

# UCLA

## American Indian Culture and Research Journal

### Title

A Better Kind of Hatchet: Law, Trade, and Diplomacy in the Cherokee Nation During the Early Years of European Contact. By John Phillip Reid.

### Permalink

<https://escholarship.org/uc/item/9qh5s3qk>

### Journal

American Indian Culture and Research Journal , 3(4)

### ISSN

0161-6463

### Author

Bieder, Robert E.

### Publication Date

1979-09-01

### DOI

10.17953

### Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial License, available at <https://creativecommons.org/licenses/by-nc/4.0/>

book a semblance of scholarly sophistication, for the volume conveys little of the variety and complexity in the process that is evident in these works.

The material that Savage anthologizes calls for a much more fully-textured and extensive analysis that draws from the insights and research of historians and other scholars such as those listed above. Otherwise, it is meaningless, at best, to reprint most of the selections, which are fairly widely available in their original form. And even this generous assessment is unacceptable because of the stance Savage summarizes in the introduction:

These, then, were the uses to which whites put their images of Indians: First, after initial contact, the Indian was a curiosity, then an entertainment. Thereafter he was made noble by whites who required his cooperation and a beast by those secure enough to survive without his help and, beyond that, to take what he had. Then, when his numbers were diminished and he was far removed from the white population, he became again a curiosity and an entertainment. Today, his numbers replenished and his isolation ended, he is still to whites curious and entertaining, largely because, in the context afforded by the dominant society, he has no social utility—not as an Indian, not as a representative of another culture. That which is entertaining is otherwise useless, and so it was in the beginning (pp. 12-13).

Savage's unenlightening and ahistorical condensation of almost five centuries of history to a progression from entertaining to noble to bestial and back to entertaining might be passed over as meaningless. But for an historian of the 1970s to characterize Indians of the present as socially useless except as curiosities is appalling both in its ignorance and its gall.

Alfonso Ortiz  
University of New Mexico

**A Better Kind of Hatchet: Law, Trade, and Diplomacy in the Cherokee Nation During the Early Years of European Contact.** By John Phillip Reid. University Park: Pennsylvania State University Press, 1976. 249 pp. \$14.50.

When in 1941 the lawyer Karl N. Llewellyn and the anthropologist E. A. Hoebel published *The Cheyenne Way*, followed by Hoebel's *The Law of Primitive Man*, a new perspective into Native American cultures opened up. Hoebel and Llewellyn showed that the "law ways" of a people revealed much about the way they saw themselves and oriented their world. Since these pioneering works appeared, the field of "primitive law" has not been as actively mined as one might expect. Part of the difficulty, of course, is that the time has past when field work in this area could be carried out, at least among Native Americans. No longer can the anthropologist enjoy the privilege of finding elders who can recount the way problems in their tribe were adjudicated, as Hoebel could in the 1930's. Now those interested in the task must resort to the less-than-adequate historical record. Generally historians, and to a lesser extent anthropologists, have not tackled the historical data with the intent of reconstructing the law ways of Indian societies. John Phillip Reid, professor of law at New York University, has, and by so doing reminds us how fertile the study of "primitive law" can be, not only for describing Indian cultures but also as a corrective to both history and anthropology.

Reid sets out in this work, which builds upon his earlier study, *A Law of Blood: The Primitive Law of the Cherokee Nation*, to correct the usual interpretation of Cherokee-white relations as presented by historians and anthropologists. For example, the British-Cherokee contact situation is generally portrayed in terms of the British imposition of change upon Cherokee culture. Reid presents a different thesis. Focusing upon British-Cherokee trade relations between 1700 and 1725, and to a lesser extent to 1750, Reid finds that the British never understood Cherokee law ways, that in fact they operated as if these law ways did not exist. This was true especially after the Yamasee War, when the English of Charles-Town set up the public monopoly to oversee trade with the Indians. The "factory system" that the public monopoly instituted curtailed the more flagrant abuses practiced by private traders before the War. But in devising its laws and regulations to organize the trade better and insure harmony in the colony's dealings with the Indians, the public monopoly did not take into consideration the possibility that the Cherokee might think differently about the trade than the English and have laws of their own. The Cherokee, in turn, were not interested in British law, and even when these laws touched upon Cherokee life, they acted in disregard of them, thereby forcing the British to adjust their regulations to fit Cherokee



reality. Reid's thesis in brief is: "European culture did not carry all before it. Native institutions were not easily supplanted. It was British law, not Cherokee law, that had to be altered, and it was the British, not the Cherokee, who had to change their ways" (p. 189). Reid points out, of course, that this was but the first chapter in Cherokee-white relations. Later Cherokee culture would be drastically altered, but up until 1725 the Cherokee remained "unbending," and culture change appears minimal. What allowed the Cherokee to remain largely static was their large population and isolation, whereas smaller, less isolated tribes were forced into rapid acculturation under British pressure.

Holding that "the central purpose of Cherokee law was to maintain harmony and avoid social conflict" (p. 119), Reid finds that non-aggression was not only the "Cherokee ideal" but also the "test of correct behavior" (p. 177). Any action that would provoke confrontation or tend toward disharmony was assiduously avoided. That the British were generally perplexed by this and often viewed avoidance as Cherokee duplicity or untrustworthiness, did not concern the Cherokee.

For Reid this nonaggressive behavior of the Cherokee that operated to maintain harmony does not only reflect the "ideal norms" of the society but also represents behavioral "reality." This argument poses certain problems, for it assumes a surprising degree of naivete on the part of the reader. Years ago the anthropologist Bronislaw Malinowski, whom Reid professes to admire, reminded us that man is a being in action, and that the problem is "not to study how human life submits to rules—it simply does not; the real problem is how the rules become adapted to life." In his study of the Cherokee, Reid chooses to ignore the second part of Malinowski's dictum. Instead he presents a somewhat circular argument. Reid derives certain Cherokee "ideal norms" from descriptions of Cherokee culture recorded long after the period he is studying and others from reading into Cherokee actions what the "ideal norms" must have been. Thus Cherokee actions and ideals coincide; indeed logically they must, for the latter are derived from the former. What is required in this case of moving from the particular to the general is further testing with more particulars. This Reid does not do. In his description of the British response this problem does not occur. Here he measures English actions (the real) against their promulgated laws and/or regulations (the ideal). Any difference between the real and the ideal on the part of the British, Reid considers to be a change forced upon them by the intransigence of the Cherokee.

Reid is also less than convincing in his argument that Cherokee culture remained basically unchanged during the period 1700 to 1725 and changed only slowly from 1725 to 1750. Because Reid could not detect change, it does not necessarily follow that no change occurred.

Another serious flaw in this provocative study is the lack of any maps. This is especially detrimental since Reid stresses that a knowledge of geography is vital to the understanding of early Cherokee history.

In spite of these caveats, Reid's thesis that the Cherokee forced changes in British trade and diplomatic policies may be correct, and if so, could be valuable in the re-interpretation of early white-Indian contact. Changes in colonial Indian policy may not have originated in England nor within colonial society, but, as Reid argues, in Native American responses to colonial laws. Thus colonial society and laws may bear a greater stamp of Native American influence than previously acknowledged.

Robert E. Bieder  
University of Illinois—Chicago Circle