

# The Trail Of Tears

What You Probably Didn't Know

By John Many Winds Ellis, Turtle Moon Band

No event in history has had greater impact on the Cherokee people than the "removal" of 1838-1839. Most people know that Andrew Jackson played a significant role in the *removal*, and some know it was General Winfield Scott who led the army into the Cherokee Nation land to round up the people and herd them into hastily constructed stockades before being driven out on the *Nu na da ul tsun yi* ("the place where they cried") to distant Indian Territory. And I'm fairly certain all reading this know that a quarter of the Cherokee perished either in the stockades or on the trail. But the foundation was laid for the *removal* decades earlier, and that story is less well known.

We might say the story began in 1802, while Thomas Jefferson was President. Jefferson was negotiating the so-called Louisiana Purchase, vast lands west of the Mississippi River, with the French. What is not so well known is that one of the reasons for the Louisiana Purchase was to give the United States lands in the far west, beyond any immediate vision of national expansion, where those Native tribes residing in the East could be relocated. At that time, the state of Georgia extended from its current boundaries to include all the land west to the Mississippi River. Jefferson wanted to acquire the western part of Georgia. He finally reached agreeable terms with Georgia under which Jefferson paid the state a few cents an acre for the land, and promised to acquire all rights to Native lands in Georgia and future Alabama and Mississippi, and then move the Native peoples from these lands. The next year, Jefferson completed the Louisiana Purchase and recommended the exchange of Native lands in the East for equivalent lands in the new Louisiana territory. He believed that the money saved by not engaging in Indian wars would cover the cost of acquiring Louisiana.

So the *removal* of the Cherokee began with the Federal Government making an agreement with the state of Georgia

decades before the *removal* itself. The people of Georgia would later use this agreement as their justification for seizing Cherokee lands. So, while Jackson would later become an instrument for the *removal*, the foundation was laid by Jefferson.

Through the early years of the 19<sup>th</sup> century, the Cherokee struggled to find a way to appease the state and Federal governments. The Cherokee were led to believe that if they assimilated into the American culture, they would be accepted and not have to leave their ancestral lands. In 1825, the Cherokee established a national capitol at New Echota (near present-day Calhoun, Georgia), along the lines of an American city. On July 26, 1827 the Cherokee Nation adopted a written constitution creating a government structure that closely resembled the Federal Government. Thanks to Sequoyah (also known as George Guess), the Cherokee had a written language and published a bilingual newspaper at New Echota. By 1825 the New Testament was translated into the new Cherokee written language, as conversions to Christianity became more common. Schools were established by the missionaries and the Cherokee people had a higher literacy rate than the people of Georgia in general.

Many Cherokee adopted western style clothes, but with their own distinctive look. Intermarriage between the Cherokee and the white American population became more common, and Cherokee attended American universities, even studying American law. Some Cherokee became very successful plantation owners, rich by the day's standards, with slaves to work their fields, just like the neighboring Georgians. In almost every way, the Cherokee tried to live as the Americans did, as they understood the Americans wanted them to.

But not all Cherokee were willing to give up their traditional beliefs and way of life. Traditionalists lived away from the new cities to exist as their ancestors had. This created a divide among the Cherokee people. As early as 1809, traditionalists expressed interest in voluntarily moving to Arkansas to establish a new nation far from America's influences. Although the Federal Government encouraged such migration,

there was little money to fund the move. In spite of that, Cherokee individuals and families struck out on their own to relocate to Arkansas, to lands already claimed by the Osage. Finally on July 17, 1817 a treaty was completed that ceded tracts of Cherokee land in Georgia and Tennessee to the Federal Government in return for the rights to an equivalent tract in Arkansas, to be assigned to those who had already migrated there or intending to move. These early emigrants from the East were called the Arkansas Band, or the "Old Settlers."

Those who remained in the East tried desperately to work within the American legal system. The issue of Cherokee rights first went before the Supreme Court when Georgia passed state laws that extended their jurisdiction into the Cherokee lands. In the 1831 decision of the Marshall Court in *Cherokee Nation v. Georgia*, the Court ruled that the Cherokee were not a sovereign and independent nation, as proclaimed in their constitution. However, two years later in *Worcester v. State of Georgia*, the Court ruled that Georgia could not impose laws in Cherokee territory because only the Federal Government had authority in Indian affairs, not state governments. In a bit of historic myth, President Andrew Jackson is quoted as famously saying, "John Marshall has made his decision; now let him enforce it!" betraying the very people who saved his live from the Red Stick Creek at the Battle of Horseshoe Bend. Even though he never actually said that, it did accurately present his position on the issue.

The Indian Removal Act of 1830 gave Jackson the authority to negotiate removal treaties with the "5 Civilized Tribes" (Cherokee, Creek, Choctaw, Chickasaw, and Seminole) to exchange Native lands in the East for land west of the Mississippi River. Jackson used the mounting tensions between the Georgia legislature and the Cherokee Nation to further pressure the Cherokee to sign such a treaty. Then when Jackson won a landslide reelection in 1832, some prominent Cherokee leaders felt further resistance was futile and began to push for their current tribal leaders to sign as favorable a treaty as they could negotiate. The so-called "Treaty Party" was led by Major Ridge, his son John Ridge, and nephews Elias Boudinot and Stand Watie. But Principal Chief John Ross, supported by the vast majority of the Cherokee people, remained adamantly opposed to leaving their ancestral lands. Ross' group was called the "National Party." (continued..)