

# **From Clay to the Courts: The Catawba's Successful Struggle For Federal Recognition and Cultural Relevance, 1959 to 1993**

Spencer Andersen  
History  
The University of North Carolina Asheville  
One University Heights  
Asheville, North Carolina 28804 USA

Faculty Advisor: Dr. Eric Roubinek

## **Abstract**

On September 21, 1959, the Catawba Indian Tribe of South Carolina's federal recognition ended through the Division of Assets Act. Termination, first proposed in the early 1950s, theoretically allowed Native American tribes to become self-sustaining and assimilate into mainstream society as citizens. In practice, termination had numerous negative social consequences for these tribes, especially on their cultural identity. However, unlike other tribes in the Carolinas such as the Lumbee, who were denied federal recognition and have yet to achieve it, the Catawba successfully resisted the policy, eventually regaining recognition in 1993. Although Native American scholars have documented the ways in which the Catawba preserved their culture prior to 1959, the thirty years between termination and restoration have received little attention. The termination period, perhaps more than any other in the Catawba's history, reveals how the tribe's pottery tradition played a crucial role in maintaining the tribe's cultural identity and viability. Coupled with a long and hard-fought settlement with the state of South Carolina—at the time, the largest of its type in history—this helped to usher in “a Catawba renaissance” during the 1990s.

## **1. Body of Paper**

The Catawba, a tribe whose name means “people of the river” in their native language, historically occupied an area of land south of Mecklenburg County near modern-day Rock Hill, South Carolina. However, these boundaries narrowed during the 1740s as settlers began encroaching upon their land. Unlike English traders, who formed generally amiable relationships with the tribe and respected their customs, these settlers proved hostile to the Catawba.<sup>1</sup> The growth of livestock, milling, and crops foreign to the tribe devastated their landscape to the point Chief Ayers declared settlers had “spoiled” the Catawba “100 miles every way.”<sup>2</sup> In order to assert their claims to their territory, the Catawba entered into the Treaty of Augusta with the colonial government of South Carolina on November 10, 1763. According to the treaty's terms, the British Crown would grant them “a tract of land of Fifteen Miles square [144,000 acres],” offering both protection from “the King's subjects” and exclusive hunting rights within the allocated region.<sup>3</sup> Along with the Treaty of Pine Tree Hill, executed three years earlier, the Treaty of Augusta formed the basis of Catawba-British land agreements.<sup>4</sup>

Following South Carolina's admittance to the Union after the Revolutionary War, the treaty's terms proved futile. By the onset of the 19th century, the Catawba Nation remained in poverty and disarray. In order to address the difficulties the nation faced during this period, tribal leadership met with representatives from the state of South Carolina in 1840. Authorities offered the tribe \$5,000 in arable land in exchange for ceding the 144,000 acre tract to South Carolina in an agreement known as the Treaty of Nations Ford.<sup>5</sup> According to the Treaty's terms, the State agreed to reserve 640 acres—less than 0.04% of the original tract—in trust for the Catawba.<sup>6</sup> This did not prove to benefit the Catawba. The state delayed sales of new tracts, and most of the land promised was not new, but rather lay within the original territory the Treaty of Augusta allocated.<sup>7</sup> Moreover, the United States government neither consented nor

approved the treaty, making its provisions legally void. The illegitimate treaty would later serve as the basis for the tribe's lawsuit against the state of South Carolina in 1983.

Economic and cultural hardships from the failed treaty continued for the Catawba after the 1840s and into the 20th century, a time when they were wards of the federal government. In 1943, the Tribe entered a Memorandum of Understanding, or formal agreement, with the Bureau of Indian Affairs. According to this document, the state of South Carolina would purchase \$75,000 worth of tax-exempt land and appropriate \$9500 each year to the tribe for their rehabilitation.<sup>8</sup> In turn, the Catawba would adopt the Bureau's recommendations. Despite this temporary agreement, decreased funding from the federal government throughout the 1940s and 1950s left the tribe with scarce money for education, land, or medical facilities. Members noted the inconsistency of the memorandum, with one complaining the tribe "never got [new homes]," because the titles were "never put on paper."<sup>9</sup> Because of this, tribal leadership believed it would be best to end their relationship with the federal government through a relatively new policy: termination. On September 21, 1959, Congress passed a bill terminating the Catawba Tribe, allowing members to sell their land to private individuals and relinquish their tribal autonomy.<sup>10</sup> As with other tribes who sought termination, this decision later proved devastating for the tribe's culture. However, through a combination of pottery revivals, strictly defined tribal rolls, and court settlements with the state and federal government, the Catawba demonstrated their relevance throughout the termination period. Eventually, the tribe managed to regain federal recognition in 1993, leading to a greater cultural renaissance which continues to this day.

