

# Cultural Diversity Reader

*Revised Edition*



Richard Lewis - Betsy Glade - Kenneth Czech



# CULTURAL DIVERSITY READER

REVISED EDITION

Richard Lewis | Betsy Glade | Kenneth Czech



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# READER INTRODUCTION

**CULTURAL DIVERSITY** presents a rich tapestry in which the culture and history of nations are interwoven. This diversity can be based on ethnic identity, religion, race, class, level of cultural development or a combination of these factors. On occasion, these differences can lead to unsettled times within a country. Among important cultural issues are what factors actually determine the differences in societies, and what enables one group to dominate another. Attitudes and reactions among majorities and minorities are also critical.

In the twentieth century, conflict between majority and minority has intensified. In a number of societies, the majority uses certain strategies toward minorities. Minorities might be isolated or separated from the mainstream and actually prohibited from mixing with the majority. In other instances, integration has taken place where minorities are expected to conform to majority ways. Forcing minorities to emigrate is another way in which diversity problems have been handled.

Minorities have reacted by attempting to maintain their cultural autonomy and distinctiveness, sometimes through violence. Other groups have simply accepted the majority culture and have been integrated into it.

In the United States, individual liberties were guaranteed in its constitution. Yet, minority groups including African Americans, Native Americans and Asian Americans have felt the sting of racial and ethnic discrimination. Civil rights awareness in the latter half of the 20th century has helped contribute to continued legal action to ensure equality.

In Russia and the independent states that emerged after the collapse of the Soviet Union, cultural diversity is determined primarily by ethnic identity. The once dominant Russia majority is now faced with an identity crisis. No longer the masters of a vast Eurasian empire and no longer leaders of a global superpower, they have tried to establish criteria to prove that Russia and Russians are still important in the world today.

Japan is a relatively homogeneous society, with only a few very small minorities defined by ethnic identity and culture. Homogeneity contributed to the growth of an aggressive Japanese empire in the 1930s and 1940s. It has also been instrumental in the reemergence of increasingly powerful forms of nationalism today.

Traditionally, the Chinese were identified culturally as anyone who knew and understood the classics that formed the Chinese value system, regardless of ethnic identity and origins. The lack of a Chinese national identity contributed to turmoil and revolution in the 19th and early 20th centuries. Mao Zedong, the leader of the Chinese Communist Party for some 40 years, used the concept of *contradiction* to define important differences in the People's Republic of China. Cultural contradiction, according to Mao, was important, but even more important were differences based on class and political loyalty.

Mohandas Gandhi recognized that religion had been a divisive force in Indian history, threatening to tear the nation apart. Advocating religious toleration and suggesting acceptance of his key beliefs, Gandhi hoped to minimize religious differences and *communal* (from religious communities) friction.

Racial difference has been a primary source of conflict in South African history. The division of society based on race allowed a powerful minority to rule the country. Important ethnic differences were often overshadowed in the struggle to dismantle *apartheid*. Nelson Mandela, the leader of post-*apartheid* South Africa, suggested racial hatred could be overcome and a new “rainbow” society that recognized and valued diversity could succeed.

In Algeria, Islam had become a great unifying factor in the face of French colonization. After independence in 1962, however, ethnic and political differences fractured Islamic unity. The rise of Islamic fundamentalism (which advocated a return to strict, traditional Islamic ways) in the 1980s, led to conflict with the nationalistic, modernizing government in power.

In these seven societies ethnicity, race and religion are the most important determinants of cultural diversity. In some, differences threaten to tear the society apart, while in others conflict, prejudice and discrimination are promoted. Only a few societies recognize difference and cultural diversity as positive assets. This reader presents important documents and writings reflecting how political and cultural leaders have defined and understood the cultural issues that have helped shaped their nations.



