

Name: _____ Group: _____ Date: _____

The “Impeachment” of Andrew Jackson



It is March, 1834 and Andrew Jackson, the seventh president of the United States, is in danger of being impeached by the House of Representatives for assuming powers not conferred to the chief executive by the Constitution. Under the Constitution, it is the House’s responsibility to draw up impeachment charges. If convicted by the Senate, Jackson will be forced to resign and his vice president, Martin Van Buren, will assume the presidency. The House has drawn up these indictments against the president:

1. President Jackson violated states' rights in his dealings with South Carolina in the nullification crisis.
2. President Jackson violated laws, treaties, and Supreme Court orders in his dealings with Native Americans.
3. President Jackson has violated the separation of powers in his actions to destroy the Bank of the United States.

Your task will be to conduct impeachment hearings and to engage in the debate on whether or not to convict President Jackson with one or more of the articles of impeachment. You will be assigned a role as either a member of the House giving arguments in favor of impeachment, or a member of the President's defense team. After all of the arguments have been presented, the House will vote on each article of impeachment. Those passed will be sent to the Senate for the trial to convict or acquit the President of those impeachment indictments.

After the votes have been taken, you will submit an outline of the position you presented in your assigned role as well as a summary of the presentations made by the other teams.

Your Assignment:

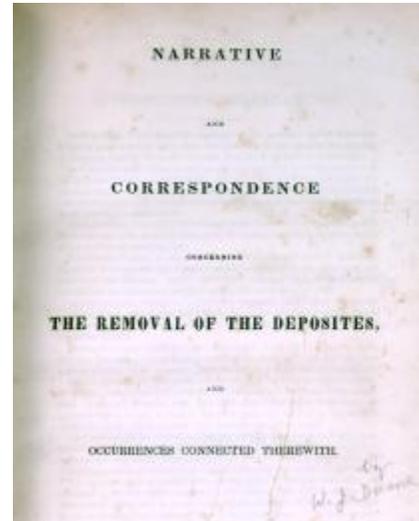
1. Everyone MUST read these TWO articles: (1) *Andrew Jackson and the Constitution*; (2) *The Character and Goals of Andrew Jackson*.
2. Each student ONLY read the articles related to the indictment to which he/she was assigned. Answer all guiding questions related to your articles on your Discussion Sheet.
3. Print out ONE copy of the Evaluation Sheet (see below).
4. Print out THREE copies of the Discussion Pro & Con sheet.
5. OPTIONAL RESOURCES: [Andrew Jackson: A Life](#), [Jacksonian Era](#), [Andrew Jackson](#) (Miller Center)

Andrew Jackson and the Constitution

by Matthew Warshauer

In 1860, biographer James Parton concluded that Andrew Jackson was “a most law-defying, law obeying citizen.” Such a statement is obviously contradictory. Yet it accurately captures the essence of the famous, or infamous, Jackson. Without question, the seventh president was a man of contradictions. To this day, historians have been unable to arrive at accepted conclusions about his character or impact on the nation. Was he, as Robert Remini has argued across the pages of more than a dozen books, the great leader and symbol of a burgeoning mass democracy? Or was Jackson merely a vainglorious bully with no vision for the nation, reacting in response to his own sensitive pride, as Andrew Burstein and others have insisted?

There is much that one can look at in Jackson’s life when attempting to arrive at conclusions. In particular, his relationship with the law and Constitution offer a significant window into his worldview. Whether it was illegally declaring martial law in New Orleans, invading Spanish Florida and executing British citizens, removing federal deposits from the Bank of the United States, or questioning the Supreme Court’s authority in *Worcester v. Georgia*, Jackson acted in a manner that was at times distinctly illegal yet widely hailed by supporters as being in the nation’s best interest. And before we conclude that this support was partisan banter bestowed by his own Democratic Party, we must remember that historians and legal scholars to this day have wrestled with the larger ideological and constitutional meaning of Jackson’s beliefs and actions. One thing is certain: Jackson had no qualms about overstepping the law, even the Constitution, when he believed that the very survival of the nation required it. Moreover, this perspective remains at the heart of debate in a post-9/11 America. The essential question stands—can a leader violate the law in order to ultimately save it and the nation?



