



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?

Supreme Court Case Study 69 Answer

SA Adler



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Senate. Committee on the Judiciary. Subcommittee on Improvements in Judicial Machinery,1970 **Impeachment and the U.S. Congress** Congressional Quarterly, inc,1974 **Ohio Law Bulletin** ,1904 **Fifty Years of the Law Commissions** Matthew Dyson,James Lee,Shona Wilson Stark,2016-11-03 This book brings together past and present law commissioners judges practitioners academics and law reformers to analyse the past present and future of the Law Commissions in the United Kingdom and beyond Its internationally recognised authors bring a wealth of experience and insight into how and why law reform does and should take place covering statutory and non statutory reform from national and international perspectives The chapters of the book developed from papers given at a conference to mark the fiftieth anniversary of the Law Commissions Act 1965 *Price Discrimination Legislation--1969* United States. Congress. Senate. Committee on the Judiciary. Subcommittee on Antitrust and Monopoly,1970 Considers legislation to incorporate in the Clayton Antitrust Act that section of the Robinson Patman Act allowing businesses to take civil action against competitor s illegal price undercutting **New York Law Review** David Shephard Garland,1923 **The Supreme Court and American Democracy** Earl Pollock,2008-12-30 There is almost no political question in the United States wrote Alexis de Tocqueville that is not resolved sooner or later into a judicial question The U S Supreme Court is the ultimate arbiter of judicial questions weighing the laws enacted by the people s representatives against the inviolable fundamental law embodied in the U S Constitution Virtually every vital political and social issue comes before the Court abortion affirmative action capital punishment elections and voting gay rights gun control separation of church and state and more This book presents living law the case by case shaping of the law on each of these controversial issues in the justices own words and with informative commentary There is almost no political question in the United States wrote Alexis de Tocqueville that is not resolved sooner or later into a judicial question The U S Supreme Court is the ultimate arbiter of judicial questions weighing the laws enacted by the people s representatives against the inviolable fundamental law embodied in the U S Constitution Virtually every vital political and social issue comes before the Court abortion affirmative action capital punishment elections and voting gay rights gun control separation of church and state and more This book presents living law the case by case shaping of the law on each of these controversial issues in the justices own words Guide to the Court s functions and the ways in which it goes about its work Topically organized sequences of cases through which the law on particular issues evolved including the facts of each case the specific issues before the Court the Court s decision embodied in the text of the majority opinion an account of all opinions handed down and excerpts from the most influential concurrences and dissents Commentary summarizing current federal law on each of the controversial topics covered with notes on the historical background and in some cases the turbulent aftermath of the Court s decisions

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