
Cherokee Nation v. Georgia

Date of Decision: March 18, 1831

Summary of case

Cherokee Nation v. Georgia is an important case in Native American law because of its implications for tribal sovereignty and how to legally define the relationship between federally recognized Native American tribes and the U.S. government. In the late 1920s, the Georgia State Legislature passed two laws that declared Cherokee Nation tribal territory could be inspected, divided up, and distributed to white citizens in the state of Georgia. The laws also provided penalties and punishment to anyone who did not comply. Together, the laws were intended to force the tribe off its reservation lands.

The Cherokee Nation, under the leadership of Chief John Ross, sought to declare the laws unconstitutional based on treaties signed by the Cherokee Nation and the U.S. government. The tribe argued that the treaties provided for sovereignty and federal protection, and therefore the Cherokee Nation lands should be outside the state's jurisdiction. The plaintiffs also argued that the Cherokee Nation constituted "a foreign state, not owing allegiance to the United States, nor to any State of this union, nor to any prince, potentate or State, other than their own." This argument was intended to establish the Supreme Court's jurisdiction in the case. Article III of the U.S. Constitution states that the Court has jurisdiction over cases "between a State or the citizens thereof, and foreign states, citizens, or subjects."

Summary of majority opinion

The Court, led by Chief Justice John Marshall, disagreed with the argument that the Cherokee Nation was a "foreign state" as that term was intended in the U.S. Constitution. Justice Marshall instead defined the Cherokee Nation as a "domestic dependent nation." Based on this, the majority opinion argued that the Court could not hear and make a judgement on the case because it did not have jurisdiction.

Summary of dissent

Justice Smith Thompson, in a dissenting opinion, expressed concern that the tribe did not have a forum such as the Supreme Court to which it could bring challenges when its rights were being violated. "And if they, as a nation, are competent to make a treaty or contract, it would seem to me to be a strange inconsistency to deny to them the right and the power to enforce such a contract," wrote Justice Thompson.

Ultimately, the majority opinion in *Cherokee Nation v. Georgia* would be reversed the following year in *Worcester v. Georgia*, in which the Court did claim its authority to rule on cases between states and sovereign tribal nations.

Cherokee Nation v. Georgia *(Continued)*

Second quote: <https://supreme.justia.com/cases/federal/us/30/1/>

Dissenting opinion quote: https://www.law.cornell.edu/supremecourt/text/30/1#writing-USSC_CR_0030_0001_ZD

Cherokee Nation v Georgia <https://www.fjc.gov/history/timeline/ Cherokee-nation-v.-georgia> and <https://www.docsteach.org/documents/document/judgement- Cherokee-nation-v-georgia> (DocsTeach is a product of the National Archives education division. Its mission is to engage, educate, and inspire all learners to discover and explore the records of the American people preserved by the National Archives.)

Cherokee Nation v. Georgia *(Continued)*

Impact and Legacy

One year later, however, in *Worcester v. Georgia*, the U.S. Supreme Court ruled that the Cherokee Nation was sovereign. According to the decision rendered by Chief Justice John Marshall, this meant that Georgia had no rights to enforce state laws in its territory.

President Andrew Jackson refused to uphold the ruling of this case and directed the expulsion of the Cherokee nation. U.S. Army forces were used in some cases to round them up. Their expulsion and subsequent route is called "The Trail of Tears." Of the 15,000 who left, 4,000 died on the journey to "Indian Territory" in the present-day U.S. state of Oklahoma.