

Conflict Resolution and United States History:

Cherokee Removal

Documents

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Document 1:

**President Andrew Jackson's
Case for the Removal Act
First Annual Message to Congress
December 8, 1829**

It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consummation. Two important tribes have accepted the provision made for their removal at the last session of Congress, and it is believed that their example will induce the remaining tribes also to seek the same obvious advantages.

The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves. The pecuniary advantages which it Promises to the Government are the least of its recommendations. It puts an end to all possible danger of collision between the authorities of the General and State Governments on account of the Indians. It will place a dense and civilized population in large tracts of country now occupied by a few savage hunters. By opening the whole territory between Tennessee on the north and Louisiana on the south to the settlement of the whites it will incalculably strengthen the southwestern frontier and render the adjacent States strong enough to repel future invasions without remote aid. It will relieve the whole State of Mississippi and the western part of Alabama of Indian occupancy, and enable those States to advance rapidly in population, wealth, and power. It will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way and under their own rude institutions; will retard the progress of decay, which is lessening their numbers, and perhaps cause them gradually, under the protection of the Government and through the influence of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community. These consequences, some of them so certain and the rest so probable, make the complete execution of the plan sanctioned by Congress at their last session an object of much solicitude.

Toward the aborigines of the country no one can indulge a more friendly feeling than myself, or would go further in attempting to reclaim them from their wandering habits and make them a happy, prosperous people. I have endeavored to impress upon them my own solemn convictions of the duties and powers of the General Government in relation to the State authorities. For the justice of the laws passed by the States within the scope of their reserved powers they are not responsible to this Government. As individuals we may entertain and express our opinions of their acts, but as a Government we have as little right to control them as we have to prescribe laws for other nations.

With a full understanding of the subject, the Choctaw and the Chickasaw tribes have with great unanimity determined to avail themselves of the liberal offers presented by the act of Congress, and have agreed to remove beyond the Mississippi River. Treaties have been made with them, which in due season will be submitted for consideration. In negotiating these treaties they were made to understand their true condition, and they have preferred maintaining their independence in the Western forests to submitting to the laws of the States in which they now reside. These treaties, being probably the last which will ever be made with them, are characterized by great liberality on the part of the Government. They give the Indians a liberal sum

in consideration of their removal, and comfortable subsistence on their arrival at their new homes. If it be their real interest to maintain a separate existence, they will there be at liberty to do so without the inconveniences and vexations to which they would unavoidably have been subject in Alabama and Mississippi.

Humanity has often wept over the fate of the aborigines of this country, and Philanthropy has been long busily employed in devising means to avert it, but its progress has never for a moment been arrested, and one by one have many powerful tribes disappeared from the earth. To follow to the tomb the last of his race and to tread on the graves of extinct nations excite melancholy reflections. But true philanthropy reconciles the mind to these vicissitudes as it does to the extinction of one generation to make room for another. In the monuments and fortresses of an unknown people, spread over the extensive regions of the West, we behold the memorials of a once powerful race, which was exterminated or has disappeared to make room for the existing savage tribes. Nor is there anything in this which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy could not wish to see this continent restored to the conditions in which it was found by our forefathers. What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms, embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion?

The present policy of the Government is but a continuation of the same progressive change by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated or have melted away to make room for the whites. The waves of population and civilization are rolling to the westward, and we now propose to acquire the countries occupied by the red men of the South and West by a fair exchange, and, at the expense of the United States, to send them to a land where their existence may be prolonged and perhaps made perpetual. Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did or than our children are now doing? To better their condition in an unknown land our forefathers left all that was dear in earthly objects. Our children by thousands yearly leave the land of their birth to seek new homes in distant regions. Does Humanity weep at these painful separations from everything, animate and inanimate, with which the young heart has become entwined? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection. These remove hundreds and almost thousands of miles at their own expense, purchase the lands they occupy, and support themselves at their new homes from the moment of their arrival. Can it be cruel in this Government when, by events which it can not control, the Indian is made discontented in his ancient home to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode? How many thousands of our own people would gladly embrace the opportunity of removing to the West on such conditions! If the offers made to the Indians were extended to them, they would be hailed with gratitude and joy.

And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers than it is to our brothers and children? Rightly considered, the policy of the General Government toward the red man is not only liberal, but generous. He is unwilling to submit to the laws of the States and

mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement. . . .

May we not hope, therefore, that all good citizens, and none more zealously than those who think the Indians oppressed by subjection to the laws of the States, will unite in attempting to open the eyes of those children of the forest to their true condition, and by a speedy removal to relieve them from all the evils, real or imaginary, present or prospective, with which they may be supposed to be threatened.

Source: The Library of Congress

Document 2:

United States Congress
Indian Removal Act
May 28, 1830

An Act to provide for an exchange of lands with the Indians residing in any of the states or territories, and for their removal west of the river Mississippi.

Be it enacted by the Senate and House of representatives of the United States of America, in Congress assembled. That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the United States, west of the river Mississippi, not included in any state or organized territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there; and to cause each of said districts to be so described by natural or artificial marks, as to be easily distinguished from every other.

Sec. 2 *And be it further enacted,* That it shall and may be lawful for the President to exchange any or all of such districts, so to be laid off and described, with any tribe or nation of Indians now residing within the limits of any of the states or territories, and with which the United States have existing treaties, for the whole or any part or portion of the territory claimed and occupied by such tribe or nation, within the bounds of any one or more of the states or territories, where the land claimed and occupied by the Indians, is owned by the United States, or the United States are bound to the state within which it lies to extinguish the India claim thereto.

Sec. 3 *And be it further enacted,* That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanges with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: Provided always, That such lands shall revert to the United States, if the Indians become extinct, or abandon the same.

Sec. 4 *And be it further enacted,* That if, upon any of the lands now occupied by the Indians, and to be exchanged for, there should be such improvements as add value to the land claimed by any individual or individuals of such tribes or nations, it shall and may be lawful for the President to cause such value to be ascertained by appraisement or otherwise, and to cause such ascertained value to be paid to the person or persons rightfully claiming such improvements. And upon the payment of such valuation, the improvement so valued and paid for, shall pass to the United States, and possession shall not afterwards be permitted to any of the same tribe.

Sec. 5 *And be it further enacted,* That upon the making of any such exchange as is contemplated by this act, it shall and may be lawful for the President to cause such aid and assistance to be furnished to the emigrants as may be necessary and proper to enable them to remove to, and settle in, the country for which they may have exchanged; and also, to give them such aid and assistance as may be necessary for their support and subsistence for the first year after their removal.

Sec. 6 *And be it further enacted*, That it shall and may be lawful for the President to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever.

Sec. 7 *And be it further enacted*, That it shall and may be lawful for the President to have the same superintendence and care over any tribe or nation in the country to which they may remove, as contemplated by this act, that he is now authorized to have over them at their present places of residence: *Provided*, That nothing in this act contained shall be construed as authorizing or directing the violation of any existing treaty between the United States and any of the Indian tribes.

Sec. 8 *And be it further enacted*, That for the purpose of giving effect to the provisions of this act, the sum of five hundred thousand dollars is hereby appropriated, to be paid out of any money in the treasury, not otherwise appropriated.

Source: The Library of Congress

Document 3:

**U.S. Supreme Court
Worcester v. State of Georgia
January Term, 1832**

This cause, in every point of view in which it can be placed, is of the deepest interest.

The defendant is a State, a member of the Union, which has exercised the powers of government over a people who deny its jurisdiction, and are under the protection of the United States.

The plaintiff is a citizen of the State of Vermont, condemned to hard labor for four years in the penitentiary of Georgia under color of an act which he alleges to be repugnant to the Constitution, laws, and treaties of the United States.

The legislative power of a State, the controlling power of the Constitution and laws of the United States, the rights, if they have any, the political existence of a once numerous and powerful people, the personal liberty of a citizen, all are involved in the subject now to be considered. . . .

We must inquire and decide whether the act of the Legislature of Georgia under which the plaintiff in error has been persecuted and condemned, be consistent with, or repugnant to the Constitution, laws and treaties of the United States.

It has been said at the bar that the acts of the Legislature of Georgia seize on the whole Cherokee country, parcel it out among the neighboring counties of the State, extend her code over the whole country, abolish its institutions and its laws, and annihilate its political existence.

If this be the general effect of the system, let us inquire into the effect of the particular statute and section on which the indictment is founded.

It enacts that "all white persons, residing within the limits of the Cherokee Nation on the 1st day of March next, or at any time thereafter, without a license or permit from his Excellency the governor . . . and who shall not have taken the oath hereinafter required, shall be guilty of a high misdemeanor, and upon conviction thereof, shall be punished by confinement to the penitentiary at hard labor for a term not less than four years." . . .

The extraterritorial power of every Legislature being limited in its action to its own citizens or subjects, the very passage of this act is an assertion of jurisdiction over the Cherokee Nation, and of the rights and powers consequent on jurisdiction.

The first step, then, in the inquiry which the Constitution and the laws impose on this court, is an examination of the rightfulness of this claim. . . .

From the commencement of our government Congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States. . . .

The Cherokee Nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter but with the assent of the Cherokees themselves or in conformity with treaties and with the acts of Congress. The whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the government of the United States.

The act of the State of Georgia under which the plaintiff in error was prosecuted is consequently void, and the judgement a nullity. . . . The Acts of Georgia are repugnant to the Constitution, laws, and treaties of the United States.

They interfere forcibly with the relations established between the United States and the Cherokee Nation, the regulation of which according to the settled principles of our Constitution, are committed exclusively to the government of the Union.

They are in direct hostility with treaties, repeated in a succession of years, which mark out the boundary that separates the Cherokee country from Georgia; guarantee to them all the land within their boundary; solemnly pledge the faith of the United States to restrain their citizens from trespassing on it; and recognize the pre-existing power of the nation to govern itself.

They are in equal hostility with the acts of Congress for regulating this intercourse, and giving effect to the treaties.

The forcible seizure and abduction of the plaintiff, who was residing in the nation with its permission, and by authority of the President of the United States, is also a violation of the acts which authorize the chief magistrate to exercise this authority. . . .

