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Tennessee's Policy in the Removal of the Cherokee

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TENNESSEE'S POLICY IN THE REMOVAL
OF THE CHEROKEE

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A THESIS

Submitted to the Graduate Committee
of
The University of Tennessee
in
Partial Fulfillment of the Requirements
for the degree of
Master of Arts

by

MINNIE HAZEL MYERS

August 1937
Indian removal was one of the most vital problems in the early history of the State of Tennessee. When this state came into the Union she had title to only two widely separated triangles of land, one in northern Middle Tennessee, the other in East Tennessee. The Indians held title to all other lands within her limits, and these lands practically surrounded the white settlements. Squatters who settled upon Indian soil and holders of North Carolina land warrants petitioned the Federal Government to purchase Indian land; public officials pleaded for the purchase of Indian land to aid in the development of transportation facilities and in the expansion of the state. The state could legally expand only as she obtained land from the Indians; therefore the Indians were constantly pressed for cessions of land, until they were entirely removed from the state.

In the preparation of this study, the writer is greatly indebted to Dr. Stanley J. Folmsbee, of the Department of History of the University of Tennessee, for his helpful suggestions and valuable criticisms.
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CHAPTER I

THE FEDERAL POLICY OF INDIAN REMOVAL

Tennessee's policy in regard to the removal of the Indians from the chartered limits of the state to territory west of the Mississippi parallels in some respects that of the Federal Government. The question of Indian removal was of paramount interest in Tennessee during the same periods that it occupied a large place in the affairs of the government of the United States. It was a question much discussed by both federal and state lawmaking bodies; it was one of the big topics in messages of presidents and governors. As a federal policy, Indian removal was not prosecuted steadily; it arose intermittently, depending upon the president's attitude upon the question or the circumstances of the times. In Tennessee the removal of the Indians was an important issue from the time this policy was first advocated until the Indians were finally removed, more than forty years later.

The Nashville Republican and State Gazette attempted to claim for the legislature of Tennessee the credit for originating the idea of Indian removal, but
this claim has in part been refuted. In 1797, the year following Tennessee's admission into the Union, however, she instructed her congressmen to present to Congress a memorial asking the Federal Government to extinguish the title to Indian lands within her boundaries. This memorial was made in behalf of white settlers whose holdings were found to be within Cherokee territory when the boundary line, defined by the treaty of Holston in 1781 to separate the Cherokee Nation and citizens of the United States, was surveyed and marked.

Several years after the removal policy was inaugurated, Governor McMinn of Tennessee called Thomas Jefferson "... that illustrious statesman ... by whom the principle of exchanging land was first suggested." President Jefferson first mentioned removing the Indians west of the Mississippi in a confidential message to Congress in January, 1803. Later in that year the same idea was incorporated in the rough draft of a proposed constitutional amendment, when President Jefferson was seeking

2. American State Papers, Indian Affairs, I, 625-626. Hereafter this reference will be cited as A. S. P., I. A.
4. Ibid., 1817, pp. 175 ff.
some justification for his recent purchase of the Louisiana Territory. The purchase, however, was justified upon a broad construction of the constitution, and the proposed amendment was not adopted. Therefore, only a clause was inserted in the Louisiana Territorial Act of 1804 giving to the president the power to effect Indian migration. The Louisiana Territory was divided into two parts, and it was Jefferson's plan for the Indians to inhabit the northern part.

The early policy of the Federal Government toward Indian removal was a contrast in every way to that of the later period, when removal was finally accomplished. President Jefferson wanted the Indians to learn agriculture and eventually to become citizens of the United States. He believed that honest and peaceful means would obtain land from the Indians as rapidly as it was needed for compact settlement. To obtain the land without opposition, he advised his officials to encourage the Indians in contracting debts larger than they could pay, and then to accept cessions of land to "lop off the debts."

During President Jefferson's administration frontier protection was a difficult problem for our country.

8. Abel, op. cit., 245-249.
Safety in territory along the Mississippi, which was largely inhabited by Indians, was constantly threatened. The President advised his agents to purchase land in this area if possible and to plant white settlements there as a means of defense against foreign attacks. Even before the United States purchased Louisiana, he had advocated driving across the Mississippi any Indian tribe which became hostile to the United States, as an example to others. It was his wish that the western country be made attractive to the Indians who had voluntarily migrated there by selling them arms, ammunition, and necessities; thus eventually the whole body of Indians might be "told" across the Mississippi. Although at the same time President Jefferson was advocating this plan his agents had been sent to buy the city of New Orleans from France, he had no idea of purchasing the entire area which he desired as an asylum for his Indian tribes.

After the United States acquired all of Louisiana President Jefferson was for a while enthusiastic in his plans for moving the Indians to this territory west of the Mississippi. It was his intention to consolidate the white settlements on the immediate frontier instead of to draw the white population to the West, as objecting eastern citizens had feared would happen. The early proposals

for exchange of territory made to three southern tribes, the Chickasaw, Choctaw, and Cherokee, met with no great success.

Little was done to forward Indian removal during President Madison's administration. The War of 1812 intervened to claim the nation's attention, and for a number of years domestic problems were forgotten. Long before the war began, however, citizens of the Northwest asked the Federal Government for more protection against the Indians. As early as 1807, the Indians of this section became restless, and agents of the United States, sent to make overtures of peace, were instructed to threaten them with removal if they allied themselves with the British.

Despite efforts of the United States to win their help, and in defiance of threats of removal, the Indians aided the British in the war. The British were not victorious, and the Indians found themselves at the close of the war in a sorry plight in their relations with the United States Government. Peace with the tribes on the northwest frontier was not at once restored. General Jackson had exacted a large area of land from the defeated Creek, the only tribe in the South to take up arms against the United States, and peace was soon restored.

on that front. The British attempted to include their Indian allies in the peace treaty at Ghent, and much wrangling among the representatives resulted. The British proposal that the two nations form jointly an Indian buffer state was rejected by the United States.

After the War of 1812, a notable change in the Federal Government's policy of dealing with the Indians occurred, and a great agitation for removal arose. For the first time, the question entered national politics, and eventually advocacy of this policy became identified with the Democratic party and the state rights question.

It had been seen by comparison that England's method of dealing with the Indians was superior to that of the United States; it was evident that something must be done to gain the good will of the tribes and to prevent a recurrence of hostilities. The Indian agents were questioned as to the best policy to be pursued. A number of them suggested that Indian affairs, which were at that time under the control of the Secretary of War, might better be handled as a separate department. It was further suggested that the Government, instead of monopolizing commerce with the tribes, should permit individual traders to go among the Indians also. Agent Stickney,

at Fort Wayne, recommended that the government give more food and presents to the Indians. He believed that, given a hundred thousand dollars worth of meat and bread, he could kill more Indians by overfeeding than he could kill with a million dollars spent on an army to fight them. Better still, no one would know that he was trying to kill them.

Major Edmund Gaines recommended civilization of the Indians as the best means of solving the problem. Such a procedure, he thought, would constitute a national defense for the United States. To support this contention, he pointed out that no single instance was known in which an Indian who had been educated and treated kindly by the United States had fought on the side of England during the recent war. He believed that disloyal Indians were responsible for about four fifths of the American losses on land in the Northwest during the war. Nevertheless, it was his opinion that the Indians should not be driven from their native homes to the West.

In spite of all the suggestions made, no solution was found. During the latter part of President Madison's administration an investigating committee recommended that the Indian problem be solved by removing the Indians to the West. This removal was to be effected

through the exchange of territory and was advocated as a means of military protection along the irregular frontier; it was observed that frontier contacts had a very bad effect upon the Indians.

Early in President Monroe's administration, the removal question was revived. It was supported chiefly on the ground that white settlers, who could develop the many resources of the frontier, would take the place of the feeble Indian tribes. John C. Calhoun, Secretary of War during the Monroe administration, gave these additional reasons for removal: the Indians could not exist as independent communities in the midst of a civilized society; the political relationship between the Indians and the United States Government was not desirable, because the Indians were treated with as though they were independent nations; and those Indians who came into contact with the whites were soon depressed in spirit, debauched in morals, and a nuisance to the surrounding country. Under President Monroe large areas of land were obtained from the Cherokee, Chickasaw, and Choctaw in the South, largely through the efforts of Andrew Jackson as agent. In the meantime, treaties were made whereby Ohio, Indiana, and Illinois in the Northwest were practically freed from Indian occupancy.

22. A. S. F., I. A., II, 123.
23. Ibid., 176, 200, 274; Abel, op. cit., 276-295.
President John Q. Adams, a New Englander, probably was not in sympathy with Indian removal as a government policy, but some progress toward removal was made during his administration. The Indian Springs treaty, which was made at the close of the preceding administration and proclaimed by President Adams, brought a controversy between the State of Georgia and authorities of the United States. It was charged that this treaty, which was to remove all the Creek tribe from Georgia, was a factional treaty, made through fraud and bribery. In spite of the heated protest of Georgia, it was abrogated by the treaty of Washington in 1826, which failed to obtain quite all the Creek lands in that state. However, the remaining Creek territory was secured by treaty in 1828. In 1825 large areas of land were obtained also from the Kaw and Osage tribes in Kansas and Missouri. Later in the Adams administration, difficulties arose over boundary lines of the tribes lately removed to the West.

The last president to deal with Indian removal as a policy of the Federal Government was Andrew Jackson. The country had become more thickly populated, and the need for land was more urgent when he became chief executive. White settlers had practically surrounded the eastern Indian nations, and the relationship between the

two races was very undesirable. Removal propositions had been pressed upon the Indians until many of them had become irritated and stubbornly determined not to emigrate.

President Jackson was strongly in favor of removing the Indians. Early in his administration he adopted the policy of coercion to enforce his views, being unable to accomplish his purpose in any other manner. Soon after he became President, the Cherokee sought his aid against the State of Georgia when she extended her laws over a part of their country. In reply he cited the national constitution to the effect that no state can exist within the limits of another state without the consent of the state within which it exists. He expressed great concern for the welfare of the Indians and advised them to emigrate or to become citizens. This reply might be called Jackson's ultimatum to the Indians. It was a message of grave concern to all eastern tribes.

The passage in 1830 of the general removal bill, which gave the president extended powers to make removal treaties with Indian tribes, was largely due to the influence of President Jackson. Both houses of Congress had heated debates upon the bill when it was presented. The Cherokee were the crux of the discussion; Indians in general were hardly mentioned. The bill passed the House by

the very narrow margin of 97 to 103. Representative Fryor Lea of Tennessee called this one of the severest struggles he had ever witnessed in Congress.

President Jackson gave a number of reasons for his policy toward the Indians. He called the existence of the Indian governments within the several states an infringement upon state rights. He said that the fact that the Federal Government dealt with the Indian tribes as if they were foreign nations gave them privileges not granted to any other groups of citizens in the United States. He emphasized the bad influence that the vices of the whites had upon the Indians and maintained that the government had no control over the events which rendered the Indians unhappy in their present situation.

"We cannot," he said, "restore this country as it was when white men came here - millions of acres with a few thousand savages upon it." In his messages, he reported from time to time the progress made in removing the Indians, and he urged always that the policy of removal be prosecuted with vigor.

26. Register of Debates, VI (1829-30), Pt. 1, 305-456; Abel, op. cit., 381, f.n.
27. Knoxville Register, Dec. 22, 1830.
28. Register of Debates, IX (1832-33), Pt. 2, Appendix, 7; X (1833-34), Pt. 4, Appendix, 6; XI (1834-35), Pt. 2, Appendix, 7; XII (1835-36), Pt. 4, Appendix, 9.
CHAPTER II

TENNESSEE'S EFFORTS TO OBTAIN REMOVAL OF THE
CHEROKEE PRIOR TO THE WAR OF 1812

Indian removal was one of the major problems in Tennessee for a period approximating the first forty years of her existence as a state. Tennessee began life as an inland state surrounded by Indian tribes and with no immediately adjoining settled area for protection. Within her boundaries the Indians held title to all but two small and widely separated triangles of land. Any future expansion, therefore, would entail the cession of Indian holdings located within the new state. The fight to obtain land from the Cherokee was long and bitter; it was waged on battle grounds and in legislative halls, stubbornly contested to the end.

The territory which became the State of Tennessee had once formed a part of western North Carolina. During this time a number of land laws were passed by the mother state which later resulted in complicated entanglements in Tennessee and a constant pressure upon the Indians for more lands to relieve these entanglements.

The first of these troublesome laws was enacted in 1798. This was an act which set aside the entire Cumberland River basin, approximately three million acres,
as a military reservation for North Carolina soldiers who had fought in the Revolution. The following year another law was passed, opening the remainder of the western territory to land purchasers, with the exception of an area south of the French Broad and Big Pigeon rivers, which was reserved to the Cherokee Indians. In passing these acts, North Carolina ignored the claim of the Cherokee upon the land, maintaining they had forfeited their rights by aiding Great Britain in the Revolution. John Armstrong opened an office at Hillsboro to make grants to the lands in question, and settlers and speculators rushed across the mountains and laid claim to thousands of acres of Cherokee territory.

So much friction resulted between the Cherokee and the whites that it was necessary for the United States to take steps to make peace between them. Accordingly, in 1785 the treaty of Hopewell was negotiated, whereby the Cherokee relinquished claim to the greater part of the North Carolina military reservation and confirmed the cession, made in 1777, of what is now upper East Tennessee. The United States recognized the Indian title to the remaining unceded lands in the western territory and by this act placed a great number of whites in the position of being squatters on Indian soil.

In the spring of 1784 North Carolina ceded her western lands to the national government, but the cession was repealed in the fall of the same year. In the meantime, the State of Franklin was created west of the mountains to provide a government for the ceded area, and John Sevier was elected governor. He negotiated two treaties with the Cherokee for land lying between the French Broad and Little Tennessee rivers, and white settlers immediately occupied the territory. After the fall of the State of Franklin in 1789, these treaties were not considered valid, and the settlers who had rushed into the new area held the status of squatters without legal right to the land.