Historical analysis specific to the three decades between Catawba termination and their eventual restoration, which spanned from 1959 to 1993, remains limited. Despite this, readers can draw two opposing views from scholarship published during this era. The first and earlier stance views the tribe as ultimately assimilating into mainstream white society during the termination period, while the second sees them as effectively resisting and enduring termination through their own efforts. However, it is important to note scholars on both sides do not take a hardline view on their positions. Indeed, early scholars such as Jane Douglas Summers Brown use the term "enduring people" to describe the Catawba's centuries of resilience.<sup>11</sup>

Brown's 1966 work, *The Catawba Indians: The People of the River* begins discussing their emergence from smaller Siouan tribes during the early 1700s and their contentious relations with the English up to the American War for Independence. She concludes her narrative in the mid-twentieth century, when the Bureau of Indian Affairs cancelled the 1943 Memorandum of Understanding and the Catawba Tribe of South Carolina revoked their Constitution in 1959.<sup>12</sup> Her final chapter concludes the Catawba—once "a nation of greatness"—have gradually immersed themselves into mainstream American society.<sup>13</sup> However, since the 1980s, research on the Catawba has revealed several elements of the tribe's culture, chiefly pottery, remained intact throughout termination.

In contrast to Brown, historian James Merrell presents a more optimistic summary of the Catawba's history. Although he acknowledges their great state of decline since the 1840s, he warns it is wrong to assume the tribe merely capitulated in a form of "cultural suicide."<sup>14</sup> Merrell's narrative of the modern tribe's history begins in 1715, when a variety of smaller South Carolinian tribes such as the Sugarees, Shuterees, and Esaws in the northwestern portion of the state developed into a single group called "the Catawba," or "the People of the River."<sup>15</sup> He argues a combination of oral traditions, craft revivals, and stories from elders committed to passing Catawba heritage onto the next generation allowed them to carry their culture from the colonial period into the 20th. Relying on findings from archaeologist Frank Speck, he notes tribal artifacts such as 19th The Catawba, a tribe whose name means "people of the river" in their native language, historically occupied an area of land south of Mecklenburg County near modern-day Rock Hill, South Carolina. However, these boundaries narrowed during the 1740s as settlers began encroaching upon their land. Unlike English traders, who formed generally amiable relationships with the tribe and respected their customs, these settlers proved hostile to the Catawba. The growth of livestock, milling, and crops foreign to the tribe devastated their landscape to the point Chief Ayers declared settlers had "spoiled" the Catawba "100 miles every way." In order to assert their claims to their territory, the Catawba entered into the Treaty of Augusta with the colonial government of South Carolina on November 10, 1763. According to the treaty's terms, the British Crown would grant them "a tract of land of Fifteen Miles square [144,000 acres]," offering both protection from "the King's subjects" and exclusive hunting rights within the allocated region. Along with the Treaty of Pine Tree Hill, executed three years earlier, the Treaty of Augusta formed the basis of Catawba-British land agreements.

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Brown's 1966 work, *The Catawba Indians: The People of the River* begins by discussing the Catawba's emergence from smaller Siouan tribes during the early 1700s. She continues analyzing their contentious relations with the English up to the American War for Independence and concludes her narrative in the mid-twentieth century, when the Bureau of Indian Affairs cancelled the 1943 Memorandum of Understanding and the Catawba Tribe of South Carolina revoked their Constitution in 1959. Her final chapter concludes the Catawba—once "a nation of greatness"—have gradually immersed themselves into mainstream American society. However, since the 1980s, research on the Catawba has revealed several elements of the tribe's culture, chiefly pottery, remained intact throughout termination.

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Following Merrell's arguments, Catawba historian and researcher Thomas J. Blumer provides visual and written evidence of a surviving nation throughout the termination period in several of his works, including *Catawba Indian Pottery: The Survival of a Folk Tradition*, *Images of America: The Catawba Indian Nation of the Carolinas*, and *Catawba Nation: Treasures in History*. Throughout these publications, Blumer explores the lives of Catawbas such as potter Doris Wheelock Blue, Chief Raymond Harris, Chief William Harris, and Chief John Idle Sanders. Specifically, in *Catawba Indian Pottery*, he argues the tribe's pride in their pottery tradition—virtually unchanged since ancient times—has allowed it to survive intact to the modern day. His close relationships and extensive research on the Catawba thus offer valuable insight on the tribe's tensions and dynamics from the late 1950s through the 1980s.

Anne Merline McCulloch and David E. Wilkins, two political scientists, compared the disparate outcomes of the Catawba and the Lumbee tribes in their 1995 article "'Constructing' Nations Within States." After presenting both groups' histories, they note the Catawba, in contrast to the Lumbee, established clear diplomatic relations with their state's government since colonial times, even if these relations were strained through the Treaty of Nations Ford in

1840. Furthermore, the authors emphasize the Catawba's cultural cohesion throughout the twentieth century, in line with Merrell's argument for the nation's successful struggle for cultural relevance since the colonial era.

McCulloch and Wilkins also note the federal recognition process confers some benefits not available at the state level. For example, the process "buffers tribal existence" from encroachment by "state and local governments," offering them "protection." Additionally, this autonomous status also allows them to receive federal assistance for medical and educational facilities and exempts them from state taxes. Whether a tribe receives this recognition depends on them maintaining four criteria: the social construct of "an Indian," a cohesive personal identity, a public perception as "Indian," and a large or powerful set of personal resources (such as land, population, and legal counsel). McCulloch and Wilkins conclude the Catawba met all four factors, allowing them to prove their case for federal recognition more easily than the Lumbee.