Judgement reversed.

Source: Legal Information Institute, Cornell University Law School

Document 4:

**Treaty of New Echota
December 29, 1835**

WHEREAS the Cherokees are anxious to make some arrangements with the Government of the United States whereby the difficulties they have experienced by a residence within the settled parts of the United States under the jurisdiction and laws of the State Governments may be terminated and adjusted; and with a view to reuniting their people in one body and securing a permanent home for themselves and their posterity in the country selected by their forefathers without the territorial limits of the State sovereignties, and where they can establish and enjoy a government of their choice and perpetuate such a state of society as may be most consonant with their views, habits and condition; and as may tend to their individual comfort and their advancement in civilization.

And whereas a delegation of the Cherokee nation composed of Messrs. John Ross Richard Taylor Danl. McCoy Samuel Gunter and William Rogers with full power and authority to conclude a treaty with the United States did on the 28th day of February 1835 stipulate and agree with the Government of the United States to submit to the Senate to fix the amount which should be allowed the Cherokees for their claims and for a cession of their lands east of the Mississippi river, and did agree to abide by the award of the Senate of the United States themselves and to recommend the same to their people for their final determination.

And whereas on such submission the Senate advised "that a sum not exceeding five millions of dollars be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river."

And whereas this delegation after said award of the Senate had been made, were called upon to submit propositions as to its disposition to be arranged in a treaty which they refused to do, but insisted that the same "should be referred to their nation and there in general council to deliberate and determine on the subject in order to ensure harmony and good feeling among themselves."

And whereas a certain other delegation composed of John Ridge Elias Boudinot Archilla Smith S. W. Bell John West Wm. A. Davis and Ezekiel West, who represented that portion of the nation in favor of emigration to the Cherokee country west of the Mississippi entered into propositions for a treaty with John F. Schermerhorn commissioner on the part of the United States which were to be submitted to their nation for their final action and determination:

And whereas the Cherokee people, at their last October council at Red Clay, fully authorized and empowered a delegation or committee of twenty persons of their nation to enter into and conclude a treaty with the United States commissioner then present, at that place or elsewhere and as the people had good reason to believe that a treaty would then and there be made or at a subsequent council at New Echota which the commissioners it was well known and understood, were authorized and instructed to convene for said purpose; and since the said delegation have gone on to Washington city, with a view to close negotiations there, as stated by them notwithstanding they were officially informed by the United States commissioner that they would not be received by the President of the United States; and that the Government would transact no business of this nature with them, and that if a treaty was made it must be done here in the nation, where the delegation at Washington last winter urged that it should be done for the purpose of promoting peace and harmony among the people; and since these facts have also been corroborated to us by a communication recently received by the commissioner from the

Government of the United States and read and explained to the people in open council and therefore believing said delegation can effect nothing and since our difficulties are daily increasing and our situation is rendered more and more precarious uncertain and insecure in consequence of the legislation of the States; and seeing no effectual way of relief, but in accepting the liberal overtures of the United States.

And whereas General William Carroll and John F. Schermerhorn were appointed commissioners on the part of the United States, with full power and authority to conclude a treaty with the Cherokees east and were directed by the President to convene the people of the nation in general council at New Echota and to submit said propositions to them with power and authority to vary the same so as to meet the views of the Cherokees in reference to its details.

And whereas the said commissioners did appoint and notify a general council of the nation to convene at New Echota on the 21st day of December 1835; and informed them that the commissioners would be prepared to make a treaty with the Cherokee people who should assemble there and those who did not come they should conclude gave their assent and sanction to whatever should be transacted at this council and the people having met in council according to said notice.

Therefore the following articles of a treaty are agreed upon and concluded between William Carroll and John F. Schermerhorn commissioners on the part of the United States and the chiefs and head men and people of the Cherokee nation in general council assembled this 29th day of December 1835.

ARTICLE 1. The Cherokee nation hereby cede relinquish and convey to the United States all the lands owned claimed or possessed by them east of the Mississippi river, and hereby release all their claims upon the United States for spoliations of every kind for and in consideration of the sum of five millions of dollars to be expended paid and invested in the manner stipulated and agreed upon in the following articles But as a question has arisen between the commissioners and the Cherokees whether the Senate in their resolution by which they advised "that a sum not exceeding five millions of dollars be paid to the Cherokee Indians for all their lands and possessions east of the Mississippi river" have included and made any allowance or consideration for claims for spoliations it is therefore agreed on the part of the United States that this question shall be again submitted to the Senate for their consideration and decision and if no allowance was made for spoliations that then an additional sum of three hundred thousand dollars be allowed for the same.

ARTICLE 2. Whereas by the treaty of May 6th 1828 and the supplementary treaty thereto of Feb. 14th 1833 with the Cherokees west of the Mississippi the United States guarantied and secured to be conveyed by patent, to the Cherokee nation of Indians the following tract of country "Beginning at a point on the old western territorial line of Arkansas Territory being twenty-five miles north from the point where the territorial line crosses Arkansas river, thence running from said north point south on the said territorial line where the said territorial line crosses Verdigris river; thence down said Verdigris river to the Arkansas river; thence down said Arkansas to a point where a stone is placed opposite the east or lower bank of Grand river at its junction with the Arkansas; thence running south forty-four degrees west one mile; thence in a straight line to a point four miles northerly, from the mouth of the north fork of the Canadian; thence along the said four mile line to the Canadian; thence down the Canadian to the Arkansas; thence down the Arkansas to that point on the Arkansas where the eastern Choctaw boundary strikes said river and running thence with the western line of Arkansas Territory as now defined, to the southwest corner of Missouri; thence

along the western Missouri line to the land assigned the Senecas; thence on the south line of the Senecas to Grand river; thence up said Grand river as far as the south line of the Osage reservation, extended if necessary; thence up and between said south Osage line extended west if necessary, and a line drawn due west from the point of beginning to a certain distance west, at which a line running north and south from said Osage line to said due west line will make seven millions of acres within the whole described boundaries. In addition to the seven millions of acres of land thus provided for and bounded, the United States further guaranty to the Cherokee nation a perpetual outlet west, and a free and unmolested use of all the country west of the western boundary of said seven millions of acres, as far west as the sovereignty of the United States and their right of soil extend:

Provided however That if the saline or salt plain on the western prairie shall fall within said limits prescribed for said outlet, the right is reserved to the United States to permit other tribes of red men to get salt on said plain in common with the Cherokees; And letters patent shall be issued by the United States as soon as practicable for the land hereby guarantied."

And whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi the United States in consideration of the sum of five hundred thousand dollars therefore hereby covenant and agree to convey to the said Indians, and their descendants by patent, in fee simple the following additional tract of land situated between the west line of the State of Missouri and the Osage reservation beginning at the southeast corner of the same and runs north along the east line of the Osage lands fifty miles to the northeast corner thereof; and thence east to the west line of the State of Missouri; thence with said line south fifty miles; thence west to the place of beginning; estimated to contain eight hundred thousand acres of land; but it is expressly understood that if any of the lands assigned the Quapaws shall fall within the aforesaid bounds the same shall be reserved and excepted out of the lands above granted and a pro rata reduction shall be made in the price to be allowed to the United States for the same by the Cherokees.

ARTICLE 3. The United States also agree that the lands above ceded by the treaty of Feb. 14 1833, including the outlet, and those ceded by this treaty shall all be included in one patent executed to the Cherokee nation of Indians by the President of the United States according to the provisions of the act of May 28 1830. It is, however, agreed that the military reservation at Fort Gibson shall be held by the United States. But should the United States abandon said post and have no further use for the same it shall revert to the Cherokee nation. The United States shall always have the right to make and establish such post and military roads and forts in any part of the Cherokee country, as they may deem proper for the interest and protection of the same and the free use of as much land, timber, fuel and materials of all kinds for the construction and support of the same as may be necessary; provided that if the private rights of individuals are interfered with, a just compensation therefor shall be made.

ARTICLE 4. The United States also stipulate and agree to extinguish for the benefit of the Cherokees the titles to the reservations within their country made in the Osage treaty of 1825 to certain half-breeds and for this purpose they hereby agree to pay to the persons to whom the same belong or have been assigned or to their agents or guardians whenever they shall execute after the ratification of this treaty a satisfactory conveyance for the same, to the United States, the sum of fifteen thousand dollars according to a schedule accompanying this treaty of the relative value of the several reservations.

And whereas by the several treaties between the United States and the Osage Indians the Union and Harmony Missionary reservations which were established for their benefit are now situated within the country ceded by them to the United States; the former being situated in the Cherokee country and the latter in the State of Missouri. It is therefore agreed that the United States shall pay the American Board of Commissioners for Foreign Missions for the improvements on the same what they shall be appraised at by Capt. Geo. Vashon Cherokee sub-agent Abraham Redfield and A.P. Chouteau or such persons as the President of the United States shall appoint and the money allowed for the same shall be expended in schools among the Osages and improving their condition. It is understood that the United States are to pay the amount allowed for the reservations in this article and not the Cherokees.

ARTICLE 5. The United States hereby covenant and agree that the lands ceded to the Cherokee nation in the foregoing article shall, in no future time without their consent, be included within the territorial limits or jurisdiction of any State or Territory. But they shall secure to the Cherokee nation the right by their national councils to make and carry into effect all such laws as they may deem necessary for the government and protection of the persons and property within their own country belonging to their people or such persons as have connected themselves with them: provided always that they shall not be inconsistent with the constitution of the United States and such acts of Congress as have been or may be passed regulating trade and intercourse with the Indians; and also, that they shall not be considered as extending to such citizens and army of the United States as may travel or reside in the Indian country by permission according to the laws and regulations established by the Government of the same.

ARTICLE 6. Perpetual peace and friendship shall exist between the citizens of the United States and the Cherokee Indians. The United States agree to protect the Cherokee nation from domestic strife and foreign enemies and against intestine wars between the several tribes. The Cherokees shall endeavor to preserve and maintain the peace of the country and not make war upon their neighbors they shall also be protected against interruption and intrusion from citizens of the United States, who may attempt to settle in the country without their consent; and all such persons shall be removed from the same by order of the President of the United States. But this is not intended to prevent the residence among them of useful farmers mechanics and teachers for the instruction of Indians according to treaty stipulations.

