

“President Jackson violated laws, treaties, and Supreme Court orders in his dealings with Native Americans.”

Outline of our Argument/ Opening Statement / Closing Statement

- Violated Treaty of Hopewell of 1785, which officially declared the Cherokee Nation **“to be under the protection of the United States of America”**
- Violated the territorial boundaries given to the Indians in Treaty of Holston in 1791
- In *Cherokee Nation vs Georgia* the supreme court declared that the Cherokees **“are not a state of the Union”** and that they are **“not owing allegiance to the United States”**
- In *Worcester vs. Georgia*, the supreme court declared that Georgia’s laws which regulated Indian territory and violated their rights to be **“unconstitutional and void because they impair the obligation of the various contracts formed by and between the aforesaid Cherokee Nation and the said United States of America”** This is saying that the government cannot pass laws that regulate indian tribes because they are a violation of precedent indian treaties.
- Article One, Section 8 of the Constitution gives the government the right to **“To regulate Commerce... with the Indian Tribes”** It DOES NOT give them the right to forcibly remove them from their land.
- The Treaty of New Echota, which gave the federal government the rights to Cherokee land, was signed by a small self appointed group of cherokee representatives, and **did not** accurately represent the wishes of the Cherokee nation as a whole. The true wishes of the Cherokee nation were made apparent in a letter written to the senate by John Ross, the chief of the Cherokee Nation, in which he protested the treaty, saying that: **“The instrument in question is not the act of our nation. We are not parties to its covenants; it has not received the sanction of our people.”** 16,000 cherokee also signed a petition protesting the treaty.

Quotes from John Ross’ letter to the US senate protesting the treaty of New Echota:

<http://www.pbs.org/wgbh/aia/part4/4h3083t.html>

“The instrument in question is not the act of our nation,” “We are not parties to its covenants; it has not received the sanction of our people.”

TREATY WITH THE CHEROKEE AT HOPEWELL

<http://digital.library.okstate.edu/kappler/vol2/treaties/che0008.htm#mn13>

ARTICLE 3.

The said Indians for themselves and their respective tribes and towns do acknowledge all the Cherokees to be under the protection of the United States of America, and of no other sovereign whosoever.

WORCESTER V GEORGIA

An act entitled an act to prevent the exercise of assumed and arbitrary power by all persons under pretext of authority from the Cherokee Indians, and their laws, and to prevent white persons from residing within that part of the chartered limits of Georgia occupied by the Cherokee Indians, and to provide a guard for the protection of the gold mines, and to enforce the laws of the State within the aforesaid territory,

are repugnant to the aforesaid treaties, which, according to the Constitution of the United States, compose a part of the supreme law of the land; and that these laws of Georgia are, therefore, unconstitutional, void, and of no effect; **that the said laws of Georgia are also unconstitutional and void because they impair the obligation of the various contracts formed by and between the aforesaid Cherokee Nation and the said United States of America, [p540]** as above recited; also that the said laws of Georgia are unconstitutional and void because they interfere with, and attempt to regulate and control the intercourse with the said Cherokee Nation, which, by the said Constitution, belongs exclusively to the Congress of the United States; and because the said laws are repugnant to the statute of the United States, passed on the ___ day of March 1802, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" **-John Marshall**

CHEROKEE VS GEORGIA

“The counsel have shown conclusively, that they are not a state of the Union, and have insisted that, individually, they are aliens, not owing allegiance to the United States. An aggregate of aliens composing

a state must, they say, be a foreign state; each individual being foreign, the whole must be foreign.” -**John Marshall, Supreme Court Justice**

FIRST INAUGURAL ADDRESS

"It will be my sincere and constant desire to observe toward the Indian tribes within our limits a just and liberal policy, and to give that humane and considerate attention to their rights and their wants which is consistent with the habits of our Government and the feelings of our people." -- **Andrew Jackson, First Inaugural Address**

- *but Jackson did not “ give humane and considerate attention to their rights and their wants... ”. The Indian Removal was far from peaceful and voluntary. If Jackson wanted to treat the Indians with respect, there would not have been many deaths on the Trail of Tears, military escorts to the west, etc.*
 - *A few tribes went peacefully, but many resisted the relocation policy. During the fall and winter of 1838 and 1839, the Cherokees were forcibly moved west by the United States government. Approximately **4,000 Cherokees died** on this forced march, which became known as the "Trail of Tears." -<http://www.loc.gov/rr/program/bib/ourdocs/Indian.html> (other team's link)*
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SECOND INAUGURAL ADDRESS

