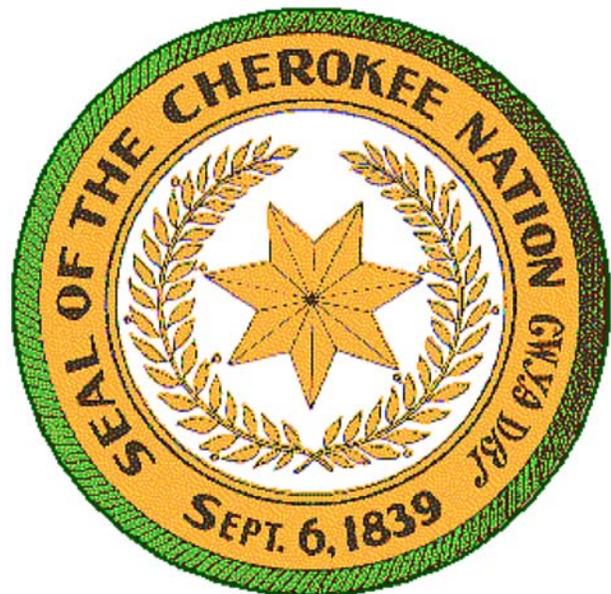


# The People

v.

## Andrew Jackson



Evidence & witness information compiled and organized by Karen Rouse, West Sylan Middle School, Portland Public Schools, 7 May, 2005. Revised July 2006

Conceptual framework comes from Georgia Vlagos, Naperville Community Unit School District,  
<http://www.ncusd203.org/north/depts/socstudies/vlagos/jackson/jackson.htm>.

# *The People v. Jackson*

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# INTRODUCTION AND PROCEDURAL MATTERS

## Introduction

It is 1840, and President Andrew Jackson has been charged with crimes against humanity regarding the removal of the Cherokee.

In the form of a mock trial that takes place in 1840 but uses current international law, you must determine if President Andrew Jackson is guilty of this charge.

## Procedural Matters

### A. Charges

The prosecution charges President Andrew Jackson with:

Crimes Against Humanity

(The text of the statute follows.)

### B. Physical Evidence (list)

Cherokee Timeline, 1450-1838

The Cherokee Trail of Tears Timeline: 1838-1839

Official Map

- Please note that some witness statements include evidence (e.g. President Jackson's Case for the Removal Act.)
- You may introduce any relevant historical document as evidence. However, all such evidence must be presented to the judge and opposing counsel no later than the day prior to the start of the trial. A few possibilities include:
  - Indian Removal Act of 1830 (full text)
  - Worcester v Georgia (full text)
  - Treaty of New Echota (full text)

### C. Witnesses (list)

- The prosecution will call Chief John Ross, Reverend Samuel Worcester, Chief Justice John Marshall, John Burnett, and Samuel Cloud.
- The defense will call President Andrew Jackson, Major Ridge, Elias Boudinot, General Winfield Scott, and Governor Wilson Lumpkin

The included witness information does not equate with “witness statements.” Some are biographies, some are letters, articles or speeches written by the witness. Obviously, both witnesses and attorneys must complete more in-depth research. If a witness refers to information not in the materials s/he must be prepared to provide documentation to substantiate the position.

## **D. Statute**

The statute is taken from the "The Rome Statute of the International Criminal Court," adopted on 17 July 1999, which provides for the ICC to have jurisdiction over genocide (Article 6), crimes against humanity (Article 7) and war crimes (Article 8).

### **Article 7**

#### **Crimes against humanity**

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
  - (a) Murder;
  - (b) Extermination;
  - (c) Enslavement;
  - (d) Deportation or forcible transfer of population;
  - (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
  - (f) Torture;
  - (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
  - (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
  - (i) Enforced disappearance of persons;
  - (j) The crime of apartheid;
  - (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
  
2. For the purpose of paragraph 1:
  - (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
  - (b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
  - (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
  - (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
  - (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

- (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
  - (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
  - (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
  - (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

"Rome Statute of the International Criminal Court." *United Nations*. 17 July, 2006.  
<http://www.un.org/law/icc/statute/romefra.htm>.

# WITNESS STATEMENTS

## **Prosecution Witness: John Ross (1790-1866)**

### **Biography**

John Ross became principal chief of the Cherokee Nation in 1827, following the establishment of a government modeled on that of the United States. He presided over the nation during the apex of its development in the Southeast, the tragic Trail of Tears, and the subsequent rebuilding of the nation in Indian Territory, in present-day Oklahoma.

Ross was born on October 3, 1790, in Turkey Town, on the Coosa River near present-day Center, Alabama. His family moved to the base of Lookout Mountain, an area that became Rossville, Georgia. At his father's store Ross learned the customs of traditional Cherokees, although at home his mixed-blood family practiced European traditions and spoke English.

After attending South West Point Academy in Tennessee, Ross married Quatie (also known as Elizabeth Brown Henley). He began selling goods to the U.S. government in 1813. The profits from the store at Ross's Landing on the Tennessee River (at present-day Chattanooga, Tennessee) enabled Ross in 1827 to establish a plantation and ferry business where the Oostanaula and Etowah rivers flow together to form the Coosa River, located at what is now Rome.

During this period Ross's diplomatic skills enabled him to achieve prominent positions, culminating in his election as principal chief of the newly formed Cherokee Nation, which Ross, along with his friend and neighbor Major Ridge, helped to establish. As Ross took the reins of the Cherokee government in 1827, white Georgians increased their lobbying efforts to remove the Cherokees from the Southeast. The discovery of gold on Cherokee land fueled their desire to possess the area, which was dotted with lucrative businesses and prosperous plantations like Ross's. The Indian Removal Bill passed by Congress in 1830 provided legal authority to begin the removal process. Ross's fight against the 1832 Georgia lottery, designed to give away Cherokee lands, was the first of many political battles.

Ross's faith in the republican form of government, the authority of the U.S. Supreme Court, and the political power of Cherokee supporters, especially the Whig Party, gave him confidence that Cherokee rights would be protected. When the fraudulent Treaty of New Echota was authorized by one vote in the U.S. Senate in 1836, Ross continued to believe that Americans would not oust the most "civilized" native people in the Southeast. He fought removal until 1838, when it was clear there was no alternative; he then successfully negotiated with the U.S. government to handle the business of the move.

Accompanying his people on the "trail where they cried," commonly known as the Trail of Tears, Ross experienced personal tragedy. His wife, Quatie, died of exposure after giving her only blanket to a sick child. Once in Indian Territory, Ross led the effort to establish farms, businesses, schools, and even colleges. Although the Cherokee Nation was torn apart politically after the fight over the removal treaty, Ross clung to the reins of power...

Taylor-Colbert, Alice. " John Ross (1790-1866)." *The New Georgia Encyclopedia: History and Archeology*. 2004-2005. 6 May 2007. <http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2887>.

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## **Letter from Chief John Ross, "To the Senate and House of Representatives"**

[Red Clay Council Ground, Cherokee Nation, September 28, 1836]

It is well known that for a number of years past we have been harassed by a series of vexations, which it is deemed unnecessary to recite in detail, but the evidence of which our delegation will be prepared to furnish. With a view to bringing our troubles to a close, a delegation was appointed on the 23rd of October, 1835, by the General Council of the nation, clothed with full powers to enter into arrangements with the Government of the United States, for the final adjustment of all our existing difficulties. The delegation failing to effect an arrangement with the United States commissioner, then in the nation, proceeded, agreeably to their instructions in that case, to Washington City, for the purpose of negotiating a treaty with the authorities of the United States.

After the departure of the Delegation, a contract was made by the Rev. John F. Schermerhorn, and certain individual Cherokees, purporting to be a "treaty, concluded at New Echota, in the State of Georgia, on the 29th day of December, 1835, by General William Carroll and John F. Schermerhorn, commissioners on the part of the United States, and the chiefs, headmen, and people of the Cherokee tribes of Indians." A spurious Delegation, in violation of a special injunction of the general council of the nation, proceeded to Washington City with this pretended treaty, and by false and fraudulent representations supplanted in the favor of the Government the legal and accredited Delegation of the Cherokee people, and obtained for this instrument, after making important alterations in its provisions, the recognition of the United States Government. And now it is presented to us as a treaty, ratified by the Senate, and approved by the President [Andrew Jackson], and our acquiescence in its requirements demanded, under the sanction of the displeasure of the United States, and the threat of summary compulsion, in case of refusal. It comes to us, not through our legitimate authorities, the known and usual medium of communication between the Government of the United States and our nation, but through the agency of a complication of powers, civil and military.

By the stipulations of this instrument, we are despoiled of our private possessions, the indefeasible property of individuals. We are stripped of every attribute of freedom and eligibility for legal self-defence. Our property may be plundered before our eyes; violence may be committed on our persons; even our lives may be taken away, and there is none to regard our complaints. We are denationalized; we are disfranchised. We are deprived of membership in the human family! We have neither land nor home, nor resting place that can be called our own. And this is effected by the provisions of a compact which assumes the venerated, the sacred appellation of treaty.

We are overwhelmed! Our hearts are sickened, our utterance is paralyzed, when we reflect on the condition in which we are placed, by the audacious practices of unprincipled men, who have managed their stratagems with so much dexterity as to impose on the Government of the United States, in the face of our earnest, solemn, and reiterated protestations.

