

The Cherokee Nation Trail of Tears

By Chadwick Smith,

Principal Chief of the Cherokee Nation

Testimony in support of H.R. 3085, "Trail of Tears Documentation Act" and S.B. 1970

In 1838, one of the darkest chapters of American history was written. This event was the forced removal of 16,000 Cherokees pursuant to the Treaty of New Echota of 1835. This treaty was fraudulent on its face, violated a U. S. Supreme Court decision (*Worcester v. Georgia*, 1832), and undermined the constitutional government of the Cherokee Nation. This episode in American history will forever be remembered as the Cherokee Nation's Trail of Tears.

Cherokee people were forced from their homes in Georgia and Tennessee and made to walk to Indian Territory, 800 miles away, in the dead of winter. The most vulnerable, those elderly, frail and young, were the first to perish. More than 4,000 died.

Seventeen thousand Cherokees wanted to stay in the land where their ancestors were buried, to preserve their national character and to maintain their communities and way of life. In 1836, they signed their names in the Cherokee language on a petition to be presented to Congress protesting the Senate's ratification—by one vote—of the Treaty of New Echota. The cruel irony is best evidenced by John Ross, Principal Chief, describing in an 1838 letter to his brother, Lewis Ross, the effort to present this petition:

Washington City February 26 th, 1838

Dear Brother

.....Our friend in the Senate has thus long deferred the presentation of our Memorial ...in reference to the Execution of the spurious "treaty" {1835}... On Saturday last the 24ed inst. a duel with rifles was fought between Mr. {William J.} Graves of Ky. and Mr. {Jonathan} Cilly {Cilley} of Maine both of the House of Repves. in Congress. On the 3 rd fire the latter fell and expired. Upon the meeting of Congress this morning and the annunciation of the death of Mr. Cilly, both Houses adjourned, the funeral will take place on tomorrow—and perhaps nothing more will be done, until the next day when it is supposed a motion will be made by Mr. {John Quincy} Adams to expel all the members of the House who were in any way engaged in the tragical affair. Should this motion be made it will unquestionably produce much excitement among the members, and perhaps lead to further acts of hostility, if not to the use of powder and ball, to blows in some other way—if so, let them go according to their own sense of honor through the scientific refinements of civilized life.

As a result of the "civilized" action of those members, this delivery of this protest was delayed.

I present to you a copy of the 1836 memorial of 17,000 Cherokees protesting the Treaty of New Echota which resulted in the Trail of Tears.

The causes for removal were simple. First, in 1827, the Cherokees had the audacity to create a constitutional government, formed in response to instructions Thomas Jefferson gave in 1803 to create a regular set of laws. Second, gold was discovered at Dahlonega, Georgia, in 1829.

One of the public arguments used to disguise these great national sins of fraud and forced removal was that the Indians could move to Indian Territory, where the game was plentiful and the water pure. It would be a place where the Cherokees would never be disturbed again or have state or federal governments thrust over them. Of course, the Cherokees asked the most obvious question: If Indian Territory was so nice, why didn't white people move there and leave the Cherokees in their ancestral homeland, as guaranteed by the United States in 23 treaties? In fact, David Crockett, Congressman from Tennessee proposed to move Tennesseans to Indian Territory and which would allow Georgians to move into Tennessee.

Why is this bill recognizing the Cherokee Nation Trail of Tears important? There are three reasons. The United States government must not repeat the mistakes it made in the past, it must honor its word, and it must forever remember the inspiring story of Cherokee spirit. At stake is the integrity of the United States and its word. Supreme Court Justice Hugo Black once said, "Great nations, like great men, should keep their word." The value of this Trail of Tears designation is that it will remind us of our obligations and duties and of our potentials and opportunities in the covenants of those treaties.

The Trail of Tears reminds us of our first history lesson: The greed of individuals and the power of our United States government should never be used as instruments to defraud and rob a people of their homeland and government.

Our second history lesson is that legal treaties of the past are still binding, both on the United States and the Cherokee Nation, even though often they are not honored or acknowledged and sometimes are even viewed as primitive agreements even though they are the supreme law of the land. In spite of such willful misinterpretations, these treaties are equally as sacred to Indian nations as our U.S. Constitution is to all of us.

Our third history lesson is that, in contrast to the horrific episode that is the Trail of Tears, the Cherokee Nation and its people have continuously demonstrated our great legacy: we are a people who face adversity, survive, adapt, prosper and excel. We continued our legacy in Indian Territory by building a sophisticated government and society as evidenced by institutions of higher education, obedience to the law and cohesive cultural communities.

These lessons should never be forgotten, lest the mistakes of the past be repeated.

Since the Trail of Tears, we have faced and are facing a number of other challenges to the Cherokee Nation. I can tell you, with the spirit of our ancestors and the conviction of our people, our government, and our history; we will be here for centuries to come to pass on this legacy.

I am extremely fortunate to be here today and to advocate on behalf of Representative Zach Wamp (R-TN), Marion Berry (D-AR) and 17 cosigners, including the Oklahoma delegation, on H.R. 3085 ("Trail of Tears Documentation Act") and Senator Thomas Coburn (R-OK) S.B. 1970, to memorialize and to protect the physical remnants of the Trail of Tears.

We differ with S.B. 1970 and prefer the H.R. 3085 on two points. First, there is no need to allow more than a one-year time period to complete the feasibility study of additional routes or components. The work is substantially done and can be brought to conclusion within weeks. Second, once it is determined that the routes are feasible, then the Secretary of Interior should be directed to apply the National Trail of Tears designation to additional trail segments, routes or components without further review of Congress. We understand that if the Secretary brought back recommendations for designations to Congress for approval it would result only in additional delays. If any meaningful progress is to take place, the Secretary must proceed and design the routes without further deliberation and consideration by Congress. I ask you to encourage the completion of this important work by preventing any bureaucratic hurdles and delays.