



From Genocide to Justice

A Mock Trial



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From Genocide to Justice: A Mock Trial

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Introduction
Ellen J. Kennedy, Ph.D.
Executive Director, World Without Genocide

World Without Genocide has prepared mock trials for the annual Summer Institutes for High School and College Students since the first Summer Institute which was held in 2011. This three-day experience, occurring every August since then, has received the State of Minnesota Ethical Leadership Award for the program's transformative impact on the young people who participate.

They come to us at the height of Minnesota's summer to study human rights when they could be pursuing many other activities. They come because they already have a commitment to a world of peace and justice and to their own responsibility for making their vision a reality.

The Institute focuses on a genocide or another human rights atrocity from the past and the parallels at local and global levels today. We include a mock trial at the Institute to teach about transitional justice after genocide and about the power of law to create order after a social cataclysm.

Our students begin these mock trials with great spirit for their roles as judges, prosecutors, defenders, the accused, witnesses, etc. They end the trials with insight about the process of the law and about the complexity of defining and finding truth and justice. I hope that you, too, find the included mock trial engaging and thought-provoking.

The staff, law students, and lawyers who prepared the mock trial deserve great thanks for their outstanding work.



Transitional Justice and Trials

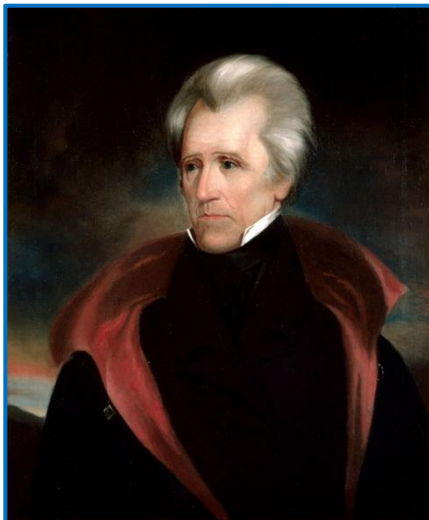
Transitional justice aims to address past human rights abuses, hold perpetrators accountable for their crimes, attain some measure of justice for victims, and promote reconciliation and healing for all. Transitional justice includes truth commissions, criminal prosecutions, reparations to affected groups and individuals, memorialization, and reforms in political, legal, and civil institutions to stop possible future atrocities.

Apart from punishing those who are found guilty, trials are documented and thus become a permanent history of the truth. As a result, future generations can learn about the true history of the genocide. The trials also act as a memorial for the victims and as an opportunity for survivors to share their experiences publicly and with dignity.

There are different types of courts that operate to provide justice after genocide. These courts can be international and operate under the UN or other international mandates. They can be domestic, held in the country where the crimes occurred, or, through universal jurisdiction, in other countries as well. The courts can also be a joint endeavor by the UN and the country where the crimes were committed. Military courts also provide transitional justice through a court-martial process. Another form of courts is the community-based courts which are held at a local or regional level where the crimes were committed, as occurred in Rwanda, in addition to national and international trials.

President Andrew Jackson Mock Trial Bios¹

President Andrew Jackson



Andrew Jackson was the seventh president of the United States, serving from 1829 - 1837. Like many Americans of the time, he held strongly negative attitudes towards Native Americans and believed that they should be removed from their locations in the south. He often referred to them as “savages” and stated that they didn’t belong among civilized citizens. He served as a federal commissioner in negotiating treaties that divested Native tribes of their lands in exchange for lands in the west, using threats, bribery, and force if necessary. In 1814 he commanded military forces in defeating part of the Creek nation, resulting in the tribe’s loss of 22 million acres of land in Georgia and Alabama.

In 1830, President Jackson promoted the Indian Removal Act that passed in both chambers of Congress. The Indian Removal Act gave the president the power to negotiate removal treaties with Indian tribes, exchanging their land in the east for lands west of the Mississippi. Those who wanted to stay would become citizens of their states. The Act was premised to be voluntary and peaceful, but the subsequent treaties cheated Native Americans out of their land through force and manipulation. President Jackson stopped payments of previous land deals until tribes agreed to move west, and he supported states’ claims over tribal land.

Some Native tribes attempted good-faith negotiations for a variety of reasons. While many resisted these treaty negotiations and were forced out through a series of violent conflicts.

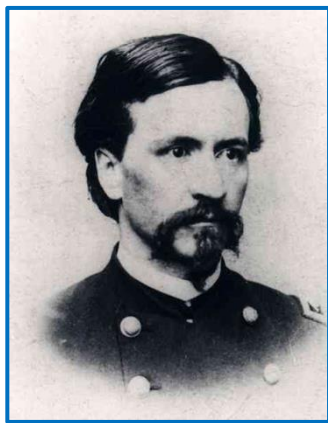
Some Native American representatives signed the Treaty of New Echota with the United States government in 1836, which laid out terms for the Cherokee to cede their land and move west. However, many Cherokee protested the legitimacy of those who signed the treaty on their behalf. The Cherokee National Council petitioned the Senate not to ratify the treaty, and then for Congress to void it, but the U.S. government went forward with enforcement.

