

THE REMOVAL OF THE EASTERN CHEROKEES

OKLAHOMA
AGRICULTURAL & MECHANICAL COLLEGE
LIBRARY
SEP 27 1938

THE REMOVAL OF THE EASTERN CHEROKEES

By

Homer E. Carlile, B. S.

Northeastern State Teachers College

Submitted to the Department of History

Oklahoma Agricultural and Mechanical College

In partial fulfillment of the requirements for the degree of

MASTER OF ARTS

1938

1938
O. H. CARLILE
NORtheastern STATE TEACHERS COLLEGE

RECEIVED
LIBRARY OF THE UNIVERSITY OF CHICAGO
SEP 27 1938

APPROVED:

T. H. Reynolds
In charge of Thesis

T. H. Reynolds
Head of Department of History

D. C. M. Ingham
Dean of Graduate School

TABLE OF CONTENTS

Chapter I	Introduction	Page 1
Chapter II	Removal Attempts and Resistance	6
Chapter III	Removal by Pressure	35
Chapter IV	Removal by Physical Force	56

PREFATORY NOTE

The object of this work is neither to justify nor to condemn the removal of the Eastern Cherokees. It is, rather, to accumulate in one body the actual removal data so that it may be more accessible to students interested in this phase of Cherokee and, incidentally, Oklahoma history. I have not intended merely to repeat the oft-told story of the "Trail of Tears" which is familiar to most persons acquainted with the removal of the Indians from the East but I have endeavored to accumulate herein the more intimate facts, names, and details of this migration which are not available in any single work, and to arrange them, as nearly as possible, in chronological order. I have endeavored to present a just interpretation of this historical movement.

This work deals principally with the negotiations and removal from the state of Georgia. That state took the lead and furnishes a prototype of states that faced the problem of Cherokee removal.

H.E.C.

REMOVAL OF THE EASTERN CHEROKEES

Chapter 1. Introduction

The removal of the American Indians began with the first settlement of whites on the coast of North America and has continued in one form or another down to the Collier Plan now (1938) under consideration. The necessity, the methods, and the justification of the respective movements have long been questions for debate around the firesides, in the local communities, and in the legislative chambers of the country.

Georgia's claims to the lands occupied by the Cherokees were based on the English claims. At the close of the Revolutionary War Georgia felt that in addition to securing independence she had secured all lands that had formerly belonged to the colony of Georgia under English grants. Her claims were by right of discovery and early land grants.

The Cherokee's claim, on the other hand, was that of preemption, since they had occupied these lands from time immemorial.

They remained faithful to and were powerful allies of the British during the Revolutionary War and until after the Declaration of Independence. Then a treaty was signed at Hopewell, South Carolina, on November 18, 1785 and hostilities ceased. A second treaty was signed in 1791 at Holston. In this treaty the Cherokees recognized the sovereignty of the United States and agreed not to treat with any foreign power, individual state or with individuals of any state, obligations which the Cherokees never violated. It further provided that, "If any person not an Indian settle on any of the Cherokees'

lands, he shall forfeit the protection of the United States, and the Cherokees may punish him." Thereafter followed a series of treaties whereby the Cherokees were coerced or forced by circumstances into relinquishing their claim to large tracts of their lands.

By the Year 1800, the Upper Cherokees who inhabited the highlands, and the Lower Cherokees who inhabited the lowlands and valleys, had begun to develop a difference in tastes and methods of living. The former were making progress in agriculture, while the latter, who subsisted on the proceeds of the chase, were becoming discontented with the growing scarcity of game and hunting grounds.¹

In 1802 the state of Georgia ceded her western lands to the United States with the agreement that they should "at their own expense, extinguish, for the use of Georgia, as early as the same can be peaceably obtained, on reasonable terms, the Indian title to the country of Talassee, ---also extinguish the Indian title to all the other lands within the State of Georgia."² In this compact Georgia unconsciously recognized the Cherokee title.

In 1804 attempts were made to induce the Cherokees to remove from their own home in Georgia to new lands somewhere within the Louisiana Purchase. At first the Indians refused but in the spring of 1808 a deligation of chiefs called on President Jefferson and asked that a line be drawn separating the Upper and Lower Cherokees so that the former who wished to do so could remain where they were and follow the

¹H.F. O'Beirne, The Indian Territory, Its Chiefs, Legislators, and Leading Men (C. B. Woodward Company, 1892), pp. 69-71.

²Asbury Dickins and John W. Forney, Documents of the Congress of the United States in Relation to the Public Lands, March 1, 1834 to March 1, 1835 (Gales and Seaton, Washington, 1860), I, 114.

ways of the Whites; while the latter who preferred to give up their lands and remove to the West where they might continue the hunting life to which they were accustomed, could do so.

The president agreed to do as they requested but his term expired before anything was accomplished. Due possibly to the pressure of foreign affairs President Madison was slow to act in this matter. In 1817, however, a treaty was made wherein the Cherokees ceded two large tracts of country in exchange for one of equal area on the Arkansas and White Rivers. This western cession embraced lands upon which small groups of Cherokees had already settled without treaty provisions. Under the terms of this treaty the United States government magnanimously presented each poor Indian with a rifle, a blanket, and a kettle or a beaver trap, in lieu of his home claim, and transported him west of the great river to join his comrades and fight the Osages and Quapaws, who were incessantly raiding the newcomers.

Then came the treaty of February 27, 1819, wherein the Cherokees ceded 837 square miles of land in Georgia, 1,154 in Alabama, 2,408 in Tennessee, and 1,542 in North Carolina. Numerous Indians removed to what is now Arkansas under the terms of these treaties but 817 who enrolled themselves for removal subsequently concluded to remain east.³ This latter group now found themselves in a rather anomalous situation. They had ceded their rights to lands east of the Mississippi and their share of annuities was being paid, under the terms of the new treaties, to the Cherokees of Arkansas. They were not allowed to vote, hold

³U. S. 49th Cong. 2d Sess., Mis. Doc. 167, Bureau of Ethnology Fifth Annual Report, pp. 228. (Hereinafter cited as Fifth Report, Bureau of Ethnology).

office, or participate in any of the affairs of the Nation. They soon became an element of much irritation in the body politic of the tribe. The Cherokee authorities urged that they be furnished with rations and transported to their brethren in the West. The secretary of war instructed his agent, Return J. Meigs, that emigration to the Arkansas under patronage of the government had ceased, and that those Cherokees who had enrolled themselves for removal but had not yet gone, must do so at their own expense.

The western Cherokees had not been in their new home long before they discovered that they had not removed far enough westward to get away from the Whites. Accordingly, in 1828 a treaty was signed wherein they gave up their land in Arkansas in exchange for a grant of seven million acres in what is now Oklahoma.

Article eight of this treaty reads thus:

The Cherokee Nation, west of the Mississippi, having, by this agreement, freed themselves from the harrassing and ruinous efforts consequent upon a location amidst a white population, and secured to themselves and their posterity, under the solemn sanction of the guarantee of the United States as contained in this agreement, a large extent of unembarrassed country; and that their brothers yet remaining in the states may be induced to join them and enjoy the repose and blessings of such a state in the future, it is further agreed, on the part of the United States, that to each head of a Cherokee family now residing within the chartered limits of Georgia or of either of the states east of the Mississippi, who may desire to remove west, shall be given, on enrolling himself for emigration, a good rifle, a blanket, and kettle and five pounds of tobacco; (and to each member of his family one blanket) also, a just compensation for the property he may abandon, to be assessed by persons to be appointed by the President of the United States. The cost of emigration of all such shall be borne by the United States, and good and suitable ways opened, and provisions procured for their comfort, accommodation, and support, by the way, and provisions for twelve months after their arrival at the agency; and to each person, or head of a family, if he takes along with him four persons, shall be paid immediately on his arriving at the agency and reporting himself and his family, or followers, as emigrants

and permanent settlers, in addition to the above, provided he and they shall have emigrated from within the chartered limits of the state of Georgia, the sum of Fifty Dollars, and this sum in proportion to any greater or less number that may accompany him from within the aforesaid charter limits of the State of Georgia."

Under Article V, Thomas Graves, one of the Cherokee signers of the treaty, was to receive one thousand two hundred dollars for property losses sustained by him, and for personal suffering endured when he was confined as a prisoner, on a criminal, but false, accusation. George Guess, another of the signers, was to receive five hundred dollars for the use of the alphabet discovered by him. Also, in consideration of his relinquishing a valuable saline, the privilege was given him to locate and occupy another saline on Lee's Creek. Under Article X Captain James Rogers, the interpreter, in consideration of his having lost a horse in the service of the United States, and for all other claims for losses, was to be paid the sum of five hundred dollars.

The United States was very unwise in allowing these payments to be stipulated in the treaty, as it caused the government and the Cherokee agents who signed the treaty to be accused of dishonesty.

Chapter 11.

Removal Attempts and Resistance

It was about 1820 when the government of the Eastern Cherokees adopted a definite policy against leaving their homes in the East. In a memorial to congress presented by John Ross, George Lowery, Major Ridge, and Elijah Hicks, they declared that they knew what the western lands were like. There they could engage only in the chase and warfare. Since they had decided to quit those occupations forever, it had now become the fixed and unalterable determination of this nation never again to cede one foot of land.¹

Georgia had always been anxious to have the Indians removed but her demands did not become so acute and aggressive until the latter part of the eighteen twenties. The invention of the cotton gin had made profitable the lagging institution of slavery. The rich valleys of the Cherokees became a veritable bonanza for the cotton grower. The land-hungry citizenry of Georgia began increasing their demands on their state officials to remove the Indians and open this land to them for settlement. The state in turn increased its demands on the Federal government.

In accordance with these demands a commission was appointed in 1823 to make a new treaty with the Cherokees. The negotiations were all conducted in writing, and form an interesting chapter in the history of the methods used through a long series of years to secure from the Cherokees by "voluntary, peaceful, and reasonable means" the relinquishment of their ancestral territory.

¹American State Papers, Indian Affairs, II, 465-474.

The commission used threatening language and attempted to intimidate the Indians but they invariably and repeatedly returned the answer, "We beg leave to present this communication as a positive and unchangeable refusal to dispose of one foot more of land."²

When the failure of these negotiations became known in Georgia, Governor Troup on February 28, 1824 addressed a communication to the secretary of war in which he declared that Georgia was determined at all hazards to become possessed of the Cherokee domain, that if the Indians persisted in their refusal to yield, the consequences would be that the United States must either assist the Georgians in occupying the country which was theirs by right, or, in resisting the occupation, to make ware upon and shed the blood of brothers and friends.

President Monroe responded to this threatening language in a message to congress, in which it was shown that since the date of the compact of 1802 the government had succeeded in extinguishing the Indian title to over fifteen million acres within the boundaries of Georgia; and, further, that the compact of 1802 did not invalidate the Indian title, and that the United States could not use force in removing the Indians when it was stipulated that it should be done "peaceably and on reasonable conditions."

Forthwith a systematic prosecution of the Indians by state officers and the Georgia citizenry began. Outrageous acts were perpetrated. Stealing, robbery, arson, and even murder was not unknown. Return J. Meigs, United States agent to the Cherokees for

² Fifth Report, American Bureau of Ethnology. p. 236

several years said of them:

It is unfortunate for these people that they should be held in contempt by people who in no one respect are better than they and have no advantage of them except in the color of the skin.³

The United States government, in its efforts to civilize the Cherokees, aided them with the implements of a stable society, and had helped the American Board of Commissioners for Foreign Missions to Christianize and educate them. The United States had received Cherokee delegations with all the pomp given to diplomats of foreign nations. Under such influences the Cherokees had begun to take on a national consciousness and to consider themselves forever implanted in the southern ramparts of their beloved Southern highlands.

Rev. David Brown, who in the fall of 1825 made an extended tour through the Nation, reported to the war department that industry and commercial enterprises were extending themselves through the Cherokee Country. Nearly all the merchants were native Cherokees; the population was rapidly increasing. A census just taken showed 13,563 native citizens, 147 white men and 73 white women who had intermarried with the Cherokees, and 1,277 slaves. Schools were increasing every year, and indolence was strongly discountenanced. The Nation had no debt, and the revenue was in a flourishing condition.⁴

In 1826 they took a long step toward political stability by making for themselves a constitution and modeling it after that of the United States. A representative of the United States made a trip through the Cherokee country in 1829, and declared that the advancement the Cherokees had made in morality, religion, general information, and

³Niles Register, May 4, 1816.

⁴Fifth Report, American Bureau of Ethnology. p. 240.

agriculture had astonished him beyond measure. They had regular preachers in their churches; the use of spirituous liquors was in a great degree prohibited; their farms were worked much after the manner of the white people, and were generally in good order.

When the Georgia authorities learned of the action of the Cherokees in adopting a constitution Governor Forsyth sent a copy of that "presumptuous" document to the president demanding to know what the United States proposed to do about the "erection of a separate government within the limits of a sovereign State."⁵ He also inclosed a report of a state legislative committee of Georgia which asserted that prior to the Revolutionary war the Cherokee lands in Georgia belonged to Great Britain, and that the right as to both domain and empire was complete and perfect in that nation. The possession by the Indians was permissive. They were under the protection of Great Britain. Their title was temporary, being mere tenants at will, and such tenacy might have been terminated at any moment either by force or by negotiation, at the pleasure of that power. Upon the close of the Revolution, Georgia assumed all the rights and powers in relation to the lands and Indians in question previously belonging to Great Britain, and had not since divested herself of any right or power in relation to such lands, further than she had in respect of all the balance of her territory. She was now at full liberty and had the power and right to possess herself, by any means she might choose, of the lands in dispute, and to extend over them her authority and laws. Even though she possessed the right she was averse to exercising it

⁵January 26, 1828, Fifth Report, American Bureau of Ethnology. p. 258

until all other means of redress had failed. She now made one other and last appeal to the general government to open negotiations with the Cherokees on this subject. If no such negotiations should be opened, or if, being opened, it should result unsuccessfully, it was recommended to the next legislature of Georgia to take immediate possession of the disputed territory and to extend her jurisdiction and laws over the same. In a spirit of liberality, however, it was suggested that, in any treaty the United States might make with the Cherokees, Georgia would agree to allow reserves to be made to individual Indians not exceeding in the aggregate one-sixth part of the entire territory in dispute. Should the Indians still refuse to negotiate they were solemnly warned of the unfortunate consequences likely to follow, as the lands belonged to Georgia, and that she must and would have them.

The following March the house of representatives of the United States called upon the president for information on the subject and received a distinct avowal that the records of the United States failed to show any act of executive recognition of the new form of Cherokee government, but that, on the contrary, their status with respect to the United States was regarded as not changed in the slightest degree.

The United States instructed its agent Hugh Montgomery to use every means in his power to facilitate the removal of the Indians, and especially those Cherokees who resided within the chartered limits of Georgia. Secret agents were appointed and \$2,000 were authorized by the secretary of war to be expended in purchasing the influence of the chiefs in favor of the project.⁶ A. S. R. Hunter and J. S. Bridges

⁶The secretary of war, November 17, 1829. Ibid.

were appointed⁷ commissioners to value the improvements of the Cherokees who should elect to remove.

In July, 1828, gold was discovered near New Echota in Northeastern Georgia by a negro slave who was owned by one of the Cherokees. This caused a stampede in which the diggings were filled by a wild and lawless population. Federal troops were sent in to control them and were marched out again when Georgia indicated to her friend, Andrew Jackson, that she did not want them.

The struggle now became more grim and sinister than ever. It was a contest between the Georgians who were fighting for what they believed was rightfully theirs, having been purchased with their fathers' blood in the Revolution, as against the Cherokees who believed that they were being deprived of their birthright and that they were struggling for their political, economic, and racial existence.

The president appointed General William Carroll to make a tour through the Cherokee country and urge the expediency of their removal west of the Mississippi under the inducements held out by the treaty of 1828. After making the tour he reported to the war department that nothing could be done with the Cherokees by secret methods; they were too intelligent and too well posted on the current news of the day to be kept long in ignorance of the methods and motives of those who came among them.⁸

This threat of being deprived of a great part of her domain by an alien people appeared intolerable and unthinkable to Georgia; she was determined to resist it to the uttermost limits. She dared put

⁷T. L. McKenney to Hugh Montgomery, August 6, 1830. Ibid.

⁸November 19, 1829. Ibid., p. 260.

no further dependence on the promise of the United States to remove the Indians, for, going on the assumption that it was not bound to use force, it had not been able to make the Indians cede additional territory for several years. So Georgia started out on a policy which ignored the United States and its futile treaties. John Forsyth, former minister to Spain and now governor of Georgia, decided to put a swift end to this new nation which was trying to erect itself in the state of Georgia. He recommended to the legislature that it extend the laws of the state over the Cherokee country, and that body proceeded to do so on December 20, 1828. An act was passed to add the territory within Georgia and occupied by the Cherokee Indians to the counties of De Kalb, Carroll, Gwinnett, Hall, and Habersham, and to extend the laws of the state over the same. This was followed by the passage of an act reasserting the territorial jurisdiction of Georgia and annulling all laws made by the Cherokee Indians. It further declared that in any controversy arising between white persons and Indians the latter should be disqualified as witnesses.

This last clause made it practically impossible for Indians to collect debts or secure redress of wrongs or convict whites committing depredations upon them. In an eloquent speech on May 19, 1830 Edward Everett pointed out that lawless men had but to cross the Cherokee line, when they had but to choose the time and the place where the eye of no white man could rest upon them, and they could burn the dwelling, waste the farm, plunder the property, assault the person, murder the children of the Cherokees, and though hundreds of the tribe might be looking on there was not one of them permitted to bear witness against the spoiler. This law gave the whites absolute

dominance over the Indians.

