

## Senator Frelinghuysen on Indian Removal April 9, 1830

*“One of the strongest supporters of the Indian opposition to removal was Senator Theodore Frelinghuysen of New Jersey. He represented his arguments in a long speech in Senate on April 9, 1830, during he debate on the removal bill.”*

“God, in his providence, planted these tribes on this Western continent, so far as we know, before Great Britain herself had a political existence. I believe, sir, it is not now seriously denied that the Indians are men, endowed with kindred faculties and powers with ourselves; that they have a place in human sympathy, and are justly entitled to a share in the common bounties of a benignant Providence. And, with this conceded, I ask in what code of the law of nations, or by what process of abstract deduction, their rights have been extinguished?

Where is the decree or ordinance that has stripped these early and first lords of the soil? Sir, no record of such measure can be found. And I might triumphantly rest the hopes of these feeble fragments of once great nations upon this impregnable foundation. However mere human policy, or the law of power, or the tyrant’s plea of expediency, may have found it convenient at any or in all times to recede from the unchangeable principles of eternal justice, no argument can shake the political maxim, that, where the Indian always has been, he enjoys an absolute right still to be, in the free exercise of his own modes of thought, government, and conduct.

In the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own? If I use it for hunting, may another take it because he needs it for agriculture? I am aware that some writers have, by a system of artificial reasoning, endeavored to justify, or rather excuse the encroachments made upon Indian territory; and they denominate these abstractions the law of nations, and, in this ready way, the question is despatched. Sir, as we trace the sources of this law, we find its authority to depend either upon the conventions or common consent of nations. And when, permit me to inquire, were the Indian tribes ever consulted on the establishment of such a law? Whoever represented them or their interests in any Congress of nations, to confer upon the public rules of intercourse, and the proper foundations of dominion and property? The plain matter of fact is, that all these partial doctrines have resulted from the selfish plans and pursuits of more enlightened nations; and it is not matter for any great wonder, that they should so largely partake of a mercenary and exclusive spirit toward the claims of the Indians.

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It is, however, admitted, sir, that, when the increase of population and the wants of mankind demand the cultivation of the earth, a duty is thereby devolved upon the proprietors of large and uncultivated regions, of devoting them to such useful purposes. But such appropriations are to be obtained by fair contract, and for reasonable compensation. It is, in such a case, the duty of the proprietor to sell: we may properly address his reason to induce him; but we cannot rightfully compel the cession his lands, or take them by violence, if his consent be withheld. It is with great satisfaction that I am enabled, upon the best authority, to affirm, that this duty has been largely and generously met and fulfilled on the part of the aboriginal proprietors of this continent. Several years ago, official reports to Congress stated the amount of Indian grants to the United States to exceed two hundred and fourteen millions of acres. Yes, sir, we have acquired, and now own, more land as the fruits of their bounty than we shall dispose of at the present rate to actual settlers in two hundred years. For, very recently, it has been ascertained, on this floor, that our public sales average not more than about one million of acres annually. It greatly aggravates the wrong that is not meditated against these tribes, to survey the rich and ample districts of their territories, that either force or persuasion have incorporated into our public domains. As the tide

of our population has rolled on, we have added purchase to purchase. The confiding Indian listened to our professions of friendship: we called him brother, and he believed us. Millions after millions he has yielded to our importunity, until we have acquired more than can be cultivated in centuries--and yet we crave more. We have crowded the tribes upon a few miserable acres on our Southern frontier: it is all that is left to them of their once boundless forests: and still, like the horse-leech, our insatiated cupidity cries, give! give!

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Before I proceed to deduce collateral confirmations of this original title, from all our political intercourse and conventions with the Indian tribes, I beg leave to pause a moment, and view the case as it lies beyond the treaties made with them; and aside also from all conflicting claims between the confederation, and the colonies, and the Congress of the States. Our ancestors found these people, far removed from the commotions of Europe, exercising all the rights and enjoying the privileges, of free and independent sovereigns of this new world. They were not a wild and lawless horde of banditti, but lived under the restraints of government, patriarchal in its character, and energetic in its influence. They had chiefs, head men, and councils. The white men, the authors of all their wrongs approached them as friends – they extended the olive branch; and, being then a feeble colony and at the mercy of the native tenants of the soil, by presents and professions, propitiated their good will. The Indian yielded a slow, but substantial confidence; granted to the colonists an abiding place; and suffered them to grow up to man's estate beside him. He never raised the claim of elder title: as the white man's wants increased, he opened the hand of his bounty wider and wider. By and by, conditions are changed. His people melt away, his lands are constantly coveted; millions after millions are ceded. The Indian bears it all meekly; he complains, indeed, as well he may; but suffers on: and now he finds that this neighbor, whom his kindness had nourished, has spread an adverse title over the last remains of his patrimony, barely adequate to his wants, and turns upon him, and says, "Away! We cannot endure you so near us! These forests and rivers, these groves of your fathers, these firesides and hunting grounds, are ours by the right of power, and the force of numbers." Sir, let every treaty be blotted from our records, and in the judgment of natural and unchangeable truth and justice, I ask, who is the injured, and who is the aggressor? Let conscience answer, and I fear not the result. Sir, let those who please, denounce the public feeling on this subject as the morbid excitement of a false humanity, but I return with the inquiry, whether I have not presented the case truly, with no feature of it overcharged or distorted? And, in view of it, who can help feeling, sir?

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Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man, that he may disregard the dictates of moral principles, when an Indian shall be concerned? No, sir. In that severe and impartial scrutiny which futurity will cast over this subject, the righteous award will be, that those very causes which are now pleaded for the relaxed enforcement of the rules of equity, urged upon us not only a rigid execution of the highest justice, to the very letter, but claimed at our hands a generous and magnanimous policy.