“To do justice to all and to submit to wrong from none has been during my Administration its governing maxim, and so happy have been its results that we are not only at peace with all the world, but have few causes of controversy, and those of minor importance, remaining unadjusted.” -**Andrew Jackson, 2nd Inaugural Address**

SECOND ANNUAL MESSAGE TO CONGRESS

“It will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way and under their own rude institutions; will retard the progress of decay, which is lessening their numbers, and perhaps cause them gradually, under the protection of the Government and through the influence of good counsels, to cast off their savage habits and become an interesting, civilized, and Christian community.” -**Andrew Jackson, Second Annual Message to Congress**

“Toward the aborigines of the country no one can indulge a more friendly feeling than myself, or would go further in attempting to reclaim them from their wandering habits and make them a happy, prosperous people. I have endeavored to impress upon them my own solemn convictions of the duties and powers of the General Government in relation to the State authorities. For the justice of the laws passed by the States within the scope of their reserved powers they are not responsible to this Government. As individuals we may entertain and express our opinions of their acts, but as a Government we have as little right to control them as we have to prescribe laws for other nations.” -**Andrew Jackson, Second Annual Message to Congress**

THIRD ANNUAL MESSAGE

The internal peace and security of our confederated States is the next principal object of the General Government. Time and experience have proved that the abode of the native Indian within their limits is dangerous to their peace and injurious to himself. In accordance with my recommendation at a former session of Congress, an appropriation of \$500K was made to aid the voluntary removal of the various tribes beyond the limits of the States. At the last session I had the happiness to announce that the Chickasaws and Choctaws had accepted the generous offer of the Government and agreed to remove beyond the Mississippi River, by which the whole of the State of Mississippi and the western part of Alabama will be freed from Indian occupancy and opened to a civilized population. The treaties with these tribes are in a course of execution, and their removal, it is hoped, will be completed in the course of 1832. -**Andrew Jackson**

THE INDIAN REMOVAL ACT

The actual Act which gives the president the right to move indians:

<http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsl004.db&recNum=459>
<https://www.mtholyoke.edu/acad/intrel/removal.htm>

THE CONSTITUTION

ARTICLE II, SECTION 4

https://www.constituteproject.org/constitution/United_States_of_America_1992#83

The President, Vice President and all Civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Andrew Jackson and the Constitution

by Matthew Warshauer

(Secondary Source)

<https://www.gilderlehrman.org/history-by-era/age-jackson/essays/andrew-jackson-and-constitution>

Jackson's views regarding American Indians also challenged the law. Treaties were and continue to be legal agreements among sovereign nations. However, **Jackson refused to believe that Native American tribes were sovereign and thus viewed Indian treaties as an absurdity.** Ultimately, he forcibly removed a number of tribes, most notoriously the Cherokee, from their homes. The Trail of Tears is one of Jackson's most infamous legacies. Yet even removal and issues of tribal sovereignty fit within a larger context of Jackson's convictions regarding national security and state sovereignty. The general's rise was

due to his success as an Indian fighter on the frontier. He always, and to some extent legitimately, viewed American Indians as a serious threat to settlers. As president, Jackson understood the sentiment of southern states and their conception that states could not be erected within sovereign states such as Georgia. All of this, of course, revolved around the larger issue of Native American dispossession and who rightfully owned of the land

The Trail of Tears- the Indian Removals (Secondary Source)

<http://www.ushistory.org/us/24f.asp>

The **CHEROKEES** of **Georgia**, on the other hand, used legal action to resist. The Cherokee people were by no means frontier savages. By the 1830s they developed their own written language, printed newspapers and elected leaders to representative government. When the **government of Georgia refused to recognize their autonomy and threatened to seize their lands**, the **Cherokees took their case to the U.S. Supreme Court and won a favorable decision**. John Marshall's opinion for the Court majority in *Cherokee Nation v. Georgia* was essentially that **Georgia had no jurisdiction over the Cherokees and no claim to their lands**. But **Georgia officials simply ignored the decision, and President Jackson refused to enforce it**.

