Two Sources of Authority

Congress, Tribal Nations, and a Supreme Court ruling

USG.C.3.6.A "Explain how the Constitution of the United States grants Congress authority over Indian affairs through the Commerce Clause and how the Supreme Court has defined Tribal Nations as "domestic dependent nations" possessing powers of..."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline the words that give Congress authority over trade with Tribes. Circle the Court's description of Tribal Nations, then number one example of tribal self-government and one example of federal authority.

Who Has Authority?

1. Picture a trading post beside a river, where a Tribal Nation and neighboring communities exchange goods. Who can make rules about trade across these political boundaries? The Constitution gives Congress power to regulate commerce "with foreign Nations, and among the several States, and with the Indian Tribes." The final phrase is often called the Indian Commerce Clause. It gives Congress a constitutional source of authority over trade involving Tribal Nations. The clause names Tribes separately from states and foreign nations. It does not say that Congress runs every tribal government decision or that Tribes have no government of their own.

2. In 1831, the Cherokee Nation asked the Supreme Court to block Georgia laws that threatened Cherokee authority in Cherokee territory. Cherokee leaders brought the case as if their nation were a foreign state, since the Constitution lets foreign states sue in the Supreme Court under its original jurisdiction. In Cherokee Nation v. Georgia, the Court ruled that it could not hear the case in that form. It called Tribal Nations "domestic dependent nations," not foreign states for that purpose. The Court described a relationship with the United States in which Tribes remained distinct political communities but were also subject to federal authority.

3. Imagine a Tribal Nation setting rules for a market on its own land. Its elected council can make decisions for its community because Tribal Nations retain powers of self-government. At the same time, federal law may govern trade involving Tribes, under authority Congress draws in part from the Indian Commerce Clause. These ideas are not opposites: a nation can govern many of its own affairs while its relationship with the United States limits its independence. The Cherokee Nation decision helps explain that relationship, but it did not decide every question about which government may regulate a particular market.

2 ANSWER WITH EVIDENCE

Use the passage

1. How does the Constitution name Tribes in its grant of commerce power, and what authority does that give Congress?

2. Why could the Supreme Court not hear the Cherokee Nation's case in the form it was brought? Include the term the Court used for Tribal Nations.

3. How does the market example show both tribal self-government and federal authority?

4. A student claims the 1831 ruling meant Tribal Nations lost all self-government. Use two details from the passage to explain why that claim is inaccurate.

3 YOUR TURN

Your own words

Write a four- or five-sentence note to a school newspaper editor who claims, "If Congress can regulate trade with Tribes, a Tribal Nation cannot govern itself." Explain the Commerce Clause, the Court's description in Cherokee Nation v. Georgia, and how both ideas can be true at once. Include one new, clearly hypothetical example of a tribal government decision, not the market example from the passage.

ANSWER KEY

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HIGH SCHOOL · USG.C.3.6.A

PART 1 · READ AND MARK

Underline the words that give Congress authority over trade with Tribes. Circle the Court's description of Tribal Nations, then number one example of tribal self-government and one example of federal authority. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How does the Constitution name Tribes in its grant of commerce power, and what authority does that give Congress?	**It names Indian Tribes separately from states and foreign nations and gives Congress authority to regulate commerce with them.**
2	Why could the Supreme Court not hear the Cherokee Nation's case in the form it was brought? Include the term the Court used for Tribal Nations.	**The Cherokee Nation brought the case as a foreign state, but the Court called Tribes "domestic dependent nations," not foreign states for that purpose.**
3	How does the market example show both tribal self-government and federal authority?	**A Tribal Nation's council can set rules for its community's market, while federal law may also govern trade involving Tribes.**
4	A student claims the 1831 ruling meant Tribal Nations lost all self-government. Use two details from the passage to explain why that claim is inaccurate.	**The Court described Tribes as distinct political communities, and the passage says they retain powers of self-government even while subject to federal authority.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The Constitution lets Congress regulate commerce with Indian Tribes, giving the federal government authority over trade involving Tribal Nations. In Cherokee Nation v. Georgia, the Supreme Court described Tribes as "domestic dependent nations," distinct communities under federal authority rather than foreign states for that lawsuit. A Tribal Nation might, for example, choose rules for its own community library. Such self-government can exist alongside federal authority over matters such as trade.

Accept different hypothetical tribal decisions if they clearly illustrate self-government without claiming that tribal authority is unlimited. Students should distinguish Congress's constitutional commerce power from the Court's description of Tribal Nations.