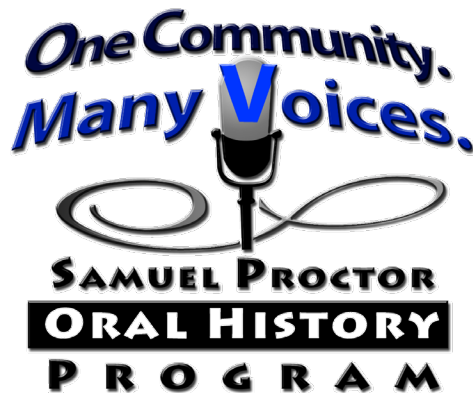


# Jay Bender

**Southeastern Indian Oral History Project (SIOHP)  
CAT-193**

**Interview by:**

**Emma Reid Echols  
November 28, 1992**



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**Interviewed by Emma Reid Echols on November 28, 1992**  
**9 minutes | 5 pages**

**Abstract:** In this interview, Emma Echols speaks with attorney Jay Bender about his role in the process of advocating on behalf of the Catawba Tribe in their settlement. He describes the various potential outcomes of the settlement, including the federal recognition of the Catawba Nation. He talks about how he was brought in by Jean Hoefler Toal, who later became the first woman to serve as Chief Justice on the South Carolina Supreme Court. He discusses what he believes will be the benefits for the Tribe if they are recognized. Bender ends by talking about how he believes the Catawba have a strong framework for success and saying that he is enthusiastic for the success of the litigation and the opportunity it will bring for the Catawba.

**Keywords:** [Catawba Nation; South Carolina--Columbia; Law; Activism]

**SAMUEL PROCTOR**  
**ORAL HISTORY**  
**P R O G R A M**  
**University of Florida**

CAT 193

Interviewee: Jay Bender

Interviewer: Emma Reid Echols

Date of Interview: November 28, 1992

E: This is Emma Echols, 5150 Sharon Road, Charlotte, North Carolina. I'm working on the oral history of the Catawba Indians with the University of Florida, Dr. Sam Proctor, the director, and I'm having a wonderful time. I've interviewed the Indians, I've interviewed students, and now I'm-a visit Jay Bender, an attorney-at-law, and I'm gonna let him put his name on the tape. His name and his address and just what he's doing.

B: I'm Jay Bender. My address is Post Office Box 8057, Columbia, South Carolina, 29202. I'm a partner in the law firm of Baker, Barber, Ravenel & Bender and have been fortunate that, since 1976, I have been one of the attorneys for the Catawba Nation.

E: That is wonderful! I've been wanting to meet someone like you.

B: [Laughter]

E: Now, just tell me, how did you begin and how have you come this long way?

B: Well, sometimes I think it's a long way, but when I look at what's happened to this Tribe throughout history and particularly since European contact, I just have a very small role to play in where Catawba is. In terms of representation of the Tribe, in 1975, Don Miller, of the Native American Rights Fund, was in South Carolina looking for local counsel to assist the Tribe. Don's from Boulder, Colorado, and he was looking—at the time, actually, he lived in Washington—but he was looking for local counsel and he called one of my partners, Jean Toal, and ask her if she would be interested in talking with him. They were looking for someone who had experience litigating civil rights cases and I was an associate

of Jean's—graduated from law school in [19]75—and we went to a meeting at the Columbia Metropolitan Airport, and met Don Miller and talked about the Tribe, and talked about the Tribe's land claim, and we hit it off immediately. I remember I told Sumner, my daughter—who's here with me today—as we walked up the road to the community center, that the first time I came to the reservation we met in what was the old Catawba school. It's up where the LDS church is now. There wasn't any grass, the ceiling had fallen out of the building, most of the windows were missing, but there was a large crowd of Tribal members there to hear from Don Miller and Dan Israel of NARF, and to meet Jean Toal and coincidentally with meeting her, meet me. And we started working with the Tribe and with NARF to develop the land claim. I took a year out of 1978, I didn't work on the case then, I was off running a fella's campaign for governor. He lost in the Democratic primary in a run-off to Dick Riley, so I've told Dick Riley that I'm responsible for his being the fine governor that he was.

