payment of the claim of over \$500,000, plus a further payment of \$18,000 on interest from the trust fund. Nor was President Tyler any less accommodating to the delegates. Calling for them the day before their departure, the President presented them with a letter that gave the first ray of hope for a new treaty. Tyler solemnly assured the three men, "So far as it may be in my power to prevent it, you may be assured that it shall not again be said that a Cherokee has petitioned for justice in vain." But the passage that surely shone most brilliantly was Tyler's promise to negotiate a new treaty

which shall give to the Cherokee nation full indemnity for all wrongs which they may have suffered, establish upon a permanent basis the political relations between them and the people of the United States, guaranty their lands in absolute fee simple, and prescribe specific rules in reference to subjects of the most

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Quincy Adams, June 16, 1841, Ross Papers, Indian Archives Division, Oklahoma Historical Society; Adams, Memoirs of John Quincy Adams, Vol. X, pp. 491-492.

interesting character to them and their remotest posterity, a new sun will have dawned upon them, in whose brightness their permanent happiness and true glory may be read by the whole world.

Had Ross written the message himself, he could not have been more thorough in touching the points he had worked so ardently to settle.<sup>7</sup>

In contrast to the two years prior to 1841, the Cherokee Nation had remained relatively peaceful during Ross's absence. The elections of August, 1841, had proceeded with no great difficulty, and the National Council met in October with the new assistant principal chief, A. M. Vann, an Old Settler, presiding. Perhaps Ross had not been as diligent as usual in keeping his constituents posted on his progress at the Federal capital. As many of the tribe were clamoring for their per capita payments, Vann addressed Secretary of War Bell endeavoring to discover what progress the delegation had made, especially regarding the per capita funds. Learning that Ross had received a large payment in Washington, the Cherokee legislature passed an act in October ordering that the per capita money "shall be applied to no other purpose whatever, than an equal division among the citizens of the Cherokee Nation." One observer noted that some of Ross's warmest friends had supported this move. It seems likely that the act was an outgrowth of the Old Settlers' disenchantment, which augmented a general fear that

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<sup>7</sup>Ross et al. to Bell, August 26, 1841, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Statement of Moneys Paid to the Cherokee Nation, August 18, 1842, and Tyler to Ross, September 20, 1841, "Removal of the Cherokees West of the Mississippi," United States House of Representatives, 27th Congress, 2nd Session, Report 1098, pp. 70-72.

the Cherokees would receive no recompense for their losses in the East.<sup>8</sup>

Ross arrived only in time for the last day of the National Council meeting, but the importance of Tyler's letter persuaded him to call an extra session of the legislature. Ross rode from Park Hill to the Tahlequah assembly area shortly after noon on November 29. Major Ethan Allen Hitchcock, a special agent of the Federal government, was on hand and closely observed the movements of the chief.

/Ross/ tied his horse to a tree. Great numbers of the people were standing around but Indian-like no one approached him. I was the first to go up and speak to him. We shook hands and several questions of civility passed and we separated. He walked a short distance and then began a general greeting. Very many went up and shook hands with their head chief. It was nearly an hour after his arrival before he took his place in a sort of pulpit under a large shed and the Committee and Council and people assembled.<sup>9</sup>

Major Hitchcock remained during the meeting, noting carefully his observations and writing brief sketches of the principal men of the Cherokee Nation. He left this description of Ross:

I have said nothing of Jno. Ross the principal chief of the Nation, who will head the delegation. Much is said of him in the States, and like other conspicuous men he has been variously spoken of, in terms of great praise and great censure. He resides five miles from this place on a beautiful prairie in sight of Park Hill--is of mixed blood between 45 and 50 years of age--is under size and his manners, unless excited, have a dash of diffidence in them--is not of ready speech--speaks English principally and will

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<sup>8</sup>Elijah Hicks to Ross, July 28, 1841, Ross Papers, Gilcrease Institute; A. M. Vann to Bell, September 10, 1841, and Ethan Allen Hitchcock to J. C. Spencer, November 28, 1841, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, p. 54.

<sup>9</sup>Ross to the National Council, November 29, 1841, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ethan Allen Hitchcock, A Traveler in Indian Territory, the Journal of Ethan Allen Hitchcock, ed. by Grant Foreman (Cedar Rapids, Iowa: Torch Press, 1930), p. 38.

not trust himself to address his own people in Cherokee--is a man of strong passions and settled purposes which he pursues with untiring zeal; is of undoubted courage unless it be that he fears the defeat of his plans more than the loss of life and would preserve the latter to execute the former. After much attentive observation I am of opinion that John Ross is an honest man and a patriot laboring for the good of his people. In the recent trouble of his nation, including several years, with almost unlimited opportunities he has not enriched himself. It is unfortunate for his reputation that several of his relatives, particularly his brother Lewis, have realized fortunes through his instrumentality, though it is fair to consider that this may have resulted from contracts properly made. It would be stranger if there was not ambition with the patriotism of Jno. Ross, but he seeks the fame of establishing his nation and heaping benefits upon his people. Though not a fluent speaker, even in conversation, he is a clear-minded accurate thinker of very far-reaching views.<sup>10</sup>

Tahlequah was barely a town in 1841, hardly a capital for a proud people, and the National Council chambers consisted of no more than a roof sustained by several poles, while long split logs served as seats for the support of 12 to 15 councilmen. The chief read his message to the crowd, and it was translated into Cherokee, sentence by sentence, by Jesse Bushyhead, the chief justice of the Cherokee Supreme Court. Ross related the cordiality of the new administration and his personal confidence in Tyler's promises. Great care was given to the reading of Tyler's message. Before the close of the council that day, it was read twice more, and each reading elicited close attention. All other correspondence also was presented to the National Council, and Ross told of the various payments made at Washington. Ross felt that another delegation should go immediately to Washington to work toward the fulfillment of Tyler's promises.<sup>11</sup>

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<sup>10</sup> Ibid., p. 234.

<sup>11</sup> Ibid., p. 39; Ross to the National Council, November 29, 1841, Ross Papers, Gilcrease Institute.

In the following days the National Council dealt with several issues introduced to Ross in his message. The legislature appointed Ross as head of a new delegation and suspended the act relating to per capita funds until a new treaty could be negotiated. The National Council also acted upon Ross's suggestion for establishing a system of public education. A special fund had been set aside for this purpose in the Treaty of New Echota in 1835, and it had been a dream of the Cherokees for a number of years. While in the East that year, Ross had requested his friend and former commissioner of Indian affairs, Thomas L. McKenney, to secure information on "the most approved Systems of education which are now in successful operation throughout the Country." The education act of 1841 passed by the National Council called for 11 public schools in Cherokee Nation and the necessary governing apparatus to keep them functioning. This was the beginning of an educational system that would be the envy of surrounding tribes and neighboring white communities as well.<sup>12</sup>

President Tyler had removed the aging Cherokee Agent Stokes from office in 1841 and had appointed in his place the vigorous Pierce Mason Butler. Butler arrived in Indian Territory in early December, 1841, and witnessed the last days of the Cherokee National Council. After several months at his new post, he addressed a "confidential" letter to Commissioner Crawford summarizing his observations during

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<sup>12</sup>Ross to Butler, December 28, 1841, *ibid.*; Hitchcock to Spencer, December 7, 1841, and Butler to Crawford, March 4, 1842, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51; pp. 59-61; Ross to McKenney, May 22, 1841, Ross Papers, Gilcrease Institute.

the period. He wrote of Chief Ross in terms very similar to those of Major Hitchcock:

I think him privately, a retiring, modest, good man; as a public man he has dignity and intelligence. He is ambitious and stubborn, often tenacious of his own views to an extent that prejudices both himself and his cause; wanting in wisdom and policy in selecting at all times his own friends and partisans for public employment. He looks rather to what he thinks the rights of his people than to what is expedient or to what is to be obtained for them.<sup>13</sup>

Ross left for Washington the last week of March of 1842, accompanied by Jesse Bushyhead and John Benge, while Vann and Coodey were to join them later. Making a leisurely trip of nearly six weeks, Ross stopped off at Lawrenceville, New Jersey, to enroll his son, George, in the Lawrenceville Classical and Commercial High School. Before leaving Ross had learned of the appointment of John C. Spencer to the post of secretary of war, vacated by John Bell. Although Ross had not met him, he had received favorable reports of his abilities. President Tyler made numerous cabinet changes during his administration, with four different secretaries of war in as many years but, to the Cherokees' disappointment, Crawford remained as commissioner of Indian affairs throughout Tyler's tenure. Ross had hoped his friend, Thomas L. McKenney, might be elevated to the office.<sup>14</sup>

Within a few months after they arrived in Washington, Secretary Spencer requested the Cherokee delegates to put the objects of their

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<sup>13</sup>Carolyn Thomas Foreman, "Pierce Mason Butler," Chronicles of Oklahoma, Vol. XXX, No. 1 (Spring, 1952), p. 10; Butler to Crawford, March 4, 1842, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

<sup>14</sup>Ross to Sarah F. Stapler, April 2, 1842, Ross Papers, Gilcrease Institute.

mission in writing. Three times in June of 1842 the delegates laid out Cherokee grievances, but Spencer never seemed satisfied that he had a full understanding of their problems. A composite of their correspondence centers around seven points: that a new treaty be drafted with provisions for permanent title to Cherokee lands; that liberal allowance be made for their abandoned lands; that military posts be moved beyond the limits of the Cherokee Nation; that licensed traders in their country be curtailed; that the practice of trying Cherokee citizens in surrounding state courts be ended; that administration of Cherokee public funds be changed; and that removal and resettlement claims under the Treaty of New Echota of 1835 be finally settled. On the last point the delegation was quite explicit. Having learned that a board of commissioners was being organized in Washington to settle these claims, the delegates were ready to present the mass of documents they had so carefully gathered before leaving the Cherokee Nation. Most of that work proved to be useless, as the board was not organized until November of 1842 and then spent a good deal of its time registering North Carolina Cherokees. This board also was reluctant to approve the claims of the Ross party emigrants as they had not moved under the two year stipulation of the Treaty of New Echota.<sup>15</sup>

Meanwhile, it was well into August of 1842 before Secretary of War Spencer presented Ross and his colleagues with "Articles of a New

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<sup>15</sup>Ross to Spencer, May 13 and June 2, 6, 14, and 28, 1842, Special File 75, Special Files of the Office of Indian Affairs, National Archives; John H. Eaton and Edward H. Hubley to James M. Porter, November 17, 1843, and Minority Opinion, March 29, 1844, "Claims Arising Under the Cherokee Treaty," United States House of Representatives, 28th Congress, 1st Session, Report 391 (Washington: Blair and Rives, 1844), pp. 13-14, 18.

Convention." After several days of carefully examining the document, the delegates replied that it fell so "far short of our expectations and wishes that we cannot accept" it. The secretary implied that the Cherokees were not actually prepared to accept a new treaty until the Treaty of New Echota was "annulled." Ross's reply was that treaties with the tribe had been made time and again without first voiding earlier pacts and he insisted that the delegation was willing to accept reasonable terms for a treaty now. As Ross recalled the bright hopes given the Cherokees by Tyler's letter of the preceding year, he was bitterly disappointed in this turn in the negotiations. Ross reasoned that perhaps "we have unwittingly been induced to expect too much, to infer what was never intended." The delegation discontinued negotiations but left Cherokee Agent Butler, who was also in Washington, a memorandum of the provisions desired in a new treaty. These Butler relayed to Secretary of War Spencer shortly before the delegation left Washington about September, 1842.<sup>16</sup>

Normally while Ross was in Washington, political affairs in the Cherokee Nation were handled by the assistant principal chief, A. M. Vann, but illness currently prevented him from working, and his responsibilities were taken over by the Executive Council, a group of men who served as advisers to the chief and the legislature. These men had their hands full in the spring of 1842. On May 14 James Foreman, a member of the Ross party accused of participating in the Ridge-Boudinot murders, happened into a store on the Arkansas line. Finding Stand

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<sup>16</sup>Ross et al. to Spencer, August 12, 1842, and Butler to Spencer, August 24, 1842, Special File 75, Special Files of the Office of Indian Affairs, National Archives.



Watie at the counter, Foreman proposed a toast as they shared Watie's liquor. Watie stopped him short and demanded that Foreman tell him if he was one of the murderers. Foreman replied, "Say, yourself," and casually continued with his drink but, before he could empty his glass, Watie tossed his whiskey into Foreman's face, and a fight began. They scuffled out into the street where Foreman grabbed a stone; Watie drew his knife and stabbed his opponent in the side. Foreman stumbled back as Watie drew and fired his pistol, but the discharge went harmlessly amiss. Nevertheless, Foreman's knife wound proved fatal within the hour. While the Executive Council tried to calm the Cherokee Nation, especially Foreman's friends and relatives who got up a party to punish Watie, Agent Butler prepared to gather four companies of dragoons to capture Watie. Watie eventually was tried in Arkansas and acquitted on a plea of self-defense.<sup>17</sup>

Like other tribes of Indian Territory, the Cherokees had adopted many of the mores and institutions of the southern states, including slavery. In time, slavery became an intimate part of their lives, and they developed an elaborate system of laws to govern it. These statutes covered slaves' treatment, miscegenation, free Negroes, and criminal offenses and also included other restrictions on slavery. Nonetheless, the Cherokees faced the normal problems associated with slavery. In November of 1842 some 20 blacks escaped from their owners,

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<sup>17</sup>Ross to Butler, March 22, 1842, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; John G. Ross to Ross, May 3, 19, and 25, 1842, Ross Papers, Gilcrease Institute; Foreman, The Five Civilized Tribes, pp. 324-325. For another version of the Foreman killing, see George W. Paschal, "The Trial of Stand Watie," ed. by Grant Foreman, Chronicles of Oklahoma, Vol. XII, No. 3 (September, 1934), pp. 305-339.

Joseph Vann and other Cherokee citizens, with a bit of plundering. Ross and the National Council ordered Captain John Drew to gather a force of 100 armed men and follow this band into the Creek Nation; Drew's force would be held blameless if any resisting Negroes were killed. Within a month Drew had rounded up the blacks and delivered them to Fort Gibson and safekeeping, as the Cherokee Nation had no jails.<sup>18</sup>

Removal to Indian Territory had brought the Five Civilized Tribes closer together and had activated common problems that had been unapparent in the East. Realizing the need for a general Indian convention, the Cherokee legislature during the 1842 session acted to bring about a meeting of the surrounding tribes. Chief Ross and John Looney, a member of the Cherokee Executive Council, met the chiefs of the Creek Nation, Rolly McIntosh and Ufalar Harjo, at Fort Gibson in January, 1843, where Cherokee Agent Butler helped to organize the proposed convention. At that meeting it was decided merely to invite Choctaw and Chickasaw chiefs to another meeting at Fort Gibson on February 1 to set a date for the general convention. Butler viewed the forthcoming convention as an effort to establish some common laws for punishing crimes and to outline proposals for future relations among the tribes.<sup>19</sup>

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<sup>18</sup>The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 62-63, 74, passim; Ross to Butler, December 11, 1842, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

<sup>19</sup>Butler to Crawford, January 16, 1843, ibid.; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 68-69.

The chiefs set the meeting of the general convention for mid-June, 1843, at Tahlequah and invited numerous tribes from throughout the West. Delegates and onlookers from at least 18 tribes began assembling two weeks before the convention got underway, being housed in log buildings on the Cherokee Council Grounds at Tahlequah. William H. Goode, an observer who had just arrived in Indian Territory to set up a Methodist mission at the abandoned Fort Coffee, left interesting comments. Goode noted that Ross had only the faintest marking of an Indian and found him similar in appearance and size to ex-President Martin Van Buren. As Goode walked about the council ground, he observed the "motley appearance" of the crowd: "The costume of the Indian tribes is greatly varied, from the richest and most genteel style of their white neighbors to the rudest and simplest form of savage dress...a singular and fantastic comingling of tastes...they display a great passion for gay colors."<sup>20</sup>

Meeting under a large shed on June 23, the delegations were seated on crude benches around a central table on which peace pipes had been placed. A horn blast signaled the opening of the meeting; then Ross expressed the purpose of the gathering. "Brothers," he began, "you have also smoked the pipe of peace, and taken the hand of friendship around the council-fire, newly rekindled here at Tahlequah in the West." Then Ross paused for interpreters to translate to their tribes, and Goode listened to the low grunts of approval and understanding. Ross

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<sup>20</sup>William H. Goode, Outposts of Zion with Limnings of Mission Life (Cincinnati, Ohio: Poe and Hitchcock, 1863), pp. 28-30, 69-72; Hannah Hitchcock, "Cycle of Indian Territory History--the '40's," Unpublished Typescript, Alice Robertson Collection, University of Tulsa Library.

continued,

When we look back to the history of our race we see some green spots that are pleasing to us. We also see many things to make our hearts sad....We are grateful to our Creator for having united the hearts of the red men in peace....We should, therefore, extend the hand of peace from tribe to tribe, till peace is established between every nation of red men within the reach of our voice.<sup>21</sup>

After four weeks the tribes worked out a compact compromising perpetual peace and friendship among the tribes. They also pledged never to "cede...to the United States, any part of their present Territory." This article came as something of a surprise to the Federal agents present, and they likely were offended by its obvious reference. Other articles were less startling. Although only three tribes--the Cherokees, Creeks, and Osages--signed the pact, copies were made generally available, and most delegates returned to their homes with positive feelings about the convention.<sup>22</sup>

The convention ended a little over a month before the first general election in the Cherokee Nation. As in 1841, all members of the national legislature would stand election, but August of 1843 marked the first occasion since the ratification of the Cherokee Constitution in 1840 for the election of the principal chief and the assistant principal chief. Ross had as his running mate George Lowrey, who had served as assistant principal chief for nearly a year after the death of A. M. Vann. Opposing them were two Old Settlers, Joseph Vann and W. S. Adair. The election was an overwhelming victory for Ross. He polled nearly two-thirds of the ballots cast, winning by a majority

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<sup>21</sup>Goode, Outposts of Zion with Limnings of Mission Life, pp. 71-74.

<sup>22</sup>The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 87-89.

of nearly 900 votes.<sup>23</sup>

Several months before the election the acting Cherokee agent, Marcellus Duval, serving in the absence of Butler, reported to his Washington superiors that the Cherokee Nation seemed calm and the people "perfectly willing to abide by the decision of the Ballot Box." This was true of the majority of the voters, but in some election districts there remained groups still vehemently opposed to the government organized under Ross, particularly in the Saline District where serious trouble broke out. There David Vann and Isaac Bushyhead, both Ross supporters, served as election superintendents, and on August 8 were making out the election returns when several men began to use threatening and abusive language toward Vann. Vann suggested leaving for a quieter place, and as they departed one George West attacked Bushyhead, who tried to escape but was pursued and stabbed to death. Vann, trying to mount his horse, was held by Jacob West, George's father, who yelled, "Kill him," while several men beat Vann nearly to death with clubs. When bystanders tried to intervene, their lives were likewise threatened, but they eventually saved Vann and Elijah Hicks, another Ross supporter, who also was attacked.<sup>24</sup>

As news of this outrage spread, more than 200 armed men met at

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<sup>23</sup>"Cherokee Indians," Niles' Register, September 16, 1843, p. 36, c. 2. The election returns of at least one district have been preserved. Curiously, Ross and Lowrey were listed as "Whigs," while Vann and Adair were noted as "Loco/focos." David Vann and Isaac Bushyhead to A. Campbell and Jack Spears, August 7, 1843, Ross Papers, Gilcrease Institute.

<sup>24</sup>Duval to Crawford, March 28, August 9 and 12, 1843, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Foreman, The Five Civilized Tribes, pp. 326-327. Ross's Annual Message, October 3, 1843, Ross Papers, Gilcrease Institute.

Ross's house at Park Hill to protect the chief and to seek out the offenders. Ross sent out runners to discover the true nature of the acts and then turned the apprehension of the criminals over to Cherokee sheriffs in the appropriate districts. Jacob West and his son, John, were apprehended and taken into custody, but George seems to have escaped. Jacob West tried to claim immunity as a white man, since he had only married into the tribe, but his petition was denied and he was subsequently tried and executed by Cherokee authorities. John West received 100 lashes and was deprived of Cherokee citizenship. At least two others were caught and probably received treatment similar to that of John West.<sup>25</sup>

The annual meeting of the Cherokee National Council convened in October, 1843, at Tahlequah, and Ross addressed the assembly, recounting the events of the preceding year. In speaking of the August election, he related the sad events in the Saline district and the actions taken toward the captured criminals. The chief also reviewed the general convention of neighboring tribes in June and presented the covenant which had been adopted there, and it was quickly ratified. Ross, mentioning the receipt from Boston through the American Board of Foreign Missions of a printing press and type in the Cherokee and English languages, suggested legislation to establish a national newspaper. Within a few days, the National Council established the

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<sup>25</sup>Duval to Crawford, August 12, 1843, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Statement of David Carter, December 31, 1844, Ross to General Zachary Taylor, September 29, 1843, and W.W.S. Bliss to Ross, October 3, 1843, "Report of the Secretary of War," United States Senate, 28th Congress, 2nd Session, Document 140, pp. 113-114, 122-123.

Cherokee Advocate for the "dissemination of useful knowledge among the Cherokee people." Provisions were made for the employment of an editor who would serve for a term of four years at an annual salary of \$500. William P. Ross, just graduated from Princeton College, took the position as editor and remained in that capacity for the greater part of the life of the newspaper. Additional funds were set aside for erecting a building to house the press and offices in Tahlequah. The National Council provided that the paper would serve as a training ground for Cherokee youths in the "art of printing."<sup>26</sup>

Due to the continuing excited condition in the Cherokee Nation, the National Council also authorized the appointment of a guard of six men, at \$1.50 per day, to be stationed at Park Hill for the safety of Ross and the Cherokee national records. Ross also was authorized to hire a secretary to assist him with correspondence on Cherokee affairs. The National Council further determined to send Ross and four others as a delegation to Washington, allotting \$3 per day each for their services and appropriating \$3,000 for their expenses. The delegation included, besides Ross, Elijah Hicks, John Benge, and David Vann, while William P. Ross served as secretary.<sup>27</sup>

Ross reached Washington in mid-April, 1844, settled at Fuller's Hotel, and presented the credentials of the delegation to the new secretary of war, William Wilkins of Pennsylvania, in a personal

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<sup>26</sup> Ross's Annual Message, October 3, 1843, and David Greene to Ross, September 30, 1842, Ross Papers, Gilcrease Institute; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 81-82, 102.

