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CHEROKEE-AMERICAN RELATIONS IN THE UPPER TENNESSEE VALLEY 1776-1791

By RANDOLPH C. DOWNES

The outbreak of the Revolutionary War was viewed as a godsend by the leading warriors of the Cherokee nation. It seemed to give them an opportunity to correct the mistake they had made in the years from 1769 to 1775 in permitting, contrary to British advice, the white people to destroy their hunting by settling in the valleys of the Watauga and Nollichucky. Believing that the English king would crush the revolt with irresistible power, the warriors accepted the Watauga challenge and, to the great dismay of the British Indian agents, plunged the upper Tennessee frontier into a racial conflict that purged it at once of all Tories and resulted in an overwhelming defeat of the tribesmen on three frontiers. Horseless warriors unsupported by sufficient British arms were no match for the frontiersmen.¹

This defeat was the first step in the destruction of the Cherokee nation by the United States. The Cherokee had precipitated a bloody war and had lost. They must now make reparation in the forfeiture of some of their lands. The forfeiture took place formally at the treaty of Long Island of July 2, 1777. The boundary line there agreed upon had its southern extent far enough down the Nollichucky to include all the land previously settled by the whites. The Cherokee, of course, did their best to defend their claims by appealing to the sense of justice of the commissioners from Virginia and North Carolina. Through their spokesmen, the Raven and Oconostota, the Indians claimed that their acquiescence in the white occupation of the lands before 1776 was an involuntary one and that the settlers should have removed when the Indians showed dissatisfaction with their presence. The North Carolina commissioner, Waightstill Avery, denied this, saying that the Indians had, at several treaties,

¹This story is well told by Philip M. Hamer in three of his publications: "The Wataugans and the Cherokee Indians in 1776," in *The East Tennessee Historical Society's Publications*, No. 3 (1931), 108-126; "John Stuart's Indian Policy During the Early Months of the American Revolution," in *The Mississippi Valley Historical Review*, XVII (1930-1931), 351-366; "Correspondence of Henry Stuart and Alexander Cameron with the Wataugans," in *ibid.*, 451-459. See also John Haywood, *The Civil and Political History of the State of Tennessee* (Knoxville, 1823), 45-49; and J. G. M. Ramsey, *The Annals of Tennessee* (Philadelphia, 1853), 147-169.

including that at Sycamore Shoals in March, 1775, permitted and sanctioned the settlement of the Wataugans, who could not therefore be blamed for not leaving when the Indians suddenly desired them to remove.

In the time of peace, [he said,] they [the settlers] were not driven away nor moved off, nor were they taken under protection by the governor of North Carolina. They were let alone, no officers were appointed to preside on seats of justice there. The Indians made no request to the governor and council [of North Carolina] to have them removed . . . [When the Indians attacked them] they were taken under the protection of North Carolina, and were supplied with money ammunition, salt, &c. They were received and taken in as a part of our people. . . . Before the war their power was restrained and kept back beyond the line fixed . . . but now you have been the cause of bringing it to Watauga and Nolichucky; and now our courts must be established here.²

The Cherokee had been negligent and must therefore pay the price.

But the fate of the Cherokee was not yet sealed. The British could still rescue them from the avarice of the Americans. The treaty of Long Island was not a voluntary one on the part of the Indians. The chiefs that had attended did so because, as Colonel Isaac Shelby wrote to Joseph Martin on June 20, 1777, they were "greatly distressed at home for provisions."³ Many Cherokee had stayed away, believing that the great British king, although temporarily checked, would still be able to put down the rebellion. These dissenting warriors listened to one of their leaders, Hanging Maw, who had declared in December, 1776, to Robert Dews, that "he well knew the King had more men than the rogues" and that any talk the rest of the warriors had with the Revolutionists "was only a make-haste to save their corn."⁴ These men, led by Hanging Maw and Dragging Canoe, were in touch with John Stuart and Alexander Cameron of the British Indian department and believed what they were told. They did not attend the treaty of Long Island and were indeed responsible for the harassing of the frontiers by Cherokee both before and after the treaty.⁵

The Americans were at a further disadvantage in being unable to pay for Cherokee friendship. They had promised to do this at the treaty of Long Island, but the promise could not be kept. From 1777 to 1779 Virginia made a feeble effort to supply them,⁶ but the cattle and munitions that were sent were far from sufficient. After almost two years of

²Haywood, *op. cit.*, 494-495. Long Island was in the Holston River at the site of the present Kingsport, Tennessee.

³Draper Mss., 1 XX 23 (in Library of the State Historical Society of Wisconsin, Madison).

⁴Walter Clark (ed.), *The State Records of North Carolina* (Goldsboro, 1907), XXII, 998.

⁵James Thompson to Joseph Martin, March 1, 1777; Anthony Bledsoe to Joseph Martin, April 8, 1777; Evan Shelby to Joseph Martin, April 4, 1777, Draper Mss., 1 XX 15, 21, 27.

⁶Louise Phelps Kellogg (ed.), *Frontier Advance on the Upper Ohio 1778-1779* [State Historical Society of Wisconsin Collections, XVIII (1916), *Draper Series*, IV] (Madison, 1916), 105, 182.

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Virginia "aid," Hanging Maw, at a council at Long Island in May, 1779, said, "We are in want of Ammunition, Paint & other necessary Goods . . . what goods we have had from you is not half sufficient . . . we have no other dependence." North Carolina had been a complete failure in this respect. Hanging Maw said, "We formerly look'd to [South] Carolina for supplies of Goods but at this time cannot look that way as there appears a Cloud to hang that way."⁷ After the Cherokee had rejoined the British, Governor Thomas Jefferson of Virginia described the situation quite fairly when he wrote to Washington on February 17, 1781, "Their distress had too much ripened their alienation from us, and gathered to a head."⁸