Other legislation on this subject enacted by Georgia may be summarized as follows:

1. A penalty of forfeiture of all right to his land and improvements was denounced against any Cherokee who should employ any white man, or the slave of any white man, as a tenant-cropper, or assistant in agriculture, or as a miller or millwright.

2. Any Indian who should enroll for emigration and afterwards refuse to emigrate should forfeit all right to any future occupancy within the state.

3. No Indian should be allowed the use of more than 160 acres of land, including his dwelling house.

4. Grants were to be issued for all lots drawn in the land and gold lottery, though they might lie within the improvements of an Indian who had by any previous Cherokee treaty received reservation either in Georgia or elsewhere.

5. No contract between a white man and an Indian, either verbal or written, should be binding unless established by the testimony of two white witnesses.

6. Any Indian forcibly obstructing the occupancy by the drawer of any lot drawn in the land and gold lottery should be subject to imprisonment at the discretion of the court.

The president of the United States at about this time gave directions to suspend the enrollment and removal of the Cherokees to the West in small parties. He accompanied his directions with the remark that if they (the Cherokees) thought it for their interest to remain, they must take the consequences, but the executive of the

United States had no power to interfere with the exercise of the sovereignty of any state over and upon all within its limits.⁹

This attitude of Jackson was an abrupt about face to the previous policy of the government as expressed by John Quincy Adams in a special message to congress on February 5, 1827. He stated that it was his duty to say that if the legislative and executive authorities of the state of Georgia should persevere in acts of encroachment upon the territories secured by a solemn treaty to the Indians and the laws of the Union remained unaltered, a superadded obligation, even higher than that of human authority, would compel the executive of the United States to enforce the laws and fulfill the duties of the nation by all the force committed for that purpose to his charge.¹⁰

But before proceeding further let us see what measures the Cherokees were taking to protect themselves from the laws and encroachments of the Georgians.

In the summer of 1807, Doublehead, one of the chiefs who signed the treaty of Tellico in 1805, was accused of accepting land from the United States as a bribe for signing the treaty. When chief Bonepolisher upbraded Doublehead for his perfidy, Doublehead drew his revolver and killed him. Later in the evening, Doublehead, who had been drinking, entered a tavern where he encountered John Rogers and Alexander Sanders. Rogers berated him for his crime whereupon Doublehead remarked, "You are a white man and live by sufferance among us, hush and let me alone or I will kill you." Doublehead snapped his pistol at him, someone

⁹Secretary of War to Hugh Montgomery, Cherokee Agent, June 18, 1830 cited in Fifth Report, Bureau of Ethnology. p. 261.

¹⁰James D. Richardson, A Compilation of the Messages and Papers of the Presidents, 1789-1897. II, 373.

extinguished the light, a shot was fired and when the lamp was relighted Doublehead was lying on the floor with a large wound in his jaw. Doublehead was taken to a neighbor's loft but was found and killed by Sanders who was accompanied by Ridge.¹¹

In October, 1821, opposition to emigration was such as to cause the national committee and council to pass the following act:

Resolved by the National Committee and Council, That any person or persons, whatsoever, who shall choose to emigrate to Arkansas country, and shall sell the possessions he or they may be in possession of, to any person or persons whatsoever, he or they, so disposing of their improvements shall forfeit and pay unto the Cherokee Nation the sum of one hundred and fifty dollars; and be it further

Resolved, That any person or persons whatsoever, who shall purchase any improvements from any person or persons so emigrating, he or they, so offending shall also forfeit and pay a fine of one hundred and fifty dollars to the Nation, to be collected by the marshal of the district. By order of the National Committee.¹²

Other acts of violence occurred from time to time, committed first by those opposing removal and then by those in favor of it. In order to counteract the charges of Georgia that they were a lawless tribe of savages they adopted a constitution at New Echota July, 1827. In agreement with this constitution their legislative, executive, and judicial bodies began to function. Travellers through their country reported that their government compared very favorably with that of the Georgians who were calling them savages.

In 1829 another law was passed in which it was declared that any person enrolling for removal should forfeit his rights as a citizen and should be viewed in the same light as others not entitled to citizenship, and treated accordingly. It also provided that if any

¹¹Tennessee Historical Magazine, IV, 271, 272; cited in Emmett Starr, History of the Cherokee Indians, (Wardon Company, Oklahoma City, 1921), pp. 40, 41.

¹²Starr., op. cit., p. 63.

citizen sold his improvements to any person who had enrolled for removal, said citizen should be viewed as having disposed of his improvements to a citizen of the United States, and should be ineligible to hold any office of honor, profit, or trust in the Nation and be fined a sum not less than one thousand nor exceeding two thousand dollars, and be punished with one hundred lashes. It further provided that any person who had enrolled as an emigrant under the treaty of 1828, who had or intended to have his improvements valued by the agents of the general government, must remove out of the jurisdictional limits of the Nation within fifteen days after the passage of the act or they would be treated as intruders.

Governor William Carroll, of Tennessee, displayed his willingness to bribe the Indians to support removal treaties if the United States government would pass a removal bill. He wrote:

I cannot but hope that I can induce both the Creeks and Cherokees, as directed by the Secretary of War to agree to hold treaties; in which event the means of success will be found in assailing the avarice of the chiefs and principal men. . . I think I can move among the Cherokees without exciting their suspicion.¹³

The secretary of war employed James Rogers, a mixed-blood member of the Arkansas Cherokees, to go to the Eastern Cherokees and attempt to influence them to move in accordance with the 1828 treaty. Promises were made that led him to believe that he would receive a liberal reward which would place him and his family in easy circumstances for the balance of his life.¹⁴

¹³Senate Document, No. 512, 23 Cong., 1 sess. "Indian Removal," II, 206. (The five volumes of this series will hereinafter be referred to as Document 512.).

¹⁴Ibid., p. 206.

The government sent seventy keel and flat-boats to its agent to be used for transporting the Indians to their new homes. Small parties left from time to time during the latter part of 1829 and the early part of 1830.¹⁵ Most of them embarked at Gunter's Landing, and from there drifted down the Tennessee, Ohio, and Mississippi rivers to the mouth of the White River. Here they were embarked on steamboats and taken up the Arkansas River to Fort Smith and vicinity.¹⁶

The steamboat Industry passed Little Rock on January 28, 1830, on its way up the river with about 200 Cherokees aboard. An observer thought they looked more like whites than Indians. This appearance was probably caused by the fact that most of them were intermarried whites with their Indian families. Several of them had negro slaves which they brought with them. The next day the steamship Waverly passed up the river carrying nearly 200 more emigrants among whom white and black blood predominated.¹⁷

When groups such as these arrived at their destination, often in the dead of winter, they found that practically no preparation had been made for their reception. They had no houses and only improvised shelter protected them from the weather. Food was scarce and hard to get and generally the government was tardy with its payment of the treaty money. This caused the Indians great suffering. George Vashon, the government agent there, wrote in 1830:

The Five hundred Cherokees who reached here this year, have been under the necessity from want of supplies, of selling

¹⁵Ibid., p. 171.

¹⁶Ibid., p. 85.

¹⁷Cherokee Phoenix, March 10, 1830, p. 2; cited by Grant Foreman, Indian Removal, The Emigration of the Five Civilized Tribes of Indians (University of Oklahoma Press, Norman, 1932.), p. 231.

their claim on the government, for provisions, to anyone who would furnish something to relieve their sufferings. It is greatly to be regretted that the long continued delay of payment has operated to place these unfortunate people so much in the pitiless power of speculators.¹⁸

Lieutenant Harris wrote Gibson on the fifth of June 1834:

This is the third season that the cholera has scattered desolation and dismay over the Western waters and during its malignant influence no bodies of people have been able to move in any considerable numbers for any length of time in contact, upon the rivers with impunity.¹⁹

In describing some of the experiences of one of these parties on the way to the West, Harris wrote that on the fifteenth an alarming change took place with the introduction of a malignant type of cholera. Two sisters, the wives of Black Fox and Charley McDaniel, and Robert Shelton's wife and several others died before breakfast and eleven in all before the sun went down. The Indians were panic-stricken and scattered through the woods, building their camp fires as remote from each other as their several fears directed, until they were extended over an area of two or three square miles, thus adding to the difficulty of ministering to them.²⁰

After listening to account after account of occurrences similar to this, it is small wonder that the Indians resisted removal to the utmost. But the dishonesty of the whites and the intrigue of the government agents continued. Currey secretly employed intelligent mixed-breeds for a liberal compensation to circulate among the Indians and advance arguments calculated to break down their resistance.²¹

A Cherokee delegation composed of John Ross, George Lowrey, Major Ridge, and Elijah Hicks presented a memorial to congress noting that

¹⁸Document 512, II, 90.

¹⁹Foreman, *op. cit.*, p. 252.

²⁰*Ibid.*, p. 257.

²¹*Ibid.*, p. 236.

their nation labored under a peculiar inconvenience from the repeated appropriations made by congress for the purpose of holding treaties with them having in view the further purchase of lands. Such action had resulted in much injury to the improvement of the Nation in the arts of civilized life by unsettling the minds and prospects of its citizens. They implored the interposition of the president with congress in behalf of their nation, so that provision might be made by law to authorize an adjustment between the United States and the state of Georgia, releasing the former from its compact with the latter so far as it respected the extinguishment of the Cherokee title to land within the chartered limits of that state.²²

Another special commissioner, Col. John Lowrey, was appointed to visit the Cherokees and again lay before them a formal proposition for their removal to the West. The gist of Col. Lowrey's proposition was: (1) To give to the Cherokees a country west of the Mississippi, equal in value to the country they would leave; (2) each warrior and widow living within the limits of Alabama or Tennessee to be permitted, if he so desired, to select a reservation of 200 acres, which, if subsequently abandoned, was to be sold for the reservee's benefit; (3) each Indian desiring to become a citizen of the United States to have a reservation in fee simple; (4) all emigrants to be removed and fed for one year at the expense of the United States, and to be compensated for all property, except horses, which they should leave behind them, and, (5) the Nation to be provided with a liberal school fund.²³

The Cherokees had definitely settled upon their policy and the result was an emphatic refusal to enter into negotiations on the subject.

²²Fifth Report, American Bureau of Ethnology, p. 236.

²³Ibid., p. 262.

Numerous other emissaries and special commissions were appointed within the next few months, but they all met with the same reception.

By this time some of the Cherokees had become so tired of the wrangling, intrigue, corruption, and unrest that they were willing to give up and move. This group, however, constituted only about three to five hundred of the remaining thirteen thousand Cherokees that had not yet removed. They became a political factor in the tribe and were known by various names such as the "emigration" and "Arkansas" party. Those in favor of remaining in their present location were known as the "lovers of the land" or "home" party. They were sometimes called the "civil" party, too, while those in favor of removing were known as the "vagrants".

In order to counteract the tendency to submit to the inevitable the Cherokee legislature enacted a law exacting the death penalty for any person who should sign away his lands and improvements and agree to remove. Womankiller, one of the old chiefs of the Hickory Log district, spoke eloquently in the council in favor of the bill:

My Children: Permit me to call you so, as I am an old man and have lived a long time, watching the well being of this Nation. I love your lives, and wish our people to increase on the land of our fathers. The bill before you is to punish wicked men, who may arise to cede away our country contrary to the consent of the Council. It is a good law--it will not kill the innocent but the guilty. I feel the importance of the subject, and am glad the law has been suggested. My companions, men of renown, in Council, who now sleep in the dust, spoke the same language, and I now stand on the verge of the grave to bear witness to their love of country. My sun of existence is now fast approaching to its setting, and my aged bones will soon be laid underground, and I wish them laid in the bosom of this earth we have received from our fathers who had it from the Great Being above. When I shall sleep in forgetfulness, I hope my bones will not be deserted by you. I do not speak this in fear of any of you, as the evidence of your attachment to the country is proved in the bill now before your consideration. I am told, that the Government of the

United States will spoil their treaties with us and sink our National Council under their feet. It may be so, but it shall not be with our consent, or by the misconduct of our people. We hold them by the golden chain of friendship, made when our friendship was worth a price, and if they act the tyrant and kill us for our lands, we shall, in a state of unoffending innocence, sleep with thousands of our departed people. My feeble limbs will not allow me to stand longer. I can say no more, but before I sit, allow me to tell you that I am in favor of the bill.²⁴

Georgia passed more laws relative to the Cherokee country, one of which reasserted the territorial jurisdiction of Georgia and annulled all laws made by the Cherokee Indians.

An Indian named George Corntassel was tried for murder in Hall county in 1830 and sentenced to be hanged. Since he had killed another Indian and this was in Cherokee country the Cherokees believed that he should be tried in the Cherokee courts. Interested friends of the Cherokees had the case carried to the United States supreme court on a writ of error; but Georgia, resolving not to be bothered with federal courts, ordered the sheriff to hang Corntassel. George R. Gilmer, who was governor, declared that he would resist all interference with the Georgia courts.²⁵

The Cherokees sought to have Georgia restrained by the United States supreme court from extending her laws over them. In this famous case known as the Cherokee Nation versus Georgia, John Marshall said:

That from time immemorial, the Cherokee nation have composed a sovereign and independent state, and in this character have been repeatedly recognized, and still stand recognized, by the United States, in the various treaties subsisting between their nation and the United States

²⁴Cherokee Phoenix, Vol. II, No. 29, October 28, 1829, cited by Althea Bass, Cherokee Messenger, (University of Oklahoma Press, Norman, 1936), pp. 111, 112.

²⁵E. M. Coulter, A Short History of Georgia (University of North Carolina Press, Chapel Hill, 1933), pp. 215-222.

If a court were permitted to indulge their sympathies, a case better calculated to excite them can scarcely be imagined. A people once numerous, powerful and truly independent, found by our ancestors in the quiet and uncontrolled possession of an ample domain, gradually sinking beneath our superior policy, our arts and our arms, have yielded their lands by successive treaties, each of which contains a solemn guarantee of the residue. . . .

. . . If it be true, that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future.

. . . They may more correctly perhaps be denominated domestic dependent nations. They occupy a territory to which we assert a title independent of their will, which must take effect in point of possession when their right of possession ceases. Meanwhile they are in a state of pupillage. Their relation to the United States resembles that of a ward to his guardian. They look to our government for protection, rely upon its power, appeal to it for relief to their wants, and address the president as their Great Father.²⁶

So the case was dismissed for want of jurisdiction and Corntassel was hanged. The supreme court was unwilling to uphold the contention of the counsel that the Cherokees constituted a foreign nation. It was clear that the court supported the position of the Indians in their quarrel with Georgia, but it was unable to act in this case.

Among other laws passed by Georgia was one that became effective February 1, 1831, which prohibited the Cherokees from holding councils, or assembling for any purpose; provided for a distribution of their lands among Georgia citizens; required all Whites residing within the chartered limits of the Cherokee Nation to take an oath of allegiance to the state, and made it an offense punishable by four years imprisonment in the penitentiary to refuse to do so.

The annuity which was due from the federal government was no longer

²⁶Lawrence B. Evans, Leading Cases on American Constitutional Law (Callaghan and Company, Chicago, 1925), pp. 191-196.

paid to the treasurer of the Cherokee Nation, hence it was no longer available for the support of their tribal schools. This annuity was in payment for previous land grants made by the Cherokees and was not in the nature of a dole, as some uninformed persons believe.

The missionaries, like the Indians themselves, were divided on the question of removal, in about the same proportion. Some believed that for the good of the Indian he should be removed from the evil influence of the Whites to a place where he could live unmolested and free. Such a one was Rev. Isaac McCoy, a pioneer of the Baptist church in the West. Because of his personal observation and many years of working contact, his views on the Indian question present a wholesome mean between the bias of government bureau reports and the untempered advocacy of those who discussed the Indian theoretically or from a purely humanitarian standpoint.²⁷

On the other hand such missionaries as Reverends John Thompson, Isaac Proctor, Elizur Butler, and Samuel A. Worcester believed that the Indians were being seduced, cheated, robbed and murdered and that it was their duty to assist them in retaining their birthright as well as to educate and Christianize them.

Now the rigors of Georgia's severe policy was visited on the teachers and missionaries as well as on the Indians. They were arrested for failing to comply with the law requiring them to take the special oath of allegiance to Georgia. They felt that if they took the oath they would be affirming a falsehood and at the same time would lose their influence with the Indians. John F. Wheeler, the printer of the Cherokee Phoenix, was among the number arrested and consequently

²⁷Luther B. Hill, A History of the State of Oklahoma (Lewis Publishing Company), Chicago, 1910, p. 50.

the only publication of the Nation temporarily ceased.

Some of those arrested reluctantly took the oath of allegiance or agreed to leave the Cherokee country, but Rev. Samuel A. Worcester and Dr. Elizur Butler, two of the missionaries, refused. They were tried before Judge Augustin S. Clayton in the Gwinnett county superior court, and released on a technicality. Governor Gilmer urged them to either accept a permit or to leave the state within ten days. Indignant that they should be asked to obey the laws of Georgia, they ignored his suggestion and were rearrested by the Georgia militia and abused before being again brought before the Gwinnett court. They were tried in September, 1831, convicted, and sentenced to four years in the penitentiary. Governor Gilmer offered each a pardon if he would either swear allegiance to Georgia or leave the Cherokee country. The American Board of Foreign Missions, which was in sympathy with the poor Cherokees, urged that they refuse the pardons so as to make this a test case for their friends. Here was a case where there could be no possible legal technicality! Worcester, not being an Indian, had the right to bring suit before the court. He entered his suit for freedom in 1831, on the ground that he had violated no law, as Georgia's enactments dealing with the Cherokees were void. It was decided in 1832 and is known as the Worcester versus Georgia case.

