Memorial of the Delegates and Representatives of the Cherokee Nation, West.

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INDIANS—CHEROKEE NATION, WEST.  

MEMORIAL  
OF  
THE DELEGATES AND REPRESENTATIVES OF THE  
CHEROKEE NATION, WEST.  

APRIL 1, 1840.  
Referred to the Committee on Indian Affairs.  

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:  

The memorial of the undersigned, delegates and representatives of the Cherokee Nation, West,  

RESPECTFULLY SHOWETH:  

That they have been sent to the seat of Government of the United States, by a people suffering under the most unprovoked and cruel oppression, to state their wrongs to those to whom they have always looked (and never yet in vain) for sympathy and redress.  

They are the people who, availing themselves of the benevolent provisions of the treaties made in 1817 and 1819, between the United States and the Cherokee Nation, left their former homes and settled beyond the Mississippi; with whom, also, afterward, as “the Cherokee Nation west of the Mississippi,” the treaty of 1828 was made.  

By that treaty the United States provided liberally for their happiness and independence in the Territory assigned for their permanent habitation; and there they have remained until the present time, improving and cultivating their lands, advancing in civilization, and enjoying, under a mild and parental Government, suited to their condition, concord and happiness among themselves, and peace with all around them. There now are the habitations reared by their patient labor in the wildernesses of that land, where, with families growing up around them, they have passed many years of content and thankfulness. But they are no longer the abodes of security and peace. Oppressions and outrages worse than those of war have assailed them; the blood of the unoffending and unsuspecting has been poured upon the floors of their dwellings, and in the sight of their distracted families, and the doom of death denounced in secret sentence against the absent, the ignorant, and the innocent, without proof or even accusation: and all this has been justified! nay, is justified, even here, in the face of the American people!
The extent to which it was intended these enormities should reach, none but their dark contrivers and perpetrators can tell. But for the interposition and defence of the officers of the United States, the hand of the assassin might have left none to tell the story of their wrongs: and principles are now avowed, and a power now organized, by which secret denunciation and murder are put upon the foundation of "a law held in peculiar reverence by the entire Cherokee Nation, and especially the elders of it." So that there is no refuge from the outrages of those who have thus proved their peculiar reverence for this law, and the elders who have assumed the power to exercise it, but that which your memorialists are now constrained to seek—the interposition of the American people—which they invoke as due to the weak and oppressed, from the common feelings of humanity; and also, as assured to them (as they hope to show) by the faith of treaties.

Your memorialists little expected that those under whom their people had suffered, and by whom they were still threatened—who had attempted, by a daring usurpation, to bring a free and independent community under the subjection of a sanguinary tyranny, could have the confidence to bring a work of such iniquity to the view of the assembled representatives of such a nation as that of the United States. Yet, it appears to be expected by those, whose evil passions and ambitious purposes have blinded them, that Congress may be imposed upon by plausible misrepresentations and false professions; that the time and labor necessary, by an examination of proofs and documents, thoroughly to understand the course they have pursued, and their claims and pretensions, will not be bestowed upon so small a matter as a controversy among Indians. And it has therefore been determined, by John Ross and his associates and followers, to present a memorial to Congress, to assume to be the delegates and representatives of "the Cherokee Nation," to make the falsest statements of what they have done, and the falsest profession of their views and purposes, with the hope that it will be found easier to credit their statements than to investigate them; and to recognize their right to the power they have usurped, than to subject it to the tests of examination; and that thus they may obtain impunity for past, and sanctions for future crimes.

That such is the true character of this memorial; that a more unfounded pretence than that which it assumes, of speaking in the name of "the Cherokee Nation," was never presented by the vilest usurpers; that they emigrated into the country secured by solemn treaty to the West Cherokees, not to join them and partake of their rights and privileges (which was all they had a right to do, and to which they were made welcome), but to overturn their Government, and enslave and destroy them; and that they prosecuted this nefarious purpose, from their arrival in the country to the present time, by violence and artifice, your memorialists avow, and will demonstrate, by referring to proofs and documents that cannot be questioned.

When, in the treaty of 1828, between the West Cherokees and the United States, in which they are treated with as a separate and distinct nation, and their rights as an independent people, in consequence of their separation from the East Cherokees and their establishment in a distinct territory fully recognised, it was humanely provided, in behalf of their eastern brethren, that the country then ceded to them should be a permanent home, not only for themselves, but also for such of those then east of the Mississippi "who may wish to join their brothers of the west," their kind feelings towards
the kindred and friends they had left behind them were gratified by the provision; and hoping that a time might come when the nation might be again united, and "that their brothers yet remaining in the States" (to use the language of the treaty) "might be induced to join them and enjoy the repose and blessings" of their situation, they gladly concurred with the Government of the United States in the stipulations in the 8th article of that treaty for the comfortable removal and support of such of the East Cherokees as should choose to partake in the benefits of that treaty and join their western brethren in their common country.

