

DEBATING THE 'INEVITABLE': CHEROKEES, SENECA, AND RHETORIC IN THE
ERA OF REMOVAL

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ABSTRACT OF THE DISSERTATION

“Debating the ‘Inevitable’: Cherokees, Senecas, and Rhetoric in the Era of Removal”

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This dissertation is about the use of the rhetoric of inevitability to justify the Jacksonian policy of “Indian Removal” and attempts of participants to grapple with the extent of their responsibility for the tragedies, like the infamous “Trail of Tears,” that resulted from this policy. Many participants in Indian Removal struggled with their moral responsibility, but ultimately decided that Indian removal was an inevitable historical development. Some Cherokee and Seneca chiefs embraced the same logic in order to justify their decisions to sign removal treaties against the overwhelming opposition of their own nations. Because of the overwhelming trend of colonial expansion and native land loss, claims of inevitability had a great deal of plausibility to them. However, the victory of the Senecas over determined attempts to remove them reveals that removal was not “inevitable” across the board. This project locates the points at which human beings took concrete actions in this struggle—making laws and treaties, voting for candidates, mustering troops, organizing resistance—to demonstrate that historical determinist thinking played a major role in justifying Indian removal, and in attempts to convince the wavering to drop their qualms and cooperate in its implementation. Further, this dissertation shows that a conscious rejection of such logic was an important ingredient in (at times successful) resistance to removal.

Acknowledgment and Dedication

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INTRODUCTION

This dissertation is about the use of the rhetoric of inevitability, to justify acts of dispossession or violence against indigenous people during debates over the Jacksonian policy of “Indian Removal,” (or the dispossession of Indians and their expulsion beyond the Mississippi in the 1830s), and attempts of participants to grapple with the extent of their responsibility for the tragedies, like the infamous “Trail of Tears,” that resulted from this policy. I will define inevitability rhetoric as *rhetoric, argument, or discourse that purports to justify acts of dispossession, force, or atrocity by recourse to the idea that such acts are made inevitable by the course of history or alternatively, that such acts are the regrettable but inevitable alternative to indigenous destruction.*

I focus on the use of inevitability rhetoric in struggles over Indian removal in particular because Indian removal is a well-known event that left a huge paper trail. The debate over removal strikes me as fascinating precisely because it stirred such an unprecedented—and unrepeated—national controversy over the fate of Native Americans, in which the fortunes of major political parties and politicians were staked. The degree of self-conscious planning, organization, and political effort that went into this “ethnic cleansing,”¹ and the scale of the operation that forced the exile of tens of thousands of people meant that it generated intense ideological and rhetorical production.

Why does inevitability rhetoric matter?

¹ Amy Sturgis, *The Trail of Tears and Indian Removal* (New York: Greenwood Press, 2006), 3-5, makes the case that Indian removal should be understood in terms of “ethnic cleansing,” and I agree with her. The term “ethnic cleansing” appeared in the nineties to describe a policy of forced, targeted ethnic relocation in the former Yugoslavia that was intended to separate ethnic groups, or clear people of target ethnic groups from territory claimed by another group, which is precisely what removal was intended to do. In both cases, the goal was not genocide, but the means were violent and coercive, leading to large-scale death among the target population.

I argue that the right to dispossess indigenous people often appeared dubious to white Americans, leading many to fear God's judgment upon the United States, and upon their individual souls. Many white Americans—even participants in Indian removal—struggled with their moral responsibility for bringing about the dispossession and atrocity it entailed, but ultimately decided that Indian removal was an historical development outside of their hands. Indeed, even some Cherokee and Seneca chiefs embraced the same logic in order to justify their decisions to sign removal treaties against the overwhelming opposition of their own nations.²

Inevitability rhetoric was powerful for good reason. Because of the overwhelming trend of colonial expansion and native land loss, (with deadly results for native people), claims of inevitability had a great deal of plausibility to them, for both white Americans and indigenous people. Indeed, I am not claiming that the power differential between settler societies and indigenous people in eastern North America was “merely” a “construction,” purely the result of the rhetoric of inevitability, or of people believing it was so.³ Indeed, the very real (and growing) power differential between these groups in

² So, for example, the faction of the Cherokee leadership intent upon signing a treaty of removal argued that if “the tide of white population and State jurisdiction, which is pressing upon us, cannot be restrained, it would be the greatest act of humanity to devise immediate measures to remove our people,” (cited in “A Council Held At Running Waters, in the Cherokee Nation, in Georgia, November 28, 1834, On Behalf Of Those Members of the Cherokee Tribe Of Indians Who Are Desirous Of Removing West Of The Mississippi. January 19, 1835,” in *Index of The Executive Documents, 23d Congress, 2d Session, 1834-5*, H. Doc. No. 91, 5), while missionary David Greene wrote to his colleague that Cherokee attempts to resist removal would end in “ruin inevitable,” (quoted in Thurman Wilkins, *Cherokee Tragedy: The Ridge Family and the Decimation of a People, 2nd ed., Revised* (Norman: University of Oklahoma Press, 1986), 259). Seneca Chief Nathaniel Strong argued that because of “the encroachments of the unprincipled white men who were overrunning and corrupting us” the Seneca “nation must become extinct before many years, unless they emigrate to the West.” (Nathaniel F. Strong, *Appeal to the Christian Community on the Condition and Prospects of the New York Indians, In Answer to a Book, Entitled the Case of the New-York Indian, and Other Publications of the Society of Friends* (New York: E.B. Clayton, Printer and Stationer, 1841), 5, 7).

³ Historian Brian Dippie even claimed in the context of Indian Removal that the “belief in the Vanishing Indian was the ultimate cause of the Indian’s vanishing,” but this view seems too strong to me. (Brian Dippie, *The Vanishing American* (Middletown: Wesleyan University Press, 1982) 71). Indeed, I have developed this critique of inevitability rhetoric to be compatible with a strong conviction that the roots of

the era of Removal was what gave inevitability rhetoric, when applied to the debate over Indian removal, its power, and its aura of common-sense realism.

However, the key is to pinpoint the way in which rhetoric and arguments about inevitability have functioned to aid in the dispossession of indigenous people at important points of political decision-making. Indeed, I argue that perpetrators of Indian removal used *general claims* about historical inevitability to obscure their freedom to make decisions that helped determine the course of struggles over indigenous dispossession in the era of Indian Removal. I argue that this perception of inevitability played a direct role in the decisions of wavering congressmen and Indian chiefs, to support removal. But, as I intend to demonstrate, the ultimate victory of the Senecas over determined attempts to remove them reveals that the removal of Indians from their homelands was not “inevitable” across the board.

Rather than engage in counterfactual speculation about whether particular events were inevitable—a dubious and dangerous exercise—my contribution is to focus on the immediate consequences of the utilization of ideas about inevitability—on the moments at which humans used rhetoric to compel action. This project, then, locates the points at which human beings exercised conscious choices to take concrete actions in this struggle—making laws and treaties, voting for candidates, mustering troops, organizing resistance—to demonstrate my central claim that inevitability rhetoric played a major role in rationalizing decisions to support Indian removal, and in attempts to convince the wavering to drop their qualms and cooperate in its implementation. Further, as I show in

this power differential between European and indigenous American societies lie in deep historical structures going back thousands of years, and is not intended to dispute these theories. (Most obviously, Jared Diamond, *Guns, Germs, and Steel: The Fates of Human Societies* (New York: W.W. Norton and Company, 1997, 1999).

Chapter 4, “While I Have a Voice in the Matter’: Calling the Bluff of Seneca Removal, Averting Catastrophe,” and Chapter 5, “Calling the Bluff Part II: The Tonawanda Removal Struggle,” a conscious rejection of such logic was an important ingredient in (at times successful) resistance to removal.

There are two recurrent functions of inevitability rhetoric in struggles over the dispossession of Indians in this period. The first was to aid in the self-justification of those who had advocated measures to dispossess native people, or who had taken action to do so. This was especially true of people who had moral qualms with what they were doing, in principle. In a basic human sense, arguing that what one has done was necessary and unavoidable is a common means of excusing oneself for participation in wrongdoing or atrocity—“it was bad but it had to be done.”⁴ In the case of Indian Removal, the weighty power differential between native and settler communities lent a very plausible-seeming underpinning to this species of excuse. An array of individuals, from conscience stricken soldiers tasked with rounding up and force marching Cherokees (as I will examine in the epilogue), to missionaries, legislators, Supreme Court justices, (as I will examine in Chapter One “Debating Removal and Inevitability in the Fight Over the Indian Removal Bill”) and native leaders themselves, made use of this reasoning (as I will examine in the last two chapters on Seneca removal, and Chapter Two, “Debating Removal and Inevitability in Indian Country: The Cherokee Debate.”)

⁴ See Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil, Revised and Enlarged Edition* (New York: Penguin Group, 1965, 1994), 190. Without trying to draw any undue parallels between the Holocaust and Jackson’s program of Indian Removal, we can still point out parallels between Adolf Eichmann’s self-justifications during his trial and the rhetoric of inevitability used by supporters of Indian Removal: “Eichmann claimed more than once,” wrote Hannah Arendt, “that his organizational gifts, the coordination of evacuations and deportations achieved by his office, had in fact helped his victims; it had made their fate easier. If this thing had to be done at all, he argued, it was better that it be done in good order.” Eichmann claimed that his participation in the Holocaust had ameliorated a process that would have happened with or without him, implying that he was the lesser of evils.

The second, and perhaps more important function of the rhetoric of inevitability, was in compelling action, or compliance with measures of dispossession, from those equivocating people, whether Indian chiefs, congressmen, constituents, missionaries, or soldiers, whose cooperation, (in the form of signatures, votes, passage of legislation, payments, or obedience to orders), was necessary to operate the machinery of dispossession and transfer of land. As I will discuss in Chapter One, removal advocates used inevitability rhetoric in Congress to convince opponents to vote for the Indian Removal Bill as the least bad alternative. The epitome of this dynamic could be seen in treaty negotiations, where commissioners threatened and browbeat reluctant or defiant native representatives, as I will examine in Chapters Four and Five. Key to their threats was the idea that Indians, and often even white treaty commissioners ultimately had no choice: the tide of events would force Indians to lose their lands one way or another. The best Indians could do, therefore, would be to accept the terms offered at the present moment by those who understood Indians' own best interests, better than Indians themselves, before Indians' options inevitably narrowed further. In this way, forced dispossession could be made to appear as humanitarian rescue.⁵ These threats, even when they contained bald-faced lies, carried plausibility, given the ongoing history of colonial takeover that everyone knew so well. And yet, as this dissertation will show, at times treaty commissioners obscured the degree of leverage, legal or otherwise, that Indians did

⁵ This is especially apparent in, Society of Friends. *Proceedings of an Indian Council: Held at the Buffalo Creek Reservation, State of New York, Fourth Month of 1842* (Baltimore: William Wooddy, 1842), and will be discussed in Chapters Four and Five. Typical was Andrew Jackson's letter to the Cherokee delegation at New Echota in 1835: "I am sincerely desirous to promote your welfare. Listen to me, therefore, while I tell you that you cannot remain where you now are. Circumstances that cannot be controlled, and which are beyond the reach of human laws, render it impossible that you can flourish in the midst of a civilized community. You have but one remedy within your reach. And that is, to remove to the West and join your countrymen, who are already established there." Quoted in Robert Remini, *Volume Three, Andrew Jackson and the Course of American Democracy, 1833-1845*, (Baltimore, Johns Hopkins University, 1984), 298.

have through their power of withholding consent. Inevitability rhetoric itself was more than just a simple reflection of a grim reality—it was a weapon that was used to compel action by attempting to erase the perception of choice, and alternatives to compliance—alternatives which, while often severely limited, were crucial weapons in the repertoire of Indian communities fighting for survival.

Though I am introducing the term “inevitability rhetoric” other scholars have written about varieties of such rhetoric without naming them or arranging them into a single cluster. In this dissertation, I draw on multiple frameworks developed by other scholars. In this introduction, I want to examine some of them and organize them into the same field of vision, so that I can refer concisely to these terms, and discuss rhetoric of inevitability with some degree of precision.

The first of these terms is the “Vanishing American.” Brian Dippie coined the term the “Vanishing American” in his book *The Vanishing American*⁶ and other scholars, (Bernard Sheehan, Robert Berkhofer, Michael Rogin, and Jill Lepore, among others), have either borrowed his idea or touched on a similar notion.⁷ “[R]ich in pathos and older than the Republic,” Dippie writes, “this tradition holds” that the Indians “are a vanishing race; they have been wasting away since the day the white man arrived, diminishing in vitality and numbers until, in some not too distant future, no red men will be left on the face of the earth.”⁸ I will use the term the “Vanishing American” or the “Vanishing

⁶ Brian Dippie, *The Vanishing American* (Middletown: Wesleyan University Press, 1982).

⁷ Robert Berkhofer, *The White Man's Indian: Images of the American Indian from Columbus to the Present* (New York: Vintage Books, 1978), Jill Lepore, “The Curse of Metamora,” chap. 8 in *The Name of War: King Philip's War and the Origins of American Identity* (New York: Random House 1998), Michael Rogin, *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian* (New York: Alfred A. Knopf, 1975), Bernard Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill: University of North Carolina Press, 1973).

⁸ Dippie, *The Vanishing American*, xi.

Indian” refers to the belief that Indians were destined to “vanish,” (or “disappear,” “go extinct,” or be “exterminated”) through impersonal processes of nature, providence, or history. The old notion of the “noble savage” is a version of “Vanishing Indian” that held up a positive, romanticized image of a disappearing native who embodied positive primitive qualities that could not survive the advent of “civilization” or later “modernity.” But images of Indians both positive and negative could support the idea that their vanishing was inevitable. Common causes cited were racial or cultural defects of natives themselves, like the inherent inability to change and adapt to “civilized” life, propensity to incessant warfare and infanticide, general “barbarism” or savagery, alcoholism, depletion of game,⁹ or even the “example of unprincipled white men.”¹⁰ But often, white Americans held some vague natural process beyond human understanding, responsible for Indian disappearance, eliding or denying the responsibility of white Americans. The idea that God’s providential plan for history provided for either the disappearance (or conversion) of Indians, the takeover of the continent by Christian Europeans, or a combination of both, goes back to the Puritans, and more naturalist versions of this idea became increasingly prevalent in the 18th and early 19th centuries as the power differential between settler and indigenous communities increased. Ideas that fall under the rubric of

⁹ Jackson defended Indian removal by arguing that Indians survival was imperiled by living in the vicinity of whites, who “destroy[ed] the resources of the savage, doom him to weakness and decay.” Cited by Wilson Lumpkin in his speech to Congress on Removal of the Indians, quoted in 6 *Reg. Deb.* 1023-4 (1830). Jacksonian Governor of Michigan Territory and former General Lewis Cass made the same argument. Lewis Cass, “Policy and Practice of the United States and Great Britain in their Treatment of Indians.” *North American Review*, 24, (1827): 403).

¹⁰ Isaac McCoy, *Remarks on the Practicability of Indian Reform, Embracing their Colonization* (Boston: Printed by Lincoln & Edmands, 1827), 13, argues that the vices and example of whites cause Indian decline.

the “Vanishing Indian,” then, are familiar to historians and show up again and again in the debates over removal, as I am not the first to notice.¹¹

Unlike the “Vanishing American,” the idea of “Manifest Destiny” focused not on the fate of indigenous people but on the rising, (often providential) destiny of those people displacing them. Manifest Destiny commonly refers to the idea that the United States was destined to spread across the continent. The term was coined a decade after the Cherokee removal crisis had played out, during the explosive expansionist fever that accompanied the Mexican War. But the idea of inevitable U.S. settler expansion (destiny) well predated this period. “In the decades spanning the American Revolution the belief that expansion was an integral part of American destiny permeated American thinking,” writes historian Reginald Horsman.¹² Jedediah Morse, who became an advocate of Indian removal in the 1820s, in 1789 already expressed that “it is well known that empire has been travelling from east to west. Probably her last and broadest seat will be America...the largest empire that ever existed.”¹³ John Quincy Adams, who became an opponent of the Indian Removal Bill in 1830, wrote to his father in 1811 that “the whole continent of North America appears to be *destined by Divine Providence* to be peopled by one *nation*.”¹⁴ Though the idea of the “Vanishing Indian” was hotly contested during the debate over Indian removal, both Indians and whites commonly assumed that American

¹¹ For example, historian of American providentialism Nicholas Guyatt has argued that determinist providential rhetoric was used by some removal advocates, such as Andrew Jackson and Lewis Cass, at the beginning of the crisis in 1830, but that opposition from religiously motivated movement opposing removal made “the idea of God as the author of the Indians’ demise” “politically risky,” leading removal advocates to “replace overt providential arguments with a softer form of determinism”, suggesting that “the demise of the Indians was a natural rather than a judicial process.” Nicholas Guyatt, *Providence and the Invention of the United States, 1607-1876* (New York: Cambridge University Press, 2007), 197.

¹² Reginald Horsman, *Race and Manifest Destiny* (Cambridge: Harvard University Press, 1981), 86.

¹³ Ibid.

¹⁴ Ibid.

settlers would continue to expand in some direction—usually west—though they did not all agree that this expansion would inevitably lead to indigenous destruction or displacement. Cherokee Chief John Ross, for example, wrote to a Seneca delegation that their peoples could “look forward to the period when our descendants will perhaps be totally extinguished by wars, driven at the point of the bayonet into the Western Ocean”—but this fate could be avoided if only President Jackson’s Indian Removal program could be defeated and the “civilizing” policy of previous administrations continued.¹⁵ Those wishing to argue against the dispossession of indigenous people, then, had to contend with this notion, and use it if possible.

Perhaps the most intriguing kind of inevitability rhetoric for the purposes of this dissertation is “fatal impact” rhetoric, a term I have borrowed from the work of historian Patrick Brantlinger (and the Pacific Island historians Alan Moorehead, James Belich, and Peter Adams whose work he draws on).

In his book *Dark Vanishings: Discourse on the Disappearance of Primitive Races, 1800-1930*, Patrick Brantlinger argues that discourse around the extinction of “primitive races” developed in the nineteenth century in Europe and European-derived colonies formed a major consensus justification for measures to colonize, dispossess, or exploit natives.¹⁶ Brantlinger documents discourse on extinction, applied to colonized

¹⁵ John Ross to Seneca Delegation, 14 April 1834, in John Ross, *The Papers of Chief John Ross, Volume I, 1807-1839*, ed. Gary Moulton (Norman: University of Oklahoma Press, 1985), 284-7.

¹⁶ “A remarkable feature of extinction discourse is its uniformity across other ideological fault lines; whatever their disagreements, humanitarians, missionaries, scientists, government officials, explorers, colonists, soldiers, journalists, novelists, and poets were in basic agreement about the inevitable disappearance of some or all primitive races. This massive and rarely questioned consensus made extinction discourse extremely potent, working inexorably toward the very outcome it often opposed.” Patrick Brantlinger, *Dark Vanishings: Discourse on the Disappearance of Primitive Races, 1800-1930* (Cornell University Press, 2003), 1-2. “Primitive races”, in extinction discourse, were doomed, and “doomed of course, means inevitable: no amount of humanitarian sentiment or scientific expertise, even when supported by the correct political will, could come to the rescue.” (3).

people from Australia to Ireland, supported not just by race theory but by Malthusian political economy and natural history. In one of Brantlinger's models of extinction discourse, "primitive races" were held to be "self-exterminating" in a Malthusian sense: some Europeans blamed the vices and defects of "primitive" people themselves for their own extermination, pre-dating and apart from any influence colonizers might have been exerting.¹⁷

But the model of extinction discourse Brantlinger identifies as the "fatal impact" thesis" (in reference to *The Fatal Impact: The Invasion of the South Pacific, 1767-1840*, by Alan Moorehead), is in some ways the more troubling model of extinction (and inevitability) discourse. "Fatal impact" rhetoric held that mere contact with Europeans led to the devastation of "primitive" peoples. On one obvious level, those who used fatal impact rhetoric held violent and greedy colonizers pushing onto native land responsible for the disappearance, or extinction, of native populations. But on a deeper level, fatal impact rhetoric held that simple trade and contact with Europeans, (often, I observe, described in class terms as the "filth"¹⁸ or "dregs"¹⁹ of civilization), led to exposure to European, (or "civilized") "vices,"²⁰ primarily alcohol and prostitution, while spreading disease, moral dissolution and social disintegration, even when overt conquest was not

¹⁷ Ibid., 33-6.

¹⁸ Pro-removal missionary Isaac McCoy used this word: "Doomed, therefore, to mingle with their own corrupt selves, and the very filth of civilized society, from infancy to old age, and from generation to generation, they grow worse and worse." Isaac McCoy, *Remarks on the Practicability of Indian Reform, Embracing their Colonization* (Boston: Printed by Lincoln & Edmands, 1827), 14.

¹⁹ Very little care,' said the Committee 'has...been taken to protect them [Australian Aborigines] from the violence and contamination of the dregs of our countrymen.'" The Aborigines Protection Society, quoted in James Heartfield, *The Aborigines Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, South Africa, and the Congo, 1836-1909* (New York: Columbia University Press, 2011), 20.

²⁰ Wilson Lumpkin's speech in favor of Seneca removal argued that they were "Perishing from their contact with the whites" especially from "the load of vice which surrounds them." (Quoted in Strong, *Appeal*, 29).

attempted.²¹ Other scholars have pointed to the use of the “fatal impact” rhetoric in justifying settler-colonialism. A leading theorist of settler-colonialism Lorenzo Veracini, argues that the use of a “tide of history’ rationale” that “focuses on ‘fatal impacts’ and “typically expresses regret for the *inevitable* ‘vanishing’ of indigenous people,” is a common form of justifying settler-colonialism, past and present.²²

Pointing to the justificatory function of “fatal impact” rhetoric cannot establish that it was a pure “social construct,” fabricated for the purpose of extending imperial control or justifying the takeover of indigenous lands. The destructive effects of contact with European-derived newcomers on indigenous societies were realistic and observable enough, and there is no doubt that these phenomena were part of a larger social and historical process beyond the control of any one individual or collective entity.

Yet fatal impact rhetoric itself was also a historical phenomenon that compelled action. Historical actors used fatal impact rhetoric to effect specific ends within their

²¹ Drawing on the work of Peter Adams and James Belich, Brantlinger writes that in the 1830s, the “thesis of ‘fatal impact’ [of white traders and settlers on Maori people] bolstered the case of [British] missionaries and humanitarians to bring official, military protection to New Zealand” and to bring Maori lands officially under the imperial crown under the Treaty of Waitangi. (Brantlinger, *Dark Vanishings*, 155-9, quote on 157). This was occurring at a major moment of settler-colonial expansion in the English-speaking world, at the same time as the “extermination” of the native Tasmanians and the “humanitarian” incarceration of the remainder on Flinders’ Island, and the debate over Indian removal in the United States, and, (to a more limited extent), in Canada. “The Dusk of Dreamtime,” chap. 6 in Brantlinger, *Dark Vanishings*, 117-141. See also James Heartfield, *The Aborigines Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, South Africa, and the Congo, 1836-1909* (New York: Columbia University Press, 2011), 89-205.

²² Fatal impact is part of Veracini’s concept of “narrative transfer,” a settler-colonial form of erasing native presence: “**Narrative transfer (II)**: when a “tide of history” rationale is invoked to deny legitimacy to ongoing indigenous presences and grievances. This transfer focuses on “fatal impacts”, on indigenous discontinuity with the past, and typically expresses regret for the *inevitable* “vanishing” of indigenous people. If they have *had* their last stand, if their defeat is irretrievably located in the past, their activism in the present is perceived as illegitimate. An emphasis on an unbridgeable discontinuity between indigenous past and postcolonial present, between an indigenous golden age and contemporary decadence, can then be used to dismiss an indigenous insurgency that must no longer subsist. Indigenous survival is thus transferred away, foreclosed. In the context of this type of transfer, settler discourse can at times recognise the historical reality of indigenous violent dispossession and genocide...Emphasising the gap between past and present, original custodianship apotropically chases (i.e., transfers) the spectre of indigenous actionable proprietorship away.” Lorenzo Veracini, *Settler Colonialism: A Theoretical Overview* (New York: Palgrave Macmillan, 2010), 41-2.

control: Indeed, in spite of its humanitarian content, fatal impact rhetoric had a very sinister underside. Extrapolating from the observable impacts of contact and settlement on indigenous communities, those who employed fatal impact rhetoric sometimes held that even the most benevolent or well-meaning contact with Europeans was deadly for indigenous people. The cause might be rooted in unnamed natural or social forces, or in providence itself. But in any case the outcome and the basic formula was clear enough: one way or another, contact inevitably kills. It followed, then, that if contact itself was unavoidable, then the fate of indigenous people was sealed.²³ I will not attempt to argue that those employing fatal impact rhetoric were mere self-justifying hypocrites pursuing their own material interest, nor that fatal impact rhetoric was always unambiguously harmful to indigenous causes. As we will see in the body of the dissertation, some people used fatal impact rhetoric to argue against removal. However, fatal impact rhetoric was a double edged weapon. Drawing its power from its plausibility and flexibility, fatal impact rhetoric could be used to argue for the use of state or imperial power for the protection of weak native people from masses of avaricious colonizers. But it could also be used to argue for the forced removal of indigenous peoples from the zone of contact, making projects of dispossession appear to double as humanitarian projects to isolate native

²³ For example, former General, Michigan Governor and future Secretary of War Lewis Cass's 1828 article criticizing British Indian policy and vindicating American Indian policy, employs fatal impact rhetoric when it characterizes settlement as a "mighty tide": "When we look back upon the long interval of Indian intercourse, which elapsed between the first settlement on the shores of the Atlantic, and the final consolidation of the British power, nothing but a dreary waste meets the eye. Not a verdant spot cheers the sight, nor a single Oasis in this worse than Libyan desert. Remote and feeble colonies had become important and flourishing provinces, and the aboriginal inhabitants had disappeared, or receded, before the mighty tide of population, which already, from the summit of the Allegany, was spreading with exterminating force over the forests and prairies of the west." For Cass, displacement itself is inevitable, the only question is whether or not a "fair equivalent" will be offered those that settlement displaces. Lewis Cass, "Policy and Practice of the United States and Great Britain in their Treatment of Indians," *North American Review*, 24, (1827).

people from settlers.²⁴ What I do wish to argue is that in spite of the genuine concern for indigenous communities demonstrated by some of those who utilized fatal impact rhetoric—most apparent to us when indigenous people, themselves threatened with dispossession, employed it—the trap within the logic of fatal impact rhetoric was a real danger with real consequences.

Therefore, a broad spectrum of humanitarian opinion—and even some native people themselves—rationalized projects of dispossession like Indian removal, through the logic of fatal impact discourse. This is partly because fatal impact could accommodate a high degree of theoretical condemnation of European colonization and European colonizers, themselves—indeed, usually in class, regional, or party terms consonant with the subject position of the person using the rhetoric—while still acting to further the project of dispossession. Whether one embraced the idea of racial inferiority

²⁴ Upper Canadian Governor Sir Francis Bond Head provided a beautifully unadulterated version of fatal impact rhetoric in order to justify the forced expulsion of Indians from Upper Canada to remote Manitoulin Island: “Whenever and wherever the two races come in contact, it is sure to prove fatal to the Red man. However bravely for a short time he may resist our bayonets and fire arms, sooner or later he is called upon by death to submit to his decree.” Bond Head goes on to argue that there are no good options in contact situations, that friendly contact as well as violent struggle condemns Indians to death, by means of contamination: contamination of alcohol, disease, and sexual immorality and racial mixing, and that only expelling Indians to their own isolated fortified land not desired by whites is the solution: “If we stretch forth the hand of friendship, the liquid fire it offers him to drink, proves still more destructive than our wrath...the greatest kindness we can do them is, to induce them as I have done, to retreat before what they may justly term the accursed process of civilization, for as I have stated, the instant they are surrounded by the white population, ‘the age of their chivalry has fled’...For the foregoing reasons I am decidedly of opinion, that his Majesty’s Government should continue to advise the few remaining Indians who are lingering in Upper Canada, to retire towards Manitoulin, and other islands in lake Huron, *or elsewhere towards the north-west*.” Sir Francis Bond Head to Lord Glenelg, Toronto, 20 August 1836, quoted in the Aborigines Protection Society, *Report on the Indians of Upper Canada* (London: J. Haddon, Castle Street, Finsbury, 1839), 18-20.

of indigenous groups,²⁵ or whether one held to innate racial equality,²⁶ whether one believed that indigenous groups were morally superior to settlers²⁷ or not,²⁸ the explosive population growth and settler expansion in the English speaking world gave fatal impact rhetoric an aura of common-sense realism. Intriguingly, the pretext of humanitarian rescue was so politically useful that even the representatives of frontier settlers themselves at times embraced the negative picture of white settlers suggested by fatal impact theory, with all of its class and regional insults it implied, in order to make the case for the removal projects that they were determined to enact.²⁹

Ironically, then, as I will return to again and again in this dissertation, those arguing against programs of indigenous dispossession often found themselves attempting to reject, or to make a nuanced dissection of fatal impact theory. It was not contact with

²⁵ Governor Lewis Cass, the most prominent example, wrote that the civilizing mission had consistently “failed” and Indian population “gradually decreased” because of “some insurmountable obstacle in the habits or temperaments of the Indians, which has heretofore prevented, and yet prevents, the success of these labors.” He favored removal. Lewis Cass, “Removal of the Indians.” *North American Review*, 30 (1830): 62, 69.

²⁶ “It is not a question at all,” the missionary Isaac McCoy wrote, “whether the mental faculties of Indians generally are equal to those of their more fortunate neighbours. The fact is universally admitted...but it seems impossible in the nature of things that the prejudices of society, so destructive to them, can subside, so long as the principle exists which confirms their degradation.” Isaac McCoy, *Remarks on the Practicability of Indian Reform*, 10-14.

²⁷ Governor Sir Francis Bond Head’s pro-removal, noble savage rhetoric provides a perfect example: “Why the simple virtues of the Red Aborigines of America should under all circumstances fade before the vices and cruelty of the old world, is a problem which no one amongst us is competent to solve—the dispensation is as mysterious as its object is inscrutable.” Quoted in Aborigines Protection Society, *Report on Upper Canada*, 18.

²⁸ “What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization and religion?” From President Andrew Jackson’s “Message to Congress on Indian Removal,” quoted in Daniel F. Littlefield Jr and James W. Parins, *Encyclopedia of American Indian Removal*, Santa Barbara: Greenwood, 2011), 30.

²⁹ For example, Georgia’s governor Wilson Lumpkin claimed that if Georgia did not extend its jurisdiction over Cherokee country and appropriate “unoccupied” Cherokee land, then “[t]he country would be speedily overrun, chiefly by the most abandoned portions of society from all quarters.” Wilson Lumpkin to the House of Representatives of Georgia, December 2nd 1831, quoted in, Wilson Lumpkin, *The Removal of Indians from Georgia. Vol. 1* (New York: Dodd, Mead, 1907 reprint), 96.

white settler populations itself that was inevitably harmful to native populations, removal opponents argued. Indeed, if this were the case, then there could be no hope for indigenous survival in situations where mere contact with white settler populations was itself unavoidable. Rather, it was specific misdeeds, like murder or the theft of land, that led to the devastation of native populations. There was no need to remove native people to isolated barren reserves: only to honor basic just and legal commitments to natives where they were.

The Aborigines Protection Society, an elite benevolent organization heavily overlapping with evangelical and abolitionist movements in London, made this point in order to combat a removal plan in Canada in the late 1830s. The APS insisted that advocates of removal like Upper Canada's Governor Bond Head committed an error when they argued that "the Indians are so certainly contaminated by contact with the white people, that *nothing* but REMOVAL out of their reach can prevent it." Denying a disembodied inevitability, the APS instead argued that "aborigines" have "perished by the violence and injustice of men professing the name of Christianity, and not by a law of the human race, as asserted by a false philosophy, which charges upon a bountiful Providence the consequences of evil deeds of men."³⁰ Contact was not by nature deadly, but could be benevolent; only certain kinds led to native destruction. Likewise, the Cherokees and their supporters, as we will see, attempted to argue that benevolent contact through the U.S. civilizing program was working to "save" them in both a worldly and

³⁰ Aborigines Protection Society, *Report on Upper Canada*, 22-3.

otherworldly sense. Indeed, Cherokees and their supporters argued, Cherokee numbers were increasing, in spite of their contact with ever increasing numbers of white settlers

When the very devastating nature of settler invasion could be used to justify further acts of invasion and dispossession, developing arguments against fatal impact rhetoric could be tricky. Affirming the beneficial nature of certain kinds of contact with whites in the face of settler assault was a difficult line to toe, but as we will see in the fourth and fifth chapters of this dissertation, the Senecas of Tonawanda, managed to pull off the deed and defeat efforts to dispossess them.

Finally, in this dissertation I will explore insecure undertones in the rhetoric of white Americans about Indian Removal which revealed settlers' fears that the triumphant expansion of the United States and the takeover of Indian land might not be inevitable.

At times it seems like everyone who spoke about the fate of Native Americans during the era of Indian Removal was predicting Indian decline, or extinction in the face of the inexorable expansion of the United States, whether they reflected on the process with tranquility or with anguish. But occasionally, in telling moments, someone sang a different tune, engaging in rhetoric that cast anxious doubt upon the smooth linear progress of conquest, settlement, and indigenous extinction. Here and there, white Americans drew on a strong undercurrent of fear that the conquest and displacement of Indians might not be inevitable.

In the United States, memory of the wartime alliances between the British and people of color, from the Revolution through the War of 1812 and its aftermath, was strong. Collective memory had formed a rhetorical association, especially in the speech and writing of Jacksonian Democrats, between these two perceived threats to white

man's democracy: imperial intervention by aristocratic European power, and insurrection (slave uprising or frontier warfare) by nonwhites. This association still had the power to inspire disgust and existential fear in the 1830s during the era of Indian removal. This existential fear reflected a sense of ambivalence about the notion of inexorable historical Progress³¹ and particularly a sense of the fragility of the experiment in republican self-government and Union of the States, fears that persisted until the end of the Civil War. Partly as a result, two contradictory strains of rhetoric about inevitability and Indians were expressed by pro-removal white Americans. On the one hand, Americans commonly, (and confidently) expressed some version of inevitability rhetoric. But on the other hand, Americans expressed fear of Indians as an existential threat even past the era when European imperial aid to Pan-Indian alliances or slave uprisings could have realistically posed such a threat.³²

It was at the end of the decade of the 1830s, when sectional conflict over slavery had fully emerged into view, that Indian politics evoked the most explicit fears of non-inevitability. During debates over Seminole removal in 1840, a Jacksonian congressman from Kentucky, W.O. Butler gave a speech on the Seminole War that illuminates these

³¹ Stephen Conn, *History's Shadow: Native Americans and Historical Consciousness in the 19th Century* (Chicago: University of Chicago Press, 2004).

³² For continuing fear of the existential threat posed by European-nonwhite alliance, see Robert Owens, *Red Dreams, White Nightmares: Pan-Indian Alliances in the Anglo-American Mind, 1763-1815* (Norman: University of Oklahoma Press, 2015): "The terror felt toward Indians—and toward pan-Indian confederacies that represented Indians in their most terrifying form—was real, and would continue long after there was any rational chance for such confederacies to succeed. Slave revolts on mainland North America faced similarly long odds, yet continued to terrify white Americans nonetheless. And instances where slaves and Indians seemed in cooperation could bring such horror to a boil." (8). "Still, Anglo-Americans tended to discount Indians' capacity for truly great efforts: British officials in the 1760s feared that the French or Spanish were inciting Indian alliances against them. The Americans later assumed that British (or sometimes French or Spanish) perfidy lay at the root of all Indian efforts to resist them." (11). Also see Samuel W. Haynes, *The Unfinished Revolution: The American Republic in a British World* (Charlottesville, University of Virginia Press, 2010). For the longer history in the thirteen colonies and the United States of association of Indians with European powers, see Peter Silver, *Our Savage Neighbors: How Indian War Transformed Early America* (New York: W.W. Norton & Company, 2008).

white American nightmares of non-inevitability. Butler lays out his nightmarish vision: The specter of an Indian war, in conjunction with a slave uprising, orchestrated and supported by despotic foreign powers, and supported by an anti-democratic Anglophilic fifth-column of abolitionists. Such an insurrection could fracture the union, and stymie the progress of the nation, both literally—geographic expansion across the continent—and figuratively—progress towards a better, more republican and civilized world.³³

Butler was on the lookout for traitors who combined sympathy with non-white people with anti-democratic, pro-British tendencies. Butler railed against the northern Whigs who refused to vote appropriations for the Seminole War. These northern Whigs refused to help remove Seminole warriors and their black allies from Florida, thus threatening the stability of slave society. “The same party which held back the arms of our gallant fathers in the Revolutionary struggle;” Butler complained in a speech to Congress, was the same party

which hung a dead weight upon our eagle’s wings in the last war; and which is now busy in sowing the seeds of disunion throughout the land. This party, sir, has made its appearance among us at different periods of our history, and in various guises, but ever in that guise best calculated to strike at the honor and security of the nation. For some time past it has been carrying on a most insidious warfare, alternately and conjointly under the red and black banner.³⁴

That opponents of slavery—and of Seminole removal—will be “found to be either the hired or the willing tools of foreign powers,” Butler predicted darkly, “striking at the integrity of this Union, I have many and strong reasons to apprehend.” Indeed, Butler’s confidence in America’s strength and progress is interrupted only by his anxiety

³³ W.O. Butler, *Speech of W.O. Butler, of Kentucky, in Committee of the whole, in Reply to Mr. Biddle and Mr. Hunt, Upon the Appropriation for Suppressing Hostilities in Florida, Delivered in the House of Representatives, June 11, 1840* (Washington: Printed by Blair and Rives, 1840).

³⁴ *Ibid.*, 4.

at this dire conspiracy of atavistic forces. “Crowned heads throughout the world begin to sit tremblingly on their thrones,” Butler declared:

The spirit of inquiry is abroad in every land; liberal principles are every where on the rapid march, and our free institutions afford the only light held out for their guidance. Put out that light, and liberty is lost to the world! The problem of man’s capacity for self-government is fatally solved, and the feudal ages come back upon us with all their gloom and all their chains. It is not then strange that crowned heads should seize upon the only means in their power, to remove the only obstacle in their way.³⁵

The only way these “crowned heads” could derail the American experiment, Butler believed, was to enlist northern hypocrites to divide the nation through their advocacy of black and Indian causes above those of their fellow whites:

America, true to herself, may laugh at the world in arms; to divide and conquer us is the only hope. And I repeat it, sir, this saintly brood of hypocrites, these exclusive friends of the red man and the black, but who would neither shed their blood nor spend their money for the salvation of both races, are, in my opinion, designed as the entering wedge for the rendering asunder this great, this glorious, this holy confederacy; cemented together by all that is sacred in the past, by all that is worth living for in time to come.³⁶

The struggle, in this speech, does not seem to have an inevitable outcome: The Florida War seems to be a long, uncertain affair, battling Indians and blacks, and a British imperial-abolitionist connection in an unfavorable climate. Indeed, Butler said, it was “a war whose termination still lies hid, far in the dark inscrutable future.”³⁷

The Union, and the experiment in self-government, still seeming fragile and uncertain, could be brought down by such conspiratorial combinations. Progress—

³⁵ Ibid.

³⁶ (Ibid.). The text continues: “Florida, in its present condition, is the fit, the natural, and the well-selected theatre for abolition operations; the only one on which it can ever hope even to commence its nefarious schemes; and the Florida war, its first, its natural, and its bitter fruit. Look at it, sir, surrounded on all sides by slaves and slaveholders, occupied by a savage tribe, easily excited to war, owning many slaves, and having among them many free negroes, in daily communication with those of the whites, at all times disposed to excite them to rebel against, and desert from their owners; and to secrete and protect them when they do so, of their own accord. Stretching far toward the Bahamas, and reaching almost to Jamaica, lately a slave state, and now a scene of manumitted misery—owned by a foreign and rival power, united and affiliated with the Abolitionists in our own country—it is a most convenient spot for all the numerous agents of this society, to meet and complot in safety, against the peace and security of the American people.” (Ibid., 6).

³⁷ (Ibid., 3).

including both the triumph of democracy, and the subjugation of hostile, savage, atavistic Indians—was not guaranteed; in fact, there was a great deal of insecurity on the part of settler masses as to the inevitability of their triumphant, secure possession of indigenous land.

Indeed, for this very reason, noted an article in the *Pennsylvania Sentinel* in 1837, “the representatives in Congress, from the South Western States have come out in opposition” to the federal government’s removal policy of “settling all the Indian tribes within our borders, at the South West.” Gathering “a large body of Indians” there could lead to “an invasion, aided by servile insurrection,” in which “the whole of that portion of the Union might fall into the hands of a mongrel and savage foe.”³⁸

In this article, a paranoid rhetoric asserting historical contingency submerges and overwhelms rhetoric of inevitability of the triumph of U.S. expansion. “The history of the Indian race is not yet told,” it read:

The day of retribution may yet come. The Indian race may yet be enabled, with the aid of the negroes, to wreak a bloody vengeance on their oppressors, to reclaim a portion of their most fertile territory, and drive the pale faces from the graves of their fathers. We know that intelligent men at the South West, have regarded the policy of the government, in consolidating Indians in large and formidable masses on our weakest frontier, almost suicidal.³⁹

The difficulties of the Seminole War drove these fears that the removal policy was “suicidal”: “If a handful of Seminoles with a few runaway negroes can baffle the whole military force of the country,” the *Sentinel* asked, “what may we not apprehend from twenty thousand Indian warriors, leagued with millions of emancipated and desperate slaves?”⁴⁰

³⁸ Quoted in reprints of the article in the Boston paper *Daily Atlas*, Tuesday, January 3, 1837, and *The New Hampshire Gazette*, May 8, 1838, 2.

³⁹ *The New Hampshire Gazette*, May 8, 1838, 2.

⁴⁰ *Ibid.*

We will see further examples of this settler rhetoric of insecurity and historical contingency in this dissertation.

In Chapter Three, about the removal controversy within the state of Georgia, we will see how Georgians combined a confident belief in the inevitability of their triumph over the Cherokees and the federal government with a paranoia that if they did not act swiftly and decisively, Georgia might never be able to vindicate their “rights” to Cherokee country. We will see how army officers in the Second Seminole War, a war to enforce the removal of Seminole people to Indian Territory, expressed the belief that climate, geography, inordinate expense, and Seminole determination would combine to defeat the military’s efforts to remove the Seminoles for the indefinite future.

This dissertation aims, then, to capture the undertones of ambivalence in this strand of inevitability rhetoric: the threat of native persistence and power that often complemented confidence in native disappearance, and the ways in which these two rhetorical trends were related in the course of concrete struggles over the dispossession of native people in the era of removal.

There are five chapters and an epilogue in this dissertation.

My first chapter, “Debating Removal and Inevitability in the Fight Over the Indian Removal Bill,” examines the difficulty that congressmen, petitioners, and essayists in the anti-removal camp had in combating the consensus around fatal impact assumptions in the 1830 debate over the Indian Removal Bill. In spite of the strength of the political challenge to Jackson’s agenda, fatal impact assumptions lent a humanitarian air to Indian removal and a sense of the impossibility of protecting Indian rights, however legitimate they might be.

My second chapter, “Debating Removal and Inevitability in Indian Country: The Cherokee Debate,” examines the rift within the Cherokee nation over whether or not to sign a removal treaty. I argue that competing inevitability narratives fueled the deadly internal disagreement about how best to secure the future of the Cherokee nation. The “Treaty Party” argued that ultimately, removal could not be avoided—the opposing side argued that once removal was accomplished and the treaty rights of the Cherokees were surrendered, no force on earth could stop the Cherokees from being dispossessed again by invading settlers anywhere short of the Pacific Ocean. I focus on these twin, opposing narratives of inevitability themselves as an important, underexplored factor in the rift between Cherokees over removal.

My third chapter, “Confidence in Inevitability, Fears of Contingency: Debate and Consensus on Removal in Georgia,” examines the schizoid waffling in Georgia rhetoric on Indian removal between a confident expression in the inevitability of Georgia’s victory in its battle to remove Indians from its “chartered limits,” and the paranoid fear that if extreme urgent measures were not taken, it would never happen. To explain this, I delve into the connection between the use of fatal impact rhetoric in Georgia, and the long running sense of historical grievance and victimhood nursed by white Georgians, a sense of grievance centered on the imagined nexus of people of color and interloping aristocratic European, and later federal, power.

My fourth and fifth chapters, “While I Have a Voice in the Matter”: Calling the Bluff of Seneca Removal, Averting Catastrophe,” and “Calling the Bluff Part II: The Tonawanda Removal Struggle,” are about the Seneca struggle over removal, and their partial victory over the Ogden Land Company and its allies pushing for Seneca

dispossession. These chapters are structured comparatively, analyzing why the Senecas were able to largely defeat efforts to remove them from their homeland while the Cherokees could not, while examining the role that inevitability rhetoric played in the struggle.

First, we learn that there were a number of local and particular circumstances that help reveal why the Senecas "succeeded" where the Cherokees could not, highlighting the very different circumstances in which the different Indian peoples of the era contended against dispossession. These differences are significant because they show that the "fate" of different Indian people in the face of threats of dispossession was not uniform, but varied in ways that may not seem significant from a grand historical point of view, but which could be very significant indeed for the people involved. The very fact that the Senecas were not removed, though they were targeted for removal, shows that "the removal of the Indians," in general, was not a historical inevitability. Looking at the story of the Seneca fight against dispossession, in comparison with that of the Cherokees, we can learn something about which factors made a difference.

Secondly, the Seneca case illuminates the very direct role that rhetoric of inevitability played in obtaining removal treaties, demonstrating that inevitability rhetoric was a psychological weapon employed consciously against Indians, and with which Indians themselves consciously grappled. Its use in treaty negotiations even had important material consequences on the struggles for the Indians involved—in the struggle over Seneca removal, the rhetoric of inevitability was a weapon that could be used to convince Indians that further resistance to removal was futile. Some Seneca people themselves understood and articulated the psychological power of these

inevitability arguments, particularly in light of the fact that there was so much plausibility to them, based on the Senecas' past experience of land loss and treaty negotiation.

Acknowledging the plausibility of arguments for the inevitability of removal and settler takeover of their lands, some chiefs recognized that this rhetoric was meant to obscure the leverage that Indian people did have, and they argued against giving in. They adapted changing strategies over many difficult years to fight their "fate," and the success they achieved mattered.

Finally, the Epilogue: "The Strong Saw Not How to Avert It," examines the accounts of participants in the Trail of Tears itself who recognized the injustice of what they were doing. It examines attempts to come to terms with, or rationalize their participation in Indian Removal. The epilogue concludes by stressing the challenges and the importance of understanding the role of inevitability rhetoric in American self-understanding of its guilt over "what we did to the Indians," and settler-colonial foundations.

Chapter One: Debating Removal and Inevitability in the Fight Over the Indian Removal Bill

The object of the government is to persuade, not coerce, their Indian *friends* to a removal from the land of their fathers...It is *idle to talk of rights which do not belong to them*, and of *protection which cannot be extended*. The most correct plan is to disclose the *facts as they exist*, that all in interest may be warned, and, by timely precaution, escape those evils of which experience has already afforded abundant indication *there is no avoiding*, situated where they are. [Italics in the original]

—Jackson’s Secretary of War John Eaton to Cherokee agent, 1829⁴¹

It is said that their existence cannot be preserved; that it is the doom of Providence, that they must perish. So, indeed, must we all; but let it be in the course of nature; not by the hand of violence.

— Anti-Jacksonian Senator Peleg Sprague of Maine, debating removal in 1830⁴²

In 1830, Andrew Jackson attempted to push his Indian Removal Bill through Congress, a bill that, appropriated money to systematically negotiate treaties with Indian tribes east of the Mississippi to provide for their removal west of the Mississippi into a designated “Indian Territory.” But many white Americans opposed Jackson’s Bill, and his program of Indian Removal.

A popular movement against Removal developed in the North, spearheaded by evangelical moral reformers in New England, where missionary organizations had strong ties to the Cherokee Nation. This popular movement was marked by a petition drive so vigorous that it elicited the shock of Martin Van Buren, who remarked that “a more persevering opposition to a public measure had scarcely ever been made.”⁴³ The common heart of these petitions—many replicated and circulated by the Congregationalist missionary organization, the American Board of Commissioners to Foreign Missions—

⁴¹ Representative Henry Storrs quoting Secretary of War John Eaton, quoted in Jeremiah Evarts, *Speeches on the Passage of the Bill for Indian Removal, delivered in the Congress of the United States, April and May 1830* (Boston: Perkins and Marvin, 1830), 122.

⁴² Peleg Sprague, anti-removal congressman, in *ibid.*, 66.

⁴³ Mary Hershberger, “Mobilizing Women, Anticipating Abolition: The Struggle Against Indian Removal in the 1830s,” *The Journal of American History*, 86, (1999): 15.

was a simple and direct moral statement. The United States, they said, had pledged its “plighted faith” to the territorial integrity of the Cherokee Nation (the Cherokees were usually the primary focus), and had guaranteed to them their recognized borders, in the form of treaties, the supreme law of the land. To remove the Cherokees against their will, in violation of these sacred promises, perjured the nation, committing it to a grave collective sin, staining its honor, and inviting God’s wrath. Intense public attention and moral interest in this question helped to assure that Indian removal would be a difficult and contested issue.⁴⁴

But many supporters of President Jackson’s removal initiative also framed their policy in terms of moral, philanthropic Christian obligation, embracing rhetoric of inevitability in order to present the dispossession and forced exile of Native Americans as a humanitarian measure. Removal advocates were aided in this task by drawing on the arguments and the moral authority of Isaac McCoy, a Baptist missionary whose commitment was beyond reproach. As a young man in 1803 with an “aversion to dancing,” McCoy had set out for Vincennes and had spent many frustrating years there

⁴⁴ “[A]s a country we stand pledged to them by many treaties, in which the faith of the nation is solemnly promised before God and man for their protection,” read one petition on May 3, 1830, from Dartmouth. “Your Memorialist contend,” a typical petition from the town of Middlebury, Connecticut, “that the proposed measures are wrong, because they *involve us in the guilt of violating solemn promises*, made by the United States to the *Cherokee nation*.” The consequences were clear. “If there is any thing to be feared in the curses of Jehovah,” they asked, who hath made of one blood all the nations that dwell on the face of the earth; who at his pleasure lifteth up one nation and casteth down another; who hath declared Himself the Judge and the avenger of the helpless and oppressed...we *implore that the curses*, which are denounced against national injustice, may be averted by our rulers, lest, in a few fleeting years, all kindreds of the earth, over the ruins of this now glorious fabric of the nation, shall read in the fiery characters of Heaven, ‘Cursed be he that perverteth the judgment of the stranger, fatherless and widow,’ and all the peoples shall ‘say Amen.’” Hundreds of petitions arrived throughout 1830 and 1831 opposing the Removal Bill, and later, calling for the repeal of the Removal Act. (Petitions from the United States National Archives and Records Administration, Records of the U.S. House of Representatives, Committee on Indian Affairs, 1830-31, HR 21A-G23.3 and G8.2, NR 287).

preaching to the Indians.⁴⁵ Now in his late forties, McCoy's writings were in many ways "pro-Indian." McCoy put forth eloquent arguments in favor of Indian land ownership that directly contradicted common arguments of removal advocates. For example, McCoy argued against the idea that states could claim ownership of land through a "right of discovery."⁴⁶

And yet, because McCoy embraced fatal impact rhetoric's assumptions of inevitability to argue in favor of Indian Removal, he provided ample ammunition to removal advocates hoping to appeal to humanitarian sentiment. McCoy asserted that Indians had quickly degenerated through contact with white settlers in spite of all of his efforts. According to McCoy, this degeneration wasn't the fault of any innate incapacity or failings of the Indians: "It is not a question at all," McCoy wrote, "whether the mental faculties of Indians generally are equal to those of their more fortunate neighbours."

⁴⁵ McCoy quoted in George A. Schultz, *An Indian Canaan: Isaac McCoy and the Vision of an Indian State* (Norman: University of Oklahoma Press, 1972), 6-7.

⁴⁶ The "right of discovery" was a legal concept enshrined by the 1824 Supreme Court decision *Johnson vs. McIntosh*. "However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear, if the principle has been asserted in the first instance, and afterwards sustained; if a country has been acquired and held under it; if the property of the great mass of the community originates in it, it becomes the law of the land, and cannot be questioned....However [the doctrine of discovery] may be opposed to natural right, and to the usages of civilized nations, yet if it be indispensable to that system under which the country has been settled, and be adapted to the actual condition of the two people, it may, *perhaps*, [italics in original] be supported by reason, and certainly cannot be rejected by Courts of justice." Quoted in Maureen Konkle, *Writing Indian Nations: Native Intellectuals and the Politics of Historiography, 1827—1863* (Athens: University of North Carolina Press) 19. Representative Thomas Foster of Georgia and others cited this decision in the debates over the Indian Removal Bill in Congress. Foster quoted in 6 *Reg. Deb.* 1031 (1830). But McCoy had spent many pages in his pamphlet skewering the "right of discovery" and other arguments that the United States had a right to possess Indian land whether or not Indians consented: What claim to the soil, could the people of the United States, or any other people, prefer to an impartial tribunal, which the natives could not plead with equal, or additional propriety? Speak we of the right of discovery? The Indians are the Aborigines of the country. We have not discovered an uninhabited region, but a peopled country. Let us suppose the Chinese at this day to be ignorant of the country of the United States; a company of ships arrive at Jamestown, and set up a claim to the whole of the United States territories. Would we readily admit that the law of nations made it theirs by the right of discovery?" Isaac McCoy, *Remarks on the Practicability of Indian Reform, Embracing their Colonization* (Boston: Printed by Lincoln & Edmands, 1827), 1-10, quote from 4-5. John A. Andrew, *From Revivals to Removal: Jeremiah Evarts, the Cherokee Nation, and the Search for the Soul of America* (Athens: University of Georgia Press, 1992), 156-60.

The fact is universally admitted...but it seems impossible in the nature of things that the prejudices of society, so destructive to them, can subside, so long as the principle exists which confirms their degradation...The society which Indians generally find among the whites, is that of the most degraded and worthless kind; and those who are pent up by the whites, feel the effect of this principle most sensibly.⁴⁷

The solution McCoy advocated was removal west of the Mississippi to get Indians away from the white settlers who oppressed them. “Give them a country as their own,” he argued, “under-circumstances which will enable them to feel their importance, where they can hope to enjoy, unmolested, the fruits of their labours, and their national recovery need not be doubted.”⁴⁸

When McCoy wrote his pamphlet in 1827, he intended his arguments to apply primarily to the northwest tribes (Potawatomies and the Miamis), among whom he worked. McCoy did not initially support the removal of the Cherokees. In fact, McCoy used their successful civilization—on a “large tract of country” where “in some degree, they could cherish a spirit of national ambition”⁴⁹—as a model for what removal of the northwest tribes was meant to achieve. Yet as removal efforts escalated in 1829-1830, McCoy’s position as a vocal pro-removal missionary made him of great use to the new Jackson administration, which soon extended him patronage and coopted both his labor and his moral authority. Although McCoy’s conviction of innate racial equality and civilizational hierarchy—and his idea that the Cherokees’ “civilization” had been a success story—were not widely adopted by the administration or by pro-removal congressmen, McCoy’s idea that removal was an overriding necessity in order to save Indians from “extermination,” was.

⁴⁷ Isaac McCoy, *Remarks on the Practicability of Indian Reform*, 10-14.

⁴⁸ *Ibid.*, 17.

⁴⁹ *Ibid.*, 26.

Wilson Lumpkin, Jacksonian Representative of Georgia, picked up on the theme: “[Removal] is a matter of vital importance. It is a measure of life and death. Pass the bill on your table, and you save [the Indians]. Reject it,” he said, “and you leave them to perish.”⁵⁰ The notion, pithily expressed here by Lumpkin, that Indians would inevitably be destroyed unless they were removed (usually in the passive voice), and thus that removal was necessary to save Indians from destruction, was crucial to presenting Indian removal as a humanitarian measure, and its significance has been explored by historians of removal.⁵¹

But opponents of removal developed another narrative of inevitability that mirrored the fatal impact narrative drawn from McCoy’s work.

On the opposite side of the debate from Isaac McCoy was Jeremiah Evarts. A missionary like McCoy, Evarts was a New Englander, Sabbatarian and Temperance crusader, and head of the Congregationalist dominated American Board of Commissioners for Foreign Missions in Boston. Evarts led an impressive lobbying, petitioning, and publishing campaign against the Removal Bill in late 1829-1830 as Congress geared up to debate the issue. And he reacted to the escalation of removal

⁵⁰ Wilson Lumpkin, quoted in his speech to Congress on Removal of the Indians, 6 *Reg. Deb.* 1016, 1025 (1830): “Hold out no vain and delusive hopes to these sons of the forest. The history of the past gives them strong claims on our sympathy, benevolence, and liberality. Join us in this great effort to save the remnant tribes of the aboriginals. They are a peculiar people... They see in the future no reward for ambition or exertion, unless you plant them in permanent homes.” Compare this to As he lobbied for removal and was hired by the administration to conduct an exploratory expedition of the territory to which he was planning to remove Indians, McCoy himself gradually came to favor removal as a solution across the board, for the Cherokees as much as for anyone else. Nicholas Guyatt, *Providence and the Invention of the United States, 1607-1876* (New York: Cambridge University Press, 2007), 194-6. Also see Brian Dippie, *The Vanishing American* (Middletown: Wesleyan University Press, 1982), 61 and 71.

⁵¹ See Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge: Harvard University Press, 2005), Dippie, *Vanishing American*, Nicholas Guyatt, *Providence and the Invention of the United States, 1607-1876* (New York: Cambridge University Press, 2007), and Bernard Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill: University of North Carolina Press, 1973).

efforts in the opposite way from McCoy. Like McCoy, Evarts had begun to think that removal (ultimately) would be necessary to save the eastern tribes—Cherokees included—from encroaching whites. In fact, as late as 1829 Evarts conceded in a meeting with Wilson Lumpkin of Georgia that, in the words of his biographer John Andrew, “all Indians east of the Mississippi would eventually have to remove.”⁵²

However, the coercive behavior of Georgia, with the cooperation of the newly elected Jackson administration, in violation of treaty guarantees, alarmed Evarts. Indeed, Evarts was outraged by Georgia’s move to unilaterally extended its jurisdiction over Cherokee territory, in violation of solemn treaty obligations existing U.S. law, subjecting Cherokees to discriminatory laws that prohibited them, for example, from testifying in court against whites. The Jackson administration, in order to pressure the Cherokees into agreeing to removal, encouraged Georgia’s actions.⁵³

In response to these events, Evarts developed an argument about inevitability diametrically opposed to that of McCoy and the humanitarian pro-removal position: that to save the Indians from extermination, they needed to be protected in their present homes, according to the supreme law of treaty obligations. If a legal guarantee to protect Indians in their present homes was not honored, then any future legal guarantees would be useless. White settlement would eventually catch up with the Indians, and the process of dispossession would repeat itself all the way to the Pacific. The Cherokees’ “best friends throughout the country are firmly of the opinion,” Evarts wrote, “that if the

⁵² Andrew, *From Revivals to Removal*, 180.

⁵³ Evarts launched a concerted and energetic campaign to stop the passage of the Indian Removal Bill, whipping up publicity by publishing dozens of articles and leading the ABCFM in support of a campaign that generated hundreds of petitions to Congress against the Indian Removal Bill. Andrew, *From Revivals to Removal*, 169-229.

government cannot protect the Indians where they are, they cannot protect them any where [*sic*] else.”⁵⁴

The very survival of the indigenous people of the continent, therefore, seemed to hang in the outcome of this struggle over the Indian Removal Bill, and the debate over removal in Congress reflected that perception. Senator Frelinghuysen’s passionate speech best captures this sentiment: “Sir, this is the very reason—the deep, cogent reason—which I present to the Senate, now to raise the barrier against the pressure of population,” said Anti-Jacksonian Senator Theodore Frelinghuysen, “and, with all the authority of this nation, say to the urging tide, ‘Thus far and no farther.’” Echoing Evarts, Frelinghuysen made this argument explicitly and eloquently:

Let us save them now, or we never shall...If the tide is nearly irresistible at this time; when a few more years shall fill the regions beyond the Arkansas with many more millions of enterprising white men, will not an increased impulse be given, that shall sweep the red men away into the barren prairies, or the Pacific of the west?⁵⁵

“Let us save them now,” said Frelinghuysen, “or we never shall.” The petitions that poured into Congress, echoed this sense of urgency and momentous decision not only towards the fate of the Indians, but the fate of the nation: reject the bill, save the Indians, and save the nation’s imperiled honor and moral character.

