

## **Lesson Title: The Indian Removal Act: Was it Constitutional?**

**Author Name: Lanette Bowen**

**Appropriate for Grade Level(s): 7 - 12**

### **US History Standard(s)/Applicable CCSS(s):**

The student understands federal and state Indian policy and the strategies for survival forged by Native Americans.

Standard: 1B:

- Compare the policies toward Native Americans pursued by presidential administrations through the Jacksonian Era.
- Explain and evaluate the various strategies of Native Americans such as accommodation, revitalization, and resistance.

### **CCSS**

**RI.7.1.** Cite several pieces of textual evidence to support analysis of what the text says explicitly as well as inferences drawn from the text.

**RI.7.3.** Analyze the interactions between individuals, events, and ideas in a text (e.g., how ideas influence individuals or events, or how individuals influence ideas or events).

**SL.8.4.** Present claims and findings, emphasizing salient points in a focused, coherent manner with relevant evidence, sound valid reasoning, and well-chosen details; use appropriate eye contact, adequate volume, and clear pronunciation.

**RI 8.1**Cite the textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

**RI 8.2** Determine a central idea of a text and analyze its development over the course of the text, including its relationship to supporting ideas; provide an objective summary of the text.

**RI 8.6** Determine an author's point of view or purpose in a text and analyze how the author acknowledges and responds to conflicting evidence or viewpoints.

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**Discussion Question(s):** The state of Georgia and the federal government of the United States were justified in forcing the Indian tribes east of the Mississippi River to leave their homelands and to move to the Oklahoma territory. Do you agree or disagree with this statement? Was the Indian Removal Act constitutional?

**Engagement Strategy:** Have the room set-up in two sections. Split the students into two groups by giving each student, as they enter the room, a token; one with Jackson’s face, or the other with an eagle. The eagle tokens sit at the tables, the Jackson token stand against the wall.

Tell the Jackson token group that they will be leaving for the rest of the year, and to pick up their backpack, for this is the only belongs they can take with them. They will be paid for their table area and nothing else. (2 gummy bears a piece). Answering no student’s question, continue to respond with the following statement:

- 1) This is in your best interest
- 2) The decision has already been made.

**Student Readings (list):** In pairs, students will conduct essential research used for background information:

1. [http://www.pbs.org/ktca/liberty/popup\\_northwest.html](http://www.pbs.org/ktca/liberty/popup_northwest.html) for a brief description of the Northwest Ordinance.
2. <http://www.pbs.org/wgbh/aia/part4/4p2959.html> for an article on the history of Indian removal, generally.
3. [http://www.pbs.org/wnet/supremecourt/antebellum/landmark\\_cherokee.html](http://www.pbs.org/wnet/supremecourt/antebellum/landmark_cherokee.html). A discussion of the Cherokee Indian cases before the United States Supreme Court in the 1830s on the issue of Indian sovereign nation status.
- 4.: <http://digital.library.okstate.edu/kappler/Vol2/Toc.htm> Treaties
5. <http://www.cherokee.org/> A concise history of the roundup of the Cherokee in Georgia from the native perspective.
- 6.: <http://www.yvwiusdinvnohii.net/history/ps-debat.txt> The actual debate
7. <http://lincoln.lib.niu.edu/teachers/lesson5-groupc.html> Committee of Indian affairs
- 8.: <http://ngeorgia.com/history/goldrush.html> Georgia gold rush  
  
[http://www.goldrushgallery.com/dahlmint/c\\_history\\_1.html](http://www.goldrushgallery.com/dahlmint/c_history_1.html)

**Total Time Needed: 4- 5 class periods**

**Lesson Outline:**

Time Frame (e.g. 15	What is the teacher doing?	What are students doing?
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The pages that follow the Lesson Plan Template include a detailed background paper on the topic for teachers, student readings and reading strategy/questions, source(s), handouts, assignment sheet, self-assessment/reflection and a rubric related to this lesson.

