Who Holds Authority?

Read how federal and Tribal powers fit together

8.C.4.3 "Evaluate the significance of the Commerce Clause in establishing a constitutional relationship between American Indian Tribal Nations and the United States government..."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline the words that give Congress authority over commerce with Tribal Nations, circle the court's description of Tribal Nations and its ruling about state power, and number three powers of Tribal self-government. Use your marks to trace how federal authority and Tribal self-government fit together.

A Market and a Constitution

1. Imagine a Tribal Nation planning a market beside a river. Its leaders set rules for vendors, while traders arrive from outside the Nation. Who has authority when trade crosses borders? The Constitution offers one starting point. Article I gives Congress the power to regulate commerce "with the Indian Tribes." This Commerce Clause names Tribal Nations separately from states and foreign nations. It establishes a constitutional basis for federal authority in American Indian affairs, especially trade. It does not say that Tribal governments stop governing themselves.

2. Early Supreme Court cases, called the Marshall Trilogy, shaped how this relationship was understood. In Cherokee Nation v. Georgia (1831), the Court called Tribal Nations "domestic dependent nations." The phrase acknowledged that they were political communities, but described a dependent relationship with the United States. In Worcester v. Georgia (1832), the Court rejected Georgia's attempt to apply its laws inside Cherokee territory. Another case, Johnson v. M'Intosh (1823), limited how private buyers could obtain Tribal lands. Together, the decisions recognized limited Tribal sovereignty and federal protection in Tribal affairs.

3. Today, a Tribal government may decide who belongs to its Nation and make and enforce laws for its community. It may also manage its lands and natural resources, such as setting rules for a forest on Tribal land. These are powers of internal self-government, not powers handed down by a state. Yet Tribal authority operates alongside federal authority. Congress can pass laws concerning American Indian affairs under the constitutional framework, and federal law can limit some Tribal actions. Understanding both powers prevents a false choice between full independence and no self-government.

2 ANSWER WITH EVIDENCE

Use the passage

1. Why does the Commerce Clause matter when deciding whether Congress has a role in trade with Tribal Nations?

2. How did the phrase "domestic dependent nations" recognize Tribal Nations while also describing a limit on their independence?

3. What did the Worcester and Johnson decisions each say about the reach of state laws or private land purchases?

4. Why is it inaccurate to say that federal authority leaves Tribal governments with no power to govern themselves? Name two powers from the passage.

3 YOUR TURN

Your own words

A Tribal Nation plans a solar project on its land and sets its own citizenship rules. A visitor says, "Congress has authority in American Indian affairs, so the Tribal Nation cannot make either decision." Write a paragraph evaluating the claim. Use the Commerce Clause, the Marshall Trilogy, and both Tribal powers in your explanation.

ANSWER KEY

Who Holds Authority?

GRADE 8 · 8.C.4.3

PART 1 · READ AND MARK

Underline the words that give Congress authority over commerce with Tribal Nations, circle the court's description of Tribal Nations and its ruling about state power, and number three powers of Tribal self-government. Use your marks to trace how federal authority and Tribal self-government fit together. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	Why does the Commerce Clause matter when deciding whether Congress has a role in trade with Tribal Nations?	**It gives Congress authority to regulate commerce with Tribal Nations, providing a constitutional basis for a federal role.**
2	How did the phrase "domestic dependent nations" recognize Tribal Nations while also describing a limit on their independence?	**It recognized them as political communities but described a dependent relationship with the United States.**
3	What did the Worcester and Johnson decisions each say about the reach of state laws or private land purchases?	**Worcester rejected Georgia's attempt to apply its laws inside Cherokee territory. Johnson limited how private buyers could obtain Tribal lands.**
4	Why is it inaccurate to say that federal authority leaves Tribal governments with no power to govern themselves? Name two powers from the passage.	**Tribal governments retain internal powers, such as making and enforcing laws and deciding who belongs to the Nation.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The visitor's claim is wrong because federal authority does not end Tribal self-government. The Commerce Clause gives Congress authority to regulate commerce with Tribal Nations. The Marshall Trilogy described Tribal Nations as "domestic dependent nations," recognizing their limited sovereignty and their relationship with the United States. The Tribal Nation can set its own citizenship rules and manage its land for a solar project. Federal laws may affect the project, but the Nation still has powers of internal self-government.

Accept answers that distinguish Congress's constitutional authority from a Tribal government's continuing internal powers. Students need not claim that a particular federal law applies to the solar project.