In 1838, the U.S. government sent 7,000 troops to forcibly remove the remaining Cherokee people from their land and to begin the march west. Troops gathered 16,000 Cherokee into camps to begin the march without provisions of adequate clothing, food, or protection from the harsh climate, and 4,000 Cherokee people died from hunger, cold, and disease in what is known as the Trail of Tears.

¹Special thanks to St. Joseph High School in Middlesex, NJ for materials which this mock trial is based on.
https://www.stjoes.org/ourpages/auto/2012/10/4/57279254/jackson_trial_book.pdf

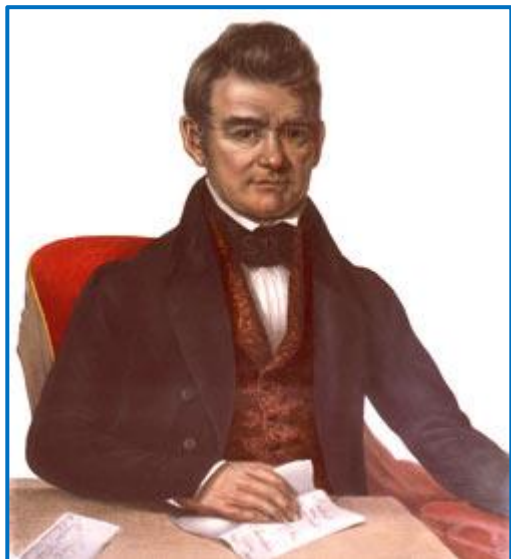
The Jackson administration removed 46,000 Native American people from their land. While the two year deadline for Cherokee removal was set for after President Jackson's second term ended, and the Trail of Tears occurred after his presidency, the Indian Removal Act and the forcible removal of Native tribes are legacies of Jackson's presidency and his policies.

John Burnett



Private John Burnett grew up hunting and fishing in Tennessee. He became acquainted with many Cherokee, learning their language and traditional hunting methods and served as an army interpreter with the Cherokee people. During the 1838 Trail of Tears, he witnessed brutal conditions and treatment that were forced upon the Cherokee as they were removed from their land. He told his family about his memories of the Trail of Tears in 1890, and he described the removal as the “execution of the most brutal order in the History of American Warfare.”

Chief John Ross



John Ross was the principal chief of the Cherokee Nation. Born to a Cherokee mother and a Scottish father in present-day Alabama, he grew up learning the traditional customs of the Cherokee, and also practiced European traditions and spoke English at home. He attended South West Point Academy in Tennessee, and established businesses that helped him develop diplomatic skills. He was elected principal chief of the Cherokee Nation, which he had helped found, in 1827. During this time, pressure was mounting to remove Indian tribes from their lands in the south, especially after the discovery of gold on Cherokee land. Ross resisted attempts by the US to negotiate removals, and he fought many political

battles on behalf of the Cherokee. He believed in the republican form of government, the authority of the U.S. Supreme Court, and believed that Cherokee rights would be protected. He

became a spokesperson of the Cherokee people who resolved to hold their ground and not move, and he resisted further attempts to trade land for peace even going to the U.S. Supreme Court to invalidate state removal laws. After the Treaty of New Echota was signed without his approval and to the detriment of the Cherokee people, Chief Ross spent two years trying to overturn it. After it became clear that the Cherokee were going to be forcibly removed, Chief Ross attempted to negotiate and plan for the move west, believing that he could improve the conditions of the move for his people. He accompanied the Cherokee along the Trail of Tears, and he suffered personal tragedy during this relocation when his wife died of exposure after giving her blanket to a sick child. Once the Cherokee were established in Indian Territory, Chief Ross worked to establish farms, businesses, schools, and colleges there.

Samuel Cloud

Samuel Cloud, a member of the Cherokee nation, was nine years old during the Trail of Tears. His great grandson, Michael Rutledge, told Cloud's story in a paper titled "Forgiveness in the Age of Forgetfulness."² His story helps narrate the Trail of Tears and experiences of the Cherokee nation.

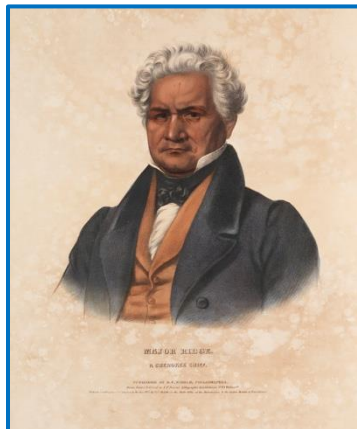
Rebecca Neugin

Rebecca Neugin was believed to be the last Cherokee survivor of the Trail of Tears. She and her family were forced onto the Trail of Tears in May of 1838. She was interviewed in 1932 to tell her story, at almost 100 years old. Her daughter also relayed her mother's story as was told to her. Rebecca was three or four years old when her family was forced from their home, rounded up by soldiers in Georgia, marched to a camp in Tennessee, and held until they set out with a large group. She remembers people dying from illness and exposure and the difficult conditions of the journey, including rationing food, and wearing threadbare clothing, and sometimes having no shoes. The memories of these difficulties stayed with her throughout her life, including the pain of leaving her beloved pets behind.