minutes)		
<b>Day 1</b> 5min.	<p>Hook: Classroom will be set-up ahead of time. Students will be given a token as they enter class; one will be an eagle, the other will be an Indian. The students with the eagle will sit at the tables, while the students with the Indian will remain standing along the wall.</p> <p>Students standing are told they will be leaving with only their backpacks, for the rest of the year. They will be paid for their table space by me (2 gummy bears).</p> <p>Answer no questions but tell them following: <b>1)</b>It is in your best interest or <b>2)</b> the decision has already been made.</p>	Either sitting or standing, depending on their token.
3 min.	“How did you feel about being singled out?”	Returning to appropriate seats. Discuss and record feelings
5 min.	<p>Explain that in 1830, the Indian Removal Act was passed requiring the Cherokee to be moved from Georgia to reservations to allow for the discovery and mining of gold. The Native Americans were forced to move and integrate into American Society.</p> <p>Watch a “Brain Pop” clip on Indian Removal <a href="#">Trail of Tears</a></p>	In pairs, obtain computers for background research.
40 min.	Teacher becomes facilitator by passing out a note- taker for students to use for notes	<p>Students use teacher-given sites and note-taker to gather background information on the Indian Removal question.</p> <p>Exit Ticket: <i>Describe Andrew Jackson’s beliefs about Native Americans and why you believe this.</i></p>
<b>Day 2</b> 5 – 10 min	Charts have been set up around the room to display gathered information. Leads a discussion over what was found.	Each pair writes one piece of new information and places a check-make next to information they also gathered.
3 min.	<p>Passes out two Primary documents: Letter from the ladies of Steubenville, Ohio, (protesting removal)</p> <p><a href="http://docsteach.org/documents/306633/de">http://docsteach.org/documents/306633/de</a></p>	Students have both a copy and can see the original first Letter projected on the screen.

	<a href="http://historymatters.gmu.edu/d/6598/">tail?mode=browse&amp;menu=closed&amp;era%5B%5D=expansion-and-reform&amp;sortBy=title&amp;page=6</a> and a letter from Chief Ross (“Our Hearts are Sickened”) <a href="http://historymatters.gmu.edu/d/6598/">http://historymatters.gmu.edu/d/6598/</a>	
40 min.	Teacher acts as facilitator, answering questions	In pairs, students will read the two letters, highlighting important points, and annotating as they read. Students will analyze the opinions.  Exit Ticket: <i>Create a Venn diagram comparing and contrasting the two letters.</i>
<b>Day 3</b> 5 min	Using the charts constructed Day 1 and the information gathered in Day 2, explain that today will be a “pro/con” day. Go over the directions of using other Primary sources This time using one “pro” and one “con” for Indian Removal.	In groups, assigned by playing cards, students will sit at the designated number tables.
40 min.	Pass out the two pieces to each group. The selections and questions used are from: Beauchemin, Tomothy. <i>Pros vs. Con : Conflicting Views of the Major Events in American History (1492 – 1875)</i> . P. 25-28. Virginia. Educational Innovations, Inc.	Students will take turns read these pieces to each other and using highlighters and annotations, to gather information.. Students will then complete one question work sheet.  Exit ticket: <i>If you were a member of Congress, what Questions would you have for President Jackson?</i>
<b>Day 4</b> 5 min.	Explain that over the last several days, students have been gathering background on this controversial topic of the Indian Removal Act of 1830. The task for today is to get into their table pairs in order to prepare for a debate on the Indian Removal Act. Each pair will receive a document analyze sheet.	Students back to regular seats. Each table will have two pairs: one “Pro” and one “Con” Students will read their primary document and complete their side of the sheet.
10-15 min	Model this assignment. Using a short Primary document, use the analytical sheet.	Have students give input as to what to write on the analytical sheet.
30 min	Teacher be facilitator with students. Break up the time into sections to assure the analytical sheet is filled out.	Students are reading, discussing, and writing their opinions using evidence from the documents.
<b>Day 5</b> <b>5 min</b>	Set-up classroom for debate. Students sit with their partner. Go over rules and post on board and pass out pennies.. Set minute timer out were all can see.	Students have their analytical sheet and an evaluation sheet to rate the opposite opinion.
15 min.	Monitor the debate. Conclusion.	Students have 2 pennies and can only speak twice. Must follow rules.

10 min.	Teacher: Read the poem: "The Never-ending Trail"	Students write reflections about their experience and what they have learned.
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**Description of Lesson Assessment:** Students will then write a constructed response to the essential question: Was the Indian Removal Act Constitutional? Students may use any notes or their text for the Bill of Rights.

**How will students reflect on the process and their learning?** Using the documents provided, discuss the crisis that developed around the issue of Indian removal in the 1830s, making sure to evaluate the pros and cons surrounding Indian removal as well as the various positions that were taken by Americans and Native Americans.

Accountable Talk

I believe \_\_\_\_\_ because.....

