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IN RELATION

TO THE VALIDITY OF THE CHEROKEE TREATY OF 1835

JANUARY 22, 1838.

Submitted by Mr. Linnikin, and ordered to be printed, and that 386 additional copies be furnished for the use of the Senate.

Letters and other papers relating to Cherokee affairs; being a reply to sundry publications authorized by John Ross. By E. Boudinot, formerly editor of the Cherokee Phoenix.

TO THE PUBLIC.

What is termed the "Cherokee question" may be considered in two points of view: the controversy with the States and the General Government, and the controversy among the Cherokees themselves. The first has been agitated in so many ways, and before so many tribunals, that it is needless, for any good purpose, to remark upon it at this place. The latter is founded upon the question of a remedy, to extricate the Cherokees from their difficulties, in consequence of their conflict with the States. Upon this point, less has been said or known before the public, but it has not been the less interesting to the Cherokees. It is here where different views and different feelings have been excited.

"What is to be done?" was a natural inquiry, after we found that all our efforts to obtain redress from the General Government, *on the land of our fathers*, had been of no avail. The first rupture among ourselves was the moment we presumed to answer that question. To a portion of the Cherokee people it early became evident that the interest of their countrymen, and the happiness of their posterity, depended upon an entire change of policy. Instead of contending uselessly against superior power, the only course left, was, to yield to circumstances over which they had no control.

In all difficulties of this kind, between the United States and the Cherokees, the only mode of settling them has been by treaties; consequently, when a portion of our people became convinced that no other measures would avail, they became the *advocates of a treaty*, as the only means to extricate the Cherokees from their perplexities; hence they were called *the treaty party*. Those who maintained the old policy, were known as *the anti-treaty party*. At the head of the latter has been Mr. John Ross.

It would be to no purpose now to describe these Indian political parties, or to enter into a particular history of the rise, progress, and the present

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state of the dissensions which have distracted the Cherokees. It is enough to say that our parties have been similar to other political parties found among the whites. They have been characterized by high feeling, and not unfrequently, by undue asperity. It is easy to conceive of the disadvantages under which the first mentioned party must have labored. To advocate a treaty was to declare war against the established habits of thinking peculiar to the aborigines. It was to come in contact with settled prejudices—with the deep rooted attachment for the soil of our forefathers. Aside from these natural obstacles, the influence of the chiefs, who were ready to take advantage of the well known feelings of the Cherokees, in reference to their lands, was put in active requisition against us.

It is worthy of notice that, in this contest, we have had to bear no small share of obloquy, arising from our very principles, from our opposition to the views and measures of what is termed the *constituted authorities* of the nation, and from the illusive appearance of having a vast majority opposed to us. That obloquy was increased by the manner in which we were represented to our people. *Traitors, land sellers, interested persons, &c.*, were terms calculated to stir up prejudice and opposition. To represent us in these various lights to our own people, we supposed to be a matter of course, judging from the nature of all political contests. But we have lately been arraigned before the American public—a tribunal to which we, as Cherokees, are not properly amenable in this affair—in our own family disputes. Mr. Ross has made sundry publications of late, by the aid of writers whom he has employed for the purpose, which have arraigned us to that tribunal. He has called upon the public to award its judgment against us. He has represented us as a disaffected faction, opposed to him, the constituted chief of this nation. He represents us as a small minority opposed to the will of the people; that we have ceded their lands without their authority, and against their expressed injunctions. These are matters which concern the Cherokees themselves, the result of which must be left to their posterity to judge.

Without replying to these charges in this place, we will state what we suppose to be the great cause of our present difficulties—our present dissensions. *A want of proper information among the people.* We charge Mr. Ross with having deluded them with expectations incompatible with, and injurious to, their interest. He has prevented the discussion of this interesting matter, by systematic measures, at a time when discussion was of the most vital importance. By that means the people have been kept ignorant of their true condition. They have been taught to feel and expect what *could not* be realized, and what Mr. Ross himself must have known *would not* be realized. This great delusion has lasted to this day. Now, in view of such a state of things, we cannot conceive of the acts of a *minority* to be so reprehensible or unjust as are represented by Mr. Ross. If one hundred persons are ignorant of their true situation, and are so completely blinded as not to see the destruction that awaits them, we can see strong reasons to justify the action of a minority of fifty persons to do what the majority *would do* if they understood their condition—to save a *nation* from political thralldom and moral degradation. It is not intended to discuss the question here, but simply to show that a great deal may be said on both sides; besides, the reader will recollect that it is in reference to an Indian community, and to very extraordinary circumstances.

The original error was in the refusal of the leaders and advisers of this

nation to discuss the question which is now agitated only in the last extremity, and in closing every avenue by which the people might be reached with correct information. That was an error which cannot now be retrieved, and which has thrown us into inextricable difficulties. The *treaty party* is not to blame for this. We sounded the alarm in time; we called upon the *authorities of the nation* to see to what these matters were tending—to save the nation by timely action; we asked, we entreated, we implored. But we were met at the very threshold as *enemies of our country*. The same system of opposition has been waged against us to this day.

For an illustration of these remarks, the following papers are presented to the public, as a proper introduction to the two letters which will occupy the principal portion of these pages.

[The following article appeared in the *Cherokee Phoenix* of August 11, 1832.]

TO THE READERS OF THE CHEROKEE PHOENIX.

The subscriber takes this opportunity to inform the readers of the *Cherokee Phoenix* that he has resigned his station as editor. Some of the reasons which have induced him to take this step are contained in the following letter addressed to the principal chief.

RED HILL, CHEROKEE NATION, Aug. 1, 1832.

SIR: According to the intimation I gave you some time since, I hereby tender to you my resignation as editor of the *Cherokee Phoenix*. In taking this step it may not be necessary to give my reasons *in full*; it is, however, due to you, to myself, and my countrymen, to avoid misrepresentations, to state the following:

1. I believe the continuation of the *Phoenix*, and my services as its editor, have answered *all the purposes* that it can be expected to answer hereafter. Two of the great objects which the nation had in view in supporting the paper were, the defence of our *rights*, and the proper representation of our *grievances* to the people of the United States. In regard to the *former*, we can add nothing to the full and thorough investigation that has taken place, especially after the decision of the Supreme Court, which has forever closed the question of our conventional rights. In regard to the *latter*, we can say nothing which will have more effect upon the community, than what we have already said. The public is as fully apprised as we can ever expect it to be, of our *grievances*. It knows our troubles, and yet never was it more silent than at present. It is engrossed in other local and sectional interests.

2. The two great and important objects of the paper not now existing as heretofore, and the nation being in great want of funds, it is unnecessary to continue the *expenses* in supporting it.

3. Were I to continue as editor, I should feel myself in a most peculiar and delicate situation. I do not know whether I could, at the same time, satisfy my own views, and the views of the authorities of the nation. My situation would then be as embarrassing as it would be peculiar and delicate. I do conscientiously believe it to be the duty of every citizen to reflect upon the dangers with which we are surrounded; to view the darkness which seems to lie before our people—our prospects, and the evils, with which we

are threatened; to talk over all these matters, and, if possible, come to some definite and satisfactory conclusion, while there is time, as to what ought to be done in the last alternative. I could not consent to be the conductor of the paper without having the right and privilege of discussing these important matters; and from what I have seen and heard, were I to assume that privilege, my usefulness would be paralyzed by being considered, as I have already been, an enemy to the interests of my country and people. I love my country and I love my people, as my own heart bears me witness, and for that very reason I should deem it my duty to tell them the whole truth, or what I believe to be the truth. I cannot tell them that we will be reinstated in our rights, when I have no such hope, and after our leading, active, and true friends in Congress, and elsewhere, have signified to us that they can do us no good.

4. I have been now more than four years in the service of the nation, and my *inclination* is to retire from the arduous duties in which I have been engaged, and which have been far from being *beneficial* to my health and happiness, except the happiness of doing good, and being useful to my country. When, therefore, the chance of usefulness, in my present employment, is in a great measure *lessened*, the inclination to retire is *increased*.

I hope the foregoing reasons, stated in a few words, will be sufficient to guard me against misapprehension and misrepresentations which may be likely to arise from the step I have taken. Let me again assure you that I love my country and my people, and I pray God that the evils which we so much fear may be averted from us by His merciful interposition.

I have the honor to be, sir,

Yours, very respectfully,

ELIAS BOUDINOT.

JOHN ROSS, Esq.,

Principal chief of the Cherokee Nation.

In communicating the foregoing to the General Council, the principal chief also submitted the following message:

To the Committee and Council in General Council convened:

Agreeably to the request of Mr. Elias Boudinot, I lay before you his letter of resignation as editor of the Cherokee Phoenix, which, in part, will show his reasons for the step he has taken. I cannot agree in opinion with Mr. Boudinot, that the continuation of the Phoenix has "*answered all the purposes that it can be expected to answer hereafter;*" although the representation of our *grievances* in defence of our *rights* have been fully made, and *thoroughly investigated*, and the Supreme Court has forever closed the question of our *conventional rights*, and the American public at this time may be more silent on the subject our *grievances*, than heretofore, yet I deem it to be essentially important that the paper should be kept up. It is an incontrovertible fact, that the circulation of the paper has been greatly instrumental in the diffusion of science and general knowledge among our own citizens. The pecuniary embarrassments of the nation by no means ought to influence you to discontinue the paper, if a suitable person can be found to conduct it. At your last session, you authorized the editor to take a journey throughout the United States, with the view of collecting money for the support of the Phoenix, and the express purpose of meeting the expenses incidental to the printing and editorial departments of that paper.

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After such collections having been made, would it be politic, would it be wise, or would it be right to discontinue the paper, and apply the money for other purposes,* when the interest of the nation would seem to demand its continuance? The *views* of the *public authorities* should continue and ever be in accordance with the *will of the people*; and the *views of the editor of the national paper* be the same. The toleration of *diversified views* to the columns of such a paper would not fail to create fermentation and confusion among our citizens, and in the end prove injurious to the welfare of the nation. The love of our country and people demands *unity of sentiment and action* for the good of all. The truth, and the whole truth, has always been, and must still continue to be, told. Our *rights* have been sustained, and whether they will eventually be protected unto us, or wantonly wrested from us forever, are subjects of speculation in the minds of many; but when we reflect upon the honor, magnanimity, and *binding obligations* of the General Government, and the peculiar character of its constitutional system, we cannot but hope and believe that *justice* will yet be extended to our nation. By doing so, there can be no cause for just complaint from any quarter against the United States; much less for violence and disunion among the States. Under these views of the subject, I deem it necessary that the vacancy occasioned by the resignation of the editor be filled by some suitable person.

JOHN ROSS.

RED CLAY, August 4, 1832.

A few further explanations may here be necessary.

When I say that the continuation of the Phoenix has answered all the purposes that it could be expected to answer hereafter, I mean the purposes intended to be effected *out of the nation*. The political rights of the Cherokees cannot be restored or secured by a continued *investigation*, or a repetition of the numerous and aggravated *grievances* which they have already laid before the American people.

I cannot agree with the principal chief in regard to the admission of "*diversified views*" in the columns of the paper. I am for making the situation of the Cherokees a *question* of momentous interest, subject to a free and friendly discussion among ourselves, as the only way to ascertain the will of the people as to what ought to be done in the last alternative. What are our *hopes* and *prospects*? What are our *dangers* and *difficulties*? What are the *reasons* of our hopes and prospects? What would be the consequences of such a step, and of such a one? are questions of no ordinary interest, and ought, in my view, to be fully considered. That the time to consider these matters has arrived I verily believe, from events that have taken place, and are now taking place. Nor am I alone in this belief; our worthy delegation, three of our most intelligent citizens, in whose patriotism I have the utmost confidence, would, no doubt, sustain me, from a proper view of things while they were at the seat of Government. And what say our friends in Congress? Have they not fully apprised us

* It is a little singular, after having made such an avowal in regard to the proper appropriation of a few thousand dollars collected by the editor, that Mr. Ross should, within three or four months after, draw this same money from the Cherokee Treasury, to be expended by him and his fellow delegates at Washington, and not have one cent for the expenses of the editorial and printing departments of the paper.

that they cannot effect any substantial good for us? Have not a number of them, whose motives are above suspicion, communicated their views in writing for our information? And has not an honorable Judge of the Supreme Court made a similar communication, stating that the operation of the late decision of the Supreme Court cannot extend to our relief, unless the executive felt itself bound to enforce the treaties? And does President Jackson feel himself bound to obey the Supreme Court, and to execute the treaties? On this point the reader is referred to another article under the editorial head.*

Such being the facts on one side, how is the case on the other? Has not our oppressor, presuming upon her power, and overlooking the sacred obligations of right, not only infringed upon our political rights, but has actually, to all intents and purposes, taken possession of one-half of our country, and is now on the point of consummating her acts by conveying it to her citizens? Already have the commissioners, who are to superintend the *drawings of the land lottery*, been summoned to appear at Milledgeville. Now, to trust merely upon contingencies, and to ease our minds with undefined hopes, when the danger is immediate and appalling, does not seem to me to be altogether satisfactory. And think, for a moment, my countrymen, the danger to be apprehended from an overwhelming white population; a population not unfrequently overcharged with high notions of color, dignity, and greatness; at once overbearing and impudent to those whom, in their sovereign pleasure, they consider as their inferiors. Then should we, our sons and daughters, be slaves indeed. Such a population, and the evils and vices it would bring with it, the chief of which would be the deluging the country with ardent spirits, would create an enemy more pernicious and destructive to the Cherokees than "the pestilence that walketh in darkness, and the destruction that wasteth at noon-day."

It is the presenting the serious and momentous things to the people, what I mean by *telling them the truth*. And I am inclined to believe that it is the best, if not the only way to find out what the *will of the people* is.

