

**ESSAYS ON THE PRESENT
CRISIS IN
THE CONDITION OF
THE AMERICAN INDIANS**

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Essays on the Present Crisis in the Condition of the American Indians by Evarts Jeremiah

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EVARTS JEREMIAH

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ON THE

PRESENT CRISIS IN THE CONDITION

OF

THE AMERICAN INDIANS;

FIRST PUBLISHED IN

THE NATIONAL INTELLIGENCER,

UNDER THE SIGNATURE OF

WILLIAM PENN.

Boston:

PUBLISHED BY PERKINS & MARVIN.

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1829.

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In the letter, which contained the two first papers of the following series, addressed to the Editors of the National Intelligencer, an introductory statement was given, for the purpose of disclosing the general design of the writer, and describing the manner in which he intended to pursue the investigation. It is deemed proper to copy that statement, as a preface to the formal discussion.

GENTLEMEN: I send for your paper two numbers of a series of Essays on the pending and ripening controversy between the United States and the Indians. I hope you will insert them. Permit me, as an inducement, to make the following suggestions:

1. This is a subject which must be abundantly discussed in our country.
2. It will be among the most important, and probably the most contested, business of the 21st Congress. Some able members of Congress, to my certain knowledge, wish to have the matter discussed.
3. I expect to make it appear, by a particular examination of treaties, that the United States are bound to secure to the Cherokees the integrity and inviolability of their territory, till they voluntarily surrender it.
4. In the course of this investigation, I shall not agree with the present Executive of the United States, in the construction which he gives to treaties; but shall be sustained by the uniform tenor of our negotiations with the Indians, and legislation for them, from the origin of our government to the present day.
5. My discussions will not assume a party character at all; and whenever I speak of the President, or the Secretary of War, it shall always be by their official designation, and in a respectful manner. Though I think that the President has greatly mistaken his powers and his duty, in regard to the Indians, I have no wish concerning him, but that he may be a wise and judicious ruler of our growing republic.
6. I have always approved of the decorum which you have observed, in speaking of public characters.
7. I propose to furnish two numbers a week, that they may be copied into semi-weekly papers, if their editors see fit.
8. The two numbers now sent have been read to an eminent civilian, and approved by him; and I shall endeavor to be careful in my principles, and accurate in my conclusions. At any rate, should I fall into error, I am perfectly willing that my error should be exposed.
9. Should you insert these papers, as I hope you may, I would request that there may be as little delay as possible; for there are many symptoms that the country will be awake to the discussion, and is impatient for it.

In the mean time, permit me to use the signature of that upright legislator and distinguished philanthropist,

WILLIAM PENN.

Daily Nat. Intell. Aug. 1, 1825.]

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1829

PRESENT CRISIS IN THE CONDITION
OF THE
AMERICAN INDIANS.

No. I.

Contents of this Number.—Information needed—Great interests at stake—The character of our country involved—The world will judge in the case—Value of national character—Apprehensions of the divine displeasure—Statement of the controversy.

EVERY careful observer of public affairs must have seen, that a crisis has been rapidly approaching, for several years past, in reference to the condition, relations, and prospects, of the Indian tribes, in the southwestern parts of the United States. The attention of many of our most intelligent citizens has been fixed upon the subject with great interest. Many others are beginning to inquire. Several public documents, which have recently appeared in the newspapers, serve to awaken curiosity, and to provoke investigation.

Still, however, the mass of the community possess but very little information on the subject; and, even among the best informed, scarcely a man can be found, who is thoroughly acquainted with the questions at issue. Vague and inconsistent opinions are abroad; and however desirous the people may be of coming at the truth, the sources of knowledge are not generally accessible. Some persons think, that the Indians have a perfect right to the lands which they occupy, except so far as their original right has been modified by treaties fairly made, and fully understood at the time of signing. But how far such a modification may have taken place, or whether it has taken place at all, these persons admit themselves to be ignorant. Others pretend, that Indians have no other right to their lands, than that of a *tenant at will*; that is, the right of remaining where they are, till the *owners of the land* shall require them to remove. It is needless to say, that, in the estimation of such persons, the white neighbors of the Indians are the real owners of the land. Some people are puzzled by what is supposed to be a collision between the powers of the general government and the claims of particular States. Others do not see that

there is any hardship in bringing the Indians under the laws of the States, in the neighborhood of which they live; or, as the phrase is, within *the limits of which they live*. Some consider it the greatest kindness that can be done to the Indians to remove them, even without their consent and against their will, to a country where, as is supposed, they will be in a condition more favorable to their happiness. Others think, that if they are compelled to remove, their circumstances will be in all respects worse than at present; and that, suffering under a deep sense of injury, and considering themselves trodden down by the march of inexorable oppression, they will become utterly dispirited, and sink rapidly to the lowest degradation and to final extinction.

