

THE FINE PRINT

Episode 008

National Debates over Money, Land, and Sovereignty in The Era of Jackson – Script

[00:01] INTRO AUDIO

[00:27] Elly - On January 30th, 1835, the first assassination attempt on a President occurred.

Andrew Jackson and his cabinet were leaving the capitol building as his would-be assassin, Richard Lawrence, stepped up from the crowd and aiming his pistol at Jackson. A bang sounded off, yet there was no bullet wound to be seen, as the first revolver misfired. Lawrence tried once again with another, but to no avail. As both weapons misfired Jackson took measures into his own hands.

[00:49] Elly - As this spectacle came to a close, many would look back on the tumultuous years leading up to this assassination attempt on Jackson as a climax to an era marked in violence¹ against his foes, including indigenous nations. The genocide and dispossession of Native Americans, the Nullification Crisis, the Bank War, and various high profile

¹ Jon Grinspan, "Trying to Assassinate President Jackson," *American Heritage*, Published January 30, 2007, <https://www.americanheritage.com/content/trying-assassinate-president-jackson>.

Supreme Court cases all shaped an era in violence during Andrew Jackson's presidential terms.

Introduction

[1:16] Marcie - In this episode, we will discuss how, during the early days of the nation, state, federal, and indigenous interests were often at odds with one another. Vying for land, economic, and political control, actors sought to achieve their goals by any means. We'll first discuss how the Bank War created conflict between state and federal forces through a sense of mistrust, as Jackson claimed the bank would manifest into issues of union-wide corruption and morality issues. His opponents argued it provided a sense of stability, and believed the union was in need of an overarching currency to grow their economic development. These competing views for the nation manifested in events such as the Nullification crisis which led to financial tensions between state and federal interests, exacerbated by Jackson's threats. When South Carolina ruled that a federal tariff was unconstitutional, the president took it as a threat to the nation's sovereignty. The contests between the federal and state governments stayed prominent through the money crisis, but also in debates over native sovereignty. The last topic we'll cover, indigenous territory cessions and the surrounding Supreme Court cases, demonstrate how native and federal actors reacted to control over what the Court deemed to be "domestic dependent nations."

Overview/Thesis:

[2:44] Marcie - Taken together, the Money crises exacerbated pre-existing issues over land and economic policies between state, federal, and native interests and brought them to the forefront of early 19th-century American political and legal debates.

Segment 1 (Bank War)

[2:59] Brenden - The First Bank of the United States' (BUS) charter ended in 1811 directly preceding the war of 1812. By the end of the war, however the financial outlook of the nation was in disarray. Without a National Bank, local banks took up the mantle of issuing currency. Many different types of paper money were distributed which produced real monetary confusion. Creating the conditions that the passage and implementation of rechartering the first BUS grew as a necessary consequence to rid them of their postwar financial woes. Even after an August recharter, the Bank felt pressure from the states and Congressional members. [as a whole?] The States did not want to bear any undesirable consequences in helping stabilize the currency and several congressmen established committees to investigate the Bank. Not until 1823 did the Bank stabilize under the leadership of Nicolas Biddle.²

[3:49] Brenden - In the meantime after the second Bank was rechartered by Congress in 1816, Maryland imposed additional taxes on banks not established within state lines but occupied property within the state. The cashier, an older term for Chief Operating Officer of the Bank, McCulloch, refused to pay the tax, believing the BUS did not have to pay it and Maryland did not have constitutional authority to tax a Bank established by

² Chase Mooney, "The Second Bank and the Currency," in *William H. Crawford: 1772-1834* (University Press of Kentucky, 1974) 127-146.

the Federal government. Maryland however believed the Bank to be overstepping onto state rights and imposed these taxes to specifically target the Bank. Maryland believed states had the authority to govern their own banking and the BUS represented a restriction of this right. At the time (1816) State Banks exercised real control and authority while the BUS threatened Maryland's own banking interests by competing for deposits, calling in loans, and draining state banks of gold and silver reserves. In the decision of *McCulloch*, the Marshall court ruled in favor of the federal government. Marshall cited the history of the BUS itself arguing that its prior creation established constitutional precedent.³

[4:52] Brenden - The BUS has already been mired in controversies and the battle for its rechartering a likely outcome, especially with the anti-bank favorability of the Jacksonian Democrats who generally argued private wealth should not wield public power. However the origins of the Bank War lay in foundations set forth in Andrew Jackson's 1829 State of the Union. In which Jackson directly called out the difficulties and personal aversions he had to rechartering the Bank, which set to expire in 1836. Jackson's hostilities began early, likely shaped by his own upbringing in the west seeing the damages of credit in an unstable economy, he found the matter important enough to note in his first official speech to Congress as President. In which he stated,

[5:33] Both the constitutionality and the expediency of the law creating this bank are well questioned by a large portion of our fellow citizens, and it must be