It is well known that, after that treaty, such of the Eastern Cherokees as chose to remove, from time to time, passed the Mississippi and joined their brethren in their new country. They were always affectionately received and admitted into full and immediate participation of the common benefits of the country and of its laws and government. They found the West Cherokees with a settled government of laws, and officers duly appointed to administer them. They did not object to the obligation of these laws, as having had no voice in making them; nor to the officers they found in authority, as having been appointed without their votes. They did not insist either in having laws and officers of their own, nor in superseding and setting aside the existing laws and officers and enacting and appointing new ones. Any such pretensions would have been absurd. They did what, by the treaty, they had a right to do, joined their brethren, became, at once, one people with them, subject to their laws and their officers, and thenceforward voted, legislated, and in every way participated with them in all matters of government upon perfectly equal terms.

It may be said that this course was pursued because they came in small parties and constituted a very small minority of the whole population. But their numbers could not affect their rights, nor impair those of the people to whom they thus came. They came under the treaty provisions to join their brethren. If they came in such numbers as to constitute a majority, there would be less reason for their insisting on having a government of their own, or on putting down the existing government and establishing a new one; for, being a majority of the people they had thus joined, they could elect, when the period of election came on, whom they pleased, and thus taking the power, the government would not be subverted (which they would have had no right to do), but would be continued in their hands, and could be modified, they being a majority of one people thus joined together, as they might think fit. The correctness of this view of the relative rights of those who thus came to the West Cherokees, and of the West Cherokees, it is important to establish—for this vitally affects the foundation of the whole controversy; and if your memorialists are right, then John Ross and his party are wrong by their own showing; and there is not a word, even in his own memorial, by which his course can be defended.

The view of your memorialists they conceive to be the plain dictate of common sense and justice, and settled by the common practice and understanding of all civilized communities. It requires no argument. The treaty of 1828 gives the ceded territory to the West Cherokees, and to such of their eastern brethren as shall remove to it and join them. All who go, going under the treaty, claiming the right to go under the treaty, must join those who are there—that is, must become one people in laws and government with them.
We shall show, hereafter, that John Ross, knowing that if he and his party thus went under that treaty, claiming under the treaty, they would have to join the people there in their government as then existing, determined to claim by a right above the treaty, and therefore contrived the resolutions passed in July and August, 1838, at Aquohee, and which he invoked at the commencement of his usurpation.

Your memorialists will suggest an illustration: The several States of this Union receive each other's citizens in the same way as, by this treaty of 1828, the West Cherokees were to receive their brothers from the east. When citizens thus remove into another State they join their brethren, submit to the laws and officers, and then are admitted to an equal participation of political rights—and thus it would necessarily be, whether they were few or many. If a majority, they could not seriously assert a right to come in on any other terms; they must join and become a part of one and the same people. They could not claim a right to bring a government and laws and officers of their own with them, and set up imperium in imperio; nor could they require those to whom they come to put an end to their government and supersede their officers, and go into a convention to make a new order of things.

Now let the memorial of John Ross and others be considered in reference to this subject. If your memorialists are right in their views, then the memorial of Ross (in 3d page) shows he was grossly in the wrong, and that he began the controversy by making this absurd and unjust pretension. He considers the emigrants, as there, as a nation by themselves, with a government of their own, and the West Cherokees as another, with another government; that neither of these governments could be abrogated without some action; and that a joint council must meet of these two distinct nations, not to see if they could consent to a union, but that there must be a union, otherwise both governments must subsist in the same country. This memorial states that the eastern council “dissented from the assertion that the two people were already one; they denied that the chiefs of the minority [that is of the western Cherokees] derived any right from prior residence, in a region set apart for emigrant Cherokees generally, to claim allegiance to themselves and to their laws from a body of new-comers so infinitely exceeding them in numbers.” They therefore asserted that they “came thither in their national character, with all the attributes which belonged to them, from time immemorial, as a distinct community.” They required (see page 50 of doc. 129) that a new code of laws should be formed. “That the respective laws and authorities of the eastern and western Cherokees shall continue to be exercised and enforced among themselves till repealed, and the new government which may be adopted shall be organized and take effect.”

Here, then, are the respective pretensions of these parties plainly set forth on the arrival of the emigrants. Let it be seen which was right. The West Cherokees considered that they were a distinct community with their own laws and government, recognised as such by the United States, and this could not be denied. That the territory they occupied was set apart for them, where they were to establish themselves in a government of their own, as they had done, subject only to receive and admit, to a participation of equal privileges, such of the eastern Cherokees as should come and join them. That those who thus came, whether they came in large or small numbers, came only on these terms; and that those then coming with Ross
came in the same way and on the same terms with those who had come before. They therefore answered the eastern council (see page 51, of Doc. 129) that "to admit two distinct laws or governments in the same country, and for the government of the same people, is something never known to be admitted in any country, or ever asked for by any people." That this was no prejudice, but a fair and just opinion, which any disinterested person would form, will be seen by a letter of General Arbuckle and Mr. Stokes, the agent (page 58, Doc. 129), who say, "We believe that two governments cannot exist in the Cherokee Nation without producing civil war, and are of opinion that the government that existed before the arrival of the late emigrants should continue until it is changed in a regular and peaceable manner."