Hence, when the fortunes of war in the South turned in favor of the British in 1779 and 1780, the Cherokee felt it wise again to take the field against the Americans. Savannah was occupied by the British in the last days of 1778 and soon thereafter Augusta fell. This opened the whole Cherokee country to British goods by way of the Savannah River. The significance of the control of Augusta was clearly described by Arthur Campbell, who informed Governor Jefferson on April 25, 1781, that he had "no hopes the Cherokee will sue for peace, as long as Augusta Georgia is in the hands of the British, who promise them all the supplies they need."⁹ Treaties were held by the British and the Cherokee were promised the return of their lost hunting grounds. Thus Colonel William Campbell reported to Colonel William Preston on December 12, 1780, "In the Treaty held there [Georgia] this Country was given to that tribe [the Cherokee], if they would conquer it."¹⁰

The Cherokee decision was made in the fall of 1780 as the victorious British swept northward into North Carolina. Joseph Martin, Virginia agent to the Cherokee, learned of the decision early in December and fleeing American traders spread the information. Upon Martin's advice, Jefferson decided to strike first and to seek the aid of North Carolina in so doing. Colonel John Sevier, fresh from his victory at King's Mountain, was given the command of the North Carolina-Watauga frontiersmen, and Colonel Arthur Campbell led some Virginia militia into the country of the Overhill, or upper Tennessee, Cherokee. After Sevier had stopped a band of invading Cherokee at the mouth of Boyd's Creek on French Broad River, he and Campbell ravaged or burned every Overhill Cherokee town but two. One thousand huts were burned, over fifty thou-

⁷Continental Congress Papers, Series 71, Vol. I, folio 265 (in Library of Congress).

⁸Draper Mss., 14 U 239.

⁹William P. Palmer (ed.), *Calendar of Virginia State Papers* (Richmond, 1881), II, 72.

¹⁰"Preston Papers," in *The Virginia Magazine of History and Biography*, XXVII (1919), 315.

sand bushels of corn taken, and large quantities of other provisions destroyed. Once again the Cherokee had gambled and had lost.¹¹

The condition of the upper Tennessee Cherokee for the rest of the winter of 1780-81 was desperate. The British, although winning, were unable to help the red men. With its towns and corn destroyed the whole nation was reported to be "Out in the Woods perishing." Hanging Maw confessed that he had "nothing to eat—Only as he Digs roots Out of the Ground from Day to day." Peace, however, did not come to the frontiers. As Cornwallis advanced, fears of Cherokee revenge and of the rising of the previously neutral Creek possessed the frontiersmen. Spring brought the usual Indian raids on the Clinch River and on the Wilderness Road, and Sevier led a small mounted band of volunteers into the country of the Middle Cherokee and destroyed three towns.¹²

The capture of Pensacola by the Spanish general Bernardo de Galvez on May 9, 1781, put an end to any hope of Creek participation in a general Indian cooperation with the British and left the Cherokee to confront the Americans alone. Hence, on July 26, Sevier and Colonel William Christian of Virginia, whom General Nathanael Greene had made continental commissioners, met the leaders of the Overhill Cherokee at Long Island and told them that they had been utterly defeated and could count on no help from the British. Being in the jurisdiction of North Carolina, the Indians must now arrange reparations and land cessions with that state. The Cherokee were thus abandoned to their worst enemies.¹³

This deepened the tragic setting into which the Cherokee were thrust. They had vainly gambled twice on receiving British aid in taking up arms against the Americans. It now became their lot to deal with the rapidly increasing number of intruders on their lands at a moment when there was no state or national power in existence capable of restraining the frontiersmen or of compensating the Indians and otherwise doing them justice. At the same time it became apparent that the Cherokee could expect nothing from the Spanish successors to the British Indian department in Florida. There all the other tribes, the Seminole, the Creek, the Choctaw, and the Chickasaw found themselves favored with Spanish encouragement and protection. The lands of these nations formed a complete and continuous insulation between Spanish and American territory. There was no need to draw in the Cherokee.¹⁴

¹¹Draper Mss., 1 XX 40, 41; 14 U 239; 9 DD 24, 25; *Calendar of Virginia State Papers*, I, 397; Ramsey, *Annals*, 267.

¹²Draper Mss., 1 XX 43; *Calendar of Virginia State Papers*, I, 569, II, 143; Ramsey, *Annals*, 268. The Middle Cherokee country bordered the upper Tennessee Cherokee on the eastern side of the mountains.

¹³Wilbur H. Siebert, "The Loyalists in West Florida and the Natchez District," in *The Mississippi Valley Historical Review*, II (1915-1916), 476; Draper Mss., 1 XX 30, 45-49; *Calendar of Virginia State Papers*, II, 200.

¹⁴Arthur Preston Whitaker, *The Spanish-American Frontier: 1783-1795* (Boston and New York, 1927), 35, 41-43.

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Being left to the tender mercies of the Americans, the Cherokee became pawns in one of the strangest jurisdictional disputes in the annals of American history. There existed an American central government, which, under the articles of confederation, had the power of "regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated." There was little likelihood of that central government attempting to exercise any real control over Cherokee affairs so long as there was no prospect of there being any public lands west of North Carolina. The United States government would not spend money on the Indian problem if it could not sell parts of the Indian's land for a good profit, as it was about to do in the Old Northwest. The other two governments involved were North Carolina's and that of the frontiersmen in the Carolina jurisdiction west of the mountains. From 1781 to 1784 the interests of these two were legally one and their objects not divergent. The former desired to use the Indian lands to help retire the state debt. The latter desired legal titles to the lands they had already occupied. After 1784, when circumstances led them to seek to create the separate state of Franklin, the frontiersmen, or Franklinites, desired a much larger slice of Indian land in order to help support the new state government. The situation was further complicated by the fact that neither North Carolina nor the frontiersmen had sufficient resources to conduct a peaceful and orderly solution of the problem as it involved the Indians. The Cherokee were thus in a hopeless situation, having to deal with a weak and disinterested national government, an impecunious and powerless state government, and an irresponsible and land hungry frontier people.