I want to agree with \_\_\_\_\_ because.....

I would like to disagree with what \_\_ said .....

I need clarification.....

In other words, what you said was.....

Can you give me an example?

I can give you an example of that.....

That reminds me of.....

I have made a connection .....

Maybe it means .....

This is really important.....

Aha!... or YES!...or I GET IT....

What would you say \_\_\_\_\_, about this?

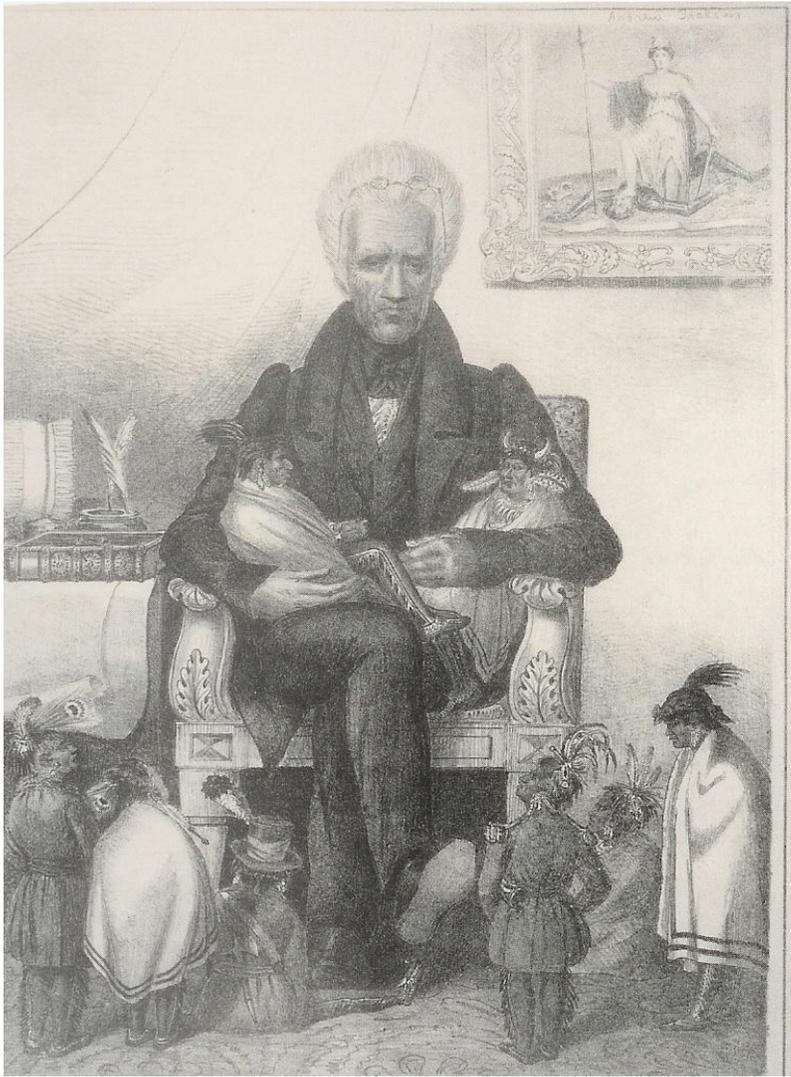
What conclusions can you draw?

What would you recommend?

Based on what you know, how would you explain....?

What would happen if.....?

How would you improve.....?



- 1) Who is depicted in this political cartoon?
- 2) How are Native Americans portrayed in this illustration?
- 3) What is the relationship between President Andrew Jackson and the native Americans?
- 4) What other parts of the illustration show conflict?
- 5) What attitude toward Native Americans does this cartoon imply?
- 6) If you were a Native American how would you feel about this depiction?

**President Andrew Jackson speaks to the Cherokee delegation at the White House. March 1835**

“You are now placed in the midst of the white population....You are now subject to the same laws which govern the citizens of Georgia and Alabama. You are **liable**<sup>1</sup> to prosecutions for offenses, and to the civil actions for a breach of any of your contracts. Most of your people are uneducated, and are liable to be brought into **collision**<sup>2</sup> at all times with your white neighbors. Your young men are acquiring habits of **intoxication**<sup>3</sup>. With strong passions... they are frequently driven to excesses which must eventually terminate in their ruin. The game has disappeared among you, and you must depend upon agriculture and the mechanic arts for support. And yet, a large portion of your people have acquired little or no property in the soil itself....How, under the circumstances, can you live in the country you now occupy? Your condition must become worse and worse, and you will ultimately disappear, as so many tribes have done before you?”

