

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 Studies Answer Key

New York (State). Court of Appeals.

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Supreme Court Case Studies ,1997 *Critical Thinking Now* , Nancy Burkhalter,2016-12-08 Today's curricula can and should incorporate critical thinking methods because they are the means by which people best understand learn and retain higher level concepts Contrary to what many professional trainers assume teaching critical thinking is not achieved by shoveling facts at an audience through lecturing or multiple choice testing It requires sustained finely tuned teaching and assessment methods This book lays out a blueprint to do just that Specifically it outlines the necessary components of a critical thinking classroom and provides assessment techniques and ample exercises adaptable to any student's field age or level of education Often not considered are those learners schooled in a non Western culture and not proficient in the presenter's language These audiences can create invisible barriers to instruction Without understanding these pitfalls trainers invite frustration and failure and risk wasting everyone's time and money because they were unaware any problem existed The book addresses these linguistic cultural and cognitive obstacles and suggests several solutions whether you teach these students on your home turf or theirs

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1. Understanding the eBook Supreme Court Case Studies Answer Key
 - The Rise of Digital Reading Supreme Court Case Studies Answer Key
 - Advantages of eBooks Over Traditional Books
2. Identifying Supreme Court Case Studies 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 Studies Answer Key
 - User-Friendly Interface
4. Exploring eBook Recommendations from Supreme Court Case Studies Answer Key

- Personalized Recommendations
- Supreme Court Case Studies Answer Key User Reviews and Ratings
- Supreme Court Case Studies Answer Key and Bestseller Lists

5. Accessing Supreme Court Case Studies Answer Key Free and Paid eBooks

- Supreme Court Case Studies Answer Key Public Domain eBooks
- Supreme Court Case Studies Answer Key eBook Subscription Services
- Supreme Court Case Studies Answer Key Budget-Friendly Options

6. Navigating Supreme Court Case Studies Answer Key eBook Formats

- ePub, PDF, MOBI, and More
- Supreme Court Case Studies Answer Key Compatibility with Devices
- Supreme Court Case Studies Answer Key Enhanced eBook Features

7. Enhancing Your Reading Experience

- Adjustable Fonts and Text Sizes of Supreme Court Case Studies Answer Key
- Highlighting and Note-Taking Supreme Court Case Studies Answer Key
- Interactive Elements Supreme Court Case Studies Answer Key

8. Staying Engaged with Supreme Court Case Studies Answer Key

- Joining Online Reading Communities
- Participating in Virtual Book Clubs
- Following Authors and Publishers Supreme Court Case Studies Answer Key

9. Balancing eBooks and Physical Books Supreme Court Case Studies Answer Key

- Benefits of a Digital Library
- Creating a Diverse Reading Collection Supreme Court Case Studies Answer Key

10. Overcoming Reading Challenges

- Dealing with Digital Eye Strain
- Minimizing Distractions
- Managing Screen Time

11. Cultivating a Reading Routine Supreme Court Case Studies Answer Key

- Setting Reading Goals Supreme Court Case Studies Answer Key
- Carving Out Dedicated Reading Time

12. Sourcing Reliable Information of Supreme Court Case Studies Answer Key

- Fact-Checking eBook Content of Supreme Court Case Studies 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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