Your memorialists trust they have thus shown, beyond all question, that the very first measure of Ross and the emigrants, on their arrival in the country, was to assume a power over those they found there, unwarrantable and unreasonable. Ought they not to have been satisfied with the terms on which they were received? If they joined the people then there, they would partake in all their rights and privileges; and when the annual period (then just approaching) arrived, in which their rights as members of the community were to be exercised, as they were the majority, they could so exercise those rights as to have in their own hands all the powers of Government. It is difficult to conceive how the most unbounded ambition could desire more than this.

But it did not suit the views of those who had urged these pretensions, thus to wait, and receive, in a regular lawful way, the power to which they aspired. They must have at once an abrogation of the existing Government, and the establishment of another, in which the will of John Ross was to be the law for themselves and for all others. Thus were they to obtain the means of satiating their vengeance upon their brethren, who had differed with them in questions of policy, and dared to oppose the designs of John Ross and his adherents. And now, having put our adversaries manifestly in the wrong; in the very outset of their course of usurpation, let the next step in their progress be examined.

It is plain, with these opposing pretensions on both sides, that, in no other way than by the fair and free consent of the nation, could the western Cherokees be taken from the position which their council had assumed. They must continue an independent nation, with laws and officers of their own, until their people, lawfully assembled, shall, by a majority, abrogate the existing Government and adopt another. This principle, it is presumed, is not now to be questioned. Has this been done?

The western council already spoken of at Takattakah, whose powers to decide for their nation are not questioned, had decreed, as already stated, and rejected the demands of Ross and his party to have the existing Government abrogated and form a new one, or admit the eastern Cherokees except upon the treaty principle of joining their western brethren. We have endeavored to show they acted fairly and reasonably in this decision; but, whether reasonably or not, their right to come to this or any other decision of the question cannot be doubted. They gave their answer. And now we are informed by the memorial of Ross and others (page 4): "The western chiefs presently afterward gave notice to the people that their council was broken up; upon which the people, astonished and dissatisfied, instantly resolved themselves into a national assembly, and decreed," &c.
Now, what people were these that could so conveniently throw themselves, in an instant, into a national convention, and pass decrees? Certainly, it is a strange omission in Mr. Ross's memorial, not to inform us who they were, how they came there, and how they performed this manœuvre. The only meeting that we are informed had been called was that of the councils; it is not pretended that any meeting of the people had been called. What people, then, were they? All that is said about any people being present at this joint council, is, that "many constituents of each, with breathless anxiety, there awaited the fulfilment of the universal desire." It seems, then, that, at this joint council, some people, let it be said "many" people of each nation, East and West Cherokees, were present. Supposing this to be all true, what does it amount to? It is not true that many people of West Cherokees were there; but if they were, they were (and, indeed, they are not otherwise represented) mere spectators; no meeting of the nation is pretended to have been called, only a meeting of the council of the nation. Could the spectators, who happened thus to be there, without any notice to the people at large, and without even pretending to be a majority of the nation, assume the name and powers of the nation, and decree anything? This is absurd. Could the people of the eastern Cherokees, if they were all there, join with them, and help to make up this national convention of the western Cherokees? or of the eastern and western Cherokees? This also is absurd.

Let, then, these artful and delusive statements of this memorial pass as plain and honest truth, and they give no fair ground on which this extravagant claim of power can be placed. A national convention could not thus be formed out of such materials, without notice to any body, instantly. They could pass no decree to affect the nation, in whose name they were thus fraudulently and falsely made to speak. But, in truth, although many western Cherokees, who resided in the immediate neighborhood, had attended from motives of curiosity and interest, to see what would be done, if it is meant to be asserted that all of them, or even a majority of them, disapproved of the decision of the council, and remained and formed this pretended national convention, and joined in this decree, the assertion is false. It is well known, and can be proved conclusively, that almost all of them, when the council broke up, went away; and that it was only a small and most insignificant portion—so small that neither names nor numbers are stated, certainly not a dozen—that could be deluded and prevailed upon to make themselves the tools of John Ross, in this miserable device of forming a national assembly and passing decrees.

Such, then, is the foundation on which this abrogation of a people's laws and usurpation of their rights are made to rest; a foundation, even as pretended, resting on no authority; and, in truth, a despicable artifice.