1. Legally responsible or obligated.

2. coming violently into contact

3. To become drunk or cause loss of control.

**Source: Jackson’s talk, March 1835, Jackson Papers, LC.**

“The distinguished scholar of Native American history Francis Paul Prucha has argued that four courses of action were available to the government in ending the everlasting white/red crisis. And four courses only. First, **genocide**<sup>1</sup>. **Exterminate**<sup>2</sup> the race. But one in his right mind seriously proposed such a solution, certainly not Jackson or any other responsible official in the government. Second, **integrate**<sup>3</sup> the two societies. But Native Americans had no desire to become cultural white men. They had their own customs, laws, language, religion, government, and leaders and wanted to keep them. ...Nor did whites favor integration. As racists they feared that integration with red people would ultimately lead to integration with blacks. And that possibility horrified them. Third, protect the natives where they lived by enforcing existing treaties. ...There was not army enough o keep squatters from invading the Indian country. ...Fourth, removal. This was the course Jackson knew would work and therefore adopted. No other alternatives existed if Indians were to survive.”

1. A program of action intended to destroy a whole national or ethnic group

2. To get rid of entirely

3. Bringing different racial or ethnic groups together equally

"Being deeply impressed with the opinion that the removal of the Indian tribes from the lands which they now occupy within the limits of the several states and Territories. . . is of very high importance to our **Union**<sup>1</sup>, and may be accomplished on conditions and in a manner to **promote**<sup>2</sup> the interest and happiness of those tribes, the attention of the Government has been long drawn with great **solicitude**<sup>3</sup> to the object. For the removal of the tribes within the limits of the State of Georgia the motive has been peculiarly strong, arising from the compact with that State whereby the United States are bound to **extinguish**<sup>4</sup> the Indian title to the lands within it whenever it may be done peaceably and on reasonable conditions. . . . The removal of the tribes from the territory which they now inhabit . . . would not only shield them from **impending**<sup>5</sup> ruin, but promote their welfare and happiness. Experience has clearly demonstrated that in their present state it is impossible to incorporate them in such masses, in any form whatever, into our system. It has also demonstrated with equal certainty that without a timely **anticipation**<sup>6</sup> of and provision against the dangers to which they are exposed, under causes which it will be difficult, if not impossible to control, their **degradation**<sup>7</sup> and **extermination**<sup>8</sup> will be **inevitable**<sup>9</sup>."

*President James Monroe, in an 1825 message to Congress*

<sup>1</sup> northern states of the US during the Civil War

<sup>2</sup> encourage

<sup>3</sup> anxiety or concern

<sup>4</sup> to put an end

<sup>5</sup> threatening

<sup>6</sup> expectation

<sup>7</sup> wearing down

<sup>8</sup> destroy

<sup>9</sup> certain

The Cherokee Nation is bounded on the North by East Tennessee & North Carolina, east by Georgia, south by the Creek Nation and State of Alabama\_\_\_and west by Tennessee... There are a few instances of African Mixture with Cherokee blood & wherever it is seen is considered in the light of **misfortune**<sup>1</sup> & disgrace but that of the white may be as 1 to 4\_\_\_occasioned by intermarriage which has been increasingly in proportion to the march of civilization... In view of their location it readily appears that they are farmers and herdsmen,...

<sup>1</sup> bad fortune

Our Country is well adapted for the growth of Indian Corn, wheat, Rye, Oats, Irish and Sweet Potatoes, which are cultivated by our people...

<sup>2</sup> basic item

Cherokees on the Tennessee River already commenced to trade in Cotton and grow it on large plantations for which they have experienced flattering profit. Preparation is making by all those in good circumstances, to cultivate the Cotton for market which will soon be a **Staple**<sup>2</sup> commodity of traffic for the Nation...

<sup>3</sup> evil habit

The tide of white population was advancing on all sides & the Indians poor in goods, but well supplied with the **vices**<sup>3</sup> of their neighbors were retreating to a given point where they would eventually be crushed in the folds of the **encroaching**<sup>4</sup> Serpent!...

<sup>4</sup> to advance

About the year 1795 missionaries were sent by... Gen. Washington who from the Indian Testimony itself laboured **indefatigably**<sup>5</sup> to induce the Indians to lead a domestic life... Here they were first taught to sing and pray to their Creator, and here Gospel Worship was first established in our nation...