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. The makers of it sustain no office nor appointment in our Nation, under the designation of Chiefs, Head men, or any other title, by which they hold, or could acquire, authority to assume the reins of Government, and to make bargain and sale of our rights, our possessions, and our common country. And we are constrained solemnly to declare, that we cannot but contemplate the enforcement of the stipulations of this instrument on us, against our consent, as an act of injustice and oppression, which, we are well persuaded, can never knowingly be countenanced by the Government and people of the United States; nor can we believe it to be the design of these honorable and highminded individuals, who stand at the

head of the Govt., to bind a whole Nation, by the acts of a few unauthorized individuals. And, therefore, we, the parties to be affected by the result, appeal with confidence to the justice, the magnanimity, the compassion, of your honorable bodies, against the enforcement, on us, of the provisions of a compact, in the formation of which we have had no agency.

*The Papers of Chief John Ross, vol 1, 1807-1839*, Norman OK. Gary E. Moulton, ed. University of Oklahoma Press, 1985

Ross, Chief John. "Cherokee letter protesting the Treaty of New Etocha." *PBS.org: Africans in America*. © 1998, 1999 WGBH Educational Foundation. 7 May 2005. <http://www.pbs.org/wgbh/aia/part4/4h3083t.html>.

"Letter from Chief John Ross." *The Cherokee Nation*. 5 May, 2005. <http://www.cherokee.org/Culture/HistoryPage.asp?ID=162>.

## Prosecution Witness: Reverend Samuel Worcester

(excerpt from piece cited below)

Samuel Worcester, a native of Vermont, was a minister affiliated with the American Board of Commissioners for Foreign Missions (ABCFM). In 1825 the board sent Worcester to join their Cherokee mission in Brainerd, Tennessee. Two years later the board ordered Worcester to the Cherokee national capital of New Echota, in Georgia. Upon his arrival Worcester began working with [Elias Boudinot](#), the editor of the [Cherokee Phoenix](#), to translate the Bible and other materials into the Cherokee language. Over time Worcester became a close friend of the Cherokee leaders and often advised them about their political and legal rights under the Constitution and federal-Cherokee treaties. Another ABCFM missionary, Elizur Butler, who was also a physician, left New England in the early 1820s, eventually being assigned to the Hawaii mission near Rome in 1826.

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. Georgia gave the missionaries until March 1, 1831, to obtain a license of residency or leave the Cherokee Nation. Several missionaries, including Worcester and Butler, decided to challenge the law and refused to leave the state. On March 12, 1831, Georgia authorities arrested Worcester, Butler, and several other missionaries and teachers for violating the new law. A Georgia judge released Worcester when his lawyers argued that he served as federal postmaster at New Echota and was therefore in the Cherokee Nation under authority of the federal government. Governor George Gilmer persuaded the United States to relieve Worcester of his postmaster duties and then ordered the missionaries to leave the state.

Three of the missionaries gave up the fight and abandoned their missions. Worcester, Butler, and several of their colleagues remained, and on July 7 the Georgia Guard again arrested Worcester and Butler, and nine other missionaries. After posting bond Worcester returned to New Echota to take care of his wife and daughter, who was seriously ill. Understanding that the Georgia governor would continue to harass him, he left them and relocated to the Brainerd mission. At that point, he received word that his daughter had died. When he returned to New Echota to console his wife, the Georgia Guard arrested him for the third time. Worcester explained why he had returned, and the commander of the guard temporarily released him. In September the missionaries were tried, convicted, and sentenced to four years in prison at hard labor.

The missionaries, represented by lawyers hired by the Cherokee Nation, appealed to the U.S. Supreme Court. In *Worcester v. Georgia*, the court struck down Georgia's extension laws.

Garrison, Tim Alan. "Worcester v. Georgia (1832)." *The New Georgia Encyclopedia: Government and Politics*. 2004-2005. 6 May 2005. <http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2720>.

See also: biography on Worcester on the Cherokee.org site:  
<http://www.cherokee.org/culture/HistoryPage.asp?ID=60>.

## **Prosecution Witness: John Marshall (1755–1835)**

### **Biography**

*American jurist, 4th Chief Justice of the United States (1801–35), b. Virginia.*

In his long service on the bench, Marshall raised the Supreme Court from an anomalous position in the federal scheme to power and majesty, and he molded the Constitution by the breadth and wisdom of his interpretation; he eminently deserves the appellation the Great Chief Justice. He dominated the court equally by his personality and his ability, and his achievements were made in spite of strong disagreements with Jefferson and later Presidents.

A loyal Federalist, Marshall saw in the Constitution the instrument of national unity and federal power and the guarantee of the security of private property. He made incontrovertible the previously uncertain right of the Supreme Court to review federal and state laws and to pronounce final judgment on their constitutionality. He viewed the Constitution on the one hand as a precise document setting forth specific powers and on the other hand as a living instrument that should be broadly interpreted so as to give the federal government the means to act effectively within its limited sphere (see McCulloch v. Maryland).

His opinion in the Dartmouth College Case was the most famous of those that dealt with the constitutional requirement of the inviolability of contract, another favorite theme with Marshall. His interpretation of the interstate commerce clause of the Constitution, most notably in Gibbons v. Ogden, made it a powerful extension of federal power at the expense of the states. In general Marshall opposed states' rights doctrines, and there were many criticisms advanced against him and against the increasing prestige of the Supreme Court.

The sometimes undignified quarrel with Jefferson (which had one of its earliest expressions in Marbury v. Madison) reached a high point in the trial (1807) of Aaron Burr for treason. Marshall presided as circuit judge and interpreted the clause in the Constitution requiring proof of an “overt act” for conviction of treason so that Burr escaped conviction because he had engaged only in a conspiracy. Marshall's difficulties with President Jackson reached their peak when Marshall declared against Georgia in the matter of expelling the Cherokee, a decision that the state flouted.

“John Marshall.” ["http://www.factmonster.com/ce6/html."](http://www.factmonster.com/ce6/html) *The Columbia Electronic Encyclopedia*. © 1994, 2000-2005, on Fact Monster. © 2000–2005 Pearson Education, publishing as Fact Monster. 06 May. 2005. <http://www.factmonster.com/ce6/people/A0859499>.

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## Chief Justice John Marshall: Excerpts from the Majority Opinion in *Worcester v. Georgia*

1832

MARSHALL, C. J. This cause, in every point of view in which it can be placed, is of the deepest interest.

The defendant is a State, a member of the Union, which has exercised the powers of government over a people who deny its jurisdiction, and are under the protection of the United States.

The plaintiff is a citizen of the State of Vermont, condemned to hard labor for four years in the penitentiary of Georgia under color of an act which he alleges to be repugnant to the Constitution, laws, and treaties of the United States.

The legislative power of a State, the controlling power of the Constitution and laws of the United States, the rights, if they have any, the political existence of a once numerous and powerful people, the personal liberty of a citizen, all are involved in the subject now to be considered. . . .

We must inquire and decide whether the act of the Legislature of Georgia under which the plaintiff in error has been persecuted and condemned, be consistent with, or repugnant to the Constitution, laws and treaties of the United States.

It has been said at the bar that the acts of the Legislature of Georgia seize on the whole Cherokee country, parcel it out among the neighboring counties of the State, extend her code over the whole country, abolish its institutions and its laws, and annihilate its political existence.

If this be the general effect of the system, let us inquire into the effect of the particular statute and section on which the indictment is founded.

It enacts that "all white persons, residing within the limits of the Cherokee Nation on the 1st day of March next, or at any time thereafter, without a licence or permit from his excellency the governor . . . and who shall not have taken the oath hereinafter required, shall be guilty of a high misdemeanor, and upon conviction thereof, shall be punished by confinement to the penitentiary at hard labor for a term not less than four years." . . .

The extraterritorial power of every Legislature being limited in its action to its own citizens or subjects, the very passage of this act is an assertion of jurisdiction over the Cherokee Nation, and of the rights and powers consequent on jurisdiction.

The first step, then, in the inquiry which the Constitution and the laws impose on this court, is an examination of the rightfulness of this claim. . . .

From the commencement of our government Congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States. . . .

The Cherokee Nation, then, is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter but with the assent of the Cherokees themselves or in conformity with treaties and with the acts of Congress. The whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the government of the United States.

The act of the State of Georgia under which the plaintiff in error was prosecuted is consequently void, and the judgment a nullity. . . . The Acts of Georgia are repugnant to the Constitution, laws, and treaties of the United States.

They interfere forcibly with the relations established between the United States and the Cherokee Nation, the regulation of which according to the settled principles of our Constitution, are committed exclusively to the government of the Union.

They are in direct hostility with treaties, repeated in a succession of years, which mark out the boundary that separates the Cherokee country from Georgia; guarantee to them all the land within their boundary; solemnly pledge the faith of the United States to restrain their citizens from trespassing on it; and recognize the pre-existing power of the nation to govern itself.

They are in equal hostility with the acts of Congress for regulating this intercourse, and giving effect to the treaties.

