

DBQ Question: Did the Trail of Tears represent change in federal policy towards Native Americans, as demonstrated through its dealings with the Cherokee people?

Background Information (for student)

In 1787, the United States Congress approved the Northwest Ordinance. This Ordinance accelerated the westward expansion of the United States into lands already occupied by Native Americans. Because of this, the Ordinance had a specific clause that addressed the problem. It stated that “the utmost good faith shall always be observed towards the Indians; their land and property shall never be taken without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed.” Despite the intentions of the Northwest Ordinance to respect native lands, white settlers and land speculators poured westward, squatting on Indian lands by the thousands. This resulted in numerous conflicts between Indians and settlers and wars between Indian nations and the U.S. government. Despite the explicit language of the Northwest Ordinance to honor and protect the Native American’s claims to their lands, the United States government most often favored white settlers and promoted westward expansion.

The United States Constitution also has a clause that addresses how the government should deal with Indian nations. Article I, Section 8, Clause 3 states “The Congress shall have power...to regulate commerce with foreign nations, and among the several states, and with the Indian tribes...” The Commerce Clause represents one of the most fundamental powers delegated to the Congress by the founders, a definition of the balance of power between the federal government, the states, and the Indian nations.

In 1828, Georgia claimed the right to make laws for the Cherokee Nation. The Cherokee went to the Federal Courts to defend their right to make their own laws and maintain their property rights as an independent nation within the United States. Their case reached the United States Supreme Court. In *Worcester v. Georgia* (1832), Chief Justice John Marshall, writing the majority opinion for the Court, declared Georgia’s action unconstitutional. The opinion recognized the Cherokee’s status as a sovereign nation, meaning that the Cherokee had absolute authority over its territory.

However, President Andrew Jackson refused to recognize the Court’s authority and failed to enforce the Court’s decision. Instead, Jackson sided with Georgia and said that the federal government would not interfere with a state’s right to pass laws relating to issues within its borders. As a result, the Federal Government would not intervene and stop Georgia from extending its authority over Cherokee lands, thus opening up the Cherokee lands to white settlers.

As the population of whites grew in Georgia, more and more began to settle in western Georgia, the area of Georgia where the Cherokee lived. Though treaties between the Cherokee and the Federal Government guaranteed these lands to the Cherokee, the encroachment of white settlers sparked conflicts with the Cherokee, who were aggressively defending their territory. The growing conflict was exacerbated by the discovery of gold on Cherokee lands.

In 1830, at the urging of President Jackson, Congress passed the Indian Removal Act. The Act authorized the Federal government to pay Native Americans to move west of the Mississippi River. The exercise of this federal power had more far reaching consequences however. In 1835, the Federal Government forced the Cherokee to agree to a disputed Treaty of New Echota, in which the Cherokee agreed to give up all of their ancestral lands in Georgia.

In 1838, an army of 7,000 federal troops came to remove the Cherokee from their lands and lead them west. Under threat of force, the Cherokee agreed to leave, knowing that resistance would ultimately lead to their destruction. More than 15,000 Cherokee began their long and sorrowful march to the west, traveling hundreds of miles over a period of several months. They had little food or shelter. The Cherokee people call this journey the "Trail Where We Cried" (also known as the "Trail of Tears") because of its devastating effects. The Cherokee faced hunger, disease, and exhaustion on the forced march. Over 4,000 Cherokees died on the journey, mostly children and the elderly.



National Park Service, Trail of Tears.

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DBQ Documents

Note: For each of the documents there is a rationale for their inclusion located at the end of the DBQ activity. The sources of the documents can be found in the Annotated Bibliography. Teachers can use their discretion as to which documents they feel would be most appropriate for the students they will be teaching.

Document 1: Treaty at Hopewell, 1785

Excerpts from Treaty at Hopewell with the Cherokee Nation, November 28, 1785

Background: On November 28, 1785, the Treaty of Hopewell was signed between the U.S. representative Benjamin Hawkins and the Cherokee Indians at the plantation of Andrew Pickens on the Seneca River in northwestern South Carolina. The treaty laid out a western boundary where white settlement would not be allowed to expand.

ARTICLE V.

If any citizen of the United States, or other person not being an Indian, shall attempt to settle on any of the lands westward or southward of the said boundary which are hereby allotted to the Indians for their hunting grounds, or having already settled and will not remove from the same with six months after the ratification of this treaty, such person shall forfeit the protection of the United States, and the Indians may punish him or not as they please...

ARTICLE XII.

That the Indians may have full confidence in the justice of the United States, respecting their interests, they shall have the right to send a deputy of their choice, whenever they think fit, to Congress.

Questions:

1. Who are the parties to the Treaty and when was it passed?
2. How does this Treaty protect Indian Lands?
3. What rights do the Cherokee have if the terms of the Treaty are violated?