<sup>5</sup> untiring

It was for Strangers to effect this, and necessity now compels the last **remant**<sup>6</sup> to look for it for protection. It is true, we enjoy self Government, but we live in fear,... Strangers urge our removal [to make room for their settlements], they point to the West and there they say we can live happy. Our National **existence**<sup>7</sup> is suspended on the faith and honor of the United States alone....

<sup>6</sup> small part

In the **lapse**<sup>8</sup> of half a Century if Cherokee blood is not destroyed it will run its courses in the veins of fair **complexions**<sup>9</sup> who will read that their Ancestors under the Stars of **adversity**<sup>10</sup>, and curses of their enemies became a civilized Nation.

<sup>7</sup> being; living

<sup>8</sup> passage of. Time

<sup>9</sup> appearance

<sup>10</sup> trouble

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*Success of the "Civilizing" Project Among the Cherokee Written by Chief John Ridge in 1826*

It gives me pleasure to announce to Congress that the benevolent<sup>1</sup> policy of the Government, steadily pursued for nearly 30 years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consumation<sup>2</sup>. Two important tribes have accepted the provision<sup>3</sup> made for their removal at the last session of Congress, and it is believed that their example will induce the remaining tribes also to seek the same obvious advantage...

It will separate the Indians from immediate contact with settlements of whites;...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...

Toward the aborigines<sup>4</sup> of the country no one can indulge<sup>5</sup> 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...

The present policy of the government is but a continuation of the same progressive change by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated<sup>6</sup> or have melted away to make room for the whites. The waves of population and civilization are rolling westward, and we now propose to acquire the countries occupied by the red man of the South and West by a fair exchange, and, at the expense of the United States, to send them to a land where their existence may be prolonged and perhaps made perpetual<sup>7</sup>....

Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did or than our children are now doing? To better their condition in an unknown land our forefathers left all that was dear in earthly objects...Does Humanity weep at these painful

<sup>1</sup> expressing goodwill

<sup>2</sup> fulfillment

<sup>3</sup> arrangement

<sup>4</sup> original natives

<sup>5</sup> allow

<sup>6</sup> reduced

<sup>7</sup> lasting

separations from every thing, animate and inanimate, with which the young heart has become entwined<sup>8</sup>? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection....Can it be cruel in this Government when, by events which it can not control, the Indian is made discontented in his ancient home to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode<sup>9</sup>? How many thousands of our own people would gladly embrace the opportunity of removing to the West on such conditions! If the offers made to the Indians were extended to them, they would be hailed<sup>10</sup> with gratitude and joy...

Rightly considered, the policy of the General Government toward the red man is not only liberal<sup>11</sup>, but generous...Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement...

It is, therefore, a duty which this government owes to the new States to extinguish<sup>12</sup> as soon as possible the Indian title to all lands which Congress themselves have included within their limits.

When this is done the duties of General Government in relation to the States and the Indians within their limits are at an end.

*Andrew Jackson's Second State of the Union Address* Written in 1830

<sup>10</sup> to cheer

<sup>11</sup> favorable

<sup>12</sup> to put an end to

I just sit down to address you with my pen...

I am here amongst a wicked set of people, and never hear prayers or any godly conversation. O my dear friends, pray for me : I hope you do...God only knows what is best for me... When I see the poor thoughtless Cherokees going on in sin, I cannot help blessing god, that he has lead me in the right path to serve him.

*Letter from Missionary about Cherokee Religion* Written by Catherine Brown in 1818

That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them, and their heirs/or successors, the country so exchanged with them and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert<sup>1</sup> to the United States, if the Indians become extinct, or abandon the same."

1. to return to a former habit, practice, belief, condition

***The Removal Act of 1830, section III***

Was the Indian Removal Act Constitutional?

Step : 1 – ARE -> assertion, reasoning ,evidence

**Pair 1: NO:** Read, annotate, and find arguments, then be able to discuss:

- Determine the most important facts and evidence.
- Write them below.
- State your argument

**Pair 2: YES:** Read, annotate, and find arguments, then be able to discuss:

- Determine the most important facts and evidence.
- Write them below.
- State your argument

Step 2: Stating Arguments

- Take turns stating your arguments (a pair at a time)
- While one pair is stating arguments, the other pair listens, takes notes, and asks clarifying questions.
- Each pair takes turns summarizing their opponent’s argument making sure all arguments are clearly understood.