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# chapter one

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## RACE AND U.S. HISTORY

THE UNITED STATES OF AMERICA is a nation based on law, written law. Fear of the tyranny of the British throne and others like it or worse in Europe, the American Revolutionaries insisted they would not depend upon an unwritten constitution, such as that of the English, but would base their governments and protection of their rights on written documents. Each of the original thirteen states wrote a constitution in the period after Independence was declared in July of 1776. Those state constitutions became the models for James Madison's fashioning the United States Constitution, crafted in convention, over the summer of 1787 in Philadelphia by delegates from many of those thirteen states. In what would later be published as *The Federalist Papers*, Madison argued that no faction would ever be large enough to take over the government in a republic such as the one the Constitution would institute. He meant to answer critics who feared factionalism and the tyranny of the majority. Anti-Federalists, or those who opposed the Constitution, expressed fear that the minority had much to fear from those in power. They convinced Speaker of the House Madison after the document was ratified that, in fact, the Constitution needed to specifically safeguard the rights of states and of individuals within those states. Those rights included the freedom of conscience, a free press, to bear arms, the protection from unlawful searches and seizures, and the right to a speedy trial. The first ten amendments to the U.S. Constitution, or the Bill of Rights, made these rights part of the national system of law.

To create, enforce, and interpret those laws, the U.S. Constitution also provided for the creation of three branches of government, the legislature, executive, and judiciary. These three branches function as checks and balances on the others in order to further protect the liberty and rights of Americans. The



## 2 RACE AND U.S. HISTORY

legislative branch is made up of the U.S. Congress, which consists of the Senate, where the states are represented in equal numbers, and the House of Representatives, where the states are represented according to their populations. The Congress writes laws, which it then sends to the executive for approval. The executive branch of the United States includes the president and his advisors. Once the Congress passes a law and the president signs it, it is the president's duty to enforce that law. The judicial branch of the government, presided over by the Supreme Court, took for itself the power of judicial review in an 1801 case against then Secretary of State James Madison. That case involved a Justice of the Peace for the District of Columbia, William Marbury, insisting that he receive his commission from Madison even though the outgoing president, John Adams, appointed Marbury. While the court under Chief Justice John Marshall, appointed by George Washington, agreed with Marbury against Thomas Jefferson's Secretary of State, he also pointed out that the Supreme Court lacked jurisdiction in the case. Based on the justices' reading of the U.S. Constitution that gave the Supreme Court original jurisdiction only in cases involving ambassadors or states, the unanimous opinion of the court was that the Judiciary Act of 1789 to the contrary was unconstitutional. This opinion established at the federal level, the precedent of judicial review.

All of these features of the American government made it an unique and attractive experiment in human society. People have flocked to the nation from the 18<sup>th</sup> to the 20<sup>th</sup> centuries, not only for economic opportunity, of which there has been plenty, but also to seek protection from tyrannical and repressive governments of all kinds. One of the attractions for people coming to this country is the understanding that all people are equal before the law. But that has not always been the case. Several groups of people, those who lived on the continent before Europeans arrived, and those who arrived with the Europeans and who built much of the country with their blood, sweat, tears, and those of their children, have not always been equal before the law. Others who arrived after the Constitution was well established found themselves targeted by the law for unjust treatment in the United States. All three groups represent races other than those represented by the majority of Americans to the present decade.

In this chapter, we will read primary documents concerning the "removal" of Native Americans from their ancestral lands to so-called "Indian Territory" by Andrew Jackson, a president who won popularity in no small part because of his reputation as an "Indian fighter." We will also read an 1897 Supreme Court decision that sanctioned the segregation of the American South along racial lines. *Plessy v. Ferguson* allowed for Jim Crow laws and white supremacy which continued for over sixty years despite the 14<sup>th</sup> and 15<sup>th</sup> Amendments to the United States Constitution, which allegedly made African-American men full and equal citizens of the nation after the American Civil War. In the 20<sup>th</sup> century, war hysteria and racism joined forces to allow for the internment of Japanese immigrants and American citizens of Japanese descent in the Western United States. Executive Order 9066 that called for the removal of Japanese and Japanese-Americans from their communities, businesses, and homes, did not similarly target German-Americans and Italian-Americans, and immigrants from those countries, despite the fact that the United States went to war with Germany and Italy a day or two after declaring war on Japan. Ironically, the testimony of then California Attorney General Earl Warren garnered Congressional support for the internment of Japanese-Americans. That same Earl Warren, as Chief Justice of the Supreme Court in the 1950s, led the court in overturning of the 1897 *Plessy v. Ferguson* decision in the 1954 case, *Brown v. the Board of Education of Topeka*. In the later decision, the Court ruled that a system of "separate but equal" necessarily bred inequality among African-Americans. That decision and others at the same time opened the eyes of white Americans to the tremendous inequity of justice in this country, particularly in the South, but not entirely. The activist court set about to right some of that inequity and to make America live up to its high ideals. As a result of the Civil Rights movement of African-Americans which gained national attention in the 1940s and 1950s, Native Americans also sought and won some reparations in the form of money payments from the United States government for past wrongs. In the 1980s, the House of Representatives sent to the president, Ronald Reagan, a bill to make financial and public amends to those Americans who had been interned by Executive Order 9066 in the 1940s. Reparations of \$20,000 were made to some of the 75,000 remaining citizens who were interned during World War II. Recently, President Bill Clinton considered the possi-