The central factor in this circumstantial victimizing of the Cherokee was the settlers' invasion of the upper Tennessee country that set in during 1781 after the Anglo-Indian collapse. So rapid was this influx that by the fall of 1782 the invaders had swept past the French Broad into the valley of the Big Pigeon and had rested only when they had staked their claims within a day's walk of the nearest Cherokee towns. The Cherokee, astonished at the wholesale invasion of their hunting grounds, appealed to North Carolina's governor, Alexander Martin, who, on February 11, 1782, ordered Colonel John Sevier to warn off the intruders and, if necessary, to lead the frontier militia against them to force them to withdraw. Sevier, of course, did no such thing and the squatter invasion continued throughout the spring and summer of 1782. Finally, on September 25, 1782, Old Tassel, chief spokesman for the Overhill Cherokee, appealed again to Governor Martin:

Your people from Nollichucky are daily pushing us out of our lands. We have no place to hunt on. Your people have built houses within one day's walk of our towns. We don't want to quarrel . . . we . . . hope our elder brother will not take our lands from us, that the Great Man above gave us. He made you

and he made us; we are all his children, and we hope our elder brother will . . . not take our lands from us . . . because he is stronger than we are. We are the first people that ever lived on this land; it is ours and why will our elder brother take it from us? . . . We have done nothing to offend our elder brother since the last treaty . . . we hope that . . . you will take pity on us your younger brother, and send Colonel Sevier, who is a good man, to have all your people moved off our land.¹⁵

North Carolina was willing to do the Cherokee as much justice as could be done without interfering with her own land needs. She was willing to let the Cherokee have much of the land that the squatters were occupying, but she was insistent upon the use for sale of lands south of the Nollichucky line of 1777. This insistence was embodied in an act passed in April, 1783, by which the northern and eastern boundary of the Cherokee country was made to extend from the junction of the Little Tennessee and Tennessee rivers, up the Tennessee to the confluence of the Holston and the French Broad, up the latter to Big Pigeon River, up this stream to its head waters and then along the ridge between the Pigeon River and Tuckasejah River, to the southern boundary of the state. This act accomplished the alienation of a large area of Cherokee hunting ground without the formality of a treaty and was based on the state's rights doctrine that England had ceded the Indians' land rights to North Carolina in the treaty of 1783.¹⁶ It is apparent, however, that if the law could have been enforced so as to keep settlers from crossing the new boundary, it would have been satisfactory to the Cherokee because it was enacted at the instance of Joseph Martin, North Carolina agent to the Cherokee, with the purpose of confirming to the Cherokee the rest of their lands and with the purpose of excluding the settlers.¹⁷ On May 17, 1783, a law was passed by the state opening a land office at Hillsborough for the sale of these lands and in the course of a few months nearly four and a half million acres had passed into private hands and a considerable reduction of the state war debt was thereby accomplished.¹⁸ At the same time a third act was passed, authorizing the governor to hold a treaty with the Cherokee to effect a lasting peace. Apparently no money was appropriated because, on July 12, Governor Martin reported to Governor Benjamin Harrison of Virginia that "this Treaty was delayed for want of goods to give in return for Such lands as they [the Cherokee] might cede to N. Carolina." This delay climaxed several years of complete neglect of the Cherokee by North Carolina and lasted until the state, in June, 1784, ceded her lands and

¹⁵Ramsey, *Annals*, 270-271.

¹⁶*Ibid.*, 276.

¹⁷Journal of Martin Schneider, quoted in Samuel Cole Williams, *History of the Lost State of Franklin* (Johnson City, Tenn., 1924), 255. Joseph Martin served both North Carolina and Virginia as Indian agent.

¹⁸Walter Lowrie and Matthew St. Clair Clarke (eds.), *American State Papers, Indian Affairs* (Washington, 1832), I, 624; Samuel Cole Williams, *Beginnings of West Tennessee* (Johnson City, Tenn., 1930), 41-42.

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the Cherokee problem to Congress. "I am sorry," wrote Governor Martin to the Cherokee in December, 1784, "that . . . I could not see you last spring as I promised you, as our beloved men [the legislature] . . . had prevented me by agreeing . . . that the Great Council of the thirteen American States, at Philadelphia should transact all affairs belonging to the Red People."¹⁹

North Carolina had thus accomplished her avowed purpose of presenting Congress with nothing but an Indian problem. All the useful land, according to her intentions, was disposed of for her own benefit. On December 8, 1783, Governor Martin wrote to the North Carolina delegation in Congress, "I venture to say there will be no cession worthy of acceptance, as the principal lands will be entered before this reaches you." And before Congress could act, the frontiersmen on the ceded lands took steps to organize a new state in the full expectation that Congress would approve such action and welcome them into the confederation as soon as the formal acceptance of the cession should take place. This meant the necessity for the creation of a public domain for the new state of Franklin, as it was called. As one of the Franklinites wrote to an eastern friend on December 20, 1784, "We would have the disposal of the Indian country, fix the limits of the new State, and appropriate the lands, as a fund, to the support of our own government."²⁰

The repeal of the cession by the legislature of North Carolina in December, 1784, made little difference.²¹ After some hesitation, John Sevier, in March, 1785, took over the office of governor of the new state of Franklin, whose legislature at once set about to create for itself a public domain. This was done by organizing the country into counties to the northern watershed of Little River, which included practically all the land occupied and claimed at that time by individual whites. The leaders of the new commonwealth then proceeded to go through the motions of getting the Cherokee to consent to the accomplished fact. A conference was arranged, which was held at the junction of Dumplin Creek and French Broad River in what is now Jefferson county, Tennessee. The Franklin delegates came away, saying that the Indians

¹⁹*Calendar of Virginia State Papers*, III, 509; Ramsey, *Annals*, 304.

²⁰*North Carolina State Records*, XVI, 919; Draper Mss., 7 XX 11. Another phase of this effort of the Franklinites to create a public domain is to be found in the efforts of Sevier and others to promote a colony at Muscle Shoals. See A. P. Whitaker, "The Muscle Shoals Speculation, 1783-1789," in *The Mississippi Valley Historical Review*, XIII (1926-1927), 370-372.