This chapter identifies and examines these twin narratives of inevitability, as opposite sides of the same coin. This chapter explores the role they played in the moral and political reasoning of their proponents, as well as the myriad other assumptions of inevitability that ran through the rhetoric on both sides of the debate over the Indian Removal Bill. I attempt to show that whenever arguments about States’ rights or Indian inferiority appeared inadequate to persuade, removal advocates stressed the necessity of

⁵⁴ Ibid., 210.

⁵⁵ Senator Theodore Frelinghuysen, quoted in Evarts, *Speeches on the Passage*, 27.

the measure in the face either of the grand historical inevitability of Indian decline before the “tide” of white settlement, or the cold facts of the balance of power on the ground in Cherokee country. In order to highlight the importance of the rhetoric of inevitability, I stress the surprising degree to which the issue of Indian racial inferiority was muted in the debates in Congress, and I reveal the internal disagreement within the two opposing camps on this question. Rather than being primarily a forum on Indian character, the issue of choice versus fate (and compulsion), I argue, pervaded the debate over removal in Congress.

Granted, of course, the lens of inevitability is not the only one through which to read the debates over removal in Congress and on the national stage. Constitutional and legal issues permeated the debates in Congress as well.⁵⁶

But claims over inevitability hovered near the surface of the unfolding struggle over removal in Congress, due to disagreement about the moral, constitutional, and racial issues involved. Removal advocates often argued in favor of a right to carry out forcible removal of the Indians within state borders, (all the while protesting that Indians were

⁵⁶ Opponents of removal argued that treaties were the “supreme law of the land,” as guaranteed by the constitution, whether with Indian nations or any other nations. They argued that the constitution clearly gave Congress authority over relations with Indian tribes, and called the President’s initiative, in cooperation with Georgia, a tyrannical violation of the separation of powers. They questioned a measure that would throw so much money, and hence patronage, into the hands of the president with little congressional oversight. (For patronage, see Representative George Test, quoted in 6 *Reg. Deb.* 1108 (1830), separation of powers see Henry Storrs, quoted in Evarts, *Speeches on the Passage of the Bill for Indian Removal*, 89, for supremacy clause see Storrs, quoted in Evarts, *Speeches*, 89, Bates quoted in 6 *Reg. Deb.* 1054 (1830), Evans quoted in 6 *Reg. Deb.* 1044 (1830), Frelinghuysen quoted in Evarts, *Speeches on the Passage*, 3, 14, 21). The other side fell back on the constitution’s guarantees of state sovereignty, and the prohibition against erecting a “new state” within the limits of another. They argued that Indian nations were savage and not sovereign, they argued in favor of the right of discovery and quoted the *Johnson vs. McIntosh* decision to support their opinions. Finally, Georgia was aggrieved by the failure of the federal government to fulfill the Compact of 1802, in which the government promised to extinguish Indian title (on “peaceable and reasonable terms”) within Georgia’s “chartered limits” in exchange for having relinquished her western land claims. (Lumpkin, quoted in 6 *Reg. Deb.* 1019-1020 (1830), Lumpkin quoting Jackson in 6 *Reg. Deb.* 1023-4, 1025 (1830), Georgia’s laws quoted by Storrs in Evarts, *Speeches*, 84.)

anxious to migrate, and that at any rate they would not be forced to leave, without first agreeing to sign a treaty of removal). But removal advocates also knew that their claims were regarded as dubious by many whose political support they needed to pass the legislation necessary to pursuing an expensive, systematic, decade-long project of dispossession. This meant that both sides of this debate professed to be friends and guardians of the Indians' own best interests, and all at least gestured towards humanitarian intentions.

But when moral arguments failed to justify removal, removal advocates dismissed moral arguments as “abstract” and “sentimental” when applied to Indian policy.⁵⁷ Advocates then fell back on the idea that removal, even against the will of Indians themselves, was a necessary humanitarian measure. Removal was made inevitable by practical circumstances, these advocates claimed—either by the degeneration of Indians, or if nothing else by the impracticality of confronting Georgia's violent insistence on taking over Cherokee land, especially in the wake of the discovery of gold. Pass the bill, save the Indians—otherwise they will be destroyed. These inevitability arguments proved especially difficult for removal opponents to confront, because even in 1830, many anti-removal congressmen suspected that it was true, and, I will argue, their own rhetoric at times subtly supported it. However, the parallel idea offered by removal opponents—that

⁵⁷ Sheehan, *Seeds of Extinction*, 261, discusses Lewis Cass's use of this argument, Lumpkin quoted in 6 *Reg. Deb.* 1023 (1830), makes this argument in the congressional debates: “I am apprised, sir, that principles of natural law and abstract justice have been appealed to, for the purpose of sustaining the pretensions of the Cherokee Indians. What ever doctrines may have been advanced by theoretical writers upon this subject, the practical comment of all nations will sustain the doctrines contained in the message of President Jackson.” Georgia Representative Henry Wilde, quoted in 6 *Reg. Deb.* 1081 (1830), employs similar logic quoting a review in the *North American Review*: “Nothing seems clearer, in the abstract, than that the original incumbents are the rightful proprietors of the soil” but that “We are not at leisure to enter into the inquiry, how far the temper and character of our early settlers, or the actual policy of our Government toward the natives, may justify this supercilious righteousness of censure.”

the only way to stop the flood of events leading towards the destruction of the Indian race was for Congress to put down its foot and stop the bill—lent an all-round sense of apocalyptic urgency to the debate. The pro-removal side, for its part, believed fundamental principles of states' rights to be at stake and not so subtly threatened civil war. Thus, paradoxically even as both sides indulged fatalistic rhetoric, they both dramatically expressed the idea that an important Rubicon was about to be crossed, and that the weighty choice of whether or not to cross it lay on the shoulders of the men debating the Removal Bill in the Chambers of Congress.

One might think that the issue of racial difference would be central to debating the validity of Indian treaty rights, on the one hand, or the necessity of removal, on the other. Indeed, assumptions about Indian inferiority, (whether rooted in race, religion, or some other factor), were an important foundation for the colonial project in general, and were hard even for anti-removal congressmen to shake.⁵⁸ The insinuation that Indians were inherently inferior and stubbornly incapable of progress was crucial to both Andrew Jackson's and Lewis Cass's arguments against Indian treaty rights, as Maureen Konkle demonstrates,⁵⁹ and it would be erroneous to claim that racial prejudices had nothing to do with the debate over removal.

⁵⁸ Anti-Jacksonian Representative George Test of Indiana, who earlier in his speech against removal had presented tables enumerating Cherokee agricultural wealth and property, and emphasized their self-government to prove their progress in civilization, slipped into characterizing them as "sons of the chase" accustomed to the "lawless freedom of the wilderness" later on in the very same speech. Test, quoted in 6 *Reg. Deb.* 1109 (1830).

⁵⁹ Maureen Konkle, *Writing Indian Nations*, 68, 73.

It is accurate to say that pro-removal opinion tended to indulge more in speculation of innate racial difference than did anti-removal opinion.⁶⁰ On the other hand, there were removal advocates who adopted McCoy's arguments and explicitly denied innate racial difference, and who believed that under the right circumstances Indians could become just as civilized as whites. The Jacksonian Representative Wilson Lumpkin from Georgia even assumed that innate racial equality of whites and Indians was a commonplace belief.⁶¹ Though pro-removal representatives were keen to avoid direct condemnation of frontiersmen, they drew on the humanitarian arguments of those who emphasized the dangers posed by contact with whites, (especially those of a lower class). Quoting the report of the Committee of Indian Affairs on removal, Jacksonian Representative Henry Wilde of Georgia argued that the Cherokees were "[v]ictims alike to the arts of the worthless white men without, and to the crafty policy of their own rulers

⁶⁰ "Are they not men?" and "Are they not human?" were frequent refrains in anti-removal speeches, while pro-removal speeches, of course, strove to "otherize" Indians, emphasizing their difference, backwardness and childish incapacity. (For Indian humanity, see George Evans, quoted in 6 *Reg. Deb.* 1048 (1830), "Are they not men? Are they not capable of attachments?" Isaac Bates, quoted in *Reg. Deb.*, 6, 1050, "Does he not feel? Is he not a man?") In the pro-removal camp, Representative Bell of Tennessee was quite explicit in his belief that Indians were innately incapable of reform and advancement (referred to by Lumpkin, quoted in 6 *Reg. Deb.* 1016 (1830). Lewis Cass strongly suggested an innate obstacle to Indian advancement located within Indians themselves. Lewis Cass, "Removal of the Indians" *North American Review*, 30, 1830: "Existing for two centuries in contact with a civilized people, they have resisted, and successfully too, every effort to meliorate their situation, or to introduce among them the most common arts of life... There must then be an inherent difficulty, arising from the institutions, character, and condition of the Indians themselves." Also, "...individuals among the Cherokees have acquired property... this change of opinion is confined, in a great measure, to some of the *half-breeds* [emphasis in the original] and their immediate connections." (72, 71).

⁶¹ "I differ with my friend from Tennessee [Mr. BELL] in regard to Indian civilization. I entertain no doubt that a remnant of these people may be entirely reclaimed from their native savage habits, and be brought to enter into the full enjoyment of all the blessings of civilized society. It appears to me, we have too many instances of individual improvement amongst the various native tribes of America to hesitate any longer in determining whether the Indians are susceptible of civilization.... if they remain in their present abodes... they will every day be brought into closer contact with the white population, and this circumstance will diminish the spirit of benevolence and philanthropy towards them which now exists." Lumpkin, quoted in 6 *Reg. Deb.* 1016 (1830).

within.”⁶² The right circumstances to foster “civilization” among Indians, according to McCoy and those who followed his argument, could only take hold if Indians were removed from the tides of white population and prejudice that threatened their imminent destruction, and whisked away to a safe haven where Indian title to land was not disputed by their neighbors.⁶³

Thomas McKenney, formerly a staunch defender of the civilizing project, and head of the Office of Indian Affairs from 1824-1830, had a conversion to removal after touring Cherokee country in 1827, and he borrowed extensively from McCoy’s fatal impact rhetoric. “Experience,” McKenney claimed, proved “*the perishing consequences to the Indian, of a near connexion with a white population.*” [italics in the original]. Thus, “[i]f the Indians do not emigrate, and fly the causes, which are fixed in themselves, and which have proved so destructive in the past,” said McKenney in an 1829 address, “they *must perish!*” [Italics in the original].⁶⁴ In his report as Commissioner of Indian Affairs in 1828 he made clear that white population pressure generated those causes of destruction which Congress must help Indians escape: “What are humanity and justice for this

⁶² Wilde, quoted in *ibid.*, 1096. Though he himself did not blame white frontiersmen or insult them, Wilde relied heavily on quotes from Isaac McCoy to bolster the moral authority of his claims for Indian degradation whenever they came in contact with whites: In the transcript to the debate, “[Wilde] referred to Mr. McCoy’s remarks, in his pamphlet already mentioned. Speaking of the Indians in the old States, that respectable writer observes: “Those who are pent up by the whites on small reservations, in New England, New York, and Ohio, decline more rapidly in proportion to their numbers, than the tribes farther west, on the frontiers of Michigan, Indiana, and Illinois; and the decline of these latter is more rapid in proportion than those still more remote. Let it be borne in mind, that, wherever we discover a decrease of numbers, we see an increase of calamities.” (Quoted in *Ibid.*, 1093).

⁶³ “These miserable [northwest] Indians, gathered from their wretched abodes, in which they had been perishing, and placed in ‘a good land,’ a land acknowledged to be their own, removed from all the ‘baleful causes-of their former calamities, and possessed of all the means which have given character and consequence to their countrymen, and kindred, the Cherokees, not the slightest probability forbids our confident expectation that they will be lifted up from the dust, to the enjoyment of comforts similar to those possessed by ourselves, and that they will be prepared to call those blessed who wiped away their tears.” (McCoy, *Remarks on the Practicability*, 31).

⁶⁴ Quoted in Brian Dippie, *The Vanishing American*, 65.

unfortunate race?” McKenney asked? His answer justified Cherokee removal by presenting it as the alternative to inevitable destruction through exposure to white settlers:

Are these found to lie in a policy that would leave them to linger out a wretched and degraded existence, within districts of country already surrounded and pressed upon by a population whose anxiety and efforts to get rid of them are not less restless and persevering than is the law of nature immutable, which has decreed, that, under such circumstances, if continued in *they must perish?* [italics in original]. Or does it not rather consist in withdrawing them from this certain destruction, and placing them, though even at this late hour, in a situation where, by the adoption of a suitable system for their security, preservation, and improvement, and at no matter what cost they may be saved and blest?⁶⁵

Isaac McCoy himself had clearly excepted the Cherokees from his analysis, and made statements endorsing innate racial equality.⁶⁶ But that did not stop McKenney, or other removal advocates who explicitly doubted Indians’ innate equality to whites—such as Jacksonian Governor of Michigan Territory Lewis Cass and pro-removal congressmen from Georgia—from using McCoy’s arguments to make their case for the removal of the Cherokees and other “Civilized Tribes” of the Southeast.⁶⁷

⁶⁵ Quoted in Banner, *How the Indians Lost Their Land*, 208.

⁶⁶ McKenney’s opinion on Indian racial difference is considerably less clear than McCoy’s, as indeed his writing is generally more vague and evasive than McCoy’s. On one page, McKenney argues that the Indians’ “decay” comes “not of their colour, nor of physical or moral malformation: nor of destiny—but from causes the most natural, which a change in our relations to each other would work, even upon us.” On the next page, he says “The Indian is seen to be degraded, and unfortunately for man it is too true, there is the disposition in his nature to exercise upon such cruelty, injustice, and revenge.” Thomas McKenney, *Proceedings of the Indian Board in the City of New York, with Colonel McKenney’s Address* (New York: Vanderpool & Cole, 1829), 13-14.

⁶⁷ Isaac McCoy, *Remarks on the Practicability of Indian Reform*, 17, 25-31 (In fact, McCoy used the Cherokees as a positive example for the northwestern Indians: “...unless we colonize these people [northwestern Indians] and place them in circumstances similar to those of the Cherokees, they will inevitably perish.” (28) and Thomas McKenney, *Proceedings of the Indian Board in the City of New York, with Colonel McKenney’s Address* (New York: Vanderpool & Cole, 1829), Lewis Cass, “Removal of the Indians,” *North American Review*, 30, (1830), 68, 113-5. Representative Bell is an example of an explicitly racist, pro-removal congressman who used and quoted from McCoy’s work extensively during the congressional debate over removal. See Bell, quoted in 6 *Reg. Deb.* 1018-20 (1830).

By 1832, McCoy had changed his mind and come to support the removal of the Cherokees as well. One could reject the idea of innate racial difference and also advocate removal by embracing fatal impact rhetoric and its assumptions of inevitability.⁶⁸

Furthermore, some opponents of removal indulged in speculation that part of reason for Indian "degradation" might lie with innate Indian propensities to violence or laziness. These tendencies were reformed or held in check, they claimed, by U.S. missionary and civilizing projects but would express themselves with a vengeance if these "poor Indians" were removed west of the Mississippi:

The worthy chairman of the committee told us of the causes of their degeneracy, seated in the nature or in the habit, the second nature, of the Indians. I admit the truth of the representation; I am sorry there is so much foundation for it. My hopes have never been over-sanguine of elevating the race to a high degree of civilization; although within a few years better hopes have been authorized, than ever before...But this is not remedied west of Arkansas...[and] there is reason to fear that the causes of degeneracy will remain in all their intensity, while the checks will be fewer, and the remedies weaker.⁶⁹

In this passage, one of the most prominent and eloquent removal opponents, Anti-Jacksonian Massachusetts Congressman Edward Everett expressed belief that the Cherokees were making great strides in the direction of civilization, but also clearly believes that Indians were possibly naturally inferior to whites. Racial implications could cut both ways in this debate.⁷⁰

Therefore, despite important disagreement over this very relevant issue, the issue of Native American racial difference was not an explicit object of contention in the congressional debates over removal. It is not clear that one's position on Indians' racial inferiority predicted one's position on removal. The assumption of racial inferiority was

⁶⁸ Schultz, *Indian Canaan*, 136-8, 148-51.

⁶⁹ Representative Edward Everett, quoted in 6 *Reg. Deb.* 1073 (1830).

⁷⁰ Daniel Webster, Henry Clay and others would multiply the list, however, Everett is notable because of his forceful and eloquent morally grounded opposition to Removal in Congress. Ronald Satz, *American Indian Policy in the Jacksonian Era* (Lincoln, University of Nebraska Press, 1975), 40, 41, 42, 51.

the basis for certain arguments against removal, whereas even strident declarations of innate equality between Indians and whites could serve to justify removal.

Perhaps because of an internal disagreement on racial difference, it was very difficult for northerners to make a concerted case that Georgia's discriminatory laws against Indians constituted outrageous coercion, or that the administration's acquiescence to Georgia's measures belied the idea that the administration planned to let the Indians have any meaningful choice in the matter. Some anti-removal congressmen did indeed make the point that Georgia's legal discrimination against Indians was a form of coercion, intended to intimidate and bully them into leaving. This point would seem to follow commonsense, in a non-racial worldview. Administration officials had made statements admitting that pressuring the Cherokees into removal was the intention behind Georgia laws, which anti-removal congressmen seized-on to prove the point.⁷¹ In a very straightforward way, removal opponents argued, Georgia's discriminatory laws were wrong, because it was wrong to intimidate people into leaving their homes, so that their land and improvements could be stolen.

⁷¹ Edward Everett quoted Eaton's instructions to Indian agents generals Carroll and Coffee to prove that Georgia and Alabama's discriminatory laws were meant to: "A crisis in our Indian affairs has arrived...the Legislatures of Georgia and Alabama [have] extend[ed] their laws over the Indians within their respective limits...The President is of [the] opinion that the only mode left for the Indians to escape the effect of such enactments, and consequences yet more destructive, which are consequent on their contiguity with the whites, is to emigrate...The President views the Indians as the children of the Government. He sees what is best for them; and that a perseverance in their refusal to fly the dangers that surround them must result in their misery and final destruction." Congressman Everett, quoted in *6 Reg. Deb.* 1060 (1830). Representative George Evans of Maine also quoted the instructions of Secretary of War Eaton to General Carroll for negotiating with Cherokees, cites openly avowed use of coercion, threats, bribery, even saying that "by refusing' to remove, "they must necessarily entail destruction upon their race," and that "[t]he truth is, they rely with great confidence on a favorable report on the petition they have before Congress. If that is rejected, and the laws of the States are enforced, you will have no difficulty of procuring an exchange of lands with them." In spite of these threats, said Evans, "[y]et we are told, that this removal is to be purely voluntary; and gentlemen point us to the bill, and say, there is no compulsion there. No, sir; and there is no protection there." Anti-Jacksonian Representative George Evans, quoted in *6 Reg. Deb.* 1040 (1830).

But in order to condemn Georgia's laws discriminating against the Cherokees in a convincing and consistent way, one would have to condemn laws that discriminated on the basis of race. The problem with condemning such laws was that laws discriminating on a racial basis, against both Indians and free blacks, were on the books across the United States, as pro-removal congressmen gleefully pointed out. Northerners, like Anti-Jacksonian Representative Isaac Bates of Massachusetts, characterized Georgia's laws as "proscrib[ing] the nation—an entire district of men," and he called the laws "despotism." To counter these charges, Jacksonian Representative Wayne of Georgia happily pointed to the laws of Massachusetts and Connecticut, which severely restricted Indian testimony in court, denied Indian capacity to manage their own property or live under their own laws, and appointed guardians and overseers to "superintend" them. Northerners responded by asserting that the major difference between the Indians in their own states and those in the South was that solemn treaties protected the sovereignty of the latter, while Indians in New England had lost their attributes of sovereignty.⁷² But crucially, neither Wayne nor his opponents across the aisle characterized these laws as "racial" discrimination, and no conversation about the justice of racially discriminatory laws as such arose out of the debate over Georgia's Cherokee code. Unable to openly avow, or openly disavow racial discrimination, anti-removal congressmen did not really ever name the issue; they merely glanced at it. Rather, the key assumptions of fatal impact

⁷² Jacksonian Representative James Wayne, quoted in 6 *Reg. Deb.* 1127-8 (1830). Anti-Jacksonian Representative Henry Storrs argued that the case of the Cherokees and other southern Indians differed from the Indians in New York and New England because they still retained the attributes of self-government, and were protected by national treaties. But Wayne fired back, arguing that the Senecas were protected by similar treaties, and professed their own self-government. The only difference, he implied, was that New York State had asserted its true jurisdiction, whereas Georgia was being unfairly prevented from extending its own. Representative Henry Storrs, quoted in Evarts, *Speeches*, 100, Senator Peleg Sprague, quoted in Evarts, *Speeches*, 61, and Wayne, quoted in 6 *Reg. Deb.* 1128 (1830).

rhetoric—the insinuation that whites and Indians could not live in proximity—formed the consensus shared by both the strident states’ rights and the humanitarian wing of pro-removal opinion. Fatal impact assumption could unite people holding a wide range of opinions on racial inequality—and even a wide range of opinions on who was at fault.⁷³

The fatal impact position that I discern thus could incorporate, but did not rely on racist assumptions. It merely held that there was a historical process in motion whose operation was inevitable: 1. that Indians were invariably degraded, immiserated and eventually driven to extinction by contact with white settlers, and 2. that it was impossible to prevent white settlers from moving onto Indian land as long as that land was accessible (near-by) and desirable. The fatal impact position thus did not rely on assumptions of innate racial difference.

Those spouting fatal impact rhetoric could even hold the Indians’ claims to land to be morally superior to the claims of settlers and the states that represented them, yet still judge those claims impractical to defend against the “cupidity” of the southern states, in the words of former President John Quincy Adams’ Secretary of War John Barbour. The impossibility of extending protection to the Cherokees was one of the most morally troubling, but also difficult to answer pro-removal arguments put forward.⁷⁴

⁷³“She [Georgia] proscribes the nation—an entire district of men.” He calls it “despotism.” Representative Isaac Bates, quoted in 6 *Reg. Deb.* 1050 (1830).

⁷⁴ Barbour to Evarts, quoted in Andrew, *Revivals to Removal*, 153. On another occasion he affirmed the principle that the rights of the Indians were impossible to protect: “It is impossible for the government...for any long time to prevent, or for your people, with their present habits, and scattered as they are, to successfully resist” the spread of the whites.” (Quoted in Sheehan, *Seeds of Extinction*, 268). Meanwhile in an 1826 memorandum recommending removal he asked “Shall we go on quietly in a course, which, judging from the past, threatens their extinction?” (Quoted in Banner, *How the Indians Lost Their Land*, 204).

If Jeremiah Evarts' journal is correct, even one of the key congressmen spearheading the Removal Bill privately believed the Cherokees to be in the right, in principle. In a private conversation, John Bell, Chairman of the House Indian Committee, discussed removal with missionary and anti-removal crusader Jeremiah Evarts and expressed opinions that would have been heretical to speak in front of a congressman from Georgia or Alabama. "The Indians have a right to their country," Bell began to say to Evarts, "a perfect right,—as much as any many has to his domicile; but"—at this point, in Evarts' telling, the missionary interrupted the Chairman.

I interrupted him to ask why he did not, in all his writings, begin by saying that the Indians had a perfect right [to their land]? Though exceedingly impudent, he looked a little embarrassed, and added: 'It would do no good—it is not in the power of man to defend them.'

I said, with emphasis and in a tone of authority, 'Sir, it *is* in the power of man to defend them.'⁷⁵

In this anecdotal encounter, Evarts presents the division between the two "humanitarian" sides of the debate over removal. One side concedes the justice of Cherokee claims to ownership and sovereignty over their own land, (and by uncomfortable implication, that the Cherokees face violent and unjust dispossession), yet argues that "it was not within the power of men to defend them," while the other side

⁷⁵ Quoted in Andrew, *Revivals to Removal*, 220, and quoted in Elizabeth Carter Tracy, *Memoir of the Life of Jeremiah Evarts* (Boston: Crocker and Brewster, 1845), 360. Originally from John Evarts Journal—ABCFM, Houghton Library, Harvard University ABC 11, vol. 2: Letters from Officers of the Board, September 13, 1824-May 11, 1831, Part One, April 10, 1830. It is impossible to judge whether or not Chairman John Bell actually expressed these sentiments, but his future actions provide some intriguing hints. Compellingly, though John Bell pushed the Indian Removal Bill through committee and through passage, he later broke with Jackson over his position on the re-chartering of the national Bank of the United States (Jackson took a vehement populist stance against the bank). He became a prominent figure in the Whig Party. Three years after that, in 1838, a bill came up to appropriate money to use military force against the Seminoles in Florida, and if necessary, to suppress anticipated Cherokee resistance to removal. John Bell, now a Whig, opposed the measure, and he called Hopkins Turney (speaking for the other side) a "tool" of Jackson. Then he "struck out at Turney, and each had to be restrained. Both were forced to apologize to the House." Wayne Cutler, ed., *The Correspondence of James K. Polk, 1839-1841* (Kingsport, TN: Vanderbilt University Press, 1979), 137 [footnote 6].

insists (in a tone of authority), that “it *is* in the power of man,” and particularly, of the federal government, “to defend them.”

The kind of regret filled inevitability rhetoric that Bell used to justify Removal to Evarts in the 1830s should be distinguished from the kind of triumphalist rhetoric of inevitability that would later be called Manifest Destiny. While Jackson and others did engage in triumphalism,⁷⁶ the rhetoric that proponents used to justify Removal was less often about the blessings of the expansion of a glorious and superior civilization, and more often focused on ameliorating the sad-but-inevitable destruction of Indian communities that this process entailed. There was a spectrum of pro-removal opinion that ranged from triumphalist to mournful, though almost everyone debating the issue in Congress at least made some obligatory gesture in the direction of lamentation.⁷⁷

⁷⁶ To recite a commonly quoted passage, “What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization and religion?” From, President Andrew Jackson’s Message to Congress “On Indian Removal,” quoted in Daniel F. Littlefield Jr. and James W. Parins, *Encyclopedia of American Indian Removal* (Santa Barbara: Greenwood, 2011), 30.

⁷⁷ Historian Nicholas Guyatt makes the point that advocates of removal tended to engage in a “softer form of determinism,” eschewing triumphalism. (Guyatt, *Providence and the Invention*, 197). We can take Jackson’s expressed opinions about removal as a sort of reference point in the spectrum of pro-removal opinion that professed to be humanitarian, as lying halfway in between those who saw removal primarily as a means to rescue Indians from white settlers, and those who saw it purely as a vindication of States’ rights. As such, it is worth quoting at length: “Our conduct towards these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a powerful appeal to our sympathies.... Surrounded by the whites, with their arts of civilization, which, by destroying the resources of the savage, doom him to weakness and decay, the fate of the Mohegan, the Narragansett, and the Delaware, is fast overtaking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them if they remain within the limits of the States, does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity. It is too late to inquire whether it was just in the United States to include them and their territory within the bounds of new States, whose limits they could not control. That step cannot be retraced. A State cannot be dismembered by Congress, or restricted in the exercise of her constitutional power. But the people of those States, and of every State, actuated by feelings of justice and regard for our national honor, submit to you the interesting question, whether something cannot be done, consistently with the rights of the States, to preserve this much injured race.” Lumpkin quoting Jackson’s speech, 6 *Reg. Deb.* 1023-4 (1830). Jackson, therefore, thought that Georgia had a right to Cherokee land. He also thought that it was in the Cherokees best interest to remove, that the lands west of the Mississippi were suitable for them, that the government had a right to do what was in their “best interest” whether or not Indians consented—though he threw in some arguably disingenuous protestation about voluntary nature of removal. He argued that Indian displacement and

As historian Stuart Banner argues, there was a spectrum of attitudes on the pro-removal side towards the justice of Georgia's claims to Cherokee land. Although most congressmen who gave speeches in favor of removal spent considerable effort vindicating the States' rights to Indian land "within their chartered limits," condemnation of frontiersmen and doubts about the justice of expansion onto Indian land could also coincide with an endorsement of Indian removal as humanitarian rescue.⁷⁸ Humanitarian advocates of removal argued that the situation urgently required the evacuation of Indians from the dangerous zone of contact, and accused the opposition to removal of obstructing this rescue operation. There must be a "terrible responsibility," Thomas McKenney wrote the Cyrus Kingsbury, ABCFM missionary to the Choctaws, "if they [opponents of removal] succeed in paralyzing [*sic*] the efforts that are making [*sic*] for their [Indians'] removal, and the Indians remain and perish, as they will, *if they remain*, [removal opponents] will have wrought a work, innocently I know, over which they will have occasion long to mourn."⁷⁹

The Baptists who supported removal for "humanitarian" reasons tended to agree. They did not deny Cherokee success in "civilization," nor did they agree that Georgia had rights to Cherokee land, or that Indians lacked the capacity to make treaties, in principle. Rather, they seem to have fallen most squarely into the camp of people who supported

decline in the face of white expansion made a "powerful appeal to our sympathies", but that it was unavoidable in the course of Providence, and that the country was better off in the hands of whites anyway, who were more industrious and deserving of the resources it provided. He argued that a removal to the west would save them from extinction, and give them a chance to progress in civilization in a country that they could call their own without having to contend with the claims of any of the States.

⁷⁸ McCoy, for instance, in explaining the necessity of removing Indians from the proximity of whites, had some very harsh words for bordering frontiersmen, and some very condescending words for Indians: "Doomed, therefore, to mingle with their own corrupt selves, and the very filth of civilized society, from infancy to old age, and from generation to generation, they grow worse and worse." McCoy, *Remarks*, 14.

⁷⁹ Andrew, *From Revivals to Removal*, 212-3.

removal as a troubling, desperate, but necessary measure to save Indians from certain destruction. In a couple of years, prompted by Andrew Jackson's re-election, the failure of the courts to compel Georgia and the federal government to alter course, and the nullification crisis, these pro-removal humanitarians would be joined by other former opponents of removal (as will be discussed in the next chapter).

"Roger Williams," for example, writing in the *American Baptist Magazine*, supported Indian treaty rights, and completely rejected the states' rights argument in favor of removal, only to affirm that removal might be the most expedient way for the Cherokees to extricate themselves from the impending collision with Georgia:

Neither Mr. M'Coy nor the Board has, in the slightest degree, countenanced the idea, that the Indians could rightfully be *forced* to remove, by either direct or indirect means. They believe, so far as I know their opinions, that the Indians have a perfect right to remain where they are; that they have an indisputable title to their lands; that the treaties with the Cherokees, and other tribes, are just as binding on the United States, as treaties with England or France; that the States within whose limits the Indians reside, have no right to extend their laws over them; and that, consequently, the President of the United States is bound, by his oath, to protect the Cherokees, and guarantee them their rights...⁸⁰

After affirming the Cherokees on every crucial question of right, "Roger Williams" went on to the question of "expediency":

The question, therefore, whether it is expedient for the Indians to remove, is distinct from the question whether they possess a right to retain their lands and their distinct existence as independent tribes. A belief in the former does not involve a denial of the latter. A man may think it for the good of the Cherokees themselves that they should follow their countrymen beyond the Mississippi, and yet feel grief and indignation at a violation of solemn treaties, or an attempt to force the Indians from their homes, and the graves of their fathers.⁸¹

However, although humanitarian proponents of removal disavowed the use of force, southern congressmen who were passionate advocates of States' rights and opponents of Indian rights selectively used these same fatal impact arguments, to add

⁸⁰ "Roger Williams," *American Baptist Magazine*, 10, (1830): 264.

⁸¹ Ibid.

weight to their own cases for removal and to claim the moral authority of religious men and institutions.⁸²

The tone of indignation against Georgia and the president in the “pro-removal” opinion of the Baptist “Roger Williams” was also absent from the rhetoric of the “New York Board for the Emigration, Preservation, and Improvement of the Aborigines of America,” formed by ex-superintendent of Indian Affairs Thomas McKenney and a group of clergymen friendly to removal. The New York Board’s 1830 petition to Congress in the midst of the debate over the removal bill expressed a concern for the “perilous” “present condition” of Indians without casting blame on Georgia or the President:

Considering the present condition of our Indians as perilous in the extreme, your memorialists feel themselves bound, as citizens, to appeal to Congress to save them, by adopting such measures as are suited to the present crisis, and we know of none so appropriate as a speedy removal: for we are decidedly of the opinion, that, if they remain where they are, they must inevitably perish.⁸³

The New York Board did not explain why they must “inevitably perish” in the vicinity of whites, but it was optimistic about the fate of the Indians once removed across the Mississippi, an optimism based in an expressed belief in the racial equality of Indians and whites:

[We do not] seek for them a change of place only, but of destiny, when they are removed. They are capable of being elevated to an equality with ourselves; and nothing is wanting to effect it, but a liberal appropriation of means, to be applied to their mental cultivation and improvement...In this respect, the Indians have claims on your humanity, your justice, and your honor. They also are human...⁸⁴

⁸² Lumpkin, quoted in 6 *Reg. Deb.* 1017-8 (1830).

⁸³ US. Congress, House. *Memorial of the Indian Board for the Emigration, Preservation, and Improvement of the Aborigines of America*, 21st Cong., 1st sess., H. Doc.. 233, Vol. 200, Feb. 22, 1830, U.S. Congressional Serial Set, 2.

⁸⁴ *Ibid.*

In addition to their belief in this obligation to save and protect the Indians, however, the New York Board wholeheartedly embraced the President's position on the rights of the States to sovereignty and ownership of Indian lands within their "chartered limits." In support of these rights, the Board cited *Johnson v. McIntosh*, the Supreme Court decision which that Indian title was restricted to the "right of occupancy" while the states held sovereignty and ownership over Indian land under the "right of discovery." The Board pronounced the decision "both luminous and satisfactory."⁸⁵

Not all advocates of removal followed the New York Board and lamented the fate of the Indians. Some explicitly denied that they thought Indians were worth saving, and denied any responsibility for Indians' fate. Some indeed took a triumphalist, even a hateful tone. "To take measures to preserve the Indians, is to take measures to preserve so much barbarity, helplessness, and want, to the exclusion of so much industry and thriftiness," said Jacksonian Representative Richard Henry Wilde, of Georgia. "The object of true humanity is not blindly to better the condition of a given individual, whether he will be bettered or not, but to put a happier individual in the place of a less happy one," he argued. "Do not resist the order of Providence, which is carrying him away; and, when he is gone, a civilized man will step into his place."⁸⁶ While Jackson and McCoy alike expressed optimism about the effects of removal on Indian progress and civilization, other removal advocates were skeptical that anything could be done for Indians short of the application of a total disciplinary control from the outside, and embraced an image of Indians as inherently degraded and inferior.⁸⁷ This rhetoric

⁸⁵ Ibid.

⁸⁶ Wilde, quoted in 6 *Reg. Deb.* 1082 (1830).

⁸⁷ "I do not believe that this removal will accelerate the civilization of the tribes," said Jacksonian Senator John Forsyth of Georgia. "You might as reasonably expect that wild animals, incapable of being tamed in a

reflected their belief in Georgia's right to dispossess and rule Indians far more than any concern for their fate.

But even removal advocates who made little pretense to humanitarian motivation could adopt aspects of McCoy's logic that Indians who lived anywhere near the vicinity of whites were inevitably victimized by them. Though they declared that this treatment was impossible to prevent, and not even worthwhile preventing, removal advocates could still denigrate frontier whites as "worthless." Indeed, contempt for "worthless" "degraded whites", "the very filth of civilization," (in McCoy's terms), was often intimately related to despair of "saving" Indians. Condemnation of frontier whites was perfectly compatible with a worldview in which contact and mixing between whites and Indians, whether racial or cultural, could yield nothing good for either party. Pro-removal whites could even understand settler population, from an indigenous point of view, as a dangerous and spreading disease.⁸⁸

If the argument that inevitable historical developments necessitated removal was so key to presenting a humanitarian justification for the policy, did those opposed to removal try to push against or undermine this logic in making their own case? In the next section, I argue that some congressmen did indeed develop powerful and reasonable arguments against the historical necessity of removal, but that the effectiveness of these arguments must have been undercut by their own (at times) fatalistic rhetoric. I will argue

park, would be domesticated by turning them loose in the forest. This desirable end cannot be obtained without destroying the tribal character, and subjecting the Indians, as individuals, to the regular action of well digested laws. Wild nature never was yet tamed but by coercive discipline," quoted in Andrew, *Revivals*, 212.

⁸⁸ Wilde, quoted in 6 *Reg. Deb.* 1096 (1830), McCoy, *Remarks*, 10-14. Sheehan, *Seeds*, 201-7, 265-70 talks about the trope of the savage frontiersman in the mouths of American missionaries and policy-makers, while Richard Slotkin, *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization, 1800-1890* (New York: Anthenum, 1985), 71-2, discusses the trope in the literary tradition.

that removal opponents had a habit of viewing removal as a moral question that they (subtly) suggested was primarily important insofar as it reflected on the character of the nation in the eyes of God, “the world,” and posterity. This narcissistic tendency, I will argue, could encourage heroic gestures of opposition, but could also encourage fatalistic resignation.

All participants in the debate shared a sense that imminent destruction for Indians in the neighborhood of white settlers was unavoidable without strong intervention by government authorities—doing nothing would inevitably lead down a path of degradation and extinction.

But some removal opponents refused to accede to their opponents’ position that Indian removal was the only way to arrest that process, and was therefore necessary.

Removal opponents pointed out that when Indians were protected in possession of their land by federal treaties, they thrived. The Cherokees, the anti-removal *cause célèbre*, were not “degenerating” but expanding in population, in economic productivity, and in acculturation. Even the “degraded” “full-bloods” no longer lived by hunting. “How comes it to pass that some of the tribes, the Cherokees especially, are increasing in population and wealth? Does this look like their extinction?” asked Anti-Jacksonian Representative William Ellsworth of Connecticut.⁸⁹ Indeed, the assumptions of fatal impact theory did not go uncontested in this debate. Due in part to their spectacular success at economic transformation, an intensely hopeful millennialism had animated missionary efforts of the American Board of Commissioners for Foreign Missions, so

⁸⁹ Ellsworth, quoted in 6 *Reg. Deb.* 1030 (1830).

much so that the trope of the improvement and progress of Native peoples had even begun to compete with the familiar declension narrative of native history.⁹⁰

Furthermore, and compellingly, opponents of removal argued that the amount of land in question was actually quite paltry, and that white population pressure hardly necessitated the invasion of Cherokee lands when so many millions of acres of Indian territory already ceded remained unsold. “Several years ago,” said Anti-Jacksonian New Jersey Senator Frelinghuysen, “official reports to Congress stated the amount of Indian grants to the United states to exceed 214 millions of acres. Yes, Sir, we have acquired, and now own, more land, as the fruits of their bounty, than we shall dispose of at the present rate to actual settlers in two hundred years.”⁹¹

⁹⁰ Banner, *How the Indians*, 208, Sheehan, *Seeds*, 8, 146-7, John Demos, “Ascent,” Part III in *The Heathen School: A Story of Hope and Betrayal in the Age of the Early Republic* (New York: Random House, 2014), Frelinghuysen in Evarts, *Speeches*, 26, quoted Jefferson and Madison to support the idea that Indians had been on a trajectory of becoming more civilized, and more attached to the U.S., as U.S. regard to justice towards them increased. The case against removal at times relied on a belief that treatment of Indians had been getting better since the birth of the republic, and that this progressive national legacy was about to be betrayed by a return to atavistic colonial practice, represented by the doctrine of discovery: “Your memorialists are indignant that in a republican country, which has spurned the previously legitimate control of British kings, the illegitimate charters and proclamations of those monarchs, should be considered competent to authorize the seizure of a territory, in despite of a solemn guarantee....In the provincial history of some of the states of our Union, there may be sufficient instances of fraud and violence towards the aborigines to furnish precedents for the course which the Indian bill has been made to sanction, but your memorialists are under the impression, that in our national history no instance of ill faith, cruelty, or injustice, can be adduced prior to the proceedings in relation to the northern Indians. Our national character will be looked for, not in times anterior to our existence as a nation, but in the period which has succeeded the formation of our general government., Your memorialists trust that the Senate, and House of Representatives, of the United States, will not consider the crimes of our provincial times, as worthy of imitation; but will rather endeavor to wipe off any stain which may thence arise, by a rigid performance of national obligations, and scrupulous adherence to the path of justice and humanity,” (petition from Pennsylvania, reprinted in Robert Smith, ed., *The Friend: A Religious and Literary Journal, Volume IV* (Philadelphia: John Richardson, 1830), 101.)

⁹¹ Frelinghuysen, went into the issue of unsold land: “For, very recently, it has been ascertained on this floor, that our public sales average not more than about one million of acres annually. It greatly aggravates the wrong that is now meditated against these tribes, if we merely look at the rich and ample districts of their territories that either force or persuasion has incorporated into our public domains.” Quoted in Evarts, *Speeches*, 8. Everett argued that “We have acquired east and west of the Mississippi, by treaties, about two hundred and thirty millions of acres of land,” so there was no need to take more. (Everett, quoted in 6 *Reg. Deb.* 1060 (1830). On the unnecessary, gratuitous oppressive nature of removal, see Everett quoted in 6 *Reg. Deb.* 1078), and Ellsworth, quoted in 6 *Reg. Deb.* 1030 (1830). Henry Storrs of New York said: “But I will not despond, or give up all for lost. When it is considered how little, after all, these States really have at stake on this question, and how trifling the acquisition of this paltry territory must be, I cannot believe

Moreover, removal opponents argued, Cherokees were peaceful and presented no security threat to the nation, while their lands were far from crucial to national economic development. Therefore, they asked, how in the world could anyone argue that there was a pressing need for their dispossession, in shameless violation of solemn treaty obligations?⁹²

Finally, as a practical measure, anti-removal congressmen argued, wholesale removal was an unprecedented and fantastically expensive visionary measure, requiring millions of dollars in taxes, (levied on northern states with nothing to gain from the policy), to be forked over to an executive (Jackson) who would enjoy complete and tyrannical discretion over the use of these funds for the benefit of special, sectional interests. Besides the hemorrhage of tax-payer dollars, several congressmen argued that to cast removal as a humanitarian measure was grotesque, when it would lead to thousands of Indians lives needlessly wasted in the march west, in the hands of contractors in whose direct interest it would be to skimp on supplies and move Indians, young and old, sick and well, as quickly and inexpensively as they could. “The imagination sickens at the thought of what will happen to a company of these emigrants, which may prove less strong, less able to pursue the journey than was anticipated,” Anti-Jacksonian Congressman Edward Everett of Massachusetts declared presciently. “Will the contractor stop for the old men to rest, for the sick to get well, for the fainting women and children to revive? He will not; he cannot afford to. And this process is to be

that they will refuse to make some sacrifice or concession of feeling to the reputation of the country.” Storrs quoted in *Reg. Deb.* 1015 (1830). George Test, of Indiana questioned the necessity of removal, paints it as outrageous and visionary, and holds Jackson responsible for Georgia’s unprecedented action. Test quoted in *Reg. Deb.* 1103-4, 1107 (1830).

⁹² Frelinghuysen, quoted in Evarts, *Speeches*, 8 and 25, Sprague, quoted in Evarts, *Speeches*, 66, Everett, quoted in 6 *Reg. Deb.* 1078 (1830).

extended to every family, in a population of seventy-five thousand souls. This is what we call the removal of the Indians!”⁹³

More directly striking at assumptions of inevitability, Anti-Jacksonian Senator Peleg Sprague of Maine argued specifically against the idea that removal was made necessary by circumstances beyond the control of the Jackson administration. Sprague quoted Secretary of War Eaton’s threats to the Cherokees that “by refusing” to remove, “they must necessarily entail destruction upon their race,” and presented the removal campaign as gratuitous bullying:⁹⁴

It is said that we *must* resort to such measures; they are unavoidable. The plea of state necessity is advanced. And is this great country, with peace in all its borders, now controlled by an irresistible power, that knows no rule and consults no law? Does this measure wear the garb of *state necessity*? That, Sir, is a high-handed tyrant...It is contended, that is for their best interest to remove. Leave that, Sir, to their own decision. Our judgment may be too much guided by our own convenience.⁹⁵

Senator Frelinghuysen also sharply contested the fatal impact narrative that Indians were necessarily led to “degradation” by contact with whites. “It is alleged,” he

⁹³ George Evans of Maine goes into the issue of expense and compares Indian removal to internal improvements, he does “not easily perceive the authority which we possess to make the appropriation,” Evans quoted in 6 *Reg. Deb.* 1046 (1830), while Everett argued that “The great principle of motion proceeds from the States. They are to move the Indians. We are to pay the expense of the operation,” and he predicted the consequences, (the Trail of Tears) that would result from involuntary moving a whole nation hundreds of miles west, provisioned by contractors: “They think of a march of Indian warriors, penetrating, with their accustomed vigor, the forest or the cane break...Sir, it is no such thing. This is all past: it is a matter of distant tradition, and poetical fancy. They have nothing now left of the Indian, but his social and political inferiority. They are to go in families, the old and the young, wives and children, the feeble, the sick. And how are they to go? Not in luxurious carriages; they are poor. Not in stage coaches; they go to a region where there are none. Not even in wagons, nor on horseback, for they are to go in the least expensive manner possible. They are to go on foot; nay, they are to be driven by contract...It is to be screwed down to the least farthing, to eight dollars per head...The imagination sickens at the thought of what will happen to a company of these emigrants, which may prove less strong, less able to pursue the journey than was anticipated. Will the contractor stop for the old men to rest, for the sick to get well, for the fainting women and children to revive? He will not; he cannot afford to. And this process is to be extended to every family, in a population of seventy-five thousand souls. This is what we call the removal of the Indians!” Everett quoted in 6 *Reg. Deb.* 1069-70 (1830).

⁹⁴ Sprague, quoted in Evarts, *Speeches*, 66.

⁹⁵ Ibid.

said, “that Indians cannot flourish in the neighborhood of a white population—that whole tribes have disappeared under the influence of this propinquity.”

As an abstract proposition, it implies reproach somewhere. Our virtues certainly have not such deadly and depopulating power. It must, then, be our vices that possess these destructive energies—and shall we commit injustice, and put in, as our plea for it, that our intercourse with the Indians has been so demoralizing that we must drive them from it, to save them? ⁹⁶

By holding up the Cherokees progress under the auspices of the civilizing mission as a success story, Frelinghuysen asserted that whites had a choice in whether their contact with Indians led to destruction or to the flourishing of Indian nations:

Wherever a fair experiment has been made, the Indians have readily yielded to the influences of moral cultivation. Yes, sir, they flourish under this culture, and rise in the scale of being...I have the opinions of some of our most enlightened statesmen to sustain me. Mr. Jefferson...[said that] ‘already we are able to announce that instead of that constant diminution of numbers produced by their wars and their wants, some of *them begin to experience an increase of population.*’⁹⁷

Frelinghuysen also strongly inveighed against the idea that Indians were obligated to leave their homes in order to make room for a more populous people, who would require their own space to grow—if such a duty existed, he argued, Indians had long ago fulfilled it by numerous previous land cessions, and were now growing in population themselves. Echoing an argument made by Isaac McCoy himself to defend Indian land title, removal opponents in Congress argued that a Dutch or Chinese visitor to the United States could argue that the land was underpopulated (relative to his own country) and that they were therefore justified in appropriating it for the use and support of their greater, or more dense populations.⁹⁸ Everett complemented his point, giving a scathing oration

⁹⁶ Frelinghuysen, quoted in Evarts, *Speeches*, 25.

⁹⁷ Ibid.

⁹⁸ Frelinghuysen, quoted in Evarts, *Speeches*, 8. Indeed, McCoy himself had made this argument to defend Indian land title—though this was not a part of his text that was quoted by removal advocates. (McCoy, *Remarks*, 4).

against the idea that the need for living space (in a manner of speaking) drove settlers to invade Indian lands, and that it was a matter of state necessity to support them:

And now, sir, what is the necessity of this measure? What is the necessity of removing the Indians?...I would gladly have gone for it, as the least of evils. But I cannot catch a glimpse of any such necessity....They tell us, that, till the Indians are gone, they cannot consolidate their society, not complete their improvements. These generalities carry no meaning to my mind....What is the population of Georgia, where there is no room for these few Indians? It is less than seven to the square mile. We, sir, in Massachusetts, have seventy-four to the square mile, and space for a great many more. And yet Georgia is so crowded, that she must get rid of these Indians in her northwestern corner!⁹⁹

In the strongest formulations of opponents of removal, then, removal was a breach of faith that perjured and degraded the nation, an inhumanity that reflected justice corrupted, basic moral obligations failed, and gratuitous, shameless bullying.¹⁰⁰ Anti-Jacksonian Congressman George Test of Indiana emphasized “how little, after all, those States” clamoring for the removal of Indians “really have at stake on this question.” For these opponents of removal, claims that Indian removal was in any way “necessary” rang false. Obviously, then, opponents of removal did make forceful arguments against both the supposed “practicality” of removal, and against the chain of logic that posited the historical inevitability of Indian decline and tied it to the inevitability of removal.

But what they seldom did, and what the pro-removal camp kept goading them to do, was to clearly present their own solution, or concrete plan of action, to address the conflict between the Indians and the southern States. If advocates of removal disingenuously disavowed the intention of using force to dispossess Indians, opponents of removal often dodged the reality that their own proposed solution to the crisis—to restore

⁹⁹ Everett, quoted in 6 *Reg. Deb.* 1078 (1830).

¹⁰⁰ On the unnecessary, gratuitous oppressive nature of removal: Everett, 1078, Ellsworth, 1030, Storrs, 1015 Test 1103-4, 1107, questions the necessity of removal, paints it as outrageous and visionary, holds Jackson responsible for Georgia’s unprecedented action. All in 6 *Reg. Deb.* (1830).

the Cherokee nation to sovereignty and soil as required by treaty—would require the use of military force to make the states, especially Georgia, comply.

Granted removal opponents implied that since Indian treaties were the supreme law of the land, they should be enforced. But even as the representatives debated the issue, these treaties were being actively and determinedly violated by the states, even as Jackson acceded to the demands of Georgia to withdraw U.S. troops that had been tasked with enforcing the treaties and the Trade and Intercourse Acts. Few opponents of removal acknowledged that “enforcement” meant the deployment of military force against the States that their colleagues were representing, though pro-removal congressmen not only recognized this fact but almost all of them closed their speeches with (arguably) taunting reminders of it. Opponents of removal might prefer to believe that rejection of the Removal Bill would mean the return to the status quo ante, without admitting that their position required a much more active intervention “on the ground,” but southerners, menacingly, reminded them of this fact, as I will soon show.

Some congressmen, as we have seen, showed concern that Georgia’s actions in extending jurisdiction essentially annexed Cherokee territory, violated the United States’ treaties with the Cherokees, and were meant to coerce the Cherokees into removal. One of the most tepid skeptics on removal, Joseph Hemphill, a northern Jacksonian representative from Pennsylvania with a large anti-removal Quaker constituency, declared that he might support a bill for removal eventually, but only on the condition that an investigating committee report that it was actually the desire of a silent majority

of Indians to remove.¹⁰¹ Others gave Georgia less credit for goodwill, and were more strident and clear in their condemnation.

Senator Frelinghuysen, however, stands out among anti-removal congressmen for his understanding of the implications of sincere rejection of the Indian Removal Bill and a determination to enforce Cherokee treaty rights, and he did not shirk away from stating them. He recognized that Georgia was in active and violent opposition to U.S. treaty obligations to the Cherokees. Only Frelinghuysen declared his willingness to back the use of federal force against Georgia, even if it led to civil war: “Let the general government come out, as it should, with decided and temperate firmness,” Frelinghuysen declared,

and officially announce to Georgia, and the other States, that if the Indian tribes choose to remain, they will be protected against all interference and encroachment... But if the general government be urged to the crisis, never to be anticipated, or appealing to the last resort of her power; and when reason, argument and persuasion fail, to raise her strong arm to repress the violations of the supreme law of the land, I ask, is it not her bond, Sir? Is her guarantee a rope of sand?¹⁰²

But it is not clear that these declarations were helpful to the anti-removal position in these debates. In fact, Representative Wilson Lumpkin quoted Jeremiah Evarts’s militant writings on Indian removal in the popular “William Penn” essays at length to illustrate that the anti-removal position was immoderate, fanatical, and unrealistic:

It would be better that half the states in the Union were annihilated, and the remnant left powerful in holiness, strong in the prevalence of virtue, than that the whole nation should be stained with guilt... We would rather have a civil war, were there no other alternative, than avoid it by taking shelter in crime... it would be better for the universe to be annihilated, than for one jot or tittle of the law of God to be broken.¹⁰³

¹⁰¹ Hemphill, quoted in 6 *Reg. Deb.* 1132 (1830). About his amendment, see also Ronald Satz, “Political Response to the Removal Act,” in *American Indian Policy in the Jacksonian Era* (Lincoln: University of Nebraska Press, 1975), 29.

¹⁰² “Would you urge us to arms with Georgia? No, Sir. This tremendous alternative will not be necessary.... Let such decided policy go forth in the majesty of our laws now,” Frelinghuysen said, advocating federal enforcement of Cherokee treaty rights, “and Georgia will yield. She will never encounter the responsibilities of the horrors of a civil war. But if she should, no stains of blood will be on our skirts—on herself the guilt will abide forever.” Frelinghuysen quoted in Evarts, *Speeches*, 28.

¹⁰³ Lumpkin quoting Evarts, quoted in 6 *Reg. Deb.* 1020 (1830).

Lumpkin mocked the idea that such views could belong to those of a party, (the soon to be “Whig Party”), so often characterized as “the Christian party in politics.”¹⁰⁴

These declarations of the willingness to use force were not as convincing as Georgia’s counter-threats. Georgia, after all, had forced the issue of “inevitability” on a practical level, independent of abstract arguments about Indian disappearance, when it threatened confrontation with federal troops in the event that they should be called on to enforce Cherokee treaty rights. By invading Cherokee country with settlers and gold prospectors, extending the jurisdiction and enforcement of their laws, and legally annihilating Cherokee nationhood within their “chartered” boundaries, Georgia created the facts on the ground on which the “inevitability” of Indian removal would be judged.¹⁰⁵ Beneath moral arguments about treaty rights versus states’ rights, beneath the disavowal of coercion and the occasional insincere profession that Cherokees would be perfectly protected under Georgia law, lay this fact of naked power.

There was a causal chain of choice and consequence attached to this frank expression of the facts of power on the ground. The logic of this chain was implied, but rarely spelled out explicitly. Nonetheless, it was unmistakable: 1: *The Cherokees cannot defend their borders from us.* 2: *Given the accomplished fact of our invasion, which will certainly end in their destruction, do you really think removal opponents are doing the Indians a favor by suffering them to remain where they are, in our power?* 3. *If you oppose us,, you will likely precipitate civil war. Are you prepared for this course of*

¹⁰⁴ Ibid.

¹⁰⁵ According to historian Ann McGrath, “by the late 1820s, ten thousand white men were invading Cherokee land in Dahlonega”, and the numbers were increasing rapidly due to the gold rush. Ann McGrath, *Illicit Love: Interracial Sex and Marriage in the United States and Australia* (Lincoln: University of Nebraska, 2015), 148.

action and the disaster it entails? 4. Get them out of the way, and let us all be absolved of this problem for good. Representative Thomas Foster, Representative Lumpkin, Senator Forsyth, and just about every Georgia advocate of removal in Congress ended their speech with such a threat. “Permit me, however, before I close,” Foster said, “to ask this committee, if they refuse to pass this bill, what course this Government will adopt. Will they attempt to interfere with the jurisdiction of the State of Georgia, and arrest the operation of her laws over the Indians?” Foster went on: “Sir, this is a most momentous question,

We are indeed brought to the very banks of the Rubicon—a very narrow boundary divides you from State jurisdiction—cross it, and we may not be able to calculate the consequences—there may, then, indeed, be scenes and subjects abundantly sufficient for the exercise of all the feelings of philanthropy. [I]s it reasonable to suppose that Georgia will submit to be restrained from the exercise of these rights by the arm of the General Government? No, sir, I assure you she will not—her course is determined on, and she will pursue it with a resolution which no threats can intimidate.¹⁰⁶

¹⁰⁶ It is worth quoting some of this language at length: “Permit me, however, before I close, to ask this committee, if they refuse to pass this bill, what course this Government will adopt. Will they attempt to interfere with the jurisdiction of the State of Georgia, and arrest the operation of her laws over the Indians? Sir, this is a most momentous question. We are indeed brought to the very banks of the Rubicon—a very narrow boundary divides you from State jurisdiction—cross it, and we may not be able to calculate the consequences—there may, then, indeed, be scenes and subjects abundantly sufficient for the exercise of all the feelings of philanthropy. I tell you, sir, Georgia has taken her course, and she will not retire from it...I hope I am not misunderstood in these remarks; they are not made in the spirit either of threatening or defiance—far from it. On the contrary, our people implore you, by all the ties which bind us together...not to violate the rights of Georgia as a sovereign member of this Union...it is the sincere and affectionate remonstrance of brothers...is it reasonable to suppose that Georgia will submit to be restrained from the exercise of these rights by the arm of the General Government? No, sir, I assure you she will not—her course is determined on, and she will pursue it with a resolution which no threats can intimidate...” Foster, quoted in 6 *Reg. Deb.* 1036 (1830). Lumpkin closed his speech with a similar threat: “But, sir, I will not dwell upon the wrongs of Georgia. It is the province of weakness to complain...confidence has been restored to the executive branch of the Government, by the course which has been marked out and pursued by our present Chief Magistrate...we have no supplications to make. We deny your right of jurisdiction. Upon the subject of our sovereignty we fear nothing from your sentence. Our right of sovereignty will not be yielded. If you do not perform your duty...I would then advise you to let us alone, and leave us to manage our own affairs in our own way. While I would scorn to be heard in the tone of supplication, in reference to the rights of my constituents, I would, nevertheless, as the sincere and candid friend of the Cherokee Indians, use the language of expostulation in their behalf. The Cherokees, as well as the Georgians, are tired of suspense. A crisis has arrived, which calls for action. Things can no longer remain in the present state.” Lumpkin, quoted in 6 *Reg. Deb.* 1025 (1830).

On the last day, before the final vote was taken, Jacksonian Representative George McDuffie of South Carolina spelled out this logic. He attempted to cut short debate by saying that removal was a “practical question.” “Whatever we may think here,” McDuffie said, “the State of Georgia has assumed an attitude from which it will not shrink, and if we refuse to execute the power which we may constitutionally assume on this question, the guilt of blood may rest upon us. I demand the previous question [that the whole bill be brought to a final vote].”¹⁰⁷

Indeed, even Frelinghuysen backed off from his opposition to Indian Removal three years later during the spring of 1833, when the mix of anti-removal agitation and the nullification crisis meant that secession and war were real possibilities. Rather than fulfill her “bond,” Frelinghuysen preferred that the federal government avoid “the responsibilities of the horrors of a civil war.” Advocates of removal had, in a way, called his bluff.¹⁰⁸

What was the relationship, then, between moral claims about removal, and claims that it was, in all practicality, inevitable? And how much did the anti-removal congressmen buy into the idea of inevitability themselves?

¹⁰⁷ McDuffie, quoted in 6 *Reg. Deb.* 1131 (1830).

¹⁰⁸ After the *Worcester* decision, Andrew Jackson wrote to John Coffee that “the decision of the Supreme Court has fell still born...it cannot coerce Georgia to yield to its mandate.” He added that even if he were so inclined, he could not persuade ‘one regiment of militia’ to fight to protect the Cherokees from Georgia. Should they resist removal, Jackson declared ‘the arm of the government is not sufficiently strong to preserve them from destruction.’ Frelinghuysen, in the spring of 1833, came around, and so did Edward Everett, after losing hope that *Worcester vs. Georgia* could be used to compel Georgia to respect Cherokee rights. Alfred Cave, “Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830,” in *Indian Removal: A Norton Casebook*, ed. David S. and Jeanne T. Heidler, (New York, W.W. Norton & Company, 2007), 224.

The notion that “practical good sense”¹⁰⁹ revealed that the destruction of the Indians was inevitable unless they were removed, underlay the pro-removal accusation that opposition to their program was moralist hypocrisy.

