

that the power of the States was to be coextensive with their limits, and that with all convenient dispatch the General Government should extinguish the Indian title and remove every obstruction to the complete jurisdiction of the State governments over the soil? Probably not one of those States would have accepted a separate existence—certainly it would never have been granted by Congress—had it been understood that they were to be confined forever to those small portions of their nominal territory the Indian title to which had at the time been extinguished.

It is, therefore, a duty which this Government owes to the new States to extinguish as soon as possible the Indian title to all lands which Congress themselves have included within their limits. When this is done the duties of the General Government in relation to the States and the Indians within their limits are at an end. The Indians may leave the State or not, as they choose. The purchase of their lands does not alter in the least their personal relations with the State government. No act of the General Government has ever been deemed necessary to give the States jurisdiction over the persons of the Indians. That they possess by virtue of their sovereign power within their own limits in as full a manner before as after the purchase of the Indian lands; nor can this Government add to or diminish it.

May we not hope, therefore, that all good citizens, and none more zealously than those who think the Indians oppressed by subjection to the laws of the States, will unite in attempting to open the eyes of those children of the forest to their true condition, and by a speedy removal to relieve them from all the evils, real or imaginary, present or prospective, with which they may be supposed to be threatened.

Viewpoint 21B
*Indians Should Be Allowed to Remain
in Their Homeland (1830)*

The Cherokee Nation

INTRODUCTION *The Cherokee Indians in the early 1800s had successfully adopted and combined traits of Indian and white culture to create a prosperous agricultural society with plantations, gristmills, a newspaper, and a governing constitution. In 1828, however, the state government of Georgia passed laws ordering the seizure of Indian lands and declaring all Cherokee laws void. Faced with the growing threat of forced removal from their homes, the Cherokees sent a delegation to Washington in 1830 to plead their case before Congress and President Andrew Jackson. Finding both the president and Congress unreceptive, they published an appeal to the American people, excerpted below, pleading for the right to stay in their homeland.*

Despite some success, including an 1832 Supreme Court ruling (Worcester v. Georgia) in their favor,

the Cherokee Nation was ultimately unable to prevent relocation. In 1838 U.S. troops forced the remaining Cherokee in Georgia to leave for lands in Oklahoma. Many perished while on the “trail of tears.”

On what legal basis do the Cherokee lose their arguments? What reasons do they give for not wishing to move? How, in their view, has the state of Georgia treated them unfairly?

Permit us to state what we conceive to be our relations with the United States. After the peace of 1783, the Cherokees were an independent people; absolutely so, as much as any people on earth. They had been allies to Great Britain, and as a faithful ally took a part in the colonial war on her side. They had placed themselves under her protection, and had they, without cause, declared hostility against their protector, and had the colonies been subdued, what might not have been their fate? But her power on this continent was broken. She acknowledged the independence of the United States, and made peace. The Cherokees therefore stood alone; and, in these circumstances, continued the war. They were then under no obligations to the United States any more than to Great Britain, France or Spain. The United States never subjugated the Cherokees; on the contrary, our fathers remained in possession of their country, and with arms in their hands.

PEACE TREATIES

The people of the United States sought a peace; and, in 1785, the treaty of Hopewell was formed, by which the Cherokees came under the protection of the United States, and submitted to such limitations of sovereignty as are mentioned in that instrument. None of these limitations, however, affected, in the slightest degree, their rights of self-government and inviolate territory. The citizens of the United States had no right of passage through the Cherokee country till the year 1791, and then only in one direction, and by an express treaty stipulation. When the federal constitution was adopted, the treaty of Hopewell was confirmed, with all other treaties, as the supreme law of the land. In 1791, the treaty of Holston was made, by which the sovereignty of the Cherokees was qualified as follows: The Cherokees acknowledged themselves to be under the protection of the United States, and of no other sovereign.—They engaged that they would not hold any treaty with a foreign power, with any separate state of the union, or with individuals. They agreed that the United States should have the exclusive right of regulating their trade; that the citizens of the United States should have a right of way in one direction through the Cherokee country; and that if an Indian should do

From the “Memorial of the Cherokee Nation” (July 17, 1830), as reprinted in *Nile’s Weekly Register*, August 21, 1830.

injury to a citizen of the United States he should be delivered up to be tried and punished. A cession of lands was also made to the United States. On the other hand, the United States paid a sum of money; offered protection; engaged to punish citizens of the United States who should do any injury to the Cherokees; abandoned white settlers on Cherokee lands to the discretion of the Cherokees; stipulated that white men should not hunt on these lands, nor even enter the country without a passport; and gave a solemn guaranty of all Cherokee lands not ceded. This treaty is the basis of all subsequent compacts; and in none of them are the relations of the parties at all changed.

