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[Bill of Rights in Action 21:1](#)

Indian Removal: The Cherokees, Jackson, and the “Trail of Tears”

President Andrew Jackson pursued a policy of removing the Cherokees and other Southeastern tribes from their homelands to the unsettled West.

For a thousand years before Europeans came to North America, the Cherokees occupied a large area where the states of Alabama, Tennessee, North Carolina, South Carolina, and Georgia now come together. They inhabited over 50 towns. Cherokee women tended crops while the men hunted and made war.

Each town had a council, usually made up of a religious leader and elders. The council discussed important matters such as going to war against an enemy tribe. The council members and people of the town debated an issue until they agreed on what to do.

Traditionally, no tribal government or chief held authority over all the Cherokees. But in 1721, South Carolina colonists succeeded in persuading the Cherokees to choose a principal chief for the entire tribe to negotiate selling some of its hunting grounds.

After the French and Indian War, the British tried to ban any further white settlement on Native American lands west of the Appalachian Mountains. But colonists kept moving into Cherokee and other Indian lands.

During the American Revolution, the Cherokees sided with the British. A colonial army attacked and destroyed 50 Cherokee towns. After the revolution, many Americans considered the Cherokees a conquered people and forced them to give up thousands of square miles of hunting grounds. Suddenly, the traditional ways and even survival of the Cherokee tribe were threatened.

“Civilizing” The Indians

Many Americans believed that the Cherokees as allies of the British had forfeited all rights to their land. [Henry Knox](#), President George Washington’s secretary of war, disagreed. Instead, he concluded that they and all the Indian tribes were sovereign nations. He believed they eventually would have to give up their lands to the inevitable tide of white settlement, but only voluntarily through negotiated treaties.

Knox convinced President Washington that Native Americans would also have to be integrated into American society. To do this, they would have to become “civilized,” becoming like white Americans in dress, speech, work, religion, and in all other ways.

In 1791, the new American nation signed a [treaty with the Cherokees](#) with the goal of leading them to “a greater degree of civilization.” The main way of achieving this was for Cherokee men to give up hunting and become farmers, which had been the traditional role of women.

To some degree, all the Southeastern tribes accepted the idea of “civilizing” themselves. But the Cherokees embraced it enthusiastically. The Cherokees believed that if they became more like their white neighbors, the Americans would leave them alone on their remaining land.

By the 1820s, most Cherokees were living in family log cabins, cultivating fields on tribal land. Some owned stores and other businesses. A few borrowed from Southern whites the idea of establishing large cotton plantations complete with a mansion and black slaves. The Cherokees also welcomed white Christian missionaries to set up schools to teach English and agricultural skills.

[Sequoyah](#), a Cherokee silversmith and farmer, believed that white people gained their power from their ability to remember and communicate through writing. Although he never went to school or learned English, Sequoyah experimented for a dozen years before developing 86 symbols that represented all the syllables of spoken Cherokee.

The mission schools soon adopted Sequoyah’s writing system and taught it along with English. Within a decade, probably a greater percentage of Cherokees could read and write in their native language than Southern whites could in English. In 1828, the *Cherokee Phoenix*, the first Native American newspaper, began publishing in both Cherokee and English.

Also by 1828, the Cherokees had adopted a constitution modeled on the American one. The Cherokee constitution provided for a two-house legislature, called the General Council, a principal chief, and eight district courts. It also declared all Cherokee lands to be tribal property, which only the General Council could give up.

Jackson and Indian Removal

The idea of removing Native American tribes from the East to the West began with President Thomas Jefferson after the Louisiana Purchase of 1803. But only a few Cherokees and members of other Southeastern tribes agreed to relocate.

Pressure for relocation grew in Georgia after it gave up its land claims to the west. In exchange, the U.S. government promised to acquire the Cherokee heartland and turn it over to the state for white settlement. But by the 1830s, land-hungry Georgians looked with alarm at the “civilized” Cherokees. Most of them were successfully adopting American ways and showing every sign that they meant to stay on their land.

The president who had to deal with this problem was Andrew Jackson. Jackson was a Tennessee political leader, judge, and land speculator. He was also a war hero, fighting Indians and defeating the British at the Battle of New Orleans in 1815.

After the War of 1812, Jackson served as a federal commissioner to negotiate treaties with the Choctaws, Chickasaws, Creeks, Seminoles, and Cherokees—the so-called “Five Civilized Tribes” of the Southeast. Sometimes resorting to military threats and bribery, Jackson got most of the tribes to give up a total of 50-million acres of tribal land.

In 1828, Jackson was elected president. He declared that the only hope for the Southeastern tribes’ survival would be for them to give up all their land and move west of the Mississippi River. Jackson warned the tribes that if they failed to move, they would lose their independence and fall under state laws.