bility of apologizing to African-Americans for slavery. These actions by the United States government provide some hope that inequality before the law based on race can be eliminated. Yet, prisons hold a disproportionate number of African-Americans. Native Americans remain on the fringes of poverty and suffer from discrimination in the larger society. Asian-Americans still have their citizenship questioned after several generations. While the past can surely show us what did not work, perhaps it can also help us discover what might work to bring about equal citizenship among all Americans.



## case one

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### THE CHEROKEE

FOLLOWING THE EXAMPLE of his predecessors, President Andrew Jackson promoted the removal of Native Americans from the eastern portion of the United States to make room for the ever encroaching white population, the population that Jackson represented. Since most of the Natives in the old Northwest had moved south or west before “Old Hickory” took office, his administration targeted the remaining powerful and so-called “civilized” tribes in the old Southwest—the Chicasaw, Choctaw, Creek, Seminole, and Cherokee. Cotton production had taken off in the region in the 1790s, and by the late 1820s was beginning to boom. In his first State of the Union address to Congress in December of 1829, Jackson addressed the question of Indian removal. This section begins with that speech.

The Cherokee had, by the end of the 18th century, fallen back into the mountains of northern Georgia and western North Carolina. This was land guaranteed them by a treaty of 1791. Now part of the reason for tension between Georgians and Cherokee had to do with jealousy. Andrew Jackson ignored evidence that showed that the Cherokee were thriving in the western portion of Georgia. The Cherokee had, over the years, taken on many of the features of white society, including their constitution, a written language, newspapers, plantations, and African slaves. This nearly complete assimilation of white ways led to an incredibly successful life for the Cherokees in Georgia and the whites who surrounded them wanted their land to duplicate that success. The discovery of gold in 1829 sparked the interest in that land. The discovery brought bands of rough prospectors onto Cherokee land. When Georgia ceded its western lands in 1802, it did so on the ambiguous condition that the United States extinguish all Native titles within the state “as early as the same can be obtained on reasonable terms.” No action was taken by the United States in the early part of the nineteenth century, but with Jackson’s removal policy, Georgians decided to act. It was, perhaps, because of their unbridled success, that Georgians sought their territory, first by asserting their laws over the Native Americans, and then by encroaching into their territory. You will next read an excerpt of an 1826 letter from a Cherokee leader named John Ridge to Albert Gallatin, a former Congressman, former cabinet member, and, at the time of the letter, the just nominated U.S. minister to Great Britain. Ridge wants Gallatin to understand how much progress his people have made.

While many white Americans agreed with Jackson’s Removal policy, not all did so, as is evidenced by the words of Senator Theodore Frelinghuysen of New Jersey, delivered in April and May 1830.

Despite the point of view articulated by Senator Frelinghuysen and many religious groups in the United States, the United States Congress sent a Removal bill to President Jackson, which he signed on May 28, 1830. This act allowed the president to trade Native American land east of the Mississippi River with land in the Western regions of the nation. It also empowered Jackson to pay the Native Americans

for improvements made on their lands and to help and protect tribes as they made their way West. Further, the executive was to superintend and care for the Indians once they reached the Indian Territory.

The strongest of the Southern tribes resisted encroachment and, later, removal, as long as possible. In 1827, the Cherokee, relying on their treaty rights, adopted a constitution in which they stated clearly they were not subject to any other state or nation than their own. In 1828, Georgia responded with a law that after June 1, 1830, the authority of state law would extend over the Cherokees living within the boundaries of Georgia. The tribe sought relief in the United States Supreme Court. In the Cherokee Nation v. Georgia (1831), John Marshall ruled that the court lacked jurisdiction because the Cherokee were a “domestic dependent nation” rather than a foreign state for purposes of applying the constitution. The text of that decision, written by Marshall, is also included in this case.