<sup>27</sup> *Ibid.*, pp. 95-99, 104.

meeting on April 22. As was customary, the delegation committed the purposes of its mission to writing, which it forwarded to Wilkins two weeks later. Enclosing a copy of President Tyler's letter of September 20, 1841, which had brought so much hope to Ross and his followers, the delegation expressed a desire to begin negotiating on the items indicated by Tyler. Wilkins' pleasant but noncommittal reply brought the first hint of problems Ross and his comrades were to face that year in Washington. Wilkins advised the delegates that President Tyler had received numerous complaints from two dissatisfied factions of the Cherokee Nation and presented Ross with a communication their representatives had placed before the President at Wilkins' request. In essence, the document called for a portion of the Cherokee lands to be set apart for the exclusive use of the Old Settler and treaty party factions. The Old Settlers also desired their traditional one-third share of the annuities, while the treaty party demanded the payment of the per capita funds promised in the Treaty of New Echota of 1835.<sup>28</sup>

Representatives of both factions had arrived in Washington previous to the Ross delegation and laid petitions before Congress. The treaty party, represented by John A. Bell and Ezekiel Starr, accused Ross of misappropriating the funds provided in the New Echota treaty; while the Old Settler delegates, John Rogers, Thomas L. Rogers, and James Carey, denounced Ross as an unrelenting tyrant. John Rogers never had relaxed his battle against Ross and the dominant party who

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<sup>28</sup>Ross to Wilkins, April 19, 1844, Wilkins to Ross, April 20, 1844, Ross et al. to Wilkins, May 6, 1844, and Wilkins to Ross et al., May 9, 1844, in Cherokee Advocate, November 28, 1844.



had deposed him from power. The Cherokee National Council in 1842, learning that Rogers at that time intended to plead the dissatisfied Old Settlers' case in Washington, had protested his authority and his recognition by the Federal government. Ross also had complained of Rogers' activities and emphasized to Cherokee Agent Pierce Mason Butler, "No good can grow out of the intermeddlings of private individuals in public affairs...it is high time that the functionaries of the Govt. should check the evil growing out of this pernicious source." While the dissatisfied factions had no immediate success in their petitions, they effectively checked Ross's progress.<sup>29</sup>

Although Ross and his colleagues charged that the other parties in Washington were unauthorized and that the Old Settlers were well represented in the Cherokee government, their pleas for readjusting Cherokee-United States relations gained little sympathy from Secretary of War Wilkins. He found the tribe too divided to allow him to negotiate only with Ross. Not wishing to become entangled in the "intricate labyrinths of diplomacy," the delegation outlined its main negotiating points: a "just indemnity" for Cherokee lands in the East; permanent rights to the lands in the West; clearly defined political relations between the United States and the Cherokee Nation; guarantees

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<sup>29</sup> John Rogers et al. to Wilkins, May 6, 1844, *ibid.*; "Memorial of the 'Treaty Party' of the Cherokee Indians," United States House of Representatives, 28th Congress, 1st Session, Document 234 (Washington: Blair and Rives, 1844), *passim*; "Memorial of John Rogers, James Carey and Thomas L. Rogers," United States House of Representatives, 28th Congress, 1st Session, Document 235 (Washington: Blair and Rives, 1844), *passim*; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 67-68; Ross to Butler, November 18, 1843, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

that stocks purchased for the Cherokees by the United States would yield a specific sum; and provisions for the remainder of Cherokees in the East to emigrate West. In short, these were the provisions they had sought from Tyler in 1841 and largely the items he had promised them. A personal interview on these points made little headway, and negotiations were further stalled when Wilkins took a short vacation in June of 1844.<sup>30</sup>

With Wilkins' return in early July came a lengthy letter which answered explicitly the delegation's five points. Wilkins considered the Treaty of New Echota as having provided a "just indemnity" for the lands east of the Mississippi River. In fact, on every point he referred the delegates to the New Echota treaty, for in its terms he found adequate response for all their problems. Wilkins also acknowledged the complaints of the Old Settlers and the treaty party, and related to Ross that he had decided to send a commission into the Cherokee Nation to "ascertain the true and exact extent of the discontent and spirit of hostility" among the Cherokees. The delegates, disheartened by the lack of any substantial agreements, forcefully belittled the "supposed division and domestic strife" in the Cherokee Nation. The Creek Nation, they indicated, had endured more violence and discord than ever existed among the Cherokees, but the Federal government had never attempted to establish authority over them. Perhaps capricious gestures such as this were why Ross kept pleading for an unambiguous definition of the relationship between the two

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<sup>30</sup>Ross et al. to Wilkins, May 14, 30, and June 4, 1844, and Wilkins to Ross et al., May 27, June 3 and 17, 1844, in Cherokee Advocate, November 28, 1844.

governments. With its work so unproductive, the delegation decided to return home in late August, 1844. Ross and his nephew, William, spent some time in the East while the others turned toward the Cherokee Nation.<sup>31</sup>

Ross's first destination was Wilmington, Delaware, and the home of a young Quaker girl who had captured his attention as no one ever had. In time she would fill an emotional void in his life that his grown children and political friends could not, and she became the companion that Quatie never was. Mary Bryan Stapler was the youngest daughter of a Wilmington merchant, John Stapler. Raised in Quaker affluence, she had all the advantages money could obtain. She attended the best schools in Pennsylvania, where her father had additional business interests, and received part of her education at the Moravian Female Academy in Bethlehem, Pennsylvania. Only 15 when she penned her first coquettish letter to Ross in 1841, her maturity and refinement grew steadily in the next three years of their courtship. Ross's delight in Mary came quickly and was eagerly shown, perhaps too eagerly. He was compelled to apologize to Sarah Stapler, Mary's older sister and their mutual confidant, for overlooking regulations of the Moravian school and corresponding directly with Mary. Mary called it her "imprisonment," but Ross, a strict adherent to order, considered the discipline proper.<sup>32</sup>

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<sup>31</sup>Wilkins to Ross et al., July 8, 1844, and Ross et al. to Wilkins, July 17, 1844, "Memorial of John Ross and Others," United States Senate, 29th Congress, 1st Session, Document 331 (Washington: Ritchie and Heiss, 1846), pp. 46-55.

<sup>32</sup>Ross to Sarah F. Stapler, April 2, 1842, Ross Papers, Gilcrease Institute.

The steady flow of their secret correspondence did not begin until the summer of 1844. The couple hoped to hide their growing affection from Mary's family, knowing they would object to the 36-year difference in their ages. In flirting tones to her "esteemed Uncle," Mary asked "has time and absence quite obliterated from thy memory one whom thee honored with the name of Niece," and requested his return to rekindle their acquaintance. Ross's quick reply caught the spirit of this young Quaker lass, "the same bewitching and playfull Molly who was wont to touch the heart for the sake of mirth." Duty in Washington had prevented an early rendezvous.<sup>33</sup>

The uncertainty of youth was apparent in Mary's correspondence. She needed reassurance that Ross's friendship was sincere and often chided him for his delay in replying to her letters. In fact, she felt for a time that Ross actually was captivated by another, and she wrote of her willingness to be counsel for him before some mysterious "fair court." She thought Ross had subtly courted her friend, Miss Grave Levy, and that "little Cupid had sent forth his darts from her bright eyes into thy heart." She offered her services as a go-between and coyly advised Ross that "a faint heart never won a fair Lady." Ross thought it unlikely that a lady such as Miss Levy could be won by a "sachem of the Western wilds." He drew a picture of that elegant

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<sup>33</sup>Mary's mother had died in 1838 and left Mary in the care of Sarah. Ann B. Stapler raised her children--Sarah, James, John W., and Mary--in strict Quaker conformity and enrolled them at the Wilmington Meetinghouse in 1835. Mary converted of her own accord in 1843. William Wade Hinshaw, Encyclopedia of American Quaker Genealogy (3 vols., Ann Arbor; Genealogical Publishers, 1936-1940), Vol. II, p. 768; Mary to Ross, May 3, 1844, and Ross to Mary, May 9, 1844, Ross Papers, Gilcrease Institute.

lady "seated in a circular wigwam, canopied with the soft dressed buffalo skins, and there as mistress of the lodge receiving the salutations of the painted and plumed Chieftains and their dark-eyed Brunettes." The prospect he considered quite remote.<sup>34</sup>

Mary often feared she intruded into Ross's life. She hesitated even when scolding his tardiness, wondering if she had presumed too much. Mary reminded him that nearly two years had passed since they had last met. She was concerned that during the interval they might have lost the bond that had brought them together. Ross was anxious to ease her apprehensions, and he assured her that his delay was nothing more than unfamiliarity with "soft and bewitching subjects." Like a schoolboy on his first romance, he sent her lovers' verses, which she confessed not to understand. Ross also had his moments of uncertainty. Curious as to the "hearts that have been disposed of," he was particularly anxious to know "what has become of Molly's?"<sup>35</sup>

Their attraction for each other increased during the summer months of 1844, but Mary's doubts persisted. She confided that she had pledged never to give her hand without first relinquishing her heart. Ross advised her to keep that pledge and to give her love only when it was fully reciprocated. Ross was so certain by mid-summer of his affection that he revealed the purchase of a gem "to be a bosom

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<sup>34</sup>Mary to Ross, May 22, 1844, *ibid.*; Ross to Mary, June 16, 1844, Ross Papers, Indian Archives Division, Oklahoma Historical Society. John W. Stapler later married Grave Levy. Genealogical File, Historical Society of Delaware, Wilmington, Delaware.

<sup>35</sup>Mary to Ross, June 17 and July 14, 1844, Ross Papers, Gilcrease Institute; Ross to Mary, June 16, 1844, Ross Papers, Indian Archives Division, Oklahoma Historical Society; Mary to Ross, June 26, 1844, Ross Papers, Gilcrease Institute.

companion for me all the days of my life!" Certainly he hoped soon to place the stone on Mary's hand.<sup>36</sup>

One meeting, much too brief, convinced them of their love. Ross reminisced of the delightful walks along the Brandywine and compared his heart to the palpitations of a "wounded fluttering bird." The restless nights and interrupted slumbers convinced young Mary that she had given up her heart, and Ross became the constant companion of her thoughts. "Why should we longer be separated," Ross questioned, "if our hearts do not deceive us, and our affections for each other be really formed? As to mine they are pure sincere and ardent. And once united with yours in the solemn ties of matrimony, I am sure that nothing but the cold hand of death could ever extinguish them from my bosom." He requested a full examination of her own heart and expressed his desire for an early date for the marriage. Although Mary had wanted to wait until the spring to wed, she consented to a fall wedding, as Ross, ever mindful of duty, felt it necessary to return to the Cherokee Nation for the annual meeting of the Cherokee National Council. Yet he insisted that the wedding plans should be entirely left to her.<sup>37</sup>

In mid-August of 1844, Ross sent his request for Mary's hand to her father and her sister. In these letters he declared his fervent attachment to Mary and promised that it was in his power "to confer

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<sup>36</sup>Mary to Ross, June 26, 1844, and Ross to Mary, June 27/July 1, 1844, *ibid.*

<sup>37</sup>Ross to Mary, July 19 and 25, 1844, Mary to Ross, July 28, 1844; Ross to Mary, July 30, 1844, Mary to Ross, August 1, 1844, Ross to Mary, July 27 and August 2, 1844, Mary to Ross, August 6, 1844, and Ross to Mary, August 13/14, 1844, *ibid.*

upon her, the ordinary comforts and happiness of this life." To Sarah he broached the subject of the difference in his and Mary's age but promised his devotion and asked for Sarah's consent. John Stapler revealed to Mary his respect for Ross, but the idea that Mary would live at such a distance troubled him. Not surprisingly, Mary's youth and the couple's age span weighed heavily upon him. However, Mary's happiness was his first consideration, and he consented to the union. Sarah likewise entertained no objection.<sup>38</sup>

The marriage took place on September 2, 1844, in Philadelphia with the Reverend Orson Douglass of the Mariners' Church presiding. Ross and Mary had decided on a private affair with only a few friends and relatives present. Ross invited, among others, his close friend, Thomas L. McKenney, the one who had most likely introduced the couple. In a circumspect letter to McKenney, Ross teased McKenney's curiosity as to the identity of his intended bride, but finally related that "it is the same identical little school girl, whom you once called Molly!" The local newspapers carried the story of the wedding and intimated that Ross was worth a half-million dollars. Dolly Madison, the widow of the late President, sent a note of congratulations and enclosed a pressed flower for Mary. One sad result of the marriage was Mary's dismissal from the Quakers for having married outside the church.<sup>39</sup>

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<sup>38</sup>Ross to John Stapler, August 14, 1844; Ross to Sarah, August 14, 1844, *ibid.*; Mary to Ross, August 26, 1844, Hargett Collection, Western History Collections, University of Oklahoma; Sarah to Ross, August 17, 1844, Ross Papers, Gilcrease Institute.

<sup>39</sup>Ross to Mary, August 13 and 14, 1844, and July 25, 1845, Ross and Mary's Marriage License, September 2, 1844, Mrs. Dolly Madison to Mary, undated, and Ross to McKenney, August 25, 1844, *ibid.*; Ross to McKenney, July 3, 1844, Ross Papers, Indian Archives Division,

After a short honeymoon in New York, Ross returned with Mary and his sister-in-law, Sarah, to the beautiful Rose Cottage at Park Hill, just southeast of Tahlequah. As many Cherokees still feared for their chief's life, an escort arranged to meet Ross and his party at the Arkansas line and to travel with them as a bodyguard. When Ross first came to Park Hill, he had established his family in a crude log cabin. John Howard Payne visited Ross in 1840 and described it as lacking everything except dirt and space. Payne noted the unfastened doors, with the constant passage of Indians to and fro, dressed in "queer, wild, garb; and blanket coats of every hue." At meals Ross entertained as many as the table would accommodate. Payne was perplexed as to how the housekeeper could prepare an evening meal, not knowing whether she would have to lodge and feed 25, 50, or double that number.<sup>40</sup>

The house to which Ross took Mary was quite different; yet the hospitable spirit was left unchanged. Few persons who journeyed through the Cherokee Nation during the years before the Civil War could resist the hospitality of the Cherokee chief, and many described the comfortable surroundings so unfamiliar to the Indian wilds. The house was situated on a hillside and surrounded by abundant native oaks and elms, while numerous fruit trees graced the grounds. Approached by

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Oklahoma Historical Society; Carolyn Thomas Foreman, Park Hill (Muskogee: Star Printery, 1948), pp. 28-29.

<sup>40</sup> Grant Foreman, "John Howard Payne and the Cherokee Indians," The American Historical Review, Vol. XXXVII, No. 4 (July, 1932), pp. 723-730; Ross to McKenney, September 6, 1844, Ross Papers, Gilcrease Institute. Ross may have located where his relative, Charles Coodey, an Old Settler, lived. He purchased Coodey's house, stock, and improvements near the Illinois River for \$2,900. Statement of Charles Coodey, November 14, 1839, *ibid.* Goode, Outposts of Zion with Linnings of Mission Life, p. 176.



a winding driveway bordered by a variety of roses, the house was one of the most notable in all of Indian Territory. The two-storied home faced the north with a pillared porch that extended the length of the front. At each end of the house were large chimneys of native stone. The ample interior included guest rooms, family rooms, a library, and a parlor. The home was exquisitely furnished with mahogany and rosewood brought from the eastern United States. Delicate china and rich linen graced a well-filled table that was certain to be surrounded by a host of travelers and Indian friends. The noted artist, John Mix Stanley, visited the Ross mansion shortly after Mary's arrival and wrote glowingly of Ross's unbounded hospitality. Waddy Thompson, a personal friend of the Rosses and sometime counsel during Cherokee-Washington negotiations, left this description of Rose Cottage and its master: "He resides about four miles from Tahlequah, in a very spacious wooden house, furnished with great taste and elegance. I have seen few men who perform the office of host with such a combination of ease, dignity and cordiality. The whole establishment, house, furniture, host and hostess are a perfect pattern of the residence of the country gentleman."<sup>41</sup>

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<sup>41</sup>Foreman, Park Hill, pp. 30-31; J. M. Stanley, "Catalogue of Portraits of North American Indians, with Sketches of Scenery, etc.," Smithsonian Institution, Miscellaneous Collections (153 vols., Washington, D. C.: Smithsonian Institution, 1862-present), Vol. II, p. 15; Augustus Fogle, "A Journal from Salem, North Carolina, to the Cherokee Nation by Way of New Salem, Illinois," /at Park Hill, August 22 to August 25, 1854/ in Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States, p. 268; R. R. Meigs Interview, Grant Foreman, ed., "Indian Pioneer History" (113 vols., Unpublished Manuscript), Vol. CVIII, pp. 207-211, Indian Archives Division, Oklahoma Historical Society; Emily V. Mason to /?/, March, 1845, Stephen T. Mason Papers, Burton Historical Collection, Detroit Public Library, Detroit, Michigan; Cherokee Advocate, March 9, 1852.

Ross and his new bride arrived in the Cherokee Nation in time for the last days of the National Council of 1844, then being held in Tahlequah. Ross addressed the meeting and presented the correspondence of the delegation with Secretary of War Wilkins. In his short message Ross merely alluded to Wilkins' behavior and left the correspondence to speak for itself. However, he commented that it appeared that Wilkins' primary mission was to avoid fulfilling the pledge made by President Tyler in 1841. The Cherokee Advocate published the full range of Ross's correspondence with Wilkins and also the measures adopted by the dissident factions who were in Washington. After the National Council had studied the events as reported, it passed an act "declarative of the rights of the Cherokee Nation." Declaring the "inalienable rights" of the Cherokees as a "separate and distinct Nation" which was now formed into one nation under the Act of Union of 1840, the National Council protested the recognition of different elements within the tribe by the Federal government. The National Council also objected to the commission to be appointed by Wilkins, feeling it would only fan factionalism and open the way to greater disturbances. In view of the disappointing results of previous years, the National Council appointed Ross and eight others to renew negotiations at Washington and gave them full powers to conclude a treaty.<sup>42</sup>

Secretary Wilkins appointed his promised committee consisting of Brigadier General Roger Jones, Lieutenant Colonel R. B. Mason, and Pierce Mason Butler, the Cherokee agent, to investigate Cherokee

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<sup>42</sup>Ross's Message, November 18, 1844, in Cherokee Advocate, November 28, 1844; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 113-115, 121-123.

factionalism and the "lengths of oppression, resistance, and violence, to which the excitement of each against the other has severally led the parties." The commissioners arrived on November 15, 1844, and, contrary to the wish of the National Council and over the protests of Chief Ross, met with a group of Old Settlers and treaty party members at Tahlonteeskee some 25 miles south of Fort Gibson. There each of the two factions appointed delegates to bring formal complaints before the commission, which they did at Fort Gibson from December 17 to December 24. The complaints of the Old Settlers revolved around the legitimacy of the Act of Union of 1840, which they declared a spurious document. The Old Settlers also contended that the laws of the Cherokee Nation had not been executed impartially and pointed particularly to the unfair dispositions of the salines. The complaints of those in the treaty party were similar to those of the Old Settlers. They spoke of the injustice in the "mockery of a trial by jury" of Jacob and John West and the seizure and investigation of many of their people without explanation.<sup>43</sup>

Ross, "anticipating...that no good could grow out of a meeting so convened," proposed several times that the commission meet at Tahlequah where the people could be assembled easily, including John Rogers, the major complainant. Since the commissioners were set on meeting with the Old Settlers who would not agree to any coordinated conference with

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<sup>43</sup> Jones to Wilkins, November 17, 1844, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ross to Jones, November 29, 1844, Minutes of the Commission, December 17-24, 1844, and Statement Submitted by the Committee of the Treaty Party, December 21, 1844, "Report of the Secretary of War," United States Senate, 28th Congress, 2nd Session, Document 140, pp. 133, 15-30, 94-96.

the Ross party, Ross delegated 11 men to attend the commission's inquiry and report the proceedings to the National Council. The delegation spent two days at Fort Gibson, December 17 and 18, and participated as the commissioners questioned General Arbuckle. They attempted to show that a union had been achieved in 1839. The Ross delegation withdrew without questioning the Old Settler complainants.<sup>44</sup>

After the board had completed its examination of the Old Settlers and the treaty party, members went to Tahlequah to receive the testimony of the "Cherokee authorities." The commission presented as its allegations the accusations from the two dissident factions, inviting Ross to respond. As to the lack of authenticity of the Act of Union, the Cherokee authorities replied that the complainants were not "legal representatives of the 'old settlers'," and that legitimate agents for that group had signed the Act of Union. When presented with names of Old Settlers who had signed the Act of Union and now denied their authority at the time to do so, the Ross adherents replied that by June of 1840 the western Cherokees had largely joined the dominant faction. The Ross supporters easily documented the fact that the questioned acts of violence and oppression had been committed under legally constituted authority, with the intention of lessening strife in the Cherokee community. As their final reply to these charges, the Ross group presented a breakdown showing that a majority of the

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<sup>44</sup>Ross to Butler, December 6, 1844, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Looney et al. to Jones, Mason, and Butler, December 13, 1844, and Minutes of the Commission, December 17 and 18, 1844, "Report of the Secretary of War," United States Senate, 28th Congress, 2nd Session, Document 140, pp. 136, 19-20, 23.

Cherokee government since 1839 and was made up of members of the treaty party and the Old Settler faction.<sup>45</sup>

Jones, Mason, and Butler gathered at Fort Gibson after hearing the testimonies of the contending parties. In their report, filed January 17, 1845, they took up the major complaints of the discontented parties. They noted that of the 900 who assembled to complain of the injustices of the dominant faction, about 150 were not even Indians. The commissioners further discovered that many dissidents had come with the idea that their presence somehow might aid in the recovery of the per capita money. The commissioners believed the Act of Union to be legitimate, yet qualified this belief by noting that many had signed it with assurances that they would later share in financial allotments. The commissioners likewise found that the Old Settlers had ample offices in the Cherokee government and that their allegation of being oppressed held little truth.<sup>46</sup>

The commissioners suggested that discord would continue among the Cherokees as long as the "discontented...find a ready audience at Washington." The three men advised against a division of the nation. Jones and Mason may have been persuaded by Butler on this point, for only a few months before their arrival in the Cherokee Nation, he had stated to the secretary of war: "Better...to put a keg of powder at every house in the Nation [t]han divide the Cherokees....They would cut each others throats in 24 hours." They concluded that the "germ of

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<sup>45</sup>Answers of the Cherokee Authorities, January 10, 1845, *ibid.*, pp. 35-48.

<sup>46</sup>Report of the Commissioners, January 17, 1845, *ibid.*, pp. 5-14.

discontent" lay in the nonpayment by the Federal government of the per capita funds, and the commissioners favored expanding this fund, as they felt that the United States should repay any money taken from the five million fund. In the interest of restoring harmony, they recommended that a new treaty be concluded on the basis of President Tyler's letter of September, 1841.<sup>47</sup>

Ross and his colleagues left for Washington on April 2, 1845, feeling that the commission's report would increase greatly their chances of obtaining a new treaty and the alleviation of many outstanding Cherokee difficulties, but the delegation was disappointed by the new administration in Washington. James K. Polk had acceded to the Presidency in March of 1845 and had named William L. Marcy as secretary of war, while Crawford remained as commissioner of Indian affairs until October. Ross found the Democratic administration little disposed to accept the report of Jones, Mason, and Butler, but willing to listen to a treaty party delegation. Throughout the sticky summer months of 1845, Ross received only a cool reception from Washington officials. The one measure of success was the partial payment of the Cherokee annuities, which came only after repeated requests. Because of Polk's growing affection for the minority parties, Ross felt it necessary to remain in Washington throughout 1845.<sup>48</sup>

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<sup>47</sup> Ibid.; Butler to Spencer, March 17, 1844, Special File 75, Special Files of the Office of Indian Affairs, National Archives.

<sup>48</sup> Foreman, The Five Civilized Tribes, pp. 335-336, 349; Crawford to Ross et al., August 1, 1845, Marcy to Ross, August 14, 1845, and Crawford to Butler, September 13, 1845, Letters Sent, Office of Indian Affairs, National Archives; Ross et al. to Marcy, August 27, 1845, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

With the general acceptance after 1840 of the Cherokee Constitution of 1839 and the Act of Union of 1840, Ross doubtless envisioned an era of peace. Factional wounds, however, were not so easily healed, and dissidents found a ready ear at Washington. Again Federal inconsistencies got in the way of the Cherokees' achieving internal harmony. In spite of promises by President Tyler that the Cherokees would see a new dawn, internal difficulties made the Whig administration wary of negotiating a new treaty. Dissatisfied Old Settlers like Rogers could have been brought readily into the Cherokee government as had others from their faction. It seems that these men were more intent on disrupting normal political processes than in settling actual grievances. When Ross finally appeared to have been justified as the legitimate leader of the Cherokees by the report of Jones, Mason, and Butler, a new administration came into office at Washington and paid little attention to the report. Thus the Cherokees faced another period of bitter animosities before unity became more than merely a dream of their chief.

## CHAPTER IX

### TRAVAIL AND TRANQUILITY

The years 1845 and 1846 were the bloodiest and most divisive in the history of the Cherokee Nation. Each incident of bloodshed aggravated party vendettas as the treaty party and the Old Settlers aligned themselves against the real and imagined oppression of the Ross party. Violence emanated also from groups of desperadoes who clothed themselves in the sanctity of "party" as they plundered the countryside.

Intense tribal terrorism dated from 1839 when the Cherokee patriarch, James Starr, had been marked for death with the Ridges and Boudinot. Three of his sons, Tom, Bean, and Ellis, the notorious "Starr boys," in 1843 viciously murdered a Cherokee family near Fort Gibson, ravaged their home, and then set it afire. The Cherokee authorities quickly offered rewards and organized police companies against such outrages, but their hands were tied when the Starr brothers crossed the line into Arkansas. Nor was Ross able to obtain measures to return such fugitives. Often police companies organized to arrest these criminals faced lethargy or open opposition from the minority factions who viewed the police as armed vigilance committees established solely to punish Ross opponents. Stand Watie kept his own armed men at old Fort Wayne prepared for an attack by administration forces, and the treaty party came to praise the Starrs as heroes in this drama, when in quieter times they would have been labeled the



criminals they were. Violence had reached such intensity that the Cherokee agent reported in one 10-month period in 1845-1846, a total of 34 killings, mainly of a political nature. Certainly the situation was near anarchy.<sup>1</sup>

Unable to touch the carefully guarded chief at Rose Cottage, several bandits, probably the Starr boys, instead attacked the home of Ross's daughter, Jane. Married to Return J. Meigs, grandson of the revered Cherokee agent in Tennessee, she barely escaped one quiet, cold Sunday evening in November of 1845 when her home was looted and burned to the ground. A force of 800 men organized to find the criminals captured and summarily executed the elder Starr, and wounded two of his sons in open battle. Watie mustered a force of 60 men and awaited siege by the Ross faction at old Fort Wayne; it never came, but skirmishes and killings were frequent in the Cherokee Nation. The continued violence and threats of open warfare convinced the weaker factions that the only way to escape Ross's tyranny was to divide the nation politically before it split into two armed camps. Watie joined his comrades of the treaty party, and they set out for Washington to air their grievances, where they linked themselves to the embittered Old Settlers who already were working toward a political cleavage.<sup>2</sup>

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<sup>1</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 54-55, 62-66; Foreman, The Five Civilized Tribes, pp. 327-328, 347; Ross's Annual Message, October 3, 1843, Ross Papers, Gilcrease Institute.

<sup>2</sup>Foreman, The Five Civilized Tribes, pp. 338, 342, 347; Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 65. Meigs married Ross's oldest daughter, Jane, in 1838 and died of cholera near the Salt Lake on August 6, 1830, while enroute to the California gold fields. Starr, History of Cherokee Indians, p. 411, and Cherokee Advocate, December 3, 1850.