Legal scholar Lynn Loftis also finds the tribe has "quietly survived" into the 1900s, noting the Catawba "continued to need their culture to make them whole" despite the challenges of the modern era. Commenting on their legal history, New Mexican District Judge and legal scholar Samuel Winder notes the Catawba's most important Supreme Court case—the 1986 ruling in *Catawba Indian Tribe v. South Carolina* was "important to Indian tribes," even if he personally disagrees with the Court's "departure from long-respected precedent."

Besides Blumer's texts and various law review articles on the Catawba, Mikaëla Adams, Frye Gaillard, and Roberta Ulrich offer analysis on the tribe's history since the termination period. Though their works are broad, each contains chapters analyzing the Catawba's cultural endurance into the modern era. Adams' chapter on the Catawba in her broader work *Who Belongs?* titled "From Fluid Lists to Fixed Rolls," argues the tribal rolls of 1943 and 1961 helped the tribe maintain cultural integrity by preventing Catawba who had migrated west during the late 19th century from becoming members. Ulrich's *American Indian Nations from Termination to Restoration: 1953-2006* devotes a chapter to the legal history of the Catawba and the Poncas of Nebraska, who both used the federal court system to reverse their terminated status. Her chapter also notes the preservation efforts of members such as the pottery revival movement were responsible for keeping Catawba traditions and heritage alive during termination. Gaillard, though a journalist by training, has written extensively about the history of southern race relations, including those between Native Americans and white Southerners during the 1960s. His 1998 text *As Long as the Waters Flow* dedicates a chapter to what he terms "The Catawba Renaissance," "an ongoing renewal of Catawba culture beginning in the 1990s.

Beyond Ulrich's and Gaillard's brief chapters, there is little, if any, formal scholarship available analyzing the termination era. The regrowth of the pottery tradition during the 1970s and 1980s and the Catawba renaissance that followed it a decade later receive much less discussion. Furthermore, Thomas Blumer—the most prolific and published scholar on the Catawba in recent years—has not published a comprehensive work on the history of the tribe between 1959 and 1993. This era deserves a more thorough analysis, as it not only demonstrates the Catawba's resilience and determination to maintain their culture, but reveals a "success story," evident today by the fact the Catawba are South Carolina's only federally recognized tribe.

The federal government's termination policy originated in 1953 as part of the United States Bureau of Indian Affairs' assimilationism. Prior to that period, the Indian Reorganization Act of 1934 (IRA) governed the sale and distribution of land, attempting to address the loss of Native American land from the federal government's 1887 allotment or severalty law. However, on August 1, 1953, the United States Congress passed House Concurrent Resolution 108 (HCR 108), which made termination of tribal assets federal policy. Although not legally binding, HCR 108 declared Native Americans "should be freed from Federal supervision and control," and afforded the rights of American citizens. This resolution also reflected the ultimate goals of the Bureau of Indian Affairs, which was to encourage Native American tribes across the United States to assimilate into mainstream society rather than remain functionally sovereign entities. Termination thus not only signified a new era in Indian-federal relations but marked a departure from the IRA's emphasis on fostering tribal welfare.

For the Catawba, termination was a controversial and divisive proposition. However, both leadership and many members generally supported it because they believed it would allow them to gain economic and political independence from the federal and South Carolina government. From 1958 to 1959, the tribe debated the question of whether to terminate tribal assets in exchange for the right to sell land. To many members, it was clear the 1943 Memorandum of Understanding did nothing to remedy the tribe's deteriorating state. The size of the reservation the federal government held in trust through the Memorandum—3,434 acres purchased at around \$70,000—was a fraction of the original land the British promised in 1763. In Chief Samuel Blue's mind, ending the tribe through the process of federal termination could allow for beneficial renovations not possible under a reservation status. Indeed, the financial benefits of the policy proved enticing both to leadership and ordinary members, even if those same members later realized the policy was a mistake.

The Catawba had already held a general council seven months earlier that year in March, which 60 adult Catawbas attended. (At the time of termination, there were 631 members living on the 3,388.8-acre tract.) Three BIA officials—

Richard Butts, Wilson Lantham, and Homer Jenkins—also attended the meeting, along with South Carolina Congressman Robert W. Hemphill. During the council, Hemphill reviewed the proposed termination bill he had drafted. After his departure, the members present held a vote whether to introduce the bill, which passed 40-17. Through termination, the federal government would end the “outmoded vehicle” of the reservation system, allowing members “to exploit the advantages of their tribal assets.” After the vote, tribal member Sam Beck denounced the group’s decision to divide their assets, arguing the tribe should instead pressure the state of South Carolina for the debt “owed” to the Catawba. However, this pressure would not begin to mount on the state until the 1980s.