² <http://history-sites.com/chokeee/samuel.html>

Major John Ridge



Major Ridge was a wealthy slave-owning Cherokee leader who was part of a younger group of chiefs who supported acculturation and new ways of negotiating with the United States. They tried to show the government leaders in the US that Native Americans could assimilate into European, even modeling democratic governance. He resisted and opposed selling Cherokee lands to the U.S. government for a long time, but after the signing of the Indian Removal Act, he eventually believed that the best chance for the Cherokee Nation was to negotiate the best terms possible. He was part of a group of Cherokee senators to the 1835 Treaty of New Echota, which ceded Cherokee land east of the Mississippi for \$5 million in return for land in Oklahoma. This treaty was contested as illegitimate by many other Cherokee. Major Ridge was eventually killed by the Ross faction for his part in signing the treaty.

President Andrew Jackson Mock Trial Roles

Role	Name
Three Judges preside over the trial.	
The Bailiff initiates the proceedings, swears in witnesses, and provides instruction to the jury after the trial is submitted.	
The defense attorney conducts direct examination of the defendant and cross-examination of witnesses.	
The prosecutor conducts an opening statement, direct and cross-examination of witnesses, and a closing statement.	
Four witnesses testify in the trial and have 1-3 pages of testimony.	
The defendant , Andrew Jackson, has about 2 pages of testimony.	
Seven detail-oriented jurors reach a verdict and recommend sentences. The jury must be an odd number because they need to reach a verdict by majority vote.	

The remaining students will be members of the press and will be assigned to write either opinion articles or news features.

Mock Trial of President Andrew Jackson for Crimes Against Humanity at the International Criminal Court: Transcript

*** Note:** This transcript was created for the Summer Institute Mock Trial. It depicts a hypothetical trial in which Andrew Jackson is prosecuted at the International Criminal Court. Although liberties were taken with evidentiary rules and witness stories, care was taken to base the “testimony” below upon statements made by the named witnesses. Care was also taken to be as accurate as possible; however, some statements were altered, fabricated, or combined with other statements for purposes of this Mock Trial.

BAILIFF – All rise! The International Criminal Court is now in session for the situation in the United States of America in the case of the prosecutor versus Andrew Jackson, Honorable Judge _____, Judge _____, and Judge _____ presiding.

(Bailiff opens the door)

(Judges enter the room and take seats behind the bench)

JUDGE 1 – Let us begin by noting appearances for the record beginning with the prosecution.

PROSECUTOR – I am _____, here with my colleagues _____ and _____.

JUDGE 2 – And appearing on behalf of the defense?

DEFENSE COUNSEL – I am _____, here with my colleagues _____ and _____. We are representing the defendant Andrew Jackson who is present here in the courtroom.

JUDGE 3 – Thank you, Counselors. Is the prosecution ready to proceed?

PROSECUTOR – Yes, Your Honor.

JUDGE 1 - Is the defense ready to proceed?

DEFENSE COUNSEL – Yes, Your Honor.

JUDGE 1 – Will the defendant, Andrew Jackson, please rise?

Defendant Andrew Jackson stands.

JUDGE 1 – Andrew Jackson, you have been charged with the following:

Count 1: Crimes Against Humanity

That in 1838, Andrew Jackson committed Crimes against Humanity, by deportation or forcible transfer of a population; persecution against an identifiable group; and other inhumane acts intentionally causing great suffering, or serious bodily injury or mental or physical harm.

JUDGE 1 – Mr. Jackson, do you understand the charges against you?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes.

JUDGE 1 – And you have pleaded not guilty to this charge, correct?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes.

JUDGE 1 – Mr. Jackson, you may be seated. The parties may present their opening statements.

Defendant sits.

PROSECUTOR – Thank you, your honor. Your Honors, Counsel, today we will present testimony from individuals who have observed, experienced, and participated in the deportation and forcible transfer of the Cherokee population in what is known as the Trail of Tears. At the defendant's orders, and with his support, the United States Army forcibly removed the Cherokee from their land and marched them west, through harsh winter conditions and with insufficient clothing, rations, and protections, wherein many died and countless more suffered through extreme and inhumane conditions. The defendant has committed Crimes Against Humanity. At the conclusion of our case, we ask that you find the defendant guilty of Count 1, Crimes Against Humanity.

DEFENSE COUNSEL – Your Honors, Counsel, the defendant, President Andrew Jackson should be found not guilty of Crimes Against Humanity. He will testify about the challenges of making decisions on behalf of the United States, that he met with Cherokee leadership and the leaders approved of the removal, and that the removal was the result of a deal made between Cherokee leadership and the United States government. You will hear testimony that President Jackson had no knowledge of the actual conditions of the journey or the lack of provisions, and that he is remorseful, but not responsible for the deaths that occurred among the Cherokee people on their journey west. It is on this basis that will ask that the defendant be found not guilty of the charge. Thank you.

JUDGE 2 – The prosecution may call its first witness.

PROSECUTOR 1 – The prosecution would like to call John Ross.

(WITNESS 1 JOHN ROSS takes the witness stand)

BAILIFF - Please state your name for the record.

