Disguised Reform: How U.S. Law Was Used to Erase Native Sovereignty

By Austin Hsu

Interpretive Essay Submission

Featured Primary Source: Memorial of the Delegates of the Cherokee, Creek, and Choctaw Nations of Indians, 23 May 1870

941 words

“Shall we lie down supinely and see our national governments destroyed and ourselves despoiled of our lands?”[[1]](#footnote-1) With biting sarcasm, the delegates weren’t asking whether they should submit—but daring the U.S. to admit it had always planned to silence them through law. After the Civil War, the U.S. signed the treaties of 1866 with the Cherokee, Creek, and Choctaw Nations, recognizing their sovereignty and outlining the land they would retain. In return, the Natives surrendered land, granted citizenship to former slaves, and abolished slavery.[[2]](#footnote-2) They signed in good faith, yet the U.S. shattered that trust. Within a decade, the proposed Senate Bill S.679 threatened to collapse the three Nations into a single territorial government and destroy their political autonomy. In protest, they submitted the *Memorial of the Delegates of the Cherokee, Creek, and Choctaw Nations* to the Senate to defend their sovereignty.[[3]](#footnote-3) Their opposition exposed what the U.S. tried to hide. Law wasn’t used to protect Native Nations as lawmakers claimed with supposed kindness and benevolence, but to dismantle them. The Memorial tears off the mask of legality, showing how the U.S. fabricated consent and wrapped conquest in the language of justice: a strategy sharpened across generations to justify the seizure of Native land and power.

The Native delegates’ Memorial reveals how Bill S.679 violated the 1866 treaties by creating an illusion where Native Nations agreed to their own subjugation. These treaties had recognized the three Nations as sovereign governments, entitled to self-rule and most importantly the right to speak for themselves. But the bill aimed to override those protections by placing all three under a single territorial government without their approval. The delegates warn that the Senate Chairman had “take[n] treaties made by one or two nations… and adopt[ed] them as a standard for all the balance.”[[4]](#footnote-4) This criticism exposes how the U.S. collapsed legal identities of sovereign Nations into one, masking unity as a scheme for U.S. control. That illusion let the U.S. claim legitimacy while avoiding accountability. The government fabricated consent to silence resistance because once a law has been passed with the pretense of native agreement, any protest can be dismissed as backtracking, not a challenge to justice. This was not a legal oversight but a performance, staged to give conquest the face of consensus. Native consent was not earned, but ghostwritten. Once that fiction passed into law, it rewrote Native protest while leaving behind an official story where silence looked like consent, and erasure looked like law.

By reframing U.S. legal violations as a moral crisis, the Native delegates reveal that the U.S. government’s goal was never reform, but erasure of Native sovereignty. Their rhetoric describes the Natives as peaceful and restrained while casting U.S. reform as a façade of domination. The delegates ask, “Shall we stand dumb before you like a sheep before its shearer?”[[5]](#footnote-5) The image is deceptively gentle: shearing implies harmless routine care. But here, it becomes a metaphor for stripping a Nation bare of rights, voice, and power. The sheep does not agree but cannot resist. Likewise, Native silence is not consent but enforced voicelessness. The metaphor exposes a brutal logic: if the law pretends the Natives never spoke, then it can pretend they agreed. And if agreement can be faked, conquest can be justified. The memorial deepens the accusation with chilling imagery, the Natives were “invited with fair words into a charnel house, where they were to be left to perish.”[[6]](#footnote-6) On the surface, lawmakers claimed Bill S.679 would “operate for their advantage.”[[7]](#footnote-7) A charnel house for the dead, yet here, the Natives are still alive. The invitation becomes not a negotiation, but a death sentence. The U.S. does not threaten violence outright; instead, it disguises extermination in legal language so convincing it could pass for care. In this framing, the law is not a protector but an assailant, revealing that U.S. law was not flawed but engineered to exterminate.

The Native delegates reveal that Bill S.679 wasn’t a legal outlier: it followed a familiar script where U.S. disguised domination as care. Jackson called removal a “benevolent policy” meant to “to save [the native] from ... utter annihilation,” casting displacement as salvation.[[8]](#footnote-8) That mercy became the Trail of Tears, a march of suffering that tore apart treaty promises with every mile. The Dawes Act picked up where Jackson left off; it was characterized as a civilizing mission to assimilate Native Americans into society. Yet, the effect was the opposite: by allotting land to individuals, it dismantled communal ties, fractured political identity, and redefined Natives as isolated legal subjects under U.S. rule. This weakened Native society, easing land seizure. In doing so, the law paved the way for future land seizures with minimal backlash. These atrocities weren’t unintended; the results were strategized by the government not to protect, but to prepare the land for removal. The Native delegates saw through this performance. In the Memorial, they warn how so-called reforms were “clothed in the attractive garb of humanity,”[[9]](#footnote-9) but were designed to abuse them. The Indian Removal and Dawes Acts didn’t just break promises, they rewrote the meaning of reform to serve annihilation.