The western Cherokees had retained two able legal counselors, Samuel C. Stambaugh and Amos Kendall, who began a series of appeals to Secretary of War William L. Marcy in October of 1845. In these messages they traced the history of the western faction from its first removal to the Arkansas frontier, illustrating the Federal government's acceptance of it as a separate and independent portion of the Cherokee tribe. Stambaugh and Kendall vigorously pointed out the injustices the Old Settlers had suffered at the hands of "Ross and his foreign horde." Characterizing the history of the Cherokees since 1839 as a period of political usurpation and domestic strife, they depicted Ross as an "extraordinary man" whose "ruling passion is avarice." They dredged up the recurring charge that Ross could not even claim to be a Cherokee because of the paucity of Indian blood in his veins and because his land settlement outside the Cherokee Nation under the Treaty of 1819 had deprived him of Cherokee citizenship. They also reviewed the financial arrangements Ross had made for removal and, not surprisingly, declared that he profited enormously by plundering his people. The thrust of their indictment was to show the western Cherokees as independent, the Act of Union of 1840 as illegal, and Ross as dishonest, overbearing, and tyrannical. Solution, they contended, was to be found in a division of the Cherokee Nation.<sup>3</sup>

When members of the treaty party delegation reached Washington in March of 1846, they presented Federal officials a series of petitions

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<sup>3</sup>Stambaugh and Kendall to Marcy, October 4, November 1, November 7, December 26 and 30, 1845, and January 16, 1846, "Cherokee Disturbances," United States House of Representatives, 29th Congress, 1st Session, Document 185, pp. 19-73.

outlining their grievances developed with the aid of their legal adviser, George W. Pascal, an Arkansas lawyer and brother-in-law of the late Major Ridge. Complaining that no member of the treaty party could consider himself safe in the Cherokee Nation, they too emphasized that division was the only possible remedy for Cherokee strife. Beyond that, they exhibited an estimate of money due the Cherokees, a part of which they said had already been despotically squandered by Ross. Based on an 1840 report of Commissioner of Indian Affairs Crawford and originally presented in 1844, this report was now revived for a more sympathetic audience. Counting the Cherokees as numbering over 16,000 as determined by the census of 1835, and setting the cost of removal at \$20 per person as stipulated in the Treaty of New Echota of 1835, the treaty party delegation determined that a balance of \$2,475,734 was due the tribe on a per capita basis of \$147.86 for each Cherokee. The settlement with Ross of over \$500,000 in 1841 had eaten into the per capita fund considerably, and extensive payment by the government to Cherokee creditors (treaty party members were generally unaware of this reduction) had taken well over \$1,000,000 from the per capita distribution money. The treaty faction delegates protested these large reductions in the fund and demanded the per capita money which they felt justly due them.<sup>4</sup>

Ross and his colleagues had appealed to the Federal government as

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<sup>4</sup>George W. Adair et al. to William Medill, March 7, 1846, J. A. Bell and Ezekiel Starr to the Senate and House of Representatives, April 13, 1844, and "Argument in behalf of the treaty party of the Cherokees," April or May?, 1844, *ibid.*, 73-105, 116-149; Report of J. A. Slade and J. T. Bender, April 18, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Document 182, p. 18.

early as November of 1845. The crux of their petition was the favorable report issued by Jones, Mason, and Butler in January of 1845. Of course, they also referred again to the still unfulfilled promises of ex-President Tyler. These expressions gained little sympathy and less action. Understanding that the treaty party had met and appointed a delegation to send to Washington, the authorities in the Cherokee Nation circulated a petition among the tribe and forwarded it to Washington. This petition declared that the difficulties in the Cherokee Nation had arisen from the "stealthy incursions of a number of banditti" and not from party strife. Signed by "1,676 male adults, of all parties," the petition further stated that Ross and his colleagues were the only legitimate Cherokee delegates in Washington.<sup>5</sup>

By the latter part of March of 1846, the Polk administration was moving toward a decision in accord with the views of the minority faction and refused even to accept a further appeal from Ross. Ross had a brief meeting with President Polk on March 25, but little resulted. Right after Ross left the President, Polk directed the commissioner of Indian affairs to complete his report on the Cherokee situation. The chief and his comrades then turned to Congress with a memorial, the first since 1838. In this memorial they concluded that the Act of Union of 1840 effectively represented the wishes of the majority of the Cherokees and that none of the measures proposed by the

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<sup>5</sup>The Ross delegation as finally formed included Ross, Richard Taylor, Richard Fields, David Vann, C. V. McNair, Stephen Foreman, T. Walker, John Thorn and John Looney. Ross et al. to the President, November 8, 1845, and Cherokee Petition, February 4, 1846, "Cherokee Disturbances," United States House of Representatives, 29th Congress, 1st Session, Document 185, pp. 149-160.

minority factions was desired by the great mass of the tribe. Congress at that time was embroiled in the Oregon question and, as one Ross delegate put it: "Some want up to 49 latitude and 54 and I expect some to the North Pole." Thus the Cherokee petition gained slight attention.<sup>6</sup>

The new commissioner of Indian affairs, William Medill, submitted his conclusions to President Polk after examining the several petitions of the three factions. Medill recommended that Ross and his associates not be recognized as the "authorized delegates of the whole nation" but only as representatives of their particular faction. On other points Medill also took the positions of the treaty party and the Old Settlers. Disregarding the report of Jones, Mason, and Butler, the commissioner embraced many of the arguments that the three investigators had deemed untenable and concluded that a "separation, both of the old settlers and the treaty party, from the Ross party is imperatively required." Enclosing Medill's recommendation and the mass of documents and petitions to illustrate the government's case, President Polk submitted a message to Congress in April of 1846, announcing his determination to divide the Cherokees politically and geographically. Congress seemed amenable to this solution of Cherokee difficulties and in June reported on its acceptance; all seemed in

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<sup>6</sup>Ross et al. to the Senate and House of Representatives, April 30, 1846, and Ross et al. to the President, April 11, 1846, "Memorial of John Ross and Others," United States Senate, 29th Congress, 1st Session, Document 331, pp. 1-19, 44-46; James K. Polk, The Diary of James K. Polk During His Presidency, 1845 to 1849, ed. by Milo Milton Quaife (4 vols., Chicago: A. C. McClurg and Company, 1910), Vol. I, pp. 301-302; John Thorn to John Drew, March 31, 1846, Drew Papers, Gilcrease Institute.

readiness for a political division of the Cherokee Nation.<sup>7</sup>

At this point Ross worked feverishly to forestall what appeared inevitable. Fortunately for the Ross faction, Indian Superintendent William Armstrong had arrived from the western frontier and suggested to Commissioner Medill that a committee be appointed to make a last attempt to mediate factional differences. President Polk then appointed Armstrong, Commissioner of the Patent Office Edmund Burke, and Second Comptroller of the Treasury Albion K. Parris for the task, and during the month of July they hammered out an agreement suitable to all factions. The ominous threat of division doubtless made Ross more conciliatory, and adequate measures were offered the disaffected groups to insure their acquiescence. President Polk presented the document to the Senate on August 7, the day after its completion, and it was approved by a majority of one vote with only minor changes. On August 13 the three delegations gathered in Polk's office to sign the treaty as approved by Congress. Twenty Cherokees affixed their names to the treaty, then turned to clasp hands, announcing the end of old animosities. Undoubtedly, there was tension in the hands of those old foes as Ross and Watie pressed palms and pledged good faith. Polk exhorted the men to forget the past, and Ross replied that all were satisfied and could now live in harmony. As Watie left the office, he turned to the President and said, "I intend to be peaceable, and have

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<sup>7</sup>Medill to Marcy, March 31, 1846, and Polk to the Senate and House of Representatives, April 13, 1846, "Cherokee Disturbances," United States House of Representatives, 29th Congress, 1st Session, Document 185, pp. 1-19; Report of the Committee on Indian Affairs, June 2, 1846, "Cherokee Indians," United States House of Representatives, 29th Congress, 1st Session, Report 683 (Washington: Ritchie and Heiss, 1846), pp. 1-5.

no doubt that others who have less to forgive will follow the example."<sup>8</sup>

The Treaty of 1846 had as its principal goals unity and the end of violence in the Cherokee Nation. In this regard it provided for a general amnesty for all offenses, the safe return of all fugitives, and an end to police or military organizations. The Old Settlers gave up claim to exclusive ownership of the Cherokee domain and received the right to share in the per capita payments. The treaty party received a special indemnity of \$115,000; of this money \$5,000 was to be paid to each set of heirs of the two Ridges and Boudinot. The remaining money would be used to pay the expenses of the delegation and to settle claims of individual treaty party members. The Cherokees were assured of title to the lands they occupied, hardly the unimpaired guarantee Ross desired but the only stipulation he could obtain. The Ross party received \$2,000 for the old Cherokee Phoenix printing press, \$5,000 for arms taken by Major General Scott prior to the Cherokee roundup in 1838, and \$20,000 for other miscellaneous national claims. Finally, the United States agreed to reimburse the Cherokees for all money "unjustly" deducted from the five million fund and to make a final settlement of all money due under the per capita stipulation.<sup>9</sup>

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<sup>8</sup>Ross et al. to Armstrong, June 16, 1846, G. W. Adair et al. to Armstrong, June 17, 1846, Armstrong to Medill, June 23, 1846, Burke, Armstrong, and Parris to Polk, July 8, 1846, and Ross et al. to Burke, Armstrong, and Parris, July 8, 1846, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 71-73, 353-354; Richardson, comp., A Compilation of the Messages and Papers of the Presidents, 1789-1902, Vol. IV, pp. 458-459; Polk, The Diary of James K. Polk During His Presidency, 1845 to 1849, Vol. II, pp. 80-82.

<sup>9</sup>Royce, "The Cherokee Nation of Indians," Bureau of American

The Treaty of 1846 heralded a new and pacific era in Cherokee politics, and the tribe was blessed with more than a dozen years of uninterrupted tranquility. The Cherokees were prepared to achieve not only internal peace and unity but also a long awaited financial stability. They anticipated a lucrative per capita payment and hoped that monetary arrangements in the new treaty would end their pecuniary problems.

But there was no rush on the part of the Federal government to reimburse the Cherokees for unjust deductions from the five million fund. Within a year of the signing of the Treaty of 1846, the Senate Committee on Indian Affairs reported on its understanding of the various moneys due the Cherokees. The committee determined that the cost of subsistence and removal should not have been charged to the five million fund but, because of the lateness of that session of Congress, no action appears to have been taken on the report. Ross endeavored to obtain some action but was unsuccessful. In August of 1848 a joint resolution of Congress required a statement of the claims of the Cherokee Nation. After an extensive examination of Cherokee accounts and vouchers, United States Treasury auditors determined that \$627,603.95 was due the Cherokees for a per capita distribution. Congress made two additional appropriations in September, 1850, and in February, 1851, which brought the total amount for distribution to \$914,026.13. As the Cherokees who had remained in North Carolina also were included in the per capita distribution, the sums finally allotted,

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Ethnology, Fifth Annual Report, Part 2, pp. 298-300; Kappler, comp. and ed., Indian Affairs: Laws and Treaties, Vol. II, pp. 561-565.



which included another addition of nearly \$600,000, amounted to \$92.79 for each Cherokee, hardly the largess which had been expected.<sup>10</sup>

The per capita payments were made in two allotments. The first was made to the Old Settlers by Southern Indian Superintendent John Drennen at Fort Gibson in September and October of 1851. Drennen was so well satisfied with the Fort Gibson location that he suggested it as an appropriate spot to pay the emigrant Cherokees. The eastern Cherokees were not so disposed. The National Council in November of 1851 directed Ross to request that the per capita payment be made at Tahlequah because of its central location. When Ross informed Drennen of the Cherokee request, the superintendent told him that he feared disorderliness at any other location, and that he was determined to stay at Fort Gibson. Ross noted not only the inconvenience but also the health hazards and needless discomfort which would likely occur when large masses of Cherokees converged on Fort Gibson. More important, Fort Gibson was known as a place of corruption where card sharks and grog shops were sure to take the Indians' money or where ranging criminals might rob them as they returned to their homes. Drennen had

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<sup>10</sup>Report of the Committee on Indian Affairs, February 19, 1847, Untitled, United States Senate, 29th Congress, 2nd Session, Document 157 (Washington: Ritchie and Heiss, 1847), pp. 1-5; Ross to Richard Taylor and Robert D. Ross, November 16, 1847, Ross Papers, Gilcrease Institute; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Document 182, pp. 12-13, 13 n. 2, 21-22; A. K. Parris and P. Clayton to the President of the Senate, December 3, 1849, "Report of the Second Comptroller and Second Auditor of the Treasury," United States Senate, 31st Congress, 1st Session, Executive Document 6 (Washington: William M. Belt, 1850), pp. 1-4; Report of the Committee on Indian Affairs, August 8, 1850, Untitled, United States Senate, 31st Congress, 1st Session, Report 176 (Washington: William M. Belt, 1850), pp. 1-7.

considered Tahlequah but, finding the force of 50 soldiers he desired unavailable, had decided on Fort Gibson, a decision he found "approved by a majority of the most intelligent men in the nation, the chief and a few others about Tahlequah excepted." The per capita money was paid out to the emigrant Cherokees in April and May of 1852 and, contrary to Drennen's observations, William P. Ross, writing in the Cherokee Advocate, stated that the Cherokees had suffered all the problems anticipated at the Fort Gibson area.<sup>11</sup>

In his annual address following the per capita allotments, Ross referred to the payment as "partial." Indeed, the National Council protested that the payments were not nearly as large as they should have been under the treaty provisions. As Congress had decided that the subsistence item was not a proper charge to the five million fund, the Cherokees felt that the additional costs of removal under Ross were not proper deductions. Ross had questioned this apparent inconsistency a number of times, and it had been the basis for treaty party complaints in 1846, but the protest received little attention during Ross's lifetime. Nearly a half-century later United States auditors concluded that the Cherokee claim was just and recommended a payment

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<sup>11</sup> John Drennen to Luke Lea, October 20, 1851, "Report of the Commissioner of Indian Affairs, 1851," United States Senate, 32nd Congress, 1st Session, Executive Document 1 (Washington: A. Boyd Hamilton, 1852), pp. 363-366; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 234-235; Ross to Drennen, March 9 and 22, 1852, and Ross to Lea, March 22, 1852, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Drennen to Lea, October 15, 1852, "Report of the Commissioner of Indian Affairs, 1852," United States Senate, 32nd Congress, 2nd Session, Executive Document 1 (Washington: Robert Armstrong, 1852), pp. 390-393; Cherokee Advocate, May 5, 1852.

of over \$1,000,000 due the tribe from the Treaty of 1835.<sup>12</sup>

During the post-removal period Ross had been so engrossed in Cherokee political affairs that he tended to let his personal financial interests deteriorate. In the tranquil days after the Treaty of 1846 he could turn again to his own business affairs. Ross's wealth came partly from his extensive land improvements and partly from his business enterprises. His salary as chief was a meager asset; it was hardly \$500 a year during the post-removal period. In 1849 Ross took over the mercantile business of his son-in-law, Return J. Meigs, who caught the California gold rush fever. Ross opened the store in connection with his favorite nephews, William P. and Daniel H. Ross, who had operated a mercantile business themselves two years previous to their affiliation with Ross. The store opened in September of 1849, and the first advertisement appeared in the Cherokee Advocate on October 8, 1849, under the title "John Ross & Co.," with the heading "Call at the Brick Store." The short-lived partnership was dissolved in February of 1851, but William and Daniel reopened the business a short time later unaffiliated with their uncle.<sup>13</sup>

The association doubtless was terminated so Ross might enter business with Mary's elder brother, John W. Stapler. Stapler came to Park Hill as early as 1849 and was then considering going into business.

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<sup>12</sup>Ross's Annual Message, October 4, 1852, in Cherokee Advocate, October 27, 1852; Protest of the National Council, November 29, 1851, Ross Papers, Gilcrease Institute; Report of J. A. Slade and J. T. Bender, April 28, 1894, "Moneys Due the Cherokee Nation," United States House of Representatives, 53rd Congress, 3rd Session, Document 182 pp. 22-23, 29-32.

<sup>13</sup>Cherokee Advocate, July 8, 1847, February 19, April 16, September 24, October 8, 1849, and February 11, 1851.

The Cherokee language posed a problem for white traders, for few Cherokees spoke English, and Stapler too faced this hindrance. Another problem for these traders was obtaining the consent of the United States government to trade in Indian Territory, a privilege that was authorized by agents of the Office of Indian Affairs. Stapler first applied to the commissioner of Indian affairs and, unlike most other traders, had the endorsement of some of the leading men of the Cherokee Nation. His request was relayed through the Cherokee agent to whom Stapler gave assurances of his "steadfast and uniform support of Whig principles." After the usual bond of \$5,000 had been placed with the Cherokee agent, Stapler's firm opened in Tahlequah just across the street from the office of the Cherokee Advocate. In time Ross was brought in as a partner, and the firm was named "Ross & Stapler." The enterprise seems to have been moderately successful; Ross during one three-month period received about \$600 from the store. When the firm was dissolved in January, 1860, Ross realized over \$1,300 from the venture.<sup>14</sup>

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<sup>14</sup>John W. Stapler to Moses Kenyon, December 17, 1849, Moses Warren Kenyon Papers, Perkins Library, Duke University, Durham, North Carolina; Stapler to Luke Lea, April 28, 1850, Stapler to George Butler, July 1, 1851, and Stapler, Ross, and Murrell Bond for \$5,000, September 3, 1851, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Cherokee Advocate, July 29, 1851, and May 5, 1852; Ross's Memo Book, various dates, 1851-1853, unpagged, and Account of Stapler and Ross, January 23, 1860, Ross Papers, Gilcrease Institute. John W. Stapler was born in Wilmington in 1822 and died in Tahlequah in 1887. After his first marriage to Grave Levy, the same young lady in whom Mary thought Ross had shown interest, he came to Park Hill and married Louisa Jane Hicks in 1854. Louisa was the daughter of Ross's sister, Margaret, who married the prominent Cherokee leader, Elijah Hicks. Nell Stapler Bradshaw Interview, Foreman, ed., "Indian Pioneer History," Vol. CIV, pp. 132-144, Indian Archives Division, Oklahoma Historical Society; Starr, History of Cherokee Indians, pp. 410-412; "Cherokee Records" (730 vols., Unpublished

As was typical of southern gentlemen of the antebellum period, Ross maintained a good share of his financial wealth in land improvements and in slaves. Cherokee lands were held in the same manner in the West as in the old Cherokee Nation. Lands were common property, but improvements belonged to the individual. Besides the extensive farm lands and orchards surrounding Rose Cottage, Ross occasionally bought the improvements of nearby Park Hill neighbors, whether for personal use or for speculation is uncertain; nor is the amount of the lands he tended determinable. Before removal to the West, Ross had owned fewer than 20 blacks, but with the increase in his land improvements and livestock and the added status created by owning slaves, Ross could count over 50 by the time of the Civil War. Ross seems to have demonstrated a benevolent attitude toward his slaves. When absent, he received reports on their health which seemed to show more than merely his concern over costly property. After the Civil War he wrote of visits with them, and they seemed pleased to see him.<sup>15</sup>

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Manuscripts), Vol. CCXV, pp. 52-53, Indian Archives Division, Oklahoma Historical Society.

<sup>15</sup>These blacks were almost equally divided between male and female, while approximately 12 of them were under the age of 10. The average age was about 30. Ross also maintained 11 slave houses for their quarters. "Arkansas and the Indian Lands," Eighth Census, 1860, National Archives. At least one record exists of a slave transaction by Ross. In April of 1850 he purchased an 18-year-old boy, Peter, for \$400. Statement of Susan Coodey, April 19, 1850, Ross Papers, Gilcrease Institute. Receipt of Lorenzo Delano, March 26, 1849, *ibid.*; Fogle, "A Journal from Salem, North Carolina, to the Cherokee Nation by Way of New Salem, Illinois;" Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States, p. 268; John G. Ross to Ross, June 3, 1841, Ross Papers, Gilcrease Institute. Mary closed one of her letters to Ross: "Remembrances from...the blacks," June 7, 1864, *ibid.*; Ross to Annie, September 18, 1865, Ross Papers, Cherokee Collection, Tennessee State Library and Archives.

As one of the more substantial members of Cherokee society, Ross felt keenly his social obligation. The artist, John Mix Stanley, who visited the Cherokees in 1844, discovered that Ross's house was "the refuge of the poor, starved, and naked Indian." There a destitute guest would find food and lodging to temporarily relieve his plight. Ross frequently offered his resources to those less fortunate than himself, often working through the missionary endeavor to aid his fellow man. On one occasion Ross allotted Evan Jones, the Baptist missionary, over \$2,000 for the purchase of corn to feed the poor. He also belonged and contributed to several local aid societies.<sup>16</sup>

In spite of the monetary arrangements in the Treaty of 1846, the Cherokees continued to be plagued by financial difficulties. Ross at first proposed a policy of retrenchment, but the National Council pursued that course only halfheartedly. Whether from policy or scarcity of funds, the National Council moved in the direction of retrenchment in 1848 when the officers of the Cherokee Nation were paid only half-salaries for the year. Two years later the National Council moved more vigorously and reduced salaries for the nation's administrators. Ross's stipend was reduced from \$500 per year to \$400. National Council debate was quite heated on this issue; Ross seemed to favor

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<sup>16</sup> Stanley, "Catalogues of Portraits of North American Indians, with Sketches of Scenery, etc.," Smithsonian Institution, Miscellaneous Collections, Vol. II, p. 15; Evan Jones to Ross, November 13, 1846, Ross Papers, Gilcrease Institute. At a meeting of the Tahlequah Missionary Society a roll was taken of the contributing members with a normal contribution of \$.50 recorded. One local merchant, Lorenzo Delano, offered \$1 and, not to be outdone, Ross gave \$2. Cherokee Advocate, October 1, 1849. Nor did the chief forget his Scottish heritage. As famine swept the Scottish isles in 1847, Ross called for contributions to relieve the suffering, raising altogether \$190. Ibid., April 29 and July 15, 1847.

larger salaries for Cherokee Nation officials, and he generally had his way. This course probably had little effect on easing the growing Cherokee deficit.<sup>17</sup>

In Ross's annual message of 1849 he suggested that the public debt might be alleviated by taxing the more profitable occupations in the Cherokee Nation--such as merchant stores, mills, and ferry operations--and by effecting a small poll tax. He also suggested that a small percentage of the money received by Cherokees for the sale of public lands in the East be taxed. The National Council was hesitant to act on such sweeping recommendations and turned to the people for advice. The council directed Ross to send runners throughout the nation calling a general meeting of all Cherokees for November 7, 1849. Meeting for only two days, the gathering accomplished little, and the question again was placed in the hands of the legislators. Ross pushed for some sort of individual tax, and William P. Ross in the columns of the Cherokee Advocate supported him, but the bulk of the tribe effectively blocked its initiation. Eventually a small tax on owners of ferries and on lawyers was inaugurated. The only effective personal tax was levied in November of 1851 after a general meeting of the Cherokees. This provided that five percent of the emigrants' per capita payment be used to pay the legal counsellors

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<sup>17</sup>Ross's Annual Message, November 12, 1846, *ibid.*, November 19, 1846; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 34-35, 174-175, 218-219; Cherokee Advocate, December 10, 1850. Wardell notes a \$600 decrease in Ross's salary rather than just a \$100 cut. It is doubtful that Ross would have been receiving \$1,000 a year during those depressed times. Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 88. Compare *ibid.*, p. 99 n. 11.

retained by the Ross faction at Washington in 1846.<sup>18</sup>

The Cherokee national debt had been building since 1839 and grew each year, as the annuities derived from investments made by the United States were never adequate to meet Cherokee expenditures. By 1851 the debt had reached nearly \$200,000. Warrants were issued by the National Council to pay expenses and usually were bought by substantial Cherokees hoping for brighter days, but many of the warrants eventually reached the hands of whites. Ross contended that the retrenchment policy had some stabilizing effect, for with the tax on ferry owners and lawyers and with other small sources of income, the debt was being reduced gradually until in 1859 it amounted to about \$100,000.<sup>19</sup>

Had Ross's other plan for raising money been effected, the debt might have been entirely erased. In the general meeting of the tribe in 1849 the sale of the Neutral Lands was discussed. This area in the eastern part of the Cherokee Nation, which comprised nearly 800,000

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<sup>18</sup>Ross's Annual Message, October 1, 1849, in Cherokee Advocate, October 8, 1849; Proclamation of Ross, October 24, 1849, ibid., October 29, 1849; Cherokee Advocate, November 19, 1849; Ross's Annual Message, October 5, 1851, ibid., October 14, 1851; Ross to the National Council, November 20, 1851, Ross Papers, Gilcrease Institute; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 192-234; George Butler to Thomas S. Drew, September 13, 1853, "Report of the Commissioner of Indian Affairs, 1853," United States Senate, 33rd Congress, 1st Session, Executive Document 1 (Washington: Robert Armstrong, 1853), p. 383. A bill was introduced for individual taxation in 1853 but gained little interest in the Cherokee National Council. George Butler to Thomas S. Drew, September 27, 1854, "Report of the Commissioner of Indian Affairs, 1854," United States Senate, 33rd Congress, 2nd Session, Executive Document 1 (Washington: Beverly Tucker, 1855), pp. 322-323.