Justice Marshall sought his understanding of the law and the Court’s jurisdiction in the U.S. Constitution, the highest law of the land. There he found that the Cherokee Nation, which had not been privy to the Constitutional Convention of 1787, and which considered itself a foreign nation, was not so considered. He also implied that if the “proper parties” in “a proper case” should bring up the questions raised by the Cherokee in their suit against Georgia, the Court might, indeed, be able to provide some of the protection they sought. Just such a “proper case” appeared after 1830 when Georgia enacted a law requiring whites in the west to get licenses authorizing their residence there, as well as to take an oath of allegiance to the state. Two New England missionaries among the Cherokee refused and were sentenced to four years of hard labor. On appeal, their case reached the Supreme Court as Worcester v. Georgia (1832). The Court, again under Marshall, held that the national government had exclusive jurisdiction in the Cherokee country and the Georgia law was, therefore, unconstitutional. President Jackson allegedly responded by saying that “Marshall has made his decision, now let him enforce it!”

Jackson himself did nothing to enforce the decision. With no redress, the Cherokee were forced to sign a treaty of removal in 1835. John Ridge acted as one of their representatives. The Nation gave up their lands in the Southeast in exchange for lands in the “Indian Territory” west of Arkansas, \$5 million from the federal government, and expenses for transportation to the west. By 1838, the Cherokees began their trek across the Southwest, which has come to be known as the Trail of Tears. Cruelty and neglect by the American soldiers sent by the government to provide safe passage contributed to the devastation of the journey as did a cholera epidemic on board boats used to cross the Mississippi River. Several thousand Cherokee died before reaching Indian Territory, in all one quarter of their entire population. One of the casualties of the Trail of Tears was John Ridge, who was murdered in Indian Territory because he was suspected of having betrayed his people.

### *Questions to Consider*

1. What constitutional argument did Andrew Jackson frame against the Cherokee?
2. Why did some consider Jackson’s proposed resolution of the Indian issue a humane one?
3. What rationale did Jackson make for the proposed removal to Indian Territory?
4. Where do Ridge and Frelinghuysen contradict Jackson?
5. What alternatives to removal might the nation’s leaders have considered? Was removal inevitable?



## Removal of the Cherokee Nation (1830)

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*Andrew Jackson*

**Message to 1 Session, 21st Congress. Reproduced in House Debate on the Indian Removal Question, May 15, 26, 1830.**

The condition and ulterior destiny of the Indian tribes within the limits of some of our States, have become objects of much interest and importance. It has long been the policy of Government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another, wholly incompatible with its success. Professing a desire to civilize and settle them, we have, at the same time, lost no opportunity to purchase their lands, and thrust them further into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust and indifferent to their fate. Thus, though lavish in its expenditures upon the subject, Government has constantly defeated its own policy; and the Indians, in general, receding farther and farther to the West, have retained their savage habits. A portion, however, of the southern tribes, having mingled much with the whites, and made some progress in the arts of civilized life, have lately attempted to erect an independent Government within the limits of Georgia and Alabama. These States, claiming to be the only sovereigns within their territories, extended their laws over the Indians, which induced the latter to call upon the United States for protection.

Under these circumstances, the question presented was, whether the General Government had a right to sustain those people in their pretensions. The constitution declares that "no new State shall be formed or erected within the jurisdiction of any other State," without the consent of its Legislature. If the General Government is not permitted to tolerate the erection of a confederate State within the territory of one of the members of this Union, against her consent, much less could it allow a foreign and independent Government to establish itself there. Georgia became a member of the confederacy which eventuated in our Federal Union, as a sovereign State, always asserting her claim to certain limits, which, having been originally defined in her colonial charter, and subsequently recognised in the treaty of peace, she has ever since continued to enjoy, except as they have been circumscribed by her own voluntary transfer of a portion of her territory to the United States, in the articles of cession of 1802. Alabama was admitted into the Union on the same footing with the original States, with boundaries which were prescribed by Congress. There is no constitutional, conventional or legal provision, which allows them less power over the Indians within their borders than is possessed by Maine or New York. Would the people of Maine permit the Penobscot tribe to erect an independent Government within their State? And, unless they did, would it not be the duty of the General Government to support them in resisting such a measure? Would the people of New York permit each remnant of the Six Nations within her borders to declare itself an independent people, under the protection of the United States? Could the Indians establish a separate republic on each of their reservations in Ohio? And, if they were so disposed, would it be the duty of this Government to protect them in the attempt? If the principle involved in the obvious answer to these questions be abandoned, it will follow that the objects of this Government are reversed, and that it has become a part of its duty to aid in destroying the States which it was established to protect.