* The following is the article referred to: "There is a doctrine laid down in the veto message of the President, returning the bill to recharter the Bank of the United States, which bears directly upon the interest of the Cherokees: it is, that the *Executive is not bound by the decisions of the Supreme Court*. That such was the opinion of the President it was frequently intimated after the decision of the court in the case of the Mississippians; but it has not been before publicly and officially avowed. If General Jackson acts upon this assumption of Executive prerogative, the Cherokees will have nothing to hope from his interference. Indeed, we need not go to his official declaration to find out whether he will support the court or not. We see he does not; the system of oppression carried on by acts declared to be unconstitutional by the highest tribunal of the country, is permitted to proceed steadily to its final consummation, and the Chief Magistrate of the land, to whom is intrusted the execution of the laws, views with apparent complacency the mischief as it progresses.

"However unpleasant the fact may be to us, yet it is a fact which our eyes daily demonstrated every day, that the President of the United States does not take the first step to defend the rights of the Cherokees under the decision of the Supreme Court. But this is not all: he now officially tells us that he is *not bound* by that decision, and, by inference, intends to disregard it. According to the doctrine in the veto message, he will disregard it even when he is called upon by a regular process from the Supreme Court. But supposing he obeys and executes the mandate of the court, that will bring no relief to the Cherokees; for the action, we take it, of the tribunal which issues the mandate terminates in the persons of the individuals incarcerated in the penitentiary.

"What sort of hope have we then from a President who feels himself under no obligation to execute, but has an inclination to disregard the laws and treaties, is interpreted by a proper branch of the Government? We have nothing to expect from such an Executive; and if the President is disposed to do as he pleases in this affair, the remedy lies not with us, but with the people of the United States. We shall see whether that remedy will be properly applied."

Were it not that my motives have been misapprehended by some, and wilfully misrepresented by others, I should not have published my letter of resignation, nor troubled the reader with the foregoing explanations. But it is due to myself and to my countrymen, for whom the above remarks are intended, that I should at least say what I have said.

In taking leave of my readers and patrons, I must express my gratitude for the great forbearance and allowances with which I have been treated by them. They have had frequent occasion to exercise that forbearance. In return, I can only say, I have done what I could, and as my limited abilities and means would allow. I have served my countrymen, I hope with fidelity, through evil as well as good report, and I know I have the witness in my own heart, that I have had, and do still have, their interest uppermost in my mind. In retiring, I have made it a matter of conscience. In a different sphere of employment, I trust to be more useful than I can be as editor of the Cherokee Phoenix.

ELIAS BOUDINOT.

The opinion advanced by Mr. Ross, that "diversified views" ought not to be inserted in the Phoenix, was sufficient for practical purposes. My successor denounced the foregoing in no measured terms; he made a personal attack, in his very first number, I think, upon some of the treaty party; impugned their motives, and allowed himself a free scope in speaking of our views, designs, &c. I thought justice required at my hands a suitable answer, explaining more fully the views I had advanced in the preceding article, which I supposed must have been misapprehended by the editor. But the order had gone out; no "diversified views" were to be admitted; so the poor privilege of *explaining my views* was not allowed. The paper that I had prepared for that purpose was returned to me, with a declaration that it was not the *will of the authorities of the nation* that it should be published. I present that paper, as I have preserved it.

[The following paper was prepared for publication in the Cherokee Phoenix, in answer to an editorial article of that paper, censuring the political views and conduct of the writer. Although it was in reply to remarks of a personal nature, yet it was refused admittance, because it discussed matters which the authorities of the nation had decided should not be discussed. In a note to the writer, the editor says: "It must be borne in mind, that the authorities of the nation are opposed to the introduction of controversial matter in the Phoenix, and especially of making it a *point* of changing our situation a matter of discussion. Your communication, while it points out the passages of my address, as having dealt hard with you, would, on the other hand, if published and answered, which I could not possibly avoid, involve that momentous *point*, and an endless controversy might be the consequence. To avoid this course would be compatible with the policy of the nation, and my bounden duty. Therefore, I have thought it expedient to withhold its publication.

ELIJAH HICKS."]

To the Editor of the Cherokee Phoenix:

SIR: I have read in your last paper the remarks which you have been pleased to bestow upon my letter of resignation. I regret that the common courtesy, that of noticing the retirement of a brother editor, which some of the conductors of the papers with which I exchanged seem to have exer-

cised towards me, should have made it necessary for you to direct your attention to that letter. It is hardly entitled to the importance you have given it. I certainly did not think but that it would be "like the fleeting wind, to be heard of no more." As you have, however, bestowed some remarks upon its merits, it may not be improper for me to recur to such parts of it, by way of explanation, as seem to have been misapprehended by you, and to correct the impression which may be created in the mind of the reader by the *import* of your language.

I have no objection to your subjecting any remarks which I may have published while I was honored with the management of the Cherokee Phoenix to your editorial scrutiny, provided such remarks or sentiments are presented to the public *just what they are*. I have nothing to recall from what I have said; I am willing that my words should speak for themselves, and that reprehension should be cast upon them where they *deserve* reprehension.

When we write in a language which we understand but imperfectly, and which is not our mother tongue, we are liable, as I know by experience, to use words or phrases which do not express our meaning. Such, I take it, is the case in the very first sentence of your remarks, where you represent my letter as "setting forth my *indisposition* to sustain the cause of the Cherokees." You did not mean, I presume, what these words would seem to imply; because, in my letter and explanations upon it, as your readers will recollect, I say nothing as to what my "disposition" is to sustain the cause of the Cherokees. In my *letter*, my object was merely to give a few reasons why I thought it necessary to leave my station as editor. In my *explanations*, I alluded to some of the great, and, in my view, *insurmountable difficulties*, that are in the way of our rights being secured to us. If I had said any thing about my *disposition*, or *inclination*, if you please, I would have said that it was *strong—as strong as ever*.

One who has not read my letter would suppose that there has been an important change of sentiment in my views in regard to the all-engrossing subject among us, from such expressions as the following, which I find in your remarks: "The right of the late editor to *change his opinions*, on questions involving the dearest rights of the Cherokees"—"The *change of sentiment* of the editor, which this letter would seem to indicate, as despairing of the redress of our wrongs," &c. Such change of opinions or sentiments, that is, in regard to the rights of the Cherokees, and the redress of our wrongs, is not, however, implied in my letter. As to the first, you could not have meant that I had undergone such a complete "revolution" as to *deny* the "dearest rights" of the Cherokees, or that I ever *questioned* them. As to the latter, I do not know whether, in my public capacity, I have ever expressed the opinion that our rights *would certainly be redressed*; I have the impression that I have never, however desirous I have been that such should be the case. I have been careful not to commit myself on this point, and thus create hopes, which, by possibility, to say the least, would exist only to be disappointed and frustrated. To say, then, which I have thought it my duty, in frankness, to say to my countrymen, that I do not believe that our rights will be secured to us, is not in opposition to any previous opinion expressed.

You seem, however, to intimate that I have *favoured a treaty* with the Government. Your readers will recollect that I said nothing about a trea-

ty, but urged the importance of considering our situation, and coming to some definite and satisfactory conclusion as to what ought to be done in the *last alternative*. My views as to what ought to be done *may* be somewhat different from those I formerly entertained; but if they are, they are such, in my humble opinion, as are *patriotic*, and I know they are founded upon mature and most serious reflection.

I should consider myself very hardly dealt with if I thought that you really intended to convey the idea that I was now *no more* a patriot. You could not have meant what these words would seem to imply: "As a *breach* in the *patriotic rank* of the Cherokees."—"However valuable the services of this *once* devoted *patriot*, we must bear the *loss*. The *loss* is but a drop from the bucket." There is nothing in my letter of resignation, or in my explanations, which shows a want of patriotic views and motives; my motives certainly were of the most patriotic kind. But it is needless to enlarge. My past acts will speak for themselves, and I am willing to be tried and tested for the future. I will give you a definition of the patriotism by which I profess myself to be actuated.

In one word, I may say that my patriotism consists in the *love of the country*, and the *love of the people*. These are intimately connected, yet they are not altogether inseparable. They are inseparable if the people are made the first victim, for in that case the country must go also, and there must be an end of the objects of our patriotism. But if the country is lost, or is likely to be lost to all human appearance, and the people still exist, may I not, with a patriotism true and commendable, make a *question* for the safety of the remaining object of my affection?

In applying the above definition of patriotism to my conduct, I can but say that I have come to the unpleasant and most disagreeable conclusion (whether that conclusion be correct is another question) that our lands, or a large portion of them, are about to be seized and taken from us. Now, as a friend of my people, I cannot say *peace, peace*, when there is no peace. I cannot ease their minds with any expectation of a calm, when the vessel is already tossed to and fro, and threatened to be shattered to pieces by an approaching tempest. If I really believe there is danger, I must act consistently, and give the alarm; tell my countrymen our true, or what I believe to be our true, situation. In the case under consideration, I am induced to believe there is danger, "immediate and appalling," and that it becomes the people of this country to weigh the matter rightly, act wisely, not rashly, and choose a course that will come nearest benefitting the nation. When we come to the last crisis, (and my opinion is, that we are that point,) one of three things *must* be chosen. 1. Nature's right of all nations to resist and fight in the defence of our lands. But this we must do with a certainty of being annihilated. 2. Submit and peaceably come under the dominion of the oppressor, and suffer, which we most assuredly must if we make that choice, a *moral death*! 3. Avoid the two first by a removal. Now the article which has given rise to your remarks merely suggests the importance of making choice of one of the three evils, (for evils they are,) in time. In saying this, I do not disguise that I, as one of the nation, have an opinion on this delicate point, and am willing to express it when occasion requires. But this is not the place and time to express it, for we are merely considering the "merits" of my letter of resignation.

It may be said, to consider the matter now is premature. It may be so. If it is, the error which I commit is an error of *judgment, not of the heart*.

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and cannot, of course, be attributed to any want of patriotism. If it is premature to consider this matter, it must be because there is still hope that our rights will be "redressed." That hope, I have already said, is "undefined," and rests upon "contingencies." The contingencies of which I speak do not at all terminate in the election of a President, although that may not indeed be now, as our good friend of the New York Spectator seems to suppose, one of the contingencies. He is better able to judge than I am. But suppose the present incumbent is not re-elected, and that another individual succeeds him, whose sentiments on the Indian question are correct, and is disposed to do us justice? I still make it a question whether our rights can be restored to us, for the new President cannot take his seat until the 4th of March, 1833, and there is, to say the least, a *great danger* of the enemy having a complete possession of one-half of our country before that time. Can the Chief Magistrate then, however disposed he may be to do right, remove all intruders, to whom the protection of a State is pledged, and place us *in peace*, upon our former privileges, *under the present circumstances of the country*? But there is still another contingency in regard to the contemplated change in the administration. Suppose the new President succeeds in restoring to us our rights. What security have we that the restoration of our rights will be permanent, and that a President similar to the present one will not succeed the one who does us justice, and thus the game will not be played over anew? I can hardly consent to trust the peace and happiness of our people to political changes and party triumphs. Unfortunately for us, the Indian question has been made a party and sectional question.

Your expression, "the loss is but a drop from the bucket," may be interpreted in two ways. It may mean that my opinions or exertions as an individual are nothing compared to the nation, and, of course, the *loss* to them is but of little moment; or it may mean that I am *detached* from the nation, and that no one approves of the views I have given in my letter of resignation. If you mean the first, you are certainly correct, for my opinions or exertions are of little consequence—they are but a "drop from the bucket." If you mean the second, I will only say that I am not *detached from*, but *attached to*, the nation, and that there are those connected with the judicial, executive, and legislative departments of our little Government, men of intelligence and patriotism, who cordially approve of the remarks and suggestions contained in the article upon which you have commented.

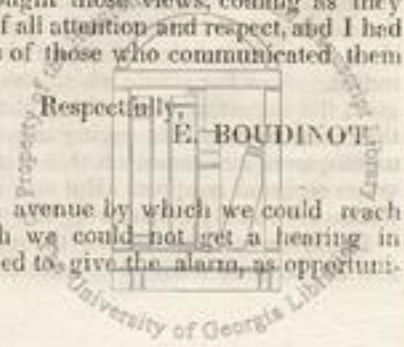
In alluding to a letter signed by a number of our friends in Congress, addressed to Mr. Ross, and another from one of the judges of the Supreme Court, I had no other object than to show my readers the views entertained by those gentlemen on the subject, and to strengthen, by such high authority, the opinions I had expressed. I thought those views, coming as they did from such a quarter, were worthy of all attention and respect, and I had every reason to believe that the motives of those who communicated them were of the purest kind.

Respectfully,

E. BOUDINOT

OCTOBER 2, 1832.

Thus was the press muzzled, and the avenue by which we could reach the people closed against us! Although we could not get a hearing in that way, we still persisted, and continued to give the alarm, as opportuni-



ties presented. Attempts were made to discuss the matter in the councils of the nation. There were members of those councils who had independence enough to speak their minds. But what was the result? These members, namely, Messrs. Major Ridge, John Ridge, and David Vann, were *impeached* for holding *opinions* that were contrary to those entertained by the authorities! Not having access to the records of the council, I am not able to give a copy of what was preferred as an impeachment, but it was a curious paper. The charge was not for *acts*, but for *opinions*. At a proper time the persons charged demanded a hearing, and called upon the national committee to try them for the offence alleged against them. What is a little singular, *they would not try them*, nor withdraw the impeachment, for no other reason, I apprehend, than that discussion might be elicited, to avoid which seemed to be their object, while they kept the individuals arraigned before them *under censure*, and finally to effect their expulsion. This they soon accomplished. The persons impeached left the council in disgust. *This was the second triumph over discussion*. It was enough to alarm those who foresaw the point to which these things were tending. It was a most extraordinary spectacle to see a few leading men acting in this extraordinary way, under cover of the *will of the people*, when those people were purposely kept from discussion and truth, by which alone they could be enabled to exercise *their will* to good and beneficial purposes.

Soon after this, the friends of free discussion met, and adopted the following resolutions, as containing principles by which they professed to be actuated:

RESOLUTIONS.