³ *McCulloch v. Maryland*, 17 U.S. 316 (1819) (The landmark Supreme Court case involving the authority of Congress in creating the Bank of the United States, whether a State has the authority to tax said Bank, and Supreme Court Justice Marshall's expounding of Constitutional concepts).

admitted by all that it has failed in the great end of establishing an uniform and sound currency.⁴

[5:44] Brenden - In the months leading up to the famous veto, Congress arduously and fiercely debated the recharting Bank bill. Senators and representatives deliberated back and forth on the many compromises and dissents. The likes of [Missouri's] Senator Thomas Benton, an ardent hater of the Bank, compared to its greatest supporters, Kentucky's Senator Henry Clay and its very own President, Nicholas Biddle. After months of debate neither side would relent. Especially the supporters of the Bank who believed they had majority support and did not need to accede to any demands from dissenters or the Jackson administration. It is important to note, the supporters of the Bank were both Whigs and Democrats in Congress, while the anti-Bank supporters were majority Democrats who favored Andrew Jackson's rhetoric. [6:28] The 1832 election saw a shift of American politics into populism favoring the white, male small-landholder, the yeomanry.⁵ [6:36] With this block of support supplied by Jackson's ardently anti-Bank rhetoric it gave way to average American (albeit, white males) directing politics on national level.⁶

[6:43] Brenden - Pro-bank supporters pushed for an early recharter thinking it would render Jackson as an unpopular candidate, and believed Henry Clay an easy path to the presidency and recharter.

⁴ Andrew Jackson, "First Annual Message to Congress" (speech, Capitol Building, Washington D.C, December 8, 1829).

⁵ Charles Sellers, *The Market Revolution: Jacksonian America, 1815-1846* (New York: Oxford University Press, 1991), pp. 321-26.

⁶ Edwin Perkins, "Lost Opportunities for Compromise in the Bank War: A Reassessment of Jackson's Veto Message," *The Business History Review* 61, no. 4 (1987): 537.

[6:52] Brenden - The bank bill passed with bipartisan support in the House of Representatives and Senate with a 55% and 60% majority respectively.⁷ However these Democrats (like South Carolina's John C. Calhoun) differentiated from Jackson in support of the Bank as a necessary financial institution in stabilizing the economy.

[7:13] Brenden - Jackson's official political stance when it came to the Bank was a measured degree of asked reforms, but in private he used much choicer words.⁸ In a letter to John Coffee (Brigadier General and friend of Andrew Jackson, served under him in War of 1812)⁹ on February 19th 1832, Jackson wrote, [7:30] "should the Bank question come to me, unless the corrupting monster should be shortened of its illgotten power, my veto will meet frankly & fearlessly".¹⁰ In another letter to Allan Ditchfield Campbell on May 13th 1832, Jackson again wrote, [7:44] "This monster, as it stands, & as administered, must be put down, or it destroys the virtue & morality of our country, and with that, our present happy form of Government."¹¹ Clearly, Jackson was determined to end the bank in its entirety. His prose suggests he equated the Bank to a "monster" and how it would "destroy" the virtue and morality of the United States. No longer a political issue, the Bank was considered a threat to the very existence of the United States. Jackson framed the bank as a direct opposing force to the success of the nation, a BUS would undermine and destroy, a belief fully articulated though his veto message.

⁷ Perkins, 538.

⁸ Perkins, 535.

⁹ Gordon T. Chappell, "The Life and Activities of General John Coffee," *Tennessee Historical Quarterly* 1, no. 2 (1941): 125.

¹⁰ Andrew Jackson to John Coffee, February 19, 1832, in *The Papers of Andrew Jackson Volume 10*, ed. Daniel Feller, 98, <https://trace.tennessee.edu/server/api/core/bitstreams/00292701-e41d-4ba5-a3f5-e2e702c56084/content>.

¹¹ Andrew Jackson to Allen Ditchfield Campbell, May 13, 1832, in *The Papers of Andrew Jackson Volume 10*, ed. Daniel Feller, 270, <https://trace.tennessee.edu/server/api/core/bitstreams/00292701-e41d-4ba5-a3f5-e2e702c56084/content>.

[8:23] Brenden - Scholars cite Jackson's bank veto as the beginning of the "modern" veto, a tool to be used politically and justified through party alignment as opposed to the traditional grounds of constitutionality. Up until 1829, there had only been 10 total vetoes by the Presidents. In addition, most of their justifications were based on constitutional means and did not want to associate opinions onto the vetoes. This changed forever under Jackson who issued 12 vetoes during his time in office. The Bank veto justified through his personal interpretation of the constitution and claims to the general welfare of the people of the United States as opposed to national monied interests.¹²

[8:54] Brenden - In his veto justification Jackson claimed the Bank "subversive of the rights of the States, and dangerous to the liberties of the people". Which clearly embodies his states' rights ideology. He also believed his veto spoke for the average American, as would be seen through the popular vote majority in the election of 1832.