Title page of *Narrative and Correspondence Concerning the Removal of the Deposites and Occurrences Connected Therewith*, by William J. Duane (Philadelphia, 1833). Duane, Jackson’s Treasury secretary, refused to withdraw government deposits from the Bank of the U.S.

Andrew Jackson’s fame came with the Battle of New Orleans in 1814 and 1815, where he demolished a seasoned British army with virtually no loss to his troops. The victory launched the general to national stardom and ultimately the presidency. Yet there were looming, constitutionally delicate issues that roiled beneath the surface of this victory, namely Jackson’s suspension of the writ of habeas corpus and declaration of martial law. The first was authorized by the Constitution, but the Supreme Court had determined that only Congress could suspend the privilege of the writ, which allowed a judge to “bring a body” before the court thus making it impossible for an arresting authority (the police or military) to hold a person indefinitely without filing charges. Jackson suspended the writ anyway, and went even further by imposing martial law, which canceled all civilian authority and placed the military in control. The act was wholly illegal. There existed no provision in the Constitution authorizing such an edict. The rub was that martial law saved New Orleans and the victory itself saved the nation’s pride. After several years of dismal military encounters during the War of 1812 and the burning of the nation’s capitol to the ground in the summer of 1814, no one, especially President Madison, was in the mood to investigate, let alone chastise, the victorious General Jackson’s illegal conduct. Thus Jackson walked away from the event with two abiding convictions: one, that victory

and the nationalism generated by it protected his actions, even if illegal; and two, that he could do what he wanted if he deemed it in the nation's best interest.

Jackson's convictions came into play only three years later in 1818, when the indomitable general exceeded his orders to protect the Georgia frontier by crossing into Spanish Florida, where he invaded two towns and executed two British citizens for making war on the United States. Once again, Jackson's actions were questionable, if not outright illegal. He essentially made war on Spain without congressional approval, overstepped his own boundaries as a commander, and summarily executed two men, which could very well have incited legal and military difficulties with Great Britain and Spain. However, Jackson's conduct was once again seen by many, including himself, as a necessary defense of the nation. The Spanish had done nothing to stop the marauding Seminole Indians from crossing the border and attacking American farms. The general's actions were therefore justified as national self-defense by Secretary of State John Quincy Adams, the sole member of President Monroe's cabinet to support Jackson. Adams used the turmoil over the incident to convince Spain that they should sell Florida for a measly \$5 million.

Unlike Jackson's use of martial law in New Orleans, Congress debated Jackson's rogue behavior in Florida, with Henry Clay announcing that the general was a "military chieftain" and dangerous to a young republic. Although legislators wrangled over the matter, nothing significant resulted except that Jackson became a more and more polarizing figure, particularly because of his political aspirations. When he ran for president in 1824, critics unleashed a torrent of abuse, much of it focused on his lawless ways. Jackson was forced to respond, and commented specifically on his violations of the Constitution. He noted that..."it has been my lot often to be placed in situations of a critical kind" that "imposed on me the necessity of violating, or rather departing from, the constitution of the country; yet at no subsequent period has it produced to me a single pang, believing as I do now, & then did, that without it, security neither to myself or the great cause confided to me, could have been obtained."

Jackson's ideological conviction about the flexible nature of the law and Constitution in the face of dangers confronting the still-fledgling nation can be seen in many subsequent Jacksonian battles. When President Jackson confronted the Bank of the United States in 1832, he did so with the belief that it was a corrupt fiscal monster threatening the nation's economic security. He not only vetoed the Bank's recharter, which was within his right as chief executive, but went a step further by removing federal deposits even after Congress had deemed them safe. Jackson transferred one secretary of the treasury and fired another in order to secure the deposit removals. His actions were questionable, if not completely illegal, and the Senate censured him by making a notation in their journal. They didn't attempt impeachment for lack of support.

Other legal conflicts surfaced. Jackson allegedly defied the Supreme Court over *Worcester v. Georgia* (1832), announcing, "John Marshall has made his decision now let him enforce it." The case revolved around Georgia's attempt to apply state laws to Cherokee lands. The Court had ruled against Georgia's authority to do so and Jackson, dedicated to Indian removal, allegedly challenged Marshall. Although there is little evidence to support the above quotation, it certainly sounds like Jackson. Nonetheless, the case required nothing of Jackson and was ultimately settled out of court. The fact remained, however, that in this case and in *McCulloch v. Maryland* (1819), when it was ruled that the Bank of the United States was in fact constitutional, Jackson challenged the Court's authority as the final arbiter. As president, Jackson believed that his authority to deem what was constitutional equaled the Supreme Court's.