A northern Jacksonian paper, for example, admitted the injustice of the dispossession of Indians, but claimed that it was inevitable and irreversible:

It is a sad truth that the injustice of our Government was winked at for a long series of years; and no remonstrance was raised until it was raised against the present Administration, merely to effect party purposes.—Discreditable as it may be to our national character, it is nevertheless true, that such was the state of our Indian relations, when Gen. Jackson was elected to the Presidency.¹¹⁰

In an exercise of fatal impact rhetoric, the paper then credited Jackson for bowing to the inevitable and preferring removal as the “least of the evils”: “Perceiving the inevitable destiny that awaited the Indians while surrounded by white men, he adopted the plan of removing them, as the least of the evils to which he was driven by precedents and by the force of public opinion.” Having established the inevitability of removal, even in the face of the injustice of dispossession, the Jacksonian apologist could now paint opposition as hypocrisy. Injustice to Indians was an old tale, but only when Jackson was at the helm did “the whig leaders...bec[o]me clamorous. They affected to be grieved; and shed crocodile tears over the wronged and abused native. To those men we would say, what shadow of reason is there in your complaints? and what actuates you but party hatred?”¹¹¹

¹⁰⁹ Wilson Lumpkin of Georgia derided the “lectures upon morality, humanity, and benevolence, by an imaginary state of things which does not exist” of the other side, arguing that “the President of the United States, with his usual practical good sense, takes up the subject as it actually exists, points out the course which should be pursued as best calculated to benefit the Indians as well as the States, and tells you plainly, no other alternative is left, that will not terminate in the destruction of the Indians, as well as the rights and sovereignty of the States.” (Lumpkin, quoted in *Reg. Deb.*, 6, 1024.)

¹¹⁰ *Gloucester Democrat*, January 6, 1837.

¹¹¹ *Ibid.*

In a fascinating move, reminiscent of Thomas Jefferson's casting of blame upon the British king for the existence and perpetuation of American slavery in his draft of the Declaration of Independence, the newspaper then went on to excoriate Whig leaders opposing removal as part of a long line of men who robbed Indians of their "natural rights," even blaming them for introducing the "abominable" idea of Indian inferiority, only to sanctimoniously obstruct the rescue of Indians now that it was too late to restore them to their original rights:

Are you not of that party who first preached the abominable doctrine that the white man, in the sight of heaven, was better than the red man? and that the Deity designed the lands of the red man for his white children? Are you not silent about the frauds practiced ever since the first landing of the Pilgrims? Are you not aware that our Indian relations have reached a most difficult crisis, to which they have been tending for a long series of years? And do you now reproach the administration, because it cannot change the whole face of things, and commence a course of strict justice towards the Indians? do you expect the administration to recover back to them their natural rights, of which our government stripped them years ago? Are you not aware that a precedent was established long ago, from which we now find it impossible to depart?¹¹²

Indeed, removal advocates tended to claim that their position was realist and practical, while the anti-removal camp claimed the moral, idealist ground, leading to a perception of a dichotomy between these. Already, in the battles in the press preceding the debates in Congress, Jacksonian Governor Lewis Cass's rhetoric drilled in the "eminently practical" nature of Indian removal, while Jeremiah Evarts stressed the "moral" aspect of his opposition.¹¹³ Indeed, the national politics of the time was characterized by the resistance of Jacksonian Democrats to what they saw as moralistic

¹¹² Ibid.

¹¹³ "The tenure, by which the primitive inhabitants of this continent hold their land, is a question of metaphysical speculation, rather than one of practical right." (Lewis Cass, "Policy and Practice of the United States and Great Britain in their Treatment of Indians," *North American Review*, 24 (1827): 390. A keyword search in Cass's 1830 article in defense of Indian removal reveals 16 hits for the word "practical." Lewis Cass, "Removal of the Indians," *North American Review*, 30 (1830): 62-121, keyword search done 4/10/2016, 5:57 pm, <http://ebooks.library.cornell.edu/cgi/t/text/text-idx?c=nora&cc=nora&idno=nora0030-1&node=nora0030-1%3A4&type=simple&rgn=full+text&q1=practical&submit=Search>).

crusades originating among northern Whigs—temperance, sabbatarianism, anti-slavery—that promoted the hypocritical intrusion of government into other people’s private morals in the name of religion.¹¹⁴ Georgia Congressman Lumpkin denounced such perceived fanaticism and hypocrisy:

Sir, I blame not the Indians; I commiserate their case. . . If the wicked influence of designing men, veiled in the garb of philanthropy and Christian benevolence, should excite the Cherokees to a course that will end in their destruction. . . let it be remembered that it is the fruit of cant and fanaticism, emanating from the land of steady habits, from the boasted progeny of pilgrims and puritans.¹¹⁵

Massachusetts Congressman Edward Everett countered, arguing against the idea that anti-removal missionaries were acting from “mercenary motives,” “pretended zeal,” and “self-interest.”¹¹⁶ And Everett’s position makes a lot of sense. It was dubious to charge missionaries such as Samuel Worcester—who went to prison for hard labor in order to advance the fight against removal in the courts—or Evan Jones—who defied his own Baptist hierarchy and put his job and salary in severe jeopardy to actively aid his Cherokee parishioners in resisting removal—with selfishness in pursuit of material gain, or even party advantage.¹¹⁷

¹¹⁴ “Whatever doctrines may have been advanced by theoretical writers upon this subject, the practical comment of all nations will sustain the doctrines contained in the message of President Jackson. . .”, Lumpkin, quoted in 6 *Reg. Deb.* 1023 (1830). Anti-Jacksonian Congressman George Evans, 6 *Reg. Deb.* 1051 (1830), spoke on the individual conscience as opposed to political and party considerations. Anti-Jacksonian Senator Peleg Sprague, Evarts, *Speeches*, 66, did the same. The historian John Andrew, Andrew, *Revivals to Removal*, 214-15, points out that the debates over removal occurred in the context of the Sabbatarian fight against the Sunday mails in 1829 and 1830, in which “petitions [from New England] flooded Congress.” Thomas Hart Benton of Missouri flung an accusation against New England National Republicans in the context of another debate that well characterizes the attitude of the pro-removal camp towards those who rejected removal: “it is sufficiently monstrous that they [Government] should attempt, by arbitrary legislation, artificially to adjust and balance the various pursuits of society.” Andrew, *From Revivals to Removal*, 202-3.

¹¹⁵ Lumpkin, quoted in 6 *Reg. Deb.* 1019-20 (1830).

¹¹⁶ Everett, quoted in *ibid* 1058.

¹¹⁷ McLoughlin, “Secret Aid to Cherokee Resistance,” chap. 5 in *Champions of the Cherokees* (Princeton: Princeton University Press, 1990), 118-143.

Still, the framework that participants in this debate had for understanding self-interest and morality was so narrow and dichotomous that accusations of conspiracy, insincerity, or devious ulterior motives were the only way that many could explain tendentious moral opposition. Though Lumpkin's accusations were misguided, removal opponents certainly did desire to accrue moral capital¹¹⁸—to attain honor and a reputation for moral authority—and indeed to obtain favor in the eyes of God leading to salvation, avoiding the disastrous consequences of sin. This is not to claim that their motivations were selfish, but to emphasize that, though it did also partake of genuine indignation and outrage, white American anti-removal sentiment was often understandably shot through with guilt and fear of how the fate of the Indians reflected on *themselves*, in the eyes of both God and man. Nicholas Guyatt points out how many who advocated against removal attempted to make the providential argument that Indian Removal was a crime for which God would punish the United States. Anti-Jacksonian Representative of New York Henry Storrs, for example, attempted to argue that the decline of the Spanish Empire was God's punishment for its mistreatment of the Indians, whereas the blessings bestowed on North American English colonists were the result of their fair purchases of Indian land. If this (imagined) legacy were overturned, the providential tables would be turned as well, and the United States would suffer the same decline visited upon the Spanish Empire.¹¹⁹

¹¹⁸ Christopher Leslie Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill, UNC Press, 2006).

¹¹⁹ Storrs quoted in Evarts, *Speeches*, 111-2. Frelinghuysen made a similar point: "Although it be called a sickly humanity to sympathize with Indians—every freeman in the land, that has one spark of the spirit of his fathers, will denounce the proposed measure as an unparalleled, stretch of cruel injustice—unparalleled certainly in our history. And if the deed be done, Sir, how it is regarded in heaven will, sooner or later, be known on earth; for this is the judgment place of public sins." Frelinghuysen, quoted in Evarts, *Speeches*, 27-8.

An article in the *New York Evangelist*, meanwhile, exemplified the spirit of opposition to removal as a self-defense measure shielding the nation from God's wrath:

Our nation is involved in this sin, and exposed to the consequent danger. Not only has Georgia been sustained in this oppression by our general government, but by a vast number of individuals throughout our land... Christians should be patriots. They should strive to save their country from ruin. Let them pray, then, that our rulers may be men of piety, who shall fear God, and deal justly with man.¹²⁰

Whether in terms of sin and punishment, or reputation and shame, the moral language of the debate tended to figure the "Indian problem" as primarily important insofar as it provided a challenging test of the humanitarian "national character" of the United States, and as it affected the U.S. reputation in the eyes of Europe, posterity, and God.¹²¹ One pro-removal advocate even celebrated the fact that this spirited and "disinterested" debate over "human rights" was occurring at *all*, as a sign that the "national character" was strong and generous, which itself "presumptively vindicated" whatever the result of the vote would be.¹²²

On the one hand, historian Ronald Satz argues convincingly that powerful Whig Party figures such as Daniel Webster and Henry Clay were indeed primarily interested in using the righteous indignation of evangelicals to embarrass Jackson politically, far over

¹²⁰"Georgia and the Missionaries," *New York Evangelist*, Aug 27 1831, 294.

¹²¹ This point has been made by Cherokee scholar Daniel Heath Justice about anti-removal rhetoric both during the removal debate and thereafter. "The issue becomes *America's* shame, *America's* crime. Even though these writers and politicians clearly have concern for the suffering of the Cherokee people and other Indian nations, the Cherokees are removed again, this time through rhetorical erasure as the emphasis shifts to the stain of the glory of the United States, and its international and generational reputation." Daniel Heath Justice, *Our Fire Survives the Storm: A Cherokee Literary History* (University of Minnesota Press, 2006), 60-1.

¹²² Jacksonian Representative James Wayne of Georgia condescendingly celebrated the very fact that the measure was being debated as a human rights issue: "I am glad to see it, for it will be another assurance to the world, that though our countrymen may have a mistaken subject of excitement, they are always alive to what may seem to press upon human rights, and that, in this land, nothing can be done to affect them, which will not stand the test of rigid and jealous scrutiny... thus presumably vindicating whatever may be the result." Wayne quoted in *Reg. Deb.* 1124 (1830).

and above any genuine concern for Indians.¹²³ But other removal opponents were primarily interested in avoiding the imputation of sin, or alternatively, of disgrace, that participation in Indian removal would bring. As Justice Joseph Story of the Supreme Court wrote after voting in favor of the court's (technically unenforceable) 1832 *Worcester v. Georgia* decision in favor of the Cherokees, "thanks be to God, the Court can wash their hands clean of the iniquity of oppressing the Indians and disregarding their rights."¹²⁴ If removal was inevitable and could not be stopped then it was best to make sure that one was not complicit in the crime.

Unfortunately, the obsessive focus on the way that removal reflected on the character of the United States was possibly harmful to an effective opposition to removal, since it encouraged a focus on a defensive and partisan battle on the moral virtue of the United States and of the members of the competing political parties. And, as Nicholas Guyatt points out, focus on God's providential judgment against the United States opened up uncomfortable questions: Evangelicals offered providential arguments that God would punish the United States for its treatment of the Indians, but why were these predictions not borne out by past events? Why had the United States and its predecessor colonies enjoyed rising, rather than declining, historical fortunes, if God frowned upon their treatment of the Indians?¹²⁵ Wayne, Lumpkin, and other pro-removal Congressmen

¹²³ Ronald Satz, "Political Response to the Removal Act," chap.2 in *American Indian Policy in the Jacksonian Era* (Lincoln: University of Nebraska Press, 1975), 39-64, makes the convincing case that Henry Clay and Daniel Webster fall into this category, since they had favorable opinions of removal and unfavorable opinions of Indians before Jackson's election.

¹²⁴ Tim Alan Garrison, *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations (Studies in the Legal History of the South)* (Athens: University of Georgia Press, 2009), 192.

¹²⁵ Nicholas Guyatt, "Deifying Prejudice": Race and Removal in the Early Republic," chap. 5 in *Providence and the Invention of the United States, 1607-1876* (New York: Cambridge University Press, 2007), 196-202.

asserted U.S. moral superiority by insisting that the very act of engaging in treaty negotiations and land purchases in the first place showed benevolence and “commendable moderation.”¹²⁶

This position differed from removal advocates’ insistence on the binding nature of these treaties, but *not* in the self-congratulatory conviction that these treaties demonstrated the moral superiority and humane disposition of Protestant and republican colonizers who would deign to treat with Indians, as compared with the presumed legendary cruelty of Spain, whose colonial empire was supposed to have relied exclusively upon conquest. Indeed, comparisons with European powers were important in a post-Napoleonic era when monarchical powers were ascendant and republicanism was embattled on the European continent. Thus, opponents of removal constantly reminded their colleagues that the eyes of Europe were upon them and would judge the worthiness of “free government” based on their actions. “The subtleties, which satisfy you, will not satisfy the severe judgment of enlightened Europe,” said Edward Everett. “Our friends there will view this measure with sorrow, and our enemies alone with joy.”¹²⁷

Henry Storrs also argued that American actions in this regard would reflect on the integrity of free republics everywhere, at a moment when European despots would be thrilled to see the United States disgrace itself:

The eye of other nations is now fixed upon us. Our friends are looking with fearful anxiety to our conduct in this matter. Our enemies, too, are watching our steps. They have lain in wait for us for half a century, and the passage of this bill will light up joy and hope in the palace of every despot. It will do more to destroy the confidence of the world in free government, than all their armies could accomplish...It will weaken our institutions at home, and infect the heart of our social system...loosen the moral feeling of the country. Republics have been charged, too, with insolence and oppression in the day of their power...we are about to confirm it by our own example.¹²⁸

¹²⁶ Wayne, quoted in 6 *Reg. Deb.* 1125 (1830). Lumpkin, quoted in 6 *Reg. Deb.* 1024 (1830).

¹²⁷ Everett, quoted in 6 *Reg. Deb.* 1079 (1830)

¹²⁸ “Storrs, quoted in Evarts, *Speeches*, 130. Also, Evans, quoted in 6 *Reg. Deb.* 1049 (1830).

However, while advocates of removal had a disturbing habit of ending their speeches with threats to take matters into their own hands and unilaterally seize Cherokee territory, opponents of removal in Congress had a disturbing habit of ending their speeches with curious, fatalistic gestures towards the inevitability of removal, lending credibility to the other side's imputation that they were grandstanding. Some congressmen made these fatalistic gestures as part of a well-reasoned judgment about the course of particular events. For example, Henry Storrs noted that without the cooperation of the executive, the opposition to removal was "powerless"—but he no doubt held out hope that Jackson would be defeated in the 1832 election.¹²⁹ Sometimes, however, poetic gestures of fatalism reached beyond the bounds of scenario-specific judgments. Though many had embraced the idea of congressional agency and responsibility for the historical fate of the Indians, as against the idea that the Indians' destiny was out of Congress's hands, this very embrace led congressmen to assert that the passage of the Indian Removal Bill would spell irrevocable doom for the Indians. One representative, Asher Robbins of Connecticut, even projected this sentiment onto Indians themselves:

They see and they feel that their doom is sealed—that the decree is gone forth, and will be executed... The cry of the miserable Indian will not arrest it; the sympathy of this nation in that cry will not arrest it. That sympathy is not credited, or, if credited, is despised; and we are told here, and in a tone of defiance, too, that no power shall arrest it. My fears are, that no power *will* arrest it; none certainly will if this bill pass, and without this amendment [providing a commitment to protect treaty rights should Indian nations choose not to remove]; for then the executive will not arrest it. But if executed, and when executed, for one, I will say, that these Indians have been made the victims of power exerted against right...¹³⁰

Even Senator Frelinghuysen fell victim to such a tendency. Frelinghuysen was the most strident in asserting the nation's duty to resort even to military force to protect the

¹²⁹ Storrs, quoted in Evarts, *Speeches*, 129.

¹³⁰ Robbins, quoted in Evarts, *Speeches*, 76-77.

Cherokees from Georgia only a moment before. But his parting remarks suggest that he suspected himself to be fighting a losing cause, that was nonetheless crucial to pursue to the fullest to avoid staining himself with the sin of his nation against the Indians, and to make sure he was not complicit in the crime:

I have, in my humble measure, attempted to discharge a public and most solemn duty towards an interesting portion of my fellow men. Should it prove to have been as fruitless as I know it to be below the weight of their claims, yet, even then, Sir, it will have its consolations. Defeat in such a cause is far above the triumphs of unrighteous power. And, in the language of an eloquent writer—"I had rather receive the blessing of one poor Cherokee, as he casts his last look back upon his country, for having, though in vain, attempted to prevent his banishment, than to sleep beneath the marble of all the Caesars."¹³¹

As we have seen, Frelinghuysen implored the Senate to "raise the barrier against the pressure of population, and, with all the authority of this nation, say to the urging tide, 'Thus far and no farther.' Let us save them now, or we never shall."¹³² There was a logic to the belief that the passage of the Indian Removal Bill, or at least that Indian removal itself, would spell inevitable doom for Indians in general, and it was a logic that Cherokee Chief John Ross (whose opinions I will cover in a subsequent chapter) echoed. As Senator Peleg Sprague and Representative Edward Everett¹³³ spelled it out, the one thing protecting the Indians from the settlers, in their view, was a legally binding guarantee of protection given by the federal government in a solemn treaty, ratified in the Senate. Once such a guarantee was broken, (as they argued it would be by a coercive

¹³¹ Frelinghuysen, quoted in *ibid.*, 30.

¹³² Frelinghuysen, quoted in *ibid.*, 27.

¹³³ Sprague, quoted in *ibid.*, 65, "And what security do we propose to them?—a new guaranty! Who can look an Indian in the face, and say to him, We and our fathers, for more than forty years, have made to you the most solemn promises: we now violate and trample upon them all; but offer your in their stead—another guaranty!" Everett, quoted in 6 *Reg. Deb.* 1074 (1830): "Sir, the crisis in the fate of these people has arrived. The responsibility is upon us—upon us as a House, and upon each of us as individuals. The Indian here makes his last appeal. All other sources of protection have failed. It remains with us whether he shall return in joy and hope, or in sorrow and despair. Will we listen to his appeal? If we do not, then is their sun about to set, it may be in blood and in tears. Then, indeed, will all human means have failed, and they must be abandoned—abandoned, O God! To thy sovereign mercy."

removal under the Bill in question), no subsequent guarantee would be worth anything. Indeed, the same totalistic logic sometimes animated those in favor of removal as well. One article argued that “the same Indian justice which divests the Georgians of their right to this land, would sweep the U. States of the whole of its white population, and hurl them all into the deep waters of the Atlantic”, as if Indian claims implied that the U.S. had no right to exist, and would metaphorically “hurl” the nation’s justification for existence “into the deep waters of the Atlantic.”¹³⁴

If it had been quite that simple, there might have been more hope for the Cherokees than was reflected in the mood of these anti-removal statements. Northern Jacksonian Democrats objected to the cost of removal and worried that it would take away funds that they thought should be used for internal improvement projects in their own states. They were also wary of the strength of public opinion among their constituents condemning the measure. Joseph Hemphill, a Jacksonian representative from Pennsylvania, proposed an amendment to the removal bill which would delay implementation by one year, contingent on the findings of a commission appointed to investigate the key questions that were in contention: whether the Indians actually did desire to migrate, whether the country they were to move to was suitable, and to clarify whether Indians were to be treated with in a “national capacity,” or whether, failing that, the nations would be ignored and individual Indians would be approached to contract land sales. “The President has not more sincere friends in the United States than those of his party who prefer this amendment to the original bill,” said Hemphill, “and I predict that they will be discovered to have been his most discreet friends on this occasion.”¹³⁵

¹³⁴ (*The Philadelphia Album and Ladies’ Literary Portfolio*, Sept 3, 1831, 5, 36, 284).

¹³⁵ Hemphill, quoted in *6 Reg. Deb.* 1132 (1830).

Jacksonian Congressman John Bell of Tennessee, the same man who Evarts confronted in private, objected, saying that the amendment would “be a rejection of the bill.”¹³⁶

Hempstead’s amendment was defeated, by the very narrowest margin of 99 to 98. Those in favor of removal, in a typical move, rejected another amendment to add language to the removal bill specifically protecting Indian treaty rights. In doing so, removal advocates argued both sides at once: Representative John Bell of Tennessee argued that the bill was superfluous because the administration and the states were not planning to use force anyway, but would rely on purely voluntary treaty arrangements. Simultaneously, representative James Wayne of Georgia rejected the amendment because he “denied what the amendment assumed, namely, that the Cherokees were a nation independent of the State of Georgia” and that they therefore had the right to refuse removal, (in other words, for the exact opposite reason.)¹³⁷

The House moved to vote on the main question. The vote count was 102 to 97 in favor of the Indian Removal Bill. Many northern democrats broke with the party to vote against the bill, but enough stuck with Jackson to push the bill through. The very day after the bill was passed, Jackson vetoed the Maysville Road Bill for internal improvements, outraging his northern allies who had just cast their votes in support of Jackson’s Indian Removal Bill, out of an expectation that the favor would be returned.¹³⁸ The vote on this bill was close, and northern Jacksonians were, in a way, swindled into supporting it.

¹³⁶ Bell, quoted in *ibid.*, 1135

¹³⁷ Bell, 1122, and Wayne, 1122, quoted in *ibid.*

¹³⁸ For the relationship between the Maysville Road Bill veto and Indian removal, see Andrew, *From Revivals*, p. 230 and Howe, *What Hath God Wrought*, 357.

But one should bear in mind that some of the very reasons that they were skeptical of voting for a novel and expensive program of dispossession would have also led northern Jacksonians to oppose underwriting a major show of force against Georgia in favor of Indian treaty rights, especially one that might have led to civil war.¹³⁹ That the removal bill would have been defeated was entirely probable, but that Congress would have attempted to extend active protection to the Cherokees against Georgia is far more doubtful. The idea that merely rejecting the bill would “save” the Indians was therefore a dubious proposition.

But we simply do not know what would have happened had political disagreement prevented Congress from authorizing Jackson’s removal program; the idea that the passage of the bill spelled the Indians’ “doom” and meant that Indians would inevitably have to agree to removal was also not a certain proposition. Georgia’s representatives hinted at threats that they would do their worst if the Indians were not removed from their borders. Still, one should bear in mind that even after living under the coercion of Georgia’s laws for eight years, the vast majority of Cherokees never agreed to leave, or approve a removal treaty. Even with the deployment of the federal army, some two thousand Cherokees ended up evading the roundup and living in the mountains in western North Carolina, where a recognized branch of the Cherokee Nation still exists today. Those Cherokees who evaded removal certainly suffered dearly, but they did not disappear or go extinct, they held onto a land base in their homeland, and they were not, in fact, removed. If, swayed by intense opposition, Congress had not approved an unprecedented, nationally coordinated and funded removal program, it is hard to predict

¹³⁹ Cave, “Abuse of Power,” in *Indian Removal*, ed. Heidler and Heidler, 208-09.

exactly what would have occurred. We should resist the temptation to draw easy conclusions about causation and inevitability that echo the terms of this congressional debate.

Ironically, the fact that removal opponents placed so much apocalyptic significance on the passage of the Indian Removal Bill, and the removal of the Cherokees in particular, had harmful consequences when that particular battle was finally lost. As historian Nicholas Guyatt points out, those congressmen who had tried and failed to prevent this tragedy from occurring went on to assume that even the cause of Indian survival had itself been irrevocably lost and wash their hands of the matter. In 1839 Isaac McCoy, now in Kansas, struggled to get action from Congress on behalf of the Indians who had removed west of the Mississippi, (particularly to get a bill to organize a protected territorial government that would ward off a future invasion of white settlers). In an article on the subject, McCoy scolded those who had opposed removal but who did not support his efforts, and found himself criticizing many of the very same tropes of the Vanishing Indian, and of fatal impact rhetoric that he had engaged in to promote removal in the first place. In place of the declension narrative of Indian history, McCoy attempted to re-impose a progressive narrative on that same history, now that removal had been accomplished. “One difficulty, among others,” he wrote, “and not the least serious, is felt all over the Indian country. We refer to the lamentations of some among us for ‘the fate of the poor Indians, who are destined,’ they say, ‘to be driven still further west by our government,’” and that ““they need not try to [illegible] for the Indian race must become extinct—and need not improve their lands, for they would [illegible] be driven from them.” This was mistaken, he claimed, because “*Here* it [the federal government] *has*

power to secure [Indians] in their homes for ever.”¹⁴⁰ After the Trail of Tears, abandoned by his erstwhile southern allies, McCoy found himself combatting the same tropes of inevitability in the mouths of northern removal opponents that he had used to win the acceptance of removal in the first place.

¹⁴⁰ Nicholas Guyatt, “The Outskirts of Our Happiness’: Race and the Lure of Colonization in the early Republic,” *The Journal of American history*, 95, (2009), (1008-9). Quote from Isaac McCoy, “Plea for the Aborigines,” *Western Christian Advocate*, March 29, 1839, 196. Also published as Isaac McCoy, “Plea for the Aborigines of North America,” *Annual Register of Indian Affairs*, 3 (1837), 4 (1838).

Chapter Two: Debating Removal and Inevitability in Indian Country: The Cherokee Debate

Until 1832, the Cherokees held firm and united in the determined conviction that their struggle against Georgia was winnable. Even some of their enemies betrayed hints that they feared the Cherokees were right to be hopeful, as we shall see, using rhetoric that emphasized contingency and grated against the usual strain of pro-removal inevitability rhetoric.

Egged on by Georgia, the United States government had been urging the removal of the Creeks and the Cherokees across the Mississippi from the “chartered limits” of the southern states since Jefferson’s Presidency. But the Cherokees had in turn learned how to legitimize themselves in the eyes of powerful white Americans, and how to insist upon their rights within the United States legal system. Though the Cherokees had lost land to settlers from the Revolution through 1819, they were becoming diplomatically and legally savvy, prosperous, and politically united. From 1819 on, the Cherokees were determined not to sell any more land, and had defeated two major attempts to pressure them into removal.¹⁴¹

When the Cherokees set up a republican constitution in 1827, proponents of removal panicked. If Cherokee people were to progress enough in “civilization,” (or, political and economic sophistication conforming to white American models), then their removal might not be inevitable after all. The passage of the Cherokee constitution, indeed, was the direct catalyst for the extension of jurisdiction over their territory by the State of Georgia, in concert with President Jackson’s removal program, and all of the

¹⁴¹ William McLoughlin, “Testing the Limits of Sovereignty, 1819-1826,” chap. 15 in *Cherokee Renascence in the New Republic* (Princeton: University of Princeton Press, 1986), 302-326.

harassment that followed: No longer could the issue be left to the steady progress of time and the natural course of settlement and treaty-making, something had to be done, and quickly.¹⁴² Lewis Cass, former general, current Democratic Governor of Michigan Territory, and future Secretary of War under President Jackson, expressed this logic in his widely-read 1830 article in favor of removal. “A government *de facto* has been organized within the limits of the state of Georgia, claiming legislative, executive, and judicial powers, and all the essential *attributes of sovereignty*, independent of that state,” he claimed. This was an enormously dangerous precedent, Cass argued, since

The establishment of this government, thus claiming to be independent, and the probability, that a similar policy will be adopted by the other southern tribes, by which means *they may become permanently established in their present possessions*, [italics added] necessarily presents to the states, within whose limits they reside, a serious question for consideration.¹⁴³

In spite of his confidence in the decline of Native American power in the face of white American expansion, Cass feared that the removal of the Cherokees might become impossible if Native American sovereignty and independence of state jurisdiction were allowed to stand as a precedent: “It is evident, that if this pretension be not resisted now, resistance hereafter will be in vain. It is one of those questions,” he wrote, “eminently practical, which a few years acquiescence would settle. *What might now be the assertion of a just and proper jurisdiction by the civilized communities, might then be an unjust claim to be enforced only by war and conquest* [italics added].”¹⁴⁴

If the Cherokees were not pressured to move out soon, then more costly, embarrassing, bloody—and possibly politically untenable—means would have to be used

¹⁴² For the connection between the Cherokee constitution and Georgia’s extension of jurisdiction over the Cherokees, see William C. Dawson, *A Compilation of the Laws of Georgia, Passed by the Legislature...*, (Milledgeville, GA: Grantland and Orme, 1831), 99, 198, Farris W. Cadle, *Georgia Land Surveying, History and Law* (Athens: University of Georgia Press, 1991), 267, and see Chapter 3 of this dissertation.

¹⁴³ Lewis Cass, “Removal of the Indians.” *North American Review*, 30, (1830): 101.

¹⁴⁴ *Ibid.*

later on. In the words of then-Georgia congressman Wilson Lumpkin, the situation was “embarrassing” and “perplexing,”¹⁴⁵ and the matter was urgent. The invasion of Georgia settlers and Georgia militia into Cherokee land, under the cover of the “extension of jurisdiction” and a projected federal removal program, was an urgent attempt to force the Cherokees out on terms that preserved some semblance of the appearance of consent and humanity.

Specific acts of dispossession, (the extension of Georgia’s jurisdiction, the land lottery, the deployment of the Georgia Guard), and the failure of the United States government to effectively interpose to stop them, changed the course of events. Relentless action to pressure the Cherokees into selling the land, through the passing of legislation and the withdrawal of protection, finally put an end to the “serious” possibility that the Cherokees might “become permanently established in their present possessions.” These actions are what finally made removal appear as a plausible means of, in Cass’s words, “rescu[ing] the Indians from inevitable destruction.”¹⁴⁶

But if the “inevitability” of removal was deliberately man-made, the actions of the Jackson administration, and of the State and citizens of Georgia exerted enough pressure by 1832 that a number of Cherokees became themselves convinced that it was so. As their northern allies began to back out of the struggle following the re-election of Jackson in 1832, the Cherokee people themselves finally began fracturing over the issue of the inevitability of removal. Should they make a treaty, however unwillingly, and commence emigration on the best terms they could obtain? Or should they hold out for rights

¹⁴⁵ Then Congressman Wilson Lumpkin, quoted in 6 *Reg. Deb.* 1119, 1020, 1025 (1830).

¹⁴⁶ Cass, “Removal of the Indians,” 111. Cass uses the word “inevitable” six times in “The Removal of the Indians,” and he uses the word “practical” seventeen times.

guaranteed by American law, and confirmed by a Supreme Court decision? A faction, led by Elias Boudinot, the editor of the Cherokee national newspaper, the *Cherokee Phoenix*, and the long-time Chiefs and patriots Major Ridge and his son, John Ridge, broke from the majority in 1832 to advocate a treaty.

"To a portion of the Cherokee people," explained Boudinot in a pamphlet a few years later, "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," he said, "the only course left, was, to yield to circumstances over which they had no control."¹⁴⁷

If we are to credit Boudinot's own words, it was largely a difference of the perception of the inevitability of removal at this point in time, and not deeper ideological difference, which led to the major political rupture in the Cherokee Nation. The threat of dispossession from the outside had united most Cherokees for decades, but the pressure of actual invasion gradually magnified differences in strategic judgment into a chasm between two embittered warring parties. In the first harsh years of exile in Oklahoma, this rupture led to execution/assassination and open civil war. Within the Cherokee Nation, then, different opinions on what was inevitable led to differing perceptions of who was responsible for the tragedy of the Trail of Tears and the death and displacement it entailed, with the most serious of consequences.

¹⁴⁷ Elias Boudinot, *Documents in Relation to the Validity of the Cherokee Treaty of 1835, January 22, 1838, Submitted by Mr. Lumpkin, 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, 25th Cong., 2d Sess., S. Doc. 121, United States Congressional Serial Set, 1.*

Through the lens of competing inevitability narratives of the two Cherokee parties, this chapter aims at something like neutrality, and borrows from a key insight of Cherokee scholar Daniel Heath Justice. Justice argues that, in the course of Cherokee confrontation with the United States, both the warrior's "Chickamauga consciousness," and the diplomatic path stressing "peace and adaptation" of the "Beloved Men" and Women were crucial to Cherokee survival. "Balance is primary," Justice writes, "if anything can be said to be a feature of contemporary and past Cherokee traditions, it is the quest for balance in all things."¹⁴⁸ In this spirit, without attempting to condemn or excuse either Cherokee party, this chapter attempts to show the nuanced ways in which the inevitability narratives of each side were flawed, though powerful, explanatory tools, guiding action with most serious consequences, in a terrifying and uncertain time of rapidly unfolding struggle.

Other historians have ably narrated the story of the struggle leading up to Cherokee removal and described the split within the Cherokee Nation over the question of removal.¹⁴⁹ However, my own sustained focus on rhetoric and perceptions of

¹⁴⁸ Daniel Heath Justice, *Our Fire Survives the Storm: A Cherokee Literary History* (University of Minnesota Press, 2006), 34-42. Rejecting a simple view of the Treaty Party as a party of traitors, both Justice and Maureen Konkle analyze the Treaty Party in terms of resistance to white colonization. Justice, "The Trail Where We Cried," chap. 2 in *Our Fire*, 55-89, especially 56-59, Maureen Konkle, *Writing Indian Nations: Native Intellectuals and the Politics of Historiography, 1827—1863* (Athens: University of North Carolina Press), 93-6.

¹⁴⁹ Emphasizing material interest and class position, Theda Perdue has argued that the Treaty Party represented the challenge of a "rising middle class" of Cherokees, to the wealthy and powerful "mixed-blood" planter aristocracy. The Treaty Party disdained the "traditionalism" of the bulk of the common Cherokees, while it shared the values, but envied the stranglehold on wealth and power, of the planter aristocracy. Theda Perdue, "The Conflict Within: Cherokees and Removal," *Cherokee Removal: Before and After*, ed. William Anderson, (University of Georgia Press, 1991), 67-8. John Demos has argued that the Treaty Party leadership, especially the key figures of John Ridge and Elias Boudinot, were disillusioned about the possibilities of receiving justice of fair treatment from the United States through their experience of the virulent and racist reaction of northerners to their marriages to white women while studying at a mission school in Connecticut. John Demos, *The Heathen School: A Story of Hope and Betrayal in the Age of the Early Republic* (New York: Random House, 2014), 259. Both of these interpretations, I will argue, have explanatory strengths and limitations.

inevitability adds to our historical understanding. I highlight an underappreciated aspect of the removal struggle: of the formation of battle lines dividing those who were against dispossession of the Cherokees in principle, (in this case, between Cherokee Indians themselves). Narratives of inevitability, reflecting differences of strategic judgments, could be just as important as identity or material interest as well, in the formation of those antagonistic camps.

Drawing their power from the plausibility of the events they foretold, these narratives of inevitability made their power felt in the actions they compelled.

Treaty Party members and those whites who supported them relied on narratives of the inevitability to convince Cherokees to voluntarily give up land to which Treaty Party supporters themselves believed Cherokees had every right. Remarkably few were convinced, given how serious the Cherokee predicament was. But narratives of inevitability were central to the self-explanations of those who did, and to the justification of Treaty Party actions to other Cherokees and to the wider world.

The other side, the so-called “National Party” or “Anti-Treaty Party” led by the official Principal Chief John Ross, reasoned differently: relief would come, sooner or later, if the Cherokees held out, because the Cherokees had U.S. law on their side, in the form of treaties, the Trade and Intercourse Acts, and finally, the Supreme Court’s *Worcester v. Georgia* decision of 1832. The issue was essentially whether or not law and order under the federal union would prevail in the United States. Chief John Ross and his followers believed it would. The conflict was now between the United States & Georgia, he said:

The final issue ere long will be seen. Should Georgia prevail, the Union of the States is dissolved: but should the United States regard the constitutional liberties guaranteed to their

citizens, Georgia must submit to see the Cherokees triumph over their oppressions under her usurped authority; therefore, let the people endure patiently to await the final result.¹⁵⁰

If the Cherokees surrendered their rights in a new treaty, however, they would never again find the legal protection of the right to self-government on their own land, so necessary to their survival, as solid and indisputable anywhere else in North America. As had those who came out against removal in Congress, Ross and his party turned around the inevitability narratives of the other side to argue against removal.

In a letter to Secretary of War Lewis Cass, John Ross argued against the idea that removal was a way to escape white settlement. His arguments offered a direct attack on the logic behind the kind of thinking that scholars have called “fatal impact theory.” “We cannot subscribe to the correctness of the idea, which has been so frequently recurred to by the advocates of Indian removal,” Ross wrote, “that the evils which have befallen and swept away the numerous Tribes that once inhabited the old States are to be traced to the *mere circumstances* of their contiguity to a white population.” Instead, he continued, “we humbly conceive that the true causes of their extinction are to be found in the catalogue of wrongs which have been heaped upon their ignorance, & credulity by the superior policies of the whitemen when dictated by avarice & cupidity.” Indeed, if “mere contiguity” always doomed Indians, then there would be no hope, and removal would be useless: “Should the doctrine that Indian Tribes cannot exist contiguously to a white population prevail, and they be compelled to remove west of the States & Territories of this republic, what is to prevent a similar removal of them from there for the same reason,” he asked? He concluded that the real danger from whites was simple, and

¹⁵⁰ John Ross to Richard Taylor, John Baldridge, Sleeping Rabbit, Sicketowee, and Wahachee, Head of Coosa, 28 April, 1832, in *The Papers of Chief John Ross, Volume I, 1807-1839*, ed. Gary Moulton (Norman: University of Oklahoma Press, 1985), 243-3.

avoidable: “We can only plead, let equal justice be done between the red & the whiteman and so long as the faith of contracts is preserved inviolate there will be no just cause for complaints, much less for aggressions on the rights of the one or the other.”¹⁵¹ Upholding the principle of the “faith of contracts” (in the form of existing treaty rights) was the only hope for Indians, and that meant avoiding removal at all costs.¹⁵²

I examine the rift between the pro and anti-Treaty parties in terms of these competing narratives inevitably, focusing especially on the rift between *Cherokee Phoenix* editor Elias Boudinot and Chief John Ridge, on the one hand, and Principal Chief John Ross on the other. Principal Chief John Ross was descended both from important Cherokee clans and Scots trading families, was European in appearance, acculturated, and wealthy, in possession of large estates and many enslaved black people. Boudinot and Ridge were also acculturated “mixed-bloods.”¹⁵³ But they came from more modest families. Both were educated at a mission school in Cornwall Connecticut, in the mid-1820s, where they experienced the violently racist reaction of the town to their marriages to local white women. All three men fiercely combatted removal, and all suffered harassment from the Georgia Guard for their trouble. Boudinot, Ridge, and Ridge’s father, the venerable patriot Major Ridge, had even been strong supporters of an 1828 Cherokee law prescribing the death penalty for the unauthorized sale of national land. After their conversion to the position that removal was inevitable, these same men put their lives at risk by selling the land and violating that law. In spite of the danger,

¹⁵¹ Ross to Lewis Cass, Washington, 14 February, 1833, *Papers of Chief John Ross*, Moulton ed., 261-2.

¹⁵² *Ibid.*, 262.

¹⁵³ Relying on the most easily accessible rhetoric to be found in the uncommonly rich paper trail left by Cherokee leaders, this chapter admittedly focuses on an elite group within Cherokee society. Though Ross clearly commanded the loyalty of the vast majority of the tribe, one certainly cannot take his words as directly representative of the sentiments of the people.

Elias Boudinot and John Ridge and Major Ridge bypassed the laws and constituted procedures of the Cherokee nation to sign the Treaty of New Echota in 1835, under which the United States army forcibly removed the Cherokee people to Indian Territory, while Chief John Ross led an Anti-Treaty faction encompassing the majority of the tribe. Denounced by most Cherokees as traitors, the Treaty Party leaders framed their actions in terms of sacrifice for the good of the whole.

Even before the Treaty of New Echota, the clash of these two strongly drawn strategic narratives about inevitability between the two sides produced real physical clashes.

Once in Oklahoma, Boudinot, John Ridge and Major Ridge paid for their “betrayal” one day when angry Cherokee citizens brutally executed them all on the same day. Each one was shot or hacked to death with knives and tomahawks, for their illegal, treasonous action in signing the treaty, and thus their role in the horrendous Trail of Tears that resulted. John Ross went on to lead the Anti-Treaty faction, and then the reunited Cherokee tribe, for most of his long life.

Elias Boudinot changed his opinion on removal in early 1832 in response to Jackson's refusal to uphold the Supreme Court decision against Georgia jurisdiction over Cherokee land. According to Boudinot, he began to feel that Cherokee elites were shielding the truth about their political situation from ordinary Cherokees. Those resisting removal were therefore operating under severe delusion.

Even before Jackson's reelection in November 1832, a key event convincing many white supporters to change their positions on removal, Boudinot could already

envision no scenario in which the Cherokees could remain in peaceful possession of their lands in the east. “[S]uppose the present incumbent is not re-elected,” he asked, “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,” Boudinot agonized, “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 [Georgia settlers and the Georgia Guard] having a complete possession of one-half of our country before that time.” As a result, Boudinot expressed doubt that it was even possible for the federal government to protect the Cherokees anymore, no matter how sympathetic a new administration might be. “Can the Chief Magistrate then,” he asked, “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?*”¹⁵⁴

But that was not all. Even if the next president were sympathetic and managed to clear Georgians out of Cherokee territory, Boudinot argued, “there is still another contingency in regard to the contemplated change in the administration” that would make the situation for the Cherokees impossible in the long run:

Suppose the new President succeeds in restoring 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.¹⁵⁵

“Unfortunately for us,” wrote Boudinot, “the Indian question has been made a party and sectional question.” Indeed, despite the jubilation with which Cherokees

¹⁵⁴ Boudinot to Hicks, 2 October 1832, quoted in Boudinot, *Letters and Other Papers*, 10.

¹⁵⁵ Ibid.

received the *Worcester v. Georgia* decision, it marked the beginning of the rift within the nation. In its aftermath, Justice John McLean suggested to an official Cherokee delegation in Washington that it was impossible to compel Jackson to force Georgia to submit to the Court's decision. Doubts about the likely success of the Cherokee cause, expressed by Justice McLean and others, helped to convince Boudinot that removal was inevitable.¹⁵⁶

The legal reasoning behind the *Worcester* decision was the judgment that Georgia laws could not apply in Cherokee territory, since the federal treaties with the Cherokees superseded state law. But despite these sweeping implications, the only concrete action that the court decision legally mandated was the liberation of the two missionaries imprisoned by the State of Georgia. Jackson refused to act to force Georgia to liberate the missionaries, and he rejected the doctrine of judicial supremacy. But even if the Supreme Court were to serve him with a writ forcing him to free the two prisoners, and Jackson complied, it was not clear that this limited action would aid the Cherokees in any way. After all, the previous Supreme Court decision on the Cherokee question, *Cherokee Nation v. the State of Georgia*, had declared that the Cherokee Nation was not a "foreign

¹⁵⁶ On June 8th, Chief Ross wrote to the Cherokee's lawyer, William Wirt, explaining that Justice MacLean had informed him that little relief could be expected from the Worcester vs. Georgia decision. (Ross to Wirt, June 8th 1832, quoted in John Ross, *Ross Papers*, 245-6). On December 27, 1832, B.B. Wisner, secretary of the American Board, wrote to Ross to inform him that Worcester and Butler, the two imprisoned missionaries, would "stay further proceedings," and urged him to accept removal. (Moulton, *John Ross, Cherokee Chief*, 46). Months before, Boudinot had urged Ross in the same course: "And what say our friends in Congress? Have they not fully apprised us 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 Hon. 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?" Boudinot's reply to Ross, 4 August, 1832, quoted in Boudinot, *Letters in Reply*, 5-6). A few days earlier, Boudinot had written that Ross "cannot tell [the Cherokee Nation] that we will be reinstating 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..." Boudinot to Ross, Red Hill, 1 August, 1832, quoted in *Ross Papers*, ed. Moulton, 247-7

state” in the sense of the constitution and thus could not “maintain an action in the courts of the United States.”¹⁵⁷ This meant that individual Cherokees could only obtain relief from Georgia laws one at a time by taking a case all the way to the Supreme Court, a fantastically expensive and impossible strategy. Indeed, after fighting on through the *Worcester* decision in 1832, Chief John Ross was informed by Justice MacLean that, (in Ross’s words),

...we could not sue as a nation, our land being held in common no individual could reach the S. Court in a case of that nature and were the missionaries released, it would not amount to a withdrawal of the laws of the states from over our Territory. And should we succeed in bringing up individual cases, we could only be benefited as far as that case might extend, if carried into execution; and might be involved in many individual suits and enormous expense without any salutary results to the Nation.¹⁵⁸

In the aftermath of the *Worcester* decision, Boudinot also expressed his judgment on their chances in the courts with trepidation.¹⁵⁹

In 1832-3 former supporters of the Cherokees in Congress and the missionary organizations began to end their active opposition to Cherokee removal urge the Cherokees to accept removal. Elisha W. Chester, a lawyer who had helped the missionaries Worcester and Butler argue their case in the Georgia courts, was still on retainer for the Cherokee Nation when he became one of the earliest former removal opponents to jump ship. Chester used his influence with Samuel Worcester to persuade the American Board, which had been an unrelenting and vocal supporter of Cherokee

¹⁵⁷ *Worcester v. State of Georgia*, <https://www.law.cornell.edu/supremecourt/text/30/1> (Text accessed 8/23/2016, 11:00 pm).

¹⁵⁸ Ross to Wirt, Head of Coosa, 8 June, 1832, quoted in *Ross Papers*, Moulton ed., 245-6.

¹⁵⁹ “But supposing he [Jackson] obeys and executes the mandate of the court, that will bring no relief to the Cherokees; for the nation, we take it, of the tribunal which issues the mandate terminates in the persons of the individuals incarcerated in the Penitentiary...And has not an Hon. 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?” (Boudinot, *Letters*, 6, from an epistolary exchange with Principal Chief John Ross originally published in the *Cherokee Phoenix*, August 11, 1832).

treaty rights, to drop their suit for the release of their missionaries and the enforcement of *Worcester vs. Georgia*. In a document titled “Reasons Why the Cherokees Should Make a Treaty Now,” Chester argued that the defeat of Jackson in the 1832 presidential election would bring no relief, since if Jackson lost the election Georgia would “hasten every measure. The country will be filled & the approach of an armed force would be the signal for the destruction of the Indians...Help [in the form of a Clay presidency] would come too late.” Corresponding Secretary of the ABCFM David Greene became convinced, and wrote both Senator Frelinghuysen (who had led the anti-removal efforts in Congress) and Chief John Ridge in May 1832 to inform them that the ABCFM’s position had changed, and, to the latter, that the Cherokees should take “the least of two evils” and “make the best terms you can, & go, dreadful as the thought is.”¹⁶⁰

In 1832, with the nullification crisis brewing, even northern whites began to withdraw their support for continued struggle against Cherokee removal. Early the following year, it exploded.

South Carolina, opposing the new tariff law passed by Congress, had unilaterally declared that the law was “nullified” within the boundaries of their state, and refused to pay the tax. Jackson, known for his support of states’ rights and his opposition to the tariff, shocked South Carolinians by his complete rejection of South Carolina’s doctrine of nullification, affirmed his support for the Constitution and the federal union, and threatened to send the army to enforce compliance. But the Cherokee removal controversy put Jackson in a dilemma: If the Supreme Court handed Jackson a writ for

¹⁶⁰ Tim Garrison, “Shades of Loyalty: Elisha W. Chester and the Cherokee Removal,” in, *Signposts: New Directions in Southern Legal History*, ed. Sally E. Hadden and Patricia Hagler Minter (University of Georgia Press, 2013), 141-3, 144, 146-7.

the release of the missionaries, and Jackson failed to enforce it, his hardline position against South Carolina would appear to lose all legitimacy. But if he did enforce a writ against the State of Georgia, it would likely drive the southern states to line up behind South Carolina, endangering the Union.¹⁶¹

The threat that the removal controversy posed to the Union in the midst of the nullification crisis was the final straw. Though some of the most sincere and serious opponents of removal, like Senator Frelinghuysen, had declared their willingness to send the army to enforce treaty obligations and eject white settlers, most opponents of removal recoiled from risking civil war. By 1833, even Frelinghuysen had come around.¹⁶²

When faced with the prospect of civil war, the ABCFM finally did relent. With the backing of Martin Van Buren, several former staunch anti-removal men from New York State, including some ABCFM Board members, Democrat and Whig, wrote to Governor Lumpkin of Georgia urging him to release the missionaries and avoid confrontation, signaling that they had come to accept Indian removal as the will of the majority of the U.S. electorate.¹⁶³ The ABCFM further urged its imprisoned missionaries to accept pardons from Georgia, and urged Chief Ross to make a removal treaty.¹⁶⁴

¹⁶¹ Richard Ellis, *Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York, Oxford University Press, 1987), 116, Tim Alan Garrison *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations* (Studies in the Legal History of the South) (Athens: University of Georgia Press, 2009), 191-4.

¹⁶² Theodore Frelinghuysen, quoted in Jeremiah Evarts, *Speeches on the Passage of the Bill for Indian Removal, Delivered in the Congress of the United States, April and May 1830* (Boston: Perkins and Marvin, 1830), 28, Alfred Cave, "Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830," in *Indian Removal*, ed. David S. Heidler and Jeanne T. Heidler (New York: W.W. Norton, 2007), 224.

¹⁶³ Richard Ellis, *Union at Risk: Jacksonian Democracy, States' Rights, and the Nullification Crisis* (New York, Oxford University Press, 1987), 116.

¹⁶⁴ Moulton, *John Ross, Cherokee Chief*, 46-7, McLaughlin, "The Missionaries and the Supreme Court," chap. 21 in *Cherokee Renaissance*, 428-448, especially, 446, and Tim Garrison, "Shades of Loyalty: Elisha W. Chester and the Cherokee Removal." As an important result, the American Board lost all influence in the Cherokee Nation, swelling the ranks of the Baptists. Despite the fact that the Baptists as a national organization had stood in favor of removal ever since their own Isaac McCoy had championed the position back in 1827, and had a strong pro-removal membership in the South and West, their renegade missionary

At the same time that the Cherokee's white allies began melting away, the election of an even more radical anti-Indian Governor in Georgia, former Congressman Wilson Lumpkin, in 1831, increased the daily pressures that Cherokees faced on the ground. Lumpkin's popular land lottery led to a surge of white settlers in Cherokee country in 1832-3. Boudinot and John Ridge expressed concern with this invasion and the unbearable nature of life in the Nation in its midst. "The usual scenes which our afflicted people experience are dreadfully increased since your departure [for Washington, D.C.] & they are robbed & whipped by the whites every day," Ridge wrote to Ross in February 1833.¹⁶⁵

There was another event in 1832 that further convinced Boudinot and his compatriots not to pursue one potential alternative to removal that would leave them in their homeland: a treaty that would grant Cherokees private reservations (allotments, essentially) and make them U.S. citizens. In March 1832, the Creeks signed a treaty allotting them private reservations of land, while stripping them of sovereignty and acknowledging Alabama's jurisdiction. The result was a rush of squatters and speculators using violence and fraud to obtain legal title to the Creek allotments, which led to Creek resistance culminating (in 1836) in the Second Creek War and forced removal by federal troops. Already by 1832 the results were unenviable. "*Resolved*," said the Treaty Party in a joint resolution in 1834, "That we consider the fate of our poor brethren, the Creeks, to

in Cherokee country Evan Jones had become a close friend and partisan of Chief Ross, and the hill-dwelling "full bloods" who supported him McLoughlin, "Secret Aid to Cherokee resistance, 1833-1836," chap. 5 in *Champions of the Cherokees*.

¹⁶⁵ John Ridge to John Ross, Running Waters, 2 February 1839, quoted in John Ross, *Ross Papers*, 259.

be a sufficient warning to all those who may finally subject the Cherokees to the laws of the States by giving them reservations.”¹⁶⁶

For all of these reasons, at a time when the nation in general was jubilant with renewed hope due to the *Worcester* decision, Boudinot and John Ridge had begun to believe that the nation faced an inevitable choice between removal and destruction—and Boudinot expressed this fear directly. According to Boudinot, the Treaty Party represented “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.”¹⁶⁷

The brewing factional split came out in the open when Boudinot proposed to use the *Cherokee Phoenix* as a platform on which to debate the necessity of removal.

Chief Ross and the National Council rejected the request. Boudinot then resigned as editor of the *Cherokee Phoenix* in a letter spelling out his stance on removal. Editors of several newspapers, especially in the South, reprinted his letter. Elijah Hicks, the new editor of the *Phoenix*, excoriated Boudinot for giving comfort to the enemy at a time when the Supreme Court victory gave the Cherokees reason to hope. “The avidity with which the people of the interested states, have received this letter,” said Hicks, “with which to revive their despondency, of legally acquiring the Cherokee country [due to the *Worcester* decision] constrains us to submit a few remarks on the merits of this letter.”¹⁶⁸ Hicks disputed the idea that the Supreme Court decision could not be enforced, suggesting that the only reason that congressional supporters of the Cherokees had urged

¹⁶⁶Boudinot, *Letters in Reply*, 12, quoting a Treaty Party Resolution from November, 1834.

¹⁶⁷ *Ibid.*, 20.

¹⁶⁸ Elijah Hicks, *Cherokee Phoenix*, September 29, 1832, 3.

Chief Ross to embrace removal was to preserve peace within the union and avoid the necessity of impeaching Jackson, which as “men of integrity and virtue” they would be “bound” to do if “the President continue[d] to refuse” to enforce *Worcester v. Georgia*. Rejecting Boudinot’s argument of inevitability, Hicks dismissed the importance of his dissent and impugned his patriotism:

The revolutions of nations & changes of opinion are occurrences of every day and every year. The change of the present one is quite immaterial to us, the loss is but a drop from a bucket, it cannot move the Cherokees from the stand they have taken, the body politic, and the great body of the Cherokees remains united, & a treaty let who will favor it will find it as certainly premature, as it is revolting to the feelings of the Cherokees.¹⁶⁹

In spite of the comfort that Boudinot gave to the enemy, Hicks claimed, *Worcester v. Georgia* “embraced all of the rights which the Cherokees claimed under their treaties, & is by the constitution of the U.S. binding on the President,” and therefore that the “refusal of the President to execute this decision is an impeachable offence.” Sooner or later, if Jackson did not act, then Congress would act “in accordance with their oaths” and uphold the constitution and the law.¹⁷⁰

Though Hicks would not publish Boudinot’s response in the *Phoenix*, Boudinot defended himself in a letter to Hicks that he also sent to the National Council. Perhaps his conclusions were “premature,” said Boudinot, but the “hope” of redress of the crisis of Georgia invasion was “undefined” and rested upon doubtful “contingencies.” Even if Jackson were not re-elected, he argued, how “[c]an the Chief Magistrate..., 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*

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

circumstances of the country?”, swarming as it was with invading lottery winners and Georgia guardsmen?

When we come to the last crisis, (and my opinion is, that we are that point), one of three things *must* be chose. 1. Nature’s right of all nations to resist and fight in the defence of our lands. 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.¹⁷¹

The Treaty Party's point of view, as articulated by Elias Boudinot, was not that their removal from their homeland was inevitable because of providential, meta-historical, or natural forces, as whites such as Jackson and Cass often argued. Rather, it was specific and circumstantial. Removal was the inevitable alternative to destruction after 1832 according to the Treaty Party because 1. The United States possessed overwhelmingly superior force, 2. The protections of Cherokee rights depended on the willingness of the U.S. executive branch to enforce their rights 3. Experience had shown that the Executive branch in particular was unwilling to uphold Cherokee rights, and 4. Most crucially, any future executive that was sympathetic could easily be followed by an executive who was not, and who was determined to dispossess them. Therefore, it was better to accept removal, “[i]nstead of contending uselessly against superior power.”¹⁷²

Boudinot did not absolve Jackson or any other U.S decision-makers for their actions by virtue of the logic of inevitability, the way that pro-removal whites often did. He especially did not exonerate Georgians, whom he called “the enemy.” A joint Treaty Party resolution likewise called Georgians their “oppressors.”¹⁷³ However, Boudinot and

¹⁷¹ Boudinot, “Letter to the Editor of the *Cherokee Phoenix*,” (Boudinot to Elijah Hicks, 2 October, 1832), quoted in *Letters in Reply*, 9.

¹⁷² Boudinot, *Letters in Reply*, 1.

¹⁷³ Ibid., 3, Treaty Party quote from, *Indians-Cherokee, A Council Held At Running Waters, in the Cherokee Nation, in Georgia, November 28, 1834, On Behalf Of Those Members of the Cherokee Tribe Of Indians Who Are Desirous Of Removing West Of The Mississippi. January 19, 1835*, 23d Congress, 2d Session, 1834-5, H. Doc. No. 9, U.S. Congressional Serial Set, 3.

his compatriots did intend to absolve *themselves* of guilt in the eyes of other Cherokees (and their white American supporters) for having formed an unauthorized group, which made an illegal treaty selling their homeland, by arguing that it was the lesser evil of the options they faced. For Boudinot, that removal was inevitable meant that it was not in the *Cherokee's* power, as of 1832, to remain in their homeland under any remotely acceptable conditions.

Boudinot, and the Treaty Party acted, then, in their own accounting, to relieve the Cherokee people of unbearable suffering at the hands of Georgia harassment. As in the rhetoric of pro-removal whites, the logic of the inevitability of overwhelming settler invasion and the impossibility of protecting Indians from that invasion made advocating removal appear to be a humanitarian stance: “If...it is the opinion of Congress that the tide of white population and State jurisdiction, which is pressing upon us, cannot be restrained,” read the Running Waters Council resolutions, “it would be the greatest act of humanity to devise immediate measures to remove our people upon as liberal terms as the General Government can afford.”¹⁷⁴ The difference between Cherokee and white pro-removal rhetoric lay in whose actions the rhetoric was meant to absolve.

But what is remarkable is that the vast majority of Cherokee citizens, though facing the terror of arbitrary rule, violent dispossession, and lack of the protection of law, did not buy the argument from inevitability. Most Cherokees were staunchly in favor of holding out in their homeland—as is strongly suggested by the 15,000 signatures attached to the national petition against the Treaty of New Echota, numerous other petitions and

¹⁷⁴ Indians-Cherokee, *A Council Held At Running Waters*, 5.

the overwhelming general resolutions against a removal treaty.¹⁷⁵ Living under Georgia rule for just a couple of years shy of a decade before they were finally forcibly removed, it is worthwhile to pause in wonder that the Treaty Party was not indeed more popular than it was. Boudinot claimed that his position in favor of removal was unpopular only because the mass of "ignorant" and "prejudiced" Cherokees were duped and kept from information of their hopeless situation by their chiefs, particularly John Ross. Cherokees were deluded, Boudinot thought, by their excessive love of the homeland itself, not realizing that their only hope for national survival was to give it up. (Boudinot made this assertion even though before he changed his opinion on removal, he had skewered pro-removal whites who suggested that the Cherokee people were duped into resisting removal by "mixed-blood" chiefs. Cherokees were not deluded by "cunning mixed bloods and white men," he claimed, "every citizen of this Nation is *cunning*...").¹⁷⁶

And yet, the terror and pressure they faced from the Georgia Guard and Georgia civilians was obviously no secret to them. White racism, disdain, and potential for extreme violence was no secret to them. It would seem that they made a different calculation of risk, or exhibited a different degree of willingness to embrace it, perhaps because the land itself, for the bulk of "traditionalist" Cherokees, had a spiritual valence that it no longer carried for acculturated Cherokees, National Party and Treaty Party alike.¹⁷⁷

¹⁷⁵ Theda Perdue and Michael D. Green, eds., *The Cherokee Removal: A Brief History with Documents* (New York: Bedford St. Martins, 2005), 153.

¹⁷⁶ Perdue, *Cherokee Editor*, 23.

¹⁷⁷ Tiya Miles, *Ties That Bind: The Story of an Afro-Cherokee Family in Slavery and Freedom* (University of California Press, 2005), 155-60, discusses Cherokee spiritual ties to the land in the context of removal.

Nevertheless, Boudinot and Ridge felt Cherokee hopes of redress were ultimately based on the false faith that the United States government would have to enforce *Worcester v. Georgia*, as they understood it, as the supreme law of the land, and that Cherokee national sovereignty would be restored in their homeland. The bulk of the people were willing to bear harassment and oppression in the hope that it would one day end; the Treaty Party, on the other hand, was sure that it never would. “Scarcely would a Cherokee be found willing to emigrate to the West if his rights of soil and liberty were protected,” the Treaty Party said in their declaration accompanying the Running Waters Council of 1834, “but it is a mistaken idea that a majority would prefer to remain here at the hazard of State subjection.” The Treaty Party further spelled out this logic:

We have taken pains to ascertain the sentiments of our people on the subject, and it is almost universally agreed that a great majority would remove if they were convinced that they could not be restored to their rights of self-government. If, then, it is the opinion of Congress that the tide of white population and State jurisdiction, which is pressing upon us, cannot be restrained, it would be the greatest act of humanity to devise immediate measures to remove our people upon as liberal terms as the General Government can afford.¹⁷⁸

But, the Treaty Party held, rather than levelling with the common people and presenting this hard truth, John Ross and the Cherokee government were deluding their people into believing that the federal government would “restore them in their rights”—“encourag[ing] our confiding people with hopes that can never be realized, and with expectations that will assuredly be disappointed...” Because of Georgia’s invasion, both legal and physical, her suppression of the Cherokee government, and the refusal of Congress and the president to interfere, the Treaty Party resolved,

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.¹⁷⁹

¹⁷⁸ Indians-Cherokee, *A Council Held At Running Waters*, 5.

