

## Primary Source 1

Orders . No. 25

Head Quarters, Eastern Division

Cherokee Agency, Ten. May 17, 1838

### Excerpts

Major General Scott, of the United States' Army, announces to the troops assembled and assembling in this country, that, with them, he has been charged by the President to cause the Cherokee Indians yet remaining in North Carolina, Georgia, Tennessee, and Alabama, to remove to the West, according to the terms of the Treaty of 1835.

The Cherokees, by the advances which they have made in christianity and civilization, are by far the most interesting tribe of Indians in the territorial limits of the United States. Of the 15,000 of those people who are now to be removed — (and time within which a voluntary emigration was stipulated, will expire on the 23rd instant—) it is understood that about four fifths are opposed, or have become averse to a distant emigration; and altho' none are in actual hostilities with the United States, or threaten a resistance by arms, yet the troops will probably be obliged to cover the whole country they inhabit, in order to make prisoners and to march or to transport the prisoners, by families, either to this place, to Ross' Landing or Gunter's Landing, where they are to be finally delivered over to the Superintendent of Cherokee Emigration.

By early and persevering acts of kindness and humanity, it is impossible to doubt that the Indians may soon be induced to confide in the Army, and instead of fleeing to the mountains and forests, flock to us for food and clothing. If, however, through false apprehensions, individuals, or a party, here and there, should seek to hide themselves, they must be pursued and invited to surrender, but not fired upon unless they should make a stand to resist. Even in such cases, mild remedies may sometimes better succeed than violence; and it cannot be doubted that if we get possession of the women and children first, or first capture the men, that, in either case, the outstanding members of the same families will readily come in on the assurance of forgiveness and kind treatment.

*"Provided, That, if the President shall ascertain that all discontent and further opposition on the part of any portion of the Cherokee Indians to the treaty of eighteen hundred and thirty-five can be allayed or avoided, by allowing an additional compensation for the lands ceded to the United States by the said treaty, and that the Government may thereby be saved the expense of keeping on foot the large military force in the Cherokee country now contemplated, he is hereby authorized to apply two millions of the sum appropriated by this act to that object."*

Mr. THOMPSON did not desire to say many words on this question. He had recently seen a letter from a United States officer in the Cherokee country, in which it was stated that, while the Cherokees did not mean to resist force, they did mean to remain upon their lands, passive and without willingly moving a muscle towards going. Unless propitiated, the officer believed their removal would cost millions of dollars to the country. Thus, said Mr. T. if not propitiated, millions must be

expended for their removal; if conciliated, then the sum, comparatively small, now proposed by this amendment, will be expended humanely and nobly. He would leave the choice between these courses to all who had the hearts of men, and he could not believe they could hesitate which to choose.

From the first, all his sympathies had been with the Cherokees. He had never viewed this New Echota transaction as a treaty. Had he been in the Senate of the United States when it came before them for ratification, he would not have voted for it as a treaty; although as a law, upon the ground that Congress has a right to extinguish the Indian title to lands within those States, he might have gone for it. And he would moreover say, that, never from the day that Columbus discovered America till this time, had there ever been so advantageous a treaty made with any of the aborigines as this very treaty. Put up at auction, the fee-simple of all the Cherokee lands could not yield so much, by a great deal, as this arrangement contemplates, over and above the consideration that a fine territory also awaits them west of the Mississippi. But all these considerations did not make this arrangement a good treaty.

Mr. T. passed a high eulogy on the character of John Ross, the Cherokee chief, and upon the people of that tribe generally, to whose rapid advance in learning and civilization he paid a handsome tribute. Differing as he did, and as he ever should, in most points, so long as that officer kept his present political associates, he still honored the Secretary of War for having written his recent communication to the Cherokee delegation.

Mr. T. concluded, by avowing his readiness to vote the additional sum proposed in the amendment under consideration, not only to quiet the Cherokees, but his own conscience; and by declaring that he looked with no little apprehension upon the effects of the policy which was going on, of concentrating, on the Northwestern frontier of the country, every element of fury and revenge. He would rather that these people should go there with kindness in their hearts toward the whites, as friends, not as deadly foes.

The Americans in their moral, social, and political relations. By Francis J. Grund.

