



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 63 Answer Key

Donald DePamphilis



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Fhloinn, Kim Vernau, 2021-07-15 This is the first book to offer a systematic and analytical overview of the legal framework for residential construction. In doing so, the book addresses two fundamental questions: Prevention: What assurances can the law give buyers and later owners and occupiers of homes that construction work from building of a complete home to adding an extension or replacing a shower unit will comply with minimum standards of design, safety and build quality? Cure: What forms of redress from whom and by what route can residents expect when, often long after completion of construction, they discover defects? The resulting problems pose some big and difficult questions of principle and policy about standards, rights and remedies which in turn concern justice more generally. This book addresses these key issues in a comparative context across the United Kingdom, Ireland, Australia and New Zealand. It is an accessible guide to the existing law for residents and construction professionals and their legal advisers but also charts a course to further meaningful reforms of the legal landscape for residential construction around the world. The book's two co-authors, Philip Britton and Matthew Bell, have taught in the field in the UK, Australia and New Zealand; both have been active in legal practice as have the book's two specialist contributors, Deirdre N. Fhloinn and Kim Vernau.

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