The Cherokees have always fulfilled their engagements. They have never reclaimed those portions of sovereignty which they surrendered by the treaties of Hopewell and Holston. These portions were surrendered for the purpose of obtaining the guaranty which was recommended to them as the great equivalent. Had they refused to comply with their engagements, there is no doubt the United States would have enforced a compliance. Is the duty of fulfilling engagements on the other side less binding than it would be, if the Cherokees had the power of enforcing their just claims?

The people of the United States will have the fairness to reflect, that all the treaties between them and the Cherokees were made, at the solicitation, and for the benefit, of the whites; that valuable considerations were given for every stipulation, on the part of the United States; that it is impossible to reinstate the parties in their former situation, that there are now hundreds of thousands of citizens of the United States residing upon lands ceded by the Cherokees in these very treaties; and that our people have trusted their country to the guaranty of the United States. If this guaranty fails them, in what can they trust, and where can they look for protection?

*We wish to remain on the land
of our fathers. We have a perfect and
original right to remain without
interruption or molestation.*

WE WISH TO REMAIN

We are aware, that some persons suppose it will be for our advantage to remove beyond the Mississippi. We think otherwise. Our people universally think otherwise. Thinking that it would be fatal to their interests, they have almost to a man sent their memorial to congress, deprecating the necessity of a removal. This question

was distinctly before their minds when they signed their memorial. Not an adult person can be found, who has not an opinion on the subject, and if the people were to understand distinctly, that they could be protected against the laws of the neighboring states, there is probably not an adult person in the nation, who would think it best to remove; though possibly a few might emigrate individually. There are doubtless many, who would flee to an unknown country, however beset with dangers, privations and sufferings, rather than be sentenced to spend six years in a Georgia prison for advising one of their neighbors not to betray his country. And there are others who could not think of living as outlaws in their native land, exposed to numberless vexations, and excluded from being parties or witnesses in a court of justice. It is incredible that Georgia should ever have enacted the oppressive laws to which reference is here made, unless she had supposed that something extremely terrific in its character was necessary in order to make the Cherokees willing to remove. We are not willing to remove; and if we could be brought to this extremity, it would be not by argument, not because our judgment was satisfied, not because our condition will be improved; but only because we cannot endure to be deprived of our national and individual rights and subjected to a process of intolerable oppression.

We wish to remain on the land of our fathers. We have a perfect and original right to remain without interruption or molestation. The treaties with us, and laws of the United States made in pursuance of treaties, guaranty our residence and our privileges, and secure us against intruders. Our only request is, that these treaties may be fulfilled, and these laws executed.

But if we are compelled to leave our country, we see nothing but ruin before us. The country west of the Arkansas territory is unknown to us. From what we can learn of it, we have no prepossessions in its favor. All the inviting parts of it, as we believe, are preoccupied by various Indian nations, to which it has been assigned. They would regard us as intruders, and look upon us with an evil eye. The far greater part of that region is, beyond all controversy, badly supplied with wood and water; and no Indian tribe can live as agriculturists without these articles. All our neighbors, in case of our removal, though crowded into our near vicinity, would speak a language totally different from ours, and practice different customs. The original possessors of that region are now wandering savages lurking for prey in the neighborhood. They have always been at war, and would be easily tempted to turn their arms against peaceful emigrants. Were the country to which we are urged much better than it is represented to be, and were it free from the objections which we have made to it, still it is not the land of our birth, nor of our affections. It contains neither the scenes of our childhood, nor the graves of our fathers.