Document 2: Fifth Amendment to the US Constitution, 1791

Fifth Amendment - Rights of Persons & Property

No person shall be...deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just [fair] compensation.

Guiding Questions:

1. What does the Fifth Amendment say about private property? About property rights?
2. How might the Fifth Amendment connect to the Indian Removal Act? Does it support it or not?

Document 3: Jackson's Message to Congress, 1830

**President Jackson's Message to Congress "On Indian Removal"
December 6, 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 [conclusion].

The consequences of a speedy removal will be important to the United States, to individual States and to the Indians themselves...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 invasion 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 State; enable them to pursue happiness in their own way, and under their own rude institutions; will retard the progress of decay...and through the influence of good, counsels...To cast off their savage habits, and become an interesting, civilized and Christian community.

Guiding Questions:

1. According to Jackson, what are the benefits of removal for the Cherokee?
2. According to Jackson, what are the benefits of removal for the United States?
3. How does Jackson reconcile benefits to all the parties? What are the "common" benefits?
4. Find examples of "loaded terms" Jackson uses to persuade Congress to his point of view?

Document 4: Senate Debate on Indian Removal Act, 1830

Excerpts from Senate Debate on Indian Removal Bill, April 16, 1830, Senator Peleg Sprague (Maine), 1830

By several of these treaties, we have unequivocally guaranteed to them that they shall forever enjoy:

1st. Their separate existence, as a poetical community:

2nd. Undisturbed possession and full enjoyment of their lands, within certain boundaries, which are duly defined and fully described;

3rd. The protection of the United States, against all interference with, or encroachments upon their rights by any people, state, or nation.

For these promises, on our part, we received ample consideration---

By the restoration and establishing of peace;

By large cessions of territory;

By the promise on their part to treaty with no other state or nation; and other important stipulations.

Whither are the Cherokees to go? What are the benefits of the change? What system has been matured for their security? What laws for their government? These questions are answered only by gilded [showy/glib] promises in general terms; they are to become enlightened and civilized husbandmen.

...It is proposed to send them from their cotton fields, their farms and their gardens; to a distant and an unsubdued wilderness. To make them tillers of the earth! To remove them from their looms, their work-shops, their printing press, their schools, and churches, near the white settlements; to frowning forests, surrounded with naked savages. That they may become enlightened and civilized! We have pledged to them our protection and, instead of shielding them where they now are, within our reach, under our own arm, we send these natives of a southern clime to northern regions, amongst fierce and warlike barbarians. And what security do we propose to them? A new guarantee!! Who can look an Indian in the face; and say to him; we, and our fathers, for more than forty years, have made to you the most solemn promises; we now violate and trample upon them all; but offer you in their stead another guarantee!!

Guiding Questions:

1. Is Sprague in favor of or against Indian Removal? How do you know?
2. What benefits did Sprague list about previous treaties to all the parties?
3. According to Sprague, how will the lives of the Cherokees change if they move west of the Mississippi River?
4. How does Sprague describe the change in communities or in Federal Indian Policy that will result from passage of this bill?

Document 5: Indian Removal Act of 1830

Indian Removal Act of 1830 (excerpts)

An Act to provide for an exchange of lands with the Indians residing in any of the states of territories, and for their removal west of the river Mississippi.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the United States, west of the river Mississippi, not included in any state of organized territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes of nations of Indians as may choose to exchange the lands where they now reside, and remove there; and to cause each of said districts to be so described by natural or artificial marks, as to be easily distinguished from every other.

Guiding Questions:

1. What kind of connections can you make between the Louisiana Purchase and Indian Removal to lands west of the Mississippi River?
2. What is the Act's expectation of Native American tribes living east of the Mississippi River?
3. Hypothesize what the impact of Indian Removal would be on tribes west of the Mississippi River.

Document 6: Great Heroes of Real Estate

Great Heroes of Real Estate



Guiding Questions:

1. Whose picture is on this Twenty Dollar Bill?
2. How does this image connect the person with the Indian Removal Act?
3. What do you think is the significance of the stamp: "Great Heroes of Real Estate"? Who do you think it refers to?
4. Do you think this artist would have supported the Cherokee's rights to keep their land, or Jackson's Indian Removal Policy? Explain why.

Document 7: Worcester v. Georgia (1832)

Worcester v. Georgia 1832

Background: In this case, the plaintiff, Samuel Austin Worcester, Postmaster of New Echota (the Cherokee capital), appealed his conviction under a Georgia law that required all whites living in Cherokee Territory to obtain permission from the State. Worcester and seven fellow missionaries refused to obey the law. They believed that, because of their support for Cherokees who were organizing to resist removal, they would never be granted permission by the State of Georgia, the defendant in this Supreme Court case.

Excerpts from Court ruling:

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 act of the State of Georgia [defendant] under which the plaintiff in error was prosecuted is consequently void, and the judgement a nullity. . . .