Beck’s concerns were generally in the minority because most tribal members were more interested in the prospects of a cash settlement which could help their impoverished state than continuing the old tribal way of life. Indeed, based on the BIA’s 1958 report of the land, the tribe’s net worth was \$254,396.14—equivalent to around \$2.1 million as of 2019. The report acknowledged the tribe had “made a great amount of economic progress” since 1944, a time when few members were employed full-time. Additionally, it stated the Bureau’s Arts and Crafts Board had encouraged the tribe to sell and market traditional crafts such as pottery—pursuant to the 1943 Memorandum of Understanding. However, by 1958, most members had taken jobs in manufacturing, leaving “few tribal members” who took “advantage of this assistance” from the federal government.

In 1959, Chief Samuel Blue died, and Albert Sanders succeeded him as chief of the Catawba. Like Blue, Sanders supported dividing the tribe’s assets, and continued to lead the Catawba away from federal control. “A lot of other tribes are glad to be under the federal government on reservations,” he remarked. “Speaking for myself, I’m glad to get out. Now the [Catawba] Indian will have to make it just like any other citizen.” Thus, a transition away from reliance on the federal government was the tribe’s major goal under Sanders’ leadership. On June 10, 1959, the United States Department of the Interior endorsed H.R. 6128, which allowed the tribe to end their recognition and divide the 3,388.8 acres held in trust by the federal government. While the Catawba had previously voted on the question of termination twice, November 23, 1959, was the tribe’s final vote on the question. On that day, Sanders mailed each adult member a copy of the proposed bill, which, if signed, constituted a vote in favor of ending their federal recognition. A majority of members present signed the proposal.

On September 21, 1959, the bill Representative Hemphill introduced became federal law. Titled “The Catawba Indian Tribe Division of Assets Act,” this law not only divided out the Catawba’s federal land and allowed them the option of selling it, but closed their federal rolls, preventing further registration. Additionally, it revoked the tribe’s constitution, making members United States citizens but no longer part of a federally recognized tribe. However, the Divisions of Assets Act, and therefore the end of the tribe’s federal existence, did not take effect until June 19, 1962. The act also did not affect members living on the 640-acre tract held in trust by the state of South Carolina, or “the Old Reservation,” as they still remained a state recognized tribe.

As the tribe voted to terminate their assets during November and December of 1959, Virginia Davis—a reporter for the *Rock Hill Evening Herald*—interviewed lay members and leaders who both favored and opposed the policy. The Catawba defending the tribe’s majority position of termination told Davis according to the 1943 Memorandum of Understanding, they “were promised homes” on the smaller 3,388.8 acre reservation, but “never got them.” South Carolina continued to assert its claim over the Old Reservation—never once deeding it to the Catawba Nation. Furthermore, federal funds allocated for the tribe’s welfare remained “skimpy.” Mrs. Howard Thomas, Council Secretary for the Tribe, remarked most funding “went to federal employees” rather than to members themselves. Clearly, the federal government could not be trusted to keep the promises of the Memorandum of Understanding. Termination would end this historically strained relationship.

Other members justified their decisions on grounds of independence, agreeing with Chief Sanders in opposing the reservation system. Virginia Trimnal, a mixed-race Catawba member married to a white South Carolinian, desired to terminate the reservation so she could own land outside the limited 3,388.8-acre tract. In her interview with Davis, she remarked, she “would like to get the deed to her own place,” so she could “do what she wanted to with it.” Furthermore, Trimnal believed the decision to create a Catawba reservation was “a mistake,” as it not only prevented the tribe “from doing more for themselves,” but left them “like children,” dependent on the parental authority of the federal government. By having title to her own land through termination, she argued, the Catawba would be able to break away from their “parent” government and become independent “adults.”

In a December 1959 interview with Davis, Hazel Ayers (also known as Sara) voiced a similar opinion. She stated a division “would be the best thing for all of [the tribe],” as it would give them greater pride in land ownership and self-sustenance. She dismissed those who were “holding out” against termination as doing so out of fear “of displeasing” their fellow Native Americans. Indeed, the possibility of controlling and caring for their own land through loans, which were unavailable through the current reservation, made termination an attractive option for Catawba like Ayers, the Blues and Trimnal. These individuals appeared less concerned with the policy’s potentially negative consequences for tribal culture and more about what it meant for their land ownership rights.

Over a decade later in December of 1971, Elsie Blue George explained why she supported ending federal recognition. The daughter of Samuel Blue, who served three nonconsecutive terms as chief from 1931 to 1958, George favored termination because she believed it would allow members more options for their land than maintaining the reservation status.

We were living on this Federal land, and we could say it was ours, but we really could not. It was not because we could not do as we wanted to. We could not even get a loan to build a house if we wanted to; [we could not] borrow some money, or something like that, or have a well bored. I said, 'Well, I wish [the federal government] would just settle up with us, and give us some land I could say was mine. Then I could do what I wanted with it.

Although George admitted in this interview termination "was a bad deal" for Catawba families living on the Old Reservation after 1959, she did not see the decision as necessarily detrimental to the entire tribe. In fact, she believed termination "has helped" the Catawba exert their independence, even if it did not benefit certain members.