North Carolina again ceded her western lands to the United States in 1789. The cession was accepted in 1790, and the area became the Territory of the United States South of the River Ohio. The United States agreed to honor all warrants granted by North Carolina to lands within the military reservation, with the provision that if the soil were not tillable, these claims might be satisfied by lands elsewhere in the territory. The Federal Government also agreed to honor the entries and grants which had been made by purchase through John Armstrong's office under the act of 1783. After the cession of 1789,

North Carolina continued to issue numberless warrants to lands within the western territory, although it had been specified that all surveys were to be finished and grants made by 1792. North Carolina was justified in this, however, because grants could not be completed until the United States had induced the Indians to relinquish title to the land. The impatience of holders of North Carolina warrants to take possession of their claims was one of the chief sources of subsequent disagreements between the Indians and whites.

The immediate cause of trouble, however, was the failure of the United States to carry out a promise in the treaty of Hopewell to remove those whites illegally located on Indian lands. In 1790 President Washington reported that upward of five hundred families had moved into Cherokee lands, exclusive of a large number who had settled south of the French Broad River during the State of Franklin period. For the relief of these settlers, William Blount, governor of the territory, negotiated the treaty of Holston with the Cherokee in 1791, whereby title was secured to a large area of land extending from the Clinch River on the west and southward to a line drawn from Southwest Point (Kingston) almost due east to the North Carolina boundary.

When Tennessee came into the Union in 1796, she had obtained from the Indians only two widely separated areas of land within her limits: the Cumberland area in northern Middle Tennessee, containing about three million acres, and a second triangle in the eastern part of the state, containing about five million acres. Claims which exceeded in number of acres the territory included had been laid upon these two areas, and white settlements had been made. Outside of these lands, any title Tennessee presented was contested; first, by the Indians; secondly, by the holders of North Carolina land warrants; and, finally, by the United States Government. Only the Federal Government had authority to deal with the Indians for additional cessions of land.

When the treaty of Holston was concluded in 1791, the boundary line was not immediately surveyed and marked. Attempts were made to make the survey, but because of the hostile feeling existing between the Indians and the whites, it was not completed until 1797. Even at this date the feeling of bitterness was so intense that the Indians were afraid to meet with the whites when an attempt was made to convene them for the purpose of marking the line. After the survey was finished, many white settlers were still inside the Indian boundary, both

west and south of the newly marked line.

Meanwhile, the United States agreed, as a part of its program for regulating trade with the Indian tribes, to remove by force all intruders on Cherokee lands. Therefore, when the boundaries had been fixed, Colonel Thomas Butler, commander of United States troops in Tennessee, proclaimed on August 19, 1797, that all persons upon lands allotted to the Cherokee by the lines lately established must remove by October 25 of that year. It was estimated that the proclamation affected two thousand and five hundred people, or more, who had settled west of the boundary line in Powell's Valley, and south of the line on the French Broad and Holston rivers.

Governor Sevier and the state legislature immediately became active in behalf of these ejected settlers and made efforts to obtain relief for them. The legislature passed a resolution requesting Governor Sevier to make known to the president the condition of these distressed people and ask that the date for their removal be postponed until they had had time to harvest their crops and find a new location. This request was followed by a similar one to Colonel Butler, inquiring whether he had received orders from the president to postpone the time of removal. The answer was that although he had received

8. Ibid., 173-174, 176.
no instructions to this effect, he had written to the Secretary of War, asking permission to grant passports to the people allowing them to remove their possessions any time before January 1, 1798.

Having failed to stay Colonel Butler's hands in removing the intruding settlers, the legislature then resorted to other means. Three commissioners were appointed to check the accuracy of the Holston treaty line as surveyed by Benjamin Hawkins. The commissioners, when they reported, October 18, 1797, claimed to have found the Hawkins line on the southern boundary in error in that it was not a straight line and did not cross the Holston at the point specified in the treaty. Had the boundary line been established according to the judgment of the commissioners, many settlers who had been ejected by military force would have been left secure in their holdings. In order to be certain that the general public received this information about the Hawkins line, the two houses concurred in the passage of a resolution to have three hundred and thirty copies of this report printed for distribution among the people.

While the legislature was thus attempting to aid the settlers who had lost their homes, Governor Sevier was also making individual efforts in their behalf. In a

13. Ibid., 217.
message to the legislature he deplored the fact that "a considerable tract of settled country and well improved land" fell within the Indian boundary. He anticipated injury to individuals and to the public. He feared that these military ejections and federal restrictions would retard the growth of the infant state and that settlers already in the state might seek homes under another government which imposed fewer hardships upon its citizens. The governor refused to admit that the ejected settlers were occupying Indian territory, saying they were upon "what is called Indian lands." Some who had been removed had returned to their homes, and others declared they would not be removed. Great hostility existed between the whites and the Indians, and frequently murder resulted. Governor Sevier was distressed and predicted fearful consequences if the difficulty were not settled. He questioned the Tennessee congressmen as to the attitude of the Federal Government, should Tennessee herself propose to buy the disputed territory from the Indians.

The settlers in Powell's Valley appeared to be suffering from ejections more than any other group. Governor Sevier assured them by letter that he was doing all

16. Ibid., Nov. 19, 1797, p. 158.
17. Ibid., 159.
in his power to obtain relief for them. He also posted a circular addressed: "To the inhabitants who lately resided on what is called the Indian lands near the Tennessee River." This circular stated that the reason no representative had been sent into the Cherokee country was that the Indians were all out hunting and nothing could be done until they returned.

Governor Sevier was very much perturbed when the United States troops ejected Judge David Campbell from the land he occupied on the site of the present town of Lenoir City, south of the Hawkins line. Taking advantage of what he considered an outrage upon the judge, Sevier proceeded to get ejections retracted and to spread propaganda against the entire program of removal of settlers. He sent a protest to the President of the United States describing the arrest of Judge Campbell "about ten o'clock at night on his own premises and not within the Indian line." He took care to mention that the judge was detained at the officers' cantonment all night and lamented that an act of this kind should befall a citizen of such high character. Saying he felt sure that the president had given no orders to this effect, he earnestly requested that such acts be stopped and intimated that dire results might occur if they continued.

19. Ibid., 162.
20. Gov. Sevier to the President of the United States, Feb. 6, 1798, ibid., 170.
The most important of the Tennessee protests was the memorial which the legislature sent to Congress in 1797, soon after the omissions began to take place. This remonstrance began with the history of North Carolina as a free commonwealth with title to all her lands and the privilege of disposing of them. Under North Carolina laws, settlers had bought and paid for lands; then, by the session of 1789, the Federal Government assumed the responsibility of perfecting these claims. It was the opinion of the legislature that the Indians had no fee simple title to the lands alluded to; if they did, then the laws of both North Carolina and the United States were void. It was contended that the Indians were tenants at will of the state. The memorial requested that Congress extinguish the Indian claims so that the owners and grantees of the land might have full possession of their property.

As a result of the many protests which were directed to the president and Congress, President Adams early in 1796 appointed three commissioners, Fisher Ames, Bushrod Washington, and Alfred Moore, to negotiate a treaty with the Cherokee which would establish title to certain parcels of land and settle other points for the safety of citizens. Ames and Washington were unable to serve; therefore, George Walton of Georgia and Colonel

John Steele of Virginia were appointed to take their places.

Notified of this action, Governor Sevier decided to take steps to cooperate with the United States in negotiating the treaty. He appointed Major Ore as a special agent and instructed him to go into the Cherokee country and endeavor to create a sentiment among the Cherokee in favor of the sale of their lands. He also appointed commissioners to represent the state in the actual negotiation of the treaty. A circular was posted which gave to the public the information that a treaty was about to be negotiated with the Cherokee for the purchase of land.

Soon after the Tennessee commissioners were appointed Governor Sevier gave them instructions as to what was desired from the coming treaty. They were to secure, first, a title to the land from which settlers had lately been ejected and, in addition, a promise of safety for the settlers on the new boundary line. Furthermore, it was considered of great importance to obtain, if possible, a strip of land at least eighty miles wide extending across

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23. Gov. Sevier to Col. James Ore, Apr. 27, 1798, May 12, 1798, two letters, ibid., No. 4, pp. 146, 151, f.n. 147.
25. Ibid., 142. The posting of circulars was a means of conveying general information to the public in pioneer days. In this circular the Governor commented upon foreign affairs, Indian affairs, and the fact that the treasury was empty (needed help of legislators but could not call them for lack of money in treasury). Gov. Sevier to James Robertson, May 13, 1798, ibid., 152, 153.
the Cherokee hunting ground lying between the Hamilton and Merce districts. This area under control of the state would connect the two settled portions of the state and lessen the danger of Indian attacks on the road between the two districts. The commissioners were also advised that it was desirable to ask for right of ways for roads both within and without the state and for navigation rights on all navigable waters within the Cherokee country.

The United States and Tennessee commissioners met with the chiefs early in July, 1798, and at the very beginning of the conference one of the chiefs delivered to the council the refusal of the Cherokee to cede any more land or to permit the ejected settlers to return to their holdings. The commission could do nothing to change this determination, and further negotiations were postponed. The matter was not permitted to rest very long, however, and the council met again in October. When two of his commissioners failed to attend this meeting, Governor Sevier decided to go in person to obtain what he could for his state. Although he was unable to secure the territory connecting the Hamilton and Merce districts, he did regain most of the lands from which settlers had been removed, and the people were permitted to return to their holdings. Two strips of land were surrendered by the Indians: one

26. Gov. Sevier to James Robertson, James Stewart, and Lachlan McIntosh, July 4, 1798, ibid., 166.
27. Royce, op. cit., 130.
lying between the Clinch River and the foot of Cumberland Mountain, and another lying south of the Hawkins boundary line as established by the treaty of Holston. Tennesseans were disappointed, however, with the size of the cession.

They were also greatly disappointed because of the failure to obtain a strip of land connecting the Hamilton and Metro districts. Transportation was a big factor in the frontier life of Tennessee. The necessity for new routes of travel brought on many difficulties with the Cherokee, since their lands almost surrounded the white settlements and any roads leading from the settled areas must pass through Cherokee territory. The early period of the state's existence brought many demands for the establishment of new roads, because very few had been made at that time.

Following the fixing of the Holston boundary line in 1797, a controversy arose over the use of the ferry at Southwest Point. Previous to the survey of this line, the ferry had been operated by the whites; afterward it was taken from the whites and managed in the interest of the Cherokee. The settlers claimed that control of the ferry by the Indians hindered the use of the road between the Hamilton and Metro districts, which had been provided for in the Holston treaty. A petition was made for opening

this ferry to the whites and also for establishing a road leading northward between Knoxville and Frankfort, Ken­
tucky, which would constitute another invasion of Cherokee territory. Attempts were made in 1801 to obtain two roads leading south from Nashville, one to Natchez and the other to South Carolina. The right to build these roads was refused by the Indians on the ground that it was difficult to keep peace when many travelers passed through their country. Following this failure to gain permi­s­sion for the roads specified, Governor Sevier was able to obtain the right to construct two other roads from Tennes­see into Georgia, one leading from Southwest Point and the other from Tellico blockhouse. Agent Neigis had asked Gov­ernor Sevier himself to be present for this negotiation, for he believed the governor's presence alone would in­fluence the Indians to grant the right of way. One of the chief arguments for purchase of the Cherokee hunting grounds between Hamilton and Nego districts was that legis­lative and judicial officials who found it necessary to travel the road were in grave danger of Indian attacks.

Because of complaints of citizens concerning the corrupting influence of the Indians upon their white neigh­bors, the state legislature in 1801 enlarged certain coun­ties for the purpose of extending the state's jurisdiction
over all the land within its limits. Blount County was enlarged to include all the Cherokee lands east of the Tennessee River, and Montgomery County to include the whole of West Tennessee. Other counties were enlarged in a similar manner. This act of the legislature was not designed to permit whites to occupy the Indian lands, but to extend the state's jurisdiction over persons who violated the state's laws and then took refuge within the Indian territory.

The clamor for possession of Cherokee lands in Tennessee was almost constant. Immediately following the Tellico treaty in 1796, Governor Sevier advocated that the state assert "her just claim to all lands lying within her chartered limits." In 1803 the state asked that the United States Government obtain title for additional Cherokee lands within her boundaries, and this demand was continued until the object was achieved. Commissioners were appointed by the United States and by Tennessee to carry on the negotiations for a cession of land. Although they rejected all proposals at first, the Indians were pressed upon the subject for about two years.

While further action upon the matter was being delayed, Governor Sevier again presented to the legislature the necessity for continued efforts to obtain land from

35. Ibid., 1803, pp. 149-150; 1804, pp. 95-96.
the Indians. It was argued that the state was being deprived of revenue as long as the Indians occupied the land; that the curtailment of Cherokee holdings might induce the tribe to become agricultural; and that the lives and property of whites were not safe as long as the Indians in a savage state remained as near neighbors. Of greater effect than all these arguments, perhaps, was the desire of holders of North Carolina land warrants to locate upon soil held by the Cherokee.

Through the persistent efforts of the commissioners, a treaty with the Indians was at last obtained in 1805, by which title was secured to a large area of the Cherokee hunting ground. It was located in Middle and East Tennessee, north of the Duck River and a line continuing from the source of that river due east to the Tennessee River at the mouth of the Hiwassee. This area included that section connecting the Middle and East Tennessee settlements, which Governor Sevier had sought to acquire previously.

Negotiations for Cherokee lands did not end with this cession, however. Late in 1805 a deputation of Cherokee, accompanied by Agent R. J. Meigs, went to Washington for a conference with the Secretary of War. As a result, another treaty was signed early in 1806, by which the Indians gave the United States the title to another

36. Ibid., 1805, pp. 14 ff.
large area of hunting ground in Middle Tennessee lying south of the Duck River. The Cherokee tribe now retained only the lands which they occupied in the southeastern corner of the state and another tract north of the Tennessee River, which included the Sequatchie Valley and its surrounding territory.

