

Chapter 7 Georgia and the Cherokees

hen Europeans began settling North America, they faced the perplexing dilemma of how to treat the land's original inhabitants. With varying degrees of success, four different methods were used in the territories that became the United States. Being anxious not to antagonize the Native Americans, the first settlers tended to trade and interact with them as equals. Hostilities commenced when Native Americans began to realize that the settlers threatened to destroy their game and take their lands. Therefore, some settlers adopted a policy that led to the extermination of many of the original inhabitants was adopted. In order to assimilate them into their society, other colonists tried to teach the native Americans to accept the white man's culture and religion. More frequently, through persuasion and force, Native Americans were contemptuously removed from the areas desired by whites. When the seemingly unlimited supply of land was nearly exhausted, Native Americans were forced to live on ever less productive lands. Thus our policy regarding America's original inhabitants over 350 years of contact can be summarized as cooperation, annihilation, assimilation, and relocation.

Opposition to the official Indian policy under the U.S. Constitution was stated by George Washington's Secretary of War, Henry Knox. Knox opposed a policy of purchasing western lands and moving the natives further west. "To dispossess them," he wrote Washington, "would be a gross violation of the fundamental laws of nature ... and the equivalent of genocide: if they are removed from their usual hunting ground, they must necessarily encroach in the hunting grounds of another tribe, who will not permit the encroachment without resistance. Hence they will destroy each other." Others suggested that the government civilize and attempt to assimilate America's original inhabitants, and that "instead of exterminating a part of the human race . . . we impart our knowledge of cultivation and the arts to the aborigines of the country, thus preserving and extending the source of future happiness." ³⁵

Thomas Jefferson at least paid lip service to the idea of assimilation. By leading Native Americans to agriculture, manufacture, and civilization, he hoped to prepare them ultimately to participate in the benefits of our government. During his administration, Indian agents were told to either convert them to farming or to remove them to lands west of the Mississippi. Under the guidance of future president William Henry Harrison, the Native Americans in the Northwest were forced to give up millions of acres of their ancestral lands and move further West. In the South, however, the policy of converting the natives was actively pursued by Indian agent Benjamin Hawkins. Aided by devoted missionaries and several talented Native Americans, Jefferson's policy succeeded beyond any reasonable expectations. The major tribes in the Southeastern part of the country, the Creeks, Choctaws, Chickasaws, Seminoles, and Cherokees became known as the five civilized tribes. This chapter follows the story of the Cherokee nation and the attempts to move them west of the Mississippi.

The Cherokees

At the time of the American Revolution, the Cherokee claimed the greater part of what is now Georgia, Alabama, Tennessee, and South Carolina as their hunting grounds. It was their misfortune to

³⁴Quoted in Charles G. Sellars, et. al., *As It Happened: A History of the United States* (New York: The McGraw Hill Book Company, 1975), p. 120.

³⁵ Quoted in *loc. cit.*

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ally themselves with the British during the Revolution. Defeated in 1777, the Cherokees were forced to surrender their claims to South Carolina. By a series of treaties, between 1785 and 1793 they gave up yet more land, accepting the protection of the U.S. government in exchange. Thereafter, some Cherokees, who preferred the nomadic life of hunters, moved west of the Mississippi, while the rest settled down to farm their remaining lands. In 1817, and again in 1819, the Cherokees ceded large tracts of land to Georgia. The United States government had promised Georgia that it eventually could control the Indian lands within its borders. After the 1819 treaty, thoughtful Cherokees realized that continued cession of land would soon end their tribal existence. Consequently, they determined never again to cede one more foot of our land, and promptly sent a delegation to tell President Monroe that:

The Cherokees are not foreigners, but the original inhabitants of America, and they now stand on the soil of their own territory, and they cannot recognize the sovereignty of any state within the limits of their territory.³⁶

Meanwhile, under the enlightened leadership of Chief John Ross, the Cherokees evolved a new government structure. They formed a national council to act as a legislature and later added another legislative body. The legislature could make laws for the Cherokees and an elected president was given the power to enforce them. The Cherokee territory was then divided into eight districts, each with a regional council. Judges were given jurisdiction to settle disputes according to Cherokee law. In 1825, this legislature ruled that all tribal lands, including private farms within Cherokee boundaries, belonged to the Cherokee nation as a whole and not to the individuals living on them. No Indian was permitted to sell, lease, or mortgage his property, and no lands could be ceded to either Georgia or the United States without prior approval of the legislature. Two years later, duly elected representatives drew up a written Constitution. Modeled after the United States Constitution, the Cherokee version provided for a president with a four year term, two houses of Congress, and a Supreme as well as inferior courts. The Cherokee constitution recognized the principle of the separation of powers, provided a definition of citizenship, and included a Bill of Rights.