Academics during the termination era also commented on the state of the Catawba during this decade. Charles M. Hudson, Professor of Anthropology at the University of Georgia, offered an ambiguous conclusion of the tribe's future in 1970. That year, he published *The Catawba Nation* which concluded while the Catawba are generally proud of their history and narrative, members were showing signs of disinterest in their heritage. Hudson ends Chapter 7 stating the Tribe's assimilation into mainstream American society "will accelerate," resulting in their culture gradually "whitening." He notes the Catawba expect this process, as their Latter-day Saint beliefs interpret a passage in the Book of Mormon as a true prophecy. According to the LDS Church, Native Americans descend from the Lamanites, one of two rivaling tribes who landed in the Americas around 600 BCE. The Catawba understood a passage in the Book of Mormon, which speaks of the Lamanites becoming "a white and delightsome people" upon hearing the Gospel, as applying to their situation. In the final chapter, titled "History and Social Continuity," Hudson concluded the tribe has experienced such great social transformation since the colonial era that the modern definition of "Catawba" bears only a nominal resemblance to the 18th century term. According to his logic, if anything is rightly termed "continuous," it is the Catawba's constant cultural change leading up to the termination era.

Although most Catawba supported selling their land and were willing to assimilate into mainstream white culture, several lay members remained staunchly opposed. Interviews conducted by Native American historians during the 1970s, combined with Davis' interviews for her series on the tribe, reveal these members wished to keep the current reservation and way of life they had known since the early-to-mid 20th century. They saw the current reservation system as adequate and feared termination would unnecessarily complicate their own personal matters. For example, member Frances Wade told Davis she and her husband Gary were "opposed to a division," as it would prevent the state of South Carolina from holding the land in trust for their children. She further added, somewhat paradoxically, "without the reservation, I would feel closed in." The Catawba reservation made her "feel free," allowing her "to go barefoot to the river" and walk around wherever she pleased. Wade would later work with other individuals such as Helen Beck and Georgia Harris to teach and orchestrate traditional Catawba crafts—chiefly pottery—during the 1970s.

Like Samuel Beck, Anthony Scott Canty, a missionary for the Church of Jesus Christ of Latter-day Saints, also believed the United States owed the Catawba a debt since the colonial era. When Francis Wade asked him if he agreed with the tribe's 1959 decision in a 1975 interview, he answered:

No, I do not. I do not at all. It was a very bad idea to get terminated. The United States of America has the whole United States of America [sic] to be thankful for and they got it from the Indians. This was Indian land before any white man came and I think they owe us something for that land.

Canty further specified he preferred the reservation to remain where it is and would "not like it" if it were "broken up and sold away" through federal termination.

White South Carolinians also witnessed the consequences of termination for the Catawbas. Evelyn MacAbee George, a state resident who married Catawba Maroni (or Moroni) Taylor George in 1945, recalled "a lot" of the Tribe's heritage was taken away with them when they "did away with the reservation". At this point, many members had moved off the tract to seek education at trade schools, which the federal government funded. For example, Elsie Blue George was paid to attend cake decorating classes in Charlotte, while Maroni received financial assistance so he could enroll in a trade school in Columbia. In 1964, he became an officer for the York County Police Department.

The dissent from members like Canty, Beck, George, and the Wades reveals several Catawbas feared the consequences of seeking termination. Although most members had voted in favor of the policy, they had not done so out of a disdain for their culture. Many of those living on the reservation were in poverty, and it was infeasible for them to rely on the traditional sale of pottery for their source of income. The possibility of selling or leasing their land

in exchange for a cash settlement was more important to them than maintaining “the ancient way of life.” However, this does not mean their traditions ceased to exist. Furthermore, it does not demonstrate the adoption of a looser understanding of what it meant to be a Catawba, diluting their identity as Native Americans. In fact, these concepts strengthened throughout the 1960s and 70s, even if not evident at first.

One example of the Catawba’s effort to maintain their cultural integrity can be seen in the 1961 tribal roll. Under the Division of Assets Act, the tribe was required to present a final list of members to the Bureau of Indian Affairs. A continuation of the 1943 roll, which excluded nearly every Catawba who had settled westward in the late 19th century, the 1961 roll lists most members’ addresses within Rock Hill. Only twenty-seven of the 631 members (around 4.28%) lived outside York County at the time of registration. Thus, the 1943 roll had accomplished the task of separating western Catawba from those more closely connected to the tribe’s traditional boundaries. Although the 1975 Constitution later abolished the geographical restrictions of the 1944 Constitution, it still prohibited non-Catawba spouses married to Catawbas from living more than six months on the state reservation if they did not have children. This indicated while the Catawba accepted the realities of interracial marriage, which had been legal since spring of 1960, they did not wish for just any whites to claim their tribal assets through marriage. Though “a loose knit people,” the Catawbas had used the rolls to create a sense of unity and connection to the state reservation. Today, under the 1975 Constitution, prospective members must prove descent from either the 1943 or 1961 rolls. Modern renditions such as the 2001 roll also follow these requirements.