And what did this self-constituted national assembly decree? They passed several resolutions declaring that a system of Government ought to be matured and established, and calling a general council of the people of the eastern and western Cherokees to meet on the 1st of July. We have shown that the nation of West Cherokees, as a people, had never met, nor been called to meet. Their council had met and broke up. No authority, therefore, is shown for this national assembly, composed of eastern Cherokees and such western Cherokees, as they could get to join them, acting or speaking in the name of the nation of West Cherokees, or for calling a meeting of the people of that nation to meet in national council.
Your memorialists would raise no dispute as to the authority of this call, if it had been acquiesced in, and the fair sense of the western Cherokees had been expressed at a meeting thus called, by which it should appear that a majority of that nation had consented to abrogate their government, and unite with the eastern Cherokees in the adoption of another.

But, if the people of the western Cherokees were not regularly called and notified to attend this national council by those who had authority to do so (which can hardly be pretended), and some of their number, amounting to less than a majority of the whole, chose to attend, nothing they could do at such a meeting would bind the nation, because those who were absent could not be deprived of their rights by failing to attend a meeting to which they were not called by any lawful authority: still less could any such consequences result from such a meeting, if only attended (as was the fact) by the very few individuals who could be imposed on to attend, the great body of the nation-indignantly opposing the design.

It is, therefore, essential for those who contend that the old government of the western Cherokees has been abrogated, and that the new government of Ross and his party has been lawfully established, to maintain one or the other of these two propositions, viz: That a meeting of the people of the western Cherokees in national council was lawfully called by those who, according to their laws, had authority to do so, and that those who attended adopted these measures; or, that these people have thus actually met together, although irregularly called, and a majority of them attended and adopted those measures. It might be doubted whether such measures could even be sustained upon this last proposition; but certainly one or the other of these positions must be maintained by our adversaries.

The memorial of which we have spoken does not, definitely, profess to maintain either, but relies on vague and general assertions as to both. As to the first, the people, that is, some western Cherokees, not lawfully assembled as the council (for the council is stated to have broken up), but there by accident or curiosity, as spectators, unite with the eastern Cherokee people who are there in the same way, and they become a national assembly and pass a decree for this meeting. It is not distinctly alleged that they had authority to do this, and we have shown there could be no pretence for it; and, therefore, we think the first of the above two propositions has not even been plainly asserted, and certainly has not been maintained. The question then remains as to the other; that requires, according to the second proposition, that a majority of the people of the western Cherokees should have met and declared themselves in favor of these measures. Now, it has not been possible even for John Ross to make any such pretension; all he has ventured to say in his memorial (page 5) is, that, at this meeting, near Illinois, thus called on the 1st of July, "both the eastern and western Cherokees were fairly and adequately represented." Their numbers are nowhere stated; and though John Ross might choose to acknowledge the insignificant number, that all the acts of delusion, persuasion, and intimidation, that he and his agents could apply, prevailed upon to attend, was a fair and adequate representation of the whole nation, yet, if the principle be sound that a people cannot be deprived of their laws and subjected to a new government without their consent, then the nation cannot be bound by a meeting not lawfully called and assembled, unless a majority attended and gave their consent.
We aver and challenge our adversaries to the proof, that neither at the assemblage of June, when this pretended national assembly was constituted, nor at the meeting they assumed the authority to call on the 1st of July, near Illinois, was there any fair and adequate representation of the western Cherokees competent to annul the existing government and establish another. It ought to be enough to say, to show this, that John Ross has taken especial care not to let us know who they were, or what was their number. For, surely, it became those who claim the surrender of undoubted authority, to show by whom it was surrendered; and that, not by vague and general assertions that it was by a fair and adequate representation of the whole people, but by showing that it was so.

The population of the western Cherokees has been estimated at 8,000 souls, and we aver, that at the first pretended meeting of this pretended national assembly, there were not present, on the breaking up of the council (the council only, and not the people, having been called), a dozen western Cherokees; and that at the second meeting called at Illinois (notwithstanding all the arts and efforts of Ross and his agents to obtain a fair and adequate representation by which this scandalous fraud was to be consummated), they did not exceed twice that number. It is admitted that the chiefs and council did not attend. A great display is made of one chief (John Looney) having joined them, and separated from his associates. But this was not effected until long after the 1st of July. He continued to act with his countrymen at and after their meeting at Tollintunsky; joined them in their proposition of 2d August, 1839 (see page 90 of Doc. 129), and of 9th August, 1839 (page 100); and was only afterward brought over, by what means we know not, to betray his trust and accept authority from Ross and his party. Something is said of the forgery of his name. Your memorialists avow that he fully declared his concurrence in the proceeding, and authorized the signature of his name.

But, were it otherwise, can one chief, by betraying his trust, and a few deluded and intimidated individuals of a nation be clothed with authority to put down one government and set up another?