Now that title to a large area of Indian land within Tennessee had been gained, the necessity for settling the old land ownership dispute between North Carolina, Tennessee, and the United States Government was apparent. Tennessee had long protested the right of North Carolina to continue to perfect land titles within Tennessee boundaries. She also maintained that the United States possessed no claim to vacant lands within her borders, since the Federal Government had reserved none at the time of Tennessee's admission to the Union. In 1799 Tennessee had asserted her own right to all ungranted lands within her limits, but she had not yet been able to make this claim good. After a long period of dissension the problem was finally settled by the compact of 1806. By this agreement the United States Government was to have possession of an area known as the Congressional reserve, which included all lands west of the Tennessee River and an area in Middle Tennessee along the southern border of the state. Tennessee was to have all lands.

37. Joyce, op. cit., 139-197.
38. Goodpasture, op. cit., 210-228.
north and east of this boundary, subject to certain restrictions. Public schools were to be given one square mile out of each thirty-six, and colleges and academies were to be allotted a tract of one hundred thousand acres each. In addition, Tennessee was to satisfy all outstanding North Carolina land warrants as previously provided.

The reservation which North Carolina had set aside for the Cherokee in 1783 in the southeastern section of the state was to belong to Tennessee when the Indian title should be extinguished, and no North Carolina land warrants could be located there.

After the Cherokee cession of 1806, it was possible for both squatters and new settlers to secure title to lands in Tennessee. Governor Sevier insisted that in carrying out the preemption clause of the compact of 1806 care should be taken to protect settlers from land speculators. He recommended that they be allowed to enter small areas of land, including their improvements, at the minimum price of one dollar per acre. He was especially solicitous for the welfare of those people who had settled south of the French Broad and Holston and west of the Big Pigeon rivers in accordance with treaties made while he was governor of the State of Franklin. They were called a worthy class of citizens, and their sufferings from

Indian depredations were described as too deplorable to mention.

It was prophesied that as a result of the opening of large areas of public lands immigration to Tennessee would increase, and the government would become stronger. True to predictions, settlers came in rapidly. In 1807 the Knoxville Gazette reported that new settlers came into the state at the rate of two hundred per day during the month of April of that year. The Nashville Impartial Review reported that immigration into Middle Tennessee in the winter of 1806-1807 was greater than at any earlier period of the state's history.

Governor Sevier was extremely optimistic as to the amount of money the state would derive from the sale of public lands in the future. He thought that the income from the sale of lands south of the French Broad and Holston and west of the Big Pigeon rivers alone would supply the treasury with funds sufficient to carry on all public improvements needed in the future and that no further burden of taxation need ever be laid upon the citizens of the state. Later, as special improvements that might be made with the money from the sale of public lands, he recommended the following: the opening of rivers to navigation; the cutting and clearing out of roads; and the

40. Tennessee Senate Journal, 1806, pp. 6-7.
42. Tennessee Senate Journal, 1806, pp. 6-7.
erection of public buildings and "useful manufactories." It will be recalled that it was only a few years before this that President Jefferson had suggested the idea of removing the eastern Indians to the region west of the Mississippi River. It seems quite probable that Governor Sevier had this idea in mind when he made his optimistic estimate as to the amount of revenue which would be derived by Tennessee from the sale of lands south of the French Broad and Holston rivers. It was in this section of the state that the Indians actually resided. It would be extremely difficult, therefore, to induce the Cherokee to cede any of this land except upon the principle of an exchange of territory for land in the West, to which they would be transported at the expense of the Federal Government. Consequently, Tennessee became an ardent champion of Jefferson's removal policy. Thenceforth she would not be satisfied with anything less than the complete extinguishment of the Indian title to land within her limits.

Encouraged by the prospects of obtaining a large revenue from the sale of land, the Tennessee legislature, in 1807, appropriated $20,000 for the holding of another treaty with the Cherokee Indians, and appointed commissioners to work with the United States agent, R. J. Meigs, in carrying on the negotiations. The money appropriated

was not to be used merely for expenses of the commissioners, but also in payment, at least in part, for any land that might be acquired. Because of their especial dislike and distrust of the government and people of Tennessee, however, the Cherokee refused a further cession of land.

The next attempt to obtain land from the Indians was a proposition for their removal by the United States Government, based upon the principle of exchange of territories. Agent Meigs was instructed by the Secretary of War in 1808 to discuss the removal policy in the Cherokee country and create sentiment in its favor. The Cherokee tribe were now having difficulties of their own and had divided into two factions. The Upper, or Tennessee, Cherokee, had become largely agricultural and wished to be citizens of the United States, while the Lower, or Georgia, Cherokee were still hunters. A delegation of Upper Cherokee visited Washington in 1808 and were interviewed by President Jefferson. The president was asked to make a division line in their territory that each faction might pursue the occupation of its choice. A better or fairer allotment of annuities was also requested. Instead of dividing the territory, President Jefferson proposed removal west of the Mississippi as a remedy for their dissension. The delegation departed, and Agent Meigs was again

45. Ibid., 201-203.
requested to urge removal upon the Indians, but it was to be emigration by choice.

In the following year a delegation of both factions of the Cherokee interviewed President Jefferson in Washington. The Upper Cherokee desired United States citizenship, which the president did not encourage. To the Lower Cherokee he again proposed exchange of territory and removal to the West as a solution of their problem. A Cherokee delegation visited the country west of the Mississippi and by autumn of 1809 about two thousand expressed a desire to remove. The United States Congress had not appropriated enough money to pay the expenses of so large a migration; Agent Meigs, therefore, was instructed to undo his good work and encourage only individual families to remove.

Governor Willie Blount was little less active than Governor Sevier in his efforts to obtain removal of the Indians from Tennessee. Under his leadership came those attempts to remove the Indians which were the last before the War of 1812. His efforts were motivated largely by the desire for trade routes by water to the Gulf of Mexico. Any such routes leading from Tennessee to the South must pass through the territory of both the Cherokee and Creek Indians, and the dangers incurred because of

47. Royce, op. cit., 293-204.
Indian occupation of this land were considered a great hindrance to proposed water transportation projects.

In 1809 a Senate committee was appointed by the Tennessee legislature to investigate the possibility of connecting the waters of East Tennessee with the Tombigbee River and thus eventually reaching the Mobile River and the Atlantic Ocean. The committee thought the plan plausible and recommended that the United States Government renew the proposition of exchanging lands to the Cherokee, since many of them were now migrating, and complete removal might be effected. It was also recommended that Tennessee senators and representatives in Congress be directed to use their influence with the president to secure title to other Indian lands lying between Tennessee and Mobile Bay. If the whole area could not be gained, then the government should obtain as much as was necessary to admit of unmolested passage by way of Mobile waters to the Atlantic Ocean.

Negotiations with the Cherokee, begun in 1808 under Governor Blount, were continued without intermission and without success. Governor Blount thought the appropriation of $20,000, made in 1807 for the purpose of financing treaties with the Cherokee, was a serious matter for his infant state, and he proposed that the United States

43. Tennessee Senate Journal, 1809, p. 95.
Government provide the purchase price of any lands bought from the Cherokee and give Tennessee a reasonable time to repay the money. He advocated, however, that the title to all Indian lands in the state be extinguished and Tennessee given uncontrolled jurisdiction over her entire area. This he considered necessary to the state's growth and welfare. He obtained an estimate of the acreage of Indian lands lying within the state that this might be presented to Congress. The Cherokee claimed title to about three and one half million acres lying in East Tennessee, and the Chickasaw claimed a much larger area in West Tennessee. Blount was especially interested in securing title to the lands which would revert to the state under the compact of 1806, when the Indian claims were extinguished.

He was gratified when the United States secured West Florida in 1810, for this would further the cause of water transportation in the South and stop the imposition of Spanish duties on floating goods in that section.

During the campaign for removal of the Indians in the interest of water transportation in the South, Governor Blount came before the legislature and presented to that body the national plan for connecting the Great Lakes,

49. Ibid., 88-90.
50. Ibid., 111-114.
51. Ibid., 1811, pp. 43-50.
the Hudson, Ohio, and Tennessee rivers in one vast inland water system. So necessary to the welfare of the South did Tennessee consider trade routes through the Indian lands that the legislature passed a resolution soliciting the cooperation of neighboring states and territories in extinguishing the Indian claims to lands between Tennessee and the Gulf at Mobile. It was requested that the United States Government redress the wrongs of traders in the South who had suffered robberies and depredations at the hands of the Indians and deduct the amount assessed for damages from the annuities of the tribe committing the deed.

Following this message, the legislature passed a second resolution to the effect that the state should acquire more lands from the Indians. Later a memorial was sent to President Madison giving the following reasons for asking the extinguishment of Indian titles to lands in Tennessee: the claim of the Indians to millions of acres within the state prevented the state from exercising jurisdiction over her entire area; the Indian claim was inferior to that of the state, since the land belonged to the state by charter, by conquest, and by compact with the United States; few Cherokee lived within Tennessee, and the lands they owned outside the state were more than

52. Ibid., 126, 144.
sufficient for their use. President Madison was requested to renew to these Indians a proposal made by President Jefferson that they should remove upon the principle of exchange of territory. Removal would give justice to individuals, would better the condition of the Indians and preserve them many years longer than they might otherwise exist, and would enable millions of valuable citizens to make homes upon the lands held by the Indians. It was argued that the South would be more secure if all southern Indians were removed west of the Mississippi. This long memorial ended thus:

The suggestion of this proposed measure comes from a belief that the people of this and other states must of necessity have great intercourse with Mobile. 53

The War of 1812 was approaching, and no national action was taken upon the subject of removing the Indians from Tennessee at this time.

The general excitement which prevailed among the Indians of the northwest frontier preceding the War of 1812 was felt upon the southeastern frontier to a very limited degree. Efforts of northern Indians to create a united uprising among the southern tribes were not successful. Delegations of northern Indians passed through Tennessee in 1811, bent apparently upon a secret mission, and it was feared that their intentions were to stimulate

53. Ibid., 195 ff., 217 ff.
the Cherokee and Creek to activities against the United States. The Cherokee did not join with the Creek in their uprising. Their chiefs professed loyalty to the United States and offered their assistance in case of war between Great Britain and the United States. The story of Cherokee bravery in the War of 1812 is well known. Especially is their part in the battle of Tohopeka outstanding; it was here that many prominent Cherokees proved their loyalty to the United States.

55. Ibid., 801.
56. Ibid., 809.
CHAPTER III

TENNESSEE'S EFFORTS TO OBTAIN REMOVAL OF THE CHEROKEE FOLLOWING THE WAR OF 1812

The War of 1812 put an end temporarily to Tennessee's efforts to remove the Indians from the chartered limits of the state, but when peace was restored this problem was attacked with renewed vigor, and pre-war agitation began to bear fruit. Because of the nation's experiences in the late war, frontier protection and expansion now became the main objects to be achieved in removing the Indians to the West. The holders of North Carolina land warrants, however, were still pressing their claims for land upon which to locate. In recognition of Tennessee's interest, the Federal Government usually appointed Tennesseans to serve as commissioners to negotiate treaties of removal. After one such treaty had been made, the government sent Joseph McMinn, Governor of Tennessee, into the Cherokee Nation to superintend the removal of the Cherokee. As a result of this activity, large areas of Cherokee land were acquired, and the Cherokee were gradually pushed back until they retained only a small section of land in the southeastern corner of the state.
The first action in the interest of Indian removal following the War of 1812 was the introduction of a resolution in the Tennessee legislature in 1815 which asked that a committee be appointed to draft a memorial to the Federal Government upon the subject of extinguishing titles to all Indian lands within the chartered limits of the state by means of exchange of territory. Early in 1816 this memorial was presented to the president, and the burden of the communication was as follows: nearly one half of the area of the state was still encumbered by claims of the Cherokee and Chickasaw Indians; the area claimed by the Cherokee reached into the heart of the white settlements; this land had been granted to individuals who now wished possession of their just rights. It was stated that very few Cherokee lived upon the land they claimed; the game had been destroyed, and the land was of little value to the Indians for hunting, especially that section north of the Tennessee River. Tennessee now wished extinguishment of these Indian claims which would allow expansion of her settlements and the holders of land warrants the possession of their property. The president was reminded that Tennessee had not pressed her claims in this matter while the nation was lately engaged in war, but now that peace was restored she felt justified in

asking that the Federal Government settle these claims.

In response to this memorial, Secretary Crawford addressed a letter to Agent Meigs in the Cherokee Nation, stating that the president wished him to negotiate with the Cherokee at their next council meeting for the purchase of lands lying north of the Tennessee River and within the chartered limits of the State of Tennessee. Colonel Lowry, a chief, was practically the only Cherokee who lived upon the lands, and it was thought the purchase could be made by first giving him a "present" equal to the value of his possessions. The State of Tennessee was expected to pay the purchase price of the lands if a cession was made.

Before Agent Meigs was able to carry out this request of the president, there was a great commotion in Tennessee about lands lying wholly outside the state. When the treaty of peace was signed between the Creek tribe and the United States in 1814, General Jackson exacted a large cession of land from the Creek as an indemnity for the expenses of the war. This tract of land lay south of Tennessee in what is now Alabama and Georgia. The boundary line of the cession was to be surveyed and marked in 1815. The Cherokee chiefs who were present at the beginning of the survey claimed a large part of the

cession. Since the United States was anxious not to incur the ill will of the Cherokee Nation at this time, the War Department directed that the survey be suspended and a delegation of Cherokee be brought to Washington for a conference upon the matter. After the Cherokee had presented their evidence of ownership, their claims were honored, and a treaty of convention between the United States and the Cherokee Nation was signed, March 22, 1816. When news of this transaction reached Tennessee, great indignation reigned there, even though the land in question lay outside the limits of the state. Showers of angry protest from Tennessee fell upon the Secretary of War.

The bitterest storm of protest against this treaty with the Cherokee came from General Jackson, who had been the instrument in exacting the Creek cession in 1814. In language very characteristic of him, he addressed the Secretary of War, declaring that national security was endangered by the surrender of this land to the Cherokee. He cited proofs that the Cherokee title, as he understood the matter, was not good. He thought the real Cherokee Indians of the forest were not concerned about this land; it was the work of "designing half breeds and renegade white men who had taken refuge in the Cherokee country." Conceding this tract to the Cherokee was a blow to frontier safety, because this land in possession of

whites served as a connection between Tennessee and Georgia and the Mobile country. It also severed border connections of the southern Indian tribes and cut off communication between the northern and southern Indians.