So great a diversity of opinion is principally owing to want of correct information. It is my design, Messrs. Editors, to furnish, in a few numbers of moderate length, such materials, as will enable every dispassionate and disinterested man to determine where the right of the case is.

In the mean time, I would observe, that the people of the United States owe it to themselves, and to mankind, to form a correct judgment in this matter. The questions have forced themselves upon us, as a nation:—*What is to become of the Indians? Have they any rights? If they have, What are these rights? and how are they to be secured?* These questions must receive a practical answer; and that very soon. What the answer shall be, is a subject of the deepest concern to the country.

The number of individuals, who are interested in the course now to be pursued, is very great. It is computed, that there are within our national limits more than 300,000 Indians; some say 500,000; and, in the southwestern States, the tribes whose immediate removal is in contemplation, have an aggregate population of more than 60,000. The interests of all these people are implicated, in any measure to be taken respecting them.

The character of our government, and of our country, may be deeply involved. Most certainly an indelible stigma will be fixed upon us, if, in the plenitude of our power, and in the pride of our superiority, we shall be guilty of manifest injustice to our weak and defenceless neighbors. There are persons among us, not ignorant, nor prejudiced, nor under the bias of private interest, who seriously apprehend, that there is danger of our national character being most unhappily affected, before the subject shall be fairly at rest. If these individuals are misled by an erroneous view of facts, or by the adoption of false principles, a free discussion will relieve their minds.

It should be remembered, by our rulers as well as others, that this controversy, (for it has assumed the form of a regular controversy,) will ultimately be well understood by the whole civilized world. No subject, not even war, nor slavery, nor the nature of free institutions, will be more thoroughly canvassed. The voice of mankind will be pronounced upon it;—a voice, which will not be drowned by the clamor of ephemeral parties, nor silenced by the paltry considerations of local or private interest. Such men as the Baron Humboldt and *the Duc de Broglie*, on the continent of Europe, and a host of other *statesmen, and orators, and powerful writers*, there and in Great Brit-

ain, will not be greatly influenced, in deciding a grave question of public morality, by the excitements of one of our elections, or the selfish views of some little portions of the American community. Any course of measures, in regard to the Indians, which is manifestly fair, and generous, and benevolent, will command the warm and decided approbation of intelligent men, not only in the present age, but in all succeeding times. And with equal confidence it may be said, if, in the phraseology of Mr. Jefferson, the people of the United States should "feel power, and forget right;"—if they should resemble a man, who, abounding in wealth of every kind, and assuming the office of lawgiver and judge, first declares himself to be the owner of his poor neighbor's little farm, and then ejects the same neighbor as a troublesome incumbrance;—if, with land enough, now in the undisputed possession of the whites, to sustain ten times our present population, we should compel the remnants of tribes to leave the places, which, received by inheritance from their fathers and never alienated, they have long regarded as their permanent homes;—if, when asked to explain the treaties, which we first proposed, then solemnly executed, and have many times ratified, we stammer, and prevaricate, and complete our disgrace by an unsuccessful attempt to stultify, not merely ourselves, but the ablest and wisest statesmen, whom our country has yet produced;—and if, in pursuance of a narrow and selfish policy, we should at this day, in a time of profound peace and great national prosperity, amidst all our professions of magnanimity and benevolence, and in the blazing light of the nineteenth century, drive away these remnants of tribes, in such a manner, and under such auspices, as to insure their destruction;—if all this should hereafter appear to be a fair statement of the case;—then the sentence of an indignant world will be uttered in thunders, which will roll and reverberate for ages after the present actors in human affairs shall have passed away. If the people of the United States will imitate the ruler who coveted Naboth's vineyard, the world will assuredly place them by the side of Naboth's oppressor. Impartial history will not ask them, whether they will feel gratified and honored by such an association. Their consent to the arrangement will not be necessary. The revolution of the earth in its orbit is not more certain.

It may be truly said, that the character which a nation sustains, in its intercourse with the great community of nations, is of more value than any other of its public possessions. Our diplomatic agents have uniformly declared, during the whole period of our national history, in their discussions with the agents of foreign powers, that we offer to others the same justice which we ask from them. And though, in times of national animosity, or when the interests of different communities clash with each other, there will be mutual reproaches and re-primations, and every nation will, in its turn, be charged with unfairness or injustice, still, among nations, as among individuals, there is a difference between the *precious and the vile*; and that nation will undoubtedly, in the long course of years, be most prosperous and most respected, which most sedulously cherishes a character for fair dealing, and even generosity, in all its transactions.