Your memorialists beg leave to appeal upon this subject to the statement of General Arbuckle, in a letter to Ross, dated Fort Gibson, October 14, 1839 (page 114 of Doc. 129). That officer would certainly have the means of knowing whether there was, in these pretended proceedings, a fair and adequate representation of the western Cherokees, by which the nation ought to be bound; and, considering the relations subsisting between the United States and the Cherokees, John Ross and his adherents were bound to show all the proofs in their power to sanction the lawfulness of their proceedings. Yet he says, in this letter to Ross: “The act of union (as it is called), which bears date on the 12th July, is signed by a few unauthorized individuals of the government of the old settlers, and, it is presumed, were all of the old settlers then at your assemblage who were willing to sign that paper.” And again: “These facts, I judge, are entirely sufficient to prove that no union between the late emigrants and old settlers has taken place, or that the small minority of the old settlers that deposed their chiefs could give validity to such an act.” Certainly it was no less the interest than the duty of John Ross and his party to have satisfied the officers of the United States of the regularity of their proceedings, and that at these meetings there was a fair and adequate representation of the nation, whose rights and privileges were thus to be overturned. They
were near the place of meeting, and it would have been easy to have laid before them fair and full proof of the authority which they called upon the United States officers to acknowledge, and which it was their duty to transmit to their government at Washington.

Your memorialists beg that John Ross's answer to this letter, in page 117 of same document, may be considered. He is unable to deny any of the statements made in General Arbuckle's letter (to which we beg to refer) of the manner in which this pretended meeting of western Cherokees was collected, and made thus fraudulently to express the will of the nation; nor does he attempt to remove the objections stated in the letter as to the validity of these proceedings. He says, in referring to this part of the letter: "To the other portions of your letter of the 14th October I have no wish to reply at length; assuredly I have none to engage in a spirit of controversy so apparently manifest and inviting in your language. The eastern and western Cherokees have formed a union, with which a majority of both are satisfied; and it being a matter exclusively their own, it is not considered that your approval was required to legalize the transaction, or that your opposition will destroy it among the Cherokees: The aid or friendly council of the Government officers in public matters may not at all times be objectionable, and the Cherokees have ever been grateful for acts of kindness rendered; but it cannot extend to an approval of political acts calculated to disturb the quiet of the mass of the people."

"Your other remarks are predicated upon entirely erroneous information and wrong views, but of which I shall not now attempt any correction. Time will develop the truth of many things now clouded by false colorings and shadows."

So then it seems Mr. Ross, like other usurpers of arbitrary power, does not choose to be questioned, except where and when he pleases. If he could show a fair and just foundation for it, why should he not do it? Does he not himself show that the relations subsisting between the United States and the Cherokees required that the Government and officers of the United States should know whom they were bound to recognize as the lawful representatives of the Cherokee people? Were they simply to take John Ross's word for it that he was the head of the whole nation, and consequently treat with him, and consider the western Cherokees, whose rights they had always acknowledged, as having surrendered their powers of government to him without any proof of it; and this too, when the regular authorities of that people denied and resisted his assumption of power! Was it not reasonable that he should lay his proofs before these officers, that the Government here might be rightly informed, and enabled to judge between these contending claimants for power to whom it properly belonged? Are not John Ross and his associates here now, and for this very purpose? And why is this? Because he knew he could exhibit to those who were near the scene of action, nothing that would not expose the enormity of his pretensions; and here he hopes to evade the investigation, and rely on artifice and assertion. He asserts a majority to be satisfied. Where has it been expressed? Is it enough for him to assert it? Does not the validity of the power he claims demand that he shall not merely believe it or state it, but show it?

Is it possible that, in these enlightened times, and before the representatives of this enlightened people, it can be asked to have the pretenders to such a power acknowledged upon such evidence; to annul the government
of a free and independent people, and make them the subjects of another, with no other warrant for it than the word of the usurpers? No; the Congress of the United States (your memorialists must believe) will rebuke such pretensions—will say, we have for years recognised the West Cherokees as a nation, having a government and officers of their own, with whom we have continually acted in the fulfilment of solemn treaties, and to whom we are under treaty obligations; and before we can recognise you as their representatives, you must show evidence, fair, full, and undoubted, of their free consent to give you the powers you assert. Let, then, every document and proof which these pretenders have exhibited be examined. Let it be seen whether the proofs they were called upon to exhibit to the United States officers, at a time and place when their truth or falsehood could be tested, and when they refused even to state the grounds on which they asserted their claims, are now sufficient to satisfy the American Congress that the nation, whose rights they have always recognised and respected, have indeed transferred themselves to the rule of the bloody hands that have seized the reins of government.

Where is the document that legalizes the first meeting in June at Takatatokah—that shows that any people of the West Cherokees (besides their council) were there in fact, or had been called there, competent to form a national assembly, and pass decrees binding on the nation?