<sup>19</sup>George Butler to Drennen, September 14, 1851, "Report of the Commissioner of Indian Affairs, 1851," United States Senate, 32nd Congress, 1st Session, Executive Document 1, p. 380; Ross's Annual Message, October 3, 1859, Ross Papers, Gilcrease Institute; Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 86.



acres, had been obtained for \$500,000 by the Cherokees under the Treaty of New Echota. Ross felt the area had been forced on the Cherokees as merely another means of cutting into Cherokee removal funds. However, the tribe reached no agreement on its retrocession and in 1851 the National Council met with the sole purpose of discussing the sale of the Neutral Lands. The National Council unanimously agreed on the matter and directed a delegation to Washington to negotiate the sale. Although Ross was appointed as a delegate, he declined, as the coming per capita payment demanded attention and the assistant principal chief was too ill to carry out the duties of the executive office. Ross reported the following year that the delegation had been unsuccessful in negotiating for the sale of the Neutral Lands.<sup>20</sup>

Throughout the 1850's repeated attempts were made to sell the Neutral Lands. The Cherokees desired to sell the land for the original \$500,000 plus interest of five percent a year since 1835, or about \$800,000. The various Cherokee agents concurred with this plan, but it never engendered any enthusiasm at Washington. The Federal government seemed willing to pay the original \$500,000 but would not agree to any interest. In 1854 another method was proposed. The Cherokee delegation under instructions from Chief Ross proposed an exaggerated offer to sell the Neutral Lands for \$1.25 per acre, which would have yielded the tribe \$1,000,000 in revenue, and tempted the Federal government by noting the excellence of the location of lands for

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<sup>20</sup>The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 192, 223, 230-231, 238-239; Ross to the National Council, November 20, 1851, Ross Papers, Gilcrease Institute; Ross's Annual Message, October 4, 1852, Cherokee Advocate, October 27, 1852.

railroads. This was something quite alien to the Cherokees' original intent that no one but Indians be settled in this area. Negotiations dragged on this point, and the delegation moved back to the earlier proposal of the original price plus five percent interest since 1835. Finally, the Cherokees proposed their minimum bargain--the original price plus five percent interest from 1846, or a total of about \$700,000. The commissioner of Indian affairs stuck to the \$500,000 amount, and no compromise could be worked out. There was considerable debate among tribal legislators over the use of the money in the event it was obtained. Ross had hoped that one-half would be used for support of education and one-quarter for the orphan fund, with the remainder to be decided by the National Council. Ross probably wanted the balance to go for the payment of the national debt, but a vigorous group of Cherokees was pushing for the remainder to be divided per capita. The tribe did not have to face these questions until the next decade because the United States would not agree to repurchase the lands at the Cherokee price until 1866.<sup>21</sup>

In the late 1850's the question of the Neutral Lands was caught

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<sup>21</sup>Vann et al. to Lea, July 7, 1852, Alexander H.H. Stuart to Lea, July 16, 1852, Elijah Hicks et al. to Lea, February 14, 1853, Hicks to Manypenny, July 27, 1853, John Thomas et al. to Manypenny, December 28, 1854 /Manypenny?/ to McClelland, January 15, 1855, Conference Notes, January 8, 1855, Conference with the Cherokee Delegation, January 15, 1855, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Lea to Stuart, November 30, 1852, "Report of the Commissioner of Indian Affairs, 1852," United States Senate, 32nd Congress, 2nd Session, Executive Document 1, p. 298; Ross's Instructions to the Cherokee Delegation, January 7, 1853, and November 22, 1854, Ross Papers, Gilcrease Institute; Butler to C. W. Dean, September 10, 1856, "Report of the Commissioner of Indian Affairs, 1856," United States Senate, 34th Congress, 3rd Session, Executive Document 1 (Washington: A.O.P. Nicholson, 1856), p. 689.

up in another vexing problem. The newly opened Kansas Territory had attracted settlers who looked enviously beyond their southern border at the lush lands held by the Cherokees. As early as 1856 the Cherokee agent, George Butler, was reporting white intruders on the Neutral Lands. The regional Indian superintendent was authorized to use forces from Fort Gibson to remove these squatters but, as was the case in the old Cherokee Nation, the Federal government had little persuasive power over land hunters. When Federal agents arrested one party of squatters, one of the apprehended whites remarked that it was useless to remove him, for as soon as he was released he would return. Burning their cabins seemed no more effective.<sup>22</sup>

In his annual message of 1857, Ross gave some attention to these abuses. Perhaps recalling the systematic incursions on the Cherokee lands east of the Mississippi River, Ross reminded the National Council that "quiet submission to such treatment in one case is but encouragement for its repetition in another." Ross felt that if Cherokee political rights had any value they ought to be "zealously maintained, and no violation of them be permitted to pass without invoking redress from the United States government." He quoted at length from the inaugural address of the territorial governor of Kansas, Robert J. Walker. Walker spoke generally of the "salubrious and fertile" Indian Territory and brazenly suggested that Indian treaties would be no obstacle to moving the Indians to the western portion and giving the

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<sup>22</sup>Dean to Manypenny, April 16, 1856, and January 17, 1857, Butler to Dean, August 9, 1856, Butler to Charles Mix, October 12, 1857, and R. J. Cowart to A. B. Greenwood, November 9, 1860, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

eastern part to whites for eventual statehood. Whether or not caused by Walker's address, intrusions on Cherokee Neutral Lands steadily increased in the next few years. In 1859 the Kansas territorial legislature passed an act dividing the Neutral Lands into counties and generally treating the area as a part of the state's domain. Southern Indian Superintendent Elias Rector recommended that the United States either buy the lands, give the Cherokees title to them without restriction, or authorize the tribe to survey and sell them in its own fashion. Nothing seems to have come of the recommendation, and the Federal government was not willing to use effective military force to remove intruders. Ross went to Washington as a Cherokee delegate in 1860, the first time since 1846, and called the Federal government's attention to whites who "trespassed...with impunity" on Cherokee lands. Again the Cherokees proposed retrocession but found Washington opinions on the matter unchanged. Settlers continued to invade the lands, paying little notice to Indian treaties or government threats.<sup>23</sup>

The problem of an inadequately financed government also hindered

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<sup>23</sup>Ross's Annual Message, October 5, 1857, and Butler to Elias Rector, September 8, 1857, "Report of the Commissioner of Indian Affairs, 1857," United States Senate, 35th Congress, 1st Session, Executive Document 1 (Washington: William A. Harris, 1858), pp. 509-510, 500; Butler to Mix, January 24, 1858, and Ross to Greenwood, April 2, 1860, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Butler to Rector, September 10, 1858, "Report of the Commissioner of Indian Affairs, 1858," United States Senate, 35th Congress, 2nd Session, Executive Document 1 (Washington: William A. Harris, 1859), p. 493; Butler to Rector, September 10, 1859, and Rector to Greenwood, September 20, 1859, "Report of the Commissioner of Indian Affairs, 1859," United States Senate, 36th Congress, 1st Session, Executive Document 1 (Washington: George W. Bowman, 1859), pp. 531, 540-541.

the Cherokees in making significant social progress. Ross frequently used his annual messages to stress needed social reforms and, had the necessary money been available, the tribe might have moved even further in that direction. In his annual message of 1851 Ross spoke of the abuses of the Cherokee laws, insisting on more moderate punishments for crimes. Corporal punishment for crimes should give way, he argued, and existing laws needed better enforcement. Ross felt particularly that the Cherokees needed an adequate jail, which would both relieve the pressure for corporal punishment and also allow criminals to do useful labor. Upon Ross's suggestion the National Council authorized the building of a jail and allocated nearly \$1,900 for it, with construction to be completed in September of 1852. The practice up to that time had been to employ a Cherokee guard and detain the criminal at some Indian's house, with both the guard and the housekeeper being paid out of the Cherokee Nation's funds. There seems to have been just enough chance for personal gain in this method for voters to turn down repeatedly any allocation of funds for building a jail, and it did not become a reality until after Ross's time.<sup>24</sup>

Financial distress also hampered the Cherokee Nation's educational system, and Ross's dream for Cherokee progress was not realized. In 1852 Chief Ross even suggested building a national library, but his vision far exceeded the realities of the era. In one instance Ross saw

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<sup>24</sup>Ross's Annual Message, October 7, 1850, in Cherokee Advocate, October 12, 1850; Ross's Annual Message, October 5, 1851, ibid., October 14, 1851; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 221-222; Butler to Drennen, September 14, 1851, "Report of the Commissioner of Indian Affairs, 1851," United States Senate, 32nd Congress, 1st Session, Executive Document 1, p. 380.

his hopes at least partially fulfilled. He had urged in his annual message of 1846 that the Cherokees establish two seminaries, both high schools, one for males and one for females. The National Council readily accepted the suggestion and passed legislation for the erection of two buildings which together were estimated to cost about \$35,000. The next year the National Council enacted legislation to cover the direction and makeup of the institutions. A board of directors, with Ross as ex officio president, was appointed to oversee maintenance and instruction at the schools. Every year the high schools were to have two sessions of 20 weeks each, with allowances for short vacations. Meeting five days a week, six hours each day, the students were taught in the classical mode with subjects including geography, history, arithmetic, English elocution, and the classical languages. Twenty-five pupils were to be enrolled the first year and a like number each successive year in February until the schools met their prescribed limit of 100 students.<sup>25</sup>

The seminaries opened in May of 1851 with all the pomp and finery that the Cherokees could display. Chief Ross made opening remarks on the occasion, contrasting the education of the day with that of his boyhood. The military band from Fort Gibson was on hand to honor the teachers, recently arrived from Mount Holyoke and Yale College, and the pupils--"the Flower of the Cherokee Nation." A May queen was

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<sup>25</sup>James McKisick to Samuel M. Rutherford, September 29, 1847, "Report of the Commissioner of Indian Affairs, 1847," United States Senate, 30th Congress, 1st Session, Executive Document 1 (Washington: Wendell and Benthuyesen, 1847), p. 883; Foreman, The Five Civilized Tribes, pp. 408-409; The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51, pp. 157-162.

crowned that day, and for years afterward the schools celebrated the anniversary of the opening. The seminaries played an important role in the Cherokee Nation, for they became the principal source of instructors for the Cherokee public schools. The seminaries were situated at Park Hill just north of Ross's home, and the chief could easily point them out to guests who called at Rose Cottage. Waddy Thompson, counsellor for the Ross faction in 1846, left this description of the school buildings after visiting Ross in 1852:

You catch a glimpse, at the distance of two or three miles, of two splendid buildings, looming over the broad expanse of a magnificent prairie, and then remembering that you are in an Indian country, the effect is most striking. The main building is 80 feet diameter, with two wings, each forty feet, and surrounded by a fine colonade /sic/, all built in the most perfect architectural taste and style.<sup>26</sup>

George Butler, Federal agent to the Cherokees, noted in his report for 1856 that the seminaries appeared to be in jeopardy due to the depleted financial resources of the Cherokees. That fall the institutions were closed. Ross was bitterly disappointed and felt that if the Federal government had purchased the Neutral Lands, the Cherokees would have had the means to maintain the seminaries. Noting the losses to the tribe by the failure to secure additional funds, Ross sadly observed:

It has checked the course of education, meted out a stinted pittance to every person engaged in public service, defrauded the honest holders of public scrip, and disgraced the fair fame of the

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<sup>26</sup>"Cherokee Seminaries," Cherokee Advocate, May 13, 1841; "From the Southern Patriot--General Waddy Thompson's Letter," ibid., March 9, 1852; Reports from the Two Seminaries, September 5 and 8, 1854, "Report of the Commissioner of Indian Affairs, 1854," United States Senate, 33rd Congress, 2nd Session, Executive Document 1, pp. 330-332; Ross's Annual Message, October 3, 1859, Ross Papers, Gilcrease Institute.

nation by an act of substantial repudiation....it disturbs the harmony of the people, excites disagreements and divisions, and is insidiously sapping the foundations of the government by withholding means really necessary for its successful administration.

Ross had hoped that the schools would be closed for only a short time and in 1859 urged the National Council to reopen them on some economical plan. But the school doors remained shut, not to be reopened until after the Civil War and, sadly enough, after the passing of the man who had given them life.<sup>27</sup>

Cherokee-white encounters were more frequent around the settled regions in the eastern part of the Cherokee Nation than in the Neutral Lands. These encounters were not appreciated by Chief Ross or many of the leading Cherokees, for the whites were largely card sharks and whiskey peddlers from the small settlement that had grown up around Fort Gibson. As early as 1852 Agent George Butler called the fort a "useless and unnecessary expense" for the United States and suggested its abandonment. Butler queried Ross on Cherokee opinion about the fort and found Ross in complete agreement with the idea of abandoning the post. Of course, Ross knew that the Treaty of New Echota of 1835 provided that on its abandonment the site would revert to the Cherokees. Ross also knew that the fort was the only adequate spot in the Cherokee Nation for steamboat navigation, giving it an added

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<sup>27</sup>Foreman, The Five Civilized Tribes, p. 414; Ross's Annual Message, October 5, 1857, "Report of the Commissioner of Indian Affairs, 1857," United States Senate, 35th Congress, 1st Session, Executive Document 1, pp. 508-509; Ross's Annual Message, October 3, 1859, Ross Papers, Gilcrease Institute. The financial strain on the Cherokees during the 1850's also caused the demise of the Cherokee Advocate which closed in 1853. Laws of the Cherokee Nation Passed at the Annual Sessions of the National Council, 1852-3 (Tahlequah, Cherokee Nation: Cherokee Advocate Office, 1853), p. 20.



commercial advantage, and he hoped that in time a respectable town might grow up there. For some years he had been disturbed by the "pernicious practice of trafficking and using intoxicating liquors about Fort Gibson," and he felt its reversion to the tribe might end such annoyances. Ross was an abstinent man and, although he was not the sort of activist who joined the local temperance societies that flourished under the guidance of the missionaries, he had strong feelings about alcoholic beverages and on one occasion said: "Were it possible, to drive this monstrous hydra entirely away from out of this land so that its pestiferous fumes may never again be inhaled by inhabitants, no one would rejoice more in the happy result than...John Ross."<sup>28</sup>

During the mid-1850's the Department of War still considered Fort Gibson important and was reluctant to abandon it. By 1857, however, the Federal government decided to remove the post's last military forces from there and was preparing to sell the buildings at public auction. Ross learned of this and quickly reminded the commissioner of Indian affairs of treaty provisions in regard to the post. The error was corrected, and in September of 1857 the fort reverted to the Cherokees. At the next annual National Council session the site was christened "Ke-too-Wha" and was laid out into lots for public sale, bringing in about \$20,000 to the national treasury the first year.

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<sup>28</sup> Butler to Drennen, September 30, 1852, "Report of the Commissioner of Indian Affairs, 1852," United States Senate, 32nd Congress, 2nd Session, Executive Document 1, p. 401; Ross to Butler, September 8, 1854, and Ross to P. M. Butler, February 14, 1844, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Bass, Cherokee Messenger, p. 230.

Ross had hoped to use some of the buildings for the jail that had been planned but found them in such a dilapidated condition as to make the idea impractical. There was a movement at one time to have the capital of the Cherokee Nation moved to Ke-too-Wha, and the idea even passed the National Council but was vetoed by Ross.<sup>29</sup>

The political atmosphere of the Cherokee Nation during the 1850's had calmed, and major disruptions were virtually unknown. The elections of the post-1846 era were tranquil though actively contested. In 1847 Ross stood for reelection against his friend and relative, William Shorey Coodey. Ross won handily, 1,898 to 877. His next stand at the polls elicited only slightly more opposition; indeed, David Vann and Lewis Ross declined nominations before Joseph Vann was placed opposite the chief. One disturbance occurred in the off-year election of 1853, when George W. and Andrew Adair were killed. Ross viewed it as a "neighborhood feud" growing out of the murder of Isaac Proctor some years before, to which the Adairs had been a party. The fact that 75 armed men had participated in the murder of the Adairs caused apprehension among the Cherokees, which was not lessened by the United States force that entered the country in search of the offenders. The remaining elections throughout the decade passed without incident, and the Cherokees showed their confidence in Ross by returning him to

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<sup>29</sup>Jefferson Davis to McClelland, January 13, 1855, and Ross to James W. Denver, June 6, 1857, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ross's Annual Message, October 5, 1857, "Report of the Commissioner of Indian Affairs, 1857," United States Senate, 35th Congress, 1st Session, Executive Document 1, p. 511; Ross's Annual Message, October 3, 1859, Ross Papers, Gilcrease Institute; Butler to Rector, September 10, 1858, "Report of the Commissioner of Indian Affairs, 1858," United States Senate, 35th Congress, 2nd Session Executive Document 1, p. 493.

executive office in 1855 and again in 1859.<sup>30</sup>

Members of the Stapler family frequently visited the Ross home during the peaceful years after 1846. Sarah, Ross's sister-in-law, remained at Park Hill and taught for a time in the Cherokee schools. As Ross returned home from business trips to the East, he occasionally brought with him members of the Stapler household. Perhaps they came to visit their new grandchildren, Annie, who was born in 1845, and John, Jr., who was born two years later. Mary's father died on his visit in 1858, and the pleasant atmosphere of Rose Cottage was darkened for a time. Death again invaded the Ross home in 1860 when a cousin, Mary F. Stapler, came to visit and to tutor Annie and John, Jr. As Miss Stapler sat next to an open blaze in a fireplace, her dress caught fire and, in spite of Ross's efforts to rescue her, the burns proved fatal. In a poignant letter to her mother, Ross told of the deep sorrow in their household. He suggested that perhaps a trip to the Cherokee Nation would help to relieve her grief, and he forwarded the money for her to make the journey.<sup>31</sup>

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<sup>30</sup> "Results of Election--August 2, 1847," Cherokee Advocate, August 12, 1847; Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 114; Ross to Thomas S. Drew, September 26, 1853, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Manypenny to McClelland, November 26, 1853, "Report of the Commissioner of Indian Affairs, 1853," United States Senate, 33rd Congress, 1st Session, Executive Document 1, pp. 253-254; George Butler to Rector, September 10, 1859, "Report of the Commissioner of Indian Affairs, 1859," United States Senate, 36th Congress, 1st Session, Executive Document 1, p. 541.

<sup>31</sup> Cherokee Advocate, January 22, 1849, and April 29, 1851; Friend, Vol. XXXII (1859), p. 120; Ross to Mrs. M. B. Stapler, December 31, 1860/January 1, 1861, and January 18, 1861, Hargett Collection, Western History Collections, University of Oklahoma; Extracts from the Autobiography of Charles Cutler Torrey (unpublished), "Life Among the Cherokees, 1855-1861," Foreman, ed., "Indian Pioneer

Questions over slavery in the Cherokee Nation came up more frequently during the decade of the 1850's than in any other period. This was a reflection both of problems in the United States, particularly nearby Kansas Territory, and of internal differences between the mixed-blooded slaveholders and the more dominant full bloods. Ross had long ago tied his fortunes and ideals to the values of the full bloods and, in spite of his mixed-blooded ancestry and his possession of slaves, the chief clearly had the support of the full blood majority.

The slavery issue seemed to come to a head in 1855, first in relation to the activities of missionaries among the Cherokees. The agent, George Butler, originally of Missouri, had called attention to anti-slavery activities by the missionaries the year before, but in 1855 he even tried to determine the extent of missionaries' abolitionist sympathies. He turned first to the most prominent, Samuel A. Worcester, and found some evidence of anti-slavery attitudes, but nothing serious enough to warrant correction. Ready evidence was available on the Baptist missionaries, Evan Jones and his son, John, who apparently were demanding that slaveholders either free their blacks or leave the Baptist congregation. Butler hoped that the matter would be settled by the Cherokees themselves.<sup>32</sup>

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History," Vol. LIII, pp. 400-442, Indian Archives Division, Oklahoma Historical Society; Elizabeth Ross Interview, *ibid.*, Vol. LII, pp. 447-448; Foreman, Park Hill, p. 114.

<sup>32</sup>Butler to Drew, September 27, 1854, "Report of the Commissioner of Indian Affairs, 1854," 33rd Congress, 2nd Session, Executive Document 1, pp. 322-323; Butler to Manypenny, June 22, 1855, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Butler to Dean, August 11, 1855, "Report of the Commissioner of

The National Council took up the missionaries' anti-slavery activities in the annual meeting of 1855. Recognizing that the Cherokees were a slaveholding people "in a Christian like spirit," the National Council passed a bill directing Ross to correspond with the various missionary societies on the subject of slavery "as a Church principle." Further, the National Council made it unlawful for any missionary to advise a slave "to the detriment of his owner... under the penalty of being removed," or for teachers to be hired in the Cherokee public grade schools who were known to have abolitionist views. Ross vetoed this bill, probably more because of his friendships with the missionaries, particularly the Joneses, than for any strong anti-slavery views. Although it gained the necessary two-thirds majority in the National Committee to override his veto, the bill failed in the National Council, the lower house. The closeness of the vote seemed not to disturb the Joneses, for in 1858 Butler again reported the dismissal of slaveholding members from their congregations.<sup>33</sup>

By 1859 the slavery question had grown to such a degree that the Cherokees were forming into opposing camps over the issue, split generally between mixed bloods and full bloods. A secret organization had been formed among the full bloods known as the Keetoowah Society

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Indian Affairs, 1855," United States Senate, 34th Congress, 1st Session, Executive Document 1 (Washington: A.O.P. Nicholson, 1856), pp. 444-445.

<sup>33</sup>Proposed Bill in the National Council, October 24, 1855, Note Attached to the Proposed Bill, undated /October, 1855?/, and Butler to Mix, October 12, 1858, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Greenwood to Rector, June 4, 1860, Letters Sent, Office of Indian Affairs, National Archives.

or the Pins, whose members wore crossed pins on their shirts to designate their loyalty. Beyond the desire to maintain old Cherokee codes (probably the primary function), the society also may have been led by the Joneses to favor anti-slavery positions. Some of the mixed bloods organized into a pro-slavery faction called the Knights of the Golden Circle, but the group became active only after 1861. It is doubtful that Ross used the Pins for any political purpose, for by 1860 he looked not to renewing factional fights but to peace and contentment for his last years.<sup>34</sup>

During the late 1840's and throughout the 1850's, Ross had passed the function of yearly trips to Washington to rising political elites in the Cherokee community. In 1860 Ross returned to Washington as a Cherokee delegate and took the occasion to travel with Mary and the children to visit her relatives in Pennsylvania and New Jersey. The family made a stop at Chattanooga on the way east and spent a few days there while Ross visited his father's grave and his old home place. They reached their destination in early March, and Ross left Mary and their children with relatives while he went on to Washington alone. Ross's primary object was to gain permission from the Federal government to tax white traders within the Cherokee Nation as a means of reducing the public debt. He hoped also to work out arrangements for the retrocession of the Neutral Lands, or at least to gain a clearer definition of their boundaries, and he intended to demand some sort of payment for damages caused by white intruders on Cherokee lands. Ross

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<sup>34</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 116, 119-123.

was no more successful on these points than were the Cherokee delegations that had preceded him throughout the 1850's.<sup>35</sup>

While Ross was in Washington in April and May of 1860, the capital city was filled with talk of the national nominating convention of the Democratic party at Charleston, South Carolina. In one letter to her husband, Mary asked his opinion as to who might be selected at Charleston. Ross predicted that the convention would not be able to settle on one candidate, and that the party would split and nominate two candidates. If this occurred, Ross thought the Democrats would be defeated at the next election and this perhaps would signal the "knell of a closing scene in the political drama of the Democratic party!" Ross believed Americans should choose "some great & good conservative Patriotic Man, as a Washington, and elect him President...under the Banner of the union and Constitution." Ross predicted that Stephen A. Douglas would be one of the Democratic candidates, but the senator certainly would not have received the chief's support, for Ross had an Indian's view of "popular sovereignty:"

As to the Political dogmas of the day, that Power under 'Squatter Sovereignty' recognize the Principle that 'might gives right' and may be exercised under the Policy of expediency and necessity, by filibusterism. There can be no safety or security for the person or property of the weaker party. And having experienced great

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<sup>35</sup> Instructions for Negotiations at Washington, November 3, 4, 11, and 14, 1859, Ross Papers, Gilcrease Institute; Annie B. Ross to Lizzie, March 14, 1860, in T. L. Ballenger, ed., "The Nave Letters: Civil War, Etc.," Unpublished Typescripts, John Vaughn Library, Northeastern State College; Ross to Greenwood, April 2, 1860, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Greenwood to Ross et al., April 12, 1860, Letters Sent, Office of Indian Affairs, National Archives.

injustice from this Policy, I cannot but abhor and detest it. It is only a flimsy pretext for the Tyrants plea--and the robber's justification.<sup>36</sup>

The Treaty of 1846 seemed to prepare the way for a tranquil era unknown to the Cherokees since the peaceful days of Chief Ross's youth. He looked longingly to implementing certain social advances that he had planned for years. The seminaries, a national library, and the national press were the substance of his dreams. Ross was more than just an idle dreamer and saw at the least the inception of a few of his projects. Financial stagnancy dashed these hopes, and in his old age Chief Ross watched his dreams turn to dust as the seminaries closed, the Cherokee Advocate shut down, and the national library became only a tattered fragment of paper. With internal peace and unity, Ross also looked forward to the final settlement of nagging problems between the Cherokee Nation and the United States. However, the paltry per capita payment and the continued haggling over the retrocession of the Neutral Lands frustrated Ross's ambitions, for they also became elements of the Cherokee financial distress. By 1860 these problems appeared not to be insoluble, for the Cherokee debt was being paid and a Republican administration might be more amenable to Cherokee goals. Yet external disunity reawakened internal factionalism, and Chief Ross and the Cherokees again were thrust into an era of violence and disruption.