In a cruel paradox, the legal system dismantled the very sovereignty it promised to protect. The Memorial exposes the concealed nature of U.S. policy, where intended harm was spun as generosity. From the Indian Removal and Dawes Acts to the proposed Bill S.679, this strategy repeated: promises were made through law, then broken through that same system. To the delegates, justice didn’t fail by accident, it was designed to look away. The delegates’ warning is clear: when the law masks conquest as reform, justice becomes a mere performance.

Bibliography

*Featured Primary Source from the Gilder Lehrman Collection:*

Cherokee, Creek, and Choctaw Nations. *Memorial of the Delegates of the Cherokee, Creek, and Choctaw Nations in Opposition to Senate Bill S. 679*. Sen. Misc. Doc. No. 76, 41st Cong., 2nd sess., May 23, 1870. GLC03776.42. The Gilder Lehrman Institute of American History. Accessed June 5, 2025. <https://www.gilderlehrman.org/collection/glc0377642>.

*Other Primary Sources and Secondary Sources*:

United States and Cherokee Nation. *Treaty with the Cherokee*, July 19, 1866. 14 Stat. 799. Ratified July 27, 1866. Proclaimed August 11, 1866. In *Tribal Treaties Database*. Oklahoma State University. Accessed June 25, 2025. <https://treaties.okstate.edu/treaties/treaty-with-the-cherokee-1866-0942>.

U.S. Congress. *An Act to Provide for the Allotment of Lands in Severalty to Indians on the Various Reservations (Dawes Act)*. 24 Stat. 388 (1887). National Archives and Records Administration. Accessed June 25, 2025. <https://www.archives.gov/milestone-documents/dawes-act>.

U.S. Congress. *Indian Removal Act of 1830*. Public Law 21–148. 21st Cong., 1st sess., May 28, 1830. 4 Stat. 411. National Archives. Accessed June 25, 2025. <https://www.archives.gov/milestone-documents/indian-removal-act>.

Jackson, Andrew. “First Annual Message to Congress, 1829.” *Building the American Nation: U.S. History Resources*. UCL Department of History. Accessed June 5, 2025. <https://www.ucl.ac.uk/USHistory/Building/docs/Jackson.htm>.

McCartney, John. *H.R. Rep. No. 433, 23rd Cong., 1st sess.* (April 30, 1834). In *American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817–1899*. University of Oklahoma College of Law Digital Commons. Accessed June 5, 2025. <https://digitalcommons.law.ou.edu/cgi/viewcontent.cgi?article=7433&context=indianserialset>.

1. Lewis Downing, *Memorial of the Delegates of the Cherokee, Creek, and Choctaw Nations in Opposition to Senate Bill S. 679* (Washington, DC: n.p., May 23, 1870), 1, Gilder Lehrman Institute of American History, https://www.gilderlehrman.org/collection/glc0377642. [↑](#footnote-ref-1)
2. *Treaty with the Cherokee, 1866*, July 19, 1866, in *Indian Affairs: Laws and Treaties*, vol. 2, ed. Charles J. Kappler (Washington: Government Printing Office, 1904), 942–950. <https://treaties.okstate.edu/treaties/treaty-with-the-cherokee-1866-0942>. [↑](#footnote-ref-2)
3. Downing, *Memorial of the Delegates*, 1. [↑](#footnote-ref-3)
4. Downing, *Memorial of the Delegates*, 6. [↑](#footnote-ref-4)
5. Downing, *Memorial of the Delegates*, 1. [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)
7. Ibid. [↑](#footnote-ref-7)
8. UCL Department of History, *President Andrew Jackson on Indian Removal, 1830*, University College London, accessed June 14, 2025, <https://www.ucl.ac.uk/USHistory/Building/docs/Jackson.htm>. [↑](#footnote-ref-8)
9. Downing, *Memorial of the Delegates*, 1. [↑](#footnote-ref-9)