Jackson's views regarding American Indians also challenged the law. Treaties were and continue to be legal agreements among sovereign nations. However, Jackson refused to believe that Native American tribes were sovereign and thus viewed Indian treaties as an absurdity. Ultimately, he forcibly removed a number of tribes, most notoriously the Cherokee, from their homes. The Trail of Tears is one of Jackson's most infamous legacies. Yet even removal and issues of tribal sovereignty fit within a larger context of Jackson's convictions regarding national security and state sovereignty. The general's rise was due to his success as an Indian fighter on the frontier. He always, and to some extent legitimately, viewed American Indians as a serious threat to settlers. As president, Jackson understood the sentiment of southern states and their conception that states could not be erected within sovereign states such as Georgia. All of this, of course, revolved around the larger issue of Native American dispossession and who rightfully owned of the land. This ideological—and to some extent legal—issue remains unresolved.

A variety of other incidents in Jackson's life and career expose the nature of his relationship with the law and Constitution: the fact that he was a lawyer who engaged in dueling; his actions during the Nullification Crisis; and his failure as president to follow federal guidelines concerning mail delivery of abolitionist propaganda. Most fit within his larger conception of duty, honor, and what was necessary for the sanctity of the Union. Jackson's ideology remains as controversial now as it was in his own time. There are few easy answers. Yet this is what makes Jackson's views and conduct so relevant today. When presented with Jackson's history, students invariably split down the middle over whether he was justified in his conduct, regardless of legality. In this sense, Jackson continues to serve as an important source of reflection when considering how America should and should not act when it comes to matters of national security.

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This article is available at <https://www.gilderlehrman.org/history-by-era/age-jackson/essays/andrew-jackson-and-constitution>

The Character and Goals of Andrew Jackson

From the start of his career, Andrew Jackson was a controversial figure. “Hot-tempered,” “Indian-hater,” “military despot” – critics hurled many such charges at Jackson, while his friends praised him as an honorable and forthright statesman. His contemporary biographer, the journalist James Parton, found him a man of many faces, an enigma. Others thought they understood his personality and policies: Henry Clay, his archrival, warned that Jackson’s high-handed actions threatened American republican institutions. But based on conversations with dozens of Americans, Frenchman Alexis de Tocqueville offered a more moderate interpretation of the man and his goals.

James Parton

From Parton’s Preface to *The Life of Andrew Jackson* (1860)

If anyone, at the end of a year even, had asked what I had yet discovered respecting General Jackson, I might have answered thus: “Andrew Jackson, I am given to understand, was a patriot and a traitor. He was one of the greatest of generals, and wholly ignorant of the art of war. A writer brilliant, elegant, eloquent, without being able to compose a correct sentence.... The first of statesmen, he never devised, he never framed a measure. He was the most candid of men, and was capable of the profoundest dissimulation. A most law-defying, law-obeying citizen. A stickler for discipline, he never hesitated to disobey his superior. A democratic autocrat. An urbane savage. An atrocious saint.”

Henry Clay

Clay Introduces a Senate Resolution Censuring Jackson’s Actions, December 26, 1833

We are in the midst of a revolution, hitherto bloodless, but rapidly tending toward a total change of the pure republican character of the government, and to the concentration of all power in the hands of one man. The powers of Congress are paralyzed, except when exerted in conformity with his will, by frequent and an extraordinary exercise of the executive veto, not anticipated by the founders of our Constitution, and not practiced by any of the predecessors of the present chief magistrate....

The judiciary has not been exempt from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded. And the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the government, and recognized and established by numerous laws and treaties, have been subverted.... The system of protection of improvement lies crushed beneath the veto. The system of protection of American industry [will soon meet a similar fate].... In a term of eight years, a little more than equal to that which was required to establish our liberties [as an independent republican nation between 1776 and 1783], the government will have been transformed into an elective monarchy—the worst of all forms of government.