²¹In December, 1784, a state constitution had been drawn up and promulgated before North Carolina's repeal of the cession was known (Williams, *Lost State of Franklin*, 38-43, 330-338).

had agreed to a cession as far south as the southern watershed between the Little River and the Little Tennessee.²²

The fundamental argument used by Sevier, one of the commissioners at Dumplin Creek, was that the settlements, even if unjustly made, were nevertheless made and could not be unmade. The fault was with North Carolina. The negligence of this state, he said, had been taken as a warrant by settlers to intrude on the Indians' lands. These settlements, he said, "had been imprudently made on the south side of French Broad and Holston, under the connivance of North Carolina and could not be broken up."²³

As a matter of fact, the Cherokee nation did not consent at Dumplin Creek to Sevier's treaty. What happened was that a few young Cherokee met the Franklin commissioners and agreed to let the whites stay south of French Broad until the head chiefs of the nation were consulted. To use the words of the Cherokee, Old Tassel,

Some of them [the Franklin commissioners] gathered on French Broad, and sent for us to come and treat with them . . . we did not go to meet them, but some of our young men told them that all their head men were at home; that they had no authority to treat about lands. They then asked them liberty for those that were then living on the lands, to remain there, till the head men of their nation were consulted on it, which our young men agreed to. Since then, we are told that they claim all the lands on the waters of Little River, and have appointed men among themselves to settle their disputes on our lands, and call it their ground.

This version of the affair is entirely borne out by Joseph Martin, North Carolina Indian agent, in his letter of August 1, 1785, to William Russell. This makes the treaty of Dumplin Creek a mere tentative arrangement that the white negotiators represented to be a solemn treaty.²⁴

The Cherokee naturally looked elsewhere for help and found it momentarily in North Carolina and Congress. North Carolina resumed the preparations for a Cherokee treaty at the same time that she repealed the cession act in December, 1784. But when the state of Franklin refused to recognize North Carolina's jurisdiction, the preparations were dropped and Governor Alexander Martin appealed to Congress for help.²⁵ North Carolina was mistaken, however, in thinking that Congress would do anything to stabilize conditions on the frontier. Since there were no public lands on the Tennessee, Congress did not do as it was doing at that very time in the Northwest, that is, build garrisons, supply troops,

²²Carl S. Driver, *John Sevier, Pioneer of the Old Southwest* (Chapel Hill, N. C., 1932), 88; Ramsey, *Annals*, 295, 299. In describing the Dumplin Creek line, Ramsey says the ridge of "Little River and the Tennessee." This is what in modern usage is the ridge between the Little River and the Little Tennessee.

²³*Ibid.*, 299-300.

²⁴*Ibid.*, 319; Draper Mss., 2 XX 5.

²⁵Ramsey, *Annals*, 306-307.

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and remove squatters. By resolution of March 15, 1785, any military protection in the South and all supplies and expenses involved in any treaty in the South must be furnished by the state at the state's expense while the treaty commissioners appointed by Congress did the negotiating. The southern states could be represented only by delegates from each state without power to negotiate.²⁶ Consequently, the treaty held at Hopewell, South Carolina, from November 18 to 29, 1785, is an admirable example of how generous a government can be with Indians when lands in question do not belong to that government. The Cherokee asked for the restoration of the Nollichucky line of 1777 and got it, although the status of the settlers as far south as the north bank of the French Broad was not definitely settled, so that these people continued to have a legal right to their holdings. The Hopewell line even fell short of the North Carolina line, which dipped south of the French Broad at the junction of Big Pigeon. William Blount, the North Carolina delegate, formally denounced the congressional treaty and it was never recognized by that commonwealth at any time.²⁷

The situation on the upper Tennessee in the months immediately following the treaty of Hopewell was an ugly one and was bound to become uglier. The Cherokee, satisfied that they now had a friend in Congress, confidently looked forward to the expulsion of the frontiersmen from south of French Broad. The state of Franklin on the other hand was resolved to defend these settlers to the last extremity.

In the fall of 1786, the upper Tennessee frontiersmen, of whom it had been said that "they scarce look upon them [the Cherokee] as human creatures,"²⁸ felt quite confident that this nation of Indians must give way to the advance of the whites. David Campbell, chief judicial officer of the state of Franklin, wrote to the governor of North Carolina on November 30, 1786,

What will be the consequence of those [white] emigrations? Our laws and government must include these people or they will become dangerous; it is vain to say they must be restrained. Have not all America extended their back settlements in opposition to laws and proclamations? The Indians are now become more pusillanimous, and consequently will be more and more encroached upon; they must, they will be circumscribed.²⁹

There was no holding back a people like this. Moreover, Campbell spoke with the knowledge of a season just passed of bitter and sanguinary warfare. Murders by Indians of white men south of the French Broad early in 1786 had been followed in March by a mounted invasion under

²⁵John C. Fitzpatrick (ed.), *Journals of the Continental Congress 1774-1789* (Washington, 1933), XXVIII, 160-162.

²⁶*American State Papers, Indian Affairs*, I, 40-44; Williams, *Lost State of Franklin*, 97-98.

²⁷Journal of Martin Schneider, quoted in *ibid.*, 255.

²⁸*North Carolina State Records*, XX, 651-652.

Sevier of the Hiwassee Valley towns and the destruction of three towns and the killing of fifteen warriors. Cherokee retaliation followed, whereupon the Franklinites, Colonel Alexander Outlaw and Colonel William Cocke, led another mounted band into the Cherokee country and imposed on the Indians the harsh treaty of Coyatee, of August 3, 1786, which was a confirmation of the treaty of Dumplin Creek and which, according to Ramsey, received the involuntary endorsement of the leading chiefs, Old Tassel and Hanging Maw.³⁰

In spite of all their punishment and in complete opposition to the aggressive hopes of the Franklinites the Cherokee continued to expect the removal of the intruders as promised in the treaty of Hopewell. On September 5, 1786, the North Carolina Indian agent, Joseph Martin, had a conference with Old Tassel and Hanging Maw at Chota. The Indians reminded Martin of the promise, pointed out that the whites were occupying more land instead of withdrawing, and expressed much apprehension.³¹