[9:12] Brenden - Jackson's appeal to the popular masses was seen with "[t]he rich and powerful too often bend the acts of government to their selfish purposes."¹³ [9:23] Jackson aligned himself with the popular sentiment that the Bank undermined the average American, championing the average American above all else.¹⁴ [9:30] To Biddle, it was laughable, in contrast he argued the American public shared the same sentiment as he did and paid newspapers to run prints of the veto message to support Henry Clay's election.¹⁵

¹² Richard A. Watson, "Origins and Early Development of the Veto Power," *Presidential Studies Quarterly* 17, no. 2 (1987): 406-9.

¹³ Andrew Jackson, "President Jackson's Veto Message Regarding the Bank of the United States" (speech, Capitol Building, Washington D.C., July 10, 1832).

¹⁴ Sellers, 346.

¹⁵ Sellers, 347.

[9:39] Brenden - Jackson argued the general American public were not benefitting from the Bank, rather a large group of foreigners would profit millions from interest rates in holding stock. The foreigner conspiracy was justified through the publication of names of foreign stock holders and their stock amounts. [9:53] The anti-Jacksonians and Biddle rejected this argument but Jackson's supporters ran with it and shared it as evidence to get rid of the Bank.¹⁶

[9:57] Brenden - Jackson's veto stayed strong, heralding the dismantling of federal investments within the bank. On September 25th, the acting Treasury Secretary Taney issued a statement that no more public money would be deposited into the BUS. [10:11] As well, the current money would be slowly curtailed and transferred over to the state banks, with \$2.3 million in the first week of October.¹⁷ [10:19] Biddle, in response, started a policy of contraction to cause a small recession to force Jackson to acquiesce to his demands and keep the Bank. Many around Biddle were outraged by his actions of purposefully creating a recession. By mid-1834, Biddle finally relented, ending any chance of the Second BUS.¹⁸ Through the guise of a monetary crisis, Andrew Jackson was able to interject populist party politics as means to justify expanding Executive and State powers at the expense of Congress.

Segment 2 (Nullification Crisis)

¹⁶ Stephen W. Campbell, "Monster News! Veto and Reelection," in *The Bank War and the Partisan Press* (University Press of Kansas, 2019), 67.

¹⁷ Jacob P. Meerman, "The Climax of the Bank War: Biddle's Contraction, 1833-34," *Journal of Political Economy* 71, no. 4 (1963): 379-380.

¹⁸ Harold J. Plous, "Jackson, the Bank War, and Liberalism," *The Southwestern Social Science Quarterly* 38, no. 2 (1957): 107.

[10:52] Marcie - And yet, the national bank wasn't the only source of economic tension between the federal and state government.

[10:58] Marcie - It's April 1828, and a bill is proposed on the house floor. It's a tariff. More specifically, it's the Tariff of 1828, more widely known as the Tariff of Abominations.¹⁹

[11:10] It was part of a series of tariffs that placed high taxes on imported goods, making British products and other imports more expensive and less competitive.²⁰ The catch? It was horrible for American consumers.

[11:24] Marcie - Rather than taxing luxury items, Congress proposed raising taxes on necessary goods for everyday living and livelihoods: iron, steel, lead, wool, silk, glass, and cotton.²¹

[11:40] This was the highest tariff level in the antebellum era.²² This kind of power from the federal government was exactly what Antifederalist warned of at the nation's founding;²³ the federal government could tell the states how to spend its money.

[11:57] Marcie - When the bill passed, Northerners, while not necessarily excited about paying higher taxes, believed the bill was necessary to maintain northern political power while rebuffing perceived British influence.²⁴ [12:10] The South, on the other hand, were less accepting, knowing they would pay even higher prices for the same goods.²⁵ That's why John C. Calhoun of South Carolina anonymously published the *South Carolina Exposition*

¹⁹ Ratcliffe, Donald J. "The Nullification Crisis, Southern Discontents, and the American Political Process." *American Nineteenth Century History* 1, no. 2 (2000): 7.

²⁰ Ratcliffe, 11.

²¹ Tariff of 1828, May 19, 1828. <https://fraser.stlouisfed.org/title/5888>, accessed on April 2, 2026.

²² Ratcliffe, 7.

²³ Taylor, Quentin. "Publius and Persuasion: Rhetorical Readings of The Federalist Papers." Intercollegiate Studies Institute, October 8, 2014. <https://isi.org/publius-and-persuasion-rhetorical-readings-of-the-federalist-papers-i/>.

²⁴ Ratcliff, 11.

²⁵ Ratcliff, 2.

and Protest, arguing that these tariffs were a violation of the Constitution. He proposed nullification for South Carolina as a solution to such despotism,²⁶ a threat that would become all too real just five years later.