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<sup>36</sup>Ross to Sarah Stapler, April 19, 1860, Ross Papers, Gilcrease Institute; Ross to Mary, May 1, 1860, in Grant Foreman, comp., "Copies of Letters...and Miscellaneous Documents Relative to the Cherokee and Creek Indians, 1836-1933," Unpublished Typescripts, Oklahoma Historical Society.



## CHAPTER X

### THE CIVIL WAR

By 1860 Ross had reached his seventieth year, clearly evidenced by the whitened head and wrinkled brow of the aging chief. These years, however, had not reduced his able and energetic leadership, and physical infirmities never seemed serious or of long duration. At beautiful Rose Cottage he still lived in majestic style. There with Mary and their two children he could enjoy comfort and companionship in his declining years. Frequent trips about the Cherokee Nation assured him of the peace and unity that he cherished for his people. Yet the half dozen years after 1860 proved the most trying of his brilliant career, as factional fires were rekindled in the Cherokee Nation at the time of the Civil War. During this divisive era the great theme of his life, unity within the Cherokee Nation, met its severest test, and only with his death in 1866 did it again become a momentary reality.

The differences which spawned divisions in the Union at large were reenacted on the Indian Territory frontier in microcosm. The drift of secession sentiment reached the Cherokee Nation and widened the existing rift between the party of Ross and the newly reformed Ridge party. As in the past, the Ross party was composed chiefly of full bloods and nonslaveholders, while the opposition led by Stand Watie included mainly mixed bloods and southern sympathizers.

An act of the Chickasaw legislature forwarded to Ross by Cyrus Harris, Chickasaw governor, signaled the first of a long series of communications between Ross and southern-minded individuals. The act called for a meeting of the Five Civilized Tribes to discuss forming a compact because of impending change in the United States. Ross's answer was cautionary and guarded; yet he considered it proper to appoint a delegation which consisted of men who were loyal to him and his policies. The chief's careful instructions advised the delegates against any "premature movement, on our part, which might produce excitement or be liable to misrepresentation....We have only to adhere firmly to our respective Treaties."<sup>1</sup>

A month later, in mid-February of 1861, Ross received a message from Governor Henry M. Rector of Arkansas, speaking of the common interests of the slaveholding states and requesting Ross's cooperation in the defense of southern institutions. Ross's reply was a model of moderation and ambivalence as he stressed his friendship to neighboring Arkansas but noted the Cherokee Nation's alliance with the Union. That same week Chief Ross replied to a communication from John B. Ogden, commissioner of the Federal district court at Arkansas, inquiring about activities of Indian agents who were purportedly advocating

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<sup>1</sup>Cyrus Harris to Ross, January 5, 1861, and Act of the Chickasaw Legislature, January 5, 1861, Ross Papers, Gilcrease Institute; Ross to Harris, February 9, 1861, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. The delegation included William P. Ross, Thomas Pegg, John Spears, and Lewis Downing. Ross to William P. Ross et al., February 12, 1861, *ibid.* The Creek Nation was to designate the time and place; therefore, the acting Creek Chief Jacob Derrysaw set February 17, 1861, at the General Council Ground for the meeting. Derrysaw to Ross, February 4, 1861, *ibid.* The meeting concluded generally on the sentiments Ross had expressed. William P. Ross et al. to Ross, March 15, 1861, *ibid.*

a secession policy. Principal among these was Elias Rector, the Federal superintendent of Indian affairs and an ardent supporter of the southern cause. This correspondence indicated a problem that Ross would face often in the coming year as agents partisan to the Confederate cause proselyted among his people.<sup>2</sup>

During the next two months Ross returned to the normal affairs of the Cherokee Nation and, except for a visit in mid-March by a Texas commission which noted the chief's neutrality, the coming conflict must have seemed remote.<sup>3</sup> Arkansas had seceded shortly after the capitulation of Fort Sumter. During the second week in May, Ross received a letter from a number of citizens of Boonsborough, Arkansas, insisting on knowing Ross's intentions, saying they preferred "an open enemy to a doubtful friend." Later that week Colonel J. R. Kannady, the Confederate commander at Fort Smith, informed Ross that in his position as defender of the western frontier he must know if the chief intended to support the South. Ross's replies to the Boonsborough residents and Kannady illustrate the dilemma he faced. He stressed his great desire for peace and the hope that his people would be beyond the southern appeal; therefore, on May 17, 1861, he issued a proclamation reminding his tribe of its obligations to the United

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<sup>2</sup>Rector to Ross, January 29, 1861, and Ross to Rector, February 22, 1861, United States Department of War, War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies (70 vols., 128 books, Washington: Government Printing Office, 1880-1901), Ser. i, Vol. XIII, pp. 490-492; Ogden to Ross, February 15, 1861, and Ross to Ogden, February 28, 1861, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

<sup>3</sup>James E. Harrison et al. to Edward Clark, April 23, 1861, Official Records, Ser. iv, Vol. 1, pp. 322-325.

States, advising the people not to be alarmed by false reports of scheming men, and admonishing prudence and non-interference.<sup>4</sup>

Ross was only partially deluded into believing that the Cherokees could remain aloof as the spreading hostilities reached the borders of Indian Territory. Nor was the newly formed southern government willing to let the trans-Mississippi tribes remain Federal by default. By the latter part of May of 1861 the Confederate government had appointed two men who were destined to have a tremendous impact on Ross--an impact that would return to haunt him in the final months of his life.

Albert Pike, an attorney of Little Rock, Arkansas, was commissioned as special agent for the Confederacy to negotiate treaties with Indian tribes west of Arkansas. Prior to his departure for Ross's home at Park Hill, Pike gave first evidence of the wedge he would use to drive the chief from his avowed position. Pike revealed that he intended to treat with the leaders of the mixed bloods if Ross refused to negotiate. Pike had long experience with Indians and had no misconceptions as to Ross's abilities. He observed on one occasion: "He is very shrewd. If I fail with him it will not be my fault." Pike contacted Ross on June 6 as he departed from the Cherokee Nation, proposing a treaty of alliance between the Cherokee Nation and the Confederacy. He offered ample protection by Confederate troops; unrestricted Cherokee title and perpetual possession of their country;

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<sup>4</sup>Mark Bean et al. to Ross, May 9, 1861, Kannady to Ross, May 15, 1861, Ross to Kannady, May 17, 1861, Ross to Mark Bean et al., May 18, 1861, Ross's Proclamation to the Cherokees, May 17, 1861, Official Records, Ser. i, Vol. XIII, pp. 492-495, 489-490. Ross called a meeting of the Cherokee Executive Council three days before the proclamation to gain the support of the members. Ross to John Drew, May 9, 1861, Drew Papers, Gilcrease Institute.

payment of \$500,000 for the Neutral Lands with interest from the date of the Treaty of New Echota in 1835; assumption of the payment of all annuities; a delegate seat in the Confederate House of Representatives; and a Confederate court for the Cherokee Nation. These were the objects the Cherokees had sought since 1846, but Ross still felt compelled to follow the treaties with the United States.<sup>5</sup>

Ross already had been informed of the appointment of the other Confederate commissioner to Indian Territory and its commanding general, Benjamin McCulloch. McCulloch was aware of the factional division among the Cherokees, but was determined to enlist Ross on the Confederate side to prevent Unionists from gaining a foothold in Indian Territory. McCulloch and Pike had arrived at Park Hill about the same time, and on June 5 they had an amiable audience with Ross at Rose Cottage. The following week McCulloch recalled the interview in a letter to Confederate Secretary of War L. P. Walker. Ross had objected to McCulloch's desire to obtain a military position in the Cherokee Nation. Nevertheless, McCulloch felt he had assurances from the chief that if an invasion came, Ross would lead a force to repel it. McCulloch undoubtedly was influenced not to press for the Cherokee base

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<sup>5</sup>Pike to Robert Toombs, May 29, 1861, Official Records, Ser. iv, Vol. 1, pp. 359-361; Pike to Ross, June 6, 1861, Cherokee Nation Papers, Western History Collections, University of Oklahoma; Ross to Pike, July 1, 1861, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Walter L. Brown, "Albert Pike, 1809-1891" (Unpublished Doctor's Dissertation, University of Texas, 1955), p. 553. Ross may have known Pike as early as 1839. When Quatie died near the end of the removal process, she was buried at Little Rock in an unmarked grave. In 1843 Mount Holly Cemetery came into service, and Quatie's remains supposedly were transferred there. A marker now stands as her memorial on the Albert Pike lot. This tenuous connection was not apparent in the Ross-Pike correspondence.

by his fear that a movement of his forces at that time might unite the Cherokees and damage any chance of negotiations, even with the mixed bloods. That same week McCulloch told Ross: "Those of your people who are in favor of 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>6</sup>

These two emissaries were not the only Confederates who contacted Ross. David Hubbard, the newly appointed commissioner of Indian affairs of the Confederacy, wrote Ross in mid-June as illness prevented his traveling. He asked the chief's consideration of the debts, annuities, and other funds due the tribe by the northern government which Hubbard reasoned were lost but which, he explained, the Confederacy would redeem.<sup>7</sup>

Ross replied to both McCulloch's and Hubbard's letters on June 17 in the strongest and most definite terms he had used to date. The elderly chief suggested that McCulloch had misapprehended his remarks about leading a force since he had no notion of any invasion and anticipated none. McCulloch wrote Walker that he was satisfied that Ross merely was awaiting an opportunity to side with the North. He viewed the chief's neutrality as a pretext to await the outcome of events. McCulloch felt that he had the Cherokees surrounded by Confederate forces and therefore was not overly concerned. In a long

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<sup>6</sup> John B. Luce to Ross, May 29, 1861, Ross Papers, Gilcrease Institute; McCulloch to Walker, May 28 and June 12, 1861, Official Records, Ser. i, Vol. III, pp. 587-588, 590-591; McCulloch to Ross, June 12, 1861, *ibid.*, Ser. i, Vol. XIII, p. 495.

<sup>7</sup> Hubbard to Ross, June 12, 1861, *ibid.*, pp. 497-498.

letter to Commissioner Hubbard, Ross recounted the treaty obligations of the Cherokees with the United States and destroyed Hubbard's arguments. Ross was confident that the Federal government would not repudiate its debts. Since he considered the Cherokees' annuities safe in either case, he avoided Hubbard's trap. To Hubbard's assertions that the South had a more distinguished history of dealing with the Indians than the North, Ross added "but few Indians now press their feet upon the banks of either the Ohio or Tennessee."<sup>8</sup>

Pike was not so easily deterred from his mission to treat with the Indian tribes west of Arkansas, and even the adroit Ross could not long divert this Confederate emissary. After Pike left Park Hill, he secured treaties with the Creeks, Chickasaws, Choctaws, and eventually the Seminoles. Pike then turned west and in the early part of August signed treaties with the plains tribes at the Wichita agency. In dealing with some tribes, Pike negotiated with the mixed blood faction when he was unable to treat with the full blood majority. As news of these treaties reached Park Hill, Ross felt compelled to convene a Cherokee national conference to discuss the great issues his people faced. Also, Ross was receiving reports of dissension among the tribe in the Canadian District. E. H. Carruth, a United States special Indian agent, reported on July 11, 1861: "The Cherokees refuse to go as a Nation with the South, and no one is a firmer friend to the Union than John Ross, their Chief, but traitors are scheming, and the half-breeds in favor of the South, want an army to come in, in which event

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<sup>8</sup>Ross to McCulloch, June 17, 1861, *ibid.*, pp. 495-497; McCulloch to Walker, June 22, 1861, *ibid.*, Ser. i, Vol. III, pp. 595-596; Ross to Hubbard, June 17, 1861, *ibid.*, Ser. i, Vol. XIII, p. 499.

they promise to be 'forced in' to the Arms of Jeff. Davis, and the select crowd of traitors at Montgomery."<sup>9</sup>

Ross convened the Cherokee Executive Council from June 27 to July 2 at Park Hill prior to the general assembly and obtained firm support for his course to date, then called a Cherokee national conference in order to harmonize the various opinions to reach a common goal. Despite the hot August weather, the crowd of nearly 4,000 male Cherokees pressed close to hear the chief speak eloquently of the problems which confronted them and the course they must follow. Ross recounted the events of the preceding few months and the position he had taken. His words seemed almost Lincolnian as he spoke: "The great object with me has been to have the Cherokee people harmonious and united in the full and free exercise and enjoyment of all their rights of person and property. Union is strength; dissension is weakness, misery, ruin." The major part of his speech served to justify his position of neutrality, and so it must have come as something of a surprise when he uttered these final words: "The time has now come... to adopt preliminary steps for an alliance with the Confederate States." After dinner the crowd reassembled and, with Joseph Vann, assistant principal chief acting as president, accepted without dissent Ross's recommendations.<sup>10</sup>

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<sup>9</sup>Ross to John Drew, July 2, 1861, Ross Papers, Gilcrease Institute; E. H. Carruth to /?/, July 11, 1861, Southern Superintendency Letters Received, Office of Indian Affairs, National Archives.

<sup>10</sup>Executive Council Notes, July 2, 1861, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Minutes of Executive Council, August 1, 1861, Ross Papers, Gilcrease Institute; Ross's Address, August 21, 1861, and Resolutions of the Cherokees, August 21, 1861, Official Records, Ser. i, Vol. III, pp. 673-676.



Ross informed McCulloch by letter three days after the conference of the Cherokees' intention to ally with the Confederacy. Pike also was notified of the decision and was directed to return to Cherokee Nation at his earliest convenience to work out terms of a treaty. Pike requested Ross to invite the chiefs of the Osages, Shawnees, and Senecas to Park Hill to make alliances also, to which Ross assented. These tribes allied with the Confederacy during the first week of October.<sup>11</sup>

The Cherokees were somewhat more deliberative. Pike had made camp near Rose Cottage and had raised over his tent a boastful flag emblazed with a red star for each Indian treaty. Pike turned his persuasive powers on Ross and the Cherokee Executive Council at Tahlequah. By October 7 Pike and the Cherokee deputies had concluded a treaty of friendship and alliance which, in many respects, was the most advantageous ever negotiated by the Cherokee Nation. Indeed, the treaty included the very provisions the tribe had wanted since 1846. Ross's delaying tactics, for whatever reasons, had made the Cherokees the last significant tribe to treat with the South and therefore secured for them the best possible advantages. The treaty included these important provisions: the lands of the Cherokees could be dealt with as the tribe pleased; the Cherokee Nation could incorporate Indians of other nations into the tribe; the Cherokees were guaranteed the right of self-government and jurisdiction over persons and property within their territorial limits; agents of the Confederacy were appointed only with

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<sup>11</sup>Ross to McCulloch, August 24, 1861, *ibid.*, p. 673; Ross to Pike, September 25, 1861, and Ross's Annual Message, October 9, 1861, Ross Papers, Gilcrease Institute.

the consent of the Cherokee Nation and could be removed by its request; the Cherokee Nation was entitled to a delegate in the Confederate House of Representatives; and the Neutral Lands were to be sold to the United States if possible and, if not, the Cherokees were to be paid \$500,000 for them plus interest since 1835, the year of the Treaty of New Echota. After appropriate ceremonies Pike presented a Confederate flag to the Cherokee regiment, newly formed under Colonel John Drew. Watie, present with a band of followers, stepped up to take the chief's hand. Old animosities were hardly apparent to Pike as the men pledged harmony and unity.<sup>12</sup>

The reasons for Ross's change from Unionist to neutralist to Confederate ally are numerous and complex. Above all it should be remembered that Ross's first loyalty was to the Cherokees. All other considerations, whether Union or Confederate, were secondary to his regard for his nation and his race. By April of 1861 Federal troops had withdrawn from Indian Territory, and the surrounding areas came under the control of Confederate forces. Although McCulloch kept his promise not to interfere with Cherokee neutrality, he had authorized Watie to raise a force over a month before the treaty was signed in October. The few Indian agents who were Unionists had left Indian Territory, and the remainder placed their services with the South. Missionaries who were northern adherents with abolitionist tendencies departed as soon as

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<sup>12</sup>Brown, "Albert Pike, 1809-1891," pp. 585, 588-591; Confederate Cherokee Treaty, October 7, 1861, Official Records, Ser. iv, Vol. I, pp. 669-686. A comparison of the treaty with the proposals Pike had suggested to Ross on June 6, 1861, indicates a large degree of similarity. Pike to Dennis N. Cooley, February 17, 1866, in Joseph Thoburn, ed., "The Cherokee Question," Chronicles of Oklahoma, Vol. II, No. 2 (June, 1924), p. 176.

clear pro-southern sentiment emerged. The most notable of the missionaries, Evan Jones and his son, John, had wielded a great influence among the tribe and had become close friends of Ross. This amity was borne out by the chief's dissent to "An Act in regard to Mission Stations" of November 6, 1861, which authorized the seizure of the station lands. Ross viewed this "as an act of ingratitude toward those who had toiled and labored" for the Cherokees. Evan Jones was astounded at the news of Ross's defection and felt that his decision was made under duress. Correspondence of Evan Jones further reveals the deteriorated state of Union conditions in the area; as late as November of 1861 he was still writing from Kansas to get conclusive information on Cherokee activities.<sup>13</sup>

Not only were Confederate troops a potential threat by their ominous nearness to the Cherokee Nation, but also Pike had secured treaties with all the neighboring tribes. This had a great impact on Ross, since many of the treaties were made with dissident factions of the tribes. Evidence supports the conclusion that Watie and his southern followers were anxious to treat with Pike so as to gain the dominant hand in Cherokee affairs. Moreover, Pike was just as anxious to negotiate with them. Several years later he recalled those eventful months: "I did not expect to effect any arrangement with Mr. Ross

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<sup>13</sup> McCulloch to Ross, September 1, 1861, Official Records, Ser. i, Vol. III, pp. 690-691; An Act in Regard to Mission Stations, November 6, 1861, and Ross to the National Committee, November 7, 1861, Ross Papers, Gilcrease Institute; Evan Jones to William P. Dole, October 31, 1861, "Report of the Commissioner of Indian Affairs, 1861," United States Senate, 37th Congress, 2nd Session, Executive Document 1 (Washington: Government Printing Office, 1862), pp. 658-659; Evan Jones to Dole, November 2, 1861, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

and my intention was to treat with the heads of the southern party-- Stand Watie and others."<sup>14</sup> The security of the Cherokees must have weighed heavily on Ross and was perhaps a dominant factor in his decision to align with the Confederacy.<sup>14</sup>

Certainly Ross was influenced by the promises of Pike for a liberal treaty which would include provisions the Cherokees had sought for years but had been unable to obtain from the Federal government. Financial advantages likewise could not be ignored by Ross, especially since the Federal government had defaulted on the annuities and for some years had been unwilling to purchase the Neutral Lands. Pike was not content with only one attempt to entice Ross with promises of money for this area. In August, 1861, while at the Seminole agency, he wrote Ross that he had decided to withdraw the proposition. This was surely another attempt at pressuring Ross into negotiating, since the final treaty included the sums. Ross may have been swayed by this letter, but money does not seem to have been a major factor in his decision. Pike himself considered Ross influenced by the battle of Wilson's Creek near Springfield, Missouri, on August 10, 1861, a

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<sup>14</sup>Pike to Dennis N. Cooley, February 17, 1866, in Thoburn, ed., "The Cherokee Question," Chronicles of Oklahoma, Vol. II, p. 174. William P. Adair to Stand Watie, August 29, 1861, 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. 108-109. Adair evidently did not understand the full meaning of the convention, as he thought the meeting did not support an alliance with the South. In this letter he urged Watie to "place us if possible at least on an honorable equity with this old Dominant party." *Ibid.*, p. 109.

decisive Confederate victory.<sup>15</sup>

Perhaps the most plausible reason for the decision was the pervasive theme of unity that dominated Ross's entire career. On public occasions when Ross spoke of the Confederate compact, he emphasized his desire for cohesion. One has but to recall the theme of his speech at the general Cherokee tribal meeting in August: "Union is strength; dissension is weakness; misery, ruin." Again he spoke of unity to the National Council on October 9, only two days after the signatures were laid on the treaty, and he called for "unanimity of sentiment" among the Cherokee people. Privately Ross admitted his fears that the Cherokees would be plunged into the conflict regardless of their allegiance. On the evening preceding the consummation of the Confederate treaty he confided to some friends:

We are in the situation of a man standing alone upon a low, naked spot of ground, with the water rising rapidly all around him. He sees the danger but does not know what to do. If he remains where he is, his only alternative is to be swept away and perish. The tide carries by him, in its mad course, a drifting log. It, perchance, comes within reach of him. By refusing it, he is a doomed man. By seizing hold of it he has a chance for his life. He can but perish in the effort, and may be able to keep his head above water until rescued, or drift to where he can help himself.<sup>16</sup>

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<sup>15</sup>Pike to Ross, August 1, 1861, in Smith Christie, et al., Communication from the Delegation of the Cherokee Nation to the President of the United States (Washington: Gibson Brothers, 1866), pp. 45-48; Confederate Cherokee Treaty, October 7, 1861, Official Records, Ser. iv, Vol. 1, pp. 669-686; Pike to J. P. Benjamin, December 25, 1861, *ibid.*, Ser. i, Vol. VIII, p. 720. McCulloch also concurred on this point. McCulloch to Walker, September 2, 1861, *ibid.*, Ser. i, Vol. III, p. 692. The defeat of the Federals at Bull Run on the same date also likely influenced Ross at the August 21 convention at Tahlequah.

<sup>16</sup>Ross Speech, August 21, 1861, *ibid.*, Ser. i, Vol. III, p. 674; Ross's Annual Message, October 9, 1861, Ross Papers, Gilcrease Institute.

Not only did Ross urge unity among his tribe, but he also pressed the people of his race to continue as one. To Opothleyohola, the leader of the loyal Creeks, he said: "My advice and desire under the present extraordinary Crisis is for all the red Brethren to be united among themselves." To Motey Kennard, the leader of the Confederate Creeks who asserted that it would be necessary to put down Opothleyohola "at any cost," Ross replied imploring for restraint. Recalling the Cherokee blood feuds of years gone by, Ross was anxious that his race not participate in the fratricidal conflict.<sup>17</sup>

In spite of the fact that Ross had placed his signature on the Confederate treaty, there was continued speculation about his true allegiance. Evan Jones steadfastly insisted that only imminent peril and necessity had forced Ross into Confederate hands. On the other hand, Colonel James McIntosh of the Confederate army visited Ross in early 1862 and found him firm in his commitment to the South. Although the colonel believed Ross sincere in his alliance with the Confederacy, he noted that a sufficient force was in the vicinity to assure his continued allegiance.<sup>18</sup>

That the Cherokee Nation had signed a favorable treaty with the Confederacy was unquestionable, but what soon became apparent was the inability of the southern government to fulfill its promises. The

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<sup>17</sup>Ross to Opothleyohola, September 19, 1861, "Report of the Commissioner of Indian Affairs, 1865," United States House of Representatives, 39th Congress, 1st Session, Executive Document 1 (Washington: Government Printing Office, 1865), pp. 537-538; Ross to Kennard, October 20, 1861, Ross Papers, Gilcrease Institute.

<sup>18</sup>Evan Jones to Dole, January 21, 1862, *ibid.*; McIntosh to S. Cooper, January 4, 1861, Official Records, Ser. i, Vol. VIII, p. 732.

Confederate Indian agents assigned to the Cherokee Nation served only part-time and increasingly found their primary duty as military officers more time consuming. The promised annuities were infrequent and inadequate. The Cherokee regiment of Colonel John Drew was undermanned and not sufficiently supplied to guard the frontier. Quarrels and bickering among the Confederate commanders had brought government leadership in Indian Territory to a deplorable state, culminating in the arrest of the Indians' principal sponsor, Albert Pike, on charges of incompetence and suspected treason. Also, in direct contradiction to treaty stipulations, Cherokee forces had been used beyond their nation's border, most notably in the battle of Pea Ridge in Arkansas in March of 1862.<sup>19</sup>

Conditions had reached such a dismal state by May, 1862, that Ross felt compelled to remind Confederate President Jefferson Davis of the treaty guarantees. He pointed out the imminent threat posed by Union troops which were massing in the southwest corner of Missouri and requested "means to defend ourselves as far as may be in our humble power." Six weeks showed no improvement; therefore, Chief Ross wrote of his people's needs to Major General Thomas C. Hindman, Confederate commander of the Trans-Mississippi District, a friend, and Lewis Ross's brother-in-law. Ross depicted the great want of arms and clothing of the Cherokee troops. This only served to widen the rift between Confederate commanders, while bringing little aid to the Cherokees. Ross was disturbed further by the "virtual abandonment of

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<sup>19</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 142-147; Ross to Jefferson Davis, May 10, 1862, Official Records, Ser. i, Vol. XIII, p. 826.

this nation" so that it was defended only by Cherokee troops, hardly prepared for such an assignment.<sup>20</sup>

By June of 1862, owing no doubt to the depletion of the Confederate military strength in Indian Territory, Federal forces prepared to move south from Kansas. Under the command of Colonel William Weer, the troops made their way toward the Cherokee Nation. Included in this expedition was Ross's old friend, Evan Jones, who carried a message from William G. Coffin, superintendent of Indian affairs. This message assured the chief that the United States government would not depart from its obligations to the loyal Indian tribes. Doubtless Coffin was under the influence of Jones and did not consider Ross disloyal, but rather as one forced into an unwanted position. Coffin's trust in Ross was matched by Weer, who predicted: "John Ross is undoubtedly with us, and will come out openly when we reach there."<sup>21</sup>

As Weer neared Tahlequah, his confidence was somewhat shaken when Ross, believing that he must maintain faithful observance of Cherokee treaty obligations, refused the colonel an official interview. Yet the chief forwarded documents which would put him in good stead with the Unionists. These papers were sent to Brigadier General James G. Blunt, who discounted Ross's note to Weer by concluding that the chief "is evidently very cautious in committing himself on paper until he is assured of our ability to hold that country." Blunt was predisposed

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<sup>20</sup> Ibid., p. 825; Ross to Hindman, June 25, 1862, *ibid.*, pp. 950-951; Robert Lipscomb Duncan, Reluctant General; the Life and Times of Albert Pike (New York: E. P. Dutton and Company, 1961), pp. 239-240.

