

Topic:

Prelude to Trail of Tears:
Worcester v. Georgia

Time:

1 class period

Historical

Period:
1832

Core:

US I 6120 - 0702
US II 6250 - 0103
Gov. 6210 - 0202
6210 - 0201

Objectives:

1. Students will examine political and cultural issues involved in Indian resettlement in the 1800's.
2. Students will enhance their critical thinking skills.

Procedure:

1. As an introduction, ask students to make a list of reasons why Indians might want to stay on their lands and another list of reasons why white settlers might want the Indians removed.
2. Pass out Indian Resettlement, Handout 1. Have students read and discuss the handout, comparing the reasons for and against resettlement provided in the materials with the lists they generated.
3. Pass out *Worcester v. Georgia*, Handout 2. Have students read and discuss the case. Make sure students understand the reasoning in *Worcester*.
4. Ask students to vote on how they think the Supreme Court decided the case.
5. Pass out Handout 3, the Supreme Court decision on the case. Read and discuss the decision.

Handouts/Worksheets:

1. Indian Resettlement
2. *Worcester v. Georgia*
3. Decision: *Worcester v. Georgia*

Author: *Law in U. S. History*

INTRODUCTION

It was about Chief Justice Marshall's decision in *Worcester v. Georgia* that President Andrew Jackson roared, "He has made his decision, now let him enforce it." Jackson ignored the Supreme Court ruling regarding the Cherokee Indians and drove them from their land in Georgia, supposedly to resettle west of the Mississippi. This lesson has students read this famous Indian resettlement case and discuss reasons for and against the Supreme Court decision.

INDIAN RESETTLEMENT

As the frontier moved west, white settlers wanted to expand into territory that was the ancestral land of many Indian tribes. During the administration of Andrew Jackson, the government supported the policy of **resettlement**. They persuaded many tribes to give up their claim to their land and move into areas set aside by Congress as Indian territory. In 1830, Congress passed the Indian Resettlement Act, which provided for the removal of Indians to territory west of the Mississippi River. While Jackson was president, the government negotiated 94 treaties to end Indian titles to land in the existing states.

Many tribes resisted this policy. Wars were fought as a result. The Sac and Fox Indians in Wisconsin and Illinois re-occupied their lands after having been forced to move west of the Mississippi. They were defeated. The Seminole Indians refused to sign a treaty to give up their lands. They, too, fought and lost a bitter war to remain on their land.

The Cherokees of Georgia were another tribe that resisted. They did not want to give up their way of life. The Cherokee governed themselves under a written constitution. Their agriculture was prospering. They developed a written language and published a widely read newspaper in Cherokee. They had their own schools. They did not want to sign the resettlement treaty.

Cherokee leaders explained their point of view in the following statement, which appeared on August 21, 1880, in the "Riles Weekly Register".

We wish to remain on the land of our fathers. We have a perfect and original right to remain without interruption If we are compelled to leave our country, we see nothing but ruin before us. The country west of the Arkansas territory is unknown to us. From what we can learn . . . the inviting parts of it . . . are preoccupied by various Indian nations, to which it has been assigned. They would regard us as intruders and look upon us with an evil eye. The far greater part of that region is, beyond all controversy, badly supplied with wood and water; and no Indian tribe can live as agriculturalists without these articles. All of our neighbors, in case of our removal, though crowded into our near vicinity, would speak a language totally different from ours and practice different customs. The original possessors of that region are now wandering savages lurking for prey in the neighborhood. They have always been at war and would easily be tempted to turn their arms against peaceful emigrants. Were the country to which we are urged much better than it is represented to be, and were it free from the objections we have to it, still it is not the land of our birth, nor of our affections. It contains neither the scenes of our childhood, nor the graves of our fathers.

Assignment

1. What arguments did the Cherokee leaders give against resettlement? Are they convincing?
2. Jackson and others who supported resettlement justified their point of view with the argument that Indians would be better off in territory far away from whites. Then they could have the choice to keep their own way of life or adapt to the ways of whites. Do you think this was a convincing argument in the case of the Cherokees, who had already taken on many of the white culture's ways?
3. Do you think the resettlement policy was justified for tribes that had not adapted to the white culture or that were warring against whites?
4. Gold was discovered in Georgia. How might this have affected the white settlers' attitude toward resettlement?

WORCESTER v. GEORGIA (1832)

During this period of Indian resettlement, the question of whether Indians had a right to their land came to a head in the case of *Worcester v. Georgia*. The federal government had signed treaties with many Indian tribes, including the Cherokees of Georgia, which recognized tribes as sovereign nations and granted them the right to keep their ancestral lands. However, states like Georgia wanted to control Indian lands and supported Indian resettlement.

In 1831, Samuel Worcester, a Christian minister from Vermont, went to Cherokee territory in Georgia to preach and to translate the Bible into the Cherokee language. The Georgia legislature had passed a state law that required any white person going onto Indian lands to get a license. Georgia lawmakers wanted to keep out people who might stir up the Cherokee against the state.

Georgia officials arrested Worcester, saying he had broken the state law. Worcester was brought to trial in the Georgia court, found guilty, and sentenced to four years in prison. Worcester thought the Georgia court was wrong and appealed his case to the U. S. Supreme Court.

Worcester argued that the state of Georgia had no power to make laws concerning the Cherokee tribe. He said his visit to Cherokee land had been allowed under federal law because the United States had made treaties with the Cherokees, and those treaties recognized them as an independent nation. The treaties were federal law, and they were higher than state law.

The Supreme Court had to decide whether the state law went against the provision of the Constitution. Article VI of the Constitution says:

. . . this Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme law of the Land, and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the Contrary notwithstanding

Assignment

1. According to Article VI, which law is higher, state or federal law? Are treaties considered federal law?
2. Restate the reasoning in Worcester's argument. Is it convincing?
3. How would you decide the case--in favor of Georgia and the state law requiring a license or in favor of Worcester and the federal treaty which is above state law?

DECISION
WORCESTER v. GEORGIA

The Supreme Court decided in favor of Worcester. John Marshall, the Chief Justice, wrote the opinion of the Court. It said that the Cherokee nation was an independent community, established by federal treaty. Only the federal government could deal with the Cherokee nation. The state of Georgia could not pass laws affecting the Cherokee.

Aftermath

The Supreme Court had made an important decision on the legal status of Indian tribes. What the Supreme Court says should be the law of the land, but the Court has no power to enforce the law. It is up to the President to do that. However, President Jackson did not agree with the Court's decision. He is reported to have said, "John Marshall has made his decision; now let him enforce it."

The state of Georgia wanted the Cherokees out and sent in the state militia to force them out of their homes. Jackson did nothing to stop it. The Cherokees were marched to Indian territory in what is now the state of Oklahoma. Many thousands suffered and died on this march, which became known as the "Trail of Tears."

In his farewell to Congress in 1837, Jackson said the following:

The States which had so long been retarded in their improvement by the Indian tribes residing in the midst of them are . . . relieved of the evil; and this unhappy race--the original dwellers in our land--are now placed in a situation where we may well hope that they will share in the blessings of civilization and be saved from that degradation and destruction to which they were rapidly hastening while they remained in the States.

Assignment

1. What are the political and legal consequences of the executive branch's refusal to carry out a ruling of the judiciary?
2. To what part of Jackson's farewell address would the Cherokee object most?