

WORCESTER V. GEORGIA: AN EXPLANATION OF THE CASE

Background

The Cherokee tribe lived in Georgia for hundreds of years. Before the American Revolution, the Cherokee made treaties with the British. The British treaties recognized Cherokee sovereignty. The treaties also allowed them to control their own lands and rights.

When the colonists won the Revolutionary War, they assumed these treaties. The U.S. Constitution also allowed the federal government to make new treaties. The government could now make their own treaties with Native Americans.

When Georgia became a state, new settlers moved in. Gold was discovered in Georgia in the 1830s. It was America's first gold rush. It caused more people to move into the state. Settlers began intruding on Cherokee land. The state was crowded.

White settlers wanted the federal government to remove the Cherokee so they could have more space. They wanted the Cherokee to be moved to the area west of the Mississippi. The Cherokee didn't want to move.

The Cherokee fought to stay on their land. The tribe built Anglo-style towns and adopted American ways. They also created newspapers, hired lawyers, and adopted a constitution. They hoped these actions would help them avoid removal.

Some white Americans supported the Cherokee. Samuel Worcester was a white American missionary and printer. He helped the Cherokee resist Georgia state laws. He also helped them create a newspaper advocating for their rights.

The Case

Georgia passed a law to stop white settlers from helping the Cherokee. The law made it a crime for any non-Indian to be on Cherokee lands without a special permit. The law was written to establish state authority over the Cherokee.

Worcester refused to get a special permit. He and 11 others were arrested for breaking the new law. He was found guilty and sentenced to four years in prison. Worcester appealed his case to the Supreme Court. This case became *Worcester v. Georgia*.

Georgia said the state had authority over the Cherokee because the tribe lived within state boundaries. Worcester and the Cherokee said Georgia had no authority over the Cherokee people. The Supreme Court had to make the final decision.

The Ruling

The Supreme Court ruled in favor of Worcester and the Cherokee. The court used its power of judicial review to overturn the Georgia law. The Supreme Court said the law was unconstitutional.

Chief Justice Marshall said, “Indian nations had always been considered distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil.”

Marshall further explained the decision saying, “The Cherokee Nation, then, is a distinct community occupying its own territory...in which the laws of Georgia can have no force, and which the citizens of Georgia have no rights to enter but with the [permission] of the Cherokee themselves...[All interaction] between the United States and [the Cherokee], is, by our Constitution and laws, [to be regulated by] the Government of the United States.”

Article VI of the Constitution said that treaties made by the U.S. government were the supreme law of the land. The government had already entered treaties that recognized Cherokee sovereignty. The Supreme Court said that only the federal government could change these treaties.

The Court said that state governments, like Georgia’s, could not change these treaties with Native Americans. Georgia’s laws about Cherokee territory were therefore unconstitutional.

However, the ruling didn’t really help the Cherokee maintain their sovereignty. Andrew Jackson ignored the Supreme Court decision. He removed the Cherokee from their lands in Georgia anyway to make space for white settlers. Congress had already passed the Indian Removal Act. The act gave the president the power to make agreements with Native Americans.

Later, in 1836, one group of Cherokee signed a removal treaty with the federal government. Most of the Cherokee didn’t agree with the treaty and called the treaty a fraud. However, the U. S. government used that treaty to justify the removal of the Cherokee.

Some Cherokee left their lands voluntarily. Most did not want to leave and were forced to move by the U.S. Army. Approximately 4,000 Cherokee died during this move. It later became known as the Trail of Tears.

Sources

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