The forcible seizure and abduction of the plaintiff, who was residing in the nation with its permission, and by authority of the President of the United States, is also a violation of the acts which authorize the chief magistrate to exercise this authority. . . .

Judgement reversed.

Marshall, John. "Worcester v. Georgia." *Archives of the West*. © 2001 The West Film Project and [WETA](http://www.pbs.org/weta/thewest/resources/archives/two/worcestr.htm). 6 May 2005.  
<http://www.pbs.org/weta/thewest/resources/archives/two/worcestr.htm>.

## **Prosecution Witness: John Burnett**

### **John Burnett's Story of the Trail of Tears**

Birthday Story of Private John G. Burnett, Captain Abraham McClellan's Company, 2nd Regiment, 2nd Brigade, Mounted Infantry, Cherokee Indian Removal, 1838-39.

Children:

This is my birthday, December 11, 1890, I am eighty years old today. I was born at Kings Iron Works in Sullivan County, Tennessee, December the 11th, 1810. I grew into manhood fishing in Beaver Creek and roaming through the forest hunting the deer and the wild boar and the timber wolf. Often spending weeks at a time in the solitary wilderness with no companions but my rifle, hunting knife, and a small hatchet that I carried in my belt in all of my wilderness wanderings.

On these long hunting trips I met and became acquainted with many of the Cherokee Indians, hunting with them by day and sleeping around their camp fires by night. I learned to speak their language, and they taught me the arts of trailing and building traps and snares. On one of my long hunts in the fall of 1829, I found a young Cherokee who had been shot by a roving band of hunters and who had eluded his pursuers and concealed himself under a shelving rock. Weak from loss of blood, the poor creature was unable to walk and almost famished for water. I carried him to a spring, bathed and bandaged the bullet wound, and built a shelter out of bark peeled from a dead chestnut tree. I nursed and protected him feeding him on chestnuts and toasted deer meat. When he was able to travel I accompanied him to the home of his people and remained so long that I was given up for lost. By this time I had become an expert rifleman and fairly good archer and a good trapper and spent most of my time in the forest in quest of game.

The removal of Cherokee Indians from their life long homes in the year of 1838 found me a young man in the prime of life and a Private soldier in the American Army. Being acquainted with many of the Indians and able to fluently speak their language, I was sent as interpreter into the Smoky Mountain Country in May, 1838, and witnessed the execution of the most brutal order in the History of American Warfare. I saw the helpless Cherokees arrested and dragged from their homes, and driven at the bayonet point into the stockades. And in the chill of a drizzling rain on an October morning I saw them loaded like cattle or sheep into six hundred and forty-five wagons and started toward the west.

One can never forget the sadness and solemnity of that morning. Chief John Ross led in prayer and when the bugle sounded and the wagons started rolling many of the children rose to their feet and waved their little hands good-by to their mountain homes, knowing they were leaving them forever. Many of these helpless people did not have blankets and many of them had been driven from home barefooted.

On the morning of November the 17th we encountered a terrific sleet and snow storm with freezing temperatures and from that day until we reached the end of the fateful journey on March the 26th, 1839, the sufferings of the Cherokees were awful. The trail of the exiles was a trail of death. They had to sleep in the wagons and on the ground without fire. And I have known as many as twenty-two of them to die in one night of pneumonia due to ill treatment, cold, and exposure. Among this number was the beautiful Christian wife of Chief John Ross. This noble hearted woman died a martyr to childhood, giving her only blanket for the protection of a sick child. She rode thinly clad through a blinding sleet and snow storm, developed pneumonia and died in the still hours of a bleak winter night, with her head resting on Lieutenant Greggs saddle blanket.

I made the long journey to the west with the Cherokees and did all that a Private soldier could do to alleviate their sufferings. When on guard duty at night I have many times walked my beat in my blouse in order that some sick child might have the warmth of my overcoat. I was on guard duty the night Mrs. Ross died. When relieved at midnight I did not retire, but remained around the wagon out of sympathy for Chief Ross, and at daylight was detailed by Captain McClellan to assist in the burial like the other unfortunates who died on the way. Her unconfined body was buried in a shallow grave by the roadside far from her native home, and the sorrowing Cavalcade moved on.

Being a young man, I mingled freely with the young women and girls. I have spent many pleasant hours with them when I was supposed to be under my blanket, and they have many times sung their mountain songs for me, this being all that they could do to repay my kindness. And with all my association with Indian girls from October 1829 to March 26th 1839, I did not meet one who was a moral prostitute. They are kind and tender hearted and many of them are beautiful.

The only trouble that I had with anybody on the entire journey to the west was a brutal teamster by the name of Ben McDonal, who was using his whip on an old feeble Cherokee to hasten him into the wagon. The sight of that old and nearly blind creature quivering under the lashes of a bull whip was too much for me. I attempted to stop McDonal and it ended in a personal encounter. He lashed me across the face, the wire tip on his whip cutting a bad gash in my cheek. The little hatchet that I had carried in my hunting days was in my belt and McDonal was carried unconscious from the scene.

I was placed under guard but Ensign Henry Bullock and Private Elkanah Millard had both witnessed the encounter. They gave Captain McClellan the facts and I was never brought to trial. Years later I met 2nd Lieutenant Riley and Ensign Bullock at Bristol at John Roberson's show, and Bullock jokingly reminded me that there was a case still pending against me before a court martial and wanted to know how much longer I was going to have the trial put off?

McDonal finally recovered, and in the year 1851, was running a boat out of Memphis, Tennessee.

The long painful journey to the west ended March 26th, 1839, with four-thousand silent graves reaching from the foothills of the Smoky Mountains to what is known as Indian territory in the West. And covetousness on the part of the white race was the cause of all that the Cherokees had to suffer. Ever since Ferdinand DeSoto made his journey through the Indian country in the year 1540, there had been a tradition of a rich gold mine somewhere in the Smoky Mountain Country, and I think the tradition was true. At a festival at Echota on Christmas night 1829, I danced and played with Indian girls who were wearing ornaments around their neck that looked like gold.

In the year 1828, a little Indian boy living on Ward creek had sold a gold nugget to a white trader, and that nugget sealed the doom of the Cherokees. In a short time the country was overrun with armed brigands claiming to be government agents, who paid no attention to the rights of the Indians who were the legal possessors of the country. Crimes were committed that were a disgrace to civilization. Men were shot in cold blood, lands were confiscated. Homes were burned and the inhabitants driven out by the gold-hungry brigands.

Chief Junaluska was personally acquainted with President Andrew Jackson. Junaluska had taken 500 of the flower of his Cherokee scouts and helped Jackson to win the battle of the Horse Shoe, leaving 33 of them dead on the field. And in that battle Junaluska had drove his tomahawk through the skull of a Creek warrior, when the Creek had Jackson at his mercy.

Chief John Ross sent Junaluska as an envoy to plead with President Jackson for protection for his people, but Jackson's manner was cold and indifferent toward the rugged son of the forest

who had saved his life. He met Junaluska, heard his plea but curtly said, "Sir, your audience is ended. There is nothing I can do for you." The doom of the Cherokee was sealed. Washington, D.C., had decreed that they must be driven West and their lands given to the white man, and in May 1838, an army of 4000 regulars, and 3000 volunteer soldiers under command of General Winfield Scott, marched into the Indian country and wrote the blackest chapter on the pages of American history.

Men working in the fields were arrested and driven to the stockades. Women were dragged from their homes by soldiers whose language they could not understand. Children were often separated from their parents and driven into the stockades with the sky for a blanket and the earth for a pillow. And often the old and infirm were prodded with bayonets to hasten them to the stockades.

In one home death had come during the night. A little sad-faced child had died and was lying on a bear skin couch and some women were preparing the little body for burial. All were arrested and driven out leaving the child in the cabin. I don't know who buried the body.

In another home was a frail mother, apparently a widow and three small children, one just a baby. When told that she must go, the mother gathered the children at her feet, prayed a humble prayer in her native tongue, patted the old family dog on the head, told the faithful creature good-bye, with a baby strapped on her back and leading a child with each hand started on her exile. But the task was too great for that frail mother. A stroke of heart failure relieved her sufferings. She sunk and died with her baby on her back, and her other two children clinging to her hands.

Chief Junaluska who had saved President Jackson's life at the battle of Horse Shoe witnessed this scene, the tears gushing down his cheeks and lifting his cap he turned his face toward the heavens and said, "Oh my God, if I had known at the battle of the Horse Shoe what I know now, American history would have been differently written."

At this time, 1890, we are too near the removal of the Cherokees for our young people to fully understand the enormity of the crime that was committed against a helpless race. Truth is, the facts are being concealed from the young people of today. School children of today do not know that we are living on lands that were taken from a helpless race at the bayonet point to satisfy the white man's greed.

Future generations will read and condemn the act and I do hope posterity will remember that private soldiers like myself, and like the four Cherokees who were forced by General Scott to shoot an Indian Chief and his children, had to execute the orders of our superiors. We had no choice in the matter.

Twenty-five years after the removal it was my privilege to meet a large company of the Cherokees in uniform of the Confederate Army under command of Colonel Thomas. They were encamped at Zollicoffer and I went to see them. Most of them were just boys at the time of the removal but they instantly recognized me as "the soldier that was good to us". Being able to talk to them in their native language I had an enjoyable day with them. From them I learned that Chief John Ross was still ruler in the nation in 1863. And I wonder if he is still living? He was a noble-hearted fellow and suffered a lot for his race.