Unfortunately, Congress continued for several years to believe it could remove the whites from south of the French Broad without doing anything effective. On August 7, 1786, there was passed an ordinance "for the regulation of Indian Affairs," authorizing the appointment of a congressional superintendent for all the Indians south of the Ohio. The ordinance as originally reported by committee proposed to cause the superintendent to identify himself with tribal relations much as Sir William Johnson and John Stuart and their deputies had done in the days of British rule. The committee's draft gave the superintendent and the commandants of the congressional troops complete jurisdiction over crimes growing out of the relation of the two races. It also provided that the superintendent might control prices of furs and skins and specify where and when and how traders might open their packs.³² All of these provisions were dropped because of states' rights objections. The superintendent was given power to license traders, but not to control trade, to protect the Indians from liquor and rapacity, but with no money to make such protection possible, and to collect information as best he could. No provision was made for continental troops to be garrisoned in the South. Above all, it was declared that "the legislative right of any state within its own limits, be not infringed or violated."³³ The first superintendent, James White, thereupon set out to master the situation with no troops, no money, and almost no real power. Events proved that it was altogether too much for him even to straighten out Creek affairs

³⁰Ramsey, *Annals*, 341-346; Driver, *Sevier*, 28.

³¹Continental Congress Papers, Series 56, folio 417.

³²*Ibid.*, folios 469-475.

³³*Journals of the Continental Congress*, XXXI, 490-493.

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in the country where he spent most of his time. The other southern tribes could not be touched and nothing was done until early in 1788, when Joseph Martin became a congressional agent to the Cherokee, and then it was too late.

In 1787, the secretary at war, Henry Knox, fearful lest the frontiers, both north and south, were drifting into general Indian war and desiring additions to the public domain, proposed that Georgia and North Carolina be strongly urged to cede their western lands. A congressional committee reported in favor of this proposal and at the same time interlarded its report with statements justifying the Cherokee and blaming the Franklinites for the difficulties. But instead of accepting the committee's nationalistic report, Congress, on October 26, 1787, was obliged by the states to adopt one of a states' rights complexion. Treaty settlements were to be made with the Creek and Cherokee by four commissioners, three of whom were to be appointed by the states of North and South Carolina and Georgia, and any two of whom might be a quorum. The fourth commissioner was to be the continental Indian superintendent. The expenses of the treaty were to be borne by the states involved. In regard to boundaries, they were instructed first that "no Cession of land is to be demanded of the Indian tribes" and second that they were "so to conduct the matter that the States may not conceive their Legislative rights in any manner infringed." So far as the Cherokee frontier on the upper Tennessee was concerned, these two instructions were utterly incompatible. In regard to trade, the commissioners were charged with another set of incompatibilities. They were to "be careful not to irritate the States nor to sacrifice the rights of the Union."³⁴

The Cherokee, of course, could not know that Congress was not going to carry out the treaty of Hopewell. When they were confronted with repetitions in 1787 and 1788 of the violence they had known in 1786, originating among the Franklinites, it was only natural that they should strike back and at the same time expect to be justified by Congress. Hence, during these years, there was forming a Cherokee movement that in 1788 was to bring into the field a great conquering Cherokee army organized to sweep every settler from the south of the French Broad.

The Cherokee had much to complain of during 1787 and 1788. When Joseph Martin, in the spring of 1787, had come back to the frontiers of the upper Tennessee armed with Governor Richard Caswell's proclamation ordering the settlers south of the French Broad to disperse, they had insolently replied "that they had knowledge Enough to judge for themselves; that they should not ask North Carolina nor no other power

³⁴[Way and Gideon (comps.)], *Journals of the American Congress: from 1774 to 1788* (Washington, 1823), IV, 804; Continental Congress Papers, Series 30, folio 327.

how they were to be Govern'd."³⁵ Their attitude reached a stage of even greater defiance when, early in 1787, the Franklin legislature passed a law opening to entry all the land south of French Broad clear to what is now the Little Tennessee River, thus exceeding the line of Dumplin Creek and Coyatee by the width of the northern watershed of the Little Tennessee River.³⁶ In spite of this Hanging Maw told Joseph Martin on March 24 that they still expected a square deal from Congress.³⁷ At about the same time the Cherokee were subjected to the humiliation of having a peaceful hunting party near the Wilderness Road attacked by Colonel John Logan of Kentucky who, mistaking them for hostile Chickamauga, killed seven of them. Retaliation, of course, by members and friends of the families of the deceased, took place. But the most insulting part of the whites' procedure in this affair was the Virginian Governor Edmund Randolph's explanation, accompanied as it was by false accusations of the burning of white women and threats of punishment if the Cherokee did not accept the explanation. The Cherokee replied to Randolph in bitter denunciation, but discreetly refrained from general warfare.³⁸

The year 1788 brought matters to a head. Certain individual Cherokee, impatient with the congressional delay, took matters into their own hands. The frontiersmen became even more aggressive partly as a result of a change in policy by the new governor of North Carolina, Samuel Johnston, who sought to kill the Franklin statehood movement with kindness by supporting the frontier Indian policy. He dropped Governor Caswell's proclamation against the squatters south of the French Broad; he refused to cooperate with Congress by not appointing a state commissioner to treat with the Cherokee according to the ordinance of October 26, 1787; and he made Joseph Martin brigadier general of militia in the upper Tennessee Valley, who began using his influence to get North Carolina to support and finance an expedition against the belligerent Chickamauga.³⁹

The spark that led to more general conflict was the massacre in May, 1788, by a Cherokee named Slim Tom, of the entire family of John Kirk, who lived on the south side of the Little River, about nine miles from Chota, on lands described by Joseph Martin as "reserved by the Legisla-

³⁵*North Carolina State Records*, XX, 623, XXII, 676; Williams, *Lost State of Franklin*, 116-117; *Calendar of Virginia State Papers*, IV, 261; Ramsey, *Annals*, 361.

³⁶*North Carolina State Records*, XX, 656, XXII, 678; Ramsey, *Annals*, 356. It is assumed in this paragraph that when Ramsey referred to the Tennessee River he meant the stream that is now known as the Little Tennessee.

³⁷*Calendar of Virginia State Papers*, IV, 262.

³⁸*Ibid.*, IV, 249, 254, 256, 360; Draper Mss., 9 DD 74.