[12:38] Marcie - It's now July 1832. The scene isn't too different from 1828. Another tariff bill is proposed on the house floor. This time, however, it's an attempt to lower the tax on imported goods.²⁷ Because of dissenters like Calhoun, the federal government realized if they were to continue putting high taxes on ubiquitous goods, the states would nullify, not respecting the power of the federal government.²⁸

[13:04] Marcie - The Tariff of 1832 passes on July 14, 1832. It lowered taxes on many raw materials. For example, taxes on bar and bolt iron were reduced from thirty-seven dollars per ton²⁹ to thirty dollars per ton.³⁰ Taxes on cotton cloth were reduced from thirty-five cents per square yard³¹ to thirty-cents per square yard.³²

[13:26] Marcie - Despite this, the South was still unhappy with these protective tariffs. So, the federal government's fear came true: South Carolina rejected Congress's law.³³

²⁶ "Andrew Jackson's Hermitage. "Andrew Jackson & the Nullification Crisis." Andrew Jackson's Hermitage: Home of the People's President. <https://thehermitage.com/andrew-jackson-the-nullification-crisis>"

²⁷ Ratcliff, 11.

²⁸ Ratcliff, 10.

²⁹ Tariff of 1828, May 19, 1828.

³⁰ Tariff of 1832, July 14, 1832.

³¹ Tariff of 1828, May 19, 1828.

³² Tariff of 1832, July 14, 1832.

³³ "The Tariff of Abominations: The Effects." US House of Representatives: History, Art & Archives. <https://history.house.gov/Historical-Highlights/1800-1850/The-Tariff-of-Abominations/>.

[13:39] Marcie - South Carolina refused to acknowledge the federal government's ability to control the imports on their manufactured goods, calling the federal government's power over the states into question. In the South Carolina's *Ordinance of Nullification*, they state:

[13:54] Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the constitution.³⁴

[14:18] Marcie - This nullification raises many questions: Was Congress within its constitutional right to impose these taxes? Was the federal government's collection of these taxes really unnecessary revenue, as South Carolina claims? And, did South Carolina even have the authority to nullify these tariffs?

[14:37] Marcie - We know President Andrew Jackson's answer to that last question. On December 10, 1832, President Jackson gave a proclamation regarding South Carolina's nullification. In it, he states:

[14:49] [T]he said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its Constitution, and having for its object the instruction of the Union.³⁵

[15:10] Marcie - Here, President Jackson is arguing that the people of South Carolina have a larger duty to the preservation of the United States, disregarding the loyalty they have to

³⁴ "South Carolina Ordinance of Nullification, November 24, 1832." Avalon Project - South Carolina Ordinance of Nullification, November 24, 1832. https://avalon.law.yale.edu/19th_century/ordnull.asp.

³⁵ Jackson, Andrew. "President Jackson's Proclamation Regarding Nullification, December 10, 1832." American Battlefield Trust, December 10, 1832. <https://www.battlefields.org/learn/primary-sources/president-jacksons-proclamation-regarding-nullification-december-10-1832>.

their own state. In other words, the union of the states is more important than each individual state.

[15:30] Marcie - However, President Jackson's Vice President disagreed. Vice President John Calhoun, defended his home state of South Carolina. So much so, he actually resigned his vice presidency in 1832 and ran for senate in South Carolina, just so he could protest these tariffs in Congress.³⁶

[15:53] Marcie - In response, on March 1, 1833, Congress passed the Force Bill, which allowed the president to use military forces against states to enforce federal tariffs, setting the stage for a potential conflict between the federal government and the states.³⁷ While military force was never used in this case, the message was clear, the federal government has military and economic power over the states.³⁸

[16:20] Marcie - But, along with the force bill was a compromise between the federal government and South Carolina. The Compromise Tariff of 1833 gradually reduced the rates of tariffs,³⁹ satisfying both the federal government and South Carolina, and ending the push and pull between federal and state powers during the Jackson administration.

Segment 3 (*Worcester & Cherokee/Court*)

³⁶ Martin, Jim. "Today in History: Resignation of Vice President John C. Calhoun: In Custodia Legis." The Library of Congress, December 28, 2017. <https://blogs.loc.gov/law/2017/12/today-in-history-resignation-of-vice-president-john-c-calhoun/>.

³⁷ Force Bill of 1833, March 2, 1833. <https://lovelman.sdsu.edu/docs/1833ForceBill.pdf>.

³⁸ Ericson, David F. "The Nullification Crisis, American Republicanism, and the Force Bill Debate." *The Journal of Southern History* 61, no. 2 (1995): 253. <https://doi-org.proxy2.library.illinois.edu/10.2307/2211577>.

³⁹ Ratcliff, 13.

