

## ***Worcester v. Georgia (1832)***

After the War of 1812, the nation demanded more agricultural land in the Southeast. The best farmlands were the home for Native Americans. When Andrew Jackson became President in 1828 he began a campaign to remove the Native Americans from these lands. In 1830 he convinced Congress to pass the Indian Removal Act which ordered the forced relocation of the Native Americans to lands in the west. One of the largest groups of Native Americans was the Cherokee Nation and they began to fight Jackson's law legally.

Before the war the government had made several treaties with the Cherokee Nation in Georgia. They were classed as sovereign people allowing that their nation had the right to rule itself and make its own laws. When the best farmlands were required for domestic expansion, the government withdrew some of its support for the Indian land claims.

In 1824 the state of Georgia claimed the right to rule all of the lands once given to the Cherokee Nation. They passed new laws that denied all Indian land claims and all these lands were now under control of the state. The state government of Georgia claimed that any of the federal government's treaties were no longer valid in Georgia and that state law was more powerful than federal law. Andrew Jackson supported Georgia in this matter. Congress believed that a compromise or voluntary resettlement could be created. Jackson was determined this would not happen.

The first attempt of the Cherokee Nation presented to the Supreme Court was dismissed. Their paperwork stated that they were a foreign nation but there was so much political opposition that any attempt to have the Supreme Court rule in their favor failed. It was stated that a foreign nation cannot challenge the Supreme Court as they cannot challenge the Constitution as it is for Americans only. The Cherokee people were not deemed as Americans.

In 1832 a missionary called Samuel Worcester broke Georgia law by living with the Cherokees without having a permit from the governor and not taking an oath of allegiance to the state of Georgia. Other missionaries had previously defied these laws and Worcester planned to take this issue all the way to the Supreme Court.

Worcester and another missionary were arrested and convicted by a jury trial in Gwinnett County, Georgia and given a sentence of four years hard labor. He petitioned the Supreme Court for a writ of error which is when there is 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. Chief Justice John Marshall read the writ and agreed to review the case in the Supreme Court.

The state of Georgia did not appear at the hearing. They claimed that the federal government was unlawfully taking away their state powers. Back in Georgia, the state legislature passed laws giving the governor full authority to use force to resist any attempt to overturn state laws.

Worcester's main argument was that Georgia had no authority within the Cherokee Nation even though it was located within the state's boundaries. He restated that the United States government had signed several treaties of sovereignty with the Cherokee. This meant that Congress was the only legislative body with authority and not the state of Georgia.

The case was now a power struggle between the Supreme Court, the President, the state of Georgia, and the Constitution of the United States. Now the key issue before the Supreme Court was:

Are the laws of the state of Georgia relating to the Cherokee Nation in violation of the Constitution of the United States?

The Court upheld the Cherokee's treaty rights in Georgia. Chief Justice Marshall sided with the Cherokees and he stated that these state laws were "repugnant to the Constitution, laws, and treaties of the United States." This meant that only the United States government had authority in Indian Affairs. The court also reversed Worcester's jail sentence and ordered him free.

*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 remain in full force, and consequently must be considered then as 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. . . .*  
Chief Justice John Marshall

The other justices except one agreed that the national government, and not the state, were the only body allowed to make laws affecting the Cherokee Nation.

The Supreme Court enraged the state of Georgia and Andrew Jackson's desire to move the Native Americans off these farmlands. There was no way that Andrew Jackson was going to support the decision of the Supreme Court. Supposedly Jackson responded to the decision by saying "*John Marshall has made his decision; now let him enforce it.*"

Jackson did persuade the governor of Georgia to release Worcester from jail. However he did nothing to enforce this federal mandate. In 1838 and 1839, after Jackson had ended his presidency, nearly all of the Cherokee, along with other Southeastern Indians were forcibly removed westward on "the Trail of Tears."

Name: \_\_\_\_\_

*Worcester v. Georgia*

1. What were the issues in this case heard before the Supreme Court?

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2. What facts were presented to the Court?

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3. What was the Court's decision in this case?

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4. What was their reasoning for their decision?

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5. What was the effect of the decision of the Supreme Court?

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6. Andrew Jackson refused to honor the Court's decision. Can the Court enforce its decisions with executive (presidential) cooperation?

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7. In your opinion, keeping in mind this time period of American history, do you think that anything else could have been done to save the Cherokee nation's lands in the Southeast? Explain

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