Actuated by this view of the subject, I informed the Indians inhabiting parts of Georgia and Alabama, that their attempt to establish an independent Government would not be countenanced by the Executive of the United States, and advised them to emigrate beyond the Mississippi, or submit to the laws of those States.

Our conduct towards these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a most powerful appeal to our sympathies. Our ancestors found them the uncontrolled possessors of these vast regions. By persuasion and force, they have been made to retire from river to river, and from mountain to mountain, until some of the tribes have

become extinct, and others have but remnants to preserve for a while their once terrible names. Surrounded by the whites, with their arts of civilization, which, by destroying the resources of the savage, doom him to weakness and decay, the fate of the Mohegan, the Narragansett, and the Delaware, is fast overtaking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them if they remain within the limits of the States, does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity. It is too late to inquire whether it was just in the United States to include them and their territory within the bounds of new States, whose limits they could not control. That step cannot be retracted. A State cannot be dismembered by Congress, or restricted in the exercise of her constitutional power. But the people of those States, and of every State, actuated by feelings of justice and regard for our national honor, submit to you the interesting question, whether something cannot be done, consistently with the rights of the States, to preserve this much injured race.

As a means of effecting this end, I suggest for your consideration the propriety of setting apart an ample district west of the Mississippi, and without the limits of any State or territory now formed, to be guaranteed to the Indian tribes as long as they shall occupy it; each tribe having a distinct control over the portion designated for its use. There they may be secured in the enjoyment of Governments of their own choice, subject to no other control from the United States than such as may be necessary to preserve peace on the frontier and between the several tribes. There the benevolent may endeavor to teach them the arts of civilization, and, by promoting union and harmony among them, to raise up an interesting commonwealth, destined to perpetuate the race, and to attest the humanity and justice of this Government.

This emigration should be voluntary: for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers, and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the States, they must be subject to their laws. In return for their obedience, as individuals, they will, without doubt, be protected in the enjoyment of those possessions which they have improved by their industry. But it seems to me visionary to suppose that, in this state of things, claims can be allowed on tracts of country on which they have neither dwelt nor made improvements, merely because they have seen them from the mountain, or passed them in the chase. Submitting to the laws of the States, and receiving, like other citizens, protection in their persons and property, they will, ere long, become emerged in the mass of our population.



## John Ridge (a Cherokee leader) to Albert Gallatin

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14 February 27, 1826.

Superstition is the portion of all uncivilized Nations and Idolatry is only engendered in the Brain of rudeness. The Cherokees in their most savage state, never worshipped the work of their own hands—neither fire or water nor any one or portion of splendid fires that adorn heaven's Canopy above. They believed in a great first cause or Spirit of all Good & in a great being the author of all evil. These [were] at variance and at war with each other, but the good Spirit was supposed to be superior to the bad one. These immortal beings had on both sides numerous intelligent beings of analogous dispositions to their chieftains. They had a heaven, which consisted of a visible world to those who had undergone a change by death. This heaven was adorned with all the beauties which a savage imagination could conceive: An open forest, yet various, giving shade & fruit of every kind; Flowers of various hues & pleasant to the Smell; Game of all kinds in great abundance, enough of feasts & plenty of dances, & to crown the whole,



the most beautiful women, prepared & adorned by the great Spirit, for every individual Indian that by wisdom, hospitality & Bravery was introduced to this happy & immortal region. The Bad place was the reverse of this & in the vicinity of the good place, where the wretched, compelled to live in hunger, hostility & darkness, could hear the rejoicings of the happy, without the possibility of reaching its shores.