[16:42] Elly - Thomas Johnson was born in Maryland and held a wide array of positions throughout his life, including being a continental congress representative, chief justice, and the inaugural governor of Maryland from 1777-1779.⁴⁰

[16:55] Elly - Sometime between 1773 and 75 Johnson purchased a portion of land from the sizable Piankeshaw Nation, sprawling across the Illinois, Indiana, and Virginia territories. After his passing in 1819, his will was read, and it became apparent that his heirs were to inherit the partitioned land.⁴¹

[17:12] Elly - However, a year prior to this in 1818, William McIntosh, a wealthy fur trader, had purchased 11,000 acres from Congress.⁴² McIntosh began to explore his newly purchased land and eventually, he stumbled across the Johnson descendents occupying a portion of his property. Choice words were had and there was a tense stand off, with both parties claiming rightful ownership of the land.

[17:35] Elly - Reaching no consensus, in February of 1823 the Johnson heirs sued McIntosh. It took less than a month for the Supreme Court to reach a decision, and it was not in favor of the Johnson heirs, but instead McIntosh.⁴³

⁴⁰Green, Ellen M. "Captain William McIntosh." Georgia Historical Society, March 13, 2026. https://www.georgiahistory.com/ghmi_marker_updated/captain-william-mcintosh/.

⁴¹"Johnson & Graham's Lessee v. McIntosh." Oyez. 2005. <https://www.oyez.org/cases/1789-1850/21us543>.

⁴²"Johnson & Graham's Lessee v. McIntosh."

⁴³ Library Of Congress. Johnson V. McIntosh, 21 U.S. (8 Wheat.) 543 (1823). 16 Feb. 1823, <https://tile.loc.gov/storage-services/service/l1/usrep/usrep021/usrep021543/usrep021543.p>

[17:48] Elly - On March 10th, the court ruled that the land belonged to McIntosh, and technically had never even belonged to Johnson, as the Piankeshaw nation had “no right” to sell their tribal lands back in the ‘70s.⁴⁴

[18:00] Elly - Why?

[18:01] Elly - The answer was simple in the eyes of the Americans. For starters, Johnson had purchased the land prior to the creation of the Declaration of Independence, when they were still the colonies, and had therefore been obtained through a British land patent.

[18:13] Elly - Despite this, British influence was still part of the reason the court ruled in McIntosh’s favor, like the Proclamation of 1763, inhibiting the direct sale of native land to settlers, enacted by King George III, which would go on to spur decades of debates and treaties over land rights between native americans and settlers.⁴⁵ Additionally, the Nonintercourse act, a series of six federal laws passed between 1790-1834 was cited, as it was created to regulate trade with indigenous nations and only allowed land purchases with federal approval.⁴⁶

[18:46] Elly - So, the land fell back into the hands of McIntosh, and the ruling was detrimental to natives across the nation as it essentially argued for a denial of native sovereignty.⁴⁷ This was particularly disastrous to indigenous nations living in lands that were now overrun with American colonial settlers, specifically the Choctaw, Cherokee, Muscogee,

⁴⁴ Library Of Congress. Johnson V. McIntosh

⁴⁵ Waldman, Zoe J. “Toward the Heart of America: The Royal Proclamation of 1763 and the Development of American Identity.” Toward the Heart of America: The Royal Proclamation of 1763 and the Development of American Identity, Brandeis University, Brandeis University, 2016.

⁴⁶ Steven A. Knecht, Tribal Status and the Indian Nonintercourse Act: An Alternative to the Montoya Definition of Tribe, 29 Cath. U. L. Rev. 625 (1980)<https://scholarship.law.edu/lawreview/vol29/iss3/6>

⁴⁷<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=2005&context=sulr>.

Seminal, and Chickasaw. It was now cemented in the law that Native Americans were not able to sell or manage the lands they lived on. Modern indigenous testimonies reflect the same shared sentiment, one riddled with frustration and heartbreak, stating, “For centuries, our people have endured removal from our homelands, forced assimilation, and near extinction in exchange for promises from the federal government, through numerous treaties.”⁴⁸

[19:30] Elly - The Muscogee were divided over the issue of removal, a common sentiment across indigenous communities at this time. They resided in Alabama and Georgia, and in 1823, the governor of Georgia, George Troup, had decided he wanted all natives out of the state.⁴⁹ He and a few others, without too much effort, coerced Muscogee chief William McIntosh into signing the second Treaty Of Indian Springs on February 12th, 1825, without approval from other Muscogee headmen- all of whom when the treaty eventually came to light- opposed.⁵⁰

[20:03] Elly - This treaty traded Muscogee land in Georgia for equal acreage in the Indian Territory that was developing west of the Mississippi⁵¹, which infuriated members of the tribe, who felt as if they were completely kept in the dark from what was occurring.⁵²

⁴⁸ Rain, Paris. “Muscogee (Creek) Nation Files Petition against Supreme Court Ruling in Favor of Creek Freedmen.” www.fox23.com/news/muscogee-creek-nation-files-petition-against-supreme-court-ruling-in-favor-of-creek-freedmen/article_96b27bfc-373a-4ad4-82ef-b6deacc8c958.html.