³⁹*North Carolina State Records*, XXI, 456, 457, XXII, 693, 717. The Chickamauga were a small section of the Cherokee who had left their native haunts and settled on the Tennessee River near Lookout Mountain.

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ture of North Carolina for these Indians on which . . . they were placed by the Commissioners under the direction of Congress." Kirk's farm was one of the nearest, if not the nearest, to the Indian country.⁴⁰ The best Indian explanation of this bloody act was made by a Cherokee chief from a town called Ustanali (South Carolina) to Joseph Martin. He laid the blame squarely on Kirk for taking advantage of the Cherokee pledge of peace at Hopewell by leading his family on to forbidden ground. He said,

You then said [at the treaty of Hopewell] the people should move off in six moons from that time; but near forty moons are past and they are not gone yet. We well remember, whenever we are invited into a treaty, . . . and bounds are fixed, that the white people settle much faster on our lands than they did before. It must certainly be the case, they think we will not break the peace directly, and they will strengthen themselves and keep the lands. You know this is to be the case. You told us at the treaty, if any white people settled on our lands we might do as we pleased with them. They come and settle close by our towns, and some of the Chicamoga people came contrary to our desire, and killed a family.⁴¹

According to John Kirk, "this began the war."⁴² After Martin had restrained one band of vengeance seekers, and after another had attacked an unidentified Cherokee town, killing an old woman and wounding two children, a mounted band of one hundred and fifty under Sevier rendezvoused at Hunter's Station on Nine Mile Creek, south of the French Broad, and set out for the Hiwassee Valley about June 1. Before leaving the Cherokee country, Sevier returned by way of the Little Tennessee River and, burning and killing as he progressed, finally reached a point across the river from the Cherokee town of Chilhowee. It happened that there were present in this town two of the most beloved and important chiefs of the Cherokee nation, Old Tassel and Old Abraham. These men, according to the justices of Abbeville county, on the South Carolina frontier, were "remarkable for their good Offices & Fidelity in the darkest situation of our Affairs." Sevier, desiring to negotiate, raised a flag of truce and invited the chiefs to cross the river and treat. There eventually gathered in Sevier's tent about six warriors, all unarmed. A time came when Sevier was absent and the Indians were unguarded. This was the opportunity for John Kirk, who, still obsessed with rage against the

⁴⁰Continental Congress Papers, Series 150, Vol. II, folio 444; Draper Mss., 2 XX 28; Ramsey, *Annals*, 419.

⁴¹*American State Papers, Indian Affairs*, I, 47. The evidence as to whether or not Slim Tom and his band were Chickamauga is not conclusive.

⁴²*Georgia State Gazette*, April 25, 1789, quoted in Williams, *Lost State of Franklin*, 208.

Cherokee for the murder of his family, entered the tent of peace and sank his tomahawk into the head of every Cherokee present.⁴³

Much more can be said in behalf of the long suffering Cherokee. In April, 1788, Martin had discovered a band of frontiersmen from the settlements on the lower part of the Holston River organized to take vengeance on the Cherokee for the recent murder of a white man and boy. In his report to Henry Knox on July 10 Martin, now congressional agent to the Cherokee, described how he had taken a delegation of five whites from this band as witnesses to his investigation of the recent killing in the Cherokee country. They had found that the murder was committed by Creek and Chickamauga, not by Cherokee, that the Cherokee had actually turned back several murderously inclined bands of Creek and Chickamauga bound for the white frontiers, and that an evacuation by the Cherokee of the towns nearest the whites was getting under way. Upon Martin's advice and reassurance the evacuation was stopped and the Indians planted their corn.⁴⁴ It should also be said that after Slim Tom murdered Kirk's family the Cherokee disclaimed any responsibility, saying that the murderers were Creek and Chickamauga.⁴⁵ Furthermore, prior to the time of Sevier's invasion of the Hiwassee Valley, the upper Tennessee Cherokee had agreed among themselves to repudiate the Chickamauga and had declared that all Indians found on land south of the Hiwassee were subject to the vengeance of the whites.⁴⁶ Finally, when the men under Colonel James Hubbard, who was conducting a movement in support of Sevier, neared Chota, the Cherokee capital, the inhabitants of it and of five neighboring towns fled to their relatives across the mountains in South Carolina "for peace and protection." Before fleeing, however, they had agreed to move aside and let the whites fight it out with the Creek and Chickamauga.⁴⁷

It was thus quite natural that after Kirk's bloody revenge at Chilhowee the Cherokee should retaliate. According to Colonel George Maxwell of the Sullivan county militia, writing on July 9, Sevier's conduct had "so exasperated the Indians that the whole body of them is at hot war with us."⁴⁸ Settlement after settlement was attacked by small Cherokee

⁴³Continental Congress Papers, Series 56, folios 429, 432, 436-438, Series 150, Vol. II, folio 445; *Calendar of Virginia State Papers*, IV, 452; Draper Mss., 2 XX 28; Ramsey, *Annals*, 419-424; Williams, *Lost State of Franklin*, 206-207. At about the same time as Slim Tom's murder of Kirk's family, a party of about forty whites, descending the Tennessee and bound for the Cumberland settlement, was set upon in the Chickamauga country and all but three were killed. Although the Cherokee were not involved in this affair, it added fuel to the flames of white resentment (Ramsey, *Annals*, 508-509).

⁴⁴Continental Congress Papers, Series 150, Vol. II, folio 443.

⁴⁵*Ibid.*, folio 445; *Calendar of Virginia State Papers*, IV, 452.

⁴⁶Continental Congress Papers, Series 150, Vol. II, folio 445.

⁴⁷*Ibid.*, Series 56, folios 432, 436.

⁴⁸*Ibid.*, Series 150, Vol. 3, folio 409; *North Carolina State Records*, XXII, 718.