The next complaint of General Jackson, which was perhaps the weightiest one so far as local interest was concerned, was in behalf of white settlers who had occupied the old Creek villages immediately after the war. It was prophesied that there would be difficulty should the United States attempt to eject them in favor of the Cherokee. It was doubted if the militia would obey, should they be called upon to eject the settlers, because they, too, felt it unjust to ask the removal of the whites in favor of the Cherokee; in the event of such an attempt, it was feared that the whites would wreak revenge upon the Cherokee tribe. The great indignation of the general is shown in the following lines to Secretary Crawford:

Candor compels me . . . to state to you that people in the west will never suffer any Indian to inhabit this country again which has for thirty years been the den of the murderers of their wives and helpless infants and for conquest of which they shed their blood. . . . I tell you frankly they never will unless coerced by Government and when this attempted I fear it will lead to scenes that will make human nature shudder. I might not be mistaken if I was to say it may lead to the destruction of the whole Cherokee tribe, and of course to a Civil War.

6. Andrew Jackson to Secretary Crawford, June 13 (?), 1816, Bassett, op. cit., II, 246.
Secretary Crawford replied to Jackson with about as much spirit as the general himself had demonstrated. He explained why he believed the Cherokee claims were just; he believed the Cherokee were entitled to all that had been yielded to them. Indian boundary lines had always been very indistinct; no records had been kept, and the land had never been wholly occupied; it was no small wonder, therefore, that boundary disputes occurred. The secretary entertained no apprehensions whatever from threats of violence toward the Cherokee tribe or of disobedience toward United States laws. Jackson was reminded that it would devolve upon him, as commanding general of the southern division, to put down any disturbances that might arise. It would, therefore, be to his advantage to use his influence to prevent the starting of any trouble. Secretary Crawford agreed that the land in question was valuable to the United States and stated that no opportunity for acquiring it would be lost.

General Jackson had an additional grievance against Secretary Crawford and the Cherokee in that the War Department had honored the spoliation claims of the Cherokee to the amount of $25,000 for cattle and other property destroyed by troops during the War of 1812. The East Tennessee troops were charged with having done most

7. Secretary Crawford to Andrew Jackson, June 19, 1816, and July 1, 1816, A. S. P., I. A., II, 112.
of the damage and Jackson felt it a disgrace to have his
army charged with robbery.

Agent R. J. Meigs, in the Cherokee country, was
very much concerned over this spoliation argument and the
comotion over the Creek boundary line. He tried to pacify
Jackson and at the same time hold to his contention that
the honoring of the Cherokee claims was just.

Irate citizens of Davidson County added their
protest to that of General Jackson concerning the treaty
with the Cherokee and the spoliation claims against the
army. Most of their protest, however, was against Indian
occupation of lands within Tennessee, a situation which
was considered a political injury to the state in that the
state's expansion was hindered. It was especially resent-
ed that the Cherokee refused to sell their lands north of
the Tennessee River, "just as if they had the title."
Thirty years before, this land had been sold or granted to
individuals, they said, and now they should have posses-
sion of their just rights.

In response to these protests, Secretary Crawford
appointed General Jackson, David Meriwether, and Jesse
Franklin to meet both the Cherokee and the Chickasaw in
council and treat with them for the release of the disputed

9. Andrew Jackson to Secretary Crawford, June 16, 1816,
Bassett, op. cit., II, 249, 249 f.n.
9. R. J. Meigs to Andrew Jackson, Aug. 8, 1816, A. S. P.,
10. Citizens of Davidson County to the President, n.d.,
Creek lands, and also for the Cherokee lands north of the Tennessee River within the State of Tennessee. They were directed to meet with the Cherokee first, and if the Indians refused to treat for the lands at this time, they were to be asked to send delegates to the Chickasaw council with full power to treat upon this subject.

Hopeful of making a favorable treaty, General Jackson entered into negotiations. It had devolved upon him to remove from the old Creek villages those whites who, according to his prophecy, would not submit to such treatment. He was directed now to suspend removal operations while treaty negotiations were in progress. General Coffee, surveyor in the Indian country, was directed to create, if possible, a sentiment among the Indians in favor of the cession.

According to instructions, the Cherokee were convened in August for the treaty negotiations. They considered the price offered for their lands too small, and the council ended without a cession being made. It was agreed, however, that a Cherokee delegation would be sent to the Chickasaw council early in September with power to treat upon the subject.

When the Cherokee delegation met with the United States commissioners at the Chickasaw council house, as

11. Secretary Crawford to Andrew Jackson, David Meriwether, and Jesse Franklin, July 5 (3), 1816, A. S. P., I., A., II, 100 ff.
12. Ibid., 102.
previously arranged, again there was failure to reach an
agreement upon the price of the lands north of the Tennes-
see River. A treaty was made, however, whereby the Chero-
kee relinquished claim to the disputed Creek lands lying
south of Tennessee. This treaty was later ratified by
the whole Cherokee Nation at Turkeytown on October 4, 1816.
The long controversy over the Creek cession was at an end.

Since Tennessee had not been able to acquire
the Cherokee lands north of the Tennessee River, she was
anxiously looking for any wedge she might thrust in to
make an opening for another treaty. Even a pretense might
be accepted. Consequently, she seized upon the prophecy
of Jackson and Agent Neigs that soon the Cherokee would
offer all their lands for sale and remove west of the
Mississippi River. When the Cherokee, at the Chickasaw
council, had refused General Jackson's proposition for
the purchase of their lands, they had given as their
reason for the refusal the fact that they would not have
enough land left east of the Mississippi to barter for an
area west of the Mississippi large enough for their whole
nation. Jackson stated now that a Cherokee delegation in-
tended to visit the West soon for the purpose of selecting
a territory commensurate with their needs. If a suitable
territory should be found, a delegation would then call

upon the president and attempt to arrange a satisfactory exchange of lands.

Agent Meigs advanced a similar opinion. He said that the Cherokee chiefs realized that their tribe could not continue to live a savage or hunter's life in their present homes and that they must either become civilized or find a new country. They knew that Tennessee, Georgia, and South Carolina would continue to press them for cessions of land and, whether they yielded to these propositions or not, many of their number would emigrate to the West. In this manner their tribal life would be broken up.

Previous cessions made by the Cherokee had included their hunting lands only. If further cessions were made, it would mean that their towns and the lands they actually occupied would be relinquished. The state now began to press for more land. The only proposition to the Indians at this time and hereafter was exchange of lands and the removal of the Indians to the West. Working upon the previous predictions of the possible removal of the entire tribe, the United States went about making plans for obtaining a cession of land.

In the meantime, those Cherokee who had removed west of the Mississippi were having territorial difficulties

18. See map accompanying Royce, "The Cherokee Nation of Indians."
with their neighbors, the Osage and Quapaw. When these western Cherokee applied to the United States to settle their territorial dispute, they were informed that nothing could be done for them until the Cherokee Nation east of the Mississippi should take some action toward releasing by treaty a portion of their land east of the Mississippi equal in area to that upon which the western Cherokee had settled. Both the eastern and western Cherokee were thus forced to see the necessity for a settlement.

Because of these territorial troubles in the West and the importunities of Tennessee in the East, it was decided early in 1817 to hold a treaty with the Cherokee to obtain a cession of land. General Jackson was in communication with the Secretary of War upon this subject for some time previous to the actual appointment of the commissioners. As was customary, the Cherokee were to be prepared in advance to receive the removal proposition when it was presented in council, and again Agent Meigs was instructed to spread talk of removal among the Indians. General Jackson suggested that it might be well to pretend that the United States intended to remove the western Cherokee back to the East, should they not readily agree to a cession of land. This would appear to be for the good of the entire tribe and to prevent its division.

After Agent Meigs had talked with many of the Cherokee upon the subject, he reported to General Jackson that while some of the most influential Cherokee were in favor of removal, they were threatened by others who opposed the plan. He was of the opinion that removal was the only way of preserving the Cherokee as a nation for this reason: the Nation was surrounded on all sides by whites and would constantly be pressed by them and held within narrow limits. He thought the Indians should either become citizens or remove, and he spared no effort to induce removal. It was his honest conviction that such action was the only means of preserving the Cherokee tribe.

General Jackson, General David Meriwether, and Joseph McMinn, governor of Tennessee, were appointed in May to hold a treaty with the Cherokee. According to instructions, they proceeded to Hiwassee and attempted to convene the Indians there on June 20. Although delegations of both the eastern and western Cherokee were expected, only the western Cherokee attended in the beginning. After the commissioners had threatened to treat with the western Cherokee alone and had addressed separate "talks" to the two divisions, the whole council was finally brought together. President Jefferson's removal proposition of 1808 was renewed, and the Cherokee were given the

choice of removal or becoming citizens of the United States. It was explained that since a large number of Cherokee had emigrated West in accordance with an agreement with President Jefferson, the Nation should now make a cession of land in the East as an exchange for the land occupied by Cherokee west of the Mississippi. The chiefs were in no mood to receive this talk, and the interpreters attempted to keep a part of the message from the Nation as a whole.

After further pressure was put upon them, sixty-seven of the chiefs addressed a "talk" to the commissioners. They denied the validity of the removal agreement with President Jefferson in 1809, declaring that a Cherokee delegation had gone to Washington at that time merely to take leave of their father, the president, who was soon to retire to private life. They maintained that they had known nothing of the intention of this delegation from the Lower Cherokee to ask for a division in the Cherokee Nation. When they had discovered this intention, after the departure of the Lower Cherokee for Washington, the Nation had sent two other delegates to the president, but they had not been received. Later the Cherokee had sent a "talk" to the president, protesting the action of the delegates who had been interviewed, and expressing a determination not to dispose of any of their country.

23. Commissioners to Sec. Graham, July 8, 1817, Bassett, op. cit., II, 300.
As a final plea, the Cherokee now stated that while they had not yet reached the degree of civilization which would fit them for citizenship and submission to the laws of the United States, they did not wish to return to the savage life which would result if they were forced to remove West. They begged to be allowed to retain their native lands and asked that the subject of removal be pressed no further at this time.

In spite of much opposition from whites and half-breeds in the council, the negotiations proceeded, and a treaty, signed by only twenty-two chiefs of the Cherokee Nation, was obtained on July 2, 1817. The cession made by this treaty was not in return for land already occupied by the western Cherokee, as had been expected, but was a proposal for the exchange of new lands in the West for those to be ceded to the United States in the East. The most outstanding terms of the treaty were: the Cherokee ceded to the United States two separate areas east of the Mississippi; the United States gave to the Cherokee an area on the White and the Arkansas rivers, equal in size to those acquired from the Cherokee; one square mile of land was to be given to each Cherokee desiring citizenship; a census of the Cherokee Nation, both east and west of the Mississippi, was to be taken in order to insure a fair

division of annuities; the United States was to provide
for the removal of those Cherokee who desired to emigrate
west.

A great part of the land obtained by the United
States in this treaty of 1817 lay within the State of
Georgia, while Tennessee acquired title to the Sequatchie
Valley. This valley was a small part of the Cherokee
land lying north of the Tennessee River, for which the
state had so often tried to negotiate.

Following the signing of the treaty, a deputa-
tion of Cherokee was selected in council to proceed to
Washington and there lay before the president their pro-
test against this transaction. They held that the treaty
did not represent the Cherokee Nation as a whole, since
it was signed by only twenty-two chiefs, and they were
especially dissatisfied with the methods and influences
used in obtaining the apparent ratification. Redress of
grievances which the Cherokee had suffered at the hands of
the whites over a long period of years was also sought.
The delegation was received and interviewed by representa-
tives of the United States Government, but they gained
nothing by their visit. The treaty was ratified as first
made.

25. Commissioners to Sec. Graham, July 8, 1817, Bassett,
op. cit., II, 300.
26. See map accompanying Royce, "The Cherokee Nation of
Indians."
In accordance with the terms of the treaty and because of the absence of Agent Meigs, Governor McMinn of Tennessee was appointed to take charge of the removal of the Indians. He was duly instructed about food, other supplies, and boats for transportation. It was expected that a large number of Cherokee would voluntarily emigrate. The very fact that the governor of Tennessee was willing temporarily to leave his executive duties and assume responsibility for the removal is significant of the deep interest of Tennessee in the matter.

When Governor McMinn arrived in the Cherokee Nation he found his task a difficult one. The opposition party, many of whom were whites and mixed bloods, after being refused aid in Washington, had managed to stir up a great deal of indignation against removal. Governor McMinn was threatened with chastisement and even murder if he attended a Cherokee council. The reply to his renewed attempt to explain the removal-or-citizenship proposition was that the Cherokee had no desire to hear and no desire to dispose of any more lands.

While the Cherokee were in this state of indig nation, Governor McMinn presented to them a plan providing for the extinguishing of their title to all lands east of the Mississippi and the removal of the entire nation.

to the West within two years. This was rejected and feeling among the Cherokee became more bitter. The opposition party was determined to stop removal. They refused to attend councils called for the purpose of discussing the subject and threatened those who did attend. They pronounced the penalty of death upon all Cherokee who enrolled to go West.

When this violent opposition was reported to Secretary Calhoun, he felt that the spirit of animosity toward those who would emigrate should not be tolerated. Even more forcefully he urged removal, giving as his reason that the Indians were now surrounded by the whites and, as the white population increased, it would be impossible for the United States Government to protect the Indians in their present situation. He urged that they either go West or take reservations and become citizens of the United States. It was unwise, in his opinion, to take the promised Cherokee census while this bitter opposition lasted.

Only limited progress was made toward removal of the Indians during the summer of 1813; however, negotiations upon the subject were almost constant. Many times Governor McMinn presented his proposition for exchange and

29. Ibid., 527.
30. Governor McMinn to Sec. Calhoun, July 7, 1818, ibid., 528.
31. Sec. Calhoun to Governor McMinn, July 29, 1818, ibid., 479.
removal, and each time it met with refusal. The answer was that the Cherokee were attached to their native soil and did not wish to dispose of their lands east of the Mississippi. It was then decided to present to the Cherokee a purchase proposition. The price first offered for entire removal was $100,000, and later this amount was doubled. This proposal, too, was rejected.