Witches or wizards were in existence and pretended to possess Supernatural powers & intercourse with the Devil or bad Spirit. They were supposed capable of transforming themselves into the beasts of the forest & fowls of the air & take their nocturnal excursions in pursuit of human victims, particularly those suffering from disease & it was often necessary for their friends to employ witch shooters to protect the sick from such visitors. Such characters were the dread of the country, & many a time have I trembled at the croaking of a frog, hooting of an owl or guttural hoarseness of a Raven by night in my younger days. After the people began to be a little more courageous, these witches had a bad time of it. They were often on suspicion butchered or tomahawked by the enraged parents, relatives or friends of the deceased, particularly if the sickness was of short duration. The severity of revenge fell most principally on the grey hairs of aged persons of both sexes. To stop this evil, it was necessary to pass a law considering all slaughters of this kind in the light of murder, which has effected the desired remedy. There [are] yet among us who pretend to possess powers of milder character, Such as making rain, allaying a storm or whirlwinds, playing with thunder & foretelling future events with many other trifling conjurations not worth mentioning, but they are generally living monuments of fun to the young and grave Ridicule for those in maturer years. There [are] about 8 churches, where the gospel is preached on sabbath days with in the Nation. They are missionary stations supported by moravians, Presbyterians, Baptists and methodists and each of these churches have a goodly number of pious & exemplary members and others, not professors, attend to preaching with respectable deportment. I am not able to say the precise number of actual christians, but they are respectable in point of number & character. And many a drunken, idle & good for nothing Indian has been converted from error & have become useful Citizens: Portions of Scripture & sacred hymns are translated and I have frequently heard with astonishment a Cherokee, unacquainted with the English take his text & preach, read his hymn & sing it, Joined by his audience, and pray to his heavenly father with great propriety & devotion. The influence of Religion on the life of the Indians is powerful & lasting. I have an uncle, who was given to all the vices of savagism in drunkenness, fornication and roguery & he is now tho' poorer in this world's goods but rich in goodness & makes his living by hard labor & is in every respect an honest praying christian.

In respect to marriage, we have no law regulating it & polygamy is still allowed to Native Cherokees. Increase of morality among the men, the same among the women & a respect for their characters & matrimonial happiness is fast consuming this last vestige of our ignorance. We attempted to pass a law regulating marriage, but as nearly all the members of our Legislature, tho' convinced of the propriety, had been married under the old existing ceremony, [and] were afraid it would reflect dishonor on them, it failed. Time will effect the desired change in this system & it is worthy of mention, even now, that the most respectable portion of our females prefer, tho' not required by law to be united in marriage attended by the solemnities of the Christian mode. Indians, tho' naturally highminded, are not addicted to as much revenge as they have been represented, and I can say this, much it is paid for them to endure an intended Insult but they are ready to forgive if they discover marks of repentance in the countenance of an enemy. In regard to Intemperance, we are still as a nation grossly degraded. We are however on the improve. Five years ago our best chiefs during their official labors would get drunk & continue so for two or three days. It is now not the case & any member who should thus depart from duty would now be expelled from the Council. Among the younger class, a large number are of fine habits, temperate & genteel in their deportment. The females aspire to gain the affection of such men & to the females we may always ascribe the honor of effecting the civilization of man. There are about 13 Schools established by missionaries in the Nation and may contain 250 students. They are entirely supported by the humane Societies in different parts of the U. States. The Nation has not as yet contributed to the support of these Schools. Besides this, some of our most respectable people have their children educated at the academies in the adjoining states. Two cherokee females have recently completed their Education, at the expense of

their father, at a celebrated female Academy in Salem, North Carolina. They are highly accomplished & in point of appearance & deportment; they would pass for the genteel & wellbred ladies in any Country.

I know of some others who are preparing for an admission in the same institution. I suppose that there are one third of our Citizens, that can read & write in the English Language. George Guess, a Cherokee who is unacquainted with the English, has invented 86 characters, in which the cherokees read & write in their own Language and regularly correspond with their Arkansas friends. This mode of writing is most extensively adopted by our people particularly by those who are ignorant of the English Language. A National Academy of a high order is to be soon established by law at our seat of Government. The edifice will be of Brick & will be supported by the Nation. It is also in contemplation to establish an English & Cherokee printing press & a paper edited in both languages at our seat of Government. In our last Session, \$1500 was appropriated to purchase the press and regulations adopted to carry the object into effect. We have also a Society organized called the "Moral & Literary Society of the Cherokee Nation." A library is attached to this Institution. . . .



