

### Discovery Doctrine

- 1) Under Victoria's analysis what was the European law with respect to Indian property ownership? Did the discovery doctrine give title to European "discoverers"? Did "discovery" vest European nations with any rights at all? If so, what was the nature of those rights?

### Johnson v. McIntosh

- 1) In the Johnson case, did Marshall adopt Victoria's view of the discovery doctrine and the rights which it gave rise to?
- 2) What legal basis did Marshall have, if any, to determine the property rights of Indian nations as "rights of occupancy"? Did Marshall suggest there was a moral/religious justification?
- 3) How does Marshall's characterization of Indian property rights compare with property rights held by non-Indian people? Would the "discovery" doctrine operate to diminish the title of non-Indian people as well?
- 4) What role did Marshall carve out for the courts in determining Indian rights? Did the Court have a body of law from which to draw in its determination of Indian title?
- 5) How does the diminished title affect the status of Indian tribes as nations?
- 6) Did Marshall allude to the Indian perspective with regard to property ownership?

### Cherokee Nation

- 1) What was the actual holding of the case, given that it was a plurality opinion?
- 2) How did Marshall's view of Indian tribes change from the Johnson decision?
- 3) What are the characteristics of a "domestic dependant nation"? Was there any precedent for such a status at the time of the Cherokee opinion? If not, does such a characterization carry any weight?
- 4) In Marshall's view, what obligations, if any, does the federal government owe to Indian nations?
- 5) What status did the other Justices accord to Indian nations? Which status carries the most weight as a matter of International Law and precedent?
- 6) How did the justices' view of Indian culture and religion

influence their decision?

Worcester

- 1) How did this case deal with the discovery doctrine, and what rights did it accord Indian nations? Did this differ from the treatment in Johnson and Cherokee Nation?
- 2) Did Marshall carve out a more ambitious role for the Court in this opinion?
- 3) Was the holding in this case based on the characterization of Indian tribes as independent nations, or was it based on a preemption analysis?
- 4) What rule can we take from this case regarding the State's ability to assert jurisdiction over Indian Country? What effect does state jurisdiction in Indian Country have on Indian sovereignty?
- 5) Was the Court's mandate that state law not apply to Cherokee territory followed? What happened after the opinion in terms of enforcement of the Court's mandate?