A Treaty of Peace and Friendship made and concluded between the President of the United States of America, on the Part and Behalf of the said States, and the undersigned Chiefs and Warriors, of the Cherokee Nation of Indians, on the part aide Behalf of the said Nation.

http://avalon.law.yale.edu/18th_century/chr1791.asp

VIOLATED TREATY:

Treaty of Holston 1791

ARTICLE IV.

The boundary between the citizens of the United States and the Cherokee nation, is and shall be as follows: Beginning at the top of the Currahee mountain, where the Creek line passes it; thence a direct line to Tugelo river; thence northeast to the Occunna mountain, and over the same along the South-Carolina Indian boundary to the North-Carolina boundary; thence north to a point from which a line is to be extended to the river Clinch, that shall pass the Holston at the ridge which divides the waters running into Little River from those running into the Tennessee; thence up the river Clinch to Campbell's line, and along the same to the top of Cumberland mountain; thence a direct line to the Cumberland river where the Kentucky road crosses it; thence down the Cumberland river to a point from which a south west line will strike the ridge which divides the waters of Cumberland from those of Duck river, forty miles above Nashville; thence down the said ridge to a point from whence a south west line will strike the mouth of Duck river.

And in order to preclude forever all disputes relative to the said boundary, the same shall be ascertained, and marked plainly by three persons appointed on the part of the United States, and three Cherokees on the part of their nation.

And in order to extinguish forever all claims of the Cherokee nation, or any part thereof, to any of the land lying to the right of the line above described. beginning as aforesaid at the Currahee mountain, it is hereby agreed, that in addition to the consideration heretofore made for the said land, the United States will cause certain valuable goods, to be immediately delivered to the undersigned Chiefs and Warriors, for the use of their nation; and the said United States will also cause the sum of one thousand dollars to be paid annually to the said Cherokee nation. And the undersigned Chiefs and Warriors, do hereby for themselves and the whole Cherokee nation, their heirs and descendants, for the considerations above-mentioned, release, quit-claim, relinquish and cede, all the land to the right of the line described, and beginning as aforesaid.

***Article 4 paraphrased: The Cherokee Nation has the right to live inside the boundaries listed above*

ARTICLE V.

It is stipulated and agreed, that the citizens and inhabitants of the United States, shall have a free and unmolested use of a road from Washington district to Mero district, and of the navigation of the Tennessee river.

ARTICLE VII.

The United States solemnly guarantee to the Cherokee nation, all their lands not hereby ceded.

***In the Indian Removal Act, the Cherokees never formally ceded or surrendered their lands. Jackson forced their removal, breaking this treaty.*

ARTICLE XI. -

If any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement or territory belonging to the Cherokees, and shall there commit any crime upon, or trespass against the person or property of any peaceable and friendly Indian or Indians, which if committed within the jurisdiction of any state, or within the jurisdiction of either of the said districts, against a citizen or white inhabitant thereof, would be punishable by the laws of such state or district, such offender or offenders, shall be subject to the same punishment, and shall be proceeded against in the same manner as if the offence had been committed within the jurisdiction of the state or district to which he or they may belong against a citizen or white inhabitant thereof.

LIST OF TREATIES BROKEN

http://www.tn4me.org/minor_cat.cfm/minor_id/15/major_id/32/era_id/2

THESE ARE ALL TREATIES THAT GAINED MORE LAND FOR AMERICANS, WHILE TAKING LAND AWAY FROM THE NATIVE AMERICANS

**The Trail of Tears- the Indian Removals
(Secondary Source)**

<http://www.ushistory.org/us/24f.asp>

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Supreme Court Decision "Cherokee Nation vs. Georgia"

http://www.pbs.org/wnet/supremecourt/antebellum/landmark_cherokee.html

Thus, the Court asserted that "foreign nations," as used in the Constitution, could not include "Indian nations." Because the Constitution only authorizes the Supreme Court to hear cases brought by "foreign nations," not "Indian nations," the Court was not authorized to entertain this case and dismissed it.