At one time, he was arrested and thrown into a dirty jail in an effort to break his spirit, but he remained true to his people and led them in prayer when they started on their exile. And his Christian wife sacrificed her life for a little girl who had pneumonia. The Anglo-Saxon race would build a towering monument to perpetuate her noble act in giving her only blanket for comfort of a sick child. Incidentally the child recovered, but Mrs. Ross is sleeping in a unmarked grave far from her native Smoky Mountain home.

When Scott invaded the Indian country some of the Cherokees fled to caves and dens in the mountains and were never captured and they are there today. I have long intended going there

and trying to find them but I have put off going from year to year and now I am too feeble to ride that far. The fleeing years have come and gone and old age has overtaken me. I can truthfully say that neither my rifle nor my knife were stained with Cherokee blood.

I can truthfully say that I did my best for them when they certainly did need a friend. Twenty-five years after the removal I still lived in their memory as "the soldier that was good to us".

However, murder is murder whether committed by the villain skulking in the dark or by uniformed men stepping to the strains of martial music.

Murder is murder, and somebody must answer. Somebody must explain the streams of blood that flowed in the Indian country in the summer of 1838. Somebody must explain the 4000 silent graves that mark the trail of the Cherokees to their exile. I wish I could forget it all, but the picture of 645 wagons lumbering over the frozen ground with their cargo of suffering humanity still lingers in my memory.

Let the historian of a future day tell the sad story with its sighs, its tears and dying groans. Let the great Judge of all the earth weigh our actions and reward us according to our work.

Children - Thus ends my promised birthday story. This December the 11th 1890.

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"John Burnett's Story of the Trail of Tears." *The Cherokee Nation*. 5 May, 2005.  
<http://www.cherokee.org/culture/HistoryPage.asp?ID=128>.

## **Prosecution Witness: Samuel Cloud**

### **Native American Boy, Eyewitness Account**

It is spring and the leaves are on the trees. I am playing with my friends when white men in uniforms ride up to our home. My mother calls me. I can tell by her voice that something is wrong. Some of the men ride off. My mother tells me to gather my things, but the men don't allow us time to get anything. They enter our homes and begin knocking over pottery and looking into everything. Several men take my mother and me to where their horses are and are held there at gunpoint. The men who rode off return with my father, Elijah. They have taken his rifle and he is walking toward us.

I can feel his anger and frustration. There is nothing he can do. From my mother I feel fear. I am filled with fear, too. What is going on? I was just playing, but now my family and my friends' families are gathered together and told to walk at the point of a bayonet.

They lead us to a stockade. They herd us into this pen like we are cattle. No one was given time to gather any possessions. The nights are still cold in the mountains and we do not have enough blankets to go around. My mother holds me at night to keep me warm. That is the only time I feel safe. I feel her pull me to her tightly. I feel her warm breath in my hair. I feel her softness as I fall asleep at night. As the days pass, more and more of our people are herded into the stockade. I try not to think about my hunger. I am cold.

Several months have passed and still we are in the stockades. My father looks tired. We hear that white men have moved into our homes and are farming our fields. What will happen to us? We are to march west to join the Western Cherokees. I don't want to leave these mountains.

My mother, my aunts and uncles take me aside one day. "Your father died last night," they tell me. My mother and my father's clan members are crying, but I do not understand what this means. I saw him yesterday. He was sick, but still alive. It doesn't seem real. Nothing seems real.

It is now Fall. The stockade is nothing but mud. In the morning it is stiff with frost. By mid-afternoon, it is soft and we are all covered in it. The soldiers suddenly tell us we are to follow them. We are led out of the stockade. The guards all have guns and are watching us closely. My mother keeps me close to her.

We walked for many days. I don't know how long it has been since we left our home. As we walk past white towns, the whites come out to watch us pass. No words are spoken to them. No words are said to us. Still, I wish they would stop staring. I wish it were them walking in this misery and I were watching them. It is because of them that we are walking. I don't understand why, but I know that much. They made us leave our homes. They made us walk to this new place we are heading in the middle of winter. I do not like these people. Still, they stare at me as I walk past.

My mother is coughing now. She looks worn. Her hands and face are burning hot. My aunts and uncles try to take care of me, so she can get better. I just want to sit with her. I want her to stroke my hair, like she used to do. My aunts try to get me to sleep by them, but at night, I creep to her side. When she feels me by her side, she opens her blanket and lets me in. I nestle against her feverish body. I can make it another day, I know, because she is here.

When I went to sleep last night, my mother was gone and coughing worse than usual. When I woke up, she was cold. I tried to wake her up, but she lay there. I kept touching her, as hot tears stream down my face.

I hear myself call her name, softly, then louder. She does not answer. My aunt and uncle come over to me to see what is wrong. My aunt looks at my mother. My uncle pulls me from her. My aunt begins to wail. I will never forget that wail. I did not understand when my father

died. My mother's death I do not understand, but I suddenly know that I am alone. I will be forever denied her warmth, the soft fingers in my hair, her gentle breath as we slept. I am alone. I want to cry. I want to scream in rage. I can do nothing.

We bury her in a shallow grave by the road. I will never forget that lonesome hill of stone that is her final bed, as it fades from my sight. I walk with my head turned, watching that small hill as it fades from my sight. The soldiers make us continue walking. My uncle talks to me, trying to comfort me. I walk in loneliness.

I know what it is to hate. I hate those white soldiers who took us from our home. I hate the soldiers who make us keep walking through the snow and ice toward this new home that none of us ever wanted. I hate the people who killed my father and mother.

I hate the white people who lined the road in their woolen clothes that kept them warm, watching us pass. Move of those white people are here to say they are sorry that I am alone. None of them care about my people or me. All they ever saw was the color of our skin. All I see is the color of theirs and I hate them.

"Title: Trail of Tears." *Lesson Plans Page.Com*. 5 May 2005.

<http://www.lessonplanspage.com/SSLAMDTrailOfTearsUnitIdeas68.htm>.

## **Defense Witness: Andrew Jackson: Excerpts from State of the Union addresses**

Below are excerpts from Andrew Jackson's annual messages to Congress. The source website, listed below, has links to the full text of each address.

### First Annual Message to Congress, December 8, 1829

"Our conduct toward these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a most powerful appeal to our sympathies. Our ancestors found them the uncontrolled possessors of these vast regions. By persuasion and force they have been made to retire from river to river and from mountain to mountain, until some of the tribes have become extinct and others have left but remnants to preserve for awhile their once terrible names. Surrounded by the whites with their arts of civilization, which by destroying the resources of the savage doom him to weakness and decay, the fate of the Mohegan, the Narragansett, and the Delaware is fast overtaking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them if they remain within the limits of the states does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity." -- *Andrew Jackson*

### Second Annual Message to Congress, December 6, 1830

"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." -- *Andrew Jackson*

### Third Annual Message to Congress, December 6, 1831

"It is pleasing to reflect that results so beneficial, not only to the States immediately concerned, but to the harmony of the Union, will have been accomplished by measures equally advantageous to the Indians. What the native savages become when surrounded by a dense population and by mixing with the whites may be seen in the miserable remnants of a few Eastern tribes, deprived of political and civil rights, forbidden to make contracts, and subjected to guardians, dragging out a wretched existence, without excitement, without hope, and almost without thought." -- *Andrew Jackson*

### Fourth Annual Message to Congress, December 4, 1832

"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*

### Fifth Annual Message to Congress, December 3, 1833

"My original convictions upon this subject have been confirmed by the course of events for several years, and experience is every day adding to their strength. That those tribes can not exist surrounded by our settlements and in continual contact with our citizens is certain. They have neither the intelligence, the industry, the moral habits, nor the desire of improvement which are essential to any favorable change in their condition. Established in the midst of another and a superior race, and without appreciating the causes of their inferiority or seeking to control them,

they must necessarily yield to the force of circumstances and ere long disappear." -- *Andrew Jackson*

Sixth Annual Message to Congress, December 1, 1834

"I regret that the Cherokees east of the Mississippi have not yet determined as a community to remove. How long the personal causes which have heretofore retarded that ultimately inevitable measure will continue to operate I am unable to conjecture. It is certain, however, that delay will bring with it accumulated evils which will render their condition more and more unpleasant. The experience of every year adds to the conviction that emigration, and that alone, can preserve from destruction the remnant of the tribes yet living amongst us." -- *Andrew Jackson*

Seventh Annual Message to Congress, December 7, 1835

Jackson makes no direct reference to Indian removal in this message, though it was in this year that the Seminole were ordered to leave Florida. In fact, the only reference to native issues is made obliquely in a paragraph concerning the sale of public lands, much of which were once treated Indian territories.