<sup>21</sup> Coffin to Ross, June 16, 1862, Cherokee Nation Papers, Western History Collections, University of Oklahoma; Weer to Thomas Moonlight, June 13, 1862, Official Records, Ser. i, Vol. XIII, p. 431.



to accept the loyalty of Ross, since he felt many of the Indians had been falsely induced to join the southern cause. Weer dispatched Captain Harris S. Greeno with a small party to Park Hill where Ross and several Confederate Cherokee officers almost welcomed the Federals. Weer likely regained his confidence in Ross when Greeno reported that the chief had ignored an order by Confederate Colonel Douglas H. Cooper to enlist all Cherokees between the ages of 18 and 35 to repel the invasion. Greeno made Ross a prisoner and prepared to transport him to Blunt at Fort Leavenworth, Kansas. E. H. Carruth and W. H. Martin, special Indian agents, had accompanied Weer, and in their report to Indian Superintendent Coffin suggested that Ross had looked forward to his arrest, since "his heart is in the Union cause."<sup>22</sup>

After Ross arrived in Kansas, Blunt advised him to go to Washington to confer with President Lincoln and to use his influence to further the Cherokee cause. Blunt wrote ahead to assure Lincoln of the chief's loyalty and recommended him "as a man of candor and frankness, upon whose representations you may rely." With family and refugee friends Ross made his way to the Stapler homes in Philadelphia and Wilmington. Ross and Mary apparently inherited these estates

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<sup>22</sup>Weer to Ross, July 7, 1862, Ross to Weer, July 8, 1862, Blunt to E. M. Stanton, July 21, 1862, and Blunt to Weer, July 12, 1862, *ibid.*, pp. 464, 486-489. Ross sent his Proclamation of Neutrality of May 17, 1861, his correspondence with Rector, Kannady, McCulloch, Hubbard, and certain Arkansans, the Proclamation of the Cherokee Nation, August 21, 1861, his message to the Cherokee Nation, October 9, 1861, and the Cherokee Declaration, October 28, 1861, *ibid.*, pp. 489-505; Greeno to Weer, July 15 and 17, 1862, and Weer to Moonlight, July 16, 1862, *ibid.*, pp. 473, 160-162; Carruth and Martin to Coffin, July 19, 1862, "Report of the Commissioner of Indian Affairs, 1862," United States House of Representatives, 37th Congress, 3rd Session, Executive Document 1 (Washington: Government Printing Office, 1862), pp. 302-304.

after the death of Mary's father. Ross carried with him the hurriedly packed Cherokee national papers and what few personal belongings the family could load. For the next three years Ross remained a refugee in the East. During these years, Mary and the family resided in Philadelphia, while Ross took the Cherokee case before the Federal government in Washington. Ross deplored his absence, fearing he had become an "old crusty, homeless Bachelor!" John, Jr., the second and last child of Ross and Mary, attended a boys' academy in Nazareth, Pennsylvania, and the Lawrenceville Classical and Commercial High School, while Annie remained with her mother. John, Jr., queried his father about returning to the West, and he was particularly concerned about his horses which had been left behind. He seems to have been a bright and dedicated student who promised to "put his shoulder to the wheel," but Ross admonished that "it is the 'long pull and the steady pull,' after all that achieves in life, the most. In other words... uniform effort day in and day out...makes the man." Although Annie was the same age her mother had been at the time of her marriage to Ross, he continued to think of her as "Papa's baby," and tenderly recalled her first words spoken from the crib. Nor did he forget Annie's birthday, and even in the difficult Civil War years found means to send her presents.<sup>23</sup>

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<sup>23</sup>Blunt to Lincoln, August 13, 1862, Official Records, Ser. i. Vol. XIII, pp. 565-566. Colonel Frederick Salomon, Weer's second in command, arrested his superior on July 18, 1861, and forced the retreat into Kansas near Fort Scott, from where Ross was escorted to Blunt by Colonel William F. Cloud. Ross to Dole, October 13, 1862, Ross Papers, Gilcrease Institute. Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 155-156; Ross to Sarah, April 30, 1863, John Ross, Jr., to Ross, May 5, 1864, and Ross to Sarah, April 4, 1866, Ross Papers, Gilcrease Institute; Ross to Mary, June 6, 1864, Hargett

While in the East, Ross had two major political concerns. He had to convince the United States government that he had joined the Confederate side under duress. He also had to impress upon the government the beleaguered state of his tribe and to urge the reestablishment of Federal troops to protect his people from marauding guerilla forces. During his first interview with President Lincoln on September 12, 1862, Ross commented on these two aims and outlined the substance of Cherokee needs, which he detailed in writing four days later. Ross stressed that the Cherokees, as the weaker party of the alliance, had placed themselves under the protection of the United States. Due to the exigencies of the current war and the withdrawal of the promised protection, the Cherokees, in order to preserve their country, had been forced into a treaty with the Confederate States. As no alternative was left them, they were unable to "assume their true position" until the summer of 1862, at which time, Ross emphasized, "the great mass of the Cherokee people rallied spontaneously around the Authorities of the United States." He further pointed out that a loyal majority of Cherokee warriors was engaged in fighting on the Union side. The reabandonment of the Cherokee Nation by Federal troops that same summer had left the Cherokees in a distressing condition. Ross concluded by saying that the Cherokee people required the government's recognition of existing treaties and ample military protection for their safety.<sup>24</sup>

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Collection, Western History Collections, University of Oklahoma; Mary to Ross, June 7, 1864 [two letters of this date], *ibid.*, and Ross Papers, Gilcrease Institute.

<sup>24</sup>Ross to Lincoln, September 16, 1862, *ibid.*

Lincoln's careful response was less than reassuring. He was not prepared to admit to any failure on the part of the government in protecting the Cherokees. More important, the President was not certain that a legitimate excuse existed for the Cherokee Nation to have made a treaty with the Confederate government. Yet Lincoln's note was only a tentative reply, and he promised a careful investigation of all the questions. Ross had more success with the President on getting forces sent back into the Cherokee Nation. Upon Ross's request, Lincoln asked Major General Samuel R. Curtis of St. Louis, Missouri, to use the Federal forces stationed at Fort Scott to occupy the Cherokee country. Curtis thought the Cherokee Nation too distant but promised action. It was slow to come. The reoccupation of Indian Territory was hampered by the political and military ambitions of Kansas citizens and by conflicts of interest between the War Department and the Department of the Interior. Also, Kansas citizens considered the refugees a drain on their resources and a threat as possible permanent residents. Other attempts to return the Cherokees in March and July, 1863, turned into utter routs; when they finally departed Kansas in the spring of 1864, it was too late to raise crops and proved a homecoming to further sickness and starvation.<sup>25</sup>

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<sup>25</sup>Lincoln to Ross, September 25, 1862, in Roy P. Basler, ed., The Collected Works of Abraham Lincoln (9 vols., New Brunswick: Rutgers University Press, 1953-1955), Vol. V, pp. 439-440. Commissioner Dole was later to recall that the President had on one occasion appeared satisfied that Ross's actions were done under coercion and that he was excusable for the steps he had taken. Dole to Ross, January 26, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. Lincoln to Curtis, October 10, 1862, Basler, ed., The Collected Works of Abraham Lincoln, Vol. V, pp. 456 and 456 n. 1. Senator James H. Lane of Kansas was instrumental in arresting an 1862 Federal expedition into Indian Territory. Wendell Holmes Stephenson, The

Ross continued to receive reports from the Cherokee Nation on the deplorable conditions of his people. The Cherokees, numbering from 2,000 to 6,000 old men, women, and children, were literally starving to death in Kansas. These unfortunate people became the pawns in the power struggle between the War and Interior Departments as they were shuffled from place to place in Kansas and Missouri and up and down the weary war trail into Indian Territory. In the early part of 1863 the chief directed Lewis Ross, the Cherokee national treasurer, to purchase blankets, shoes, and other supplies to distribute among the Cherokees. Frequently, due to poor communications caused by the war, the only news Ross had of his countrymen came from the newspapers. At one point Ross considered returning to the Cherokee Nation, but his family persuaded him not to go, knowing the certainty of death that awaited him there. In letters to the Cherokee Nation he repeatedly requested information, as he could accurately represent the needs of his people to the Federal government. In one poignant letter the Cherokee refugees in Kansas recounted their bitterness and disappointment at repeated reversals. Ross passed the message to Commissioner of Indian Affairs William P. Dole, and within the week Lincoln directed

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Political Career of General James H. Lane (Topeka: Kansas State Printing Plant, 1930), pp. 118-122. Dole to Usher, October 31, 1863, "Report of the Commissioner of Indian Affairs, 1863," United States House of Representatives, 38th Congress, 1st Session, Executive Document 1 (Washington: Government Printing Office, 1863), p. 114; Dole to Usher, November 15, 1864, "Report of the Commissioner of Indian Affairs, 1864," United States House of Representatives, 38th Congress, 2nd Session, Executive Document 1 (Washington: Government Printing Office, 1865), p. 175; Lincoln to the Senate, May 14, 1864, in Basler, ed., The Collected Works of Abraham Lincoln, Vol. VII, pp. 341-342, n. 1.

the commissioner to act on these grievances.<sup>26</sup>

The waste and destruction of the war also touched the Ross household. In 1863 Colonel Stand Watie's Confederate Cherokee forces burned Rose Cottage and destroyed its valuable contents. Some of Ross's relatives remained in Indian Territory during the war, and his older sons, James, Allen, Silas, and George, served in the Third Regiment of the Federal Indian Home Guards. This regiment was organized from the ranks of former Confederate forces who joined the Union side when Weer reached the Cherokee Nation in 1862. James returned to Park Hill to bring his family desperately needed supplies at the very time that Confederate forces captured and controlled the area. James was taken prisoner of war; he was subsequently transferred among several prison compounds in the South, with the debilitating effects of long confinement causing his death in 1864. Ross's daughter, Jane, and some of her children had remained at Park Hill, and in 1863 their home was attacked by Confederate marauders. In the excesses so common to war, Jane's second husband, Andrew Ross Nave, was shot and killed trying to flee the Confederates. To Jane's daughter Ross sent words of encouragement and consolation and pointed out that her mother's courage at that hour could serve as an example to them to rise above

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<sup>26</sup>Dole to Usher, October 31, 1863, "Report of the Commissioner of Indian Affairs, 1863," United States House of Representatives, 38th Congress, 1st Session, Executive Document 1, p. 144; Ross to Sarah, September 22, 1863, and February 12, 1864, and Ross to Countrymen, January 13, 1863, Ross Papers, Gilcrease Institute; Ross to Lincoln, February 18, 1864, and Smith Christie et al. to Lincoln, January 20, 1864, Cherokee Nation Papers, Western History Collections, University of Oklahoma; Lincoln to Dole, February 22, 1864, in Basler, ed., The Collected Works of Abraham Lincoln, Vol. VII, p. 196, 196 n. 1.

adversity.<sup>27</sup>

Ross also was engaged in negotiating long-standing Cherokee national problems, the most prominent being the status of the Neutral Lands. Dole seemed anxious during the first year after Ross arrived to negotiate for the retrocession of these lands, and the Cherokee delegation also was quite willing. Dole's interest soon waned, due in part to "the present tremendous struggle in which the government is involved," and the possibility that Cherokee lands in Indian Territory might be secured for the removal of additional tribes. To this latter possibility the Cherokee delegates were most adamantly opposed, except under their own conditions.<sup>28</sup>

Another major concern for Ross was the recognition of his right to speak for the Cherokee Nation. In August of 1862 a mass meeting of the southern Cherokees was held and, in the absence of Ross, Colonel Stand Watie was elected chief. This posed some difficulty for Ross, especially because the Cherokee treaty with the Confederacy was still in force. It was not until February of 1863 that the Union Cherokees were able to convene. The National Council met on Cowskin Prairie in the Cherokee Nation and passed bills which recognized Ross as the

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<sup>27</sup>F. W. Sumner to Ross, November 29, 1863, Hargett Collection, Western History Collections, University of Oklahoma; Obituary of James McDonald Ross, undated, and E. Jane Ross to Ross, December 31, 1864, Foreman, comp., "Copies of Letters...and Miscellaneous Documents Relative to the Cherokee and Creek Indians, 1836-1933," Oklahoma Historical Society; Allen, Silas, and George Ross's Service Records, Adjutant General's Office, National Archives; Ross to Lizzie, December 3/5, 1863, Foreman Collection, Gilcrease Institute; Mary to Ross, December 4, 1863, Ross Papers, Gilcrease Institute.

<sup>28</sup>Dole to Ross et al., November 19, 1863, Ross et al. to Dole, November 21, 1863, and May 23 and 25, 1864, *ibid.*

principal chief and empowered him and the delegation in Washington with full authority. This meeting also abrogated the treaty made with the Confederate states and abolished slavery, the first of the slaveholding Indian nations to do so. Ross of course quickly forwarded this document to Dole, and again urged that military forces be moved into the Cherokee country to protect the refugees in Kansas who desired to return home. Ross also sent Dole a notarized copy of his oath of office, taken before a Washington justice of the peace on April 5, 1863.<sup>29</sup>

While in Washington and Philadelphia, Ross and his family and the delegation that represented the Cherokees were dependent on the Federal government for subsistence. The number of persons in the Cherokee retinue varied from 33 to 36 persons, of which Ross claimed from 10 to 12 dependent on him.

Ross's first claim for family subsistence was made in November, 1862, to cover the period from the arrival in August of that year to January 31, 1863. In this claim he set the amount of subsistence money he would require throughout his stay, which amounted to \$500 per person per year, or \$2,500. Ross made a similar request for the next quarterly period, February 1 to April 30, 1863, in the amount of \$1,250.<sup>30</sup>

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<sup>29</sup>Act of the National Council, February 18, 1863, *ibid.*; Ross to Dole, April 2, 1863, and Ross's Oath of Office, April 5, 1863, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 171-172, 183.

<sup>30</sup>Ross to Dole, October 13, 1862, Ross Papers, Gilcrease Institute; Ross to Dole, November 19, 1862, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Dole to Ross, January 10,



Frequently there was confusion as to what period of time the subsistence requests covered. In April of 1863 Ross attempted to claim subsistence for the quarter, January through March of that year, but Commissioner of Indian Affairs Dole adamantly replied that the money already paid covered up to April 30, 1863. After clarification by both parties, Ross was remitted \$1,375 for the period ending July 31, 1863. Nevertheless, it was necessary during this quarter to draw \$4,000 out of Chickasaw funds to pay the Cherokee delegation. The annuity monies of the Five Civilized Tribes had been placed in a common fund by order of Congress in July, 1862, in order to meet such emergencies.<sup>31</sup>

In September, 1863, Ross requested his regular quarterly family subsistence allowance and, after some delay, received it. On this occasion he counted 12 members of the family under his care and therefore applied for \$1,500. After this date the records are scanty, but it may be assumed that Ross was receiving his allowance without difficulty, at least until January 31, 1864.<sup>32</sup>

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1863, Letters Sent, Office of Indian Affairs, National Archives; Report of the Committee on Claims, April 20, 1870, Untitled, United States Senate, 41st Congress, 2nd Session, Report 113 (Washington: Government Printing Office, 1870), p. 8.

<sup>31</sup>Ross to Dole, April 2 and May 4, 1863, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Dole to Ross, April 4 and May 6, 1863, Letters Sent, Office of Indian Affairs, National Archives; E. B. French to Dole, June 19, 1863, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Dole to French, June 20, 1863, Letters Sent, Office of Indian Affairs, National Archives.

<sup>32</sup>Ross to Charles E. Mix, September 13, 1863, Usher to Dole, December 12, 1863, and Ross to Dole, August 26, 1864, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

Nevertheless, difficulty arose in obtaining the quarterly allowance for subsequent periods. In July, 1864, Ross's request for subsistence met resistance on the part of John P. Usher, the secretary of the interior. Usher felt that drawing funds which belonged to other tribes could be done only by taking a very liberal interpretation of the law. Ross received the allowance but at a much reduced rate for a much longer period of time. The money was not granted until mid-October of 1864 and covered the period from January 31 of that year. In all it amounted to less than \$100 per person for a period of eight and one-half months. Finding Dole engaged in other business and unwilling to talk of Cherokee finances, Ross wearily wrote Mary, "That old familiar tone, which have so often greeted my ear (when the purse string is about to be untied for means to relieve the wants of the Indian) crying there is no money. The appropriation is exhausted--its sound is, apparently, ready to vibrate in the distance." The last record of receipt of subsistence money by Ross was in March, 1865. At that time Ross requested and received an \$8,000 subsistence allowance for 36 persons, 11 of whom were under his immediate care. No evidence is available to establish what period the money covered.<sup>33</sup>

Ross occasionally needed money beyond what he received from the quarterly subsistence allowance. Under unknown arrangements previously made with Commissioner Dole he received in July of 1863 a draft of \$500

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<sup>33</sup>Ross to Dole, July 29, 1864, and Usher to Dole, August 25, 1864, *ibid.*; Ross to Dole, September 29, 1864, Ross Papers, Gilcrease Institute; Dole to Ross, August 27 and October 14, 1864, Letters Sent, Office of Indian Affairs, National Archives; Ross to Mary, October 13, 1864, Hargett Collection, Western History Collections, University of Oklahoma; Dole to Coffin, March 28, 1865, Letters Sent, Office of Indian Affairs, National Archives.

on the bank of Jay Cooke and Company from acting Commissioner of Indian Affairs Charles E. Mix. That same month the Cherokee delegation requested \$4,000, part of which was to pay the group's room and board bill at Willard's Hotel in Washington. If one deducts the hotel bill from this amount and numbers the delegation at four persons, then Ross's share of this sum would have been approximately \$840. Ross also requested another \$4,000 in December of 1863 to defray the expenses of the delegation in Washington. In June of the next year the Cherokee delegation requested \$5,000 a part of which was to be used to pay travel expenses for two members of the group to return to the Cherokee Nation.<sup>34</sup>

During the summer of 1864 the Cherokee delegation, consisting of Ross, Evan Jones, James McDaniel, Lewis Ross, and Lewis Downing, attempted a plan which, had it succeeded, would have placed the northern Cherokees in a most advantageous position at the war's end. The proposed treaty included provisions for the sale of the Neutral Lands for \$500,000 at five percent interest since the Treaty of New Echota in 1835; the admittance of the Delawares into the Cherokee Nation with a permanent home; a call for a fixed and permanently marked boundary of the Cherokee Nation; the "unrestricted right of

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<sup>34</sup>Mix to Ross, July 2, 1863, and Dole to Ross, July 30, 1863, *ibid.*; Ross to Mix, July 3 and August 7, 1863, and Ross to Dole, July 17, 28, and 31, 1863, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ross to Dole, December 10, 1863, Ross Papers, Gilcrease Institute. There is no evidence that Ross received this money. Ross to Mix, June 24, 1864, and Usher to Dole, July 25, 1864, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. The delegation obtained \$2,500 at the time and the remainder in December. Dole to Ross, December 22, 1864, Letters Sent, Office of Indian Affairs, National Archives.

self-government;" the privilege of consultation on choice of Indian agents; and payment by the United States for all losses and injuries "since the commencement of the present rebellion." The United States government never acted upon this proposal.<sup>35</sup>

The Cherokee delegation again was in Washington in February, 1865, and requested \$10,000 to meet expenses. Ross justified this amount because of the expected arrival of three additional delegates, bringing the number on that occasion to six. Commissioner Dole was not willing to meet the delegation's request because the added delegates had not presented their credentials to his office, and he was not aware of any business that would require the presence of the group in Washington. He further asserted that what little money the Cherokees had could be better used for clothing and subsistence for "loyal Cherokees" in the West. The delegates refused to yield, declaring that their credentials were valid and that the Cherokee Nation always had maintained full control over its own monetary matters. Dole's use of the term "loyal Cherokees" must have troubled them, since they declared that "we represent the Cherokee Nation, who are now, and have been decidedly loyal." Dole forwarded the delegation's request to Secretary of the Interior Usher who affirmed the decision not to honor it. The reason for this decision is unclear and appears especially surprising since a similar request for \$7,300 was accepted

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<sup>35</sup> Proposed Treaty at Washington, June, 1864, Ross Papers, Gilcrease Institute. The similarities between this proposal and the Confederate Cherokee Treaty of 1861 are astonishing. That the Cherokee delegates thought they could acquire such a favorable pact is quite surprising, especially since the legitimacy of their government was not fully accepted.

within a week after the \$10,000 was denied. In addition, the various Cherokee Nation funds which derived from the Federal government's sale of former Cherokee lands were held in trust by the United States and amounted to approximately \$150,000 as of July 1, 1864. Ross took the issue to Dole's superior, Secretary Usher. With Dole's conditional support the delegation received the money in the latter part of March, 1865.<sup>36</sup>

Ross did not escape criticism for the money he received. Superintendent William G. Coffin of the Southern Indian Superintendency accused Ross and his family and friends of living "in the most expensive manner." Coffin was undoubtedly disturbed by the appalling conditions of the refugee Cherokees with whom he had worked on the frontier. He also may have been angered by the high prices these destitute people had to pay for the barest of commodities. In this regard he felt Ross indirectly responsible, since the store at Fort Gibson which supplied the Indians seemed to charge exorbitant prices and was owned, at least in part, by members of the Ross family. Ross replied to Coffin's charges in a point-by-point rebuttal. He asserted that Coffin's accusations were devoid of truth and that the money he had received was due him as the appointed representative of the

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<sup>36</sup>The delegation consisted of Ross, Evan Jones, and D. H. Ross. Ross et al. to Dole, February 7 and 18, 1865, Ross Papers, Gilcrease Institute; Usher to Dole, March 15, 1865, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Dole to Ross et al., February 14 and March 20, 1865, and Dole to Coffin, March 28, 1865, Letters Sent, Office of Indian Affairs, National Archives; Ross to Dole, February 23, 1864, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. There are two letters of this date, one giving the amount of \$133,571.55 due up to January 1, 1864, and the other showing \$153,403.04 due up to July 1, 1864. Ibid. Ross et al. to Usher, March 22, 1865, and Usher to Dole, March 30, 1865, *ibid.*

Cherokee Nation caring for its interests and welfare. Goods often had been shipped from the East to his people, but "through negligence or foul play," Ross surmised, they "have never reached their destination," and Ross implied that Coffin might be partly to blame. That some of these charges were made public record infuriated Ross. He demanded a retraction of the false accusations and emphasized: "I am not, was not...and never have been, directly or indirectly, associated with the Mercantile firm of Fort Gibson."<sup>37</sup>

The passage of years and the agony of the Civil War did not diminish the affection of Ross and Mary. Each parting brought loneliness which Mary often relieved with a good cry. Mary in many ways remained childish, and she desired the constant company of her sister, Sarah. Frequent letters from Ross also would cure what he called "that unhappy disease--'the Blues'." Yet Ross regarded her as one in whom he could confide, and his letters were not confined to prattle of family matters. He related political news, and she showed an understanding of his personal problems and of Cherokee Nation affairs that belied an inattentive or frivolous mind. These lonely moments of separation were cheered by correspondence which Mary related "cast sunshine around my heart & dispelled the clouds that had gathered there." And she fell to reminiscing of "the land over which my dear

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<sup>37</sup>Coffin to Dole, July 8, 1864, Southern Superintendency Letters Received, Office of Indian Affairs, National Archives; Coffin to Dole, June 16, 1864, "Report of the Commissioner of Indian Affairs, 1864," United States House of Representatives, 38th Congress, 2nd Session, Executive Document 1 (Washington: Government Printing Office, 1865), pp. 486-487; Ross to Dole, August 26, 1864, and Ross to Dennis N. Cooley, May 4, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. See also the testimony of Daniel H. Ross who owned the Fort Gibson store, Affidavit of Daniel H. Ross, May 10, 1866, *ibid.*

Husband ruled &...the warm welcome I the lonely white stranger received far from my childhood's home." Ross also felt the pangs of loneliness during his frequent Washington trips and wrote "the little wife," as he affectionately called her, "altho I am in person still sitting in this wearisome city; yet my thoughts wander away off to thee and our loved ones."<sup>38</sup>

Mary's strict Quaker background influenced her greatly, and as her health declined in the 1860's her religious sentiments grew even stronger. Mary's health was a constant source of concern to Ross, and references to her illness were common. She had been deeply when in 1846 the Friends dismissed her because she married Ross. Ross consoled her and reminded her that those acquainted with her dismissal knew it was not because of any offenses against the laws of God. He assured her that "thee has one friend on earth, for whose sake thou art dismissed; who will with all his heart and strength cling to thee, so long as life shall last." At Park Hill she became a mainstay to the missionary effort and in later years joined the Methodist Church and was content that she had influenced her husband and children to receive baptism also.<sup>39</sup>

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<sup>38</sup>Mary to Ross, January 10, 1865, and June 4, 1864, Ross Papers, Gilcrease Institute; Mary to Ross, September 26, 1863, and June 2 and 7, 1864, Hargett Collection, Western History Collections, University of Oklahoma; Ross to Sarah, April 19, 1860, Ross Papers, Gilcrease Institute; Ross to Mary, May 1, 1860, October 13, 1862, and June 6, 1864, Hargett Collection, Western History Collections, University of Oklahoma.