In an effort to break the opposition to removal, it was now determined to seek private conferences with prominent individual Cherokees. The Pathkiller, king of the Cherokee Nation, was interviewed a number of times with arguments designed to convince him of the folly of the Cherokee trying to retain their savage customs under existing conditions. At last Pathkiller said he was "beginning to see the light of the path in which he should go" and promised to call a council meeting for the purpose of discussing removal.

This promise and the fact that 718 families had enrolled for removal since the treaty gave hope that the plan was gaining ground. It was estimated that the families ready to emigrate added to those already established on the Arkansas made up about one half of the Cherokee Nation. Agent Heigs reported that a Cherokee delegation would soon proceed to Washington for a conference with the

32. Ibid., 484-490.
34. Ibid., 482, 494-495.
35. Ibid., 492.
president, and he was of the opinion that they would shortly exchange their eastern lands for an area west of the Mississippi. Early in 1819 Governor McMinn also prophesied that the Cherokee would soon offer to exchange eastern land for western territory, and he urged that the United States not relax her efforts to bring this about. Violent opposition was now silenced, and about fifty percent of the Nation were in favor of removal. "The name Cherokee Nation," he said, "is fast migrating westward."

Meanwhile, early in 1819, the Cherokee delegation mentioned by Agent Holgo was dispatched to Washington for the purpose of protesting against the recent pressure for removal which had been placed upon them. The delegation presented many just causes of complaint against their white brothers and professed great feeling for their native homes. After several hearings on their difficulties and suggestions as to ways of adjusting them, the Secretary of War submitted in writing the basis of a treaty that the United States was willing to enter into with them. He urged the Cherokee to immediate action upon his proposal in order that Congress might also pass upon it before that body adjourned. The main points of this proposition were: the Cherokee were to make a cession of land to the United States in proportion to the number of

Cherokee who had removed or were about to remove West, since no cession had yet been made in fulfillment of the agreement of 1809; it was preferred that the land ceded be in Georgia or Tennessee; the United States would continue its care of both branches of the Cherokee. The Cherokee were encouraged to make an ample cession and reserve only so much land as was necessary for agricultural purposes.

This proposition was followed by much discussion as to the amount of territory which should be ceded by the Cherokee in return for lands occupied by the Nation in the West. The Cherokee census had never been taken, and there was a disagreement concerning the number who had emigrated. The Cherokee delegation, wearied and confused with the persistence of the offers of the United States and lacking due authority, consented at last to make two cessions of territory. The treaty was promptly ratified by the Senate and proclaimed by the president on March 10, 1819. Secretary Calhoun immediately notified Governor McMinn and urged him to complete the work of removal, since no further encouragement would be given to emigration to the Arkansas.

That portion of land ceded by the treaty of 1819 which fell within the limits of Tennessee was in three main bodies: two lying north of the Tennessee River and a

larger body lying east of the Tennessee and north of the
Hwasse River, which was known as the Hiwasse district.
Some islands and some smaller bodies of land which had
previously been Cherokee reservations were also acquired.

Governor McMinn was very proud of his service
to Tennessee in acquiring land from the Cherokee. For
eighteen months he had been engaged in forwarding the re-
moval of the Indians to the West, and he felt that these
labors had resulted in great good and a lasting advantage
to his fellow-citizens. He rated this service as the most
useful part of his long public life. His opinion of the
Cherokee as neighbors is shown in the following words:

The deep rooted enmity of the Cherokee
toward people of the western country, and
especially toward citizens of Tennessee, mani-
festly points toward the wisdom of that policy
which would place the Mississippi River as a
barrier against mutual recrimination and bad
neighborhood. 40

After acquiring the lands of the Cherokee, the
legislature of Tennessee immediately made general arrange-
ments for opening all public lands to entry and grant.
Governor McMinn was anxious that the cessions which he had
labored to acquire be not allowed to fall into the hands
of speculators and he took steps to prevent such action.
With the exception of the Hiwasse district, which, ac-
cording to the agreement of 1806, was to revert to the

39. See map accompanying Royce, "The Cherokee Nation of
Indians."
41. Ibid., 1817, pp. 6-17.
state when the Indian title should be extinguished, the newly added lands were subject to North Carolina land warrants which had been issued thirty years previously. From the Hiwassee area alone, Tennessee had hopes of creating a public fund. The legislature petitioned Congress for the privilege of relocating the lands granted to colleges and academies in the new territory, since they had not previously been able to possess the lands allotted them.

According to the late treaties with the Cherokee, those Indians who desired to do so might take a reservation of one square mile for a life estate, provided the reservation was not abandoned by the person taking it. While in the Cherokee Nation, Governor McMinn observed that many reservations were made through motives of fraud and speculation. In order to prevent further action of this type, a manifesto was issued in behalf of the State of Tennessee which helped to drive out the speculators. Twenty reservations made under the treaty of 1819 were partly upon lands which were covered by land warrants.

Since the Hiwassee district was the only area of public land which was clear of North Carolina land warrants and belonged wholly to Tennessee, a committee was appointed to survey this section and place it upon the market. The money obtained from the sale was to become a

42. Abernethy, op. cit., 55-61.
43. Tennessee Senate Journal, 1817, pp. 113-120.
44. Ibid., 1819, p. 37.
public fund, subject to the will and use of the state. After the survey was made, it was recommended that the amount of land one person could buy be limited to one square mile, the land to be sold to the highest bidder. 45

Now that the Hiwassee lands were to be sold, a resolution was offered in the legislature relative to the disposition of the money acquired from the sale. The following public improvements were recommended for investigation: the establishment of colleges and public schools; the improvement of the Cumberland and Tennessee rivers; and the erection of a jail and penitentiary house. 46

After arrangements had been made for selling the lands and for spending the money, Governor McMinn recommended to the legislature in 1820 that the sale be suspended until the depression following the War of 1812 should be past. If the sale were continued during the depression, the new territory would be monopolized by the rich, whereas the best interests of the state would be served if the land should be placed in the hands of the cultivators of the soil and other people of small means. These lands had been acquired by the efforts of public officials, and they should be put within financial reach of the whole population.

46. Ibid., 295-296.
The hope persisted that a public fund might be created from the sale of the land which would be invested in bonds, the proceeds from which were to be used for education and internal improvements. In the meantime, the new Bank of the State of Tennessee was established, and the money from the sale of the Hiwassee lands was used as security of the note issues of this institution.

47. Ibid., 1823, p. 14.
CHAPTER IV

FINAL EFFORTS TO OBTAIN REMOVAL OF THE
CHEROKEE

About 1820 a very determined campaign was inaugu­rated to secure title to Cherokee lands east of the Mississippi River and to complete the removal of the Indians west of the Mississippi. Because the greater part of the eastern lands of the Cherokee at that time lay within the limits of Georgia and Tennessee, there was close cooperation between these two states in the final campaign for removing the Indians. The story of Tennes­see's policy in this matter, therefore, cannot be concluded without considerable attention being given to the part Georgia played in the removal of the Cherokee.

No progress was made toward the purchase of Cherokee lands and the moving of the Indians immediately after the cession of 1819, but soon after this date Georgia began a long-continued campaign to obtain more of the Cherokee land. So determined were her efforts that she brought the removal question to a climax. She demanded that force be employed if the Indians could not be moved by any other means and then adopted the policy of making the situation in Georgia very uncomfortable for them. The Cherokee were firm in their resolution not to
sell one more foot of land. They sought to strengthen their position by organizing for themselves an independent government. Events then came thick and fast, as in the final act of a great drama. While it was Georgia's action which brought the final removal of the Cherokee, Tennessee as well as Georgia enjoyed the fruits of that state's labors and yet escaped, for the most part, the censure which fell upon Georgia and the Federal Government for the course which they pursued with regard to the Indians.

In 1822 Georgia and the United States Government sent a commission to treat with the Cherokee for a cession of land within the State of Georgia. The commissioners used many persuasive arguments in the attempt to induce the Indians to cede their land. They cited the benefits which would come to both Indians and whites if the Indians consented to emigrate, and they dwelt especially upon the advantages which the Cherokee would enjoy west of the Mississippi. The fact that a nation cannot exist within a nation was the chief argument presented by the commissioners. It was impressed upon the Cherokee that if they would exist as a separate nation, they must remove beyond the confines of any state. To the repeated

opportunities for a cession of land the Indians reaffirmed their "deliberate determination not to dispose of one more foot of land." Reproaches for the shameful ingratitude of their tribe and reminders of the gentle, indulgent, paternal interest of the United States Government in them failed to shake their determination. When the commissioners reported the failure of their negotiations to the Secretary of War, it was suggested that a new method of dealing with the Indians should be found, since the old method of arguments in council was no longer effective.

Governor Troup of Georgia, who had been elected with the avowed purpose of putting the Indians out of Georgia, was highly displeased with the results of the council. The failure to obtain a cession of land, he said, was due to the work of white men residing in the Cherokee Nation who profited by having the Indians retain all their land.

A Georgia delegation in Congress complained that the Cherokee had been crowded out of Tennessee, Alabama, and North Carolina into their state. Again they stated that if the Cherokee could not be removed in any other manner, force should be used. They censured the United States for not having fulfilled her obligation to Georgia under the compact of 1802 in which the government had agreed to extinguish the title to Indian lands within Georgia's limits in exchange for the cession of western
lands belonging to Georgia. This compact was to have been carried out whenever circumstances permitted its accomplishment on "peaceful and reasonable terms." So bitter and indignant was the attitude of Georgians following the refusal of the Indians to cede their lands that the Cherokee considered their arguments almost a threat of hostility and a design upon their country.

Throughout the continued negotiations during the 1820's the Cherokee held steadfastly to the "fixed and unalterable determination never again to cede one more foot of land," affirming that this was the sentiment of the entire Nation and not of the whites among them.

Secretary Calhoun attributed the failure of repeated negotiations to the fact that the Cherokee were becoming more civilized and did not desire to part with their homes.

One of Georgia's chief arguments for removal of the Indians was that this tribe living within her boundaries was semi-barbarous. It is true that many Cherokee had made remarkable progress in education and agriculture, but in government they still retained some of their primitive customs. In order to impress the world with their progress, the Cherokee determined to establish a regular republican form of government, based upon a written constitution. At a general convention on July 26, 1827, a

constitution was adopted declaring the Cherokee Nation independent and subject to no other state within her jurisdiction. This attempt to take a progressive step in government proved to be the doom of the Cherokee, for it served to arouse completely the animosity of the people of Georgia toward the tribe.

Immediately after its adoption, a copy of the Cherokee constitution was sent to the president by the governor of Georgia, who desired to know the attitude of the United States Government upon this erection of a state within a state. The Cherokee were again called the tenants at will of Georgia, with no fee simple title to their lands. Georgia now felt at full liberty to possess herself, in any manner she might choose, of the lands occupied by the Indians and to extend over them her jurisdiction. The Federal Government was petitioned to open once again negotiations with the Cherokee for a cession of land. Should these proposed negotiations fail, Georgia threatened to extend her jurisdiction over that part of the Cherokee Nation lying within her limits. These lands, she maintained, belonged to her, and "she must and would have them." Neither the bribes nor the threats which followed could alter the decision of the Cherokee to make no further cession of their territory. Finally, in December, 1828,

the Georgia legislature passed an act, to become effective June 1, 1830, declaring that thereafter that part of the Cherokee country lying within the boundaries of Georgia would be subject to the exclusive jurisdiction of that state.

By this time the Cherokee had become thoroughly aroused, and a delegation was sent to Washington in 1829 to lay before Congress and the president their grievances against the State of Georgia. They were advised by the president that nothing could be done by the Federal Government to set aside the laws of a state within her own jurisdiction, and that it was not constitutional for a state to exist within the limits of another state except by the consent of that state within which it existed. They were told that their organization of an independent government had influenced Georgia to extend her jurisdiction over them. There appeared to be no course open to the Indians other than removal west of the Mississippi. Nothing but "interruption and disquietude" could be promised if they remained where they were.

Having accomplished nothing by this appeal to the Federal Government, the Cherokee delegation returned home and seized every opportunity to create among their countrymen a determination to protect their lands from designating white men.

6. Ibid., 258-259.
President Jackson decided to send secret agents among the Cherokees to foster in any way they could the idea of removal. Since the failure of recent attempts to negotiate with the Indians had shown that the old council meeting was no longer effective as a means of obtaining land grants, perhaps the chiefs might be won over by agents who talked with each one individually. General William Carroll, then a candidate for the governorship of Tennessee, was one of those chosen for this mission. He was instructed to gain the good will of the poorer Indians by offering them presents and to extend this policy to the children of the chiefs and the chiefs themselves if anything could be accomplished thereby. General Carroll soon found that his motives were no secret to the Cherokee and that they were too intelligent to be dealt with in this manner. Later he submitted to the Indians an open proposal for removal, but it was speedily rejected.

When General Carroll reported his failure to the president, he added a statement to his report which fired President Jackson into activity. He said that the Cherokee had been encouraged to believe that the public did not support the president in his removal policy and that the next session of Congress would sustain them in their protest against Georgia.

Determined to be the first to approach Congress upon the subject, the president in his next annual message
advocated the removal of all Indians upon the grounds that
the existence of tribal governments within the limits of
states interfered with the rights of those sovereign states.
The general removal bill which was subsequently introduced
created a heated debate in both houses of Congress. The
Cherokee tribe was the pivot of the whole debate, other
tribes hardly being mentioned. This bill, which gave the
chief executive extended powers to make treaties of re-
moval with the Indians upon the principle of exchange of
territory, was passed and promptly signed by the president
in 1830.