¹⁷⁹ Treaty Party Resolutions in Boudinot, *Letters in Reply*, 11.

Though they held opposite beliefs about the rights of Georgia to Cherokee territory, the Treaty Party began to echo the line of pro-removal Jacksonites in one way: The Treaty Party held that the Cherokees were deluded by a devious mixed-blood planter leadership, a leadership interested in remaining in their homeland only in order to retain their own estates at the expense of the common people. If removal were not effected, Cherokee life under Georgia rule would “ultimately reduce them to poverty, misery, and wretchedness.”¹⁸⁰

Indeed, Boudinot’s opinion of the Cherokee people themselves, and their judgment had shifted along with his hopes for their survival in the east. Like the pro-removal missionary Isaac McCoy, Boudinot was worried that being “absorbed by a white population”¹⁸¹ was not only dangerous for the people’s physical safety, but for their “moral condition” as well. Alcohol, a main focus of this worry, was also a common theme in the correspondence of Chief Ross. Ross listed the illegal sale of liquor in Cherokee country as one of the pressures that Cherokees faced under Georgia rule. Speaking to a Cherokee audience, he admonished the people in his annual messages to keep away from “tippling shops,” an admonition that was closely tied with his call to remain firm and united as a people, to protect the boundaries (moral, physical) of the Cherokee body politic as best they could without resorting to violence. “I beseech the people to continue to be patient, firm & united & to have as little intercourse with the

¹⁸⁰ Ibid.

¹⁸¹ Ibid., 41, Isaac McCoy, *Remarks on the Practicability of Indian Reform*, 1-12.

white intruders in our country as possible, & above all things, to discountenance & refrain from the introduction & use of ardent spirits,”¹⁸² Ross said.

Both Ross and Boudinot shared a temperance philosophy and an understanding around the undesirable effects of mass contact with white invaders. But in Boudinot’s opinion the people had *already* become “morally degraded” through this contact, and preventing it was impossible in their current location. “While there are honorable exceptions in all classes,” he wrote, “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.”¹⁸³

In expressing this opinion, Boudinot echoed the arguments that pro-removal missionary Isaac McCoy had been making for a decade about Indian contact with whites. Boudinot, like McCoy, did not give up faith in Indian capacity to equal whites morally or intellectually. But events converted Boudinot to a revised assessment of *current* Indian degradation, from which he had once proudly exempted the Cherokee nation. Instead Boudinot adopted the paternalism of Jackson and his apologists in that time and since. He argued in favor of choosing on behalf of—and against the wishes of—Indian people who were not themselves competent to decide in their own best interest, in order to save them from destruction. He mocked those who objected to making a treaty undemocratically, in language that echoed that of pro-removal whites: “The opposition of the people!!” Boudinot exclaimed in a letter to Ross. “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

¹⁸² John Ross to Richard Taylor, John Baldridge, Sleeping Rabbit, Sicketowee, and Wahachee, Head of Coosa, 28 April, 1832, *Ross Papers*, 242-3.

¹⁸³ Boudinot to Ross, 25 November, 1836, quoted in Boudinot, *Letters in Reply*, 42.

and improvements utterly destroyed—their energy enervated, their moral character debased, corrupted and ruined.”¹⁸⁴ A scorn for both ordinary Cherokees and white invaders was evident in Treaty Party rhetoric in a way that closely resembles the attitude of fatal impact theory.

John Demos has suggested that Boudinot and Ridge’s bitter experience of northern racism in reaction to their courtship and marriage to white women left them with more realistic outlook of what could be expected from their white allies, and greater opposition to accepting U.S. citizenship as an alternative to removal.¹⁸⁵ Indeed, both Boudinot and Ridge expressed disgust at the prospect of the Cherokee people melding with their invaders. As Demos quotes: “I hope we shall still do well,” wrote Ridge to ABCFM official David Greene,

if we can only induce our Indians to abandon the land of whiskey kegs & bottles, the vile corruptions of the whites, where our poor women are contaminated to become wretches, in the land where they once enjoyed peace & respectability.’ In direct contrast, opponents of the treaty preferred to ‘amalgamate with [our] oppressors...[rather than] leave their nation to reunite with those who have gone before & and now enjoy liberty in the west.’ Ridge found this possibility repugnant: ‘[T]he thought of amalgamating our people to such creatures under such unfortunate circumstances, is too horrid for sober consideration.’¹⁸⁶

Boudinot expressed much the same sentiment in an angry letter to Chief John Ross arguing for removal: “I notice you say little or nothing about the moral condition of this [Cherokee] people...[Instead] you seem to be absorbed altogether in the pecuniary aspects...But look, my dear sir, around you and see the progress that vice and immorality have already made.” Echoing the language of moral and sexual contamination commonly expressed by missionaries and others who used fatal impact rhetoric, Boudinot continued

¹⁸⁴ Boudinot, *Letters in Reply*, 26.

¹⁸⁵ John Demos, *The Heathen School: A Story of Hope and Betrayal in the Age of the Early Republic* (New York: Random House, 2014), 258.

¹⁸⁶ *Ibid.*

to condemn “the spread of intemperance and the wretchedness and misery it has already occasioned...[and] the slow but sure insinuation of the lower vices into our female population.”¹⁸⁷

As Demos observed, “the same concern” over amalgamation “was widely prevalent among ‘benevolent’ white advocates for Indians, especially those who had come around to supporting removal. But with Ridge and Boudinot, it touched a special, acutely sensitive nerve.”

For it reinvoked the struggle they had personally endured when, a decade before, they had taken to wife two ‘fair flowers’ of white womanhood. The removal crisis framed a similar struggle—in reverse. Now it was the Nation that would try to hold the line for ‘civilization’ against ‘savage’ and dissolute intruders pressing in on every side.¹⁸⁸

While not diminishing Demos’s racial interpretation of the attitudes of Boudinot and Ridge towards melding with the invaders, I would also flesh out a strong class element evidenced in their rhetoric. Boudinot and Ridge held opinions about Georgia invaders that mirrored their opinions about common Cherokees: that they were intemperate, degenerate, full of vice, ignorant, disorderly and unchaste, (though white Georgians were also characterized as grasping and avaricious). When Boudinot was still editor of the *Phoenix* in the early days of the land rush, he printed a description of the Georgia invaders, delivered by a Cherokee delegation in Washington: The poor Georgians were

sick with the expectation of Indian land and gold. Their votes must get bought with a promise, and no candidate can succeed to any respectable appointment in their gift without it. This class is numerous, and all ignorant—they do not know anything about writs of error, the constitution of the United States, etc. They know they are poor and wish to be rich, and believe that, if they have luck, they will draw a gold mine, and most everyone expects to have his *luck in the lottery*.¹⁸⁹

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ *Cherokee Phoenix*, January 21 1832, December 1831. An English observer sympathetic to the Cherokees called the lottery winners “tall, thin, cadaverous-looking animals,...as melancholy and lazy as

This opinion of poor frontier whites contrasted with the high opinion Treaty Party leaders held of white civilization in general, especially northern white Christian civilization, and with their own attempt, (Ridge and Boudinot especially), to embrace it and assimilate to it. The disgust at “amalgamation” was a class-based disgust that reflected, to be sure, their own negative experiences, as Cherokee Indians, with white invaders, but that also closely resembled missionary rhetoric (and fatal impact rhetoric) about unassimilated Indians as well as frontier and lower class whites, such as that of Isaac McCoy, McKenney, and the others.

Whatever the exact source of their rejection of “amalgamation” with white Georgians, it is clear the Treaty Party leaders had given up hope that the United States government could be brought permanently to honor its existing treaties towards the Cherokees and help the Cherokees police their borders.

Ross, on the other hand, continued to profess his belief that the United States would do the right thing and uphold Cherokee self-rule in their own homeland:

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.¹⁹⁰

Was Ross less cynical about the racism of the United States, and therefore more hopeful of deliverance than Boudinot or Ridge?

boiled codfish, and when they dragged themselves about, formed a striking contrast to some of the swarthy, athletic-looking Cherokees.” Wilkins, *Cherokee Tragedy*, 251.

¹⁹⁰ John Ross, “Annual Message, 1832,” quoted in *Ross Papers*, ed. Moulton, 250. In John Ross’s 1835 Annual Message he asserted that it was “probable that something might have been effected” with Jackson if the Treaty Party had not stepped forward to make an illegal treaty. John Ross, “Annual Message, 1835,” *Ross Papers*, ed. Moulton, 355.

Chief John Ross still held out hope in the years after 1832 that scenarios might emerge which would allow the Cherokees to remain in their homeland, if they only held out long enough—a strategy that actually did work out for the Senecas in later decades. Ross imagined scenarios in which Georgian invaders, upon realizing that Cherokee land was, in Theda Perdue's words, "red clay soil instead of the Garden of Eden...would content themselves with the gold mines and relinquish their claim to the entire region in exchange for a cash settlement." Several decades later, in fact, the Senecas would manage to effect a similar arrangement to preserve their lands from the claims of an aggressive land company.¹⁹¹ Even in 1834, after the land and gold lotteries, Ross expressed his belief (in his annual message to the nation) that "there can be no doubt of the practicability of an adjustment being effected between the General Government and the State of Georgia, of their compact in relation to our lands," believing, (mistakenly, it seems), that "a large portion of the citizens of that state, would be perfectly satisfied with such an adjustment."¹⁹² Ross was convinced, above all, that the removal west would bring the end of the Cherokee people, as we have seen, arguing that if the Cherokees' treaty rights in their present location were not upheld, then no guarantees could protect them in any other against encroachment by whites. Counting on the rule of law as expressed in the *Worcester v. Georgia* ruling, Ross believed that if the Cherokee people could hold out and withstand the pressure to remove voluntarily, they could force the

¹⁹¹ Perdue, *Cherokee Editor*, 158. Ross stated, in his own words, his "lingering hope that the United States will yet, in good faith, afford them justice & protection under their existing treaties & laws. *There can be no doubt of the practicability of an adjustment being effected between the General Government and the State of Georgia, of their compact in relation to our lands, on the basis of the resolution suggested by the late report of the Committee upon Indian affairs, on the memorial of the Cherokee Delegation; as it is manifest that a large portion of the citizens of that state, would be perfectly satisfied with such an adjustment.*" John Ross, "Annual Message, 1834," in *Ross Papers*, ed. Moulton, 309.

¹⁹² *Ibid.*

government to negotiate a compromise that would allow the Cherokees to remain in their homeland.

Clearly, when Ross articulated to Americans this sentiment of faith that the U.S. would eventually do the right thing, it was not merely an expression of belief, but a rhetorical strategy meant to shame Americans into good behavior. Likewise, when expressed to fellow Cherokees, it was meant to encourage them to remain strong against the provocations and oppressions they endured while the removal crisis played out on other levels of government. But Ross must have had some genuine hope in order to continue to hold out for years for a settlement that would allow the Cherokees to remain in their homeland. Ross persisted even after his own estate was confiscated in 1835 by Georgians, after he had already been arrested, while the Cherokee Nation's finances bled into deep debt due to the punitive withholding of their annuity, and after Ross had been reduced to living and working out of a rented log cabin, while the property of Treaty Party chiefs was granted special protection by Georgia.¹⁹³

It may be, however, that Ross' opinion of Cherokee prospects was changing, while his public rhetoric remained steady. In 1833, he proposed that if the federal government was unwilling to force settlers out, it should buy out the settlers and let them emigrate west in the Cherokees' stead. By 1835 Ross was willing to consider a treaty for removal, but only if the Cherokees could settle outside the limits of the United States. When U.S. laws and pledges towards the Cherokees were violated once, he said repeatedly, there was no reason to trust the United States again; the Cherokees would be

¹⁹³ John Ross, "Memorial and Protest of the Cherokee Nation to the Senate, March 8th 1836," *Ross Papers*, ed. Moulton, 411, and Gary Moulton, *John Ross, Cherokee Chief* (Athens: University of Georgia Press, 1978), 62.

forever insecure under American protection. Ross wrote to the Mexican ambassador requesting permission to settle there, but probably did not receive a reply. Mexico was not encouraging immigration of Indians after the aborted Fredonia rebellion in 1827. At the time that Ross wrote, Mexico had its hands full dealing with a rebellion of Anglo immigrants and *tejanos* that we know as the Texan War of Independence.¹⁹⁴

Attempting to work through their differences, Ross and his party had even gathered in private conference with Treaty party leaders. Ross agreed in vague terms that a removal treaty was necessary, (he called it a “final adjustment of the existing difficulties”). Ross even agreed to work out a compromise to reconcile the two parties to a joint treaty delegation, only to play a double game and publicly characterize Boudinot and his compatriots as traitors finally coming back to the fold in order to defeat removal attempts and save the Cherokee homeland. The Treaty Party members were livid. Instead of being “plain, direct, and unequivocal,” Boudinot complained, Ross encouraged “conflicting views” about 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*.”¹⁹⁵ When Ross finally realized that the situation was becoming unbearable and that a solution was needed as soon as possible, he was willing to negotiate for the Cherokees to obtain U.S. citizenship in order to remain in the East while misrepresenting his position to the people. Ridge and Boudinot vociferously rejected this move, which

¹⁹⁴ Moulton, *John Ross Cherokee Chief*, 51, Ross to Joaquin Maria Del Castillo y Lanzas, 22 March, 1835, *Ross Papers*, ed. Moulton, 334, and Andres Resendez, “Carved Spaces: Mexico’s Far North, the American Southwest, or Indian Domains?” chap. 1 in *Changing National Identities on the Frontier*, 15-56.

¹⁹⁵ Ridge to Ross, December 4, 1835, quoted in John Ross, *Ross Papers*, 377, Boudinot, “Letters in Reply,” 21.

caused them to break with Ross once and for all and pursue their own unauthorized removal treaty with the U.S.¹⁹⁶

Ridge and Boudinot became convinced that Ross was misleading the people into thinking Ross was negotiating for the Cherokees to “be restored in their rights,” all the while obfuscating the increasingly desperate proposals he was actually making to Jackson. Ross proposed to surrender Cherokee land within the “chartered limits” of Georgia and accept U.S. citizenship in exchange for 20 million dollars, and he even proposed to surrender all of their claims in the U.S. and relocate under the protection of another power. Neither of these proposals were discussed in council and, the Treaty Party argued, were not approved of by the majority of the people. Indeed, by 1835 Ross appeared to be flailing about for a solution. The illegal actions of the Treaty Party in making the Treaty of New Echota may ironically have extricated him from an impossible situation.¹⁹⁷

But in spite of how outrageous Ross’s conduct seemed to Treaty Party members, the degree of cooperation between Treaty Party members and U.S. and Georgia officials must have made the Treaty Party appear despicable to most Cherokees. In exchange for their cooperation against the will of the majority, members of the Treaty Party received special protection for their property and reimbursement for their abandoned improvements. At the same time, Anti-Treaty leaders (not to mention ordinary Cherokees) were being forced from their homes by guardsmen and lottery winners. The federal government had withheld the annuity it owed to the Cherokee Nation for years, and its creditors were beginning to hound it for payment. If members of the Treaty Party

¹⁹⁶ Ibid.

¹⁹⁷ Perdue, *Cherokee Editor*, 187.

were sincere in their intentions, their favorable treatment by Georgia and by Jackson's federal government certainly reinforced the impression that they were traitors cooperating with enemies to destroy the tribe. The Treaty Party even solicited the help of the Georgia Guard in protecting members of their own party against members of Ross's party.¹⁹⁸ Treaty Party Cherokees were able to emigrate before other Cherokees and avoid the incarceration and forced marches of the Trail of Tears. And, they were able to buy land in Oklahoma or Arkansas ahead of other Cherokees, claiming the richest farming land before other Cherokees. Major Ridge had his slaves build a substantial new plantation in Oklahoma while new arrivals from the Trail of Tears were still starving.¹⁹⁹ John Ridge even established a general store (that doubled as a bank), provisioning and lending money to Cherokee migrants as they arrived from their harrowing journey, profiting from their suffering and giving other Cherokees manifold reasons to hate him and his Treaty Party compatriots.²⁰⁰

Whether or not material interest and rewards exclusively motivated those who supported the Treaty of New Echota, many Treaty Party members did have a material interest in cooperating. Theda Perdue points out that the names of "several of the signers" of the Treaty of New Echota "appeared frequently in the *Phoenix* or on the court docket as debtors" and that U.S. agents noted that "those disposed to negotiate were in debt to members of the aristocracy, like Lewis Ross and Joseph Vann."²⁰¹ Together with the chumminess of some of these Cherokee leaders with the enemy—John Ridge even named

¹⁹⁸ Wilkins, *Cherokee Tragedy*, 271.

¹⁹⁹ Miles, *Ties That Bind*, 164.

²⁰⁰ Demos, *Heathen School*, 254.

²⁰¹ Theda Perdue, "The Conflict Within: Cherokees and Removal," in, *Cherokee Removal: Before and After*, ed. William Anderson (University of Georgia Press, 1991), 67-8.

his son after Andrew Jackson²⁰²—those building the case that material interest drove the decision to enter into a removal treaty will find no lack of evidential fodder to work with.

But at the same time that one must acknowledge the material interest and reward involved, it is unmistakable that prominent leaders of the Treaty Party saw their actions in terms of sacrifice to the greater good. It would be wrong to attribute purely base motives to Boudinot and the Ridges, who knew that they were courting ostracism and putting their own lives and possibly their families' lives in danger by signing the Treaty of New Echota, and who had been staunch anti-removal patriots for decades before circumstances changed their minds. In 1829, both Ridges, (Boudinot was not in the legislature), had voted to prescribe the death penalty for individuals who made unauthorized sale of Cherokee lands. In 1838, all three men were brutally executed for violating this same law, while scores of Treaty Party members were assassinated by anti-Treaty Cherokees in 1835.²⁰³ The personal risk was obvious, and both Ridges and Boudinot were reported to have acknowledged so upon signing the treaty. Major Ridge reportedly said "I have signed my death warrant,"²⁰⁴ and a young white man reported Boudinot's speech at the treaty proceedings as follows:

²⁰² Demos, *The Heathen School*, 245.

²⁰³ On the murder of Treaty Party adherents: "Hardly a week went by that a Ridge adherent did not fall at the hands of Ross partisans." "A treaty man named Crow was murdered at a frolic at which he had been chosen to preserve order...On August 3 [1835] two followers of the Ridges, named Murphy and Duck, were knifed to death at another frolic. Then two days later James Martin, formerly a Cherokee judge threatened to take the life of John Ridge, or have it done. As soon as Major Currey heard of the threat, he had the old white-haired 'judge' arrested, and martin was released only after he had been so beside himself with liquor that he was not responsible for anything he had said. 'The Ross Party,' John Ridge wrote a little later, 'tried hard to counteract the growth of our party by murders—it is dreadful to reflect on the amount of blood which has been shed by the savages on those who have only exercised the right of opinion.'" Wilkins, *Cherokee Tragedy*, 277.

²⁰⁴ "Upon affixing his mark, Major Ridge reportedly said, 'I have signed my death warrant.' John would add his own signature—with a similar sense of foreboding—a few weeks later; indeed, he would tell others that he was quite ready for death if it came. Elias, for his part, told the assembled group, 'I know that I take my life in my hand...But Oh! What is a man worth who will not dare to die for his people?'" Demos, *Heathen School*, 246-7.

I know that I take my life in my hand, as our fathers have also done. We will make and sign this treaty. Our friends can then cross the great river, but Tom Foreman and his people [who violently opposed removal] will put us across the dread river of death. We can die, but the great Cherokee Nation will be saved. They will not be annihilated; they can live. Oh, what is a man worth who will not dare to die for his people? Who is there here that will not perish, if this great Nation may be saved?²⁰⁵

It was only strategic judgment over the inevitability of choosing removal or destruction that made sense of this sacrifice.

John Ross and his Anti-Treaty Party followers clearly saw their actions in terms of sacrifice as well, and their actions bore this out. Ross himself survived an assassination attempt at the hands of white Georgians in 1831. He survived imprisonment and eviction from his estate in 1835, and continued to lead the movement against removal for years afterwards. However, it is worth noting that Ross's own secret proposals to Jackson—to surrender Cherokee self-government in order to hold onto allotted private reservations in their homeland—could have proceeded from his own class-based self-interest. As an acculturated elite planter, he stood a better chance under Georgia (or other state) rule than ordinary (or even less wealthy) Cherokees would.²⁰⁶

Even if there were indeed class and race aspects to the Treaty Party challenge, the rift in the Cherokee Nation only opened up several years into the final controversy over removal. Indeed, the individuals arrayed in opposition over the removal issue had been close political allies beforehand. Isolated and disreputable individuals with clear financial

²⁰⁵ Quoted in Perdue, *Cherokee Editor*, 27.

²⁰⁶ See Wilkins, *Cherokee Tragedy*, 230, for assassination attempt. The Treaty Party made this point about the practice of allotting private reservations several times in resolutions, once at the Running Waters council: "The poor Indian is as much entitled to the proportion of the price of his land as the half-breed, who has obtained a valuable reservation in former treaties, and will do it again if the humanity of the United States is not thus interposed. The system of reservations works most unequally and mischievously upon our illiterate people." Indians-Cherokees, *Running Waters Council*, 5. In another resolution, they argued that "the policy pursued by the Red Clay Council [Ross's government], in continuing a useless struggle from year to year" would end in "*submission to the laws of the States* by taking reservations," which would benefit those with estates and do little for those without. Boudinot, *Letters in Reply*, 12-3.

motivation within the tribe, namely one Jack Walker and even Ross's own brother Andrew, had attempted to sell Cherokee land during the removal crisis, prior to the formation of the Treaty Party. But it was the defection of reputable chiefs and citizens from Ross and their formation into a faction that created a crisis.²⁰⁷ The removal controversy split the Hicks and the Vann families (the latter one of the wealthiest slaveholding families in the nation), as well as that of John Ross himself.²⁰⁸

And, despite white, pro-removal outsiders' insistence on seeing Cherokee divisions in racial terms, disagreement over removal did not break down along the lines of "full-blood" and "mixed-blood," as many pro-removal whites liked to claim. John Ross was of seven-eighths Scottish ancestry, was a Christian and a native English speaker, yet his anti-removal stance earned him the confidence of the "full-blood" majority of the tribe.²⁰⁹

Back in 1827, a very serious conflict over the promulgation of the new written Constitution had indeed split the Cherokee nation into factions that set the "full-blood," (traditionalists, some of whom had white ancestry, including Sequoyah) against the Constitution and the "mixed-bloods," (Christian-friendly acculturationists, including Major Ridge, who was a "full-blooded" Indian who could not speak English).²¹⁰ This controversy, in which traditionalists began to form their own councils and passed their own laws in open defiance of the constituted national authorities, is called "White Path's rebellion." Details of this rebellion are sketchy for a good reason. Missionaries reported

²⁰⁷ John Ridge wrote to Ross of his attempts to defeat the efforts of one Jack Walker to make a renegade treaty with Jackson back in 1833. Ridge to Ross, Running Waters, February 2 1833, *Ross Papers*, ed. Moulton, 259-60.

²⁰⁸ Wilkins, *Cherokee Tragedy*, 261.

²⁰⁹ Moulton, *John Ross, Cherokee Chief*, 12-15, 85.

²¹⁰ Miles, *Ties that Bind*, 101, and Wilkins, *Cherokee Tragedy*, 137, discuss Ridge's desire that his son should be Christianized and acculturated, in spite of his own reluctance to commit to the new religion.

that Cherokees on both sides were determined to avoid bloodshed, work out the conflict among themselves, and, in historian William McLoughlin's words, "keep the matter hidden from the white public."²¹¹

Despite the fundamental and serious nature of the disagreement, both sides understood that any rupture that invited outside interference would result in collective disaster. As long as the eastern Cherokees remained united against removal, they had the basis for compromise on even the most difficult issues of acculturation and power-sharing. Consequently, most traditionalists ultimately agreed to run for office within the framework of the Constitution, where they would form the majority of the National Council.²¹² "Our Chiefs and legislators have made for us a Constitution," said John Huss, a racially "full-blood" Christian, in one of the first editions of the *Cherokee Phoenix*. "If we be of one mind in the support of this Constitution, the inhabitants of Georgia will not take away our land...if we be divided into parties, we shall be liable to lose our territory."²¹³

"Full-bloods" and "mixed-bloods" never went to war with one another over the Constitution. But when outside pressure cracked the consensus on removal, the stage was set for conflict between "mixed-blood" Cherokees who agreed about almost everything else, laying the groundwork for years of internecine violence.

According to the resolutions of the Treaty Party themselves, it was the belief that the Cherokee government was "continuing a useless struggle from year to year, as

²¹¹ William McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton: University of Princeton Press, 1986), 391.

²¹² Ibid., 406.

²¹³ Quoted in Ibid.

destructive to the present peace and future happiness of the Cherokees”²¹⁴ that led to their illegal actions. And the judgment of the Treaty Party that removal was the necessary alternative to destruction, and that the people did not understand this fact, was formidable—whether right or wrong, self-serving or not. It was based on a thoughtful, articulate—and eminently plausible—reasoning from information about the U.S political situation, and about the behavior of John Ross in negotiation, that were not available to the body of Cherokee people.

Furthermore, the Treaty Party claimed, and perhaps sincerely believed, that many more Cherokees would favor emigration if they weren’t intimidated by other Cherokees into silence. Boudinot also argued, in a letter to Georgia’s governor, that Georgians treated many who enrolled for emigration as fair game, and dispossessed them before they had a chance to prepare for emigration. This operated, he complained, as a disincentive for Cherokees to enroll in the first place. It is difficult to tell exactly how large the Treaty Party was by 1835, when the illegal Treaty of New Echota was made. The Cherokee Nation delivered a petition with 15,000 signatures to Washington against the treaty. Boudinot claimed, for his part, that 15,000 must be a vastly inflated number of petitioners against the New Echota Treaty, since every single Cherokee person, man woman and child who was not a “Negro” or enrolled emigrant would have had to sign.²¹⁵

On the other side, however, despite intense government attempts to voluntarily enroll émigrés, their numbers remained paltry. Thousands of Cherokees signed a

²¹⁴ “Treaty Party Resolutions,” quoted in Boudinot, *Letters in Reply*, 11.

²¹⁵ Amy Sturgis, *The Trail of Tears and Indian Removal*, 50. Boudinot on the petitions, letter to John Ross, quoted in Perdue, *Cherokee Editor*, 214, Ridge letter to Governor Wilson Lumpkin, quoted in Clemens de Baillou, ed. and intro., *John Howard Payne to his Countrymen* (Athens: University of Georgia Press), 1961. Also Calloway, *Pen and Ink Witchcraft*, 138, on Ridge petition.

memorial that detailed the ways in which federal agents “voluntarily” enrolled many of them for emigration—through intimidation, and obtaining signatures while Cherokees were intoxicated. It is certainly possible that many of those Boudinot claimed had “signed up” for emigration were coerced, and could easily have also signed the petitions against removal and the New Echota Treaty.²¹⁶

By 1835, when the Treaty of New Echota came before Congress, the white friends of the Cherokees were themselves divided enough that the Treaty of New Echota did not face the same showdown that the Indian Removal Bill had. A year before, Congressman Edward Everett himself, one of the leading anti-removal voices of the debate over the passage of the 1830 Removal Bill, took the part of the Treaty Party, presenting their resolutions to congress, in order to speed up emigration and, as he saw it, to save the Cherokees from Georgia.²¹⁷

What would have happened if the majority of the Cherokee leadership had defected to a pro-removal position in 1832, or 1835? Would they have persuaded the people that removal was inevitable, to stop fighting it, and to plan for an orderly exodus? Or would they have merely encouraged further dissention, possibly resulting in civil war or insurrection in the East? Ross’ biographer Gary Moulton believes that if Ross and the National Council had not held out past the midnight hour, they would have lost credibility with the people. Since he had remained firm, Ross retained the leadership of

²¹⁶ “Memorial of Protests of the Cherokee Nation, June 22, 1836,” in Perdue, *The Cherokee Removal*, 168.

²¹⁷ *Niles Register*, January 24 1835, Wilkins, *Cherokee Tragedy*, 266. As historian Gary Moulton puts it, “when the New Echota treaty finally came before the Senate, it did not engender the kind of debate which the Indian Removal Bill had produced... The vote did not divide on the same sectional lines as had the congressional debates on the Removal Bill of 1830.” Gary Moulton, *John Ross, Cherokee Chief*, 77.

the tribe. This enabled Ross to convince the Van Buren administration to allow him to (at least partially) organize the Cherokees migration himself, which no doubt saved many lives that may have otherwise been lost at the hands of contractors and the army. Had Ross advocated removal earlier, he would have lost all of his influence with the common people, which was predicated on his firm rejection of signing a removal treaty. Moulton's opinion on this count is based on the opinion of missionaries and other observers in Cherokee country who knew the people much better than the Jackson administration did. "[I]ndividuals may be overawed by *popular opinion*," said the ABCFM missionary Samuel Worcester, "but not by the *chiefs*. On the other hand, if there were a chief in favor of removal, *he* would be overawed by the *people*."²¹⁸ An Englishman visiting the Cherokees named John Mason Jr. agreed. "With all his power," said Mason, "Ross cannot if he would change the course he has heretofore pursued, and to which he is held by the fixed determination of the people." Mason continued:

Were he, as matters now stand, to advise the Indians to acknowledge the treaty, he would at once forfeit their confidence, and probably his life. Yet, though unwavering in his opposition to the treaty, Ross's influence has constantly been exerted to preserve the peace of the country...opposition to the treaty on the part of the Indians is unanimous and sincere...it is not a mere political game played by Ross for the maintenance of his ascendancy in the tribe.²¹⁹

However, members of the Treaty Party disagreed with this judgment: They believed that Ross led, only he led badly and blindly. Evading definite action, telling the masses, the Treaty Party, and the federal government all what they wanted to hear while the situation steadily deteriorated, the Treaty Party held that Ross left the Cherokees completely unprepared for the inevitable migration up to the moment they were rounded

²¹⁸ Samuel Worcester in 1830, quoted in Moulton, *John Ross, Cherokee Chief*, 47. McLoughlin, *Champions of the Cherokees*, 64-118, discusses the attitudes of common Cherokees towards removal and towards their government from the perspective of Baptist missionary Evan Jones.

²¹⁹ John Mason Jr., visiting Englishman, 1836, quoted in Moulton, *John Ross, Cherokee Chief*, 85.

up by federal troops. “If Ross had told them the truth in time,” said John Ridge afterwards, they could have sold off “their furniture, their horses, their cattle, hogs, and sheep, and their growing corn.” Ridge assigned Ross blame for the deaths and suffering on the Trail of Tears.²²⁰ Sharing this assessment was General Winfield Scott, the very commander who had surprised and forcibly rounded up the Cherokees and put them into stockades, where so many died of disease and other horrors, while the property they left behind was stolen by Georgians. If only Ross had prepared his people for voluntary emigration earlier, Scott argued, this roundup and the “distress caused the emigrants” would have been unnecessary. According to the man who actually carried out their mass imprisonment, then, the loss of life was the fault of the Cherokees themselves, most especially Ross. Scott’s reasoning behind his own self-absolution and his redirection of blame to Ross and the Cherokees who believed in him, in other words, lay in how each chose to confront the inevitability of removal.²²¹

Ross did indeed continue to reject the inevitability of removal in the years after the Treaty of New Echota was signed. “[I]f the Cherokees would all be firm in their minds, and consider it the same as if there was no treaty made and ratified, and be strong in this resolution,” wrote Ross to Chief George Lowrey in 1836 [emphasis in the original], “and remain still and quiet, the Government would then give up the idea of treating with them, and we would gain a great deal, and the Cherokees would become enlightened, and our minds would be made glad.” At a time when their country had been

²²⁰ Ridge, quoted in Calloway, *Pen and Ink Witchcraft*, 153.

²²¹ Grant Foreman, *Indian Removal: the Emigration of the Five Civilized Tribes of Indians* (Norman: University of Oklahoma Press, 1953), 288, quote in footnote: “General Scott wrote to Nat Smith, superintendent of emigration: ‘The distress caused the emigrants by the want of their bedding, cooking utensils, clothes and ponies, I much regret as also the loss of their property consequent upon the hurry of capture and removal,’ but he said the Indians themselves were to blame for having faith in the ability of John Ross to save them.”

overrun with invaders and the federal government was planning to enforce a removal treaty, Ross concluded this letter by advising Lowrey that “the people must not be alarmed, and must not be disturbed in their minds, nor suffer their judgments to be scattered, and go astray.”²²²

Though Ross exasperated the Treaty Party, Ross’s strategy of evasive equivocation with the U.S. government, while urging the Cherokee people to remain “strong” and “quiet,” did bear fruit. Because he (and the Cherokees at large) held out for so long and generated so much public sympathy, the circumstances under which removal was carried out, as awful as they were, ended up being better than they had been for the Creeks, for example. Furthermore, the terms offered improved over years of negotiation. Ross didn’t get his twenty million dollars. But the compensation the U.S. government offered the tribe climbed from a 2.5 million dollar proposition from Jackson to Ross in 1833 to the five millions offered in the Treaty of New Echota, (among other payments and assistance), in 1835. Finally, Ross won the midnight-hour concession allowing him to self-organize and outfit the Cherokees own journey west, while the federal government reimbursed him for the full cost.²²³

Furthermore, Ross encouraged forbearance and avoidance of bloodshed in the midst of an explosive situation. It is remarkable that Ross never cracked, that he never advocated violence despite all of the disrespect, injustice, outright theft and violent provocation—even attempts on his life—that he faced, and that he stuck to hope for legal redress from the United States despite disappointment after disappointment. It is even

²²² John Ross to George Lowrey, 26 May 1836, *John Ross Papers*, 425-6.

²²³ Steve Inskeep, *Jacksonland: President Jackson, Cherokee Chief John Ross, and a Great American Land Grab* (New York: Penguin Books, 2015), 327-333, Michael Green and Theda Perdue, *The Cherokee Nation and the Trail of Tears* (New York: Viking, 2007), 131-3, and Wilkins, *Cherokee Tragedy*, 253.

more remarkable that the Cherokee people, under his leadership, kept their calm, managing to reject cooperation in their own dispossession on the one hand, and refraining from violence on the other. Instances of violence committed by Cherokees in these years were usually against other Cherokees, committed in the context of alcohol, domestic violence, or the politics of emigration.²²⁴

Cherokees practiced “passive” resistance even as federal soldiers were rounding them up—accounts by soldiers and others reported that many Cherokees refused food and provisions from the soldiers when they were captured for fear that their acceptance of these items would be construed as consent to the Treaty and the process of removal. Only when the choice was literally death or removal did Cherokees acquiesce. Resisting the temptation to violence, most Cherokees, following John Ross, also resisted engaging in any measure which would remotely appear to bestow their consent upon their own dispossession, opposing the Treaty Party’s strategy of acquiescing to the inevitability of removal.²²⁵

²²⁴Rumors and fears of Cherokee violence continued to surface, however. Leading up to the roundup of Cherokees by federal troops, rumors of Cherokee massacre of frontiers-people were circulated in the *Massachusetts Spy*. A one Georgia paper reported instances of Cherokees who were arrested for the killing of white people and pro-emigration Cherokees, though the Cherokee suspects were all released for lack of evidence. *Massachusetts Spy*, June 29, 1836, 2, Worcester, Massachusetts and *Macon Weekly Telegraph*, published as *Georgia Telegraph*, December 18, 1834, 2. The Cherokee Lighthorse attempted to evict intruders in 1830 by burning their crops and houses, which led to the murder of one of the Cherokee policemen by a sheriff’s posse from Georgia. I have found no confirmation of acts of self-defense which ended in the death of whites. In one instance, a Cherokee brandished a weapon to try and frighten off the Georgia Guard, after which he was convinced to put it down and submit to arrest, or to the confiscation of his property. Perdue, *Cherokee Editor*, 130, Perdue, *The Cherokee Removal*, 95-100. In another incident, a group of Cherokee goldminers attempted unsuccessfully to fight off a group of white goldminers with fists and shovels. David Williams, *The Georgia Gold Rush: Twenty-Niners, Cherokees, and Gold Fever* (Columbia, S.C., 1993), 88.

²²⁵ Calloway, *Pen and Ink Witchcraft*, 151. Despite the reality of widespread alcohol abuse and extreme social strain behind Boudinot’s observation of increasing Cherokee “moral degradation,” one account suggests vividly that violence was turned inward towards other Cherokees, not projected outwards towards white intruders. When the Brandon’s, as new lottery winners, first arrived and kicked a Cherokee family out of “our house,” as she put it, the Cherokee inhabitants “would not deign to look at us, much less speak to us.” Brandon interpreted this as a reserve “characteristic of that people.” It is not hard to imagine that this reserve was intended to conceal and control powerful and probably violent emotions engendered by

Unlike the Seminoles, the Cherokees were surrounded by white Americans, and armed uprising against the United States would bring destruction, however tempting it might be. Indeed, holding the United States to its own civilizing mission and insisting that it play by its own rules had ensured Cherokee survival and prosperity for decades. The only sensible course in dealing with the Cherokees' "peculiar situation," said Ross in an 1834 annual message to the Cherokee General Council, was "to persevere in the peaceable course of asserting & maintaining our clearly acknowledged rights."²²⁶ Cherokee unity and insistence on their legal treaty rights, had defeated two previous removal efforts led by Georgia and supported by the federal government in as many decades. The efforts of the Cherokee Lighthorse and a reluctant U.S. army had beaten back squatters. Despite numerous instances of failure to comply with treaty promises even during the height of the civilizing mission, (for example, the promise to remove squatters from Cherokee territory or to make certain payments), the United States had often been embarrassed and compelled into redressing Cherokee grievances through polite but persistent Cherokee diplomacy backed by popular unity. Violent resistance, on the one hand, had often led to disaster and was no longer feasible in any case, while caving to settler bullying on the other hand had only encouraged further abuse. Even in this more trying time, the past furnished reason to hope for the continued success of this tried and true formula.²²⁷

helplessness in the face of enormous provocation of being turned out of their homes by invaders backed by the threat of overwhelming violent force, with no recourse to active self-defense. Perdue, *The Cherokee Removal: A Brief History with Documents*, 97.

²²⁶ John Ross, "Annual Message to the General Council, 1834" in *John Ross Papers*, Moulton, ed. 308-9.

²²⁷ McLoughlin, "Cherokee Renaissance, 1819-1829, Politics and Economics," chap. 14 in *Cherokee Renaissance*, 277-302, see especially 278.

Indeed, opposing Boudinot's logic of salvation through removal was, as we have seen, a logic whereby removal equaled the surrender to death and destruction itself. This logic was embraced by John Ross, as it had been embraced by his supporters in Congress in 1830, and it was echoed by those whites who remained firm in their anti-removal position until the end. Under this logic, it was useless to remove, not only because the exile itself would result in large-scale death and suffering, and not only because the land to which they were to remove was harsh and infertile. Primarily, removal was useless because it would not solve the basic problem which its proponents claimed it would solve: it would not deliver the Cherokee people out of the reach of the United States and its settlers, it would only delay the day in which invaders would pour across their borders again. Boudinot pointed out that the removal treaty would secure the Cherokee nation new boundaries guaranteeing their autonomy and self-government, but Ross replied that these guarantees meant nothing if the U.S. set the precedent for violation of its existing legal guarantees. Either the U.S. would be held to account for its treaty obligations in the Cherokee homeland, or its future guarantees of protection were worth nothing. The principle of Indian rights and their protection by the federal government against all comers had to be upheld; the stand to take was in the here and now, or the Cherokee Nation was as good as dead. "[I]t would be folly in the extreme for the nation ever to think of conceding any of...our clearly acknowledged rights...under existing circumstances," Ross said in 1834, two years after the land lottery. "[F]or unless we could be more permanently secured in the faithful protection of rights which are essential to the existence and well being of the nation in our present location," he conceded, "such concession would but weaken our cause and lead to our national extinction and individual

destruction.”²²⁸ At the same time, Ross had been inspiring Cherokees with the hope, and occasionally, the certainty, of victory, if disciplined unity were maintained. “Our cause will ultimately triumph”, said Ross in his 1831 annual address. “It is the cause of humanity and justice. It involves a question of great magnitude & one of the most extraordinary character that has ever been agitated in the United States.”²²⁹

There is some evidence that ordinary Cherokees subscribed to Ross’s reasoning that the Cherokees were more likely to get the U.S. to respect their rights in the East, and that a relocation to the West was tantamount to suicide in the long run. American Board missionary teacher Sophia Sawyer reported hearing Cherokees articulating the argument that the “white man” would eventually arrive at their new borders if they left their country and “trade our rights away” again. The North Carolina chief Yonaguska took this point of view, and this was the attitude that sympathetic missionaries took as well.²³⁰

This was not mere logical supposition. The fate of the several thousand western Cherokees, who had already removed across the Mississippi River to Arkansas was clear and present proof that U.S. guarantees were no more reliable west of the Mississippi than east of it, and that removal would not permanently take them beyond the reach of invaders. The Arkansas Cherokees had already fought a long and bloody war with the Osage Indians, on whose territory their “removal” had trespassed. No sooner had they secured control of that territory and established themselves than they faced another

²²⁸ John Ross, “Annual Message to the General Council, 1834,” in *Ross Papers*, ed. Moulton, 308-9. Boudinot himself had taken this stand before 1832, Calloway, *Pen and Ink Witchcraft*, 131.

²²⁹ Ross, Annual Message, April 14 1831, quoted in Daniel Heath Justice, *Our Fire Survives the Storm: A Cherokee Literary History*, (University of Minnesota Press, 2006), 6.

²³⁰ McLoughlin, *Champions of the Cherokees*, 130, (“Following the advice of Yonaguska, who told them that it would not be long before the government would demand the lands in Oklahoma, too, they intended to remain.”) John R. Finger, “The Impact of Removal on the North Carolina Cherokees,” in *Cherokee Removal: Before and After*, ed. William L. Anderson (Athens, University of Georgia Press, 1991), 98.

removal threat. As if designed to illustrate the point, white American settlers of Arkansas had encircled the western Cherokees, and federal agents were pressing them to move yet further west, just as the removal crisis began to unfold back east.²³¹

If Indian treaties were not enforced as supreme law of the land, and if a favorable Supreme Court decision could not protect the Cherokees in Georgia, then they could not protect them in so-called “Indian Territory” either. In this sense, Ross’s position had a claim to its own “hard-nosed realism,” or rather, “eminent practicality,” in the favored phrase of Lewis Cass.²³² He recognized that in the long run the Cherokees either needed to secure the good faith protection of U.S. law or they needed to leave the U.S. orbit entirely. He was right of course: despite the guarantees in the Treaty of New Echota, the State of Oklahoma was built on the theft of land solemnly guaranteed to Cherokees, yet again, though it took 70 years for this process to play out.²³³

But the equation whereby removal equals national death, did not prove to be entirely accurate. Cherokee people did reconstitute themselves as a nation in Oklahoma, and, although their territory was chopped up again in the 1890s and 1900s, they continue to exist as a nation, both in Oklahoma and among the descendants of holdouts in North Carolina. *Worcester vs. the State of Georgia*, that Pyrrhic victory of the Cherokee legal battle against removal, was temporarily a dead letter, but it stayed on the books and was resurrected by Native Americans of many tribes in the 19th and 20th centuries as a tool

²³¹ McLoughlin, *Cherokee Renaissance*, 413-6. John Ridge himself “paint[ed] a sorry picture of conditions in the West” after meeting a member of an Arkansas Cherokee delegation in a letter to John Ross in early 1832. (Ridge to John Ross, 12 and 13 January, 1832, quoted in *Ross Papers*, Moulton, ed., 235).

²³² Lewis Cass, “Removal of the Indians.” *North American Review*, 30 (1830): 101.

²³³ Richard White, “*It’s Your Misfortune and None of My Own*,” *A History of the American West* (Norman, University of Oklahoma Press, 1991), 85-91, 115-17.

used to hold onto and expand their qualified sovereignty.²³⁴ It turned out that American refusal to uphold their promises once, or even a thousand times, did not mean that these promises were forever worth nothing and Indian peoples were doomed to national extinction. The story did not rush to a logical conclusion. It has instead pursued a tortuous, and a *long* path that has not come to an end.

²³⁴ Sidney L. Harring, *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century* (New York, Cambridge University Press, 1994), 4-5, 288.

Chapter Three: Confidence in Inevitability, Fears of Contingency: Debate and Consensus on Removal in Georgia

In the crisis leading to the Trail of Tears, many Georgians believed that Indians were inevitably doomed unless they were removed. They confidently asserted that eventually, one way or another, Georgia's "rights" to Cherokee territory would be vindicated. In this vein of Georgia rhetoric, it was mainly the poor, pitiable Indians who stood to lose if this inevitable outcome was delayed. The Georgia legislature expressed these sentiments in an 1824 letter to President John Q. Adams urging the removal of the Creeks and Cherokees from within Georgia's "chartered limits":

The time must come when the soil of Georgia shall no longer be imprinted with the footstep of the savage...Such a state of things must come... Will delay facilitate its ultimate accomplishment? Will it lessen the expense to be incurred by the United States? Is it required by any rational consideration of humanity towards the Indian tribes, who now roam through the wilderness of our State?²³⁵

Delaying the inevitable would accomplish nothing, the Georgia legislature wrote to the U.S. Congress again the following year. Delay "will necessarily produce irritations and resentments," they said, "the consequences of which may be easily foreseen: the United States may be under the fatal necessity of seeing the Cherokees annihilated, or of defending them against their own citizens."²³⁶ In his 1828 speech to Congress, Georgia representative Wilson Lumpkin presented this logic of inevitable disappearance, either through removal or extermination, as respectable common sense: "distinguished individuals" such as John Calhoun, Secretary of War John Barbour, and former President

²³⁵ Extinguishment of Indian Title to Lands in Georgia, Communicated to the House of Representatives, April 5, 1824, in Senate, December 18, 1823, *American State Papers*, 2, *Indian Affairs*, 2: 491.

²³⁶ Extinguishment of Indian Title to Lands in Georgia, Communicated to the House of Representatives, April 15, 1824, in (ibid.), 498.

James Monroe “have arrived at the same results: that the only hope of saving the remnant tribes of Indians from ruin and extermination was to remove them from their present abodes, and settle them in a permanent abode west of the Mississippi River.”²³⁷

But Georgia rhetoric about removal also contained a vein of paranoia. Many expressed the idea that Georgia rights to Indian land were in jeopardy of being forever deferred if the Cherokees continued to advance in civilization and wealth, and hence power—and consequently they would be impossible to remove at any realistic financial or political cost. Moreover, some Georgians let on, the fact that the Cherokee people were *not* diminishing in population meant that time was *not* on Georgia’s side—and so implicitly, removal of the Cherokees was not inevitable.²³⁸

In the messages to Congress in 1823 and 1824 quoted above, the Georgia legislature anxiously complained that federal civilizing efforts would continually delay Indian removal. “[F]rom causes too obvious to require detail,” the Georgia legislature fretted, “every day diminishes the disposition of the savage to abandon his accustomed haunts, and consequently increases the price which he will demand for their surrender.”²³⁹

The Indians were taught the value of separate property, [by the federal civilizing program], and the advantages to be obtained by a continuance in their present position. The General Government authorized, also, the establishment of missionaries among the Cherokees, to instruct their children, and to give them a taste for the cultivation of the soil...[these] attempts

²³⁷ Wilson Lumpkin, *The Removal of Indians from Georgia*. Vol. 1 (New York: Dodd, Mead, 1907 reprint), 51.

²³⁸ Though not a Georgian, John C. Calhoun made this point in the mid-1820s as Vice-President in the Adams administration: “The great difficulty arises from the progress of the Cherokees in civilization. They are now, within the limits of Georgia, about fifteen thousand, and increasing in equal proportion with the whites; all cultivators, with a representative government, judicial courts, Lancaster schools, and permanent property.” Reginal Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism*, (Harvard University Press, 1981), 196-7.

²³⁹ Extinguishment of Indian Title to Lands in Georgia, Communicated to the House of Representatives, April 5, 1824, in Senate, December 18, 1823, *American State Papers*, 2, *Indian Affairs*, 2:491.

which have been made to civilize and permanently fix the Cherokees in Georgia are in direct violation of the promise to extinguish their title.²⁴⁰

These statements could be construed as mere impatience for the role of federal civilizing policy in frustrating the execution of an inevitable deed.

In 1827, however, the Georgia legislature complained that if obstacles to removal were to be allowed to grow unchecked, they might delay removal permanently. The federal civilizing program would “add to [Cherokee] comforts, and so instruct them in the business of husbandry as to attach them to their comforts, and as to attach them so firmly to their country and their homes, as almost to destroy the last ray of hope that they would ever consent to part with the Georgia lands.” Governor Gilmer expressed the fear, during the removal crisis, that “with the assistance of the United States” the Cherokees, “instead of being removed...will become fixed upon the soil of Georgia.”²⁴¹

How could such confidence in an inevitable outcome coexist with such anxiety? There indeed appear to be two seemingly contradictory strains in Georgia rhetoric about the inevitability of Indian removal: one expresses a blustering and very confident assertion that Indian removal was destined by the course of history. The other expresses a deep sense of contingency and uncertainty about the course of events, and an anxiety to see that their outcome was favorable for Georgia and, (allegedly), for the Indians.

²⁴⁰ Extinguishment of Indian Title to Lands in Georgia, Communicated to the House of Representatives, April 15, 1824, (ibid.), 498.

²⁴¹ Georgia, *Acts of the General Assembly of the State of Georgia...* (Milledgeville: Printed by Camak & Ragland, 1827), 96. Gilmer to President Andrew Jackson, June 17, 1830, quoted in “Letters from the Georgia Gold Region,” *Georgia Historical Quarterly*, ed. James W. Covington, 39 (1955): 407. Examples could be multiplied. George Paschal, a Georgia resident of the Cherokee border country, wrote in his memoir of Cherokee prosperity and property accumulation in cattle, plantations, slaves, etc., declaring, “All this looked like permanence; and it stood terribly in the way of the impatient Georgians, panting for another land lottery, which should distribute these fine towns and plantations.” George W. Paschal, *Ninety Four Years: Agnes Paschal* (Reprint Company, 1974), 222.

This sense of contingency proceeded from a deep sense of historical grievance and long suffering victimhood: Georgians presented the fight to achieve removal as a struggle against challenging odds, which coexisted awkwardly with their claims that removal was historically inevitable. Georgians expressed grievance against the federal government for the civilizing program explicitly because it made the Cherokees harder to remove. Georgians affirmed the urgency of effecting Indian removal, before they became too wealthy, legally sophisticated, and politically powerful and became “fixed upon the soil of Georgia.” Successful Cherokee resistance to removal would be a tragedy, because Indian removal, Georgians were convinced, was vital to the rights and interests of Georgia, even to its very well-being and dignity. Georgia would not be complete, or even fully independent, white Georgians argued, until Indian removal was carried out. Opponents to removal were seen as powerful, malicious, and dangerous hypocrites, and defeating their designs would take skillful maneuvering, steadfastness, courage, and an iron will.

Where did the sense of grievance come from? How could Georgians violently dispossess a neighboring people—in a manner that shocked and provoked indignation even from fellow countrymen in a nation built on settler-colonialism—and at the same time feel themselves to be victims? And how could Georgians hold both that Indian removal was inevitable—and that at the same time they had to act quickly to vindicate their rights before it was too late?

This chapter seeks to explain these contradictions and this rhetorical tension in struggles within Georgia politics over removal.

It will also examine lines of tension between Georgians themselves, who agreed on the basic question of removal, but disagreed bitterly on how to go about implementing it. I will focus on the rhetoric of the two governors who were in office during the height of the removal crisis, and on their supporters: Governor George Gilmer, in office from 1829 to 1831, and again from 1837 to 1839, and Governor Wilson Lumpkin, in office from 1831 to 1835. The focus on these two men is a convenient way to manage the discussion: Both men had come to office claiming to represent upcountry settlers whose main political issue was popular access to Indian land.²⁴²

Along those lines, this chapter explores the populist, democratic discourses linking removal and “inevitability” in Georgia. The idea that those who coddled Indians—and blacks—were against white man’s democracy was a powerful one. This idea proved itself to be a powerful political force against moderation and compromise in the pursuit of Indian removal. Georgia state political consensus accelerated during the late 1820s and early 1830s towards more uncompromising pro-removal, pro-settler, and white supremacist opinions and actions: merely allowing Indians to testify in court turned out to be political suicide for officeholders and judges. Collective grievance and the hope of collective gain through the lottery system of redistributing Indian lands, fueled popular, democratic investment in the cause of Indian removal.²⁴³

²⁴² Gilmer as a darkhorse candidate who broke from a lowcountry party traditionally more moderate on the Indian issue. Yet Lumpkin, who had grown up on the frontier himself, managed to outflank Gilmer on the Indian issue and defeat him in 1831, painting Gilmer as an elitist snob out of touch with the needs of the common man. Watson W. Jennison, “Making Georgia Black and White, 1818-1838,” chap. 6 in *Cultivating Race: The Expansion of Slavery in Georgia, 1750-1860* (Lexington: University of Kentucky Press, 2012), 189-225.

²⁴³ Uncompromising radical rhetoric and policies on the Indian issue, and attitudes in favor of racial separation, had long been connected in Georgia to a challenge to the political domination of the State by the lowcountry gentry, as historian Watson Jennison demonstrates. I rely heavily on the work of Watson Jennison to develop this point, and indeed to sketch the history of removal in Georgia, counting my contribution to this conversation to be mainly in the insights I develop on the role of inevitability rhetoric in

However, what is striking is the degree to which even the most radical populist politicians, like Lumpkin, actually distanced themselves from the first, disorderly wave of settlers in their public statements, and how much these governors employed the rationalization of extending jurisdiction to protect Indians from frontiersmen.

Hence, in the course of examining rhetoric about inevitability, I will show how Georgia politicians also used fatal impact rhetoric that claimed that the extension of jurisdiction, and removal, were measures to protect Indians from contact with whites. It is true that Georgia politicians' use of fatal impact rhetoric was not directly condemnatory of poor frontiersmen, as the rhetoric of northern removal opponents often was. In fact, the fatal impact rhetoric offered up by Governors Gilmer and Lumpkin more often stressed the need to protect settlers from Indians than the other way around. Nevertheless, Georgia politicians painted a picture of Indians as vulnerable to the worst abuses of predatory, disorderly whites. Georgia politicians sometimes acknowledged that the category of predatory whites included the hostile Georgia settlers they represented. But Georgia politicians saved their invective for lawless drifters and gold rushers from other states, northern lawyers and missionaries, whites who married into the Cherokee Nation, "half-breeds," and any others who might "deceive" the Cherokees into resisting removal for their own selfish gain. Protecting the Cherokees from the evils of contact added a sense of urgency to the measures these governors took to colonize of Cherokee country, allowing these governors to claim that their measures were responsible steps taken to protect Indians, and ensure the best interests of everyone involved.

the debates over removal in Georgia. Watson W. Jennison, *Cultivating Race: The Expansion of Slavery in Georgia, 1750-1860* (Lexington: University of Kentucky Press, 2012.)

What is the necessity of removing the Indians?...I would gladly have gone for it, as the least of evils. But I cannot catch a glimpse of any such necessity...They tell us, that, till the Indians are gone, they cannot consolidate their society, not complete their improvements. These generalities carry no meaning to my mind...What is the population of Georgia, where there is no room for these few Indians? It is less than seven to the square mile. We, sir, in Massachusetts, have seventy-four to the square mile, and space for a great many more. And yet Georgia is so crowded, that she must get rid of these Indians in her northwestern corner!”²⁴⁴

From a strictly economic point of view, it is difficult to understand Georgia’s insistence that, as anti-removal Massachusetts congressman Everett put it, “[Georgia] must get rid of these Indians in her northwest corner.” Indeed the popular intensity with which white Georgians’ held their state’s honor to be dependent on the clearing of Indians from their “chartered limits” requires explanation.²⁴⁵

On the one hand, it is true that Georgia’s population was rapidly growing, and Georgia politicians expressed the idea that Georgia’s economic “improvement” demanded Cherokee removal. Wilson Lumpkin claimed that the Cherokees were hoarding some five or six millions of acres of the best lands within the limits of the state.²⁴⁶ There were indeed specific commercial rewards, besides the general idea of social and economic “improvement” and “development,” that were expected to follow the

²⁴⁴Congressman Edward Everett speech quoted in 6 *Reg. Deb.* 1078 (1830).

²⁴⁵ Lisa Ford quotes Georgia governor Troup’s contention, in 1825 before the Georgia State Assembly, that “The State of Georgia contends that the jurisdiction over the country in question is absolute in herself; she proves, by all the titles through which she derived her claim from the beginning; by the charters and proclamations of the mother country; by the repeated acknowledgements of the United States themselves; and by their solemnly expressed recognition in the first and second articles of the agreement and cession of 1802. It was shown that, if Georgia had the jurisdiction, Georgia had never parted with it; and that, if she had it not, she can never have it in virtue of any authority, of any power, known to her.” Ford then goes on to tell us that “This contention in particular spread like wildfire throughout the state. Not only did Georgia’s newspapers print every word said about Creek Removal in Congress, townships everywhere joined in the chorus of territoriality, pledging to defend Georgia’s jurisdiction to the death.” Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge: Harvard University Press, 2010), 140-1.

²⁴⁶ “This state of things rendered it obvious to all well informed discerning men, that the resources of Georgia could never be extensively developed by a well devised system of internal improvements, and commercial and social intercourse with other portions of the Union, especially the great West, until this portion of the state was settled by an industrious, enlightened, free-hold population—entitled to, and meriting, all the privileges of citizenship ...” Lumpkin, *Removal of the Indians*, 42.

dispossession of the Cherokees. One of these was identified by Lumpkin years later in his opus, *The Removal of the Cherokee Indians from Georgia*, vindicating his role in Cherokee removal: the desire to build internal improvements such as railroads and canals connecting Georgia with “the great West” via the Tennessee River system through Cherokee country, to capture some of the trade of the West for Georgia’s ports.²⁴⁷

There were already roads, including a major federal road, ferries, and transportation infrastructure such as inns and “stock stands” built through Cherokee country to accommodate the “many drovers from Tennessee and Kentucky” who “passed through the Cherokee Nation on their way to Georgia.”²⁴⁸ Of course, it was Cherokee citizens, rather than Georgia citizens, who owned, operated, and reaped profits from much of this infrastructure, and Lumpkin and other Georgian politicians hoped for greater control and access to the commerce of the western states. Furthermore, travelers complained of theft, and incidents between Cherokees and whites were not uncommon.²⁴⁹

But the intensity of popular feeling in Georgia is not explicable solely through the desire to complete such a specific infrastructure project, a project that did not necessitate the dispossession of the Cherokees and the seizure of all of their territory. The gold rush that began in 1829, is a different story. However, it is important to remember that gold was not discovered until more than a year *after* Georgia passed a bill to unilaterally extend its jurisdiction over Cherokee territory. Scheduled to take effect in 1830, the Georgia legislature passed this bill in response to the Cherokee ratification of their own

²⁴⁷ Ibid.

²⁴⁸ Douglas C. Wilms, “Cherokee Land Use in Georgia Before Removal,” in *Cherokee Removal: Before and After*, ed. William L. Anderson (Athens: University of Georgia Press, 1991).

²⁴⁹ Mary Young notes that Lumpkin claimed that the Cherokee leadership had “turned a deaf ear” to his proposals for such “improvements” in Cherokee territory. Mary Young, “The Exercise of Sovereignty in Cherokee Georgia,” *Journal of the Early Republic*, Vol. 10, (1990): 46-7.

republican constitution,²⁵⁰ precipitating the crisis that would lead to removal. The gold rush, which clearly intensified the final removal crisis, did not cause it.

What is left to be explained is the imperative, almost religious intensity with which Georgians insisted on their right to seize Indian land and expel Indian people, over any and all opposition from the federal government and the Indians themselves, and the degree of moral entitlement with which they did so.

The Georgia legislature itself felt the need to explain. Declaring an “absolute and jurisdictional right” over Cherokee land at first may appear “bold and impertinent,” Georgia’s Senate declared in 1827, but Georgia had “suffered in silence, so long as the evils under which she labored were sufferable,” with “great moderation and forbearance.” “The lands in question *belong* to Georgia—She *must* and she *will* have them.”²⁵¹ [Italics in the original]. But why “*must*” she have them, and what were the “evils under which [Georgia] labored,” supposedly in patient silence? To understand Georgia’s sense of entitlement requires understanding a long nurtured sense of grievance and victimhood against both the Indians, and the federal government, stretching back to the Revolution, and running up to the removal crisis itself.