Let no sensitive European, therefore, complain of the barbarous cruelty of the Americans in chasing the Indians from the soil of their fathers, or in forcing them to flee from the approach of civilization to the inhospitable woods, of the western territory. The American aborigines, with but very few exceptions, never possessed the soil on which they trod any more than the air which they breathed. They never cultivated it to any extent, nor had they, individually, any distinct title to it arising from actual labour. They held it in common with the beasts of the forest, and it was useful to them only as it afforded them the means of prey. The English had as good a right to call the ocean their own because they moved on it, as the American Indians to claim possession of their continent because they roamed in its woods. There was barbarity in the conquest of Lima and Mexico, the inhabitants of which were already in possession of many of the arts of peace; but there can be none in the quiet progress of civilization in the United States, except what is provoked by the Indians themselves, and for which they alone must remain accountable. The American settler takes possession of a soil which has never been cultivated, and which, therefore, has had no owner. He builds his log-house in a country in which there is room enough for the support of millions, and in which there are hardly a few hundred stragglers to follow the track of the deer. Is this robbery? Is it cruel to civilize and improve a country, and to open a new road to wealth and comfort to thousands of intelligent beings from all parts of the world, who would otherwise starve or be reduced to poverty, because in so doing they cannot avoid intruding on the favourite hunting grounds of some wandering tribes, and disturb their game? This, however, they do; and with the deer the American aborigines disappear from the soil.

It is in vain to talk of civilizing them. If it could be done, which is more than doubtful, considering the many unsuccessful attempts which have already been made,) they would hardly be able to compete with their teachers in any one human occupation calculated to secure a livelihood in a civilized country, and would, therefore, from necessity, become outlaws to society, and incur the punishment of the law.\* We cannot but regret the fate of that doomed people; but we can hardly think of rescuing them from it, without being guilty of the most flagrant injustice to the rest of mankind

Neither is it reasonable to suppose that the quitting of their favourite hunting grounds can give the American Indians the same pangs which an everlasting farewell to the paternal soil, the scene of all early attachments, and the habitation of all that we love, fraught with the memory and tradition of centuries, can cause to a civilized nation. The Indians quit what never was precisely their own; they leave no object of memory or tradition behind; and although the loss may be felt by the tribe, no individual is actually despoiled of his own.

**Memorial of the Cherokee Nation.**  
*To the honorable the Senate and House of Representatives of the United States, in Congress assembled, most humbly and most respectfully sheweth:*  
 That whereas, we, the undersigned, citizens of the Cherokee nation, have always regarded the instrument purporting to be a treaty, made in December, 1835, at New-Echota, by the Rev. John F. Schermerhorn, and certain unauthorized individual Cherokees, to be a violation of the fundamental principles of justice, and an outrage on the primary rules of national intercourse, as well as the known laws and usages of the Cherokee nation, and therefore to be destitute of any binding force on us.

Indeed, it is virtually admitted by the parties themselves; and the very fact, that an armed force should be put in requisition to defend their persons and to compel our submission, argues, not obscurely, a defect of confidence in the validity of the compact. Is it obstinacy to refuse our assent to an act which is a flagrant violation of the first principles of free government, and which sets foot on the neck of our liberties and our dearest rights? Are we to be thus frowned into silence for attempting to utter our complaints in the ear of our lawful and covenanted protector? Is it a crime to confide in our chiefs—the men of our choice—whom we have tried and found faithful? We would humbly ask, in whom should we confide? Surely not in those who have, in the face of our solemn injunctions, and in opposition to the reiterated expression of our sentiments, conspired the ruin of our country—usurped the power of the nation—framed the spurious compact—and by artifice and fraud, palmed it on the authorities of the United States, and procured for it the recognition of those high functionaries?

It is true, we are a feeble people; and as regards physical power, we are in the hands of the U. States; but we have not forfeited our rights; and if we fail to transmit to our sons, the freedom we have derived from our fathers, it must not be by an act of suicide, it must not be by our own consent.

With trembling solicitude and anxiety, we most humbly and most respectfully ask, will you hear us? Will you extend to us your powerful protection? Will you shield us from the "honors" of the threatened storm? Will you sustain hopes we have rested on the public faith, the honor, the justice of your mighty empire? We commit our cause to your favor and protection:

And your memorialists as in duty bound, will ever pray.

Cherokee Nation, Feb. 22, 1838.

Signed by FIFTEEN THOUSAND SIX HUNDRED AND SIXTY-FIVE of the Cherokee Nation.