More so than the restrictive tribal rolls, the Catawba pottery tradition served as the central symbol of cultural identity during the time of division. Even after most members agreed to dissolve the land outside the 640-acre reservation held in trust by the State, some continued to practice the ancient craft. Women concerned with the survival of the 4500-year old tradition began organizing pottery classes during the mid-1970s. Although not initially successful due to internal tension and debates over the direction of the classes, the women did succeed in selling their pottery and attracting local attention from the University of South Carolina, which prevented the art’s death. Thus, pottery became a cultural symbol for the Catawba Indians, even while they were no longer a federally recognized tribe.

The Catawba method of pottery dates back at least five millennia and is among the oldest forms of pottery practiced in the eastern United States. Modern vessels are still formed from clay dug from a hole six miles from the current reservation, near Van Wyck, South Carolina. Entirely hand-formed without resorting to a wheel, Catawba pottery requires different methods of construction depending on the intended vessel. For example, in order to make a jug or pot, the potter must form a series of rings from clay, stacking them together and smoothing them into the desired shape. These can be as simple as a bowl or as complex as the prized “Indian head” jugs (Figure 2). In contrast, pipes are built from a single cylinder of clay, which is gradually tapered into a bowl shape with a stem for smoking. In all cases, after the preformed vessels are smoothed out with stones, they are baked and then burned over an open fire in order to cure them. Traditionally, the entire curing process took place on an outdoor bonfire, but nowadays modern potters prebake the vessels in conventional ovens, gradually increasing the heat from 200 to 500 degrees Fahrenheit.

Throughout the 18<sup>th</sup> and 19<sup>th</sup> centuries, the “peddling” of pots along the Catawba River was central to the tribe’s economy, arguably preventing them from becoming extinct during that period. By the 1950s and 60s, peddling had sharply declined as members moved off the reservation to learn trades rather than solely rely on pottery sales for their income. Consequently, the number of female potters actively practicing the craft began to diminish. In a 1965 letter to a South Carolinian editor, Doris Wheelock Blue expressed her concern over the viability of the pottery tradition. “There is no shop where we sell the pottery,” she remarked, and “not much of a sale for it now.” She added she and the other potters “need... a place to sell our pottery.”

In 1973, Steven G. Baker, a Research Assistant in the History Department of the University of South Carolina, provided that place for Blue and her fellow potters to sell their work (Figure 1). He began collecting a variety of Catawba vessels from the older women, including Georgia Harris and Sarah Ayers. Fearing the movement would become extinct after their deaths, he encouraged these women to donate their vessels to him for an exhibit at the Columbia Museum of Art. Although initially reluctant, they obliged. In turn, the Museum hosted his collection. Titled *Catawba Trade Pottery of the Historic Period*, it lasted from November 25th through December 9th of that year. Besides serving to display the history of Catawba pottery, the exhibit was also incredibly lucrative. This was especially true after Baker increased the prices higher than Blue or Harris expected. Within a day, Harris had sold all her pottery, earning “two hundred and some dollars” from the event. As of 2019, this amount is equal to around \$1,131.11. Thus, it was clear the pottery sale was a success and demand showed no signs of dying.

However, organizing a group of Catawba women to continue the craft proved to be a difficult task. In 1976, Ayers, Blue, Louise Bryson, Francis Wade, and several other Catawba women potters held classes in order to teach the next generation the ancient craft. A year later, they held the first meeting of the Catawba Cooperative. While an ambitious attempt to organize the last generation of Catawba potters, the Cooperative was fraught with problems from the start. Member Edith Brown could not dig up clay at a local farm without trespassing on the property of a local farmer. One

member, Roala Harris, had left, while Wade and Bryson experienced “friction” between each other. As a result of the tensions between these women, the Cooperative did not survive.

Even if the pottery cooperative failed to cement in the 1970s, that did not mean the tradition died, nor did it mean the end of an interest in reviving tribal culture. Despite the fallout between members of the co-op, the women, motivated by the Columbia Museum’s successful exhibit, continued to sell vessels at cultural events. Exhibitions of the “centuries old” and “hand-built” pottery continued in South Carolina throughout the decade (Figure 3). By the 1980s, the craft still showed signs of life. According to potter Sarah Ayers, about 25 women practiced the art in 1980, an improvement from a time when “no one on the reservation” made it. Although they could no longer rely solely on its sale for revenue, there was still great demand for Catawba pottery thanks to the efforts of Baker and his cooperation with women like Blue and Harris.

During the exhibition, news articles predicted the extinction of the pottery movement, with one article from *The Charlotte Observer* calling it “a dying art.” However, the Catawba continue to be both proud and protective of their ancient pottery, and the tradition is still taught and practiced today. Not merely confined to museums, it has remained relatively unchanged from ancient times due to the conservative women potters’ insistence on authenticity and quality over quantity. Blue was particularly protective, even declining to teach the 1976 class because the man supervising it was not a Catawba Indian.

