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Regulating the republic: violence and order in the Cherokee-Georgia borderlands, 1820-1840

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REGULATING THE REPUBLIC: VIOLENCE AND ORDER IN THE CHEROKEE-
GEORGIA BORDERLANDS, 1820-1840

A Dissertation

Submitted to the Graduate Faculty of the
Louisiana State University and
Agricultural and Mechanical College
In partial fulfillment of the
Requirements for the degree of
Doctor of Philosophy

in

The Department of History

by
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B.A. Clemson University, 2004
M.A. Louisiana State University, 2007
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For Jennifer

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It has become expected for a graduate student to note the hours of solitude required to write a quality dissertation. I am lucky enough to have enjoyed my time writing—perhaps too much, which accounts for the time it took to complete—and even more fortunate to have become indebted to so many scholars, friends, and family for helping me shepherd this project along.

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ABSTRACT

In the two decades prior to Cherokee Removal, Georgians discussed removal as a way for the state to create and maintain order, a cluster of ideas that revolved around a social system that championed white superiority, a political system that adhered to republican thinking, and a legal system that prevented lawlessness. To create a well-ordered society, Georgia's leaders believed that authority flowed from white settlers to civil institutions, which benignly administered over the idealized society. In the Cherokee-Georgia borderlands, no single political entity could claim sovereignty, so the Cherokee Nation, federal government, and state of Georgia each sought to impose its own laws over the territory. Instead of a peaceful settlement, Georgia's leaders had to regulate the social landscape of the borderlands, or impose social control through violence. A multitude of groups, including a multiracial vigilante group, the Slicks, a state sponsored military unit, the Georgia Guard, and a large-scale use of federal troops and state militiamen, all sought to regulate the social landscape of the borderlands.

In the highly partisan world of the antebellum south, state politics and a democratic ethos collided with the violent actions of local, state, and federal actors in the borderlands crucible. Whiteness became less of a negotiated identity as state legislators sought to safeguard and codify the rights of white citizens. The use of violence in the backcountry served political and social ends, but it left ambivalent legacies. State-sponsored violence against "disorderly whites" showed just how comfortable the state was with using violence in its pursuit of order. That state militiamen showed restraint during Cherokee Removal in 1838 showed just the opposite. Still, two decades of violence aimed at the expulsion of the Cherokee demonstrated the earnestness white Georgians felt when they discussed the extension of the white republic.

INTRODUCTION

In 1819, the United States entered into a treaty with the Cherokee Nation that encouraged the peaceful withdrawal of the Indians from the confines of Georgia, Alabama, Tennessee, and North Carolina to the “Arkansaw” territory. It also allowed for certain “heads of Indian families” to remain in the east if they renounced their native connections and “choose to become citizens of the United States.” Federal negotiators sweetened the deal by promising a “lifetime reservation” of 640 acres for any of the Cherokee who renounced their heritage and adopted American citizenship. More important for federal negotiators, the Cherokee, in the course of the negotiations, ceded thousands of acres of land to the states and made it available to white settlers. The Treaty of 1819 was the last the Cherokee living in the American South would make for sixteen years.¹

In Georgia, as settlers moved into the territory ceded by the treaty and carved out new counties, local officials needed a guide to their duties and the laws they had to uphold. To meet their needs, a Georgia jurist, Augustin Smith Clayton, compiled the legal duties of the civil officers who comprised the bulk of local government. Those duties covered all manner of legal classifications from apprentices to counterfeiters to smallpox sufferers. Clayton’s volume of state laws made it easy for civil authorities to learn their duties and ensure a peaceful settlement of the state’s newest counties. Of particular importance to backcountry officials were crimes that caused a “great disturbance of the public tranquility,” called affrays. The state legal code delineated the responsibilities of various classes of citizens to deal with such occurrences. Private citizens, for example, could “lawfully part” combatants “till the heat be over,” whereas constables and justices of the peace could use more force to part those engaged in fights. Clayton’s book of

¹ Charles J. Kappler, ed. (Washington: Government Printing Office, 1904), 2: 177-181. <http://digital.library.okstate.edu/kappler/Vol2/treaties/che0177.htm> (Accessed November 18, 2011).

responsibilities for civil officers also showed the emphasis placed on civil law as a means of preserving peace.²

The Treaty of 1819 and Clayton's volume pointed to the path that national leaders desired to take: treaties that would secure land for settlers and the implementation of state civil law as a means of providing order. Civil authorities stayed busy dealing with a litany of panicked rumors and rampant crimes that kept frontier inhabitants anxious over the prospects of a peaceful settlement. Though no violent massacres marred the interactions between frontier whites and Cherokee, a systemic and sustained application of violence over the span of two decades had important ramifications on the development of the state and on the ability of the Cherokee to maintain their homeland. Historians have overlooked the violence that reigned in the borderlands in the two decades prior to removal for obvious reasons. First and foremost, the act of removal itself, including the Trail of Tears, was incredibly brutal, resulting in the deaths of some 4,000 Cherokee men, women, and children, if not more. Removal looms large not just in Cherokee or state history but in the national consciousness, as well. One oft-quoted veteran of the removal operation, John Burnett, looked back in horror on the tragedy of Cherokee removal: "However, murder is murder whether committed by the villain skulking in the dark or by uniformed men stepping to the strains of martial music."³

² Augustin S. Clayton, *The office and duty of a justice of the peace and a guide to clerks, constables, coroners...* (Milledgeville, GA: S. Grantland, 1819), 5-7. Early American Imprints, Series II: Shaw-Shoemaker, 1801-1819, no. 47639.

³ "John Burnett's Story of the Trail of Tears," <http://www.cherokee.org/AboutTheNation/History/TrailofTears/24502/Information.aspx> (Accessed February 12, 2012). At this point, the clarification of two terms, *frontier* and *borderlands*, is necessary. The historians Jeremy Adelman and Stephen Aron have done much to lend precision to two terms otherwise devoid of it. By *frontier* historians usually mean the place where peoples converged and where no single group or political entity enjoyed sovereignty, whereas *borderlands* signifies the location where colonial empires or nations collided and struggled over national boundaries. As was the case with most zones of contact, the Cherokee-Georgia region was both a frontier and a borderland. To make matters more confusing, contemporary observers often reversed the meaning of frontier, designating it as the firm and fixed boundary between the Cherokee Nation and the state of Georgia—a border that was supposed to *prevent* intercultural contact. On the differentiation between frontiers and borderlands, see Jeremy Adelman and Stephen Aron, "From

Second, much of the focus on Cherokee Removal has centered on the personality of Andrew Jackson—from his paternalist attitude that inclined him to see removal as a way to protect and preserve Native American cultures to his megalomaniacal determination to open up living space for the democracy—or on his refusal to abide by Chief Justice John Marshall’s rulings. The extensive literature describing the development of Jacksonian democracy necessarily focus on Removal as not so much an outgrowth of local conditions that spawned violence as an epic political struggle for political power, if not for the soul of the nation. That narrative, while important, does little to show how much violent Georgians disrupted Cherokee society and ignores borderlands social conditions.⁴

Finally, historians have tended to ignore the violence that targeted the Cherokee because of the conclusions they must draw from it. The zeal with which many Georgians sought to use violence as a way to intimidate, coerce, separate and, finally, remove the Cherokee, at its core, was based on a philosophy of white superiority that spoke to the innate xenophobia of Georgia’s yeomanry. The democratic expansion of the state’s electorate that began in 1825 fundamentally altered state politics and required state politicians to call more vociferously for Indian removal. A majority of Georgians not only wanted Indian land, but they also expected to maintain their superiority over a minority population in that new territory. The state legislature obliged voters by passing laws that prohibited Indians from testifying against whites in court and from employing whites as field hands or laborers. Such legislation made manifest the desire of state

Borderlands to Borders: Empires, Nation-States, and Peoples in between in North American History,” *American Historical Review* 104 (June 1999): 814-841; as well as Stephen Aron, *American Confluence: The Missouri Frontier from Borderland to Border State* (Bloomington: Indiana University Press, 2006), esp. *xiv-xvi*.

⁴ See, for example, Arthur M. Schlesinger, Jr., *The Age of Jackson* (Boston: Little, Brown, 1945), who hardly discusses Indian Removal at all. Sean Wilentz, *The Rise of American Democracy: From Jefferson to Lincoln* (New York: Norton, 2005) places Indian Removal within the context of the growing democratic polity, while Daniel Walker Howe, *What Hath God Wrought: The Transformation of America, 1815-1848* (New York: Oxford University Press, 2007), shows how controversial and important the Indian Removal Act was to Jackson’s first year in office. Howe also focuses on the moral aspects of removal, as does Charles Sellers, *The Market Revolution: Jacksonian America, 1815-1846* (New York: Oxford University Press, 1991).

leaders to ensure white superiority over the innately inferior natives.

The justification for removal offered by Jackson and his supporters, as well as by historians who have defended him, portrayed removal as a humane alternative to the rampages of frontier whites who would stop at nothing, not even extermination, to get at Cherokee gold and land. The presence of Indians, according to this interpretation, incited poor whites into a violent frenzy. Jackson's approach to the problem of a potentially bloody Indian war fit in with his focus on the liberty of white men. Rather than protect the Indians where they were, he would remove them. He would not prevent whites from intruding on Cherokee land or otherwise curtail their behavior. Though Jackson in early 1830 had watched with satisfaction as his Indian Removal Bill passed through Congress, he had not indicated how he expected his policy to play out.

Since 1802, Georgia had waited for the federal government to fulfill its end of the so-called Compact of 1802, when the state agreed to exchange its claim to western lands for the promise of a timely removal of any Indian population within its boundaries. After the Treaty of 1819, Georgians moved onto land formerly in possession of the Cherokee Nation and clamored for more. That cry reached fever pitch when a white hunter discovered gold on Cherokee land in 1828. By the following year, the news had spread nationwide and "intruders" flocked onto Cherokee land in search of gold. State politicians charged the federal government with wavering on the agreement and, after twenty-six years of waiting, they had a point. The larger trend of federal Indian policy did not, however, advocate removal, stressing instead acculturation and eventually the assimilation of native peoples into the American polity. Such enlightened thinking, however, contradicted the prevailing mood of race relations in the antebellum South.

Jacksonian Indian policy encountered a major impediment in 1831 when the state of Georgia requested federal aid to halt the intrusion. Jackson agreed, and a small detachment of

troops entered the Cherokee Nation that summer. By the onset of winter, the state saw the federal presence as antithetical to its emboldened stance on the issue of state's rights. It had passed a series of acts that had, in effect, nullified federal statute. In 1828, the extension law had expanded state law over the territory occupied by the Cherokee and, two years later, the supremacy law voided the Cherokee Constitution from having any effect on native ground within the bounds of Georgia. With these two laws, the state had abrogated treaties made between the Cherokee Nation and the United States. Jackson effectively allowed the state to assume control of Indian policy at the local level until federal negotiators could hammer out a treaty with Cherokee leaders that would ensure removal.

When discussing the extension of state boundaries and the rights of white settlers to displace Cherokee residents in the backcountry, state leaders talked about order. In their pronouncements, order meant three interrelated things. First, state leaders saw order as a social system in which white planters held power and authority, buttressed by the support of the yeomanry and built upon the labor and legally binding condition of slavery prescribed for blacks. Second, order signified a political system defined by its adherence to the common good and virtuous self-sacrifice that, by the 1830s, encompassed egalitarianism and white male equality. Finally, order reflected a society devoid of crime, lawlessness, and violence. Civil institutions that maintained law, preserved property ownership, and prevented the outbreak of violence held these three overlapping meanings together. In the Georgia lowcountry and piedmont, areas that had a longer history of white settlement, implementing order had proved an easier task for civil authorities than to their counterparts in the borderlands, where preserving the public peace proved difficult. The problem, however, came not from the Cherokee—who had their own competing system of civil authority—but from whites who committed acts of violence.

For state leaders, achieving a well-ordered society would ensure sovereignty and the

establishment and solidification of the white republic in a space previously inhabited by natives. Sovereignty proved a thorny issue, however, because so many entities claimed supremacy over the Cherokee territory. First, the Cherokee themselves did so when they created a national constitution in 1827. Next, the federal government, through its treaties with the Cherokee and its ability to regulate commerce with Indian nations, claimed sovereignty over the territory. Last, the state argued that it had sovereignty because of the Compact of 1802 and the growth of a southern radical strain of thought that championed the rights of the state.

Georgia's politicians feared that unless they created an ordered social landscape and then asserted the state's sovereignty over it, Georgia's politicians feared that the white republic, and all of the concomitant privileges it conferred on whites, would suffer. Indeed, they had to look no further than the backcountry to see what type of society would form without order and sovereignty. While crime flourished there, so too did a high degree of cooperation between frontier whites and Cherokee. Georgians traded, gambled, and worked alongside their native neighbors. A startling amount of acculturation occurred that allowed men like John Burnett to hunt with Cherokee men, learn their language, and court Cherokee women. Other white Georgians did the same and interracial marriage, though infrequent, did occur. In spite of the great deal of cooperation that flourished in the backcountry, theft of property, house-burnings, and beatings persisted as whites and Cherokee competed with one another for space and resources.

It quickly became apparent, especially after the gold rush in 1829, that civil authorities alone could not maintain order. Violence became an important tool for authorities, who fretted over the prospects of imposing civil law over such an unruly population. In order to halt the activities of criminals, federal and state officials, as well as locals, acted in a variety of ways, but their responses to crime and violence perpetrated by whites frequently involved violence. For

example, in 1829 a group of backcountry thieves, called the Pony Club, formed a crime ring that eventually coopted much of the civil government in Carroll County. When the Club's activities became too egregious for settlers, they banded together with their Cherokee neighbors and formed a vigilante group called the Slicks or the Regulators. Using a Cherokee form of punishment—tying victims to a tree and whipping them with hickory switches—the Slicks employed violence as a means of social control. Violence, they learned, could be used to create order at the local level. The cooperation exhibited between white settlers and Cherokee underscored the complexity of the borderlands and the intensity of their desire for order.

When federal troops attempted to regulate the borderlands in 1831, they had much less success than the Slicks. The egalitarianism rampant in the frontier made violence directed at whites problematic. Indeed, when Georgians learned that the federal government had expelled whites at bayonet point from the gold region but had allowed young Cherokee men to remain and take gold, they insisted that the troops had imposed an unnatural hierarchy in the backcountry that placed whites below the Cherokee. Only a few short months after the troops had been sent in, President Jackson recalled them at the request of the Georgia's governor, George R. Gilmer, a champion of the State's Rights faction, who demanded that the state be allowed to police its own territory.

The state also sanctioned the use of violence to quell disorderly whites. In 1830, Governor Gilmer had urged the legislature to create a military force that would have wide-ranging authority to bring order to the gold mines. Between 1831 and 1835, four separate units known as the Georgia Guard operated in Cherokee country. The Guard focused its attention on two groups: white intruders and Cherokee who opposed removal. Both proved politically sensitive. Because of the growing belief in white male equality, the Guard encountered problems when it employed violence against whites, even if they did behave in a disorderly way. Over time,

the Guard shifted its focus away from intruders and focused most of its attention on the Cherokee. It even isolated those Cherokee who opposed removal, thereby widening the political schism developing within the Cherokee polity. According to historian William McLoughlin, the Guard's orders "instructed them to protect both Cherokees and whites," but the Guard "rightly understood its job to be one of harassing the Cherokees and siding with white intruders in any dispute." Over the next five years, the Guard "arrested missionaries who obstructed Georgia's will, arrested the Cherokee Principal Chief John Ross (and seized all his papers), arrested a newspaper reporter who came to interview Ross (and seized all his papers), and confiscated the Cherokees printing press and all its type." More than any other force working to destabilize Cherokee society, the Georgia Guard undermined Cherokee life because of its violent propensities and the uncertainty it wrought.⁵

The Slicks, the federal government, and the Georgia Guard all used violence as a way to control a white population that did not behave according to the tenets of republicanism. Rather than citizens concerned about the public good, intruders represented a threat to order. Between 1830 and 1838, however, the state's attitude toward unruly whites changed. In 1829, Governor Gilmer saw backcountry disorder as a moral failing on the part of white inhabitants and intruders. A firm response on the part of the state could reduce tensions and reform unruly frontiersmen. Later, Governor Wilson Lumpkin adopted the Jacksonian stance that the presence of the Cherokee—and not the moral failings of the white polity—caused the bulk of the backcountry's woes. After 1832 this view became more pronounced because the state raffled off Cherokee land to prospective settlers. The shift in the settlement pattern after that date made it difficult for state leaders to blame backcountry woes on poor farmers who had benefitted from

⁵ William G. McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton: Princeton University Press, 1986), 432-433.

the state's munificence. It became apparent that state politicians had used the issue of violence against whites to score political points with the expanded electorate. Politics in Georgia had long revolved around dominant personalities, as the nascent Second Party System had not yet taken hold in the state. Two factions existed: the Troup and Clark parties. The Troupites drew their strength from the lowcountry and practiced a very paternal strain of politics, as exhibited by Gilmer's insistence on reforming the morals of poor whites. Beginning in the 1830s, they sought to establish a series of schools for the poor and a statewide system of internal improvements paid for public ownership of the gold mines. The proximity of the party's base to southern radicals in South Carolina also made the Troupites more concerned about the rights of the state, the growing power of the federal government, and abolitionism. By the end of the 1830s, the Troupites had changed their name to the State's Rights Party, though their opponents derisively labeled them Nullifiers. In a twist that demonstrated just how nebulous party formation was in its early years, the State's Rights Party ended up in opposition to Andrew Jackson and in support of the Whig Party, in spite of its insistence on removal and the dangers of an expanded federal government. In comparison, the Clark faction drew its most ardent supporters from the backcountry. During the Nullification controversy, it changed its name to the Union Party to show its solidarity with president Andrew Jackson. Its supporters, more than the State's Righters, supported an immediate and forceful removal of the Indians, demonstrated hostility towards the national bank, and saw the Nullifiers as power-hungry aristocrats lording over the poor people of the state.

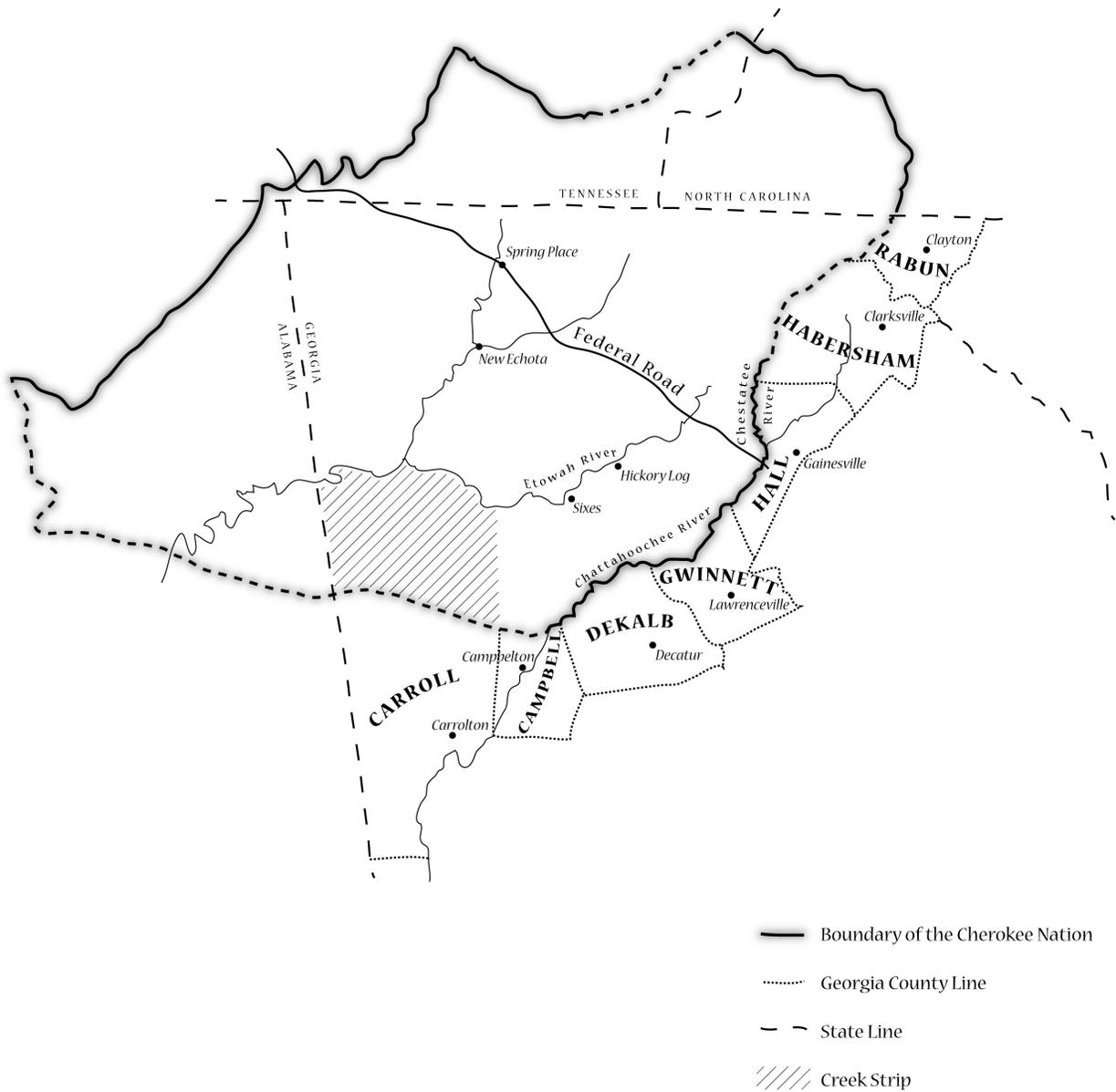
Politics in Georgia only made the violence occurring in the backcountry more contentious. When it became apparent that the Georgia Guard was employed for overtly political purposes, especially in 1835 when its commander, William N. Bishop, used it as a way to intimidate political opponents in Murray County, the legislature had no choice but to disband

the unit. In spite of its blatantly political nature, the Guard had effectively carried out its duties, especially when it came to intimidating the Cherokee. Combined with the extension and supremacy laws, the Guard made life for the Cherokee within the bounds of Georgia unbearable, unpredictable, and unstable.

The factionalism already present within the Cherokee Nation widened as a result of two decades of violence and uncertainty, a divide that proved too much of a gap for Cherokee nationalism to bridge. One faction within the Cherokee Nation signed the 1835 Treaty of New Echota with the federal government and began removal. To heed that call, state and federal authorities worked in tandem to effect removal. They prepared for the forced exodus by building a series of forts, stocking supplies, and stationing federal troops within the Cherokee Nation. Concurrent with that buildup, the federal government called on nearly two thousand Georgia militiamen to participate in Removal. By May 1838, Major General Winfield Scott had amassed an army of 8,000 federal and state troops to begin the process. Troops entered the homes of Cherokee families and forced them off their ancestral homeland and into stockades, where they awaited transport to larger internment camps. The organized and efficient removal of the Cherokee, designed to rid the backcountry of a small, minority population, proceeded rapidly. Within a month, those troops had expelled more than 8,000 Cherokee from within the bounds of Georgia.

Removal was not just the culmination of a removal policy inaugurated by Andrew Jackson in 1830 with the Indian Removal Act. It was also the culmination of twenty years of crime and violence that had fundamentally shaped the Cherokee-Georgia borderlands. From the Treaty of 1819 to removal in 1838, white Georgians had used violence as a way to intimidate and remove the “inferior” population within their midst. The uptick in violence after 1829, especially the brand sponsored by the state, convinced some Cherokee that the way to preserve

their cultural heritage and traditions lay in acquiescence. Violence, ironically, had been used in the name of order. To safeguard the expanding republic, state and federal leaders saw violence as a way to preserve order and move a group of people who stood in the way of their progress. Though it was not the first time Americans had used violence to eliminate a native population, the cry for order was something new and it allowed American leaders a seemingly legitimate way to use force to regulate the republic.



Map created by Casey Lowe, 2012.

Map 1. The Cherokee Nation and Georgia's Border Counties, 1830

CHAPTER ONE: ORDER, HARMONY, AND SOVEREIGNTY, 1820-1835

In the wake of the American Revolution, Georgians looked covetously beyond their borders. Teeming with promise, the backcountry beckoned as a land of opportunity where landless whites and planters alike could make their way in the world. Far from unoccupied, the land claimed by the state and clamored after by its white citizens contained thousands of natives who clung tenaciously to their land and to a set of beliefs that granted them stewardship over it. They did not just quarrel over land ownership, though. At stake for both was the perpetuation of their respective belief systems, especially their conception of the well-ordered society. Interactions on the margins between the two societies complicated the ideal social vision proffered by state leaders. As Cherokee and Georgians argued over possession and sovereignty, they collided on the frontier. As violence became an overriding concern, state and federal lawmakers sought ways of removing the Cherokee and obtaining space for the growing republic. Undermining their efforts were not just the interactions between members of the two nations, but fundamental shifts in political and societal structures that exacerbated the tension over sovereignty.

As Georgians moved into the backcountry and encountered its native occupants, they brought with them a mindset that shaped how they wanted to form new communities. To do so, they sought to order the political and social world of the frontier. For most white Georgians, a well-ordered society had two concurrent yet overlapping meanings, each reinforcing the other. First, social order had a less tangible, more conjectural meaning that originated in the ferment of the American Revolution. Social order touched on American political values and institutions, the importance of land ownership, and a powerful racial hierarchy that combined to promote the independence of white citizens. As new communities formed on the frontier, citizens worked within their new environment to recreate a familiar social order. Second, order also meant an

absence of violence and crime because of a steadfast citizenry that obeyed and actively participated in upholding the laws. Contemporaries usually referred to this aspect of order as the common peace.¹ The two meanings of order worked together to create an idealized political, economic, and racial system. Therefore, the adherence to self-government by a sturdy, white yeomanry would perpetuate the public peace, and vice versa. An editor in Milledgeville put it best: “[T]here is no practicable mode of enforcing obedience to our laws without taking immediate possession of [Cherokee] country, and stationing the necessary Judicial officers in it. To accomplish this effectually, the country must be surveyed and disposed of—and settled by our own citizens who are alone competent to the discharge of the functions of government.”²

These ideas coalesced during the American Revolution and evolved in the decades afterwards. Although some historians have debated how best to categorize the revolutionary rhetoric, others have argued that the growing egalitarian ethos emerged not from the struggle for independence but from the presence of the frontier.³ Drawing on the revolutionary political ideology called republicanism, Georgia’s revolutionaries sought to create a political community of consent rather than submit to a system based on coercion. Not nearly as fervent as the

¹ On the English origins of the common peace, see Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (New York: Cambridge University Press, 1987). On structural inequalities and localism in the southern legal system, see Laura F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill: University of North Carolina Press, 2009). On contemporary uses, see “An Act to Amend the Penal Code of the State,” *Acts of the General Assembly of the State of Georgia*, December 20, 1817. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=4169530> (Accessed September 10, 2011), especially section 8, pg 123, which delineates crimes and punishments against the “public peace and tranquility.”

² Milledgeville *Federal Union*, September 11, 1830, 3.

³ A spirit of frontier egalitarianism has been a favorite theme for both historians and Hollywood, and has become a central tenet in the quest to define American character and exceptionalism. See, for example, Frederick Jackson Turner, “The Significance of the Frontier in American History” in Everett E. Edwards, ed. *The Early Writings of Frederick Jackson Turner* (Madison: University of Wisconsin Press, 1938): 185-229, as well as David S. Brown, *Beyond the Frontier: The Midwestern Voice in American Historical Writing* (Chicago: University of Chicago Press, 2009), 25-50. Eric Hinderaker and Peter Mancall place both liberal individualism and westward expansion at the heart of the American Revolution. See their *At the Edge of Empire: The Backcountry in British North America* (Baltimore: Johns Hopkins University Press, 2003), 161-176.

colonists in the hotbeds of discontent that sprang up in northern port cities, many Georgians nonetheless adopted republican beliefs as a way of articulating their resentment toward royal dictates by harnessing Enlightenment political principles. Moving away from a colonial political culture rooted in deference, Georgia's patriots sought to build a republican community that rested on a commitment to the public good, most commonly called virtue. To ensure virtue, republicans theorized that a land-holding citizenry, independent of the whims of others, would bolster the nation and secure it from the threats of corruption. Republican theorists favored the liberty of individuals, though they warned that too much liberty could lead to anarchy. Therefore, some government control was necessary to provide social order and ensure the public peace. The most important aspect of republican thought was a balance between the liberty of individuals and the power of the government that could still ensure personal liberty without completely neutering government authority. Arising directly from a fear of monarchical control, republicanism came to dominate the thinking of Georgians in the years after the Revolution.⁴

Georgia's role in the Revolution proved a small one, even though it experienced bloody fighting that occurred, more often than not, in the backcountry. A bitter civil war swept across Georgia, pitting royalists and their native allies against patriot partisans. Intent on sustaining the relationship that had allowed the colonies to thrive and expand, thousands of backcountry

⁴ Contention among historians over the reality of republicanism as a means of organizing revolutionary rhetoric has been nearly as vitriolic as that between Patriots and Tories. See, for example, Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967); Gordon S. Wood, *The Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969). Carroll Smith-Rosenberg's *This Violent Empire: The Birth of American National Identity* (Chapel Hill: University of North Carolina Press, 2010) demonstrates the way in which different social groups in various areas perceived republican ideology throughout the Revolutionary era, and how it helped usher in an American identity. Daniel Rodgers and Robert Shalhope have demonstrated the numerous permutations and nuances developed by the historical profession in its pursuit of explaining fully the revolutionary ideology. See Robert E. Shalhope, "Toward a Republican Synthesis: The Emergence of an Understanding in American Historiography," *William and Mary Quarterly* 29 (January 1972): 49-80; as well as Daniel T. Rodgers, "Republicanism: The Career of a Concept," *Journal of American History* 79 (June 1992): 11-38. Historians have also attributed debate over the meaning of republicanism as a central factor in the development of the second party system. See Harry L. Watson, *Liberty and Power: The Politics of Jacksonian America* (New York: Hill and Wang, 1990).

residents flocked to the king's banner and joined royalist militia units. Others espoused ideas of equality and self-rule and fought to destroy the bonds imposed on the colonists by the monarch. Much of Britain's strategy in Georgia centered on maintaining a formidable presence in Savannah and Augusta and retaining a strong cadre of loyalists and native allies to combat the threats posed by the patriots and the leveling ideas inherent in republican rhetoric. The presence of Indian warriors allied with redcoats and royalists exacerbated the already brutal guerilla warfare in Georgia's backcountry. For the state's revolutionaries, the "depredations" committed by the Creek and Cherokee warriors who had sided against them proved difficult to forget. In the aftermath of the Revolution, the victorious revolutionaries who experienced the terror of the vicious backwoods warfare used it as an excuse to take native lands and force those who remained into a subservient relationship with the state and its white residents.⁵

Preexisting social and political divisions exposed by the fighting became fissures in republican Georgia, and, in turn, forged new ones. Loyalists fled the state and lost much of their property to confiscation, but for those who had nowhere to flee, the vitriol of the patriots was incredibly powerful. No group, however, suffered more at the hands of the victors than those Indians who allied with the British. Feeling betrayed by the Creek and Cherokee who sided with "tyranny and vice against liberty and virtue," early national and state leaders found it easy to take punitive actions against their Indian enemies.⁶ The dichotomy between vice and virtue

⁵ On the American Revolution in Georgia and its immediate aftermath, see Harvey H. Jackson, *Lachlan McIntosh and the Politics of Revolutionary Georgia* (Athens: University of Georgia Press, 2003); Edward Cashin, *The King's Ranger: Thomas Brown and the American Revolution on the Southern Frontier* (New York: Fordham University Press, 1999); Leslie Hall, *Land and Allegiance in Revolutionary Georgia* (Athens: University of Georgia Press, 2001). On the importance of land distribution in revolutionary Georgia, see Laura Jensen, *Patriots, Settlers, and the Origins of American Social Policy* (New York: Cambridge University Press, 2003).

⁶ Quoted in Bernard W. Sheehan, "The Indian Problem in the Northwest: From Conquest to Philanthropy," in Ronald Hoffman and Peter J. Albert, eds. *Launching the "Extended Republic": The Federalist Era*, (Charlottesville: University of Virginia Press, 1996), 222. Most historians of Revolutionary Georgia delineate between "radical" and "conservative" revolutionaries. The latter sought to retain as many of the trappings of the colonial social and order as possible; the former to make society more equal. Both sought to throw off monarchy and

served as a useful reminder to revolutionary Georgians of the meaning of their struggle against the king and his allies.

The strength of republican political values and the presence of a frontier helped shape society in Georgia. Most of the state's politicians wanted the frontier—along with its native inhabitants—to disappear so that poor whites could occupy the land, become independent landowners and thereby strengthen the republic. To insure an independent and virtuous citizenry, the state sought to distribute large tracts of frontier land to its citizens at low prices. Like the other states, rampant speculation became the primary mode of distributing land. In Georgia, though, land distribution took a different direction after a highly political and legally dubious transaction occurred. In 1794, the state sold off much of its western lands to a group of four speculative companies for a fraction of their market value. These four companies in turn sold the land to settlers at exorbitant rates and distributed the earnings to state legislators and friendly newspaper editors who had supported the scheme. The fraudulent Yazoo Sale quickly earned the ire of Jeffersonians, led by James Jackson, who cried foul upon learning of the overtly corrupt land deal. Gaining control of the state legislature, the Jeffersonians rescinded the sale and eventually transferred Georgia's western lands to the federal government in exchange for \$1.25 million and a promise to extinguish the land claims of the state's native population.⁷ This so-called Compact of 1802 provided fuel for the supporters of state's rights and Cherokee Removal,

to create a republican government. Although it is imprecise to say that backcountry farmers were radicals, while lowcountry planters and merchants favored a more conservative strain of republican thinking, that trend generally held throughout the Revolution, with some notable exceptions. State politics in the post-Revolutionary period would follow those general trends, as Jeffersonian backcountry farmers vied for power and authority with lowcountry elites. See, for example, Harvey H. Jackson, "The Rise of the Western Members: Revolutionary Politics and the Georgia Backcountry," in *An Uncivil War: The Southern Backcountry during the American Revolution*, ed. Ronald Hoffman, Thad Tate, Peter J. Albert (Charlottesville: University of Virginia Press, 1985): 276-320. On the plight of loyalists in Revolutionary America, see Maya Jasanoff, *Liberty's Exiles: American Loyalists in the Revolutionary World* (New York: Alfred A. Knopf, 2011).

⁷ George R. Lamplugh, *Politics on the Periphery: Factions and Parties in Georgia, 1783-1806* (Newark: University of Delaware Press, 1986), 104, 185-190.

who promoted several schemes for removal to Arkansas, or even further afield.

As more settlers moved onto Cherokee land, treaty negotiators made more effective demands for concessions. As this land became available for settlement, legislators sought a way to dispense it as fairly as possible. Trying to move away from fraudulent speculation that had tainted the Yazoo sale, state legislators chose to dole out land to the state's poorest residents through a land lottery. Political divisions in 1790 prevented the passage of the first lottery act in spite of the legislation's widespread appeal. Contemporaries often attributed political factionalism in early republican Georgia to preexisting loyalties determined by the origin of the politicians in those factions. Land-hungry small farmers from North Carolina more or less supported James Jackson, while the more gentrified settlers from Virginia tended to lean toward Federalist opposition under the leadership of George Mathews. When the North Carolinians supported a lottery, they met surprising opposition from Jackson himself, who had allied with planter-speculators to defeat the populist legislation.⁸

It took another decade for the popular lottery legislation finally to win support from a new generation of politicians. In 1803, the son of a Revolutionary War general, frontiersman John Clark, ushered through the state assembly a lottery act over the opposition of Jackson's successors, William H. Crawford and George M. Troup.⁹ The machinations involved in the passage of the lottery act instantly set Clark and Troup against one another, and political factions coalesced around the two men. A son of the bustling backcountry, Troup moved east at a young

⁸ Most immigration into Georgia during the 1790s came from the Carolinas and piedmont Virginia. Wilkes County, in particular, was a strong draw for piedmont Virginians who later became small planters in Georgia. North Carolinians settled in the Broad River Valley. See David Hackett Fischer and James C. Kelly, *Bound Away: Virginia and the Westward Movement* (Charlottesville: University of Virginia Press, 2000), 141-144; as well as George R. Gilmer, *Sketches of Some of the First Settlers of Upper Georgia, of the Cherokees, and the Author* (1855; repr. Americus Book Company: Americus, GA, 1926). Gilmer, of course, was one of these Virginians. Lamplugh, *Politics on the Periphery*, 192.

⁹ Frederick B. Gates, "The Georgia Land Act of 1803: Political Struggle in a One-Party State," *Georgia Historical Quarterly* 82 (Spring 1998): 1-21.

age and, after graduating from Princeton, began practicing law in Savannah. He derived most of his political support from Savannah's hinterland. John Clark earned his political support from backcountry settlers, but enjoyed more widespread appeal because of his service in the state militia during the Revolution. The two factions, Troupites and Clarkites, came to dominate state politics through the 1820s. Though each faction had its regional strengths, the power of personality drove state politics. Historians have sought to identify the policy differences between the two groups, but have emerged rather empty-handed. One historian of the development of the Second Party System agrees: Georgians, argues Richard P. McCormick, engaged "in a hectic brand of politics that dealt not so much with issues as with personalities and which focused on the efforts of two competing personal cliques—the Troupites and the Clarkites—to obtain space and power."¹⁰

Obtaining space translated easily into political success, so each party sought to outdo the other in terms of forcing concessions from Indians and opening new lands to white settlement. The idea of using land as a means of improving citizens did not begin in Georgia, though. During the Revolution, as an enticement for service in the struggle for independence, the federal government and states paid land bounties to Continental Line soldiers and militiamen. Of course, not every militiaman or Continental soldier received a bounty, and those who did often sold their claims to support their families. Thus, the state sought to provide further for its Revolutionary veterans. State policy favored using cheap, abundant land to perpetuate the independence of its citizens. In this way land-owning reinforced the basic tenets of republican thinking. The Jeffersonian vision of a yeoman's republic resonated in the land lottery in Georgia. By granting vast tracts of land to the state's poorest citizens, state leaders signaled their

¹⁰ Richard P. McCormick, *The Second Party System: Party Formation in the Jacksonian Era* (Chapel Hill: University of North Carolina Press, 1966), 236.

acceptance of a republic perpetuated and strengthened by the yeomanry. Between 1805 and 1832, state leaders implemented six different land lotteries that distributed thousands of acres of land to settlers. After the political fallout from the first lottery cleared, politicians in both factions agreed on the wisdom of cheap, large-scale land distribution. State leaders agreed that the ownership of land made possible the independence of the lottery winners and strengthened the republican character of state and national government.

Under Clark's supervision in 1805 Georgia began raffling off Indian land as a way of distributing it to the state's poor and underprivileged. After that date, a pattern of land procurement, violence, negotiation, and lottery emerged because settlers realized the benefits of aggressive action against natives. First, whites would intrude on native ground and begin farming small plots. Some had been given authority from the Indians to do so; others trespassed. After a spate of violence between the rightful owners and the intruders, state officials would then ask federal officials to intervene and negotiate more living space for white settlers. Once that occurred, Indians would relocate behind their new borders and watch as their former homes were raffled off to whites. This pattern recurred from 1805 until 1819, when the Cherokee refused further concessions.

The number of draws open to each resident depended on marital status, military service, and length of residency. Prior to the lottery, the governor dispatched surveyors to plat the land into sections, districts, and lots. On the day of the lottery, two large drums were filled with slips of paper. In one barrel, each piece of paper had a lot number; in the other, the names of the lottery contestants had been recorded. The lottery organizers turned each drum and one by one a lot and a name were drawn until all of the land had been disbursed. The "fortunate drawers" paid a

small fee for title to their land, usually around forty cents an acre.¹¹ Granting thousands of acres to the state's poorest citizens was supposed to create the Jeffersonian ideal of a yeoman's republic and lead to an equality of condition amongst the state's landowners. In reality, many "fortunate drawers" could not even afford the nominal fee to claim the land and as a result sold their claim to speculators. Despite the best efforts of the government to create and perpetuate a steadfast yeomanry, speculation plagued a system that had been designed to benefit the small farmer. Just before the 1832 lotteries, an editor objected to them as inherently corrupting because they engendered a "spirit of speculation which the disposition of lands by lottery is calculated to excite."¹²

Georgia's leaders touted the raffle system because it adhered to republican thinking and because they saw land-holding as key to upholding social order. For Representative Wilson Lumpkin, only the settlement of the northern reaches of the state by white freeholders could create social order. "Until this portion of the state was settled," he declared, "by an industrious, enlightened, free-hold population—entitled to, and meriting, all the privileges of citizenship," it would remain "altogether impracticable to enforce the Laws of the United States." Lumpkin's assertion that only a hardworking yeomanry could practice good government and enforce the law neatly expressed the idea of social order reinforcing the public peace. His argument also had racial overtones. The current residents of the Cherokee country, whom he dismissed as "mixed breeds and white bloods," continued to defy republican government and the laws of Georgia and the United States. Lumpkin hoped that "the Indian peoples might become an interesting and worthy member of our great confederacy of states" by accepting American values that promoted

¹¹ David Williams, *The Georgia Gold Rush: Twenty-Niners, Cherokees, and Gold Fever* (Columbia: University of South Carolina Press, 1993), 47-48.

¹² Milledgeville *Federal Union*, July 21, 1832, 2.

social order. Until then, Georgians believed they had the right to take Indian land and submit the Cherokee to state law.¹³

For white southerners, social order relied upon a strict racial hierarchy. At the apex of southern society, slaveholding whites held the bulk of political and economic power but were followed closely by the yeomanry and other whites. Ascriptive inequalities ingrained in southern life and thought also determined the ways in which southerners organized their communities. Indians and blacks experienced vituperative classification and subjugation that placed them at the bottom of southern life and outside of the white community. Though visible, these groups had few legal rights and little respect in the white republic. Georgia most often asserted white superiority in its laws that regulated the behavior and movement of black slaves. Georgians used a variety of tactics to promote and secure white superiority, though none proved more effective or important than the acts passed by the state legislature to it. In 1817, legislators amended the state penal code to detail punishments for all manner of crimes committed by a slave, from assault to arson to insurrection, many of which were punishable by death if committed by blacks but by jail time if committed by whites. Barring slave testimony in courts proved another effective way of limiting a slave's standing in white society. In a world where a man's word was his honor, state laws stripped slaves of standing and justice by keeping them silent.¹⁴

On the border between the Cherokee Nation and the state, white settlers and natives interacted in ways that put the superiority of whites in flux. Deeply rooted beliefs held that

¹³ Wilson Lumpkin, *The Removal of the Cherokee Indians from Georgia, including His Speeches in the United States Congress...* (New York: Dodd, Mead and Co., 1907), 1:42, 45.

¹⁴ "An Act to Amend the Penal Code," *Acts of the General Assembly*, December 20, 1817, <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=4169530> (accessed September 10, 2011), 92-143. On legal efforts to impose white supremacy in the antebellum South, see Thomas D. Morris, *Southern Slavery and the Law, 1619-1820* (Chapel Hill: University of North Carolina Press, 1996); as well as Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom* (Princeton: Princeton University Press, 2000), 61-65.

Indians corrupted the white polity were not easily discarded. Illustrating the fears of Georgia's leaders, a traveller, "Eugenio," published an account of his journey through the Cherokee Nation in the *Macon Telegraph*. Having passed through western Tennessee on his way to Georgia, and "[f]atigued with a long and toilsome day[']s ride over the mountains," he anxiously awaited the first sight of "one of those small hamlets which indicate a white settlement." He instead happened upon a "cluster of cabins" and inquired of the owner, a "deeply intoxicated...man of gigantic stature in the Indian costume," if he could stay the night. Denying the traveler permission to enter his home and, as if to add emphasis to his refusal, the Indian passed out in the threshold. At that point "a little dark eyed Indian girl" admitted him into the house. Inside, he expressed surprise at the civilized comforts that awaited him: tea service, a well-cooked supper, and a drawing room stocked with the latest books and a piano. The eldest daughter, only seventeen, played the instrument for her guest and excelled at her rendition of "Home Sweet Home," which she played with "pathos and feeling." That night he learned the family's history. The father, not an Indian at all, but a white man, had once been "a man of considerable talent and literary acquirements." However, his prolonged "intercourse with the savages" had taught him "brutal habits" and encouraged his "indulging in drunkenness." In spite of the daughter's refinement, the message was clear: racial mixing on the frontier degraded whites when they fraternized with Indians and lost essential characteristics that had made them superior.¹⁵

The tale of the drunken white man dressed as an Indian and his daughters held other lessons for white leaders. The eldest daughter, Charlotte, was engaged to a northern suitor. "Eugenio" learned that, after several years of marriage, the northerner had engaged in speculation that ruined the family. The husband, having become mired and "dissipated,"

¹⁵ *Macon Telegraph*, September 1, 1828, 1.

deserted his wife and child and absconded to Europe. Having to flee back to her father's cabin, Charlotte and her child now resided as "wretched victim[s] of man's perfidious baseness." Here, readers witnessed the vulnerability of the Cherokee where they currently resided. A large native population beckoned "perfidious" whites to the backcountry, where they could cheat and swindle with few repercussions. The removal of the Cherokee, then, would help protect Indians from the plots of "perfidious" whites and improve the morals of the white community.¹⁶

Idealized racial views held by the state's politicians had difficulty surviving, much less replicating, when they encountered complicated realities on the frontier. As Georgians moved into the backcountry, they encountered a landscape that had been inhabited for centuries by Cherokee and Creek families who raised crops and livestock in tightly-knit towns and villages. Moving usually in family units to settle on land, whites often resided on abandoned Cherokee plots, used Cherokee improvements made to the land, and farmed the same fields that the Cherokee had cleared and cultivated. Despite the hard-heartedness of many whites toward their native neighbors—most viewed Indians as either noble or vicious, but savages nonetheless—their feelings did not preclude a significant amount of commercial, religious, and personal interaction where the two societies did overlap. Indeed, a great degree of cooperation and intermarriage occurred as whites and Cherokees mingled on the frontier. As late as 1838, Cherokee men and women still moved about with regularity and visited their white neighbors, though that tended to panic white frontier residents. "Some are cheerful and visit among the whites," noted a resident of Rome in Floyd County. But the majority "are drinking and stubborn and say they don't intend to leave the country."¹⁷

¹⁶ Ibid.

¹⁷ On white attitudes toward Native Americans see, Reginald Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge: Harvard University Press, 1981), especially 103-115. On the beginnings of *métissage* in Cherokee country, see Tom Hatley, *The Dividing Paths: Cherokees and South Carolinians through the*

The idealized social order envisioned by state leaders faced a difficult implementation on the edges of state power. Proximity to a different racial group put American assumptions of republican order up against frontier realities. As whites and Indians interacted on native ground, the pragmatic need for economic exchange or social interactions trumped preconceived notions about a racialized other. By the 1830s, state leaders expressed concern over racial mixing and hoped to remove the Cherokee as soon as possible. Most importantly, the prospects of republican self-government dwindled if the Cherokee were allowed to maintain their current territory. According to Governor Gilmer, an enervated Cherokee people had become subservient to a politically active class of mixed-race planters. Rather than a government that mirrored that of the United States, Gilmer saw in the Cherokee Nation not popular sovereignty, but “the rule of that most oppressive of governments, an oligarchy.”¹⁸ The “oligarchy” of mixed-race Cherokee politicians spoke English, practiced Christianity, and, most troubling to Gilmer, utilized the American legal system to forestall removal. Mixed-race Cherokees undermined American notions of white supremacy because they potentially corrupted the white polity and undermined the racial hierarchy adopted by southern culture and thereby threatened the expansion of social order and the public peace.

Though Georgians urged on the removal of all Indians within the boundaries claimed by the state, federal officials were reluctant to abandon a long-standing program of acculturation. Looking westward after the Revolution, the new states saw dozens of Indian nations, who all claimed sovereignty over their territory and political independence from the new nation. Seeking

Revolutionary Era (New York: Oxford University Press, 1995), 232-235; as well as William G. McLoughlin, *Cherokee Renascence in the New Republic* (Princeton: Princeton University Press, 1986), 326-330; Samuel Steward to George R. Gilmer, April 24, 1838, RG 393, M1475, “Correspondence of the Eastern Division Pertaining to Cherokee Removal, April-December 1838,” roll 1.

¹⁸ George R. Gilmer to William Wirt, June 19, 1830 in Gilmer, *Sketches*, 274.

a unified policy, President George Washington and his advisors drew on Enlightenment racial theory and declared that, rather than subjugate its native neighbors, the new American republic should instead seek to assimilate them into white society by teaching them “civilized” skills such as farming, reading and writing, and growing crops to sell in the growing market economy.¹⁹ Such a sympathetic outlook from the nation’s leaders did not preclude a racist bent in the minds of white Americans who resented Indians and the new federal policy. Indeed, sympathetic expressions toward natives in the early Republic, according to one historian, became more dangerous than the hatred of backwoodsmen for the endurance of Indian peoples. Whereas frontier settlers expected to clash with natives over land use, they imagined the conflict as one in which Americans would inevitably prove victorious and the vanquished foe would move elsewhere, relinquishing their claim to the land. Philanthropists, argues Bernard Sheehan, imagined a world in which no Indians existed because they had been incorporated into American society, their culture fading before the superiority of American values and mores. Lumpkin’s civilizing call fit with that philanthropic line. In effect, philanthropists wanted to eradicate Indian culture so that American values could flourish.²⁰

In Georgia, much of the resentment toward the Cherokee that had persisted since the Revolution made implementing federal assimilation policy difficult, at best. Gilmer laid bare his prejudices against the Cherokee in his memoirs, where he argued that the state could lay claim to Cherokee land because of the savagery of the Indians. Gilmer believed that the Cherokee desired

¹⁹ On Indian policy in the early Republic, see Reginald Horsman, “The Indian Policy for an ‘Empire of Liberty,’” in Frederick E. Hoxie, Ronald Hoffman, and Peter J. Albert, eds. *Native Americans and the Early Republic* (Charlottesville: University of Virginia Press, 1999), 37-61; Richard White ironically terms the new relationship between the American government and Indian peoples “the politics of benevolence.” See White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991), 469-517.

²⁰ Bernard Sheehan, *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (Chapel Hill: University of North Carolina Press, 1973), 278.

“to act by trick, deceit, and stratagem,” and that their “master passion was revenge.” Though some native leaders were called eloquent, Gilmer argued, ironically, this might have been the case because they “followed the vagueries of their imagination in speaking, without investigating facts.” As taxpayer money went to teach the Cherokee English or improved plowing methods, Georgians grew increasingly resentful of federal patronage that appeared to benefit the Cherokee at the expense of white citizens. Their rhetoric turned violent. “The perplexing evils with which we are embarrassed can only be removed, by the entire removal or extermination of the Indian race,” Lumpkin cried.²¹

Federal agents had to convince the Cherokee that adopting American values and labor practices would only expedite their integration into the social and political fabric of the nation, while Americans continued to encroach on native ground and demanded title to it. Treaties that resulted in a series of land cessions that transferred Indian country to the burgeoning white republic only emboldened white settlers, who felt more confident about moving onto land claimed by the Cherokee, knowing full-well that the federal government would eventually lay claim to it. For natives struggling to maintain territorial integrity, the retreating boundary pressured them to resist further compromise measures, so federal negotiators had to resort to questionable methods to extract further concessions. Often employing a strategy of divide and conquer, federal treaty negotiators exploited weaknesses in the decentralized Cherokee government and congratulated themselves when leaders signed away the lands of their rivals.²²

²¹ George R. Gilmer, *Sketches*, 248-249; Wilson Lumpkin to Eli Shorter and P.H. Campbell, May 2, 1835, *Governor's Letter Book, 1833-1840*, Drawer 62, Box 65, GDAH.

²² Though of dubious morality, and later ruled illegal by federal judges, this practice neither originated in nor was it confined to Georgia. The most notorious of such exchanges occurred in 1775 when Richard Henderson, a Kentucky frontiersman, purchased thousands of square miles of land from a handful of Cherokee chiefs who had no right to the land. On the Henderson Purchase, see William G. McLoughlin, *Cherokee Renascence in the New Republic* (Princeton: Princeton University Press, 1986), 19.

Georgia's political leaders, especially Gilmer, exalted in new land concessions. For him, the answer to the question of land use was a simple one. Industrious white farmers needed the land to extend order: "The millions of acres of land which are now of no value, except to add to the gratification of the idle ambition of the chiefs, must be placed in possession of actual cultivators of the soil, who may be made the instruments for the proper administration of the laws."²³

In 1819, U.S. negotiators managed to extract from the Cherokee a final round of concessions that benefitted land-hungry Georgians. A rush of new settlers moved into lands recently occupied by the Cherokee. Political values and land ownership proved easy enough to guarantee, but the relatively loose racial views of settlers worried leaders to no end. After 1819, federal negotiators could do little to gain more land for white settlement because of a growing nationalist movement growing among the Cherokee. As a result, rumors swirled across the frontier, especially ones that portended a violent doom for white settlers. In Athens, one newspaper warned frontier residents that "THE INDIANS WOULD CUT THE THROATS OF EVERY WHITE PERSON IN THE COUNTRY BEFORE THEY WENT TO ARKANSAS." Rumor-mongering and trepidation pervaded the Cherokee frontier and made for tenuous relations between whites and their neighbors. With so much uncertainty plaguing the backcountry, the white community sought some way to provide order in a world that seemed devoid of it. Even as state leaders threatened violence against the Cherokee—including extermination—they also worried about violence directed at white settlers.²⁴

To stave off violence, the backcountry needed a stabilizing force that could prevent violent behavior from erupting in the first place. Leaders agreed that the best solution to the

²³ Gilmer, *Sketches*, 318.

²⁴ Athens *Southern Banner*, September 30, 1837, 2.

problem was to expedite settlement so that a virtuous white yeomanry could extend order into the backcountry—even though they recognized that settlement caused its own problems. Between 1820 and 1838, state leaders became increasingly aware that white citizens from Georgia instigated most of the disorder. Such a realization flew in the face of republican thinking, which stipulated that a hard-working yeomanry upheld and perpetuated republican simplicity. Though most of the complaints coming out of white backcountry residents expressed concern because of a looming Indian attack, whites initiated and sustained violent behavior in Cherokee-Georgia borderlands. The fast-paced nature of social change in the Georgia backcountry made implementing an idealized form of social order nearly impossible. Indeed, the precarious nature of frontier settlements and the proximity to a large Cherokee population seemed to intensify threats to social order and the public peace.

To preserve order, state leaders recognized the need for sovereignty over the Cherokee country and its residents. An “exercise of sovereignty” would allow the state to extend state law and open up land to white settlement. They also recognized that such an audacious move would upset the Cherokee and no doubt spark violence. Yet without sovereignty, they would have no way to stop the violence once it began. After 1819 and well into the 1830s, the public peace became an overriding concern of state politicians and white families on the frontier. For Georgians living in the borderlands, the threat of violence and crime pervaded their existence. Citizens and politicians alike abhorred “assassinations, murder and the shedding of human blood.” In the fall of 1834, Governor Wilson Lumpkin warned that the common peace required a citizenry able to check such crimes and follow “a faithful administration of the law.” Unless such a law-abiding citizenry could inhabit the disputed territory, he predicted, “greater evils await our beloved country.” As Cherokee Removal neared, white residents of the border counties continually worried about their safety. After the passage of the Treaty of New Echota in 1835,

Lumpkin apprised his aide-de-camp that “some of our white Citizens are believed to be in great danger of personal violence, if not assassination and massacre,” because of the objections expressed by the Cherokee over the treaty and what they saw as forced removal.²⁵

In the sparsely settled counties bordering the Cherokee Nation, the question became one of how best to preserve the common peace with so many perceived threats. An Indian population that could more or less come and go as it pleased, and a thinly spread white population, provided little sense of security. In the first years of the 1830s, no one seemed certain of the governing body that had the authority to provide order. One editor in Milledgeville sought to convince his readers that he had the answer. The “unfortunate condition of the country” caused him to wonder which authority had “the right and the ability . . . to restore and preserve peace and harmony within its disordered borders?” As he saw it, three options existed. First, the Cherokee could attempt to order the backcountry, though he doubted they could. “[T]he Indians are utterly incapable of preserving the internal quietude even were the right conceded to them.” Such a concession meant the state had recognized Cherokee sovereignty, something it was increasingly reluctant to do. The editor felt similarly about the second option: that “it is totally impracticable if not impossible for the General Government to do so is equally certain.” Only one answer satisfied the editor. “It is confidently answered that the State of Georgia is that power.”²⁶

State politicians in Milledgeville never doubted where sovereignty over the backcountry resided, though they could not agree on how best to assert it. They agreed that moving white settlers into the contested lands and removing the Cherokee would uphold both moral and racial

²⁵ Mary E. Young, “An Exercise of Sovereignty in Cherokee Georgia,” *Journal of the Early Republic* 10 (Spring 1990): 43-63. Wilson Lumpkin to Glass, October 11, 1834 in *Governor’s Letter Book, 1833-1840*, Drawer 62, Box 65, GDAH; Wilson Lumpkin to William N. Bishop, May 28, 1835 in *Ibid*.

²⁶ Milledgeville *Federal Union*, September 11, 1830, 3.

order. Before removal commenced, though, they did not agree on how best to instill the common peace. Most politicians wanted to introduce order through civil law, meaning that courts, judges, and juries would convict criminals of legal violations and sheriffs would bring them to justice. In early 1830, Governor George R. Gilmer requested one of his superior court judges to uphold order more forcefully when he demanded “the interposition of the civil authority in suppressing further violence on the part of our citizens.” Others wanted a more forceful response that would punish criminals and provide a deterrent to others considering violating the public peace.

“Nothing but a strong military force can arrest the evil while the county remains in its present condition,” an editor in Macon wrote. He concluded that the “repeated and increasing atrocities call loudly for the interposition of the strong arm of the government.” A military response meant mustering county militias and having them dispense justice, violently if need be. In the midst of backcountry chaos, Georgians called loudly on the state government to interpose itself between defenseless citizens and frontier havoc though no consensus emerged on how best to do so.²⁷

The debate over civil law or military force as a means to order the backcountry came down to the question of restraint and the appropriate level of violence that authorities could use to restore order. For the most part, the legislature sought to use the civil authorities as the primary response to disorder. To do so, it hastily created new counties out of the land acquired from the Treaties of 1817 and 1819 and even pondered the legality of extending state law into Cherokee territory, not in conjunction with the Cherokee, but as a way of announcing the supremacy of state law. Courthouses and jails, often some of the first structures built in new settlements, created a legal edifice for the projection of local, state and national statutes and provided a way to extend state and national laws into the backcountry. State leaders zealously

²⁷ George Gilmer to Walter Colquitt, February 15, 1830 in *Governor's Letter Book, 1829- 1831*, Drawer 62, Box 64, GDAH; *Macon Telegraph*, October 16, 1830, 3.

created and chartered new counties after each concession by native inhabitants. Upon the ratification of the Treaty of Cherokee Agency in 1817, three new counties appeared the following year, Gwinnett, Habersham, and Hall. Over the next eight years, the legislature incorporated four more border counties, Rabun, Campbell, Carroll and DeKalb, the last three of which had been carved out of former Creek land gained from negotiations at Indian Springs. In Hall, for example, construction of the inferior court began in 1822, a scant four years after incorporation, and the first jail was built later that year. In Carroll County, the log home of William Wagon served as the site of county business until a tax to build a more permanent structure was levied. From 1826, these six counties bounded the Cherokee Nation within the state. The settlers there were the front line of republican order as it sought to overcome Cherokee harmony.²⁸

The violent atmosphere of the backcountry stemmed in large part from Georgia's quest to assert a social order that resident Cherokee did not subscribe to. Georgians, of course, saw themselves as victims of a rapacious people who threatened the superiority of whites and who rejected republican government. "Are we as the people of a Sovereign State to be thus treated, is our property to be destroyed and the law afford us no security?" wondered the lawyer Allen G. Fambrough. "Are we as free citizens to have our rights Jeopardized our persons attacked assaulted and abused and will the State say we are remediless [sic], if so we who reside in frontier counties must retreat from the vindictive wrath of savage vengeance." Settlers arrived in the borderlands expecting state protection but found themselves exposed to a potential attack. Therein lay the central paradox of expansionism: as more settlers moved into the borderlands

²⁸ As the thirteenth largest state, Georgia has the second highest number of counties. Local lore has it that early state legislators wanted each courthouse strategically placed so that any person could make a trip to the courthouse and back home within the course of a day. On the construction of court houses and jails in counties bordering the Cherokee Nation, James E. Dorsey, *The History of Hall County, Georgia, 1818-1900* (Gainesville, GA: Magnolia Press, 1991), 1:16; as well as James C. Bonner, *Georgia's Last Frontier: The Development of Carroll County* (Athens: University of Georgia Press, 1971), 23.

violence increased proportionally. As violence increased, state leaders saw the need to impose order either through civil or military channels. Creating order, however, required more settlers. The cycle of violence created by settlement, order, and sovereignty only instigated violence and hampered efforts by state leaders to create an idealized society based on republican ideology, agrarianism, and white superiority.²⁹

Just as Georgians sought a form of order to check the changes wrought by the Revolution, the Cherokee grappled with a world in which their societal values underwent rapid flux. Prior to the Revolution, the Cherokee entered a precipitous cultural dislocation, as much of their land was parceled off to grasping colonists and as the traditional concept of harmony evolved to meet new circumstances. As pressure for their land increased, the Cherokee hardened their position on acculturation, land concessions, and acceptance of white neighbors: in the 1810s nationalism blossomed. This renaissance sought to unite the Cherokee people into an immovable political nation that refused any further concessions. Instead, as some Cherokee adopted aspects of republican values at the expense of harmony, they also experienced political and economic divisions that undermined those nationalistic impulses.³⁰

For the Cherokee people, the repeated land concessions that occurred not just in Georgia, but also in Tennessee, Alabama, and the Carolinas, capped more than a century of disruptive

²⁹ Allen G. Fambrough to George R. Gilmer, February 21, 1830 in *Cherokee Letters, Talks, and Treaties, 1786-1838* bound transcripts, Works Progress Administration Project No. 4341, ed. L.F. Hays (Atlanta: Georgia Archives, 1939): 1:206.