And where is the document that is to show that this union, as it is called, and in fact, this abrogation of their government and subjection to their oppressors, has the free sanction of the people on whom it is attempted to impose it. It is to be seen in pages 69 and 70 (page 389, Senate document No. 1) of the late report of the Commissioner of Indian Affairs, as transmitted to the War Department. It is dated 12th July, 1839, and purports to have been then signed. It has the signatures of three names followed by the words “V. P. of the western Cherokees.” Who made them vice presidents, or officers of the western Cherokees? It purports to be signed by John Looney—this recreant chief, who complains of having his name forged, styling himself “acting principal chief of western Cherokees.” Who gave him this authority; when and where was he thus authorized to assume this title? Long after this period, 12th July, 1839, he was acting with the other chiefs, as we have shown, attending their meeting of 22d July, and up to the 9th and 13th August continuing with them. Between this latter date and 23d of August he was bought or brought into submission to John Ross, and he, it is to be supposed, gave him this title (as a part of his price) of acting principal chief. But how could he sign this paper, as he purports to do, on the 12th July preceding? In truth he did not come into the views of Ross till the 23d August, or some few days previous. On that day this paper with its date of 12th July, it is said, after the signatures, “was read, considered, and approved, and signed by Aaron Price, Major Pullum, Young Elders, Deer Track, Young Puppy, Turtle Fields, and a large number of other respectable old settlers and late emigrants.”

And is this to pass with the Government and Congress of the United States as sufficient to denationalize a free people? to take from them a mild and equitable government, administered by men of their choice, and put them under a code of laws which sanctions assassination, and under the dominion of men who hold such laws “in peculiar reverence”? 
What was this large number of other respectable old settlers? Could they not have been counted? And, as they all are said to have signed this paper, why are their names omitted?

This paper is found in the report of the Commissioner of Indian Affairs, (page 359, Senate document 1); it is a little remarkable, that referred to and relied on, as it is, as the very foundation of the power he has assumed, John Ross seems not to have produced it with his memorial.

Your memorialists have been particular, and they fear tedious, in this exposition; but they considered it necessary thus to show upon what groundless pretext this monstrous power to subjugate them has been assumed.

They have done every thing in their power, and shown a disposition to yield much, for the sake of conciliation. At a fair and full meeting of the representatives of their nation at Tolluntusky, and after having consulted with their countrymen, they made a proposition for a fair conference. This will be seen in page 91, document 129. They had made similar proposals before. These are evaded and finally rejected on the most frivolous pretexts. They are said (page 94, document 129), to have been "unreasonable, indefinite, and, in other respects, inappropriate." Again, in page 61, they are represented as requiring "that the late emigrants relinquish all their rights, and appear before the western chiefs in the attitude of suppliants." And then, again, it is put on other grounds (in page 93), and they cannot consent to it "because the people are allowed no voice in the matter."

Let these propositions be examined, and these vague, absurd, and inconsistent excuses will show that the course of our adversaries was a settled and determined scheme of fraud and usurpation.

Your memorialists have the gratification of knowing that their course was approved and recommended by the United States officers and agents, who endeavored (as it was their duty to do) to promote a conciliation. General Arbuckle (page 89 of document 129), in a letter to John Ross, says, "The chiefs of the Cherokee Government you found here have repeatedly offered to meet you in convention, for the purpose of forming a new government, and thereby (as the late emigrants are more numerous than the old settlers) to give you up the offices. What more could you reasonably desire? Have you accepted these propositions, or have you determined, without the agency of that Government, to establish a Government for the Cherokee Nation? thereby declaring that you will not accept the offices from the existing Government of the country, which are offered to you, but that you will take them. This is the positive state of affairs in the Cherokee country, so far as I understand them."

No other opinion, your memorialists believe, than that expressed by General Arbuckle, can be entertained, after a fair examination of the propositions and proceedings of the respective parties; and it will thus appear, that not only has a most unfounded usurpation of power been attempted, but that this tyranny has been enforced, without cause or provocation, and that every concession that could be offered to avoid it, has been unavailing.

Your memorialists will now endeavor, as briefly as possible, to state the relative rights of their adversaries and themselves, in their present situation in the country where they are both unfortunately located.

It is plain, that, if the treaties of the United States are to be regarded as the sources of right, the late emigrants from the east had no other right than to go to the country and join their brethren—none whatever to put down the existing Government, recognised by the United States, and estab-
lish their own—not to assume, in any way, dominion over those then in the country. If, then, they are there with any such pretensions, they are there wrongfully; and, consistently with the stipulations of the treaties, the United States must oppose those pretensions.

Now, what is the fact? At Aquisooee camp, 1st August, 1838 (see page 37 of document 129), they assert that "the title of the Cherokee people to their lands is the most ancient, pure, and absolute, known to man; its date beyond the reach of human record; its validity confirmed and illustrated by possession and enjoyment, antecedent to all pretence of claim by any other portion of the human race," &c.; "that it follows, that the original title and ownership of said lands still rest in the Cherokee Nation, unimpaired and absolute." They therefore resolve, "That the whole Cherokee Territory, as described in the first article of the treaty of 1819, and, also, in the constitution of the Cherokee Nation, still remains the rightful and undoubted property of said Cherokee Nation," &c.; and "that the inherent sovereignty of the Cherokee Nation, together with the constitution, laws, and usages of the same, are in full force and virtue," &c.