This conservative nature persists in the twenty-first century. Although non-members can watch Catawba potters creating vessels, the entire process of making pottery—from gathering the clay in a hole to burning the preformed shapes—is only taught to members. Out of respect, non-members avoid accompanying Catawba to their traditional clay holes. In 1997, the National Endowment of the Arts nominated Harris posthumously for a National Heritage Fellowship, recognizing the craft’s historic importance and symbolism of Catawba cultural identity. Although the Catawba may have strengthened this identity through tribal rolls and pottery revivals during termination, these did not address the underlying problems: the State of South Carolina’s invalid treaty and their continued failure to provide for the tribe. To confront those issues, the Catawba needed adequate legal representation.

In 1973, the Catawba elected Gilbert Blue chief. A defender of the tribe’s culture, Blue sought assistance from the Washington, D.C.-based Native American Rights Fund (NARF) five years later. After meeting with a NARF representative in Boulder, Colorado, Blue believed a claim against the state of South Carolina was possible based on the Nonintercourse Act of 1790. According to this law, a treaty between any Native American tribe and the United States was not valid unless Congress consented to it. The 1840 Treaty of Nations Ford, conducted without Congressional approval at the time, appeared to violate the Act. Therefore, the Catawba could sue the State of South Carolina in federal court, receiving the original 144,000-acre settlement in the process.

Initially, the local response in York County was to dismiss this potential claim as a joke. However, assistant attorney general John Choate believed the tribe had a legitimate case. He noted the State of South Carolina never honored the provisions of the Treaty of Nations Ford—namely, to offer land purchased in North Carolina. Choate also admitted Congress did not ratify the Treaty, furthering the tribe’s claim. In fact, the Catawbas were not alone in their dispute with the federal government. There had been several similar claims among tribes such as the Choctaw of Mississippi across the United States. Following the Catawba’s efforts, they attempted to invalidate the treaties and reclaim their land in federal court.

While the Catawba appeared to have a strong claim for their land, arguing it in court would be difficult. One local attorney called the case “a law professor’s dream, but a trial lawyer’s nightmare,” owing to its theoretical plausibility but its practical impossibility. Over 70,000 South Carolinians lived within the original 15 square mile tract, meaning they would be forcibly removed if the courts ruled in favor of the tribe. The theme park Carowinds was also part of the claimed territory, putting local tourism at stake. Indeed, the matter complicated local construction in Rock Hill, making corporations wishing to build distribution centers in that region such as Frito-Lay wary of any potential outcome in favor of the Catawba Tribe’s claim. Although ideal, a court ruling restoring all the original 144,000-acre tract was clearly not feasible.

However, this may have not been what either the Catawba or the white South Carolinians wanted. Bill Sloat, a contributor to a *South Magazine* article analyzing the lawsuit in 1978, concluded “neither the [Catawba] Indians nor the whites want to go to court.” Instead, he remarked “enlightened leaders on both sides” will work to “conclude this chapter of Southern history left pending for the past 200 years,” even if not through litigation. Indeed, a settlement allowing for the creation of a smaller reservation, though far from ideal, would certainly not mean the tribe completely failed in their legal efforts. In order to make these efforts possible, the tribe needed to propose a new piece of legislation.

On December 10, 1977, the Catawba narrowly voted to allow Representative Ken Holland to introduce a bill restoring their recognition and granting \$22 million in federal aid. Holland added a federal land purchase in the form of a new reservation would have “a tremendous financial impact” on York County, with the reservation serving a



similar purpose as a national park. Although Catawba member William Sanders warned against assuming all members wanted a new reservation, stating some simply wanted “an immediate get rich, that’s the end of it, scheme,” a slim majority of Catawba seemed to favor another reservation. Whether the tribe could accomplish this through an out-of-court settlement or a successful lawsuit, however, remained unclear.

With NARF employed as counsel for the tribe, in 1980 the Catawba sued the state of South Carolina, along with 79 businesses, in federal court. (For simplicity’s sake, the Court collectively referred to these appellants as “South Carolina.”) The United States District Court for the District of South Carolina found the statute of limitations barred the claim, granting summary judgment in favor of South Carolina. In 1983, the Catawba appealed the ruling to the Fourth Circuit Court of Appeals. The Circuit Court reversed the District Court’s decision in a 2-1 vote, permitting the Catawba to pursue their claim. In 1985, the State of South Carolina appealed the ruling to the United States Supreme Court, hoping they would issue the final ruling on the legitimacy on the Catawba’s land claim. However, the reality would be far more complicated.

On June 2, 1986, in a 5-4 ruling, the Supreme Court found the statute of limitations did not bar the tribe’s claims but reversed and remanded the ruling to the Fourth Circuit. This initiated a complex legal battle between South Carolina and the Catawba Tribe in the federal courts, with most of the key questions of the case being decided in the lower courts. The subsequent rulings did not favor the Catawba. On January 23, 1989, the Fourth Circuit Court found the tribe could not claim damages for adverse possession after the state had revoked the Tribe’s Constitution in 1962. The United States Supreme Court declined to grant *certiorari* three times: first in 1989, then twice in March and June of 1993. Litigation thus appeared to be an inefficient avenue in undoing the State’s nearly 200-year old series of wrongs. A settlement between the federal government, passed through an act of Congress, would prove more effective and easier than continuing to fight the State in federal court.