³⁰ The literature on Cherokee social change is voluminous. For those who see Cherokee social change as endemic of cultural degradation see William McLoughlin, "Cherokee Anomie, 1794-1808: New Roles for Red Men, Red Women, and Black Slaves," in Richard L. Bushman and Neil Harris, eds. *Uprooted Americans: Essays to Honor Oscar Handlin* (Boston: Little, Brown & Co., 1979): 126-160. More nuanced approaches to social change have lately appeared. See Sarah H. Hill, *Weaving New Worlds: Southeastern Cherokee Women and their Basketry* (Chapel Hill: University of North Carolina Press, 1997). On quantifying social change, see William McLoughlin and Walter H. Conser, "The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835," *Journal of American History* 64 (December 1977): 678-703. On agricultural changes, see 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): 1-28.

social change that had fundamentally altered Cherokee folkways and customs. The most defining aspect of the Cherokee worldview was an ethic of harmony. The concept of harmony rested on a balance of opposing forces. In the Cherokee cosmology, fire and water provided a balance in the spirit world. In the natural world, men and women, war and peace, and animals and plants all helped balance Cherokee society. The balance dictated by harmony prescribed acceptable patterns of behavior and deportment and delineated the proper way to live. Not only did the ethic of harmony instruct the Cherokee on how to live in tune with the natural and spirit worlds, but it also dictated the means by which the various clans and towns could live in concert with one another as well as other nations. The idea of harmony necessitated some degree of reciprocity in the dispensation of justice. A murder committed by one Cherokee against another, for example, required a similar action against the perpetrator to “still the crying blood” of the victim’s family. Such a method of preserving harmony ensured balance between the towns and clans so that one could not gain power or influence over the other.³¹

Harmony not only dictated a balance between clans and towns, it also asserted a type of equality between the sexes when it came to maintaining social order. Most aspects of Cherokee life were strictly gendered: women took responsibility for agriculture and child-rearing; men for the hunt and war. The seven Cherokee clans were all matrilineal, meaning that a child’s membership in a clan was determined by the mother. Clan ties dominated most aspects of Cherokee life, including connections to the land. According to Cherokee lore, the spirits created the land specifically for Cherokee use. By burying their dead in it, they had sanctified it and

³¹ The idea of harmony is best explained in Cynthia Cumfer, *Separate People, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier* (Chapel Hill: University of North Carolina Press, 2007), 25-41; and Theda Perdue, *Cherokee Women: Gender and Culture Change, 1700-1835* (Lincoln: University of Nebraska Press, 1998), 13-15. See also, Michelle Daniel “From Blood Feud to Jury System: The Metamorphosis of Cherokee Law from 1750 to 1840,” *American Indian Quarterly* 11 (Spring 1987): 97-125.

claimed it as their own. Lacking a system of land ownership the Cherokee held the land in common, though individuals could be granted tenure for certain parcels.

Contours of everyday life shifted as whites encroached onto Cherokee land and turned native ground into shared ground. Prior to the Revolution, many Scotch-Irish had moved into the Georgia backcountry seeking profits and new trading partners. Because of Cherokee stipulations that only a Cherokee could trade within the Nation, many white men found Cherokee wives and in the process became adopted members of Cherokee society. Following the matrilineal Cherokee tradition, their bicultural children enjoyed all the rights and protections offered by their mothers's clans. Their offspring, Cherokee *métis*, combined cultural elements of their white fathers and Cherokee mothers to create a hybridized culture drawing on certain aspects of both peoples. Many readily adopted plantation agriculture and the practice of racial slavery that brought them into the world of American commercialism and the benefits of the market economy, though they abided by the rules of Cherokee society. These bicultural men and women, usually hailing from wealthier backgrounds, became the cultural and political elites of the Cherokee Nation.

Surrounded by cotton-planting southerners, Cherokee *métis* most readily copied the agricultural practices of their neighbors in an effort to gain acceptance in the white south. Plantation agriculture disrupted traditional Cherokee tribal patterns of land use that had stressed communal stewardship of property rather than individual ownership. Along with land-ownership and plantation agriculture, another distressing element to normative patterns of Cherokee life involved the introduction of chattel slavery. For centuries, the Cherokee had used slaves as a labor force, but had never considered them property. With increased *métissage* came distinctly American views on race, slavery, and property that undermined and contradicted those of the Cherokee. Traditional slavery went hand-in-hand with the notion of harmony because most

slaves had been captured in warfare. In the harmonious Cherokee worldview, wars were retaliatory in nature and usually waged as a corrective to a past wrong. As the federal government clamped down on warfare between native peoples, the nature of slavery itself changed from a temporary condition based on the capture of prisoners to a permanent system based on racial subjugation. By adopting a race-based system of slavery, Cherokee men and women began to embrace ideas of hierarchy, which further undermined harmonious social relationships. Matrilineal relations dictated that property belonged to the wife, but the American plan of “civilization” promoted male property ownership and male agricultural labor. The accumulation of slaves and private property became goals unto themselves. Once these changes solidified, Cherokee women lost much of their influence in day-to-day activities, as first Cherokee men, and then African slaves replaced them as the primary agricultural laborers and providers.³²

As a greater number of bicultural men and women comprised the Cherokee population, structures of political power shifted. Gaining power at the expense of traditionalists, male *métis* straddled two societies, acting as mediators between them. Although they certainly desired wealth and power to mimic their Anglo neighbors, the *métis* also wholeheartedly adopted Cherokee society as their own. They eyed their white neighbors with increasing uncertainty and watched as other Indian nations were swallowed up, hunted down, or expelled beyond the Mississippi. Their unique position afforded them opportunities to gain power and to steer Cherokee society. By the 1820s, the Cherokee had been completely encircled by whites settlements, and had given away much of their land to appease settlers. The *métis* had slowly gained an increasing amount of political power within the nation and sought to use that power to fend off further concessions.

³² Theda Perdue, *Slavery and the Evolution of Cherokee Society, 1540-1866* (Knoxville: University of Tennessee Press, 1979), 50-53. For a broader treatment of slavery in the Native southeast, see Christina Snyder, *Slavery in Indian Country: The Changing Face of Captivity in Early America* (Cambridge: Harvard University Press, 2010).

Further, they sought to prove to federal Indian agents the success of their acculturation policy to show their people's readiness for republican government.³³

In order to solidify their claim, the Cherokee slowly went about installing republican legal forms closely mirroring those of the United States. The full expression of republicanism that the Cherokee adopted did not become law until 1827, though a series of legislative efforts prior to that date moved the Cherokee away from a society based on harmony and toward one based on constitutional law. Much like their neighbors in Georgia who struggled over the meaning of a republican society, the Cherokee split on how to best to impose their idealized version of a well-ordered society. Part of the problem arose from those who resisted its implementation. During the 1820s, Cherokee leaders in the lower towns split with those from the upper towns on the merits of removing their people to Arkansas, or other parts of the west. Other traditionalists opposed the timeworn folkways that had guided their people through social dislocation and physical displacement. The sentiment for removal, however, waned as the Cherokee developed a romantic conception of nationalism, which they felt entitled them to their land. Nationalism, in turn, begat efforts to ensure territorial sovereignty.³⁴

Beginning with a series of treaties signed with the United States government, first with the Treaty of Hopewell in 1785, the Cherokee asserted legal title to their land, though in exchange, they allowed Congress to have the power of regulating commerce with their people. This freed the Cherokee from having to negotiate with delegations from each frontier state, and in turn allowed a U.S. Indian agent to reside within Cherokee country. Finally, they agreed to stop

³³ On the cultural ramifications of *métissage*, see Brett Riggs, "The Christie Cabin Site: Historical and Archaeological Evidence of the Life and Times of a Cherokee *Métis* Household," in Robert S. Brunk ed. *May We All Remember Well: A Journal of the History and Culture of Western North Carolina* (Asheville, NC: Robert S. Brunk Auction Services, 1997), 1:228-248.

³⁴ See Mary E. Young, "The Cherokee Nation: Mirror of the Republic," *American Quarterly* 33 (Winter 1981): 502-524.

violent retaliation against whites who committed murdered against members of their Nation. Though a small concession, it undermined the Cherokee notion of harmony. Warriors unable to still the crying blood of their slain relatives had to take their grievances to federal officials who would determine the appropriate resolution. The nationalists, however, stressed the need for a strengthened, unifying central government. Though it went against Cherokee tradition of decentralized authority, several towns in 1809 joined together to form a National Committee to oversee administrative duties and to treat with the U.S. Indian agents.³⁵

Less than a decade later, in an effort at greater centralization, the Cherokee eschewed their reliance on traditional law and turned to written laws with the political reform act of 1817. Often called the first written Cherokee constitution, the act solidified the importance of bicultural Cherokee who had slowly gained power within the Nation by drawing on traditional forms of Cherokee culture and mixing them with the republican values they found appealing. The result was an Indian nation whose institutions began to resemble those of the United States. It created a general council that met to create legislation, as well as establish the Light Horse Patrol to police the borders, prevent intrusion and arrest Cherokee men and women who had broken the law. In essence, the Cherokee had formed a nation, complete with a system of courts and a police force designed as an expression of Cherokee national sovereignty, which contradicted the claims of both the United States and the state of Georgia.³⁶

In December 1827, the Cherokee went even further when they ratified their first written Constitution. Closely resembling the American Constitution, the Cherokee version crafted by twenty-one elected delegates to a convention adopted patriarchal republican institutions and

³⁵ McLoughlin, *Cherokee Renascence*, 157-158.

³⁶ *Ibid.*, 223-226.

ideals and adapted them to suit “civilized” Cherokee cultural forms. For instance, it created a three-pronged national government consisting of executive, legislative, and judicial branches, but never mentioned the clan system and forbade the traditionally important role women had played in the dispensation of justice. In writing their constitution, the delegates had three primary objectives. First, the constitution formalized the Nation’s boundaries in order to establish its sovereignty. Cherokee national sovereignty lay not in a mythic past, according to the new Constitution, but from “[t]reaties concluded with the United States.” As such, national self-determination depended upon the relationship with the United States and the land stipulated to them in various treaties conducted with that nation. In order to retain both their sovereignty and land, the Cherokee reaffirmed their determination that their borders “shall forever hereafter remain unalterably the same.” The second goal of the new constitution promoted Cherokee nationalism and sovereignty. It rejected outright the civilizing program of the United States by affirming that Cherokee citizens held property in common, though it recognized that individual citizens had the right to make “improvements” to the land. However, the newly nationalized land policy prevented individuals from “dispos[ing] of their improvements in any manner whatever to the United States, individual states, nor to individual citizens.” Third, the Cherokee Constitution of 1827 sought to prove to American officials that the Cherokee people had fully adopted civilized ways. Hoping to show that their republican constitution amply demonstrated just how successful acculturation had been—even if it inherently rejected that program—they submitted their plan of government to President John Quincy Adams for approval.³⁷

For many traditionalist Cherokee the new constitution proved problematical because it disrupted seemingly timeless cultural ways, according to historian Theda Perdue, “[b]y

³⁷The Cherokee Constitution of 1827 was fully reprinted in the *Cherokee Phoenix* over the course of its first three issues. *Cherokee Phoenix*, February 21, 1828, 1. For a general discussion of the Constitution, see McLoughlin, *Cherokee Renaissance*, 394-400.

reordering inheritance and depriving clans of coercive authority, the council seriously undermined the matrilineal kinship system on which women's traditional status partly rested."³⁸ Cherokee traditionalists, especially those who rejected contact with whites, saw the constitution as a tool of empowerment for the elites—a document legitimizing a small, influential, and well-connected cross-section of the community—and marginalizing the many. The signers did not represent the majority of the Cherokee people, and, in fact, their lives differed greatly from those of their constituents. By 1838, twelve of the signers owned more than twenty percent of the slaves present in the nation and farmed a plot four times the size of an average Cherokee farmer. The signers also differed from the rest of the nation economically not only because they represented the values of a growing market-based middle class, but because of their racial composition as well. Only four delegates were “full bloods,” and could do little to prevent the bicultural signers from privileging their adopted cultural forms in the new constitution. Nothing proved more central than slavery and race to the “civilized” faction of the increasingly powerful mixed-race middle class.³⁹

For a group whose own ethnicity would prove a political liability in the coming years, the signers of the constitution took great pains to exclude those they deemed less desirable even as they cried foul when white Georgians called into question their own racial desirability. The constitution adopted a strict blood quantum and defined anyone as a “negro” who had black parentage. Those defined as “negro” could not vote, “hold any office of profit, honor or trust, under this Government,” and were denied other rights reserved for those Cherokee who passed the test of racial purity. A law passed by the General Council in April 1828 went even further,

³⁸ Perdue, *Cherokee Women*, 146.

³⁹ *Ibid.*, 144-146; McLoughlin, *Cherokee Renaissance*, 394-400.

stipulating that no free blacks were allowed into the Nation and were deemed “intruders,” unless they had a permit for residency. The growing centralization of power into the hands of the planter elite coincided with the Cherokee acceptance of slavery. Many of the laws created by the new republican government, designed expressly to secure private property, further fastened slavery onto the Nation. For the mixed race Cherokee trying to mimic the hegemonic system of their white planter neighbors, it made sense to legally discriminate against blacks to show that they had fully embraced white cultural and legal forms. Their discriminatory policy provided, they thought, all the proof needed. In this way, the Constitution of 1827 looked similar to other state constitutions in the South, even Georgia’s.⁴⁰

On the boundaries of the Cherokee Nation, order and harmony met, overlapped, and intertwined much as the two societies harboring those assumptions did. White Georgians advanced their ideas into the backcountry while Cherokee men and women sought a way of preserving the old and adopting the new. With the Constitution of 1827, the Cherokee signaled their efforts at reaching an accord between the two worldviews. Georgia’s politicians were much less willing to accommodate those currently possessing the land. The U.S Indian Agent Hugh Montgomery, himself a Georgian, understood that the political climate within the state prevented any real chance for an accord between the Georgians and the Cherokee. “The prevailing idea in Georgia, especially among the lower class, is that they are the Rightful owners of the soil...indeed, sir, there is only one point on which all Parties, high and low, in Georgia agree, and that is that they all want the Indian Lands!” Having ratified their constitution, the Cherokee felt

⁴⁰ *Cherokee Phoenix*, February 21, 1828, 2; Perdue, *Slavery and the Evolution of Cherokee Society*, 48-49.

emboldened when it came to preserving their land. Developments in Georgia, though, would upset their newly acquired confidence.⁴¹

The struggle between Georgia and the Cherokee for possession of the land began as a political struggle over sovereignty. Georgia's leaders grandstanded against the Cherokee assertion of sovereignty as an affront to the rights of the state. Once the Cherokee asserted their nationhood, it was only a matter of time before the state responded. By 1825, Georgia was also experiencing a fundamental political shift as inchoate political factionalism gave way to a more formalized party alignment even as it bore traces of the state's personality-driven style. In that year, ushered on by growing egalitarianism and a cry of underrepresentation in the smaller counties, the legislature relinquished its role as presidential elector, building on its efforts from the previous year when it made gubernatorial races decided by white male suffrage. The effects of the electorate's democratization had serious implications for the state's stance on Indian policy. Now, governors would face accountability from the voters for their success in opening up more land to voters and as a result took a more hardline approach in dealing with natives residing in what state leaders considered their land.⁴²

The democratization of the white electorate had drastic ramifications on the tense situation in the Cherokee borderlands. Campaigning for the governor's mansion in 1825—the first election decided by popular vote—George M. Troup, the leader to the lowcountry political faction, drew upon the Indian-hating rhetoric of his backcountry rival, John Clark. Promising to expel the Creek Indians from within the bounds of the state, Troup tapped into much of the discontent expressed by white Georgians over the continued presence of large numbers of

⁴¹ Hugh Montgomery to Thomas McKenny, April 23, 1825, quoted in McLoughlin, *Cherokee Renascence*, 412.

⁴² Anthony Gene Carey, *Parties, Slavery, and the Union in Antebellum Georgia* (Athens: University of Georgia Press, 1997), 21-22.

natives. By agreeing to expel the Creek, he tapped into a populist vein and became the champion of widespread property holding for the citizens of the state who looked longingly to the rich cotton lands between the Chattahoochee and Flint Rivers. By doing so, he effectively subsumed the most popular elements of the Clark faction, united the interests of lowcountry planters and backcountry farmers and won by a narrow margin.⁴³

Troup's stance on Indian Removal differed remarkably from previous governors because he successfully transformed it into a state's rights issue. Before he could hope to remove the Cherokee from their mountainous homes in the north, he looked to the Creek in the western reaches of the state. Federal treaty-makers had negotiated with Troup's cousin, the Creek leader William McIntosh, into removal for a paltry sum. Invoking the sovereignty of his state, Troup balked when President John Quincy Adams rescinded the Treaty of Indian Springs upon learning of its fraudulent nature. Adams negotiated a new treaty with different Creek leaders—McIntosh having been assassinated as a conspirator by Creek warriors—and the Senate easily ratified it. Troup, however, refused to observe the new treaty and dispatched surveyors into the Creek Nation to ready the land for a lottery. Adams announced he would send in the federal army to enforce federal law; Troup mustered the militia and dared Adams to do so. Eventually, Adams backed down and, as historian Sean Wilentz phrased it, “permitted the nation to surrender to a state.” When Troup declared that the federal government held no sway over Indian affairs within the state of Georgia, he sparked the growth of a racially potent brand of state's rights rhetoric that flowered in the controversy over Cherokee Removal.⁴⁴

⁴³ Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: W.W. Norton & Co., 2005), 262-263; Michael D. Green, *The Politics of Indian Removal: Creek Society and Government in Crisis* (Lincoln: University of Nebraska Press, 1982), 69-125.

⁴⁴Wilentz, *Rise of American Democracy*, 263; Donald B. Cole, *Vindicating Andrew Jackson: The 1828 Election and the Rise of the Two-Party System* (Lawrence: University Press of Kansas, 2009), 37-45.

Politicians in Georgia, however, thought the cultural and institutional similarities with Cherokee elites had gone far enough. Most realized that the more the Cherokee adopted aspects of American culture the more difficult it would become to secure their removal. For Georgians, federal acculturation policy ensured that the Cherokee would have allies in Congress—especially a growing northern cadre of congressmen who connected Christian morality and antislavery rhetoric to the plight of the Cherokee. Northerners who championed the benevolence of federal policy and simultaneously condemned the inhumanity of removal could easily undermine the state’s removal efforts. Georgia’s congressmen argued that their state sovereignty was threatened because the Cherokee defenders claimed the supremacy of the federal government in matters relating to Indian policy. Thus, much of Georgia’s reaction to the Cherokee Constitution of 1827 stemmed from its fears over congressional inaction on removal and growing public sympathy that put the state in the wrong.⁴⁵

When the Cherokee constitution reached the state house, Governor Troup immediately condemned it and urged President Adams to do the same. Though Adams did not immediately reject it he did not champion the new government either. This invigorated Georgia’s politicians, who, in an effort at political retaliation, took a momentous and emboldened step when the legislature declared: “The lands in question belong to Georgia – She must and she will have them.” The whole impulse of Cherokee sovereignty flew in the face of Georgia’s claims to Cherokee lands given to the state by the Compact of 1802. Drawing on this agreement, the legislature argued that Georgia, prior to the accord, could have resorted to force in order to remove the Cherokee, and that it did not surrender that right when it signed the compact. Thus,

⁴⁵ Natalie Joy points out the ironies of the political alliance between slaveholding Cherokee and northern reformers. See Natalie Joy, “Cherokee Slaveholders and Radical Abolitionists: An Unlikely Alliance in Antebellum America,” *Common-Place* 10 <http://www.common-place.org/vol-10/no-04/joy/> (Accessed July 18, 2010).

Georgia could still resort to violence if Congress continued to tarry. “[T]here is nothing in this provision which prevents the United States or Georgia from resorting to force; on the contrary, this right seems to be admitted.” Though the fiery rhetoric threatened violence the legislature toned down their threatening message by insisting that the state would “not attempt to improve her rights by violence until all other means of redress fail.” The state legislature insisted that the United States government fulfill its end of the compact and remove the Cherokee for good. If they failed to act, then legislators during the next session had the authority to extend state law over the “lands in controversy.”⁴⁶ If this occurred, then the Cherokee would be granted private property rights, but could only retain, at most, one-sixth of their current holdings.⁴⁷

In 1828, when it became clear that Andrew Jackson would run against the incumbent president, Georgians flocked to his banner. Georgia’s voters knew Jackson’s reputation as an Indian fighter and a man who would uphold promises to resolve the Cherokee problem in favor of the state. In fact, both the Clark and Troup factions favored Jackson so much that John Quincy Adams did not even appear on the state’s election ballot.⁴⁸ Adams’s dithering during treaty negotiations to remove the Creek Indians from the state had, according to Representative Wilson Lumpkin, “rendered Mr. Adams peculiarly obnoxious to the people of Georgia.” No

⁴⁶ “The Joint Committee on the State of the Republic...” *Acts of the General Assembly of the State of Georgia*, December 27, 1827, <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=8820198&lawcnt=24&filt=doc>. (Accessed September 10, 2011), 236-249. See also McLoughlin, *Cherokee Renaissance*, 411-12; Ulrich Bonnell Phillips, *Georgia and State Rights: A Study of the Political History of Georgia From the Revolution to the Civil War...* (Washington: Government Printing Office, 1902), 72.

⁴⁷ This strategy of granting allotments to native peoples eventually succeeded in displacing the Creeks, Choctaw, and Chickasaw mostly because government negotiators could play separate tribal factions against one another and acquire favorable land cessions. On the allotment strategy, see Mary E. Young, *Redskins, Ruffshirts, and Rednecks: Indian Allotments in Alabama and Mississippi, 1830-1860* (Norman: University of Oklahoma Press, 1961).

⁴⁸ Lynn Hudson Parsons, *The Birth of Modern Politics: Andrew Jackson, John Quincy Adams, and the Election of 1828* (New York: Oxford University Press, 2009), 156.

“true hearted Georgian, not blinded by prejudice,” could fail to support the friends of Jackson.⁴⁹ Lumpkin’s statement proved prescient; of more than twenty thousand votes cast during the election, upwards of 19,000 went to Old Hickory.⁵⁰ The unanimity of Georgia’s voters in the Election of 1828 demonstrated the level of support within the state for removal. Georgians wanted Cherokee land, and they saw Jackson as the best way to get to it.

With the election of Andrew Jackson in 1828, Georgians looked hopefully to the future with regards to Cherokee expulsion. In the winter of 1828, the legislature passed a bill that extended state law over the territory and people residing within the Cherokee Nation. It also declared the state supreme with regard to Indian policy and effectively nullified federal intercourse acts. The law made provisions for the border counties of Carroll, DeKalb, Gwinnett, Hall, and Habersham to extend their legal frameworks into the backcountry until the formation of new circuit courts and counties occurred. The extension law, as it became known, not only subjected Cherokee residents to state law, it also prevented the Cherokee from testifying in state court against whites, and beginning June 1, 1830, abolished “all laws, usages, and customs” of the Cherokee Nation. Borrowing methods and concepts the state had used to subjugate blacks, the extension law announced the inferiority of Cherokee and prevented them from seeking legal redress. It also required all whites living in the backcountry, except for federal agents, to apply for license to continue residing therein. The law expressed the state’s formulation of sovereignty and white superiority and sent thinly veiled threats to native residents: Georgia was a white man’s country and there would be no physical space or legal recognition for anyone else, not even the

⁴⁹ Wilson Lumpkin, *The Removal of the Cherokee Indians from Georgia* (New York: Dodd, Mead & Company, 1907), 1:41.

⁵⁰ Recent works differ as to the actual vote tally in Georgia. Donald Cole has the Jackson vote at 19,362 while 642 voters went for Adams. Lynn Parsons notes that 19,363 Georgians cast their vote for Jackson, while none did so for Adams. See Cole, *Vindicating Andrew Jackson*, 183; Parsons, *Birth of Modern Politics*, 182.

mixed-race Cherokee who had worked so hard at adopting southern institutions and economic practices. The legislature had effectively given the Cherokee two options: remove, endure hardship, and persist; or stay, endure hardship, but submit.⁵¹

With the passage of the extension law in late 1828, three separate political bodies claimed sovereignty over the Cherokee territory. First, the Cherokee claimed the land as their own and with their most recent constitution declared themselves a sovereign nation with laws and institutions that governed the conduct of individuals residing therein. Second, the state of Georgia and its extension law nullified the existence of the Cherokee Nation, and claimed sovereignty over the land because of the Compact of 1802. Finally, the federal government claimed it had sovereignty over the territory in question because of the doctrine of discovery and the passage of a series of intercourse acts. The doctrine of discovery held that the United States gained sovereignty over the Cherokee territory because of the Treaty of Paris that ended the American Revolution. According to Chief Justice John Marshall in the 1823 Supreme Court decision *Johnson v. McIntosh*, the British “discovery” of North America gave them ownership over it. The discovery doctrine as laid out in the *Johnson* decision converted the indigenous residents to tenants who were subject to eviction without notice. Once the British had been defeated their sovereignty had transferred to the American government. To reinforce its hold on the various Indian nations scattered across the cis-Mississippian frontier, Congress, beginning in 1790, passed a series of intercourse laws through powers granted by the Commerce Clause that allowed federal agents to “preserve peace on the frontiers.” The intercourse law passed in March 1802 further strengthened the previous provisions, and regulated the commercial relationships

⁵¹ “An Act to add the territory lying within the limits of this State...” *Acts of the General Assembly of the State of Georgia*, December 20, 1828, 88-89, <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionId=7f000001&type=law &byte=9186842&lawcnt=2&filt=doc 89> (Accessed September 10, 2011).

between Americans and Indians, and gave the federal government a strong claim in regards to the sovereignty question. The passage of the extension law, though, put the question of Indian policy into flux because the state had declared itself sovereign in all matters regarding the backcountry population. Though President Jackson would make a principled stand on nullification when it came to the state of South Carolina, he did little to prevent Georgia's actions.⁵²

Before the Cherokee had much time to ruminate on the possibilities of the extension law, uncertain news came out of the Georgia hills. In the autumn of 1828, a hunter ranging through land owned by his pastor stumbled upon gold on the banks of the Chestatee River.⁵³ Throughout the remainder of 1828 and well into the spring of the following year, few outside the region knew of the find. Then, in August 1829, the *Georgia Journal* caught wind of the story and published the first account of the state's two working, profitable gold mines. "So it appears that what we long anticipated has come to pass at last, namely, that the gold region of North and South Carolina would be found to extend into Georgia." Predicting the chaos and uncertainty that the mines would breed, the *Journal's* editor urged the legislature to "prohibit, under severe penalties, the working of any gold or silver mines in the State."⁵⁴ By the fall of that year thousands of gold seekers and fortune hunters had descended upon the north Georgia hills.

⁵² On the *Johnson* case, see Lindsay G. Robertson, *Conquest By Law: How the Discovery of America Dispossessed the Indigenous Peoples of Their Lands* (New York: Oxford University Press, 2005), especially 100-116; as well as Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge: Harvard University Press, 2005), 178-188. For the text of the *Johnson* case, see *Johnson v. M'Intosh*, 21 U.S. (8 Wheat.), 543-573 (1823). On the intercourse act, see "An Act to regulate the trade and intercourse with the Indian tribes, and to preserve peace along the frontiers," March 30, 1802, *Statutes at Large*, 7th Congress, 1st Session, 139-145.

⁵³ *Georgia Journal*, August 1, 1829, 3. Many people laid claim to the "first" gold find in the state. Beginning in 1826, hints and rumors of gold finds cropped up across the state, but no documentary evidence existed until the *Georgia Journal* article of August 1, 1829. See David Williams, *Georgia Gold Rush*, 22-25. More recently, towns across the gold region have been laying claim to the "first" strike in order to bring in much needed tourist revenue. *New York Times*, July 18, 2009, A9.

⁵⁴ *Georgia Journal*, August 1, 1829, 3.

Although the first find did not occur on Cherokee land, miners found that the deposits extended northwards and soon made their way into the Nation. Anxiety, chaos, and violence followed in their wake.

The first national gold rush would have dramatic consequences for those living for the Georgia-Cherokee frontier and dampened their prospects of enjoying a peaceful existence. As thousands of unwanted prospectors poured into the backcountry, state leaders and Cherokee councilmen sought ways of preventing bloodshed and of asserting control of the contested territory. For Georgia, the chaos in the backcountry would allow the state to extend its authority at the expense of the Cherokee. The Cherokee fully understood that their way of life and their tenuous grip on their homeland could soon come to an end, and would use the opportunity to seek federal assistance in maintaining their boundaries. Though the contest between Georgia's republican order and Cherokee harmony had raged for nearly three decades, the gold discovery brought it to a fever pitch.

CHAPTER TWO: BORDERLANDS SOCIETY AND THE ROOTS OF DISORDER, 1820-1830

Competition over sovereignty between the state of Georgia, the federal government, and the Cherokee Nation helped impose on the borderlands a confusing tangle of laws, authority figures, and boundaries. Rather than permitting any one power to assert a single legal framework, the three groups worked at separate purposes and in the end, contributed to the confusion that engulfed the region. As a result, ensuring order and harmony proved difficult. What developed prior to 1829 was a social landscape in which crime flourished because no government could control backcountry inhabitants. Four factors fueled frontier lawlessness: the dispute over sovereignty, transportation improvements leading to population growth, economic disparity that fueled an underground economy, and changing patterns of Cherokee settlement. Their confluence combined to permit the growth of a powerful ring of thieves that found refuge in the borderlands. Prior to 1829 and the beginning of the gold rush, frontier residents tolerated the disorderly population as best they could, though surprisingly few violent outbreaks occurred. The discovery of gold in 1828 altered the precarious balance that had developed along the Cherokee-Georgia border. The gold rush, however, did not create frontier violence. Violence and crime had long been a part of frontier life, and state officials along with Cherokee councilmen blamed much of the disorder on undesirable elements of the white frontier community. If Georgians wanted to create order in the backcountry and extend the white republic, political leaders first had to admit that their own citizens instigated many of the area's problems before they could control the intruders. Such recognition would allow them to temper their idealized expectations and target those who shirked a well-ordered society.

Despite Georgia’s insistence that the Compact of 1802 and the extension law gave the state unrivaled sovereignty over Cherokee country, frontier settlers had long been living on or near native ground in a subservient role. It would have made little sense for white settlers to seek the violent expulsion of their native neighbors when such actions would have instigated bloody reprisals and endangered their families. Instead, they made the best of their situation. Not only did they have to busy themselves with the toil that accompanied starting new farms, they also had to survey their new surroundings and take stock of their new neighbors—both Georgian and Indian. Similarly, the Cherokee had every incentive to cooperate with their white neighbors in hopes that their peaceful coexistence could spark some sort of political compromise. Accommodation and cooperation therefore marked relations between whites and natives, at least until the gold rush made competition for resources and space more commonplace than compromise.

County	1820 White/Slave Population	1830 White/Slave Population
Carroll	---	2724/487
Gwinnett	4050/538	10949/2332
Habersham	2868/277	9757/909
Hall	4681/399	10563/1181
Rabun	509/15	2115/59
Total	12108/1229	36108/4968

Figure 1. Population Growth in Five Border Counties. *1820 and 1830 U.S. Census*. Accessed at University of Virginia Library Historical Census Browser. <http://mapserver.lib.virginia.edu/index.html> (Accessed August 1, 2011).

The formation of the five border counties, Carroll, Gwinnett, Habersham, Hall, and Rabun, combined with the extension law to spread Georgia’s authority to the borders of Tennessee and Alabama. Over the next decade, small farmers, planters, and shopkeepers filled up the territory quickly. The rapid rate of population growth experienced in frontier regions demonstrated the great

desirability of cheap land and the chance for economic prosperity offered by newly acquired

Indian land. Between 1820 and 1830, growth rates in Gwinnett and Hall counties exceeded 50 percent, while the populations of Habersham and Rabun increased threefold. Such dramatic development created social environments ripe with anxiety and uncertainty as frontier residents sought to recreate community and civic bonds that could provide familiar aspects of order.

For most settlers, the chance at land ownership overpowered whatever caution might have prevented them from relocating so close to Indian country. Building churches, shops, and farms, the new settlers brought to the frontier their assumptions about a well-ordered community. Upon their arrival, settlers found a diverse social and economic world in which collaboration

# of Slaves	# of Households	% of Slaveholding households	% of all households
0	528	--	82.5
1	36	32.14	5.63
2 - 5	54	48.21	8.43
6 - 10	17	15.19	2.66
11 - 15	4	3.57	0.63
16 - 20	1	0.89	0.16
	640	100	100.01

Figure 2. 1820 Slaveholding in Hall County. *1820 U.S. Census*. Errors in totals due to rounding.

and cooperation occurred in myriad ways and challenged their notions of a proper social order. Most of the residents who had moved into the border counties by 1820 did so with a desire to farm, though they did not lack their share of boosters, merchants, and other entrepreneurs. Still, agriculture was paramount, and many a lottery winner had grandiose schemes of becoming a planter *grandee*. Of the nearly 5,000 residents in Hall County, for example, almost 1,400 men engaged in agriculture, while 1,100 men in Gwinnett farmed, out of a total population of 4,600.

The number of frontier residents employed primarily in agricultural pursuits demonstrated how powerful the Jeffersonian vision of a yeoman’s republic flourished in the Georgia backcountry.¹

The small number of slaveholders among the white population further strengthened the possibility of creating a yeoman’s republic along the frontier. In Hall County in 1820, only 112 of the 640 households owned slaves, or 17.5 percent. Of those, thirty-six owned a single slave while nineteen families owned two. Only one slaveholder in the entire county, Robert Young in Elias Miller’s militia district, owned twenty slaves, while his two nearest competitors owned fourteen apiece.² With about one sixth of Hall County’s households engaged in slave labor, those

slaveholding families had something of an aristocratic bent to them. The presence of black slaves and Cherokee slaveholders further complicated the implementation of social order. Instead of the familiar biracial society encountered across most of the state, the Cherokee-Georgia frontier had a decidedly different

# of Slaves	# of households	% of Slaveholding households	% of all households
0	1442	--	83.45
1	91	31.82	5.27
2 - 5	130	45.45	7.52
6 - 10	41	14.34	2.37
11- 15	16	5.6	0.92
16 - 20	5	1.75	0.29
21 - 32	3	1.05	0.18
	1728	100.01	100

Figure 3. 1830 Slaveholding in Hall County. *1830 U.S. Census*. Errors due to rounding.

cast, differentiating the region even from other parts of the cotton kingdom and other borderlands communities across North America. After all, slaveholding aligned the economic

¹ County returns for Gwinnett and Hall Counties, 1820 *U.S. Census*. Slaveholding in the other border counties varied to some degree. In Gwinnett County, slaveholding was somewhat more democratic. Of the 657 households there, almost 24 percent, or 153 households, owned slaves. In Habersham County, 57 of 512 households owned slaves, or 11.13 percent. For a discussion of Carroll County see Chapter Three. Because of its small population, Rabun County is an outlier. Therefore, I have relied upon Hall County as a rough average of the border counties.

² County level returns for Hall County, Georgia. *1820 U.S. Census*.

interests of a number of wealthy Cherokee and whites and created a commonality between the two groups. Still, the number of slaveholders in the backcountry was slight, especially the number of large planters.

A decade later, in 1830, slave ownership remained proportional to what it had been in 1820, though the number of large slaveowners had swelled. As migration into Hall County increased, the relative number of slaveowners remained constant. By 1830, a higher percentage of slaveowners owned more than sixteen slaves, and the wealthiest man in the county, John Allen, owned thirty-two. By 1830, slaveholders had cemented themselves as a relatively select group consisting of just 16.55 percent of all the county's families. Wealth along the frontier, at least in the form of slaves, was held by a small group of families. The rest of Hall's families scratched out an existence on small plots of land as best they could.

The availability of cheap and unoccupied land was not the only factor contributing to the population explosion in the border counties. Internal improvements financed by the federal government and technological improvements opened up the interior South to settlement and trade. In 1804, Congress requisitioned funds to construct a federal road through the middle of the Cherokee Nation. Designed to increase interstate trade and secure the timely delivery of the public mail, the federal road also allowed whites unfettered access to Cherokee lands. Carved out of wilderness by government workers, it made travel over previously unassailable terrain—dense forests, dismal swamps, and steep hills—not only possible, but downright accessible to those with the desire to do so. Cutting from Augusta, Georgia through the heart of the Nation, passing near the council grounds at Red Clay, crossing the Tennessee River at Ross's Landing and on to Nashville, the federal road split Cherokee country nearly in half. The Augusta-Nashville road was but one in a series of roads constructed by the federal government that crisscrossed the

American south, and it made a greater amount of white-native contact inevitable.³ George Featherstonhaugh, an English traveler, observed the social world of the Cherokee borderlands as he traversed the roads and paths of the Cherokee Nation. A geologist by trade, Featherstonhaugh noted that most of the white frontier population looked “as melancholy and lazy as boiled codfish,” owing to their poor diet and voracious drinking habits. What the “parsnip-looking country fellows” enjoyed the most, however, was “political disputation in the bar-room of their filthy taverns, exhibiting much bitterness against each other in supporting the respective candidates of the Union and States-rights parties.” When he arrived at Spring Place, the location of a prominent Moravian mission, Featherstonhaugh noted that “almost every store in the place was a dram shop,” and the amusement of the townsfolk consisted of visiting each of shop in turn and getting “red-hot drunk with whiskey.”⁴

Making his way to the National Council meeting at Red Clay, Featherstonhaugh also encountered dozens of Cherokee men and women on similar journeys. At his inn, a “halfbreed youth” and his wife, a “pretty Cherokee creature,” stopped for medical attention. The man had tumbled from his horse after becoming “beastly drunk” and had been struck by the horse’s hoof. It was not the wounded youth that drew Featherstonhaugh’s attention, but his wife who took her husband’s injury as mundane, because she “was probably accustomed to see him drunk every day.” At a tavern between Spring Place and Red Clay kept by a man named Bell, Featherstonhaugh could only procure “filthy pieces of bad cake” to eat. When he asked a Cherokee woman, presumably Bell’s wife, who could speak some English, why the tavern keeper

³ On the Cherokee debate over allowing the federal road to pass through their lands and the resulting effects, see William G. McLoughlin, *Cherokee Renaissance in the New Republic* (Princeton: Princeton University Press, 1986), 77-91; on the impact of federal roads on Creek society, see Angela Pulley Hudson, *Creek Paths and Federal Roads: Indians, Settlers, and Slaves and the Making of the American South* (Chapel Hill: University of North Carolina Press, 2010).

⁴ George W. Featherstonhaugh, *A Canoe Voyage up the Minnay Sotor...* (1847; St. Paul: Minnesota Historical Society, 1970), 2:223, 226.

did not keep cows to make milk and cheese, she only replied “it was too much trouble.”⁵ The Englishman’s observations obviously revolted his delicate sensibilities, though his impressions of the borderlands population seemed to corroborate those of state politicians who saw the habits of the backcountry population as unbecoming of citizens in the white republic.

The federal road, however, made ordering the frontier population increasingly difficult, especially because of the sieve-like border: even the Chattahoochee River, in years of drought, became crossable on foot. Such a permeable boundary allowed for whites to come into the Nation unimpeded, and once there, removing these unwanted intruders became an arduous task. The ease of slipping past federal or Cherokee patrols convinced many who never received permits to trade or reside within the Nation to try their luck squatting on farms and fields belonging to the Cherokee. It also allowed the disorderly population to cross national boundaries at will and return to their haunts in the sparsely settled border counties.

Hoping to mitigate some of the problems they anticipated from the increased traffic, the Cherokee charged tolls and erected gates to prevent outlaws and other undesirable people from entering their domain, especially at night. The constitution of 1817 also permitted the National Council to dispatch a sixty-man lighthorse patrol for the purpose of policing the borders and controlling the varied population living on the Cherokee side of the frontier. With the passage of the intercourse laws, the federal government had the power of bolstering the Cherokee’s meager border guard, yet usually refused to exercise it. The intercourse acts required merchants to apply for a license to ply their wares, which meant that white traders who wanted legal business on

⁵ Ibid., 2:223-24.

Cherokee ground had to ingratiate themselves with federal and Cherokee officials in order to acquire the appropriate permits.⁶

Roads and rivers, the arteries of trade, brought hundreds of whites into the Nation and made it impossible for the Cherokee or government agents to keep tabs on all interlopers. Hundreds, if not thousands, of whites made their way into the backcountry and became people “in between” two different societies. The Cherokee officially did not recognize the legitimacy of these interlopers, nor did the state of Georgia have any authority over them. The liminality of whites who resided illegally in the Cherokee Nation, though, was tolerated by most Cherokee residents as long as they complied with Cherokee laws. Moreover, the federal roads now allowed easy access to Indian country and it made discerning those who were allowed onto Cherokee ground, those who were just passing through, and those residing illegally a tough task.

Along with the new roads, steamboats also provided easy mobility into and out of the Cherokee Nation. After the extension law went into effect and more Georgians moved into the backcountry, especially after 1832, steamboats began plying the waterways. The town of Rome, Georgia, founded in 1834 at the confluence of the Etowah, Oostanaula, and Coosa Rivers became the region’s primary cotton market because of its prime river location. On board the steamships, travelers encountered a microcosm of the disorderly white community on the southern frontier. What they found disgusted not a few observers. Most notable to one English traveler, Thomas Hamilton, was the brazenness with which passengers displayed weaponry. A collection of walking sticks in the corner of the main cabin aboard one steamer all concealed daggers, which struck Hamilton as the most “unmanly and assassin-like weapon,” something he probably did not mention to those so armed. Men armed to the teeth, guilty of conversation

⁶ After 1819, federal forces in the Cherokee country were extremely limited, usually restricted to the agent and a handful of sub-agents. The Cherokee Lighthorse therefore often protected borders with the agent’s blessing. McLoughlin, *Cherokee Renaissance*, 280, 289-290.

“interlarded with the vilest blasphemy,” engaged in habitual drinking and gambling that continued unabated day and night. On Hamilton’s first voyage, not even the captain was immune to such practices. In fact, the captain, “one of the most flagrant offenders,” became “decidedly drunk” and could not even pilot the boat. The few ladies on board, quite sensibly, remained in their cabins. Hamilton noticed a wide assortment of the white men who inhabited the backcountry, but generalized that, “Many have fled for crimes, to a region where the arm of the law cannot reach them.” In short, just like life aboard a steamship, the community on the southern frontier was violent, where alcohol and gambling were prevalent, and where women occupied specific roles.⁷

The influx of white settlers not only disrupted notions of order but also destabilized the Cherokee who had to constantly adjust to the exigencies of frontier life. Bonds of community and kin that glued the Cherokee society together had little time to adhere in the face of constant migrations and repetitive treaty concessions. A census conducted by the *Cherokee Phoenix* in 1828 listed 144 men and 61 women who had married into the Nation; a war department census in 1835 listed 201 whites who had a Cherokee spouse. By 1835, the number of white-Cherokee marriages accounted for fewer than 10 percent of the total number of Cherokee households, while the number of mixed-race individuals accounted for roughly eighteen percent of the Cherokee population. New settlement arrangements dispersed Cherokee families and broke up large nuclear families and established villages. Though these interracial partnerships never constituted a majority of recognized marriages within the Cherokee Nation, they exerted a great degree of change within Cherokee society as an increasing number of families adopted American

⁷ Thomas Hamilton, *Men and Manners in America* (Philadelphia: Carey, Lea & Blanchard, 1833) 296-297. On the ways in which life on southern steamships mirrored the southwestern frontier at large, see Robert Gudmestad, *Steamboats and the Rise of the Cotton Kingdom* (Baton Rouge: Louisiana State University Press, 2011), 53-77.

economic practices and gender constructions. Many Cherokee families left villages that practiced female-centered communal farming for individual homesteads. As men and slaves took up agricultural responsibilities, female isolation in farms and homesteads provided opportunity for victimization.⁸

The lack of sovereignty, expansive population growth, ease of transportation, and the opportunity to commit crimes all contributed to the growth of a ring of criminals who preyed upon Cherokee people. The growth of a permanent, agricultural-based population in the backcountry also coincided with the development of a fringe population composed of landless young men who rejected civil society. The roots of frontier violence were found in this segment of the white frontier community. Many in the settled regions saw its members as marginal and deficient in character. As early as 1825, the federal Indian Agent at New Echota, Hugh Montgomery, commented on the makeup of the whites who inhabited the frontier: “I need not tell you, that there are in this as in every frontier country, a great number of disorderly people, who hang on between the white and red people, and act as a kind of pioneers to civil society.” On “the Georgia frontier in a few years past” the disorderly population had increased “owing to the noise about treaties,” and the potential for free land. Montgomery’s observations about the “disorderly people” implied that they did not belong to civil, much less polite, society. He also noted that many of the disorderly frontier residents functioned as the first wave of white residents and easily moved between two different societies. Two years later the state sent surveyors into

⁸ On the number of interracial couples in the Cherokee nation, see Tables 1 and 2 in William G. McLoughlin and Walter H. Conser, Jr., “The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835,” *Journal of American History* 64 (December 1977): 680-681. The 1835 Census listed a total Cherokee population of 16,452, which consisted of 2,637 households, 1,454 “halfbloods” (8.79% of the total Cherokee population), and 1,492 “quarterbloods” (9.02%). On changing Cherokee settlement patterns see Douglas C. Wilms, “Cherokee Land Use in Georgia Before Removal,” in William L. Anderson, ed. *Cherokee Removal: Before and After* (Athens: University of Georgia Press, 1991), 1-28. The same census listed 8,916 Cherokees living within the bounds of Georgia, or 54% of the Cherokee population. Of those, 68 whites were connected by marriage to the Cherokee. Further, 776 slaves owned by natives resided in Georgia. See “Report from the Secretary of War,” Senate Document 120 (Serial 315-2) 25th Congress, 2nd Session (1838), 535.

Carroll County to plat the land gained from the Creek for a lottery, one citizen complained to the governor, “you may rely upon this fact; that it is the vilinous white men in this part of the country, who instigate the Indians to be troublesome.” Disorderly and villainous, Georgians who made trouble on the frontier had already been cast out by their betters. Though the first whites into Cherokee territory may have acted as pioneers, they soon conflicted with more permanent residents who began to stake their claim to the land because of their clashing interests and values.⁹

Americans often tend to romanticize the initial wave of pioneers who “conquered” the frontier and made it safe for further expansion. In antebellum Georgia, white settlers in fact made settlement more precarious and dangerous for those who followed because of the criminal activities they engaged in. The disorderly frontier population consisted mainly of young or single men who tended to congregate together with others like them. Whether they found civil society too confining, or the toil and drudgery of farm life unsatisfying, or they yearned for riotous liberty, they caused a vast amount of unrest and uncertainty wherever they went. Many of those men formed themselves into loose bands of thieves that specialized in stealing Cherokee property and then moving it out of native ground as quickly as possible. At the heart of the disruption was property theft. The most common complaint issued by individual Cherokee to the 1842 U.S Claims Commission was the theft of horses, livestock, and hogs. Hetty Vance wanted compensation for a mare stolen from her pasture “supposed to be done by a notorious horse thief

⁹ Col. Hugh Montgomery to Colonel McKenny, April 23, 1825 in “Intrusion on Cherokee Land”, H. Doc 89 (Serial Set Vol. 197, Session Vol. 3) 21st Congress, 1st Session (1830), 2; Ulysses Lewis to George Troup, January 27, 1827, in L.F. Hays, ed., *Georgia Military Affairs*, bound transcript, WPA Project No. 5993 (Morrow, GA: Georgia Department of Archives and History, 1940), 5:206. It is important to note here that Montgomery essentially predicted the argument historian Frederick Jackson Turner made in 1893 regarding the frontier as a safety valve. Certainly the frontier did draw its fair share of criminals out more “civilized” areas, but it put them into direct contact with native peoples across North America. Maybe the frontier was a safety valve for whites in the east, but not for natives who had their social worlds completely disrupted by their introduction. See Turner’s “The Significance of the Frontier in American History,” in Everett E. Edwards, ed., *The Early Writings of Frederick Jackson Turner* (Madison: University of Wisconsin Press, 1938), 185-229.

by the name of Mosley.” When some of Vance’s friends tracked Mosley, they found the thief and the horse “at the house of John Willows about 75 miles” away from Vance’s farm. Unable to recover the animal, Vance’s friends confirmed Mosley’s connection to a ring of bold horse thieves. This type of encounter became altogether common in the borderlands. Cherokee men and women continually had to track down horses, hogs, and cows that had been taken from their farms and fields.¹⁰

For thieves, livestock served as an easy target because of the porous nature of the backcountry and the ease with which they could sell the stolen goods. Cherokee farming methods did little to alleviate the problem. Cherokee farmers usually left their livestock unattended to wander the hills and forests in search of their own forage. Though national law stipulated the height and build of fences and commissioned rangers to track down stray cattle, these efforts met with little success. Horse and cattle thieves, therefore, had no difficulty taking whatever they desired. Unattended horses and cattle also proved such popular marks because thieves could unload them quickly, and the distances they could cover made it difficult for the rightful owners to reclaim their property. Even if the Cherokee did find their stolen animals, claiming them within state bounds and in state courts proved impossible because of the legal status of Cherokee citizens. Horse thieves and cattle rustlers became increasingly savvy and moved stolen goods into Alabama, Tennessee, and Georgia, states that all wanted to remove the Cherokee population in order to open land for their own settlers.¹¹

¹⁰ Claim of Hetty Vance, March 18, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 90.

¹¹ The Cherokee learned herding practices from white southerners who utilized open range grazing, which had long been custom on the Appalachian frontier. See, for example, Stephen Aron, “Pigs and Hunters: ‘Rights in the Woods’ on the Trans-Appalachian Frontier,” in Andrew R.L. Cayton and Frederika J. Teute, eds. *Contact Points: American Frontiers from the Mohawk Valley to the Mississippi, 1750-1830* (Chapel Hill: University of North Carolina Press, 1998), 175-204. The tradition stuck in northern Georgia until fence laws in the 1880s imposed restrictions on the practice in spite of the protest. See Steven Hahn, *The Roots of Southern Populism: Yeoman Farmers and the Transformation of the Georgia Upcountry, 1850-1890* (New York: Oxford University Press, 1983), 239-268.

In 1821, Tahlegalooraytee had a horse stolen from him along the Cherokee-Alabama border, and the next year Young Bird claimed that five white men came to his farm and “drove off twenty head of hogs, some of them pork hogs, into the white settlements.” In another case, Peggy Helms, charged that “she had her horse stolen by white men in the limits of Georgia,” after the extension law went into effect. Some of her friends attempted to recover the horse where they saw it in the possession of a Georgian, but “there was no chance for a Cherokee to recover property at the time.” Other Cherokee men and women tried to recover their property, and most met with failure. Goose Langley tracked a missing steer to the Georgia state line but never recovered it. Four Killer encountered the same problem. Langley “tract my cows . . . to where they crossed the [Chattahoochee] River, but had to return home empty-handed because he lost their trail.”¹²

At least twice in the span of five years, a Cherokee, Lacy Christy, had livestock stolen from his property. First, in 1830, when John Holcomb took a chestnut sorrel “with no cause.” Five years later, Christy lost a mare to Hest Walker, a “U.S. citizen travelling thro that part of the country,” which he later sold for about 40 dollars. Atawluny, a resident near Raccoon Town, had a brand new fur hat, four horses, and sixty hogs appropriated from his land, “each taken from him by citizens of the U. States.” Peacheater claimed that whites had stolen 3 yokes of oxen, 11 head of cattle, 6 yearlings and a few hogs taken from his property. Knowing the name, or at least the nationality, of the thieves, and in Christy’s case, the amount that his mare had fetched on the black market, meant that at some point the Cherokee had tracked their property but could not recover it. George Blackwood had fifty hogs stolen from his land by Buck Herrod,

¹² Claim of Tahlegalooraytee, March 20, 1842, in Chase, ed. *1842 Cherokee Claims, Tahlequah District*, 45; Claim of Young Bird, March 7, 1842, *ibid.*, 6; Claim of Peggy Nelms, March 28, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 200; Claim of Goose Langley, April 12, 1842, in Marybelle W. Chase, ed. *1842 Cherokee Claims, Goingsnake District* (Tulsa, OK: Marybelle W. Chase, 1989), 116-117; Claim of Four Killer, April 8, 1842, *ibid.*, 98.

“a notorious thief who served his two duties in the Georgia state Prison for theft,” but he never recovered them. Two years later, another white man named Filo pilfered two of his remaining hogs. Charlatehe had horses stolen from him in 1832, 1834, and 1835 by a white man the Cherokee knew only as Rattlesnake. When he encountered Rattlesnake, the thief would not give up the horse. Whortleberry had a brown horse and eleven head of cattle taken from him in 1829. When he tracked them to the “white settlements” but he and his friends could not “overtake” the thieves. Two years later, he lost thirty-five hogs to a white settler named Stark. Some Cherokee had the aid of federal authorities to help them reclaim their property, but even that rarely helped. Wassassee, who had his horse stolen from him in 1829, was perhaps the unluckiest when it came to reclaiming his lost property. Not only did he lose his horse, but in the botched attempt to reclaim it, he lost a \$15 saddle and a \$20 rifle, and was injured to boot.¹³

In spite of the growing number of settlers moving into the borderlands, whites and Indians knew one another intimately. That Cherokee residents knew the names of the thieves, could discuss their reputations, and even knew the amount of time disorderly whites had served in prison, spoke to the great degree of contact between the two groups. Furthermore, those Cherokee who hunted down stolen property had awareness, if not familiarity, with the locations or fences who operated within the illicit borderland economy. When every type of moveable property was for sale, from hogs to humans, at least some people in the backcountry thrived on the chaos sown by the intruders.

In December 1825, to appease nervous Cherokee, and to clamp down on the illicit economic activity not permitted by the intercourse acts, Hugh Montgomery alerted his sub-

¹³ Claim of Lacy Christy, March 24, 1842, in Chase, ed. *1842 Cherokee Claims, Tahlequah District*, 162; Claim of Atawluny, April 26, 1842, in *ibid.*, 181; Claim of Peacheater, March 25, 1842 in *1842 Cherokee Claims, Goingsnake District*, 22-23; Claim of George Blackwood, March 31, 1842, *ibid.*, 47-48; “Claim of Charle-te-he,” April 6, 1842, *ibid.*, 86; Claim of Whortleberry, April 16, 1842, *ibid.*, 150; Claim of Wassassee, April 1, 1842, in *1842 Cherokee Claims, Tahlequah District*, 256-257.

agent, J.G. Williams, to the increasing amount of crime along the border. “As you will probably meet with complaints from Indians, while on the different Frontiers, about property Stolen from them,” he instructed Williams “to attend to their complaints.” That meant that not only could the sub-agent authorize the Cherokee to pursue their lost property, it also meant the agent should use his authority to assist the Cherokee “as far as is convenient . . . in searching out their property.” Independent-minded settlers paid little heed to such directives. When Thigh Walker lost a horse near the Hightower River he went looking for it. He located it some time later in Kingston, Tennessee. When a white witness swore on oath that the horse belonged to the Indian, Walker could still not claim it. Finally, Williams ordered the thief to surrender the horse, but the command went unheeded. Even federal directives mattered little to the unruly frontiersman.¹⁴

Other forms of moveable property, especially slaves, were also popular targets for backcountry criminals. In February 1837, William Mosely “took sick and died” just as he and his family were preparing to emigrate to Arkansas. Whether this Mosely was the same man who had stolen horses from Hetty Vance is uncertain. However, before he became ill, he allowed one of his slaves to travel to Walker County, Georgia, to visit his mother before he, too, was forced west. Once the slave man had left and Mosely died, the heirs never again saw the slave because he had been taken from his mother’s owner “by citizens of the U. States [from] Rayburn County, Georgia so that the heirs has lost the slave and his services.” The heirs, not so much upset by the loss of their slave as the value of the services he rendered, asked for \$1500 in compensation from the federal government for the loss of their chattel, and \$100 per year from the labor that he would have otherwise rendered, which they later received.¹⁵ The presence of black slaves owned

¹⁴ Hugh Montgomery to J.G. Williams, December 12, 1825 in “Letters Received by the Office of Indian Affairs, 1824-1881,” Roll 72, M234, RG 75, National Archives and Records Administration, Washington, D.C.; Claim of Thigh Walker, March 18, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 133.

¹⁵ Claim of William Mosely’s Heirs, May 21, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 218.

by Cherokee families complicated usually stark dichotomy drawn regarding race in the antebellum south. The fact that whites stole them from Cherokee slaveowners reinforced the notion of white supremacy and the complexity of backcountry life. No doubt Cherokee planters who owned slaves served as a reminder to poor whites regarding their place in society. Stealing slaves and then owing their labor became a quick path to acceptability and mastery.

Malicious crimes also plagued Cherokee families. Hetty Vance had run-ins with frontier whites. In 1823, Vance found herself boarding five whites from Georgia when her home mysteriously burned to the ground along with \$2,300 worth of hidden bank notes. Though no one saw the five men set fire to the house, neighbors caught and “examined” them on the matter. “[F]rom all that could be ascertained in the answers it was firmly believed that they were guilty of the charges.” It should be noted that Vance’s large stash of paper money was highly unusual, though the fact that she boarded white men was not. Whether the men used Vance’s home as a staging area for their criminal forays or for more innocent purposes is unclear.¹⁶ Elizabeth Ware and her husband lived on Shoemaker Creek within Georgia’s claimed territory, and encountered trouble with the extension law. “Owing to the oppressive character of the laws of the state towards citizens of the Cherokee Nation,” Ware declared, “her husband was compelled to absent himself from home which left her in a defenceless condition.” Why he had to leave state boundaries is mysterious—unless he was a fugitive from state justice—but when he did he left his family defenseless. With her husband gone, whites burned her house to the ground as a way of forcing off the native inhabitants so they could move onto that particular tract of land.¹⁷ House burnings proved so pernicious because they destabilized Cherokee families and made them

¹⁶ Claim of Hetty Vance, May 1842, *ibid.*, 209.

¹⁷ Claim of Elizabeth Ware, March 26 1842, *ibid.*, 89.

fearful for their safety in their own country. The fact that Cherokee families had their homes burned underscored the uncertain and chaotic nature of life in the borderlands and the ease with which encounters with frontier whites turned dangerous.

Three sisters, Nancy, Alecy, and Sinny had much of their livelihood taken from them in 1820 when white intruders burned three hundred bushels of their wheat crop. To compound their problems, the whites then set fire to their house and destroyed an additional fifteen acres of corn. The three sisters speculated that such a malicious crime was an act of revenge undertaken by intruders after federal troops cut down their corn to compel them to leave.¹⁸ Like Vance and Ware, the three sisters had to cope with seemingly random frontier violence that was often directed at women. The gendered component to backcountry crime highlighted the male-dominated world of the backcountry and the subordinate position women occupied in the mind of the white “disorderly” population. Cherokee men rarely had crime happen to them firsthand. Their livestock disappeared in the night or when the owner was out of sight. Perhaps this was a way for thieves to avoid detection, but more than likely it was a way for them to avoid conflict. Women, on the other hand, experienced crime and violence firsthand. The gendered component to backcountry crime allowed frontier whites to demonstrate their mastery over women who had no recourse or means to protect themselves from the ravages of the “disorderly people.”

Other Cherokee women faced victimization from men whom they should have been able to trust. The beleaguered Hetty Vance ran into trouble with whites from Georgia in 1830 when her husband, Henry Vickery, died. A few years later she married John Vance, a white Georgian. Because of the extension law, Hetty had few property rights because the law denied Indian women the right to own property. Therefore, when she remarried, property left to her by her first husband transferred to her new spouse. The estate’s administrator, Oliver Stricklen, a lawyer

¹⁸ Claim of the heirs of Dickes, March 29, 1842, in Chase, ed. *1842 Cherokee Claims, Goingsnake District*, 36-37.

from Georgia, demanded payment from Hetty when he learned that she had sold some of the property before signing away control of the estate to her new husband. When Hetty refused to give him the money, Stricklen “forced her negroes off,” whom he later sold and took the proceeds as her payment. Soon thereafter, Stricklen had Hetty “carried to the white man’s jail.” When her husband notified the court of what had occurred, the court ordered her freed by a writ of habeas corpus, but she handed over her bank notes to Stricklen “in order to keep undisturbed her liberty.” Stricklen also terrorized Margaret Baumgartner, who lost eight horses and two-dozen cattle when Stricklen stole the livestock “for the benefit of another.” To white men, even to a man like Oliver Stricklen who was supposed to uphold the law, exploiting Cherokee women and their property proved easy enough in the chaotic backcountry.¹⁹

White men professing love and devotion exploited other Cherokee women. Americans too poor to buy land on their own, or too luckless to win it in a land lottery, could improve their prospects through marriage. Once they had married a Cherokee woman, a white man had certain privileges including land to farm or trading rights within the Nation. By 1835, the power of acculturation was evident across the Cherokee nation as more families turned to market-based agriculture, especially cotton planting. Some Cherokee farmers even took on white sharecroppers. For Robert Rodgers, it brought monetary rewards that he had no right to. When federal agents in 1832 began enrolling Cherokee for removal to Arkansas, Robert applied “as the head of his family for a numeration from the agent.” Once the enrolling agent began disbursing payments that compensated enrollees for their improvements, Robert took the money and left his Betsey, his wife of nearly twenty year. Betsey became distraught, not just because her husband had left, but also because the payment was possible because she belonged to the Nation. Without

¹⁹ Claim of Hetty Vance, May 12, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 211-212; Claim of Margaret Baumgartner, May 12, 1842, *ibid.*, 205.

his marriage to Betsey, Robert “had no such right without a lawful connection with a Cherokee woman, he being a white man.” In 1833, Jesse Townsend, a member of the Georgia Guard, married the niece of a prominent Cherokee named Captain Oldfields. On the eve of his wedding, he consulted a judge to see if he could have Oldfield’s abandoned property transferred to him as a condition of his marriage. He showed his fiancé a false bill of sale and she agreed to the purchase, never knowing that Townsend had never spoken with her uncle and saw her as a way to get at the land. Not only did Cherokee women face vulnerability to violence and crime perpetrated by intruders, but also from men they had taken into their homes. As the political pressure to send the Cherokee into the west mounted, Cherokee women faced a continual stream of problems that weakened Cherokee resistance to removal.²⁰

The Cherokee grasp on their land and property in the face of white encroachment became even more tenuous when treaties gave away Cherokee land to appease Georgia’s appetite for land. Not only did the native inhabitants have to relocate, they also had to contend with new neighbors who felt entitled to anything left behind. In the fall of 1818 the Cherokee man Kalonoshaskee had to move across the Hiwassee River because his land had been given away in the latest treaty. His horses, however, knew nothing of the treaty and returned to their old pasturage on the “white side of the river.” Kalonosheskee inquired into their whereabouts and believed that “white people living at his former residence or others living near them, stole or run off [the] horses and made profit of them.” He “made enquiry & search” at his old homestead after the creation of the new treaty line to no avail. Charley Roots had a similar experience after the Treaty of 1819 ceded his land to white settlers. He lost a large steer to a “citizen of the

²⁰ Claim of Betsey Rodgers, March 14, 1842, in Chase, ed. *1842 Cherokee Claims, Saline District*, 47; “Property of Capt. Oldfields,” Valuation 72, December 21, 1833, Special File 184, Roll 51, M574, Special Files of the Office of Indian Affairs, NARA.