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bands. There was nothing for the frontiersmen to do but to strike back. As Colonel Thomas Hutchings put it on July 11, "The war with the Cherokee have [*sic*] now become general, altho' in part unjustly brought on—we are of necessity obliged to defend ourselves against the cruelties of an inveterate enemy."⁴⁹ But the white inhabitants south of the French Broad were not able to defend themselves. Indeed, in the face of the great Indian army that began its invasion of that country in October it is doubtful if all the inhabitants of the upper Tennessee Valley could have successfully defended the disputed lands. Something more than raids like that of Sevier in June and the equally brutal one of Alexander Outlaw in August was necessary. Martin tried it in September with North Carolina credit and five hundred frontier militia and supporting supplies, but made a miserable failure of the attempt. He sought to avoid hostilities against the Cherokee and to concentrate on the Chickamauga far down the Tennessee River, but the Indians withdrew into Lookout Mountain, whereupon Martin's militia refused the sanguinary task of trying to dislodge them.⁵⁰

The Indian army that appeared on the frontier in October following Martin's disastrous retreat was a formidable one indeed. According to Martin himself "the whole frontier country seemed then to be in their power." The army numbered 1200 Cherokee and 400 Creek. But above all it included a weapon seldom available to Indians: several companies of horsemen equipped from the Creek nation and commanded by white men. They opened their invasion on October 17 by an attack on Gillespie's station, whose inhabitants, mostly women and children, on refusing to surrender, were killed to the number of twenty-eight.⁵¹ The frontier south of the French Broad began to break. Daniel Kennedy of Evan's Ferry wrote to Colonel John Tipton on October 22, "The Stations are Chiefly evacuated on the South Side of the French Broad, and the road Crowded With Women and Children making their Exeate [*exit*] Numbers of them On Foot, Who have lost all But their Lives only, and Seem Contended [*sic*] to Carry their Tender Babes in their Arms to make their Escape."⁵²

At this juncture there appeared among the invading Indian army the head chief of the upper Tennessee Cherokee, Hanging Maw. He had come post haste from Hopewell, South Carolina, where Joseph Martin

⁴⁸Continental Congress Papers, Series 150, Vol. III, folio 401.

⁴⁹*American State Papers, Indian Affairs*, I, 48; Continental Congress Papers, Series 150, Vol. 3, folios 361-365, 405, 409, 413, 505-507; Williams, *Lost State of Franklin*, 210-211; Ramsey, *Annals*, 517; Stephen B. Weeks, "General Joseph Martin and the War of the Revolution in the West," in *Annual Report of the American Historical Association for the Year 1893* (Washington, 1894), 463.

⁵¹*American State Papers, Indian Affairs*, I, 47; Ramsey, *Annals*, 518-519.

⁵²North Carolina Historical Commission, *Miscellaneous Papers*, I (1758-1788, September 20-November 30), 134.

had shown him a copy of a congressional proclamation, dated September 1, 1788. This proclamation, passed at the behest of Knox, who had just received full information from the continental Indian agents, Richard Winne and Martin, concerning the Kirk affair and the subsequent warfare, purported to put into force the treaty of Hopewell. By it the United States forbade "all such unwarrantable intrusions and hostile proceedings against the Cherokees" and enjoined all whites on the Cherokee hunting grounds south of the French Broad to depart or to remain "at their peril."⁵³ Upon observing this congressional intervention as represented to them by their trusted chief, Hanging Maw, the Cherokee-Creek army dispersed. The evidence indicates without the slightest question that the Cherokee interpreted the proclamation as a solemn promise by the United States that the settlers south of the French Broad would be removed. In a great council at Ustinali in South Carolina on November 1 the Cherokee declared to Martin, "We have heard from our brother, also from Congress, likewise the Governor of Virginia, who tells us that the people settled on our hunting grounds shall be removed without loss of time, which gives us great satisfaction. . . . We hope you will keep your people now at peace, and not . . . disturb us as they have done."⁵⁴ In February, 1789, Alexander Dromgoole met an assemblage of Cherokee warriors on the Coosawatee River, in what is now the extreme northwest corner of Georgia. Here the warriors told him, "We set out last fall to lay waste and burn the houses of all those people settled on our hunting grounds, but hearing the good talks of Congress, we done nothing, but took one station . . . and desired all our young warriors to return home and set down to see if Congress would remove them, which we all expect will be done soon, and in consequence of this we have all laid down the hatchet."⁵⁵

And so during the winter and spring of 1789 the upper Tennessee Cherokee began to come in from the Creek and cismontane Cherokee lands to which they had fled during the warfare of 1788.⁵⁶ They returned with a new resolution to keep their own people in order so as to avoid any opportunity for friction with the whites. The evidence of this strange fact comes from an unknown correspondent whose letter, dated "Ceeder Spring," October 18, 1789, is preserved in the Draper Collection. The writer declared,

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⁵³*American State Papers, Indian Affairs*, I, 28, 46; *Journals of the American Congress*, IV, 860.

⁵⁴*American State Papers, Indian Affairs*, I, 47, 48; *Calendar of Virginia State Papers*, IV, 504.

⁵⁵*North Carolina State Records*, XXII, 788-789.

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The writer added that there was ample evidence that the Cherokee
would welcome any efforts of the United States to introduce the practical
arts of the white man's civilization.⁵⁷

The golden opportunity of the Cherokee had passed. Congress could
not and did not enforce the treaty of Hopewell. To do so required the
assent and cooperation of the state of North Carolina, and these could
not be had. The North Carolina delegation to Congress had caused to
be inserted in the proclamation of September 1, 1788, a provision that
nothing in it should "be considered as affecting the territorial claims of
the state of North Carolina." Hugh Williamson, one of that delegation,
wrote to Governor Johnston on September 6, 1788, "This proviso . . .
leaves by implication every Claim of the State in its useful force. The
Treaty of Hopewell will never operate against the Territorial Claims of
the State whenever she thinks fit to make them."⁵⁸ In conformity with
this doctrine the legislature of North Carolina in the fall of 1788 ap-
pointed John Steele commissioner to treat with the Cherokee as recom-
mended by the congressional resolution of October 26, 1787. Steele was
instructed to seek to obtain a land cession as far south as the Little
Tennessee—Little River watershed as provided in the treaty of Dumplin
Creek. Steele made a valiant effort to bring about a treaty, but the
Creek situation in Georgia and other factors caused the two parties to
miss each other, so that the only thing accomplished was a mutual agree-
ment by correspondence in June, 1789, between Steele and the Cherokee
chiefs to extend the truce.⁵⁹

But the position of Congress was becoming more and more absurd.
The Indians may have checked their invasion as the result of the pro-
clamation of September 1, 1788, but that document did not check those
whom the proclamation was supposed to remove. Sevier, believing the
frontier about to be attacked by the Indians, had led one hundred horse-
men into the Cherokee country and on January 10, 1789, according to his
account, in a battle near Flint Creek, killed over 145 red men with a loss
of only five whites killed and sixteen wounded. Three other invasions
of the Cherokee lands by whites are referred to by contemporaries, but
none seem to have been so sanguinary as this one.⁶⁰ Martin was most

⁵⁶Draper Mss., 9 DD 53.