WITNESS JOHN ROSS – My name is John Ross.

BAILIFF – Please raise your right hand.

(JOHN ROSS raises right hand)

BAILIFF – Do you solemnly affirm that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth?

JOHN ROSS – Yes.

PROSECUTOR – What is your background with the Cherokee Nation?

JOHN ROSS – I was the principal chief of the Cherokee Nation. I grew up in the Cherokee tradition although my family is of mixed heritage. I am very proud of my people and have worked all my life to advocate for their protection.

PROSECUTOR – What was your view of the United States’ position on the Cherokee people prior to the removal?

JOHN ROSS – I knew that many white Southerners were lobbying for our removal. Their efforts were hastened once they discovered gold on Cherokee land. I truly believed that the government would protect us, because in my view, my people had become a wonderful example of “civilized” people in the white man’s sense. We had taken up farming, running and owning successful businesses, and organizing our own government. I did not believe that we would be forced to leave.

PROSECUTOR – What was your involvement in preventing the removal?

JOHN ROSS – At some point, I did realize that my original beliefs were wrong, and that the government was preparing to send us away. I advocated continually on behalf of my people until the decision for removal was made. Once I knew that we had lost the fight, I negotiated with the United States government to handle and plan the move.

PROSECUTOR – Did you accompany the Cherokee people west?

JOHN ROSS – Yes, I did.

PROSECUTOR – Can you describe your experiences as you travelled?

JOHN ROSS – Yes. Conditions were harsh. We were travelling in the midst of winter. The cold was biting, and most did not have adequate clothing, food, or blankets. Many people walked barefoot through the snow. The trip was long, and my people were exposed to the worst of conditions. We were marched like animals, forced along by soldiers on horses. Many people died of cold, of hunger, of weariness. I have never seen such suffering.

PROSECUTOR – What personal tragedy did you face during this experience?

JOHN ROSS – My beloved wife Quatie was overcome with illness. She died of exposure after giving her only blanket to a child who had none. Quatie rode only with the clothes on her back through cold sleet and snow. She developed pneumonia and died during the night. She was buried the following day, in a shallow unmarked grave near the road, like so many others had been and so many more would be. She hadn’t made it very far, so my consolation is that she is buried close to our home.

PROSECUTOR – No further questions.

JUDGE 1 – Defense, you may inquire of the witness.

DEFENSE COUNSEL – Mr. Ross, you testified earlier that you helped the United States government plan the removal of the Cherokee when you realized that the removal would go forward?

JOHN ROSS – Yes.

DEFENSE COUNSEL – If you helped the government plan the removal, how are you not also responsible for the deaths that occurred?

JOHN ROSS – While I helped plan the removal, I had no control over what provisions we would receive, or when we would travel. I had no control over the treatment my people received at the hands of the soldiers sent to remove us. I had tried to do my best to ensure that we would have what we needed. I

trusted the government as I had previously trusted that they would not remove us. I realized my trust was again betrayed when we were held in muddy stockades with none of our possessions and marched west with only the clothes on our backs. I was cruelly deceived.

DEFENSE COUNSEL – No further questions.

JUDGE 1 - The witness may step down, and the prosecution may call its next witness.

(JOHN ROSS steps down from the stand)

PROSECUTOR – The prosecution would like to call John Burnett.

(Witness 2 John Burnett takes the witness stand)

BAILIFF – Please state your name for the record.

WITNESS 2 JOHN BURNETT – John Burnett.

BAILIFF – Please raise your right hand.

(Witness 2 raises right hand)

BAILIFF – Do you solemnly affirm that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth?

JOHN BURNETT – Yes.

PROSECUTOR – What is your profession?

JOHN BURNETT – I am a private in the United States Army with Captain Abraham McClellan’s Company, 2nd Regiment, 2nd Brigade, Mounted Infantry.

PROSECUTOR – What was your connection to the Cherokee tribe prior to their removal?

JOHN BURNETT – I was born in Kings Iron Works in Sullivan County, Tennessee. I grew up fishing and hunting and I often spent weeks alone in the wilderness. During these trips, I met many Cherokee Indians and became friends with them. I hunted with them, and I slept at their campfires at night. I learned to speak their language and they taught me how to track animals and how to build traps and snares.

PROSECUTOR – What was your involvement in the removal of the Cherokee?

JOHN BURNETT – Because I spoke the language fluently, I was sent as an interpreter in May of 1838.

PROSECUTOR – What did you observe when you arrived?

JOHN BURNETT – I saw Cherokee people being arrested and dragged from their homes and driven at bayonet point into stockades where they were kept until one rainy morning in October, when they were loaded like cattle into 645 wagons headed west. Despite the cold rain that fell, many did not have blankets or shoes for warmth or protection.

PROSECUTOR – What were conditions like during travel?

JOHN BURNETT – Conditions were brutal. We encountered rain, sleet, snow, and freezing temperatures. The Cherokee were forced to sleep in the wagons or on the ground without any fires. As I stated earlier, many did not have a blanket or shoes to shield them from the cold. The soldiers who accompanied the Cherokee often treated them cruelly, even lashing them to keep up the pace. We did not have enough provisions to feed them all, and many people starved to death. Diseases were rampant.