United States of the name of Logan” after Roots moved from the ceded lands to Cherokee country, along with eight acres of fenced land.²¹

Some even tried to take their grievances to state courts, but met with little success. If a Cherokee stole a horse or pig from a settler and crossed the boundary, few legal options existed for the settler to retrieve the property. A Cherokee who had livestock taken by a white had even less chance of legal redress. For example, in the April 1829 term of the Carroll County Superior Court, a Cherokee man named Soft Shell Turtle sued a Georgian named Grief Felton for the theft of a “certain sorrel mare about six years of age of the value of eighty dollars as of his own right & property.” Felton seemed to admit to the crime when he confessed he had no defense other than stating that he was white and the plaintiff an Indian. The judge agreed, and ordered Soft Shell Turtle to pay Felton over ten dollars in court costs, an exorbitant sum for such a simple suit. When Bill Silk, a Cherokee, was accused of an “alleged crime that would not have hurt him in the courts of his own country,” he had to leave the state because of the legal abuse heaped on him. In another case, Jacob Harnage could not recover the horses stolen from him by “Young John and Old John Stansel” because he did not have “the power to get redress from them as they were white men of Halbersham [sic] County.” Though the state legislature probably never imagined the extension law would allow for backcountry crime to flourish, it did precisely that.²²

The cases of Soft Shell Turtle, Bill Silk, and Jacob Harnage exemplified the ways in which Georgia’s legal system exerted power on the frontier. By June 1830, new counties had not been created in Cherokee territory, but the extension law had gone into effect. Once that

²¹ Claim of Kalonoshaskee, March 7, 1842, in Chase, ed. *1842 Cherokee Claims, Tahlequah District*, 45; Claim of Charley Roots, March 14, 1842, *ibid.*, 235.

²² Soft Shell Turtle v. Grief Felton, April 1829, Carroll County Superior Court Minute book, Drawer 269, Box 47, Georgia Division of Archives and History, 59-60; Claim of Bill Silk, March 15, 1842, Chase, ed. *1842 Cherokee Claims, Saline District*, 71; Claim of Jacob Harnage, March 25, 1842, *ibid.*, 120.

occurred, Cherokee residents had no way to seek legal redress for their stolen property. The ease with which Felton could claim that the Cherokee had no case because he could not claim citizenship, along with the lack of the deliberation and the steep fine imposed by the judge demonstrated that he agreed with Felton's rudimentary argumentation. With the issue of sovereignty still unresolved and the growing menace posed by dangerous whites, the Cherokee had no legal recourse within Georgia's legal system nor did they have a national government strong enough to impose order. When the extension law precluded Cherokee claimants from testifying in Georgia's courts against whites, the state legislature, not surprisingly, tipped the preponderance of borderlands power in favor of white intruders. Through 1829, Cherokee residents and sympathetic whites residing in the border counties tolerated the loss of property; reports of violent retaliation seldom cropped up. Most tried to reclaim property themselves or friends would do so if they spotted the missing livestock, but usually those attempts were fruitless. After the gold rush began, the high number of thefts and the difficulty of receiving justice tipped the Cherokee away from non-violent and toward violent action.²³

News of the gold find greatly increased the scope of migrants moving into the Cherokee Nation, though it did not immediately have an impact on state politics. In the midst of the news arriving from the backcountry in 1829, Georgians went to the polls and elected a new governor, George Rockingham Gilmer. A member of the Troup, or State's Right, faction and the scion of a coastal planter family, Gilmer's campaign said very little about the news from the frontier. Instead, he cautiously backed the cause of the ascendant Southern Radicals in their protests against the 1828 tariff and tacitly supported the growing number of nullifiers within the state. The inflammatory rhetoric surrounding South Carolina's growing nullification movement gained

²³ Claim of Kalonosheskee, March 7, 1842 in Chase, ed. *1842 Cherokee Claims, Tahlequah District*, 45.

some traction in Georgia, and it occupied most of the Gilmer's attention. However, when he took office, he focused on domestic issues rather than those inciting South Carolina. Believing that it was simply a matter of time before violence erupted along the frontier, Gilmer anticipated "great danger" from "frontier citizens, the Indians, and licensed occupants of the Indian country," who "would battle for possession of the gold mines."²⁴ Neither he nor the Cherokee Principal Chief John Ross desired bloodshed, but the intruders paid little heed to such bothersome matters as national sovereignty or judicial jurisdiction. Only gold mattered, and the rush to attain it threatened to undermine what fragile stability persisted in the region. Lawmakers wondered how to restore order in the face of such overwhelming chaos, especially when state agents nervously described one mining camp as "a scene, of disorder, vice, & confusion, that beggars description."²⁵

The mining community that developed over the next five years further undermined the notions of order cherished by state leaders. Rather than well-maintained farms selling profitable harvests of cotton or other crops, backcountry residents seemed more intent on mining, digging, or stealing gold. Mining camps, comprised mostly of men, sprang up and collected together those who sought the "color" beneath the surface. As camps became more permanent fixtures, taverns, gambling dens, and grog shops also sprang up, along with all sorts of moneymaking ventures intent on fleecing the miners. As news of the gold strike reached across the Atlantic, a large cadre of Germans and Englishmen descended upon Georgia, as well as Mexican treasure hunters. Many claimed to have invented easier and more efficient methods of sorting gold from gravel.

²⁴ Gilmer, *Sketches*, 279. On the connections and timing between Georgia's support for nullification and the way it shaped state politics, see Jeffrey Robert Young, *Domesticating Slavery: The Master Class in Georgia and South Carolina, 1670-1837* (Chapel Hill: University of North Carolina Press, 1999), 208-211; as well as Edwin A. Miles, "After John Marshall's Decision: *Worcester v. Georgia* and the Nullification Crisis," *Journal of Southern History* 39 (November 1973): 519-544.

²⁵ Samuel A. Wales to George R. Gilmer, June 22, 1830, *Cherokee Letters*, 1:219.

Freed slaves also made their way into the gold region. One, a man named Free Jim, owned a claim within the town limits of Dahlonega. The amalgamated mining camp population became another worry for state leaders intent on spreading republican virtue into the backcountry.²⁶

However fearful respectable state leaders may have been over the prospect of violence and crime escalating in the backcountry, state politicians in 1829 looked to intruders as the likely instigators of violence. Cherokee leaders also commented on the lawless character of the intruders. “Since Gold has been discovered in this nation, a very strong incentive for intrusions has been offered to the frontier inhabitants of Georgia. We understand several hundreds of these people are now basely at work, digging for Gold on the sources of the High Tower [Etowah] river.” With the discovery of gold, many in Georgia saw dwindling prospects for the solidification of a republican community in the backcountry. Reports filtered back to the state house of a society filled with “All classes of people, but especially the idle and profligate” whose motives “lead to most of the disorders of society.” Freed “from the restrains which the laws impose upon the evil dispositions of men,” the intruders “exhibited scenes of vicious indulgence, violence, and fraud, which would not have been tolerated for a moment if means could have been used to prevent them.”²⁷

Clamoring for some way to restore republican order in the backcountry, the editor of the Milledgeville *Federal Union* feared the spread of the “peculiar condition of the country at this time—presenting the most disgusting scene of licentiousness, riot, tumult, and blood-shed—endangering the peace of that portion of the State which lays contiguous to it—requires of our next legislature not only prompt but most vigorous regulations.” For Colonel Hugh

²⁶ On the mining camp population, see David Williams, *The Georgia Gold Rush: Twenty-Niners, Cherokee, and Gold Fever* (Columbia: University of South Carolina Press, 1993); as well as, Otis E. Young, Jr., “The Southern Gold Rush, 1828-1836,” *Journal of Southern History* (August 1982): 373-392.

²⁷ *Cherokee Phoenix*, February 21, 1830, 2; Milledgeville *Federal Union*, September 11, 1830, 3.

Montgomery, the U.S. Cherokee Agent, the problem arose from the intruders whose “morals are as bad as for you to Conceive; you can suppose the gamblers, debauchers, and profane Blackguards all Collected from six states without either law or any other power” preventing them from acting on “their vicious propensities.” Echoing the editor, Montgomery had “abundant reason to conclude that if law is not speedily and effectually introduced, spectacles will be exhibited at no distant day at which humanity will sicken and revolt.”²⁸ In other words, loosed from the bounds of civility and law, white men had reverted to a state of savagery and needed a reminder of proper deportment.

The sheer volume of the intrusion made some sort of violent conflict inevitable. By June 1830, it became self-evident that the republican order envisioned by many state leaders faced serious threats. One state agent sent to investigate the intrusion reported at least “four thousand whites engaged at the mines & their number is increasing daily.” Another spoke of at least “fifteen hundred on Cane Creek; but the whole number was spoken of as three thousand—the number is certainly fast increasing. I saw a daily movement of diggers, while on the Frontier, towards the Territory.” “I was informed,” a colonel of the Georgia militia wrote to the governor, “that there had been just before my arrival between four and five thousand men engaged in digging and searching for gold in that part of the nation attached by the laws to the county of Hall.”²⁹

Governor Gilmer and other respectable citizens saw the problem in the backcountry as one that stemmed not from the presence of Cherokee residents or gold, but the fact that the “idle

²⁸ Col. Hugh Montgomery to George Gilmer, September 13, 1830, *Georgia Military Affairs*, 6:227.

²⁹ Samuel A. Wales to George R. Gilmer, June 22, 1830, in L.F. Hays, ed., *Cherokee Indian Letters, Talks and Treaties, 1786-1838*, bound transcripts, Works Progress Administration Project No. 4341, (Atlanta: Georgia Archives, 1939), 1:219; Yelverton King to George Gilmer, September 18, 1830, *ibid.*, 2: 232; Williams Rutherford to George R. Gilmer, August 25, 1830, *ibid.*, 1: 226.

and profligate” could flagrantly disregard state law and ignore the rules of republican society. White settlers desirous of starting farms and obeying laws did not cause the problems plaguing the backcountry, but gold fever and the effects it had on the intruders did. A dearth of respectable settlers and a paucity of law enforcement allowed for the plunder upon the mines to continue, permitting the passions of the intruders to rule their actions. A stern dose of law and order, a healthy respect for private property, and an influx of upstanding white citizens would cure the “idle and profligate” backcountry residents of their “evil dispositions.”

To push for order in the backcountry, Gilmer and his supporters used the idea of savagery as a justification for some form of state-supported social regulation. Not surprisingly, their complaints about a disorderly white frontier population mirrored those made by state officials prior to 1829. Both before and after 1829, state leaders argued that the roots of frontier violence could be found within elements of a white population that took more pleasure in chaos than a well-ordered society. Disorderly whites, in turn, corrupted natives, which counteracted any progress gained from acculturation. Gilmer argued that instead of a rejuvenated Cherokee population, he saw a people who “have lost all that was valuable in their Indian character, [who] have become spiritless, dependent and depraved” largely because of contact with white men “whose corrupt habits or vile passions” further degraded the Cherokee. Rather than any sort of improvement, the Cherokee had actually regressed because of their contact with ne’er-do-well white citizens.³⁰

Odious whites and mixed-race Cherokee made the task of social regulation that much more vexing for Gilmer and his allies because the problem did not have a single source, though it allowed them to easily tie two separate problems—the presence of Cherokee and intruders—into

³⁰ George R. Gilmer to William Wirt, Milledgeville *Federal Union*, September 4, 1830, 2.

one neat rhetorical package centered on the concept of savagery. By linking the intruders and the Cherokee, Gilmer, in effect, made anyone residing beyond the border counties a threat to Georgia's sovereignty and a threat to the white republican community of law-abiding citizens. Gilmer took a circuitous path to solve the conjoined problem, but would eventually argue that an expansive use of force would be necessary to regulate the social world beyond the frontier.

The Cherokee, long the target of such rhetoric, also disowned the actions of the intruders by laying bare their "savagery." As attacks against Cherokee residents increased, they found it easier to lay claim to a greater degree of civilization than Georgia's ravenous miners. Elias Boudinot, the editor of the *Phoenix*, reprimanded "these savage whites" for their brutal attacks on peaceful Cherokee men and women. Having "outstripped the Indians in deeds of blood," he hoped they would receive swift and sufficient punishment for their crimes. When the intruders showed no signs of relenting, the Cherokee decried those who "have acted more like savages towards the Cherokees, than the Cherokees towards them," but were still "permitted to continue in their unlawful proceedings, notwithstanding the frequent complaints made to the agent."³¹

As winter set in, the intruders became increasingly desperate in their search for precious metals and turned to more desperate measures to earn a living. According to the *Phoenix's* editor, "white men eight in number, well armed with guns, in the dead of the night...came into Hightower, and forcibly enter[ed] a house, kidnapped three negroes, two of whom were *free*, and made their escape into Georgia." Presumably, the blacks they had kidnapped would soon be sold into slavery in Georgia. Another group entered Cherokee territory to arrest over a dozen men who had "punished a notorious thief," probably a white man from Georgia. When a posse of white men from Habersham County rode into the Nation "with hostile intentions," a group of

³¹ *Cherokee Phoenix*, August 5, 1828, 2; *Ibid.*, September 9, 1829, 3.

Cherokee men intercepted them. The Cherokee demanded that the “savage invaders” make restitution for slaughtering a hog they had come across in their rampages. When the Georgians refused, the Cherokee confronted the armed men and took a gun as payment, illustrating the resonance of harmonious justice in Cherokee life, a system the Georgians little understood.³²

The above examples demonstrate the ways in which small acts of personal violence aided in the spread of fear and anxiety across the backcountry. Thefts, beatings, and kidnappings became regular occurrences that soon gave way to more bloody dealings. The eruption of violence feared on both sides of the Chattahoochee never really occurred all at once. Instead, violence increased in stages, but it was built on the criminal environment already present. The bloodletting feared by political leaders on both sides began with the shooting of a horse. In August 1829, a Cherokee hunter on the north bank of the Chattahoochee River—the southernmost boundary of the Nation—came under fire by a group of whites after a boy had seen the hunter and mischievously warned his neighbors that a score of Cherokee “with hostile intentions” would imminently cross the river. The frontier residents organized a posse and fired on a lone hunter they spied across the river. The hunter, busying himself with securing his quarry onto the horse, did not even know he had been fired upon until he arrived home and noticed his mount’s oozing wound. By morning, saddled with a dead horse, the owner sought to retaliate against those who had killed his mount, though the *Phoenix* did not record his actions.³³ Non-violent retaliation came to an end in the winter of 1829-1830 when thousands of whites flocked to the Cherokee Nation in search of gold. Such an overwhelming rush of humanity into the backcountry created confusion and chaos that left white and Indian residents reeling. Though

³² Ibid., December 16, 1829, 3.

³³ Ibid., August 5, 1829, 2.

they had grown accustomed to dealing with property theft, the sheer magnitude of the “intrusion” disrupted community ties and threatened to overwhelm residents. The switch to violent retaliation came only after the number of intruders reached a critical mass. State authorities and Cherokee councilmen both feared for the safety of peaceful residents on the frontier, and nervously awaited a bloody war of extermination to commence. What they got, instead, was banditry, lawlessness, and personal violence, but surprisingly few killings. Despite the overblown rhetoric of state officials, not all of the intruders exhibited villainous traits. Many simply wanted the gold and kept to themselves. Others banded together into communities several hundred strong that made violence against them foolhardy. Likewise, young Cherokee men intent on preventing intrusion did not instigate violence either. Their leaders kept a rein on the young warriors and prevented them from initiating violence.

The uncertainty regarding sovereignty initially paralyzed state and federal officials who took no actions to uphold laws or borders. However, once federal and state officials shook themselves out of their initial torpor, each began a campaign designed to strictly limit the “disorderly people” present in the backcountry. From 1830 until Removal commenced in 1838, a combination of federal, state, and local efforts would all use violence to implement order and social control through violence and intimidation. The much-feared violent outburst predicted by politicians began, ironically, because of their need to impose order over a population that did not conform to their ideas of a white, republican yeomanry.

The gold rush that began in 1829 fundamentally altered the frontier dynamic that had developed. A combination of squabbling over sovereignty, explosive population growth fueled by large quantities of available land and transportation improvements, and changing patterns of Cherokee settlement contributed to the development of a ring of thieves who hawked stolen goods on a thriving black market. With the creation of four new border counties and the passage

of the extension law, the state sought to exert control over land claimed by the Cherokee. As borderlanders contended with an uncertain political future and rampant crime and loss of property, they sought some measure of security. State leaders blamed less-than-desirable elements of the white population for the violent atmosphere present in the backcountry and connected that problem with the presence of the Cherokee. Only by removing all of those “disorderly” and “savage” elements could the white republic extend beyond the frontier.

CHAPTER THREE: THE PONY CLUB, SLICKS, AND REGULATION, 1829-1832

Crime and violence perpetrated by “disorderly” whites had altered the precarious frontier dynamic that developed after 1820. Waves of intruders who entered the backcountry and sowed discord wherever they went proved especially troublesome to peaceful frontier residents. In Carroll County, a newly created border county, a group of disorderly intruders proceeded to intimidate county authorities and horded power for themselves. Called the Pony Club, this group of “disorderly” whites sought to concentrate the efforts of backcountry thieves into one profitable organization. In the absence of state or federal aid to counter the Pony Club’s ravages, local residents turned to vigilantism to rid Carroll of the Club’s pernicious influence. In doing so, the orderly citizens who opposed the Club, who called themselves the Slicks, adopted a version of social order that embraced violence to compel social control. However, their version of order included allying with Cherokee residents and adopting a native method of punishment. In the end, the Slicks imposed order in Carroll County and laid the groundwork for other efforts that employed violence to create order but did so through a violent regulation of the local population. The complicated legacy left by the Slicks had important consequences and demonstrated the pliable meaning of republican order.

In many ways, the events in and around Carroll County mirrored those transpiring throughout the backcountry. Gold deposits had been found in the county’s northern reaches and its proximity to Alabama only compounded the movement into and out of the area. However, the situation in Carroll differed from other parts of the Cherokee-Georgia borderlands primarily because of the development of a highly organized band of thieves called the Pony Club, which sowed disorder throughout the county and across the Cherokee Nation. The Pony Club got its start in the chaotic world of frontier unruliness. It began as a concerted effort by horse thieves to

scour the backcountry for valuable Cherokee property and evolved into a force that partially controlled civil authority in Carroll County. Most reports regarding the Pony Club did not mention it by name until 1829, the same year the gold rush began. A Cherokee man, Thompson Tucker, noted its rise as early as 1822, however, when he told claims commission investigators in 1842 that he had a bay horse worth eighty dollars stolen from him “by a company of persons at this time known as the Pony Club,” who were all “citizens of the United States of the State of Georgia.” Tucker hired a man to retrieve his property, but to no avail. Known for their “acts of theft on the property of Cherokee citizens,” the Pony Club started small but soon became a serious threat to Carroll County’s stability. Tucker’s attribution of his horse’s theft seven years prior to the Club’s formation emphasized the influence that it exerted on Cherokee thinking.¹

Much like the criminals who plagued the borderlands after 1820, the Pony Club began as a group of loosely allied thieves who made use of backcountry conditions to prosper. The explosive population growth, lack of sovereignty, and changing patterns of Cherokee settlement all coalesced to create a situation in which the Club could thrive. The locus of the Club’s power, Carroll County, provided a haven for the band of thieves because of unique conditions in the area. Proximity to the state line only increased the ease of transporting stolen goods across jurisdictional boundaries. Rival authorities had little success tracking down stolen property as it passed from Cherokee country to Georgia and then to Alabama. Three additional factors contributed to the growth of the Pony Club in Carroll County. First, a large tract of land lying north of Carroll County called the Creek Strip offered refuge for the Club. Second, because of the disputed boundaries, several hundred Cherokee lived within Carroll County and offered

¹ Claim of Thompson Tucker, March 26, 1842 in Marybelle W. Chase, ed. *1842 Cherokee Claims, Tahlequah District* (Tulsa, OK: Marybelle W. Chase, 1989), 73. See also, Don L. Shadburn, *Unhallowed Intrusion: A History of Cherokee Families in Forsyth County, Georgia* (Saline, MI: McNaughton & Gunn, Inc., 1993), 650.

prime targets. Pony Club thieves travelled into the Cherokee Nation to steal horses, cows, pigs, and other moveable property, and then sold the expropriations to farmers in Carroll County and Alabama, to passing traders, or to prospectors. Finally, the fragile condition of civil government within Carroll County allowed the Club to muscle its way in to the county government and consolidate its powers.

Much of the Pony Club's early success came from its first base of operations, called the Creek Strip. The poorly defined tract of land had been wrangled over in two important treaties. In 1825, Governor Troup, in spite of its obvious fraudulence, urged the ratification of the Treaty of Indian Springs. That treaty gave control of the most of the Strip to the Cherokee. The following year, the Treaty of Washington abrogated the Indian Springs agreement, but it did not resolve the question of sovereignty over the Creek Strip. Georgians cried foul over the new treaty, claiming it had infringed upon the state's sovereignty. Negotiations designed to placate the irate Georgians allowed them to survey the new border between Georgia and the remaining Creek land under the supervision of a group of Creek commissioners. Two Cherokee leaders, John Ridge and Richard Vann, who intervened when treaty negotiations almost broke down—and received \$15,000 apiece for their services—brokered this part of the negotiation. The border that the treaty charged Georgia to survey became a serious problem over the next three years. Troup selected a colonel in the state militia, Samuel A. Wales, to conduct the survey. Uncertainty and a sense of betrayal ensued. Wales reported that Georgia had been shorted 100,000 acres promised to it in the last round of negotiations because of a misunderstanding over the Strip.²

² See Michael D. Green, *The Politics of Indian Removal: Creek Government and Society in Crisis* (Lincoln: University of Nebraska Press, 1982), 123-125.

The Strip became problematic because the new treaty did not explicitly state whether the Georgians as a concession had extracted that tract of land. According to Georgia, the Creek signed away the Strip because the new Treaty of Washington commanded the Creek to “cede to the United States all the land belonging to the said Nation in the state of Georgia.” The Creek maintained that they had ceded the land to the Cherokee two decades prior to any treaty with the United States and could not give it away again. The Strip now belonged to the Cherokee. State leaders claimed that no such transaction occurred and that the Creek ceded the land to the United States. Called Vann’s Valley by the Cherokee, the strip occupied land above Carroll County’s northern boundary but south of the Coosa River, and extended east to Buzzard’s Creek. Georgians clamored for the land. When Wales ran his first line, a “Statesman & Patriot” lamented in the *Augusta Chronicle* that the northern boundary was not “run off as high up the Chattahoochee as . . . it should have been,” meaning the state had been deprived of land. To the Patriot’s chagrin, the Creek residents who had feared that they would soon face removal could now remain snugly in their homes “*far within the Cherokee Nation.*” By the end of June 1829 Colonel Wales and his assistant, Thomas Lloyd, had finished their investigation of the “true boundary line.” Wales surveyed the land south of the Etowah River and placed the boundary up to the river’s southern bank, which moved the state boundary line north nearly two-dozen miles.³

In spite of the veracity claimed by Wales, the Cherokee knew that the Creek Strip was theirs and had no intention of handing it over. White settlers, however, paid little heed to native

³ *Augusta Chronicle*, February 11, 1829, 2. For the text of the Treaty of Washington, see Charles J. Kappler, ed. *Indian Affairs: Laws and Treaties* (Washington: Government Printing Office, 1904), 2:264-268. <http://digital.library.okstate.edu/kappler/Vol2/treaties/cre0264.htm> (Accessed November 11, 2011). *Augusta Chronicle*, June 6, 1829, 2. Much of Wales’s investigation into the “true boundary” consisted of interviews with white frontier residents who had long resided with the Cherokee. The *Cherokee Phoenix* posted the official report Wales sent to the current governor, John Forsyth. See, *Cherokee Phoenix*, May 8, 1830, 1. According to Wales, in a statement that would have made the negotiators of the Treaty of Indian Springs blush, since the boundary that established the Creek Strip had been negotiated in secret, without the knowledge of the United States, the state did not have to abide by the terms of their agreement. However, he had not been ordered to survey the lands ceded by the Creek in that treaty, but in the newer Treaty of Washington, where negotiations had not been conducted in secret.

protestations and began moving into the territory. As early as 1825, Georgians living in the Strip quickly developed a poor reputation among their neighbors. John Ross issued the first complaint to Hugh Montgomery, the U.S. Agent and the man responsible for enforcing the intercourse laws. A group of “Counterfitters & horse thieves infest Nickajack Creek and Lowrey’s Ferry,” Ross wrote, which intimated that Montgomery should do something to remedy the situation. Montgomery received other reports that reported on the “Border interest” and the influx of “Intruders” who had “burned & destroyed . . . improvements and crops.” He promised to patrol a large portion of the “Georgia Fraction”—another name for the Creek Strip—in search of “those depreidators [sic] and try to bring them to justice,” but did not sound optimistic about the prospect of success. Montgomery and his small squad included an interpreter, a Cherokee chief named George Sanders and four other Cherokee as well as a few soldiers. When they arrived in the Strip, they “Labour[ed]” with “Burning houses & fences & cutting down corn.” Because of the “extreme heat, hard labor, & bad accommodations,” Montgomery took ill and had to call off the whole operation. All told, the federal force found eleven families residing in the Creek Strip, which included nine large “under cultivation.” Montgomery reported to the Secretary of War that he burned every house occupied by white intruders that he came across.⁴

The following spring, Montgomery again traversed the Strip in hopes of engaging in the “extremely odious” work of removing white intruders. His second venture apparently met with little success because two years later, in early 1829, more problems occurred in the area as American settlers continued to move into the land despite uncertainty over property rights. When the Cherokee sub-agent traveled to the border he found Georgians “rapidly settling,”

⁴ John Ross to Hugh Montgomery, December 27, 1825, in Gary Moulton, ed. *Papers of John Ross* (Norman: University of Oklahoma Press, 1985), 1: 110; Hugh Montgomery to the Committee & Council of the Cherokee Nation, September 26, 1826, Records of the Cherokee Indian Agency in Tennessee, 1801-1835, NARA, RG 75, M208, Reel 10; Hugh Montgomery to James Barbour, July 21, 1826, Letters Received by the Office of Indian Affairs, 1824-1881, NARA, RG 75, M234, Roll 72; James G. Williams to Hugh Montgomery, July 2, 1827, *ibid.*

while a group of at least seventy men from Alabama had moved east into the Strip and had “chosen places for settlement.” One backcountry resident, Jack Leathers, himself an intruder in the Strip and charter member of the Pony Club, told Montgomery that the subagent had not been within thirty miles of his property because other intruders had “frightened him off.” Leathers reported that over 400 white families lived in the Strip, while Montgomery believed that at least 100 families had taken up residence there. He issued a stern warning to the intruders in the Creek Strip, urging them to “remove immediately” and “save themselves as well as the government trouble & expense.” Other than that, Montgomery maintained no pretenses about his power to keep intruders out. Understanding that his meager force stationed at New Echota could do little to uphold the boundaries of the Cherokee Nation, Montgomery minced no words in his recommendation to the Secretary of War: “I have no expectation that they can be kept off, without the aid of a military force.”⁵

For the legitimate settlers living close to the Creek Strip, the problem was not so much the number of intruders but their character. One resident from neighboring DeKalb County and owner of sixteen slaves, Alston H. Greene, complained that the occupants of the Creek Strip used their homes as “Harbers for stolen property.” Greene wanted upstanding neighbors, “good men who would rent those places & would pay for them.” He proposed to act as Gilmer’s agent (for no compensation) “in order to get rid of the Poney Club & others of suspicious character.” Greene reiterated many of the problems found in the other border counties regarding the character of those who bred disorder and the need for good citizens to counteract their abuses. Further, his complaints also connected the maintenance of order to a landholding, virtuous

⁵ Hugh Montgomery to John Eaton, April 2, 1829, Letters Received by the Office of Indian Affairs, 1824-1881, Roll 72; Hugh Montgomery to Secretary of War, March 3, 1829, “Intrusion on Cherokee Land”, H. Doc 89 (Serial Vol. 197-3) 21st Congress, 1st Session (1830), 8.

population.⁶ Greene's account of the criminal activities in the Creek Strip accounted for the origins of the Pony Club. Though it did not form until 1829, the Pony Club's origins were found in the rampant backcountry violence and in the confusing tangle of sovereignty over the Creek Strip.

The Club, however, became much more proficient in their theft of Cherokee property than the unorganized frontier criminals who acted individually or in small groups. They posed a more dangerous threat to Cherokee sovereignty, for if the natives could not eject a band of thieves their claim to territorial sovereignty rang hollow. As the rightful owners of the Creek Strip, Cherokee leaders had a difficult time dealing with the influx of whites residing there. Many of the settlers who had moved into the Creek Strip, even those with honest intentions, ran afoul of federal law and should not have had access to land. Several families of Georgians thought they had legally purchased their land and improvements from Creek families who had immigrated to Indian Territory in present-day Oklahoma. Though the white buyers felt that they held legal title to the land because money had changed hands, the intercourse acts and treaties concluded between the United States and the Creek prevented individual American citizens from purchasing land or improvements from Indians. Federal law specified that only treaty negotiators could legally dispossess Indians of their land and only after they had made payment to the National Council. The Treaty of Washington stipulated that natives who made improvements to the land would receive compensation from the federal government. Many an émigré received compensation for the improvements from two sources, once by the government and once by white settlers. After 1827, any Cherokee emigrants living in the Creek Strip, or the rest of the Cherokee Nation for that matter, who sold their improvements to white settlers not only broke

⁶ Alston H. Greene to George R. Gilmer, January 14, 1831, Box 49, Folder 11, Telamon Cuyler Collection, MS 1170, Hagrett Rare Book & Manuscript Collection, University of Georgia, Athens, GA.

federal regulations, but they also infringed upon the Cherokee Constitution that banned such transactions.⁷

Without any clear indication of sovereignty, the Creek Strip attracted settlers who caused numerous problems, threatened frontier order, and created conditions favorable to the success of the Pony Club. Within the contested limits of the Creek Strip, Cherokee leaders found gold seekers, white farmers, as well as horse thieves. Discerning between the three groups proved nearly impossible. Indeed, a white intruder could take up all three of those professions to make end's

# of slaves	# of households	% of slaveholding households	% of all households
0	372	-	80.69
1	36	40.45	7.81
2 - 5	31	34.83	6.73
6 - 10	13	14.61	2.81
11 - 15	5	5.61	1.09
16 - 20	2	2.24	0.44
21 - 56	2	2.24	0.44
	461	99.98	100.01

Figure 4. 1830 Slaveholding in Carroll County, White Households. *1830 U.S. Census*. Errors due to rounding.

meet. The influx of transient gold seekers allowed men to congregate together and coalesce into the Pony Club. Early in the gold rush, some of them decided that making money by taking Cherokee property looked more appealing than hunting for gold in frigid mountain streams. It is uncertain how exactly the Club came together or who controlled its actions. Still, it threatened frontier order and defied state and national laws.

The Pony Club had its beginnings not only in the chaos that spawned frontier violence and the confusion wrought by the border controversy regarding the Creek Strip, but also in the peculiar

⁷ “An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers,” act of March 30, 1802, ch. 13, 2 *Stat.* 139-146.

demographic conditions of Carroll County. Formed in December 1826 from the last remnants of the Creek Nation, Carroll County quickly emerged as a refuge for criminals and land speculators, as well as those who sought to make something of themselves in a more honest fashion. Called the state’s “last frontier” by one historian, Carroll County saw its share of violence and turmoil as it slowly transitioned from an area with Creek and Cherokee residents to a county inhabited primarily by whites and their slaves.⁸ Much like Hall County, Carroll County also exhibited social and economic inequality: over 80 percent of households in Carroll County did not own any slaves; households that did include slaves usually had just one. Carroll’s location on recently ceded Creek lands at the confluence of Alabama, Georgia, and the Cherokee Nation made it a particularly desirable location because much of its soil had never cultivated cotton.

Carroll also had peculiar demographic features, namely a significant number of Cherokee

families who legally resided within the county because of the uncertainty regarding boundaries. More than likely, the Cherokee residents in Carroll County had been on friendly relations with the Creek, and since the Treaties of Indian Springs and Washington only removed Creek Indians, the Cherokee were allowed to keep their land—at least for the time being. Census-takers

# of slaves	# of households	% slaveholding households	% of all households
0	33	-	80.49
1	3	37.5	7.32
2 - 5	2	25	4.88
6 - 10	1	12.5	2.44
11 - 15	2	25	4.88
	41	100	100.01

Figure 5. 1830 Slaveholding in Carroll County, Cherokee Households. *1830 U.S. Census*. Errors due to rounding.

⁸James C. Bonnor, *Georgia’s Last Frontier: The Development of Carroll County* (Athens: University of Georgia Press, 1971).

who enumerated the Cherokee residing in Carroll listed them as free persons of color, which corresponded to the way the extension law classified them. Of the 3,419 people living in Carroll in 1830, the Census denominated 208 as free people of color and 487 as slaves. Carroll County, therefore, had a triracial social system that contrasted with the typical white-black dichotomy encountered by southerners. Of the two hundred or so Cherokee who resided within Carroll, the overwhelming majority did not own slaves. Still, the presence of Cherokee families who owned slaves upset the idea of racial order. Their presence also allowed for a greater degree of intercultural cooperation between Carroll's white citizens and their Cherokee neighbors to enforce a racial hierarchy.⁹

Cherokee leaders, though, had other ideas about the Pony Club's origins. Framing the growth of the Club not as the result of borderland lawlessness but as a conspiracy by power-hungry Georgians, the Cherokee saw the Club as an extension of state authority and symptomatic of the depths to which the state would go to acquire native land. With their recent declaration of sovereignty, the Cherokee had the most at stake in claiming jurisdiction over the Strip. Some Cherokee leaders suspected that the Pony Club was nothing more than a front by state leaders to engender chaos and thereby force the Cherokee into removal. According to Elias Boudinot, the editor of the *Cherokee Phoenix*, white citizens from Carroll "are still flocking in and possessing the land. Many of the most notorious members of the 'Poney club' are no doubt foremost in this business." For Boudinot and other Cherokee, the lawlessness wrought by the horse thieves was all part of an "expeditious" method of removing the rightful landowners. By setting "loose such a community upon us," Boudinot declared, the "honorable" state of Georgia complicity approved of their methods and saw the Pony Club as a state-sanctioned scheme of intimidation. In contrast

⁹ Carroll County schedule, *1830 U.S. Census*, as well as University of Virginia Historical Census Browser, <http://mapserver.lib.virginia.edu/index.html> (Accessed September 20, 2011).

to the Cherokee, Georgians saw a conspiracy afoot when they argued that the “chiefs, headmen, and warriors” of the Cherokee Nation comprised the rank and file of the Pony Club. Such a supposition worried Georgians because it implied a weakness in the white polity if it allowed an inferior group to exert power in the borderlands.¹⁰

Conspiracies aside, Carroll County’s location at the confluence of state and national borders, its proximity to the Creek Strip, and a domestic Cherokee population provided the perfect opportunity for a band of thieves to coalesce. With plenty of Cherokee property available, the ability to cross permeable boundaries, and the legacy of frontier crime as its backdrop, Carroll County proved fertile ground for a more powerful organization to evolve from its rather loose beginnings in the world of frontier crime. The transformation began in February 1830 when a Cherokee squadron burned down the homes of white intruders in the Creek Strip and expelled them back into Georgia. The new direction the Club took stemmed from this incident and most of their exploits after that involved beatings, shootings, and intimidation not just aimed at the Cherokee but at members of the white community who disapproved of their methods.

Prompted by threats to their sovereignty in the form of intruders in the Creek Strip and with no aid forthcoming from the federal government, the Cherokee decided to act on their own. Hugh Montgomery’s attempts to rid the Strip of intruders in 1826, 1827, and 1829, had all failed. With no additional aid forthcoming from President Jackson, the Cherokee National Council sought to take a more active approach to defending its borders and regulating the people who resided within them. The National Council authorized John Ross to remove a group of intruders who had taken up residence in homes vacated by those Cherokee who had voluntarily removed to the Arkansas Territory. In February 1830, a group of Cherokee citizens “with all

¹⁰ *Cherokee Phoenix*, February 11, 1829, 2; *Macon Telegraph*, October 16, 1830, 2.

possible lenity and humanity” expelled eighteen white families who had paid for the land. Convinced “that if the houses were not destroyed, the intruders would not go away,” the Cherokee “determined on the expediency of setting fire” to the homes, but not before they let the families remove their bedding, cookware, and other movable property. When federal forces had previously combined with some Indians to set fire to houses occupied by intruders, Georgians had more or less acquiesced and left, if only to return once the troops left.¹¹

Such compliance would not occur when the Cherokee sought to replicate Montgomery’s stern actions. News of the Cherokee retaliation spread into neighboring Carroll County, and the next night, February 4, a posse of at least twenty armed men, led by the sheriff of Carroll County, entered Cherokee land and arrested four Cherokee men who had taken part in the house-burnings and expulsion. The four native men had become drunk on whiskey before the posse caught them and their condition prevented them from defending themselves. One, The Waggon, was beaten with the butt of a musket, while another, Chuwoyee, who was too drunk to stand, suffered a severe beating and was lashed to a horse so his captors could bring him to Carrollton. After he fell from the horse several times, the Georgians beat Chuwoyee “most barbarously” until he died. The posse continued on to Carrollton, but not before they dumped the “shockingly mangled” body on the road for any passerby to see. The remaining three natives taken to Carrollton soon eluded their captors, but in the scuffle The Waggon suffered a stab in the chest by a rough frontiersman known to the Cherokee as Old Philpot. There is no evidence to suggest that the sheriff at this time was acting in concert with the Pony Club. However, his

¹¹ The entire account of the settlers’s expulsion, Chuwoyee’s murder and the subsequent events is recounted in a letter from John Ross to Elias Boudinot, *Cherokee Phoenix*, February 17, 1830, 2.

actions do show how effectively local authorities could terrorize the Cherokee under the guise of the extension law.¹²

That same day, Allen G. Fambrough, Governor Gilmer's appointed advisor in the county and the foremost prosecutor in Carrollton, informed the governor of the steps taken by the sheriff. "[T]he sheriff of our county will set out today with a company of twenty men to take the company of house-burners or so many as we have been able to designate, which is nine." Upon the sheriff's return, Fambrough offered a glowing account of the foray into the Nation. The "Indians were much affrightened" when the sheriff's posse approached, wrote Fambrough. He did admit, though, that the posse made a hasty retreat when it came under fire. "One white man though a native of the nation whirled and fired his raffle [sic] at the crowd and some one of the company shot at him but no Injury done." When he learned that Carroll's sheriff had sought out the Cherokee squadron, Gilmer regretted "that any of the citizens of the state should have placed themselves out of the full protection of its laws by going" into the Creek Strip, "until its possession was peaceable obtained." Though he maintained that the state's "sovereign character" would soon extend over the Strip and its inhabitants, by February 1830 it had not. The extension law did not go into effect until June, so the sheriff and his posse had no legal authority to send his posse into the Strip. Furthermore, the state legislature had already given its "silent assent" to a War Department note reiterating that the Cherokee, and not the state, had sovereignty over the Strip.¹³

¹² *Cherokee Phoenix*, February 17, 1830, 2.

¹³ Allen G. Fambrough to George Gilmer, February 8, 1830, *Cherokee Letters*, 1:204. Fambrough was also awarded a colonelcy in the state militia for his service to the governor. See *Augusta Chronicle*, February 3, 1830, 2; Allen G. Fambrough to George Gilmer, February 21, 1830, *Cherokee Letters*, 1:206; George R. Gilmer to Allen G. Fambrough, February 15, 1830, *Governor's Letter Books, 1829-1831*, Drawer 62, Box 64, GDAH.

After the Cherokee expelled the intruders, the Pony Club altered its tactics. Beginning in 1830, the Club moved out of the Creek Strip and into Carroll County where it began to exert undue influence over civil authorities in Carrollton. By controlling members of the local county authority, the Pony Club could expand its illegal activities and remain unmolested by state and local authorities. By appropriating the authority vested in the county by the extension law, the Club could use violence and intimidation against the Cherokee to subject the natives to the Club's power. In this regard, the Cherokee who saw a conspiracy in the Pony Club's growing power were partially correct. The Club never had a mandate from the state authorizing it to pillage the frontier, but its members could count on state law to provide them immunity from legal recourse.

How the courtship between hardened criminals and supposedly upright county officials occurred is not recorded. Whether through intimidation or bribery, though, the Club, by 1832, counted, for starters, the sheriff's deputy, several constables and justices of the peace, at least two high-ranking prosecutors, and not a few militiamen in its ranks. Fambrough served as the best example of a high-ranking official who had been co-opted by the Pony Club. Fambrough entered his post with good intentions, but soon enough began acting in concert with the Club. In July 1830, Fambrough breathlessly wrote the governor of a scheme undertaken by several whites in Carrollton who passed fraudulent bank notes and bills of sale to Cherokee residents. One of Fambrough's informants, a white citizen of Carroll, planned on testifying against a Justice of the Peace, Ramson P. Boswell, and four or five of his co-conspirators. Fambrough had also planned on using Cherokee informants but the extension law of 1828 prevented Cherokee from testifying against whites in court. Boswell and his confederates never stood trial for their crimes because the witness never testified against the Club, probably out of fear. In spite of Fambrough's efforts to seek out criminals, he did not prove immune to the growing power of the Pony Club. His

seduction by the Club occurred rapidly, and it stands to reason, like the witness who would not testify, that Fambrough was threatened with bodily harm if he did not cooperate.¹⁴

Every good criminal organization needs a better lawyer to prevent its members from serving time, and it seems that the Pony Club found that lawyer in Fambrough. In the same way that the state couched its land grab in legal terms, the Club sought to use state law to their benefit. As early as 1828, Fambrough defended noted criminals and future Pony Club members in Carroll's Superior Court. In September 1828, Fambrough defended Richard Philpot from a suit filed by Jonathan Davis for a small debt. The jury foreman, Samuel Leathers (a relative of Hugh Montgomery's informant) another noted horse thief and Pony Club member, and the rest of the jury found for Philpot. Even though his peers found him innocent, Philpot swore to Davis that he would settle the debt "in trade"—an admission of guilt—yet proving that some honor among thieves existed. The date of this trial is crucial, for it occurred before the Club's formation. It did, in any case, showcase strategies Fambrough later perfected, namely the intimidation of juries by placing vociferous thieves as jury foremen. Such a strategy, in theory, allowed Fambrough to secure nearly any verdict he desired. The Club's infiltration of the county's legal system helped explain why it proved so successful. The feat of controlling the court system, however, had less to do with reality and more to do with the perception of the Club's power. What success it did enjoy came from Fambrough's legal prowess, though even he found it impossible to fix every trial and stack every jury.¹⁵

¹⁴ Allen G. Fambrough to George R. Gilmer, July 12, 1830, *Cherokee Letters*, 1:222.

¹⁵ Johnathan M. Davis vs. Richard Philpot, September 1828, Carroll County Superior Court Minutes, 1828-1833, Drawer 269, Box 47, GDAH, 1-3. Much of the Leathers family were notorious members of the Pony Club, and largely reviled among the Cherokee. George Blackwood claimed that in 1832 Joel Leathers "a whiteman and a captain of the notorious Poney Club" stole a great coat from him at the Sixes gold mine. See "Claim of George Blackwood," March 31, 1842, in Chase, ed. *1842 Cherokee Claims, Goingsnake District*, 47-48.

By 1832, the system worked well enough and it propelled the Pony Club into a position of power. In a report to the governor, one state agent noted the impossibility of fully understanding “the outrages and injuries which the association called the Pony Club” had inflicted upon the frontier community. “Property stolen, honest men abused, and the civil authorities resisted were matters of no unusual occurrence.” Indeed, so powerful had they become that when other residents filed charges, the Pony Club could assert its influence to ensure that securing a conviction was difficult. “Resort has been had to legal process, but all in vain; for out of the numberless prosecutions which have been instituted against the confederates of the Pony Club, not one has been successful. They are always present in sufficient numbers to swear each other clear of any offence with which they may be accused.”¹⁶ The *Macon Telegraph* reported that the Club, because it had “settled so numerous in neighborhoods” could elect “constables and justices of the peace from their own body.” If any member “was seen marauding,” due process against him was impossible to achieve because his comrades would ensure his discharge from any “exculpatory affidavits.” Anyone who brought suit against Club members, moreover, instead faced “fictitious charges” leveled “by the officers of the peace.”¹⁷

Carroll’s residents in 1832 had the impression that the Pony Club controlled the juries and verdicts of both the inferior and superior courts, though the Club’s control was never as extensive as believed. For four years, Fambrough defended members of the noted gang of horse thieves. But even for a lawyer so skilled as he had difficulty controlling the verdicts rendered against the most notorious members of the Pony Club. His most problematical client, Calaway Burke, had a violent reputation and in the span of two years was sued at least four separate times

¹⁶ Z.B. Hargrove to Wilson Lumpkin, July 5, 1832, *Cherokee Letters*, 2:355.

¹⁷ *Macon Telegraph*, June 14, 1832, 3.

by other residents of Carroll County. In early February 1831, Burke lost a suit and had to pay a creditor \$31; in April he was sued three times and lost two of those cases and had to pay almost two hundred dollars worth of debts and court fees.¹⁸ The relationship between Fambrough and his unruly client would play a larger role in the downfall of the Pony Club, but up until 1831, the two used the legal system as a tool to aid the Club—even if they only achieved measured success. In the same April session of the Carroll County Superior Court in which he was sued in three separate cases, Calaway Burke also served as the jury foreman in an important case involving two known backcountry criminals, Philip Bosworth and Reuben Philpot, one of the men who had beaten Chuwoyee. According to the suit, Philpot “Injured and damaged” Bosworth in March 1830 on the public road where he accosted Bosworth “with force & arms.” Philpot pulled Bosworth from his horse, and “did then and there with fists sticks stone and knives . . . bruise & wound” the victim, and commenced “striking him on his head face heart shoulders & other parts of his body & by biteing and gouging with teeth thumbs and fingers,” which eventually “crippled and disabled” Bosworth. The jury awarded Bosworth fifty-five dollars, though he had brought suit against Philpot for ten times that sum.¹⁹

In some instances, especially when particularly odious residents with poor reputations behaved in egregiously violent ways, juries counteracted the Pony Club. By April 1831, when Calaway Burke was sued four times, it appeared that the center of the Club’s power—Carroll County’s courthouse—was no longer the safe haven it once had been. Though the Club did not enjoy a perfect success record in court, its ability to put noted Club members like Calaway Burke

¹⁸ John Robinson vs. William and Calaway Burke, February 3, 1831, Carroll County Superior Court Minutes, 1828-1833, 210-211; John Thomas v. Calaway Burke, April 1831, *ibid.*, 241-243; John Thomas v. Calaway Burke, April 1831, *ibid.*, 243-245; Arthur Alexander v. Calaway Burke, April 1831, *ibid.*, 245-246.

¹⁹ Philip Bosworth v Reuben Philpot, April 28, 1831, *Carroll County Superior Court Minutes, 1828-1833*, 234. The fight between Bosworth and Philpot resembled much of the white-on-white violence that permeated the antebellum South frontier. See, for example, Elliot Gorn, “Gouge and Bite, Pull Hair and Scratch”: The Social Significance of Fighting in the Southern Backcountry,” *American Historical Review* 90 (February 1985): 18-43.

into the jury box gave the impression that the Pony Club controlled the county's judicial system. The fact that Philpot had only received a fine and not a jail sentence underscored the Club's power. That county residents believed that the Club controlled the courts and other elected officials only added to their frustration stemming from the increasing amount of theft and violence.

With a notoriously corrupt judicial system, Carroll's residents became increasingly concerned for the prospects of the public peace in their county. As fall gave way to winter in 1830, a rash of shootings and murders erupted near the border, but always in Cherokee country. In November, Carroll residents John A. Craddock, his two sons, and William Young traveled from within the Cherokee Nation to their homes in Carroll when another group of men comprised of Johnston Lee, Jim Lee, and Sam Scott laid an ambush. William Young "fell desperately wounded." The victims left their fallen friend to fend for himself and fled for their lives. Once their targets fled, Sam Scott "Stamp'd" the injured Young in the face and chest until he "Expir'd." According to the author of the report, Jacob R. Brooks, the perpetrators hailed from the Cherokee Nation though he did not offer an explanation of why the Craddocks and William Young had ventured there. Brooks also reported on "a most Horrid Murder" that had recently taken place within the Nation. He knew few of the facts, only that a white man's body had been found burned along with most of his personal papers. The grisly discovery stoked the fears of white residents in Carroll County who fretted over the outbreak of more killings. Brooks confirmed the wary frontier mood to Gilmer: "Your excellency will perceive that a Crisis has arrive[d]," a time, he felt, when "Georgia must act efficiently or Submit. The excitement on this frontier is very Great."²⁰

²⁰ Jacob R. Brooks to George R. Gilmer, November 12, 1830, *Cherokee Letters*, 2:242-243. It should be noted that Brooks was a close political ally of Gilmer's and would soon enlist in the Georgia Guard, where he attained the

Immediately after the discovery of the burned corpse in mid-November, the Carroll County deputy sheriff, Henry Curtis, led a small group into the Cherokee Nation “on lawful business” to “levy an execution on some property:” horses claimed by Thomas York to have been stolen. Major Giles Boggess, one of the leading citizens of Carroll County and officer of the county militia, and definitely not a member of the Pony Club, accompanied the two men. The three men stopped for the night at an abandoned cabin, and awoke to find themselves surrounded by a party of nearly twenty Cherokee warriors. According to Boggess, the Cherokee arrested the three white men, “securely tied & forced [us] to put off to the [Etowah] Mission immediately without being allowed the privilege of our horses.” When they arrived at mission, the missionaries released the men from their “strings,” but with no authority over them, sent the Georgians, along with their escort, to a nearby detachment of U.S. artillery under the command of Lt. Fowler at the Sixes mine.²¹

Fowler informed the sheriff that “for some years” the people of the Cherokee Nation near Carroll County had been “much harassed by a people called the poney Club,” so Fowler had authorized any Cherokee living along the Etowah River to arrest “all whites who are intruders or those who attempt to commit depredations on the persons or property of Indians within the Nation.” Such a directive was authorized under the intercourse acts, though usually federal troops and not individual Cherokee carried it out. So when Curtis, Boggess, and York entered the Nation with a warrant to seize two horses that had supposedly been stolen, the Cherokee had simply followed Fowler’s command. Though the Cherokee did not recognize Curtis or Boggess, “but recognizing Yorke and knowing that a vast quantity of their property had passed through his

rank of 1st Sergeant.

²¹ Giles Boggess to George Gilmer, November 15, 1830, *Cherokee Letters*, 2:245; *Cherokee Phoenix*, February 13, 1831, 2.

hands,” they arrested all three “as a parte of the poney Club.”²² At this point, accounts of what followed diverge. Boggess stated that Fowler eventually sent the sheriff and his gang to a major at Camp Eaton who released them and did nothing to prevent them from taking the horses by force—aside from treating the men from Carroll “verry scornfully.” The *Phoenix* claimed that Fowler sent the men to his superior who ruled in their favor and allowed them to take the two horses, but then jailed York for a night.²³

In December, a party of twenty-five mounted men, a “Considerable number of the acnolleged poney Club,” entered the Nation seeking to capture the Cherokee who had arrested the white men from Carrollton. Led by Giles Boggess, the mounted company came upon a group of Cherokee children and kidnapped “a lad of a boue sixteen tyed him and took him and the baste horse belonging to the family and maid thare escape.” They returned a second time, chased and shot at two young Cherokee boys, and proceeded to kidnap another one who they kept for more than five days.²⁴ Underscoring the connections between the Pony Club and the civil authorities in Carroll, the sixteen-year-old boy they kidnapped, Joseph Beanstick, who, according the *Cherokee Phoenix*, “Had no agency in the arrest of Curtis, Bogus, and York” was jailed for “four weeks during the coldest time of this winter, with no other covering than a cloak and an old saddle blanket.”²⁵

The interesting aspect of the posse’s ride into Cherokee country concerned the group’s makeup. Not all of the men in Boggess’s posse were part of the Pony Club. It appeared that they

²² William Thompson to George Gilmer, December 27, 1830, *Cherokee Letters*, 2:263.

²³ Giles Boggess to George Gilmer, November 15, 1830, *Cherokee Letters*, 2:245; *Cherokee Phoenix*, February 13, 1831, 2.

²⁴ William Thompson to George R. Gilmer, December 27, 1830, *Cherokee Letters*, 2:265.

²⁵ *Cherokee Phoenix*, February 12, 1831, 2.

could set aside their personal animosity in certain instances, which included terrorizing Cherokee youths. One commenter on the posse's ride into the Nation noted, "all parteyes Can unite in the opraising of an Indian," suggesting that by December 1830 two separate camps existed in Carroll County: the Pony Club and another group opposed to its actions, and that joint ventures into the backcountry could halt their skirmishing.²⁶ Their shared desire to rid the backcountry of its native inhabitants shone through in displays of "martial exploit...on their return march." With Beanstick in tow, Boggess and his companions "would occasionally form themselves on the road and discharge their fire-arms as a signal over the Cherokee youth in captivity." The growing factionalism and opposition to the Pony Club within Carroll County represented the displeasure with the Club's power. In spite of the animosity, though, in December 1830, the two sides united to kidnap a Cherokee boy.²⁷

The confusing tangle of relationships between the Pony Club, citizens of Carroll, and the Cherokee made regulating the social world of the backcountry increasingly difficult. That Boggess, the representative of law would willingly work with the Pony Club in an effort to oppress the Cherokee demonstrated the hierarchy of priorities present in the minds of borderlands residents. In 1830, the threat of Cherokee reprisals and incessant theft weighed on their minds. With the menace of the Pony Club growing, Carroll residents began to see the Club as the primary threat to stability and safety. In December Major Boggess and twenty-four Carroll County militiamen sent a petition to the governor asking for "the liberty of forming a company & to furnish arms for the Equipment of Sixty horsemen." The men would all "still continue to doe military duty in their respective districts & hold themselves in constant readiness" to aid the

²⁶ William Thompson to George Gilmer, December 27, 1830, *Cherokee Letters*, 2:265.

²⁷ *Cherokee Phoenix*, February 12, 1831, 2.

sheriff in implementing the law. Because the “distance being so great & the progress of the militia so tardy that offenders can scarcely ever be apprehended,” Boggess and the other militiamen felt that a special mounted company would make more sense than cumbersome infantry. Boggess’s intent to capture more horse thieves partly explains why he entered the Nation with less than desirable company. Many of the militia’s responsibilities in frontier Georgia rested on its duty of aiding the sheriff round up criminals or serve warrants. So it would not have been out of the ordinary for Boggess to assist Curtis with his duties. Boggess, then, had not joined the Pony Club, but he did concern himself with the implementation of the law—even if he had to assist Thomas York secure some of his property. While he certainly held the Pony Club in low regard, he cared even less for the Cherokee.²⁸

Even when a respectable militia officer pushed for more forceful measures to quell the Pony Club, state leaders refused to act, perhaps because Governor Gilmer did not believe the reports coming from Carrollton. After all, his advisor, Allen Fambrough, defended Club members in court. Content to wait for civil authority to establish order, Gilmer saw no need to resort to more forceful measures. Others saw the Pony Club as a pressing issue that needed state attention. The editor of the *Macon Telegraph* argued that only “a strong military force can arrest the evil while the county remains in its present condition.” The paper urged the legislature “to rid the country of this horde of thieves and counterfeiters.” Indeed, the Pony Club’s actions had only become emboldened because of a lack of enforcement. During the election of 1829, “a number of the *Ponyites* presented themselves at the polls in Carroll county, and offered to *vote!*” For the *Macon Telegraph*’s correspondent, the connection between the expectations and rights of the citizenry was clear. Because the Ponyites “plunder and pillage where and whomever they

²⁸ Giles S. Boggess to George Gilmer, December 1830, *Cherokee Letters*, 2:247. State law permitted justices of the peace and sheriffs to use militia companies in the apprehension of criminals. See Augustin S. Clayton, *The office and duty of a justice of the peace. . . .* (Milledgeville: S. Grantland, 1819).

please,” they posed a threat to self-government. When the county magistrate tendered them to swear to the state constitution, the Club members assaulted the magistrate and “upset the ballot box,” not because “they had any objection at all to *swearing*, but because their *honor* was offended.” A few days after, the Ponyites rode into Campbellton in pursuit of a magistrate who had reclaimed a stolen horse from one of their members. The Club caught up with him, “violently assaulted and beat the officer, insulted the inhabitants, and galloped off again in triumph.” Even though the extension law had gone into effect on June 1, 1830, the Pony Club still ignored it and few civil authorities would willingly take on the club. The editor from Macon put it bluntly: “The extermination of this nest of pirates is of more importance to the State than the preservation of the gold mines.”²⁹

The citizens of Carroll County agreed. Though Gilmer was willing to wait for the border counties to implement the extension law, those living along the frontier did not evince such magnanimity. Beginning in 1831 when citizens convicted Pony Club men in county court, the people of Carroll County began to restore order themselves. In the wake of his experiences in the backcountry, it had become apparent to Major Boggess that Curtis and his successor Benjamin Merrill had sold out to the Pony Club, that no real order existed in the county, and that someone had to stand up to the abusive outlaws. In early 1832, Boggess ran for county sheriff and his candidacy gained widespread support from “honest” citizens. Carroll’s residents, concurrent to the more formalized actions involving elections and juries, began a campaign of retaliation against the Pony Club. Calling themselves Regulators or Slicks, citizens from across Carroll County and the other border counties joined with Cherokee men and began to assert order through violence. Eventually, their efforts proved effective and the Pony Club ceased its

²⁹ *Macon Telegraph*, October 16, 1830, 3.

operations. While the Slicks beat the Pony Club out of the county, the real success at implementing order came when Major Boggess and other citizens took back the levers of power in county government. The Pony Club would not relinquish power so easily. The fight for control over Carrollton's politics became so contentious that an actual street brawl broke out between the Pony Club and the supporters of the new sheriff. Armed men roamed the town and by the end of voting day a riot ensued in front of the polling place. In the end, Boggess won, and according to one historian "this band of early outlaws diminished after 1832."³⁰

For Carroll's citizens, ridding the county of the Pony Club threat required more than a new sheriff in town. Much of the Club's potency came from the fact that they preyed on Cherokee who could not take legal recourse against them, and that they had near immunity from the justice system because they stacked juries and had civil authorities in their ranks. Once Boggess became sheriff that arrangement changed. Indeed, it appeared that the Slicks cooperated with the Cherokee to restore order to the frontier. Not sensing how much their power had diminished, the Club resorted to their old tricks and tried to intimidate a jury to defame the sheriff. After the election Pony Club members charged Boggess with assault and attempted murder for his role in the street fight that occurred on election day. However, when the jury received the charges, they refused to accuse Boggess of any crime and applauded his efforts to clean up the town. The jury, instead, accused two lawyers, including Fambrough—the governor's agent in the county—of conspiring with the Pony Club. The lawyer resented the charge. When he read the same charges in the *Macon Telegraph* connecting him to the Pony Club, he dared the "FLAGICIOUS LIAR AND POLTROON" to attack him in a manner more befitting a man of honor. Further, Fambrough, a proud member of Gilmer's Troup faction,

³⁰ Bonner, *Georgia's Last Frontier*, 32-34; quote on 34.

noted that the *Telegraph* offered its support to the Clark party and no doubt speculated on his connections to the Club to “throw contempt upon that party, in state politics, in whose ranks I am proud to be found.”³¹

The pro-Clark *Macon Telegraph*, though it certainly was out to score a political victory, claimed the connection between Fambrough and the Pony Club not for overt political motives, but because a jury had named him as the Club’s benefactor. Much of the jury’s resentment toward Fambrough came from a case in which citizens of the county connected him to the Club. In June 1832, Fambrough was present when his erstwhile client and member of the Pony Club, Calaway Burke, was shot and killed by one of the county’s “honest citizens,” John Goodwin. Fambrough, according to one witness, “was present when Burke was shot armed as his friend.” Accompanied by Major John A. Jones of the county militia, the two had caused “most of the excitement” then plaguing the county, and “together with some of their friends, were the only persons who appear constantly armed in public.”³² By implying that only dangerous men appeared armed in public, the author of the report sought to discount the character of Jones and Fambrough, and, by extension, the rest of the Pony Club and further contributed to the swing in public opinion against the Club.

Though an empowered jury had stood up to Fambrough, the rest of the Pony Club membership still excelled at concealing their identities. No one knew with any degree of certainty the extent of the Club or the rank in civil government to which its members had climbed. One report had their numbers ranging “from one hundred and fifty to two hundred members.” At any one time, though, no more than “twenty-five or thirty” men were seen together, even at their

³¹ Ibid., 34; *Columbus Enquirer*, August 18, 1832, 3.