To this paper they subsequently refer, in June, 1839, as showing the rights they claim, at the meeting of the joint councils.

They therefore claim, as regards the United States, to hold this Government bound to all the stipulations of the treaty of 1835, and themselves as entirely unaffected by it, and not bound by any of its provisions. And, as regards the western Cherokees, they claim the right to come there, not to join a people already settled and governed there, as provided by the treaty of 1828, but as sovereigns of the country, above the treaty, and, by ancient, inherent, and inalienable right; thus setting all treaties at defiance, and all rights derived under them, either to the United States or to the western Cherokees.

They go there, there, to maintain and establish themselves there as sovereigns, by the strong arm of power. And, we respectfully ask, can the United States recognize such a right? Are they not bound, by the faith of treaties, by respect to their own rights and obligations, and those of the West Cherokees, to rebuke such a claim, and oppose its assertion? What more right had the eastern Cherokees to claim footing in that Territory, with such pretensions, than any other tribe of Indians? Certainly, consistently with all these treaties, none whatever. They are there, then, manifest, avowed wrongdoers; and the obligations of this Government, it is respectfully submitted by your memorialists, are the same as if the Territory, thus guarantied to the western Cherokees, had been thus encroached upon by any other tribe making the same pretensions.

And now, what is the situation of your memorialists and their unhappy countrymen?

Upon the faith of the treaty of 1828, they have occupied the Territory assigned them, established their Government, and erected their habitations. They admit the right of others to come, upon the terms of the treaty, and join them; but not to overturn their Government and enslave them. They contend that, without their free consent, they can neither be compelled to renounce their country nor their Government; and that the attempt of any people to come with these pretensions, claiming above the treaty, disclaiming its obligations, and asserting their right to come as sovereigns, and disregarding it, involves the purpose, not only of putting down the Government of
the western Cherokees, but of abrogating a treaty of the United States, and offering contempt to the authority of this Government.

They claim, therefore, under that treaty, that the United States will respect the rights it guaranties, and protect your memorialists and the people they represent from an avowed and unwarrantable aggression.

They claim, also, that as, by the treaty of 1835, the United States have assumed the obligation "to protect the Cherokee Nation from domestic strife and foreign enemies, and against intestine wars," they and their unfortunate brethren (such of them as are yet spared), who had settled in peace among them, under the terms of the treaty, may be defended from further violence.

It is well known that many of these had made themselves obnoxious to the wrath of John Ross and his adherents; and it is now as well known what purposes of vengeance that wrath can execute. On the 20th of June last, when the unfounded pretensions of the eastern Cherokees were denied by the western council, this national assembly of which we have spoken, was formed, and the appeal made to the assertions and resolutions of sovereignty, as adopted at Aquohee camp. On the 22d, Boudinot, unsuspicous of any charge or attempt against him, is murdered in his own dwelling, in the midst of his wife and children. Other assassins, pursuing a concerted purpose, pursue the Ridges, and they fall; one of them even followed into the territory of the United States. Others are at the same time sought for, who, as yet, have escaped. What was the crime of these victims of cold, premeditated murder? They had assisted in forming a treaty for their countrymen, which they believed they had authority to make, and which they thought the public interest required. Suppose they were mistaken in this, was it crime, only to be expiated by blood? Is this law or justice, according to the Government of the Cherokee Nation—the nation that has boasted of its civilization? Yes, this is the law of John Ross and his Cherokees! This is the bloody code to which your memorialists and the western Cherokees are to submit! John Ross is the apologist and abettor of these murders: he and his associates avow, in a memorial to the Congress of the United States, that these men died by "a law held in peculiar reverence by the entire Cherokee Nation, and especially the elders of it."

When the murder of Boudinot was known, who lived within two miles of John Ross, he writes, on the day of the murder, the 22d June, to General Arbuckle "to interpose and prevent the effusion of innocent blood, by exercising his authority, in order that an unbiased investigation might be had in the matter."

How far John Ross desired that an unbiased investigation should take place, appears from his refusal to take any measures to ascertain and arrest the murderers, as appears from his correspondence with General Arbuckle, and his expostulations with that officer as to any such efforts being made. Besides this, a solemn act of amnesty was passed, absolving the perpetrators of these outrages from all investigation, and this is approved and justified by John Ross.