Now that both Congress and the president had
shown themselves in favor of removal, those in opposition
wished to know how the Supreme Court of the United States
would stand upon the question of Cherokee rights versus
state rights. A test case was prepared upon application
of Chief Ross, who filed an injunction against the State
of Georgia's extending her laws over the Cherokee Nation.
This injunction set forth a long list of grievances of the
Cherokee against the State of Georgia. It was claimed
that the treaties made by the United States were the su-
preme law of the land which could not be set aside at will.
If this contention should hold in the courts, the Cherokee
would be safe by reason of treaties with the United States

7. Eaton, op. cit., 49-51; Royce, op. cit., 59-60; Abel,
_271_ f.n.
8. _United States Statutes at Large_, IV, 411.
guaranteeing their possession of the territory which they occupied. Lastly, the injunction claimed the protection of the United States for the Cherokee against the State of Georgia. Chief Justice John Marshall rendered the decision of the court in this case of the Cherokee Nation versus Georgia. Although the court was strongly in sympathy with the Cherokee and expressed the opinion that the Georgia laws were unconstitutional, it denied the injunction on the grounds that the Indians were neither citizens of the United States nor a foreign nation. They were called a domestic nation in a state of pupillage with no status before the Supreme Court.

The next test case in the Indian removal controversy was that of Worcester versus the State of Georgia. This case was brought by a white citizen of the United States living in the Cherokee Nation. In 1831 Georgia passed a law to the effect that all whites within the Cherokee country in that state must either remove or take an oath of allegiance to Georgia. Mr. Samuel A. Worcester, a missionary and a postmaster in the Cherokee Nation, refused to comply with this law. He was arrested and tried in a Georgia court and sentenced to four years in the state penitentiary. The case was appealed to the United States Supreme Court, and again Chief Justice Marshall handed down

9. Royce, op. cit., 262-265; Knoxville Register, July 21, 1830, July 8, 1831.
10. Allon Johnson, Readings in American Constitutional History, 310-312; Phillips, op. cit., 76-78.
the opinion of the court. The decision of the Georgia court was reversed, and the recent acts of Georgia in extending her laws over the Cherokee country were declared null and void. When President Jackson was informed of this action of the Supreme Court, it is said that he remarked, "John Marshall has made his decision, now let him enforce it." Without the aid of the executive department, the court's decision could not be effective, and President Jackson purposely neglected to enforce the decision.

Georgia felt that she had the support of the chief executive in this controversy with the Cherokee, and she had no intention of obeying the mandate of the Supreme Court in favor of the Indians. The one thing she was determined to do was to get rid of the Indians if possible. With this end in view, she passed a number of laws calculated to hodge the Cherokee about, infringe upon their rights, intimidate them, and discourage them to the point of seeking refuge elsewhere.

When gold was discovered upon the Cherokee lands Georgia passed a law forbidding prospectors to look for gold there, but both whites and Indians prospected, regardless of the law. The Indians were discriminated against and received the worst of the bargain, even though they

11. Johnson, op. cit., 312-316; Knoxville Register, January 4, 1832; Miles' Register, XLII, 34; Eaton, op. cit., 56; Abel, op. cit., 397-398.
were prospecting upon their own lands. Later the Cherokee lands within Georgia were mapped into counties and surveyed as lots. Chances on these lots were distributed among the citizens, regardless of whether the land was occupied by Indians. The lucky holders of tickets might come in at will and dispossess the Cherokee. It was in this manner that many poor Georgians obtained comfortable homes and improved lands. To prevent recourse to the courts by the dispossessed Cherokee, a law was passed to the effect that no Indian could bring suit against or testify against a white man. Cherokee had been allowed to take reservations of one hundred and sixty acres each, but no deeds had been given, and the reservations could be disposed of at will of the state legislature. Georgia continued to enforce the law of 1831 which forbade whites who had not taken an oath of allegiance to the state to reside within the Cherokee country in that state. This was done for the purpose of curbing the whites who might stir up opposition to Georgia's policy of removal. The Cherokee were also forbidden to call councils or hold assemblies; this was to prevent large gatherings where further opposition might be kindled. Violation of this law would give the Georgia guard an excuse to arrest and imprison the leaders of the Indians, thus breaking down resistance. The Georgia guard had been stationed among

the Cherokee, presumably for the protection of whites, but it was not the whites who needed protection. The Cherokee Phoenix, Indian newspaper which voiced opposition to removal, was seized in order that the Cherokee might be deprived of a means of presenting their situation to the public.

In addition to the laws enacted by the State of Georgia, President Jackson had certain laws of the United States enforced which were designed for the same purpose of inducing the Indians to emigrate. For several years small groups of Cherokee had been enrolling with authorities of the United States for removal to the West. In 1830 the president ordered this stopped. He wished to let the Cherokee take the consequences if they were too stubborn to part with their homes and submit to removal en masse. Since the time when the first treaties had been made between the United States Government and the Cherokee, the tribe had received from the United States an annuity, paid to the treasurer of the Cherokee Nation each year for the use of the tribe as a whole. The amount received by the tribe varied with each new treaty, but at the time the fight on the removal question was hottest the annuity amounted to less than fifty cents per capita. President Jackson ordered that the payment of this money be made to the Indians individually, instead of to the treasurer of the Nation. The Indians refused to receive the annuity in
this manner and, therefore, suffered for necessities. All
these handicaps imposed by Georgia and President Jackson
would have discouraged a people with less stout hearts
than the Cherokee.

While Georgia was having difficulty in carrying
out her policy of coercion to obtain lands from the Indians
during the 1820's, Tennessee was succeeding no better in
her efforts to buy land from the Cherokee. Immediately
following the Cherokee treaty of 1819, Tennessee petitioned
the United States Government to secure for her the right
to construct a canal across a portion of the Cherokee
Nation. By this canal, connecting Tennessee waters with
Mobile River and Mobile Bay, producers and traders could
reach the gulf with Tennessee products, a long-coveted
privilege. East Tennessee was especially desirous of putting the canal through, and nothing could be accomplished
until a right of way across their land was obtained from
the Cherokee.

The first step taken was the introduction into
the Tennessee legislature on November 5, 1819, of a resolu-
tion requesting that Tennessee senators and representatives
in Congress be instructed to use their influence to obtain
from the United States Government the right to construct
a canal across the Cherokee Nation, between the Hiwassee

14. H. H. Gaundina, Water Transportation in East Tennessee
Prior to the Civil War (an unpublished Master's Thesis, 
University of Tennessee, 1934), pp. 57-77.
River in Tennessee and the Coosa River in Alabama. Many
times thereafter the subject of this resolution was brought
before the Tennessee legislature.

At various times between 1819 and 1831 there was
great enthusiasm in Tennessee in favor of this proposed
canal. Newspapers of Knoxville were very active in ad-
vocating its construction; anxious Tennesseans importuned
Congress to negotiate with the Cherokee for a right of way
across their land; and extensive surveys were made. It
seems, however, that no attempts were made to negotiate
with the Indians until 1827. In that year the Tennessee
legislature passed a law to incorporate the Hiwassee Canal
Company. Three thousand shares of stock were to be sold
at fifty dollars per share, and the canal was to be built
when the necessary land should be obtained. Once more
Congress was requested to secure the land for the canal
and the right "to navigate the waters which shall supply
the canal."

In response to these requests, Generals John
Cocke, G. L. Davidson, and Alexander Grey were appointed
by the president in 1827 to negotiate with the Cherokee
for the purchase of lands in North Carolina and also the
land needed for the projected canal between the Hiwassee
and Coosa rivers. The Cherokee refused to assemble for a

15. Tennessee Senate Journal, 1819, p. 197; 1821, pp. 6-27;
1825, pp. 24, 333.
16. Gauding, op. cit., 57-77; Knoxville Register, Jan. 3,
1827; Tennessee Senate Journal, 1825, p. 213.
conference on the subject.

Again in 1823 Congress made an attempt to provide for the canal. Major F. W. Armstrong was appointed to go among the Indians and, if possible, negotiate a treaty for the necessary land. Through contact with the chief men of the Nation, he soon learned that the Indians would make no further cession of land to the United States for any purpose whatever. In his report to the Secretary of War, Peter B. Porter, Armstrong lamented this attitude of the Cherokee, which, he said, was a blow to the national defense of the United States. It was his opinion that the southern ports should be connected with the rich natural resources of East Tennessee so that they might be sustained in case of blockade in time of war. To support his argument, the instance of blockaded Pensacola and Mobile during the War of 1812 was cited. It is possible that the argument for national defense was presented with the hope of bringing about greater efforts on the part of the United States Government to obtain land for the canal.

When Major Armstrong first went into the Cherokee Nation he addressed a letter to John Ross and William Hicks, head men of the Nation, stating that he came there for the purpose of securing a cession of land for either a canal or a railroad. The reply of these men was practically the same as that given earlier to the Georgia

17. Royce, op. cit., 241; Gauding, op. cit., 73.
commissioners, that is, that no further cessions of land would be made by the Cherokee. They gave as reasons for the refusal: land ceded to the United States fell into the possession of some state, and clashes occurred between that state and the Cherokee; the cession for a canal would be a narrow strip of land through the heart of their country over which they would have no jurisdiction, and difficulties would result to them.

Major Armstrong's failure, however, did not kill the hope of Tennesseans of building the canal. The Knoxville Register continued to advocate the proposed canal and classed it as a project of national importance in that it would be a means of connecting the Ohio, Mississippi, and Tennessee valleys with the gulf, and would strengthen the national defense. For several months after Major Armstrong's futile attempt to obtain land, the Register kept before the public the desirability of the project. It was finally suggested, early in 1829, that the canal might be built after Indian removal - an ominous prophecy for the Cherokee.

In a further effort to drive the Indians from their lands, Tennesseans contested the validity of some of the reservations made within the state under the treaties of 1817 and 1819. Several such cases came up for

18. Knoxville Register, January 14, 1829.
19. Ibid. January 14, 1829; February 18, 1829; March 28, 1829.
litigation in the Tennessee courts during the time when Tennesseans were clamoring for a canal and Georgia was making efforts to get possession of the Cherokee land within her boundaries.

Following the treaties of 1817 and 1819, Tennessee plotted her share of the territory lately acquired from the Indians and offered the lots for sale. A number of reservations within the ceded area had been taken by the Cherokee, according to treaty rights. Thirty-one reservations in free simple were taken under the treaty of 1819, and others under the earlier treaty of 1817. Many of the whites who bought land within this Cherokee, or Hiwassee, district were ejected because of conflicts with Indian reservations. Those ejected demanded that the Tennessee treasury return their money given in purchase of these lands. During an investigation for the purpose of clearing up the difficulty, the secretary of state of Tennessee asked to lay before the House any information that had been transmitted to him by the United States Government relative to reservations under the Jackson and Calhoun treaties. The Senate wished to create a joint committee to take charge of all bills that came before the legislature for the relief of those who had purchased land in the Hiwassee district and lost it because of the inter-

20. Knoxville Register, December 30, 1829.
ference of Indian reservations. Much to the credit of
the Tennessee courts, many of the cases contesting the
Indian ownership of land were decided in favor of the
Cherokee.

There are many proofs that Tennessee officials
and Tennesseans in general were highly in favor of the
policy of using force if removal of the Indians could not
be accomplished otherwise. When confidential agents were
sent among the Cherokee in 1828 to work with influential
members of the tribe individually in an effort to induce
removal, the Honorable J. C. Mitchell of Tennessee was
among those first chosen for that task. Later, in 1829,
as has been previously stated, William Carroll, then a
candidate for the governorship of Tennessee, was selected
for the same mission. Success in this undertaking might
have been a great asset to him on election day, but little
was accomplished by his efforts.

The Knoxville Register was ever active in stir-
ing up public sentiment for removal of the Indians. The
editor of that paper rejoiced at the passage of the gener-
al removal bill in 1830, calling it a just and wise plan

22. Yerger, 143-166, 407-430. See also Knoxville Register,
August 16, 1826, December 30, 1828, September 1, 1830.
24. Eaton, op. cit., 49-51; Royce, op. cit., 259-260;
Abel, op. cit., 371 f.n.
which would settle the removal difficulties. Later the Register defended Mr. Lea, a Tennessee representative, who was criticized for voting for the general removal bill.

Tennessee watched anxiously the Cherokee cases that came up for litigation in the courts of Georgia and in the United States Supreme Court. When the Cherokee filed an injunction against the State of Georgia for extending her jurisdiction over their Nation, the case aroused much attention in Tennessee long before it came to trial. The Register carried a number of articles upon the case, and it predicted that if the court should uphold the Cherokee in their contention, it might bring severance of the Union. In 1833 a committee in the Tennessee house of representatives criticized at great length the Marshall decision in the case of Worcester versus Georgia, which had been rendered in the United States Supreme Court in 1831. This committee was of the opinion that the authority for the control of the Indians lay with the states rather than with the national government. In the light of this argument, it was the conviction of the committee that the Marshall decision should not be enforced.

Encouraged by the example of Georgia in passing a law to extend her jurisdiction over the Cherokee within her boundaries, Tennessee was moved to do the same. In 1829,

25. Knoxville Register, September 23, 1829, December 23, 1829, June 1, 1830, July 20, 1831, October 19, 1831.
26. Ibid., July 21, 1830, April 6, 1831.
before the Georgia law went into effect, a bill was intro-
duced into the Tennessee legislature "to extend the laws
of this state over and upon the Cherokee Indians." Ap-
parently the measure was killed immediately, for it was
not mentioned again.

It was too much to expect, however, that ambi-
tious Tennesseans would let the matter rest at this stage.
In 1831 both houses of the Tennessee legislature concurred
in a resolution "to extend the laws of Tennessee over the
territory occupied by the Cherokee Indians on its southern
limit." A joint committee was appointed to look into the
expediency of this policy. James I. Greene, chairman of
the committee, stated later that the citizens of the coun-
ties bordering the Cherokee Nation in Tennessee had asked
that the civil jurisdiction of the laws of Tennessee be
extended over that part of the Cherokee Nation lying with-
in the state. The committee thought this demand "reason-
able and expedient," and the resolution was then introduced
as a bill. The bill passed the first reading, but was
lost somewhere in the maze of law-making.

Tennesseans who were interested in extending the
laws of the state over the Cherokee lost no time in intro-
ducing a similar bill at the next meeting of the legisla-
ture in 1832. The title of the bill was changed to read

28. Ibid., 1829, p. 65.
thus: "A bill to extend the laws of this state over white men residing among the Cherokees within the limits of this state." Apparently Tennesseans had at last admitted, in selecting a title for this bill, that the white men among the Indians were more troublesome than the Indians themselves. The bill was taken up by both houses for the third reading and was defeated in the senate by a vote of eleven to three.