ARTICLE 7. The Cherokee nation having already made great progress in civilization and deeming it important that every proper and laudable inducement should be offered to their people to improve their condition as well as to guard and secure in the most effectual manner the rights guarantied to them in this treaty, and with a view to illustrate the liberal and enlarged policy of the Government of the United States towards the Indians in their removal beyond the territorial limits of the States, it is stipulated that they shall be entitled to a delegate in the House of Representatives of the United States whenever Congress shall make provision for the same.

ARTICLE 8. The United States also agree and stipulate to remove the Cherokees to their new homes and to subsist them one year after their arrival there and that sufficient number of steamboats and baggagewagons shall be furnished to remove them comfortably, and so as not to endanger their health, and that a physician well supplied with medicines shall accompany each detachment of emigrants removed by the Government. Such persons and families as in the opinion of the emigrating agent are capable of subsisting and removing themselves shall be permitted to

do so; and they shall be allowed in full for all claims for the same twenty dollars for each member of their family; and in lieu of their one year's rations they shall be paid the sum of thirty-three dollars and thirty-three cents if they prefer it.

Such Cherokees also as reside at present out of the nation and shall remove with them in two years west of the Mississippi shall be entitled to allowance for removal and subsistence as above provided.

ARTICLE 9. The United States agree to appoint suitable agents who shall make a just and fair valuation of all such improvements now in the possession of the Cherokees as add any value to the lands; and also of the ferries owned by them, according to their net income; and such improvements and ferries from which they have been dispossessed in a lawless manner or under any existing laws of the State where the same may be situated.

The just debts of the Indians shall be paid out of any monies due them for their improvements and claims; and they shall also be furnished at the discretion of the President of the United States with a sufficient sum to enable them to obtain the necessary means to remove themselves to their new homes, and the balance of their dues shall be paid them at the Cherokee agency west of the Mississippi. The missionary establishments shall also be valued and appraised in a like manner and the amount of them paid over by the United States to the treasurers of the respective missionary societies by whom established and improved in order to enable them to erect such buildings and make such improvements among the Cherokees west of the Mississippi as they may deem necessary for their benefit. Such teachers at present among the Cherokees as this council shall select and designate shall be removed west of the Mississippi with the Cherokee nation and on the same terms allowed to them.

ARTICLE 10. The President of the United States shall invest in some safe and most productive public stocks of the country for the benefit of the whole Cherokee nation who have removed or shall remove to the lands assigned by this treaty to the Cherokee nation west of the Mississippi the following sums as a permanent fund for the purposes hereinafter specified and pay over the net income of the same annually to such person or persons as shall be authorized or appointed by the Cherokee nation to receive the same and their receipt shall be a full discharge for the amount paid to them viz: the sum of two hundred thousand dollars in addition to the present annuities of the nation to constitute a general fund the interest of which shall be applied annually by the council of the nation to such purposes as they may deem best for the general interest of their people. The sum of fifty thousand dollars to constitute an orphans' fund the annual income of which shall be expended towards the support and education of such orphan children as are destitute of the means of subsistence. The sum of one hundred and fifty thousand dollars in addition to the present school fund of the nation shall constitute a permanent school fund, the interest of which shall be applied annually by the council of the nation for the support of common schools and such a literary institution of a higher order as may be established in the Indian country. And in order to secure as far as possible the true and beneficial application of the orphans' and school fund the council of the Cherokee nation when required by the President of the United States shall make a report of the application of those funds and he shall at all times have the right if the funds have been misapplied to correct any abuses of them and direct the manner of their application for the purposes for which they were intended. The council of the nation may by giving two years' notice of their intention withdraw their funds by and with the consent of the President and Senate of the United States, and invest them in such manner as they may deem most proper for their interest. The United States also agree and stipulate to pay the just debts and claims against the Cherokee

nation held by the citizens of the same and also the just claims of citizens of the United States for services rendered to the nation and the sum of sixty thousand dollars is appropriated for this purpose but no claims against individual persons of the nation shall be allowed and paid by the nation. The sum of three hundred thousand dollars is hereby set apart to pay and liquidate the just claims of the Cherokees upon the United States for spoliation of every kind, that have not been already satisfied under former treaties.

ARTICLE 11. The Cherokee nation of Indians believing it will be for the interest of their people to have all their funds and annuities under their own direction and future disposition hereby agree to commute their permanent annuity of ten thousand dollars for the sum of two hundred and fourteen thousand dollars, the same to be invested by the President of the United States as a part of the general fund of the nation; and their present school fund amounting to about fifty thousand dollars shall constitute a part of the permanent school fund of the nation.

ARTICLE 12. Those individuals and families of the Cherokee nation that are averse to a removal to the Cherokee country west of the Mississippi and are desirous to become citizens they have been of the States where they reside and such as are qualified to take care of themselves and their property shall be entitled to receive their due portion of all the personal benefits accruing under this treaty for their claims, improvements and per capita; as soon as an appropriation is made for this treaty.

Source: Oklahoma State University Libraries, Indian Affairs and Treaties

Document 5:

**Nancy Ward Petition
For Cherokee Women
October 17, 1821**

To the Committee and Council,

We the females, residing in Salequoree and Pine Log, believing that the present difficulties and embarrassments under which this nation is placed demands a full expression of the mind of every individual, on the subject of emigrating to Arkansas, would take upon ourselves to address you. Although it is not common for our sex to take part in public measures, we nevertheless feel justified in expressing our sentiments on any subject where our interest is as much at stake as any other part of the community.

We believe the present plan of the General Government to effect our removal West of the Mississippi, and thus obtain our lands for the use of the State of Georgia, to be highly oppressive, cruel and unjust. And we sincerely hope there is no consideration which can induce our citizens to forsake the land of our fathers of which they have been in possession from time immemorial, and thus compel us, against our will, to undergo the toils and difficulties of removing with our helpless families hundreds of miles to unhealthy and unproductive country. We hope therefore the Committee and Council will take into deep consideration our deplorable situation, and do everything in their power to avert such a state of things. And we trust by a prudent course their transactions with the General Government will enlist in our behalf the sympathies of the good people of the United States.

Source: *The Cherokee Removal: A Brief History with Documents*, pp.126

John Ross petitions to Congress

Memorial and Protest of the Cherokee Nation June 22, 1836

That the Cherokees are a distinct people, sovereign to some extent, have a separate political existence as a society, or body politic, and a capability of being contracted with in a national capacity, stands admitted by the uniform practice of the United States from 1785 down to the present day. With them have treaties been made through their chiefs, and distinguished men in primary assemblies, as also with their constituted agents or representatives. That they have not the right to manage their own internal affairs, and to regulate, by treaty, their intercourse with other nations, is a doctrine of modern date. In 1793, Mr. Jefferson said, "I consider our right of pre-emption of the Indian lands, not as amounting to any dominion, or jurisdiction, or paramountship whatever, but merely in the nature of a remainder, after the extinguishment of a present right, which gives us no present right whatever, but of preventing other nations from taking possession, and so defeating our expectancy. That the Indians have the full, undivided, and independent sovereignty as long as they choose to keep it, and that this may be forever. This opinion was recognized and practiced upon, by the Government of the United States, through several successive administrations, also recognized by the Supreme Court of the United States, and the several States, when the question has arisen. It has not been the opinion only of jurists, but of politicians, as may be seen from various reports of Secretaries of War—beginning with Gen. Knox, also the correspondence between the British and American ministers at Ghent in the year 1814. If the Cherokees have power to judge of their own interests, and to make treaties, which, it is presumed, will be denied by none, then to make a contract valid, the assent of a majority must be had, expressed by themselves or through their representatives, and the President and Senate have no power to say what their will shall be, for from the laws of nations we learn that "though a nation be obliged to promote, as far as lies in its power, the perfection of others, it is not entitled forcibly to obtrude these good offices on them." Such an attempt would be to violate their natural liberty.... It is the expressed wish of the Government of the United States to remove the Cherokees to a place west of the Mississippi. That wish is said to be founded in humanity to the Indians. To make their situation more comfortable, and to preserve them as a distinct people....

The Cherokee Territory, within the limits of North Carolina, Georgia, Tennessee and Alabama, is estimated to contain ten millions of acres. It embraces a large portion of the finest lands to be found in any of the States; and a salubrity of climate unsurpassed by any; possessing superior advantages in reference to water power; owing to the numerous rills, brooks and rivers, which flow from and through it; some of these streams afford good navigation, others are susceptible of being easily improved and made navigable. On the routes where roads have been opened by the Cherokees, through this country, there must necessarily pass some of the most important public roads and other internal improvements, which at no distant day will be constructed.

The entire country is covered with a dense forest of valuable timber, also abounding in inexhaustible quarries of marble and lime stone. Above all, it possesses the most extensive regions of the precious metal known in the United States. The riches of the gold mines are incalculable, some of the lots of forty acres of land, embracing gold, mines, which have been

surveyed and disposed of by lottery, under the authority of Georgia (with the encumbrance of the Indian title) have been sold for upwards of thirty thousand dollars!

There are also extensive banks of iron ore interspersed throughout the country. Mineralogists who have traveled over a portion of this territory, are fully persuaded, from what they have seen, that lead and silver mines will also be found in the mountain regions. Independent of all these natural advantages and invaluable resources, there are many extensive and valuable improvements made upon the lands by native Cherokee inhabitants, and those adopted as Cherokee citizens, by intermarriages.

The Cherokee population has recently been reported by the War Department to be 18,000, according to a census taken by agents appointed by the Government. This people have become civilized, and adopted the Christian religion. Their pursuits are pastoral and agricultural, and in some degree, mechanical. Their stocks of cattle, however, have become greatly reduced in numbers within the past few years, owing to the unfortunate policy which has thrown upon this territory a class of white and irresponsible settlers, who, disregarding all laws and treaties, so far as the rights of the Cherokees are concerned, and who have been actuated more from sordid impulses of avarice, than by any principle of moral obligation or of justice, have by fraud and force made Cherokee property their own.