Jackson backed an Indian removal bill in Congress. Members of Congress like [Davy Crockett](#) argued that Jackson violated the Constitution by refusing to enforce treaties that guaranteed Indian land rights. But Congress passed the removal law in the spring of 1830.

The Indian Removal Act offered tribes in the East lands in an area west of the Mississippi (soon to be called “Indian Territory”). The U.S. government promised to compensate the tribes for the property they would have to abandon.

Although removal was supposed to be voluntary, Jackson cut off payments to the tribes for previous land deals until they moved to the West. He also agreed with Georgia and other Southern states that their laws controlled tribal land. For example, Georgia had passed legislation that abolished the Cherokee government.

In 1830, the U.S. Supreme Court ruled in *Worcester v. Georgia* that Jackson was wrong. Chief Justice [John Marshall](#) wrote in the majority opinion that the Constitution gave to Congress, not the states, the power to make laws that applied to the Indian tribes. Despite this clear court victory for the Cherokees, Jackson openly refused to enforce it, and the Southern states ignored it.

Georgia settlers, gold miners, and land speculators swarmed onto Cherokee lands, often seizing or destroying Cherokee homes and other property. In 1832, Georgia ran a lottery to distribute Cherokee land. The white invaders sang about their hopes:

All I want in this Creation

Is a pretty little wife and a big plantation

Way up north in the Cherokee Nation.

Division Among the Cherokees

Adding to the Cherokees' troubles, the tribe split over whether to accept or resist removal. A small minority argued that the Cherokees could not stop the land-hungry whites and the only hope for surviving as a tribe was to emigrate west. Longtime Cherokee political leader Major Ridge led this so-called "Treaty Party" in favor of removal.

John Ross, the principal chief of the Cherokees, led the tribal government and majority of Cherokees opposed to removal. The "Ross Party" argued that the Cherokees should defend their legal rights as a sovereign nation under treaties going back to George Washington. Ross tried and failed to negotiate a new treaty with the United States. Finally, in 1835, U.S. officials called a meeting at New Echota, the Cherokee capital, to negotiate a removal treaty.

While Ross was in Washington, Major Ridge and a small group of his supporters signed a treaty granting to the United States "all the lands owned, claimed, or possessed" by the Cherokees. The United States agreed to pay the tribe \$5 million and to provide new land in the West that would never be included within any future state.

The Treaty of New Echota also required the U.S. government to compensate individual Cherokees for their houses and other property. Finally, the United States promised to pay the Cherokees their emigration expenses and support them for one year after their arrival in Indian Territory.

Chief Ross and the Cherokee General Council rejected the treaty because it did not reflect the will of the Cherokee majority. But in 1836, the U.S. Senate, amid great public criticism, ratified the treaty by one vote. The treaty gave the Cherokees two years to leave. But more than 16,000 Cherokees defied the treaty, refusing to abandon their homes.

The "Trail of Tears"

By 1838, the U.S. government had removed most Choctaws, Creeks, and Chickasaws from their tribal lands in the Southeast. The Seminoles held out and fought a guerilla war against the United States that lasted almost 10 years. Meanwhile, Georgia land-seekers continued to drive many Cherokee families out of their homes and farms.

President Jackson had completed his second term by the deadline for Cherokee removal in 1838. When most Cherokees still refused to emigrate, the new president, Martin van Buren, ordered General [Winfield Scott](#) to round up and force them to leave.

In the summer of 1838, Scott's soldiers arrested about 15,000 Cherokees and marched them into primitive stockades. Even before the trek west began, poor food, limited water, filthy living conditions, and disease caused the death of an estimated 3,000 Cherokees.

With no hope of resisting the U.S. Army, Chief Ross finally decided to organize and lead the removal himself. He formed the Cherokees into groups of about 1,000 persons that departed separately every few days.

Ross arranged for private contractors to provide supplies along the route that extended nearly 1,000 miles through parts of five states. Federal money for this mass migration was slow in coming, so Ross and other well-off Cherokees paid for many of the expenses.

The first group left in October 1838 for a journey that took up to four months. Most people walked. As the winter weather worsened, many elderly persons and children died from disease and the harsh conditions. The worst time came when groups became stranded on the east bank of the Mississippi River, which was clogged with floating ice. The last groups finally reached their new homeland in March 1839.

In addition to the thousands who died in the military stockades, another 1,000, including John Ross' wife, died on the way west. Altogether, about 25 percent of the tribe perished during what the Cherokees call the "Trail of Tears." In 1907, the U.S. government broke its word once again by incorporating the new Cherokee land within the state of Oklahoma. Even so, the Cherokees have survived. Today, they make up the largest tribe of Native Americans in the country.

For Discussion and Writing

1. In what ways did the Cherokees become "civilized"? Why did they do this?
2. If you had been a member of Congress in 1836, would you have voted to ratify the Treaty of New Echota? Explain.
3. Do you think Major Ridge or John Ross had the best strategy for the Cherokee people? Why?