Whereas a crisis of the utmost importance in the affairs of the Cherokee people has arrived, requiring from every individual the most serious reflection, and the expression of views as to the present condition and future prospects of the nation; and whereas a portion of the Cherokees have entertained opinions which have been represented as hostile to the true interest and happiness of the people, merely because they have not agreed with the chiefs and leading men; and as these opinions have not heretofore been properly made known, therefore,

Resolved, That it is our decided opinion, founded upon the melancholy experience of the Cherokees within the last two years, and upon facts which history has furnished us in regard to other Indian nations, that our people cannot exist amidst a white population, subject to laws which they have no hand in making, and which they do not understand; that the suppression of the Cherokee Government, which connected this people in a distinct community, will not only check their progress in improvement and advancement in knowledge, but, by means of numerous influences and temptations which this new state of things has created, will completely destroy every thing like civilization among them, and ultimately reduce them to poverty, misery, and wretchedness.

Resolved, That, considering the progress of the States' authorities in this country, the distribution and settlement of the lands, the organization of counties, the erection of county seats and court-houses, and other indications of a determined course on the part of the surrounding States, and considering, on the other hand, the repeated refusal of the President and

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Congress of the United States to interfere in our behalf, we have come to the conclusion that this nation cannot be reinstated in its present location, and that the question left to us and to every Cherokee, is, whether it is more desirable to remain here, with all the embarrassments with which we must be surrounded, or to seek a country where we *may* enjoy our own laws, and live under our own vine and fig-tree.

Resolved, That in expressing the opinion that this nation cannot be reinstated, we do it from a thorough conviction of its truth; that we never will encourage our confiding people with hopes that can never be realized, and with expectations that will assuredly be disappointed; that however unwelcome and painful the truth may be to them, and however unkindly it may be received from us, we cannot, as *patriots* and well-wishers of the Indian race, shrink from doing our duty in expressing our decided convictions; that we scorn the charge of selfishness and a want of patriotic feelings alleged against us by some of our countrymen, while we can appeal to our consciences and the searcher of all hearts for the rectitude of our motives and intentions.

Resolved, That, although we love the land of our fathers, and should leave the place of our nativity with as much regret as any of our citizens, we consider the lot of the *exile* immeasurably more to be preferred than a submission to the laws of the States, and thus becoming witnesses of the ruin and degradation of the Cherokee people.

Resolved, That we are firmly of the opinion, that a large majority of the Cherokee people would prefer to remove, if the true state of their condition was properly made known to them. We believe that if they were told that they had nothing to expect from further efforts to regain their rights as a *distinct community*, and that the only alternatives left to them is either to remain amidst a white population, subject to the white man's laws, or to remove to another country, where they *may* enjoy peace and happiness, they would unhesitatingly prefer the latter.

Resolved, That we were desirous to leave to our chiefs and leading men to seek a country for their people, but as they have thought proper not to do any thing towards the ultimate removal of the nation, we know of none to which the Cherokees can go as an asylum but that possessed by our brethren west of the Mississippi; that we are willing to unite with them under a proper guaranty from the United States that the lands shall be secured to us, and that we shall be governed by our own laws and regulations.

Resolved, That we consider the policy pursued by the Red Clay council, in continuing a useless struggle from year to year, as destructive to the present peace and future happiness of the Cherokees, because it is evident to every observer that while this struggle is going on, their difficulties will be accumulating, until they are ruined in their property and character, and the only remedy that will then be proposed in their case will be, *submission to the laws of the States* by taking reservations.

Resolved, That we consider the fate of our poor brethren, the Creeks, to be a sufficient warning to all those who may finally subject the Cherokees to the laws of the States by giving them reservations.

Resolved, That we will never consent to have our own rights and the rights of our posterity, sold *prospectively* to the laws of the States by our chiefs, in any compact or "compromise" into which they may choose to enter with the Government; that we cannot be satisfied with any thing less than a release from State legislation; but, while we do not intend to

have our own political interests compromised, we shall not oppose those who prefer to remain subject to State laws.

Resolved, That we were disposed to contend for what we considered to be our own rights, as long as there was any hope of relief to the nation, but that we never can consent to the waste of our public moneys in instituting and prosecuting suits which will result only to individual advantage.

Resolved, That it is with great surprise and mortification we have noticed the idea attempted to be conveyed to the minds of our people, that the nation can be relieved by the courts of Georgia; that we regard the appealing to those courts, *by the nation*, for redress, as an entire departure from the true policy maintained by the Cherokees in their struggle for national existence.

NOVEMBER, 1834.

A candid statement of views, such as the foregoing, by the leading men of this nation, was all that was necessary to terminate our difficulties in peace. But Mr. Ross has pursued a mysterious course with a "plain and unsophisticated people," to borrow his own expression. "The final adjustment of the existing difficulties," may mean in as many ways as there are words in the sentence, and it is no exaggeration to say that nine out of ten of our whole population do not comprehend it. That has been the favorite expression of Mr. Ross when, I suppose, his intention has been to *allude* to a treaty. It is his favorite expression yet. These cautious expressions, which may mean this or that, have had mischievous tendency upon the minds of the Cherokees. What they need is plain dealing. Tell them the truth in a plain and simple language, and they will understand it. It is this that we have not been able yet to induce Mr. Ross and his friends to do. Even as late as October, 1835, at the memorable council, of which more will be said in one of the two following letters, we found it difficult to bring them to the decided point—to acknowledge to the people that a treaty was necessary, and that it *ought* to be made. And when we thought that we had succeeded in the compromise, it was in such a way that the people did not at last understand it.

At the council alluded to, a conference was held between the representatives of the two parties, for the purpose of coming to some friendly understanding. Our object was to bring the other side to acknowledge the vital principle, which they had never done, that nothing but a treaty could save the Cherokees. We knew that if we got them to that point, and the principle was declared to the people, the whole delusion under which the Cherokees were laboring would vanish away, and that a treaty would be speedily made, and this vexatious question for ever put to an end. While the principle was acknowledged in our conferences and discussions, we could not induce them to bring it *before the people*. As samples of our modes of thinking, and the manner of approaching the delicate subject, the two following propositions are submitted; the first, offered by the treaty party, and the other by the Ross party:

PROPOSITIONS OFFERED BY THE TREATY PARTY:

Whereas, the following persons, viz: John Martin, George M. Waters, Richard Taylor, John F. Balridge, and John Benge, on the one part, and George Chambers, Charles Vann, John Ridge, Elias Boudinot, and John Gunter, on the other part, have met, to consider and deliberate upon the

difficulties of the Cherokee people, and to unite upon some plan of relief; they have accordingly agreed to the following resolutions, as expressing their views, and would recommend the same to the serious consideration of the Cherokee people:

Resolved, That the Cherokees cannot be relieved from their peculiar difficulties and afflicted condition, by a continued application to the General Government for redress under the treaties and laws of the United States.

Resolved, That an arrangement with the Government, by a general treaty, is the only remedy that can be applied to relieve the Cherokees.

Resolved, That a treaty ought to be made upon the basis of preserving the Cherokee people, as a distinct and separate community, and that in a convention to make the arrangement, all parties and all interests ought to be fairly and fully represented.

Resolved, That the increasing difficulties of our people demand a speedy remedy.

Resolved, That an arrangement with the Government ought to be made within the limits of the Cherokee country.

RED CLAY, October 21, 1835.

PROPOSITIONS OFFERED BY THE ROSS PARTY.

The undersigned persons, being selected by the principal chief of the Cherokee nation to confer with certain other persons of the treaty or Ridge party for the purpose of an endeavor to unite the two parties in a course that may eventuate in the general good of their common country, propose, 1st. The present provisional arrangement will have to be disposed of by a general vote of the people. 2d. Should the commissioners have full powers to make a treaty, there is no doubt the authorities of the nation will receive them with respect and attention. 3d. Should no proposition be received from the commissioners for a treaty upon just and liberal terms, it is presumed the recommendation of the principal chief to the national council will be acted upon; that is to say, the appointment of another delegation to Washington, for the purpose of effecting a final adjustment of our difficulties. It is also presumed that the delegation will have power to act upon any matter in relation to a treaty, &c., that may be submitted to them before their departure for Washington.

In conclusion, the undersigned will in good feeling say to the conferees of the opposite party, that they will recommend one of their party to the principal chief, &c., as a delegate, which they have no doubt will be received with attention.

GEORGE M. WATERS,
JOHN MARTIN,
R. TAYLOR,
JOHN BENGE,
JOHN BALDRIDGE

RED CLAY, October 21, 1835.

We could not agree to an instrument so *indefinite* as the preceding, and the others would not agree to ours, because it was too *definite*. Shortly after, however, an agreement was entered into and signed, which formed

the compromise between the parties, and with the violation of which we have been charged by Mr. Ross. That matter is discussed in the following letter, addressed to a friend :

WASHINGTON, *May 16, 1836.*

Sir : Among the documents accompanying Mr. Ross's protest against the treaty, I notice one which purports to be a compromise entered into at Red Clay, in the month of October last, by the two parties into which the Cherokee nation was then divided. That paper is in the words following, to wit :

"The Committees of Conference on the subject of uniting the parties of the nation into one, and harmonizing and associating together as one people, in any treaty which may take place between the United States and the Cherokee nation, in order to relieve the last from its distressed and afflicted condition, have agreed, that is to say, Major George M. Waters, Judge John Martin, Richard Taylor, John Balridge, and John Benge, acting under the instructions of John Ross, principal chief, on the one part, and George Chambers, John Gunter, John Ridge, Charles Vann, and Elias Boudinot, on the other, acting under the instructions of Major Ridge and others, of the treaty party, have agreed to bury in oblivion all unfriendly feelings and act unitedly in [any] treaty [arrangement] with the United States for the relief of their nation ; that the number of delegates to be chosen by the [general council and] people [here present] shall consist of nineteen members, to act for the nation, with full powers. That of this number three shall be three chosen of the treaty party, and nominated and appointed in the same way as the others, their authority to be joint and equal, to be confirmed by the people [here present.] This agreement then and in that case only to be binding at once upon the parties. The Cherokee press is the property of the nation ; and, as we have become friends, no more publications shall be made either against the one or the other of the parties, because they are now united, [and should be surrendered to the proper authorities of the nation.] In concluding, speeches of peace and reconciliation shall be made, of a prudent and judicious character, to the people, in order to do away any unpleasant feelings which may exist. Given under our hands and seals, this the 24th October, 1835, at Red Clay, in the Cherokee nation."

GEORGE M. WATERS,

JOHN RIDGE,

JOHN MARTIN,

CHARLES VANN,

his

JOHN x BALRIDGE,

mark.

his

GEORGE x CHAMBERS,

mark.

his

JOHN x BENGE,

mark.

JOHN GUNTER,

R. TAYLOR,

ELIAS BOUDINOT.



We are charged by Mr. Ross, in his communications to the Executive and the Senate, with having violated the above arrangement, from the fact that we attended the council at New Echota, and entered into a treaty with the commissioner of the United States. This charge of bad faith is a matter of some importance, intended to affect our characters for consistency and integrity. In order to defend ourselves, it is necessary for us to show, either that the charge is false, or, in other words, that we have faithfully fulfilled the compromise in its letter and spirit; or to show that it is not obligatory upon us. I propose to do the latter in this communication. Every one loves a good name, and wishes to bequeath that good name to his posterity. It is this universal and commendable feeling which has impelled me to address this letter to you, to remove the unfavorable impressions which *may* have been created by reading the papers above referred to. We are then not guilty of bad faith, because:

1. The foregoing document is not the compromise we signed at Red Clay. If this declaration astounds you, it is nevertheless true. I suppose our opponents would compel us to observe the compromise, the whole compromise, and *nothing but* the compromise, just as it was signed by the ten conferees. One party has no right to take away any part of it, or to make any additions, without the consent of the other. If either is done, it is no more a compromise, and the obligation to observe it is therefore destroyed. Now, to apply this principle to the matter in hand: while the ink with which the ten conferees had thought proper to inscribe their agreement was hardly dry, Mr. John Ross, who now professes such obedience to the will of the people, and to have no will of his own, added such parts of sentences as I have included in brackets in the foregoing agreement. It is no reason to say that it was done with the consent of one of the conferees. One entire party cannot bind in this manner the other; much less can one individual bind both the contracting parties. It is true, Mr. John Ridge, from motives truly conciliatory and patriotic, in order to prevent the consequences of such despicable quibbling as Mr. Ross was then making, after the whole affair had been concluded and signed by men of his own appointment, agreed that the additions should be made. But his other four associates knew nothing about it: it was done with the presumption that they would, for the sake of good understanding, waive the matter, which they undoubtedly would have done if an infraction of a far more important nature had not subsequently been committed upon the foregoing agreement by the other party, and circumstances had not taken place to defeat the purposes of the compromise. This then leads me to consider—

2. That we are not guilty of bad faith, because one of the two principles upon which the ten conferees agreed to unite and become friends, was disregarded and violated by Mr. Ross, in the appointment of a delegation to negotiate with the United States. All compromises are effected by concessions. So it was in this case. The concession to the treaty party was, *that a treaty should be made; to the Ross party, that the majority of the persons by whom the negotiations were to be carried on should belong to that party.* This was a matter of bargain, made very explicit. *Three individuals were to be appointed as delegates from one party, and sixteen from the other.* The execution of it, that is, in the appointment of the delegation, was intrusted to Mr. Ross; and did he comply with us essential provision, *that sixteen only should be chosen out of his party?* Not satisfied with the great preponderance and advantage we had already

given him in that compromise, certainly too much so for our interest and honor, he disregarded it by having *seventeen* appointed, viz: John Ross, Lewis Ross, Richard Taylor, James Brown, John F. Baldrige, John Benge, John Martin, Elijah Hicks, Richard Fields, Joseph Vann, John Huss, Sleeping Rabbit, Soft Shell Turtle, Thomas Foreman, Jesse Bushyhead, Peter and James Daniel. Now, sir, what right had he to add one to the number which had been agreed upon? What right had he to say that *seventeen* should be appointed, when the conferees, the proper representatives of the two parties, had settled upon the number *sixteen*? And if he could add one, without asking our consent, and without our knowledge, he could add ten. And yet this is the man who would bind us to the letter and spirit of our agreement, and expose us to the world as faithless and wicked persons, after having, by his arbitrary acts, and ambiguous proceedings, as I shall show in the course of this letter, deprived us of the means of fulfilling the engagements which that compromise had imposed upon us.