"The extraordinary receipts from the sales of the public lands invite you to consider what improvements the land system, and particularly the condition of the General Land Office, may require. At the time this institution was organized, near a quarter century ago, it would probably have been thought extravagant to anticipate for this period such an addition to its business as has been produced by the vast increase of those sales during the past and present years. It may also be observed that since the year 1812 the land offices and surveying districts have been greatly multiplied, and that numerous legislative enactments from year to year since that time have imposed a great amount of new and additional duties upon that office, while the want of a timely application of force commensurate with the care and labor required has caused the increasing embarrassment of accumulated arrears in the different branches of the establishment." -- *Andrew Jackson*

Eighth Annual Message to Congress, December 5, 1836

"The national policy, founded alike in interest and in humanity, so long and so steadily pursued by this Government for the removal of the Indian tribes originally settled on this side of the Mississippi to the West of that river, may be said to have been consummated by the conclusion of the late treaty with the Cherokees." -- *Andrew Jackson*

"Andrew Jackson Speaks: Indian Removal." *The eJournal website: Tracking Westward Expansion & the Trail of Tears*. Patrick Jennings. 6 May 2005. <http://www.synaptic.bc.ca/ejournal/jackson.htm>.

## **President Andrew Jackson's Case for the Removal Act**

*First (sic) Annual Message to Congress, 6 December 1830*

It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements is approaching to a happy consummation. Two important tribes have accepted the provision 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 advantages.

The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves. The pecuniary advantages which it Promises to the Government are the least of its recommendations. It puts an end to all possible danger of collision between the authorities of the General and State Governments on account of the Indians. It will place a dense and civilized population in large tracts of country now occupied by a few savage hunters. By opening the whole territory between Tennessee on the north and Louisiana on the south to the settlement of the whites it will incalculably strengthen the southwestern frontier and render the adjacent States strong enough to repel future invasions without remote aid. It will relieve the whole State of Mississippi and the western part of Alabama of Indian occupancy, and enable those States to advance rapidly in population, wealth, and power. 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. These consequences, some of them so certain and the rest so probable, make the complete execution of the plan sanctioned by Congress at their last session an object of much solicitude.

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.

With a full understanding of the subject, the Choctaw and the Chickasaw tribes have with great unanimity determined to avail themselves of the liberal offers presented by the act of Congress, and have agreed to remove beyond the Mississippi River. Treaties have been made with them, which in due season will be submitted for consideration. In negotiating these treaties they were made to understand their true condition, and they have preferred maintaining their independence in the Western forests to submitting to the laws of the States in which they now reside. These treaties, being probably the last which will ever be made with them, are characterized by great liberality on the part of the Government. They give the Indians a liberal sum in consideration of their removal, and comfortable subsistence on their arrival at their new homes. If it be their real interest to maintain a separate existence, they will there be at liberty to do so without the inconveniences and vexations to which they would unavoidably have been subject in Alabama and Mississippi.

Humanity has often wept over the fate of the aborigines of this country, and Philanthropy has been long busily employed in devising means to avert it, but its progress has never for a moment

been arrested, and one by one have many powerful tribes disappeared from the earth. To follow to the tomb the last of his race and to tread on the graves of extinct nations excite melancholy reflections. But true philanthropy reconciles the mind to these vicissitudes as it does to the extinction of one generation to make room for another. In the monuments and fortresses of an unknown people, spread over the extensive regions of the West, we behold the memorials of a once powerful race, which was exterminated or has disappeared to make room for the existing savage tribes. Nor is there anything in this which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy could not wish to see this continent restored to the conditions in which it was found by our forefathers. What good man would prefer a country covered with forests and ranged by a few thousand savages to our extensive Republic, studded with cities, towns, and prosperous farms, embellished with all the improvements which art can devise or industry execute, occupied by more than 12,000,000 happy people, and filled with all the blessings of liberty, civilization, and religion?

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 or have melted away to make room for the whites. The waves of population and civilization are rolling to the westward, and we now propose to acquire the countries occupied by the red men 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. 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. Our children by thousands yearly leave the land of their birth to seek new homes in distant regions. Does Humanity weep at these painful separations from everything, animate and inanimate, with which the young heart has become entwined? 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. These remove hundreds and almost thousands of miles at their own expense, purchase the lands they occupy, and support themselves at their new homes from the moment of their arrival. 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? 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 with gratitude and joy.

And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers than it is to our brothers and children? Rightly considered, the policy of the General Government toward the red man is not only liberal, but generous. He is unwilling to submit to the laws of the States and mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement. . . .

May we not hope, therefore, that all good citizens, and none more zealously than those who think the Indians oppressed by subjection to the laws of the States, will unite in attempting to open the eyes of those children of the forest to their true condition, and by a speedy removal to relieve them from all the evils, real or imaginary, present or prospective, with which they may be supposed to be threatened.

Jackson, Andrew. "President Andrew Jackson's Case for the Removal Act: First Annual Message to Congress, 8 December 1830." Vincent Ferraro, *Mount Holyoke College*. 6 May 2005. <http://www.mtholyoke.edu/acad/intrel/andrew.htm>.

## Defense Witness: Major Ridge (ca. 1771-1839) Biography

The Cherokee leader Major Ridge is primarily known for signing the Treaty of New Echota (1835), which led to the Trail of Tears. Before this tragic period in Cherokee history, however, he was one of the most prominent leaders of the Cherokee nation.

Major Ridge was born in the early 1770s in Tennessee. His Cherokee name, Kah-nung-datla-geh, meant "the man who walks on the mountaintop." Englishmen called him "The Ridge." He was brought up as a traditional hunter and warrior, resisting white encroachment on Cherokee lands. He married a fellow Cherokee, Susanna Wickett, in the early 1790s, and they moved to Pine Log, in present-day Bartow County.

As a result of U.S. president George Washington's "civilization" policy for Native Americans, the government agent Benjamin Hawkins provided The Ridge with new farm implements and Susanna with a spinning wheel and loom, so that the young couple could learn "white" ways of working. (Traditionally, Cherokee women farmed, and the men hunted, fished, conducted politics, and fought wars.) With his military experience and brilliant command of the Cherokee language, The Ridge soon became a successful politician. Purchasing African slaves to work as field laborers enabled the Ridge family to enlarge their agricultural production to plantation status.

When the [War of 1812](#) began, The Ridge joined General Andrew Jackson's forces in fighting the Creeks and the British in Alabama. For his heroic leadership at the Battle of Horseshoe Bend, The Ridge received the title of major, which he subsequently used as his first name.

After the war, the Ridge family established a [plantation](#) on the Oostanaula River in present-day [Rome](#). With his friend and neighbor [John Ross](#), Ridge helped establish a Cherokee Nation with three branches of government in 1827. He served as counselor, and Ross became principal chief, the equivalent of president.

Believing that they had succeeded in the "civilization" process by establishing a government on a U.S. model, Cherokees like the Ridges were shocked when the U.S. Congress passed the Indian Removal Bill of 1830 and Georgia implemented a lottery to dispense Cherokee lands shortly thereafter. As Georgians began to move illegally into the Cherokees' houses, businesses, and plantations, often by force, Ridge became convinced that either warfare or negotiation with the U.S. government must proceed. He became a leader of the Treaty Party, which favored removal to Indian Territory west of the Mississippi River (in present-day Oklahoma), in exchange for financial compensation of \$5 million to the Cherokees. He and a minority of Cherokees signed the Treaty of New Echota in December 1835 without authorization from Ross or the Cherokee government. The illegal treaty was then signed by President Jackson and passed by one vote in the U.S. Senate.

The Ridge family and others voluntarily moved west, but Principal Chief Ross and opponents of the treaty fought its implementation. They failed, and [Cherokee removal](#) was forced by the military. Because of harsh weather conditions, more than 4,000 Cherokees died during the 1838-39 winter on the "trail where they cried," commonly known as the Trail of Tears. On June 22, 1839, in retaliation for Ridge's part in this tragedy, some of Ross's supporters ambushed and killed Ridge on his way into town from his plantation on Honey Creek in Indian Territory. His assailants were never officially identified or prosecuted.

Taylor-Colbert, Alice. "Major Ridge (ca. 1771-1839)." *The New Georgia Encyclopedia: History and Archeology*. 2004-2005. 6 May 2005.

<http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2885>.

## **Defense Witness: Elias Boudinot (ca. 1804-1839)**

### **Biography**

Elias Boudinot was a formally educated Cherokee who became the editor of the *Cherokee Phoenix*, the first Native American newspaper in the United States. In the mid-1820s the Cherokee Nation was under enormous pressure from surrounding states, especially Georgia, to move to a territory west of the Mississippi River. Ultimately, the Cherokee Nation was divided, with the majority opposing removal, and a small but influential minority, including Boudinot, favoring removal. As an educator, an advocate of Cherokee acculturation, and editor of the *Phoenix*, Boudinot played a crucial role in Cherokee history during the decades preceding the Nation's forced removal, often referred to as the Trail of Tears.

Elias Boudinot was born in Oothcaloga, in northwest Georgia, about 1804. He was called Gallegina, or the Buck, and was the eldest of nine children. His father, Oo-watie, was considered a progressive Cherokee. Oo-watie enrolled Gallegina and a younger son, Stand Watie, later a Confederate general, in a Moravian missionary school at Spring Place, in northwest Georgia. In 1817 young Gallegina was invited to attend the American Board of Commissioners for Foreign Missions school in Cornwall, Connecticut. On his journey there, Gallegina was introduced to Elias Boudinot, the aged president of the American Bible Society, and adopted his name in deference and tribute.