²⁵⁰ Lumpkin, among others, attested as much: “With the commencement of the written constitution, laws and government of the Cherokee people commenced that necessary and inevitable process and train of measures which hastened their expulsion from the different States in which they were located. Their very first attempt at sovereignty and independence, as a state, nation and people brought them into direct conflict and collision with not only the several State governments in whose limits they sojourned, but irreconcilable conflict and collision with the intercourse laws of the United States which so long had shielded and protected with from the operations of the laws of the States in which they dwelt. The Cherokees claimed to be a sovereign nation, exercising all the rights of self-government. Nevertheless, claiming all the guarantees and stipulations appertaining in their favor by treaties previously entered into by the United States, they *nullified* the treaties and intercourse laws of the United States which conflicted with their sovereignty.” Lumpkin, *Removal of the Cherokees*, 189.

²⁵¹ Georgia, *Compilation of the Law of the State of Georgia, Passed by the General Assembly, Since the Year 1619 to the Year 1829, Inclusive...To Which are Added, Such Concurred and Approved Resolutions...* ed. William Dawson (Milledgeville: Grantland and Orme, 1831), 99.

On one level, Georgians widely held that Cherokee lands were Georgia's own revolutionary inheritance. The legalistic argument ran that rights of sovereignty under Georgia's colonial charter passed to the State Georgia when the British King was defeated in the revolution. This argument was expressed in the Georgia Legislature's above cited Resolutions, their representatives' arguments in Congress, and in pro-removal newspaper articles nation-wide.²⁵² But less legalistically, Georgians believed that Indian land was the rightful inheritance of revolutionary veterans and by extension the Georgia body politic, because of the sufferings endured and the sacrifices made during the Revolution, and in the long fight to settle the country and drive off the Indians—two things which were tightly connected for white Georgians.²⁵³

Georgia was still a new colony when the Revolution broke out. At that time, Massachusetts was one hundred and fifty four years old, and Virginia nearly one hundred and seventy. But Georgia, established in the 1730s, was bordered by powerful Indian nations, and by the Spanish empire to their south. Spain often allied with and supplied Indians with weapons in order to check the growth of this pesky new colony established on land Spain had claimed for itself. Moreover, as George Paschal, a Georgia writer, memoirist, and militia member informed his readers, "Georgia and South Carolina furnished many 'loyalists,' or tories, as they were known," and therefore the Revolutionary War in Georgia was a brutal, protracted civil and guerilla war. While

²⁵² For example: "These words 'chartered limits' were always quoted as a foundation of right anterior and superior to all treaty stipulations. Whether or not the argument was sound, it really prevailed," wrote the Georgia writer George Paschal. Paschal, *Ninety Four Years*, 213-4. Wilson Lumpkin spoke of "the delusive and expiring hope of the Cherokees that they would be sustained in their unreasonable pretentions to the rights of independent self-government, within the chartered limits of Georgia." Lumpkin, *Removal*, 147.

²⁵³ The Georgia legislature hinted at this connection when it declared that "Georgia acted a gallant and distinguished part during the revolutionary war, in achieving our liberty and independence...we mention these things...to show that Georgia has violated none of her obligations by which she was bound to her sister States." Georgia, *Resolutions*, 96.

much of New England was secured to the patriots early in the conflict, the Revolutionary War in Georgia and many parts of the South involved not only fighting between patriot soldiers and redcoats, but also between ruthless, marauding gangs of loyalists and patriots, between the Cherokee and Creek nations and the settlers in rebellion, and between slave-owners and the many thousands of enslaved black people who ran away to the British lines.²⁵⁴

Combatants targeted civilians in these conflicts, and these wars were gruesome all around. But the memory of Indian violence was particularly potent. Gilmer, in his *Sketches of the First Settlers*, gives us two examples of Indians killing white children during and after the war to show how “insensible” Indians were. From there, Gilmer developed Georgia’s grievance as a community exposed to Indian attacks long after Independence. “Independence, which secured peace to the other states, gave no peace to Georgia. Murderings, and plunderings, continued to be committed by the Creeks and Cherokees through the instigation of the tories,” by whom Gilmer meant British traders and agents, who traded Indians the weapons they needed to carry on their struggle against settler expansion through the 1790s.²⁵⁵

The Tory-Indian connection was compounded in Georgia minds by the fact that many Tories from Georgia and the Carolinas had escaped to find refuge and marry among the Cherokees and Creeks, bringing their property and culture into these nations. “The whites who settled amongst the Cherokees at the close of the Revolutionary War,”

²⁵⁴ Paschal, *Ninety Four Years*, 211-2. See also Silvia R. Frey, “The Struggle for Freedom: British Invasion and Occupation of Georgia,” chap. 3 in *Water from the Rock: Black Resistance in a Revolutionary Age* (Princeton: Princeton University Press, 1991), 81-108, and see Jennison, “The Contagion of Liberty, 1776-1804,” chap. 2 in *Cultivating Race*, 41-89.

²⁵⁵ George Gilmer, *Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and of the Author*, (Revised and Corrected 1926 Edition with Added Annex) (Clearfield, 2013), 250-1.

claimed Wilson Lumpkin, “([were] chiefly refugee Tories) [who] rais[ed] half-breed families, and from white reengages, who fled from justice from many of the different States, [and] the white blood and the arts of civilization prevailed to a considerable extent in the Cherokee country.”²⁵⁶

Georgians saw the leaders and leadership of these nations as pseudo-Indian, and their governments as tory oligarchies,²⁵⁷ well into the nineteenth century. For example, Wilson Lumpkin despised Cherokee Chief John Ross and his ilk as Tories. His father “took sides with England and the Indians” and “took a half-breed woman for his wife,” Lumpkin wrote. He “never admired the free institutions of the United States, but retained to the last his revolutionary prejudices against our American institutions.” With superior intelligence, cultivation and “good moral character,” Ross easily gained wealth and influence with the Indians. Lumpkin claimed that Ross “governed [the Cherokees] in the most absolute manner” and that he had “the entire control and disbursement of millions of dollars, as *King* of the Cherokees, during the last twenty years...in the absence of any enlightened supervision or *check*.”²⁵⁸ Lumpkin failed to mention that the Cherokee constitution was modelled on that of the United States. Nor did he mention that the Cherokee people had overwhelmingly voted and petitioned to have their annuities distributed to their government, rather than distributed in tiny amounts to each individual, as the Jackson administration—acting on Lumpkin’s theory with Lumpkin’s support—

²⁵⁶ Lumpkin, *Removal of the Cherokees*, 188. Theda Perdue notes that “[d]uring the American Revolution, many loyalists in the South took refuge with the Indians, who generally maintained neutrality or sided with Britain. Even after the war ended, the loyalists stayed.” Theda Perdue, *“Mixed Blood” Indians: Racial Construction in the Early South* (Athens: University of Georgia Press, 2005), 4.

²⁵⁷ “It was the power of the whites and their children among the Cherokees that destroyed the ancient laws, customs, and authority of the tribe, and subjected the natives to the rule of that most oppressive of governments, an oligarchy.” Gilmer to William Wirt, 19 June 1830, in Gilmer, *Sketches*, 272-5.

²⁵⁸ *Ibid.*, 187.

insisted upon doing, in an effort to starve the Cherokees of funds.²⁵⁹ All the same, the assertion that the Cherokee leadership was white and Tory played a key part in the denial of Cherokee democracy.

There was another layer of connection between Tories and Cherokees in Georgia collective memory and rhetoric. The Georgia memoirist George Paschal informs us that “the treaty of 1784” ending the Revolutionary War,

which allowed these loyalists to recover their debts, was exceedingly unpopular, and the decisions of the supreme [sic] Court of the United States, which allowed these “British subjects” to sue the States for that which had been confiscated, actually produced an excitement which led to an amendment of the Constitution and a dismissal of all these offensive suits.²⁶⁰

Paschal thus hints at the parallel between the popularity of the dispossession of Tories, regardless of their formal “property rights,” and the dispossession of Indians of their property and homes, as key components of sovereignty of the people of the new republic, as well as the right to punish traitors and enemies who had fought against that sovereignty.

Unlike the war with the British, however, the war with the Cherokees and Creeks did not end with Independence. War with the Indians continued through the 1780s until it was brought to an end by federal troops and negotiators after the ratification of the Constitution in 1789 gave the general government the power to effectively intervene. Indeed, one of the key reasons that Georgians supported the ratification of the constitution was, in their own words, that the newly created government would be able to protect them against the Cherokees and Creeks.²⁶¹ But the terms of the peace

²⁵⁹ For annuity withholding, see Perdue, *Cherokee Editor*, 24, Satz, *American Indian Policy in the Jacksonian Era*, 104.

²⁶⁰ Paschal, *Ninety Years*, 211-2.

²⁶¹ Jennison gives us the words of a contemporary Georgian who expressed this grievance: “The frontier situation of Georgia,’ Judge William Stith explained at the Franklin County Superior Court’s January 1793

disappointed Georgians: Indians were left in possession of large territories, and were protected in those possessions, to the detriment of white veterans who believed that they were the rightful owners of those lands by virtue of their victory in the Revolution, and the sacrifices they made.²⁶²

Gilmer argued that the U.S. had failed to protect Georgia in those years, or pay Georgia's troops for their service against the Indians. Rather, in a pointed racial and regional insult, the federal government received Chief Alexander McGillivray, whose name was "upon the list of tories whose property it [the State of Georgia] confiscated for the use of the State," as an honored diplomat in New York. "The protection which the people of Georgia was entitled to from the General Government was given so slowly and inefficiently, that the massacres of the Indians were perpetrated and they gone before the United States troops were in force to defend them," Gilmer wrote. Immediately afterwards he segued into the Compact of 1802, in which Georgia gave up its claim for western lands stretching to the Mississippi in exchange for the federal promise to extinguish Indian claims within Georgia's remaining "chartered limits" as soon as it could be done "peacefully and on reasonable terms." For Gilmer, this federal failure to

term, 'induced her as early as possible to accede to the Federal Constitution, the readiness with which we made that adoption, and our infantile state, gave us (as we thought) a well-grounded hope that the potent arm' of the federal government 'would in all times of danger be cheerfully incited in defending us against the savage enemy.' But 'since the adoption of the Federal Government,' we 'have experienced a continued series of the most inhuman butcheries and robberies committed on our frontiers,' yet 'scarce a single ray of Federal protections.'" (Jennison, *Cultivating Race*, 101). Woody Holton quotes Georgia politician Nicholas Gilman, who lamented during the run up to ratification that "If we are to be much longer unblessed with an efficient national government, destitute of funds and without public credit, either at home or abroad, I fear we shall become contemptible even in the eyes of savages themselves." Woody Holton, *Unruly Americans and the Origins of the Constitution* (New York, Hill and Wang, 2007), 246. See also Kathleen DuVal, *Independence Lost: Lives on the Edge of the American Revolution* (New York, Random House, 2015), 333-4.

²⁶² Jennison, *Cultivating Race*, 96-101.

protect was the moral context that explained why deliverance of Indian land to Georgia was just.²⁶³

In the 1790s, whites seeking to colonize Creek and Cherokee country engaged in escalating expressions of grievance against both the federal government, and the state government dominated by lowcountry aristocrats, for not doing enough to force Indian land cessions and deliver land bounties to worthy veterans. After the brief establishment of a breakaway frontier republic, the Trans-Oconee republic, newly elected Governor James Jackson became convinced that democratic reforms and a more equal balance of power between the frontier and the lowcountry were necessary to avoid further insurrection and strife. Frontier insurrection was compounded by popular rage over the infamous Yazoo land fraud of the 1790s, in which members of a corrupt Georgia legislature gave away millions of acres of the State's frontier lands to themselves and their friends for a pittance. In response to popular rage over Yazoo, Governor Jackson established the practice of the land lottery. The lottery was meant to make land distribution less contentious and more democratic. But it only heightened the investment of Georgians as a whole in expansion onto Indian land, and gave a personal and individual sense that the People were entitled to their inheritance.²⁶⁴

²⁶³ Gilmer, *Sketches*, 251-3, 255.

²⁶⁴ For example, settler Zillah Haynie Brandon said in her memoir that "Georgia [in 1830]...was pressing her claims for the lands ceded to her by the United States which was then in possession of the Cherokee Indians. But throwing herself upon her sovereignty she gave it to her citizens by a state lottery." In 1832, when Cherokee lands, won through the lottery, started to arrive on the market, her family bought land in newly created Cass County. When they arrived, in her words, they found "Indians occupying our house." On the Brandon's arrival, these Indians "set about moving out." Thus, Brandon translated the Georgia narrative of sovereign entitlement to Cherokee land directly into personal entitlement to dispossess "Indians occupying our house," taking over land and property just stolen from these same Indians. Zillah Haynie Brandon Diaries, vol. I, 1855-6, <http://digital.archives.alabama.gov/cdm/ref/collection/voices/id/3550>, 75, 77, accessed September 16, 2016.. See also Jennison, *Cultivating Race*, 124-5.

A people sensitive about backwardness in comparison with the commercial and newly industrializing northeast,²⁶⁵ white Georgians' claims to Cherokee land in 1827 were articulated as part of a long-running sense of historical grievance and injustice. They argued that taking Cherokee lands was restoring to Georgia something that had always been hers, had always been an integral part of her, but had been kept apart, alienated, held hostage, and that returning it would make Georgia whole and complete. If the U.S. wouldn't obtain the lands, said the Georgia legislature, "we now solemnly warn them of the consequence. The lands in question *belong* to Georgia—she *must* and she *will* have them." Therefore, they declared that Georgia had "the right to extend her authority and laws over her whole territory, and to coerce obedience to them from all descriptions of people, be them white, red, or black, who may reside within her limits."²⁶⁶

The connection between racial revolt and the invasion or intermeddling of European and other outside powers, in Georgian minds, was forged during the revolutionary years. But the connection was compounded by more recent events as well. The 1810s saw continuous warfare between white Georgians intent on expanding slavery, cotton cultivation, and settlement, and shifting coalitions of Indians, self-liberating slaves, and European powers on Georgia's borders, as historian Watson Jennison points

²⁶⁵ We have seen Massachusetts Congressman Edward Everett, in the epigraph to this section, cheekily refer to the sparseness of Georgia's population, and Wilson Lumpkin himself expressed dissatisfaction with their sparseness of population and "feelings of mortification" that Georgia could not offer a statistical map of her state of the same completeness or quality as Maine, a very new state at that time while Georgia was one of the original thirteen, hinting at the continued Cherokee presence as the cause of Georgia's disappointment. Lumpkin, *Removal*, 120. He also admitted Georgia's public schooling to be "defective" while "The State of New York, as well as the New England States...have succeeded best in diffusing the blessings of education to their whole people..." (113-4).

²⁶⁶ Georgia, *Resolutions*, 99.

out.²⁶⁷ These events occurred only a decade prior to the initiation of the final removal crisis in 1827.

At the same time that warfare constantly threatened the southern frontier, from the perspective of the State of Georgia, jurisdictional chaos reigned on the Cherokee frontier. The Trade and Intercourse Acts, and the Treaties of Hopewell and Holston provided that Creek and Cherokee territory was outside state jurisdiction. Yet the ambiguity of its jurisdictional status (was the federal government or the tribe in charge? What if Indians committed crimes against each other, or against whites, inside Georgia? Did federal courts have jurisdiction?) meant that “order” was maintained on the frontier in terms of syncretic norms of reciprocity and retaliation—murders were avenged, property loss was compensated, and wrongs were adjudicated through informal violence and diplomacy. Frontier whites were complicit yet state officials found the process of legal syncretism humiliating, even though in practice settler murderers of Indians were far more likely to go unpunished than the other way around, as the balance of power on the frontier shifted. Because of separate jurisdiction, felons often found that they could get beyond the reach of Georgia law by escaping into Cherokee country. “Agency records are replete with stories of settler-fugitives who manipulated the pluralism of Georgia’s borderlands by settling in Indian Country beyond the reach of Georgia and Tennessee sheriffs,” writes historian Lisa Ford.²⁶⁸

²⁶⁷ These conflicts ran through the “Patriot” invasion across the border into Spanish Florida in 1812, Georgian involvement the Creek Civil War of 1813-14, the War of 1812 and the British invasion of coastal Georgia two years later, the war against ex-slave runaway soldiers and their Seminole allies sponsored by British commanders at the so-called “Negro Fort” that continued even after the War of 1812, and finally the invasion of Spanish Florida and the war with the Seminoles culminating in 1818, provoking from other states and the federal government. Jennison, “The Borders of Freedom,” chap. 5 in *Cultivating Race*, 157-189.

²⁶⁸ Lisa Ford, *Settler Sovereignty*, 95. After the murder of a member of the Cherokee Lighthorse, Chuwoyee, who had evicted squatters and burned their houses, by a Georgia posse in 1830, local magistrate

Because of the (ambiguous) yet increasingly ambitious federal jurisdiction over Indian country and federal roads thereon, the jurisdiction of federal courts spilled over into surrounding counties when Indians were involved, threatening Georgia's sovereignty, as its state officials saw it. Moreover, in the 1820s even the Cherokee Nation was trying to replace informal norms of reciprocity and retaliation with a regular legal order in their own territory, enforced by the Cherokee Lighthorse and by their own courts, over "white" as well as "red" and "black" people. These efforts threatened Georgia's own claims to sovereignty perhaps more directly than the informal frontier justice which preceded the Cherokee constitution. Previously, messy overlapping claims could be conveniently fudged in practice. But increasingly, Ford writes, the Cherokees, the federal government, and Georgia all attempted to achieve perfect and undivided territorial jurisdiction as a natural component of sovereignty,²⁶⁹

And so in late 1827 the Georgia legislature gathered to extend its jurisdiction over the Cherokee Nation and initiated the removal crisis that would lead to the expulsion of the Cherokees. Their accompanying declaration was so alarming and stridently belligerent towards both the Cherokees and the federal government that northern congressmen returned to it during the debates over the Indian Removal Bill to prove that Georgia's intentions were violent, hostile, and unreasonable.²⁷⁰ But in the document

Alan Farmbrough defended these actions by expressing grievance over jurisdictional right aimed at both the federal government and the Cherokees: "The U.S. ceded to Georgia their right to the jurisdiction of that country in their boundary cession to Georgia...[A]re we as the people of a sovereign State to be thus treated, is our property to be destroyed [sic] and the law afford us no security are we as free citizens to have our rights Jeopardized [sic] our persons attacked assaulted and abused and will the State say we are remediless." (132).

²⁶⁹ Ibid., 46, 65-70, 130-8.

²⁷⁰ "What does Georgia gain by legislating over these Indians, lest it be their lands?...She says, expressly, "that the land is hers, and she will have it," but that she will not resort to violence "until other means have failed." Other means, then, it seems, are first to be tried, and, if they fail, the obvious consequence is, that she will resort to violence...The language I have cited....found in a report and resolutions adopted by the Legislature of that State in 1827..." Representative George Evans of Indiana, 6 *Reg. Deb.* 1039 (1830).

itself, Georgia legislators expressed an overpowering sense of pent-up grievance. Their “repeated appeals to the general government” may have appeared “impertinent and obtrusive,” they asserted, but Georgia had “suffered in silence” with “great moderation and forbearance.”²⁷¹

Central to Georgia legislators’ complaints was the belief that the federal government’s civilizing program had gone directly against the spirit of their obligations to Georgia by establishing Indians so firmly that it placed, as Mary Young put it, “nearly insuperable obstacles in the way of Cherokee removal.”²⁷² In their own words, the Georgia legislature claimed that the federal government’s civilizing program was calculated to “add to their comforts, and so instruct them in the business of husbandry as to attach them to their comforts, and as to attach them so firmly to their country and their homes, as almost to destroy the last ray of hope that they would ever consent to part with the Georgia lands.”²⁷³ Here Georgia legislators expressed anxiety over the contingent course of events leading to the hoped for final outcome, even as they implied that a regular course of events leading to the dispossession of Indians had been unnaturally disrupted by the unwarranted actions of the federal government.

Georgia legislators portrayed themselves as victims of a powerful entity which had not only willfully failed in its obligations under the Compact of 1802 to obtain Cherokee land within Georgia’s “chartered limits,” (which they believed rightfully belonged to Georgia). But the Georgia legislature had also implicitly suggested the

²⁷¹ Georgia, *Resolutions*, 95.

²⁷² “A near-white aristocracy of slaveholding mixed bloods had so improved their plantations, store, ferries, and turnpikes that each year the cost of buying them out got more prohibitive.” Mary Young, “The Exercise of Sovereignty in Cherokee Georgia,” 47.

²⁷³ Georgia, *Resolutions*, 96.

federal government had failed in the more basic obligation to protect and represent the interests of their own people—that is, white citizens. The Georgia legislature framed its decision to extend jurisdiction over Cherokee territory as a desperate, last-ditch measure after decades of patient waiting and supplication to the federal government for the fulfillment of “rights” which were so “long delayed” and obstructed that Georgia had begun to despair of achieving satisfaction at all. “Indian title, should *certainly*, at some time or other, be extinguished,” the legislature claimed, only “[t]he time was left indefinite and uncertain.” And yet, for an inevitable event, the extinguishment of Indian title and the emigration of the Indians was taking far too long, and was threatening, for the lack of a better formulation, to stop being inevitable, as the Indians regained population & wealth under the encouragement of federally sponsored missionaries. Justice delayed indefinitely was, for Georgia, justice denied, the legislature alleged, since the government not only did not seek out removal vigorously enough but had thrown obstacles in Georgia’s path.²⁷⁴

It is *now* alleged, we understand, that it is impossible for the United States to obtain the land in question for the use of Georgia, upon “peaceable and reasonable terms;” and therefore that they are under no obligation to obtain them at all. By whom and in what way we beg leave to inquire, has this impossibility been produced?...a distinct and formal determination, to take no step to obtain for and secure to Georgia her long delayed rights.²⁷⁵

The Georgia legislature expressed the assumption that the federal government always had the power to extinguish Indian title in the State of Georgia, but chose not to. The federal government had extinguished Indian title in other states, particularly those in the Ohio country. How come they could not do the same for Georgia, with whom they

²⁷⁴ Ibid.

²⁷⁵ Ibid.

had a binding compact? That Cherokee and Creek resistance, military and then legal, was more formidable than Indian resistance in other states did not factor into their analysis. To them, the problem was that the U.S. favored other states over Georgia. No Indian agency in the matter was acknowledged.²⁷⁶

“From this gloomy and almost hopeless prospect” of achieving redress from the federal government, legislators turned to argue that they had “the right by any means in our power to possess ourselves” of Cherokee country.²⁷⁷ Thus Georgians began the removal crisis that ended in the forced dispossession of the Cherokee Nation. Georgia legislators declared Georgia the long suffering victim of the negligence of the federal government of its responsibilities towards the state, a sentiment that was clearly derived from more than just the reading of the terms of one particular compact. Rather, the Georgia legislature’s declaration encapsulated attitudes towards sovereignty, independence, and Indians, developed over several generations, of a people who considered themselves oppressed and threatened.

And yet, even in this document in which Georgia legislators most shrilly expressed their claims to Cherokee lands within their “chartered limits” in terms of particular political grievances, it is worth pointing out that their declaration admitted uncertainty over the moral strength of their claim, and resorted to inevitability rhetoric in order to resolve whatever remaining moral uncertainty there might be. “It may be contended with much plausibility,” Georgia legislators admitted, “that there is in these claims more of *force* than of *justice*; but they are claims which have been recognized and admitted by the whole civilized world, and it is unquestionably true, that under such

²⁷⁶ Ibid.

²⁷⁷ Ibid.

circumstances, *force* becomes *right*. [Italics in the original].”²⁷⁸ This concession illustrates much of the tension between inevitability and moral right, and between inevitability and fears of contingency, that ran even through the most strident rhetoric supporting removal, if only as a shadowy flicker, or undertone of insecurity.

The mix of confident assertions of the inevitability of Georgia’s seizure of Indian lands, on the one hand, and aggrieved, anxious fears that it would be frustrated indefinitely, on the other, came together in Georgia rhetoric about the Cherokee gold rush.

It is a familiar trope that the discovery of gold on Indian land means bad news for Indians, heralding invasion, violence, and dispossession. This was no less true in the Cherokee Nation in 1829 than it was in the Lakota Black Hills in the 1870s, or the Rocky Mountain foothills in the 1850s, or California in 1849. One might easily imagine that the discovery of gold eliminated any doubt, if there had been any before, that Cherokee lands were destined to pass to Georgia through an uncontrollable flood of white settlement. However, Georgians also saw the gold rush as a potentially dangerous problem to be solved if Indian removal and the incorporation of Cherokee land were to go forward.

As we have seen, the crisis began when the passage of the Cherokee constitution gave rise to fears that the price of buying out the Cherokees was rising higher and higher as the Cherokees became wealthier and more like whites, giving rise to fears that removal might not be inevitable.²⁷⁹ Similarly, the discovery of gold, which one might take as a

²⁷⁸ Ibid., 97.

²⁷⁹ As Lewis Cass wrote in the *North American Review*, “The establishment of this government, thus claiming to be independent, and the probability, that a similar policy will be adopted by the other southern tribes, by which means *they may become permanently established in their present possessions*, [italics added]... *What might now be the assertion of a just and proper jurisdiction by the civilized communities,*

death-knell of Cherokee capacity to hold out in their lands in the southeast,²⁸⁰ also gave rise to fears amongst Georgians that if wealthy “half-breed” Cherokees and the “white men in the nation” would appropriate the mines, then they would become “fixed upon the soil of Georgia,” lending a sense of urgency to Cherokee removal.²⁸¹

Expressing his fears of continuing Indian resistance, Governor Gilmer recognized that achieving possession of the gold mines, legally or otherwise, was a potentially powerful weapon in the fight against removal. “It is highly probable,” Gilmer contended in a letter to Colonel Yelverton King, Georgia Superintendent of Public Lands, “that the first effort to resist the authority of Georgia will be by an endeavor to secure to the Indians the gold mines. With the possession of this source of wealth, the removal of the Cherokees may be delayed a great while.”²⁸² Here, Gilmer only fears removal efforts will be badly hampered. He still expects it to happen eventually. However, Gilmer also expressed fear of permanent Cherokee presence in Georgia. “It is believed,” he wrote to Andrew Jackson, “that if the Indians are permitted to take possession of the gold mines thro [sic] the assistance of the United States Government that instead of being removed they will become fixed upon the soil of Georgia.”²⁸³

Governor Gilmer and other Georgians feared that elite Cherokees, including those from “other states” would use the wealth of the gold mines to fight removal.

It is said that preparations are making [being made] by a large number of the wealthy Cherokees to remove into the gold region for the purpose of practicing [sic] in its

might then be an unjust claim to be enforced only by war and conquest. [italics added].” Quoted in Perdue, *Indian Removal: A History With Documents*, 119.

²⁸⁰ For example, David Williams notes that “...the spread of gold fever proved impossible to stop,” Williams, *Georgia Gold Rush*, 27.

²⁸¹ Gilmer to President Andrew Jackson, June 17, 1830, quoted in “Letters from the Georgia Gold Region.” *Georgia Historical Quarterly*, James W. Covington, ed. 39 (1955): 407.

²⁸² Gilmer to Col. Yelverton P. King June 21st 1830 in Gilmer, *Sketches*, 278-80. Fletcher M Green, “Georgia’s Forgotten Industry: Gold Mining,” *The Georgia Historical Quarterly*, 29, (1935), 104.

²⁸³ Gilmer to President Andrew Jackson, June 17, 1830, Covington, “Letters,” 407.

mineral riches. If they can be protected in doing so by the United States [we] shall thus not only retain the Cherokees who have heitherto [hitherto] occupied to lands of this State but many of those who reside in Tennessee, Alabama and North Carolina. The United States are bound by contract to prevent this state of things...²⁸⁴

Gilmer thus conceived of the idea of seizing the mines as a defensive measure by Georgia in the struggle for its sovereignty over its own territory, against appropriation of mineral wealth by elite Cherokees, whom he feared would gravitate to the region from other states. In 1830, Gilmer maintained the idea that “all the native Indians” were obediently staying away from the mines after Georgia law forbade it but that “most of the Whites and wealthy half breeds continued digging for gold.”²⁸⁵

In fact, it was white and Indian collaboration to exploit the gold fields that Gilmer most feared. Gilmer feared that if the State of Georgia could not suppress Indian resistance and assert its sovereignty over Cherokee country, then squatters and Indians together might undermine Georgia’s ability to secure the gold mines and the territory to the state. “It is intimated,” he wrote, “that the gold diggers intend procuring the consent of the Cherokee Council to the continuance of their operations, if the United States Government should attempt to remove them as intruders, thereby evading the non-intercourse law.”²⁸⁶

Even as he feared that whites would take advantage of separate Indian jurisdiction under the Trade and Intercourse Acts to evade Georgia’s authority, Gilmer’s correspondence during the gold rush advanced the notion that poor white settlers were victimized by a cruel, malignant Cherokee elite who drove poor squatters off of Indian land. “The mutual irritation between the people of the State and the Cherokees, renders it

²⁸⁴ Ibid., 404-6.

²⁸⁵ Ibid., 407.

²⁸⁶ Gilmer to Jackson, June 15, 1830, in Gilmer, *Sketches*, 264.

improbable that our laws can be executed without acts of violence,” said Gilmer. “The whites and half-breeds, who are most capable of understanding and valuing the benefits of civil government, are the most active in opposing the jurisdiction of the State.” He called Chief John Ridge “the most active and malignant enemy of Georgia” accusing him of ordering the firing of squatter houses and depriving “a number of women, with infant children...of shelter from the severity of the coldest and most inclement weather.” This, he claimed, led to violence and disorder between Cherokees and settlers, and he used this violence as a justification for extending Georgia’s authority over Cherokee land.²⁸⁷

Multisided violent incidents occurred at a steady clip between Cherokees and whites—and between whites and whites—in these early years of the gold rush. Racially heterogeneous groups of miners tried to move into the gold fields and the Cherokee Lighthorse and U.S. army attempted to evict them. In response to evictions of settler-squatters, a Carroll County, Georgia sheriff went with a posse into Cherokee country to arrest the Lighthorse members who had burned squatter houses. Overtaken by the Georgia posse, members of the Lighthorse were found drinking liquor that they had confiscated from the intruding settlers they evicted. Georgians beat one of them to death.²⁸⁸ Besides evictions by the Cherokee Lighthorse and the U.S. army, there were several brawls between large groups of Cherokees and white miners. Cherokees unsuccessfully attempted to drive off the intruders with shovels and clubs, but, mindful of their vulnerability, rarely if ever did Cherokees escalate to lethal, violent resistance.

²⁸⁷Gilmer to Hon. Walter J. Conquit, Milledgeville, 15 June, 1830, in *Ibid.*, 263. Gilmer’s correspondence from 1830 reveals tension and conflict in the clash of jurisdiction, urging forceful action to suppress the Cherokee government and potential for violence and disorder. In a letter to Jackson on 15th Feb 1830, he complained that the Cherokee Lighthorse “has evicted poor whites from the disputed territory turning out mothers of young children in the cold.” Gilmer to Jackson, 15 February, 1830, quoted in *Ibid.*, 261-262.

²⁸⁸ Ford, *Settler Sovereignty*, 130-2.

Individuals and groups of white gold miners also fought, and on occasion murdered each other. Gangs of whites, known as Pony Clubs robbed, murdered, and intimidated Indians in the country in a manner reminiscent of the frontier raiding that had marked the decades of warfare on the Cherokee-Georgia frontier in the late 18th century. In 1830, however, the Cherokees were not in a military position to retaliate.²⁸⁹

Still, not all interaction between intruders and Cherokees was violent. Cherokees traded meat and other foodstuffs to miners.²⁹⁰ Many gold rushers were themselves Cherokees or other Indians. Army officers sent to break up their equipment and scatter them attested to the heterogeneity of the miners. Major Philip Wager claimed that the miners at Chestatee Mines composed “a most motley appearance of whites, Indians, halfbreeds and negroes, boys of fourteen and old men of seventy—and indeed their occupations appeared to be as various as their complexions comprising diggers, sawyers, shopkeepers, pedlars, thieves and gamblers, etc.” All were “bold” and “impudent,” making it impossible to use the “mildest manners” in making arrests.²⁹¹

Nevertheless, the enforcement of the Trade and Intercourse Acts in the early days of the gold rush enraged white Georgians, who saw Indians returning to work gold mines off of which the army had forced white men. White miners threatened violence unless Indians were prevented from mining as well. In the initial two year stage of the gold rush from 1829-31, while the United States army remained stationed in Cherokee country and was still enforcing the Intercourse Acts, Gilmer urged the federal troops arresting and expelling miners from the goldfields to exclude Cherokee miners and “white men in the

²⁸⁹ Williams, *The Georgia Gold Rush*, 34.

²⁹⁰ Ibid., 93.

²⁹¹ Brevet Major Philip Wager to Major General Alexander Macomb, 30 September, 1830, in Covington, “Letters,” 407.

Nation” as well, arguing that no one would be able to prevent an outpouring of mob violence against Indians if Indians were allowed to take over the mines vacated by white gold rushers. B.L. Goodman, a miner, wrote to Gilmer explaining that intruding miners were particularly enraged when

they discover the white men of the [Cherokee] nation engaged in working the lots which they have paid their money for, which provokes them much and the hue and cry with them is that if the State of Georgia does not prevent the Indians from digging that they will. It is feared that mobs may be got up that may cause blood shed.²⁹²

Threatening violence, Goodman insisted that “if there could be any way adopted to prevent the natives, satisfaction would again visit us, but short of that I fear there will be mischief done. The policy of Georgia and the saying of the President, Secretary of State and Congress will be an excuse for my outrage or at least will be relied on.”²⁹³

In late 1830, with the Indian Removal Act safely passed, Gilmer persuaded Jackson to grant his request, as leader of a sovereign state, to withdraw the U.S. army from the goldfields as soon as possible, insisting on asserting direct State sovereignty and control.²⁹⁴

Fears of the malignant Cherokee elite were only one side of the coin. The flip side of arguing that the Cherokee elite were faux-Indian Tory aristocrats was to argue that the mass of Cherokee people had made little advancement in “civilization,” and by implication that they were still savage, pagan, violent, disorderly people, incapable of self-government or citizenship, who were poorly integrated into the Cherokee

²⁹² B.L. Goodman to Governor George Gilmer, 7 June, 1830, cited in Covington, “Letters,” 402-3.

²⁹³ Ibid.

²⁹⁴ Lumpkin, *Removal*, 31-2.

government and had little power within it.²⁹⁵ Such people would need to be removed for everyone's good if true civil government were to be established in Cherokee country.

Indeed, Georgians reconciled the two diverging strains inevitability rhetoric in part by a racial ideology, splitting the Cherokee Nation into whites and half whites—who were presumed to be semi-civilized, devious, and grasping at what did not belong to them—and “fullblood” Indians—who were presumed to be innocent and gullible, incapable of advancement on their own. The decline and extinction of the “real,” “fullblood” Indians was inevitable if the Indians were to remain in the path of white settlement, supposedly. But because of the meddling machinations of the “mixed-blood” and “white” leadership, removal itself might not be achieved. “Whilst the unmixed Indians have remained what they ever were, and will ever be, until they finally pass away—the most thoughtless, listless, least lovely, of human beings—the half-breeds are making a show of civilization among all the tribes where they are,” said Gilmer.²⁹⁶

And what would happen to the “fullblooded” Indians while the “half-breeds” made a “show of civilization” and held up the process of removal? Here Gilmer turned to fatal impact rhetoric: “Long experience has satisfied all, except sectional and party zealots, that the Indian tribes, when surrounded by white men, continue to disappear,

²⁹⁵ “.the necessary intercourse of the different States had caused many roads to be opened through the Cherokee country, and the traveler on those roads found safe ferry boats over the large waters, and as regular houses of entertainment for travelers as were to be found in neighboring States. Indeed, the white population was regularly increasing in this country, for many years before the time of which I speak. And in all the various locations where you found the white blood and negro slaves the advancement in all the arts and customs of civilization were most obvious, pleasing and impressive...the great body of the common Indians, who resided in obscurity and had but little intercourse with the white and half-breed races amongst them, still remained in brutal and savage ignorance...each had his favorite leaders...constantly plied with the proper means to bring them under the influence and control of the principal chief and his subordinates in office,” Lumpkin, *Removal*, 188. Lumpkin and other Georgians argued that the mass of Cherokees were either bribed or duped, or simply not integrated into tribal governance.

²⁹⁶ Gilmer, *Sketches*, 246-50.

until they become extinct,” said Gilmer in a speech to the Georgia legislature in 1830. “The humane and intelligent are every where concurring in the proposed measure [removal].”²⁹⁷ If removal were not affected, then not only would Indians go extinct as they faced the waves of white settlers pouring into their territory, but confusion, social (and racial) disorder, vice and crime, violence, constant lawlessness, and as Lumpkin often put it, political “embarrassment”²⁹⁸—basically, all round disaster, would be visited upon everyone involved.

If it was not really the poor, innocent, naïve “native” Indians who were the enemy, but those corrupt, devious people who attached themselves to these Indians and fooled them, then the State’s resources and rights were being imposed upon by outsiders, and Tories. It was not really “natives” being dispossessed, but government employees, Tories, and predatory Indian lawyers. Gilmer argued just that in an angry letter to William Wirt, the lawyer who had just informed Gilmer that he would bring a challenge to Georgia’s jurisdiction before the Supreme Court on behalf of the Cherokee Nation.

They [the chiefs and officials of the Cherokee national government] are not Indians...but the children of white men, whose corrupt habits or vile passions have led them into connections with the Cherokee tribe. It is not surprising that the white men, and the children of white men, have availed themselves of the easy means of acquiring wealth, which the Cherokee territory has presented for thirty or forty years.²⁹⁹

As long as “the Indian character” and their “primitive habits” had remained intact, Georgia did not interfere with their internal matters, Gilmer claimed, but that day was past.

The Cherokees have lost all that was valuable in their Indian character—have become spiritless, dependent, and depraved, as the whites and their children have become wealthy, intelligent and powerful. So long as the Cherokees retained their primitive

²⁹⁷Ibid., 258-9.

²⁹⁸ Lumpkin, Lumpkin to Georgia House of Representatives, Milledgeville 2 December., 1831, in *Removal*, 97, 100, 101.

²⁹⁹ Gilmer to William Wirt, 19 June, 1830, in *Sketches*, 272-5.

habits, no disposition was shown by the States, under the protection of whose government they resided, to make them subject to their laws.³⁰⁰

However, Gilmer argued, the plain fact was that, whites already effectively governed Indians, who were mere “remnants” of what they once were, but instead of the regular, just government of Georgia, the whites who ruled the Cherokees were arbitrary lawless tyrants. “It was the power of the whites and their children among the Cherokees that destroyed the ancient laws, customs, and authority of the tribe, and subjected the natives to the rule of that most oppressive of governments, an oligarchy,” he claimed.³⁰¹

Gilmer argued that the tribe had already been abolished—at any rate it was so “corrupted” that it was no longer native—it was already ruled by evil white men and half white men.³⁰² Gilmer conflated whites who had married into the Cherokee Nation, or who were otherwise welcomed by them or employed by them, with white gold mining squatters from other states, vagrants, horse thieves and other criminals. The law requiring whites living in Cherokee territory to swear loyalty to Georgia—under which the Georgia Guard arrested northern missionaries and precipitated the controversy that resulted in the *Worcester vs. Georgia* decision—was supposedly, in Gilmer’s telling, a law aimed at maintaining order and protecting the Cherokee against all white interlopers. “This law resulted,” he claimed in 1831 in a letter to Secretary of War John Eaton,

from the active influence which that class of persons were exercising in opposition to the humane policy of the General Government, and the rights of Georgia. Fugitives from justice, outcasts from society, and trespassers upon the gold mines, had an interest very

³⁰⁰ Ibid.

³⁰¹ Ibid.

³⁰² Gilmer’s solution to the problem of the “wicked half-breed” differed a bit from Lumpkin’s, as he occasionally held out the possibility that the propertied class of Indians—the very same men whom he believed were so wickedly blocking removal—should be allowed to remain in Georgia if they so chose. “It has been the object of humanity and wisdom to separate the two classes among them, giving the rights of citizenship to those who are capable of performing its duties and properly estimating its privileges; and increasing the enjoyment, and the probability of future improvement of the ignorant and idle, by removing them to a situation where the inducements to action will be more in accordance with the character of the Cherokee people.” (Ibid.).

readily understood in preventing both the removal of the Cherokees beyond the Mississippi, and the operation of the laws upon themselves. Some of the missionaries who were stationed among the Indians refused to obey.³⁰³

As such, Gilmer did not claim to represent the first wave of frontiersmen and squatters in Cherokee country—rather—both he and Lumpkin rhetorically embraced or disowned poor white squatters as was politically convenient. During the 1820s and 1830s, vagrancy laws aimed at poor migrant whites in planter-dominated Georgia were quite harsh.³⁰⁴ And despite, or rather because of the populism of its unique lottery law, Georgia was the state most hostile to the pre-emption rights of squatters.³⁰⁵ These squatters who came first to Indian country were, after all, technically squatting on land belonging to lottery winners, who themselves represented the people of Georgia's rightful collective ownership of Cherokee land in the rhetoric of the time. Gilmer indignantly claimed to represent poor squatters against the evictions of the Cherokee Lighthorse, but interestingly, both Gilmer and Lumpkin claimed to be extending jurisdiction into Indian country, and urging the removal of the Cherokees, in part to protect Indians and to end the chaos caused by the incursions of these kinds of intruders, many of whom were

³⁰³ Gilmer to John Eaton, Milledgeville, 20 April, 1831, in Gilmer, *Sketches*, 297-9. Gilmer repeated this assertion again in his next letter: "The object of this law [requiring whites in Cherokee country to take an oath of loyalty to Georgia and to obtain a license] was to remove from among the Cherokees, fugitives from justice, trespassers upon the gold mines, and those who under various pretences of attachment to the Indians, had obtained lucrative situations for themselves, and were using their influence in opposing the policy of the General Government, and the rights of Georgia." (Ibid.).

³⁰⁴ Hard labor at the state penitentiary was the punishment for "strolling about in idleness," or for being a propertyless stranger in antebellum Georgia. Keri Leigh Merrit, "A Vile, Immoral, and Profligate Course of Life," Poor Whites and the Enforcement of Vagrancy Laws in Antebellum Georgia," in *Southern Society and Its Transformations 1790-1860* ed. Susanna Delfino et. al., (London, University of Missouri Press, 2011), 25-8.

³⁰⁵ Historian Mary Young writes that "Georgia's land system was less inviting to the yeoman trespasser than the national government's. It gave not even retrospective right of preemption to those who settled before sale. A thoroughly unpopular section of the law even penalized trespassers by excluding premature gold diggers from the lottery...The lottery law excluded Cherokees and other residents of the region in question...[and] also aimed to protect the interests of the state and the fortunate drawers in the lottery against trespass, not only by disqualifying gold diggers but also by providing that whites then settled in Cherokee Georgia would have to return to their home counties to qualify for a draw in the lottery." Young, "Exercise," 50-1.

miners from other states and even other countries. “The gold mines offer a rallying point for the concentration of bad men, from all parts of the world,” Governor Lumpkin wrote to President Jackson in 1831. Considering that the Cherokees were “incompetent to aid in the administration of the law,” he asked, “would it not, then, be more manly and honorable—at once—to place upon the unoccupied territory a virtuous freehold population, possessed of all the inducements of other citizens to maintain order and good government in the country?”³⁰⁶

No less than in other English-speaking settler societies at the time, the idea that indigenous people were inevitably corrupted, degraded, and eventually driven to extinction by contact with frontier whites justified the extension of paternal state power in order to manage the process. The idea was that contact kills—that contact itself sets off a process of degradation and extinction, and that Indians (or indigenous peoples) themselves were incapable of policing their own boundaries (social, physical, or moral), or adapting contact to their own interests. Phrases such as the “dregs of civilization,”³⁰⁷ so often employed outside of Georgia to denigrate frontiersmen, were not employed by these Georgia governors. Yet these governors still made rhetorical use of those supposedly lawless whites (and nonwhites) who would be drawn to Indian territory to

³⁰⁶ Lumpkin, *Removal*, p.194. Gilmer justified the removal of missionaries by lumping them together with *all* whites in Cherokee country as premature “intruders” as dangerous and harmful to the Cherokees, whether they were there with the blessing of the Cherokees or not: “In removing intruders,” he claimed, “it will be expedient to consider all white persons such, without regard to their length of residence, or the permission of the Indians.” Gilmer’s 1830 address to the legislature, extracts in Gilmer, *Sketches*, 283.

³⁰⁷ Pro-removal missionary Isaac McCoy: “Doomed, therefore, to mingle with their own corrupt selves, and the very filth of civilized society, from infancy to old age, and from generation to generation, they grow worse and worse.” (Isaac McCoy, *Remarks on the Practicability of Indian Reform, Embracing their Colonization* (Boston: Printed by Lincoln & Edmands, 1827), 14). “Very little care,” said the Committee [the Aborigines Protection Society] ‘has...been taken to protect them [Australian Aborigines] from the violence and contamination of the dregs of our countrymen.’ The Aborigines Protection Society, quoted in James Heartfield, *The Aborigines Protection Society: Humanitarian Imperialism in Australia, New Zealand, Fiji, South Africa, and the Congo, 1836-1909* (New York: Columbia University Press, 2011), 20. Settlers in Australia at this time were commonly referred to as “the residuum” or “the dregs.” (Ibid., 20).

take advantage of the legal void, in order to justify Georgia's colonization of Cherokee lands. If Georgia did not extend its jurisdiction, claimed Lumpkin, "[t]he country would be speedily overrun, chiefly by the most abandoned portions of society from all quarters."³⁰⁸

Two classes of "bad" white men were associated with Indians in the discourse of jurisdiction and order that justified removal.

On the one hand, Georgians disparaged the Cherokee elite for being too aristocratic, likening them to Tories from whom they were reputedly descended. Here, a class resentment against planters and national resentment against the British, who would use "savages" to gain unfair advantage, was at play. But on the other hand, Georgians also argued that whites who settled among Indians or near them, whether peaceful or violent, were the outcasts, the "most abandoned" of white society. Here the class implications were that the lowest kind of people, the criminals and drifters, gravitated to Indian country. "Our scattered population of good character," Lumpkin said,

who now inhabit this County, have often found themselves destitute of security from the depredations of dishonest men; and when they have sought protection from the laws of the land, they have often found those laws evaded and perverted by combinations of such characters, aided by the advice and counsel of those whose enlarged acquirements should have directed their influence in aid of the cause of justice and the supremacy of the laws.³⁰⁹

The idea that Indians represented a kind of intolerable "imperium in imperio," an offense to the state's sovereignty, takes on a concrete aspect when one understands that they were also seen as standing for subversion of law and order, or for a savage frontier state, even if the violence was so incredibly one sided.³¹⁰ The idea of order versus

³⁰⁸ Lumpkin to the House of Representatives of Georgia, Milledgeville, 2 December, 1831, in Lumpkin, *Removal*, 96.

³⁰⁹ Second Annual Address, *Ibid.*, 105-7.

³¹⁰ Vigilante "Pony Clubs," groups of armed whites, harassed Cherokees, thieving and killing. In 1831 Boudinot wrote that "they have carried off 500 head of livestock." Several years later they tried to

disorder lent itself easily to the paternalist imposition of power in Cherokee country. The Cherokee government was not competent to create order, the idea ran: Indian country was a void into which all the misfits, criminals, traitors, runaway slaves, and disorderly elements of society gravitated; Indian country stood for lawlessness and arbitrary authority, since Indian government was a sham and Indians were incapable of acting the part of free citizens maintaining a republic based on the rule of law. As we have seen, in this conception, Indian country was an invitation for corrupt and evil men, white (or “half-breed,” “half-civilized,” etc.),³¹¹ demagogues, fanatics and “feed lawyers”³¹² to establish fiefdoms and exercise arbitrary authority over dependent Indians who were intimidated or whose loyalty was easily bought, and also to exercise authority over white men on land that was supposed to belong to Georgia.

Georgians held a related assumption, rooted in a history of intense warfare and antagonism, that Indians threatened public safety in Cherokee country and the bordering counties. There was certainly a degree of reality behind the claim that the border between the Cherokee Nation and its white neighbors was fraught with “disorder.” Historian Theda Perdue notes that “the border between the Cherokee nation and the states proved attractive to Indian and white horse thieves alike. Confusion over jurisdiction, the

assassinate John Ross. Williams, *Georgia Gold Rush*, 41. A series of violent encounters continued, with whites raiding and terrorizing Cherokees at Hickory Log and Sixe’s Towns, supposedly as retribution for a murder of a white man by an Indian outlaw, even though the man was delivered to Georgia authorities. The white posse killed some residents and disarmed others. Though they were denounced even by some local whites, none took effective steps to rein them in, though “those who had been associated with ‘a certain horde of thieves known as the Pony Club.’” were explicitly excluded from the lottery, in a version of the law passed by the General Assembly in 1831. (51). Under the initiative of the Georgia Guard, a militia that Gilmer sent into Cherokee country to enforce Georgia’s laws in the goldfields, Georgia had been far more effective in suppressing the Cherokee government than it was in preventing terrorism and crime against Indians. Jennison, *Cultivating Race*, 219.

³¹¹ *Georgian*, January 29, 1830, Lumpkin, “1834 Annual Message” in Lumpkin, *Removal*, 131, Gilmer, *Sketches*, 246-50.

³¹² Lumpkin, *Removal* p. 47, 182.

readiness of the federal government to settle claims for stolen horses, and mountainous terrain made the frontier ideal territory for illicit traffic in horses.” Endemic horse theft had replaced raiding and warfare as a means of continuing traditional masculine cultural prerogatives among Cherokee and settler men, and of replacing the defunct deerskin trade. Perdue notes that Indian agent Return Meigs declared that the number of horses stolen and trafficked through Cherokee country was “incredible.”³¹³

It is also true that criminals, both white and Indian, tried to take advantage of the border, to slip across and evade sheriffs’ warrants. Yet mobile white criminals in the South at that time used county and state lines at the juncture of Georgia, Tennessee, Alabama, and the Carolinas, to do the same thing. The prolific bar brawler, street fighter and accused murderer Edward Isham, for example, made a habit of removing himself beyond the reach of the law by seeking refuge with his sprawling clan of relatives, across political borders, where a sheriff’s posse could not follow. Criminally active since before he joined the gold rush to Cherokee country, Isham was finally hanged for murdering his employer in North Carolina during the 1850s, after he failed to make it across the border with Tennessee. Isham, a one-time intruder into Cherokee territory, had used many a border in the course of his long and prolific career to evade the law. But the vast majority of them were borders between non-Indian political entities, suggesting that perhaps borders, not Indian borders per se, were the cause of “disorder.”³¹⁴

³¹³ The opening of the federal road through the Cherokee country made the problem worse. Cherokees themselves were often the victims, of both Cherokee and white horse thieves. But the subsistence-level frontier white families most commonly the victims of Cherokee horse thieves, and most commonly evicted for squatting on Cherokee land, nursed a special grudge against Indians for these threats to their survival. Perdue, *Cherokee Women*, 122-5.

³¹⁴ Charles C. Bolton, ed., *The Confessions of Edward Isham, a Poor White Life of the Old South* (University of Georgia Press, 1998), 1-19.

Before the crisis, the Cherokee government, the federal government, and the states cooperated in apprehending and punishing wanted men. The lightly manned Cherokee Lighthorse had struggled mightily to rein in horse thieves (Cherokee and otherwise), and enforce its laws over its territory.³¹⁵ But what Gilmer and Lumpkin left out of their equation was the fact that Georgia itself had destroyed Cherokee ability to govern their own territory and deal with white intruders, by deploying the Georgia Guard to abolish Cherokee governance structures, outlawing the Lighthorse and preventing Cherokee elections and legislative meetings.³¹⁶

Thus, these governors used the idea that they were protecting Cherokees from disorderly whites as an excuse to extend Georgia's laws and authority into the disputed territory and to suppress Cherokee government. Both governors set up a rhetorical opposition between squatters—figured in such rhetoric as uncontrollable and uncontrolled waves of humanity—and the State. This way, they could also distance of the State of Georgia from both the most violent and lawless intrusions and attacks on Indians, (such as those carried out by the notorious Pony Clubs), equating these violent intruders with those whites who were invited by Cherokees or had assimilated into Cherokee society, as all contributing to a disorderly situation.

When Lumpkin became governor, he picked up where Gilmer left off. The present disordered condition of the frontier was gathering inertia, he claimed, since lawyers, judges, and “distinguished selfish men” who defended Cherokee rights, “begin now to look to and desire a continuance of the present state of things.” For both Lumpkin

³¹⁵ See William G. McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton: University of Princeton Press, 1986) 280, 312, 387.

³¹⁶ Young, “Exercise of Sovereignty,” 49.

and Gilmer, those who interacted with Indians were associated with vice, and exercised a degrading influence on Indians. It would take orderly possession of the territory by the State of Georgia to control the process of settlement. “Circumstances within the recollection of our whole people imperiously [*sic*] demanded the extension of the laws and jurisdiction of our State over our entire population and territory,” Lumpkin claimed in his December, 1831 address to Georgia’s legislature:

This step had been taken, and cannot be retraced...It is now too late for us to theorize on this subject; we are called upon to act; the public functionaries of the State stand pledged to their constituents, and the world, to sustain the ground which they have taken. It is our constitutional right, and moral duty, forthwith to interpose to save that part of our State from confusion, anarchy, and perhaps from bloodshed.³¹⁷

Here, the idea of Indian incompetence and the inevitability of the colonization of their lands came together. What if Georgia was to shirk its responsibility, and fail to exercise its rightful authority over Cherokee territory within their “chartered limits,” Lumpkin asked? “If Georgia were at this day to relinquish all right, title, and claim to the Cherokee country, what would be its situation?” Lumpkin insisted that “the impotency and incompetency of the Cherokees to maintain a regular government, even for a few months, perhaps for a few weeks, would at once be demonstrated. The country would be speedily overrun,” he claimed, “chiefly by the most abandoned portions of society from all quarters.”³¹⁸ Indians, even the corrupt white leadership of the Cherokee tribe, he maintained, did not have the power or competence to deal with the influx. “The gold mines would hold out an irresistible temptation to all such characters. The existence alone

³¹⁷ Lumpkin to the House of Representatives of Georgia, Milledgeville, 2 December, 1831, Lumpkin, *Removal*, 95.

³¹⁸ *Ibid.*, 96.

of the rich gold mines utterly forbids the idea of a state of quiescence on this all engrossing subject.”³¹⁹

Again, left out from this analysis was the fact that Georgia had actively encouraged this invasion by preventing the operation of the Cherokee government and the protection of the federal Intercourse Acts, which had together previously maintained a “regular government” on the frontier. Lumpkin had facilitated the wholesale legal theft of Cherokee estates, (ironically condemned by Georgia’s own legal establishment, who did not see this appropriation of private property as conducive to a regular, lawful order).³²⁰ Regardless of this factual omission, the drift into chaos, fostered by a State-facilitated invasion of Cherokee territory, formed the backdrop for both the contingent and the inevitable in a narrative of removal broadly shared by both Gilmer and Lumpkin. Under these circumstances, in Lumpkin’s narrative, it was not removal itself which was inevitable, but Indian destruction itself that would be inevitable if removal were not put into effect. Putting removal into effect—“saving the Indians” and the honor of the state from anarchy and confusion, was a difficult uncertain work that required sacrifice, steadfastness, heroic effort against powerful opposition.

In 1831, indeed, Lumpkin was arguing that Gilmer’s own measures to assert Georgia’s sovereignty and jurisdiction in Cherokee territory had been defective. The only way to exercise responsible, republican authority, he argued, was through the planting of

³¹⁹ Ibid.

³²⁰ The magnitude of claims for stolen property under the Treaty of New Echota, when removal did arrive and the “sheer astonishment of U.S. army officers sent to enforce the treaty at what the Cherokees were willing to put up with,” Mary Young remarks, “testifies to the range and intensity of the informal pressures white Georgians imposed on red.” Young, “Exercise of Sovereignty,” 61.

a responsible, republican population—meaning a freehold, *white settler* population, which was capable of establishing regular civil government:

[W]e cannot govern the country under consideration with honor to our character, and benefit and humanity to the Indians, until we have a settled, freehold, white population, planted on the unoccupied portion of that territory, under the influence of all the ordinary inducements of society, to maintain a good system of civil government.³²¹

“Maintain[ing] a good system of civil government” meant distributing Cherokee land to settlers *before* a treaty was obtained, a measure which had the added benefit of further increasing the pressure on the Cherokee people to capitulate and sign a removal treaty.

Despite general consensus on Georgia’s right to claim Cherokee land, and agreement in support of Indian removal, the politics of removal caused fierce political fights in Georgia, denunciation in the papers, the downfall of governors and the removal of judges. What was the disagreement about?

Political controversy over Indian removal in Georgia was largely about how to take over Indian land and resources, *which* rights, to property and person, Indians as individuals could claim, and importantly, *how to distribute* among Georgia’s citizens the land and property taken from Indians. This section deals with the gubernatorial election of 1831, in which governor Lumpkin outflanked and defeated governor Gilmer by taking a more radical stance on the “Indian question” and on redistribution of (what they considered) the State’s resources to the People. The controversy centered on whether or not Indian land could be seized and distributed to white settlers before a treaty was obtained, whether Indian testimony against whites should be banned, and whether or not

³²¹ Lumpkin to the House of Representatives of Georgia, Milledgeville, 2 December, 1831, Lumpkin, *Removal*, 96.

the Cherokee goldmines should be given away through lottery. To each point Gilmer answered no, while Lumpkin, (and the white men of Georgia), opposed him. As the crisis wore on, a pattern emerged: those Georgia politicians and judges who seemed extreme on the national stage were revealed as too moderate for the Georgian electorate, and were overtaken by even more radical voices on the Indian question. Attitudes towards democracy, and attitudes towards inevitability separated the two governors and their supporters.³²²

For example, the *Augusta Chronicle* expressed the comparatively moderate belief that while Georgia had the right to extend state jurisdiction over Indian land, they supported Gilmer, against seizing Cherokee land immediately, arguing in favor of allotting a small plot of land to each Cherokee family. The newspaper recognized a difference between Georgia's political and legal rights of jurisdiction over Cherokee territory on the one hand, and the property rights of individual Cherokees under Georgia rule on the other. "Though there is no doubt of the right of the State to extend its *jurisdiction* over the Indians, it assuredly has no right to take possession of the *soil*," the paper's editor said.³²³

The *Chronicle* countered the popular argument that Georgia was justified in taking Indian land because their growing, civilized population needed the land for agricultural purposes, to support itself, and that "savages" had no right to monopolize

³²² Though there was almost no one who argued against extending Georgia's jurisdiction over the Cherokee country, there were dissident voices within the State which expressed opinions that sound as if they could have come from the mouth of a New England petitioner, coming from the southeastern low country, not the frontier. Jennison reports that one solitary man, "Robert Campbell of Savannah believed the Cherokees should be left alone entirely, calling removal (if in violation of treaty rights) "Faithless—Covetous—Ungrateful—and Inhuman," which makes him truly the exception to the rule, if there ever was such a thing—acknowledging, however, that opinions like this may well have been more commonly held in private. Jennison, *Cultivating Race*, 204.

³²³ *Augusta Chronicle*, November 24, 1830.

land needed by a more numerous people for its sustenance. The *Chronicle* argued that even if this point were admitted in theory, there was absolutely no necessity to seize Indian land in Georgia, because Georgia had far *too much* land, not too little. The paper argued that the lottery system and the possibility of taking Indian land discouraged good management of the land already under cultivation.

The great quantity which [citizens of Georgia] possess, prevents them from industriously searching out the various intrinsic virtues and extensive capabilities which lie hid beneath its surface, and, ungratefully regardless of nourishing the bosom which supports them, they go on from year to year, drawing forth its abundant fruits, without making the slightest return; and see it gradually impoverished, and at last laid entirely waste and useless, with no other thought, than that plenty more is to be obtained, for little or nothing, from the Indians.³²⁴

The *Chronicle* deplored the waste, calling the people of the state improvident and coming close to an analysis of colonial expansion itself as a primary cause of further expansion:

This [waste] fostered as it has been by the government, through that scandalous, suicidal policy, the *Lottery system*, has long been a consuming curse to our land—an insatiate vampire, continually sucking the very life-blood of the State, and at the same time flapping its wings over its wretched victim, and lulling it into dreams of “more land,” “more land”—“more land *for nothing!*...”³²⁵

Other supporters of Gilmer cautioned against the vice of prodigality and waste that was the fate of societies reaping sudden, unearned wealth. The *Georgia Journal* argued in favor of making gold mining illegal, “believing that a flood of gold from Mexico and Peru into Spain had ‘produced the decline and degeneration of that kingdom,

³²⁴ Ibid.