³² Z.B. Hargrove to George Gilmer, July 5, 1832, *Cherokee Letters*, 2:355.

primary rendezvous. When spotted by a traveler, “they dropped like turtles off a log” and vanished into the swamps near Hominy Creek.³³ Other than Fambrough, York, Burke, Curtis, Major Jones, and Old Philpot, determining the membership of the Pony Club proved difficult for several reasons. Few men walked around Carrollton announcing their allegiance; fewer still took legal recourse or had their names recorded; others employed aliases. Some Georgians speculated that the Cherokee comprised much of the Club’s membership. One account mentioned the ethnicity of the members, claiming their ranks “have been maid up parte of white and parte of red men,” which could explain why they could hide their identities so well.³⁴ Although it would make sense that some form of multiethnic cooperation existed between thieves, no other accounts confirmed this report. Stealing horses had long been a part of Cherokee culture, but raids usually occurred against enemies and not neighbors.³⁵ Cherokee men, more than likely, sought reprisals against the Pony Club, and reclaimed much of their property from members—which explains why York had to search for his property in Cherokee territory with Boggess and Curtis.

Beginning in 1831 and into 1832 when the “honest citizens” began to fight back against the outrages of the Pony Club, discerning its members became a much easier task. Pony Club members who had crossed paths with the Slicks bore the telltale signs of Pony Club membership: flayed flesh. The Slicks took their name from their favorite form of punishment when they caught up to horse thieves, slicking, or whipping the backs of criminals with hickory switches upwards of fifty or even a hundred times. Drawing on the legacy of colonial social movements that sought to regulate backcountry life, Carroll County’s Regulators shared similar methods, if not motives,

³³ Bonner, *Georgia’s Last Frontier*, 32-33.

³⁴ William Thompson to George Gilmer, December 27, 1830, *Cherokee Letters*, 2:263; *Macon Telegraph*, October 16, 1830, 3.

³⁵ Perdue, *Cherokee Women*, 123-24.

with their namesake. The most successful regulations occurred between 1768 and 1771 in several North Carolina piedmont counties as an effort at establishing local control over an unfair legal system and political structure dominated by lowcountry aristocrats.³⁶ The Slicks wanted to take control of a world quickly slipping from their grasp because of the lawlessness controlled by the Pony Club and the ineffectiveness of both state and federal authorities in bringing about an ordered society. Rather than wait for an unresponsive state leadership to impose order, individuals in the backcountry banded together in a last ditch effort at recreating peaceful settlement. For the Regulators, “their [sic] seemed to be no other alternative left, but for the honest part of the community to subdue or expel the Pony Club, or themselves abandon the Country.”³⁷ Their regulation sought to impose the values of the community against those who made them a mockery; a charivari bent on restoring order.

The most interesting facet of the Slicks, though, was not their namesake but their chosen form of punishment. Slicking had long been a method of punishment in Cherokee culture and very quickly became the tell-tale sign of a horse thief had been visited by the Regulators.³⁸ That a

³⁶ Recreating the world of the Regulators, Marjoleine Kars’s, *Breaking Loose Together: The Regulator Rebellion in Pre-Revolutionary North Carolina* (Chapel Hill, University of North Carolina Press, 2002) stresses the social and cultural ferment of the backcountry as factors encouraging the organization and actions of the Regulators. Other accounts, most notably A. Roger Ekirch’s “*Poor Carolina*”: *Politics and Society in Colonial North Carolina, 1729-1776* (Chapel Hill, University of North Carolina Press, 1981) place the emphasis on disgruntled backcountry settlers who saw the political system as one that took advantage of poor frontier farmers. Finally, Laura F. Edwards’s *The People and their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill, University of North Carolina Press, 2009) illuminates the desire of the Regulators to have a greater degree of local autonomy with regards to the justice system. For a study of the Regulators in colonial South Carolina and their motives, see Richard Maxwell Brown, *The South Carolina Regulators* (Cambridge: Harvard University Press, 1963). Brown argues that the Regulators represented ambitious men on the make who wanted to make the backcountry safe for profit. Rachel N. Klein’s *Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808* (Chapel Hill: University of North Carolina Press, 1990) explores the social world of the Regulators and their important ties to the lowcountry planter class. The use of the term “regulator” extended well into the 1860s when a group of Union prisoners at Andersonville prison took the name to instill some degree of control over the prison’s desperate population. See William Marvel, *Andersonville: The Last Dept* (Chapel Hill: University of North Carolina Press, 1994), especially 96-100.

³⁷ Z.B. Hargrove to Wilson Lumpkin, July 5, 1832, *Cherokee Letters*, 2:355.

³⁸ A Cherokee law in 1811 delineated the precise number of lashes given for theft of livestock. “Any person

vigilante group on the border of the Cherokee Nation took up a native form of punishment revealed much about the Regulators, their motives, methods, and about backcountry life in general. The permeability of the boundary between Georgia and the Nation facilitated cross-cultural communication between the Cherokee and their white neighbors, and it made sense for neighbors who had a stake in the region's stability to draw on a variety of cultural practices to protect their homes and families. Adopting a Cherokee form of punishment demonstrated the high level of hybridity and syncretism present along the frontier. Both societies, though, interpreted the punishments meted out by the Slicks in different ways.

Many sectors of the polyglot backcountry population took part in regulating the values and behavior of their neighbors. All types of people, "Magistrates and Constables, Methodists, Baptists and men of no religion, old settlers and new comers, men of respectability and men of notorious character," joined in the regulation around the mines where, by 1832, "A high degree of excitement prevailed every where, reason was drowned in clamour, and the laws gave place to the will of a furious multitude."³⁹ Even those across the state line in Alabama joined. By the summer of 1832, many of the Pony Club's efforts at acquiring new property had turned westward as white settlers flocked onto Creek lands opened up in Alabama by the Treaty of Indian Springs. The influx of settlers created new opportunities for the Pony Club to further enrich its members. "From the latter State," one reporter announced, "ponies, horses and cattle were taken in large numbers," and soon enough, the "spirited and sagacious" Alabamans

stealing a horse shall Receive one hundred lashes on there Bere Back; a Cow, fifty; or a hog, twenty-five..." and so on. Quoted in McLoughlin, *Cherokee Renaissance*, 175. Slicking remained a part of Cherokee life even after Removal. Silas W. Wilson recounted in 1938 that guilty thieves were "carried out to the whipping post or presented to the Ball Knobbers," a vigilante group in turn-of-the-century Missouri. See, "Silas W. Wilson," *American Life Histories: Manuscripts from the Federal Writer's Project, 1936-1940*, <http://memory.loc.gov> (Accessed August 1, 2010), as well as Matthew J. Hernando, "The Bald Knobbers of Southwest Missouri, 1885-1889: A Study of Vigilante Justice in the Ozarks" (PhD diss., Louisiana State University, 2011).

³⁹ *Columbus Enquirer*, August 4, 1832, 3.

“formed themselves into a society under the cognomen *Slickers or Sleeks*.” Under the command of “*General Lynch*,” the Slicks from Alabama “invaded our territory, observing however the greatest respect towards persons and property, except the members of the *Poney Club*.” When the Slicks did capture their quarry their retribution was swift, “sometime whipping them soundly on the spot,” or they would protract the anticipation by taking their captive into Cherokee country and “placing the lash in the hands of the aboriginals, who are said to leave seldom an inch of sound skin on the posterior part of the body between heels and the neck.” According to the reporter, the application of force had an altogether chaotic effect on the climate plaguing the backcountry.⁴⁰

The whippings inevitably brought the conflict between the Regulators and the Pony Club to a head and eventually led the murder of Calaway Burke. In April, Burke had been taken from his home and detained for several days. When released, Burke crossed paths with one of his captors, Francis Adams, in Carroll County and tried to drag him to the courthouse when a Slick from Alabama, John Goodwin intervened. As the event intensified, more men arrived at the scene, some drew pistols and declared their intent on protecting either Adams or Burke. Both sides agreed that a justice of the peace needed to sort out the mess, and so a small party went looking for one. The Slicks, however, had sent off a messenger to gather more men, while one of the Pony Club went in search of Fambrough. Somehow, Burke managed to escape but reappeared with Fambrough, both of them armed with pistols. At this point, the reinforcements arrived and shot Burke in the road.⁴¹

Soon after Burke’s murder, the Slicks commenced a well-coordinated and simultaneous

⁴⁰ *Macon Telegraph*, June 14, 1832, 3.

⁴¹ The account of Burke’s murder is recounted in the *Columbus Enquirer*, August 4, 1832, 3, and contains a more detailed, though probably more imaginative account, than that of the *Macon Telegraph*, June 14, 1832, 3.

series of raids targeting individuals in Carroll and Cherokee Counties, and Alabama. They beat a man named James Upton, and another named Crawford Wright who was taken from his family, tied to a tree, stripped, and whipped “90 or 100 lashes.” Further, the Regulators extorted a promise from Wright that he would not “law” his persecutors, and that he would leave Georgia within twenty days. Nine more men were whipped within a short time span, including Old Philpot and Roberts, former a state legislator from Hall County. After the outbreak of whippings, most of the Pony Club “made a sudden retreat,” out of the county because they had been coerced into leaving the county while under the lash.⁴²

In one respect, the Slicks represented the will of the white community and its desire for order. At the most basic level, the intent of the punishments carried out by the Slicks was to inflict pain, but they also sought to humiliate their victim by performing the punishments in public spaces. The combination of horrific wounds and public beatings made identifying a horse thief possible and further reinforced notions of the regulation as a direct expression of the community’s values. Once identified, Pony Club members received stern treatment, harassment, and vitriol from formerly agreeable neighbors. Slicking also signified mastery over an inferior in the American South. White southerners had long used the lash as a form of punishment and control over African American slaves. For a slave, learning to bear the lash comprised one of the more dehumanizing and demoralizing aspects of slavery. The lash, though, had only been used against blacks and uncooperative animals. By employing it against whites, the Regulators completed the denigration of an accused Pony Club man: by slicking a white man, the Regulators, in effect, compared him to a black slave not worthy of a trial by his peers, only their

⁴² Ibid.

derision. A thrashed horse thief had been deemed unfit for the freedoms enjoyed by the rest of the republican community.

The use of violence to compel social order, however, went against the prevalent grain of thinking in early republican Georgia regarding the role of civil authority. The path to order in frontier regions followed a well-worn pattern in which white settlers infringed on native ground and used violence to compel the Indians to leave and cede their land. Using violence against Indians was an acceptable use of force though frontiersmen generally hesitated to employ it against other whites. The Slicks, therefore, were an anomaly in the borderlands of nineteenth-century Georgia. The violence engaged in by the Slicks, though, had a specific purpose and defined limits: only horse thieves received beatings and only to compel respect for the law. The corruptibility of local authorities and through them, republican self-government, required a corrective on the local level. In that regard, the Slicks adhered to previous regulations. Their violent actions sought to create a more responsive local government that catered to the needs of the local community and, more importantly, treated all members of the community equally.

By beating a thief, the Slicks also satisfied the harmonious values of the Cherokee because the punishment created balance. True, a Cherokee farmer would not get his horse back, but the beating satisfied Cherokee law and the edict of harmony. For example, in December 1829, a Cherokee jury convicted Jesse Stansell, a white horse thief from Georgia, to receive fifty lashes for stealing a horse, “which,” declared the foreman of the jury, George Saunders, whose opprobrium of Stansell’s toughness, if not his manhood, was glaringly obvious, “was fifty less than what is common in our country for such an offence.” Despite the state’s insistence that the Cherokee could no longer dole out legal punishments, Saunders and the rest of the jury had no qualms about executing Cherokee sovereignty: “We acted agreeably to the laws of our country in

punishing the man.”⁴³ For Saunders, the matter proved a simple one. Stansell had broken the law within the Cherokee Nation, and faced punishment according to its laws. Georgia’s authorities did not see it that way. Stansell returned to Hall County where he gave a deposition to the judge Augustin Clayton, and declared that the Cherokee had detained him upwards of thirty hours “without any legal authority,” stripped Stansell of his clothes, tied him to a tree, “and inflicted on the bare back . . . with large hickory switches fifty lashes, to the great effusion of his blood, the laceration of his back and sides, leaving deep wounds, gashes and bruises all the same.”⁴⁴

For the most part, 1832 marked the end of the Pony Club and of the Regulators, too. The Pony Club needed the acquiescence of the citizenry, but once the residents fought back their reign came to an end. Just as the Pony Club boomed in a chaos-strewn environment, the Slicks also needed the threat of violence and a sense of lawlessness to thrive. Once matters cooled, they could go about building up their homes and towns, plant the next harvest, and look toward the future. Their success ultimately rested in the widespread support that the community demonstrated for the Slicks, even if they openly cooperated with Cherokee.

Even though the Slicks enjoyed widespread community support, no consensus existed on their legitimacy. One editorialist, a “Citizen of Carroll,” attempted to defend the Pony Club, but knew his efforts would prove foolhardy in the end: “No man can escape condemnation or the opprobrium of being friendly to the poney club who dares to disapprove the lawless career of the regulators.”⁴⁵ The “Citizen” understood the complexities of a vigilante movement. By using extralegal violence to masquerade as the true representatives of an orderly society along the

⁴³ *Cherokee Phoenix*, December 10, 1829, 2.

⁴⁴ *Ibid.*

⁴⁵ *Columbus Enquirer*, August 4, 1832, 3.

frontier, the Slicks had imposed their own version of legality on the residents of Carroll and claimed legitimacy for themselves. The division within the white frontier community over the use and applications of violence provided a useful lesson for state leaders, one that ultimately went unheeded. Applying violence against elements of the white community, even those that went against the predominant republican grain, proved divisive. As the state ramped up efforts to regulate the backcountry, its actions riled backcountry residents who felt persecuted and victimized for political reasons and exposed the irony of using violence to create order.

Throughout the early nineteenth century, Americans embraced seemingly contradictory methods to deal with the uncertainty created by rapid social change. Many turned to moral reform to enforce a code of community standards. Religious awakenings spurred on much of this activity, as did the ever-changing landscape wrought by the growth of the market. In conjunction with reform, Americans turned to mob violence to assert social control over deviant or foreign populations. Violence against Irish immigrants, Catholic nuns, or saloon keepers united one part of a community against another. The desire of these violent episodes was to regulate the social and moral landscape of antebellum America. By calling themselves “Regulators,” the Slicks not only drew upon a historical movement that had particular resonance in the southern backcountry, but they also put themselves squarely in the camp of those who used violence as a form of social control. Regulation, in other words, could effect order. By regulating, or using violence to control the aberrant local population, the Slicks began a trend in the backcountry that both federal and state officials would follow.⁴⁶

⁴⁶ On reform movements generally in the early nineteenth century, see Ronald G. Waters, *American Reformers, 1815-1860* (New York: Hill and Wang, 1997). On the evangelical-inspired origins of reform, see Robert H. Abzug, *Cosmos Crumbling: American Reform and the Religious Imagination* (New York: Oxford University Press, 1994). On the growth of the market as a catalyst for reform, see Thomas Bender, ed., *The Antislavery Debate: Capitalism and Abolitionism as a Problem of Historical Interpretation* (Berkeley: University of California Press, 1992). For violence as a means of enforcing community standards, see Richard Hofstadter and Michael Wallace, eds. *American Violence: A Documentary History* (New York: Alfred A Knopf, 1970), especially 298-308, 450-452. Hofstadter and Wallace

Georgia's officials remained largely unconcerned with the outbreak of the frontier Regulators, nor did they evince much concern for the roots problems of frontier violence. Instead, they targeted the intruders as the region's underlying problem and sought to halt their activities rather than aid the citizens of Carroll County. By the summer of 1832, a general in the state militia, John Coffee, conducted a brief investigation, but concluded that the Regulator furor had died down. The new governor, Wilson Lumpkin, could gaze upon the events along the frontier and congratulate himself for not having unleashed the overbearing power of the state to control the behavior of whites. Even though he wanted state law to take hold along the frontier, Lumpkin saw no harm in "the late disturbances in Carroll and Cherokee counties." He concluded "that whatever excesses may have been committed in the punishment of Bad men, the object of the party engaged in administering speedy correction, was founded in honest & upright motives." In an outright snub of Fambrough, the current governor labeled him as one of the real culprits "who had become the advisors if not the aiders and abettors of a combination of bad men." Good citizens, however violent they became, had brought order to the borderlands and restored virtuous self-government to Carroll County.⁴⁷

The roots of frontier violence, Carroll County's proximity to a multitude of borders and contested space, and its unique demographics allowed for the growth of a dangerous group of horse thieves, the Pony Club, to thrive along Georgia's boundary. The Club became adept at stealing Cherokee property and selling it to white farmers or intruders. Their organization also

characterize one kind of violence as "Violence in the Name of Law, Order, and Morality," which Richard Maxwell Brown sees as "socially conservative" designed to maintain the status quo. Though the Slicks did seek the overthrow of the county government, they only wanted a return to civil authority, a conservative action. They differed in their stance on allying with Indians, something of a radical notion in Jacksonian America, though something that had occurred to a great degree in the Cherokee-Georgia borderlands. See Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975), 4-5.

⁴⁷ Wilson Lumpkin to Gen. John Coffee, July 14, 1832, *Cherokee Letters*, 2:352-53. Richard Brown argues that the "legal illuminati" generally support vigilante movements because "vigilantes and lynch mobs acted in response to an unsatisfactory legal system." By condoning the Slicks, the governor and militia general acknowledged their usefulness in restoring a functioning legal system to Carroll County. See Brown, *Strain of Violence*, 145.

allowed them to control aspects of the county's civil authority. When the Club's actions reached a critical point, members of the backcountry community, both white and Cherokee, had united briefly to rid themselves of the Pony Club. To do so, Slicks resorted to violent measures, which broke up the criminal ring and undermined the state's insistence on civil authority as the proper way to order the backcountry. The prospects of local control and of a lasting cross-cultural alliance waned as the immediate threat to frontier stability subsided. Frontier residents acted forcefully against the Pony Club because they felt that the state and federal governments refused to take action. Instead of targeting the Pony Club, though, both the state and federal authorities sought out larger threats to republican order, mainly the thousands of gold miners who had taken up residence within the Cherokee Nation. The Slicks demonstrated a practical application of violence and how it could be used to create order.

CHAPTER FOUR: THE LIMITS OF FEDERAL POWER, 1830-1832

Since the passage of the first intercourse law in 1790, the United States had declared its intent to protect the borders of Indian nations from incursion by whites. As more miners invaded Cherokee space, natives expected the federal government to fulfill its obligation to the Cherokee people by upholding treaties and legislation. Historians characterize the federal government in the nineteenth century as one that remained “out of sight” except at the nation’s borders, which the army maintained. With the ongoing intrusion, the governor of Georgia asked federal forces to use their coercive authority to uphold the intercourse acts. The targets, white men from Georgia, did not benefit from the emboldened federal presence. Federal agents found that the use of power to restore order upset the victims of their actions and served as a rallying cry for the champions of limited federal interference. These protests convinced the governor to ask for the withdrawal of federal troops and to replace them with troops from Georgia. Though brief, the federal response temporarily succeeded in halting the intrusion. The backlash to violence against whites led federal officials to attempt to conduct a more effective program of “voluntary” removal though even that program failed to generate much interest. This program led to a greater degree of cooperation between federal and state agents. Occurring simultaneously, lawsuits filed by the Cherokee Nation in the Supreme Court sought to delay removal efforts and triggered a showdown in the upper echelons of American government. The brief army maneuvers showed state leaders that an organized and efficient use of violence could prove useful when it came to regulating the backcountry population and went a long way to asserting the sovereignty of the state.¹

¹ See Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth Century America* (New York: Cambridge University Press, 2009), 153-155.

The contest for sovereignty between the state, the federal government, and the Cherokee intensified as waves of gold seekers made their way onto native ground. Framing their struggle to retain possession of their remaining land as nothing short of an existential crisis, the Cherokee pled with the federal government to help maintain their national borders. Though they had sent a powerful message when they expelled whites who had taken up residence in the Creek Strip, their inability to contend with the overwhelming scope of the intrusion undermined their claim to nationhood. More important, the safety of their citizens was at stake because of the violent and lawless atmosphere created by the miners whose gold-addled drive often collided violently with Cherokee residents attempting to go about their lives.² Simply put, whites who made their way onto Cherokee land violated federal law, and the absence of strong federal action to shore up Cherokee borders ensured the continuance of “flagrant outrages committed upon our peaceable citizens and their property by intruders.”³ The Cherokee took a two-pronged approach when dealing with the intrusion. First, they advocated for the federal government to uphold the intercourse acts and expel white interlopers. Second, the National Council hired former Attorney General William Wirt to bring their complaints to the federal judiciary.

² Americans in the nineteenth century usually needed little reason to intrude upon native ground, but the discovery of gold and other precious metals offered more of an incentive for them to do so. Aside from the rush in Georgia, Americans in Illinois discovered deposits of lead and as miners moved in they sparked the Black Hawk War. See, for example, John W. Hall, *Uncommon Defense: Indian Allies in the Black Hawk War* (Cambridge: Harvard University Press, 2009), 74-85, and Kerry Trask, *Black Hawk: The Battle for the Soul of America* (New York: Henry Holt, 2007), 60-65. The discovery of gold in California would have drastic implications for Native populations. On the thousands of international immigrants who poured into California, upsetting environmental and social landscapes, see H.W. Brands, *The Age of Gold: The California Gold Rush and the Birth of Modern America* (New York: Doubleday, 2002) as well as Susan Lee Johnson, *Roaring Camp: The Social World of the California Gold Rush* (New York: W.W. Norton & Co., 2001). Elliot West’s magisterial account of the reverberations felt on the Great Plains as gold seekers traveled to Colorado in the late 1850s is discussed in his *Contested Plains: Indians, Goldseekers, and the Rush to Colorado* (Lawrence: University Press of Kansas, 1998). In 1874, the discovery of gold in the Black Hills intensified the conflict between the expansive Lakota and American empires. See Richard White, “The Winning of the West: The Expansion of the Western Sioux in the Eighteenth and Nineteenth Centuries,” *Journal of American History* 65 (September 1978): 319-343, and Jeffrey Ostler, *The Lakotas and the Black Hills: The Struggle for Sacred Ground* (New York: Penguin, 2010).

³ Cherokee Deputation from the Nation to the Secretary of War, February 11, 1830 in “Intrusion on Cherokee Land”, H. Doc 89 (Serial Set Vol. 197, Session Vol. 3) 21st Congress, 1st Session (1830), 27.

State leaders also expressed a need for urgency and decisive action in dealing with the intrusion, yet none was forthcoming from Washington. Likewise, the state seemed unresponsive to the presence of so many miners. By May 1830, nearly a year after the intrusion had begun, Governor Gilmer expressed anxiety over the state's proper course when he admitted to fellow Georgian and United States Attorney General John Berrien, "I am in the doubt as to what ought to be done with the gold diggers." Citizens clamored for relief and petitioned state leaders to act. "Our own Legislature must take the matter in hand. They owe it to themselves and their constituents to rid the country of this horde of thieves and counterfeiters; and it is time something was done."⁴

Gilmer's initial hesitancy mirrored the legislature's. Though the legislature had sought to solve the sovereignty issue when it passed the extension law, no one knew with any certainty the law's viability. Underlying Georgia's claim to sovereignty was the desire of the state's citizens to possess the gold fields that littered the backcountry. Because the state considered itself supreme over the lands in question, state leaders argued that intruders were actually trespassing upon state soil and stealing state resources. Even before June 1 passed and the extension law went into effect, Gilmer declared time and again: "the state considers itself entitled to all the valuable minerals within the soil of the Cherokee territory." By not acting to prevent the miners from entering the gold region, the state "is now permitting itself to be plundered of its wealth from the strong desires of its authorities to avoid any collision with those of the general government." Further, he issued a proclamation urging the intruders to depart because the state had extended

⁴ George R. Gilmer to John Berrien, May 6, 1830, *Governor's Letter Book, November 10, 1829-June 29, 1831*. Drawer 62, Box 64, Georgia Department of Archives and History, Morrow, GA; *Macon Telegraph*, October 16, 1830, 3.

its jurisdiction over the Cherokee and would not wait to “put an end to the lawless state of society which has hitherto existed among the gold diggers.”⁵

However, when the Cherokee squadron ejected white Georgians from the Creek Strip, it had the effect of not only empowering the Pony Club, but also of steeling the governor’s resolve and altering the state’s course. Rightly understanding that a white backlash against the Cherokee could precipitate a crisis, Gilmer resorted to measures considered anathema to those espousing a state’s rights platform: he asked for federal assistance. Writing to the commander of Fort Mitchell in Alabama, Gilmer advised the officer “that a party of white men headed by the sheriff of Carroll County is . . . entering the Indian Country for the purpose of arresting Ridge and his assistants.” Gilmer cautioned the fort’s commandant that such “conduct may excite the Indians & occasion unnecessary bloodshed.” To stave off any violence, Gilmer informed the commander that he had already asked state civil authorities to “prevent any lawless attacks” upon the Cherokee living near Carrollton. To complement the civil authorities, Gilmer requested “a competent force” from Ft. Mitchell “to prevent any further violence on the part of the Indians.” In effect, Gilmer hoped the civil authorities in Carroll could restrain those Georgians howling for blood while federal troops acted as a restraint against potential Cherokee reprisals.⁶

As the ostensible leader of Georgia’s vociferous state’s rights contingent, Gilmer carefully tread the issue of federal intervention. Though he railed against federal interference as an assault on Georgia’s rights in public, in private, the governor succumbed to the reprieve offered by the

⁵ George R. Gilmer to John M. Berrien, May 6, 1830, *Governor’s Letter Book*, GDAH; for Gilmer’s proclamation for citizens to remove themselves from the gold region, see Gilmer, *Sketches of Some of the First Settlers of Upper Georgia*. . . (Americus, GA: Americus Book Company, 1926), 266-67.

⁶ George R. Gilmer to Commander of the United States Troops at Fort Mitchell, February 16, 1830, *Governor’s Letter Books*, GDAH; as well as McLoughlin, *Cherokee Renaissance*, 432. In one of the ironies of Jacksonian Indian Policy, the U.S. Army’s primary role was to prevent whites from intruding on the lands promised to Amerindians through treaties with the United States. Soldiers often resented having to take the side of Indians over whites, but usually followed through with their duties. However, over the course of Jackson’s two terms, the Army became less a means for securing native lands and more a tool of implementing removal.

presence of troops and conceded their usefulness if not their constitutionality. “You are aware that it would be contrary to my opinion of the rights of this State,” he assured one advisor, “to recognize by any official act, the power of the United States Government to remove the Indians from the Cherokee lands.” Despite his certainty in Georgia’s course, he admitted that the presence of federal troops “in the Cherokee country is very useful, in restraining the whites from trespassing upon public property, and committing violence upon the Indians. . . . The effect of their presence in restraining our citizens, ought not to be lost, if it can be helped.” So uncertain was Gilmer over the use of federal troops that the day before he requested aid from Ft. Mitchell, he reassured his advisor in Carroll County, Allen Fambrough, that circumstances did not require “the interposition of the military authorities.”⁷ Perhaps his hesitancy hid his hypocrisy, but Gilmer’s vacillations over federal involvement showed the governor’s conflicted feelings on the matter. Despite the fact that Georgia’s leaders had, for a decade, staked out a policy asserting state sovereignty regarding the Indian population living within the bounds of Georgia, Gilmer, at this uncertain hour, willingly asked for federal aid.

Both state and Cherokee officials could agree on the need to impose some type of order in the backcountry, but their zeal for sovereignty prevented any sort of intergovernmental cooperation. Rather than a tandem effort, both sides sought to protect their sovereignty and their claim to the riches that lay seductively beneath the surface. Gilmer’s approach divided the issue into two distinct problems. One was the state’s problem, and the solution involved civil authorities imposing the law on state property. Further, the governor argued that the state’s civil authorities could prevent intruders from crossing the national boundary from Georgia, but once intruders crossed the border they became a Cherokee and federal problem. Federal law

⁷ George R. Gilmer to Yelverton King, July 5, 1830 in Gilmer, *Sketches*, 280-281; George R. Gilmer to Allen G. Fambrough, February 15, 1830, *Governor’s Letter Books*, GDAH.

stipulated that once whites crossed the frontier between the state and the Cherokee Nation, including those who had purchased homes from emigrants, they had gone beyond the state's pale and therefore became subject to federal jurisdiction. At that point, expelling intruders became a Cherokee or U.S. Army responsibility. In his stance on divided jurisdiction, Gilmer proved disingenuous: he argued that the state already had suzerainty over the gold region because of the extension law, yet he wanted none of the responsibility associated with ordering the population therein. However hypocritical Gilmer's stance proved, his proposed solution demonstrated an understanding of the political realities and underscored his desire to avoid a showdown over Indian policy. It also marked the beginning of cooperation between state and federal authorities in their efforts to remove the Cherokee.

Just as Gilmer wanted to avoid a confrontation with federal forces over the nature of the state-federal relationship regarding intrusion in the backcountry, he also desired order. So did federal officials. In February 1830, Secretary of War John H. Eaton wrote to the commander of Ft. Mitchell to send troops into the Cherokee Nation. While the governor had tried to strictly limit the role of the Army, it appeared that the Secretary of War had others ideas. Eaton ordered the commander and his men to "advance forthwith" from their post in Alabama and "stay any act of hostility that may be contemplated on either side." Such an expansive and vague set of orders gave the commander, Brevet Major Philip Wager of the 4th U.S. Infantry, wide latitude in dealing with the intrusion. The orders also gave the impression that it was the Army's responsibility to prevent any hostilities, originating from both within and without the Cherokee Nation, from occurring. In early March, Wager sent thirty-six men from Ft. Mitchell to the gold region. Wager then issued an order to all whites living in the Creek Strip to leave but predicted trouble and feared that he and his men would have to compel them to depart. Wager's declaration required all persons digging for gold to leave the Cherokee Nation by March 25,

1830. Most observers anticipated resistance to the orders, but one “gentleman recently from that section, tells us that the intruders have no such designs.”⁸

With reports of hundreds and perhaps even thousands of intruders residing illegally within the Cherokee Nation, the small infantry detachment faced a difficult task. Fulfilling its orders became so arduous, in fact, that by the first of December nearly three hundred regular troops from both the 4th Infantry and 2nd Artillery had been garrisoned at Camp Eaton (named in honor of the Secretary of War) adjacent to Scudder’s Inn along the National Road near the Etowah River. By the following year, though, Camp Eaton had been abandoned by federal troops and in their place resided troops from Georgia. Between March 1830 and December 1831 six companies of U.S. troops had been sent and then withdrawn into the Cherokee Nation. Though brief, their time along the Cherokee border ushered in a new period of violence along the frontier.

At the end of March 1830, the first federal troops made their way through Decatur in DeKalb County on their way to the gold mines to uphold Wager’s orders.⁹ Other federal troops did not arrive until June. The initial detachment set about preparing a small encampment and patrolling the gold region. As more federal troops arrived, they scoured the countryside and expelled anyone suspected of mining for gold. They received a list of individuals from Hugh Montgomery containing the names of those whites whom the Cherokee had authorized to live within the Nation and therefore immune from expulsion. These individuals included white men and women who had married into Cherokee society, licensed traders, and missionaries.¹⁰

⁸ John H. Eaton to Major General Alexander Macomb, February 24, 1830 in “Intrusion on Cherokee Land”, H. Doc 89 (Serial Set Vol. 197-3) 21st Congress, 1st Session (1830), 35-36; Major P. Wager to General Macomb, March 13, 1830 in *ibid.*, 38; *Augusta Chronicle*, March 27, 1830, 2.

⁹ *Augusta Chronicle*, March 27, 1830, 2.

¹⁰ For a partial list of white Cherokee residents exempt from expulsion, see J.E. Hays, ed. *Cherokee Letters*,

The troops had a difficult task. Not only did they have to eject thousands of Georgians hiding within in the woods and hills of the Cherokee Nation, but they also had to discern which whites could stay. In early June, they began conducting forays into areas most densely populated with intruders. Their efforts proved somewhat effective, and by the second week of June, they had reportedly cleared out the mines in one small region. The miners, for their part, had not vacated the backcountry altogether. Many simply waited for the troops to leave the vicinity to continue their activities. While the Cherokee remained confident that federal action would help provide security, they also knew the miners would return “unless the troops are stationed” permanently. Further irritating the Cherokee, other groups of “intruders snugly settled neatly on the whole extent of the frontier,” avoided arrest and continued their work.¹¹

Though Wager reported on a few early successes, efforts later that summer proved less effective. “The First of the attempts, to remove the Gold Diggers by U.S. Troops . . . has proved abortive. [The miners] are multiplying in number daily.” With only thirty-six men at his disposal and a growing number of intruders, Wager’s 4th Infantry stood little chance of making a thorough sweep through the mines or preventing more miners from arriving. Having expelled some intruders who returned under cover of darkness, the infantry could do little more until they received reinforcements or took more forceful measures. The ineffectual efforts at clearing the mines worried some Georgia residents, who not only resented the federal presence but also wanted a chance to strike it rich. In August, a state agent reporting to the legislature affirmed the worst fears of the state’s leaders. “I have no idea that either the resistance of Indians, the civil

Talks, and Treaties, 1786-1838 WPA project no. 4341 (Atlanta: Georgia Archives, 1938), 1: 230-231. This list contains over fifty names, the location of their residences, and other remarks about the inhabitants. Usually the remarks commented on the relative wealth of the individual listed. For example, Ambrose Harnage resided in Long Swamp and “has considerable property,” while John Rogers, who resided in the Chattahoochee community, had “a few negroes & large stock.”

¹¹ *Cherokee Phoenix*, June 12, 1830, 3.

authority of this state, or the United States Troops, short of their shooting at [the intruders] and shedding blood, can or will remove the Gold diggers from the Cherokee Country, or even lessen the number, but for a few days.” Without reinforcements and escalated force, Wager could do little more to prevent the intrusion.¹²

Initially, state and federal forces operated at cross purposes when it came to clearing the gold mines. For federal troops it meant expelling whites not connected to the Cherokee; for the Georgians it meant clearing everyone, white or native, so the state could assert its authority. When Gilmer had asked for Wager’s intervention in the backcountry, he also made it clear that the state would do its part to prevent further intrusion. In spite of a more conciliatory approach to Indian policy, Gilmer still remained uncomfortable employing force to maintain the integrity of the state’s border. When the state did try to help, its officers only found themselves in precarious situations. Those on the ground, however, did not express the same degree of uncertainty. In Hall County, an overzealous militia commander ordered his troops into the gold region and began arresting miners, both white and Cherokee. Instead, the militiamen found themselves in the custody of federal troops who arrested the Georgians for violation of the intercourse acts. Lieutenant Trenor of the U.S. Army observed a “party of armed men mounted on horses” passing his camp. When he enquired their business in the gold region, he learned they were a local militia “who were . . . about to make the Natives and other persons legally entitled to remain within the Indian boundaries and to enjoy the rights and privileges of a Native, desist from searching for Gold.” Lt. Trenor saw this as contrary to his orders and an act of intrusion. When Colonel Hardin, the regiment’s commander, declared that he was under direct orders from the deputy sheriff to uphold the extension law they continued on their way. Lt. Trenor did

¹² Archibald R.S. Hunter to George R. Gilmer, July 5, 1830, *Cherokee Letters*, 1:221; William Rutherford to George Gilmer, August 25, 1830, *Georgia Military Affairs*, 6:226.

not think the state troops had the authority to arrest Indians on native ground, so he and his men chased after the Georgians. The state militiamen had already confined a few Indians when the federal troops overcame them at Pigeon Roost. The nineteen militiamen and deputy sheriff soon found themselves in the custody of U.S. troops.¹³

It became evident to Lt. Trenor that he had potentially begun a problematic showdown with state forces and marched Col. Hardin and the deputy sheriff to his superior. Even Governor Gilmer was caught off guard when he heard reports of Hall County's militia going into the gold region. His entire strategy had been predicated on using state forces to prevent more whites from intruding and not expelling those already there. "I have just received intelligence that the militia of Hall County are about to be marched into the country occupied by the Cherokees for the purpose of making prisoners of those who are engaged in digging." If that proved true, he ordered the release of any Indians who had been arrested. He instructed a colonel in the state militia to inform Colonel Hardin "that the governor alone," and not the deputy sheriff, "can call them into the service of the state, except in cases of sudden invasion or insurrection." When Gilmer learned that the militiamen had been released he expressed relief. "It is desirable that the most cordial cooperation should exist between the U States and state government upon the subject of our Indian affairs."¹⁴

Even if the governor desired state and federal forces to work in conjunction with one another, federal troops had orders to uphold the intercourse laws on their own. After June, when

¹³ Lieutenant Trenor to Captain F.W. Brady, June 23, 1830 in "Letters Received by the Office of Indian Affairs, 1824-1881," Roll 74, M234, RG 75, NARA.

¹⁴ George R. Gilmer to Yelverton King, June 28, 1830, in *Governor's Letter Book*, Drawer 62, Box 64, GDAH; George R. Gilmer to Yelverton King, July 5, 1830, *Ibid.* Gilmer had carefully considered his options when it came to calling up the militia. He consulted at least one state supreme court judge, J.W. Jackson, who informed him that if intruders intended to trespass on the public property he could consider it an insurrection, which would require him to muster the militia. The problem because defining an insurrection, which Jackson considered "an assemblage in strength." See J.W. Jackson to George R. Gilmer, August 7, 1830, Box 49, Folder 9, Telamon Cuyler Collection, Hagrett Rare Book and Manuscript Collection, UGA.

they received reinforcements, the federal troops could more effectively bring order to the backcountry. The Secretary of War ordered a company of artillery from Charleston, one infantry company from Augusta, and another company from Ft. Mitchell to assist the initial detachment in clearing the gold region of overzealous intruders. All told, this gave Wager 286 men to bring some semblance of order to the gold mines. Arriving at the beginning of September, the reinforcements allowed the previously overwhelmed command to pursue a more aggressive stance toward the intruders.¹⁵

In the middle of September, Wager wrote to his superiors on the conduct of his men. With a larger force, the 4th scoured the hills and hollows of the Cherokee Nation more effectively. He instructed his men “to arrest all persons suspected of being in any way engaged in the gold business,” which he did not limit to mining. “[D]iggers, buyers, pedlars, [and] shopkeepers” all faced expulsion for intruding upon Cherokee land. On his first foray with a larger force, Wager and his infantry managed to arrest over two hundred intruders. After confining the prisoners for the evening, Wager sent two officers and fifty men to escort the intruders beyond the boundaries of the Cherokee Nation “where they were dismissed.” The remaining troops did not rest on their laurels. Wager divided his forces, fanned them out across the gold region, and gave them orders to “destroy the machinery, burn the huts & arrest all persons lurking in the neighbourhood.” This action corralled another fifty intruders, who received similar treatment. Another report confirmed the actions of the troops: “The policy pursued is, to destroy the provisions, camp equipage, working utensils, or whatever else is found

¹⁵ *Macon Telegraph*, September 11, 1830, 3.

belonging to the diggers.” Once apprehended by federal troops, the intruders “are conveyed to the nearest ferry, and put across the river free of charge.”¹⁶

By the end of September, Wager confidently reported that the number of intruders arrested and expelled exceeded five hundred men, while those who fled before the troops could apprehend them “amount[ed] to thousands.” At the Chestatee mines, Wager encountered a polyglot population that would have upset Georgia’s order-obsessed leaders. Noting the “motley appearance,” of the miners, he and his men encountered all sorts in the unorganized gold region, from “whites, Indians, halfbreeds, and negroes, boys of fourteen and old men of seventy” to more prestigious individuals like “two Colonels of Georgia Militia, two candidates for the legislature and two ministers of the Gospel, all no doubt attracted thither by the love of gold.” Such a diverse lot also gave the troops difficulties. Wager warned Major General Alexander Macomb, the commander of the U.S. Army, that his men had to resort to more brutal measures to round up some of the trespassers. “It was impossible in every instance,” Wager began, “to use the mildest measures” to detain the intruders. Some “were treated with more harshness than met my approbation,” especially when the soldiers “were not under the eyes of their officers.” Mistreatment tended to occur when the intruders ran away from the advancing soldiers. Wager defended the harsher methods employed by his men, especially once the intruders grew accustomed to the “gentle means hitherto employed.” As the intruders realized they faced no physical threats from the troops they grew “so bold as to laugh at the idea of being driven off by the military and many of them became quite obstinate and impudent.” The growing resistance of the intruders convinced Wager that his men had best begin using more forceful measures to

¹⁶ Wager’s report quoted in Otis E. Young, Jr., “The Southern Gold Rush, 1828-1836,” *Journal of Southern History* 48 (August 1982): 385; *Augusta Chronicle*, September 25, 1830, 2.

compel obedience. Once the troops became more physical, the intruders “commenced flying to the woods and mountains.”¹⁷

Though perhaps some Georgians resented the presence of federal troops—especially politicians grandstanding on a state’s right platform—others commended the efforts of the troops for achieving some control over the gold mines. In Augusta, a traveler “inform[ed] us that he met at least one hundred [intruders] on the road in one day who had been thus expelled from the territory, or taken the hint from this gentle specific administered to others.” Hugh Montgomery was especially pleased with the results of the operation, informing Governor Gilmer that the intruders fled the mines “Like Blackbirds before the Bayonet,” when confronted by a detachment of determined U.S. troops. Others, however, still derided the efforts made by plodding government troops, and championed the quick-footed frontiersmen. “Even if a body of troops should be sent against [the intruders], they would shelter themselves in the fastnesses of the country, and the moment the backs of the troops were turned, would be found pillaging in their rear.”¹⁸

When a state court judge, Augustin Clayton, ruled that the extension law was unconstitutional, further problems resulted. The state government largely ignored Clayton’s ruling, and disregarded it completely in the fall when voters rejected Clayton in favor of a more vocal proponent of the rights of the state. More seriously, many miners did return to the mines, “accordingly armed . . . to drive off all the natives.”¹⁹ The Cherokee complained when this

¹⁷ Major Philip Wager to Major General Alexander Macomb, September 30, 1830 in James W. Covington, ed., “Letters from the Georgia Gold Region,” *Georgia Historical Quarterly* 39 (December 1955): 407-408.

¹⁸ *Augusta Chronicle*, September 25, 1830, 2; Hugh Montgomery to George Gilmer, September 13, 1830, *Georgia Military Affairs*, 6:228; *Macon Telegraph*, October 30, 1830, 3.

¹⁹ The decision in which Clayton contested the extension law, specifically the provision that prohibited the Cherokee from digging for gold, was *Georgia v. Kanneetoo*. The furor resulting from the trial cost Clayton his seat, though he ran for Congress and won a seat there. The judicial directive was largely ignored. Clayton later claimed

occurred, claiming that the U.S. troops were more concerned “in the exercise of this state right” rather than fulfilling their treaty obligations and protecting the Cherokee from the intruders. For the most part, the Cherokee were correct in assuming that the state and federal forces had opted to cooperate. After the U.S. forces had arrested the militia from Hall County, the hostility turned to cooperation. Federal troops, rather than dump intruders across the Chattahoochee River, now escorted them to county courts where they were tried for trespass. By the end of summer, however, state and federal forces began cooperating to impose order. Usually that cooperation involved federal forces arresting intruders but taking them to state courts to stand trial.²⁰

The increased force used by the federal forces helped them clear the mines, but it also caused borderland whites to resent their presence. However successful U.S. forces may have been, their tenure in the backcountry proved fleeting for three reasons. First, despite the fact that some Georgians felt that the actions of the troops had a salubrious effect the backcountry, others saw their actions as poisonous to the republic because it favored one group of whites over another. Because Wager only had orders to remove intruders from the backcountry, only white Georgians or those who were not on Montgomery’s list suffered any inconvenience as a result. When troops came across whites connected to the Cherokee—which meant intermarried whites or *métis* Cherokee who appeared white—at the gold mines, they took no pains to remove them. After all, they were digging on Cherokee land.

that he had been a victim of the state’s bifurcated politics, which caught the Cherokee in the middle of political wrangling. He informed Ross that “the two great parties in Georgia in their struggle for power had always made [Cherokee policy] a party question and thereby the Cherokee were placed, as it were, between two great fires.” Quoted in Tim Alan Garrison, *The Legal Ideology of Indian Removal: The Southern Judiciary and the Sovereignty of Native American Nations* (Athens: University of Georgia Press, 2009), 119.

²⁰ J.W. Brady to John H. Eaton, June 28, 1830, Letters Received by the Office of Indian Affairs, 1824-1881, Roll 74, M234, RG 75, NARA; Elijah Hicks et.al to Captain Brady, June 26, 1830 in *ibid.*

Georgia's politicians disagreed, especially after June 1 when the extension law went into effect. Many Georgians, especially those who had been removed, believed that such a show of favoritism by the federal government was inconsistent with the rhetoric of white male equality. B.L. Goodman, a self-styled "intruder on Indian land" desired to report to the governor the extent of "the spirit of indignation" permeating the backcountry. As Georgia's intruders left the gold region they came across "white men of the [Cherokee] nation engaged in working the lots." Such a "hue and cry" arose from the intruders that he "feared that mobs may be got up that may cause blood shed." Goodman even reported that one militia captain had "gone so far as to call up his Company together preparatory to the removal of the Indians." An associate of Goodman's, Peter J. Williams also wrote to Gilmer. Williams expressed considerable distress over the discrimination shown by the federals. After he had been ejected from Indian country, Williams met several miners making their way back into the gold region, convinced that they had "as much right to dig as the white men in the [Cherokee] Nation." Rather than an indiscriminate approach, Wager's men had selectively cleared the mines. Once the intruders had been driven off, the mines "were immediately taken possession of by the Indians and the whites connected with them, and that they were permitted to take the gold . . . without any resistance from the troops who had disposed the citizens of the state." Gilmer warned President Jackson that bloodshed may soon follow because of the way Wager had gone about ordering the backcountry. Without redress, "There is much reason to apprehend that the Indians will be forcibly driven from the gold region, unless they are immediately prohibited from appropriating its mineral wealth." Goodman summed up the spirit of indignation and state's rights when he declared that white intruders would continue to dig "unless stopped by the executive power of Georgia."²¹

²¹ P.L. Goodman to George R. Gilmer, June 7, 1830, in Covington, ed., "Letters from the Georgia Gold Region," 402-403; Peter J. Williams to George R. Gilmer, June 17, 1830, in *ibid.*, 403-404; George R. Gilmer to

To the intruders, however, the use of violence did not upset them as much as the discrimination they faced at the hands of federal troops. They protested the ways in which the troops categorized whites. When Wager's troops removed white Georgians but allowed white or *métis* Cherokee to remain at the mines, his decisions injured the pride of many of the intruders. By taking such an approach, the federal troops had essentially created and enforced a hierarchy among the gold miners and placed those from Georgia at the bottom. The actions of the federal troops flew in the face of the frontier egalitarianism and the prevailing mood of Jacksonian democracy. By allowing whites within the Cherokee Nation to take gold, the federal government had, through the actions of its troops, demonstrated their low opinion of Georgia's frontier residents. Despite the fact that they had no right to the gold, once the offended intruders faced expulsion from the gold region they cried foul. Only the protestations of "men of Influence and standing" among the intruders prevented them from having "mischief done" to the Indians.²²

Second, the way in which Georgia conceived of the Cherokee Nation fundamentally changed once the extension law took effect on June 1, 1830. Prior to its enactment, Georgians reluctantly saw the Cherokee Nation as somewhat autonomous, an unsustainable *imperium in imperio* that relied upon the federal government to not only enforce the various intercourse laws regulating commerce, but dependent upon federal troops to maintain its borders. After June 1, a striking reformulation occurred that transformed Georgia's relationship to the Cherokee and in how they thought about the Cherokee Nation. The law itself permitted for the border counties to extend their legal jurisdictions into the Cherokee Nation, which meant that white sheriffs and

Andrew Jackson, Gilmer, June 15, 1830, *Governor's Letter Book, November 10, 1829-June 29, 1831*, GDAH; Gilmer; *Sketches*, 267; P.L. Goodman to George R. Gilmer, June 17, 1830, Roll 74, M234, NARA. Gilmer also declared federal actions against the right of the state in a letter to President Jackson: "the Government of the U States had no authority to enforce the non-intercourse laws."

²² Peter J. Williams to George R. Gilmer, June 17, 1830, in Covington, ed., "Letters from the Georgia Gold Region," 404; P.L. Goodman to George R. Gilmer, June 7, 1830, in *ibid.*, 402-403.

juries were responsible for applying civil law in the backcountry. No longer seen as a state-within-a-state, Georgians effectively nullified federal legislation recognizing sovereign Cherokee territory and claimed it as their own.

Augustin S. Clayton may have rejected the premise of the extension law, though he still recognized the untenable position of the natives when he referred to the gold region as the “Cherokee nation” in a letter to the governor but corrected himself and termed it “the states property.” Another jurist, J.W. Jackson concurred. “The Indian title is permissive—at the permission of Georgia alone—the, soil, and the mines within it, are Georgia’s.” Gilmer began calling the gold region “public property” owned by the state. Such a reformulation allowed state officials to act as though they had sovereignty over the territory formerly known as the Cherokee Nation. Understandably, the Cherokee fretted over such a possibility. Elias Boudinot warned the readers of the *Phoenix* in the final issue of May 1830. “Before the next number of our paper shall be issued . . . the extension of [the state’s] assured jurisdiction over the Cherokees and the execution of her laws touching the Indians, will have arrived.” Once this occurred, the Cherokee understood how difficult their lives would become. “One thing we know, there will be suffering. The Cherokees will be privy to the cupidity of white men—every indignity and every oppression will be heaped upon them . . . [H]ow will it be when full license is given to the oppressors?”²³

Such a reformulation of the Cherokee Nation in the minds of Georgia’s leaders allowed them to treat the territory differently. It allowed the governor to maintain a state’s right footing when dealing with the president. “[T]he government of the U States had no authority to enforce the non-intercourse laws,” Gilmer informed the president, even though the governor had asked

²³ Augustin S. Clayton to George R. Gilmer, July 23, 1830 in *Georgia Military Affairs*, 6:27; J.W. Jackson to George R. Gilmer, August 7, 1830, Folder 9, Box 49, Telamon Cuyler Collection, UGA; on Gilmer’s view of the gold mines as public property, see his annual message to the legislature delivered December 4, 1830 in Gilmer, *Sketches*, 289; *Cherokee Phoenix*, May 29, 1830, 3.

federal troops to do precisely that. Further complicating matters, Gilmer told his officers operating along the frontier that they in fact could not arrest Cherokees digging for gold. “It is not considered a criminal offence for the Indians to dig for gold in the lands occupied by them and that they are not liable to an arrest.” Gilmer, therefore, used this reformulation when it served the interests of the state and his party, especially in dealing with the president. However, he realized that such a strong tone in the gold region could precipitate bloodshed and therefore cautioned his men. So he vociferously stuck to the extension law when it came to matters of federalism, but was less certain of its efficacy in private dealings.²⁴

The state legislature, though, had few qualms about the nature of state authority in the “public property.” In the winter of 1830 the general assembly enacted the supremacy law, which explicitly criminalized the Cherokee National Council and prohibited it from meeting and carrying out the laws of the Nation. Any person who had been authorized by the Cherokee government to collect tolls at turnpike gates and ferries had to cease their operations, which interfered with the Cherokee’s ability to control their boundaries. The supremacy law was unenforceable because it directly contradicted the treaties made between the Cherokee and the U.S. government, though Gilmer had every intention of following the letter of the law. Rather, it served as a brash statement by the legislature on state sovereignty. By criminalizing the acts of John Ross and the rest of the Cherokee government, the law permitted the state to declare its sovereignty over Cherokee lands and the supremacy of Georgia’s laws. The legislature went further with the supremacy act by prohibiting all whites from residing in the backcountry unless they had sworn an oath to “support and defend the Constitution and laws of the State of Georgia” or were employed by the United States government. The law also permitted the

²⁴ George R. Gilmer to Andrew Jackson, June 15, 1830; George R. Gilmer to Yelverton King, June 28, 1830, both in *Governor’s Letter Book*, GDAH.

governor to appoint an agent who could then rent out lots to whites that had belonged to Cherokee families who had previously emigrated to Arkansas. Though it did not go into effect until March 1, 1831, it precipitated a constitutional showdown.²⁵

The supremacy law also limited the number of miners and other white troublemakers residing in the backcountry, and for the first time, the state formulated the proper deportment it expected from whites who received residency permits. Not only did potential residents have to swear to uphold the state constitution, but they also had to promise to “uprightly demean” themselves “as a citizen.” By explicitly stating the type of behavior the state expected from its citizens, it implied that those who behaved poorly could not claim citizenship. Therefore, the “disorderly sort” and other troublemakers residing in the backcountry were not entitled to the benefits enjoyed by other white citizens. Any violators of the law’s provisions would stand trial for a high misdemeanor, and, if convicted, would “undergo an imprisonment in the Penitentiary at hard labor for the space of four years.” In effect, the state had given itself leeway to act against miners in its efforts to shape the gold region.²⁶

In conjunction with the supremacy act, the state sought to announce its more forceful articulation of state sovereignty by requesting the withdrawal of federal forces. Gilmer knew that if President Jackson complied, it would signal that the state had assumed suzerainty over the Cherokee territory, its inhabitants, and, more importantly, the implementation of the intercourse laws. In a letter to the president, Gilmer laid bare his frustrations with the current state of affairs. Having sent a proclamation into the backcountry preventing anyone, white or Cherokee, from taking gold from the “ungranted lands,” Gilmer complained, “Before these proclamations

²⁵ “An Act to prevent the exercise of assumed and arbitrary power. . .” *Acts of the General Assembly of the State of Georgia* (1830), 114-117, quote from 115. http://neptune3.galib.uga.edu/sspcgi-bin/legis-idx.pl?session_id=7f000001&type=law&byte=10514952&lawcnt=1&filt=doc (Accessed November 14, 2010).

²⁶ *Ibid.*, 115-116.

reached the part of the state occupied by the Cherokee, the U. States troops had driven from it all persons except Indian occupants.” Though his objection appeared to disapprove the efficiency of the Army, he instead was protesting Jackson’s “exercise of power,” which he did not find constitutional especially in the wake of the extension law.²⁷ A scant five months after he had personally requested the assistance from Wager’s troops from Ft. Mitchell, Gilmer now informed the president that such an action went against his constitutional scruples. By the end of October, when U.S troops had largely cleared the mines of intruders, Gilmer wrote to Jackson formally asking for a withdrawal of federal troops. Since the enactment of the extension law, Gilmer argued, the federal government could no longer enforce the intercourse act within the state’s “rights of jurisdiction.” Though Gilmer recognized that Jackson had sent the troops for “the preservation of peace,” a gesture Gilmer “truly appreciated,” he still had to ask the president to “withdraw the troops as soon as it can be convenient.” Jackson did not tarry, and by the following month the troops had been sent to their winter quarters.²⁸

The final reason for the hasty withdrawal of the federal troops originated with Old Hickory himself. At different times throughout his presidency he advocated the rights of the states, though Jackson also expressed an ardent nationalism. He also harbored many of Jefferson’s sentiments regarding the expansion of the yeoman’s frontier. In Georgia, he had the chance to put both of these beliefs into practice. In his annual message to Congress in December 1829, Jackson asked Congress to appropriate funds that would subsidize the removal process. Though it created a political imbroglio, especially among northern evangelicals and abolitionists, the following year Congress set about drafting legislation that would allow natives living east of

²⁷ George R. Gilmer to Andrew Jackson, June 15, 1830, *Governor’s Letter Book, 1829- 1831*, 146-147.

²⁸ George R. Gilmer to Andrew Jackson, October 29, 1830, Reel 16, Harold D. Moser, et al. eds. *The Papers of Andrew Jackson: A Microfilm Supplement* (Wilmington, DE: Scholarly Resources, Inc., 1986).

the Mississippi to “voluntarily” exchange their land for a like amount of acreage in territory beyond the river. By the end of May, Congress finalized the legislation and Jackson signed the Indian Removal Bill into law on the last day of the month. The bill also appropriated a half million dollars for the express purpose of removal.²⁹

Jackson’s insistence on removal by federal officials did not necessarily mean that he thought the federal government should take the lead on the question of Indian sovereignty. Thus, when Gilmer contacted the president and requested the withdrawal of federal troops in October, the president complied. At his behest, Secretary of War Eaton ordered those forces stationed in the Cherokee Nation to strike from Camp Eaton and enter winter quarters and each company returned to its normal base of operations. Having them return to their winter quarters was a clever and open-ended way for Jackson’s administration to appease both the Georgians and the Cherokee. The troops were leaving, much to the chagrin of the Cherokee, but because they had not been ordered off permanently, it left the possibility for their return in the spring. Gilmer claimed credit for the withdrawal of troops but did not ruminate on the possibility of their return. He understood that the federal government, under Jackson, would no longer enforce the intercourse acts within Georgia. In effect, Jackson had devolved Cherokee affairs out of the hands of the Office of Indian Affairs and into those of Georgia’s elected officials. Despite the fact that Jackson had consented to the troop withdrawal, he had not left his administration completely helpless to enforce order or prevent intrusion. As late as 1835, small numbers of federal

²⁹ For the text of the Indian Removal Bill, see *Register of Debates*, House of Representatives, 21st Congress, 1st Session, 1135-36. The historiography of Jackson’s motivation behind Indian Removal is varied and contentious. Elliot Satz contended that Jacksonian policy was just another means of “control and management” of an ethnic other. See his, *American Indian Policy in the Jacksonian Era* (Lincoln: University of Nebraska Press, 1975), quote from 292. Ronald Takaki declared Jackson the “metaphysician of Indian-hating” who engaged in “self-deception” regarding his position on Indian Removal in *Iron Cages: Race and Culture in Nineteenth Century America* (New York: Alfred A. Knopf, 1979), 92-107. Stuart Banner detailed legal precursors to Removal and equated Georgia’s actions to extortion. See his *How the Indians Lost their Land: Law and Power on the Frontier* (Cambridge: Harvard University Press, 2005), especially 201-227. Jackson’s defenders claim that his actions prevented the extinction of the Indians. See, especially, Robert V. Remini, *Andrew Jackson and His Indian Wars* (New York: Penguin, 2001), 278-281.

troops from Ft. Mitchell still patrolled the Cherokee border. The governor of Georgia could request their aid or compel them to leave. Lewis Cass, the Secretary of War, wrote to Governor Wilson Lumpkin explaining this relationship. “The commanding officer of the United States troops, now at Fort Mitchell, has been directed to march into the Cherokee country, whenever you inform [him] that his services are no longer required where he is now.” Further, Lumpkin could withdraw those forces “by communicating [his] views to the Commanding Officer.”³⁰

To prepare for removal, Jackson authorized the Office of Indian Affairs to begin conducting “voluntary removal.” Though Cherokees had begun moving to Arkansas in 1794, it was not until the ratification of the Treaty of 1819 that Indian agents began to encourage and pay for voluntary removal to that territory. Even then, the Cherokee hesitated to enroll. In 1830 about 500 Cherokees arrived in Arkansas, many of them making the journey on their own keelboats. By the end of 1834, federal enrolling agent Benjamin F. Currey had convinced more than 1,000 Cherokee to take federal assistance and leave for Arkansas while another 200 did so under their own expense.³¹

By October 1830, it seemed that the federal government’s martial interposition between the state of Georgia and the Cherokee Indians had come to an end. In its place, the government had decided upon a strategy of Indian removal. Though the switch in policy came from President Jackson and his drive to secure as much land for the burgeoning white republic as possible, it also represented the shift in state policy. The Cherokee realized that Georgia’s empowered stance combined with Jackson’s insistence on Indian removal placed them in a tenuous position that

³⁰ Lewis Cass to Wilson Lumpkin, March 23, 1835, *Georgia Military Affairs*, 6:252.

³¹ Cherokee Treaty of 1819, in Charles J. Kappler, ed. *Indian Affairs: Laws and Treaties* (Washington: Government Printing Office, 1904): 2: 177-181. Because the national council opposed a similar treaty ratified in 1817, federal negotiators had to secure larger payments and more concessions before the Cherokee commenced with removal. Still, opposition persisted through 1838. On the Cherokee in Arkansas Territory, see Charles Russell Logan, *The Promised Land: The Cherokee, Arkansas, and Removal 1794-1839* (Little Rock: Arkansas Historic Preservation Program, 1997), especially 5-21; 23, 28.

imperiled their nationhood. To stay Georgia's extension law and to compel the federal government to uphold the intercourse acts, the Cherokee determined to file suit against the state. On the advice of several northern supporters, the Cherokee hired former Attorney General William Wirt to bring their case to federal court. As a result, federal interdiction to preserve Cherokee boundaries moved from direct troop involvement to the courtroom and precipitated a shift in federal policy away from acculturation and towards removal.

Wirt brought two cases before the Supreme Court, *Cherokee Nation v. Georgia* and *Worcester v. Georgia*. In *Cherokee Nation*, Wirt attempted to have the Supreme Court issue an injunction against Georgia's extension law thereby preventing it from asserting state law in Cherokee territory on the basis that the Cherokee Nation, through numerous treaties with the federal government, was a sovereign, foreign power. Chief Justice John Marshall and most of the Court's seven justices disagreed. Rather than an independent state, Marshall declared that the relationship between the Cherokee to the United States "resembles that of a ward to his guardian." Through his decision, Marshall was attempting to delineate the nature of the federal-Indian relationship as it pertained to the Cherokee, and while he was willing to deny them their injunction he readily admitted that the federal government, and not the states, controlled Indian policy. In spite of its insistence that Georgia had no right to extend its jurisdiction over the Cherokee, the court was powerless to prevent it. According to Marshall, the bill of injunction filed by Wirt would have required the court "to control the legislature of Georgia, and to restrain the exertion of its physical force." Such an act, according to Marshall, lay outside of the court's purview and would have constituted a gross misapplication of the court's power. "The propriety of such an interposition . . . savours too much of the exercise of political power to be within the proper provinces of the judicial department." It also recognized that Jackson had withdrawn

federal troops and that Georgia held the preponderance of power in the borderlands, as well as the political will to exercise it.³²

Once Governor Gilmer requested that President Jackson withdraw federal troops, it became evident that the state would take up the mantle of ordering the frontier. With the various provisions of the supremacy law soon to go into effect, the state had all legal authority it felt necessary to begin a campaign of regulation against miners and Cherokee residents alike. Though the federal troops had proved mostly effective at clearing the mines, their efforts at limiting the liberty of white men proved a divisive strategy that only enflamed state's rights partisans. As soon as Jackson sent Major Wager's 4th Infantry into their winter quarters, the owner of the garrison, Jacob Scudder, received word from the governor that the state had requisitioned the use of Scudder's property to house a newly created state militia force. "The Legislature now in session has authorized me to raise a Guard for the protection of the gold mines, and enforcing the laws in the Cherokee territory," Gilmer informed Scudder. Noting that the "quarters erected by the U.S. Troops have been placed in your charge," Gilmer apprised Scudder that the new Guard would garrison at the fort on his property.³³ With the creation of the Guard, the state sought to do what the federal government could not: provide order to the gold region and hasten the removal of the Cherokee.