Boudinot spent several successful years at the American Board school, and in 1820 he converted to Christianity. Four years later he became engaged to a white woman, Harriet Ruggles Gold, the daughter of a Cornwall physician. Their engagement ignited a firestorm of racial prejudice, and the betrothed couple was burned in effigy. Labeled a breeding ground for mixed couples, the American Board school was forced to close immediately. Boudinot and Harriet Gold married in 1826, then returned to High Tower in the Cherokee Nation to work in a mission.

Earlier in the spring of 1826 Boudinot had embarked on a national speaking tour to elicit financial, spiritual, and political support for the Cherokee Nation's continuing progress in the "arts of civilization." His pamphlet, "An Address to the Whites" (1826), was based on a speech he made in Philadelphia. Boudinot proved remarkably effective at fund-raising. By 1827 the General Council of the Cherokee Nation was able to purchase a printing press and Cherokee typeface for the publication of a national newspaper, with Elias Boudinot as its editor. The groundbreaking first issue of the bilingual periodical, known as the *Cherokee Phoenix*, appeared on February 21, 1828. Boudinot pledged to print the official documents of the Nation and tracts on religion and temperance, as well as local and international news.

In the years following the Indian Removal Act (1830) Boudinot also began to publish editorials in favor of the voluntary removal of the Cherokees to a territory west of the Mississippi River. But his opinions were at odds with those held by the majority of the Nation, including the General Council. He resigned as editor of the *Phoenix* in August 1832 but continued to take an active role in the removal crisis and even printed a pamphlet attacking anti-removal chief John Ross. He ultimately signed the New Echota Treaty (1835), which required the Cherokees to relinquish all remaining land east of the Mississippi River and led to their forced removal to a territory in present-day Oklahoma. Soon after moving west with his family in 1839, Boudinot and two other treaty signers (his uncle Major Ridge and cousin John Ridge) were attacked and stabbed to death by a group of Ross supporters.

Boudinot was inducted into the Georgia Writers Hall of Fame in 2005.

Pulley, Angela F. "Elias Boudinot (ca. 1804-1839)." *The New Georgia Encyclopedia: History and Archeology*. 2004-2005. 6 May 2005. <http://www.georgiaencyclopedia.org/nge/Article.jsp?path=/Media/Journalism/Newspapers/EditorsandOwners&id=h-626>.

## **Defense Witness: General Winfield Scott (1786-1866)**

### **Biography**

No one person would have more influence on the United States Army during its first 100 years of existence than General Winfield Scott. Known as Old Fuss and Feathers because of his attention to detail and a penchant for gaudy uniforms, Winfield Scott fought in the War of 1812, the Blackhawk War, the Seminole Wars, the [Mexican-American War](#), and the War for Southern Independence (American Civil War). A [Civilian Conservation Corps](#) park and lake bear the name of the man who oversaw the removal of the Cherokee from the state of Georgia.

Born of parents who were both wealthy and famous (his father was a hero in the American Revolution), Winfield Scott attended The College of William and Mary in Williamsburg, Virginia. The evolving upheaval in relations between the United States and Britain at the start of the 19<sup>th</sup> century ended an uninspired legal career for the six foot, five inch Scott.

During the War of 1812 Lt. Colonel Scott led a series of attacks against combined British and Canadian forces between Fort George and Fort Erie, on the Canadian side of the border west of Buffalo, New York. ....

After the War he married, worked on military books and hobnobbed with New York society. Over the next 15 years the flamboyant Scott angered many of his peers, including future president Andrew Jackson.

Scott returned to active military duty in 1832 to fight in various "Indian Wars" and was called upon to replace John Wool as commander of Federal troops in the Cherokee Nation just prior to the Trail of Tears. Spreading from the Blue Ridge Mountains west to the Cumberland Plateau, the [Cherokee](#) had sworn in 1819 to give no more land to encroaching settlers. The United States Supreme Court agreed with the Cherokee's right to self-rule, but Andrew Jackson did not and in 1835 he convinced a small group of these American Indians to sign the Treaty of [New Echota](#). ...

Receiving orders on April 6, 1838, Scott arrived at New Echota, Cherokee Nation that May and immediately began with his plans for removal. He divided the Nation into three military districts and The Cherokee were rounded up and herded into unsanitary "[forts](#)," one of which was named for the general. Nearly one-third of all the Cherokee deaths attributed to the [Trail of Tears](#) would come as a result of this confinement.

The first parties to leave Georgia suffered huge losses in both people and livestock, attempting to travel west in the scorching heat of summer. The Cherokee clearly viewed Scott as their "warden" when they appealed directly to him to postpone the removal until cooler months. "We, your prisoners, wish to speak to you...We have been made prisoners by your men but do not fight you..."

The appeal worked. Scott not only agreed to postpone the removal, he backed a proposal for the departing parties to be led by Cherokee chiefs rather than the U. S. Army. For this Winfield Scott expected, and got, an incredible backlash from the pro-removal forces. Even former President Andrew Jackson wrote to protest Scott's decision.

The general, in spite of serious personal problems, was determined to accompany a group of Cherokee west. He left Athens, Tennessee, on October 1, 1838, and continued with the Cherokee to Nashville, where he received orders to return to Washington.

[He later served in both the Mexican War and the Civil War]

"Winfield Scott: a North Georgia Notable." *About North Georgia*. Copyright 1994-2003 by Golden Ink. 6 May 2005.  
<http://ngeorgia.com/people/scott.html>.

## Letter to the Cherokee from Major General Scott

(May 10, 1838)

“Cherokees! The President of the United States has sent me with a powerful army, to cause you, in obedience to the treaty of 1835 [the Treaty of New Echota], to join that part of your people who have already established in prosperity on the other side of the Mississippi. Unhappily, the two years which were allowed for the purpose, you have suffered to pass away without following, and without making any preparation to follow; and now, or by the time that this solemn address shall reach your distant settlements, the emigration must be commenced in haste, but I hope without disorder. I have no power, by granting a farther delay, to correct the error that you have committed. The full moon of May is already on the wane; and before another shall have passed away, every Cherokee man, woman and child in those states must be in motion to join their brethren in the far West.

My friends! This is no sudden determination on the part of the President, whom you and I must now obey. By the treaty, the emigration was to have been completed on or before the 23rd of this month; and the President has constantly kept you warned, during the two years allowed, through all his officers and agents in this country, that the treaty would be enforced.

I am come to carry out that determination. My troops already occupy many positions in the country that you are to abandon, and thousands and thousands are approaching from every quarter, to render resistance and escape alike hopeless. All those troops, regular and militia, are your friends. Receive them and confide in them as such. Obey them when they tell you that your can remain no longer in this country. Soldiers are as kind-hearted as brave, and the desire of every one of us is to execute our painful duty in mercy. We are commanded by the President to act towards you in that spirit, and much is also the wish of the whole people of America.

Chiefs, head-men and warriors! Will you then, by resistance, compel us to resort to arms? God forbid! Or will you, by flight, seek to hid yourselves in mountains and forests, and thus oblige us to hunt you down? Remember that, in pursuit, it may be impossible to avoid conflicts. The blood of the white man or the blood of the red man may be spilt, and, if spilt, however accidentally, it may be impossible for the discreet and humane among you, or among us, to prevent a general war and carnage. Think of this, my Cherokee brethren! I am an old warrior, and have been present at many a scene of slaughter, but spare me, I beseech you, the horror of witnessing the destruction of the Cherokees. Do not, I invite you, even wait for the close approach of the troops; but make such preparations for emigration as you can and hasten to this place, to Ross’s Landing or to Gunter’s Landing, where you all will be received in kindness by officers selected for the purpose. You will find food for all and clothing for the destitute at either of those places, and thence at your ease and in comfort be transported to your new homes, according to the terms of the treaty.

This is the address of a warrior to warriors. May his entreaties be kindly received and may the God of both prosper the Americans and Cherokees and preserve them long in peace and friendship with each other!

Source: Edward J. Cashin (ed.), *A Wilderness Still The Cradle of Nature: Frontier Georgia* (Savannah: Beehive Press, 1994), pp. 137-38.

“Letter to the Cherokee from Major General Scott.” *The Cherokee Nation*. 5 May, 2005.  
<http://www.cherokee.org/Culture/HistoryPage.asp?ID=125>.

## **Defense Witness: Governor Wilson Lumpkin (1783-1870)**

### **Biography**

Wilson Lumpkin was one of Georgia's most prominent political leaders of the antebellum period. After early service in local government and the state legislature, he was elected to Congress four times, serving 1815-17 and 1827-31; he resigned before serving his fourth term to run for the governorship of Georgia. Lumpkin was elected governor for two terms (1831-35), then went on to serve as a U.S. commissioner to the Cherokee Indians (1836-37), as a U.S. senator (1837-41), and as a surveyor of Georgia's boundaries and an advocate of improved transportation, especially as a general manager and key figure in the creation of the state's Western and Atlantic Railroad. Lumpkin was also a trustee of the University of Georgia in Athens.