Undaunted by three failures to extend the jurisdiction of Tennessee over the Cherokee Nation within her boundaries, those in favor of this policy prepared to take another step in that direction at the next meeting of the legislature. This time the movement was recommended by William Carroll, governor of Tennessee. In consideration of Governor Carroll's earlier activities in the interest of removal, this step should have been no surprise to his people. The governor's recommendation was made in behalf of citizens residing in counties adjoining the Cherokee Nation who complained of the lawlessness in the Cherokee country. It was believed doubtful whether any authority existed on the part of the state or the nation to enforce civil contracts or to punish crime within that portion of the state to which the Indian title had not been extinguished. It was deemed expedient,

30. Ibid., Called Session, 1832, pp. 129, 133.
therefore, for the state to take steps to remedy this situation.

Following the governor's recommendation, a House committee was appointed to consider the question. This committee was highly in favor of extending the state's jurisdiction over the Indians. To justify this stand, the following reasons were given: the Cherokee Nation had become a "sanctuary of vice and crime"; the extension of the state's jurisdiction would bring a scattered and degraded population under state laws; and it would destroy the power of the few lawless half-breed chiefs who dominated the Cherokee for their personal interest. The committee declared that aggrandizement could not be the motive of the state, since the Cherokee land in question would cover only about one and one half counties, in which the soil was sterile and the land broken and mountainous.

A joint committee was appointed to consider this measure further, and soon a bill was introduced into the Tennessee legislature "to extend the laws and jurisdiction of the state to her southern limit." Much discussion ensued, and many amendments to the bill were offered. An amendment to prevent whites from crowding in and taking possession of Cherokee lands was adopted; another amendment to give Indians the privilege of serving as witnesses

31. Ibid., 1833, pp. 13-18, 19, 20.
in the courts was rejected. A later amendment to delay until December 1, 1834, the time for the proposed law to go into effect was not accepted. The bill was brought up for its last reading in the senate on November 8, 1833, and was passed by a vote of twelve to eight. On the same date the bill was passed by the house.

The Cherokee land affected by the passage of this bill was added to the counties of Marion, Rhea, McMinn, Hamilton, and Monroe. The Indians were to be protected in their property rights and exempted from taxation and military duty. Cherokee who had chosen to take reservations and become citizens of the United States were subject to all the laws of the state. Tennessee state courts were to have jurisdiction in no criminal cases within the Cherokee country, except those involving murder, rape, and larceny. The Indians were permitted to retain their tribal customs and usages in all other respects.

Passage of the act to extend the state's laws over the Cherokee did not immediately solve all problems connected with the Indians. The legislature found it necessary later to appoint a committee on Indian affairs to consider all matters relating to that part of the state still occupied by the Cherokee. Two years after its enactment, the act had never been fully carried into effect,

and Governor Newton Cannon felt apprehensive about the affairs of the state in that area occupied by the Indians.

In extending her jurisdiction over the Cherokee, Tennessee had followed in the footsteps of Georgia and had defied a mandate of the United States Supreme Court which said such an act was unconstitutional. In 1835 a criminal case which was to contest Tennessee's jurisdiction over the Indians and to determine once more whether a state could ignore a United States Supreme Court decision was brought into the courts of Tennessee. James Foreman, a Cherokee, was indicted in the McMinn County circuit court for the murder of John Walker in McMinn County. Foreman pleaded that both he and Walker were members of the Cherokee Nation of Indians, and that the crime, if committed, was committed within the limits and jurisdiction of the Cherokee Nation, which was a sovereign community and state, governed by its own laws to which alone he was amenable, and within whose limits the legislature and courts of Tennessee had no jurisdiction. The state objected to this plea. The court overruled the objection and sustained the plea, denying the power of the state legislature to pass the law of 1833 extending the state's jurisdiction over the Cherokee Nation. The defendant was ordered discharged. The case was then appealed

to the state supreme court, where the judgment was reversed, and the defendant was ordered to be tried by a jury. At last Foreman appealed to the United States Supreme Court, and the case was set for trial in January, 1836.

In the meantime, Chief Justice Catron, of the Tennessee supreme court, wrote a letter to Governor Cannon advising him to make ready for the coming trial. He warned him that the sovereignty of the state was involved and cited similar cases involving the sovereignty of Georgia in which that state had successfully contended with adverse decisions of the United States Supreme Court. Many arguments for sustaining the state in her act of extending her jurisdiction over the Cherokee were advanced by Judge Catron. Among them were the following: the right of Christian nations to rule the heathen; the right of superior nations to rule by conquest; the fact that no state can exist within another state without the consent of the state within which it exists. The chief argument advanced in favor of the state was the contention that the power of the Constitution which grants certain rights to the sovereign states is above the treaty-making power of the Constitution, which might secure certain rights to the Indians. This argument, simplified, declared, "The Constitution is greater than the treaty power it grants."

Immediately, Governor Cannon presented this letter with its long legal arguments to the state legislature
and in turn advised that adequate counsel be secured for the defense of the state before the United States Supreme Court. No further record of the case is found. Treaty negotiations with the Cherokee were then in progress, and a treaty was concluded on December 9, 1835. Removal of the Cherokee seemed imminent, and if the Indians were removed, there would be no principle involved.

CHAPTER V

NEW ECHOTA AND REMOVAL

We have seen how the Cherokee, bounded and pushed for cessions of land, yielded to the white man until they possessed east of the Mississippi little more than a small area in the southeastern corner of Tennessee and a much larger adjoining area in Georgia. This the Indians were determined to hold at all costs, while the two states concerned were just as determined to take it. The Cherokee situation in Tennessee in the 1830's was practically the reverse of that of 1797, when the state first petitioned the national government for removal of the Indians. The Cherokee holdings were now reduced to a very small area surrounded by whites, whereas in 1797 the whites had possessed a relatively small area almost encircled by Indians. In 1797 the whites had petitioned the United States for protection from the Indians, fighting for the homes they claimed; now the Indians were seeking protection from the whites, fighting doggedly for the land rightfully theirs.

Andrew Jackson, President of the United States and a Tennessean, was the leading spirit in forcing the final removal of the Cherokee. The passage of the general removal bill of 1830 was largely due to his efforts.
From this time until the last treaty of removal was made in 1835, there was almost constant negotiation between Jackson's agents and the Indians upon the subject of the sale of Cherokee lands and the entire removal of the tribe to the West. When the Jackson administration was severely criticized because of the president's stand upon this question, Senator H. L. White of Tennessee said in defense of the president that this criticism arose from the fact that Jackson was more successful than his predecessors had been; other presidents had attempted the same thing but met with less success. The fact that both Senator White and Representative John Bell, also from Tennessee, were placed upon the Committee on Indian Affairs during the Jackson administration might indicate that Tennessee was fighting her Indian removal battle in Washington as well as at home.

After the Supreme Court, by its decision upon the Worcester case in 1831, declared that Georgia had no right to extend her laws over the Cherokee, President Jackson was in a bad position. He was plainly in sympathy with the state in question. In a memorial to Congress, the Cherokee, seeking protection from Georgia, said that he had not only refused to protect them according to treaty

promise, but had enlisted his powers against them. Later Chief Ross pointed out an inconsistency in President Jackson's attitude toward state rights. In the South Carolina nullification controversy Jackson supported the Federal Government against the State of South Carolina; whereas, in the Worcester versus Georgia case, he supported the State of Georgia against the United States Supreme Court. Between the fires of Cherokee claims, Georgia's determination to possess the Indian lands, and criticism upon his attitude toward the Supreme Court, Jackson sought to make a way out by forcing a treaty of removal with the Cherokee. Beginning in 1832, greater pressure than ever before was put upon the Indians for such a treaty.

When it appeared that the time was ripe for gaining a concession, President Jackson was always ready with a proposal for removal. In 1830 Colonel John Lowry was appointed to go into the Cherokee Nation with a new proposition which included as its principal points: exchange of territory; removal and one year's maintenance at the expense of the United States; compensation for property left; and provision of a school fund for the Cherokee. It was noticeable that while this proposition permitted reservations of two hundred acres each to widows

2. Register of Debates, X (1833-34), Pt. 2, p. 1772.
3. Miles' Register, XLV, 121-122.
4. Royce, op. cit., 236.
and warriors living in Alabama and Tennessee, nothing was said of such reservations within Georgia. Furthermore, the size of these reservations had been reduced from one square mile, as stipulated by the treaties of 1817 and 1819, to two hundred acres. The Cherokee refused to entertain Lowry's proposal, and other commissioners, appointed immediately for the same purpose, met with no success.

The next opportunity for renewing removal negotiations was presented when a Cherokee delegation visited Washington in the winter of 1831-32 in the interest of their people. As usual, they accomplished nothing. After interviews with the delegation, the Secretary of War decided that sentiment in the Cherokee Nation was becoming favorable to removal. A short time after this information was conveyed to the president, Mr. E. W. Chester was dispatched to the Indians with a proposition asking this time, not, "cede us a part of your land," but "cede us all your land." The preamble of this proposal, "The President has heard that you have a desire to remove and he thinks this measure alone can secure prosperity for you," was a repetition of an old story. Practically the only new feature of the proposition, added to a long list of old ones, was that of government relations with the United States after removal, should they accept the terms of the

5. Ibid., 262-263.
6. Ibid., 263.
treaty. They were promised territorial status, with a delegate in Congress - if Congress approved - when they were ready for it. Reservations were not forbidden, but they were discouraged. Citizenship was the only alternative for those remaining in the East, and all relations between the United States Government and the Cherokee as Indians would cease. The president professed much concern for their welfare and advised them not to listen to bad counsel against removal if they were offered any. It was certain that the Cherokee would do themselves great injury if they persisted in staying where they were.

The reply to this proposition was signed by forty-four chiefs and was sent from the Cherokee Council at Red Clay, in southeastern Tennessee. The capital of the Cherokee Nation had been at Red Clay since 1831, when Georgia had forbidden the tribe to assemble in council within her limits. The chiefs expressed astonishment at the rumor that they wished to emigrate. The true sentiments of the Cherokee Nation toward removal had not changed, they said, and "the basis of the proposition (to buy all of their country) was objectionable." The Council included a long list of complaints against Georgia and lamented that the president had withdrawn the "protecting arm" of the United States Government in neglecting to enforce laws and

treaties in defense of Cherokee rights. Once more the Indians besought the aid of the president in their difficulties.

Needless to say, nothing was done by President Jackson. John Ross and a delegation of Cherokee spent the winter of 1832-33 in Washington trying to bring some relief to their tribe. The Secretary of War, acting for the president, professed great solicitude for their welfare and prophesied imminent destruction of their tribe should the Cherokee not remove west. To the Indians it appeared that the president had a greater desire to be rid of them than to promote their welfare. If they were compelled to remove west of the Mississippi, they reasoned, they would later be driven from their homes in the West, when white men had followed and settled about them again. Before the delegation left Washington in the spring of 1833, they agreed to lay before their council the president's proposition to buy all their land for the sum of $2,500,000. When presented, however, the proposal was speedily rejected by the tribe.

Thus, despite all efforts to settle their difficulties with Georgia and the United States Government, the Cherokee accomplished nothing in 1833 which would allow

8. Cherokee Indians to Secretary Cass, August 6, 1832, A. S. P., Military Affairs, V, 28 ff.; Eaton, op. cit., 58; Knoxville Register, October 3, 1832.
them to feel reasonably safe in the possession of their homes. They were determined not to emigrate; yet if they refused to remove, there was only one alternative - citizenship. Early in 1834, the Cherokee Council offered to cede to the United States a part of their lands for the use of Georgia, if the government in turn would give them a fee simple title to the remainder, and allow the Cherokee to become citizens at some time to be specified later. The proposition was refused; removal was the only way to peace with the United States.

By this time many of the Cherokees were in a sorry plight indeed; numbers of them were destitute. Since they had refused to receive their annuity individually from the government, no other help had been given them. Following the rejection of their proposal to the government, they sent a memorial to the Senate petitioning that body to redress their grievances, inasmuch as the chief executive had refused them aid. It was especially requested that their annuity be paid to the chiefs of the tribe, according to treaty stipulation and the wishes of the Cherokee.

Senator Clayton, of Delaware, presented the memorial, refusing to tell by whom it had been given to him. A heated debate followed. Senator Forsyth, of

10. Ibid., 274. This same proposal is to be found in Register of Debates, XI (1834-35), Pt. 1, pp. 237-238, dated January 21, 1835.
Georgia, believing the memorial came from John Ross, maintained that it should not be received, because it constituted a complaint by a foreign nation against the United States. He ridiculed the idea that Congress should entertain such a complaint, adding, "... and here was the head of the Cherokee tribe come (to Washington) to beard the Government." He also objected to calling the Cherokee by the title of "Cherokee Nation." Senator Frelinghynsen, of New Jersey, retorted that a title was about all they had left, and that this title was generally changed to "poor devils." After much wrangling as to the manner in which the annuity should be paid, a vote was taken as to whether Congress should receive the memorial. The vote was thirty to three in favor of accepting it; Senator White, of Tennessee, was one of the dissenting three.

The annuity controversy was renewed in the senate when the Indian appropriation bill of the year 1834 was introduced. An amendment to the effect that all annuities should be paid to the chiefs of the tribes was offered. As was the case with regard to the general removal bill, the Cherokee problem was again the crux of the whole debate. It was observed that this tribe had received no annuity for several years because of changes made by the Jackson administration in the manner in which it was to be paid.

Senator Frelinghuysen pictured an imaginary scene of the "poor and despised" Cherokee trudging a hundred miles or more to a camp beset by profiteering whites, to receive a mere half-dollar annuity. Senator White favored individual payment of the annuity, but stated that since the Indians would not so receive it, it should be paid as they desired. The amendment was sustained by a vote of the senate.