³² *The Cherokee Nation v. The State of Georgia*, 30 U.S. (5 Peters), 1-80 (1831).

³³ George R. Gilmer to Jacob Scudder, December 20, 1830, *Governor's Letter Book*, GDAH.

CHAPTER FIVE: THE GEORGIA GUARD AND THE POLITICS OF ORDER, 1830-1832

For the federal government in the nineteenth century to remain out of sight, state governments had to assume a variety of functions and powers. Having requested the withdrawal of federal forces in October 1830, Governor Gilmer needed a way for the state to assert its sovereignty and regulate the social environs of the Cherokee-Georgia borderlands. The legislature by 1830 had already passed a series of laws that supplied legal jurisdiction over the Cherokee Nation; Gilmer needed a way to make backcountry inhabitants obey the laws. In that same legislative session, the state general assembly authorized the governor to create a military force called the Georgia Guard that would, theoretically, work in concert with civil authorities. When it mustered into service in January 1831, the Guard consisted of a scant forty men; its impact, moreover, belied its small size. Charged with protecting the gold mines, the Guard concentrated its efforts on intruders and native miners. Quickly, though, it became a vehicle for the governor to wage a campaign of intimidation and coercion against Cherokee leaders and, more controversially, ministers spreading the Gospel among the Cherokee. The Guard's actions, like those of the federal troops, quickly became liabilities. Especially bothersome were its violent actions against white citizens. To capitalize on the Guard's ruthless behavior, the Clark faction declared the Guard anathema to republican virtue and egalitarian principles. Gilmer did not ingratiate himself with voters either, when he declared the gold mines off limits to white citizens so he could implement an expansive policy of internal improvements. Gilmer's seemingly aloof policy made him appear out of touch with the electorate and its desire for land. Further, by overlooking the Guard's use of violence against whites, Gilmer appeared to favor the rights of the Cherokee over Georgia's—a perception that hurt his political career.

In the autumn of 1830, a state militiaman and self-proclaimed “humble individual” who only wanted to serve the “Common good,” wrote to Gilmer with the intent of convincing the governor that the gold mines needed a military force to secure their treasures. “[T]ill Some Troops under [Georgia’s] own authority are put out, for the individual purpose of Surpressing all Whether Indian or White man,” intruders would continue to plunder the mines and nearby residents would continue to fear Indian attacks. The letter’s author, Charles H. Nelson, had no compunction stating that the presence of the federal troops served as more of a “protection than a detriment” to the intruders because they had no knowledge of the backcountry. The “hordes of Lawless white[s] that infested the Territory,” according to Nelson, needed only to “find a place of Some Secrecy (and they are abundant) to pursue their depredations.” Employing troops from Georgia in the gold region would fill any gold seekers with “greater terror,” and compel them to “respect that authority for which they now feel so much Contempt.” Nelson argued that a force of two hundred mounted men would suffice. Gilmer heeded most of Nelson’s advice—aside from the vast number sought by the overeager man—and even named Nelson a colonel and sub-commander of the newly minted Georgia Guard, a decision he would later regret.¹

With the passage of the supremacy law in December 1830, the state legislature, backed by the governor, announced their willingness to bring order to the backcountry through the use of a military force. Encouraged by the Supreme Court’s decision in *Cherokee Nation v. Georgia*, the state’s new formulation of sovereignty did more than extend jurisdiction into the backcountry. The law also sought ways to outlaw the Cherokee government and regulate the people living in the gold region. The supremacy law proclaimed it unlawful for anyone “under pretext of authority from the Cherokee tribe,” to convene “for the purpose of making laws, orders, or

¹ Charles H. Nelson to George R. Gilmer, October 20, 1830 in J.E. Hays, ed. *Georgia Military Affairs* WPA project no. 5993 (Atlanta: Georgia Archives, 1940), 6:43-44. Other backcountry residents connected to the state militia also called for a similar force. See Samuel A. Wales to George R. Gilmer, July 27, 1830, *ibid.*, 6: 219-220.

regulations.” The law further empowered the state to eject all whites residing in the gold region unless they swore an oath upholding the state’s constitution and acquired a residency permit from the governor or his designated agent. The last provision did not extend to any white women or white men under the age of twenty-one, federal agents or employees, or those who rented Cherokee land legally from the state. Those arrested for disobeying the law faced a stint in the state penitentiary doing hard labor.² In the battle over sovereignty in what Georgia considered its land, Gilmer had confidently seized control by criminalizing the efforts of the Cherokee National Council in its efforts to retain suzerainty over its territory. The sprawling directive offered to the governor by the legislature, however, proved difficult to fulfill, especially since federal troops had been withdrawn at the governor’s request.

To enforce the law, the legislature empowered Gilmer to create a military unit for the “the enforcement of the laws of force with the Cherokee nation.” By designating the supremacy law the “laws of force” the legislature did not attempt to hide its strategy for asserting state sovereignty, but it did attempt to build safeguards into the legislation so a backcountry military force could not act in unauthorized ways. Gilmer had previously declared that he wanted civil law to create order, but the sheer scope of the intrusion made that goal unrealistic. With the legislature’s cooperation, the supremacy law relied upon force first and civil authority second. To carry out the supremacy law, the legislature requisitioned \$20,000 for a sixty-man militia unit called the Georgia Guard “for the protection of the gold mines,” a catch-all phrase that furnished the Guard with expansive police powers, including the regulation of white intruders until civil

² “An Act to prevent the exercise of assumed and arbitrary power...” *Acts of the General Assembly of the State of Georgia*, December 22, 1830, 114-117. http://neptune3.galib.uga.edu/sspcgi-bin/legis-idx.pl?session_id=7f000001&type=law&byte=10514952&lawent=1&filt=doc (Accessed August 28, 2011).

authority could provide permanent order. The final version of the legislation took effect on March 1, 1831.³

To allow the Guard more leeway when it came to protecting the gold mines, the legislature passed another law that criminalized digging for gold, employing others to dig for gold, or carrying gold away from the mines. This made anyone even remotely connected to the illicit mining of gold culpable and exposed offenders to the Guard. To protect the gold mines, the Guard first had to clear it of anyone, white or Cherokee, who sought to prospect. When it began policing the backcountry population in and around the gold mines, the Guard hunted down intruders whom they suspected of taking gold and intimidating anyone they saw as a threat to state sovereignty. In particular, the Guard targeted Indian leaders, especially mixed-race ones, as it sought to convince its victims that removal was their best and safest option. The protection of the gold mines gave the Guard latitude in who it considered a threat to state sovereignty and who it would deem an intruder. In other words, the Guard had *carte blanche* to regulate the backcountry population as it saw fit. Regulation through force, intimidation, and violence, state leaders hoped, would bring order to a turbulent setting. Of critical importance, the legislature envisioned the Guard as a force that would bolster civil authority but not replace it as the prime source of law and order. The Guard, therefore, was partnered with civil law, but placed in a subservient position. The agent appointed by the governor to lead the Guard was also limited in his authority. The legislation restricted the agent and created his duties specifically “for the purpose of assisting in the enforcement of the laws of this State,” not superseding them.⁴

Over the next five years, the legislature authorized the creation of four different Georgia

³ Ibid., 116.

⁴ On the requisition of funds, see “An Act to authorize the governor to take possession of the gold, silver, and other mines...” *Acts of the General Assembly*, December 2, 1830, 154-156. http://neptune3.galib.uga.edu/_ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=10611279&lawcnt=1&filt=doc (Accessed August 28, 2011).

Guards. Each iteration of the Guard had a different commander and the membership changed regularly. Over time, the location that the Guard patrolled also changed to meet the exigencies of frontier settlement. For example, the first Guard focused its efforts near the gold mines in what would become Lumpkin and Forsyth Counties. By 1835 and 1836, the Guard had shifted its operation to Murray County for political reasons, mostly because the Cherokee capital of New Echota was located there, and it proved a convenient way to keep tabs on—or coerce—native leaders. It is important to recognize that the Guard was not part of the Georgia militia system. Though its second commander, John Coffee, held the rank of major general in the Georgia militia, the Guard received funding and manpower from different sources. Recruits in the Guard—with the exception of the commanding positions, which were gubernatorial appointments—joined up voluntarily. Unlike regular militia companies that drew men from local captain’s districts in each county, each Guard company counted soldiers from all over the state in its ranks. Because the commanders were political appointments, each company of the Guard became a vehicle for state policy and therefore viewed as highly politicized fighting forces. In the end, 1836, this proved its undoing and convinced the legislature to deny funding to any future units and to rely instead on county militias.

The first Georgia Guard created by the legislature began recruitment efforts on January 1, 1831. In two weeks’ time, the roster had been filled and the forty recruits headed north to establish their headquarters. The men had an easy first few weeks, though that soon changed. They inhabited Camp Eaton—the barracks constructed by the federal troops at Scudder’s Inn—and in a move that signaled Georgia’s assumption of military power in the backcountry, the Guard rechristened their barracks Camp Gilmer. Of the forty men enlisted with the Guard, nineteen came from areas that did not adjoin the Cherokee nation. Including Sanford, three men came from Milledgeville and the rest of Baldwin County while Wilkes County, the home of

Charles H. Nelson, supplied six additional recruits. Clarke and Jackson Counties combined to send ten men into the Guard. The majority of the men serving, however, came not from more established counties, but from border counties. Sixteen men enlisted from Hall County, another five from DeKalb and Gwinnet. That most of the men who joined the Guard lived in close proximity to the Cherokee should not be surprising. What does warrant mention, though, is the high number of men who had to travel long distances to join up. More than likely, these men had already moved to Hall County when they enlisted, drawn by the availability of cheap frontier land, though some may have come at the behest of the commanders as a way to reward their friends with important positions that could lead to wealth later on in life.⁵

Indeed, such a selective and important service like the Guard had obvious benefits. Those in command stood to benefit the most from their service. The Guard's command consisted of John W.A. Sanford, a rich planter from outside of Milledgeville who secured his post as patronage for his staunch support of the governor. Sanford acted as more of a quartermaster than military commander and rarely commanded troops in the field. That task fell to Charles H. Nelson, whom Gilmer would later characterize as a "brave but violent man." Both Sanford and Nelson wanted to please the governor and therefore took a hard line when it came to clearing the gold mines. Sanford later won a Congressional seat and served as a major general in the Creek War, a position also held by Nelson.⁶ The enlisted men benefitted as well. Of the forty men enlisted in the Guard, eighteen won gold claims and nine won land claims, which meant that 68

⁵ For the roster of Sanford's Guard, see *John W.A. Sanford Letter Book*, Drawer 21, Reel 53, Georgia Division of Archives and History, Morrow, GA.

⁶ George R. Gilmer, *Sketches of Some of the First Settlers of Upper Georgia...* (Americus, GA: Americus Books Company, 1926), 297. Sanford and Nelson enjoyed other positions of authority after their time with the Guard. Sanford was appointed president of the Bank of Chattahoochee. It soon suspended specie payments and Sanford, chastened, resigned. On Sanford's career after the Guard, see *Athens Southern Banner*, November 23, 1833, 3, April 19, 1834, 2, and October 18, 1834, 3. Nelson earned a fierce reputation as sub-commander of the Guard and during the Creek War, a reputation that earned him an appointment as the keeper of the penitentiary. See *Macon Telegraph*, January 14, 1840, 2.

percent of the enlisted men enjoyed the support of the state. Sanford proved truly fortunate in the 1832 land and gold lotteries, winning one of each. In comparison, only about 21 percent of all participants state-wide won a land lottery draw while fewer than 27 percent of participants won a gold claim. Many of the guardsmen bettered their situation in the decade after 1830 thanks in large part to their success in the lottery. The 1832 land and gold lotteries were marred with corruption, so it is not entirely implausible that the guardsmen had an unfair advantage over those who did not serve, though no documentary evidence corroborates this.⁷

One could argue, as Sanford did, that it was not military service that propelled members of the Guard to success, but traits already present exhibited by their willingness to enlist. In a letter to the governor reporting on his early progress in recruitment efforts, Sanford noted the constitution of his troopers, especially their “hale and athletic” countenance. Further, each recruit had to supply testimonials of their good character. Most important to Sanford, each of the men had an abundance “in that most essential requisite of the soldier—courage.” The commander of the Guard also had the benefit of choice when he selected his soldiers. Noting that a flood of recruits offered their services “with astonishing eagerness,” he had the luxury of choosing only those who exhibited the “best character.” Character separated the guardsmen from other civilians, especially intruders who had been characterized as degenerate and near-savage white men. In the honor-bound world of the frontier South, the character of a man

⁷ In addition to the eighteen enlisted men who won gold claims, another two were potential winners but they had common names that did not distinguish them from others. Similarly, of the nine possible land winners, at least one other guardsman could have been a lottery winner. For land lottery winners, see James F. Smith, *The Cherokee Land Lottery in Georgia* (1991; New York: Harper & Bros., 1830). A compilation of gold lottery winners has been compiled by the noted local historian S. Emmet Lucas. See his *The 1832 Gold Lottery of Georgia: Containing A List of the Fortunate Drawers in Said Lottery* (Easley, SC: Southern Historical Press, 1988). By 1840, Nelson had been appointed as warden to the state penitentiary. For the overall numbers of participants in the 1832 lotteries, see David Williams, *The Georgia Gold Rush: Twenty-Niners, Cherokees, and Gold Fever* (Columbia: University of South Carolina Press, 1993), 52. Noted for its corruption, it would not have been impossible for lottery officials, at the behest of state leaders, to reward guardsmen with winning draws, though aside from the high proportion of winners no evidence corroborates these findings.

counted for much.⁸

From its inception in January 1831, the Guard wholeheartedly set about its task of protecting the gold mines. Only a few days after it mustered for duty, Sanford sent Col. Nelson and a squadron of fourteen guardsmen on a march to the upper mines “with instructions to destroy every species of gold-digging machinery, to raze every camp or building heretofore occupied by the miners, and to drive from the Nation all that class of people” still intruding on the gold mines. On January 17, Nelson and his small detachment returned to the newly minted Camp Gilmer at Scudder’s Mill and brought with them troubling news. In his report to the governor, Sanford applauded Nelson for the completion of his march, but regrettably, had to add that Nelson and his men ran afoul of “difficulties of the most serious and embarrassing nature.”⁹

Once Nelson and his men entered the gold region, they arrested eleven white men engaged in mining. En route to their headquarters to return the prisoners, they met unexpected resistance. The “friends and former associates” of the arrested men “resolved upon their release” and laid an ambush for the Guard as it headed back across the Chestatee. Sanford’s account of the event at this point became confused. He first intimated that the ambush happened by surprise, and Col. Nelson only became informed of the melee when “the Sergeant commanding the rear, brought intelligence of it being attacked.” In the same letter, Sanford made it appear that rather than a surprise attack, the guardsmen, with their prisoners in tow, passed through a gauntlet of miners, fifty or sixty in number, who had placed obstacles in the river. Ordering his troops not to provoke the miners, Nelson advised his men to maintain “a cautious and circumspect deportment.” This last statement from Nelson, however, showed that the miners

⁸ John W.A. Sanford to George R. Gilmer, January 15, 1831, *John W.A. Sanford Letter Book*, GDAH.

⁹ John W.A. Sanford to George R. Gilmer, January 15, 1831; John W.A. Sanford to George R. Gilmer, January 22, 1831, both in *ibid.*

probably had been waiting on the Guard's return and anticipated a trooper to provide provocation.¹⁰

Maintaining composure proved difficult for the guardsmen, especially in light of the actions of one particular miner. Called "the vilest of the vile" by Sanford, this miner proved adept at raising the ire of the Guard when he "professed the utmost contempt for Georgia, her laws, her officers, [and] denied her jurisdiction over this territory." Such an affront to the state's integrity angered one of the guardsmen, who moved to silence the intruder. Sensing the attack, the assembly of miners, "as if by preconcert," began hurling rocks, sticks, and "every species of missile" they could find at the Guard. In the ensuing fight, the man who had verbally abused the state received several bayonet wounds. Sanford expressed remorse when he learned that the wounds were not mortal and the intruder "was not likely to experience the fate so richly merited by his infamous life." Perhaps the intruders began the encounter at Leather's Ford, but they certainly came out on the losing side.¹¹

The intruders, after suffering at the hands of the Guard, sought the protection of civil authorities. Soon after the fight at Leather's Ford, the miners abused by Nelson and his contingent swore affidavits before a judge, the first step in filing charges against individual guardsmen for their actions in the brawl. The miner's version of events differed greatly from those in Sanford's official report. Mark Castelberry, an intruder in the backcountry, swore an affidavit before a Hall County justice of the peace that offered an alternate interpretation of events at Leather's Ford. The Guard, in Castleberry's account, began hostilities when another intruder, Ligon, the so-called "vilest of the vile," inquired of Sergeant Henderson as to the fate of the prisoners being hauled off. Henderson and the men under his direct command had lingered

¹⁰ John W.A. Sanford to George R. Gilmer, January 22, 1831, *ibid.*

¹¹ *Ibid.*

behind their comrades to “get their Canteens or Flasks filled with spirits” and did not want to answer the man’s question. When one of the guardsmen replied that Ligon could not ask questions, he replied testily that “he would speak when he pleased.” To quiet the dissent brewing among the miners, Henderson threatened to “blow a load thro’ Ligon” and presented his cocked musket, aimed squarely at Ligon’s head. Ligon backed down, claiming that he did not have a musket with which to defend himself; Henderson rode off to find his superior officer. When Henderson, Nelson, and the rest of the Guard returned, the miners had crowded together while the guardsmen searched for Ligon. In his stead, they found a man who resembled him and Nelson and the rest of the troops “thrust him with their Bayonets severly three or four times and ordered the old man to surrender.” When he refused, the wounded old man, Taylor, was stabbed again at Nelson’s order. Despite his wounds, Taylor turned and ran toward the safety of the crowd of intruders, so Nelson commanded his men to fire. One of the musket balls struck Taylor who cried out that he “was a Dead man.” However, once the Guard continued on its path the intruders found that Taylor had survived the Guard’s “butchering.”¹²

The two different versions of the violent encounter at Leather’s Ford showed the confusing nature of life in the backcountry. Sanford certainly had a reason to make it appear that the miners had planned their attack against the Guard; the miners had motive enough to claim that they had been the innocent victims of the Guard’s abuse. Such obfuscation served neither side, for it set the civil authority against the Guard and made the Guard more direct in its

¹² Affidavit of Mark Castelberry, January 26, 1831 in *Georgia Military Affairs*, 6:84-85. One report from Hall County, sent to the governor by “a great many of the most respectable men in this county who think you should be fully apprized of the conduct of the Guard...toward the people of this county,” supported the information presented to the governor in the affidavit. See Robert Mitchell to George R. Gilmer, January 28, 1831 in J.E. Hays, ed., *Cherokee Indian Letters, Talks and Treaties, 1786-1838* WPA project no. 4341 (Atlanta: Georgia Archives, 1939), 3:266. Gilmer inherently rejected the information presented in Castelberry’s affidavit, and encouraged a backcountry lawyer to forego conducting an investigation into its accuracy, and instead urged him to focus on uniting “the people in protecting the gold mines.” See George R. Gilmer to Robert Mitchell, February 3, 1831 in Gilmer, *Sketches*, 300.

dealings with the intruders. What is certain is that the Guard came away the victor at Leather's Ford because of superior leadership and weaponry. It did not hurt that they had the full force of state law behind them. When Gilmer learned of the actions at the Guard, he did nothing to punish his hand-chosen commander and gave little credence to the complaints of the intruders.

The violence wrought by the Guard appeared to bother the guardsmen little. The stern actions taken at the ford brought a brief reprieve to Sanford and his men. "Its good effects have already been experienced, for I understand that no less than seventy of these desperate and abandoned wretches have suddenly disappeared from their former haunts," he informed the governor. If the intruders appeared less than willing to take violent measures against the Guard, they channeled their frustrations into public and political protest. In spite of the apparent retreat witnessed by Sanford, the Guard's duty became more difficult because a "hue and cry against the guard for its conduct" had spread "far and wide thru the country." Other Georgians agreed and warned Sanford regarding the Guard's precarious situation. In Hall County, Hines Holt Jr. apprised Sanford of the "hostile feeling towards the guard in this County," but urged Sanford to continue his firm stance against the intruders. "[T]he most rigid & uncompromising course will be the most speedy & effectual method of allaying it." More appalling to Holt, however, was the way in which the Guard's actions led backcountry residents to disparage "the Legislature who passed the Laws, the Gov. who sanctioned them, and the Guard who were endeavoring to support them most outrageously vilified & abused." The direct connection between the legislature and the Guard politicized its violence against whites.¹³

In an attempt to regain some support from voters, Gilmer and his supporters employed familiar tropes to justify the actions of Sanford's Guard. The most familiar rhetorical tactic

¹³ John W.A. Sanford to George R. Gilmer, January 22, 1831 in *John W.A. Sanford Letter Book*, GDAH; Hines Holt Jr. to John W.A. Sanford, June 20, 1831 in Louise Hays, ed. *Georgia Military Affairs*, 6: 74-75.

employed by the Troup faction concerned the character of the “disorderly sort,” though they added new flourishes by concluding that the majority of the intruders did not originate from Georgia but from the surrounding states. Sanford reassured Gilmer that those who did not obey the supremacy law “are generally considered the refuse [of] Society of the neighbouring States the abandoned and profligate, embodying in the beggarly elements of vice and Corruption, and all alike reckless of Character.” Gilmer concurred in Sanford’s opinion on the origin of the intruders and wrote to one supporter about the nature of the miners and why he felt the state could utilize increased force. “A large part of those from other States were so employed,” and they constituted “the most dissolute and abandoned class of society.” “Such persons,” Gilmer argued, “cannot be restrained from continuing to search for gold, notwithstanding the prohibition by law, but by force and punishment.” For Gilmer and Sanford, military force was justifiable against a class of whites who did not deserve the rights granted to law-abiding citizens. Likewise, the fact that many of the intruders reportedly hailed from other states helped convince the governor that the disorderly needed a firm administration of state law.¹⁴

Sanford confirmed the “extreme repugnance” expressed by frontier whites to the presence of the Guard and warned the governor of the likelihood of a violent outburst. “[N]othing, in my opinion, prevents its violent manifestation, but the paucity of their number.” In a letter to all of the state militia commanders in the border counties, Gilmer encouraged the formation of militia companies to aid the Guard with the expulsion of “vicious & refractory white men” residing with the Cherokee, who, because of their poor character would no doubt resort to violence when confronted by the Guard. Gilmer even wrote to Charles H. Nelson to help sustain his commander in the face of withering criticism. In periods of “high party excitement” Gilmer

¹⁴ John W.A. Sanford to George R. Gilmer, January 22, 1831, *John W.A. Sanford Letter Book*; George R. Gilmer to Robert Mitchell, February 3, 1831 in Gilmer, *Sketches*, 299.

warned, “all public men, especially if their stations are elevated on employment connected with important interests,” should expect “abuse & calumny.” In spite of the public criticism, men of their standing “should be wanting of patriotism if such treatment drove us from serving our country.” By supporting Nelson, Gilmer acknowledged the commander’s usefulness despite his violent tactics.¹⁵

The Guard’s presence in the backcountry, designed to preserve the common peace, instead destabilized an already precarious region. As opposition continued to mount against the Guard, Sanford and Gilmer struggled to salvage its reputation. Sanford reassured Gilmer that he and his men would continue to carry out their charge despite “popular clamor or vulgar misrepresentation.” As the weather in January and February worsened, Sanford could only take solace in the fact that the Guard had achieved some measure of support in the backcountry. The Guard’s conduct “as far as it has been rightly understood or properly explained has received the decided approbation of the most orderly and respectable portion of the community.” Sanford’s meaning was unmistakable. The “orderly” portion of the white frontier population who observed the law and resisted the temptation of digging for gold appreciated and supported the actions of the Guard. Those who sought to break the law spread false information regarding the Guard’s activities and therefore deserved prosecution under the supremacy law. Only when the frontier population respected the law and those who enforced it would the borderlands know order.¹⁶

Sanford’s attempt to coerce respect for the law became increasingly difficult because of uncooperative weather and a cadre of intruders who had no intention of being denied quick riches. After the incident at Leather’s Ford, the Guard continuously patrolled the gold region.

¹⁵ John W.A. Sanford to George R. Gilmer, January 29, 1831, *John W.A. Sanford Letter Book*; George R. Gilmer to General William Ezzard, et al. January 15, 1831, *Governor’s Letter Book, November 10, 1829-June 29, 1831*, Drawer 62, Box 64, GDAH; George R. Gilmer to Charles H. Nelson, March 10, 1831, *ibid*.

¹⁶ John W.A. Sanford to George R. Gilmer, February 7, 1831, *ibid*.

Through February and March, however, it had little success apprehending intruders. Much of its frustration stemmed from the wariness of the miners. They had become astute observers of the Guard's movements, and their network allowed for rapid communication to warn gold-diggers of the Guard's approach. In one expedition in early March, Nelson and a squad of guardsmen had difficulty rounding up any intruders because of the "vigilance of their spies, who watched our movements and conveyed intelligence of them to the gold-diggers." Even under cover of darkness, the network of spies screened the Guard's probing maneuvers and managed to help one large gathering of intruders slip through Nelson's trap. When they arrived in the intruder's camp, the troopers found only emptiness and silence: "Not a light to be seen—not a mattock to be heard—nor a human being to be found," lamented Sanford.¹⁷

Aside from using force to expel miners, the Guard also concentrated its efforts on maintaining state boundaries and renting out Cherokee land to white settlers. In December 1830, the legislature passed a law instructing the governor to prepare for a land lottery that would give away the remaining Cherokee lands within state lines. Surveyors dispatched into Indian country to plat the land into districts, sections, and lots received protection from the Guard. Once the survey had been completed, the law stipulated that the state hold a lottery to award the land to the citizens who had resided in Georgia for at least four years. Though the lottery would not occur until October 1832, Gilmer hoped that by starting the process, he could once again find common footing with his constituents.

The 1830 lottery act, like its predecessors, was designed to strengthen the agrarian nature of the state, which, most Georgians agreed, would perpetuate the republican nature and virtuous character of the people. The majority of the 1830 legislation dealt with the qualifications for

¹⁷ John W.A. Sanford to George R. Gilmer, March 12, 1831, *John W.A. Sanford Letter Book*.

surveyors, the oaths they would take, and the penalties imposed on those who would attempt to stop them. Section 13 stipulated the number of draws open to each state resident and added additional draws for Revolutionary War veterans, widows with dependent children, and orphans. Although the legislation was very inclusive, it also prohibited certain people from participating in the lottery. Controversy arose when the legislature denied draws to anyone “either directly or indirectly concerned or interested with a certain horde of Thieves known as the Pony Club,” or individuals who “may have dug gold, silver, or any other metal,” or those who hired other people to do so. The lottery legislation also included stipulations that prevented members of the “disorderly” population from legally enjoying the promises of Cherokee land. To ensure that no Cherokee could retain their land, the legislature stipulated: “That no person or persons who are residents on any part of the lands contemplated to be disposed of by this act, shall be entitled to a draw or draws under any of its provisions.” The lottery legislation placed disorderly whites and Cherokees into the same undesirable category; neither proved fit for citizenship in a republic. Such a formulation also signaled the approach Gilmer would take in regulating the backcountry. Rather than focusing solely on disorderly whites, he would also send the Guard after the Cherokee.¹⁸

The Guard and its commander had other links to the perpetuation of an agrarian republic and the common peace. Before the state held the lottery, the commander of the Guard rented out fractional lots in the Cherokee Nation to white citizens. Most of Sanford’s time, in fact, involved renting land and keeping the peace between Cherokee residents and their new neighbors. “I have, as Agent on part of Georgia been directed by His Excellency the Governor to

¹⁸ “An Act to authorize the survey and disposition of lands within the limits of Georgia...” *Acts of the General Assembly of the State of Georgia*, December 21, 1830, 127-143. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=10543155&lawcnt=1&filt=doc> (Accessed October 18, 2010).

rent certain Creek and Cherokee improvements laying within its limits,” Sanford wrote to the Cherokee Agent Hugh Montgomery. Only three months into his tenure as commander of the Guard, Sanford had netted \$7,570 for the state by renting out fractional plots. By the end of 1831, over 208 separate families moved into the backcountry. The land was only rented to men, though 134 had wives and they brought with them 610 children. In all, over 950 Georgians rented land from the state and moved onto Cherokee land. While the vast majority farmed, others made their livings as merchants, blacksmiths, mechanics, millers, wheelwrights, and one man as a shoemaker.¹⁹

Of course, the land rented out by Sanford to prospective freeholders was still claimed by the Cherokee, and many of the plots paid for by white Georgians still had Cherokee residents. Land that lacked native residents but contained improvements made by its previous inhabitants was not open for white settlement, though Sanford admittedly disregarded that portion of the law. It should be noted that for years, both U.S. and state leaders had encouraged Indian removal because of the Indians’ “wastefulness” regarding land use. Now the state profited handsomely from improvements made by Cherokee farmers and rented out to whites. Not satisfied with Chief Justice Marshall’s ruling in *Cherokee Nation v. Georgia* regarding the status of the Cherokee as a “domestic, dependent nation,” the state’s rights jurist Augustin S. Clayton sought to strengthen the governor’s legal position when it came to appropriating Cherokee land. Proclaiming that the Cherokee had no right to the land because of their inefficient agricultural practices, he urged the governor to consider the relationship between the state and the Cherokee as that between “Landlord & tenant.” Because the Cherokee could not claim fee simple

¹⁹ John W.A. Sanford to Hugh Montgomery, January 27, 1831, *John W.A. Sanford Letter Book*; John W.A. Sanford to George R. Gilmer, April 1, 1831, *ibid.* For the list of families who rented land from Sanford (as well as a homemade remedy for diphtheria), see the last five pages of the *John W.A. Sanford Letter Book*.

ownership of the land and because their “ordinary method of cultivating lands” proved wasteful, they could not claim the land according to the law of nations. So on the one hand, Georgians felt entitled to Cherokee land because whites practiced a superior form of agriculture, but the state simultaneously engaged in a campaign of renting out Cherokee improvements, including plowed fields, corn cribs, homesteads, orchards, and fenced pastures, to white farmers who would benefit from the hard work of the supposedly inferior native farmers.²⁰

The model of “landlord and tenant” put into place by Clayton allowed the Guard to evict those who were not paying rent to the state—namely, the Cherokee—but also poor whites. When the weather turned warmer, a portion of the Guard, this time led by a different officer, Sergeant Jacob R. Brooks, resumed operations to expel the enemies of white republican order. Once again, the Guard sought to expel those of poor character and explicitly targeted the remnants of the Pony Club. Vowing to “expel the Pony Club from the Cherokee Territory,” Brooks announced publicly his intentions to remove white families who could not claim “GOOD CHARACTER” and vowed to protect the Indians “from the aggressions of Bad White men.” The *Cherokee Phoenix* soon attacked Brook’s position. After all, the paper claimed, the Guard had hand-picked those who could rent the improvements and intimated that the state was responsible for the longevity of the Club. “Has the Club been rooted out of the territory? Have they not rather been introduced into the nation?” Brooks’s insistence on going after the remnants of the Pony Club and other frontiersmen of poor reputation again prompted the Guard to regulate the backcountry.²¹

²⁰ Augustin S. Clayton to George R. Gilmer, June 11, 1830, *Georgia Military Affairs*, 6: 20. Clayton’s formulation here, ironically, was a rehash of the *Johnson v. McIntosh* decision, which strengthened the federal government’s role in dealing with Indians.

²¹ *Cherokee Phoenix*, March 3, 1831, 3.

The Guard not only sought out the Pony Club, but also any other whites who violated state law. In August, the governor received a report that made him think about whites from out of the state. “Since the state has extended her jurisdiction,” warned one concerned backcountry resident, “the violation of her Commercial laws is a matter of every day occurrence.” The supremacy law required all merchants who wished to trade within the Cherokee Nation to acquire a permit. The nominal licensing fee had more to do with Georgia’s insistence on sovereignty—and therefore the intercourse laws—and less to do with making money from the fees. Savvy merchants from Tennessee realized their advantage and swung into action. An assortment of “[p]eddlers, waggoners, citizens . . . from Tenn[essee] are constantly in motion violating the laws of Georgia” because they crossed the border, set up their shops in Georgia without acquiring the proper permits, and sold “all manner of produce and Merchant^{dz} foreign and domestic . . . they durst not sell at home without paying a high price for license.” As a result, Sanford had to spread his forces thin so he had less control over his men and the officers. By the end of the month, his men had constructed, or commandeered, rather, two smaller posts in addition to their headquarters at Scudder’s Mill, including one that had previously served as a station for missionaries. Hoping that less centralization would help his men better patrol the “circumjacent & intermediate country,” Sanford soon came to see the distance between him and his men as a detriment because he lacked direct control over their movements. Still, the new strategy proved effective. A week later, Sanford reported to Gilmer on the Guard’s successes. Since their arrival at the new posts, the Guard had entirely stopped trespassors upon the mines.²²

²² W. J. Tavern to George R. Gilmer, August 6, 1831 in Gilmer, *Sketches*, 279-280; John W.A. Sanford to George R. Gilmer, August 22, 1831, *Georgia Military Affairs*, 6:85b; John W.A. Sanford to George R. Gilmer, August 29, 1831, *John W.A. Sanford Letter Book*, GDAH.

The Guard's improvisation showed that Sanford had some sense of military tactics. No doubt the governor resented the intrusion more than the loss of revenue from unauthorized merchants, but he likely applauded the news that they had been ejected. The threat from out-of-state merchants, though minor and nonviolent, posed a threat to the state's pretense of sovereignty. By August, when the Guard focused its attention on the merchants, official communication between the governor and the colonel lacked any sort of detail regarding the Guard's actions. With less oversight from their commander, it stands to reason that the guardsmen took liberties when they carried out their duties. If his communiqués failed to mention how the Guard specifically dealt with the merchants or with other intruders, it meant that Sanford either did not know, or, more likely, did not let the governor know as a precaution. The lack of detail in his report quite possibly arose from attempts to obfuscate what had occurred to limit backlash against his unit.

From January to August 1831, the Georgia Guard had set out to regulate the social world of frontier whites. Having clashed with miners at Leather's Ford, chased reported intruders all across the backcountry, rented out lots to settlers from Georgia, and expelled hapless merchants from Indian country, the Guard had effectively done its duty. However, white intruders did not constitute the Guard's sole set of responsibilities. Sanford and his men increasingly came into contact with Cherokee, especially as they ramped up their efforts to install white citizens on fractional lots. According to an early summer report in the Milledgeville *Federal Union*, the Guard had practiced "undue and unlawful severities over the Cherokees, and others residing on the Cherokee soil." The paper's editor attributed such behavior to a lack of oversight by the government because of the distance between it and the Guard. He never enumerated, however, what the abuses entailed. Without details from his commander, Gilmer could not mount a sufficient defense of the Guard. Rumors that an out of control military force, acting on its own

accord in ways “not sanctioned by the government,” proved worrisome. If accurate, the Guard’s “improper violence” offended the “honor of the State, as well as the principles of humanity,” and required the punishment of the offenders.²³ Sanford balked at such claims in an August 1 response. His account of the Guard’s movements made them seem nothing short of demure. The mines “have been visited” by the Guard, Sanford wrote, “and have been found generally free from intrusion.” He reiterated that the Guard would not lower its vigilance or patrols as it worked to limit the intruders from operating at a “greater magnitude.” In spite of Sanford’s insistence that the gold mines were free from intruders and that his men had acted appropriately, political opposition to their actions continued to mount.²⁴

One issue that usually did not draw much mention in the public debate was white violence against the Cherokee. Backcountry violence was normally noteworthy only when “savages” murdered innocent white settlers. So when the *Federal Union* mentioned the Guard’s violence against the Cherokee, it meant that something noteworthy had occurred. While the Guard pursued white intruders, it also took actions against native inhabitants whom the state also prohibited from mining. Georgia’s leaders did not shy away from their intentions, either. In a letter to Gilmer that the *Phoenix* reprinted, Sanford laid out the best-case scenario for the Cherokee. Knowing that the Cherokee leaders, “conscious of their own impotency,” had to rely upon the Supreme Court to assert their nationhood, Sanford predicted that the Cherokee leadership, “rather than longer submit to our dominion,” would instead look to a land “where they can without trouble or molestation exercise their own” authority. To ensure such an outcome, Georgia had to continue its present course, which had increased the “disquietude in

²³ Milledgeville *Federal Union*, July 21, 1831 2.

²⁴ John W.A. Sanford to George R. Gilmer, August 1, 1831, *John W.A. Sanford Letter Book*, GDAH.

their ranks” to the “utter dismay of their counselors.” The Guard did more than patrol the mines hunting for intruders. Its actions showed that it actively sought to make life as difficult as possible for the Cherokee in order to convince the Cherokee that removal was the best option for the survival of their nation and way of life.²⁵

The Cherokee did not remain idle as they waited for the Supreme Court to make a final ruling on their sovereignty. Even though they claimed sovereignty, the supremacy act had outlawed any meeting of the National Council and prohibited the Cherokee from enforcing national laws. The Guard, furthermore, often appeared in Cherokee towns and villages and prevented the Cherokee from exercising any authority. Such appearances were not random, but concerted efforts by the Guard to exert Georgia’s supremacy over the native inhabitants. In early February 1831, Col. Nelson led a contingent of the Guard into the Cherokee village of Coosawatee, where he appeared “in his military costume, with his sword hanging at his side.” The armed company “in such military array, with muskets, pistols, swords, and all the implements of warfare, even to a drum dangling at the side of one of their number,” sought to tear down a toll gate on the federal road, but instead arrested the operator. The Cherokee Constitution of 1827 authorized native agents to collect tolls on roads leading into the Nation. Such structures implied sovereignty, a notion the state could not allow. “These are fearful times indeed,” warned Elias Boudinot, “if an honest citizen, attending to his business in his own premises, and in time of peace, may be invaded by an army!” In October, the Guard rode to New Echota hoping to catch members of National Council. The Guard, though, had been misinformed; the Council convened in Tennessee.²⁶

²⁵ John W.A. Sanford to George R. Gilmer, January 29, 1831, *ibid.*

²⁶ *Cherokee Phoenix*, February 12, 1831, 2; *Ibid*, October 7, 1831, 3.

To register their discontent with the lottery and the fact that the state planned on disposing native ground to whites, the Cherokee sought to exert some control over who could pass through their territory. When the first surveyors lugged their instruments into the backcountry, the Cherokee found and arrested them—a direct violation of the state law. Other surveyors also ran into trouble with Cherokee patrols, but by the beginning of July all but seven of the thirty-two surveying teams had reported back to Milledgeville, where they complained of “high mountains and big rattlesnakes,” but little else. One surveyor, F.A. Brown, did run into trouble when he met up with the Cherokee leader, David McNair. As the two men walked down the federal road, deep in conversation, the pair passed three more Cherokee men, all of whom appeared armed and, Brown assumed, “horse hunting.” Instead, McNair and the three men arrested the surveyor. “Brown, you know that this land belongs to us,” McNair warned him, “and that Georgians are taking it from us: No power on earth has the right to do this.” Claiming that he had orders from the National Council to arrest the surveyors, McNair took Brown and his aides into custody for violating the intercourse laws that prohibited the surveying in Indian country. Though he asked to be taken to a county court in Georgia where Brown knew he stood a good chance of a release, the Cherokee instead took him to Athens, Tennessee, where he went before a magistrate. The state judge rightfully recused himself from making a decision on a question of Indian policy and sent Brown to a federal judge in Knoxville. Prior to his departure, a superior court judge intervened and ordered his release because, he argued, Tennessee’s courts did not have jurisdiction for an event that occurred in Georgia. Gilmer did not order the Guard to arrest McNair and his cohorts, even though the law authorized him to do so.²⁷

²⁷ F.A. Brown to Wilson Lumpkin, September 15, 1831 in *Georgia Military Affairs*, 6: 163-172; *Macon Telegraph*, July 4, 1832, 3.

Though the governor expected the Guard to use force to regulate the gold country, he did not initially have a clear idea of which Cherokees should face the Guard's scrutiny. By February he had settled upon a strategy. Gilmer did acknowledge that the Guard should "keep the Indians quiet," but also recognized that "[t]heir rights should not only be respected, but protected with vigilance from violation." Gilmer then directed Sanford to assure anxious Cherokee leaders that the "disposition of the State" focused on the "arrest of every white man who may commit crimes affecting" the Cherokee. Admitting that some Cherokee had rights that needed protecting may have surprised many Georgians, but Gilmer's statement was one motivated by politics. "The State requires of the Cherokee submission to its authority, and is bound in return to protect them," Gilmer informed Sanford.²⁸ The "protection" offered by the Guard was only extended to a certain element of the Cherokee population, those who had submitted to state law and had agreed to enroll "voluntarily" for deportment to Arkansas. Those Cherokee who did not submit to state authority had to face the Guard's scrutiny. The Guard, by February 1831, began to actively intervene in Cherokee factionalism. It repressed those who spoke out against removal, and protected those who enrolled for emigration from the abuses of the anti-removal faction. By using violence to divide the Cherokee polity into two distinctive groups, Gilmer hoped that it would expedite the removal process of the entire Cherokee Nation.

For those Cherokee who resisted removal or continued searching for gold, violence ensued. For example, in early September 1831 a detachment of guardsmen shot at two Cherokee boys whom they suspected of digging for gold. During its pursuit of the two boys, the Guard came across another man who promptly "took to his heels." To prevent his escape, Sgt. Brooks ordered his men to fire. The first two shots missed. A third struck the man and wounded him

²⁸ George R. Gilmer to John W.A. Sanford, February 4, 1831 in Gilmer, *Sketches*, 301-302.

“dangerously.” On the same patrol, the Guard came across another man and shot him “thro’ the body,” a wound the guardsmen “suppose[d] to be mortal.” Such flagrant actions no doubt caused the Cherokee to reconsider their search for gold and reinforced the insecure and untenable situation forced upon the Cherokee Nation. It also demonstrated that the Guard saw the Cherokee as second-class citizens who did not deserve the dignity of a hearing before a judge. When it came to enforcing the supremacy law, the Guard had become judge, jury, and executioner.²⁹

Attacking individual Cherokees was one thing, but for the state to achieve mastery over the backcountry, it had to develop a strategy to deal with its leaders. For that reason, Gilmer also instructed the Guard to gather as much intelligence as possible on Cherokee leaders to solve a contradiction in the way he viewed Cherokee society. In one version, Gilmer saw the Cherokee as a divided society controlled by a mixed-race elite. Gilmer “consider[ed] it of some importance,” for Sanford to take note of the “particular history of the Chiefs of mixed blood who are at present influencing the conduct of the Cherokees.” The governor believed that a cabal of mixed-race Indians, who used the skills of civilization taught to them by Christian missionaries and northern anti-slavery advocates, had long delayed removal efforts. Their chokehold on power allowed them to control the Nation through arbitrary measures and “assumed authority.” For Gilmer, the government of mixed-race leaders had gained power by submitting the full-blooded Cherokee into “slavish dependence,” which they had no doubt learned from their “intercourse with vicious white men.” Contrary to that view, he likewise believed that the Cherokee, in spite of an infusion of Anglo-American stock, remained mired in savagery and

²⁹ John Ross to Hugh Montgomery, September 9, 1831 in *Papers of John Ross* (Norman: University of Oklahoma Press, 1985), 1:222-223.

custom. “Upon examination, it will be found that the Aboriginal people are as ignorant, thoughtless, and improvident, as formerly.”³⁰

In his reply to the governor, Sanford agreed that the offspring of “vicious” white men, known for their “infamous practices” during the Revolutionary War, had indeed corrupted the less worldly full-blooded Cherokee. Rather than join the American cause, these men had allied with the Cherokee and emulated their deeds of “horror & bloodshed” against white families living on the “unprotected & defenceless Frontier.” The mixed-race chiefs, descendants of “monsters of inequity” who were “guilty of every species of crime and abomination” known to “human society,” now sought to create a nation in the midst of the state. Georgia could not relent its sovereignty, Sanford argued, otherwise it would permit an immoral and violent community to subject state citizens to further outrages.³¹ Differentiating between a mixed-race political and economic elite that resisted removal and a poor, benighted full-blooded population was important for the governor’s strategy, for it showed him that the true power in the Cherokee Nation lay in acculturated leaders who had accumulated power that they codified in the Constitution of 1827. Even though the Cherokee elites, for all intents and purposes, had adopted southern cultural norms—including speech patterns and racial views regarding black slaves—their imitation was anything but flattering for the governor. White slaveholders and politicians presided over their constituents with disinterestedness and virtue, Cherokee leaders, Gilmer

³⁰ George R. Gilmer to John W.A. Sanford, June 15, 1831, *Governor’s Letter Book*; George R. Gilmer to Andrew Jackson, June 20, 1831, *ibid.*; George R. Gilmer Address to the Georgia General Assembly, December 8, 1830 in Gilmer, *Sketches*, 287; George R. Gilmer, “Message to the Legislature,” *ibid.*, 296. Ironically, many supporters of the Cherokee agreed with Gilmer’s assessment of a Cherokee dialectic. Christian missionaries reinforced the governor’s observation regarding the racial divisions within the Cherokee people, though allowed for some nuance where Gilmer wrote with certainty. “That the Indians of mixed blood should, *upon an average*, be in advance of the full Indians, was to be expected,” the ministers resolved, “& is undoubtedly true; although some Indians of full blood are in the foremost rank, and some of mixed blood help to bring up the rear.” See, “Resolution by Missionaries” January 1, 1831 in Jack Frederick Kilpatrick and Anna G. Kilpatrick, eds. *New Echota Letters: Contributions of Samuel Worcester to the Cherokee Phoenix* (Dallas: Southern Methodist University Press, 1968), 85.

³¹ John W.A. Sanford to George R. Gilmer, August 10, 1831, *John W.A. Sanford Letter Book*, GDAH.

pronounced, had a “love of power” that drove them to achieve mastery over poor and ignorant farmers. Rather than acculturated statesmen, Gilmer saw the Cherokee elites as oligarchs who ruled over their less fortunate brethren. The irony was lost on the slaveholding governor.

Enforcing the supremacy act became the most efficient way for the Guard to undermine the authority of the Cherokee Nation because it allowed the Guard to expel any white who had failed or refused to acquire a residency permit from the state. Their immediate targets were northern missionaries who supported the Cherokee ruling class and had political connections to politicians opposed to removal. When six missionaries, led by Samuel Worcester and Elizar Butler, refused to swear an oath of loyalty upholding state law, the commander of the Guard bristled: “I have not faith however that any thing short of the strong arm of the Law will remove those obstinate & incorrigible Christian pretenders.” The campaign of intimidation launched against the missionaries, the Guard’s longest sustained operation, brought scorn down on the state.³²

Beginning in March, the Guard, with the governor’s blessing, commenced intimidating and arresting various ministers stationed throughout the backcountry with the governor’s blessing. On March 7, they arrested Samuel A. Worcester, marched him more than one hundred miles but then released him on the order of a judge. Upset that their intimidation had not convinced the ministers to flee back to their northern homes, the governor unleashed the full fury of the Guard. “Spare no exertions to arrest them,” he urged Sanford. “If they are discharged by the Courts, or give bail, continue to arrest them for each repeated act of continued residence in violation to the law.” Since the ministers had chosen to ignore the laws, Gilmer implored the Guard to “make them feel their full weight.” The Guard’s campaign of intimidation against the

³² John W.A. Sanford to George R. Gilmer, May 28, 1831, *John W.A. Sanford Letter Book*, GDAH; George Gilmer to Andrew Jackson, December 8, 1830 in Gilmer, *Sketches*, 287.

missionaries came to fruition in early July when Gilmer ordered their arrest for violation of the supremacy laws. The Guard then fanned out across the Nation and took the ministers from their homes. Having refused to swear loyalty to the state, Worcester, a Congregationalist minister, and the other missionaries from the American Board of Commissioners for Foreign Missions, found themselves in the custody of the Guard, chained to their horses and being dragged off to stand trial at the Gwinnett County courthouse for their insubordination. Recounting his arrest, Worcester admitted that it began peacefully enough and that for the duration of his confinement at Camp Gilmer, most of the Georgia Guard treated him civility and some with kindness. Most of his abuse came at the hands of the Guard's two primary officers, Charles H. Nelson and Jacob R. Brooks.³³

Sergeant Brooks himself arrested Worcester, but when Worcester informed him that his wife was ill, Brooks allowed the minister to stay with his family for an additional night. The next morning, Worcester, Brooks, and two guardsmen travelled about ten miles and delivered Worcester to Col. Nelson. Almost immediately, Worcester noticed the changed behavior of the otherwise pleasant sergeant. Joined by another captured minister, J.J. Trott, the two were forced to march several miles. When a Methodist minister from Tennessee passed his arrested peers on the road, Sgt. Brooks let loose a "tremendous torrent of curses," which "could not be exceeded by any thing which the most depraved and polluted imagination could deceive," and ordered the minister to "flank off." When another minister, Wells, refused to depart the assemblage, Col. Nelson beat the minister on the head with a stick. When they stopped for the night, the ministers, chained "two by two," passed an uncomfortable and humiliating evening. The next day, a minister arrested from another part of the Cherokee Nation, Elizur Butler, suffered the most

³³ On the first arrest of Worcester by the "representatives of a Christian State," see Nevada Couch, "Pages from Cherokee Indian History," Address Delivered at the Commencement of the Worcester Academy, Vinita, Oklahoma, 1884; George R. Gilmer to John W.A. Sanford, June 17, 1831, in Gilmer, *Sketches*, 314.

abusive treatment at the hands of the Guard. They fastened a chain around his neck with a padlock and secured it to a horse. When he stumbled in the darkness, the horse dragged him by the neck. Taking some pity on the minister, the guardsmen placed him on the back of a horse he shared with a soldier. The horse, eventually stumbled under its load, and the two men went tumbling, though the guardsman, having suffered at least two broken ribs, was the worse for wear.³⁴

When the bedraggled ministers finally staggered into prison at Camp Gilmer, Brooks warned them: “This is where all the enemies of the State of Georgia will have to land—there and in hell.” The arrest occurred on July 7, and for the next eighteen days the ministers could not leave their cell nor did they see a judge. In spite of the cruelty directed at his fellow ministers, Worcester admitted “most of them treated us with civility and kindness.” Almost two weeks after their arrest, they appeared before the inferior court at Lawrenceville in Gwinnett County for a habeas corpus hearing. All of them were convicted, though they all posted bail with the exception of a Cherokee man arrested at the same time for digging gold. Having promised to reappear in Lawrenceville at the next session of the superior court, the ministers left the courthouse and returned to their families and congregations.³⁵

Even though Gilmer felt that backcountry whites were the source of most of the problems in the gold region, he still felt ambivalent about the use of violence against them. His outlook allowed him to extend the state’s “protection” and “forbearance” to those Cherokee who obeyed state laws, but he had little sympathy for whites who did not behave as the governor wished. “I owe it to the sovereignty of the State, to punish with the utmost rigor, the injurious and insolent

³⁴ The entire account of Guard’s arrest of Worcester and his fellow missionaries is recounted in *Cherokee Phoenix*, July 30, 1831, 1. A collection of Worcester’s letters from the Camp Gilmer jail, as well as many of his subsequent letters, are reprinted in Kilpatrick and Kilpatrick, eds. *New Echota Letters*, 95-128.

³⁵ *Cherokee Phoenix*, July 30, 1831, 1.

conduct of the whites who deny its power and oppose its authority,” he wrote to Sanford, including the ministers. When the Guard used the full extent of the power granted it, though, Gilmer became horrified when it exceeded what he saw as appropriate. When the governor read “statements from Worcester . . . charging Col. Nelson and some of the guard with the use of irons in confining them, and other illegal and unnecessary severe measures,” he initially discounted the missionaries’ story because of their “flagrantly criminal conduct.” He soon learned from a trusted source the accuracy of the report, and therefore reminded Sanford that the use of irons did not conform to the law. In the future, the governor charged the Guard’s leader, to remind the troops under his charge that “no other severity is authorized by the law.” Even if Gilmer desired order and had endorsed the Guard to use its “full weight” against the ministers, he had little stomach for the violence undertaken to secure his ideal society.³⁶

Georgia’s politicians had long argued that the path to order lay first in the settlement of native ground by white farmers who could then implement civil law. The nature of the Cherokee-Georgia borderlands made that peaceful and seamless transition of authority more difficult than Gilmer had anticipated. Instead of a more gentle civil law, he found himself willing to implement order at bayonet point because of whites whose character and conduct he disapproved of and could not understand. When he authorized the Guard to use its full weight against the ministers, he soon regretted the decision because of the lengths the guardsmen went to detain and berate peaceful men. Though perhaps it was acceptable to use irons to confine a slave or a hardened criminal, their use on ministers appalled the public. Almost immediately, the cry to remove Nelson and halt the actions of the Guard made it necessary for the overzealous commander to tender his resignation. Gilmer, surprisingly, did not accept it. “I have uniformly

³⁶ George R. Gilmer to John W.A. Sanford , September 3, 1831 in Milledgeville *Federal Union*, September 15, 1831, 2; George R. Gilmer to John W.A. Sanford, September 3, 1831 in Gilmer, *Sketches*, 324.

found you exceedingly active and faithful in the discharge of the public service which has been assigned to you," he wrote to Nelson. He continued, "[A]lthough I have not altogether approved of the means which were employed on one or two occasion, in enforcing the laws, I have never doubted but that your object was the performance of what you considered your duty." Yet Nelson's interpretation of his duty obviously differed from Gilmer's, who reminded the colonel: "confinement is never to be rendered severe upon prisoners for the purpose of punishment." Even as opposition mounted against the Guard, Gilmer did not accept Nelson's resignation probably because he knew it would not help his reputation in the upcoming election. Instead, his opponents would have made light of his disloyalty to a state agent, and perhaps of valuing the rights of the Cherokee more than the zeal and energy of a white man engaged in law enforcement.³⁷

The governor's condemnation of violent tactics came too late to stem the growing political discontent marshaled by the opposition. The "disgraceful and savage" treatment that the ministers received by the Guard, with orders from the governor, was without peer "in the annals of limited government." It would have been acceptable to apprehend the ministers, for the *Macon Telegraph* admitted that they were fugitives, but to "blackguard, beat, chain, and drag . . . ministers of the Gospel" proved intolerable. Moreover, opposition to his policies transcended state factionalism and spread to the northeast, where Christian opponents saw the Guard's brutality as a sure sign of southern arrogance. "At the hands of "Georgia Guards," wrote one editorialist in Massachusetts, the ministers "received treatment, which could be justified only toward the most desperate of felons." Wondering why the Guard's officers had not been put on trial for their abuses, the editorial declared that unless Georgia had "gone to the depth of

³⁷ George R. Gilmer to Charles H. Nelson, September 5, 1830 in Gilmer, *Sketches*, 325.

degradation” it would prove impossible for “any officer of the law thus to use his authority.” The editor had to wonder “in what state we must henceforth consider Georgia—whether as civilized or savage.”³⁸

Gilmer did try to extricate himself from the growing political mess by claiming that he had limited control over the Guard. He argued that those who opposed the brazenness of the Guard were “entirely mistaken as to my power over the Guard.” “I have no authority to punish them whatever may be their conduct,” he reasoned, because the guardsmen “are neither soldiers nor subject to military law.” Gilmer scrutinized the law that created the Guard and concluded that it prevented him from punishing individual guardsmen; only citizens could file suit against them. Even though the Guard had a distinct martial bearing, Gilmer tried to argue that his chosen avenue for employing order did not constitute a true military outfit. The Guard, rather than a regiment of militiamen who imposed order through martial law were substitutes for “sheriffs and Constables” because they could act “more efficiently.” Such a fine distinction was lost upon many of his detractors who began to see the Guard as an instrument of abuse symptomatic of the governor’s overbearing style of rule.³⁹

Hoping to improve his image, Gilmer sought to free the ministers who had just been convicted in Gwinnett County. He explored “whether they or any of them are entitled to Executive clemency,” and eventually offered the missionaries a pardon. Only four of the ministers took his offer. Worcester and Butler rejected it and began their stint in the state penitentiary, an outcome that “entirely satisfied” the governor. Though his military force, the

³⁸ *Macon Telegraph*, September 24, 1831, 3; *Newburyport Herald*, August 23, 1831, 2. Across the country, similar outrage occurred in newspapers. A small sample include *Ohio State Journal and Columbus Gazette*, September 1, 1831, 3; *Daily National Journal*, October 4, 1831, 3, as well as numerous others.

³⁹ George R. Gilmer to Reverend John Howard, September 1831 in Milledgeville *Federal Union*, September 15, 1831, 2.

Georgia Guard, had rather successfully protected the gold mines, it had done so in a way altogether inconsistent with egalitarianism and white superiority. Instead, the Guard's mission to clear the gold mines meant that it indiscriminately carried out its charge. Their color-blind attacks on miners, ministers, and Indians made them appear to voters, ironically, as prejudiced because they did not carry out a campaign to instill white superiority in the borderlands. Rather than a racial hierarchy, it had established a moral hierarchy where law-abiding citizens were rewarded with leases and lotteries while law-breaking residents were beaten and jailed.⁴⁰

By that point, mid September, the governor's clemency came too late to do much political good as the Election of 1831, pitting Gilmer against the Clark Party candidate, Wilson Lumpkin, had reached fever pitch. The divisive issues separating the two candidates came down to initiatives each supported for the direction of the backcountry economy and landownership. More importantly, the parties squabbled over the implementation of order and the sanctity of whiteness, two ideas tied intimately in the political discourse. During his time as governor, Gilmer had made two proposals that raised opposition to his reelection. First, he advocated state ownership of the gold mines. Second, he argued that Indians should be allowed to testify against white men in state courts, if only to make it easier to convict white intruders. Such out-of-touch proposals made it easy for the Clark Party to paint the Troupites as elitist and proponents of an integrated, biracial society, much like the kind developing on the frontier where cooperation rather than superiority had become custom.

Both of the governor's proposals, interestingly, had come in October 1830 in an address to the legislature and not during the campaign. Gilmer certainly championed landownership by whites in the backcountry, but he wanted to deny them the right to own any land that contained

⁴⁰ George R. Gilmer to Major Philip Cook, September 22, 1831 in Gilmer, *Sketches*, 328; George R. Gilmer to John W.A. Sanford, in *Governor's Letter Book, July 1, 1831-February 5, 1833*, Drawer 62, Box 64, GDAH.

gold mines. The governor, instead, desired to implement a plan calling for state ownership of the gold mines. He had two reasons to do so, one economic reason and the other moral. First, he argued that the proceeds from publicly held gold mines could do much to alleviate the problems of the state's poor. If the mines proved "exceedingly profitable," he argued, "the State will be enabled thereby to relieve the people from taxation, improve the public roads, render the rivers navigable, and extend the advantages of education to every class of society." Such a plan would benefit farmers across the state. Freed from the burdens of taxation, they could spend their money improving their land, thereby "adding to the riches of the country," instead of having their money "drawn from them to be placed in the public treasury." The gold mines, for Gilmer, could provide the state with untold riches—a panacea enabling the governor to implement a wide-ranging program of internal improvements, education and tax reform. In Gilmer's mind, limiting individual ownership of the gold mines had another benefit for Gilmer: denying gold to individuals would protect the morals of the region's inhabitants. A gold lottery would only injure the public good, he argued, because it would encourage people to speculate wildly. However disagreeable the prospect of public ownership became to many Georgians, the most upsetting aspect of the governor's plan was the tone he took when discussing Georgia's voters. "The community would be highly excited by the hope of acquiring great wealth, without labor. The morals of the country would be in danger of corruption," not only because of the temptation to speculate in gold mines, but because those individuals lucky enough to win would quit upright habits. "Regular industry and economy would for a time be suspended by restless idleness, and imaginary, as well as real and unnecessary expenditures." If a lottery gave away gold mines to those with poor character, the acquisition would only exacerbate their moral shortcomings and fuel the demise of the republic. The common good required a virtuous citizenry not tempted into prodigality by gold. Gilmer, in other words, sought to use the power of the state to save white

men from themselves by imposing morality that would eventually create order the backcountry and implement civil law.⁴¹

Lumpkin's supporters immediately sprang into action and charged Gilmer and the rest of the Troup faction with elitism. "Oh! No—," one editor chided the governor, "It will turn your heads you poor folks to become so 'suddenly' rich!" Rather than take the gold for themselves, poor men should "let your rich neighbor, who drives his carriage and drinks his wine, have it." Lumpkin's supporters also wanted to look out for the common good, but thought that Gilmer's approach was more befitting a "monarchy or aristocracy—where the nobles may oppress their subjects and wallow themselves in ease and luxury." Such a condition, however, "does not suit a republican people, for the very import of the form *republic* implies the wealth and prosperity of the people," and not a select few. For Lumpkin and his supporters, the fate of the republic hinged on the liberty of white men to pursue happiness as they saw fit. They drew on patriotic themes to connect the sanctity of private property and Lumpkin's campaign. One editor urged the candidate's supporters to help Lumpkin pilot the "staunch republican-built boat," and channeled Oliver Hazard Perry: "DON'T GIVE UP THE GOLD MINES!"⁴²

The Clark Party's offensive against public ownership of the gold mines countered Gilmer's moralist tones. It would not be the people who succumbed to moral decay because of the gold mines, but government agents charged with managing the mines's operation. Such agents "would deem it God's service to purloin, embezzle, and swindle the State out of the last

⁴¹ Gilmer's address to the legislature in which he outlined his program for the backcountry was reprinted in nearly every newspaper. See, for example, the *Augusta Chronicle*, October 30, 1830, 2. In spite of the fact that his address occurred in October 1830, Lumpkin's supporters did not attack the governor's position until they could score partisan points for doing so, which coincided with the start of the election cycle. The first Lumpkin commentary appeared in late July 1831 when it became clear that Lumpkin would resign his seat in Congress to oppose Gilmer. "1830 Address to the Legislature," Gilmer, *Sketches*, 284-85.