John Marshall, the chief justice, ruled that the Georgia acts were void, and that she should free Worcester. William Lumpkin, who was now governor paid no attention to Marshall except to say that Georgia would not notice his decision. Jackson, who had no love for Marshall, the Indians, or the missionaries, refused to enforce the decision. George N. Briggs, a member of congress from Massachusetts, reported that Jackson, when informed of the court's decision, replied,

"Well, John Marshall has made his decision, now let him enforce it."²⁸

The missionaries, now learning for the first time the astounding fact that Georgia was more powerful than the United States supreme court, thought better of their earlier refusal of a pardon, and in January, 1833, accepted the governor's clemency.

In a letter to Secretary of War Cass, Davis, who had collected a large group of Cherokees into camp for removal wrote:

. . . It was trumpeted forth among the Indian, by the chiefs, headmen, and missionaries, that the decision mentioned had forever settled the controversy about their lands; that their laws and country would be unconditionally restored to them again, and the Georgians expelled from their territory. Following this councils were called in all the towns of the nation, rejoicings, night dances, etc., were had in all parts upon the occasion, and the Indians urged and pressed not to enrol. For a time these deluded people believed in the reality of the reports and assurances, and were rejoicing, yelling and whooping in every direction. Indeed, such was their audacity, that they sent private emissaries into our camp at the Highwassee river, before the emigrants embarked for Arkansas, and persuaded them not to go; that if they would remain they would be protected; which produced some disaffection among them, and having no guard, gave us a great trouble to preserve order among them, and to prevent their running off; some made the attempt to run off, but were promptly pursued and brought back. Finally, the agitation and disorder among them increased to such a degree, that on the night previous to their embarkation, we had to plant a strong chain of sentinels around their camp, composed of white men who had volunteered their services to prevent the disaffected from making their escape.²⁹

What a pity that he didn't record the methods employed by the guard for the return of the Indians who were "promptly pursued and brought back". How flatly these methods gave the lie to the agents' reports that these people were going on their own free will! Could it have been that the Whites who "volunteered their services" were merely doing it in a spirit of neighborly friendship and brotherly love?

²⁸Fifth Report, Bureau of American Ethnology, p. 266.

²⁹Document 512, III, 381.

The citizenry of the United States as a whole were not informed as to what was going on in the Indian country. Public opinion in sections that were disinterested was strongly in favor of the Cherokees. An editorial in the Niles Register of March 20, 1830, states that the argument seemed to begin and end with power. It stated that there seemed to be no necessity for hastening a decision upon the Indian question because such was the condition of these people, hemmed in by Whites as they were, that they would either rapidly decrease in numbers or advance in the art of civilized life.

In his special message to congress of February 22, 1831, the president entered upon a defense of his general policy in regard to the Indians. In reply, the North American Review said that it was "one of the least successful attempts to make the worse appear the better reason, that he had ever met with".³⁰

Memorials to congress, imploring a "vindication of the national character" and protesting against the course adopted by the administration, were presented by citizens from Massachusetts, Pennsylvania, New Jersey, and Maine. Probably the most noteworthy of these was the "Vassalborough Memorial" from the inhabitants of that town in Maine. They prayed that congress would extend protection over the Indian Tribes, and the Cherokees in particular, against the usurpation of state governments.

Thomas Hart Benton, in his Thirty Years View links the removal of the Indians with the slavery problem. In attempting to preserve the harmony of the Union he seeks to prove to the South that the North had not pursued a determined policy of depriving them of their slaves since

³⁰Hill, op. cit., p. 56.

the area of slave population had been almost doubled in the slave states, by sending away the Indians to make room for slavery expansion.

Later Benton quotes de Tocqueville as saying that the government used flowery language in attempting to induce the Indians to move, and spread before their eyes firearms, woolen garments, kegs of brandy, glass necklaces, bracelets of tinsel, ear-rings, and looking glasses. If when they beheld all these riches, they still hesitated, it was insinuated that they have not the means of refusing their required consent, and that the government itself would not long have the power of protecting them in their rights. Half convinced, half compelled, they went to inhabit new deserts, where the importunate Whites would not permit them to remain ten years in tranquility. In this manner did the Americans obtain, at a very low price, whole provinces, which the richest sovereigns in Europe could not purchase.³¹

These paragraphs arouse indignation among the supporters of the Jackson administration and Senator Benton marked them for refutation as soon as the book appeared. He said he had done a great wrong to our national character abroad in representing the United States as cheating and robbing these children of the forest.

In the spring of 1832 the secretary of war sent E. W. Chester to the Cherokees with instructions to offer them as a basis for the negotiation of a treaty the following terms:

1. The United States to provide them with a country west of Arkansas sufficiently large for their accomodation.

³¹Thos. Hart Benton, Thirty Years View, or a History of the Working of the American Government for Thirty Years, From 1820 to 1850 (D. Appleton and Co., New York, 1893), I, 691, 692.

2. This country to be conveyed to them by patent under the act of congress of May 28, 1830, and to be forever outside the limits of any state or territory.

3. The Cherokees to retain and possess all the powers of self-government consistent with a supervisory authority of congress.

4. The Cherokees to have an agent resident in Washington to represent their interest, who should be paid by the United States.

5. With the consent of congress the Cherokees in their new home to be organized as a territory and be represented by a delegate in the national congress.

6. All White persons to be excluded from their country.

7. The United States to remove them to their new country and to pay the expenses of such removal, which might be conducted in either of three ways: (a) By a commutation in money, to be allowed either to individuals or to families, (b) by arrangement among themselves, through which some competent person should remove them at a fixed rate, or (c) by persons to be appointed and paid by the United States.

8. The United States to provide them with subsistence for one year after removal.

9. An annuity to be secured to them proportioned to the value of the cession of territory they should make.

10. The United States to pay for all Indian improvements upon the ceded land.

11. Provision to be made for the support of schools, teachers, blacksmiths and their supplies, mills, school-houses, churches, council-houses, and houses for the principal chiefs.

12. A rifle to be presented to each adult male, and blankets, axes, plows, hoes, spinning wheels, cards, and looms to each family.

13. Indian live-stock to be valued and paid for by the United States.

14. Annuities under former treaties to be paid to them upon their arrival west of the Mississippi.

15. Provision to be made by the United States for Cherokee orphan children.

16. Protection against hostile Indians to be guaranteed to the Cherokees.

17. A few individual reservations to be permitted east of the Mississippi, but only on condition that the reservees should become citizens of the state in which they resided, and that all reservations between them and the United States, founded upon their previous circumstances as Indians, must cease.³²

This was undoubtedly the best offer ever made the Cherokees, either before or since, but they loved their homes and had come to distrust both the national and state governments, therefore, like the others it was rejected. Could they have foreseen that within six years they would be compelled to move at the point of bayonets and in accordance with a much less liberal treaty, their answer might have been different. However, in view of the actual history of the matter, it remains a matter of speculation as to just how faithfully the United States would have abided by the terms of the proffered treaty.

In the course of Chester's efforts to secure acceptance of the

³²Fifth Report, American Bureau of Ethnology, pp. 263, 264.

proposed treaty he learned that the Cherokees, in view of the difficulties and harrassing circumstances surrounding their situation, were considering leaving their eastern homes and moving to the country adjacent to the mouth of the Columbia River, on the Pacific coast. When informed of this proposition, the secretary of war immediately instructed Mr. Chester to discourage all idea of such removal. He felt that there they would be surrounded by tribes of hostile savages, and would be too remote from the frontier and military posts of the United States to enable the latter to extend to them the arm of protection and support.

Since the Cherokees had always been friendly to the British in the years preceeding the Revolution it may have been that the secretary felt that they would be once again in a position to fall under the influence of the English. The territory of Oregon was then in dispute between the United States and Great Britain. If the Cherokees had removed there, declared themselves subjects of the English Crown, and forcibly ejected American settlers and trappers, they might have been the determining factor in securing that territory to the British.

Meanwhile Currey and his assistants were working at great odds to collect a party of emigrants for removal. He had secured the assistance of Edward Adair, a western Cherokee, to travel among his brothers in the East and present to them the advantage of the new home in the West.³³ During the summer of 1831 while paying the Indians an annuity of fifty cents each he used this opportunity to enroll them for removal. The chiefs and leaders by threats of whipping compelled them to refuse the annuity.³⁴ By December Currey had been able to enroll only seventy-one

³³Document 512, II, 707.

³⁴Ibid., p. 522.

families of whom twenty-one were Indians headed by white men, totaling 366 persons.

Later in the season the sufferings of the poorest Indians increased so that numbers of them sought relief in Currey's enrollment and he felt that he would have a thousand ready to remove in the spring. A few chose to leave independently and to find their own way to the West in flatboats. But these were not allowed to depart in peace.

On January 25, 1832, Currey wrote Herring saying that "unjust claims of long standing having been placed in the hands of Cherokee sheriffs, and the property of emigrants seized on the highroads, to extort money from, or annoy, them in their passage thither, and to the town of Calhoun, opposite the place of embarkation. They have been decoyed by the irresistible influence of ardent spirits, and were induced to create debts without the prospect of advantage to themselves or families."³⁵ He said that delays of the most unlooked-for character were occasioned by serving bail warrants and attaching Indian property to satisfy debts, in some instances of forty years standing.

When Currey was ready to depart in April, 1832, instead of the thousand emigrants promised him, he had but 380 persons, 108 blacks, forty whites, and the remainder mixed, with only a very few fullbloods. Twenty-one were from Tennessee and the remainder were from Georgia.

On April 10 they left the Cherokee agency at Calhoun in nine flatboats, passed down the Tennessee river through the rapids at Muscle Shoals, and a week later arrived at Waterloo. Here they were transferred to the steamboat Thomas Yeatman and left the mouth of the Tennessee about the twenty-third. They traveled down the Ohio and Mississippi

³⁵Document 512, III, 152.

and up the Arkansas River and reached Little Rock on the thirtieth. Some of them disembarked at the Cherokee agency just above Fort Smith, on the left bank of the Arkansas River, and the remainder were taken farther up to the mouth of the Illinois. On being put ashore they learned to their dismay that there was no food awaiting them, nor money to purchase any. They were destitute but Currey made temporary arrangements with the agent, Vashon, to furnish them with some rations, but not to their slaves or the whites intermarried among them.³⁶

Since Georgia laws forbade the Cherokee government from functioning in that state, their seat of government was moved to Red Clay, Tennessee. The council met here on July 23, 1832. They would have elected a chief but they feared the penalty threatened by Georgia for exercising the functions of their government, so they passed a resolution continuing their chief in office. It was here that Elisha W. Chester's proposition was rejected in a resolution stating that the Indians would consider such a proposition only when offered through the regularly appointed Cherokee agent. It stated that when the government would afford them the protection guaranteed by their treaties and the decisions of the supreme court, so that they would then be able to negotiate on equal terms with the more powerful government, but now they were asked to treat with their backs to the wall. Chester reported that there were some members in favor of the treaty but they were a small minority and feared to urge their views. The council convened again on the eighth of October and Chester again urged the propositions submitted by the president. He

³⁶Ibid., p. 378.

OKLAHOMA
NORMAL & METROPOLITAN COLLEGE
LIBRARY
SEP 27 1938
33.

threatened the Cherokees that if they rejected the offer a second time they would have to apply to the state of Georgia. After a several weeks discussion he reported that the majority of the most enlightened half-breeds and white men having Indian families approved the treaty, but the full-bloods were opposed to it, having always followed the advice of Ross and others who did their thinking for them. The efforts of the government to create a sentiment for removal were handicapped by its failure to provide for and keep its agreements with emigrants on their arrival in the West. The resulting suffering had caused much discontent and complaint, news of which was circulated among the eastern Cherokees.

The national election was now near and the Indians were encouraged to resist a while longer because Henry Clay would surely defeat Jackson who was running for re-election. When elected, Clay would see that the treaties and decisions of the supreme court were enforced and the Indians protected against the encroachments of Georgia. But the election did not go as they had hoped; Jackson was re-elected. Just as soon as the results became known government agents secretly engaged in efforts to call another meeting of the Cherokees favorable to removal, in order to destroy the influence and standing of the Ross delegation.

When they arrived in Washington, January 8, 1833, they submitted to the secretary of war their memorial asserting that the Cherokee Nation would never consent to remove to the West and praying the government to enforce the rights secured to them by treaty. The memorial stated that the government had withdrawn its protection in the face of the illegal action of Georgia in annulling their laws, and dividing their lands by lottery. The president told the delegation that he was

solicitous for their welfare but it could never be realized except by surrender to the policy of removal.

Either influenced by bribes or wearied and disgusted by the constant efforts of the whites, the state of Georgia and the federal government to gain possession of their property regardless of the methods of obtaining it, some of the lesser chiefs decided on removal.

Ross continued to dominate the delegation, however. The president offered him \$2,500,000 for all their country except that in North Carolina, and finally raised the offer to \$3,000,000, if they would remove. Ross informed him that the gold mines in Georgia were alone worth more than that. He also inquired how the government, if it could not protect them in their rights in Georgia, could protect them against similar evils in the West.

When Ross gave his report to the council on the return of the delegation May 14, 1833, his nephew, William Shorey Coodey, protested against the course which had been pursued by the leaders. In the debate which followed Coodey was assisted by Major Ridge, Boudinot, and others. Ross was assisted by John Lowery and their adherents. In a compromise it was agreed that discussion of the subject should go over to the October council, when all the people of the Nation would be invited to be present and express their views.

Chapter III.

Removal by Pressure.

The United States Removal Act of May 28, 1830, is considered the first efficient step toward making effective the policy of colonizing the Indians. The first section authorized the president to cause so much of any territory belonging to the United States west of the river Mississippi, not included in any state or organized territory, and to which the Indian title had been extinguished, as he might judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as might choose to exchange the lands where they resided, and remove there, and to cause each of said districts to be so described by natural or artificial marks as to be easily distinguished from every other. Section II authorized the president to exchange such districts with any tribe then residing within the limits of any of the states or territories. By the third section it was made lawful for the president solemnly to assure the tribe or nation with which the exchange should be made, that the United States would forever secure and guarantee to them and their heirs and successors the country so exchanged with them; and if they preferred it, the United States would cause a patent to be executed to them for the same.

In reviewing Indian affairs the secretary of war, in his report of 1832, said that the act created a barrier beyond which the dispersed remnants of the various Indian tribes might be collected and preserved. It secured to the Indians forever the undisputed possession and control of the region allotted to them. No similar attempt had ever been made, and therefore no unfavorable deductions could be drawn from the

preceding efforts. No organized government existed or could exist, to assert jurisdiction over these tribes, and treaties of cession were incompatible with the whole basis of the plan of settlement.

The condition of the entire tribe was getting more and more desperate. By the summer of 1833 what with the oppression of the intruders, with venders of whiskey, and with other troubles caused by Georgia, on the one hand, and the vain hopes held out to them by Ross and other influential leaders on the other, they were thoroughly demoralized. Little provision for the future was made and few crops put in. The full-bloods were in a state of wretchedness bordering on starvation. The Indian agent reported instances of the Indians digging roots for food. One case was reported of ten persons who had gone into the woods to dig roots, and of the ten six died from eating a poisonous weed.¹

Another council was held at Red Clay in October, 1833, and another delegation was appointed to go to Washington during the succeeding session of congress. It was composed of John Ross, Richard Taylor, Daniel McCoy, Hair Conrad, and John Timson. They were authorized to represent the Cherokee Nation "on all subjects touching the rights and interests of the same, with a view to a final termination of existing difficulties."

Since the delegation did not favor removal, Governor Lumpkin attempted to forestall them by writing the secretary of war that they were wholly undeserving the courtesy and marked attention of the official authorities in Washington.

The Western Cherokees objected to receiving the emigrants except

¹Ibid., p. 445.

on the agreement that the government make some arrangement for them. Western chiefs John Jolly, Black Coat, and Walter Webber signed an agreement February 10, 1834, at the Cherokee Agency near the mouth of the Illinois River, with the government agent, George Vashon. It provided for increasing the annuities and enlarging the holdings of the Western Cherokees as a precedent to the participation in them by their brothers from the East. Since there was such a large number of children whose parents had died, provision was made for the establishment of an orphan's home. The Stokes commissioners at Fort Gibson did not like the treaty and refused to submit it to the secretary of war.

After the Georgia legislative act of June 1, 1830, the whole of the Cherokee country had been surveyed into land lots of 160 acres each, and gold lots of forty acres, which were put up and distributed among the white citizens of Georgia by public lottery, each white citizen receiving a ticket. Each head of a Cherokee family was allowed to retain a reservation of 160 acres, but no deed was given, and his continuance in possession depended solely on the pleasure of the legislature. Provision was made for the settlement of contested lottery claims among the white citizens, but the sweeping law which forbade anyone of Indian blood to bring suit or to testify against a white man made it impossible for the Indian owner to defend his right in any court or to resist the seizure of his homestead, or even his own dwelling house, and anyone so resisting was subject to imprisonment at the discretion of a Georgia court.

Oppression was employed mercilessly to break the spirit of the

Cherokees who refused to move. The homes of the wealthier members of the tribe were taken from them. Joseph Vann's plantation of about 800 acres, a residence of brick that had cost about \$10,000 together with extensive improvements, were taken from him. His property was confiscated on the pretense that he had violated the law of Georgia by employing a white man to oversee his farm while he was absent from home. Vann and his family were driven out in the cold weather and compelled to wade through the snow to seek shelter across the Tennessee line, where they found an open log cabin with only a dirt floor in which to live.²

The fine estate of John Ross was seized by authority of Georgia in the spring of 1834. The newcomer took possession of his valuable ferry at the head of the Coosa River and all of his extensive farm and houses, and left only one room on the ground floor of their home for the occupancy of Mrs. Ross, who was in feeble health. All members of the tribe who had valuable property were treated similarly.