The possessions of the Cherokee inhabitants, consist of houses, which cost generally from fifty dollars, one hundred to one thousand dollars, and in many instances up to five thousand dollars; some few as high as six, eight, and ten thousand dollars, with corresponding out buildings, consisting of kitchens, meat houses, dairies, granaries or corn cribs, barns, stables, &c. grist and saw mills: connected with these are gardens for culinary vegetables; also peach and apple orchards; lots of enclosed ground for horses, black cattle, &c. The farms of the Cherokees contain from ten, twenty, thirty, forty, fifty, sixty, to one hundred, one hundred fifty, and two hundred acres of land under cultivation, and enclosed with good rail fences. Among the most wealthy there are farms of three and four hundred acres, and in one instance perhaps about eight hundred acres in cultivation. Some of the most extensive and valuable farms and possessions have been forcibly wrested from the proprietors by the Georgia guard and agents, and citizens of Georgia put into possession of them, whilst the Cherokee owners have been thrust out to seek shelter in a camp, or under the roof of a log hut in the woods, within the limits of North Carolina, Tennessee, and Alabama. There are many valuable public ferries also owned by the Cherokees, the income of some of them amount to from five hundred to one thousand, fifteen hundred and two thousand dollars per annum. Several public roads opened at private expense, were also kept up by companies under regulations of the national council, and toll gates were erected on them. These regulations have all been prostrated by State Legislation, and the Cherokee proprietors thus deprived of their rights, privileges and property. Besides all this, there are various important interests and claims which are secured by the provisions of the former subsisting treaties, to the Cherokees, and for which the United States injustice are bound to allow indemnification. For the surrender then of a territory containing about ten millions of acres; together with the various interests and claims spoken of, and the amount that will be required to cover these claims, no man, without data, can form any estimate. The sum of five millions, six hundred thousand dollars only, is proposed to be paid: the price given for the lands at this rate would not exceed thirty cents per acre. Will Georgia accept the whole amount, for that portion within her limits?

The faith of the United States being solemnly pledged to the Cherokee nation for the guarantee of the quiet and uninterrupted protection of their territorial possessions forever; and it being an unquestionable fact, that the Cherokees love their country; that no amount of money, could induce them voluntarily to yield their assent to a cession of the same justice and equity

demand, that in any final treaty for the adjustment of the Cherokee difficulties, that their rights, interests, and wishes should be consulted; and that the individual rights of the Cherokee citizens, in their possessions and claims, should be amply secured; and, as freemen, they should be left at liberty to stay or remove where they please....

The Cherokees cannot resist the power of the United States, and should they be driven from their native land, then they will look in melancholy sadness upon the golden chains presented by President Washington to the Cherokee people as emblematical of the brightness and purity of the friendship between the United States and the Cherokee nation.

Letter from Chief John Ross, "To the Senate and House of Representatives" September 28, 1836

It is well known that for a number of years past we have been harassed by a series of vexations, which it is deemed unnecessary to recite in detail, but the evidence of which our delegation will be prepared to furnish. With a view to bringing our troubles to a close, a delegation was appointed on the 23rd of October, 1835, by the General Council of the nation, clothed with full powers to enter into arrangements with the Government of the United States, for the final adjustment of all our existing difficulties. The delegation failing to effect an arrangement with the United States commissioner, then in the nation, proceeded, agreeably to their instructions in that case, to Washington City, for the purpose of negotiating a treaty with the authorities of the United States.

After the departure of the Delegation, a contract was made by the Rev. John F. Schermerhorn, and certain individual Cherokees, purporting to be a "treaty, concluded at New Echota, in the State of Georgia, on the 29th day of December, 1835, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people of the Cherokee tribes of Indians." A spurious Delegation, in violation of a special injunction of the general council of the nation, proceeded to Washington City with this pretended treaty, and by false and fraudulent representations supplanted in the favor of the Government the legal and accredited Delegation of the Cherokee people, and obtained for this instrument, after making important alterations in its provisions, the recognition of the United States Government. And now it is presented to us as a treaty, ratified by the Senate, and approved by the President [Andrew Jackson], and our acquiescence in its requirements demanded, under the sanction of the displeasure of the United States, and the threat of summary compulsion, in case of refusal. It comes to us, not through our legitimate authorities, the known and usual medium of communication between the Government of the United States and our nation, but through the agency of a complication of powers, civil and military.

By the stipulations of this instrument, we are despoiled of our private possessions, the indefeasible property of individuals. We are stripped of every attribute of freedom and eligibility for legal self-defense. Our property may be plundered before our eyes; violence may be committed on our persons; even our lives may be taken away, and there is none to regard our complaints. We are denationalized; we are disfranchised. We are deprived of membership in the human family! We have neither land nor home, nor resting place that can be called our own. And this is effected by the provisions of a compact which assumes the venerated, the sacred appellation of treaty.

We are overwhelmed! Our hearts are sickened, our utterance is paralyzed, when we reflect on the condition in which we are placed, by the audacious practices of unprincipled men,

who have managed their stratagems with so much dexterity as to impose on the Government of the United States, in the face of our earnest, solemn, and reiterated protestations.

The instrument in question is not the act of our Nation; we are not parties to its covenants; it has not received the sanction of our people. The makers of it sustain no office nor appointment in our Nation, under the designation of Chiefs, Head men, or any other title, by which they hold, or could acquire, authority to assume the reins of Government, and to make bargain and sale of our rights, our possessions, and our common country. And we are constrained solemnly to declare, that we cannot but contemplate the enforcement of the stipulations of this instrument on us, against our consent, as an act of injustice and oppression, which, we are well persuaded, can never knowingly be countenanced by the Government and people of the United States; nor can we believe it to be the design of these honorable and highminded individuals, who stand at the head of the Govt., to bind a whole Nation, by the acts of a few unauthorized individuals. And, therefore, we, the parties to be affected by the result, appeal with confidence to the justice, the magnanimity, the compassion, of your honorable bodies, against the enforcement, on us, of the provisions of a compact, in the formation of which we have had no agency.

Source: *The Cherokee Removal: A Brief History with Documents*, pp.147-150

Document 7:

**Senator Theodore Frelinghuysen
Speech before the U.S. Senate
April 9, 1830**

GOD, in his providence, planted these tribes on this western continent, so far as we know, before Great Britain herself had a political existence. I believe, Sir, it is not now seriously denied that the Indians are men, endowed with kindred faculties and powers with ourselves; that they have a place in human sympathy, and are justly entitled to a share in the common bounties of a benignant Providence. And, with this conceded, I ask in what code of the law of nations, or by what process of abstract deduction, their rights have been extinguished?

Where is the decree or ordinance, that has stripped these early and first lords of the soil? Sir, no record of such measure can be found. And I might triumphantly rest the hopes of these feeble fragments of once great nations upon this impregnable foundation. However mere human policy, or the law of power, or the tyrant's plea of expediency, may have found it convenient at any or in all times to recede from the unchangeable principles of eternal justice, no argument can shake the political maxim, that, where the Indian always has been, he enjoys an absolute right still to be, in the free exercise of his own modes of thought, government and conduct.

In the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own? If I use land for hunting, may another take it because he needs it for agriculture? I am aware that some writers have, by a system of artificial reasoning, endeavored to justify, or rather excuse the encroachments made upon Indian territory; and they denominate these abstractions the law of nations, and, in this ready way, the question is dispatched. Sir, as we trace the sources of this law, we find its authority to depend either upon the conventions or common consent of nations. And when, permit me to inquire, were the Indian tribes ever consulted on the establishment of such a law? Whoever represented them or their interests in any congress of nations, to confer upon the public rules of intercourse, and the proper foundations of dominion and property? The plain matter of fact is, that all these partial doctrines have resulted from the selfish plans and pursuits of more enlightened nations; and it is not matter for any great wonder, that they should so largely partake of a mercenary and exclusive spirit toward the claims of the Indians.

As the tide of our population has rolled on, we have added purchase to purchase. The confiding Indian listened to our professions of friendship: we called him brother, and he believed us. Millions after millions he has yielded to our importunity, until we have acquired more than can be cultivated in centuries and yet we crave more. We have crowded the tribes upon a few miserable acres on our southern frontier: it is all that is left to them of their once boundless forests: and still, like the horse leech, our insatiated cupidity cries, give! give!

Sir, let every treaty be blotted from our records, and in the judgment of natural and unchangeable truth and justice, I ask, who is the injured, and who is the aggressor? Let conscience answer and I fear not the result. Sir, let those who please, denounce the public feeling on this subject as the morbid excitement of a false humanity; but I return with the inquiry, whether I have not presented the case truly, with no feature of it overcharged or distorted? And, in view of it, who can help feeling, Sir? Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man, that he may disregard the dictates of moral principles, when an Indian shall be concerned? No, Sir. In that severe and impartial scrutiny, which futurity will cast over this subject, the righteous award will be, that those very causes which are now pleaded for the relaxed enforcement of the rules of equity, urged upon us not only a rigid execution of the highest justice, to the very letter, but claimed at our hands a generous and magnanimous policy.

Standing here, then, on this unshaken basis, how is it possible that even a shadow of claim to soil, or jurisdiction, can be derived, by forming a collateral issue between the State of Georgia and the general government? Her complaint is made against the United States, for encroachments on her sovereignty. Sir, the Cherokees are no parties to this issue; they have no part in this controversy. They hold by better title than either Georgia or the Union. They have nothing to do with State sovereignty, or United States, sovereignty. They are above and beyond both. True, Sir, they have made treaties with both, but not to acquire title or jurisdiction; these they had before ages before the evil hour, to them, when their white brothers fled to them for an asylum. They treated to secure protection and guaranty for subsisting powers and privileges; and so far as those conventions raise obligations, they are willing to meet, and always have met, and faithfully performed them; and now expect from a great people the like fidelity to plighted covenants.

