As a student in Dr. Leslie Heaphy’s U.S. Formative (HIST 12070) class, Thomas White was asked to show the correlation between states’ rights and federal rights in the U.S. during the 1800’s. White investigates how the state of Georgia challenged federal authority by claiming ownership over Cherokee lands. Also, this essay looks at the famous Cherokee Nation v. Georgia Supreme Court case, and comments on the implications it had on U.S. policy in regard to Native Americans and their territory.

During the early 1800’s, the United States government was struggling with many different issues as they were attempting to gain credibility as an international power in the world. The ability to keep the nation progressing forward as a political power fell squarely on the shoulders of its early leaders. Two of the more important domestic issues that this new nation was facing were the ideas of states’ rights vs. federal rights and the Indian Removal Act. By the late 1820’s, the state of Georgia became a major factor in how both of these issues would be debated and resolved. In 1829 and 1830, the Georgia General Assembly enacted legislation that, in essence, stripped the Cherokee Nation in Georgia of sovereign rights it was granted by the federal government in the late 1700’s (62). This would be one of the first, and certainly the most controversial to date, challenges to the powers of the federal government of the United States by one of its states. This essay will uncover how the actions and reactions of President Andrew Jackson, Congress, The Supreme Court, and the Georgia General Assembly shaped the course of development of federal and state governing powers in the United States.

Un the early 1800’s “[n]o state agitated more consistently or aggressively for the expulsion of Native people from its borders” (58), than the state of Georgia. This stems from an agreement, known as the Compact of 1802, that the United States federal government made with Georgia. In essence, the agreement stated that Georgia would surrender its claims from their original colonial charter, to the territories of Alabama and Mississippi in exchange for $1.25 million in cash and a congressional pledge that they would acquire all Indian held lands, in the boundaries of the state of Georgia, and turn them over to the state of Georgia (58). Because the federal government officially recognized the Indian nations as sovereign, this promise that was made to Georgia became impossible for them to fulfill. The sovereign status allowed the Creeks and Cherokees to refuse to sell, and the federal government was unable to force them to sell. By the mid 1820’s, political leaders in Georgia began to take matters into their own hands, as they felt that the federal government “was worse than irresponsible,” and that “it was actually impeding the fulfillment of the compact” (59). They were able to force the Creeks to sell them millions of acres of their lands along the Chattahoochee River by creating a hostile and threatening atmosphere. The success of these tactics, and the fact that the Georgia General Assembly was giving the land away through a lottery, made the current governing body, led by Gov. Troup, very popular among the residents of Georgia. Realizing these political opportunities, the legislature turned its attention to the Cherokee. Aside from the discovery of gold on some of the Cherokee land, there was also another tract of land that blocked access to the Tennessee River. Access to the Tennessee River would open a whole new trade market with inland states and territories that Georgia never had before. The struggle for land between the sovereign Cherokee Nation and the state of Georgia was about to heat up.

In 1826 and 1827, the Georgia General Assembly passed resolutions that, in essence, stated their claim to sovereign rights to all lands within their borders, including the Cherokee Nation. They also claimed that because “the United States failed to acquire the Cherokee Nation for Georgia under the Compact of 1802, the state was within its sovereign rights simply to take it” (61). This was a major challenge to the powers of the federal government.
in relation to the powers of the state government. In 1827 the Cherokee Nation drew up a constitution that established its borders and made claim to the sovereign status that was awarded to them by the federal government. They also claimed their exclusive rights to govern all people within those set borders. This bold statement, coming on the heels of their own claim to sovereign rights to the lands within their borders, absolutely infuriated the Georgia General Assembly.

In 1828 “the [Georgia] General Assembly enacted legislation to attach the Cherokee Nation to five Georgia counties, thus putting the Cherokees and their land under state jurisdiction,” effective June 1, 1830, and also disallowed all laws established by the Cherokee Nation (62). They further claimed that the Cherokee were merely tenants at the will of the state and that their tenancy may be forfeited and their land taken away any time that states wished to do so (61). These enactments carried huge implications in regard to the interpretation of the constitution and the rights of the state to ignore the decisions of the federal government. When President Andrew Jackson upheld the actions of the General Assembly, it led to even more legislation that took more rights away from the Cherokee, including certain citizenship rights. By 1830 they had passed legislation that did not allow the Cherokee government to act on any of their laws nor to even meet or they would be in violation of Georgia law, which they were now subject to.

In 1831, the Cherokee went before the Supreme Court (Cherokee Nation v. Georgia) to challenge the arrest of one of their own (George Tassel), who had committed a murder within the Nation yet was arrested by the Georgia Guard. The State executed Tassel before the Supreme Court could make a ruling. The Supreme Court later stated “the Cherokee Nation had no legal standing as a ‘foreign nation’ before the Court” (68). In 1832, Samuel Austin Worcester challenged his arrest by the Guard for not declaring an oath of allegiance to Georgia or to the Supreme Court (Worcester v. Georgia). He was a Christian missionary and felt that he was protected by the sovereign status of the Nation. His case was heard because he was a citizen of the United States, and the Court ruled in his favor, but the state of Georgia refused to recognize the ruling. In doing so, the state of Georgia had now challenged two of the three branches of the Federal Government (Legislative and Judicial) without any ramifications from the executive branch (the President).

President Jackson’s plan was a simple one. Since he had no direct jurisdiction over the Indian Nations, because of the sovereign status awarded them by earlier administrations, he allowed the states to claim their sovereign rights. Alabama, Tennessee, Mississippi, and South Carolina all followed Georgia’s lead by “[nullifying] congressional law, as an expedient means to achieve removal” (93), forcing the Indians to negotiating tables where the Federal Government finished the procedures by “savi[ng] them from state harassment.” While there were many critics of this “callous, inhumane, unconstitutional, and illegal scheme” (93), a majority of Congress aligned with Jackson in support of Georgia’s legislation. Because their was no precedence forcing the President or Congress to abide by the rulings of the Supreme Court, since the Court did not have jurisdiction over the Indian policy, they were able to accomplish “a dramatic restructuring of the relations among the Indians, the states in which they lived, and the federal government” (93).

Evidently, they two issues, states’ rights vs. federal rights and the Indian removal, evolved almost hand in hand as the states challenges to federal jurisdiction not only shaped the relationship of state government to federal government but also the relationship of the nation of the United States to the Indian Nation. The bold steps taken by the General Assembly of Georgia, and the clear unequivocal backing of President Andrew Jackson, helped to shaped the future direction of this country’s governing policies and their direct dealings with the Indian Nation.

Work Cited