Andrew Ross, John West, James Starr, and T. F. Pack, accompanied by a delegation of the Western Cherokees composed of John Rogers, John Drew, James Rogers, and Moses Smith, on June 19, 1834, negotiated a treaty with John H. Eaton as commissioner on behalf of the United States. In the treaty they ceded to the United States all the Cherokee land in Georgia, North Carolina, Tennessee, and Alabama and agreed to move west. In consideration of this the United States was to allow them rifles, blankets, brass kettles, plows, axes, hoes, looms and wheels, \$10,000 a year for ten years for schools, and \$25,000 for the

²Foreman, op. cit., p. 251.

erection of school houses. A supplement provided that the Cherokees might negotiate with the Osages for a part of their holdings west as far as "McCoy's habitable line". Also, the law which prevented the Indians taking liquors into their country for their own use was suspended.

The treaty was never ratified but because of his participation in this business Andrew Ross's life, as well as that of some of the other signers, was threatened on his return to the Cherokee Nation. A general council was held at Red Clay, Tennessee, where the question of removal was debated in what is officially described as a tumultuous and exciting meeting. One of the principal advocates of emigration, John Walker, Jr., was assassinated from ambush while returning to his home. On account of his wife's influential connections (she was the niece of the former government agent Return J. Meigs), the affair created considerable excitement. At first it was considered another political murder, but later facts determined that the killing was due to a personal motive.³ On hearing of the murder, Jackson wrote to Currey and instructed him to notify John Ross and his council that they would be held answerable for every murder committed by his people on the emigrating party. Ross was also informed that on the application of Governor Carroll, of Tennessee, for the aid of the military, it would be granted to him. It further stated that the civil power "is competent to protect the honest citizen and to punish civil discord and murder, and you may assure Mr. John Ross and his coadjutors that it will perform its duty."⁴

Ross replied in a letter directly to Jackson that it would be too

³Nineteenth Report, American Bureau of Ethnology, p. 121.

⁴John Spencer Bassett, Correspondence of Andrew Jackson (Carnegie Institution of Washington, 1826), V, 288.

horrible to conceive that he and the council should be held responsible for offences which might be committed by others when at the same time they were innocent of any crime whatever. He felt that the president knew him too well and his character too long to be persuaded in the belief that under any circumstances he would be guilty of any criminal offence. Further, he felt that the treaties, laws and constitution of the United States and the whole Cherokee Nation were placed under the protection of the general government and that one branch of its members had as strong a claim for protection as another, and he was not aware that the Cherokee Nation had ever forfeited that protection. At the same time he communicated to Jackson information of a threat made by the government's agent, Currey, that Ross would be killed if he had to do it himself.⁵

Some of the earlier emigrants became tired of life in the West and returned to their homes in Georgia and brought very unfavorable reports of the country west of the Mississippi. One of the more prominent of these was Bushyhead, the great-grandfather of Dennis Wolf Bushyhead, state senator from Claremore, and nephew of the late Will Rogers. These reports added to the difficulty of securing recruits for emigration.

In spite of this, Currey succeeded in enrolling a considerable number and a time had been fixed for wagons to come to their neighborhoods, to carry their children and baggage to the rendezvous. The opponents of removal called meetings where inducements, intimidations, and warnings of disease along the route were employed to discourage their departure. Nearly 800 of those who had enrolled refused to leave.

⁵Ibid., p. 292.

Numerous small detachments continued to move westward, however, under the direction of the government's agents or at their own expense, all of whom experienced about the same hardships and treatment as their predecessors.

In February, 1835, two rival delegations from the Eastern Cherokees arrived in Washington. The "Home" party was, as usual, headed by John Ross, while the "Emigration" party was guided by Major Ridge. Rev. J. F. Schermerhorn was appointed to treat with them. He ignored Ross and his delegation and concluded a treaty with Ridge. It provided that the tribe should cede all its eastern territory and remove to the West in consideration of which the United States would pay \$4,500,000. The amount was first set at \$3,250,000, but the offer of Ross and his delegates to agree to the treaty if the payment were increased to \$20,000,000, influenced Schermerhorn to the extent that it was increased to \$4,500,000. It was signed March 14, 1835, with the understanding that it was to be ratified by the whole tribe in council before it became effective.⁶ Schermerhorn armed himself with an address from President Jackson and spent the summer and fall in a vain endeavor to secure the ratification of the treaty. When it became apparent that his efforts were failing he asked for money to bribe the leading members of the tribe. Lewis Cass, who was then secretary of war, refused his request adding that, since it would probably be in conformity with his wish, he would not file Schermerhorn's letter.⁷

⁶Chas. J. Kappler, Indian Affairs, Laws and Treaties (Government Printing Office, 1904), II, 1041.

⁷Hill, op. cit., p. 63.

The tribe met at Red Clay in October to consider the treaty. For some reason Ridge and Elias Boudinot joined the others in opposing the treaty. It was almost unanously rejected. The council authorized another delegation, headed by John Ross to treat for removal, either in the Indian country or at Washington.

Schermerhorn then served notice on the Cherokees to appear at New Echota in December to negotiate another treaty. They were warned by circulars, printed in both English and Cherokee, that those who failed to appear would be counted in favor of any treaty made. The Cherokees learned that Schermerhorn had no authority to treat on any other basis than the one rejected by the Nation, so the delegates decided to proceed to Washington.

The Georgia guard, in order to prevent Ross's departure for Washington, went to his home in Tennessee, arrested him and seized all of his private correspondence and the proceedings of the Cherokee council. At any other time and under different circumstances such an invasion of Tennessee by the Georgia militia might have caused serious complications. As it was, Tennessee registered no official protest.

John Howard Payne, the poet and author of Home Sweet Home, who was engaged in the work of collecting historical and ethnologic material at the home of Ross was arrested at the same time, and all his letters and scientific manuscripts seized. A Georgia guard of twenty-five men came, arrested them, and compelled them to ride all night through a cold rain to the old Vann plantation in Georgia where they were held prisoners for twelve days without charges being filed against them, and then released without apology or explanation.

After their release the Georgians tried to incite a riot against Payne by saying that he was an abolitionist from the North.

The national paper, the Cherokee Phoenix, had been suppressed and its plant seized by the same guard a few days earlier. Thus in the time of their greatest need the Cherokees were deprived of the help and counsel of their teachers, their national press, and their chief.

In accordance with the call for a council at New Echota the Indians assembled at the appointed time and place. Mr. Schermerhorn, who could hardly be accused of any tendency to underestimate the size of the gathering, reported only three to five hundred as present although the best of weather prevailed. Furthermore, of those present, more than half were women and children.

Governor Carroll, of Tennessee, had been commissioned to act with Schermerhorn but was prevented from doing so by ill health. The council was opened on December 22, 1835, and its objects were duly explained by the Rev. Mr. Schermerhorn. He attributed the small attendance to the influence of John Ross and the fact that he was in Washington at the time.

Those opposed to the treaty suggested that the reason for the absence of so large a proportion of the nation was because the right to convene a national council was vested only in the principal chief, and they were unaware that that officer's authority had been delegated to Mr. Schermerhorn.

Those present resolved, on the twenty-third, to enter into negotiations and a committee of twenty was appointed to arrange the details with the commissioner and to report the result to the whole council.

Five days were consumed in discussing and agreeing upon the details of the treaty, one point of difference being as to whether the \$5,000,000 consideration for their lands as mentioned in the resolution of the senate was or was not meant to include the damages to individual property sustained at the hands of white trespassers.

The Indians insisted that \$300,000 additional should be allowed for that purpose, but it was finally agreed that the treaty should not be presented to the senate without the consent of their delegation, or until they were satisfied that the senate had not included these claims in the sum named in the resolution of that body. It was also insisted by the committee that reservations should be made covering such of their people as desired to remain in their homes and become citizens of the United States.

The articles as agreed upon were reported by the Cherokee committee to their people, and were approved, transcribed, and signed on the twenty-ninth of December.

The next day the council adjourned after designating a committee to proceed to Washington to urge the ratification of the treaty, clothed with power to assent to any alterations made necessary by the action of the president or senate.

As soon as the council adjourned Schermerhorn wrote the secretary of war, saying: "I have the extreme pleasure to announce to you that yesterday I concluded a treaty. . . Ross after this treaty is prostrate. The power of the nation is taken from him, as well as the money, and the treaty will give general satisfaction."⁸

⁸Fifth Report, American Bureau of Ethnology, p. 283.

Walker in his Torchlights to the Cherokees said that the unofficial signatures that were affixed to the treaty were executed by Indians who were not really in favor of it, but who had become wearied and disgusted with the constant arrogance of the whites. These Indians had abandoned hope of ever succeeding in their fight for the retention of their residence within their own native country in the eastern United States. Turmoil, strife, and possibly bloodshed were the only rewards, as far as they could see, that would be their lot if they remained.⁹

Isaac McCoy, the Baptist missionary to the Indians, said that the signers of the treaty told him that they had acted under the influence of necessity in choosing between two evils which hung over the nation. Notwithstanding that their removal was a severe oppression, they believed that far greater evils would follow if they refused to go.¹⁰

TREATY CONCLUDED DECEMBER 29, 1835; PROCLAIMED MAY 23, 1836.

Held at New Echota, Georgia, between General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people of the Cherokee tribe of Indians.

MATERIAL PROVISIONS

✓ The preamble recites at considerable length the reasons for the negotiation of the treaty and the preliminary steps taken, following which the provisions of the treaty as concluded are given.

1. The Cherokee Nation cedes to the United States all the land

⁹Robert Sparks Walker, Torchlights to the Cherokees, the Brainard Mission (Macmillan Co., New York, 1931), pp. 316, 317.

¹⁰Hill, op. cit., p. 63.

claimed by said Nation east of the Mississippi, and thereby releases all claims on the United States for and in consideration of \$5,000,000. In case the United States Senate should decide that the sum does not include spoliation claims, then \$300,000 additional should be allowed for that purpose.

2. The description of the 7,000,000 acres of land guaranteed to the Cherokees west of the Mississippi by the treaties of 1828 and 1833 is repeated, and in addition thereto the further guaranty is made to the Cherokee Nation of a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said 7,000,000 acres, as far west as the sovereignty of the United States and their right of soil extend, provided that if the salt plain shall fall within the limits of said outlet the right is reserved to the United States to permit other tribes of Indians to procure salt thereon. "And letters of patent shall be issued by the United States as soon as practicable for the land hereby guaranteed."

It being apprehended that the above would afford insufficient land for the Cherokees, the United States, in consideration of \$500,000 agree to patent to them in fee simple the following tract, viz: Beginning at the southeast corner of the Osage Reservation, and running north along the east line of the Osage lands 50 miles to the northeast corner thereof, thence east to the west line of the State of Missouri, thence with said line south 50 miles, thence west to the place of beginning, estimated to contain 800,000 acres, it being understood that if any of the Quapaw lands should fall within these limits they should be excepted.

3. All the foregoing described lands to be included in one patent, under the provisions of the act of May 28, 1830; the United States to retain possession of the Fort Gibson military reservation until abandoned, when it shall revert to the Cherokees. The United States reserve the right to establish post and military roads and forts in any part of the Cherokee country.

4. The United States agree to extinguish for the Cherokees the Osage half-breed titles to reservations under the treaty of 1825 for the sum of \$15,000. The United States agree to pay to the American Board of Commissioners for Foreign Missions the appraised value of their improvements at Union and Harmony missions.

5. The United States agree that the land herein guaranteed to the Cherokees shall never, without their consent, be included within the limits or jurisdiction of any State or Territory. The United States also agree to secure the right to make and carry into effect such laws as they deem necessary, provided they shall not be inconsistent with the Constitution of the United States and such acts of Congress as provide for the regulation of trade and intercourse with the Indian tribes; and provided also they shall not effect such citizens and army of the United States as may travel or reside in the Indian country by permission granted under the laws or regulations thereof.

6. Perpetual peace shall exist between the United States and the Cherokees. The United States shall protect the Cherokees from domestic strife, foreign enemies, and from war with other tribes, as well as from the unlawful intrusion of citizens of the United States. The Cherokees shall endeavor to maintain peace among themselves and with their neighbors.

7. The Cherokees shall be entitled to a delegate in the United States House of Representatives whenever Congress shall make provision for the same.

8. The United States agree to remove the Cherokees to their new home and to provide them with one year's subsistence thereafter. Those desiring to remove themselves shall be allowed a commutation of \$20 per head therefore, and, if they prefer it, a commutation of \$33. $\frac{1}{3}$ per head in lieu of the one year's promised subsistence. Cherokees residing outside of the limits of the nation who shall remove within two years to the new Cherokee country shall be entitled to the same allowances as others.

9. The United States agree to make an appraisement of the value of all Cherokee improvements and ferries. The just debts of the Indians shall be paid out of any money due them from improvements and claims. The Indians shall be furnished with sufficient funds for their removal, and the balance of their dues shall be paid them at the Cherokee Agency west of the Mississippi. Missionary establishments shall be appraised and the value paid to the treasurers of the societies by whom they were established.

10. The President of the United States shall invest in good interest-paying stocks the following sums for the benefit of the Cherokee people, the interest thereon only to be expended: \$200,000, in addition to their present annuities, for a general national fund; \$50,000 for an orphans' fund; \$150,000, in addition to existing school fund, for a permanent national school fund: the disbursement of the interest on the foregoing funds to be subject to examination and any misapplications thereof to be corrected by the President of the United States.

On two years' notice the Cherokee council may withdraw their funds, by the consent of the President and the United States Senate, and invest them in such manner as they deem proper. The United States agree to appropriate \$60,000 to pay the just debts and claims against the Cherokee Nation held by citizens of the same, and also claims of citizens of the United States for services rendered the nation. Three hundred thousand dollars is appropriated by the United States to liquidate Cherokee claims against the United States for spoiliations of every kind.

11. The Cherokees agreed to commute their existing permanent annuity of \$10,000 for the sum of \$214,000, the same to be invested by the President as a part of the general fund of the nation. Their present school fund shall also constitute a portion of the permanent national school fund.

12. Such Cherokees as are averse to removal west of the Mississippi and desire to become citizens of the States where they reside, if qualified to take care of themselves and their property, shall receive their proportion of all the personal benefits accruing under this treaty for claims, improvements, and per capita.

Such heads of Cherokee families as desire to reside within the States of North Carolina, Tennessee, and Alabama, subject to the laws thereof and qualified to become useful citizens, shall be entitled to a pre-emption right of 160 acres at the minimum Congress price, to include their improvements. John Ross and eleven others named are designated as a committee on the part of the Cherokees to recommend persons entitled to take pre-emption rights, to select the missionaries who shall be removed with the nation, and to transact all business that may arise with the United States in carrying the treaty into effect. One hundred thousand dollars shall be expended by the United States for the benefit of such of the poorer classes of Cherokees as shall remove west.

13. All Cherokees and their heirs to whom reservations had been made by any previous treaty, and who had not sold or disposed of the same, such reservations being subsequently sold by the United States should be entitled to receive the present value thereof from the United States as unimproved lands. All such reservations not sold were to be confirmed to the reservees or their heirs. All persons entitled to reservations under treaty of 1817, whose reservations, as selected, were included by the treaty of 1819 in the unceded lands of the Cherokee Nation, shall be entitled to a grant for the same. All reservees who were obliged by the laws of the States in which their reservations were situated to abandon the same or purchase them from the States, shall be deemed to have a just claim against the United States for the value thereof or for the amount paid therefor, with interest. The amount allowed for reservations under this article is to be paid independently, and not out of the consideration allowed to the Cherokees for spoliation claims and their cession of lands.

14. Cherokee warriors wounded in the service of the United States during the late war with Great Britain and the southern tribes of Indians shall be allowed such pensions as Congress shall provide.

15. The balance of the consideration herein stated, after deducting the amount actually expended for improvements, ferries, claims, spoiliations, removal, subsistence, debts, and claims upon the Cherokee Nation, additional quantity of lands, goods for the poorer class of Cherokees, and the several sums to be invested for the general national fund, shall be divided equally among all the people belonging to the Cherokee Nation east, according to the census just completed. Certain

Cherokees who had removed west since June, 1833, were to be paid for their improvements.

16. The Cherokees stipulate to remove west within two years from the ratification of this treaty, during which time the United States shall protect them in the possession and enjoyment of their property, and in case of failure to do so shall pay all losses and damages sustained by them in consequence thereof.

The United States and the several States interested in the Cherokee lands shall immediately proceed to survey the lands ceded by this treaty, but the agency buildings and tract of land surveyed and laid off for the use of Col. R. J. Meigs, Indian agent, shall continue subject to the control of the United States or such agent as may be specially engaged in superintending the removal of the tribe.

17. All claims arising under or provided for in this treaty shall be examined and adjudicated by General William Carroll and John F. Schermerhorn, or by such commissioners as shall be appointed by the President of the United States for that purpose, and their decision shall be final, and the several claimants shall be paid on their certificate by the United States. All stipulations of former treaties not superseded or annulled by this treaty shall continue in force.

18. The annuities of the nation which may accrue during the next two years preceding their removal shall, on account of the failure of crops, be expended in provisions and clothing for the benefit of the poorer classes of the nation as soon after the ratification of this treaty as an appropriation shall be made. No interference is, however, intended with that part of the annuities due the Cherokees West under the treaty of 1819.