NO:

YES:

Step 3: Step out of Your Roles

- Step out of your assigned position and discuss according to what you believe based on the evidence.
- Try to find points of agreement and disagreement among the group members.
- Teams try to reach consensus on the issue, or part of the issue.

Things we agree on:

Things we could not agree upon:

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**Was the Indian Removal Act constitutional?** Write a thesis statement supporting your view.

Name(s): \_\_\_\_\_

Date: \_\_\_\_\_

### ***The Removal Debate***

#### **Pro**

**Gold -**

**Settlement -**

**State's Right -**

**Eliminate the Problem -**

**Other -**

#### **Con**

**The Cherokee Have Changed -**

**Human Rights -**

**Georgia Has No Right -**

**Validity of Treaty -**

**Other -**



### **Your Conclusions**

## *The Never Ending Trail*

The whites honor the "Hermitage" And the man who once lived there -  
But, that leader of our Nation Was cruel, unjust, unfair -

He ordered the removal Of the Cherokee from their land And forced  
them on a trek That the Devil must have planned -

One thousand miles of misery - Of pain and suffering - Because greed  
of the white man Could not even wait till spring -

We should bow our heads in shame Even unto this day About "The  
Trail Of Tears" And those who died along the way.

It was October, eighteen thirty-eight When seven thousand troops in  
blue Began the story of the "Trail" Which, so sadly, is so true -

Jackson ordered General Scott To rout the Indian from their home -  
The "Center Of The World" they loved - The only one they'd known -

The Braves working in the fields Arrested, placed in a stockade -  
Women and children dragged from home In the bluecoats shameful  
raid -

Some were prodded with bayonets When, they were deemed to move  
too slow To where the Sky was their blanket And the cold Earth, their  
pillow -

In one home a Babe had died Sometime in the night before - And  
women mourning, planning burial Were cruelly herded out the door -

In another, a frail Mother - Papoose on back and two in tow Was told  
she must leave her home Was told that she must go -

She uttered a quiet prayer - Told the old family dog good-bye - Then,  
her broken heart gave out And she sank slowly down to die -

Chief Junaluska witnessed this - Tears streaming down his face - Said  
if he could have known this It would have never taken place -

For, at the battle of Horse Shoe With five hundred Warriors, his best -  
Helped Andrew Jackson win that battle And lay thirty-three Braves to  
rest -

And the Chief drove his tomahawk Through a Creek Warrior's  
head Who was about to kill Jackson - But whose life was saved,  
instead -

Chief John Ross knew this story And once sent Junaluska to plead -  
Thinking Jackson would listen to This Chief who did that deed -

But, Jackson was cold, indifferent To the one he owed his life to Said,  
"The Cherokee's fate is sealed - There's nothing, I can do."

Washington, D.C. had decreed They must be moved Westward - And  
all their pleas and protests To this day still go unheard.

On November, the seventeenth Old Man Winter reared his head - And  
freezing cold, sleet and snow Littered that trail with the dead

On one night, at least twenty-two Were released from their  
torment To join that Great Spirit in the Sky Where all good souls are  
sent -

Many humane, heroic stories Were written 'long the way - A  
monument, for one of them - Still stands until this day -

It seems one noble woman It was Chief Ross' wife - Gave her blanket  
to a sick child And in so doing, gave her life -

She is buried in an unmarked grave - Dug shallow near the "Trail" -  
Just one more tragic ending In this tragic, shameful tale -

Mother Nature showed no mercy Till they reached the end of the  
line When that fateful journey ended On March twenty-sixth, eighteen  
thirty-nine.

Each mile of this infamous "Trail" Marks the graves of four who died -  
Four thousand poor souls in all Marks the shame we try to hide -

You still can hear them crying Along "The Trail Of Tears" If you listen

with your heart And not with just your ears.

*Del 'Abe' Jone*

### **Indian Removal Act: Was it Constitutional?**

Lanette Bowen

As the United States developed and carved its path to becoming a great nation, a number of issues arose. Issues, which if not dealt with effectively and in best interest of the young nation, would retard and thus stunt America's journey to achieving what it has become today.

One such issue that needed to be dealt with was the Native American removal to the West. The colonies had expanded which meant more land was needed. When these territories became states, economic progress became a priority. So achieve this, Native Americas were encouraged to move west. When Andrew Jackson was elected president, he passed the Indian Removal Act in 1830, which was simply "...moving all of [the Indians] into the plains west of the Mississippi River, to the Great American Desert..." (Tindall and Shi). This then became a priority and a policy, but was it constitutional?