There is a higher consideration still. The Great Arbitrer of Nations never fails to take cognizance of national delinquencies. No

sophistry can elude his scrutiny ; no array of plausible arguments, or of smooth but hollow professions, can bias his judgment ; and he has at his disposal most abundant means of executing his decisions. In many forms, and with awful solemnity, he has declared his abhorrence of oppression in every shape ; and especially of injustice perpetrated against the weak by the strong, *when strength is in fact made the only rule of action*. The people of the United States are not altogether guiltless, in regard to their treatment of the aborigines of this continent ; but they cannot as yet be charged with any *systematic legislation* on this subject, inconsistent with the plainest principles of moral honesty. At least, I am not aware of any proof, by which such a charge could be sustained.

Nor do I, in these preliminary remarks, attempt to characterize measures now in contemplation. But it is very clear, that our government and our people should be extremely cautious, lest, in judging between ourselves and the Indians, and carrying our own judgment into execution with a strong hand, we incur the displeasure of the Most High. Some very judicious and considerate men in our country think, that our public functionaries should stop where they are ; that, in the first place, we should humble ourselves before God and the world, that we have done so much to destroy the Indians, and so little to save them ; and that, before another step is taken, there should be the most thorough deliberation, on the part of all our constituted authorities, lest we act in such a manner as to expose ourselves to the judgments of Heaven.

I would have omitted this topic, if I thought that a majority of readers would regard its introduction as a matter of course, or as a piece of affectation, designed for rhetorical embellishment. In my deliberate opinion, it is more important, and should be more heeded, than all other considerations relating to the subject ; and the people of the United States will find it so, if they should unhappily suppose themselves above the obligation to *do justly, love mercy, and walk humbly with their God*.

I close this introductory number, by stating what seems to be the present controversy between the whites and the Indian tribes of the southwestern States : I say the *whites*, (that is our country generally,) because certain positions are taken by the government of the United States, and certain claims are made by the State of Georgia, and certain other claims by the States of Alabama and Mississippi. The Indians do not admit the validity of any of these positions or claims ; and if they have a perfect original title to the lands they occupy, which title they have never forfeited nor alienated, their rights cannot be affected by the charters of kings, nor by the acts of provincial legislatures, nor by the compacts of neighboring States, nor by the mandates of the executive branch of our national government.

The simple question is : *Have the Indian tribes, residing as separate communities in the neighborhood of the whites, a permanent title to the territory, which they inherited from their fathers, which they have neither forfeited nor sold, and which they now occupy ?*

For the examination of this question, let the case of a single tribe or nation be considered ; for nearly the same principles are involved in the claims of all the Indian nations.

The Cherokees contend, that their nation has been in possession of their present territory from time immemorial; that neither the king of Great Britain, nor the early settlers of Georgia, nor the State of Georgia after the revolution, nor the United States since the adoption of the federal constitution, have acquired any title to the soil, or any sovereignty over the territory; and that the title to the soil and sovereignty over the territory have been repeatedly *guaranteed to the Cherokees, as a nation*, by the United States, in treaties which are now binding on both parties.

The government of the United States alleges, as appears by a letter from the Secretary of War,* dated April 18, 1829, that Great Britain, previous to the revolution, "*claimed* entire sovereignty within the limits of what constituted the thirteen United States;" that 'all the rights of sovereignty which Great Britain had within said States became vested in said States respectively, as a consequence of the declaration of independence, and the treaty of 1783;' that the Cherokees were merely 'permitted' to reside on their lands by the United States; that this permission is not to be construed so as to deny to Georgia the exercise of sovereignty; and that the United States has no power to guarantee any thing more than a right of possession, till the State of Georgia should see fit to legislate for the Cherokees, and dispose of them as she should judge expedient, without any control from the general government.

This is a summary of the positions taken by the Secretary of War; and, though not all of them expressed in his own language, they are in strict accordance with the tenor of his letter.

In my next number, I shall proceed to inquire, *What right have the Cherokees to the lands which they occupy?*

No. II.

The Cherokees have the same rights as other men—They are not hunters—They have sold much good land to the United States—Original extent of their country—Its present extent—The mere claims of one party cannot affect the rights of another party—Necessity of examining treaties.

In my first number I prepared the way to inquire, *What right have the Cherokees to the lands which they occupy?* This is a plain question, and easily answered.

The Cherokees are human beings, endowed by their Creator with the same natural rights as other men. They are in peaceable possession of a territory which they have always regarded as their own. This territory was in possession of their ancestors, through an unknown series of generations, and has come down to them with a title *absolutely unincumbered in every respect*. It is not pretended, that the Cherokees have ever alienated their country, or that the whites have ever been in possession of it.

If the Cherokees are interrogated as to their title, they can truly

* See Appendix.