19. This treaty is to be obligatory after ratification.

20. The United States guarantee the payment of all unpaid just claims upon the Indians, without expense to the, out of the proper funds of the United States for the settlement of which a cession or cessions of land has or have been heretofore made by the Indians in Georgia, provided the United States or State of Georgia had derived benefit therefrom without having made payment therefor.

This article was inserted by unanimous requests of the Cherokee committee after the signing of the treaty, it being understood that its rejection by the Senate of the United States should not impair any other article of the treaty.¹¹

On the 31st of December, 1835, James Rogers and John Smith, as delegates from the Western Cherokees, signed an agreement which is

¹¹Edward Everett Dale, Readings in Oklahoma History (Row, Peterson and Company, Evanston, 1930), p. 159.

attached to the treaty wherein they agreed to its provisions on behalf of the Western Cherokees, with the provision that it would not affect any claims of the latter against the United States.¹²

SUPPLEMENTARY ARTICLES TO THE FOREGOING TREATY, CONCLUDED
MARCH 1, 1836; PROCLAIMED MAY 23, 1836.

Agreed on between John F. Schermerhorn, commissioner on the part of the United States, and the committee duly authorized at a general council held at New Echota, Georgia, to act for and on behalf of the Cherokee people.

MATERIAL PROVISIONS

These articles were concluded as supplementary to the treaty of December 28, 1835, and were ratified at the same time and as a part of that treaty. They were rendered necessary by the determination of President Jackson not to allow any pre-emptions or reservations, his desire being that the whole Cherokee people should remove together to the country west of the Mississippi.

1. All pre-emption rights and reservations provided for in articles 12 and 13 are declared void.

2. The Cherokees having supposed that the sum of \$5,000,000 fixed as the value of Cherokee lands, did not include the amount required to remove them, nor the value of certain claims held by them against citizens of the United States, and the President being willing that the subject should be referred to the Senate of the United States for any further provision that body should deem just.

3. It is agreed, should it receive the concurrence of that body, to allow the Cherokee the sum of \$600,000, to include the expenses of removal and all claims against the United States not otherwise specifically provided for, and to be in lieu of the aforesaid reservations and pre-emptions and of the \$300,000 for spoliations provided in article I of the original treaty to which this is supplementary. This sum of \$600,000 shall be applied and distributed agreeably to the provisions of said treaty, the surplus, if any, to belong to the education fund.

4. The provision of article 16 concerning the agency reservations is not intended to interfere with the occupation right of any Cherokee whose improvements may fall within the same.

The \$100,000 appropriated in article 12 for the poorer

¹²Fifth Report, American Bureau of Ethnology, pp. 253-257.

class of Cherokees, and intended as a set-off to the pre-emption rights, shall now be added to the general national fund of \$400,000.

5. The expenses of negotiating the treaty and supplement and of such persons of the Cherokee delegation as may sign the same shall be defrayed by the United States.

Note--The following amendments were made by the United States Senate: In article 17 strike out the words "b General William Carroll and John F. Schermerhorn, or:" also, in the same article, after the word "states," insert "by and with the advice and consent of the Senate of the United States;" and strike out the 20th article, which appears as a supplemental article.¹³

The main treaty was signed by J. F. Schermerhorn and Wm. Carroll the latter some weeks late, on the part of the United States. The Indian signers were: Major Ridge, his x mark; James Foster, his x mark; Test-ta-esky, his x mark; Charles Moore, his x mark; George Chambers, his x mark; Tah-yeske, his x mark; Archilla Smith, his x mark; Andrew Ross; William Lassley; Cao-te-hee, his x mark; Te-gah-e-she, his x mark; Robert Rogers; John Gunter; John A. Bell; Charles F. Foreman; William Rogers; George W. Adair; Elias Boudinot; James Starr, his x mark; Jesse Half-breed, his x mark (L. S.)

It was signed and sealed in the presence of Western B. Thomas, secretary; Ben F. Currey, special agent; M. Wolfe Batman, first lieutenant, sixth U. S. Infantry, disbursing agent; John L. Hooper, lieutenant, fourth Infantry; C. M. Hitchcock, M. D., assistant surgeon, U. S. A.; G. W. Currey; Wm H. Underwood; Cornelius D. Terhune; and John W. Underwood.

In compliance with instructions of the council at New Echota, the treaty was signed March 1, 1836 by Stand Watie and John Ridge.

James Rogers and John Smith signed it on December 31, 1835, on

¹³Ibid., pp. 257, 258.

behalf of the Western Cherokees.

The supplement to the treaty was signed on March 1, 1836, by J. F. Schermerhorn on the part of the United States and Major Ridge, his x mark; James Foste, his x mark; Tah-ye-ske, his x mark; Long Shell Turtle, his x mark; John Fields, his x mark; George Welch, his x mark; Andrew Ross; William Rogers; John Gunter; John A. Bell; Jos. A Foreman; Robert Sanders; Elias Boudinot; Johnson Rogers; James Starr, his x mark; Stand Watie; John Ridge; James Rogers, and John Smith, his x mark, (L. S.) on behalf of the Cherokees.

Witnesses to the signing were: Elbert Herring, Thos. Glascock, Alexander H. Everett, Jno. Garland, Major, U. S. Army, C. A. Harris, John Robb, Wm Y. Hansell, Saml. J. Potts, and S. Rockwell.¹⁴

Against this procedure Ross and the national delegates presented a memorial with signatures representing nearly sixteen thousand of the Cherokee people, and councils were held in various parts of the Cherokee Nation denouncing the methods used to secure the treaty and declaring it null and void.

In spite of all the evidence indicating that the treaty was not the will of the people and was not made with the nation's regularly constituted authorities, it was ratified by congress on May 23, 1836 with a bare majority of one vote.

Protests to the treaty poured in from all parts of the United States, but Jackson had set his head and preparations for its execution went forward immediately. General Wool, in charge of federal troops in the Indian country, was instructed to reconcile the Cherokees to the

¹⁴Starr, op. cit., pp. 95-98.

treaty. After making an attempt, he learned of the true conditions and forwarded a protest to Washington in which he said it was vain to talk to a people almost universally opposed to the treaty and who maintained that they never made such a treaty. He reported that they were so determined in their opposition that not one of all those who were present and voted at the council held but a day or two since, however poor or destitute, would either receive rations or clothing from the United States lest they might compromise themselves in regard to the treaty. These same people, he said, as well as those in the mountains of North Carolina, during the previous summer preferred living upon the roots and sap of trees rather than to receive provisions from the United States, and thousands were reported to have had no other food for weeks.

Jackson rebuked the general for transmitting a paper so disrespectful to the executive, the senate and the American people; declared his settled determination that the treaty should be carried out without modification and with all consistent dispatch, and directed that after a copy of the letter had been delivered to Ross, no further communication, by mouth or writing, should be held with him concerning the treaty.¹⁵

He further directed that no council should be permitted to assemble to discuss the treaty. Ross had already been informed that the president had ceased to recognize any existing government among the eastern Cherokee, and that any further effort by him to prevent the consummation of the treaty would be suppressed. Thus, in time of peace did the despot Jackson deny thousands the rights of free speech and peaceable assemblage.

On September 2, 1836, Governor Wilson Lumpkin, of Georgia, wrote

¹⁵American State Papers, Military Affairs, VIII, 564.

Jackson that the statements of Ross and others to the effect that the late treaty was made contrary to the will of a majority of the Cherokee people was entitled to no respect or consideration whatever. Nineteen-twentieths of the Cherokees he declared, were too ignorant and depraved to entitle their opinions to any weight or consideration in such matters. Jackson, however, did not need the support of his cronie; he had already announced his policy.

Major W. M. Davis was appointed to enroll the Cherokees for removal and to appraise their property. When he learned the true state of affairs he wrote to the secretary of war protesting the method of making the treaty and its unfairness. He reported that the government had bribed the Indians by offering blankets to all who would come and vote for the treaty. He pointed out that the delegation taken to Washington by Schermerhorn had no more authority to make a treaty than any other dozen Cherokees picked up for the purpose. "I warn you and the President", wrote Davis, "that if this paper of Schermerhorn's called a treaty is sent to the Senate and ratified you will bring trouble upon the government and eventually destroy this the Cherokee Nation. The Cherokee are a peaceable, harmless people, but you may drive them to desperation, and this treaty cannot be carried into effect except by the strong arm of force."¹⁶

In the latter part of 1836 John Ross visited the Western Cherokees in an effort to arouse them against the treaty. While there he learned that the constitution under consideration as a basis for admission of the new state of Arkansas proposed in section VIII that the western boundary of the state should extend to the former boundary "when the

¹⁶Nineteenth Report, American Bureau of Ethnology, p. 126.

Indian title is extinguished". He foresaw a renewal of their controversies with the whites over their lands. This caused a flood of protests to be sent to Washington.

The government sent a confidential agent, John M. Mason, Jr., in September, 1837, to the Cherokee country to report upon the situation. His opinion was much the same as that of Wool and Davis. He reported that the whole nation of eighteen thousand persons were with Ross, the few--about three hundred--who made the treaty having left the country, with the exception of a small number of prominent individuals--as Ridge, Boudinot, and others--who remained to assist in carrying it into execution.¹⁷

The government's policy of bribery and corruption continued as indicated by the report of Wilson Lumpkin and John Kennedy in which they said, "The policy of making prudent advances to the wealthy and intelligent, has gone far to remove opposition to the treaty among the most influential."¹⁸

Now, indeed, was the stage all set and Jackson ready to produce the tragedy of the century.

¹⁷Ibid., p. 128.

¹⁸Foreman, op. cit., p. 273.

Chapter IV.

Removal by Physical Force.

The first party to be conducted westward by the government under the terms of the Treaty of New Echota was in charge of Dr. John S. Young, who had three assistants, a physician, Dr. C. Lillybridge, and three interpreters. There were 466 Cherokees in the party, one half of whom were children. Dr. Lillybridge was thoughtful enough to set down in his journal accounts of the happenings from day to day.

He reported reaching Ross's Landing (near the present city of Chattanooga, Tennessee) on March 1, 1837, and two days later embarking with the Indians in a fleet of eleven flatboats which were divided into three groups. There was considerable disorder and intoxication for a time. The boats were open and the emigrants exposed to the cold winds, so after making five miles they landed and camped for the night. The next morning at six-thirty the journey was resumed. The doctor visited the boats, treated a number for colds, and extracted two teeth, one for a daughter of Tese-teska and the other for Arch Downing. He prescribed for Mrs. Waitie and James Wolf who were slightly indisposed from exposure.

On the sixth the boats reached Gunter's Landing and were tied to the island to prevent the Indians from going ashore and getting drunk. However, in spite of the precautions, some of them succeeded in reaching town and caused considerable disorder.

The flatboats were fastened to the steamer Knoxville and the new fleet set off at nine o'clock on the morning of the seventh. At ten the doctor was called to treat a patient who was writhing in agony from whiskey colic. The patient was able to talk coherently and said he was

not drunk--that he had drunk only two half-pints of whiskey and had a few other drinks with his friends.

When they arrived at Decatur they were placed on board railroad cars that was to deliver them to Tuscumbia by night. The engine did not arrive, however, and the Indians were compelled to wait in the cold from three in the afternoon until dark. The train and cars were novel to them and they could be seen examining them with their peculiar inquisitive silence and gravity. Since the engine was momentarily expected they were left without a place to sleep, and they were afraid to lie down for fear of being run over. No lights were furnished them. Finally the doctor succeeded in getting a warehouse opened for them and they made their beds there for the night.

On their arrival at Tuscumbia they camped to await the arrival of the boats that were to take them down the river. While they were here it rained very hard, the weather was cold and windy, and the Indians were wet, cold, and miserable.

The steamboat Newark and two keel-boats arrived at ten o'clock on the thirteenth and the whole body of them were soon in motion bringing their effects to the boats. After spending the remainder of the day in getting their effects loaded the emigrants laid themselves down as best they could, cheerfully expecting to get under way in the morning. But the next day some misunderstanding took place among the officers in relation to rank, and other matters, and in consequence the boats were detained till late in the afternoon. And so the story continues . . .

The doctor made daily rounds of all the boats looking after the ill, some of whom made his ministrations difficult by their unwillingness to follow instructions. After they had been under way for a few

days the amount of sickness increased. The principal complaints were of colds, influenza, sore throat, coughs, pleurisy, measles, diarrhea, bowel complaint, fevers, toothache, wounds from accidents and fighting, and gonorrhoea among the young men.

The emigrants arrived at Little Rock on the evening of the twenty-first and were landed on the bank of the river opposite the village.

On the twenty-fifth the wife of Saml. McCamman was left on shore at a wood-yard. Her husband jumped ashore to fetch her. The captain of the steamboat made them walk three miles and then charged two dollars for sending his boat ashore for them.

On the night of the twenty-seventh they arrived at Van Buren and they were at Fort Smith at noon the next day. Here whiskey was again introduced and many of them became drunk. They left about two o'clock but stopped two miles above Fort Smith to land Major Ridge and his friends who wished to proceed on the road from Van Buren to reach the lands on which he wished to settle. Most of the rest of the detachment insisted on landing here in spite of the advice of the agents and those who were acquainted with the country. The next day the boats continued to Fort Coffee where the remainder of the emigrants were landed.¹

The second emigrating party, under the direction of B. B. Cannon, set out from the Cherokee agency on October 14, 1837. They spent two days in loading their wagon, having decided to go overland through Kentucky, Illinois, and Missouri. The first day out they crossed the Hiwassee River at Calhoun and camped five miles beyond. The second day

¹Army and Navy Chronicle, IV, 301-361; Foreman, op. cit., pp. 273-278.

was spent in mustering the party and on the evening of the third day they reached the Tennessee River and camped after having travelled fourteen miles. They were unable to cross this river until the seventeenth day about four o'clock, after which they travelled until eight and advanced a distance of seven miles.

The Cumberland Mountains required four days to cross and severely taxed the endurance of the emigrants. A camp was made at Sequachee River. On the twenty-second day they passed through McMinnville. They were warned that there was no water ahead for twelve miles. On the twenty-fifth day they buried "Andrew's child" and passed through Murfreesborough. The next day they passed through three turnpike gates; on the next, two more, then they crossed the Cumberland River on the toll-bridge at Nashville.

The party averaged from twelve to sixteen miles a day. Corn, bacon, and flour were issued to them every second or third day and corn and fodder for their horses daily.

While resting for the purpose of washing clothes, repairing wagons, and shoeing horses, Reese, Starr, and others visited Jackson who was at Nashville at the time.

On November 3 they recorded that they "buried Duck's child, passed through Hopkinsville, Ken.". On the eighth, James Starr and his wife left with two carry-alls to take care of and bring on three of their children who were too sick to travel. They were instructed to overtake the party as soon as possible without endangering the lives of their children.

James Taylor, Reese, Starr and their families were left on the

sixteenth on account of sickness with instructions to overtake the party.

They began crossing the Mississippi on the twelfth of November but high winds arrested their efforts and it was the fourteenth before everyone was across. Starr caught up with the party but the health of his children was very little better. Another one of Duck's children died during the time of crossing the river. George Ross and Richard Timberlake joined Starr's family and attached themselves to the caravan.

A great deal of sickness had developed by the time they crossed the Mississippi due to the unwholesome stagnant water in Illinois and their intemperate consumption of wild grapes along the route which had brought on violent attacks of dysentery. Most of the drivers were ill; some were so bad that they had to be left on the road and substitutes hired.

Townsend called a halt on the twenty-fifth near a school house where the conductor obtained permission for as many as could to enter. They remained here ten days during which four died, two children of Corn Tassel and Ollanheta, George Killion and a wagoner, a black boy.

They resumed their journey on December 4 although there was not room in the wagons for all the ill. The entry for the seventh reads; "Reese's team ran away; broke his waggon and Starr's carry-all; left him and family to get his waggon mended, and to overtake us if possible." Nancy Bigbear's grandchild was buried the next day. It rained all day and that night several Indians got drunk. The caravan reached the James fork of the White River December 14.

On the night of December 15, 1837, James Starr's wife gave birth to a child. On the sixteenth they passed through Springfield, Missouri,

and "buried Elleges wife and Chas. Timberlake's son, (Smoker)". It was now snowing and much colder, and sickness was increasing. "Buried Dreadful Waters this evening", the seventeenth. They remained in camp at Dye's for several days to attend to the ill and wait for medicines to be brought from Springfield. On the twenty-first they reached Lockes' on Flat Creek. The next day they buried Goddard's grandchild. On the twenty-third they buried Rainfrog's daughter, Lucy Redstick's child, and halted at Reddix. Three days later they camped at James Coulter's on Cane Hill, Arkansas, and the next day buried Aisey Timberlake, daughter of Charles Timberlake.

They arrived at Mr. Bean's in the Cherokee Nation West on December 29, 1837. Having crossed the line the exhausted party refused to advance farther and went into camp to minister to their sick. "Buried another child of Chas. Timberlake's, and one which was born (untimely) yesterday". No other account than this was taken of it. "Jess Half Breed's wife had a child last night."

On December 30, 1837, Cannon remustered his party and turned them over to Lieutenant Van Horne. Fifteen deaths had occurred on the march, eight of whom were children under two years of age.² This represented four and two-tenths per cent of the number that had started with the caravan from Georgia.

General Nathaniel Smith of Athens, Tennessee, was appointed to succeed B. F. Currey, superintendent of removal, who had died December 16, 1836. Smith gathered another party of about 300 near the agency but it dwindled to 250 by March 25, 1838. In spite of warnings and

²Foreman, op. cit., p. 283.

threats only this small group could be induced voluntarily to leave Waterloo. They embarked on April 5 in charge of Lieutenant Edward Deas. They traveled on the steamer Smelter and a keel boat which it had in tow.