The Acts of Georgia . . . 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. Judgement reversed.

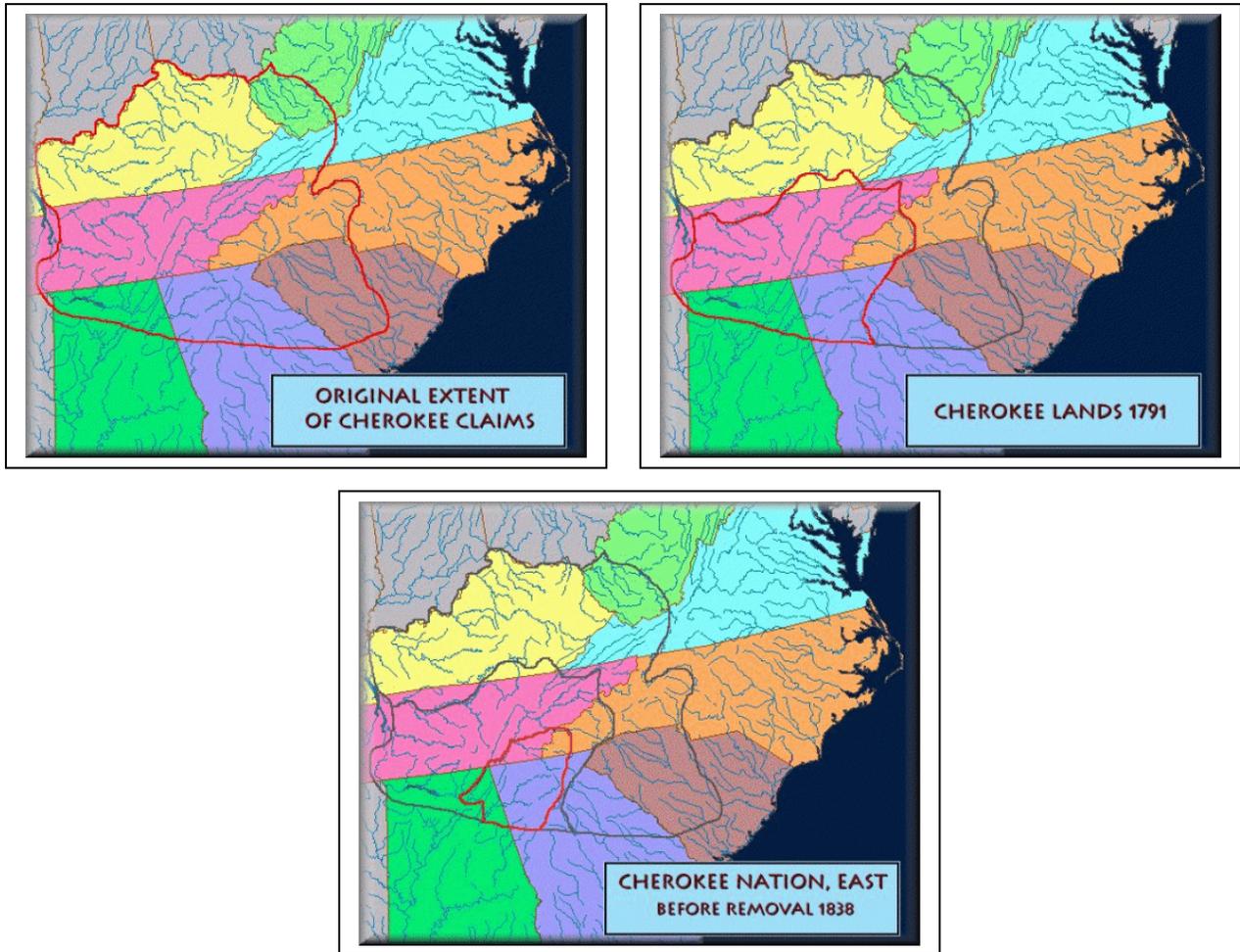
Guiding Questions:

1. Did the Court rule in favor of the plaintiff or the defendant? What reasons are cited for the ruling?
2. How does this ruling define the Cherokee and what reasoning does it use to do so?
3. What previous laws are referenced about the rights of the Cherokee as a sovereign nation?
4. What did the ruling say about the rights of the State of Georgia regarding the Cherokee?

Document 8: Cherokee Land Maps (1791-1838)

Teacher Note: Print this in color so the boundary lines are clear. Red boundary line indicates Cherokee land.

Cherokee Land Maps-Original Claims, 1791, and Before Indian Removal 1838



Guiding Questions:

4. Use an atlas and identify which present day states the Cherokee lands were located in for the various time periods.
5. What is happening to the Cherokee land over time?
6. Based on the boundaries of the Cherokee lands in 1838, why might Georgia be the state most active in pursuing Indian removal?