⁴² *Macon Telegraph*, September 10, 1831, 2; Milledgeville *Federal Union*, September 2, 1831, 2.

particle of gold to be found in the country.” Declaring that large stores of public money in the coffers of the state bank posed the real threat to the morality of the people because a surplus of monies would seduce state leaders into corruption, Lumpkin’s supporters argued that the people should safeguard the wealth and the common good. When the gold reached the Central Bank “the work of corruption” would really begin. Estimating that the mines would produce nearly four million dollars over the course of a decade, a corrupted governor with so much disposable income could raise an “army of thirty thousand men” and “compel obedience” from the rest of the state. Such a course could not come to pass. Such an endeavor as public ownership of the gold mines would prove nothing short of a catastrophe for the state. “[A] good Executive would endeavor to prevent an influence inimical to republicanism, so adverse to public morals and so destructive of the true interests of the country.”⁴³

Lumpkin also questioned Gilmer’s concern over the moral failing of the poor. Poverty did not derive from a lack of morals, as Gilmer seemed to imply about the “disorderly” people inhabiting the frontier, but from bad luck or unfortunate circumstances. Not a few “worthy citizens” could use the riches of the gold mines to “carry independence, and comfort, and happiness” into the homes of “honest and patriotic” men who just happened to be poor. A gold lottery, one editor estimated, would spread happiness and independence to over one thousand households. Rather than horde the gold in the hands of the state, the government should scatter wealth, “with a bountiful broad-cast, over the whole population!” The editor of the *Federal Union* reminded his readers that the interests of the government should never be separated from those

⁴³ *Macon Telegraph*, September 17, 1831, 2. Historian David Williams categorized Gilmer’s proposal for state ownership of the gold mines as a program “in a vein of classical socialism.” At best, such a mischaracterization lays bare his contemporary politics; at worst, it shows a lack of understanding regarding the nature of public property and the American commonwealth tradition. For Williams’s mischaracterization, see his *Georgia Gold Rush*, 48. On public property as a legal construction designed to benefit the common good see, for example, William J. Novak, *The People’s Welfare: Law & Regulation in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 1996), 115-121.

of its citizens. The “best mode of building up public institutions, is, first, to establish, on solid foundations, the prosperity of the people.” What less fortunate Georgians deserved, Lumpkin’s supporters cried, was a “white man’s chance” to better themselves and their families. A lottery for gold claims would ensure such an opportunity and in the process they would preserve the republic.⁴⁴

When Lumpkin and his supporters claimed that Gilmer’s plan for public ownership of the gold mines limited the opportunity available to whites, they were playing on white fears about status and mastery that permeated the antebellum South. As controversial as Gilmer’s proposal for public ownership proved, another of his campaign statements became his undoing. When Gilmer addressed the state assembly in October 1830, he made a serious gaffe when he proposed the repeal of a state law that prohibited Indians from testifying in state courts against whites. Politicians across the state raised their eyebrows in wonder; Lumpkin and his associates pounced. “If Indians are allowed to testify against white men, under the present state of our Indian relations, what is to become of the white people” in the border counties, wondered the *Federal Union* editor? Such a practice would put whites at the mercy of Indians in court and set a dangerous precedent concerning the right of free blacks or even slaves to testify against whites.⁴⁵

Gilmer himself never sufficiently defended his proposal, other than a brief remark that Indian testimony would make it easier to prosecute intruders. His letters showed a growing unease with the plight of many Cherokee families, especially those who, for all intents and purposes, were white. In a letter to the Cherokee John Rodgers, he expressed his desire for “the

⁴⁴ Ibid., September 10, 1831, 2; Milledgeville *Federal Union*, July 21, 1831, 2; Ibid., July 28, 1831, 2.

⁴⁵ Milledgeville *Federal Union*, September 1831, 2. Not surprisingly, Gilmer included a heavily edited extract of his address to the legislature in his memoirs. It did not contain the portion in which he advocated for Indian testimony in court. See, Gilmer, *Sketches*, 282-285. Newspapers at the time of the address, even opposition papers, did not make light of the governor’s plan at the time. Instead, they waited until the election began in earnest to make use of the information.

State to act justly and humanely towards you and those with whom you are connected.”

Whatever misgivings he maintained about mixed-race families, he had to admit that those “whites, half-breeds, and their children may be [ready] for the support and preservation of an orderly and well-conducted Government, the Indians are not so, and never will be until their present situation is changed.” Perhaps Gilmer only meant for the testimony repeal to include mixed-race Indians, though he never specified. His silence on the issue underscored how serious of a gaffe it had been, though he never backtracked from his stance. It was better to ignore the proposal than to give his opponents more opportunity to declare him a governor who did not encourage white superiority.⁴⁶

Gilmer also came under partisan attack as a governor who wasted taxpayer money. The most evident expense that Lumpkin proclaimed as wasteful was the Guard itself. As attacks against the governor’s backcountry police force mounted, Gilmer urged Sanford to be particularly diligent in his bookkeeping and “as economical as possible in expenditures.” Aside from netting the state nearly \$8,000 in rental payments, the Guard cost the state little. Sanford himself made \$100 per month, each of the sergeants earned \$25, and each private earned \$20. The entire forty-man company that comprised the Guard as well as the pay of the commanders totaled about \$1000 each month. The bulk of the Guard’s expenses came in food and forage. From August to October, the Guard spent \$1,344 dollars of taxpayer money. The remainder of the Guard’s expenses came for an assortment of services provided by members of the frontier community. Sanford had to pay a \$230 bill to Jacob M. Scudder for supplies he had provided, while Samuel Leathers (of Pony Club infamy) billed the Guard three dollars “for the use of my oxen and waggons whilst employed in the service of the Georgia Guard.” Jacob R. Brooks owed

⁴⁶ George Gilmer to John Rodgers, March 10, 1831, in Gilmer, *Sketches*, 292.

Doctor Whitehul \$2.50 for a “surgical procedure.”⁴⁷ Though the Guard’s existence was not an easy one, they did not starve either. Viewed in light of the \$20,000 appropriated by the legislature, few could accuse the governor of profligacy. For a governor to urge the people to continue their economical ways and then spend their tax dollars for a police force that limited the opportunities of whites proved too much for many voters to endure.

Moreover, Lumpkin’s supporters decried the fact that Gilmer had expelled the federal troops, who patrolled the mines free of cost to the state, and had instead inserted a costly, violent, and tyrannical military force contrary to the laws of the Constitution. The U.S. troops, “which were protecting the gold mines and the peace and good order of the territory,” cost the state nothing. When the governor asked the president to withdraw the troops so that the state could enforce its sovereignty over the Cherokee, it had replaced one military force sanctioned by the Constitution with an “armed Guard” that only increased Gilmer’s “power and patronage.” Such a force went against the Constitution, “which prohibits the establishment of a standing army, by any of the States.”⁴⁸

Georgia’s election of 1831 contained within it many of the hallmarks characterized by the Second Party System. The Troup Party’s discussion of internal improvements, moral reform, and a supposed disdain for the poor predicted its turn toward the Whig Party later in the decade. The Clark Party’s insistence on the sanctity of private property, the equality, and, indeed the superiority of white men easily meshed with the vision of society put forth by Andrew Jackson’s

⁴⁷ Gilmer to John W.A. Sanford, August 29, 1831 in *Governor’s Letter Book, GDAH*; John W.A. Sanford to George R. Gilmer, October 1, 1831, Telamon Cuyler Collection, Box 49, Folder 11, MS 1170, Hagrett Rare Book and Manuscript Library, University of Georgia, Athens; Jacob M. Scudder, “Receipt for Goods,” January 4, 1832; Jacob M. Scudder receipt, January 2, 1832; Jacob R. Brooks signed receipt, January 6, 1832, all in *ibid.*, Box 62, Folder 10, UGA. Apparently, most of these expenses came due as Sanford and the Guard packed their belongings; their enlistments expired January 1, 1832.

⁴⁸ *Macon Telegraph*, September 24, 1831, 1.

Democratic Party. As Georgia's political system began coalescing into the political structure that would shape national politics for the next three decades, it also contained within it peculiarities all its own. For example, nullification was still an important point of contention not only because of Georgia's proximity to the Palmetto State, but because there was a distinctive awareness among state leaders and the Cherokee that Georgia had nullified federal law when it passed the supremacy act and extended its sovereignty over the Cherokee Nation. Of intrinsic importance to state politics during the 1830s was the appropriate use of state-sponsored violence to create order. Everyone could agree that order was necessary; no such comity existed when it came to the use of a military unit to instill order. Like most else in Jacksonian politics, the use of military force became a political issue that provided divergent frameworks for each party.⁴⁹

As voters streamed to the polls in October 1831, they largely rejected Gilmer's proposals and the use of force in the backcountry. The injury to the "white man's chance," particularly the governor's penchant for moral reform through the prohibition of private ownership of the gold mines, his proposal to allow Indian testimony in state courts, and the use of a military force as a political tool, all spelled certain defeat for Gilmer. In the border counties, especially, voters rejected Gilmer's ideas regarding state ownership of profitable gold mines, the equality of Indians to whites, and the governor's attempts to provide moral order by limiting the prosperity of Georgia's families. In the six border counties, Lumpkin accumulated overwhelming majorities that mirrored the returns in the rest of the state. Of the 7,647 votes cast in the border counties, a paltry 2,399 went for Gilmer, just over 31 percent. Lumpkin received 5,248 votes, or nearly 69 percent of the votes cast.⁵⁰ For white borderlanders, Gilmer's vision for the Cherokee country

⁴⁹ On the growth of the second party system in Georgia, see Anthony Gene Carey, *Parties, Slavery, and the Union in Antebellum Georgia* (Athens: University of Georgia Press, 1997), 19-53.

⁵⁰ *Macon Telegraph*, October 15, 1831, 2.

clashed with their expectations. The promise of Gilmer's republicanism—that the state's poorest citizens would have a free education and a modern, market-based economy all paid for by the riches found in the gold region—was rejected handily by voters. Unlike his opponent's democratic posture on the gold mines and the rights of white citizens to own them, Gilmer's stance would only benefit those who had already conformed to state law and the precepts of a virtuous republican citizen. By acting to protect the polity from its own vices, the republican promise offered by Gilmer and the rest of the Troup faction denied many Georgians their path to respectability.

The effort to exclude the “disorderly sort,” accused members of the Pony Club, and other criminals, from having a chance at land or gold punished people for past crimes and precluded them from enjoying Georgia's embarrassment of riches. The lottery, for the Troup faction, was there only to perpetuate the republican promise to those who already enjoyed the state's largesse and not extend it to those most in need of it. The actions of the Slicks, the Georgia Guard, and the federal troops reinforced this view of the state's actions. Individual citizens, along with federal troops and state militiamen castigated those deemed unworthy of the benefits of republican citizenship. Violence directed at the disorderly sort was a means of reinforcing the view of their unworthiness to the state's inheritance.

When Wilson Lumpkin took the oath of office in December 1831, he showed how little he had learned from the mistakes of his predecessor. During the campaign, Lumpkin's supporters chastised the Guard and the heavy-handed measures it took to enforce law over white residents. The new governor promised a continuation of those policies. “[T]he executive should be vested with full power, promptly to control the agents who have been or may be selected to maintain the authority of the laws,” in the backcountry. Though opposed to the nullifiers, Lumpkin reiterated the right of the state to extend its authority over the Cherokee territory. Framing the

issue as a “moral duty” to extend the state’s authority into the Cherokee territory in order to “save that part of our State from confusion, anarchy, and perhaps from bloodshed,” Lumpkin called on the white residents to help him extend order. “Until we have a population planted upon the unoccupied portion of this Territory, possessed of all the ordinary inducements of other communities to sustain our laws and government,” chaos would reign. Even though Lumpkin gained power by opposing violence in the backcountry, he quickly took up the mantle as a regulator. He also evinced much less concern than his predecessor over the use of violence as a tool to impose social control over an unruly and racially diverse backcountry population. Though his reversal may have made him a hypocrite, Lumpkin saw the pressing need for stability in the backcountry and saw the Guard as a means to that end.⁵¹

As the new year dawned, Lumpkin made good on assuming control of the Georgia Guard. The legislature reaffirmed the portion of the supremacy law allowing the governor to provide for the punishment of backcountry criminals. Despite the fact that he had criticized the Guard as an unconstitutional force and patronage tool, he willingly continued it. In late December, he nominated John Coffee to the post of commander of the Georgia Guard. Coffee accepted. In early January, the transfer of command occurred when Coffee appeared at Camp Gilmer and had a civil conversation with his predecessor regarding the role of the Guard.⁵²

The beginning of 1832 brought renewed troubles for the Cherokee, but also hope. With Lumpkin entrenched in office, a land lottery began in October. Once the names of the “fortunate

⁵¹ *Macon Telegraph*, December 19, 1831, 1.

⁵² “An act to alter and amend the fourth section of an act...” December 26, 1831, *Acts of the General Assembly of the State of Georgia*, 143. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=11411574&lawcnt=2&filt=doc> (Accessed August 24, 2011). Lumpkin had begun considering Coffee for commander of the Guard soon after the election. See Wilson Lumpkin to John Coffee, November 23, 1832, Box 49A, Folder 2, Telamon Culyer Collection, UGA as well as Wilson Lumpkin to John Coffee, January 1832, in *Governor’s Letter Book*, GDAH. It should be noted that the John Coffee appointed to command Lumpkin’s Guard was not the same John Coffee of Tennessee who was a close confidant of President Andrew Jackson.

drawers” had been made public, thousands of them flocked to claim their winnings. This posed innumerable difficulties for the Cherokee who were evicted from their own farms when a white lottery winner arrived. The lottery law prohibited whites from evicting a Cherokee family from their homes, so white families would either begin a confrontation and force the native family off or build nearby and deny the rightful landowners use of their land. The first week of December 1832 brought a large number of lottery winners into the Cherokee Nation like “great flocks of pigeons that hastens to the ground in search of food,” despaired Elias Boudinot. “Every lot has been hewed and as many paths beaten” in search of the precious metals dusting the region’s streambeds. “To this invasion of our property we protest; and we state to our readers, our right to the lands.” Though outraged, Boudinot cautioned his countrymen: “Let us therefore calmly await and see if the Government will not yet acquiesce . . . or whether the government will choose to have their laws nullified by a state as the easiest mode of releasing itself from enforcing them.”⁵³

Boudinot’s patience, along with the rest of the Cherokee, had been stretched thin for nearly a decade by the aggressive behavior of the state of Georgia and its citizens. When the Supreme Court met in February, the realization of the Cherokee’s hopes came to fruition when John Marshall and the rest of the court sustained the case brought by Samuel Worcester. The minister’s arrest and imprisonment, the court argued, were illegal because the state of Georgia had no legal claim to extend its sovereignty or legal structure over the Cherokee Nation. The extension and supremacy laws, therefore, were null and void; Cherokee sovereignty had been confirmed. The state of Georgia, however, had no intention of heeding the ruling. Instead, Lumpkin encouraged whites to enter the Cherokee Nation in search of their claims. The

⁵³ *Cherokee Phoenix*, December 8, 1832, 2.

governor went so far as to recommend to Coffee that if he could gather sufficient testimony proving John Ross and other chiefs were conspiring to undermine Georgia's laws, he could arrest them and haul them to Athens for trial.⁵⁴

The creation of the Georgia Guard in December 1830 sent a clear message to the Cherokee and intruders alike. Georgia's leaders expressed their willingness to use violence to impose state sovereignty in the borderlands, and it would not tolerate deviation from those laws. By connecting the undesirability of intruders and Cherokees in the white republic, the governor took an important step in making the problem one not solely based on race. When the Guard began acting, however, it found that implementing a white republic through aggressive means proved just as difficult for state troops as it had been for federal forces. State-sanctioned violence used against intruders went against the prevailing frontier ethos that stressed white male equality. The Guard's white victims presented a compelling portrait of the powers of the state run amok, even to those who espoused a state's right platform. Lumpkin had run on a platform denouncing the Guard and the governor's efforts to limit the "white man's chance." Once in office, he did not discontinue the unit nor limit its activities in the borderlands. He too accepted the need to employ violence against whites and Cherokees in the pursuit of order.

⁵⁴ *Worcester v. Georgia*, 31 U.S. (6 Peters) 515 (1832). The literature on the *Worcester* decision is voluminous. See, for example, Joseph C. Burke, "The Cherokee Cases: A Study in Law, Politics, and Morality," *Stanford Law Review* (February 1969): 500-531; Clifford M. Lytle, "The Supreme Court, Tribal Sovereignty, and Continuing Problems of State Encroachment into Indian Country," *American Indian Law Review* 1 (1980): 65-77; Jill Norgren, *The Cherokee Cases: Two Landmark Federal Decisions in the Fight for Sovereignty* (Norman: University of Oklahoma Press, 2004); Lindsay G. Robertson, *Conquest By Law: How the Discovery of America Disposessed Indigenous People* (New York: Oxford University Press, 2005). Wilson Lumpkin to John Coffee, July 10, 1832 in *Governor's Letter Book, July 1, 1831-February 5, 1833*, GDAH.

CHAPTER SIX: THE GEORGIA GUARD AND THE WHITE REPUBLIC, 1832-1836

For Lumpkin to bring about the “white man’s chance” on which the governor had campaigned, he needed to continue Gilmer’s policy of intimidating the Cherokee by employing the Georgia Guard. He also had to ensure that the lottery winners could take up residence in the borderlands. The best way of ensuring those goals was the continued reliance on the Georgia Guard. Between 1832 and 1836, the Georgia Guard continued sowing discord in the Cherokee Nation. It did so in a variety of ways. None was more important than its implementation of federal removal policy. Often taking orders from Major Benjamin Currey, the federal agent with oversight over voluntary removal, the Guard did its best to protect those natives who had accepted removal from those who opposed it. The Guard further intensified its harassment of those Cherokee who continued to take gold from the mines, or intimidated those who remained on plots of land drawn by Georgia’s lottery winners, both of which were now considered the private property of the “fortunate drawers.” Their efforts came to fruition when federal treaty negotiators brokered the Treaty of New Echota in 1835. The Guard, concurrent with its intimidation of the Cherokee, used similar tactics against whites who opposed the Troup Party. The two strains of violence, one directed at whites, the other at Indians, had a similar purpose: to bring to fruition a country inhabited by law-abiding whites. For the realization of the white republic to occur, it could not contain within it those who opposed the “white man’s chance” at land ownership and independence. Though committed to the expansion of Georgia’s sovereignty, the Guard caused a significant degree of political strife that ultimately led to its downfall. By the end of 1835, the legislature had disbanded the Guard but not before it aided in the fracturing of Cherokee society and proponents of removal had signed the Treaty of New Echota.

Prior to its dissolution, however, the Georgia Guard set out to secure native ground for the state of Georgia. In April 1832, the subcommander of the second Georgia Guard, William W. Williamson, ventured into Cherokee country to ascertain the natives' response to the *Worcester* decision and their acceptance of voluntary removal. Passing through country previously unexplored by the Guard, Williamson happened upon Amicalola Falls, a waterfall he reckoned "the most majestic Scene that I have ever witnessed or heard of." The sublimity of the falls notwithstanding, Williamson learned troubling portents for the extension of state sovereignty. In the isolated mountain villages he visited, Williamson witnessed the Cherokee's joyous response to Chief Justice Marshall's decision. The Cherokee leaders with whom he conversed believed "Congress would compel the President to send an Armed force" to uphold the ruling. Williamson warned the Cherokee against such a hope. The other states, Williamson cautioned, would not "rescue" the Cherokee lest they risk "Civil War & disunion." If President Jackson did send an army to "whip Georgia into her duty," Williamson predicted that the Cherokee people "would be swept of[f] the Earth before any assistance could arrive." The last remark seemed to convince at least some Cherokee leaders "that a large portion of the Georgians wanted only a small pretext to exterminate them."¹

Williamson's journey through the Cherokee Nation had other purposes. Ordered to judge acceptance of a plan to encourage voluntary removal, Williamson traversed rough terrain without a guide or a translator. Forced to "turn Indian" to complete his goals, Williamson was nevertheless found out and "committed to jail," ostensibly by the Cherokee Lighthorse. He did not specify what he meant when he said he "turned Indian," though presumably he donned Indian attire or else sought to act in a stealthy manner to avoid detection. Williamson's efforts to

¹ William W. Williamson to Wilson Lumpkin, April 28, 1832 in Telamon Cuyler Collection, Folder 3, Box 49A, MS 1170, Hagrett Rare Book and Manuscript Library, University of Georgia, Athens, GA.

turn into an Indian underscored several important aspects of life along the Cherokee frontier, both of which proved troubling to state leaders. That it was possible for a white man to shed himself of his identity, at least visually, demonstrated the amount of acculturation and interchange that had occurred. It also showed how pliable whiteness had become in the borderlands: Indians who appeared white, spoke English, adopted Christianity, and owned African slaves had imposed on less acculturated Cherokee a constitutional republic with themselves as leaders. At the same time, whites fraternized with Indians and behaved “savagely.” The blurring boundaries between American whiteness and Cherokee savagery made it possible for a white man to pass himself off as an Indian and vice versa. For state leaders, this affront to civilization had to end so that proper and natural order could resume. To achieve that end and preserve whiteness, removal became necessary and urgent.²

State leaders had to determine what to do with whites who fraternized with Indians, as well as with those Cherokee who had mostly assimilated. Throughout 1832 and into the following year federal negotiators increased efforts to remove “voluntarily” individual Cherokee from their homes and deport them to the Arkansas territory. In April, one enrolling agent, Benjamin F. Currey, reported that over 130 Cherokee had enrolled for emigration. Currey also noted mounting opposition to removal. “Vagabond white men are constantly intermarrying with squaws who will oppose my terms unless they themselves can be accommodated with reservations,” he complained to one official at the Office of Indian Affairs. In late May, Currey once again wrote to his superiors in Washington about problems arising from his enrollment efforts. Most of the resistance to enrollment, he reported, came from “white men intermarried with Cherokees.” The resistance became so heated that Currey pleaded: “Can you devise any

² Ibid.

proceeding which can be taken to put a stop to these unwarrantable interferences?" If allowed to use troops, he could "punish under martial law" those who interfered, because, he claimed, "all regular constitutional government is abdicated here."³

Though Curry linked a growing number of intermarried whites to increased disorder and opposition to voluntary removal, the actual number of whites connected to the Cherokee was small. An 1835 census conducted by the War Department showed that, of the nearly 9,000 Cherokee residing in Georgia, only sixty-eight whites had intermarried. A further 81 percent of the Cherokee living in Georgia were "fullbloods" without European or American ancestry, so less than one out of five Cherokee could point to some combination of a mixed parentage. Still, the impression remained that whites connected to the Cherokee through marriage prevented federal removal efforts. Part of this impression came from geographical features that preserved so-called "full-blooded" districts. For example, most ethnographers and historians accept that traditionalist communities, or those that had less acculturation, resided in the mountain towns in northwest Georgia and in the region closest to the Creek country, especially near Carroll County. Therefore, the greatest amount of acculturation occurred where the middle border counties—Campbell, Gwinnett, Hall, and Habersham—joined native ground. Acculturation and racial-mixing was more prevalent in Georgia than in Cherokee lands in Tennessee, Alabama, and North Carolina. Of all of the mixed-race Cherokee families, nearly 54 percent lived in Georgia, which also contained the highest concentration, 52 percent, of traditionalist households. Though

³ "Abstract No. 2: Guns, Blankets, Kettles, Tobacco & boats delivered to Emigrants," April 1832, Letters Received from Office of Indian Affairs, Roll 75, M234, National Archives and Records Administration, Washington DC; Benjamin F. Currey to Elbert Herring, May 23, 1833, *ibid*; Benjamin F. Currey to Elbert Herring, September 9, 1833, *ibid*.

the mixed-race portion of the backcountry society appeared small, Georgia's leaders saw the trajectory of the borderlands and sought to remedy the situation.⁴

Resistance to removal had less to do with opposition expressed by whites intermarried with the Cherokee and more to do with the political schism within the Cherokee polity, though the Jackson administration often tied the two together. Cherokee society had fractured into two separate factions: one led by John Ross that opposed forced removal and stressed national unity; and another, a group that saw accommodation and removal as key to Cherokee persistence. The Jackson administration obviously sided with those who favored removal and claimed, like Gilmer, that mixed-race elites lorded over those traditionalists who wanted to remove to the west to continue hunting and communal agriculture. State and federal policy had thereby converged. Both sought to intimidate John Ross and other nationalist leaders opposed to removal and to protect accommodationists who had already enrolled or who planned on doing so.⁵

Uncertainty regarding voluntary removal also discouraged many Cherokee from leaving their homes. Though enrollees had access to government aid, tobacco, firearms, and food to make the trip west more tolerable, and a promise of land upon their arrival in Arkansas, they already had land where they were. Because of the political infighting and the undesirability of moving, the large majority of Cherokees did not choose to relocate. When Major Currey set out for Arkansas at the head of a contingent of émigrés in April 1832, he departed the Cherokee agency at Calhoun, Tennessee with only 200 Cherokees, plus 40 whites, and 108 blacks. Such a breakdown suggests that elite Cherokee slaveowners composed most enrollees. By the end of the

⁴ John F. Schermerhorn to Lewis Cass, March 3, 1836, S. Doc 120 (Serial 315 Session Vol 2) 25th Congress 2nd Session, 535; William G. McLoughlin and Walter H. Conser, Jr. "The Cherokees in Transition: A Statistical Analysis of the Federal Cherokee Census of 1835," *Journal of American History* 64 (December 1977): 686, 694, Table 12.

⁵ On the growing divisiveness in Cherokee life regarding removal, see recent works by Daniel Blake Smith, *An American Betrayal: Cherokee Patriots and the Trail of Tears* (New York: Henry Holt, 2011), 151-186; A.J. Langguth, *Driven West: Andrew Jackson's Trail of Tears to the Civil War* (New York: Simon & Schuster, 2010), especially 195-218.

year, Currey had managed to relocate only 626 Cherokee. Without the aid of the Georgia Guard, however, his total would have been much less.⁶

The second Guard, led by John Coffee, both protected those Cherokees who had enrolled and forced others into enrollment camps against their will. Such a strategy helped the Guard widen the schism between pro- and anti-removal forces within the Cherokee polity. In March 1832, William M. Davis, a federal enrolling agent, wrote to Secretary of War Lewis Cass regarding a scuffle that occurred between the Georgia Guard and a party of militant whites from Tennessee. At an enrollment camp in Tennessee, the Guard had been “stationed for the purpose of keeping order,” at the behest of Benjamin F. Currey to protect the emigrants and their property from overzealous Tennesseans. Colonel Archibald Turk, a militiaman from Tennessee, led a group of “privately armed” men into the camp immediately preceding a church service where they forced their way through the Guard “purposely to bring on a disturbance.” Once the service ended, Turk “commenced a quarrel with the commanding officer of the guard” by deriding Coffee and his men with “the most abusive epithets, threatened to drive them beyond the limits of the state of Tennessee & presented a cocked pistol and bayonet at the breast of the officer.” The guardsmen seized their own muskets and a standoff ensued with nervous Cherokee families in the crossfire. Only the “great forbearance and prudence” of Major Currey and the Guard prevented all out bloodshed from occurring.⁷

Colonel Turk and his armed band soon left the camp, but threatened to raise another party to “drive the Guard back into Georgia.” He made good on his promise. The next day he arrived with an even larger armed posse and “paraded them upon the opposite bank of the

⁶ Charles Russell Logan, *The Promised Land: The Cherokees, Arkansas, and Removal, 1794-1839* (Little Rock: Arkansas Historic Preservation Program, 1997), 25.

⁷ William M. Davis to Office of Indian Affairs, March 23, 1832, Letters Received by the Office of Indian Affairs, Roll 75, M234, RG 75, NARA.

river,” a threatening demonstration that served as a warning to the Georgia Guard. Major Currey and Colonel Coffee heeded the message and decided “to forbear quelling the disorder by force” and returned to safer territory. The “disorder” caused by Turk and his party of Tennesseans came about because of the presence of the Guard. Even though they had crossed into Tennessee at the behest of a federal agent, their jurisdiction did not extend into neighboring states. The agent who recorded the brinksmanship had other ideas about who caused problems for the Cherokee. “[A]bandoned and unprincipled whitemen, who are numerous in this country, and who infest their camps night and day, for unworthy purposes,” posed the real problem. To alleviate the tensions, a “strong Guard of the troops of the United States,” ought to be posted in the Cherokee backcountry. The actions of the Guard, though, highlighted their commitment to protecting those Cherokee who abided by state law and accepted removal, if only to usher them out of the state as quickly as possible.⁸

For those Cherokee who did not cooperate, the Guard did not provide that protective mantle. The most audacious operation conducted by Coffee, according to the *Cherokee Phoenix*, was the attempted arrest of John Ross. Lumpkin encouraged Ross’s arrest, along with those of Joseph Vann and other Cherokee leaders, because he thought it necessary in order to maintain “the authority of the state.” The attempt failed, and the guardsmen “came off without a prisoner.” The *Phoenix* also reported that Coffee and his men continued their efforts to clear the gold mines so that lottery winners could have unfettered access to their property. One man whom they found, Nickojack, had been shot clean through the arm and leg because the guardsmen suspected him of digging for gold. Newspapers as far away as New York began printing stories of the Guard’s “horrid barbarity.” In May, the Guard apprehended Teesaskee

⁸ Ibid.

and his wife for gold prospecting. To secure their release, the couple had to agree to enroll as emigrants. Instead, Teesaskee rejected the offer, so he and his wife went to prison in Lawrenceville for an indeterminate amount of time. Another Cherokee man, Robin, also faced expulsion from his homeland for digging for gold. When he refused to enroll, the Guard whipped him. “The Guard tied his hands fast, and led him to a tree, and inflicted fifty stripes on his back for the offence of digging his own gold.” Robin had the reputation of being a poor man who worked hard for his living and managed to maintain some dignity in the affair. He informed the editor of the *Cherokee Phoenix* that the “stripes were put upon him with some degree of moderation,” which suggested either his own toughness or white male effete-ness.⁹

In the wake of the *Worcester* decision and Jackson’s decision to withdraw the Army, official U.S. Indian policy had no teeth with which to enforce removal. The Guard, as early as March 1832, became a tool at the disposal of federal officials.¹⁰ Not only could it be used to protect the enrollees, but it could also force them into removal. The Guard filled that need for Major Currey. No law authorized the Guard to exchange prison time for removal. Colonel Coffee and his successor, William W. Williamson, did not stop there. The Guard turned to outright intimidation and coercion to hasten the removal process. Jesse Raper, a white man with a Cherokee family, had lived along the Chestatee River for twenty-four years before a man named John Reaves, a lottery winner, expelled him. Afterwards, he inquired about enrollment with Major Currey. Raper’s family agreed to go but only if the major swore they would be paid for their loss of property. Promise secure, Raper and his family signed up for enrollment but soon

⁹ *Cherokee Phoenix*, September 15, 1832, 2; Wilson Lumpkin to John Coffee, July 10, 1832, *Governor’s Letter Book, 1832-1833*, Drawer 62, Box 64, Georgia Division of Archives and History, Morrow, GA *Cherokee Phoenix*, November 24, 1832, 2; *New York Mercury*, June 6, 1832, 5.

¹⁰ In August 1831, Governor George R. Gilmer reported to Colonel John W.A. Sanford that he had received a request from the War Department asking for the aid of the Guard in helping to prepare for removal. It was not until 1832, though, that the Guard and federal removal policy became synonymous. See George R. Gilmer to John W.A. Sanford, August 24, 1831, *Governor’s Letter Book, 1831-1833*, Drawer 62, Box 64, GDAH.

found themselves penniless and “forced into some public waggons . . . by the Georgia guard,” bound for an enrollment camp. Rachel Rice suffered similar treatment when she was “forced from [her] home by the troops under Maj. Curry.” From Rice’s account of her expulsion from her property, Curry appeared to be working with the Guard and directing, or at least encouraging, its actions.¹¹

Hetty Vance also suffered at the hands of the Guard. Previously, Vance had watched as a lawyer from Georgia took the slaves belonging to her late husband because the lawyer claimed she owed him payment to administer the estate. Not content with the slaves, the lawyer soon thereafter received a warrant for her arrest. Once Vance was released from prison, the lawyer then contacted the Georgia Guard who arrested Vance and confined her at their headquarters for four days. In another instance, Elizabeth Ware watched as her husband fled their home “owing to the oppressive character of the laws of the state towards the Citizens of the Cherokee Nation.” Anxious over her isolation and exposure, Ware claimed that she became “subject to the abuse of the Georgia Guard,” who she believed burned down her house with all of her worldly possessions inside.¹² The Guard had begun implementing federal removal policy, but they did so in a way that targeted the most vulnerable members of Cherokee society. Vance, a widow, had no family or neighbors to protect her; Ware’s husband had to leave his family. The violent actions of the Guard fundamentally destabilized Cherokee families. As uncertainty proliferated, it only worsened the Cherokee political schism as it became ever more apparent that the Cherokee Nation could do little to protect its weakest members.

Many of the Guard’s abusive actions toward individual Cherokees and the more extreme

¹¹ Claim of Jesse Raper, March 11, 1842, Marybelle W. Chase, ed. *1842 Cherokee Claims, Saline District* (Tulsa, OK: Marybelle W. Chase, 1988), 39; Claim of Rachel Rice, March 14, 1842, *ibid.*, 40.

¹² Claim of Hetty Vance, in Marybelle W. Chase, ed. *1842 Cherokee Claims, Saline District* (Tulsa: OK: Marybelle W. Chase, 1988), 211-212; Claim of Elizabeth Ware, *ibid.*, 90.

instances of arson reinforced the federal government's "voluntary" removal policy. It also helped expedite state acquisition of Indian land. As lottery winners began to move into the backcountry to claim their winnings, many anticipated vacated land and an absence of Cherokee residents. Arriving at their lots, most of the lottery winners instead encountered native inhabitants who did not want to leave. Lumpkin apprised Coffee in April: "[Y]ou will in a very short time find many of our citizens disposed to be engaged in exploring and examining the Cherokee Country with a view of ascertaining the most valuable lands [and] mines." Though the legislature had put safeguards into the lottery law that prevented citizens from expelling native inhabitants from their land, the opposite occurred. The governor went on to warn the commander about the influx of white claimants and their potential risks to the rest of the community. "Gold digging; defacing public landmarks; arbitrary law triumphing over the civil authority; anarchy and confusion, cannot long remain before civil war will ensue." Lumpkin urged Coffee to prevent undue violations, which included individuals who mined illegally or violated "the rights of the Indians." Not wanting to precipitate a war, Lumpkin requested "that the deportment of every officer and citizen of Georgia should be such as to silence the slander of our enemies." Unfortunately for the governor, the Guard did not excel at good deportment.¹³

By the end of 1832, in fact, the increased violence on the part of the Guard and the lottery winners began to worry the governor. Lumpkin, sought to deflect blame away from the state and toward those who opposed removal. "It is quite obvious," Lumpkin advised President Jackson, "that the enemies of the Union are doing all they can to give us trouble with Cherokees." Such flagrant partisanship led the governor to believe that Washington was rife with conspiracy and corruption, pitting the state and the Jackson administration against an anti-

¹³ Wilson Lumpkin to John Coffee, April 24, 1832, *Governor's Letter Book, 1831-1833*, Drawer 62, Box 64, GDAH; Wilson Lumpkin to John Coffee, June 23, 1832, *ibid*.

removal faction led by northern congressmen and the nascent Whig Party “who are acting in concert with the enemies of good order & Government.” Worse for Lumpkin, newspaper editors, even citizens from Georgia, “are at this moment engaged in the unhallowed work of fanning [sic] the embers of strife between the Cherokees & the Government of Georgia.” In some areas of the borderlands “where but few whites have settled,” Lumpkin noted “a spirit of disregard & insolence to our laws” emanating from the Cherokee. Though he had “so far relied upon the civil authority of the newly organized Counties; & shall continue to do so,” he had begun to suspect that the backcountry residents lacked “sufficient moral force” to “maintain the supremacy of our laws.”¹⁴

When the legislature met in December 1832, it altered the mission of the Guard, reduced it in size, and made a move to organize new counties so that lottery winners could impose civil authority on Cherokee country. The legislature, however, did not disband the unit entirely. Part of its hesitation to disband the Guard completely, as opposed to reducing it—and Lumpkin’s fear for borderland settlers—arose from the mysterious death of the Bowman family. In the waning days of December 1832, Lawson Bowman and the rest of his family met an untimely end when they burned to death inside their cabin. The *Cherokee Phoenix* sought to unravel the mystery and concluded that the deaths were unfortunate accidents, not the result of malicious behavior. What little property remained had not been trifled with, which led the new, pro-Removal editor Elijah Hicks to conclude that Georgia could not justify the case as one of murder. In spite of Hicks’s argument, the Georgia Guard began a manhunt for several Indian perpetrators. When they learned the whereabouts of their quarry, the Guard “rushed to the Indian settlement with the spirit of Samson” to apprehend the supposed criminals. Just before Christmas, the Guard, “like a

¹⁴ Wilson Lumpkin to Andrew Jackson, April 19, 1833, *Governor’s Letter Book, 1833-1835*, Drawer 62, Box 65, GDAH.

lawless storm” chained eight Cherokee men to horses and hauled them to county court for trial. The judge, though, released them for lack of evidence.¹⁵

The commander of the Guard, William W. Williamson fervently believed that foul play and not a fatal accident explained the tragedy that had befallen Bowman family. In his initial report to the governor, Williamson declared that “a most daring & Violent Murder” had been “Committed by the Indians of Salacoe town” against Bowman and his family. According to Williamson, the “entire Family was inhumanely butchered and the Dwelling consumed by Fire,” in an effort to hide the gruesome nature of the crimes. Though he suspected Cherokee perpetrators, Williamson admitted that little animosity existed between the Georgians and Cherokee residents in that area. Unable to find a motive for the murder, but unwilling to believe that the tragedy had been an accident, he concluded: “There must have been some personal difficulty between this unfortunate Family & the Indians.”¹⁶

To solve the mystery, the Guard arrested an Indian of “infamous character” named George Took (or Tooke). Once arraigned, two other Cherokee testified against him and implicated Took and a co-conspirator in the murder of the Bowman family. According to the informants, Took and his accomplice planned on stealing property from the Bowman family, but when they entered the house under cover of darkness Bowman grabbed his gun “and a fight ensued.” Eventually the two Indians overpowered Bowman and killed him, his wife, child and mother-in-law and “split open each head with an axe.” Having finished their grisly work the two Cherokee plundered the house and sold the goods to Creek Ben, a noted fence who disposed of the property. Held in jail in DeKalb County beginning in January 1833, Took waited for his trial

¹⁵ *Cherokee Phoenix*, February 2, 1833, 2.

¹⁶ William W. Williamson to Wilson Lumpkin, December 20, 1832, Folder 4, Box 49A, Telamon Culyer Collection, UGA.

to commence in Murray County in September. The judge postponed the September hearing when the lawyers could not agree upon a jury. When authorities sent Took back to the DeKalb County jail, his guards stopped one evening and rested at a farm house. Took laid down “feigning sickness and . . . extreme bodily pain.” Writhing on the ground, he managed to slip the shackles over his head and off his ankles and made his escape through an open door. The sheriff offered a reward of one hundred dollars for Took’s apprehension, but by the following month he still eluded capture. Civil authorities did not track him down for another two years, when he was arrested in Cherokee county. During his capture, the sheriff’s deputy “was forced to shoot him,” a doctor had to amputate one of his limbs, and members of the Georgia Guard had to patrol the jail to prevent another escape. Even on his deathbed, Took did not confess to the Bowman murders though did he openly admit to killing Duck, a fellow Cherokee.¹⁷

The mysterious death of the Bowman family and Williamson’s insistence that foul play was its cause may have convinced the legislature to continue the Guard out of fear, though ten men would have stood little chance against a real threat. Though Lumpkin feared further violent outbreaks, he did not think the Bowman family’s demise signaled encroaching doom. “I cannot believe however that this horrible act has originated from any things like a concerted plan from any considerable number of the Cherokee.” Rather than fret over Cherokee reprisals, Lumpkin wanted the Guard to concentrate its efforts at fracturing whatever remained of Cherokee resistance to removal.¹⁸

The legislature hampered the governor’s ability to fracture the Cherokee population

¹⁷ *Cherokee Phoenix*, February 2, 1833, 2; Athens *Southern Banner*, March 23, 1833, 3; Athens *Southern Banner*, September 14, 1833, 3; *Macon Telegraph*, October 10, 1833, 1; William N. Bishop to Wilson Lumpkin, September 16, 1835, J.E. Hays, ed. *Cherokee Indian Letters, Talks, and Treaties, 1786-1838* WPA Project No. 4341 (Atlanta: Georgia Archives, 1939), 2: 446.

¹⁸ Wilson Lumpkin to John Coffee, December 26, 1832, *Governor’s Letter Book, 1831-1833*.

because the budget only allowed the governor to call for a force that consisted of ten men. Coffee's Guard in 1832 consisted of forty men, so the reduced force meant a significant reduction in the state's ability to induce the Cherokee to leave. The mission of the reduced Guard changed from protecting the gold mines to guarding "each and every Indian in his and their persons, and also in the enjoyment of their personal property," from any "trespass, or offence." The new legislation codified what the Guard had already been doing, though it prevented the Guard from acting in such an aggressive capacity. The new legislation asked the Guard to continue that course, but further stipulated that once the Cherokee country had been organized into counties, the legislature would automatically discharge the Guard.¹⁹

If the Bowman mystery proved anything, it showed that if the state did want to extend republican order over native harmony it needed courts and civil institutions to replace a military unit that destabilized backcountry society. When the legislature had first authorized the Guard in 1830, it did so with the understanding that its mission of protecting the gold mines would coincide with the implementation of civil authority. Sanford and Coffee, though, expanded the scope of their mission beyond the mere protection of the mines. In 1832, the legislature sought to reign in the Guard, for it not only destabilized the Cherokee population but also brought uncertainty to the entire region. The December 1832 legislation that limited the Guard's size and changed its mission also reaffirmed the supremacy of civil authority when it organized ten counties from Cherokee land. In each of the ten new counties, the legislation specified the place of voting, the location of the inferior and superior court, and set the frequency of their hearings. The citizens of each new county had to elect five inferior court justices and officers of the court to

¹⁹ "An Act to protect the Cherokee Indians..." December 24, 1832, *Acts of The General Assembly of the State of Georgia*, 102-105. http://neptune3.galib.uga.edu/ssp/cgi-bin/ftaccess.cgi?_id=7f000001&db=ZLGL (Accessed August 1, 2011).

settle minor disputes, as well as a land surveyor to facilitate land sales. Undergirding the organization of each county, the militia district served as the most basic unit of local governance. Each district elected two justices of the peace as well as a militia captain to prepare the district's male population for a potential attack from Indians. The ten new counties, called the Cherokee counties, began organizing in 1833.²⁰

Only two days after the legislature had reduced the size and scope of the Guard, the governor notified Colonel Williamson that he had been made commander of the ten-man force. Lumpkin informed Coffee that he appreciated the colonel's service, but the state no longer required his efforts. Before he let his commander leave, however, Lumpkin let him know that he felt the legislature had made a grave mistake. "I am left without authority, or legal direction of any kind, to protect the gold mines or fractions or put down Cherokee assumptions by the guard or any other authority, civil or military." The lack of authority entrenched in the Guard, he declared, left vulnerable settlers open to reprisals. "[T]he legislature have utterly refuses to afford this protection to the settlers in the new country, and with great and urgent reluctance at the very last moment, appropriated the money to sustain the little guard of ten men."²¹

Though the Guard had been significantly reduced, it did not abandon its mission of protecting those "good" Indians who vouched for removal. Indeed, by February 1833, Lumpkin had begun designating certain Cherokee residents who could keep their land. One man who the governor stipulated as a recipient of state largesse was William Hicks, the former principal chief

²⁰ "An act to add parts of the counties of Habersham and Hall to the county of Cherokee...." December 3, 1832, *Acts of the General Assembly*, 56-62. Accessed at <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=12009675&lawcnt=11&filt=doc> (Accessed August 1, 2011); On the history of Georgia's militia districts, see Alex M. Hitz, "Georgia Militia Districts," http://sos.georgia.gov/archives/what_do_we_have/GeorgiaMilitiaDistricts.htm (Accessed September 8, 2011).

²¹ Wilson Lumpkin to William W. Williamson, December 26, 1832; Wilson Lumpkin to John Coffee, December 26, 1832, both in *Governor's Letter Book, 1831-1833*, GDAH.

of the Cherokee Nation and a proponent of removal. After the lottery, Hicks's land had not been drawn so Lumpkin ensured him that he was entitled to it because of his model behavior.

Lumpkin deemed Hicks a "good Indian" who had "uniformly respected the laws and authority of Georgia & treated her officers & citizens with kindness & respect, and is therefore entitled to our special regard and respect." Further placating the former chief, Lumpkin ensured Hicks that he and his "friends" who felt similarly regarding removal would be "safe and free" from the "threats or abuse of any and all pretended government emanating from John Ross and his followers." In exchange for protection, Lumpkin maintained that Hicks and other Indians who shared his point of view on removal continue to exert their "moral influence in a peaceable and persuasive manner." In other words, Hicks had to vouch for removal at the great expense to his personal security. Such a stance was simply good politics for Lumpkin. Cherokee "protection" proved an effective of widening schisms within the Cherokee polity to further expand the white republic.²²

Those Cherokee who opposed removal became exposed to physical abuse of the worst kind. In July 1833, the sheriff of Coweta County, David Dukes, prowled across the Cherokee Nation in search of his lottery claim and other prospects. Rumor from Coweta County claimed that the sheriff had vacated his post because of serious debts, though the Cherokee whom he met with had no way of knowing his pecuniary troubles. He "called" at a house occupied by two women only identified by their surnames, Oosunaley and Foster. When he discovered that the women's husbands were nowhere in sight, he "attempted the monstrous crime of rape" against Oosunaley because of her "delicate condition." Foster grabbed the sheriff by the boot and dragged him off her friend two separate times. When it became apparent that his efforts had

²² Wilson Lumpkin to William W. Williamson, February 15, 1833, *Governor's Letter Book, 1833-1835*, Drawer 62, Box 65, GDAH; Wilson Lumpkin to William Hicks, July 6, 1833, *ibid*; Wilson Lumpkin to William Hicks, July 6, 1833, *ibid*.

been bested, Dukes pulled out his pocket book “and offered his injured hosts satisfaction.” In other words, he sought to pay them off. To his surprise, the woman grabbed the pocket book and tried to destroy it. Enraged, Dukes produced a heavy horsewhip he then employed with ruthless efficiency “until Algiers itself would sicken at the stripes inflicted.”²³

The two women later went to the magistrate in the newly created Murray County, who informed the women on the impossibility of receiving Indian testimony intended for use against a white citizen. Elijah Hicks lamented the fact that in spite of their suffering, the two Cherokee women had been barred from seeking justice because of the supremacy law and the color of their attacker’s skin. Fewer Georgians had reason to believe the women’s story when Dukes himself went to the press and published his version of events. Sheriff Dukes claimed that the women had invited him to sit down near their house to eat apples. After nearly twenty minutes, Dukes realized that his handkerchief was missing from the pocket of his overcoat, and, along with it, his pocketbook containing eighteen dollars. The sheriff accused the women of stealing his money but discovered his pocketbook, minus the money, stashed beneath a bundle of calico cloth. This sent him into a rage. Producing his whip, he beat one woman “four or five times,” until she turned over the rolled up notes. When he tried to leave the scene, the other Cherokee woman grabbed the reins of his horse, until Dukes struck her twice. Dukes had not finished with the two women, though.²⁴

Two days later the sheriff returned to the scene of the crime. While conversing with a third Cherokee woman who spoke English, he tried to justify his previous actions and declared

²³ The Sheriff had drawn land in what would become Paulding County. See S. Emmet Lucas, *The 1832 Gold Lottery of Georgia: Containing a List of the Fortunate Drawers in Said Lottery* (Easley, SC: Southern Historical Press, 1988), 142; *Cherokee Phoenix*, July 27, 1833, 3. William U. Anderson, *A History of Coweta County, 1825-1880* (Newnan, GA: Newnan-Coweta Historical Society, 1977), 30.

²⁴ *Cherokee Phoenix*, July 27, 1833, 3.

that he had acted in such a brutish way because he had been robbed. At that point, the woman whom he had accused of stealing his money threw a stick at Dukes. Enraged, the sheriff jumped off his horse and “gave her ten or twelve severe cuts with the whip.”²⁵

Dukes’s account, and unexplained return visit, made it seem that the sheriff sought to return to the isolated farmstead to justify his crimes and lay blame at the feet of the Cherokee women. His punishing actions were attempts to both instill mastery over the women and order the backcountry population. The extension and supremacy laws made it impossible for Cherokees to receive justice within the state legal system. Indeed, they had become so vulnerable that the woman who threw a stick at Dukes exemplified Cherokee helplessness. For those Cherokee unlucky enough to run across state agents, they probably noticed little difference between the behavior of civil or military authorities. The Guard used violence to undermine Cherokee sovereignty and assert mastery in the same way that Sheriff Dukes had. State policy had become one of intimidation to wrest control of the land away from the Cherokee.

If the violence that rocked the backcountry had been over sovereignty, then the newly-created Murray County became the epicenter of that conflict for one simple reason: it borders contained the Cherokee capital, New Echota. Issues of sovereignty that had plagued federal, native, and state leaders in the 1820s and early 1830s likewise plagued Murray’s officials as they sought to extend Georgia’s version of order. For some Murray County residents living in the backcountry, the Cherokee still exerted far too much sway in the course of county events. White anxieties over the prospects of self-government and state superiority flared. Growing factionalism in the county made governing difficult for Lumpkin and it cast doubts about the viability of state sovereignty. For example, in 1833, Georgia’s electorate went to the polls to elect delegates to a constitutional convention that sought to make congressional representation more democratic. In

²⁵ Ibid., August 31, 1833, 3.

the Cherokee counties, the political partisanship became particularly vicious. Wilson Lumpkin and the Clark Party, by 1833, had begun calling itself the Union Party and their sympathies rested mostly with the national Democratic Party. The Troup Party, formerly led by George Gilmer, called itself the State's Rights Party, and sympathized with nullifiers in South Carolina as well as Whigs who stressed the benefits of internal improvements. Both parties continued their unequivocal support of President Jackson and in particular his Indian removal policy.

As Lumpkin's policy of divide and conquer caused a rift in Cherokee political life, it further exacerbated tensions within state politics. From the newly created Murray County, a land agent designated by the governor to rent out fractional lots, William N. Bishop, complained to the governor of threats to the white polity. He noted a "tolerably divided" county between an "Indian party and the White party." For the convention, the Union Party had run "two respectable white men" who each won by the margin of a single vote. One of their opponents had an Indian wife, so the name "Indian Party" stuck to the State's Rights candidate, which reminded voters of Gilmer's attempt to allow Indian testimony in court. Bishop, though, had to admit that the two victorious delegates could not attend the convention because they had failed an "oath laid down to residence." The law convening the reduction convention, as it became known, required that delegates had resided in their respective county for at least a year and in the state for seven. In other words, those "respectable white men" had lied, their neighbors had turned them in, and they forfeited their convention seats.²⁶

It remained unclear if Bishop fretted over the possibility of a Cherokee presence or the

²⁶ William N. Bishop to Wilson Lumpkin, April 22, 1833, in *Cherokee Letters*, 2: 401; *Macon Telegraph*, January 9, 1833, 2. Lumpkin had appointed Bishop as a land agent in January 1833 "to rent . . . all fractions having improvements thereon, in the Cherokee Territory, not occupied by any Indians." See Wilson Lumpkin to William N. Bishop, January 4, 1833, *Governor's Letter Book, 1833-1835*, GDAH. The convention became known as the "reduction convention," which should not be confused with the similarly named convention in the U.S. Congress to reduce tariff rates as a means to alleviate the nullification controversy. The state measure sought to reduce the overall number of representatives as a way to save money and break up the power of the low country counties.

political alliance between whites and Cherokees, or both. Whatever the case, he tried to use violence as a solution. Frustrated by his lack of authority to rid the county of political opponents, Bishop wondered if Lumpkin could “suggest any plan to intimidate these Chiefs[.] I should like to be in possession of it early.” Bishop clearly linked the use of violence to political problems, a hallmark solution for backcountry whites. Indeed, Bishop was a man on the rise who typified not just the rough and tumble world of Jacksonian political operatives, but those who resided beyond the pale of American influence. The backcountry beckoned to those who found equality and prosperity lacking in other parts of the state, and it attracted men and women on the make. Bishop did not win a lot in the land or gold lottery, but he did purchase a tract of land that contained the buildings belonging to the Moravian mission at Spring Place. Moving to his new home, he claimed ownership of the mission and its outbuildings. He quickly became a figurehead in local politics and ingratiated himself with the Clark party and publicly denounced nullification. After the two delegates withdrew from the convention race, Bishop lamented the ascendancy of the Indian party. Fundamental to their cause, Bishop felt, was their prevention of whites from sowing corn, thereby robbing them of their ability to support themselves and their families, in the hopes of expelling “all citizens who are true to the State Laws and policy so that they can remain in power.”²⁷

By calling his opponents the “Indian Party,” Bishop drew on the fear of recent settlers who thought Indian opposition would prevent them from claiming their land. Though Bishop felt that the county was “tolerably divided” between the “Indian Party” that supported the State’s Right platform and the “white party” that supported Lumpkin, Bishop confidently reported that Lumpkin would win votes in the upcountry. “I believe we will be able not withstanding their [sic]

²⁷ William N. Bishop to Wilson Lumpkin, April 24, 1833 in *Cherokee Letters*, 2: 415; Tiya Miles, *The House on Diamond Hill: A Cherokee Plantation Story* (Chapel Hill: University of North Carolina Press, 2010), 177-178.

is two parties to give you a large majority next fall in this County.” He correctly predicted the mood of the voters, who showed just how much they approved of the State’s Rights Party rumored alliance with natives at the local level. Of the 150 votes cast in fledgling Murray County in October 1833, 120 (80 percent) went to Lumpkin. A similar story played out in the nine other Cherokee counties, where Lumpkin tallied nearly 62 percent of the votes cast. In the border counties, the results mirrored those in the Cherokee counties where 63 percent of voters supported the incumbent. That backcountry residents still flocked to Lumpkin’s banner demonstrated their affection for the man who had rammed through the gold lottery and the “white man’s chance.”²⁸

The vote for the “reduction measure” occurred simultaneously. Though a similarly named measure dealing with the tariff had worked its way through Congress, Georgians dealt with an altogether different type of reduction: decreasing the number of representatives and senators in the state house as a means of defraying costs and promoting more equitable representation. Proposed by Lumpkin and the Clark Party, the measure was designed to weaken the Troup Party’s traditional geographic base, the lowcountry. And a majority of the delegates hailed from the Union Party. The new system created senate districts and reduced the number of senators by half to thirty-six. It also ensured that each county had at least one representative in the lower house, which was important to Lumpkin since he derived much of his support from scantily populated frontier counties. The convention then awarded additional seats to the most populous forty counties but limited the maximum number of representatives per county to four. When Georgians went to the polls in October, their votes on the referendum mirrored their choice for governor. Fifty-seven percent of voters in the Cherokee counties supported the

²⁸ William N. Bishop to Wilson Lumpkin, April 2, 1833 in William N. Bishop Papers, File II, Box 19, GDAH; *Macon Telegraph*, October 31, 1833, 3.

scheme; sixty-one percent of border county voters supported the reduction measure. With widespread support in the backcountry, both Lumpkin and the reduction measure enjoyed easy victories.²⁹

Much of the governor's appeal came from his continued advocacy for a "white man's chance." When combined with the reduction measure—which advocates saw as "resting on principles of the purest democracy" because it apportioned representation to the free white male population and not the "federal" count that included three-fifths of a county's slaves—voters saw the governor as a champion of the prerogatives of white settlers. Fourth of July revelers and Union Party supporters toasted the wisdom of the convention for recognizing "that the free white population alone is the proper basis of representation." The growing support for white male equality was a logical outgrowth of a strain of republican thinking that stressed equality. No doubt democratic striving had more urgency in places where racialized others appeared to threaten the rights enjoyed by the white population.³⁰

In order to protect a white identity, the legislature did something surprising. Rather than exclude whites who had chosen to marry a Cherokee, the legislature gave those intermarried whites as well as acculturated natives a chance to renounce their "savagery" in favor of "civilization." In December 1833, the legislature required whites connected to the Cherokee or acculturated Indians to decide on which polity, American or Cherokee, they wished to join. The law, called the "Cherokee protection act," stripped intermarried whites of legal rights, even if they were state citizens, unless those individuals swore before a clerk of the superior court that they wished to be considered white rather than Indian. Once that occurred, the head of the

²⁹ *Macon Telegraph*, May 15, 1833, 3. On voting totals for both the gubernatorial race and the referendum on the reduction measure, see *ibid.*, October 31, 1833, 3.

³⁰ *Macon Telegraph*, May 29, 1833, 2; *ibid.*, July 17, 1833, 2.

family had “all privileges which are granted to such white men,” conferred onto him, but not the rest of his family. Such a move, however, also showed that the state government was willing, however grudgingly, to admit biracial individuals into the white polity. Perhaps legislators knew that no one would take them up on their offer, but the law at least gave the appearance that incorporating biracial individuals into the white polity was something they had considered. In spite of the seeming beneficence of state leaders, their offer of citizenship explicitly rejected the social complexity defining the Cherokee-Georgia borderlands, which had allowed for cultural negotiation to occur. The legislation demonstrated the desire of state leaders to assert its version of social order in the backcountry, even if it meant the incorporation of Indians into the white citizenry. In effect, this meant that acculturated Indians, because of their light skin tone, grasp of English, and mastery of American customs, could have their background whitewashed.³¹

The so-called “Cherokee protection act” went further to safeguard what the legislature considered an authentic Cherokee character. It also prevented whites or slaves belonging to whites from working for a Cherokee landowner. Failure to comply with this section of the law meant that the Cherokee landowner had to forfeit his or her land “as though such improvements had never been occupied by such Indian.” The law voided contracts between members of the

³¹ “An act more effectually to provide for the government and protection of the Cherokee Indians...” *Acts of the General Assembly* (1833), 1: 114-118. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=12995277&lawcnt=1&filt=doc> (Accessed August 1, 2011). No evidence suggests that any whites took the state up on its offer in 1833 or 1834. However, once removal commenced, some acculturated families in the Chattahoochee community did remain in Georgia. The legislature granted them citizenship in 1840. See Sharon P. Flanagan, “The Georgia Cherokees who Remained: Race, Status and Property in the Chattahoochee Community,” *Georgia Historical Quarterly* 73 (Fall 1989): 584-609. Historians have located the beginnings of herervolk democracy in Jacksonian America were often characterized by white male equality. Its roots, though, predated the brand of politics championed by the seventh president. On the republican roots of democratic egalitarianism and the influence of race on white male equality, see, for example, Harry Watson, *Liberty and Power: The Politics of Jacksonian America* (2006; New York: Hill & Wang, 1990), 50-54. Other southern states, simultaneous with Georgia, had begun delineating the bounds of white political privileges, see, for example, Lacy K. Ford, “Making the ‘White Man’s Country’ White: Race, Slavery, and State-Building in the Jacksonian South,” *Journal of the Early Republic* 19 (Winter 1999): 713-737. A more general discussion of efforts at solidifying the white republic along lines of citizenship can be found in Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997), 197-242.

two races, and to hurry voluntary removal and strengthen the accommodationists, made preventing or intimidating any Cherokee from enrolling a misdemeanor. All of these were efforts to hurt the economically adroit group of Cherokee who opposed removal. The Cherokee protection law, it provided the governor with the authority to designate “some fit and proper person as agent” to enforce this law.³²

White residents in the newly created Cherokee counties experienced racial anxieties firsthand and demonstrated much less calm regarding race in the borderlands than the legislature. Particularly troublesome, rumors of despotic Cherokee leaders interfering with Georgia’s wholesome, benevolent civil institutions and democratic processes, caused quite a stir in the backcountry. Warning the governor of the threats posed to the nascent courts in Murray County, William N. Bishop, the zealous democrat, once again warned the governor of a scheme afoot. He issued a stern warning: county officials had appointed a land agent “who is completely under the influence of the Head men of the Cherokee.” The new land agent, Bishop added, had an altogether “Infamous character,” reportedly passed counterfeit money, and had been suspected of sympathizing with the reviled Pony Club. “Our chance for Legal Justice is Doubtful,” Bishop worried. Most troubling to Lumpkin’s supporter, though, were rumors that the land agent had plans “to drive a Large portion of our citizens from the country” with an “Indian Possy.” Without aid from the state, “this part of Cherokee will shortly be a scene of confusion.” Lumpkin sought to assuage the anxieties of his constituents and reaffirmed that “The Supremacy of the laws of Georgia should be maintained.”³³

Bishop never let down his guard when it came to Indians infiltrating civil offices. To

³² “An act more effectually to provide for the government and protection of the Cherokee Indians...” *Acts of the General Assembly* (1833), 1: 114-118.