All of the public offices were important; however, in Lumpkin's eyes and in the eyes of posterity, his major accomplishment was his cardinal role in the [removal](#) of the Cherokee Indians from north Georgia. That effort and his choice of a political career were consistent with his background. Lumpkin was a child of the frontier. He was born in Virginia on January 14, 1783, the second son of Lucy Hopson and John Lumpkin, and his family moved when he was an infant to Wilkes County, to an area that became Oglethorpe County. This part of the state was marked by Indian-white tension and conflict, and Lumpkin recalled vividly in his memoir that his family was "exposed . . . to frequent depredations from hostile and savage Indian neighbors." Thus, he encountered the idea that the two cultures could not live together peacefully.

His background also taught him the intertwined worlds of law and politics that would become his entrée into power. His father, in addition to engaging in business and farming, was a public figure, serving as justice of the peace, judge of the inferior court, and clerk of the superior court, the major Georgia trial court. Lumpkin acquired his political and legal education from working in his father's office, from the common schools, and from reading the classic books in his father's library by such writers as Adam Smith, Plutarch, Edward Gibbon, and David Hume.

Upon attaining adulthood, Lumpkin married, farmed, continued to assist his father, and taught school in the community. In 1804 he was elected to the state legislature, and his lifelong political career began. Lumpkin described himself as a Democratic-Republican and a moderate. Thus, he generally supported states' rights against what he called federal "consolidation." He regretted his congressional votes in 1816 for some nationalistic measures, but he was also a staunch opponent of nullification and was important in Georgia's refusal to join South Carolina in its defiance of the federal Tariff Act of 1828. Within these parameters of political moderation, Lumpkin was a hard-working public administrator, thorough in his preparation and documentation of the various and diverse issues that confronted him in government service, whether these were voting on state or federal statutes, administration of the state penitentiary, improvements in the state's transportation system, the removal of the Cherokee, or other duties.

Lumpkin's advocacy of removal was based on clear but harsh views of Indian-white relationships. First, based on his childhood and adult observations, he was convinced that Indians and whites could not peacefully coexist, for the whites would take advantage of the Indians. He was, however, no believer in innate white superiority, for he argued that the Cherokee, if removed to western territory and given time to develop, would acquire a cultural equality with whites and become a state, admitted to the Union on a par with other states. Thus, he advocated removal and, consistently with his states' rights views, the application of Georgia laws to the Cherokees in north Georgia. This application of Georgia laws included criminal laws, the distribution of Cherokee lands to white settlers by a lottery, and the imprisonment of northern

missionaries who argued against removal. On two occasions, Lumpkin defied the U.S. Supreme Court on these matters.

Lumpkin's views on removal were opposed by a majority of the Cherokee (led by chief [John Ross](#)), by prominent federal legislators, and by various Christian missionary societies, but he had more powerful allies in U.S. presidents Andrew Jackson and Martin Van Buren, Georgia public opinion, and majority U.S. congressional sentiment. Thus, removal triumphed, leading to the Cherokee removals west, the best-known of which was the tragic Trail of Tears (1838-39).....

Tate, Benjamin B. "Wilson Lumpkin (1783-1870)." *The New Georgia Encyclopedia: History and Archeology*. 2004-2005. 6 May 2005. <http://www.georgiaencyclopedia.org/nge/Article.jsp?id=h-2905>.

# EXHIBITS:

## Cherokee Timeline, 1450-1838

1450 (?)	First Cherokee enter the state in the vicinity of <a href="#">Traveler's Rest</a> . Tugaloo Old Town (now covered by Lake Tugaloo) is the first major Cherokee village.
1540-1	<a href="#">deSoto "visits"</a> the Cherokee and is supposedly one of the first whites seen by the tribe, although written descriptions of the tribe by the Spanish note the wide range of colors in the tribe, from "negro" (black) to light skinned and "fair," according to Moyano and Pardo.
1715	Massive uprising against North and South Carolina.
1721	First treaty with whites (South Carolina).
1738	Smallpox eradicates 25% of the Cherokee Nation. Nancy Ward is born
1753	Smallpox epidemic.
1755(?)	Battle of Taliwa (numerous other spellings) - Accounts differ on exact events, however, the Creek, who greatly outnumber the Cherokee, attack the Cherokee line five times. During the fifth attack elderly Cherokee leader Kingfisher is slain. His teenage wife picks up his weapon, and chanting a Cherokee war song, Nancy Ward leads the Cherokee to victory, routing the Creek. The battle marked successful expulsion of the Creek from much of North Georgia. The only major remaining Creek settlement was near present <a href="#">Rome, Georgia</a> .
1760-1762	Cherokee War (SC)
1771	<a href="#">Sequoyah</a> born. <a href="#">Ridge</a> born.
1773	First <a href="#">cession</a> of Cherokee land in Georgia.
1776-1783	Impressed by the British during the French and Indian War, the Cherokee side with them during the <a href="#">American Revolution</a> . The price for the decision is immense. Colonel Pickens destroys Long Swamp village (1782) and forces the Cherokee to cede land to settlers.
1786	Treaty of Hopewell (SC)- The Cherokee thought this would be the end of the settlers' invasion of Cherokee land. Within 3 years bitter fighting had erupted as settlers continued to move into the Cherokee Nation. This treaty is the basis for the term "Talking Leaves," the name of the tribe's written language. The Cherokee felt that written words were like leaves, when they were no longer of use they withered and died.
1790	<a href="#">John Ross</a> born.
1791	Treaty of Holston-Cherokee cede land in eastern Tennessee in exchange for President Washington's guarantee that the Cherokee Nation will never again be invaded by settlers. This treaty forces Americans to obtain passports to enter Cherokee lands, and granted Cherokee the right to evict settlers.
1792	The town of Hightower moves from the vicinity of Rome, Georgia to present-day Cartersville, further east on the Etowah River after a brutal attack on the village by Tennessee governor John Sevier( <a href="#">more</a> ).
1794	Chickamauga Cherokee (Lower Towns) cease fighting, begin westward move.
1799	Formation of the Lighthorse, a loose knit Cherokee police force headed by The Ridge and <a href="#">James Vann</a> .
1799-1804	Building of the Augusta to Nashville Road, later known as the Federal Road.
1801	Return J. Meigs appointed "indian agent." Morovians start mission at Spring Place.
1802	President Thomas Jefferson agrees with the state of Georgia to removal of all American Indians in exchange for the state's claim of western lands.
1804	Cherokee cede Wafford's Tract.
1806	Start of a complex series of events known as Revolt of the Young Chiefs
1809	Death of Doublehead at the hands of Ridge, <a href="#">James Vann</a> and Alexander Saunders

1810	Death of <a href="#">James Vann</a> .
1811	New Madrid earthquake. Actually 3 separate earthquakes with an epicenter near the town of New Madrid, Missouri in the southeastern border with Kentucky. The quakes were felt throughout the Cherokee Nation and sparked what is best described as a religious revival among the Cherokee. Writer James Mooney would call this movement the "Ghost Dance," after a similar Western Indian revival.
1812	Shawnee warrior Tecumseh agitates American Indians on the frontier to rise up and destroy the settlers. A faction of the <a href="#">Creek Indians</a> , the "Red Sticks," revolt, attacking Fort Mims, Alabama and massacre 250 men, women and children.
1813-1814	Cherokee warriors fight alongside future president Andrew Jackson during two campaigns (5 major battles) against the Red Sticks, saving both his army and his life in separate battles.
1814	Jackson demands cessions of 2.2 million acres from the Cherokee.
1817	Cession of land east of the Unicoi Turnpike. (Treaty of Turkey Town, instead of the 2.2 million acres demanded by Jackson.)
1819	Final cession of land in Georgia, and part of a much larger cession, the Cherokee give up claims to all land east of the Chattahoochee River.
1821	Cherokee warrior <a href="#">Sequoyah</a> finishes his work on a <a href="#">written language</a> (syllabary) for the tribe. Within six months more than 25% of the Cherokee Nation learns how to read and write.
1822	Georgia begins press for cession of remaining Cherokee lands, citing Jefferson's 1802 commitment to the state.
1828	<a href="#">Gold</a> discovered in Georgia. This discovery was on Cherokee land ceded to the U. S. in 1817 ( <a href="#">Duke's Creek</a> ), however, gold was soon found inside the Cherokee Nation; Publication of the <a href="#">Cherokee Phoenix</a> begins with <a href="#">Elias Boudinot</a> , editor.
1830	Cherokee evict encroachers in Beaver Dam on Cedar Creek, a few miles south of present-day <a href="#">Rome</a> , Georgia. Passage of the Indian Removal Act.
1831	Chief Justice John Marshall rules that the Cherokee have no standing to file suit in the United States in Cherokee Nation vs. Georgia. He then instructs attorney William Wirt on how to correctly file; <a href="#">Samuel Worcester</a> and others arrested for violation of Georgia law requiring whites to get permits to work in the Cherokee territory.
1832	The Supreme Court of the United States declares the Cherokee Nation to be sovereign (Worcester v. Georgia). This has constitutional implications, disallowing the state of Georgia from passing any law governing the Cherokee; Elias Boudinot resigns as publisher of the Cherokee Phoenix under pressure from John Ross because of his editorial support for removal; <a href="#">Georgia's sixth land lottery and the gold lottery</a> .
1834	The Georgia Guard with the help of Stand Watie destroys the printing press in the offices of <a href="#">The Cherokee Phoenix</a> .
1835	Nov. 7 Ross and John Howard Payne, in Red Clay, Tennessee, are illegally detained by the Georgia Guard. Dec. 29 Treaty of New Echota signed in Elias Boudinot's home by members of the Treaty Party.
1838	May 23 Deadline for voluntary removal. Georgia Guard had begun round-up 5 days earlier. U. S. forces under command of Winfield Scott begin roundup in Georgia, Tennessee, Alabama, and North Carolina. Cherokee are herded into " <a href="#">forts</a> ," gradually making their way north to the Cherokee Agency (Rattlesnake Springs) or Ross's Landing in southeastern Tennessee. This is generally recognized as the beginning of <a href="#">The Cherokee Trail of Tears</a>

"Cherokee Timeline, 1450-1838." *About North Georgia*. 5 May 2005. © Copyright 1994-2003 by Golden Ink.  
<http://www.ngeorgia.com/history/cherokeetimeline.html>.