Alexis de Tocqueville

The French Political Philosopher Analyzes Jackson in *Democracy in America* (1835)

Some persons in Europe have formed an opinion of the influence of General Jackson upon the affairs of his country which appears highly extravagant to those who have seen the subject nearer at hand. We have been told that General Jackson has won battles; that he is an energetic man, prone by nature and habit to the use of force, covetous of power and a despot by inclination.

All this may be true; but the inferences which have been drawn from these truths are very erroneous. It has been imagined that General Jackson is bent on establishing a dictatorship in America, introducing a military spirit, and giving a degree of influence to the central authority that cannot but be dangerous to provincial [state] liberties. But in America the time for similar undertakings, and the age for men of this kind, has not yet come; if General Jackson had thought of exercising his authority in this manner, he would infallibly have forfeited his political station and compromised his life; he has not been so imprudent as to attempt anything of the kind.

Far from wishing to extend the Federal power, the President belongs to the party which is desirous of limiting that power to the clear and precise letter of the Constitution and which never puts a construction upon that act favorable to the government of the Union; far from standing forth as the champion of centralization, General Jackson is the agent of the state jealousies; and he was placed in his lofty station by the passions that are most opposed to the central government. It is by perpetually flattering these passions that he maintains his station and his popularity. General Jackson is the slave of the majority: he yields to its wishes, its propensities, and its demands....

General Jackson stoops to gain the favor of the majority.... Supported by a power that his predecessors never had, he tramples on his personal enemies, whenever they cross his path.... He even treats the national representatives with a disdain approaching to insult; he puts his veto on the laws of Congress and frequently neglects even to reply to that powerful body....The power of General Jackson perpetually increases, but that of the President declines; in his hands the Federal government is strong, but it will pass enfeebled into the hands of his successor.

Sources: James Parton, *The Life of Andrew Jackson. In Three Volumes* (New York: Mason Brothers, 1860), vol.1, pp. vii–viii; Sean Wilentz, ed., *Major Problems in the Early Republic, 1787–1848* (Lexington, MA: D. C. Heath, 1991), 374 (Hamilton) and 392–393 (Hone); Calvin Colton, ed., *The Life... of Henry Clay*, 6 vols. (New York: A. Barnes, 1857), 576–580; Alexis de Tocqueville, *Democracy in America*, abr. by Thomas Bender (New York: Modern Library, 1981), 271–273.

ANALYZING THE EVIDENCE

1. Was Jackson a “democratic autocrat,” as Parton puts it? What does he mean by this term? Would the authors of the other excerpts agree with this characterization?
2. In what respects do Clay and Tocqueville agree in their assessment of Jackson and his policies? How do they disagree?
3. What did Tocqueville mean by saying that Jackson’s power “perpetually increases, but that of the President declines”? Was he correct?

INDICTMENT #1

President Jackson violated states' rights in his dealings with South Carolina in the nullification crisis

1. Senator Robert Hayne Advocates Nullification (1830)

The restrictive “Tariff of Abominations” of 1828 had angered the South, especially the South Carolinians, who protested vehemently against an “unconstitutional” tax levied indirectly on them to support “greedy” Yankee manufacturers. An eruption finally occurred in the Senate when Senator Robert Y. Hayne of South Carolina—fluent, skillful, and personally attractive—attacked New England’s inconsistency, greed, and selfishness, notably during the War of 1812. The only way to resist usurpations by the federal government, Hayne insisted, was for the states to nullify unauthorized acts of Congress, as foreshadowed by Jefferson in the Kentucky resolutions of 1798–1799 (see p. 229). In this peroration of his impressive speech, is Hayne a disunionist?

Thus it will be seen, Mr. President, that the South Carolina doctrine of [nullification] is the [Jeffersonian] Republican doctrine of 1798; that it was first promulgated by the Fathers of the Faith; that it was maintained by Virginia and Kentucky in the worst of times; that it constituted the very pivot on which the political revolution of that day turned; that it embraces the very principles the triumph of which at that time saved the Constitution at its last gasp, and which New England statesmen were not unwilling to adopt [at Hartford in 1814] when they believed themselves to be the victims of unconstitutional legislation.

Sir, as to the doctrine that the federal government is the exclusive judge of the extent as well as the limitations of its powers, it seems to me to be utterly subversive of the sovereignty and independence of the states. It makes but little difference in my estimation whether Congress or the Supreme Court are invested with this power. If the federal government in all or any of its departments is to prescribe the limits of its own authority, and the states are bound to submit to the decision and are not allowed to examine and decide for themselves when the barriers of the Constitution shall be overleaped, this is practically “a government without limitation of powers.” The states are at once reduced to mere petty corporations and the people are entirely at your mercy.