I have thus endeavored to bring this question up to the control of first principles. I forget all that we have promised, and all that Georgia has repeatedly conceded, and, by her conduct, confirmed. Sir, in this abstract presentation of the case, stripped of every collateral circumstance and these only the more firmly established the Indian claims regarded, if the contending parties were to exchange positions; place the white man where the Indian stands; load him with all these wrongs, and what path would his outraged feelings strike out for his career? Twenty shillings tax, I think it was, imposed upon the immortal Hampden, roused into activity the slumbering fires of liberty in the Old World, from which she dates a glorious epoch, whose healthful influence still cherishes the spirit of freedom. A few pence of duty on tea, that invaded no fireside, excited no fears, disturbed no substantial interest whatever, awakened in the American colonies a spirit of firm resistance; and how was the tea tax met, Sir, Just as it should be. There was lurking beneath this trifling imposition of duty, a covert assumption of authority that led directly to oppressive exactions. "No taxation without representation," became our motto. We would neither pay the tax nor drink the tea. Our fathers buckled their armor, and, from the water's edge, repelled the encroachments of a misguided cabinet. We successfully and triumphantly contended for the very rights and privileges that our Indian neighbors now implore us to protect and preserve to them. Sir, this thought invests the subject under debate with most singular and momentous interest. We, whom God has exalted to the very summit of prosperity whose brief career forms the brightest page in history; the wonder and praise of the world; Freedom's hope, and her consolation; about to turn traitors to our principles and our fame about to become the oppressors of the feeble, and to cast away our birthright! Sir, I hope for better things.

It is a subject full of grateful satisfaction, that, in our public intercourse with the Indians, ever since the first colonies of white men found an abode on these Western shores, we have distinctly recognized their title; treated with them as owners, and in all our acquisitions of territory, applied ourselves to these ancient proprietors, by purchase and cession alone, to obtain the right of soil. Sir, I challenge the record of any other or different pretension. When, or where, did any assembly or convention meet which proclaimed, or even suggested to these tribes, that the right of discovery contained a superior efficacy over all prior titles?

Who...sir, can retain a single doubt as to the unquestioned political sovereignty of these tribes? It is very true, that they were not absolutely independent. As they had become comparatively feeble, and as they were, in the mass, an uncivilized race, they chose to depend upon us for protection; but this did not destroy or affect their sovereignty. The rule of public law is clearly stated by Vattel, "one community may be bound to another by very unequal alliance, and still be sovereign State. Though a weak State in order to provide for its safety, should place itself under the protection of more powerful one, yet, if it reserves itself the right of governing its own body, it ought to be considered as an independent State." If the right of self government is retained, the State pre

serves its political existence; and, permit me to ask, when did the Southern Indians relinquish of this right? Sir, they have always exercised it, and were never disturbed in the enjoyment of it, until the late legislation of Georgia and the States of Alabama and Mississippi.

Every administration of this Government, from President Washington's, have, with like solemnities and stipulations, held treaties with the Cherokees; treaties, too, by almost all of which we obtained further acquisitions of their territory. Yes, sir, whenever we approached them in the language of friendship and kindness, we touched the chord that won their confidence; and now, when they have nothing left with which to satisfy our cravings, we propose to annul every treaty - to gainsay our word and, by violence and perfidy, drive the Indian from his home. In a subsequent treaty between the United States and the Cherokee nation, concluded on the 8th July, 1817, express reference is made to past negotiations between the parties, on the subject of removal to the west of the Mississippi; the same question that now agitates the country, and engages our deliberations. And this convention is deserving of particular notice, inasmuch as we learn from it, not only what sentiments were then entertained by our government towards the Cherokees, but, also, in what light the different dispositions of the Indians to emigrate to the West, and to remain on their [ancient] patrimony, were considered. This treaty recites that application had been made to the United States, at a previous period, by a deputation of the Cherokees [on the 9th of January, 1809], by which they apprized the government of the wish of a part of their nation to remove west of the Mississippi, and of the residue to abide in their old habitations. That the President of the United States, after maturely considering the subject, answered the petition as follows: "The United States, my children, are the friends of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both. Those who remain may be assured of our patronage, our aid, and our good neighborhood." "To those who remove, every aid shall be administered, and when established at their new settlements, we shall consider them as our children, and always hold them firmly by the hand." The convention then establishes new boundaries and pledges our faith to respect and defend the Indian territories. Some matters, by universal consent, are taken as granted, without any explicit recognition. Under the influence of this rule of common fairness, how can we ever dispute the sovereign right of the Cherokees to remain east of the Mississippi, when it was in relation to that very location, that we promised our patronage, aid, and good neighborhood? Sir, is this high-handed encroachment of Georgia to be the commentary upon the national pledge here given, and the obvious import of these terms? How were these people to remain, if not as they then existed, and as we then acknowledged them to be, a distinct and separate community, governed by their own peculiar laws and customs? We can never deny these principles, while fair dealing retains any hold of our conduct. Further, sir, it appears from this treaty, that the Indians who preferred to remain east of the river, expressed" to the President an anxious desire to engage in the pursuits of agriculture and civilized life in the country they then occupied," and we engaged to encourage those laudable purposes. Indeed, such pursuits had been recommended to the tribes, and patronized by the United States, for many years before this convention. Mr. Jefferson, in his message to Congress, as early as 1805, and when on the subject of our Indian relations, with his usual enlarged views of public policy, observes: "The aboriginal inhabitants of [this country], I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores. Without power to divert, or habits to contend against it, they have been overwhelmed by the current, or driven before it. Now, reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry, which alone can enable them to maintain their place in existence;

and to prepare them in time for that society, which, to bodily comforts, adds the improvement of the mind and morals. We have, therefore, liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the aegis of the law against aggressors from among ourselves."2 These, sir, are sentiments worthy of an illustrious statesman. None can fail to perceive the spirit of justice and humanity which Mr. Jefferson cherished towards our Indian allies. He was, through his whole life, the firm unshrinking advocate of their rights, a patron of all their plans for moral improvement and elevation.

It will not be necessary to pursue the details of our treaty negotiations further. I beg leave to state, before I leave them, however, that with all the southwestern tribes of Indians we have similar treaties, not only the Cherokees, but the Creeks, Choctaws and Chickasaws, in the neighborhood of Georgia, Tennessee, Alabama, and Mississippi, hold our faith, repeatedly pledged to them, that we would respect their boundaries, repel aggressions, and protect and nourish them as our neighbors and friends; and to all these public and sacred compacts Georgia was a constant party. They were required, by an article [of the Constitution], to be submitted to the Senate of the United States for their advice and consent. They were so submitted; and Georgia, by her able Representatives in the Senate, united in the ratification of these same treaties, without, in any single instance, raising an exception, or interposing a constitutional difficulty or scruple.

Other branches of our political history shed abundant light upon this momentous question. When the Congress of the United States directed their cares to the future settlement and government of the vast and noble domains to the northwest of the river Ohio, ceded by the State of Virginia, among other matters which were deemed to be vitally connected with welfare of that region, was the condition and preservation of the Indian nations. The third article of the celebrated ordinance, for the government of the Northwestern Territory, is in the following words:

Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they never shall be invaded or disturbed, unless in just and lawful wars, authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

Sir, the more minutely we look into the proceedings of the Congress of 1787, the more deeply shall we venerate the wisdom and virtue, the largeness of views, and the political forecast, that blessed and illustrated the councils of our country. This solitary article would forever stand out, and alone sustain their reputation . . .

How can Georgia, after all this, desire or attempt, and how can we quietly permit her, "to invade and disturb the property, rights, and liberty of the Indians"? And this, not only not "in just and lawful wars authorized by Congress," but in the time of profound peace, while the Cherokee lives in tranquil prosperity by her side. I press the inquiry? How can we tamely suffer these States to make laws, not only not "founded in justice and humanity," "for preventing wrongs being done to the Indians," but for the avowed purpose of inflicting the gross and wanton injustice of breaking up their Government of abrogating their long cherished customs, and of annihilating their existence as a distinct people?

I trust, sir, that this brief exposition of our policy, in relation to Indian affairs, establishes, beyond all controversy, the obligation of the United States to protect these tribes in the exercise and enjoyment of their civil and political rights. Sir, the question has ceased to be "What are our duties?" An inquiry much more embarrassing is forced upon us: How shall we most plausibly, and

with the least possible violence, break our faith? Sir, we repel the inquiry we reject such an issue and point the guardians of our public honor to the broad, plain [path] of faithful performance. . .

Source: Register of Debates in Congress, Vol.6, pp. 309,311-312,318-320

Document 8:

Excerpt from the “William Penn” essays in Defense of Cherokees, prepared by Jeremiah Evarts for the American Board of Commissioners of Foreign Missions, 1829

Jeremiah Evarts, chief administrative officer of the large interdenominational missionary consortium, the American Board of Commissioners for Foreign Missions, had definite ideas about the proper relation between the Indian Tribes and the United States.

The selection printed here is a summary of the “William Penn” essays written by Evarts late in 1829 as the body of a petition that opponents of removal could sign and send to their congressmen. Entitled “A Brief View, “ this represented one of many efforts by Evarts and those of like mind to bombard Congress with expressions of popular outrage.

In the various discussions, which have attracted public attention within a few months past, several important positions, on the subject of the rights and claims of the Indians, have been clearly and firmly established. At least, this is considered to be the case, by a large portion of the intelligent and reflecting men of the community. Among the positions thus established are the following: which, for the sake of precision and easy reference, are set down in regular numerical order.

1. The American Indians, now living upon lands derived from their ancestors, and never alienated nor surrendered, have a perfect right to the continued and undisturbed possession of those lands.
2. Those Indian tribes and nations, which have remained under their own form of government, upon their own soil, and have never submitted themselves to the government of the whites, have a perfect right to retain their own form of government, or to alter it, according to their own views of convenience and property.
3. These rights of soil and of sovereignty are inherent in the Indians, till voluntarily surrendered by them; and cannot be taken away by compacts between communities of whites, to which compacts the Indians were not a party.
4. From the settlement of the English colonies in North America to the present day, the right of Indians to lands in their actual and peaceable possession, and to such form of government as they choose, has been admitted by the whites; though such admission is in no sense necessary to the perfect validity of the Indian title.
5. For one hundred and fifty years, innumerable treaties were made between the English colonists and the Indians, upon the basis of the Indians being independent nations, and having a perfect right to their country and their form of government.
6. During the revolutionary war, and before the adoption of the federal constitution, the United States, in their confederate character, made similar treaties, accompanied by the solemn guaranty of territorial rights
7. At the close of the revolutionary war, and before the adoption of the federal constitution, the United States in their confederate character, made similar treaties with the Cherokees, Chickasaws, and Choctaws.