³²⁵ The paper went on to argue that there was no need to remove the Indians by force, if they were willing to stay behind and live under Georgian laws, rather than their own—going farther than Gilmer on this point, who assumed that the Indians should indeed be removed before long. Supporting the property rights of elite Cherokees, they deplored the seizure of that property by the democratic masses through the lottery system.” Ibid.

changing the character of its population from the most enterprising to the most indolent in Europe.”³²⁶

Banning gold mining was decidedly not on the docket in the 1831 gubernatorial election. Rather, the question was whether to take even more radical steps to dispossess the Cherokees and redistribute their resources to whites. Lumpkin wanted “a settled freehold population on every part of our territory...hitherto the abode of a people wholly unqualified to enjoy the blessings of wise self-government,” to impose the order that was lacking. In his speech to the legislature in 1830, rather, Gilmer advocated caution. While the Georgia Guard ought to enforce Georgia jurisdiction in Cherokee country, there was no need, he argued, to immediately divide up Cherokee territory and distribute it to settlers. “The immediate possession of the disputed territory, is comparatively of small importance; the removal of all the Cherokees beyond our limits is an object of the very greatest...”³²⁷ It was important to achieve removal soon, but also for Georgia to bide its time and do it right, preserving the legitimate rights of Indians in the process. Time was on Georgia’s side. The Jackson administration was on Georgia’s side, Gilmer pointed out, as was the tide of history, since Indians inevitably die when whites approach. “Long experience has satisfied all, except sectional and party zealots, that the Indian tribes, when surrounded by white men, continue to disappear, until they become extinct,” he said.

The humane and intelligent are every where [*sic*] concurring in the proposed measure [the removal of the Cherokees]. In pursuing the course recommended, we shall avoid the unpleasant necessity for acting as the sole judge in our own case, and collision with the

³²⁶ Williams, *The Georgia Gold Rush*, 27.

³²⁷ Gilmer, *Sketches*, 252-3. Gilmer reproduced here “an extract from my message to the Legislature,” upon “the claim of the state to possess at once a territory of considerable extent, which had been previously occupied by the Creeks, abandoned by them, and taken possession of by the Cherokees.”

present Administration of the General Government, which is so much more favorable to the rights of the State than that which immediately preceded it.³²⁸

Ironically, on the national stage, Gilmer appeared anything but cautious and politic. By 1831, Gilmer had already suppressed the Cherokee government, extended Georgia jurisdiction over the Cherokees, approved the hanging of Corn Tassels for the killing of another Indian, in defiance of a Supreme Court order to stay the execution pending its decision on Georgia jurisdiction, employed the Georgia Guard to prevent Cherokees from mining gold on their own land, arrested missionaries and other whites in the Cherokee Nation who would not swear a loyalty oath to the State of Georgia, and surveyed “unoccupied” Cherokee land.³²⁹

But within the State of Georgia, Gilmer now appeared moderate, even soft, because he cautioned the state legislature against unduly provoking the administration of Andrew Jackson, and trampling Indian property rights, by seizing and settling Cherokee land before a treaty was obtained. Time, he argued, was on Georgia’s side.

While Gilmer spoke to patience and compromise on non-essential points, Lumpkin spoke to urgency and unilateralism. Lumpkin emphasized the dynamism of the situation, and the array of forces leagued against Georgia, to argue for seizing the initiative and remaining on the offensive. “The enemies of Georgia are alarmingly multiplying in her midst,” Lumpkin declared in a speech to the legislature after acceding to office. “The gold mines offer a rallying point for the concentration of bad men, from all parts of the world. Even our own domestics [slaves] may look to a controversy with

³²⁸ Ibid.

³²⁹ Mary Young, “Exercise of Sovereignty,” provides the most succinct description of the steps taken to extend Georgia rule into Cherokee country.

the Cherokees, with feelings of deep interest.”³³⁰ With the Seminole presence still threatening the slave system from across Georgia’s southern border, slave insurrection was very much associated with Indian country as a source of disorder, despite the slave-ownership of many Cherokees themselves.

To make matters worse, from Lumpkin’s point of view, not just Indians, lawless white elements and northern enemies of removal, but even Georgia’s own elite citizens were now contributing to this precarious situation, abetted by Gilmer’s inadequate measures. These men drew Lumpkin’s special ire: “[N]ew and unexpected difficulties,” he said, “are arising out of the imbecility of our own measures, and the selfishness of some of our own citizens. It has been thought that some of our most distinguished citizens have thrown almost insuperable obstacles in the way of a speedy termination of our Indian difficulties.”³³¹ Lumpkin was referring to the legislature’s action, and Gilmer’s support of the 1829 repeal of the blanket prohibition on Indian testimony against whites, allowing them to testify in limited instances,³³² and to judges like Augustin Smith Clayton who would stand up for Indian property rights when they came to court. Since there were forces actively opposing a final resolution to the crisis, it would take decisive action to defeat them, even over the objections of well-meaning friends, like the Jackson administration.³³³

³³⁰ Lumpkin to Jackson, 1 November, 1831, in Lumpkin, *Removal*, 194.

³³¹ Lumpkin to House of Representatives, Milledgeville, 2 December, 1831, in *ibid.*, 95.

³³² Jennison, *Cultivating Race*, 206.

³³³ Judges Clayton, Kent, Hooper, and Underwood all agreed to represent Indians in court, or found in favor of their property rights. “No Georgia judge would recognize a challenge to the state’s right of jurisdiction,” writes Mary Young, “but some judges, like some legislators, were finicky about property rights.” (Young, *Exercise of Sovereignty*, 57). Georgians sent Clayton to Congress to get him out of the way. (58). Judge Hooper investigated for overruling the laws of the state. Alliance between Cherokee elite and States’ Rights Party, nullifiers.

Key to Lumpkin and his supporters' vision of responsible authority and security in Cherokee country was to maintain the prohibition on Indian testimony against whites. Gilmer's support for limited Indian rights to testimony drew the most bitter and heated rebukes from his opponents. "mr. [*sic*] Gilmer is extremely anxious, to place the ignorant and vindictive savage upon the same footing with the free white citizen, and expose the latter to all the evil consequences that must inevitably result from the admission of such dangerous testimony, as that of a Cherokee Indian," ³³⁴ said the *Macon Telegraph*. For the paper's editor, Indian testimony was dangerous, because it was ignorant, and hostile. "And what has *Governor Gilmer*—...this *Governor*, who would make INDIANS *witnesses against* WHITE MEN—what has *he* done?" asked another paper, the *Milledgeville Federal Union*?

Let every man who would dread to subject his property, his reputation, *his liberty*, and *his life*, to the awful hazards of HOSTILE INDIAN TESTIMONY, unite with us in removing from the executive office, a man who has exercised its high authority in attempting to introduce a policy so subversive of justice, so fatal to the safety of the people of the State. ³³⁵

But even more to the point, Gilmer's opponents believed that his objections to the testimony ban revealed his elitism. The *Federal Union* went on to lambast Gilmer's plan to reserve the gold mines to the state as similarly elitist and corrupt—either state management of the mines would be wasteful and inefficient, or, if sold to the highest

³³⁴ Gilmer wanted to repeal the following Georgian law: "And be it further enacted, that no Indian or descendant of any Indian, residing within the Creek or Cherokee Nations of Indians, shall be deemed a competent witness in any court of this state to which a white person may be a party, except such white person resides within the said nation," *Macon Telegraph* September 3, 1831.

³³⁵ "There are several measures of the first magnitude...[in] which Mr. Lumpkin and Mr. Gilmer, widely differ. Mr. GILMER believes, that INDIANS OUGHT TO BE ADMITTED AS WITNESS IN OUR COURTS, IN CASES AFFECTING THE RIGHTS OF WHITE PERSONS. Causes fully known even to those who are most ignorant of public affairs, have created in the breasts of the Indians, a rancorous and deep-rooted hostility to the people of Georgia: and with a few exceptions, they are a race of ignorant and depraved savages, having but a weak sense of moral obligation, or of the sacred sanction of an oath: and are very ignorant, and very careless of a future state of rewards for the virtuous, and of punishments for the wicked..." *Milledgeville Federal Union*, Sept 22, 1831.

bidder, would exclude poor men and non-slaveholders from the competition. If Gilmer planned to lease out the mines to private companies, the *Federal Union* pointed out, he would be possessed of a powerful tool of patronage and corruption with which to reward his friends and “soft[en] the opposition of his enemies.”³³⁶

For the pro-Lumpkin *Federal Union*, the idea that Gilmer’s plans for the mines could be a source of state revenue and thus lead to lower or even no taxes, favored by an article in the *Macon Advertiser*,³³⁷ was outweighed by the potential evils of the plan—and by the popular desire to have a chance at drawing a gold mine in the lottery. “Mr. Gilmer believes THAT THE GOLD MINES OUGHT NOT TO BE DISTRIBUTED AMONG THE PEOPLE; but to be RESERVED TO THE GOVERNMENT OF THE STATE,” said the *Federal Union*.

Let every man who is entitled, or whose relation or friend is entitled to a draw for a gold mine; for every man who would delight in seeing this noble patrimony of all the people of the State, poured into the laps of the poor, as well as into the coffers of the rich...Let every man who loves purity in our government, who would preserve it from the corruption which is engendered by an overflowing Treasury; from the absorbing influence of a monied aristocracy...unite with us in dismissing the man who has exerted the influence and authority of the high station of Governor.³³⁸

These newspapers attacked Gilmer’s positions for their elitism; compared to Lumpkin, Gilmer did indeed have elitist opinions. Though both had condescending attitudes towards poor whites while claiming to represent their interests, Gilmer was generally less in favor of redistributing the state’s resources to them, or providing for equal economic opportunity. Indeed, though he had been elected partly for his support of public education, in his personal correspondence, Gilmer went on a rant against public

³³⁶ Ibid.

³³⁷ “The Question At Issue—The two propositions which now present themselves for the decision of Georgia are: Gilmer and the Laws and Lumpkin and Taxation!” *Macon Advertiser*, September 23, 1831, quoted in Williams, *The Cherokee Gold Rush*, 50.

³³⁸ *Milledgeville Federal Union*, September 22, 1831.

education, in the form of a long string of rhetorical questions meant to show that too much public expenditure on education was inappropriate for Georgia in its present state of society.³³⁹

In contrast, developing public education in Georgia was something Lumpkin called for in multiple annual gubernatorial addresses—though always only after he had expounded on the Cherokee crisis at length. Moreover, as the *Federal Union* pointed out, in 1824 as a state senator Gilmer had voted against the most significant democratic measure yet taken in Georgia—the amendment of the state constitution to provide for the direct election of the governor.³⁴⁰

Historian Watson Jennison, who tackles the class and race dimensions to Indian Removal politics in Georgia, points out that the Indian issue had long been tied to a rejection of the political domination of low-country aristocrats, and this pairing is very evident in these election year journalistic screeds. The *Augusta Chronicle*, for its part, accused Gilmer of being a member of the “Crawford Party,” the now nearly defunct low-country, aristocratic political club which had for several decades been the establishment opponent of the insurgent, frontier “Clark Party,” before the distinction between the two slowly disintegrated, as candidates from both parties raced to see who could co-opt the populist anti-Indian orientation of the Clark Party faster. William Crawford, the namesake of the party, had once made comments in favor of intermarriage with Indians

³³⁹ “Is not public opinion so impressed with the value of education in our country, as to render it sufficiently certain that the people will of their own accord apply their means to the support of schools? In those cases where this may not be true, can the government by any vigilance or expense overcome the neglect of parents but at an expense greater than any consequent advantage to the community?” Gilmer to Col. William Cummings, Dr. Henry Jackson, Dr. John Wingfield, and Col. Joseph H. Lumpkin, April 8 1830, quoted in Gilmer, *Sketches*, 340-3.

³⁴⁰ Lumpkin, *Removal*, 107, 132. Jennison, *Cultivating Race*, 199, discusses the *Federal Union*’s stance on Gilmer’s anti-democratic vote.

as a means of civilizing Indians and incorporating them into Georgia society, and indeed many established low-country families did have family ties to the Cherokee or Creek elite. Hence, accusing Gilmer of supporting “Crawford’s Axiom” combined a hatred for a corrupt elite with an uncompromising rejection of the idea of mixing with Indians on terms of equality or inclusion, which would work to the detriment of ordinary white Georgians.³⁴¹

Jennison stresses that Lumpkin’s racial policies were seen as more anti-Indian, populist, and anti-elitist than Gilmer’s. And in practice, Lumpkin catered more to squatters from other states than Gilmer had, by shortening the length of the residency requirement and thus allowing them to participate in the lottery. However, what Jennison leaves out is the degree to which even the most radical anti-Indian governor Lumpkin actually claimed to be protecting Indians from lawless whites³⁴² The classism of Georgia politicians was focused on the property-less *squatter*, disregarding the law and the sovereignty of the state, while claiming to support the presumably virtuous and law-abiding freehold farmer, who won his claim in the *lottery*. The Georgia General Assembly in 1831 excluded convicted felons and “those who had been associated with ‘a certain horde of thieves known as the Pony Club’” from the lottery, as well as the Cherokees themselves. Angry squatters talked of nullifying the act or seceding from Georgia.³⁴³ Historian Mary Young likewise points out that, while laws requiring white men in Cherokee country to swear allegiance to Georgia were aimed at northern missionaries and other pro-Cherokee troublemakers, they were also aimed at squatters

³⁴¹ Jennison, *Cultivating Race*, 213.

³⁴² Mary Young, “Exercise of Sovereignty,” 51.

³⁴³ Williams, *Georgia Gold Rush*, 51, talks about secession threats.

and pre-emptioners, whose claims, if unchallenged, would undermine the validity of the land lottery.³⁴⁴ Therefore, anti-squatter politics gave fatal impact rhetoric a place in justifying removal, even in a State where white citizens held a widespread notion that their right to impose laws on Indians and dispossess them at will within its “chartered limits” was sacred and absolute. The worst abuses of the Pony Clubs could be disavowed by the State while the havoc they caused was useful to the argument that the Indians faced an inevitable choice between destruction, or removal.

Both governors, then, tried to exert control over the dispossession of the Cherokees and direct it in a manner conforming to their sense of order, and reacted strongly when their plans were challenged by anyone. But even as both governors’ plans for Cherokee country expressed versions of state control over squatters, Lumpkin’s overall policy was more populist and anti-Indian, allowing him to appear more heroic to the common man, and more deserving of his loyalty.

As Lumpkin slowly ratcheted up the pressure on the Cherokees, his measures invited further opposition from judges—who as powerful, unelected officials were even better targets for the ire of racist populists than was Governor Gilmer. Their respect for Cherokee property rights in particular put a handful of Georgia judges on a collision course with Lumpkin’s populist program of dispossession. Finding that after the survey and occupation of Cherokee country, the reelection of Jackson, and the stillbirth of *Worcester vs. Georgia* Cherokee leaders still resisted signing a removal treaty, Lumpkin’s administration decided to go directly after the estates of wealthy Cherokees. Many opponents of removal, including Chief John Ross, had been the beneficiaries of a

³⁴⁴ Ibid., and Young, “Exercise of Sovereignty,” 50-2.

provision in the 1819 Treaty between the Cherokee Nation and the federal government. This provision allowed these Chiefs to keep private “reservations” of the land in the territory being ceded to Georgia and other states, and to become U.S. citizens. Many, including Ross, had taken such reservations, improved them and built them up, and then sold them to whites, moving onto land in the now reduced Cherokee Nation, and establishing plantations anew. Lumpkin decided that these chiefs had violated the terms of the treaty by doing so, that they were no longer Cherokee citizens, and therefore that their estates were forfeit to Georgia. This was particularly odd, since in Georgia’s official doctrine, *no one* was legally a Cherokee citizen, since the Cherokee Nation had been abolished by Georgia’s decree, and according to them, had never been a legitimate political unit in the first place. In practice, known opponents of removal were specifically targeted for confiscation, after which Lumpkin’s agent, William Springer, distributed them to Lumpkin’s political allies in the “Union Party.”³⁴⁵

When the Cherokee leaders began challenging these property seizures and the 1833 law under which they were carried out, in the Georgia courts, they found that Georgia Judges Clayton and Hooper, and others, backed them up, along with a substantial minority of whites even in the Cherokee counties. Judges issued injunctions to halt these confiscations, and declared the law which produced them to be unconstitutional. These judges were not against applying Georgia law to Indian territory, and they firmly denied Indian sovereignty. It had been Judge Clayton himself who sentenced Corn Tassels to die

³⁴⁵ Strangely, Lumpkin’s behavior, which brazenly asserted state interests above any other legal obligation, and his support for Jackson during the nullification crisis, drove his enemies into the nullification camp. Consequently, those in the new “States Rights” party included those who argued for Indian property rights as against Lumpkin’s extraordinary seizures, and a (temporary) new party system congealed. Jennison, *Cultivating Race*, 220-1.

in the controversial case just two years earlier, after all. Nor were they acting from strict party motives—Judge Clayton had ruled that the law, favored by Gilmer during his tenure, prohibiting Cherokees from mining gold on their own land, was unconstitutional.³⁴⁶ Rather, they were an established elite consistently against the arbitrary seizure of property for political purposes.

The actions of these judges produced angry reactions from white Georgian supporters of Lumpkin for several reasons.

Firstly, Lumpkin's followers feared that support for Cherokee property rights would give Cherokees hope that their removal might not be inevitable. Cherokee agent William Springer complained that Judge John W. Hooper "altogether put the Cherokees more out of the notion of removal than ever. They are made to believe...that they have only to hold out, and they will eventually succeed in having the whites driven from among them, and that they will be permanently settled on the soil of Georgia."³⁴⁷ Hooper and Clayton's actions were exasperating because they encouraged the Cherokees in the belief that they still had white allies who would protect them. As long as they had some allies, white Georgians worried, Cherokees would persist in the deluded idea that if they only remained firm and persisted, then they would succeed.³⁴⁸ After investigating Hooper for misconduct, the legislature passed a law eliminating a judge's ability to issue injunctions against white claimants to Indian land to eliminate the source of the trouble. The legislature even overcame their previous anti-centralizing qualms to create a Georgia

³⁴⁶ Young, "Exercise of Sovereignty," 57.

³⁴⁷ Ibid., 222.

³⁴⁸ Ibid., and Williams, *Georgia Gold Rush*, 39: "Public opinion is with them," Henry Clay had said during the debate in Congress. "Justice is on their side; honor, humanity, the national character, and our Holy religion all plead for them. With such advocates they ought to prevail, and they will prevail, if their friends are not too inactive."

State Supreme Court, so that a judge's pro-Indian decisions could be reviewed and overruled.³⁴⁹

But as Watson Jennison points out, opposition to the judiciary's defense of Cherokee property also emanated from a mixture of hurt class and racial pride. It was not only the rulings themselves. Judge Hooper sought hospitality from with wealthy Cherokees when riding the judicial circuit in the newly established Cherokee counties, rather than lodging with poorer whites, which enraged them and the members of the Union Party.³⁵⁰

Though race was only a muted part of the discussion of removal in Congress, Georgia politicians and newspapers openly asserted the idea that Indians were racially inferior and therefore incapable of sovereignty and citizenship in state-level discussions. A kind of "herrenvolk," romantic-nationalist racism, the kind of which Reginald Horsman and George Frederickson describe as generally on the rise in the U.S. in the age of Manifest Destiny, applied here strongly as a force against moderation.³⁵¹

However, the divide was not, as might be expected, between those who embraced the doctrine of biological, innate racial inferiority, common to scientific racial theory that was beginning to develop in the U.S. at the time, and their detractors. Surprisingly, hardline biological racists could, at times, be more accommodating to Cherokees than others who claimed to believe, theoretically, in the possibility of Indian "improvement." Gilmer was quite explicitly and thoroughly racist, in that his statements evince a clear

³⁴⁹ Jennison, *Cultivating Race*, 222-4.

³⁵⁰ Ibid., 223.

³⁵¹ George Frederickson, "The Rise of Modern Racism(s): White Supremacy and Antisemitism in the eighteenth and nineteenth centuries," chap.2 in *Racism: A Short History* (Princeton University Press, 2002), 49-97, 69, and Horsman, "Romantic Racial Nationalism," chap.9 in *Race and Manifest Destiny*, 158-187.

belief that Indians were inherently biologically inferior to whites, much less ambiguously than Wilson Lumpkin, who occasionally expressed the polite opinion that Indians could be civilized and brought to a level with whites under the right circumstances.³⁵² However, Lumpkin was decidedly the less compromising colonizer, supporting the redistribution of Cherokee lands before a treaty was obtained, and denying Indians the right of testimony.

Rather, as Jennison argues, the most salient and consequential divide over racial politics was between those who advocated a stark color line between whites and non-whites, (with full equality on one side and absolute degradation on the other), versus those who favored a graded racial hierarchy, (a continuum where class and property as well as race factored into one's social rank and respectability). Those who advocated a stark color line were willing to embrace more radically aggressive steps against the Cherokees, and were generally poorer, frontier whites who had more to gain, both politically and socially, from Cherokee removal than more established land and slave-owning whites from Georgia's oldest low-country counties. The aggressive actions against Indians were also populist positions associated with state-supported public

³⁵² Gilmer said that Indians were "ignorant savages," and argued that "The race seems destined soon to pass away, and leave no trace behind, except in the discolored skin and revengeful temper of their descendants from the crossings with other races," Gilmer, *Sketches*, 246-5. In 1829, while he was governor at the time of the removal crisis, Gilmer doubted the Indians' full humanity. "The curious are puzzling themselves with conjectures about the intent of the Almighty in making such beings," he said, "—whether they are the descendants of Adam and Eve," Williams, *Gold Rush*, 18, whereas Lumpkin, at least in front of a national audience, asserted that Indians were at least theoretically capable of becoming civilized equals to whites: "I differ with my friend from Tennessee [Mr. BELL] in regard to Indian civilization. I entertain no doubt that a remnant of these people may be entirely reclaimed from their native savage habits, and be brought to enter into the full enjoyment of all the blessings of civilized society. It appears to me, we have too many instances of individual improvement amongst the various native tribes of America to hesitate any longer in determining whether the Indians are susceptible of civilization," Lumpkin, quoted in Gales and Seaton's *Reg. Deb.* 1016 (1830).

education, state sponsored internal improvements, and other state-led initiatives to redistribute the wealth and political power of the state more equally among white men.³⁵³

Power struggles between classes of whites, and a democratic insurgency on a State level, therefore, drove increasingly radical and cruel, but popular steps of dispossession towards the Cherokees. Even as most poor and middling whites in the State would not win a Cherokee plantation, or gold mine, in the lottery by which Georgia digested the spoils of its neighbors, their votes pushed the machinery of removal forward, and this process was not impersonal but was organized by operatives of the state and their supporters.

Some two decades after removal, Lumpkin wrote a book, *The Removal of Indians from Georgia*, to vindicate his own reputation, claim entire credit for removal, and trash Gilmer, advancing the theme of his own heroic role. "I believed at the time," he wrote,

and I believe yet, that her [Georgia's] policy for which she has been most censured was wise humane and philanthropic towards the Indians. To the vigorous policy of Georgia in hastening the removal of the Cherokees, and which was violently opposed at every step, do that people owe their present tranquil enjoyments and future prospects of advancement and success.³⁵⁴

Lumpkin conceded that the policies were harsh, but he claimed that he had no alternative. Lumpkin took much pride in unilateral decision making based on what he believed was just and in everyone's best interest. Anything less, he declared, would be failing to live up to the leadership responsibilities, which he had accepted when he was

³⁵³ Jennison makes this point when he explains the massacre of a friendly Chehaw village in the midst of the Seminole War: "White Georgians all agreed that Indians were not the equals of white men, but they had different ideas about hierarchy. Was it absolute or graded?...The tens of thousands of newcomers to the state....came from the mid-Atlantic and the North and did not share the racial views of Georgia's traditional elite. Wright and his supporters did not possess that kind of respect for Indians or blacks, regardless of their status." Jennison, *Cultivating Race*, 187.

³⁵⁴ Ibid., 286-7.

elected to the office of governor of the sovereign state of Georgia. In a letter to the President in 1831, after he acceded to the office of governor, he argued for immediate survey and occupancy of Cherokee lands over the objections of Jackson himself, and he asserted that “the State cannot, with honor or justice to herself, retreat from any of the ground which she has taken.” Georgia’s honor is on the line, she has taken her stand, and Lumpkin insisted that she wouldn’t back down. “My own mind was unchangeably made,” he said decades later, revealing a style of reasoning and leadership very reminiscent of Jackson himself.³⁵⁵ Lumpkin continued to develop a heroic narrative, in which his own actions against hard opposition, and his predecessor’s incompetence, had been crucial achieving the contingent result of Indian removal.³⁵⁶

Lumpkin blamed Gilmer’s weakness for the Cherokees’ “intransigence.” “The Indians had become accustomed to Mr. Gilmer’s heightened, spicy ‘*paper bullets*.’ They disregarded his *splutter*. They viewed him as a man of words, but not of deeds.” Lumpkin, on the other hand, moved for more forceful policies, and claimed that this revealed him to be the Cherokees’ truer friend. “If the policy of their leader, Ross, and his Northern fanatical friends...prevailed,” Lumpkin proclaimed, the Cherokees “would chiefly have perished from the face of the earth.” Lumpkin despised Gilmer’s elitism,

³⁵⁵ Lumpkin, *Removal*, 193-4.

³⁵⁶ Lumpkin said that Jackson was opposed to his plan to survey and occupy Cherokee land before procuring a new treaty, though he coincided in everything else. “...in regard to surveying and settling the unoccupied lands claimed by the Cherokees previous to procuring their assent, by an old-fashioned treaty with them, he was utterly opposed, while I was fully convinced myself that such a treaty could never be procured from the Cherokees so long as they remained under the influence of a numerous host of selfish *feed* lawyers. Northern fanatics, and an assuming State and Federal judiciary combined to sustain the pretensions of Indian sovereignty. Therefore, regardless of the opinions of religious fanaticism, of selfish and corrupt lawyers, State Judiciary, or Supreme Courts, I...marched forward, as the records of the country will prove, to triumph and success against an opposition unparalleled in our history. I suffered no court to determine for me, as the Executive of Georgia, what were my constitutional duties.” *Ibid.*, 191-2.

equating Gilmer's family with John Ross; "*kinfolks*," he said, "who had become the wealthy aristocracy of the Cherokee people."³⁵⁷

Lumpkin saw heroes and villains in the Cherokee leadership, as well as the Georgian. As much as he despised Governor Gilmer and Chief Ross, Lumpkin exalted Elias Boudinot, John Ridge, and the Chiefs who had joined them in recognizing the writing on the wall. The Cherokees' fatal flaw, according to Lumpkin, was their failure to see the impossibility of remaining a sovereign nation in their homeland. In his book, years after removal, Lumpkin admitted that the Cherokees did not wish to leave. They were too attached to "the lovely land of their fathers," claimed Lumpkin. "But few of them had the intelligence and capacity requisite to comprehend the system and workings of our Federal and State governments; and were, therefore, destitute of that demonstrative forecast which enabled them to see the utter impracticability of the success of their enterprise."³⁵⁸

Projecting the split within the Cherokee leadership years back before it had actually occurred, Lumpkin claimed that Boudinot and Ridge trusted and confided in him from 1827. "I honestly put them in possession of my every thought" he said,—which is almost certainly not true—since they were bitter enemies of his until the two chiefs came around to removal in 1833. Certainly, the Treaty Party "became convinced that the only hope of salvation...was to be found in their removal to the West," but Lumpkin neglected to say that the reason that Boudinot came around to this conviction was because of the determined actions of his nation's "enemies," Lumpkin among them).³⁵⁹

³⁵⁷ Ibid., 305.

³⁵⁸ Ibid., 190-1.

³⁵⁹ Theda Perdue, *Cherokee Editor*, 168, 173-4.

Nevertheless, Lumpkin found it useful to engage in posthumous apotheosis of these brave leaders, who like him, had recognized that the course of history dictated removal. “These noblemen of nature,” Ridge and Boudinot,

with great zeal and ability, defended the ground which they had assumed on this subject until they were completely convinced that the force of circumstances, and the salvation of their people, required them to yield. They accordingly did so, with great reluctance, but with a clear conviction that they could do nothing better for their people.³⁶⁰

His enemies, Lumpkin believed, were not just misguided but depraved, especially Ross and the lawyers. “I have never known or read of any exhibition of human depravity or turpitude so deeply degrading to human character as the conduct of many of those who were combined together to prevent the Cherokees from removing from Georgia.” The safely deceased Boudinot was a true patriot and great man, the living chief Ross, who was still leader of his nation post-removal, was a “pigmy” compared to him.³⁶¹

By celebrating these men as martyrs and denigrating Ross, Lumpkin told a morality tale in which the good guys, both white and Cherokee, were those leaders who made the hard decisions to embrace the inevitability of removal and carry it out no matter the cost, while their opponents stupidly and selfishly, lacked the backbone to do so. “The Cherokee people...escaped from a certain destruction which was rapidly consuming them.” And they’d probably be as prosperous today as anyone, Lumpkin claimed, “but for the wicked, selfish and revengeful ambition of John Ross, and his more despicable white co-operates,” whom he accused of the murder of the Ridges and Boudinot.³⁶²

³⁶⁰“...while Ross, and a few of his select favorites, were, from year to year, regularly spending as much of their time at Washington as though they had been members of Congress, feasting and enjoying high life.” Ibid.

³⁶¹ Ibid., 187.

³⁶² Ibid., 182.

In the end, Lumpkin declared, “Complete success attended all my efforts in connection with these scenes. I have no disappointments or griefs.”³⁶³ By his own lights, he, like Boudinot, had recognized the inevitable, and had done the hard work of bringing it about in time to save the Indians. And, he would have us believe, he slept well at night as a result.

³⁶³ Ibid.

Chapter Four: “While I Have a Voice in the Matter”: Calling the Bluff of Seneca Removal, Averting Catastrophe

In 1838, the U.S. army forcibly rounded up the Cherokee people in preparation for exile across the Mississippi River. Of the “Five Civilized Tribes” who had been initially targeted for removal, there remained east of the Mississippi only some 2,000 Cherokees in the mountains of western North Carolina who had slipped the army’s roundup, and the Seminole people who continued to fight on for decades in the Florida everglades.

However, another removal struggle, this one in a northern state, was just reaching a climax. The Ogden Land Company, which held the preemption rights to Seneca lands, had long harassed and pressured the Seneca people to sign away their lands. Though they did not have the economic and territorial presence of the Cherokees and other southeastern nations and were scattered on four different small, non-contiguous reservations, the Seneca still held a considerable land base, which was rising in market value because of the booming settlement in western New York. The Senecas were tempting targets in the era of federally sponsored removal.³⁶⁴ As he had done to the Cherokees several years earlier, U.S. Commissioner John F. Schermerhorn forced the Senecas into a fraudulent removal treaty, this one called the Treaty of Buffalo Creek (1838), which sold their land and provided for their removal west of the Mississippi. Just as Treaty of New Echota was forced on the Cherokees several years earlier, the Treaty of

³⁶⁴ The Senecas still possessed about 119,000 acres of land. Society of Friends. *The Case of the Seneca Indians in the State of New York. Illustrated by Facts. Printed for the Information of the Society of Friends, by Direction of the Joint Committees on Indian Affairs, of the Four Yearly Meetings of Friends in Genesee, New York, Philadelphia, and Baltimore* (Philadelphia: Marrihew and Thompson, 1840), 5.

Buffalo Creek was obtained with the approval of only a small minority of the Seneca Nation. Though Jackson was no longer in power, his successor and former vice president, Martin Van Buren, was also a proponent of removal.

Though Seneca reservations were not large enough to impede the colonization of western New York by the late 1830s, Seneca land was growing more and more valuable precisely because the wealth and population of the surrounding white settler community was increasing. There was significant support among white settlers in western New York for Seneca removal, but it was the Ogden Land Company that had the strongest incentive to push the Indians out. The Ogden Land Company had acquired the pre-emptive right to buy Seneca land at the turn of the century from the Holland Land Company. The Ogden Land Company had sunk decades of effort and considerable amount of money into the attempt to browbeat the Senecas into selling.³⁶⁵ The company could either make, or lose a fortune, and circumstances seemed to be in their favor.

As in the case of the Cherokees, those urging the removal of the Senecas argued that removal was the only alternative to destruction. Echoing the sentiments of the pro-treaty party among the Cherokee, pro-removal Seneca chief and Yale graduate Nathaniel Strong published an essay that argued for removal as the lesser of evils: “All admit we

³⁶⁵ Matthew Dennis, *Seneca Possessed: Indians, Witchcraft, and Power in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2010), 159, 180-194. “From 1798 to 1809,” Dennis writes, “the Holland Land Company held preemption rights to Seneca reservation land, which technically offered nothing more than the opportunity to purchase whatever property—if any—the Senecas proved willing to sell. The Senecas in fact exhibited little interest in selling any land, at least without considerable manipulation and coercion, and in 1810 the company sold its preemption rights—at fifty cents per acre, for nearly 200,000 acres—to the well-placed former U.S. congressman David A. Ogden, who, with the backing of family members, created the Ogden Land Company. Ogden’s investment amounted to nearly \$90,000, with the potential to generate millions, but with no guarantees. He and his investors thus commenced a campaign to transfer Seneca land—through political influence and manipulation—to their business concern in order to sell it at a considerable markup to white settlers.” (182).

must remove soon or become extinct as a nation,”³⁶⁶ he said. The Ogden Company and President Van Buren expressed the same arguments. “[S]eparation [removal] is inevitable” said the Ogden Company, “—and that it cannot be postponed until the mass of Indians, ignorant and depraved as the mass is, shall voluntarily concur in it.” “To the Indians, themselves,” declared Van Buren in a communication to the Senate, “[removal] presents the only prospect of preservation. Surrounded as they are, by all the influences which work their destruction, by temptation they cannot resist, and artifices they cannot counteract, they are rapidly declining, and notwithstanding the philanthropic efforts of the Society of Friends, it is believed that where they are, they must soon become extinct.”³⁶⁷

The Seneca people, moreover, didn’t have some of the seeming advantages that the Cherokees had in their fight against removal. The Seneca people lived on four separate, small reservations in western New York. The Senecas did not have a republican national government like the Cherokees had, nor did the Senecas have the staunch, long tested, disciplined unity against unauthorized land sales that the Cherokee government had enforced. Unlike the Cherokees, the Senecas didn’t have a wealthy elite with direct personal and professional connections to powerful national American political figures, a

³⁶⁶ Nathaniel F. Strong, *Appeal to the Christian Community on the Condition and Prospects of the New York Indians, In Answer to a Book, Entitled the Case of the New-York Indian, and Other Publications of the Society of Friends* (New York: E.B. Clayton, Printer and Stationer, 1841), 12.

³⁶⁷ “Whatever may be your information on the state of Public opinion, we are persuaded that this state of things will not long be tolerated—that separation is inevitable—and that it cannot be postponed until the mass of Indians, ignorant and depraved as the mass is, shall voluntarily concur in it.” David Ogden and Joseph Fellows here are arguing that removal is inevitable and cannot wait for Indian consent, in a letter to Secretary of War John Bell, 8 June 1841, (quoted in Mary H. Conable, “A Steady Enemy, The Ogden Land Company and the Seneca Indians” (PhD. Diss., University of Rochester, 1994), 242, <http://search.proquest.com.proxy.libraries.rutgers.edu/pqdtglobal/docview/304236657/C39C0C2309214157PQ/1?accountid=13626>. Van Buren’s communication in United States Senate, *Journal of the Senate of the United States of American, Being the First Session of the Twenty-Sixth Congress, Begun and Held at the City of Washington, December 2, 1839, and in the Sixty-Fourth year of the Independence of the Said United States* (Washington: Printed by Blair and Rives, 1839), 563-4.

printing press of their own, national publicity, or a popular, national anti-removal movement behind them. The Senecas were less numerous, less wealthy, less powerful, and less well connected.

If the Senecas lacked the advantages the Cherokees possessed, the Senecas faced rhetoric, pressures, and tactics similar to those employed by the proponents of Cherokee removal. In fact, the Ogden Company, with the help of U.S. treaty Commissioners John F. Schermerhorn, Richard Stryker, and R.H. Gillet, was quite successful in dividing the leadership of the Seneca people. Depending on how you count, 29 out of 75 undisputed, or 41 out of 97 disputed Seneca chiefs signed the unjust treaty.³⁶⁸ U.S. and state governments had brought intense pressure to bear on the Cherokee Nation. But the Cherokees didn't witness these concerted—and successful— attempts to bribe and browbeat such high percentages of individual chiefs into submission, and complicity. Furthermore, some Seneca chiefs expressed contempt for the democratic principles of their own nation and of their own people's decision-making competency, to consent to, or reject a treaty. Pro-treaty Cherokee chiefs such as Elias Boudinot and John Ridge had expressed contempt for their people's political capacity, but at least they had long records of patriotic service behind them before they changed their minds about removal, and at least these Cherokee chiefs shared in their people's exile. Some prominent Seneca chiefs, on the other hand, were even on the payroll of the Ogden Land Company, signing legally binding agreements to receive cash in return for their vote in favor of the treaty, and their efforts to deliver the votes of their fellow chiefs. These chiefs accepted money and

³⁶⁸ Society of Friends, *Case of the New York Indians*, 32-4.

lifetime leases on their land, lease which exempted them from forced removal even as they sold out other Senecas.³⁶⁹

In both cases, pro-removal members of Congress, pro-treaty chiefs, and U.S. treaty commissioners and their allies used the rhetoric of inevitability. Many chiefs were convinced to sign removal treaties because they believed that they were already beaten, that removal was inevitable, and that signing a treaty and receiving compensation was the lesser of evils. To some chiefs, whose consent they badly needed, the Ogden Company and U.S. commissioners told direct, blatant lies, very much in the manner of police interrogating a suspect and trying to elicit a confession. Commissioners plied individual chiefs with alcohol, and they locked one chief alone in a room at an inn near Buffalo, and told him that his compatriots had already caved in. Commissioners swore, both in council and in private, that the treaty was already passed, or alternatively, that no treaty was necessary and their lands were already legally sold, or that forced removal was now inevitable because “the majority of chiefs had already approved the treaty,” and that the only way of salvaging any benefit from it was to sign.³⁷⁰

³⁶⁹ Contracts between the Ogden Company and Seneca chiefs can be found in the appendix of, Maris Pierce, *Address on the Present Condition and Prospects of the Aboriginal Inhabitants of North America, with Particular Reference to the Seneca Nation. Delivered at Buffalo, New York, by M.B. Pierce, a Chief of the Seneca Nation, and a Member of Dartmouth College* (Philadelphia: J. Richards, Printer, No. 130 North Third Street, 1839), 20-4, in the appendix of Society of Friends, *Case of the Seneca Indians*, 189-211, and affidavits describing other means of coercion follow from page 211, as well as in Francis Jennings, *Documentary History of the Iroquois*, reels 48 and 49 [1837-1921].

³⁷⁰ One of the key lies told by U.S. Commissioner R.H. Gillett when pushing the Treaty of Buffalo Creek was the idea that the treaty was a done deal and could not be refused—that it was inevitable. He claimed that “If they decided against the treaty, they believed the government would no longer pay their annuities or appoint an agent for them. They also heard that the government would punish white people who tried to help them resist a land sale. Gillett had refused to allow the chiefs to follow their traditional pattern of withdrawing to discuss their response to the government’s offer.” (Conable, “A Steady Enemy,” 146). On another occasion, “The Senecas withdrew to deliberate, and returned to deliver their refusal of the treaty. Gillett warned the Senecas that they had already sold their lands and would be left homeless if they did not sign the amendments...Agents of the company told men, some of whom had not attended council sessions, that the majority of chiefs had already approved the treaty and that individuals whose signatures did not appear on the document would not get any money for their improvements.” (169). “Chief Morris Halftown

In both Seneca and Cherokee removal, government agents wielded threats of dire consequences as weapons to persuade the reluctant to sign. A petition by Seneca chiefs complained that they had

been told that it was the President's will and that of Congress that we should go; that the unwilling would be driven off; that if we do not go, our father will punish us for our disobedience; that the Governor of this State is of the same mind, and they have read us his message to prove it; that he will extend over us the laws of the State if we refuse; that our annuities and our agent should be taken away.³⁷¹

Behind these threats, the chiefs argued, was the threat that resistance was futile, because the implementation of the treaty was inevitable:

...especially, [we were threatened] that all our opposition will prove in vain; that they would not break up the council till they had finished a treaty; that if only a few, perhaps fifteen, (which is only about one-sixth of those who are regarded as chiefs) should sign, it will ensure its ratification; and, therefore, it is a hopeless case, and we may as well yield first as last. And what fears, and what bribes were used in private, it is impossible for us to tell. We know that much of that sort was done in private from the disclosures of some of our brethren.³⁷²

Both Seneca and Cherokee Chiefs, then, had been threatened with the inevitability of removal.

Finally, both people knew that they were outnumbered, outgunned, out-produced, and surrounded. Even as the Seminoles exacted a heavy price from the U.S. armed forces and (barely) held their ground year after year, both the Senecas and the Cherokees realized that armed resistance was futile in their own cases.

But there was no Trail of Tears for the Senecas. The resolution of their two decade-long battle against removal left the Senecas in possession of three of the four reservations they had in 1838, when the treaty liquidating all of their lands was signed. Senecas lost their largest reservation—Buffalo Creek, at 53,000 acres³⁷³—located right

was even locked in a room by James Stryker when he refused to sign the treaty,” Stryker then “told him the treaty was already completed and offered him \$3,000 to sign.” (170).

³⁷¹ Petition of Seneca chiefs, February 28, 1838, Society of Friends, *Case of the Seneca Indians*, 120.

³⁷² Ibid.

³⁷³ Society of Friends, *Case of the Seneca Indians*, 5.

up against the growing city of Buffalo—and they lost roughly two fifths of the 13,000 acre Tonawanda reservation.³⁷⁴ But Senecas held on to the rest, and they defeated attempts to forcibly relocate them across the Mississippi River to Kansas, as provided by the Treaty of Buffalo Creek.

How come the Senecas were not removed, and why is this an important question to ask?

First, in this chapter we will learn that there were a number of particular (and relatively easily explained) circumstances which help explain why the Senecas "succeeded" where the Cherokees did not. The local and national political context of the Seneca removal struggle was different from that of the Cherokee removal struggle, highlighting the very different circumstances in which the different Indian peoples of the era contended against dispossession. These differences circumstances are significant because they show that the "fate" of different Indian people in the face of threats of dispossession was not uniform. The outcomes of these two removal struggles varied in ways that may not seem significant from a sweeping historical point of view, but which could be very significant indeed for the people involved.

The very fact that the Senecas were not removed, though they were targeted for removal, shows that "the removal of the Indians," in general, was not a historical inevitability.

The Seneca case also illuminates the very direct role that rhetoric of inevitability played in obtaining removal treaties, demonstrating that it was a psychological weapon employed consciously against Indians, with which Indians themselves consciously

³⁷⁴ Ibid.

grappled. Its use in treaty negotiations had important material consequences on the struggles for the Indians involved—in the struggle over Seneca removal, inevitability rhetoric was a weapon that could be used to convince Indians that further resistance to removal was futile. Some Seneca people understood and articulated the psychological power of these arguments about the inevitability of dispossession, particularly in light of the fact *that there was so much plausibility* to them, based on the Senecas' past experience of land loss and treaty negotiation. Acknowledging the plausibility of arguments for the inevitability of removal and settler takeover of their lands, some chiefs recognized that this rhetoric was meant to obscure the leverage that Indian people did have, and they argued against giving in. They adapted changing strategies over many difficult years to fight their “fate,” and the success they achieved mattered.

The story of the Seneca fight against removal, in comparison with the Cherokee fight against removal, is not meant to suggest that the Senecas “did a better job” or followed better strategies in their struggle. In both tribes, there were pro and anti-treaty parties; there were noble and ignoble actions by individual chiefs. Though the decisions of Seneca leaders did matter in the fight against removal, this chapter is also meant to highlight a complex array of differing circumstances that separate the two historical struggles against dispossession. As I will show, comparative advantages in wealth and power that the Cherokees enjoyed and the Senecas lacked actually worked in the Senecas' favor in fighting removal. Employing rhetoric of inevitability, moreover, was not as convincing when employed against the Senecas as it was in the Cherokee case, because those hoping to dispossess the Senecas did not enjoy the active and enthusiastic support of the federal government, or the overwhelming support from local whites that

Cherokee removal had commanded. Though the rhetoric of inevitability employed by the Ogden Company and their allies was effective at key moments in obtaining concessions from the Senecas, Seneca people were able to articulate counter-arguments, make alliances, and call the Company's bluff. Consequently, they were able to pursue strategies that left them, after several decades, with a *partial* victory in their struggle against the Ogden Land Company. The victory was no small deal for the people who won it.

The Senecas and other northern Indians facing dispossession in the 1830s and 1840s had the good luck of fighting their battles in the aftermath of the intense opposition to Cherokee removal, and benefitted from the general climate of sympathy for native peoples that debates over removal had generated. There was little in the history of northern Indian relations that presaged the intense popular concern with Indian welfare displayed during the removal crisis.³⁷⁵ But in the controversy over Cherokee removal, northerners expressed outrage over Georgia's conduct, while at the same time implicitly denying the fact that oppressed Indian communities still existed in New England. As we have seen in the previous chapter on debates over removal in Congress, southern pro-removal congressmen boldly pointed out the hypocrisy of New Englanders. But they

³⁷⁵ However, there were some antecedents: In the colonial era, the Quakers had built an identity around their reputation for fair dealing, charity, and peaceful disposition towards Indians. Peter Silver, *Our Savage Neighbors: How Indian War Transformed Early America* (New York: W.W Norton & Company, 2008), Matthew Dennis, *Seneca Possessed: Indians, Witchcraft, and Power in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2010). New England also had a history of self-criticism of its dealings with Indians, both for becoming too similar to Indians, and for failing to convert and civilize Indians. The searching guilt expressed by Cotton Mather, in his contention that King Philip's War was God's punishment for these sins, was not the dominant interpretation of that war. But it was one strain in New England discourse about Indians and about the meaning of war with them. Jill Lepore, "The Curse of Metamora," chap. 8 in *The Name of War: King Philip's War and the Origins of American Identity*, 191-227.

were not the only ones to do so. Indigenous people themselves took advantage of sympathy generated for the Cherokees to cry hypocrisy, and to draw attention to their own causes.

The Mashpee Wampanoag Indians of Cape Cod, for example, linked their struggle against dispossession with that of the Cherokees. In 1833, they launched a revolt, led by their adopted Pequot minister, William Apess, against the theft of their resources by neighboring whites. Mashpees protested the policy established by the state of Massachusetts to appoint an overseer with broad powers to dispense justice and distribute tribal resources. Mashpees also protested to get rid of the negligent, Harvard-appointed minister, Samuel Fish, who was paid to minister to the Mashpee but used the church built on Mashpee land for that purpose to minister to neighboring white communities. Dramatizing their protest, the Mashpees confronted whites carting timber off of their land and made them unload it. Then, they took possession of the Mashpee church and locked out minister Fish, taking the opportunity to present their grievances in a declaration, thereby drumming up panic—and press attention—across Massachusetts.³⁷⁶ Their declaration, adopted unanimously by the tribe, made explicit use of the recent anti-removal sentiment among New Englanders, which they were well aware was an opening for attacking those who would embrace that popular sentiment but still deny the Mashpee ownership of their own land, their own self-government, and religious freedom:

Perhaps you have heard of the oppression of the Cherokees and lamented over them much, and thought the Georgians were hard and cruel creatures; but did you ever hear of the poor, oppressed and degraded Mashpee Indians in Massachusetts, and lament over them? ...*Resolved*, That we will rule our own tribe and make choice of whom we please for our preacher.³⁷⁷

³⁷⁶ William Apess, *On Our Own Ground: The Complete Writings of William Apess, a Pequot* (OConnell, Barry, ed. Amherst, Mass, 1992), 177.

³⁷⁷ Ibid.

Addressing the Mashpee grievances provided a good opportunity for northerners to reconcile the contradictions within their Indian politics, and to respond to the charge of hypocrisy. The connection that the Mashpee Indians had drawn resonated with the *Boston Daily Advocate*:

We have had an overflow of sensibility in this quarter toward the Cherokees, and there is now an opportunity of showing to the world whether the people of Massachusetts can exercise more justice and less cupidity toward their own Indians than the Georgians have toward the Cherokees. We earnestly exhort the Marshpeeians to abstain from all acts of violence, and to rely with full confidence upon the next Legislature for redress.³⁷⁸

That the Mashpees won this small battle for autonomy underscores the fact that victories were possible in the atmosphere of backlash against Cherokee removal in the North, where only a small percentage of the white population was directly invested in the exploitation of local Indians.

Edward Everett, the Massachusetts congressman who had delivered a powerful anti-removal speech, attempted to square his opposition to Cherokee removal and his support for the colonization of North America in general. In an address given in 1835 to commemorate the anniversary of a key battle of King Philip's War, Everett characterized such wars of conquest as defensive and existentially necessary to the survival and spread of "civilization" on the continent, which was itself an inevitable, providential, "moral necessity."³⁷⁹ Yet he carefully separated these foundational acts of "necessary" violence from Jacksonian Indian removal, which involved violations of "rights acquired by Indian

³⁷⁸ *Boston Daily Advocate*, 5 August, 1833, quoted in *Ibid.*, 196. "Rev. Mr. Apes, who has been conspicuous in Marshpee nullification, has, we learn, been taken and committed to jail in Barnstable county; upon what process, we are not informed, but we trust, for the honor of the state, that while our mouths are yet full of bitterness against Georgian violence, upon the Indians, we shall not imitate their example." *Boston Daily Advocate*, July 12 (1833), quoted in *Ibid.*, 192.

³⁷⁹ Edward Everett, *An Address Delivered at Bloody Brook, in South Deerfield, September 30, 1835, in Commemoration of the Fall of the 'Flower of Essex,' at that Spot, in King Philip's War* (Boston: Russell, Shattuck, & Williams, 1835), 5.

tribes,” who no longer posed a military threat, “under solemn compacts, voluntarily entered into by the United States.”³⁸⁰

Prodded by southern and Indian accusations of hypocrisy, colonizers and their descendants condemned Andrew Jackson and politics of the Indian Removal era, without rejecting the settler-colonial project altogether. There was no need to remove or oppress civilized Indians who no longer threatened U.S. colonization of the continent, and who were getting along fine where they were, they argued.

The Quaker Joint Committee made a comparable argument about the Senecas. “Whatever may have been the reasons in favor of the removal of the Indians in the southwestern parts of the United States,” they said,

...we do not think they are applicable to the case of those on whose account we now speak...[T]he country surrounding the *Seneca Indians* is now *civilized and densely populated*. Instead of perpetually meeting the rude squatter, who, with his rifle and his rum bottle, neither fears God or regards man, the New York Indian has only to step over the geographical line which marks the boundary of his reservation, and he finds himself in the midst of an intelligent and virtuous population.³⁸¹

Thus, native groups “behind the frontier,” so to speak, could still form alliances and play off groups of colonizers, or potential despoilers, against one another. White American colonizers were a collection of human people related to one another in heterogeneous and complex ways, and their interests—moral as well as material—did not always coincide with one another. As long as the Senecas did not have to face the united and hostile might of the immense settler society that surrounded them, they could make alliances that managed to isolate and defeat those powerful people who were most invested in their dispossession and destruction.

³⁸⁰ Ibid., 10.

³⁸¹ Society of Friends, *Case for the New York Indians*, 26.

The struggle over the treaty of Buffalo Creek from 1838-1840 took place in a very different national political context from that which shaped the 1830 struggle over the Indian Removal Act. The political backlash against the expense of the Seminole War and Cherokee Removal in the context of an economic depression weakened the will of the federal government to force the Senecas to remove.

Unlike the removal of the Cherokees and other southeastern Indians, Seneca removal was not the pet project of a powerful, popular, and stubbornly determined president. President Jackson was gone, and the much more politic, and the much less popular Martin Van Buren was in power. Though he was a proponent, Indian removal was not an overriding political priority for Van Buren, as it had been for Jackson. Rather, Van Buren's major concern was the economic Panic of 1837 that Jackson's "specie circular" had partly caused, for which Van Buren's party were blamed and ridiculed. Along with this Panic came serious budgetary difficulties.³⁸² Congress was reluctant to approve additional expenditures for Indian affairs during the depression following the Panic of 1837.³⁸³ Indeed, the expense of Indian removal and the lack of benefit for the nation at large were cited as major reasons for the opposition by members of Van Buren's own party, including Ambrose Sevier, an Arkansan and western democrat who chaired the Senate committee on the treaty. In a speech against the treaty to the Senate in 1840, he objected to the use of "public money or public lands, for objects of State or company

³⁸² Daniel Walker Howe, "Jackson's Third Term, chap. 13 in *What Hath God Wrought: The Transformation of America, 1815-1848* (New York: Oxford University Press, 2007), 483-525, 486, 504, 576.

³⁸³ Stephen J. Valone, "William Seward, Whig Politics and the Compromised Indian Removal Program in New York State, 1838-1843," *New York History* 82 (Spring 2001): 107-34, 123.

purposes *exclusively*.” He urged the Senate to “prevent such a conversion of the public treasure to such unworthy purposes—to local purposes, in which we have not a shadow of an interest.”³⁸⁴

Van Buren and the Senate were reluctant to endorse such an obviously fraudulent treaty as the Treaty of Buffalo Creek, because of the political firestorm over Cherokee removal, and especially the ongoing controversy over the Seminole War. The war to compel the removal of the Seminoles was expensive. Already by 1838 the war had dragged on for three years. By its end 1842 would cost 60 million dollars and 1,600 American lives, and thus provoke civilian opposition. “Before it was through,” notes historian Daniel Walker Howe, “the government would spend ten times as much on subjugating the Seminoles alone as it had estimated Removal of all the tribes would cost.”³⁸⁵

There had been a strong strain of fatalism and talk of historical inevitability in debates over Cherokee removal. Rhetoric about Seminole removal shared the same tendency towards fatalistic gestures, but it ran in the opposite direction as rhetoric about Cherokee removal. Instead of seeing Seminole removal as an inevitability, military officers in Florida saw it as an impossibility, due to insurmountable obstacles of terrain, climate, disease, cost and Seminole determination, as historian Samuel Watson details. “We are...really ‘licked’ and that’s the long and short of it,” wrote a frustrated veteran in 1838. “God and nature have interposed such obstacles as man cannot surmount. I for one

³⁸⁴ Ambrose Sevier, “Speech of Mr. Sevier, of Arkansas, the executive session, on the treaty with the New York Indians; delivered in the Senate of the United States March 17, 1840.” Exhibit C. *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...*S.doc. 156 29th Congress, 2d Session, 1847, U.S. Congressional Serial Set, 48.

³⁸⁵ Howe, *What Hath God Wrought?* 418, Hauptman *Heroic Battle*, 49.

feel humiliated at this confession and would rather have perished than live to make it—but it is true—we *cannot* [beat] these Indians.”³⁸⁶

According to many other army officers, the war would likely drag on forever, interminably and promised little glory to those involved. Some officers, such as Lieutenant Engineer J.K. Mansfield, complained about the lack of opportunity for glory in such a conflict, some seeing the Seminoles as a miserable and unworthy opponent, while others recognized them as valiant patriots fighting for their country, who ought to be left alone:

...it would be a satisfaction to risk my life where honor is to be gained [but] not in an unjust war on a few miserable savages, goaded to the fighting point with a view to drive them from soil no rational man would live upon. Alas! My country, I blush for your principles of freedom, your justice and your honor! Heaven will reward thee according to thy deserts.³⁸⁷

Because of the expense of the controversial war to remove the Seminoles, Seneca removal ran into opposition. Because of the Trail of Tears and the Seminole War, notes historian Lawrence Hauptman, “forced removal of Indians was a discredited policy.”³⁸⁸ Debates over the skyrocketing cost of the second Seminole War, and scathing criticism of the failure of the administration to succeed in bringing the conflict to a decisive resolution sounded through 1837. Northern Whigs in Congress attempted many times to scale back military appropriations for the war. Inspired by anti-slavery sentiment, and led by abolitionist sympathizer and former president John Q. Adams, Whigs saw the assault

³⁸⁶ Samuel J. Watson, *Peacekeepers and Conquerors: The Army Officer Corps on the American Frontier, 1821-1846*, (University of Kansas Press, 2013), 187.

³⁸⁷ Other officers condemned “this money making, money loving, hypocritical community”—the United States, envisioning civil war as a consequence. An artillery officer commented positively on the Seminoles’ “integrity.” (Ibid., 204)

³⁸⁸ Hauptman, *Heroic Battle*, 49.

on the Seminoles as a diversion of national resources to aid Georgia slave-owners in their quest to wipe out any potential refuge for runaway slaves.³⁸⁹

While political parties clashed over the Seminole War, the sectional and party politics, which so raised the stakes of the battle over Indian removal in the Southeast were non-existent in the case of the Senecas. “Unfortunately for us, the Indian question has been made a party and sectional question,”³⁹⁰ Chief Elias Boudinot had declared with clarity in the heat of the battle over Cherokee removal. As we have seen from previous chapters, the fight over his people’s homeland had become entangled in issues of state sovereignty and national political party competition, Boudinot implied, for the worse. Georgia’s pride and sovereignty, and its long-running grievances against the federal government for failing to fulfill the Compact of 1802 were all wrapped up in the precipitous assertion of its “rightful sovereignty” over the Cherokees.³⁹¹ Meanwhile, Seneca removal was not a national political issue on which national political reputations and capital was staked, and this probably worked in the Senecas’ favor.

The low national profile of the Seneca struggle was due in part to the modest history of missionary efforts among the Senecas, as compared to the Cherokees. Unlike the Cherokees, the Senecas were not a *cause célèbre* of a utopian national missionary drive involving multiple major missionary organizations from different denominations, and their defense consequently did not fall to multiple nationally significant missionary societies. Over three decades, the Senecas had been in a mutually beneficial but uneasy

³⁸⁹ Howe, *What Hath God Wrought*, 516. Seminole removal, indeed, was fueled by slaveholder pressure, as acknowledged by the commander in charge of prosecuting the war. “This you may be assured,” said General Jesup, “is a negro and not an Indian war.” See also John Campbell, “The Seminoles, the “Bloodhound War,” and Abolitionism, 1796-1865,” *The Journal of Southern History*, 2 (2006).

³⁹⁰ Perdue, *Cherokee Editor*, 173-4.

³⁹¹ State of Georgia, “Resolution in Senate, December 19th 1827,” in *Acts of the General Assembly of the State of Georgia...* Milledgeville: Printed by Camak & Ragland, 1827, 23.

relationship with the Quakers. The Quakers were comparatively unobtrusive missionaries from whom the Senecas gained much needed technological and agricultural capacity. Missionary opposition to Seneca removal was mostly limited to and driven by these same Quakers, who were powerful enough to conduct visible publicity campaigns and put pressure on politicians, but not powerful enough to make Seneca removal a national issue and invite party opposition.³⁹²

Aside from their missionary history, both the Cherokee people and the Seneca people had initiated some kind of revival of social, political, and spiritual dimensions, and both had selectively adopted Euro-American culture as well. The Handsome Lake religion which developed on Seneca reservations in the early 1800s embraced temperance as a central moral and social organizing principle, and a moral code based around the maintenance of steady work habits and the patriarchal nuclear family modeled on euroamerican norms. Even as it embraced racial separatism, the Handsome Lake religion pursued a partially acknowledged strategy of selective appropriation of Euro-American technology and social practices, and insisted on refraining from hatred of whites or “envy” of their power—or indeed of armed resistance to them. However, according to Anthony F.C. Wallace’s classic study *Death and Rebirth of the Seneca*, the Handsome

³⁹² Wallace, *Death and Rebirth of the Seneca*, 220-36, 272-7. Matthew Dennis complicates our understanding of the Quakers as a colonial force by arguing that the agricultural “improvements” the Quakers introduced did indeed make the Senecas more self-sufficient and less vulnerable to dispossession. Matthew Dennis, *Seneca Possessed: Indians, Witchcraft, and Power in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 2010), 160 and 152-80 generally. For the missionary role in the southeast, see John Demos, *The Heathen School: A Story of Hope and Betrayal in the Early Republic* (New York: Random House, 2014), and John A. Andrew, *From Revivals to Removal: Jeremiah Evarts, the Cherokee Nation, and the Search for the Soul of America* (Athens: University of Georgia Press, 1992).