⁵⁷North Carolina State Records, XXI, 497.

⁵⁸Calendar of Virginia State Papers, IV, 520; American State Papers, Indian Af-
fairs, I, 48, 55, 67; Draper Mss., 4 XX 6; Walter H. Mohr, *Federal Indian Relations,*
1774-1788 (Philadelphia, 1933), 167-170.

⁵⁹Williams, *Lost State of Franklin*, 218-219; North Carolina State Records, XXI,
506, 546-547.

exasperated at these acts and Governor Johnston, who had been doing his best to satisfy the Franklinites, denounced Sevier as "incorrigible." These frontiersmen, declared Johnston, "can be considered in no other light but that of free Booters and Robbers, and unless they refrain from those horrid atrocious Acts of Barbarity which have been so frequently repeated in that Quarter, they will be looked upon as the enemies of Mankind in general and treated accordingly."⁶¹ But the temper of these "free Booters and Robbers" is shown by the meeting on January 13, 1789, of the people "south of Holston, French Broad and Big Pigeon Rivers," at which it was resolved, among other things, that "it would be good policy, and of essential service to this country if the Indians will agree to give up any of the country south of the [Little] Tennessee river to our Council of Safety." Agents were designated to confer with the Cherokee and measures were taken to raise the purchase money. Thus did frontiersmen reach even beyond the Dumplin Creek line. Indeed, Colonel Thomas Hutchings had reported to Joseph Martin on July 11, 1788, that Sevier's band on its Hiwassee invasion had "made upwards of 300 improvements" on that stream.⁶²

Congress was soon to surrender. During 1789 Knox continued to storm against the upper Tennessee white men and to deplore the humiliating spectacle of a national treaty being trampled on. But he did nothing and advised President Washington that nothing could be done until North Carolina ratified the federal constitution. This advice was accepted by both Washington and Congress. Hence, the new national commissioners who were sent south in August, 1789, were instructed to avoid the Cherokee until North Carolina had ratified. This the commissioners did except for sending complimentary letters to the nation and promising that when Congress did get around to treating with them the treaty of Hopewell would be enforced.⁶³

The end came in 1789 when North Carolina ratified (November 21) the federal constitution and ceded (December 12) to the United States its western land claims, including the upper Tennessee country, all of which became, in the course of the following year, the Territory South of the River Ohio. The abandonment of the treaty of Hopewell was a part of the price the United States was willing to pay to get North Carolina into the Union. On January 4, 1790, Knox for the first time recognized the fact of the utter impossibility of removing the families from their farms south of the French Broad when he admitted to Washington that "existing circumstances may require that the boundaries

⁶¹*Ibid.*, XXI, 427, 536-537.

⁶²Williams, *Lost State of Franklin*, 349; Continental Congress Papers, Series 150, Vol. III, folio 401.

⁶³*American State Papers, Indian Affairs*, I, 38, 53, 55, 67, 69, 70, 77; *Annals of Congress*, 1 Cong., 1 Sess., 69.

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stated in the said treaty [of Hopewell] should be more accommodated to the inhabitants who cannot be removed." On August 11, 1790, four days after the Creek problem had been seemingly settled at the treaty of New York, Washington asked the Senate for permission "to arrange a new boundary so as to embrace the settlements made by the white people since the treaty of Hopewell." The Senate acquiesced and specified \$1000 as the annuity to be paid the Cherokee for the cession.⁶⁴

Thus came to an end the first Cherokee struggle for independence against the American nation. On June 26, 1791, Governor William Blount of the Southwest Territory, American commissioner to treat with the Cherokee, met the tribe at White's Fort (Knoxville), some four miles below the junction of the French Broad and Holston rivers. On July 2, 1791, a treaty was signed making the upper Tennessee Cherokee-American boundary the watershed between the Little and the Little Tennessee rivers and guaranteeing Indian possession of lands not ceded.⁶⁵

The Cherokee, in response to Blount's kind but firm and *de facto* arguments, signed this document, trusting that the United States would not see them destroyed. Before they signed they made one last despairing plea for justice. Why, the Indian spokesman asked, have these encroachments been made?

Is it because we are a poor broken Nation and not able to help ourselves or is it because we are red people or do the white people look on us as Buffalow and other wild beasts in the woods And [think] that they have a right to take our property at their pleasure—Tho' we are Red we think we was made by the same power and certainly we think we have as much right to enjoy our property as any other human being that inhabits the Earth if not we hope our Brother will not screen anything from us . . . we flatter ourselves that we have now got our Affairs in the hands of honest and just men and if we do not now have justice done by our Brother we must next look up to our father.

They signed, and after they had done so, Hanging Maw, the Cherokee leader, arose and said to his white conquerors, "I hope it will last for ages in the land . . . when you first settled on the sea you were young—you have grown up since very strong . . . we are but few to what we were . . . Faulter not from the agreement between us. Our children may be better raised—use your utmost & let us see how many ages shall pass away while we have hold of this the token of friendship & Truth."⁶⁶

⁶⁴*American State Papers, Indian Affairs*, I, 60, 83; *Annals of Congress*, 1 Cong., 2 Sess., 1034.

⁶⁵Charles J. Kappler (ed.), *Indian Affairs. Laws and Treaties* (Washington, 1903), II, 23.

⁶⁶Draper Mss., 15 U 20-21.