

quently, unjust systems of taxation and all the mischiefs of a crude and mutable legislation. A stable Senate, exempted from the influence of universal suffrage, will powerfully check these dangerous propensities. . . .

• ————— •
*"The tendency of universal suffrage
 is to jeopardize the rights of property
 and the principles of liberty."*
 • ————— •

We are destined to become a great manufacturing as well as commercial state. We have already numerous and prosperous factories of one kind or another, and one master-capitalist, with his 100 apprentices, and journeymen, and agents, and dependents, will bear down at the polls an equal number of farmers of small estates in his vicinity who cannot safely unite for their common defense. Large manufacturing and mechanical establishments can act in an instant with the unity and efficacy of disciplined troops. It is against such combinations, among others, that I think we ought to give to the freeholders, or those who have interest in land, one branch of the legislature for their asylum and their comfort. Universal suffrage, once granted, is granted forever and never can be recalled. There is no retrograde step in the rear of democracy. However mischievous the precedent may be in its consequences, or however fatal in its effects, universal suffrage never can be recalled or checked but by the strength of the bayonet. We stand, therefore, this moment, on the brink of fate, on the very edge of the precipice. If we let go our present hold on the Senate, we commit our proudest hopes and our most precious interests to the waves.

The Senate's Importance

It ought further to be observed that the Senate is a court of justice in the last resort. It is the last depository of public and private rights, of civil and criminal justice. This gives the subject an awful consideration and wonderfully increases the importance of securing that house from the inroads of universal suffrage. Our country freeholders are exclusively our jurors in the administration of justice, and there is equal reason that none but those who have an interest in the soil should have any concern in the composition of that court. As long as the Senate is safe, justice is safe, property is safe, and our liberties are safe. But when the wisdom, the integrity, and the independence of that court is lost, we may be certain that the freedom and happiness of this state are fled forever. I hope, sir, we shall not carry desolation through all

the departments of the fabric erected by our fathers. I hope we shall not put forward to the world a new constitution as will meet with the scorn of the wise and the tears of the patriot.

For Further Reading

Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790–1860*. Chicago: University of Chicago Press, 1961.

Merrill D. Peterson, ed., *Democracy, Liberty, and Property: The State Constitutional Conventions of the 1820s*. Indianapolis, IN: Bobbs-Merrill Co., 1966.

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VIEWPOINT 25A

Indians Should Be Removed to the West (1829, 1830)

Andrew Jackson (1767–1845)

Between 1815 and 1860 most of the American Indians residing in the territory between the Appalachian Mountains and the Mississippi River were forced to cede their lands to whites and move from their homes. The United States government actively pursued this end by purchasing or seizing Indian territory and persuading Indians (often with military threats) to relocate west of the Mississippi. Some Indian tribes responded with battle; others tried different methods of resistance. Among the latter group were the Cherokee Indians who lived in Georgia, Alabama, and Tennessee. One of what were called the "Five Civilized Tribes" (which also included the Choctaw, Chickasaw, Creek, and Seminole Indians), the Cherokee had adopted numerous traits of white culture. These included writing, a governing constitution modeled after the U.S. Constitution, schools, and agricultural plantations (with black slaves). In 1827 the Cherokee proclaimed themselves an independent nation, much to the dissatisfaction of whites who coveted their land. The state of Georgia promptly passed laws nullifying the Cherokee declaration and extending state authority over Cherokee lands, actions that violated existing treaties between the Cherokee and the federal government. Both sides looked to Washington for support.

The white settlers were to find an ally in Andrew Jackson, who had been elected president in 1828. Jackson had previously gained national fame and popularity as an Indian fighter who had forced tribes to cede millions of acres of territory in Alabama,

From *A Compilation of the Messages and Papers of the Presidents*, vol. 3, edited by James D. Richardson (New York: Bureau of National Literature, 1897).

Georgia, and Florida. The following two-part viewpoint consists of excerpts from Jackson's first and second annual messages to Congress, given on December 8, 1829, and December 6, 1830, respectively. Jackson asserts that the national government has no authority to interfere with the state of Georgia in its dealings with the Indians (despite past treaties), and argues that the only viable solution is the removal of the Indians to lands west of the Mississippi River. Congress responded by passing the Indian Removal Act in 1830, which authorized funds for the removal of all Indian tribes still east of the Mississippi.

How does Jackson defend on humanitarian grounds the removal of the Indians? What does Jackson predict will happen to Indians who choose to remain? Is Jackson's second message more or less sympathetic to the Indians than his first? Explain.

I

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 farther 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.

The Rights of States

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 recognized 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 [Iroquois] 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 toward 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 left 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 control. That step can not be retraced. A State can not 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 a regard for our national honor, submit to you the interesting question whether something can not be done, consistently with the rights of the States, to preserve this much-injured race.

A Proposed Solution

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 [outside] 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.

"The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves."

This emigration should be voluntary, for it would be as cruel as unjust to compel the aboriginals 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 merged in the mass of our population.

II

It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consummation. Two important tribes [the Choctaws and the Chickasaws] have accepted the provision made for their removal at the last session of Congress, and it is believed that their example will induce the remaining tribes also to seek the same obvious advantages.