- 8.** The State of Georgia, after the close of the revolutionary war, and before the adoption of the federal constitution, made similar treaties, on the same basis, with the Cherokees and Creeks.
- 9.** By the constitution of the United States, the exclusive power of making treaties with the Indians was conferred on the general government; and, in the execution of the power, the faith of the nation has been many times pledged to the Cherokees, Creeks, Chickasaws, Choctaws, and other Indian nations. In nearly all these treaties, the national and territorial rights of the Indians are guaranteed to them, either expressly, or by implication.
- 10.** The State of Georgia has, by numerous public acts, implicitly acquiesced to the exercise of the treaty-making power of the United States.
- 11.** The laws of the United States, as well as treaties with the Indians, prohibit all persons, whether acting as individuals, or as agents of any State, from encroaching upon territory secured to the Indians. By these laws severe penalties are inflicted upon offenders; and the execution of the laws on this subject, is specially confided to the President of the United States, who has the whole force of the country at his disposal for this purpose.

The Positions here recited are deemed to be incontrovertible. It follows, therefore,

That the removal of any nation of Indians from their country by force would be an instance of gross and cruel oppression;

That all attempts to accomplish this removal of the Indians by bribery or fraud, by intimidation and threats, by withholding them from a knowledge of the strength of their cause, by practising upon their ignorance, and their fears, or by vexatious opportunities, interpreted by them to mean nearly the same thing as a command;-- all such attempts are acts of oppression, and therefore entirely unjustifiable:

That the United States are firmly bound by treaty to protect the Indians from force and encroachments on the part of a state; and refusal thus to protect them would be equally an act of bad faith as a refusal to protect them against individuals; and

That the Cherokees have therefore the guaranty of the United States, solemnly and repeatedly given, as a security against encroachments from Georgia and the neighboring States. By virtue of this guaranty the Cherokees may rightfully demand, that the United States shall keep all intruders at a distance, from whatever quarter, or in whatever character, they may come. Thus secured and defended in the possession of their country, the Cherokees have a perfect right to retain that possession as long as they please.

Source: The Cherokee Removal: A Brief History with Documents, pg. 96-98

Document 9:

**Lewis Cass, "Removal of the Indians"
in the *North Atlantic Review*
January 1830**

The destiny of the Indians, who inhabit the cultivated portions of the territory of the United States, or who occupy positions immediately upon their borders, has long been a subject of deep solicitude to the American government and people. Time, while it adds to the embarrassments and distress of this part of our population, adds also to the interest which their condition excites, and to the difficulties attending a satisfactory solution of the question of their eventual disposal, which must soon pass sub judice. That the Indians have diminished, and are diminishing, is known to all who have directed their attention to the subject.

It would be miserable affectation to regret the progress of civilization and improvement, the triumph of industry and art, by which these regions have been reclaimed, and over which freedom, religion, and science are extending their sway. But we may indulge the wish, that these blessings had been attained at a smaller sacrifice; that the aboriginal population had accommodated themselves to the inevitable change of their condition, produced by the access and progress of the new race of men, before whom the hunter and his game were destined to disappear. But such a wish is vain. A barbarous people, depending for subsistence upon the scanty and precarious supplies furnished by the chase, cannot live in contact with a civilized community. As the cultivated border approaches the haunts of the animals, which are valuable for food or furs, they recede and seek shelter in less accessible situations...

...Distress could not teach them providence, nor want industry. As animal food decreased, their vegetable productions were not increased. Their habits were stationary and unbending; never changing with the change of circumstances. . . . There is a principle of repulsion in ceaseless activity, operating through all their institutions, which prevents them from appreciating or adopting any other modes of life, or any other habits of thought or action, but those which have descended to them from their ancestors...

...From an early period ... various plans for their preservation and improvement were projected and pursued. Many of them were carefully taught at our seminaries of education, in the hope that principles of morality and habits of industry would be acquired, and that they might stimulate their countrymen by precept and example to a better course of life. Missionary stations were established among various tribes, where zealous and pious men devoted themselves with generous ardor to the task of instruction, as well in agriculture and the mechanic arts, as in the principles of morality and religion.... Unfortunately, they are monuments also of unsuccessful and unproductive efforts. What tribe has been civilized by all this expenditure of treasure, and labor, and care? ...

The cause of this total failure cannot be attributed to the nature of the experiment, nor to the character, qualifications, or conduct, of those who have directed it. The process and the persons have varied, as experience suggested alterations in the one, and a spirit of generous self-devotion supplied the changes in the other. But there seems to be some insurmountable obstacle in the habits or temperament of the Indians, which has hereto fore prevented, and yet prevents, the success of these labors...

We have made the inquiry respecting the permanent advantage, which any of the tribes have derived from the attempts to civilize them, with a full knowledge of the favorable reports that have been circulated concerning the Cherokees. Limited as our intercourse with those Indians has been, we must necessarily draw our conclusions respecting them from facts which have been

stated to us, and from the general resemblance they bear to the other cognate branches of the great aboriginal stock.

That individuals among the Cherokees have acquired property, and with it more enlarged views and juster notions of the value of our institutions, and the unprofitableness of their own, we have little doubt. And we have as little doubt, that this change of opinion and condition is confined, in a great measure, to some of the half-breeds and their immediate connexions. These are not sufficiently numerous to affect our general proposition...

...But, we believe, the great body of the people are in a state of helpless and hopeless poverty. With the same improvidence and habitual indolence, which mark the northern Indians, they have less game for subsistence, and less peltry for sale. We doubt whether there is, upon the face of the globe, a more wretched race than the Cherokees, as well as the other southern tribes, present...

We are as unwilling to underrate, as we should be to overrate, the progress made by these Indians in civilization and improvement. We are well aware, that the constitution of the Cherokees, their press, and newspaper, and alphabet, their schools and police, have sent through all our borders the glad tidings, that the long night of aboriginal ignorance was ended, and that the day of knowledge had dawned. Would that it were so. None would rejoice more sincerely than we should. But this great cause can derive no aid from exaggerated representation; from promises never to be kept, and from expectations never to be realized. The truth must finally come, and it will come with a powerful reaction. We hope that our opinion upon this subject may be erroneous. But we have melancholy forebodings. That a few principal men, who can secure favorable cotton lands, and cultivate them with slaves, will be comfortable and satisfied, we may well believe. And so long as the large annuities received from the United States, are applied to the support of a newspaper and to other objects, more important to the rich than the poor, erroneous impressions upon these subjects may prevail. But to form just conceptions of the spirit and objects of these efforts, we must look at their practical operation upon the community. It is here, if the facts which have been stated to us are correct, and of which we have no doubt, that they will be found wanting.

The relative condition of the two races of men, who yet divide this portion of the continent between them, is a moral problem involved in much obscurity. The physical causes we have described, exasperated by the moral evils introduced by them, are sufficient intercourse with them, a speculative politician has no right to deduce from thence their claim to the attributes of sovereignty, with all its powers and duties....

Our peculiar form of government presents for consideration one question, which cannot exist in a monarchy or in a consolidated republic. Is the jurisdiction, which we may be called upon to exercise over the Indian tribes, to be assumed by the authorities of the confederation, or of the state, within which such tribes resides? It is a question growing out of our own municipal institutions, to be determined by ourselves, in which other nations have no right to interfere, and the decision of which can give no cause of complaint to the Indians.

We have seen that the executive department of the Union has conceded the existence of this right in the state governments, and we think a few observations will be sufficient to show, that it is a concession demanded by the principles of our government, and by the usage which has prevailed among many of the members of the confederation.... To the constitution of the general government we must look for the resolution of this question. And the only provision we there find, relating to the Indians, is the third clause of the eighth section, which grants Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." Certainly this is too narrow a foundation upon which to erect so broad a superstructure, as that which would include within it the whole of the concerns of the Indians. The regulation of

commerce can by no fair interpretation include, within the sphere of its operation, all the acts and duties of life, and thus confer the power of exclusive legislation....

We are aware, that the treaty-making power may affect this branch of inquiry. Treaties have been formed by the United States with most of the Indian tribes, and it is now too late to call in question their obligation, or the power of the government to conclude them; although it is difficult to point to any provision of the Constitution, which expressly or necessarily grants this power....It is another of the anomalies, of which the general subject is so fruitful. If it were a question now to be agitated for the first time, the decision would probably be adverse to the exercise of the power. But we consider it as settled by this practical exposition, and that all the rights, secured to the Indians by these treaties, are beyond the reach of any difference of opinion, which may exist among ourselves, concerning the relative power of the various parties of our government....

This question of jurisdiction over the Indian tribes is now, for the first time, seriously agitated. Heretofore, no one among them, or for them, has denied the obligation of any law passed to protect or restrain them. But new circumstances have intervened, and new pretensions are advanced. A government de facto has been organized within the limits of the state of Georgia, claiming legislative, executive, and judicial powers, and all the essential attributes of sovereignty, independent of that state.

The establishment of this government, thus claiming to be independent, and the probability, that a similar policy will be adopted by the other southern tribes, by which means they may become permanently established in their present possessions, necessarily presents to the states, within whose limits they reside, a serious question for consideration. It is evident, that if this pretension be not resisted now, resistance hereafter will be in vain. It is one of those questions, eminently practical, which a few years' acquiescence would settle. What might now be the assertion of a just and proper jurisdiction by the civilized communities, might then be an unjust claim to be enforced only by war and conquest...