*Excerpt from*

## Speech of Senator Theodore Frelinghuysen of New Jersey

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. . . It is alleged, that the Indians cannot flourish in the neighborhood of a white population—that whole tribes have disappeared under the influence of this propinquity. As an abstract proposition, it implies reproach somewhere. Our virtues certainly have not such deadly and depopulating power. It must, then, be our vices that possess these destructive energies—and shall we commit injustice, and put in, as our plea for it, that our intercourse with the Indians has been so demoralizing that we must drive them from it, to save them? True, Sir, many tribes have melted away—they have sunk lower and lower—and what people could rise from a condition to which policy, selfishness, and cupidity, conspired to depress them?

Sir, had we devoted the same care to elevate their moral condition, that we have to degrade them, the removal of the Indians would not now seek for an apology in the suggestions of humanity. But I ask, as to the matter of fact, how stands the account? Wherever a fair experiment has been made, the Indians have readily yielded to the influences of moral cultivation. Yes, Sir, they flourish under this culture, and rise in the scale of being. They have shown themselves to be highly susceptible of improvement, and the ferocious feelings and habits of the savage are soothed and reformed by the mild charities of religion. They can very soon be taught to understand and appreciate the blessings of civilization and regular government. And I have the opinions of some of our most enlightened statesmen to sustain me. . . .

Now, Sir, when we consider the large space which these illustrious men have filled in our councils, and the perfect confidence that is due to their official statements, is it not astonishing to hear it gravely maintained that the Indians are retrograding in their condition and character; that all our public anxieties and cares bestowed upon them have been utterly fruitless; and that, for very pity's sake, we must get rid of them, or they will perish on our hands? Sir, I believe that the confidence of the Senate has been abused by some of the letter-writers, who give us such sad accounts of Indian wretchedness. I rejoice that we may safely repose upon the statements contained in the letters of Messrs. J. L. Allen, R. M. Livingston, Rev. Cyrus Kingsbury, and the Rev. Samuel A. Worcester. The character of these witnesses is without reproach;

and their satisfactory certificates of the improvement of the tribes continue and confirm the history furnished to us in the several messages from which I have just read extracts.

It is further maintained, "that one of the greatest evils to which the Indians are exposed, is that incessant pressure of population, that forces them from seat to seat, without allowing time for moral and intellectual improvement." Sir, this is the very reason—the deep, cogent reason—which I present to the Senate, now to raise the barrier against the pressure of population, and, with all the authority of this nation, say to the urging tide, "Thus far, and no farther." Let us save them now, or we never shall. For is it not clear as the sunbeam, Sir, that a removal will aggravate their woes? If the tide is nearly irresistible at this time; when a few more years shall fill the regions beyond the Arkansas with many more millions of enterprising white men, will not an increased impulse be given, that shall sweep the red men away into the barren prairies, or the Pacific of the west?

If these constant removals are so afflictive, and allow no time for moral improvement; if this be the cause why the attempts at Indian reformation are alleged to have been so unavailing; do not the dictates of experience, then, plead most powerfully with us, to drive them no farther?—to grant them an abiding place, where these moral causes may have a fair and uninterrupted operation in moulding and refining the Indian character? And, Sir, weigh a moment the considerations that address us on behalf of the Cherokees especially. Prompted and encouraged by our counsels, they have in good earnest resolved to become men, rational, educated, Christian men; and they have succeeded beyond our most sanguine hopes. They have established a regular constitution of civil government, republican in its principles. Wise and beneficent laws are enacted. The people acknowledge their authority, and feel their obligation. A printing press, conducted by one of the nation, circulates a weekly newspaper, printed partly in English, and partly in the Cherokee language. Schools flourish in many of their settlements. Christian temples, to the God of the Bible, are frequented by respectful, devout, and many sincere worshippers. God, as we believe, has many people among them, whom he regards as the "apple of his eye." They have become better neighbors to Georgia. She made no complaints during the lapse of fifty years, when the tribes were a horde of ruthless, licentious and drunken savages; when no law controlled them; when the only judge was their will, and their avenger the tomahawk.