The Cherokees also succeeded in adopting other aspects of American civilization. Well-to-do Cherokees lived in fine, two story houses and lacked none of the comforts available in those days. Some owned extensive fields, cultivated by Negro slave labor. Others raised cattle, pigs, or sheep, and many bred horses. The Cherokee farms were generally neat and well cared for. The nation of some 14,000 people could boast 18 schools, generally supported by missionaries, 31 gristmills for grinding corn and wheat, 8 cotton gins, numerous roads, and a capital with public buildings supported by taxes raised within the nation. It even had a newspaper, *The Cherokee Phoenix*. The paper was edited by a full blooded Cherokee and was written in an alphabet invented by a Cherokee named Sequoia.

Georgia Responds

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The Cherokees had adopted American customs in the hope that they would be permitted to live on the lands guaranteed them by the U.S. government. They were fully aware that, in 1812, this same government had a conflicting obligation with the state of Georgia, an obligation to extinguish Indian titles in that state. Georgians wanted the lands occupied by the Cherokees and were eager to assert their state's

³⁶ Quoted in Louis Fillere and Allen Gutman, *The Removal of the Cherokee: National Manifest Destiny or National Dishonor*, D.C. Heath and Company, Lexington, Massachusetts, 1962, p. 3.

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authority over the Native Americans. With Georgia hostile to them, the Cherokees depended on the U.S. government to extend the protection it had promised in previous treaties.

In late 1828 and early 1829, the Georgia legislature passed a series of laws designed to assert its authority over the Native Americans living inside the state. Each of these sharply infringed upon the Cherokees's rights. The laws annexed large tracts of Cherokee territory to various Georgia counties; outlawed meetings of the Cherokee legislature, declaring all of its acts null and void; required the Cherokee to obey the laws of Georgia; prohibited Native Americans from testifying against whites in court; provided severe punishment to all who advised Native Americans not to sell their land or not to leave the state; and required all whites living on Cherokee territory to obtain an official permit. Meanwhile, the Georgia legislature made preparations for a state-wide lottery of Cherokee land, with choice parcels going to the lucky winners.

Native Americans caught violating these laws were captured, severely beaten, and left to languish in jail. Eleven whites working with the Cherokees were arrested and given a choice between leaving the state or four years at hard labor. All but two left. Of the remaining, Samuel Worcester appealed his case to the Supreme Court. In a ringing decision, Chief Justice John Marshall ruled that the accused had been prosecuted under a statute repugnant to the Constitution as well as the laws and treaties of the United States, which ought to be annulled. Assuming the decision meant government protection, the Cherokees rejoiced. But Georgia waited for nearly a year before freeing Worcester and defiantly threatened to use force if in the last resort it needed defenders. There was, however, little cause for assuming a civil war would be fought to protect the Native Americans' claims. President Jackson's attitude toward protecting the Indians' rights might be summed up in a statement widely attributed to him, "John Marshall has rendered his decision; now let him enforce it." ³⁷

The Indian Removal Bill

Before the Georgia law took effect, an even more important drama was being played out in the Nation's capital. Jackson had urged Congress to pass a law setting part of an ample district West of the Mississippi to be guaranteed to the Indian tribes. The proposed emigration, the President promised, should be voluntary, but the Native Americans should be distinctly informed that if they remain within the limits of the state, they would be subject to its laws. Native Americans who stay would be protected only in the enjoyment of those possessions which they have improved by their industry. But claims to land on which they have neither dwelt nor made improvements, will not be recognized merely because they have seen them from the mountain or passed them in the chase.

Jackson's proposal aroused a storm of criticism and excited heated debate. Few spoke as convincingly on either side of the argument as President Jackson and the Native Americans themselves. Excerpts from their statements are reprinted below:

³⁷ Quoted in Louis Fillere and Allen Gutman, op. cit. p. 77.



Jackson

now occupied by a few savage hunters.

[I]t will incalculably strengthen the southwestern frontier and render the adjacent States strong But if we are compelled to leave our country, we institutions.

than 12 million happy people happy people and childhood, nor the graves of our fathers. filled with all the blessings of liberty, civilization, and religion

Doubtless it will be painful to leave the graves of Christian people, with whom we have lived in their fathers; but what do they more than our perfect peace for the last forty years, and for ancestors did or than our children are now doing? whom we have willingly bled in war, to bid a fi-To better their condition in an unknown land our nal adieu to our homes, our farms, our streams forefathers left all that was dear in earthly objects? and our beautiful forests?