They reached Paducah the second day and anchored out on the river to prevent white people from introducing whiskey among the Indians. In the evening when they resumed their journey the waves from the Ohio River washed in the keel-boat and the terrified Indians, thinking it was sinking, rushed aboard the steamboat. Since they could not be induced to return to the keel-boat it was discarded and they were all carried on the Smelter.

After stopping at Memphis for supplies and once for wood, they reached Montgomery's Point on the afternoon of the ninth. After securing a pilot for the Arkansas River they passed through the cut-off, proceeded up the river, and reached Little Rock, on the morning of the eleventh. The river had fallen so low that it was impossible for the Smelter to ascend higher and Lieutenant Deas secured passage for the Indians aboard the Little Rock, a steamer of lighter draft. The captain agreed to take the party as far up as possible for \$5.00 each for the whole distance, and an amount proportionally less if he did not take them all the way. They proceeded five miles further up the river on the Smelter and then landed for the night. The next day Captain Pennywit brought up his boat, the Little Rock, and the Indians were loaded aboard her and a keel-boat in tow. He towed a second keel-boat loaded with freight but it sprang a leak and it was necessary to run ashore to prevent it from sinking. After some delay it was abandoned

and the steamer with the other boats in tow proceeded. They arrived at Lewistown Bar on the afternoon of the fourteenth. A laborious week was spent in crossing a succession of bars, during which time the Indians were obliged to land and walk several times. Finally, recognizing that they would be unable to reach the Cherokee country by the river at the existing stage of the water, they were all landed at McLean's about forty five miles below Fort Smith. Here Lieutenant Deas secured seventeen wagons, sixteen of which were drawn by oxen and one by four horses. The wagons were loaded with personal effects and the party renewed its journey on the twenty-fourth. Two small children died on the twenty-sixth.

On the twenty-eighth of April, 1838, the party reached Fort Smith and were ferried across the Arkansas River to the Cherokee country. They travelled twenty-five miles further into the country to McCoy's of Sallisaw, where they settled.

There were perhaps fewer hardships and deaths in this group than in any of those that removed. Lieutenant Deas so impressed the Indians by his humane consideration and intelligent attention to their welfare and comfort that they presented him with a sword as a token of their gratitude.⁵

The Cherokees who remained at home could not believe that the government would be so cruel as to forcibly remove them because of the faked treaty.

Because he could not acquiesce in the government's treatment of the Indians, General Wool asked to be relieved of the command of the

⁵Army and Navy Chronicle, VIII, 317 cited by Foreman, op. cit., 285.

troops in the Cherokee country, in May, 1837. His request was granted and he was succeeded by Col. William Lindsay. The latter was ordered to arrest John Ross and turn him over to the civil authorities if he gave further evidence of opposing the enforcement of the treaty.

John M. Mason, Jr., acting in the capacity of confidential agent of the secretary of the war department checking affairs in the Cherokee country, reported in September, 1837, that with all his power Ross could not, if he would, change the course he has heretofore pursued and to which he was held by the fixed determination of his people. Ross disliked to be seen in conversation with white men, and particularly with agents of the government. "Were he, as matters now stand," wrote Mason, "to advise the Indians to acknowledge the treaty, he would at once forfeit their confidence and probably his life". Although unwavering in his opposition to the treaty, Ross's influence had constantly been exerted to preserve the peace of the country, and Colonel Lindsay declared that Ross alone stood at this time between the whites and bloodshed. The opposition to the treaty on the part of the Indians was unanimous and sincere, and it was not a mere political game played by Ross for the maintenance of his ascendancy in the tribe.⁴

Elias Boudinot, who had been editor of the Cherokee Phoenix and one of the signers of the treaty, justified his attitude on the proposed removal on the grounds that he could not conceive of the acts of the minority to be so reprehensible and so unjust as represented by Mr. Ross. He believed that if one hundred persons were ignorant of their true situation and were so completely blinded as not to see the destruction

⁴Letter of J. M. Mason, Jr., To the secretary of war, September 25, 1837, cited in Nineteenth Report, American Bureau of Ethnology, p. 128.

that awaited them, he could see strong reason to justify the action of a minority of fifty persons to do what the majority would do if they understood their condition to save a nation from political thralldom and moral degradation.

The whites did not wait for the government to remove the Indians but continued their persecutions in an even more cruel and persistent manner. It was so great that Major Ridge, the principal signer of the treaty, petitioned the president for relief. He reported that the whites had taken their lands and were preparing to fleece them of the money accruing from the treaty. Their plantations were taken either in whole or in part by the Georgians. Suits were instituted against them for back rents for their own farms. These suits were commenced in the inferior courts, with the evident design that, when they were ready to remove, they would be arrested and on these vile claims the Indians would be induced to compromise for their release, in order to travel with their families. Thus their funds would be filched from them and they would be compelled to leave the country as beggars and in want. Even the Georgia laws, which denied the Cherokees their oath, were thrown aside, and notwithstanding the cries of the people, and the protestations of their innocence and peace, the lowest classes of white people flogged the Cherokees with cowhides, hickories, and clubs. This barbarous treatment was not confined to men, but the women were stripped also and whipped without law or mercy. Ridge petitioned the president to send regular troops to protect them from these lawless assaults, and to protect them as they depart for the West.

He Said,

. . . If this is not done, we shall carry off nothing but the scars of the lash on our backs, and our oppressors will get all

the money. We talk plainly, as chiefs having property and life in danger, and we appeal to you for protection."⁵

The whites on the other hand reported that the Indians were in a virtual state of uprising, and General Dunlap, in command of the Tennessee troops, was called out to prevent the contemplated outbreak. Having learned the true situation, he delivered an indignant address to his men in which he declared that he would never dishonor the Tennessee arms by aiding to carry into execution at the point of the bayonet a treaty made by a lean minority against the will and authority of the Cherokee people. He stated further that he had given the Cherokees all the protection in his power; the whites needed none.

So intense was public feeling on the subject of this treaty that it became to some extent a party question, the Democrats supporting President Jackson and the treaty, while the Whigs bitterly opposed both.

It may be said in passing that resentment against the Democratic party is felt among certain of the Cherokees to the present day because of this stand. Only recently, while gathering material for this work, the author questioned one of the leading fullblood citizens of Cherokee county, Oklahoma, as to the reason so many of the Indians belonged to the Republican party and received the reply, "Do you think we would help the party that that d---d Jackson belonged to?"

Among the notable leaders of the opposition to the treaty were Henry Clay, Daniel Webster, Edward Everett, Wise, of Virginia, and David Crockett. The speeches in congress upon the subject were characterized by a depth and bitterness of feeling such as had never been exceeded even on the slavery question. It was considered not simply an Indian question, but an issue between state rights on the

⁵Ibid., pp. 127-128.

one hand and federal jurisdiction and the Constitution on the other.⁶

The commissioner of Indian affairs in 1836 reported that originally there were 22,000 Cherokees, and that 6,048 had emigrated prior to September 30, 1835, and that better than 15,900 still remained to be moved. The report of December, 1837, showed that a total of 7,911 were in the West. In his report of November 1, 1838, the same official reported that originally there were 22,000, that 7,911 were removed previously, and that there were 18,000 removed since the last report or were then on the way. This would have been a total of 25,911 Indians emigrating to the westward of the Mississippi.⁷ The discrepancies may be explained on the grounds of inaccurate census methods or an increase in the members of the tribe.

Van Buren, who now succeeded Jackson, was disposed to allow the Cherokees a longer time to prepare for emigration. However, he was met by the declaration from Governor Gilmer, of Georgia, that any delay would be a violation of the rights of that state and in opposition to the rights of the "owners of the soil", and that if trouble came from any protection afforded by the government troops to the Cherokees a direct collision must ensue between the authorities of the state and general government.

It was evident that the removal could only be accomplished by force, therefore the government appointed a military commander, General Winfield Scott, to that duty with instructions to start the Indians for the West at the earliest possible moment. He was ordered to take command

⁶Ibid., p. 129.

⁷Hill, op. cit., pp. 61, 62.

of the troops already in the Cherokee country, together with additional reinforcements of infantry, cavalry, and artillery, with authority to call upon the governors of the adjoining states for as many as 4,000 militia and volunteers. The whole force employed numbered about 7,000 men, including regulars, militia, and volunteers. The Indians had already been disarmed by General Wool.

General Scott arrived in the Cherokee country and established his headquarters at New Echota, where, on May 10, he issued a proclamation to the Cherokees, warning them that the emigration must be commenced in haste and that before another moon had passed every Cherokee man, woman, and child must be in motion to join his bretheren in the West. May 26, 1838, was to be the deadline. He concluded the proclamation by stating that his troops already occupied many positions and that thousands and thousands were approaching from every quarter to render resistance and escape alike hopeless. "Will you," he said, "by resistance compel us to resort to arms . . . or will you by flight seek to hide yourselves in mountains and forests and thus oblige us to hunt you down?" He reminded them that pursuit might result in conflict and bloodshed and end in a general war.

General Scott distributed the troops at various points throughout the Cherokee country, where stockade forts were erected for gathering in and holding the Indians preparatory to removal. The following stockade forts were built: In North Carolina, Fort Lindsay, on the south side of the Tennessee River at the Junction of Nantahala, in Swain county; Fort Scott, at Aquone, farther up Nantahala River, in Macon county; Fort Montgomery, at Robbinsville, in Graham county; Fort Hembrie, at Hayesville, in Clay county; Fort Delaney, at Valleytown, in Cherokee county;

Fort Butler, at Murphy, in the same county. In Georgia, Fort Scodder, on Frogtown Creek, north of Dahlenega, in Lumpkin county; Fort Gilmer, near Ellijay, in Gilmer county; Fort Cooswatee, in Murray county; Fort Talking rock, near Jasper, in Pickens county; Fort Buffington, near Canton, in Cherokee county. In Tennessee, Fort Cass, at Calhoun, on Hiwassee River, in McMinn county. In Alabama, Fort Turkey-town, on Coosa River, at Center, in Cherokee county.⁸

Squads of troops were sent out from these forts to search out with rifle and bayonet every small cabin hidden away in the coves or by the sides of the mountain streams, to seize and bring in as prisoners all the occupants, however, or wherever they might be found. James Mooney in writing of this said that families at dinner were startled by the sudden gleam of bayonets in the doorway and rose up to be driven with blows and oaths along the weary miles of trail that led to the stockade. Men were seized in their fields or going along the road; women were taken from their wheels and children from their play. He pictured the Cherokees turning for a last look at their homes as they crossed the ridge, only to see them in flames, fired by the lawless rabble that followed on the heels of the soldiers to loot and pillage. In some instances these outlaws were driving off the cattle and other stock of the Indians almost before the soldiers had fairly started their owners in the other direction. These same men made systematic hunts for Indian graves, to rob them of the silver pendants and other valuables deposited with the dead.

Rev. Evan Jones, a prominent Baptist missionary who had been stationed among the Cherokees in the Valley Towns of East Tennessee

⁸Ibid., p. 221.

near the North Carolina border kept a day to day diary of the proceedings in which he wrote, "Camp Hetzel, near Cleveland, Tennessee, June 16. The Cherokees are nearly all prisoners. They have been dragged from their houses and encamped at the forts and military posts, all over the nation." He recorded that in Georgia, especially, multitudes were allowed no time to take anything with them except the clothes they had on. Well-furnished houses were left a prey to plunderers, who like hungry wolves, followed in the train of the captors. These wretches rifled the houses, and stripped the helpless of everything they had on earth. Females, who had been habituated to comparative affluence, were driven on foot before the bayonets of brutal men. Their feelings were mortified by vulgar and profane vociferations. The property of many had been taken, and sold before their eyes for almost nothing--the sellers and buyers, in many cases, being combined to cheat the poor Indians. These things were done at the instant of arrest and consternation. The soldiers standing by with their arms in hand, impatient to go on with their work, could give little time to transact business. The poor captive, in a state of distressing agitation, his weeping wife almost frantic with terror, surrounded by a group of crying, terrified children, without a friend to speak a consoling word, was in a poor condition to make a good disposition of his property, and was in most cases stripped of the whole, at one blow.⁹

Occasionally some of the more responsible were allowed to return home under passport to inquire after their property, only to find their

⁹Walker, op. cit., p. 325.

cattle, horses, swine, farming tools, and house furniture all gone. "And this is not a description of extreme cases," wrote Jones, "It is altogether a faint representation of the work which has been perpetrated on the unoffending, unarmed and unresisting Cherokees."

All the Indians did not submit quietly, however. A large number escaped to the mountains before the soldiers arrived. Some escaped later. One old man named Charley Tsali, was seized together with his wife, his brother, his three sons and their families. Exasperated at the inhuman treatment accorded his wife, who, being unable to travel fast, was prodded with bayonets to hasten her steps, he urged the others to join with him in a dash for liberty. He spoke in Cherokee so that the soldiers understood nothing until each warrior suddenly sprang upon the one nearest and endeavored to wrench his gun from him. They succeeded in killing one of the soldiers, and the rest fled leaving the Indians free to escape to the mountains. Hundreds of others, some of them from various stockades, managed also to escape to the mountains from time to time, where those who did not die of starvation subsisted on roots and wild berries until the hunt was over. The fact that they could no longer provide for themselves is in itself proof that they had truly forsaken their savage ways and taken up the agricultural pursuits of the white man.

Finding it impracticable to secure these fugitives, General Scott finally tendered them the proposition, through (Colonel) W. H. Thomas, their most trusted friend, that if they would surrender Charley and his party for punishment, the rest would be allowed to remain until their case could be adjusted by the government. On hearing of the proposition, Charley, whose wife had already starved to death, voluntarily came in

with his sons, offering himself as a sacrifice for his people. By command of General Scott, Charley, his brother, and the two elder sons were shot. The execution took place near the mouth of Tuckasegee River, a detachment of the Cherokee prisoners being compelled to do the shooting in order to impress upon the Indians the fact of their utter helplessness. Charley's youngest son alone was spared on account of his youth.¹⁰ They had no trial.

After almost seventeen thousand Cherokees had been collected into various stockades, the stupendous task of removing them to the new country in the West began. At Hiwassee, near the present Calhoun, Tennessee, at Ross's Landing, now Chattanooga, and Gunter's Landing, now Guntersville, Alabama, parties of Cherokees amounting to 5,000 souls were gathered the early part of June, placed on boats and transported to the west bank of the Mississippi, where the journey was continued by land.

William Shorey Coodey was present at one of the concentration camps as the Indians made preparations to march to the rendezvous where they were organized for their departure. In a letter to his friend John Howard Payne he described the scene:

. . . At noon all was in readiness for moving, the teams were stretched out in a line along the road through a heavy forest, groups of persons formed about each wagon, others shaking the hand of some sick friend or relative who would be left behind. The temporary camp covered with boards and some of bark that for three summer months had been their only shelter and home, were crackling and falling under a blazing flame; the day was bright and beautiful, but a gloomy thoughtfulness was depicted in the lineaments of every face. In all the bustle of preparation there was a silence and stillness of the voice that betrayed the sadness of the heart. At length the word was given to move on. I glanced along the line and the form of Going Snake, an aged and respected chief whose head eighty summers

¹⁰Nineteenth Report, American Bureau of Ethnology, p. 131; Walker, op cit., p. 327.

had whitened, mounted on his favorite pony passed before me and led the way in silence, followed by a number of the younger men on horseback. At this very moment a low sound of distant thunder fell upon my ear--in almost an exact western direction a dark spiral cloud was rising above the horizon and sent forth a murmur I almost thought a voice of divine indignation for the wrong of my poor and unhappy countrymen, driven by brutal power from all they loved and cherished in the land of their fathers to gratify the cravings of avarice.¹¹

Twenty-eight hundred were divided into three detachments, each accompanied by a military officer, a corps of assistants and two physicians.

The first party to be forcibly started was in charge of Lieutenant Edward Deas who had previously removed a party that left without physical compulsion. The present party, made up of Cherokees from Georgia who had been concentrated at Ross's Landing, were forced on shipboard June 6, 1838. They were escorted by soldiers aboard a little flotilla consisting of one steamboat of 100 tons, and six flatboats, one of which was constructed with a double-decked cabin. In the excitement and bitterness accompanying the enforced embarking of the Indians and their crowded condition aboard the boats, the conductors thought it best not to attempt to muster and count them until later, but there was in the neighborhood of 800 of them.

The boats were lashed, three on each side of the steamboat, and left Ross's Landing about noon. They made four or five miles an hour until their arrival at a series of dangerous rapids called the Suck, Boiling-pot, the Skillet, and the Frying pan. The suck is the first and most difficult and dangerous of the rapids. Here the river is very narrow and swift and the banks on either side are rocky and steep, it being the point at which the stream passes through a gorge in the

¹¹Ayer Collection, Payne Manuscripts, IV, as cited by Foreman, op. cit., p. 290.

mountains. In passing through the channel it was found impossible to keep the steamboat in the channel. It was thrown upon the north bank with some violence but luckily none of the people were injured although one of the flats was a good deal smashed. The party encamped here for the night as it was too late in the day to reach the other rapids in daylight.

By noon the next day they had passed through all the rapids without mishap and passed down to Gunter's Landing by nine o'clock. That night they landed six miles above Decatur and such of the people as chose went ashore to sleep and cook. They started early on the morning of the ninth and reached Decatur at six o'clock to take the train to Tuscumbia but were compelled to remain here until the next day. About thirty-two cars were necessary to transport the party, and no more could be employed for want of power in the two locomotive engines.