Lake religion embraced a militant refusal to sell any more Indian land to whites, a trait that it shared with the Cherokee national revival.³⁹³

Practitioners of the Handsome Lake religion among the Seneca were less successful than Cherokee nationalists in enforcing their prohibition against land sales. Indeed, the Seneca Nation had not congealed into a nation-state capable of coercing obedience to tribal law, as the Cherokee Nation had during the first decades of the 1800s. Even before the removal crisis of the 1830s, the Seneca people lost land steadily. Senecas were divided geographically into separate communities residing on separate reservations, and the process of approving land sales for the nation as a whole was not agreed upon. The traditional governance of the League of the Six Nations had been weakened, and no unifying nation-state structure of governance had taken its place.³⁹⁴ The Senecas struggled to maintain unity around the issue of land sales and leases to whites on a tribal level.

However, within the small Tonawanda enclave, where the practice of the Handsome Lake religion was strongest and where Christianity had the weakest hold, for decades the Seneca people held a remarkable degree of consensus around the refusal to sell land. Cohesion gave them an important advantage when it came to dealing with the machinations of the Ogden Company.

On the level of state politics, the Senecas were simply less of a political threat to New York by the 1830s, and New York had less political honor on the line than Georgia

³⁹³ Matthew Dennis, "The Colonial Crucible and the Post-Revolutionary Predicament," chap. 1 in *Seneca Possessed*, 19-53, Wallace, *Death and Rebirth*, 239-303. On proscription of further land sale in Handsome Lake's message and among his followers, see 260, 280.

³⁹⁴ That is, until the Quaker-encouraged "Revolution of 1848" resulted in the formation of a republican form of government on two of the three remaining reservations (C. Joseph Genetin-Pilawa, *Crooked Paths to Allotment: The Fight Over Federal Indian Policy After the Civil War* (Chapel Hill: UNC Press, 2012), 46-7).

had in the Cherokee question. While Georgians were apprehensive that they might never get ahold of Cherokee land because of the success of the Cherokee renaissance, New Yorkers were confident in their ability to assert their sovereignty and jurisdiction over the fragmented and less powerful Senecas. Since the Senecas controlled much less land and wealth by the 1820s than the Cherokees did, there was less to steal from them.³⁹⁵

The difference in size and power between the Cherokees and Senecas worked together with the fact that there was a very different internal history of state politics and Indian dispossession in New York, than in Georgia. The land lottery system in Georgia, as we have seen, gave everyone in Georgia a stake in colonizing new Indian lands. The contrast with Georgia is striking: In western New York and northwest Pennsylvania, large nepotistic land companies bought land directly from Indians, as speculative investments. In western Pennsylvania and western New York the State's collusion with large speculating land companies (such as the Holland Land Company, the Pennsylvania Population Company, and the Ogden Land Company) meant that land prices for ordinary settlers were prohibitively expensive in the early years of the 1800s. As historian Anthony F.C. Wallace tells it:

Frequently one great company, rather than waiting for years to dispose of its land lot by lot, would sell it off to lesser companies in parcels of tons or hundreds of thousands of acres, and these companies in turn would sell to still smaller companies and to private speculators, so that by the time the theoretically intended ultimate purchaser, the small emigrant farmer, was reached, the price of the land had increased beyond his capacity to pay. Actual settlement, surprisingly hesitant everywhere, was very slow in the southern Genesee and the upper Allegheny country [...] while regions far to the westward were becoming agriculturally prosperous and even urbanized.³⁹⁶

³⁹⁵ The Cherokee Nation in the East had over 18,000 people, and 1,707,900 acres of tillable land property was valued at \$7,055,469.70 by historian Matthew Gregg, and the Senate determined to pay 5 million dollars for it in the Treaty of New Echota. Matthew Gregg, "Shortchanged: Uncovering the Value of Pre-Removal Cherokee Property," *The Chronicles of Oklahoma*, 3, (2009), 321. The Senecas in western New York in 1838, on the other hand, had 119,000 total acres, and 2,449 people. Meanwhile, 202,000 dollars were allocated to the Senecas in the Treaty of 1838. Society of Friends, *Case of the New York Indians*, 5 and 20.

³⁹⁶ Wallace, *Death and Rebirth*, 208-16.

Meanwhile, frustration and anger with big land companies spilled over into violence. “Eventually rumors circulated that titles procured from the land companies were worthless, farmers refused to pay for their lands, law suits multiplied, there was gunfire,” Wallace writes. “In New York...when the mobs formed, the government supported the land companies by calling out the militia. But nonetheless, by 1835 only about half of the [1797 Treaty of] Big Tree purchase [from the Senecas] had been sold off.”³⁹⁷ Conflict between settlers and speculators/land companies combined with relative geographic and environmental isolation to produce very slow settlement for most of the land around the Seneca reservations, with the exception of the very fertile Genesee Flats, and the Buffalo Creek Reservation (just south of the city of Buffalo).³⁹⁸

Accordingly, many settlers in New York had found it expedient to lease land directly from Indians rather than to purchase land from large land companies. Those who leased land from Indians attempted to overstep the bounds of their agreements, clashed with Indians over resources, committed crimes against Indians, and caused disruption in Indian communities, as historian Matthew Dennis explores. But lessees also had established relationships with Indians, and their claims to land and resources were invested in agreements with Indians that were endangered by the arrival of outsiders threatening to override those claims.³⁹⁹

³⁹⁷ Ibid., 214-5.

³⁹⁸ Wallace, *Death and Rebirth of the Seneca*, 208-15. Contrast this with Mary Young, “The Exercise of Sovereignty in Cherokee Georgia,” *Journal of the Early Republic*, Vol. 10, No. 1 (Spring 1990), 43-63.

³⁹⁹ Alan Taylor, “Leases,” chap. 6 in *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution* (New York, Random House, 2007), 169-205. Matthew Dennis also writes about the importance of leases in the Seneca case: “It was in fact their innovation and success in accommodating the new economic realities of the early republic—engaging in extensive market exchange, amassing land and developing its resources, and promoting economic development through leasing—that made them an obstacle to concerns such as the Ogden Land Company. ‘The History of every Indian Tribe on the Atlantic Coast without exception,’ Ogden wrote, ‘proves that they cannot long exist in their savage

Because of this different history of invasion and land acquisition, the conflict over Seneca removal was partly a local conflict between interested parties of whites over land—lessees versus pre-emptioners—and older established settlers versus the Ogden Land Company. Some neighbors of the Senecas already had access to Seneca land through lease directly from the Seneca people themselves, and this access would be compromised if the “pre-emptioners,” the Ogden Company, were to expel the Senecas and bring in settlers with their own exclusive claims to the land. “The committee [of Indian Affairs] feared the consequences of favoring one side in the extensive conflict between interested whites,” notes Mary Conable. “The ‘lessees of the Indians,’ its report observed, ‘and the pre-emptive claimants...seem to be as violently arrayed against each other as are the two divisions of the Indians themselves.’”⁴⁰⁰ Seneca Chief Nathaniel Strong claimed that the only reason that the Senecas did not agree to emigrate was that they were deceived by these whites who benefitted from their presence. “In short every argument,” he claimed,

which could be addressed to the fears, the passions and the prejudices of an ignorant and suspicious people were made use of. This was done by a combination composed of 1st the dram sellers—2^d, the lumberers—3rd, the lessees of mill seats—4th, the holders of hydraulic privileges near Buffalo—5th the holders of licenses to live on Indian lands—6th, the missionaries—7th, the Society of Friends.⁴⁰¹

Historian Genetin-Pilawa further claims that Seneca annuities provided the western New York economy with much needed specie, especially after the Panic of 1837.

character in the Neighborhood of civilized Society: Ogden hoped that President Monroe would help him fulfill such a prophecy, but in fact it was Seneca civility, not savagery, that made the Senecas problematic. The extinction that most concerned Ogden was his own.” Dennis, *Seneca Possessed*, 186-8. The Quakers, moreover, worried about leasing because of “the evil influence of whites” (“families of inferior grade had lately obtained a partial grant to move onto the Reservation”), and because they believed it encouraged idleness. (189). See also Genetin-Pilawa, *Crooked Paths to Allotment*, 42, and Conable, “A Steady Enemy,” 193, 229-30.

⁴⁰⁰ Conable, “A Steady Enemy,” 193.

⁴⁰¹ Strong, *Appeal to the Christian Community*, 10.

This is a striking contrast with the gold rush and the subsequent state sponsored lottery of gold mines on Cherokee land, where the desire for specie incentivized the seizure of Indian land, rather than the preservation of reservation communities.⁴⁰²

For all of these reasons, the Senate only conditionally ratified the Treaty of Buffalo Creek in 1838. Quaker publicity and the Senate report on the treaty made clear that embarrassingly blatant fraud had pervaded the treaty-making process. Though President Van Buren strongly supported the removal of the Senecas from New York, and Seneca Removal “enjoyed bipartisan support from Senators Wright and Tallmadge as well as Representative Fillmore,” even he balked at giving the treaty his stamp of approval and making it law.⁴⁰³

Preferring neither to reject nor to ratify the treaty, the Senate resolved to provisionally ratify the Treaty of Buffalo Creek, kicking the can down the road. It would not be the last time that the federal government would avoid taking decisive action over Seneca Removal.

The Senate resolution approved the Treaty of Buffalo Creek, but, with the understanding that the treaty-making process had been fatally compromised by fraud, the treaty was amended and returned to be explained to each of the Indian tribes of New

⁴⁰² Genetin-Pilawa, *Crooked Paths*, 42.

⁴⁰³ Van Buren declared that the Senate report on “irregularity and illegality” of the treaty “failed to remove my decided conviction that the proposed removal, if it can be accomplished by proper means, will be alike beneficial to the Indians, to the State in which the land is situated, and to the more general interest of the United States upon the subject of Indian affairs... To the Indians themselves, it presents the only prospect of preservation. Surrounded as they are, by all the influences which work their destruction, by temptation they cannot resist, and artifices they cannot counteract, they are rapidly declining, and notwithstanding the philanthropic efforts of the Society of Friends, it is believed that where they are, they must soon become extinct,” Valone, “William Seward,” 124.

York.⁴⁰⁴ In order to become law, each tribe “or band” had to approve the treaty in full and open council.⁴⁰⁵ The language read thus:

that the same should have no force or effect whatever, as it relates to *any of the tribes, nations, or bands of New York Indians*, nor should it be understood that the Senate had assented to *any of the contracts* connected therewith, until the same, with the amendments therein proposed, should be submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands, separately assembled, *in council*; and they had given their free and voluntary assent to said treaty as amended, and to their *contracts connected therewith*...[italics added by Quakers]⁴⁰⁶

But many ambiguities remained. Did the resolution of June 11th, 1838 put the decision to proclaim the treaty solely in the President’s hands? Or could the treaty only take effect when the treaty was reapproved in council by a majority of the chiefs, and subsequently ratified by the Senate? The wording was ambiguous. The resolution stated that the treaty could be proclaimed “whenever” the president “shall be satisfied” that the conditions of the resolution had been met, but on the hand, but then appeared to qualify this presidential power. “[P]rovided,” it read, “that the said treaty shall have no force or effect whatever” until it was explained and assented to in open council. The resolution said nothing about whether or not the new, amended treaty required two-thirds ratification in the Senate, a simple majority approval, or any further Senate action whatsoever.⁴⁰⁷

The U.S. Treaty Commissioner R.H. Gillett returned the amended treaty to the Senecas, and attempted, in collusion with the Ogden Company, to persuade a majority of Seneca chiefs to sign their assent. When the Senecas rejected the treaty in open-council,

⁴⁰⁴ The Senecas were not the only signatories, the treaty was a general agreement with all of the different tribes of New York, though the Senecas were the most resistant to it.

⁴⁰⁵ United States Congress, “*Resolution by Senate—Treaty with the New York Indians—protest of Tonawanda chiefs, &c.*” Exhibit D. in *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...* S.doc. 156 29th Congress, 2d Session, 1847, U.S. Congressional Serial Set, 48-9.

⁴⁰⁶ Society of Friends, *Case for the Senecas*, 3.

⁴⁰⁷ *Ibid.*, 16.

the commissioner did not take no for an answer. He called the council again and again, keeping it open for months, applying pressure on individual chiefs, unilaterally naming new chiefs, and gathering their signatures out of council. Commissioner Gillett even added the “signatures” of chiefs who later swore that they had never signed the treaty, until he had pasted together a bare majority. When scrutinized for his coercive and deceptive tactics, the commissioner countered that he was forced to act as he had because pro-treaty chiefs were being intimidated and attacked by anti-treaty chiefs, and were afraid to cast their votes in public.⁴⁰⁸

In the midst of the long process of delivering and coercing votes on the amended treaty, a pamphlet war raged between the anti-treaty forces, largely the Quakers and the anti-treaty Senecas, and the pro-treaty forces, largely the Ogden Company and pro-treaty Senecas. Quakers described the fraud and abuse of the treaty-making process, while Yale-educated pro-emigration Seneca Chief Nathaniel Strong hit back, excoriating the Quakers, arguing that the Friends and other self-interested enemies wished to prevent the Seneca “escape” from “bondage, degradation, and misery” to an “asylum” in the West. Removal was necessary, he said, because “the Indians as well as white men all concur in the opinion that the nation must become extinct before many years, unless they emigrate to the West. It seems to be the general expectation that they must ere long remove and all admit that it is the best to do so.”⁴⁰⁹

⁴⁰⁸ Ambrose Sevier, “Speech of Mr. Sevier, of Arkansas, the executive session, on the treaty with the New York Indians; delivered in the Senate of the United States March 17, 1840.” Exhibit C. *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...*S.doc. 156 29th Congress, 2d Session, 1847, U.S. Congressional Serial Set, 34-8. Senator Sevier countered Gillett’s claims by asserting that the emigration party chiefs were scared to sell Seneca land in open council precisely because they were an unpopular minority. (38).

⁴⁰⁹ Nathaniel F. Strong, *Appeal to the Christian Community*, 6.

Chief Strong published a long essay arguing in favor of removal, justifying all of the tactics employed by “the pre-emptive owners,” as he called the Ogden Company, to obtain the treaty. “The ignorance on the part of the [anti-removal] *chiefs*[...]to whom is committed to the government of the nation,” he wrote, was “a degree of ignorance which furnishes a singular illustration of the rapid improvement and general intelligence of the Seneca tribe alleged by their kind eulogists.” Indians who did not know their own interests should not be allowed to make their own decisions, making all manner of underhanded tactics appropriate to “save” them from “extinction.” “What is the meaning of the term *bribery*, ” he asked, “as applied to the Indians?”⁴¹⁰

Yet in spite of his defense of Ogden’s tactics Strong rejected the idea of Indian racial inferiority, and he denounced the injustice of colonization and dispossession, very much in the manner of the pro-treaty Cherokee chief Elias Boudinot, or the missionary Isaac McCoy:

The aborigines of this continent, from their first intercourse with the nations of Europe, have been the victims of that most unjust principle of colonization upon which the government of each nation first discovering any particular portion of this vast country, assumed over it an unqualified dominion, both as to soil and inhabitants.⁴¹¹

But Strong held that such “unjust” colonization was inevitable, as was Indian degradation and ignorance, as long as they were living on land claimed as property by others:

...The rights [to sovereignty] of Great Britain and her colonies which passed by the revolution to the states of this union, have since been asserted and exercised by them, in their fullest extent. We Indians thus hold our lands by a title comparatively worthless, and as to personal rights, are placed under restrictions equally severe and humiliating.⁴¹²

⁴¹⁰ Ibid., 20.

⁴¹¹ Ibid., 26.

⁴¹² Ibid., 27.

Furthermore, the law of property, and the historical process that went along with it, he held, could not be arrested or reversed by the decree of any legislature:

Your legislatures may, within another 150 years, admit us into your political family, but they cannot give us an effectual title to land which already belongs to others, nor can they shelter us from the influences which are taking from us the few virtues of the manly savage, and giving us in exchange the lowest vices of the most profligate of your white men, and spreading among our people the seeds of a loathsome disease, are polluting the very fountains of life.⁴¹³

While the U.S. treaty commissioner threatened Seneca chiefs with the inevitability of the emigration treaty, Strong argued bitterly in the language of fatal impact rhetoric that destruction was indeed the only alternative to accepting the treaty, and expressed condescending frustration at the intransigence of his own people.

The Quaker Joint Committee, angered by Strong's *Appeal to the Christian Community* and his denunciations of their activism, hit back at Strong by accusing him of being an Ogden Company stooge. Quakers defended their philanthropic record. They continued lobbying against the treaty as it came before Van Buren again in 1840.⁴¹⁴

Amidst conflicting imperatives, and anxious to avoid taking too much responsibility for the decision on whether or not to ratify the treaty, Van Buren equivocated. The President delivered a message on the amended treaty of Buffalo Creek when it came before him in 1840 that equaled the ambivalence that characterized the Senate Resolution of 1838. Van Buren admitted that the signatures of chiefs gained in private settings outside of open council could not count towards a majority. That improper means have been employed to obtain the assent of the Seneca chiefs, there is

⁴¹³ Ibid., 31.

⁴¹⁴ Society of Friends. *A Further Illustration of the Case of the Seneca Indians in the State of New York, in Review of a Pamphlet Entitled "An Appeal to the Christian Community, &c. By Nathaniel T. Strong, a Chief of the Seneca Tribe"* (Philadelphia: Printed by Merrihew and Thompson, No. 7 Carter's Alley, 1841). Petition to Van Buren, Society of Friends, *Case of the Seneca*, 51.

every reason to believe,” Van Buren admitted, “and I have not been able to satisfy myself that I can, consistently with the resolution of the Senate of the 2d of March, 1838, cause the treaty to be carried into effect in respect to the Seneca tribe.⁴¹⁵ Bribes, and the use of signatures not obtained in open council tainted the amended treaty to such an extent that Van Buren could not proclaim the treaty. He kicked the decision back to the Senate.

The Senate, in turn, spent the next couple of months trying to wiggle out of making a decision. The Committee on Indian Affairs returned a negative recommendation of the treaty in March of 1840. The Senate kept rephrasing the resolution and returning it for a vote until March 25, when it finally squeaked through by a bare majority, (not the two-thirds majority constitutionally required to ratify a treaty). Backed with the Senate’s official approval this time, Van Buren willingly proclaimed the treaty. The treaty, therefore, was passed by an extremely narrow margin, and of questionable constitutionality and legitimacy.⁴¹⁶

The Treaty of Buffalo Creek was now signed by the President and was officially the law of the land. Things looked bleak for the Senecas, and many reacted to the passing of the Treaty of Buffalo Creek with despair, assuming that their homes were now forfeit. “So our struggle is ended,” declared Chief Maris Pierce on hearing the news, “the next push will be at the point of a bayonet.”⁴¹⁷ However, factors discouraging the treaty’s implementation still remained, not the least of which was that almost no one had any

⁴¹⁵ Van Buren quoted in, Senate of the United States, *Journal of the Senate of the United States of America, Being the First Session of the Twenty-Sixth Congress, Begun and Held at the City of Washington, December 2, 1839, and the Sixty-Fourth Year of the Independence of the Said United States* (Washington: Printed by Blair and Rives, 1839), 563-567.

⁴¹⁶ Hauptman, *Conspiracy of Interests*, 190.

⁴¹⁷ Conable, “A Constant Enemy,” 215.

interest in removing the Seneca people from most of their remaining land except for that “overgrown, grasping land company,” as democratic Arkansas Senator Ambrose Sevier called the Ogden Company.⁴¹⁸ Besides, disaffection with the politics of Indian removal continued; opposition to the Second Seminole War, the second most expensive Indian war in U.S. history, saw to that.⁴¹⁹ The expense and unnecessary nature of removal of Seneca Indians, and the use of U.S. money exclusively to benefit the Ogden Land Company, without national security or economic benefit, was not on the top of the list of priorities for lawmakers voting on appropriations. A memorial to Congress from Quaker leader Benjamin Ferris in 1841 expressed well the dubious nature of the treaty’s supposed benefits to the United States, characterizing it accurately as an expensive gift by the federal government, to a small private company of international speculators, at the expense of innocent Indians:

There is one feature in the character of this negotiation with the New York Indians which we think ought to claim the particular attention of your body, as *the guardians of the public treasure*. By that treaty, four and twenty-four thousand acres of the *public* lands, are to be given to the New York Indians, as an inducement to relinquish their possessions in the State of New York, *for the benefit of the Ogden Land Company*—an association of speculators, whose stock, to a considerable extent, is understood to be held by British capitalists.⁴²⁰

Although the treaty was passed, therefore, Congress had little interest in implementing it any time soon.

⁴¹⁸ Ambrose Sevier, “Speech of Mr. Sevier,” 27.

⁴¹⁹ Hauptman, *Conspiracy of Interests*, 196.

⁴²⁰ Ferris, Benjamin. *Treaty with the Seneca Indians. Memorial of Benjamin Ferris, in behalf of the four yearly meetings of Friends, of Genesee, New York, Philadelphia, and Baltimore, remonstrating against any appropriation being made to carry out the treaty with the Seneca Indians. January 8, 1841. Referred to the Committee on Indian Affairs. 26th Congress, 2^d Session, 1841, H. Doc. 66, U.S. Congressional Serial Set. Also in *Case for the Seneca Indians*, 49-50.*

However, the Ogden Company now had their removal treaty. Whether or not Congress was willing to vote appropriations to fulfill it immediately, the treaty was now the law of the land. The Ogden Company, Senecas and their allies, all perceived that it was only a matter of time before the company would succeed in lobbying congress to implement the treaty in the future, and until that time the threat of imminent dispossession it represented would hang over Seneca heads.

Accordingly, the Quakers were willing to enter negotiations with New York State and the company for a compromise, though the Senecas themselves were excluded from these negotiations. As historian Lawrence Hauptman points out, the company had powerful interests in common with the Seneca people's most powerful allies: the Quakers, and the Whig Party, which these allies did not share with the Seneca people themselves. Whigs and Quakers may have been opposed to Indian removal, (that is, forced emigration beyond the Mississippi), a policy that had lost legitimacy with the electorate. However, both favored a more limited dispossession of the Seneca people; both favored their concentration on smaller reservations, the extension of New York State jurisdiction over them, and a continuation of the civilizing program with the aim of the eventual and peaceful assimilation of the Seneca people, as individuals, into the American republic.⁴²¹

The Senecas's white allies, the Quakers and the Whig Party, shared with the Ogden Company the belief that there was no way that the Seneca people could hold onto the large Buffalo Creek Reservation, since it was located right up against the growing city of Buffalo, and suffered from rapidly multiplying incursions. Quakers and Whigs

⁴²¹ Hauptman, *Heroic Battle*, 56-7.

echoed the pro-removal rhetoric about Buffalo Creek. Like Isaac McCoy, they argued that exposure to a rapidly growing white population encouraged vice, exploitation, disorder, and demoralization among the Indians. To all of the familiar tropes of frontier disorder and the perils of urban disorder were present: violence and vice, including sexual dangers of fornication and prostitution. In short, all the most powerful interested groups of whites were in rhetorical agreement that the expanding city of Buffalo was not only overwhelming Seneca ability to hold onto their lands, but was also corrupting them morally.⁴²²

All agreed that Buffalo Creek had to go. But the Quakers and Whigs believed they could bargain with the Ogden Company to prevent forced expulsion across the Mississippi River to Kansas, and keep the remaining Seneca people on smaller reservations in New York, where the Senecas would be accessible to missionaries and other agents of civilization, and assimilation. The Whigs and the Quakers recognized that the Ogden Company was vulnerable and could be leveraged into making concessions. Accordingly, they entered into negotiations to amend the Treaty of Buffalo Creek. But the concessions they sought were concessions shaped by the abovementioned colonial agenda towards the Senecas, without the input of Seneca negotiators themselves. Quakers

⁴²² [Whig governor William Seward] noted that many philanthropists believed that it would be “wise and prudent” for the Indians to seek new homes in the far west in order to escape the frauds and vices of “depraved men of our race.” But he also supported the Seneca position that “the consent of the Senecas was obtained by fraud, corruption and violence and that it is therefore false and ought to be held void.” Valone goes on to write: “The three men [Cooper, Ferris, and Thomas who presented the Compromise Treaty to the Senecas]...referred to the inevitability of Indian population decline and massive white population increases. The Hicksite Quakers indicated that from “the great water which lies toward the rising sun, to the great Mississippi, the father of rivers, a distance of almost one thousand miles, they [the Indians] have nearly all disappeared.” Tocqueville himself was disgusted with the Buffalo Creek Seneca. Valone, “William Seward, Whig Politics,” 130. Much like Troup’s and Ogden’s arguments earlier, the evil was increased by the Seneca’s proximity to the city of Buffalo where Indians “are exposed to the pernicious examples and contaminating influences of wicked white men, by which many of you have been corrupted, and others much injured.” Hauptman, *Conspiracy of Interests*, 208.

even sent away Tonawanda representatives from a meeting on the treaty in New York, encouraging them to go home, and to forward their petitions through the Friends, rather than going on to Washington to negotiate themselves. Though the Quakers had negotiated away their reservation in the Compromise Treaty in question, Tonawanda representatives only showed up to the treaty conference one day after it began at Buffalo Creek in 1842, and learned the news while proceedings were well underway.⁴²³

The Quaker rhetoric employed in the Buffalo Creek Council of 1842, in which the Compromise Treaty was presented to Seneca chiefs, is a textbook example of the employment of inevitability rhetoric to wash one's hands of responsibility for dispossessing Indians. The Quakers in charge of negotiations with the Ogden Company, the federal government, and New York State may possibly have been correct in their judgment that they could not have obtained better terms for the Senecas than those contained in the Compromise Treaty. However, historian Lawrence Hauptman makes it clear that the loss of Buffalo Creek and Tonawanda were part of the Quaker agenda for the Senecas, they did not oppose it, and sought no Seneca input on the matter, in spite of the fact that the Seneca chiefs would have preferred a different compromise that took some land from each reservation, but that did not eliminate any of them.⁴²⁴

Additionally, Quaker rhetoric obfuscated the leverage that the Senecas possessed by virtue of the fact that the government was reluctant to enforce the Treaty of Buffalo

⁴²³ Hauptman, *Heroic Battle*, 56-7.

⁴²⁴ "As late as April 1842, learning from their divisive past, the Senecas from all their communities had reached agreement among themselves that called for a reduction of the size of each of the four reservations, rather than surrendering any one. This agreement would have allowed approximately twenty acres per family use," Hauptman writes, citing a letter from Seneca Chief Maris Pierce to negotiator John Canfield Spencer, who represented New York State. Laurence M. Hauptman, *Conspiracy of Interests: Iroquois Dispossession and the Rise of New York State* (Syracuse, N.Y.: Syracuse University Press, 1999), 192-5.

Creek. True, the loss of Buffalo Creek, or a large part thereof, was highly likely considering the fact that all of the Seneca's major white allies believed it to be so because of the population pressures that it faced. A degree of support for this position even existed within the Buffalo Creek Reservation itself.⁴²⁵ However, Tonawanda was a different story. Though all of the white people involved in the treaty negotiations accepted the idea that Buffalo Creek should be surrendered, and though this loss was specified in Commissioner Spencer's instructions, the relinquishment of Tonawanda was not.⁴²⁶ The fact was that the Quakers themselves preferred the Senecas to lose two reservations wholesale and concentrate their separate communities because it accorded with their own judgment of the Seneca people's best interests.⁴²⁷ Therefore, as much truth as it contained, the Quaker narrative of disinterested service at this point became a justification for imposing a solution on behalf of the Senecas that the Tonawanda Seneca in particular were vehemently against. Quaker insistence on majority rule (of the Senecas as a whole, not within individual reservations), and Quaker insistence that they had

⁴²⁵ Conable, "A Steady Enemy," 197.

⁴²⁶ Commissioner of Indian Affairs T. Hartley Crawford wrote Spencer stating that Washington's aims were to save "an already flourishing and still advancing portion of the Territory of New York from the encumbrance of Indian populations, and those Indians themselves from the temptations that surround them where they now are[...]. There is much more land embraced in small reservations than the Seneca can use." Specifying that Buffalo should not be returned to the Senecas but not specifying Tonawanda. They "would thus be furthest removed from the vicinity of the whites and there will be the least interference with the progress of improvement of that important section of the state." Ambrose Spencer likewise wrote to Crawford: "The principle and perhaps sole object of the [new] treaty as you represent is to enable Major Ogden and Fellows to reconvey to the Senecas all the lands ceded to them on the 15th of January, 1838, except the Buffalo and some other portions of the lands ceded, on the principles stated in your letter." (Hauptman, *Heroic Battle*, 54. These letters cited by Hauptman are from Francis Jennings, *Documentary History of the Iroquois*, reels 48 and 49 [1837-1921]).

⁴²⁷ [Thomas and Cooper, the Quaker delegates] "insisted once again that the treaty of 1842 was the best that they could secure and that they had no agenda besides compassion for the Indians. Cooper insisted that the Hicksites never asked for money or lands nor "have we ever attempted to force our religion on you. You yourselves know, that we have never asked any thing of you, as a reward for our labor." Hauptman, *Conspiracy of Interests*, 209.

obtained “the most favorable terms in our power” now became tools to convince the Indians to support a “compromise” relinquishing Tonawanda and Buffalo Creek.⁴²⁸

The Quakers who negotiated and presented the Compromise Treaty of 1842 echoed Ogden Company fatal impact rhetoric that they had done their best to deny just several years before during their struggle against the Buffalo Creek Treaty. An 1839 petition signed by Quaker negotiators Philip Thomas and Benjamin Ferris had declared that “partly by the force of example” from neighboring whites and Quaker missionaries, “[the Senecas] have within a short period, made more rapid advances in the arts and improvements of *civilized* life than at any former time.”⁴²⁹

Now, the same Quakers who signed these petitions just two years before claimed exactly the opposite about the corruption of the Senecas by their white neighbors, and their prospects of “civilization” on the reservations they inhabited:

Brothers! It is well known to you, that by your proximity to the city of Buffalo, your people are exposed to the pernicious example and contaminating influences of wicked men, by which many of you have been corrupted, and others much injured. Should you accept the proposed treaty, such of you as may remain on your New York lands will be further removed from a situation which has already been to you a source of much injury.

Brothers! We have done every thing that it was in our power to do[...]⁴³⁰

In a stark reversal, the Quaker delegates went on to present Seneca—and indeed all Native American history, as a grand declension narrative. Quaker delegates blamed Indians themselves for the tragedy. In the process, Quaker delegates minimized the

⁴²⁸ Society of Friends, *Proceedings of an Indian Council: Held at the Buffalo Creek Reservation, State of New York, Fourth Month of 1842*, Exhibit E. in United States Congress, Senate. In *Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report*:...S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set, 70.

⁴²⁹ Quotation from Society of Friends, *Case of the Senecas*, 27. “In language reminiscent of David A. Ogden’s arguments earlier, the three men also made reference to the inevitability of Indian population decline, massive white population increases, and the corrupting influences found in Buffalo and its environs.” Hauptman, *Heroic Battle*, 58.

⁴³⁰ Society of Friends, “Council at Buffalo Creek,” 65.

adaptation of the Seneca nation to “civilization,” adaptation which they had extolled as two years previously in their petition against the Buffalo Creek Treaty as “beyond our expectations” and “unparalleled in any former time”⁴³¹:

Brothers, listen! You know that the white men have a written language. By this means we can look backward, and see clearly over all the long path in which the *red* men and the *white* men have been walking, now more than two hundred years. We have seen that from the day when the *white men* first set their feet on you land *they* have been *increasing*, and the *red men* have been *decreasing*[...] little remnants yet living are poor and weak, and scattered abroad[...]

[...]when there are no wars, and no contagious diseases among them, they still continue to decrease. We think that the use of strong liquors, and the indolent mode of life yet followed by many of your people, are the principal causes of this decrease.”⁴³²

[...] Brothers! You know that under the circumstances in which you are now placed, surrounded by a white population, the white men, by their intelligence, are constantly taking advantages of you, which we believe will always be the case until you are prepared, by a better education and a more general acquaintance with the habits and customs of civilized life, to guard yourselves against them.

[...]but if you will not follow this advice [to go to school and become civilized] nothing your friends have done, or can do for you, will save you from extinction, and the day is not very distant when, like the snow under a warm sun, your race will melt away, and be seen of men no more.⁴³³

In the context of a discussion of the proposed compromise treaty, this statement makes it seem as if to reject the treaty is to accept “extinction.” Indeed, it can almost be read as a threat of “extinction” if they do not agree with Quaker authority and the whole Quaker program, of which the Compromise Treaty, with its concentration and removal from “corrupt” influences at Buffalo Creek is a part. Perhaps there was some guilty conscience that made it necessary to adopt an imperious and defensive stance, mingled, as had been the case with Boudinot and the Pro-Treaty party among the Cherokees, with a genuine concern to avert what Quakers saw as certain catastrophe.

⁴³¹ Society of Friends, *Case of the New York Indians*, 38.

⁴³² Society of Friends, “Council at Buffalo Creek,” 65.

⁴³³ *Ibid.*, 66.

Seneca chiefs were then invited to respond to this “talk,” and they responded very shrewdly, ignoring the grandstanding metahistorical rhetoric and cutting to the chase by asking a series of practical questions about the contents of the new treaty. Seneca chiefs asked again and again about the possibility of altering the deal. Chief Israel Jemison was eager to know if the Senecas might not amend the Compromise Treaty to surrender some land from each reservation instead of surrendering Buffalo Creek and Tonawanda, thereby securing the existence of their separate communities, and avoid overcrowding and infighting.⁴³⁴ Other chiefs proposed other alterations: Daniel Twoguns asked if the Ogden Land Company would be amenable to dividing the reservations into family farms, essentially proposing allotment, while Jacob Johnson asked if the company would be satisfied taking their wilderness lands and leaving their improved lands alone. Tunis Halftown asked the very important question of whether or not the Ogden Company, in this deal, would finally give up its pre-emption rights to the remaining two reservations?⁴³⁵

But one Seneca chief, (incidentally not from Buffalo Creek or Tonawanda) questioned Quaker claims of the inevitability of the treaty. Chief Israel Jemison of Cattaraugus presented an analysis of, and challenge to, the historical vision of declension and inevitable dispossession that the Quakers laid out. Chief Jemison diplomatically and judiciously acknowledged Quaker virtue and good intentions without accepting their degrading portrait of Seneca people. Jemison assuaged Quaker egos about their virtue and their philanthropy very diplomatically and separated these issues from the question of whether or not to accept the treaty at hand:

⁴³⁴ Ibid., 69 “Again, Twoguns repeated the question whether the treaty could be altered or not.”

⁴³⁵ Ibid., 68.

Your fathers long ago told us the same things you have told us this day, and you have repeatedly given us the same information and instruction that you now give us. We believe you to be our friends...these are proofs and witnesses that you have much feeling for our people...

We now come to another subject, the important business of our present council.

We want to know, if the chiefs should conclude to give up another reservation in exchange for one of these, whether the Ogden Company would accede to it.⁴³⁶

Jemison bypassed the issues of Quaker virtue and Seneca declension to question the idea that the Senecas had no choice but accept the treaty. Jemison then asked the most important question about the mysterious treaty that had just been suddenly presented to them—“[H]e also wished particularly to know,” the treaty minutes read, “if the Ogden Company really had acquired vested rights under the supplementary treaty [of 1840], what considerations had led that company to accede to this compromise arrangement.” In other words, what was the source of Seneca leverage? Why, if the lands were truly already sold and the reservations already lost, had the company agreed to compromise at all?⁴³⁷

Quaker representative Philip Thomas did not respond directly. Instead, he attributed whatever advantage the Senecas had gained to heroic Quaker efforts at moral persuasion: “...the [Quaker Joint Yearly] committee petitioned Congress not to furnish money to carry [the treaty] into execution. This, however, they were aware could only produce a temporary suspension of the treaty, because it was foreseen that in the end Congress would grant the money, and the treaty be carried into effect.” At any rate, Thomas urged, Quakers had encountered “many difficulties, and expended much time and labor” to obtain the terms that they had, and he solemnly warned that they “will

⁴³⁶ Ibid., 66.

⁴³⁷ Ibid., 69.

never be able to obtain as favorable ones hereafter.”⁴³⁸ From here things will only get worse, he urged; take the Compromise Treaty and be saved. It is up to you to save yourselves by agreeing to the generous opportunity we have so selflessly procured for you. Ferris asserted further that “by this treaty, the Indians do not give any thing; they are only the receivers,” since the Senecas had already lost their reservations, according to American law, through the ratified Treaty of Buffalo Creek.⁴³⁹ The treaty was, as the Quaker representatives had said,

not open to alteration or amendment. It must either be accepted or rejected *as it is*. This your friends have assented to, because we are convinced that if it be once open to alteration, matters might be introduced into it prejudicial to your interests, whilst there is no hope that any additional advantages whatever could be obtained for you⁴⁴⁰

Then something remarkable happened: A Seneca chief called the bluff of the Quakers and the Ogden Company. Cutting through the Quaker presentation of the treaty as the only alternative to inevitable destruction, Jemison deduced the vulnerability of the Ogden Company claims under the Treaty of Buffalo Creek from the fact that they were willing to cede two reservations back to the Seneca.

I will never say that I have parted with my lands. I have never signed any instrument conveying these lands to the Ogden Company. I believe if the chiefs, or a majority of them, ever conveyed these lands to the Ogden Company by good and sufficient title, that company would never be willing to convey them back again. *For my part, I conclude that because they are now willing to restore these two reservations, they consider the contract was fraudulent and not valid.*⁴⁴¹ [italics added].

⁴³⁸“The Ogden Company perceiving that not only the whole influence of the Society of Friends would be exerted against them, but also that we should have the assistance of the government, now listened to our overtures...After a great deal of labor and perseverance...We will not conceal any thing from you. We therefore tell you plainly, that we have, after encountering many difficulties, and expended much time and labor, obtained for you the most favorable terms in our power. The Ogden Company have with difficulty been brought to agree to the terms of this treaty; and it is our opinion, which we desire you distinctly to understand, that if the present terms are rejected, you will never be able to obtain as favorable ones hereafter.” Ibid., 70.

⁴³⁹ Ibid., 74.

⁴⁴⁰ Ibid., 71.

⁴⁴¹ Ibid., 74.

Pointing to recent examples from the negotiations over Seneca removal, Jemison then went on to articulate the idea that the use of deception was a key means of obtaining Indian consent when such consent, was legally or logistically important, but could not be obtained by telling Indians the truth:

It is my opinion that the white people will resort to any means to deceive the Indians. Because we are few and weak, they think they can do as they please with us: they take advantage of our weakness, to cheat and deceive us.

We were told last year by the Secretary of War...that if the Indians did not wish to remove to the lands the government had assigned them in the west, but should prefer to remove to another place, they might do so. It seems now that this proposition was made to gain influence and obtain votes in favor of the treaty. The laws of the United States required that the Indians should emigrate to the Indian territory; and yet this proposition was made by the Secretary of War.

Brothers, the white people understand how to deceive; they know how to make statements and propositions that shall appear plausible to the minds of the Indians: they say one thing, and at the same time mean another.⁴⁴²

Jemison went on to advocate the withholding of consent. If the Senecas were to be forced off the land by superior military power, Jemison argued, then there was nothing they could do to prevent that. But as long as the U.S. insisted on framing dispossession as a mutual, contractual agreement, then the Indians should call the bluff. Accordingly, Jemison cast his vote against the Compromise Treaty.

It is my determination, from this time forward, never to consent to part with these lands, or any thing that I have. If any individual proposes to purchase my lands, and I do not wish to sell, he cannot have them. He may, if he has the power, and thinks best to use it, compel me to part with my property; but while I have a voice in the matter, my answer will be—you cannot have it.

If I consent to this treaty, my mouth will be shut; I shall then have no voice in the sale of my lands. Now, I think, in order to make a contract valid, both parties ought to have a voice in making that contract. I shall therefore not consent to this treaty.⁴⁴³

⁴⁴² Ibid., 74.

⁴⁴³ Ibid., 74.

Nevertheless, Jemison's voice did not carry the day. In a later petition, Seneca chiefs made it clear that it was the ultimatum and threat of losing *all* of their lands that led them to cave and assent to the Compromise Treaty. The Friends mollified chiefs by telling them that they might send suggested alterations and amendments to the treaty to the Secretary of War after the Seneca chiefs had signed their consent to the treaty. But the Seneca request to give up parts of each reservation rather than surrender two of them outright was simply ignored.⁴⁴⁴

The Friends addressed them [at Buffalo Creek]...If the Seneca nation would not agree to the proposed treaty then, the Ogden Company would do it [take Seneca lands and force them off] at any other time...

The Seneca chiefs concluded that as they had no voice in the framing of the treaty, they would propose alterations and amendments, which should be sent to the Secretary of War. They proposed to give up a part of each reservation, reserving to each native that wished to remain twenty acres of land, and, through the influence of [Quaker representative] G.M. Cooper, consented, if government would not comply with our request, to give our signatures to the proposed treaty, without alteration. We did not understand the subject as it was; had we, we should not have given our consent.⁴⁴⁵

And so things stood in 1842. A resolution to the crisis seemed to have been reached by mutual agreement among whites, and grudging acceptance among most Seneca Indians.

Hence the real question is not why the Seneca managed to defeat the Treaty of Buffalo Creek of 1838. It was expensive, controversial, rejected by the Quakers—who did much propaganda and legal leg work—and by the Whig party, which opposed Indian removal and Indian wars because of their expense and unpopularity in the North. Even many of the Seneca's neighbors in New York State did not support their removal. The

⁴⁴⁴ United States Congress, Senate, "Memorial of the Tonawanda Band of Seneca," in *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...*S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set, 3.

⁴⁴⁵ Ibid.

primary beneficiary of the 1838 treaty of Buffalo Creek—particularly of the expulsion implied by it—was, indeed, the Ogden Land Company: few other white people stood to benefit by the execution of such an expensive, taxpayer funded theft.

However, this is not true of the Compromise Treaty. Even the Seneca's most steadfast white allies, the Quakers, were sure that the loss of Buffalo Creek was inevitable,⁴⁴⁶ and they had no desire to protect the Tonawanda reserve. The Quakers had no missions there and saw those people as the most backward, least Christianizing of the Senecas. The Whig Party fully supported the Compromise Treaty of 1842—they did not want the expense and moral odium of removing the Indians, but they did want to concentrate them on smaller reservations, thus freeing up land for the city of Buffalo to expand, and enabling greater missionary and state control over Seneca society.⁴⁴⁷ The Tonawandas alone refused to accept removal, but they had no allies left even within their own nation.

Anyone might have predicted that events would unfold along a well-trod path of theft and dispossession by means of a dubious treaty, backed up by constant encroachment and the threat of force. But that is not quite what happened in this case. Though Buffalo Creek was turned over to the Ogden Company, Tonawanda Seneca people dug in for a stubborn decade and a half long standoff with the enemy, and finally, negotiated a deal by which they kept the bulk of the Tonawanda reservation. By 1857,

⁴⁴⁶ Hauptman, *Conspiracy of Interests*, 208.

⁴⁴⁷ Ibid., 192-5. "Quite significantly," Hauptman writes, "both the representatives of the Hicksite Friends and the Whigs—especially the powerful branch of the party in New York State that included Millard Fillmore, Hamilton Fish, Horace Greeley, William Seward, Thurlow Weed, and the Spencers father and son—received much of what they desired in the treaty. By consciously working with the Hicksites, the conservative Whigs wanted to extend New York State jurisdiction over Indians, save federal moneys, continue to develop state roads, canals, and railroads, ensure the future prosperity of Buffalo, and close the books on the much criticized, now discredited, and expensive Indian removal policies of the Jacksonian—Van Buren eras."

fifteen years later, the Seneca people of Tonawanda, whose home had been slated to be handed over to the Ogden Land Company, had partially defeated the Compromise Treaty and won recognition of their ownership of three fifths of their reservation.

How did they prevail?

Chapter Five: Calling the Bluff Part Two: The Tonawanda Removal Struggle

Cattaraugus Seneca Chief Israel Jemison's major insight was that the Seneca had more power than their adversaries were portraying. Whites might present the Compromise Treaty as a fait accompli. But Jemison argued that Senecas had the power of refusal. The power to withhold consent and drive a bargain was a potentially powerful weapon. Despite the agreement of most chiefs outside of Tonawanda, even many from Buffalo Creek, Jemison loudly refused to grant his assent, as did every chief representing Tonawanda. Jemison recognized and articulated an analysis of the psychology of inevitability rhetoric, and its role in compelling Indians to cooperate in their own dispossession, in order to preserve the veneer of consent and cooperation. Jemison also understood that the Ogden Company, for all of the pressure that they could bring to bear, legally and practically needed some measure of Seneca cooperation and assent in order to take over Seneca land.

This is not to underestimate the enemy the Tonawandas faced. The Tonawanda Seneca who fought against the loss of their reservation understood full well the power arrayed against them, and the discouraging unreliability of the Senecas' own white allies.

Even those who fought hardest and longest against the Ogden Company were not beyond moments of despair. Tonawanda man Ely Parker is a prime example.

Parker was still in his teens during the treaty fight, but he emerged as an important player. Parker was a bi-culturally educated Tonawanda man who went on to become a lawyer, an engineer, a major contributor to Lewis Henry Morgan's foundational anthropological work, a Civil War general and secretary to Ulysses S. Grant, and the first Native American head of the Bureau of Indian Affairs. Parker cut his teeth precociously by playing a prominent role interpreting between Seneca and English, lobbying, and strategizing in this fight to save Tonawanda, and he persisted in the fight for fourteen years without ever advocating surrender. But frustrating, fruitless, lonely months of lobbying in Washington at times gave him occasion to despair. After the failure of a petition campaign to persuade the Senate to overturn the Compromise Treaty in 1846, Parker expressed his anguish and pessimism in his diary in language very reminiscent of common Euro-American narratives of inevitable Indian extinction. "It is from this place [Washington]," he wrote, "the decrees have emanated, dooming my kin to the grave. They are to become extinct without even leaving a monument to remind the antiquarian that they once existed a happy race of beings. They are soon to be lost to the memory of man."⁴⁴⁸ He even used this kind of language of inevitable extinction in front of crowds of whites.⁴⁴⁹

⁴⁴⁸ Quoted in Armstrong, *Warrior in Two Camps*, 24. There are other instances where Parker fell into this language. For example, Parker's commentary on rotunda painting in the Capitol, of the Pilgrims, William Penn and the treaties, Pocahontas saving John Smith: "Col. Boon the hero of Kentucky in mortal contest with an Indian. Both are struggling for life. But Boon has already killed one Indian & has trampled upon his mangled body. Such is the fate of the poor red man. His contest with the whites is hopeless yet he is not permitted to live even in peace, nor are his last moments given him by his insulting foe to make his peace with his God. Humbly we ask whether justice will always sleep and will not the oppressed go free."

⁴⁴⁹ Maureen Konkle, *Writing Indian Nations: Native Intellectuals and the Politics of Historiography, 1827—1863* (Athens: University of North Carolina Press), 263-4.

Clearly, Parker understood that the Ogden Land Company (and white America in general) had significant means of deception and coercion at its disposal, and that his people's cause was dependent on cooperation of white politicians, judges and others who often had little incentive to help them. Parker never glibly asserted his or his people's "agency", or advanced the idea that with a little gumption, persistence, and sheer willpower they could secure their Native American dream, so to speak, of self-determination on their own land. But, recognizing their enemies' vulnerability, Parker and other Tonawanda Seneca people knew that they could, (and thus did), steadily withhold cooperation. "No matter what," said Parker in a letter to his brother Nicholson, "let us try and be united and hang on to our lands as a fox hangs on to its prey."⁴⁵⁰

In order to express their active lack of consent, Tonawanda Senecas steadfastly refused to allow surveys of their land, sometimes physically forcing surveyors off, breaking their equipment, and engaging in physical (but non-lethal) confrontations with surveyors and squatters to police the boundaries of their reservation. According to Love and Cook, appraisers sent by the land company to appraise improvements on Tonawanda, they "were taken by the arm and told that unless we retired," the Senecas would forcibly carry them out. Then they "were accompanied by most of the council to the line of their land with a chief or warriors at each arm. No personal violence was offered."⁴⁵¹ The Tonawandas subsequently refused to accept improvement money for their property, and refusal turned out to be their key legal leverage: Under the Compromise Treaty, this

⁴⁵⁰ Genetin-Pilawa, *Crooked Paths*, 38.

⁴⁵¹ Hauptman, *Heroic Battle*, 67-8, 70.

money had to be paid before its terms could be carried out, and the refusal to accept it was a means of indefinitely stalling implementation.⁴⁵²

I am not trying to say that the only difference between the outcomes of the Seneca and Cherokee removal crises was that Seneca leaders fought harder than Cherokee chiefs and that unlike them, they refused to buy the idea that their removal was inevitable. In retrospect, it is apparent that political and social circumstances, both local and national, favored the Tonawanda Seneca struggle more than the Cherokee struggle. But there is no doubt that the belief in the inevitability of removal played a role in the sale of both the Cherokee national lands, and the Buffalo Creek Seneca reservation. It is likewise clear that the unanimous refusal to accept such inevitability was a key factor in the ability of the Tonawanda Senecas to hold onto their land, when such an outcome could not have been safely taken for granted, to say the least.

To fight their battle, Tonawandas and their allies countered narratives of inevitability, undercutting fatal impact assumptions by using rhetoric that suggested the beneficial nature of contact with whites on Seneca communities. To understand the Tonawanda campaign and its success, therefore, one needs to understand a little bit about the special circumstances within Tonawanda, and the shifting strategies that they pursued. The context of their relationship with neighboring settlers and other whites who had reason to support Tonawanda's cause encouraged the Tonawanda Seneca people, allowed them to seek openings, and exploit them.⁴⁵³

⁴⁵² Ibid.

⁴⁵³ Lawrence Hauptman's book, *The Tonawanda Senecas' Heroic Battle Against Removal: Conservative Activist Indians*, tells the story of the fight to save Tonawanda, and I rely heavily on his work to establish the narrative and basic facts of the story. My contribution lies in my comparative analysis of the Tonawanda struggle and the Cherokee struggle, and in my insights into the role of inevitability rhetoric. Laurence M. Hauptman, *The Tonawanda Senecas' Heroic Battle Against Removal: Conservative Activist Indians* (Albany: SUNY Press, 2011).

As we have seen, the rhetoric surrounding the 1838 Treaty of Buffalo Creek and the Compromise Treaty of 1842, had in certain respects reflected the national debate over Indian removal. The Ogden Company and their allies had deployed inevitability rhetoric, positing that the decline and extinction of Indians was inevitable whenever they were put into contact with white settlers, which itself was inevitable (indeed, already an accomplished reality) in western New York. Like Isaac McCoy, many influential New Yorkers used fatal impact rhetoric to support removing Indians from contact with whites. Contact with degenerate and immoral white settlers (or merely ambitious and superior white settlers, depending on whose version was being advanced) was simply too destructive for Indian survival: violence, diseases, alcoholism, social dissolution and demoralization would wipe them out. The Whig governor of New York, William Seward, for example, maintained the fatal impact line of reasoning, while simultaneously rejecting any attempt to forcibly expel Indians or obtain a treaty without their true consent.⁴⁵⁴

Paradoxically, then, settler dispossession of indigenous peoples had to be fought, at times, by arguing that contact with settlers was not as harmful to Indians as most whites assumed it was. In order to combat the argument for Indian removal based on the depravity of frontiersmen and their negative influence on Indians, anti-removal Indians were put in a position of arguing that contact with whites was in fact beneficial to their

⁴⁵⁴ Seward took an ambiguous position on the Treaty of Buffalo Creek, in order not to alienate his western base, until he was voted out of office in 1842, at which point he openly denounced it. “[Seward] noted that many philanthropists believed that it would be “wise and prudent” for the Indians to seek new homes in the far west in order to escape the frauds and vices of “depraved men of our race.” But he also supported the Seneca position that “the consent of the Senecas was obtained by fraud, corruption and violence and that it is therefore false and ought to be held void.” Valone, “William Seward,” 130.

“improvement.” Defending their autonomy and possession meant defending beneficent, controlled contact with whites—and arguing that such a thing was possible.⁴⁵⁵

One Seneca chief, Maris B. Pierce, for example, contended that the Seneca Indians had benefitted from exposure to white civilization, in a published talk given at Buffalo in the midst of the removal crisis. Much like Senator Frelinghuysen, and the British Aborigines Protection Society, Pierce argued that it was not contact itself that had detrimental effects on Indian people, but the theft of land. The threat of dispossession led to constant anxiety that any property accumulated or any capital improvements made by Indians would soon be confiscated by white colonists. The cure, he argued, was not to steal more Indian land, but to allow the Senecas to stay in the neighborhood of white settlers in western New York, where they would have easier access to their “enlightening” influence.

We are here situated in the midst of facilities for physical, intellectual and moral improvement; we are in the midst of the enlightened; we see their ways and their works, and can thus profit by their example. We can avail ourselves of their implements, and wares and merchandise, and once having learned the convenience of using them, we shall be led to deem them indispensable. We here are more in the way of instruction from teachers, having greater facilities for getting up and sustaining schools; and as we, in the progress of our improvement, may come to feel the want and the usefulness of books and prints, so we shall be able readily and cheaply to get whatever we may choose. In this view of facts, surely there is no inducement for removing.⁴⁵⁶

This argument finds an easy parallel in Cherokee anti-removal rhetoric, which argued that Cherokees needed to be close to whites to become civilized, not flung out into a “howling wilderness” among “uncivilized savages” like the Comanche.

⁴⁵⁵ June 19, 1843 Tonawanda petition “We are now just beginning to adopt the manners and customs of our white neighbors and have erected churches and school houses for the education of our children [...] and now when we are advancing to civilization [...] would you drive us from you...?” Cited in Hauptman, *Heroic Battle*, 70.

⁴⁵⁶ Maris Pierce, *Address on the Present Condition and Prospects of the Aboriginal Inhabitants of North America, with Particular Reference to the Seneca Nation. Delivered at Buffalo, New York, by M.B. Pierce, a Chief of the Seneca Nation, and a Member of Dartmouth College* (Philadelphia: J. Richards, Printer, No. 130 North Third Street, 1839), 13-4.

Westward the Star of Empire takes its way,' and whenever that Empire is held by the white man, nothing is safe or unmolested or enduring against his avidity for gain. Population is with rapid strides going beyond the Mississippi, and even casting its eye with longing gaze for the wooded peaks of the Ricky Mountains—nay even for the surf-beaten shores of the Western Ocean.—And in process of time, will not our territory there be as subject to the wants of the whites, as that which we now occupy is Shall we not then be as strongly solicited, and by the same arguments, to remove still farther west? But there is one condition of a removal which must certainly render it hazardous in the extreme to us. The proximity of our then situation to that of other and more warlike tribes, will expose us to constant harassing by them; and not only this, but the character of those worse than Indians, those *white borderers* who infest, yes *infest* the western border of the white population, will annoy us more fatally than even the Indians themselves. Surrounded thus by the natives of the soil, and hunted by such a class of whites, who neither 'fear God nor regard man,' how shall we be better off there than where we now are?⁴⁵⁷

Unlike the Cherokees, however, Pierce could argue here, as could Tonawanda Senecas in their petitions to Congress, that Senecas had good relations with their neighbors, because so many western New Yorkers joined them in sending petitions on their behalf against the Buffalo Creek and Compromise treaty.⁴⁵⁸

The argument of beneficial contact was not entirely convincing, of course, since there was plenty of harmful tension and conflict between Seneca people and their settler-colonizer neighbors. Fatal impact rhetoric was powerful partly because it contained a measure of truth; the long battle against removal was taking its toll. Tonawanda Seneca people were beset by squatters who claimed the right to settle because of titles they had purchased from the Ogden Company, which led to direct, sometimes violent conflict.

⁴⁵⁷ Ibid., 16.

⁴⁵⁸ For example, the Congressional Serial Set includes four petitions against the Buffalo Creek Treaty from citizens of "New York" in 1841, another from "citizens of Alabama, Genesee County, New York" from 1847 against the Supplemental or Compromise Treaty, as well as a petition resulting from a "Mass Meeting for the Indians" in Batavia New York that same year. In United States Congress, Senate, *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...* S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set. Ely Parker biographer William H. Armstrong notes that "Petitions were arriving almost daily from New York State, asking that the Senecas be exempted from the operation of the treaties; so many petitions had been received that Senator David Atchison of Missouri said he believed nearly half the state of New York had petitioned in the Indians' favor. Ely looked forward to the committee's report. 'We shall have scratched at the eyes of the Ogden Company, and they will look upon us hereafter as dangerous customers.'" Armstrong, *Warrior in Two Camps*, 34.

Some Tonawanda Seneca people, expecting their reservation to be seized any moment and expecting that anything they built upon the reservation would soon be expropriated, went against the chiefs' collective will, and made a living by stripping resources like lumber from the reservation rather than investing their energy in stewarding its resources.⁴⁵⁹ Even white lessees and others whose access to reservation lands and resources depended on relationships with Seneca people had contributed to social tension by taking advantage of their hosts, selling alcohol, and moving back and forth from white and Indian society in order to avoid punishment for murder, rape, theft, or the abandonment of their Indian spouses or children.⁴⁶⁰

Still, the Tonawanda argument against fatal impact assumptions was convincing because it was made not just by them, but by their white neighbors as well, in the form of an organized petition campaign in 1846 against the Compromise Treaty of 1842. In contrast to the Cherokees, the Tonawanda Seneca were lucky to have white neighbors who were willing to attest to the Senecas' peaceful coexistence with whites—and their social stability in their present location. Tonawanda chiefs appeared at Ogden auctions to protest and disrupt sales of their land, and put an advertisement in the *Spirit of the Times* June 19th, 1844 urging people not to buy reservation lands from the Ogden Land Company. Many local whites responded to Tonawanda calls to side with them against the Ogden Company, as will be seen not just from their petitions, but from local juries' willingness to try and convict white employees of the Ogden Land Company for crimes against Indians, a willingness that would have been unimaginable in the Georgia frontier

⁴⁵⁹ Genetin-Pilawa, *Crooked Paths*, 45.

⁴⁶⁰ Matthew Dennis discusses white men intimately involved with Senecas, who at times championed their cause but also occasionally took advantage of them, or even murdered them. Dennis illustrates the violence engulfing Mary Jemison's sons in the Genesee Valley in the 1820s. Dennis, *Seneca Possession*, 40-9.

ten years earlier. As we will see, it was the court case, *Blacksmith v. Fellows*, decided by a New York jury in favor of Chief Blacksmith and appealed by the Ogden Company up to the Supreme Court, which provided the basis for the deal which saved Tonawanda.⁴⁶¹

Emphasizing the existence of good relations between the two communities, Tonawanda's neighbors argued that there was no need for removal. Rather than challenge the idea of "contagion" that came with white contact, petitioners drew a distinction between contact with orderly, established white communities, and those on the frontier or the booming city. The Tonawandas, they argued, were situated at just the right remove from "the contagion of vices" in populous cities and towns, but the orderly reservation they inhabited hardly resembled a howling wilderness:

They are firmly attached to the place where they live. Far enough removed from the populous villages and cities to be protected from the contagion of the vices which there prevail, they are not placed beyond the manifold advantages and comforts which the proximity of a civilized and enterprising community extends to them. Between them and us the kindest feelings and intercourse prevail.⁴⁶²

The defense of the Tonawanda Seneca, then, could here take the form of self-congratulation on behalf of their upstanding neighbors, the people of Batavia, New York, who flattered themselves on their distinction from the corrupt and immoral people in "populous villages and cities":

We do not perceive in their case any necessity for their removal growing out of considerations of policy and expediency. Could they be left to feel and profit by the happy influences which surround them, unmolested by the intrigues and avarice of a band of speculators, who are anxious to tear them from their homes, and seize upon and appropriate their inheritance, we believe that they would soon furnish us with an example

⁴⁶¹ Hauptman, *Heroic Battle*, 71.