Where, then, may the charge of bad faith properly rest? Certainly the two instances I have here given will be considered by every impartial judge as most palpable violations of the letter of the agreement, and sufficient to exonerate the other party from its obligations. Upon those violations it became null and void. But so desirous were we that a treaty should be made, and made speedily, as upon that depended the destiny of the suffering Cherokees, we were willing to overlook these acts of Mr. Ross, and to waive such objections as we very properly might have raised in reference to those acts. If a treaty, for which we had so long contended against such overwhelming odds, could only be made upon just and equitable principles, for the relief of our countrymen sunk in misery and degradation, it was all we cared; and it was not until we had lost every ray of hope that our compromise would lead to that happy result, from a series of evasions and ambiguous proceeding of the other side, in violation of the *spirit* of our agreement, that we resorted to the course we have done, which now forms the ground of complaint by Mr. Ross.

I shall now proceed to note down some of the proceedings of the other party, which I have termed *ambiguous* and as *violations* of the *spirit* of our agreement, and which has rendered the execution of the compromise impossible.

1. You will see, in the foregoing agreement, that the result of the conference was to be explained, and speeches of conciliation delivered by prominent members of both parties. In the execution of this part of our agreement, an additional indignity was cast upon us. How was the matter explained? Were the congregated Cherokees informed of the unhappy situation of their country and affairs, which had been the cause of their divisions into parties? Were they informed that all were brethren, fellow-sufferers, and of course ought not to charge each other with the difficulties under which they were laboring? That those difficulties can never now be settled except by a treaty and a cession of the land, and that the ten men who had the matter under consideration had so decided? Was such the explanation? Mr. Ross, who took upon himself that part of the business, represented us as a faction returning to our allegiance, and agreeing to support the measures of "the constituted authorities of the nation to close the difficulties with the United States, by a final adjustment, to be made there or elsewhere." What was ambiguous and doubtful in these words,

was made more so by their interpretation into the Cherokee language. What do you suppose would be the understanding of an ignorant, prejudiced Cherokee, from such an explanation as that; one who had been constantly flattered and deluded with the expectation of an entire re-establishment in his country, and one who had been taught to believe that nothing prevented that reinstatement but the existence of a party favorable to a treaty and removal? I say, what would be his understanding? The most natural in the world. "The constituted authorities love the land, and are striving to save it. They have been prevented from succeeding, thus far, by the treaty party, who wish to sell the land. That party has now united with the proper chiefs: *Therefore*, the country is now saved." Such was precisely the reasoning of these deluded people, the victims of misguided confidence. They were rejoicing by audible assents, while such *lucid* explanations were flowing from the lips of the *Indian* chief, to be interpreted into his *native* language, and while the speaker of the council was expressing in a speech his willingness to receive, with extended arms, his children who had strayed from the right path, but had now returned to their duty. Now, was all this in accordance with our agreement? Did we sign that compromise to be thus degraded and exposed to a gazing multitude as servile sycophants, deserting the great cause of *Cherokee emancipation*, upon which we had staked our all? No! It was a base violation of the *spirit* of that compromise.

2. The second item in these novel proceedings, is in the production, nature, and adoption of the powers with which the twenty delegates were to be instructed in the "final adjustment of the difficulties with the United States." It is a fact worthy of your notice, that, notwithstanding Mr. Ross professes such obedience to the will of his people, and to do nothing but what they desire him to do, yet he is the father, if not the writer, of every decree, order, or power, that comes from the committee and council at Red Clay. The powers in question had a similar origin; and what do you suppose they were? Were they such as were demanded by the state of things, plain, direct, and decided? No; far from it: they were evasive, unmeaning, and undecided; such as might be understood by one person, in one way, according to his inclination; and in another way, by another person, according to *his* inclination, as was precisely the case in this instance, as I shall show in the progress of this letter. I regret that I cannot have access to those written powers, in order to show the correctness of these remarks by quotations; but you may rest assured that I shall allege nothing but what is contained in them.

At the call of the public crier, the Cherokees, to the number of about one thousand, were collected around a stand, to hear some important communication from their chief. Mr. Ross soon appeared, with a bundle of papers in his hand, which turned out to be the nomination of the twenty delegates, and their powers. They were all written out, ready to receive the assent and signatures of the multitude, who stood around the chief with indescribable anxiety, to hear some important development, or a suggestion of some plan that would result in their relief. Mr. Ross commenced to read an instrument of writing, drawn in the form of resolutions, to be adopted or approved by the people, granting powers to the twenty delegates, of which number he was one. Those powers, to an English reader, or to a person understanding the English language, may be understood as being ample and sufficient. They authorized the delegation to terminate the difficulties with

the United States, by a treaty arrangement, either there or elsewhere. They gave them full power to negotiate, upon what principles they pleased, in any manner they pleased, and for any amount they pleased. In fine, they were unlimited, discretionary powers. So far, it was well enough, only that they were too extensive to be intrusted to twenty irresponsible persons. In addition to the fullest extent of authority which the people had conferred upon their delegation, they were made to declare that *they would be bound by all the acts of that delegation*. What will be your surprise when I tell you that those resolutions, containing such a declaration, were accompanied with a protest, in which the people are made to say, that *they will never consent to a treaty made upon the basis of the five millions of dollars!*

After the resolutions and the protest had been interpreted into the Cherokee language, (for all the communications of Mr. Ross to the Cherokees are made through an interpreter,) a question was put to the people whether they were willing to confirm them. The repeated cries of yes, yes, fully indicated the direction the current was moving. After this they were desired to sign those papers; about one thousand persons registered their names. It is worthy of notice that in obtaining their assent, the usual method was not observed; that is, that those who were in favor of confirming should say yes, and those of the contrary opinion should say no. Now I ask, were all these unmeaning words and unusual proceedings in accordance with the *spirit* of our compromise? Were they calculated to teach the poor Cherokees their true condition, and to result in, what was designed at least by one of the contracting parties, a speedy relief by a treaty arrangement? You will learn the answer to these queries by the *impressions* which were created in the minds of the multitude.

3. We must judge of things by their effects; and what were the effects of the proceedings I have just narrated? Let the conflicting opinions entertained by the people after the termination of those proceedings supply you with the correct answer. Mr. Ross, whether designedly or not, could not have taken a better course than he did take to confuse the minds of the people in reference to the nature and extent of the powers that had been conferred upon the delegation. I have already stated how one class, the largest class, of the Cherokees, whose prejudices and inclinations ran in a particular channel, understood the explanation made upon our compromise. That understanding was but strengthened by the subsequent proceedings. Although they had signed an instrument of writing conveying from them full powers to the select committee of twenty to dispose of their country, yet for want of proper explanation and interpretation of those powers, and because the terms to *sell* or to *cede* were not contained in them, especially because they were accompanied by a protest, to which I have already called your attention, *they never dreamt that the land would be sold*. On the contrary, they thought, by conferring those very powers, with the circumstances attending them, *they had saved the land*. They were under the impression that the danger of losing their country proceeded from the anxiety and exertions of the Government to purchase it, and as they had now declared never to submit to a treaty made upon the basis of the five millions of dollars, the Government would cease those exertions, and consequently their lands would be secured; and furthermore, they thought that the delegation were empowered to carry into effect that determination only, and for no other purpose whatever. Although this account will give

you but an unfavorable opinion of the understanding of the Cherokees, and perhaps less so of the political honesty of those who were the instruments of this most wretched delusion, yet it is incumbent upon me to relate the whole truth, especially as this humiliating truth is necessary to the defence of my own character. Mistaken people! While they were congratulating themselves in the happy termination of their council, and the entire *overthrow*, as they thought, of the opposition, while they were expressing their joy, and spreading the glad news in every direction, as they dispersed from Red Clay, that the land was now saved, the delegation, with powers in their hands which to them may mean any thing or nothing, continued on the council ground, to add further stock to this mass of equivocating.

Such were the impressions entertained by one class of the Cherokees, but there was another to be satisfied; the intelligence of the country, those who understood the situation of the Cherokees, and foresaw the consequences of persisting to reject the propositions for a treaty, those who believed that a treaty was inevitable, and ought to be made speedily. Entertaining such views, it was natural to receive every favorable indication of a willingness in the people to cede their lands. What more could be desired by them, therefore, than the full discretionary powers that had now been conferred upon the delegation? The people had now waived all opposition, and had surrendered their country. So carried away were they with this much desired state of things, that they entirely overlooked the insidious *protest*, with which the powers for a treaty were encumbered. They thought that the difficulties which had so long oppressed the Cherokees were now in a fair way of being terminated. This consideration gave them much satisfaction, and they left the council ground with rejoicings founded upon *impressions just the reverse* of those I have described in the preceding paragraph.

But here is not all. How ambiguous must be those powers that are not understood by those upon whom they are conferred. The delegation partook of the confusion of opinions that possessed the people. A portion of them considered themselves clothed with full and unqualified powers; some, that they could make a partial cession, but could not treat upon money basis, as the people had resolved "never to submit to a treaty made upon the basis of the five millions of dollars;" some, for the *same* reason, thought they were authorized to cede the entire country for money, but for a sum *exceeding* five millions of dollars; and others disclaimed the right of selling one foot of land, alleging that the *people had not granted the authority*. These last were certainly correct, according to the understanding of a majority of the people.

In all this confusion, what was the understanding of the author of the resolutions containing the powers in question? At the very first meeting of the delegation, I called his attention to the doubtful terms in which those resolutions were couched, and wished to know the *practical effects* the declaration of the people, that they would never consent to a treaty made upon the basis of the five millions of dollars, was likely to have upon our future deliberations. Was this declaration considered as a limitation in our instructions? Was it a sufficient obstacle to prevent us from treating upon that basis? If so intended, it was a matter of great moment. For what were the facts in reference to this particular matter? A previous delegation, of which Mr. Ross was the leader, had made propositions to

make a partial cession, which the Government rejected. They then proposed to sell the entire country for the genteel sum of *twenty millions* of dollars, which, also, the Government rejected. They then proposed to refer the matter to the Senate for its award, giving a written obligation to be bound by the award, whatever it might be, and to induce their people to accept of the same. That award was made, authorizing the President to give the Cherokees "for their lands and possessions not exceeding five millions of dollars." Now, here is a resolution containing a declaration of upwards of one thousand Cherokees, *that they will never consent to a treaty made upon the basis of that award.* Supposing we proceed to Washington city, and shall not be able to treat upon any other basis but the basis established by the Senate, will that declaration prevent us from treating? Are we so limited and instructed by the people? Mr. Ross said he thought we were! This avowal, under the circumstances it was made, appeared to me equivalent to an avowal *that no treaty would be concluded.*

The various opinions which I have briefly described were quickly disseminated through the nation. Conflicting views were advanced as to the object of the delegation, the great body of the people being under the impression that it was to *secure the land*, the others supposing it was to *sell the land.* When a portion of the delegation corroborated the latter opinion, it created considerable uneasiness, especially in a particular section of the country where nothing of that kind was dreamed of. "We have just returned," they said, "from Red Clay, where the treaty was voted down, and where we declared we would never consent to a treaty; and how comes this delegation to claim the right of ceding the country?" To satisfy themselves, they sent an embassy to Mr. Ross, wishing to have a direct information upon that point, to know what was actually their intention. It is easy to apprehend what *ought* to have been the reply of a candid person, under Ross's circumstances; possessing, as he did, the entire confidence of an ignorant and confiding people. It ought to have been plain, direct, and unequivocal, such as this: "I have done what I could to have our nation reinstated; I have failed. There is now no other alternative, for the salvation of the Cherokees, but to make a treaty, and *to treat is to sell the land.*" But what was his reply? He told them that they may rest assured that he was their friend, and that the delegation *would not leave them in a worse situation than they were in.* Poor consolation to a perishing people! Whether those to whom this reply of the *Delphic Oracle* was sent were *satisfied and appeased*, I have not had the means of ascertaining. I leave it to you now, to say whether all these proceedings were in accordance with the *spirit* of our compromise.

4. The last upon which I propose to speak, is the *predetermination* of Mr. Ross and the majority of the delegation not to *negotiate* in the Cherokee country, but at all events to proceed to the city of Washington. It is true, in the compromise, we speak of a treaty *to be made, or which may be made*, but we never presumed one moment but that, under the circumstances then existing, a treaty *would be made on the ground.* A commissioner of the United States was there, prepared to negotiate with the Cherokees upon the very basis recommended by the Senate of the United States, and acceded to in advance by a previous delegation, headed by Mr. Ross himself. We could not imagine, therefore, how Mr. Ross could consistently refuse to act in accordance with that obligation. When the matter was brought before the people, that is, when the compromise and the resolutions were

presented for their confirmation, the expression "here or elsewhere," was used by Mr. Ross, in speaking of *where* the delegation may carry on the negotiations. Mr. Ross distinctly used that expression, and it was so interpreted into the Cherokee language, although, it seems, it was not so written, for in perusing the resolutions a day or so after, I noticed the word *Washington* was used in the place of *elsewhere*.

There was another expression used in the papers to which I have so often recurred, which no one but those in the secret imagined could have any bearing upon the future course of the delegation. When they were clothed with power to negotiate "here or elsewhere," with a commissioner of the United States, the expression *having full powers* was used. That is, with a commissioner *having full powers*. Now, to us, all these were harmless expressions, and we never one moment supposed that any advantage would be or could be taken. But have patience while I expose the intrigue and insincerity of these very men who now charge us with a violation of faith, and are so vociferous in their denunciations against us, *because they would not permit us to fulfil our obligations to them*. You will say, how can that be? I will tell you how *it has been*.