Since there was no room on the train, the twenty-three soldiers were discharged. The first detachment reached Tuscumbia at three o'clock and boarded the steamboat Smelter which immediately set off for Waterloo at the foot of the rapids without waiting for the second train with the remainder of the party. When the second party reached Tuscumbia they had to go into camp and wait for transportation by water. Since the guard had been discharged, whiskey was introduced among them, much drunkenness resulting, and over one hundred of the emigrants escaped. The remainder were carried by water aboard a keel-boat and a small steamer about thirty miles to Waterloo.

On the eleventh the party was reunited there and reembarked aboard the steamboat Smelter and two large double decked keel-boats. The next afternoon they reached Paducah, Kentucky, where Lieutenant Deas left

one of the keel-boats which he found unnecessary. He succeeded in mustering the Indians after a fashion and found that he had 489. The nights were clear and calm and the boats ran both day and night, stopping only at intervals "to wood". They passed Memphis on the evening of the thirteenth and arrived at Montgomery's Point at the mouth of White River the next afternoon. Here they secured a pilot, passed through the cut-off and entered the Arkansas River, and, after ascending seventy miles, tied up at the bank while the emigrants went ashore to relax and encamp for the night. As there were too many snags and sand-bars in the Arkansas to permit running at night, this program was repeated each evening until they reached Little Rock on the seventeenth.

Lieutenant Deas dropped the other keel-boat here to enable the steamer to make better speed and reached Fort Smith and Fort Coffee on the nineteenth. The boat was tied to the north bank of the river near the mouth of Sallisaw creek. When the emigrants went ashore to spend the night they found many of their friends who had come down to greet them. They urged the new arrivals to stop there and not continue up to Fort Gibson. After a council they decided to take this advice and cast their lot in this district with their friends who had preceded them to the West.

Their baggage was taken off the boat together with a sufficient quantity of cotton domestic for tents to protect them from the weather. The domestic had been issued to them at Fort Coffee. Lieutenant Deas said he issued it in consideration of their destitute condition, as they were for the most part separated from their homes in Georgia without having the means or time to prepare for camping, and it was also the

opinion of the physician of the party that the health of the emigrants would suffer if they were not provided with some protection from the weather.

There had been no deaths in the party since their departure from Ross's Landing. These two expeditions which Lieutenant Deas brought are fine examples of what the government could accomplish where competent and humane officials were employed.

The second captive party mustered in at 875 departed from Chattanooga on June 13 in charge of Lieutenant R. H. K. Whiteley, with five assistant conductors, two physicians, three interpreters, and a hospital attendant. The day preceding departure had been spent in reuniting separated families as far as possible. After being placed on six flatboats they dropped down the Tennessee to Brown's Ferry where more prisoners were added. They remained here two days while clothing was purchased and offered to them but they refused it, "neither would they be mustered, and all attempts to obtain their names were without success."

Their boats, now increased to eight, were tied together in pairs and safely negotiated the dangerous rapids and arrived at Kelley's Ferry in the evening. Four boats were moored on each side of the steamboat George Guess and on the morning of the eighteenth they continued the descent of the river. The Indians now decided to take the clothing which had been offered and for which they were in dire need. The death of one child and a birth were recorded. They encamped on the bank of the Tennessee at six in the evening. The hours of stopping and starting were so arranged as to give them sufficient time to cook in the mornings and evenings the provisions for the day.

They arrived at Decatur on the twentieth, and on the twenty-first departed on two trains, and arrived at the boatlanding below Tascumbia that evening. One old woman died at Decatur and a man was killed by the cars when he attempted to rescue his hat. By the time they reached Decatur twenty-five Indians had escaped. They were required to remain at Tascumbia several days before boats could be secured to carry them over Colbert Shoals, during which time two children died. On the twenty-eighth they passed the shoals and camped opposite Waterloo, Alabama, to await the arrival of the steamboat Smelter. Three children died here; there was one birth, and 118 escaped.

On June 30 the party left Waterloo aboard the Smelter and one keel-boat. Before they arrived at Paducah the next day another child died. On the Fourth of July the boats entered the Arkansas through the White River cut-off. Two children died on the fourth and one on the fifth. At Little Rock the emigrants were transferred to the steamboat Tecumseh because it was of lighter draft and could navigate higher up the river.

They departed on the twelfth but grounded on Benson's Bar near Lewisburg and were unable to ascend farther. The country was scoured and twenty-three wagons were secured to haul the sick, principally children, and the convoy departed on the twentieth. Eight were left ill in camp. The next day more wagons were secured and the remainder of the party continued the march.

A drought had prevailed for months, water was scarce, the weather was extremely hot, suffocating clouds of dust stirred up by the oxen and wagons, and the rough and rocky roads, made the condition of the sick occupants of the wagons almost intolerable. Three, four, and five deaths occurred each day. To avoid the heat the marches were started

before sunrise and ended at noon. By the end of July between two and three hundred were ill.

Since the party required rest and more than half were sick they camped on the first day of August at Lee's Creek.

It was impossible, despite the fact that every effort was being used, to prevent the Indians from eating quantities of green peaches and corn. Consequently the flux raged among them and some days as high as six or seven died. At home they had eaten peaches and corn with no bad results but the hardships of the enforced marches, want of their customary diet, bad water, and many other causes contributed to the terrible mortality among them.

On August 5 these miserable beings entered the Cherokee Nation West and went into camp near the head of Lee's Creek where they were delivered to Captain Stephenson. There were 602 of the original party, seventy having died in three weeks.

They had started on the thirteenth of June with a party of 875 to which two boat loads were added at Brown's Ferry. One hundred eighteen escaped and 602 were delivered in the West. This leaves a total of 155 plus as many as were added at Brown's Ferry that died on the way. Not taking into consideration the late additions, since their number is unknown, the death rate of the original 875 was 17.7 per cent.

Compare this expedition, in which out of every hundred departing more than seventeen died, with that led by Lieutenant Deas of a few days previous in which there was not a single casualty.

But the story was not yet finished. They were in such a weakened condition that they continued to die in numbers almost as great.

Mr. Washburn, of Dwight Mission, wrote:

Among the recent immigrants there has been much sickness, and in some neighborhoods the mortality has been great . . . just returned from a neighborhood about ten miles from the mission where there have been fourteen deaths within three weeks . . . want of medical aid . . . Since last October about 2,000 immigrants have come. Twenty-five hundred more are on their way . . . much sickness and mortality among them. One company of these originally a thousand, but . . . diminishing by some hundreds is expected to arrive today . . . expected that nearly all . . . will settle within ten miles of this station.¹²

These removals in the hottest part of the year, were attended with so much sickness and death that Ross capitulated and by resolution of the Cherokee national council, he and the other chiefs submitted to General Scott a proposition that they would remove themselves if allowed to wait until fall when the sickly season had ended. The resolution or petition was signed by John Ross, Elijah Hicks, Edward Gunter, Samuel Gunter, Sitawakee, White Path, and Richard Taylor.¹³ They asked that the expense of removal be based on the calculation of one wagon and team, and six riding, being required for fifteen persons and that the Cherokees have the selection of such physicians and other persons as might be required for the safe and comfortable conducting of the several detachments.

General Scott granted their request on condition that all excepting the sick and aged who might not be able to move so rapidly, should have started by the twentieth of October. It was understood that the Cherokees were to take every precaution to get all the Indians except the ones that had been allowed to stay and become citizens of the states and such of the treaty party as might object to removal under the superintendence of Ross and his associates. General Scott fixed the date for the departure of the first contingent for September 3.¹⁴

¹²Missionary Herald, XXXIV, 445 as quoted by Foreman, *op. cit.* p. 296.

¹³Starr, *op. cit.*, p. 100.

¹⁴House Doc. 288, p. 5, cited by Starr, *op. cit.*, p. 100.

On June 17, 1838, the third contingent of 1,070 captive Cherokees left Ross's Landing in wagons and on foot for Waterloo where they were to embark on boats. They were in a destitute condition, with very little clothing, but like the other groups refused to accept any from the emigration agent. Four children and one adult died before their arrival at Waterloo. After their departure they learned that General Scott had suspended the removal until autumn, and they at once demanded to be allowed to remove with the others. A petition was addressed to Nat. Smith, superintendent of Cherokee emigration, three days before their departure from Ross's Landing. They asked that the movement of the party be halted and that they be either returned to their former encampment or established in one where they could share in the respite until a more healthful season and join in the movement in the autumn under the agreement with General Scott.

They pleaded that their lives be spared and that they be not exposed to the effects of that strange climate, under the disadvantages of the existing inauspicious season, without a house or shelter to cover them from above, or any kind of furniture to raise them from the bare ground, on which they might spread their blankets and lay their languid limbs, when fallen prostrate under the influence of disease. . . .

One hundred of the party had escaped along the way and the remainder were joined by Smith on the twenty-fifth at Bellefonte, Alabama. Since they had already travelled 120 miles, and as their health was improving and they were well provided with transportation and subsistence, they were informed that they must go on. Shortly after they were given this decision about 300 of them threw a part of their baggage out of the wagons, took it and broke for the woods and many of the balance

refused to put their baggage into the wagons, or go any further and showed much ill nature. They told the agents that the white men were all liars and bad men and one added that he would go back home the next morning and shoot for John Ross. He said he had plenty of money and would fight for him.

The conductor requested the captain of the town company to call out his men and aid in starting them, which he very promptly did, and they succeeded in getting off about ten o'clock with all that were left. A part of those who broke away in the morning were found and made to return. The contingent was put in charge of Captain Drane of the army and a request was made for thirty volunteer citizens to accompany him to Waterloo. They turned out immediately and were mustered into service for thirty days unless sooner discharged.

Since most of the Indians were almost naked, were barefoot and suffering with fatigue although they had not traveled over nine miles per day, Smith purchased some clothing, domestic for tents, shoes, and other articles, which were issued to them on the twenty-sixth. As many of the aged and infirm and their families as could be induced to embark were put on board one of the boats engaged in the upper river contract and landed the next morning at Decatur. Here they learned that Lieutenant Whiteley's party were yet at Tuscumbia, so they hurried on and overtook them at Waterloo.

Nat. Smith accompanied this group as far as Little Rock. They had continued to desert almost every night until they were put on board the boats at Waterloo. On the thirtieth of June, seventy-six deserted before their arrival at Waterloo. They arrived at Little Rock with but 722 out of over a thousand who left Ross's Landing.

Of those that deserted Smith wrote Harris on July 12, 1838, that these people would have over 300 miles to travel to reach their old homes, and since many of them were women and children they suffered extremely for want of something to eat.

The Smelter came to a point about sixty-five miles below Little Rock on July 20 but because of the low stage of the river could ascend no higher. The Tecumseh went down and brought up the Indians and Smith returned to Waterloo on the twelfth where he found Captain Drane still detained with his land party. This group was supposed to consist of eight or nine hundred but he had not been about to muster them because of their refusal to give their names and the numbers of their families. The same thing happened to Lieutenant Whiteley's party, which obliged him to count them out of the boats.

Jesse Bushyhead and Reverend Stephen Foreman, native missionaries of the American Board, and their families were held prisoners in Camp Hetzel. The Rev. M. Jones accompanied by Jesse Bushyhead, by permission of the General, carried a message from the chiefs to those who had evaded the troops by flight to the mountains. He reported that they encountered no difficulty in finding them. On Jones's advice they all agreed to come in and surrender themselves to the forces of the United States, "though with the whole nation, they are still as strenuously opposed to the treaty as ever. Their submission, therefore, is not to be viewed as an acquiescence in the principles of the terms of the treaty, but merely as yielding to the physical force of the United States".¹⁵

¹⁵Diary of Reverend Evan Jones as quoted by Walker, op. cit., p. 327.

General Scott gave orders on June 17, 1838, for the discharge of volunteer troops engaged in capturing the Indians.¹⁶ On June 18, General Charles Floyd, militia officer in charge of operations in Georgia, reported to Governor Gilmer that he was fully convinced that there was not an Indian within the limits of his command except those few already in his possession. He said his scouting parties had scoured the whole country without seeing an Indian or recent Indian signs. He felt that if there were any stragglers they must be in Union and Gilmer counties and near the Tennessee and North Carolina line, but that none could escape the vigilance of his troops. "Georgia," he reported, "is ultimately in possession of her rights in the Cherokee country. . . ."¹⁷

On July 31, the Cherokee committee submitted an estimate of transportation for each thousand emigrants, distance eight hundred miles at eighty days travel, with twenty persons to the wagon:

50 wagons & teams at daily exp. of \$350. including forage	\$28,000
Returning, seven dollars for each twenty miles	14,000
250 extra horses, at 40 cents each per day	8,000
Ferriages, etc.	1,000
80,000 rations at 16 cents each	12,000
Conductor, at five dollars per day	400
Assistant conductor at three dollars per day	240
Physician at five dollars per day	400
Returning \$15, for every hundred miles	120
Commissary at \$2.50 per day	200
Assistant commissary at \$2.00 per day	160
Assistant wagon master, at \$2.00 per day	160
Interpreter, at \$2.50 per day	200
Total	\$65,880 ¹⁸

Scott did not absolutely reject or cut down the estimate but he wrote that he believed it too high, especially as to the wagon and five

¹⁶Foreman, *op. cit.*, p. 296.

¹⁷*Army and Navy Chronicle*, VII, 57; Scott to Poinsett, June 15, 1838, Office of Indian Affairs, "Cherokee Emigration" as quoted by Foreman, *op. cit.*, p. 296.

¹⁸Starr, *op. cit.*, p. 100.

saddle horses for every twenty souls.

Under the provisions of the treaty and the congressional acts to carry it into effect the Cherokee Nation was entitled to \$6,537,634. By the treaty the sum of \$600,000 was set aside from this amount to defray the expenses of removal.¹⁹

Accordingly, thirteen officers and assistants were appointed by the Cherokee council to take charge of the emigration. The Indians were organized into detachments averaging one thousand each, and provided with a sufficient number of wagons and horses for the purpose. In this way the remainder, enrolled at about 13,000 (including negro slaves), were started on the long march overland late in the fall.

Those who thus emigrated under the management of their own officers assembled at Rattlesnake Springs, about two miles south of Hiwassee River, near the present Charleston, Tennessee, where a final council was held, in which it was decided to continue their old constitution and laws in their new home. To maintain order on the march they established in each party a sort of police organization that punished infractions of their regulations.

They also passed resolutions stating that their title to the Cherokee lands was the most ancient, pure and absolute, known to man; its date being beyond the reach of human record and its validity confirmed and illustrated by possession and enjoyment, antecedent to all pretence of claims by any other portion of the human race. They stated that they had a distinct national community, and had been in possession and exercise of sovereignty for a period extending into antiquity beyond the dates and records and memory of man, and that this sovereignty was still in full force and virtue. They resolved further that the

¹⁹House Doc. No. 288, p. 3, as quoted in Starr, *op. cit.*, p. 103.

Cherokee people, in consenting to an investigation for their improvements, did not intend that that consent ever be construed as yielding or giving their sanction or approval to the pretended treaty of 1835 nor as compromising in any manner, their just claim against the United States, thereafter, for a full and satisfactory indemnification for their country and for all individual losses and injuries. They further authorized the principal chief, John Ross, to collect and register all individual claims against the United States, with the proofs, and reports were to be made to him of their proceedings as they progressed. These resolutions were signed by Richard Taylor as president of the national committee, and Going Snake as speaker of the council. Other signers were Captain Broom, Toonowee, Katetah, Richard Foreman, Samuel Foreman, Howester, Samuel Christy, William, Beaver Carrier, and Kotaquasker.

Then in October, 1838, the long procession of exiles was set in motion. A very few went by the river route; the rest, nearly all of the 13,000 went overland. Crossing to the north side of the Hiwassee at a ferry above Gunstocker Creek, they proceeded down along the river, the sick, the old people, and the smaller children, with the blankets, cooking pots, and other belongings in wagons, the rest on foot or on horseback.

An account of the number of emigrants turned over to each conductor was kept by Captain Page of the United States army and Captain Stephenson also of the United States army made the official report of those that were mustered out in the West. Ross, in his official capacity as principal chief, kept the record for the Cherokees. These reports did not tally and each charged the other with carelessness or falsifying. It

is known that some of the Indians who refused to register with the government officials did register with Ross, but there are no authentic documentary sources to enable the student to determine which of the two is the more nearly correct.

The conductors, dates of starting and arrival of the several detachments were as follows:

No.	Conductor	Started	Arrived West	Days on Road
1.	Hair Conrad	Aug. 28, 1838	Jan. 17, 1839	143
2.	Elijah Hicks	Sept. 1, 1838	Jan. 4, 1839	126
3.	Rev. Jesse Bushyhead	Sept. 3, 1838	Feb. 27, 1839	178
4.	John Benge	Sept. 28, 1838	Jan. 11, 1839	106
5.	Situwakee	Sept. 7, 1838	Feb. 2, 1839	149
6.	Captain Old Field	Sept. 24, 1838	Feb. 23, 1839	153
7.	Moses Daniel	Sept. 20, 1838	March 2, 1839	164
8.	Choowalooka	Sept. 14, 1838	March 1, 1839	163
9.	James Brown	Sept. 10, 1838	March 1, 1839	162
10.	George Hicks	Sept. 7, 1838	March 4, 1839	189
11.	Richard Taylor	Sept. 20, 1838	March 24, 1839	186
12.	Peter Hildebrand	Oct. 23, 1838	March 25, 1839	154
13.	John Drew	Dec. 5, 1838	March 18, 1839	104 ²⁰

The number of wagons and teams with each of the detachments and the costs thereof:

No.	Wagons and Teams	Riding horses	Collected for return of wagons and teams.
1.	36	288	\$10,080.00
2.	43	344	12,040.00
3.	48	334	13,440.00
4.	62	436	17,360.00
5.	60	480	16,800.00
6.	49	392	13,720.00
7.	52	415	14,560.00
8.	58	462	16,240.00
9.	42	338	11,760.00
10.	56	448	15,680.00
11.	51	358	14,280.00
12.	88	705	24,640.00
13.	Not quoted		
Totals	645	5,000	180,600.00 ²¹

²⁰Starr, *op. cit.*, p. 103.

