



Supreme Court Case Study 5 (continued)

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.



Questions *****

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?

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Table of Contents Supreme Court Case Study 6 Answer Key

1. Understanding the eBook Supreme Court Case Study 6 Answer Key
 - The Rise of Digital Reading Supreme Court Case Study 6 Answer Key
 - Advantages of eBooks Over Traditional Books
2. Identifying Supreme Court Case Study 6 Answer Key
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Supreme Court Case Study 6 Answer Key
 - User-Friendly Interface
4. Exploring eBook Recommendations from Supreme Court Case Study 6 Answer Key
 - Personalized Recommendations
 - Supreme Court Case Study 6 Answer Key User Reviews and Ratings
 - Supreme Court Case Study 6 Answer Key and Bestseller Lists

5. Accessing Supreme Court Case Study 6 Answer Key Free and Paid eBooks
 - Supreme Court Case Study 6 Answer Key Public Domain eBooks
 - Supreme Court Case Study 6 Answer Key eBook Subscription Services
 - Supreme Court Case Study 6 Answer Key Budget-Friendly Options
6. Navigating Supreme Court Case Study 6 Answer Key eBook Formats
 - ePub, PDF, MOBI, and More
 - Supreme Court Case Study 6 Answer Key Compatibility with Devices
 - Supreme Court Case Study 6 Answer Key Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Supreme Court Case Study 6 Answer Key
 - Highlighting and Note-Taking Supreme Court Case Study 6 Answer Key
 - Interactive Elements Supreme Court Case Study 6 Answer Key
8. Staying Engaged with Supreme Court Case Study 6 Answer Key
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Supreme Court Case Study 6 Answer Key
9. Balancing eBooks and Physical Books Supreme Court Case Study 6 Answer Key
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Supreme Court Case Study 6 Answer Key
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Supreme Court Case Study 6 Answer Key
 - Setting Reading Goals Supreme Court Case Study 6 Answer Key
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Supreme Court Case Study 6 Answer Key
 - Fact-Checking eBook Content of Supreme Court Case Study 6 Answer Key
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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