PROSECUTOR – To your knowledge, how many Cherokees died on the journey?

JOHN BURNETT – I know personally that on one cold night, 22 people died from pneumonia or similar illnesses from cold, exposure, and starvation. By the time we reached our western destination on March 26, 1839, some 6 months after we began, approximately 4,000 unmarked graves stretched back behind us. Many people haddied during the journey and countless more suffered through extreme conditions of all kinds to survive.

PROSECUTOR – How many miles were covered in the journey westward?

JOHN BURNETT – Approximately 1,200 miles.

PROSECUTOR – Who is responsible for ordering the removal of the Cherokees?

JOHN BURNETT – The President of the United States, Andrew Jackson.

PROSECUTOR – Who is responsible for the death and suffering of the Cherokee you accompanied from 1838-1839?

DEFENSE COUNSEL – Objection, calls for speculation.

PROSECUTOR – My next questions will provide the Court with more detail, and I ask that the witness be instructed to answer.

JUDGE 2 – Objection overruled. The witness will answer the question.

JOHN BURNETT – Andrew Jackson.

PROSECUTOR – What makes Andrew Jackson responsible?

JOHN BURNETT – President Jackson enforced the Indian Removal Act of 1830 and pushed through the Treaty of New Echota, which forced the Cherokee from their homes and onto the brutal march West, while white men were given the land that had belonged to the Cherokee.

PROSECUTOR – Do you have any additional knowledge about President Jackson's dealings with the Cherokee?

JOHN BURNETT – Yes. Chief Junaluska of the Cherokee Nation personally knew President Jackson and had helped him win the battle of Horseshoe Bend. Chief Junaluska saved President Jackson's life by killing an enemy soldier who would surely have killed President Jackson, had it not been for the Chief's intervention. Chief Junaluska pleaded with President Jackson for protection for the Cherokee, but President Jackson's manner would not be swayed, and he turned Chief Junnaluska away.

PROSECUTOR – This concludes my examination of this witness.

JUDGE 2 – The defense may proceed.

DEFENSE COUNSEL – Mr. Burnett, do you have actual proof that President Jackson had any knowledge of the brutal conditions the Cherokee faced as they traveled west?

JOHN BURNETT – How could he not have known? The wagon trains left in October, and the journey would take many months. It is obvious that the Cherokee would be traveling in the midst of winter.

DEFENSE COUNSEL – Isn't it true that you also participated in the removal of the Cherokee, on orders from the United States Army?

JOHN BURNETT – Yes. It's true, but I was horrified by what I witnessed. I followed orders, as my post required, but I had no control over the fate of the Cherokee. I did my best to treat the Cherokee with kindness and generosity.

DEFENSE COUNSEL – No further questions.

JUDGE 2 – The witness may step down, and the prosecution may call its next witness.

(Witness 2 steps down from the stand)

PROSECUTOR – The prosecution calls Samuel Cloud.

(Witness 3 Samuel Cloud takes the witness stand)

BAILIFF – Please state your name for the record.

WITNESS 3 SAMUEL CLOUD – My name is Samuel Cloud.

BAILIFF – Please raise your right hand.

(Witness 3 raises right hand)

BAILIFF – Do you solemnly affirm that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth?

SAMUEL CLOUD – Yes.

PROSECUTOR – Are you a member of the Cherokee Nation?

SAMUEL CLOUD – Yes.

PROSECUTOR – Please describe what you witnessed prior to the Cherokee removal.

SAMUEL CLOUD – I was a young boy when the soldiers first rode up to our home. My mother called me over and told me to pack my things, but the soldiers refused to let us pack anything. They broke our pottery and took my mother and me to wait by their horses, where they held us at gunpoint. Other soldiers came with my father. They took his rifle and forced him to wait by my mother and me.. Soon, my friend's families were also gathered at the end of a soldier's bayonet. The soldiers told us to walk, and they led us at bayonet point to the stockades. We were all in the stockades together like cattle. The soldiers didn't let anyone gather their possessions. There were not enough blankets for everyone, and we all slept on the cold ground.

PROSECUTOR – How did you feel during your time in the stockades?

SAMUEL CLOUD – I felt afraid. We were all afraid. The soldiers never told us anything. They didn't tell us how long we had to stay in the stockades. My father was angry, but there was nothing he could do. We were caged together like animals, living in squalid conditions while the warmth and comfort of our houses were nearby. Eventually, we heard that white men were living in our houses and farming our land, and the soldiers told us we were going to march west to join the Western Cherokee.

PROSECUTOR – What happened to your father when you were in the stockades?

SAMUEL CLOUD – My father died. Each day he looked more and more tired. One day, my mother, aunts, and uncles told me that my father died. They cried and mourned, but I was too shocked to react. I had just seen my father the day before. He was tired and sick, but he was alive.

PROSECUTOR – What happened next?

SAMUEL CLOUD – In the fall, the soldiers told us to follow them. They led us out from the stockades. It was cold and we were covered in mud from sleeping for many days on the ground, even when it rained. The soldiers watched us and kept us at gunpoint.

PROSECUTOR – Did they take you west?