⁴⁹ Muscogee (Creek) Removal Dissention and Division, National Park Service U.S. Department of Interior, 2019, www.nps.gov/ocmu/learn/historyculture/upload/Accessible-Muscogee-Creek-Removal.pdf.

⁵⁰ Stock, Melissa. "William McIntosh." New Georgia Encyclopedia, 12 October 2007, <https://www.georgiaencyclopedia.org/articles/history-archaeology/william-mcintosh-ca-1778-1825/>

⁵¹ "Treaty with the Creeks, 1825." Indian Affairs: Laws and Treaties, compiled and edited by Charles J. Kappler, vol. 2, Government Printing Office, 1904, pp. 214-17. Oklahoma State University Library Digital Collections, cdm17279.contentdm.oclc.org/digital/collection/kapplers/id/29470/rec/1.

⁵² Muscogee (Creek) Removal Dissention and Division

[20:16] Elly - A little over two months after the signing of the treaty, the Muscogee nation retaliated against McIntosh, burning down his plantation and ultimately executing him in his front lawn. This wasn't unfounded, as the Muscogee nation actually had direct laws outlying the death penalty for anyone who, without the consent of the tribe, ceded lands.⁵³ Their next course of action was to look towards getting the treaty reversed.

[20:39] Elly - Remarkably, the Muscogee nation succeeded on a federal level, and John Quincy Adams declared the original second Treaty of Indian Springs to have been signed illegally, therefore rendering it void.

[20:51] Elly - However, this was a short-lived victory for the Muscogee, as governor Troup continued his efforts of forced removal. When Adams threatened him, Troup stood strong and scrambled the Georgia militia. Ultimately, Adams decided he had bigger issues, stating, "The Indians are not worth going to war over."⁵⁴ A stance that had consequences, as by 1827, two years after the treaty was signed, no Muscogee remained in Georgia, as they were pushed over into Alabama.

[21:18] Grant - As historian Jill Norgren points out in her book *The Cherokee Cases*, this conflict was not just between Georgia and Native American tribes. As we just saw with the Muscogee, Georgia would come into conflict with a third party: the federal government of the United States.⁵⁵

⁵³ Haveman, Christopher. "THE REMOVAL OF THE CREEK INDIANS FROM THE SOUTHEAST, 1825-1838." Auburn University, 10 Aug. 2009, <https://npshistory.com/publications/trte/haveman-2009.pdf>.

⁵⁴ Muscogee (Creek) Removal Dissention and Division

⁵⁵ Jill Norgren, *The Cherokee cases: Two Landmark Decisions in the Fight for Sovereignty* (University of Oklahoma Press, 2003), pg. 34.

[21:31] Grant - Under President Washington, federal Indian policy had aimed at assimilation of native groups rather than outright expulsion, against some southern objections. Seeking to overturn the policy, Georgia negotiated with the federal government in the Compact of 1802. The deal was: in exchange for forfeiting claims to western lands from the 1783 Treaty of Paris, Congress promised to obtain the land titles of the Cherokee and Creek for Georgia.⁵⁶ While that agreement did not remove the Cherokee immediately, it gave Georgia a political claim its leaders would invoke for decades. After the Louisiana Purchase in 1803, obstacles to Indian Removal continued to decline. Namely, there was more western land to send Native peoples to, thereby making removal policy easier for the Jeffersonian Democrats to imagine and defend.⁵⁷

[22:15] Grant - But the Cherokee were not alone in facing removal. Across the Southeast, each of the so-called “five civilized tribes” enacted policies in one form or another to resist removal.⁵⁸ The Cherokee response became one of the clearest and most legally ambitious. They had already been building a strategy of national survival for years.

[22:32] Grant - Cherokee Chief John Ross took action and pursued multiple paths of resistance against removal. Ross’s correspondence, along with articles in the first Cherokee-English newspaper, the *Cherokee Phoenix*, help to preserve the Cherokee viewpoint and show that this litigation campaign was part of a larger political struggle, not just a courtroom

⁵⁶ Norgren, *Cherokee Cases*, 37.

⁵⁷ Norgren, *Cherokee Cases*, 38.

⁵⁸ Norgren, *Cherokee Cases*, 4.

maneuver.⁵⁹ The Cherokee publications circulated throughout the United States and, in conjunction with public advocates, positively shaped northern public opinion eventually influencing the legal arguments surrounding Cherokee claims.⁶⁰

[23:02] Grant - Norgren describes the plan as a three-pronged effort: centralizing Cherokee governmental power, launching a public relations campaign in defense of Cherokee rights, and continuing acculturation.⁶¹ Litigation was not the original goal. But centralization, communications strategy, and political reforms gave Cherokee leaders the institutional capacity to take Georgia to federal court.