All the preliminary arrangements for negotiations being made on the part of the Cherokees, the delegation appointed, and powers conferred upon them, the commissioner of the United States was accordingly informed of it, and requested to state what time he would wish to confer with the delegation. He appointed a certain hour of the day, at which time the first conference took place. The commissioner presented his letter of appointment from the Secretary of War. He said he was authorized by the President of the United States to enter into a treaty with the Cherokees east, for all their lands, under the basis awarded by the Senate at its last session. He then went into a particular history of the circumstances which brought about that award. So far as the amount was concerned, it was a settled question; it was settled by the Senate, at the request of Mr. Ross; of course the President could not transcend that amount. He was, therefore, instructed to go just so far as the Senate had permitted the President to go, and now he stood ready to negotiate with the Cherokees to the extent of his powers, *and a little beyond*.

The consultation which took place after the above conference, fully brought to light the designs and the system of evasion that had been carried on during the memorable council. *Doubts* were now suggested whether they could treat with the commissioner, from the fact that he was acting under a letter of the Secretary of War, and not under a *commission* from the President! "We are authorized," said Mr. Ross and his friends, "to treat with a commissioner *having full powers*, but certainly this man has not full powers, because he has no commission from the President. However, this objection *may* be waived. Yet we cannot treat with him, because he proposes to negotiate *only* upon the basis and principles which the people have *already rejected*, in the declaration *that they never will consent to a treaty made upon the basis of the five millions of dollars*." Upon these two positions they planted themselves, and proved impregnable to the assaults of the commissioner. But did they gain their object by simply refusing to treat? Would that satisfy them, or satisfy the people, many of whom were anxiously watching the result of the expected negotiations, and trembling in anticipation of the fearful consequences, in case no treaty was made? One step further, they gained the point at which

they were signing during the whole council. "Although," they said, "we cannot negotiate with the present commissioner, according to our instructions, yet from the power we are intrusted with, to negotiate here or at Washington, (*Washington was now openly avowed.*) we can go to the seat of Government, and make a treaty under the eye of the President himself." No sooner said, than a pretended determination was made, to take a step already *predetermined*. Without offering any propositions themselves, it was decided to put an end to the negotiations, and to proceed as speedily as possible to Washington City. Upon this decision the grand delegation, into whose hands the destiny of a nation was committed, dispersed to their homes, after having appointed a certain time to leave for Washington, and after being notified by the commissioner to attend another council at New Echota, on the 21st December following.

Such was the end of all the movements at Red Clay. The leaders and principal actors in all these transactions, had come together with a settled determination to evade the commissioner and his propositions. All their movements tended to that point; all their papers were drawn for that purpose; all their talks, speeches, and explanations, were evasive, dark, and unmeaning. They accomplished their object by a system of delusion. To one portion of the Cherokees they were the saviours of the land; to the other, agents by whom a cession of the land was to be made. With these two characters, directly opposite, they were about to proceed to Washington, when official communications were addressed to them by order of the President, informing them that they would not be received by him as a delegation; that he would negotiate no treaty with them in Washington; that if a treaty was made it must be made in the Cherokee country, with the commissioner then there, and according to the basis settled by the Senate. In this state of things, what was the duty of these men, who had abstracted the entire power of the nation into their own hands? It was not necessary to consider whether the determination of the President was right or wrong, but what, under the circumstances, was practicable to be done; and this must depend upon the question, whether the President had declared *the truth*, and whether he would *adhere* to his declaration? If he was likely to adhere to what he had said, then it became a matter of serious consideration, whether the delegation ought to push forward to Washington, reckless of all consequences. In this critical moment, did they act as wise men; as practical, *common sense men*; as patriotic men, unswayed by personal predilections and prejudices? Did they choose the least of *two evils*: to meet the commissioner at New Echota, to re-open negotiations, and, if necessary, to leave the whole matter to the people? No; they plunged into a fearful *uncertainty*, by rushing in the very face of the official declaration *that they would not be received by the President*. They accordingly left the Cherokee country about the 1st of December, on their way to the seat of Government.

Now, sir, under the circumstances which I have briefly enumerated, what was the course which patriotism suggested to me and my associates, who had agreed to a compromise for the purpose of effecting one great object, the relief of the Cherokees *by a treaty*? For that object *alone* the compromise was made, and to effect *that only* it was binding. Now, was it likely to be accomplished? This was the sole question for us to decide, and we decided in the negative: because, 1. A *treaty could not be made* by the delegation at Washington, according to the official notification. 2. Be-

cause they *would not* make a treaty upon the only basis that it could be made. But what was to be done? Were we to sit still under the impression that we had tied our hands by the compromise, and see the "constituted authorities," as they are pleased to style themselves, lead a suffering community to destruction, by a system of delusion? We did not so judge our duty. There was still an opening, by which the very purpose of the compromise, the execution of which by the other party had now been rendered hopeless, might yet be carried into effect; and that was to attend the council at New Echota on the 21st of December, appointed by the commissioners of the United States, for the purpose of entering into negotiations with the *Cherokee people*. We did attend, with a respectable portion of our countrymen; and the result of our deliberations at the council was, the treaty now before the Senate, and which has furnished to Mr. Ross the charge to which I have been replying.

There is another fact connected with this subject, which will show the unreasonableness of the charge alleged against us. During the negotiations at New Echota, it was suggested that possibly we might be mistaken in supposing that Mr. Ross's delegation *would not or could not* make a treaty; that the President might receive them and negotiate with them; and that they might propose to treat upon the basis offered by the Government. Measures were taken to meet such possible contingencies. The delegation who were appointed to accompany the treaty to Washington, were, therefore, expressly instructed to lay no obstacle in the way of the first delegation, if they found that they had been received, and were in a course of negotiations with the Government, or were likely to consummate a better treaty. This trust was faithfully fulfilled, as you will see from the following letter addressed by the second delegation to the first:

WASHINGTON CITY, February, 5, 1836.

GENTLEMEN: The undersigned, a delegation appointed at a general council held in New Echota, in December last, and convened agreeably to a public notice signed by William Carroll and J. F. Schermerhorn, commissioners of the United States to negotiate with the Cherokees east, herewith submit to your consideration the accompanying articles of a treaty. We do this in compliance with the instructions of the council, which will be found in the copy of the journal also herewith submitted.

It is needless, gentlemen, to speak at large upon the imperious considerations and urgent necessity which has compelled your constituents at home to negotiate this treaty. Those considerations and that necessity are found in the suffering condition of our people, the *urgency* of some relief, and the *uncertainty* of it, as was apprehended, from the fact that you were officially informed, before you left the Cherokee country, that the President of the United States would not receive your delegation; and that if a treaty was made, it must be made with the people at home, according to the instructions given to the commissioners, one of whom was then in the country. That uncertainty was also greatly increased from similar declarations that were made to the council at New Echota, and the circumstances that had brought about the award of the Senate last winter, and a certain protest, signed at Red Clay and appended to the instrument of writing, that gave you authority as a delegation, declaring that the award of the Sen-

ate, made upon the reference of our own delegation, *would never be accepted.*

It appeared to the council, therefore, that there was no other alternative left but either to linger out another miserable year, subject to all the privations incident upon the oppressive legislations of the States, or immediately to settle the perplexed difficulties by a treaty arrangement.

In doing what the people have done at New Echota, it was with no view to lay any obstacles in your way. They were desirous that the matter should have been settled by you, if practicable, and they have instructed us, as their delegation, to proceed in such a manner as not to retard any good work that you may have done, or can do, for the benefit of the Cherokees. In compliance, therefore, with that instruction, we assure you of the heartfelt satisfaction that it would give us, and certainly our constituents, if you have settled, or can settle, our difficulties with the Government by a treaty. The treaty we now present to you, was signed, as the best that can be obtained from the Government: so it was considered by those who signed it. If, upon a perusal of it, you will, in your wisdom, consider that a better can be made, and will be enabled to effect one, it will rejoice us much, and we will congratulate our country in the happy consummation.

You will perceive, from the copy of the journal we herewith transmit, that we are instructed, in case that you have not already made, or are able to make, a better, to urge the ratification of this treaty, and we shall proceed to the performance of that duty as soon as we shall be satisfied upon that point. As the case is very urgent, the misery of our people accumulating every day, we trust we may be enabled soon to know your prospects and views upon this most important matter. If you think the treaty we send you is the best that can be obtained from the Government, of which we are decidedly convinced, but will propose any modification or alteration which will be to the advantage of our people, we shall be happy in lending you any assistance in our power.

Major RIDGE,
JAMES FOSTER,
LONG SHERE,
and others.

Messrs. JOHN ROSS and OTHERS,
Cherokee Delegation, now in Washington City.

To this letter Mr. Ross has not deigned to give a reply, and I infer his prospects of making, not to say a *better* treaty, from a letter of the Commissioner of Indian Affairs, addressed to him and his associates, of which the following is an extract:

"The delegation of the Cherokee nation, of which some of you were members, and which visited this city last winter, was emphatically assured during the last session of Congress, and that assurance was officially repeated in the course of the following autumn, that no delegation would be received here to make a treaty; and in defiance of that notification, you have come on and presented yourselves for that purpose. How could you, under such circumstances, imagine that you would be received by the department as the duly constituted representatives of the Cherokee people? It is not easy to account for that strange error of opinion, unless it arose from the courtesy with which you were treated, when you called upon the

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President and Secretary of War." [The letter from which the foregoing is extracted, is dated February 13, 1836.]

In this state of things, utterly unable himself to consummate a treaty, which he may think preferable, Mr. Ross is using his influence to defeat the only measure that can give relief to his suffering people. Why is it? Does he expect a better treaty? And has he plans in operation to induce such an expectation? It is not pretended. He says he is doing the *will* of the people, and he holds their authority; *they* are opposed, and it is enough. The will of the people! The opposition of the people!! This has been the cry for the last five years, until that people have become but a mere wreck of what they once were; all their institutions and improvements utterly destroyed; their energy enervated; their moral character debased, corrupted, and ruined. The whole of that catastrophe, I mean aside from the mere loss of the soil, a trifle in consideration with other matters, which has overwhelmed and crushed the Cherokees, might have been averted, if Mr. Ross, instead of identifying himself with the contemptible prejudice founded upon the *love of the land*, had met the crisis manfully as it became him to do, and unfolded to his confiding people the sure termination of all these things, they might now have been a happy and prosperous community, a monument of his forecast and wise administration as an Indian chief. But, no sir, he has dragged an ignorant train, wrought upon by near sighted prejudice and stupid obstinacy, to the last brink of destruction; and now, when he would take the same measures, that he has so long discarded, to save his followers from the dreadful dilemma in which he has placed them, he cannot even have that poor consolation. He stands surrounded by a hungry, naked, and destitute people, surprised at his unwise course, and confounded at his near sighted policy.

Very respectfully,

ELIAS BOUDINOT.

NEW ECHOTA, November 25, 1836.

To Mr. JOHN ROSS.

SIR: In the foregoing letter addressed to a friend, at first not intended for publication, I have taken the liberty to comment upon your course in reference to our political concerns, especially in reference to that part of it connected with the compromise. I am not aware of having done you the least injustice, although what reference I have made to certain papers and documents was altogether from memory. My object was to give facts; not so much to state how the powers conferred upon the delegation were drawn, but *how they were understood*, and what *action* took place upon them. On this point I am not mistaken; I cannot be mistaken in reference to transactions which occurred before my eyes and in my hearing. The facts stated by me can be proved by legal testimony. I could produce affidavits, if your friends would allow me the use of their testimony, that even your vice-chief did not think that you were authorized to dispose of the land. I can produce affidavits to show that at least one of the "regular" delegation expressed himself vehemently against the cession of land, upon the ground that you were not authorized to make a cession, and this, too, at the time when you were presenting yourself to the Government as spe-

cially authorized for that purpose. I can produce affidavits from the people, whose will, you say, must regulate your conduct in all cases, to show that you were never understood, by the majority of those people, to have received the authority in question.

What then? perhaps you will say. I answer, according to those facts, you must either have been deceiving your people or deceiving the Government. If you were acting in accordance with the will of the people, as you allege you were, then you were deceiving the Government, when you presented yourself as specially authorized to make a cession of the land; and if you were in earnest with the Government, you were deceiving your people, for you were acting against their will, and against their authority, *as they understood that authority*. I care not how plainly the powers under which you attempted to act were written, or how it is possible they can otherwise be understood than they are generally understood by English readers; that has nothing to do with the understanding of the people, to whom all their political information has been communicated by written papers, couched, not unfrequently, in very ambiguous terms, and through the medium of interpreters not always capable of conveying the true sense or meaning of the English.

But upon this point I need not proceed further. I have already stated that the letter to which I have here briefly alluded, was not written with a view to its publication. Even your memorial to the Senate, protesting against the New Echota treaty, in which you make very free with my name, was not sufficient to provoke me to publish it. I have, however, met with two printed pamphlets, one purporting to be a memorial of a minority of your delegation to the House of Representatives; and the other a letter to a friend, signed with your name, and dated July 2d, 1836. In these there is an evident attempt to present my character to the public in an obnoxious light. You have *indirectly* charged me with hypocrisy, servility, duplicity, and the like, which, if true, must forever degrade me in the eye of a virtuous community. You present those charges under such circumstances, and in such a way, as to be taken for truth by persons unacquainted with our affairs, especially if I were to sit still and permit your aspersions to go abroad without a reply. I am, therefore, called upon, by the duty I owe to myself, and to the community, whose good opinion, of course, every one must desire to possess, to make the foregoing letter public, and to add another addressed to yourself.