SAMUEL CLOUD – Yes. They made us walk for many, many days. So many days that I lost track of how many. We passed through many towns, and every time we passed through, all the people would come outside of their homes and watch us. They just stared at us. They never said anything to us, and we never said anything to them, but I resented how they looked at us: our misery was their entertainment. I was angry because our suffering was because of them. We were shivering in the cold, while they came out of their homes wrapped in their warm woolen clothes.

PROSECUTOR – What happened to your mother as you traveled west?

SAMUEL CLOUD – My mother also died. She got sick from the cold and all the walking. She began coughing, at first only a little bit, but each day she coughed more. She looked tired. Her hands and face were always hot. My aunts and uncles tried to take care of me so that my mother could get more rest, but I just wanted to be near her. One night, I sneaked away from my aunts and uncles and slept near my mother. Her body was warm when I fell asleep. The next day, when I woke up, her body was cold. I tried to wake her up, but she didn't answer when I called her name. My aunts and uncles came over and my aunt wailed when she saw my mother. I cried then, because I knew that I was alone.

PROSECUTOR – Did you bury your mother?

SAMUEL CLOUD – Yes. We buried her in a shallow grave by the road. If I were to see it now, I wouldn't recognize it. My mother was buried in a hurry, in a place that I wouldn't be able to find again, even if I wanted to. The soldiers wouldn't let us mourn. They forced us to continue marching. My aunts and uncles tried to console me, but there was no consolation. My family was murdered so white men could have our land. We are nothing to them.

PROSECUTOR – Thank you Samuel. Nothing further from this witness.

JUDGE 3 – Does the defense wish to inquire of this witness?

DEFENSE COUNSEL – No your honor.

JUDGE 3 – Very well. The prosecution may call its next witness.

PROSECUTOR – The prosecution would like to call Rebecca Neugin.

(Witness 4 Rebecca Neugin takes the witness stand)

BAILIFF - Please state your name for the record.

WITNESS 4 REBECCA NEUGIN – My name is Rebecca Neugin.

BAILIFF – Please raise your right hand.

(Witness 4 raises right hand)

BAILIFF – Do you solemnly affirm that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth?

REBECCA NEUGIN – Yes.

PROSECUTOR – Are you a member of the Cherokee Nation?

REBECCA NEUGIN – Yes, both my parents were full bloods.

PROSECUTOR – And were you and your family forced west on the Trail of Tears?

REBECCA NEUGIN – Yes, I was very young at the time, maybe 3 or 4 years old. I remember that I had to leave my pet duck behind. I grieved that loss my entire life.

PROSECUTOR – Tell us about your experience.

REBECCA NEUGIN – We lived in Georgia at the time. When the soldiers came to our house my father wanted to fight, but my mother told him that the soldiers would kill him if he did, so we surrendered. They drove us out of our house to join other prisoners in a stockade. After they took us my mother begged them to let her go back and get some bedding, so they let her get a few cooking utensils and some bedding that she could carry, but we had to leave behind most of our household possessions. When we were forced to leave our home, my father loaded his wagon with whatever belongings and food we could fit for the trip, not knowing how long it might take. There was little room left for my mother and my nine brothers and sisters. The wagons were so heavily loaded that we couldn't all ride in them, and my parents and older siblings walked most of the way. The wagons sometimes had trouble getting up hills from being so heavy and we would all have to get out and walk. The trip was hard on the oxen. Sometimes the oxen pulling a wagon would give out and could go no farther, and we would have to take as much from that wagon as we could and divide it among the other wagons and keep going. I once saw a team of oxen fall dead, hitched to their wagon.

PROSECUTOR – How long was your trip?

REBECCA NEUGIN – We left Georgia in the summer, and we didn't reach Oklahoma until the next summer. There were no roads and only a few trails, and very few bridges. It was a slow trip, and sometimes we would have to wait many days just for streams to run down enough for us to cross.

PROSECUTOR – Did you travel with others?

REBECCA NEUGIN – Yes, we traveled with many families and we worked together. Each family did its own cooking. When it got cold, we would sometimes have to rake away snow to clear a place to build a cooking fire, and we had to search for dry wood to carry back to the wagons. That winter there was a severe snowstorm. Many people died from exposure in that terrible storm. We couldn't stop when people got sick. We would only stop long enough to dig a quick grave when someone died, and the bereaved family had to move right along.

PROSECUTOR – How many people from your group made it to Oklahoma?

REBECCA NEUGIN – Maybe a third of our group survived the trip. I was lucky that everyone in my family lived to reach the new place. Our food lasted till we reached Indian Territory, but towards the last of the trip we had very little left and had to ration it to make it last. When we finally reached our new home, the band that was left was exhausted and weak. We had been traveling for a year, food was scarce, and our clothes were wearing out. Many people had died, and small children who lost parents along the way had been placed with other families. Many other children died from whooping cough. There was so much suffering.

PROSECUTOR – Thank you for your testimony. We have no further questions.

JUDGE 1 – Defense, would you like to question this witness?

DEFENSE COUNSEL - No questions, your honor.

JUDGE 1 – The witness may step down. Prosecution, do you have another witness?