³³ William N. Bishop to Wilson Lumpkin, April 24, 1833, *Cherokee Letters*, 2:415; Wilson Lumpkin to William Daniel, May 2, 1833, *Governor’s Letter Book, 1833-1835*, GDAH.

safeguard Murray County from the “Indian party,” he sought measures to protect fellow settlers. “I also wish to know,” Bishop inquired, “if we raise a volunteer cavalry company if we can have arms without the usual number [of recruits]?” The state mandated sixty-man minimum for a new militia company did not deter Bishop from seeking special treatment from the legislature. In the end, however, Bishop had to follow the law and could not incorporate a militia because he could not muster the minimum number of men. Even the primary federal enrolling agent, Major Benjamin F. Currey, championed Bishop. He recommended to the governor the appointment of Bishop, or someone with similar energy, (Currey also mentioned Charles H. Nelson as a candidate for command) “clothed with full power to employ the necessary force civil or military in a summary manner from whose decisions there shall be no appeal to inferior or superior courts.” Bishop’s hopes were dashed when the legislature did not requisition funds for him and his men, nor offer the Murray County militia more extensive authority when it met later that winter. No doubt Currey’s suggestion of offering Bishop and his friends unrestricted police power unchecked by the judiciary explained part of the legislature’s hesitancy.³⁴

Undeterred, Bishop spent the next two years building a strong support network in Murray County and the rest the backcountry as white settlers became fearful of Indian attacks. Though he suffered a setback when his militia company failed to make muster, he and fellow backcountrymen sought ways of protecting their families and their growing communities. In May 1834, a committee of concerned citizens from Cherokee County, chaired by the up-and-coming Howell Cobb, made a series of proposals to the governor. Exposure to “assassination & other lowly violence” compelled Cobb to encourage other duty-bound “white settlers of this country to adopt some strong & energetic measures upon this all important subject.” A series of nine

³⁴ William N. Bishop to Wilson Lumpkin, April 2, 1833, in *Cherokee Letters*, 2:401; Benjamin F. Currey to Wilson Lumpkin, October 29, 1833, *ibid.*, 2: 459.

proposals offered by Cobb's committee suggested unyielding measures to deal with threats to "the lives of our white citizens . . . daily and publicly made by the Indians." Cobb worried that civil law could not provide adequate protection to the county's white citizens "unless aided by military force from the state or the general government" that could "aid the civil authorities in the executing the laws of the state." Without that protection, white settlers would be forced into a "disgraceful but necessary retreat" and would therefore have to "surrender . . . the country to the original savage occupants." Or, barring unexpected help from the government, citizens would regulate their own affairs and resort to reciprocating actions against the Indians. If, for example, a Cherokee murdered a white within the county and was not turned over to civil authorities, whites residents would apprehend three Cherokee men and "put them to death as an atonement." Such a proposal dramatized the seriousness with which whites in the borderlands took threats and rumors of violence, but they also had to realize how untenable such a proposal was. It smacked of vigilantism, which many Georgians had disapproved of in the milder form taken by the Slicks. Beatings were one thing; murder something altogether different. Reciprocating killings would have undoubtedly caused the backcountry to spiral into a cycle of violence that would have required the state to muster the militia. A move toward vigilantism would also circumvent the court system and caused justice to devolve away from self-government toward a dystopia plagued by disorder and lawlessness.³⁵

Growing unease among settlers caused the governor not a small amount of hand wringing as he struggled with his options. Most of the anxiety from settlers came from Cherokee effrontery. "[D]o the people on the East of the Chattahoochie [sic] suffer large able bodied young men to stroll about the settlements, a gang of ten or a dozen with bows & arrows shooting

³⁵ Resolutions of Citizens of Cherokee County sent to Wilson Lumpkin, May 1834, *Cherokee Letters*, 2: 483-485.

small birds?” wondered one resident of Murray County, John Brewster. Such a statement failed to disguise his own insecurity at the sight of youthful Cherokee prowess, which prompted other white settlers in Murray to move their “wives & children into some of the old country” before returning to defend home and hearth. Aside from the “protection of white inhabitants,” Brewster believed that a “strong system of military police” had become necessary because he feared the return of the Pony Club thieves who “are realizing with their Cherokee confederates a handsome profit.” In early April, a petition from citizens in Cherokee county arrived on Lumpkin’s desk imploring the governor to “have organized & sent to our relief a Company of Mounted Men.” In early May, Bishop had begun prodding the governor to authorize such a force, suggesting, “Thirty Men raised in this country Mounted and Armed with Muskets could answer every purpose.” “We are . . . in the beginning of war,” a committee of Murray County residents predicted and requested “arms as well as men” to fend off any forthcoming attack.³⁶

Though Governor Lumpkin sought the implementation of civil law, he had begun to understand the precariousness of backcountry settlement. With a large Cherokee population still living on the land that had been won by lottery winners, he had to create some way for Georgians to impose their will. But he did not believe that war loomed. Most of the fuss came from residents who were “extremely alarmed” at the pronouncements of a Cherokee youth who had told white settlers that her people had begun stockpiling weapons and ammunition.³⁷ Much of the governor’s hesitancy—or what he called “calm and peaceful measures”—in deploying a military force came from past experience and his fear that a martial strategy would “supercede

³⁶ John Brewster to Wilson Lumpkin, May 16, 1834 in *Cherokee Letters* 2:489-493; Petition of Sundry Citizens of the Cherokee Counties for the Organization of a Guard, April 10, 1835, *Cherokee Letters*, 3:534-536; William N. Bishop to Wilson Lumpkin, May 15, 1835, William N. Bishop Papers, File II Names, GDAH; D.R. Mitchell, John Brewster, and R.N. Holt to Wilson Lumpkin, May 12, 1834 in *ibid*.

³⁷ William N. Bishop to Wilson Lumpkin, June 4, 1834 in William N. Bishop Papers, File II Names, Box 19, GDAH.

[sic] the civil authority by the interposition of the military.” Federal troops and the first iteration of the Guard tended to compound violent tendencies among backcountry residents and, worse, often targeted uncooperative whites, which made such forces political liabilities. Still, with the threat of an all-out Indian attack looming, Lumpkin proposed to meet force head on.³⁸

To do so, he took two steps. First, he encouraged the new counties to raise volunteer militia units so locals could more effectually protect themselves and their neighbors. “Where the population will admit of it in the new counties,” Lumpkin wrote to U.S. Attorney General John Forsyth, “I am endeavouring to effect the organization of Volunteer companies to be placed under the command of prudent and intelligent men, who will be furnished with arms from our public arsenal to meet any emergency which may possibly occur.” A show of military might would prevent the state from being “harassed by the enemies of good order, and all civil government.” Even though he doubted the rumors plaguing the backcountry concerning an impending attack, the governor was not about to let white men and women suffer from a lack of preparedness.³⁹

It soon became apparent, though, that the good citizens of the Cherokee counties were less interested in joining the militia and fighting in an Indian war than they were in having others fight in their stead. With such a small population, that attitude meant that neighborhoods and entire militia districts went undefended. Knowing that he had to at least appear prepared, Lumpkin took the advice of Benjamin F. Currey who again pleaded for the rapid organization of a mounted guard “to keep the peace & aid the civil authorities in the execution of the law.” The governor still resisted a more forceful action, but he did take an important second step when he

³⁸ Wilson Lumpkin to John Forsyth, May 30, 1834, *Governor's Letter Book, 1833-1835*, GDAH; Benjamin F. Currey to Wilson Lumpkin, November 18, 1834 in *Cherokee Letters*, 3: 515.

³⁹ Wilson Lumpkin to John Forsyth, May 30, 1834, *Governor's Letter Book, 1833-1835*, GDAH.

named Bishop and Charles H. Nelson as enforcement agents to coordinate between state militia commanders and local civil authorities to better apprehend criminals. In November, Bishop aided local sheriffs in the hunt for a mixed-race murderer, James Graves, and a Cherokee criminal, John Hog Smith, who had escaped from jail in Cass County. The two also expelled Cherokee residents who would not vacate property claimed by lottery winners.⁴⁰

Much of the fear exhibited by white settlers stemmed from the fact that no Guard existed in 1834. William Williamson's ten-man unit, the third and smallest force created by the legislature, had not been renewed. In the December 1834 session, a select committee in the House warned the rest of the legislature of "alarming disorders and disturbance in the Cherokee country" that would surely lead to war if the General Assembly did not take firm measures to prevent violence. To prevent it, legislators allowed the governor to enlist forty men for special duty in a new Guard. Relying upon the "energy, watchfulness, and discretion" of the governor to create a military force if the "exigency to demand it," the bill left the timing of the company's creation and its oversight to the governor, perhaps as a way to distance legislators from any political fallout from its operation. The legislature drew on republican thinking when it asked the governor to remain watchful for the corruption accompanying a standing military force, though it placed no limits on the amount of time or money that could be spent restoring order.⁴¹

Governor Lumpkin did not immediately muster the Guard into service, primarily because no immediate emergency arose. The man he wanted to appoint as the commander, William N.

⁴⁰ Wilson Lumpkin to Sheriff [of Murray County], November 12, 1834, *Governor's Letter Book, 1833-1835*, GDAH; Wilson Lumpkin to William N. Bishop, November 12, 1832, in *ibid.* See also the state legislature's authorization on the use of force, "Whereas, at the October term, 1834, of the Superior Court of the county of Walker." November 12, 1834, *Acts of the General Assembly*, 1:293-294. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=14540590&lawent=18&fil=doc>. (Accessed August 4, 2011).

⁴¹ Resolution of "The select committee to whom was referred the communication of his Excellency the Governor of the 6th instant..." December 20, 1834 *Acts of the General Assembly*, 1:335-336. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legisidx.pl?sessionid=7f000001&type=law&byte=14618676> (Accessed August 10, 2011).

Bishop, had also become embroiled in a political scandal that made it risky to do so. Rather than brashly appoint a supporter embroiled in a political scandal, he waited to see how political opponents shaped their reaction to Bishop's behavior. One Union party supporter in the backcountry urged Lumpkin to name Bishop the commander of the Guard, but warned that he would be pilloried for such a decision. "If the command of the guard is given to him," one advisor informed the governor, "you may expect to be abused for it." It would prove a difficult decision, but the advisor told Lumpkin to steel himself. After all, "what have you done for the benefit of the people since you went into office for which your enemies [sic] have not slandered you?"⁴²

The incident that gave Lumpkin pause occurred in February 1835, when Bishop, acting in his capacity as the governor's agent, expelled Joseph Vann and his family from their home near the Spring Place missionary. In that month he sent the family notice that they must leave; the following month, he arrived at the head of twenty-five armed men to compel them to do so. Accompanying Bishop's posse, the lottery winner Joshua Holder, came armed with the deed he had won in the land lottery. It soon became apparent that Bishop had no real interest in expelling the Vann family, but a white man who rented one of their rooms, Riley Spencer. Bishop and his men forced themselves into the house, yelling at Spencer to leave. The terrified family huddled in an adjacent room while the Georgians commenced shooting. Spencer barricaded himself in a stairwell; Bishop's men fired over a dozen shots to dislodge him. One ball struck Spencer's musket, which splintered, the remnants of which lodged in his head. Bleeding profusely, he demanded to know who had fired the last shot. Bishop replied: "The state of Georgia fired that gun!" Though Bishop's testy assertion proved partly correct, he had been

⁴² Z.B. Hargrove to Wilson Lumpkin, J.E. Hays, ed., *Georgia Military Affairs WPA Project no. 5993* (Atlanta: Georgia Archives, 1940), 6: 257.

named the governor's agent when it came to apprehending fugitives and therefore had some authority to act on behalf of the state. He did not have the power to dislodge peaceful Cherokee residents from their homes or their renters. Bishop's violent outburst signaled just how comfortable he felt using violence to solve problems and underscored just how aggressive state policy had become when it came to expelling the Cherokee.

Such viciousness directed at a legal resident of the Cherokee country no doubt angered Spencer's friends, who were not inconsiderable in state politics. This obviously made the appointment of Bishop as commander of the Guard a sticky situation for the governor. It soon grew worse. During the fracas, Bishop encouraged his men to "kill the d---d rascal, we have no use for nullifiers in this county." The overt political nature of his assault on Spencer made Bishop a liability. The violent rivalry between the two men did not end in Joseph Vann's living room, either. Bishop's version of events appeared in Union newspapers, where he claimed that Riley "was a bully for his party" whose "violence and rancor" forced him to act in such an aggressive manner. The aggrieved land agent only hoped that his character and reputation had not been tarnished beyond repair.⁴³

In spite of Bishop's troubles and the political headaches such a partisan caused for the governor, he felt compelled to award the command of the new Guard to Bishop—perhaps as a means of restoring his supporter's honor. Lumpkin was also savvy enough to realize that in order to accomplish his goals he needed someone with a fierce reputation. In May, Bishop had salvaged enough of his reputation in newspaper exchanges with Riley's friends that the governor found it possible to appoint him commander of the Guard. Further, the exigency required by the resolution to form the Guard had arrived in two ways. In early 1835, a delegation of

⁴³ The Bishop-Riley affair garnered nationwide attention. See *New-London (Conn.) Gazette*, April 29, 1835, 2; for Bishop's version of events, see Athens *Southern Banner*, June 11, 1835, 1.

accommodationist Cherokee led by Major Ridge, Elias Boudinot, and Stand Watie began meeting with federal negotiators to hammer out a removal treaty. Tensions within the Cherokee Nation mounted, and soon enough, turned violent. By early summer, members of Ross's National Party had assassinated several accommodationists. Georgians living within the Cherokee Nation now found themselves in the midst of a violent civil strife. Second, news of a mass jailbreak by Cherokee prisoners convinced Lumpkin that a Guard could deploy quickly and return the prisoners to jail. Indeed, it was Bishop who warned the governor: "The Prison doors have been broken open in Cassville—and all the Prisoners therein have made their escape . . . Our country is now full of bloody assassins and our white Population are considerably alarmed." The combination of Cherokee violence over a prospective treaty and the escaped prisoners provided Governor Lumpkin the emergency he required to muster a new Guard.⁴⁴

On May 28, 1835, Lumpkin finally authorized the creation of a new Guard and named Bishop its commander. Lumpkin's supporters handled Bishop's appointment delicately. The Guard, they declared, would not override civil officers, but act in concert with them. "It will aid the civil authority in making arrests; in apprehending outlaws . . . in arresting those who may threaten the peace of the State, and giving security to the lives and property of friendly Indians from the murder and rapine contemplated by Ross and his followers." The new Guard, which its commander called the Georgia Rangers—perhaps as a means of separating his command from those that came before—consisted of forty men and like the Guard authorized in 1833, Bishop's Rangers had not been ordered to protect the gold mines, but had been called out, instead, for the "security, relief, and protection of our own citizens and the friendly Cherokees." The continued focus on protecting accommodationists favorable to removal was a savvy move on the part of

⁴⁴ Wilson Lumpkin to William N. Bishop, May 28, 1835, *Governor's Letter Book, 1833-1835*, GDAH; William N. Bishop to Wilson Lumpkin, May 15, 1835, William N. Bishop Papers, File II Names, Box 19, GDAH.

state officials and revealed the overt political nature of the Rangers. Because state efforts to divide the Cherokee politically had succeeded and a civil conflict had ensued, the Guard could further brutalize the Cherokee in the name of maintaining the public peace.⁴⁵

Designating the Rangers a force to protect white citizens represented a major change in the state's stance. Instead of a force preventing white intrusion, the Rangers now had it within their purview to protect white lottery winners and other settlers from threats by Indians. This meant that Bishop's Rangers had been created to harass and intimidate the Cherokee aligned with John Ross. Not coincidentally, state authorities also began associating Cherokee criminals with affiliation with the anti-removal force to place the accommodationists in a positive light and paint Ross's supporters as opponents of proper order and self-government. Acting forcefully against Nationalist Cherokee, Bishop caused the native inhabitants to cower at news of his movements. His aggressiveness became his downfall when he hunted down a suspected northern abolitionist visiting John Ross at his home in Tennessee. The violation of Tennessee's sovereignty signaled the downfall of the Guard, but not before political opponents in the state legislature conducted an investigation and chastised the governor for his foolishness in trusting someone with Bishop's reputation with so much power. The Guard showcased the corruptibility of military power in a republic, and convinced state leaders of the necessity of using the militia as a means of imposing order.

In spite of its expansive mission, Bishop kept his company under forty men for two very pragmatic reasons. First, the Rangers were paid from the state's contingency fund that the legislature purposefully kept small. Military appropriations for 1834-1835 only totaled \$6,000, so

⁴⁵ Athens *Southern Banner*, June 25, 1835, 2; "The select committee to whom was referred the communication of his Excellency the Governor..." *Acts of the General Assembly*, December 20, 1834, 1:336. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=15491927&lawcnt=9&filt=doc> (Accessed August 8, 2011).

Lumpkin had to carefully spend the money. In comparison, Coffee's Guard in 1832 had spent \$6,534.68. Williamson's smaller Guard, comprised of only ten men plus the commander, cost the state \$1,610.25.⁴⁶ Second, Bishop had difficulty finding forty men able to serve for the long term. In his first requisition for funds, Bishop listed forty men on his roster. However, when funds were distributed, only thirty-nine men signed the roster. Bishop later admitted that he had problems retaining his men and by September he could only muster thirty-six men. One volunteer in the Rangers left because he got married, while another man who Bishop had commissioned as a blacksmith failed to appear for duty. Bishop also reported that the majority of the white male population in the backcountry, "Poor men generally," could not spare the time "constantly scouring the country to Keep under those Marauders" who threatened the public peace. Still, Bishop admitted that even his small force would prevent "much crime and disorder."⁴⁷

Over the course of its service, the Rangers employed a total of forty-four different men. Most of the men were young and single, and therefore not listed on census returns as the head of their household. Further, the Cherokee counties had not been created at the time that census takers enumerated the last census. Therefore the census presents only a rough sketch of the Ranger's socioeconomic status. However, other sources help reveal the background of the unit, and perhaps their motivation for serving as well. Of the forty-four men who enlisted with the Rangers in 1835, 19 had won a claim to land in either the gold or land lottery, while 3 (and possibly 4 men) won both. In 1830, only 9 men in the Rangers were the head of a household and therefore enumerated in the census. Of those men, only 2 owned slaves, and they both held the

⁴⁶ *Appendix to the Acts of the General Assembly* (1833), 4, 15-16. <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionId=7f000001&type=backdiv&byte=13762569> (Accessed August 8, 2011).

⁴⁷ "Muster Roll of the Guard..." September 1, 1835, Georgia Adjutant General's Military Records, Frame 319, Drawer 269, Reel 12, GDAH; "We the subscribers acknowledge..." Georgia Adjutant General's Military Records, Frame 320, GDAH; William N. Bishop to Wilson Lumpkin, May 15, 1835 in William N. Bishop Papers, File II Names, GDAH.

rank of private. By 1840, 21 men were the heads of household and seven owned slaves. One man, Alfred N. Worthy, owned 16. Much like Gilmer's Guard, many of the Rangers had benefitted from the state lottery program and probably sought to enroll to expedite the removal of the Cherokee from what they considered their property. Further, the Guard was a vehicle in which ambitious young men could advance themselves socially and economically. After all, riding across the hilly terrain of north Georgia afforded them ample opportunity to survey land or prospect.⁴⁸

In spite of the small number of volunteers, the Rangers made a substantial impact on affairs in the backcountry. For the most part, Bishop and his Guard did not bother white settlers, squatters, or intruders. Instead, they spent their time discerning the movements of National Party members and intimidating them and searched for Indian fugitives and suspected criminals, whom they accused of aligning with Ross. The change in tactics represented an important shift in the way state leaders thought about the backcountry. Though the Cherokee counties still had their fare share of lawless intruders and savage Cherokee, state leaders recognized that thousands of lottery winners and landowners had begun the laborious work of pioneering those lands for further white settlement. By 1835, Governor Lumpkin noted the influx of white Georgians, citizens, who needed state aid and protection. When rumors of Indian attacks circulated, Lumpkin assured a militia general that "many of our citizens are at his moment, laboring under the same apprehension of Indian outrage, which pervades your community." In a letter to Bishop, Lumpkin reminded him that his force had been sent into the backcountry "for the

⁴⁸ Heads of households and slave ownership statistics came from the 1830 U.S. Census and 1840 U.S. Census; land lottery winners can be found in James F. Smith, *The Cherokee Land Lottery in Georgia* (1991; New York: Harper & Bros., 1830); a compilation of gold lottery winners has been compiled by the noted local historian S. Emmet Lucas. See his *The 1832 Gold Lottery of Georgia: Containing A List of the Fortunate Drawers in Said Lottery* (Easley, SC: Southern Historical Press, 1988). For the muster roll of the Rangers, see the various pay sheets signed by the volunteers in Adjutant General Military Records, Drawer 40, Box 16, Frames 319-322.

security, relief, & protection of our own citizens.” The shift from “intruder” to “citizen” had important consequences, for it showed that state leaders had begun to see backcountry residents as legitimate members of the state polity capable of instilling civil law.⁴⁹

Still, before a white republic composed of citizens could bring effective civil institutions into their counties, the Guard had to continue its work intimidating the Cherokee. Much of Bishop’s time as commander of the Rangers was spent apprehending criminals who had escaped from county jails. Convinced that a conspiracy was afoot, Bishop blamed such perfidious machinations on Ross’s supporters. Bishop and his men “arrested several persons charged with crime,” including suspected murderers. Bishop also dispersed the Rangers “in various parts of the country to learn the lurking places of those Banditti or Band of Ross[']s Murderers.” Bishop’s scheme was not just a way to keep tabs on Ross’s agents, but a way to spy on Cherokee opponents. He anticipated slow progress, but predicted that his methods would “decoy them off their guard” and allow his men to rid the backcountry of its “troublesome population” The trend of Bishop’s Rangers and the Union Party leadership was to blame recalcitrant Indians, and not poor whites, for the problems plaguing the backcountry—problems, in their minds, with only one solution, removal.⁵⁰

Most damaging to the cause of Ross and his supporters, however, was the Rangers’s confiscation of the *Cherokee Phoenix*’s printing press. Once again, the orders to raid the *Phoenix*’s office came from Major Currey, who saw the newspaper as a prime source of Cherokee resistance. In August, Currey learned from Stand Watie, the brother of Elias Boudinot, and key member of the Treaty Party, that the National Party sought to relocate the press to Red Hill,

⁴⁹ Wilson Lumpkin to General James C. Watson, May 5, 1835, *Governor’s Letter Book*; Wilson Lumpkin to Col. William N. Bishop, May 28, 1835, in *ibid.*

⁵⁰ William N. Bishop to Wilson Lumpkin, September 16, 1833 in *Cherokee Letters*, 2: 444-445.

Tennessee. Stand Watie asked Bishop to interfere in Cherokee politics by riding to Elijah Hicks's office and confiscating the press for the Treaty Party. Always eager to hurt the Ross faction, Bishop complied and placed the press in the hands of Stand Watie.⁵¹

Georgians did not express any qualms at its military units implementing federal policy. After all, in the end the state would benefit when it expelled the Cherokee. The summer of 1835 saw an important rhetorical shift in the way the popular press dealt with the Ross faction. State leaders pegged the National Party as the mechanism of an “avaricious and faithless Cherokee dictator” that opposed the extension of Georgia's sovereignty at every turn, including the murder of Indians friendly to the state, whose power had to be checked. Further, the National Party had conspired to free prisoners held in Cass County, which demonstrated how readily they sought to “trample down the safeguards of the law” and illustrated the fragility of civil authority in the backcountry. One Athens editor despaired for the weakened state of authority in the Cherokee counties: “[T]he laws administered by the ordinary officers are not deemed a sufficient safeguard to our own citizen against the . . . hordes of ruffians devoted to an unprincipled chief.” The attacks on the motives and character of Ross and his supporters coincided with the actions of the Guard as it began a more forceful approach to “voluntary” removal.⁵²

Though the Rangers aided federal authorities, Bishop had an agenda all his own: gaining political power in Murray County. In his quest for personal aggrandizement, Bishop's actions, and the support he garnered in his home county, gave the lie to the Union Party's assertion that the Guard was a bridge between disorder and civil law and illustrated the ease with which an

⁵¹ On the Guard's raid of the *Phoenix's* office, see Benjamin F. Currey to Wilson Lumpkin, August 26, 1835, *Cherokee Letters*, 3: 604, as well as Benjamin F. Currey to Wilson Lumpkin, et al., September 9, 1835, *ibid.*, 613-615. Local lore has it that the Guard, rather than turn over the press to Watie, instead dumped it in the Chattahoochee River, which explains why the press has never been located. See also Thomas C. Cochran, ed. *New American State Papers: Military Affairs* (Wilmington, DE: Scholarly Resources Inc., 1972), 10: 363-364.

⁵² Athens *Southern Banner*, June 18, 1835, 2.

unchecked military force could gain power in a fragile republic. As winter descended upon the borderlands, the new Union governor, William Schley, Lumpkin's successor, learned troubling news regarding the conduct of Bishop's force. When the circuit court met in Murray County to verify jury lists for the inferior and superior courts, the proceedings were interrupted by Bishop "with nearly all, or the great part of his guard." He demanded that the court accept his own list, filled with the names of his supporters, instead. When the judges and the witnesses selected by them refused to go along with the scheme, Bishop's "guard all set to cursing . . . with threats & menaces of the most violent character." When the judges ordered Bishop and his men to desist, a tense standoff ensued. Bishop was later reported to have said that if the deputy sheriff had tried to arrest one of his men "he would have shot him through, as . . . he had his thumb upon the cock of his Pistol & his finger on the Trigger." One witness later learned that if he had attempted to intervene on behalf of the court he would have had "many balls shot through my carcass." Bishop had previously despaired over the prospects of civil authority in the county because of the Indian Party. Now it suffered at his hands. "[T]he fact is the civil authority is put down by him in this county [H]e pays no regard to the law unless it is to operate upon his enemies [sic], then he rushes forward with his guard and takes it into his own hand." Bishop's authority had gone to his head.⁵³

Bishop used violence to cow political opponents. By doing so he circumvented civil authority that the Guard had been designed to protect. Though a gross violation of his charge, it was not altogether surprising given Bishop's violent propensities. The same set of complaints lodged with the new governor detailed further abuses by Bishop and the Rangers in Murray County. The "tyrannical movements" of the Guard targeted Bishop's political enemies, or "every

⁵³ James Edmonson to William Schley, November 5, 1835, *Cherokee Letters*, 6: 279-281.

body that dose not subscribe to his universal views.” Maintaining the power of the Union Party became his overriding concern. When any of his friends found themselves liable for charges in court, Bishop and the Rangers “parades immediately and goes forward & brakes up the Court & scares off the party & returns with their friend . . . in triumph.” After such spectacles, the Rangers and their political allies could be found “lauding the commander, comparing him to General Jackson” all because they had broken up a court’s proceedings and defeated “honest men.” Men from the Troup Party claimed Bishop imprisoned them without a trial, and he had “whiped the back of our whiteman to an awful extent & tourn asunder his garments.”⁵⁴

Though its victims definitely suffered at the hands of the Rangers, the real victim, according to some observers, was the republic itself. The man informing the governor of Bishop’s actions, James Edmonson, feared for the fate of self-government if Bishop continued his antics. The Ranger’s actions were “not consistant with well regulated government,” he complained. He called Bishop a tyrant who oppressed anyone who opposed him, which made him a political liability. At the last election, the Union Party candidate for the House had faired poorly precisely because of Bishop’s threatening pose. During the campaign, Bishop had spread rumors that if reelected, the Union Party establishment would rigidly follow Lumpkin’s use of the Guard. Even new voters in the county could not stomach voting for a policy “that would keep the citizens of a county so appressed [sic] by a set of irresponsible vagabonds.” The seemingly unrestrained power granted to the Guard had been corrupted by a political partisan, a man who saw violence as a viable option for the establishment of order in the backcountry.⁵⁵

In spite of Edmonson’s fears regarding the fragility of civil authority in Murray County,

⁵⁴ Ibid., 281.

⁵⁵ Ibid., 280-281.

Governor Schley did not remove or chastise Bishop. He did summon Bishop to Milledgeville in November to the General Assembly's meeting. While leaving the legislative chambers on Friday, November 6, Bishop, "walking arm in arm with another gentleman," was attacked from behind by his old rival, Spencer Riley. Striking Bishop with a large walking stick that broke during the scuffle, Riley had the advantage until Bishop produced a pistol and shot Riley in the chin. He then rained down blows on Riley with the gun's handle until witnesses separated the two combatants. Covered in blood, both of the men produced a pistol and dirk, waiting for the other to make a move. Finally, as tempers cooled, their friends pulled them away from each other; neither man had suffered severe wounds, which shocked onlookers, who were in awe of the "muscular power & desperate courage of the men." The General Assembly stopped only briefly when it heard the shot fired, but soon continued "with their business, as though nothing had happened." Even the legislature, it appears, had become inured to Bishop's violent outbursts.⁵⁶

The melee between Bishop and Riley, steeped in the honor-bound mentality of the antebellum South, illustrated the violent measures Bishop employed to defeat his enemies. Without official censure Bishop continued his ways. His downfall, though, was not long in coming. After a failed series of negotiations led by Ross had been rejected by the Senate, the Treaty Party began talks with federal negotiators in December in hopes of reaching a favorable settlement for removal. When Benjamin F. Currey heard reports that John Howard Payne, a northerner—and therefore, in his eyes, an abolitionist—was visiting Ross, he seized on the opportunity to strike at the opponents of Georgia's sovereignty. Currey ordered the Guard to arrest John Ross and his guest. The only problem, of course, was that Ross lived in Tennessee, well out of the Rangers's jurisdiction. With Bishop still in Milledgeville, probably recovering from his wounds, the job fell to the subcommander, Wilson R. Young, a resident of Murray County

⁵⁶ *Macon Telegraph*, November 12, 1835, 3.

and an ardent Bishop man. Leading the Rangers across the Tennessee River to the home of the Cherokee principal chief, Young's command arrested Ross and Payne and took them back to Georgia. Payne had also penned one of the most famous songs of the nineteenth century, "Home Sweet Home," and in a case of supreme irony, he overheard one of the Rangers humming the tune on the ride back to Murray County. When pressed on why he had dispatched the Guard into Tennessee, Currey justified his actions by claiming that Payne "is of the whig party and rumor makes him an abolitionist." In other words, Currey encouraged the Rangers to cross state borders and conduct an illegal operation motivated by base party politics.⁵⁷

The national press widely reviled the actions of the Guard. From Nashville, they were a "party of desperadoes;" Connecticut papers wondered why a police force was required for the "peace and good order of the Cherokee country." Would the Guard next seek to abolish the courts by threats to escape punishment? That would not happen, for Newton Cannon, the governor of Tennessee, outraged that his state's sovereignty had been violated, cried foul and demanded an apology. He pointed out the irony of the state's actions. Cannon could not fathom how a state so devoted to the "cause of State rights, and State sovereignty" could impugn the sovereignty of another state. Governor Schley came under intense pressure from the State's Rights Party to abolish the Guard. The legislature convened a select committee to investigate the Rangers's activity and concluded that when Governor Lumpkin had appointed Bishop his orders he made it clear that "your military command is designed only to aid the civil authority in carrying into effect the laws of the State." So Lumpkin had used his authority to limit the Guard and ensure its subservience to civil authority. The new governor had done no such thing, though

⁵⁷ The Treaty of New Echota—after a small minority of Cherokee had approved it—soon thereafter went to the Senate where it was ratified the following spring. See Theda Perdue and Michael D. Green, *The Cherokee Nation and the Trail of Tears* (New York: Penguin Books, 2008), 102-115. Athens *Southern Banner*, December 17, 1835, 2.

he did not come under fire. The problem, then, must have been the commander. The committee agreed that the news out of Murray County made it seem that the Rangers had discharged their duty “with *pleasure* to themselves.” Bishop did not learn of Ross’s and Payne’s arrest until he arrived at Spring Place at the end of November. The question then became how to deal with backlash created by the Rangers.⁵⁸

By arresting Ross and Payne, the Rangers had put the legislature in a difficult quandary. The state, beginning with Colonel Sanford, had long permitted the Guard to carry out federal policy. In 1832 William W. Williamson and his men had even gone into land claimed by Tennessee to protect a group of enrollees from armed militiamen from the Volunteer State. In that instance, no one complained of the Guard’s actions. In this case, the Rangers deprived an American citizen of his Fourth Amendment rights, which put the committee in a delicate situation: if it declared that the Guard had the authority to storm into Ross’s home, the committee would have inferred that Ross and Payne had no protection from illegal search and seizure, which would have implied that he was the citizen of a foreign nation with its own sovereignty. If that were the case, then the state had initiated an invasion of a foreign state, a power not granted to it under the Constitution. Indeed, the state’s entire course of action since it passed the extension law would have been unconstitutional. The select committee investigating the arrests had to be a citizen of Tennessee entitled the protection of that state’s laws. Having reaffirmed that Lumpkin and Schley had done their best to prevent corruption, the committee laid the blame squarely at Bishop’s feet for inculcating a devil-may-care attitude among the Rangers.

⁵⁸ *National Banner and Nashville Whig*, December 7, 1835, 3; New London *Connecticut Gazette*, December 9, 1835, 2; Newton Cannon to William Schley, December 6, 1835, *Cherokee Letters*, 3:625; “The committee to whom were referred the several communications of his excellency the Governor....” December 18, 1835, *Acts of the General Assembly* (1835), 1: 336-343.

That raised another problem, for it freely admitted that a well-known political partisan and supporter of the Union Party, had overstepped his bounds and superseded civil authority. The committee, in its report to the legislature, took a firm stance on the outrages committed by the Bishop and his men: “Ours is a government founded upon opinion, and not force. Its laws must be executed by the good order and discretion of the people, and not by the bayonet and the sword.” Furthermore, the upcountry had been put on a path that would allow civil authority to flourish. If an emergency did arise, then “our fellow citizens in that section of the country must look to themselves, and to the aid which will most *assuredly* and *speedily* be rendered them by their brethren in different sections of the State.” The state had set a course away from small, politically motivated units to the widespread use of the militia.⁵⁹

With the committee’s report, the legislature voted to abolish the Guard, though Bishop had already disbanded it in mid-December. The weapons loaned to the Rangers from the state arsenal remained stored at the Murray County courthouse, however, which proved too tempting for Bishop to ignore. In February, Bishop won a landslide victory in Murray County to become the next clerk of the superior court. Of the 170 votes cast, he received an astonishing 158. In a little over three months in his post, new complaints arose of his abuse. One Murray citizen, Thomas A. Harper, experienced Bishop’s “mischievous designs & miserable deeds of darkness” firsthand when Bishop and his armed supporters removed him from his post as clerk of the Inferior court. Harper once more worried over the viability of civil law when the “tirant [sic] crouched at the head of his mobs” resisted state law with public weapons. Though Bishop never was punished for his abuses, his actions against Harper only strengthened the prevailing view that Bishop felt comfortable with violence and saw it as going hand in hand with both politics and the

⁵⁹ “The committee to whom were referred the several communications of his excellency the Governor,” *Acts of the General Assembly* (1835), 1:341-42.

preservation of order.⁶⁰

Between 1831 and 1835, the state of Georgia funded four distinctive military units called the Georgia Guard. Though each unit contained no more than forty men, the cumulative effect of the Guard reached not only into the backcountry but to the nation's capital. Most notorious for arresting Christian missionaries in 1831, the various iterations of the Guard not only tormented men of the cloth, but intruders, and Cherokees. Their intent was twofold. First, the Guard sought to "protect the gold mines" from any intruders or prospectors, Georgian or Cherokee. Second, as Cherokee society splintered into two opposing factions regarding removal, the Guard sought to sow discord among them and convince the opponents of removal that the safety of their people and the viability of their nation were threatened in Georgia. Their two motivations for using a large degree of force showed just how willing the state was to rid the backcountry of whites who behaved lawlessly and to get rid of the Cherokee. In short, violence proved a useful way to bring about the white republic, in which settlers could enjoy the privileges of self-government.

Employing intimidation, violence, and imprisonment, the Guard used similar tactics to realize a well-ordered society. After 1832, the state implemented a lottery for the scope of Cherokee territory within the bounds of Georgia. Rather than chase off intruders, the Guard shifted its overall focus to the Cherokee in order to deepen rifts within the Cherokee polity. Its actions, especially in 1835, became problematic because the commander, William N. Bishop, extended violence to political opponents in Murray County. Though no one within the state complained when Bishop or the previous commanders used violence against the Cherokee, using it against whites, especially for politically motivated purposes, proved too much for the state's

⁶⁰ Athens *Southern Banner*, February 18, 1836, 2; Thomas Harper to William Schley, May 28, 1836, Folder 8, Box 50, Telamon Cuyler Collection, UGA.

citizens to stomach. Drawing on the republican belief that military power corrupts a republic, the state legislature eventually disbanded the Guard and resolved never to institute a new one. Using small, politically motivated units to provide order to the backcountry was at an end, but not the use of force to bring about the white republic. In 1836, settlers exhibited a great amount of anxiety when reports surfaced that the Cherokee were on the cusp of launching an all-out assault on whites. With the Guard gone, state leaders needed a new way to protect its citizens from potential Indian reprisals and to make the last push to enforce the Treaty of New Echota.

CHAPTER SEVEN: REMOVAL AS REGULATION

With the dissolution of the Rangers after its trespass into Tennessee, the Georgia legislature signaled its unwillingness to continue a forceful regulation of the backcountry population. Too much had gone awry. Further, regulation had moved away from punishing unruly whites and towards the separation of the races as a way to create order. Whereas the Guard had first been established in 1830 to control white intruders on Cherokee ground, it quickly evolved into a force that actively intimidated natives. By 1835, politicians no longer argued that disorderly whites caused social corruption on the frontier; instead, the Cherokee had been cast in that role, especially after the Treaty of New Echota passed the Senate. After that date, removal became the only acceptable solution for backcountry disorder. To implement that program, the state and federal government mustered several thousand white males into militia service, a process that began in 1836. Much like the Guard, the militia became a political issue between the two state political parties. It became apparent that important members of the backcountry Union Party longed for a more forceful reckoning, while their State's Rights Party counterparts cautioned against force. Though militia duty, long deemed a civic responsibility, engendered opposition, by 1838 a large swath of men from the border counties enlisted and participated in an operation to whitewash their republic. Cherokee Removal was regulation writ large: a widespread use of violence that compelled a minority population to leave the state of Georgia in order to create an idealized society based on white superiority.

In early 1836, Georgia's backcountry citizens worked themselves into a panic. Rumors circulated regarding an imminent Cherokee attack that would drive white settlers from native ground. The source of the speculation, a small Indian girl, told whites that her people had been stockpiling arms and planned on launching a surprise attack. Governor Schley, uncertain if any

real threat existed, did not wait to find out. “Whether there be any real cause for alarm among the people in the Cherokee country, is a question not to be determined now.” He refused to place the blame for the rumors at the feet of panicky settlers and thought it prudent to strip the Cherokee of personal arms. “Would it not be well . . . to all the Cherokees . . . until they are removed?” Schley fretted that the Treaty of New Echota, ratified “not by the sanction of their leaders,” would encourage natives to “make a desperate effort to obtain what they may consider revenge on the white people.” Jackson did not approve of Schley’s plan. Not only would it leave the Cherokee exposed to attacks by Georgians, but it also put federal forces in the awkward position of having to defend the Indians. Such a plan would make it seem that Jackson intended to uphold John Marshall’s *Worcester* decision.¹

A few Cherokees were disarmed, though not by the federal government. In the summer of 1836, a group of backcountry whites “slicked” a few Indians in possession of firearms and powder. The reappearance of slicking as a punishment used against the Cherokee was important. Previously, slicking was something done in conjunction between white settlers and their native neighbors to impose community standards on intruders. In 1836 it showed just how wide the gulf between white settlers and the Cherokee had become. Because of their growing numbers, white settlers now maintained the balance of power and the community standards they imposed were their own, not a negotiated agreement between two groups contending for power. The slicking episode worried Schley, who did not want to provoke vengeful reprisals. Still, the fact that the

¹ William Schley to Andrew Jackson, February 13, 1836, Roll 76, M234, RG 75, Letters Received by the Office of Indian Affairs, National Archives and Records Administration, Washington DC; Lewis Cass to William Schley, February 23, 1836, *Georgia Military Affairs* WPA Project no. 5993 (Atlanta: Georgia Archives, 1940), 7: 192A-192B.

Cherokee did possess arms worried the governor, ordered the militias “to be vigilant” but not to engage in vigilantism.²

Before those militiamen were mustered, Georgians expressed discontent with the militia system in general and the impositions it posed on time in particular. Georgians, by 1836, had a long and storied militia history and took pride in the institution’s revolutionary heritage. After the War of 1812, citizens felt less compelled to serve citing the onerous burdens on their time and the impracticality of leaving their shops, farms, and families for long stretches at a time to drill and parade. Drawing on the growing unease regarding the system, discussion regarding the militia focused on the need to reform it. Nearly every legislative session sought to make some reforms, though few offered substantive alterations to such an ancient tradition. When antagonisms between Georgians and the Creek Indians flared in 1836, nonplussed citizens reacted more strongly to a *levée* than to potential threats. In Augusta, one concerned citizen regretted to inform the governor that the lack of enthusiasm for militia service from the city’s citizens. “[T]here cannot be twenty men found amongst them . . . such is the material of which our corps is formed.” The problem sprang from self-interest. Most of the male population, “principally made of mercantile men who are not wiling to leave their stores & businesses—or their clerks,” simply could not afford to leave work to traipse about the wilderness.³

Most resistance to the militia system resulted from the dedication required from militiamen. For small farmers and shopkeepers, time spent going to company drills or regimental maneuvers took time away from work. If everything went according to plan, a militia company spent at least ten days out of the year in camp. Of those, between four and six musters occurred

² William Schley to James Edmonson, et al., June 12, 1826, in *Governor’s Letter Book, 1835-1840*, Drawer 62, Box 65, Georgia Division of Archives and History, Morrow, GA.

³ Ebenezer Shreves to William Schley, January 17, 1836, *Georgia Military Affairs*, 7:6.

at the company level in the local militia district. Each company consisted of sixty men. Such gatherings were usually small and informal and imposed the least amount of travel time or nights spent in camp. Each battalion, which consisted of five companies or 300 men, had to muster once a year at the county courthouse. Two battalions formed a regiment of nearly 600 men, and had to meet once a year to conduct regimental maneuvers. Finally, a brigade, containing two or more regiments, met once a year at the state capital, where the entirety of the state's militia drilled. Though it appeared highly regimented, the militia system existed primarily on paper. The problem, wrote "Orleans," was that the current system of militia organization did nothing that trained or enabled militiamen "to defend their country in the hour of danger." Parades smacked more of pomp and circumstance than practical military training. The advertisements for the statewide militia muster confirmed the suspicions of Orleans. Not only did militiamen have to pay seventy-five cents each day for room and board, but the atmosphere of the muster represented a carnival more than a serious military encampment. On the last day of drills, one advertisement read, "medals will be shot for." The impression remained that militia service was more about a rollicking good time than preparing for war. Some companies attempted to shed the reputation by adopting stringent rules for their members. "[I]f any of the Company appears on parade," one company's incorporation declared, "in ill humor or Drunk or with Decenceion . . . or miss behaves," they "shall be fined at discreshion of the officers."⁴

Even the militiamen's weapons were more fit for the parade ground than active duty, if they existed at all. The muskets of one company in Eatonton had lapsed into a condition "only fit for show & not for fight," the few "Rifles . . . Shot guns and Some muskets" found in Fayetteville

⁴ Decatur County cavalry muster roll and company governance, March 13, 1836, *Georgia Military Affairs*, 7: 225-226; Milledgeville *Federal Union*, October 30, 1830, 3; Athens *Southern Banner*, March 23, 1833, 3. This complaint registered strongly not just in Jacksonian America, but has been passed down by historians. On the stereotypical view of the militia, see Harry Laver, *Citizens More than Soldiers: The Kentucky Militia and Society in the Early Republic* (Lincoln: University of Nebraska Press, 2007), 1-8. Laver rightly corrects the image of the militia and portrays it as an institution with important social, gender, and political roles.

did not fully supply the entire company. In Early County, the local company could find only “one solitary musket that would bear inspection.” When the state did send the company arms, the captain found them useless. [T]he arms sent us are refuse, worthless and entirely out of repairs Out of the seventy, there were but thirty that had flints.” The state militia system had in place an archaic system in order to arm its citizen-soldiers. The state requisitioned arms from the federal government and also levied money during each legislative session to pay the state arsenal to arm each of the companies. For example, in 1827 the federal government sent nearly 15,000 muskets to the states. Georgia received 477 of them. Six years later, the number of muskets had only increased by three. By the fall of 1837, the federal government began to pump arms into the state. When the Creek War commenced, a militia general expressed alarm at the deplorable state of the militia. “The men here are badly armed, and very many without arms, at all, ammunition is scarce, and the men called out are displeased in many instances.” In Carroll County, a resident planter feared the results of an Indian attack because of the militia’s lack of preparedness. The captain of the local company “says that not half his men have any but Squirrel Guns & there is not a Keg of powder nor a Bag of Shot in the County.” In response, in from December 1835 to December 1836, the federal arsenal sent an additional 1,000 muskets to Georgia.⁵

When the state did have arms to dispense to its militias, local companies often had to raise funds to pay for a bond that could replace lost or damaged weapons. “Any security which the State may require for the faithful return of the arms will be given,” declared James A.

⁵ Muster roll of the Eatonton State Fencibles, January 21, 1836, J.E. Hays, ed., *Georgia Military Affairs*, 7: 27; Young Mann to Bolling H. Robinson, January 27, 1832, *ibid.*, 7:73; John Dill to William Schley, January 29, 1836, *ibid.*, 77-78. On the number of muskets apportioned to the states by federal arsenals, see “Message of the President of the United States,” H. Doc. 2 (Serial Vol. 206, Session Vol .1) 21st Congress, 2nd Session, 1830, 145; “Message from the President of the United States,” H. Doc 2 (Serial Vol 217, Session Vol 1) 23rd Congress, 2nd Session, 1833, 225; William H. Bell to Governor of Georgia, October 14, 1837, *Georgia Military Affairs*, 7:331b; Henry H. Lowe to William Schley, May 18, 1836, *ibid.*, 7: 308; William G. Springer to William Schley, May 22, 1836, *ibid.*, 7:329.

Merriwether, a frustrated company commander in Eatonton. An infantry company in Hall County evinced not a little frustration when they learned that the “hose company” had received “pistols and sords.” The poor men who served on foot offered to “Give Bond and Good Security at any time it is Required.” What the company of infantrymen wanted was equal treatment to the cavalry or “hose company.” So even if the state wanted to depend on the militia to defend citizens from Indian attacks, the militias would have been hard-pressed to do so because military grade muskets did not exist, or those militiamen who did have a musket hesitated to use their own weapons in the state’s service.⁶

If most animosity toward militia service came because of inefficiencies within the system, the most passionate critics of service in the militia resisted because they saw the entire system as a farce. Many saw the militia system not as a system that competently rewarded service, but as a popularity contest lorded over by planter grandees in the country and rich merchants in the cities. Fearing that the youngest generation cared little for militia service, authorities sought to reform the system. Lacking proper opportunity for advancement, “young men of good character” shied away from militia service. One possible solution, the exclusion of the “rank and file” from advancing, would encourage men of better material to enlist and seek advancement. Such a proposal, however, struck at the democratic nature of the militia, where common enlistees voted on their officers not necessarily on military skill but on reputation. Others noted the “repugnance on the part of the people throughout the State, to having anything to do with Military employment,” which translated into a difficulty of “getting up volunteer companies.”

⁶ James A. Meriwether to John Forsyth, April 26, 1828, *Georgia Military Affairs*, 5: 256; Burrell Thomson and John Williams to John Forsyth, December 20, 1828, *ibid.*, 5: 279. It should be noted that the evidence does not suggest that Georgians did not own guns, just not guns serviceable for military duty. Shotguns and old hunting rifles could not be fitted with bayonets, which federal guidelines required. It also seems apparent that private citizens did not want to use their own weapons in the public service.

Instead of eager and energetic citizenry, the militia system's demands and pretentious supporters "makes that ridiculous which ought to be the pride of every citizen."⁷

Nowhere did citizens of Georgia express more outright contempt of the militia system than in Macon. Citizens of the town banded together to resist the militia system by forming a mock militia company called the "Fantastics." The idea of the Fantastics did not originate in Macon, but instead came from Philadelphia. There the Fantastics paraded the streets during the Christmas holiday. In 1833, Philadelphians in the "Bloody" 84th Regiment took to the streets in support of a Colonel Peter Albright who had encouraged his men to reject the discipline (and seriousness) of the state militia system. Escorted by a regiment of "Fantastics" to his court martial hearing, Albright watched sternly as men turned out in outrageous costume. Though short lived, the movement spread to other locations in the United States, including Macon, Georgia.⁸

On a cold February morning in 1835, Maconites mimicked the satirical display put on by the Philadelphians when they mocked the militia system of Georgia. When the 564th Company of the Georgia Militia formed for drill in Macon, they turned out "exactly as their humor directed." Led by "Colonel Pluck," who wore "an enormous chapeau, and feather some six feet high; a tremendous broadsword and spurs and whiskers to match," the other men arrived at their muster similarly attired. Another officer came adorned with a codfish for a knapsack, a stone jug in place of a canteen, and a loaf of bread instead of a cartridge belt. One man dressed like Black Hawk—

⁷ Aaron W. Grier to George Gilmer, August 10, 1830, *Georgia Military Affairs*, 6: 36; J.W.A. Pettit to George Gilmer, February 9, 1831, *ibid.*, 6: 65.

⁸ On Philadelphia's Fantastics see Susan G. Davis, *Parades and Power: Street Theatre in Nineteenth-century Philadelphia* (Philadelphia: Temple University Press, 1986), 107-109, 208. Some historians suspect that the idea for the Fantastics originated with celebrations accompanying Guy Fawkes Day. See Penny Colman, *Thanksgiving: The True Story* (New York: Henry Holt, 2008), 102. The Fantastics also spread to other cities in the northeast. Paul Johnson, *Sam Patch the Famous Jumper* (New York: Hill and Wang, 1994), 139-142.

a possible dig at the disreputable conduct of the Illinois militia in that state's conflict. Another man filled his cartridge box with "segars," the contents of which he handled with considerable dexterity. Most of the men, however, used brooms in place of their muskets or had marked their legs "right" and "left" to help them keep in step. The Fantastics paraded through Macon's busy thoroughfares to the delight of all. One jested that many spectators "nearly dislocated their ribs" from laughing with so much gusto. The bystanders, apparently, were in on the joke, for it was "highly applauded" and "well humored."⁹

What had begun as a yearly celebration in Pennsylvania had expanded into a recognizable use of public spectacle as a way of opposing the militia system. Through farce, satire, and a healthy dose of street theatre, the Fantastics highlighted their discontent with the present state of the militia system as an institution that only deserved the people's derision. By making fun of the militia system and those who took it seriously, the Fantastics ridiculed a timeworn institution that was seen as synonymous with the health of the republic. Most Americans in the 1830s assumed that it was the militia, and not the Continental army, that had won the Revolutionary War. Poking fun at such a venerable—and many would argue, necessary—institution, the Fantastics expressed their contention with republican ideology that stressed virtuous sacrifice and the fear of a standing army. For residents in Philadelphia to protest the militia system was one thing. After all, Pennsylvania had long since quelled any native inhabitants. The protests in Georgia were perhaps more surprising because the state still had large numbers of Indians living within state borders.

Politicians who realized that the state's defense rested on the militia's shoulders sought to quell the unrest demonstrated by the Fantastics, especially as tensions between the state and its

⁹ *Macon Telegraph*, February 5, 1835, 2.

Indian inhabitants increased. Early in 1836, the Creek Nation rose up against removal and commenced the Second Creek War. Aided by their Seminole allies, the Creek commenced a series of effective raids that kept federal troops busy. Georgians felt surrounded by native enemies and looked northwards with trepidation. Governor Schley's aid wrote to former commander of the Georgia Guard and now major general in the state militia, John W.A. Sanford, warning of a three-pronged war. "The actual hostilities of the Seminole and Creek Indians, and the great disaffection and restlessness manifested by the Cherokees . . . admonishes the authorities of Georgia to lose no time in preparing for any emergency that may possibly arise out of our present relations with these treacherous foes." He informed the president that the Cherokee actively sought ways to join up with the Creek and Seminoles. If the Cherokees "in a moment of desperation . . . hope that they can escape punishment by flying to the Creeks and Seminoles," the people of Georgia would be faced with a formidable threat. If people refused to serve than the state's frontier residents would be left largely undefended. Their worries had credence; by the end of the year the Fantastical movement had spread to Augusta and Savannah.¹⁰

In spite of the opposition posed by the Fantasticals, many Georgians saw military service as a means to advancement. Not only did public drills allow the local community to see who participated, but it also allowed militiamen to meet or command their peers and earn their approbation. George R. Gilmer as well as Wilson Lumpkin, long before they served as governor, used military service during the War of 1812 to launch their political careers. Lumpkin had contemplated moving his family into land occupied by the Creek. Once war erupted, he enlisted, he wrote, because "I felt it my duty, regardless of my private interest." Though he deplored

¹⁰ Bolling H. Robinson to John W.A. Sanford, May 72, 1836, *Governor's Military Letters*; William Schley to Andrew Jackson, February 13, 1836, Roll 76, M234, RG 75, Letters Received by the Office of Indian Affairs, NARA; Gordon Burns Smith, *History of the Georgia Militia, 1783-1861* (Milledgeville, GA: Boyd Publishing, 2000), 1: 43-44.

“human slaughter” and did not want “military fame,” he used his service to run for the state legislature immediately after the war. Lumpkin won the election and went on to serve in the state capital on behalf of grateful citizens of Oglethorpe County. It should be noted, however, that Lumpkin only served in the state militia because the state became embroiled in a war. He did not participate in militia drills in peacetime.¹¹

Gilmer had an altogether different, and livelier, experience—though he joined the regular army and not the state militia. He received a commission in the U.S. Army as a second lieutenant and marched twenty-two unarmed recruits to the Chattahoochee River where he was supposed to construct a fort. For someone who openly admitted that the only soldiering he had ever seen was a local militia muster, who had never fired a musket, nor drawn a sword in self-defense, Gilmer remained confident that he and his men could follow their duties. At one point during the fort’s construction, the sound of muskets firing alerted the work party to potential danger. While Gilmer hastily organized the defense, an intrepid rider crossed the river to scout. When he returned, he led a party of Cherokee warriors and their families into the camp. They informed Gilmer that they had just returned from the Battle of Horseshoe Bend where they had served with General Andrew Jackson. They showed off a score of scalps that proved their mettle. That evening, the Cherokee danced around their trophies of war, but Gilmer did not attend. He did, however, let his men cross the river and watch the dancing.¹²

Aside from building a fort, Gilmer also had the responsibility of enlisting new recruits. In a scene that could have inspired the *Fantasticals* two decades later, Gilmer donned his finery and soon found himself a show as he pleaded his case to “the very rudest people of the country

¹¹ Wilson Lumpkin, *The Removal of the Cherokee Indians from Georgia...* (New York: Dodd, Mead, & Company, 1907), 1: 20.

¹² George R. Gilmer, *Sketches of some of the First Settlers of Upper Georgia...* (Americus, GA: Americus Book Company, 1926), 197-198.

towards the mountains.” At first uncertain of Gilmer, the frontiersmen soon approached the uniformed man and handled his sword and epaulets, to say nothing of his red whiskers. Such humiliation was too much for Gilmer to bear. It took all of his self-control “to bear up under such an infliction.” Certain to find the story of a posh lowcountry planter surrounded by poor frontiersmen who acted like they had never seen a soldier in one of Augustus Longstreet’s “Georgia Scenes,” he finally had to admit to the humor inherent in his recruitment trip. If his recruitment experience was a farce, it also spoke to the difficulty of raising men.¹³

Since Article 1, Section 8 of the U.S. Constitution provided Congress with the ability to “provide for organizing, arming, and disciplining, the Militia,” it sought ways of making militia service more amenable to the masses. In the first session of the Twenty-Fourth Congress, the House debated a proposal to alleviate many of the complaints proffered by prospective militiamen. Representatives identified six major complaints, including the vast number of militiamen, the fact that minors, or those under the age of twenty-one, were asked to serve, and the fact that arms and accouterments “are not generally fit for actual service.” Most weapons in the possession of militiamen, worried not a few representatives, “would prove more fatal to the possessor than to the enemy.” In spite of the militia’s deplorable condition, the United States needed men to fight in 1836. The Creek rising showed the vulnerability of frontier settlements and the inability of the United States Army to prevent bloodshed on its own.¹⁴

As Congress debated the merits of altering national militia laws, it also used its most potent inducement to prod men into service. More than potential land bounties earned from service the immediate offer of cash usually sent men flocking into service. Militiamen who

¹³ *Ibid.*, 200.

¹⁴ *Register of Debates*, House of Representatives, March 14, 1836, 24th Congress, 1st Session, 2767-2778.

volunteered for cavalry service could expect about twenty-four dollars per month, while an infantryman collected only eight dollars every month. The same session of Congress that debated the wisdom of the current militia laws also sought a way to reward those who did step forward for public service. In a bill to draft state militia into federal service for the Creek War, Congress allowed the president to “accept volunteers who may offer their services either as infantry or cavalry not exceeding ten thousand men” to serve for either six or twelve month durations. Cavalrymen had to furnish their own horses, though the bill made it known that the rest of those mustered into federal service “shall be armed and equipped at the expense of the United States.” In order to safeguard against the possibility of the president calling the militiamen into service to provide federal monies to secure votes, the “said volunteers shall be liable to be called upon . . . only in cases of Indian hostilities, or to repel invasions.” Because the volunteers would be equipped and paid by the federal government, the states were relieved of a rather large burden and potential expense. Congress also alleviated financial considerations on the states when it resolved to provide wounded soldiers with a federally funded pension. To pay for the men about to be mustered into federal service, Congress appropriated \$300,000.¹⁵

The bill went to pay volunteers not only for service in the Creek country, but also for those who began the Cherokee removal process. The bill expired after two years so the window within which to call the militiamen into service was relatively brief. Before Congress was willing to unleash several thousand militiamen into the backcountry to conduct removal, it first had to station federal troops there. In 1836, it dispatched General John Ellis Wool to east Tennessee in order to carry out removal as stipulated in the Treaty of New Echota and to protect settlers. This time, whites living in the region had little issue with the federal troop buildup. Most realized that

¹⁵ Act of May 23, 1836, ch. 81, 5 *Stat.* 32-33.

their presence meant the eventual expulsion of the Cherokee. Federal forces did not move at the rapidity desired by white settlers. First, federal and state leaders wanted to avoid bloodshed, an important requirement that federal forces would do their best to uphold. When General Wool learned of the murder of a Cherokee by a white settler, he ordered his men to stay wary. “You will, no doubt, recollect that most of our Indian wars . . . was brought on by similar conduct.” Even many backcountry residents recognized that the font of violence began with the ways that settlers treated natives. One man remarked that there remained no doubt that the Cherokee “are incited to mischief by the inhuman treatment they received at the hands of our own people.” To allay the tensions and to prevent white settlers from “pulling down all the troubles upon our borders,” backcountry residents had to “treat them more like human beings . . . and less like brute beasts as they appear to be now regarded by us.” The recognition that white settlers precipitated most backcountry violence did little to change the minds of those who advocated removal. Separation of the races would create a more peaceful social environment.¹⁶

Most settlers did not evince the empathy requested by their neighbor, especially if they believed the Cherokees threatened their lives. When Governor Schley received instructions from the president to begin a call for militiamen, the state had no problem filling its rosters, in spite of the rampant protests. The opposition expressed by the Fantastics, shopkeepers, and poor farmers disappeared when the governor called for higher-paying cavalry companies. Georgia’s farmers became particularly adept at signing up for the cavalry service and showing up with the most decrepit plow horse they could find. If the horse died while its owner was in the federal service, the cavalryman could apply for an exorbitant amount of compensation. “I would have it publicly known,” declared Secretary of War Joel R. Poinsett in 1838, “that no more than one

¹⁶ John E. Wool to Col. H. Simms, March 25, 1837, “Report from the Secretary of War,” S. Doc. 120 (Serial Vol. 315, Session Vol. 2) 25-2, 74; Wiley Williams to William Schley, December 28, 1835, *Georgia Military Affairs*, 6: 298-299.

hundred and twenty dollars will be allowed for any horse that may die or be lost in a manner to give its owner a claim upon the government for its value.” One hundred twenty dollars for one horse was indeed exorbitant. Even the finest stallions that the Cherokee lost only fetched a hundred dollars, though one owner cared little for the money “in consequence of its being of good blood stock.” In spite of the fact that Army officers knew Georgia’s militiamen fleeced the federal government when it came to valuing their property, they usually went along with the scheme and continued to discriminate against the Cherokee who constantly received lower payments for horses stolen by American citizens. Cavalry also proved popular for more practical reasons. It allowed militiamen in the mountainous upcountry to traverse rough terrain in a timely manner. Infantry had difficulty in the steep terrain and succumbed to fatigue more readily than mounted troops.¹⁷

Even before General Wool’s arrival and Congress’s call for the militia, Governor Schley informed state militia officers to ready their individual companies for a potential muster. In early 1836, many responded; other militia districts began the process of forming companies anew. Cavalry troopers from Forsyth proclaimed their readiness and their desire to protect their “Country from emergencies of invasions from any quarter.” Another company in Carroll County mustered into service but soon learned that the state did not require their service near home. “Every one along the line would be much disappointed in being sent off while there might be danger in our own neighborhood.” Schley’s preparedness paid dividends, for on May 25 he received orders from the Secretary of War to “cause to be raised two thousand volunteers to be placed immediately in the service of the United States.” From across the state, militia units

¹⁷ Joel R. Poinsett to Winfield Scott, June 1, 1838, Roll 1, M1475, RG 75, Correspondence of the Eastern Division Pertaining to Cherokee Removal, April-December 1838, National Archives and Records Administration, Washington DC; Claim of Kalonoshaskee, March 7, 1842 in Marybelle W. Chase, ed. *1842 Cherokee Claims, Tahlequah District* (Tulsa, OK: Marybelle W. Chase, 1989), 45.

offered their services to the governor. In Murray County, William N. Bishop's brother, Absalom, headed one company that formed for the express purpose "of going in to immediate action against the hostile Cherokees and Creeks."¹⁸

Absalom Bishop soon began working with the former subcommander of the Georgia Guard, Charles H. Nelson, to get their men into action. In January, Nelson had written to Schley inquiring if the state required "further force to quell the lawless Savages in Florida?" Schley thanked Nelson for "this patriotic tender of services" and encouraged Nelson to get up a company of sixty mounted men. Schley went further to encourage the service of backcountry farmers. "The necessary expense of your company, until you report to the commanding officers in Florida, will be paid by me. Let no man, therefore, be prevented from joining on the plea of poverty." It was not until June, however, when Nelson and Bishop called for recruits. By the end of the month, 111 men had joined the ranks of the Highland Battalion. Part of the delay in compiling the force probably came from the governor himself, who did not follow through on his end of the bargain. When Nelson and Bishop needed to pay for supplies, they found state support lacking. The aid promised by Schley did not arrive, so the governor encouraged Bishop to "do as well as you can on the credit of the State."¹⁹

When the Highlanders did finally muster into service, they did not go to Florida as Nelson wished, but to Lashley's Ferry on the Coosa River, about twenty miles south of Rome, Georgia, on the Georgia-Alabama border. The role played by the Highland Battalion in the Creek War was a small one, but it highlighted the efforts of state leaders who wished to punish or

¹⁸ Arthur Erwin to William Schley, April 8, 1836, *Georgia Military Affairs*, 7: 250-251; William G. Springer to William Schley, January 31, 1836, *ibid.*, 7: 99; Lewis Cass to William Schley, May 25, 1836, *ibid.*, 7: 367b-367c; Roster of Murray County Guards, June 27, 1836, *ibid.*, 8: 178.