All these arguments in the senate did little to promote the welfare of the Cherokee. While the debates were taking place, a factional treaty was in progress between the United States and Andrew Ross, brother of Chief John Ross, and his adherents. When the Cherokee delegation came to Washington early in 1834 with the proposal to sell a part of their country, it was discovered that the tribe was divided upon the question of removal. Government authorities quickly seized the opportunity to widen the breach in order to obtain a factional treaty. Andrew Ross, accompanied by a few Indians who favored removal, returned to Washington in May, 1834, and announced that he and his party were ready to treat for the sale of their lands. John Ross and his delegation, who were also in Washington, were notified and asked to cooperate in making the treaty. Chief Ross refused and protested that

12. Ibid., 2071-2074.
the commission headed by his brother had no authority to act for the Cherokee Nation east of the Mississippi. The Cherokee Council was notified of the Andrew Ross negotiations, and a protest, said to have been signed by thirteen thousand Cherokee, was sent to Washington. The protest was ignored, and a preliminary treaty, based upon the proposition of 1833, was signed June 19, 1854. When submitted to the Cherokee Nation, it was not ratified.

The two Cherokee factions now opposed each other openly. Personal jealousy seems to have been one cause of the difficulty. John Ross, leader of the majority faction, opposed removal; William Hicks, first leader of the minority faction, and John Ridge, a later leader, favored removal. The minority faction attempted to supplant the existing Cherokee government with a new one, but dissension within their own ranks killed the movement.

Discord had existed within the Cherokee Nation prior to President Jefferson's removal proposition in 1808. After the treaty of 1817, opposition to removal became violent, and smoldering, bitter hatred developed. In 1821 the minority party, favoring removal, again raised its voice, but to no avail. The factional strife, which broke

13. Royce, op. cit., 272-275. Abel says this treaty was defeated in the senate also largely through the efforts of Senator White, but the present writer can find nothing to support this statement. Abel, op. cit., 403.
out in 1834 with more violence than ever before, ended
with frequent bloodshed and the murder of some of the
leaders. Once more proof was given that "A house divided
against itself cannot stand." Government officials were
not slow to use this breach to force a treaty of removal
upon the Cherokee.

A word of justification has been offered for
the minority party. Some have been called high-minded
and far-sighted men, who saw that the Cherokee could never
be restored to peace and happiness east of the Mississippi
and that it was useless to resist the United States Gov-
ernment in seeking removal. Since emigration appeared to
be the only solution for their difficulties, they worked
openly for it.

Early in 1835 the minority faction sent a mem-
orial to Congress asking that they be allowed to sell
their lands and remove to the West, where they might live
peacefully as a tribe. Representative Edward Everett pre-
sented the memorial to the House, and Senator Henry Clay
presented it to the senate. Mr. Everett was of the opin-
ion that no treaty generally satisfactory to the tribe
could be made at this time because of factional strife.
He opposed removal, but believed it the part of wisdom for
the Cherokee to yield to the "hard force" of circumstances

15. Abel, op. cit., 255-259; A. S. P., I. A., II, 528, 503,
505.
and emigrate. This opinion was based chiefly on the ground that the Indians could not adjust themselves to civilized man's law, and destruction of the tribe might follow.

When Senator Clay presented the memorial to the senate, he dealt in highly rhetorical language with the past wrongs against the Cherokee and roused a storm of debate. Senator Cathbert, of Georgia, considered the speech an insidious attack upon his state and declared it was not consistent with the subject presented. Senator White, of Tennessee, was in favor of removal and supported the state rights theory against the treaties of the United States with the Indians.

Soon after the presentation of the memorial, two rival delegations of Cherokee arrived in Washington, each claiming to represent the Cherokee Nation. John Ross headed the majority delegation, while John Ridge was leader of the minority representatives. Ridge let it be known that his commission was in favor of treating with the United States for the cession of their land and removal of the tribe west of the Mississippi. The Reverend J. F. Schermerhorn was appointed to meet with this latter group and learn upon what terms such a treaty could be made. Before negotiations were opened, John Ross and

18. Ibid., 290-308.
his delegation requested permission to submit a plan for removal. His request was granted, but his plan was so long in coming that negotiations with Ridge and his party were resumed. The government offered this delegation a little more than $3,000,000 and an additional 800,000 acres of land west of the Mississippi in return for the Cherokee territory east of the Mississippi.

When Ross and his delegation presented their proposal, asking $20,000,000 for their lands east of the Mississippi, the sum named was considered ridiculous. Then the delegation expressed a willingness to accept whatever the senate thought just, provided that no treaty was to be concluded at that time and that any preliminary agreement was to be submitted to a vote of the Cherokee Nation. The senate offered Ross $5,000,000 and insisted that he enter into negotiations upon that basis. He refused. The treaty with Ridge was then completed, with the understanding that it was to be subject to the approval of the Cherokee Nation. The terms of the treaty were the same as those offered to the minority faction in 1834.

After completion of the negotiations, President Jackson prepared a long address to the Cherokee, endeavoring to persuade them to accept the treaty. He presented the following arguments:

Solicitude for your welfare prompts me to ask your removal; circumstances which cannot be controlled, and are beyond the reach of human laws, render it impossible that you flourish in the midst of a civilized community; every man, woman, and child in your country would receive five hundred dollars for their share; . . . "as certain as the sun shines to guide you in your path . . . you cannot drive back the laws of Georgia from you."

Then he entreated the Indians to consider and accept the generous terms of this preliminary treaty.

The Reverend Schermerhorn and General William Carroll, of Tennessee, were appointed to go into the Cherokee Nation to complete the negotiations for a final treaty. General Carroll was unable to go because of ill health, and Schermerhorn went alone. He met with no immediate success; as a result, he suggested to the government that if no agreement could be reached with the entire Nation, a treaty be concluded with a part of the Cherokee. This plan, however, was discouraged, at least on paper, and he was instructed that a treaty must be concluded fairly or the effort be abandoned.

In October the Cherokee Council met at Red Clay to consider the preliminary treaty. Nearly all members of the tribe attended the meeting, and the hopes of the commissioners ran high. Their plan was to create an even wider division among the Indians and to persuade a sufficient number to unite with the Ridge faction to bring

20. Miles' Register, XLVIII, 87.
about approval of the treaty. In this they were disappointed. The two factions came together and agreed to ask the United States for a new treaty. The reconciliation, however, was not to last long. When the attempt was made to appoint a new committee to arrange for a treaty, the old jealousies flared again and were fanned into flame by persons who would profit from such dissension.

Before the Red Clay council adjourned, notice was given that the Cherokee were to meet the United States commissioners at New Echota, in Georgia, the following December. The Ross delegation had been authorized by the council to conclude a treaty either there or at Washing-
ton. Finding that the Reverend Schermerhorn had no authority to treat upon any other basis than the proposal which the Indians had rejected, Chief Ross went to Wash-
nington. He was unable, however, to conclude a treaty there.

At the time appointed, between three and five hundred Cherokee assembled at New Echota. On December 22, 1835, the council was opened by the Reverend Schermerhorn, General Carroll still being absent. Although few in number,

23. Royce, op. cit., 230-231. Before Chief Ross departed for Washington, he and a visitor, John Howard Payne, were arrested by the Georgia guard at his home in Ten-
nessee. The Tennessee Journal said that the guard was little better than lawless banditti. Miles' Regis-
ter, XLI, 239.
the Cherokee present resolved to open negotiations for a treaty, and a committee was appointed to arrange details. On December 29, after five days of wrangling, a preliminary treaty was concluded, and a delegation set out to Washington to urge its ratification.

John Ross appeared in Washington in the spring of 1836 with two petitions, said to have been signed by more than twelve thousand Cherokee, protesting the treaty and especially denouncing the methods by which it had been obtained. The petitions did no good. The treaty passed the senate by one vote more than the necessary majority and was signed and proclaimed by the president on May 23, 1836. It provided that the Cherokee cede their remaining territory east of the Mississippi River for $4,500,000 and a joint interest in the country occupied by the western Cherokee, to which was added 800,000 acres of land. The Indians were to be paid for improvements and given subsistence for one year; removal was to take place within two years.

Soon after the ratification of this agreement, an appropriation bill for carrying into effect certain Indian treaties was taken up in the House. A long debate, which centered upon the recently made Cherokee treaty in particular, followed. Branding it a fraud and a disgrace,

24. Ibid., 280-283; Eaton, op. cit., 69-79; United States Statutes at Large, VII, 476-489.
members of the House demanded that the treaty be presented to that body for examination before any appropriation should be made for it. The Reverend Schermerhorn was called a "complete rawhead and bloody-bones," who had forced a treaty upon the ignorant Indians while their chiefs were in Washington. Representative Peyton, of Tennessee, admitted that the Reverend Schermerhorn and his aide, Mr. Curry, were "the two worst agents that could have been selected in all God's creation" and stated further that Indian treaties had always been made by force. Nevertheless, he was one of the majority who voted for the appropriation to carry the treaty into effect.

In the steps taken immediately, Governors Lumpkin of Georgia and Cannon of Tennessee were appointed to supervise the execution of the treaty. In addition, Benjamin F. Curry was named to appraise the value of Cherokee improvements, and General John E. Wool was given command of United States troops within the Cherokee country. He was instructed to use military force only in caso hostilities were started by the Cherokee. Tennessee was asked to call 2,500 volunteers to serve in removing the Indians, one half of them to be used in East Tennessee. These armed troops were to meet in Athens in

25. Register of Debates, XII (1835-36), Pt. 4, pp. 4501-4527, 4565-4569.
July, 1836, and were to be stationed at once in the Cherokee country.

Even now John Ross did not cease his activities in opposition to the treaty. In September, 1836, President Jackson directed General Wool to caution Ross against calling any more councils. There were to be no further negotiations with the Cherokee chief, he said, and his government was to be recognized no longer. The president closed his instructions by saying, "The treaty is to be religiously fulfilled." Later, General Wool greatly displeased President Jackson when he transmitted to the Secretary of War a copy of certain resolutions of the Ross party. As late as the spring of 1838, John Ross laid before Congress a protest of the Cherokee tribe against the New Echota treaty.

The end of the period set for removal approached, and the majority of the Cherokee remained within their territory. General Wool, who had a strong sympathy for these Indians, had been relieved from his command at his own request, and General Winfield Scott took command. Upon his arrival in the Cherokee Nation, General Scott made it known that his purpose was to enforce compliance with the treaty of New Echota. In the summer of 1838 his

27. House Executive Documents, 25 Cong., 1 sess., No. 46 (Serial 311), 37.
28. President Jackson to General J. E. Wool, September 7, 1836, ibid., 49.
troops hunted down and sent away about six thousand Indians. Later, John Ross, at the bidding of the Cherokee Council, asked of General Scott that the remainder of the business of removal be left to the Indians themselves. The request was granted, and $65,88 was allowed for the cost of removing each person. The last of the Cherokee began their march westward on December 4, 1838. A number who escaped and fled to the mountains of North Carolina and Tennessee were never removed to the West. The number who emigrated under the direction of John Ross has been variously estimated at between eleven and thirteen thousand.

That the Cherokee were unalterably opposed to removal is the testimony of those most closely associated with them during this period. General opinion held that the treaty of New Echota was made by a very small minority of the tribe who had no authority to take such action. The Jackson policy of forced removal and the methods used in obtaining treaties were widely criticized by the most noted statesmen of the day.

David Crockett, of Tennessee, was among those who severely denounced the driving out of the Indians. He described the treatment of the Cherokee as unjust, cruel, dishonest, and shortsighted. He said that he could not support such a policy without violating his honor and his conscience.

30. Ibid., 239-232.
Brigadier-General R. G. Dunlap, commander of the Tennessee volunteers during the early period of actual removal, was not in sympathy with the policy he was sent to enforce. He found it his chief task to protect the Cherokee, not the whites whom he presumably was to defend. In a speech to his brigade when they were being disbanded he said:

"I determined that I would never dishonor the Tennessee arms in a servile service by aiding to carry into execution at the point of a bayonet a treaty made by a lean minority against the will and authority of the Cherokee people."

Mr. William Davis, who was appointed with the approval of President Jackson to enroll the Cherokee for final removal, was of the opinion that at least nine tenths of these Indians did not wish to emigrate. He described the work of the Reverend Schermerhorn in making the treaty of New Echota as a series of blunders. He felt it his duty to inform officials at Washington of the true situation, because the information given them by those negotiating the treaty had been prejudiced. The names of all those who opposed this treaty, he said, would form a long list.

When the treaty of New Echota was presented to the Tennessee legislature by Governor Cannon, it was with the advice that action should be taken upon it in

accordance with the best interests of the state. Long before the last of the Cherokee had been removed, Tennessee had provided for the survey and sale of the land lying within her limits which had formerly been held by the Cherokee. It was, doubtless, a bitter experience for the Indians when the whites came in and began to take possession of their homes.

Despite outspoken opposition on the part of many, even the Whig majority which controlled the Tennessee senate in 1838 apparently approved ex-President Jackson's policy toward the Cherokee. In instructions to the Tennessee members of Congress with regard to their vote upon the sub-treasury question, the financial policy of the Jackson administration was severely criticized; no mention, however, was made of the Jackson Indian policy. In reply to Whig criticism, the Democrats of the House praised ex-President Jackson's wise management of the nation's affairs in general and spoke of his Indian policy in this manner:

His unwearied efforts to remove the Indians west of the Mississippi, and beyond the limits of the states, were dictated by wisdom and humanity and deserve the commendation of all philanthropic men. 33

That ex-President Jackson deserved credit for completing the removal of the Cherokee there is no doubt. The hatred which these Indians felt for him knew no bounds. Never had he given them either sympathy or assistance in the hopeless fight for their native land. Those loyal Cherokee who fought bravely with him at Tohopeka in the War of 1812 felt poorly repaid for their services. Chief John Ross, who aided Jackson at Tohopeka, might have joined with Chief Junaluska of the Cherokee reservation in western North Carolina, who said years later: "If I had known that Jackson was going to drive us from our homes, I would have killed him that day at the Horseshoe." 34

34. R. S. Walker, Torchlights to the Cherokees, 13-14; Abel, op. cit., 22.
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