I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional [tariff] laws which Congress has extended over them, she has kept steadily in view the preservation of the Union by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation.

The [tariff] measures of the federal government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin. But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest...Sir, if the measures of the federal government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation...

2. Daniel Webster Pleads for the Union (1830)

Daniel Webster, native son of New Hampshire and adopted son of Massachusetts, sprang to the defense of New England and the Union in a running debate with Hayne that lasted two weeks and ranged over many subjects. The crowded Senate galleries thrilled to the eloquence of the two parliamentary gladiators, as the states' rightism of the South clashed head-on with the buoyant nationalism of the North. Webster's main points were that the people and not the states had formed the Constitution of 1787 (here he was historically shaky); that although the people were sovereign, the national government was supreme in its sphere and the state governments were supreme in their spheres; that if each of the twenty-four states could defy the laws of Congress at will, there would be no Union but only "a rope of sand"; and that there was a better solution than nullification if the people disapproved of their fundamental law. What was it? In Webster's magnificent peroration, memorized by countless nineteenth-century schoolchildren, are liberty and Union mutually incompatible? What objective did Webster and Hayne have in common?

If anything be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the Constitution, they will amend it, at their sovereign pleasure.

But while the people choose to maintain it as it is—while they are satisfied with it, and refuse to change it—who has given, or who can give, to the state legislatures a right to alter it, either by interference, construction, or otherwise? . . .

I profess, sir, in my career, hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country.

...I have not allowed myself, sir, to look beyond the Union to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion to see whether, with my short sight, I can fathom the depth of the abyss below...

While the Union lasts we have high, exciting, gratifying prospects spread out before us—for us and our children. Beyond that, I seek not to penetrate the veil. God grant that in my day, at least, that curtain may not rise! God grant that, on my vision, never may be opened what lies behind!

When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union...Let [my] feeble and lingering glance rather behold the gorgeous ensign of the Republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, not a single star obscured, bearing for its motto no such miserable interrogatory as "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterward"; but

everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and forever, one and inseparable!

3. South Carolina Threatens Secession (1832)

As if detonated by a delayed-action fuse, the tariff issue exploded during the Jackson vs. Clay campaign for the presidency in 1832. The recent tariff act of 1832, though watering down the “abominable” Tariff of 1828, aroused the South Carolinians by its reassertion of the protective principle. Excitedly summoning a special convention in Columbia, they formally declared that the two tariff acts “are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens.” The convention specifically forbade the enforcement of the federal tariff within the borders of the state and bluntly threatened secession if the federal government employed force. Before adjourning, the delegates issued the following public appeal to the American people. Comment critically on the assumption that the other southern states would have to follow South Carolina in dissolving the Union and that the tariff law was unconstitutional. Were the South Carolinians acting in earnest?

If South Carolina should be driven out of the Union, all the other planting states, and some of the Western states, would follow by an almost absolute necessity. Can it be believed that Georgia, Mississippi, Tennessee, and even Kentucky, would continue to pay a tribute of 50 percent upon their consumption to the Northern states, for the privilege of being united to them, when they could receive all their supplies through the ports of South Carolina without paying a single cent for tribute?

The separation of South Carolina would inevitably produce a general dissolution of the Union, and, as a necessary consequence, the protecting system, with all its pecuniary bounties to the Northern states, and its pecuniary burdens upon the Southern states, would be utterly overthrown and demolished, involving the ruin of thousands and hundreds of thousands in the manufacturing states. . . .

With them, it is a question merely of pecuniary interest, connected with no shadow of right, and involving no principle of liberty. With us, it is a question involving our most sacred rights—those very rights which our common ancestors left to us as a common inheritance, purchased by their common toils, and consecrated by their blood. It is a question of liberty on the one hand, and slavery on the other.

If we submit to this system of unconstitutional oppression, we shall voluntarily sink into slavery, and transmit that ignominious inheritance to our children. We will not, we cannot, we dare not submit to this degradation; and our resolve is fixed and unalterable that a protecting tariff shall be no longer enforced within the limits of South Carolina. We stand upon the principles of everlasting justice, and no human power shall drive us from our position.