<sup>39</sup>Ross to Mary, July 25, 1845, Ross Papers, Gilcrease Institute. Mary was baptized in May, 1850, by Reverend Garner in the Cherokee Nation. Ross, Annie, and John, Jr., were baptized in December, 1855, in the Cherokee Nation by a certain Reverend Harroll. Statement of Mary B. Ross, August 1, 1863, Hargett Collection, Western History

Ross had attended church infrequently, and his religious sensibilities seem to have been shallow. Like other orators of his day, his speeches were clothed in Christian allusion, but there is little evidence of a personal commitment in that direction. His association with Mary made him more sensitive and awakened a religious compassion. Early in their courtship, he promised "hence forward to be a more regular attendant at the House of Worship, not merely as a looker-on upon the pretty faces of the fair Daughters of Adam but that with the hope that my own immortal spirit may be benefited." He carried out his promise, and most of his letters to Mary included some reference to church services, often with a note on the minister's text and sermon. He liked particularly a sermon in the "old style."<sup>40</sup>

Mary wrote with sadness of the fate of their beautiful Rose Cottage, but death took her before conditions made it possible for her to return. After a long illness Mary died of lung congestion at Philadelphia on July 20, 1865, and was buried at Wilmington, Delaware, in the Stapler family plot. One notice of her death illustrates that in spite of her physical frailness she maintained a strength of spirit and a dauntless Quaker courage: "At one time a rebel mob had possession of their place Rose Cottage? and threatened to raise their flag on the premises. She publicly proclaimed if no one else took the step, she with her son a lad of fourteen years old, would cut it down." Ross's final year without Mary by his side made his homecoming less

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Collections, University of Oklahoma. Mary to A.E.W. Robertson, March 11, 1850, Alice Robertson Collection, University of Tulsa Library.

<sup>40</sup>Ross to Mary, June 27/July 1, 1844, and December 22, 1863, Ross Papers, Gilcrease Institute.



rewarding, and the war's destruction of the Cherokee Nation and its people touched him deeply. In his final days he turned more and more to Sarah, his sister-in-law, for consolation. His letters to her reflect a deep respect and were written in a mature and frank fashion. Perhaps because of the age difference between himself and Mary, he had developed an unusually close relationship with Sarah over the years.<sup>41</sup>

The failure to obtain a new treaty was perhaps an omen of the problems that arose after the war when the northern faction struggled for its political future. The Civil War had created a situation wherein the Cherokee factional quarrels again erupted in bloodshed. During the war Ross appeared to be an opportunist, for first he sought neutrality, then he sided with the South, then finally with the North. To understand these apparent contradictions, it is necessary only to recall the consequences that would have faced Chief Ross had he failed to act wisely. The threat of a tribal split in the face of differing sympathies made political and social cohesion his first concern. Ross apparently compromised when it was expedient, but in truth he disregarded his personal preferences to work for tribal unity.

With the war's end, smoldering factionalism would reignite as the two Cherokee parties grappled for the dominant political position. The final year for Ross, as his health and life ebbed, would require his most forceful determination to recreate the fleeting unity he had so long sought. From September, 1865, to August, 1866, at Fort Smith

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<sup>41</sup>Mary to Ross, December 4, 1863, *ibid.*; Daily Evening Bulletin (Philadelphia), July 20, 1865, p. 1, c. 1, and July 22, 1865, p. 1, c. 1; Obituary, undated and hand copied, Anne Ross Piburn Collection, Western History Collections, University of Oklahoma.

and at Washington the very honor and station of Ross would be questioned and defamed as land-hungry whites and power-seeking Cherokees strove to split the Cherokee Nation and thwart his one great aim.

## CHAPTER XI

### RECONSTRUCTION

With the end of the Civil War, Ross returned to the Cherokee Nation to find his once prosperous people huddled in the midst of a vast scene of physical destruction. Blackened chimneys marked the former sites of beautiful homes, while burned fences and desolated farmlands marred the once handsome landscape. What Union and Confederate troops had not destroyed had been carried to Kansas or Missouri by the Cherokees in their repeated hasty retreats. Cherokee Agent Justin Harlan estimated that property losses might be as high as \$2,000,000. The extent of human suffering was inestimable, for hardly a Cherokee family had escaped the war's destruction. Amid such devastation, bitter hatred and factional quarrels would not soon be forgotten. Now the groups would align with names that suited their Civil War sympathies, real or purported. Ross led the northern faction, while Stand Watie and Elias Cornelius Boudinot (son of the murdered Elias Boudinot) championed the southern cause.<sup>1</sup>

Arriving at Van Buren, Arkansas, late in August of 1865, Ross wrote Sarah:

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<sup>1</sup>Justin Harlan to Elijah Sells, October 1, 1865, "Report of the Commissioner of Indian Affairs, 1865," United States House of Representatives, 39th Congress, 1st Session, Executive Document 1, pp. 468-472.

I know that I am fast approaching my country & my people, and that I shall soon meet with my dear children relatives & friends who will greet me with joyful hearts--but, where is that delightful House & the matron of the once happy family who so kindly & hospitably entertained our guests. Alas, I shall see them no more on earth. The loved wife and mother is at last in the Heavenly mansions prepared for the redeemed--And the family Homestead ruthlessly reduced to ashes by the hand of rebel incendiaries. And whilst the surviving members of our family circle are scattered abroad as refugees--I am here journeying as it were, alone to find myself, a stranger & Homeless, in my own country....The picture is painful to my feeling.

He also depicted scenes of home and reunion. All were "overwhelmed with Joy & Sorrow at our meeting, joy for seeing me & grief for the death of your Dear Mother. I then hastened to our once lovely Home and witnessed the ruins and desolation of the premises....I cannot express the sadness of my feelings in my ramblings over the place."<sup>2</sup>

As so many of the Indian tribes had signed treaties with the Confederacy during the war, the United States called for tribal representatives to meet peace commissioners at Fort Smith, Arkansas, in September of 1865 to work out new treaty arrangements. The five United States commissioners were Dennis N. Cooley, commissioner of Indian affairs, as president; Elijah Sells, superintendent for southern Indians; Thomas Wistar of Pennsylvania; Major General W. S. Harney; Colonel Ely S. Parker; and Charles Mix as secretary.<sup>3</sup>

The Cherokee delegation at Fort Smith included some of the tribe's ablest men--Smith Christie, Thomas Pegg, White Catcher, H. D. Reese,

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<sup>2</sup>Ross to Sarah, August 30, 1865, and Ross to Annie, September 18, 1865, Ross Papers, Cherokee Collection, Tennessee State Library and Archives.

<sup>3</sup>Cooley's Report of the Fort Smith Council, October 30, 1865, "Report of the Commissioner of Indian Affairs, 1865," United States House of Representatives, 39th Congress, 1st Session, Executive Document 1, p. 480.

and Lewis Downing of the northern faction; and Elias C. Boudinot, Stand Watie, Richard Fields, William Penn Adair, and James M. Bell of the southern faction. Indeed, some of the keenest minds and most skilled negotiators attending the conference were from the Cherokee Nation. The southern group arrived several days late; it had been delayed by a conference at Armstrong Academy in the Choctaw Nation where the commission originally was schedule to meet. Ross also was late in arriving, but he had notified northern Cherokees of the meeting, and they were present at the appointed time.<sup>4</sup>

The deliberations at Fort Smith began on September 8, 1865, and on the second day Commissioner Cooley outlined basic stipulations which the new treaties must contain. The point on which the Cherokees were to focus involved the so-called Harlan Bill. This controversial provision called for the consolidation of all tribes in Indian Territory into one government. Cooley, in his statement concerning the necessity for a treaty, began from the premise that all the Cherokees had been, as he termed them, "bona fide rebels." The next day, partly to get a denial of this charge into the commission's minutes and partly to gain more time to plan their strategy, the northern Cherokees offered a "not guilty" plea to Cooley.<sup>5</sup>

On September 12 Commissioner Cooley, in answer to Reese's statement of loyalty, disrupted and shocked the northern Cherokee delegation by attacking the integrity of Ross and accusing him of plotting to

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<sup>4</sup>Charles E. Mix's Report of the Fort Smith Council, undated /October, 1865?/, *ibid.*, pp. 497, 531.

<sup>5</sup>*ibid.*, pp. 519-520.

align the Cherokees with the Confederacy. By an unfair and distorted use of documents, the commissioner traced the purported treachery of the chief. Cooley declared that because of the duplicity of Ross and his influence in carrying other tribes into the rebellion, the Cherokees were legally and morally subject to the will of the President.<sup>6</sup>

This was a total reversal from the accord which Ross had established with Commissioner of Indian Affairs Dole during his refugee stay in Washington. Dole had observed that the Cherokees were among the last of the tribes of the Southern Indian Superintendency to yield to Confederate influence, and he had accepted the coercive nature of their defection. Throughout his tenure he was certain of the unwavering loyalty of the great mass of the Cherokees, and he recognized the legitimacy of Ross's leadership and his personal loyalty. Dole noted that Ross appeared "to have resisted the movements of the rebels so long as was in his power," and believed, therefore, that Lincoln should show "generous lenity and forbearance" to the Cherokees as they returned to their first alliance. The understanding that Ross and Dole had developed augured well for the difficult reconstruction period which lay ahead, but this basic unity did not carry over into the new administration. Cooley, President Andrew Johnson's new commissioner of Indian Affairs, was prepared to question not only the loyalty of all the Cherokees--Union and Confederate--but also the integrity of Ross.<sup>7</sup>

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<sup>6</sup>Ibid., pp. 510-511.

<sup>7</sup>Dole to Caleb B. Smith, November 27, 1861, "Report of the Commissioner of Indian Affairs, 1861," United States Senate, 37th Congress, 2nd Session, Executive Document 1, p. 627; Dole to Usher, November 15,

The commission finally approved Cooley's position and presented a statement to the northern delegation declining to recognize Ross as principal chief. Not only did this paper declare Ross an emissary of the rebellious states but also reported him "still at heart an enemy of the United States, and disposed to breed discord among his people... and is not the choice of any considerable portion of the Cherokee nation for the office which he claims." At this point a conversation ensued among Chairman Cooley, Ross, and Boudinot, the principal delegate of the southern faction. Doubtless under emotional stress, the old chief did not exhibit his usual clarity and eloquence as he professed his consistent loyalty to the laws of the United States and denied the charges against him. Ross recalled for the commissioners that during his three years in Washington he had never been charged with being an enemy of the United States. He confessed to signing the treaty with the South, but insisted that "I did not do it within myself." Ross pointed out that he always had counseled the Cherokees, as a weak people, not to antagonize the United States but to remain obedient, but when the whole voice of the Cherokees called for a treaty with the Confederacy, he believed that he could only follow that will. Rhetorically, he asked Cooley, "Could I do more than that?"<sup>8</sup>

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1864, "Report of the Commissioner of Indian Affairs, 1864," United States House of Representatives, 38th Congress, 2nd Session, Executive Document 1, p. 177.

<sup>8</sup>Cooley's Report of the Fort Smith Council, October 30, 1865, "Report of the Commissioner of Indian Affairs, 1865," United States House of Representatives, 39th Congress, 1st Session, Executive Document 1, pp. 488-489; Report of Wilson of the New York Herald at the Afternoon Session, September 15, 1865, Special File 125, Special Files of the Office of Indian Affairs, National Archives.

In response to Ross's statements, Boudinot charged Ross with instigating the dissensions that had divided the Cherokee Nation for years. "I will show," Boudinot continued, "the deep duplicity & falsity that have followed him from his childhood to the present day, when the winters of 65 or 70 have silvered his head with sin, what can you expect of him now." Cooley did not intend for old feuds to be stirred up again, and he interrupted Boudinot's harangue at this point. The next day, on September 16, Boudinot showed how far the southern faction was willing to go to ensure Ross's continued disfavor, when he related that the southern Cherokees were "cheerfully" disposed to accept Cooley's treaty provisions with only two minor exceptions. The consolidation stipulation, which was as odious to the southern group as to the Union delegation, and the admission of freedmen on an equal basis were the irreconcilable points. Boudinot countered the consolidation scheme with what would become the major thrust of the anti-Ross faction. He demanded nothing less than the division of the Cherokee Nation. The commission had no such authority in this regard, however, so the southern faction signed the treaty on September 18. Curiously enough, by the time the conference had ended, Boudinot had done a complete about-face in his opinion of the consolidation scheme and cited it as "one of the grandest and noblest schemes ever devised for the red man," declaring that the author of the measure should receive the "lasting gratitude of every Indian." Significantly, its author, James Harlan, was at that time secretary of the interior and, as Boudinot knew, a significant voice in any Cherokee settlement.<sup>9</sup>

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<sup>9</sup>Ibid.; Cooley's Report of the Fort Smith Council, October 30, 1865, "Report of the Commissioner of Indian Affairs, 1865," United



The northern delegates had signed the treaty two days prior to their southern counterparts, but it was merely a treaty of peace and amity and actually settled none of the major problems. In the hope that the rival parties could work out some agreement, Commissioner of Indian Affairs Cooley instructed a joint committee of the two delegations to meet with his associate, Wistar, but no reconciliation was obtained. Arrangements were made, therefore, to reconvene in Washington at the call of the secretary of the interior in order to negotiate a reconstruction treaty.<sup>10</sup>

During the course of the controversy over Ross's position and allegiance, Cooley rushed a telegram to Secretary of the Interior Harlan informing him of his refusal to recognize Ross. The month-long communications lag no longer existed, and the message reached Harlan the next day. The secretary presented the document to President Johnson who approved Cooley's course. Indeed, Harlan authorized the commissioner to recognize other parties from the tribe and permitted Cooley to treat with one or several factional representatives. Cooley must have considered it more politic to obtain the sanction of his superiors because of the complications arising from the negotiations, thus his recommendations to move these to Washington.<sup>11</sup>

Why the abrupt shift in attitudes toward Ross among Federal Indian

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States House of Representatives, 39th Congress, 1st Session, Executive Document 1, pp. 490-491, 496.

<sup>10</sup>Mix's Report of the Fort Smith Council, undated October, 1865?, *ibid.*, pp. 521, 530-531.

<sup>11</sup>Cooley to Harlan, September 16, 1865, and Harlan to Cooley, September 18, 1865, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

officials? Harlan, Cooley, and Cherokee Agent Elijah Sells were close friends, all from Iowa, and all were interested in land and railroads. Harlan particularly was noted for his interest in these areas. While he was a senator from Iowa, he was instrumental in promoting a trans-continental railroad. Kansas lobbyists were certainly influential in Federal councils about Indian affairs, and they looked longingly at the lush Indian lands ripe for farming and eminently suitable for railroading. Ross's feelings concerning these designs were no secret. As early as 1848 and 1854 similar plans for consolidating the Indian tribes and incorporating their lands into adjoining states had been introduced in Congress, and in 1860 Ross was approached on the matter of allotting the Cherokee lands for private ownership. He found such ideas inconsistent with Cherokee treaties, unconstitutional under Cherokee prerogatives, and in no way beneficial to the Cherokee people. Perhaps Federal officials thought they could work out reciprocal agreements with the southern faction: railway rights in exchange for a division of the tribe.<sup>12</sup>

The Cherokee National Council met on November 7, 1865, and appointed Ross to head a delegation to Washington. Ross led an array of capable Cherokees including Lewis Downing, Smith Christie, Daniel H. Ross, S. H. Benge, James McDaniel, and Thomas Pegg, while the Baptist missionary, John B. Jones, went along as adviser. One of the purposes of this group was to obtain an impartial investigation of the charges

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<sup>12</sup>Wardell, A Political History of the Cherokee Nation, 1838-1907, pp. 105-107, 184-185; Ross to George Butler, January 1, 1860, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives.

brought against Ross at Fort Smith. During the interim before the National Council met in November, Ross fell ill to "ague & fever," to the extent that he discontinued his usual flow of letters to friends and relatives and was under the care of a doctor for over a week. It was the latter part of October before Ross regained his health and even then his weakness persisted. He spoke to Sarah of the Fort Smith conference and of the "groundless stigma...fabricated" there. Ross felt mortified and was anxious to be off to Washington where he could defend himself against "the foul aspersions that have been published by designing men." Before leaving the Cherokee Nation he cut a sprout from Sarah's favorite tree on the Rose Cottage grounds and carried it to her as a gift. This would be Ross's last look at his Cherokee homeland, his final chance to redeem his character, and his closing effort to unify his people.<sup>13</sup>

The Washington conference was in many ways a repetition of the Fort Smith meeting. Indeed, it echoed the chorus of conferences through the years where repeated attempts had been made to dislodge Ross and to sever the Cherokee Nation. The great issue would be restatements of one theme--should the Cherokee Nation be divided? The southern delegation continued to insist that division was the only means of ending the internecine conflict that had characterized Cherokee political factionalism. The northern faction maintained

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<sup>13</sup>Act of the National Council, November 7, 1865, and Ross to Sarah, October 28 and November 12, 1865, Ross Papers, Gilcrease Institute, Ross's niece, Eliza Jane, who saw him when he returned to Park Hill, observed his health and commented: "How much of earthly sorrow has that father of your's been called to endure--how indomitable his energy & will!" E. Jane to Annie Ross, September 6, 1865, Hargett Collection, Western History Collections, University of Oklahoma.

that only as a unified people could the Cherokees retain their national rights and become the prosperous race they once had been.

The fullest and most forceful argument of the loyalty of the northern delegates was issued on January 24, 1866, in a statement to President Johnson. They reiterated their earlier position that only constant pressure and fear of invasion had forced them into the Confederacy. They noted their wholehearted and unreserved welcome of Colonel Weer as he had brought Federal forces back into the Cherokee Nation. They pointed to the Cherokee National Council meeting on Cowskin Prairie in February of 1863, at which the northern element of the tribe had abrogated the Confederate treaty, expelled from office disloyal persons, and abolished slavery. Before members of the Ross faction could hope to secure their aims, they had to be assured of their recognition as the Cherokee Nation's legitimate spokesmen. To have this assurance, their loyalty had to be above question.<sup>14</sup>

Not only must the loyalty of the great mass of Cherokees be above suspicion if an adequate treaty was to be realized, but Ross's credentials had to be irrefutable. To secure his recognition and disprove the charges brought against him at Fort Smith, another pamphlet was published the following week. In this the delegation charged that an element led by Watie and Boudinot had attempted to mislead the Federal government into believing that Ross had been disloyal. The northern Cherokees recreated the situation as it had existed in 1861 and 1862 to

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<sup>14</sup>Smith Christie, et al., Memorial of the Delegates of the Cherokee Nation to the President of the United States and the Senate and House of Representatives in Congress (Washington: Chronicle Print, 1866), passim.

show that Ross had had no other choice, and they produced a document which revealed that Albert Pike had been prepared to treat with the Watie faction if Ross had not come over the southern side. They stressed that neither Ross nor the Cherokee National Council felt morally bound to the Confederate treaty any longer than the security of the Cherokee Nation demanded. They concluded that if Ross were counted an enemy, then the United States had no friend. "If he is rebel," they emphasized, "then there are none loyal."<sup>15</sup>

Elias C. Boudinot and William Penn Adair had arrived in January of 1866 ahead of the rest of the southern delegation. One of their first acts was to write Cooley in regard to certain alleged misuses of Cherokee funds by Chief Ross. Adair and Boudinot said that Ross had received large sums for signing the Confederate treaty, and requested information on the \$250,000 which they said had been paid to the Cherokee "constituted authorities." Actually Ross had received about \$60,000 or \$70,000 in gold coin and about \$150,000 in Confederate currency from Albert Pike, the Confederate treaty commissioner, in early March of 1862. Pike in 1866 admitted that it was understood that the currency was to be used to redeem warrants of the Cherokees issued during the financial depression of the late 1840's. Pike went on to say that the warrants were in the hands of Ross and his relatives. This statement was patently untrue; had Pike had any knowledge of Cherokee financial matters, he would have known that these warrants

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<sup>15</sup>Smith Christie, et al., Communication from the Delegation of the Cherokee Nation to the President of the United States, pp. 6, 7, 10, 13.

had passed into the hands of white speculators long before the Confederate alliance. John W. Stapler, Ross's brother-in-law, maintained the Cherokee national safe in his store and informed Secretary Harlan that the gold had not been used for Ross's personal benefit. After the summer of 1862, Confederate currency was of little use to Ross as a refugee in Washington, if he even dared to carry it with him. In fact, he may have used it to pay on the Cherokee national debt which he had estimated at nearly \$100,000 in 1859.<sup>16</sup>

Evidence of Ross's financial situation during the Civil War years further belies the southern assertion that he used the money to his own advantage. The allowances of the Federal government could not sustain the refugees who flocked to his Philadelphia home, and by the end of the war he was deep in debt, having mortgaged both his house and furniture far beyond their actual value. His only hope of recompense was in a final settlement over the destruction of his home and property in the Cherokee Nation.<sup>17</sup>

By January 30 Boudinot and Adair received a copy of the Union faction's pamphlet and busily set to work on their own apologia, refuting point by point the arguments of the opposing party. Boudinot

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<sup>16</sup>Boudinot and Adair to Cooley, January 12, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. It is interesting that Boudinot and Adair in their letter had originally used the sum \$150,000 but marked that out and substituted \$250,000. Ibid. Pike to Cooley, February 17, 1866, in Thoburn, ed., "The Cherokee Question," *Chronicles of Oklahoma*, Vol. II, p. 178; Brown, "Albert Pike, 1809-1891," p. 635; Stapler to Harlan, April 28, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Ross's Annual Message, October 3, 1859, Ross Papers, Gilcrease Institute.

<sup>17</sup>J. B. Jones to Harlan, August 8, 1866, Grant Foreman Collection, Indian Archives Division, Oklahoma Historical Society.

and Adair used this opportunity to malign Ross and, more important, at least for their purposes, to push for the division of the Cherokee Nation. "We are already divided by political barriers," they insisted, "by mementoes of blood stronger than death. Let us be sundered by territorial boundaries." In a later presentation the southern faction noted that it had been the policy of the government to separate "discordant elements" when difficulties arose. This had been done with the Choctaws and the Chickasaws in 1855 and with the Creeks and the Seminoles in 1856, they emphasized. More important, the southern Cherokees insisted that the United States had recognized two separate Cherokee Nations in earlier treaties. They spoke highly of Commissioner of Indian Affairs Cooley who at Fort Smith and now in Washington had succumbed to their persuasion. They frequently used his messages to support their own contentions. The northern faction felt that the southern group desired division for other reasons: "But it is not peace, security, and fraternity, these lately disloyal leaders want-- it is political power....Their distress arises not from fear for safety, but from hunger for power; which they cannot soon get but by a disruption of the nation."<sup>18</sup>

In the first months of 1866, Commissioner Cooley came out against Ross even more strongly than he had at Fort Smith, his efforts

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<sup>18</sup> E. C. Boudinot and W. P. Adair, Reply of the Southern Cherokees to the Memorial of Certain Delegates from the Cherokee Nation (Washington: McGill and Witherow, 1866), pp. 9-10; John R. Ridge et al., Comments on the Objections of Certain Cherokee Delegates to the Proposition of the Government to Separate the Hostile Parties of the Cherokee Nation (Washington: Intelligencer Printing House, 1866), pp. 6-7; James McDaniel et al., Reply of the Delegates of the Cherokee Nation to the Demands of the Commissioner of Indian Affairs (Washington: Gibson Brothers, 1866), p. 13.

culminating in a lengthy pamphlet entitled "The Cherokee Question." Even as early as February of 1866, Cooley sent to President Johnson a rough draft of his arguments concerning Ross's loyalty. In both of these papers Cooley attempted to destroy the notion of Ross's loyalty, and even the idea that the chief had taken a neutral position. Through the distorted use of letters, messages, and proposals, as well as undocumented verbal statements attributed to Ross, Cooley sought to discredit him. The northern Cherokees did not idly accept such denunciations of their chief. Calling the rejection of Ross at Fort Smith an "act of tyranny," they displayed a letter from Colonel William A. Phillips, one of the first Federal officers to enter the Cherokee Nation in 1862 and commander of Union Indian troops during the war. After reading Cooley's pamphlet, Phillips insisted that the charges were "base calumnies" against Ross, and he expressed the hope that they would not end the chief's brilliant career. "I know he aided our cause," he concluded, "God forgive me if I forget it."<sup>19</sup>

The Ross delegation met with President Johnson, Secretary Harlan, and Commissioner Cooley on February 15, 1866, at the White House. When Harlan presented Ross to the President, Johnson spoke of his earlier acquaintance with the chief, and they shook hands warmly. Ross then introduced other members of the delegation, and Pegg

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<sup>19</sup>Cooley to Johnson, February 25, 1866, Special File 125, Special Files of the Office of Indian Affairs, National Archives. For the entire pamphlet with documentation refuting the major part of the commissioner's arguments, see Thoburn, ed., "The Cherokee Question," Chronicles of Oklahoma, Vol. 11, pp. 141-242. Smith Christie et al., Reply of the Delegates of the Cherokee Nation to the Pamphlet of the Commissioner of Indian Affairs (Washington: no imprint, 1866), pp. 5, 11, 12.



presented the documents relating to their business in Washington, particularly the proceedings of the Fort Smith council. McDaniel asked to speak a few words to the President and then went into some detail explaining the cause of the Cherokee alliance with the Confederacy, making special reference to the loyalty and sincerity of Ross. Ross and Cooley clashed at one point in further discussions over whether Cooley had simply refused to recognize Ross as chief or, as Ross insisted, had attempted to remove him. Ross used the occasion to inform President Johnson of occurrences at the Fort Smith council which did not appear in Cooley's reports.<sup>20</sup>

The next week Ross attempted to bypass Commissioner Cooley, believing him completely committed to the "rebel Cherokees," as Ross termed them, and met privately with Secretary of the Interior Harlan. He gained assurances from the secretary that negotiations would not be solely in the hands of Cooley. Ross was elated after this meeting, and he wrote Sarah, his sister-in-law, of his encouragement: "I feel myself as standing upon as firm ground, if not more so, with my own people, as Mr. Cooley does with his people--time will soon indicate whose official authority is resting upon a sandy foundation." Within a few days Harlan laid out to both Cherokee delegations suggestions for a treaty, and they busily set to work to outline their divergent schemes.<sup>21</sup>

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<sup>20</sup>Ross to Sarah, February 22, 1866, Ross Papers, Gilcrease Institute.