⁴⁶² United States Congress, Senate. "Mass Meeting for the Indians." Exhibit M. in, *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...* S.doc.156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set, 123. Emphasizing that there existed good relations between the communities, and so there was no need for removal: Senecas situated at just the right remove from "the contagion of vices" in populous cities and towns, but not banished to a howling wilderness.

of the beneficent results which education can accomplish in the elevation of their social, moral, and intellectual condition.⁴⁶³

By 1846, moreover, the other Seneca reservations were overflowing with Seneca people relocated from Buffalo Creek, and news of the deaths of most of those Senecas who had gone west voluntarily was by this time known to all, as another petition from Genesee County narrates. “They have no place to go except the Indian territory,” the petition related, and of two hundred who went there from Cattaraugus last spring, over eighty died within four months, from the unhealthiness of the climate⁴⁶⁴

Indeed, the petition drive succeeded in getting multiple New York towns to send memorials on the Tonawanda’s behalf, enough to commend the attention of the Senate to the issue. Ely Parker wrote to Lewis Henry Morgan that same year that “petitions from western and central New York are almost daily presented in our behalf, and I have no doubt [these petitions] will have a great bearing in the final issue of the matter [the land dispute].”⁴⁶⁵

How come Tonawanda’s neighbors were willing to vouch for the Tonawanda cause? Historian Mary Conable notes that the Ogden Company had no trouble coming up with cynical explanations, interpreting those Seneca’s neighbors opposing emigration as self-interested creditors, rum sellers, traders, lawyers, and timber strippers who enjoyed their ability to profit from Indians ignorance and weakness to get cheap resources and

⁴⁶³ Ibid.

⁴⁶⁴ United States Congress, Senate “Petition of Citizens of Alabama, Genesee County, New York,” in, *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...*S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set, 4-5.

⁴⁶⁵ Genetin-Pilawa, *Crooked Paths*, 47.

easy money. Chief Nathaniel Strong, as we have seen, shared this opinion, and there may have been some truth to this idea.⁴⁶⁶

Historian Genetin-Pilawa offers an alternative explanation, making an explicit contrast between the politics of landholding and democracy in Georgia of the 1830s, and New York of the 1840s. The key issue was that in New York, it was “eastern New York land speculators” who held pre-emptive title to reservation land, and “local farmers and citizens...viewed [them] with skepticism at best but more often with disgust.”⁴⁶⁷

But it also must be acknowledged that this opposition and petition drive in western New York was not spontaneous, (nor was it orchestrated by the Quakers or any other missionary society, as such petition drives had been in the Seneca removal crisis in

⁴⁶⁶ General Henry Dearborn, the representative sent by Massachusetts to observe the treaty proceedings, agreed with U.S. treaty commissioner R.H. Gillet and with Ogden agents that the opposition was because of interested white people “In his opinion, the most obstructionist people were those who had made “inexpensive” arrangements with the Indians for mill and lumber privileges.” He was a proponent of the idea that whites were behind resistance because they had economic interests. “Dearborn threatened to authorize the removal of traders, creditors, mill operators, and lumbermen to maintain orderly council deliberations. He also identified specific whites who had personal economic reasons for keeping the Senecas close, but who covered their motives with a veneer of philanthropy...Asher Wright, Reuben B. Hancock, Seth Grosvenor, partners in the Hydraulic Association, and Charles Gold, an attorney who assisted opposition chiefs in gathering affidavits.” Dearborn gave the Quakers more credit for motivation but thought they were officious meddlers in matters they didn’t understand, “futile & ridiculous” people engaging in “officious impertinent interference.” Conable, “A Steady Enemy,” 175-6.

⁴⁶⁷ According to Genetin-Pilawa, “the Democratic Party struggled to maintain control as local citizens—farmers and laborers in the central and western parts of New York—joined with middle-class Whigs to oppose large landholders and pressure for land policy reform through a new state constitution. It was within this context that Parker and the Tonawanda Seneca established unlikely alliances with and found political support from public intellectuals, fraternal organizations, local non-Native farmers and laborers, and middle-class professionals.” Genetin-Pilawa, *Crooked Paths*, 39. Evidence from Conable’s work corroborates Pilawa’s understanding: “The speculative nature of the Ogden Land Company and the reputations of some of the proprietors also generated opposition from area white farmers,” she writes, and she quotes opposition from a Rochester democratic newspaper to the idea of speculators taking over Indian land: “whether these lands would be improved by falling into the hands of the WADSWORTHS, to be leased to tenants on terms that would forbid good cultivation or to be held for speculative purposes.” (“The Seneca Indians and the Ogden Land Co.,” *Rochester Daily Democrat*, January 31, 1848, emphasis in original.) “Wadsworth [was a hated landlord who] rented one-year renewable leases in the Genesee Valley and offered very little land for sale. There was “a connection for some of the Senecas’ supporters between the company and the worst type of aristocratic tendencies...Better to have to have Indian neighbors than to deal with men who had built large personal estates by exploiting the labor of poorer farmers.” Conable, “A Steady Enemy,” 301-2.

the past, and in the Cherokee removal crisis). Rather, the petition drive was organized by a very different player than any who appeared in the Cherokee removal struggle: anthropologist Lewis Henry Morgan, and the Grand Order of the Iroquois society of “hobby Indians” that he led. As his secret society was forming in 1845 and reached it height in 1846, Morgan became a passionate advocate for and publicizer of the Tonawanda cause against the Ogden Company. He would also become a dedicated patron of the education and professional advancement of Ely Parker and other members of Parker’s family. In the wake of the Tonawanda struggle, Morgan became a scholar devoted to the ethnographic study and recovery of “authentic” Iroquois institutions and social life—a project which he pursued in close, (and partially acknowledged), collaboration with Parker.⁴⁶⁸

What explains the role of Morgan and the Grand Order of the Iroquois? As Philip Deloria argues, the Grand Order of the Iroquois served to help its members “work through a number of doubled identities.” Participation in the secret society allowed members to appropriate authenticity and indigeneity from the Iroquois as an antidote to the disorienting effects of “urban disorder and mass society,”⁴⁶⁹ and to redeem their colonizer guilt in exchange for keeping authentic Indian traditions alive.⁴⁷⁰

⁴⁶⁸ Philip Deloria, “Literary Indians and Ethnographic Objects,” chap. 3 in *Playing Indian* (New Haven: Yale University Press, 1998), 71-95.

⁴⁶⁹ *Ibid.*, 89, 73-4.

⁴⁷⁰ Interestingly, the rituals of the Grand Order replicated a familiar pattern of condemnation of the destruction of Indian people, followed by assertion of inevitability of such destruction: Morgan’s rituals in the Grand Order of the Iroquois assimilated the Iroquois Confederacy to the U.S. national story, presented the Confederacy as dead beyond revival, and his own organization as its continuation, and the guardian of its memory: “The ceremony commences with the spirits of Indian fathers rising from the grave to chide their Indian children for forgetting them. The children protest, blaming the white strangers whom the fathers once welcomed and who destroyed the Iroquois and drove them from their ancestors’ graves. A third chorus, by a fiercely painted ghost sachem, unleashes an emotional critique of American Indian policy... The ceremony moves quickly, however, to cleanse the initiate’s soul, tempering the curse by pointing to the sheer inevitability of Indian disappearance”... “Long ago I saw in the future their destruction, and I was very said.’ The spirit tells initiates that the only way to placate the mournful Indian

For Morgan especially, the Iroquois held fascination as representatives and conveyors of the history and institutions of the League of the Six Nations. Morgan saw their democratic traditions as a precursor to his own society, and as confirmation that “liberty and democracy lay embedded in the nation’s landscape and in its past.”⁴⁷¹ As such, notes historian Robert Bieder, Morgan associated the Iroquois with a kind of primitive, stable republicanism that reinforced Morgan’s own (classic republican) ambivalence about the greed and social disintegration brought about by modern industrial progress in the U.S. society of the 1840s in which he lived. “Progress and greed seemed to coincide” for Morgan, notes Bieder. Morgan had special animus against new business speculators, the “seven per cent gentry,” as he called them. He thought they were “arrogant, illiberal, and narrow minded.”⁴⁷² It follows that there was a desire on Morgan’s part not just to use Indians to work out issues of identity, but also to attack an enemy he share with the Senecas: the new class of uncultured, capitalist business elites, the speculators and developers represented by the Ogden Land Company.

Unlike hobbyist organizations before, the GOI’s striving for authenticity meant that it placed a premium on access to real, authentic Indian history and culture, which, in Deloria’s words, led to “commitments to actual Indian people.”⁴⁷³ It certainly gave them a reason to want to keep Indian people nearby, so that these living Indians could be studied and contribute to the authenticity of Morgan’s organization. Tonawanda people,

shades is to preserve their memory and customs. The society’s sachem then replies that the membership will accept the ‘delightful task.’ The ceremony concludes by offering the initiate complete redemption and a new life through mystic rebirth as an Indian child.” Clearly, the rituals offered redemption from the guilt of injustice done to Indians in exchange for keeping their memory alive. Deloria, *Playing Indian*, 77-78.

⁴⁷¹ Deloria, *Playing Indian*, 79.

⁴⁷² Robert E. Beider, *Science Encounters the Indian, 1820–1880: The Early Years of American Ethnology* (Norman: University of Oklahoma Press, 1986), 196.

⁴⁷³ Deloria, *Playing Indian*, 80.

beginning with Parker, took advantage of this desire, cultivating relationships with Morgan and his Grand Order, giving the order their blessing, and flattering Morgan and his followers for their authenticity and sincere friendship. With the loss of the Buffalo Creek reservation from 1838 to 1842, the Senecas had moved the Grand Council of the Iroquois League to Tonawanda, and opened its “doings” to the outside public, inviting Lewis Henry Morgan and others to the Iroquois Condolence Council of 1845. Historian Laurence Hauptman writes that Tonawanda chiefs encouraged hobbyist activity, “using deprecation and flattery.” In a letter to Morgan in 1846, Tonawanda chiefs flattered Morgan, employing the trope of the white savior—the *unique* white savior, who would succeed where all others had failed.⁴⁷⁴ Morgan responded by holding a meeting in Ithaca in 1846 “to prevent the execution of the treaty by which the Indians are to be driven from Tonawanda and Buffalo Creek Reservations,” financing Seneca delegations to Washington, going there himself, and beginning “an effort to collect a petition of 50,000 signatures to protest Tonawanda removal.”⁴⁷⁵

Four years earlier in 1842, Quakers had tried to persuade Seneca people that concentration on the smaller Cattaraugus and Allegany reservations would make them “more accessible to their friends.”⁴⁷⁶ But in fact, at Tonawanda, the Seneca people were more accessible to their other “friends”—Morgan and his hobbyist organization, in Rochester and Batavia. The interests of Morgan’s organization aligned with the Tonawanda struggle, and gave them a more concrete connection to Indian people.

⁴⁷⁴ Chiefs Blacksmith and Johnson wrote to Morgan on April 12, 1846: “I have been acquainted with many societies who have attempted to shield the Indians against the injustice and frauds of the whites, and who have desired to assist in saving the Indians from oppression and injustice. But none have I ever wished to succeed until I heard of your organization. I am happy that it now exists and only regret it is not older.” Quoted in Hauptman, *Heroic Battle*, 38.

⁴⁷⁵ Hauptman, *Heroic Battle*, 37-8.

⁴⁷⁶ Society of Friends, “Council at Buffalo Creek,” 61.

The point is not that Morgan and the hobbyists were the “good guys,” while the Quakers were the “bad.” Both groups of white people understandably desired something from the encounter with the Senecas that reflected their own agenda for the Senecas more than what the Senecas themselves wanted from the encounter. Both groups of allies believed in the fundamental superiority of their own society over those of Native American peoples. Both the hobbyists and the Quakers were dangerous to the Seneca people since they were part and parcel of a larger colonizing society that threatened them with destruction. Yet for that same reason Quakers and hobbyists were necessary allies, who needed to be carefully managed. It was impossible for Senecas to stand against colonization on their own, and these allies asked for less and offered more than most others. Quakers wanted to fundamentally transform the Seneca people, but gradually, and voluntarily, allowing the Seneca more room to coopt the Quaker agenda for their own purposes than was possible with more aggressive Presbyterian or Baptist missionaries. As historian Matt Dennis argues, Quakers were cautious missionaries who had poured their efforts into establishing model farms just off of the reservation, providing a comparatively unobtrusive technological education, and treading very lightly when it came to proselytization for many decades. But by the 1840s, the Quaker sense of authority over the Senecas was bolstered by decades of selfless service and advocacy against the Senecas most deadly enemies. In an underhanded way, Quakers expressed an entitlement to decide the destiny of the Seneca people without Seneca input, an entitlement earned by their record of benevolence. That made them dangerous.⁴⁷⁷

⁴⁷⁷ Indeed, at the Buffalo Creek Council in 1842, Quakers argued that they “[had] spared no labor, no expense, no exertion, to obtain relief for our red brethren” to set up their authority to negotiate on behalf of Tonawanda Seneca Indians without their input, and to foist an unwanted treaty upon them. (Ibid., 63). For

But unlike the Quakers, Lewis Henry Morgan and the Grand Order of the Iroquois were not concerned to change the Seneca people. The Tonawandas repeatedly emphasized in their petitions that they were a “distinct and separate Band of the Seneca Nation, living under the ancient government of chiefs which form of government they prefer to live under,” stressing Tonawanda political traditionalism.⁴⁷⁸ This emphasis on Tonawanda traditionalism made them less appealing to Quakers, but more appealing to Morgan and other hobbyist allies. Hobbyists wanted information about the traditions of the Iroquois League, and they wanted to coopt select aspects of what they learned to build their own identities and reconcile their ambivalence about material progress and modernity in antebellum America. Morgan’s were outside experts from the colonizing society, staking a claim to knowledge about Seneca people which they would spread to the wider world, and staking ownership over an Indian (and hence indigenous) identity. As such, hobbyists were a colonizing force, and a potentially dangerous one. But their self-identification with Indianness, desire for authenticity, and their conviction that the Tonawanda band of Seneca people embodied it, also gave those Senecas a great deal of authority and leverage in the relationship, and made the politically and socially well-connected young men in the “Grand Order of the Iroquois” valuable allies.

The Quakers struggle to change the Senecas, starting in 1798, had given the Senecas the tools to survive in the white settler colonial world. In the 1840s, in contrast, the hobbyist/anthropological desire to preserve their traditions proved an important counterweight in the struggle for Tonawanda.

Quaker civilizing program, see Dennis, “The Holy Conversation of Quakers and Senecas,” chap. 4 in *Seneca Possessed*, 117-148. Wallace, *Death and Rebirth*, 272-7.

⁴⁷⁸ Parker, Tonawanda petition, cited in Hauptman, *Heroic Battle*, 95.

In fact, at first almost inexplicably, a number of powerful, important white Americans *who had been in favor of Cherokee removal* agreed to join the hobbyist mobilization on behalf of the Tonawanda people in some capacity, due to Morgan's efforts to cultivate such figures as members of his Indian club. Morgan succeeded in recruiting some pretty surprising members. Even (now Senator) Lewis Cass, who, as we have seen, had strenuously pushed for removal in a series of very widely reprinted articles in the *North American Review* in the late 1820s and 1830, and had even personally overseen the removal of the Creeks, Choctaws, and Chickasaws as Secretary of War under Jackson, had signed a petition on behalf of the Senecas, as a member of Lewis Henry Morgan's organization! So did John C. Calhoun, perhaps the most dedicated pro-slavery and state's rights man in the union. Calhoun claimed that the Treaty of Buffalo Creek was not valid because it had not been ratified by the Senate. That the Treaty of Buffalo Creek was to benefit a northern state with a significant abolitionist presence, and because opposition to the Quaker-sponsored treaty could serve to embarrass the Society of Friends might easily have played a role in his stance here. The party connection to Ambrose Sevier, the western Democrat vocally opposed to Seneca removal, also suggests a party/regional connection to opposition to further removal—particularly, the western desire not to be accepting Indian refugees in their part of the country—or to fund such relocation with their tax money. To western democrats like Crittenden and Sevier of Arkansas, Indian removal looked like Indian arrival.⁴⁷⁹

⁴⁷⁹ Parker wrote in a letter that "Calhoun and Crittenden are with us, as well as other able and heavy men," but Genetin-Pilawa also stresses the "lack of legislative action" and notes that "national politicians did little but sympathize" Genetin-Pilawa, *Crooked Paths*, 44. Morgan sent Cass a protest against the Compromise Treaty of 1842 after he became a member of the GOI in 1846, Conable, "A Steady Enemy," 298-9. Deloria notes that "After gaining Seneca approval, the group launched a campaign of protest. They sent a memorial to the Senate, featuring the names of prominent (although suspiciously recent) honorary members, Senators Lewis Cass, John Adams Dix, and Ambrose Sevier." (85). Still, in some ways the political alignment on

But Henry Rowe Schoolcraft went even farther. A formerly pro-removal ethnographer, and close friend and ally of Lewis Cass, Schoolcraft had written that “the whole Indian race” was “not...worth one white man’s vote” during the Cherokee removal crisis.⁴⁸⁰ Congress had commissioned Schoolcraft to conduct a census of the Indian reservations in New York in 1844, Schoolcraft attached to his statistics some of the most forceful words against removal and against the idea of inevitable disappearance, that I have found coming from any white person’s pen in the antebellum era. His census and statements were included by Tonawanda’s lawyers in the documents they submitted to the Senate.⁴⁸¹

Writing in the same mode of many defenders of the Cherokees, Schoolcraft enumerated Seneca property and achievements in assimilation. “The seeds of industry are well sown; letters have been generally introduced, and in some instances [the Senecas] have produced men of talents and intelligence, who have taken an honorable part in the professional and practical duties of life,” he said, undoubtedly with Ely Parker in mind as one of these men, though Parker was still only a teenager at the time. Further, Schoolcraft commented favorably and explicitly on Tonawanda capacity to adopt, and to adapt, as a

Seneca removal seems almost like a bizarre opposite of political alignment during the fight over Cherokee removal. To quote a biographer of Eli Parker: “John Calhoun had taken the position that the treaty was invalid because it had not been ratified by the senate, and John Crittenden also supported the Indians’ position. In fact, all the senators Ely had access to, except Daniel Webster, were favorable to his case. Brown had finally appeared, and he and Ely were working closely with Senator Ambrose Sevier of Arkansas on their presentation to the committee.” Armstrong, *Warrior in Two Camps*, 34. The fact that these men did little but provide lip service, or as Parker put it, “did little but sympathize” does not diminish our surprise at the opinions they voiced. Genetin-Pilawa, *Crooked Paths*, 44.

⁴⁸⁰ Quoted in John Andrew *From Revivals to Removal: Jeremiah Evarts, the Cherokee Nation, and the Search for the Soul of America* (Athens: University of Georgia Press, 1992), 163.

⁴⁸¹ Schoolcraft, Henry Rowe. “Extract from the report of Mr. Schoolcraft to the Secretary of State of New York, transmitting the census returns in relation to the Indians.” Exhibit B. in United States Congress, Senate. *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...*S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set. See also Henry Rowe Schoolcraft, *Notes on the Iroquois* (Albany, N.Y., Erastus H. Pease & Co., 1847).

race. “In manners, costume, and address,” he wrote, “the Iroquois people offer a high example of the capacities, and *ready adoptive habits of the race* [italics added]...not behindhand in implements of husbandry, vehicles, work-cattle, horses, and the general features of their agriculture.”⁴⁸²

Importantly, Schoolcraft backed up the Tonawanda Senecas on key points of contestation with the Compromise Treaty, agreeing with Parker that practically speaking, there was not enough arable land on the Allegany and Cattaraugus reservations to support the entire Seneca population. He also lent his ethnographic expertise to the Tonawanda contention that “the majority principle was not known in former times” in Seneca politics, but rather that consensus was the common practice necessary to collective decision making, in a letter to Parker. His testimony added weight to the idea that the different reservations were distinct and autonomous communities, and that a bare majority could not make decisions compelling the whole tribe.⁴⁸³

But Schoolcraft went *even beyond this*, contending not only that the Seneca were facing no natural, inevitable process of extinction, but rather that they were increasing. Not only that, Schoolcraft also argued that they themselves had been responsible for solving the problem, by actively adapting to new circumstances and reversing the process threatening their extinction:

Under all circumstances, we may regard the problem of their reclamation as fixed and certain. They have themselves solved it; and whatever an enlightened people and legislature should do to favor them, ought not to be omitted...the Iroquois, made wise by experience, are destined *to live*. [italics in original] The results of the census, herewith submitted, demonstrate this. The time is indeed propitious for putting the inquiry, whether the Iroquois are not worthy to be received, under the new constitution, *as citizens of the State*. [italics in original]⁴⁸⁴

⁴⁸² Schoolcraft, “Extract from the report,” 20-1.

⁴⁸³ Conable, “A Constant Enemy,” 246, Hauptman, *Conspiracy*, 82, Genetin-Pilawa, *Crooked Paths*, 42.

⁴⁸⁴ Schoolcraft, “Extract from the report,” 20.

Not only were they not destined to perish, according to Schoolcraft, Senecas were “destined to live” and this was “fixed and certain.” Even as Schoolcraft envisioned their assimilation and disappearance as a separate political entity, his rhetoric contains a remarkable reversal of the accepted tropes of Native American history that are still second nature to American discourse on Indians.

It is all the more shocking to hear such a reversal from a man who was a good friend of Lewis Cass, who had supported the Jackson administration’s Indian removal policy in the 1830s,⁴⁸⁵ and had only two years earlier penned an apology for the Indian Removal policy as philanthropy, claiming that removed tribes were doing swimmingly in their new homes.⁴⁸⁶

Expressing concern over the fate of Indians, Schoolcraft clearly believed in their inferiority, holding that it was only with great difficulty that they could be “reclaimed.” In his 1844 article, he argued unambiguously that the superiority of civilization over savagery explained Indian decline, blaming Indian inability to adapt to civilization, and casting the “extermination” of much of the race and the possible “reclamation” of some of them to civilization as “inevitable” historical outcomes. According to Schoolcraft, the “progressive” Anglo-Saxon Teutonic people of the United States were racially superior over not just Indians but also over French and Spanish North Americans, whose own racial “stock” was stationary compared to the Anglo-Saxons. Removal, he believed, was

⁴⁸⁵ In 1830, Schoolcraft had altered his opinion on removal to accord with that of his patron Lewis Cass, declaring in a letter to Jared Sparks that, “[t]he great question of the removal of the Indians is, as I conceive, put to rest. Time & circumstance have decided it against them. It only requires the moral courage necessary to avow the principle, and to reconcile the moral feelings of the friends of the Indians, to their withdrawal under a proper system.” See Bieder, *Science Encounters*, 174, footnote.

⁴⁸⁶ Henry R. Schoolcraft “Our Indian Policy,” *Democratic Review* 14 (1844): 169, quoted as reprinted in Henry Rowe Schoolcraft, *The American Indians, Their History, Condition and Prospects, From Original Notes and Manuscripts* (Buffalo: George H. Derby and Co., 1851), 366-389.

a philanthropic measure to protect the most retrograde race from being destroyed by the advance of the race representing the pinnacle of human strength and achievement, with whom they could not hope to coexist.⁴⁸⁷ This is not the first person that one would expect to produce remarks favorable to the Seneca struggle against removal, much less to claim that their “reclamation” was already “fixed and certain.” It is strange to read such statements written by such a man only three years after the Quakers at Buffalo Creek had warned the Senecas that they were on the road to perdition and extinction. It is even more surprising considering that it is almost impossible to find such strong language *reversing* the presumption of inevitable extinction even among those in the anti-removal camp.

At this point in his life, however, there were a few circumstances that might have encouraged Schoolcraft to take the side of the Senecas, including his own scholarly career interests.

Henry Rowe Schoolcraft was a Democrat who had served for decades as an Indian agent to the Anishnaabeg/Ojibwe people around Sault Saint Marie in Michigan, and had married Jane Johnson, the “mixed blood” daughter of a prominent Anglo-Indian fur trading family, which allowed him to pursue ethnological and linguistic interests. His racial and religious views hardening, Schoolcraft became more and more alienated from his wife and her family, and from Ojibwe people in general through the 1830s. After leaving the Anishnaabeg community and his post as Indian agent, and after the death of his wife Jane, Schoolcraft moved to New York City where he struggled to find support for his continuing work as an ethnologist.⁴⁸⁸

⁴⁸⁷ Ibid., 366-70, 373-4.

⁴⁸⁸ See Bieder, “Henry Rowe Schoolcraft and the Ethnologist as Historian and Moralist,” chap. 5 in *Science Encounters*, 146-194, 160-2, 172-3.

As historian Robert Bieder writes, Schoolcraft had become fascinated with Iroquois myths and had become convinced that Indian myths in general provided clues to the history and the “oriental” origins of the Indian “race.” His career had become invested in this pursuit, giving Schoolcraft an interest in opposing plans for the dispossession of the Tonawanda community. Moreover, Schoolcraft held the Iroquois as superior to other Indians, even flirting with the idea that they were of a different and superior “racial stock” from other Indians, just as he held that the “Anglo-Saxons” were superior to the French and Spanish. Compared to the Anishnaabeg (“Ojibwe”) people he had known for decades as an Indian agent, (and whose people he had married into), the Iroquois were more assimilated to Anglo-American material culture and religion, which probably impressed him. Finally, Schoolcraft’s revivalist religious faith committed him to combatting polygenism at a time when such theories were gaining respectability in the United States and France. Schoolcraft agreed with the idea of Indian racial inferiority. But he held fast to the biblical idea of the common origin of the human species, holding that some varieties of the species had degenerated over time. The “reclamation” of these varieties over time, should therefore be possible, at least in theory. Detailing the progress of the Senecas towards “reclamation” would therefore tend to support Schoolcraft’s monogenist views against the polygenism that he saw as an increasingly dangerous threat to Christian religion.⁴⁸⁹

Perhaps Schoolcraft’s opinions also speak to the point made earlier: that the Seneca removal was not a national political issue on which a major political party had staked its reputation, and was not seen as symbolic of U.S. Indian policy in general. The

⁴⁸⁹. For Schoolcraft’s racial views, and on monogenism versus polygenism, see *Ibid.*, 175-9. For his views of the Iroquois see 178-81.

lack of national importance of Seneca Removal goes some of the way towards explaining the fact that the Seneca question produced political alignment so different from that of Cherokee Removal, in which individuals could take utterly opposite positions than they had taken the previous decade. The different political alignment might also be a symptom of the greater security of the settler project in 1840s New York, than in 1830s Georgia. “Their land safely secured, Americans were able to downplay the Jacksonian savage and turn to guilt-cleansing criticism of the very policies that had emptied the landscape” and begin the project of “salvage ethnography,” Deloria writes. “Indians appeared not only as pieces of an incorporative American history, but as nostalgic reminders of the good old days and as object lessons in the chastening consequences of progress.”⁴⁹⁰

Nevertheless, this effort to petition Congress in 1847 to rescind the Treaty of Buffalo Creek and the Compromise Treaty as applied to Tonawanda failed; Congress denied the request. The Senate’s response to the petitions was telling, and followed a familiar pattern. The Senate decision did not deny the allegations of fraud and deception brought by the Tonawanda band or their white allies. The decision denied none of the Tonawanda Seneca contentions. Rather, the Senate asserted that correcting this injustice would unravel the whole of American Indian policy of land acquisition on which the country was founded. The Senate argued that if it overturned the Compromise Treaty and the Treaty of Buffalo Creek because of fraud, then it would have to overturn all of the treaties, and the whole system of American Indian policy and land ownership would fall apart, (implying that the system itself was built on irreversible fraud):

...the committee are of opinion that upon the allegation of fraud or of misrepresentation, or of non-representation, to annul or set aside an Indian treaty would not only tend to strongly unsettle the whole of our Indian policy, but would open a field of interminable

⁴⁹⁰ Deloria, *Playing Indian*, 78.

difficulty, embarrassment, and expense. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.⁴⁹¹

This key moment of defeat in 1847 deserves to be highlighted and spelled out in the arc of this story: Betrayed by their Quaker allies in 1842, Tonawanda Senecas turned to their white neighbors and to Lewis Henry Morgan's faux Iroquois association. But attempts to obtain redress through the Senate, backed by Morgan's hobbyist Grand Order of the Iroquois association had failed—those allies, and those tactics, went only so far. Spending \$5,000 in legal fees appealing to the Senate, Tonawanda efforts did not produce any concrete victories.⁴⁹² It would seem as if few options were left for defending their homes. However unwilling Congress and the administration were in pushing for a forced implementation of the treaty, Congress had no interest in overturning fraudulent treaties and providing a solution, either. The Tonawanda cause was in the same stalemated position as it had been since the Treaty of Buffalo Creek was passed in 1840, and the Ogden Company kept up the pressure to implement the treaty, and encourage squatting and encroachment on Seneca land.

But the Tonawandas had time to work with. Weathering regular confrontations with squatters and company men, Tonawandas turned their efforts away from petitioning Congress, and towards a long-term strategy of obtaining redress through the court-system.

⁴⁹¹ United States Congress, Senate, *In Senate of the United States. February 19, 1847. Submitted, and ordered to be printed. Mr. Bagby made the following report...* S.doc. 156 29th Congress, 2d Sess., 1847, U.S. Congressional Serial Set, 2.

⁴⁹² Armstrong, *Warrior in Two Camps*, 35.

Though the Tonawandas could not get any commitment to action from the federal government, neither could the Ogden Company. Try as the Ogden Company might to push forward the machinery of the treaty, Seneca resistance and federal indifference stymied these efforts.

There were several points of leverage that the Senecas could employ in order to stall the implementation of the treaty. According to the Compromise Treaty, a couple of things had to happen before Seneca lands could be transferred to the Ogden Company. First, the Company had to survey Seneca lands and appraise the value of improvements the Senecas had made (buildings, barns, mills, fences, etc.). Having calculated the value of these improvements, the company had to make payment to the Senecas. However, if they could make no survey of Tonawanda land, nor pay for Tonawanda improvements, then the terms of the treaty could not be implemented. The Senecas, therefore, tried their mightiest to prevent both of these steps from taking place, at times to the point of engaging in violent confrontation with Ogden Company surveyors, steadfastly refusing to accept any payment for their “improvements.”

Though officials at the Office of Indian Affairs had no interest in actively preventing the Ogden Company from conducting their own survey and appraisal, these same officials had refused to order an appraisal of Tonawanda lands and improvements, though Ogden agents Joseph Fellows and others were lobbying for it constantly. The new Ogden arbitrator, J.S. Wadsworth, relied on informants familiar with the reservation to construct an “appraisal” from memory, because Tonawanda resistance frustrated any attempts to conduct an actual physical appraisal. But Tonawandas argued that they had added “very valuable and important improvements since the 1842 treaty,” and so no

appraisal based on memory could be valid.⁴⁹³ The company attempted to pay money into the Seneca fund at the Office of Indian Affairs based on surveys done a decade prior, but the Seneca people refused to accept this money, and the federal government did not force them to take it, perhaps because the enthusiasm of the over-stretched Office of Indian Affairs for costly forced migrations had waned significantly by this period. With many active problems on their plate as the country expanded to the west and invaded the lands of multiple Indian nations, the Seneca issue may not have ranked high on their list of priorities.⁴⁹⁴

But when surveyors hired by the Ogden Company attempted to conduct their own appraisal, Seneca men routinely escorted them off of the reservation, at times breaking their surveying equipment. In the brawls that resulted, Senecas held their own. Squatters cleared fields on the reservation, but Nicholas Parker and other Tonawandas responded by planting their own crops on these fields. Settlers had Tonawanda people arrested for trespassing, but withdrew the charges. Short of escalating to open lethal violence, the Company had no way forward, and skirmishing continued.⁴⁹⁵

Why didn't the Ogden Company escalate to lethal violence, when Georgia settlers such as those in the notorious Pony Club had had no compunctions about using deadly force to pressure the Cherokees into removal? Perhaps Ogden did not escalate because,

⁴⁹³ Genetin-Pilawa, *Crooked Paths*, 36-7.

⁴⁹⁴ Hauptman, *Heroic Battle*, 79. Robert Bieder's description of the Office of Indian Affairs in the late 1840s speaks to the discrediting of removal and the reluctance to support Ogden's efforts to enforce the Compromise Treaty: "By the 1840s most southeastern tribes were west of the Mississippi River. Some tribes still remained in the north, but the pressure for their removal was mounting. Even at the time that plans were being formulated for moving Midwestern tribes, the United States was increasing its domain in the Southwest, bringing still more tribes under government control. This produced a heavy strain upon the already understaffed Bureau of Indian Affairs. Settlers were moving onto tribal lands faster than tribes could be removed. By the late 1840s and early 1850s it was apparent that the government's removal policy and the idea of a permanent Indian frontier was bankrupt." (Bieder, *Science Encounters the Indian*, 184-5).

⁴⁹⁵ Genetin-Pilawa, *Crooked Paths*, 36-7.

unlike settlers in Georgia, the Ogden Company could not as confidently count on support from juries, judges and legislators in New York. Granted, squatters claiming land under title they had received from the Ogden Company were setting up on the reservation, leading to violent incidents. But the Seneca people managed to use one of these incidents to bring a court case that would go all the way up to the Supreme Court, and enable their eventual victory. When Chief John Blacksmith was assaulted at his mill by Ogden Company agent Joseph Fellows in 1847, the Tonawanda Seneca, represented by Whig lawyer and Tonawanda supporter John Martindale, brought charges against Fellows for trespassing and assault and battery. Fellows and the Ogden Company argued that they were merely defending their own property, under the Compromise Treaty of 1842. The lower courts found for Blacksmith, and slapped Fellows with a fine. The State Court of Appeals in 1852 found for Blacksmith, six to one. Martindale and the Tonawanda pursued the case as the Ogden Land Company appealed it up to the Supreme Court over the course of a decade. Whenever the Ogden Company made moves to have the treaty enforced, the Senecas asked that any action be put off until the ongoing court case was resolved.⁴⁹⁶

Certainly, there had been court decisions in Georgia in the 1830s that found in favor of Indians bringing suit against white settlers, as we have seen in chapter three. But in the political climate of Georgia in the 1830s, even moderate court decisions in favor of Indian personal and property rights were overturned by popular legislative action, and the judges who issues those decisions faced severe reprisals. However, the decision in

⁴⁹⁶ Conable, "A Steady Enemy," 296, Hauptman, *Heroic Battle*, 96-99.

Blacksmith v. Fellows produced no angry democratic outcry in New York in 1847 and 1852. Instead, the judgment against Fellows was maintained by higher courts.⁴⁹⁷

Both the Cherokees and the Senecas had dedicated, expert legal help from whites. The Senecas had the devoted, two decade-long services of the West Point graduate and Whig lawyer John Martindale. It might be argued that the Cherokees had more extensive resources in this department, retaining the services of former Attorney General William Wirt, and raising the money for their expenses through the donations of churches, religious associations, and individuals throughout the northeast. Furthermore, the Cherokees had more extensive wealth and legal experience than the Seneca had, for the Senecas had no planter elite amongst them. However, these extra resources had been outweighed by the Jackson administrations crippling policy of withholding annuities, and the fact that the Cherokees' lawyers insisted on receiving payment (extravagant payment, at that), for their services.⁴⁹⁸

There would be every reason to be skeptical that non-whites could get any semblance of justice from the Supreme Court in the era of Dred Scott. But the Taney court finally did hear *Blacksmith v. Fellows* in 1857, and dealt the Ogden Land Company a significant blow to their hopes of obtaining the Tonawanda reservation. The Taney court found that the 1842 Compromise Treaty was "a legal instrument" and "the supreme

⁴⁹⁷ Ibid., and Watson W. Jennison, "Making Georgia White and Black, 1818-1838," chap.6 in *Cultivating Race: The Expansion of Slavery in Georgia, 1750-1860* (Lexington: University of Kentucky Press, 2012), 189-225, includes a good discussion of democratic retribution against judges issuing decisions in favor of Cherokee plaintiffs and defendants.

⁴⁹⁸ For example, William Wirt wrote to Chief John Ross that "He would have charged not less than five hundred dollars for the opinions which he wrote for the Cherokees. Nor would he argue such a case before the Supreme Court for less than three thousand dollars. All he has received is five hundred dollars for a retaining fee—only half of what he ought to have received for such a case." The retaining fee paid to Wirt was simply to ensure that Wirt did not work for the other side, without obtaining any positive service. (William Wirt to John Ross, Baltimore, November 15, 1830, in *The Papers of Chief John Ross Volume I: 1807-1839*, ed. Gary Moulton (Norman: University of Oklahoma Press, 1985), 206.

law of the land.” However, the court also found that the treaty could not be carried out unless the appraisal of Seneca improvements was conducted and compensation for those improvements handed over to the Tonawandas—in other words, the court definitively refused to remove the major stumbling block in the Ogden Land Company’s fifteen years of efforts to compel the Tonawanda Senecas to relinquish their lands.⁴⁹⁹ The Court found further that the Senecas were “a quasi nation, possessing some of the attributes of an independent people, and to be dealt with accordingly,” which meant that if they were to be forcibly expelled at all, it must be by the “Government” and not “by the irregular force and violence of the individuals who had acquired it, or through the intervention of the courts of justice.”⁵⁰⁰

Since the Tonawanda band persisted in refusing to accept compensation, or even allow the appraisal of their lands, they could now put off any forcible removal indefinitely. Unfortunately for them, however, the ruling had also left both the Buffalo Creek treaty of 1838 and the Compromise treaty of 1842 in place as the supreme law of the land, and thus left the Tonawanda without any clear title to their land as they faced intruders, squatters, and timber strippers, some of whom had mortgages from the Ogden Land Company.⁵⁰¹

Unwilling to wait for the Tonawanda to become “extinct,” the Ogden Land Company finally realized that further compromise was in their interest. With the help of the Senecas’ lawyer, Martindale, a formula the Tonawandas, the Ogden Land Company, and the federal government worked out for a land swap: first, land set aside for the

⁴⁹⁹ Hauptman, *Heroic Battle*, 98-99.

⁵⁰⁰ Text of Supreme Court *Blacksmith v. Fellows* decision, <https://casetext.com/case/fellows-v-blacksmith-et-al>, accessed 11/25/2015, 7:16 pm.

⁵⁰¹ Hauptman, *Heroic Battle*, 101.

Senecas in Kansas under the Treaty of Buffalo Creek was to be sold by the federal government. The proceeds were to be used to pay the Ogden Company for their rights to Seneca land in New York. The compromise made sense in 1857, because with the Kansas-Nebraska Act of 1854 the value of those lands had come to exceed that of the Tonawanda lands in western New York, while the bloody unfolding sectional crisis made a relocation of Indians right into the conflict zone in Kansas seem ill advised.⁵⁰² In exchange, the Ogden Company was to relinquish its official claim to the three fifths of the Tonawanda reservation on which most of the Indian people there actually lived. Martindale worked assiduously for the next three years to evict or work out private deals with squatters and those who held Ogden Company mortgages on Tonawanda land. By 1860, those deals were finally complete.⁵⁰³

The Tonawanda band had outlasted the Ogden Company and other advocates of removal: they delayed the implementation of removal until the frontier had so entirely passed them by that the “wilderness” lands to which they were to be removed were selling for more than their lands in western New York. They called the double bluff of removal—the threat on the one hand that Indians would inevitably be overrun and destroyed by contact with whites if they remained, and the promise of a “permanent” haven, safe from white encroachment in the west, if Indians left. Instead, the Tonawanda band doggedly and patiently defended their own homes, raising the cost to their enemies of removing them, and finally winning the right to remain.

The decades long fight against Ogden had not come without costs or internal turmoil. The Tonawandas had, after all, lost two-fifths of their reservation and spent

⁵⁰² Ibid., 107-8.

⁵⁰³ Ibid., 108 and Hauptman, “Buying Back the Reservation,” chap. 9 in *Heroic Battle*, 115-123.

annuity money for decades on legal challenges. The struggle unsettled the political structure of the Tonawandas. Those with skill in dealing with the Anglo-American legal world, such as Ely Parker, gained importance and therefore power in the tribe. Historian Genetin-Pilawa points out that the struggle helped to elevate young chiefs such as Parker who understood how to operate within this Euro-American power structure. Aside from this, the long conflict eroded the authority of the chiefs, Genetin-Pilawa claims. Despite their urging, Tonawanda chiefs failed to prevent Tonawanda people from selling off natural resources and other common resources for short term gain. Living with the constant threat of being forced off of the reservation at any time, selling common resources made sense to Tonawanda individuals struggling to support themselves, despite the admonition of their chiefs. In response to this crisis Martindale and Parker came up with a plan, which amended the political structure of the tribe, and gave the chiefs more formal authority to prevent the selling of common resources, and the leasing and sharecropping of land to whites.⁵⁰⁴ Indeed Genetin-Pilawa claims that the struggle against removal had revealed that the consensus principle of unanimity in decision making had been shown to be “impractical or, worse, dangerous.”⁵⁰⁵ But the analysis of historian Lawrence Hauptman, and the record of the struggle against removal does not necessarily bear out Genetin-Pilawa’s analysis on this point. However much the principle of consensus may have been impractical for dealing with the tragedy of the commons in this

⁵⁰⁴ Political instability on Cattaraugus and Allegany produced factionalism between the New Government Party and Old Chiefs Party. The Martindale and Parker government plan provided for six elective offices in addition to the council of chiefs already in place: three peacemakers, a treasurer, a clerk, and a marshal. The plan also provided for legislative mandates: residents were prohibited from selling timber or other resources held in common; chiefs had power to plot and build roads, allow residents to “select and occupy specific tracts of reservation land provided they obtained the consent of the chiefs” and to enforce a prohibition against sharecropping or leasing of land to non-Natives. Genetin-Pilawa, *Crooked Paths*, 46-7.

⁵⁰⁵ Pilawa highlights that Tonawanda lost two-fifths of the reservation, and claims that the principle of unanimity was shown to be “impractical or, worse, dangerous.” *Ibid.*, 49-50.

era of intense colonization, abiding by the traditional principle of consensus in dealing with the Ogden Land Company's assault had made it far more difficult for the Ogden Company to get ahold of their lands.⁵⁰⁶

Recall how, back in 1842, at the Buffalo Creek Council, Quakers had insisted that the Compromise Treaty was a *fait accompli*. The treaty “must either be accepted or rejected *as it is*...because we are convinced that...there is no hope that any additional advantages whatever could be obtained for you.”⁵⁰⁷ The irony is, of course, that despite the plausibility of this Quaker assessment, additional advantages *were most certainly* obtained by a stubborn, but judiciously moderated resistance—Tonawanda was preserved as a distinct reservation and community, and the other reservations were spared the strain of a major influx of refugees at a time when, Genetin-Pilawa notes, political revolutions and the adoption of Euro-American republican form of government brought “chaos” and upheaval.⁵⁰⁸

The historical differences between the dispossession of the Cherokees and that of the Senecas should not be exaggerated. In many ways, one can hardly hold up the Seneca success as triumphant proof of the contingency of removal, and the possibilities of agency and resistance.

The Senecas and the other Six Nations had been devastated and scattered by General Sullivan's armies during the American Revolution, the subsequent colonization of their lands, and the imposition of the Canadian-U.S. border. Over the following

⁵⁰⁶ Hauptman, *Heroic Battle*, 40-1, 46, 95, 120.

⁵⁰⁷ Society of Friends, “Buffalo Creek Council,” 71.

⁵⁰⁸ Genetin-Pilawa, *Crooked Paths*, 45.

decades, well before the Jacksonian Removal Era even began, while the Cherokee Nation was determinedly strengthening its hold on the contiguous land base it retained, invading New Yorkers had turned the homeland of the Seneca people into Swiss cheese. They forced the Seneca people onto isolated reserves, while many had fled to British protection in Canada. What little remained of the historic heart of their homeland in the Genesee Valley was taken in the Seneca treaty of 1826, just on the eve of Andrew Jackson's election.⁵⁰⁹

Furthermore, as we have seen, some Seneca people *did* suffer dispossession as a result of initiatives taken under the Indian Removal Act. Like the Cherokees, the Senecas faced an unfair treaty achieved through deception, against the wishes of a majority of the tribe, backed by an administration supporting removal. Granted, the Treaty of Buffalo Creek, negotiated by the same notorious John F Schermerhorn, was not implemented with the speed and brutal thoroughness of the Treaty of New Echota, and it ultimately failed to compel the Seneca people to leave three of their four reservations. But it did indeed succeed in expelling the Seneca people from Buffalo Creek, their largest reservation—and forced them to move into the already crowded, tiny reservations of Allegany and Cattaraugus.⁵¹⁰

And some Senecas were removed: several hundred Seneca people voluntarily made the long journey across the Mississippi to their designated lands in Kansas—during which most of them died of disease and starvation.⁵¹¹

⁵⁰⁹ Hauptman, "Genesee Fever," chap. 9 in *Conspiracy of Interests*, 144-162.

⁵¹⁰ For a historical overview of Seneca land loss and struggle in the early 19th century, see Conable, Mary H. "A Steady Enemy, The Ogden Land Company and the Seneca Indians." PhD. Diss., University of Rochester, 1994, and Laurence M. Hauptman, *Conspiracy of Interests: Iroquois Dispossession and the Rise of New York State* (Syracuse, N.Y.: Syracuse University Press, 1999).

⁵¹¹ Indeed, even though the bulk of the Seneca people were able to remain on reservations in their historic homeland, there is even a parallel with Cherokee history here: some Cherokees did stay in their historical

Indeed, the major obvious difference between the two cases, is that there was no Trail of Tears for the Senecas: no single dramatic long march across the Mississippi, no long distance uprooting of the majority of their people, and hence no “removal” in the Jacksonian sense. Clearly, this is not the kind of heartwarming, resounding counterpoint to the history of Cherokee removal that one might hope for.

But the differences are not trivial either.

Defeating an attempt at forced exile of genocidal proportions, and retaining protected and recognized ownership of land in their own homeland in the era of removal was no small feat. It allowed Seneca people a measure of stability and peace at a time when the Cherokees were embroiled in their own vicious and bitter civil war, ignited by the execution of the pro-treaty chiefs. The exiled Cherokees engaged in warfare with Comanches, Osages, and other western Indians whose territory they abutted, and subsequently, were rent apart by participation on opposite sides of the American Civil War. Nor was that the end of Cherokee dispossession, for by the 1890s and early 1900s the Cherokees faced a wave of dispossession of the bulk of their land in Indian Territory at the hands of the new State of Oklahoma.⁵¹² The instability, violence, and civil strife suffered by Senecas in the same period seems minimal in comparison.

homeland—those 2,000 Cherokees who evaded the U.S. army in the mountains of North Carolina. Even though the bulk of Cherokee people were forced to move to Indian Territory, about the same number of Cherokees remained in their homeland as Senecas who remained in New York. (For numbers, see Daniel F. Littlefield Jr, and James W. Parins, *Encyclopedia of American Indian Removal* (Santa Barbara: Greenwood, 2011), 158, 233).

⁵¹² For Cherokee history after removal, see Colin Calloway, *Pen and Ink Witchcraft: Treaties and Treaty Making in American Indian History*, New York: Oxford University Press, 2013, 153-165, David LaVere, *Contrary Neighbors: Southern Plains and Removed Indians in Indian Territory*, Norman, University of Oklahoma Press, 2000, and Richard White, “*It’s Your Misfortune and None of My Own*,” *A History of the American West* (Norman University of Oklahoma Press, 1991), 85-91, 115-17.

The victory over the Ogden Land Company was not the happy ending of Tonawanda history, nor a final victory against the further encroachment of colonizing forces. Though the conflict with the Ogden Land Company had been settled, New York State continued to claim ultimate sovereignty over Tonawanda land, and often tried to impinge on the self-government of the band and of the Indian people in the State more generally. Indeed, as a means of securing the land, Tonawanda land title had been conveyed to the State of New York itself to be held in trust on behalf of the Tonawanda Senecas. The purpose of the trust was to put an obstacle in the way of any future land grabbers, and to make it more difficult to sell the reservation without the consent of the people. But this guardianship increased the paternal claims of the State over Indian people. The fight between state sovereignty and tribal sovereignty continued through the 1800s and up to the present day.⁵¹³

However, by defeating efforts at removal to the west, or relocation to the other overcrowded reservations, the Tonawanda Senecas avoided the humanitarian and existential catastrophe that befell so many others. The Senecas of New York preserved a land-base in their homeland, and demonstrated that Removal was not an inevitable fait accompli.

⁵¹³ Hauptman, *Conspiracy of Interests*, 212, Hauptman, *Heroic Battle*, 121.

Epilogue: “The Strong Saw Not How to Avert It”

I fought through the civil war and have seen men shot to pieces and slaughtered by thousands, but the Cherokee removal was the cruelest work I ever knew.

—Veteran of the Cherokee removal campaign⁵¹⁴

During these five years of soldiering Adam did more detail work than any man in the squadron, but if he killed any enemy it was an accident of ricochet. Being a marksman and sharp-shooter, he was peculiarly fitted to miss. By this time the Indian fighting had become like dangerous cattle drives—the tribes were forced in revolt, driven and decimated, and the sad, sullen remnants settled on starvation lands. It was not nice work but, given the pattern of the country’s development, it had to be done.

—John Steinbeck, *East of Eden* (chapter 4 section 2)⁵¹⁵

Perhaps like any army in any time and place, the army that rounded up the Cherokees contained men like Steinbeck’s fictional Adam Trask—unenthusiastic or conscience-stricken about the mission they were sent to accomplish.

One soldier was both disgusted enough, and powerful enough, to withdraw his support from the removal campaign and get away with it. Called upon to mobilize his militia brigade of East Tennessee Volunteers to protect white settlers from an anticipated

⁵¹⁴ This oft-quoted statement comes originally from James Mooney, *Myths of the Cherokee* (New York: Dover Publications Inc., 1900). It is unclear which soldier exactly is meant to have said it, but Mooney lists his military sources as “the late Colonel W.H. Thomas, late Colonel Z.A. Zile of Atlanta, of the Georgia volunteers, the late James Bryson, of Dillsboro North Carolina, also a volunteer, Jesm D. Wafford, of the western Cherokee nation, who commanded one of the emigrant detachments...” (129-131).

⁵¹⁵ John Steinbeck, *East of Eden* (New York: Random House, 2002), chapter, 4 section 2.
<https://books.google.com/>

violent insurgency, General R.C. Dunlap brought his force to the Cherokee country and, as he said, “gave the Cherokees (the whites needed none) all the protection in my power.”

Dunlap, appalled by what he saw, explained his actions in a letter that was published in a national newspaper:

My course has excited the hatred of a few of the lawless rabble in Georgia, who have long played the part of unfeeling petty tyrants, and that to the disgrace of the proud character of gallant soldiers and good citizens. I had determined that I would never dishonor the Tennessee arms in a servile service by aiding to carry into execution at the point of the bayonet a treaty made by a lean minority against the will and authority of the Cherokee people.⁵¹⁶

Others charged with the removal of the Cherokees, recognizing its disturbing character, found cause to grapple with, (or to rationalize), their own responsibility for their participation in this campaign.⁵¹⁷ One of these soldiers, George Paschal, leaned on some form of the answer that Steinbeck provided over a century later in his fictional account of the campaigns against the Plains Indians: “It was not nice work but, given the pattern of the country’s development, it had to be done.”⁵¹⁸

A soul searching, ambivalent, and insightful work of memory making that itself grappled with the role of inevitability thinking in the dispossession of Indians, Paschal’s memoir made recourse to ideas about the inevitability of removal in order to justify the more disturbing aspects of the operation to remove the Cherokees. Paschal was perhaps

⁵¹⁶ J.W. Powell, *Fifth Annual Report of the Bureau of Ethnology to the Secretary of the Smithsonian Institution 1883-4* by J.W. Powell, Director (Washington, Government Printing Office, 1887), 285-6. (Original source: *National Intelligencer*, May 22, 1838).

⁵¹⁷ Writer Steve Inskeep gives us a portrait of private soldier with similar feelings: “[Webster] wrote a letter to his wife to say there were ‘seven or eight thousand’ Cherokees in various camps around his company, ‘and they are the most quiet people you ever saw.’ The only consistent sound was that of preachers, white and Cherokee, who went among prisoners and soldiers alike trying to save souls. Captain Webster was not consoled. ‘Among these sublime mountains and in the dark forests with the thunder often sounding in the distance,’ the talk of God only made him wonder what would ‘fall upon my guilty head as one of the instruments of oppression.” Steve Inskeep, *Jacksonland: President Andrew Jackson, Cherokee Chief John Ross, and a Great American Land Grab* (New York, Penguin Books, 2015).

⁵¹⁸ John Steinbeck, *East of Eden*, New York: Penguin Random House, 2002 edition, Chapter 4, Section 2.

the most ambivalent and fascinating voice to grapple with Georgia's legacy of Indian removal, since his justification of and apology for his State's actions comes as close to a pure reliance on the idea of historical inevitability as can be found.

We met George Paschal before, in Chapter 3 of this dissertation, as a commentator on the politics of Removal in Georgia. Paschal was the son of Agnes Paschal, a Whig, a local temperance society leader, and the owner of a popular inn in Auroria, the first boom town in the gold region of the Cherokee country, in the early 1830s. After she died, her son George wanted to write a memoir commemorating her life, her endurance, and her piety. But in the process, he also ended up writing a history of Cherokee removal—an event that he was not entirely comfortable with—while striving to vindicate his mother and his family's role in the process.

As a result, parts of George Paschal's memoir stand out as a self-conscious analysis of the psychology of a belief in the inevitability of events, and that belief's role in permitting conscientious people to participate in injustice. But his memoir is also a testament, and an example itself, of this process of hand-washing in action.

Paschal called Cherokee progress in "civilization" "commendable," and he acknowledged that the Cherokee accumulation of property had cast doubt on the inevitability of Indian removal, and itself gave impetus to seize Cherokee lands.⁵¹⁹ He was also skeptical of the justice of Georgia's claims to Cherokee land under its colonial charter: "These words 'chartered limits' were always quoted as a foundation of right anterior and superior to all treaty stipulations," Paschale wrote. "Whether or not the

⁵¹⁹ "All this [Cherokee civilization, economic transformation and state building], looked like permanence; and it stood terribly in the way of the impatient Georgians, panting for another land lottery, which should distribute these fine towns and plantations." George W. Paschal, *Ninety Four Years: Agnes Paschal* (Reprint Company, 1974), 222.

argument was sound, it really prevailed,”⁵²⁰ he explained, making clear the history of antagonism between Cherokees and Georgians, and the inducements of the lottery system which motivated Georgians to ignore the flaws in their justifications.

But Paschal also went on to explain how those who were not entirely comfortable with removal went along with it, through their self-interest, popular pressure, and the vastly broad sharing of responsibility. To illustrate his point, Paschal used an apocryphal story narrating Georgia Judge Underhill’s attempts to convince his neighbor, a Baptist preacher of Hall County, of the injustice of removal.

“Judge Underwood tried popular appeals against the advancing tide, which crushed his popularity,” wrote Pachal. But “the judge knew that this man [the Baptist preacher] was always just, and had much influence with his neighbors.” After expounding on the history of injustice to the Cherokee Indians, and upon “the advancement of the Cherokees in the arts of agriculture and Christian civilization; upon the cruelty of the Georgia laws and their injustice against an inoffensive people; upon the imprisonment of pious missionaries sent to enlighten and save a docile and inquiring people from perdition,” the judge turned to the preacher. “And now,” said the judge, “Parson, is not our State doing a grievous wrong, for which God will hold us and our children to fearful accounts?”

“Yes, judge,” said the parson, “it looks very much as you say.”

“Looks!” responded Underwood, “looks!! But is it not so?”

“Yes!” responded the honest preacher, “I *reckon* it is as you say. But then, judge, we want the land!”

Underwood could only close his interview with one of his not overtly reverent benedictions, “Yes, we want the land! Good God Almighty!”⁵²¹

⁵²⁰ Ibid., 213-4.

⁵²¹ Ibid., 226.

As we saw in Chapter 1, ABCFM missionary Jeremiah Evarts a similar parable about leading pro-removal congressman John Bell of Tennessee. Both Evarts' and Paschals' stories narrated a confrontation with a leading pro-removal figure, who privately accepted that a forced removal was unjust, but declared that there is nothing that could be done to prevent it. "It is not within the power of man" to save the Cherokees, Bell reportedly said, asserting the inevitability of Cherokee Removal.⁵²² Paschal's story of Judge Underhill goes a step further—it declares that the avarice of the democratic masses is the reason that the Cherokees can't be "saved," The Baptist parson, representing the voice of conscience of the People of Georgia says, "But then, judge, we want the land!" The judge then throws up his hands and acquiesces. "The immorality, if any were admitted," Paschal concluded, "like the curse of the sisters in the story of the sentimental journey of Lawrence Sterne, was so infinitesimally divided among seven hundred thousand people, that no one felt the crushing weight of responsibility."⁵²³ It is almost as if Paschal is arguing that the People, as an abstract force, or social process, made Cherokee Removal inevitable. But Paschal implied that individuals, and even governments, could escape blame, if they acted with the best of intentions. Paschal leaves a loophole, implying that public and private benevolence could be contrasted favorably with the cruelty of social, historical process.

Reading on through Paschal's memoir, one discovers that Paschal was not merely describing the process of self-justification through recourse to the inevitability of social and historical processes, but employing it as well. After distancing himself from the

⁵²² Quoted in Andrew, 220, and quoted in Elizabeth Carter Tracy, *Memoir of the Life of Jeremiah Evarts* (Boston: Crocker and Brewster, 1845), 360.

⁵²³ *Ibid.*, 229-31.

action for several chapters, it is not until late in the book, buried in a paragraph about his mother's feelings about Cherokee removal, that we learn that George Paschal himself was a Georgia militiaman called upon to round up Cherokee families and incarcerate them in preparation for forced migration. "My mother had been a frontier woman in early life, and her memory went back to the horrors of Indian warfare," Paschal wrote. "But

...her sympathies followed those of most Christian people in the country. She thought [removal] a great hardship, but one which a Christian influence could not avert. She felt that the people had to be removed, (driven away,) if they would not go peaceably. My own feelings were, that we had to maintain the treaty [of New Echota] as the supreme law. Therefore, that it was my duty to perform such military services as were required of me. General Wool gave me credit for performing my part with firmness and yet with humanity.⁵²⁴

If one were not paying close attention, one could entirely miss this aside at the end of a paragraph, revealing Paschal's *personal participation* in forced removal itself, his brief and unelaborated excuse, and his affirmation that he performed his "part with firmness and yet with humanity."

Paschal's idea that his participation in removal was justified because "we had to maintain the treaty [of New Echota] as the supreme law," however, was tied to Paschal's extensive praise of Boudinot and Ridge, in a manner very reminiscent of Governor Lumpkin's. These men were true, farsighted patriots, who made the necessary, hard decision:

...I believe the Ridges, Boudinots, Waties, Bells, Starrs, Reeses, Smiths, Fieldses, Adairs, and others, who signed the New Echota treaty, were impelled to it by force, and influenced by honest and patriotic motives. Whoever may have done the act, might well have pleaded *duress*, for they but made provision to be paid for a country already lost to their people. There was nothing left to them but annihilation on the one side, or temporary homes in the west on the other side.⁵²⁵

Treaty-Party leaders had sensibly bowed to the inevitable, according to Paschal. Other Cherokees were sadly deluded, though opponents of removal like John Ross were

⁵²⁴ Ibid., 267.

⁵²⁵ Ibid., 265.

not “depraved” and evil, as in Governor Lumpkin’s account. Paschal aligned his actions in carrying out forced removal with the martyrdom of these men; he had done the hard thing, and he had done it “with firmness and yet with humanity.”⁵²⁶ Indeed, Paschal did not mention that he had actually married into the Treaty Party, taking John Ridge’s daughter Sarah (“Sallie”) as his wife during the removal campaign, after which the couple moved to Texas.⁵²⁷

Paschal even lumped in President Van Buren with the Treaty Party, as a well-meaning and responsible actor choosing the least of evils:

[L]ooking at the subject from that precise stand-point, the President saw that he must risk a conflict with the states where the Cherokees were, or else force their removal under the form of a treaty unwillingly made by non-representative men. It was one of the cases of injustice by the strong against the weak, where the strong saw not how to avert it.⁵²⁸

“One of the cases of injustice by the strong against the weak, where the strong saw not how to avert it”: Paschal argued the necessity of the government’s attempts to impose a solution, to save the Indians from a social, historical process that the government could not itself arrest.

There is no doubt that impersonal historical processes played a role in the forced migration of Cherokees and other indigenous nations in the removal era. And granted, the recognition that an impersonal process is behind injustice could lead to efforts to ameliorate or alter the process.

But it could also lead to a fatalistic resignation. Historical actors who recognized an impersonal historical process behind events could sympathize with the victims, and even affirm the moral superiority of the victims over the perpetrators. Yet assumptions of

⁵²⁶ Ibid.

⁵²⁷ James W. Parins, *John Rollin Ridge: His Life and Works* (Lincoln and London: University of Nebraska Press, 2004), 27, 35.

⁵²⁸ Paschal, *Ninety Four Years*, 265.

the inevitability of events could lead individuals and groups to endorse or even participate in injustice or atrocity that they denounced in theory, as a practical necessity, or the lesser of evils, if one saw those actions as part of an unavoidable process. The recognition and analysis of the challenges of the rhetoric of inevitability, and the rationalizing and persuasive functions that it can perform, must be an integral part of a nuanced understanding of American moral accounting of its settler-colonial foundation and structure, in the era of Indian removal and since.

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