4. Andrew Jackson Denounces Nullification (1832)

South Carolina's defiance of the federal government, combined with its feverish military preparations, angered its most famous native son, Commander-in-Chief General Andrew Jackson. Privately he issued orders to strengthen federal forces in Charleston harbor. Five days after his resounding reelection over Clay, he issued the following proclamation (ghostwritten by Secretary of State Edward Livingston) appealing to the Carolinians to forsake the treacherous paths of nullification and disunion.

For what would you exchange your share in the advantages and honor of the Union? For the dream of a separate independence—a dream interrupted by bloody conflicts with your neighbors and a vile dependence on a foreign power.

If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home? Are you free from the apprehension of civil discord, with all its fearful consequences?

...But the dictates of a high duty oblige me solemnly to announce that you cannot succeed. The laws of the United States must be executed. I have no discretionary power on the subject; my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution deceived you; they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion.

But be not deceived by names. Disunion by armed force is treason. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences; on their heads be the dishonor, but on yours may fall the punishment. On your unhappy state will inevitably fall all the evils of the conflict you force upon the government of your country. . . . The consequence must be fearful for you, distressing to your fellow citizens here and to the friends of good government throughout the world.

... There is yet time to show that the descendants of the Pinckneys, the Sumters, the Rutledges, and of the thousand other names which adorn the pages of your Revolutionary history will not abandon that Union to support which so many of them fought and bled and died.

I adjure you, as you honor their memory, as you love the cause of freedom, to which they dedicated their lives, as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your state the disorganizing edict of its convention; bid its members to reassemble and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity, and honor.

- **Southern nullification did not succeed in the 1830s, yet it has been noted that informal nullification of unpopular federal laws, amendments, and court decisions has been going on for generations. Illustrate. What better or other safeguards have a minority of the states instituted against the “tyranny of the majority”? Should Jackson have taken a stronger position in public against South Carolina?**

INDICTMENT # 2

President Jackson violated laws, treaties, and court orders in his dealings with Native Americans.

1. Jackson Endorses the Indian Removal (1829)

By the 1820s the once “inexhaustible” land east of the Mississippi was filling up with white people, and the luckless Native Americans were being elbowed aside. In response to pressure to transplant the native tribes to a “permanent” home beyond the Mississippi River, Congress took under consideration the Indian Removal Bill. President Jackson threw his powerful weight behind the movement in the following section of his first annual message to Congress.

The condition and ulterior destiny of the Indian tribes within the limits of some of our states have become objects of much interest and importance. It has long been the policy of government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another wholly incompatible with its success. Professing a desire to civilize and settle them, we have at the same time lost no opportunity to purchase their lands and thrust them farther into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust and indifferent to their fate. . . .

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 a while 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. . . .

As a means of effecting this end, I suggest for your consideration the propriety of setting apart an ample district west of the Mississippi, and without [outside] the limits of any state or territory now formed, to be guaranteed to the Indian tribes as long as they shall occupy it, each tribe having a distinct control over the portion designated for its use. There they may be secured in the enjoyment of governments of their own choice, subject to no other control from the United States than such as may be necessary to preserve peace on the frontier and between the several tribes. There, the benevolent may endeavor to teach them the arts of civilization, and, by promoting union and harmony among them, to raise up an interesting commonwealth, destined to perpetuate the race and to attest the humanity and justice of this government.

This emigration should be voluntary, for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the states they must be subject to their laws.

2. Theodore Frelinghuysen Champions Justice (1830)

Senator Theodore Frelinghuysen, a distinguished New Jersey lawyer and later president of Rutgers College, shone so prominently as a lay leader as to be dubbed “the Christian statesman.” Respected by both Whigs and Democrats in Congress, he gained nationwide recognition as a result of his magnificent six-hour speech opposing the Indian removal.

I now proceed to the discussion of those principles which, in my humble judgment, fully and clearly sustain the claims of the Indians to all their political and civil rights, as by them asserted. And here I insist that, by immemorial possession, as the original tenants of the soil, they hold a title beyond and superior to the British Crown and her colonies, and to all adverse pretensions of our Confederation and subsequent Union. God, in his Providence, planted these tribes on this western continent, so far as we know, before Great Britain herself had a political existence. . . .