In this controversy, I am well aware of the disadvantages under which I labor. I am but an humble individual, and I do not claim anything incidental to any station or calling to recommend me to the sympathies of the public. You, on the other hand, have presented yourself as the "*principal chief*," a title, under other times, and under other circumstances, conferred upon you by an Indian community, but to which, I perceive, when those circumstances have long since ceased to exist, you cling with the most unyielding pertinacity. You present yourself, also, as a *persecuted chief*; and you know well the advantage which that title must give, by exciting the sympathies of the public towards you, and its execrations upon your alleged persecutors. You claim, likewise, to be the *favorite chief*, whom the Cherokees are accustomed to honor, and you even go so far as to strike a comparison between yourself and the illustrious Washington. All these claims and pretensions, and your charges against me, are held forth to the public by a *hired* but a practiced pen. Against this whole array of titles,

claims, pretensions, charges, &c., I can bring nothing but what clear conscience and integrity will furnish me, dressed up by the aid of my own limited abilities and feeble pen.

Among the many charges that have been made against me and my associates during this unhappy controversy, is that of being *interested persons*. This has been often repeated, and some have gone so far as to say that we have been *bought or bribed*, and hence our *subserviency* to the Government in this matter. I perceive, in your communications, you employ the term *interested*, which you evidently intend to apply to us. We do not deny that we are deeply interested in the result of this question: as Cherokees, and in common with other Cherokees, we cannot but be deeply interested. To represent us in any other light, is an unprovoked assault upon our reputation.

But the charge, that we have been actuated, in all our efforts to effect a treaty for the removal of the Cherokees, by *interested motives*, has so often been made, you have finally undertaken to endorse it, and it is in that light you attempt to represent me. I do not now particularly refer to what you have said in your communication, but to what you have repeatedly alleged to these confiding people. What is the nature of those interested motives? Are they political or pecuniary? The former is too insignificant to deserve notice. That you mean the latter, in other words, that, by the consummation of a treaty, I am to be benefitted in a pecuniary point of view, or to receive some special advantage, it is easy to surmise. I may here content myself by denying the allegation, and throwing the burden of proof upon you, according to the maxim of all civilized nations, that the accuser must prove his charges before the accused can be accounted guilty.

And where is your proof in support of this grave charge? You are acquainted with Indian treaties, and you understand the mode of forming them, and securing special advantages. You have made such treaties, and you have seen such *special advantages* secured in them. Are they not found upon the very face of the instruments themselves? and are not the names of the persons to be thus benefitted broadly inscribed upon them? *You know it is so*, universally so, where special reservations are given. Where, then, can you find, in the treaty which you so much oppose, and which you allege has been the result of self-interest, my name identified with anything that will give me any pecuniary advantage over my fellow-countrymen? Perhaps you will answer, that my name is found among the committee of thirteen to transact all the business of the Indians, and hence I have secured to myself a lucrative office. It so happens, however, which will be sufficient for my defence in this respect, that not one cent is provided, under the treaty, even for the *expenses* of the committee.

It may be said, perhaps, that notwithstanding I have taken precaution to prevent any showing of self-interest upon the face of the treaty, I am, nevertheless, to reap some great pecuniary advantage under its execution or operation. The execution of the treaty has now sufficiently progressed either to confirm or refute that assertion; and how is it? Instead of *I* being benefitted over my fellows, it is *you*. Any person need but look to the lists of valuations, to be convinced upon this point. And how is it possible that I can receive any extra pecuniary advantage under the present treaty? To be sure, I might have had the same opportunities with some of my countrymen to speculate upon the ignorance and credulity of our citizens; I could as easily have taken advantage of their weakness, and ingratiated myself into their good favor, by pretending to be a land lover, and deluding them

with hopes and expectations which I myself did not believe would be realized; and, under that deep delusion into which our people have been thrown, I could have purchased their possessions and claims for a trifle, and thus have enriched myself upon the spoils of my countrymen: but I have detested that vile speculation. I have seen others engaged in it, and those, too, who were understood to be your friends, and consequently opposed to a treaty. What speculation have I made, then, which you might allege the treaty was made to confirm to me?

Again: It is well known that while you were adding one farm after another, and stretching your fences over hills and dales, from river to river, and through swamps and forests, no doubt, (for I can conceive no other substantial reason for such unusual conduct,) with a view to these very times: I say, while you were making these great preparations, which have now turned out to be a pecuniary advantage to you, I was here, toiling, at the most trying time of our difficulties, for the defence of our rights, in an arduous employment, and with a nominal salary of three hundred dollars only, entirely neglecting my own pecuniary interest. You know it is so; it is too notorious to call for denial; and yet you would present me as being actuated, in this affair, by interested motives!

Another of your charges is, that I acted a hypocritical part in going with the "got up" delegation, after having declined to go with the "regular" delegation. To prove my hypocrisy, you have published my letter of resignation. A bare inspection of that letter must show the unreasonableness of that charge. Will you not admit that I had a right to resign my station as a delegate for ample reasons, or such as I considered ample reasons, as set forth in the foregoing letter; and, having so resigned, that I had the right to go with another delegation, whose principles of action were more congenial to my views? Even, then, upon the very ground you seem to condemn me, I am not so culpable as you would make out. I did accept an appointment as one of the "regular delegation," at Red Clay, and did intend to act in good faith towards you, and did so act as long I believed, not that you had acted in good faith towards me and my associates, but that there was a prospect of a treaty being made, for which object *alone* I had accepted the appointment. How long I could consistently flatter myself with such a belief will appear from the history of the transactions at Red Clay, as narrated in the preceding letter. I say, then, upon that view of the case, I had the right to resign as a member of your delegation, and to go with another; and I see no reason why you should brand me with hypocrisy, if I chose not to be invested with a seeming authority which proved, to my satisfaction, to be a fraud upon the good sense of every Cherokee capable of the least discernment.

But, sir, even under such circumstances, I was not disposed to take a step which would expose me to any charges from you, however groundless or unjust they might be. It is well known to my friends, that after the compromise was made, even after you had violated it, I was desirous that the commissioner should waive his instructions to convene a council at New Echota, and go with you to Washington. It is well known to many that Mr. Ridge and myself urged that course upon the commissioner, for the purpose of conciliation and closing our difficulties in peace, and on account of the very urgency that we used, the good understanding that had subsisted between the commissioner and us was interrupted. These are facts that can be corroborated by ample testimony, and are well known

many of your friends, and may be known to you, and yet I see you have labored hard to prove that we acted hypocritically. Notwithstanding all your equivocations and violations of the compromise, and the utter uncertainty which your proceedings had rendered the question of a treaty, I had still concluded, with the most extreme reluctance, as you may well suppose from that uncertainty, to go with you to Washington. And let me say, *I should have gone*, against my judgment, were it not for reasons of a domestic nature. Upon the existence of these reasons, I sat down and wrote you the letter you have published.

That charge is also founded upon the fact that I signed, while a member of your delegation, certain papers containing views directly opposite to those I have since expressed, and upon which I have acted. I should have presumed that you would have been the last person to have brought forward such a charge, founded upon such a reason. You knew very well, and you now know very well, that all the members of the delegation were *required* to sign those papers, not as the sense of each delegate, but as the sense of the majority of them. That was your decision, for I expressly made the question at the time you brought forward those papers. I gave you sufficient intimation that I should sign them against my judgment, which I did, and for which act I have been superlatively ashamed ever since.

In connexion with this part of my letter, I will say a word or two in reference to a charge you have made against Mr. Ridge. "This being his fourth entire revolution in politics within as many months, varying as often as the moon, without the excuse of lunacy for his change." Let us see how this is. In the first place, what are we to understand by the term *politics*? And what have been the politics of Mr. Ridge, and those who have acted with him? You know they have been identified with a treaty, as the only measure to relieve these people, while yours have been opposed to a treaty. These have been the only politics known in this country, as existing among the Cherokees themselves. Your charge against Mr. Ridge is, then, this: in going with you to Washington, as one of the "regular" delegation, he changed his views in reference to a treaty, and in leaving your delegation, to advocate the New Echota treaty, he retraced his steps, and became the *advocate* of a measure which he *opposed* while with you. This is your misrepresentation, and it is precisely with what I have charged you in the foregoing letter as a violation of the spirit of our compromise, when you "represented us as a faction returning to our allegiance." We went for a treaty. Hence our opposition to you, because you were opposed to it; nor could we act with you in concert until you had agreed that a treaty should be made. That was the principle upon which the compromise was founded; they were the politics of Mr. Ridge and his associates. If Mr. Ridge was convinced that you were not disposed to fulfil your obligations, which that compromise imposed upon you, hence no treaty was likely to be made by you and your "regular" delegation, he acted but consistently, and in accordance with his politics, to leave you and advocate the New Echota treaty. What you term as the "revolution in politics" is only an adherence to his political principles. He stuck to you as long as there was a bare probability of your doing what the compromise called for, and he left you as soon as he was satisfied that even that bare probability did not exist.

Besides the circumstances which I have enumerated in the preceding letter as obstacles in the accomplishment of a treaty contemplated in the

compromise, I will state one other, which was enough to raise doubts, at least in the mind of Mr. Ridge, as to the sincerity of your professions. And it will give an apt illustration of your oft repeated declaration, *that you do the will of the people!*

There appeared in the public prints a statement signed by John Howard Payne, giving an account of his captivity by the Georgia guard, accompanied by an address from the Cherokees to the people of the United States, written by the same person at your request, and approved by you; and if we are to believe the writer, that address was intended to be circulated and signed by the Cherokee people. Now, what is important to be known is this: that address was written, approved, and printed *after* the compromise was made, and after the delegation (of which you were but one) had been appointed. And what is material to the proper understanding of this matter is another consideration: the compromise professed to *bury in oblivion* all the ill feelings that had subsisted between the parties, and had conferred *equal power* upon *each* of the delegation, for the purposes for which they were appointed. Now let us see in what way you *presumed* to speak for the Cherokee people, without their knowledge, and without the knowledge of any other but the *one* whom you employed to write for you—a stranger, and, of course, not the most capable to understand our complicated difficulties. I have not that address by me, but I copy what was noted, as the subjects discussed in it, by another person, immediately after reading it.

"It is a dramatical appeal from the President to the people. It argues that they are compelled to treat; that the Government price is too small; that the Cherokees do not wish to go to the west, to a country remote, unhealthy, and undesirable; that if they are compelled to treat they would prefer to be allowed citizenship in counties and towns. It speaks of some of their own countrymen as having been *seduced* from their policy by the United States; their press taken, and their own people induced to publish *falsehoods* against their chiefs."

This is a correct statement of what was discussed in that address, and I need not do more than present, in juxtaposition to that statement, the compromise which *buried in oblivion all party differences*, and your declaration *that you do the will of the people*. At any rate, it is a most beautiful illustration of what you say in your letter—"It is I who serve under them, not they under me!" Just look at it. An individual member of a delegation composed of twenty persons, upon the eve of commencing important duties intrusted to all *collectively*, without consulting his associates, employs a stranger to write an address of the Cherokee people; an address digested, prepared, and *approved* without the knowledge of the people for whom it was intended, and *to be sent to them for their signatures*; an address containing dishonorable allusions to some of the delegation, and avowing political doctrines abhorrent to the people, at least never agitated by them; an address intended to commit, in advance, the nation to the views of *one* out of a delegation of *twenty* persons! This may be the way to do the will of the people, and to obey their *commands*, or *to serve under them*. If it is, I must confess my entire ignorance of such matters.

This address Mr. Ridge did not see until he reached Athens, Tennessee, on his way to Washington. What impressions it produced upon his mind, will be seen from the letter he addressed you at that place.

ATHENS, TENNESSEE, 4th Decr /ber, 1836.

SIR: I have the honor to decline going on with you to Washington city after having read John Howard Payne's statement and the Cherokee address to the people of the United States, prepared, no doubt, at your request and suggestions. That address unfolds to me your views of policy diametrically opposite to mine and my friends, who will never consent to be citizens of the States, or receive money to buy land in a foreign country. I trust that whatever you do, if you can effect a treaty, that the rights of the poor Indians, who are now nearly naked and homeless, will not be disregarded. Neither do I believe waging a political war, by appealing from the treaty making power of the United States, will be of any service to our people, but will result in their ruin.

Respectfully, your friend,

JOHN RIDGE.

Mr. JOHN ROSS.

The reason he did not return and leave you at that time was your urgent entreaty that he would go on, which he did, still hoping that you might be disposed and enabled to effect a treaty for the removal of the Cherokees. It was not until that hope was eradicated by your continued evasive and non-committal policy, and the refusal of the Government to negotiate with you at Washington, that he broke his connexion with you, to do the best the times and circumstances presented. This you have called "revolution in politics." *It is an adherence to political principles.*

One of your defences is in reference to the charge that has been made against you as a reservee. It is said that, in a former treaty, negotiated, too, by yourself, you secured a tract of land in fee simple, upon the condition that you were in future to remain a citizen of the United States. According to that condition, it has been alleged, you cannot claim any rights as an Indian. I am not disposed to go so far, or even to say that you really did obligate yourself to become a citizen of the United States. Be that as it may, my objection to you as a reservee has been identified with my objection to the entire system. I am opposed to it upon the very ground on which you say you took the reservation, viz: Because it dispenses *special grants* to few individuals. It gives ground for that very charge of self-interested motives, which has been so profusely heaped upon me and my associates, but whether with an *equal appearance* of truth, I leave you to say, and the public to judge.

