

# Marshall On The Constitution & Country

## *Cherokee Nation v. State of Georgia (Opinion Excerpts)* The Cherokee Nation Vs. The State Of Georgia. Supreme Court Of The United States

5 Peters, 1 March 18, 1831, Decided

*MARSHALL, C. J.* This bill is brought by the Cherokee nation, praying an injunction to restrain the state of Georgia from the execution of certain laws of that state, which, as is alleged, go directly to annihilate the Cherokee as a political society, and to seize for the use of Georgia, the lands of the nation which have been assured to them by the United States, in solemn treaties repeatedly made and still in force.

If courts were permitted to indulge their sympathies, a case better calculated to excite them can scarcely be imagined. A people, once numerous, powerful, and truly independent, found by our ancestors in the quiet and uncontrolled possession of an ample domain, gradually sinking beneath our superior policy, our arts and our arms, have yielded their lands, by successive treaties, each of which contains a solemn guarantee of the residue, until they retain no more of their formerly extensive territory than is deemed necessary to their comfortable subsistence. To preserve this remnant, the present application is made.

Before we can look into the merits of the case, a preliminary inquiry presents itself. Has this court jurisdiction of the cause?...

The court has bestowed its best attention on this question, and, after mature deliberation, the majority is of opinion, that an Indian tribe or nation within the United States is not a foreign state, in the sense of the constitution, and cannot maintain an action in the courts of the United States....

If it be true, that the Cherokee nation have rights, this is not the tribunal in which those rights are to be asserted. If it be true, that wrongs have been inflicted, and that still greater are to be apprehended, this is not the tribunal which can redress the past or prevent the future. The motion for an injunction is denied.

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