Our ancestors found these people, far removed from the commotions of Europe, exercising all the rights and enjoying the privileges of free and independent sovereigns of this new world. . . . The white men, the authors of all their wrongs, approached them as friends . . . and, being then a feeble colony and at the mercy of the native tenants of the soil, by presents and profession propitiated their good will.

The Indian yielded a slow but substantial confidence; granted to the colonists an abiding place; and suffered them to grow up to man’s estate beside him. He never raised the claim of elder title; as the white man’s wants increased, he opened the hand of his bounty wider and wider.

By and by conditions are changed. His people melt away; his lands are constantly coveted; millions after millions [of acres] are ceded. The Indian bears it all meekly. He complains, indeed, as well he may, but suffers on. And now he finds that this neighbor, whom his kindness had nourished, has spread an adverse title over the last remains of his patrimony, barely adequate to his wants, and turns upon him and says, “Away! we cannot endure you so near us! These forests and rivers, these groves of your fathers, these firesides and hunting grounds are ours by the right of power and the force of numbers.”

Sir, . . . I ask who is the injured and who is the aggressor? Let conscience answer, and I fear not the result. . . . Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man that he may disregard the dictates of moral principles when an Indian shall be concerned? No, sir. . . .

Sir, . . . if the contending parties were to exchange positions; place the white man where the Indian stands; load him with all these wrongs; and what path would his outraged feelings strike out for his career? . . . A few pence of duty on tea—that invaded no fireside, excited no fears, disturbed no substantial interest whatever—awakened in the American colonies a spirit of firm resistance. And how

was the tea tax met, sir? Just as it should be. . . . We successfully and triumphantly contended for the very rights and privileges that our Indian neighbors now implore us to protect and to preserve to them.

Sir, this thought invests the subject under debate with most singular and momentous interest. We, whom God has exalted to the very summit of prosperity—whose brief career forms the brightest page in history; the wonder and praise of the world; freedom’s hope and her consolation—we, about to turn traitors to our principles and our fame, about to become the oppressors of the feeble and to cast away our birthright! Sir, I hope for better things. . . .

The end, however, is to justify the means. “The removal of the Indian tribes to the west of the Mississippi is demanded by the dictates of humanity.” This is a word of conciliating import. But it often makes its way to the heart under very doubtful titles, and its present claims deserve to be rigidly questioned. Who urges this plea? They who covet the Indian lands—who wish to rid themselves of a neighbor that they despise, and whose state pride is enlisted in rounding off their territories.

[The Indian Removal Bill passed Congress in 1830. The sequel was a sorry tale of greed, force, and fraud. Thousands of Indians of all ages and both sexes died on the tragic trek—perhaps as many as one-quarter of the sixty thousand from the South. Hostile tribes in the West often did not welcome the newcomers, and the new home lost its “permanency” as soon as unscrupulous whites found the land worth grabbing.]

3. John Ross Protests Removal (1836)

Harassed by land-hungry settlers, many of the Indian nations reluctantly ceded their tribal lands and moved west. The Cherokee, who had already made great efforts at accommodation — adopting settled agriculture, welcoming Christian missionaries, and drafting a written constitution—fiercely opposed resettlement. In 1835, a small Cherokee faction signed a removal treaty with the U.S. government. Chief John Ross, a wealthy planter who was one-eighth Cherokee by blood, fought relentlessly against the fraudulent treaty until 1838, when federal troops arrived to usher him and some 15,000 fellow Cherokees across the Mississippi. Below is his appeal to Congress.

. . . 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. . . . We are overwhelmed! Our hearts are sickened...when we reflect on the condition in which we are placed . . .

In truth, our cause is your own; it is the cause of liberty and of justice; it is based upon your own principles, which we have learned from yourselves; for we have gloried to count your [George] Washington and your [Thomas] Jefferson our great teachers; we have read their communications to us with veneration; we have practised their precepts with success. And the result is manifest. The wildness of the forest has given place to comfortable dwellings and cultivated fields, stocked with the various

domestic animals. Mental culture, industrious habits, and domestic enjoyments, have succeeded the rudeness of the savage state.

We have learned your religion also. We have read your Sacred books. Hundreds of our people have embraced their doctrines, practised the virtues they teach, cherished the hopes they awaken, and rejoiced in the consolations which they afford...