Worcester v. Georgia

The **Georgia government** recognized that Worcester was influential in the Cherokee resistance movement and enacted a law that prohibited "white persons" from residing within the Cherokee Nation without permission from the state

Marshall wrote that the Indian nations were "distinct, independent political communities retaining their original natural rights" and that the United States had acknowledged as much in several treaties with the Cherokees

<http://www.georgiaencyclopedia.org/articles/government-politics/worcester-v-georgia-1832>

<https://www.law.cornell.edu/supremecourt/text/30/1>

QUESTIONING

- **How do you consider Jackson's actions "within his legal power", when we have proof that he violated treaties and disobeyed the Supreme Court? Where does it give Jackson the power to remove the Indians or take their land?**

- **Did President Jackson break any treaties with the Native Americans in signing and executing the Indian Removal Act?**
- **Is the violence that resulted from the Indian Removal Act as seen in the many deaths on the “Trail of Tears” lawful and justified?**
- **In confiscating the land that was the Cherokees, did President Jackson unlawfully take land that the United States had no right to, land that multiple treaties hold the claim of the land to the Native Americans?**
- **How do you explain Jackson violating the Treaty of 1791?**
- **In the Treaty of 1791 it clearly outlined the Cherokee Territory yet Jackson passed the Indian Removal Act which moved them against their will. How can you expect America to be trustworthy to foreign nations if our presidents go back on their words?**
- **What is your evidence for your statement that “everything he did was for the good of the indians”? Is it unlawful that President Jackson relocated the Indians with force? Does it not break treaty that the move was not voluntary and that many Indian tribes did not formally cede their land to the United States? If Jackson was thinking about the Indian’s safety, why didn’t he ask for their permission? and why did he use force in removing them?**
 - *A few tribes went peacefully, but many resisted the relocation policy. During the fall and winter of 1838 and 1839, the Cherokees were forcibly moved west by the United States government. Approximately 4,000 Cherokees died on this forced march, which became known as the "Trail of Tears." -<http://www.loc.gov/rr/program/bib/ourdocs/Indian.html> (other team’s link)*
 - *“Though all Eastern tribes were eventually relocated West of the Mississippi, the government failed utterly in its pledge to enact the policy on a strictly voluntary basis (a policy notably not written into the act.) Nearly all relocation was carried out under duress, whether by military escort, or when no other option remained after tribal decimation by broken treaties, fraudulent land deals and the wars these often caused”*
 - *This is from the con group’s links.. but it definitely is by an author who supports our side so... just wanted to share haha*
 - *<http://www.synaptic.bc.ca/ejournal/jackson.htm#Vh8J-npVikp>*
- **How can you say “ the Indian Removal Act was not opposed by Congress”? How can you say Jackson didn’t violate Supreme Court orders when in Worcester vs. Georgia it was declared that the Cherokee are a sovereign nation yet he signed the Indian Removal Act?**
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- **One of your points mentions railroads affecting expansion. In what way do railroads warrant a charge in this case?**
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- Why didn't Jackson veto the Indian Removal Act when it could've put the country in risk?
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- They can't make the point that Van Buren put into Action what Jackson suggested, because at the time of this trial, Van Buren is not in office yet.

REBUTTAL

After not moving readily, the Indians were forcibly evicted from their lands by American troops. The treaty calls for voluntary movement of Indians from their lands

- *"After a harassing warfare, prolonged by the nature of the country and by the difficulty of procuring subsistence, the Indians were entirely defeated, and the **disaffected band dispersed or destroyed. The result has been creditable to the troops engaged in the service.** Severe as is the lesson to the Indians, it was rendered necessary by their unprovoked aggressions, and it is to be hoped that its impression will be permanent and salutary."* -- Andrew Jackson, Fourth Annual Message to Congress
http://www.synaptic.bc.ca/ejournal/jackson.htm#.Vh7-_npVikp

Is it right to make national decisions without involving those that will be the most drastically affected by the decision?

The Indians refused to cede their lands to the United States yet they were forcibly removed from their homes and their land was claimed by Americans.

- *"The nation in council most positively determined that they would not sell or exchange their lands, or any part of them. They alleged that they are here on the land of their fathers, and that they love their land, and cannot leave it... As an inducement to this course, it was proposed that they should send four Chickasaws, and the Government would send with them an agent, who should accompany them the whole route, and pay all expenses of the whole party; and to pay the four Chickasaws for their time two dollars each per day, for the whole time they should be employed; and, strange as it may appear, after two days' deliberation on this proposal, it was rejected by the nation; **thus determining that they would neither now nor hereafter ever cede to the United States any part of their country.**"* --Hon. James Barbour, Secretary of War, Nov. 2, 1826
http://avalon.law.yale.edu/19th_century/nt007.asp