On October 27, 1993, President Bill Clinton signed the Catawba Indian Tribe of South Carolina Land Claims Settlements Act into law. The largest settlement of its type in history, it awarded \$50 million collectively to the tribe not only from the federal government, but from the State of South Carolina, York County, and the private businesses who were party to the lawsuit. The Act recognized the complexities of continuing litigation, noting “further litigation against tens of thousands of [South Carolinian] landowners” would likely occur. Most importantly, it restored federal recognition to the tribe, and established a trust fund to distribute the \$50 million settlement among members. The Catawba Tribe of South Carolina, which had ceased to exist as a federally recognized tribe since 1959, was now South Carolina’s only tribe with that status.

Even if the tribe succeeded in gaining what they had lost for over thirty years, that does not mean their fight with the federal government ended. As assistant Chief Early Fred Sanders remarked in 1993, “the \$50 million paid to the Catawba Nation” as part of the settlement was not “accounted for as expenditures.” Furthermore, the federal government has allowed and even encouraged the Catawba to violate the Indian Self-Determination Act of 1975. As the Nation continues to try and purchase land to extend their reservation, reduced to 700 acres as of 2019, they often face challenges and even outright refusal to obtain title to these lands.

Yet the nation is willing to take on these struggles, as well as demonstrate their pride in their culture. Indeed, since the 1990s, they have experienced what is rightly called a renaissance. This can be seen today not only in their pottery, but in traditional dance festivals such as the “Yap Ye Iswa,” or “Day of the People of the River,” a product of that period (Figure 4). Chief Gilbert Blue called the time after the settlement “a new era” for the Catawba, one in which economic development and improvements remain central to the tribe’s current vision. When explaining why he fought for Catawba land rights since 1975, he remarked, “I didn’t think the tribe was dying out. There were grants to be had, things to be done for the community.” The fact Blue acknowledged the tribe’s viability testifies to his faith in their future as well as their culture.

Although the passage of the 1993 Settlement Act formally restored the Catawba’s federal recognition, it was not the only effective means used to demonstrate their relevance during the termination period. The tribal rolls of 1943 and 1961 provided a stricter means of determining membership, ensuring it remained mostly confined to members most closely connected to the tribe’s original boundaries. Additionally, the revival of the 1970s pottery movement, which formed part of the modern Catawba cultural renaissance, attracted local attention in York County, saving the craft from extinction. Because of their fortitude during the termination era as well as the resources available to them, the Catawba were able to regain federal recognition despite the challenging obstacles before them. This contrasts with other tribes in the Carolinas like the Lumbee of North Carolina, who have yet to be federally recognized. As the Tribe’s website acknowledges, “We are warriors and are a strong, resilient people, who know that working together will move us farther down the path we want to go.” Whether through their clay vessels or court settlements, the Catawba continue to demonstrate this resilience into the twenty-first century.



Figure 1. “Arzada Sanders, Georgia Harris, and Sarah Ayers.” Circa 1973. Thomas John Blumer Collection on the Catawba Nation 1756-Present, University of South Carolina Lancaster.



Figure 2. Indian Head Jar by Georgia Harris, n.d. Thomas John Blumer Collection on the Catawba Nation, 1756-Present, University of South Carolina Lancaster.

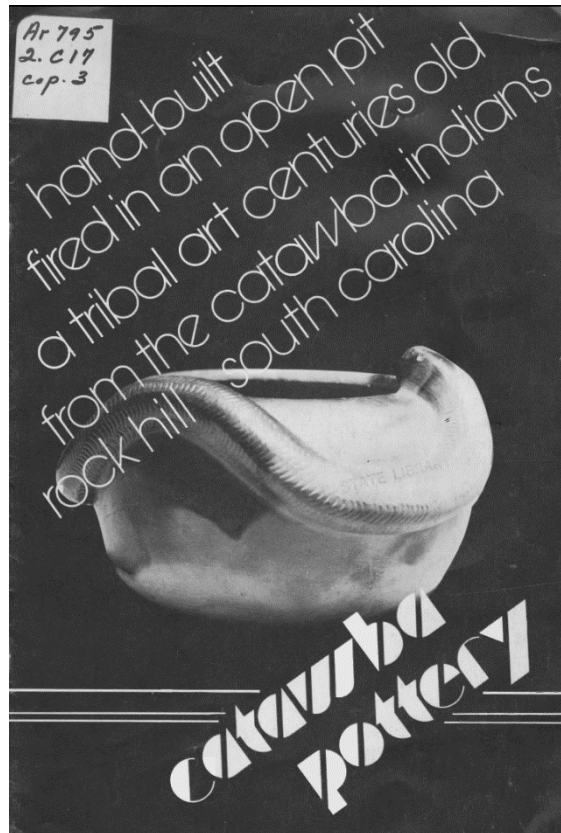


Figure 3. Catawba Pottery Brochure, 1977. South Carolina Arts Commission, South Carolina State Depository.



Figure 4. "Yap Ye Iswa." 1995. Thomas John Blumer Collection on the Catawba Nation, 1756- Present, University of South Carolina Lancaster.

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