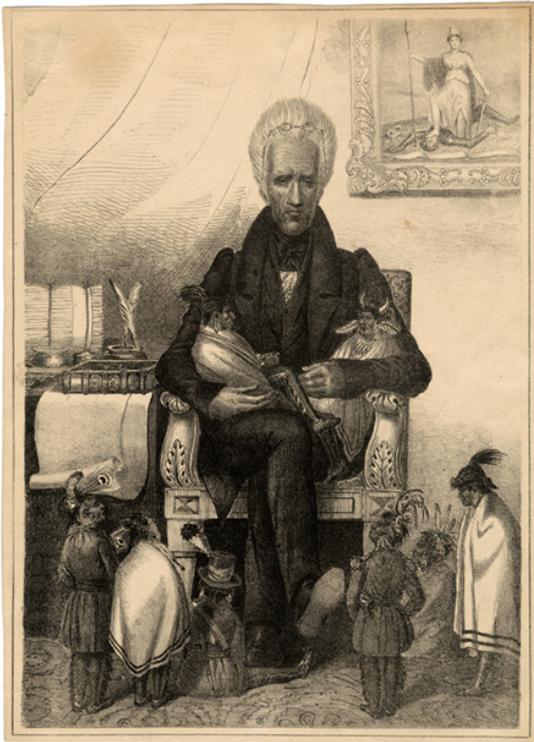
On your sentence, our fate is suspended...On your kindness, on your humanity, on your compassion, on your benevolence, we rest our hopes. To you we address our reiterated prayers. Spare our people! Spare the wreck of our prosperity! Let not our deserted homes become the monuments of our desolation!...

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4. "My friends, circumstances render it impossible that you can flourish in the midst of a civilized community. You have but one remedy within your reach, and that is to remove to the west. And the sooner you do this, the sooner you will commence your career of improvement and prosperity."

- Andrew Jackson

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- Does the artist of this cartoon support or oppose Jackson's policy of Indian removal? How does this cartoon reflect Jackson's view in Document #4?
- To what extent were Frelinghuysen's & Ross' arguments valid insofar as they related to law, justice, and humanity? Why did they not prevail?
- Explain why the Indians and the whites appeared unable to live peacefully side by side. What are the moral implications of the argument that the Indians were not putting their land to good use?

Additional Resources:

- [Trail of Tears](#)

INDICTMENT #3

President Jackson has violated the separation of powers in his actions to destroy the Bank of the United States

1. Jackson's Veto Message of the Bank of the United State, 1832

The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more...On all hands it is conceded that its passage will increase at least so or 30 per cent more the market price of the stock, subject to the payment of the annuity of \$200,000 per year secured by the act, thus adding in a moment one-fourth to its par value. It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stocks of this bank are held by foreigners...

Experience should teach us wisdom. Most of the difficulties our Government now encounters and most of the dangers which impend over our Union have sprung from an abandonment of the legitimate objects of Government by our national legislation, and the adoption of such principles as are embodied in this act. Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career to review our principles, and if possible revive that devoted patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union. If we cannot at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can at least take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy.

2. The Boston Daily Advertiser defends the second Bank of the United States, 1832

The national bank, though not properly a political institution, is one of the most important and valuable instruments that are used in the practical administration of the government.... As the fiscal agent of the executive, it has exhibited a remarkable intelligence, efficiency, energy, and above all, INDEPENDENCE. This...has been its real crime. As the regulator of the currency, it has furnished the country with a safe, convenient and copious circulating medium, and prevented the mischiefs that would otherwise result from the insecurity of local banks. As a mere institution for loaning money, it has been...the Providence of the less wealthy sections of the Union....Through its dealings in exchange at home and abroad, the bank has materially facilitated the operations of our foreign and domestic trade. The important advantages which have thus been derived from this institution have been unattended by any countervailing evil.



1. How does the artist portray Jackson?
2. What controversial action did this powerful person take in 1832-33 that is the subject of this cartoon?
3. Why do you believe the artist chose to depict him in this way?
4. To what extent did President Jackson change the balance of power between the three branches of government?
5. Should there be limits on presidential power beyond what is stated in the constitution? Why or why not?

Note: At his feet are the U.S. Constitution and the coat of arms of the state of Pennsylvania