

Indians Should Be Allowed to Remain in Their Homeland (1830)

Cherokee Nation

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 President Andrew Jackson and to Congress. Finding both the president and Congress unresponsive, they published an appeal to the American people, excerpted below, pleading for the right to stay in their homeland.

The Cherokee nation and their white supporters appealed Georgia's assertion of authority over their territory and had their case heard in the U.S. Supreme Court. In 1832 in *Worcester v. Georgia*, Chief Justice John Marshall ruled that the state of Georgia had no authority over the Cherokee nation, but the legal decision was ignored by Georgia and President Jackson and had little practical effect. Jackson and others continued to press for their removal west of the Mississippi River. In 1838 U.S. troops forced the remaining Cherokees to leave for lands in Oklahoma. Around 4,000 Cherokees, or one quarter of the population, perished while on the "trail of tears."

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

Some months ago a delegation was appointed by the constituted authorities of the Cherokee nation to repair to the city of Washington, and in behalf of this nation, to lay before the government of the United States such representations as should seem most likely to secure to us, as a people, that protection, aid, and good neighborhood, which had been so often promised to us, and of which we stand in great need. Soon after their arrival in the city they presented to congress a petition from our national

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council, asking for the interposition of that body in our behalf, especially with reference to the laws of Georgia, which were suspended in a most terrifying manner over a large part of our population, and protesting in the most decided terms against the operation of these laws. In the course of the winter they presented petitions to congress, signed by more than four thousand of our citizens, including probably more than nineteen-twentieths, and for aught we can tell, ninety-nine hundredths, of the adult males of the nation . . . pleading with the assembled representatives of the American people, that the solemn engagements between their fathers and our fathers may be preserved, as they have been till recently, in full force and continued operation; asking, in a word, for protection against threatened usurpation and for a faithful execution for a guaranty which is perfectly plain in its meaning, has been repeatedly and rigidly endorsed in our favour, and has received the sanction of the government of the United States for nearly forty years.

President Jackson's Unexpected Policies

More than a year ago we were officially given to understand by the secretary of war, that the president could not protect us against the laws of Georgia. This information was entirely unexpected; as it went upon the principle, that treaties made between the United States and the Cherokee nation have no power to withstand the legislation of separate states; and of course, that they have no efficacy whatever, but leave our people to the mercy of the neighboring whites, whose supposed interests would be promoted by our expulsion, or extermination. It would be impossible to describe the sorrow, which affected our minds on learning that the chief magistrate [president] of the United States had come to this conclusion, that all his illustrious predecessors had held intercourse with us on principles which could not be sustained, that they had made promises of vital importance to us, which could not be fulfilled—promises made hundreds of times in almost every conceivable manner—often in the form of solemn treaties, sometimes in letters written by the chief magistrate with his own hand, very often in letters written by the secretary of war under his direction, sometimes orally by the president and the secretary to our chiefs, and frequently and always, both orally and in writing by the agent of the United States residing among us, whose most important business it was, to see the guaranty of the United States faithfully executed.

Soon after the war of the revolution, as we have learned from our fathers, the Cherokees looked upon the promises of the whites with great distrust and suspicion, but the frank and magnanimous con-

duct of General Washington did much to allay these feelings. The perseverance of successive presidents, and especially of Mr. Jefferson, in the same course of policy, and in the constant assurance that our country should remain inviolate, except so far as we voluntarily ceded it, nearly banished anxiety in regard to encroachments from the whites. To this result the aid which we received from the United States in the attempts of our people to become civilized, and the kind efforts of benevolent societies, have greatly contributed. Of late years, however, much solicitude was occasioned among our people by the claims of Georgia. This solicitude arose from the apprehension, that by extreme importunity, threats, and other undue influence, a treaty would be made, which should cede the territory, and thus compel the inhabitants to remove. But it never occurred to us for a moment, that without any new treaty, without any assent of our rulers and people, without even a pretended compact, and against our vehement and unanimous protestations, we should be delivered over to the discretion of those, who had declared by a legislative act, that they wanted the Cherokee lands and would have them.

Appealing to Congress

Finding that relief could not be obtained from the chief magistrate, and not doubting that our claim to protection was just, we made our application to congress. During four long months our delegation waited, at the doors of the national legislature of the United States, and the people at home, in the most painful suspense, to learn in what manner our application would be answered; and, now that congress has adjourned, on the very day before the date fixed by Georgia for the extension of her oppressive laws over the greater part of our country, the distressing intelligence has been received that we have received no answer at all; and no department of the government has assured us, that we are to receive the desired protection. But just at the close of the session, an act was passed, by which an half a million of dollars was appropriated towards effecting a removal of Indians; and we have great reason to fear that the influence of this act will be brought to bear most injuriously upon us. The passage of this act was certainly understood by the representatives of Georgia as abandoning us to the oppressive and cruel measures of the state, and as sanctioning the opinion that treaties with Indians do not restrain state legislation. We are informed by those, who are competent to judge, that the recent act does not admit of such construction; but that the passage of it, under the actual circumstances of the controversy, will be considered as sanctioning the pretensions of Georgia, there is too much reason to fear.

Thus have we realized, with heavy hearts, that our supplication has not been heard; that the protection heretofore experienced is now to be withheld; that the guaranty, in consequence of which our fathers had aside their arms and ceded the best portions of their country, means nothing; and that we must either emigrate to an unknown region and leave the pleasant land to which we have the strongest attachment, or submit to the legislation of a state, which has already made our people outlaws, and enacted that any Cherokee, who shall endeavor to prevent the selling of his country, shall be imprisoned in the penitentiary of Georgia not less than four years. To our countrymen this has been melancholy intelligence, and with the most bitter disappointment has it been received.

But in the midst of our sorrows, we do not forget our obligations to our friends and benefactors. It was with sensations of inexpressible joy that we have learned that the voice of thousands, in many parts of the United States, has been raised in our behalf, and numerous memorials offered in our favor, in both houses of congress. To those numerous friends, who have thus sympathized with us in our low estate, we tender our grateful acknowledgments. In pleading our cause, they have pleaded the cause of the poor and defenceless throughout the world. Our special thanks are due, however, to those honorable men, who so ably and eloquently asserted our rights, in both branches of the national legislature. Their efforts will be appreciated wherever the merits of this question shall be known; and we cannot but think that they have secured for themselves a permanent reputation among the disinterested advocates of humanity, equal rights, justice, and good faith. We even cherish the hope, that these efforts, seconded and followed by others of a similar character, will yet be available, so far as to mitigate our sufferings, if not to effect our entire deliverance.

A Brief History

Before we close this address, permit us to state what we conceive to be our relations with the United States. After the peace of 1763, 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 obli-

gations 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.

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The people of the United States sought a peace; and, in 1763, 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 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

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 terrible 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 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-eminently 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 to 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 paternal 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.

LEWIS ROSS, pres't committee.

James Daniel,
George Sanders,
Jos. Vann,
Daniel Griffin, jun.
David Vann,
James Hamilton,
Edward Gunter,
Alex. McDaniell,
Richard Taylor,
Thos. Foreman,
John Baldridge,
John Timson,
Samuel Ward.

W.S. Coodey, clerk.

GOING SNAKE, speaker of the council.

James Bigbey,
Deer-in-the-water,
Charles Reese,
Sleeping Rabbit,
Chu-nu-gee,
Robbin,
Bark,
Tah-lah-doo,
Nah-hoo-lah,
Chuleowah,
White Path,
Ne-gah-we,
Dah-ye-ske,
Walking Stick,
Moses Farris,
John Ridge, clerk of the council.
New Echota, C.N. July 17, 1830.