We have already expressed our convictions, founded on some knowledge of the Indian character, and of the efforts which have been formerly and recently made to change their condition and institutions, that so long as they retain positions surrounded by our citizens, these efforts will be unproductive, and that the Indians themselves will decline in numbers, morals, and happiness. If "these things are so," no just views of policy or humanity, require on their part the assertion of such a right, or the acknowledgment of it on ours. A false conception of their own interest, or a temporary excitement, which may have operated on some of their influential men, and led to the present state of things, ought not to affect our views or decision. This demand is now made, for the first time, since the discovery of the continent. Writers upon natural law, courts of high character and jurisdiction, the practice of other nations, are all adverse to it. We can discern no advantages which either party can reasonably anticipate from such a measure.

There can be none to the Indians; for if they are anxious and prepared for a stable government, which shall protect all and encourage all, such governments they will find in the states where they reside. What has a Cherokee to fear from the operation of the laws of Georgia? If he has advanced in knowledge and improvement, as many sanguine persons believe and represent, he will find these laws more just, better administered, and far more equal in their operation, than the regulations which the chiefs have established and are enforcing. What Indian has ever been injured by the laws of any state? We ask the question without any fear of the answer. If these Indians are too ignorant and barbarous to submit to the state laws, or duly estimate their value, they are too ignorant and barbarous to establish and maintain a government which shall protect its own citizens, and preserve the necessary relations and intercourse with its neighbors. And if there are any serious practical objection to the operation of these laws, growing out of the state of

society among the Indians, it would be easy for the state authorities to make such changes and interpose such securities as would protect them now, and lead them hereafter, if anything can lead them, to a full participation in political rights.

But if it is difficult to perceive the advantages which the Indian tribes would derive from these independent governments, it is not difficult to foresee the mischief they would produce to the states and people, within whose limits they might be formed.

The progress of improvement would be checked. Extensive tracts of land would be held by the Indians in a state of nature. The continuity of settlements, and the communication between them, would be interrupted. Fugitives from labor and justice would seek shelter, and sometimes find it, in these little sovereignties. Questions of conflicting jurisdiction would frequently occur, not easy to be determined; for in vain might we search for principle, analogy, or precedent, by which to adjust them. There is already enough of the imperium in imperio in our government. Another wheel is not wanted, to render the machinery still more complicated. In the whole extent of Christendom, can a single instance be produced, where a state has voluntarily permitted, within its acknowledged boundaries, the establishment of a government, independent of, and unconnected with its own? ...

Many excellent men believe, that the Indians have advanced, and are advancing in knowledge and improvement, and that they have both the right and ability to reorganize their political institutions, and assume a station which shall be coequal with the state governments. Erroneous as such an opinion is, both in principal and policy, still something is due to the feelings and motives of those who entertain it. In the practical assertion of jurisdiction, which circumstances now require some of the state governments to make, their authorities will no doubt accommodate their measures to the helpless, defenseless, and sometimes, we fear, hopeless condition of the Indians; taking care that such checks and limitations are imposed, as their ignorance and the superior intelligence of the whites may render necessary....

The Cherokee government is acquiring the sanction of time, and their claim has assumed a definite shape. The laws of Georgia will operate upon them on the thirtieth of June next, and their chiefs have formally appealed to the general government for protection against this measure, urging their claim to be independent of that state, and affirming that this act is to be viewed "in no other light, than a wanton usurpation of power, guarantied to no state, neither by the common law of the land, nor by the laws of nature."

It was necessary that this appeal should be answered. And it has been answered, as we have seen, in a spirit of just regard to the Indians and to the rights of a member of the confederacy. And what rational man could expect any other answer? Is the general government to interpose the arm of power between the state of Georgia or Alabama, and the assertion of rights essential to their "attributes of sovereignty?" A President of the United States would assume a fearful responsibility, who should thus employ the forces of the Union. It would be presumptuous to say, that such a case can never occur. But we may safely predict, that when it does come, it will shake the confederacy to its centre, and that a foreign war would be light in the balance, compared with such a fearful calamity. And who does not see, that in this contest for sovereignty, the uncivilized tribes must yield? Do not truth and humanity equally require the declaration of this fact? There is no mercy in suffering these Indians to believe, that their pretensions can be established and their independent government supported. In the actual state of the world, none but an enthusiast can expect or hope for the success of such a scheme. We have long passed the period of abstract rights. Political questions are complicated in their relations, involving considerations of expediency and authority, as well as of natural justice. If the laws of the various states, founded essentially upon the English common law, modified by our peculiar circumstances, and administered in a spirit

of fidelity and impartiality, which even in this land of violent political feuds, has left the judiciary without suspicion, excite the apprehensions of the Indians, and if they are anxious to escape from their operation and establish governments for themselves, ample provision has been made for their gratification. A region is open to them, where they and their descendents can be secured in the enjoyment of every privilege which they may be capable of estimating and enjoying. If they choose to remain where they now are, they will be protected in the possession of their land and other property, and be subject, as our citizens are, to the operation of just and wholesome laws.

Source: The Cherokee Removal: A Brief History with Documents , pp.106-1

Document 10:

**George Troup Letter to the *Georgia Journal*
March 5, 1832**

Washington, 5th March 1832.

Dear sirs: --The people of Georgia will receive with indignant feelings, as they ought, the recent decision of the supreme court, so flagrantly violative of their sovereign rights. I hope the people will treat it, however, as becomes them; with moderation – dignity, and firmness; and so treating it, Georgia ill be unhurt by what will prove it to be a *brutum fulmen*. The judges know you will not yield obedience to mandates, and they may desire *pretexts* for the enforcement of them, which I trust you will not give.

The chief magistrate of the United States will perform all his constitutional duties; but he will not lend himself to party to perform more. He will, if I mistake not, defend the sovereignty of the states, as he would the sovereignty of the union; and if the blow be aimed equally at *him* and at *us*, it would be ungenerous, by an improvident act of ours, to make him the victim of the common enemy.

The jurisdiction claimed over one portion of our population may very soon be asserted over *another*; and in both cases they will be sustained by the fanatics of the north. Very soon, therefore, things must come to their worst; and if in the last resort we need defenders, we will find them every where among the honest men of the country; whom a just and wise conduct will ally to our banner—for the rest we care nothing. Dear sirs, very respectfully yours,

G.M.Troup

Source: George M. Troup, "The Sovereignty of the States: An Open Letter to the *Georgia Journal* (March 5, 1832), as printed in *Niles's Register*, XLII (March 31, 1832), 78.

Document 11: Wilson Lumpkin Message to the Georgia Legislature
November 24, 1832

When we take a survey of the events of the closing year, it produces mingled emotions of pleasure and pain. Our actual condition and enjoyments as a people, arising from a climate, soil, and good environment, when compared with other portions of the world, admonish us to admire and adore the divine author of our multiplied blessings.

Nothing has transpired to lessen attachment, or diminish our confidence in the good systems of government under which we live; we should, therefore, cherish an increased zeal, and an abiding hope for the perpetuation of our free and happy institutions. The truths of history do not authorize the belief, that we are to enjoy the inestimable blessings of liberty and free government, founded on principles of equal rights, without vigilance, and constant exertion on the part of the people, who are the only legitimate source of governmental power.

Our conflicts with Federal usurpation are not yet at an end; the events of the past year have afforded us new cause for distrust and dissatisfaction. Contrary to the enlightened opinions, and just expectations of this, and every other State in the Union, a majority of the judges of the Supreme Court of the United States have not only assumed jurisdiction, in the case of Worcester and Butler, but have, by their decision attempted to overthrow that essential jurisdiction of the State, in criminal cases, which has been vested by our constitution in the superior courts of our own state. In conformity with their decision, a mandate was issued, directed at our court, ordering a reversal of the decree under which these persons are imprisoned; thereby attempting, and intending to prostrate the sovereignty of this state in the exercise of its constitutional criminal jurisdiction. These extraordinary proceedings of the supreme court, have not been submitted to me officially, nor have they been brought before me in any manner which called for my official action. I have, however, been prepared to meet this usurpation of federal power, with the most prompt and determined resistance, in whatever form its enforcement might have been attempted, by any branch of the federal government.

It has afforded me great satisfaction to find that our whole people, as with the voice of one man, have manifested a calm, but firm and determined resolution to sustain the authorities and sovereignty of their state, against this unjust and unconstitutional encroachment of the federal judiciary. The ingenuity of man might be challenged, to show a single sentence in the constitution of the United States giving power either direct or implied, to the general government, or any of its departments to nullify the laws of a state, enacted for the government of its own population, or coerce obedience by force, to the mandates of the judiciary of the union. On the contrary, the journals and proceedings of the convention that framed the constitution, abundantly evince, that various attempts were made to effect that object, all of which were rejected. This proves that the states of this union never did, and never will permit their political rights to be suspended upon the breath of the agents or trustees, to whom they have delegated powers to perform certain definite acts. I, however, deem it unnecessary for me, at this time, to animadvert on this decision of the supreme court. Its fallacy, its inconsistency with former decisions, and its obvious tendency to intermeddle with the political rights of states, and to change our federal system into one consolidated mass, has been so often exposed by the most able jurists and statesmen, that a large majority of the people of this union are confirmed in the conviction of the fallibility, infirmities and errors of this supreme tribunal. This branch of the general Government must henceforth stand, where it always ought to have stood, in public estimation, as being liable to all the frailties and weaknesses of erring man.

Shortly after the adjournment of the legislature, in December last, I communicated directly to the president of the United States, the views of this state, as manifested by her legislature on the subject of our unoccupied lands lying in Cherokee country; and at the same time frankly communicated to him my views, as to the immediate survey, and perhaps, occupancy of these lands.

The President has manifested equal solicitude with ourselves, to effect an amicable and satisfactory adjustment of our territorial embarrassments. He has proposed to the Cherokee people, terms of the most liberal character, with a view to induce them to emigrate to the west, and thereby enable him to effect the great object of his solicitude, in permanently benefiting that unfortunate and deluded race; and, at the same time, to fulfil the long and delayed obligations of the United States' government to Georgia, entered into by the compact of 1802. Notwithstanding the extraordinary liberality of the proposition submitted to the Cherokees, and the kind spirit in which they were presented, the enemies of the President, and of Georgia, have so far succeeded, as to prevent any satisfactory arrangement or treaty with them; and their reply to those liberal propositions evinces a most arrogant and uncompromising spirit.