The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves. The pecuniary advantages which it promises to the Government are the least of its recommendations. It puts an end to all possible danger of collision between the authorities of the General and State Governments on account of the Indians. It will place a dense and civilized population in large tracts of country now occupied by a few savage hunters. By opening the whole territory between Tennessee on the north and Louisiana on the south to the settlement of the whites it will incalculably strengthen the southwestern frontier and render the adjacent States strong enough to repel future invasions without remote aid. It will relieve the whole State of Mississippi and the western part of Alabama of Indian occupancy, and enable those States to advance rapidly in population, wealth, and power. It will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way and under their own rude institutions; will retard the progress of decay, which is lessening their numbers, and perhaps cause them gradually, under the protection of the Government and through the influence of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community. These consequences, some of them so certain and the rest so probable, make the complete execution of the plan sanctioned by Congress at their last session [the 1830 Indian Removal Act] an object of much solicitude.

Toward the aborigines of the country no one can indulge a more friendly feeling than myself, or would go further in attempting to reclaim them from their wandering habits and make them a happy, prosper-

ous people. I have endeavored to impress upon them my own solemn convictions of the duties and powers of the General Government in relation to the State authorities. For the justice of the laws passed by the States within the scope of their reserved powers they are not responsible to this Government. As individuals we may entertain and express our opinions of their acts, but as a Government we have as little right to control them as we have to prescribe laws for other nations.

With a full understanding of the subject, the Choctaw and the Chickasaw tribes have with great unanimity determined to avail themselves of the liberal offers presented by the act of Congress, and have agreed to remove beyond the Mississippi River. Treaties have been made with them, which in due season will be submitted for consideration. In negotiating these treaties they were made to understand their true condition, and they have preferred maintaining their independence in the Western forests to submitting to the laws of the States in which they now reside. These treaties, being probably the last which will ever be made with them, are characterized by great liberality on the part of the Government. They give the Indians a liberal sum in consideration of their removal, and comfortable subsistence on their arrival at their new homes. If it be their real interest to maintain a separate existence, they will there be at liberty to do so without the inconveniences and vexations to which they would unavoidably have been subject in Alabama and Mississippi.

True Philanthropy

Humanity has often wept over the fate of the aborigines of this country, and Philanthropy has been long busily employed in devising means to avert it, but its progress has never for a moment been arrested, and one by one have many powerful tribes disappeared from the earth. To follow to the tomb the last of his race and to tread on the graves of extinct nations excite melancholy reflections. But true philanthropy reconciles the mind to these vicissitudes as it does to the extinction of one generation to make room for another. In the monuments and fortresses of an unknown people, spread over the extensive regions of the West, we behold the memorials of a once powerful race, which was exterminated or has disappeared to make room for the existing savage tribes. Nor is there anything in this which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy could not wish to see this continent restored to the condition in which it was found by our forefathers. What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and

prosperous farms, embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion?

The present policy of the Government is but a continuation of the same progressive change by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated or have melted away to make room for the whites. The waves of population and civilization are rolling to the westward, and we now propose to acquire the countries occupied by the red men of the South and West by a fair exchange, and, at the expense of the United States, to send them to a land where their existence may be prolonged and perhaps made perpetual. Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did or than our children are now doing? To better their condition in an unknown land our forefathers left all that was dear in earthly objects. Our children by thousands yearly leave the land of their birth to seek new homes in distant regions. Does Humanity weep at these painful separations from everything, animate and inanimate, with which the young heart has become entwined? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection. These remove hundreds and almost thousands of miles at their own expense, purchase the lands they occupy, and support themselves at their new homes from the moment of their arrival. Can it be cruel in this Government when, by events which it can not control, the Indian is made discontented in his ancient home to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode? How many thousands of our own people would gladly embrace the opportunity of removing to the West on such conditions! If the offers made to the Indians were extended to them, they would be hailed with gratitude and joy.

A Generous Policy

And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers than it is to our brothers and children? Rightly considered, the policy of the General Government toward the red man is not only liberal, but generous. He is unwilling to submit to the laws of the States and mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly

offers him a new home, and proposes to pay the whole expense of his removal and settlement.

In the consummation of a policy originating at an early period, and steadily pursued by every Administration within the present century—so just to the States and so generous to the Indians—the Executive feels it has a right to expect the cooperation of Congress and of all good and disinterested men. The States, moreover, have a right to demand it. It was substantially a part of the compact which made them members of our Confederacy. With Georgia there is an express contract; with the new States an implied one of equal obligation. Why, in authorizing Ohio, Indiana, Illinois, Missouri, Mississippi, and Alabama to form constitutions and become separate States, did Congress include within their limits extensive tracts of Indian lands, and, in some instances, powerful Indian tribes? Was it not understood by both parties 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.

The Duties of This Government

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 25B

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 unreceptive, 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 Cherokee 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

from the "Memorial of the Cherokee Nation" (July 17, 1830), as reprinted in *Nile's Weekly Register*, August 21, 1830.