Supreme Court Case Study 5

Tribal Reservations and States’ Rights

Worcester v. Georgia, 1832

************** Background of the Case **************

The Cherokee people occupied lands in Georgia and several adjoining states. The Cherokee Nation had made treaties with the U.S. federal government, such as the Treaty of Hopewell in 1785. The Cherokee Nation thus claimed sovereignty—meaning it was its own nation with its own laws.

Samuel Worcester was a minister from Vermont. His mission sent him to the Cherokee capital in New Echota, Georgia, in 1827. The Georgia government saw Worcester and other missionaries as being influential in the Cherokee Nation’s resistance to Georgia’s government. Because of this, Georgia passed an act to prevent “white persons from residing within that part of . . . Georgia occupied by the Cherokee Indians” without obtaining a state permit and swearing loyalty to the state.

Worcester refused to obtain a permit or to swear loyalty to Georgia. In September 1831, Worcester and several others were arrested. They were tried, convicted, and sentenced to four years of hard labor. The missionaries, represented by lawyers hired by the Cherokee people, appealed their conviction to the United States Supreme Court.

Constitutional Issue

The issue was whether a state government has the authority to control contact between American citizens and the Cherokee Nation.

In 1831, the Supreme Court had considered the case of Cherokee Nation v. Georgia in which the state of Georgia declared Cherokee laws to be “null and void” and the Cherokee Nation responded by asking for an injunction to prevent their laws and government from being dissolved. Justice John Marshall wrote that Native Americans were “domestic dependent nations” who could not appeal in federal courts.

Samuel Worcester claimed that the Georgia courts had no jurisdiction over the Cherokee Nation. The treaties between the United States and the Cherokee Nation implied that each was a sovereign nation. Worcester’s lawyers contended that under the Indian Commerce Clause (Section 8, Article 1) of the Constitution, only Congress has the power “to regulate commerce . . . with the Indian tribes.”

************ The Supreme Court’s Decision ************

In a 6 to 1 ruling, the Supreme Court overturned the convictions of Worcester and other missionaries. The Court held that the Georgia Act violated “the Constitution, treaties, and laws of the United States.” Chief Justice John Marshall wrote the opinion.

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Marshall declared the Cherokee Nation to be “a distinct community occupying its own territory . . . in which the laws of Georgia can have no force.” Discussing the Treaty of Hopewell, Marshall wrote, “Protection does not imply the destruction of the protected. . . . To construe the expression ‘managing all their affairs’ into a surrender of self-government would be, we think, a perversion of their necessary meaning.” The act under which Worcester was imprisoned was thus declared unconstitutional.

President Andrew Jackson’s administration refused to enforce the Court’s decision. In 1835, the government signed a removal treaty with a small number of Cherokee. The U.S. Army resettled many Cherokee through a brutal, forced march to present-day Oklahoma. The Cherokee called this resettlement march the “Trail of Tears.” Later, the Worcester decision was revived and became a legal weapon against encroachments on Native American rights.

Dissenting Opinion

Justice Henry Baldwin dissented. He referred back to his opinion in Cherokee Nation v. Georgia (1831). In this matter, Justice Baldwin claimed that by accepting the Treaty of Hopewell, “The Indians . . . do acknowledge all the Cherokees to be under the protection of the United States.” Baldwin reasoned that this acceptance of United States protection waived all claims of Cherokee sovereignty. Furthermore, if the Court agreed to hear one such case, the federal courts would be overwhelmed with cases.

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. Why did Samuel Worcester challenge the constitutionality of the Georgia act?
2. How did the Court’s opinion in the Cherokee Nation case differ from Worcester?
3. Do you agree more with Justice Marshall’s opinion or with Justice Baldwin’s dissent? Give reasons for your answer.
4. Suppose you were a Cherokee living at the time of the Worcester decision. How would the Court’s ruling have affected you?
5. Why was the Worcester decision important in terms of Native American rights?