Further, the convention of Ross's party at Illinois campground, on the 7th July, speaks thus of these murders: "The unfortunate persons deceased, together with others in connexion with them, had, by their acts, unhappily exposed and laid themselves liable to the pains, and penalties, and forfeitures, of outlawry." That this violence was not intended to stop with these assassinations, but was to be extended to the "others in connexion" with
them, is manifest, even as late as September last. On the 4th day of that
month, General Arbuckle writes to John Ross and others, saying “he had
received from Adair, John Bell, and others, a copy of their decree of the
21st. August, by which it appears that they are required to appear before
your convention on or before this date, otherwise to be regarded outlaws.”
Ross answers this the next day, and neither denies nor objects to the decree;
but states that the time for them to come in has been extended (see pages
104 and 105 of document 129). Now, let this decree and these proceedings
be examined, and it will be seen with how relentless and vindictive a per-
tention this tyranny is to be prosecuted. Let it be understood, also, what
this outlawry is, by which these men had been assassinated, and which
thus to be carried on against others. It is a decree dooming those in invo
olved to death: the protection of the laws is taken from them, and then they
passed the decree may murder them with impunity. And the decree refe-
red to by General Arbuckle requires the men thus implicated to come in
and submit and engage to keep the peace, and then they are to be spared,
and only excluded from all participation in the government for five years,
unless they shall be sooner absolved; otherwise they are to be outlawed.
And this is the law to which John Ross’s memorial refers, to which these
unfortunate men had made themselves obnoxious, and which is “a law
held in peculiar reverence.”

After all this, can John Ross and his associates, if not the instigators,
deny that they are the apologists and abettors of these murders? If he can
even explain how it happened that, as soon as these murders commenced,
if not before, his house was guarded by armed friends (see pages 55 and 56);
and how it happened that, on the very morning of the murder of Boudinot,
who was butchered within two miles of him, and certainly before he could
have heard of any threats against him, even if it was not before the actual
perpetration of the murder, messengers were despatched to bring in to his
aid a further number of armed friends, still his approval of this deed of blood
appears in the protection and pardon extended to the perpetrators, and is
manifest from the very terms in which he speaks of it. If he only said to
his vile and infuriated partisans, before the commission of the crime, what
he has said since, and has not even hesitated to say in this memorial, what
greater countenance or encouragement could he give to the outrage: these
men have “made themselves obnoxious to the pains and penalties of out-
lawry;” “this is a law held in peculiar reverence by the entire Cherokee
Nation, and especially the elders of it;” what more need he have said to
have ensured its execution?

It well becomes John Ross to excuse this crying iniquity, for it is his.
The deed, which his denial cannot cover, must be justified. His bound-
less influence over creatures deluded by his arts and infuriated by his vio-
ence, is too notorious to leave any room to doubt, that the sacrifice of these
victims by his worshippers and followers, was an acceptable offering to
him. Against whom was the sin that was thus to be expiated, committed?
From whose path of ambition were these men to be removed? They had
opposed the course of Ross—that was their sin. If now living, their coun-
trymen would still hear the voice of patriots, warning them against the
wiles and selfish schemes of a wicked man. They are now silent. John
Ross has the fruits of their assassination.

Where, also, was this plot laid, this doom decreed, and these miscreants
sent forth to the work of death?—at this meeting at Takattokah, where
this national assembly was created. It adjourned on the night of the 20th, and the murders instantly commence. Was not John Ross the very breath and life of that assemblage? Was it not for him they worked? Was he not there animating every purpose, directing every movement, dictating every word? Who will believe that these, the mere tools of his ambition, would have dared to take any measures, much less such a one as this, without well knowing that they might rely on his protection?—and have they relied on it in vain? Who does not know that these murderers, who had even dared to violate the territory and laws of the United States, could have been seized and brought to answer for their crimes by a word from John Ross? They have been protected; they have John Ross for their advocate, pleading for them the pardon he has given them: nay, more, he is their apologist, and cites for them this ancient Indian law of blood, as belonging to the code of the civilized Cherokees. And thus is he here, the defender of assassination, the protector of assassins. And he comes as the chief of the Cherokees, offering to the American nation the hand of friendship. Can it be received? Can it be touched? Can it be looked upon but with abhorrence, red with the blood of his brethren? Such, then, is the government, such the laws, and such the merciless executioners of these laws to which your memorialists and their unhappy people are to be subjected.

They respectfully ask, that their perilous condition may be fully considered, and that the protection due to them, under the treaties of the United States, may be promptly and effectually afforded: that they may be recognised, as heretofore, as a free and independent people, who have neither forfeited nor surrendered their privileges: that the disturbers of their repose, and the usurpers of their rights, may be reduced to order and obedience, and the leaders, instigators, and perpetrators, of these deeds of fraud and violence, expelled from the territory they have stained with the blood of the peaceful and unoffending.

DUTCH, his x mark.
WM. ROGERS,
GEO. W. ADAIR,
JAMES COREY, Sen., his x mark.
ALEXANDER FOREMAN,
MOSES SMITH, his x mark.
WM. THORNTON,
WM. HOLT.