²¹*Ibid.*, p. 104

The births, deaths, desertions, and accessions while enroute were reported by the various conductors, the other information as indicated:

No.	Page's	Stephenson's	Ross's	Births	Deaths	Desertions	Accessions
1.	710	654	729	9	54	24	14
2.	859	744	858	5	34		
3.	846	898	950	6	38	148	171
4.	1,079	1,132	1,200	3	33		
5.	1,205	1,033	1,250	5	71		
6.	841	921	983	19	57	10	6
7.	1,031	924	1,035	6	48		
8.	1,120	970	1,150				
9.	745	717	850	3	34		
10.	1,031	1,039	1,118				
11.	897	942	1,029	15	55		
12.	1,449	1,311	1,766				
13.		219	231				
	<u>10,813</u>	<u>11,494</u>	<u>13,149</u>	<u>71</u>	<u>424</u>	<u>182</u>	<u>191</u> ²²

It is difficult to arrive at any accurate statement of the number of Cherokees who died during and as a result of the removal. According to the official figures those who removed under the direction of Ross lost over 1,600 on the journey. The disbursing agent makes the number unaccounted for 1,428; the receiving agent, who took charge of them on arrival, makes it 1,645.²³ The mortality among those previously removed under military supervision was probably greater, as it was their suffering that led to the proposition of the Cherokee national officers to take charge of the emigration. Hundreds died in the stockades and the waiting camps, chiefly by reason of the rations furnished, which were of flour and other provisions to which they were unaccustomed and which they did not know how to prepare properly. Hundreds of others died from sickness and exposure on the journey or soon after their arrival in Indian territory. It is asserted, probably with reason, that

²²Ibid., p. 103.

²³Nineteenth Report, American Bureau of Ethnology, p. 292.

over 4,000 Cherokees died as the direct result of the removal.²⁴

The original contract for removal was at the rate of \$65.88 per capita, but by agreement a proportion of three pounds of soap to every hundred rations at fifteen cents per pound, was added, making the cost of the removal of each individual \$66.24. On this basis Captain Page, as disbursing agent of the government, paid on November 13, 1838, to John Ross as "Superintending Agent of the Cherokee Nation for Removal" \$776,393.98.

The group of Cherokees belonging to the treaty faction of the tribe refused to emigrate under the leadership of John Ross. They were emigrated separately under the leadership of Lieutenant Deas, leaving the Cherokee Nation on October 11. The lieutenant reported from Winchester, Tennessee, on the twenty-seventh that their progress had been slow because of obstructions in the roads over which they had to travel. He said that the 650 to 700 persons in this group were for the most part highly respectable and intelligent and there were but few who had not made considerable advancement in civilization.

They passed through Fayetteville and reached Pulaski in November, averaging about ten or twelve miles a day. The journey was made without mishap except that a number of oxen belonging to the Indians died from eating poisonous weeds.²⁵

They crossed the Mississippi River at Memphis on the twenty-fourth, and on the twenty-fifth resumed their journey westward. This group was composed of individuals who favored the government in the execution of the treaty and consequently was in turn favored by a great increase in

²⁴Ibid.

²⁵Deas to Harris, November 3, 1838 as quoted by Foreman, op. cit., p. 301.

the allowances for transportation, subsistence and contingencies over those made for the other emigrants. A large part of their baggage was shipped up the Arkansas by boat. According to the Arkansas Gazette of December 19, 1838, they reached Little Rock about the middle of December and were deposited in their new homes in the Cherokee country January 7, 1839.

The Indians organized and managed this great movement of people without keeping journals of their daily happenings, and since the government had nothing to do with it, recorded descriptions of the experiences, and happenings of the journey are very rare.

All groups were routed through Nashville where the contractors furnished them with supplies. It rained excessively and the roads, cut up by thousands of horses, cattle, and people and hundreds of wagons and carts, became an appalling morass through which locomotion was accomplished with great difficulty and distress. The infirm and sick suffered in the wagons and carts that pitched and jolted behind the struggling oxen and horses; and they were obliged to wait for the attention of their physicians until stops were made at night. They, tired after a day of travel, spent most of the night making brief calls upon the large number of patients.

After the Indians left the whites who had driven them from their homes, they found the other white people whom they encountered sympathetic with them in their distress, and as the third detachment of Cherokees camped near Hopkinsville, Kentucky, on November 13, the citizens made generous donations for their comfort.²⁶

²⁶Army and Navy Chronicle, VII, 363.

Hair Conrad's party ended its journey in command of Lieutenant Deas.

Elijah Hicks's party reached Nashville on September 16 and camped for several days. They were reported as suffering sorely for the want of clothing, and it was thought that scores of them must inevitably fall the victims of disease and death before reaching their destination. When they reached Nashville there were forty or fifty ill and four were buried near the city.

This party was the first to reach Port Royal, near the Kentucky line, arriving there on September 24. Hicks reported that the people were very loath to go on and unusually slow in preparing for starting in the mornings. "Nocowee has given himself up to the bane of death (whiskey) and I have altogether lost his services. Our police has to drive him along the road sometimes fettered." The venerable chief, White Path, became so sick and helpless he had to be hauled. A few days later near Hopkinsville, Kentucky, he succumbed to sickness, infirmity, and the hardships of the forced journey, and died at the age of seventy-five. He was buried near the Nashville road and a monument of wood painted to resemble marble was erected to his memory. A tall pole with a flag of white linen flying at the top was erected near his grave so that his countrymen who followed might note the spot. This party reached its destination on January 4, 1839, being the first to arrive in the West.

Rev. Jesse Bushyhead's party camped at McMinnville, Tennessee, held a council, and sent a message to John Ross saying they had been compelled to leave without satisfaction of their claims and that they

feared fraudulent demands would be made to defeat them. They urged that no further consideration of the claims be had while the Indians were denied the opportunity of being present or represented.

William Lumpkin, of Georgia, and John Kennedy, of Tennessee, had been appointed commissioners by the government to supervise and carry into effect the provisions of the treaty preparatory to the removal of the Indians. Their duties required them to examine and pass on the claims of the Indians for loss and damage to their property in connection with the removal as well as claims of the whites against them. The Indians who departed more or less voluntarily had the benefit of greater indulgence and leisure on the part of the commissioners than fell to the lot of the more than 13,000 who would not consent to leave until the last moment; as it was manifestly impossible to give the claims more than prefatory attention before their departure, the commissioners proceeded to hear and determine them after the Cherokees had gone.

One of the best descriptions of the emigration was given by a traveler from Maine who encountered Bushyhead's party:

. . . . On Tuesday evening we fell in with a detachment of the poor Cherokee Indians. . . about eleven hundred of them--sixty waggons--six hundred horses, and perhaps forty pairs of oxen. We found them in the forest camped for the night by the side of the road. . . under a severe fall of rain, accompanied by heavy wind. With their canvass for a shield from the inclemency of the weather, and the cold wet ground for a resting place, after the fatigue of the day they spent the night. . . many of the aged Indians were suffering extremely from the fatigue of the journey, and the ill health consequent upon it. . . several were then quite ill, and one aged man we were informed was then in the last struggles of death. . . The forward part of the train we found just pitching their tents for the night, and notwithstanding some thirty or forty waggons were already stationed, we found the road literally filled with the procession for about three miles in

length. . . The sick and feeble were carried in waggons-- about as comfortable for traveling as a New England ox cart with a covering over it--a great many ride on horseback and multitudes go on foot--even aged females, apparently nearly ready to drop into the grave, were traveling with heavy burdens attached to the back-- on sometimes frozen ground, and sometimes muddy streets, with no covering for the feet except what nature had given them. We were hours making our way through the crowd, which brought us in close contact with the wagons and multitude, so much that we felt fortunate to find ourselves freed from the crowd without leaving any part of our carriage. We learned from the inhabitants on the road where the Indians passed, that they buried fourteen or fifteen at every stopping place, and they made a journey of ten miles per day only on the average. One fact which to my own mind seemed a lesson indeed to the American nation is, that they will not travel on the Sabbath. . . when the Sabbath came, they must stop, and not merely stop--they must worship the Great Spirit too, for they had devine service on the Sabbath --a camp meeting in truth. One aged Indian who was commander of the friendly Creeks and Seminoles in a very important engagement in the company with General Jackson, was accosted on arriving in a little village in Kentucky by an aged man residing there, and who was one of Jackson's men in the engagement referred to, and asking him if he (the Indian) recollected him? The aged Chieftain looked him in the face and recognized him, and then with a down-cast look and heavy sigh, referring to the engagement, he said 'Ah! my life and the lives of my people were then at stake for you and your country. I then thought Jackson my best friend. But ah! Jackson no serve me right. Your country no do me justice now!'

. . .When I past the last detachment of those suffering exiles and thought that my native countrymen had thus expelled them from their native soil and their much loved homes . . . I turned from the sight with feelings which language cannot express and 'wept like childhood then.' I felt that I would not encounter the secret silent prayer of one of these sufferers armed with the energy that faith and hope would give it (if there be a God who avenges the wrongs of the injured) for all the lands of Georgia!

. . .When I read in the President's Message that he was happy to inform the Senate that the Cherokees were peaceably and without reluctance removed²⁷--and remember that it was on the third day of December when not one of the detachments had reached their destination; ~~and~~ that a large majority had not made even half their journey when he made that declaration, I thought I wished the President could have been there that very

²⁷James D. Richardson, A Compilation of the Messages and Papers of the Presidents, 1789-1897. (Published by authority of Congress, 1893), III, 497.

day in Kentucky with myself, and have seen the comfort and willingness with which the Cherokees were making their journey.
 . . .²⁸

They crossed the Ohio River at a ferry near the mouth of the Cumberland, and passed on through southern Illinois until they reached the Mississippi River opposite Cape Girardeau, Missouri. The drought of the previous summer had delayed the start so long that it was winter when the emigrants reached that great river. They were delayed in crossing by the passing ice which endangered the boats. It was so bad that they were compelled to remain here beside the frozen river for days, with hundreds of sick and dying penned up in wagons or stretched upon the ground, with only a blanket overhead to keep out the January blast. The crossing was made at last in two divisions, at Cape Girardeau and at Green's Ferry, a short distance below, whence the march was on through Missouri to the Indian territory. The later detachments made a northerly circuit by way of Springfield, because those who had gone before had killed off all the game along the direct route.

John Benge's party passed near Batesville, Arkansas, December 15, 1838. John Benge was conductor, George Lowrey, assistant, Dr. W. P. Rawles of Gallatin, Tennessee, surgeon and physican, and William Shorey Coodey, contractor. Many of them visited the town to get their carriages repaired, have their horses shod and for other reasons. They left Gunter's Landing on the Tennessee River thirty-five miles above Huntsville, Alabama, October 10, after which time, owing to their exposure to the inclemency of the weather, and many of them being destitute of shoes and other necessary articles of clothing, about fifty of

²⁸New York Observer, January 26, 1839 as quoted in Foreman, *op. cit.*, pp. 305-308.

them died. They passed through Smithville, Lawrence County, Arkansas, on December 12. A newspaper man at the time wrote "I am informed that they are very peaceable, and commit no depredations upon any property in the country through which they pass."²⁹ They had over a hundred wagons and their horses were reported to be the finest seen in such a collection. They consumed about one hundred and fifty bushels of corn per day. "It is stated that they have measles and whooping cough among them and there is an average of four deaths per day."³⁰

Sitwakee started with a party but for some reason Rev. Evan Jones, a Baptist missionary, was made conductor. He reported that they traveled sixteen miles on October 16 but that the people were so fatigued with the effort, that they remained in camp at McMinnville several days to rest. They were compelled to pay forty dollars at the Waldren's Ridge toll gate but the man agreed to let the other detachments pass at half price, that is, thirty-seven and one-half cents for four wheeled carriages and six and one-half cents for a horse. On the Cumberland Mountains they were fleeced seventy-three cents a wagon and twelve and one half cents for a horse without the least abatement or thanks. They passed Rev. Jesse Bushyhead's detachment which was delayed because their oxen had eaten poison ivy. Jones reported that Bushyhead was having a distressing time with the "discontents".

Jones reported that they were stopped at the Mississippi River by the ice running so that boats could not pass. While waiting here Bushyhead's and Foreman's detachments caught up and camped alongside

²⁹Arkansas Gazette, December 20, 1838.

³⁰Ibid., January 2, 1839.

them. He expressed fear that with all the care that could be exercised, there would be an immense amount of suffering and loss of life. He predicted that great numbers of the old, the young, and the infirm would inevitably be sacrificed. The fact that the removal was effected by coercion made these facts all the more galling to the feelings of the survivors.

Captain Old Field started out with his detachment numbering 983 according to Ross's record, or 921 according to that of Stephenson. This group was composed chiefly of Indians of religious attachments. For some reason not known, Rev. Stephen Foreman, a Cherokee preacher who had been educated at Union and Princeton theological seminaries, was made conductor and finished the journey as such. There were fifty-seven deaths and nineteen births on the road and after accounting for a few desertions and accessions they numbered 921 on their arrival in the West.

The narratives of the other conductors are very similar to the ones given herein.

Some of those whom sickness had prevented from emigrating by land with the main body, were in a party of 228 aboard the steamboat Victoria, which arrived at Little Rock about February 1, 1839. Among them were Chief John Ross and his family. They also had cause to mourn for Mrs. Ross collapsed under the strain and passed away just as the boat landed at Little Rock. She was buried in the cemetery there.

And thus ended "The Trail of Tears" at the end of which were much homesickness, suffering, threatened civil war, misery, and continued deaths. Mooney, in writing of it, said that even the much sung exile of the Acadians fell far behind it in its sum of death and misery.

The saddest part of all is that this blot of shame on the page of American history could have been avoided. Had Andrew Jackson not been such an Indian hater, ~~Lew Cass~~ not so ambitious for the presidency, and the officials of Georgia not too greedy and cowardly to stand for right, this deadly migration might have been avoided.

The government could have continued its Indian policy as pursued from Jefferson to Adams and secured results satisfactory to all save the outlaw and the robber. Had the government spent its money for missionaries, teachers, and agents to point the way to the Cherokees for territorial government leading to a fair representation in the state government, instead of spending it for coercion and bribes, the removal would not have been necessary. Had a "Dawes Commission" been appointed in 1823 rather than in 1893 and with the same purpose in mind,--that of inducing the Indians to accept territorial rather than tribal government,--had the same amount of money been expended and had the government followed a policy of honesty in dealing with the Indians, they could have been assimilated into the states of the East with as great ease as was later the case when they were assimilated into the state of Oklahoma, and without the appalling loss of life that the removal caused.

BIBLIOGRAPHY

Source Materials

- Bassett, Spencer. Correspondence of Andrew Jackson.
Carnegie Institution of Washington. 1926.
- Benton, Thos. Hart. Thirty Years View, or a History of the
Working of the American Government for Thirty Years, From 1820 to 1850.
D. Appleton and Company. New York. 1893.
- Dale, Edward Everett. Readings in Oklahoma History.
Row, Peterson and Company. Evanston. 1930.
- Dickins, Asbury, and Forney, John W. Documents of the Congress
of the United States in Relation to the Public Lands, March 1834 to
March 1835. Gales and Seaton. Washington. 1860.
- Evans, Lawrence B. Leading Cases of American Constitutional Law.
Callaghan and Company. Chicago. 1925.
- Kappler, Chas. J. Indian Affairs, Laws, and Treaties.
Government Printing Office. Washington. 1904.
- Miscellaneous Document 167, Fifth Annual Report of Bureau of
Ethnology. 49 Cong., 2 sess.
- Miscellaneous Document 539, Nineteenth Annual Report of Bureau
of Ethnology. 56 Cong., 2 sess.
- Richardson, James D. A Compilation of the Messages and Papers
of the Presidents, 1789-1897. Published by authority of congress, 1899.
- Senate Document, Number 512, Indian Removal. 23 Cong., 1 sess.
- Walker, Robert Sparks. Torchlights to the Cherokees, the Brainard
Mission. Macmillan Co., New York. 1931.

PERIODICALS

Arkansas Gazette. December 20, 1838; January 2, 1839.

Army and Navy Chronicle. IV, VII, VIII.

Cherokee Phoenix. October 28, 1829; March 10, 1830.

Missionary Herald. XXXIV.

New York Observer. January 26, 1839.

Niles Register. May 4, 1816.

Tennessee Historical Magazine. IV.

SECONDARY SOURCES

Bass, Althea Leah. Cherokee Messenger. University of Oklahoma Press. Norman. 1936.

Coulter, E. M. A Short History of Georgia. University of North Carolina Press. Chapel Hill. North Carolina. 1933.

Foreman, Grant. Indian Removal, The Emigration of the Five Civilized Tribes of Indians. University of Oklahoma Press. Norman. 1932.

Hill, Luther B. A History of the State of Oklahoma. Lewis Publishing Company. Chicago. 1910.

O'Beirne, H. F. The Indian Territory, Its Chiefs, Legislators, and Leading Men. C. B. Woodward Company. St. Louis. 1892.

Starr, Emmitt. History of the Cherokee Indians. Warden Company. Oklahoma City. 1921.

Thoburn, Joseph B. A Standard History of Oklahoma. American Historical Society. Chicago. 1916.

Typed By

Mary E. Turner