[23:23] Grant - Internally, the Cherokee ratified a new constitution in 1827 overhauling their previous system. This document undercut some of the arguments that the Cherokee were disorganized or unassimilable and thus must be removed. At the same time, the 1827 constitution vested centralized political authority in the hands of a few leaders who could more effectively resist American encroachment. But perhaps most dangerous to Georgian interests, the 1827 constitution maintained the legal tradition of communal land. By retaining the idea of common property in Article I, Section 2, the constitution preserved a native conception of landholding that did not conform to European property norms.⁶² This was the worst-case scenario for Georgian financial interest. The

⁵⁹ Norgren, *Cherokee Cases*, 9; for historical issues (1828-1834) of the *Cherokee Phoenix*, see the Library of Congress' [Collection on the Cherokee Phoenix](#); for of Chief John Ross' letter correspondence (including to Congress and William Wirt) see the Gilcrease Museum's [collection of John Ross Papers](#).

⁶⁰ Norgren, *Cherokee Cases*, 56.

⁶¹ Norgren, *Cherokee Cases*, 41.

⁶² National Archives and Records Administration, "Correspondence and miscellaneous records, 1821-23," image 395 of 796, *Records of the Cherokee Indian Agency in Tennessee*, Microfilm Publication M208, Roll 9, Record Group 64: Records of the National Archives and Records Administration, National Archives Identifier 445663926, National Archives Catalog, <https://catalog.archives.gov/id/445663926?objectPage=395>.

enterprises of land speculation and plantation agriculture were entirely dependent on recognized land titles. If this attitude towards land ownership was allowed to stand, economic expansion as Georgians had envisioned it would be impossible.

[24:15] Grant - Georgia understood the danger. When the Cherokee adopted their 1827 constitution, Georgia's governor demanded that President Adams denounce it and insisted that the federal government was betraying the Compact of 1802.⁶³ Adams did not denounce the 1827 constitution, but he didn't publicly support it either. Candidate Andrew Jackson, though, was openly critical of Indian national sovereignty and supportive of states' rights. When Jackson won the November election of 1828, the Georgia Legislature sprung into action. Weeks after the election, Georgia passed a law declaring that all Cherokee laws and customs would be null and void beginning June 1, 1830.⁶⁴ In 1829 and 1830, it barred Cherokee courts and councils from operating, punished attempts to enforce Cherokee law, restricted testimony by Indians against whites in Georgia courts, and authorized state power inside Cherokee territory in the name of enforcing law and protecting the gold mines.⁶⁵ These laws went further than usurping property rights, and by targeting the means of Cherokee legal resistance and organization, the laws sought to create conditions where Cherokee culture could no longer survive.

⁶³ Norgren, *Cherokee Cases*, 43.

⁶⁴ Georgia. General Assembly. "Acts of the General Assembly of the state of Georgia, passed in Milledgeville at an annual session in November and December, 1829 [volume 1]." 1829/1831. <https://hdl.handle.net/2027/uc1.a0001993955> pp. 98-102.

⁶⁵ (*U.S. Reports: Worcester v. the State of Georgia*, 31 U.S. [6 Pet.] 515 [1832], <https://tile.loc.gov/storage-services/service/lil/usrep/usrep031/usrep031515/usrep031515.pdf> pp. 525-528; 521.

[25:20] Grant - The Cherokee brought *Cherokee Nation v. Georgia* to the Supreme Court and asked the Court to stop Georgia from enforcing their unilateral declarations. Various groups of Native peoples had used colonial and state courts in the past hundred years, but this was the first case ever brought by Native Americans to the Supreme Court.⁶⁶ The Cherokee argument was simply that as a political community with treaties with the United States, Georgia law could not supersede federal agreement.

[25:42] Grant - It looked like the case might force the country to answer a question it had been dodging for years: who was *more* sovereign in the United States? The Marshall Court had to contend with the language of inalienable human rights rooted in natural law, the concept of national sovereignty drawn from international law, and Anglo-American rules about property acquisition and transfer.⁶⁷ Beneath the doctrine was a struggle over whether Native political existence would be treated as real when it obstructed white-American expansion.

[26:07] Grant - John Marshall gave the Cherokee part of what they wanted. The court's decision recognized the Cherokee as a political society to be treated like a nation in treaties, but instead of balancing the plethora of issues in front of it, the Court ruled on standing alone. Ruling on standing meant that the Cherokee had no authority to sue in United States courts. Without addressing the Cherokee's complaints, the court declared them a "domestic dependent nation" meaning they were recognized as political, but not fully

⁶⁶ Norgren, *Cherokee Cases*, 9.

⁶⁷ Norgren, *Cherokee Cases*, 7.

sovereign. Real enough to sign treaties with, but not real enough to have legal standing before the Court; so the injunction was denied and Georgia kept moving.

