

The Day a President Defied the Court

To the Editor:

In your July 10 editorial concerning the President Nixon tape subpoena matter pending before the Supreme Court, it is stated, in part, that "defiance of the Supreme Court would seem as clear an impeachable offense as could be supposed." There is at least one well-known incident in our constitutional history where a President openly defied the Supreme Court, and refused to implement a mandate of the Court, but was not impeached.

In 1830 the State of Georgia enacted the so-called Cherokee Acts, which dispossessed the Cherokee Indians of title and control over their lands in the state and also provided that it would be a misdemeanor for any white person to reside on the lands without a license or permit from the state.

A missionary was arrested for an alleged violation of ~~the act~~ and was tried and convicted. An appeal was taken to the Supreme Court of the United States. On March 3, 1832, Chief Justice Marshall handed down the opinion of the Supreme Court (*Worcester v. The State of Georgia*, 6 Peters, 214) in which it was declared that the Cherokee Acts violated the Constitution, laws and treaties of the United States, and hence the conviction could not be sustained. Accordingly, the judgment of the Georgia Court was "reversed and annulled."

Georgia ridiculed Marshall's opinion and refused to obey the mandate of



From the Portrait by Henry Inman
John Marshall

the Supreme Court. President Andrew Jackson openly supported the refusal of Georgia to honor the mandate of the Court. He defied Chief Justice Marshall and is reported to have said: "John Marshall has made his decision—now let him enforce it."

This incident apparently was overlooked by Raoul Berger, who stated in his July 8 Op-Ed article that the Supreme Court has always assumed its decrees would be obeyed "and they have been." The mandate of the Supreme Court in the above case was never obeyed; and President Andrew Jackson encouraged Georgia in its defiance of the Court and took no steps (as the executive constitutionally is required to do) to enforce the mandate.

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