THE HARMS OF FORCED REMOVAL

The removal of families to a new country, even under the most favorable auspices, and when the spirits are sustained by pleasing visions of the future, is attended with much depression of mind and sinking of heart. This is the case, when the removal is a matter of decided preference, and when the persons concerned are in early youth or vigorous manhood. Judge, then, what must be the circumstances of a removal, when a whole community, embracing persons of all classes and every description, from the infant to the man of extreme old age, the sick, the blind, the lame, the improvident, the reckless, the desperate, as well as the prudent, the considerate, the industrious, are compelled to remove by odious and intolerable vexations and persecutions, brought upon them in the forms of law, when all will agree only in this, that they have been cruelly robbed of their country, in violation of the most solemn compacts, which it is possible for communities to form with each other; and that, if they should make themselves comfortable in their new residence, they have nothing to expect hereafter but to be the victims of a future legalized robbery!

Such we deem, and are absolutely certain, will be the feelings of the whole Cherokee people, if they are forcibly compelled, by the laws of Georgia, to remove; and with these feelings, how is it possible that we should pursue our present course of improvement, or avoid sinking into utter despondency? We have been called a poor, ignorant, and degraded people. We certainly are not rich; nor have we ever boasted of our knowledge, or our moral or intellectual elevation. But there is not a man within our limits so ignorant as not to know that he has a right to live on the land of his fathers, in the possession of his immemorial privileges, and that this right has been acknowledged and guaranteed by the United States; nor is there a man so degraded as not to feel a keen sense of injury, on being deprived of this right and driven into exile.

AN APPEAL TO THE AMERICAN PEOPLE

It is under a sense of the most pungent feelings that we make this, perhaps our last appeal to the good people of the United States. It cannot be that the community we are addressing, remarkable for its intelligence and religious sensibilities, and pre-eminent for its devotion to the rights of man, will lay aside this appeal, without considering that we stand in need of its sympathy and commiseration. We know that to the Christian and to the philanthropist the voice of our multiplied sorrows and fiery trials will not appear as an idle tale. In our own land, on our own soil, and in our own dwellings, which we reared for our wives and for our little ones, when there was peace on our mountains and in our valleys,

we are encountering troubles which cannot but try our very souls. But shall we, on account of these troubles, forsake our beloved country? Shall we be compelled by a civilized and Christian people, with whom we have lived in perfect peace for the last forty years, and for whom we have willingly bled in war, to bid a final adieu to our homes, our farms, our streams and our beautiful forests? No. We are still firm. We intend still to cling, with our wonted affection, to the land which gave us birth, and which, every day of our lives, brings to us new and stronger ties of attachment. We appeal to the judge of all the earth, who will finally award us justice, and to the good sense of the American people, whether we are intruders upon the land of others. Our consciences bear us witness that we are the invaders of no man's rights—we have robbed no man of his territory—we have usurped no man's authority, nor have we deprived any one of his unalienable privileges. How then shall we indirectly confess the right of another people to our land by leaving it forever? On the soil which contains the ashes of our beloved men we wish to live—on this soil we wish to die.

LET THEM REMEMBER

We intreat those to whom the foregoing paragraphs are addressed, to remember the great law of love. "Do to others as ye would that others should do to you"—Let them remember that of all nations on the earth, they are under the greatest obligation to obey this law. We pray them to remember that, for the sake of principle, their forefathers were *compelled* to leave, therefore *driven* from the old world, and that the winds of persecution wafted them over the great waters and landed them on the shores of the new world, when the Indian was the sole lord and proprietor of these extensive domains—Let them remember in what way they were received by the savage of America, when power was in his hand, and his ferocity could not be restrained by any human arm. We urge them to bear in mind, that those who would now ask of them a cup of cold water, and a spot of earth, a portion of their own patrimonial possessions, on which to live and die in peace, are the descendants of those, whose origin, as inhabitants of North America, history and tradition are alike insufficient to reveal. Let them bring to remembrance all these facts, and they *cannot*, and we are sure, they *will* not fail to remember, and sympathize with us in these our trials and sufferings.

FOR FURTHER READING

Michael D. Green, *The Policies of Indian Removal*. Lincoln: University of Nebraska Press, 1982.

Theda Persue and Michael P. Green, eds., *The Cherokee Removal: A Brief History with Documents*. New York: Bedford/St. Martin's, 1995.