[26:38] Grant - Without legal standing, it seemed to some that the courts were no longer an option. The efforts of Cherokee leaders to court sympathetic allies in the United States had paid off, though. One of these allies came in the form of former U.S. Attorney General William Wirt whom Chief John Ross had retained for the Cherokee legal team. Wirt was well-entrenched in American legal circles and looked for opportunities to bring the Cherokee's issues to the court through someone *with* legal standing.

[27:04] Grant - Luckily, Wirt found his opening when Georgia tried and convicted a missionary named Samuel Worcester. In an attempt to undermine Cherokee supporters, such as missionaries, Georgia had passed a law requiring white people residing in Cherokee Nation territory to obtain a license from the governor or his agent and take an oath to support the constitution and laws of Georgia. Worcester refused and was found guilty in Georgia, but appealed his case.⁶⁸

[27:27] Grant - In *Worcester v. Georgia*, the Supreme Court finally dealt with the substance of the issues they had dodged in *Cherokee v. Georgia*. In the Court's own words, the Cherokee Nation was "a distinct community, occupying its own territory ... in which the laws of Georgia can have no force." That was the core of the ruling. The state could not just march in, abolish Cherokee authority, and call it governance. Only the federal government could deal with the Cherokee Nation. The opinion set the foundation for

⁶⁸ *U.S. Reports: Worcester*, 529.

American Indian legal rights, describing Indian nations as “distinct, independent political communities,” which made it clear Marshall was treating Native nationhood as a legal reality now.⁶⁹ On paper, it was a massive win for Cherokee sovereignty. It affirmed that their treaties mattered and curbed state power. It codified Indigenous nationhood into enforceable federal legal reality.

[28:13] Grant - But a ruling on paper was only as strong as the government willing to enforce it. The deeper tragedy was that *Worcester* did not stop removal. Cherokee sovereignty could be recognized in doctrine and still be abandoned in practice. The cases exposed a United States arguing over sovereignty in theory while destroying it in practice.

[28:31] Elly - That government that wasn't willing to enforce the court's order had a name: Andrew Jackson.

[28:36] Elly - When settlers would encroach on Native lands, they would often result in bloody altercations. Jackson's solution to this was the Indian Removal Act, which he championed and was ultimately approved by Congress on May 28th, 1830.

[28:50] Elly - The act allowed the president to grant land west of the Mississippi River, to be dubbed “Indian Territory,” (which would later become Oklahoma) to tribes that were currently residing to the east of it, as well as setting a pool of funding to do so. This would be done through the process of land-exchange treaties, in which natives were told

⁶⁹ *U.S. Reports: Worcester*, 520; 559.

they would not only receive land, but material and financial assistance from the government as well- as long as they cooperated and went peacefully.

[29:16] Elly - He claimed this was all in the name of “incalculably strengthen(ing) the southwestern frontier,” and sought to open up 25 million acres of land for white settlement. He believed that access to open, fertile land would “enable those states to advance rapidly in population, wealth, and power,” particularly those in the South.

[29:35] Elly - Jackson was freely able to coerce, bribe, persuade, and threaten tribes if they opposed a land exchange treaty. When tribal leaders did sign treaties, it led to growing divisions within communities over whether it was the right choice or not, as when they arrived in the newly acclaimed Indian Territory, they were sorely displeased.

[29:54] Elly - Natives had been expecting equal acreage in the Indian Territory to that of the lands they ceded in the East. However, they were shifted by the government and instead forced into a much smaller area in eastern Oklahoma, heavily restricting their access to resources. This led to a reliance on government traders, who would collect absurd debts and drain tribal funding.

Reflection/Significance + Conclusion

[30:17] Elly - These court cases hold an important place in American history, as they set the legal stage for large scale forced removal of indigenous peoples. They are a prime example of how land was used as a means of pushing a federal (Jackson's) and state (Georgia's) agenda to marginalize native forces. The political struggles of the early

nineteenth century were driven by deeper conflicts over economic policy, land, and sovereignty. Financial instability and the desire for gold brought these tensions to the center of American political and legal debate, as disputes over the Bank, tariffs, and Native land rights all became larger fights over who truly held power in the United States. The demand of the federal government to enact tariffs represents a much larger discrepancy between the powers of the federal and state government. It extended beyond just officials in the federal and state government but demonstrates a tension between individuals within the federal government.

[31:12] Elly - The Bank War and the Nullification Crisis revealed how fragile the balance between federal and state authority could be, while conflicts involving Native nations showed that Indigenous sovereignty was often recognized in theory but denied in practice. Altogether, these events show that debates over money, law, and land were ultimately debates over: power, expansion, and the concept of “freedom” in a growing nation. Thanks for listening to our podcast. We hope this episode gave you a better understanding of how conflicts over money, land, and sovereignty shaped the early United States.