Gold had been discovered on what was Cherokee land in western Georgia and the white settlers wanted the Cherokee out of the way. In Jackson's own words, "The Indian Removal Act will place a dense and civilized population in large tracts of country now occupied by a few savage hunters." Jackson painted a picture of the Cherokee as illiterate, uncivilized "savage hunters" even though 90% of the Cherokee Nation could read and write in Cherokee and were farmers. The Indian Removal Act was very popular among voters. However, not everyone supported Indian removal. The Act's strongest opponent was Congressman Davy Crockett, who, by supporting the Cherokees, destroyed his political career. The Act passed regardless. Once passed by Congress, President Andrew Jackson quickly signed the bill into law. And so, it began.

Andrew Jackson was pleased with the passage of the law because in addition to enabling the States to "advance rapidly in population, wealth, and power" he believed the law would also help the Cherokee and other Indian tribes. In his address to Congress in 1830 Andrew Jackson stated:

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"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"(Library of Congress)

In 1802, the Georgia legislature signed a compact giving the federal government all of her claims to western lands in exchange for the government's pledge to extinguish all Indian titles to land within the state. But by the mid-1820's Georgians began to doubt that the government would withhold its part of the bargain. The Cherokee Indian tribes had a substantial part of land in Georgia that they had had for many generations though. They were worried about losing their land so they forced the issue by adopting a written constitution. This document proclaimed that the Cherokee nation had complete jurisdiction over its own territory. But by now Indian removal had become entwined with the state of Georgia's rights and the Cherokee tribes had to make their claims in court. When the Cherokee nation sought aid from newly elected president Andrew Jackson, he informed them that he would not interfere with the lawful prerogatives of the state of Georgia. Jackson saw the solution of the problem with the removal of the Cherokee tribes to lands west.

Settlers in this State would push the tribes into the frontier (Golden Ink). By 1825, the Lower Creek was completely removed from the state, but the Cherokees continued in their cherished land until 1828. It was at this time that gold was rumored to have been discovered in the mountains of North Georgia. Then President Andrew Jackson believed that the only solution to the Indian problem was the removal of all native tribe from the Mississippi. This Removal Act of 1830 was the precise solution. which completely changed the United States' relations with the Indians from cooperation, assistance and protection to removal (Meyers). President Jackson's government would pay for improvements that the tribes had made on the lands, help them move west, provide subsistence for a year and even offered protection against trespassers and guaranteed their title to the exchanged land.

The passage of the Removal Act was first very hotly debated in the newspapers, meetings, in Congress and in the courts. These debates centered on the legality, morality and justice of the removal. It will be remembered that a

first attempt at removing the tribes was attempted after the acquisition of the Louisiana Territory in 1803, which provided for the transfer of Indian tribes to new territories beyond Mississippi. Indian tribes moved but the exchange of lands did not occur until 1817. Because of these, there were increasing clashes between the Americans and the Cherokees (Meyers).

Theodore Frelinghuysen, of New Jersey, led the anti-removal faction in the Senate.

He was a leading critic of President Jackson. In opposing the Indian Removal bill, he stressed that Jackson dishonored the prudent policy of his predecessor, Washington, who entrusted the Indians to the care of the Senate. He argued that the treaties did not create sovereignty but defined and perpetuated it. He insisted that the Indians always possessed sovereignty and owned their land by the very right of occupancy (Meyers). He also traced history as evidencing that the king, the colony and Congress derived their land titles from the Indians. He pointed to the 1763 Proclamation by the British Crown as a demonstration of its recognition of the Cherokees as a nation. Congress itself recognized Indian rights in the Northwest Territory with the 1787 Ordinance.

David Burton of Missouri advocated for the humane removal of the Indians and expressed skepticism towards Jackson's promise to make it voluntary. Asher Robbins of Rhode Island also opposed the bill because it was unnecessary and unconstitutional. He saw that the bill proposed to expand executive powers in a field traditionally shared by the Senate and the President. He emphasized that, if they Indians must be removed, it should be only the basis of a treaty signed by one of them who represented their majority.