Cherokees

The consequences of a speedy removal will be We wish to remain on the land of our fathers. We important to the United States, to individual have a perfect and original right to remain withstates, and to the Indians themselves. It puts an out interruption or molestation. The treaties with end to all possible danger of collision between the us, and laws of the United States, made in purauthorities of the General and State Governments suance of treaties, guaranty our residence and our on account of the Indians. It will place a dense privileges, and secure us against intruders. Our and civilized population in large tracts of country only request is, that these treaties may be fulfilled, and these laws executed.

enough to repel future invasion. It will separate see nothing but ruin before us. This country west the Indians from immediate contact with set- of the Arkansas territory is unknown to us. All tlements of whites; free them from the power of the inviting parts of it, as we believe, are the States; enable them to pursue happiness in preoccupied by various Indian nations, to which it their own way and under their own rude has been assigned. They would regard us as intruders, and look upon us with an evil eye. The greater part of that region is badly supplied with Humanity has often wept over the fate of the wood and water; and no Indian tribe can live as aborigines of this country [but] philanthropy agriculturists without these articles. The original could not wish to see this continent restored to the possessors of that region are now wandering condition in which it was found by our savages lurking for prey in the neighborhood. forefathers. What good man would prefer a They have always been at war, and would be country covered with forest and ranged by a few easily tempted to turn their arms against peaceful thousand savages to our extensive republic, emigrants. . . . Were this country to which we are studded with cities, towns, and prosperous farms, urged much better than it is represented to be . . . embellished with all the improvements which art still it is not the land of our birth, nor of our can devise or industry execute, occupied by more affections. It contains neither the scenes of our

Shall we be compelled by a civilized and



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Can it be cruel in this government, when by lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year.

Is it supposed that the wandering savage has a stronger attachment to his home than the settled and civilized Christian? Is it more afflicting for him to leave the graves of his fathers than it is to our brothers and children?

It is a duty which this Government owes to the new States to extinguish as soon as possible the selves have included within their limits. The wish to die.³⁹ Indians may leave the State or not, as they choose.38

Cherokees

No. We are still firm. We intend still to cling, events which it cannot control, the Indian is made with our wanted affection, to the land which gave discontented in his ancient home to purchase his us birth 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 inalienable privileges. How then shall we indirectly confess the rights of another people to our land by leaving it forever?

On the soil which contains the ashes of our Indian title to all lands which Congress them- beloved men we wish to live - on this soil we

Suggested Student Exercises:

- 1. Summarize the achievements of the Cherokees.
- 2. Analyze the conflicting claims to the land on which the Cherokees lived and Georgians wanted.
- 3. Select two or three passages from the statements by Jackson or the Cherokees, and explain why you do or do not agree with them. (Teacher may assign some students to agree with Jackson or the Cherokees).

³⁸ Quoted in Louis Fillere and Allen Gutman, op. cit., p.

³⁹ Quoted in Louis Fillere and Allen Gutman, op. cit., p.



Epilogue: The Trail of Tears

The Indian removal bill passed Congress by narrow margins in both houses, and signaled an increase in the pressure on the Native Americans to sell their property and leave the state. Meanwhile, the Georgia lottery was held as planned. Chief Ross and many of his followers were forced to surrender their homes to the lucky winners. The lands of one group of Native Americans, headed by the Phoenix editor, Elias Boudinot, were not put into the lottery and the government chose to deal with this group. Even when Chief Ross later realized that his people had to move and offered to sell the Cherokee land for \$20,000,000, government agents refused to deal with him. Instead, they bought the property from Boudinot's followers, representing only a fraction of the Cherokee people.

The treaty was signed in 1835, and despite opposition by friends of the Native Americans in the North, it was ratified by the Senate. It paid the Native Americans \$5,000,000 for their land and gave them three years in which to leave. Some willingly left early; the majority, however, were rounded up like cattle, forced into stockades, and then marched during a bitterly cold winter to their new lands in Oklahoma. An army private, who observed the heart-rendering scene, left the following description:

QuickTime™ and a TIFF (Uncompressed) decompressor are needed to see this picture.

I saw the helpless Cherokees arrested and dragged from their homes, and driven by bayonet into the stockades. And in the chill of a drizzling rain on an October morning I saw them loaded like cattle or sheep into wagons and started toward the west.

Chief Ross led in prayer and when the bugle sounded and the wagons started rolling many of the children waved their little hands goodbye to their mountain homes. 40

The Trail of Tears

According to the best available information, on the Trail of Tears, 4,000 of the 15,000 Native Americans who made the journey to Oklahoma, died en route. Some fifty years later, when Oklahoma was opened to settlement, the scene was once again played out. The Cherokees were once more forced to relocate, perpetual exiles in the land of their fathers.

Suggested Student Exercises:

What conclusion can you reach based on the resolution of the conflict between the people of Georgia and the Cherokees.

⁴⁰ Quoted in Angie Debo, *A History of the Indians of the United State*, University of Oklahoma Press, Norman, Oklahoma 1970. p.

⁴¹ http://www.nativeamericans.com/TrailofTears2.htm