Every day's experience has afforded new evidence of the utter impracticability, and impolicy, of attempting any longer, to maintain the laws and government over the Cherokee part of Georgia, without an increased, and better population. Every effort has been made by the Executive, to maintain the inviolability of the laws of the state in Cherokee county; but these efforts have not been attended with the desired success. Our laws have been repeatedly violated, and for the want of that moral force which pervades counties inhabited by a more dense, enlightened, and virtuous population the transgressors have sometimes escaped the merited punishment. Our scattered population of good character, who now inhabit this country, have often found themselves destitute of security from the depredations of dishonest men, and when they have sought protection from the laws of the land, they have often found those laws evaded, and perverted by combinations of such characters, aided by the advice and counsel of those, whose enlarged requirements should have directed their influence in aid of the cause of justice, and the supremacy of the laws. Legal and pettifogging subtleties in this county, seem measurably to have triumphed over the equity and administration of the law.

Not only the supreme court of the United States, but the superior courts in our own state, have so far aided in overturning our laws and the policy of our state government, as to declare them unconstitutional, and order the discharge of prisoners arrested and confined under their provisions. Nevertheless, amidst all these irregularities, strifes, and disorders, there is much cause for sincere gratification, that the events of the year have produced nothing more seriously injurious to the interest and character of the state.

The survey of the county of Cherokee, in conformity with, and under the provisions of the several acts of the legislature, has been completed without any serious obstacle or difficulty; and in the exercise of that discretion confided to me by law, I have not hesitated to move forward in that direct line, which I deemed best calculated to ensure a speedy settlement of the unoccupied lands of Cherokee county. Accordingly, in due time, the justices of the inferior courts of the several counties were notified, and required to execute the duties devolving them, in regard to receiving and returning the names of persons entitled to draws in the lotteries; which have been done according to law, and the tickets having been prepared, the lottery commissioners were convened, and commenced the preparatory arrangements for the first drawing, which was commenced on the 22^d day of Oct. last, and is now in progress, under their superintendence.

I deem it unnecessary at this times to enter upon an enlarged vindication of the policy which has been pursued by the authorities of Georgia on this subject. Suffice it to say, that I have,

daily, increased evidence that our policy has been founded in wisdom, justice, and true benevolence, and will, ere long terminate in the preservation of a remnant of these unfortunate Indians; and our state will be relieved from the libels and embarrassments of a thirty years' controversy.

Source: Filler and Guttman, *The Removal of the Cherokee Nation*, pp. 80-82

May 21

Our Minds have, of late, been in a state of intense anxiety and agitation. The 24th of May is rapidly approaching. The major-general has arrived, and issued his summon, declaring that every man, woman and child of the Cherokees must be put on their way to the west before another moon shall pass. The troops, by the thousands, are assembling around the devoted victims. The Cherokees, in the mean time, apprized of all that is doing, wait the result of these terrific preparations; with the feelings not to be described. Wednesday, the 16th inst., was appointed as a day of solemn prayer.

May 31

We have cause for thankfulness that some of the few glimmerings of hope have at length penetrated the gloom. The delegation at Washington have at last come to an understanding with the Secretary of War on the basis of a new arrangement; the Indians to cede the country east, to remove within two years to the west, to be protected during their stay, and escorted to their place of destination; to remove themselves, and have a title in fee to the country west of Arkansas; to receive a gross sum to cover all demands. May the Lord direct all for the advancement of his own glory!

Camp Hetzel, near Cleveland, June 16

The Cherokees are nearly all prisoners. They have been dragged from their houses, and encamped at the forts and military posts, all over the nation. In Georgia, especially, multitudes were allowed no time to take anything with them, except the clothes they had on. Well-furnished houses were left a prey to plunderers, who, like hungry wolves, follow in the train of the captors. These wretches rifle the houses, and strip the helpless unoffending owners of all they have on earth. Females, who have been habituated to comforts and comparative affluence, are driven on foot before the bayonets of brutal men. Their feelings are mortified by vulgar and profane vociferations. It is a painful sight. The property of many has been taken and sold before their eyes for almost nothing-the sellers and buyers, in many cases, being combined to cheat the poor Indians. These things are done at the instant of arrest and consternation; the soldiers standing by, with their arms in hand, impatient to go on with their work, could give little time to transact business. The poor captive, in a state of distressing agitation, his weeping wife almost frantic with terror, surrounded by a group of crying, terrified children, without a friend to speak a consoling word, is in a poor condition to make a good disposition of his property and is in most cases stripped of the whole, at one blow. Many of the Cherokees, who, a few days ago, were in comfortable circumstances, are now victims of abject poverty. Some, who have been allowed to return home, under passport, to inquire after their property, have found their cattle, horses, swine, farming-tools, and house-furniture all gone. And this is not a description of the extreme cases. It is altogether a

faint representation of the work which has been perpetrated on the unoffending, unarmed, and unresisting Cherokees.

Our brother Bushyhead and his family, Rev. Stephen Foreman, native missionary of the American Board, the speaker of the national council, and several men of character and respectability, with their families, are here prisoners.

It is due to justice to say, that, at this station, (and I learn the same is true of some others,) the officer in command treats his prisoners with great respect and indulgence. But fault rest somewhere. They are prisoners, without a crime to justify the fact.

These *savages*, prisoners of *Christians*, are now all hands busy, some cutting and some carrying posts, and some preparing sears, for a temporary place of preaching tomorrow. There will also be preaching at another camp, eight miles distant. We have not heard from our brethren in the mountains since their capture. I have no doubt, however, that the grace of God will be sufficient for them, and that their confidence is reposed in the God of their salvation. My last accounts from them were truly cheering. In a few days they expected the victorious army, to sweep them into their forts, but they were going on steadily in their labors of love to dying sinners. Brother O-ga-na-ya wrote me, May 27, that seven, (four males and three females,) were baptized at Taquohee of that day. He says, "If it shall be peace, we intend to meet at this place of the second Saturday. We are in great trouble. It is said, that one Monday next we are to be arrested, and I suppose it to be true. Many are greatly terrified."

The principal Cherokees have sent a petition to Gen. Scott, begging most earnestly that they may not be sent off to the west till the sickly season is over. They have not received an answer yet. The agent is shipping them by the multitudes from Ross's Landing. Nine hundred in one detachment, and seven hundred in another, were driven into boats, and it will be a miracle of mercy if one-fourth escape the exposure to that sickly climate. They were exceedingly depressed, and almost in despair.

July 10

The work of war in time of peace, is commenced in the Georgia part of the Cherokee nation, and is carried on, in most cases, in the most unfeeling and brutal manner; no regard being paid to the orders of the commanding General, in regard to humane treatment of the Indians. I have heard of only one officer in Georgia, (I hope there are more,) who manifests any thing like humanity, in his treatment of this persecuted people....

The work of capturing being completed, and about 3,000 sent off, the General has agreed to suspend the further transportation of the captives till the first of September. This arrangement, though but a small favor, diffused universal joy through the camps of the prisoners....

July 11

Brethren Wickliffe and O-ga-na-ya, and a great number of members of the church at Valley Towns, fell into Fort Butler, seven miles from the mission. They never relaxed their evangelical labors, but preached constantly in the fort. They held church meetings, received ten members, and on Sabbath, June 17, by permission of the officer in command, went down to the river and baptized them, (five males and five females.) They were guarded to the river and back. Some white present, affirm it to have been the most solemn and impressive religious service they have ever witnessed.

I have omitted till now to say that as soon as General Scott agreed to suspend the transportation of the prisoners till autumn, I accompanied by brother Bushyhead, who, by permission of the General, carried a message from the chiefs to those Cherokees who have evaded the troops by flight to the mountains. We had no difficulty finding them. They all agreed to come in, on our advice, and surrender themselves to the forces of the United States; though, with the whole nation, they are still as strenuously opposed to the treaty as ever. Their submission, therefore, is not to be viewed as an acquiescence in the principles or the terms of the treaty; but merely as yielding to the physical force of the U. States.

On our way, we met a detachment of 1,300 prisoners. As I took some of them by the hand, the tears gushed from their eyes. Their hearts, however, were cheered to see us, and to hear a word of consolation. Many members of the church were among them. At Fort Butler, we found a company of 300, just arrived from the mountains, on their way to the general depot, at the Agency. Several of our members were among those also. I believe the Christians, the salt of the earth, are pretty generally distributed among the several detachments of prisoners, and these Christians maintain themselves the stated worship of God, in the sight of their pagan brethren, and of the white heathens who guard them.

We had a very laborious journey through the mountains, which we extended to the Cherokee settlement in North Carolina. Here we had several meetings with the whites and Indians, and on Sabbath, the 1st inst., had the pleasure to baptize, on profession of their faith, three Cherokee females, who had previously been examined and approved.

December 30

We have now been on our road to Arkansas seventy-five days, and have traveled five hundred and twenty-nine miles. We are still nearly three hundred miles short of our destination. We have been greatly favored by the kind providence of our heavenly Father. We have as yet met no serious accident, and have been detained only two days by bad weather. It has, however, been exceedingly cold for some time past, which renders the condition of those who are but thinly clad, very uncomfortable. In order, however, to counteract the severity of the weather in some degree, we have, since the cold set in so severely, sent on a company every morning, to make fires along the road, at short intervals. This we have found a great alleviation to the sufferings of the people.

At the Mississippi river, we were stopped from crossing, by the ice running so that boats could not pass, for several days. Here br. Bushyhead's detachment came up with us, and we had the pleasure of having our tents in the same encampment; and before our detachment was all over, Rev. Stephen Foreman's detachment came up, and encamped along side of us. I am sorry to say, however, that both the detachments have not been able to cross.

The members of the church, generally, maintain consistency of conduct, and many of them are very useful. Our native preachers are assiduous in their labors, seizing all favorable opportunities to cherish a devotional spirit among the brethren. Their influence is very salutary.

I am afraid that, with all the care that can be exercised with the various detachments, there will be an immense amount of suffering, and loss of life attending the removal. Great numbers of the old, the young, and the infirm, will inevitably be sacrificed. And the fact that the removal is effected by coercion, makes it the more galling to the feelings of the survivors.