PROSECUTOR – That concludes the prosecutor's examination in chief. The prosecution rests.

JUDGE 3 – The defense may present its case at this time.

DEFENSE COUNSEL– The Defense calls the accused, Andrew Jackson.

(Defendant President Andrew Jackson takes the witness stand)

BAILIFF – Please state your name for the record.

DEFENDANT PRESIDENT ANDREW JACKSON – Andrew Jackson.

BAILIFF – Please raise your right hand.

(Defendant raises his right hand)

BAILIFF – Do you solemnly affirm that the testimony you are about to give shall be the truth, the whole truth, and nothing but the truth?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes.

DEFENSE COUNSEL – Please provide the Court with a brief background about yourself and your role in the United States government.

DEFENDANT PRESIDENT ANDREW JACKSON – I was the President of the United States from March 4, 1829 – March 4, 1837. Prior to my Presidency, I was a general in the United States Army and served in both chambers of the United States Congress.

DEFENSE COUNSEL – President Jackson, you have been present to hear the charges and allegations against you by the prosecution’s various witnesses, correct?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes.

DEFENSE COUNSEL – How do you respond to the accusations?

DEFENDANT PRESIDENT ANDREW JACKSON – I’m at an utter loss for response. As President, I was responsible for making difficult decisions that I believed would benefit the people of this great nation the most. While I regret the deaths of Cherokee people who traveled west, in no way did I plan or foresee their deaths, and I had no personal knowledge of the challenges they faced on their journey westward.

DEFENSE COUNSEL – President Jackson, are you denying all the charges and allegations against you?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes, unequivocally.

DEFENSE COUNSEL – No further questions.

JUDGE 1 – Prosecutor, you may proceed.

PROSECUTOR – Yes, thank you, Your Honor. Mr. Jackson, did you sign the Indian Removal Act of 1830?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes.

PROSECUTOR – And wasn’t the purpose of this act to authorize you to negotiate with southern Native American Tribes for their removal to federal territory west of the Mississippi River in exchange for white settlement of their lands?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes, but the Act was widely supported, especially in the South.

PROSECUTOR – And in fact, as a result of the Indian Removal Act, the Cherokee resisted?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes, they resisted, but the Cherokee were only a small minority, and the vast majority of the population was very supportive of the Act.

PROSECUTOR – In December of 1829, in your address to Congress regarding the Indian Removal Act, didn’t you say, “This emigration would be voluntary, for it would be as cruel and unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land?”

DEFENDANT PRESIDENT ANDREW JACKSON – Yes, and that is why we negotiated and signed treaties with the Indians in agreement for exchanges of land. The Treaty of New Echota was signed and agreed to by members of the Cherokee Nation, including Major John Ridge. This treaty was an agreement for generous compensation for land in exchange for resettlement west. Many Cherokee people abided by this treaty voluntarily. The United States Army was brought in to enforce the treaty agreement for the Cherokee people who refused to leave land that was legally exchanged in that treaty.

PROSECUTOR – Isn’t it true that Major Ridge and the others who signed the Treaty of New Echota did so without the approval of Chief John Ross or others in the Cherokee government, which is why many Cherokee people refused to abide by the terms of the treaty and leave their lands?

DEFENDANT PRESIDENT ANDREW JACKSON – Major Ridge was a party to many negotiations between the United States and the Cherokee people. He and the others in his party came for good faith negotiations. They claimed to have full power and authority to enter a treaty, based on an agreement by Chief John Ross and other Cherokee leaders who agreed to submit terms for negotiations. After the treaty was signed, the Cherokee people had ample time to prepare to leave peacefully and voluntarily. After more than two years, the United States government fulfilled their side of the treaty by paying for and assisting the Cherokee people in their removal from the land that was no longer theirs. Even Chief John Ross knew it was time to make arrangements for their removal.

PROSECUTOR – The United States Supreme Court declared the Cherokee their own distinct nation in *Worcester v. Georgia*. Wasn't your enforcement of the Indian Removal Act and subsequent Treaty of New Echota in direct violation of the Supreme Court's ruling in *Worcester v. Georgia*?

DEFENDANT PRESIDENT ANDREW JACKSON – It's true I didn't enforce the Supreme Court's decision, but the Treaty of New Echota was also signed by Cherokee representatives, and gave the Cherokee people \$5 million dollars and land in the west in exchange for forfeiting their ancestral lands. In my view, it was a deal and not in any way a persecution as you have tried to portray it.

PROSECUTOR – You were unaware of the conditions that faced the Cherokee despite knowing that they would be marching west in the middle of winter, is that correct?

DEFENDANT PRESIDENT ANDREW JACKSON – Yes. I knew that their journey would encompass winter, but I had no knowledge of their provisions or lack thereof. The fact that they did not have adequate provisions is unfortunate, but I didn't know about it at the time.

PROSECUTOR – You never anticipated the death of thousands of Cherokees despite ordering them on a 1,200-mile trek during the coldest months?

DEFENDANT PRESIDENT ANDREW JACKSON – Of course there will always be casualties. It's unfortunate. When a population must move to a location over the course of several months, not everyone will arrive at the destination. I had no way of knowing how many Cherokee would perish, but I anticipated that there would be some casualties. The mere fact that I anticipated minor casualties does not make me a criminal.