Standing here, then, on this unshaken basis, how is it possible that even a shadow of claim to soil, or jurisdiction, can be derived, by forming a collateral issue between the State of Georgia and the General Government? Her complaint is made against the United States, for encroachments on her sovereignty. Sir, the Cherokees are no parties to this issue; they have no part in this controversy. They hold by better title than either Georgia or the Union. They have nothing to do with State sovereignty, or United States, sovereignty. They are above and beyond both. True, sir, they have made treaties with both, but not to acquire title or jurisdiction; these they had before -- ages before the evil hour to them, when their white brothers fled to them for an asylum. They treated to secure protection and guarantee for subsisting powers and privileges; and so far as those conventions raise obligations, they are willing to meet, and always have met,

and faithfully performed them; and now expect from a great people, the like fidelity to plighted covenants...

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It is a subject full of grateful satisfaction, that, in our public intercourse with the Indians, ever since the first colonies of white men found an abode on these Western shores, we have distinctly recognized their title; treated with them as owners, and in all our acquisitions of territory, applied ourselves to these ancient proprietors, by purchase and cession alone, to obtain the right of soil. Sir, [said Mr. F.] I challenge the record of any other or different pretension. When, or where, did any assembly or convention meet which proclaimed, or even suggested to these tribes, that the right of discovery contained a superior efficacy over all prior titles?

And our recognition was not confined to the soil merely. We regarded them as nations -- far behind us indeed in civilization, but still we respected their forms of government -- we conformed our conduct to their notions of civil policy.

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We, were aware of the potency of any edict that sprang from the deliberations of the council fire; and when we desired lands, or peace, or alliances, to this source of power and energy, to this great lever of Indian government we addressed our proposals -- to this alone did we look; and from this alone did we expect aid or relief...

Every administration of this Government, from President Washington's, have, with like solemnities and stipulations, held treaties with the Cherokees; treaties, too, by almost all of which we obtained further acquisitions of their territory. Yes, sir, whenever we approached them in the language of friendship and kindness, we touched the chord that won their confidence; and now, when they have nothing left with which to satisfy our cravings, we propose to annul every treaty -- to gainsay our word -- and, by violence and perfidy, drive the Indian from his home. In a subsequent treaty between the United States and the Cherokee nation, concluded on the 8th July, 1817, express reference is made to past negotiations between the parties, on the subject of removal to the west of the Mississippi; the same question that now agitates the country, and engages our deliberations. And this convention is deserving of particular notice, inasmuch as we shall learn from it, not only what sentiments were then entertained by our Government towards the Cherokees, but, also, in what light the different dispositions of the Indians to emigrate to the West, and to remain on their adjacent patrimony, were considered. This treaty recites that application had been made to the United States, at a previous period, by a deputation of the Cherokees, (on the 9th of January, 1809) by which they apprized the Government of the wish of a part of their nation to remove west of the Mississippi, and of the residue to abide in their old habitations. That the President of the United States, after maturely considering the subject, answered the petitions as follows: "The United States, my children, are the friend of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both. Those who remain may be assured of our patronage, our aid, and our good neighborhood." "To those who remove, every aid shall be administered, and when established at their new settlements, we shall consider them as our children, and always hold them firmly by the hand." The convention then establishes new boundaries and pledges our faith to respect and defend the Indian territories.

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Some matters, by universal consent, are taken as granted, without any explicit recognition. Under the influence of this rule of common fairness, how can we ever dispute the sovereign right of the Cherokees to remain east of the Mississippi, when it was in relation to that very location that we promised our patronage, aid, and good neighborhood? Sir, is this high-handed encroachment of Georgia to be the commentary upon the national pledge here given, and the obvious import of these terms? How were these people to remain, if not as they then existed,

and as we then acknowledged them to be, a distinct and separate community, governed by their own peculiar laws and customs? We can never deny these principles, while fair dealing retains any hold of our conduct. Further, sir, it appears from this treaty, that the Indians who preferred to remain east of the river, expressed "to the President an anxious desire to engage in the pursuits of agriculture and civilized life in the country they then occupied," and we engaged to encourage those laudable purposes. Indeed, such pursuits had been recommended to the tribes, and patronized by the United States, for many years before this convention. Mr. Jefferson, in his message to the Congress as early as 1805, and when on the subject of our Indian relations, with his usual enlarged views of public policy, observes: "The aboriginal inhabitants of these countries, I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores. Without power to divert or habits to contend against it, they have been overwhelmed by the current, or driven before it. Now, reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence; and to prepare them in time for that society which, to bodily comforts, adds the improvement of the mind and morals. We have, therefore, liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the aegis of the law against aggressors from among ourselves."

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These, sir, are sentiments worthy of an illustrious statesman. None can fail to perceive the spirit of justice and humanity which Mr. Jefferson cherished towards our Indian allies. He was, through his whole life, the firm unshrinking advocate of their rights, a patron of all their plans for moral improvement and elevation...

I trust, sir, that this brief exposition of our policy, in relation to Indian affairs, establishes, beyond all controversy, the obligation of the United States to protect these tribes in the exercise and enjoyment of their civil and political rights. Sir, the question has ceased to be -- What are our duties? An inquiry much more embarrassing is forced upon us: How shall we most plausibly, and with the least possible violence, break our faith? Sir, we repel the inquiry -- we reject such an issue -- and point the guardians of public honor to the broad, plain faith of faithful performance, and to which they are equally urged by duty and by interest.

**Source:**

Prucha, Paul F., *Documents of United States Indian Policy*, 1990, University of Nebraska Press (pp. 49-52)

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