But what further I have to say upon this subject is in reference to the *manner* in which you have explained this matter. I am sorry to be compelled to say any thing which will have the appearance of charging you with a want of justice or integrity. "But those who dwell in a glass house ought to beware how they throw stones out of it." This controversy is not of my seeking. If you think I am too personal, I wish you to bear in mind what you have said in reference to me. Your account of the matter is as follows: "There was a tract of land given to my ancestors by the Cherokee nation. In the year 1819, the United States thought proper to secure six hundred and forty acres of that tract to me, as a *special reservation*." Now, sir, I am not disposed to say, from this statement, that you have stated what is not true, but I allege that you have not stated the *whole* truth. It is true that the Cherokees did give your ancestors a certain tract of land; whether for services rendered, or as a gift, it is not ma-

terial for us to know; but *it is not true* that the land was given to them *exclusively*, but it was given to them and the ancestors of Watts *jointly*. It is true, as you state, that at the treaty of 1819, you being one of the principal negotiators on the part of the Cherokees, the grant to that certain tract of land was confirmed to you *exclusively*, as a "*special*" reservation. Why Watts, who had an equal interest in that land, and which interest it was your bounden duty, as a man of honor, to see protected and defended, instead of taking advantage of his weakness, and the circumstances which grew out of your position, was excluded from an equal participation in that land, is not, perhaps, for me to say; but it behoves you, as you have triumphantly referred to that transaction, to satisfy the public upon this matter. Will you deny it? Can you deny it? Or will you say that it was done with the consent or concurrence of Watts? You cannot even *pretend* to say so, because the contrary is too notorious in this country. Watts did complain, bitterly complain of the gross injustice done towards him; but what could a poor ignorant man accomplish with a diplomatist? His complaints and demands for justice were unheard, and his murmurings soon hushed into silence.

It has been suggested, from the words "of that tract," only a portion of that land was confirmed to you, and, consequently, no injustice was done to Watts. True, if a portion of that land was given to you *exclusively*. But it was not so. There was a *joint* ownership between yourself and Watts, and you had no more right to dispose of one foot of that land, without his knowledge and consent, than you had to dispose of the whole. But is it true that only a part of the original gift was confirmed to you, which impression, it has been supposed, you intended to convey by the words "of that tract?" I have made inquiries as to this matter, and I am told that your special reservation of 640 acres included *the whole* of the original gift, and took in some which had never been granted, in order to *make up the deficiency*.

What should have urged you to such an act of injustice has been a matter of surmise. Some have supposed that you thought it was right, from the circumstance that Watts, in the year 1817, or thereabouts, had enrolled to remove to Arkansas. That cannot alter the case, because his enrolment could not affect his *individual property*. And it seems you did not consider his rights as a *Cherokee citizen* affected, because he has been, and, for aught I know, is still, considered a member of your Red Clay council.

Another of your defences is in reference to the charge that your policy has been to get the money of the nation into your hands. The extent that I have intended to charge you is, that your policy has been to get the money into the hands of what you call the *constituted authorities*. I need not spend time to prove that, for you avow it yourself in your letter, and you contend for its propriety. While you justify that policy, you make a "monstrous misrepresentation" when you say that the treaty throws our money into the hands of frontier agents. You will find *no such provision* in the treaty. It seems that you have been hard run to find real objections, so that you have been compelled to make imaginary objections. The only agent known in the treaty, and the only one responsible to the Cherokees for the disbursement of the money, according to the provisions of the treaty, is the United States. This is in accordance with the universal practice established in all our past treaties with the Government.

Now what is your wish—what is your policy? You would place the

five millions in the hands of the *authorities of the nation*; their receipt, of course, would discharge the United States. Let the least reflecting mind think, for a moment, of the operation of such a policy. *Responsibility* is an essential ingredient in all money operations. And where is the responsibility of the Red Clay council equal to the proper disbursement of \$5,000,000? A bare statement will show your policy to be consummately ridiculous. Will you say that the *authorities of the nation* is a sufficient security? What do you mean by that oft repeated word, when you know there is *no* authority of the nation? You cannot, I may say you do not, even pretend to execute a ten dollar judgment. And what if there was authority? A single fact in the proceedings of the constituted council will answer for an illustration.

Some years since, I think in the year 1824, an arrearage to a considerable amount was paid to the nation by the United States. Not being in immediate want of the money, the *constituted authorities* (there was some show of authority then) passed an act to loan it to the citizens of the nation in sums not exceeding five hundred dollars. I cannot say how much was loaned out, but thus much I can safely affirm: a large portion *has never been collected to this day*. Here is a sample to show how well your council would discharge the trust were the five millions placed in their hands.

"If ever I hold an office in the nation of my compatriots, it must be from *their election*, not the nomination of an executive of another country." "I am only one of their agents, and their *elected chief*." And again: "*The people* saw and understood it, and determined to preserve both without changing the spirit of our laws, though they were forced to modify the mode of their fulfilment." With what *scrupulous fidelity* you make the assertions in these extracts will be seen from the following short and simple statement of facts, which you cannot gainsay:

According to a provision of the Cherokee constitution, the office of the principal chief and the members of the council are to be filled, the latter by election of the people, for two years, and the former by the general council, for four years. The last election held was in the month of August, of 1830, and the next was to have been held in 1832. In the same year, in the month of October, came the election, by the council, for the principal chief. On account of a law of the State of Georgia, there was no election held in August, 1832; and, consequently, the members of the council, who were, according to the constitution, to elect the principal chief in the month of October following, were not elected. In this state of things, the members of the council, whose term of service was about to expire, took the following measures, at a called council held, I think, in the month of August. I will be short. They passed a resolution appointing twenty-four men, selected (by the council) from the Cherokee people then on the ground, the aggregate number of which did not exceed two hundred. These twenty-four men were required to meet, as the resolution expressed it, in *convention*. I claim to know something of this matter, because I was a member of the *convention*. Two propositions were introduced: 1. That the Cherokee Government should be continued, *as it was*, for two years. This was my proposition. 2. That the Cherokee Government should be continued, *as it was, while our difficulties lasted*. The latter prevailed, and it was sent to the council as the *advice of the conven-*

tion, which the council very gravely *accepted*, and referred to the people *on the ground* for their confirmation. The members of the council, the chiefs, and all, accordingly retained their seats after the expiration of their term of office prescribed in the constitution, and have retained them ever since.

Such is the simple history of this matter. For aught I know, this may be only a *modification* of the mode of fulfilling the Cherokee laws, although it has seemed to me to be an entire change of the principles of the Government. And by some new kind of construction it may be considered by *you* as the act of *the people*, although I can safely venture in the assertion, that three out of five do not even know, *to this day*, that such transactions ever transpired. And for aught I know you may hold your office by the *election of the people*, and may be their "elected chief," although there has been *no election* since the constitution, under which you cannot pretend to hold your present office.

I find in your letter a passage or two which confirm a point discussed in the preceding letter. I have stated there that, according to the ambiguous terms in which your powers were drawn, from the fact that the Cherokees were made to declare, in a protest, that they would never consent to a treaty made upon the basis of the five million dollars, it was altogether uncertain whether a treaty would be made by you at Washington, even if the President received you, and was willing to negotiate with you. The passages to which I allude are these: "Three times have the Cherokee people formally and openly rejected conditions substantially the same as these. We were commissioned by the people, under express injunctions, not to bind the nation to such conditions." And again: "who (the nation) unanimously protested, in open assembly, against any treaty on the basis of the five millions, under any circumstances; and therefore, had I been ever so much disposed to regard the *opinion* as an *award*, the *veto of the nation* settled the matter finally." The *injunctions* and the *veto of the nation* are that which I have characterized "the insidious protest," which the people were made to declare, while they were supposed to be giving full and discretionary powers. With your construction of that protest, the question of a treaty depended entirely upon the contingency whether the President would negotiate with you upon bases different from those he proposed to negotiate. You declared, and you say the people declared, that you would not negotiate a treaty *upon those bases*; on the other hand, the President declared he would *not negotiate upon any other bases*. Who was to succeed in this strife? If I had the *weakness* to believe that General Jackson would succeed, and if I acted upon that belief, I hope you will not charge me as wanting to the best interests of my country.

It is a little singular that while you declare the New Echota treaty to be "deceptive to the world, and a fraud upon the Cherokee people," although it was made in the face of day, and in the eye of the nation, to prove your assertion, you resort to matters which are deceptive and fraudulent. It is deceptive to say that the great body of the Cherokees are opposed *understandingly* to the New Echota treaty, and that they have *understandingly* authorized you to make another, with which they would be better pleased. The fact is, these Cherokees, perhaps, have never spent one moment's thought beyond that of *loving* and *securing* the land upon which they live; their whole instruction has tended to that point. According to that

instruction, and the impressions produced in their minds by your want of candor and plain dealing, a portion of the Cherokees may be opposed to the New Echota treaty, but not more than they would be to any other, *as long as they understood you as trying to reinstate them in their country.* This is the whole secret of this much talked of opposition. Is it right to humor this delusion? Be candid with them; tell them that their country cannot be saved, and that you want their authority to sell, yes, *to sell it,* an authority which you have alleged to the Government you have received, and you will see to where this opposition against a removal will go.

Again, it is a "fraud upon the world" to say that "upwards of fifteen thousand Cherokees have protested against the treaty, solemnly declaring they will never acquiesce," and to produce before the world a paper containing that number of signatures. Let us see how this matter is. I will quote another sentence. "The Cherokee people, in two protests, the one signed by twelve thousand seven hundred and fourteen persons, and the other by three thousand two hundred and fifty persons, spoke for themselves against the treaty." In order to illustrate these, I take another from your memorial. "The Cherokee population has recently been reported by the War Department to be 18,000." Of these 18,000, there are upwards of 1,000 blacks, who, you will not allege, have been among the signers. Of the remaining sixteen or seventeen thousand, (for I have not the census before me,) upwards of 1,000, at the lowest estimate, had been registered for removal, none of whom, it is likely, would have signed any protest. Here are then about 15,000, probably less, to do what? To "protest," "SOLEMNLY DECLARE," to "sign," to SPEAK for THEMSELVES against the treaty! I must confess my impotency to unravel such a mystery as this. A population of 15,000 furnish 15,000 who are able and competent to declare and to speak for themselves! I suppose, however, we are required to believe it implicitly. This must indeed be a wise and precocious nation. Well may you say, "that owing to the intelligence of the Cherokee people, they have a correct knowledge of their own rights."

In your memorial to the House of Representatives, in order to make the acts of the "unauthorized minority" the more obnoxious, you attempt a most flagrant deception upon the public. In order that I may not seem to misrepresent you, I will quote your language. "The Cherokees were happy and prosperous under a scrupulous observance of treaty stipulations by the Government of the United States, and, from the fostering hand extended over them, they made rapid advances in civilization, morals, and in the arts and sciences. Little did they anticipate, that when taught to feel and think as the American citizen, and to have with him a common interest, they were to be *despoiled by their guardian,* to become strangers and wanderers in the land of their fathers, forced to return to the savage life, and to seek a new home in the wilds of the far west, and that without their consent. An instrument purporting to be a treaty with the Cherokee people, has recently been made public by the President of the United States, that will have such an operation, if carried into effect."

Now you evidently intend to convey the impression, and such would be the view a person unacquainted with the true facts of the case would take from your language, that the evils you have enumerated *are the results of the "instrument purporting to be a treaty:"* that the Cherokees are "despoiled by their guardian" by means of that instrument; that previous to the making and publishing of the instrument the Cherokees were in that

happy and prosperous condition you have mentioned. Is all this so? Have we indeed been the instruments of despoiling our nation? Have we destroyed their happiness, checked their civilization, and corrupted their morals? The question again recurs, is all this true? At a distance, and with persons who have heard all that they know about Cherokee affairs through vague mediums, and by means of such statements as you have been accustomed of late to send to the world, what you seem to have alleged in the above extract may be taken for truth. But those who have watched attentively the progress of the Cherokee controversy from its commencement to the present time; those who know what was actually the condition of the Cherokees before the making and publishing the "instrument" in question; that they had already "become strangers and wanderers in the land of their fathers;" those who have seen their happiness destroyed, their civilization checked, and their morals corrupted, by circumstances long before existing; those who know the entire prostration of the Cherokee Government, and that you are clinging only to an empty title; all these must know that you have attempted to produce an impression not in accordance with facts; that instead of the despoliation being in consequence of the "instrument," the "instrument" has been the result of the despoliation. We cannot consent to this unfair mode of presenting us to the public. We have suffered too much, in common with our citizens in this general despoliation, to submit silently to such aspersions cast upon us in an indirect way.

Without the hazard of being presumed vain, I can with propriety ask you, who have done more to stem the progress of despoliation which has overtaken this people than those whom you have now represented as the despoilers of their country? Who have been willing to do more, to suffer more, while doing and suffering was likely to be of any avail? To be sure, with their views of what they owed to their countrymen, and what they believed, in the sight of God, to be their duty, they did not resist the only measure by which an entire despoliation could be prevented, to the extent that you have done.

Aside from your objections to the New Echota treaty, upon the ground that it was made by a minority, and by persons unauthorized to make it, (which, by the bye, if true, is no new thing in Cherokee negotiations, as some of the signers of your memorials can testify,) you express your opposition to the details of it. I am not disposed to enter into a defence of the treaty. I am not foolish enough to tell you that it is unexceptionable. I have not been disposed to make *my will*, or *my opinion*, as the *sine qua non* in this matter. It is true, I have agreed to that instrument, and signed it; but it does not follow that the details are such as I would wish, or that I can find no objection to the composition, which makes the treaty liable to bear different constructions. But I waive my objections; I take the treaty as the best that can be done for the Cherokees, under present circumstances; a treaty that will place them in a *better* condition than they *now* are. On this principle my actions have been founded in reference to the treaty, and I have no doubt of the correctness of that principle.

But let us see how you present your objections to some of the details of the treaty; and first, your objection to the title which is proposed to be given to the Cherokees for the western country.

The third article of the treaty provides: "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." The provision of that act of Congress is as follows: "That in the making of 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, their heirs or successors, the country so exchanged 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."

The fifth article of the treaty provides: "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," &c.