One more opponent, Peleg Sprague of Maine, re-stressed the right of discovery and the historical use of the right, in much the same sense of the right of discovery of past and future voyagers, explorers and discoverers. This, he said, was how European powers divided the New World between themselves. Great Britain always recognized and respected the right of aborigines to the perpetual and exclusive occupancy of their lands (Meyers) and Washington and Jefferson maintained the same policy. He also cited a definite 1796 Georgia act, which declared all land within the state's boundaries as property of Georgia and "subject only to the right of treaty of the United States, to enable the State to purchase ... the Indian title to the same."

Like other removal opponents, Congressman Henry Storrs of New York was apprehensive towards giving the President power to deal directly with the Indians. The bill, if approved by Congress, would vest the President precisely with that power. He stated James Madison's sentiment that the Founding Fathers would not have given one branch of government the power to conduct Indian affairs without the balanced advice and consent of the two others. But this bill would precisely give the President that sole authority to move the Indians out of their land by a mere executive order.

George Evans of Maine also argued that it was always Georgia's policy to press for the extinction of the Indians in that state, and this bill would be nothing more than the realization, formalization and legalization of Georgia's machinations. He called to memory the 1802 declaration to extinguish all Indian title to any land within the state. This policy, he claimed, would eventually lead to a forcible Indian removal.

The debates ended with the bill being passed by the House with a close vote of 102-97 on May 26. Two days later, President Jackson signed it. As feared by opposing congressmen, it indeed gave the President explicit powers to negotiate the expulsion of the Cherokees from Georgia. It ended the US government's past policy of extending education, assistance and protection to this peace-loving tribe.

The Georgia problem was characterized by two events: the signing of a compact between the central government and the Cherokees in 1802, wherein they would cede western land claims in exchange for the government's giving up arms within Georgia's limits. But Georgia's citizens had become impatient. The other event was the Cherokee's adoption of a constitution, expressly declaring their sovereignty within their own borders. This directly ignored Georgia's laws and offended the Georgians.

In 1833, the US Supreme Court, through Chief Justice John Marshall, declared the Cherokees as a "domestic, dependent nation" and that the state the State of Georgia had no right to extend or impose its laws over them. This was a victory for the Cherokees, whom the court considered wards of the federal government. The following year, the court declared them "indeed sovereign and immune" from Georgia's laws. He declared the removal of the natives invalid and would be valid only if they agreed to it by means of a Treaty, ratified by the Senate.

President Jackson refused to go by the court's decision. He was well known for his Seminole Wars against the Indians in Georgia and Florida and was a strong defender of states' rights. The Cherokees themselves were divided and disconsolate. Most of them supported Principal Chief John Ross. But a minority of less than 500, who were led by Major Ridge and his son John and Elias Boudinot, favored removal. It was Ridge who signed agreement to relocate under the Treaty of Enchola as the representative of the majority. But this document was what President Jackson needed. And so, Congress ratified the agreement, despite the protests of Daniel Webster and Henry Clay in 1835 (Bureau of Public Affairs). A petition was drafted to repudiate the treaty and which had 16,000 signatories, but President Jackson ignored it and, instead, set a deadline for the complete ejection of the Cherokees on May 23, 1838.

When Cherokee chief John Ross tried desperately to hold on to their land, Jackson ordered military action. Many of the leaders of the army sent to enforce the order were ashamed of it (Pagewise). General John Wool, in protest, resigned his command. He uttered that the tragic event had a good side to it, which was that it would place the Indians beyond the reach of those white men, who "like vultures, were watching, ready to pounce on their prey and strip them of everything they have."

The motivation behind this brutal "Trail of Tears" and the United States government's refusal to abide by the conditions and obligations of its treaty with the Indian tribe were unmistakably the European settlers' bottomless desire for cheap land. What made the experience more inhumane was that Indians had a different view of land ownership. They cultivated and relished it for hunting, farming or dwelling. Europeans, on the other hand, viewed land for individual ownership. Furthermore, Indians were a loose, decentralized, democratic and un-authoritarian people, led by chiefs, who were respected men, informally chosen. Quite often, those Indian leaders who signed treaties did not have the authority or consensus of the tribe, hence, these treaties were often broken.

Many historians have studied the Indian Removal Act and the conflict surrounding it. They analyzed facts (Meyers), reviewed and charted consequences and perused motives. Or else, they placed the removal debate on a broader historical context as just another piece of political event during the Jackson period. One feature of the debate is that the manner, in which the congressmen used history as they knew, understood or interpreted it.

What made it all a diabolical scheme was that it became public policy under the regime of President Andrew Jackson and the question remains was the Indian Removal Act unconstitutional?

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