PROSECUTOR – No further questions, your Honors.

JUDGE 3 – Is there anything further from the Defense?

DEFENSE COUNSEL – The Defense rests.

JUDGE 3 – The defendant may step down and return to his seat. The prosecution may offer a closing statement at this time.

(Defendant steps down)

PROSECUTOR – Thank you, your Honors. The charge of Crimes Against Humanity is reserved for the most heinous acts inflicted upon a people. The forced deportation of the Cherokee people, known as the Trail of Tears, will be viewed throughout history as a stain on this nation's collective conscience because of the immense suffering and death caused by the United States government on orders from the defendant, President Andrew Jackson.

Today you heard first-hand testimony from people who witnessed and experienced that suffering. You also heard from the defendant, who admitted that the premise of the Indian Removal Act was supposed to be voluntary resettlement. Yet on his orders, the army forcibly removed thousands of Cherokee people from their ancestral lands based on a treaty that many Cherokee Leaders opposed and violated a ruling by the United States Supreme Court. The defendant stated that he enforced the removal even though he knew people would die, with no concern for safety or assurance of adequate provisions.

Your Honors, the defendant's action clearly meet the charge against him. Defendant President Andrew Jackson committed Crimes Against Humanity, as defined in the Rome Statute Article 7, when he *knowingly* authorized a widespread and systematic attack directed at and in persecution of the Cherokee people, by means of deportation and forcible transfer, and infliction of inhumane acts with the intention of causing great suffering, or serious bodily injury or mental or physical harm. For these reasons, we ask that the Court find the defendant guilty of Crimes Against Humanity.

JUDGE 2 – The Defense may now offer a closing statement

DEFENSE COUNSEL – Thank you, your Honors. President Andrew Jackson was elected by the citizens of this nation to lead them in their pursuit of achieving prosperity and the American dream through just and prudent governance. These citizens rely on their leaders to make difficult decisions on behalf of all the people of the United States for the betterment of the whole. An important part of the president's job is to enforce the laws enacted by Congress. In accordance with the Indian Removal Act, signed by Congress, treaties were negotiated between the United States government and members of Indian nations to form arrangements for the exchange of land for financial compensation. These were fair deals voluntarily made between the government and Indian nations.

Representatives of the Cherokee Nation agreed to and signed treaties committing them to relinquish land and move west. After years of refusing to abide by the treaty, President Jackson had no choice but to enforce the terms of the treaty by utilizing the army in transferring the Cherokee people to their new land. In any great emigration, such as the one many Americans made to come to this nation from their homelands, and as in the one agreed to by the Cherokee people when they took compensation to move west, risk is associated with travel. The day-to-day conditions of the journey were not under the direct supervision of the President, nor was he aware of lack of provisions. While the unfortunate fate of those who perished on the journey is regrettable, it was not the responsibility or fault of President Jackson. For these reasons, President Andrew Jackson must be found not guilty of the charge. Thank you.

JUDGE 1 – Thank you, counselors. We will recess and return with our verdict. President Jackson, we will determine whether you are guilty of the crimes for which you have been charged. The Bailiff will be entrusted with your care and control until we have rendered a verdict.

BAILIFF – All rise.

The judges leave to deliberate. (They will go to a breakout room. Deliberation should last about 10 minutes.)

When the judges return with their verdict:

BAILIFF – All rise.

JUDGE 3 – President Andrew Jackson, please stand.

JUDGE 3 – This case is concerned with conduct and decisions made by President Andrew Jackson that resulted in what is known as the Trail of Tears. This Chamber considers the charge of Crimes Against Humanity, by deportation or forcible transfer of population; persecution against an identifiable group; and other inhumane acts intentionally causing great suffering, or serious bodily injury or mental or physical harm. On the basis of all the evidence and testimony presented, the Chamber concludes that President Andrew Jackson

IS

or

IS NOT

criminally responsible for forcible transfer and deportation as a crime against humanity (Article 7(1)(d) of the Rome Statute). Accordingly, the Chamber finds President Andrew Jackson:

GUILTY

or

NOT GUILTY

MEMBERS OF THE PRESS Role Sheet: News

Members of the press observe the process and outcome of the trial and report on the proceedings to the public. The press has two important tasks: **capturing the attention of the public** with compelling and accurate headlines, and **helping the public focus on key issues** by highlighting the most significant parts of the trial.

Take notes here. **Underline the key issues** of the trial and its outcome, and as you come up with them, **circle your ideas for eye-catching headlines**. Be prepared to share these in the Post-Trial Discussion.

MEMBERS OF THE PRESS Role Sheet: Opinion

Members of the press observe the process and outcome of the trial and report on the proceedings to the public. The opinion press has two important tasks: **capturing the attention of the public** with compelling and accurate headlines, and **helping the public focus on key issues** by highlighting the most significant parts of the trial and giving interpretations on the proceedings.

Take notes here. **Underline the key issues** of the trial and its outcome, and as you come up with them, **circle your ideas for eye-catching headlines**. Be prepared to share these in the Post-Trial Discussion.

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