These are the promises from which you have formed a most curious inference, by a course of reasoning which cannot even be entitled sophistical. I present these matters only to show how unfair you are even when you *pretend* to reason. But to illustrate your logic: "The pretended treaty *expressly avows,*" you say, "that it is under the law containing the clause above quoted, and other similar laws, that the transfer is made; and the Indian title is to be subject, not only to those laws already existing, but to such laws as may be made hereafter." When the treaty refers *only* to the act of May 28, how do you make out that it "*expressly avows*" that the transfer is made under that law and "*other similar laws,*" and the Indian title is to be subject to "*those laws*" and those "*which may be made hereafter!*" The treaty provides that the lands ceded to the Cherokees *shall in no future time, without their consent,* be included within the territorial limits or jurisdiction of any State or Territory." Now let us see how gravely and wisely you reason upon that. "Suppose it should suit the policy of the United States, hereafter, to pass a law organizing a territorial government upon the Cherokee lands west? Those laws necessarily destroy the character of the Cherokee nation as a distinct community; the nation becomes *legally extinct*; and the lands *revert to the United States.*" The act of May says, if the *Indians become extinct,* then the lands shall revert, &c. You infer hence that the law organizing a territorial government upon the Cherokee lands, which can be done only with their consent, according to the treaty, will make the *nation extinct*, and the lands will hence revert to the United States. This is *splendid reasoning*, no doubt. It is the first time I have heard *Indian extinction* to mean *legal extinction.*

But to state the matter in a short way. According to the provisions of the treaty, a patent is to be given by the President of the United States for all the Cherokee lands west, agreeably to the provisions of the act of May 28, 1830. That act secures those lands to the Cherokees by a guarantee as strong as the United States can make it, with a single proviso, that if the *Indians become extinct* or remove, then those lands shall revert to the United States. According to the treaty, in no future time is a territorial government to be formed over those lands, *without the consent of the Cherokees.* From these plain provisions you build an argument to show that the Indian title is subject, not only to the act of May, 1830, and to *similar acts*, but to *other acts which may hereafter be made*; that if the Govern-

ment *should see fit* to organize a territory over the Cherokee country, the nation will become *legally extinct*, and the lands will revert to the United States; and hence the title pretended to be given in the treaty is good for nothing! This no doubt is conclusive reasoning *from the premises!*

Again: To show your unfairness in argument, and how you present your objections to the treaty by perverting its language, I will quote what you say in regard to the introduction of "useful farmers, mechanics," &c. "But this very article" (the article providing that intruders into the Cherokee country should be removed by order of the President of the United States) "is clogged with a worse than neutralizing condition; a condition that it is not to prevent the introduction of useful farmers, mechanics, and teachers: under which denomination some future Executive of the United States may find it convenient, hereafter, to overwhelm the original population," &c. I consider this a most palpable perversion, which the writer of your letter (may be from misinformation) has attempted to impose upon the public. He has left out a most important clause in the provision, which gives entirely a different construction from what has been attempted to be impressed upon the reader, *according to treaty stipulations*. That is, the article referred to "is not intended to prevent the residence of useful farmers, mechanics, and teachers, for the instruction of Indians, *according to treaty stipulations?*" which must be understood as meaning the *consent of the Cherokees given in treaty stipulations*.

A similar perversion is made upon what the treaty stipulates respecting military posts and roads, which, you say, may be made at any time and at any place. You leave out what the treaty avows to be the object, and for which object alone those military posts and military roads may be made, *for the interest and protection of the Cherokee country*. And how is this objection consistent with your past *entreaties* to the Government for military aid and protection? Have you not made one application after another for the establishment of the military in this country, for the interest of this nation? And have you not been willing that such a military should have the use of as much land, timber, &c. as may be necessary for the purpose and for the object, *the interest and protection of the Cherokee country?* I cannot conceive why *you* should become so sensitive in regard to this matter. Is it because the treaty obligates the United States to do the very thing you have been asking and entreating may be done? Understand me, I am not speaking of the advantages or disadvantages of a military; nor do I say that no *evils* will result from it. Such evils which *may* result, if it should so "suit the policy of the United States," are incidental to our very condition and the nature of our connexion with the Government of the United States; to our weakness and dependence, and the power of the United States. The military has been necessary to our safety and interest heretofore, and it *may be* necessary hereafter. That it *may* be put to pernicious and oppressive purposes is another question, and a contingency; as I say, *incidental to our very condition*. But what remedy do you propose? You cannot prevent those possible evils of which you speak, "if it should suit the policy of the United States," by running in the very face of the Government, and by striving to retain, entirely, an independent existence, which is impracticable, and, perhaps, not desirable. If you want to avoid those evils resulting from the military, and the application of a supervisory power by the United States, which they *have always* exercised, and *will always* exercise over the Cherokee country, whether the treaty

gives the power or not, (for it is claimed by the constitution,) you will have to work differently. You must either go out of the limits of the United States, which has been alleged by some is your object, or you must pursue a contrary course; instead of *receding, approach* this great people by a modified connexion; a connexion that will somewhat identify your interest with theirs, and theirs with yours.

And let me stop here, while I am upon this subject, and inquire of a very curious avowal in your letter, after having said so much about the danger, from the treaty, of destroying "the character of the Cherokee nation as a distinct community." I quote your language: "Now, the fact is, we never have objected to become citizens of the United States, and to conform to her laws." How does that accord with your sensibility, lest "the character of the Cherokee nation, as a distinct community," should be destroyed? But is it true, as a matter of fact, that the Cherokees "never have objected to become citizens of the United States, and to conform to her laws?" You mean, no doubt, that the Cherokees have *expressed* a willingness to become citizens, because, you say, they "have *required* the protection and the privileges of her laws to accompany that conformity on their part." The question recurs, have they expressed such a willingness? Those who know that this matter has never been formally agitated by this people, and so far as it has been agitated, the universal voice has been the reverse of what you have stated, will see your following declarations fully illustrated: "I must here beg leave to observe that I have never yet been placed in a position which could render my individual decision conclusive upon any matters of this nature." And again: "It is I who serve under them, not they under me." This declaration, that you do the will of the people, has been so repeatedly made that it has become doubtful whether it is so or not; particularly when you undertake to give your *individual decision or opinion* as the decision or opinion of the Cherokee people, on a matter of vital importance.

In your letter and memorial you speak very decidedly for the nation, where you had no right or authority to do so, and where your declarations have not been supported by subsequent facts. Even where you undertake to give the views and decision of the "regular" delegation, it is far from being true that those views and that decision have accorded with their acts. One example will suffice: "Neither myself nor any other member of the regular delegation to Washington can, without violating our most sacred engagements, ever recognise that paper as a treaty, by assenting to its terms, or the mode of its execution." You are understood to have made a similar declaration repeatedly since your return from Washington. It is enough to mislead those who have no mind of their own, (and there are not a few here, notwithstanding "the intelligence of the Cherokee people," and "their correct knowledge of their own rights," common place expressions, which all *true patriots* must needs make,)—I say it is enough to mislead such; they think that you really have never, and will never, assent to the terms of the treaty, in any manner whatever. Many have acted to their great injury, as they think, upon such high example. But what is the fact? Without presuming to be very confident as to what you have done, although it is not doubted that you have assented to the terms of the treaty, by consenting to the valuation of your place, and by sending your agent to show your property in order to be valued, I can refer you to the acts of the majority of the "regular" delegation. Be

your acts as they may, what I now wish you to understand me as saying is this: *Even where you undertake to give the views and decision of the "regular" delegation, it is far from being true that those views and that decision have accorded with their acts.* How is it but an assent to the terms of the treaty, and to the mode of its execution, to claim the advantages which that treaty secures to individuals? And how many of your "regular" delegation have done that? How many have, I will not say *consented*, but *entreated*, to have their valuations made according to the mode prescribed in the treaty? How many claim all the rights which the treaty gives them? How many have even acceded to the grand principle of the treaty—a *removal*—and are now foremost in going to our new country? I need not mention who and how many, nor do I make these queries in order to place them in a disadvantageous position in reference to what you have undertaken to *assert* for them. I commend them for what they are doing; it is the right course; it is the right policy, and the only one to convince the mass of our people, who have not intelligence enough, or "correct knowledge" of the extent of their difficulties to guide them in these matters. The point is this: What you have asserted as your decision, and the decision of your immediate associates of the "regular" delegation, has been contradicted by your acts, as they are understood here, and the acts of the majority of that delegation. Is it not presumable, then, and I may say is it not certain, that you have been as premature in speaking for the people? and will not the result of your confident assertions prove as unfortunate as in the case already stated?

I will trouble you with one more topic, and then I will close this letter.

It is with sincere regret that I notice you say little or nothing about the moral condition of this people, as affected by present circumstances. I have searched in vain, in all your late communications, for some indication of your sensibility upon this point. You seem to be absorbed altogether in the pecuniary aspect of this nation's affairs; hence your extravagant demands for the lands we are compelled to relinquish; your ideas of the value of the gold mines, which, if they had been peaceably possessed by the Cherokees, would have ruined them as soon as the operation of the State laws have done; of the value of our marble quarries, our mountains and forests. Indeed, you seem to have forgotten that your people are a community of moral beings, capable of an elevation to an equal standing with the most civilized and virtuous, or a deterioration to the level of the most degraded, of our race. Upon what principle, then, could you have made the assertion that you are reported to have made, "that the Cherokees had not suffered one-half what their country was worth," but upon the principle of valuing your nation in dollars and cents? If you meant simply the physical sufferings of this people, your assertion may be listened to with some patience; but can it be possible that you, who have claimed to be their leader and guardian, have forgotten that there is another kind of suffering which they have endured, and will endure as long as they are kept in these perplexities, of a far more important nature? Can it be possible that you consider the mere pains and privations of the body, and the loss of a paltry sum of money, of a paramount importance to the depression of the mind and the degradation and pollution of the soul? That the difficulties under which they are laboring, originating from the operation of the State laws, and their absorption by a white population, will affect them in that light, I need not here

stop to argue with you: that they have *already* affected them, is a fact too palpable, too notorious, for us to deny it: that they will *increase* to affect them, in proportion to the delay of applying the remedy, we need only judge from past experience. How, then, can you reconcile your conscience and your sense of what is demanded by the best interest of your people, first with your incessant opposition to a treaty, and then your opposition to the treaty, because circumstances, which had accumulated upon the nation by your delays, had compelled, if you please, a minority to make it; and forsooth it does not secure just such a title to the western lands as you may wish; and because a sufficient sum of *money* is not obtained for the "invaluable" gold mines, marble quarries, mountains, and forests of our country! How can you persist in deluding your people with phantoms, and in your opposition to that which alone is practicable, when you see them dying a moral death?

To be sure, from your account of the condition and circumstances of the Cherokees, the public may form an idea different from what my remarks may seem to convey. When applied to a portion of our people, confined mostly to whites intermarried among us, and the descendants of whites, your account is probably correct, divesting it of all the exaggeration with which you have encircled it; but look at the mass, look at the entire population as it now is, and say, can you see any indication of a progressing improvement, anything that can encourage a philanthropist? You know that it is almost a dreary waste. I care not if I am accounted a slanderer of my country's reputation; every observing man in this nation knows that I speak the words of truth and soberness. In the light that I consider my countrymen, not as mere animals, and to judge of their happiness by their condition as such, which, to be sure, is bad enough, but as moral beings, to be affected for better or for worse by moral circumstances, I say their condition is wretched. Look, my dear sir, around you, and see the progress that vice and immorality have already made! see the spread of intemperance, and the wretchedness and misery it has already occasioned! I need not reason with a man of your sense and discernment, and of your observation, to show the debasing character of that vice to our people; you will find an argument in every tipping shop in the country; you will find its cruel effects in the bloody tragedies that are frequently occurring, in the frequent convictions and executions for murders, and in the tears and groans of the widows and fatherless, rendered homeless, naked, and hungry, by this vile curse of our race. And has it stopped its cruel ravages with the lower or poorer classes of our people? Are the higher orders, if I may so speak, left untainted? While there are honorable exceptions in all classes—a security for a future renovation under other circumstances—it is not to be denied that, as a people, we are making a rapid tendency to a general immorality and debasement. What more evidence do we need, to prove this general tendency, than the slow but sure insinuation of the lower vices into our female population? Oh! it is heart-rending to think of these things, much more to speak of them; but the world *will* know them, the world *does* know them, and we need not try to hide our shame.

Now, sir, can you say that in all this the Cherokees had not *suffered* one half what their country was worth? Can you presume to be spending your whole time in opposing a treaty, then in trying, as you say, to make a *better* treaty, that is to get more money, a full compensation for your gold mines, your marble quarries, your forests, your water courses—I say, can

you be doing all this while the canker is eating the very vitals of this nation? Perish your gold mines and your money, if, in the pursuit of them, the moral credit of this people, their happiness and their existence, are to be sacrificed!

If the dark picture which I have here drawn is a true one, and no candid person will say it is an exaggerated one, can we see a brighter prospect ahead? In another country, and under other circumstances, there is a *better* prospect. Removal, then, is the only remedy, the only *practicable* remedy. By it there *may be* finally a renovation: our people *may* rise from their very ashes, to become prosperous and happy, and a credit to our race. Such has been and is now my opinion, and under such a settled opinion I have acted in all this affair. My language has been, "fly for your lives;" it is now the same. I would say to my countrymen, you among the rest, fly from the moral pestilence that will finally destroy our nation.

What is the prospect in reference to *your* plan of relief, if you are understood at all to have any plan? It is dark and gloomy beyond description. Subject the Cherokees to the laws of the States in their present condition? It matters not how favorable those laws may be, instead of remedying the evil you would only rivet the chains and fasten the manacles of their servitude and degradation. The final destiny of our race, under such circumstances, is too revolting to think of. Its course *must* be downward, until it finally becomes extinct or is merged in another race, more ignoble and more detested. Take my word for it, it is the sure consummation, if you succeed in preventing the removal of your people. The time will come when there will be only here and there those who can be called upon to sign a protest, or to vote against a treaty for their removal; when the few remnants of our once happy and improving nation will be viewed by posterity with curious and gazing interest, as relics of a brave and noble race. Are our people destined to such a catastrophe? Are we to run the race of all our brethren who have gone before us, and of whom hardly any thing is known but their name, and, perhaps, only here and there a solitary being, walking, "as a ghost over the ashes of his fathers," to remind a stranger that such a race *once* existed? May God preserve us from such a destiny.

I have the honor to be, sir,
Your obedient and humble servant,

E. BOUDINOT.