E: [Laughter]

B: But I started back involved in the case actively in 1979 as we readied the filing of the lawsuit, and I've been involved in it off and on since that time. Jean Toal was lead local counsel, but she's gone off to a real job now. She was the first woman named to the South Carolina Supreme Court and she is an associate justice on that court. Since she's been gone, I've been lead local counsel, I guess. I've had great opportunities with the Tribe. I work in the negotiations. I guess, from a legal standpoint, the most memorable moments were the two times I've argued the Catawba case in the Fourth Circuit Court of Appeals in Richmond. I told the Tribe

one time at a meeting that every lawyer coming out of law school wants to have an opportunity to do justice, and that's what this representation has meant to me. It's an opportunity to see historical injustice corrected and to help a wonderful group of people: my friends, the Catawbas.

E: That's a wonderful statement that you're making. As I have [inaudible 4:35] among the Catawbas, especially the old ones, they're saying that, "We hope we don't get just money—that we need health facilities, we need maybe a clinic around here, we need old age benefits." What do you see that would benefit the Catawbas, as you've said, from a lawyer's viewpoint?

B: Well, I think several things that are incorporated in the agreement, in principle, that we hope to have enacted in the legislation in early 1993. There will be a provision for economic development, to help the Tribe provide job opportunities for the young people of the Tribe. There will be assistance for education for younger Tribal members. There will be an opportunity for older Tribal members to receive assistance. There will be federal recognition of the Tribe, a restoration of the Tribe's federal status, which will make the members eligible for many of the benefits that flow from having federal government support, that the Tribe has not had since the 1950s. And I think that those things together will allow the Tribe to develop economic self-sufficiency and continue the preservation of their culture. It's been very difficult for this Tribe to maintain a cultural identity because they've been dispersed, because there've been no jobs in the reservation area. There've been no real opportunities for education. I've heard that one of the unifying factors that this Tribe has had is the pottery. That it has provided a link from

generation to generation, and I think that that'll be an element that the Tribe can build on if we get—not if, I'm confident that we will get the settlement enacted. I look for this Tribe to continue to prosper because of the solid leadership it gets and I expect that there is a tradition of leadership that will be carried on. Gilbert Blue, Fred Sanders, the other members of the executive committee, have done just a terrific job at keeping the focus of the Tribe on settling the case. At times, it has looked bleak. They've been questioned about why we've made certain decisions. Yet through it all, the executive committee, the Chief, the assistant Chief, managed to keep their eye on the prize and I think we're within just a few months of legislative work of recognizing a very long battle, a battle in which generations of Tribal leaders have been heroes. I think this oral history is a way to keep in touch with that.

E: Your **enthused aspect** about it, this glorious task, and there's a hope for the future. Is that the way you're thinking of it?

B: I think that's exactly right. I am enthusiastic about it because I see a lot of groups who could get the same opportunity that I see coming from this settlement, and it would be dissipated. I see the Catawbas as having a framework and a culture that will take the opportunity and make something great out of it.

E: I see something else important as the baskets and the pottery and all that. Those are trivial things compared to the memories of the past, and the tradition and the heritage of the past, and the relationship of living together in peace and harmony as citizens of the United States, not as Catawbas, not as Whites, but as one people under God.

B: Well, I think the Catawbas have a rich tradition of that going back to the first European contact. It was the Catawbas who, I guess, helped the Europeans—for better or worse—make inroads into the interior, and had it not been for the Catawbas I suspect the European settlements may have taken a hundred years to get off the coast. Looking at that from 1992 perspective, we can't be certain that was the right thing to do. But at the time, it seemed right for the Catawbas and as a Tribe the Catawbas have always done what they think is right.

E: I appreciate that. Thank you for talking to me.

B: Well, thank you. It's been a pleasure.

[End of Interview]

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