
Worcester v. Georgia (1832)

Vocabulary

sovereign Referring to a nation or government that has the right to rule itself and make its own laws.

writ of error An order from an appellate court to a lower court to send records of a case to the higher court to review for possible errors.

Reviewing the Case

After the War of 1812, official American government policy toward Native Americans in Eastern states focused on forcing the Indians off their native lands, which included some of the best farming land in the Southeast. One of the strongest advocates for removing the Indians from their lands was Andrew Jackson, elected President in 1828. By 1830 he had persuaded Congress to pass the Indian Removal Act, which ordered the forced relocation of all the Indians of the Southeast. One large group was the Cherokee Nation, who tried to use the federal courts to defend themselves.

The United States government had earlier made treaties with the Cherokee Nation in Georgia, treating them as a **sovereign** people. These treaties were supposed to secure the Indian lands. Later, the federal government withdrew some of its support for Indian land claims. In 1824 Georgia claimed jurisdiction over all the Cherokee lands in the state. The Cherokee then adopted their own written constitution and claimed independence within the state. Georgia in turn passed new laws that denied all Indian land claims and put the territories under state law. The state also claimed that the federal government's treaties had no authority in the state.

President Jackson supported the state against the Indians. Congress urged a compromise or voluntary resettlement. The Cherokee tried to bring one case to the Supreme Court on the grounds that they were a foreign

nation, but political opposition made this attempt fail.

In 1832 Samuel Worcester, a missionary, deliberately defied a Georgia statute that prohibited any white person from entering Cherokee territory without taking an oath of allegiance as prescribed by Georgia law and obtaining a license signed by the governor. Worcester was living among the Cherokee Indians within Gwinnett County. Like other missionaries who defied the law, he hoped to test the Georgia anti-Cherokee laws in the Supreme Court.

Worcester was indicted, arrested, and convicted by a jury of the Superior Court of Gwinnett County. He and another missionary were sentenced to four years of hard labor. Worcester asked the United States Supreme Court for a **writ of error**, and Chief Justice John Marshall agreed to review the case.

The state of Georgia in turn refused to appear because it said the Court was unlawfully taking away state powers. Even before the case was heard, the state legislature passed laws giving the governor authority to use force to resist any attempt to overturn state laws.

Worcester's case alleged that the state of Georgia had no authority in the Cherokee territory despite the fact it existed within the territorial boundaries of that state. Worcester also stated that various treaties by the United States government recognized the Cherokee as a sovereign nation, meaning that Congress was the only legislative body with the authority to deal with them.

The *Worcester* case was now a power struggle involving the Supreme Court, the President, the state of Georgia, and the Constitution. The issue before the Court: Are the Georgia statutes relating to the Cherokee Nation in violation of the Constitution of the United States?

The Court with one dissenting vote upheld the Cherokees' treaty rights in Georgia. Chief

Justice Marshall supported the authority of the Cherokee within their treaty boundaries where, he said, the laws of Georgia were not in effect. The Georgia statutes to the contrary were not constitutional; they were "repugnant to the Constitution, laws, and treaties of the United States." Only the United States government had authority in Indian affairs. The Court also reversed the state court's decision and ordered that Worcester be freed.

In his opinion, Chief Justice Marshall explained the ruling:

It has been shown that the treaties and laws referred to come within the due exercise of the constitutional powers of the federal government; that they may remain in full force, and consequently must be considered then as the supreme law of the land. These laws throw a shield over the Cherokee Indian. They guarantee to them their rights of occupancy, of self-government, and the full enjoyment of the blessings which might be attained in their humble condition. . . .

Other justices also agreed that only the national government, not any individual state, had the authority to make laws affecting the Cherokee Nation.

While defending the Constitution as the supreme law of the land, the Court had enraged the state of Georgia and contradicted the President's desire to move the Indians of the Southeast. It seemed unlikely that President Jackson would do anything to support the Court's decisions. Supposedly, Jackson responded to the decision by saying, "John Marshall has made his decision; now let him enforce it." Eventually, however, political considerations led Jackson to persuade the governor of Georgia to free Worcester.

Despite the Supreme Court's affirmation of their treaty rights, the Cherokee could not win in the long run. Jackson did nothing to enforce the Court's decision regarding the Native Americans' rights. A few years later, in 1838 and 1839, nearly all the Cherokee, along with other Southeastern Indians, were forcibly moved westward on "the Trail of Tears."

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Elements of the Case

Directions: Fill in the appropriate information for each of the following elements of this case.

1. State the issue before the Supreme Court in this case.

2. What facts of the case were presented to the Court?

3. What was the decision of the Court? What was the rationale behind it?

4. What was the effect of the decision?

Evaluation of the Case

Directions: Use your own judgment to evaluate the justices' decision and state your opinion of that decision.

1. Why was this Court decision important in maintaining the supremacy of the Constitution? What was dangerous about the decision?

2. What did President Jackson's remark and his refusal to enforce the decision reveal about the separation of powers established in the Constitution? Can the Court enforce its decisions without executive cooperation? Explain.

3. Do you think that, at this point in history, anything could have been done to save the Cherokee Nation's lands in the Southeast? Explain why or why not.