## The Cherokee Trail of Tears Timeline: 1838-1839

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<b>1838</b>	
February	15,665 people of the Cherokee Nation memorialize congress protesting the Treaty of New Echola.
March	Outraged American citizens throughout the country memorialize congress on behalf of the Cherokee.
April	Congress tables memorials protesting Cherokee removal. Federal troops ordered to prepare for roundup.
May	Cherokee roundup begins May 23, 1838. Southeast suffers worst drought in recorded history. Tsali escapes roundup and returns to North Carolina.
June	First group of Cherokees driven west under Federal guard. Further removal aborted because of drought and "sickly season."
July	Over 13,000 Cherokees imprisoned in military stockades awaiting break in drought. Approximately 1500 die in confinement.
August	In Aquohee stockade Cherokee chiefs meet in council, reaffirming the sovereignty of the Cherokee Nation. John Ross becomes superintendent of the removal.
September	Drought breaks: Cherokee prepare to embark on forced exodus to Indian Territory in Oklahoma. Ross wins additional funds for food and clothing.
October	For most Cherokee, the "Trail of Tears" begins.
November	Thirteen contingents of Cherokees cross Tennessee, Kentucky and Illinois. First groups reach the Mississippi River, where there crossing is held up by river ice flows.
December	Contingent led by Chief Jesse Bushyhead camps near present day Trail of Tears Park. John Ross leaves Cherokee homeland with last group: carrying the records and laws of the Cherokee Nation. 5000 Cherokees trapped east of the Mississippi by harsh winter; many die.

## 1839

January	First overland contingents arrives at Fort Gibson. Ross party of sick and infirm travel from Kentucky by riverboat.
February	Chief Ross's wife, Quati, dies near Little Rock, Arkansas on February 1, 1839.
March	Last group headed by Ross, reaches Oklahoma. More than 3000 Cherokee die on Trail of Tears, 1600 in stockades and about the same number en route. 800 more die in 1839 in Oklahoma.
April	Cherokees build houses, clear land, plant and begin to rebuild their nation.
May	Western Cherokee invite new arrivals to meet to establish a united Cherokee government.
June	Old Treaty Part leaders attempt to foil reunification negotiations between Ross and Sequoyah. Treaty Party leaders John Ridge, Major Ridge and Elias Boudinot assassinated.
July	Cherokee Act of Union brings together the eastern and western Cherokee Nations on July 12, 1839.
August	Stand Watie, Brother of Boudinot, pledges revenge for deaths of party leaders.
September	Cherokee constitution adopted on September 6, 1839. Tahlequah established as capital of the Cherokee Nation.

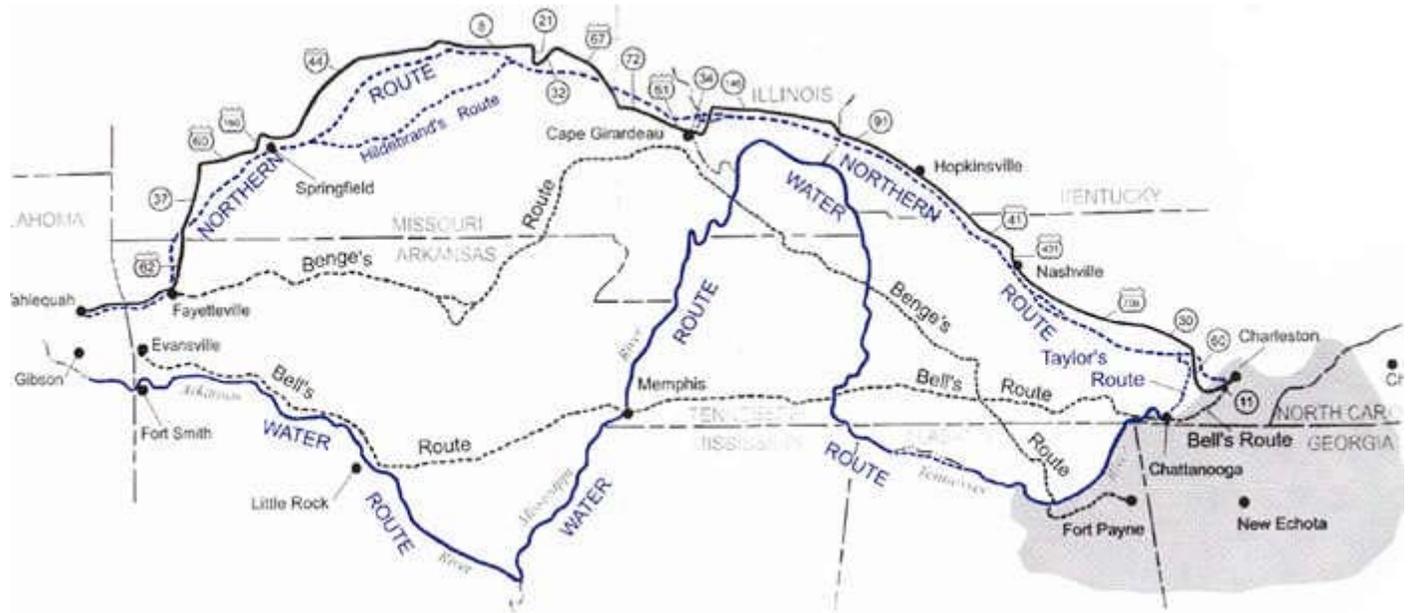
“Timeline 1838-1839.” *The Cherokee Trail of Tears 1838-1839*. 5 May 2005.  
<http://www.rosecity.net/tears/trail/timeline.html>.

## Official Map

# The Trail of Tears

This map, designed and published by the National Parks Service in the [Trail of Tears](#) National Historic Trail brochure shows the individual major routes along which the Cherokee moved west in 1838-39.

Remember that the small groups of Cherokee would forage for food as they proceeded, so the map is only a general representation of the routes.



“Cherokee: The Trail of Tears.” *About North Georgia*. 5 May 2005. © Copyright 1994-2003 by Golden Ink.  
<http://www.ngeorgia.com/history/trailoftearsmap2.html>.

# **APPENDICES**

## **The Form and Substance of a Trial**

### **Rules of Procedure**

### **Often Used Objections**



## Mock Trial Time Sheet

Time kept by: \_\_\_\_\_

**Opening Statement: 5 minutes per side**

Prosecution	5 minutes	_____ minutes used
Defense	5 minutes	_____ minutes used

**Prosecution: Direct/Re-direct - 25 minutes total**

P Witness #1:	time used _____	_____ minutes _____ minutes unused
P Witness #2:	time used _____	_____ minutes _____ minutes unused
P Witness #3:	time used _____	_____ minutes _____ minutes unused
P Witness #4:	time used _____	_____ minutes _____ minutes unused
P Witness #5:	time used _____	_____ minutes _____ minutes unused

**Defense: Cross/Re-cross - 15 minutes total**

P Witness #1:	time used _____	_____ minutes _____ minutes unused
P Witness #2:	time used _____	_____ minutes _____ minutes unused
P Witness #3:	time used _____	_____ minutes _____ minutes unused
P Witness #4:	time used _____	_____ minutes _____ minutes unused
P Witness #5:	time used _____	_____ minutes _____ minutes unused

**Defense: Direct/Re-direct - 25 minutes total**

D Witness #1:	time used _____	_____ minutes _____ minutes unused
D Witness #2:	time used _____	_____ minutes _____ minutes unused
D Witness #3:	time used _____	_____ minutes _____ minutes unused
D Witness #4:	time used _____	_____ minutes _____ minutes unused
D Witness #5:	time used _____	_____ minutes _____ minutes unused

**Prosecution: Cross/Re-cross - 15 minutes total**

D Witness #1:	time used _____	_____ minutes _____ minutes unused
D Witness #2:	time used _____	_____ minutes _____ minutes unused
D Witness #3:	time used _____	_____ minutes _____ minutes unused
D Witness #4:	time used _____	_____ minutes _____ minutes unused
D Witness #5:	time used _____	_____ minutes _____ minutes unused

**Closing Statement: 5 minutes per side**

Prosecution	time used _____	less	_____ minutes
Defense	5 minutes		_____ minutes left for rebuttal _____ minutes used