¹⁹ William Schley to Charles H. Nelson, January 23, 1836, *Governor's Letter Book, 1835-1840*, Drawer 62, box 65, GDAH; William Schley to Absalom Bishop, June 30, 1836, *ibid.*

expel Indians, prevent racial mixing, and forestall a potential Creek-Cherokee alliance. Nelson and his men were stationed at a key river crossing. Their strategy, predicated on “preventing the Creek Indians from coming into Georgia,” sought to arrest any Creeks who tried to flee federal removal agents in Alabama or to link up with the Cherokee. Schley declared the mere presence of the Creek was an affront to state law. The legislature had prohibited Creek Indians living in Alabama to step onto Georgia soil because of a “highly penal statute of this state, and therefore the authorities of Georgia are bound to arrest them when they violate this statute.” While stationed there, Bishop’s men from Murray County came into contact with federalized militiamen from Tennessee. Perhaps animosity lingered from the fact that Bishop’s overeager brother had invaded the Volunteer State and that state’s militia sought retaliation. Only vague details exist, but apparently Bishop’s Company of the Highland Battalion engaged in a scuffle with their compatriots from Tennessee. When Schley heard of the fight, he grew upset that Bishop and Nelson had “acted improperly” towards the Tennesseans, but the evidence he had did not warrant punishment. Another report suggested that the entire tenure of the Highlanders had been plagued by problems, and the unit as a whole had “done more harm than good.” Rather than have the legislature begin an investigation, and because it came so close to the actions of Bishop’s Rangers, Schley wanted to disband the Highlanders altogether.²⁰

Doing that proved more difficult than the governor imagined. No one knew, with any degree of certainty, which branch of the government currently employed Nelson and Bishop. General Wool sent an order to General Dunlap of the Tennessee volunteers telling him to proceed immediately from his post in that state to New Echota so he could “prevent any interference on the part of the Georgia troops with the Cherokee.” Further, he asked the general

²⁰ William Schley to General John E. Wool, August 17, 1836, *Governor’s Letter Book*, GDAH.

to “ascertain by whose authority they have been raised and stationed in that country.” If they had been illegally raised, Dunlap should disband them immediately; if Georgia authorized the Highlanders they had not been federalized, which needed to happen. No federal officer had sworn in the Highlanders, though the state had stopped paying for the men once they reached the ferry. If he still was an officer of the state, the governor maintained that no troops from Tennessee, even federalized ones, could order them about, which had supposedly caused the late unpleasantness between the two militia companies. On the other hand, if Bishop had been federalized then his punishment rested with federal forces. In the end, the governor worked with General Wool to recall the battalion, which deprived the militiamen of a year’s worth of federal pay. After three months on the ground, the Highland Battalion had been sent packing.²¹

Even with the looming threat from a potential Creek uprising near the Cherokee territory, the Georgia militiamen from Murray County found it impossible to cooperate with volunteers from Tennessee. Part of the problem stemmed from the continuity between the Rangers and the Highlanders. In Absalom Bishop’s Highlander company, seven non-commissioned officers had previously served with the Rangers, and another two were privates in both outfits. That meant that nine of forty Rangers had enlisted with the Highlanders and had gained the coveted rank of officers. One man, James Sample, held the position of first lieutenant in both companies. Almost the entire leadership of the Highlanders—both lieutenants, 3 of 4 corporals, and 2 of 4 sergeants—had all their military careers with William N. Bishop in Rangers. Though the legislature had disbanded the Ranges, the unit reformed, for all intents and purposes, under a new name—albeit with a different Bishop in command. The high degree of

²¹ On the uncertain situation of the Highland Battalion, see John E. Wool to Brigadier General Dunlap, August 4, 1836, *American State Papers: Military Affairs*, 7:550; William Schley to Brigadier General Richard Dunlap, August 17, 1836, *Governor’s Letter Book*, GDAH. On the short duration of the Highlander’s enlistment, see “Index to the Compiled Service Records of Volunteer Soldiers Who Served During the Cherokee Disturbances and Removal in Organizations from the State of Georgia.” M907, NARA.

continuity between the two units made it likely that the Highlanders exhibited the aggressive behavior that its members demonstrated when serving with the Rangers. Rather than defend the actions of another bellicose Bishop brother, Schley found it easier to disband the unit.²²

As the Highlanders headed home to Murray County, Schley could congratulate himself on heading off a potentially volatile situation that would have done nothing to ameliorate relations between the Georgians and Tennesseans. The Highlanders, though, were only the beginning in what would amount to more than 2,800 militiamen enrolled between 1836 and 1838 to ensure that the Cherokee went along with the Treaty of New Echota as peacefully as possible. The overwhelming show of force was a way to demonstrate American military power, to convince the Cherokee of the futility of resistance, and to make removal occur as rapidly as possible. After the Highland Battalion's dissolution, the state had to wrangle a large number of men for lengthy services. Learning from the fiasco caused by the Rangers and the Highlanders, state and federal officers decided upon a strategy that they hoped would bring about removal peacefully. Rather than take recruits from the Cherokee counties once removal started, the state and federal leaders wanted to draw on militiamen from the border counties thinking that people who did not live in the Cherokee counties would be less disposed to act violently.

Before removal could begin, federal forces stationed in the backcountry went to work to prepare the natives for their forced migration west. General Wool, the commander of the force, did not act with much decisiveness mostly because he pitied the Cherokee. His Whiggish sensibilities made him resentful of Jacksonian Indian policy. Such a combination made it difficult for him to carry out his orders, or at least it appeared that way. The governor of Alabama

²² The rosters of the Highlanders is located in "Index to the Compiled Service Records of Volunteer Soldiers who Served During the Cherokee Disturbances and Removal in Organizations from the State of Georgia," M907, National Archives and Records Administration, Washington DC; the roster of Bishop's Rangers is located in the Adjutant General Military Records, Vol. 1, Drawer 40, Box 16, GDAH.

charged Wool with restoring the Cherokee to their homes and property taken from them by white settlers. The governor continued his indictments when he accused Wool of “usurping the powers of the civil tribunals of Alabama, disturbing the peace of the community, and trampling on the rights of the people,” Wool had to go before a military tribunal to answer for his lackluster leadership in July 1837. However, when it came time for the governor of Alabama to prove his accusations, he could produce no evidence to do so. In spite of Wool’s displeasure with his task, he ordered the dispossession of “a great number of Cherokee” from their lands, which were given to white settlers. One officer interviewed during the course of the inquest sympathized with Wool and his refusal to push the Cherokee off their land. When asked about the character of frontier white settlers, Captain James Morrow of the Alabama militia agreed that “a portion of the population is very respectable,” but noted with disdain the “unworthy” settlers “who are there for the purpose of robbing and plundering the Indians, and have exercised every species of oppression towards them.” The court found Wool guilty only of demonstrating caution and following his orders. The court did not sanction the general; it had already relieved him of command when the trial began, which it considered punishment enough.²³

Wool’s replacement, Colonel William Lindsay, demonstrated none of the general’s hesitancy or uncertainty. Lindsay, a much more energetic and forceful man, began his newfound command with gusto. His first effort, in fact, was to bring more men into service to begin the construction of “forts”—or stockades where Cherokees would be held after being taken from their homes but before they began their forced migration. To do so, he issued a call for mounted

²³ Testimony of Henry B. Shaw, “The Proceedings of the Court of Inquiry in the case Brevet Brigadier General Wool,” H. Doc 46 (Serial 208 Session Vol 3) 25th Congress, 1st Session (1837), 15; Testimony of Captain James Morrow, *ibid.*, 5.

volunteers. In the middle of 1837, Lindsay put out a call for mounted infantry volunteers from Georgia and raised a regiment, nearly 1,000 men, who would serve for up to a year.²⁴

Called Lindsay's Mounted Militia, the men came from all across the Cherokee region. In all, 981 men enlisted in Lindsay's regiment, along with three women, called "matrons," who performed various chores around camp. The men went to work constructing a series of forts and outbuildings designed to hold the Cherokee and keep the militiamen housed in relative comfort. The Treaty of New Echota and further agreements between the Senate and the Cherokee National Council stipulated that removal commence by May 24, 1838, about the time the enlistments for the mounted infantry expired. Col. Lindsay knew that the men he called into service would more than likely not be available for removal, but they could prove invaluable in preparing for that process to begin.

In spite of the overwhelming presence of federalized militia within the Cherokee territory, their operations proved entirely too peaceful for Charles H. Nelson. After the Highland Battalion had been disbanded, he sought a way of continuing his fight against Indians. Not to be outdone by Lindsay, Nelson raised nearly a thousand men and tendered their services to the governor. Federal and state leaders had already decided upon the strategy of drawing militiamen from the border counties so initially his regiment was turned away. Nelson, though, persisted in his desire to fight Indians. Appropriately, Nelson and the Union Party made the payment of the militias an election-year issue. In 1837, William Schley of the Union Party ran against the resurgent George R. Gilmer from the State's Right Party. At the May nominating convention of the State's Rights (or, disparagingly, the Nullifiers or Nullies) Gilmer had received overwhelming support for

²⁴ In all, militia in Georgia constructed at least fifteen forts. See Sarah H. Hill, *Cherokee Removal: Forts along the Georgia Trail of Tears* (Atlanta: Georgia Department of Natural Resources/National Parks Service, 2005).

another term as governor. Once again, the Union Party used the specter of the States Rights Party's inherent elitism as a way to counteract them. In 1837, unlike 1831, it did not work.²⁵

Hoping to remind its readers that Gilmer had once sought to deny access to the gold mines, the *Macon Telegraph* argued that the contest revolved around aristocracy and democracy. Gilmer and his supporters had openly declared that they "are the *weaker* in point of numbers," but still ran for elected office "on account of their superior wealth or smartness!" Fearing that Gilmer would "do every thing in his power to promote the views of the aristocracy" and buttress "privileged classes and orders" by placing burdens on "the shoulders of the poor," The Union Party sought to prevent his resurgence by using the familiar cry of elitism and his hesitancy to enact removal. More importantly for the troubles within the Cherokee country, Gilmer's enemies declared that he sought "to exempt students at College from military duty." To hammer home the point that Gilmer fundamentally opposed a forceful removal of the Cherokee, Schley suggested that the state should pay for Nelson's regiment.²⁶

When Schley called for Nelson's force in early September, just a month before the election, the message became clear: Schley and the Unionists would use force to expel the Cherokee; Gilmer would not. When news of Nelson's new force went public, John Ross warned the Cherokee "to be prepared for the worst." The governor's supporters maintained that the force was not for aggression, but "for the protection of . . . our unoffending and peaceful citizens." With images of "bloodshed and rapine" fresh in the minds of voters, Schley's supporters urged their fellow citizens to set aside party motivations "and look to the interest of his country and to the cause of humanity" and support Schley for his "vigilance and patriotism." In

²⁵ Interestingly the name "State's Rights Party" was still widely used within Georgia. However, newspapers outside of the state had begun calling that group the Whig Party. See Portland (ME) *Eastern Argus*, May 30, 1837, 3.

²⁶ *Macon Telegraph*, September 5, 1837, 3.

a letter widely published across the state, Nelson argued “that there is every reason for alarm.” Citing historical precedent, Nelson declared violence and removal went hand in hand, at least on the part of natives. Citizens in the Cherokee country needed to “prepare for sudden conflict” and the state should aid them, for they lacked “organization or concert; arms or ammunition.” If the legislature went along with Schley’s plan, Nelson felt that “a suitable force” could remove at least half of the Cherokee well before the May 1838 deadline arrived.²⁷

Nelson’s insistence on state forces preempting federal troops demonstrated his lack of understanding on how removal would occur. Troops would not just kick the natives out of their homes and send them on their way. Removal, instead, was a logistical nightmare for federal officers who had to plan for river crossings, treacherous terrain, as well as the supply and protection of the émigrés along the route. A state force could not simply expel the Cherokee and expect them to make it to Indian Territory. Only federal forces had the wherewithal and jurisdiction to operate independently within each state. Georgians eager to expel the Cherokee cared little about the finer points of removal and expressed admiration for Nelson’s aggressiveness. Though Union Party operators reminded voters of Gilmer’s past transgressions—Indian testimony and state ownership of the mines—the issue in 1837 revolved around Nelson’s force and the payment of the militia.

Gilmer left the management of his campaign to his supporters and returned to his boyhood home in western Virginia. State’s Righters championed their candidate as “the soldier’s friend” who would uphold the legislature’s desire to pay for Colonel Nelson’s force and not leave exposed frontier settlers defenseless. The Athens *Southern Banner* warned voters that the Cherokee “savage is sufficiently armed with the Rifle—the Tomahawk, and Scalping knife,” the latter it

²⁷ Charles H. Nelson letter, September 18, 1837, printed in the Athens *Southern Banner*, September 23, 1837, 3.

called the “proper symbol of their profession.” When Gilmer returned to Georgia just prior to the election he made no mention of Nelson’s proposed force.²⁸

It took nearly three weeks to determine the rightful winner of the election. With the final tally made, George Gilmer narrowly won the gubernatorial office again by a margin of only a few hundred votes. Voters in the border and Cherokee counties, however, judged him harshly. There the threat to white superiority was greatest and the specter of Indian testimony loomed large, as did Gilmer’s seeming hesitance to muster troops for their defense. In the six border counties, Gilmer only polled at thirty-eight percent and received 1,779 votes to Schley’s 2,900. In the eleven Cherokee counties, Gilmer fared even worse, gaining only eighteen percent of the vote. In fact, in eight of those counties he did not receive a single vote. He could only muster twenty-nine votes in the county named after him! In spite of his poor showing in the upcountry, Gilmer took office and did his best to frustrate the aggressive and warlike stance of the upcountry Unionists.²⁹

The issue of paying Nelson’s regiment did not disappear when the governor took office. Instead, Nelson saddled his entire force, nearly 1,400 men from the Cherokee counties, and rode to the outskirts of Milledgeville ostensibly on their way to Florida. Gilmer immediately saw through the charade. In a well-coordinated effort, Nelson’s Unionist allies in the state house pushed through the legislature a special appropriation of \$30,000 to pay the men for their service up to that point and for their journey to Florida. It was believed that once they arrived in Florida federal forces would take them into service and pay their salaries. Gilmer was a stickler for the law and noted that the federal government had not made a call for militiamen from the Cherokee counties to travel to Florida. Gilmer also pointed out that Nelson’s force would leave

²⁸ Athens *Southern Banner*, August 12, 1837, 2.

²⁹ For election returns, see the Milledgeville *Federal Union*, October 26, 1838, 3.

the Cherokee counties bereft of men in the case of a Cherokee uprising. If Nelson and his men truly wanted to protect their families, they should remain where they were rather than parade to Florida. Furthermore, the cost associated with paying for 1,400 men did not amuse the governor. When Gilmer made it public that he objected to signing the bill, two “very intimate friends” hinted at “great personal violence” if he continued to refuse. Gilmer balked at being held hostage by Nelson and his men and vetoed the legislation.³⁰

In a sternly worded message accompanying his veto, Gilmer made it clear that the militia would not dictate state policy to him. Because the offer made by the federal government to bring in militia for the Seminole conflict had been withdrawn because federal forces had trouble enough supplying the troops stationed there, Gilmer declared that Nelson acted not on behalf of the state or the federal government. Instead of legitimate militiamen, Nelson’s force should be seen “as so many individuals directing themselves according to their own wishes.” The governor’s veto did little to deter Nelson, who urged his men onward to Florida. Before he left, a Union majority in the legislature made him a major general of the militia and began calling his unit the Georgia Brigade. To Gilmer’s annoyance, when Nelson arrived in Florida, General Thomas Jesup accepted him into service and put the Brigade to work. One of the men in the brigade, Ira R. Foster, informed Union Party papers that the brigade “is not only received, but kindly, by General Jesup,” which he hoped would mortify their enemies. Moreover, the men now drew rations, forage, and pay from the quartermaster stationed there. Foster informed readers that several “Nullies” had joined the brigade and had since changed their allegiance.³¹

³⁰ George R. Gilmer, *Sketches of some of the First Settlers of Upper Georgia....* (Americus, GA: Americus Book Company, 1926), 406.

³¹ For the governor’s veto message, see *ibid*, 406-409; *Macon Telegraph*, December 11, 1837, 3.

By the time Nelson's men had worn out their welcome in Florida, they had seen combat only a handful of times. Gilmer derisively noted in his memoir that Nelson's troops "killed one Indian squaw." General Jesup reported to the president that the Georgia Brigade had in fact engaged in "several skirmishes with the enemy" which resulted in the Georgia troops killing six Seminoles and taking fourteen prisoners. By the end of their enlistments, the War Department had to pay the Georgia Brigade \$306,000, which Gilmer felt had been paid on account of President Van Buren who anticipated those men to "vote *esprit de corps*" for Democratic candidates. The overt political tone exhibited by Gilmer and Nelson in the squabble over paying the militia showed just how fractured Georgia politics had become. With each party attempting to upstage the other when it came to protecting citizens from potential attacks, Gilmer's cognomen "soldier's friend" had come under attack.³²

The governor seemed to care little and was not about to muster the militiamen from the border counties in order to gain political favor, in spite of the urgings from the backcountry and the attacks from the Union Party. Gilmer believed that the militiamen along the frontier desired to enter service not to protect their farms and families, but to "enjoy the pleasures of camp and to get pay for doing nothing." The seeming wastefulness of Nelson's brigade verified Gilmer's suspicions. Even federal quartermasters balked at the sheer amount of money the Georgia troops applied for, one quartermaster called it "very large." When the Georgia Brigade's enlistments expired in April 1838, the 1,400 soldiers had filed nearly 1,000 requisitions asking for back pay, transportation costs, forage reimbursements, or the cost of dead horses.³³

³² "Estimate of Appropriations—Indian Hostilities," January 5, 1838, H.Doc 65, (Serial Vol 322 Session Vol. 2) 25th Congress, 2nd Session, 3; "Message from the President of the United States, transmitting a report from Major General Jesup..." July 7, 1838, S. Doc 507 (Serial Vol. 319 Session Vol. 6), 25th Congress, 2nd Session, 6; Gilmer, *Sketches*, 410.

³³ "Horses of Volunteers abandoned to U. States," February 11, 1839, H. Doc 179 (Serial Vol. 347, Session Vol. 4) 25th Congress, 3rd Session, 12.

By January 1838, four months before removal began, the pressure on Gilmer to call out the militia in the border counties increased. However it seemed like whatever the governor attempted to do regarding militiamen he came under the scrutiny of Georgians. Even though he had opposed the creation of Nelson's Brigade, citizens in Murray County complained that since it had gone to Florida they had been left exposed. A group of citizens in that county believed that "the time has arrived when it is indispensable to the safety of the people and property" for a company of local militiamen to enter into service. From Gilmer County, many citizens "speake of taking off their families if there is not more troops sent here;" while worried residents in Ellijay noted the "bold saucy and stubborn" behavior of the Cherokee. The embattled governor waited until he received the call from the federal government in early March.³⁴

When the approval did arrive, Gilmer wasted no time alerting militia commanders. In a dispatch to the border counties, the governor apprised them to the purpose of their presence—and the pitfalls of straying from their orders. The primary design of the militias was 'to give security to our citizens; to overawe the revengeful spirit of the lawless portion of the Indians; to prevent the people flying from their homes and the country upon every rumor of danger; to protect your families, neighborhoods, and the people of each county.'" However, the governor made it clear that if the militiamen acted violently or unjustly towards the Cherokee, the entire country would become embroiled in an Indian war. Furthermore, he reminded the militiamen that their service stood to benefit the good of every citizen so soldiers should not seek profit from their service. He had reports that some backcountry whites, "for their own selfish and lawless purposes" sought to cause problems so they could grasp for land. He reiterated that the task of

³⁴ Citizens of Murray County Petition, January 6, 1838, J.E. Hays, ed. *Cherokee Indian Letters, Talks, and Treaties* (Atlanta: Georgia Archives), 3: 657; Samuel Tate to George R. Gilmer, February 21, 1838, *ibid.*, 3:672; B. Griffith to George Gilmer, February 27, 1838, *ibid.*, 3:680.

the militia, “preserving the peace of the country,” was a boon for the entire state and should not be meddled with. The call in March, however, did not ask for a full-blown muster, but rather an advance notice to company commanders that they and their sixty man companies needed to prepare for service.³⁵

Aside from wanting to follow the letter of the law—Gilmer often cited the Constitution when explaining to militia captains that he did not have the authority to call them up—neither did he wish to precipitate a bloodbath. He knew that thousands of armed men in the backcountry would only spark trouble especially if federal forces had not been properly placed to prevent such an occurrence. Gilmer was advised that the bulk of Cherokees would wait on the decision of John Ross. If he told them to resist they would. Gilmer implored Ross to choose peace. On March 9, Gilmer wrote to John Ross requesting that the Cherokee principal chief urge his people to accept removal peacefully. “It requires no strong invention to imagine,” Gilmer cautioned, “the suffering and distress which must be inflicted upon your people, if hunted up by an undisciplined soldiery, and forced from their homes.” Urging Ross to “save them from the evils that threaten them” by moving west, Gilmer acknowledged the selfishness of the letter but urged Ross to believe that his words were earnest. “It is my anxious desire that the Cherokees should be treated with humanity.” Ross adamantly refused to take responsibility for the actions of men who defended their families from forceful expulsion. “Should blood be spilt . . . the blame can never rest on us.”³⁶

By the following month, the slow-to-act federal government had begun to prepare for the military aspects of removal. In April, the commanding general of the U.S. Army, Alexander

³⁵ Gilmer, *Sketches*, 413-416.

³⁶ George Gilmer to John Ross, March 9, 1838, Gilmer, *Sketches*, 417-418; John Ross to George R. Gilmer, April 6, 1838, *ibid.*, 419.

Macomb, ordered General Winfield Scott to the Cherokee country to oversee removal. The following day, he ordered four artillery regiments, part of the 2nd Dragoons, the entire 4th Infantry, and a detachment of Marines to make haste for the Cherokee country. In all, that placed over three thousand regular troops at Scott's disposal and further reduced his dependence on unpredictable militiamen. Even with so many federal troops, the vast Cherokee territory and the number of inhabitants necessitated a vast military operation. The same day, the (acting) Secretary of War Samuel Cooper notified Gilmer that Scott could call on Georgia to furnish militiamen who would serve for a maximum of three months. On April 12, Gilmer received a letter from Gen. Scott asking him to raise two companies of mounted infantry. Joining the nearly 2,000 militiamen from Georgia were another 1,000 volunteers from both North Carolina and Tennessee. Former governor Wilson Lumpkin, now an enrolling agent stationed at New Echota, applauded the steps taken by Scott, especially the "large & imposing" military force he had assembled.³⁷

By May, Georgia's two regiments of militia mustered at New Echota in Murray County. Not trusting that the governor's plea for civility would register, Scott tried to drive home the expected peaceful actions of the militia. He issued General Orders Number 25 on May 17. In it, he laid out the prescribed boundaries for each militia force. The Cherokee country within Georgia, now called the Middle District with a headquarters at New Echota, had the most burdensome job. Of the nearly 18,000 eastern Cherokee, about half lived in Georgia so the potential for violence appeared greater there. He ordered that every Cherokee man taken into custody would have his rifle taken from him with the promise that it would be returned when the

³⁷ Alexander Macomb to Winfield Scott, April 6, 1838, Correspondence of the Eastern Division Pertaining to Cherokee Removal, April-December 1838, Roll 1, M1475, RG 75, NARA; Charleston *Southern Patriot*, April 16, 1838, 2; S. Cooper to George R. Gilmer, April 9, 1838, "Correspondence of the Eastern Division;" George R. Gilmer to Winfield Scott, April 20, 1838, *ibid*; Wilson Lumpkin to Winfield Scott, April 7, 1838, *ibid*.

westward trek began. Such an action left Cherokee men open to violence, but stressed that the militia needed to remember the shared humanity of the Cherokee and Americans. If “a despicable individual should be found, capable of inflicting wanton injury or insult on any Cherokee man, woman or child,” Scott made it the duty of the men to stop harshness and cruelty. Scott’s orders also delineated residents of the Cherokee Nation into three categories. The only Indians that the Army had the responsibility of moving were those who had not been granted lifetime reservations by the states or intermarried whites, whom he called “Indian countrymen.” Everyone else, meaning Indians who had not acculturated, had to go.³⁸

Those militiamen from the border counties who enlisted were less wealthy and had received less of the state’s bounty in the land and gold lotteries than the members of the Guard who had previously set out to maintain order in the backcountry. Of the 600 men who enlisted into federal service from Hall, Habersham, Carroll, Campbell, Gwinnett, or Rabun counties, only 71 (or less than 12 percent) had won a gold lottery and only 55 (9 percent) won a land claim. In the 1830 census, of the 114 verifiable men, 21 owned slaves. By 1840, that number had increased to 32 slaveowners out of 197 men enumerated in the census. Some of the reduced numbers were no doubt a function of the age of the militiamen. Married men or those with dependents were not encouraged to enlist so those who did may have been too young to win a land or gold claim in 1832 and were therefore not enumerated as the head of a household in 1830. Sanford’s Guard in 1830 seemed downright aristocratic in comparison. That small company had 10 slaveholders out of 40 men, as well as 17 gold lottery winners. The border county militiamen, mostly young, poor yeoman, perhaps sought to expel the Cherokee to create space for themselves and their families. Others may have seen it as their duty as citizens in the

³⁸ An original copy of General Order No. 25 can be found in the Benjamin T. Watkins Family Paper, Mss 717, OP 4, Manuscript, Archives, and Rare Book Library, Emory University, Atlanta, GA.

republic. Certainly some saw it as an adventure that would cure their boredom and curiosity about the wider world.³⁹

Having received their marching orders, the militia fanned out across the middle district to the various posts constructed by Colonel Lindsay and his mounted militia over the previous eighteen months. Gilmer noted that rather than conduct field operations, the best use of the militia involved having them garrison those forts “to control the Indians and protect the people.” This way, the only immediate contact the militiamen would have with the Cherokee would be at the forts and not pursuing those Cherokee who resisted or fled. Scott had no problems, though, sending the volunteers into the homes of Cherokee families to make them leave. In Washington DC, a Cherokee delegation led by John Ross tried once more to forestall removal, and many Georgians feared President Van Buren would cave in to the mounting pressure.⁴⁰

When the May 23 deadline came and went and the negotiations still had not produced a new agreement, Scott began the removal process. Gilmer appointed a seasoned general, Charles Renatus Floyd, to lead the state militiamen, something he had great experience doing. He first reported to the governor on May 27, a scant three days after he and his men began operating. The goal of the militia was to remove as many Cherokee from their homes and into the forts. From the forts, they would march to Ross’s Landing on a prescribed date to board steamships for the Indian Territory in current-day Oklahoma. Problems surfaced immediately because most Cherokee did not anticipate removal to commence and the Army lacked the supplies to feed 18,000 captives.

³⁹ The compiled demographics of the border county militiamen have come from three different sources. First, the “Index to the Compiled Service Records of Volunteer Soldiers Who Served During the Cherokee Disturbances and Removal...” RG 94, M1475, NARA; second, from reprinted lists of the land and gold lottery winners. S. Emmett Lucas, *The 1832 Gold Lottery of Georgia: Containing a List of the Fortunate Drawers in Said Lottery* (Easley, SC: Southern Historical Press, 1988), as well as James F. Smith, *The Cherokee Land Lottery in Georgia* (1991; New York: Harper & Bros., 1838). Last, from the county level returns for the *1820 U.S. Census* and the *1830 U.S. Census*.

⁴⁰ George R. Gilmer to Winfield Scott, May 7, 1838, Correspondence of the Eastern Division, NARA.

Though the Army had begun preparing for removal in 1836, their stockpiles could not sustain thousands of civilians, let alone the 7,000 troops involved in the operation. On May 22, before Scott officially launched the operation, an officer stationed in North Carolina noted the lackluster state of supplies in the Cherokee country. The troops stationed at Franklin, North Carolina “are almost entirely out of provision and none can be procured in the country, so that it is impossible to remain . . . The country is completely exhausted.” If the town of Franklin lacked supplies for troops, many of the stockades for detaining the Cherokee proved just as bereft. The most well-stocked fort, Fort Poinsett had more than 16,000 bushels of corn, while other forts, including a camp near Spring Place and another in Paulding County lacked any rations altogether. So the countryside may have been destitute of supplies, but the Army had them to spare. It simply did not allocate the resources judiciously, which led to suffering when Cherokee families wallowed in the internment camps.⁴¹

When troops did go out into the countryside to capture the Cherokee, they initially reported little, if any, violence. Instead, the way most officers and militiamen wrote of their actions, the entire process seemed rather mundane. The federal officer John Gray Bynum nonchalantly noted “I collected yesterday about 80 Indians.” He expressed alarm regarding “a great deal of sickness . . . prevailing amongst the children of Indians.” He boasted that he allowed women to stay at home to nurse the sick children. Militiamen from Georgia expressed a similar nonchalance towards their duty. The men in Daniel’s Company, 1st Regiment, did not reach New Echota until May 28 and were immediately pressed into service, stopping only to prepare a quick supper. They marched the entire afternoon and “traveled, taking Indians until midnight.” That night, the men from Madison County camped in a road “with some Indians who we had

⁴¹ John Gray Bynum to G.A. Montgomery, May 22, 1838, Record Book of John Gray Bynum, William Preston Bynum Papers #117, Series 3, Folder 35, Southern Historical Collection, University of North Carolina, Chapel Hill, NC.

taken prisoner.” Other men in the company slept in a “House with the Red people.” In the morning, the expedition continued. At each house, the company commander left a small guard to watch over the prisoners. Henry P. Strickland, a private, sardonically noted that by the end of the day the men “were all posted as guards” and no one could be spared to capture more Indians. In three days, three companies had captured 927 prisoners. Strickland continued his account, but it appeared that after this initial foray into the backcountry, his company did more guard duty than anything else. By the beginning of June he noted that the “great fatigue in collecting & guarding the Indians” had not lived up to the expectations of the men. “Volunteering have not proven unto them what it was cracked up to be.” He noted that he had held up better than anticipated but admitted to missing home a great deal.⁴²

General Floyd made a much more official sounding report on May 27 when he reported his initial successes. Crossing the Coosawattee River early the previous day, he sent out small detachments of troops in multiple directions to prevent “the escape of the Indians.” He noted that his men behaved in a “prompt and energetic manner” that complied with General Orders No. 25. Floyd reported on the progress made by all of the Georgia militia companies and was pleased to see that the speed of removal continued to proceed rapidly. By May 28, he noted that the Georgia troops had rounded up 963 Indians from their homes and detained them; two days later another 484 Indians had been corralled. By June 9, Floyd reported that 3,636 Indians had been captured by the Georgia militia and had since been sent to Ross’s Landing for processing and transportation. That number did not include another 400 still stationed at Rome waiting for an armed guard. The operation to arrest, contain, and deport the Cherokee still living within Georgia’s borders had taken only a few weeks to complete. The incredible efficiency of Floyd’s

⁴² John Gray Bynum to “Sir”, June 15, 1838, Record Book of John Gray Bynum, UNC; N.W. Pittman and H.P. Strickland to Henchin Strickland, June 6, 1838, John R. Peacock Papers, #1895-z, Series 1, Folder 1, UNC.

troops, had, by the first week of June, cleared the Georgia upcountry almost entirely of Cherokee.⁴³

In spite of the ease reported by Floyd, he still worried that acts of violence would go unreported and escalate the tenuous situation. He noted to General Scott, “the Indians made no resistance, but evinced generally a great reluctance to remove.” Still, he wanted his men to keep him abreast of developments, especially if any “extraordinary event occur in collecting the Indians.” The men were under great stress not only from physical exertion, but also from the strain of removing Indians from their homes, and pressure exerted from the home front. One petition requested that Private William Calhoun be released from service because his wife “got into a deranged Condition” and had to be confined by her neighbors. Another volunteer, an assistant surgeon, had received information “of a domestic nature” and sought to resign, though he hesitated to ask for any “indulgence” because of “those honorable feelings” which forbade officers from leaving the service. The exhaustion and growing resistance to removal expressed by the Cherokee made some sort of violence inevitable.⁴⁴

Rumors surfaced that militiamen enjoyed shooting at Cherokees who ran into the hills at the first sight of the troops. Many Cherokee, resentful of confinement in internment camps, attempted to escape. On May 28, Private F.M. Culbreath of Oglethrope County shot and killed an Indian man trying to leave one of the stockades. Though horrified, Gen. Floyd said Culbreath had acted rightly and did not censure him because the murdered Cherokee had expressed “some

⁴³ General Floyd to Winfield Scott, May 27, 1838, Roll 1, Correspondence of the Eastern Division; “Number of Indians in the possession of the Georgia Volunteers for emigration reported to Brig. Gen. Floyd up to May 28 [1838]”; General Floyd to Lt. Colonel Worth, May 30, 1838; “Number of Indians sent to Ross’s Landing and the Cherokee Agency from the different posts in Mid. Military District,” June 9, 1838 all located in Roll 1, Correspondence of the Eastern Division, NARA.

⁴⁴ General Floyd Orders No. 8, May 29, 1838, Roll 1, Correspondence of the Eastern Division, NARA; Petition of Citizens for the Discharge of William Calhoun, May 30, 1838, *ibid*; General Floyd to Winfield Scott, June 6, 1838, *ibid*.

indications of hostility.” Still, he wanted to remind the volunteers that “we are not in a state of war with the Cherokee Indians, that they have not committed any act of violence; that they are moving peaceable out of the County.” To maintain their honor, the troops should let the Cherokee leave without further bloodshed. He also wanted to inform the men that the actions of Culbreath would not be used as precedent when deciding the fate of whites who shot Cherokees. Other reports trickled in regarding the cruelty of the militia towards their captives. Captain Derrick had to confess that one of his men, whom he considered “a very correct young man” who would “do nothing wrong intentionally” had abused an Indian woman when taking her prisoner. The private had knocked her down when the woman, who did not want to leave her home, had struck at the soldier with a stick and then tried to take his gun from him. At Fort Gilmer, the bailiff, “who lately beat and half hanged an Indian” had been arrested.⁴⁵

The most prominent complaint offered by the Cherokee at the time, was not any rough treatment—though expulsion from their homes was rough enough—but that they did not have enough time to secure any property that would make life in the forts bearable. One woman, Nancy Pheasant, was forced from her home by armed American troops. When she and her detachment reached Calhoun, Tennessee, she had her horses, which she “never heard from afterwards,” taken from her. Chowahuca “was forcibly removed . . . by authorities of the U. States” and lost quite a bit of property in the process. When the militia forced her from her property, she lost a loom and spinning wheel, a plow, several cows and sheep, and two horses. Whites drove Tesahnehe from his home and took his gun away from him—though disarmament became official policy with General Orders No. 25—and Tieskih claimed he had “been torn”

⁴⁵ For the rumors of troops shooting at fleeing Cherokee civilians, see Order No. 15, May 7, 1838, Box 1, Folder 7, Benjamin Watkins Family Papers, Emory; General Floyd Order No. 16, June 1, 1838, Roll 1, Correspondence of the Eastern Division, NARA; Captain William Derrick to Brigadier General Eustice, June 4, 1838, *ibid*; Charles Floyd to Winfield Scott, June 2, 1838, *ibid*.

from his home “by a force of armed men and dragged into camps and there kept.” Chenashse “was rudely forced from her home by the soldiers” and had to leave all of her possessions behind.⁴⁶

The winter and spring of 1838 had been particularly dry, and by May temperatures in the upcountry were unseasonably warm. The Cherokee could have used the nourishment provided by stores of food or livestock, but the Army initially denied them their property. The inhospitable forts left Cherokee prisoners exposed to the elements and caused rampant sickness. The ill-managed supplies only compounded their suffering. After Culbreath murdered one Cherokee, Scott changed his formerly stringent tone and allowed some Cherokees to obtain passes so they could return to their homes and secure some property. This led to a great degree of confusion. Some Cherokees with passes never returned to their forts and soldiers believed that they escaped into the mountains. Others returned to their homes and sold what remained of their belongings to white settlers. Some fort commanders even let groups of Cherokee conduct themselves to Ross’s Landing without an armed guard. Such “indulgences” were calculated to induce the natives to remove peaceably, though General Floyd suspected that such a lenient attitude might result in “mischievous consequences” and frowned upon Scott’s generosity. Many of his officers, while conducting prisoners to Ross’s Landing, allowed individual Indians to leave the column to see to their property, or check on the homes of their friends, or simply to look on their country one last time. This frustrated Floyd, who saw the leniency as an enticement for Indians to reenter Georgia. Even the state offered other Cherokees permits to remain in Georgia until September, a practice that further confounded Floyd. Soft Shell Turtle, for example, a

⁴⁶ Claim of Nancy Pheasant, March 11, 1842, Marybelle W. Chase, ed. *1842 Cherokee Claims-Saline District* (Tulsa, OK: Marybelle W. Chase, 1988), 25; Claim of Chowahucuh, March 14, 1842, *ibid.*, 121; Claim of Tesahnehe, March 15, 1842, *ibid.*, 59; Claim of Tieskih, March 15, 1842, *ibid.*, 62; Claim of Chenahse, March 15, 1842, *ibid.*, 54.

Cherokee “of considerable influence” who had actively opposed removal, had a small band of followers who all had permits. Still, Floyd worried because the presence of Indians would likely incite settlers to violence.⁴⁷

If the militia had been called up to impose a strict racial order on the backcountry, they did not necessarily help preserve the public peace. Some problems arose at smaller posts commanded by unsupervised militia captains. At Fort Buffington and the camp at the Sixes, both commanders were accused of cruelty towards the Cherokee. Combined, the two forts housed 1,100 prisoners who greatly suffered. At Fort Means, one of the Cherokee “without any provocation” struck a soldier with a rock, so the captain of the fort immediately ordered his arrest. Other problems arose, especially when soldiers and Indians gambled together. At Fort Cumming, Captain Benjamin Watkins noted that one prisoner, Aaron Willman had lost \$250 to a white man, Thomas York, and the former wanted to stay until he had settled his debt. Another captain refused to follow orders to turn over a fort to a different commander. Rather than face whatever humiliation he imagined a change of command to bring, Captain Dorsey fled the service and returned to his home in Hall County. His men followed his actions, and when a federal officer turned up at the fort, he found “one half of the men” absent and the militia officers could not “give any account of them.” The federal officer, Lt. Griffith termed what he encountered “a complete mob,” a far cry from the strict discipline and order envisioned by Georgians.⁴⁸

⁴⁷ Charles Floyd to Winfield Scott, June 24, 1838, Roll 1, Correspondence of the Eastern Division, NARA.

⁴⁸ Charles Floyd to Winfield Scott, June 2, 1838, Roll 1, *ibid.*; Charles Floyd to Winfield Scott, June 6, 1838, *ibid.*; Captain Benjamin T. Watkins to General Floyd, June 9, 1838, Box 1, Folder 4, Benjamin T. Watkins Family Papers, Emory; Captain Derrick to J.H. Simpson, June 25, 1838, Correspondence of the Eastern Division, NARA.

Watkins encountered other cases of disorder, not from Cherokee prisoners, but from his men. He placed Lewis W. Tredwell, a cavalry volunteer, under arrest for a litany of charges, including drunkenness, “the act of rioting,” and “an attempt to commit murder.” Other soldiers behaved in an unprofessional way and were likewise detained by officers. A.P. Bush, a private in Cox’s company from Franklin County reported that his captain disgraced his rank. Not only did the regiment move at a glacial pace while marching, but the captain absented himself from the company much of the time and the men openly discussed his drunkenness. The men had little respect for him. While stationed at Fort Buffington, he threatened to have one of the men arrested when his comrades “presented their muskets at him,” and dissuaded the captain from making such a poor decision. At Fort Hoskins, Floyd reported “one case of Mutiney,” and several more of insubordination, which, he vowed, “shall not be suffered to pass unpunished.” Even military discipline suffered as a result of removal.⁴⁹

Floyd had been kept busier by the misbehavior of the militiaman than he had by any actions on the part of the Cherokee and therefore he applauded Scott’s efforts to muster the Georgia militia out of service promptly. Scott’s plan for removal had been predicated on getting the Cherokee out of Georgia, the state most ardently opposed to their presence, as quickly as possible. In fact, removal in North Carolina had not even begun its own removal efforts until the operation in Georgia had terminated. With those Cherokee out of Georgia’s forts, Scott no longer required the Georgia militia. On June 19, Floyd reported to Scott that his scouting parties had scoured the countryside and could not find any traces that nearly 9,000 Cherokee used to live in the territory. On June 25, Captain Derrick reported that he had sent off another eighty-

⁴⁹ Captain Benjamin T. Watkins to General Floyd, June 9, 1838, Box 1, Folder 4, Benjamin T. Watkins Family Papers, Emory; Charles Floyd to Winfield Scott, July 1, 1838, Roll 1, Correspondence of the Eastern Division, NARA; A.P. Bush to Col. Turk, June 3, 1838, *ibid.*; General Floyd to Winfield Scott, June 6, 1838, *ibid.*

five Indians to Ross's Landing, which put his total at 884. He remarked that those Cherokee families who had fled to the mountains would soon come in because the white settlers "feel no apprehension of danger from them," a good sign that meant the residents no longer feared an Indian uprising. By July 1, the two regiments of Georgia militia had been mustered out of service, paid, and sent home. Beginning on May 26, the militia from Georgia had conducted an efficient operation that had rounded up thousands of Cherokee civilians, placed them in detainment camps, marched them to larger camps, and guarded them from white settlers. Though violence did occur, the lack of killings by Georgia's militias had to have pleased the governor and general, both of whom revolted at the thought of a violent conflict and feared a scenario that would have tarnished their reputations if it had turned out any other way.⁵⁰

The two decades prior to Cherokee Removal were marked by an incredible amount of violence. When state militiamen arrived in the Cherokee counties to expel the native inhabitants, a surprising dearth of violence transpired. The historian Mary Young correctly posits that a vibrant middle ground allowed for fruitful negotiations between Winfield Scott and John Ross, which led to a more peaceful operation. Knowing that they had been swindled out of their land, the Cherokee still chose not to resist. In spite of their forbearance, some violence did occur and several Cherokee had been shot, beaten, or killed by troops. Even Scott had to order his men to shoot some Cherokees. Credit is also due to General Scott and Governor Gilmer who set the appropriate tone when removal began. Neither wanted bloodshed, and Ross, in particular, opened up a fruitful channel of communication with General Scott that paid dividends and saved lives. Young also argues that had Schley won the election of 1837, he more than likely would have placed Nelson in the field. Such an action would have proved disastrous. His Georgia

⁵⁰ Charles Floyd to Winfield Scott, June 16, 1838, Roll 1, Correspondence of the Eastern Division; Captain Derrick to J.H. Simpson, June 25, 1838, *ibid*; Charles Floyd to Winfield Scott, July 1, 1838, *ibid*.

Brigade, composed of men who lived in the Cherokee counties, would have shown much less restraint than the men raised by Gilmer. The militia also deserves some credit. They showed restraint in a very difficult and stressful situation, though the fact that the men who served did not live in the Cherokee counties probably accounted for the generally humane treatment.⁵¹

That does not mean, however, that Cherokee Removal was a peaceful operation. Uprooting and expelling thousands of people who did not look like a typical Georgia yeoman was a terrible act of violence committed by the state and federal governments. Though the process of being uprooted was in itself an act of violence, it was probably the most benign aspect of Cherokee Removal. When those Cherokee who had been expelled from Georgia arrived at Ross's Landing in Tennessee, one expedition of about 300 émigrés departed but the extreme heat made the going difficult. Ross pleaded with the general to delay removal until temperatures cooled and to put Cherokee, rather than Army officers, in charge of operations. Scott agreed and it seemed like a crisis had been averted. In the meanwhile, real suffering broke out in the camps as fresh water became increasingly scarce and sickness weakened the prisoners. Not until January 1839 did those expeditions leave Tennessee, bound for Indian Territory, never to return. Though no exact count exists, scholars put the death toll as low as 2,000 and as high as 4,000. Up to 1,000 Cherokee perished in the internment camps that awaited them after they had been forced from their homes. More recently, Russell Thornton's careful demographic study puts the death toll as high as 8,000 because of low population estimates. Many now believe that at least 2,000 Cherokee perished as a result of lengthy imprisonment in the internment camps.⁵²

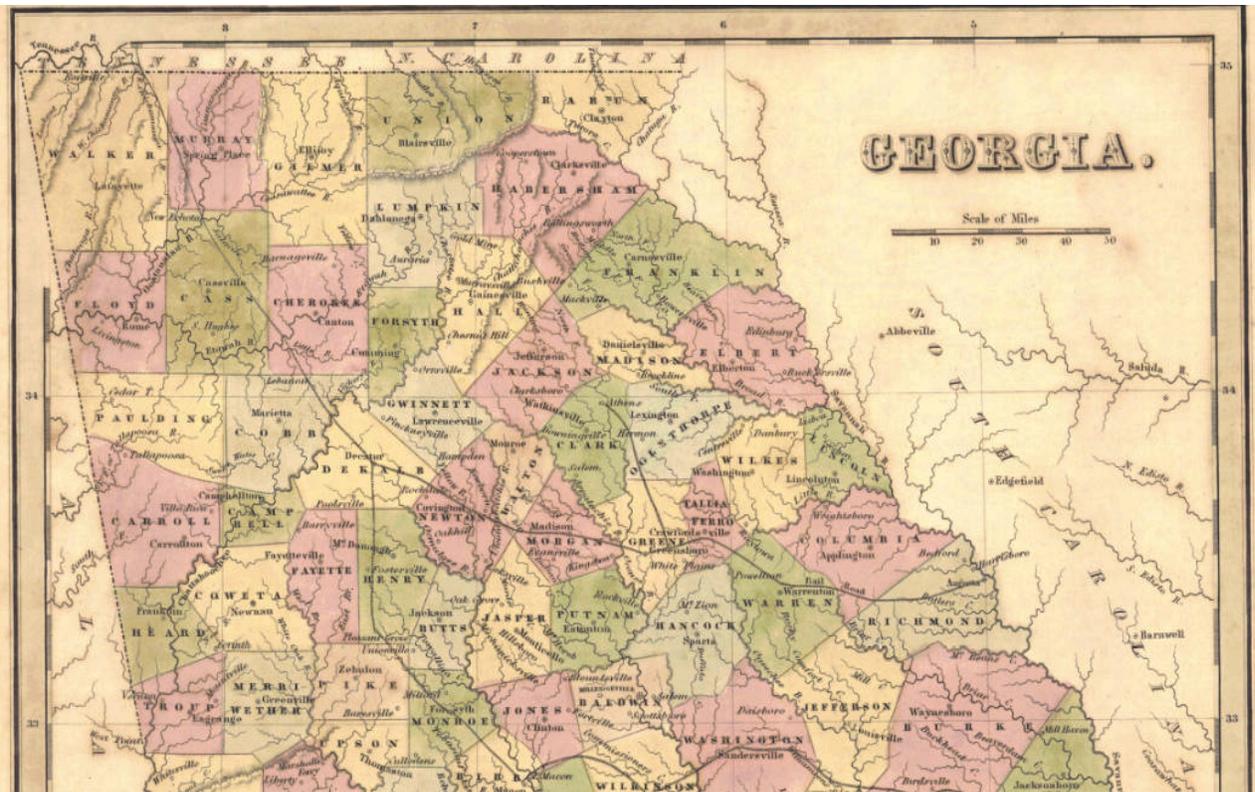
⁵¹ Mary E. Young, "Conflict Resolution on the Indian Frontier," *Journal of the Early Republic* 16 (Spring 1996): 15-17.

⁵² A figure of 4,000 deaths as a result of removal has long been accepted, though uncritically, by historians. See Francis Paul Prucha, *The Great Father: The United States Government and the American Indians* (Lincoln: University of Nebraska Press, 1984), 241, n.58. For a correction, see Russell Thornton, "The Demography of the Trail of Tears Period: A New Estimate of Cherokee Population Losses," in William L. Anderson, ed., *Cherokee Removal: Before and*

For nearly two decades, Georgians had tried to use the extension of state civil law as a tool to remove the Cherokee Indians from within the state's boundaries. By passing laws, creating new counties, and subjecting the natives to discriminatory statutes, state leaders had shown the Cherokee that Georgia was a white man's country and that its government would go to great ends to effect their displacement. However much Georgians wanted the process to seem like an orderly, legal proceeding, events did not turn out that way. Instead, Georgians used military force—some of it sponsored by the state, other sanctioned by the federal government—to intimidate, corral, and remove the minority population. Removal was another form of regulation designed to create order. Even during removal itself, military force trumped civil law. When a sheriff and two deputies interfered with the military's operations, Floyd had them arrested and detained. Major Pope rescued a white citizen from arrest by civil authorities, though he had no authority to do so. The message was clear: civil authority proved useful when dealing with everyday affairs in settled areas; military force and violence were necessary to maintain order and the essential aspects of the white republic when the burgeoning American empire encountered groups opposed to its expansion.⁵³

After (Athens: University of Georgia Press, 1991), especially 83-93.

⁵³ Charles Floyd to Winfield Scott, June 6, 1838, Roll 1, Correspondence of the Eastern Division; Charles Floyd to R.F. Daniels, et al, June 10, 1838, *ibid*.



Map 2. Northern Georgia in 1839, part of Thomas Gamaliel Bradford, "Georgia." (Boston: C.D. Strong, 1839). Courtesy of the Birmingham Public Cartography Collection, Birmingham, AL.

CONCLUSION

With removal a reality, Georgia's leaders could look to the backcountry as an extension of the white republic. Their task had not been an easy one. The borderlands had always been close to a large-scale eruption of violence, a scenario state politicians dreaded. The Cherokee, instead, had passed into the west, endured hardship and misery, but had eventually succumbed to two decades of continual violence that had destabilized their foothold on the world. When the Cherokee agreed to a land cession in 1819, they did not know that a decade later thousands of intruders, whose ceaseless quest to find gold, would bedevil their national existence. The harmonious Cherokee worldview came under siege from other directions as well. As an acculturated elite gained economic power, they codified republican thinking, and not the traditional ethic of harmony, in the Cherokee Constitution of 1827.

Georgians who clamored after Cherokee land had the full backing of their state government, though issues about sovereignty arose, which made it difficult for the state to claim native ground laying within state boundaries as its own. The emboldened Cherokee constitution, a series of federal laws, and the growing importance of southern radicalism and state rights, all coalesced in the struggle for sovereignty over native ground. In 1828 and 1830, the state legislature passed a series of laws designed to extend state sovereignty over the Cherokee Nation, and then announced its own supremacy when the second law outlawed the any native institutions from convening. Furthermore, it outlawed anyone from digging for gold, and prevented whites from residing beyond the state's northern border. The state, however, was stymied in its efforts to extend its sovereignty mostly because of the presence of white intruders who continually defied state dictates.

Claiming that it had to create and maintain order in the borderlands, the state went about that task violently. Order, a cluster of ideas that defined the ideal society, had three interrelated and reinforcing ideas. First, state leaders saw order as a social system in which white planters held power and authority, buttressed by the support of the yeomanry, and built upon the labor and legally binding condition of slavery prescribed for blacks. Second, order signified a political system defined by its adherence to the common good and virtuous self-sacrifice that, by the 1830s, encompassed egalitarianism and white male equality. Finally, order reflected a society devoid of crime, lawlessness, and violence. The binary racial system that in part defined the well-ordered society had little place in it for Native Americans, or, for that matter, whites who continually and willfully broke the law.

To quell the rising lawlessness, state leaders pronounced that civil institutions should create order. To settlers living in the backcountry who had to deal with the intruders firsthand, such declarations smacked of a disconnected political elite who had no understanding of conditions on the ground. When a group of backcountry thieves infiltrated the Carroll County government, the hope for a peaceful extension of state and local civil authority waned. White residents and their Cherokee neighbors took up arms together in a vigilante movement that sought to rid the county of white vagabonds. The vigilantes, who called themselves Regulators or Slicks, took to regulating the backcountry as way of creating order. Regulation, or the use of violence to impose social control, was one way for the state to bring into being their idealized, well-ordered society. It was a lesson not lost on Governor George R. Gilmer.

In early 1830, Gilmer asked for the help of federal troops as a way to regulate the social landscape of the borderlands. Though it obfuscated the state's stance on sovereignty, the help proved welcome for a short time. When the federal troops did arrive, they upheld federal law rather than state dictates, which meant they expelled white Georgians and allowed the Cherokee

to dig for gold. Frontier Georgians howled at the slight and claimed that the federal government had created a hierarchy with whites at the bottom. The political pressure mounted on Gilmer, mostly from his own State's Right Party, and he requested President Jackson to recall the troops. When withdrawal occurred later in 1830, the state legislature authorized the creation of a small force to police the gold mines. The Georgia Guard spent its time equally divided between halting intruders through force and intimidating the Cherokee. When the Guard's use of violence against whites became politically unpopular, the Union Party and Wilson Lumpkin swept into office in October 1831.

Lumpkin had campaigned on what he called the "white man's chance," which entailed individual ownership of the gold mines and the distribution of native farmland to potential white settlers in the form of a lottery. The power of racialized politics swept Lumpkin into office, especially after Gilmer recommended that state courts permit Indian testimony in court. Whites moving into the borderlands, no longer deemed intruders, needed space to live without the continued presence of the Cherokee. To protect further the political and legal privileges of whites in the borderlands, Lumpkin also focused on a more active attempt to widen political fissures within the Cherokee polity. A federal policy of "voluntary" removal rested on the hope of enticing Indians into departing for Arkansas territory and employed the Georgia Guard to enforce it. Lumpkin encouraged the state-federal cooperation because it helped promote state sovereignty. Though "voluntary" removal was anything but that for many émigrés, the new federal policy widened a political schism that pitted anti- and pro-removal forces within the Cherokee Nation against one another.

The Guard, however, could never escape its political nature, especially in the winter of 1835-1836, when it crossed the state line and travelled to Tennessee, where it arrested John Ross, the Principal Chief of the Cherokee Nation. Georgia had long-espoused a strong states' rights

position, though this time it had gone too far. By intruding upon the sovereignty of another state, the Guard caused a political showdown that ended the use of state-sanctioned force as a means of regulating the backcountry.

The Cherokee, however, still remained. To push them out of the state permanently, federal negotiators hammered out the Treaty of New Echota with the pro-removal faction of Cherokee. To go about removing the Cherokee, state militiamen combined with federal troops prepared the way. Though the use of militiamen and federal troops to uproot thousands of Cherokee was an inherently violent act, very little interpersonal violence resulted from the operation. To be sure, flashes of violence occurred, but federal officers and state elected officials cautioned the militiamen that the United States did not want to instigate the massacre of the Cherokee, only accomplish their relocation. In spite of that caution, state leaders could not prevent the death of at least 1,000 Cherokee who were forced to linger in deportation camps as supplies dwindled and diseases spread. By 1839, only a handful of Cherokee remained in Georgia. For state leaders, regulation as a way to create order had worked. State and federal leaders found violence easy to justify as long as it was directed towards a minority population and for the purpose of extending the white republic.

In 1840, the legislature sought to remove those few Cherokee who remained in Georgia when, surprisingly, it granted them the privileges of citizenship. Those who remained, a small group of highly acculturated Cherokee families had, for all intents and purposes, stopped being Cherokee long before the legislature's pronouncement. The act "removed all legal disabilities heretofore imposed" on those acculturated Cherokee who remained in Georgia. It granted to the designated families "the rights and privileges of citizenship," and allowed them to sit on juries, sue in white courts (provided they agreed not to sue the state for any land taken from them before removal), and serve in the militia. The whitewashing of the republic worked differently for

different people. At the same session of the legislature, the General Assembly created a legal way to determine the amount of African blood present in some of its heretofore white citizens.

Anyone charged with having an impure heritage that was at least “one-eighth Negro or African blood in his or her veins” was liable to have the privileges of citizenship stripped.¹

When viewed as the termination to a long, violent history that plagued the Cherokee-Georgia borderlands for nearly two decades, Cherokee Removal looks different. Rather than a rather sudden departure from federal Indian policy, President Jackson’s call for removal did not come as a surprise. Instead, state and federal leaders deliberated on their course over a period of decades. Removal was also a way for Jackson to let his views on the nature of the Union play out at the state level, especially when he allowed the state of Georgia to nullify federal treaties with the extension and supremacy acts. When he withdrew federal troops in the 1831, he also handed over responsibility of Indian policy, and therefore sovereignty over the Cherokee country, to the state.

The devolution of authority away from Washington had important consequences on state politics, consequences that also drove removal. The development of the Second Party System in Georgia led politicians to cater to the baser urges of their constituents. Whites who clamored after Cherokee land or gold expressed concern over their rights, and the state responded accordingly. The election of 1831 turned on the question of white superiority and voters vehemently rejected Gilmer’s call for granting a native minority rights enjoyed by white citizens. State politicians, furthermore, grew much more comfortable with the application of violence directed at the Cherokee as a way to remove them. Violence applied by the Georgia Guard

¹ “An act to grant the rights and privileges of citizenship to certain persons, and their descendants....” December 22, 1840, *Acts of the General Assembly of the State of Georgia*, 31-32, <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=19746651&lawcnt=1&filt=doc> (Accessed January 12, 2012); “An act to point out the tribunal and mode for the trial of questions of citizenship....” December 19, 1840, *Ibid.*, 32-33, <http://neptune3.galib.uga.edu/ssp/cgi-bin/legis-idx.pl?sessionid=7f000001&type=law&byte=19748770&lawcnt=2&filt=doc> (Accessed January 12, 2012).

became a wedge that further drove apart the two political factions within the Cherokee Nation. This deliberate attempt to weaken the Cherokee Nation through violence underscored Georgian's familiarity with factionalism, and highlighted their views on the threats posed by political parties. That did not prevent them, however, from creating political parties of their own. Removal, then, was not just the culmination of political events in Washington, but also the consequence of political factionalism within the Cherokee Nation and the state of Georgia.

Removal also resulted because of the blurred society that had formed along the frontier. In the borderlands, the increasing degree of acculturation, and the acceptability of negotiation, went against the notions of order and white superiority espoused by state and federal politicians. Even if competition for space and resources did occur in the two decades before removal, state leaders argued that removing the Cherokee population had become a necessity because the Cherokee population tempted whites to behave in disorderly ways.

Those same political leaders saw removal as one choice on a continuum of options at their disposal. Georgians espoused their desire to create order peacefully by employing one end of the spectrum, civil institutions. That did not prove possible because of the chaotic borderlands society. Further along that spectrum, individuals engaged in varying degrees of violence to regulate the unruly backcountry population, including disorderly whites and other criminals. At the far end of the spectrum, state-sponsored violence designed to remove a supposedly inferior population, though it differed in scope and tone from vigilantism, was another option at the disposal of those who espoused order. The irony, of course, was the fact that state leaders desired a lawful society and used violence to bring about that world.

The legacy of removal left other marks on the thinking of the expanding republic. As backcountry settlers adjusted to life without the presence of natives, a Cherokee legacy persisted. Streams, roads, ferry crossings, and towns still bore the names of the native inhabitants who had

resided there for centuries. Using violence to subdue and expel this rapidly changing population signaled the white polity's unwillingness to accept acculturated "others" into their republic or grant the majority of them an equal footing, unless that group had acculturated to some degree and then rejected its cultural heritage. Proximity to a seemingly dangerous population that threatened the expansion of the white republic taught Georgians that violence was an acceptable way to exert control over a population that did not conform. Those families who did achieve some measure of acceptance still had to pay a terrible price. They had been separated from their cultural heritage, from their native tongue, and from a belief system that spoke to the harmonious interactions of all humanity. In exchange, they had property, some legal protections, and their lives. For most Cherokee, it was a price too high to consider paying, but it was the price required for a well-ordered society.

	Sanford's Guard, 1830-1831	Bishop's Guard, 1835-1836	Removal Militias, 1838
Number of men	40	44	600
Gold Lottery Winners	17 (42.5%)	12 (27.27%)	71 (11.83%)
Land Lottery Winners	8 (20%)	8 (27.27%)	55 (9.17%)
1830 Slaveowners*	7/16	2/10	21/114
1840 Slaveowners*	10/20	7/21	32/197

Figure 6: Lottery Winners, Slave Ownership, and Military Service

*The figures for the 1830 and 1840 slave ownership have been compiled from the census schedules for those years. However, census enumerators did not count every militiaman who served. Only the heads of households were enumerated so far fewer guardsmen and militiamen were counted than who served. A highly mobile population did not make the job of the enumerators any easier. The total numbers of potential slaveholders, therefore, is lower than the total number of men in each militia category. The fractions for those two categories represent the number of slaveholders who could be verified in the census. For example, in 1830, 7 men in the Georgia Guard owned slaves, out of a total of 16 that could be verified in the census. For the Removal militias, I used the data from companies that mustered in the border counties. Three companies mustered from Habersham, two from Hall, and one each from Campbell, DeKalb, and Gwinnett.

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