<sup>21</sup>Ibid.; Annie Heloise Abel, The American Indian Under Reconstruction (Cleveland: Arthur H. Clark Company, 1925), pp. 353, 353-354 n. 623.

Members of the northern faction presented their projected treaty to Harlan on March 15, 1866. In 16 articles they laid out terms which Ross declared were based on "Humanity, equity & justice" and intended to "thwart the expectations of those mercenary cormorants who, leach /sic/ like, have so long been sucking the vital resources of the Cherokees." The initial article affirmed all previous treaties with the United States, a slap at Cooley who at Fort Smith had announced that the Cherokees had forfeited all former rights by their associations with the Confederacy. The remainder of the proposed pact provided rights to freedmen without citizenship; offered amnesty and pardon to southern Cherokees after taking a required loyalty oath; restricted settlement of other Indian tribes on Cherokee lands; listed judicial rights in Cherokee cases; included severe restrictions on railroads, white traders, and military posts in the Cherokee Nation; and provided for sale of the Neutral Lands to the United States at \$1.25 per acre and the surveying of all Cherokee lands. Thus the treaty was not a humble petition but a document designed by men who regarded themselves as unquestionably loyal to the United States. Yet the northern Cherokees received little attention for their efforts, for Cooley was convinced by the southern delegates that a division of the tribe was imperative.<sup>22</sup>

At this point Ross nearly collapsed physically, suffering during

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<sup>22</sup> Ibid., pp. 354-355. Ross to Sarah, March 18, 1866, Ross Papers, Gilcrease Institute; Proposed Treaty (Northern Cherokees), March 15, 1866, Special File 125, Special Files of the Office of Indian Affairs, National Archives; J. B. Jones to Jennie Jones, March 17, 1866, Foreman Collection, Indian Archives Division, Oklahoma Historical Society.

January and March from severe colds, but each time he seemed to recover. During the last week in March he complained of pains in his chest and began applying mustard plasters. He received temporary relief, but intense pain soon settled in his stomach and was diagnosed as a "billious condition." The condition persisted through the first two weeks in April, but Ross remained confident and told friends that he hoped to be up and in his usual health almost any day. Nonetheless, he called Sarah and his daughter, Annie, from Philadelphia to be at his side in Washington<sup>23</sup>

While Ross was confined to his boarding house, he was visited by Commissioner Cooley, Southern Indian Superintendent Elijah Sells, and Cherokee Agent Justin Harlan. After the usual amenities, Cooley said: "I pray you Govr. not to allow business to trouble your mind. Keep quiet & get well & we will make every thing right." Cooley spoke these solicitous words less than two weeks after he sent President Johnson the memorandum maligning Ross. What Cooley wished to "make right" was entirely in the context of the southern delegation's demands.<sup>24</sup>

The rival delegations met on April 7, 1866, by direction of Secretary Harlan and, although both spoke of peace, they found themselves diametrically opposed on all significant issues. Several conferences were held in May with each of the delegations being represented by legal counsel: Thomas Ewing for the Ross group and D. W. Voorhees for the southern Cherokees. Further meeting, proposals,

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<sup>23</sup>Ross to Sarah, January 19, March 18 and 30, and April 4, 1866, and Ross to G. Bishop, April 10, 1866, Ross Papers, Gilcrease Institute.

<sup>24</sup>Daniel H. Ross to William P. Ross, April 3, 1866, *ibid.*

and counterproposals were held and heard throughout May but with no results. Throughout these negotiations Ross was confined to bed but, living in the same boarding house with his colleagues, he received daily news of the proceedings and doubtless directed many of the northern faction's efforts.<sup>25</sup>

During June the southern delegates seemed to have everything in their favor. Ross was bedridden, and Cooley was on their side; one southern delegate informed a friend: "Ross will be beaten....His day is done. Ours is rising fast and bright. We will get all we asked for, with perhaps, not so much money." Indeed, the situation seemed to justify his elation, for on June 13 Cooley actually concluded negotiations with the southern faction and sent the proposed treaty to President Johnson. To justify the act Cooley published in the same week "The Cherokee Question," designed to destroy Ross's major argument that the Cherokees were decidedly loyal and that the Confederate treaty had been only a temporary aberration.<sup>26</sup>

The elation of the southern Cherokees turned to despair when President Johnson refused to sign their document. No doubt the barrage of correspondence of the northern delegates and the unrelenting spirit of Ross did much to persuade the President. Ross and his friends

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<sup>25</sup>Stand Watie et al. to Cooley et al., April 7, 1866, Special File 125, Special Files of the Office of Indian Affairs, National Archives, Ross et al. to Johnson, May 13, 1866, Miscellaneous Documents, Western History Collections, University of Oklahoma; Wardell, A Political History of the Cherokee Nation, 1838-1907, p. 195.

<sup>26</sup>J. W. Washbourne to J. A. Scales, June 1, 1866, in Dale and Litton, eds., Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family, p. 244; Proposed Treaty (Southern Cherokees), June 13, 1866, Special File 125, Special Files of the Office of Indian Affairs, National Archives.

appealed to Johnson's close advisers and also competed with the southern faction for public sentiment through the pages of the New York Tribune. Perhaps Johnson realized the inconsistency in dealing with a minor tribal faction which had supported the Confederacy both before and throughout the Civil War. Cooley returned to his bargaining, now with the northern Cherokees, and effected a treaty on July 19, 1866; it was quickly approved by the Senate and proclaimed on August 11, just 10 days after Ross's death. But Ross lived to see himself vindicated, for early in July, during the northern faction's negotiations with Cooley, the delegates had insisted that any treaty carry on the signature page the expression, "John Ross Principal Chief of the Cherokees." Harlan concurred, noting that Ross's ouster at Fort Smith had been intended only as a temporary condition.<sup>27</sup>

A month before his death Ross made out a final will. He left to his two children by Mary, Annie and John, all his real estate in

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<sup>27</sup>W. A. Phillips to William H. Seward, June 14, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; New York Tribune, May 21, 1866, p. 1, May 28, 1866, p. 6, and June 5, 1866, p. 6; Smith Christie et al. to Cooley, July 9, 1866, Miscellaneous Documents, Western History Collections, University of Oklahoma; Harlan to Cooley, July 10, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives; Abel, The American Indian Under Reconstruction, pp. 359-361. For the treaty itself, see Kappler, comp., Indian Affairs: Laws and Treaties, Vol. II, pp. 942-950. Ross's medical expenses came to a considerable amount during the last few months of his life. In all the cost from April until his death in August came to nearly \$2,000, which included doctors' bills, medical supplies, extra food, and intensive care administered by Sarah and the children. One notation includes expenses for 45 visits from May 9 to June 22, 1866, by Doctors J. C. Hall and J. W. Nairu. Statement of Expenses of John Ross, April 9 to August 1, 1866, Cherokee Agency Letters Received, Office of Indian Affairs, National Archives. It appears that the United States government paid these expenses as part of the settlement of the Treaty of 1866. Elijah Sells to Dennis N. Cooley, August 21, 1866, *ibid*.

Wilmington. To each of his older children he bequeathed \$5,000 and to the children of his late son, James, he left \$2,500 each. Many of Mary's personal effects were willed to Sarah and John W. Stapler. All the monetary provisions were to be paid out of money received from Ross's claims against the United States, for by the time of his death his wealth was nearly exhausted. In June of 1866 Ross also made out an account of his property lost during the conflict, for which he claimed over \$53,000. The question of Ross's loyalty to the United States during the Civil War did not end with his death. In 1870 Annie and William P. Ross, as executors of Ross's estate, filed for payment with the Senate Committee on Claims. After a careful examination of Ross's life and of his service to the Cherokees, and despite the testimony of Evan Jones and William A. Phillips, the committee concluded that the claim should not be honored as Ross's loyalty still remained questionable.<sup>28</sup>

Ross died in Washington on August 1, 1866. His funeral was held in Wilmington, Delaware, where his remains lay in state at the home of his brother-in-law, John W. Stapler. Services were held one quiet Sunday afternoon at the Grace Methodist Episcopal Church and were conducted by a clergyman named Rittenhouse who read a beautiful eulogy to the departed chief. The cortege moved from Grace Church to the Brandywine Cemetery with the loyal Cherokee delegates serving as pall bearers. Ross's body was laid in the Stapler family plot near Mary's. The Reverend Rittenhouse spoke a final benediction and the solemn

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<sup>28</sup>Last Will of John Ross, Ross Papers, Gilcrease Institute; Report of the Committee on Claims, April 20, 1870, Untitled, 41st Congress, 2nd Session, Report 113, passim.

entourage of family and friends departed.<sup>29</sup>

At its next regular session, the Cherokee National Council decreed that Ross's remains should be returned to Park Hill. On that occasion the chief's beloved nephew, William P. Ross, spoke these words:

We claim not for John Ross exemption from error and imperfection, but believe that he enjoyed in an eminent degree a power of intellect and endurance, a tenacity of purpose and an earnestness of soul which belong only to great men, qualities which impress themselves upon the character of the day, in which their possessors live, and send an influence far down the stream of time.<sup>30</sup>

The National Council directed William P. Ross, Jesse Bushyhead, and Riley Keys to return the chief's coffin to the Cherokee Nation. The three men returned in early May of 1867 and placed the coffin at the male seminary where it lay in state until June 1, when the whole Cherokee Nation gathered to pay final tribute to the revered chief. The Moravian minister, E. J. Mock, conducted the final services, and William also spoke before the casket of his uncle:

It is proper, that here, should his dust mingle with kindred dust, and that a suitable memorial should arise, to mark the spot where repose the bones of our greatest chieftain. It will keep alive within our bosoms a spirit of patriotism. It will impart strength and hope in the hour of adversity. It will teach us to beware of domestic strife and division. It will serve to unite us more closely in peace, in concord and in devotion to the common welfare. It will soften our asperities and excite the thoughtful

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<sup>29</sup>Description of Ross's Funeral at Wilmington, August, 1866, Foreman Collection, Gilcrease Institute.

<sup>30</sup>Ross, ed., The Life and Times of Honorable William P. Ross of the Cherokee Nation, pp. 254-255.

youth of our land to patience, to perseverance, to success and to renown.<sup>31</sup>

Ross was laid to rest at the Ross Cemetery near the ruins of Rose Cottage and among the people he had served so faithfully and so long.

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<sup>31</sup> Ibid., pp. 260, 264-265; Schwarze, History of the Moravian Missions Among Southern Indian Tribes of the United States, pp. 292-293; Fort Smith Herald, May 11, 1867, p. 3, c. 1; "Notes of Travel Through a Portion of the Indian Country and the Borders of Arkansas," ibid., June 6, 1867, p. 1, c. 5-6.



## CHAPTER XII

### IN RETROSPECT

The career of Chief John Ross spanned nearly a half-century during the most dynamic era of Cherokee history. He entered public service at the very time the Cherokees were undergoing significant political and social changes. Ross's rise to leadership also was concurrent with the period which saw the Cherokee Nation become unalterably intertwined with the emerging republic of the United States. His ascendancy reflected these changes. With only a slight amount of Cherokee blood and few physical characteristics to reveal his kinship, Ross won the full bloods' trust as his more likely looking opponents never did. He was selected for leadership because he displayed the requisite qualities for that epoch of change: an unflinching devotion to the sacred homelands and a facility for articulating the Cherokee cause. Beyond simply mirroring the full bloods' attachment to their ancient lands, he led the Cherokees into new realms by adapting a subtle blend of tribal folkways and white techniques. Ross's genius lay in his ability to recognize boundaries, geographic and psychological, and to guide the cautious Cherokees within those limits.

Ross overcame his initial liabilities by assiduously cultivating Cherokee support through integrity, hard work, and constant association. At his father's business and in later years at his own warehouse and mercantile store, he gained the trust and respect of the

Cherokee common man. He also acquired a reputation for honesty by his candid exposure of an attempted bribe early in his public career in 1823. Ross linked himself to the beloved leader of the Cherokees, Charles Hicks, and from him learned the intricacies of tribal politics and gained a deeper respect for old Cherokee traditions. His superior abilities caught the attention of the Cherokee leadership, so that Hicks and Major Ridge began early to groom young Ross for a career of responsibility.

Ross never developed the mercantile knack that his relatives exhibited; rather he discovered a skill in the measured art of political diplomacy. Weaned on Cherokee internal politics, Ross was hardly awed at Washington negotiations. From his first venture at the capital city in 1816 until the reconstruction negotiations of 1866, Ross displayed a prowess at the bargaining table that surprised each new set of Washington luminaries throughout his half-century of service. He became such a figure at the Federal capital that mail addressed simply "John Ross, Washington," would reach him. The opening of each congressional term would find Ross and a delegation of Cherokees busily defending Cherokee interests. When not in attendance himself, he carefully tutored a young retinue of devoted followers to carry on, and to be mindful of Cherokee inflexibility on certain basic issues.

Ross had two general goals in his negotiations with the Federal government over the years. He worked to prod the United States to fulfill its treaty obligations and to guard the Cherokees against any further loss of land after the tribe had determined its narrowest boundary. Until the 1830's, Ross was moderately successful in these

goals, but with the accession of Andrew Jackson to the Presidency and the spread of the states' rights doctrine, Ross was plagued by bitter and repeated defeats. Although the Cherokee position was upheld in the decisions of the United States Supreme Court and several Georgia courts, these judgements had little effect in an era of executive dominance. Court decrees had even less influence among the restless frontier settlers who coveted the Cherokee farmlands and gold. Moreover, Ross faced a three-pronged assault. Not only were Georgia and the Federal government unrelenting, but internal erosion also weakened the Cherokee foundation of unity.

Ross's opposition in the Cherokee Nation constantly accused him of deluding the Cherokees into believing that they would not have to remove. More accurately, Ross himself was deceived. Some of the best legal thinkers in the United States assured Ross that the Cherokees had an excellent case against Georgia, but they neglected to tell him that court decisions could be circumvented by a determined executive. Friends within Congress led Ross to believe that the Cherokees could avoid removal by appeals to the Senate and the House of Representatives. Furthermore, knowledgeable white men assured Ross that Congress would not ignore the mass of petitions that poured into Washington in support of the Cherokee cause. However, promises proved empty when Congress accepted Jackson's position, even if by the narrowest of margins. Ross also was misled by members of President Van Buren's administration. At the very time the Cherokees should have been removed under treaty provisions, Secretary of War Joel R. Poinsett was holding out hope of a two-year extension. Special agent, John Mason, indicated by his presence in the Cherokee Nation in 1837 and by his attitude that new

negotiations were in the offing, but in Washington he pursued the same stubborn course followed by his predecessors. Even if Ross had not met such vacillating and contradictory positions, he probably would have been in Washington until the last minute trying to avert a Cherokee removal.

Ross's opponents insisted that he should have been in the Cherokee Nation working with his people to convince them of the folly of refusing to remove and of the certainty of greater harm if they did not go voluntarily. This, of course, accepts the belief that Ross was deceitful, that he knew removal was inevitable, and that life in the West would be more hospitable in the long run. Actually, Ross did not accept any of these positions until well into 1838, and some he may never have accepted. In all probability Ross would have been rejected by the majority of Cherokees had he gone to them, even as late as the early months of 1838, and suggested the wisdom of removal. Certainly Ross would have lost his position as chief, and perhaps in one sense this is why he worked against removal so hard. Ross relished his position as chief and all the prestige and power that were a part of the office, but he was not using the office for his own malevolent purposes. He knew that without his leadership, removal would become a nightmare, a disaster far beyond the actual dismal event. Removal became a reality to the Cherokees only when they were rounded up at gunpoint, herded into stockades, and transported under armed guard. Only after such stark reality could Ross publicly but reluctantly support removal, and ably but sadly guide his people westward.

The Cherokee treaty party charged that Ross had merely delayed removal to obtain a better monetary bargain and to fill his own

pockets. These opponents and some Washington officials also speculated that he resisted the Treaty of New Echota of 1835 simply because he did not have a hand in it. Although he did oppose the treaty on these grounds, his reasoning was more complex. Certainly the worth of the Cherokee lands far exceeded the initial price offered by the Federal government, nor did subsequent increases meet its actual value. Furthermore, from long experience, Ross had learned that the Federal government found no great urgency in making payments under treaties with the Cherokees. That the treaty was made with a small clique of unauthorized individuals was a legitimate reason for Ross to oppose it. The Cherokee constitution clearly spelled out the treaty-making process, and the Cherokees voiced their disapproval of any of the proposed pacts over a number of years. It must have been especially galling to Ross that at the very time the Treaty of New Echota was being formed, he was enroute to Washington, most likely to work out some removal agreement.

Ross had an unflagging confidence in the legitimacy of his authority. As early as 1826 his right to speak for the Cherokees was challenged by Federal officials, and in succeeding years his capacity as chief was questioned repeatedly. Ross knew he spoke for a large majority of the Cherokees and realized that to allow doubts of his authority was to lessen the credibility of the independence of the Cherokee Nation. In 1832 and 1839 discordant elements within the tribe were ready to question his command, but here again Ross knew that he expressed the sentiments and will of a large majority of the Cherokees. During the Civil War years and especially in reconstruction negotiations the same charge would haunt him, for to discredit Ross

would enable Federal officials to gain a treaty to their liking and would aid the southern Cherokees in their effort to divide the tribe. Ross's confidence was born out of steady and repeated assurances of support from a large majority of the Cherokees. In every election from 1828 to 1866, he was the overwhelming choice for the highest office of the Cherokees. This remarkable achievement indicates a trust in Ross that few other men in substantial elective positions throughout history can match.

The Cherokees further demonstrated their faith in Ross by an unquestioning trust in his use of national funds. During Ross's lifetime the Cherokees, through the sale of lands, acquired thousands of dollars turned over to the tribe in yearly allotments or annuities. Ross as chief and as head of numerous delegations receiving these payments never once was found to be careless with the money. Nor were the Cherokees so backward that they did not understand the financial arrangements made. Certainly for many years Ross faced a ready opposition anxious to prove his misapplication of Cherokee funds. Indeed, he had to answer recurring charges that he used the privileges of his office for personal aggrandizement. These charges were made particularly in regard to removal money. Yet no conclusive evidence exists to tie Ross to any personal plundering of Cherokee funds. Moreover, the accusations of his detractors came at periods when new arrangements were in progress for the Cherokee Nation, times when it could be expected that they would take extreme positions to further their own cause.

Ross was not only a conscientious conservator of public funds but also a shrewd manager of his personal finances. He was never content

in the mercantile business which other members of his family found as a ready avenue for financial advancement. Rather he discovered his competence as a planter. Careful direction of his extensive land improvements, both before removal and in the new lands in the West, built for him a fortune already well established from his family inheritance and a successful merchandising operation. Ross also prospered as an entrepreneurial collaborator. His associations with his nephews, Daniel H. and William P. Ross, and his brother-in-law, John W. Stapler, afforded extra areas for financial advancement. In connection with his agrarian operations, Ross was also something of a land speculator and doubtless profited well from his land transactions in the easily marketable acres of east Tennessee. Perhaps he had become accustomed to the financial security he had acquired over the years, for during the Civil War years he did not know how to retrench, and in the end left his surviving family only a meager inheritance.

Ross knew war--its brief moment of glory and its costly destruction in human life and personal property. He had served with distinction in the War of 1812 and always pointed with pride to the Cherokees' service to the United States in that conflict. But it was the waste of war that he remembered best, from the civil conflicts in the Cherokee community to the vast desolation of the Civil War. Ross consistently worked to neutralize and arbitrate conflicts. He willingly served as a mediator in the Seminole War and constantly counseled surrounding tribes on the importance of maintaining peace. During periods of the greatest anguish of the Cherokees when an appeal to arms seemed the only recourse to repeated invasions of the Cherokee homelands, he urged his people to lay down their arms and to submit

peacefully to a forced removal. Even when his own life was threatened and friends rushed to stop would-be assassins, he advised against violence and exhorted rash supporters to wait for legal action.

The personal life of Ross reveals more than a calculating politician and a crafty negotiator. The wholehearted, straitlaced gentility of Whiggish conservatism is readily evident in his letters to his nieces, nephews, and children. Yet he loved them sincerely and supported them, not only financially but with sympathetic paternal regard. Even during the most pressing political negotiations, he took time to write them or to attend their school ceremonies. They must have considered him more than a stodgy old man, for they often looked to him for advice. Ross always pointed these young people to greater accomplishments in scholarship and in personal worth. If his ambitions seem somewhat antique to the next generations, the ideas at least were those upon which his own life and career were built--hard work and personal integrity.

Ross's life with Quatie is indistinct. She was the quiet partner to a rising Cherokee political star and perhaps found her fulfillment in her home and children. By the time Ross met Mary, his emotions had long since been covered with Victorian piety. The gilded prose of his labored love letters hides as much as it reveals. Mary was a young, beautiful coquette with a dash of romantic idealism to flavor her Quaker sobriety. But she was more than just an avenue for an old man to recapture his youth and reassert his virility. Her religious attachments had matured her beyond her young years, while the loss of her mother and the care of her older sister, Sarah, tempered a natural frivolity. She added new dimensions to Ross's life as she brought a



splash of gaiety to an otherwise somber figure. Mary also taught her husband the deeper meanings of religious sentiments beyond the mere quoting of Biblical passages for transitory rhetorical purposes. She awakened in Ross a sense of the everlasting, and his letters to Mary reveal a concern not only for sermons and scriptural passages but also for the deeper sentiments he attached to his Christian beliefs.

Ross was a humanitarian but, in the fashion of his era, he worked in an indirect and impersonal manner. This was largely through the missionary efforts which he sponsored and supported throughout his life, but he also opened his heart and the door of his home to less prosperous Cherokees. His table often was crowded with Indian guests as well as itinerant white men. Moreover, Ross's social awareness spilled into other areas of his life. He used his office as chief to encourage the cultural development of his people. His dreams of a national press, schools, libraries, and corrective institutions were aspects of his plans for the social, intellectual, and moral development of the Cherokees. The tragic events of removal and the Civil War frustrated Ross's dreams, while financial distress and lethargy slowed the progress of Cherokee advancement.

Ross's able leadership, often autocratic and rarely passive, spanned nearly 50 years by the time of his demise on August 1, 1866. During this period the Cherokees endured a series of bitter factional quarrels. The opposition faction contended that Ross used his position to further personal and party goals. Indeed, he frequently felt his policies so obviously correct that he disregarded justified criticism. His overwhelming desire for Cherokee unity led him at times to accept positions that he did not personally support, but on other occasions

he would practice personal chicanery to get his way. His methods, sometimes aimed arbitrarily at a desired end, often alienated those whose assistance he needed most. Yet one thing could not be denied: his first and ultimate loyalty was to the Cherokees. Facing, as he did, the superior and relentlessly advancing United States, he found necessity calling for firm and frequently brutal decisions. Moreover, he feared that factionalism would lead to the division of the Cherokees and make the great plan of his life, Cherokee unity, unattainable; thus he persistently placed the Cherokee Nation above his personal desires.

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