Then Georgia could make treaties with them, and acknowledge them as nations; and in conventions trace boundary lines, and respect the landmarks of her neighbor: and now, when they begin to reap the fruits of all the paternal instructions, so repeatedly and earnestly delivered to them by the Presidents; when the Cherokee has learned to respect the rights of the white man, and sacredly to regard the obligations of truth and conscience; is this the time, Sir, to break up a peaceful community, to put out its council fires, to annul its laws and customs, to crush the rising hopes of its youth, and to drive the desponding and discouraged Indian to despair? Although it be called a sickly humanity to sympathize with Indians—every freeman in the land, that has one spark of the spirit of his fathers, will denounce the proposed measure as an unparalleled stretch of cruel injustice—unparalleled certainly in our history. And if the deed be done, Sir, how it is regarded in heaven will, sooner or later, be known on earth; for this is the judgment place of public sins. And all these ties are to be broken asunder, for a State that was silent, and acquiesced in the relations of the Indians to our present government; that pretended to no right of direct interference, whilst these tribes were really dangerous; when their ferocious incursions justly disturbed the tranquillity of the fireside, and waked the "sleep of the cradle;"—for a State that seeks it now against an unoffending neighbor, which implores, by all that is dear in the graves of her fathers, in the traditions of by-gone ages; that beseeches by the ties of nature, of home, and of country, to let her live unmolested, and die near the dust of her kindred!

Our fears have been addressed in behalf of those States, whose legislation we resist: and it is inquired with solicitude, Would you urge us to arms with Georgia? No, Sir. This tremendous alternative will not be necessary. Let the general government come out, as it should, with decided and temperate firmness, and officially announce to Georgia, and the other States, that if the Indian tribes choose to remain, they will be protected against all interference and encroachment; and such is my confidence in the sense of

justice, in the respect for law, prevailing in the great body of this portion of our fellow-citizens, that I believe they would submit to the authority of the nation. I can expect no other issue. . . .



## Cherokee Nation v. State of Georgia

*John Marshall*

*President Jackson's policy of extinguishing Indian title to tribal lands, employed with success against the Choctaws and Chickasaws, was seriously challenged in Cherokee Nation v. State of Georgia. In 1828 the government of Georgia declared null all laws, titles, and customs of the Cherokee Indians inhabiting the northwest portion of that state. The Cherokees, having previously declared themselves an independent nation, appealed to the U.S. Supreme Court to restrain the Georgia government. Though he was sympathetic to the plight of the Indians, Chief Justice John Marshall led the Court in refusing to grant such an injunction and, in the following opinion, delivered in 1831, declared that the Indians were not a foreign government but a domestic dependent nation in pupilage to the state.*

MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court:

This bill is brought by the Cherokee Nation, praying an injunction to restrain the state of Georgia from the execution of certain laws of that state, which as is alleged, go directly to annihilate the Cherokees as a political society, and to seize, for the use of Georgia, the lands of the nation which have been assured to them by the United States in solemn treaties repeatedly made and still in force.

If courts were permitted to indulge their sympathies, a case better calculated to excite them can scarcely be imagined. A people once numerous, powerful, and truly independent, found by our ancestors in the quiet and uncontrolled possession of an ample domain, gradually sinking beneath our superior policy, our arts, and our arms, have yielded their lands by successive treaties, each of which contains a solemn guarantee of the residue, until they retain no more of their formerly extensive territory than is deemed necessary to their comfortable subsistence. To preserve this remnant the present application is made.

Before we can look into the merits of the case, a preliminary inquiry presents itself. Has this Court jurisdiction of the cause?

The 3rd Article of the Constitution describes the extent of the judicial power. The 2nd Section closes an enumeration of the cases to which it is extended, with "controversies" "between a state or the citizens thereof, and foreign state, citizens, or subjects." A subsequent clause of the same section gives the Supreme Court original jurisdiction in all cases in which a state shall be a party. The party defendant may then unquestionably be sued in this Court. May the plaintiff sue in it? Is the Cherokee Nation a foreign state in the sense in which that term is used in the Constitution?

The counsel for the plaintiffs have maintained the affirmative of this proposition with great earnestness and ability. So much of the argument as was intended to prove the character of the Cherokees as a state, as a distinct political society separated from others, capable of managing its own affairs and governing itself, has, in the opinion of a majority of the judges, been completely successful. They have been uniformly treated as a state from the settlement of our country. The numerous treaties made with them by the United States recognize them as a people capable of maintaining the relations of peace and war, of being responsible in their political character for any violation of their engagements, or for any aggression committed on the citizens of the United States by any individual of their community. Laws